United States Senate
Committee on the Judiciary

Questionnaire for Non-Judicial Nominees

Appendix 12(e)

WILLIAM PELHAM BARR
Nominee to be United States Attorney General

During my lifetime, I have given innumerable interviews to publications and have appeared on many radio and television programs. I have not kept records for almost any of those interviews or appearances. The following materials that appear to have involved an interview, press statement, or media appearance of mine were compiled after a review of my own records and through searches of publicly available records by persons acting on my behalf.

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United States Senate
Committee on the Judiciary

Questionnaire for Non-Judicial Nominees

Attachments to Question 12(e)

WILLIAM PELHAM BARR
Nominee to be United States Attorney General

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Trump considering D.C. lawyer to replace McGahn

Carol D. Leonnig

President Trump is eying Washington litigator Pat Cipollone to replace outgoing White House counsel Donald McGahn, according to two people familiar with the president's thinking.

This week, Trump interviewed Cipollone, a former Justice Department attorney who practices commercial litigation at Stein Mitchell Cipollone Beato & Missner, the people said. Trump is "strongly considering" Cipollone for the job, one person said.

Cipollone has been advising Trump's outside legal team since at least June. He is also close to Emmet Flood, a White House lawyer who is helping handle the special-counsel investigation and is himself being considered for the top legal position.

Cipollone did not respond to a request for comment.

Trump announced Wednesday that McGahn, who has led the administration's efforts to reshape the judiciary, will leave his post in the coming weeks after the confirmation process of Supreme Court nominee Brett M. Kavanaugh.

Trump tweeted Thursday that he was "very excited about the person who will be taking the place of Donald McGahn as White House Counsel."

According to the biography on his firm's website, Cipollone has practiced in commercial litigation, trade regulation and health-care fraud. He has extensive expertise in defending corporations as well as handling complex federal investigations and "prepublication negotiations" over defamatory media reports.

He is a former partner at the law firm Kirkland and Ellis, whose attorneys have included Kavanaugh, Supreme Court nominee Robert Bork and former George W. Bush administration solicitor general Paul Clement.

Cipollone is well regarded among some of Trump's senior advisers, including the president's outside attorneys, Jay Sekulow and Rudolph W. Giuliani.

"Pat Cipollone is a brilliant attorney," said Sekulow, declining to comment on the status of Trump's decision. "I have had the privilege to work with him and can attest to his skill, integrity and knowledge of the law. If selected by the president, he would make an outstanding White House counsel."

"I know both Pat and Emmet very well, and either one would be an excellent choice," Giuliani said.

Trump is being urged to make a decision soon to bring in someone who can help the White House deal with special counsel Robert S. Mueller III's investigation and the threat of impeachment if Democrats gain control of the House, people close to the president said.

Meanwhile, the White House Counsel's Office has dwindled to about 25 lawyers, down from roughly 35 earlier in the administration, and many of Trump's allies fear he does not have the staff or strategy to contend with looming legal challenges.

Flood is well regarded in the White House, but some Trump advisers would like to see him remain in his current position, focused on fighting off a potential subpoena from Mueller. Flood and Cipollone probably would work well together, according to people who know them.

"Emmet has tremendous respect for Pat's ability as a lawyer, his judgment and his integrity," said one person who has talked to Flood about Cipollone. This person and others spoke on the condition of anonymity because they were not authorized to speak publicly.

Cipollone is not a household name, but he is well respected among Washington lawyers for his nuanced work on complex federal investigations and corporate defense. He worked at the Justice Department in the 1990s under then-Attorney General William P. Barr as Barr's counsel for communications and special projects.

"He is a lawyer's lawyer, with great breadth of experience, the utmost integrity and superb judgment," Barr said in a statement.

"Pat Cipollone is the kind of lawyer that lawyers seek advice from," said Bill Nettles, who served as U.S. attorney in South Carolina under President Barack Obama, adding that Cipollone would make "an extraordinary White House counsel."

Cipollone's firm was founded by a historic figure in the Washington bar - Jacob A. "Jake" Stein, who won a rare victory during Watergate, securing an acquittal for a lawyer for President Richard M. Nixon's reelection committee whose co-defendants were convicted.

Cipollone is active in the Catholic community, having served on the board of the Catholic Information Center, a group that organizes events in Washington, as well as the Board of Visitors of the Columbus School of Law. He is listed as a part of the leadership team of the Foundation Stone Institute, a group that aims to strengthen ties between Catholics and Israelis. He was a founding member of the National Catholic Prayer Breakfast, according to his biography with that group.

He also has a close bond with conservative commentator and Trump ally Laura Ingraham. Ingraham has credited Cipollone, who once worked in an office across the street from her law firm, with guiding her as a "spiritual mentor" before she converted to Catholicism in 2002.

"I had all this success and still didn't feel like I was right," she told the National Catholic Register in a 2004 interview, saying that Cipollone advised her: "I think God's reaching out to you. That's why you're feeling this way. And he leaves the flock to find the lost sheep, and maybe you're lost and he's trying to find you.'"

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Section: Nation - World

Supreme Court vacancy: Prepare for a game-changer, experts say

Jeff D'Alessio

Weigh in: Submit a letter to the editor

In this partisan-as-ever country we call home, there's one thing even the far, far left and far, far right agree on.

The conservative judge President Donald Trump tabs to replace the retiring Anthony Kennedy in the ninth seat on the Supreme Court (announcement Monday at 8 p.m. on WDWS) will be a game-changer, more so than any appointee in at least three decades, if not longer.

But that's where the consensus ends, The News-Gazette found in surveying 32 top law deans, scholars, attorneys, government officials and court watchers on the eve of the president making public his pick, who experts on both sides predict will have a relatively smooth path to confirmation by the GOP-controlled Senate.

"It would take some truly fantastical scenario - of the order of a nuclear attack on Washington or invasion by space aliens - to slow this train down," says University of Illinois law Professor Jason Mazzone. "In the past, there was a risk that the nominee would self-detonate during the confirmation process - remember that Anthony Kennedy was President Reagan's third pick - but nominees today are far too prepared and savvy to do that.

"We'll have nine justices when the Court convenes in October."

What will be the long-term impact of Trump's second lifetime appointee in 524 days, whomever she or he is. Here's what our panelists had to say.

Jeffrey Toobin, author of 2007 best-seller "The Nine," has predicted that 18 months from now, abortion will be illegal in 20 U.S. states. Could you see that happening as a result of Justice Anthony Kennedy's retirement?

- Vanderbilt law Professor SUZANNA SHERRY says: "Absolutely. It's already very difficult in about that many states."

- Columbia law Professor SUZANNE GOLDBERG says: "There is a group of states that has tried relentlessly, for many years, to cut back on women's access to safe abortion. Whether they actually take the step to criminalize abortion - with the devastating public health consequences that would create - remains to be seen. But they will surely continue efforts to shut down access at every turn."

- ProPublica founding GM DICK TOFEL says: "The latest Gallup poll shows only 18 percent in favor of banning abortion. I would be very surprised if Chief Justice (John) Roberts wanted to set the Court so sharply against that societal consensus on a matter so critical to so many people. The Wall Street Journal editorial page recently cited a close friend of the late Justice (Antonin) Scalia saying that even Scalia, by the end of his life, had concluded that Roe should not be overruled."

- NBC News justice correspondent PETE WILLIAMS says: "Groups that track abortion laws in the states say if Roe were overturned, abortion could become illegal in 22 states, either because they have the necessary laws already in place or because they're likely to pass similar legislation. But of the current conservatives on the court, only Clarence Thomas is on record opposing Roe. Even assuming the others - Samuel Alito, Neil Gorsuch and the new Trump nominee - also voted to strike it down, that's only four. It's not at all clear that Chief Justice John Roberts would vote to overturn a 45-year-old precedent. The court is more likely to uphold the growing number of state laws that limit access to abortion service."

- Cal Berkeley law Dean ERWIN CHEMERINSKY says: "Absolutely. The only question is when."

- National Review Editor RICH LOWRY says: "It won't happen that quickly, but a case challenging Roe will inevitably arise. It's impossible to know how the justices, especially Roberts, will decide under the enormous political and social pressure that will be brought to bear, but there is some significant chance that Roe will be overturned and this issue will finally be fully returned to the political realm."

- University of Colorado Professor ROBERT NAGEL says: "I think Toobin's prediction displays either political calculation or a failure to consider the modern history of the Court and the wider influences and inclinations that shape its behavior. It is highly unlikely that replacing Justice Kennedy will result in an over-ruling of Roe. None of the highly controversial 'landmark' decisions of the Warren Court - not Brown, not Miranda, not Baker v. Carr - have been overruled despite the fact that Republican appointees have had a numerical majority on the Court for almost all of the past four-and-a-half decades.

"There are many reasons for this, but the main reason is that conservative jurists tend to equate the Court's political standing - its prestige and legitimacy - with the rule of law itself. To put it bluntly, they tend to care more about protecting the Court as an institution than about enforcing the Constitution itself. Anyone who doubts this should look at the overall records of the Burger, Rehnquist and Roberts courts or just re-read the Casey decision, where three Republican appointees authored a hysterically frightened opinion about the need to protect the Court's prestige - even if that means condemning as deeply illegitimate political pressures to overrule Roe v. Wade."

Would it be surprising if the next nominee gave his/her opinion on Roe v. Wade during Senate confirmation hearings?

- Famed women's rights attorney GLORIA ALLRED says: "It would be shocking."

- MARTHA C. NUSSBAUM, the Ernst Freund Distinguished Service Professor of Law and Ethics at the University of Chicago, says: "Yes. They can easily avoid this - for example, by saying neutrally that it is 'settled law' - and nothing but trouble for them would come of saying more."

- Sherry says: "The nominee is highly unlikely to give his or her opinion on Roe v. Wade, and will instead hide behind the claim that the question may come before the Court. Recent nominees have even refused to give an opinion on Brown v. Board of Education, an iconic case that nobody has ever suggested overruling - at least not in the last 50 years or so.

"And so, senators - like (Susan) Collins of Maine, I believe - who have said they will be reluctant to confirm anyone who wants to overrule Roe - will also be able to hide by claiming that they don't know the nominee's views on Roe. It's all a sham: the nominee will be carefully vetted on Roe, his or her views will be well-known but not announced at the confirmation hearings, and Roe will be overruled within a year."

So, it would it be naive to believe the president might not know where his appointee stands on Roe v. Wade before Monday?

- Civil rights attorney AREVA MARTIN says: "Incredibly. All of them potential Supreme Court justices on his short list of seven have been thoroughly vetted by the Federalist Society and Heritage Foundation. They made the short list because of their conservative views on a range of issues, including abortion.

"Also, Trump made it clear during his campaign that he would impose a litmus test for any individual that he would even remotely consider appointing to the Supreme Court. That test requires any potential candidate to be committed to abolishing the reproductive rights of millions of women and criminalizing abortions.

"It doesn't matter if the individual selected by Trump engages in the standard obfuscation that most candidates do when questioned during Senate confirmation hearings, their previous commitment to be the decisive vote on Roe v. Wade has already been cemented."

If Roe v. Wade is struck down, what happens in Illinois?

- UI law Dean VIKRAM AMAR says: "I don't expect Roe to be overturned because Chief Justice Roberts doesn't need to overturn it; the framework in place for the last few decades - a diluted version of Roe - already employs a very malleable 'undue burden' balancing test that a new Court majority can use to uphold laws in many red states that don't prohibit all abortions, but that make abortion very hard to obtain, especially for poorer and rural women. Illinois is unlikely to pass such restrictive laws, but women from neighboring states may come to Illinois for abortions."

Finish this sentence: Monday's will be the most significant Supreme Court appointee since ...

- ROBERTA RAMO, who in 1995 became the American Bar Association's first female president, says: "Chief Justice Earl Warren, a Republican appointed by President Eisenhower who worked mightily to reach a unanimous decision of the Court in Brown v. Board of Education. This began the process, uncompleted to this day, of making the promises of the Constitution and the Bill of Rights reality for African Americans. He led the way for years of a Court trusted to interpret the Constitution so that all citizens were treated equally under the law.

"The Roberts Court, with this appointment, could reverse the gains that women and minorities once thought were permanently enshrined in previous decisions of the U.S. Supreme Court. Or, individual justices can, as Earl Warren did, accept that the oath taken is to all Americans and the ideals of American justice in our magnificent Constitution - are not to the president who appoints them, or short-term politics or dogma. History and the American people will stand in judgment."

- UMass Professor DWIGHT DUNCAN says: "1803, when Chief Justice John Marshall recognized the power of the Supreme Court to judicially review the constitutionality of laws in Marbury v. Madison. The Supreme Court is now at the tipping point, and Justice Kennedy's replacement will cast the deciding vote."

- New York Times Supreme Court reporter ADAM LIPTAK says: "Justice Lewis Powell announced his retirement in 1987. He was the last swing justice to retire. After the Senate rejected President Reagan's first nominee, Robert Bork, as too conservative, the seat went to Justice Kennedy."

- University of Houston law Dean LEONARD BAYNES says: "President George W. Bush replaced Sandra Day O'Connor with Samuel Alito. At that time, Justice O'Connor was situated at the center of the court. She sided with the more progressive justices on affirmative action, LGBTQ rights and women's reproductive issues, and with the rest of the Court on other issues.

"Since O'Connor's retirement, Kennedy has served as the swing vote. President Trump's opportunity to replace him is most monumental because the center of the Court is likely to shift once again, probably making Chief Justice Roberts the center."

- Heritage Foundation VP JOHN MALCOLM says: "Although neither the current vacancy nor Alito's appointment were as big a shift as when Clarence Thomas replaced Thurgood Marshall, this appointment gives the president an opportunity to replace a quintessential swing vote with a reliable conservative."

With Kennedy out, who becomes the Court's new swing vote?

- Washington University law Dean NANCY STAUDT says: "It appears that Chief Justice John Roberts has moved into this position. In his new position as the median voter, along with the ability to assign opinions, the Chief's impact on the development of the law will truly be powerful and impactful."

- Former Harvard law Dean MARTHA MINOW says: "The deciding vote in many high-profile cases may come from a moderate, like Justice O'Connor, who decides cases minimally - limited to specific facts or using procedural rules - or, more rarely, someone who pursues a full-bodied conception of rights or purposes. Justice Kennedy was a rare deciding vote with broad conceptions of advancing human liberty and dignity, open to unfolding human needs."

- University of Arizona law Professor TONI MASSARO says: "In general, the real struggles of the Court now are likely to be about internally competing visions of constitutional conservatism. It now will be John Roberts' Court, not Anthony Kennedy's."

Do Senate Democrats have any hope of derailing Trump's nominee?

- Mazzone says: "There are no roadblocks. Although the Trump administration has been erratic on many policy fronts, with respect to judicial appointments it has proven highly disciplined and effective. Assuming the President nominates somebody from the lists he provided during the election season - or somebody equally credentialed - I expect that person will be confirmed by the Senate without significant delay or difficulty."

- Slate Senior Editor DAHLIA LITHWICK says: "Democrats would need to be unified on a theory of why this seat should be blocked and message that coherently and consistently. That would require explaining over and over that the Republicans blocked a vote on an Obama nominee for almost a year on a nonexistent theory and that nobody should be seated now. Since they don't have the votes to block a nomination, that would require keeping red state Senate Democrats in line and picking up a pro choice Republican vote - Collins or (Lisa) Murkowski.

"I think it's likely that the latter two will take cover in pledges to 'respect precedent' with regards to Roe, but again Senate Democrats should be clear that every Republican appointee on the court has made similar pledges and then violated it. It would require a coherent and consistent claim that the president should not be interviewing nominees that may eventually rule on aspects of the Mueller probe while that probe is still pending. And likely, a willingness to shut down Senate procedures if the above messages fail.

"Each avenue requires clear messaging on why the court matters, something Democrats have done rather poorly in recent decades."

- Harvard law grad and Supreme Court author PETER IRONS says: "Democrats who urge the Senate to block the confirmation of Trump's nominee until after the mid-term elections - out of anger at Senator (Mitch) McConnell's blocking Judge Merrick Garland - are right to denounce Republican hypocrisy. However, they have no power to do their own blocking, with a filibuster now impossible after McConnell changed the rules to prevent that. It will now take only 50 votes - with Vice President Pence casting the deciding vote - to confirm the nominee.

"But a lot depends on whether GOP senators Susan Collins of Maine and Lisa Murkowski of Alaska, both supporters of abortion rights, would vote against a nominee who did not promise to uphold Roe. I wouldn't bet on that, unless the nominee has made clear in his/her opinions or writings a desire to overrule Roe."

- Columbia law Dean GILLIAN LESTER says: "There are definitely some hazards, with the Republicans holding a bare 51-vote majority in the Senate - including an ailing John McCain. Even with no filibuster, the White House can't lose a single Republican on a party-line vote, which makes things interesting. If the president plays to his base in selecting a nominee, Democrats and independents could easily vote against, and he also risks losing moderate Republican support. At least one and possibly more Republicans would likely vote against a nominee who would openly oppose Roe v. Wade.

"Going for a more moderate nominee, on the other hand, could also be perilous, since the president would have to attract many swing Democrat and independent votes to offset near-certain opposition by Tea-Partiers - and he would be alienating his most steadfast coalition in the process. The end result could be an unpredictable mix of politics and policy; and that probably makes time the White House's biggest roadblock to this appointment. If Republican coalitions engage in protracted infighting over this appointment, the process could drag on into election season - a worst-case scenario for the president and a gift to the Democrats, who seem poised to retake the Senate in the fall."

Senate Democrats contend that the confirmation process should be delayed until after November's elections, when the new Congress is seated, especially given GOP senators' refusal to hold hearings for Barack Obama's 2016 nominee - Merrick Garland - during an election year. Why isn't that a winning argument?

- George H.W. Bush-appointed U.S. Attorney General BILL BARR (1991-93) says: "I think the rationale for putting off confirmation when close to a presidential election is that the president is the appointing authority, so the identity of the president governs the choice, and it is the presidential election that serves as a check over the long term on the direction of the Court. None of this is true for congressional elections.

"A high percentage of Supreme Court appointees have been confirmed in even-numbered years, including (Elena) Kagan, *Stephen) Breyer and Kennedy. As a practical matter, eliminating half of all years makes no sense. In some ways, the suggestion dramatizes the extent to which the Court has become a super-legislature."

- Ronald Reagan-appointed U.S. Solicitor General CHARLES FRIED (1985-89) says: "I think we would have been better off with Merrick Garland."

Do you read anything into the timing of Kennedy's decision, which seemed to take many by surprise?

- Lester says: "I'm as baffled as everyone else. The White House had reportedly been talking to Kennedy about his retirement for over the past year, and perhaps he felt he finally had some measure of confidence about the President's inclinations with respect to the next nominee.

"It's important to note that Justice Gorsuch is a former Kennedy clerk, and the President seems to have made signals that he would give strong consideration to another one, such as Brett Kavanaugh or Raymond Kethledge. Whether the White House would stick to any such pledge - having now procured Kennedy's retirement - is, of course, a different matter."

The future of Roe v. Wade has received the bulk of attention lately. What about same-sex marriage - could it be in peril?

- University of Virginia law Professor GEORGE RUTHERGLEN says: "Not likely. This is mainly because the country has come to accept gay marriage. But wholly apart from that, many gay marriages have since taken place. What would happen to those marriages if Obergefell was overruled? They couldn't be invalidated without immediate legal consequences for vested rights to support, property and custody of children.

"So many gay marriages would have to be recognized, whatever happens to Obergefell. But that means that any transition to a regime, presumably in some states, that did not recognize gay marriage would be very confusing."

What other issues could be most impacted by a new justice?

- Capital University law Dean and UI law grad RACHEL JANUTIS says: "One area that I think is likely to be affected by Kennedy's retirement and replacement, presumably by a more conservative jurist, would be the law pertaining to criminal sentencing. Specifically, a new, more conservative justice is likely to be more deferential to state judgments about for which crimes the death penalty is appropriate and other substantial criminal penalties such as life in prison without parole.

"A more conservative justice is likely to be more deferential to states in cases regarding the method of execution as well. Kennedy was an important vote in cases which prohibited the imposition of the death penalty for juveniles and mentally disabled as well as prohibiting life in prison without parole for juveniles. ... The Court will hear at least two challenges to the manner by which states carry out death sentences in the near future. Kennedy's absence from the bench is likely to affect the outcome of those cases."

- Malcolm says: "First, I think that a number of the potential nominees appear to be skeptical of Chevron and the other deference doctrines, so the Court may be prepared to revisit Chevron once a new justice is confirmed.

"I also think it is possible that the Court may be willing to take up another Second Amendment case. Other than a brief summary reversal in a 2016 case involving stun guns, the Court has not taken up a Second Amendment case since Heller in 2008 and McDonald in 2010, and the lower courts have been all over the map on the issue and could use some guidance on the contours of the right to 'keep and bear arms.'"

- University of Delaware law Dean and former UI Professor ROD SMOLLA says: "Affirmative action in college admissions could be abolished by five conservative justices."

- Fourth District appellate Judge ROBERT STEIGMANN says: "In Plessy v. Ferguson, the Supreme Court upheld 122 years ago the constitutionality of racial segregation laws and came up with the doctrine of 'separate but equal.' Only Justice John Harlan Marshall dissented from that odious decision, and his dissent rings as true today as it did in 1896. He wrote the following:

"In view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our Constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The law regards man as man, and takes no account of his surroundings or of his color when his civil rights as guaranteed by the supreme law of the land are involved. It is therefore to be regretted that this high tribunal has reached the conclusion that it is competent for a state to regulate the enjoyment by

citizens of their civil rights solely upon the basis of race. In my opinion, the judgment this day rendered will, in time, prove to be quite as pernicious as the decision made by this tribunal in the Dred Scott case."

"My hope is that the addition of another conservative justice on the Supreme Court will finally see this Nation expunge all of the vestiges of the pernicious Plessy v. Ferguson decision and adopt the promise of color-blind law and a color-blind Constitution."

Past appointees have turned out to be less predictable in their rulings than the presidents who chose them. Could that wind up being the case here?

- CNN analyst JEFFREY TOOBIN says: "It's largely a myth that presidents turn out to be surprised by the justices they appoint to the Court. All nine of the current justices have followed the paths they were expected to take, and that will almost certainly be true of Kennedy's replacement, as well."

- Amar says: "Anything is possible, but presidents and their teams today are much more focused on picking someone whose ideological approach is reliable and consistent. William Brennan, Harry Blackmun and David Souter - and to some extent, even Anthony Kennedy - all surprised the Republican presidents who appointed them, but none of the eight justices who remain on the Court today has an overall voting pattern appreciably different from what experts and appointing presidents - from both parties - could have predicted."

How would you sum up Kennedy's legacy?

- George Washington law Professor DAVID FONTANA says: "By voting more like a Republican of 1988 than 2018, Justice Kennedy placed the Supreme Court to the right-of-center but not on the far right even after his party abandoned him and his world view and moved to the far right."

- Tulane law Dean DAVID MEYER says: "Justice Kennedy stood apart from his more conservative colleagues in his more dynamic understanding of the Constitution. He viewed it as susceptible to new meanings over time and as appropriately interpreted in light of changing social norms. This view supported his embrace of gay rights and a qualified right to abortion."

- Smolla says: "He defended abortion and affirmative action, and courageously championed dignity and equality on matters of sexual orientation."

---- Index References ----

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'We just need to keep pushing on': Why Trump's attacks won't make Jeff Sessions quit

Those who know him say the attorney general is motivated to make his vision of America a reality, cracking down on illegal immigration and violent ...

Matt Zapotosky;Sari Horwitz

Those who know him say the attorney general is motivated to make his vision of America a reality, cracking down on illegal immigration and violent crime in particular.

Just two hours after President Trump on Tuesday again attacked him on Twitter, Attorney General Jeff Sessions sat before a convening of government officials tasked with preventing elder abuse.

His prepared remarks called for him to single out, by name, the man who had appointed him to his job. But as he highlighted the problem of fraud against the elderly and approached the pivotal line, he stumbled.

"But in," Sessions said, pausing to look down at the table in front of him, "this administration, we're not going to tolerate it."

His written remarks called for him to say, "But in the Trump administration, we're not going to tolerate this."

Sessions often deviates from the script when he speaks, and he generally has not shied from praising Trump directly. But the episode Tuesday in Washington typifies the toxic relationship that now exists between the president and the former Republican senator from Alabama he picked to lead federal law enforcement.

Incensed by Sessions's recusal from the Russia probe, Trump airs his rancor on Twitter, and it rockets across the Internet. Sessions, meanwhile, goes about his work, his counterattacks so muted that it is nearly impossible to identify them as such.

"He's dealing with it well, keeping his nose down and doing his job," said William P. Barr, a former attorney general who is in contact with Sessions. "I think his feeling is, if the president wants him to leave, he can tell him to leave."

Trump's latest salvo against Sessions came at 7:31 a.m., when he wrote amid a flurry of tweets: "The Russian Witch Hunt Hoax continues, all because Jeff Sessions didn't tell me he was going to recuse himself. . .I would have quickly

picked someone else. So much time and money wasted, so many lives ruined. . .and Sessions knew better than most that there was No Collusion!"

Trump has raged, publicly and privately, about Sessions stepping aside from the probe now led by special counsel Robert S. Mueller III, which is exploring whether the president's campaign coordinated with Russia to influence the election.

He has berated his attorney general so fiercely that Sessions, more than a year ago, submitted a resignation letter, which the president did not accept. He also has asked his attorney general to undo his recusal, although Sessions declined. Mueller is looking at those incidents, and others, to determine whether they amount to obstruction of justice.

A Justice Department spokeswoman declined to comment.

Those who know Sessions say that he has long loved the Justice Department and that he is intensely motivated to keep working there. The Washington Post spoke to six people close to the attorney general for this article, most of them speaking on the condition of anonymity to talk frankly.

As attorney general, those who know him say, Sessions wants to turn into reality the vision of America he long held as a senator.

Already, he has instituted a tougher charging policy for drug offenders and instructed border prosecutors to take a zero-tolerance approach to cases of illegal entry. He also has issued sweeping guidance to executive branch agencies on the Justice Department's interpretation of how the government should respect religious freedom, and taken positions that appeal to conservatives in court cases, such as the Supreme Court's consideration of a baker who refused to make a cake for a same-sex wedding.

"He's very proud of the advancement of the Trump law enforcement, criminal justice agenda that he's the moving force behind and that he came into office to advance," said one person close to Sessions.

Two people who know him said, in conversations with them about Trump's attacks, Sessions emphasized he was just trying to do his job.

"I have never heard him say he's hurt," one former Justice Department official close to Sessions said. "I've heard him say, 'We just need to keep pushing on.' "

Critics worry that Trump's attacks are undermining the independence of the Justice Department, pressuring leaders to take steps they otherwise would not to appease a vindictive commander in chief. When Trump demanded an investigation of what he alleged was political spying on his campaign, for example, the department asked the inspector general to look into the matter.

One person who knows Sessions, though, said the attorney general probably thinks "he's the only person standing between the president and the complete destruction of the Justice Department." Lawmakers have also conveyed to the president that confirming a successor, particularly in the near term, could be difficult, and the department already lacks many Senate-confirmed leaders.

A spokesman for Senate Judiciary Committee Chairman Charles E. Grassley (R-Iowa) said Tuesday that "given the Senate's and committee's schedule, it would be difficult to confirm an AG nominee this year." Senate Majority Leader Mitch McConnell (R-Ky.) told a reporter this week, "I think he is very popular with our members and I hope he'll remain in the job."

Sessions has occasionally seemed to jab back at Trump. In February, after Trump criticized Sessions for asking the Justice Department inspector general to explore alleged abusive surveillance of a former member of his campaign, Sessions said in a statement that the department had "initiated the appropriate process" and added, "As long as I am the Attorney General, I will continue to discharge my duties with integrity and honor."

Later, he was spotted at dinner with Deputy Attorney General Rod J. Rosenstein and Solicitor General Noel Francisco. Some took the meal as a sign of solidarity, although a person who knows Sessions and discussed the matter with him said Sessions was "surprised that the press actually picked that up and viewed that as a poke."

More recently, Sessions told the White House counsel that he might have to leave his job if Trump fired Rosenstein, who is now supervising Mueller's probe.

One person who talks to Sessions said the attorney general, though, was somewhat taken aback by his deputy's appointment of Mueller as special counsel. Sessions has said publicly he understands the president's frustrations with the special counsel investigation, and that Mueller's probe "needs to conclude."

People close to Trump and Sessions say they doubt the president will fire the attorney general. Rudolph W. Giuliani, Trump's lawyer, said last week that Trump realized such a move would "backfire." People close to Sessions said he has also become less irked by the attacks over time.

"It's almost like they've reached this uneasy understanding that the president is going to criticize him and he's not going to leave," a person close to Sessions said.

The people acknowledged, though, that the situation might one day change.

"He feels he's the best man for the job for the present," a former senior member of Sessions's staff said. "But he does work for the president, and the president is the one who hires and fires. Jeff is of the attitude he'll continue working as long as he can, trying to implement the president's goals. If the president decides he doesn't want him in the job, he'll tell him and he'll leave."

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News Subject: (Emerging Market Countries (1EM65); Government (1GO80); Government Litigation (1GO18); Judicial Cases & Rulings (1JU36); Legal (1LE33); Legislation (1LE97); U.S. Legislation (1US12))

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Under fire, Attorney General Sessions silent no longer

Kevin Johnson and David Jackson

March 2, 2018

WASHINGTON – Attorney General Jeff Sessions absorbed every taunt and Twitter bomb lobbed his way by a displeased boss.

Like so many political rivals he dispatched during a scorched-earth campaign for the White House, President Trump publicly shamed his attorney general as weak or beleaguered.

Sessions, one of the president's earliest and most vocal supporters, largely sat silent — until now.

Sessions quickly responded Wednesday to Trump's latest Twitter lashing, in which he called the attorney general "disgraceful" for choosing the Justice Department's inspector general instead of prosecutors to review alleged surveillance abuses against a former Trump campaign aide.

"As long as I am the attorney general," Sessions said Wednesday, "I will continue to discharge my duties with integrity and honor."

Two former attorneys general rallied to Sessions' defense Thursday. One, Edwin Meese, said Trump's treatment of the former Alabama senator has been unfair and probably unprecedented.

"I know it's not always his way to respond (to the president), but it was important for Jeff to stand behind the (Justice Department) when it is doing the right thing," said Meese, who served in the Reagan administration.

Meese said Trump's attorney general has done more to "further the president's agenda than anybody" on immigration enforcement, combating violent crime and opioid abuse.

"I can't explain it," Meese said of the president's criticism.

William "Bill" Barr, an attorney general to President George H.W. Bush, said it was important for the public to hear from Sessions in the wake of Trump's latest criticism.

"I think he was reminding the American people of a key attribute that we need in an attorney general, and that is integrity," Barr said. "He's saying, 'Look, I'm calling things as I see it.'"

White House spokeswoman Sarah Sanders said Thursday that the president stood by his criticism of Sessions.

"The president made his frustration very clear," Sanders said.

Asked whether Trump planned to dismiss his attorney general, Sanders said, "Not that I know of."

Trump's most pointed criticism of Sessions since last spring and summer is fraught with risk. The president's alliance with his attorney general was damaged a year ago after Sessions recused himself from managing the inquiry into Russia's alleged interference in the 2016 election, leading to the appointment of special counsel Robert Mueller.

Any move to oust Sessions could be viewed as an attempt to wrest control of Mueller's inquiry, which includes looking into whether the president has sought to obstruct the investigation.

"If Trump removes Sessions, Mueller would have to look at this very carefully in combination with the president's dismissal of (FBI director James) Comey as an effort to damage, derail or slow down the Russia investigation," said Patrick Cotter, a former federal prosecutor.

Trump was so angry with Sessions' recusal last year that the attorney general offered his resignation, which the president did not accept.

"In the (May) interview with NBC, he acknowledged firing Comey because of his handling of the Russia investigation. Whatever Trump does, it seems to make it easier for prosecutors," Cotter said.

The political costs of removing Sessions could be just as risky.

The attorney general enjoys fairly strong support among Republicans for aggressively pursuing Trump's agenda at the Justice Department.

In addition to focusing attention on recent spikes in homicide, he has ordered a sweeping review of police agreements that punished troubled agencies; rolled back a series of Obama-era civil rights actions, including a Justice Department challenge to a voter identification law in Texas; and threatened so-called sanctuary cities for harboring undocumented immigrants.

In January, the attorney general paved the way for tougher marijuana enforcement when he rescinded the previous administration's policy of non-interference with state laws allowing the use of medical and recreational pot.

This week, Rep. Pete King, R-N.Y., citing Sessions' loyalty, said the president should refrain from publicly rebuking the attorney general. "He's often in very difficult positions, and I think he's trying to reconcile as best as he can," King said on Fox News.

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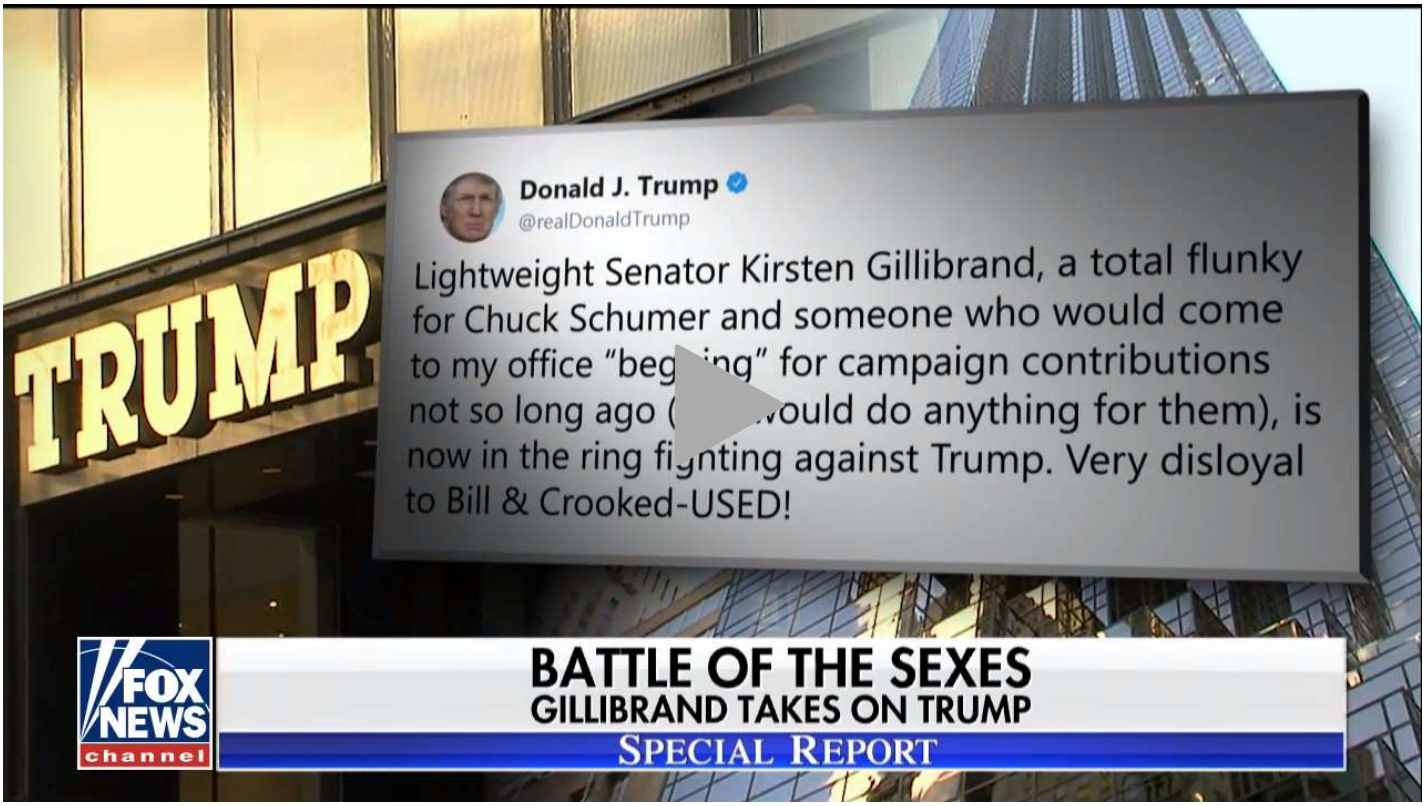
Gillibrand, said to have her eye on 2020, vows to block key Trump DOJ appointee

By Jake Gibson, **| Fox News**



Gillibrand's expected presidential campaign gets a boost

The Democratic senator says President Trump's tweet effectively accused her of being willing to trade sexual favors for cash; James Rosen has the details for 'Special Report.'

Sen. Kirsten Gillibrand of New York is one of the most talked-about potential Democratic candidates for the White House in 2020. But she has also turned into a thorn in the side of the Department of Justice as she holds up one of DOJ's highest-profile postings.

The junior senator from New York plans to use her “blue-slip prerogative” to block the confirmation of Geoffrey S. Berman, if he is nominated by President Trump to be the United States attorney for the Southern District of New York, Gillibrand spokesman Glen Caplin told Fox News.

Berman, 58, a former prosecutor in the office, has been appointed by Attorney General Jeff Sessions as the interim U.S. attorney for the Southern District of New York. The posting has jurisdiction over all businesses in Manhattan, including those of Trump and his family.

Gillibrand doesn't have an issue with Berman’s qualifications. Her objection lies with the man who nominated him and reports that Berman personally met with the president as part of the selection process.

“This is about President Trump,” Caplin said. "Senator Gillibrand believes U.S. attorneys work for the people they serve and must be independent from the White House.”

He called it a “cornerstone of our democracy” and said reports that Trump took the “unusual step of personally interviewing Berman are deeply disturbing, considering the conflicts of interest inherent by his potential jurisdiction on matters that could affect the president personally."

Caplin said that if the meeting between Trump and Berman occurred, as purported, it should be disqualifying.

“Under these circumstances, if nominated, the senator would have no choice but to stand up for the independence of the U.S. attorney's office by using her blue-slip prerogative,” Caplin said.

The Senate Judiciary Committee has long adhered to a so-called blue-slip process, in which "home-state" senators can attempt to block a president's preferred choice for federal office in their state.

Committee Chairman Chuck Grassley, R-Iowa, has made it clear that he intends to honor the “blue-slip courtesy.”

"It is difficult to envision a scenario in which Chairman Grassley would disregard an unreturned or negative blue slip on a U.S. attorney nominee,” Grassley spokesman Taylor Foy said.

The blue-slip courtesy was created in 1917 by the committee chairman at that time, Charles Culberson, D-Texas. It gives home-state senators the ability to consult with the White House when it comes to the nomination of circuit and district court judges, U.S. attorneys and federal marshals.

A source close to the committee told Fox News: "This hasn't really been much of a thing recently. Home-state senators usually negotiate with the White House. I don't recall encountering a blue-slip dispute for U.S. attorney nominees in the past."

Fox News has learned that Justice officials have offered Gillibrand a chance to meet with Berman.

“It’s very disappointing to hear the senator’s remarks,” one Justice Department official told Fox News. “We certainly hope that she will reconsider the offer we made to the senator in September to set up an in-person meeting with Mr. Berman where she could raise any concerns she may have.”

When asked about the offer to meet with Berman, a source close to Gillibrand would not comment on whether she’d be open to it in the future but reiterated, “Regarding meeting with Berman, this is about President Trump, not Mr. Berman personally."

Justice officials also tell Fox News that Gillibrand rejected an offer to meet with FBI Director Christopher Wray before his Senate confirmation. Gillibrand later voted against Wray's confirmation. So far, she’s also rejected the invitation to meet with three other newly appointed U.S. attorneys in New York.

Unlike Gillibrand, New York Sen. Chuck Schumer has already met with all four newly appointed U.S. attorneys in the Empire State.

One Trump administration official told Fox News, "This isn't about principle, this is about 2020."

Gillibrand is widely believed to be a top Democratic contender for a possible 2020 run for the presidency. While neither Gillibrand nor her aides would confirm or deny plans for a White House bid, there are reports of extensive fundraising as well as her outreach to young people and communities of color that play well with one of the most serious anti-Trump voting records in the Senate.

Trump officials have been quick to call out Gillibrand as hypocritical and point to a meeting former U.S. Attorney Preet Bharara had with Trump.

“It’s notable that Senator Gillibrand did not put out a statement condemning Preet Bharara when he met with President Trump shortly after the election about staying on as United States attorney," said one administration official.

In fact, Senator Schumer had a positive response to that meeting.

“President-elect Trump called me last week and asked me what I thought about Preet Bharara continuing his role as U.S. attorney. I told him I thought Preet was great, and I would be all for keeping him on the job and fully support it,” Schumer told the New York Post.

Caplin referred to the Bharaha meeting as "a red herring.”

He said: “Mr. Bharara met with President-elect Trump before he was president and the president displayed an inability to keep an appropriate arms-length relationship with law enforcement. In fact, Mr. Bharara was fired less than 24 hours after following protocol and declining to return the sitting president’s phone call. Mr. Bharara’s statement that he believed President Trump would ultimately ask him ‘to do something inappropriate’ is further cause for real concern."

The question for many becomes whether a sitting president, or a president-elect, should be meeting with a prospective U.S. attorney. The opinions differ.

Gillibrand thinks such a meeting is unethical.

William Barr, the attorney general from 1991-93 under George H. W. Bush, told Fox News, "It is not surprising at all that a president would take a moment to meet a candidate for a major DOJ post, including key U.S. attorney positions, before nominating."

Barr went on to say: "This is no cause for concern. Based on my own experience in Bush 41's administration, this is not unusual and makes sense where the president is not personally familiar with the candidate. Unless something inappropriate was discussed, the nominee should be judged on his or her merits and qualifications."

Department of Justice officials point out that Trump also met Jessie Liu, the new U.S. attorney for Washington, D.C., who was confirmed by the Senate in September.

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Washington Post, The (Washington, D.C.)

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Issue DAILY
Section: Main (A Section)

No sign top Justice Dept. jobs will be filled anytime soon

Matt Zapotosky

Nearly a year into President Trump's administration, the Justice Department lacks Senate-confirmed appointees in leadership posts running the national security, criminal, civil rights and other key divisions. And the problem shows no sign of abating anytime soon.

On Thursday, after Attorney General Jeff Sessions revealed he was implementing new guidance to make it easier for federal prosecutors to pursue marijuana cases in states where the substance is legal, Sen. Cory Gardner (R-Colo.) accused the Justice Department of trampling the will of Colorado voters and said he would "take all steps necessary, including holding DOJ nominees, until the Attorney General lives up to the commitment he made to me prior to his confirmation."

Already, the department had a dearth of Senate confirmed nominees in leadership positions. While the top three posts are filled, the National Security Division, Criminal Division, Civil Rights Division, Tax Division, the Drug Enforcement Administration and others lack confirmed presidential appointees. A Justice Department official said the delays have been frustrating, particularly in the criminal and national security divisions.

"We desperately need them; we desperately need those two in particular," the official said. "We need them here, like, yesterday."

Some nominations have languished for months - even as Trump's party controls Congress. Justice Department veterans from both political parties say that void prevents the department from fully implementing its policy goals.

"To me, what's happening is reprehensible, not only in the Department [of Justice] but throughout government," said William Barr, who was the attorney general under President George H.W. Bush. "This is unprecedented. Anyone who has worked in an administration knows how damaging it is."

Trump has nominated people to fill several Justice Department spots, including the civil, criminal, national security and civil rights divisions, and many have already had confirmation hearings. They have yet to be put up for a vote by the full Senate, though. Trump also has nominated 58 U.S. attorneys, 46 of whom have been confirmed, and Sessions recently picked 17 more to serve in interim posts.

Legal analysts say the delays are more significant than others in recent memory. President Barack Obama's National Security Division head, for instance, was confirmed two months after he took office. His Criminal Division head followed the month after that.

Senate Majority Leader Mitch McConnell (R-Ky.) has blamed Democrats for using procedural delays to create a backlog of nominees across government. A spokesman asked for comment on this story pointed to McConnell's previous public statements on the matter.

"If this trend continues, it will take us more than 11 years to confirm the remaining presidential appointments," McConnell said in July. "Let me repeat that. More than 11 years. A presidential term lasts four."

Democrats say they are delaying nominees because of substantive concerns, and they argue that Republicans, too, have thrown up roadblocks.

"Given that it is the fount of the judicial system and the sensitivity of its mission, there is no department that needs more scrutiny than DOJ," said Sen. Charles E. Schumer (N.Y.), the highest-ranking Democrat. "There is bipartisan opposition to many of the nominees due to the lack of independence that many of the nominees and appointees have demonstrated."

Gardner is the latest Republican to raise concerns, though he himself had previously criticized Democratic obstruction of nominees. The Daily Beast reported that Sen. Rand Paul (R-Ky.) was holding up the confirmation of Boeing assistant general counsel John Demers to lead the National Security Division over concerns about his support for a government surveillance law.

Asked about that report, the senator's office responded: "Senator Rand Paul remains highly critical of warrantless domestic surveillance, and will use every tool available to him to push for much needed reform."

The Justice Department has assigned people to lead each division on an acting basis while waiting for permanent appointees. And Sessions has been one of Trump's most effective Cabinet secretaries in implementing the president's agenda, imposing sweeping change at the department in a number of areas.

Matt Axelrod, a former high-ranking official in the Obama Justice Department who is now at the law firm Linklaters, said that while those in acting roles perform admirably, "everyone knows they're temporary, and that means that they don't have the same heft internally or externally as the Senate-confirmed heads will." He said the delay in approving Trump's nominees was particularly unusual because Republicans control Congress, and many of his nominees have been "mainstream Republican picks."

Demers, the National Security Division nominee, was a deputy assistant attorney general before joining Boeing. Brian Benczkowski, the Criminal Division nominee, is a white-collar lawyer at Kirkland & Ellis who had served in a variety of Justice Department roles and as staff director of the Senate Judiciary Committee. (Democrats have raised questions about his representation of a Russian bank.) Jody Hunt, the Civil Division nominee, is a Justice Department veteran who served as Sessions's chief of staff.

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---- Index References ----

Company: BOEING CO (THE); KIRKLAND AND ELLIS LLP; LINKLATERS LLP

News Subject: (Government (1GO80); Government Litigation (1GO18); Legal (1LE33); Political Parties (1PO73); Public Affairs (1PU31))

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‘Lock Her Up’ Becomes More Than a Slogan; News Analysis

The New York Times

November 14, 2017 Tuesday 00:00 EST

Section: US; politics

Length: 1585 words

Byline: PETER BAKER

Highlight: Attorney General Jeff Sessions denies being influenced by the president’s public pressure as he considers authorizing a new investigation of Hillary Clinton.

Body

WASHINGTON — President Trump did not need to send a memo or telephone his attorney general to make his desires known. He broadcast them for all the world to see on Twitter. The instruction was clear: The Justice Department should investigate his defeated opponent from last year’s campaign.

However they were delivered, Mr. Trump’s demands have ricocheted through the halls of the Justice Department, where Attorney General Jeff Sessions has now ordered senior prosecutors to evaluate various accusations against Hillary Clinton and report back on whether a special counsel should be appointed.

Mr. Sessions has made no decision, and in soliciting the assessment of department lawyers, he may be seeking a way out of the bind his boss has put him in. At a congressional hearing on Tuesday, he pushed back against Republicans impatient for a special counsel. But if he or his deputy ultimately does authorize a new investigation of Mrs. Clinton, it would shatter post-Watergate norms intended to prevent presidents from using law enforcement agencies against political rivals.

The request alone was enough to incite a political backlash, as critics of Mr. Trump quickly denounced what they called “banana republic” politics of retribution, akin to autocratic nations where election losers are jailed by winners.

“You can be disappointed, but don’t be surprised,” said Karen Dunn, a former prosecutor and White House lawyer under President Barack Obama who advised Mrs. Clinton during her campaign. “This is exactly what he said he would do: use taxpayer resources to pursue political rivals.”

Democrats vividly recall Mr. Trump on the campaign trail vowing to prosecute Mrs. Clinton if he won. “It was alarming enough to chant ‘lock her up’ at a campaign rally,” said Brian Fallon, who was Mrs. Clinton’s campaign spokesman. “It is another thing entirely to try to weaponize the Justice Department in order to actually carry it out.”

But conservatives said Mrs. Clinton should not be immune from scrutiny as a special counsel, Robert S. Mueller III, investigates Russia’s interference in last year’s election and any connections to Mr. Trump’s campaign. They argued, for example, that Mrs. Clinton was the one doing Russia’s bidding in the form of a uranium deal approved when she was secretary of state.

Peter Schweizer, whose best-selling book “Clinton Cash” raised the uranium issue in 2015, said a special counsel would be the best way to address this matter because it would actually remove it from politics. “It offers greater independence from any political pressures and provides the necessary tools to hopefully get to the bottom of what happened and why it happened,” said Mr. Schweizer, whose nonprofit organization was co-founded by Stephen K. Bannon, Mr. Trump’s former chief strategist.

At Tuesday’s hearing before the House Judiciary Committee, Mr. Sessions denied that he was responding to Mr. Trump’s public pressure. “A president cannot improperly influence an investigation,” he said, “and I have not been improperly influenced and would not be improperly influenced. The president speaks his mind. He’s a bold and direct about what he says, but people elected him. But we do our duty every day based on the law and facts.”

Even as he rebuffed Democrats suggesting he had been compromised, Mr. Sessions pushed back against Republicans who pressed him on why he had not already appointed a special counsel. “What’s it going to take to get a special counsel?” demanded Representative Jim Jordan of Ohio.

“It would take a factual basis that meets the standards of the appointment of a special counsel,” Mr. Sessions said.

Mr. Jordan raised questions about a dossier of salacious assertions about Mr. Trump prepared last year by a firm paid by Mrs. Clinton’s campaign and the Democratic National Committee. Mr. Jordan said “it sure looks like” the Democrats collaborated with the F.B.I. to use the dossier to persuade a secret intelligence court to issue a warrant to spy on Americans associated with Mr. Trump’s campaign. “That’s what it looks like,” Mr. Jordan said.

Mr. Sessions bridled at that. “I would say ‘looks like’ is not enough basis to appoint a special counsel,” he retorted.

Among the issues being examined, according to a Justice Department letter to the committee, is the uranium case. In 2010, Russia’s atomic energy agency acquired Uranium One, a Canadian company that at the time controlled 20 percent of American uranium extraction capacity. The purchase was approved by a government committee that included representatives of nine agencies, including the State Department.

Donors related to Uranium One and another company it acquired contributed millions of dollars to the Clinton Foundation, and former President Bill Clinton received $500,000 from a Russian bank for a speech. But there is no evidence that Mrs. Clinton participated in the government approval of the deal, and her aides have noted that other agencies signed off on it. The company’s actual share of American uranium production has been 2 percent; the real benefit for Russia was securing far greater supplies of uranium from Kazakhstan.

Other issues mentioned in the Justice Department letter include Mrs. Clinton’s use of a private email server, which was investigated by the F.B.I. until the bureau’s director at the time, James B. Comey, declared last year that no prosecutor would press charges based on the evidence. The letter said the department was also examining Mr. Comey for leaking details of his conversations with Mr. Trump after the president fired him.

To the extent that there may be legitimate questions about Mrs. Clinton or Mr. Comey, however, the credibility of any investigation presumably would be called into question should one be authorized by Mr. Sessions or his deputy, Rod J. Rosenstein, because of the way it came about under pressure from Mr. Trump.

Of 10 former attorneys general contacted Tuesday, only one responded to a question about what they would do in Mr. Sessions’s situation.

“There is nothing inherently wrong about a president calling for an investigation,” said William P. Barr, who ran the Justice Department under President George Bush. “Although an investigation shouldn’t be launched just because a president wants it, the ultimate question is whether the matter warrants investigation.”

Mr. Barr said he sees more basis for investigating the uranium deal than any supposed collusion between Mr. Trump and Russia. “To the extent it is not pursuing these matters, the department is abdicating its responsibility,” he said.

Mr. Trump promised last year that if elected, he would instruct his attorney general to appoint a special prosecutor to investigate Mrs. Clinton. But he backed off that shortly after the election, saying, “I don’t want to hurt the Clintons.”

By last summer, with Mr. Mueller’s investigation bearing down, he had changed his mind. To Mr. Trump, the inquiry was a “witch hunt” based on a “hoax” perpetrated by Democrats. It was all the more galling, advisers said, because

Mrs. Clinton had not been prosecuted, a frustration exacerbated by recent reports about how her campaign helped finance the salacious dossier.

“So why aren’t the Committees and investigators, and of course our beleaguered A.G., looking into Crooked Hillarys crimes & Russia relations?” he wrote on Twitter in July.

“There is so much GUILT by Democrats/Clinton, and now the facts are pouring out,” he wrote in October. “DO SOMETHING!”

“At some point the Justice Department, and the FBI, must do what is right and proper,” Mr. Trump wrote again in November. He added: “Everybody is asking why the Justice Department (and FBI) isn’t looking into all of the dishonesty going on with Crooked Hillary & the Dems.”

Mr. Trump has expressed frustration that he does not control the F.B.I. or the Justice Department. By his own account, he fired Mr. Comey while bristling at the Russia investigation that the F.B.I. director was then leading. He has also expressed anger at Mr. Sessions for recusing himself from overseeing that investigation, resulting in Mr. Mueller’s appointment, and he has refused to rule out firing the attorney general.

With his job potentially on the line, Mr. Sessions has been put in the difficult position of absorbing his president’s ire while safeguarding the department’s traditional independence. By asking prosecutors to evaluate the evidence, he has a ready-made reason not to appoint a special counsel if they do not recommend one.

“I have no idea what will happen, but this letter is entirely consistent with the A.G. later saying, ‘We followed normal process to look in to it and found nothing,’” said Jack L. Goldsmith, a former Justice Department official under the younger Mr. Bush. “The letter does not tip off or hint one way or another what the A.G.’s decision will be.”

At least one active Twitter user will be waiting for that decision.

Follow Peter Baker on Twitter: @peterbakernyt.

PHOTOS: President Trump and some Republicans have urged the Justice Department to appoint a special counsel to investigate Hillary Clinton’s involvement with Uranium One, a company sold to Russia in 2010 that contributed millions to the Clinton Foundation. (PHOTOGRAPHS BY MARY ALTAFFER/ASSOCIATED PRESS; GEORGE FREY/REUTERS) (A12)

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November 5, 2017

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Trump flouts protocol, pushes for probe of Democratic Party

Philip Rucker;Matt Zapotosky

President Trump on Friday repeatedly called on the Justice Department and FBI to investigate his Democratic political opponents, a breach of the traditional executive branch boundaries designed to prevent the criminal justice system from becoming politicized.

Trump urged federal law enforcement to "do what is right and proper" by launching criminal probes of former presidential rival Hillary Clinton and her party - a surprising use of his bully pulpit considering he acknowledged a day earlier that presidents are not supposed to intervene in such decisions.

In a flurry of accusatory morning tweets, Trump claimed there was mounting public pressure for new Clinton probes, including over her campaign's joint fundraising agreement with the Democratic National Committee that effectively gave her some control over the party's finances, strategy and staffing before the primaries began.

Trump invoked Sen. Elizabeth Warren (D-Mass.), who had said that she believed the Democratic primaries were rigged in Clinton's favor based on details of the arrangement in a new book by former DNC interim chair Donna Brazile. Using his pejorative nickname for Warren, Trump tweeted: "Pocahontas just stated that the Democrats, lead by the legendary Crooked Hillary Clinton, rigged the Primaries! Lets go FBI & Justice Dept."

Trump also called for probing the deleted emails from Clinton's private server while she was secretary of state, as well as the sale of a uranium company to Russia and the international business of Democratic super-lobbyist Tony Podesta, the brother of John D. Podesta, who served as Clinton's campaign chairman.

"People are angry," Trump wrote in one tweet. "At some point the Justice Department, and the FBI, must do what is right and proper. The American public deserves it!"

Trump amplified his message later Friday morning, as he spoke to reporters on the South Lawn of the White House before he departed for a 12-day trip to Asia.

"I'm really not involved with the Justice Department," Trump said. "I'd like to let it run itself. But honestly, they should be looking at the Democrats. . . . And a lot of people are disappointed in the Justice Department, including me."

Trump has long been irritated, and at times outright angry, with Attorney General Jeff Sessions for refusing to prosecute Clinton and for not better protecting him from special counsel Robert S. Mueller III's wide-ranging probe into Russian interference in the 2016 election, the president's advisers have said.

Trump made his displeasure clear in a Thursday radio interview on "The Larry O'Connor Show."

"You know, the saddest thing is, because I am the president of the United States, I am not supposed to be involved with the Justice Department. I'm not supposed to be involved with the FBI," Trump said. "I'm not supposed to be doing the kind of things I would love to be doing and I am very frustrated by it."

The president said it was "very discouraging to me" that the Justice Department and FBI were not "going after Hillary Clinton." He added, "Hopefully they are doing something and at some point, maybe we are going to all have it out."

The White House offered no explanation for why Trump publicly pressured the Justice Department on Friday. A Justice Department spokesman also declined to comment.

Senior officials at the White House and some key Republican lawmakers have raised concerns in recent days about the level of access the Justice Department has been providing to congressional investigators to review materials.

Some lawmakers have sought more information than the department has provided related to a dossier that contained lurid allegations about Trump's alleged ties to Russia, in addition to material related to the uranium deal, according to administration and congressional officials.

A White House official said Trump wants the Justice Department, as a general policy, to be transparent and provide Congress with the information it is requesting. A Justice Department official said the White House overtures were not considered inappropriate because they were about the agency's compliance with congressional oversight. Both officials spoke on the condition of anonymity because they were not authorized to discuss the matter on the record.

Friday's public pressure marks the latest attempt by Trump to use his presidential megaphone to direct the criminal justice process.

Trump delivered off-the-cuff remarks this week recommending punishment for Sayfullo Saipov, the suspect accused of killing eight people with a rental truck in New York City. He at first said he was considering sending Saipov to the military prison at Guantanamo Bay, Cuba, but then reversed course and advocated a civilian trial in federal court and the death penalty for the terrorism suspect he called "an animal."

The president's comments complicated the work of FBI agents and federal prosecutors as they were investigating the attack and preparing criminal charges.

The Justice Department is a part of the executive branch; the attorney general is nominated by the president, as is the FBI director. So it is normal for the White House to direct the department and bureau on broad policy goals.

But unlike other executive branch agencies, the Justice Department traditionally enjoys a measure of independence, especially when it comes to individual criminal investigations. Government lawyers have long sought to enforce a clear line preventing White House officials from influencing specific investigations or prosecutions to ensure their work is not politicized.

Trump has departed from tradition when it comes to the Justice Department in other ways as well, including by talking with some candidates for some U.S. attorney jobs. Although they are presidential appointees, U.S. attorney candidates do not traditionally have personal interviews with the president before they are selected.

Sen. Bob Corker (R-Tenn.), who is not running for reelection and has become an outspoken critic of Trump, issued a statement saying that the justice system should be "independent and free of political interference."

"President Trump's pressuring of the Justice Department and FBI to pursue cases against his adversaries and calling for punishment before trials take place are totally inappropriate and not only undermine our justice system but erode the American people's confidence in our institutions," Corker said.

Matt Axelrod, who served as the principal associate deputy attorney general interacting with the White House during the Obama administration, said Trump's comments were "a very troubling and shocking departure from the way things are supposed to work and have worked historically through both Democratic and Republican administrations."

But former attorney general William P. Barr, who served under former Republican president George H.W. Bush, said it would not be automatically inappropriate for a president to ask for possible wrongdoing to be investigated.

"The president is the chief executive and, if he believes there's an area that requires an investigation, there's nothing on its face wrong with that, there's nothing per se wrong about that," Barr said.

"I don't think all this stuff about throwing [Clinton] in jail or jumping to the conclusion that she should be prosecuted is appropriate," Barr added, "but I do think that there are things that should be investigated that haven't been investigated."

The president directing a particular investigation - especially of a former political rival - would be viewed by most officials in law enforcement as improper. This, though, is not the first time Trump has suggested putting Clinton in law enforcement's crosshairs.

During the campaign, Trump repeatedly led rally crowds in chants of "Lock her up!" that were aimed at Clinton. And during a presidential debate, Trump told Clinton he would "instruct my attorney general to get a special prosecutor to look into your situation, because there has never been so many lies, so much deception."

Trump's comment sparked a torrent of criticism, including from former attorney general Michael Mukasey, who worked under former Republican president George W. Bush and was a vocal Clinton critic.

"It would be like a banana republic," Mukasey, who could not be reached for comment Friday, said at the time. "Putting political opponents in jail for offenses committed in a political setting, even if they are criminal offenses - and they very well may be - is something that we don't do here."

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Devlin Barrett, Spencer S. Hsu and Julie Tate contributed to this report.

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News Subject: (Campaigns & Elections (1CA25); Emerging Market Countries (1EM65); Global Politics (1GL73); Government (1GO80); Government Litigation (1GO18); Legal (1LE33); Lobby & Pressure Groups (1LO18); Public Affairs (1PU31); World Elections (1WO93))

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Section: News

Trump's demand raises ethical issues
Sessions resisted notion of reviving Clinton inquiry

Kevin Johnson

July 26, 2017

"I believe the proper thing for me to do would be to recuse myself from any questions involving those kind of investigations that involve Secretary Clinton."

Jeff Sessions

washington — If President Trump listened to the broadcast of Jeff Sessions' contentious Senate confirmation hearing in January, he heard an explanation for why his attorney general hasn't given in to his demands this week for an investigation into Hillary Clinton.

"This country does not punish its political enemies," Sessions told members of the Senate Judiciary Committee. He acknowledged that his own critical remarks about Clinton during the 2016 presidential election would disqualify him from launching such an inquiry.

"I believe the proper thing for me to do would be to recuse myself from any questions involving those kind of investigations that involve Secretary Clinton," Sessions said.

Since Trump first publicly expressed frustration with his attorney general last week — specifically over Sessions' decision in March to recuse himself from overseeing the widening investigation into alleged Russian interference in last year's election — Sessions has said very little.

But the attorney general's remarks nearly eight months ago underscore the minefield of potential conflicts of interest inherent in Trump's request to investigate a political opponent, regardless of the traditional independence of the Justice Department.

Trump's insistence that Sessions reopen the inquiry into Clinton's use of a private email server when she was secretary of State represents a troubling attempt to manipulate the criminal justice system, lawmakers and former federal prosecutors said Tuesday.

"Prosecutorial decisions should be based on applying facts to the law without hint of political motivation," said Sen. Lindsey Graham, R-S.C., a member of the Senate Judiciary Committee. "To do otherwise is to run away from the long-standing American tradition of separating the law from politics, regardless of party."

Others saw even more serious implications in the recent series of Trump's disparaging comments about Sessions, coupled with the calls for a renewed Clinton investigation.

"To make a demand like this in public, while implying that the attorney general's job is in jeopardy, almost feels like an attempt at blackmail," said Patrick Cotter, who has prosecuted high-profile organized crime figures. "It reeks of a crude mob deal that even most mobsters wouldn't stoop to.

"I'm no fan of Attorney General Sessions, but I believe the president is threatening his own attorney general," Cotter said. "He's essentially telling Sessions, 'If you want to keep your job, you better start an investigation of Hillary Clinton.'"

public 'disappointment'

A day after describing his attorney general as "beleaguered," Trump fired off a series of tweets Tuesday morning criticizing Sessions for taking "a VERY weak position on Hillary Clinton crimes."

He questioned why Sessions did not pursue reports from early this year that officials in Ukraine sought to interfere in the election.

At a White House news conference, Trump reasserted his "disappointment" with Sessions' recusal from the Justice Department inquiry into possible collusion between the Trump campaign and Russians who allegedly sought to influence the election.

The decision was "unfair" to the presidency, he said.

Trump refused to answer questions about whether he intended to dismiss the attorney general. "Time will tell," Trump said.

Trump's renewed focus on prosecuting Clinton — after spending a half-year in office — is a departure from his own post-election statements in which he expressed little interest in pursuing further inquiries into his defeated campaign foe.

FBI Director James Comey, who was dismissed by Trump in May, formally closed the Clinton investigation days before the election in November without recommending criminal charges.

Less than two weeks after the election, Trump told The New York Times he did not want to hurt the Clintons.

"I really don't," Trump said. "She went through a lot and suffered greatly in many different ways."

Kellyanne Conway, a Trump adviser, was more definitive when she told MSNBC last year that Trump hoped Congress would forgo further investigation into the former secretary of State's activities.

"I think when the president-elect, who's also the head of your party, tells you before he's even inaugurated that he doesn't wish to pursue these charges, it sends a very strong message, tone and content to members" of Congress," Conway said.

crossing a line

Now, Trump sends a very different message by portraying the case as a make-or-break issue for the continued tenure of his attorney general, analysts said.

William "Bill" Barr, who served as attorney general in the administration of George H.W. Bush, said there is nothing inherently illegal or unethical about a president recommending an investigation.

"But in the current context," Barr said, "it would be viewed as political."

During the campaign, Trump and his surrogates used the Clinton case as a rallying cry all along the trail, often leading chants of "Lock her up!"

Now that he's president, Trump's pursuit of Clinton could be viewed as an attempt to punish a political rival — or exert undue influence on investigators.

Regardless of whether Trump convinces the Justice Department to take up an inquiry, his latest push on this front is "unprecedented," former federal prosecutor Scott Fredericksen said.

"The suggestion that he wants to prosecute and imprison a political rival crosses a very bold and historical line that establishes the independence of the Justice Department," Fredericksen said. "That line is what separates our American democracy from a Third World dictatorship. A very important line may have been crossed here."

News analysis

"I believe the proper thing for me to do would be to recuse myself from any questions involving those kind of investigations that involve Secretary Clinton."

Jeff Sessions

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Mueller team's past political donations under microscope

Matt Zapotosky

Some experts see claims of bias as unwarranted, but optics still an issue

Robert S. Mueller III was greeted with near universal praise when he was appointed to lead the investigation into possible coordination between the Trump campaign and Russia during the 2016 election, but as he builds his special-counsel team, his every hire is under scrutiny.

At least seven of the 15 lawyers Mueller has brought on to the special-counsel team have donated to Democratic political candidates, five of them to Hillary Clinton - a fact that President Trump and his allies have eagerly highlighted. These critics also point to some of the lawyers' history working with clients connected to the Clintons and Mueller's long history with former FBI director James B. Comey as they question whether those assigned to the investigation can be impartial.

Many lawyers and ethics experts say they can see no significant legal or ethical concerns with the team's political giving or past work, and they note that Trump often misstates the facts as he casts aspersions. But others say the optical problem is a real one that threatens to undermine public confidence in the probe.

"In my view, prosecutors who make political contributions are identifying fairly strongly with a political party," said William P. Barr, who served as attorney general under George H.W. Bush. "I would have liked to see him have more balance on this group."

Criticizing those conducting an investigation is not a new tactic: Democrats famously put independent counsel Kenneth W. Starr in the crosshairs during his examination of President Bill Clinton. And by raising questions about the investigators early, legal analysts said, Trump is laying the groundwork to question any results that are not to his liking.

"By staking out the position of partisanship through campaign contributions, the president simply is setting a stage for a public-relations assault down the road," said Jacob Frenkel, a defense lawyer at Dickinson Wright who worked in the now-defunct Office of the Independent Counsel.

Trump has called the special counsel's investigation the "single greatest WITCH HUNT in American political history," adding that it is "led by some very bad and conflicted people!" In a recent interview on Fox News, the president said that

Mueller was "very, very good friends with Comey, which is very bothersome," and that "the people that have been hired are all Hillary Clinton supporters, some of them worked for Hillary Clinton."

"I mean the whole thing is ridiculous, if you want to know the truth from that standpoint," Trump said. "But Robert Mueller's an honorable man, and hopefully he'll come up with an honorable solution."

Asked whether Mueller would have to recuse himself, Trump said, "we're going to have to see."

Trump supporters have raised similar concerns. Republican former House speaker Newt Gingrich wrote on Twitter that Republicans were "delusional if they think the special counsel is going to be fair." The pro-Trump group Great America Alliance released a video in which conservative commentator Tomi Lahren opined, "Only in Washington could a rigged game like this be called independent."

But Attorney General Jeff Sessions, a strong Trump backer who has recused himself from the Russia probe, was more circumspect in an interview with "Fox & Friends" on Friday.

"Mr. Mueller is entitled lawfully, I guess at this point, to hire who he desires, but I think he should look for people who have strength and credibility by all people," Sessions said.

Pressed on whether he had confidence in Mueller, Sessions said: "I feel confident in what he'll do. That's all I can say to you about that."

Mueller has brought in 15 lawyers to work with him, among them former colleagues at the firm WilmerHale and veteran Justice Department lawyers, said Peter Carr, a spokesman for the special counsel's office. Only 13 have been publicly identified.

Put together, the team is a formidable collection of legal talent and expertise with experience prosecuting national security, fraud and public corruption cases, arguing matters before the Supreme Court and assessing complicated legal questions.

The team members include Michael Dreeben, a Justice Department deputy solicitor general who has argued more than 100 cases before the Supreme Court; Andrew Weissmann, who was the chief of the Justice Department's fraud section; James Quarles, who worked as an assistant special prosecutor on the Watergate Special Prosecution Force; and Jeannie Rhee, a former deputy assistant attorney general in the Office of Legal Counsel who also came from WilmerHale.

Rhee was on the team representing the Clinton Foundation, and another lawyer working with the special counsel, Aaron Zebley, once represented Justin Cooper, and aide to the Clintons. Zebley was Mueller's chief of staff when Mueller served as FBI director.

Carr confirmed to The Washington Post that Brandon Van Grack, a prosecutor in the Justice Department's national security division; Rush Atkinson, a trial attorney in the fraud section; Andrew D. Goldstein, who had headed the public corruption unit in the U.S. attorney's office in the Southern District of New York; and Zainab Ahmad, an assistant U.S. attorney in the Eastern District of New York specializing in terrorism cases, also had been assigned to work with the group.

Goldstein had worked under U.S. Attorney Preet Bharara, who was fired by Trump after he refused to resign upon request and who has said publicly that he had unusual exchanges with the president. Ahmad was recently profiled by the New Yorker for having prosecuted 13 terrorism cases without a single loss.

Seven special-counsel team members have donated to Democratic campaigns - five of those to Hillary Clinton's - with their giving totaling nearly $53,000. Federal Election Commission records listed no political contributions by the other six who are publicly known to be on the team.

Ethics experts said the giving should not preclude anyone's participation. Justice Department policies and federal law actually prohibit discriminating based on political affiliation when it comes to hiring for nonpolitical positions - meaning Mueller might feel he cannot consider donation history when he makes hires.

"Bottom line is, I don't see how donations are relevant," said Richard Painter, who was an ethics lawyer for President George W. Bush. "I've never heard of a single case where a prosecutor has been removed because of a political donation."

Quarles's donations are the most substantial. He has given more than $30,000 to various Democratic campaigns, including $2,700 to Clinton's in 2016, although his giving dates back two decades. Quarles has also given to Republicans, contributing $2,500 in 2015 to Jason Chaffetz (R-Utah), the chairman of the House Oversight Committee who left Congress last week, and $250 to then-Sen. George Allen (R-Va.) in 2005.

Rhee has donated nearly $12,000 to various Democratic campaigns, including President Barack Obama's and Clinton's, and Weissmann donated at least $6,600. Goldstein donated $3,300 to Obama's campaigns. Three others - Van Grack, Atkinson and Elizabeth Prelogar, a lawyer in the solicitor general's office - have donated less than $1,000 among them.

Some experts said Trump's assertions - many of which misstate the facts - provide no real basis to question the team's work.

"There's a bipartisan consensus that the various, wild conflicts allegations that have been made by Trump and his allies are groundless," said Norman Eisen, a fellow at the Brookings Institution who served as Obama's ethics czar. "It just is not the case that lawyers or investigators are disqualified by political activity of this kind."

Trump and his allies have also fixated on the longtime professional relationship between Mueller and Comey, but the president might be overstating their connection.

The two men played central roles in a 2004 incident during the Bush administration that has entered Washington lore, when both prepared to resign instead of go along with the reauthorization of a controversial surveillance program. The episode became particularly famous for Comey's intervention at the hospital bed of then-Attorney General John D. Ashcroft.

Comey could be a key figure in Mueller's investigation. The special counsel's probe includes a look at whether Trump attempted to obstruct justice in possibly trying to shut down the investigation of former national security adviser Michael Flynn. Comey's firing might be considered a piece of evidence in that case.

Ethics experts said they see no reason Mueller - who is registered as a Republican - would have a conflict. And David N. Kelley, Comey's attorney, disputed Trump's characterization of his client and Mueller's connection.

"Bob and Jim have a congenial relationship as former colleagues. Both served long legal careers that involved overlapping time spent within the Department of Justice, and that's pretty well documented. But beyond that, they're not close, personal friends," Kelley said. "They're friends in the sense that co-workers are friends. They don't really have a personal relationship."

Kelley said Comey had never been to Mueller's home and Mueller had never been to Comey's home. He said they had lunch together once and dinner together twice - once with their spouses and once after Comey became FBI director

so Mueller could brief him on the job. Once, in 2004 with two others from the Justice Department, they played golf together, Kelley said.

Kelley said Deputy Attorney General Rod J. Rosenstein knew of Mueller and Comey's relationship before naming Mueller as the special counsel. Rosenstein was appointed by Trump.

"I don't think Jim has given it a lot of thought, but why would Bob be conflicted?" Kelley said. "Bob's not conducting an investigation where Jim is pitted against a target of the investigation. If anything, he's a witness."

Mueller also has professional connections with some allied with Trump.

Although he resigned to take the special-counsel job, Mueller had worked for the law firm WilmerHale, whose lawyers represent Trump's former campaign chairman Paul Manafort, Trump's daughter Ivanka Trump and the president's son-in-law, Jared Kushner.

Justice Department ethics experts ultimately cleared Mueller to lead the probe despite that, and Carr said they gave the same consideration and approval to others from his firm.

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Sari Horwitz contributed to this report.

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Other Indexing: (Brandon Van Grack; Great America Alliance; WilmerHale; clinton foundation) (Newt Gingrich; Paul Manafort; Kenneth Starr; Robert Mueller; Michael Dreeben; Justin Cooper; Jim; John Ashcroft; Michael Flynn; Brandon Van Grack; Rod Rosenstein; Andrew Weissmann; James Comey; Jeannie Rhee; Barack Obama; David Kelley; George Bush; Jason Chaffetz; Andrew Goldstein; Peter J. Carr; Peter Carr; Preet Bharara; Zainab Ahmad; Aaron Zebley; William Barr; Tomi Lahren; Bob; Ivanka Trump; Jacob Frenkel; George Allen; Hillary Clinton; Wright; Norman Eisen; Bill Clinton; Rush Atkinson; Elizabeth Prelogar; James Quarles; Richard Painter)

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May 10, 2017

Section: News

FBI Director Firing in Early '90s Had Some Similarities to Comey Ouster

Steven Nelson

Less than a year into the new president's administration, the FBI director was fired. His conduct had been scrutinized before the election, but when the opposition party won, it took months for him to be out of a job.

William S. Sessions, fired in July 1993, was until Tuesday the only FBI director dismissed in the middle of a 10-year term. He claimed politics led to his ouster, a view held to this day by some supporters.

There are many similarities between President Bill Clinton's firing of Sessions and President Donald Trump's firing of James Comey, as well as many foundational distinctions.

Both Comey and Sessions faced bipartisan criticism spanning a change in leadership and at least some reports of internal dissent before being canned months into the new administration.

But the specific facts and the possible ramifications differ significantly.

Comey is accused in a document written by Deputy Attorney General Rod Rosenstein of improperly airing "derogatory" information about Hillary Clinton ahead of last year's election while allegedly usurping the Justice Department's decision-making process about whether to charge her for having classified information on a private email server.

Rosenstein cites bipartisan criticism of Comey from former Justice Department leaders, but there's concern among lawmakers of both parties about timing as the FBI investigates Russia's alleged hacking of Democrats to disadvantage Clinton's presidential candidacy.

The scandal that brought down Sessions focused on personal finances and officials involved recall it getting much less attention.

[IMAGE]

Sessions, appointed by President Ronald Reagan in 1987, faced allegations that he improperly billed taxpayer $10,000 for a fence around his home, claimed a tax exemption for his official limousine and took official travel for personal reasons. He allegedly refused to cooperate with a probe of the terms on a mortgage.

Still, "they could have stood by Sessions longer than they did," says Harvard Law School professor Philip Heymann, deputy attorney general at the time.

Heymann can't recall personally lobbying one way or the other but says in retrospect he believes politics were at play.

"To the extend I can remember, I don't think it was justified," Heymann says.

"I think [Sessions] being very liberal angered some senior FBI guys and they made a lot of the 'corruption' of building a fence," he says. "That doesn't seem to me a very good reason to replace him."

Others involved in the process of firing Sessions say there were many good reasons.

"The main leadership in the bureau, the career leadership, had lost confidence in him and there was a lot of acrimony and turmoil inside the bureau," says William Barr, attorney general under George H.W. Bush from 1991 to January 1993.

Barr recalls the transition process interrupting his effort to fire Sessions.

"I recommended that he be terminated, which the president agreed to," he says. "And then obviously we lost the election, so [Clinton Attorney General Janet] Reno had to do it."

[IMAGE]

Barr says Sessions accused him of political motives, but that the claim was unfounded.

"He said the turmoil in the FBI was caused by a 'cabal of Hooverites' and that I was in league with them," he says. "That is what he told Reno. He tried to say that she shouldn't follow up on the recommendation, but she eventually did."

Sessions' claim of unfair treatment -- including his wife accusing a deputy of leading a revolt -- didn't have legs in the press.

"The whole thing was non-controversial. There wasn't a lot of blowback from the Hill. I was never called to testify about this," says Stuart Gerson, who served as acting attorney general in early 1993.

Gerson, a Bush holdover, drafted a report recommending Sessions' firing, building on a previous document compiled by Barr, and he denies any political influences. Reno accepted the recommendation and Clinton made the call.

"There are some loose parallels but also some fundamental differences," Gerson says.

"There wasn't any possible allegation that either President Bush or President Clinton were attempting to cover something up," he says.

In another key difference between the firings, Comey was not notified personally by Trump. He reportedly learned of his firing on TV and told the group he was addressing that it was an amusing joke.

Bill Clinton called Sessions, who previously had been offered a chance to resign.

Heymann recalls being in the room with Sessions when Clinton called.

"It wasn't treated as a major event at the time," Heymann says. He believes Sessions said, "Yes, Mr. President," and accepted the outcome, though there was a discussion of when the firing would take effect. The New York Times reported Clinton called a second time to say the firing was effective immediately.

In the years since, Heymann says he's come to know and respect Sessions -- the father of Rep. Pete Sessions, R-Texas, but unrelated to Attorney General Jeff Sessions, who along with Rosenstein recommended that Trump fire Comey.

Sessions, now 86, is in poor health and not giving interviews, says a representative of the Constitution Project, with which he is affiliated.

The delay before Sessions' termination was attributed by the White House to efforts to seek an amicable exit -- something not at play with Comey. With the siege of a Waco, Texas, compound belonging to the Branch Davidian religious sect in early 1993 and appointees slowly winning confirmation, it may also have been seen as a low priority.

"I got affirmative feedback [from the White House and] was told in due course it would happen," recalls Gerson, who relinquished leadership duties to Reno following her March 11 Senate confirmation.

Gerson agrees with Barr that a significant motivation behind Sessions' ouster was internal FBI turmoil. By contrast, "it is my understanding that Jim Comey enjoyed fairly widespread respect," he says.

"This wasn't a highly controversial matter," Gerson adds about Sessions. "It was clear to anyone who was touching it that Sessions had passed his sell-by date."

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News Subject: (Accidents & Injuries (1AC02); Campaigns & Elections (1CA25); Fires (1FI90); Global Politics (1GL73); Government (1GO80); Government Litigation (1GO18); Health & Family (1HE30); Legal (1LE33); Public Affairs (1PU31); World Elections (1WO93))

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May 10, 2017

Section: fact-checker

Was it appropriate for Trump and Comey to discuss whether Trump was under investigation?

Glenn Kessler

"I greatly appreciate you informing me, on three separate occasions, that I am not under investigation." — President Trump, in a letter to James Comey telling him he was fired, May 9, 2017

This was an unusual aside in President Trump's letter to FBI Director James B. Comey telling him he was fired. It raised a number of questions: When did this happen? Who raised the question? And would this type of conversation have been appropriate?

The extent of the FBI's investigation into possible Russian interference in the presidential election is not known, but the agency is said to be looking at the activities of people who were associated with the Trump campaign. Would the FBI director actually tell someone they were not a target of such investigation before all of the facts had been gathered?

Trump is not necessarily a reliable source for private conversations. He claimed that Rep. Elijah E. Cummings (D-Md.) had told him privately that "you will go down as one of the great presidents in the history of our country." But Cummings insisted that he had been misquoted. He said that what he actually told Trump was "he could be a great president if … if … he takes steps to truly represent all Americans rather than continuing on the divisive and harmful path he is currently on."

You will notice there is a Pinocchio-wide difference between those two statements.

Indeed, The Washington Post reported: "People familiar with the matter said that [Trumps's Comey] statement is not accurate, although they would not say how it was inaccurate." The Wall Street Journal quoted an unnamed associate of Comey as saying "that is literally farcical."

But Trump told NBC News on May 11 that Comey told him three times he wasn't under investigation, once in a phone call initiated by the president. He said the conversations took place once over dinner, and twice in phone calls. "I said, 'If it's possible would you let me know am I under investigation?' He said 'You are not under investigation'."

At a White House news briefing on May 10, spokeswoman Sarah Huckabee Sanders said there were no concerns that the conversations were inappropriate.

Comey has not commented, but The Fact Checker contacted former attorneys general and FBI directors about whether this was an appropriate conversation. We have two comments so far and will update as we receive more answers.

Alberto Gonzales, attorney general, 2005-2007 (George W. Bush)

"I don't know if it in fact happened. It's hard for me to think of a situation where it might be appropriate," Gonzales said. He said that, if asked by the president about such a probe, the best response would be: "I can't answer that question and it would be wise for us to not have this discussion." He said that because the investigation had not been completed, "how would he [Comey] know where he would end up with the investigation?"

William P. Barr, attorney general, 1991-1993 (George H.W. Bush)

"The President is the chief law enforcement officer and it is perfectly appropriate for the Attorney General to discuss cases with the President that don't touch on the President himself," Barr said. "For example, I discussed the Pan Am 103 case with the President." But he added: "I don't know the scope or current thrust of the Russian investigation. Comey would know."

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January 9, 2017

Section: U.S.

Black leaders rebut Sessions racism charges

'Everyone bringing up attacks against him don't know him'

Art Moore

While Jeff Sessions likely will be confirmed as President-elect Donald Trump's attorney general, Democrats and progressive allies are preparing to cast the Alabama Republican senator during confirmation hearings this week as a racist, sexist and homophobe who will set back justice in the United States.

Amid the praise of many black leaders who know him, his critics cite only offhand comments, such as a joking reference to the Ku Klux Klan, and the prosecution of a 1985 voting-fraud indictment of black defendants in Perry County, Alabama, who were accused of intimidating black voters. As the Washington Times noted in an editorial, "It was a case of black vs. black."

Two days of confirmation hearings begin Tuesday for Sessions, who has held his Senate seat since 1997, served as the state's attorney general and as a U.S. attorney. Only 50 votes will be needed for the Republican-majority Senate to confirm Trump's picks, though a single senator could slow the process and thwart the new administration's goal of confirming as many as seven nominees by Inauguration Day.

Five nominees will testify before the Senate this week: Rex Tillerson, Trump's nominee for secretary of state; Rep. Mike Pompeo, R-Kan., for head of the CIA; Elaine Chao for transportation secretary; and retired Marine Gen. James Mattis for defense secretary.

Rev. Al Sharpton, president of the National Action Network, has vowed a "season of civil disobedience," declaring Sessions' nomination "an affront to everything the civil rights and voting rights community has stood for historically, and a vote for Sessions should be held accountable and punishable by the voters."

But Monday morning a group of black pastors from Alabama held a press conference at the Cannon House Office Building on Capitol Hill to endorse Sessions.

"Americans are living in a toxic climate where the serious charge of racism is carelessly leveled against anyone with whom the left disagrees," said Rev. Dean Nelson, director of African-American Outreach for Family Research Council's Watchmen on the Wall. "We are here today to make it perfectly clear that this attack against Senator Jeff Sessions is baseless, and that he is more than qualified to be our next attorney general."

Perry County Commissioner Albert Turner Jr., the son of defendants in the 1985 case, this week endorsed Sessions.

"I have known Senator Sessions for many years, beginning with the voter fraud case in Perry County in which my parents were defendants," he said, according to the Washington Times.

"My differences in policy and ideology with him do not translate to personal malice. He is not a racist. As I have said before, at no time then or now has Jeff Sessions said anything derogatory about my family."

Artur Davis, a former congressman who represented Alabama's 7th District, which includes Perry County, explained in an interview four years ago with the Montgomery Advertiser that Sessions, as the U.S. attorney, was trying to correct abuse of the black vote.

Sessions also has the backing of President Obama's former surgeon general and the Democratic leader in the Alabama state Senate, both of whom are black.

William Smith, the former chief counsel for Sessions on the Senate Judiciary and Budget Committees, who is black, said his interactions with Sessions over more than a dozen years have been only positive.

"When I would go over to talk to him late in the afternoon about upcoming legislation, he might spend more time with me talking about my personal life to make sure my life was going well, because he simply cared about how I was doing," Smith said, according to PBS.

Smith said people who have not spent much time with Sessions should not judge his character.

"What's been left out of [the] national conversation is that everyone bringing up attacks against him don't know him," Smith said. "They don't like his policy points of view, but he's not a racist."

Trump, when Sessions was introduced in November as his AG nominee, called the senator a "world-class legal mind and considered a truly great attorney general and U.S. attorney in the state of Alabama."

"Jeff is greatly admired by legal scholars and virtually everyone who knows him," Trump said.

'Make them understand'

Sharpton, meanwhile, said a march in Washington, D.C., has been planned for Jan. 14 during the Martin Luther King Jr. holiday weekend to protest the Sessions nomination, PJ Media reported.

"We're not just doing this to be doing it. We do it because it can lead to change and, believe me, there will be a season of civil disobedience particularly around the Sessions nomination," he said Friday on a conference call with other civil rights organizations' leaders such as Cornell William Brooks, president and CEO of the NAACP, and Janet Murguia, president and CEO of the National Council of La Raza.

Sharpton said activists will visit senators' offices and make house calls to "make them understand" they will be held accountable for voting in favor of Sessions.

"Make them understand that if they think they are voting based on some courtesy of a Senate colleague and will not face a real backlash in their own states, then they have another thing coming. This is not going to be some regular ceremonial procedure that they're going to be able to bluff their way through," he said.

Sherrilyn Ifill, president of the NAACP Legal Defense Fund, said: "The question is what in his record over 40 years suggests that we can trust him to enforce the nation's civil rights laws, and the onus is on Sen. Sessions to prove, in light of that record, that he is fit for this position."

The controversial Southern Poverty Law Center, which has cast Dr. Ben Carson as an extremist for his traditional view of marriage and family, called Sessions a "champion of anti-Muslim and anti-immigrant extremists."

NAACP President Cornell Brooks was among six people arrested during a sit-in protest in Sessions' Mobile, Alabama, office last week

PBS reported more than 1,200 faculty members, from 176 law schools in 49 states, signed a letter opposing Sessions' candidacy because of his stance on "mass incarceration," climate change, women, the LGBTQ community, immigration and civil rights.

The faculty members cited Sessions' 1986 confirmation hearings for an appointment to a federal judgeship by President Reagan in which civil rights attorney Gerry Hebert testified that Sessions called the NAACP and ACLU "un-American" and "communist-inspired."

Politico reported Democratic Party senators, meanwhile, are pushing to let Congressional Black Caucus members testify at the confirmation hearing.

Congressional Black Caucus chairman Cedric Richmond, D-La., will raise concerns about Sessions' record with "communities of color," a source said.

Also testifying will be Oscar Vasquez, a U.S. veteran and beneficiary of President Obama's DREAM Act, which provided permanent residence status to millions of children of illegal aliens. Sessions opposes a pathway to citizenship for illegal aliens.

CNN reported the mother of Matthew Shepard, the homosexual college student who was fatally beaten in Wyoming in 1998, is urging senators to oppose Sessions' nomination because of his opposition to hate-crimes legislation.

Judy Shepard, in a report issued by the Human Rights Campaign, blasted Sessions for opposing the Hate Crimes Prevention Act, which Obama signed into law in 2009.

She said Sessions "has forfeited opportunity after opportunity to stand up for people like my son Matt and has, instead, used his position of power to target them for increased discrimination and marginalization, thus encouraging violence and other acts deemed to be hate crimes."

A Sessions spokeswoman told CNN he would enforce hate crimes laws as attorney general even though he opposed them in the Senate over constitutional concerns.

A source told CNN that Sessions was concerned that vague terms in the law could have allowed re-prosecution of people who had been acquitted.

"Senator Sessions believes that all Americans, no matter their background, deserve effective protection from violence and that crimes committed on the basis of prejudice are unquestionably repugnant," said Sarah Isgur Flores, a Sessions spokeswoman. "While he may have had disagreements about what was the most effective policy to combat such crimes, as attorney general, he will be fully committed to enforcing the laws - even those for which he did not vote."

Doubt has been cast on the prevailing narrative that developed after Shepard's death. As WND reported, a book by an accomplished, openly gay journalist published in 2013 presented documentary evidence that the murder of Matthew Shepard had nothing to do with hatred of homosexuals. It was so convincing that the Advocate, which calls itself the "world's leading source for LGBT news and entertainment," published a positive review of the book titled "Have We Got Matthew Shepard All Wrong?"

Julia Ioffe, a contributing writer for the Huffington Post, tried to bring in the views of Sessions' father to cast the senator as a racist, tweeting above a clipping from an old news article: "In 1985, Jeff Sessions' father told the Montgomery Advertiser that he believes in the separation of the races."

'Police first'

The Hill reported police and law enforcement officials are backing Sessions as someone who will bring a "police-first" mentality to the Justice Department that they say was missing under President Obama.

Sessions is backed by the Fraternal Order of Police, the nation's largest police union; the Federal Law Enforcement Officers Association; the National Association of Police Organizations; and the National Sheriffs Association.

Find out how the fallout from Ferguson, Missouri, is making America less safe every day, in "War on Police," now available at the WND Superstore.

"We have about a 20-year relationship with Jeff Sessions from his time in the Senate on the Judiciary Committee and our members in Alabama who worked with him, both as state attorney general and a U.S. attorney, and the best way to sum it up is that we don't have anything bad to say about Jeff Sessions," FOP executive director Jim Pasco told the Hill newspaper.

"He has extraordinary insight into the demands and stresses of a police officer's life and also has a real reverence for the rule of law. It sounds corny but it's true, and that's what our members pray for in a prosecutor."

Obama's attorneys general, Eric Holder and Loretta Lynch, focused on investigating police practices in minority communities such as Ferguson, Missouri, reinforcing a narrative by activists such as Black Lives Matters that police are intentionally targeting young black men.

"Sessions presumes that law enforcement officials in the main are good folks," said Bill Barr, an attorney general under President George H.W. Bush. "He's not going to be afraid to go after rogue cops. But he's also not looking to undermine police authority and effectiveness because he doesn't work from the assumption that the police are inherently bad. That will be a break from the Obama years."

Jay Sekulow of the American Center for Law and Justice said Sessions "will play a pivotal role in restoring confidence and credibility to a badly damaged, scandal-ridden Justice Department."

"The American people deserve an attorney general and a Justice Department centered on upholding the Constitution and the rule of law," he said. "That is exactly what Senator Sessions will do."

Sekulow said Sessions' "long track record of working across lines - be they political, racial, or socioeconomic lines - is exemplary."

Proper vetting

Charging Republicans are rushing to confirm Trump's nominees without proper vetting, Senate Minority Leader Charles Schumer, D-N.Y., is using Senate Majority Leader Mitch McConnell's own words against him, the Hill reported.

Schumer sent the Kentucky Republican his own 2009 letter - to then Senate Majority Leader Harry Reid - outlining nomination requirements, crossing out McConnell's signature and writing in his own.

McConnell has pledged that no nominee would get a full Senate vote before all of their paperwork has been submitted, the Hill said.

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Company: AMERICAN CENTER FOR LAW AND JUSTICE INC; LE HUFFINGTON POST SAS; NATIONAL ACTION NETWORK INC; PJ MEDIA LTD; SOUTHERN POVERTY LAW CENTER INC

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Region: (Alabama (1AL90); Americas (1AM92); District of Columbia (1DI60); Missouri (1MI10); North America (1NO39); U.S. Mid-Atlantic Region (1MI18); U.S. Midwest Region (1MI19); U.S. Southeast Region (1SO88); USA (1US73))

Language: EN

Other Indexing: (NAACP Legal Defense Fund) (Eric Holder; Donald J. Trump; Donald Trump; Cornell William Brooks; Cedric Richmond; Barack Obama; Matthew Shepard; Oscar Vasquez; Albert Turner Jr.; Rex Tillerson; Artur Davis; Mike Pompeo; Al Sharpton; Janet Murguia; Ronald Reagan; William Smith; Sherrilyn Ifill; Jay Sekulow; Ben Carson; Judy Shepard; Gerry Hebert; Dean Nelson; Mitch McConnell; George Bush; James Mattis; Matt; Harry Reid; Julia Ioffe; Jim Pasco; Elaine Chao; Loretta Lynch; Charles Schumer; Sarah Isgur Flores; Bill Barr; Martina Ann King; Martina King)

Word Count: 2001

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NewsRoom

9/2/16 US Official News (Pak.) 00:00:00

US Official News (Pakistan)

September 2, 2016

Och-Ziff Appoints William P. Barr to Board of Directors

New York City: Och-Ziff Capital Management Group LLC has issued the following press release:

Och-Ziff Capital Management Group LLC (NYSE: OZM) today announced that it has appointed William P. Barr to its Board of Directors. The addition of Mr. Barr expands Och-Ziff's Board to eight directors.

Mr. Barr served as the 77th Attorney General of the United States and prior to that as Deputy Attorney General under President George H.W. Bush. After working at the Justice Department, Mr. Barr served as General Counsel at Verizon Communications, Inc. from 2000 until his retirement in 2008, and held the same role at GTE Corporation from 1994 to 2000, when it merged with Bell Atlantic Corporation to form Verizon. While at Verizon, Mr. Barr oversaw all legal, regulatory and government affairs. Mr. Barr also worked as White House Domestic Policy Staff under President Ronald Reagan and at the Central Intelligence Agency. He is currently on the Boards of Dominion Resources, Inc. and Time Warner Inc. Mr. Barr has also previously served as a Director of Selected Funds and as a Trustee of The Clipper Fund.

"Bill is one of the most respected attorneys in the country and brings outstanding leadership and experience to our Board of Directors," said Dan Och, Chairman and Chief Executive Officer of Och-Ziff. "We look forward to his insight and guidance."

"I am proud to join an organization of such professionalism and integrity," added Barr. "The management, Board and employees of Och-Ziff have built an exceptional company, and I look forward to working with them."

In case of any query regarding this article or other content needs please contact:editorial@plusmedia.info

---- Index References ----

Company: CENTRAL INTELLIGENCE AGENCY; DOMINION RESOURCES INC; GTE CORP; OCH ZIFF CAPITAL MANAGEMENT GROUP LLC; TIME WARNER INC; VERIZON COMMUNICATIONS INC

News Subject: (Board of Directors (1BO47); Business Management (1BU42); Corporate Events (1CR05); Corporate Groups & Ownership (1XO09); Government Litigation (1GO18); Legal (1LE33); Major Corporations (1MA93))

Industry: (Press Releases (1PR19); Telecom (1TE27); Telecom Carriers & Operators (1TE56))

Language: EN

Other Indexing: (George Bush; Ronald Reagan; Daniel S. Och; Dan Och; William Barr) (New York)

Word Count: 278

End of Document

Baylor sex scandal blights Starr's image and legacy; From Whitewater to Waco, different picture emerges

The Houston Chronicle

June 4, 2016 Saturday, 3 STAR Edition

Section: A; Pg. A1

Length: 1356 words

Byline: Kevin Diaz

Highlight: Rod Aydelotte / Waco Tribune Herald via Associated Press A sexual assault scandal involving Baylor football players led to Ken Starr's reassignment as university president. On Wednesday, he resigned as chancellor.

Body

WASHINGTON - As special prosecutor in former President Bill Clinton's affair with Monica Lewinsky two decades ago, Ken Starr was the dogged - critics say zealous - investigator who followed the facts to their bitter end. The picture emerging from his decision to step down as chancellor of Baylor University in the wake of a football team sex scandal is much different. The prosecutor once decried by Clinton allies as a partisan, moralistic crusader now has been laid low for not doing enough in the face of alleged sexual misconduct by members of the Baptist school's prized football program. Those who worked both for and against the Texas native during his Washington years do not recognize the new picture of Starr, who was removed as university president last week. "Ken himself would never look the other way," said Charles Cooper, a lawyer who worked with Starr in the Reagan administration and against him in several court cases in private practice.

"Nor would he tolerate any institution or subordinates looking the other way if there was wrong. To the contrary." Starr's detractors, particularly those who saw the 1998 Lewinsky affair up close, agreed that the events unfolding in Waco reveal a very different man. "The great irony of the Ken Starr legacy is that all the right-eousness by which he pursued a consensual affair between Bill Clinton and Monica Lewinsky disappeared as president of Baylor," said Allan Lichtman, a professor of political history at American University and former Democratic U.S. Senate candidate in Maryland. For all the controversy that has followed Starr since his days as a federal judge and U.S. solicitor general, those who know him best describe him as a careful, methodical lawyer with meticulous attention to the details of legal evidence. That makes the case against him - that he presided over "systematic failures" in the university's handling of multiple sexual assault allegations - all the harder for many to understand. It also is at odds with his shaky performance in a KWTX television interview Wednesday in which he at first said he "may have" seen an email sent him by an alleged Baylor rape victim and then - after conferring off-camera with Dallas media consultant Merrie Spaeth, a former Reagan media adviser - said he had "no recollection." Starr did not respond to a request for comment for this article. His supporters say any whiff of a cover-up is simply impossible to reconcile with the man they knew in government. "He's an exceptionally fair-minded, balanced man with sound judgment," said William Barr, a lawyer who worked with Starr under both Reagan and former President George H.W. Bush. "When there were internal allegations of impropriety, frequently people turned to him to take a look and relied on his judgment. He called them as he saw them, even when it created difficulties with some of his colleagues." Starr's style as an investigator during the Clinton years created almost as many difficulties for him as it did for the president, whose impeachment by the U.S. House became a milestone in the nation's political polarization. Starr, once a leading U.S. Supreme Court candidate under the elder Bush, was appointed by a three-judge federal panel in 1994 to take over the ongoing Whitewater investigation, which initially focused on questionable real estate investments involving Bill and Hillary Clinton, now the Democratic front-runner for president. Partisan lightning rod Under Starr, the Whitewater investigation expanded to include inquiries into other Clinton controversies, including

the suicide of deputy White House counsel Vince Foster, questions about which were recently revived by GOP presidential candidate Donald Trump. By far the most explosive chapter in the Whitewater probe was the Lewinsky affair, which broke on the national scene in January 1998. It led to the so-called Starr Report, which included salacious details of the affair, concluding that the president had lied in legal proceedings in which he had denied having sex with the White House intern. Although the House voted to impeach, the Senate voted to acquit, leaving Clinton in office and Starr a partisan lightning rod. Democrats long have questioned Starr's tactics as an independent counsel, characterizing his expansive inquiries as the witch hunt of an unaccountable prosecutor. "This was not the report of a plodding, careful, judicious investigator," Lichtman said. "This was the report of someone who got the bit in his teeth and decided to run with it as far and as fast as he could." In contrast, former associates like Cooper see Starr as a victim of the Clinton "spin machine," which demonized him in the press for simply doing a thorough job. "He was the victim of his own investigation," Cooper said. "It brought him a whole lot of controversy and personal trial and tribulation." Some of his backers see history repeating itself in an odd way at Baylor, with Starr once again on the short-end of an investigation he helped push forward. Starr maintained in a recent ESPN interview that he did not know about the sexual assault allegations until 2015, when he called for an outside inquiry. That led to the report by the Pepper Hamilton law firm resulting in the firing of football coach Art Briles, probation for athletic director Ian McCaw, and Starr's demotion from president to chancellor, a largely ceremonial position that he has quit. "He did the right thing in Baylor by bringing in an outside firm to investigate it and let the chips fall where they may," Barr said. "I give him credit for that. "By the same token, you have to give people who are accused their day in court," Barr continued. "I think he's always been of that temper. Not jumping to conclusions, letting the process work." It was Baylor's administrative procedure - or lack thereof - that appears to have brought Starr down. A 13-page summary of Pepper Hamilton's findings, released by Baylor's board of regents, found that football coaches and other athletic department officials knew about allegations of sexual assault involving multiple players and failed to report them. In some instances, school administrators allegedly did nothing or even discouraged students from reporting misconduct. "Baylor failed to maintain effective oversight and supervision," the report said. While saying his decision to step down was a "matter of conscience," Starr told ESPN that he disagreed with the report's findings that the football team was "above the rules." He also has come under fire in recent days for appearing to defend Briles, whom he called a "player's coach" and "a very powerful father figure." He also said he was not consulted about Briles' firing, saying he did not have all the facts and so is "behind a veil of ignorance." That too, his past critics say, does not square with the image of Starr as the thorough investigator who gets to the bottom of things. "He's still defending the coach as if he was some Christian icon or Father Flanagan of Boys Town," Lichtman said. 'A smoke screen' One of Starr's closest colleagues from the Whitewater days says his role at Baylor was much different. "He was the chief prosecutor in the Whitewater investigation," said Solomon Wisenberg, who was Starr's deputy independent counsel in the Lewinsky investigation. "This is entirely different. He's the president of an institution. He finds out what happened, and once he finds out, he recommends the proper action. He is not the person charged with investigating." Wisenberg and others cite Starr's calls for more transparency on the part Baylor's regents, who so far have released only a summary of the full Pepper Hamilton report. Wisenberg suggests a hidden agenda, driven, as it so often is in public scandals, by fear of legal exposure. "This looks like a smoke screen to not reveal information," he said. "They're shocked, shocked, to find out that these activities were going on." To Wisenberg, who watched Starr get pilloried for going after Clinton, this may be the real echo of Whitewater: "I think he's being made a scapegoat." kevin.diaz@chron.com twitter.com/DiazChron

Load-Date: September 1, 2016

Attorney general sets new agenda; Confirmed, Lynch aims to mend ties between police and minorities

International New York Times

April 24, 2015 Friday

Section: NEWS; Pg. 5

Length: 1217 words

Byline: MATT APUZZO

Dateline: WASHINGTON

Body

ABSTRACT

Loretta E. Lynch's long-delayed confirmation was approved by the Senate on Thursday. She will replace Eric H. Holder Jr. as attorney general.

FULL TEXT

With her confirmation as attorney general now behind her, Loretta E. Lynch is planning to meet with local police officers nationwide this summer as she tries to strike a new tone for the Justice Department amid a brewing controversy over the use of lethal force, according to aides.

Ms. Lynch, whose long-delayed confirmation was approved by the Senate on Thursday, would replace Eric H. Holder Jr., who for more than six years served as the Obama administration's most outspoken voice on civil rights issues. He opened dozens of investigations into police practices and served as the administration's emissary to Ferguson, Mo., after a deadly police shooting there last year. His tenure made him a hero among many on the left but earned him scorn from some police groups who said he was too quick to criticize police officers.

The daughter of a North Carolina civil rights leader and a child of the segregated South, Ms. Lynch is expected to continue many of Mr. Holder's efforts. But as a career prosecutor with a law-and-order reputation, she comes into office with strong relationships with many of the police groups who have felt unfairly criticized during a spate of high-profile episodes of African-American men dying at the hands of white officers.

Mr. Holder recently completed a nationwide tour of minority neighborhoods to discuss policing. Ms. Lynch plans to do a similar tour of police departments, signaling a change in approach.

"She really thinks the communities and the police officers have more in common than they realize," one adviser said. Ms. Lynch has spoken about the need for police officers, who come from a position of power, to repair fractured relationships with minorities. But she has also described, in passionate and personal terms, how law enforcement is a force for good in minority neighborhoods.

Ms. Lynch is concerned that morale in police departments has declined and that officers are being unfairly tarnished by incidents that do not reflect all of policing, several aides and friends said. All spoke on condition of anonymity because they were not authorized to discuss publicly Ms. Lynch's plans before they were announced. Mr. Holder expressed some of the same concerns about police officers, but his remarks were often interpreted by law enforcement groups as anti-police.

The tone change is a key part of Ms. Lynch's plan for her tenure. Aides said she was keenly aware that she would have little more than 18 months in office, during which time she will face a Republican-controlled Congress, a lame-duck president and a shift in attention to the 2016 presidential election.

"I don't know, as a practical matter, that they can pull off any major policy initiatives," said Keith B. Nelson, a top congressional liaison under Attorney General Michael B. Mukasey, who served during the last year of President George W. Bush's administration.

Ms. Lynch's aides said she had no immediate plans for major policy pronouncements and would instead focus on more subtle but significant internal changes. For instance, she wants to restructure her office to be more responsive to cybersecurity cases, much in the same way that officials restructured the office in response to terrorism after the Sept. 11, 2001, attacks. She has also told Congress and Justice Department officials that she plans to do more to combat human trafficking - the selling of people into slavery and prostitution. As the top federal prosecutor in Brooklyn, Ms. Lynch built one of the nation's premier programs to fight that crime.

Ms. Lynch comes to the job with decades of experience inside the Justice Department. Her deputy, Sally Q. Yates, is also a career prosecutor and the former United States attorney in Atlanta. With the shortened timeline, that experience should serve them well, former Justice Department officials said.

"If you have a clear idea of what you want to accomplish and have clear objectives, you can get something done," said William P. Barr, who served as attorney general at the end of George H.W. Bush's presidency. "I'm glad there's someone as both attorney general and as the deputy with field experience."

Mr. Barr was attorney general during the crack cocaine epidemic, a period in which violent crime plagued American cities. Ms. Lynch joined the Justice Department during that era and honed her courtroom skills prosecuting drug cases. She is expected to continue Mr. Holder's push on Capitol Hill to ease sentencing for nonviolent drug offenders. A pending bill on that subject has support in both parties, and Ms. Lynch backs it, aides say.

But it is not a personal passion for her as it was for Mr. Holder, they say, and it is not clear that she will make the bill an early priority.

There may be more pressing matters. The section of the Patriot Act that allows the National Security Agency to seize the phone records of millions of Americans without any evidence of wrongdoing expires in June. Ms. Lynch, a supporter of that authority, may be called on to help persuade Congress to reauthorize that power under a compromise bill supported by the Obama administration.

She also faces immediate decisions on the use of force by police. Her office in Brooklyn is leading the investigation into the death of Eric Garner, who died following a police chokehold last year. And the Justice Department's civil rights investigators are negotiating a settlement with Ferguson, Mo., over allegations of police misconduct there. Ms. Lynch is expected to be deeply involved in both those cases.

She will also face questions within the Justice Department about how to set priorities for the civil rights division, which is now called on to investigate every suspicious police shooting in the country.

Ms. Lynch is not expected to advocate for changing marijuana laws. Under Mr. Holder, the Justice Department did not stand in the way of states that legalized marijuana. And in his final months in office, he questioned whether the government should keep marijuana on the list of the most serious drugs, in the same category as heroin. Ms. Lynch, who told aides during the confirmation process that she has never smoked marijuana, does not share that view. She told the Senate that she did not support legalization and did not agree with President Obama that marijuana may not be more dangerous than alcohol.

That was one of the few moments in which her confirmation hearing provided a glimpse at her priorities. Senators used much of the hearing to ask about her views on immigration or on other issues they considered important. Rarely was she asked what she considered important.

One thing she did promise, however, was to improve the Justice Department's relationship with Congress, which has been strained during Mr. Holder's tenure. The Republican-controlled House held Mr. Holder in contempt over his response to questions about the flawed gun-trafficking investigation known as Fast and Furious.

Ms. Lynch told aides that she wants a better relationship with Congress and plans to meet with lawmakers regularly. Just as with police groups, Ms. Lynch told aides, a lot can be accomplished with a simple change in tone.

Load-Date: April 23, 2015

Community Corner (Https://Patch.com/Virginia/Herndon/Around-Town)

Five Things to Know About Dominion Power

McLean resident sits on board of directors, lacked power for six days.

By Bobbi Bowman, Patch Staff (https://patch.com/users/bobbi-bowman) | Jul 6, 2012 7:18 pm ET | Updated Jul 6, 2012 7:27 pm ET

 (https://patch.com/virginia/herndon/amp/4814623/five-things-to-know-about-dominion-power)

Five Things to K



Since Dominion Power has been much in the news recently, here are five things to know about the company that you may have praised or cursed this week.

1. William P. Barr, a McLean resident, is a member of the Dominion Power board of directors. (https://www.dom.com/investors/corporate-governance/board-of-directors.jsp) His power was restored Thursday afternoon after six days without it.

(https:/

"No special treatment," Barr said in a note to McLean Patch. Barr, who joined the Dominion board in 2009, (https://www.dom.com/investors/corporate-governance/board-of-directors.jsp) lives in the vicinity of Towlston Road which was hard hit by Friday night's high winds that left thousands without power.

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Barr was the Attorney General of the United States (https://www.dom.com/investors/corporate-governance/board-of-directors.jsp) under George H.W. Bush from 1991-1993. He is a longtime McLean resident.

2. Dominion, headquartered in Richmond, is one of the nation's largest producers and transporters of energy, with a portfolio of approximately 28,000 megawatts of electric generation, 11,000 miles of natural gas transmission, gathering and storage pipeline and 63,100 miles of electric transmission and distribution lines, according to its 2011 annual report (https://www.dom.com/investors/sec-filings/annual-report.jsp).

The company operates the largest natural gas storage system in the United States, according to the report. (https://www.dom.com/investors/sec-filings/annual-report.jsp)

3. The formal name of the company is Dominion Resources which is divided into three operating units. One of those is Dominion Virginia Power, which contributed 25 percent of the company's operating earnings, according to the 2011 annual report. (https://www.dom.com/investors/sec-filings/annual-report.jsp)

Dominion Virginia Power operates regulated electric transmission and distribution franchises in Virginia and northeastern North Carolina, providing electric service to about 2.4 million customer accounts in the two-state area, according to the annual report. (https://www.dom.com/investors/sec-filings/annual-report.jsp)

4. Thomas F. Farrell II heads the company. He has been chairman, president and chief executive officer of Dominion since April 2007. He is also a member of the board of directors, according to Dominion. (https://www.dom.com/investors/corporate-governance/board-of-directors.jsp#farrell)

Farrell served as president and chief executive officer of Dominion from January 2006 to April 2007, and served in various executive positions prior to that. He is chairman of the board and chief executive officer of Virginia Electric and Power Company, a wholly-owned subsidiary of Dominion, and was chairman, president and chief executive officer of CNG, a former wholly-owned subsidiary of Dominion, according to Dominion. (https://www.dom.com/investors/corporate-governance/board-of-directors.jsp#farrell)

(https:/

5. Farrell's 2011 compensation: $13.9 million (http://investing.businessweek.com/research/stocks/people/person.asp?personId=267141&ticker=D:US), according to Bloomberg Businessweek.

The New York Times reported (http://www.nytimes.com/2012/02/13/us/politics/room-for-lobbyists-in-mitt-romneys-campaign.html?pagewanted=all) in February that Farrell is the energy industry and is finance chairman for the Mitt Romney campaign.

McLean Power Outage Update (https://patch.com/A-vNr2)

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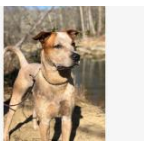

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Administration Opens Inquiries Into Oil Disaster

The New York Times

June 2, 2010 Wednesday, Late Edition - Final

Section: Section A; Column 0; National Desk; Pg. 1

Length: 1272 words

Byline: By HELENE COOPER and PETER BAKER; John M. Broder and Charlie Savage contributed reporting from Washington, Robbie Brown from New Orleans and Campbell Robertson from Port Fourchon, La.

Body

WASHINGTON -- The Obama administration said Tuesday that it had begun civil and criminal investigations into the massive oil spill in the Gulf of Mexico, as the deepening crisis threatened to define President Obama's second year in office.

Attorney General Eric H. Holder Jr. said in New Orleans that he planned to "prosecute to the fullest extent of the law" any person or entity that the Justice Department determines has broken the law in connection with the oil spill. On Wall Street, the Dow Jones industrial average fell 120 points shortly after Mr. Holder's announcement as energy stocks tumbled on expectations of the federal investigations. BP lost 15 percent of its market value during the day's trading.

BP and government officials said flatly for the first time that they had abandoned any further plans to try to plug the well, and would instead try to siphon the leaking oil and gas to the surface until relief wells can stop the flow, most likely not before August.

Mr. Holder's comments, which echoed those of Mr. Obama earlier in the day in the Rose Garden, reflected deepening frustration within the administration at the inability to stop the spill, along with wide concern that the government and the president appear increasingly impotent as oil laps at the shorelines of Louisiana, and now Alabama and Mississippi.

One person briefed on the inquiry said it was in an early stage and that no subpoenas had been issued yet to BP, the owner of the well. It was unclear whether any had gone to Transocean, which leased the Deepwater Horizon, the nine-year-old drilling rig that exploded and sank in April, to BP; Cameron, the company that manufactured a "blowout preventer" that failed to function after the explosion; or Halliburton, which performed drilling services like cementing.

Administration officials said they were reviewing violations of the Clean Water Act, which carries criminal and civil penalties and fines; the Oil Pollution Act of 1990, which can be used to hold parties responsible for cleanup costs; the Migratory Bird Treaty Act and the Endangered Species Act, which provide penalties for injury and death of wildlife.

"BP will cooperate with any inquiry that the Department of Justice undertakes, just as we are doing in response to the other inquiries that already are ongoing," the company said in a statement.

Having abandoned the attempt to plug the gushing well, BP and the government moved ahead on the latest plan, to contain the oil and gas as it flows from the floor of the gulf and siphon it to the surface. BP prepared to sever the pipe that once connected the well to the surface and is now snaking along the sea floor from the wellhead. That pipe, called a riser, had been attached to a blowout preventer, a stack of valves sitting on top of the well.

Removing the pipe could increase the flow of oil into the gulf until response crews can complete the next phase of the operation, affixing a cap to the remaining stub of the riser at the blowout preventer and siphoning the leaking oil into the cap through a new riser and up to a ship on the surface.

The more confrontational tone from Washington underscored concerns within the administration about the long-term effect of the oil spill, not only environmentally, economically and politically, but on the national psyche as well.

Like no other, the topic of the oil spill now dominates the national conversation. Early comparisons to Hurricane Katrina have dissolved into comparisons to the hostage crisis with Iran -- an episode that spanned 444 days and beleaguered the presidency of Jimmy Carter. The spill has kept Mr. Obama from focusing attention on other issues, like creating jobs and carrying out the new health care law, at a time when polls suggest that public trust in government is declining and when his party is fighting to retain control of Congress.

''It's an interesting disaster because it's one that doesn't stop -- it's as if Katrina sat on top of New Orleans for six weeks without going away,'' said George Haddow, a disaster management consultant from New Orleans who was a senior Federal Emergency Management Agency official under President Bill Clinton.

Tuesday amounted to the administration's most intensive effort yet to show that it is doing everything possible to respond and to hold BP and the other companies accountable. Robert Gibbs, the White House press secretary, said Mr. Obama has been ''enraged at the time that it's taken'' to stop the leak.

''I've seen rage from him,'' Mr. Gibbs said, describing the president's ''clenched jaw'' at meetings. Mr. Gibbs added that the White House did not think BP ''was forthcoming on what the impact would be of cutting the riser off.''

For Mr. Obama, part of the problem has been that the solution to the BP disaster is at its heart an engineering problem, and one the government has already acknowledged it is in no position to fix on its own. Former Attorney General William P. Barr said the administration's move to investigate risked looking like political damage control while chilling cooperation with the company at the time it is needed most.

''The Department of Justice has to be very careful about using criminal prosecution to respond to political pressure,'' Mr. Barr, who ran the department from 1991 to 1993, said in an interview. But Mr. Obama said Tuesday that ''we have an obligation to determine what went wrong.'' He appeared after meeting with the two men he has appointed to lead an inquiry into the spill -- former Senator Bob Graham of Florida, a Democrat, and a former Environmental Protection Agency administrator, William Reilly, a Republican.

During the meeting in the Oval Office, the president was adamant that the government and the industry had to find a way to make offshore drilling safe because the nation needs the oil, and stressed to Mr. Reilly and Mr. Graham that that was part of their charge, according to people familiar with the meeting.

The decision to try to siphon off the leaking oil came after the failed ''top kill'' procedure, in which heavy drilling mud was pumped at up to 80 barrels a minute into the well in hopes of overcoming the pressure of surging oil and gas. But, response teams were never able to drive the mud far enough down in the well to overcome the oil, said Doug Suttles, BP's chief operating officer for exploration and production, in an interview during a helicopter ride over coastal areas.

Officials suspect that the mud could have been escaping from the well far below the ocean floor, possibly through a rupture disk, a built-in weak point in the steel pipe that lines the well.

This concern is what led officials to decide to end attempts to plug the well, Mr. Suttles said. If the well were capped -- such as by a new blowout preventer -- the resulting pressure could force oil out through a flaw in the well, and another leak could sprout on the ocean floor.

Mr. Suttles said he expected the cap being readied this week would be able to siphon off the ''vast majority'' of the oil, though not all of it, and that subsea dispersants would be still be needed.

The challenges facing the maneuver are similar to the problems that bedeviled the 98-ton containment dome which was lowered over one of the leaks several weeks ago. That dome failed when hydrates -- icelike crystals of gas and water -- formed at the dome's opening and prevented oil from escaping. The cap-and-riser system is designed to fit fairly snugly to reduce the influx of water, and methanol and heated water will be used to further reduce the chances that hydrates form.

http://www.nytimes.com

Graphic

PHOTO: President Obama at the White House with former Senator Bob Graham of Florida, left, and William Reilly, a former E.P.A. administrator, whom he named to lead an inquiry into the oil spill. (PHOTOGRAPH BY DOUG MILLS/THE NEW YORK TIMES)(A16)

Load-Date: June 3, 2010

NewsRoom

7/23/09 Bus. Wire 23:03:00

Business Wire

July 23, 2009

Former U.S. Attorney General William P. Barr Joins Time Warner's Board of Directors

Business Editors

NEW YORK--(BUSINESS WIRE)--July 23, 2009--Time Warner Inc. (NYSE: TWX) announced that its Board of Directors has elected William P. Barr to join the Board, effective today. Mr. Barr, 59, is a former Attorney General of the United States and a former senior executive at Verizon Communications Inc.

Jeff Bewkes, Chairman and CEO of Time Warner, said: "I'm delighted that Bill Barr is joining our Board. Bill brings all the personal qualities we seek in directors, including integrity and sound judgment, as well as significant industry knowledge and executive experience. I'm confident he'll make important contributions to our Board as we continue to build the world's leading content company."

Robert C. Clark, who chairs the Nominating and Governance Committee of the Time Warner Board, said: "The Board is very pleased to welcome Bill Barr as our newest member. Bill is widely respected for his intelligence and character. His experience in technology and communications, as well as his background as a senior official in government and business, make him a valuable addition to our Board."

Mr. Barr said: "I'm honored to join Time Warner's Board of Directors. This is a great company, and I'm looking forward to working with management and my new colleagues on the Board to help the company build value for its stockholders."

With today's election of Mr. Barr, as well as the recent retirement of Reuben Mark and Richard D. Parsons and resignation of Herbert M. Allison, Jr. to accept a senior position in the United States Department of the Treasury, Time Warner's Board now has 11 members, 10 of whom are independent directors. In addition to Mr. Bewkes, Mr. Clark and Mr. Barr, the members of Time Warner's Board are James L. Barksdale, Stephen F. Bollenbach, Frank J. Caufield, Mathias Döpfner, Jessica P. Einhorn, Michael A. Miles, Kenneth J. Novack and Deborah C. Wright.

About William P. Barr

After working at the White House and in private law practice from 1978 through 1989, Mr. Barr joined the U.S. Department of Justice, where he rose to serve as the 77 th Attorney General of the United States from 1991 to 1993.

Mr. Barr briefly returned to private practice and then, in 1994, joined GTE Corporation as its General Counsel, where he served for six years. In 2000, GTE Corporation and Bell Atlantic Corporation merged to form Verizon Communications Inc. Mr. Barr then served as Executive Vice President and General Counsel of Verizon through 2008. For eight years, he oversaw Verizon's legal, regulatory and government affairs group, and he served as a senior member of its executive team during a time in which the company expanded its broadband, media and telecommunications businesses. After

retiring from Verizon, he served as Of Counsel at the Washington, D.C. office of Kirkland & Ellis LLP from January until mid-July 2009.

Mr. Barr received A.B. and M.A. degrees from Columbia University and a J.D. degree from George Washington University. He has served as a Director of The Selected Funds since 1994 and a Director of Holcim US since 2008.

About Time Warner Inc.

Time Warner Inc., a global leader in media and entertainment with businesses in television networks, filmed entertainment, publishing and interactive services, uses its industry-leading operating scale and brands to create, package and deliver high-quality content worldwide through multiple distribution platforms. For more information about Time Warner Inc., please visit www.timewarner.com.

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State Keywords: New York
Industry Keywords: Entertainment; TV and Radio; Other Entertainment; Film & Motion Pictures; Professional Services; Legal; Communications; Other Communications
Source: Time Warner Inc.

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Keywords: Entertainment; TV and Radio; Other Entertainment; Film & Motion Pictures; Professional Services; New York; Legal; Communications; Other Communications (Personnel)

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Word Count: 748

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Old Hands on Deck; Veteran lawyers may fill the top two legal spots in the Obama administration.

Corporate Counsel

February 1, 2009 Sunday

CORPORATE COUNSEL

Section: DC WATCH; Pg. 65; Vol. 11; No. 2

Length: 917 words

Byline: JOE PALAZZOLO

Body

B ARACK OBAMA RAN AS the candidate of change, but he intends to fill his administration with some very familiar faces. His choices for the executive branch's top two legal jobsEric Holder, Jr., for attorney general and Gregory Craig for White House counselare no exception. Between them, Holder and Craig have a combined seven decades of experience in Washington, D.C.

Holder, 57, has received the most attention of the pair. Most recently a superstar partner at Covington & Burling, he also served as deputy attorney general under President Bill Clinton, a U.S. attorney in the District of Columbia, a D.C. superior court judge, and public corruption prosecutor.

But Craig, a partner at Williams & Connolly, also has an impressive resume. A protg of ultimate D.C. insider Edward Bennett Williams, Craig has moved easily among Washington's enclaves throughout his career. He suspended his private practice for work on Capitol Hill in the 1980s, and at the U.S. Department of State during the Clinton administration. Those assignments enabled him to carve out a niche in foreign policy and to draw more international clients. His highest-profile representation came in 1998, when he was pulled into the White House to oversee President Clinton's impeachment defense.

Craig, 63, says that working with Obama and Holder "would really be a terrific team." According to Craig, "The best lawyer of the three of us is [Obama]. That means the standards are going to be very high."

Holder and Craig met each other in 2000, in the thick of the Elin Gonzlez controversy. Holder was then the number two at the U.S. Department of Justice, and Craig was representing Gonzlez's father in his custody battle with the boy's Miami relatives. Craig emerged triumphant, while the Justice Department was criticized for being heavy-handed with a 7-year-old refugee.

"I found that he was very conscientious," Craig says of Holder (who declined to comment for this article). "He was absolutely straightforward with me about what was going onand it was not that we were working on the same side."

In the following years, the two men crossed paths at the odd D.C. bar event, retirement party, or trial lawyers convention. But it wasn't until their involvement on the Obama campaign that they started meeting on a regular basis. Holder vetted vice presidential candidates for Obama, while Craig helped him prepare for debates.

IT'S UNCLEAR how Obama will divide the legal labor in his administration. The attorney general is clearly responsible for the investigation and prosecution of crimes, but the extent to which the White House counsel is involved in legal policy varies with each administration.

Some former attorneys general say a bond between the White House counsel and the nation's chief law enforcement official is invaluable, particularly if the counsel is given a large policy role. According to Clinton AG Janet Reno, "What I think makes the biggest difference is to have a White House counsel and an attorney general who know each other and hit on all cylinders." Reno says she had never met Clinton in person before her first interview at the White House. She adds that the White House counsel were a useful bridge to a president whom she hardly knew. (Though it must have been difficult to get acquainted with the counsel, too: Clinton ran through seven of them.)

William Barr, who was attorney general under the first President Bush, says that C. Boyden Gray, White House counsel at the time, knew not to intrude on any enforcement matters. On "fair-game" policy issues, such as crime bills, they laid out their positions and let the president decide, says Barr, now general counsel at Verizon Communications Inc.

Edwin Meese III, who served as counselor to President Ronald Reagan before becoming attorney general in Reagan's second term, has a different view. "The White House counsel should stick to internal White House matters. It should never get involved in legal policy," Meese says.

The minimalist role doesn't seem to fit Craig. When asked whom he would try to emulate, Craig pointed to Theodore Sorensen, White House counsel to President John Kennedy. Sorensen served as more of a consigliere, advising Kennedy on domestic and foreign policy and serving as his primary speechwriter. Craig said he would be satisfied if he "could have one-tenth the impact of Ted Sorensen."

Sorensen, now of counsel at Paul, Weiss, Rifkind, Wharton & Garrison, says that he never clashed with thenattorney general Robert Kennedy, because he recognized the Justice Department's independence. "Routinely, departments would send their legislative and budget requests to my office," Sorensen says. "We didn't make any attempt to do that with the Justice Department."

Critics who fault President George W. Bush for expanding executive power and trampling on the attorney general's independence have expressed skepticism about Obama's choice of Holder and Craig, since they're two of his closest campaign advisers. But many former AGs and White House counsel support Obama's picks.

"It's the worst thing to have someone who doesn't have any relationship with the president," says Barr. Alberto Gonzales, who served as both attorney general and White House counsel, agrees. "I don't know where people get this silly idea that if you have a relationship with the [president], you cannot be effective," says Gonzales.

David Ingram contributed to this article, which originally appeared in Legal Times, a sibling publication of Corporate Counsel.

Load-Date: April 17, 2011

Former AG William Barr Joins Kirkland & Ellis

Corporate Counsel (Online)

January 8, 2009 Thursday

CORPORATE COUNSEL

Length: 310 words

Byline: Jeff Jeffrey, Special to the legal times

Body

Kirkland & Ellis announced Wednesday that former Attorney General William Barr has joined the firm as of counsel in its Washington office.

Barr retired from Verizon Communications in late 2008, after serving as executive vice president since the company was created out of the merger of GTE and Bell Atlantic in 2000. While at Verizon, he led the legal, regulatory and government affairs group.

As general counsel of GTE, Barr helped steer the merger negotiations between the two companies, and also framed and executed the litigation strategy that paved the way for deregulation of telecommunication companies and the wide-scale deployment of broadband.

"We are very pleased to welcome Bill to the Firm," Thomas Yannucci, chair of Kirkland's worldwide management committee, said in a statement. "With his vast experience in private practice, government and public company settings, Bill brings a unique perspective that will be valuable in providing the highest quality advice to our clients."

Barr, who was attorney general under President George H.W. Bush from 1991 to 1993, is one of several former AGs who have come out in support of President-elect Barack Obama's nominee for attorney general: Covington & Burling's Eric Holder Jr.

Just last month, *Barr told Legal Times*, "I think Eric comes with more qualifications than anyone I can remember."

Kirkland has a long relationship with Barr, who often turned to the firm for help with complex telecommunications issues while at Verizon.

"As a former client, I have worked closely with Kirkland lawyers for years and have seen first-hand the quality of work that they produce," Barr said in a statement. "I look forward to working with those same talented lawyers, as colleagues, while we assist clients with some of their most difficult challenges."

This article first appeared on *The BLT: The Blog of Legal Times*.

Load-Date: March 28, 2012

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Obama Taps Washington's Legal Reserves

Legal Times (Online)

This article also appears in the following ALM publications:

The National Law Journal

November 24, 2008 Monday

Length: 1639 words

Byline: Joe Palazzolo, Special to the legal times

Body

As President-elect Barack Obama assembles the legal core of his administration, the candidate of change has dug deep inside the Beltway for two lawyers with a combined seven decades of Washington experience.

If not change, exactly, Obama's choices in Williams & Connolly's Gregory Craig for White House counsel and Covington & Burling's Eric Holder Jr. for attorney general represent a renaissance. Not since the end of George H.W. Bush's administration, when C. Boyden Gray was White House counsel and William Barr was attorney general, have Washington-grown lawyers simultaneously occupied the nation's two highest legal offices.

Craig, a protégé of ultimate Washington insider Edward Bennett Williams, has moved easily among Washington's enclaves in his career. He suspended his practice at Williams & Connolly for work on Capitol Hill in the 1980s and in the State Department during the Clinton administration, assignments that allowed him to carve out a niche in foreign policy and to draw more international clients. His highest-profile assignment came in 1998, when President Bill Clinton pulled him into the White House to oversee his impeachment defense. For Obama, Craig has served in a number of key roles, acting as a surrogate, preparing the candidate for debates, and advising him on foreign policy.

Holder, 57, has broad criminal justice experience as the Justice Department's No. 2 official in the Clinton administration, a U.S. attorney in the District, a D.C. Superior Court judge, and public corruption prosecutor. During the campaign, he vetted vice presidential candidates and advised Obama on legal issues. Two lawyers close to the transition say Holder is the president-elect's top choice for attorney general, barring any wrinkles in his vetting.

"It would really be a terrific team," says Craig, 63. "The best lawyer of the three of us is the president-elect. That means the standards going in are going to be very high."

In interviews with a half-dozen former attorneys general and White House counsel last week, officials broadly praised Obama's selections. There's some disagreement over the necessity of Beltway bona fides, but Republicans

and Democrats alike say Obama was wise to settle on two experienced lawyers with whom he has built strong personal and professional relationships in the last few years.

In a year where sensitivities about the independence of the attorney general and margins of executive power run high, Obama has been criticized for tapping two of his sturdiest campaign advisers, but former attorneys general and White House counsel stand by his reasoning.

"It's the worst thing to have someone who doesn't have any relationship with the president," says Barr, executive vice president and general counsel of Verizon. "I think where it could become a problem is if the attorney general is some hack who owes his entire existence to the president." Holder, he says, "is strong enough to be his own man."

Former Attorney General Alberto Gonzales agrees.

"I don't know where people get this silly idea that if you have a relationship with the principal you cannot be effective," says Gonzales, who resigned last year amid congressional investigations into the firings of several U.S. attorneys. But Gonzales, who also served as White House counsel in the Bush administration, says a relationship with the president only works "so long as you have the courage to say no and the integrity to uphold your oath of office, and I believe that Eric Holder will do that."

CALLING THE SHOTS

Craig and Holder met each other in 2000, in the thick of the Elián González controversy. Holder was the No. 2 at Justice at the time and Craig was representing González's father, Juan Miguel González Quintana, in his custody battle with the boy's Miami relatives. (Craig emerged triumphant, while the Justice Department deflected criticism that it was heavy-handed with a 7-year-old refugee.) "I found that he was very conscientious," Craig says of Holder (who declined to comment for this article). "He was absolutely straightforward with me about what was going on-and it was not that we were working on the same side."

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Some former attorneys general say a bond between the White House counsel and the nation's chief law enforcement official is invaluable, particularly if the counsel is given a large policy role. "What I think makes the biggest difference is to have a White House counsel and an attorney general who know each other and hit on all cylinders," says Janet Reno, who was attorney general under President Clinton. Reno had never met Clinton in person before her interview at the White House, she says. The White House counsel were a useful bridge to a president whom she hardly knew. (Though it must have been difficult to get acquainted with the counsel, too: Clinton ran through seven of them.)

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Edwin Meese III, who followed President Ronald Reagan from the governor's mansion in California to the White House, has a different view.

"The White House counsel should stick to internal White House matters. It should never get involved in legal policy," Meese says.

The minimalist role doesn't seem to fit Craig. When asked whom he would try to emulate, Craig pointed to Paul, Weiss, Rifkind, Wharton & Garrison's Theodore Sorensen, President John F. Kennedy's White House counsel. Sorensen, who was more of a consigliere, advised Kennedy on domestic and foreign policy and was his primary speech writer. Craig said he would be satisfied if "I could have one-tenth the impact of Ted Sorensen."

Sorensen, for his part, says he never clashed with then-Attorney General Robert Kennedy over the Justice Department, because his office recognized DOJ's independence. "Routinely, departments would send their legislative and budget requests to my office. We didn't make any attempt to do that with the Justice Department."

WASHINGTON DINNER PARTIES

Craig and Holder both can trace their first meetings with Obama to that staple of the power elite: the Washington dinner party.

Craig discovered Obama at a 2003 fundraiser dinner held at the home of one of the Clintons' closest friends, Vernon Jordan Jr., now senior counsel at Akin Gump Strauss Hauer & Feld. (In a March interview with Legal Times, Jordan said Craig had "been in love ever since.")

And in 2004, Holder and Obama met at a dinner hosted by former Clinton White House aide Ann Walker Marchant, Jordan's niece. It was Obama's welcome-to-Washington party.

Craig's appointment and Holder's forthcoming nomination have become a cause célébre for Obama's critics, who wonder, with satisfaction, what happened to change.

Holder, a native New Yorker, has thrived in Washington since 1976, when he joined the Justice Department's new Public Integrity Section. Craig joined Williams & Connolly in 1972, after graduating from Yale Law School, where he met the Clintons. He's known to occasionally play in Sunday touch football games with a mix of prominent lawyers and members of the Washington press corps.

Even the candidate of change needs some old Washington hands who know how to pull the levers of the federal government, says Skadden, Arps, Slate, Meagher & Flom's Robert Bennett, who is friends with both Holder and Craig.

"I'm not suggesting you can't be a good White House counsel or attorney general and be outside of Washington, but I am saying you really have an advantage, because this town has a music unto itself and you have to understand this music," Bennett says. "This notion of, 'Hey, let's pick someone out of the Yellow Pages,' that's ridiculous."

Former attorneys general say a fresh face doesn't necessarily inspire confidence so much as anxiety where the department is concerned. Dogged by reports of politics seeping into career hiring decisions, the department needs someone familiar, they say. "Right now at Justice is not the time for learning on the job," Barr says. "I think Eric comes with more qualifications than anyone I can remember."

Last week, Sen. Orrin Hatch (R-Utah), the former chairman of the Senate Judiciary Committee and its second-ranking Republican, told reporters that he would vote for Holder.

Several Republicans have praised Holder while also promising a thorough hearing if he is nominated. Sen. Jon Kyl (R-Ariz.), the GOP whip, said last week that he has asked his staff to begin researching Holder's role in Clinton's pardons, including one given to fugitive financier Marc Rich.

Washington experience is typically accompanied by Washington baggage. Gonzales, who was President George W. Bush's counsel when he was governor of Texas, says one of the advantages to being a newcomer to Washington was starting from scratch. "You're not burdened by limitations imposed by others," he says.

But breaking in wasn't easy, either.

"There is an elite legal establishment here in Washington, and when you come in from outside, you have to kind of prove yourself," Gonzales says. "It's a tremendous learning curve."

Reporter David Ingram contributed to this article. Joe Palazzolo can be contacted at *joe.palazzolo@incisivemedia.com*.

Load-Date: March 29, 2012

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TELECOMMUNICATIONS

Verizon's Barr Plans to Retire

By Amol Sharma

Updated Sept. 30, 2008 12:01 a.m. ET

William P. Barr announced he is retiring as general counsel of Verizon Communications Inc., VZ **-2.42%** ▼ after a 14-year career in which he helped steer the telecom company through a period of industry deregulation and consolidation.

Mr. Barr, 58 years old and a former U.S. Attorney General under President George H.W. Bush, was general counsel at GTE Corp., which merged with Bell Atlantic Corp. to create Verizon in 2000.

William P. Barr

He advised Verizon on the sweeping changes laid out in the Telecommunications Act of 1996, which, among other things, paved the way for local phone companies to get into the long-distance business and offer video service.

Mr. Barr has played a central role in Verizon's acquisitions, including that of MCI Communications in 2006. "We've gone through a very tumultuous time and have ended up a winner in the sector," Mr. Barr said in an interview.

Under Mr. Barr's leadership, Verizon has been aggressive about protecting its intellectual property, asserting patent claims in Internet telephony over Vonage Holdings Corp. and cable companies.

Telecom companies including Verizon have been sued for their alleged role in the Bush administration's warrant-less surveillance program. After lobbying by the industry and the White House, legislation providing retroactive legal immunity to telecom companies passed Congress this year.

Verizon said it expects to name a replacement soon. Mr. Barr will work over the next three months to help with the transition as a new general counsel is named.

Write to Amol Sharma at amol.sharma@wsj.com

NewsRoom

9/29/08 PR Newswire 18:00:00

PR Newswire

September 29, 2008

Verizon General Counsel William P. Barr Announces Retirement

NEW YORK, Sept. 29

NEW YORK,Sept. 29 /PRNewswire/ -- William P. Barr, Verizon Communications Inc. (NYSE: VZ) executive vice president and general counsel since the company's inception in 2000, announced plans today to retire at the end of this year. Verizon expects to name a successor soon.

Barr, 58, previously was general counsel at GTE, which merged with Bell Atlantic to become Verizon. Prior to his 14-year career in the communications industry, Barr was U.S. Attorney General under then-President George H.W. Bush.

"Bill's leadership and impact on Verizon and our entire industry have been extraordinary," said Verizon Chairman and CEO Ivan G. Seidenberg. "He has set the standard for what it means to be a superior general counsel, paving the way for the restructuring of the communications marketplace, leading the charge to deregulate telecommunications companies following the Telecom Act of 1996, and enabling a new era of consolidation and growth.

"That, combined with his exemplary service to our nation and his prowess as an attorney, make Bill's legacy exceptional," Seidenberg said. "We have valued his advice and counsel greatly, and we will miss him, knowing his contributions to society are no doubt far from over."

Barr said, "It has been a rare privilege to work under Ivan's leadership as he has led Verizon's historic transformation, redefining the telecommunications space while making Verizon the premier broadband and wireless provider in the U.S. Because of his vision, the skills of his superior leadership team and the remarkable efforts of all Verizon employees, the future of our company as an industry leader is assured. I will always be proud of being part of the Verizon family. With the foundation for our continued success well established, this is a logical time for me to retire."

Barr will work over the next three months with Seidenberg to ensure a seamless transition as a new general counsel is named.

Barr began working in telecommunications in 1994, when he joined GTE as executive vice president of government and regulatory advocacy, general counsel. He served in that capacity from 1994 until GTE merged with Bell Atlantic to become Verizon in June, 2000.

Prior to his work in the telecommunications industry, Barr was Attorney General of the United States, was on the White House Domestic Policy Staff under President Reagan, and served in the Central Intelligence Agency.

As Attorney General from 1991 to 1993, Barr established innovative programs to combat violent crime and set significant new enforcement policies in a wide range of areas, including financial institutions, civil rights and antitrust merger guidelines. He started with the Department of Justice as assistant attorney general in charge of the Office of Legal Counsel in 1989, and then served as deputy attorney general before his appointment as attorney general in November 1991.

Barr started his legal career as law clerk to Judge Malcolm Wilkey of the U.S. Court of Appeals for the District of Columbia. From 1982 to 1983, he served on the White House Domestic Policy Staff under President Reagan, and then returned to the Washington, D.C., law firm of Shaw, Pittman, Potts & Trowbridge, where he practiced as a partner until 1989. Barr received a bachelor's degree in government in 1971 and a master's degree in government and Chinese studies in 1973 from Columbia University. He received his juris doctor degree with highest honors from George Washington University in 1977.

Barr serves on the boards of Selected Funds and Holcim US, and is a member of the bar in the District of Columbia, New York, New Jersey and Virginia. He also serves as a Trustee of the Inner-City Scholarship Fund of New York.

Verizon Communications Inc. (NYSE: VZ), headquartered in New York, is a leader in delivering broadband and other wireline and wireless communication innovations to mass market, business, government and wholesale customers. Verizon Wireless operates America's most reliable wireless network, serving nearly 69 million customers nationwide. Verizon's Wireline operations include Verizon Business, which delivers innovative and seamless business solutions to customers around the world, and Verizon Telecom, which brings customers the benefits of converged communications, information and entertainment services over the nation's most advanced fiber-optic network. A Dow 30 company, Verizon employs a diverse workforce of more than 228,600 and last year generated consolidated operating revenues of $93.5 billion. For more information, visit www.verizon.com.

VERIZON'S ONLINE NEWS CENTER: Verizon news releases, executive speeches and biographies, media contacts, high-quality video and images, and other information are available at Verizon's News Center on the World Wide Web at www.verizon.com/news. To receive news releases by e-mail, visit the News Center and register for customized automatic delivery of Verizon news releases.

SOURCE Verizon Communications

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---- Index References ----

Company: VERIZON LABORATORIES; CENTRAL INTELLIGENCE AGENCY; HOLCIM LTD; MCI INC; VERIZON; MIDDLE EAST COLLECTION; GEORGE WASHINGTON UNIVERSITY THE; US COURT OF APPEALS; BELL ATLANTIC CORP; VERIZON COMMUNICATIONS INC; CELLCO PARTNERSHIP; COLUMBIA UNIVERSITY; GTE CORP; HOLCIM NEDERLAND BV

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Ticker Symbol: NYSE:VZ

Word Count: 1012

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A Firm of Equals; With a democratic culture, strong financial growth, and a revitalized commitment to pro bono, Munger, Tolles & Olson unseats Debevoise at the top of the A-List.

The American Lawyer (Online)

July 1, 2008 Tuesday

THE AMERICAN LAWYER

Length: 3226 words

Byline: Drew Combs, Special to the american lawyer magazine

Body

When Bradley Phillips became cochair of Munger, Tolles & Olson's pro bono committee in early 2007, he faced a dilemma. Pro bono hours at the firm were well short of historic benchmarks. "I don't know quite what happened," Phillips says. "As a firm, we got busy with so many other things." But Phillips couldn't simply issue an edict commanding Munger's lawyers to rededicate themselves to pro bono. This firm, which famously asks every partner to assess appropriate compensation for every other partner, is uniquely averse to edicts. "People here don't much like to be told what to do," says Mark Helm, co-managing partner since 2005 of the 194-lawyer firm. "That would go against our culture."

Instead, as Phillips describes it, the pro bono committee initiated a firmwide survey. Each Munger attorney received a visit from a member of the 20-lawyer pro bono committee to discuss ways the firm could improve its showing. Not much formally changed in the firm's laissez-faire approach to pro bono, but nonetheless, hours shot up 25 percent in 2007. "A lot of people realized that they had let their pro bono slide," says Helm. The pro bono committee's reminder, couched as a discussion of ideas, was precisely the spur Munger's lawyers needed.

As impressive as the results-the firm jumped from forty-fourth to twenty-eighth in the nation in **The American Lawyer**'s 2007 pro bono ranking-was the way the improvement was executed. The Munger, Tolles & Olson way. It demonstrated the firm's core cultural artifact: a sense of ownership that extends from patriarch Ronald Olson all the way down to the first-year associates. At this firm, "equality" and "inclusion" are phrases that extend beyond the pleas of recruiting brochures. This unusual (to put it mildly) approach has paid off handsomely, not only in world-class financial success but also in top-rated performance on the other attributes we measure for our annual A-List of the nation's elite firms: associate satisfaction, diversity among the lawyers, and pro bono. This year Munger's performance put the firm in first place, unseating New York's Debevoise & Plimpton for the first time since 2004. (Debevoise slipped to fifth place.)

Munger, Tolles produced very strong results in each category. Revenue from such clients as Oaktree Capital Management, L.P., Abbott Laboratories, Verizon Communications Inc., and Berkshire Hathaway Inc. pushed the firm to a tenth-place showing in the revenue per lawyer ranks. Munger ranked thirteenth in associate satisfaction and fourteenth in diversity in 2007, both down from last year but only slightly; the big jump in the firm's pro bono

rating offset those declines. With 1,103 points overall, Munger's record was in line with that of Debevoise's in 2007 (though down from Debevoise's scores in 2005 and 2006). More importantly, Munger, Tolles should remain a contender for top A-List honors in the coming years. In tough times, firms with a strong identity, loyal clients, and happy lawyers usually continue to succeed. Munger has all of those-in abundance.

It's early May, and co-managing partner Helm is giving a tour of the firm's main office in downtown Los Angeles's Wells Fargo Center. (Munger has one other office, in San Francisco.) Helm's wrinkled shirt and fondness for injecting a folksy "gee" into conversation would be anomalous at some California firms, but here-where the 1980s-style blond maple finish makes the place feel stuck in a time warp-they fit right in. Munger lawyers cling to what could be considered an idealistic, even outdated image of law firm culture.

During the tour, Helm points out that his office is on the thirty-seventh floor, where many of the firm's litigation support lawyers are located. That's no accident: It's meant specifically to counter any perception that the staff attorneys' floor is less desirable than the other six the firm has in the building.

But the concern with inclusion is far more substantive than floor assignments. Many decisions, including lateral additions, are made during lunches at which associates vote alongside partners. Munger has more than 25 committees, subcommittees, and task forces to discuss and debate everything from data storage to the art hanging on the walls. All except two-partner compensation and associate review-have associate members. Every associate serves on at least one committee; many are members of more. Even Munger's 15-lawyer policy committee, the most powerful at the firm, includes three associates. "The only decisions that have been reserved to the partnership [are] who is going to be partners and how to divide up partnership income," says name partner Olson. (Munger's 29 staff attorneys are invited to some firm meetings but do not get a vote.)

"I definitely think that the fact that associates are asked their views, and not in a token way, is reflected in associate contentment," says Susan Boyd, the San Francisco-based associate who cochairs the pro bono committee with partner Brad Phillips. "In a literal sense, it is a democracy. When there is a vote, we just raise our hands and vote. It's not like partners get two votes and associates get one." Munger associates also have unfettered access to the monthly financial report, which details net income against budget and hours billed by attorneys at the firm. "A two-week associate gets more financial details about the firm than I got as a senior partner at other firms," says Richard Volpert, a real estate partner who previously practiced at Skadden, Arps, Slate, Meagher & Flom and O'Melveny & Myers.

Munger associates are also entrusted with high-level work assignments and client interaction. "From the very beginning, I have taken depositions, written briefs, and been involved in strategy decisions," says Grant Davis-Denny, a fourth-year associate who serves on the firm's policy committee. Munger partners like to point out that because the ratio between partners and associates at the firm is about 1:1, associates must take on significant responsibility early. "This is not a place for shrinking violets," says Helm. "We do train our associates, but we train by doing. The types of people we attract tend to thrive in that environment."

Munger's associate ranks are heavy with honors-laden graduates of the most elite law schools. An astounding 70 percent of the firm's attorneys have clerked for federal judges; 19 have clerked for justices on the U.S. Supreme Court. Munger lawyers don't see this preference for the highly credentialed as elitism, but rather as a reflection of their business model. "We try to hire the very best available. We believe, over time, the best lawyers get the best results, and the best results attract the best clients," Olson says. Several partners at the firm reiterated the mantra that the most effective marketing is the work you do for clients. It is a saying that has been adopted by many other firms, but Munger has concluded that great work can only be assured with the highest-caliber recruits.

The firm is also keen to attract more lawyers from diverse backgrounds. For the past four years, Munger has used its summer associate program to further that goal, first in Los Angeles and then in San Francisco. In addition to the usual crop of second-year law students, the firm has brought in first-year law students from minority or economically

disadvantaged backgrounds. This summer six students are participating in the program at the firm's two offices, and this fall two alumni will join the firm as associates.

Bart Williams, the head of Munger's diversity committee and one of two African American partners at the firm, was himself offered a summer associate position at Munger after his first year at Yale Law School but turned it down because, he says, he was "intimidated by the bios." A Los Angeles native, he did take the firm up on its renewed offer after his second year, then joined Munger after graduation.

"I thought it was the best place [in which] to become the best lawyer in the shortest period of time," says Williams, a litigator who left the firm to spend three years as a federal prosecutor, and served as a co-managing partner at Munger after his return. He says Munger's success in creating a diverse workplace is the result of hard work. "A lot of it is pure effort," he says. "Making phone calls. Reaching out to professors. Reaching out to judges. Redoubling our efforts to make contact with people who meet our standards."

In 2007, Munger tied for third place with two other firms on **Minority Law Journal**'s Diversity Scorecard, with minorities representing 22.5 percent of all attorneys and 13.5 percent of partners. In the 2008 survey, the percentage of minority lawyers at the firm fell to 20.9 percent, and its overall ranking on the Diversity Scorecard dropped to fourteenth. Williams says there's no specific explanation for the drop. "It doesn't take much when you are talking about these numbers. Losing one person can change the percentage," he says. "No one at our firm is bragging that we have reached all our goals. We want to get more people, to get a critical mass of female partners, African Americans, and Latinos."

Munger's pro bono numbers, on the other hand, were up significantly over the last year. In 2007 Munger lawyers worked a total of 15,941 pro bono hours, an increase of almost 3,200 from 2006. More than 100 lawyers at the firm spent more than 20 hours on pro bono matters, up from 84 in 2006. According to Phillips, 4.5 percent of the firm's hours were dedicated to pro bono in 2007. Among the firm's notable pro bono efforts last year was the work of Phillips and a team of Munger lawyers who joined with the American Civil Liberties Union of Southern California to represent two immigrants suing the U.S. Department of Homeland Security. Munger's clients claimed that immigration agents attempted to deport them by drugging them and then forcing them onto waiting airplanes. The case had three parts: a nationwide class action seeking injunctive relief to stop the alleged drugging, tort claims, and Freedom of Information Act actions. "When I got this case, I knew it was going to be a big undertaking," says Ahilan Arulanantham, a staff attorney with the ACLU. "[Munger, Tolles] made the commitment of resources and experienced attorneys that we were going to need." All but the FOIA claims were settled earlier this year: The U.S. Immigration and Customs Enforcement division of the Homeland Security Department has changed its policy to prohibit involuntary drugging unless there is a court order, and Munger's clients received monetary settlements from the government.

Munger partners Brad Brian and Jerome Roth logged unusual pro bono hours, spearheading a one-week American Bar Association training program in London for nine Sudanese lawyers and human rights activists. Attendees were instructed in advocacy skills and international human rights law. More typical was the work that Munger lawyers did for such longtime pro bono clients as the Lawyers' Committee for Civil Rights of the Bay Area, which provides free legal services in civil rights-related matters; Public Counsel, a Los Angeles-based organization that represents low-income individuals; and Bet Tzedek, which provides legal advice to low-income seniors. Munger lawyers devoted 2,500 hours to representing dozens of Los Angeles families receiving Section 8 housing assistance in claims against their landlords this past year. In a federal case and two state cases, all of which are presently on appeal, Munger and lawyers from the Legal Aid Foundation of Los Angeles argued that when Los Angeles rent stabilization rules are applicable, landlords should be prevented from relying on weaker federal protections to evict Section 8 tenants.

As gratifying as Munger, Tolles's improvement in pro bono was this year, the firm also saw solid growth in its work for paying clients. For the second year in a row, Munger's revenue per lawyer increased by double digits, up 11

percent in 2007, from $1.03 million to $1.14 million. Profits were up as well, from PPP of $1.22 million in 2006 to $1.33 million last year.

About 80 percent of Munger's revenue comes from litigation, where clients say low leverage and top-level associates distinguish the firm. "At the end of the day, the real issue is what is the final bill and the efficiency of the firm," says William Barr, executive vice president and general counsel at Verizon. Barr began using Munger years ago when the firm handled a Federal Communications Commission action for Verizon predecessor GTE. Now Munger is one of his primary firms, handling, most recently, a challenge to a wireless siting ordinance in federal district court in New Mexico. "I have been impressed with the quality of their lawyering from the newest associate to the most seasoned partner," Barr says.

In a series of major cases around the country, Munger litigators have defended an enviable list of clients. Representing Shell Oil Company in two class actions alleging that the oil industry either caused or exacerbated the damages from Hurricane Katrina, Ron Olson led the Munger team in drafting a brief for all of the oil industry defendants in the Louisiana action; the case was dismissed in September 2006, and the plaintiffs decided not to appeal. (The Mississippi case, also dismissed, is being appealed.) Partner Gregory Stone won a $306.5 million jury verdict (later reduced to $133.6 million) for Rambus Inc. against Hynix Semiconductor Inc., a South Korean chip maker. The final phase of the trial concluded in March, when a jury rejected fraud and antitrust defenses raised by Hynix and other companies against Rambus. And Munger partner Brad Brian is leading the representation of The Boeing Company in a case in which ICO Global Communications Limited claims, among other things, that Boeing Satellite Systems International, Inc., imposed exorbitant fees in a $1.9 billion deal to build and launch 12 satellites. The plaintiff is seeking a return of $1.6 billion and additional damages.

But the firm doesn't want to be known just as a litigation shop. "I don't see us as in a niche in any way," says Olson. Munger's transactional work accounts for one-fifth of its revenue, but its corporate clients are a choice group. The firm this year, for instance, represented The Yucaipa Companies LLC, the Los Angeles-based private equity firm controlled by billionaire Ron Burkle, in the purchase of 80 percent of AmeriCold Logistics LLC, a nationwide cold storage warehousing company. For Universal Music Group, Munger was U.S. counsel in last year's $2.1 billion acquisition of BMG Music Publishing from Bertelsmann AG; in February, the firm represented Universal in its purchase of Univision Music Group from Univision Communications Inc. for $153 million.

And, of course, Munger has represented Berkshire Hathaway in recent acquisitions, including the 2006 deal to buy 80 percent of Israel-based Iscar Metalworking Companies. No client relationship is more ingrained or important for Munger than its close ties to Warren Buffett and Berkshire Hathaway. Charles Munger, a cofounder of Munger, Tolles who is no longer a partner but keeps an office at the firm, is vice-chairman of Berkshire Hathaway. Olson also serves on the board of directors of the Omaha-based holding company. These relationships have made Munger a go-to firm for Berkshire Hathaway and its affiliated entities. Munger currently represents The Coca-Cola Company, in which Berkshire is a major investor, and its directors in federal securities class actions and state court derivative actions. Buffett also turned to the firm in the summer of 2006 to structure a $36 billion donation, the bulk of his fortune, to the Bill & Melinda Gates Foundation. Buffett even wrote a song for the firm's fortieth anniversary celebration in 2002.

"Charlie Munger and Roy Tolles were my friends," Buffett says. "I was there when the firm was founded. It was in a hotel in downtown Los Angeles where they set up temporary offices. I have been with them ever since. It has been a great association." Buffett says his loyalty is not based exclusively on his personal relationships with the firm founders, but also on the firm's performance. "They're very responsive. They get results, and they get them fast. You are dealing with extraordinarily high-quality people," Buffett says.

ver the years, buffett, like many of Munger, Tolles's most important clients, has had reason to lean on Ron Olson, a former college football player who speaks of his cases with the nostalgia of an athlete reliving past games. If Munger, Tolles is, as the firm claims, an organization of equals, then Olson can only be described as a first among

equals, a hard-charging litigator who casts a huge shadow. He joined Munger, Tolles, Hills & Rickershauser in 1968, six years after it was founded by Charles Munger, E. Leroy Tolles, Carla and Roderick Hills, and three other lawyers. He made partner after two years and eventually became the foundation of the litigation practice. In 1986 the firm was rechristened Munger, Tolles & Olson. (Tolles died last February.)

Olson, who turns 67 this month, is clearly thinking these days about the future of the firm he shaped. He has changed his focus from litigation to corporate work, such as representing the Yahoo! Inc. board of directors in connection with the company's recent merger talks with Microsoft Corporation. And during an interview in his office, he says that for several of the firm's long-term clients, such as Boeing and Universal, he is no longer the main partner contact. On corporate matters, he teams up with partner Robert Knauss.

Current (and even former) partners at the firm are quick to point out that Munger is much more than the Law Offices of Ronald Olson. Despite his obvious importance to the firm, he hasn't always gotten his way, which speaks to the strength of Munger's democratic tradition. For example, he initially opposed adding an office outside of Los Angeles, but was overridden in 1991, when the firm brought in seven San Francisco-based environmental regulatory lawyers. There are now 40 lawyers in the San Francisco office.

This spring Olson found himself in a losing battle over the firm's summer associate program. "I have been a stick-in-the-mud, thinking we do too much to pamper summer clerks," Olson says. "I am much more interested in giving them a dose of reality about what it is like to work at our firm." Olson argued his position at a firm meeting, but the firm opted not to change the program. One associate explains the problem with Olson's suggestion: "The best way to evaluate [candidates'] work . . . is to give them defined assignments as opposed to [throwing them] on a case where it could take a long time to build up the knowledge you need."

A few moments later the associate adds, "Maybe you shouldn't quote me directly saying that."

Even at Munger, democracy has its limits.

E-mail: .

Munger, Tolles & Olson

Lawyer Head Count*: 180
Equity Partners: 87
Gross Revenue: $205,000,000
Profits Per Partner: $1,325,000
Revenue Per Lawyer: $1,140,000
Total Pro Bono Hours: 15,941
Average Pro Bono Hours Per Attorney: 88.6
Percentage of Attorneys with More than 20 Hours: 58.3

*Am Law 200 numbers. As of June 1, firm has 198 lawyers.

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NewsRoom

1/28/08 US Fed. News (Pg. Unavail. Online)
2008 WLNR 1665711

US Federal News

January 28, 2008

McCain Endorsed by Former U.S. Attorney General Bill Barr

NEW YORK, Jan. 28 -- The presidential campaign of Sen. John McCain, R-Ariz., issued the following news release:

ARLINGTON, VA -- U.S. Senator John McCain's presidential campaign today announced that William P. Barr, former U.S. Attorney General, has endorsed John McCain for President of the United States. Mr. Barr has held several positions in Republican administrations, including service under Ronald Reagan on the Domestic Policy Council and U.S. Attorney General under George H.W. Bush.

"Even before my days in the Reagan administration, I have been an admirer of John McCain's," said Mr. Barr. "He has been a consistent conservative and he will bring to the White House a firm vision for the judiciary. I believe, as he does, that judges should honor, and not reinterpret the Constitution. As president, I know John McCain will nominate judges who follow in the traditions of strict constructionists. John McCain has been a leader national security, fiscal discipline and conservative values, and I am proud to support him."

John McCain thanked Mr. Barr, stating, "I am grateful to Attorney General Barr for his endorsement of my candidacy. I look forward to working with him to secure a victory in November. He believes, as I do, in a strong national defense, in fiscal responsibility, in the values that have made our nation strong, and in a judiciary where judges should not be in the business of legislating from the bench."

William Barr received his law degrees with highest honors in 1977 from George Washington University. From 1973 to 1977, he was employed by the Central Intelligence Agency. Barr was a law clerk to Judge Malcolm Wilkey of the U.S. Court of Appeals for the District of Columbia Circuit from 1977 through 1978. He served on the Domestic Policy staff at the White House from 1982 to 1983. He was also in private practice for nine years, with the Washington law firm of Shaw, Pitman, Potts, and Trowbridge.

At the Department of Justice, Barr served in the positions of Assistant Attorney General for the Office of Legal Counsel from 1989 to 1990, Deputy Attorney General from May 1990 to August 1991 and Acting Attorney General for three months. He was appointed Attorney General by President Bush in 1991. After resigning as Attorney General, he returned to private practice.

TNS JF78JF-080129-1362976 18MASHJofrey

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Other Indexing: (CENTRAL INTELLIGENCE AGENCY; DEPARTMENT OF JUSTICE; DOMESTIC POLICY; DOMESTIC POLICY COUNCIL; GEORGE WASHINGTON UNIVERSITY; OFFICE OF LEGAL COUNSEL; US ATTORNEY; US COURT OF APPEALS; WASHINGTON; WHITE HOUSE) (Barr; Bill Barr; Bush; George H.W. Bush.; John McCain; Malcolm Wilkey; McCain; McCain Endorsed; William Barr; William P. Barr)

Word Count: 469

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The GCs' Choice: Obama; Barack Obama is the favorite for campaign donations from the highest-paid general counsel.

Corporate Counsel (Online)

January 4, 2008 Friday

CORPORATE COUNSEL

Length: 913 words

Byline: Amy Miller, Special to the corporate counsel

Body

The nation's best-paid general counsel have a clear favorite in the presidential race: Barack Obama. In the run-up to the primary season, the Illinois senator received more money from the in-house legal elite than any other candidate. The Democratic contenders for the White House are doing well as a group, outraising Republican candidates by almost a 2:1 margin in the contest for GC cash.

These are just some of the findings from a

Corporate Counsel review of Federal Election Commission data compiled by the Center for Responsive Politics, a Washington, D.C.?based nonpartisan research group. At press time the CRP's Web site listed contributions made through October 29. We looked at donations made by the 100 best-paid GCs in the country, as ranked on

Corporate Counsel's most recent compensation survey. (Since we compiled that ranking for our August 2007 issue, 13 general counsel have either retired or changed jobs.)

A total of 29 GCs in the top 100 have contributed to a presidential candidate so far (five gave to more than one campaign). Eight legal chiefs gave Obama a total of $20,600, Hillary Clinton raised $14,500 from six, and Christopher Dodd netted $13,000 from eight. Republican candidates have lagged far behind. John McCain received $10,900 from six general counsel, Rudy Giuliani got $6,900 from three, and Mitt Romney pulled $6,900 from four. GCs showed no love for Democrat John Edwards (a former trial lawyer who routinely bashes corporate America) or Republican Mike Huckabee (who's been vigorously attacked by the Club for Growth, a conservative pro-business group).

Democratic candidates have outpaced Republicans in overall fund-raising, not just among GCs. At press time Clinton had raised the most money for her campaign, with a total haul of $91 million, though Obama was only about $10 million behind her. Romney led the Republican candidates with $63 million, followed by Giuliani with $47 million.

Obama received his biggest GC contributions from David Drummond of Google Inc. and Michael Fricklas of Viacom Inc. (Drummond gave the maximum donations permitted under federal law?$2,300 for the primary campaign, and $2,300 for the general election.) None of the legal chiefs who contributed to Obama returned calls for comment.

But Gregory Craig, a Williams & Connolly partner who's backing Obama, maintains that corporate lawyers like the rookie senator because he's a moderate and not wedded to a particular ideology. Shortly after Obama won his seat in 2004, for example, he was one of only 17 Democratic senators to vote for the business-backed Class Action Fairness Act. Obama "identifies situations that need to be corrected and goes in open-minded and evenhanded," Craig argues.

Einer Elhauge, a Harvard University law professor who is advising Obama on legal policy, also points to the candidate's stance on antitrust issues. "He has a more careful, nuanced policy," says Elhauge, who adds, "There's a hard-nosed idealism about him." In a recent statement posted on the American Antitrust Institute's Web site, Obama said that he would ensure that antitrust enforcement doesn't undermine businesses.

Ironically, Obama's fund-raising success in corporate America may also be attributable to his very public declaration that he won't take money from lobbyists. Thomas Quinn, a partner and lobbyist at D.C.?based Venable, speculates that more executives may be giving directly to Obama's campaign since they can't make contributions through a third party.

Two of the candidates doing well with GC donations haven't been so strong in overall fund-raising. McCain, the top pick of legal chiefs from the Republican field, did so poorly last year that at one point he considered taking public funding for his primary campaign.

Even more striking, Dodd's third-place showing in GC contributions stands in contrast to his fifth-place ranking in overall fund-raising among Democrats. Dodd's success with legal chiefs is partly due to his chairmanship of the Senate banking committee. Of the eight GCs who have contributed to his campaign, five are from companies in the financial services industry, including Thomas Russo of Lehman Brothers Holdings Inc. and Louise Parent of American Express Company.

While the presidential contenders have already raised considerable funds, the haul will soar even higher as the general election approaches. According to the Center for Responsive Politics, candidates are on track to raise an unprecedented $1 billion for the 2008 race, up from $853 million in 2004. CRP researcher Douglas Weber says that's because candidates began their campaigns earlier this time, plus neither party has an incumbent or a clear front-runner.

And for the first time since 1972, all of the leading presidential candidates in both parties have announced that they will not participate in the public financing system for the general election. Not only will they be able to solicit private contributions, they won't face any spending limits, either.

Once the parties choose their nominees, many GCs who backed a losing candidate in the primaries will have to pick another horse for the general election. That doesn't bother William Barr, the legal chief at Verizon Communications Inc. Barr, an attorney general under the first President George Bush, was the only GC in our survey to contribute to Fred Thompson. "I like a number of the [Republican] candidates," Barr says. "I'd be glad to support whoever the [GOP] nominee is."

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NewsRoom

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November 10, 2007

Mukasey Sworn in As Attorney General

LARA JAKES JORDAN

Associated Press Writer

WASHINGTON_Retired federal judge Michael Mukasey was sworn in Friday as the nation's 81st attorney general, filling a vacancy left when Alberto Gonzales resigned amid questions about his credibility.

Mukasey was sworn in at a private Justice Department ceremony about 16 hours after he narrowly won Senate confirmation. The third attorney general of the Bush administration, Mukasey, 66, inherits a Justice Department struggling to restore its independent image with more than a dozen vacant leadership jobs and little time to make many changes before another president takes office.

Justice Department spokesman Brian Roehrkasse said Mukasey was joined by family members at the closed-door ceremony lasting two to three minutes. After taking the oath, Mukasey headed immediately into meetings with senior Justice Department officials, including a briefing on the Foreign Intelligence Surveillance Act.

Mukasey "got right to work," Roehrkasse said.

Mukasey served nearly two decades as a federal district judge in Manhattan and oversaw many of the nation's highest profile terror cases in the aftermath of the Sept. 11, 2001 attacks. He now has 14 months to turn around the demoralized Justice Department and its 110,000 employees after almost a year of scandal that forced the resignation of his predecessor and cast doubt on the government's ability to prosecute cases fairly.

Andrew Kent, a constitutional law professor at Fordham Law School in the Bronx, said it's unclear how much Mukasey can get done.

"It just seems inconceivable that there'd be any major changes in legal policy, in the president's approach to the war on terror at the behest of an outsider to the administration _ which is what Mukasey is," Kent said.

Mukasey's first full day on the job will be Tuesday. A public swearing-in ceremony is being planned for next week, and Mukasey is expected to address Justice Department employees for the first time afterward.

The Senate confirmed Mukasey minutes before midnight Thursday by a 53-40 vote _ which critics noted marked the narrowest margin to confirm an attorney general in more than 50 years. His confirmation briefly stalled over his refusal to say whether he considers an interrogation tactic known as waterboarding a form of illegal torture.

But Mukasey made clear to senators he won't tolerate politics influencing decisions about prosecuting cases or hiring career attorneys _ allegations being investigated now in an ongoing inquiry into last year's firings of nine U.S. attorneys.

The scandal, which led to Gonzales' ouster in September, tarnished the Justice Department's long-held independent image and prompted a flood of resignations from its senior officials.

Twelve of the highest-ranking department jobs _ including the No. 2 and 3 spots and six assistant attorney generals _ currently are held by officials who have not been confirmed by the Senate. Two other senior officials have announced their resignations and are expected to leave shortly.

Having temporary officials filling in at the top jobs creates some uncertainty in the department, said William Barr, who was attorney general during the administration of former President George H.W. Bush.

"It could affect their ability to be decisive on issues because everything they do could potentially become an issue in their confirmation," said Barr, now general counsel at Verizon Communications Inc.

Among Mukasey's top priorities will be to soothe employees at Justice Department headquarters in Washington and in the 94 U.S. attorneys offices nationwide with promises to administer the law fairly and without political bias. That could also help restore public confidence, said Eric Holder, who served as deputy attorney general during the Clinton administration.

"Internally, there is a morale problem the likes of which I have never seen before," Holder said. "Externally, there is a crisis of confidence that the nation has with regard to the department."

Mukasey "has to move swiftly and tangibly in order to restore faith in the integrity of the decision making at Justice. He has to show that he, not political operatives at the White House, is making the calls at Justice," Holder said.

Department officials maintain they have already taken steps to fix internal policies that let politics seep into daily operations. They include:

_Allowing U.S. attorneys to decide whom to hire as trial prosecutors, even in cases where the U.S. attorney is only serving in an interim basis. During Gonzales' tenure, former department White House liaison Monica Goodling gave hiring preference to Republican Party activists. Now, Justice headquarters only weighs in when hiring might affect the agency budget.

_Reversing an order that gave Goodling and former Justice chief of staff Kyle Sampson authority to hire or fire about 135 politically appointed Justice Department employees. That authority has been reassigned to the deputy attorney general's office, where it previously had been.

_Revising the process to appoint immigration judges to make sure career Justice employees have significant input.

_Making sure career employees are involved in hiring entry-level attorneys for the department's Honors and Summer Law Interns programs. Critics say Goodling rejected applicants from Ivy League and other top law schools for young conservative attorneys.

Zach Carter, a former U.S. attorney in Brooklyn and longtime Mukasey friend, said it won't take long for the Justice Department to bounce back once its lawyers believe they have a steady and smart leader committed to restoring its independence.

"I'm not saying Mike's a messiah, but people are waiting for that," Carter said. "I think he will be welcomed by those career employees in the department who are as committed to professionalism in the department, as he is."

---- Index References ----

Company: VERIZON COMMUNICATIONS INC; BELL ATLANTIC CORP; JUSTICE DEPARTMENT; MCI INC; WIHLBORGS FASTIGHETER AB NEW; WHITE HOUSE

News Subject: (Legal (1LE33); Judicial (1JU36); Government (1GO80); Government Litigation (1GO18))

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Other Indexing: (DEPARTMENT; FORDHAM LAW SCHOOL; GONZALES; IVY LEAGUE; JUSTICE; JUSTICE DEPARTMENT; SENATE; SUMMER LAW INTERNS; VERIZON COMMUNICATIONS INC; WHITE HOUSE) (Among Mukasey; Andrew Kent; Barr; Brian Roehrkasse; Bush; Carter; Clinton; Eric Holder; Externally; George H.W. Bush; Goodling; Holder; Internally; Kent; Kyle Sampson; Michael Mukasey; Monica Goodling; Mukasey; Mukasey Sworn; Roehrkasse; William Barr; Zach Carter) (United States; USA; NorthAmerica)

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October 29, 2007 Monday

LegalTimes

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Length: 1364 words

Body

SG LAWYERS FIND GREENER PASTURES

If there's been a run on swallow-tailed morning coats at local tailors lately, it's because a lot of new lawyers have signed up for a tour of duty at the U.S. Solicitor General's Office. The turnover there-the largest in recent memory-is transforming the elite 15-lawyer shop. Six assistants, including several senior lawyers, have left in recent months or are about to leave, and six new faces are about to make debuts before the Supreme Court, with one or two more hires coming soon. Insiders say it's more than the normal cycle of change at the SG's office, supersized in part by the growing gap between government salaries and what these skilled veterans can make in private practice.

The two long-timers leaving the biggest void in the office are **Patricia Millett,** who was snagged by **Akin Gump Strauss Hauer & Feld,** and **Irv Gornstein,** heading soon to **O'Melveny & Myers.** Millett has argued 25 cases before the high court over the past 11 years, more than any other woman alive, and Gornstein has a prized institutional memory on a broad range of issues. Also leaving or already gone: **Jonathan Marcus** to **Covington & Burling,Sri Srinivasan** to O'Melveny, **Dan Himmelfarb** to **Mayer Brown,** and **David Salmons.**

Solicitor General **Paul Clement** -who is staying behind-says, "We're sorry to see them go, but we've had a great talent pool of people applying." The newcomers so far: **Leondra Kruger,** from the University of Chicago Law School; **Curtis Gannon,** from **Gibson, Dunn & Crutcher** ; **Nicole Saharsky,** from O'Melveny; **Anthony Yang,** from the Justice Department's Civil Division; **Toby Heytens,** from the University of Virginia Law School; and **Eric Miller,** from the Federal Communications Commission. Heytens makes his high court debut Nov. 6. -Tony Mauro

WILMER'S CRANK CALL

Latoya Bridgeforth was so bored with her job as a receptionist at L-3 Communications, a defense company in Southeast Washington, she started calling in bomb threats-using a cell phone registered to **WilmerHale,** according to charging documents filed last week in the U.S. District Court for the District of Columbia. She first called the management company of her 80 M St. office building, Piedmont Office Realty Trust, affecting a man's voice: "My wife left me. I'm going to bomb the building." Then she called in threats to two other defense companies in the building. Each time, the building emptied. She told investigators that she put in numerous calls between Sept. 12 and Oct. 18, on WilmerHale's dime.

How she came into possession of the phone is unclear. When Inspector Michael Rossi of the U.S. Marshals Service approached people at WilmerHale, they told him that "the cell phone was never assigned to a specific individual at the firm." Nor, apparently, was its absence felt in the 400-plus-attorney office. And still, "WilmerHale has continued

to pay the bill," Rossi wrote. **William Perlstein,**WilmerHale's managing partner, says the phone was issued to the firm's messengers for general use. "I have no idea how it got in this woman's hands," he says. Bridgeforth, who lives in Southeast Washington, was arrested on Oct. 19 on an outstanding D.C. warrant stemming from larceny charges. She had the phone on her, and not long after, Rossi caught up with her. Assistant Federal Public Defender **Lara Quint,** who is representing Bridgeforth in the federal case, says she is being held at the District's Correctional Treatment Facility. -Joe Palazzolo

COLBERT'S COUNSEL

Stephen Colbert is running for president. And yes, it's a joke. The faux pundit and host of Comedy Central's "The Colbert Report" merely wants to run in his native state of South Carolina as a "favorite son," and currently, he's polling in the double digits against Hillary Clinton and Rudy Giuliani. His bid for the presidency provides some much-needed comic relief in a crowded field of candidates, but the legal issues surrounding Colbert's presidential bid aren't exactly laughable. **Kenneth Gross,** an election law expert at **Skadden, Arps, Slate, Meagher & Flom,** points out that Comedy Central is owned by Viacom, and by providing Colbert with something as simple as air time, the network could be making an illegal campaign contribution. Comedy Central has hired **Wiley Rein** to advise Colbert on how to avoid running afoul of the Federal Election Commission. **Jan Baran** heads the election law practice there, but, alas, he, Comedy Central, and Colbert declined to comment. Gross doubts the FEC will want to get involved at this stage in the game. But if Colbert, who is running as a Democrat and as a Republican, gets on the ballot and starts taking votes from other candidates, things could change. "You hate to sound like a skunk at the garden party if the whole thing's a spoof," says Gross. "But again, if he's getting votes-which means he's taking votes from somebody else-people's sense of humor starts to fade away." -Attila Berry

SPLITSVILLE

Breaking up can be so hard to do. Just ask labor and employment attorney **Jay Krupin.** The **Krupin O'Brien** name partner moved to **Epstein Becker & Green** on Oct. 15, taking 10 others with him. He and seven of the group are in Epstein's D.C. office, and the others are in New York. Krupin, who has focused his practice largely on the hospitality industry, says business was good at his boutique, but he was drawn to Epstein's broader national reach. **JamesO'Brien** calls the breakup amicable, but he and Krupin have conflicting accounts of what has become of their old 16-lawyer firm. Krupin contends it has totally dissolved. Not so, says O'Brien. "I'm not really sure why it's being characterized that way. We have continued the firm in obviously a much smaller form." He says that he and Krupin O'Brien partner **Monique van Stiphout** have formed **O'Brien & van Stiphout,** with a staff of three attorneys and three paralegals. -Marisa McQuilken

HOMEWORK FOR MUKASEY

All of the sudden, attorney general nominee **Michael Mukasey** is finding himself inundated in paperwork. Last week, members of the Senate Judiciary Committee submitted 90 pages chock-full of follow-up questions and comments after his confirmation hearings Oct. 17-18. That's in addition to at least three other letters senators mailed him separately after his hearings, which contained mixed reviews of his answers on the expanse of presidential powers and the use of simulated drowning by CIA officers. Not surprisingly, those topics featured prominently in the questions. For example, committee Chairman **Patrick Leahy** (D-Vt.) asks, "If you are not willing to declare any of these [interrogation] tactics to be unlawful at this time, what type of further information and analysis will you need in order to make such a determination?" **William Barr,** Verizon's general counsel and former attorney general under President George H.W. Bush, remembers "voluminous" follow-up questions after his confirmation hearings, as well. Barr calls the nearly 100 pages Mukasey will pore over "hefty" but "probably not unprecedented." -Pedro Ruz Gutierrez

RISKY BUSINESS

The subprime mortgage business is risky enough, even without throwing in allegations of fraud against a fugitive who was shot in the head last year in Norway by a disgruntled business associate. Last week, the U.S. Court of Appeals for the 4th Circuit affirmed a $161 million jury verdict for the Federal Deposit Insurance Corp. in its suit over

the implosion of First National Bank of Keystone, one of the costliest bank failures in U.S. history. The bank in West Virginia coal country collapsed in 1999, raking up an estimated $750 million to $850 million in losses. Harald Bakkebo and several co-conspirators convinced bank officials to invest hundreds of millions of dollars in a risky loan securitization enterprise involving the purchase of subprime home loans. Bakkebo-a native of Norway who fled there in 1999 to avoid criminal prosecution in an unrelated insurance fraud scheme in Louisiana-was shot and killed last year. The FDIC, which was represented by in-house attorney Jaclyn Chait Taner, may not see much of the $161 million judgment because the FDIC is proceeding under Norwegian law to seize his estate there from Bakkebo's two sons. -Brendan Smith

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NewsRoom

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2007 WLNR 18445220

Washington Times (DC)

September 20, 2007

Section: NATION

Legal counsel leadership a Bush priority
Senate approval a roadblock

Jon Ward, THE WASHINGTON TIMES

The public White House push for confirmation of the nominee for attorney general will be accompanied in coming weeks by a much less-visible effort to get Senate approval of the man who is advising President Bush on the extent of his terrorism-fighting powers.

The top spot in Justice Department's Office of Legal Counsel (OLC) has been officially vacant since July 2004, when Jack L. Goldsmith resigned in part over disagreement with the Bush administration's legal grounds for several assertions of executive power.

Mr. Bush nominated Steven G. Bradbury, Mr. Goldsmith's deputy, on June 23, 2005, but that appointment since has languished in the Senate. Mr. Bradbury's nomination passed the Senate Judiciary Committee but a handful of unnamed Democratic senators placed holds on Mr. Bradbury's nomination at different times, in an attempt to force the Bush administration to turn over information on other matters.

White House officials said that after the attorney general nomination, Mr. Bradbury's nomination is their next priority this fall, though they have nine major slots at a depleted Justice Department to fill.

"That position is a critical position for the Department of Justice to do their job. We hope the Senate can consider his nomination and move it as quickly as possible," said White House spokesman Tony Fratto.

The Bush administration, in its effort to fight terrorism, has pushed the envelope in broadly defining the scope of the executive's power to act during wartime without constraint by the legislative or judicial branches. It relies on OLC for legal approval of surveillance programs, detainee treatment and a host of other issues, many of which are highly classified.

Justice Department spokesman Peter Carr said that Mr. Bradbury, 49, has functioned as head of OLC since Mr. Goldsmith's departure, but that his confirmation would "lend greater weight to the opinions of the office and will help achieve greater stability in its work and management."

Former White House lawyer Bradford Berenson, who has worked with Mr. Bradbury over the past few years, said that the acting OLC head has been "on the lead" with issues such as the effort to update the Foreign Intelligence Surveillance Act and the administration's successful push in 2006 for Congress to approve military commissions.

"For someone who is not confirmed, Steve has been a much stronger leader of that office than most people would have been capable of," Mr. Berenson said.

The Justice Department declined to make Mr. Bradbury available for an interview, but former colleagues said he is an exceptionally bright and deliberate attorney who would labor to put controversial or difficult issues on solid legal footing, and would not be afraid to deliver bad news to the White House if necessary.

"He's a lawyer's lawyer who wrestles to get to the correct legal answer and has had a lot of experience doing that, and his temperament and demeanor is very calm, thoughtful and balanced," said William P. Barr, attorney general under the first President Bush.

"He's not an ideologue with some ax to grind," said Mr. Barr, who observed Mr. Bradbury's work as a young staff attorney in OLC while he was attorney general.

Mr. Bradbury also was a clerk for Supreme Court Justice Clarence Thomas from 1992 to 1993, and was recruited by former special counsel Kenneth Starr to the Kirkland and Ellis law firm in 1994 to be part of a small group "that Starr recruited to build an appellate practice," said John Thorne, who also worked at Kirkland.

Mr. Bradbury came back to the Justice Department in 2004 to serve under Mr. Goldsmith.

"He's going to give you his own independent judgment," Mr. Thorne said. "He's got a strong moral core and a strong backbone."

---- Index References ----

Company: LEGAL AND COMMERCIAL INSURANCES LTD; LEGAL AND GENERAL ASSURANCE SOCIETY LTD; JUSTICE DEPARTMENT; LEGAL AND GENERAL PROTECTED INVTS PLC; WIHLBORGS FASTIGHETER AB NEW; LEGAL AND GENERAL UK SELECT INVT TRUST PLC; LEGAL AND GENERAL GROUP PLC; LEGAL AND GENERAL FINANCE PLC; KIRKLAND AS; WHITE HOUSE

News Subject: (Legal (1LE33); Judicial (1JU36); Government (1GO80); Government Litigation (1GO18))

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2007 WLNR 28024835

InsideCounsel

September 1, 2007

Section: Cover Story; IC10; Verizon Communications Inc.

MANUAL LABOR

Keith Ecker

John Frantz was tired of repeating himself. As vice president, associate general counsel and head of litigation for Verizon Communications Inc., he is one of the few attorneys in the 172-lawyer department who knows the company's e-discovery practices and policies inside and out. This means that whenever litigation arose, he and Verizon's small e-discovery practice group, which he formed in 2005, would spend a large chunk of their time fielding questions from both outside and in-house counsel.

So in early 2006 Frantz and his team decided to create a comprehensive e-discovery manual that would guide the lawyers through the process from start to finish.

"We wanted the manual to be a roadmap for when litigation gets going and production is necessary," Frantz says. "Basically, it's a game plan."

That game plan explains every aspect of Verizon's e-discovery practices and policies. It discusses data retention, vendor management, data review, document production and Verizon's approach to the amended Federal Rules of Civil Procedure.

To compile the 36-page guide, the e-discovery team enlisted the help of the internal and external lawyers, as well as the IT professionals. Frantz's team talked to Verizon's IT department to gain a better understanding of the company's retention capabilities and studied the amended Federal Rules to ensure the manual addressed every crucial issue.

After conducting all the necessary research and interviews, which Frantz estimates took him about 160 hours and cost less than $100,000 to complete, the e-discovery team divided up the task of writing the 16 chapters of the manual in June 2006. They finished it in March 2007. Because the manual contains legal advice, Verizon considers it privileged.

"We always try to be proactive in responding to changes in the law," says executive vice president and general counsel William Barr. "The manual keeps Verizon ahead of the curve in the dynamic legal environment that prevails in e-discovery today. It is an effective tool for helping Verizon to minimize risk, save time for both inside and outside counsel; and reduce our e-discovery expenses."

According to Frantz, the most important Section of the manual offers guidance on when legal holds may be required, how to draft a hold notice and what legal considerations go into drafting a hold. It also offers detailed instructions about

what needs to be done once it's determined a hold is necessary, and contains model litigation hold notices for attorneys to reference.

In addition to creating the manual, Frantz also developed training sessions to ensure in-house attorneys understood the manual's contents. And although it's too soon to tell how much money Verizon will save from this effort, Frantz is confident the company will see a good return on its investment.

"Because of the manual, the conversations we have with outside counsel don't have to begin at square one," he says. "They now pick up from a much further point of departure. So it'll be a real time and money saver on that score."

E-DISCOVERY EDUCATION

Verizon's e-discovery manual is only one of a handful of projects the company is undertaking to educate the legal community about e-discovery. Below are a couple other initiatives the company is in the process of executing.

- JUDICIAL POLICY AMICUS PROJECTS -- Judges are notorious for being behind the curve on comprehending the latest technology, such complex IT systems. This can have serious consequences for corporate defendants engaged in e-discovery. Verizon is currently in the process of changing this by educating courts through filing amicus briefs in cases it feels are important or that could jeopardize currently developed standards.

- ELECTRONIC DISCOVERY INSTITUTE--This year Verizon helped form the Electronic Discovery Institute, a non-profit corporation aimed at finding methods to help reduce the cost of the document review process during discovery. The institute brings together a varied array of professionals, including federal judges, outside counsel, in-house counsel, scientists, plaintiffs' lawyers and consultants. Currently, the non-profit is conducting a study analyzing different methods of computer assisted document review.

---- Index References ----

Company: VERIZON COMMUNICATIONS INC

News Subject: (Legal (1LE33); Health & Family (1HE30); Major Corporations (1MA93))

Industry: (Telecom Carriers & Operators (1TE56); Telecom (1TE27))

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June 6, 2007

Section: News

2-year sentence for Libby; talk turns to pardon

Richard B. Schmitt

Los Angeles Times

Washington

WASHINGTON — Former vice-presidential aide I. Lewis "Scooter" Libby faces the prospect of becoming the first high-level White House official to go to prison since the Nixon administration, after a federal judge sentenced him Tuesday to serve 2-1/2 years in prison for lying to federal investigators about his role in the leak of a CIA officer's identity

The sentence imposed on Libby puts President Bush in the position of having to make a decision he has tried to avoid for months: trigger a fresh political storm by pardoning a convicted perjurer, or let one of the early architects of his administration head to prison.

While numerous public officials have been investigated, charged and even convicted in the three decades since Watergate, they almost always have avoided prison by appeal, plea bargain or pardon. But at the sentencing hearing, U.S. District Judge Reggie Walton raised the possibility that he would order Libby to prison even while he pursues an appeal.

The White House said Tuesday that the president is "not going to intervene" for now. But with Walton indicating he is not inclined to let Libby remain free pending appeals, the issue could confront Bush in a matter of weeks.

"Obviously, there'd be a significant political price to pay," said William Barr, who as attorney general to President George H.W. Bush remembers the controversy raised by last-minute pardons for several Iran-contra figures in 1992. "I personally am very sympathetic to Scooter Libby. But it would be a tough call to do it at this stage."

But some White House advisers said the president's political troubles are already so deep that a pardon might not be so damaging. Those most upset by the CIA leak case that resulted in Libby's conviction already oppose Bush, they noted.

"You can't hang a man twice for the same crime," a Republican close to the White House said.

Libby, former chief of staff to Vice President Dick Cheney, was sentenced for obstructing a federal investigation into the outing of covert CIA officer Valerie Plame. His lawyers argued that he should serve no prison time because of his

record of public service and other good works, and because he already had suffered a fall from grace that was personally and professionally humiliating.

But Walton sentenced Libby at the higher end of federal guidelines and indicated he was inclined to order Libby to surrender to authorities in a few weeks. He also ordered Libby to pay a $250,000 fine, serve a period of supervised release for two years after his incarceration is complete and produce a DNA sample, among other requirements.

Libby faced the court, flanked by his lawyers, and briefly addressed Walton before sentence was pronounced.

"It is respectfully my hope that the court will consider, along with the jury verdict, my whole life," Libby said.

Walton told Libby he had a betrayed a public trust.

"People who occupy these types of positions, where they have the welfare and security of the nation in their hands, have a special obligation to not do anything that might create a problem," the judge said. Libby repeatedly lied to investigators, Walton said, which warranted stiff punishment to ensure public confidence in the justice system.

Libby, 56, was convicted in March on four of five counts of lying to FBI agents and a grand jury in a case that is rooted in the administration's decision to go to war in Iraq.

Plame was identified as a CIA expert on weapons of mass destruction in news reports in July 2003, shortly after her husband, former Ambassador Joseph Wilson, wrote an opinion piece in The New York Times challenging Bush's claim that Saddam Hussein was seeking nuclear material in Niger. The CIA had sent Wilson to the African nation to assess the claim a year earlier; he found it baseless.

According to evidence presented at the trial, Libby and Cheney's office were keen on discrediting Wilson and used the identity of his wife to suggest he got the assignment because of nepotism.

Special prosecutor Patrick Fitzgerald was appointed to see if Libby or other officials who had spoken to reporters violated a law prohibiting disclosure of the identify of covert agents. He alleged at trial that Libby concocted a story that he first learned about Plame from reporters, a fact that would insulate him from liability.

The prosecution was controversial, however, because Libby was not the first person to disclose the identity of Plame to journalists, and because neither he nor anyone else was charged with actually breaking the law protecting agents.

Defense lawyers argued to Walton on Tuesday that it was "irrational" to send Libby to jail under those circumstances.

"No one was ever charged. Nobody ever pleaded guilty," attorney William Jeffress said. "The government did not establish the existence of an offense."

Fitzgerald told Walton that the lies Libby told created a "house of mirrors" that threw investigators off course and prolonged the investigation.

While the 30-month sentence was longer than most observers had predicted, Walton's upcoming decision about whether to allow Libby to remain free on bail pending appeal could have even more far-reaching consequences.

Walton indicated he was disinclined to permit bail in Libby's case because it did not appear there was a substantial chance that he would win his appeal.

The remarks appeared to throw the defense team off guard. Lawyer Ted Wells asked for the opportunity to brief Walton on the merits of the appeal. Walton relented and set a hearing on the issue for June 14.

If he does not grant bail, Walton indicated that, according to the Bureau of Prisons, Libby would have to surrender to authorities within 45 to 60 days.

Many observers have believed from the beginning of the prosecution that if Libby was convicted, Bush would grant him a pardon to ensure he never served a day in prison.

But this scenario assumes that lawyers for Libby would be able to keep him out of prison during his appeal and that Bush would not have to consider a pardon until the final days of his administration, when the political costs to him would be minimal.

Now, Walton might be forcing Bush's hand.

"The judge is sending a signal: 'If you think this is a pardon case, do it now. I don't think it is appropriate to let this be strung out indefinitely,' " said Douglas Berman, a sentencing expert at Ohio State University law school.

"The legal and political issues get ratcheted up extraordinarily" if Walton orders Libby to jail next week, Berman said.

Deputy White House press secretary Dana Perino, accompanying the president on Air Force One from the Czech Republic to Germany on Tuesday, told reporters that Bush "felt terrible for the [Libby] family, especially for his wife and kids." She said that Bush would comment no further on the case at this time.

In a statement issued through his lawyer, Cheney praised Libby and said he was "deeply saddened by this tragedy."

Other senior administration officials have served time since the 1970s Watergate scandal that sent Nixon aides John Mitchell, John Ehrlichman, H.R. Haldeman and others to prison. But unlike Libby, they either did not work in the White House itself or their crimes were not committed while they were in office.

Webster Hubbell, a Clinton associate and former Justice Department official, was sentenced to 21 months in prison in 1995 in connection with defrauding his former law firm in Arkansas. And numerous figures were charged in connection with the Iran-contra arms-for-hostage scandal during the Reagan administration. But many of those convictions were thrown out on appeal, and other defendants received pardons from President George H.W. Bush.

Material from The Washington Post is included in this report.

---- Index References ----

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At DOJ, a Hard Job to Fill; National; McNulty's leaving, but the department's problems aren't going anywhere; National

Legal Times

May 21, 2007 Monday

Section: Pg. 01

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Byline: Jason McLure and Emma Schwartz

Body

Few in Washington have envied Paul McNulty over the past three months. But with the deputy attorney general's resignation last week amid the scandal over the firings of at least eight U.S. attorneys, there's one person whose position might be even less desirable: McNulty's yet-to-be-named successor.

"I'd rather trade places with Jose Padilla," jokes Viet Dinh, a former senior Justice official under then-Attorney General John Ashcroft.

Whoever does succeed McNulty in the Justice Department's No. 2 post may not be facing a lifetime in prison, but he or she is certain to weather more than a few trials of a distinctly Washington variety. McNulty's replacement will confront a posse of hostile Democrats in Congress, serious questions over whether Attorney General Alberto Gonzales will remain in place, and a dysfunctional department demoralized by its current leadership.

For a White House nearing the end of a second term and suffering from low approval ratings, the drive to find a successor before McNulty departs later this summer will not be easy. "I think there are really quite a few people who wouldn't take the job," says Jamie Gorelick, who herself was deputy attorney general from 1994 to 1997 and is now in private practice at WilmerHale. "I think it's a greatly devalued position right now in the eyes of many people."

Regardless, McNulty's resignation brings change. For the department, it could also mark a first step toward rehabilitating its beleaguered image and boosting morale. For Gonzales, it only heightens the pressure for his own resignation, but for McNulty, the departure is a lamentable capstone to what had been a highly successful government career as a congressional aide and prominent Justice Department official.

There is also a certain irony in the circumstances that have led to his departure, which both the White House and McNulty's successor would do well to keep in mind in the coming months.

McNulty easily won confirmation in February 2006, in large part because of an enormous store of political capital he'd amassed during his 11 years on Capitol Hill. A loyal Republican, McNulty nonetheless developed a great deal of credibility with Democrats who viewed him as an amiable and honest broker willing to listen. In the five years prior to becoming deputy attorney general, McNulty won plaudits as an effective leader in the U.S. Attorney's Office in Alexandria, Va.

Yet the scandal that presaged McNulty's resignation was fueled by a massive leadership failure and a near-total meltdown in the department's relationship with Congress.

"It is ironic that areas in which he does excel and which he has enormous experience and developed a very sophisticated savvy, that these would be the areas, ultimately, that produced this controversy and tumult that has led him and the department to where it is," says Charles Cooper of Washington, D.C.'s Cooper & Kirk, a former senior Justice official in the Reagan administration. Nonetheless, he adds, "it's just not possible to dislike Paul McNulty."

A DIFFERENT DEPUTY

The first order of business for any successor will be to repair Justice's shaky standing on the Hill -- perhaps most importantly with the Senate Judiciary Committee. Its chairman, Sen. Patrick Leahy (D-Vt.), is likely to use confirmation proceedings as leverage to extract more documents about the firings from the Justice Department and White House.

Yet what's needed to pacify Congress, say current and former Justice officials and congressional aides, isn't a nominee practiced in the art of political jujitsu but someone with a deep background at Justice itself -- preferably as a U.S. attorney or line prosecutor.

"They'd obviously want someone of experience and integrity to make the argument that a quick and nonadversarial confirmation is in their interest," says Michael Carvin, a former senior Justice official who worked for the Bush campaign during the disputed 2000 election and is now a partner at Jones Day.

The most credible pick would likely be a Justice Department insider with no fingerprints on the current scandal who could be viewed as independent of partisan politics. Among the names that have been floated since McNulty announced he was stepping down are Kenneth Wainstein, the head of the National Security Division and the former U.S attorney in D.C.; Stuart Levey, a former top Justice official now at the Treasury Department; Michael Garcia, the U.S. attorney for the Southern District of New York; Charles Rosenberg, the U.S. attorney in the Eastern District of Virginia; Susan Brooks, the U.S. attorney in the Southern District of Indiana; and Kevin O'Connor, the U.S. attorney in Connecticut, who is also serving as Gonzales' chief of staff.

Any replacement likely won't be confirmed quickly, meaning that if McNulty departs in late summer, as he's indicated, the Justice Department will need to name an acting deputy. Historically, such replacements have been picked from within the ranks of Justice's current Senate-confirmed officials.

The Bush administration could simply avoid a bruising Senate confirmation process by appointing an acting replacement to fill out the remainder of the Bush administration -- something the Clinton White House did with Bill Lann Lee in the Civil Rights Division. Bush could also install someone through a recess appointment while Congress is out of session this summer. But an acting or recess appointee might be seen as weaker and less independent. It would also be viewed as a snub of the Democratic-led Congress, given that bypassing the Senate on U.S. attorney picks was a major impetus for the current scandal.

Either way, a new deputy attorney general in a lame-duck administration will also have to accept that he or she will be focused mostly on restoring the department's damaged reputation with Congress, the public, and its rank and file, and will have limited flexibility to introduce new programs.

As things currently stand, a new deputy would also have to contend with uncertainty over who the department's other senior leaders will be. As the Senate moves towards a no-confidence vote on the attorney general, Gonzales' tenure is hardly assured. The department's No. 3 official, Acting Associate Attorney General William Mercer, is unlikely to win Senate confirmation anytime soon, given his own role in the firings. The departure of McNulty also means that those in his inner circle -- such as principal deputy William Moschella, chief of staff Michael Elston, and senior adviser Frank Shults -- are likely to follow.

GONE BUT NOT FORGOTTEN

Nor does it appear that by resigning, McNulty will extricate himself from the scandal. That point was driven home on May 15, less than a day after McNulty submitted his resignation letter, when Gonzales shifted his own tactics in responding to questions about the scandal by singling out McNulty as the Justice official most responsible for the firings.

"At the end of the day the recommendation reflected the views of the deputy attorney general," Gonzales told members of the National Press Club in a breakfast address televised on C-SPAN. "He signed off on the names."

McNulty's defenders point out that documents released by the Justice Department show he was largely uninvolved in the early phases of the firing plan, which documents and testimony have shown to have been primarily directed by Monica Goodling, the department's White House liaison, and former Gonzales chief of staff D. Kyle Sampson.

But, as Gonzales is now eagerly pointing out, McNulty is the direct supervisor of U.S. attorneys, and McNulty approved the final plan -- even though e-mails released by Justice show he had no idea about the job performance of at least one of those chosen to be fired.

McNulty also bears a large share of responsibility for the Justice Department's disastrous handling of the fallout from the firings.

Most fatal was McNulty's now-infamous assertion that the seven prosecutors sacked on Dec. 7 had been asked to go for "performance-related" reasons. That statement, at a Feb. 6 hearing before a Senate Judiciary subcommittee, was directly contradicted in most of the cases by the Justice Department's own internal performance reviews.

It also spurred most of the fired prosecutors to publicly defend themselves -- four of them alleged that McNulty's chief of staff, Elston, had attempted to discourage them from speaking out. Three of the fired prosecutors said they were offered a quid pro quo for their silence or threatened with retaliation. The attack on the Bush administration's own appointees proved a tipping point and led to the erosion of support for Justice's leadership among Republicans.

"I found it incredibly disingenuous of him to go up and slander these good people," says Mark Corallo, who was a spokesman for then-Attorney General John Ashcroft and has emerged as an outspoken critic of McNulty.

Indeed, McNulty's testimony angered three key constituencies in the scandal: the attorney general, Congress, and the fired U.S. attorneys. Gonzales, it would later emerge, was upset that McNulty had essentially disclosed the involvement of the White House in the firing of H.E. "Bud" Cummins III, the U.S. attorney in Arkansas. And members of Congress would note that, in testifying that Cummins had been fired to make way for an acolyte of White House political adviser Karl Rove, McNulty was contradicting an earlier assertion by Gonzales that the firings hadn't been motivated by "political reasons."

McNulty later acknowledged to congressional investigators that his testimony had been misleading. But he has placed the blame elsewhere: on Goodling, who, he told congressional investigators, provided inaccurate information to him when he was preparing to testify before the Senate in February.

With Goodling's scheduled appearance before the House Judiciary Committee on May 23 (for which she has been given immunity), McNulty could find the scandal hard to put behind him. Goodling's version of events may contradict McNulty's statements and spur further questions (or appearances) on the Hill. The judiciary committees are also likely to try to exploit what looks to be an ever-widening rift between McNulty and Gonzales as well.

McNulty's stated reason for quitting was the "financial realities of college-age children." Though few believe that to be the only motivation, his personal finances reflect his career in government service. As of 2005, McNulty, 49, had just $57,000 in savings and owed more than $500,000 for his house in Fairfax Station, Va.

It's unclear how significant a hurdle the controversy will present as McNulty searches for a job in the private sector. Some law firms and major corporations may want to steer clear of anyone connected to the scandal. What's more, McNulty lacks any real trial experience.

But, says William Barr, general counsel of Verizon Communications Inc., McNulty has talents that make him eminently employable. McNulty's more than two decades inside the Beltway (which began in the Democratic Party) have included stints crafting crime policy on the House Judiciary Committee, formulating Justice Department policy, running the transition team for the Bush administration in Justice, and leading the U.S. Attorney's Office in the Eastern District of Virginia. There, he oversaw the prosecution of "American Taliban" John Walker Lindh and the largely bungled effort to win a death sentence for Zacarias Moussaoui.

If anyone would know about his prospects, it's Barr. When Barr left his post as attorney general in 1992, he brought his spokesman, McNulty, with him into the firm then known as Shaw, Pittman, Potts & Trowbridge.

"He has a rare combination of skills," Barr says. "Very intelligent. Very articulate. He had good judgment and understood the political process."

In the short term, what McNulty may want more than anything is a piece of home. For him, that's Grove City College, a small Christian school in western Pennsylvania. Both McNulty and his wife, Brenda, are alumni, and McNulty sits on the board of directors. Among this year's 550 graduates is their daughter, Katy, a history major.

Last weekend, McNulty was scheduled to give the school's commencement address, titled "The Essence of Greatness." That's a quality the Bush administration will be fortunate to find in his successor.

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Load-Date: April 17, 2011

Politics & Economics: Gonzales Deputy, in Crossfire, Looks for Quiet Exit --- McNulty Seeks Job In Private Sector; Scrutiny Intensifies - Correction Appended

The Wall Street Journal

April 16, 2007 Monday

Correction Appended

THE WALL STREET JOURNAL.
U.S. EDITION

Section: Pg. A5

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Byline: By Evan Perez

Body

WASHINGTON -- With Attorney General Alberto Gonzales on the ropes over the firings of eight U.S. attorneys, his deputy, Paul J. McNulty, is quietly testing the waters for a new job.

He may need one, if critics have their way. Some Democrats and conservative Republicans argue that the deputy attorney general, who so far has been relatively unscathed, should shoulder more responsibility for the mishandling of the firings, which has devastated morale at the Justice Department and embarrassed the Bush administration.

At a Judiciary Committee hearing in February, Mr. McNulty said the Bush-appointed prosecutors were dismissed for "performance-related" reasons. When the fired prosecutors spoke out in defense of their reputations, it triggered widespread media coverage and fueled a new round of congressional questions. Mr. McNulty also said Bud Cummins, a U.S. attorney in Little Rock, Ark., was fired to make way for a former aide to presidential adviser Karl Rove.

Still, the focus remains Mr. McNulty's boss, Mr. Gonzales, who is to testify before the Senate Judiciary Committee tomorrow. Mr. Gonzales, in prepared remarks he plans to deliver to the panel, says of the eight fired prosecutors: "I apologize to them and to their families for allowing this matter to become an unfortunate and undignified public spectacle, and I am sorry for my missteps that have helped to fuel the controversy."

If the political and public pressure on Mr. Gonzales leads to his resignation, Mr. McNulty could be first in line to assume his duties until a successor is appointed.

Even before the controversy erupted, Mr. McNulty, 49 years old, had been making plans to join the private sector after 24 years in government, which included a term as U.S. attorney in Virginia's Eastern District, people familiar

with his plans said. Knowing he would like to take a higher-paying job, partly to cover tuition for his four college-age children, well before the end of the administration, his friends recently have sent out feelers on his behalf for possible corporate and law-firm jobs, the people said.

Mr. McNulty says future plans aren't his focus now. "I am fully focused on doing my job and haven't given much thought to what comes next," he said Friday. "To be honest, there hasn't been much time for that."

Mr. McNulty's supporters say he doesn't deserve any more blame than he already has received. William Barr, general counsel at Verizon Communications Inc., served as U.S. attorney under the first President Bush and chose Mr. McNulty to work as a close aide at the Justice Department. "This doesn't seem to be a stink bomb of his making." Mr. Barr said. ". . . I'd hate to see him made the scapegoat; the main screwups were not his."

Some critics argue the deputy attorney general should get more of the blame. "What got [the Justice Department] in trouble was this hatchet job and trashing of the reputations of these people," said Mark Carollo, who ran the Justice Department's public affairs office under John Ashcroft and now works as a consultant in Washington. "Paul McNulty does have to take some responsibility for that."

Sen. Dianne Feinstein, a California Democrat, said in a Senate speech last month that she felt misled by Mr. Gonzales' Jan. 18 testimony to the Senate Judiciary Committee and by a private briefing by Mr. McNulty to some members of the panel a week after his Feb. 6 public testimony. "It turned out that the performance reports of the very people he [Mr. McNulty] was saying were being terminated on the basis of performance were all excellent," she said.

Mr. Gonzales's supporters at the Justice Department say Mr. McNulty went off-script during the congressional hearing when he cited performance as a reason for the dismissals. In Mr. McNulty's defense, people close to him said that in a Feb. 5 preparatory session before his testimony, it was agreed that if pressed, he would have to cite "performance." Mr. Gonzales had made a passing reference to performance as a factor in his own Senate testimony in January.

Another reason some conservatives believe Mr. McNulty deserves more scrutiny is that he has been spared much public criticism from Sen. Charles Schumer, the New York Democrat who has led the investigation of the firings. People close to the two men said they have a warm relationship that dates to when they both worked on the House Judiciary Committee's crime subcommittee in the early 1990s, with Mr. Schumer chairing the panel and Mr. McNulty serving as a counsel for the Republican minority.

Sen. Schumer says he isn't sparing Mr. McNulty of scrutiny, but he notes, "No one has said McNulty was at the center of this." Sen. Schumer says he credits Mr. McNulty for being "the first to come forward. He said he knew nothing about it. He said he was misled by others. What you logically do is ask questions of those others, and then come back to McNulty."

At the private briefing for some Judiciary panel members on Feb. 14, people familiar with the meeting said, Mr. Schumer peppered Mr. McNulty with questions, interrupting him frequently.

Mr. McNulty's return to the hot seat may come soon, congressional aides say. Following a week of interviews of Justice staffers by the committee, congressional staff expect to interview Mr. McNulty perhaps as early as Friday.

Politics & Economics: Gonzales Deputy, in Crossfire, Looks for Quiet Exit --- McNulty Seeks Job In Private Sector; Scrutiny Intensifies - Correction Appended

Notes

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Correction

Corrections & Amplifications

William Barr served as U.S. attorney general under the first President Bush. A Politics & Economics article yesterday incorrectly referred to Mr. Barr's previous title as U.S. attorney.

(WSJ April 17, 2007)

(END)

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STAND BY ME; In the News

Corporate Counsel

March, 2007

CORPORATE COUNSEL

Section: Pg. 56; Vol. 14

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Byline: Anna Palmer

Body

In the News

Corporate America isn't interested in Charles Stimson's advice. In January, Stimson, a Pentagon official, implied that companies shouldn't hire law firms that provide pro bono help to detainees at the military prison in Guantanamo Bay, Cuba. Though Stimson later issued an apology, his remarks still drew condemnation from practically the entire bar, including several general counsel.

Pro bono service and the rule of law are great traditions in the American legal profession, General Electric Company GC Brackett Denniston said in a statement. We at GE have no intention of--and strongly disagree with the suggestion of in any way--discriminating against law firms that represent us on the basis of the pro bono, charitable, or public service that the lawyers in those firms choose to engage in. Jenner & Block and Covington & Burling, two firms involved in representing detainees, have done legal work for GE.

General Electric isn't alone in its position. Verizon Communications Inc. uses Debevoise & Plimpton and Wilmer Cutler Pickering Hale and Dorr, which are helping Guantanamo prisoners. Yet Verizon GC William Barr--a former attorney general under President George H.W. Bush--says, I intend to continue to use the firms that regularly represent us. The fact that they engage in pro bono work or work for other clients that I don't necessarily agree with doesn't affect my decision.

For their part, the firms defend their work. According to Kit Pierson, the pro bono chief at Heller Ehrman, which represents eight detainees, We don't have any policy against taking controversial matters or taking unpopular clients; it's part of what we do as lawyers.

Load-Date: April 17, 2011

Businesses blast official's detainee spiel

The Daily Report (Fulton County GA) (Online)

January 24, 2007 Wednesday

Length: 1748 words

Byline: Special to the fulton county report

Body

IT'S A RARE day when law firms get called out for their pro bono work.

But that's exactly what happened when Pentagon official Charles "Cully" Stimson rattled off a list of firms representing Guantanamo Bay detainees-including Atlanta firms Sutherland Asbill & Brennan and Alston & Bird-predicting that businesses would shun their outside counsel for making the companies foot terrorists' legal bills.

"I think, quite honestly, when corporate CEOs see that those firms are representing the very terrorists who hit their bottom line back in 2001, those CEOs are going to make those law firms choose between representing terrorists or representing reputable firms. And I think that is going to have major play in the next few weeks. And we want to watch that play out," said Stimson in an interview with Federal News Radio on Jan. 11.

And it has played out, but not in quite the way Stimson expected. Instead of Fortune 500 companies such as Microsoft, DaimlerChrysler and Pfizer dumping their outside counsel in a fit of political protest, firms have largely gotten support from corporate America and from within their partnership ranks.

"Pro bono service and the rule of law are great traditions in the American legal profession, and we at GE have no intention of-and strongly disagree with the suggestion of in any way-discriminating against law firms that represent us on the basis of the pro bono, charitable or public service that the lawyers in those firms choose to engage in," Brackett Denniston, senior vice president and general counsel at General Electric, said in a statement.

GE's not alone in its position.

"I intend to continue to use the firms that regularly represent us. The fact that they engage in pro bono work or work for other clients that I don't necessarily agree with doesn't affect my decision," says William Barr, general counsel of Verizon Communications and former attorney general under President George H.W. Bush. Debevoise & Plimpton and WilmerHale have both represented Verizon and are active in representing detainees.

Since his initial comments, Stimson has apologized; the Defense Department, the Bush administration and Attorney General Alberto Gonzales have distanced themselves from him; and conservative, liberal and nonpartisan groups including the Center for Constitutional Rights, the American Bar Association and the National Lawyers Guild, among others, have refuted the position that detainees should not have well-equipped legal counsel.

"His egregious comments gave us a great educational moment," says Karen Mathis, president of the ABA. "Every accused person should receive adequate legal representation, and it's encouraging to see that his comments were universally rejected."

An all-volunteer army

Large law firms haven't always been so passionate about representing accused terrorists. Shortly after Sept. 11, 2001, when President Bush announced that detainees could be held indefinitely in Guantanamo Bay, Cuba, and would be tried by military commissions, Center for Constitutional Rights President Michael Rattner got together a small group of lawyers to take on the case of Australian detainee David Hicks. The lawyers mostly specialized in death-penalty cases, with one exception: Thomas Wilner, a partner at white-shoe firm Shearman & Sterling, who was representing 12 Kuwaitis detained at Guantanamo.

For Detainees, a Load of Legal Firepower

A Pentagon official's claim that corporate America is paying for detainees' legal teams is true — technically. Fees from corporate clients go into general revenues that are used to cover pro bono expenses. Below are some firms and the clients they've handled.

Firm

Representations

Guantnamo Detainee Attorney

Alston & Bird

Boeing, Pfizer, Dow Chemical Co.

Jonathan Fee, a D.C.-based international trade and regulatory partner who focuses on importers' U.S. customs issues

Covington & Burling

United Technologies Corp., General Electric, JPMorgan Chase & Co.

David Remes, D.C.-based partner who has represented the PhRMA and the National Football League

Debevoise & Plimpton

Carlyle Group, Verizon Communications

Jeffrey Lang, New York-based litigation counsel focusing on securities transactions, M&A, and complex commercial disputes

Heller Ehrman

Businesses blast official's detainee spiel

BP, Microsoft, Visa

Kit Pierson, D.C.-based partner, outside counsel to American Psychological Association and Microsoft in antitrust litigation

Hunton & Williams

General Dynamics, Altria, Bank of America

Steven Valerio, L.A.-based partner who represented legal historians as amici in Hamdan v. Rumsfeld

Jenner & Block

General Electric, Lockheed Martin, General Dynamics

Jeffrey Coleman, a Chicago-based litigation partner and fellow of the American College of Trial Lawyers

Mayer, Brown, Rowe & Maw

U.S. Chamber of Commerce, AT&T, Dow Chemical Co.

Gary Isaac, Chicago-based counsel who has represented Union Carbide Corp. and Dow Chemical Co.

Perkins Coie

Boeing, Northrop Grumman, Honeywell International

Harry Schneider, Seattle-based partner who is on firmwide management and executive committee

Pillsbury Winthrop Shaw Pittman

Morgan Stanley, DirecTV McKesson

David Cynamon, Washington-based partner with more than 30 years of experience in complex civil and appellate litigation

Shearman & Sterling

DaimlerChrysler, Goldman Sachs Group

Thomas Wilner, Washington-based partner and head of international trade and government relations practice

Sullivan & Cromwell

AT&T, Goldman Sachs Group, Securities Industry Association

Michael Cooper, New York-based counsel, former litigation-partner, and past president of the New York Bar Association

Sutherland Asbill & Brennan

Ford Motor Co., Procter & Gamble, Archer Daniels Midland

John Chandler, Atlanta-based partner and chair of litigation practice who has represented all Big Four accounting firms

Weil, Gotshal & Manges

General Motors, General Electric, CBS

Anant Raut, Washington-based associate who is a cooperating attorney with the Center for Constitutional Rights

WilmerHale

Morgan Stanley, Boeing, Verizon Communications

Stephen Olesky, Boston-based litigation and real estate partner who has represented Monsanto Co. and Sears, Roebuck

Venable Carol

Marriott International, Lockheed Martin

Elder Bruce, Washington-based partner and former assistant U.S. attorney for the District of Columbia

The reaction to lawyers representing detainees was less than enthusiastic: In 2002, the center received more than 300 pieces of hate mail.

But Rattner and the other lawyers, including Theodore Shaw from the NAACP Legal Defense and Education Fund and Joseph Margulies, soldiered on, and by June 2004 the U.S. Supreme Court had ruled in Rasul v. Bush that detainees who had not been formally charged could bring habeas corpus petitions.

"Within days, we decided the best strategy was to get as many habeas petitions filed as possible," says Rattner.

Rattner started calling law firms and other lawyer associations, such as the American College of Trial Lawyers, to organize legal counsel for detainees. The response was overwhelming: The trial lawyers alone placed about 75 detainees with outside legal counsel even after warning lawyers of the financial cost. The group estimated that each case would cost at least $10,000 in out-of-pocket expenses, says Dennis Suplee, former chairman of Philadelphia-based Schnader Harrison Segal & Lewis.

"We just wanted to make sure people knew what they were getting into," says Suplee.

Since the initial call for counsel, there have been at least 500 lawyers from more than 120 corporate law firms that have gotten involved, including Venable; Weil, Gotshal & Manges; Alston & Bird; and Perkins Coie.

Although almost 380 detainees have been released, there are nearly 400 detainees suspected of links to al-Qaida and the Taliban that are still at Guantanamo Bay. The Pentagon has charged at least 10 suspects with war crimes.

Despite Stimson's comments that firms would see a backlash for representing detainees, firms such as WilmerHale and Heller Ehrman say they have not gotten negative feedback from clients.

"All the reaction we've had from our clients have been very supportive of the representation that we've undertaken," says William Perlstein, co-managing partner of WilmerHale. The firm is representing six Bosnian detainees.

One of Stimson's central arguments was that corporations hit by 9/11 were paying for the legal bills of detainees. Although firms acknowledge that expenses for pro bono cases come out of their general operating budget, they contend that fees are negotiated with clients up front, and how the firms choose to spend the money is their own decision.

"I think he just doesn't understand the economics of law firms," says James Jones, a former managing partner at Arnold & Porter who is a consultant with Hildebrandt International. "Clients are paying lawyers' fees determined by the market, and they are getting, presumably, value for the money they are paying."

This isn't the first time a law firm has struggled with or been taken to task for having controversial clients. During World War II, lawyers wrestled with a call from the federal government and the American Bar Association asking American attorneys to represent internees of Japanese ancestry. More recently, Arent Fox struggled in 1997 over whether the firm should represent a European insurance company being sued by Holocaust survivors.

"Usually, our partners have the discretion to work on any matter they want to work on, be it a conservative political issue or liberal. As long as it's not a conflict, we don't tend to stop them from doing it," says Marc Fleischaker, chairman of Arent Fox.

During the 1997 controversy, Fleischaker says, the firm, which has long represented the U.S. Holocaust Memorial Museum, had an open meeting with partners on both sides of the issue debating whether to take on the client. Ultimately, the firm decided not to represent the insurance company.

The decision for many of the firms involved in the detainee representation wasn't as controversial. WilmerHale; Mayer, Brown, Rowe & Maw; and Heller Ehrman used the firms' regular process of checking conflicts with other clients and having management sign off on detainee cases, but didn't check with clients or have an all-partner vote before deciding.

"We don't have any policy against taking controversial matters or taking unpopular clients; it's part of what we do as lawyers," says Kit Pierson, head of Heller Ehrman's pro bono practice.

Anna Palmer writes for Legal Times, a Daily Report affiliate. She can be reached at apalmer@alm.com

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UNINTENDED CONSEQUENCES

Legal Times

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Byline: Anna Palmer

Body

National

Risky Business

REMARKS ON DETAINEES CEMENT BOND BETWEEN FIRMS AND CORPORATE CLIENTS

It's a rare day when law firms get called out for their pro bono work.

But that's exactly what happened when Pentagon official Charles Cully Stimson rattled off a list of firms representing Guantanamo Bay detainees -- such as Mayer, Brown, Rowe & Maw; Jenner & Block; WilmerHale; and Covington & Burling -- predicting that businesses would shun their outside counsel for making the companies foot terrorists' legal bills.

I think, quite honestly, when corporate CEOs see that those firms are representing the very terrorists who hit their bottom line back in 2001, those CEOs are going to make those law firms choose between representing terrorists or representing reputable firms. And I think that is going to have major play in the next few weeks. And we want to watch that play out, said Stimson in an interview with Federal News Radio Jan. 11.

And it has played out, but not in quite the way Stimson expected. Instead of Fortune 500 companies such as Microsoft, DaimlerChrysler, and Pfizer dumping their outside counsel in a fit of political protest, firms have largely gotten support from corporate America and from within their partnership ranks.

Pro bono service and the rule of law are great traditions in the American legal profession, and we at GE have no intention of -- and strongly disagree with the suggestion of in any way -- discriminating against law firms that represent us on the basis of the pro bono, charitable, or public service that the lawyers in those firms choose to engage in, Brackett Denniston, senior vice president and general counsel at General Electric, said in a statement. Jenner & Block and Covington, two firms involved in representing detainees, have done legal work for GE.

GE's not alone in its position.

I intend to continue to use the firms that regularly represent us. The fact that they engage in pro bono work or work for other clients that I don't necessarily agree with doesn't affect my decision, says William Barr, general counsel of

Verizon Communications and former attorney general under President George H.W. Bush. Debevoise & Plimpton and WilmerHale have both represented Verizon and are active in representing detainees.

Since his initial comments, Stimson has apologized; the Defense Department, the Bush administration, and Attorney General Alberto Gonzales have distanced themselves from him; and conservative, liberal, and nonpartisan groups including the Center for Constitutional Rights, the American Bar Association, and the National Lawyers Guild, among others, have refuted the position that detainees should not have well-equipped legal counsel.

His egregious comments gave us a great educational moment, says Karen Mathis, president of the ABA. Every accused person should receive adequate legal representation, and it's encouraging to see that his comments were universally rejected.

AN ALL-VOLUNTEER ARMY

Large law firms haven't always been so passionate about representing accused terrorists. Shortly after Sept. 11, 2001, when President George W. Bush announced that detainees could be held indefinitely in Guantanamo Bay, Cuba, and would be tried by military commissions, Center for Constitutional Rights President Michael Rattner got together a small group of lawyers to take on the case of Australian detainee David Hicks. The lawyers mostly specialized in death-penalty cases, with one exception: Thomas Wilner, a partner at white-shoe firm Shearman & Sterling, who was representing 12 Kuwaitis detained at Guantanamo.

The public's reaction to lawyers representing detainees was less than enthusiastic: In 2002, the center received more than 300 pieces of hate mail.

But Rattner and the other lawyers, including Theodore Shaw from the NAACP Legal Defense and Education Fund and Joseph Margulies, soldiered on, and by June 2004 the U.S. Supreme Court had ruled in that detainees who had not been formally charged could bring habeas corpus petitions.

Within days, we decided the best strategy was to get as many habeas petitions filed as possible, says Rattner.

Rattner started calling law firms and other lawyer associations, such as the American College of Trial Lawyers, to organize legal counsel for detainees. The response was overwhelming: The trial lawyers alone placed about 75 detainees with outside legal counsel even after warning lawyers of the financial cost. The group estimated that each case would cost at least $10,000 in out-of-pocket expenses, says Dennis Suplee, former chairman of Philadelphia-based Schnader Harrison Segal & Lewis.

We just wanted to make sure people knew what they were getting into, says Suplee.

Since the initial call for counsel, there have been at least 500 lawyers from more than 120 corporate law firms that have gotten involved, including Venable; Weil, Gotshal & Manges; Alston & Bird; and Perkins Coie.

Although almost 380 detainees have been released, there are nearly 400 detainees suspected of links to al Qaeda and the Taliban that are still at Guantanamo Bay. The Pentagon has charged at least 10 suspects with war crimes.

Despite Stimson's comments that firms would see a backlash for representing detainees, firms such as WilmerHale and Heller Ehrman say they have not gotten negative feedback from clients.

All the reaction we've had from our clients have been very supportive of the representation that we've undertaken, says William Perlstein, co-managing partner of WilmerHale. The firm is representing six Bosnian detainees.

One of Stimson's central arguments was that corporations hit by Sept. 11 were, in effect, paying for the legal bills of detainees. Although firms acknowledge that expenses for pro bono cases come out of their general operating budget, they contend that fees are negotiated with clients up front, and how the firms choose to spend the money thereafter is their own decision.

I think he just doesn't understand the economics of law firms, says James Jones, a former managing partner at Arnold & Porter who is a consultant with Hildebrandt International. Clients are paying lawyers' fees determined by the market, and they are getting, presumably, value for the money they are paying.

This isn't the first time a law firm has struggled with or been taken to task for having controversial clients. During World War II, lawyers wrestled with a call from the federal government and the American Bar Association asking American attorneys to represent internees of Japanese ancestry. More recently, D.C.-based Arent Fox struggled in 1997 over whether the firm should represent a European insurance company being sued by Holocaust survivors.

Usually, our partners have the discretion to work on any matter they want to work on, be it a conservative political issue [or] liberal. As long as it's not a conflict, we don't tend to stop them from doing it, says Marc Fleischaker, chairman of Arent Fox.

During the 1997 controversy, Fleischaker says, the firm, which has long represented the U.S. Holocaust Memorial Museum, had an open meeting with partners on both sides of the issue debating whether to take on the client. Ultimately, the firm decided not to represent the insurance company.

The decision for many of the firms involved in the detainee representation wasn't as controversial. WilmerHale; Mayer, Brown; and Heller Ehrman used the firms' regular process of checking conflicts with other clients and having management sign off on detainee cases, but didn't check with clients or have an all-partner vote before deciding to take the cases.

We don't have any policy against taking controversial matters or taking unpopular clients; it's part of what we do as lawyers, says Kit Pierson, head of Heller Ehrman's pro bono practice, who has been representing eight detainees. We view that as part of our mission as lawyers and pretty fundamental to the system of justice.

For Detainees, a Load of Legal Firepower

A Pentagon official's claim that corporate America is paying for detainees' legal teams is true-technically. Fees from corporate clients go into general revenues that are used to cover pro bono expenses. Below are some firms and the clients they've handled.

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VERIZON COMMUNICATIONS INC.
DISCOVERING SOLUTIONS

Keith Ecker

Prior to finalizing its merger with MCI in January, Verizon Communications underwent a lengthy, and costly, e-discovery request from the Department of Justice. The e-discovery project lasted about three months, costing Verizon approximately $8 million.

Vice President and Associate General Counsel John Frantz, who at the time headed up the New York-based company's antitrust group and now leads the litigation group, saw the discovery process as a major cost center.

"We were spending a lot of time and money responding to these large discovery requests," Frantz says. "I was able to see first-hand from the MCI merger just how much of an expense those projects were turning out to be."

With the consent of General Counsel William Barr, Frantz organized an e-discovery practice group in May 2005. At the helm is Patrick Oot, formerly a specialist in Verizon's antitrust group. Rounding out the team are an IT expert, another attorney and a support staff.

One of Oot's first initiatives as director of the group was to streamline vendor selection. In the past, Verizon used a number of vendors, often relying on outside counsel to negotiate contracts. Oot saw that if he could control vendor selection in-house, he could negotiate significantly lower prices.

"We really needed to identify a way to steer attorneys to one vendor and use Verizon's bargaining power due to its litigation volume," Oot says. "We also generated a bit of matter-to-matter synergy because, by contracting with only one vendor, we only needed to train the attorney team on one review platform."

In February, the e-discovery group sent out RFPs to 37 vendors, a process they plan to repeat annually. After conducting interviews and negotiating prices, the group settled on one vendor. This resulted in a 50 percent reduction in data processing charges and a 70 percent reduction in hosting charges.

The next step for Oot was to maximize the efficiency of the data collection process. Previously, Verizon paid outside counsel to copy employees' hard drives, a process that was not only expensive but also interrupted the daily flow of

business for the employee. Oot decided to create a system that could collect data over the network, thus eliminating the need for outside counsel and avoiding interference with employees' workflow.

By the end of the year, Oot plans to expand the e-discovery group's initiative. Currently in the works is an in-house data archiving system that would work in-step with the data collector. All data would migrate to the e-mail archiver, which would then automatically extract all relevant metadata into a database format. Then a lawyer will be able to export data in XML format, which is compatible with the department's document review database.

"Because the archiver will provide us with the ability to export data from the litigation archive into our attorney review platform without incurring data processing fees, we'll avoid paying our largest electronic discovery data line item," Oot says. "We found that the archiver will pay for itself in just one matter alone."

Another benefit of the archiving system is that it will allow legal to automate retention policies through the use of keywords. The archiver would automatically scan any data siphoning into the system, looking for keywords identified in the retention policy. This will allow legal to flag certain data as potentially more relevant to a request and shorten the document review process.

The e-discovery group also is looking at automating portions of the document review process, an expense that costs Verizon millions of dollars annually. Verizon is backing an independent study to test the reliability of search and retrieval technology.

As a result of these initiatives, Verizon's legal department has gone from being a cost center to a cost saver in the year since the MCI merger.

"We have developed a consistent approach to e-discovery that addresses the risks prevalent in this undeveloped area of law, we have a knowledgeable team that proactively addresses questions created by new technologies, and we have saved millions of dollars on vendor expenses," Barr says.

Team Building

When tapping someone to lead Verizon's e-discovery practice group, John Frantz, vice president and associate general counsel, saw that the position involved two functions. "One role is internal facing: Who understands the workings of your IT systems?" Frantz says. "The other is external facing, someone who can deal with law firms and vendors."

Rather than recruiting one person to fill both functions, Frantz tapped two to share responsibilities. Jaideep Singh, formerly the IT manager for the legal department, bridges the gap between legal and IT, overseeing the creation of Verizon's data collection and archiving systems. Patrick Oot, formerly a specialist in the antitrust group, was promoted to director of e-discovery and senior counsel in the litigation group.

Oot's primary role is educating and developing policy, not just internally, but in collaboration with the entire e-discovery community.

"Working with think tanks and policy teams on strategies to make the e-discovery process more efficient is probably the most important component of my job," Oot says.

---- Index References ----

Company: VERIZON COMMUNICATIONS INC; MCI INC

News Subject: (Major Corporations (1MA93); Government Litigation (1GO18); Legal (1LE33))

Industry: (Telecom Carriers & Operators (1TE56); Telecom (1TE27); I.T. (1IT96); Software (1SO30); Software Agents (1SO53); Data Mining (1DA69); Software Technology (1SO75))

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DICK THORNBURGH; KIRKPATRICK AND LOCKHART NICHOLSON GRAHAM; Lifetime Achievers 2006

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Body

Lifetime Achievers 2006

KIRKPATRICK AND LOCKHART NICHOLSON GRAHAM

On the seventh floor of Kirkpatrick & Lockhart Nicholson Graham's K Street offices in Washington, D.C., a bronze bust of Abraham Lincoln sits atop a table behind Dick Thornburgh's desk, peering at visitors over Thornburgh's left shoulder. Lincoln embodied the kind of qualities you look for in a leader, Thornburgh says. He was a genuine human being, he always had the right instincts, and he was a champion of the underdog.

Metaphorically, Thornburgh, 74, has lived his public life under Lincoln's gaze. He's a man of integrity, and is always able to draw the line between partisanship and truth and objectivity, says J. Michael Luttig, general counsel at The Boeing Company, who served as both assistant attorney general and counselor to the attorney general under Thornburgh. He has tremendous credibility, and that's something you have to earn over a lifetime.

Thornburgh was the nineteenth lawyer at Kirkpatrick & Lockhart when he joined the firm in 1959, two years out of the University of Pittsburgh School of Law. A year after he joined the firm, his wife was killed in an auto accident in which their youngest son suffered a brain injury. I realized then that you only have a finite amount of time on this earth, he says. You need to do as much as you can with it. He remarried three years later and got involved in local Republican politics. In 1969 President Richard Nixon appointed Thornburgh U.S. attorney for the Western District of Pennsylvania. He developed a reputation for ferreting out racketeering, white-collar crime, and corruption, successfully prosecuting several local officials as well as a member of Governor Milton Shapp's administration.

In 1975 Thornburgh moved to Washington, D.C, to head the U.S. Department of Justice's criminal division. Three years later, he was elected governor of Pennsylvania, serving two terms. In 1988 President Ronald Reagan tapped him as attorney general. He distinguished himself by being a real lawyer's lawyer, and through his loyalty to the institution, says William Barr, now general counsel at Verizon Communications Inc., who worked under Thornburgh at the Department of Justice and succeeded him as attorney general. He knew the history of the Department of Justice and had a deep commitment to doing what's right for the long-term integrity of the institution. Staying on under George H.W. Bush, Thornburgh served as the point person for the implementation of the Americans with Disabilities Act. He resigned as attorney general in 1991 to run unsuccessfully for the U.S. Senate. Since 1995 Thornburgh has been counsel in Kirkpatrick's Washington, D.C., office.

Those who worked with him cite Thornburgh's sincerity. It's partly attributable to the tragedy he suffered, but he's always had a tremendous amount of empathy, Barr says. Whenever we were talking about individuals, it always came out that he cared about people.

Luttig says Thornburgh still has plenty left in the tank. I can't even imagine that he's in the twilight of his professional career, he says. It's just a question of what he decides to do next.

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THE UNTOUCHABLES; WHEN BIG DEALS AND SUITS LOOM, GCS USE THEIR SPEED DIAL TO CALL THE SAME TOP FIRMS, TIME AFTER TIME; Corporate Counsel

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Body

Corporate Counsel

WHEN BIG DEALS AND SUITS LOOM, GCS USE THEIR SPEED DIAL TO CALL THE SAME TOP FIRMS, TIME AFTER TIME

When Marc Manly, then general counsel of the midwestern energy firm Cinergy Corp., first learned of his company's possible merger with Duke Energy Corporation last year, he knew who he wanted in his cornerNew Yorkbased Skadden, Arps, Slate, Meagher & Flom. Back in 1994, Skadden had helped Cinergy's predecessor company, The Cincinnati Gas & Electric Company, fight off a hostile takeover bid by a local rival. People told them they couldn't win, Manly says. It's in the worst situations that you discover the true mettle of a firm.

Cincinnati Gas kept Skadden on board later that year to steer it through its friendly merger with PSI Energy, Inc., to form Cinergy. In 2005, when Cinergy started down the aisle to its $9.8 billion marriage with Charlotte, North Carolinabased Duke, Manly naturally thought of Skadden. But he soon learned that he wasn't the only one speed-dialing the firm. B. Keith Trent, then general counsel of Duke, also wanted Skadden.

After a brief standoff, the two decided to let Skadden advise Duke, so long as Trent didn't use the group of lawyers who knew Cinergy's business, Manly says. He agreed to the arrangement because he didn't want to lose Skadden's energy-related expertise, even if it was technically being wielded on the other side of the table. Today, Manly is general counsel of Duke (Trent now serves as head of litigation), and still considers Skadden his go-to firm for big deals: They're full-service. They have expertise on every little piece of the transaction.

For the past five years, The American Lawyer's sibling publication Corporate Counsel has conducted a survey of Fortune 250 general counsel, asking them to list their primary outside counsel. This year, 93 companies provided information on their top law firms for corporate transactions, litigation, labor and employment, and intellectual property. Those companies named a total of 380 law firms.

A five-year look reveals at least two noteworthy trends. Skadden, propelled by the kind of loyalty shown by Manly, has ranked as the number one go-to firm for corporate transactions nearly every year. (This year it was edged out by one mention by its rival at the top, Davis Polk & Wardwell.) But it isn't the only firm that GCs love to call. Over the same five years, Chicago-based Kirkland & Ellis has captured the number one spot for litigation.

Chief legal officers readily offer a laundry list of positives to justify their devotion. William Barr, general counsel of New Yorkbased Verizon Communications Inc., says that his relationship with Kirkland & Ellis dates back to 1994, when he became general counsel of GTE Corporation, one of the Verizon predecessor companies. Barr says that he uses more than 100 outside law firms, but that he turns to Kirkland & Ellis for big, important litigation, as well as smaller cases, regulatory matters, and, most recently, work for Verizon Wireless, the company's joint venture with Vodafone Group Plc. Aside from the results they've achieved, Barr says the Kirkland & Ellis litigation group has a lot of depthstrength at every level. Another plus, he says, is the firm's efficient handling of its cases: They don't throw unnecessary bodies at a matter to gin up the billables.

John Leekley, longtime general counsel of Taylor, Michiganbased Masco Corporation, says he has tapped Davis Polk for corporate matters since 1983. Normally, we look for an individual to work with, but we have had such an outstanding experience with all the [Davis Polk] lawyers in various practices areas that I am not too concerned whether a particular lawyer is available to work on a matter, Leekley says. Leekley says he gets back what he gives in fidelity: If we need help on an emergency basis, they are always willing to step in and help.

Still, plenty of law firms have the same qualities. And with few exceptions, for the past five years, a remarkably stable group of firms have monopolized the top ten spots in each practice area surveyed. Six of the top corporate transactions firms this year showed up in 2002, the first year Corporate Counsel did the survey (Skadden; Davis Polk; Mayer, Brown, Rowe & Maw; Simpson Thacher & Bartlett; Jones Day; and Sidley Austin). In litigation, six firms appeared in both the 2006 and 2002 top ten (Kirkland; Jones Day; O'Melveny & Myers; Mayer, Brown; King & Spalding; and McGuireWoods). What's keeping these firms on top? Size, skill, the strength of the brand name, the effect of convergence (the process generally favors big firms), and a tendency to reach out to large, expensive firms when there's big, potentially costly legal business at hand. That said, a five-year examination yields a few surprisesmost notably, the disappearance of the Washington, D.C., firms from the top ten list in litigation.

While chief legal officers like to talk big about keeping a close eye on legal bills, when it comes down to a bet-the-company case, they typically say that they want the massive firepower of a large firm on their sideno matter what the expense. According to the most recent Am Law 100 survey, Kirkland & Ellis certainly meets that criterion, weighing in at 983 lawyers, of which 350 or so are litigators; Skadden is at 1,616 lawyers, with more than 700 in the corporate department. The top ten litigation firms in the Corporate Counsel survey average 1,186 lawyers.

Convergenceremember that?also plays its part in the survey. While many companies have refined their roster of preferred providers in recent years, the big firms on the list haven't been among the casualties. Consultant Rees Morrison says he doesn't find this surprising. Convergence favors bigger firms, since they are equipped to handle a wider array of matters, says Morrison, a principal at the Somerset, New Jerseybased legal consulting firm Hildebrandt International, Inc.

Case in point: Schering-Plough Corporation, which went through a convergence process last year and is down to a core group of seven firms, two of whichSidley Austin and Mayer, Brownhave more than 1,000 lawyers. And once a company has gone through convergence, it tends to stick with those who have made the cut, Morrison says.

But size isn't the whole story. Firms with a thousand-plus lawyers dot today's legal landscape like poppy seeds on a bagel. So what's the edge keeping the top firms on top? Their brand names, says Daniel DiLucchio, Jr., a principal in the Newtown Square, Pennsylvania, headquarters of legal consulting firm Altman Weil, Inc. He says cost control, the one major factor that can cause GCs to shop around, just doesn't happen at this level. For example, Manly says that he uses local firms such as Robinson, Bradshaw & Hinson to handle small transactions, but there comes a point when a transaction becomes so complicated it's worth paying the $800 or $900 an hour for a senior Skadden partner.

Even the poster child for convergence, E.I. du Pont de Nemours & Company, goes outside its network of 42 primary law firms for large, complicated M&A transactions, says associate general counsel Roger Arrington. In the survey, for the last three years, DuPont has listed both Cravath, Swaine & Moore and Skadden among its top outside counsel for transactionsbut they don't appear on DuPont's official primary firm list.

Of the four practice areas surveyed, labor and employment shows the most consistency. The same firms have captured the gold, silver, and bronze since 2003 (the first year Corporate Counsel looked at this practice area), although they've swapped places a few times. This year, Morgan, Lewis & Bockius beat out number two Littler Mendelson and third-ranked Seyfarth Shaw to grab the top slot. Hildebrandt's Morrison says that stability reflects a very mature marketplace dominated by a few brands.

That said, the survey is not quite at the level of the weather in L.A. Story, in which Steve Martin's weatherman tapes his report of sunny again days in advance. One interesting trend: the exit of Washington, D.C., firms from the litigation list. In the first surveys, four D.C. firmsHowrey; Akin Gump Strauss Hauer & Feld; Covington & Burling; and Williams & Connollyappeared in the top ten. Today, not a one. Morrison attributes this to the Bush administration. With the Federal Trade Commission and other agencies gone toothless, he says, there's less regulatory enforcementhence, less need for Washington's heavy hitters.

But other than those probably temporary downturns, the big guys stay on top, buoyed by the semper fidelis disposition of corporate counsel. As Verizon's Barr says, Why shop around when you're successful with what you've got?

Transaction Heroes

Davis Polk edges out Skadden for the lead spot in corporate transactions.

FIRM	NUMBER OF MENTIONS
Davis Polk	13
Skadden	12
Mayer, Brown	9
Baker Botts	7
Jones Day	7
Sidley Austin	7
Simpson Thacher	7
Cleary Gottlieb	5
Cravath	5

Tamara Loomis is a freelance writer in New York and a former staff reporter for New York Law Journal, a sister publication of The American Lawyer.

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Gonzales Slated to Defend Bush Spy Program

By MARK SHERMAN

Associated Press Writer

WASHINGTON_Attorney General Alberto Gonzales heads to Capitol Hill on Monday to defend the Bush administration's warrantless eavesdropping program to skeptical lawmakers from both parties. It's a job for which the low-key, presidential confidant has shown himself well-suited.

Affable and measured in his public remarks, Gonzales is strikingly different from his predecessor at the Justice Department, John Ashcroft, who was more confrontational.

Behind the scenes, Gonzales has played important roles in some of the White House's most contentious decisions. Examples include authorizing aggressive interrogation methods that critics say are akin to torture and tapping conversations of people within the United States without a warrant.

Gonzales acknowledges disagreement in the administration about the National Security Agency's domestic surveillance program. "As with all difficult issues, there's been a robust discussion and analysis with respect to this program," he said in an interview with The Associated Press last week.

In one instance, Gonzales, while White House counsel, reportedly tried to persuade Ashcroft to override objections to the surveillance that arose within the department in 2004 and led to the program's temporary suspension. The effort, which occurred while Ashcroft was hospitalized, failed. Gonzales would not confirm the account.

In written testimony prepared for Monday's Senate Judiciary Committee hearing on the NSA monitoring, Gonzales said news accounts of the program "are in almost every case, in one way or another, misinformed, confused, or wrong."

The surveillance is both lawful and indispensable to U.S. security, Gonzales said in the testimony, a copy of which was obtained Saturday by AP. He confined his remarks to legal questions, refusing to discuss operational aspects of the highly classified program.

He drew a distinction between purely domestic conversations, which the administration has insisted are not part of the NSA monitoring, and "the international communications of persons reasonably believed to be members or agents of al-Qaida or affiliated terrorist organizations.

"This surveillance is narrowly focused and fully consistent with the traditional forms of enemy surveillance found to be necessary in all previous armed conflicts."

In partial response to written questions submitted to him, Gonzales says the program "is not a dragnet that sucks in all conversations and uses computer searches to pick out calls of interest."

Democrats and Republicans on the committee are unhappy with the legal justifications they have seen so far for the program; the White House's refusal to release other documents; and their exclusion from the limited briefings that the administration has provided to a handful of lawmakers.

Some Democrats chide Gonzales for what they say is his unwillingness to challenge the president on the eavesdropping program and other matters that, in their opinion, have compromised civil liberties.

"The issue is whether this Justice Department, more than any other, is an arm of the president, sort of like the president's law firm," said Sen. Charles Schumer, D-N.Y., who voted against Gonzales' confirmation as attorney general a year ago. "Nothing has dispelled those doubts."

Vermont Sen. Patrick Leahy, the Judiciary Committee's top Democrat, said of Gonzales, "Regrettably in my view, he has continued to act like the president's in-house counsel."

Scoffing at such complaints is a Republican on the committee, Texas Sen. John Cornyn.

"Obviously his job is different from that of the president. His job is to enforce the law, and I do believe that he has both the integrity and the professional ability to do whatever investigation needs to be done," Cornyn said.

Despite the criticism, the 50-year-old Gonzales is not likely to yield ground in the nationally televised hearing.

"This program was not analyzed, reviewed and approved solely by me," Gonzales said in the AP interview. The attorney general was seated at a conference table in a room adjacent to his office that was adorned with pictures of several predecessors, including Robert Kennedy.

"There are a number of people within the administration who may not have the same kind of relationship I have with the president who certainly agree with me that the president does have the legal authority to authorize this electronic surveillance of the enemy in a time of war," Gonzales said.

Senators have had the chance before to question Gonzales' expansive view on the exercise of presidential power.

During his confirmation hearing 13 months ago, Gonzales defended administration policies on interrogating detainees and assured lawmakers that Bush would not violate any laws.

In similarly personal terms, he has since rejected complaints that politics trumped policy in the lengthy lawsuit against tobacco companies and the department's civil rights division's actions in a redistricting case in Texas and a voter identification law in Georgia.

"The notion that this president I know so well, with his record of promoting minorities, would tolerate a politicized civil rights division is absurd," Gonzales said. "The notion that I would, as the first Hispanic-American to serve as attorney general, is ridiculous."

Former Attorney General William Barr, who worked for the first President Bush, said Gonzales has struck an appropriate balance, defending presidential exercise of authority while maintaining independence on prosecutorial issues.

"You can't allow any political consideration or personal relationship to enter into it, and I have not seen any sign the White House has any role in handling individual cases," Barr said.

Even as Gonzales has been a leading voice on such issues as renewing expiring provisions of the terrorism-fighting Patriot Act and defending the NSA program, federal prosecutors have forged ahead with a wide-ranging investigation of corrupt lobbying practices.

That inquiry has resulted in the conviction of lobbyist Jack Abramoff and the indictment of the administration's former top contracting officer. It threatens to ensnare several members of Congress.

The Patriot Act renewal has yet to win final congressional approval. Both the House and Senate have made only minor changes in the law after months of hearings and debate.

Ted Ullyot, who was Gonzales' chief of staff until October and worked with him at the White House, said his former boss is not troubled by criticism. "How he is perceived is not his focus. His focus is on blocking, tackling and carrying out the job of attorney general," Ullyot said.

Gonzales has scored style points with administration critics by inviting civil libertarians to his office, which Ashcroft never did. Gonzales also has removed the Ashcroft-era curtain that covered two partially clad Art Deco statues in the Justice Department's Great Hall.

Gonzales has a long association with Bush, who named Gonzales as chief counsel in 1995 when Bush was Texas governor. Two years later, Bush picked the Harvard-educated son of migrant farm workers to be Texas' secretary of state, the state's top elections official. In 1999, Bush appointed Gonzales to the state Supreme Court.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Legislation (1LE97); Government (1GO80))

Industry: (Security (1SE29))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Texas (1TE14))

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NewsRoom

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Special Report

Litigation Department of the Year Finalist

Munger, Tolles

AT MUNGER, IT'S NOT HOW MANY, IT'S HOW GOOD

The only thing small about the litigation practice at Munger, Tolles & Olson is the number of lawyers. The department has just 130 lawyers and a breathtaking one-to-one partner-associate ratio. Five out of every six litigators clerked for a federal judge. And one out of every five of those clerks worked for a U.S. Supreme Court justice. The most critical ingredient is our talent, says name partner Ronald Olson, 64. We hire the best people available.

And they put them quickly into world-class cases. Over the past two years, the Los Angeles-based firm has come through for The Boeing Company, Abbott Laboratories, Warren Buffett, Southern California Edison Company, Philip Morris USA Inc., Microsoft Corporation, and Michael Ovitz. And Munger is the choice for many law firms in trouble, including Sidley Austin in its tax shelter woes. (The firm settled investor claims last year for $45 million.)

Their docket stretches from patent cases to smokers' class actions to probes into the reinsurance industry. In one Abbott Labs case, Munger, Tolles partner Jeffrey Weinberger, 58, won pretrial motions that stopped generic drug giant Teva Pharmaceutical Industries Limited from selling a cheaper version of one of Abbott's best-sellers, the antibiotic Biaxin. Abbott also called on Munger after it lost a jury verdict that declared invalid the company's patent on a DNA-based test. Weinberger convinced the U.S. Court of Appeals for the Federal Circuit to vacate on the novel grounds that the plaintiff, Gen-Probe Incorporated, could not challenge the patent if it was still paying royalties as a licensee. They've consistently done outstanding work on complex matters, says Abbott senior vice president and general counsel Laura Schumacher.

For Philip Morris, the firm turned back two attempted class actions filed in California. In one, it convinced a state judge to decertify a class of millions of former smokers brought under the state's wide-ranging unfair competition law. Partner Gregory Stone, 53, argued on behalf of all the defendant tobacco companies that one of California's

recently enacted ballot propositions, which tightened that law's standing requirements, should be applied to pending cases.

Munger also played a pivotal role in one of the most important corporate governance trials in recent years. It defended Michael Ovitz, the deposed president of The Walt Disney Company, who had been targeted along with other Disney executives and directors in a Milberg Weiss Bershad & Schulman shareholder derivative suit in Delaware Chancery Court. The plaintiffs sought $262 million arising from the company's expensive hiring and termination of Ovitz. Partner Mark Epstein, 46, faced a tricky task, since his client wanted to tell a different story from the other defendants (that Ovitz had been unfairly fired), without sabotaging the defense strategy. We were sort of outside the tent, says Epstein. We weren't invited to most of the [defense] meetings. Still, the defense team had such confidence in Epstein's preparation of Ovitz that it decided that Epstein should call Ovitz as the first defense witness. That really ended up working well for us, says Stephen Alexander of Bingham McCutchen, who defended two former directors. [Ovitz] could tell the whole story from start to finish. At the end of the trial, the judge ruled for the defendants.

When Boeing faced a scandal involving an employee's theft of rocket launch secrets from competitor Lockheed Martin Corporation, the company selected Munger to run the litigation. Not only did Lockheed sue for billions, but the U.S. attorney in Los Angeles began a criminal investigation, and the Air Force started a probe. At stake was Boeing's government rocket launch program and its credibility. Munger's team, lead by Brad Brian, 53, and Jerome Roth, 47, got Lockheed's RICO and antitrust claims dismissed. Last year Lockheed agreed to drop its trade secret theft claims as part of a proposed joint venture with Boeing (which is awaiting antitrust clearance). The U.S. attorney is still investigating, and has filed criminal charges against two former Boeing employees (who are not represented by Munger). Paul Ehlenbach, assistant general counsel at Boeing, describes the Munger lawyers as super responsive.

Brian dispenses with any false modesty about Munger's status: From top to bottom, I don't think there's a firm in the country that can match what we bring. He and his partners are proud of how selective they can be. We look for special clients with particularly difficult problems, says Stone.

Not surprisingly, a firm like this isn't interested in discounting rates. We're not involved in competing in reverse auctions. Not at all, says Olson, shaking his head. If it's a fee competition, we pass. Still, one client notes that Munger's lean staffing leads to extremely reasonable bills. They're probably the most efficient firm I use, says William Barr, the executive vice president and general counsel of Verizon Communications Inc. The partners are all working foremen. They roll up their sleeves and do real legal work.

Olson insists the firm looks for more than just high grades when it's hiring: Greg Stone went to Cal Tech, but what really impressed me about Greg was that he had spent his [early] life running a ranch with his mother and grandmother. (Stone grew up on a 10,000-acre cattle ranch in central California.) He knew what hard work was like. He knew how to pull a calf.

That's one way to learn how to roll up your sleeves.

Department Size	Partners: 67
Associates: 62	
Other: 1	
Department as Percent of Firm	Partners: 75%
Associates: 79%	
Estimated Percent of Firm Revenue 2005	78%

E-mail: *sbeck@alm.com*

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NewsRoom

12/21/05 WashingtonPost.com (Pg. Unavail. Online)
2005 WLNR 28757016

WashingtonPost.com

December 21, 2005

Clash Is Latest Chapter in Bush Effort to Widen Executive Power

Peter Baker and Jim VandeHei

The clash over the secret domestic spying program is one slice of a broader struggle over the power of the presidency that has animated the Bush administration. George W. Bush and Dick Cheney came to office convinced that the authority of the presidency had eroded and have spent the past five years trying to reclaim it. From shielding energy policy deliberations to setting up military tribunals without court involvement, Bush, with Cheney's encouragement, has taken what scholars call a more expansive view of his role than any commander in chief in decades. With few exceptions, Congress and the courts have largely stayed out of the way, deferential to the argument that a president needs free rein, especially in wartime.

But the disclosure of Bush's eavesdropping program has revived the issue, and Congress appears to be growing restive about surrendering so much of its authority. Democrats and even key Republicans maintain Bush went too far -- and may have even violated the law -- by authorizing the National Security Agency to eavesdrop on U.S. citizens' overseas telephone calls in search of terrorist plots without obtaining warrants from a secret intelligence court. The vice president entered the fray yesterday, rejecting the criticism and expounding on the philosophy that has driven so many of the administration's actions. "I believe in a strong, robust executive authority, and I think that the world we live in demands it -- and to some extent that we have an obligation as the administration to pass on the offices we hold to our successors in as good of shape as we found them," Cheney said. In wartime, he said, the president "needs to have his constitutional powers unimpaired." Speaking with reporters traveling with him aboard Air Force Two to Oman, Cheney said the period after the Watergate scandal and Vietnam War proved to be "the nadir of the modern presidency in terms of authority and legitimacy" and harmed the chief executive's ability to lead in a complicated, dangerous era. "But I do think that to some extent now we've been able to restore the legitimate authority of the presidency." For Cheney, the post-Watergate era was the formative experience shaping his understanding of executive power. As a young White House chief of staff for President Gerald R. Ford, he saw the Oval Office at its weakest point as Congress and the courts asserted themselves. But scholars such as Andrew Rudalevige, author of "The New Imperial Presidency," say the presidency had recovered long before Cheney returned to the White House in 2001. The War Powers Act, the legislative veto, the independent counsel statute and other legacies of the 1970s had all been discarded in one form or another. "He's living in a time warp," said Bruce Fein, a constitutional lawyer and Reagan administration official. "The great irony is Bush inherited the strongest presidency of anyone since Franklin Roosevelt, and Cheney acts as if he's still under the constraints of 1973 or 1974." Sen. John E. Sununu (R-N.H.) said: "The vice president may be the only person I know of that believes the executive has somehow lost power over the last 30 years." The tug over executive power traces back to the early years of the republic, and presidents have traditionally moved to expand their reach during times of war. John Adams, fearing a hostile France, presided over the imprisonment of Republican critics under the Alien and Sedition Acts. Abraham Lincoln suspended habeas corpus during the Civil War. Woodrow Wilson jailed Socialist Eugene V. Debs, who had run against him for

president, for protesting the entry into World War I. Franklin D. Roosevelt sent Japanese Americans to internment camps during World War II. And Ronald Reagan circumvented a Cold War congressional ban on providing aid to contra rebels in Nicaragua. The Bush administration rejects comparisons to such events and says its assertions of authority in response to the Sept. 11, 2001, terrorist attacks have been carefully tailored to meet the needs of a 21st-century war against a nebulous foe. At his news conference Monday, Bush bristled at the notion that he sought "unchecked power" and said he had consulted with Congress extensively. Yet Bush supporters believe that other branches should take a subsidiary role to the president in safeguarding national security. "The Constitution's intent when we're under attack from outside is to place maximum power in the president," said William P. Barr, who was attorney general under President George H.W. Bush, "and the other branches, and especially the courts, don't act as a check on the president's authority against the enemy." Even before the NSA surveillance program, the Bush administration has asserted its war-making authority in detaining indefinitely U.S. citizens as enemy combatants, denying prisoners access to lawyers or courts, rejecting in some cases the applicability of the Geneva Conventions, expanding its interrogation techniques to include harsher treatment and establishing secret terrorist prisons in foreign countries. "The problem is, where do you stop rebalancing the power and go too far in the other direction?" asked David A. Keene, chairman of the American Conservative Union. "I think in some instances [Bush] has gone too far." Taken alone, the expansion of executive wartime power may seem an obvious outflow of confronting the new threat of global terrorism. But when coupled with the huge expansion of the federal government in general under Bush -- the budget has grown by 33 percent and his administration has broadened the federal role in education and the scope of Medicare -- a growing number of conservatives are expressing concern about the size and reach of government on his watch. Many conservatives in Congress came to office in the 1980s and 1990s with visions of shrinking government and protecting individual freedoms. The Sept. 11 attacks, however, prompted Republicans to shift their priorities and emphasize fighting terrorism. With both houses of Congress in Republican hands, lawmakers generally have been willing to yield to Bush's views on the balance of power. "Defending the country is preeminently an executive function," said Rep. Tom Cole (R-Okla.). "He is the commander in chief, and you have to move with speed and dispatch." At the same time, some believe, Congress has abrogated its duty to provide a check on the White House. Rarely has the Republican Congress used its subpoena power to investigate Bush policies or programs or to force administration officials to explain them. Even when lawmakers are inclined to challenge the White House, they are restricted by secrecy rules in cases such as the NSA program, which was known to only a handful of key members briefed by the administration. "When you have unified party government, the oversight tends to be very timid," said James A. Thurber, director of the Center for Congressional and Presidential Studies at American University. "It's not just the president pushing for more power. . . . The Congress has not done its job of careful evaluation of giving the president more power post-9/11." Thurber and others think that may be changing. Led by Sen. John McCain (R-Ariz.), Congress just forced Bush to accept a ban on cruel, inhuman and degrading treatment of prisoners, and a handful of Republican senators have joined Democrats to block the renewal of the USA Patriot Act until more civil liberties protections are built into the law. "Congress needs to do some introspection about whether oversight is serious or basically political," Cole said Sen. Lindsey O. Graham (S.C.) is one of several Republicans lobbying Bush to use the debate over NSA to work with Congress on striking the right balance of power on security issues. "The question is: Should the administration and Congress sit down and talk about where presidential authority begins and ends and congressional blessing begins and ends?" he said. "I think yes." Vice President Cheney, with President Bush, said the president must have unimpaired constitutional powers during wartime.

---- Index References ----

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Top Priority: His Company; Timothy Flanigan says he abandoned his nomination for deputy AG in order to focus on his in-house job at Tyco.

Corporate Counsel (Online)

December 1, 2005 Thursday

CORPORATE COUNSEL

Length: 834 words

Byline: Vanessa Blum,, vblum@legaltimes.com, , Special to the corporate counsel

Body

Anyone who follows politics knows that the Senate confirmation process can be grueling. In October, Timothy Flanigan ? nominated five months earlier by President George Bush for deputy attorney general ? decided that the ordeal was too much. Flanigan, the senior in-house lawyer for corporate and international law at Tyco International Ltd., withdrew his name from contention just two weeks before the Senate Judiciary Committee was scheduled to vote on whether he should fill the number two post at the U.S. Department of Justice.

The intense scrutiny that followed his nomination took a toll not only on Flanigan and his family, he says, but also on his company. While no one at Tyco asked him to abandon the nomination, Flanigan says he felt the uncertainty of the confirmation process was interfering with his work. "It was becoming a problem for me in that I had a job to do," he says.

Flanigan came under fire, mostly from Senate Democrats, for a variety of reasons. He faced questions about whether, during an earlier stint as deputy White House counsel, he participated in developing the Bush administration's policy on the use of torture in interrogations. Plus, he was faulted for being the latest nonprosecutor tapped to fill a senior post at the Justice Department.

But Flanigan took the most heat for his relationship with disgraced Republican lobbyist Jack Abramoff, who performed lobbying work for Tyco and allegedly defrauded the company of $1.5 million during Flanigan's watch. In written responses to Judiciary Committee questions, Flanigan said he relied on the reputation of Abramoff's then law firm, Greenberg Traurig, when he hired the lobbyist in 2003. "When a company engages a firm like Greenberg Traurig, it relies on that firm's own review of the ethical standards of each of its partners," Flanigan wrote.

The Abramoff link continued to plague Flanigan's nomination, however, and drew unwanted attention to Tyco at a time when several of its former executives were being sentenced for criminal conduct. The company is still recovering from a massive accounting fraud orchestrated by former CEO Dennis Koslowski. Flanigan joined Tyco in 2002 as part of a new management team installed after Koslowski's departure.

Still, Flanigan maintains that the Abramoff controversy wasn't why he dropped out of the deputy AG fight. "I was concerned about the delay and the uncertainty of the confirmation process," he says. "Because of the burden that it

imposed on my family, the Department of Justice, Tyco, and me, I decided to ask the president to withdraw my name."

Flanigan, who will stay at Tyco, declines to say anything more about his withdrawal. His supporters, however, have no problem venting their frustration. "Democrats smelled blood, and they were going to use Tim's nomination to milk the Abramoff thing as much as they could," says Bill Barr, the GC at Verizon Communications and a former attorney general in the Reagan administration. Barr adds, "Nothing I've seen suggests Tim did anything wrong." Senator Orrin Hatch (R-Utah) also came to Flanigan's defense, calling it a "sad day when the politics of personal destruction drives good people from public service."

In addition to his relationship with Abramoff and his role in developing the torture policy, Flanigan was also criticized by Democrats for his lack of prosecutorial experience. At a September hearing, Senator Patrick Leahy of Vermont, the ranking Democrat on the Judiciary Committee, went so far as to compare Flanigan with Michael Brown, the former director of the Federal Emergency Management Agency who was blasted for his office's response to Hurricane Katrina. "I know Mr. Flanigan has had a long history in the service of Republican administrations, as others have ? Mr. Brown from FEMA being one that comes to mind," Leahy said. "That is all well and good, but it doesn't qualify someone for crucial law enforcement responsibilities."

Flanigan's supporters took issue with the charge that he was a political hack, pointing to his service in the Justice Department's Office of Legal Counsel during the administration of President George H.W. Bush, and Flanigan's post ? 9/11 experience as deputy White House counsel. "The fact that a man may not have been a prosecutor doesn't mean he doesn't understand the criminal laws," Senator Hatch told the Judiciary Committee.

The prosecutorial inexperience argument seems to have resonated with the Bush administration, however. Two weeks after Flanigan withdrew his name, the president nominated Paul McNulty to the deputy AG post. As the U.S. attorney in Alexandria, Virginia, since 2001, McNulty has overseen the prosecution of several high-profile terrorism cases. Earlier this year, his office obtained a guilty plea from Zacarias Moussaoui, who admitted to taking part in an Al Qaeda conspiracy that included the 9/11 attacks. Though McNulty must now run the Senate confirmation gauntlet himself, he has already started serving as acting deputy AG.

Load-Date: September 23, 2011

MCNULTY'S NEW MISSION

Legal Times

October 31, 2005 Monday

Section: Vol. 28; No. 44

Length: 1763 words

Byline: Vanessa Blum

Body

National

AFTER FLANIGAN FLAP, U.S. ATTORNEY NEXT FOR JUSTICE POST

Federal prosecutors in Alexandria didn't know quite what to expect back in 2001 when President George W. Bush nominated Paul McNulty to be the new U.S. attorney for the Eastern District of Virginia.

Their new boss, a former aide to Attorney General Bill Barr and chief counsel on the House Judiciary Committee during impeachment proceedings against President Bill Clinton, clearly knew the right people in the new administration. But he didn't seem to know that much about actually trying cases. At the time McNulty took over the demanding prosecutorial post, three days after the Sept. 11 attacks, he had never tried a case in his life.

During the next four years, McNulty won over critics (inside the office and out) who doubted his ability to do the job. In that time he supervised some of the Justice Department's highest-profile cases, led his office through a dramatic expansion, and earned a reputation as a polished and professional prosecutor. He even took a turn as an appellate lawyer, arguing a case before the U.S. Court of Appeals for the 4th Circuit in October 2003.

So it was no surprise last week when the White House tapped 47-year-old McNulty for the DOJ's critical No. 2 slot. Even Senate Democrat Charles Schumer of New York, a frequent critic of the administration's nominees, praised the selection, citing McNulty's prosecutorial experience and temperament.

Jamie Gorelick, a WilmerHale partner and a Democrat who served as deputy AG from 1994 to 1997, says that despite their political differences, she believes that McNulty is a good choice for the deputy post at the DOJ.

He has a rare combination of policy and political experience, and now he has had a significant tenure leading one of the most important U.S. attorney's offices, says Gorelick, who represents Boeing Corp. in matters involving McNulty's office. In what I have seen of his stewardship of his office, he seems to address the work of the office seriously and professionally.

Within the Justice Department, the deputy attorney general, or DAG for short, is the person who manages the department's day-to-day operations and represents it in dealings with the White House, Capitol Hill, and other government agencies. In addition, the DAG directly oversees the Criminal Division, the 94 U.S. attorney's offices,

the Federal Bureau of Investigation, the Drug Enforcement Administration, and the U.S. Marshals Service. It is a post that demands a blend of diplomacy, good judgment, and decisiveness.

The president's selection of McNulty, on Oct. 21, came after the unexpected withdrawal of Timothy Flanigan, who was nominated to be DAG in May 2004. Flanigan, a senior lawyer at Tyco International Ltd. and a former deputy White House counsel, stepped aside earlier this month amid concerns about his relationship with disgraced Republican lobbyist Jack Abramoff and over his role in drafting the government's policy on the use of torture in interrogations of suspected terrorists. Flanigan was also faulted for not having any hands-on prosecution experience.

McNulty also has his detractors. One of the most powerful is Sen. Hillary Rodham Clinton (D-N.Y.), who opposed McNulty for U.S. attorney in 2001, presumably because of his efforts to impeach her husband. Meanwhile, civil libertarians and criminal defense lawyers take issue with McNulty's record on terrorism, saying that his office has brought exceedingly harsh charges against people who do not seem to pose serious threats. That criticism is likely to come up at his as-yet-unscheduled confirmation hearings.

For the most part the people I've seen prosecuted are not people I fear, says Virginia defense lawyer John Zwerling.

Another subject likely to be raised at McNulty's confirmation hearings is his failure to bring criminal charges against civilians accused of abusing military prisoners. In June 2004 a contractor for the Central Intelligence Agency was charged in North Carolina with assaulting a detainee in Afghanistan. Then-Attorney General John Ashcroft chose McNulty's office to investigate similar cases referred by the CIA and the Defense Department. To date, McNulty has not brought a single indictment.

There is a lot of work that he and his office should have been doing over the past 16 months, says Christopher Anders, legislative counsel for the American Civil Liberties Union. If they've been doing it, we sure haven't seen results.

McNulty, who is known for being accessible to reporters and is usually good for a sound bite, has gone quiet since his nomination. He did not return calls seeking comment.

NOT A HAIR OUT OF PLACE

A Pittsburgh native, McNulty attended Grove City College, a small Christian college near his hometown, and Capital University School of Law in Columbus, Ohio. In 1983 he began his legal career -- as a Democrat -- working for the House ethics committee.

After just a few years in Washington, McNulty switched political affiliations, and in 1987 he went to work for the Republican staff of the House Judiciary Subcommittee on Crime. Then, in 1990, McNulty joined the DOJ as deputy director of policy development. The next year, Attorney General Barr promoted McNulty to oversee policy and public affairs operations at Main Justice.

Barr, who is now vice president and general counsel of Verizon Communications, likes to tell the story of how he first barged into McNulty's office.

I had to do a TV appearance, and I couldn't get an appointment with my regular barber, Barr recalls. So I began asking people, 'Where's that guy Paul who has such perfect hair all the time? The first words I ever said to him, man to man, were, 'Who's your barber?'

But it was more than McNulty's clean coif that impressed Barr. I saw right away that he had a very good way of working with people, a lot of common sense, good judgment, and that he was very articulate in meetings, he says.

The two lawyers became friends, and in 1992, after Clinton won the presidential election, both Barr and McNulty joined the now-defunct D.C. law firm Shaw, Pittman, Potts & Trowbridge. After just two years, McNulty was drawn back into public service. As chief counsel for the House Subcommittee on Crime, McNulty worked behind the

scenes on the politically charged Whitewater and Waco investigations. During the impeachment proceedings he served as both chief counsel and director of communications for the House Judiciary Committee, frequently appearing on television talk shows.

After the 2000 election, McNulty spearheaded the political transition at the Justice Department and helped shepherd Ashcroft through his confirmation battle in the Senate. He then served as principal deputy AG before being nominated for the U.S. attorney post.

Christopher Wray, former chief of the DOJ's Criminal Division and a top aide to former Deputy AG Larry Thompson, says that McNulty's breadth of experience at the Justice Department will enable him to make a smooth transition into his new job.

He has a great command of the issues and the inner workings of the department, says Wray, who is now a partner at King & Spalding. What he arguably didn't have in 2001 is the same kind of feel for the way cases and investigations unfold and run into problems. He now has that extra level of comfort with the operational side of what the department does.

EXPANDING BASE

When McNulty became the U.S. attorney for the Eastern District of Virginia, he oversaw a staff of 93 lawyers and a budget of approximately $15 million. Today there are more than 120 full-time lawyers working in the Eastern District's four offices, and the budget is $20 million.

The number of federal prosecutions in the district has increased 30 percent during McNulty's tenure, climbing from roughly 4,100 in 2000 to 5,300 in 2004, according to statistics compiled by the Transactional Records Access Clearinghouse, or TRAC, at Syracuse University. The areas that showed the largest increases were immigration and terrorism offenses.

The office is markedly different after 9/11 than it was before 9/11, says Richard Cullen, a former U.S. attorney in the district. When I was there, when we talked about keeping people safe, we were talking about cleaning up neighborhoods in the inner city, not massive attacks that could kill thousands of people.

Located in the back yard of the Pentagon and CIA headquarters, the Eastern District of Virginia has always been a center for espionage cases and national security-related matters, and after Sept. 11 it became the go-to forum for terrorism cases. It was the Eastern District that brought charges against American Taliban John Walker Lindh, al Qaeda conspirator Zacarias Moussaoui, and 11 members of a supposed Virginia-based terrorist cell accused of using paintball games as a cover for military training.

McNulty's colleagues in the Eastern District say that he quickly dispelled concerns that his lack of direct law enforcement experience would be a handicap.

Despite the fact that he wasn't a prosecutor, he has extremely strong grounding in what federal prosecutors do, says Neil Hammerstrom, head of the office's terrorism and national security section. He has meaningful input into strategy and policy decisions.

But McNulty's critics take issue with his hard-line approach to terrorism cases.

It seems like this office goes to 'DefCon 1 whenever a case can be framed in terrorism terms. There's no sense of proportionality, says Jonathan Turley, a George Washington University law professor who represents Ali Timimi, a Muslim scholar convicted of inciting followers to join the Taliban. After sentencing Timimi to life in prison, presiding Judge Leonie Brinkema of the U.S. District Court for the District of Virginia called the punishment draconian, but said she had no choice under congressionally mandated sentencing requirements. Turley has appealed Timimi's conviction. He says, A prosecutor is supposed to seek justice and not simply convictions at any cost.

Morrison & Foerster partner James Brosnahan, who represents Lindh, cuts McNulty a bit more slack. He says that McNulty showed good judgment by dropping terrorism charges against Lindh when it became clear that there

wasn't enough supporting evidence. Lindh ultimately pleaded guilty to being a member of the Taliban army and accepted a 20-year sentence.

It was a high-pressure case for everybody, including him, but we always got along on a professional level, Brosnahan says. He's a spirited prosecutor, a determined, relentless prosecutor. That's his job.

Vanessa Blum can be contacted at *vblum@alm.com*

Load-Date: April 17, 2011

Government lawyers are in demand; Corporations find D.C. veterans useful for navigating the capital.; WASHINGTON

The National Law Journal (Online)

October 24, 2005 Monday

THE NATIONAL LAW JOURNAL

Length: 399 words

Byline: Emma Schwartz Corporate Counsel,, *mailbox@nlj.com*, , Special to the national law journal

Body

When it comes time to fill an in-house legal post, more companies are headhunting in Washington. Not surprisingly, former government lawyers are especially in demand at businesses under investigation by prosecutors or regulators. But even corporations that don't have to worry about a federal probe have found that D.C. veterans are useful for navigating the nation's capital.

Companies "recognize that the government is more and more involved in what companies are doing," said David Leitch, a former deputy White House counsel who became Ford Motor Co.'s new general counsel in April. "So a working knowledge of Washington and government are all things that are becoming increasingly more valuable in corporate America," Leitch said.

Hard data on the number of recent moves from government agencies to corporate law departments are hard to come by. But legal recruiters June Eichbaum and Victoria Reese of Heidrick & Struggles International Inc. have tallied a list of almost two dozen former government lawyers who have moved into top corporate legal positions over the past five years.

Times have changed

Of course, a revolving door between agencies and companies isn't particularly new. As far back as 1969, International Business Machines Corp.-then facing a federal antitrust action-hired a former Johnson administration attorney general, Nicholas deB. Katzenbach, as general counsel.

Benjamin Heineman, who was an assistant secretary at the Department of Health, Education and Welfare during the Carter administration, took over General Electric Co.'s legal department in 1987. And in 1994, William Barr, attorney general under President George H.W. Bush, became general counsel at GTE Corp.

But these men were more the exception than the rule.

Times have changed, Barr said. These days, when headhunters ask him to suggest candidates for in-house jobs, they're often looking for people with top-level government experience-and Barr is able to oblige. Currently general counsel at GTE's successor, Verizon Communications Inc., he said, "Now most lawyers I know on the outside would come in-house for the right job."

The demand for D.C. attorneys has been partly driven by stepped-up government scrutiny of companies due to the recent wave of corporate fraud. By bringing former regulators on board, businesses are letting Washington know that they take the increased regulation seriously.

Load-Date: October 4, 2011

DELAY REACTION

Legal Times

October 17, 2005 Monday

Section: Vol. 28; No. 42

Length: 202 words

Byline: Vanessa Blum

Body

Inadmissible

A week after withdrawing his nomination for the No. 2 post at the Justice Department, **Timothy Flanigan** is talking -- well, sort of. In an interview last week, Flanigan said that it was delays in the confirmation process, not questions about his dealings with indicted Republican lobbyist **Jack Abramoff,** that led him to ask President **George W. Bush** to drop his nomination. The senior lawyer with **Tyco International** also said that no one in the Bush administration or at Tyco pressured him to step aside. It was entirely my decision, Flanigan told . I felt that this delay was something I couldn't live with. He declined to discuss the matter further. His supporters, however, had no problem venting their frustration over insinuations from Senate Judiciary Committee Democrats that Flanigan had shady connections to Abramoff, who performed lobbying work for Tyco and allegedly defrauded the company of $1.5 million during Flanigan's watch. Nothing I've seen suggests Tim did anything wrong, says former U.S. Attorney General **Bill Barr,** now general counsel at Verizon Communications. Democrats smelled blood, and they were going to use Tim's nomination to milk the Abramoff thing as much as they could.

Load-Date: April 17, 2011

10/15/05 Gov't Executive (Pg. Unavail. Online)
2005 WLNR 27669118

Government Executive

October 15, 2005

FEATURES Fraud Squad

Kimberly Palmer

20051015

U.S. Attorney Paul J. McNulty is cracking down on federal contractors and federal buyers.

One week after announcing the high-profile indictment of former lobbyists for a pro-Israeli organization for gathering and sharing classified information, Paul J. McNulty, the U.S. Attorney for the Eastern District of Virginia, exudes the calm of a man on vacation. Despite his friendly demeanor, his most recent project has some members of the federal contracting world fearing him as if he were their own Eliot Spitzer, the New York attorney general known for his aggressive prosecution of corporate fraud. In February, McNulty created the Procurement Fraud Working Group, a coalition of more than two dozen Defense and civilian agencies that work together to investigate and prosecute illegal schemes in government contracting. "I'm not saying contractors are bad. That's how government functions. But it would be better for good contractors if we got rid of the bad apples," McNulty says.

"When he first announced the task force, a lot of us were concerned," says Stan Soloway, president of the Professional Services Council, an Arlington, Va.-based group that represents contractors. "It was portrayed as a witch hunt." Rumors that the group was working on placing undercover investigators inside contracting offices caused some contracting officials to fear they might soon have to be constantly looking over their shoulders and wondering who might be an interloper.

McNulty says his task force has been well-received by industry groups. Some have expressed what he calls an "amen" attitude. "They want us to go get those cheaters," he says. He has spoken at a handful of industry gatherings this year, and he appears to be charming them. Soloway now believes McNulty is approaching fraud-busting with balance and understanding.

According to McNulty, who is perhaps best known for his prosecutions of Sept. 11 terrorist Zacarias Moussaoui and Taliban fighter John Walker Lindh, his group is only in the initial stages of what he hopes will be a much larger movement toward improved government contracting. He would like the group to bring in more prosecutions. "Perhaps if we can prosecute, we will get more attention," he says. It's hard not to imagine McNulty himself also getting more attention.

Group Dynamics

McNulty launched the Procurement Fraud Working Group on the same day Michael Sears, the former Boeing Co. chief financial officer, was sentenced to four months in prison for secretly recruiting Darleen Druyun, still a senior Air Force acquisition official, to his company. McNulty's office prosecuted the cases against both Druyun, who was sentenced to

nine months in prison, and Sears. Druyun admitted to giving Boeing contracts preferential treatment in exchange for a top job at the company, where she went to work shortly after retiring from government.

McNulty says it is reasonable to assume that because government spending has shot up, especially at the Pentagon and Homeland Security Department, there is more fraud. At first, he didn't know much about the other agencies charged with governmentwide contracting oversight. David Safavian, the former chief of the Office of Federal Procurement Policy who was arrested in September on charges of obstructing a federal investigation, says he contacted McNulty after hearing of his new group. "I said, 'Hey, just so you know, we're responsible for procurement policy.' He didn't know that we actually existed," he says. According to Safavian, McNulty changed his focus from policy to information sharing after their conversation.

McNulty acknowledges that he wasn't very familiar with agencies responsible for procurement, but says his goal has been consistent from day one: to promote coordination among agencies working on contracting fraud.

"We started with the simple idea that we would bring agencies together for collaboration," he says. McNulty says he is surprised at how popular the group has become. At first, his office approached what he calls the "usual suspects" involved in government fraud prevention: the Defense Criminal Investigative Service, the FBI, NASA and the inspector general at the National Reconnaissance Office. But after the first meeting in April, he says agencies started calling to ask how they could join. The list now includes 33 organizations.

The details of their meetings - they've had two so far - are secret. McNulty says they have to be, because they discuss specific cases and "investigative techniques we wouldn't want the public to know about." His smile briefly fades and his brow creases in concentration. "It's not that they're high tech or undercover, it's just where agencies invest in priorities and where they're putting their time and resources. It might give people the sense agencies aren't watching some things," he says.

For the most part, participating agencies are hesitant to talk about the group. A spokesman for the inspector general's office at the National Science Foundation declined to comment beyond saying the group would "benefit the government as a whole." Madeline M. Chulumovich, executive officer for NASA's inspector general office, declined to answer any questions on the office's involvement, including whether or not the office places undercover agents in NASA's contracting offices.

Joseph McMillan, special agent in charge at the Defense Criminal Investigative Service, which conducted the Druyun investigation, says he interacted with other agencies prior to the group's formation, but that working with the U.S. Attorney's Office helps agencies bring cases to court. While his agency hasn't embedded agents in contracting offices, he says, "Undercover operations are part of the investigative techniques that are utilized by all of us."

According to McNulty, rumors that the group is inserting undercover agents inside contracting offices are unfounded; he says he might work individually with agencies on such a technique, but it is not a practice the group is promoting. Instead, he says, it focuses on sharing ideas about techniques, including how to insert clauses into contracts to make it easier to investigate potential wrongdoing, how to identify officials with potential conflicts of interest and how to place investigative agents inside contracting offices. Those agents are not undercover, McNulty says, and only the Navy is using that technique so far, although others have expressed interest.

He rejects the idea that having agents on site would dampen contracting officers' ability to pursue procurement techniques that are "creative," a trait Safavian encouraged. When asked about it, McNulty pauses on the word "creative." He repeats it, as if he's questioning whether that's really something contracting officers should be. Then he answers, no, that investigators would not inhibit contacting officers. "It would remind them of the importance of staying on top of fraud," he says.

Some worry that placing investigators inside contracting offices could counteract efforts to strengthen the acquisition workforce. "I wonder how many new MBAs will be attracted to public service when they find out that undercover agents will be watching what they do. Who would want to work in that kind of environment? Or how many of the few remaining seasoned experts will say enough, and throw in the towel," says Bob Welch, a former procurement executive at the Treasury and Commerce departments and partner in the Oakton, Va.-based consultancy Acquisition Solutions Inc.

Becoming Republican

McNulty, 47, who has spent most of his career as a Republican political appointee and staffer, grew up in a Democratic household in what he calls a blue-collar Pittsburgh neighborhood. He describes his father as a Roosevelt-Truman Democrat who voted for George McGovern, the 1972 Democratic candidate who ran against Richard Nixon. "I shouldn't be saying that," he says, chuckling.

Every fall, McNulty says his father would cut out the photo of the Supreme Court justices published in the local paper and review it with him. Then, while they were watching television, he would turn to McNulty during commercials and say, "Name all nine justices!"

"Somehow I knew I'd be part of the American government system. It's almost part of the American dream. I didn't doubt that," McNulty says. He majored in history at Grove City College, a Christian, liberal arts school in Grove City, Pa. "I became a Republican over time," he says. Even as a student at Capital University Law School in Columbus, Ohio, McNulty had not yet realized his affinity for law enforcement. In fact, he dreamed of being a defense lawyer. "I thought the most righteous cause was to defend criminals," he says.

It wasn't until he served on the staff of the House Committee on Standards of Official Conduct in the early 1980s that he realized where he stood politically. "I was engaged for the first time not just in ideas but in reality of Congress and issues. Ronald Reagan was president, and I started to say, 'That's where I am, I'm on Reagan's side,'" he says.

Daniel Bryant, a vice president for Pepsico Inc. who worked with McNulty on the House Judiciary Committee, says even after that realization, McNulty wasn't particularly partisan. While the Republicans were promoting the Contract With America, Bryant says, "I remember on the House floor in February of 1995, Paul being the person that more regularly than anyone else would cross over from the majority side to the minority side - literally, physically crossing the aisle - and seeing him sitting down and working next to the minority counsel, talking through issues."

Bill McCullom of Florida, the ranking Republican on the House Judiciary Subcommittee on Crime when McNulty was on the staff, says McNulty was particularly skilled at finding common ground between interest groups, which included the American Civil Liberties Union, pharmaceutical companies and law enforcement organizations.

That charisma has worked well for McNulty as he's met with industry organizations concerned about his procurement fraud group. "For some, it was alarming to think about having an investigator sit next to a contract administrator, but how McNulty described it, he thought it brought expertise and information . . . so a trained investigator could help," says

Jeffrey Hildebrant, a partner at McLean, Va., law firm Barton, Baker, McMahon, Hildebrant & Tolle LLP.

Hildebrant, who represented a client being investigated by McNulty's office, says it is "one of the most reasonable offices that I've worked with." In a recent case involving one of his clients, an Air Force contractor that Hildebrant declined to identify, he says McNulty's office was willing to compromise and accept a package that included employee training and an outside review of procedures instead of prosecuting. "[McNulty] makes sure [his lawyers] feel confident so nobody feels they need to be a gunslinger by getting a lot of collars or having a maverick kind of attitude," says Hildebrant.

"Some people, if they're not able to convince you, will try to intellectually bully you, or raise their voice and become arrogant. Paul is just so good at what he does . . . his way of winning arguments is just to stay very cool, stay reserved and continue to press the merits," says Tom Spulak, former Democratic staff director and general counsel of the House Committee on Rules. Spulak is now a partner at the law firm King & Spalding LLP in Washington.

McNulty also emphasizes his Democratic friendships. "Treating people with respect and being honest is extremely important to me. That's what holds my bones together," he says.

His niceness, however, can be deceiving. "I think people could underestimate his toughness, because he's such a soft-spoken, polite person, but I've seen him in a handful of meetings where he's laid down the law in no uncertain terms," says Richard Cullen, who held McNulty's position from 1991 to 1993. Now a defense lawyer and partner at McGuireWoods LLP, Cullen frequently represents clients being investigated by McNulty's office, including Boeing. "I can't imagine there's a more savvy U.S. attorney anywhere in the country," he adds.

After serving as counsel and minority counsel, respectively, to the Standards of Official Conduct Committee and House Judiciary Subcommittee on Crime, McNulty worked at the Justice Department on communication and crime issues during George H.W. Bush's administration. When Bill Clinton won the presidency, McNulty worked for two years at Shaw, Pittman, Potts & Trowbridge law firm, before returning to the House Judiciary Committee to serve as chief counsel to the crime subcommittee. "My love for public policy is so great," he says. He did get briefly embroiled in partisan politics when he served as the Republican congressional spokesman during Clinton's impeachment hearings.

During President Bush's 2000 campaign, McNulty spent nights and weekends advising the candidate on crime issues and helping the campaign develop its law enforcement platform. After Bush won, he led the Justice Department's transition team and helped John Ashcroft prepare for his confirmation hearings. When Bush won his second term, McNulty says he expressed interest in his current position, and Sens. George Allen, R-Va., and John Warner, R-Va., supported him.

McNulty says his background prepared him to coordinate across various groups. In the mid-1990s, he helped William P. Barr, his then-boss and attorney general, coordinate crime prevention in high-risk communities at federal, state, and local levels. "He had a good sense of how to communicate policy, and a good way with people," says Barr.

Political Ambitions

It's not hard to imagine McNulty as a politician one day. "If he decided to go for elected office, I think he'd be very successful," says Barr. "He is a very complete package of skills that you rarely encounter. He's intellectual, he understands the law . . . but has a really good sense of people and the political process and he has good communication skills and leadership."

"Paul has a perfect personality," says Spulak. "He's bright, friendly, understated - all the things that people like politicians to be."

In addition to being a prospective candidate for office, McNulty was floated as a potential replacement for Alberto Gonzales when the attorney general was rumored to be a possible Supreme Court nominee. (McNulty currently chairs the Attorney General's Advisory Committee of United States Attorneys.)

McNulty doesn't dismiss the possibility of elected office or a higher appointed position. "There are a lot of assumptions, but I don't have anything in mind," he says of running for office. As for an appointee position, he says, "If I get to do this for as long as possible, I would be happy. If I'm asked to do something else, and if I'm able, I will, and if a call never comes, that's OK, too."

He was appointed in September 2001 for a four-year term, which expired last month. Traditionally, he explains, U.S. attorneys serve beyond their official terms until replaced by the next president. "I've never done anything that I enjoyed more," he says.

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Company: COMMERCE COMMISSION; BOEING INTERNATIONAL CORP; GROUP; AMERICAN CIVIL LIBERTIES UNION; PENTAGON LTD; PEPSICO INC; COMMERCE AND INTELLECTUAL PROPERTY OFFICE; PENTAGON WATER LTD; FUJAIRAH BUILDING INDUSTRIES P S C; FBI SA; COMMERCE AND INDUSTRY INSURANCE CO; COMMERCE BANCSHARES INC; JUSTICE DEPARTMENT; PENTAGON CAPITAL MANAGEMENT PLC; COMMERCE FASTIGHETER AB; BOEING CO; COMMERCE RESOURCES CORP; BOEING CO (THE); ACQUISITION SOLUTIONS INC; PENTAGON PERSONNEL LTD; BOEING DEFENCE AUSTRALIA LTD

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Corporate Counsel

October, 2005

CORPORATE COUNSEL

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Byline: Emma Schwartz

Body

In the News

When it comes time to fill an in-house legal post, more companies are headhunting in Washington, D.C. Not surprisingly, former government lawyers are especially in demand at businesses under investigation by prosecutors or regulators. But even corporations that don't have to worry about a federal probe have found that D.C. veterans are useful for navigating the nation's capital.

Companies recognize that the government is more and more involved in what companies are doing, says David Leitch, a former deputy White House counsel who became Ford Motor Company's new GC in April. So a working knowledge of Washington and government are all things that are becoming increasingly more valuable in corporate America, Leitch says.

Hard data on the number of recent moves from government agencies to corporate law departments is hard to come by. But legal recruiters June Eichbaum and Victoria Reese of Heidrick & Struggles International Inc. have tallied a list of almost two dozen former government lawyers who have moved into top corporate legal positions over the past five years [see chart].

Of course, a revolving door between agencies and companies isn't particularly new. As far back as 1969, International Business Machines Corporation--then facing a federal antitrust action--hired former Johnson administration attorney general Nicholas Katzenbach as general counsel. Benjamin Heineman, who was assistant secretary of the Department of Health, Education, and Welfare during the Carter administration, took over General Electric Company's legal department in 1987. And in 1994 William Barr, attorney general under President George H.W. Bush, became general counsel at GTE Corporation. But these men were more the exception than the rule.

Times have changed, Barr says. These days, when headhunters ask him to suggest candidates for in-house jobs, they're often looking for people with top-level government experience--and Barr is able to oblige. Currently general counsel at GTE's successor, Verizon Communications Inc., he says, Now most lawyers I know on the outside would come in-house for the right job.

The demand for D.C. attorneys has been partly driven by stepped-up government scrutiny of companies due to the recent wave of corporate fraud. By bringing former regulators on board, businesses are letting Washington know that they take the increased regulation seriously.

That certainly seemed to be the rationale behind UBS AG's decision to hire David Aufhauser as GC of its investment bank in 2004. Earlier that year Federal Reserve regulators slapped UBS with a $100 million fine for hiding money transfers to countries under U.S. sanctions, including Iran, Libya, and Cuba. A little more than a month after the fine was disclosed, the bank announced that it was bringing on Aufhauser. While he's one of the country's top experts on international money laundering, Aufhauser was also GC at the U.S. Department of the Treasury while that agency participated in the Federal Reserve's UBS probe. Aufhauser, while declining to comment on the investigation, notes that companies like UBS are always concerned about getting it right with government regulators.

How much reward a business gets from hiring a government lawyer is hard to measure. Most of the D.C. veterans now in corporate jobs have yet to weather a serious federal probe. But Stan Anderson, the chief legal officer at the U.S. Chamber of Commerce, says that companies are already benefiting from hiring former D.C. officials. These guys are trained to look at issues from a policy standpoint, so it's often easier to get them to understand the issues at the 30,000-foot level than people who don't have their background or training, Anderson explains.

Though these in-house attorneys say they occasionally pick up the phone to call old colleagues, they try to avoid any appearance of currying favor because of their former position. Federal ethics rules prohibit ex-officials from lobbying their agency for at least one year, and ban them from working on any matter they handled directly inside the agency.

Still, government vets bring a wealth of inside knowledge, as well as relationships they can use to advise a company on whom to talk to or how best to finesse an argument in its favor. For example, Chevron Corporation GC Charles James was a key figure behind the scenes when his company battled China's Cnooc Ltd. for control of Unocal Corp. this summer. The biggest stumbling block to gaining antitrust approval from the Federal Trade Commission involved fees Unocal collected for a patented blend of gas sold in California. James, who headed the antitrust bureau at the the U.S. Department of Justice during President Bush's first term, agreed that Chevron would drop the Unocal fees if the merger was approved. One of Chevron's outside counsel, Alfred Pepin at Pillsbury Winthrop Shaw Pittman, says that James came up with the strategy and focused our organization to bring about the resolution in a matter satisfactory to the FTC.

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A CHERISHED EXPERIENCE; Corporate Counsels Rarely Argue Before U.S. Supreme Court

New York Law Journal

September 15, 2005 Thursday

New York Law Journal

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Length: 1188 words

Byline: David Hechler

Body

Corporate Counsels Rarely Argue Before U.S. Supreme Court

FEW THINGS can cap a lawyer's career like arguing a case before the U.S. Supreme Court. Unfortunately, that is an opportunity most general counsel will never get. But some have had the privilege: At least three GCs have appeared before the highest court in the land.

The most recent was Paul Cappuccio, the legal chief at Time Warner Inc. In March, he represented his company and his industry when he argued for the National Cable and Telecommunications Association in a case against Internet service providers. Mr. Cappuccio won in June, when the Court ruled that cable operators like Time Warner do not have to make their broadband lines available to the ISPs.

Before Mr. Cappuccio, William Barr--the top lawyer first at GTE Corporation and now at Verizon Communications--argued two cases before the Supreme Court while wearing his GC hat. And in 1991 Michael Beatty, then the general counsel at Coastal Corporation, a Houston-based oil company, appeared before the justices.

According to these three men--as well as Carter Phillips, one of the deans of the Supreme Court bar--they are the only GCs who have ever argued a case before the justices. They got there partly through luck: Their company or industry had a case before the Court. But with Mr. Barr and Mr. Cappuccio, their background as Supreme Court clerks and top government lawyers also helped them win their starring roles. They predict that other GCs with similar backgrounds might also have a chance to argue before the justices some day.

It is a special experience, according to Messrs. Cappuccio, Barr, and Beatty. Getting up in front of that court is like a drug, Mr. Cappuccio explained. Mr. Beatty said he cherishes his moment at the Supreme Court, since it was sweet vindication for the stigma he felt as an in-house lawyer. But these men caution that given the demands of a high court case, other GCs should follow suit only when they are particularly qualified and the case is really important to their company.

Any lawyer who dreams of appearing before the Supreme Court must first contend with the justices' shrinking docket, said Carter Phillips, a partner at Sidley Austin Brown & Wood. Widely considered one of the best Supreme Court advocates, Mr. Phillips explained that the justices currently hear about 75 cases a term-- roughly half of what they heard 20 years ago.

The general counsel who dreams of being a Supreme Court advocate faces more than bad odds. Most [GCs] aren't litigators, Mr. Phillips said, and those who are--they're too busy. Even if they made time, he added, they could be committing the fundamental mistake of getting out of their element pretty quickly.

Finally, Mr. Phillips noted that a client with a case before the high court usually looks for an experienced advocate. Many of the best clerked for a Supreme Court justice and worked for the U.S. solicitor general. Neither qualification is essential, Mr. Phillips said, but they help.

Mr. Cappuccio had the right stuff, having clerked for two justices in the late eighties--Antonin Scalia and Anthony Kennedy. He went on to a stint at the U.S. Department of Justice (where he became friends with Mr. Barr, then the attorney general). After leaving government, Mr. Cappuccio went to Kirkland & Ellis, where he took on his first two Supreme Court cases. He lost for General Motors Corporation in 1998, but won for Hughes Aircraft Company the following year. In 1999 Mr. Cappuccio landed his first GC job at America Online, Inc., moving to the top legal spot at Time Warner two years later.

Mr. Cappuccio acknowledges that his personal history at the Supreme Court helped him feel more comfortable in his most recent appearance, particularly when he was quizzed by Justice Scalia. Their back-and-forth, Mr. Cappuccio said, was just like the old days when he was a clerk arguing in the judge's chambers. Though Mr. Cappuccio did not convince Justice Scalia (who wrote the dissent in the case), he did persuade the six justices who handed him victory.

Like Mr. Cappuccio, Mr. Barr also argued a case before the Supreme Court in his pre--GC days. Mr. Barr, then the attorney general, represented the government in a 1992 case involving standards for habeas corpus review. After he left the Justice Department, he first became general counsel at GTE and then at Verizon, the product of a 2000 merger between GTE and Bell Atlantic Corporation.

While at GTE, Mr. Barr was picked to represent the telecom industry in **AT&T v. Iowa Utilities Board**. Mr. Barr says that the GCs of the various petitioner companies picked him not just because of his past experience, but also to avoid a turf battle. Had the telecoms decided to go with an outside lawyer, each company would have pushed for its favorite, Mr. Barr explained. While he won that case, he lost in his third appearance before the Supreme Court, when he represented Verizon and its industry in a challenge to Federal Communications Commission rules. Mr. Beatty, now in private practice at Denver's Beatty & Wozniak, did not have the Supreme Court experience of Mr. Barr or Mr. Cappuccio when he argued before the justices. But Mr. Beatty said that ever since he won a moot court competition as a student at Harvard Law School, he had dreamed of one day doing the real thing at the country's top court.

In 1991, he got his chance while GC at Coastal. The case at issue involved a sanction of about $20,000. It was important for his company, Mr. Beatty said, but you're not going to be able to spend $1 million to argue this case. Mr. Beatty was already trying big cases and arguing appeals for Coastal, so he picked himself for the Supreme Court appearance. It was a smart choice: He won his case unanimously.

So who might be the next GC to argue before the justices? Mr. Barr and Mr. Cappuccio suggested four candidates: Larry Thompson at PepsiCo Inc., Charles James at Chevron Corporation, Richard Willard at The Gillette Co., and David Leitch at the Ford Motor Company. Neither Mr. Thompson nor Mr. James--both former top officials at the Justice Department--responded to requests for comment.

Mr. Willard argued six cases before the Supreme Court (winning five) while an appellate and trial litigator at Steptoe & Johnson. He took the GC post at Gillette in 1999. While he said that he has fond memories of his Supreme Court appearances, he doubts that he has time for another. Besides, Mr. Willard said, Gillette does not have much litigation.

Ford has not had a case before the Supreme Court for at least a decade, but GC Mr. Leitch said he would consider arguing one, if it made sense for his company. He clerked for Chief Justice William Rehnquist and was a partner at Hogan & Hartson along with current Supreme Court nominee John Roberts. When it comes to arguing before the Supreme Court, Mr. Leitch said, I think every lawyer--particularly litigators--would like to say they did that.

-- David Hechler is a writer for Corporate Counsel magazine, an ALM affiliate publication of the New York Law Journal. This article originally appeared in the September issue of that magazine.

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GCS BEFORE HIGH COURT ARE A RARITY; LONG ODDS, SHRINKING DOCKET ARE A CHALLENGE; BACKGROUND IS KEY; News; In-House

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Body

News

In-House

LONG ODDS, SHRINKING DOCKET ARE A CHALLENGE; BACKGROUND IS KEY

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The most recent was Paul Cappuccio, Time Warner Inc.'s legal chief. In March, he represented his company and his industry when he argued for the National Cable and Telecommunications Association in a case against Internet service providers (ISPs). Cappuccio won in June, when the court ruled that cable operators like Time Warner don't have to make their broadband lines available to ISPs.

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Part of it is luck

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COMPANIES CHASE EXITING OFFICIALS

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Byline: Emma Schwartz

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Legal Business

LAWYERS GO FROM GOVERNMENT TO GENERAL COUNSEL

Formed in 1998 through the union of two Swiss banks, UBS AG is one of the largest wealth-management companies in the world. But the firm's global prominence and presence in more than 50 countries did little to impress U.S. officials. In May 2004 regulators with the Federal Reserve slapped the financial giant with a $100 million fine for hiding money transfers to countries under U.S. sanctions, including Iran, Libya, and Cuba.

UBS didn't stay on the defensive for long. A little more than a month after the fine was disclosed, the bank announced that it had hired David Aufhauser, one of the country's top experts on international money laundering, to run the legal department of its investment bank.

Of more immediate interest, perhaps, was that Aufhauser had served as general counsel of the Department of the Treasury during the time the agency assisted in the investigation into UBS. Aufhauser declined to comment on the investigation but noted that companies like UBS were always concerned with getting it right with government regulators.

The Swiss bank's decision to bring in a top government regulator as general counsel is part of an increasingly popular strategy in corporate America. At a time when business lobbyists in Washington have engineered remarkable victories with policy-makers in Congress -- such as this year's class action reform and bankruptcy legislation -- corporate interests are also lining up regulatory expertise with D.C. lawyers who know the agencies, the rules, and the players.

They recognize that the government is more and more involved in what companies are doing, says David Leitch, a former deputy White House counsel who joined Ford Motor Co. in April as general counsel. So a working knowledge of Washington and government are all things that are becoming increasingly more valuable in corporate America.

Hard data on the number of recent moves from government to corporate legal shops is hard to come by. But legal recruiters June Eichbaum and Victoria Reese of Heidrick & Struggles International Inc. have tallied a list of about two dozen former government lawyers who have moved into top corporate legal positions over the past five years.

And, they note, the appetite for such hires isn't likely to go away given the passage of the Sarbanes-Oxley Act in 2003 and the federal sentencing guidelines last year. Both imposed weightier duties on directors and management to prevent corporate malfeasance.

Among the most prominent recent hires: David Kornblau, a top Securities and Exchange Commission enforcement attorney, will head Merrill Lynch's regulatory affairs practice, and James Comey, a former deputy attorney general in the Justice Department, will lead the legal team at Lockheed Martin Corp. Larry Thompson became general counsel for PepsiCo after leaving the deputy AG post in 2002. And Charles James became general counsel for Chevron Corp. in 2002 after serving as U.S. assistant attorney general for the antitrust division.

Of course, a revolving door between companies and the lawyers who used to regulate them is not particularly new. As far back as 1969, IBM tapped President Lyndon Johnson's attorney general, Nicholas Katzenbach, as general counsel when Big Blue was gearing up for the largest antitrust lawsuit in history.

And General Electric Co. hired Benjamin Heineman, President Jimmy Carter's assistant secretary at the Department of Health, Education, and Welfare, to run its legal department in 1987.

But these were more the exceptions than the rule. The sudden collapse of corporate giants such as Enron Corp. and WorldCom Inc., and the heightened regulatory environment that followed, have prompted companies to chart a new course. By bringing former regulators on board, these companies are sending a signal to Washington that they take the increased regulation seriously.

And it's not just companies directly under the government's microscope that are making such hires, lawyers and legal recruiters say. Many companies view hiring lawyers with a prominent government background as insurance in the event of problems down the road -- much in the way companies keep top lobbyists on retainer even when there is little immediate work.

How much effect such hires actually have on a company's relationship with Washington regulators is difficult to gauge. Many of the newcomers have yet to weather the storm of an SEC probe.

Yet, says Stan Anderson, the chief legal officer at the U.S. Chamber of Commerce, the increasing number of former political officials entering corporate boardrooms is already aiding business lobbying efforts.

These guys are trained to look at issues from a policy standpoint, so it's often easier to get them to understand the issues at the 30,000-foot level than people who don't have their background or training, Anderson says. These guys are being brought in at very senior levels. They are oftentimes on the board of directors or the management committees. So they are having a lot greater impact than their predecessors.

GROWTH AND COMPLIANCE

In 1994, William Barr had recently returned to private practice after a stint as attorney general under President George H.W. Bush when he was tapped by GTE to be its general counsel. He recalls that at the time, few others followed his path from government into the boardroom. Now, when headhunters call to run names by him, they often ask for people with top-level government experience.

Maybe 20 or so years ago people didn't want to leave firms to go in-house, says Barr, currently general counsel of GTE's successor, Verizon Inc. Now most lawyers I know on the outside would come in-house for the right job.

That shift is partly due to a transformation of in-house legal departments over the past decade. Once considered a backwater by Washington's ambitious legal climbers, corporations are bringing in higher-quality legal talent. They often don't rake in the bucks enjoyed by those who go to top firms (William McLucas, a Wilmer Cutler Pickering Hale & Dorr partner, comes to mind). But they are drawn in by the newfound prestige of the general counsel, who today, unlike the paper pushers of old, often plays a significant role in corporate affairs and sits on the company's board.

Compliance has also emerged as a significant issue in corporate governance. Companies are creating high-level positions dedicated to oversight and are turning to former SEC officials to run the shops. For instance, Bank of America, which has been roiled by an SEC probe, hired Cynthia Fornelli, who served as deputy director of the SEC's division of investment management. While there, she helped develop the rules that led to greater disclosure for hedge funds. GE also turned to the SEC to fill its new position of chief corporate and securities counsel, hiring Michael McAlevey, who spent two years as director of the SEC's division of corporate finance.

Other companies have looked to former federal prosecutors -- particularly veterans of New York State Attorney General Eliot Spitzer's office -- to beef up their legal teams. Nortel Networks Corp., a telecommunications equipment maker that was under investigation for accounting irregularities in 2003, hired Susan Shepard, a former prosecutor and chief counsel to the New York State Commission of Investigation. But the former top cop hasn't fixed everything at the company, where earlier this year it was disclosed that top officers had cooked financial statements to win bonuses.

INSIDE TRACK

Such hires have already helped some companies calm the waters during the regulatory tempest.

The timing of D. Cameron Findlay's arrival at Aon Corp. was fortuitous. Just months after the former deputy secretary of the Labor Department arrived at the insurance broker's Chicago office, the company received a subpoena from AG Spitzer.

The inquiry centered on allegations that Aon had churned transactions to generate greater fees from customers.

Findlay hadn't worked with Spitzer's office before, but because of his background in government -- which included stints in the White House and the Department of Transportation during the first Bush administration -- he judged it was unwise to fight back. So instead, he devised a plan to work with regulators. Company officials visited with Spitzer's staff, launched an internal investigation, and began turning over relevant documents.

In March, Aon agreed to shell out $190 million to settle Spitzer's claims. Even so, Findlay believes the company came out better because of its cooperative approach. Had we taken a purely adversarial stance and treated it like a traditional litigation matter, it could have resulted in much more harsh treatment by the attorney general, says Findlay, who is still handling investigations into Aon by a number of other states.

Such strategizing is the crucial advantage ex-government lawyers bring to their posts in private industry, many former regulators say.

It's like entering into a fight, GE's McAlevey says. It really helps to understand with whom you're dealing in an agency. It can save an enormous amount of time and can really affect the result a client is going to get.

Though these general counsel say they occasionally pick up the phone to call former colleagues, they try to avoid any appearance of currying favor because of their former position. Government ethics rules bar ex-officials from lobbying their agency for at least one year and ban them from working on any matter they handled directly inside an agency.

Still, ex-officials bring a wealth of inside knowledge as well as relationships they can use to advise a company on whom to talk to or how best to finesse an argument in its favor.

Indeed, these general counsel are often a critical offstage factor in some of the biggest corporate deals and scandals. For example, Charles James was a key figure behind the scenes when Chevron battled China's CNOOC for control of Unocal Corp. The biggest stumbling block to gaining antitrust approval involved fees Unocal collected for a patented blend of gas sold in California. Hoping to push the bid over the regulatory hurdles as quickly as possible, James agreed to drop the fees.

He came up with the strategy and focused our organization to bring about the resolution in a matter satisfactory to the FTC, says Alfred Pepin, a Pillsbury Winthrop Shaw Pittman partner and outside counsel to Chevron.

And when the SEC went after GE in 2002 for failing to disclose the lavish retirement package it gave to former CEO Jack Welch, McAlevey advised the company to bring in a few executive compensation specialists from his former division to help smooth over potential conflicts.

In the end we had to settle the matter, McAlevey says, but I think that having them understand that it was a closer call than it might have appeared at first blush was constructive.

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Roberts' role in '91 abortion case again under scrutiny

TOM BRUNE AND JOHN RILEY. STAFF WRITERS

Fourteen years ago, as anti-abortion protesters blockaded Wichita's abortion clinics, John G. Roberts sat under the bright lights of a national television news show to defend an unusual, provocative action by the Justice Department.

In response to a federal judge's injunction against the protest organizer, Operation Rescue, and his order to U.S. marshals to clear a path to the clinics, Justice Department lawyers filed a friend-of-the-court brief - on the side of the demonstrators.

The action outraged the judge and clinic supporters and elated Operation Rescue. The filing of the brief was, critics charged, a gratuitous political act, unnecessary because the U.S. government was not a party to the case and rarely intervenes at that level.

The White House initially distanced itself from the controversy, leaving the defense largely to Roberts, a little-known 36-year-old lawyer who served as principal deputy to the Justice Department's solicitor general, Kenneth Starr.

Now, as President George W. Bush's nominee to the Supreme Court, Roberts again is in the glare of public scrutiny for his role in the Wichita case and a related Supreme Court case from Virginia, Bray v. Alexandria Women's Clinic.

Last week, four abortion-rights groups declared their opposition to his nomination based in part on the Bray case. And in Senate confirmation hearings next month, Roberts is certain to face questions about his role in the Wichita case.

What brought Roberts to break the usual public silence of the solicitor general's office and take the rare step of appearing on a national news broadcast to defend a legal action by the Justice Department?

The White House refuses to release documents that might shed light on that question. And lawyers and Justice officials involved in the cases back then generally claim they do not recall specifics.

But what they do recall suggests some surprising reasons: a department decision to push back on an aggressive judge, a prosecutor who seemed to want nothing to do with an anti-abortion position, and a desperate need for someone to defend Justice's action. In the television appearance, Roberts gave clues to his own legal philosophy.

The case began on July 15, 1991, with the start of Operation Rescue's "Summer of Mercy" campaign to shut down the Women's Health Clinic in Wichita. Backed by the Kansas governor, the campaign drew thousands and overwhelmed police.

Under siege, the clinic turned to U.S. District Judge Patrick Kelly, who issued a temporary restraining order to keep protesters away from the clinic doors. He grew increasingly frustrated as they ignored his order and the mayor told police to ease up on demonstrators.

On Aug. 6, Kelly issued a tough injunction that required protest leaders to post bonds and issued detailed orders to federal marshals on how to clear a pathway in front of the clinic. Operation Rescue attorney Jay Sekulow sought a stay of the injunction pending appeal.

That's when Justice filed its brief backing Sekulow's motion for a stay.

Sekulow and Justice lawyers argued that the case belonged in the state courts. The 1871 federal civil rights law that the clinics used to sue in U.S. courts did not apply, they said, because the protest was not aimed at women seeking abortions but at abortion itself.

That mirrored the argument Sekulow and Roberts had made four months earlier in briefs in Bray v. Alexandria Women's Clinic. Roberts was the lead attorney on the government's friend-of-the-court brief in Bray.

Though they worked together on Bray, Sekulow said he didn't ask Roberts to intervene in the Wichita case.

The decision to do so was reached after wide consultation within the Justice Department, William P. Barr, then deputy attorney general, said in 1991. But last week he said, "I made the decision on the Wichita case and directed that the action be taken."

He blamed Kelly, appointed by Democratic President Jimmy Carter, for trying to tell federal marshals in Wichita how to do their jobs. "I didn't think this guy could be ordering marshals to do that stuff," Barr said.

The decision created an uproar. Kelly went on national television and said, "What they have asked for is a license for mayhem."

Kansas U.S. Attorney Lee Thompson, who filed Justice's brief in the Wichita case, issued a news release but did little more.

Last week, Thompson wouldn't discuss details, but he said he was a "pro-choice Republican" who now represents the Wichita abortion clinic.

While Barr doesn't remember why the job fell to Roberts, he said, "I'm sure we needed to have someone out there to explain our decision."

On Aug. 7, 1991, Roberts appeared on "The MacNeil/Lehrer NewsHour" on PBS for what became a contentious debate with Harvard Law Professor Laurence Tribe about Justice's filing and its position on the 1871 civil rights law.

Roberts said, despite its legal reservations, Justice had called on marshals to enforce Kelly's injunction and protesters to obey it. And he saw nothing notable about Justice taking the same position in a district court it had already taken in Supreme Court.

But Tribe argued that the filing in the Wichita case had presented peculiar dangers.

Tribe compared it to school desegregation confrontations in the South, in which President Dwight Eisenhower had used federal troops to prevent violence because he didn't trust local courts, police or politicians to protect the constitutional rights of blacks.

And that's when Roberts appeared to speak as much for himself as for the Bush administration, saying it was a conservative versus a liberal view of the law.

"I think Professor Tribe has hit on the basic philosophical difference here," Roberts said. "He doesn't trust the state courts in our country to defend the rights of the citizens. He says you have to be in federal court or you're taking a chance.

"I think the Supreme Court has made clear and our constitutional system is based on confidence that the state courts ... will defend our liberty."

AP File photos- 1) John G. Roberts. 2) Sen. Barbara Boxer (D-Calif.) with a display of abortion story headlines earlier this month. Boxer said she'll vote against Roberts if she is not convinced he supports abortion rights.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Social Issues (1SO05))

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Nominee's lineage: Part plainspoken Hoosier, part creature of Washington

By NANCY BENAC

Associated Press Writer

WASHINGTON_John Roberts' judicial pedigree includes tutelage under two of the nation's foremost jurists of the past half-century.

It wends among a constellation of figures from three Republican presidencies and includes work with a Democratic lawyer-powerbroker who helped Roberts hone his skills at arguing before the Supreme Court.

Although still a Hoosier at heart, Roberts knows Washington well. Washington knows him, too.

The list of those he has worked for _ and with _ reads like a Who's Who of Washington's Republican establishment.

He was a clerk to William Rehnquist, then an associate Supreme Court justice; special assistant to the late William French Smith, attorney general in the Reagan administration; principal deputy to former Solicitor General Kenneth Starr; and associate counsel under Fred Fielding, White House counsel to Reagan. Former Attorneys General Dick Thornburgh and William Barr speak highly of Roberts' service during their tenures in the Justice Department.

Sometimes overlooked but of equal, or perhaps more, importance is Roberts' very first clerkship, under Judge Henry J. Friendly of the 2nd U.S. Circuit Court of Appeals.

Friendly, widely regarded as one of the great judges of the 20th century, was awarded the Medal of Freedom in 1977 by President Ford for bringing "brilliance and a sense of precision to American jurisprudence."

Roberts' tenure under Friendly, in 1979-1980 when Roberts was fresh out of Harvard Law School, "molded him as a lawyer who valued the art of legal reasoning," said David Leitch, who worked with Roberts in private practice. "Friendly was one of the best judges never to make it to the Supreme Court." Roberts has cited Friendly in his opinions, and often invokes his name with reverence.

Roberts' "sensitivity to the legal process and the limited role of judges reflects his early training with Judge Friendly to a very large degree," said John Manning, a Harvard law professor who worked under Roberts in Starr's office. "His influence on Roberts is palpable because Roberts has the same reputation."

Likewise, Roberts spent time in his formative years with Rehnquist, for whom he clerked in 1980-1981 and with whom he remains in touch.

Describing Rehnquist and Friendly in terms that echo those often ascribed to Roberts, lawyer Gregory Garre, who worked with Roberts in private practice, says they were both "very friendly, well-liked jurists and people who had warm relationships and down-to-earth personalities."

From Rehnquist's chambers, Roberts moved into the Reagan Justice Department as a special assistant to Smith. Starr was there, too, serving as counselor to Smith. But it wasn't long _ 15 months _ before Roberts was snapped up by the White House, where he served as associate counsel for nearly four years, from 1982-1986.

"I think the Justice Department was disappointed when we kind of trumped them and stole him," says Richard Hauser, deputy White House counsel under Fielding.

After a three-year detour into private practice, Roberts was back for another tour of duty in a GOP administration, this time as the top deputy to Starr at the solicitor general's office during the first Bush administration.

Starr, now regarded as something of a lightning rod because of his role in investigating the President Clinton-Monica Lewinsky affair, then was regarded as "a voice of the reasonable Republican middle," says Brad Berenson, a White House lawyer during Bush's first term and a former Supreme Court clerk.

"There are now associations with the name Ken Starr that may not properly or fairly reflect the ways in which the Starr association sheds light on who John Roberts is and how he approaches his job," Berenson says.

Dick Thornburgh, attorney general for part of Roberts' tenure in Starr's office, says Roberts helped prep him before he presented oral arguments to the Supreme Court on two occasions. "We won both of 'em, so he was a pretty good coach," Thornburgh said.

William Barr, who followed Thornburgh as attorney general, said Roberts was "not a functionary for Ken" during his stint in Starr's office. "He was sort of a significant person in his own right."

It is not only prominent Republicans who have been influential in Roberts' life. At Hogan & Hartson, one of Washington's premier law firms, Roberts worked under E. Barrett Prettyman, a longtime Democratic lawyer who was one of the first attorneys to make a name for himself as a Supreme Court lawyer, someone to be hired when a case went to the highest court.

"John ultimately became the best of that trade," said Garre, who worked with Roberts at the firm from 1993-2000 and later was recruited to replace him as head of the appellate group. "Barrett has just the utmost respect for the Supreme Court and the judicial process and the institution of the court." These same qualities often are ascribed to Roberts.

Likewise, Prettyman was known for his assiduous preparation for oral arguments before the high court, another trademark of Roberts' style of lawyering. Roberts is known to carry around a notebook in which he scrawls down any possible question that he might get from the justices, sometimes numbering into the hundreds.

In all his time in Washington, Roberts has developed a broad social circle that includes everyone from stalwarts of the legal community to fellow parents from his children's school. Hauser said his associates include "anybody who's in the sort of Justice alumni group from both Bush 41 and this administration."

Though Roberts is in many ways a creature of Washington, associates often hark back to his roots in Indiana, where he moved as a child.

"In his soul, he's a Hoosier," said Manning. "He is a very plainspoken, humble, self-effacing person."

---- Index References ----

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President Bush Names John Roberts as His Nominee to Fill First Vacancy on Supreme Court in 11 Years

The Charlie Rose Show THE CHARLIE ROSE SHOW 11:00 PM EST

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Guests: Laurence Tribe, Charles Fried, Ralph Neas, Tom Fitton, William Barr, Larry Kramer
Highlight: President Bush named John Roberts, a conservative federal appeals court judge, as his nominee to fill the first vacancy on the Supreme Court in 11 years.

Body

CHARLIE ROSE, HOST: Welcome to the broadcast. We are live this evening from New York, Washington and Boston. Tonight, President Bush named John Roberts, a conservative federal appeals court judge, as his nominee to fill the first vacancy on the Supreme Court in 11 years. Here is a part of what the president and his nominee said.

(BEGIN VIDEO CLIP)

GEORGE W. BUSH, PRESIDENT OF THE UNITED STATES: One of the most consequential decisions a president makes is his appointment of a justice to the Supreme Court. I have found such a person in Judge John Roberts. And tonight, I`m honored to announce that I am nominating him to serve as the associate justice of the Supreme Court.

In my meetings with Judge Roberts, I have been deeply impressed. He`s a man of extraordinary accomplishment and ability. He has a good heart. He has the qualities Americans expect in a judge -- experience, wisdom, fairness and civility. He has profound respect for the rule of law and for the liberties guaranteed to every citizen.

He will strictly apply the Constitution and laws, not legislate from the bench.

I believe the Democrats and Republicans alike will see the strong qualifications of this fine judge, as they did when they confirmed him by unanimous consent to the judicial seat he now holds.

JOHN G. ROBERTS, SUPREME COURT NOMINEE: It is both an honor and very humbling to be nominated to serve on the Supreme Court.

Before I became a judge, my law practice consisted largely of arguing cases before the court. That experience left me with a profound appreciation for the role of the court in our constitutional democracy and a deep regard for the court as an institution. I am very grateful for the confidence the president has shown in nominating me, and I look forward to the next step in the process before the United States Senate.

(END VIDEO CLIP)

CHARLIE ROSE: Joining me now is William Barr, former attorney general of the United States under President George Herbert Walker Bush. He has known Judge John Roberts since the Reagan White House. Also here, Charles Fried, professor of Harvard Law School and former solicitor general during the Reagan administration.

From Washington, Ralph Neas, president and CEO of the liberal group called People for the American Way. And with him is Tom Fitton, president of the Judicial Watch. From Boston, Larry Tribe, professor of constitutional law at Harvard University.

I am pleased to have each of them here.

I go first to Bill Barr. Tell me about this nominee.

WILLIAM BARR, FORMER U.S. ATTORNEY GENERAL: Well, Charlie, he`s really one of the leading lawyers in the country. Prior to going on the bench just two years ago, he was clearly one of the most well respected appellate lawyers in the United States, a leading member of the D.C. bar.

He is brilliant intellectually. He was summa cum laude at Harvard undergrad, magna cum laude at Harvard Law School. A very careful and cautious lawyer. Very committed to applying the law as he understands it.

But he`s a gem of a person. He`s a wonderful man.

CHARLIE ROSE: Everything you`ve said so far means he`ll just sail through the confirmation process. Does he have strongly held opinions that may put him in trouble with people who may think he`s too far one way or the other?

WILLIAM BARR: Not that I`m aware of. I think that -- you know, I think from my experience with him, his strongest held opinion is fidelity to the law, determining what the law is and faithfully applying it. So unless that`s cause for concern, which I don`t think it is, he shouldn`t have any problems being confirmed.

CHARLIE ROSE: Are you surprised at his nomination?

WILLIAM BARR: No, I wasn`t surprised.

CHARLIE ROSE: But he was not -- at first, there was -- a woman was considered, then there was much talk about another appeals court judge. And then all of a sudden, we began to hear the speculation about Roberts late this afternoon.

WILLIAM BARR: Well -- right, I wasn`t surprised, because his name has always been at the top.

CHARLIE ROSE: On the short list.

WILLIAM BARR: Yes, on the short list. And a lot of the stuff that happened today I`m sure was sort of spin doctoring by the White House.

CHARLIE ROSE: Sure. And he saw the president over the weekend, and they were all saying that his credentials jumped off the page.

Do you think it`s possible we have too many members of the Supreme Court who went to Harvard Law School?

CHARLES FRIED, PROFESSOR, HARVARD LAW SCHOOL: No, you can`t ever have too many. It`s a very great advantage in a judge to be well-educated in the law.

CHARLIE ROSE: How many does this make, six?

CHARLES FRIED: Five, five.

CHARLIE ROSE: This is five.

CHARLES FRIED: ... as far as I know. The thing that`s marvelous about this appointment -- and I`m just thrilled by it -- is you have to realize that this man is likely to be on the Supreme Court 25 years from now.

CHARLIE ROSE: He`s 51 years old.

CHARLES FRIED: Twenty-five years from now. And in those 25 years, issues will come up, controversies will arise that we cannot even now imagine. Abortion will probably drop off the face of our concerns, for one reason or another. And there will be entirely new things.

And this is a man, because of his intellect and his calm, dispassionate way of going about things, that I am confident will reach proper sensible results. He will be a monument to this president for many years to come.

CHARLIE ROSE: I have got lots of questions. Interesting when you said that, I was thinking about file sharing. No one 10 years ago ever thought there would be a Supreme Court decision -- they wouldn`t know what they meant.

CHARLES FRIED: That`s exactly...

CHARLIE ROSE: When they said file sharing.

CHARLES FRIED: That`s exactly the kind of thing that he has the incisiveness of mind and the openness of mind to help cut through to a correct decision. We`re very lucky.

CHARLIE ROSE: How is he different from Sandra Day O`Connor?

CHARLES FRIED: Ah, I think he`s very different. Sandra Day O`Connor was, in the best sense, a politician. I don`t mean, you know, politician in the sort of the grubby sense. She was a statesman. She looked out and she saw what would be good for the country, and then the opinion follows.

That`s not John Roberts. John Roberts will ask, what does the law say about this? And he will work it through, and he will explain it in terms of the law. That`s a very different thing.

CHARLIE ROSE: All right. Let me go to Boston and talk to Larry Tribe. You`re considered -- you represented Al Gore before the Supreme Court, considered a liberal. What do you think of this nominee?

LAURENCE TRIBE, HARVARD LAW SCHOOL: Well, I should say to begin with, that I like and respect John Roberts enormously. I think everything that`s been said about him by both Bill Barr and my colleague Charles Fried is correct. He is thoughtful. He`s certainly brilliant. I enjoyed the experience of arguing against him, and as a matter of fact though I didn`t enjoy losing, I enjoyed losing to him in the abortion counseling decision 5-4.

But to listen to both Bill and Charles, you`d think that all there is, is intelligence, thoughtfulness, open-mindedness, and then applying the law with fidelity, as though somehow the perspective, the approach, substantive values with which one views the law just didn`t matter, you know, as though it were an exercise in mathematical logic with a certain amount of heart.

The fact, however, is, as we all know when we`re off the screen we all know, that two different people approaching the same problem now unforeseeable, whether it`s about file sharing or stem cell research or some wrinkle in the abortion controversy -- which is not likely soon to go away -- are bound to see it very differently in certain cases. And how do we get a hold of that? How does the country get a sense of what sort of person this is, not in terms of how decent and smart and thoughtful, but in terms of where he`s coming from? And on that issue, I think it`s very interesting to note that no less an authority than Justice Scalia in ruling on a Minnesota rule, which had said that when judges run for office, they are disqualified if they express their views on issues that may come before the court -- Justice Scalia wrote for a 5-4 majority of the court in a decision that I think Charles Fried and I both agree was right, that that violates freedom of speech.

And why? Because there is no powerful governmental interest in concealing from the public the predispositions of someone who is going to be a judge on issues that will come before him.

Yes, he should have no view on how the case of Charles Fried against Bill Barr in a particular controversy is going to be decided. That would be wrong. That would be deciding a case before you`ve read the briefs. But any judge

who did not have strong predispositions on the most fundamental issues of society, about privacy, freedom, equality -- and not just as bumper stickers but in greater specificity -- just how fundamental is a woman`s control over her own body? Does the unborn have a plausible claim to rights? On those issues, either someone has no view, which would be strange, or someone has a view and thinks it`s important to conceal it, which would be stranger.

And I think Scalia was right that it`s a myth we`ve lived with for a long time that we don`t need to probe those things. So that`s what I think, if intelligently done, these hearings will be about.

CHARLES FRIED: That`s not what Scalia said.

CHARLIE ROSE: Go ahead, I like this, go ahead.

LAURENCE TRIBE: I just reread the opinion this evening, Charles.

CHARLES FRIED: That`s not what he said. What he said was that if you`re going to have an election for a judge, a contested election with the voters voting, you cannot forbid the candidate from speaking. That`s what he said. He didn`t say that the candidate must speak. And Justice O`Connor went on to say, quite wisely, if you don`t like it -- and I don`t like it, she said -- you really should stop judicial elections. And you should do it the way the feds do it.

LAURENCE TRIBE: Charles, you`re leaving out an important thing. The issue was, does the government have a significant interest in making sure that judges do not have, to the extent the public expresses itself on whether they`ll be judges, do not have predispositions on fundamental issues. And Scalia said, no, there`s no interest in that. That would be fooling ourselves. We all have these predispositions.

CHARLIE ROSE: OK, but let me just get into the point of what`s the point of this debate here? Are you arguing that if in fact that his position on a woman`s control over her body or whether there should be -- Roe versus Wade should be overruled is a disqualifying position?

CHARLES FRIED: No, let`s cut to the chase, Charlie.

CHARLIE ROSE: OK, help me.

CHARLES FRIED: What`s at stake here is Charles Schumer has already -- I mean, it didn`t take five minutes, Charles Schumer has already staked out his position. He can`t lay a glove on this man personally. The people going through John Roberts` garbage cannot pick anything against him personally the way they tried to do with other candidates, the Nan Arons of this world can`t do that.

So what Schumer has said is, I am going to ask Roberts a lot of questions which he will not answer, because as Lincoln said, if that man answers those questions, I will despise him. And he will try to make an issue out of that.

And Larry, I`m afraid, is stalking horse for Charles Schumer. It is the...

LAURENCE TRIBE: Now, come on, Charles...

CHARLIE ROSE: I don`t believe Larry Tribe is a stalking horse for Chuck Schumer or anyone else.

CHARLES FRIED: I`m afraid it is all...

LAURENCE TRIBE: This should not be about Larry Tribe. But I have got to say something, Charlie. Charlie, it`s a very bum rap to think -- I don`t know about Charles Schumer now, but I`m talking about the nation -- it`s a bum rap to think that if senators representing the national interest want to explore the substantive way that John Roberts approaches issues, that they have got to be guilty of having some secret agenda, of saying that if he answers wrong, I`m going to vote against him, and if he doesn`t answer I`m going to vote against him.

CHARLES FRIED: Which is exactly...

LAURENCE TRIBE: No, on the contrary, I don`t have a secret list, but if I were a senator, I would want to explore these issues in order to come to a (INAUDIBLE) judgment.

CHARLES FRIED: They tried to do that with Justice Ginsburg. And Justice Ginsburg...

CHARLIE ROSE: Said I will not answer.

CHARLES FRIED: And she said I will not answer. They tried to do that with Scalia, and Scalia said I will not answer. They tried to do that with Felix Frankfurter, and Felix Frankfurter said it would be dishonorable to answer. And if you don`t want to confirm me, don`t. So I think...

CHARLIE ROSE: So if somebody is there prepared to ask Chuck Schumer`s questions, you say to John Roberts don`t answer them.

CHARLES FRIED: I certainly would. The famous thing that Lincoln said, no, I would not ask a man how he would vote on a case. And if he would answer, I would despise him for it. That`s Lincoln.

CHARLIE ROSE: All right, let me get to Ralph. Ralph -- who is that?

RALPH NEAS, PEOPLE FOR THE AMERICAN WAY: Charlie, Charlie, Charlie, one more time...

CHARLIE ROSE: Ralph Neas.

RALPH NEAS: ... you only have one half the quote. The rest of the quote from Lincoln is, that`s why we need nominees whose public views are well known. That was a dishonest explanation of the Lincoln quote.

CHARLIE ROSE: You left out half the quote, professor?

CHARLES FRIED: I didn`t know it.

RALPH NEAS: You left off half the quote. You should do your reading a little bit more.

And no progressive activist ever went through the trash of Robert Bork or anyone else. Some members of the media did, but not anyone in the progressive community. We despised and denounced that.

With respect to John...

CHARLIE ROSE: Roberts.

RALPH NEAS: With respect to John Roberts, with respect to John Roberts, we were disappointed that the president did not name someone in the mode of Sandra Day O`Connor. We hoped that the bipartisan consultation was real. It was a charade. They talked to senators, but they really didn`t listen.

We were hoping and praying that President Bush would appear with the Democratic leader and the Republican leader, and the nominee tonight, with a unity candidate, someone who will help bring the country together.

There are lots of problems with John Roberts. And it`s not anything to do with his likability or his legal skills. But there are a lot of people on the right who think he is their darling, that he is in the mold of Thomas and Scalia. If he is in the mold of Thomas and Scalia and not in the mold of Sandra Day O`Connor, that could mean dozens of Supreme Court precedents, going back to the 1930s, will be overturned.

We did a study -- we did a study...

CHARLIE ROSE: All right...

RALPH NEAS: One more thing. We did a study called "Courting Disaster." We looked at every dissent and concurring opinion of Thomas and Scalia. If they get one or two more like-minded justices, more than 100 Supreme Court precedents will be overturned. The next few months will determine what the law of the land is for decades.

CHARLIE ROSE: Let me speak first. Ralph, you make a good point, and everybody knows this is a historic decision, because Sandra Day O`Connor was in the middle, and therefore sometimes would vote one way, and sometimes would vote the other way. And John Roberts is less likely, it`s fair to say, to vote that way. As you said, he`s very different from Sandra Day O`Connor.

Now, let me go to Tom, who I -- go ahead.

(CROSSTALK)

CHARLIE ROSE: Before you answer that, do I hear the opening of a bitter fight for John Roberts based on what Ralph Neas said?

TOM FITTON, PRESIDENT, JUDICIAL WATCH: Well, maybe bitter, but I think it`s also going to be futile. I don`t think Ralph Neas is going to be able to persuade enough senators to mount a successful filibuster against Judge Roberts.

The question is, what type of a conservative is he? He`s not a conservative in the mode of Ralph Neas, and no one would be who would be appointed by President Bush.

President Bush won the election. He wasn`t going to appoint a former clerk for Justice Ginsburg. He appointed a former clerk for Justice Rehnquist. And he`s a cautious conservative. And I think he`s going to get the votes necessary.

Ralph Neas has unfortunately cried wolf a few too many times when it came to President Bush`s nominees. And I think the body politic is tired of the screaming over these nominees. He`s quite a reasonable conservative.

I don`t know if he`s as conservative as Scalia and Thomas is. I have no indication he`s adamantly pro-life or adamantly a federalist. I suspect he is. I trust the president`s judgment on it. And I think in answering Professor Tribe`s concerns, I think we`re going to get the broad outlines of his judicial philosophy during these hearings. And any reasonable observer is going to be able to conclude how he would rule generally on the big issues that would come before the court.

But you know, to force him to answer whether he would overturn Roe versus Wade, or how he`s going to rule on the assisted -- assisted suicide or death penalty, I think it`s not good for the judgeships. I mean, Justice Scalia himself made a speech on the Pledge of Allegiance. He ended up having to recuse himself. I mean, do they want Judge Roberts or Justice Roberts to have to recuse himself for every question he answers related to Senator Schumer?

CHARLIE ROSE: Let me ask you this question. Tom, there was much talk about the president needing to satisfy a conservative constituency that helped get him elected, that he made certain promises. He famously said he would appoint judges like Scalia. Do you believe that he has fulfilled his promise by the nomination of John Roberts?

TOM FITTON: I`m reasonably confident. I originally said that, you know, President Bush can`t nominate a trust-me candidate, where we`d have to say, he`d have to say trust me, he`s a conservative. I think Mr. Roberts -- or Judge Roberts` record is clear enough to indicate that he`s a conservative in the mode of Scalia and Thomas. And we`re going to get more information. I think conservatives are going to want to learn more about his judicial philosophy, just as Ralph will. And they have got 55 votes in the Senate. They`re not going to stop this nominee.

CHARLIE ROSE: Isn`t it healthy to learn more about the judicial philosophy of a nominee?

TOM FITTON: Sure.

WILLIAM BARR: Well, generally, the philosophy, but it sounds to me like what Ralph Neas is talking about is, you know, let`s find out how this guy is going to vote on all the hot-button issues that we think are going to come up, figure out how he`s going to vote, and then we`re going to have a vote in the Senate on it. That`s a perversion of the judicial process.

CHARLES FRIED: It`s very clear, John Roberts clerked not only for Chief Justice Rehnquist; he clerked for Henry Friendly. Henry Friendly, I think, by everybody`s lights, is one of the greatest judges America has had in the 20th century. If you had put Henry Friendly before the Senate Judiciary Committee and asked him what his judicial philosophy said, he wouldn`t know what you were talking about.

CHARLIE ROSE: He wouldn`t?

CHARLES FRIED: No, he would say...

CHARLIE ROSE: He wouldn`t see a body of judicial thought that he agreed with and would be the cornerstone of a philosophy?

CHARLES FRIED: It would be so -- it would be so general as to be useful.

CHARLIE ROSE: No principles that we could look to and say?

LAURENCE TRIBE: Charlie, can I...

CHARLES FRIED: Larry, do you think -- how do you think that Henry Friendly...

LAURENCE TRIBE: Henry Friendly had written elaborate articles on his judicial philosophy, and anyone smart enough to couch the questions right would have gotten really informative essays back. You know, one...

CHARLES FRIED: He wrote those after he was a judge.

(CROSSTALK)

LAURENCE TRIBE: One thing that John Roberts certainly does have in common with Justice Scalia is this: And that is that in the past 43 years, only Justices Scalia and Rehnquist and Thomas have been as young as John Roberts is today or younger when appointed.

Now, that doesn`t say he`s qualified or disqualified. I think very well of John Roberts. But it does tell me that when my granddaughter is in her 30s, he`s likely to still be there, and she was born just a year and two months ago. And that tells me not that I want to psyche out exactly where he`ll be on a bunch of cases, but it tells me that the kind of colloquy that we can have, as long as we avoid the caricatures, Charles, of asking him vapid, platitudinous questions about his philosophy open- endedly, or the pinpointed gotcha questions about particular cases, but pursue issues like -- for example, this Monday, this Monday -- and that may affect the timing of this appointment -- John Roberts was on a panel that decided in an opinion called Hamdi, something that I think is quite a remarkable proposition on its face, and that is that if the president of the United States designates any person an unlawful combatant, then the president has authority to subject that person to a military commission rather than a normal trial.

That`s a remarkable proposition. It`s one that John Roberts did not separately write to qualify. He didn`t say separately, well, that only applies to non-citizens or it only applies abroad.

I would want to know how he thinks about issues of that sort. Not about how he`d rule on Hamdi II, because of course one would despise him if he told us how he`d rule on a particular case. But what way does he go about deciding, about the limits of the powers of the president in an era of a war against so-called global terrorism? It`s a terribly difficult set of questions. Of course, the nation is in peril. But those questions need to be explored. That`s principally what I`m saying.

CHARLES FRIED: (INAUDIBLE) model for that, Justice Breyer, who is one of the smartest men in the world. He was put through this kind of a confirmation hearing. And he was marvelous. They asked him all these questions. And what he did was, "that`s very interesting. Now, here are the considerations on this side, and here are the considerations" -- he drowned them in words. He answered until they couldn`t stand it anymore.

WILLIAM BARR: Or he didn`t answer.

CHARLES FRIED: But he never said. And that`s another way of doing it.

Now, why did he never say? Because he didn`t want to prejudge himself. I`ve been a judge. And it`s remarkable how things are different when you confront them as a judge who has read the briefs, heard the arguments, and must work with your colleagues.

CHARLIE ROSE: (INAUDIBLE), and then I want to go back to Ralph and Tom.

WILLIAM BARR: The whole idea of the judicial process is precisely that, which is cases and principles are supposed to be established in the context of particular cases as they arise, after arguments by people who have a stake in the particular case.

And to turn this into a legislative charade, where sort of people say, well, how -- what do you think about this and what do you think about that and what do you think about this, and then we`re going to take a vote on it is a complete overthrow of the judicial process.

Also, this idea that we can predict that clearly how people are going to evolve over 25 years and what kinds of issues they`re going to face is just -- you know, has been defied by history.

CHARLES FRIED: Look at Byron White, for instance.

WILLIAM BARR: You know, I hear the hagiography going on now about O`Connor, but O`Connor has evolved over time over the time she was...

CHARLIE ROSE: OK. Do you have any knowledge from friends that know what the president went through, how he came to select John Roberts?

WILLIAM BARR: No, I don`t. I have no knowledge.

CHARLIE ROSE: OK. Does anybody here at this table? Tom, do you know how the president came to select him and -- because he obviously, after he decided on the selection, he called up Bill Frist, but also called up Pat Leahy and also called up Harry Reid and also called up Democrats to say...

TOM FITTON: Well, the indications are he was taken with him in person. I mean, you just saw from his brief comments tonight, John Roberts is a very engaging individual. And he`s going to be able to make a persuasive case for himself. So he has a great background, as the president was pointing out, in terms of, you know, coming from modest means, and I`m sure that appeals to the president as well.

I think the president tried to pick the best nominee before him in terms of the folks that he was considering.

CHARLIE ROSE: And the one he liked the best.

TOM FITTON: Yes, and I think he got along famously with him. And I suspect that`s why he`s the nominee.

CHARLES FRIED: John...

RALPH NEAS: Charlie...

CHARLES FRIED: I know a little bit about John. John is...

CHARLIE ROSE: All right, Charles Fried, and then to Ralph Neas.

CHARLES FRIED: He`s also a modest man. He is not a scholar. He`s a thoughtful, careful judge, but he`s not a theoretician. So it`s not surprising that there isn`t a theory there that informs what he does.

CHARLIE ROSE: Is it your opinion that the country lost a great opportunity when it didn`t confirm Robert Bork?

CHARLES FRIED: That`s an embarrassing question. And if I were under oath and required to answer it, I would say no.

CHARLIE ROSE: All right. Good.

All right, moving on, Ralph Neas, I want to come to this question. And you first, because you`ve said it on this program before. What is it - - tell the country why Roberts could have a significant impact on overturning important judicial decisions that are central to who we have come to perceive ourselves?

RALPH NEAS: Charlie, it was good to bring up the issue of Robert Bork. This is probably the second time since the 1930s that the court is basically evenly divided on scores of constitutional questions. The other time, of course, was 1987, after Lewis Powell -- and it was the Powell court during the 1980s; the last 10 years it`s been the O`Connor court.

So all of these questions are evenly divided. The person who succeeds O`Connor, if that person is, as Tom says, in the mold of Thomas and Scalia -- and believe me, he was the number one choice, along with Miguel Estrada, of all those on the religious radical right and on the economic radical right, he is their darling.

Because it`s so evenly divided, if there is one or two more justices like Thomas and Scalia, it shows in our report, "Courting Disaster," that more than 100 Supreme Court precedents would be overturned, not just on hot-button issues, but on issues that have extraordinary bipartisan majorities, regarding privacy, regarding the environment, regarding equal opportunity, consumer issues, campaign finance reform, reproductive rights.

We have a titanic clash between two competing judicial philosophies. This is not good versus evil. This is how the interpretation of the Constitution has been for the last 70 years.

The Thomases and Scalias want to redefine the interpretation of the Constitution. The Commerce Clause, the Spending Clause, the 14th Amendment, privacy. This decision will impact on the daily lives of every American, our children and our grandchildren. It is the most important thing these senators and the president will ever do domestically, is decide who the next Supreme Court justice is.

CHARLIE ROSE: But I bet if it was -- I bet if it was a Democrat making an appointment, and there was a cry from Republicans to nominate a centrist swing judge, you wouldn`t be so fervent in your argument for a swing judge.

RALPH NEAS: I think it`s really important when you have a decision like this that there be a significant bipartisan majority, when the country is so evenly divided, when the court is so evenly divided. I have long believed, as two-thirds of the American people believe, that there should be...

WILLIAM BARR: The Senate isn`t so evenly divided.

RALPH NEAS: ... that there should be a 60-vote threshold. It`s much too -- much too premature to talk about filibuster, but it is not too premature to talk about the Senate using its advise and consent wisely, asking the appropriate questions, asking for the appropriate documents. What is the judicial philosophy of John Roberts?

CHARLES FRIED: Oh, we have the documents. The documents, that`s another -- that`s another -- that`s another trick bag where you don`t have the -- you don`t have the garbage...

(CROSSTALK)

CHARLES FRIED: ... then you ask for confidential documents.

LAURENCE TRIBE: There`s a perspective that I want to add to this.

RALPH NEAS: I don`t think they`re garbage for the solicitor general. I don`t think that`s quite the way to describe the work of the solicitor general, Charles. You were there. You certainly know that those irrelevant documents, documents that were shared by various Supreme Court nominees like Rehnquist, who was...

(CROSSTALK)

CHARLIE ROSE: Larry Tribe. Larry Tribe.

LAURENCE TRIBE: I have a kind of a hypothetical question to ask myself. From everything I know, personally about John Roberts, he would make a fine justice. What intrigues me is why so many people in what I regard as the hard right, who desperately want all those decisions overturned, why are they so happy with this appointment? I don`t think that`s the reason -- let me just finish my point.

I don`t think that -- I don`t really suspect the president of having deliberately schemed to pick someone who would roll back the Constitution. He probably was struck by how modest, how humble, how wonderful a character John Roberts seems to be. But what does intrigue me -- and it`s not a reason to vote against him, but it`s a reason to wonder and it`s a reason to inquire -- what intrigues me is a lot of people seem to feel very confident that reproductive freedom will be cut back, that property rights will be increased, that the Commerce Clause will be shrunk with John Roberts instead of O`Connor on the court. And I wonder, on the basis of what do they get that? It`s certainly not astrology. It`s certainly not fortune telling.

CHARLIE ROSE: All right. Is that your expectation, Tom? Tom, is that your expectation, what Larry Tribe just said?

TOM FITTON: That`s simply not the case. He was not the number choice for movement conservatives. He`s not known as a movement conservative lawyer. He`s a Republican lawyer, with establishment credentials, who obviously is very well respected within the Supreme Court bar. You know, Judicial Watch argued two cases before Judge Roberts, and our lawyers lost both cases, related to Cheney`s energy task force records.

So I mean, he`s a typical Republican lawyer in many respects. He`s not a movement conservative. Indications are he`d be pretty conservative in his rulings. And you know, and to term, Professor Tribe, you know, radical as an effort to uphold the ban on partial birth abortion or parental notification for abortion, or, you know, perhaps maybe that "under God" in the Pledge of Allegiance ought to stay there and it`s not an affront to the Constitution, John Roberts I suspect is going to be on our side on that. And I think he`s going to be a very cautious conservative.

I mean, the few decisions he`s had, he`s cautious in his approach. He says, you know, there must be a better, more conservative way of getting here. It`s not necessarily revolutionary, but he`s going to move forward, and I think he`s going to be a leading light in the court in the end.

(CROSSTALK)

CHARLIE ROSE: Let me get Bill Barr back in.

WILLIAM BARR: Yes, the bar seems to be shifting, in the sense that I think this group of Republicans and Democrats in the middle of gang of 14, or whatever they call themselves, they sort of said, look, we`re looking for someone in the mainstream. And, clearly, John Roberts is smack dab in the middle of the mainstream. Here is a man who is not an ideologue, but one of the most well respected practitioners of law in the country, one of the leading members of the bar of the District of Columbia, a man who 156 of the most prominent lawyers in the District of Columbia of all political persuasions...

CHARLIE ROSE: Should movement conservatives be unhappy, movement conservatives be unhappy, as Tom referred to them? (INAUDIBLE) with the choice?

WILLIAM BARR: I don`t think they should be unhappy, but I -- I also disagree that movement conservatives expect the overturn of Roe v. Wade or anything like that.

CHARLIE ROSE: I`m going to end with Professor Fried. Tell me, is this a historic nomination?

CHARLES FRIED: It may very well be. Because this is a man who I think may grow into the job. He has the raw material, in terms of intellect and temperament and character, to grow into the job.

I really believe that this is a job which you shouldn`t come to, and which I don`t believe Roberts does come to with a fixed agenda, or a fixed theory. But as time goes on, he will grow, and I think he will be, as I said at the beginning, perhaps the monument to this administration.

CHARLIE ROSE: I`ve got less than a minute left. Larry, maybe you can do this. What do you think this means for the next appointment? John Roberts...

LAURENCE TRIBE: I think it probably liberates the president to name someone like Edith Jones, considerably more strident and conservative or radical than Roberts to the position of chief justice, when Chief Justice Rehnquist retires, because this appointment will be seen, rightly or wrongly, as a mainstream appointment. And it does give the president license to please certain interests when the chief justiceship comes open.

CHARLIE ROSE: All right. That will be a discussion for another time.

I thank William Barr, Charles Fried, Tom Fitton, Ralph Neas and Laurence Tribe for joining me for this discussion. We`ll be just back in just a moment. Stay with us.

Larry Kramer is here. He has been a tireless writer and activist over the years, fighting against AIDS and for gay rights. He`s also a playwright and an Oscar-nominated screenwriter. His new book is called "The Tragedy of Today`s Gays," and I am pleased to have Larry back at this table. Welcome back.

LARRY KRAMER, AUTHOR: Thank you, Charles.

CHARLIE ROSE: How have you been?

LARRY KRAMER: I have been excellent, thank you. My new liver is three years old.

CHARLIE ROSE: And the liver transplant worked?

LARRY KRAMER: Unbelievable. The doctor said the minute he dropped it in, it took over.

CHARLIE ROSE: Is that right?

LARRY KRAMER: He shows me off as the poster boy.

CHARLIE ROSE: The poster boy for liver transplant?

LARRY KRAMER: Well, because the reason I got a liver is because they weren`t giving them to people with HIV and Hepatitis B, is that there was a study to see if it would work on people like me. Everyone thinks I got it because I knew everybody, but I didn`t. They couldn`t get people to go in the study, because people were afraid they would die. And I had already been told I only had six months to live, so what did I have to lose? And it was a remarkable success. And I`m Dr. John Fung`s poster boy.

CHARLIE ROSE: OK. Do you have to do anything, I mean, because of it?

LARRY KRAMER: No. Take pills.

CHARLIE ROSE: Take pills. Yeah, what do they do? They just...

LARRY KRAMER: I don`t...

CHARLIE ROSE: That`s -- because of the HIV or...?

LARRY KRAMER: HIV and the little tiny one for anti-rejection, but hardly any.

CHARLIE ROSE: Anti-rejection is just a little tiny thing.

And so do you have a new life expectancy?

LARRY KRAMER: Well, interestingly enough, John Fung says you are as old as your liver. My liver was 45 years old.

CHARLIE ROSE: Is that right?

LARRY KRAMER: And you want to hear something really interesting? My hair was white before the operation on my chest. Out of the operation, it`s black.

CHARLIE ROSE: It`s wonderful.

LARRY KRAMER: Thank you. It is. It`s a miracle.

CHARLIE ROSE: Now, what is the tragedy of today`s gays?

LARRY KRAMER: Oh, Charlie...

CHARLIE ROSE: I know it`s a book, but what is the tragedy?

LARRY KRAMER: Where do we start? I don`t think gay people have ever been in as much trouble as we are in now. We have no friends anywhere at all. You can`t get -- we can`t get arrested anywhere at all. There`s not a person in Washington who will give us the time of day. And this comes at the same time as this -- what Bill Moyers calls the cabal of people of powers, fundamentalism, Christian right, you name it, big business, have really pledged to pretty much eliminate anything to do with gays. The Southern Poverty -- what`s it called, the Southern Poverty legal...

CHARLIE ROSE: Yeah, right.

LARRY KRAMER: ... has just issued the most incredible report about what these people are doing to gay people around the world. We haven`t got a friend anywhere. That`s the tragedy of today`s gays, as well as it comes hand in hand at a time when we simply are not -- we haven`t got any power. We haven`t got any leaders. We don`t have any money. We don`t have anything. There`s no one out there fighting truly for us.

CHARLIE ROSE: In other words -- but I mean, there are Democrats in Congress and Democrats...

LARRY KRAMER: Forget it.

CHARLIE ROSE: What, they`re not fighting for gays?

LARRY KRAMER: We haven`t got a friend anywhere.

CHARLIE ROSE: Because there`s no what? There`s no?

LARRY KRAMER: Support for it in the country, presumably. Sixty million people voted against gay people in the last election. They hate us. You don`t want to use that word. Sixty million people, thanks to Karl Rove, voted against gay marriage.

CHARLIE ROSE: And do you think gay marriage was decisive in this presidential election?

LARRY KRAMER: I think it was the only thing, the marriage, this thing was about. They were so clever to make that an issue to take the mind off of everything else that this administration isn`t doing. I have no doubt at all.

CHARLIE ROSE: I haven`t looked at this. But I mean, I know some people raise the question as to whether there were referendums in states that were decisive.

LARRY KRAMER: I don`t -- who cares? The point is, 60 million people voted against us, and if you have the vote tomorrow, there would be 100 million people.

CHARLIE ROSE: So what`s the problem here?

LARRY KRAMER: The problem is people hate gay people. And it`s getting worse.

CHARLIE ROSE: Hate or fear?

LARRY KRAMER: No, well...

CHARLIE ROSE: What is it they fear that it somehow -- that in terms on the marriage issue, that`s what I mean, not in terms of being gay, but the marriage issue is...

LARRY KRAMER: I think the marriage issue is a red herring. They just hate gay people. I wanted -- I was looking -- a piece of paper I was looking for, with some statistics, that the Kinsey, of all people, put out, when that book came out, and they`re really incredible if you look at them closely, which is that there are only 4 percent of all men in America are exclusively gay their entire lives. Something like...

CHARLIE ROSE: Kinsey said that?

LARRY KRAMER: Yes.

CHARLIE ROSE: Right.

LARRY KRAMER: Something like 40 percent of all men in America have sex with another man sometime in their lives.

CHARLIE ROSE: Forty percent?

LARRY KRAMER: Yes. That`s a lot. That means that at any given time of day, 40 percent of us are out there. And I think that this -- I think all of these people who are fighting against us so are people who have -- who know this and who know it in their own hearts that they`re somehow attracted to men, and they probably feel guilty for having sinned. I don`t know.

CHARLIE ROSE: You really think that`s it? That somehow that men -- it`s some kind of men...

LARRY KRAMER: They refuse to...

CHARLIE ROSE: If the number is 40 percent, that that many people don`t want to know that they have some kind of...

LARRY KRAMER: Love for their fellow man, basically. It`s basically - - we love each other and need each other more than any of us is willing to talk about. It`s interesting that so many of these right-wing people, suddenly we find out that the mayor of X and Y -- Seattle or whatever...

CHARLIE ROSE: Not Seattle, it was another city in Washington.

LARRY KRAMER: Yeah, is gay, or that people are gay on whatever that president`s -- terrible president`s name is, Bush, is gay.

CHARLIE ROSE: People what? They work for the administration?

LARRY KRAMER: Yes. Many of them turn out to be gay. This happens all the time. And now, we`re not afraid to out them.

CHARLIE ROSE: Well, you`ve never been afraid to out people.

LARRY KRAMER: Not me personally, but it was certainly against the gay political agenda, yes. I mean, it was considered bad form to out people, because people didn`t want to be outed themselves. But that`s gone by the board.

This book, the two important things that this book says, if I may cut to the chase, one is that I firmly believe that AIDS was allowed to happen and is continued to allow to happen because it suits a lot of people`s purpose to keep it alive, number one. Let me finish. And number two is that I believe that the three most important people for allowing this plague to get out of hand were all gay, or had something to do with gay.

So you have three gay people who could have done something to stop this plague. If you look back on the Tylenol scare about the same time, in 10 seconds Tylenol was off the shelves. People stopped taking it. It was given a full tamper-proof whatever...

CHARLIE ROSE: Johnson & Johnson had a very savvy CEO at that time by the name...

LARRY KRAMER: Right. Right. Nobody said squat about whatever was happening. It was known. Let me correct that. People suspected it was a virus. Even Dr. Fauci says -- who was not in power then, said I wish I had spoken up more and said, we think it`s a virus, cool it. But no one was even saying that.

So from 1981, when the first article appeared in "The New York Times," until 1985 when the virus was discovered, nobody said anything.

By that time, everybody probably around the world was in one way or another infected. Gay people refused to believe anything and carried on their behavior, from `85 on, when they were told it was a virus, they still -- we still didn`t correct our behavior. We still haven`t in many instances corrected our behavior. So everybody continues to infect each other. By `82, it was probably too late.

CHARLIE ROSE: OK, but are you saying that people who knew better didn`t do things because...

LARRY KRAMER: They still aren`t, really. Seventy million people are now infected around the world. Does that say something to you? It tells me that nobody is paying any attention to it. You know, Reagan puts out -- I mean, Bush gets, whatever, $6 billion from Congress to give drugs to the -- to the -- to Africa. That money is not going there. Two percent has gone there. All this business about getting them generic drugs, they`re cheap, forget it. Even the drug companies are evil. They won`t even -- they won`t even negotiate prices on them.

Does that tell you that somebody is not in charge? Does that tell you that somebody wants not to do anything? The right wing wants this to happen.

CHARLIE ROSE: Surely, you don`t believe that people don`t want to see an end to AIDS?

LARRY KRAMER: You want to see it and your friends want to see it, but the people with the power, and that`s what Moyers talks about, the power, the cabal, he calls it, they don`t want it. And it`s not the president. It`s this cabal of people. It doesn`t make any difference anymore who is president. When is this country going to realize that? These people buy the president. They own the president. They control the White House. You can`t tell me that Karl Rove doesn`t respond to all of these things.

CHARLIE ROSE: I want to get to the main point. The main point is that you believe that because of the political climate in America and because of who is in power today and who put them in power today...

LARRY KRAMER: Starting in 1981.

CHARLIE ROSE: That we have not seen the kind of policy, the kind of executive action that could have a long time ago certainly stopped...

LARRY KRAMER: In its tracks.

CHARLIE ROSE: In its tracks.

LARRY KRAMER: The plague.

CHARLIE ROSE: The plague.

LARRY KRAMER: Of AIDS.

CHARLIE ROSE: Which is spreading throughout the world.

LARRY KRAMER: I could not have said it better. Thank you. I do. And that`s what this book is about. I urge anyone to read it who wants substantive support of this argument.

CHARLIE ROSE: And what about within the gay community?

LARRY KRAMER: I hate the word "gay community." We`re not a community. We`re a population. Just like you`re a white population. To call us a community is almost so limiting and demeaning. There is many kinds ...

CHARLIE ROSE: All right, then I....

LARRY KRAMER: No, no, everybody does it. Everybody calls us a community. It makes us think like we`re this little group of people that are united. We`re the same as everybody else.

CHARLIE ROSE: We also say that -- right, OK.

LARRY KRAMER: There is no power structure. There`s no ability to fight back. Everybody is -- the kids who have survived AIDS don`t want to know about the plague beforehand. They don`t want to -- they don`t want to honor their dead. They don`t know what to do with their lives now. That`s what`s causing this rise in crystal meth addiction.

CHARLIE ROSE: What`s about -- why is there a rise in crystal meth -- I don`t even....

LARRY KRAMER: Because kids don`t know what to do and they`re scared. And crystal meth is a tranquilizer. And it`s -- you don`t know what it`s like to be a gay kid today, a gay person.

CHARLIE ROSE: What`s it like?

LARRY KRAMER: You have no support outside world. You have none. You don`t know where to turn to. Read the paper. There`s an anti-gay something every single day, either from the government or from, you know, kids are still getting killed all over. I got an unbelievably heart breaking letter today from a kid in Providence, who had never even heard of me, didn`t know who I was, picked up this book in Borders and started reading it -- read it in Borders because he couldn`t afford to buy it.

CHARLIE ROSE: This book?

LARRY KRAMER: Yes. And he said, I didn`t know any of this. And he says, he`s 17 years old. He got thrown out of his home by his parents because he was gay, which is happening more and more. What do you do? You know, he has no job. He has no schooling.

CHARLIE ROSE: So he turns to crystal meth?

LARRY KRAMER: No, he`s just -- he`s -- he writes exceedingly well, and we have to somehow give him a hand up. But the crystal meth has taken over everywhere, all over the world. It`s a real plague. And it`s a program you should really be doing, about the rise of it.

CHARLIE ROSE: What I hear is from your deep within your own sense of decency and in your own heart, you know, I mean, you have always been an advocate and you have always been on the front lines and you have always been unafraid.

LARRY KRAMER: Only starting in 1981, when the first time -- when the first cases appeared. I was invisible before then. I was -- I was -- I`m shy. I was not out there. And in 1981, I read that "Times," the first "Times" headline, whatever it was, 41 cases of rare, blah, blah.

CHARLIE ROSE: And you said to yourself?

LARRY KRAMER: And I said, I know that`s it. I know it.

CHARLIE ROSE: I know that`s it?

LARRY KRAMER: I know that`s going to be horrible. It happened in my little circle of friends first. I knew people died right away. I had images of friends carrying dying friends in their arms around, and didn`t know what was wrong with them. And I said, it`s just going to spread like wild fire. I knew it. I knew it. I knew it, and I...

CHARLIE ROSE: Let me raise these points, and you tell me why it`s not -- a lot of people -- the president in this particular case -- I mean, what has he pledged, $15 billion?

LARRY KRAMER: But I tell you, it wasn`t him that did it. Tony Fauci did it. Tony Fauci got that money out.

CHARLIE ROSE: OK, but in the end, the president has more influence over the budget than Tony Fauci does. OK, all right, and he could have said no. So let`s assume that.

Number two, you`ve got a lot of people like -- a lot of people who have enormous star appeal, like Bono, going around talking about AIDS activism, all right? Today. You have got...

LARRY KRAMER: You named one.

CHARLIE ROSE: I named one. OK, fair enough. You know, but I mean, my impression was that poverty and AIDS activism had gotten on the international agenda.

LARRY KRAMER: Forget it. That $6 billion remains in the Washington coffers. I guarantee it. There are so many strings attached to giving that money to Africa, like Africa has -- each country has to guarantee abstinence of its entire population before they will give the money, before the money will be released to them. I mean, get real.

CHARLIE ROSE: You used to say that what AIDS activism needed was a czar. That the president...

LARRY KRAMER: Way beyond, way beyond that.

CHARLIE ROSE: Now, where are we now then? What does it need?

LARRY KRAMER: Seventy million people are going to die. That`s what it means.

CHARLIE ROSE: In the world. In the world.

LARRY KRAMER: From AIDS, yes.

CHARLIE ROSE: From AIDS.

LARRY KRAMER: Yeah, we have lost the war against AIDS. It`s a joke now. We have lost it. There is no way these people can be saved. We are facing millions and millions and millions of deaths coming down. There`s no way you can get drugs to them, even if you started tomorrow, even if you could start -- if you could make these greedy drug companies give them the drugs for free, which in a Christian world they would, even if -- there is no way that they could be gotten to that many people so fast, in time to save them.

And what`s more, I don`t want to say I have been saying this since the beginning, but I have been saying this since the beginning. And as all -- and other people have been saying it too, like Mathilde Krim. This is a plague that need not have happened.

There`s nothing you can do now. I don`t know -- I don`t know if you had a czar, what that czar could do. You know, Bush has appointed some guy that...

CHARLIE ROSE: In other words, no matter -- in your judgment, no matter where it is on the national or international agenda, no matter where it is and no matter how much of a commitment of resources there is, you think it`s hopeless?

LARRY KRAMER: I do. It`s a hideous thing to have to say. I don`t know how you could do it. Given...

CHARLIE ROSE: You think everybody is responsible. Those people who had a chance to speak out earlier and didn`t, those people...

LARRY KRAMER: Everybody.

CHARLIE ROSE: ... who have not learned the lesson. Those people who, you know, have not stepped forward to provide support for change.

LARRY KRAMER: And then -- and then Karl Rove and all those people continued to destroy what`s left of the gay population. And they want us off the face of this world. That`s why they want AIDS to continue. They do. That`s why. I`m convinced that this started in the Bush administration -- in the Reagan administration, with people like Gary Bauer, who was domestic policy adviser. They don`t want anything done to end this disease. They`re happy we`re infecting each other still.

CHARLIE ROSE: I don`t want to believe that.

LARRY KRAMER: I know. Nobody wants to believe it. You better believe it, because nothing was done then; nothing is being done now. Imagine having...

CHARLIE ROSE: That`s a leap, though, from nothing is being done to they want gays wiped off the face of the Earth.

LARRY KRAMER: Why -- imagine having an ability to save somebody`s life. And not doing it. I think that is evil. And I`m talking about drug companies. To have a drug that would save a life and insist on it being bought for unconscionable prices, making it unavailable to almost anybody who needs it.

CHARLIE ROSE: But Bill Clinton has been trying to do something.

LARRY KRAMER: Oh, whatever they`re doing. I mean, the guy who is head of -- Harold Varmus. They`re all doing it, but they are doing it for a couple of thousand people at a time. You have got to do it for millions, millions. There`s no -- and you know, I`m glad Bill Clinton is doing it, but you know, he was worse than George Bush the father on AIDS, believe it or not. George Bush the father at least allowed the drugs to be approved at the FDA.

I hate to say it. If you put me in charge, I don`t know what I would do. I would force every drug company to work around the clock on 24-hour shifts to turn out these drugs.

CHARLIE ROSE: Does the argument that there are many more programs on popular entertainment that have gay characters and there are programs that...

LARRY KRAMER: It doesn`t hurt, but it doesn`t help.

CHARLIE ROSE: But you`ll acknowledge that there are more and more programs. And there`s even now talk -- there`s even now talk about creating gay networks by Viacom and other companies.

LARRY KRAMER: Yeah, there are, right.

CHARLIE ROSE: What does that say to you?

LARRY KRAMER: It doesn`t say that it`s going to save 70 million people.

CHARLIE ROSE: But it does say -- it does say that not everybody wants to see -- I mean, if people -- if they want to do that...

LARRY KRAMER: They see that there`s money in it. That`s why there are gay programs. There is going to be a gay network -- we are a wealthy group of people. I just came from a very interesting seminar, conference in Aspen, where the Gill Foundation summoned the 200 richest gay men and lesbians in the country to talk about -- I mean, there are all of these rich people groups, like Norman Lear and all of that, and George Soros, all the rich liberals are beginning to meet and say how...

CHARLIE ROSE: Using their money to bring together people. They`re not gay, but...

LARRY KRAMER: Yes, well, they`re now doing it -- they are now doing it in the gay world. So I went to that. It ain`t enough.

CHARLIE ROSE: All right. Let me say two things. Number one, the book is called "The Tragedy of Today`s Gays." A foreword by Naomi Wolf, and afterword by Roger MacFarlane. Larry Kramer is my good friend. And I am pleased he`s here. And his anger is deep and genuine and comes from...

LARRY KRAMER: Charlie, I beg of you. Report more on this, everything that I`ve said. Please.

CHARLIE ROSE: All right. I will. Good to see you, my friend.

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THE QUIET MAN

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AFTER WORKING IN THE SHADOWS OF POWER, TIM FLANIGAN IS ABOUT TO GET SOME ATTENTION

Timothy Flanigan has never sought the spotlight.

On the morning after the 2000 presidential election, Flanigan flew down to Tallahassee, Fla., to join the legal team backing George W. Bush. But while other prominent Republican lawyers made the rounds on cable news shows, Flanigan worked in a cramped office writing appellate briefs.

After the Sept. 11, 2001, terrorist attacks, it was not White House Counsel Alberto Gonzales, but Flanigan -- then Gonzales' deputy -- in the Situation Room screening presidential orders to shoot down commercial airliners. But Flanigan never drew attention to his role.

As the president's pick for the No. 2 job at the Justice Department, Flanigan may have precious little time left in the shadows. With Gonzales on the short-list to fill the current Supreme Court vacancy, Flanigan could even be propelled into the DOJ's top spot -- at least temporarily.

The deputy attorney general serves as the Justice Department's chief operating officer, directly overseeing the FBI, the DOJ's Criminal Division, and 93 presidentially appointed U.S. attorneys nationwide. In addition, the deputy is often called to serve as the department's diplomat in interactions with other Cabinet agencies, Congress, and the White House.

Although not yet scheduled, Flanigan's Senate confirmation hearing may take place next week before Congress breaks for its August recess. Flanigan will no doubt face questions about his role in controversial legal memos drafted after Sept. 11 that gave the executive branch sweeping powers in the war on terror.

While Flanigan served as deputy White House counsel, administration lawyers signed off on the detention of enemy fighters outside of the Geneva Conventions, the trial of suspected terrorists by military commissions, and the use of aggressive interrogation tactics not approved under existing military regulations.

One area we don't know enough about is his role in developing national security policies, says one Democratic staffer to the Senate Judiciary Committee, who spoke on the condition of anonymity.

Flanigan's lack of prosecutorial experience has also been questioned by Democrats.

This is a position that benefits from practical experience, Sen. Patrick Leahy (D-Vt.) said in a statement after Flanigan was nominated in May. In the confirmation hearings for Mr. Flanigan's appointment, we will need to examine whether this growing deficit in practical prosecutorial experience in the top ranks will affect the department's performance.

Flanigan's supporters dismiss the criticism. I was both deputy and attorney general, and I didn't come from a law enforcement background, says Verizon Communications General Counsel William Barr, who served as attorney general under President George H.W. Bush. I don't view it as important or problematic that he doesn't come from that background.

He has a good feel for the department as an institution, and he has an excellent character and temperament for the job, Barr continues. Tim is a very open and approachable person. He doesn't have a big ego. He listens to people, and at the same time, when there is a decision that has to be made, he doesn't shy away from doing that.

Flanigan declined to comment for this article, citing the pending confirmation hearing.

FAMILY MATTERS

Flanigan, 51, currently serves as Tyco International's general counsel for corporate and international matters. He left the White House counsel's office in late 2002 to join the company as it tried to recover from a string of corporate scandals.

Joining the beleaguered company was financially lucrative for Flanigan. According to his financial disclosure form, Tyco paid him more than $1.4 million in 2004. After less than two years with the company, Flanigan has stock options worth roughly $1 million.

For some families, such money might appear excessive, but Flanigan is the father of 14 children, ranging in age from 11 to 29. After scrounging up college tuition for three kids on the far more modest salary of a White House lawyer, Flanigan needed to replenish the family's dwindling savings.

A devout Mormon, Flanigan met his wife, Katherine, when they were students at Brigham Young University. He planned to become a teacher and enrolled in a master's program in history, but grew disenchanted. In 1978, he entered law school at the University of Virginia.

After graduating, Flanigan joined New York's Shearman & Sterling. He left the firm for a year to serve as senior law clerk to then-Chief Justice Warren Burger. Flanigan then rejoined Shearman, and in 1987 he opened the firm's D.C. office.

The Flanigans never hired a nanny to help care for their growing flock, says daughter Liz Davis, 25.

Growing up in our house was fun and crazy, Davis recalls. Mealtimes were a production. My mom had a chart on the fridge with all the kids' dinner jobs.

Tending to livestock was another way the children were taught responsibility. For an entire summer the family kept a small herd of goats and drank only goat milk, Davis says.

AN UNPOPULAR OPINION

In 1990, Flanigan again left private practice and joined the Justice Department's Office of Legal Counsel, where government attorneys answer legal questions for the executive branch. At the time, J. Michael Luttig -- now a judge on the U.S. Court of Appeals for the 4th Circuit and an oft-mentioned candidate for a seat on the Supreme Court -- headed the small but influential office.

Luttig and Flanigan were law school classmates and close friends. In 1992, when Luttig was nominated to the 4th Circuit by President George H.W. Bush, Flanigan took over.

Flanigan's tenure as head of the OLC was relatively brief, but not without controversy.

In the summer of 1992, with the economy in recession and the months ticking down to the presidential election, Bush supporters were pressuring the administration to reduce capital gains taxes by adjusting the taxable profits made on the sale of stock and other property to account for inflation. The theory advanced by the U.S. Chamber of Commerce and other conservative economists was that indexing capital gains for inflation would jump-start the economy, create new jobs, and help Bush win a second term in office.

Before moving forward, the White House sought a formal legal opinion from the Justice Department. Flanigan, in his role as head of the OLC, determined that the proposed action was illegal.

Conservatives lashed out. One columnist wrote, The Justice Department's lawyers are determined to defeat the only measure Mr. Bush can take that could rescue the economy and his presidency.

But if Flanigan ostensibly helped to bring down one Bush, he worked to install another. After the 2000 presidential election, Flanigan, then a partner in the D.C. office of White & Case, was one of the first lawyers on the ground in Florida to assist the candidate's legal team. For five weeks he worked out of makeshift offices in the Republican Party's Tallahassee headquarters.

These were not exactly well-appointed facilities, says Patton Boggs partner Benjamin Ginsberg, legal counsel to the Bush-Cheney campaign in 2000 and 2004. Each and every time I went in to see Tim, he was the picture of calm.

COOL UNDER FIRE

One of Flanigan's trademarks as a lawyer, say former colleagues, is his ability to remain calm in a crisis. He is also known for his broad smile and mischievous sense of humor. Many lawyers who have worked with Flanigan say they have never heard him raise his voice or dress down a subordinate.

I've always been able to count on Tim, Gonzales said in a May 2005 interview with He's always been there as a steady hand to provide good advice.

Flanigan's composure was tested the morning of Sept. 11, 2001. Gonzales was giving a speech outside Washington, and so it was Deputy White House Counsel Flanigan in the Situation Room providing legal input as the administration planned its immediate response to the day's devastating events. The questions ranged from the weighty -- Could the president order the shoot-down of a commercial aircraft? -- to the mundane.

In the following days and weeks, Flanigan made sure that White House lawyers stayed on top of the issues facing the president and were included in high-level decision-making. When Flanigan felt that the legal team was being underused, he made personal visits to White House Chief of Staff Andrew Card and deputy Joshua Bolton until the counsel's office was back in the loop.

Flanigan worked with lawmakers to hammer out a congressional authorization for the use of military force against those behind the attacks, and was the administration's lead negotiator on the USA Patriot Act.

He saw his mission as finding every tool available to the president that might help protect America from future attacks, says former White House lawyer Bradford Berenson, a partner in the D.C. office of Sidley Austin Brown & Wood.

There was a dramatic sense of urgency and a strong feeling that we'd never be forgiven if we didn't use every power at our disposal, Berenson says. Other concerns were just going to have to be secondary until everything that could be done had been done.

Those who know Flanigan say he was always mindful of the tension between protecting civil liberties and combating terrorism.

Very early on after September 11, when we were grappling with issues, I remember Tim being the person raising questions and saying, 'What are our obligations under the Constitution? says Paul, Hastings, Janofsky & Walker of counsel Laura Flippin, a former associate White House counsel. Four years later, I think we're still addressing those questions, and I don't think Tim has ever stopped thinking about them.

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Similar Appeal; Different Styles; Two Judges Seen as Potential Supreme Court Nominees Share Conservatives' Approval

Charles Lane and Jerry Markon

John G. Roberts Jr. and J. Michael Luttig have both marched up through the Republican ranks, from Supreme Court clerkships to White House jobs to the federal bench. Now the two area judges -- Roberts sits on the U.S. Court of Appeals for the D.C. Circuit; Luttig is a Tysons Corner-based member of the U.S. Court of Appeals for the 4th Circuit -- have emerged on President Bush's short list of potential nominees to the Supreme Court, according to lawyers familiar with the administration's deliberations. Conservative activists in the Republican base view both as far more acceptable than Attorney General Alberto R.

Gonzales, who has become a top contender for the court, and have begun to promote the pair. But even though both judges are conservative -- and close friends -- they present a distinctly different choice in style and temperament that could influence their selection and say a great deal about how Bush wants to shape the court. In his years as a lawyer, Roberts, 50, proved himself an affable and measured member of the Washington legal establishment. But his short tenure on the bench has meant fewer written opinions that can be parsed for his philosophy. Luttig, 51, is edgier, painting his ideas in bold intellectual strokes. He has left a long paper trail that liberal critics will try to mine to fight his appointment. The difference between the two men is a bit like the difference between the two conservative justices they served -- the easygoing William H. Rehnquist, for whom Roberts clerked in 1980 before Rehnquist became chief justice, and the combative Antonin Scalia, for whom Luttig clerked on the D.C. Circuit in 1982, and who is still a close friend. "Roberts is known as a much more judicious person. . . . Luttig would get certain people really jazzed up," said a former administration official who, like other lawyers contacted for this article, declined to be named for fear of appearing to take sides. "For conservatives, Luttig is more exciting -- because he is more excitable." Such intangibles might not matter when it comes to how either man would vote on the court. But they could affect their confirmation chances were either nominated. Robert H. Bork's 1987 bid failed, in part, because he seemed dour in front of the Senate Judiciary Committee. Scalia, in contrast, turned on his personal charm to help win unanimous confirmation in 1986. The White House has been examining the records of many possible nominees, and Bush has said he is open to considering candidates who are not judges. But many conservatives continue to promote Luttig and Roberts, and say they are at the top of the administration's list. Born in Tyler, Tex., Luttig attended public schools and graduated from Washington and Lee University and the University of Virginia law school. He worked at the Reagan White House and then clerked for Scalia. He later clerked for then-Chief Justice Warren E. Burger and served as Burger's special assistant. After a brief stint as a corporate litigator, Luttig became a deputy assistant attorney general and soon was running the Justice Department's Office of Legal Counsel, a position from which he helped guide the Supreme Court nominations of David H. Souter and Clarence Thomas through the Senate. Luttig and Thomas remain friends, and Luttig has recommended many of his clerks to Scalia, Thomas and other conservative justices. In 1991, President George H.W. Bush nominated Luttig

to the 4th Circuit, and he was unanimously confirmed by the Senate. At 37, he became the youngest appellate court judge in the country. Roberts grew up in Long Beach, Ind., and attended a private school in nearby LaPorte before going on to Harvard and Harvard Law School. He clerked for Judge Henry J. Friendly of the U.S. Court of Appeals for the 2nd Circuit, in New York, and later for Rehnquist, who was then an associate justice. After that, he worked as a special assistant to U.S. Attorney General William French Smith and as an aide to White House counsel Fred Fielding -- who also mentored Luttig -- during the Reagan administration. Roberts joined the Washington law firm of Hogan & Hartson in 1986, then went into President George H.W. Bush's administration, arguing cases before the Supreme Court as Solicitor General Kenneth W. Starr's principal deputy. He was nominated to the D.C. Circuit in 1992, but the appointment died when Bill Clinton succeeded Bush as president. Roberts returned to Hogan & Hartson, where he headed the firm's appellate practice and frequently argued before the Supreme Court. President Bush nominated him to the D.C. Circuit two years ago. Two opinions by Luttig and Roberts from 2003 illustrate their contrasting styles. When Luttig was on the losing side of a preliminary 7 to 5 decision that effectively gave Zacarias Moussaoui -- the only person charged in the United States in the Sept. 11, 2001, attacks -- the right to question Ramzi Binalshibh, a detainee suspected of being a key al Qaeda operative, Luttig attacked the majority. "I believe my colleagues have gravely underestimated the effect that their respective orders and decisions have already had, and now will continue to have, on the Nation's intelligence gathering . . . as we wage war against terrorism," he wrote. The 4th Circuit eventually backed the government. When the D.C. Circuit refused to reconsider a three-judge panel's ruling protecting a rare California toad under the Endangered Species Act, Roberts dissented -- gently. "To be fair," he wrote, the panel "faithfully applied" the circuit court's precedent, but a rehearing would "afford the opportunity to consider alternative grounds for sustaining application of the Act that may be more consistent with Supreme Court precedent." Of the two, Roberts spent more time practicing law in Washington, where he has networked with many Democrats. When Roberts was nominated for the D.C. Circuit in 2003, Clinton's former solicitor general, Seth P. Waxman, called Roberts an "exceptionally well-qualified appellate advocate." "He is a Washington lawyer, a conservative, not an ideologue," said Stuart H. Newberger, a lawyer and self-described liberal Democrat who has argued cases against Roberts. He put in his time advising the Bush legal team in Florida during the battle over the 2000 presidential election and has often argued conservative positions before the court -- but they can be attributed to clients, not necessarily to him. That includes a brief he wrote for President George H.W. Bush's administration in a 1991 abortion case, in which he observed that "we continue to believe that Roe v. Wade was wrongly decided and should be overruled." Roberts won the case -- Rust v. Sullivan -- in which the Supreme Court agreed with the administration that the government could require doctors and clinics receiving federal funds to avoid talking to patients about abortion. Those who know Luttig describe him as a warm and engaging but private man, who speaks in a Texas drawl and rarely goes to Washington social events. His paper trail is extensive and, in the view of supporters, an asset rather than a liability because it offers the Republican base a guarantee of his conservatism that Roberts cannot match. Luttig is well known as one of the federal bench's leading advocates of the view, also endorsed by Scalia, that the text of constitutional provisions and statutes should be interpreted as close to literally as possible. In 1999, he wrote the 4th Circuit opinion that struck down a portion of the federal Violence Against Women Act, saying Congress had exceeded its constitutional powers by giving rape victims the right to sue their attackers in federal court. The Supreme Court upheld Luttig's appellate opinion. His record also includes at least one case bound to please antiabortion activists. When Virginia wanted to start enforcing a ban on the procedure critics call "partial birth" abortion in 1998, state officials sought out a conservative jurist -- Luttig -- who would rule in their favor. His ruling for the 4th Circuit allowing the law to take effect overturned a lower court and ran contrary to courts in 17 other states in which bans on the controversial late-term procedure had been challenged. Yet Luttig ultimately bowed to higher authority. In 2000, after the Supreme Court overturned a similar Nebraska law, Luttig wrote the 4th Circuit opinion invalidating Virginia's statute on "partial birth" abortion. Citing a 1992 Supreme Court ruling that reaffirmed Roe, Luttig wrote: "I understand the Supreme Court to have intended its decision . . . to be a decision of super-stare decisis with respect to a woman's fundamental right to choose." He added that Supreme Court precedent must be followed "faithfully." Indeed, although Luttig's rhetoric has earned him a reputation as a staunch conservative, his adherence to textualism as he sees it has sometimes led to results that cannot be so easily categorized. In 2002, Luttig became the first federal appeals judge to rule that inmates have a constitutional right to post-conviction DNA testing to try to prove their innocence, calling it "a matter of basic fairness." In 1999, he granted protection to a female college football kicker under the federal law, known as Title IX, that

bans sex discrimination in federally funded educational programs. The next year, Luttig supported a North Carolina newspaper in a notable First Amendment case. He ruled that a federal judge was wrong to order a reporter to disclose her sources for information that was published in violation of a court seal. In a 2002 article in Judicature, published by the nonpartisan American Judicature Society, three political scientists compared Luttig's recent opinions with those of five other appellate court judges considered potential Supreme Court nominees. They concluded that Luttig's rulings -- in the areas of criminal justice, civil rights and liberties and economic and labor regulation -- were conservative 68.2 percent of the time. That still made him "consistently conservative," the authors wrote, but not as conservative as the other judges. The most conservative, the study concluded, was J. Harvie Wilkinson III, Luttig's colleague on the 4th Circuit, who is also considered a potential Supreme Court nominee. "I've always felt that people who view him as a knee-jerk conservative or ideologue are completely off base," said former attorney general William P. Barr, who worked with Luttig in the Justice Department's Office of Legal Counsel in the early 1990s. District Judge John G. Roberts Jr.'s short tenure has produced fewer written opinions that opponents can use to fight a nomination.Appellate Judge J. Michael Luttig has left a long paper trail that opponents of a Supreme Court nomination may try to exploit.

---- Index References ----

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Interview With William Barr

By Brit Hume

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(BEGIN VIDEO CLIP)GEORGE W. BUSH, PRESIDENT OF THE UNITED STATES: Go down and take a look at Guantanamo. About 200 or so have been released back to their countries. There needs to be a way forward on the other 500 that are there. We're now waiting for a federal court to decide whether or not they can be tried in a military court, where they'll have rights, of course, or in the civilian courts. We're just waiting for our judicial process to move -- to move the process along.

(END VIDEO CLIP)

HUME: One thing that judicial process has determined is that those captives at Guantanamo Bay can have access to U.S. courts to challenge their detention. So what is Guantanamo Bay, a war-time detention camp or a civilian lockup? And what rights do those prisoners actually have?

For answers, we turn to the former U.S. attorney general William Barr, who served under the first President Bush and who testified on this issue last week.

Welcome.

WILLIAM BARR, FORMER U.S. ATTORNEY GENERAL: Thank you.

HUME: So the Supreme Court has said that these detainees at Guantanamo Bay have access to U.S. courts. What does that mean? How did they find that? And what does it mean?

BARR: Well, all they found was that they're under the statute that created the habeas corpus writ.

HUME: Habeas corpus writs are ones where -- habeas corpus means we have the body, and if you have -- somebody is in captivity, they can challenge it.

BARR: Right. All habeas is, is it goes to the court and says, I am being held without any legal authority, and the court goes to the executive and says, Under what authority are you holding this individual?

Now, historically, in the criminal law context, where we're enforcing our laws against our own people, the executive has to show that they've conformed with all the requirements of the criminal law. But in the military context, all that would be required is showing that this is a foreign person who has no connection with the United States, and I'm holding him because it's our judgment that we encountered him on the battlefield and he's an enemy combatant. And that should be an end on it.

HUME: Before the Supreme Court decided this in -- I guess it's the Rasul case, which involved one of these detainees, had the habeas corpus provisions ever before been held to apply to foreign enemy combatants being held by Americans anywhere?

BARR: No, it had not been applied. And in fact, in British common law, it did not apply to enemy prisoners. So the Supreme Court's decision really focused on a technical issue of the statute.

HUME: In other words, what this court said, The way we read the statute -- and the only way we think it can be read -- that for before or for worse, habeas corpus does apply. They can come to court and petition.

BARR: Right. And that's all it says. They can petition. It doesn't say what the standard are or what rights they have as enemy combatants. And of course, what's going on with a lot of the critics is they're fundamentally confusing the context of our domestic law enforcement versus fighting a war against an armed foreign enemy.

HUME: How so?

BARR: Well, we wrote a Constitution not for the world but the people, the American people. And we made the decision when we set forth in the Constitution that, when the government is enforcing the laws, our own domestic laws against the people, we're going put checks on the executive and we're going to insist that they get it absolutely perfect, no mistakes. It's better to let guilty people go free than to make a mistake.

And so there are these hurdles that have to be jumped over when we are disciplining a member of own body politic. But when a foreign enemy comes and attacks the people, there is no neutrality. And what the Constitution is worried about

there is winning the war and the effectiveness of the government. And we cannot hamstring the military by imposing all the standards that we apply domestically to law enforcement.

HUME: Well, based on what's happened so far, though, how can you be sure that when these habeas corpus petitions begin to be adjudicated by American courts under the Supreme Court decision, that all sorts of rights may not be found to exist for these prisoners?

BARR: Well, I don't put anything beyond this Supreme Court. And of course, it is a worry. But I think the more they look at the situation and historical practice, they would see that it's completely untenable to start treating foreigners, who have no connection with the United States, you know, due process rights and so forth, that would say, You have to have an evidentiary hearing to determine whether you were captured properly in the first place. You can't fight a war that way.

Now, I will say, and this is where the critics are completely off-base, notwithstanding the fact that there is no constitutional right to a evidentiary hearing for enemy combatants, the administration's giving them and has established a process in Guantanamo where there is an adversary hearing. And they've actually established a preponderance of the evidence standard, much to my surprise.

So they are giving them more due process that could ever be granted them, as a matter of law. So they are getting the due process as to whether they're enemy combatants.

And then, of course, there's the question of, you know, under what conditions are they being held? And should they enjoy the privileges of the Geneva Convention? And of course, they should not enjoy the privileges of the Geneva Convention.

HUME: Why not?

BARR: Because the whole purpose of the Geneva Convention was to offer privileges to countries, the soldiers of countries, that honored certain obligations, and the main one being protecting civilians by not mixing in with them and differentiating yourself from civilians, so that there are no civilian casualties and minimizing them, and also, not attacking civilians.

It's a privilege. And the idea that we would take terrorists, the very antithesis of the people who deserve the privilege, and say, well, you know, yes, you can go out and slaughter civilians, and you can hide amongst them, and we're going to treat you as if you're honorable combatants, is preposterous.

HUME: It sounds as if the administration is well on the way to having a setting in which these prisoners can challenge their detention and have lawyers and rights and so forth. My thought would be, when you capture these prisoners and hold them, does that -- I mean, we don't necessarily do it because we think they committed a crime.

BARR: Right. It's not punishment. It is -- you know, it's always been the case -- when you are waging war, you are trying to destroy the enemy, destroy them by either killing them or, in lieu of killing them, capturing them and taking them away from the battlefield and holding them until you can impose your political will on the enemy. And we have done that for 235 years in this country.

And you know, World War II is an interesting example. Four hundred thousand Germans and Italians were kept in the United States. They didn't go to -- have access to courts. They weren't able to say, Hey, gee, I was an East German labor battalion. I didn't mean to be in the Weimar.

HUME: Good to have you. Thanks. I hope you'll come back.

We've got to take a break to hear from our sponsors and update the other headlines. When we come back, wait until you hear how one of the nation's best-known newspapers is reporting about Senator Durbin and his remarks. That story next, on the Grapevine.

(COMMERCIAL BREAK)

(NEWSBREAK)

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Body

Alberto R. Gonzales

Attorney General

202-514-2001

Gonzales differs from John Ashcroft, his lightning-rod predecessor, more in style than substance. But style matters in Washington. As White House counsel during Bush's first term, Gonzales was a key architect of post-9/11 policies, and he spent much of his January confirmation hearing parrying questions about his role in designing U.S. interrogation methods. He vigorously denied that his advice encouraged abuses at Abu Ghraib and elsewhere, and the Senate went on to confirm him by a 60-36 vote.

Since then, members of Congress have largely dropped the interrogation issue with him and have gone on to praise his lower-key style. Good relations with the Hill are critical now, as Gonzales noted in an interview, because efforts to reauthorize the USA PATRIOT Act are at "a critical juncture." He has crisscrossed the country to build support for the anti-terrorism law.

Gonzales recently persuaded the president to spend time talking up the PATRIOT Act, but he concedes he doesn't have the same sort of relationship with the president he once had. "I don't see him as often. It's not like I can go down to the Oval Office like I used to and raise issues with him or chat about how things are going," Gonzales says. "It's a little bit different, and I miss that."

Gonzales, 50, has spent much of his career working with Bush. A native of Humble, Texas, he was the first person in his family to go to college. After graduating from Rice University, he earned his law degree at Harvard. He did a stint in private practice, and then climbed the ladder within the state government, rising to the Texas Supreme Court.

Timothy Flanigan

Deputy Attorney General (designate)

202-514-2101

If Flanigan is confirmed as the No. 2 at Justice, it will be his second time as Gonzales's deputy. Flanigan, 51, was White House deputy counsel from 2001 to 2002 when Gonzales was counsel to the president. He helped Gonzales and the administration craft major national security initiatives after 9/11. Although much of Flanigan's career has been in the private sector, this is his second go-round at Justice. The native Virginian was assistant attorney general in the Office of Legal Counsel from

1992 to 1993 under the first President Bush. William Barr, who was attorney general at that time and is now executive vice president and general counsel at Verizon, calls Flanigan "affable" with "an excellent legal mind" and "a good feel for the department." Flanigan, who has a bachelor's degree from Brigham Young University and a law degree from the University of Virginia, currently serves as senior vice president and counsel of corporate and international law at Tyco International. "He has no prosecutorial experience," says a Senate Democratic aide. But Flanigan's stint at Tyco, a company that has recently faced serious ethics scandals, has prepared him well for managing a large agency focused on law enforcement. At Tyco since 2002, Flanigan has been responsible for overseeing new ethics compliance policies. And as the father of 14 children, Flanigan is familiar with the role of shepherd.

Robert D. McCallum Jr.

Associate Attorney General

202-514-9500

McCallum's duties encompass five general areas of litigation: antitrust, civil, civil rights, environment and natural resources, and taxes. His office also defines policy in areas such as violence against women and oversees federal grants

for programs like Community Oriented Policing Services. McCallum, 59, calls himself "a dinosaur" of the legal profession because he did not specialize in one area of law, as many attorneys do today. Instead, he came to the department in 2001 from the Alston & Bird law firm in Atlanta with 30 years of litigation experience, ranging from insurance class actions and medical malpractice cases to real estate and contract disputes. "He brings terrific litigation judgment, which is essential in his position," said one of McCallum's former deputies in the Civil Division, where he served as assistant attorney general before being elevated to his current post. A native of Memphis, Tenn., and a Rhodes scholar from Oxford University, McCallum earned his undergraduate and law degrees from Yale University, where he was a classmate of George W. Bush's and a fellow member of the Skull and Bones secret society.

Peter Keisler

Assistant Attorney General, Civil Division

202-514-3301

Keisler, 44, a seasoned litigator and partner at Sidley Austin Brown & Wood before joining the Civil Division in 2003, said there's "nothing at all like litigating when your client is the United States." Lawyers in his division handle a vast array of cases, from defending challenges to presidential initiatives to litigating tort claims and enforcing consumer-protection laws. Keisler has even argued several cases personally. His successful defense of the constitutionality of the "do not call" program that enables folks to avoid telemarketers earned him plenty of goodwill from friends. A native of Woodmere, N.Y., Keisler graduated from Yale College and Yale Law School. He clerked from 1985 to '86 for Robert Bork, then a judge with the U.S. Court of Appeals for the D.C. Circuit, and later for Supreme Court Justice Anthony Kennedy. He served in the Office of Counsel to the president from 1986 to 1988. Before assuming his current post, Keisler was principal deputy associate attorney general and acting associate attorney general.

Alice Fisher

Assistant Attorney General (designate), Criminal Division

202-514-7200

Expected to be confirmed, Fisher is an alum of the small

team at Justice that worked through the night in the aftermath of 9/11. As deputy assistant attorney general of the Criminal Division at the time, her focus was investigating and prosecuting those involved with the attacks and other Al-Qaeda sympathizers. The criminal provisions in the USA PATRIOT Act were among her first post-9/11 projects. She was also in charge of tracking corporate fraud in cases such as the Enron investigation. Fisher left DOJ in 2003 to return to Latham & Watkins, a Washington-based law firm, where she was a partner. Since then, she's been specializing in white-collar crime and advising clients on terrorism issues. Fisher knows the Criminal Division inside out. Described by a former colleague as the "right-hand appendage" of then-Criminal Division chief Michael Chertoff, she earned a reputation for her smarts and her tendency to reach out to other agencies. "She's incredibly dedicated, has great judgment, and is a very hard worker," says Chertoff, and, he adds, "she has a great sense of humor." Fisher also worked with Chertoff at Latham & Watkins and on the Whitewater investigation, for which she was deputy special counsel to the Senate investigatory committee. Fisher, 38, grew up in Lexington, Ky., and went on to Vanderbilt University and later Catholic University School of Law.

Regina B. Schofield

Assistant Attorney General, Office of Justice Programs

202-307-5933

The 43-year-old Mississippi native joins Justice with a wide range of Washington experience. Nominated in March, she most recently was director of intergovernmental affairs at Health and Human Services, where she advised officials on state and local perspectives on agency policies. Schofield has also served as head of the agency's Office of White House Liaison. Before joining HHS, she was the manager of government relations at the U.S. Postal Service, as well as the manager of environmental issues for the International Council of Shopping Centers. During the George H.W. Bush administration, Schofield worked as the deputy director of the Education Department's Office of White House Liaison. A graduate of Mississippi College, Schofield earned an M.B.A. from Jackson State University. In her new position, she will lead Justice's efforts to prevent and control crime, as well as improve the criminal and juvenile justice programs.

William Emil Moschella

Assistant Attorney General for Legislative Affairs

202-514-2141

Unlike many of his legislative affairs counterparts in the administration, Moschella had no background in lobbying when he was named to his position. But he says his lack of target practice was made up for by 13 years on the Hill getting to know the target. "I've worked as an intern, all the way up to one of the top jobs in the [House] Judiciary Committee," he said. "I think I've got a very good understanding of what a day in the life of a member of Congress is like, and the needs of the Hill." Other than lobbying, his duties at Justice include preparing witnesses for testimony at congressional hearings, particularly the numerous sessions related to the PATRIOT Act's reauthorization; dealing with oversight requests; and herding cats. "You may have a piece of legislation relating to violent crimes, for example, and the FBI, DEA, ATF, the Criminal Division, and the U.S. attorneys may all have a slightly different take on how to best address the problem," he notes. Moschella, 37, was reared and educated in Virginia. He earned his undergraduate degree at the University of Virginia and his law degree at George Mason University.

Rachel Brand

Assistant Attorney General (designate), Office of Legal Policy

202-514-4601

"For such a young age, Rachel has remarkable accomplishments," said Sen. Charles Grassley, R-Iowa, at Brand's nomination hearing in May to head the office that assists the attorney general and the president in filling judicial vacancies. At 32, Brand already has a career that includes a stint as part of Bush's legal team during the 2000 presidential vote recount in Florida; a job as White House associate counsel; and a clerkship with Supreme Court Justice Anthony Kennedy. Brand, who grew up in Iowa and interned for Grassley, has a broad portfolio at Justice. Her office develops and interprets the department's legal policy in areas ranging from crime victims' rights to the USA PATRIOT Act. "It can be a challenge to juggle the many important issues we work on," says Brand, whose shop includes about 20 lawyers. Tim Flanigan, Bush's

nominee for deputy attorney general, knows Brand from the Florida recount days and the White House, and calls her "tireless." Flanigan says he "can't think of anyone who is more balanced or politically sensitive" to oversee the department's judicial selection process. Brand has a bachelor's degree from the University of Minnesota and earned a law degree at Harvard University.

Eileen O'Connor

Assistant Attorney General, Tax Division

202-514-2901

The past few years have seen the "reinvigoration" of tax enforcement, according to O'Connor, who said her office has expanded its ties with the IRS. The 55-year-old Philadelphia native is a graduate of Columbus State University, earned her law degree at Catholic University, and worked in tax law for more than 30 years before joining the Bush administration in July 2001. O'Connor previously served as a corporate tax specialist at the IRS, as well as a national tax consultant with major accounting firms. She has been an adjunct law professor at Georgetown University Law Center and George Mason University Law School. O'Connor is a member of the president's Corporate Fraud Task Force. Her office has placed a particularly high priority on tax scam operators and has begun seeking civil injunctions against them, rather than waiting for lengthy criminal investigations to be completed.

Robert Mueller

Director, Federal Bureau of Investigation

202-324-3000

After taking office on September 4, 2001, Mueller barely had a chance to catch his breath before he was forced to contend with one of the steepest law-enforcement challenges in the nation's history. The September 11 attacks resulted in a major overhaul of FBI priorities, including a greater focus on criminal connections overseas and increased monitoring of computer transactions. "Once America was attacked, [the FBI] needed to change overnight," Mueller said recently. "Probably at no time in history has the FBI changed on such a large scale as in the past three and a half years." As it turns out, Mueller's background suited him well for the task. He has held

law-enforcement posts in Republican and Democratic administrations, including one as the Clinton-nominated U.S. attorney in San Francisco. He also did stints as a partner with two Boston-based law firms and served as a Marine officer in Vietnam. Mueller, 60, grew up outside of Philadelphia, went to prep school with John Kerry, and graduated from Princeton and the University of Virginia Law School. Although he has retained bipartisan support and has avoided much controversy, he faces continuing challenges in upgrading internal FBI operations. Critics have raised questions about the agency's reorganization, particularly after it recently scrapped a modern computer software system and announced a new plan. By law, Mueller serves a 10-year term.

Tasia Scolinos

Director, Public Affairs

202-514-2007

Scolinos, 33, has held this job about four months, but was well prepared after tours in other high-level public-affairs posts, where she was a go-to person for reporters seeking information on counterterrorism. Scolinos came to Washington in 2001 to be a spokeswoman for the Treasury Department, where her portfolio included law enforcement issues. Upon the creation of the Homeland Security Department after 9/11, she joined the transition team and became deputy assistant secretary for public affairs and senior director of communications in January 2003. As director of a well-established office at Justice, Scolinos said the challenges are far different from those at DHS, where she helped assemble a team from scratch. A native of Arcadia, Calif., Scolinos graduated from Claremont McKenna College. Before earning a law degree from Georgetown University, she was an assistant to Judge Lance Ito during the O.J. Simpson trial. She did litigation work from 1999-2001, a period in which she made some "talking head" media appearances to boost George Bush's presidential campaign.

Benigno Reyna

Director, Marshals Service

202-307-9065

After 25 years in Texas law enforcement, Reyna retired in May 2001, only to receive a phone call one week later from the

White House asking if he would be interested in serving in the new administration. His confirmation hearing had been set for mid-September when 9/11 happened. Days after the attacks, Reyna went before the Senate Judiciary Committee. In December 2001, he took over the oldest federal law enforcement agency, where he oversees a staff of more than 4,000 employees. "I think public service is in my heart," Reyna has said. "Starting in the fourth grade, I was a school safety patrol boy." The son of Mexican immigrants, Reyna received a B.S. in criminal justice from the University of Texas-Pan American, where he participated in a federally funded police cadet program. He began his law enforcement career in 1976 with the police department in Brownsville, Texas, where he grew up. In 1997, after serving for six years as chief of police, Reyna was appointed to the Texas Commission on Law Enforcement Officer Standards and Education by then-Gov. Bush. In 2000, he became the commission's presiding officer.

Karen Tandy

Administrator, Drug Enforcement Agency

202-307-7977

According to Tom Riley, the spokesman at the White House Office of National Drug Control Policy, Tandy "doesn't see drugs as an abstract issue, but as a real problem. She is clear every time she talks about it." As a parent and as a professional, Tandy has an ability to connect "law enforcement effectively to citizens' real concerns about drugs," Riley added. Tandy oversees the work of drug enforcement special agents in the United States and abroad. Her focus is trying to dismantle the financial infrastructure that fuels the drug trade. Before becoming DEA administrator in 2003, Tandy, 51, was associate deputy attorney general and director of the Organized Crime Drug Enforcement Task Forces. She has also held several positions in the DOJ Criminal Division. Tandy is a Fort Worth native who received her undergraduate and law degrees from Texas Tech. Bill Alden, president of the DEA's Museum Foundation, calls her a "very personable" woman of a "fiery nature," and says she's a leader "by example" who is "not afraid to roll up her own sleeves to do whatever is necessary."

Theodore Ullyot

Chief of Staff

202-514-2001

Ullyot, 38, joined Justice after Gonzales took office earlier this year. He previously served at the White House as deputy assistant to the president and deputy staff secretary, and earlier as an associate counsel to the president. Ullyot said his White House work eased the transition to Justice; because of it he was familiar with department officials. The San Francisco native knew Gonzales for about two years before joining Justice. He says his main responsibility is ensuring that the attorney general is "hearing from the right people." A graduate of Harvard College, Ullyot earned his law degree at the University of Chicago. He clerked for U.S. Supreme Court Justice Antonin Scalia during the 1995-96 term and for Judge J. Michael Luttig of the U.S. Court of Appeals in 1994-95. Before joining the administration, Ullyot was senior vice president and general counsel at AOL Time Warner and was an associate and then partner at Kirkland & Ellis.

Paul Clement

Solicitor General

202-514-2201

Like many other Justice Department officials in the Bush administration, Clement has been among the conservative firebrands of the Federalist Society. But unlike some others, he has maintained positive relationships with congressional Democrats. "Paul is regarded as a truly outstanding oral advocate, one of the best in the country today," Sen. Russ Feingold, D-Wis., said in introducing him to the Senate Judiciary Committee for his confirmation hearing in April. The senator was especially appreciative of Clement's successful Supreme Court advocacy of the 2002 McCain-Feingold campaign reform law. Clement, 39, is also connected with Feingold because he grew up in a Milwaukee suburb and later worked for the Senate Judiciary Committee as an aide to then-Sen. John Ashcroft, R-Mo. He graduated from Georgetown University's School of Foreign Service and Harvard Law School, clerked for Supreme Court Justice Antonin Scalia, and worked in two prominent Washington law firms. That background is useful for his position as the federal government's chief litigator before the Supreme Court, where he has handled many controversial issues, including terrorism cases. Even at his young age, Clement has been mentioned as a contender for a high-level federal judgeship.

"He's a warm and open-minded individual who listens to others," said Democratic legal scholar Walter Dellinger.

Justice Department
Established: 1870
Address: 950 Pennsylvania Ave. NW, Washington, DC 20530
Phone: 202-514-2000
2005 Budget: $21.6 billion
Employment: 104,383

Web Site: *www.usdoj.gov*
Functions: The Justice Department provides the means for enforcing federal laws and furnishes legal counsel in federal cases. The department provides legal advice to the president, investigates federal crimes, and represents the executive branch in court. The department also operates federal prisons; oversees the Drug Enforcement Agency and the FBI; and coordinates the work of the U.S. attorneys.

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NewsRoom

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PR Newswire

May 13, 2005

Verizon Authorized to Create Trust in Connection With Purchase of 43.4 Million MCI Shares

NEW YORK, May 13

NEW YORK, May 13 /PRNewswire/ -- Verizon Communications Inc. (NYSE: VZ)today announced that the Department of Justice has authorized the company toset up a trust to facilitate closing on the company's agreement to purchaseapproximately 43.4 million shares of MCI, Inc. (Nasdaq: MCIP) common stockfrom eight entities affiliated with Carlos Slim Helu.

The purchase, announced April 9, is expected to close next week. It hasan aggregate cash value of approximately $1.1 billion and represents anapproximate 13.4 percent ownership stake in MCI.

Once the purchase closes, Verizon will transfer the shares to a trust.The trustee, former U.S. Attorney General Dick Thornburgh, will hold theshares on behalf of Verizon and will vote the shares in support of theproposed merger of Verizon and MCI at a future MCI shareholder meeting.

"We appreciate the efforts of the Justice Department's staff who workedconstructively and expeditiously with us to put in place this arrangement forthe shares," said William Barr, executive vice president and general counselof Verizon.

With more than $71 billion in annual revenues, Verizon Communications Inc.(NYSE: VZ) is one of the world's leading providers of communications services.Verizon has a diverse work force of 212,000 in four business units: DomesticTelecom provides customers based in 28 states with wireline and othertelecommunications services, including broadband. Verizon Wireless owns andoperates the nation's most reliable wireless network, serving 45.5 millionvoice and data customers across the United States. Information Servicesoperates directory publishing businesses and provides electronic commerceservices. International includes wireline and wireless operations andinvestments, primarily in the Americas and Europe. For more information,visit http://www.verizon.com.

VERIZON'S ONLINE NEWS CENTER: Verizon news releases, executive speechesand biographies, media contacts, high quality video and images, and otherinformation are available at Verizon's News Center on the World Wide Web athttp://www.verizon.com/news. To receive news releases by e-mail, visit theNews Center and register for customized automatic delivery of Verizon newsreleases.

In connection with the proposed acquisition of MCI, Verizon filed, withthe SEC on May 9, 2005, an amended proxy statement and prospectus on Form S-4that contain important information about the proposed acquisition. Thesematerials are not yet final and will be amended. Investors are urged to readthe proxy statement and prospectus filed, and any other relevant materialsfiled by Verizon or MCI because they contain, or will contain, importantinformation about Verizon, MCI and the proposed acquisition. The preliminarymaterials filed on May 9, 2005, the definitive versions

of these materials andother relevant materials (when they become available) and any other documentsfiled by Verizon or MCI with the SEC, may be obtained for free at the SEC'swebsite at www.sec.gov. Investors may also obtain free copies of thesedocuments at www.verizon.com/investor, or by request to Verizon CommunicationsInc., Investor Relations, 1095 Avenue of the Americas, 36th Floor, New York,NY 10036. Free copies of MCI's filings are available atwww.mci.com/about/investor_relations, or by request to MCI, Inc., InvestorRelations, 22001 Loudoun County Parkway, Ashburn, VA 20147. Investors areurged to read the proxy statement and prospectus and the other relevantmaterials when such other materials become available before making any votingor investment decision with respect to the proposed acquisition.

Verizon, MCI, and their respective directors, executive officers, andother employees may be deemed to be participants in the solicitation ofproxies from MCI shareowners with respect to the proposed transaction.Information about Verizon's directors and executive officers is available inVerizon's proxy statement for its 2005 annual meeting of shareholders, datedMarch 21, 2005. Information about MCI's directors and executive officers isavailable in MCI's proxy statement for its 2005 annual meeting ofstockholders, dated April 20, 2005. Additional information about theinterests of potential participants will be included in the registrationstatement and proxy statement and other materials filed with the SEC.

NOTE: This document contains statements about expected future events andfinancial results that are forward-looking and subject to risks anduncertainties. For those statements, we claim the protection of the safeharbor for forward-looking statements contained in the Private SecuritiesLitigation Reform Act of 1995. The following important factors could affectfuture results and could cause those results to differ materially from thoseexpressed in the forward-looking statements: a significant change in thetiming of, or the imposition of any government conditions to, the closing ofthe transaction, if consummated; actual and contingent liabilities; and theextent and timing of our ability to obtain revenue enhancements and costsavings following the transaction. Additional factors that may affect thefuture results of Verizon and MCI are set forth in their respective filingswith the Securities and Exchange Commission, which are available athttp://www.verizon.com/investor/ andhttp://www.mci.com/about/investor_relations/sec/.

SOURCE Verizon

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The National Law Journal

April 4, 2005 Monday

THE NATIONAL LAW JOURNAL

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News

Law Firms

IN WAKE OF MORGAN STANLEY CASE, COMMITTEE CHAIR DEFENDS HIS RECORD

GETTING THE BOOT last month from client Morgan Stanley may have put a hitch in Kirkland & Ellis' swagger-but the extent of the injury is uncertain.

Led by Management Committee Chairman Thomas Yannucci, the Chicago-based firm has a litigation department regarded as one of the best in the country, representing some of the largest corporations in the world.

But a Florida judge recently determined that Morgan Stanley, represented by Kirkland & Ellis, hid evidence and coached witnesses in a legal battle over the sale of camping-gear maker The Coleman Co.. to Sunbeam, a Morgan Stanley client.

Morgan Stanley has since substituted counsel and said that it may pursue a malpractice action against the firm.

The result is a major black eye for Kirkland & Ellis-but it may be only skin deep.

Verizon Communications Inc. General Counsel William Barr said the case would not affect his relationship with the firm.

I have total confidence in them, Barr said, adding that Yannucci is an appropriately aggressive attorney who has a good sense of what the odds are in a case.

Enrico Mirabelli, a Chicago attorney at Nadler, Pritikin & Mirabelli who sued Time Warner Entertainment on behalf of a group opposing the portrayal of Italians in certain episodes of **The Sopranos**, said that Yannucci took a hard-line position in the case but also was a gentleman. Yannucci represented Time Warner, which won a dismissal of the action brought by the American Italian Defense Association.

Last week, Yannucci, though he would not comment on the Morgan Stanley case, was quick to point to his track record. I have never been personally sanctioned, reprimanded or admonished by any court in nearly 30 years of practice, he said. Yannucci, who declined a telephone interview but responded to questions sent by e-mail, was one of several attorneys in the case.

Other Kirkland & Ellis partners, including Christopher Landau, Jeffrey Davidson, Lawrence Bemis and Thomas Clare, handled much of the pretrial litigation. Those attorneys filed their own motion to withdraw, citing a conflict with Morgan Stanley. According to a spokeswoman for Morgan Stanley, Washington-based Kellogg, Huber, Hansen, Todd, Evans & Figel now is its lead counsel.

The case in Florida, which is to begin on April 4, involves the sale of Coleman-82% of which was owned by Revlon Chairman Ron Perelman-to Sunbeam. Perelman sold his part of Coleman for $1.5 billion plus $680 million in stock. Sunbeam is now part of Jarden Corp.

But after Sunbeam executives were charged with accounting fraud, its stock value plummeted. Coleman claims that Morgan Stanley, which underwrote a bond issue for the deal, perpetrated the alleged fraud and failed to turn over records that would have indicated as much. A jury will decide if Perelman relied on the false numbers and is entitled to damages. **Coleman Holdings v. Morgan Stanley**, No. CA 03-5045.

The wimp factor

The case is a stark contrast to Kirkland & Ellis' past successes, which Yannucci has not been bashful about touting. In 2002, **The American Lawyer**, a sister publication of **The National Law Journal**, selected the firm as a Litigation Department of the Year finalist. At the time, he said that when compared to competing firms, [w]e think we're better than everybody else. He also said that the internal culture of the firm was that you're a wimp if your case is not tried.

Yannucci and other Kirkland & Ellis attorneys have litigated landmark cases, including representing Chiquita Brands International Inc. in a matter against the **Cincinnati Enquirer**, whose reporter tapped into the company's voicemail system. The firm also represented General Motors Corp. in its suit against NBC's **Dateline** over a story about alleged explosions in GM trucks.

But last week he seemed less willing to herald the firm's accomplishments and his own. Rejecting the characterization of himself as an aggressive lawyer, he instead said that he brings a relatively nuanced approach to cases.

I try to be cordial with opposing counsel and believe credibility with a court is critical, he said.

Apparently, however, Florida Circuit Judge Elizabeth Maass found credibility lacking in the Morgan Stanley matter. She wrote in a March 1 decision that the firm's willful and gross abuse of discovery obligations had frustrated the court and opposing counsel. In a March 22 order, she wrote that the abuses served to infect the entire case, and that she would inform the jury about Morgan Stanley's efforts to hide its e-mails for a determination of punitive damages.

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Analysis

To Some, 'Chief Justice Scalia' Has a Certain Ring

By Charles Lane
Washington Post Staff Writer
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Justice Antonin Scalia struck a pessimistic note when he spoke at the right-of-center Ethics and Public Policy Center here last Sept. 20. Lamenting his inability to stop the Supreme Court's slide away from the principles of judicial restraint he espouses, Scalia said he felt like "Frodo in 'The Lord of the Rings,' soldiering on."

Scalia's mood was much brighter on Jan. 13, when he appeared at the American University's Washington College of Law for an unusual televised "conversation" on international law with his liberal colleague Stephen G. Breyer -- a frequent target of Scalia's barbs in written opinions. The two traded quips and generally disagreed without being disagreeable. "Stephen and I do not fight," Scalia joshed. "We do not fight at all."

Some Scalia-watchers think they know what accounts for his sunnier public face of late: On Nov. 2, President Bush was reelected and Republicans captured 55 seats in the Senate. They believe that Scalia -- seeing an opportunity to move up to chief justice if the current chief, William H. Rehnquist, who is 80 and seriously ill, leaves -- is fine-tuning his image.

Scalia has launched a "charm initiative," said Ralph G. Neas, president of the liberal organization People for the American Way, which would strongly oppose a Scalia promotion.

Friends and associates of Scalia see it differently. He is just being himself, they said, and not encouraging Scalia-for-chief talk even though he would take the job if it were offered.

"You can't beat the symbolism of being chief justice of the United States," said American Civil Liberties Union president Nadine Strossen, who has been on good terms with Scalia for years despite differences on many issues. "Especially if you have such strong ideological beliefs, it would be a great platform."

What no one doubts is that the Bush administration would at least consider Scalia for chief justice. He would be nominated for the court's top slot while a conservative jurist from the lower courts would be selected to replace him as an associate justice, the scenario goes.

"It's entirely possible," said C. Boyden Gray, White House counsel in the George H.W. Bush administration who now heads the Committee for Justice, which supports Bush administration federal court nominees.

That is how the Reagan administration handled the retirement of Chief Justice Warren E. Burger in 1986, naming then-Associate Justice Rehnquist to succeed Burger and picking Scalia to replace Rehnquist. While Democrats in the Senate pounded Rehnquist over his record on the court, Scalia skated to a 98 to 0 confirmation vote, in part because liberal advocacy groups had only enough time, money and energy to attack one nominee at a time.

Some Republicans think the same play would work in 2005. "Scalia's a very, very big blocker," one knowledgeable source said.

For the White House, promoting Scalia, an opponent of the 1973 *Roe v. Wade* decision that established a constitutional right to abortion, would be a large political plus with the Republican Party's conservative base.

The downsides of a Scalia appointment are his age, 68, which might mean his tenure would be relatively brief, and the prospect that the Democrats, prodded by abortion rights constituencies, could mount a filibuster, making it impossible to confirm either Scalia or a new associate justice.

Given those uncertainties, Scalia "is probably ambivalent. He wouldn't mind the vindication and the recognition, but he is probably much more concerned with getting other justices on the court he can work with," said William P. Barr, who served as attorney general in the George H.W. Bush administration.

Still, Scalia's presumed willingness to take the job contrasts with the reported attitude of Justice Clarence Thomas, another conservative sometimes mentioned as a potential Bush pick for chief justice, Republican sources said.

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After Terror, a Secret Rewriting of Military Law

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Body

In early November 2001, with Americans still staggered by the Sept. 11 attacks, a small group of White House officials worked in great secrecy to devise a new system of justice for the new war they had declared on terrorism.

Determined to deal aggressively with the terrorists they expected to capture, the officials bypassed the federal courts and their constitutional guarantees, giving the military the authority to detain foreign suspects indefinitely and prosecute them in tribunals not used since World War II.

The plan was considered so sensitive that senior White House officials kept its final details hidden from the president's national security adviser, Condoleezza Rice, and the secretary of state, Colin L. Powell, officials said. It was so urgent, some of those involved said, that they hardly thought of consulting Congress.

White House officials said their use of extraordinary powers would allow the Pentagon to collect crucial intelligence and mete out swift, unmerciful justice. ''We think it guarantees that we'll have the kind of treatment of these individuals that we believe they deserve,'' said Vice President Dick Cheney, who was a driving force behind the policy.

But three years later, not a single terrorist has been prosecuted. Of the roughly 560 men being held at the United States naval base at Guantanamo Bay, Cuba, only 4 have been formally charged. Preliminary hearings for those suspects brought such a barrage of procedural challenges and public criticism that verdicts could still be months away. And since a Supreme Court decision in June that gave the detainees the right to challenge their imprisonment in federal court, the Pentagon has stepped up efforts to send home hundreds of men whom it once branded as dangerous terrorists.

''We've cleared whole forests of paper developing procedures for these tribunals, and no one has been tried yet,'' said Richard L. Shiffrin, who worked on the issue as the Pentagon's deputy general counsel for intelligence matters. ''They just ended up in this Kafkaesque sort of purgatory.''

The story of how Guantanamo and the new military justice system became an intractable legacy of Sept. 11 has been largely hidden from public view.

But extensive interviews with current and former officials and a review of confidential documents reveal that the legal strategy took shape as the ambition of a small core of conservative administration officials whose political influence and bureaucratic skill gave them remarkable power in the aftermath of the attacks.

The strategy became a source of sharp conflict within the Bush administration, eventually pitting the highest-profile cabinet secretaries -- including Ms. Rice and Defense Secretary Donald H. Rumsfeld -- against one another over issues of due process, intelligence-gathering and international law.

In fact, many officials contend, some of the most serious problems with the military justice system are rooted in the secretive and contentious process from which it emerged.

Military lawyers were largely excluded from that process in the days after Sept. 11. They have since waged a long struggle to ensure that terrorist prosecutions meet what they say are basic standards of fairness. Uniformed lawyers now assigned to defend Guantanamo detainees have become among the most forceful critics of the Pentagon's own system.

Foreign policy officials voiced concerns about the legal and diplomatic ramifications, but had little influence. Increasingly, the administration's plan has come under criticism even from close allies, complicating efforts to transfer scores of Guantanamo prisoners back to their home governments.

To the policy's architects, the attacks on the World Trade Center and the Pentagon represented a stinging challenge to American power and an imperative to consider measures that might have been unimaginable in less threatening times. Yet some officials said the strategy was also shaped by longstanding political agendas that had relatively little to do with fighting terrorism.

The administration's claim of authority to set up military commissions, as the tribunals are formally known, was guided by a desire to strengthen executive power, officials said. Its legal approach, including the decision not to apply the Geneva Conventions, reflected the determination of some influential officials to halt what they viewed as the United States' reflexive submission to international law.

In devising the new system, many officials said they had Osama bin Laden and other leaders of Al Qaeda in mind. But in picking through the hundreds of detainees at Guantanamo Bay, military investigators have struggled to find more than a dozen they can tie directly to significant terrorist acts, officials said. While important Qaeda figures have been captured and held by the C.I.A., administration officials said they were reluctant to bring those prisoners before tribunals they still consider unreliable.

Some administration officials involved in the policy declined to be interviewed, or would do so only on the condition they not be identified. Others defended it strongly, saying the administration had a responsibility to consider extraordinary measures to protect the country from a terrifying enemy.

"Everybody who was involved in this process had, in my mind, a white hat on," Timothy E. Flanigan, the former deputy White House counsel, said in an interview. "They were not out to be cowboys or create a radical new legal regime. What they wanted to do was to use existing legal models to assist in the process of saving lives, to get information. And the war on terror is all about information."

As the policy has faltered, other current and former officials have criticized it on pragmatic grounds, arguing that many of the problems could have been avoided. But some of the criticism also has a moral tone.

"What several of us were concerned about was due process," said John A. Gordon, a retired Air Force general and former deputy C.I.A. director who served as both the senior counterterrorism official and homeland security adviser on President Bush's National Security Council staff. "There was great concern that we were setting up a process that was contrary to our own ideals."

An Aggressive Approach

The administration's legal approach to terrorism began to emerge in the first turbulent days after Sept. 11, as the officials in charge of key agencies exhorted their aides to confront Al Qaeda's threat with bold imagination.

''Legally, the watchword became 'forward-leaning,'" said a former associate White House counsel, Bradford Berenson, ''by which everybody meant: 'We want to be aggressive. We want to take risks.'"

That challenge resounded among young lawyers who were settling into important posts at the White House, the Justice Department and other agencies. Many of them were members of the Federalist Society, a conservative legal fraternity. Some had clerked for Supreme Court justices, Clarence Thomas and Antonin Scalia in particular. A striking number had clerked for a prominent Reagan appointee, Lawrence H. Silberman of the United States Court of Appeals for the District of Columbia Circuit.

One young lawyer recalled looking around the room during a meeting with Attorney General John Ashcroft. ''Of 10 people, 7 of us were former Silberman clerks,'' he said.

Mr. Berenson, then 36, had been consumed with the nomination of federal judges until he was suddenly reassigned to terrorism issues and thrown into intense, 15-hour workdays, filled with competing urgencies and intermittent new alerts.

''All of a sudden, the curtain was lifted on this incredibly frightening world,'' he said. ''You were spending every day looking at the dossiers of the world's leading terrorists. There was a palpable sense of threat.''

As generals prepared for war in Afghanistan, lawyers scrambled to understand how the new campaign against terrorism could be waged within the confines of old laws.

Mr. Flanigan was at the center of the administration's legal counteroffensive. A personable, soft-spoken father of 14 children, his easy manner sometimes belied the force of his beliefs. He had arrived at the White House after distinguishing himself as an agile legal thinker and a Republican stalwart: During the Clinton scandals, he defended the independent counsel, Kenneth W. Starr, saying he had conducted his investigation ''in a moderate and appropriate fashion.'' In 2000, he played an important role on the Bush campaign's legal team in the Florida recount.

In the days after the Sept. 11 attacks, Mr. Flanigan sought advice from the Justice Department's Office of Legal Counsel on ''the legality of the use of military force to prevent or deter terrorist activity inside the United States,'' according to a previously undisclosed department memorandum that was reviewed by The New York Times.

The 20-page response came from John C. Yoo, a 34-year-old Bush appointee with a glittering resume and a reputation as perhaps the most intellectually aggressive among a small group of legal scholars who had challenged what they saw as the United States' excessive deference to international law. On Sept. 21, 2001, Mr. Yoo wrote that the question was how the Constitution's Fourth Amendment rights against unreasonable search and seizure might apply if the military used ''deadly force in a manner that endangered the lives of United States citizens.''

Mr. Yoo listed an inventory of possible operations: shooting down a civilian airliner hijacked by terrorists; setting up military checkpoints inside an American city; employing surveillance methods more sophisticated than those available to law enforcement; or using military forces ''to raid or attack dwellings where terrorists were thought to be, despite risks that third parties could be killed or injured by exchanges of fire.''

Mr. Yoo noted that those actions could raise constitutional issues, but said that in the face of devastating terrorist attacks, ''the government may be justified in taking measures which in less troubled conditions could be seen as infringements of individual liberties.'' If the president decided the threat justified deploying the military inside the country, he wrote, then ''we think that the Fourth Amendment should be no more relevant than it would be in cases of invasion or insurrection.''

The prospect of such military action at home was mostly hypothetical at that point, but with the government taking the fight against terrorism to Afghanistan and elsewhere around the world, lawyers in the administration took the same ''forward-leaning'' approach to making plans for the terrorists they thought would be captured.

The idea of using military commissions to try suspected terrorists first came to Mr. Flanigan, he said, in a phone call a couple of days after the attacks from William P. Barr, the former attorney general under whom Mr. Flanigan had served as head of the Justice Department's Office of Legal Counsel during the first Bush administration.

Mr. Barr had first suggested the use of military tribunals a decade before, to try suspects in the bombing of Pan Am Flight 103 over Lockerbie, Scotland. Although the idea made little headway at the time, Mr. Barr said he reminded Mr. Flanigan that the Legal Counsel's Office had done considerable research on the question. Mr. Flanigan had an aide call for the files.

''I thought it was a great idea,'' he recalled.

Military commissions, he thought, would give the government wide latitude to hold, interrogate and prosecute the sort of suspects who might be silenced by lawyers in criminal courts. They would also put the control over prosecutions squarely in the hands of the president.

The same ideas were taking hold in the office of Vice President Cheney, championed by his 44-year-old counsel, David S. Addington. At the time, Mr. Addington, a longtime Cheney aide with an indistinct portfolio and no real staff, was not well-known even in the government. But he would become legendary as a voraciously hard-working official with strongly conservative views, an unusually sharp pen and wide influence over military, intelligence and other matters. In a matter of months, he would make a mark as one of the most important architects of the administration's legal strategy against foreign terrorism.

Beyond the prosecutorial benefits of military commissions, the two lawyers saw a less tangible, but perhaps equally important advantage. ''From a political standpoint,'' Mr. Flanigan said, ''it communicated the message that we were at war, that this was not going to be business as usual.''

Changing the Rules

In fact, very little about how the tribunal policy came about resembled business as usual. For half a century, since the end of World War II, most major national-security initiatives had been forged through interagency debate. But some senior Bush administration officials felt that process placed undue power in the hands of cautious, slow-moving foreign policy bureaucrats. The sense of urgency after Sept. 11 brought that attitude to the surface.

Little more than a week after the attacks, officials said, the White House counsel, Alberto F. Gonzales, set up an interagency group to draw up options for prosecuting terrorists. They came together with high expectations.

''We were going to go after the people responsible for the attacks, and the operating assumption was that we would capture a significant number of Al Qaeda operatives,'' said Pierre-Richard Prosper, the State Department official assigned to lead the group. ''We were thinking hundreds.''

Mr. Prosper, then 37, had just been sworn in as the department's ambassador-at-large for war crimes issues. As a prosecutor, he had taken on street gangs and drug Mafias and had won the first genocide conviction before the International Criminal Tribunal for Rwanda. Even so, some administration lawyers eyed him suspiciously -- as more diplomat than crime-fighter.

Mr. Gonzales had made it clear that he wanted Mr. Prosper's group to put forward military commissions as a viable option, officials said. The group laid out three others -- criminal trials, military courts-martial and tribunals with both civilian and military members, like those used for Nazi war criminals at Nuremberg.

Representatives of the Justice Department's criminal division, which had prosecuted a string of Qaeda defendants in federal district court over the previous decade, argued that the federal courts could do the job again. The option of toughening criminal laws or adapting the courts, as several European countries had done, was discussed, but only briefly, two officials said.

"The towers were still smoking, literally," Mr. Prosper said. "I remember asking: Can the federal courts in New York handle this? It wasn't a legal question so much as it was logistical. You had 300 Al Qaeda members, potentially. And did we want to put the judges and juries in harm's way?"

Lawyers at the White House saw criminal courts as a minefield, several officials said.

Much of the evidence against terror suspects would be classified intelligence that would be difficult to air in court or too sketchy to meet federal standards, the lawyers warned. Another issue was security: Was it safe to try Osama bin Laden in Manhattan, where he was facing federal charges for the 1998 bombings of American Embassies in East Africa?

Then there was a tactical question. To act pre-emptively against Al Qaeda, the authorities would need information that defense lawyers and due-process rules might discourage suspects from giving up.

Mr. Flanigan framed the choice starkly: "Are we going to go with a system that is really guaranteed to prevent us from getting information in every case or are we going to go another route?"

Military commissions had no statutory rules of their own. In past American wars, when such tribunals had been used to carry out battlefield justice against spies, saboteurs and others accused of violating the laws of war, they had generally hewed to prevailing standards of military justice. But the advocates for commissions in the Bush administration saw no reason they could not adapt the rules, officials said. Standards of proof could be lowered. Secrecy provisions could be expanded. The death penalty could be more liberally applied.

But some members of the interagency group saw it as more complicated. Terrorism had not been clearly established as a war crime under international law. Writing new law for a military tribunal might end up being more difficult than prosecuting terrorism cases in existing courts.

By late October 2001, the White House lawyers had grown impatient with what they saw as the dithering of Mr. Prosper's group and what one former official called the "cold feet" of some of its members. Mr. Flanigan said he thought the government needed to move urgently in case a major terrorist linked to the attacks was apprehended.

He gathered up the research that the Prosper group had completed on military commissions and took charge of the matter himself. Suddenly, the other options were off the table and the Prosper group was out of business.

"Prosper is a thoughtful, gentle, process-oriented guy," the former official said. "At that time, gentle was not an adjective that anybody wanted."

A Secretive Circle

With the White House in charge, officials said, the planning for tribunals moved forward more quickly, and more secretly. Whole agencies were left out of the discussion. So were most of the government's experts in military and international law.

The legal basis for the administration's approach was laid out on Nov. 6 in a confidential 35-page memorandum sent to Mr. Gonzales from Patrick F. Philbin, a deputy in the Legal Counsel's office. (Attorney General Ashcroft has refused recent Congressional requests for the document, but a copy was reviewed by The Times.)

The memorandum's plain legalese belied its bold assertions.

It said that the president, as commander in chief, has "inherent authority" to establish military commissions without Congressional authorization. It concluded that the Sept. 11 attacks were "plainly sufficient" to warrant applying the laws of war.

Opening a debate that would later divide the administration, the memorandum also suggested that the White House could apply international law selectively. It stated specifically that trying terrorists under the laws of war

"does not mean that terrorists will receive the protections of the Geneva Conventions or the rights that laws of war accord to lawful combatants."

The central legal precedent cited in the memorandum was a 1942 case in which the Supreme Court upheld President Franklin D. Roosevelt's use of a military commission to try eight Nazi saboteurs who had sneaked into the United States aboard submarines. Since that ruling, revolutions had taken place in both international and military law, with the adoption of the Geneva Conventions in 1949 and the Uniform Code of Military Justice in 1951. Even so, the Justice memorandum said the 1942 ruling had "set a clear constitutional analysis" under which due process rights do not apply to military commissions.

Roosevelt, too, created his military commission without new and explicit Congressional approval, and authorized the military to fashion its own procedural rules. He also established himself, rather than a military judge, as the "final reviewing authority" for the case.

Mr. Addington seized on the Roosevelt precedent as a model, two people involved in the process said, despite vast differences. Roosevelt acted against enemy agents in a traditional war among nations. Mr. Bush would be asserting the same power to take on a shadowy network of adversaries with no geographic boundaries, in a conflict with no foreseeable end.

Mr. Addington, who drafted the order with Mr. Flanigan, was particularly influential, several officials said, because he represented Mr. Cheney and brought formidable experience in national-security law to a small circle of senior officials. Mr. Addington turned down several requests for interviews and a spokesman for the vice president's office declined to comment.

"He was probably the only one there who would know what an order would look like, what it would say," a former Justice Department official said, noting Mr. Addington's work at the Defense Department, the C.I.A., and Congressional intelligence committees. "He didn't have authority over anyone. But he's a persuasive guy."

To many officials outside the circle, the secrecy was remarkable.

While Mr. Ashcroft and his deputy, Larry D. Thompson, were closely consulted, the head of the Justice Department's criminal division, Michael Chertoff, who had argued for trying terror suspects in federal court, saw the military order only when it was published, officials said. Mr. Rumsfeld was kept informed of the plan mainly through his general counsel, William J. Haynes II, several Pentagon officials said.

Many of the Pentagon's experts on military justice, uniformed lawyers who had spent their careers working on such issues, were mostly kept in the dark. "I can't tell you how compartmented things were," said retired Rear Adm. Donald J. Guter, who was then the Navy's senior military lawyer, or judge advocate general. "This was a closed administration."

A group of experienced Army lawyers had been meeting with Mr. Haynes repeatedly on the process, but began to suspect that what they said did not resonate outside the Pentagon, several of them said.

On Friday, Nov. 9, Defense Department officials said, Mr. Haynes called the head of the team, Col. Lawrence J. Morris, into his office to review a draft of the presidential order. He was given 30 minutes to study it but was not allowed to keep a copy or even take notes.

The following day, the Army's judge advocate general, Maj. Gen. Thomas J. Romig, hurriedly convened a meeting of senior military lawyers to discuss a response. The group worked through the Veterans Day weekend to prepare suggestions that would have moved the tribunals closer to existing military justice. But when the final document was issued that Tuesday, it reflected none of the officers' ideas, several military officials said. "They hadn't changed a thing," one official said.

In fact, while the military lawyers were pulling together their response, they were unaware that senior administration officials were already at the White House putting finishing touches on the plan. At a meeting that

Saturday in the Roosevelt Room, Mr. Cheney led a discussion among Attorney General Ashcroft, Mr. Haynes of the Defense Department, the White House lawyers and a few other aides.

Senior officials of the State Department and the National Security Council staff were excluded from final discussions of the policy, even at a time when they were meeting daily about Afghanistan with the officials who were drafting the order. According to two people involved in the process, Mr. Cheney advocated withholding the draft from Ms. Rice and Secretary Powell.

When the two cabinet members found out about the military order -- upon its public release -- Ms. Rice was particularly angry, several senior officials said. Spokesmen for both officials declined to comment.

Mr. Bush played only a modest role in the debate, senior administration officials said. In an initial discussion, he agreed that military commissions should be an option, the officials said. Later, Mr. Cheney discussed a draft of the order with Mr. Bush over lunch, one former official said. The president signed the three-page order on Nov. 13.

No ceremony accompanied the signing, and the order was released to the public that day without so much as a press briefing. But its historic significance was unmistakable.

The military could detain and prosecute any foreigner whom the president or his representative determined to have ''engaged in, aided or abetted, or conspired to commit'' terrorism. Echoing the Roosevelt order, the Bush document promised ''free and fair'' tribunals but offered few guarantees: There was no promise of public trials, no right to remain silent, no presumption of innocence. As in 1942, guilt did not necessarily have to be proven beyond a reasonable doubt and a death sentence could be imposed even with a divided verdict.

Despite those similarities, some military and international lawyers were struck by the differences.

''The Roosevelt order referred specifically to eight people, the eight Nazi saboteurs,'' said Mr. Shiffrin, who was then the Defense Department's deputy general counsel for intelligence matters and had studied the Nazi saboteurs' case. ''Here we were putting in place a parallel system of justice for a universe of people who we had no idea about -- who they would be, how many of them there would be. It was a very dramatic measure.''

Mounting Criticism

The White House did its best to play down the drama, but criticism of the order was immediate and widespread.

Civil libertarians and some Congressional leaders saw an attempt to supplant the criminal justice system. Critics also worried about the concentration of power: The president or his proxies would define the crimes (often after an act had been committed); set the rules for trial; and choose the judges, juries and appellate panels.

Senator Patrick J. Leahy, the Vermont Democrat who was then chairman of the Senate Judiciary Committee, was among a handful of legislators who argued that the administration's plan required explicit Congressional authorization. The Congress had just passed the Patriot Act by a huge margin, and Mr. Leahy proposed authorizing military commissions, but with some important changes, including a presumption of innocence for defendants and appellate review by the Supreme Court.

Critics seized on complaints from abroad, including an announcement from the Spanish authorities that they would not extradite some terrorist suspects to the United States if they would face the tribunals. ''We are the most powerful nation on earth,'' Mr. Leahy said. ''But in the struggle against terrorism, we don't have the option of going it alone. Would these military tribunals be worth jeopardizing the cooperation we expect and need from our allies?''

Senators called for Mr. Rumsfeld and Mr. Ashcroft to testify about the tribunals plan. Instead, the administration sent Mr. Prosper from the State Department and Mr. Chertoff of the Justice Department -- both of whom had questioned the use of commissions and were later excluded from the administration's final deliberations.

But the Congressional opposition melted in the face of opinion polls showing strong support for the president's measures against terrorism.

There was another reason fears were allayed. With the order signed, the Pentagon was writing rules for exactly how the commissions would be conducted, and an early draft that was leaked to the news media suggested defendants' rights would be expanded. Mr. Rumsfeld, who assembled a group of outside legal experts -- including some who had worked on World War II-era tribunals -- to consult on the rules, said critics' concerns would be taken into account.

But all of the critics were not outside the administration.

Many of the Pentagon's uniformed lawyers were angered by the implication that the military would be used to deliver ''rough justice'' for the terrorists. The Uniform Code of Military Justice had moved steadily into line with the due-process standards of the federal courts, and senior military lawyers were proud and protective of their system. They generally supported using commissions for terrorists, but argued that the system would not be fair without greater rights for defendants.

''The military lawyers would from time to time remind the civilians that there was a Constitution that we had to pay attention to,'' said Admiral Guter, who, after retiring as the Navy judge advocate general, signed a ''friend of the court'' brief on behalf of plaintiffs in the Guantanamo Supreme Court case.

Even as uniformed lawyers were given a greater role in writing rules for the commissions, they still felt out of the loop.

In early 2002, Admiral Guter said, during a weekly lunch with Mr. Haynes and the top lawyers for the military branches, he raised the issue with Mr. Haynes directly: ''We need more information.''

Mr. Haynes looked at him coldly. ''No, you don't,'' he quoted Mr. Haynes as saying.

Mr. Haynes declined to comment on the exchange.

Lt. Col. William K. Lietzau, a Yale-trained Marine lawyer on Mr. Haynes's staff, often found himself in the middle. ''I could see how the JAGs were frustrated that the task of setting up the commissions hadn't been delegated to them,'' he said, referring to the senior military lawyers. ''On the other hand, I could see how some of their recommendations frustrated the leadership because they didn't always appear to embrace the paradigm shift needed to deal with terrorism.''

Some Justice Department officials also urged changes in the commission rules, current and former officials said. While Attorney General Ashcroft staunchly defended the policy in public, in a private meeting with Pentagon officials, he said some of the proposed commission rules would be seen as ''draconian,'' two officials said.

On nearly every issue, interviews and documents show, the harder line was staked out by White House lawyers: Mr. Addington, Mr. Gonzales and Mr. Flanigan. They opposed allowing civilian lawyers to assist the tribunal defendants, as military courts-martial permit, or allowing civilians to serve on the appellate panel that would oversee the commissions. They also opposed granting defendants a presumption of innocence.

In the end, Mr. Rumsfeld compromised. He granted defendants a presumption of innocence and set ''beyond a reasonable doubt'' as a standard for proving guilt. He also allowed the defendants to hire civilian lawyers, but restricted the lawyers' access to case information. And he gave the presiding officer at a tribunal license to admit any evidence he thought might be convincing to a ''reasonable person.''

One right the administration sought to deny the prisoners was the ability to appeal the legality of their detentions in federal court. The administration had done its best to decide the question when searching for a place to detain hundreds of prisoners captured in Afghanistan. Every location it seriously considered -- including an American military base in Germany and islands in the South Pacific -- was outside the United States and, the administration believed, beyond the reach of the federal judiciary.

On Dec. 28, 2001, after officials settled on Guantanamo Bay, Mr. Philbin and Mr. Yoo told the Pentagon in a memorandum that it could make a "very strong" claim that prisoners there would be outside the purview of American courts. But the memorandum cautioned that a reasonable argument could also be made that Guantanamo "while not part of the sovereign territory of the United States, is within the territorial jurisdiction of a federal court." That warning would come back to haunt the administration.

A Shift in Power

Some of the officials who helped design the new system of justice would later explain the influence they exercised in the chaotic days after Sept. 11 as a response to a crisis. But a more enduring shift of power within the administration was taking place -- one that became apparent in a decision that would have significant consequences for how terror suspects were interrogated and detained.

At issue was whether the administration would apply the Geneva Conventions to the conflicts with Al Qaeda and the Taliban and whether those enemies would be treated as prisoners of war.

Based on the advice of White House and Justice Department lawyers, Mr. Bush initially decided on Jan. 18, 2002, that the conventions would not apply to either conflict. But at a meeting of senior national security officials several days later, Secretary of State Powell asked him to reconsider.

Mr. Powell agreed that the conventions did not apply to the global fight against Al Qaeda. But he said troops could be put at risk if the United States disavowed the conventions in dealing with the Taliban -- the de facto government of Afghanistan. Both Mr. Rumsfeld and the chairman of the Joint Chiefs of Staff, Gen. Richard B. Myers, supported his position, Pentagon officials said.

In a debate that included the administration's most experienced national-security officials, a voice heard belonged to Mr. Yoo, only a deputy in the Office of Legal Counsel. He cast Afghanistan as a "failed state," and said its fighters should not be considered a real army but a "militant, terrorist-like group." In a Jan. 25 memorandum, the White House counsel, Mr. Gonzales, characterized that opinion as "definitive," although it was not the final basis for the president's decision.

The Gonzales memorandum suggested that the "new kind of war" Mr. Bush wanted to fight could hardly be reconciled with the "quaint" privileges that the Geneva Conventions gave to prisoners of war, or the "strict limitations" they imposed on interrogations.

Military lawyers disputed the idea that applying the conventions would necessarily limit interrogators to the name, rank and serial number of their captives. "There were very good reasons not to designate the detainees as prisoners of war, but the claim that they couldn't be interrogated was not one of them," Colonel Lietzau said. Again, though, such questions were scarcely heard, officials involved in the discussions said.

Mr. Yoo's rise reflected a different approach by the Bush administration to sensitive legal questions concerning foreign affairs, defense and intelligence.

In past administrations, officials said, the Office of Legal Counsel usually weighed in with opinions on questions that had already been deliberated by the legal staffs of the agencies involved. Under Mr. Bush, the office frequently had a first and final say. "O.L.C. was definitely running the show legally, and John Yoo in particular," a former Pentagon lawyer said. "He's kind of fun to be around, and he has an opinion on everything. Even though he was quite young, he exercised disproportionate authority because of his personality and his strong opinions."

Mr. Yoo's influence was amplified by friendships he developed not just with Mr. Addington and Mr. Flanigan, but also Mr. Haynes, with whom he played squash as often as three or four times a week at the Pentagon Officers Athletic Club.

If the Geneva Conventions debate raised Mr. Yoo's stature, it had the opposite effect on lawyers at the State Department, who were later excluded from sensitive discussions on matters like the interrogation of detainees, officials from several agencies said.

''State was cut out of a lot of this activity from February of 2002 on,'' one senior administration official said. ''These were treaties that we were dealing with; they are meant to know about that.''

The State Department legal adviser, William H. Taft IV, was shunned by the lawyers who dominated the detainee policy, officials said. Although Mr. Taft had served as the deputy secretary of defense during the Reagan administration, more conservative colleagues whispered that he lacked the constitution to fight terrorists.

''He was seen as ideologically squishy and suspect,'' a former White House official said. ''People did not take him very seriously.''

Through a State Department spokesman, Richard A. Boucher, Mr. Taft declined to comment.

The rivalries could be almost adolescent. When field trips to Guantanamo Bay were arranged for administration lawyers, the invitations were sometimes relayed last to the State Department and National Security Council, officials said, in the hope that lawyers there would not be able to go on short notice.

It was on the first field trip, 10 days after detainees began to arrive there on Jan. 11, 2002, that White House lawyers made clear their intention to move forward quickly with military commissions.

On the flight home, several officials said, Mr. Addington urged Mr. Gonzales to seek a blanket designation of all the detainees being sent to Guantanamo as eligible for trial under the president's order. Mr. Gonzales agreed.

The next day, the Pentagon instructed military intelligence officers at the base to start filling out one-page forms for each detainee, describing their alleged offenses. Weeks later, Mr. Haynes issued an urgent call to the military services, asking them to submit nominations for a chief prosecutor.

The first trials, many military and administration officials believed, were just around the corner.

Next: A Policy Unravels

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Graphic

Photos: Seen through a night vision scope, marines escorted prisoners into a detention center in Kandahar, Afghanistan in late 2001. Many were later sent to Guantanamo Bay. (Photo Pool photo by U.S.M.C. Sgt. Thomas Michael Corcoran)(pg. 12)

The courtroom at Guantanamo Bay, where some preliminary hearings have taken place. Of the roughly 560 men being held at the base, only 4 have been formally charged. (Photo by Angel Franco/The New York Times)

(Photo by Hannah Fairfield/The New York Times)(pg. 13)

A prisoner at the Guantanamo Bay camp in February 2002. (Photo by Lynne Sladky/Associated Press)(pg. 1)Chart/Photos: ''Behind Closed Doors, a New Code Is Written''A policy for military tribunals emerged from a small group of senior administration officials who exercised unusual power in days after Sept. 11.Key PlayersOFFICE OF THE VICE PRESIDENTDICK CHENEY -- Vice president of the United StatesGuided pivotal discussions as the

presidential order was being written.DAVID S. ADDINGTON -- Counsel to Vice President CheneyOne of the two main authors.WHITE HOUSE COUNSELALBERTO F. GONZALES -- White House counselOften contributed to discussions.TIMOTHY E. FLANIGAN -- Deputy White House counselOne of the two main authors. Has since left the administration.Other PlayersThey were closely informed about the plan and contributed to discussions.JUSTICE DEPARTMENTJOHN ASHCROFT -- Attorney generalJOHN C. YOO -- Lawyer in Justice Dept.'s Office of Legal CounselHas since left the administration.DEFENSE DEPARTMENTDONALD H. RUMSFELD -- Secretary of defenseWILLIAM J. HAYNES -- General counsel to Defense Dept.Outside the CircleDid not see the presidential order until it was made public.NATIONAL SECURITY COUNCILCONDOLEEZZA RICE -- National security adviserSTATE DEPARTMENTCOLIN L. POWELL -- Secretary of state(pg. 13)

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August 4, 2004

Verizon Calls FCC Action on CALEA Positive Step

WASHINGTON, Aug 4. /PRNewswire/ -- The following statement should be attributed to William P. Barr, executive vice president and general counsel for Verizon.

"The action today by the Federal Communications Commission (FCC) to move forward to address the applicability of CALEA, the Communications Assistance for Law Enforcement Act, to Voice over the Internet is an important and positive step. As Verizon made clear in our filings at the FCC, we agree with the Department of Justice that CALEA covers this emerging technology for transmitting voice, and that the rules apply to voice-over-Internet protocol (VoIP) providers."

SOURCE Verizon

-0- 08/04/2004

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/Company News On-Call: http://www.prnewswire.com/comp/094251.html/

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CO: Verizon

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GW law school SUMMER 2004
A MAGAZINE FOR ALUMNI AND FRIENDS

By Kathleen Kocks

When the threads of deceit unraveled at Enron in 2001, people were shocked. Then we discovered Enron was not alone. As problems also surfaced at Tyco, WorldCom, and other companies, people became angry and afraid.

Stock market values plunged as jittery investors began to wonder if the unprecedented economic boom of the 1990s had been nothing but a disguised bust. The economic earthquake soon rumbled to every nook of the U.S. executive, legislative, and judicial branches.

From these scandals came a strong slap on the hand—or more to the point, handcuff on the wrist: the Sarbanes-Oxley Act of 2002. No longer can company officers shift blame for sloppy bookkeeping or outright swindling onto others. No longer can they claim they didn't know what was happening. If wrongdoing is discovered, company officers go to prison, too.

The Securities and Exchange Commission also weighed in, with new reforms. Sarbanes-Oxley and these reforms are changing the way U.S. public companies do business. Companies must meet strict requirements for internal control of procedures and financial reporting and for external disclosures. Strong corporate governance and business ethics have regained their prominence.

How has the world changed for a corporation's general counsel? As the top legal adviser, the GC is like a good shepherd, tending to the company's welfare, keeping it from straying, and steering it to best accomplish its goals. Many believe that Sarbanes-Oxley has not dramatically changed that guardianship role.

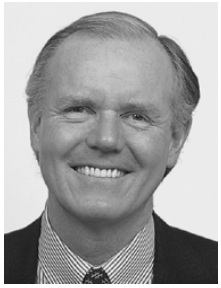
"Sarbanes-Oxley doesn't add enormously to the laws that exist, although it does add some new wrinkles," says Professor Lawrence Mitchell, who teaches ethics and accountability at GW Law School. "The GC has to be much more careful about the quality of the corporation's disclosure and internal codes of ethics, and about making certain there are chains of communication so that the CEO knows about any wrongdoing. This is something that a good GC would have done anyway. There hasn't been a lot that Enron has done to change what good practice is; we knew what good practice was before Enron."

Echoing Mitchell's assessment is Professor Theresa Gabaldon, who teaches corporations, securities regulation, and professional responsibility. "All lawyers dealing with corporate clients have become sensitized to the issue of corporate corruption. There has been quite a hullabaloo over the passage of Securities and Exchange Commission rules in response to the demands of Sarbanes-Oxley," she says. "These rules require reporting serious defalcations up the corporate ladder, but I personally believe that they require little more than what competent, dedicated lawyering has called for all along, from GCs as well as outside counsel."

For feedback from the front, we spoke with five GW Law alumni who have achieved prominence as lead GCs at Fortune 250 companies.

Richard Blackburn, JD '67

Duke Energy Corp.



Ask Richard "Dick" Blackburn whether it is different working in a post-Enron/Sarbanes-Oxley world, and words flow.

"The answer is absolutely yes," he states. "Whether you are talking about post-Enron, Tyco, Adelphia, WorldCom—pick your company—in a post-business-scandal environment, it is very different. The bright light shining on financial reports is more intense; the amount of financial data to be filed is greater; focus on the data is more intense. There has been a substantial change in the way businesses operate because of the crisis coming out of the bubble of the '90s."

Newly retired from his job as executive vice president, chief administrative officer, and general counsel at Duke Energy Corp., Blackburn has substantial legal and business experience, and strong convictions about corporate governance and ethics.

Blackburn's legal career began at several East Coast telephone companies, then he landed in 1976 at New England Telephone, where he eventually became vice president and GC. In 1991, when the company evolved into NYNEX, Blackburn shifted his focus and became the president and group executive of NYNEX Worldwide Communications and Media Group.

He led the group's activities in several unregulated telecommunication areas: long distance, video, cellular, and wireless. "It was very entrepreneurial, with joint ventures in Europe and Asia. Really a lot of fun," Blackburn adds.

In 1997, as NYNEX merged with Bell Atlantic, a search firm contacted Blackburn to become the GC for Duke Energy, which had just merged with Pan Energy. Electricity markets were being deregulated, opening new opportunities and spawning company growth. Blackburn had what Duke wanted: a legal background and a significant business career. The job put Blackburn's skills to a royal test.

"I had several challenges at Duke. The first was taking a company that had most of its 100-year history as a regulated utility, then equipping it as a growth company that was buying other assets in unregulated markets," Blackburn says.

"A second challenge was working for a large player in an industry that was under stress, in terms of marketplace performance, regulatory oversight, investigations and lawsuits. Managing that fast-changing environment was a major challenge."

And then came the Enron debacle. "All the investigations got launched, and Duke Energy had its share. When you look at criminalization of corporate misbehavior, the GC ends up dealing with a number of investigations and sitting with a lot of white-collar crime specialists. I was shocked that I was spending any time on criminal law issues. Duke Energy avoided any indictments, but that's not to say we weren't looked at."

A proponent of corporate governance, Blackburn is pragmatic about Sarbanes-Oxley and new SEC reforms.

"Was it necessary? Probably not, had businesses followed the law as it existed. But when you've had the kind of experience we've just had, a piece of legislation such as Sarbanes-Oxley is a very useful catalyst to get people back to the bull's eye, better managing their affairs and working in shareholders' interest and within the law," he begins.

"There is a great deal of debate and whining in the corporate world about the burdens of Section 404, which requires that corporations attest they have looked at their control mechanisms and are satisfied they comply with the law and the regulations that govern the

business. It also requires outside auditors to attest. But it is a very good thing to do, particularly when coming off the ’90s when companies grew so fast and didn’t keep up with their internal controls.”

“On the ethics issue, I’ve advocated seemingly forever that lawyers, particularly in corporations, have unique responsibilities. If they are doing their job well, they can see earlier than others when business people start to stray. It’s not that people are bad or evil, but when they are hard-charging and trying to get things done, they inevitably push the envelope a little—or a lot.

“Helping people correct their course at an early stage and avoid problems isn’t a nice or a good thing to do; it is required. Seize the opportunity early on to help people do the right thing in the first place.”

Blackburn also feels GCs are most effective if they are deeply engaged in a company’s day-to-day management and, if possible, have operational experience. “But it is absolutely vital that they be part of the inner circle and help the management shape the business to achieve the company’s commercial objectives, while also complying with the law and the fiduciary obligations to shareholders.”

Now retired, Blackburn plans to spend more time with his family and sports; training is under way for a triathlon this summer with his son and daughter-in-law. He is active with GW Law and chairs its Board of Advisors. He also wants to serve on boards of certain public companies and stay active in issues like corporate governance, diversity, and ethics. “I’ll forever look for ways to speak out on ethics issues.”

Sheila Kearney Davidson, JD ’86

New York Life Insurance Co.

For Sheila Kearney Davidson, senior vice president and general counsel at New York Life Insurance Co., life in a post-Enron, Sarbanes-Oxley world isn’t very different. One reason is Davidson herself.

Davidson started her career as an attorney at Shearson Lehman, then a year later became an enforcement officer at the National Association of Securities Dealers. By 1991, she had the regulatory expertise New York Life sought.

“When I came here, insurance companies were moving toward offering SEC-registered products. This was my area of expertise and, because no one had that expertise here, I quickly found a niche,” Davidson begins.

“Then around 1993, state insurance regulators began shifting their focus to sales-practice regulation that was more in tune with SEC regulation. I was tapped in 1994 to help design an overall compliance policy for the company and its 7,000 sales agents. Then in 1997, I was asked to run the compliance department. This all raised my visibility and in 2000 I became GC.

“I’ve never worked for a law firm, which is rather interesting considering what I do today,” muses Davidson. “I have an incredibly interesting job that touches every aspect of the company. I’m involved in high-profile litigation, supervising mergers and acquisitions, overseeing regulatory challenges, and handling a broad range of contracts.

“I oversee all the other nuts-and-bolts aspects of a company, like intellectual property, employment law issues, and management of an enterprise-wide 80-person legal team. I also sit on the executive management committee that establishes corporate policy, so I have a broad vista of what goes on in the company.”

As to why Sarbanes-Oxley has not greatly affected New York Life, Davidson refers to New York Life’s motto: The company you keep.

“There is also a tag line: ‘Integrity, humanity, and financial strength.’ This is the bedrock of this company; its customers have to know that the company will be around when they need it. I also

chose to work at New York Life because I was a regulator, and I didn't want to go where people would push the envelope. They don't here."

Proof of that statement is New York Life's decision to comply with Sarbanes-Oxley, even though the company is not required to do so. "The company isn't public, but a mutual company," Davidson explains. "But we are voluntarily complying and have stepped up and formalized our corporate governance and financial reporting requirements.

"I do see that the board members are asking more questions, are more engaged in corporate discussions, and are thus more informed to perform their duty of care and duty of loyalty as a board member. So there hasn't been a tremendous impact since Sarbanes-Oxley, it's more like a difference in tone."

Besides embracing straight-arrow business ethics, Davidson is passionate about quality of work and life issues. Having a husband (Anthony Davidson, JD '86) and two young sons, she strives to be an example to other women of how to balance the two worlds.

"I am proud that I have been able to have the job I have and maintain an active role in my kids' lives. I try to get home by 6:30 every night, have dinner with my family, spend time with my kids, put them to bed, and then do some work on my computer," she says.

"Four women sit on New York Life's executive management committee, and we launched a women's leadership project to help women in the company address women's issues in the workplace. We also have a lot of programs, like flex time, maternity leave, unpaid leave, and even a back-up, on-site day care. I use these programs when I need them and I think it is good for other employees to see this."

To aspiring GCs, Davidson's advice is simple: "Learn how to speak in plain English. That's something I harp on. Many lawyers try to show how smart they are by speaking in legal terms, but that backfires on them because they aren't communicating well to their clients.

"The best skill that I hope I bring to the table is the ability to explain things pragmatically and practically in plain English to the management team. You need to be able to translate the law so you can explain to a business person why they can't do something the way they planned, while also being able to tell them how they can accomplish their goals within the law."

Looking back at her GW days, she says she entered law school with the intent of joining a law firm. Then a securities regulation course with Joel Seligman and an internship at the SEC's enforcement division steered her career path to its current point.

Davidson has a personal reason to remember another professor. 'I usually sat far back in class, but when I took my corporations course with Dean Harold Green, he began the first class by saying, 'I want all of you underachieving slackers in the back to come fill in the seats with all the overachievers in the front row.' That's how I met my husband. He was one of those Law Review, Order of the Coif kind of students who always sat in the front row."

William P. Barr, JD '77, Hon. '92

Verizon

At Verizon, executive vice president and general counsel William "Bill" Barr hasn't found life after Sarbanes-Oxley to be much changed.

"I'm fortunate because a company like ours—a large telephone company and having been heavily regulated—has a lot of internal controls and history of reporting to regulators. We also have a strong public-service ethic," he says.

"Very little has changed, other than some processes are more formal, in terms of internal review sessions and meetings where we document what has been discussed. The internal audit people may spend a little more time to be sure they are

touching all the legal aspects, but the company's legal shop was always prominent, and employees are accustomed to making sure what they are doing is within the law."

Perhaps Barr's ability to take Sarbanes-Oxley in stride can also be attributed to his intriguing background. With a master's degree in government and Chinese studies, Barr began his career with the Central Intelligence Agency as an analyst and assistant legislative counsel. While at that job, he enrolled at GW's night law school.

"I went to law school as a lark and because my mother was harassing me about getting a profession under my belt that could give me flexibility in my career, rather than having a government job at the CIA and ending up in a blind alley. When I got to law school, I discovered I really enjoyed it. A couple of professors stand out—Max Pock, my contracts professor, and John Banzhaff, my torts professor. They stimulated my interest right off the bat and got me into the swing of things."

The swing included clerking in the U.S. Court of Appeals in Washington, then alternating between Shaw, Pittman, Potts & Trowbridge; the Reagan White House; and the U.S. Department of Justice—as assistant attorney general, deputy attorney general, and in 1991, as U.S. attorney general.

In 1994, Barr joined GTE as executive vice president and GC. He was instrumental in the GTE-Bell Atlantic merger, which created Verizon in 2000.

"When a headhunter called me in 1994 about becoming the GC at GTE, I said I knew nothing about telephones or their technology, other than that they rang," Barr laughs. "But GTE explicitly wanted someone who was not steeped in the industry. They wanted to bring a new face and a fresh perspective to the GC position. And they wanted their GC to not only have a broad range of legal skills but also to understand how Washington worked and be in charge of their regulatory advocacy work."

Regulatory issues, more than Sarbanes-Oxley, are the main grist in Barr's mill. When he joined GTE, the Telecommunications Act of 1996 was being formulated, some regulations were being swept away and technological advances were occurring in wireless, broadband, and Internet services. Today's arena continues to present challenges.

"I address a great mix of things; it's an intellectual feast for me. But most of my time is spent on regulatory issues, such as FCC rules and state regulatory issues. We have two layers of regulation to deal with, federal and state," Barr begins.

"Our biggest challenge is to work with regulators to get a level playing field in the telecommunications marketplace. Under the Telecom Act, companies were encouraged to enter the marketplace and compete against us. As regulators opened the marketplace and eliminated old rules, our company ended up being half-regulated and half-nonregulated, while some of our competitors are totally unregulated. Another complication that regulators didn't anticipate: many technologies are converging, like cable with phone, voice over the Internet—and virtually all those technologies are not regulated.

"Another main challenge is to get clear federal rules for broadband into place and be treated as other broadband companies are, such as cable companies."

Verizon's 150-lawyer legal department allows Barr to apply his talents to best use.

"I think that a good leader determines which projects are the most important and then concentrates his energy on those projects, rather than getting his energy dissipated by trying to address all the little things that come along," he says.

"If you try to do it all, you progress one mile a day, instead of making 10 miles a day on the big things. Don't let your inbox control you. Make sure the organization doesn't run you, but that you run the organization."

When Barr's not running his organization, listen for the unique tones of a bagpipe. "I enjoy bagpiping. As a child, I loved the sound of bagpipes and started taking lessons when I was eight years old from a very accomplished Scottish player.

"As to my Chinese studies, I tell people that was probably the best preparation for being a telecommunications lawyer, because reading the FCC rules from right to left makes more sense than when you read them from left to right."

Charles A. James Jr., JD '79

ChevronTexaco

Charles A. James, vice president and GC, sees a few ripples but no big splash occasioned by Sarbanes-Oxley at ChevronTexaco. The bigger picture is another matter.

"I wasn't a GC in the pre-Sarbanes-Oxley world, but my take on the situation is the following: The events of the last couple of years have brought a new focus on corporate governance and responsibility. For some companies, this required some major changes. Fortunately, I work for a company for which the situation has not caused major changes. Some necessary procedures had to be formalized and we've done that," James begins.

"I can also tell you that when I came for my first interview with ChevronTexaco, the very first thing someone handed me was 'The ChevronTexaco Way' document, which states how we choose to do business. It makes it easier for me to be part of a company that recognizes that getting things done the right way is part of the corporate way.

"About the post-Enron world, I see three consequences. First is a higher level of scrutiny on senior corporate positions, and that's good. People need to understand the fiduciary standards and that they will be held to a high standard of ethics.

"Second are the legal reforms that have occurred as a result of Sarbanes-Oxley. A lot of these reforms are in a great deal of flux and I hope that, over a period of time, the situation will reach the right balance.

"The third consequence relates to the larger public-policy issue. I would hope the focus on post-Enron and Sarbanes-Oxley issues doesn't detract from the focus we need in other areas, such as regulatory reform and civil justice reform. I hope that, over time, as much attention gets paid to that as is now being paid to assuring companies are acting responsibly."

If you ask James how he got from GW to being GC at ChevronTexaco, a chuckle sounds. "I wish I knew. It's still somewhat of a big mystery to me. When I left GW in 1979, I wasn't sure I'd end up in the law, but then I was blessed by having wonderful jobs in the legal profession."

His first job was at the Federal Trade Commission, where he eventually became assistant to the Bureau of Competition's director. From 1985 until 2002, he alternated jobs between Jones, Day, Reavis & Pogue in Washington and the U.S. Department of Justice. At the Justice Department, he was deputy assistant attorney general and acting assistant attorney general in the first Bush Administration and then assistant attorney general, heading the Antitrust Division in the current administration. In late 2002, he began his current job.

James' days are divided into different proportions of the many responsibilities of a general counsel at a company having business worldwide. As a member of the company's overall business team, he sits on the corporation's executive committee, which endorses all major funding and expenditures. He also attends to major legal projects and litigation.

"And there is the management portion. I'm interested not only in the practice of law, but how the practice of law is managed. An issue a GC faces that a private practice doesn't is capacity building. It's not only how you can execute legal projects, but also how you can create an organizational framework to achieve that," he says. "My greatest teacher was Bill Barr, when we worked together at the Department of Justice. We are transforming our legal department and a huge portion of my day is used to achieve this organizational-capacity building."

James sees three main functions for GCs in today's public corporations. The first is to be the chief compliance officer, bringing legal standards to the corporation and assuring they are followed. The second is the ability to translate business imperatives into sound legal advice. And the third is to be an effective manager of risk, particularly in the litigation context, where people may be litigating against the company for large sums of money or to establish important principles.

Musing on his GW experience, he says, "One of the real benefits is that GW actually encouraged its students to work part time at law firms, and the school was also well tied into the local law community. Doing that gave me the appetite for practicing law, as opposed to being a guy who just had a law degree."

When James is not working, he enjoys bodybuilding, rap music, driving his Porsche, and, most of all, spending time with his daughter. "I'm a single dad and, believe it or not, time spent with my teenage daughter is relaxing."

Martha Brown Wyrsch, JD '86

Duke Energy Corp.

As Martha Brown Wyrsch begins her job as Duke Energy Corp.'s group vice president, general counsel, secretary, and executive committee member, she feels her company is well prepared to proceed in a post-Enron world.

"Working in a Sarbanes-Oxley world is very different and yet very much the same. Duke Energy always had a strong compliance structure and ethical foundation. We didn't have to create a whole new system, but we enhanced them under Sarbanes-Oxley. We put a disclosure committee in place and developed a more robust CEO and CFO financial certification process."

"I feel the intent of Sarbanes-Oxley is right and is going to lead to a more stable marketplace. Companies like Duke need to be transparent about our business in all aspects," she adds.

Wyrsch brings to the GC position legal, business, and Capitol Hill experience. She gleaned the latter by serving three years as a staff member for Sen. Alan K. Simpson (R-Wyo.) before entering law school in 1983. After graduation, she cut her legal teeth at Davis, Graham & Stubbs in Denver from 1986 until 1991. Then one of the firm's clients, KN Energy, hired her, and she was named its vice president, general counsel, and secretary in 1997. She also served on the company's executive management committee.

When KN Energy merged to become Kinder Morgan in 1999, Duke Energy offered Wyrsch a job as senior vice president, general counsel, and secretary for Duke Energy Field Services. Five years, a stint through the Harvard advanced management program, and several positions later, her talents earned her a promotion in January to her current job.

She attributes her promotion to her substantial knowledge in the power industry and to her GC experience at KN Energy. It all helps her manage issues that are perhaps more challenging than Sarbanes-Oxley: working for a diversified energy company that must comply with a patchwork of regulations.

"Duke has three legs: We have a power utility in the Carolinas that is regulated; we have merchant power facilities throughout the United States and Latin America that are lightly regulated—but each state and country has different regulations, and we have an interstate gas-distribution network that transports natural gas from Canada and the Gulf of Mexico," Wyrsch explains.

The stickiest area is the merchant power market. When the Federal Energy Regulatory Commission established rules to open the power transmission grid, not all states adopted similar rules, so a mismatch occurred between what FERC and individual states allow.

“We always have a variety of issues and challenges, and I think it is very critical for GCs to have a strong grounding in how their company’s industry works and how the company makes money,” Wyrsch says.

“I also think GCs need to be leaders of the business and keepers of the flame. We need to ensure on an ongoing basis that the folks in our organization are focused on doing the right things on ethics and values and running the business in a way that reflects those values.

“I also put a lot of emphasis here in ensuring diversity and the real value of inclusiveness. Diversity is more than a mix of race and gender; it is how you work with people, communicate with them, respect them, and make sure people feel safe and welcome to share their views. You need to not only bring people with different backgrounds to the table, but you also need to build on that to assure the right communication and conversation is there.

“At Duke, we also advocate community service, working with United Way and other agencies. Every year, we celebrate global service month, where we encourage employees to take time from work to do community service. For instance, members of the law department put together Easter Baskets for the local department of social services to distribute to families in need.”

Wyrsch also serves on GW Law’s Board of Advisors. Looking at her GW days, she says, “I took advantage of the many things GW offered, like an SEC internship. But it was Joel Seligman who really turned me on to business law and securities law. I took as many classes as I could with him.”

When she’s not working, Wyrsch enjoys skiing and bike riding with her son, daughter, and husband. “It may not be terribly exciting, but I enjoy our bike rides, being with my family, and knowing where my kids’ heads are.”

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Verizon Encouraged by New York Proposal; UNE-P Change Would Benefit State's Consumers, Jobs, Economy

PR Newswire

March 30, 2004 Tuesday

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Body

The New York Public Service Department on Monday (3/29) issued a request for comments on a proposal to change the rates Verizon is allowed to charge other telecommunications companies to resell its network. The department has tentatively concluded the rates for the so-called Unbundled Network Element Platform (UNE-P) should be increased to more accurately reflect the cost of providing these services. The action is being proposed in response to a federal court of appeals decision to vacate certain guidelines on UNE pricing set by the Federal Communications Commission.

The following statement may be attributed to William Barr, Verizon executive vice president and general counsel:

"New York is leading the way. If adopted, this plan will go far in protecting investment and jobs in the state.

"Almost six years ago, the New York Public Service Commission warned that the old corporate welfare scheme of pricing UNE-P rates below cost was only temporary. This proposal to change these rates recognizes that the scheme is hurting economic growth and should be phased out."

The following statement may be attributed to Paul A. Crotty, president of Verizon New York/Connecticut:

"The proposal to change UNE rates in New York is a step in the right direction. Adjusting these rates to more accurately reflect the cost of providing these wholesale services to other telecommunications companies will benefit consumers, as well as the overall economy of New York and the state's job picture.

"The current rates are a disincentive for Verizon to invest in its New York network and deter Verizon's competitors from building their own networks in the state. Why would a company build its own network when it can lease Verizon's at below-cost rates?

"Updated regulation, if adopted, could spark billions of dollars in new investment by a wide range of telecommunications companies, resulting in the next generation of services.

"Predictably, some companies that have been getting a free ride on Verizon's network for the last two years will make the bogus claim that unless this form of corporate welfare continues, consumers will be hurt. In fact, consumers will continue to have a growing number of choices from traditional as well as wireless and Internet-based alternatives. Those who lease from Verizon have plenty of profit margin, and the evidence clearly shows that this robust marketplace, not wholesale prices, will continue to determine retail rates."

SOURCE Verizon Communications

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NewsRoom

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Online Reporter (USA)

March 6, 2004

Issue 386

Appeals judge upholds FCC's broadband rules.

DIGITAL MEDIA LEGAL MATTERS

An appeals court this week upheld the FCC requirement that phone companies lease their copper lines at wholesale prices to third-party ISPs such as EarthLink, Covad and AT&T so they can then turn around and sell Internet access at competitive rates.

The FCC rules do not, however, force the telcos to lease their next-generation fiber optic or fiber-copper at wholesale. The agency says that would be a disincentive for the telcos to make the investments needed to upgrade their infrastructures. That means that third-party broadband ISPs can participate in the broadband market but not the coming higher-speed connections--speeds of 2 Mbps and above.

The higher speeds are required to deliver high-quality streaming video--services that will let consumers watch live and recorded sports programs, movies, TV-like shows and infotainment videos.

The appeals court threw out proposed FCC rules that would have given the states more authority to determine which companies could offer local phone service within their borders.

The three-judge panel ruled in favor of the Baby Bells, Verizon, SBC, BellSouth and Qwest, which argued that the FCC's rule would mean that they would have to offer access to their networks at artificially low prices. The FCC wanted third parties to be able to compete with the Bells but the court ruled that Congress intended the FCC to spur competition, not the states.

The US Telecom Association, the Baby Bells' lobbying arm, praised the ruling. Its president Walter McCormick Jr said that the FCC's proposal would have impeded "the vigorous investments and real competition that Congress sought to foster." Peter Arnold, a spokesman for the opposing Voices for Choices that represents the companies that wanted low-cost access, pleaded for the FCC to appeal the case to the Supreme Court. "The fact that so many millions of Americans have opted to switch telephone service providers shows that this genie is not going back in the bottle," he said. "Consumers will be forced back to the very Bell monopolies they have consciously tried to leave."

SBC chairman William Daley and Verizon general counsel William Barr said that the ruling absolutely solidified the rule that the telcos won't have to lease their next-generation Internet infrastructure to third-party ISPs. Barr said that

Verizon would spend $2 billion in the next two years installing such gear and cabling. He blamed the FCC rules that force the telcos to lease their copper wires to third parties for the US placing eleventh in the worldwide broadband race. He didn't explain why BT is so successful though the British government forces it to operate a wholesale and retail business. In fact DSL Forum, the phone companies' own mouthpiece, reports that the UK has more DSL broadband users per 100 phone lines than the US--5.2 to 4.8.

Daley said that wholesale is important to SBC overall, not just in broadband, and that its wholesale business fetches $8 million a year in revenue. He said that SBC chairman and CEO Ed Whitaker wants the telcos and the third-party ISPs to sit down and negotiate a working relationship without government interference rather than continuing their costly and time-consuming litigation. He pointed out that the two best growth areas for telecoms are cellular and cable TV, and the government doesn't attempt to regulate either of them. Both, he said, were also attracting significant investment as evidenced by the Cingular's pending acquisition of AT&T Wireless. SBC owns 60% of Cingular and BellSouth the rest.

Power Corrupts

Daley didn't happen to mention that the government regulates phone companies because they are sometimes abusive like their poor customer response and past refusal to let third-party gear be connected to consumer telephone wires. Imagine! The phone companies used to refuse to let people use any phone or answering machine except the ones it sold!

The cable TV companies have heard consumer calls for government regulation for years. Legislators have heard complaints about poor service, rapidly rising fees and program bundling that forces consumers to pay for channels they don't want. Some of cable TV's unfriendly actions have been softened because of competition from the satellite service providers, DISH and DirecTV. With Rupert Murdoch ramping up DirecTV's marketing, offerings and service plus the threat of government regulation, the cable TV guys are being more careful, but still raise prices. The FCC has forced cable TV to open up their broadband to third parties, notably when AOL acquired Time Warner and when Comcast acquired AT&T's cable TV business.

The cell phone service providers have also begun feeling regulatory heat. Recently the FCC forced them to implement "portable numbers," permitting customers to keep their cell phone numbers when they switched carriers. The cell phone service providers had argued such a move would impose an impossible financial and technical burden on them. None of them have gone out of business since the regulation came into effect late last year.

The new broadband ruling, unless it goes to the Supreme Court and gets overturned, gives the Baby Bells exactly what they want. They say that since they won't have to lease their next-generation broadband infrastructure, they will invest the billions needed to give American consumers the world's best digital media delivery network.

DSL/100
Country DSL Subs phone lines
USA 9,119,000 4.8
UK 1,820,230 5.2
Source: Point Topic for the DSL Forum
December 31, 2003

---- Index References ----

Company: COMCAST CABLE COMMUNICATIONS INC; BT GROUP PLC; AT&T INC; TIME WARNER INC; CINGULAR WIRELESS LLC; DIRECTV GROUP INC (THE); COMCAST CORP; BELLSOUTH

CORP; FEDERAL COMMUNICATIONS COMMISSION; VERIZON COMMUNICATIONS; QWEST COMMUNICATIONS INTERNATIONAL INC

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Company Terms: UNITED STATES FEDERAL COMMUNICATIONS COMMISSION

Product: Telecommunications services481000

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HOW O'MELVENY AND MYERS BUILT A LITIGATION POWERHOUSE

Legal Times

January 12, 2004 Monday

Section: Vol. 27; No. 2

Length: 4397 words

Byline: Susan Beck

Body

Legal Business

CALIFORNIA-BORN FIRM PROVES ITSELF ON NATIONAL-AND INTERNATIONAL-STAGE

It's a Perry Mason moment for Daniel Petrocelli.

The O'Melveny & Myers partner is defending Unocal Corp. in Los Angeles Superior Court against a litany of alleged human rights abuses -- starting with murder, slavery, and rape. The claimed atrocities were allegedly committed by Myanmar's military against rural villagers during the construction of a gas pipeline through that country, formerly known as Burma, in the mid-1990s. Through a subsidiary, Unocal had a 28 percent investment in the project.

The 15 plaintiff villagers want to hold Unocal vicariously liable for the military's acts, claiming that the soldiers provided security for the project and acted as an agent for Unocal. In recent years, human rights activists have achieved some success suing foreign dictators in U.S. courts on behalf of human rights victims. But never before has a U.S. corporation been tried for the misdeeds of a foreign government.

During the court hearing last November, less than three weeks before the first phase of a trial was scheduled to begin, Petrocelli repeats the plaintiffs' centerpiece story about the death of a two-month-old boy.

The infant's father worked on the pipeline as a forced laborer. When the father tried to flee in late 1994, the activists say, the militia pursued him and his wife. During the chase, the baby fell into a fire and later died, they say.

They accuse Unocal of complicity in this murder -- that Unocal turned a blind eye to murder, Petrocelli tells Judge Victoria Gerrard Chaney. He points to an enlarged picture from the plaintiffs' own exhibit that shows the infant in its mother's arms after the incident. Then the O'Melveny partner points to another exhibit.

Look what we found in the files this week, he says. It's an enlarged article from a Bangkok newspaper, Dated March 1994, 10 months before the child's death, it tells the story of a baby in rural Burma whose head was dunked into scalding water by local troops when his father showed up late to work on a railroad project. The baby survived, according to the paper. The photograph of the baby and its mother looks strikingly similar to the picture in the plaintiffs' exhibit. Among other things, the mother is wearing what appears to be an identical white shirt with black piping.

It's the same person, the same shirt, the same piping -- the same baby! Petrocelli exclaims, suggesting that the plaintiffs lifted this story from the railroad project, embellished the facts, and used it for their case. This is a complete fabrication, laying it at the feet of Unocal.

The judge leans forward and stares at the exhibit, as does the row of Unocal executives sitting in the back of the courtroom. (After the hearing, plaintiffs lawyer Dan Stormer said he had never seen the article before and could not say whether it was the same baby.)

Since O'Melveny took charge of Unocal's defense in the summer of 2002 -- six years into the litigation -- it has worked overtime to catch up with mountains of discovery.

First-year associate Meredith McKee spotted the article as she was combing through one of more than 300 boxes of materials. Unocal was initially represented by Munger, Tolles & Olson, and then by Howrey Simon Arnold & White. When the company lost a summary judgment motion and the case was headed to trial, Unocal brought in O'Melveny.

At the end of the daylong hearing, Judge Chaney grants Unocal's request to limit sharply the testimony about alleged human rights abuses in the first phase of the trial, which started Dec. 9. That phase focused on whether the plaintiffs sued the right corporate entities, and whether Unocal can be held liable as the alter ego of subsidiaries that are not named defendants. Before adjourning, Chaney praises O'Melveny's painstaking efforts: Mr. Petrocelli, your law firm has done a dynamite job.

The Unocal case is one of many that led to select O'Melveny & Myers as its litigation department of the year. Continuing a tradition of excellence, O'Melveny litigators have produced exceptional results in a string of cases of national and international importance: a groundbreaking ruling for the Ford Motor Co. in Explorer tire litigation; a landmark U.S. Supreme Court victory, in a matter handled pro bono, that preserves an essential funding mechanism for legal programs for the poor; a strategy that thwarted efforts by plaintiffs lawyers to sue cell phone makers over users' radio frequency exposure; shielding the Mitsubishi Materials Corp. against reparations claims brought by former prisoners of war in Japan; and rulings that turned back a suit against entertainment companies for their marketing of R-rated movies.

It's not just results like these that make O'Melveny stand out. It's also a culture centered on teamwork and collegiality. Unlike some firms, O'Melveny does not revolve around a few stars. Department chairman W. Mark Wood dispatches weekly voicemail messages to his department -- currently 116 partners, 110 counsel, and 296 associates -- highlighting accomplishments of partners and associates alike. Even the firm's compensation system downplays the solo turn. There are no origination credits that reward partners who bring in and control clients. In evaluations, the firm scrutinizes partners' willingness to help others. (In 2002, the firm posted average profits per partner of $1.1 million.)

Los Angeles partner M. Randall Oppenheimer, who is co-counsel with Petrocelli on the Unocal case, says these values are more than feel-good bromides. We were raised with the notion that collegiality is more than a quality-of-life issue. It's a competitive advantage, he says.

And clients notice.

They're not broken down into fiefdoms. They operate very collegially, says William Barr, executive vice president and general counsel of Verizon Communications Inc. Former Attorney General Barr says partners will recommend others with the right expertise.

Although most of its partners may be united by common values, O'Melveny is still a firm of individual and diverse talents. For instance, Petrocelli, a 50-year-old lateral who joined the firm in 2000, dreamed of being a professional trumpet player, but realized in college that he didn't have the gift. He squeezed in night classes at Southwestern University School of Law in Los Angeles while holding down a day job as a bank auditor. (Before joining O'Melveny, Petrocelli was best known for winning a $33.5 million judgment for the family of the late Ronald Goldman in a wrongful death suit against O.J. Simpson.) Oppenheimer, 51, is a Harvard University who laces his discussion of

the Unocal case with quotes from the Austrian philosopher Ludwig Wittgenstein about words being the skin of a living thought. Litigation head Wood, 61, who is defending Boston's Logan Airport in suits arising from the Sept. 11, 2001, terror attacks, is an ex-Marine who cut his teeth as a military lawyer during the Vietnam War trying soldiers for murder, desertion, and sleeping at their posts.

Before John Beisner became one of the pre-eminent class action defense lawyers in the United States, he worked as a teenage disc jockey at KAFM, a now-defunct middle-of-the-road rock radio station in his hometown of Salina, Kan. The son of a traveling salesman and a Social Security Administration worker, Beisner loved broadcasting. The job also gave him time to study for his high school classes while records were playing. At night he doubled as the elevator operator for the building, which housed doctors' offices. When a patient needed to be ferried up, Beisner would set spinning a long-playing song, and take the controls of the elevator cab.

Thirty years later, Beisner juggles much more, with an ease and mastery that awes clients and colleagues. The 50-year-old lawyer is national class action counsel for Ford. On Capitol Hill and in corporate boardrooms he is known as the behind-the-scenes architect of a bill pushed by business groups called the Class Action Fairness Bill, which would transfer many class actions to federal court. On top of this, he heads O'Melveny's 125-lawyer D.C. office, runs the 110-lawyer class action practice group, co-chairs the firm's diversity task force, and sits on the policy committee.

Beisner began his career as a summer associate at O'Melveny in 1977, toiling for weeks on an assignment for CBS in which he had to summarize class action law. Sound dreadful? Not to Beisner. It was actually a lot of fun, he insists.

In the Ford Explorer litigation, Beisner tried something that wasn't even in the books. In the summer of 2000, Bridgestone/Firestone Inc. announced a tire recall in the wake of an unusually high failure rate on Ford's Explorer sport utility vehicle. More than 100 class actions piled up in a month against Bridgestone, which was represented by Jones Day, and Ford. Everything ballooned beyond anything I'd seen, says Ford in-house counsel John Thomas.

To protect the company from hundreds of different discovery requests, Beisner persuaded the federal panel on multidistrict litigation to hold an unprecedented emergency hearing. The panel consolidated the federal cases in one court in Indianapolis for pretrial activity. In a setback, that court certified a class covering owners of three million vehicles, and the defendants appealed to the U.S. Court of Appeals for the 7th Circuit. Beisner and Jones Day's Hugh Whiting -- arguing against David Boies for the plaintiffs -- swayed the court to reverse and decertify in May 2002.

Next, class actions sprouted in more than a half-dozen state courts.

For a long time I've wondered why [a federal ruling like this] is not a final determination, says Beisner. This was an opportunity to test the issue. He asked the 7th Circuit to enjoin any state court class actions from going forward, citing the All Writs Act, a federal statute from 1789 that vaguely permits federal courts to issue all writs necessary or appropriate in aid of their respective jurisdictions. No appellate court had done this in a case that hadn't settled. (O'Melveny filed the initial motion, which Jones Day later joined.)

This past June the court granted most of Ford's request, although it left a small opening for the plaintiffs. Writing for the court, 7th Circuit Judge Frank Easterbrook enjoined any state class actions attempting to represent plaintiffs nationwide, but ruled that the court could not stop class actions limited to a single state.

It was certainly a good strategic move in the short run [for Ford] to get to the 7th Circuit, says partner Stephen Neuwirth of Boies Schiller & Flexner. But whether in the long run Ford is better off with multiple class actions in different states, only time will tell. Beisner predicts that the six statewide cases won't get much traction. In October, an Arkansas state court dismissed an attempted class action there. That motion was argued by Katharine Wang, a sixth-year associate in the D.C. office. The Yale Law School graduate says she learned from Beisner the importance of preparation, including reading every single case that might be relevant, and creating a thorough outline on every possible scenario.

Seamus Duffy, a partner at Drinker Biddle & Reath who worked with Beisner on cell phone litigation, calls the O'Melveny partner a great strategic thinker. In that matter, a plaintiffs group led by Baltimore's Peter Angelos sued more than 25 cellular phone makers for allegedly failing to warn users of dangerous levels of radio-frequency emissions. [Beisner] knows how to look at a national problem of uncoordinated cases all over the place and play master chess, says Duffy.

Facing cases filed in five state courts, Beisner, representing Verizon, drew up a plan to coordinate them in federal court as multidistrict litigation. Some defense co-counsel balked, says Duffy, who represents Cingular Wireless LLC and played a lead role along with Kirkland & Ellis (for Motorola Inc.). They said, If you make it an MDL, it will draw cases like flies. You will make this into asbestos, Duffy recalls. After some spirited debate, says Duffy, Beisner prevailed. So far, it's been a good move. Last March a Baltimore federal court dismissed the suits as pre-empted by federal regulations governing cell phone emissions.

Duffy praises Beisner's knack for getting a large group of people to work well together. He's so unassuming but so credible. . . . He oozes credibility.

Beisner certainly hasn't lost the Midwestern aversion to putting on airs. For a guy as smart as he is to be so tactful and humble is rare, says Frederick Stueber, senior vice president and general counsel of Lincoln Electric Holdings Inc., in Cleveland. Stueber recently hired Beisner and O'Melveny in a beauty contest (over Kirkland and Latham & Watkins) to defend the welding industry in an attempted class action led by plaintiffs lawyer Richard Scruggs on behalf of welders exposed to manganese. (The prior counsel, Jones Day, withdrew with a conflict.) You get a lot of litigators who are skilled or smart, Stueber says, but they don't know how to get off their high horse.

This fall, Beisner spent a good part of his time toiling on the Class Action Fairness Bill, which failed to advance to a Senate debate by one vote, 59 to 39. He is also handling litigation for credit reporting giant Trans Union LLC. Before the company hired O'Melveny, the Federal Trade Commission had sanctioned it for improperly selling credit information. That triggered an avalanche of suits seeking up to $1,000 per person in statutory damages under the Fair Credit Reporting Act on behalf of nearly every credit card holder in the United States. With his client facing an exposure of $190 billion, Beisner took the offensive. Before the plaintiffs sought class certification, the company asked the court to rule that these statutory damages could not be recovered in a class action. In September 2002, a Chicago federal court agreed, in part because the FTC protected consumers.

Walter Dellinger insists that he has ridden his bike down the halls of the U.S. Department of Justice only once. It was a weekend, after all, and Dellinger had to drop off a draft at the other side of the building.

The D.C. partner and head of O'Melveny's appellate practice explains that he generally limits his bike riding to the outdoors. When he was acting solicitor general during the Supreme Court's 1996-97 term, he would occasionally ride his bike to the White House, using the brief time alone to clear his head. Since joining O'Melveny in 1998, the 62-year-old Dellinger still pedals to work, even though his excursions through D.C. traffic make his wife nervous.

Department head Wood calls Dellinger the firm's resident leprechaun. He certainly has brought good fortune to O'Melveny's appellate group. After nearly two decades in academia and government service, Dellinger has thrived in private practice. The former clerk to the late Justice Hugo Black has lured nine Supreme Court clerks to O'Melveny and built a loyal team. Before the firm hired Dellinger -- or, as chairman Arthur A.B. Culvahouse Jr., says, We convinced him on bended knee to join us -- other firms often poached appellate cases from O'Melveny. Today, Culvahouse says, that rarely happens.

Since the start of 2002, O'Melveny has represented 10 parties on the merits before the Supreme Court and made six oral arguments, coming away with a record of five wins, two losses, one mixed result, and two nondecisions when the Court dismissed certiorari after arguments.

In Dellinger convinced the Court that the Americans With Disabilities Act of 1990 did not require the airline to deviate from a bona fide seniority system. Arguing for his home state of North Carolina in he successfully defended a disputed U.S. Department of Commerce Census Bureau counting method that transferred a congressional seat

from Utah to North Carolina. Counting amicus filings, O'Melveny participated in more than one-fifth of the Court's cases in the 2002-03 term.

O'Melveny takes particular pride in its pro bono victory in where it represented the defendant justices of Washington's state Supreme Court. That case examined the constitutionality of programs that every state and the District of Columbia use to provide more than $200 million a year for legal services for the poor. In a 1998 case from Texas, the Supreme Court had already expressed skepticism about these programs, called IOLTA, or Interest on Lawyers' Trust Accounts, which divert interest from certain small, short-term client accounts. Facing off against Harvard Law School professor and former Solicitor General Charles Fried for the plaintiffs, Dellinger helped convince the Court, 5-4, that Washington's program did not violate the Fifth Amendment's takings clause. (Perkins Coie appeared for the foundation.) The firm says it devoted approximately $500,000 in time to the case.

Dellinger's team arguably faced even longer odds in the appeal of two former employees of hospital giant HCA Inc. The midlevel managers, then represented by other firms, were convicted of making false statements in Medicare reimbursement reports and sentenced to 36 months and 24 months, respectively. At the time, the estimates were that we had a one-in-50 chance of overturning the conviction, says HCA general counsel Robert Waterman.

The case, involved an intractable tangle of obscure Medicare rules on booking capital and interest. I didn't understand accounting, Dellinger admits. But Dellinger and O'Melveny counsel Jonathan Hacker pored over the records, and Hacker devised an argument that the defendants' statements weren't false after all. In March 2002, the 11th Circuit unanimously reversed. The entire management team and board were thrilled, says Waterman. One of the things that sold me on O'Melveny was that other appeals lawyers were individually very good, but [Dellinger] has put together a huge team with a bunch of brainy Supreme Court clerks. That team approach generates great results. . . . I'd use him [again] in a heartbeat.

For all his accomplishments -- including 17 high court arguments -- Dellinger points to one that stands out in his mind: getting then-Attorney General Janet Reno to boogie to Mustang Sally during a Justice Department Christmas party. Dellinger infuses his work with a playfulness and irreverence that's rare in big firms. He exclaims that one of the things he likes about private practice is that each month O'Melveny brings to his office a big wheelbarrow of money.

Dellinger's family struggled financially after his father died when Dellinger was 12. His mother, a high school graduate, had trouble finding work and eventually settled for a job selling men's socks and underwear at a local store. In college, Dellinger was so strapped for cash that he had to hitchhike for two days from Chapel Hill, N.C., to New Haven for a Yale Law School interview and arrived 20 minutes late. (The school accepted him nonetheless.)

His style is very disarming. He doesn't take himself too seriously, says former Solicitor General Seth Waxman, one of the nation's top Supreme Court advocates and a partner at Wilmer, Cutler & Pickering. That's a real virtue in appellate work.

Thomas Lee, who represented Utah in fondly recalls Dellinger's friendliness before Lee prepared to make his first high court oral argument. He made me feel like I belonged, even though I probably didn't, says Lee, a law professor at Brigham Young University and the son of the late Solicitor General Rex Lee. Lee recalls how Dellinger showed him the crank on the lectern that moved it up and down. It's easy to think you can get an advantage by making your opponent squirm, says Lee. It was quite the opposite of that.

Looking forward, Dellinger is working on an appeal to the Alabama Supreme Court of an $11.9 billion jury verdict, nearly all of it punitives, that a jury delivered in November against Exxon. (This was the retrial, handled by a local firm, of the royalty dispute with the state that originally produced the reversed $3.4 billion award.)

Dellinger's partners have been entrusted with an array of high-profile matters as well: defending former Enron Corp. CEO Jeffrey Skilling in civil suits and government inquiries (at press time he had not been charged with criminal wrongdoing), led by D.C. partner Bruce Hiler; representing the Walt Disney Co. in a long-running battle over royalties from its use of the Winnie the Pooh character, headed by Petrocelli; and defending

PricewaterhouseCoopers in a $2.6 billion accounting malpractice suit filed by former client U-Haul International, Inc., led by Linda Smith and Alejandro Mayorkas in Los Angeles.

Despite O'Melveny's contribution to the IOLTA case and other pro bono matters, chairman Culvahouse says the firm should do more.

The firm historically has been known for high-profile pro bono, but it became clear we were resting on our laurels, he says. We were not doing enough of it, and not doing our fair share. In 2003 O'Melveny hired David Lash, the former executive director of Los Angeles' Bet Tzedek Legal Services Inc., to energize its efforts. It also has started handling selected felony cases for the Montgomery County, Md., Public Defender's Office.

Randy Oppenheimer grew up surrounded by storytellers. His father, Peer Oppenheimer, is a Jewish refugee from Hitler's Germany who produced the 1960s television celebrity interview show Here's Hollywood and a string of movies. (He is responsible for Burt Reynolds' first starring-role film, Operation CIA.) As a young woman, his mother painted animation cells for Disney. Our family life was characterized by people sitting around the table telling stories, says Oppenheimer.

Oppenheimer had to play to a tough audience during the most recent trial stemming from the 1989 spill. O'Melveny lawyers suffered a huge trial loss in 1994, when client Exxon was clobbered with a $5 billion verdict in a federal case brought by fishermen. Even though the firm later got that verdict reversed, the threat of juror hostility lingered.

In 2002, the firm went to trial again in state court in Anchorage to defend the oil giant against claims brought by municipalities that wanted $30 million in compensation for local services diverted during the cleanup. The plaintiffs had already recovered $4 million from Exxon for their cleanup expenses. Exxon decided that it would insist that it didn't owe anything more, instead of offering the jurors a lower compromise amount.

We sweated bullets over this, says Oppenheimer. It goes against the conventional wisdom. The team also lost sleep over the youth of the jurors -- half were under 21. We were very nervous, incredibly nervous about the age of jurors, says Oppenheimer.

At trial, the O'Melveny team argued that the plaintiffs used a flawed economic model that inflated the value of the diverted services. After a three-week trial, the jurors took two days to conclude that Exxon owed nothing more. Says Oppenheimer: I think the company felt this was a watershed event in terms of telling its story.

Exxon chief attorney Michael Smith says the company needed to send a message that claimants could not get two bites of the apple: If [the municipalities] can come in 14 years later and reopen [this matter], others might do it. Smith credits O'Melveny's success in part to its cast of characters. Oppenheimer was the soft-spoken, gentlemanly type who seemed nice, but was deadly on cross-examination, he says. O'Melveny's Charles Diamond was more aggressive. John Daum, who did a lot of brief writing, Smith says, was brilliant, adding, I'd work with them anytime I have the chance to.

In the Unocal case, O'Melveny faces an even more emotionally charged topic. Accusations of complicity in murder and slave labor in Myanmar make for dramatic headlines that can overshadow the facts.

The allegations use such charged language, notes Oppenheimer. It's extremely tricky at this point to try to slow that train down. He says the defense team needs to focus patiently and persistently on the facts of the case, and break the connection with the rhetoric. One of the lawyers' jobs is to separate the language of the dispute from the facts of the dispute, he says. None of these allegations had anything to do with the men and women of Unocal.

On Dec. 9 Petrocelli and Oppenheimer are back in court to try the Unocal case, the first phase of which will be heard without a jury. The courtroom is packed with media, including a reporter from Radio Free Asia and an Italian documentarian who is videotaping the proceedings. The courtroom audience includes a monk in a saffron robe and others wearing T-shirts emblazoned with the image of Nobel Prize-winning dissident Aung San Suu Kyi, whom the Myanmar government has kept under house arrest since 1989.

In his opening statement, plaintiffs lawyer Terry Collingsworth of the International Labor Rights Fund paints this as a test case for corporate ethics. If they get away with this -- set up a system where you can have profit without responsibility [and] tort violations with immunity and impunity -- this is paradise for the morally challenged, he says.

Petrocelli counters that the plaintiffs have made a fundamental mistake: They have sued the wrong entities. Even if a U.S. company can be held vicariously liable for the Myanmar military's acts, he maintains, the plaintiffs have failed to sue those Unocal subsidiaries actively involved in the pipeline project. (The plaintiffs claim that these subsidiaries are shells.) The plaintiffs chose not to bring into court the right parties, he says. Now they [argue that] because they are . . . representing human rights plaintiffs, the rules should be bent.

The O'Melveny partner won't stand for that. There's this insidious sense of entitlement from the other side here, he charges. It's as though they have some God-given, inalienable right to sue Unocal.

This first phase of the trial is continuing. If the case extends into the second phase, where a jury would likely hear testimony of alleged human rights abuses, more dramatics can be expected. The stage has been set.

Susan Beck is a senior writer at The American Lawyer, where this article first appeared in the January issue. To read more about the magazine's Litigaton Department of the Year special report, go to americanlawyer.com.

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MCI's Re-Emergence Portends Tougher Telecom Competition

The Wall Street Journal

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Byline: By Shawn Young and Dennis K. Berman

Body

Court approval of MCI's plan to emerge from bankruptcy-court protection portends even tougher competition in the telecommunications industry, already hobbled by weak demand and massive overcapacity.

Judge Arthur Gonzalez approved the plan Friday in U.S. Bankruptcy Court for the Southern District of New York. His ruling paves the way for MCI, formerly known as WorldCom Inc., to come out of Chapter 11 bankruptcy proceedings early in 2004 freed of all but about $5.8 billion of its former $41 billion in debt. Chairman and Chief Executive Michael Capellas said the company, based in Ashburn, Va., is on track to produce audited financial results by then.

MCI filed for protection from creditors under Chapter 11 in 2002 in the wake of an accounting fraud that has swelled to an unprecedented $11 billion and decimated the stock that had been valued at $180 billion at its peak. Competitors and some analysts have dreaded the return of the nation's second-largest long-distance company, after AT&T Corp., to full strength, fearing it will spark a fresh round of destructive price wars.

"I think it's another negative for the industry," said Jefferies & Co. analyst Richard Klugman. "It's potentially another source of irrational price competition."

Mr. Capellas vowed not to start any price wars but said, "We will protect our territory and we will be competitive."

Once MCI's financial records are in order, some analysts think it may become a takeover candidate, probably for a regional Bell phone company looking to break into the market for large corporate contracts. AT&T is also seen as a potential takeover target, though its long-running merger talks with BellSouth Corp. collapsed last week.

MCI is expected to emerge from Chapter 11 protection with at least $2.3 billion in cash and $4.8 billion to $5.8 billion in debt. Most creditors will receive about 36 cents on the dollar. The old WorldCom stock has been wiped out and shareholders will get nothing in the reorganization. However, some investors are eligible for partial compensation from the $750 million the company paid to settle civil fraud charges brought by the Securities and

Exchange Commission. MCI expects to formally shed the WorldCom name and issue entirely new stock after it comes out of bankruptcy proceedings.

Judge Gonzalez's decision is a blow to the company's competitors, particularly AT&T and Verizon Communications Inc., which this summer waged a political and legal campaign to stymie MCI's re-emergence. Leading the charge was Verizon's general counsel, William Barr, who called for MCI to be liquidated. Mr. Barr, noting the Halloween holiday, called the prospect of MCI's re-emergence "ghoulish." He added that "because the enforcers have yet to do their job, MCI is getting away with the fruits of its massive fraud. This is a grave injustice."

Calls for greater punishment "misunderstand who was the bad actor and who was the victim," said Daniel Golden, a partner at Akin Gump Strauss Hauer & Feld, who is the attorney for MCI's creditors' committee. The fraud was committed by a narrow circle of executives whose victims were honest employees and investors, Mr. Golden said.

"Punishing the company would just inflict more pain on the shareholders and the creditors," said Mr. Golden. "That serves no appropriate purpose."

MCI and its new investors say the company has put the fraud behind it by bringing in entirely new leadership and purging its ranks of anyone connected with the misdeeds.

Despite its strong balance sheet, MCI will face considerable obstacles. It was temporarily suspended from winning new government contracts in July, though it has since obtained a number of waivers allowing it to pick up new government business. And its reputation has been damaged by the fraud and by rivals' allegations that it cheated them out of fees for connecting calls through fraudulent call-routing schemes. The U.S. attorney in New York is investigating the allegations, which MCI denies. Analysts also say the company will have to compensate for inadequate capital spending while it was in Chapter 11.

But MCI's minimal debt potentially gives it an advantage over rivals like AT&T and Verizon. As of Sept. 30, Verizon had $44.46 billion in long- and short-term debt, while AT&T had $17.41 billion.

Jim Cicconi, AT&T's general counsel, said he is undaunted by MCI's pending emergence, saying AT&T had been able to keep its role as the leading telecom supplier to businesses "through all the years they were cheating and making up numbers."

Back on Track?

A brief chronology of events in the WorldCom scandal:

-- March 2002: The SEC launches inquiries into WorldCom's accounting practices.

-- April: Bernard J. Ebbers resigns as chief executive of WorldCom.

-- June: The company unveils massive corporate fraud, with $3.8 billion in expenses that were improperly booked as capital expenditures. The SEC files a civil suit alleging WorldCom engaged in a fraudulent scheme to pad earnings, and the House launches into the scandal with a flurry of subpoenas.

-- July: WorldCom files for Chapter 11 bankruptcy court protection.

-- August: F ormer chief financial officer Scott Sullivan and former controller David Myers are charged with fraud. The accounting scandal ultimately yields fraud charges against a total of five former executives.

-- July 2003: MCI (formerly known as WorldCom) rivals bring a new set of fraud allegations to the attention of federal prosecutors, saying MCI illegally cheated them out of fees through fraudulent call-routing schemes.

MCI denies doing anything illegal.

-- Friday: Bankruptcy court approves MCI's plan to emerge from Chapter 11.

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Judge Clears WorldCom's Reorganization; Telecommunications Company Will Emerge From Bankruptcy Under MCI Name

Christopher Stern

A federal bankruptcy judge approved WorldCom Inc.'s reorganization plan yesterday, a breakthrough for a telecommunications company that has been controlled by its creditors and beset by financial scandal for more than a year. The decision by Judge Arthur J. Gonzalez in New York allows the nation's second-largest long-distance company to keep virtually all its assets while eliminating more than $35 billion in debt. WorldCom is on track to exit bankruptcy at a time when the telecommunications industry is struggling with huge competitive pressures. Local and long-distance companies are invading each other's turf while the powerful cable industry is in the early stages of offering telephone service over its lines.

Consumers are turning to cell phones and even the Internet to make phone calls. The results have been lower prices for consumers and declining revenue for companies. WorldCom's sales have fallen 30 percent in less than two years. The Ashburn-based company filed for protection from its creditors in July 2002, just weeks after revealing that a group of its executives had conspired to hide billions of dollars in losses. The company's financial troubles became a symbol not only of the collapse of the speculative high-tech bubble in the 1990s, but also of the greed and corporate malfeasance that is synonymous with the time. Rivals such as Verizon Communications Inc. complained that after admitting to the improper bookkeeping, WorldCom benefited from a process that allowed it to trim billions of dollars from its balance sheet. But competitors, which are still carrying tens of billions of dollars of debt, never pressed the issue in bankruptcy court. In his ruling on a series of settlements among the company's creditors, Gonzalez said Congress and the courts have recognized that the chief function of the bankruptcy process is to prevent the liquidation of a company for the greater economic good of saving jobs and the continued production of goods and services. "The primary goal of Chapter 11 is to promote the rehabilitation of the debtor," Gonzales wrote. The company reached a separate $750 million settlement with the Securities and Exchange Commission that resolved civil charges of fraud concerning its improper accounting. It also is under investigation by the Justice Department. Four former executives have pleaded guilty to securities fraud. WorldCom's current leadership hopes that by completing the bankruptcy process, the focus will shift from the company's tarnished past to its efforts to win customers in a highly competitive industry. It is already doing business informally as MCI, the name of its better-known long-distance subsidiary. The name change will soon be official. The company plans to spend the next six weeks completing financial statements and submitting them to the Securities and Exchange Commission for review so the company can finalize its reorganization. It then will pay its creditors according to the terms spelled out in the plan that Gonzalez approved. The company plans to emerge from bankruptcy in early January, executives said yesterday. Under the reorganization plan, WorldCom's debt will be reduced from $41 billion to $5.8 billion. While in bankruptcy, it has been freed from making interest payments, allowing it to hoard cash. When WorldCom entered bankruptcy, it had about $200 million in cash on hand. Now it has $5.3 billion. "We are in a very strong position," chief

executive Michael D. Capellas said during a conference call yesterday. Under the reorganization plan, all but $2.3 billion of its cash will be paid to creditors. The company also used the bankruptcy process to get out of onerous contracts with other companies. It was able to break leases on thousands of square feet of office space around the country. Locally, it closed its Pentagon City offices, moving almost all of its 4,000 local employees to its cavernous headquarters in Ashburn in Loudoun County. WorldCom had been based in Clinton, Miss. WorldCom is still the nation's second-largest long-distance company, with more than 20 million customers. Businesses continue to be the backbone of its customer base and the evolution of the Internet a focus of growth. But there have been major internal changes. In response to its accounting problems and criticism of its corporate governance, WorldCom replaced all of its directors, many of whom had close ties to founder and former chief executive Bernard J. Ebbers. With the exception of Capellas, there will be no board member with any connection to the company other than owning stock. After the company completes the bankruptcy process, it will add seven members. Four of the new board members have been named, including former deputy attorney general Eric H. Holder Jr. The rest will be named this month, Capellas said. Gonzalez's decision yesterday will also allow WorldCom to carry out its settlement with the SEC, under which the company will give a total of $250 million in cash and $500 million worth of new stock to stockholders who can prove that they were harmed by the company's fraud. The SEC is still planning how to distribute the money and stock, but the payout to individuals is likely to be insignificant compared with their losses. By some estimates, WorldCom shareholders lost a collective $200 billion because of its collapse. While rivals did not object to WorldCom's reorganization plan in bankruptcy court, they have been busy for the last year encouraging Congress and federal agencies to punish the company. The efforts resulted in a decision by the General Services Administration to suspend WorldCom from competing for new contracts while it considered a more permanent ban. WorldCom has been able to extend some contracts through a waiver process, but a permanent ban would be a significant blow because the federal government is the company's single largest customer, accounting for about $1 billion in sales. Two chief rivals, AT&T Corp. and Verizon, charged that WorldCom continued to act unethically after it disclosed its accounting problems last year. They accused WorldCom of trying to evade paying fees to local phone providers by improperly routing long-distance calls. AT&T said the practice forced it to pay millions of dollars in fees that WorldCom should have paid. WorldCom has denied any wrongdoing. AT&T and Verizon said yesterday that they would continue to lobby the government to take more severe action against WorldCom. "Unless government enforcers do their job, they are using the bankruptcy process to get away with their crime," said William P. Barr, Verizon executive vice president and general counsel. Capellas declined to comment on the efforts of rivals to undermine WorldCom's emergence from bankruptcy. Instead, he focused on the company's success in negotiating the bankruptcy process. "We are quietly celebrating," Capellas said.

---- Index References ----

Company: VERIZON COMMUNICATIONS INC; SAMSUNG C&T CORP; MCI INC

News Subject: (Crime (1CR87); Financial Fraud (1FI18); Corporate Events (1CR05); Fraud (1FR30); Legal (1LE33); Government Litigation (1GO18); Bankruptcies (1BA08); Criminal Law (1CR79); Business Management (1BU42); Social Issues (1SO05))

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Federal Ban Doesn't Hurt WorldCom Much

Griff Witte

In the nearly three months since federal authorities suspended WorldCom Inc. from receiving new and renewed contracts because of its ongoing accounting troubles, U.S. agencies have granted the telecommunications giant more than $100 million worth of government work through a little-known waiver process. Federal officials said most of the waivers were needed to extend existing contracts. But the waivers have inflamed WorldCom's competitors and upset congressional critics, who say the government waited too long to suspend the company and now is not properly enforcing the ban. To those critics, the government's handling of WorldCom's contracts is evidence of an unhealthy mutual reliance: WorldCom is by far the government's biggest telecommunications provider, and the government is WorldCom's most lucrative customer.

"I'm angry about this. There is a codependence there," said Rep. John E. Sweeney (R-N.Y.), who was at the forefront of efforts to suspend the company this summer. "WorldCom is very adept at playing the old inside-the-Beltway game. They've got friends in high places." Executives at WorldCom, which now operates under the name of its long-distance subsidiary MCI, said the company won the work by providing high-quality service, not by pulling strings. It can be disruptive and costly for the government to switch carriers after initial contracts are awarded, they said. "When you are providing the kinds of service and the levels of service that MCI is providing, it is hard to come to a grinding halt," said Jerry Edgerton, WorldCom's senior vice president of government markets. Under terms of suspension, government agencies can honor current contracts with a suspended company. But to award new contracts or extend existing ones, officials need to supply a "compelling reason" the suspension should be waived. Federal agencies waived the WorldCom suspension on at least seven contracts, six of which involved extension or adding orders to existing contracts. The seventh is a new contract that would replace a previous contract with WorldCom. The Defense Information Systems Agency, which manages the Defense Department's communications, has invoked waivers on five contracts. For one, under which WorldCom supplies systems that support military and intelligence activities, agency officials asserted that not renewing the company's contract would cause "great harm to the national security of the United States and potential danger to its citizens and warfighters." Other agencies have cited more prosaic reasons for sticking with MCI. The Armed Forces Retirement Home said switching from MCI might hinder residents' ability to stay in touch with friends and family, while the Social Security Administration argued that, without MCI, "approximately 250,000 calls from the public per day would have gone unanswered until transition to an alternate service provider was completed." Additional waivers could be in the works. The Justice Department, has asked, despite the suspension, that it be allowed to consider WorldCom when it awards a major new telecommunications contract at the beginning of 2004. Rep. Albert R. Wynn (D-Md.) said the waivers make him question how seriously government officials take WorldCom's suspension. "People are kind of just looking the other way and going on with business as usual. It's unbelievable," Wynn said. WorldCom was suspended from receiving new contracts on July 31, a little more than a year after it revealed a scandal that would eventually

involve the improper accounting of $11 billion. The scandal helped push the company into Chapter 11 bankruptcy protection. Edgerton said the company held daily conference calls in the summer of 2002 with its government customers to alleviate any concerns. WorldCom provides telecommunications services to a long list of government agencies that includes the Federal Aviation Administration, NASA and the FBI. Revenue from government work totals more than $1 billion a year. Although that is only 6 percent of the company's total revenue, government business as a great overall impact on the company's well-being. Had the government barred WorldCom from new federal contracts soon after the company filed for Chapter 11 protection, it could have set off a cascade of cancellations by large commercial clients, Edgerton said. Instead, the government stuck with WorldCom, and the company now hopes to emerge from Chapter 11 by year-end. "One of the things that got us through the last year was that the government was willing to continue to do business with us," Edgerton said. In the months after WorldCom disclosed its accounting problems, the State Department awarded the company a $360 million, 10-year contract. The Defense Department commissioned it to build a wireless network in Iraq. The House of Representatives signed a $17 million contract extension just weeks before the suspension was announced. And the General Services Administration exercised an option year on a WorldCom contract worth billions of dollars. WorldCom's competitors, feeling that the company was getting off easy, began pushing federal officials this spring to ban the company from future contracts. WorldCom pushed back. The combined lobbying muscle split Capitol Hill. "This wasn't a Republican-Democrat issue," said an aide to a member of the Democratic leadership. "It had a lot to do with where you were coming from and which company had workers in your district." The GSA decided in July that continuing problems with WorldCom's ethics and accounting programs meant that the company no longer met a government standard for the conduct of contractors, even though the problems were not associated with government contracts. WorldCom has earned the government's loyalty, Edgerton said, by providing service that is "cheaper, better and faster" than the competition's. He dismissed much of the criticism of the government deals as the jealous talk of company rivals and their backers. "We won this stuff fair and square," Edgerton said. "We won it in the marketplace. They had their shot at it." WorldCom's critics question the integrity of the government's procurement system, under which it does billions of dollars' worth of business with a company that's been accused of large-scale wrongdoing. "Given the magnitude of this fraud, the government should have immediately suspended MCI," said Thomas A. Schatz, president of the watchdog group Citizens Against Government Waste. William P. Barr, general counsel for Verizon Communications Inc., said that in pushing WorldCom's suspension with the administration and Congress, he encountered a great deal of resistance. "The basic argument we kept hearing was 'We don't want this company to fail,' " Barr said. One reason, he said, was based on a political calculation made by some in the administration and on Capitol Hill that denying WorldCom new federal contracts would probably put the company out of business, and that would result in "60,000 employees and their jobs disappearing in an election year." The other source of resistance, Barr said, was that federal procurement agents had become comfortable working with WorldCom and didn't want to switch. "It's having the will to transfer this stuff over. Bureaucrats don't like to change their ways, especially when they're used to dealing with one company," Barr said. WorldCom's competitors said they could fill the void created by the company's suspension. But Scott C. Cleland, an analyst with Precursor , said switching telecommunications carriers is often not easy. "Not being able to use WorldCom if you already have them is a royal pain in the neck," Cleland said. "GSA put WorldCom in the penalty box, they did not banish them from the kingdom forever. They need WorldCom." Nonetheless, the waivers have angered some in Congress who fought for WorldCom to be suspended and now question whether the suspension is being properly enforced. The Senate Governmental Affairs Committee recently opened an investigation into the waivers. "It concerns me if [the waivers are] just being handed out without a serious reason to do so," said Sen. Susan Collins (R-Maine), who heads the committee. Collins, Sweeney and a few others in Congress have criticized the GSA for waiting as long as it did to suspend WorldCom, when companies such as Enron Corp. and Arthur Andersen LLP were barred from government business within a few months of their transgressions. "The investigation did not take place for a year's time. That's the troubling thing to me," Collins said. The GSA's general counsel, Raymond J. McKenna, said the suspension couldn't have come any sooner than it did. He said the point of barring a company from new government contracts is not to punish it for past actions but to protect the government going forward. Therefore, he said, the government needed solid evidence that WorldCom's problems were not just in the past, but in the present as well. McKenna said that evidence didn't come until June 2003, when official reports and studies indicated that the company still lacked important internal controls. "We needed information to make judgments,

and that information wasn't available," McKenna said. The GSA's eventual decision to suspend WorldCom came after Sweeney drafted an amendment that would have imposed a ban. The amendment was opposed by Reps. Thomas M. Davis III (R-Va.) and Frank R. Wolf (R-Va.), both of whom were concerned about Northern Virginia constituents losing their jobs if Ashburn-based WorldCom went under. The White House soon got wind of the proposed amendment, and a member of the administration's legislative affairs office made it clear to Sweeney that introducing it would not be a good idea. "They didn't say, 'Don't do this,' " Sweeney said. "They said they were concerned that this was going to be too controversial an issue." White House spokesman Trent Duffy said the administration believes the matter should be handled by GSA. Sweeney said that for other reasons, he decided against introducing the amendment, and instead supported an amendment that called on the GSA to take action. The amendment also called on the General Accounting Office to review why it was that the GSA did not suspend WorldCom sooner. That review is ongoing. The GSA now faces another choice: whether to lift the suspension, or make it permanent through an action called debarment. The GSA also must decide by January whether WorldCom should be given another year on the largest telecommunications contract the government has to offer. The GSA could approve a waiver. But William M. Weisberg, a government contracts lawyer with KMZ Rosenman, said it is more likely that the government will decide to lift the suspension altogether. "The government is highly reliant on them," Weisberg said. That, he conceded, could be a problem because the government has little protection if the company doesn't clean up its act. But, he said, there also is the potential for higher rates if the field of competitors is reduced by keeping WorldCom out. "It's potentially a problem without a solution," Weisberg said.

---- Index References ----

Company: VERIZON COMMUNICATIONS INC; ARTHUR ANDERSEN LLP; PERKINELMER INC; ENRON CREDITORS RECOVERY CORP; MCI INC

News Subject: (Legal (1LE33); Government Litigation (1GO18); Contracts & Orders (1CO29); Sales & Marketing (1MA51); Business Management (1BU42))

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Section: BUSINESS

Portrait of a corporate debacle

Emerging from the multiple investigations of the former WorldCom is a fuller picture of the extent of its fraud and board incompetence.

Chris Mondics INQUIRER WASHINGTON BUREAU

WASHINGTON

The ranch in British Columbia is gone. So is the company jet, the hundred-million-dollar credit line, and the 118-foot yacht archly dubbed Aquasition, with its oversize main salon and exercise room.

Far from destitute, Bernard J. Ebbers, the former chief executive officer of the collapsed telecommunications giant WorldCom, still has a sprawling home near Clinton, Miss., and hundreds of thousands of acres of timberland he acquired while heading the nation's second-largest long-distance telephone company.

But instead of hobnobbing with fellow CEOs, Ebbers now spends time huddling with some of the sharpest criminal defense lawyers in the business. Ebbers is at the heart of multiple investigations by the Department of Justice, the Securities and Exchange Commission, federal Bankruptcy Court, and state authorities into the biggest corporate collapse in U.S. history.

What is emerging from those probes is a portrait of corporate corruption and boardroom incompetence far exceeding the first headline-grabbing disclosures of accounting fraud at WorldCom little more than a year ago.

As WorldCom - now called MCI - seeks to come out of bankruptcy, new details emerging from those probes are complicating the company's bid for survival - and potentially jeopardizing the jobs of the 55,000 people worldwide, including 320 in the Philadelphia region, who still work there. Competitors and critics, including individual retirees and pension fund managers who lost billions, are suggesting the company's history of corruption is so great that perhaps it ought not to survive.

"No company, including Enron, has done as much damage to the American economy through corrupt practices," says Morton Bahr, president of the Communications Workers of America. Allowing WorldCom to exit bankruptcy under the proposed terms would "send a message to corporate America that crime pays," Bahr said.

By the end of the year, U.S. Bankruptcy Court Judge Arthur Gonzalez in Manhattan is expected to rule on WorldCom's application to shed more than $31 billion in debt and start life anew, a feat that would mark one of the most spectacular revivals in the history of American business.

Before that happens, Gonzalez must assess not only the company's viability, but also whether it has reformed practices that led to the largest accounting fraud in U.S. history.

Other telephone companies, which would like nothing better than to eliminate WorldCom as a competitor, are arguing emphatically that it has not. In August, they supplied the Justice Department with information they say shows WorldCom disguised telephone calls routed through their networks, avoiding hundreds of millions in charges.

Around the same time, the federal General Services Administration temporarily banned WorldCom from obtaining new government contracts, questioning its ethics and accounting systems.

"Bankruptcy is a refuge for honest companies that failed in business, not for a criminal enterprise that collapsed under the weight of its own deceptions," says William Barr, counsel of the telephone company Verizon, and a former U.S. Attorney General.

A growing body of evidence makes clear that many of the company's problems lead back to WorldCom's hard-charging former CEO.

Ebbers, a former bouncer, led WorldCom with near dictatorial control, and eventually embroiled the company in personal business ventures while the board of directors, some of whom benefited from generous perks doled out by Ebbers, did little to rein him in.

From the time that WorldCom's financial condition became clear in the spring of 2002 - the company eventually acknowledged overstating earnings by $11 billion - to the time it declared bankruptcy that July, the stock market declined 12 percent. WorldCom was a component of the S&P 500 stock index until May 2002.

Far more than Enron's failure, WorldCom's collapse shook markets to their core and galvanized a foot-dragging Congress to enact the strictest financial-reporting controls since the Great Depression.

"This was the biggest" corporate fraud ever, says Rep. Jim Greenwood (R., Pa.), the Bucks County representative who led the first congressional investigation of WorldCom. "Huge pension funds and coupon-clipping grandmothers. They all lost."

It is clear now that there is plenty of blame to go around: executives who falsified reports, stock analysts who hyped WorldCom even as it was giving them lucrative investment-banking business, overeager investors, and board members who did little to hold WorldCom's management accountable.

The company, investigators say, was a pressure cooker where mid-level executives were told to keep quiet in the face of evidence that the company was stepping over the line.

When an employee pointed out a large discrepancy in WorldCom's financial reports, general accounting manager Buford Yates Jr. allegedly said, "Show those numbers to the damn auditors and I will throw you out the [expletive] window."

Unlike the complex machinations at Enron, where executives relied on abstruse business partnerships to hide the company's growing liabilities, WorldCom executives simply deleted hundreds of millions of dollars in expenses, or mischaracterized other expenses as capital costs, according to investigators.

"WorldCom was really not that complicated; they just lied," says Barbara Roper, an analyst with the Consumer Federation of America.

Some of the information investigators wrested from corporate files earlier this year suggests that Ebbers may have had some inkling that the company's financial reporting had gone awry. In a voice mail that chief financial officer Scott Sullivan left for Ebbers on June 19, 2001, one year before the accounting fraud became public, Sullivan expressed concern that WorldCom accounting maneuvers were disguising the company's deteriorating business.

"This . . . just keeps getting worse," Sullivan said. "The latest copy that you and I have already has accounting fluff in it . . . . We are going to dig ourselves into a huge hole because year-to-date, it's disguising what is going on the recurring side of the business."

In testimony before the House Financial Services Committee, former WorldCom general counsel Michael Salsbury said Sullivan told him Ebbers knew "that hundreds of millions of dollars had been moved" in an effort to improve WorldCom's financial reports to shareholders.

To date, four WorldCom executives have pleaded guilty to fraud charges filed by the U.S. Attorney's Office in Manhattan. Sullivan, who also has been indicted, is scheduled to go on trial in New York in February. Ebbers, who has been indicted by a state grand jury in Oklahoma, remains under investigation by federal prosecutors in Manhattan, who also have not ruled out indicting the entire company.

If Ebbers has come under sharp criticism, so too has the company's former board of directors, all of whom stepped down after the bankruptcy filing.

According to a report prepared last summer by former Pennsylvania Gov. Dick Thornburgh for Judge Gonzalez, WorldCom directors paid little or no attention to major acquisitions proposed by Ebbers, nor did they probe deeply into huge loans the company made to Ebbers.

Thornburgh was particularly critical of Stiles A. Kellett Jr., chairman of the board's compensation committee, for approving loans totaling more than $50 million from the company to Ebbers at the time Ebbers agreed to lease a company Falcon 2OF-5 twin-engine jet to Kellett at below-market rates.

Toward the end of Ebbers' tenure, private lenders were turning down Ebbers, concluding that his personal finances were shaky, a fact that was either unknown or overlooked by the WorldCom board.

But the favorable terms accorded Ebbers by WorldCom's board continued to the end. Even as Ebbers resigned in April 2002 amid disclosure of billions of dollars in accounting misstatements, the board approved a $1.5-million-a-year severance package for Ebbers that included use of a corporate jet.

The company's new management has since declined to honor the agreement.

Contact staff writer Chris Mondics at 202-383-6024 or cmondics@krwashington.com.

---- Index References ----

Company: INTERMEDIA COMMUNICATIONS INC; VERIZON COMMUNICATIONS

News Subject: (Legal (1LE33); Corporate & Business Law (1XO58); Corporate Legal Management (1XO33); Social Issues (1SO05); Government Litigation (1GO18); Crime (1CR87); Fraud Report (1FR30); Criminal Law (1CR79); Financially Distressed Companies (1FI85); Major Corporations (1MA93); Economics & Trade (1EC26); Corporate Groups & Ownership (1XO09))

Industry: (Telecom Carriers & Operators (1TE56); Telecom Regulatory (1TE65); Manufacturing (1MA74); Telecom (1TE27))

Region: (Pennsylvania (1PE71); Americas (1AM92); North America (1NO39); USA (1US73); New York (1NE72))

Language: EN

Other Indexing: (BANKRUPTCY; CONGRESS; DEPARTMENT OF JUSTICE; HOUSE FINANCIAL SERVICES COMMITTEE; JUSTICE DEPARTMENT; PENNSYLVANIA GOV; SECURITIES AND EXCHANGE COMMISSION; SERVICES ADMINISTRATION; US BANKRUPTCY COURT; VERIZON; WORLDCOM; WORLDCOM BOARD) (A. Kellett Jr.; Arthur Gonzalez; Bahr; Barbara Roper; Bernard J. Ebbers; Buford Yates Jr.; Chris Mondics; Dick Thornburgh; Ebbers; Enron; Gonzalez; Jim Greenwood; Michael Salsbury; Morton Bahr; Scott Sullivan; Sullivan; Thornburgh; William Barr)

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2003 WLNR 19300557

WashingtonPost.com

September 25, 2003

Ground the Flying Diplomats

Robert D. Novak

A largely unknown peculiarity of the massive federal bureaucracy is the existence of an Air Wing in the State Department, with a primary mission of eradicating Colombia's drug cultivation. Last month its director signed an internal memo that, in a remarkable self-indictment, said diplomats are ill-equipped for this operation. His recommendation: Shift the State Department's aircraft to a law enforcement agency. John McLaughlin, the State Department's director of aviation in the Bureau of International Narcotics, in an Aug. 4 memo cited the department's "inherent inability to provide knowledgeable oversight and support for technical and operational programs." On Sept. 9, Chairman Henry Hyde of the House International Relations Committee asked his staff to open talks with the Justice and Homeland Security departments about taking over the Air Wing.

The broader question involves Plan Colombia's anti-drug program. In seeking to transfer the Air Wing, Hyde reiterated "deep concerns on the failure of the State Department to adequately eradicate opium in Colombia." On Aug. 18 in this column, I reported Hyde's contention that Plan Colombia had failed to prevent revival of Colombia's opium production. Hyde's contention was contradicted by federal drug policy director John Walters in a letter to The Post published Aug. 25. Walters referred to Hyde only as my "congressional source" without mentioning his name. Walters was savvy enough not to pick a fight publicly with a veteran conservative committee chairman, and was trying to obscure their disagreement. Walters is also at odds with officials in the business end of drug eradication. McLaughlin, who is next month retiring as aviation director stationed at Patrick (Fla.) Air Force Base, sent an e-mail to Hyde's committee that was first classified "confidential" but since has been declassified: "Mr. Novak's most recent article has the Chairman at the right place. Too bad his concern is not more widespread. The heroin problem can be fixed easily and fast given the right leadership and focus." McLaughlin's Aug. 4 memo was sent to officials running the State Department's anti-drug program: Acting Assistant Secretary Paul Simons and Deputy Assistant Secretary Deborah McCarthy. It is unusually blunt for a bureaucratic document: "The Air Wing mission is . . . 'counter-culture' to the State Department's world of interagency policy coordination. Simply put: dodging trees and ground fire over jungle terrain at 200 mph is not diplomacy, and diplomats cannot be expected to fully comprehend the complexity of the task and the level of support required." State's own air force is "now at its lowest state of readiness," according to the official who runs it: pilot training curtailed, safety impaired by reduced staffing, worsening structural fatigue and failure to adequately protect air crews from ground fire. All these and more problems, McLaughlin charged, have been brought to the attention of State Department leaders "but have not elicited effective support for Air Wing personnel that are flying the mission and supporting the aircraft." That's just the beginning. McLaughlin asserts State's planning "did not include adequate provisions for training O&M [operations and maintenance] costs, [and] staffing." Planners, he said, were either underqualified or "not qualified at all." He urges that the "large aviation program" be removed from "an agency that should be focused on the conventional conduct of diplomacy." He recommends reassignment of the

Air Wing to "a law enforcement agency," probably the Justice Department. Such criticism within the State Department is new, but calls to ground the diplomats have been sounded for many years. William Barr, who during the first Bush administration was the attorney general most committed to drug eradication, long has wanted to remove the Air Wing from the State Department. But Barr fears that "State wants to keep its potential leverage" provided by its planes in practicing diplomacy. "Why would the State Department have its own air force?" asks retired Marine Maj. Gil Macklin, a former U.S. adviser in Colombia and House investigator. That question is unanswerable after McLaughlin's candid self-indictment. "The memorandum from such an experienced" State Department official, said Henry Hyde, "raises numerous and troubling questions. It reflects my own view about the inadequate performance of the Department in the fight against drugs abroad." The most pertinent question is whether the Republican Congress and the Republican administration will continue to ignore this failure. (c)2003 Creators Syndicate Inc.

---- Index References ----

Company: POST PROPERTIES INC; CREATORS SYNDICATE

News Subject: (Government Litigation (1GO18); Legal (1LE33); Health & Family (1HE30); Drug Addiction (1DR84); Emerging Market Countries (1EM65))

Industry: (Aerospace & Defense (1AE96); Air Safety (1AI68); Air Transportation (1AI53); Flight Training (1FL33); Transportation (1TR48); Aerospace (1AE56))

Region: (South America (1SO03); Colombia (1CO48); Latin America (1LA15); Americas (1AM92))

Language: EN

Other Indexing: (John Walters; John McLaughlin; Henry Hyde; William Barr; Deborah McCarthy; Paul Simons; Gil Macklin)

Word Count: 711

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8/29/03 Comm. Daily (Pg. Unavail. Online)
2003 WLNR 7526479

Communications Daily

August 29, 2003

BELLS ASK D.C. APPEALS COURT TO FORCE FCC TO CHANGE UNE ORDER

BellSouth, Qwest, SBC and USTA asked the U.S. Appeals Court, D.C., Thurs. to force the FCC to change a key part of its Triennial UNE Review Order within 45 days because the order doesn't meet the court's mandate. Petitioning the court for a writ of mandamus, the incumbents argued that the impairment standard devised by the order didn't meet the court's May 2002 remand. "It is unfortunate that we were compelled to once again ask the court to step in," SBC Gen. Counsel James Ellis said.

The USTA-Bell petition also asked the court to order the Commission to halt UNE-P activity if it couldn't justify unbundling under a "proper" legal standard: "To the extent that the FCC is unable to justify continued unbundling under the proper legal standards, the court should direct the Commission to put a halt to new UNE-P customers and adopt a plan to end existing UNE-P arrangements. The court should also retain jurisdiction in order to deal with any further examples of FCC recalcitrance."

Verizon, which was not among the group filing the petition, filed separately at our deadline seeking similar action. The company said it asked the court to "vacate for a 3rd time the FCC rules that apply to its traditional narrowband network and to direct the FCC to issue rules that comply with the earlier court rulings and the 1996 Telecom Act." Verizon Gen. Counsel Bill Barr called the FCC's order "flatly inconsistent with the Act and the court's mandate."

The USTA-Bell petition argued that this 3rd attempt by the FCC to write UNE rules that could withstand court scrutiny again failed: "This petition seeks a writ of mandamus to put an end to the FCC's persistent and deliberate evasion of its statutory responsibility to impose meaningful limits on unbundling." It frequently quoted from FCC Chmn. Powell's dissenting statement on the UNE-P part of the order: "On its 3rd attempt to issue rules consistent with the will

of Congress, the FCC has issued an unconscionably delayed order... that, in the words of its own chairman, directly 'flouts' this court's mandate." In another section, the petition states: "As Chairman Powell explained, the majority's decision is a transparent evasion of this court's mandate in order in order to preserve 'a policy of maximum unbundling.'"

The impairment standard relates to language in the Telecom Act that competitors can have access to bundled ILEC network elements if they would be "impaired" without them. The petition charged that in the latest order the FCC "delegated to the states the ultimate impairment inquiry without any genuine limiting principles to guide their judgment." Two earlier UNE orders were remanded, first by the U.S. Supreme Court and then the U.S. Appeals Court, D.C.

Said USTA Pres. Walter McCormick: "Instead of providing the leadership the country needs and the courts have repeatedly demanded, the FCC opted to punt critical decisions out to the states, triggering 50 different regulatory proceedings and 50 different sets of rules. As a result, we have a 586-page ruling but no national policy."

CompTel Pres. Russell Frisby denounced the Bell petition in a tersely worded press statement: "The USTA petition ignores both the facts and the law. USTA is simply engaged in a blatant attempt at forum shopping. The petition should be summarily rejected." Mich. Comr. Robert Nelson, chmn. of NARUC's Telecommunications Committee, said NARUC also would oppose the petition: "Whatever your opinion of the FCC order, it is certainly not the appropriate target for the extraordinary remedy of a mandamus petition." The FCC didn't ignore or defy the D.C. Circuit's mandate, Nelson said: "Indeed, the text of the order goes to great lengths to explain precisely how it is complying with both the statutory constraints and the D.C. Circuit's mandate specifically providing for the granular analysis that was the most prominent feature of the court's decision." Nelson said "stripped to essentials, the petition appears to be an appeal conveyed to the court in an inappropriate procedural envelope." -- Edie Herman

---- Index References ----

Company: BELL; VERIZON COMMUNICATIONS

News Subject: (Judicial (1JU36); Legal (1LE33); Technology Law (1TE30); Economics & Trade (1EC26))

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

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (BELL; BELLS; BELLSOUTH QWEST; CONGRESS; FCC; ILEC; NARUC; TELECOMMUNICATIONS COMMITTEE; US APPEALS COURT; US SUPREME COURT; UNE; USTA; USTA BELL; VERIZON) (Bill Barr; CompTel Pres; Counsel; Counsel James Ellis; Edie Herman; Nelson; Powell; Robert Nelson; Russell Frisby; Walter McCormick)

Word Count: 816

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SEARCHING FOR A NEW NO. 2

Legal Times

August 18, 2003 Monday

Section: Vol. 26; No. 33

Length: 1251 words

Byline: Siobhan Roth

Body

National

REPLACING DOJ DEPUTY LARRY THOMPSON WON'T BE EASY.

In the Justice Department, all roads lead to the Office of the Deputy Attorney General. The attorney general may lead the department, but the DAG runs it.

Ever since current DAG Larry Thompson announced earlier this month that he would be leaving his post, Justice watchers have been busy handicapping his possible replacements.

This much is sure: Whoever gets the job needs to be able to work closely with the AG and be a diplomat who can deal with Congress. Equally important will be the ability to resolve disputes between the different field offices, between Main Justice and the field offices, and of course, between Main Justice and the White House.

Verizon Communications General Counsel William Barr, who served as DAG and attorney general during the first Bush administration, likens the department to an army, where your main forces are out in the field. You need someone at headquarters who is responsive to the needs and perspectives of your front-line troops.

A number of factors complicate the search for a new No. 2 at the DOJ.

Only 17 months are left in the current administration, which means a potentially short stint in the office, and one that will come with the headaches of managing the department under an election-year microscope.

And although it's not something people like to talk about on the record, diversity is a consideration, especially during an election cycle. The departure of Thompson, an African-American, will leave the DOJ's upper echelon exclusively white and male.

But most important in a Thompson successor, perhaps, are the skills and background that will minimize the learning curve.

In the coming months, the department will be wrangling with contentious issues such as the extension of the USA Patriot Act and responding to widespread concerns regarding its policies and actions in the war on terrorism.

Former Justice officials from both Republican and Democratic administrations say that Thompson's ideal successor will come with a truckload of experience trying cases in the field. The new DAG should also be able to win the respect of the career attorneys at Main Justice. Attorney General John Ashcroft has the political savvy, they say. What he needs is someone who can do the heavy lifting on criminal justice issues.

U.S. attorneys including James Comey of the Southern District of New York, Patrick Fitzgerald of the Northern District of Illinois, Paul McNulty of the Eastern District of Virginia, and Debra Yang of the Central District of California have all been mentioned for the job.

What these people share is experience in the department, says Covington & Burling partner Eric Holder Jr., who was the DAG in Janet Reno's Justice Department. They would be familiar to the career people in the department and would be able to hit the ground running.

The deputy attorney general job carries almost as much prestige as it does responsibility. There is always lurking, too, the possibility that the DAG could succeed the AG, should Ashcroft decide to step down.

Paul McNulty is on everyone's short-list. He's known to be liked and respected by Ashcroft, as well as by his line prosecutors. And the Eastern District of Virginia has become the most important federal district in the war on terror.

Two factors decrease the likelihood of McNulty assuming the job.

For one, McNulty is a policy guy -- not a prosecutor.

He's very skilled, but the skills he possesses are similar to what John Ashcroft has, says one former department official.

In addition, after decades of working behind the scenes, McNulty is having a few minutes of fame as chief of the EDVA. The DAG job would be an upward move on paper, but, as one former DOJ official put it, less fun than what he has now.

Yang is the only woman and the only non-Caucasian in the field. She also has allies at the White House. In fact, the administration reached out to her for a seat on the federal bench, but Yang turned it down, saying she would prefer the job of U.S. attorney in Los Angeles, according to two sources.

Like the other U.S. attorneys whose names have been floated for the DAG position, Yang sits on the Attorney General's Advisory Committee, a body of 17 prosecutors that meets regularly in Washington.

Bush appointed her U.S. attorney in May 2002. Before that, she was a judge on the Los Angeles Superior Court, and prior to that, she sat on the city's Municipal Court bench.

Fitzgerald and Comey, on the other hand, are both inveterate prosecutors with a shared history as AUSAs in the Southern District of New York. And both are veterans of terrorism cases -- key when terrorism is the DOJ's priority.

Fitzgerald's experience as the chief terrorism prosecutor when [the SDNY] was the locus of all the terrorism cases would give him a lot of credibility in the intelligence community, says a former DAG. And Fitzgerald's current position in one of the country's busiest districts gives him management points. He and Comey were both on the list of possible replacements for former Criminal Division chief Michael Chertoff, before Christopher Wray was named.

It is Comey, though, that most observers point to as the likely pick. Like Fitzgerald, he has formidable prosecutorial experience. He built an impressive record in Richmond, where he was deputy U.S. attorney for the EDVA during the last administration. Since his arrival in New York, his office has launched a fleet of high-profile corporate fraud cases.

Still, the deputy attorney general spot is a White House appointment. In the past, the White House has generally selected a DAG in consultation with the attorney general. Other candidates are expected to emerge from the White House Office of the Chief of Staff.

Neither Chief of Staff Andrew Card Jr. nor the White House press office returned calls seeking comment.

Names that have come up repeatedly in conversations with former administration officials as well as with current and former DOJ officials as likely candidates are McGuireWoods partner Richard Cullen, White & Case partner George Terwilliger III, and Bureau of Customs and Border Protection Commissioner Robert Bonner.

Cullen's name has been ubiquitous on lists for plum appointments in this administration. He served as an adviser to the DOJ transition team following the 2000 election. And he was U.S. attorney for the Eastern District of Virginia from 1991 to 1993. In 1997, then-Gov. George Allen tapped him to be attorney general of Virginia, a post he held until 1998. Cullen declined comment.

Terwilliger is another who could slide easily into the job, having served as deputy attorney general from 1991 through 1992. He, too, advised the Bush transition team. And from 1986 to 1990 he was U.S. attorney for the District of Vermont.

Terwilliger says that while it would be an honor to be considered to serve this president, I think it is unlikely that I would be chosen.

Bonner declined comment. Although not as well-known as some of the others, he has the right bona fides. The former U.S. Navy judge advocate general, Bonner was U.S. attorney for the Central District of California from 1984 to 1989. He was appointed to the federal bench in that district in 1989, but left the next year to head the Drug Enforcement Administration. And Bonner's most recent stint in private practice was at the Bush-friendly Gibson, Dunn & Crutcher.

Whoever fills the slot is in for an eventful term. Running the department during an election year, says one former DAG, can be nasty.

Load-Date: April 17, 2011

Getting Through: How Rivals' Long Campaign Against MCI Gained Traction -- Drive by Verizon's Barr Leads to Probes, Delay Of Bankruptcy Hearing --- Seeking the `Death Penalty'

The Wall Street Journal

August 1, 2003 Friday

THE WALL STREET JOURNAL.
U.S. EDITION

Section: Pg. A1

Length: 2389 words

Byline: By Almar Latour, Dennis K. Berman and Yochi J. Dreazen

Body

Three weeks ago, the general counsel of Verizon Communications Inc. placed an extraordinary call to his counterpart at archrival AT&T Corp. The subject: MCI.

Verizon's William Barr and AT&T's James Cicconi, at odds on nearly everything else, had long been in sync on one point -- that MCI hadn't been punished enough. The company had committed a massive accounting fraud under its former name of WorldCom Inc. Yet now it was on track to emerge from Chapter 11 bankruptcy, ready to compete in their brutal marketplace with the huge advantage of being nearly debt-free. The two counsels' efforts to block what they considered this unfairness had gone nowhere.

But now Mr. Barr had some new ammunition. Thanks to an out-of-the-blue call from a telecom engineer, he had seen signs of an altogether new form of MCI misbehavior. The company, he told his counterpart, appeared to be defrauding its telecom rivals -- disguising calls so it avoided access fees to use their lines and even sticking a rival with paying such fees.

Monitor your calls coming in from Canada and see what you find, Mr. Barr advised his AT&T counterpart. Mr. Cicconi thanked him.

So began an explosive new MCI scandal -- and a ferocious campaign by some of its business rivals to feed the furor -- that now threatens MCI's very future. Verizon, seeking to build its case, has interviewed scores of former MCI and other telecom employees from Pittsburgh to Buggs Island, S.C. It is covering legal expenses for the whistleblower. It has taken what it knows to the Justice Department, which earlier prosecuted WorldCom executives over accounting and is now looking at the new allegations.

Joined by AT&T and SBC Communications Inc., Verizon has monitored records of telephone traffic going all the way back to 1994. The companies have lobbied lawmakers on Capitol Hill, some of whom are now calling for new MCI hearings.

Whether MCI will ever be found to have committed any access-fee fraud is far from certain. Arcane corporate disputes over access charges have a long history in the telephone business. Yet the toll on MCI already is heavy. Its bankruptcy case is in limbo, its bonds have plunged, and its future business with its largest customer, the U.S. government, is in jeopardy.

The campaign against MCI amounts to an extraordinary effort by three competitors -- Verizon, AT&T and SBC -- to drive a rival out of business through federal action. Companies have ganged up on weaker rivals before; for instance, Continental Airlines, Northwest Airlines and AMR Corp.'s American Airlines last year successfully lobbied the government not to grant loan guarantees sought by UAL Corp., which then filed for Chapter 11 bankruptcy protection. But the move on MCI is unusual in the expense and trouble MCI's adversaries have gone to.

"Barr was very clear that his mission was to impose the corporate death penalty on MCI," says Mark Neporent, co-head of the MCI creditors committee.

The fate of MCI, with its 55,000 employees, is central to the telecommunications marketplace. Providing everything from simple phone service to encrypted transport for top-secret government data, MCI has for 30 years been a fearsome competitor for both AT&T and the large Bell companies.

Mr. Barr, a former U.S. attorney general, says that "there must be an outcome that doesn't allow WorldCom to profit from its wrongdoing and that is fair to the companies that have played by the rules."

Mr. Barr spent months pressuring the General Services Administration, which oversees federal contracts, to sever its ties to MCI. Yesterday, the GSA suspended MCI from receiving new contracts and proposed permanently barring it. The GSA cited MCI's internal controls and business ethics unrelated to the new allegations. It's a serious matter for MCI because it does almost $1 billion in work each year for the federal government. A day earlier, the Federal Communications Commission launched a probe of whether MCI broke telecom regulations.

Some of Verizon's recent efforts, such as steering the informant to a U.S. attorney's office and paying for his lawyer, are a sharp escalation of its long-running effort to derail MCI's exit from bankruptcy. MCI's competitors have played a populist card as well, working with a Washington consulting firm called Issue Dynamics Inc., which links corporations and public-interest groups who have common interests. Verizon has helped fund newspaper ads from the Gray Panthers -- which calls itself an "intergenerational" social- and economic-justice group -- that show a distressed elderly couple and say, "Washington should not reward corporate criminals like MCI WorldCom."

Mr. Barr has pushed policymakers in Washington and in many states, plus the Securities and Exchange Commission, to oppose letting MCI continue as it is. In mid-July, he urged the Senate to block new federal contracts for MCI, blasting as "a disgrace" a contract for MCI to build a wireless system for Iraq.

At the Senate hearing, MCI board member and former U.S. attorney general Nicholas Katzenbach said the MCI rivals' demands were simply "an opportunistic business tactic to enlist support for their ultimate goal: driving MCI out of business." MCI says it can't comment in any detail on the new allegations until it completes an internal review, which will be soon. It does question the allegations' timing -- just a month before a scheduled Aug. 25 hearing on the reorganization plan.

Yesterday, the bankruptcy court delayed that hearing for two weeks. Creditors, who seek a smooth exit from Chapter 11, plan to file a motion requesting permission to interview Bell-company executives under oath.

Until May, MCI appeared to be making a rapid escape from bankruptcy court. Its new chairman, Michael Capellas, was making the rounds, claiming that every record and employee had been scrutinized and the company was fraud-free.

Then Mr. Barr caught a break. A telecom engineer in Minnesota had read a May 15 interview with Mr. Barr in The Wall Street Journal. According to people familiar with a sworn statement the engineer later gave to prosecutors, he had gotten nowhere trying to tell the Federal Bureau of Investigation about questionable phone-company behavior. So he called Mr. Barr's office and left a phone message. Mr. Barr quickly sent his deputy general counsel, John Thorne, to interview the engineer.

The engineer had worked for MCI from 1993 to 1995. In 1999 he joined Onvoy, a small Minneapolis company, which his statement said laid him off this past January. According to people who've talked to the engineer and seen his 13-page statement, he was concerned that MCI government phone traffic was being routed through Canada. He was afraid it could be wiretapped and pose a national-security problem. He also worried he could be held culpable for his part in the scheme.

He described an alleged MCI program called "Project Invader" to avoid the Bell companies' costly fees for access to their local phone lines. Such fees add up to a huge portion of long-distance carriers' expenses, and pressure at MCI to reduce them was intense, say people familiar with his statement.

According to people familiar with the engineer's statement, it asserted that MCI used small, third-party phone companies to disguise routing codes attached to telecom traffic. Those codes set the pricing on phone calls, with local calls being cheaper than long-distance ones. The people who've seen the statement say it alleged the codes on MCI traffic were either wiped out or manipulated to fetch a cheaper carrying cost.

The engineer said Onvoy was involved in MCI's routing. Onvoy yesterday challenged the account. Its version contrasted with the engineer's statement that he had won merit awards and later was laid off. Onvoy officials said his position was eliminated in a restructuring and Onvoy decided not to retain him elsewhere in the company because of two years of poor performance reviews. After he left, they added, they discovered e-mails indicating he had tried to raise money to create a company that would compete with Onvoy.

A lawyer for the informant said he didn't know the reasons for his client's departure but understood it to be unrelated to performance. "Even if its true, it shouldn't make a difference," the lawyer said, because government officials don't act based solely on credibility; they "use only what they can corroborate."

The officials denied that any Onvoy employees had used the phrase Project Invader. "We will use every legal recourse available to us to target those responsible for these false accusations, and that includes not only the individual but also the people providing financial backing to him," said Onvoy CEO Janice Aune. "We have corporate terrorists being funded by outside sources."

Mr. Barr informed James Comey, the U.S. attorney for the Southern District of New York, of what it had heard from the engineer. During the WorldCom accounting uproar last year, Mr. Barr called the company a "criminal enterprise" and said he didn't know how the government could avoid indicting the company itself, in addition to its executives. Government officials were reluctant to do so; they figured the company had come clean, replacing management and many directors. There was also political risk in breaking up an employer of so many people. And the deep-seated hostility that flowed between MCI and the rest of the industry made it hard to tell truth from fact.

Understanding Mr. Barr's eagerness to make a political issue out of MCI's wrongdoings, a Comey assistant cautioned him not to leak any information about the probe.

In Minneapolis, meanwhile, the informant worried that he might have some legal liability and wanted a lawyer. Verizon's Mr. Thorne, after consulting his boss and the Justice Department, agreed that Verizon would cover the man's legal expenses. Verizon arranged for him to be represented by a leading criminal attorney, Joe Friedberg.

On June 4, the lawyer and the engineer flew to New York for a meeting with federal prosecutors and FBI agents. Mr. Friedberg says they sought detailed information about the alleged MCI scam but didn't indicate whether indictments were likely.

Mr. Comey's office sent a subpoena to MCI. Onvoy also received a subpoena last week. On Monday MCI terminated its longstanding relationship with the company, which MCI had used to "aggregate" calls to send them out as cheaply as possible. MCI said it cancelled the contract because Onvoy's prices were too high.

MCI was the first challenger to the old, pre-breakup AT&T monopoly, and came on the scene in 1968. The 1984 breakup left AT&T with long-distance and gave local service to "Baby Bells," one of which, Bell Atlantic, morphed into Verizon three years ago. From the time of the breakup on, all of the carriers were in frequent disputes with one another over access fees for connecting calls over the different networks. But the alleged behavior of MCI on access codes, if it occurred, would be more overt.

Eighteen months ago, Verizon's chief financial officer, Doreen Toben, noticed unusual MCI phone traffic over Verizon's local phone network in Pennsylvania. The number of incoming local calls appeared too high, leading her to suspect that MCI was paying Verizon too little for access to the network. She brought it up with WorldCom, which had acquired MCI a couple of years earlier, but saw her claims dismissed. An MCI spokesman says he is surprised any such claims were dismissed and points to a recent settlement over access fees between Verizon and MCI.

This spring, Ms. Toben called MCI and demanded $24 million in access fees she claimed MCI owed Verizon. Even after Verizon received MCI's payment, Ms. Toben noticed some unusual traffic on the network. She asked Mr. Barr whether it was possible MCI was breaking any laws. He wasn't sure.

He was already investigating some other unusual phone traffic, though, with the aid of network engineers. The cousin of a Verizon employee in Boston had noticed something odd earlier in the year. Long-distance calls were showing up on her caller-ID as local numbers. She told her cousin, the Verizon employee, who found there had been many such complaints in the Boston area.

At SBC headquarters in San Antonio, meanwhile, frustration over MCI had also arisen. A year ago, SBC noticed there'd been unusual phone traffic linked to MCI, and suspected it was paying too little in access fees. "We wrote \[MCI\] letters, we gave them a chance," says Jim Ellis, SBC's general counsel. "We asked them specifically about access charges. But we hit a stone wall." MCI says it settled differences over access fees with SBC last Friday.

Mr. Ellis, who had begun as an AT&T attorney in Kansas City 31 years ago, also complains about the way the government treated MCI: "They committed the largest fraud in history and they are still getting government contracts," he says.

In April, tests by SBC indicated MCI was sometimes paying local-access charges for long-distance calls, according to people familiar with the situation. Mr. Ellis promptly contacted the U.S. attorney's office. During a routine discussion with Verizon's Mr. Barr over FCC regulatory matters this spring, the two general counsels discovered that both of them had traveled the same path regarding MCI.

Mr. Ellis sent a team of SBC security people to meet with a federal prosecutor in New York to compare notes with Verizon's findings. At the prosecutor's request, teams of Verizon and SBC technical people got together to start running elaborate tests to document MCI's routing practices.

As the weeks ticked by, Mr. Barr chafed under Mr. Comey's instructions not to say anything publicly. In the middle of last week, Mr. Comey's office started issuing subpoenas for records of telephone traffic. Onvoy and MCI received two of the first ones. A few days later, word of the investigation broke on the New York Times Web site.

Mr. Barr and his counterparts at AT&T and SBC finally got an important audience for their views on their competitor. Staffers at the House Energy & Commerce committee called three Bell companies as well as AT&T, MCI and Sprint hunting for information. People familiar with the situation say that Verizon lawyers met with the FCC on Wednesday to provide their findings on the alleged scheme.

James R. Hagerty contributed to this article.

Notes

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July 28, 2003

Section: General

CRIMINAL INVESTIGATION FOCUSES ON MCI AVOIDING ACCESS CHARGES

Associated Press

A possibly illegal cost-saving scheme by MCI is the subject of afederal investigation and could intensify questions over its contracts forwork throughout the U.S. government and in Iraq, lawyers and others with theprobe said Sunday.

The fraud investigation involves MCI's alleged avoidance of charges it issupposed to pay local phone companies.

MCI said in a statement that "access charges between local andlong-distance carriers have existed for decades and are routine in theindustry. As always, we take all inquiries by the U.S. Attorney's Office veryseriously and will cooperate fully with any investigation."

This development came in the past eight to 10 weeks when a former MCIemployee called the FBI and disclosed an MCI project known as "CanadianGateway," according to two lawyers familiar with the events.

In this arrangement, MCI phone traffic is allegedly routed north of theU.S. border and then dumped onto the network of AT&T, which ends up payingcharges that MCI should pay.

The whistle-blower also contacted Verizon and informed it of an alleged MCIpractice dating to the mid-1990s called "Project Invader," said the lawyers,speaking on condition of anonymity. MCI, before it became part of WorldCom,teamed with six to nine small companies that allegedly enabled MCI to disguiselong-distance calls as local calls, to avoid paying access charges.

Separately, San Antonio-based SBC Communications has been looking intoevidence of MCI allegedly employing methods to bypass local access charges,the lawyers said.

The New York Times first reported on the investigation in Sunday'seditions.

"We were shocked at the scope of these scams that are ongoing today and weare cooperating with the major crimes section of the U.S. attorney's office"in New York City, said William Barr, executive vice president and generalcounsel of Verizon and a former attorney general in the first Bushadministration.

---- Index References ----

Company: INTERMEDIA COMMUNICATIONS INC; MCI INC; SBC COMMUNICATIONS INC; VERIZON COMMUNICATIONS

News Subject: (Major Corporations (1MA93))

Industry: (Telecom Carriers & Operators (1TE56); Long-Distance Services (1LO42); Telecom (1TE27); Telecom Services (1TE09); Manufacturing (1MA74))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

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Other Indexing: (FBI; GATEWAY; MCI; SBC COMMUNICATIONS; VERIZON; WORLDCOM) (CRIMINAL INVESTIGATION FOCUSES; Project Invader; William Barr)

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MCI, Hoping to Exit Bankruptcy, Faces New Investigaton of Fraud

The Wall Street Journal

July 28, 2003 Monday

Section: Pg. A1

Length: 1606 words

Byline: By Almar Latour, Yochi J. Dreazen and Laurie Hays

Body

NEW YORK -- Just weeks before a critical court hearing to determine whether telecom giant MCI can emerge from bankruptcy-court protection, embittered rivals have brought a new set of fraud allegations to the attention of federal prosecutors, who have opened an investigation.

Verizon Communications Inc., AT&T Corp. and SBC Communications Inc. have actively lobbied to put MCI, formerly WorldCom Inc., out of business since the long-distance telephone-services provider disclosed a year ago an accounting fraud that has grown to nearly $12 billion, the largest in U.S. corporate history.

These rivals now say MCI, in a different scheme, has been defrauding them and other telephone companies since 1994. The companies say MCI collaborated with small local phone companies to reroute phone traffic, making long-distance calls appear to be local phone calls, to avoid having to pay steeper access fees, people familiar with the situation say. The process is known in the industry as "laundering calls."

Verizon, which has also lobbied in Washington to bar MCI from future government contracts, brought the allegations to the attention of James Comey, the U.S. attorney for the Southern District of New York, about two months ago, after hearing from a "whistleblower," according to people familiar with the investigation. It isn't clear where the whistleblower was employed. Mr. Comey's office also is leading the criminal prosecution of MCI in regard to the accounting fraud. MCI recently reached a settlement of civil fraud charges with the Securities and Exchange Commission.

The extent of the alleged rerouting scheme isn't known, but it could entail hundreds of millions of dollars of revenue over the nine-year period. It also isn't clear whether the scheme involved high-level MCI executives. MCI, based in Ashburn, Va., merged in 1998 with WorldCom, which renamed itself MCI a few months ago.

MCI had hoped to emerge from bankruptcy by October. But those plans could be derailed if the allegations can be proved, according to people familiar with the investigation. At the very least, U.S. Bankruptcy Judge Arthur J. Gonzalez, who had scheduled a hearing for Aug. 25 to consider whether MCI had sufficiently cleaned up its books

and taken the proper steps to emerge from the accounting fraud, could decide to delay the hearing. Any delay for MCI could further weaken customers' confidence in the company's ability to put the scandals behind it.

MCI said it was surprised by the latest allegations. "We have yet to meet with the U.S. attorney's office so it would be impossible and inappropriate for us to respond to any specifics surrounding their inquiry at this time," said Brad Burns, an MCI spokesman. "Considering we're one month away from our confirmation hearing it's not surprising that our competitors would do everything possible to create a difficult environment for us."

Two separate investigations into WorldCom's accounting fraud, recently concluded for the bankruptcy court and for the company's independent board, didn't turn up the alleged problems that the Justice Department is now investigating. A person close to the situation said that while investigators cast a wide net, they weren't told of the new allegations and no one came forward offering information about the potential rerouting of calls. "I don't think anyone was looking for it," this person said.

William Barr, Verizon's general counsel, who has been leading the campaign to have MCI liquidated, said, "This deceit has been going on for a decade and is going on today. We were stunned at its scale."

Mr. Barr in the past has described MCI as a criminal enterprise that should be put out of business because of the extent and size of the fraud. Verizon and other competitors are particularly bothered by the fact that MCI is scheduled to emerge from bankruptcy with most of its debt cleared off its books, which would position it to compete with lower prices in an industry that is already battered by price wars.

The criminal investigation comes as policymakers in Washington are considering punishing the company for its financial misdeeds. The General Services Administration, the government's contracting arm, could suspend business with MCI. Such a move would be a serious blow for the company, since its extensive voice and data contracts with the government -- including a 10-year data contract with the Pentagon -- bring in about $1 billion a year in revenue. It recently received a new federal contract to build a wireless network in Iraq.

The GSA has hinted that it was satisfied with MCI's progress in reforming its internal operations. But the new criminal probes -- especially if they lead to indictments -- would likely cause the GSA to reconsider. "To the extent that these allegations prove true, they raise additional troubling questions about WorldCom's business ethics and practices," said Susan Collins, a Republican from Maine and one of MCI's toughest critics in the Senate.

MCI's Mr. Burns confirmed the company received a subpoena from federal prosecutors last week. "Of course we take all inquiries by the U.S. attorney's office very seriously and will cooperate fully with them," he said. Still, he said, "Access-charge disputes between local and long-distance carriers have existed for decades and are routine in the industry."

MCI's new chairman and chief executive, Michael Capellas, wasn't available for comment.

The New York Times reported the launch of the investigation on its Web edition on Saturday.

"We are cooperating fully with investigators," said SBC spokesman Selim Bingol. "Beyond that, we have no comment."

Rerouting phone calls to get the cheapest possible access rates and to optimize phone networks' capacity is common among long-distance and other telecom players and is known in the industry as "least-cost routing." But in rerouting calls, the jurisdiction, or status of a call -- whether local, interstate, intrastate or international -- isn't supposed to be changed, under Federal Communications Commission rules.

Federal prosecutors are investigating whether MCI changed the status of certain calls in order to avoid paying access fees to other operators' networks. People familiar with the probe say investigators are trying to find out whether at times MCI routed long-distance calls to small local phone companies and other telecom providers, which then delivered the calls to regional phone companies as a local call. For most local phone calls, network operators don't charge each other access fees.

People familiar with the allegations say that, according to phone companies' investigations into the matter, on average, 40% of the MCI traffic handled by AT&T, Verizon and SBC was rerouted somehow. AT&T's findings, according to these people, were that MCI was routing calls generated in the U.S. through Canada and back to the U.S., where they were transferred to AT&T's network. These people say that AT&T then paid access charges to U.S. network operators, even though the long-distance calls were made by MCI customers. AT&T also found that some of the calls routed through Canada were made by U.S. government agencies, including the State Department, the Department of Transportation and the Library of Congress, these people said. The project was allegedly called "Canadian Gateway" in MCI circles, according to these people.

The Justice Department is investigating the role of Onvoy Inc., a regional telecommunications company in Minnesota. People familiar with the allegations say AT&T found that Onvoy served to help route MCI traffic to Canada. There, other phone companies transferred the calls onto AT&T's network. AT&T would deliver the calls to their final destination in the U.S. and pay the access charges, according to the allegations.

Charles Berkowitz, Onvoy's chief marketing officer, confirmed the company received a request for information from the Department of Justice related to its business with MCI. He said Onvoy plans to hand over the requested materials. Onvoy provides wholesale telecom transport services to many interexchange carriers that need to transport telecommunications traffic into or through Minnesota.

Disputes over access charges are common among phone companies, which have complex billing systems and rely on one another's networks to transfer voice and data traffic. MCI and Bell companies, such as Verizon, SBC and BellSouth have monthly meetings, called Access Line Dispute Resolution meetings, to compare billing records, discuss possible discrepancies and iron out any billing problems. MCI pays about $8 billion to $10 billion a year to local phone companies in access fees and an additional $1 billion in access fees to other companies, making it MCI's single biggest expense, a person familiar with the matter said.

All phone companies have looked at ways to reduce access fees to other phone operators' networks. MCI, which continued to promise investors high growth rates even after the telecom bubble burst, is known to have been under particular pressure to reduce its access costs.

The question is whether MCI's practices now under question were within the limits of U.S. law and whether they were connected to the original accounting fraud. According to people familiar with the investigation, one person interviewed by prosecutors said that MCI initiated a systematic scheme to reroute calls to make long-distance calls appear as local calls and thus avoid paying access charges. That process was called "Project Invader" by MCI insiders and was known only to a handful of MCI officials, these people said.

Deborah Solomon contributed to this article.

Notes

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July 22, 2003

WorldCom And Verizon Settle Dispute

Christopher Stern

Verizon Communications Inc., one of WorldCom Inc.'s most vocal critics, has agreed in a settlement not to oppose a reorganization plan that puts the troubled long-distance company on track to emerge from bankruptcy as early as this fall. In exchange, WorldCom said it will pay Verizon $60 million to resolve a series of claims between the two companies. Although Verizon said it would not oppose WorldCom's reorganization efforts, the regional phone giant has no plans to drop its strident lobbying campaign against WorldCom in Washington. "This agreement does not . . . change Verizon's position on the necessity of stronger enforcement action against WorldCom for its massive securities fraud, including a disposition that denies WorldCom all of the ill-gotten gains from, and holds WorldCom fully accountable for, its unlawful actions," said Verizon's general counsel, William P.

Barr, in a statement released yesterday. WorldCom filed last July for bankruptcy protection after revealing a massive accounting scandal. The company claimed billions of dollars of regular expenses as capital investments, allowing it to appear profitable during a three-year period when it lost money. Barr, a former U.S. attorney general, is scheduled to testify before the Senate Judiciary Committee today on WorldCom's bankruptcy. He is likely to call on the federal government to stop doing business with WorldCom and take further actions to punish it, sources said. Verizon considers a record-breaking $750 million settlement between WorldCom and the Securities and Exchange Commission to be too lenient. Richard L. Thornburgh, who was appointed by the bankruptcy court to investigate WorldCom, is also slated to appear at today's Senate hearing. He has issued two reports highly critical of WorldCom's corporate governance and is preparing a third report. Like Barr, Thornburgh is a former U.S. attorney general. Testifying on behalf of WorldCom will be board member Nicholas deB. Katzenbach, the third former U.S. attorney general invited to the hearing. Backing up Katzenbach on the panel will be WorldCom's bankruptcy attorney, Marcia L. Goldstein of the law firm Weil Gotshal & Manges LLP. Verizon and other competitors have expressed concern about WorldCom's ability to emerge from bankruptcy much stronger than it was when it began the process last year. Under the current reorganization plan, WorldCom would emerge from bankruptcy in October after shedding $35 billion of its $40 billion in debt. The company plans to begin operating under the name of its long-distance subsidiary, MCI. WorldCom contends that Verizon's lobbying campaign is motivated by the hope of eliminating a competitor, rather than moral outrage. Nevertheless, WorldCom officials expressed satisfaction with the settlement. "The bottom line is one of our largest trade creditors has agreed not to oppose our plan of reorganization," said WorldCom spokesman Brad Burns. "We really appreciate their support." The settlement, reached July 16, resolves a dispute over outstanding bills. Verizon claimed that WorldCom owed it $453 million. MCI claimed it was owed $390 million by Verizon. Negotiations between the companies resulted in an agreement to end the dispute with a $60 million payment by WorldCom, according to documents filed with the bankruptcy court in New York. The proposed settlement between WorldCom and Verizon still needs the approval of

U.S. Bankruptcy Court Judge Arthur J. Gonzalez. A hearing on the matter has been scheduled for July 29. The same court is scheduled to begin a lengthy examination of the reorganization plan on Aug. 25.

---- Index References ----

Company: MCI INC; VERIZON COMMUNICATIONS INC; WEIL GOTSHAL AND MANGES LLP

News Subject: (Bankruptcies (1BA08); Business Management (1BU42); Legal (1LE33); Major Corporations (1MA93); Corporate Events (1CR05); Government Litigation (1GO18))

Industry: (Telecom Carriers & Operators (1TE56); Telecom (1TE27))

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Terrorist Suspects Found Not Guilty In Key Dutch Case

The Wall Street Journal

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Byline: By David Crawford and Jess Bravin

Body

A Netherlands court found 10 men not guilty of terrorism-related charges, underscoring the difficulty prosecutors around the world are facing in obtaining evidence to convict alleged terrorists.

In the largest Islamist terrorism case in the West, the Rotterdam court ruled that most of the evidence presented by the prosecution stemmed from intelligence sources that the judge ruled inadmissible. Some of the evidence, for example, included information gleaned from telephone wiretaps and agents who infiltrated the Islamist community. Without that evidence, there was no information linking the accused to a terrorist organization, said Wim de Bruin, a spokesman for the Dutch Justice Ministry.

The Dutch case "shows that the judicial process can only play a limited role in combating terrorist organizations," said former U.S. Attorney General William P. Barr. "It has to be primarily handled through national-security agencies and the military." Mr. Barr was an early advocate of using military tribunals, rather than civilian courts, to prosecute suspected terrorists.

U.S. terrorism cases also have been hamstrung by conflicts over sensitive evidence. In Richmond, Va., Tuesday, the Bush administration asked a federal appeals court to overturn a trial judge's order allowing accused Sept. 11 conspirator Zacarias Moussaoui to question al Qaeda prisoners held by the U.S. overseas. Officials say introducing such prisoners to a domestic court procedure would interfere with their interrogations.

The defendants in the Netherlands case were charged with recruiting Muslims to join extremist groups fighting governments in various areas, including Kashmir and Chechnya. The court decided that no links could be established to specific terrorist groups. The men, of whom all but one are members of the Muslim immigrant community in the Netherlands, face deportation proceedings.

"The trial reveals weaknesses in Dutch criminal law, which parliament must address," said Geert Wilders, a member of the Dutch parliament in the ruling coalition.

But a failed prosecution isn't always the end of the line. Judicial officials yesterday said that French authorities had recently arrested two terrorist suspects in Paris, the Associated Press reported. Karim Mehdi, a 34-year-old Moroccan, was taken into custody at Charles de Gaulle airport, the AP reported the officials as saying. They said he was headed to an island off southeastern Africa to scout out tourist sites to attack.

And on Monday, the officials were cited as saying, Christian Ganczarski, a German believed to be a top al Qaeda recruiter, was apprehended at the airport and is to appear before an antiterrorism judge. German authorities allowed Mr. Ganczarski to leave the country in December because there was not enough evidence to arrest him, they said at the time.

The 12 men on trial -- two were convicted yesterday -- also were charged with aiding an enemy of the Netherlands during wartime -- a World War II-era law that the court said didn't fit the challenge posed by Islamic extremists in the Netherlands.

The two convicted men, Taher Benmimoun and Ahmed Oumakhlouf, were sentenced to four months and two months, respectively, for possession of forged French passports and other documents.

The verdict in Rotterdam is critical for U.S. interests because the city is one of the five largest container ports in the world, responsible for millions of tons of goods that come into the U.S. annually. While disappointed with the verdict, Homeland Security Secretary Tom Ridge said yesterday that U.S. officials acknowledge that partners in the fight against terrorism are sovereign nations and must adhere to their own laws in cases such as this one.

Gary Fields contributed to this article.

Notes

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Washington Post, The (Washington, D.C.)

May 22, 2003

Section: Business

Senator Probing WorldCom's Federal Contracts

Christopher Stern

A key member of Congress announced yesterday that she has launched an investigation into a federal agency's decision to continue doing business with WorldCom Inc. after the telecommunications company disclosed the most massive accounting fraud in corporate history.

Senate Governmental Affairs Committee Chairman Susan Collins (R-Maine) said the investigation would look into the General Services Administration's dealings with WorldCom and would also look at contracts awarded by other government agencies.

WorldCom, the nation's second-largest long-distance company, disclosed its improper accounting last June before filing for bankruptcy in July. WorldCom is now doing business under the name MCI.

In November, the GSA granted a one-year extension to WorldCom on a contract to provide more than a dozen federal agencies with long-distance phone and other telecommunications services. It was not clear yesterday how valuable the deal will be, but in the previous year the company earned $331 million under the contract, a GSA spokeswoman said.

"There may be a legitimate reason that GSA decided it was in the government's interest to continue to extend business to WorldCom but I want to know what that justification is," Collins said during an interview yesterday.

The GSA serves as a contracting agent for dozens of federal agencies. Collins said that she would also probe the GSA's decision not to completely bar WorldCom from doing business with the federal government.

"GSA has continued to extend new contracts and that raises questions in my mind," Collins said.

Some of WorldCom's biggest rivals, including Verizon Communications Inc., have been attempting to block WorldCom's efforts to reorganize by lobbying Congress and the Federal Communications Commission to disqualify it as a federal contractor and license holder. Criticism from members of Congress has been building in recent weeks as it has become clear that WorldCom is on track to emerge from bankruptcy as early as September.

William P. Barr, Verizon executive vice president and general counsel, praised Collins for pursuing the investigation. "I think it's about time somebody paid attention," Barr said in an interview yesterday. The former U.S. attorney general

also noted that WorldCom may receive more from federal contracts than the $500 million it agreed to pay the SEC under a settlement of civil fraud charges announced earlier this week.

Verizon is one of Collins's biggest political donors, giving her Senate campaign $10,000 during the last election cycle, according to the Federal Election Commission.

Since filing for bankruptcy, WorldCom has tried to distance itself from the accounting scandal. More than 30 executives have been dismissed and the entire board of directors has been replaced.

"Financial issues of the past and the wrongdoing of a few former executives have no bearing on our proven track record and demonstrated integrity as a government contractor," said WorldCom spokesman Brad Burns.

Despite the scandal and ongoing investigations by both the Justice Department and the SEC, WorldCom has actually increased the amount of business it does with the federal government by more than 50 percent, according to Washington Technology, a trade publication. This year, WorldCom is expected to have $772 million in federal government sales, compared with $507 million in 2002, according to an annual survey published by the magazine.

Earlier this month, the Pentagon disclosed that it had awarded WorldCom a $45 million contract to build a mobile phone network in Baghdad. The contract angered many of WorldCom's competitors, some of whom said they were not even aware the project was in the works.

Barr disputed WorldCom's claim that it should not held accountable for the actions of former executives.

"The whole approach of the [Bush] administration suggesting that enforcement should be only aimed at individuals is nonsense," Barr said.

WorldCom has stated that the total amount of improper bookkeeping is $9 billion, but sources familiar with the company said the final tally may be closer to $11 billion.

Sen. Susan Collins, who chairs the Governmental Affairs Committee, said the extending of new contracts "raises questions in my mind."

---- Index References ----

Company: WORLDCOM INC; PENTAGON LTD; PENTAGON WATER LTD; GROUPE SALMON ARC EN CIEL; MCI; MCI MANAGEMENT SPOLKA AKCYJNA; MUNICIPALITY CREDIT ICELAND PLC; SEC; FEDERAL ELECTION COMMISSION; MCI INC; GSA LTD; MCI TELECOMMUNICATIONS LTD; MCI WORLDCOM INC; JUSTICE DEPARTMENT; PENTAGON CAPITAL MANAGEMENT PLC; MCI CAPITAL TOWARZYSTWO FUNDUSZY INWESTYCYJNYCH SPOLKA AKCYJNA; VERIZON COMMUNICATIONS INC; MCI LLC; SEC ACQUISITION CO; FEDERAL COMMUNICATIONS COMMISSION; MACONDRAY AND CO INC; PENTAGON PERSONNEL LTD

News Subject: (Social Issues (1SO05); Contracts & Orders (1CO29); Major Corporations (1MA93); Executive Personnel Changes (1EX23); Sales & Marketing (1MA51); Economics & Trade (1EC26); Fraud (1FR30); Corporate Events (1CR05); Bankruptcies (1BA08); Crime (1CR87); HR & Labor Management (1HR87); Government (1GO80); Business Management (1BU42); Regulatory Affairs (1RE51))

Industry: (Telecom Regulatory (1TE65); Telecom Carriers & Operators (1TE56); Telecom Services (1TE09); Long-Distance Services (1LO42); Telecom (1TE27))

Region: (North America (1NO39); USA (1US73); Americas (1AM92))

Language: EN

Other Indexing: (FEDERAL COMMUNICATIONS COMMISSION; FEDERAL CONTRACTS; FEDERAL ELECTION COMMISSION; GENERAL SERVICES ADMINISTRATION; GOVERNMENTAL AFFAIRS COMMITTEE; GSA; JUSTICE DEPARTMENT; MCI; PENTAGON; SEC; SENATE; SENATE GOVERNMENTAL AFFAIRS COMMITTEE; VERIZON; VERIZON COMMUNICATIONS INC; WORLDCOM INC) (Barr; Brad Burns; Collins; Probing WorldCom; Susan Collins; William P. Barr; WorldCom)

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Oklahoman

May 21, 2003

Section: BUSINESS

WorldCom deal angers competitors

Matthew Barakat

AP Business Writer

McLEAN, Va.

McLEAN, Va. — A proposed $500 million fraud settlement negotiated between WorldCom Inc. and federal regulators could help the telecommunications company clear a major hurdle on its path out of bankruptcy. And some parties feel the proposal is insufficient given the massive fraud perpetrated by the company.

Former U.S. Attorney General William Barr, now general counsel for Verizon Communications Inc., which is both a WorldCom creditor and competitor, said the Securities and Exchange Commission negotiated an insufficient settlement that, if approved by a federal judge, will give the company an unfair advantage upon emergence from Chapter 11 protection.

"The SEC is serving almost as a cheerleader for MCI to come out of bankruptcy with the fruits of its crime and the competitive advantages of a thief," Barr said in a telephone interview.

SBC Communications Inc. spokesman Dave Pacholczyk called the fine "a pittance compared to the significant financial harm to investors ... and to the economy."

If approved, WorldCom would put $500 million in a fund to benefit investors who were victimized by the company's accounting misdeeds, in which it overstated revenue by $11 billion, prompting bankruptcy in July.

On the one hand, the $500 million fine is by far the largest ever imposed by the SEC for accounting fraud — the previous high was $10 million imposed in 2002 against Xerox.

On the other, 3 billion shares of WorldCom stock — which was once worth $180 billion — have been rendered worthless. The procedures provide only 17 cents for each outstanding share.

"It's not enough to say that this is a record settlement," said Thomas Ajamie, a securities lawyer with Schirrmeister Ajamie LLP in Houston. "This was also a record bankruptcy. It was the largest bankruptcy in history, and the fine probably ought to be in the billions of dollars."

Even if the settlement receives judicial approval, Ajamie cautioned that investors are still pursuing their own lawsuits against the company.

"What the government hasn't done, us private lawyers will finish," Ajamie said.

WorldCom spokeswoman Julie Moore would not comment beyond the statement the company issued Monday, in which general counsel Michael Salsbury said the settlement recognizes "the company's acceptance of responsibility for its past accounting practices, and the significant strides we have made in rebuilding MCI as a model of good corporate governance."

---- Index References ----

Company: INTERMEDIA COMMUNICATIONS INC; VERIZON COMMUNICATIONS INC; AT&T INC; WORLDCOM; SBC COMMUNICATIONS INC; WORLDCOM INC; MCI WORLDCOM INC

News Subject: (Legal (1LE33); Social Issues (1SO05); Business Management (1BU42); Technology Law (1TE30); Contracts & Orders (1CO29); Sales & Marketing (1MA51); Business Lawsuits & Settlements (1BU19); Crime (1CR87); Business Litigation (1BU04); Criminal Law (1CR79); Financially Distressed Companies (1FI85); Major Corporations (1MA93); Economics & Trade (1EC26))

Industry: (Telecom Carriers & Operators (1TE56); Telecom Regulatory (1TE65); Manufacturing (1MA74); Telecom (1TE27))

Region: (Americas (1AM92); North America (1NO39); USA (1US73); Virginia (1VI57))

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Other Indexing: (EXCHANGE COMMISSION; SBC COMMUNICATIONS INC; SEC; SECURITIES; VERIZON COMMUNICATIONS INC; WORLDCOM; WORLDCOM INC) (Ajamie; Ajamie LLP; Barr; Dave Pacholczyk; Julie Moore; Michael Salsbury; Thomas Ajamie; Va; William Barr)

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Chapter 11: Laundering Fraud?

The Wall Street Journal

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THE WALL STREET JOURNAL.
U.S. EDITION

Section: Pg. B1

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Byline: By Rebecca ***Blumenstein*** and Almar ***Latour***

Body

WILLIAM BARR, the general counsel of Verizon Communications Inc., and Michael H. Salsbury, MCI's general counsel, have sparred for years from opposite sides of the telecommunications industry. Neither minces words. Mr. Barr, 53 years old, is a former U.S. attorney general, and Mr. Salsbury, also 53, fought the legal battles for MCI that led to the breakup of the original Bell monopoly. Now, the Verizon counsel is arguing that the former WorldCom, which bought MCI in 1998 and has since renamed itself MCI, shouldn't be allowed to emerge from bankruptcy protection under ***Chapter 11*** of the U.S. Bankruptcy Code. MCI's lawyer strongly disagrees. The two responded to questions posed by The Wall Street Journal in separate interviews.

WSJ: Is WorldCom different from other companies that have filed for bankruptcy and attempted to emerge and compete again?

Mr. Barr: Reorganization doesn't apply when the assets are the product of crime. If I go out and lawfully acquire trucks for my business and I go bankrupt, I might be able to keep the trucks. If I go out and steal trucks for my business, I can't keep those trucks by claiming bankruptcy.

Bankruptcy is not a mechanism for ***laundering*** stolen goods. It doesn't provide a safe harbor for proceeds of crime. So the fundamental difference between companies like the airlines and the steel industry and WorldCom/MCI is that the latter is responsible for the largest corporate ***fraud*** in American history, and clearly a substantial part of its business is the fruit of its ***fraud***.

Mr. Salsbury: This is not a company that was built or created by ***fraud***. MCI is a company that was around for 30 years and was built by hard work, innovation and providing services to customers. UUNet is the same thing, WorldCom and WorldCom International the same thing. The actions of a few people to restate some revenue over a two- or three-year period should not be used to color the heritage of these companies.

The bankruptcy process is not a picnic. People don't volunteer for it. We have made tremendous changes. We have a new CEO, a new CFO and a new board of directors. All the people associated with the ***fraud*** are gone. This is an unprecedented effort to reform the situation that allowed the actions of a few to cause damage to the company.

DOUGLAS RATHBUN

Further, the people that were defrauded here by the misstatement of earnings are the creditors of the company. Those are the creditors that are behind the reorganization and the re-emergence of the company.

WSJ: The government is prosecuting the individuals associated with the ***fraud***, which could reach as high as $11 billion. What does that have to do with bankruptcy?

Mr. Barr: This falls squarely within the framework of bankruptcy law because the bankruptcy law specifically recognizes that law enforcement needs have to take precedence, and that the government has latitude to do what's necessary to rectify criminality. And any relief that's ultimately granted in bankruptcy has to conform with an appropriate enforcement resolution. So there is no right to reorganization when you are dealing with assets that are tainted by ***fraud***.

Mr. Salsbury: I think that the ***Chapter 11*** case here is no different than any other ***Chapter 11*** case. There are the ***fraud*** elements that in this case were handled outside the bankruptcy process. The airlines and steel companies didn't face those other investigations and proceedings that we did. It is interesting that we don't see Verizon expressing shock and outrage over companies like Adelphia that have committed ***fraud*** and are trying to emerge from bankruptcy. This is a competitive issue for them. Monopolies don't like competition. Therefore, they react the way they have.

WSJ: How did WorldCom benefit from the ***fraud***?

Mr. Barr: You have massive ***fraud*** over a three-year period, at least. Clearly, that resulted in the company acquiring assets and customers it wouldn't have had but for the ***fraud***. Its books during this period were showing swings of $3 billion.

These were not rounding errors in their financial statements. These were massive. They doubled their debt over that three-year period. But for the ***fraud***, they wouldn't have had that money and they wouldn't have been able to acquire those assets and customers. So part of their business is ill-gotten gain. So what happens if you allow a company like that to reorganize? The reorganization actually completes the crime and perfects the crime, and it puts them in a better position than they were in before the crime was detected.

Mr. Salsbury: This is a company that has suffered terribly because we discovered the ***fraud***, we exposed it and have gone to extraordinary lengths to cooperate. We are also the ones, along with the creditors of the company, who have paid the price for that. More than 90% of the creditors have signed onto the reorganization plan, and these are the people that Verizon is saying are wrong. We have suffered tremendously. Our employees have lost their retirement accounts and many of them their jobs, and it will take us years to rebuild our name. This company was not built on ***fraud***.

WSJ: Why isn't it enough that prosecutors are pursuing criminal charges against the individuals within WorldCom who committed the ***fraud***?

Mr. Barr: If organized crime sets up a corrupt company, a trucking firm, and it steals trucks and it engages in all kinds of criminal activity to build up that firm, there are two sets of victims. There are the people that they steal the trucks from, and there are the honest trucking companies that they're stealing business from, customers from and value from. Now what would the government do if it found out that there was this entity set up by organized crime that was involved in ***fraud***?

Would it be enough just to punish an individual or individuals, and then leave the company to operate? Would the government say let's get this guy's cousin to run it, he's a good guy? That situation would result in the continuing victimization of honest trucking firms because that company is still a criminal enterprise.

This argument is not about punishment. It is about removing the effects of the crime and rectifying the crime, which is another important objective of the criminal justice system -- which so far the enforcers in WorldCom/MCI's case seem to be ignoring.

Mr. Salsbury: The illegal acts were committed by individuals, and those individuals have been separated from the company.

The bankruptcy laws favor reorganization because it is better for the economy. People don't lose their jobs, and customers don't lose their service.

We believed right from the beginning that we should cooperate. We have cooperated more than any other company in that situation. Further, the SEC has gone to tremendous lengths in this case. They insisted that a corporate monitor be installed to oversee all activities. No other company has faced that. The SEC took very aggressive action, and Richard Breeden, the corporate monitor, has reported that we have in fact made tremendous strides in reforming the company.

We reached a partial settlement last fall with the SEC. We have had ongoing discussions with them about that. No other company has ever had a corporate monitor sitting within the company, a former chairman of the SEC. He has access to every single element of our business.

WSJ: Isn't there a third group of victims, the employees, who would be further victimized by liquidation -- or breaking WorldCom into pieces that would be sold?

Mr. Barr: Liquidation doesn't mean that the company is vaporized. Liquidation means that the assets continue in the marketplace and are deployed in the market, but they do so under new ownership. That ownership has a cost basis in the assets that is based on honest economics and therefore results in honest competition.

And the employees, presumably, will keep jobs with the new entity that is deploying these assets. The alternative of allowing reorganization means that there will be employees that will lose their jobs, but it will be employees of the honest companies that are being confronted by a company that has artificial advantages in the marketplace and efficiency in the marketplace that has been dictated by government fiat, not by real economics.

Mr. Salsbury: When the plan of reorganization comes up for confirmation, one of the decisions the creditors make is whether the company is worth more liquidated than as an ongoing concern. Clearly, the creditors believe the company is worth far less in liquidation.

I am sure Verizon would rather we be liquidated because they would be able to raise prices and have less competition. None of the employees would retain their jobs in liquidation. Why don't you ask them how they feel about it?

This is a company that has a viable ongoing business. There are many companies that go into ***Chapter 11*** that can't emerge. We have 20 million plus customers, 55,000 employees. Our customers and our creditors want us to emerge. Why should our creditors be forced by Verizon to accept a smaller amount?

WSJ: So is there something wrong with bankruptcy law? What about companies like the former Sunbeam, now called American Households Inc., that have been accused of ***fraud*** and emerged from bankruptcy?

Mr. Barr: Bankruptcies in capital-intensive infrastructure industries, like airlines and like telecom, are as a matter of economic policy very damaging. And there is a school of thought that bankruptcy should not be permitted in that kind of industry. But that's not the argument I'm making here. I'm arguing that whatever may be said of a law-abiding company stumbling into bankruptcy, bankruptcy reorganization should not be available to a company whose business has been significantly built on ***fraud***. Bankruptcy is meant to forgive stupidity, not reward criminality.

The Sunbeam case shows that not every instance of accounting ***fraud*** necessarily taints a company. It is a matter of degree -- how large, how sustained, how far it contributed to building the business. At Sunbeam the company had been solid for 100 years and an outsider swooped in using specious accounting for less than two years. MCI presents a far different situation.

Mr. Salsbury: The first set of victims in the bankruptcy are the creditors. They are the ones who are voting in favor of us. They believe [reorganization] is the proper outcome.

Customers make a choice every day what service providers they want to use. Unlike Verizon or the Bell companies, we don't have monopolies. Every single customer of our company made a decision to come with us. There is nothing to prevent Verizon from winning back these customers. They realize now that we will emerge this fall, and this is not something they had anticipated. I think they did not anticipate that our customers would stick by us and that we would be able to put our house in order as quickly as we have.

WSJ: Arthur Andersen LLP was indicted and later convicted as a company for obstruction of justice after being accused of destroying documents. What are the differences here?

Mr. Barr: I think the problem is that some people, mostly at political levels, maybe made uninformed decisions, or at least had an uninformed view that enforcement shouldn't do anything that can be viewed as destroying a company. What was being done at Andersen was the punishment of a company by indicting the company. Here I am not talking about punitive measures that should be taken against WorldCom. I haven't said anything about that. What I'm saying is that effective enforcement action requires liquidation, not reorganization.

Mr. Salsbury: We have been told that our ongoing cooperation is the best assurance that there won't be anything like that. There is nothing pending like that now.

(See related article: "Verizon to MCI: Drop Dead --- Bell Calls for Liquidation, Saying Former WorldCom Is a `Criminal Enterprise' " -- WSJ May 15, 2003)

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Taking Liberties

U.S. News & World Report

May 12, 2003

Section: CULTURE & IDEAS; Vol. 134 , No. 16; Pg. 44

Length: 1866 words

Byline: By Angie Cannon

Highlight: Are tough new responses to terrorism upsetting the balance between legal rights and national security?

Body

Zacarias Moussaoui, the only person charged in an American court with conspiring in the September 11 terrorist attacks, calls the federal judge hearing his case the "death judge." His own lawyers, whom he has rejected, are "death lawyers." And Attorney General John Ashcroft? He's a "natural-born liar."

Moussaoui is, to put it mildly, hardly a sympathetic defendant. But the case of the French citizen often dubbed the "20th hijacker" is not only drawing lots of media attention but raising a host of vexing new legal questions as well.

The Moussaoui case represents just one in a panoply of tough new legal responses to the terrorism threat that are changing the balance between an individual's constitutional rights and the government's need to protect national security. The Bush administration is planning military tribunals for foreign terrorism suspects and detaining as "material witnesses"--without charges--individuals it suspects of links to terrorism. Increasingly, liberals and conservatives alike are questioning whether such measures go too far. Is the war on terrorism, they ask, compromising civil liberties?

Moussaoui's case could provide some answers to the question. After a closed hearing this week, U.S. District Judge Leonie Brinkema must rule by May 15 on a critical issue: Should a defendant charged with terrorism-related crimes be allowed to question a witness thought to have information useful to his defense if the witness is a member of a terrorist organization? Or can the government, as it asserts, block such questioning on national security grounds? A compromise over Moussaoui's due-process rights could keep his trial on track for the fall. Failing that, the government may send his case to a military tribunal, where he would have fewer rights than in federal court.

The precedent that would be set by that scenario troubles civil libertarians, already alarmed by what they see as a Justice Department too ready to cast aside individual rights in its pursuit of terrorists. "We tend to overreact in times of war and then we apologize for it afterward," says George Washington University law Prof. Stephen Saltzburg.

Every week seems to bring fresh examples of the shifting balance between fighting terrorism and upholding personal freedoms. Last month, for example, Ashcroft decided that broad groups of illegal immigrants can be locked up indefinitely if immigration officials say their release would jeopardize national security. Yet just a few weeks earlier, a Denver judge had released two Pakistanis being held while the FBI investigated them for possible terrorism ties. The government, the judge said, failed to show the suspects were dangerous. In some other cases, defense attorneys maintain, prosecutors are securing guilty pleas by implying that the alternative could be to declare a suspect an enemy combatant--thus throwing him into a legal black hole.

Americans are willing to accept some curbs on civil liberties as the cost of fighting terrorism, polls show. But there are signs of uneasiness. More than 90 communities--mostly liberal college towns such as Boulder, Colo., Berkeley,

Calif., and Ann Arbor, Mich.--have passed symbolic resolutions urging the feds to respect people's civil rights in the terrorism war. In a similar vein, some librarians are destroying patrons' records rather than risk having to disclose them to federal agents as required under the U.S.A. Patriot Act. In a recent speech, Supreme Court Justice Stephen Breyer, a Clinton appointee, urged lawyers to question the government's tactics, such as the lack of access to counsel for some detainees.

Such worries are not voiced solely by liberals. At an American Civil Liberties Union forum last month, David Keene, head of the American Conservative Union, urged policymakers to "tread lightly when it comes to rights guaranteed by the U.S. Constitution." And Wisconsin Republican Rep. James Sensenbrenner, the chairman of the House Judiciary Committee, recently joined his Democratic counterpart, John Conyers of Michigan, in asking the Justice Department to answer some 100 questions about its tactics, including how many religious sites federal authorities have entered without disclosing their identities and how many people have been detained as material witnesses.

No charges. Authorities are increasingly using the 1984 material witness statute to circumvent limitations on holding individuals without charges. But the tactic is highly debated--and not always productive. The Washington Post last fall counted at least 44 people arrested as material witnesses in terrorism cases. The paper found that 20 were released without ever being asked to appear before a grand jury. Only two were ever indicted on terrorism-related charges.

Today's civil liberties debate has plenty of historical echoes. Since the nation's founding, Americans have relied on the basic legal protections spelled out in the Bill of Rights, including trial by jury, protection from unreasonable searches, the right to counsel, the right to confront accusers, and the right to obtain favorable witnesses. But during past wartimes, civil liberties have been curbed dramatically. President Lincoln suspended habeas corpus (which allows a suspect to challenge the legal grounds for his detention) during the Civil War, for instance, while President Roosevelt interned Japanese-Americans during World War II.

Some scholars question making too much of the parallel between those events and today's war on terrorism. "The Bush administration has done nothing like that," says Cass Sunstein, a liberal constitutional law professor at the University of Chicago. "This isn't to say that there are no legitimate criticisms. But by historical standards, it's been a pretty cautious response." Today's culture, he suggests, has become much more protective of civil liberties since the expanded definition of constitutional protections that followed the civil rights revolution of the 1960s.

The administration's legal tactics have certainly drawn plenty of fire. But the Justice Department and its defenders argue that dramatic steps are needed because the threat is grave. "The very protections in the Constitution recognize that they may vary by circumstances," says William Barr, the former attorney general during the first Bush administration. "And here where you are dealing with extraordinary threats that could take tens of thousands of lives, a rule of reason has to prevail."

The complex details of several terrorism cases show how little agreement there is on what legal rights it is reasonable to give suspects. In the Moussaoui trial, the Justice Department argues that Moussaoui should be denied the access he seeks to Ramzi Binalshibh, an alleged planner of the 9/11 attacks being held and questioned by U.S. officials. Moussaoui says Binalshibh's testimony would show that he was not involved in the 9/11 attacks. But the government argues that permitting Moussaoui's defense team access to Bin- alshibh "will undoubtedly become terrorist defendants' favorite trump card" to compromise prosecutions or hobble interrogations of al Qaeda leaders.

Another closely watched case raises important questions about whether a U.S. citizen may be detained without access to legal counsel. Jose Padilla, 31, a former Chicago gang member arrested at O'Hare International Airport in May 2002, was initially detained as a material witness. One month later, President Bush designated him an enemy combatant, and he was transferred to a naval brig in Charleston, S.C. The government said that Padilla was part of a plot to detonate a radioactive "dirty bomb" in the United States. In the year since, Padilla has not been charged or allowed to see a lawyer.

U.S. District Judge Michael Mukasey in New York has ruled that the president has the power to jail U.S. citizens captured on U.S. soil as enemy combatants, but he also has twice ruled that Padilla should be allowed to meet with a lawyer. The government is appealing; Justice Department lawyer Paul Clement recently argued that granting Padilla access to a lawyer "could irreparably compromise the military's efforts to obtain intelligence from Padilla."

Gag order. A third case is raising questions about whether the government is misusing the material witness statute. Maher "Mike" Hawash, 39, is a software engineer, a naturalized American of Palestinian descent, who has an American wife and three children. By all accounts, he was leading a middle-class American life. But on March 20, FBI agents picked him up in the parking lot of Intel Corp., in Hillsboro, Ore., on his way to work. For five weeks he was held in solitary confinement in a small cell as a material witness to a terrorism investigation. Agents searched his house for hours, taking computers and financial records. He did have access to a lawyer, but the judge imposed a gag order on attorneys and also barred the public from hearings. "It's Alice in Wonderland meets Franz Kafka," says Steven McGeady, a former Intel vice president, who is leading a support effort for Hawash.

Finally, last week, Hawash was charged with conspiracy to wage war against the United States and conspiracy to provide material support to al Qaeda, a charge that has become a key tool in the government's pursuit of possible terrorists. The government's complaint says that Hawash traveled to China with several other Portland residents, who already have been charged, in an attempt to enter Afghanistan and fight against U.S. forces after September 11. Shortly before he left the United States in October 2001, the complaint says, he transferred the title to his house to his wife and signed a power of attorney giving her authority to act on his behalf. Hawash returned to the United States after he was unsuccessful in entering Afghanistan, prosecutors say.

But Hawash's relatives say he told them his China travels had to do with his personal software business, according to the complaint. To complicate matters, a former Intel colleague told the Wall Street Journal that Hawash had told others that he traveled to the West Bank around that time. But all the government's evidence, says McGeady, is "weak and amounts to guilt by association."

Hawash originally was held under the material witness law, which permits the government to detain someone whose testimony is "material in a criminal proceeding." The law was intended to be used when a person is likely to flee the country to avoid testifying. Critics say the Justice Department is using it as a way to detain people indefinitely while searching for evidence against them.

Whatever the outcome of the Moussaoui, Padilla, and Hawash cases, critics say that since 9/11 there have been many other instances of newly aggressive tactics by the Justice Department. In the wartime atmosphere often cited by defenders of antiterrorism measures, "there is always a danger of saying 'we can tolerate this' and 'we can tolerate that,' " says law professor Saltzburg. "It's when you put those all together that you get a climate that frightens people."

Graphic

Picture, Demonstrators voice their support for terrorism suspect Maher "Mike" Hawash. (ROBBIE MCCLARAN FOR USN&WR); Picture, Children at the Manzanar Internment camp during World War II (National Parks Service / AP)

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NewsRoom

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2003 WLNR 7295777

Communications Daily

April 15, 2003

WorldCom announced Mon. it was changing its name to MCI,

WorldCom announced Mon. it was changing its name to MCI, moving to the Washington suburb of Ashburn, Va., and planning to exit bankruptcy with a new CFO and less debt. The company filed a proposed reorganization plan with U.S. Bankruptcy Court, N.Y., that would enable it to emerge with $3.5-$4.5 billion in debt, compared with $40 billion before the bankruptcy filing last year. WorldCom said its senior noteholder groups representing a majority of the company's Official Committee of Unsecured Creditors had agreed on the economic terms of the proposed plan. The company also named as CFO Robert Blakely, ex-CFO of Tenneco and Lyondell Chemical and former member of the Financial Accounting Standards Advisory Council, which advises the Financial Accounting Standards Board. Along with moving to the more positive name of MCI, the company said it would sub-brand its wholesale business as UUNet. WorldCom, which acquired MCI several years ago, had continued to use the name as the brand of its residential long distance service. "We wanted a new name that would make us proud," CEO Michael Capellas said. Verizon Gen. Counsel William Barr said the govt. shouldn't let WorldCom emerge from bankruptcy: "Bankruptcy was designed to forgive stupidity, not reward criminality." He said WorldCom's reorganization would enabled the company to "profit from its crimes" and the SEC should demand that WorldCom's assets be auctioned off under Chapter 7 of the Bankruptcy Act. USTA Pres. Walter McCormick criticized the reorganization plan: "This is not a decision that sends the right message to corporate America, nor will it contribute to renewed stability in the telecom sector." He said that the companies that had ensured service continued for MCI/WorldCom's customers "must now absorb hundreds of millions of dollars in unpaid bills, all so MCI/WorldCom can emerge from its own misdeeds virtually debt-free."

---- Index References ----

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WashingtonPost.com

April 15, 2003

New MCI Greeted by Skepticism; Former WorldCom's Blueprint Is Faulted

Christopher Stern

Chief executive Michael D. Capellas's aggressive goals for turning around the troubled telecommunications company formerly known as WorldCom were met with skepticism by industry analysts who got their first glimpse of the company's reorganization plan after it was filed with a federal bankruptcy court yesterday. The company, which yesterday took on the well-known name of its MCI long-distance division, is projecting flat growth this year. But next year it expects a 4 percent increase over last year's revenue of $24.7 billion, and in 2005 it predicts an 8 percent increase over the 2002 number. "I don't think it's possible," said F.

Drake Johnstone, a telecommunications analyst with Davenport & Co. Susan Kalla, an analyst with Friedman, Billings, Ramsey Group Inc., called the projections "highly optimistic." The analysts noted that the growth estimates appear to assume that MCI can take significant market share from AT&T Corp. and Sprint Corp. at a time when those companies say they are already benefiting from customers fleeing their beleaguered rival. "It presumes that they are going to outgrow the industry by 50 percent," Kalla said. "At this point I don't see how they are going to get there." Meanwhile, one rival expressed outrage that the company is on track to emerge from bankruptcy, wiping out roughly $36 billion in debt, after it had revealed a massive accounting scandal. "Bankruptcy was designed to forgive stupidity, not reward criminality," said William H. Barr, general counsel of Verizon Communications Inc., a major MCI competitor. MCI spokesman Brad Burns said yesterday that the company has taken a conservative approach to its growth projections, which do not assume any broad rebound in the telecommunications industry. He dismissed Barr's objections, saying "It's a good thing for corporate America that local phone monopolies don't set bankruptcy law." Central to the company's turnaround plan is an effort to distance itself from its scandal-plagued past by changing its name to MCI. Until it was taken over by WorldCom in 1998, MCI was a legendary telecommunications company that had almost single-handedly opened the long-distance industry to competition. It is a brand that already has wide name recognition in the United States, where MCI has 20 million long-distance customers. In an effort to highlight its position as the nation's leading wholesale Internet provider, Capellas announced yesterday that the company is also resurrecting the UUNet brand for its Internet operations. UUNet had been the nation's largest independent Internet provider before it was acquired by WorldCom in 1997 as part of its acquisition of another company. The Ashburn campus, which is now MCI's global headquarters, was originally built as UUNet's corporate home. Yesterday, Capellas, sitting in his Ashburn office at a table sprinkled with orange and blue confetti and surrounded by balloons festooned with the MCI logo, said the company is positioned to take advantage of a broad industry movement away from traditional circuit-switched networking toward "Internet protocol," or IP, standards. The former relies on creating a direct connection between two callers, but the latter divides a conversation or stream of data into millions of little pieces and assigns each an address. Each slice of the conversation or data stream is then sent off to find the most efficient route to its destination, where they are reassembled in the proper order. IP is more efficient than circuit switched networks, providing companies with huge

savings when they transmit voice or data. "The world is moving towards IP," Capellas said. Capellas also said yesterday that the company would roll out a high-speed Internet offering to consumers beginning next month to supplement its package of local and long-distance service. MCI now has 3 million local telephone customers and 20 million long-distance subscribers. The prospect of MCI emerging from bankruptcy later this year with a balance sheet dramatically lightened of debt has been a cause for concern for rivals. They fear the strengthened company will seek market share by driving down prices even further than they have fallen during the past three years. The decline in prices, which in some cases have plummeted 90 percent at the wholesale level, has had a devastating effect on the entire telecommunications industry. But Capellas said yesterday that the company would take a disciplined approach as it competes for business, particularly when it comes to price competition. "I'd rather see us grow slowly," Capellas said, "Our goal is not to get out of bankruptcy; it is to stay out of bankruptcy."

---- Index References ----

Company: GLOBALSAT WORLDCOM CORP; SPRINT NEXTEL CORP; MCI INC; FRIEDMAN INDUSTRIES INC; SAMSUNG C&T CORP; VERIZON COMMUNICATIONS INC; ARLINGTON ASSET INVESTMENT CORP; CITY OF DAVENPORT

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Terror Watch: Here Comes the Judge

Newsweek

March 5, 2003,, Newsweek Web Exclusive

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Length: 1720 words

Byline: By Michael Isikoff and Mark Hosenball
Highlight: With four major Al Qaeda operatives in U.S. custody, a conspiracy trial is now a real possibility

Body

The capture of Khalid Shaikh Mohammed in Pakistan was without question a landmark victory for the United States in its war on terror. But the arrest also hands the White House a nearly irresistible political opportunity: the chance to stage a grand Nuremberg-style show trial for the perpetrators of September 11, an event that could well commence smack in the middle of next year's election campaign.

A senior administration official involved in the Bush administration's planning for military tribunals told NEWSWEEK that, with the detention of Mohammed, a major 9-11 conspiracy trial is now for the first time a "realistic possibility." Such a trial would most likely be held under the auspices of a U.S. military court, said the official, who added that Mohammed was "exactly the kind of person we had in mind when we created the tribunals."

But Mohammed, who FBI Director Robert Mueller on Tuesday called "the operational mastermind" of the 9-11 attacks, is far from the only defendant likely to be in the dock. U.S. intelligence officials confirm that another figure apprehended on the raid in Mohammed's safe house in Rawalpindi, Pakistan, last weekend was Mustafa Ahmed Al Hawsawi. A Saudi citizen, he had previously been identified by U.S. authorities as a key Al Qaeda moneyman who helped finance the 9-11 operation and, in the days before the attacks, received thousands of dollars in surplus funds from the hijackers that was wired to an account in the United Arab Emirates.

When those two suspects are thrown together with two other Al Qaeda lieutenants also in U.S. custody--Ramzi bin al-Shibh and Abu Zubaydah--the Bush administration at long last has virtually all the defendants it needs to stage the sort of sweeping 9-11 conspiracy trial that once looked impossible. Officials stress that the first priority with all these suspects is vigorous interrogation, milking them for all the intelligence they can provide about pending Al Qaeda operations and the whereabouts of other operatives still at large (not to mention Osama bin Laden.) But some experts say there is also a new and compelling case to be made for bringing these men to justice in one place and at one time, thereby providing the sort of "cathartic" experience for the public that big criminal trials are supposed to provide.

"At some point, it becomes important to show people that the system works and that people are being held accountable," said former attorney general William Barr, who helped advise administration officials on the planning for military tribunals. "A trial can be a punctuation point, an exclamation point, a way of declaring victory and preparing the public for the next phase in the war on terrorism."

The really interesting question is how that punctuation point will fit in with the U.S. election cycle. Given the pressing intelligence demands, the months that are required to "debrief" each of the 9-11 suspects, administration officials are adamant there will be no effort to start planning for a trial for them anytime soon.

That kicks the issue into next year. At that point, administration officials predict, the Justice Department might well press the White House to allow its prosecutors to try the suspects in criminal courts, affording the defendants their full panoply of constitutional rights. But that could create a host of problems for the courts. Nobody pretends, for example that Mohammed or Al Hawsawi--now being interrogated under CIA supervision by a foreign intelligence service-have been read their Miranda rights or are being given access to lawyers.

But administration officials say the military tribunals--which were authorized under a November 2001 order signed by Bush--will have far looser standards, thereby avoiding most of these thorny constitutional issues. (The only standard for admissibility of a confession, one official said, will be whether it has "probative value"--not whether it meets Miranda standards.) That issue--combined with the enormity of the 9-11 event itself--is likely to make the military tribunal option far more appealing to the White House, some experts say. "It's the right thing to do," said Timothy Flanigan, who until recently served as deputy White House counsel and helped draft Bush's order authorizing the tribunals. "These were acts of war perpetrated against the United States." In fact, administration officials are quietly proceeding apace with plans to get the tribunals up and running. Just last Friday, the day before Mohammed's capture, the Pentagon released a list of two dozen international crimes that will be subject to prosecution by military tribunals: they include the taking of hostages, murder, conspiracy and the use of "poison or analogous weapons" (widely interpreted as a standby offense for any Iraqi leaders that might be contemplating the use of chemical or biological weapons in the event of a U.S. attack). Sources said the Pentagon is also methodically moving to create what one official called a tribunal "infrastructure"--identifying judges, prosecutors and a coterie of defense lawyers who will be assigned the thankless task of representing the defendants. (Another issue: contrary to earlier assumptions, one administration official said, the trials don't have to be conducted in secret. Although certain portions will be secret to protect sensitive national-security intelligence, "there's a presumption that the trials will be public," the official said.) So when will all this be ready to go?

Some sources say the entire process is probably still a year away.

As for the actual starting date of any full blown 9-11 trial, nobody was willing to hazard a guess. But one day that sounded especially enticing to a few White House allies: Sept. 11, 2004. That's not just the third anniversary of the worst terrorist attack in world history. Coincidentally or not, that also comes during the home stretch of a general-election campaign that is likely to be fought, at least in part, on President Bush's record in prosecuting the war on terrorism.

Staging a large, multidefendant 9-11 conspiracy trial would also have an extra benefit: it could provide a way out for the Justice Department if a federal appeals court rule against it on a key procedural issue in the case of Zacarias Moussaoui.

Compared to the enormity of Mohammed's capture, the pending trial of Moussaoui--a French citizen of Moroccan descent who is facing conspiracy charges in a U.S. criminal court--looks almost trivial. Moussaoui, a self confessed Al Qaeda operative, has been charged with participating in the 9-11 conspiracy. But he is now widely regarded as a relatively small fish. Moussaoui was in jail at the time of the attacks and bin al-Shibh, in an Al-Jazeera interview before his apprehension, has said that he was viewed as too erratic to be clued into the operation.)

In any event, the entire case is in a shambles in the wake of a recent ruling by a federal judge that Moussaoui has the right to question bin al-Shibh as part of his defense-a prospect U.S. officials say they will never allow. Justice has appealed to the U.S. Court of Appeals in Richmond, Va. An adverse ruling could force the charges to be dropped, resulting in Moussaoui being declared "an enemy combatant" and being locked up indefinitely. But if Moussaoui were transferred to a military tribunal and made one more defendant (albeit a distinctly minor one) in a trial of Mohammed, bin al-Shibh and Al Hawsawi, it would be "a graceful way out for Justice," said one source close to the White House.

Meanwhile, there's still a war on terror (not to mention Iraq) to be waged. But U.S. law-enforcement and intelligence officials say the playing field has changed dramatically in the wake of Mohammed's apprehension. The arrests of Mohammed and Al Hawsawi, officials say, may have seriously damaged the infrastructure of Osama bin Laden's terror network far more than anybody at first thought possible.

American officials say that a laptop computer and cell and satellite phones and other documentary material seized by CIA and Pakistani forces during the operation that led to Mohammed and Al Hawsawi's capture may contain hundreds of phone numbers of possible Qaeda operatives, including some in the United States. The intelligence haul was described by one senior investigator as the "mother lode." Law-enforcement investigators are already tracking down leads to the identity and whereabouts of possible Al Qaeda operatives in the United States. Some officials even suggested the haul may constitute the closest thing Al Qaeda has to a central filing system.

The laptop files and other evidence has only underscored just how important a figure Mohammed was--more significant, in some ways, than bin Laden himself. While bin Laden may approve and finance individual operations, officials say, Mohammed was the man who actually put the plans together and chose who would carry them out. European police files examined by NEWSWEEK show that top Al Qaeda leaders, such as Mohammed Atef, the top Al Qaeda military commander whose role was assumed by Khalid Shaikh Mohammed after Atef died in a U.S. bombing raid, personally selected and approved candidates for the most sensitive and complex terrorist operations, like 9-11 or the bombing of the USS Cole. (One suspect told interrogators that Atef even kept a master "martyrs list" of training camp graduates approved for suicide missions). With Atef and now his successor gone, U.S. intelligence and law enforcement hope that at least it will be more difficult and take much longer for Al Qaeda to carry out complex simultaneous attacks on difficult targets, like security-conscious landmarks in the United States.

But U.S. law-enforcement and intelligence officials say this does not necessarily diminish the danger of attacks on American targets by "lone wolf" terrorists--such as would-be shoe-bomber Richard Reid--or self-supporting terrorist cells, manned or led by veterans of bin Laden's now-defunct network of Afghan training camps. Indeed, one top official said, the fear of "lone wolves" is now the greatest nightmare facing U.S. law enforcement--a danger that is not likely to diminish no matter how many "big fish" like Mohammed get locked up and put away.

Load-Date: April 11, 2003

The Nation; Under Ashcroft, Judicial Power Flows Back to Washington

The New York Times

February 16, 2003 Sunday, Late Edition - Final

Section: Section 4; Column 1; Week in Review Desk; Pg. 5

Length: 893 words

Byline: By ADAM LIPTAK

Body

WHETHER discussing terrorist threats, the importance of religious faith in public life or the role the death penalty should play in American justice, Attorney General John Ashcroft seems informed by a moral certainty not often associated with lawyers.

He has, for instance, recently overruled the recommendations of local federal prosecutors in 28 cases where they decided not to seek the death penalty. He has similarly used federal prosecutions to override state laws concerning social issues like medicinal marijuana and doctor-assisted suicide.

Whether by force of circumstances, personality, ideology or a combination of all three, Mr. Ashcroft may be forging a new role for himself and the Justice Department.

He is not, though he attended Yale and the University of Chicago Law School, a patrician establishment lawyer like Francis B. Biddle, who served under President Franklin D. Roosevelt during World War II. He is not a lion of the bar like Edward H. Levi, who was appointed to the position by President Gerald Ford after Watergate.

He is not a political crony like John N. Mitchell, who served under President Richard M. Nixon, or Edwin A. Meese III, who served under President Ronald Reagan. And he is not, though he served as Missouri's attorney general, a career law enforcement official like Janet Reno.

Mr. Ashcroft has vast political experience, serving two terms as governor of Missouri and one term in the Senate. But his religious background has played at least as important a role in shaping his philosophy.

"The terrorist attacks have energized Ashcroft in a remarkable way, resonating with his sincere belief that there is evil in the world," said Nancy Baker, an associate professor of government at New Mexico State University and the author of "Conflicting Loyalties," a history of the attorney general's office. "As the son and grandson of Assembly of God preachers, he is spiritually as well as politically inclined to do battle with evil."

That conviction, reinforced by the terrorist threat, has lately caused him to revise his practices, if not his stated views, about executive power, states' rights and the autonomy of local law enforcement.

"There is a lot more centralization of power," Professor Baker said, "and that reflects his view that law is a moral imperative to be used as a sword."

Mr. Ashcroft still talks in the conventional formulations of the modern legal conservative. His critics, he said in a speech in November, "view the idea of faithful adherence to the text and original intent of the Constitution as some sort of vice, some perverse affliction to be cured by attendance at Yale."

"In my case," he added, "that particular course of treatment happily failed."

But lawyers who served under his predecessor, Ms. Reno, argue that she was in some ways more conservative when it came to dispersed power and local autonomy.

"There is something ironic about the contrast," said E. Kinney Zalesne, who served as counsel to Ms. Reno. "She is the one who empowered locals, and he is the one who is concentrating federal power."

William P. Barr, who served as attorney general under the first President Bush, said Mr. Ashcroft was right to set uniform federal policies.

"The problem with Reno was that the only thing she would communicate with the field about were idiotic notices about things like deadbeat dads," he said. "There is a role for a strong leader of the federal law enforcement function who has a clear idea of what should be done to protect the United States. Substantively, he is right about those things that are being centralized."

Mr. Ashcroft has pointed to a role model.

"We've borrowed something from a previous Department of Justice -- Robert F. Kennedy's Department of Justice -- where it was said that they would arrest a mobster for 'spitting on the sidewalk' if it would help in the fight against organized crime," he told a group of police officers last summer. "We've been similarly aggressive in our effort to prevent future terror attacks."

Some said they saw stylistic similarities between the men. "This is a very adventuresome and aggressive department," said Charles Fried, who served as solicitor general under President Reagan. "It's like Bobby Kennedy in the civil-rights era."

But the comparison infuriated others.

Nicholas deB. Katzenbach, who served under Kennedy and succeeded him as attorney general, said, "He uses it to justify some things that Bobby Kennedy never would have tried to justify," including expanded surveillance powers for the Federal Bureau of Investigation and more cooperation between foreign and domestic intelligence agencies. "The problem today is that it is very hard to know the limits of what they're trying to collect," Mr. Katzenbach added.

Mr. Ashcroft has said it was the times and not the predispositions of any one man that required the rethinking of the Justice Department's mission and priorities.

"In order to fight and to defeat terrorism," he told the Council on Foreign Relations last week, "the Department of Justice has added a new paradigm to that of prosecution -- a paradigm of prevention."

But Mr. Ashcroft's language also reveals how his personal convictions help inform his thinking about the rule of law. "Order and liberty go together, like love and marriage," he told a group of judges in August. "You can't have one without the other."

http://www.nytimes.com

Graphic

Photo: Attorney General John Ashcroft is seen as centralizing power in the Justice Department, overriding prosecutors and state laws. (Agence France-Presse)

Load-Date: February 16, 2003

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TECHNOLOGY; No Shortage of Opinions On Salvaging WorldCom

The New York Times

January 20, 2003 Monday, Late Edition - Final

Section: Section C; Column 1; Business/Financial Desk; Pg. 3

Length: 1484 words

Byline: By SETH SCHIESEL

Body

Michael D. Capellas, who became chairman and chief executive of WorldCom in December, made his first public comments last week on how he intends to revive the telecommunications company. His "100-day plan" included few specifics about how the company hopes to emerge from bankruptcy protection. Instead, Mr. Capellas focused on cutting costs and on initiatives to keep customers who could be rattled by WorldCom's executive turmoil and its $9 billion accounting scandal.

Mr. Capellas said WorldCom would be forced to cut jobs over the next few months, (he did not say how many) as it tried to return to financial stability. At the same time, he expects employees to sign up 1 million new residential customers for local telephone service and 2.5 million new individual long-distance subscribers over the next three months.

Perhaps even more important, WorldCom will try to persuade its large corporate customers to stay with the company. Initial data suggests that WorldCom, which acquired M.C.I. in 1998, has already lost billions of dollars in annual revenue since the company's heyday a few years ago.

Business Day asked six people who have followed WorldCom's travails to suggest what it should be doing now. Their answers represented consumer, regulatory, financial and religious points of view. (The United Church of Christ has filed comments about WorldCom with the Federal Communications Commission.) Some urged additional action against the company by the government. Two invoked the legacy of William McGowan, M.C.I.'s longtime chairman, who died in 1992, but did so to support contradictory points of view.

Following are excerpts from their comments. SETH SCHIESEL

Howard Anderson

Senior Managing Director,

YankeeTek, a venture capital firm

One, they should specialize in serving sophisticated corporations, the people who have high demands and who have big communications budgets: the General Electrics, the Merrill Lynches, the Goldman, Sachs of the world.

Two, they should avoid the consumer who shops based on price. I'm almost asking myself what would Bill McGowan do. If he went after any part of the consumer market, he would go after the part that spends $100 a month or more.

Third, define whom they are going after. My view is that Sprint is vulnerable. Don't go after AT&T. AT&T is going to keep its part of the high-end corporate market, but Sprint will give up part of that to WorldCom.

McGowan had an implicit understanding of where the market was going, and he could come up with innovative services to meet the needs of the company's customers, and that's something they've kind of lost sight of. They've kind of lost their way here and it's become a price, price business.

William Barr

General Counsel, Verizon;

Former U.S. Attorney General

WorldCom committed the largest fraud in American history. Indeed, the company was built on fraud, using its inflated stock to make acquisitions and its kited balance sheet to borrow billions to fund growth and operations.

Investors lost more than $175 billion, and WorldCom's crimes made victims out of every honest company struggling to survive the telecom meltdown. If there's a cardinal rule of American justice, it's that "crime doesn't pay." Thus, enforcement actions are designed not just to punish, but also to ensure that any advantages gained through wrongdoing are eliminated.

The government's lack of enforcement action against WorldCom has been baffling. WorldCom has not been indicted, and the Securities and Exchange Commission negotiated a partial settlement, notwithstanding WorldCom's refusal to admit any culpability.

The only just result is for the government to demand an auction of WorldCom's assets. Buyers would pay a fair price, washing away the competitive taint of WorldCom's crimes. Employees would stay employed. And assets important to national security would remain in operation, but with new and honest ownership.

The Rev. Robert Chase

Executive Director, Communications,

United Church of Christ

WorldCom's 100-day plan of action begs two questions: First, is WorldCom fit to serve as a steward of our national and telecommunications infrastructure? And second, have federal regulators done their job to prevent a WorldCom accounting fiasco from happening again?

While WorldCom's "100 days" has a nice ring to it, there should be no pre-emption of the careful process needed to make another telecom debacle impossible.

Only the F.C.C. can send an unequivocal signal to the rest of the telecommunications world that WorldCom has been unfit to serve as an information age steward.

Our message is simple: character counts. We seek from the Federal Communications Commission a long-overdue rule-making that puts teeth into this premise for WorldCom and the entire telecom industry. The flagrant disregard for the public trust and the arrogant and egregious acts perpetrated on the American public by WorldCom offer a window through which we can see what can go horribly wrong when those charged with upholding the public interest violate that solemn trust on a scope and scale unprecedented in telecommunications history.

What we really need is a "100-day plan" from the F.C.C. to restore integrity to WorldCom and the rest of the telecommunications world.

William E. Kennard

Managing Director, Carlyle Group;

Former F.C.C. Chairman

Unlike most bankrupt telecom companies, WorldCom's problems stemmed principally from scandal, not from excessive debt or a fundamentally flawed business plan. WorldCom is a real company with a proven business model and some valuable, well-performing assets. It has over $2 billion in monthly revenue, $300 million in monthly earnings before interest, taxes, depreciation and amortization, and approximately $2 billion in cash on hand.

The new leadership of WorldCom should work hard to keep WorldCom's core businesses intact: the company's Internet backbone, enterprise long-distance and government-services businesses.

Having purged its old leadership, WorldCom's new leaders must continue to work hard to restore the confidence of regulators, creditors and Wall Street.

WorldCom still remains a collection of companies acquired by Bernie Ebbers (WorldCom's former chief executive) that were never successfully integrated. Michael Capellas must focus on integrating these serial acquisitions. If he can pull all of this off, WorldCom will emerge from bankruptcy -- a rite of passage for many telecom companies today -- as a formidable competitor with great assets.

Gene Kimmelman

Washington Director,

Consumers Union

If you want to remain a player in the consumer telecom arena, quit raising your prices and go back to the vision of aggressive cutthroat competition at lower prices for all consumers.

WorldCom was the leader in challenging monopolies by putting the lowest prices on the table and aggressively reaching out to consumers. Besides being tarnished by scandal, now they've raised rates for long-distance customers three times in the last few months. I fear that they're turning from the Bill McGowan tradition of being the aggressive low-cost competitor, and I'm fearful that if they raise prices, that doesn't do much for consumers. It may make them a more attractive takeover target, but they would be abandoning their traditional position in the marketplace.

We've deregulated this industry on the theory that it can sustain healthy competition without government oversight. WorldCom needs to return to being the aggressive, scrappy, low-cost competitor. If that's not sustainable, it really raises the question of why we deregulated in the first place.

It doesn't do consumers very well to have the same names in the marketplace and giving the appearance of real competition and lower prices but not delivering the reality. I say, Go for broke.

Richard Klugman

Telecommunications Analyst,

Jefferies & Company

The most important thing for WorldCom in the marketplace is to manage the relationships they have with customers. They are not in a position to hunt for new customers, given that they are still in bankruptcy. They are in a position, given the little bit of good will I think Capellas is getting, to go out to customers and try to explain to them why they should stay with WorldCom.

If you look at the numbers that they've put out, it's not encouraging, however. Their revenues have declined in each of the last three or four months.

One thing I would be exceptionally worried about if I were running this company would be service quality -- both in customer service and network reliability -- because as soon as any of their customers find any flaws, they're going to attribute it to a lack of capital, to excessive layoffs. If a problem happened at AT&T, no one would draw any extra

conclusions about it, but WorldCom is being held to a higher standard. They are on probation with their customers, and they need to really prove that they are as good, if not better, than they ever were.

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Graphic

Photos

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SPREADING THE WEALTH; Client Watch

The American Lawyer

January, 2003

THE AMERICAN LAWYER

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Byline: Ashby Jones

Body

Client Watch

Increasingly, general counsel are willing to stray from their primary outside counsel for big-ticket work, leaving the marketplace in flux.

LAST JULY, WHEN A fat Brooklyn man sued McDonald's Corporation for allegedly causing his obesity, the lawyers for the hamburger giant didn't laugh it off. Despite the seemingly outlandish claim, they feared the case had watershed potential, so they jumped into action.

But the Oak Brook, Illinois-based company didn't send the case to either Sonnenschein Nath & Rosenthal or Kirkland & Ellis, the two Chicago firms that are its regular litigation counsel. Instead, McDonald's held a beauty contest and selected as one of its lead counsel Wildman, Harrold, Allen & Dixon, Chicago's fourteenth-largest firm. (McDonald's also tapped Chicago's Winston & Strawn for the suit).

A generation ago, hiring a regional firm like Wildman to handle a headline-grabbing suit might have been dicey business for a general counsel. If the gamble were lost, the GC risked landing on the unemployment lineor at least feeling the wrath of the company's board of directors.

But according to **Corporate Counsel** magazine's first ever Who Represents America's Biggest Companies? survey, the McDonald's experience may be a harbinger. It was sort of surprising, admits Phillip Rudolph, the company's corporate vice president and international general counsel. But Wildman, Harrold had a group of lawyers with expertise defending allegations with similar subject matter. So we went with them. And so far, we've been very happy. (For its January issue, **Corporate Counsel**, a sibling publication of **The American Lawyer**, asked general counsel at Fortune 250 companies to name their primary outside counsel for litigation, transactions, and intellectual property.)

Of course, the nation's biggest companies aren't about to end their love affairs with the priciest blue-chip law firms. Familiar names like Kirkland; New York's Skadden, Arps, Slate, Meagher & Flom; and Cleveland's Jones, Day, Reavis & Pogue still dominate the survey. But corporate America is changing the way it picks its outside lawyers. Increasingly, companies are making like the Golden Arches and venturing into uncharted watersand in the process, diluting the whole concept of primary outside counsel. For one thing, companies feeling the pinch of the economic downturn are looking to farm their more routine work out to less expensive lawyers. By the same token, the big, highest-priced firms aren't as interested in the small stuff either.

What's more, as companies expand, many are adding local law firms to service complicated work in far-flung jurisdictions. And then there's been an attitude shift: In recent years, lots of companies have started keeping more work in-house. So they've had to hire more sophisticated lawyers, who typically bring their own sets of trusted contacts to the table. In short, general counsel have a lot more ready-made sources to tap for outside help.

The result? The marketplace [for legal services] feels more in flux than ever, says William Barr, the general counsel of New York-based Verizon Communications Inc. We try to limit the number of firms we use, but nowadays we'll always give a new firm a chance if we see something that attracts us.

That's a big change from just a decade ago, when some executive committees and general counsel took a hard look at their legal departments and saw inefficiency. Their verdict: too many law firms, too many bills, too much paperwork. So they demanded that the departments streamline operations and cut costs. GCs concluded that they could save money by pushing more work to fewer firms, many of which were happy to extend bulk discounts. Legal departments created tiered ranking systems for their outside law firms and established rigid protocols for farming out cases and deals. Consolidation became the buzzword, the wave of the future.

But today, companies have learned that consolidation can be taken only so far. Take New York-based Viac om Inc. General counsel Michael Fricklas says that a few years ago he realized that a company's legal problems couldn't simply be solved by people all sitting in one place. So he adopted a more realistic stance on consolidation. Fricklas says that, last year, the media giant sent the vast majority of its work to several dozen law firms (which represents an expanded pool of firms from past years), and the remainder to several hundred.

Consolidation is only one part of the equation, says Fricklas. We look for the best person to handle each piece of work. And [being familiar] with a lot of firms is the best way to ensure that we're doing that. To choose the firms, Fricklaslike other GCsstill relies on the time-tested method: the dog-and-pony show.

Generally, companies say they still send their most paper-intensive litigations and cutting-edge transactions to the biggest firms in the biggest cities. For example, Skaddenwhich employs over 1,600 lawyers worldwide received more than twice the number of transaction mentions in the survey than did either of its closest competitors, Davis Polk & Wardwell and Wachtell, Lipton, Rosen & Katz, also of New York. For large litigations, a handful of usual suspectsKirkland; Skadden; Jones, Day; and Los Angeles's O'Melveny & Myerswere all clustered near the top of our survey.

There's definitely a very small concentration of firms that can handle our most complicated work, says Ernest Patrikis, the general counsel of New York-based American International Group, Inc. Reinsurance, derivatives, big litigations, big M&A workthat work all goes to a fairly select group of firms. At AIG, the group includes O'Melveny and New York's Cahill Gordon & Reindel and Sullivan & Cromwell.

But the flip side is that companies confronting novel or hyperspecialized legal problems are increasingly following the lead of McDonald's. They're looking past firm names and reputations and searching for the individuals best equipped to handle a given job. Take, for example, the experience of Carol Ann Petren, the deputy general counsel of litigation at Sears, Roebuck and Co. Recently, the Hoffman Estates, Illinois-based company needed a lawyer to handle, in Petren's words, a specialized piece of litigation (She wouldn't divulge the details). Petren's team flipped through its Rolodex of outside counsel, but didn't find the right match. So the company began a nationwide search. After several weeks of interviews, the company settled on a lawyer in the 12-lawyer Washington, D.C., office of Chicago's Schiff Hardin & Waite. We were looking for a very specific set of qualities, says Petren. And we had to look at new firms to find them.

As specialists grow pricier, companies increasingly turn to lower-cost firms to handle such routine work as premises liability cases and basic contract disputes. We've become very price-sensitive, says AIG's Patrikis. We know that we don't need to use the most expensive lawyers for everything.

And increasingly in-house departments simply keep the work at home. For example, in recent years, Verizon's Barr has made a point of hiring lawyers who can handle much of the company's most sophisticated regulatory work. It's

high-margin work, so keeping it inside saves us a good amount of money, he says. It's also some of the most interesting work the company generates, he adds.

Barr isn't alone. We're keeping a lot more of the cutting-edge, challenging work inside, and using outside counsel to do more of the grunt work, says Hayward Fisk, general counsel of El Segundo, California-based Computer Sciences Corp. It's a flip of the old notion that the outside counsel has to be the creative point person on every deal.

That leaves law firms trying hard to stay cozy with their prized clients and drum up new business. Some days, the phones won't stop ringing, reports Rudolph about the solicitations he gets from firms. It makes me feel like the most popular guy in the world.

Even firms that fared well in our survey, such as Los Angeles's Latham & Watkins, aren't taking things for granted. We know that if a law firm isn't delivering its value, in-house departments are taking their work elsewhere, says managing partner Robert Dell. And in the current economic climate, yeah, we've got to figure out ways to keep our departments busy. Everyone does.

The big firms know that these aren't the old days when clients professed loyaltyand stuck to it. Now firms see some client attrition as inevitable. You hate to miss opportunities for work, says Thomas Yannucci, Kirkland's managing partner. But we're very busy right now. And we know Kirkland isn't the right fit for everybody all the time.

Most general counsel couldn't agree more.

All-Around Champs

Skadden is still the across-the-board leader in total representations in litigation, transactions, and intellectual property.

Firm	Mentions
Finnegan, Henderson	10
Kirkland & Ellis	9
Alston & Bird	7
Howrey Simon	6
Jones, Day	6
Weil, Gotshal	6
Baker Botts	5
Banner & Witcoff	5
Fish & Richardson	5

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LEITCH: A CONSERVATIVE CHOICE FOR DEPUTY

Legal Times

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Byline: Jonathan Groner

Body

National

NEW NO. 2 TO ALBERTO GONZALES HAS BUILT SOLID REPUTATION AT OFFICE OF LEGAL COUNSEL, AT HOGAN, AND AT FAA.

Few lawyers in Washington, D.C., can boast conservative legal resumes as powerful as the one quietly built up by David Leitch in nearly two decades of practice.

Leitch's selection last week as deputy White House counsel was doubtless aided by his strong ties to influential conservatives such as Chief Judge J. Harvie Wilkinson III of the U.S. Court of Appeals for the 4th Circuit, former U.S. Attorney General William Barr, and Hogan & Hartson appellate specialist and D.C. Circuit judicial nominee John Roberts Jr.

But people of both parties who know Leitch say the 42-year-old constitutional and regulatory lawyer is scrupulously nonideological in his approach to legal issues.

Leitch, who was named Dec. 10 to replace Timothy Flanigan as deputy to White House Counsel Alberto Gonzales and is already on board, served more than a year as chief counsel at the Federal Aviation Administration. Although Leitch came in with little background in aviation law, he gets top reviews from aviation lawyers for his skills, his intelligence, and his nonpartisanship.

He listened to the staff attorneys in the office and engaged them in the process, in which they had often felt not plugged in, says Thomas Zoeller, a Democratic lobbyist who was chief of staff to the FAA administrator until recently and worked closely with Leitch. He came in with the reputation as a good, solid lawyer, and he lived up to that. What's more, he had good connections with the administration, which proved to be a positive thing.

Says Sandy Murdock, a former FAA chief counsel who is now a partner at D.C.'s Shaw Pittman: David is clearly a philosophical conservative, but nothing like that ever came into his decisions. He just looked at what is right, as far as the policy and legal aspects.

After Flanigan announced that he was leaving for a top in-house counsel post at Tyco International Ltd., Leitch, who was not available for comment for this article, quickly emerged as a leading candidate to replace him.

Leitch had been assigned away from the FAA, where he supervised a staff of 300, to advise the office that is planning the new Department of Homeland Security. He was seen as likely to become that department's first general counsel.

Instead, President George W. Bush asked Leitch to join the White House counsel's office, which advises on key issues such as the legal aspects of a possible war on Iraq, the treatment of captured terrorism suspects, and nominations to the federal courts.

Welcome to Washington

The move to the White House counsel's office may represent the unexpected turn in a career that always seemed to have a very precise trajectory.

Leitch graduated from Duke University and was first in the class of 1985 at the University of Virginia Law School. He clerked for Wilkinson on the 4th Circuit and for Chief Justice William Rehnquist. He then joined Hogan & Hartson as an associate and learned at the feet of acclaimed litigator Roberts as part of the firm's Supreme Court practice and appellate group.

In the first Bush administration, Leitch worked in the Justice Department's Office of Legal Counsel, where he met Flanigan, who was his supervisor there for a time. Rising to deputy assistant attorney general, Leitch worked closely with then-Attorney General Barr.

Leitch then returned to Hogan as a partner, handling a variety of regulatory appeals--international trade, health care, labor law, and others--and second-chairing Roberts' Supreme Court cases.

David's a great choice, says Andrew McBride, a Wiley Rein & Fielding partner who worked with him at the OLC. He has the full profile, very much like Flanigan. He would be qualified to be White House counsel if there were a departure.

There has been widespread speculation that Gonzales may get a Supreme Court nomination if a seat opens up in 2003, and the administration might well wish to have a deputy in place who could step up as his replacement.

Barr says Leitch's OLC experience will help him as deputy White House counsel, since both offices frequently opine on questions like the scope of the authority of the president or of a federal agency.

In addition to excellent judgment, Leitch has a good way with people, says Barr. And he is not a self-promoter. Barr, now executive vice president and general counsel of Verizon Communications, says he had turned to Hogan & Hartson for corporate legal matters because of the combined skills of Leitch and Roberts.

Air Traffic Control

Leitch's work at the FAA in the post-Sept. 11 period and in the homeland security office will help him deal with the anti-terrorism and national security portfolio in the White House counsel's office.

When the FAA position came along, it seemed to him like a really interesting thing to do, says Judge Wilkinson, who has stayed close to Leitch over the years. But he had no idea that the FAA would be the focus of so many challenges after 9/11. He still reminds me that I pushed him to take a job that kept him working till one or two in the morning sometimes.

Roberts says Leitch is a hard worker, but always tries to make time to attend his three children's soccer games. Leitch's only drawback, Roberts jokes, is that he is a mediocre golfer, and that's being generous.

A notable recent case that Leitch was involved in at Hogan was a closely watched health care matter. Last June, a narrowly divided Supreme Court rejected the claim by an HMO, which was Hogan's client, that federal law pre-empted an Illinois statute requiring independent medical review of a denial of coverage. The ruling came down after

Leitch joined the government, but in 2001 he was instrumental in writing the certiorari petition that convinced the Court to take the case.

Leitch has also had his share of appellate cases in which he argued on behalf of conservative principles.

In Leitch and Hogan colleague H. Christopher Bartolomucci won a 6th Circuit ruling in October upholding a Michigan law providing for drug testing of welfare recipients. They were representing the Washington Legal Foundation pro bono and wrote the brief in 2000, before they joined the government.

Leitch will now be reunited with Bartolomucci, who joined the White House counsel's office at the beginning of the Bush administration.

In 1999, Leitch filed a brief on behalf of the Becket Fund for Religious Liberty, siding with a minor league baseball team that was sued by the American Civil Liberties Union for offering admission discounts to people who brought church bulletins to the ballpark.

To use state and local anti-discrimination laws against such discount programs, Leitch wrote in a opinion article, evinces hostility on the part of the state toward religion in general, and that is prohibited by the First Amendment.

Beyond his interest in weighty legal issues, those who know Leitch say he has a lively sense of humor. He can tease, and be teased back.

Says Judge Wilkinson: The day I hired him as a clerk, he walked into my office [at the Virginia law school] wearing shorts and a T-shirt and carrying a book bag. He walked in on an impulse, and I hired him on the spot.

Now I remind him of that whenever I see him in three-piece suits and in high offices.

Load-Date: April 17, 2011

WALKING A THIN LINE IN TERROR WAR

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AMBIGUITY MARKS GOVERNMENT DECISIONS ON WHO IS CHARGED IN COURT, WHO LANDS IN BRIG.

What's the difference between a criminal and an enemy? A crime and an act of terrorism?

One year after President George W. Bush launched the war on terrorism, the dividing line is murkier than ever.

The government still hasn't articulated a standard for how it decides whether someone will face criminal charges in federal court or be held indefinitely and incommunicado in a military jail, as is the case with U.S. citizens Yaser Hamdi and Jose Padilla.

The question has taken on an added urgency because the administration, according to recent reports, may transfer alleged terrorist conspirator Zacarias Moussaoui out of the federal court system to be tried before a military tribunal. Across the country, 17 others face federal terrorism-related charges, and some attorneys fear that the status of these defendants may also be subject to change.

There's too much reason to believe that this whole thing is arbitrary and almost whimsical, says Robert Levy, senior fellow in constitutional studies at the Cato Institute.

Lawyers involved in these cases say it's like operating in a shadow world, where wartime necessities of secrecy, presidential fiat, and preventive detention have converged with a justice system predicated on precedent, predictability, and openness.

There's no comprehensive plan, says Jersey City, N.J., solo practitioner Donna Newman, who represents Padilla. Unlike our criminal justice system, where Congress sets forth a crime and we have elements and evidence and we know where we're going, we don't have any of that here.

Underscoring the seriousness of the question is that the decisions being made now are also creating precedent.

When asked how an enemy combatant designation is made, the White House referred the question to the Justice Department. The Justice Department referred the question to the White House. The White House did not return subsequent phone inquiries.

The First Enemy Combatants

Arrested at Chicago's O'Hare airport on May 8, 2002, Jose Padilla was detained as a material witness in the terrorism investigation until June 10, when Bush ordered his transfer to the custody of the Department of Defense as an enemy combatant.

Since then, Padilla has been in the brig in Charleston, S.C. Newman, his attorney, says neither she nor her co-counsel have been allowed to see, speak to, or give their client a message since his status changed. And the government has rebuffed their requests to see the evidence on which they designated her client an enemy combatant.

I call it the Trust Me Doctrine, Newman says. She has filed a habeas corpus petition on Padilla's behalf that is pending.

Padilla's situation has left legal scholars wondering whether other defendants, specifically those charged with providing material support to terrorists or levying war against the United States, could be shuttled, like Padilla, from federal court to a military brig.

We have a U.S. national who is alleged to have been involved in planning an attack that puts him in the company of individuals whom we greatly suspect and want to apprehend, says Douglas Kmiec, dean of Catholic University Columbus School of Law. And by virtue of bad company, he has been placed on the enemy combatant side of the line. I'm not certain that, ultimately, his actions would be found any different than those charged with a violation of the material support statute. He straddles that line.

So, it would seem, do Yaser Hamdi and John Walker Lindh, the so-called American Taliban.

Both men are U.S. citizens, and both were captured fighting for the Taliban in Afghanistan. Lindh was accused in federal court and pleaded guilty to providing material support to terrorists and carrying a firearm in the commission of a felony, charges that brought a 20-year prison sentence.

Hamdi, though, after an initial stint at Guantanamo Bay, was shipped to the Norfolk, Va., brig as an enemy combatant, where he remains without access to counsel.

If Moussaoui is transferred, says Joseph Onek, senior counsel and director of the Liberty and Security Initiative at the Constitution Project, it would send a terrible signal, a signal that the best justice system in the world, the one we're trying to promote all over the world, somehow is incapable of trying Moussaoui and that we have to move to a military tribunal.

According to a Justice Department official, there is nothing that would legally bind the department from dropping the criminal charges and allowing Moussaoui to be tried before a military tribunal.

Likewise, there is nothing legally binding to prevent a change of status for the 17 people charged with providing military support to terrorists. Right now, they are criminal defendants, but the president, in his capacity as commander in chief, could yet designate them enemy combatants, rendering them virtually without civil rights.

Frank Dunham Jr., the federal public defender in Alexandria, Va., who represents both Moussaoui and Hamdi, did not return calls seeking comment.

Whose Call?

It's also unclear who draws the line between enemy and criminal. While Bush must make the formal designation, in the case of Padilla he did so on the recommendation of the attorney general and the secretary of defense, according to an announcement at the time issued by Attorney General John Ashcroft.

According to a filing in the Hamdi case, it would appear that the military makes the initial determinations. The filing states that a secret declaration provided to the court specifically delineates the manner in which the military

assesses and screens enemy combatants to determine who among them should be brought under Department of Defense control.

There has always been tension between the rules of armed conflict and the rules of law enforcement during times of war. But the war against terrorism is a different kind of war, an ambiguous war with undefined battlefields, no sovereign enemy power, and no end in sight. The enemy is here. The enemy is everywhere. And the question that has students of the U.S. legal system in knots is: What should the government do with a suspected enemy when it catches one?

Neal Sonnett, chairman of the American Bar Association's Task Force on Treatment of Enemy Combatants, says most offenses against the law of war could also be characterized as offenses against the United States. It's really a matter of how the government wishes to proceed.

For example, the five people charged in Portland, Ore., with levying war against the United States could also fit the description of combatants for the enemy.

Dean Kmiec suggests that those who are captured on the field of battle and those who are instrumental in planning terrorist attacks could be considered enemy combatants. Those who assist or finance terrorists, but do not directly participate in the terrorist activities themselves, could be charged with providing material support to terrorists.

Former Attorney General William Barr, now general counsel to Verizon, suggests that the line between enemy combatant and a person charged with supporting terrorists could be drawn based on terrorist training camp attendance. If someone went to a training camp, that would support the premise that he is a combatant, Barr says.

A Different Tool

But the administration has, thus far, been unwilling or unable to explain how it decides whether someone is an enemy combatant, who can be held without charge, or a criminal, subject to federal law. The lack of information has left many observers trying to decipher the administration's choices.

For example, federal authorities recently arrested five people whom they had witnessed taking target practice at an Oregon gravel pit while wearing turbans. Several of them had attempted to enter Afghanistan after Sept. 11, 2001, in an effort to join the Taliban. They returned to Oregon after failing in their efforts. Last month, federal prosecutors charged the five with conspiring to levy war against the United States.

Six men who allegedly attended an al Qaeda training camp in the summer of 2001 were arrested in Lackawanna, N.Y., this fall and charged with providing material support to terrorists.

And in Detroit, three men accused of running a sleeper operational combat cell were charged with providing material support for terrorists. Trial was scheduled to begin on Sept. 17, but on Aug. 28., prosecutors introduced a superseding indictment that had no new charges. Instead, it offered a new theory of the case. According to the new indictment, the cell was not simply a support unit for terrorists, it was part of a conspiracy to cause economic harm to U.S. businesses.

In all of these cases, the Justice Department has chosen to charge defendants with, among other things, violations of the material support statute included in the Anti-terrorism and Effective Death Penalty Act of 1996. But it's a tool that could prove troublesome.

The U.S. Court of Appeals for the 9th Circuit--the only circuit thus far to rule on the constitutionality of the material support statute--narrowed the law's reach significantly. The court, which has jurisdiction over Oregon and Washington state, held in 1998 that language making it unlawful to provide personnel or training to terrorists or terrorist organizations was unconstitutionally vague.

Two federal district judges and a magistrate judge have reached opposite conclusions from the 9th Circuit's ruling.

Jonathan Turley, a professor at the George Washington University Law School who has been studying the issue, says that the material support statute is maddeningly ambiguous, adding, What qualifies as material support is virtually undefined.

In the Detroit case, the judge has imposed a gag order so prosecutors and defense lawyers can't talk publicly. But William Swoll, an attorney in Detroit who represented a local Arab-American man detained in the post-Sept. 11 dragnet and who has been watching the case closely, says it would not surprise him if the government decided to dismiss the charges and designate the three defendants as enemy combatants before trial.

It appears that every time the government's feet are held to the fire, the government finds some solution for not going to trial, Swoll says. So, I expect, if the government prevails in [], it would be an option. It makes sense in light of the government's conduct so far.

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Debate Crystallizes on War, Rights; Courts Struggle Over Fighting Terror vs. Defending Liberties

Charles Lane

As they tend to do in times of national crisis, on Sept. 11 Americans looked to the person the Constitution designates as commander-in-chief. And President Bush responded -- with aggressive and often unilateral executive action. Without seeking formal approval from either Congress or the courts, the Bush administration has taken steps to establish military trials for foreign terror suspects, designated two U.S. citizens as "enemy combatants" who may be held indefinitely without being charged, and ordered secret deportation hearings for suspected terrorists. In these and other cases, the president and his aides say his office gives him the authority he needs to fight al Qaeda.

"The enemy has declared war on us," Bush said on Nov. 29. "And we must not let foreign enemies use the forums of liberty to destroy liberty itself." Yet, as the initial shock of Sept. 11 receded, criticism -- and even condemnation -- of Bush's approach by civil liberties groups, members of Congress, the courts and the media emerged. He stands accused of usurping powers not conferred upon him by the Constitution and of infringing upon individual freedoms. Perhaps the toughest rebuke came last week, when a Cincinnati-based federal appeals court said the administration's arguments for secret deportation hearings were "undemocratic" and "in complete opposition to the society envisioned by the Framers of our Constitution." The result is that, a year after the bloodiest foreign attack ever on U.S. territory, the administration and the country are engaged not only in a seemingly open-ended struggle against terrorism but also in a searching debate over democratic values -- a political and legal argument that seems headed for the Supreme Court. The basic question is as old as the Constitution itself: How can Americans defeat a grave external menace without undercutting the very democracy they are trying to save? "Asking questions [of the executive] is not being un-American," said Sen. Patrick J. Leahy (D-Vt.), who has taken issue with some of the administration initiatives. "It's saying that no one person knows everything or has all the right answers." "We shouldn't lose sight of the fact that the way 9/11 affects our civil liberties comes not from the government's response but from the danger caused by terrorists in the first place," counters William P. Barr, who served as attorney general in the first Bush administration and has advised the current one on terrorism-related legal issues. Checks and Balances The framers of the Constitution guaranteed basic rights and contemplated that government could suspend at least one of them, the writ of habeas corpus, in an emergency. Constitutional scholars note that the framers wanted checks and balances, but also saw a strong presidency as a bulwark of national security. Making the case for ratification of the Constitution in 1788, Alexander Hamilton wrote that "energy in the executive is a leading character in the definition of good government. It is essential to the protection of the community against foreign attacks." Hamilton listed the advantages of a strong executive: "Decision, activity, secrecy and dispatch." In this sense, legal analysts say, Bush's aggressive claims of authority are within the constitutional tradition and akin to the actions of past wartime presidents. Though some of his actions, such as using force in Afghanistan or eavesdropping on suspected terrorists' cell phones and e-mail in the United States, have been authorized by Congress, and others, such as denying access to U.S. courts for detainees at Guantanamo, Cuba, have been upheld by courts, the Bush administration

seems to prefer acting on its own. This preference held sway not only with respect to military commissions, alleged enemy combatants and closed-door deportation hearings, but also in detaining hundreds of mostly Arab and Muslim men under near-secret conditions, and decreeing that Justice Department officials may eavesdrop on some conversations between terror suspects and their attorneys. Although opposition to the Bush administration's approach may be spreading -- Attorney General John D. Ashcroft's proposal to enlist meter readers and truck drivers as anti-terrorism informants met with outrage not only from Democrats in Congress but also from such Republicans as House Majority Leader Richard K. Armey (Tex.) -- opinion polls show it is not yet a majority sentiment. In a Gallup-CNN-USA Today poll in June, 11 percent of those surveyed thought the Bush administration had gone too far in restricting civil liberties, 50 percent said it has been about right and 25 percent said it hasn't gone far enough. Even many of Bush's critics acknowledge he has not tried to regiment U.S. society as some wartime predecessors did. During the Civil War, Abraham Lincoln suspended habeas corpus without an act of Congress and detained thousands of suspected rebel sympathizers. During World War I, Woodrow Wilson prosecuted anti-war activists and banned anti-war publications from the mails. Franklin D. Roosevelt interned tens of thousands of Japanese Americans. "By the standards of current law, some of the things Bush has done are aggressive, but they are not out of line -- and they're pretty cautious by historical standards," said Cass R. Sunstein, a constitutional law professor at the University of Chicago. Sunstein said that, to many people, the relevant comparison is not between what Bush has done and what Lincoln or FDR did; it is how Bush's actions measure up to modern concepts of constitutional rights, which are, by most measures, far more expansive than they were even as recently as World War II. More Expansive Rights Legal racial segregation is gone, and the Supreme Court has enshrined the rights of criminal defendants to a degree that would have been unimaginable in FDR's day. Past wartime emergency measures, especially the treatment of Japanese Americans, have been recorded in collective memory as terrible excesses. And the country has been through Vietnam, Watergate and a series of FBI and CIA scandals that rendered the media and much of the public instinctively skeptical of executive power. In this new, more democratic, political and legal context, civil libertarians argue, Bush struck the wrong balance between national security and individual liberty. "So many of the efforts undertaken by the government are either not necessary or the tradeoff is wrong, " said Anthony D. Romero, executive director of the American Civil Liberties Union. "The public will have greater confidence in the workings of government if Congress and the courts engage. . . . This is not the executive branch's war on terrorism. This is the American government's war on terrorism." Romero argued that the most effective check on executive power now may come from the news media and "civil society," the same amalgamation of nongovernmental groups that helped bring about the last half-century's expansion of individual rights . Indeed, after the intense debate over military commissions, which, as outlined by Bush on Nov. 13, included no clear presumption of innocence for defendants and might have allowed the death penalty on less than a unanimous vote, the administration appeared to backpedal. It chose to prosecute one captured terror suspect, Zacarias Moussaoui, in a civilian court, and in January, the Defense Department issued regulations that met most of the civil libertarians' objections. The eclipse, for now, of the military commissions, Romero said, "is a sign of our success." Still, sources close to Bush administration deliberations on the issue suggest that the commissions are likely to be used in the future. "The commissions are something you use at the end of the war," after all al Qaeda detainees have been fully interrogated, an administration official said. In recent weeks some federal courts have begun to weigh in against the administration. Last week's appeals court ruling came after five district judges had ruled against aspects of the president's anti-terror campaign. Bush is facing particularly stiff resistance to his assertion that the executive branch may designate certain U.S. citizens as "enemy combatants," and hold them indefinitely, without charging them with a crime or permitting them access to an attorney. Two such detainees are being held at a Navy brig in South Carolina: Yasser Esam Hamdi, who was born in the United States of Saudi parents, was captured in Afghanistan; Jose Padilla, a Brooklyn-born Puerto Rican who converted to militant Islam after a career as a petty criminal, was arrested by the FBI in Chicago's O'Hare airport on suspicion that he was part of an al Qaeda plot to use a radiological bomb in the United States. The courts should have no role in reviewing these designations, administration lawyers have argued, because they are inherently military decisions, which the executive branch is uniquely qualified -- and empowered by the Constitution -- to make. In terms of asserting executive authority, that claim "is possibly the most incautious thing Bush has done," said Sunstein, the constitutional law professor. During still-unsettled litigation over Hamdi's bid for a writ of habeas corpus, a federal district judge in Virginia, Robert G. Doumar, an appointee of President Ronald Reagan, has ordered that Hamdi get access to an attorney, and said that the administration cannot hold him unless it lays out more

of its evidence for the court. The Richmond-based U.S. Court of Appeals for the 4th Circuit overruled Doumar's order granting Hamdi a lawyer, but even that usually conservative court balked at the the administration's demand that the courts have no role in such cases, calling the argument "a sweeping proposition." Doumar's ruling that the government should reveal more evidence is being reviewed by the 4th Circuit, and the case seems headed to the Supreme Court, legal analysts said. For all the resistance some lower courts may put up, the Supreme Court has historically deferred to the executive branch in times of war. "Whether or not government tries to preclude judicial review of its actions, at least with respect to people being held in the U.S., the courts are going to pass on the validity of detention," predicted Lloyd N. Cutler, who was White House counsel in the Carter and Clinton administrations, "even though the courts may end up upholding what the executive and congressional branches have done." Debate Takes Shape Though the debate remains unresolved, its terms have crystallized in the last 12 months. Those who are skeptical of the administration's approach tend to see the threat posed by al Qaeda as more criminal than military, a menace that, for all the death and destruction of Sept. 11, is not inherently different from previous terrorist groups, and not on a par with those posed by the Confederacy or Imperial Japan. "Where they may make a mistake is talking about these terrorist events, terrible as they were, as if they were the equivalent of World War II," Leahy said. Thus, the skeptics argue, it can be fought largely with the conventional tools of civilian law enforcement, wielded by an executive branch overseen and constrained by the courts and Congress -- especially since the indefinite duration of the war could mean restrictions on liberty, once in place, could be perpetuated forever. "The sacrifice of checks and balances has to be weighed not as a temporary expedient," said Laurence H. Tribe, a professor of constitutional law at Harvard University, "but assessed as a proposed permanent change." Supporters of the administration's approach, by contrast, tend to see al Qaeda as a uniquely dangerous conspiracy whose suicidal members are bent on exploiting the openness of U.S. society to infiltrate and destroy it, perhaps using weapons of mass destruction. "I'm not sure the detention of a couple of American citizens as POWs is that earth-shattering," Barr said. "I'd make the argument that what seems different is the unprecedented nature of this threat." In this view, it is foolhardy to fight back with conventional measures -- and the indeterminate duration of the struggle is a reason to concentrate power in the executive now, to avoid having to ask for it when it may be too late. "We'd rather be safe than sorry," said an administration official. "The administration didn't want to be in the position of conceding power we may need five years from now, because we don't know what the war will be like five years from now." Both sides in the debate can cite history and legal doctrine, but each also relies on instinct and ideology. "I don't think it's appropriate to take an absolute position pro or con secrecy or openness. . . . The most important point is that notions of civil liberties are flexible and bend to differing assessments of danger," said Richard A. Posner, a judge on the Chicago-based U.S. Court of Appeals for the 7th Circuit. "It's a gut-level thing -- no one knows exactly what the danger is. And there is no real measure of what the cost is in personal liberty."

---- Index References ----

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Verizon Proposes Plan to Protect Customer Service

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Verizon today filed a plan with the
Federal Communications Commission that would safeguard continuous customer service while limiting the financial fallout flowing from WorldCom's bankruptcy and the financial difficulties facing other firms in the telecommunications industry.

The plan outlines specific steps to protect the customers of all carriers by enabling Verizon and other healthy carriers to protect themselves against the risk of amassing large uncollectible charges for services provided to financially troubled phone companies.

"While there has always been financial interdependence among carriers in the telecommunications industry, the FCC's implementation of the 1996 Telecommunications Act has heightened the risk that failure of some will affect others," said William P. Barr, Verizon executive vice president and general counsel. "The rules have encouraged the creation of more firms than could reasonably survive, including many with unsound business plans, while at the same time mandating that local carriers like Verizon continue to provide service to those risky companies.

"It is critical that the government not exacerbate the situation by preventing us from taking the kind of reasonable protective steps that would be available to companies in any other industry under these circumstances," Barr said.

Verizon's plan calls on the FCC to allow service providers to take the same kinds of steps to obtain adequate assurances of payment as would be available to companies in any other industry. Specifically, it asks the FCC to allow carriers to quickly modify their tariffs to require security deposits or payments in advance from companies that demonstrate a financial concern.

The plan also urges the FCC to defend the right of carriers to obtain adequate assurances of payment in bankruptcy proceedings and to make clear that carriers have the same right as other service providers to recoup outstanding indebtedness on continuing service arrangements.

"The bankruptcy announcements by WorldCom and others are unfortunate developments that call for strong leadership by policy makers to confine any financial fallout by ensuring that suppliers are promptly compensated for

services provided to these carriers," said Barr. "We believe our proposal will help bolster confidence in the industry and provide the FCC with a solid framework upon which to protect customers, investors and carriers in wireline and wireless markets nationwide."

Verizon Communications (NYSE: VZ) is one of the world's leading providers of communications services. Verizon companies are the largest providers of wireline and wireless communications in the United States, with 133.8 million access line equivalents and approximately 29.6 million wireless customers. Verizon is also the largest directory publisher in the world. With more than $67 billion in annual revenues and nearly 248,000 employees, Verizon's global presence extends to more than 40 countries in the Americas, Europe, Asia and the Pacific. For more information on Verizon, visit http://www.verizon.com.

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PADILLA: WHY U.S. SHUNNED FEDERAL COURT

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Body

National

TACTIC OF SHIELDING TERROR CASES IN DOD NOW FACES CHALLENGE

For the past six months, prosecutors in terrorism cases have endured one slap after another: a federal judge who lectured them on the Constitution and ordered the release of a man with suspected ties to the Sept. 11 hijackers; another who squarely rejected the government's right to control an alleged terrorist's access to his lawyers; and a defendant who used an open courtroom as a soapbox to spout anti-American invective.

The administration, it seems, has had enough.

The government's decision last week to shunt suspected al Qaeda operative and U.S. citizen Jose Padilla into the custody of the Department of Defense and out of the criminal justice system is seen by many as a direct reaction to the challenges of fighting the war on terror in U.S. courtrooms. By avoiding the criminal justice system, the government won't have defense lawyers or judges looking over its shoulder, making it easier to detain suspects and squeeze them for information about other possible terrorists or operations.

The legality of the move has been challenged, but given the headaches and uncertain payoffs of prosecuting those captured in the war on terror, the decision to circumvent the courts was hardly surprising.

They're terrified the federal courts have forgotten September 11 and are going to screw this whole thing up, says one person with ties to the Justice Department.

But the administration may not be able to avert judges forever. Lawyers for two detained, but uncharged, U.S. citizens--Padilla and the so-called Cajun Taliban, Yaser Esam Hamdi--have asked federal courts to order the immediate release of the men, or at least allow them to meet with their lawyers.

U.S. District Judge Richard Doumar of the Eastern District of Virginia ruled last month that Hamdi had a right to meet with his attorneys. That decision has been stayed pending the government's appeal in the U.S. Court of Appeals for the 4th Circuit.

Chief Judge Michael Mukasey of the Southern District of New York has given prosecutors until June 21 to reply to the Padilla petition or ask for a change in venue.

A Justice Department official says the government's treatment of the two men is legitimate, legal, and entirely appropriate.

In this new type of war, in which combatants are unidentified and bent on attacking innocent civilians, we have to look at each legal action through the prism of national security, the official says. The Constitution and federal law provide us with options . . . [and give] the president, as commander in chief, this authority, particularly during wartime.

The stakes couldn't be higher, says former Attorney General William Barr: We are going to see if the judiciary will undermine our society's ability to resist foreign aggression, he says.

The final decision most likely will be made by the Supreme Court, which, Barr and other close observers predict, will back the president.

Barr, who is now general counsel for Verizon Communications, defends holding Padilla and Hamdi as enemy combatants. The two men, he says, are not criminals under arrest; they are captured members of an external group that is waging war against the country. It's completely incongruous to be trying to apply domestic criminal law and procedures to an organized force attacking the United States.

Civil liberties watchdogs say the government's decision to deny Padilla, Hamdi, and others who may follow access to the courts is unconscionable, as well as unconstitutional.

Every person in the United States has a right not to be locked up absent a fair process in which the government makes its case and the defendant has an opportunity to defend himself, says professor David Cole of Georgetown University Law Center. It suggests that the government, when it lacks probable cause to arrest somebody, will invoke this nebulous power to pull any U.S. citizen off the street at the president's say-so without any hearing, without any access to a lawyer, without access to family, and without any charges.

Lessons Learned

As the prosecutions of American Taliban fighter John Walker Lindh, alleged 20th hijacker Zacarias Moussaoui, and alleged shoe bomber Richard Reid demonstrate, the methods of war do not easily fit within the rules of criminal procedure.

Lindh's defense team, for example, has filed a raft of pleadings challenging the government's sources and methods of obtaining information against the 21-year-old Californian. At a recent hearing in Lindh's case, U.S. District Judge T.S. Ellis III of the Eastern District of Virginia noted that prosecuting Lindh could require the government to release information it is loath to reveal. Last Thursday, Lindh's team moved to suppress statements he made in Afghanistan while in U.S. custody, claiming they were taken in violation of his Fifth Amendment right against self-incrimination.

In all three cases, one former Justice Department official says, much of the evidence is highly sensitive and probably extracted through interrogation, sometimes overseas. The level of sensitivity, as well as the intensity of interrogation, could render some of it unusable in court, he says.

Indeed, a reason government officials gave for moving Padilla out of the court system is that the evidence they claim proves he was plotting to detonate a radioactive bomb in the United States is too sensitive to reveal.

More important, the government's interest lies in the information Padilla and other detainees might provide about other al Qaeda members, not in building cases against them. As Federal Bureau of Investigation chief Robert Mueller III put it at a June 10 news conference, Our number one priority is to defend the American people from future attacks. To do that, we must root out those who are planning such attacks... . [W]hen we have them in our control, we must be able to question them.

Before a trial, of course, defendants are not in the administration's control; they are in the custody of the court.

Veteran prosecutors and interrogators say that extracting useful information is much more difficult when done in the context of a pending court case, with defense counsel present and a judge overseeing the proceedings. When the only person a detainee may talk to is his interrogator, the conversations tend to be more fruitful, they say. That's one reason they're doing this enemy combatant thing, says a former prosecutor. They don't want lawyers involved, because you're going to get nothing.

The Moussaoui Factor

The case against Zacarias Moussaoui may be the most powerful catalyst for the government's decision to avoid putting alleged terrorists on trial in open court.

On June 13, U.S. District Judge Leonie Brinkema of the Eastern District of Virginia found Moussaoui mentally competent to represent himself against capital charges. She termed his decision to defend himself unwise, but rational.

At an earlier hearing, Moussaoui said he prayed for the destruction of Israel and the United States and for a return of Muslim rule to Spain. His comments made headlines throughout the world.

In many ways, this is the ultimate nightmare for the prosecution and the court and for the attorneys who will be [Moussaoui's] advisers, says former Deputy Attorney General Eric Holder Jr. It's a nightmare for everybody except for Moussaoui, who will now have an opportunity to convert this trial into a propaganda platform.

There's no question the administration is in a tough spot. On the one hand, it has in custody suspected terrorists that it doesn't want to let go. But the government cannot hold them as material witnesses for grand jury investigations--a federal judge nixed that approach in April. And now the ability to hold them as war captives is being challenged.

In the absence of some compelling reason as to why someone should be detained, the government is likely to lose, says Holder. And you don't want to have bad appellate law that some defense lawyer is going to be able to cite. You don't want to lose momentum in this battle.

The choices the government is making are hard, and of tremendous consequence, adds Robert Turner, associate director of the Center for National Security Law at the University of Virginia School of Law.

If we gamble wrong on this, Turner says, an awful lot of people are going to lose their lives.

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CHICAGO TRIBUNE

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Some skeptical FBI can prevent terror
Reform needed for new authority to work, experts say

William Neikirk, Tribune senior correspondent.

Although federal agents have gained an array of powerful legal tools to investigate terrorism since Sept. 11, culminating in this week's expansion of surveillance targets, some law-enforcement experts question how effective these new rules will be in preventing another attack.

For the new powers to be used successfully, analysts say, the FBI must deliver on its promises to reform itself, improve its analysis of intelligence gathered by field agents and act more forcefully and swiftly when it uncovers evidence of possible terrorist activity.

At the same time, the experts said, the FBI must take special care that it does not abuse individual rights of Americans and does not target critics of government policies, as it did in the 1960s and 1970s with activists who opposed the Vietnam War.

Richard Gallo, president of the Federal Law Enforcement Officers Association, expressed concern about how FBI leaders will administer the new rules and whether higher-ups will continue to stifle field agents' investigations.

"We have had quite a lot of frustration in the agent ranks in dealing with headquarters," said Gallo, who lost several friends and family members in the Sept. 11 attacks.

The new powers, including those outlined in the sweeping anti-terrorism law enacted shortly after Sept. 11 called the USA Patriot Act, "just gives us more tools," Gallo said.

"If they stay in the woodshed and are not used ... they won't work."

The ultimate effectiveness of the powers is a topic gaining more attention in the wake of reports about the FBI's failures to react quickly to reports in the months before Sept. 11 about possible terrorist activity involving airplanes.

Those reports raise questions about whether the authority being claimed by the FBI could have helped prevent the attacks and if it will help to prevent such attacks in the future.

To Florida defense lawyer Bruce Lyons, the answer is no. The bureau's failure to heed warnings from its Phoenix and Minnesota offices, Lyons said, shows the bureau is not capable of using information even when it gets it.

"To determine whether or not they are going to be effective, you have to look at what they did in the past," Lyons said.

Some law-enforcement experts were more optimistic.

William Barr, who served as attorney general in the first Bush administration, said the new rules may have already prevented further waves of attacks by Al Qaeda members. While there is no guarantee that another attack can be prevented, Barr said, the new powers remove restrictions that no longer make sense in light of the terrorist threat.

For the past decade, he said, terrorism has been treated as a criminal justice matter when it is "quite rightly more of a national security matter" requiring different approaches.

Few disagree that the scope of new powers claimed by the FBI since Sept. 11 has been dramatic. President Bush in October signed the Patriot Act that permitted the attorney general to detain non-citizens if he concluded there are "reasonable grounds to believe" they threatened national security.

`Roving wiretaps'

The act also expanded agents' power to conduct telephone and e-mail surveillance. For example, it allowed "roving wiretaps," which target all phones used by someone, rather than just one specific phone line.

The Patriot Act also enhanced the ability of agents to conduct "sneak-and-peek" searches, that is, going through a person's home or office without notifying the person.

That same month, the Justice Department announced a new regulation authorizing prison officials to monitor conversations between some inmates and their lawyers.

And on Thursday, the Justice Department announced that FBI agents would conduct intelligence in areas that had long been off-limits: churches, political organizations, libraries and Internet sites.

Joseph diGenova, a lawyer and former independent counsel, strongly supported these moves but said it remains to be seen how effective they will be.

DiGenova called the government's expanded ability to detain non-citizens with suspected terrorist ties "a marvelous weapon" and said allowing agents to undertake "sneak-and-peek" operations is a "very, very powerful tool."

He said that permitting wiretaps of cellular phones is a common-sense modernization that is not apt to yield much information because terrorists likely "don't use telephones anyway. The benefit of that is that even the smartest terrorist will make a mistake."

But others are skeptical. Philip Heymann, a deputy attorney general in the Clinton administration, said he was doubtful about the effectiveness of the Patriot Act and other anti-terrorist steps taken by the administration, such as Bush's executive order to permit trying terrorists before military tribunals.

Detaining large numbers of suspects, Heymann said, apparently has not produced a large amount of intelligence for the government. Rather than keeping all these suspects under lock and key, he said it might be more useful to release many of them and track them through electronic surveillance.

"You can stimulate conversation," Heymann said. "You can listen. You are much more likely to get information and names that way."

Heading off attack

Even with the new tools, he said, the government can only marginally reduce the chances of a terrorist attack on the U.S.

Heymann, now a professor at Harvard University Law School, said the way to judge new powers is to look at the results so far. Only one person, Zacarias Moussaoui, has been charged in connection with the Sept. 11 attacks.

"I haven't seen any sign that we have been very successful. If there are other Al Qaeda cells, we don't seem to have found them," he said.

Steven Lubet, a law professor at Northwestern University, said the new rules will have to be monitored carefully to make sure they are not abused.

Expanding the government's right to detain people "is a very powerful law-enforcement tool," Lubet said. "If used sincerely rather than oppressively, it's probably extremely effective, but at a very high price."

---- Index References ----

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NewsRoom

AOL Time Warner GC Enters the Ring; GC Enters the Ring for AOL Time Warner; AOL's top in-house lawyer goes to Washington, argues a case himself -- and wins one for the company

Law.com (Online)

April 22, 2002 Monday

LAW.COM

Length: 614 words

Byline: Margery Gordon,letters to the , editor@corp.law.com, , Special to the corporate counsel

Body

Directing the legal affairs of AOL Time Warner Inc. can be a pretty heady gig in itself. But Paul Cappuccio is still on a high from his return to the courtroom. "It is like a drug," the general counsel says of arguing last fall before the U.S. Court of Appeals for the D.C. Circuit. It helps, of course, that in February the court ruled in his favor.

The suit centered around a landmark issue in media law. AOL's Time Warner Entertainment Co. contested the Federal Communications Commission's rule barring a business from owning both broadcast and cable television stations in the same market. While Time Warner's dispute was not based upon a particular transaction, Cappuccio contends that the cross-ownership rule hindered the growth of its WB Television Network.

The three-judge appellate panel took the unusual step of vacating the cable/broadcast cross-ownership rule that dates back to 1970. If their decision stands, it could lead to unprecedented consolidation in the television industry, forever altering the media landscape and heralding a new era of deregulation.

Time Warner wasn't the only broadcast organization to challenge the FCC ownership rules. Fox Television Stations Inc. also led several networks in efforts to overturn the cap on national television station ownership. When the two cases were argued together in September 2001, it made for a reunion of the D.C. appellate bar. Presenting Fox's case was none other than Edward Warren, Cappuccio's former partner in the D.C. office of Chicago's Kirkland & Ellis. "He's prepared me for moot courts, and I've prepared him," says Warren. "But I've never argued a case alongside him."

INTO THE BREACH

The appeals argument was interesting for another reason. Cappuccio hadn't originally planned to take the spotlight. The GC hired Laurence Tribe to do the oral argument, but the star litigator ended up having a scheduling conflict with a class he teaches at Harvard Law School. So Cappuccio stepped into the breach. "It turned out to be a wonderful week out of my normal business routine," says the 40-year-old AOL executive.

In arguing for his company, Cappuccio took the lead from his mentor, former Attorney General William Barr. Cappuccio worked as an associate deputy attorney general under Barr in the U.S. Department of Justice during the early 1990s. After Barr moved on to GTE Corp., and Cappuccio to Kirkland, Barr called on his prot g again. "Regardless of his age, he handled some of our most critical matters that involved complex regulatory issues," says Barr. It was the younger lawyer, Barr adds, who encouraged him to keep his litigation skills sharp even as a top legal officer. Barr notes that arguing cases "as a general counsel is especially difficult, because you have all these other [responsibilities]." Those skills were recently put to the test when Barr, now GC of Verizon Communications Inc., faced off against the FCC before the U.S. Supreme Court.

Both men agree that success in court helps make the case for litigators as general counsel. Cappuccio brought home an unequivocal victory, whereas the rule that Fox challenged was remanded to the FCC for reconsideration.

Not everyone's thrilled with the court's decision. Andrew Schwartzman, CEO of the Washington, D.C.- based Media Access Project, says that he's worried about the D.C. Circuit's escalating hostility toward the FCC and adds that he plans to ask the Supreme Court to referee. (At press time the FCC hadn't decided whether to appeal.)

Cappuccio quips that he's ready for another round and that he is looking for more FCC rules to take on. "Go for it," he jokingly goads his opponents. "I would love a Supreme Court argument!"

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Officials Reach Compromise On Tribunals

The Wall Street Journal

December 6, 2001 Thursday

Section: Pg. A3

Length: 1287 words

Byline: By Laurie P. Cohen and Jess Bravin, Staff Reporters of The Wall Street Journal

Body

After weeks of debate, top officials of the Defense Department, the Justice Department and the White House Counsel's office have reached several compromises over how someone arrested in the U.S. could be tried before a military tribunal, including using civilian prosecutors and making some proceedings public.

The compromises could avert some of the jurisdictional and procedural issues that have concerned some top Justice Department officials and civil libertarians. They could pave the way for the establishment of a military tribunal to hear the case against Zacarias Moussaoui, a man whom federal investigators have come to believe was slated to be the 20th hijacker in the Sept. 11 attacks before his August arrest in Minnesota. Military-tribunal charges against Mr. Moussaoui would make his a test case of a controversial legal tool that President Bush authorized on Nov. 13.

People with knowledge of the case being built against Mr. Moussaoui stress that a decision to try him before a military tribunal isn't final. Tribunals are primarily intended, U.S. officials say, in cases of suspected terrorists captured overseas.

Among the recent compromises: Mr. Moussaoui's accusers would include current federal prosecutors who will be conferred temporary military status to assist in his trial. These prosecutors will be aided by Federal Bureau of Investigation agents who have taken the lead in probing Mr. Moussaoui's activities. And much of a potential tribunal trial of Mr. Moussaoui, or others, could be made public.

The involvement of federal prosecutors and the FBI would be very different from the way courts-martial, the only military courts currently used in the U.S., routinely are conducted. In courts-martial, military lawyers and their investigators undertake prosecutions alone.

It remains unclear how members of a tribunal would be selected. But individuals with knowledge of an early draft of the rules say that the members' names aren't likely to be released, even if the trial is public. Mr. Moussaoui, a French citizen of Algerian descent, is being held in New York on a material witness warrant and hasn't been criminally charged; a lawyer for him couldn't be reached for comment.

Officials Reach Compromise On Tribunals

Attorney General John Ashcroft is scheduled to testify before the Senate Judiciary Committee today on the tribunal order and other Justice Department moves in the war on terrorism. Mr. Ashcroft is expected to vigorously defend the administration's actions; according to a Justice official, senior department officials view criticism as "an attack on the capacity of the president to fight the war on terrorism."

Next week, the Senate Armed Services Committee is planning a hearing on the tribunals, with either Defense Secretary Donald Rumsfeld or Deputy Defense Secretary Paul Wolfowitz expected to testify. A Defense Department spokeswoman said she had no information on the Moussaoui case, and that tribunal "procedures have not been finalized."

The compromise on conferring military status on civilian prosecutors, in particular, was struck because at least one top Justice Department official -- Criminal Division chief Michael Chertoff -- had opposed military trials for suspects captured on U.S. soil, said several people familiar with situation.

Mr. Chertoff couldn't be reached for comment, but the other officials said he believes that his prosecutors, who have worked hard to make the case against Mr. Moussaoui, should try the case in the civilian setting to which they are accustomed. He also has said that he believes that these cases -- and their likely defense challenges -- are best handled by the federal criminal court system, the officials said.

Mr. Chertoff "wants the Criminal Division to do the prosecution," says a senior Justice Department official, who adds that Mr. Chertoff insisted that his prosecutors be involved if the Moussaoui case goes to a military tribunal. The official noted that in the 1942 German saboteur case, the last time suspects arrested in the U.S. faced a military tribunal, Justice Department attorneys were "deputized" as military lawyers, too.

"If I were doing it, I would want to make sure I used some of the prosecutorial expertise that has developed in these cases, particularly in the cases against al Qaeda," said former Attorney General William P. Barr, who has informally advised the Bush administration on the tribunal plan. "I would want to use my best military prosecutors and my best Justice Department prosecutors," Mr. Barr said.

Mr. Moussaoui's situation has become a quandary of sorts for the Bush Administration. As officials debated whether he should be tried before a tribunal or a civilian court, the clock ran out last month on the 90 days he could be held on immigration charges before Immigration and Naturalization Service lawyers would have to initiate deportation proceedings.

Federal prosecutors who already had drafted an indictment against Mr. Moussaoui for conspiracy to commit terrorist acts that resulted in the Sept. 11 attacks, bought time for further debate by classifying him as a material witness. It was an unusual move because the Justice Department traditionally has discouraged prosecutors from naming someone as a material witness who is also a likely target of a criminal investigation. Material-witness warrants, though rare until recent months, are used to detain individuals who will be called to appear before a grand jury and who prosecutors believe wouldn't likely respond to a subpoena, and who normally aren't charged.

According to those familiar with the warrant used to detain Mr. Moussaoui, issued late last month, it specifies that the government believes he is a witness to al Qaeda plans to commit terrorism. He won't be questioned before a grand jury about his own alleged involvement in the Sept. 11 attacks.

Prosecutors and FBI officials say they would have no difficulty persuading a civilian jury that Mr. Moussaoui was intended to be the 20th hijacker before his arrest. The FBI was unconvinced about that last month; FBI Director Robert Mueller said the agency was focusing on another man, Yemeni fugitive Ramzi Binalshibh, as the intended hijacker. But Mr. Mueller has come around to prosecutors' views that Mr. Moussaoui was the intended hijacker, according to people who have spoken with him in recent days.

Mr. Moussaoui applied to a U.S. flight school in September 2000, less than three weeks after Mr. Binalshibh's visa application was rejected. When he was arrested in August, Mr. Moussaoui possessed a directory of flight schools bearing a note in the margin beside the one that Mr. Binalshibh planned to attend in Florida. There is also evidence

of money transfers from Mr. Binalshibh, who was in Europe last summer, to Mr. Moussaoui, then in Norman, Okla. The money had been wired to Mr. Binalshibh, in Hamburg, Germany, from the United Arab Emirates.

At least two witnesses have said that Mr. Moussaoui attended an al Qaeda training camp in Afghanistan in 1998. Mr. Binalshibh remains the focus of an international manhunt.

Meanwhile, a group of civil liberties and rights organizations yesterday filed a lawsuit against the U.S. government requesting disclosure of basic information about hundreds of people detained and arrested since Sept. 11. The suit, filed by 16 organizations including the American Civil Liberties Union, the Arab-American Anti-Discrimination Committee and Human Rights Watch, is the first of its kind against the government since the Bush administration launched its aggressive arrest-and-detention campaign. Attorney General Ashcroft and other officials have released fragments of information but won't reveal names or locations of detainees.

Gary Fields contributed to this article.

Notes

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UPI NEWS

December 3, 2001

Congress to put tribunals on trial

WASHINGTON, Dec 03, 2001 (United Press International via COMTEX) -- Attorney General John Ashcroft and Defense Secretary Donald Rumsfeld this week will be asked to explain to two separate Senate committees why the U.S. justice system does not suffice to try suspected terrorists -- and why instead they might face military tribunals.

The questions come as some in Congress, mostly Democrats, worry the administration might trample the Constitution on a quest to dispatch swift justice against terrorists. The Bush administration, meanwhile, is working to make sure those suspects don't use constitutional guarantees built into the criminal justice system as tools to further attack the United States.

"It is only by forcing the Justice Department to articulate why and how particular (constitutional) restrictions will contribute to security that we can have assurance that the steps being taken will be effective against terrorism," Kate Martin, Director of the Center for National Security Studies, told the Senate Judiciary Committee last Wednesday.

Ashcroft will face that committee Thursday, and Rumsfeld will testify before the Senate Armed Services Committee, probably on the same day. Committee sources said congressional oversight during those hearings would concentrate on why the existing justice system doesn't do the trick.

In the tribunals, the military selects the judges, standards of justice, lawyers and venue. The tribunals can be conducted in secret and can sentence a defendant to death. Some lawmakers are bristling that President Bush might conduct the tribunals without explicit congressional approval and without a constitutional safety net.

Critics note the criminal justice system appeared to work when U.S. prosecutors successfully convicted the terrorists responsible for the bombings of the World Trade Center in 1993 and the U.S. embassies in Kenya and Tanzania in 1998.

Bush last week reiterated his support for the tribunals, noting that they would treat terrorists more fairly than the terrorists would treat U.S. citizens.

"We will act with fairness, and we will deliver justice -- which is far more than the terrorists ever grant to their innocent victims," Bush told a meeting of U.S. attorneys last week. "Foreign terrorists and agents must never again be allowed to use our freedoms against us."

Justice Department officials and legal experts worry that terrorists could use the rules designed to guarantee fair criminal trials to learn about U.S. sources and methods used to track them down. For example, civilian criminal defendants have the right to obtain surveillance tapes or other information obtained by the government in its case, and gain access to information on government witnesses.

"Information disclosed during civilian trials regarding our law enforcement techniques and capabilities could assist al Qaida (suspected terrorist mastermind Osama bin Laden's group) in evading in future attacks," former Attorney General William P. Barr said last week.

But Senate Democrats have signaled they might highlight any methods to make criminal trials less public if they were used instead of the tribunals. They are also pushing the administration to hold the trials off U.S. soil, where alleged contradictions with the Constitution might not be so apparent.

By MARK BENJAMIN AND NICHOLAS M. HORROCK

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---- Index References ----

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December 3, 2001

Section: MAIN NEWS

Anti-terror plans face challenges: Proposed detentions and military trials may get Senate and court scrutiny.

David Westphal

Bee Washington Bureau Chief

WASHINGTON

Within days of the Sept. 11 terrorist attacks, House Democratic leader Richard Gephardt put the nation on notice that some of American democracy's cherished liberties would have to be relinquished.

"We're not going to have all the openness and freedom we have had," Gephardt said. "We need to find a new balance between freedom and security."

Little by little, Gephardt's vision of a new America is unfolding as he predicted. From the jailing of hundreds of Middle Eastern men to the creation of a new military tribunal, the Bush administration has moved decisively to curb certain rights in the cause of defending Americans against terrorism.

Americans overwhelmingly support the trade-off. Seventy percent believe the government is adequately protecting the rights of suspected terrorists and of Arab Americans, according to a new Washington Post-ABC poll.

Yet that support shows signs of fraying at the edges. Civil liberties groups and legal experts are raising growing questions over whether Bush and Attorney General John Ashcroft have moved too far in asserting wartime authority.

"I don't think Congress should give a president power to subject any of 20 million people in the United States, plus anyone else outside the United States ... to a secret trial before three colonels," said Philip Heymann, a former deputy attorney general. "It sounds like Paraguay."

The rhetorical challenges are likely to move soon into the courts.

The Center for Constitutional Rights said Thursday that the group plans to challenge Bush's executive order establishing the military tribunals. Other lawyers say they will contest the government's new authority to eavesdrop on their telephone conversations with imprisoned suspects.

The civil liberties debate is likely to come to a head this week when Ashcroft, increasingly under attack from Democrats and a few Republicans in Congress, will be called upon to defend the new policies before the Senate Judiciary Committee.

Sen. Patrick Leahy, D-Vt., the committee's chairman, complained at a hearing last week that the Bush administration had bypassed Congress on many of its actions. And he questioned whether the White House had gone too far in granting the state new powers.

"The Constitution was not written primarily for our convenience," said Leahy. "It was written for our liberty."

Warming up for his much-awaited testimony, Ashcroft retorted that aggressive law enforcement actions had produced the ultimate payoff, shielding the United States from another attack.

"We want to do everything possible to prevent further loss of American life as a result of terrorism," said Ashcroft. "And we are seeking every avenue. And frankly, we're delighted that to date, we've been successful."

Bush also weighed in, staunchly defending the administration's actions on the civil rights front.

"Ours is a great land, and we'll always value freedom," he told a group of U.S. attorneys at the White House. "We're an open society. But we're at war. ... And we must not let foreign enemies use the forums of liberty to destroy liberty itself."

The fight over civil liberties has been slow to develop, partly because of near-unanimous political support for the president in the wake of Sept. 11, and partly because all sides find themselves in new territory.

Not since the Japanese assault on Pearl Harbor in 1941 has the United States been the target of such a powerful attack. Even then, the country did not experience the act of aggression on a civilian population that characterized the September hijackings.

As a result, many civil rights advocates are taking a cautious approach.

Morton Halperin, a former national security adviser, joined a group of civil rights advocates last week to warn that the White House was in danger of going overboard in setting aside rights of the accused.

Yet, he added, "We must be careful that those who raise civil liberties as an argument should not risk being accused of failing to understand this country is under threat."

But in the past week, critics have become emboldened to take on Bush and Ashcroft.

Among their targets: the administration's order allowing the FBI to eavesdrop on conversations between certain suspects and their lawyers; an FBI campaign to question up to 5,000 Middle Eastern men here on temporary visas; and the indefinite detention of hundreds of suspects, many of them on visa violations unrelated to terrorism.

Critics' primary target, however, appears to be Bush's establishment of a tribunal that he could use to try accused terrorists - those living abroad as well as noncitizens in the United States.

White House officials say the special commission would skirt a host of problems that could develop if, for example, Osama bin Laden were to be put on trial in the United States. Judges and juries could face nightmarish security threats, they say, and bin Laden could reap a propaganda bonanza by using an open courtroom to state his message.

"We'd have the potential for a repeat of the O.J. Simpson trial," Republican Sen. Mitch McConnell of Kentucky said.

But critics say the president's remedy - trying suspects before a military commission - creates a host of questions about the nation's willingness to suspend suspects' civil rights.

Under the order, a defendant could be tried in secret before a military tribunal in which an officer board, on a two-thirds vote, could render a death sentence.

Scott Silliman, a Duke University law professor, told Congress that such a proceeding is exactly of a kind the United States condemns when Americans get similar treatment abroad.

"We should expect a reproach from the international community for hypocrisy," he said, "since we continually tout ourselves as a nation under the rule of law."

Spanish officials have declared they will not extradite eight suspected al-Qaida members unless the United States promises to try them in civilian courts.

More frightening, said Heymann, is that the same tribunal could be used for any of the nation's 20 million resident aliens. Heymann, who predicted the Supreme Court would not allow Bush's order to stand, said the downsides of such a policy would be "immense - the foreign policy costs, the sense of insecurity of people who aren't citizens of the United States."

But Griffin Bell, attorney general under Democrat Jimmy Carter, said Bush exercised proper authority in setting up the military commission and urged critics to await details from the Defense Department on how the tribunal would function.

For example, Bell said it's "nonsense" to suggest the trials would be closed, even though Bush's order would permit secrecy.

Another former attorney general, William Barr, said the president's decision to shift some law enforcement authority to the state is a naturally occurring phenomenon.

"The relationship between the government and the individual changes radically," he said, "once there is a state of armed conflict from a foreign, armed adversary."

* * *

The Bee's David Westphal can be reached at (202) 383-0002 or dwestphal@mcclatchydc.com.
WAR ON TERROR

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UPI NEWS

November 30, 2001

Military tribunals framed secretly

WASHINGTON, Nov 30, 2001 (United Press International via COMTEX) -- Former Attorney General William Barr told United Press International Friday he believes that President Bush's controversial military tribunal system will be used "sparingly" in the United States and used primarily in Afghanistan to try suspected al Qaida terrorists and Taliban warriors.

Barr, now general counsel of the GTE Corp., acknowledged that he "suggested" the Bush administration consider using military tribunals after his experience as an assistant attorney general directing the prosecution of suspects in the 1988 bombing of the Pan Am 103 over Lockerbie Scotland.

President Bush's order to try suspected terrorists in military tribunals was devised in narrow channels in the White House counsel's office without consulting legal experts in the Defense Department or Congress, Congressional and legal sources told United Press International.

Who actually wrote the military order that Bush issued remains unclear. Barr, a long-time proponent of military tribunals for certain situations, told UPI that he did not write the order but that middle-level Justice Department lawyers did the research work on the its constitutionality or other issues.

He said he "presumed" that it was prepared for President Bush by White House counsel Alberto R. Gonzales and that he, Barr, never saw the final version.

Barr, who was attorney general under President Bush's father, testified last week before the Senate Judiciary Committee on the advantages of the law.

At the time that Bush hurriedly made public on Nov. 13 the plan for military trials, no one in the Department of Defense's legal office knew anything about it, one well-placed former military lawyer said. He said he was told that it had come from the White House.

At the same hearing where Barr testified, Assistant Attorney General Michael Chertoff distanced the Justice Department from the tribunals. Chertoff said that Department of Defense lawyers were drafting the rules to run the tribunals and that Justice Department lawyers, in fact, had not even been consulted yet on the development of those rules.

But key congressional staff members said that a Deputy General Counsel from Defense, who they declined to name, told members of the Senate Armed Services Committee that the Department of Defense did not ask for the establishment of military tribunals in the first place and has instead just been instructed to set them up. That conversation took place in

the days just after Nov. 13 when the White House completed the order to establish the tribunals, when members of the Senate Armed Services committee called DOD lawyers to Capitol Hill for an explanation, staff on that committee said.

The question of who devised this plan has become pertinent as Bush faces a storm of objection to the order from Congress, civil libertarians and legal groups.

The critics have attacked the proposal on several fronts, but the most crucial opposition is to the idea that these military trials would be conducted in the United States. Lawmakers are now pushing to ensure that if any tribunals do take place, they do not take place on U.S. soil.

President Bush rushed the order out on the night of Nov. 13 as he was leaving Washington for a summit with Russian President Putin. This unusual haste, one source said, came as the administration faced greater and greater pressure over the more than 1,000 persons it has detained since Sept. 11. The Justice Department has not charged any person directly in the hijackings or the attacks on the World Trade Center or the Pentagon.

After nearly three months of investigation, most of the detainees appear unconnected to the terrorist attacks. Some 548 persons are being held on immigration charges and another 104 have been indicted on other charges. Fifty-five of those are in custody.

Attorney General John A. Ashcroft said Tuesday he would not disclose the number or names of individuals detained on material-witness warrants. Those proceedings are being conducted under seal as related to grand juries and, therefore, the department cannot provide the number or identity of those individuals.

There is widespread speculation that this group may contain persons that the Justice Department has linked to al Qaida.

Barr doesn't believe that the administration's intention is to conduct widespread domestic trials before military tribunals. "Legally," he said, "there is no distinction between trials here or abroad," he said.

Barr said his "sense of the state of play," in the controversy over military tribunals is that the administration has established for Congress that the president has the constitutional right to create these courts and that they are necessary to protect national security issues and the courts themselves, and that the "center of gravity" is to assure critics that they will be used carefully.

By NICHOLAS M. HORROCK AND MARK BENJAMIN

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November 29, 2001

Ashcroft Undaunted As Criticism Grows; Higher Profile Brings Controversy

Dan Eggen

Eleven weeks after the terrorist attacks in New York and Washington, an expanding coalition of lawmakers and civil liberties groups is complaining that Attorney General John D. Ashcroft's campaign against terrorism has gone too far. Senators have summoned him for grillings, and lawyers are demanding information about hundreds of immigrants ensnared in a nationwide dragnet. Yet Ashcroft, a staunch conservative whose views almost cost him the appointment as attorney general, is unbowed. In the Bush administration's war on terrorism, Ashcroft has assumed the mantle of domestic general, vowing to use every means available to detain or deport people that he considers potential terrorists.

His efforts are fueled by overwhelming public support. "Our job is to protect American lives, but we don't believe that is inconsistent with honoring the American Constitution," Ashcroft said yesterday in an interview. "Those associated with terrorists, and who are involved with terrorists, should not escape incarceration. . . . We've made an aggressive effort to detain suspected terrorists and disrupt terrorist activities, and we've been thankfully able to avoid additional attacks." The higher profile marks a return to the center of controversy for Ashcroft, a former Missouri governor and U.S. senator who has long attracted notice for his views on abortion, guns and other, mostly social, issues. Ashcroft had to survive fierce Democratic opposition last January to win the post that today makes him responsible for averting another terror attack. Wounded by those confirmation hearings, Ashcroft initially sought to soften his public image and avoid major controversies. But since Sept. 11, with Americans feeling vulnerable and anxious for revenge, Ashcroft appears eager to dramatically recast his department. In the past month alone, Ashcroft has issued rules allowing the FBI to eavesdrop on privileged communications between attorneys and detainees who are suspected terrorists; ordered prosecutors to seek interviews with more than 5,000 young, mostly Middle Eastern, men visiting the United States; and advocated a system of secret military tribunals that could be used to try alleged accomplices in the Sept. 11 attacks. Ashcroft has taken pains to dis- avow racial profiling and to condemn hate crimes against Arab Americans. But his actions, many of which were done with little public notice, have prompted increasingly sharp criticism from liberal and conservative groups already alarmed by the secretive detention effort. They have also sparked a rapidly escalating conflict between the Justice Department and Capitol Hill. Lawmakers as varied as Rep. Robert L. Barr Jr. (R-Ga.) and Sen. Patrick J. Leahy (D-Vt.) complain that Ashcroft is pursuing questionable anti-terrorism strategies without consulting Congress. Leahy, chairman of the Senate Judiciary Committee, yesterday convened hearings focused on Ashcroft's anti-terrorism measures, and the attorney general has agreed to testify next week. "I started with a blank slate with him," said Leahy, who led the opposition to Ashcroft's appointment while the GOP held the Senate majority. "I told him that myself. But, at this point, the slate's getting pretty filled up. . . . If the attorney general loses any more credibility with the Judiciary Committee, he will have a real problem on his hands." A new survey by The Washington Post and ABC News shows, however, that six in 10 people agree that suspected terrorists should be tried in special military tribunals and not in U.S. criminal courts. Three of four surveyed also agree that it should be legal for the federal government to wiretap

conversations between suspected terrorists and their attorneys. An even larger majority -- 79 percent -- supports plans by federal prosecutors to interview the 5,000 young men. "A crisis brings out the best in people and tells you who they are," said William P. Barr, an attorney general in the first Bush administration. "He's taking on some of the most difficult problems the department has at a time of extreme pressure. . . . He's the man in the arena." Ashcroft, who was content to reside on the political margins as a senator, has been unapologetic in his public comments and is increasingly irritated by the criticism, according to senior Justice Department and administration officials. Even as he leads the effort for sweeping new anti-terrorism authority, the attorney general and his aides say he is striving to balance traditional civil liberties with a presidential imperative to thwart new attacks. "We believe we have put all the safeguards in place to protect those constitutional rights," Ashcroft said yesterday. "I can't guarantee that what we've done will avert future terrorist attacks, but I can guarantee that we have protected the Constitution." Ashcroft said the furor over many of his anti-terrorism policies has been overblown, in part because the measures sound more sweeping than they really are. One example he cited was the order allowing the monitoring of attorney-client conversations, which he said currently applies to just over a dozen prisoners and includes substantial oversight to ensure that their rights are not violated. "The more you know about them, the more you support them," Ashcroft said. At times, however, the aggressive policies advocated by Ashcroft and his aides have caused dissent even within the Bush circle. In internal debates over nonimmigrant visa policy after the attacks, for example, Ashcroft favored halting entry altogether for men ages 16 to 45 from 25 Arab and Muslim countries until U.S. officials could implement better background checks, sources said. The 19 hijackers who carried out the Sept. 11 plot all entered the country with legal U.S. visas. The State Department, alarmed by the political consequences of Ashcroft's proposal, implemented a compromise plan earlier this month that imposes longer delays for background checks but still allows visas to be issued. Ashcroft is surprised by the strong opposition to some of his proposals, especially in the wake of terrorist hijackings that killed nearly 4,000 people on U.S. soil, those familiar with his views said. He frequently compares his anti-terror effort to Robert F. Kennedy's campaign against organized crime, and has likened terrorists to Nazis and the current period to World War II. "There seems to be a lack of understanding that the country's at war," said one administration official. "He fully and carefully considers the measures prior to the measures being taken. But once the decision is made, he has no doubts and does not waver." Unlike his predecessor, Janet Reno, who held informal weekly news briefings and leaned heavily on career Justice Department lawyers, Ashcroft's operation is more insular and controlled. He relies heavily on a small group of trusted young political aides from his days in the Senate, rarely including outside opponents or career Justice staff members in his deliberations, sources said. When he decided last spring to reverse the Justice Department's long-standing legal opinion on the Second Amendment -- declaring that it bestowed an individual, rather than a collective, right to bear arms -- he did it in a letter to the National Rifle Association drafted by a senior adviser. Key Justice Department prosecutors, including those overseeing a Texas criminal case that went to the heart of the issue, were not consulted, sources said. "The department is being run like a Senate staff. It's a small clique making decisions," said one lawyer who left the agency earlier this year. "There's a real mistrust in the career people that's palpable. They really don't respect the institution, and they don't respect the collective wisdom of the career people." But his supporters say Ashcroft merely has little patience for the old ways of doing things at a department with about 125,000 employees and agencies as varied as the Immigration and Naturalization Service and the Drug Enforcement Administration. He has ordered major reorganizations of the FBI and the Justice Department and has issued stern lectures to top lieutenants at Justice and the FBI to refrain from continuing the long-running squabbles over jurisdiction. He defied convention by basing the massive Sept. 11 probe in Washington rather than in New York. Ashcroft also differs from some previous attorneys general in his management style. While Richard L. Thornburgh was known for exhaustively researching an issue before an internal briefing, "Ashcroft's approach is to learn by debating the issue with you," one Justice official said. He delegates wide authority to those he trusts, including criminal chief Michael Chertoff and legal policy director Viet Dinh. "You have to remember that he's spent most of his adult life in executive positions, so he's comfortable with authority," said one Justice attorney who approves of Ashcroft's performance. "He has a pretty good sense of where he wants to be and is not shy about going there." Ashcroft and his boss have an increasingly close professional relationship, though the two remain distant on a personal level, sources said. Ashcroft is buttoned-down and sometimes stiff; President Bush is affable and relaxed. The two meet daily at an 8 a.m. briefing to map progress in the anti-terrorism effort. Like Bush, Ashcroft runs an office that is highly centralized. Bush has given Ashcroft's team relatively wide berth in setting policies, officials said, with one overarching imperative. "Never let this

happen again," Bush told Ashcroft after Sept. 11, sources said. "He's had a couple of different roles he's been asked to play by the administration," one Justice official said. "After the attacks happened, there was a focus on the investigation, on what happened. Very quickly, that became a focus on prevention, with an order from the very top." In some cases, as with the administration's sweeping anti-terrorism legislation, the package was written with major input from the White House before being submitted to Congress. Other initiatives, such as the pending restructuring of the Justice Department and the original nonimmigrant visa proposal, were driven largely by Ashcroft and his top aides, sources said. One of Ashcroft's next challenges is to restructure the FBI, which had been battered before Sept. 11 by a string of scandals. While Reno and former FBI director Louis J. Freeh barely spoke to each other, Ashcroft and FBI Director Robert S. Mueller III -- Ashcroft's former acting deputy -- worked together at FBI headquarters in the early weeks of the Sept. 11 crisis. Ashcroft still maintains office space there, a symbolic beachhead at the notoriously independent agency. The overarching goal, according to Ashcroft and his aides, is to refocus the sprawling federal law enforcement bureaucracy on thwarting terrorism, rather than solving terrorist crimes after they occur. "Our world has changed forever," Ashcroft told aides on Sept. 11. But for some critics, Ashcroft's decisions in recent weeks raise such serious questions about his views on civil liberties that some believe he has acquired more power than he should have. The Cato Institute's Roger Pilon said that "some of the means he has recommended go well beyond attention to terrorists." "What we have here is a classic example of crisis leading to leviathan," said Pilon. "I see in him a person with a greater respect for authority than for liberty, and that's what disturbs me." Attorney General John Ashcroft defends anti-terrorism tactics.

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Section: Law

'It's a show trial without the show'

Secret military tribunals. Arrest without charge. No right to a lawyer. After September 11, this is justice US-style - and critics are warning of an...

Edward Helmore

Secret military tribunals. Arrest without charge. No right to a lawyer. After September 11, this is justice US-style - and critics are warning of an erosion of civil rights. Edward Helmore reports

Zacarias Moussaoui, the alleged 20th member and sole survivor of the September 11 hijacking team, may become the first terrorist suspect to be tried, not by a US jury in a criminal court, but by a secret military tribunal. Moussaoui, a French citizen of Moroccan descent, was detained on immigration charges in August and therefore, according to the authorities, was saved from his planned death with his fellow terrorists. Instead, he may make history in a different way. The presidential order establishing military tribunals to try foreigners charged with terrorist offences was one of the many new legal powers designed to advance America's domestic war on terrorism in the aftermath of September 11. None has caused as much concern among lawmakers and civil rights groups. President Bush's grab for what many critics term dictatorial power to charge, try, jail or execute terrorists in what amount to secret courts without affording constitutional rights to defendants, is being seen as unacceptably excessive. Determined not to let their hands be tied by legal procedure or the norms of criminal law, the administration has not only established new military courts, but increased the FBI's power to detain and question hundreds of immigrants without legal representation or charge, and now allows the monitoring of conversations between suspects and their lawyers, if deemed necessary to help prevent terrorism. "This represents a profound mistrust of the judicial processes of the United States on the part of the government," says Ronald Kuby, who has taken on the mantle of his former partner, the late, famed William Kunstler, defence lawyer in the Chicago Seven trial and many other cases raising fundamental issues of constitutional rights and civil liberties. "Attorney General John Ashcroft said that foreign terrorists who come to the US are not entitled to the benefits of the constitution. Superficially, that sounds very appealing, but the problem is that it short-circuits the process by which we ascertain whether people are innocent or guilty - and that's a full and fair trial." His is not just an isolated voice. "Civil liberties are eroding, and there is no evidence that the reason is anything more profound than fear and frustration," commented a recent New York Times editorial. Civil liberties and lawyers' groups, including the American Bar Association - not usually known for its radical views - have criticised the policy in lively terms. Kuby, who represented a number of defendants in the 1993 World Trade Centre attack and those in a subsequent plot to blow up Manhattan's bridges and tunnels, has been a vocal critic of the administration's approach to issues of justice after September 11, and especially of the latest efforts to sidestep due process in the event that Osama bin Laden himself, members of his al-Qaida cohorts or suspected terrorists from other terrorist organisations are captured. "It's extraordinary. What George W Bush has created is a parallel system

of justice in which he is the one who decides who is subject to these courts," Kuby says. "The courts themselves run entirely under their own rules and have no relationship to the constitutional framework that has evolved over 200 years." Administration officials argue that terrorist attacks against Americans are not regular crimes, but acts of war against which the old rules of law enforcement and justice no longer apply. "The mass murder of Americans by terrorists, or the planning thereof, is not just another item on the criminal docket," according to Vice-President Cheney. "This is a war against terrorism. Where military justice is called for, military justice will be dispensed." Although Bush is only the latest of many presidents to restrict civil liberties in wartime, the reasoning behind this administration's crackdown, particularly the establishment of military courts, is unclear. "What's most shocking is that this is a radical solution in search of a problem," says Kuby. "We've had trials of Islamist terrorists, we've even tried and convicted al-Qaida members, and we've done so in full, fair and open trials. So it's hard to understand what the problem is." Administration officials say the government is determined not to let complications like rules of admissible evidence, the disclosure of secret intelligence information, the need for unanimous jury verdicts, or lengthy appeals processes to get in the way of the pursuit of terrorists. The difficulties of bringing the suspects to trial in the Pan American Flight 103 - blown up over Lockerbie - convinced many of the benefits of military tribunals. "If our boys did something wrong in this conflict, they'd be tried in a military court. An al-Qaida terrorist shouldn't have any claim to different procedures," William Barr, attorney general in the previous Bush administration, told the Washington Post. Despite disquiet in congress, in the media and within the legal profession, there is little doubt the US public supports the measures. But setting aside cherished constitutional guarantees faces strong opposition. In the case of military tribunals, says Kuby, you end up with a situation in which someone's guilt is largely preordained, based on the accusation. "That's anathema to our system of justice. It's a show trial without the show." Since the war in Afghanistan began, the US legal community has engaged in debate about the prospect of trying Bin Laden in open court in the US. Proponents say it would be a way to showcase American principles and the fairness of its justice system, and cut down his mythology. Opponents say it would not only be difficult to provide security for the judge and jury, but all but impossible to select an unbiased jury. Many fear a public trial might give Bin Laden a platform to propagate his views, provide a road map to the country's intelligence sources, and turn him into a martyr. "That's a hideous reason to scrap jurisprudence," says Kuby. "I can't believe the justice system is incapable of matching Osama bin Laden's words." Still, civil rights lawyers like Kuby are hardly lining up to rep resent Islamist terrorists should they be brought to trial. While many of his former clients - members of the Japanese Red Army or the Puerto Rican independence group FALN, for instance - had some, however slim, arguments for political justification, representing Islamist terrorists now holds little appeal. "They're rightwing, fundamentalist, patriarchal, homophobe," says Kuby. "In other words, the kind of people I have been fighting all my life. I was uncomfortable with it at the time, and more so now. I found no sympathy in the world they were trying to achieve." While the prospect of a terrorist trial remains hypotheti cal, a crackdown on US immigrants - legal and illegal, naturalised or alien resident - is not. As a result of September 11, there are now 1,100 Arab-American immigrants in detention, many of them without legal representation or knowledge of what they are being investigated for. Moreover, the justice department has refused to disclose details of those in custody. "We don't know how many are being held, why, what they're charged with, or when their court appearances are," Kuby says. "It's creating a lot of consternation. The government has imposed a blanket of secrecy without explaining the need for secrecy. Its position is, 'We're not going to tell you, and we're not going to tell you why we're not going to tell you.'" Earlier this month, the government took the further step of ordering that 5,000 recent visitors to the US - mostly from Middle Eastern countries with suspected terrorist links, who have come to America within the last two years on student, tourist or business visas - must be interviewed. The immigration and naturalisation service has also dramatically slowed visa applications for any man aged 16 to 45 from any of 26 Muslim countries, to allow for more thorough security checks. To civil rights lawyers the new, sweeping powers to detain, question and deport are almost bound to result in abuses of power. The right to exclude non-citizens is an inherent attribute of sovereignty, but the scope of the exclusion is a matter of policy. The visa issue has drawn criticism from pro-immigration groups and organisations representing American Muslims, who claim that the new regulations amount to profiling by religion or nationality; both of which, they argue, are antithetical to American values. "It will catch up in its net people who mean us no harm," says Angela Kelley of the national immigration forum. "It sends the wrong message for a nation of immigrants." There's one consolation. As and when the spectre of terrorism diminishes, balance between individual freedom and national security is likely to normalise. In times of fear, after all, people tend to place security above liberty.

As that fear diminishes, the pendulum may swing some way back. "In any case," points out Kuby, "the executive order that gives President Bush the right to establish military tribunals doesn't actually establish them, nor has he yet exercised the discretion to designate anyone for trial. It is without precedent in modern times, but there may be time to head it off."

Secret military tribunals. Arrest without charge. No right to a lawyer. After September 11, this is justice US-style - and critics are warning of an erosion of civil rights. Edward Helmore reports.

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Justice in the Shadows

Newsweek

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Length: 740 words

Byline: By Michael Isikoff and Stuart Taylor Jr.
Highlight: Invoking wartime powers, Bush can try suspected terrorists in secretive military tribunals. Will he do it?

Body

William Barr can vividly recall his moment of inspiration. A Justice Department lawyer--and later attorney general--under the first President Bush, he walked by a plaque outside his office commemorating the trial of Nazi saboteurs captured during World War II. The men were tried and most were executed in secret by a military tribunal--a swift piece of wartime justice authorized by Franklin D. Roosevelt and affirmed 8-0 by the Supreme Court. Excited by the idea, Barr floated a novel proposal: why not do the same thing to the terrorists responsible for the 1988 bombing of Pan Am Flight 103 over Lockerbie, Scotland?

Back then, the idea didn't take. But in the days after the September 11 attacks Barr, now a private lawyer, once again floated it with top White House officials--and this time found allies arriving at the same conclusion. Last week President George W. Bush signed an order allowing the use of military tribunals in terrorist cases. The sweeping document, patterned after similar actions taken by FDR and Abraham Lincoln, gives the government the power to try, sentence--and even execute--suspected foreign terrorists in secrecy, under special rules that would deny them constitutional rights and allow no chance to appeal. Aides say Bush insisted he alone should decide who goes before the military court.

Civil libertarians called the plan a dangerous overreaction that puts Americans' basic rights in jeopardy. Vice President Dick Cheney bluntly dismissed their complaints. "Those who plot against our country will not be allowed to abuse our protections or our freedoms," he said.

In recent years the United States has tried terrorists in criminal court. But administration lawyers found the prospect of prosecuting hundreds of Al Qaeda members daunting. Jurors and judges would be at constant risk. Just shuttling the defendants from jail cells to courtrooms each morning would be a logistical nightmare. "You'd have to cordon off half the island of Manhattan," says one official. There was also the problem of evidence: much of the damning material the United States has comes from intelligence agencies and would be too sensitive to disclose in open court. A lot of intelligence is inadmissible hearsay. As one administration lawyer admitted, the government might have a "hard time" proving its cases.

Looking to history, the White House found a way around the problem. In the days after September 11, NEWSWEEK has learned, Justice Department lawyers began drafting a secret legal memorandum. The United States, they concluded, was in a state of "armed conflict" that allowed the president to invoke his broad wartime powers.

The president first used the memo as the legal basis for his order to bomb Afghanistan. Weeks later the lawyers concluded that Bush could use his expanded powers to form a military court for captured terrorists. A panel of judges, not a jury, would decide guilt or innocence. Convictions may not require a unanimous vote, just a two-thirds majority. And the government wouldn't have to prove its case "beyond a reasonable doubt." Officials envision holding the trials on aircraft carriers or desert islands.

The order permits the president to use military trials for any non-U.S. citizen if there is reason to believe he is an international terrorist--or has "aided or abetted" or "knowingly harbored" one. This includes green-card holders, as well as the hundreds of aliens rounded up after September 11. But senior officials insist they foresee using military courts sparingly--perhaps only for top Al Qaeda members. "It is [our] intention to hold trials that are fair and that are public if we can," says White House counsel Alberto Gonzales. "If anything is done in secret it will be based upon national-security needs."

The assurances didn't quiet complaints that the executive order is too broad and could victimize innocent people. People wrongly accused could wind up secretly imprisoned for months with no knowledge of the charges against them. "Many of our people are scared--and surprised that our country would go to this level where there is no due process," says Nihad Awad of the Council on American-Islamic Relations.

The critics may have more sleepless nights ahead. Next on the agenda: easing restrictions on FBI undercover work, allowing agents to gather more intelligence on terrorist groups. As one official put it, "We're looking at everything."

Graphic

PHOTO: FINAL JUDGMENT: In 1945 a U.S. military tribunal tried Lt. Gen. Tomoyuki Yamashita, Japan's commander in the Philippines. He was later executed.

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Los Angeles Times

November 21, 2001

Section: Main News

RESPONSE TO TERROR
MILITARY COURTS

NATALIA TARNAWIECKI

SPECIAL TO THE TIMES

LIMA, Peru

Few people doubted that Abimael Guzman was the most dangerous man in the country when he was brought before a specially created military court in 1992, tried and swiftly convicted by a panel of hooded judges. The founder of the Shining Path guerrilla movement had presided over bombings and massacres that terrorized Peru for more than a decade.

But the court created to try this nation's most violent rebels soon broadened its mandate. After a time, alleged drug dealers and common criminals were being tried for "aggravated terrorism" in secret courtrooms before anonymous military judges, few of whom happened to be lawyers.

"The tribunals committed flagrant abuses against human rights," said Maximo Rivera, former chief of Peru's anti-terrorist police. About 600 of the more than 4,000 civilians convicted by military judges have since been acquitted by civilian courts.

FOR THE RECORD

Los Angeles Times Saturday February 23, 2002 Home Edition Part A Part A Page 2 A2 Desk 1 inches; 53 words Type of Material: Correction ^H

Diplock courts--A Nov. 21 story erred in reporting that Britain's so- called Diplock courts have ceased to operate. The special courts, which have no juries and permit evidence to be presented in secret in terrorism- related cases, continue to meet and consider cases in Belfast, Northern Ireland.

The experiences of Peru, and many other countries that have resorted to military or special courts during times of strife, offer a cautionary tale to the United States, as President Bush has authorized the use of military courts to prosecute suspected terrorists.

'Temporary' Setups Become Long-Term

In Egypt, Brazil and other countries where civilians have been tried in military tribunals for the most violent acts of terrorism, those courts have become, over time, places where less serious offenses also are prosecuted.

And in places such as Northern Ireland, "temporary" courts given special powers to deal with "extraordinary" crimes have become long-term fixtures of the legal landscape.

Sometimes, the perceived lack of fairness of such courts has helped build sympathy for the very groups they aim to crush.

"As soon as you get a military officer as a judge, the independence of the judiciary is undermined," said Neil Hicks, an attorney with Human Rights Watch who has monitored trials in Egypt.

Hicks believes that in Egypt, as in Northern Ireland, the extraordinary powers granted to prosecutors in special tribunals played into the strategy of the opposition groups by bolstering the argument that the government was arbitrary and undemocratic.

In Northern Ireland, Roman Catholic support for the Irish Republican Army grew after the British government instituted emergency measures that included special courts without juries. And in Egypt, the execution of more than 100 people by that country's military tribunals did not extinguish the appeal of an organization that would eventually become an important part of the Al Qaeda network.

"People can argue that a military judge is acting under orders," Hicks said. "They can say, 'Look, these courts are just there to find us guilty so that they can kill us.' "

All of the courts offer a swifter, tougher brand of justice, in part by denying defendants many of the rights available in ordinary trials and giving prosecutors the right to introduce secret evidence.

Under the Bush administration proposal, those convicted in the military courts could appeal the verdicts only to the president or the secretary of Defense. U.S. officials have said that security concerns make secret military courts a necessity and that any suspects brought before the tribunals would be guaranteed a fair trial.

The former U.S. official who first called for the use of military tribunals in the war on terrorism says he sees no chance that they will be expanded to domestic cases.

"The president's order limits their use to foreign nationals who are involved in an organized, armed attack on the United States. It doesn't relate in any way to potential domestic matters," said former U.S. Atty. Gen. William P. Barr, who served under the first President Bush. "These overwrought concerns about hooded judges and the like are way off base."

The legal traditions of the United States embrace the rights of the accused to a much greater extent than those of Peru, Egypt and most other places that have tried civilians in military courts.

Spain established a military court to try Basque terrorists during the waning days of the Franco dictatorship in the 1970s but then quickly disbanded it, even though political violence remains.

In the Middle East, the Palestinian Authority has been widely condemned for military and state security trials that often amount to little more than summary executions. In January, two Palestinians accused of collaborating with Israel were tried, convicted and executed in less than two days.

Peru's military tribunals took on especially dark, Kafkaesque dimensions before being phased out in the late 1990s. Defense attorneys were sometimes brought into court in blindfolds, then given only minutes to argue on behalf of their clients before being hustled out--once again blindfolded--and dropped off on a Lima street corner.

Alex Palacios Torero was arrested in 1993 and charged with being a member of a revolutionary organization. After being forced to sign a confession--he falsified his signature, a fact that would later help earn his release--he was put on trial.

Hustled to a secret courtroom with three other men, Palacios was seated on a dusty bench, facing a one-way mirror concealing a panel of secret judges.

"Behind the mirror you could hear distorted voices. It was frightening," Palacios recalled. "I didn't understand what they were saying or asking me. They were like metal voices, like a 45-rpm record played at a different speed."

He was convicted. But after three years in custody, Palacios was retried by a civil court and found not guilty. Guards led him to the door of the prison and apparently to freedom--but the authorities were there waiting for him and placed him under arrest again, to face new charges back in military court.

Only in July was Palacios released, after pressure from human rights groups.

"I lost eight years of my life," he said.

Public Support Usually Strong at the Outset

Most often, military courts have been created in times of deep fear and uncertainty, and usually with strong public support. When secret military tribunals were established in Peru, there was a very real sense that the country was at the mercy of terrorists.

"In moments of extreme danger for society, governments need to use mechanisms of protection," said former Peruvian legislator Luz Salgado, a supporter of the get-tough measures.

The legal foundation for Egypt's military tribunals dates to the state of emergency declared in 1981, after Islamists assassinated President Anwar Sadat. The courts were later used against organizations such as the Islamic Group and Egyptian Islamic Jihad.

The Egyptian government succeeded in eviscerating both militant fundamentalist organizations. Egyptian Islamic Jihad's leaders fled to Afghanistan, where they transformed their mission from one of internal jihad--or holy struggle against Egypt's regime--to external jihad, against the West.

The group became a key faction in the Al Qaeda network. The Islamic Group disavowed violence--in Egypt. Its spiritual leader was linked to the group of men convicted in the first attack on the World Trade Center.

Egypt's emergency law also created a state security court that was similar to the military tribunal in many ways but was presided over by a civilian judge. In both courts, defendants were subjected to a quick trial with limits on their ability to pursue a defense. More important, they were denied the right to appeal the verdict.

Two decades later, the state security court is still conducting trials. Recently, it was used to convict a prominent civil rights activist, Saad Eddin Ibrahim, who was sentenced to seven years' hard labor for criticizing the regime and calling into question the fairness of recent elections.

"Anyone who is referred to a military court is definitely getting a sentence against him," said Mustafa Attia, an Egyptian defense lawyer who practices in military court. "There are no guarantees for neutrality or transparency."

The Egyptian tribunals have been sharply criticized by the U.S. State Department.

Last week, the state security court sentenced 23 men suspected of being homosexuals to prison terms of one to five years. Twenty-nine others were acquitted.

"The government keeps claiming they only apply [the emergency law] against militants, but in several cases we have seen it used against human rights leaders," said journalist Khalid Daoud. "The gay case is being tried in state security court. They are not terrorists or drug dealers. It is about punishment and deterrence."

In Brazil, military courts dating to 1969, during a dictatorship bent on crushing leftist rebels and dissidents, remain in force.

"Brazil calls itself a democracy but keeps this authoritarian enclave," said Jorge Zaverucha, a professor at the University of Pernambuco. "The military penal code is so wide that if a civilian throws a stone at a soldier, he will be tried by a military court."

Pro-Military Lobby a Factor in Brazil

Attempts to eliminate the courts have been stubbornly resisted by Brazil's strong pro-military lobby.

"The fact is that states of emergency have an enduring character," said David Weissbrodt, a University of Minnesota law professor. "They get declared, and no one takes them off the books."

At the height of the "troubles" in Northern Ireland in the 1970s, the British government created "Diplock" courts--named for the man who proposed them--to allow secret evidence and trials without jury. The law remains in force today, although the courts are no longer operating.

Now there is talk of using the Diplock courts against international terrorist suspects in the wake of the Sept. 11 attacks.

"People will object to it, but we are absolutely determined to get the balance right between human rights, which are important, and society's right to live free from terror," a government spokesman said last week.

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Tobar reported from Buenos Aires and special correspondent Tarnawiecki from Lima. Times staff writers David G. Savage in Washington, Michael Slackman in Cairo and Tracy Wilkinson in Jerusalem and Paula Gobbi of The Times' Rio de Janeiro Bureau contributed to this report.

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RESPONSE TO TERROR
HISTORICAL PERSPECTIVE

DAVID G. SAVAGE

TIMES STAFF WRITER

WASHINGTON

On July 8, 1942, as Nazi armies were driving across southern Russia, a military trial got underway on the fifth floor of the Justice Department building in Washington.

The defendants were eight German soldiers who had been dropped off American shores by submarines three weeks earlier. Four came ashore at Amagansett Beach on Long Island, N.Y., and four at Ponte Vedra Beach in Florida.

All of them had lived in the United States and spoke fluent English. They had been trained in sabotage at a school near Berlin. They had an ample supply of U.S. currency, as well as explosives and detonators. Their job was to damage U.S. weapon factories.

Two of them defected, however. After spending a few days in New York City and lots of their money, they took a train to Washington, checked into the Mayflower Hotel and called the FBI. With their help, the U.S. authorities quickly apprehended the other six. Within a month, they were found guilty and electrocuted; the defectors were imprisoned.

The brief, bungled mission of the Nazi saboteurs is a footnote to World War II history, but it now looms large in U.S. law: It established the precedent for secret military trials under certain circumstances.

Last week, Bush administration officials said the case gave the president the power to hold closed military trials for foreign terrorists, whether they are arrested here or captured overseas.

But the Nazis' case is not the only--or even the best-known--precedent on military tribunals, and conflicts between it and a Civil War-era case may set off a legal showdown if a suspected terrorist is arrested in the United States and turned over to a military court.

When the U.S. Supreme Court met in special session in the summer of 1942, it rejected the Nazis' claim that they should be tried in the open, in a U.S. court. Its opinion drew a distinction between "lawful combatants and unlawful combatants" during wartime.

"Lawful combatants are subject to capture and detention as prisoners of war," the court said. "Unlawful combatants are likewise subject to capture and detention, but in addition they are subject to trial and punishment by military tribunals for acts which render their belligerency unlawful.

"These petitioners," the court said of the Germans, "are charged with an offense against the law of war which the Constitution does not require to be tried by a jury."

President Bush's order, picking up the language of the 1942 case, describes terrorism as a "violation of the laws of war."

Vice President Dick Cheney, defending the order, said foreign terrorists who come here are neither citizens entitled to constitutional rights nor "lawful combatants" protected under the rules of war.

"There's ample precedent for" the use of military tribunals, Cheney said, citing the Nazis' case. "The basic proposition here is that somebody who comes into the United States of America illegally, who conducts a terrorist operation killing thousands of innocent Americans, men, women and children, is not a lawful combatant."

Use of Such Courts Overturned in 1800s

But in an earlier case, just after the Civil War, the Supreme Court unanimously overturned the use of military courts to try several Confederate sympathizers in Indiana.

Lambdin P. Milligan, a lawyer and a politically active Democrat, had joined a secret group in 1863 called Sons of Liberty. Some of its members talked of freeing Confederate prisoners held in Illinois and Indiana.

He and the others were arrested, tried by a military court and sentenced to die for conspiracy and treason. But Milligan filed a writ of habeas corpus with the high court, arguing that the use of military tribunals to try civilians was unconstitutional. The Supreme Court blocked the executions and agreed to hear the case.

The justices waited until the war, which they termed the "wicked rebellion," had ended, and then issued a broad pronouncement on the importance of preserving civil liberties.

"The Constitution of the United States is a law for rulers and people, equally in war and peace, and covers with the shield of its protection all classes of men, at all times and under all circumstances," the court said in Milligan's case.

The president has no right or power to use military trials, the justices said, "where the courts are open and their process unobstructed."

The 1867 opinion, though written by Abraham Lincoln's former law partner and campaign manager, Justice David Davis, implicitly rebuked the late president for setting up the military courts.

Ever since, the Milligan case has been cited in arguing that constitutional rights cannot be waived if the courts are open for business.

It caused something of a problem during the Nazis' case in 1942. President Franklin D. Roosevelt's attorney general, Francis Biddle, described Milligan as a "bad case" that should not be followed.

The Supreme Court justices at that time agreed and said the Milligan ruling turned on the fact that he was a citizen and resident of Indiana, not an "enemy belligerent."

Nonetheless, conflicts between Milligan and the Nazis' case remain, especially when applied in a modern case of terrorism.

For example, if an immigrant in the United States, who perhaps entered the country legally, is charged as a suspected terrorist, would he be considered an "enemy belligerent" under the Nazi precedent, even though he's not a formal member of an enemy army and Congress has not formally declared war against the Al Qaeda terrorist group or Afghanistan?

Or would he be entitled to a jury trial under the terms of Milligan, which refers to "all classes of men" and never distinguishes nationality as a factor?

As a result, Bush's directive will likely face a legal challenge if terrorists are tried in military tribunals.

"This is likely to end up in court, even though the president says he can do this on his own. And it's a very close call," said Washington attorney Philip Lacovara, who has studied the issue. "I support the concept of military tribunals for some types of terrorists," he said, especially Al Qaeda leaders who are captured overseas.

Former Atty. Gen. William P. Barr, who first proposed the idea of military tribunals to the Bush White House, sees no problem with their legality.

"We are in a state of armed conflict, and we are dealing with an organization that has declared war on us," said Barr, who served under former President Bush.

Barr said he devised the idea of using military trials for the terrorists who brought down Pan Am Flight 103 over Scotland in 1988--if they were captured.

By coincidence, he was then working in the same Justice Department fifth-floor office where the Nazis' trial was held. A plaque on the office wall memorializes the event.

He later abandoned the idea because the Scots do not permit the death penalty. But his legal research did not go to waste.

After the Sept. 11 terrorist attacks, Barr contacted friends in the White House counsel's office and the Justice Department to suggest that they take a new look at military tribunals.

U.S. Likely to 'Be Very Careful' in Using Rule

Bush issued his directive Tuesday permitting the "trial of certain noncitizens in the war against terrorism."

"My view is the administration will be very careful as to whom this is applied to," Barr said.

Lloyd N. Cutler, white-haired eminence of the Washington legal establishment, has an even more personal interest in the Nazi saboteur case. He was a government lawyer in 1942 and became the junior member of the prosecution team.

J. Edgar Hoover, the publicity-conscious FBI director, "had announced to the world that his men had captured these fellows, as if the FBI had been on the beach when they arrived in their little rubber boats," Cutler recalled. "Actually, they had called from the Mayflower [Hotel], and it took the FBI four hours to get over there."

While the trial was held behind closed doors, reporters were briefed every day on its progress, he noted.

The prosecution team consisted of 10 lawyers, he said. The eight Nazis were represented by one: Col. Kenneth Royall. He said the saboteurs had signed up for the mission "as a means of escaping from Germany."

The Army officers who acted as judges did not buy the Nazis' story and found them guilty.

"I'd say the Supreme Court was probably right to uphold it as they did. These fellows violated the laws of war," said Cutler, who was White House counsel to Presidents Carter and Clinton.

Six of the Nazis were executed Aug. 8, 1942. The two defectors were sent to prison.

The Supreme Court's opinion in their case, known as Quirin after one of the Nazis, was not issued until several months later.

In upholding the military trials for the Nazis, the justices noted that Congress had declared war on Germany and authorized the establishment of military commissions to try war cases.

"It is unnecessary for present purposes to determine to what extent the President as Commander in Chief has constitutional power to create military commissions without the support of Congressional legislation," the court said then.

Bush issued his directive as a "military order," without seeking approval from Congress.

Special military tribunals have not been used by the United States since World War II, although they were considered during the Korean and Vietnam wars, said University of Houston law professor Jordan Paust.

He said the U.S. military could try Osama bin Laden or his cohorts if they are captured in Afghanistan.

"You can set up a military tribunal in occupied territory when we're at war," he said. "But under Milligan, you also have to ask if the regular courts are available. So I don't think the president has the authority to set up a military commission in New York or Washington."

If Bush orders a terrorist to be tried in a military court in the United States, the case is likely to go to the Supreme Court.

Chief Justice William H. Rehnquist is something of an expert on the subject. In 1998, he published a book called "All the Laws but One: Civil Liberties in Wartime," which recounted the Milligan case at length. He also noted the case of the Nazi saboteurs.

But the book offers only hints, not firm clues, as to how Rehnquist might view such a case if it came before the court today.

With each war, Americans are more protective of civil liberties, he concluded, less willing to abandon constitutional rights for an alleged emergency. But unquestionably, wartime is different, and sometimes the law is bent a bit. He quotes FDR's Atty. Gen. Biddle as saying, "The Constitution has not greatly bothered any wartime president."

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A NATION CHALLENGED: THE TERRORISM FIGHT; Civil Liberty vs. Security: Finding a Wartime Balance

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Body

The recent expansion of executive power in the legal fight against terrorism reflects a powerful conviction in the Bush administration that it is fighting acts of war, not mere crimes, on American soil.

This is the principle behind the administration's proposals to establish military tribunals to try foreigners accused of terrorism; to track down and question thousands of immigrants who have entered the United States in recent years, mostly from Middle Eastern countries; and to monitor conversations between some people in federal custody and their lawyers.

The administration is convinced that the public is on its side and shares the view that, as one White House official put it, "it's a new reality." The old rules, the old legal and law enforcement cultures, have to change, officials argue, to prevent future attacks and to prosecute terrorists in ways befitting their acts.

"The mass murder of Americans by terrorists, or the planning thereof, is not just another item on the criminal docket," Vice President Dick Cheney told a cheering audience of conservative lawyers on Thursday. "This is a war against terrorism. Where military justice is called for, military justice will be dispensed."

Civil liberties advocates argue that the administration's proposals are far too sweeping. And even some members of Congress who are deeply sympathetic to the administration's ends are beginning to rebel at its means. "I don't know when, in the last 20 years, I've heard so many members of both parties come up and say, what the heck is going on?" said Senator Patrick J. Leahy, the Vermont Democrat who is chairman of the Senate Judiciary Committee.

Attorney General John Ashcroft has been asked to appear at Senate Judiciary Committee hearings on these matters after the Thanksgiving recess. Page B7.

But administration officials are determined not to let their hands be tied by the traditions of normal legal procedure or the rules of criminal law. In fact, frustrations over the legal complications of pursuing accused terrorists in the courtroom formed the basis for President Bush's order allowing the use of military tribunals, officials and outside analysts say.

Among the advocates of this approach was William P. Barr, who served as attorney general during the previous Bush administration. He said he became convinced of the benefits of military tribunals when he was confronting the 1988 bombing of Pan American Flight 103 over Lockerbie, Scotland, in which 270 people died. But the two men

accused, both Libyans, were ultimately tried under Scottish law, and the outcome -- only one of the men was convicted -- was frustrating to many in law enforcement.

"I've talked to a number of prosecutors who personally feel that it's very, very hard to do these cases with our system, because of different evidentiary constraints and because of the degree of disclosure you have to make of sensitive information," Mr. Barr said in an interview. "What I don't understand about the civil libertarians is, if our boys did something wrong in this conflict, they'd be tried in a military court. An Al Qaeda terrorist shouldn't have any claim to different procedures."

Prevention has been another guiding principle for the administration, officials say. For example, Mr. Ashcroft, in an interview on Friday, defended his order to monitor some conversations between selected inmates and their lawyers on those grounds. Noting that it would apply to only a tiny number of people, he said, "Let's be clear about what it is: designed to keep people from continuing to perpetrate crimes through their lawyers' sometimes unwitting cooperation, by using the lawyer as a conduit for information and instructions or a means of signaling to individuals outside."

Similarly, administration officials said the interviews ordered this week with about 5,000 recent immigrants, mostly from Middle Eastern countries, were intended to develop information that could be helpful in thwarting future attacks. "I think it's just a combination of wanting to cross every 't' and dot every 'i' in the effort to prevent an attack, and everyone believes there is a lack of intelligence information and human asset information," said a senior official in a United States attorney's office in the West. "This might not be the best way to change that, but if you interview 5,000 people and get 50 informants, that would be great. It would be 50 more than we have now."

White House officials ritually deny that public opinion plays any role in their decisions. But they clearly believe the public is so angry and so alarmed by the terrorist attacks that they will grant substantial leeway to the executive branch.

"The public wants to be tough on criminals generally, and feels more should be done to protect the rights of victims, and this would be more so with foreigners and even more so for foreigners suspected of terrorism," said Andrew Kohut, director of the Pew Research Center. Still, he said, "If we get to the point where there are real questions about fairness, the public has the ability to draw lines."

In Congress, the concern, particularly over the lack of consultation in these executive orders, is bipartisan.

Senator Arlen Specter, Republican of Pennsylvania, said, "Our government functions at its strongest when there's agreement between the legislative and executive branches, and this Congress has gone far far out of its way to back up this president." Yet, Mr. Specter said, he knew nothing about the military tribunal order until news accounts appeared.

And Representative Bob Barr, the conservative Georgia Republican on the House Judiciary Committee, said on Friday, "These changes are so vast and fundamental, the House must hold hearings in the very near future, before we adjourn for the year." Such changes, without Congressional scrutiny, "will likely set precedents that will come back to haunt us terribly," he said.

The Historical Precedents

Precedents were set long ago, making Mr. Bush only the latest of many presidents to restrict civil liberties in wartime. During almost every major conflict dating back to the Civil War, presidents including Abraham Lincoln, Woodrow Wilson and Franklin D. Roosevelt have placed national security above aspects of personal liberty or constitutional rights, almost always with the support of both the public and the courts.

There were no significant public objections, for example, when Roosevelt approved the detention of thousands of American citizens from Japanese families during World War II. When Lincoln subjected Confederate sympathizers in the North to military justice during the Civil War, he was widely cheered by Northern supporters.

"It is generally the case that in times of fear, people place security above all, and they are quite willing to cede to the government extraordinary authority," said David Cole, a law professor at Georgetown University who often represents foreigners detained by the government. "We love security more than we love liberty."

Lincoln encountered little resistance when he suspended the right of habeas corpus in 1861, depriving prisoners of the right to an explanation for their incarceration. He even won support from New York newspaper publishers that year when his aides banned the distribution of pro-Southern papers.

"Remarkably, other New York papers did not rally round the sheets that were being suppressed," wrote Chief Justice William H. Rehnquist in "All the Laws but One," his 1998 study of civil liberties in wartime. "Instead of crying out about an abridgement of First Amendment rights -- as they would surely do today -- their rivals simply gloated."

The incident that was uppermost on the minds of Bush administration officials in setting up tribunals took place in June 1942, when Nazi Germany dispatched eight saboteurs to this country to blow up war industries, four landing by submarine at Amagansett Beach, on Long Island, and four at Ponte Vedra Beach, in Florida. After the men were caught, President Roosevelt ordered them tried by a military tribunal for war crimes, with no access to civilian courts and juries.

Lawyers for the men persuaded the United States Supreme Court to hear their case, noting that one of the Germans was the son of naturalized American citizens. But a unanimous court ruled that both citizens and noncitizens lose the protections of the American legal system when they become enemy agents in wartime. Six of the men were executed by military courts; two were given prison sentences after cooperating with authorities, and later paroled.

In World War I, thousands of Communists, anarchists and pacifists were jailed for their beliefs under the Espionage and Sedition Acts championed by Woodrow Wilson. In the period's best-known case, Charles T. Schenck, a Socialist Party leader, was convicted of writing and distributing leaflets urging young men to resist the military draft. The case produced Justice Oliver Wendell Holmes's famous 1919 ruling that sometimes speech poses a "clear and present danger" of causing an evil that Congress has the right to prevent.

Constitutional scholars say that the Supreme Court's unanimous ruling against Mr. Schenck fit the pattern of judicial support for the restriction of civil liberties during wartime.

"Sometimes we try to delude ourselves into thinking that the courts will protect us from our worst inclinations," said Michael J. Klarman, a professor of law at the University of Virginia, who has written extensively on the history of civil liberties. But in fact, he said, "the justices are part of the same culture that is willing, in times of war, to trade civil liberties for security."

This tendency has been evident even as civil liberties expanded from the most fundamental issues of the 19th century to a broader conception of personal rights in the 20th. Perhaps the best-known, and most far-reaching, example of increasing restrictions on liberty was Roosevelt's internment of 120,000 Japanese-Americans during World War II. In 1944, two years after the internment program began, the Supreme Court ruled 6 to 3 that there was no reason to second-guess the military authorities on the matter.

"There was evidence of disloyalty on the part of some, the military authorities considered that the need for action was great, and time was short," Justice Hugo Black wrote for the majority. "We cannot -- by availing ourselves of the calm perspective of hindsight -- now say that at that time these actions were unjustified."

The New Attitude in Europe

"We can live in a world with airy-fairy civil liberties and believe the best in everybody -- and they then destroy us," a government official said last week. But the speaker was not an American. David Blunkett, the British home secretary, was succinctly reflecting the new attitude toward civil liberties that is also sweeping Europe.

Waves of arrests across Britain, Belgium, France, the Netherlands and Spain in the last two months have netted terrorist suspects and far more people, mostly Muslims, whose activities merely seemed suspicious. "People who are on the margins of suspicion have been subject to greater attention," said Michael Emerson, senior research fellow at the Center for European Policy Studies in Belgium.

Britain, criticized by its European neighbors for being a soft touch on asylum seekers and dissidents wanted for terror offenses abroad, rushed ahead with emergency legislation allowing for their detention without trial for renewable six-month periods. The bill also empowered officials to jail uncooperative witnesses in terror investigations and to search and take into custody airline passengers who aroused suspicion.

In Paris, marines and police officers patrolling the subway were given the right to intercept travelers and search their baggage without offering a reason.

In Germany, where citizens' experiences with Nazism and Communism have left them particularly sensitive to state intrusion into private lives, the government has reintroduced the practice of computer profiling -- the search of both public and private records for patterns to help find suspects -- which was last seen when the country was fighting its home-grown Red Army Faction terrorists in the 1970's.

Interior Minister Otto Schily, who as a lawyer once represented some of those terrorists, also proposed loosening regulations on phone taps and the monitoring of e-mail and bank accounts -- in effect, giving investigators the right to pry without any stated suspicion.

The European Council in Brussels moved to create a pan-European arrest warrant and a common definition of "terrorist crime" with a penalty of up to 20 years in jail. Europol, the continental equivalent of Interpol, dropped its restrictions on sharing "personal information" with the United States and made the waiver retroactive to Sept. 11.

Crossborder cooperation on legal and judicial affairs, an elusive objective of the 15-nation Eurozone, instantly fell into place. Sluggish state procedures were jump-started. And through it all, criticism from organizations and individuals usually vocal on the subject of civil liberties was muted. "Fighting terrorism is, of course, necessary," said Gwyn Prins, a specialist on global security issues for the London School of Economics' European Institute, "but a very fine balance must be brought in to protect civil liberties."

The View From the Street

If the streets of Chattanooga are any reflection, Americans are deeply conflicted about the balance between security and civil liberties in a post-Sept. 11 world.

There are those like Jesse N. McAdoo, a 58-year-old black man who despite his own experiences with racial profiling says he believes it is utterly appropriate to question Middle Easterners. He watched the second plane hit the World Trade Center on television. "With a crime of this magnitude you have to change your whole outlook," he said.

So as for the detainees, lock them up. Secretive military tribunals for suspected terrorists? Bring them on. More surveillance and electronic eavesdropping? No problem. National identification cards? He wears an ID card already, from his employer, the Tennessee Valley Authority.

"Given what happened on the 11th, I don't think there's anything they could do that would actually be too much," Mr. McAdoo said. The simple fact, he said, is that all 19 hijackers were Middle Eastern and they probably had Middle Eastern accomplices who remain at large.

"You've got to start someplace until they find out who did it," he said of the government's decision to find and question thousands of men, mostly from the Middle East. "It might be wrong, but they've got to do it."

Just down Broad Street sat Lisa Wright, an unemployed archaeologist (no, that is not redundant, she said), who was sipping coffee and reading the newspaper outside Greenfriar's Coffee and Tea Company.

What Mr. McAdoo sees as a bulwark against terrorism, Ms. Wright sees as a slippery slope. At the moment, she said, the government has too much power to label people as suspects without exposing its evidence. And while the government is presumably well intentioned, she said, the history of constitutional abuses, from Jim Crow to McCarthyism, is littered with similar avowals.

"You've got individuals that still have their own agendas, and that makes me nervous," said Ms. Wright, 45. "Every time something happens, they take a little freedom and then grab a little more and a little more. We've let it happen to ourselves, and once you give up a freedom you don't get it back."

Many of those interviewed spoke of the complexity of the dilemma. Several said the country's commitment to civil liberties had allowed the terrorists to enter the country and move about with ease. Something, they said, clearly had to change, and few were confident that toughened enforcement of existing laws would be enough.

And yet many also said the terrorists' goal was not simply the destruction of buildings and the murder of thousands. Their attack, some said, was also a fundamental assault on American values, and to respond by constricting constitutional rights would be equivalent to declaring defeat.

"We shouldn't bend the Constitution and the rights of our citizens just to make things easier for law enforcement," said Shane C. Petersen, 30, who was visiting from Durham, N.C. "By doing so they're aiding the terrorists in achieving their ultimate objective."

Those interviewed became more sensitive to possible infringements of civil liberties as the prospect moved closer to home.

Few, for instance, expressed much concern about Mr. Bush's plan to use military tribunals. And only a few voiced opposition to the plan to interview thousands of men.

But the mood often changed when those interviewed were asked about proposals to issue national identification cards and to give the authorities greater power to use electronic surveillance.

Jeffrey L. Rayburn, a 41-year-old engineer from Chattanooga, equated the crimes committed by the terrorists to those committed by the Nazis and said that they warranted the use of military tribunals. "There are situations when I do think you need to presume guilt over innocence," he said.

He also said he had no real objection to heightened surveillance. "We've gotten away from the down and dirty and we probably didn't have the intelligence we need to stop this from happening," he said.

But when asked whether the government should have the power to monitor e-mail communications and financial records, Mr. Rayburn drew a line. "If government accessed information on people's private lives and made it available, I'd have a problem," he said.

For many, the issue comes down to trust. Can this government, can any government, be trusted not to abuse powers that have been expanded to respond to a specific and unprecedented threat? Again, the answer shifted a bit as the implications became more personal.

"I can understand where Bush is coming from, given what happened," said Tony L. Price, 53, a warehouse driver. "But I think somewhere down the line that will be taken advantage of and they'll get into people's business."

"If the government can set rules and stick by them, that's one thing," Mr. Price said. "But the government being the government, it will cross the line."

The 'Fear Effect' and Muslims

On Friday, on a a sidewalk in Brooklyn Heights, men and boys spilled out of the Dawood Mosque, eased off their shoes and kneeled for noon prayers on the first day of Ramadan. The 56-year-old mosque, the city's oldest, attracts shop and restaurant owners wearing knit caps as well as professionals in suits.

The imam, Abdalla Allam, said that in the days immediately after Sept. 11 he was touched when non-Muslim neighbors brought flowers to offer support. But since then, many Muslims here say they have felt like targets in a larger society where "Arab" and "Muslim" are often equated with "terrorist."

As the country tries to find a new balance between civil liberties and security, these people increasingly say that, for them, things may be tipping the wrong way.

Immediately following the attack, "the fear effect was rampant," said Ahmed Jaber, a doctor who is chairman of the board of the mosque's parent institute, the Islamic Mission of America. Dr. Jaber said that a lot of women who cover themselves with traditional head scarves faced harassment or abuse.

Lately, though, some of the fear has turned into indignation.

"We are being targeted as Arabs," said Khaled Husein, a Palestinian civil engineer who has been here for 20 years. "Sentiment right now is there is some kind of discrimination. We've seen it. Maybe it doesn't resemble the Japanese after Pearl Harbor, but it's similar."

"Twenty years of building bridges to fully integrate into the system, and we feel like it's slipping," Mr. Husein added. "My gut feeling is this is going to create a backlash."

"You have to understand our background," said Dr. Jaber, noting that many Middle Easterners come from countries where officials have the power to imprison people with no pretext. Even after 27 years here, Dr. Jaber said, he still instinctively veers away from policemen. As for recent arrivals, he said: "If somebody knocks from the F.B.I. or the N.Y.P.D., they are scared to death. These are immigrant people who don't understand their rights."

Some had experienced what they considered racial profiling even before the attacks. Muhammed Morsy, 30, a hotel worker from Egypt who arrived here in February, said he was unable to find a job until he stopped using his first name. He got hired, he said, "when I changed it to my father's name, Salah," which is "not so common" an Arab name.

Dr. Jaber called such profiling "subtle" compared with what has been happening since the attack. "If they're going to tap your phone, watch your e-mail, knock on your door, question you without legal representation, that reminds me of going back to the Middle East again, because that's how the Middle Eastern governments operate," he said.

Mr. Husein said some local Muslims had already opted to return to their countries in the wake of the attack. Neither he nor the mosque elders were aware of anyone being contacted for questioning since the Justice Department announced its plan, nor had they heard complaints from those who might fit the interviewee profile.

Some people said they had no problem with the interviews. "If it's for the purpose of obtaining information, my door's open," said Alan Abdelhack, 24, a Palestinian-American psychology student who was born in Brooklyn.

But Dr. Jaber and others said that for some people the situation presented a dilemma.

"Many young people aren't expressing fear, because if they say 'I'm for it,' that's a problem, and if they say 'I'm against it,' that's a problem," Dr. Jaber said. "If I am against it, it makes me look suspicious. If I am for it, that's bad because I'm bringing the investigation unnecessarily into the community. Either way, it is encroaching on my civil liberties."

In recent days, he said, things seemed to be getting worse. "Officials come and say there's a distinction between terrorists and Islam," he said. "Publicly they say we are friends. But secretly they say, 'No, go behind them, tape them and spy on them.' "

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Graphic

Photos: MUSLIM PRAYERS -- An overflow crowd prayed on Friday at the Dawood Mosque in Brooklyn Heights. Some Muslims said they feel like targets in a larger society where "Muslim" is often equated with "terrorist." (Steve Hart for The New York Times)(pg. A1); Jesse N. McAdoo: Showing identification as Tennessee Valley Authority employee -- "With a crime of this magnitude you have to change your whole outlook."; Lisa Wright: Unemployed archaeologist -- "You've got individuals that still have their own agendas, and that makes me nervous."; Jeffrey L. Rayburn: Engineer from Chattanooga -- "There are situations when I do think you need to presume guilt over innocence." (Photographs by Erik S. Lesser for The New York Times); Japanese-Americans on their way to an internment camp in Arizona in 1942. President Franklin D. Roosevelt approved the internment of thousands during World War II. (Associated Press)(pg. B6)

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A NATION CHALLENGED: THE PRESIDENTIAL ORDER; Senior Administration Officials Defend Military Tribunals for Terrorist Suspects

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Byline: By ELISABETH BUMILLER and STEVEN LEE MYERS

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Body

Top administration officials today defended a presidential order allowing military tribunals to try foreigners charged with terrorism as the Pentagon prepared for the potential transfer of immigrants detained by the Justice Department into military custody.

A senior administration official said that it was possible that immigrants held in the United States by the Justice Department in connection with the Sept. 11 attacks would be tried by military tribunal. Those trials could take place outside the United States or even on ships, the official said.

The order, signed by President Bush on Tuesday, gives the government sweeping powers to secretly and aggressively prosecute suspected foreign terrorists both here and abroad.

Justice Department officials have repeatedly refused to disclose the identities of those immigrants held or the charges against them. Justice officials said late last month that the total number of people detained -- including many who have since been released -- had surpassed 1,000, but this month officials said that they would no longer release a running tally.

"I had no idea they were going to try to use it for domestically detained people," said Kevin Ernst, a Detroit lawyer representing Farouk Ali-Hamoud, who was arrested for fraudulent immigration documents and held for 25 days in the Wayne County Jail before his case was dismissed last month. "It scares the hell out of me, I'll tell you that."

Vice President Dick Cheney defended Mr. Bush's order today, saying that terrorists were not lawful combatants and did not deserve the safeguards of traditional American jurisprudence.

"The basic proposition here is that somebody who comes into the United States of America illegally, who conducts a terrorist operation killing thousands of innocent Americans -- men, women and children -- is not a lawful combatant," Mr. Cheney said.

"They don't deserve to be treated as a prisoner of war," he added. "They don't deserve the same guarantees and safeguards that would be used for an American citizen going through the normal judicial process."

While the vice president assured his audience that the terrorist suspects would have "a fair trial," he suggested that they did not deserve one with the same protections afforded American citizens. A military tribunal, he said, "guarantees that we'll have the kind of treatment of these individuals that we believe they deserve."

He spoke favorably of World War II saboteurs being "executed in relatively rapid order" under military tribunals set up by President Franklin D. Roosevelt. And he cited an earlier precedent, noting, "This is the way we dealt with the people who assassinated Abraham Lincoln and tried to assassinate part of the Cabinet back in 1865." Mr. Cheney, who was responding to a question after a speech at the United States Chamber of Commerce, was the most senior White House official to explain the rationale behind the president's order. Mr. Bush, who was at his ranch in Crawford, Tex., with President Vladimir Putin of Russia, has not spoken publicly about it.

The order continued to prompt an outcry from civil libertarians, who noted that military tribunals have not been used in this country since World War II. Laura W. Murphy, the director of the American Civil Liberties Union's National Office, said that the organization was "deeply disturbed" by the order and called on Congress to exercise oversight powers before the "Bill of Rights in America is distorted beyond recognition."

Bush administration officials said today that they first considered the idea of military tribunals about a week after the Sept. 11 attacks. Officials said that a debate then ensued between the Pentagon and Justice Department over who should determine who is a suspected terrorist and therefore subject to trial by tribunal.

Finally, officials said, it was Mr. Bush who insisted that he, not Secretary of Defense Donald H. Rumsfeld or Attorney General John Ashcroft, be given that power.

Administration officials said that the Pentagon and Justice Department were preparing today for the possibility of moving some detainees to military custody, examining such details as where the detainees might be held and how many judges would sit on any tribunal.

"They are researching, preparing and looking at the administrative procedures that would have to be followed to take into custody a suspected terrorist held by justice," an administration official said.

The idea of military tribunals came to the attention of the White House via William P. Barr, a former attorney general in the first Bush administration, who first conceived of them as a way to try the two men charged with blowing up a Pan Am jetliner over Lockerbie, Scotland, in 1988.

In the preparations for that trial, Mr. Barr was the chief of the Justice Department's office of legal counsel. In an odd twist, that office also happened to occupy the same suite where the World War II saboteurs were secretly tried under Roosevelt -- memorialized today by a plaque on the wall.

"It's part of the lore of that office," Mr. Barr said.

Scotland, which does not have the death penalty, was not interested in joining with the United States in military tribunals, Mr. Barr said, so the idea was dropped. But shortly after the Sept. 11 attacks, Mr. Barr contacted senior officials at both the White House and the Justice Department, suggesting they might take a look at the old files.

"All I did was remind them about it," Mr. Barr said. "The idea sells itself."

This time people were very interested, particularly as they faced the prospect of what to do should Osama bin Laden or his associates in Al Qaeda be captured. Administration officials have said they did not want a long, public American trial of Mr. bin Laden that could turn him into a martyr or cause further terrorism in his name.

In the weeks after Sept. 11, officials at the Pentagon and Justice and State Departments worked on a draft of the president's order. Late last week, officials said, the draft began circulating. On Tuesday, the president signed it.

Experts in military law say the tribunals would severely limit the rights of a defendant even beyond those in military trials, and said that the tribunals did not provide for proof of guilt beyond a reasonable doubt.

But White House officials said the tribunals were necessary to protect potential American jurors from the danger of passing judgment on terrorists. They also said the tribunals would prevent the disclosure of government intelligence methods, which normally would be public in civilian courts.

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Graphic

Photo: Vice President Dick Cheney today defended the order allowing military tribunals, assuring that terrorist suspects would receive fair trials. (Associated Press)

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November 4, 2001

A Deliberate Strategy of Disruption; Massive, Secretive Detention Effort Aimed Mainly at Preventing More Terror

Amy Goldstein

This article was reported by Washington Post staff writers Amy Goldstein, Marcia Slacum Greene, George Lardner Jr., Hanna Rosin, Lena H. Sun and Cheryl W. Thompson, and was written by Goldstein. Exactly 23 minutes before suspected terrorist plot leader Mohamed Atta acquired a Florida driver's license, a 28-year-old Pakistani gas station attendant got his license renewed at the same motor vehicles' branch. For that reason, Mohammad Mubeen was standing in a tiny courtroom wearing an orange jumpsuit last Monday afternoon, one of more than 1,100 people ensnared in a nationwide hunt for terrorists. In urgent, rapid-fire Urdu, Mubeen pleaded to be released.

True, he had entered the United States illegally, he told the judge through a translator. But he said he simply did not know any of the hijackers. Still, the government attorney in the Miami courtroom easily persuaded the judge to hold Mubeen without bond. The lawyer presented a striking legal document that offers insight into both the strategy behind the detentions and a novel legal argument to keep people in custody on the most slender suspicion. Signed by a top international terrorism official at FBI headquarters in Washington, the seven-page document, which has not been previously disclosed, is being used repeatedly by prosecutors in detention hearings across the country. The FBI affidavit explains that "the business of counterterrorism intelligence gathering in the United States is akin to the construction of a mosaic. "At this stage of the investigation, the FBI is gathering and processing thousands of bits and pieces of information that may seem innocuous at first glance. We must analyze all that information, however, to see if it can be fit into a picture that will reveal how the unseen whole operates. . . . What may seem trivial to some may appear of great moment to those within the FBI or the intelligence community who have a broader context." The document's language offers the clearest window so far into a campaign of detentions on a scale not seen since World War II. As investigators race to comprehend the ongoing terrorist threat, the government has adopted a deliberate strategy of disruption -- locking up large numbers of Middle Eastern men, using whatever legal tools they can. The operation is being conducted under great secrecy, with defense attorneys at times forbidden to remove documents from court and a federal gag order preventing officials from discussing the detainees. Law enforcement officials have refused to identify lawyers representing people who have been detained or to describe the most basic features of the operation. The officials say they are prohibited from disclosing more information because of privacy laws, judges' orders and the secrecy rules surrounding the grand jury investigation of the Sept. 11 attacks. The result has been confusion over exactly who is being counted in the government's official tally of 1,147 detainees and who is still being held. When asked directly how many people have been released, Justice Department officials say they are not keeping track. Of the 1,147, Justice officials have specifically singled out only 185 detainees who are being held on immigration charges. An INS official described them as "active cases" believed to have "relevance to the investigation." To try to illuminate this hidden campaign, The Washington Post identified 235 detainees and examined the circumstances of their cases. The analysis of these cases -- located through court records, news

accounts, lawyers, relatives and friends -- shows that three-fifths of the detainees found by The Post are, like Mubeen, being held on immigration charges. Seventy-five have been released. A small, as-yet-unknown number are being held on "material witness" warrants, an indication that investigators believe they have information vital to the probe. Another small number -- perhaps 10 -- are believed to lie at the center of the investigation, with ties to the al Qaeda network or some knowledge of the hijackers. But sources say none of those men is cooperating. The 235 identifiable cases reveal the essential nature of the current effort: It appears to be less an investigative search for accomplices to the Sept. 11 attacks than a large-scale preventive operation aimed at disrupting future terrorism. That is evident, in part, from the fact that none of the detainees has been charged in the plot or with other acts of terrorism. In addition, the pace of detentions has accelerated visibly as government officials have received information about new threats and issued public warnings -- spiking sharply, for example, after rumors of planned attacks Sept. 22. The government's strategy and methods have elicited protests from defense attorneys and civil libertarians. They say the campaign is a massive act of racial profiling similar to the internment of 110,000 Japanese Americans at the start of World War II. Senior Justice officials deflect such criticism. Except for the material witnesses, they say, all of the detainees have violated some kind of law. What is different after Sept. 11 is that many people are being held -- in what is essentially preventive detention -- who would otherwise be released on bond. Assistant Attorney General Michael Chertoff said: "If there is a violation that you find, we are going to move ahead on the case." The Post's analysis of the identified 235 detainees shows with greater precision who is being picked up. The largest groups come from Saudi Arabia, Egypt and Pakistan. Virtually all are men in their twenties and thirties. The greatest concentrations were arrested in several states with large Islamic populations and what law enforcement officials have identified as al Qaeda sympathizers: Texas, New Jersey, California, New York, Michigan and Florida. The preventive nature of the campaign is evident from the character of arrests. Immediately after Attorney General John D. Ashcroft spoke publicly in late September of fears of chemical attacks by terrorists using trucks, law enforcement officers picked up 21 Iraqi refugees in a fraudulent truck license scheme; officials later said they appeared unconnected to the attacks. In a speech late last month to the U.S. Conference of Mayors, Ashcroft compared the government's current actions to Attorney General Robert F. Kennedy's campaign against organized crime in the early 1960s. "Robert Kennedy's Justice Department, it is said, would arrest mobsters spitting on the sidewalk if it would help in the battle against organized crime," Ashcroft told the mayors in his most revealing public remarks to date about the detentions. "It has been and will be the policy of the Department of Justice to use the same aggressive arrest and detention tactics in the war on terror. "Let the terrorists among us be warned: If you overstay your visa -- even one day -- we will arrest you." Three Concentric Circles From the analysis of the 235 detainees, an image of the investigation emerges that can be seen as a set of three concentric circles. Nine men appear to be at the hot center of the investigation, including the well-publicized names who have generated the most attention from law enforcement. The next layer consists of 17 men and one woman with more fragile connections -- either to hijackers or to figures in the hot center. They include former roommates, people found with false identification and people who helped the hijackers get false IDs. By far the largest group of detainees consists of an outer ring of people whose interest to investigators is largely unknown. Some in this outer ring were apprehended because they were in the same places or engaged in the same activities as the hijackers: learning to fly airplanes, traveling or -- as in Mubeen's case -- getting a driver's license. Others appear to have been detained more randomly, because they come from a set of Middle Eastern countries and had immigration violations. The operation has generated some false leads, especially in the early days, when investigators, looking for Middle Eastern men who fit the profile of the hijackers, erroneously focused on a group of Saudi men who were pilots or in flight schools. Chertoff, the assistant attorney general, said the investigation began by focusing on the hijackers and their credit-card and phone records and expanded outward. "Where we had information, we'd go out and interview," he said in an interview. "We went in as many different directions as we could." Government Uses Every Tool Possible The government's determination to employ every legal tool at its disposal -- to hold detainees as long as possible -- can be seen in cases across the country. The tiny southwest Miami courtroom where Mubeen was denied bond is far from the only place where the FBI affidavit -- bearing the signature of Michael E. Rolince, chief of the FBI counterterrorism division's international terrorism section -- has been used to keep someone locked up. It was also presented during an immigration hearing in St. Louis, flabbergasting the lawyer who represents Osama Elfar. Elfar, 30, was arrested by FBI agents at 7 a.m. Sept. 24, at the end of a night shift at his job as an aviation mechanic for Trans States Airlines. He was charged with staying in the United States longer than his visa allowed. The real reason for his arrest, he believes, is that

he is Egyptian, Muslim and employed at an airport -- with a memorable first name. He told the FBI agents he had no sympathy for Osama bin Laden. He volunteered to let them look around his apartment, take his phone bills and search his computer. They found nothing, said he and his attorney, J. Justin Meehan. On Oct. 5, Elfar took a polygraph test and passed, Meehan said, "with flying colors." Nevertheless, two weeks later, a government lawyer blocked his bond with the affidavit that says the FBI "has been unable to rule out the possibility that [Elfar] is somehow linked to, or possesses knowledge of, the terrorist attacks on the World Trade Center and the Pentagon." Elfar still is being held in the Mississippi County jail in southeast Missouri. "This is what I do not understand," Elfar said in a telephone interview from the jail, three hours from St. Louis. "When I took the test, the agent promised that if I was clear, I would not be under arrest anymore." Legal experts said the affidavit's argument to hold people while the FBI builds its mosaic is actually a new twist on an old metaphor. The CIA often relied on the mosaic argument to withhold information, on the grounds that enemies of the United States could gather fragments of intelligence and piece together government secrets. The FBI's use of that argument to keep people in custody is "very foreign to the way things have been done," said Mark H. Lynch, a Washington lawyer familiar with the legal cases. "If they are holding people in order to rule out the possibility that they're involved, that just turns the system on its head." On the other hand, William Barr, attorney general for the first President George Bush, said the affidavit is an effort to explain "selective enforcement" of the law and to "say to the judge, 'This is why we are landing like a ton of bricks on this case.' . . . Presidents going back to Lincoln have realized they have to have a willingness to meet an extraordinary threat, which this is." The affidavit is only one of the techniques that law enforcement officials are using to prevent the detainees from being freed. On Sept. 18, Ashcroft ordered the INS to revise its rule for holding detainees before they are charged, lengthening that period from a maximum of one day to 48 hours or an unspecified "reasonable time" in a national emergency. Under another INS regulation that took effect at the beginning of last week, the INS can now automatically detain certain people granted bond on immigration violations for 10 days to give the agency time to appeal, an INS spokeswoman said. Accounts from several detainees and their lawyers illustrate the government's new hard line. Months before the attacks, the government had been trying to deport Palestinian activist Ghassan Dahduli, who was free on bond while he fought to stay in the country. Now, those same officials are trying to keep him from leaving. After the hijackings, INS officials revoked Dahduli's bond and arrested him Sept. 22 at his home in Richardson, Tex., where he lived with his wife and five children. A few days later, news accounts said that the name of Dahduli, 41, who has lived in the United States for 23 years, turned up in the address book of Wadih el Hage, a former personal secretary to bin Laden who has been convicted in the 1998 bombings of two U.S. embassies in Africa. Dahduli's lawyer, Karen Pennington, said he agreed on Oct. 3 to be deported, but law enforcement officials are unwilling to let him go. Other detainees are being held on criminal charges that reflect the extraordinary scrutiny now directed at Middle Eastern immigrants. Fathi Mustafa, 65, a Palestinian who has become a naturalized U.S. citizen, and his son, Nacer Fathi Mustafa, 29, a U.S. citizen, have been accused of possessing altered passports. They were detained in Houston four days after the hijacking attacks on their way home to Florida from a trip to Mexico to buy leather goods. At the Houston airport where they were to catch a connecting flight, the father and son were pulled out of line by immigration officials who said their passports contained an extra layer of laminate, said their lawyer Dan B. Gerson. Federal officials have said that such additional clear sheets can be used to fraudulently insert someone's picture on top of the original photograph -- a method sometimes adopted by terrorists trying to conceal their identities. Gerson said that his clients did not know why their passports had the extra layer and that they had entered the United States with them before and never been stopped. The elder Mustafa was released and allowed to return to Florida with a leg monitor to track his movements. His son, who has an arrest record, has been denied bail. Such strict application of new and customary legal tools has enraged defense attorneys and groups that advocate civil liberties and immigration. Randall Hamud, a San Diego lawyer representing several detainees, said, "These are nickel-and-dime matters that have nothing to do with planes crashing into buildings." Those critics have seized on the death of a detainee in New Jersey -- apparently of a heart attack -- and the beating of at least one young man by fellow inmates at a Missouri jail. Last week, a coalition of legal and immigration organizations filed a Freedom of Information Act request with the FBI and the Justice Department, demanding information on the detainees. Law enforcement officials say that every detainee is being granted due process. Justice Department spokeswoman Mindy Tucker said, "Aside from one complaint about one inmate's treatment at a federal prison, the Department has not received any complaints." Federal officials also say that their aggressive stance matches the prevailing public mood. "The American people expect us to be absolutely certain,"

INS spokesman Russ Bergeron said, before letting people go. Ambiguous Connections to Hijackers The men who form the hot center of the investigation are striking, in part, because they offer a new way of understanding that the Sept. 11 attacks were carried out by the 19 hijackers with little outside help. Even at this focal point of the probe, none of the detainees has been accused of an act of terrorism. The only living people charged in the hijacking plot are three men -- two from Morocco and one from Yemen -- who lived in Hamburg, Germany, and now are international fugitives. Of the 235 detainees who could be identified in the United States, only 10 are known to have any kind of link to the hijackers. Most of those known links are intriguing but ambiguous. They include a telephone call placed to a former roommate of Atta's in Germany by Zacarias Moussaoui, a French Moroccan who was arrested at a Minnesota flight school Aug. 17 and is being held in New York on an immigration violation. The connections also include two phone numbers left in a rental car at Dulles International Airport by the hijackers who crashed American Airlines Flight 77 into the Pentagon. They belonged to Osama Awadallah, 21, a Jordanian student who allegedly met some of the hijackers in San Diego, and Mohammed Abdi, 44, a naturalized U.S. citizen from Somalia who lives in Alexandria. Several of the men at the hot center are suspected of deeper involvement. Among them are Nabil Almarabh, a Kuwaiti who used to drive a Boston cab and has links to both the hijackers and al Qaeda, and Ayub Ali Khan and Mohammed Jaweed Azmath, both from India, who were apprehended with box-cutter knives the day after the hijackings on a train to Fort Worth. Also in this group is Youssef Hmimssa, of Morocco, who lived in a Detroit apartment where police found false ID cards and documents suggesting a planned attack in Turkey on the U.S. secretary of defense. In the next layer are two students who also allegedly knew some of the hijackers in San Diego: Mohdar Abdallah and Omer Bakarbashat, both of Yemen. Another young Yemeni man in Southern California, Ramez Noaman, a student at California Polytechnic University at Pomona, was held as a material witness in Manhattan for a dozen days before his release and testified before the New York grand jury. In a brief telephone interview, he confirmed that he rented a room in a two-story San Diego house where two hijackers had lived before him. In an even more ephemeral connection, Hady Omar Jr., an Egyptian antiques dealer in Fort Smith, Ark., made a plane reservation from the same computer at a Kinko's store in South Florida as one of the hijackers. Omar, 22, is being detained on immigration charges. His wife said the overlapping use of the computer was sheer coincidence. Others in the second layer have been linked to men at the investigation's hot center, rather than to hijackers. One of those is Mohammad Aslam Pervez, a Pakistani who shared an apartment with the two men arrested with box-cutter knives on the train to Texas. Several in this second layer appear to be under mounting pressure from investigators. Although the hot center group has not expanded in recent weeks, criminal charges such as perjury have been brought against detainees in the next ring. Mujahid Abdulqaadir, 51, had been interviewed repeatedly by the FBI about his acquaintance with Moussaoui. Just two weeks ago, he was arrested as a material witness and brought to New York. On Friday, he was returned to Oklahoma, where he faces charges related to guns that FBI agents found while searching his house, his lawyer said. For Some, Shattered Dreams The evening of Oct. 11, hours after Ashcroft warned of "credible threats" of more terrorism, Tarek Abdelhamid Albasti was making spaghetti at the Crazy Tomato, the restaurant he owns in Evansville, Ind., with his uncle and his wife. A former member of the Egyptian national rowing team, Albasti now is a U.S. citizen with a 2-year-old daughter, a father-in-law who is a former U.S. foreign service officer and a mother-in-law who can trace her lineage back to the American Revolution. Still, FBI agents had shown up twice after the attacks, to inquire about his political beliefs and the flying lessons that he had been given as a birthday present. At 8 p.m. that Thursday night, the FBI returned to take him away with his Egyptian uncle and seven other Muslim men from Evansville. The next morning, they were flown in shackles to Chicago on a U.S. Marshal's Service jet. After a week in jail, where they staged a hunger strike while being held as material witnesses, Albasti, his uncle and six others were released. Albasti's detention fits a pattern common to many people in the investigation's outer ring. His family believes he was arrested because his new pilot's license fit the profile of the leaders of the hijacking plot. Even a man who tried to help investigators wound up in custody. Two days after the attacks, Mustafa Abu Jdai and his wife, Dianna, in Tyler, Tex., called the FBI's 800 number. He told investigators he had answered an advertisement for a job posted at a Dallas mosque and met last spring with several Arabic-speaking men who offered to pay him to take flight lessons in Texas, Florida or Oklahoma. Abu Jdai's wife said that the FBI showed her husband photographs and that he recognized one of the men as Marwan Al-Shehhi, who is believed to have piloted one of the planes that hit the World Trade Center. Abu Jdai's wife said the FBI gave him a polygraph test and told him he gave a wrong answer to the last question. He was then charged with a visa violation and remains in a Dallas jail. Even for those who have won

release, the experience has profoundly soured their feelings toward the United States. When he got home from Chicago, Albasti, the Italian restaurant owner in Indiana, ripped up his pilot's license. He left for a visit to his parents in Egypt last week and is unsure whether he will return. Said his wife, Carolyn Baugh: "American dream. Shattered." Washington Post staff writers Bob Woodward and Jim McGee and Research Editor Margot Williams also contributed to this report. Prosecutors across the country have been using a seven-page legal document, signed by a top international terrorism official at FBI headquarters, to keep people detained in the investigation of the Sept. 11 terrorist attacks.Yazeed Al-Salmi, center, is escorted away by friends after his arrival Oct. 11 at San Diego's Lindbergh Field. Al-Salmi was released by the FBI after being held as a material witness in the investigation into the Sept. 11 attacks.

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October 25, 2001

Section: COMMENTARY EDITORIALS

Warner runs from crime record

As Mark Warner heads into the stretch in the Virginia gubernatorial race, he's trying to run as fast as he can from the perception that Democrats are high-tax, soft-on-crime liberals - perceptions that spelled political doom for once-popular party standard-bearers like former Attorney General Mary Sue Terry, former Lt. Gov. Don Beyer and former Gov. and U.S. Sen. Charles Robb. And it would be very understandable if Mr. Warner, who has seen a double-digit lead vanish into a statistical dead heat with GOP nominee Mark Earley in the past seven weeks or so, is more than a little bit worried about vanishing into political oblivion like Mr. Robb, Mrs. Terry and Mr. Beyer before him. Despite his efforts to recast himself as a "moderate" who will be firm with criminals, Mr. Warner has generated a significant and disturbing paper trail since the early 1990s - one that should make Virginians quite wary about his protestations of being "tough" on crime.

There is a world of difference between the Warner and Earley records on crime. Mr. Warner, who was chairman of the state Democratic Party in the early 1990s, repeatedly criticized George Allen's then-revolutionary plan to abolish parole and expand prison space. While crime rates were dropping in the Old Dominion thanks to these anti-crime initiatives, Mr. Warner suggested that the Allen program was "dumb" and fiscally questionable. Mr. Warner "was on the sidelines sniping away, and consistently taking the position that we couldn't afford to do it, and that it was a waste of money, and that the money should be spent on other things," former U.S. Attorney General William Barr noted.

For his part, former Gov. and current Sen. George Allen has made it crystal-clear which candidate can be trusted to continue the Allen-Jim Gilmore crime-fighting agenda into the 21st century. "In the race for governor," Mr. Allen said in a recent speech, "only one candidate stood with us as we were fighting very hard to abolish the lenient, dishonest parole system, and that's Mark Earley." Mr. Earley, the former governor added, "dared to stand up to the criminal apologists." Mr. Earley, who was the state's attorney general, helped implement those policies, while Mr. Warner hissed at them from the sidelines. Mr. Earley also served on the state's parole abolition commission, and helped draft the legislation implementing the Allen plan.

During his losing 1996 campaign for the U.S. Senate, Mr. Warner belatedly moved to take a tougher stance on crime, supporting "three strikes and you're out" laws abolishing parole for felons. The Allen parole bill, by contrast, applied to first-time violent offenders.

"It seems to me that some people may have forgotten history," Mr. Allen says. Here's hoping that, by election day, voters' amnesia will have disappeared.

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---- Index References ----

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Richmond Times Dispatch (VA)

September 28, 2001

Section: Area/State

3 HERE TO AID KILGORE ALSO BACK WIRETAPPING PLAN

Tyler Whitley Times-Dispatch Staff Writer Contact Tyler Whitley at (804) 649-6780 or twhitley@timesdispatch.com

Three former U.S. attorneys general said they endorse Attorney General John Ashcroft's proposal to expand the federal wiretapping laws to aid in the pursuit of terrorists.

The current laws date to 1968 and don't take into account cell phones and the Internet, said Richard Thornburgh, an attorney general in the administrations of Presidents Reagan and Bush, the current president's father.

"These are antique weapons," Thornburgh said yesterday.

Thornburgh, former Reagan administration Attorney General Edwin Meese III and former Bush administration Attorney General William P. Barr were in Richmond last night to help Jerry W. Kilgore raise money in his bid to become Virginia's attorney general. Kilgore, a Republican, is running against Democrat A. Donald McEachin.

"It brings the law up to date while at the same time protecting the civil liberties of the people of the United States through the whole electronic surveillance warrant procedure," Meese said.

Thornburgh noted that wiretapping authority still must be sought through a federal district judge.

"If any of our civil liberties are going to be secure, then law enforcement has to be given the tools to deal with terrorists who use modern technology," Barr said.

Ashcroft wants federal investigators to have the authority to tap all phones used by an individual under investigation. Currently, wiretap authority is limited to a single phone in a single jurisdiction.

Kilgore also supports enhanced surveillance authority, although he cautioned that "the devil is in the details."

Kilgore raised about $20,000 at the event at The Marquee, a former warehouse converted into a nightclub-type meeting place in the near West End.

The three former Republican administration officials stressed the importance of electing an attorney general with public safety experience in these troubled times.

"The first line of defense . . . is at the state level and the attorney general of Virginia is critical in that effort," Barr said, citing the many military and government facilities in Virginia.

Kilgore has been an assistant federal prosecutor and assistant commonwealth's attorney and was secretary of public safety under Gov. George Allen.

He has enlisted the help of Allen, now a U.S. senator, in a recorded message going out to about 300,000 Republican-voting households in the state.

Meese is on the board of visitors at George Mason University and Barr is vice rector of the College of William & Mary.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33))

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CHICAGO TRIBUNE

September 27, 2001

Section: News

Security guard linked to hijacker

Jeff Zeleny and Naftali Bendavid, Washington Bureau.

A Virginia security guard whose name and telephone number were found inside the car of a suspected hijacker emerged Wednesday as a possible link to the Sept. 11 terrorist attacks on New York and the Pentagon.

A federal magistrate ordered Mohamed Abdi, 44, held without bail until prosecutors determine why his name was scribbled on a map found inside a 1988 Toyota registered to one of the men who officials say hijacked American Airlines Flight 77, the plane that crashed into the Pentagon. The car was found in a parking lot at Dulles International Airport, where the flight originated.

At a court hearing in Alexandria, Va., federal prosecutors described Abdi as an essential witness to the terror investigation, but they added: "He may be more." Abdi also is being held on unrelated forgery charges.

Meanwhile, after the FBI said it was investigating potential chemical or biological attacks, authorities arrested nine people in three states on charges of fraudulently obtaining licenses to haul hazardous materials. The arrests in Missouri, Michigan and Washington did not appear to be connected to the terrorist attacks, the Justice Department said.

In Europe, more arrests were made Wednesday in a conspiracy unraveling in France, Belgium, the Netherlands, Spain and Britain to attack U.S. interests in Europe, including an alleged plot to blow up the U.S. Embassy in Paris. Spanish police detained six Algerians who they said belong to a cell that was providing technological and logistical support, including fake identity documents, to 13 suspected militants detained in France, the Netherlands and Belgium since Sept. 11.

In the first 15 days of the global investigation, more than 350 people have been detained in the U.S., but authorities have turned up few people with solid ties to the hijackers.

No evidence presented

That makes the arrest of Abdi especially intriguing, officials said, because he appears to be among the first witnesses who can be tied to at least one of the suspects. During the court hearing, however, prosecutors presented no evidence showing he had knowledge of the deadly plot.

FBI agent Kevin Ashby testified that when Abdi was arrested he was carrying a newspaper article about an Algerian man convicted of conspiring to bomb a Los Angeles airport as part of a millennium terror plot. The FBI also said Abdi "could offer no explanation" for why his name and telephone number were found in the car registered to Nawaq Alhamzi, one of five suspected hijackers on the plane that hit the Pentagon.

On Sept. 12, authorities discovered a car registered to Alhamzi parked in the hourly lot at Dulles airport in the suburbs of Washington. Inside, the FBI found a box-cutter utility knife, four drawings of the cockpit of a 757 airplane, a cashier's check made out to a Phoenix flight school, and maps of Washington and New York.

On a Washington road map, agents found the word "Mohumed" and a telephone number that was traced to Abdi, a 44-year-old U.S. citizen who is a native of Somalia.

Justice Department officials declined to say just how important Abdi might be to the case. A lawyer appointed to represent him said the FBI's evidence linking Abdi to the hijackers was sketchy.

The sweeping methods of the FBI are raising civil liberty concerns as investigators take a dragnet approach in hunting anyone they consider a potential terrorist threat.

None of the 350 individuals being held has been charged with a crime connected to the hijackings. The FBI is providing extremely sparse information about the people being held, citing explanations from grand jury secrecy rules to logistical difficulties in gathering the data.

While the Justice Department insists the detentions are legitimate and crucial, others compare the arrests to dark times in American history, including the internment of Japanese-Americans during World War II.

Ibrahim Hooper, spokesman for the Council on American-Islamic Relations, said the Muslim community is being hit especially hard.

"We are a bit concerned, given the scope of the dragnet, that it is a round-up-the-usual-suspects kind of fishing expedition," Hooper said.

Detentions defended

Those who support the FBI's actions say the detentions are justified in this time of national peril, as long as they are done in accordance with the law. Some of those being held are considered material witnesses in the hijacking investigation; others are facing unrelated immigration or other charges.

"It is obviously a legitimate law-enforcement technique to detain people for offenses other than the one you are investigating," said William Barr, who was attorney general under President Bush's father. "But the broader issue is that none of our civil liberties are secure unless we can defend ourselves against foreign adversaries."

The FBI wants to hold these individuals as long as it takes to determine their connection to the plot, if any. Investigators also are seeking nearly 400 others for questioning, raising the possibility that the number of detentions will climb.

The civil liberties concerns were bolstered by the release this week of Dr. Albadr Alhazmi, a San Antonio radiologist who was freed after what law-enforcement officials called a case of mistaken identity.

Mary Jo White, a U.S. attorney in New York, said in a statement Wednesday that Alhazmi had voluntarily answered all questions asked of him. Despite a nearly weeklong detention in New York, White said without elaborating that, "He was not--and is not--a subject of the investigation."

The physician's last name is similar to that of some of the hijacking suspects--two have the last name Alhamzi--but acquaintances from the outset expressed disbelief the doctor could be involved.

Alhazmi was conciliatory after his release.

"We are very pleased he has been released, and we hope he will be able continue without any bias or prejudice and that our community will welcome him back," said his lawyer, Gerald Goldstein.

In another case, federal authorities have arrested three men in San Diego as material witnesses, according to Randall Hamud, an attorney for two of them. Hamud was limited in what he could say by a court order, but he blasted what he said was a nationwide ethnic profiling of Arabs and Arab-Americans.

Hamud has contended that a "heavy-handed investigation" targeted the men as suspects, and he said they had been imprisoned for days without access to lawyers. He said the men had only limited contact with the suspected hijackers in the area.

Despite their concerns, civil libertarians are unable to cite numerous examples of civil rights violations, though they say that is in part because so little information is available.

FBI Director Robert Mueller has emphatically denied that investigators have targeted anyone because of his religion or ethnicity.

---- Index References ----

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Industry: (Transportation (1TR48); Passenger Transportation (1PA35))

Region: (North Africa (1NO44); North America (1NO39); Western Europe (1WE41); Spain (1SP23); Europe (1EU83); Netherlands (1NE54); Africa (1AF90); New York (1NE72); Algeria (1AL17); Arab States (1AR46); Southern Europe (1SO59); Americas (1AM92); Mediterranean (1ME20); USA (1US73); Iberia (1IB61); Belgium (1BE51); France (1FR23))

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Verizon's Own Clark Kent? General Counsel Bill Barr; Verizon's Own Clark Kent? General Counsel Bill Barr; Ex-attorney general trades fighting crime for fighting the FCC

Law.com (Online)

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LAW.COM

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Byline: Rorie Sherman and Catherine Aman,letters to the , *editor@corp.law.com*, , Special to the corporate counsel

Body

Like a powerful amphibious vehicle, William Barr cruises through two disparate realms: the inner circle of political Washington, and the upper ranks of corporate New York. The ambitious, self-assured attorney has navigated both worlds with apparent ease. Ten years ago President Bush appointed Barr, then 41, to be attorney general. Last year telecommunications giant Verizon Communications named Barr executive vice president and general counsel.

Barr has moved between the two cities all his life. Born in Manhattan and a graduate of Columbia University, he established a toehold inside the nation's capital early on by attending George Washington University School of Law. After graduating in 1977, he spent much of the next 15 years working for government agencies and was appointed attorney general near the end of Bush's term. During his brief tenure, the AG focused on the savings and loan cleanup, fighting crime and revising antitrust merger guidelines.

Equally important, Barr says, is that he learned how to be a manager "overnight," as the chief operating officer of the $13 billion, 100,000-person Justice Department.

Barr leaned on those skills when he joined former Baby Bell GTE as senior vice president and general counsel in 1994. The local phone company merged with Bell Atlantic in 2000, and Barr emerged as executive vice president and general counsel of Verizon, the new entity. The telecom giant, with revenues of $65 billion last year, continues to expand its local phone, Internet, and wireless businesses as it pushes for regulatory approval to offer long-distance services in a handful of states.

Clearing the legal and political obstacles to Verizon's growth is a sprawling, complex task, but one that the burly, gregarious Barr relishes. His cadre of 500 regulatory specialists and 180 lawyers helps too. The GC is also well compensated for his efforts: Barr earned approximately $1.5 million in 2000.

Corporate Counsel executive editor Rorie Sherman and staff reporter Catherine Aman caught up with Barr in June. A man who could have returned to the Republican Party's inner circle, Barr told them he is content where he is. The

stew of regulatory, political, legal, and economic issues in his job is an "intellectual feast," he says, that is more satisfying than power politics inside the Beltway.

Corporate Counsel: What is Verizon's vision for the telecommunications industry?

William Barr: We think that maintaining competition in this evolving new market is critical, precisely so you don't have any one company emerge and control access to content, applications and telecommunications. But we think that the old rules that apply to the legacy marketplace are distorting competition and preventing competition from really developing the way it should.

What we're trying to do is ensure that government policies are technology-neutral -- that all the different technologies are given the same opportunity to compete in this new marketplace. We want to make sure that the government doesn't try to pick winners and losers and give advantages to cable over telephone, or satellite over cable, or wireless over anybody else. All these different technologies should be allowed to compete on an even playing field.

Everyone wants broadband; broadband is necessary to uncork the bottle and allow a lot of things to develop that will ripple across the economy. What's necessary to bring this about is substantial investment -- tens of billions of dollars by many different companies. The current rules, particularly as they apply to telephone companies, basically say that if you make an investment, you don't get the upside.

LITIGATION LIST

CC: Let's talk about your litigation docket. What are the most important cases, the ones you are actively involved in?

WB: I do some of the litigation in the regulatory arena, including challenges to FCC rules that implement the 1996 Telecommunications Act. We've had serious problems with virtually all of the FCC's rules in this area, and we brought challenges, which are in varying stages. I've been personally involved in those cases. I've argued four cases in the circuit courts and one in the Supreme Court on those issues. There is another case scheduled for the Supreme Court in October, which I'm doing.

CC: What are the key issues for Verizon in these cases?

WB: The key questions for us are: What are the parts of our network that we have to make available to our competitors? How much of our network do we have to make available to them? And then, on what terms? Particularly, what are the pricing terms? The telecom act allowed competitors to come in and just use part of our network, and forced us to make it available to our competitors for their exclusive use.

SENDING IT OUT

CC: In 1996, shortly after you went to GTE, you were interviewed by

The American Lawyer. You said you were looking at changing GTE's philosophy, which was then to bring more work in-house. GTE had 125 lawyers at that time. Where do you now draw the line between what you keep in-house and what you farm out?

WB: I believe in developing a strong in-house legal staff that's as good as any law firm, given the nature of our business. So, I'm not one of those people to come in and say, let's just farm out everything. Quite the contrary. We have built up, over the years, a staff of very able, senior lawyers. There are really no law firms on certain kinds of matters that can give us better service than our own lawyers in-house.

Now, by the same token, when you're told that you're only going to have so many slots, the question really is what kind of lawyer do you want to bring into the company? It doesn't make sense to use those slots for people who are going to be doing commodity work. I would rather invest in someone, and build his expertise around unique aspects of our business.

CC: How much of your litigation work do you keep in-house?

WB: Well, virtually all our commercial litigation is assigned to the outside, and the firms are given some latitude in handling those matters, with some supervision by in-house people. On the more important commercial claims, the team that's handling it, including the outside counsel, would usually also include a senior person from inside the company who would participate in the case and would be expected to play a role, not just shuffle paper.

What we try to do on the most important cases is structure a virtual law firm around the matter. This applies to most significant regulatory cases and most significant commercial cases as well. So we might bring in a lead firm. We might include lawyers from other firms, if we feel they could add to the case. We would have people from inside who are knowledgeable, and we would put a team together to handle a case. Sometimes that makes it more difficult for outside firms to work with us. Some firms are very used to just being given a case and running with it. That's generally not how we handle important regulatory cases or commercial cases.

RELATIONSHIP-BASED MANAGEMENT

CC: What firms are your primary outside counsel, and how did you consolidate what must have been a very long list of outside counsel after the merger?

WB: We have a blend of firms that have track records with GTE and Bell Atlantic. So, for example, on the GTE side, we have used O'Melveny & Myers; Kirkland & Ellis; Howrey Simon; Wiley, Rein & Fielding. Then, from the Bell Atlantic side, we use firms like Skadden Arps. Another important telecommunications firm we use is Kellogg Huber in Washington. But we don't really hire firms so much as individuals.

CC: While we're talking about firms and mergers, you have 180 lawyers. How many of them come from each side of the marriage? In other words, how many people did you have to lay off?

WB: When we went into the merger in 1998, there was a two-year period of waiting. I had already started bringing down the GTE level, so, while my authorized strength at GTE was in the 120s, I was in the 80s by the time the merger [went through].

The same thing was happening over on the Bell Atlantic side. They were below their authorized strength by the time we actually effectuated the merger. When we got our targets, fortunately there had already been a lot of attrition, and there didn't have to be too many new terminations.

CC: Do these lawyers sit together or do they sit with their business colleagues as part of their business unit?

WB: My direct reports sit with their business colleagues, but their subordinates sit together in the legal staff.

CC: So the legal staff looks more like a law firm than part of the business units?

WB: Correct, yep.

MANAGING THE TROOPS

CC: Lawyers obviously are not trained to be managers. But general counsel at big companies have an incredible management job. You have almost 700 people working for you. Tell us about your management philosophy.

WB: To me, the big transition was in government. I was head of the office of legal counsel, which is sort of the egghead lawyer's lawyer's office, and all of a sudden I became deputy attorney general, where you are actually the chief operating officer of [what was], at that time, a $13 billion, 100,000-person agency. That's where I learned overnight how to be a manager.

My view is that there are two kinds of supervisors or managers: the people who allow the organization to run them and the people who run the organization. What is important is that the person at the top clearly identify what the overarching priorities are and devote his energy to making sure that progress is being made on those key things.

So, my philosophy is: Delegate as much as possible. Don't interfere with people. Let subordinates run their show. Make it clear to them you don't want to be surprised by things and that they should use their judgment as to what to keep you informed about. And, basically, let them run. And meanwhile, try to ensure that the chairman and the CEO are getting the support they need as they grapple with some of the bigger issues. Serve as their adviser, [their] sounding board on those things, but also, as far as legal and regulatory issues, make sure that we, as a company, are setting the agenda. If everything is a priority, nothing is a priority.

CC: So, life in-house is good?

WB: I love it. It is so hackneyed to see all these people profess how much they love their jobs so I'm reluctant to actually say this: But I can't think of anything I'd rather be doing than this.

The information technology revolution is spinning off a host of interesting legal problems. Many of the biggest issues are ones where there's not much guidance in the law, so you're really making new law. The issues are ones that I personally enjoy: regulatory, antitrust, and, in the cases involving constitutional issues, property rights. So it's an intellectual feast in terms of the substance.

In terms of the life, you are able to help build a law firm without many of the impediments that law firms face. You have a regular stream of business, and you don't have to deal with the egalitarian, egocentric structure [of law firms]. You can basically combine for the common good.

CC: I have to ask. Were you offered something in the new administration?

WB: There were no formal discussions about anything.

CC: Fair enough. And you're not tempted?

WB: To be very frank, I've seen and done what I wanted to see and do in the executive branch. I have no interest at this stage of my career in the judicial branch. The opportunity to help others realize their ambitions of moving into government, the opportunity to pick up the phone and talk to policy makers, to kibitz -- without worrying about what the newspaper is going to say the next day about you -- is a great luxury. We obviously get involved in the political process, and I'm frequently asked to go and testify by people on the Hill and by people in the administration. So, for me, I have the best of all worlds.

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KHOBAR TOWERS: A CASE OF FUTILITY

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Byline: Siobhan Roth

Body

National

After September 11th Terrorism On Trial

We will not rest until these terrorists are brought to justice. We will hunt them down.

Former Secretary of State Warren Christopher made that statement on June 26, 1996, the day after a terrorist attack in Dharan, Saudi Arabia. A car bomb had detonated in the courtyard of the al-Khobar Towers apartment complex, leaving 19 U.S. airmen dead and 370 injured. All the victims were Americans. And all were there to enforce sanctions against neighboring Iraq.

Earlier this year, just four days shy of the fifth anniversary of the attack, Louis Freeh-days away from exiting as director of the Federal Bureau of Investigation-announced the indictment of 14 defendants in connection with the car bomb.

Today the Khobar Towers case, stands as an example of the difficulty, even futility, of bringing alleged terrorists to trial in the United States from overseas.

Since the June 21 indictment, nothing has happened in the case, according to Sam Dibbley, speaking for the U.S. Attorney's Office for the Eastern District of Virginia. And it appears highly unlikely that the case will progress any further.

None of the accused are on U.S. soil. Of the 14 defendants, 11 are in Saudi custody. The remaining three are fugitives.

All but one of the defendants are Saudi citizens. The United States and Saudi Arabia have no extradition treaty, and the kingdom has expressed its unwillingness to leave its citizens to the mercy of the U.S. criminal justice system. Saudi law bars U.S. investigators from even questioning the prisoners.

The Saudi Embassy in Washington did not respond to a request for an update on the status of the 11 prisoners by press time. But as of July 2, they were in Saudi prison awaiting trial in Saudi court for the bombing. Among them is Hani al-Sayegh, who was arrested in Canada in 1997 and then paroled into U.S. custody via Dulles International Airport.

Al-Sayegh, the only one of the defendants who has come into U.S. custody, was thought to be the government's best chance. He is alleged to be a prominent member of Saudi Hezbollah, active in recruiting new members, and with close ties to the Iranian government.

But negotiations for a plea agreement between al-Sayegh and U.S. prosecutors fell apart. The United States handed him over to Saudi authorities in October 1999.

The problems in trying to nail the Khobar defendants-the individuals prosecutors feel they can prove guilty beyond a reasonable doubt-are just the beginning of the obstacles to nailing suspected terrorists.

Perhaps the gravest issue is that the directors of a terrorist attack often remain outside the reach of U.S. law enforcement. For example, of the 21 men-including Osama bin Laden-indicted for the 1998 bombing of American embassies in Tanzania and Kenya, 13 remain fugitives. Only four have been tried and convicted. Others are awaiting trial in New York or are fighting extradition from Britain.

In its verdict sheet against Khalfan Khamis Mohamed for his role in the Tanzania attack, the jury found that he was not a leader or organizer of the conspiracy, and that he was recruited as an expendable participant in the plot. Haroun Fazil, considered a primary point of contact for the embassy bombers, is not indicted in that case.

Similarly, the first page of the Khobar indictment states that the groups allegedly behind the bombing were inspired, supported, and directed by elements of the Iranian government. Though the names of several men have circulated as likely elements, no public charges have been filed.

At a Judiciary Committee meeting last week, Sen. Arlen Specter (R-Pa.), expressed his impatience with the apparent intractability of the two cases. What has the Department of Justice done to try to serve the warrants and take Osama bin Laden into custody? he asked. Regarding the Khobar Towers case and the lack of indictment or even identification of Iranian officials suspected of furthering the conspiracy, Specter said, The question comes in my mind as to whether we're pulling our punches.

Attorneys who have been involved in cases against terrorists note that suspects tend to seek refuge in places where the United States has little pull.

Members of terrorist organizations typically hang out in no-man's lands like the Western part of Lebanon or Afghanistan, says William Barr, attorney general under former President George Bush and now general counsel at Verizon.

Others may find refuge among sympathizers in Yemen or the Sudan, countries that don't have what Montclair, N.J., defense attorney David Ruhnke terms a let's go get em approach to law enforcement. Ruhnke represented Mohamed, a Tanzanian national sentenced to life in prison on July 11 for his role in the 1998 bombing in Tanzania.

Then there is the danger of exposing Americans to further harm.

The tension can be high at trial, Ruhnke says. You worry that someone, your client even, might try to use it as a forum for something else. What if someone decides to bomb the courthouse?

And prosecution, rather than deterring violence, may in fact beget retaliation.

For example, Freeh told the Senate in 1999 that the November 1997 attack on tourists in Luxor, Egypt, and the murder that same month of four U.S. businessmen and their driver in Karachi, Pakistan, are thought to be in retaliation for the capture of Mir Amar Kasi. Kasi, a Pakistani, was retrieved from Afghanistan and convicted in Fairfax Circuit Court of the 1993 capital murder of two Central Intelligence Agency employees.

Ruhnke adds that the likelihood of finding a truly impartial jury is a huge hurdle. His client and others in the embassy cases are part of an Islamic group called al Qaeda. The nature of the group, Ruhnke says, is that they want to kill Americans anywhere in the world, and the jury was all Americans.

Finding an impartial jury for an individual accused of involvement in the Sept. 11 attacks will be 100 times harder, Ruhnke says. People will go through the motions of voir dire-ing jurors, and jurors will go through the motions of saying they can be impartial.

But the heart of the problem is that those who have, in the words of the Khobar indictment, inspired, supported, and directed acts of terrorism aren't the ones being prosecuted. Those convicted in the 1998 embassy bombings, the men who may have aided the terrorists on the planes last week, the men who parked the truck at the Khobar Towers courtyard, they're not the people who are financing or leading these conspiracies, Ruhnke says. Those who remain beyond the reach of the U.S. criminal justice system are.

I strongly oppose using law enforcement and the criminal justice process in terrorism situations, Barr says. The criminal justice system has proven itself to be ineffective.

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BUSH'S BURDEN: SEEKING JUSTICE IN TERROR'S WAKE

Legal Times

September 17, 2001 Monday

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Byline: Jim Oliphant

Body

National

After September 11th Law Enforcement

We want blood.

As the shattering images fill the television screens, as the death toll rises, as the suffering persists, there seems to be a binding sentiment among shellshocked Americans, all of whom, this week, count themselves in some way as survivors.

Make them hurt.

It didn't matter whether the target had a face, or a name, or a country of origin. Politicians and newspapers cried for War! despite the absence of a visible enemy. Opinion polls demanded action and insisted on retribution.

Last week, in the devastating aftermath of the worst terrorist assault in the nation's history, President George W. Bush pledged that the federal government would find those responsible and bring them to justice. He added, We will make no distinction between the terrorists who committed these acts and those who harbor them.

For days, observers debated over what the president meant by making no distinction between terrorist organizations and the countries, such as Afghanistan, that give them safe haven.

But few touched upon the other ambiguous word in that statement:

It is a word that seems to bring itself to an easy definition. Justice, after all, has been a concept that helped to form the foundation of America, to use the president's words from that same speech.

But what is it, exactly? What constitutes justice when thousands of people have been killed as part of a single, criminal act, something that has never occurred in the whole of American history?

Justice, says Northwestern University law professor Paul Robinson, is thoughtful. It is careful.

And, he adds, It takes a long time.

Time, now, seems a luxury item. Like sports and skyscrapers and curbside luggage check-in at the airport. Things that, for the moment, aren't allowable.

Justice, in its most traditional, law-and-order sense, in which perpetrators are identified, charged, tried, and ultimately convicted, itself may be part of that list. The events of Sept. 11, 2001, seem to have overwhelmed it, surpassed it, and perhaps replaced it with a new, more effective mechanism for dealing with the most despicable crime in America's life.

The word -we don't really use in the war context, Robinson says. But if we do attack, it will be fair, reasonable, and probably just, as well.

I say, bomb the hell out of them. If there's collateral damage, so be it.

Sen. Zell Miller (D-Ga.)

When Timothy McVeigh detonated a bomb at the Alfred P. Murrah Federal Building in Oklahoma City in 1995 and killed 168 people, grief-stricken rescue workers wrote a scrawl on the wall of an adjoining building. We seek justice, it said.

Justice, then, took its form in a massive prosecution, a sensational trial, and, earlier this year, a very public execution, ending McVeigh's life with a poison needle.

Similarly, in 1993, when terrorists staged their first attack on New York's World Trade Center, killing six and injuring 1,000 with a car bomb, the chosen route again was criminal prosecution. The six men involved were tried, convicted, and sentenced to prison. Earlier this year, four men (out of 21 indicted) were convicted of bombing two American embassies in Africa in 1998 and murdering 224 people.

But suddenly, that doesn't seem quite good enough. There is exasperation in America, a feeling of powerlessness the courts don't seem equipped to remedy.

Stephen Flatow understands. He lost his 20-year-old daughter, Alisa, to terrorism in 1995. Alisa Flatow was killed in Israel when her bus was struck by a suicide bomber.

It made the horrifying events of last week just that more painfully resonant to him.

Flatow says that agents from the Federal Bureau of Investigation were sent to the Gaza Strip to probe the bombing. But, he says, their efforts were blocked by the Palestinian authority there. Several months later, Flatow says, he met with then-Israeli Prime Minister Yitzak Rabin, who Flatow says told him, How do you stop someone from strapping a bomb onto themselves and blowing themselves up?

Later, Flatow says he got his answer. Israeli agents assassinated the then-head of the Islamic Jihad, Fathi Shekaki, in Malta.

I realized that these kinds of things have to be handled extrajudicially, Flatow says. Sometimes you have to deal with people the way they deal with us.

He pauses, gathering himself. When Fathi was killed, Flatow says, you don't feel glad when a person dies, but I felt that some justice had been accomplished.

The attacks last week had congressional leaders talking about lifting the government's self-imposed ban on assassination as a national security tool.

Assassination is something you don't talk about in the law enforcement context, Robinson says. It short-circuits all the due process rules.

This was a day of unspeakableviolence and outrage.

Attorney Gen. John Ashcroft

In the wake of last week's disaster, the FBI did what it is supposed to do: It fanned out, chasing every lead. In his first and perhaps his most daunting test as FBI director, Robert Mueller sent 4,000 agents into the field. The FBI attach offices overseas, the brainchild of former Director Louis Freeh, launched investigations with the help of host governments.

The FBI is working thousands and thousands of leads, Ashcroft said last week.

But Laurie Mylroie, publisher of and author of a book condemning the U.S. approach to terrorism, says that the government's knee-jerk use of the FBI is a concern.

There is a division in this country, a Chinese wall between national security bureaucracies and the Justice Department regarding these issues that straddle their respective jurisdictions, she says. The criminal justice system is playing the lead role.

And former Attorney General William Barr, who served in the first Bush administration, agrees.

There's a basic tension as to whether to treat this as a law enforcement issue or a national security/military issue, Barr says. I've always felt it should be a national security/military issue. Find these people and demolish them.

Still, the FBI has had its success stories relating to terrorist attacks.

It rounded up the perpetrators of the first Trade Center bombing in less than two years. It found McVeigh and his accomplices almost immediately. It rooted out the suspects in the African embassy bombings. And it identified the principals in the 1996 bombing of the al-Khobar Towers in Saudi Arabia that killed 19 American soldiers.

But those principals, while indicted here, have never been arrested or extradited to the United States. They may never be. And last year, in the wake of the bombing of the in a Yemeni port, the FBI sent a team of agents to the region.

The attack on the -like last week's attacks-have been tied to Saudi extremist Osama bin Laden, but little has come of the investigation to date.

Mylroie says that using law enforcement as the main weapon against terrorism ignores the larger question of state sponsorship of terrorist organizations.

All these trials help to generate the impression that this is being carried out by individuals, not the state, Mylroie says. It is as if you are addressing the drug problem by going after the drug runners, but not the drug kingpins.

By the end of the week, the FBI had determined the exact numbers and identities of the 19 hijackers on each of the four planes; the agency was pursuing potentially 50 or so accomplices.

Justice Department officials, however, say they haven't begun thinking about prosecuting or extraditing potential suspects.

We haven't arrested anyone yet, one says.

We have entered a new era. Everything is going to change.

Deputy Defense Secretary

Paul Wolfowitz

A partner in a major national law firm is talking. He asked that his name not be used. He is talking about Osama bin Laden.

Let me tell you: They better take the guy out on the spot. It will be the death of globalization if America has to watch some bullshit international court let the guy off, he says. If the guy's smart, when the U.S. gets close to him, he'll turn himself over to Switzerland or some country that will host a civilized trial in which his rights' can be guaranteed. He won't be extradited. The trial will be a joke. And he won't even face a death sentence. He'll continue to run his little terror outfit from a minimum security prison in the Alps.

He is a trial lawyer, who obeys the rule of law every day in court. But his anger, and his lack of faith of the justice system in this context, speaks for many.

Northwestern's Robinson says that frustration comes because U.S. courts are as much instruments of social policy as they are mechanisms for punishment. He cites the exclusionary rule-in which charges against suspects are dismissed when police officers gather evidence illegally-as an example.

That is tolerable on a smaller scale, but you get a prosecution of bin Laden and you got trouble, he says. That we don't trust the criminal justice system with this case is important. That tells us something about the system.

Last week, on CNN, Sen. Joseph Biden (D-Del.), the chairman of the Senate Foreign Relations Committee, offered similar thoughts.

When you go in and take them out, you don't have to follow rules of law, Biden said. The rules of law apply to American citizens and people on American soil. There is not a rule of law when there's a war.

Biden, too, has no patience for pursuing relief in the courts, be they here or at the World Court at The Hague.

Ridiculous, Biden said. Not even in the game.

Mara Rudman, who served as a deputy national security adviser in the Clinton administration, doesn't see the options as mutually exclusive.

People talk about military action as if it is above the rule of law, Rudman says. It isn't. We don't strike out randomly.

Others such as William Zabel, a New York lawyer who is chairman of the Lawyers Committee for Human Rights, worry about a rash, unfocused U.S. response.

A brutal retaliation could result in violations of human rights of innocent people in the countries that are hiding these jerks, Zabel says. We tried the terrorists who bombed the tower [in 1993]. I don't think that was harmful.

Ultimately, it is likely that an extensive military campaign will exist side by side with a domestic prosecutorial effort. If accomplices to the hijackers are eventually found and arrested in this country, they will be tried here, either in a federal court or a separate terrorism tribunal.

Military force is not a complete substitute for criminal justice, says George Washington University national security professor Peter Raven-Hansen. We aren't going to take people who are under arrest and shoot them in the head.

As for bin Laden, however, if he is determined to be culpable for the attacks, Raven-Hansen says the alternative approach is desirable.

Having said that, it would be preferable to take him out where he is, he says. If somebody extradites him to us, what the hell are we going to do with that?

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ALLEN HITS M. WARNER ON PAROLE ABOLITION

Paul Bradley Times-Dispatch Staff Writer Contact Paul Bradley at

ALEXANDRIA

U.S. Sen. George Allen, R-Va., reprised yesterday the issue that propelled him to election as governor eight years ago - the abolition of parole - in hopes of boosting the campaign of Republican gubernatorial candidate Mark L. Earley.

During a news conference in Alexandria, Allen praised Earley's support of parole abolition when Earley was a member of the Virginia Senate. Allen also contended Democratic gubernatorial candidate Mark R. Warner was "on the sideline looking for monkey wrenches to throw into the gears of progress" when the law was enacted in 1994 and Warner headed the state Democratic party. "In the race for governor, only one candidate stood with us as we were trying to abolish the lenient, dishonest parole system, and that's Mark Earley," Allen said.

The Warner campaign rejected the criticism, contending the Republicans are deliberately distorting the Democrat's record. When parole abolition occupied the top of the state public agenda in 1993 and 1994, Warner questioned how Allen would balance the need for added prison cells against other needs, particularly for schools, but did not dispute that the state's parole system was in need of reform, the campaign said.

Warner addressed the criticism in a statement released last week.

"What is most troubling about these desperate attacks by Mr. Earley and his allies are the length to which they will go to falsify my record," the statement said. "Mr. Earley knows that demanding fiscal accountability in every program, including abolition of parole, is not the same of declaring one's opposition."

Yesterday, Warner spokesman Mo Elleithee said that when Warner ran for the U.S. Senate in 1996, he supported the Allen-led changes to Virginia's criminal justice system and supports the state's current law.

"Mark's position is clear, and it has been for years," Elleithee said. "He supports Virginia's law abolishing parole, and as governor, he will uphold that law."

Allen was flanked at the news conference by former Virginia Attorney General Richard Cullen and former U.S. Attorney General William Barr. Cullen and Barr were co-chairmen of Allen's parole abolition commission; yesterday, both took verbal swipes at Warner on parole abolition.

"Mark Warner certainly didn't advance the ball," Cullen said. "I think he said this was an extreme measure, a turn to the right, and it wasn't helpful."

Added Barr: "Mark Warner did not only not support abolishing parole, he actively attacked it. He was on the sidelines sniping away and consistently took the position that we couldn't afford to do it, that it was a waste of money and that the money should be spent on other things.

"I don't think a leader would take the view that it is a waste of money to carry out the primary function of government, which is protecting the safety of its citizens."

In his statement, Warner contended supporting more money for schools does not diminish his stand on crime issues.

"The bottom line is this: I am a businessman who knows that schools and safety are the wisest investments we can make in our communities," Warner said. "I am a father who supports parole abolition because I want safe neighborhoods where my daughters can grow up without fear. And I am a Virginian who believes that when my fellow Virginians learn the facts, they will reject these desperate and despicable attacks."

---- Index References ----

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Section: Business

Ready to Take On Microsoft; Philip Beck Will Lead Case For U.S. if Talks Fail

Carrie Johnson

Jonathan Krim

Philip Beck calls himself a trial lawyer.

The 50-year-old lives for the storytelling, the thrill of the courtroom, the chance to skewer witnesses with their own words, friends and co-workers say.

Whether he will get to use those skills on his latest assignment -- or even see the inside of a courthouse -- depends on how settlement talks fare with Microsoft Corp.

Beck, who retains the flat accent of his native Chicago, signed on July 23 as the Justice Department's lead attorney should the government's antitrust case against the software maker return to a lower court for resolution.

At stake is no less than the fate of the world's most famous monopolist, the Redmond, Wash., company whose Windows operating system runs more than 90 percent of the personal computers in the nation. Last month, a federal appeals court ruled the firm had abused its monopoly, threw out an order to break up the company, and sent two issues to a trial court to resolve. Microsoft and prosecutors from the Justice Department and 18 states met last week to discuss a possible settlement.

"The best way to settle a case is to show you're getting ready for trial and you're not afraid to go," said Donald Kempf Jr., chief legal officer at Morgan Stanley Dean Witter & Co. and a former colleague of Beck's, on his friend's new assignment.

To be sure, Justice Department antitrust chief Charles James emphasized Beck's trial skills in a statement announcing Beck's arrival on the agency's team. But unlike many who are drawn to the drama of a life spent in front of a jury box, Beck hesitates before talking about himself.

"Right now, I'm just trying to get up to speed," said Beck, who declined to speak in detail about the Microsoft case. "Our goals, ours being the DOJ's, are to get the next phase resolved and a remedy in place as soon as we can because it's a fast moving marketplace . . . and we need to get this over with."

His mentor and longtime law partner, Fred Bartlit, said Beck still blushes when it comes to telling prospective clients about his re{acute}sume{acute}. The pair most recently helped President Bush to victory in the battle over whether to count contested ballots in the Florida election. Ironically, they faced off against Beck's predecessor, David Boies, who tried the Microsoft case on behalf of the government.

"Phil's forte is cross-examination of experts and heavy-hitting executives," said Bartlit. "He's good at winning the case out of the other guy's mouth."

William Barr, U.S. attorney general under President Bush's father and now general counsel at Verizon Communications Inc., chose Beck to handle two key matters for the telecommunications company, including a series of lawsuits filed by consumers who claim that cellular telephones have caused them to develop cancer.

"He's cool and sober and not a showboat," said Barr, who was introduced to Beck by Paul Cappuccio, now the general counsel at AOL Time Warner Inc. "Sometimes you run into litigators who are pompous idiots. And he's not."

The son of booksellers, the father of three sons, Beck is an enthusiastic sports fan -- he selected the last digits of his office telephone number to coincide with the jersey number of Don Kessinger, a Chicago Cubs star -- and an avid golfer and skier. A friend said Beck seemed most excited when comedian Dennis Miller referred to the attorney's cross-examinations in Florida during a Monday Night Football broadcast last December, cracking, "This guy's a killer, just like Phil Beck."

"The truth is, I have a lot of fun trying cases," Beck said. "I don't think they hired me because they need my advice on how to settle."

Kenneth Starr, independent counsel for the Whitewater and Monica S. Lewinsky probes and a former law partner of Beck's, put it more colorfully.

"Above all, he is a great lawyer who will see to his clients' best interests but if left to his own devices, he will see you in the courtroom," said Starr, who now does consulting work for a coalition of Microsoft competitors. "He and Fred genuinely love trying cases. Anything short of that is a necessary evil."

In the past seven years, Beck has taken a dozen cases to trial, according to his law firm's Web site, winning eight, losing two, settling one before trial, and "tying" on another. He and his partners tend to defend large corporations such as Arthur Andersen & Co., Bayer AG and General Motors Corp. But they also bring suits on behalf of companies fighting over patents and contracts. The Microsoft case marks his first government stint.

Though Beck leans to the right, he said he is by no means a political activist. He attended the University of Wisconsin in the early 1970s, casting his first presidential vote for George McGovern, and since that time he has donated small sums of money to Republican and Democratic candidates. Beck gave $1,500 to the Republican National Committee last January.

Beck has no plans to move to Washington. He said he will maintain his Chicago office, in an old building where Clarence Darrow's golden words spared the wealthy murderers Leopold and Loeb from the gallows. He will work on the Microsoft dispute part time, with the aid of a young partner, Chris Lind. After Beck finishes the requisite federal background checks, he will earn $50 an hour, for 40 hours a week -- with no chance for overtime pay, according to a Justice Department spokeswoman.

"As a general proposition, when you have a finding of monopoly and illegal maintenance of the monopoly position, hopefully you'd be able to devise a remedy that would be both creative and prophylactic . . . and try to put in rules that would guard against harm in the future," Beck said.

He added, in reference to Microsoft's tactics to stretch out the case and its stated desire to settle, he may not reach the courtroom soon: "If Microsoft has its way, I won't be able to do that for a long time."

If Beck has not yet achieved the widespread public recognition of some storied trial lawyers, Kempf, a mentor for more than 20 years, expects it will be only a matter of time.

"In the small group of people looking to hire great trial lawyers, his name is known," Kempf said. "Anybody who doesn't have him on their short list is missing the boat."

Attorney Philip Beck points to an affidavit during a court hearing in December on the contested presidential election results in Florida.

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Company: UNIVERSITY OF WISCONSIN*; MICROSOFT CORP MSN INTERNET; WHITEWATER; WHITEWATER HOLDINGS LTD; ARTHUR ANDERSEN WORLDWIDE ORGANIZATION; JUSTICE DEPARTMENT; MICROSOFT HUNGARY COMPUTER TECHNOLOGY SERVICING AND TRADING LIMITED LIABILITY CO; TIME WARNER INC; BAYER AG; VERIZON COMMUNICATIONS INC; AOL TIME WARNER INC; READY SP ZOO; BAYER AG ADR; MICROSOFT CORP; MICROSOFT CORP (NORTH CAROLINA); MICROSOFT CORP (SEATTLE); MICROSOFT PTY LTD; MICROSOFT CORP (TEXAS); MICROSOFT NV; MCI INC; BAYER AG BIOLOGICAL PRODUCTS; MICROSOFT CORPORATION (INDIA) PVT LTD; MICROSOFT DEVELOPMENT CENTER COPENHAGEN APS; UNIVERSITY OF WISCONSIN; REPUBLICAN NATIONAL COMMITTEE; MICROSOFT LTD; MICROSOFT DEUTSCHLAND GMBH; MOTORS LIQUIDATION CO

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A LIFE OF CRIME POLICY

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Body

Court Watch

FOR 16 YEARS PAUL MCNULTY HAS SHAPED THE LAW. NOW HE'S IN LINE TO ENFORCE IT

Paul McNulty had just 37 days to get the Justice Department ready for action. Charged with leading the department's transition for the incoming Bush administration, he held one of the most sensitive political assignments in Washington. The DOJ had been a touchstone of partisan division in the Bill Clinton years, but now pragmatism was in order. So McNulty made an unusual deal with acting Attorney General Eric Holder Jr.: The Clinton staffers would stick around for a few weeks and work side by side with the new folks to ensure a smooth turnover.

It made a lot of sense, Holder says. I think the institution benefited from it, and I would hope that as transitions occur in the future they will look at this as a model. It was pretty gutsy of them.

It was also vintage McNulty, the kind of approach that served him well for 16 years as a Capitol Hill staffer and deputy attorney general in the first Bush administration. And it's indicative of the style McNulty is expected to carry with him to Alexandria later this year as the U.S. attorney for the Eastern District of Virginia.

President George W. Bush hasn't named McNulty for the post, but several DOJ officials suggest the nomination is his as soon as the Federal Bureau of Investigation completes its report. McNulty declined comment.

While McNulty is deeply conservative, liberal opponents who have battled with him over criminal justice policy describe him as a willing, though shrewd, negotiator and an amiable adversary.

National Legal Aid and Defenders Association lobbyistScott Wallace notes that though he disagrees with McNulty on just about everything, he's very likable and as reasonable as his portfolio allows him to be.

McNulty enjoys the support of the law enforcement community-the Fraternal Order of Police lobbied for his nomination for the Eastern District-and he may have the deepest ties to Main Justice and the FBI of any potential U.S. attorney.

He has worked for former Attorneys General Richard Thornburgh and William Barr, as well as for Reps. Bill McCollum (R-Fla.), Henry Hyde (R-Ill.), Dick Armey (R-Texas), and Sen. George Allen (R-Va.) when Allen was Virginia governor.

And McNulty has had a hand in crafting almost every crime initiative put forward since the late 1980s, including the Anti-terrorism and Effective Death Penalty Act, the federal three strikes law, and increased federal prosecution of firearms offenses.

In January, he helped coach Attorney General John Ashcroft through his confirmation process. Robert Mueller III, Bush's nominee for FBI director, is a former Main Justice colleague and McNulty fan.

McNulty, Mueller says, is one of the most knowledgeable people about criminal legislation passed by Congress in the past ten years, not only about the legislation itself, but also the legislative history that led to its passage. He knows criminal justice policy from having lived it as opposed to having read it.

At First, a Democrat

McNulty didn't start out as a crime guru. Nor was he originally a Republican. Raised in a suburb of Pittsburgh, he was the third of four children in an Irish Catholic family. He graduated from Grove City College, having become a devout Presbyterian along the way. He married while still in law school, earning his J.D. from Capital University School of Law in Columbus, Ohio, in 1983. When he and his wife,Brenda, moved to Washington that year for his new job as counsel to the House Committee on Standards of Official Conduct, McNulty was a Democrat.

In 1985 he went to work at the Legal Services Corp. as director of government affairs. At the time, Rep. McCollum was the main House overseer of the LSC. McCollum would later seek out McNulty to fill the minority counsel position for the House Judiciary crime subcommittee in 1987.

That began a long stretch as a criminal justice expert for Republicans on the Hill and at the Justice Department.

In 1990, McNulty went to work fellow Pittsburgh-native Richard Thornburgh's Justice Department as deputy director of policy development, where his first assignment was drafting the DOJ's views on the 1990 crime bill he'd helped craft while on the Hill. It was a huge jump in pay to go from minority staffer to the executive branch, which provided some financial relief to McNulty, who was already the father of three children. Then-Deputy AG Barr's office was just down the hall, and the two soon became friends.

McNulty was on vacation in Asia in the spring of 1991 when Thornburgh announced his intention to run for the Senate seat left vacant by the death of Pennsylvania Sen. John Heinz.

Barr, who became acting attorney general upon Thornburgh's departure, called McNulty into his office the day he returned, and told him he'd like McNulty to be the spokesman for the department as well as the policy director.

The thing that really sets him apart is his judgment, Barr says. He understands the law very well, and he understands the underlying policy. If you had to go to anyone in the country to understand what is happening anywhere on the criminal justice front and what the DOJ approach is, he would be the place to go.

When Barr, who is now general counsel to Verizon Communications, was confirmed as attorney general, McNulty became director of the newly created Office of Policy and Communications. He basically spent a good portion of the day with me. He traveled with me. And whenever any matter of substance was discussed, he was usually involved, even on specific cases, says Barr.

Barr's tenure as attorney general coincided with the worst years of the crack cocaine epidemic, and he and McNulty saw firsthand in their trips across the country the havoc that crack was wreaking. The experience helped mold McNulty's approach to law enforcement and corrections.

We sat around talking about what law enforcement should be doing, Barr says. Paul played a big role in formulating the approach of being tough on crime while addressing the root causes.

The results included the DOJ's Weed and Seed program and Project Trigger Lock. Weed and Seed was an effort to weed out violent criminals and provide seed money to struggling neighborhoods, while Trigger Lock was an early effort-since retooled as Project Exile and, now, Safe Neighborhoods-to prosecute gun offenders under federal laws.

Barr's DOJ pursued a host of other tough-on-crime ideas, such as limiting federal habeas corpus petitions, extending mandatory minimum sentences to a wider swath of crimes, expanding the reach of the federal death penalty, and allowing certain evidence to be obtained without a warrant.

When Bill Clinton won the 1992 election, Barr and McNulty joined what is now Shaw Pittman. They also started the First Freedom Coalition, a nonprofit forum for promoting the criminal justice concepts they had originated at DOJ.

As debate over the 1994 crime bills roiled, McNulty wrote an editorial published in the excoriating the softer elements of the bills, including funding for crime prevention programs. He outlined his views on what a good crime bill would include: at least $10 billion for state prisons as an incentive to end the early release of prisoners; relaxing state prison population caps imposed by federal courts; a death penalty that doesn't take more than a decade to carry out; and increased federal penalties for violent crimes.

He also called for a ban on assault weapons and has advocated for the maintenance of records from the background checks of gun purchasers, positions that have not endeared him to the gun lobby.

Although he was in private practice, moderate Republicans on the Hill called McNulty to help them salvage the 1994 crime bill, which was bound up in a feud between Democrats and conservative Republicans.

The resulting bill kept many of the soft provisions, such as midnight basketball, that McNulty had criticized. But it also vastly expanded the death penalty, enacted the three strikes rule, and gave states money for new prisons.

By all accounts, McNulty seemed much more comfortable in the public sector than in a law firm.

In fact, the Fairfax resident kept his foot in the public sphere as policy adviser to then-Gov. Allen's Commission on Parole Abolition and Sentencing Reform, headed by Barr and former U.S. Attorney for the Eastern District of Virginia Richard Cullen. In that role, and as a current board member of Virginia's Department of Criminal Justice Services, McNulty has worked closely with local law enforcement officials in Virginia.

When McCollum asked him to be chief counsel for the crime subcommittee after just two years of private practice, McNulty returned to the Hill for a very busy four years: working behind the scenes on the Whitewater and Waco investigations, and taking a more public role in the impeachment of President Bill Clinton.

McCollum, who co-chaired the Waco hearings and is now at Baker & Hostetler, says McNulty was a very even-tempered player in the highly charged proceedings. He did a good job of bringing balance into those hearings, he says.

McNulty was both chief counsel and director of communications of the Judiciary Committee throughout most of the impeachment imbroglio, appearing on television talk shows and the nightly news with the committee's message.

In 1999, he became chief counsel and director of legislative operations for House Majority Leader Dick Armey, where he recently focused on bankruptcy reform.

Even during the most trying days of the impeachment, McNulty kept an almost preternatural cool. No matter how heated or off-track a meeting would get, Paul could bring the focus back, says Sam Stratman, former spokesman for the House Judiciary Committee who is now spokesman for the House International Relations Committee.

Just looking at McNulty's desk, Stratman says, gives one the impression he can calmly juggle 10 things at once. From end to end, his desk is organized around tall stacks of work, neatly piled, he says.

Throughout it all, McNulty cemented a reputation for mastering policy matters and playing the best hand possible.

Paul will recognize that which is important from a policy perspective, but he'll also recognize that which can be achieved, says Ira Raphaelson, a partner in the D.C. office of O'Melveny & Myers and bank fraud czar in Barr's DOJ who went to Shaw Pittman in 1992. He has a good sense of when a compromise is needed-a take-what-you-can-get approach to law enforcement policy.

Some opponents say that while McNulty always listens to their views, that doesn't mean he will heed them.

He has a gift that is not common in this town, which is being able to disagree without being disagreeable, says the NLADA's Wallace, who crossed swords with McNulty over habeas reform while a lobbyist for the National Association of Criminal Defense Lawyers. It's perhaps frustrating to those on the other side, when you have encounters and you expect there to be some movement and then nothing comes of it. That makes him a good political warrior, someone who doesn't give up any more than is compelled by political necessity. McNulty, Wallace adds, held firm when he held the cards.

Load-Date: April 17, 2011

NewsRoom

7/1/01 XDSL News 1
2001 WLNR 12410914

XDSL News

July 1, 2001

Volume 5; Issue 7

Verizon Lawsuit Charges Covad Falsified Thousands of Trouble Reports Costing Verizon Millions of Dollars.

Verizon Communications has filed suit against Covad Communications, charging the Santa Clara-based company with an orchestrated and intentional campaign of lies and distortions designed to deceive the public and regulators and to shift its operating costs and blame for its own problems to Verizon.

In doing so, the suit says, Covad submitted more than 22,000 reports claiming falsely that Verizon failed to properly provide lines for high-speed data service known as digital subscriber line (DSL) service. The lines were ordered to connect Covad DSL customers to the Verizon network. The lawsuit is supported by more than a score of sworn statements by Covad employees.

"The picture we have is of Covad installers being thrown into the field under-trained and underequipped, while the company was over-promising customers delivery on a schedule it had no hope of meeting," said Verizon executive vice president and general counsel, William Barr. 'Then, when the inevitable happened and Covad couldn't deliver to customers, there was a policy in place to generate false complaints of Verizon service problems in order to cover up the Covad failures. This had the effect of shifting costs from Covad to Verizon."

In affidavits, former Covad workers said that the false reports were collected systematically, and they estimated that as many as 50 percent of the reported troubles were false.

Barr added that Covad even used this falsified data to persuade regulators to penalize Verizon. 'The suit says that Covad directed employees to submit the false reports and, furthermore, designed work processes knowing that these processes would result in large numbers of false reports. The suit says this was done to shift costs from Covad to Verizon.

"Knowing that we are under an obligation to provide good service to all competitors, Covad used these false reports to induce Verizon to supply its flagging business with services, employee time and expertise, and facilities. Covad's systematic false reports cost us millions of dollars," said Barr.

The lawsuit was filed in federal court in US District Court for Northern California in San Jose on June 11 and includes sworn statements of 26 former Covad employees. They state that they were "pressured" and "badgered" to make up false reports of Verizon service problems and that those who questioned the practice were reprimanded:

- One Covad employee recounted, "On more than one occasion I was told by Covad management to simply mark the loop [Verizon line] on the system as not delivered [even when they were]... I was troubled by this obvious dishonesty... When I said so, however, I was reprimanded and told that I just needed to do my job." (Declaration 2, paragraph 7)

- Another Covad employee said, "On one occasion, I informed [a Covad manager] that there were no problems with the ILECs [including Verizon], to which he responded with words to the effect that there had to be problems, and that even if problems did not exist, we should say there were problems anyway." (Declaration 7, paragraph 5)

- Another Covad employee said Covad "managers and directors would often give me direct orders to open trouble tickets blaming the ILEC even when it was obvious the problem lay with Covad... At one point, I prepared a summary [of trouble tickets that showed] only approximately two of the 200 tickets involved genuine ILEC problems... I carried out the orders to issue false trouble tickets because I feared for my job and have a family to support." (Declaration 10, paragraphs 5-6)

- Another Covad employee said his supervisor "told the [Covad] installation techs to lie to the end users, and blame the problems on the ILEC...." (Declaration 9, paragraph 9)

- Another Covad employee said, "Management pressured us and even badgered us into recording problems, saying that it was important to Covad's success to have lots of documented problems to report about the ILECs. I was very uncomfortable with this practice and believe that it distorted the true nature of the good relationship we enjoyed with ILEC employees." (Declaration 3, paragraph 13)

In addition to making outright demands for false reports, Covad management developed internal operating procedures that had the effect of producing false reports on a systematic basis:

One Covad employee explained: "Prior to approximately November of 2000, when we encountered an installation problem, we would often go to the central office to determine if the line was good. We would do this before opening a trouble ticket because at the central office we could determine if it was an ILEC issue. In November 2000, our field operations manager...told us not [to] go to the central office to figure out whether it was an ILEC issue, but instead to just open a trouble ticket" blaming the ILEC. (Declaration 6, paragraph 6)

Each of the more than 22,000 false trouble tickets triggered a response by Verizon technicians, who were often dispatched to correct the line problem and connect Covad's customers. "While we were chasing false alarms for Covad, we couldn't use our resources to provide service to other customers who actually needed our help," Barr said.

The suit also alleges that Covad used these false reports in making more than 200 lobbying visits to government officials and regulators in which Covad criticized Verizon service and sought further concessions to prop up Covad's ailing business.

One concession that Covad cashed in on was payments under Performance Assurance Plans. "Under the Performance Assurance Plans, we are held financially responsible for faulty loop provisioning. Covad abused these plans. Using their bogus trouble tickets, Covad received inflated payments and rebates," said Barr.

Covad's deception even went to the extent of keeping two sets of books, according to the suit. Covad management instructed employees to keep two sets of logs regarding problem orders: an "internal" log for Covad employees to record accurate information and an "external" log containing false information to disseminate to customers. Covad management instructed "that problems associated with Covad were to be kept in the internal notes only, and not to be included in the external notes.... Very often, [Covad] agents made misrepresentations in the external notes and wrongly blamed ILECs for problems." (Declaration 16, paragraph 13)

Verizon's suit asks for injunctive relief against Covad, as well as damages including lost profits and punitive damages.

---- Index References ----

Company: COVAD COMMUNICATIONS GROUP INC; VERIZON COMMUNICATIONS INC; MCI INC

News Subject: (Major Corporations (1MA93); Business Litigation (1BU04); Business Management (1BU42); Business Lawsuits & Settlements (1BU19))

Industry: (Internet (1IN27); Broadband Services (1BR03); CLECs & Alternative Carriers (1CL29); Telecom Carriers & Operators (1TE56); Telecom (1TE27); Broadband (1BR88); Digital Subscriber Line Connectivity (1DI77))

Region: (North America (1NO39); USA (1US73); Americas (1AM92))

Language: EN

Other Indexing: (ILEC; SANTA CLARA; VERIZON COMMUNICATIONS; VERIZON LAWSUIT CHARGES) (Assurance Plans; Barr; Costing Verizon; Covad; Covad Communications; Covad DSL; Verizon; William Barr) (United States)

Keywords: (Business); (Business, international); (High technology industry); (Telecommunications industry); (Specialized Telecom Services); (Telephone Communications); (Fraud); (Cases); (Internet services); (Internet services - Cases); (Telecommunications industry); (Telecommunications industry - Cases); (Litigation); (Litigation - Management); (Fraud); (Fraud - Cases); (Telephone services); (Online services); (Online services - Cases); (Telecommunications services industry); (Telecommunications services industry - Cases); (Actions and defenses); (Actions and defenses - Management)

Company Terms: COVAD COMMUNICATIONS CO; VERIZON COMMUNICATIONS INC

Product: Telegraph & Other Message Commucations; Telephone Communications, Except Radio; Wired Telecommunications Carriers; Police Protection

Sic: 4822; 4813

Naics Code: 51331; 92212

Ticker Symbol: VZ

Word Count: 1293

End of Document

6/13/01 Boston Globe D2
2001 WLNR 2239520

Boston Globe (MA)

June 13, 2001

Section: Business

VERIZON SUES COVAD OVER SERVICE REPORTS SAYS DSL PROVIDER ORDERED WORKERS TO BLAME TELECOM FIRM

Peter J. Howe, Globe Staff

Verizon Communications is suing high-speed Internet service provider Covad Communications Group Inc., contending Covad systematically ordered employees to "blame Verizon" for thousands of cases where Covad fouled up service orders.

In a suit filed in US District Court in San Jose, Calif., late Monday, which includes affidavits from 26 unnamed people Verizon said are former Covad employees in Massachusetts and other states, Verizon contends fraudulent trouble reports by Covad cost it millions of dollars in wasted troubleshooting efforts.

Covad's executive vice president, Dhruv Khanna, said his company "patently denies all allegations in Verizon's lawsuit."

"Verizon has a very poor service record and is inventing complaints to cover up its own ineptitude," Khanna said.

The suit involves Verizon's performance providing phone lines suitable for digital subscriber line high-speed Net access to Covad. The Santa Clara, Calif., company acts as a wholesaler serving over 300,000 DSL customers of ISPs such as EarthLink, XO Communications, and UUNet.

Verizon alleges that in recent years, Covad systematically ordered employees to try to shift the blame for DSL service problems - and the cost of fixing them - to Verizon. Verizon charged that Covad filed 22,000 bogus complaints last year.

The Covad service complaints also contributed to Verizon having to pay $1.6 million in "performance penalties" in New York and Pennsylvania, much of which may have been unwarranted, Verizon said.

"We've been ripped off, essentially, by this practice," said William P. Barr, Verizon's general counsel. "There comes a time when you have to put your foot down."

In a typical comment from one of the 26 affidavits, a person identified by Verizon as an ex-Covad employee said, "Managers and directors would often give me direct orders to open trouble tickets blaming (Verizon) even when it was obvious the problem lay with Covad."

Despite concluding that only 2 of 200 reported problems were "genuine" Verizon problems, the person said, "I carried out the orders to issue false trouble tickets because I feared for my job and have a family to support."

Verizon said when and if the suit goes to trial, it will identify the people making the affidavits. In a conference call with reporters, Verizon acknowledged that it cannot immediately refute speculation that some of the 26 may be "disgruntled ex-employees."

Covad spokeswoman Martha Sessums said, "We're trying to figure out who these people are" to assess their credibility, but without success. Sessums said Covad lawyers have had several calls in recent months from ex-employees who said they were contacted by Verizon lawyers pushing them to make statements for the suit.

In Massachusetts, when Verizon was seeking state backing for entering the $2 billion state long-distance market last year, Covad and other DSL companies charged that Verizon gave its own DSL business better, faster service.

But the state Department of Telecommunications and Energy, after reviewing those charges, concluded that Verizon had acted fairly. It generally backed Verizon's claims that apparent differences in how quickly Verizon provided DSL-capable phone lines could be explained by factors such as rivals not performing installations on Saturdays or conducting less rigorous "qualification" tests to ensure lines could handle DSL.

Covad shares dropped 3 cents to 95 cents yesterday, while Verizon rose 54 cents to $54.35.

Peter Howe can be reached by e-mail at howe@globe.com

TYPE: ECO

---- Index References ----

Company: COVAD COMMUNICATIONS GROUP INC; VERIZON COMMUNICATIONS

News Subject: (Legal (1LE33); Technology Law (1TE30); Business Lawsuits & Settlements (1BU19); Business Litigation (1BU04); Major Corporations (1MA93))

Industry: (Internet Regulatory (1IN49); I.T. (1IT96); Internet Services (1IN96); Telecom Carriers & Operators (1TE56); Broadband Services (1BR03); I.T. in Telecom (1IT42); Internet Service Providers (1IN56); Internet (1IN27); Manufacturing (1MA74); Networking (1NE45); Network Services (1NE60); Telecom (1TE27); Digital Subscriber Line Connectivity (1DI77))

Region: (Americas (1AM92); New England (1NE37); North America (1NO39); Massachusetts (1MA15); USA (1US73); California (1CA98))

Language: EN

Other Indexing: (COMMUNICATIONS; COVAD; COVAD COMMUNICATIONS GROUP INC; DSL; SATURDAYS; STATE DEPARTMENT OF TELECOMMUNICATIONS; VERIZON; VERIZON COMMUNICATIONS) (Dhruv Khanna; Energy; Khanna; Martha Sessums; Peter Howe; Sessums; William P. Barr)

Edition: THIRD

Word Count: 709

End of Document

NewsRoom

NewsRoom

6/13/01 Boston Herald 31
2001 WLNR 266699

Boston Herald (MA)

June 13, 2001

Section: Business

Verizon lawsuit denies errors

Tom Kirchofer

Verizon Communications Inc. has sued a competitor, accusing it of passing off its own bumblings as Verizon's errors.

Verizon said Covad Communications Group Inc., a Santa Clara, Calif., company that sells high-speed Internet service over digital subscriber lines, or DSL, told its employees to blame its service problems on Verizon.

Federal law requires such Baby Bell phone companies as Verizon to give competitors access to their network. The telecom giant says Covad wanted to save money on operating costs by having Verizon do work it should have done itself. Verizon backs its claims with affidavits by 26 anonymous former Covad employees, including one who worked in Bedford.

The affidavits showed Covad allegedly using the same tactic with other former monopoly phone companies.

Covad employees "were expressly directed to write false trouble tickets," triggering responses by Verizon personnel, said Verizon's general counsel, William P. Barr.

Covad's general counsel and co-founder, Dhruv Khanna, said his company "patently denies all allegations in Verizon's lawsuit about service records.

"We consider this suit a harassment suit that thinly veils the fact that Verizon has a very poor service record and is inventing complaints to cover up its own ineptitude."

Covad's shares have lost more than 96 percent of their value over the past year as the company struggles to profit by reselling phone companies' service.

Of the 26 employees who gave affidavits, Verizon said about half were laid off by Covad and about half quit of their own accord.

The Bedford employee, who worked for Covad from June 1999 to December 1999, said it was common to send a Covad field technician to set up DSL service, despite knowing that Verizon's predecessor, Bell Atlantic Corp., hadn't done the required setup work.

"Since the Covad technician was showing up prematurely . . . the Covad technician would open up a trouble ticket. This entire scheme was done to boost the numbers," the employee said in an affidavit.

The suit was filed in federal court in San Jose, Calif. Verizon is seeking unspecified damages, but said it wants to cover the "millions" in costs it has incurred.

---- Index References ----

Company: BELL ATLANTIC CORP; COVAD COMMUNICATIONS GROUP INC; VERIZON COMMUNICATIONS

News Subject: (Business Lawsuits & Settlements (1BU19); Business Litigation (1BU04); Major Corporations (1MA93))

Industry: (Telecom Carriers & Operators (1TE56); Telecom (1TE27); Manufacturing (1MA74))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); California (1CA98))

Language: EN

Other Indexing: (BABY BELL; BELL ATLANTIC CORP; COVAD; COVAD COMMUNICATIONS GROUP INC; SANTA CLARA; VERIZON; VERIZON COMMUNICATIONS INC) (Dhruv Khanna; William P. Barr)

Edition: All

Word Count: 441

End of Document

NewsRoom

6/13/01 Wash. Post (Wash., D.C.) E07
2001 WLNR 13184359

Washington Post, The (Washington, D.C.)

June 13, 2001

Section: Business

Verizon Sues Covad For DSL Complaints; Rival Lied to Avoid Blame, Suit Alleges

Verizon Communications Inc. has sued Covad Communications Inc., accusing its rival of filing false complaints to shift blame for delays in setting up high-speed Internet service.

Verizon claims that the complaints cost it millions of dollars in service calls and fines by state utility commissions for problems that were not its responsibility, according to a lawsuit filed Monday in federal district court in San Jose.

Covad officials denied the allegations and characterized the lawsuit as harassment designed to retaliate for Covad's antitrust suit against Verizon, filed two years ago.

The dispute is part of a broader, five-year battle over sharing the local telephone infrastructure operated by Verizon and the other big regional phone companies. Many upstart phone and data firms -- most of which rely on leased lines to connect to their customers -- claim that the local phone companies intentionally bungle orders in an effort to maintain dominance in their markets.

The regional companies say their rivals have problems because they have failed to build solid businesses and amass assets of their own.

The fight comes as the regional companies -- Verizon, Qwest Communications International Inc., SBC Communications Inc., and BellSouth Corp. -- lobby Congress and industry regulators for approval to sell long-distance services. As a condition of the Telecommunications Act of 1996, those companies first must open their local markets to competition before they can enter the long-distance business.

New York-based Verizon said it based its lawsuit on depositions from 26 former Covad employees who claim that the company directed them to routinely blame Verizon for problems setting up DSL (digital subscriber line) service -- a form of high-speed Internet access that runs over telephone wires.

Verizon said it would typically send out a technician, only to find it was a problem on Covad's end.

Verizon is in the process of quantifying the cost of the service calls, and the damages are estimated to be in the millions, said John Thorne, Verizon's deputy general counsel.

In a conference call with reporters, William Barr, executive vice president and general counsel for Verizon, said Covad misled regulators and Congress about Verizon's performance.

Covad "disparaged to the public, the regulators and to the investment community [the regional companies'] business, and they made it far more difficult for us to compete ourselves in the DSL market," Barr said.

Dhruv Khanna, Covad's general counsel, said employees were never instructed to falsify records. He said Verizon's lawyers have been seeking out former Covad employees to testify for months.

"Fundamentally this is a public relations ploy on the part of Verizon" in its bid for long-distance approval, Khanna said.

"It's a pretty lame case," he said.

---- Index References ----

Company: QWEST CORP; AT&T INC; COMMUNICATIONS INTL; SBC COMMUNICATIONS INC; COVAD COMMUNICATIONS GROUP INC; DEUTSCHE POSTBANK AG; DAIICHI SANKYO LOGISTICS CO LTD; BELLSOUTH CORP; VERIZON COMMUNICATIONS INC; MCI INC; COVAD

News Subject: (Monopolies (1MO68); Legal (1LE33); Major Corporations (1MA93); Economics & Trade (1EC26); Antitrust Regulatory (1AN52); Regulatory Affairs (1RE51))

Industry: (Internet (1IN27); Broadband Services (1BR03); Telecom Regulatory (1TE65); Telecom Carriers & Operators (1TE56); Telecom Services (1TE09); Long-Distance Services (1LO42); Telecom (1TE27); Internet Regulatory (1IN49); Broadband (1BR88); Digital Subscriber Line Connectivity (1DI77))

Region: (North America (1NO39); USA (1US73); Americas (1AM92))

Language: EN

Other Indexing: (BELLSOUTH CORP; COMMUNICATIONS INTERNATIONAL INC; CONGRESS; COVAD; COVAD COMMUNICATIONS INC; DSL; DSL COMPLAINTS; QWEST; SBC COMMUNICATIONS INC; VERIZON; VERIZON COMMUNICATIONS INC; VERIZON SUES COVAD) (Barr; Dhruv Khanna; Fundamentally; John Thorne; Khanna; Rival Lied; Suit Alleges; William Barr)

Product: DAILY

Word Count: 443

NewsRoom

6/12/01 AP Online 00:00:00

AP Online

June 12, 2001

Verizon Sues Covad Over Reports

SAN JOSE, Calif. (AP) -- Troubled high-speed Internet provider Covad Communications Group Inc. tried to save money by falsifying reports that blamed service problems on telephone giant Verizon Communications Inc., according to a Verizon suit against Covad.

The suit, filed Monday in federal court in San Jose, alleges that Covad told its employees to claim falsely that Verizon had failed to provide the necessary lines to hook customers up with fast digital subscriber lines, or DSL.

Verizon said it had sworn statements from 26 former Covad employees who claimed to have been pressured into making the bogus reports. More than 22,000 such false reports were made, Verizon said.

Covad spokeswoman Martha Sessums said the Santa Clara-based company denies the allegations.

"We consider the suit a harassment suit that thinly veils the fact Verizon has a very poor service and is inventing complaints to cover up its own ineptitude," she said Tuesday.

"Our employees are honest and work hard to get the customers' installation complete in as fast a time as possible, often having to overcome" the complications of the installation process with telecommunications providers such as Verizon, she said. Verizon's general counsel, former U.S. Attorney General William Barr, said the New York-based phone company would seek to recapture the money it lost sending technicians out to fix nonexistent problems in the lines. He would not specify the amount, other than that it was millions of dollars.

"What we're talking about here is an orchestrated and pervasive misrepresentation by (Covad) management to shift costs," he said.

DSL offers Internet connections at least 10 times faster than dial-up modems over existing telephone wires. Despite the promise of the technology, independent providers such as Covad have been struggling in the past year to pay for their expensive network set-ups while fending off strong competition from regional telephone companies.

Covad recently reported a $1.4 billion net loss for 2000, and its auditors have raised concerns about its viability. ------

On the Net:

http://www.verizon.com

http://www.covad.com

---- Index References ----

Company: COVAD COMMUNICATIONS GROUP INC; VERIZON COMMUNICATIONS

News Subject: (Business Lawsuits & Settlements (1BU19); Business Litigation (1BU04); Major Corporations (1MA93))

Industry: (Telecom Carriers & Operators (1TE56); Telecom (1TE27); Manufacturing (1MA74))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); California (1CA98))

Language: EN

Other Indexing: (COVAD; COVAD COMMUNICATIONS GROUP INC; DSL; SANTA CLARA; VERIZON; VERIZON COMMUNICATIONS INC; VERIZON SUES COVAD) (Martha Sessums; William Barr)

Word Count: 427

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NewsRoom

6/12/01 PR Newswire 00:00:00

PR Newswire

June 12, 2001

Verizon Lawsuit Charges Covad Falsified Thousands of Trouble Reports Costing Verizon Millions of Dollars

NEW YORK, June 12 PRNewswire

Verizon Communications has filed suit
against Covad Communications, charging the Santa Clara-based company with an orchestrated and intentional campaign of lies and distortions designed to deceive the public and regulators and to shift its operating costs and blame for its own problems to Verizon.

In doing so, the suit says, Covad submitted more than 22,000 reports claiming falsely that Verizon failed to properly provide lines for high-speed data service known as DSL or digital subscriber line service. The lines were ordered to connect Covad DSL customers to the Verizon network.
The lawsuit is supported by more than a score of sworn statements by Covad employees.

"The picture we have is of Covad installers being thrown into the field under-trained and under-equipped, while the company was over-promising customers delivery on a schedule it had no hope of meeting," said Verizon Executive Vice President and General Counsel William Barr. "Then, when the inevitable happened and Covad couldn't deliver to customers, there was a policy in place to generate false complaints of Verizon service problems in order to cover up the Covad failures. This had the effect of shifting costs from Covad to Verizon."

In affidavits, former Covad workers said that the false reports were collected systematically, and they estimated that as many as 50 percent of the reported troubles were false.

Barr added that Covad even used this falsified data to persuade regulators to penalize Verizon. "The suit says that Covad directed employees to submit the false reports and, furthermore, designed work processes knowing that these processes would result in large numbers of false reports. The suit says this was done to shift costs from Covad to Verizon.

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competitors, Covad used these false reports to induce Verizon to supply its flagging business with services, employee time and expertise, and facilities. Covad's systematic false reports cost us millions of dollars," said Barr.
The lawsuit was filed in federal court in U.S. District Court for Northern California in San Jose late yesterday and includes sworn statements of 26 former Covad employees. They state that they were "pressured" and "badgered" to make up false reports of Verizon service problems and that those who questioned the practice were reprimanded:

-- One Covad employee recounted: "On more than one occasion I was told by Covad management to simply mark the loop (Verizon line) on the system as not delivered (even when they were) .... I was troubled by this obvious dishonesty.... When I said so, however, I was reprimanded and told that I just needed to do my job."

(Declaration 2, paragraph 7)

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(Declaration 6, paragraph 6)

Each of the more than 22,000 false trouble tickets triggered a response by Verizon technicians, who were often dispatched to correct the line problem and connect Covad's customers. "While we were chasing false alarms for Covad, we couldn't use our resources to provide service to other customers who actually needed our help," Barr said.

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Covad's deception even went to the extent of keeping two sets of books, according to the suit. Covad management instructed employees to keep two sets of logs regarding problem orders: an "internal" log for Covad employees to record accurate information and an "external" log containing false information to disseminate to customers. Covad management instructed "that problems associated with Covad were to be kept in the internal notes only, and not to be included in the external notes. . . . Very often, (Covad) agents made misrepresentations in the external notes and wrongly blamed ILECs for problems." (Declaration 16, paragraph 13)
Verizon's suit asks for injunctive relief against Covad, as well as damages including lost profits and punitive damages. The full text of Verizon's complaint is available at http://newscenter.verizon.com/kit/suit.

Verizon Communications, (NYSE: VZ), formed by the merger of Bell Atlantic and GTE, is one of the world's leading providers of high-growth communications services. Verizon companies are the largest providers of wireline and wireless communications in the United States, with more than 112 million access line equivalents and more than 27 million wireless customers. Verizon is also the world's largest provider of print and on-line directory information. A Fortune 10 company with more than 261,000 employees and $65 billion in 2000 revenues, Verizon's global presence extends to

44 countries in the Americas, Europe, Asia and the Pacific.

ON THE INTERNET: Verizon news releases, executive speeches, biographies, media contacts and other information are available at Verizon's News Center on the World Wide Web at http://www.verizon.com/news. To receive news releases by e-mail, visit the News Center and register for personalized automatic delivery of Verizon news releases.

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SOURCE Verizon Communications
CONTACT: Eric Rabe, 215-963-6531, eric.rabe@verizon.com, or Maureen Flanagan, 212-395-3519, maureen.e.flanagan@verizon.com, both of Verizon Communications

Company News On-Call: http://www.prnewswire.com/comp/094251.html or fax, 800-758-5804, ext. 094251
Web site: http://www.verizon.com

---- Index References ----

Company: VERIZON COMMUNICATIONS

News Subject: (Legal (1LE33); Technology Law (1TE30); Major Corporations (1MA93))

Industry: (Telecom Carriers & Operators (1TE56); I.T. (1IT96); Telecom (1TE27); Networking Markets (1NE31); I.T. in Telecom (1IT42); Manufacturing (1MA74); CLECs & Alternative Carriers (1CL29))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); California (1CA98))

Language: EN

Other Indexing: (COMPANY NEWS; COVAD; ILEC; NEWS CENTER; NYSE: VZ; SANTA CLARA; US DISTRICT COURT FOR NORTHERNCALIFORNIA; VERIZON COMMUNICATIONS; VERIZON LAWSUIT CHARGES) (Assurance Plans; Barr; Costing Verizon; Covad; Covad Communications; Covad DSL; Covadcriticized Verizon; Declaration; Declaration 7; Maureen Flanagan; SOURCE Verizon; Verizon; VerizonExecutive Vice; Verizonis; William Barr)

Word Count: 1623

End of Document

NewsRoom

6/12/01 Reuters News 21:00:14

Reuters

June 12, 2001

UPDATE 2-Verizon sues Covad alleging "false reports".

Andy Sullivan

WASHINGTON, June 12 (Reuters) - Telecommunications services provider Verizon Communications Inc. said on Tuesday it had filed suit against Covad Communications Group Inc. , alleging that the troubled high-speed Internet provider blamed its own service failures on Verizon.

The suit is the latest chapter in the ongoing legal spat between the two companies, which are mandated by law to work together while they compete for broadband customers using digital subscriber line technology.

Under the 1996 Telecommunications Act, incumbent local "Baby Bell" phone providers like Verizon must allow Covad and other independents to use their networks to set up DSL service.

Verizon's lawsuit, based on testimony from 25 former Covad employees, alleges that Covad management employed a deliberate strategy to blame Verizon and other Baby Bells for its own shortcomings.

A Covad executive said the claims were without merit and the suit was meant to intimidate the smaller company, which is currently facing delisting from the Nasdaq stock exchange.

EX-EMPLOYEES ALLEGE BLAME SHIFTING

Former employees cited in the suit allege that Covad technicians, often undertrained and under-equipped, were encouraged to cut corners and blame difficulties on Verizon rather than fixing problems themselves.

"These former Covad employees say that Covad intentionally and explicitly adopted a strategy of shifting blame to the Bells," said Verizon Executive Vice President and General Counsel William Barr at a Washington press conference.

Roughly half of the "trouble tickets" sent by Covad service technicians to Verizon were the result of Covad foul-ups, said Deputy General Counsel John Thorne.

Verizon technicians responded to about 22,000 erroneous Covad trouble tickets last year, Thorne said, costing Verizon millions of dollars that it will seek to recover in the suit.

Thorne said Verizon would have a firmer idea of the total costs as the suit went forward.

Barr said Covad sought to amass trouble tickets to use as evidence for its allegations that Verizon was engaging in anti-competitive behavior. Current laws provide no incentive for independent DSL providers to fix problems they create, he said.

"It's an unavoidable dynamic in the structure that's been set up here," Barr said.

SUIT INTENDED TO HARASS, COVAD SAYS

Covad Executive Vice President and General Counsel Dhruv Khanna said that the company's rapid growth may have led to some management issues but denied that the company deliberately generated false trouble tickets.

Verizon's statement "that ... we have a policy in place to generate false complaints is an absolute lie," Khanna told Reuters in a telephone interview.

Khanna said it would not make sense for Covad technicians to generate frivolous trouble tickets, as the company is responsible for paying Baby Bells for the cost of responding to trouble tickets that are found to be its own fault.

Covad has not paid Verizon for its erroneous trouble tickets, said Verizon spokesman Eric Rabe. Khanna said Covad should have received a bill from Verizon for the trouble tickets.

Khanna said the suit was intended to harass and intimidate Covad, which has previously tangled with Verizon in court.

Covad filed an antitrust suit against Verizon in 1999, and Verizon is currently appealing the loss of a patent suit against Covad.

"We expect to prevail in this lawsuit as we have previously. We're frankly at this point in time fed up with Bell Atlantic," Khanna said.

Verizon was formed last year through a merger between Bell Atlantic Corp. and GTE Corp.

Covad currently faces delisting from the Nasdaq stock exchange as its share price has plummeted in the wake of financial difficulties and the failure of several of its partner Internet providers.

Verizon shares closed up 1 percent at $54.35. Covad shares closed down 3 percent at 95 cents.

---- Index References ----

Company: GTE INTERNETWORKING; DEUTSCHE POSTBANK AG; BELL ATLANTIC CORP; COVAD COMMUNICATIONS GROUP INC; DAIICHI SANKYO LOGISTICS CO LTD; BELL ATLANTIC CELLULAR CONSULTING GROUP INC; VERIZON COMMUNICATIONS INC; MCI INC; GTE DELAWARE LP; GTE CORP; COVAD

News Subject: (Major Corporations (1MA93); Stock Markets (1ST45); Volatile Stocks (1VO70); Funding Instruments (1FU41); Corporate Events (1CR05); Business Management (1BU42); Exchange Listings & Delistings (1EX12); Financial Markets (1FI87))

Industry: (Financial Services Networking (1FI57); Investment Management (1IN34); Telecom Carriers & Operators (1TE56); High-Speed Wide Area Networking Equipment (1HI46); Stocks (1EQ09); I.T. (1IT96); Telecom (1TE27);

Securities Investment (1SE57); Networking (1NE45); Financial Services (1FI37); Networking Connectivity Solutions (1NE47))

Region: (North America (1NO39); USA (1US73); Americas (1AM92))

Language: EN

Other Indexing: (BELL ATLANTIC; BELL ATLANTIC CORP; COVAD; COVAD COMMUNICATIONS GROUP INC; DSL; GTE CORP; SUIT; VERIZON; VERIZON COMMUNICATIONS INC) (Baby Bell; Baby Bells; Barr; Bells; Counsel; Counsel Dhruv Khanna; Counsel William Barr; Deputy General; Eric Rabe; John Thorne; Khanna; Roughly; Thorne)

Word Count: 604

End of Document

6/12/01 Wash. Telecom News 00:00:00

Washington Telecom Newswire

June 12, 2001

VERIZON SUES COVAD FOR FALSIFYING TROUBLE REPORTS

Covad deliberately falsified complaints about the quality of service it got from Verizon to "deceive the public and regulators," Verizon Gen. Counsel William Barr charged at a news conference today. Verizon filed a suit against Covad late yesterday charging it with anticompetitive behavior and seeking an injunction and damages. Barr said Verizon lost millions of dollars last year by responding to Covad's false trouble reports. He said Covad's "campaign of lies and distortions" also hurt Verizon by raising the amount of fines that Verizon has to pay for trouble reports. Covad strongly denied the charges in a news release, calling Verizon's litigation "a harassment suit that thinly veils the fact that Verizon has a very poor service record and is inventing complaints to cover up its own ineptitude."

Trouble reports are filed when a customer -- end user or reseller such as Covad -- has a problem with phone service. In response to a report, a phone company sends out a technician in a truck to the customer's premises to determine if there is a problem and fix it.

The Verizon suit is based on affidavits by former Covad employees who said they were pressured to submit false trouble reports to shift the cost of fixing problems that often were Covad's fault. Verizon charged that Covad submitted more than 22,000 false reports last year, estimating they accounted for at least 50% of the total reports. According to the affidavits, Covad's installers were undertrained and under-equipped and when they couldn't deliver service properly Covad instituted a policy to blame the Bells and get them to fix the problems instead.

Barr said the real damage was in Verizon's image as it tried to meet the local competition requirements needed to enter the long distance business. He charged Covad with using the trouble reports for regulatory purposes as well, for example entering Sec. 271 proceedings to "extract concessions" from Verizon based on the amount of problems Verizon allegedly had in fulfilling competitors' needs. He said the bottom line is that until now, regulators have "taken at face value" competitors' claims of poor

service from the Bells. Now it's clear "there are two sides to every story," he said.
(WTN 0576-01)

---- Index References ----

Company: VERIZON COMMUNICATIONS

News Subject: (Major Corporations (1MA93))

Industry: (Telecom (1TE27); Manufacturing (1MA74))

Language: EN

Other Indexing: (BELLS; VERIZON) (Barr; Counsel William Barr; Covad)

Word Count: 449

End of Document

5/28/01 Warren's Cable Reg. Monitor (Pg. Unavail. Online)
2001 WLNR 5621676

Warren's Cable Regulation Monitor

May 28, 2001

SENSENBRENNER SEES MORE INFORMATION NEEDED ON DATA BILLS

Despite opening jurisdictional battle over data deregulation bill (HR-1542) introduced by House Commerce Committee Chmn. Tauzin (R-La.) and ranking Democrat Dingell (D-Mich.), House Judiciary Committee Chmn. Sensenbrenner (R-Wis.) said he still was unsure which, if any, measure would best speed rollout of high-speed Internet service. At hearing May 22 on bills that Judiciary's ranking Democrat Conyers (Mich.) and Rep. Cannon (R-Utah) offered as alternatives to HR-1542, Sensenbrenner confirmed that House Speaker Hastert (R-Ill.) intended to grant Sensenbrenner's request for "sequential referral" of HR-1542 to Judiciary Committee, despite objections of Tauzin-Dingell supporters. However, he also said he needed more information before backing any particular bill.

"The question is which, if any, of them will work?" Sensenbrenner said. "Contrary to what some have suggested, I have not decided that question for myself." He said he would schedule hearing on Tauzin-Dingell after Congress's summer recess. Judiciary staffer recently said committee probably would have shot at part, but not entirety, of bill. Hastert under House rules won't refer bill, nor decide which portion is available for Judiciary scrutiny, until Commerce formally reports it to full House. Bill largely would deregulate Bell company provision of data services across in-region interLATA boundaries, move that opponents charged would "remonopolize" baby Bells.

Although Sensenbrenner wouldn't throw his support behind specific bills, one of his stated goals is to bolster telecom antitrust enforcement, basic tenet of Conyers-Cannon (HR-1697) and Cannon-Conyers (HR-1698): "At a minimum, we must reverse the Seventh Circuit's [Chicago] recent decision in the Goldwasser [v. Ameritech] case." Court in Goldwasser ruled that Telecom Act took precedence over antitrust law on telecom issues. "That decision directly contradicts the clear congressional intent that the antitrust laws should continue in force in this industry. Goldwasser simply reads the antitrust savings clause out of [the

Act], and it must be corrected," he said.
Cannon-Conyers bills would be "bad for antitrust policy," Verizon Gen. Counsel William Barr said. Barr, former Attorney Gen. under first President George Bush, said FCC already had authority to contend with violators of telecom regulations and could suspend or revoke ability of Bells to offer interLATA services. "These bills scrap years of antitrust jurisprudence," he said: "They also reverse Congress's judgment 5 years ago to deregulate the telecommunications industry, promote competition and empower agencies, rather than antitrust courts."
Rep. Boucher (D-Va.) said Cannon-Conyers bills would discourage Bell deployment of high-speed networks because cost of providing DSL service already was above monthly rates paid by customers. Considering that so few CLECs are interested in serving residential markets, bills therefore are "requesting the impossible." However, private practice attorney Jeffrey Blumenfeld said bills "would simply sharpen" relation between antitrust law and Act, resulting in "preservation of competition in our industry."
News release accompanying Barr's appearance before Committee said it was unfair that bills would create antitrust rules for one part of broadband industry but not for others such as cable. There should be one broadband policy, Barr said. USTA issued statement expressing "strong opposition" to Cannon-Conyers bills because they called for "unnecessary regulations to further punish local telecommunications providers for proving vital services to all Americans." At same time, bills would allow "nation's largest cable provider, AT&T, to get a free pass," said USTA, which argued again for Tauzin-Dingell bill.

---- Index References ----

Company: SBC COMMUNICATIONS INC; VERIZON COMMUNICATIONS

News Subject: (Legal (1LE33); Antitrust Regulatory (1AN52); Monopolies (1MO68); Judicial (1JU36); Major Corporations (1MA93); Technology Law (1TE30); Government (1GO80); Economics & Trade (1EC26))

Industry: (Telecom Regulatory (1TE65); Advanced Telecom Technology (1AD41); Advanced Networking Technology (1AD67); I.T. in Government (1IT22); Cable TV (1CA92); I.T. Regulatory (1IT67); TV (1TV19); I.T. (1IT96); Entertainment (1EN08); I.T. in Telecom (1IT42); Cable Regulatory (1CA73); Advanced Digital Technologies (1AD50); Telecom (1TE27); TV Regulatory (1TV84))

Region: (North America (1NO39); Americas (1AM92); USA (1US73); Michigan (1MI45))

Language: EN

Other Indexing: (AMERITECH; COMMERCE; COURT; DSL; FCC; HASTERT; HOUSE; HOUSE COMMERCE COMMITTEE; HOUSE JUDICIARY COMMITTEE; HOUSE SPEAKER HASTERT; JUDICIARY; JUDICIARY

COMMITTEE; SENSENBRENNER; USTA; VERIZON) (Barr; Boucher; Cannon; Congress; Counsel William Barr; Democrat Conyers; Democrat Dingell; George Bush; Jeffrey Blumenfeld; Sensenbrenner)

Word Count: 756

End of Document

NewsRoom

5/23/01 San Jose Mercury News 1C
2001 WLNR 1530820

San Jose Mercury News (CA)

May 23, 2001

Section: Business

HOUSE DIVIDED OVER LOCAL NET RESTRICTIONS

HEATHER FLEMING PHILLIPS, Mercury News Washington Bureau

WASHINGTON

Escalating the battle over legislation that could shape competition for high-speed Internet access, key members of the House Judiciary Committee are weighing in against a bill that they see as a threat to local phone competition.

Leaders of the House Commerce Committee are pushing a controversial measure from committee chairman Rep. Billy Tauzin, R-La., that would free the largest local phone companies from regulations that prevent them from carrying long-distance Internet and data traffic. The bill passed the commerce panel earlier this month.

But the legislation is now facing an uncertain future after House Speaker Dennis Hastert granted the Judiciary Committee a 30-day window to review it. The panel is widely expected to make significant changes to the bill.

Tauzin's bill "would effectively duplicate the monopoly" of telephone providers into broadband services, Rep. John Conyers of Michigan, the ranking Democrat on the committee, said at a hearing on the issue Tuesday.

Another hearing set

Another hearing is set for next month. The Judiciary Committee also is considering alternative proposals written by Conyers. His plan is to keep the current Internet restrictions in place unless the local phone companies can show that they're controlling less than 85 percent of the local phone market.

In most markets, the large local companies control more than 90 percent of the business.

Not since the Telecommunications Act was debated in Congress six years ago have so many high-powered communications lobbyists and lawyers filled the halls and offices of Congress in such force.

In a sign of how much is at stake, both sides have taken out ads in Washington newspapers and are blitzing the TV airwaves.

Current law

Current law prevents the large local phone companies, including Pacific Bell parent SBC Communications, from transmitting long-distance phone and data traffic until they prove to federal regulators that they've fully opened their local phone markets to competitors. The restriction applies only to the large local phone companies that were created as part of the breakup of AT&T in 1984.

That carrot-and-stick approach was carefully crafted in the 1996 Telecommunications Act, and start-up competitors and long-distance companies argue that any changes would eviscerate local phone competition.

The local phone companies say the long-distance restriction should only apply to the market they dominate -- the phone market -- and that it's unfair to shackle them with regulations in the burgeoning Internet backbone business.

William Barr, executive vice president and general counsel of the East Coast regional phone company Verizon, told the Judiciary Committee Tuesday that competitors are raising unfounded complaints that they've been foot-dragging in opening their local phone markets. Those complaints have already been raised and addressed with federal and state regulators, he said.

---- Index References ----

Company: AT&T INC; VERIZON COMMUNICATIONS

News Subject: (Legal (1LE33); Judicial (1JU36))

Industry: (Internet Regulatory (1IN49); Online Services (1ON37); Telecom (1TE27); Wireline Telecom Regulatory (1WI37); E-Commerce (1EC30); Internet (1IN27); Internet Infrastructure (1IN95); Internet Infrastructure Policy (1IN62); Emerging Internet Business Applications (1EM61))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (CONGRESS; HOUSE; HOUSE COMMERCE COMMITTEE; HOUSE JUDICIARY COMMITTEE; HOUSE SPEAKER DENNIS HASTERT; JUDICIARY COMMITTEE; SBC COMMUNICATIONS; TV; VERIZON) (Billy Tauzin; Conyers; John Conyers; Tauzin; William Barr)

Edition: Morning Final

Word Count: 589

End of Document

5/22/01 Comm. Daily (Pg. Unavail. Online)
2001 WLNR 5592229

Communications Daily

May 22, 2001

VERIZON WANTS DLEC OBLIGATIONS LIFTED MORE THAN INTRALATA DATA

As House Judiciary Committee holds hearing today (Tues.) on 2 bills that would restrict Bell expansion in broadband until more local phone competition emerges, leading Bell official said his company could live with passage of separate broadband bill without data long distance provisions if Bells could be free of data interconnection obligations. HR-1542 by House Commerce Committee Chmn. Tauzin (R-La.) and ranking Democrat Dingell (Mich.) would free Bells to send data across intraLATA boundaries, but Verizon Exec. Vp-Gen. Counsel William Barr told reporters Mon. he feared that provision might be deleted if bill reached Senate.

Being assured that Verizon won't be forced to interconnect with DLECs (digital local exchange carriers, or competitive DSL companies) on anything other than reasonable terms is Barr's central ambition, he said. With any interconnection with ISPs in future, Barr said, "we want revenue-sharing or a piece of the action upstream." After briefing, he admitted Bells still could gain intraLATA relief by applying for complete long distance rights in given state through FCC's Sec. 271 proceeding.

"I think the bill will pass the Senate," Barr said, and passage should occur "around the time the Administration starts thinking seriously about broadband." White House hasn't released official position on HR-1542 but Barr said he suspected it would be favorable.

Barr said reason legislation such as HR-1542 was needed was to determine "whether Congress is going to act in communications by looking through the front windshield or by looking in the rear-view mirror." "The principal problem in telecommunications," he said, "is asymmetrical regulations" between phone and cable companies. Asked about amendment attached to HR-1542 at full committee markup that would require Bells to build out DSL across their networks, even to rural areas, Barr said "we'll swallow on that one," arguing that bill still wouldn't make DSL cost-effective for all rural areas. Tauzin, Dingell and USTA all have argued that HR-1542 was necessary to close digital divide.

'Gratuitous, Excessive and Destructive'
Barr will tell House Judiciary Committee that HR-697 and HR-1698 sponsored respectively by ranking Democrat Conyers (Mich.) and committee member Cannon (R-Utah) are "gratuitous, excessive and destructive," not to mention "radical." (Other witnesses are Ill. Commerce Commission Comr. Terry Harvill, Blumenfeld & Cohen partner Jeff Blumenfeld, Eastern Management Group CEO John Malone.) Essentially, bills seek to apply antitrust law to both regulations overseeing local phone market and broadband market. (Hearing also may address HR-1542, as House Speaker Hastert has cleared limited review of bill for House Judiciary Committee, but at our deadline that referral wasn't official because House Commerce Committee hadn't formally released bill.) Cannon-Conyers bills, and hearing, are part of long-running struggle between House Judiciary and Commerce Committees over what extent, if any, Clayton Antitrust Act plays in enforcing Telecom Act.
"If you violate [Telecom Act] regulations, that doesn't mean you're guilty of antitrust violations," Barr said. Bills are attempt to "muscle in a highly particular code of conduct for a specific industry. That's never been done before." Bells would be hindered under antitrust law, he said, because companies would be open to lawsuits and would face treble damages. He said Verizon not only must meet standards of Telecom Act overseen by FCC's Enforcement Bureau but also must adhere to performance assurance plans in each state. "We meet or exceed all requirements" on interconnection and customer service, Barr said.
-- Patrick Ross

---- Index References ----

Company: VERIZON COMMUNICATIONS

News Subject: (Legal (1LE33); Antitrust Regulatory (1AN52); Technology Law (1TE30); Government (1GO80); Monopolies (1MO68); Judicial (1JU36); Economics & Trade (1EC26))

Industry: (TV (1TV19); Entertainment (1EN08); Cable Regulatory (1CA73); Cable Equipment (1CA96); TV Regulatory (1TV84); Cable TV (1CA92))

Region: (Americas (1AM92); North America (1NO39); USA (1US73); Michigan (1MI45))

Language: EN

Other Indexing: (CLAYTON ANTITRUST ACT; COMMERCE COMMISSION; COMMERCE COMMITTEES; CONGRESS; DEMOCRAT; DEMOCRAT DINGELL; DINGELL; DSL; ENFORCEMENT BUREAU; FCC; HOUSE COMMERCE COMMITTEE; HOUSE JUDICIARY; HOUSE JUDICIARY COMMITTEE; HOUSE SPEAKER HASTERT; MANAGEMENT GROUP; SENATE; USTA; VERIZON; VERIZON EXEC; WHITE HOUSE) (Barr; Bells; Blumenfeld Cohen; Counsel William Barr; Destructive; DLEC OBLIGATIONS; Essentially; Jeff Blumenfeld; John Malone; Patrick Ross; Terry Harvill)

Word Count: 740

End of Document

5/21/01 TR Daily (Pg. Unavail. Online)
2001 WLNR 12034555

TR Daily

May 21, 2001

Verizon's Barr Pans Conyers-Cannon Legislative Package

Enactment of legislation that would treat breaches of certain parts of the Telecommunications Act of 1996 as "per se" violations of antitrust law would be "gratuitous, excessive, and disruptive" to the incumbent local exchange carrier (ILEC) industry, says William P. Barr, Verizon Communications, Inc.'s executive vice president and general counsel. Mr. Barr met with reporters today in Washington to preview his testimony regarding HR 1698, which would treat some telecom act violations as antitrust infractions. Mr. Barr is scheduled to testify tomorrow before the House Judiciary Committee.

Introduced by Rep. Christopher Cannon (TR, May 7), HR 1698 also prohibits an ILEC from jointly marketing its advanced services if it's found in violation of certain parts of the telecom act. Also on tomorrow's Judiciary Committee agenda is Rep. John D. Conyers's (D., Mich.) HR 1697. That bill would prohibit a Bell company from gaining permission to offer in-region interLATA (local access and transport area) services if it has more than 85% of the market for commercial and residential local exchange service.

Mr. Barr said HR 1698 wasn't necessary because there's already a "layered scheme of enforcement mechanisms" at the state and federal level for addressing violations of sections 251, 252, 271, and 272 of the telecom act. In addition, he said, passage of HR 1698 would have the unintended consequence of "opening the floodgates of litigation" against ILECs, which would "substantially burden" them and "deter new investment."

Rep. Conyers's bill falls short, Mr. Barr said, because it relies too much on the loss of market share as an indicator of competition. A better way to determine the level of competition in a given area would be to focus on the amount of revenue and customers that the ILEC had lost to competitive carriers, he said. "There's a panoply of things in place" to enforce ILECs' compliance with the telecom act, Mr. Barr said. "We already have an enforcement regime that's supervised by an expert agency and a process that requires a rapid resolution" of carriers' complaints, he added. "It just doesn't make sense to have violations [of the telecom act]. . .automatically translate into antitrust violations with treble damages."

Meanwhile, commenting on the fate of Rep. W.J. (Billy) Tauzin's (R., La.) HR 1542, Mr. Barr conceded that tough times lay ahead in the Senate for that bill, particularly the section giving the Bell companies immediate relief from interLATA restrictions on data services. But Mr. Barr was more upbeat about the prospects for getting the bill's unbundling and resale "relief" provisions through the Senate.

"There's increased interest in the Senate on the broadband access" section of HR 1542, he reported. "But there's a strong possibility that [if the bill clears the Senate], it won't include interLATA data" relief, he said.

TR Daily, May 21, 2001 20010521/DATE>TR Daily -->

---- Index References ----

Company: VERIZON COMMUNICATIONS INC; VERIZON LABORATORIES; CELLCO PARTNERSHIP

News Subject: (Government (1GO80); Major Corporations (1MA93); Economics & Trade (1EC26))

Industry: (Internet Regulatory (1IN49); Telecom Carriers & Operators (1TE56); Telecom Regulatory (1TE65); Telecom (1TE27); Wireline Telecom Regulatory (1WI37); Internet (1IN27); Internet Infrastructure (1IN95); Internet Infrastructure Policy (1IN62); CLECs & Alternative Carriers (1CL29))

Language: EN

Other Indexing: (BARR; BARR PANS CONYERS; CHRISTOPHER CANNON; HOUSE JUDICIARY COMMITTEE; HR; ILEC; JUDICIARY COMMITTEE; SENATE; TR; TR DAILY; VERIZON; VERIZON COMMUNICATIONS) (Barr; Billy; Conyers; Enactment; ILECs; John D. Conyers; W.J.; William P. Barr)

Word Count: 588

End of Document

Getting the F.B.I. in Harness

The New York Times

May 17, 2001 Thursday, Late Edition - Final

Section: Section A; Column 1; Editorial Desk; Pg. 24

Length: 595 words

Body

At first glance, the growing litany of grievous mistakes made by the Federal Bureau of Investigation in recent years seems to lack a common thread. The problems have ranged from an excessive, undisciplined use of force at Ruby Ridge and Waco to complacency about internal security in the case of the F.B.I. agent accused of spying for Moscow. The latest transgression, the missing evidence about the Oklahoma City bombing, suggests acute disorganization. But running through these and other lapses is a chronic failure of management. President Bush needs to find a new director who can get control of the F.B.I. and ensure that it exercises its considerable law enforcement powers fairly and effectively.

There is merit to Senator Charles Schumer's proposal that a high caliber commission be formed to conduct a comprehensive review of the bureau. A systematic examination could yield useful recommendations and provide the F.B.I. leadership with valuable political support. But the more urgent and important goal should be the selection of a new director and management team equipped with the skills and experience to run a large, decentralized organization after a period of explosive growth.

Louis Freeh has done much to expand the bureau during his eight years as director, and the nation owes him thanks for the F.B.I.'s successful efforts to combat terrorism at home and abroad. He was right in his judgment that the fund-raising abuses of Bill Clinton's 1996 campaign should have been examined by an independent prosecutor, a recommendation that Janet Reno unwisely rejected. But is clear that Mr. Freeh, who will soon retire, did not install a chain of command that could make his orders -- and high standards -- stick throughout the F.B.I. bureaucracy.

The F.B.I. today looks more like a multinational corporation than the compact organization that J. Edgar Hoover ran as a fiefdom during his long tenure as director. The F.B.I. employs 11,000 special agents and 16,000 other staff members working in 11 divisions, including 56 field offices in the United States and 40 foreign posts. The bureau's budget this year is $3.6 billion. Its responsibilities have also expanded far beyond the world of bank robberies, violent crime and spy hunting that Hoover favored. The F.B.I.'s work now encompasses complex financial abuses, computer crime and terrorism.

The bureau's recent failures show that its management system has not kept pace with the growth and that the power of the director and his top aides quickly dissipates outside the bureau's fortresslike headquarters on Pennsylvania Avenue. As William Barr, attorney general in the presidency of Mr. Bush's father, told NBC's "Today" show this week, the F.B.I.'s middle-management ranks must be strengthened to deal with an influx of new agents and the corresponding retirement of seasoned investigators during the last decade. "The experience level is probably the lowest it's ever been at the bureau," Mr. Barr said.

We continue to believe that the director of the F.B.I. should be someone familiar with the business of law enforcement and sensitive to the constitutional safeguards that protect the civil liberties of Americans. Mr. Freeh, like several of his predecessors, served as a federal judge before moving to the bureau. But above all, the F.B.I. requires strong, disciplined leadership from someone who knows how to run and reform a large organization.

President Bush has every incentive to find such a person, for the errors of the F.B.I. have a way of haunting the White House and the nation.

http://www.nytimes.com

Load-Date: May 17, 2001

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GEORGE H. W. BUSH ORAL HISTORY PROJECT

TRANSCRIPT

INTERVIEW WITH WILLIAM P. BARR

April 5, 2001
Charlottesville, Virginia

Interviewers

University of Virginia
James S. Young, chair
Daniel J. Meador
Russell L. Riley

New Mexico State University
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Transcript copy edited by: Hilary Swinson, Rosalind Warfield-Brown, Jane Rafal Wilson
Final edit by: Jane Rafal Wilson

GEORGE H. W. BUSH ORAL HISTORY PROJECT

TRANSCRIPT

INTERVIEW WITH WILLIAM P. BARR

April 5, 2001

Young: Mr. Barr understands that he will be the only one, aside from those who produce the transcript, to see the original transcript. He will have the opportunity to edit it to his satisfaction, and we will request his clearance of that edited transcript so that it can be used for philanthropic, educational, and research purposes. One copy will go to the Bush Library and one copy to the Scripps Library here. We all understand that the main audiences of these oral history proceedings are people not yet born. We'd like to think that we are speaking for history and to history, so the purpose is a form of long-term and permanent enlightenment about each administration we study, so that the voices and story of the Presidency, as it was seen by those who knew it best, can be recorded.

Why don't we go around the table and each of you say a few words for the purpose of identifying your voice for the transcriber.

Barr: I'm William Barr, and I served in the Bush administration as Assistant Attorney General, Deputy Attorney General, and Attorney General.

Young: I'm Jim Young.

Baker: I'm Nancy Baker. I'm a professor at New Mexico State University and fascinated with the attorney generalship.

Riley: I'm Russell Riley, an assistant professor here at the Miller Center. I was a graduate student years ago, also working with Jim at the Miller Center on earlier oral history projects.

Meador: I'm Dan Meador, law faculty, retired, of the University of Virginia Law School. My association with the Department of Justice was that I was an Assistant Attorney General when Griffin Bell was the Attorney General, 1977 to '79.

Young: So we can start. We'd like to hear in your own words how you came to join the Bush administration and became, through a series of steps, the Attorney General.

Barr: I started off in Washington at the Central Intelligence Agency and went to law school at night while I was working at CIA. During my tenure at CIA—1973 to '77—the investigations of the agency started, and I moved to the legislative counsel's office. While I was there, George Bush became the director of Central Intelligence, and that was my first exposure to him. During that time, there were not only investigations that required his appearance, there was a lot of

legislation that curtailed the powers of the CIA that he had to go up and testify about. That brought me into some contact with him.

I remember the first time I actually dealt with him. It was legislation proposed by Michael Harrington, a very left-wing representative, and Bella Abzug, that would require notifying all the people whose mail had been reviewed by the CIA under a program called HT/Lingual. He had to go up and testify against the legislation. I had written testimony, and I went up and sat in the seat that's behind the witness. Someone asked him a question, and he leaned back and said, "How the hell do I answer this one?" I whispered the answer in his ear, and he gave it, and I thought, *Who is this guy? He listens to legal advice when it's given.*

So I had that kind of exposure to Bush—not that much. I was a junior staff person there, but because of the intensity of the Hill oversight at the time, I guess I had more contact than I otherwise would have.

I applied for a clerkship as I was heading for graduation, with Malcolm Wilkey, a U.S. Court of Appeals judge on the D.C. circuit and a Houstonian. He had been U.S. attorney there as well as the head of the criminal division of the Justice Department in the [Dwight D.] Eisenhower administration. Wilkey took it upon himself to call Bush at the time I applied, for a reference check. Bush said he knew me a little bit but would check further into it, and he talked to other people about me. I guess this registered me in his mind as somebody who was at the Agency and was clerking for an acquaintance and friend of his, Malcolm Wilkey. This is a long answer, but it's sort of interesting, at least the way things worked out.

I went into private practice after my clerkship, and when [Ronald] Reagan came to power, I was on the transition, but I was involved in litigation, so I didn't go right into the White House. After the litigation was settled, I went over to work with the domestic policy staff. In that capacity, I had a lot of contact with [C.] Boyden Gray during the time I was there, mainly on regulatory kinds of issues, and we became friends.

Young: Excuse me for interrupting. Boyden Gray was at that time—

Barr: Counsel to the Vice President. I didn't have too much contact with Bush, but I had a lot of contact with Boyden Gray during the time I was at the White House. Then I went back to private practice to make partner in my firm, and Bush ran. A friend of mine, who had been a co-clerk and had worked on the NSC [National Security Council] staff and was close to Jim Baker, named Bob Kimmitt, asked me if I would help with the Vice Presidential screening. So I got involved in screening people on a list of potential Vice Presidential candidates.

I was down at the convention, and when all the crap hit the fan on [Danforth] Quayle, I spent several weeks doing damage control—how to respond to different allegations that were being made. After the election, I worked in the counsel's office of the transition team, and the first sub Cabinet position that they considered was the head of the Office of Legal Counsel [OLC] because Boyden Gray thought that that was a very important job and was intent on getting someone in that position who believed in executive authority. He asked me if I would take that

position. Although I in some ways wanted a more commercial job with a little bit more application to private practice, I thought, *Oh, it's a pretty good job actually, so I'll take it*.

So I went into the Office of Legal Counsel. I met with [Richard] Thornburgh. I had not known Thornburgh. I was the White House's choice, and I was acceptable to Thornburgh, and so I started there in the administration. I believe, based on what Boyden said, that Boyden told the President that he should appoint me as head of the OLC. He reminded the President who I was, that I had known him since the CIA, had supported Bush over the years, and that sort of helped. That's a long answer.

Young: I'd like to ask a little bit about the screening—what actually you were doing there, what was going on? There are very few people who seem to know the full story of how the selection of Dan Quayle came about, though we haven't asked everybody.

Barr: Did you interview Bob Kimmitt?

Young: We haven't talked to him yet.

Barr: Or Bob Teeter?

Young: He's on our list, too.

Barr: A list was given to us. I can't remember how many people were on it, maybe eight or nine people. We got all their tax returns and financial records.

Meador: Are we free to interrupt with a question? Where did that list come from? Who made it up?

Barr: It came from Vice President Bush.

Meador: Who made up the list initially?

Barr: I don't know who helped him on it. I assume that Teeter and Baker and others consulted with him on it. So we looked at press coverage and interviewed some people who could tell us about whether there were certain issues we should look into. We had a guy named Fred Goldberg who later became IRS [Internal Revenue Service] commissioner—who was a tax partner at Skadden Arps—look over their income tax. I looked over press accounts. I interviewed people relating to Quayle; I interviewed people who were related to the Paula Parkinson issue. I had to go around and interview people and find out how we were going to handle different issues. In Quayle's case, we looked at what issues had come up in his earlier campaigns. I don't know how the decision was reached.

Meador: Do you mind saying who else was on that list of eight or nine?

Barr: People like Bob Dole? I think it was Bob Dole, Jack Kemp, Paul Laxalt, a few others.

Young: Do you remember at what stage this list had been prepared for examination? Was it rather late or was it early in relation to the nomination itself?

Barr: Oh, there was plenty of time. There was no rush on it. I can't remember exactly. Names were occasionally pulled and added during that time. Quayle had not always been on the list. I didn't discuss this directly with the Vice President or Baker or Teeter. Kimmitt went over to brief on individuals—not all at one time, but he would go over and talk to him about one, and the next day about another, and so forth. Kimmitt did mention the National Guard service, so it was not a surprise. I guess you know that a few of the things that came out were not legitimate allegations. They were false, such as the allegation that someone else took his bar exam.

But aside from that, the things that came out were all things that had surfaced and been discussed. When the thing started looking like it was going south at the convention, people tried to distance themselves from the process. I think that was unfair to Bob, that they tried to suggest that this stuff was a surprise.

I remember there were people who felt that we should get an idea of who it's going to be, with some lead-time to prepare them for the inevitable press conference, and go over some of the issues that we thought would come up based on our review. I don't know who made the decision, but the thing was obviously very rushed, and there was virtually no time for preparation at all. I didn't find out about it until I got down to New Orleans right before. In fact, I think Bush told Kimmitt while he was driving in the limo to the hotel in New Orleans, just after his arrival in New Orleans, who it was going to be. He went up on the showboat, and I was standing there. I was supposed to be told who it was so we could go and pull that file and tell some other people who it was going to be. And Kimmitt was up on the showboat with Bush, and he went like this.

Riley: For the record, the respondent made a "Q" sign in the air.

Meador: Do you have any theory about why Bush chose Quayle?

Barr: It's just my own personal speculation. I think he was looking for a younger, vigorous guy, that generation. Quayle came across as an attractive young politician who was fairly conservative. Teeter had been involved in some of his campaigns and probably thought a lot of him. Although people later tried to distance themselves from it, I think he probably consulted with Baker and others about it and felt comfortable about Quayle.

I personally feel that Quayle got some bad breaks early on, like that first press conference where things he said were misconstrued, or he was inadequately prepared. Quayle was actually a very intelligent, able man, in my opinion. He may not come across as a heavyweight, which may be one of the problems, but I think he's a very able person.

Young: You've already said that one of the questions is the degree of preparation that Quayle had for being chosen and for facing the press. I understand from what you just said that there really wasn't any preparation.

Barr: Not that I'm aware of. And I think Bob Kimmitt felt the same way. So I spent the entire time in New Orleans in my hotel room chasing down malicious rumors about Quayle.

Young: Who was in charge of handling the damage control?

Barr: I can't remember exactly, but Bob Kimmitt and I were involved. I'm sure Baker's people got involved at some point. Kimmitt, for a period of time—at least when I was most active, which were the days during the convention and right after the convention—Bob and I were doing a lot of it, and it was very *ad hoc*. For example, we called lawyers in Indiana. One of our friends had worked in the White House in the Reagan administration, so we called him, and he followed up on the National Guard questions. It was all very *ad hoc*, just using our informal web of friends around the country.

Young: As somebody who had been in the Reagan administration, but with good ties with Boyden Gray, and known at least to George Bush as the Vice President, do you have any observations you'd like to make about the experience of moving from one administration to the other? A lot was made in the press at the time about tension during the transition period between Reagan's people and the Bush people. Do you have any observations to make on that? Were there instances of that? How was it handled? Was it a friendly takeover?

Barr: It was generally a friendly takeover. I was not an incumbent in the Reagan administration. I was coming from my law firm. There were obviously people who felt that because this was a friendly administration, they should be able to stay in their jobs. I think they were surprised that there was a presumption that people would move out of their jobs and make room for a new group. In Justice, obviously, Thornburgh had just come in to replace [Ed] Meese, so I believe he had extracted some indication that in the change in administration he would stay on. I'm not sure about that, but I assume that he did.

But I know that a number of the people in the Justice Department, like Frank Keating and Doug Kmiec and others, felt bad. They felt they should be considered for these positions, and they felt bad that they were being pushed out. I was put in an awkward position because I was awaiting confirmation, and I sort of hung out in OLC, and Doug was still there issuing opinions. Since I wasn't a government employee—or at least I wasn't confirmed at that point—I wasn't going to interfere with what he was doing.

Meador: Was your selection as Assistant Attorney General made before Thornburgh was selected for AG?

Barr: No, no, Thornburgh was there. I forget exactly. I think he came in in August, right before the election. Meese went out, and Thornburgh—

Meador: He was already in place when Bush—

Barr: Yes, he occupied the position initially under Reagan, before Bush won the election. He was in place, and he had some personal staff around, people from Pennsylvania. But he didn't have any other people who were part of the Bush administration in there. I was the first to come

in. I was the first selected sub Cabinet person nominated, I believe. I went over to Justice, and I think I got some kind of temporary employee kind of thing so that I could actually hang around there.

Basically, it was a very strange transition to the Justice Department, sort of backwards, if you will. Ultimately you can say it benefited me and that was primarily that Thornburgh had difficulty getting a deputy on board. He wanted [Robert] Fiske, and Fiske got blocked. Meanwhile, I was the senior appointed official in the Justice Department, [redacted] Then he brought in somebody else as deputy, and as you know, that guy self-destructed in six months. Then, because of the way things evolved, I was almost the actual deputy for a long period of time.

Meador: To what extent did Thornburgh select the other Assistant AGs as contrasted with the White House selection of those people?

Barr: Personally, I think one of the hallmarks of the Bush administration was actually they did a fairly good job. All administrations completely screw up personnel, in my opinion, including the current administration, although they've got very good people in top positions. But they usually screw up the lower positions. I thought Reagan did it to a fare-thee-well. I mean, they just brought in this polyglot group. It's a sort of capricious process, and people got jobs they had no business getting. I thought Bush actually did a fairly good job at it and was fairly deferential. Both the White House and the Cabinet Secretary had to agree to appointments. But I think that they were fairly deferential to the judgments of the departments and a couple of the Cabinet Secretaries, as they should have been.

Now, OLC was different because OLC is viewed as the lawyer for the White House in a lot of ways, and so they have a bigger role in choosing that position. Basically they would send over three or four people to be interviewed for the different Assistant Attorney General positions. Thornburgh would then say who he liked, and the White House—namely Boyden—would okay it, and they would be hired. Boyden was, in my opinion, a very good counsel to the President and, in fact, he and I are proud of the fact and comment to each other that in the four years, no one ever really got in trouble in the Bush administration. There were no real scandals to speak of that took significant people down.

And, contrary to some views, he did not intervene or interfere much at Justice. Watergate made Republican administrations very wary of the Justice Department, and I think Republican administrations—including the Reagan administration, and certainly the Bush administration—took the view that the Attorney General/Justice Department was special and different, and you didn't mess around with it, didn't intervene, you didn't interfere. There was a lot of deference paid. Boyden had certain areas that he was very active in, like judicial selections. He and his crew were very into that, which is fine. And he had certain regulatory issues that he was heavily involved in, the regulatory council under Quayle. He had certain other issues—like ethanol and

other environmental things—that he got very interested in. But basically, he let most of us in Justice do our shtick, and they were very deferential to us.

Let me just give you an example of how deferential. I remember right before we indicted the Pan Am 103 people, the investigation was going along, and the President said to me, "Would it be okay for you to brief us in the National Security Council on where things stand?" *Would it be okay?* "Well, I work for you; you're the top law enforcement officer. Of course it's okay." The attitude was, you have to be very careful with pending matters of justice.

Meador: Do you recall any incident during the whole four years of the Bush administration in which either the President or somebody in the White House instructed the Attorney General or the Department to take any steps or do anything specific?

Barr: You mean a case?

Meador: Any case, or to adopt a certain policy to pursue? Any sort of instructions, you might say, coming down from the White House?

Barr: Never in a criminal case, and never in a civil matter, except in certain positions that we were taking to the Supreme Court, yes. The only examples I can remember are the [Nancy] Cruzan case, [redacted]

Meador: Did you get White House instruction on that case?

Barr: I wouldn't call it instruction. I think we went over and talked to Boyden and told him the differences of opinion and asked him what he thought. It turned out that he agreed more with Thornburgh and me, and so the brief was written accordingly.

Meador: Were there other instance of Supreme Court cases where you had significant White House involvement or discussion about the position to be taken?

Barr: That was the only one I remember. There was no question which side we were coming at in Cruzan. The question was the legal analysis and how strong our position was.

Baker: How about the VMI [Virginia Military Institute] case? I understood that there was some disagreement with the White House—if you should pursue an appeal.

Barr: I'm trying to think how that happened. You have to remind me what happened there.

Meador: The district court held that VMI could constitutionally operate as it was, didn't it?

Barr: Right.

Meador: That was my recollection. That's what the district judge, Jack [Jackson] Kiser, held. It went to the fourth circuit then, and I don't know the rest of it myself.

Baker: There was something about the circuit decision that surprised people.

Barr: I think the Justice Department took the position that supported coeducation, but—this is very vague—we wanted to allow the school a lot more flexibility in structuring programs so that they could have a sort of separate but equal type facility or cadet program. We were basically trying to be more deferential to the state in the position we ultimately took. I thought that's what we did. I don't remember a big disagreement. I saw where I gave remarks before in the book, and someone suggested, or I suggested, that I disagreed with Boyden about something on a civil rights matter, but I really can't remember.

Meador: Within the Justice Department, were there any significant disagreements, say, between the Solicitor General and the Attorney General—either you or Thornburgh—about a position to be taken, not necessarily involving the White House, but internally within the Department?

Barr: Yes, there were significant disagreements sometimes between the SG's [Solicitor General] office and my office on a position. One of the big ones was the *qui tam* statute, which is basically a bounty hunter statute that lets private citizens sue in the name of the United States and get a bounty. I felt then, and feel now, that is an abomination and a violation of the appointments clause under the due powers of the President as well as the standing issue of the Supreme Court. So I wanted to attack the *qui tam* statute, and the SG's office wanted to defend it. That was a big dispute.

Meador: How did it come out?

Barr: Mexican standoff, we didn't file at all. [laughter]

Baker: I'd like to rewind, because you made some interesting comments when you were at the OLC about the Deputy Attorney General, Ayer. Was Donald Ayer selected by Thornburgh? How did he end up as deputy and yet still feel frozen out? I get a clear sense that you were able to work with Thornburgh and that inner circle of Pennsylvania aides.

Barr: [redacted]

But Ayer basically came at it as you would expect someone from the SG's office to come at it, no feeling for how to run an organization, no feeling for how to deal with people. He took very rigid—unnecessarily rigid—positions on things. He was too concerned about his prerogative, that he be given the prerogative of the office—rather than earning the prerogative—in everyday give-and-take of discussion and dealing with others and so forth. He had a tin ear, he had no

political sense, he did stupid things. I thought Thornburgh was actually too patient with him, and to hang on as long as he did was clearly a mistake from day one.

I'd been handling national security affairs every since I started at the Justice Department because Thornburgh saw that I had the CIA background. This actually turned out to be important for my own career. He said, "Why don't you go over and get into National Security Council stuff?" So he sent me over to sit on something called the Deputies Committee, which is actually a pivotal group within the administration. The Deputies Committee became the crisis management committee for the administration on foreign affairs. Then it started branching out in other areas because it was such an effective group. In my opinion, it was one of the best groups I've ever been associated with.

Bob Gates was the chairman of it, Larry Eagleburger and Bob Kimmitt from State, David Jeremiah from Defense, and I was an assistant secretary, and I was in Justice. [Paul] Wolfowitz was also from Defense. During the Panama matter—or leading up to those matters, where there was stuff going on—Thornburgh had me dealing with it and reporting to him. Ayer had arrived on the scene and started trying to take over that account in a confrontational way. Thornburgh said, "It's none of your damn business. Barr's handling that." And he felt irritated by this, a slight somehow. They just didn't hit it off, and after a few months he was gone.

Baker: So it wasn't that difficult for you to move into the inner circle, as it were. Or it wasn't that closed a shop that Thornburgh had established as Attorney General?

Barr: It was somewhat tight, but it wasn't so closed that I couldn't get into it, and Mike Luttig, who was my deputy. Mike and I were very close, and Mike, as you know, became head of the OLC and then went on the fourth circuit. I was very pleased to get him to come in because he in his own right could have been head of the OLC from the beginning. He came in as deputy. He and I rapidly became the chief aides to Thornburgh, aside from his Pennsylvania people, so that when his Pennsylvania people got in trouble, I told Thornburgh that they may have to go, he agreed with that and asked me to do it. So I had a meeting, which was an awkward thing for me, but I basically had to tell his Chief of Staff—and this happened in a very short period of time—"You are out." [redacted]

Baker: Here you had Thornburgh coming in right after Meese's controversies in the Justice Department, and then Thornburgh facing problems, and then finally you coming in. There was a lot of discord—or unsettling, maybe—in the Department of Justice. Did that hurt morale? Was it difficult to get things done?

Barr: You're asking about Thornburgh's tenure, in some sense. Thornburgh, in my opinion, was just great. He was a great man and had all the attributes to be a great Attorney General, and I think he was. But even more than that, I think he was not well served by his aides. A lot of people say if he had had the same Chief of Staff that he had as Governor—unfortunately, he became a judge and therefore was not available, a guy named [Jay C.] Waldman, who had served him—he would have been fine. [redacted]

[redacted]

Meador: Can I go back into the work in OLC for a minute? When you rendered opinions, or your office prepared opinions of various kinds, to what extent were they actually run by Thornburgh? Or did you just put them out without ever clearing any of them with him, or how did that work?

Barr: Well, there are two different kinds of opinions. I think I wrote only one opinion that was an Attorney General's opinion while I was there. That was the [Joe] Doherty case involving the Irish terrorist we were going to put back into British hands. Otherwise, they were OLC opinions where I signed them, and basically I did not run them by Thornburgh. However, I think a few of them got notoriety, and he hadn't heard about them in advance.

He said, "We need a system for you to give me a heads-up on what you're saying on these things, so that if they're made public or get out, I'm not blind-sided." I put out routine opinions, but I would warn him if I was putting out ones that I thought could be politically sensitive if they were disclosed. But he would never second-guess my legal judgment.

Baker: So the White House counsel would come to you directly? I know Theodore Olson said that when he was head of the OLC, he and the White House counsel spoke every week. Was that your situation?

Barr: Oh yes. I probably spoke every day to Boyden or someone in his office. People in his office would talk to my deputies. But other general counsels, people within the department, received advice as well. We set up some things because of Boyden's and my own interest in the powers of the Presidency and President Bush's, too, because I think Bush felt that the powers of the Presidency had been severely eroded since Watergate and the tactics of the Hill Democrats over an extended period of time when they were in power. So we set up a group of general counsels under my chairmanship, and we'd bring in all the general counsels of all the executive agencies. I chaired the group. Boyden would come over, and we basically set uniform standards

on how you handle document requests, how you serve executive privilege, what Congress can get, what they can't get. We tried to impose a certain uniformity.

Meador: I'd like to ask another question about relationships between the Justice Department and the White House. Griffin Bell set up a system, and I wondered if this was continued or anything like it. He established a system—and he got an understanding with the White House—whereby all communications coming from anybody in the White House would come only through the Attorney General or the deputy or the associate. They would deal with it, and it would be up to them to decide whether they brought in anybody down the line on it. The point was to immunize people lower down from any potential pressure or interference. Did you have any system like that in effect during the four years you were there in the department?

Barr: Yes, we continued with the Reagan rules that had been put in place by Fred Fielding at the beginning of the Reagan administration. I told [Alberto R.] Gonzales, I talked to him about this administration—"Start out very tight, and then as people start getting better judgment, and they understand what's right and what's wrong, you can loosen up a little bit." But basically there are three points of contact: There's the Attorney General, there's the Deputy Attorney General, and there's the head of OLC. Those are the principal points of contact.

The head of OLC, depending on what their role is—at minimum, legal opinions are discussed. The positions the administration should take on Hill testimony or legal opinions—that's discussed on a regular basis with the White House. Inquiries about other matters, operational matters, tend to go to the Deputy Attorney General unless someone wanted to talk to the Attorney General. But I would regularly talk to the White House on all positions I was taking part in. I would talk to the Chief of Staff, I would talk to Boyden. It's not true that there's only one channel, from the counsel to the head of OLC or just to the counsel. I would talk to [John] Sununu; I would talk to Andy Card when I was deputy and Attorney General.

Riley: Could I ask you to return just a minute to this committee that you said you had set up because of concerns about the erosion of Presidential power? Could you elaborate a little more about the operations of this? Did you deal with things on a fairly high theoretical plane, or were you establishing very pragmatic sets of policy?

Barr: There's a memo—I think it has actually been made public by the administration, or it was among published OLC stuff. We went through eight or nine issue areas, current issue areas, that were precipitated mostly by Congress, that impinged on congressional prerogatives. We basically were sort of the police on those issues, and we met on an ongoing basis.

The OLC under the [Bill] Clinton administration has become a shadow of its former self. But it was a big deal in the Reagan administration and the Bush administration and had a lot of power. Under me it grew to twenty-six lawyers, I think. It went down to eight or nine or something now.

Meador: Could we talk a bit about judicial nominations and the role of the department and White House during the four years you were there as AG or lower down? Can you describe, generally speaking—lay aside the Supreme Court for a moment—talk about district judgeships, court of appeals judgeships. Could you describe how that was handled?

Barr: There was a judicial selection committee over at the White House. I believe it was chaired by Boyden. It has traditionally been chaired by the Counsel to the President. Usually the Attorney General attends that, accompanied by the principal aide of the Justice Department who's involved in judicial selections.

Meador: Who was that in your time?

Barr: When I was there, before I was Attorney General, Thornburgh would take over Murray Dickman, one of his Pennsylvania guys, and the only one who survived, actually.

OLC took the lead in pulling together opinions if someone was already a judge, or background material that would reflect the person's philosophy, abilities, and so forth, and do assessments of individuals. Candidates would come in and be interviewed by three or four of the committee, there was a committee in the Justice Department, the interviewing committee, consisting of Mike Luttig and Barbara Drake. I can't remember the others, but there were two or three others. Candidates would come in and be interviewed by this group at Justice. The group would then assess the candidate and have regular meetings with the department, sort of saying, "This person is a loser, this person is okay, this person's fantastic," and then giving that feedback to Boyden. I believe [Lee] Liberman and others in his office would be in on it.

Meador: There was something called Office of Legal Policy. Did it have any role at all in this?

Barr: One of the people in the Office of Legal Policy, I think, was an interviewer. When Meese was there, he had a guy named [Stephen] Markman, who was head of Legal Policy, and he was sort of the chairperson of the judicial selection thing. But it moved to OLC under Thornburgh.

Meador: To what extent did Thornburgh himself have any role to play in these district judgeships, court of appeals judgeships?

Barr: On those things, it was basically handling heavy lifting on the political give-and-take that occurs on those appointments. You know, Senators have their favorites, and there's a lot of politicking going on, and so he would have to handle those kinds of things.

Meador: Were there any situations in which your Justice Department group was at odds with the White House legal counsel group, the committee?

Barr: Oh yes, not severe problems, but there were certainly cases where we preferred somebody, and Boyden and Lee Liberman preferred somebody else. But I don't recall any real bloodbaths.

Meador: Did Bush himself ever take any interest in an individual appointment?

Barr: Below the Supreme Court level? Yes, when he had heard from Senators or a particular friend of people he knew who were pursuing judgeships, he would weigh in.

Young: With Boyden Gray?

Barr: Usually with Boyden. The hardest part of judicial selection is on Capitol Hill.

Young: Could you talk a little bit about that and how much were you involved? We still haven't finished the subject of judicial—

Barr: It's a very important function, and I think President Bush had a firm view of putting good judges on the court who reflected his philosophy and our philosophy. But I personally did not get involved in it too much because it was so time consuming, and you had to deal with the Hill people so much. I basically let others do it.

Apart from the Supreme Court, which is handled in a different way—on other appointments, for example, in New York, we had this deal where the Democrat gets to name one out of every three, or something like that. We were requesting that each member of Congress give us three names for every position. We were saying they couldn't dictate a particular candidate. They had to come up with three names, and then we would choose.

Now most people complied with that, but there were a few who tried to dictate exactly who was going to get it. [Daniel Patrick] Moynihan came up with two names for two slots. Somehow he had a sense he was entitled to propose two people, so he submitted two names. He put a hold on all judicial confirmations. For weeks and weeks, no judicial confirmations were being done because he wanted his two people. Of course it reached an impasse—this was when I was Attorney General. I said, "Okay, I'll interview his candidates directly."

So I interviewed both of the people he was insisting upon, and I picked one that I thought, *We could live with this one.* It was Sonia Sotomayor, who's now on the second circuit. This was for a district court. I said, "Okay, well, tell you what we'll do. We'll do Sonia Sotomayor, but not the other one." The other one was one we just couldn't put on, from our perspective. I broke the logjam that way. But we lost weeks and weeks with this kind of—

Young: But you didn't deal with Moynihan directly.

Barr: Oh, yes, he'd call me up. The Senators would call.

Meador: Did you ever have any problems with the ABA [American Bar Association] committee with all these judgeships?

Barr: Yes. We obviously had a running battle with the ABA throughout the entire time about their ratings of people. I remember meeting Ron Olson, from Munger, Tolles & Olson out in California. He obviously was a very reasonable guy. We talked to him about it. Later on, the president of the ABA came to my office, and he was an asshole.

Meador: Did you have problems that the ABA was coming in with reports of "not qualified" on people you really wanted? Was that the problem?

Barr: Yes. For example, there was clearly a bias against prosecutors. You could be an AUSA [Assistant U.S. Attorney] with significant cases, and they would come in with "marginally qualified" type ratings. Then some other person who'd never been in a courtroom would come in as "superbly well qualified." It was extremely biased.

Meador: Did you ever have to go to the mat with them before the Senate Judiciary Committee? Let's say you nominated somebody they were opposing and came in and testified against them?

Barr: I think we did, but I can't remember. I vaguely remember some battles where we just went ahead and nominated people. I don't recall losing one because of that.

Meador: I wonder if we could shift to the Supreme Court.

Barr: I just want to say something about appeals, because in appeals that involved Bush—the line-item veto was one that directly involved him—he talked to me about it when I was there at OLC. I thought it might be good to spend— it reflects his views on things.

There was pressure throughout the administration to look at the line-item veto. It wasn't just something that came up late. When I was head of OLC, we started looking at whether there was an inherent line-item veto. There was a lot of conservative commentary about it, and supporters of the administration said that he should just test the waters, assert it, exercise it, and then get batted down. But it couldn't be found. So we did a lot of research, and I had my monks in the Office of Legal Counsel going back into hoary antiquity looking for any kind of precedent we could use. And we did, we found Scottish precedents from 1500, and all that kind of stuff, weird.

Finally I went over to Boyden, and I said, "Boyden, I have good news and bad news." He said, "Okay, what is it?" I said, "Well, the good news is we did find an example from 1415 or something, some king who did something that looks a little bit like a line-item veto. The bad news is he had tertiary syphilis and was mad as a hatter. So if we exercise this power, we should call it the 'syphilitic prerogative'." [laughter] In other words, I told him we couldn't establish the line-item veto.

I talked to the President about it. He was in the East Room with some ceremony going on. Afterward he came in, and Boyden and I were standing there talking about this. He said, "You know, I'm under a lot of pressure to do this line-item veto stuff. My view is that you weaken the Presidency by asserting powers that aren't given, and then getting defeated. Unless you feel that we have a good claim here—I don't want you stretching—I think the way to advance executive power is to wait and see, move gradually. Certain prerogatives are clearly ours, and we should not reach for something that's beyond our grasp." That was an example of an opinion he discussed with me directly.

Baker: You felt on things like, let's say, the pocket veto, that there were sufficient grounds to argue that a three- or four-day adjournment of Congress was not a recess.

Barr: Right, but also pocket vetoes, as I recall, had been through OLC jurisprudence and so I wasn't very uncomfortable. I mean, if Luttig had really [inaudible] once in a while it would flare

up, but the office had never been involved in a pocket veto, as far as I can recall. But that was one that we felt more safe on.

Young: Were there any other examples like the line-item veto where you had direct conversations with the President about it?

Barr: I had direct conversations on other things, national security matters, prosecutors, certain prosecutors in the Noriega case**,** but on an OLC opinion, I don't recall any other. I talked to Jim Baker when he was Chief of Staff and I was Attorney General on the indexing, the ability to, by executive order, change the way you index capital gains rates.

Young: This was right at the end.

Barr: That was at the end of the administration, but I didn't discuss that directly with the President. I can't remember another opinion I discussed with him, except obviously the big ones when I was actually deputy. The biggest incident was the war in Desert Storm, and the Congress said he couldn't attack Iraqi forces without congressional authorization. That was the biggest advice I ever gave him.

Meador: I wonder if we could take up Supreme Court appointments. You had two vacancies during the Bush administration. I wanted you to take them one at a time in order and describe the process involved in filling those vacancies.

Barr: OLC was told at the very beginning of the administration to gather up the background work that we did on potential candidates under the prior administration. I believe that had been done in the Office of Legal Policy. We were to put together a notebook— When I say "told," Thornburgh, Boyden, and I discussed this as the best way to proceed. We kept a notebook of twelve, thirteen, fourteen candidates.

Meador: This was well before vacancies occurred?

Barr: Yes, well before vacancies. This was like the equivalent of a group of people perceived to be possible Supreme Court justices.

Baker: A wish list.

Barr: A wish list. We kept this list, and we kept reading opinions, if they were judges, and some of their writings. We had everything we wanted to know about the individuals, and periodically we would discuss them. When I was Attorney General, Boyden said the President wanted to have lunch to discuss judges. So I went over. Boyden at that time was with Sam Skinner and the President. We had lunch in the area where President Clinton and Monica Lewinsky apparently carried on. We went over each of the candidates in the book, discussing the pros and cons. In case there was a vacancy, he just wanted to know who we were thinking about. I assume he had done the same thing with Thornburgh. Who was the first vacancy that came up when I was there?

Meador: Was it Thurgood Marshall's departure from the court?

Barr: Who was put on first? [David] Souter?

Baker: Souter.

Meador: [William] Brennan went off first, that's right.

Barr: I think I did meet Souter for the first circuit when I was head of OLC, because Sununu was pushing him. So I interviewed him. I think we put him on the first circuit or the second circuit.

Meador: First circuit.

Barr: He seemed okay. Then somehow when the vacancy occurred on the Supreme Court, Sununu, and particularly [Warren] Rudman, just went ape pushing Souter as a candidate—Rudman in particular.

Meador: Had Souter's name been in that book that you had compiled earlier?

Barr: No. It may have been added after we put him on the circuit, because people suggested he should be added. So he was added to the book. He was assessed as a candidate. There were three or four people who were presented to the President. I wasn't at that meeting at that point. By the time that happened, I was with the deputy's office. We had our own beliefs as to who should get that appointment. I believe that Thornburgh didn't take a hard and fast position, but suggested that Souter would be less controversial than Edith Jones. I think the main reason that Souter got the nomination was because of Rudman and Sununu.

Meador: Do you mind saying who else was in this book that had been compiled earlier?

Barr: Well, Edith Jones was certainly one possible candidate, but I don't want to get too deeply into it. My story has already been told about how we smuggled Souter in, and Mike Luttig spent a lot of time preparing Souter for his hearings.

On the second one, the two leading candidates were Emilio Garza and Clarence Thomas. I interviewed both of them. I was deputy. Thornburgh was still getting ready to go to go run Pennsylvania, so we kept him away from it. The President decided to pick Clarence Thomas.

Meador: Had Thomas been in that book earlier?

Barr: Yes.

Meador: He was in that from the start?

Barr: Yes.

Baker: So basically you recommended other people—

Barr: In both instances, Justice made recommendations in the process, and the people involved were the counsel, the Chief of Staff, and the Vice President. Those were the people in the meetings where it was decided.

Young: Why do you suppose the Vice President was included?

Barr: He was the Vice President. He was included.

Meador: Was there any serious disagreement on these selections, right down to the wire?

Barr: I believe that on Souter's case there were two votes for Edith Jones and two votes for Souter.

Baker: So it really was Bush deciding, breaking the tie.

Barr: Bush did not get good advice in the situation.

Meador: And on Thomas, was there any disagreement on that one?

Barr: No.

Riley: Are you at liberty to say whether there were other African-American candidates in the pool at the time?

Barr: I can't remember. I think there probably were.

Riley: Were you getting any external input other than the back-and-forth you were having with some people in the White House about this? Again, unlike some people here, I'm not an expert on the politics.

Barr: Sure, there's always kibitzing going on from outside on judicial appointments generally and Supreme Court specifically, prominent lawyers about town who tend to have a Republican or conservative background, will call and lobby, and politicians, and so forth.

Riley: Interest groups?

Barr: Interest groups.

Baker: Did the President ever ask that names be added to this book?

Barr: He would ask occasionally and pass the net again, try to develop additional candidates, make sure there was diversity.

Baker: I was thinking about Franklin Roosevelt getting so heavily lobbied for Learned Hand's appointment to the Supreme Court, and that hurt. He refused to appoint Learned Hand. I wonder if Bush himself was subject to pressure from others in the community, outside of government.

Barr: I'm sure he was—probably from Senators. But I never saw any of it. Aside from Rudman. I can't remember why Rudman was so important at the time, but Rudman was carrying a lot of water for the administration on the Hill. He was a very strong guy, and I think that he carried a lot of weight on the Souter nomination—

Meador: The impression you got from the press was that Rudman was really the key actor in the Souter nomination. Is that more or less accurate, do you think?

Barr: Well, he was the key actor outside the administration.

Meador: Was there any kind of key actor either inside or outside on the Clarence Thomas situation?

Barr: I think one of the views was if you put somebody up you want to have a good strong advocate in the Senate who has influence. I felt we had that in Danforth, and it turned out to be right.

Young: You were not involved after the selection in briefing the candidate, preparing the candidate?

Barr: Luttig did it for both. He did it for Souter and for Clarence. Mike had been nominated for the fourth circuit in the summer of 1991. I asked if he would stay back, not leave yet, to help prepare Clarence Thomas, which he did. He then went off on a much-deserved vacation to Hawaii right after the close of the hearing. I was sitting in my office as deputy. The administration had deferred any decision on Attorney General because of the acrimony of the hearing. We expected a big fight as well.

Sununu told me that the President would hold off on naming the Attorney General, and so I was in the deputy's office. I was acting Attorney General, and all of a sudden I got a call from Duke Short, who was Strom Thurmond's guy, and he said, "I have to send something to you. The messenger should be getting there momentarily."

Then this guy came walking in with an envelope, and I opened it up, and it was Anita Hill's affidavit. I read it, and then I called Mike in Hawaii. I got him off the beach. I read him part of the affidavit. I said, "Mike, you think we have a problem here?" He said, "Yes, we have a problem." I said, "You better get back here." So he came back from Hawaii, and he helped through that fight. I stayed away from it, basically. I kibitzed a little bit, but I didn't have to, because we had the machine in place to do it. He got criticized for that when he later went on the court.

Meador: What was the basis of that criticism?

Barr: The criticism was that the Senators said it was inappropriate for somebody who had already been confirmed to become a judge to be involved in that, and it was inappropriate for Justice to be involved.

Meador: He'd been confirmed but not sworn in, was that the situation?

Barr: So OLC, in typical fashion unearthed fourteen or fifteen people going back to John Marshall, who were in the executive branch who continued executive duties after they had been confirmed for judicial posts. So going back to John Marshall—

Meador: He was Secretary of State after he was confirmed.

Barr: We had a lot of examples and blew them out of the water on it. And the other objection was that Justice should not have been helping actively on the nomination. As soon as the vote was over, I said to Luttig, "Get your ass sworn in. It's harder to impeach somebody." [laughter]

Meador: Could you describe the role of the Office of Legal Policy in the department during the time you were Attorney General? How was OLP used? What did they do?

Barr: OLP, when I was Attorney General, basically supported the policy initiatives that I wanted to do. I had previously taken out the person who had been there, and I put my own person in, Paul McNulty, and I used him to help develop studies and articles and things like that that were supportive of things I wanted to do. It did not have the same role in the Bush administration as it had in previous administrations. It really shrank a great deal and essentially became part of the public affairs apparatus. OLC essentially took over a lot of the responsibility.

Baker: It seems, then, that the Department of Justice was strengthened in the Bush administration, would you say, or more of the responsibilities for legal policymaking shifted back to Justice?

Barr: Yes. One of the things that really struck me about the Clinton administration which— the liberals like to suggest that Republicans somehow interfered with the administration of justice, but the irony was that it was Democratic White Houses that interfered. Even in setting policy, the actions of the Justice Department and the Attorney General, whether it was Thornburgh or me— we had 900-pound gorillas within our domain, and no one would cross us. The crime bill was completed in the Department of Justice. Boyden really wasn't interested in those kinds of issues.

Policy was clearly in the Department of Justice. We could do anything. We just had to say, "Here's what we want to do." And the White House guys would say "fine." I was frustrated in the last year of the administration because I thought we should be doing things that [Richard] Darman was basically blocking. But in terms of the policy decisions, it was all from the Justice Department, and no one would ever second-guess us.

Now, I think that completely changed with Clinton administration. The Justice Department wasn't even involved with the crime bill, which to me was remarkable. So, in my opinion, the role of the Department was strengthened under both Reagan and Bush, and I felt while I was

there the utmost deference to the Department as the enforcer of the laws and the developer of policy. I thought that was good.

Young: Could we talk a bit about the decisions made respecting bills in Congress or—

Barr: One area that I'll say the White House, Boyden, got quietly involved in, was civil rights. We won four cases in a row in civil rights on the legislative end, so whatever position we took on civil rights, that became much more of a collaborative discussion where it wasn't just Justice calling the shots. That was really the one area where I'd say that was more of a political exercise.

Baker: Was it Justice's or the OLC's recommendation that the President use signing statements as he did with the Civil Rights Act of '91?

Barr: Yes, we at OLC were great proponents of using signing statements, and then we recommended vetoes and stuff. We were very activist in those things. Later, when I became Attorney General, I took a broader view and was more willing to compromise. [laughter]

Baker: It's easier if you're the head of the OLC—

Barr: Well, I remember something: Someone tried to quote something back to me when I was Attorney General, and I said, "Yes, but I said that was when I was head of OLC, not as Attorney General." [laughter]

Young: What was it? Rufus Miles's law that says, "Where you stand depends on where you sit"?

Meador: When you were the Attorney General, could you say approximately how often you actually met face-to-face with Bush, how much personal interaction you had with him?

Barr: I met with him, obviously, in Cabinet meetings and National Security Council meetings because I sat on the National Security Council. I met with him in his office privately—the schedule would show it—but probably four or five times on particular policy or particular issues.

Meador: Do you remember what some of those were?

Barr: Yes, for example, one of them was the one we talked about, the crime situation and certain of our initiatives on it—we'd talk to him about that.

Young: This was late in the administration or—

Barr: Well, yes, I was only Attorney General for the last seventeen months really, acting for part of that. So I went over to talk to him about crime trends and initiatives. I remarked before when I was down here, he had just gotten off the phone with [Boris] Yeltsin, and I couldn't get his attention. Then I told him that crime had gone up every year of the administration.

Baker: That got his attention.

Barr: Then he started focusing. Crime went down the year after that, started going down. So I was discussing those issues with him. At the very end, I met with him on the pardons. And then I would meet with him on occasions where there was an event. For example, a lot of Cabinet guys went down to Atlanta with him to announce the Olympics would be there. I'd ride with him in the car, fly with him on the airplane. I remember once he had a ceremony honoring victims in the Rose Garden, so I thought I would chat with him a little bit.

I remember we had a law enforcement function out on the Ellipse, out on the Mall. He said he would come along with me, and we were walking back to the car, and that's when he asked me about the [Manuel] Noriega case and what happens if you lose. I said, "We won't lose."

Meador: You mentioned the pardons. Of course, that's taken on added interest here in recent weeks. In the pardon cases—you know there was some newspaper coverage about those pardons later on in the Bush administration. Did each one of those go through the pardon office, the pardon attorney's office in the Justice Department?

Barr: Which ones? The ones at the end?

Meador: Yes, all of them.

Barr: I don't remember, I must admit. I asked some of my staff to look into the indictment that was brought, and also some of the other people I felt had been unjustly treated and whether they felt that they would have been treated this way under standard Department guidelines. I don't remember going through the pardon office, but I did ask some of the seasoned professionals around the Department about this, asked them to look into it. Based on those discussions, I went over and told the President I thought he should not only pardon Caspar Weinberger, but while he was at it, he should pardon about five others.

Meador: Did you oppose any of those pardons in the last couple or three months of the administration?

Barr: The big ones obviously were the Iran Contra ones. I certainly did not oppose any of them. I favored the broadest— There were some people arguing just for Weinberger, and I said, "No, in for a penny, in for a pound." Elliot Abrams was one I felt had been very unjustly treated. I do remember there was some controversy over some pardons, but I can't remember how they came down. The Justice Department was playing our usual role—naysayers.

Baker: All the ones you recommended he did pardon?

Barr: I believe so.

Young: That's throughout the time you were Attorney General?

Barr: Yes. I didn't really get involved in the pardon process. I think I probably did as deputy. I can't remember what the term was in the Bush administration, but when I was Attorney General, I called them the bar chart on pardons, and I said, "I would like to make sure what the standards

are." I suggested some standards of my own, and I said that they should look at the little people. I wrote a little note saying, "Look at the little people, not just the people with influence." The pardon thing was not really an issue for me, like the Iran-Contra verdict. And at that point, even regardless of what I said, you have to pardon at least Caspar Weinberger—

Young: Was there ever an issue—

Barr: While I'm at it, there's a little bit of an inaccuracy in the book *Shadow* written by [Bob] Woodward, so I'll just use this as an occasion to straighten the record out.

Young: Please do.

Barr: He's accurate that he landed in the yard in the helicopter. And he waved me into his office, and I went in. He asked me about the indictment that had come down the Friday before the last election**.** I know it was his view earlier, before the indictment that he felt that the gap was closing, and he had momentum going into that last weekend, and he did say to me that he felt that that indictment had cost him the election. He was very infuriated by it.

Now Woodward said in his book that he "bellowed" at me. He didn't even raise his voice. He just said that he felt it cost him the election.

Meador: On that point, do you have a theory about why Bush lost the election?

Barr: Well, I sort of went through it the last time I was here.

Young: Let's hold off on that a bit and go back to some earlier matters. Were you at all involved in the Domestic Policy Council while you were Attorney General? You were chairing it, weren't you? Thornburgh, this was a holdover, the Attorney General chairing a Cabinet committee, I think, called the Domestic Policy Council.

Barr: Yes, I think that had lapsed. I sat in on certain Cabinet council meetings. He had this Cabinet council system. When it affected Justice, I would sit in on the meetings. Basically, the only thing I had to deal with other agencies on in the domestic sphere was the drug war. But otherwise, basically I didn't want people kibitzing on my policies, so we never really brought them before Cabinet councils.

Young: Were there any routine relations you had with David Bates, the Cabinet secretary?

Barr: I probably had less than many, but yes. I don't think the Cabinet councils for the domestic sphere were particularly significant for policy. There was a big gap between the apparatus in the foreign policy field and the domestic field, which probably occurs in every administration. It's probably a function of the changing nature of the Presidency. But in the foreign policy field, as I said, the deputies were just an amazing group. We became very good friends. We were able to have discussions with confidence, and we were just very effective in managing situations. And I think, frankly, that it was because I was on that group that they made me Attorney General. All those people like Gates, Larry Eagleburger and all those people, I was comfortable with them.

But there's no similar thing on the domestic side for the drug war, which I feel was one of the major problems during the administration.

Young: Let's get into that then. You think there could have been anything like that on the domestic side?

Barr: Well, it's very difficult, because the role of the President domestically has become so diffuse that it's hard to find one weak loop. With economic policy, you could have a dominant player, whether it would be the Secretary of the Treasury—in our case, we certainly had somebody who was a dominant figure and was, in my view, one of the basic problems with the Bush administration.

Young: You're thinking of [Nicholas] Brady?

Barr: Yes. And then it left a vacuum for a guy like Darman. But then beyond economic policy, what is it? It's a little bit hard, and if you consider law enforcement, it's basically the Attorney General being satisfied. I tried to get a lot of the drug issues to the deputies, which I succeeded in doing because I could get action and a little bit more decision-making and direction from the national security side. So I started pushing the drug issues into the national security.

Baker: Also, as you commented in your earlier works or speeches, it freed up some financial resources for you in the DOJ [Department of Justice], once it was shipped over to the national security.

Barr: One of the big things was the budget deal. It was pretty bad for the administration, and part of it was the freeze on all discretionary spending. You couldn't do any additional discretionary spending. Of course, Justice got a 15 percent increase in our budget four years in a row, so the Department in the Bush administration—if you look at the growth—was unbelievable. And especially when everyone else was going down, and I was taking money out of State and Commerce. So I had nothing to cry about. We certainly were getting more money than anybody else. And I was very aggressive in the budget process when I was deputy and when I was Attorney General. My agency didn't take no for an answer, and I would always threaten to take it to the President. I would make Darman schedule a meeting, and I was going to argue with him. OMB would cut a deal at the end before taking it to the President. So I was happy with that. But at the end, in the last year, our hands were tied, and I was trying to find some initiatives. I thought that it definitely hurt the President politically as well.

The way I got money was I went through our budget and found things that I felt that we could legitimately call national security functions, and I pushed them over to the national security budget, where there could be changes. That freed up that $80 million or something like that. Not much, but enough so that some of the expenses got freed up on the domestic side.

Baker: In my studies of the Justice Department, it appears that in the '80s and early '90s, the Justice Department's jurisdiction in international-related criminal activities really expanded, including, of course, those opinions that you wrote while head of OLC, but also closer cooperation with Interpol and the other roles of the FBI [Federal Bureau of Investigation]. Is this

a trend that you see continuing, and is the Department of Justice going to play a more and more active role internationally with domestic policy maybe taking a back seat—or maybe not a back seat, but a "co-seat"?

Barr: I do think it's inevitable, continuing the trend, because a lot of the legal problems in the federal government's lap are multinational problems, particularly terrorism and the drug war. That was one of Thornburgh's pet projects, and he deserves a lot of credit for redirecting the department, or putting greater emphasis on international. He supported the FBI's revamp program in support of weakened restrictions**.** He started the process of negotiating various bilateral agreements and multinational agreements on drug issues and on terrorism issues and really engaged in those.

Part of the strategy was to put in place the legal framework that would allow us to take the drug war overseas more, the head of the snake rather than the tail of the snake in the United States. He put a lot of that structure in place, and I do think it's important. I think the Clinton administration, when they came in, reversed that, paradoxically enough. You wouldn't think they'd be for fighting the drug war on the street corners, but they basically were. The Clinton administration shut a lot of that down and shifted the war domestically.

One of the big tension points in the government is the State Department versus the Justice Department. And in my administration it was difficult because of the natural affinity of the President and the whole administration to the international stuff, and a view that the Justice Department really couldn't be trusted because we were cowboys. And stuff like the indictment of Noriega at the end of the Reagan administration didn't help that. We didn't really understand all the niceties of foreign policy, and so you have to be a little bit careful of Justice. And the big dynamic basically is that law enforcement priorities overseas are given little more than short shrift. They're basically low priority for the striped suit set because the country may find it *offensive* if we raise these issues. The Justice Department is the only agency that cares about enforcement as the primary mission. This is a tension that's never really been worked out, and it's one of the basic underlying problems in the drug war.

Young: You want to go into that now?

Barr: For example, there's a little bit of friction, because I felt the Mexican government was completely corrupt. I think Bush liked [Carlos] Salinas—the State Department was all over Salinas. The people in the Justice Department couldn't believe it, because they were all corrupt. So that made life pretty difficult, especially when we fought the doctor, [Humberto Alvarez-] Machain]. He was the guy who was snatched, spirited out of Mexico. The real facts there were that the Mexican federal police did offer him up and bring him to us, the DEA [Drug Enforcement Agency], it was my understanding. Then, in my view, what happened was the drug cartels bribed individuals in the foreign ministry of Mexico, and the foreign ministry then launched a formal protest with the United States. So we were caught in 180 degrees—the federal police had cooperated by turning this guy over to us, and then the government changed its mind—

Baker: And said that we kidnapped—

Barr: —said that we kidnapped him, and it was unauthorized. So this was litigated to the Supreme Court because Judge [Edward] Rafeedie in the ninth circuit said that he took issue with my snatch opinion and said it violated customary international law, and therefore we would have to give him back. All through that time, the State Department, the President asked about it occasionally because he was getting pressure from the Mexicans, who raised this at every conference. It became sort of an embarrassment. Our position was, "This guy is going down, we're keeping him, and that's that." And it was litigated to the Supreme Court, and we won. And then it went back for trial, and Judge Rafeedie threw out the case. We had to march the guy across the border.

Baker: That's a good example, though, of the tension between State and Justice.

Young: I would like to hear more about that tension and how it played out, for example on the BCCI [Bank of Credit and Commerce International] probe.

Barr: They were not involved there. When there's a criminal case going on, they all run for cover. They didn't like the Noriega indictment, obviously. But what did you want to talk about—Noriega?

Young: Yes. Some issues in which there was a substantial interest in Presidential— and also foreign policy or national security.

Barr: Well, Pan Am 103 was interesting. There you had the criminal investigation being done. I was briefed on it regularly, and the Scots were doing a fantastic job, as was the FBI. And as it neared, we were under a lot of attacks because everyone had their theory, and a lot of people thought it was the Iraqis and the Syrians, and there were cover-ups and so forth. But we were coming to the conclusion that it was the Libyans.

When I saw it approaching, I mentioned my plan to the President, and he said, "Yes, that's the absolutely appropriate thing to do." I would brief the National Security Council before we actually brought indictments. I went over to the National Security Council meeting. I briefed the National Security Council on the evidence and why we felt we could prove beyond a reasonable doubt that it was two members of the JSO [Jamahiriya Security Organization], which was the Libyan Intelligence Service. Then there was a discussion of what we should do about it. This was right before the indictment was made. There was a disagreement.

I was disappointed in the position of the foreign policy people because I said that we had to think about the use of the criminal justice process in terrorist cases because we had set a very high standard. I said that in my opinion, international terrorism cases, like a lot of the drug war, are really a national security issue, and you have to be careful how you use the judicial process and the law enforcement process. Just like you can't use the Army to solve every problem, you can't use the court process for the prosecuting function. They have to be tailored to the situation that they're suited for, and I said that we set a very high standard for ourselves in a terrorist situation to say that we would only respond once we felt we could prove something beyond a reasonable doubt. In some cases, a much lesser standard may be appropriate.

In fact, we have used lesser standards in bombing [Osama] Bin Laden and other people. We don't necessarily need proof beyond a doubt. But I said here we've been very civilized. For the past few years, we've been conducting this investigation, and now we've come to a conclusion beyond a reasonable doubt that it was the Libyans. All this time has gone by, now what should our response be? We have these half-baked sanctions in place that haven't really done anything. Is there a sanction against Libya that's appropriate? Is it really enough to get these two intelligence officers and bring them over and prosecute them, and you're happy? Is that justice? That's not justice.

But before I said that, Jeremiah said, "I'm the Defense Department, you're Justice." I said, "That's what I'm talking about, justice. What's justice in this case? Justice is pursuing these two bag men?" I said, "We all know what this means. This means that this was the Libyan government, and I believe retaliation should be taken against Libya. It should be a massive retaliation against Libyan military intelligence targets."

I said, "Mr. President, is there any doubt that if the day after the plane went down I came in here and said, 'It's the Libyans, and we can prove it,' what we would have done? Well, we've taken seven years to prove it beyond a reasonable doubt in the civil courts. And now we have oil sanctions that are going to be the response?" But, unfortunately, that *was* the response.

Baker: So did Defense think you were moving in a little bit on their terrain?

Barr: Well, they had a lot of people—It wasn't so much Defense, I'm sure State was arguing for sanctions, Justice was arguing for military retaliation. Forget this— you know, bring these people over, put them in front of a jury, all that kind of stuff. Is that what this is all about? It's ridiculous.

Young: The Defense Department was just not saying anything, is that right?

Barr: Basically he just sort of said, "I'm Defense," but I'm talking about justice. Justice here is not spending another several years trying to get these people in front of a jury.

Young: The President was at this meeting?

Barr: Yes, he didn't say anything.

Meador: Was the State Department involved in these discussions?

Barr: Yes. State wanted to do sanctions. Since I was the one who had to deal with the families of the victims, I was a little bit hotter about the situation. But that's another example of this whole issue of the role of the Department of Justice versus the national security apparatus in terrorist situations. It hasn't been thought through. It's one of the areas that came up a few times in this administration**.** The Noriega situation was one where—

Young: Could I ask one other question about that? Brent Scowcroft's name has not come up in your conversation thus far. He was at that meeting, I presume.

Barr: Yes. I don't think he said anything. I love Brent Scowcroft. I think he's one of the greatest guys. He was always very supportive of the Department of Justice on issues. I'm sure that there were bigger fish to fry on the issue of Pan Am and Lockerbie, and people felt that after such a lapse of time, leveling the JSO or something like that would seem—

Young: Over-reacting.

Barr: I don't believe so. But Scowcroft, I don't think agreed**,** but he didn't say anything in this particular situation.

Young: He didn't win the Scowcroft award at this meeting?

Barr: Which was? Sleeping? No, he didn't sleep at that meeting. I think Scowcroft is great, really good at policy and statesmanship. I dealt with him on a lot of things, including pulling off the Haitian boat people, putting them back in Haiti, and offering to house them at Guantanamo. He backed me on all this stuff.

Baker: But you had that run-in a little bit with, was it with the Defense Department over the use of Guantanamo Bay?

Barr: I had a run-in with Colin Powell. We were using Guantanamo Bay, and it seemed like every other week I would be called over to meet with Colin Powell, [Dick] Cheney, and Brent Scowcroft, and they, of course, were complaining**.** They would then call me over, and I would ask Sam Skinner to join me because I needed support on the domestic side. Their position was, "Guantanamo is a military base, and why were all these people here, the HIV people, all these other people? How long are you going to be on our property with this unseemly business?"

I'd say, "Until it's over. But we're not bringing these people into the United States. This is a very convenient base outside the United States, and it's serving a good function." They were always complaining. I would say, "What do you people do at Guantanamo? Maybe this is the highest, best use of Guantanamo. Maybe Guantanamo should be turned over to the INS [Immigration and Naturalization Service] and used as a processing center. Maybe this is the best use for the United States as opposed to whatever you people do with it." We got a little bit feisty.

Baker: But you don't get grounded easily.

Barr: Well, in this one, politics was not the reason we were doing this by any means, because we were enforcing immigration laws. I'm serious when I say I wouldn't change my view because of politics. But I did point out that the notion, what do you want me to do? You want 80,000 Haitians to descend on Florida several months before the election? Come on, give me a break. Governor [Lawton] Chiles, the Democratic Governor, is supporting us in this policy? Florida will go ape. Now if you want to give me Fort something-or-other in Arkansas and let me put them there, I'll be glad to put them on American soil. [laughter]

Meador: Speaking of INS, do we want to get into that now or later?

Young: I think a little bit later. We wanted to talk about Noriega.

Barr: Noriega was an interesting thing. The Department had a black eye on that, so to speak, because the whole national security apparatus was really ticked off that the U.S. attorney had gone off and indicted a head of state, and all the problems that caused. But it goes to show you that they didn't ever suggest that the indictment be quashed or anything like that. Once it happened, okay, this is the legal process, we have to live with it.

The Deputies Committee during the time I was there dealt a lot with Panama and Noriega. The first time I was involved, I knew that we were looking at ways of ridding ourselves of this guy in a lawful way. So when there was the first spontaneous insurgency there by pro-American types—people we felt were not bad actors—I was sitting over at my office at OLC, and I got this call saying, "Could we intervene right now?"

I think Noriega was on tour or something; he was in a command center. Could we start now putting our troops out into the streets in ways that might help the insurgents and lead to the demise of— in this case, not necessarily his death, although I guess there would have been gunfights and so forth. I was asked for this running opinion on how far we could go.

I basically said, "Just go out there and do what you have to do." But the thing fizzled that afternoon, and it was a big embarrassment for the United States, in my opinion. Periodically, you know, a lot of legal advice was sought about how far we could go in various operations and various plans.

After that fizzled, I was a big supporter of taking decisive action and making sure the next time was completely successful. Sometimes there were issues coming up about whether we could support coups, and the extent to which violence was involved, and though it was directed against Noriega, was that assassination? There was a lot of consulting me about those kinds of issues, but basically I was a big proponent of a successful operation there.

We made plans for the swearing in of the government while our helicopters were en route and all that kind of thing, and they would invite us in. I wasn't sure exactly when it would be launched, but I knew what was coming. That night I was playing my bagpipes for Thornburgh, I was Assistant Attorney General at that point. But I got up in my Highland regalia and was playing for his Christmas party when he said, "You'd better get over to the White House."

Riley: Did you change?

Barr: I went home and got changed. In retrospect, I wish I hadn't. I then spent that night at the White House, and we got papers ready for deputizing people as U.S. marshals, the President implementing the arrest of Noriega, and the various legal theories as to why this was a justifiable defensive act by the United States, which of course it was. We had five or six different theories why this was okay under international law.

Baker: Was there anyone arguing that it was an issue of sovereign immunity under international law? Anyone in the administration?

Barr: Not within the administration. We had a couple of legal theories of how to justify the investigation done that night, the issues and so forth. We had all the legal paperwork done so that the arrest of Noriega would be upheld in court. That was an interesting time.

I remember I went and spent Christmastime with my kids, who were singing at the Shrine of the Immaculate Conception. I was there as proud father, and just before it began I got a beep. I got called down to the situation room because they finally found Noriega and they had me on the phone in the situation room. It was interesting.

Baker: Was it your idea to get it on with rock music?

Barr: No, that was a cool one.

Young: The bagpipes might have done it.

Barr: The bagpipes might have actually—Actually the question that was asked me, the reason they had me down there, was because the unit that was outside thought that the papal nuncio was going to put him in a diplomatic car and just put him out through the cordon and that we would lose track of him again. So the guy wanted to know what happens if they come down the driveway in a diplomatic vehicle? I said, "Take him out." And the guy said hesitantly, "Take him out, sir?" I said, "Remove him from the vehicle." I came close to giving an inappropriate directive. But I said, "Remove him from the vehicle." And that was the extent of my brush with international law at that time.

Meador: Could you describe your relationship when you were the Attorney General with U.S. attorneys all over the country? To what extent were you in contact with them, directing them, at odds with them? What did you feel to be your relationship with all that scattered cast of characters out there?

Barr: I feel I had a great relationship with the U.S. attorneys. I was the head of OLC and then the acting deputy in May 1990, so basically I was head of OLC for only a year. The first thing I did was bring in three U.S. attorneys who were well regarded among other U.S. attorneys, and I made them contemporaneously associate deputies, and they continued to hold their position as U.S. attorneys. So these guys were actually U.S. attorneys in their districts and working at Justice as associate deputies. I had three of them.

Meador: How could that work physically?

Barr: They basically spent most of their time in Washington, and their first assistants took over the day-to-day management.

Meador: What was your reasoning behind that?

Barr: My reasoning was that I felt that there was, as there always is, a degree of estrangement between main Justice and the field. In my opinion, the Justice Department is a field operation. It's like an Army, and the real work is out in the divisions, it's not back in the Pentagon. My idea was that the Justice Department wasn't on 10th and Constitution, the Justice Department basically was field units. In order to make it clear that headquarters was there to coordinate and support those operations, I wanted to basically get those guys inside the tent pissing out, rather than outside the tent pissing in, as Lyndon Johnson said.

I basically tried to co-opt the U.S. attorneys, not in a [Nicolo] Machiavellian sense, but basically get them in so they could see and be involved in the operation of main Justice so it's not *terra incognita* to them. They're involved. I held a lot of regular meetings. I suggested to Thornburgh that we bring in some of the key people to be leaders and put them on the Attorney General's advisory committee and meet regularly with them. And I spent a lot of time visiting U.S. attorneys' offices in the field.

Meador: To what extent did either you or Thornburgh have a hand in picking those people to start with? Or were they White House appointments, or senatorial appointments?

Barr: None of them were initially Bush appointees so we were not involved at all in their appointment. In the beginning of the administration, the White House had a bigger role; toward the end, the Justice Department had a bigger role. I think that would happen naturally, but my view was that the Department needs very good, professional U.S. attorneys. They're basically the division commanders. To have just political hacks in those positions—buddies of the President or other such things or big fundraisers in states—are the wrong types of people for those jobs. I think people should have political sense, but they have to be very professional people, lawyers and administrators. So I would basically tell the White House people that I can't have a bunch of bozos out there who are just going to cause trouble. I need good people in those jobs. And the White House understood. After a while, people wised up, and they understood that.

Meador: Griffin Bell took the position that U.S. attorneys ought to be taken out from under Presidential appointments and be appointed by the Attorney General, who would know good lawyers and be more professional. Do you have a view on that idea?

Barr: Yes, I can see the merits of that idea, but I think that if you have a strong Attorney General and the backing of the President, you can keep the U.S. attorneys in line. I think it just takes a little more work. The hardest one is obviously Manhattan.

Baker: Yes, I was going to ask: New York.

Barr: New York is the hardest one. But other than that I never had a problem. My New York guy wasn't Rudy Giuliani, so he wasn't that independent, but he basically ignored 50 percent of what I said, just did it his way. And as a result, in a very short period of time, I wanted people—In 1991 we launched a project called "Trigger Lock," that was basically if the DAs in states got someone with multiple offenses on the record, they would transfer them over to the feds, and we'd put them away under mandatory minimum sentences under firearms laws.

That thing was great because you just give people a directive, and all of a sudden this machine starts. We were putting away over a thousand people, actually incarcerating a thousand people. By the end of the administration, we had done over 18,000 people in a very short period of time. It's amazing to see the apparatus actually working. I think that one of the things of the Clinton administration was—I talked to the U.S. attorneys, and they didn't have any idea what the priorities of the Department of Justice were. Everyone had their own priorities. But at least in the Bush administration, Thornburgh and I made it clear: here are our priorities. By and large, U.S. attorneys followed it.

[BREAK]

Barr: I was up on the Hill talking to the House Republican caucus, and I got a call that the President wanted to see me before a Cabinet meeting. But I couldn't get down there in time, it turned out. I got down for the Cabinet meeting, and Sununu said, "He wants to see you after the Cabinet meeting. This is it." Sununu, I think, had been interested in helping me become Attorney General. So at the end of the Cabinet meeting I went in, and Sununu said, "Okay, he's going to offer you the Attorney General position, but you're not a very high profile political guy, so we're not getting much political mileage out of putting you there. So we may want to name your deputy, someone we could get some political benefit from. Is that a problem with you?"

I said, "Yes, it is a problem for me because in the Department, in my experience, if there's any daylight between the Attorney General and the deputy, it's impossible to manage the Department, and the career people drive wedges between you, and there's fighting." He said, "Well, let's not get into it now. Just discuss it with the President."

The President said, "Bill, I'm delighted. I'd love you to be Attorney General." And I said, "Well, why are you selecting me Attorney General?" He said, "I know there are a lot of political guys out there who might get me more benefit, but the best politics in the Department of Justice have been well-run Departments of Justice. You've been running the show there, and I think you're doing a good job, so I'd rather keep you there in charge."

I said that was good reasoning. No, I don't think I was that impertinent. I just said, "Oh, okay." And he said, "Now I guess John told you about this other thing." I said, "Actually, that's a problem, Mr. President." He said, "Oh, it is? What's the problem?" I said, "Well, let me put it this way. The Attorney General's balls are in the Deputy Attorney General's pocket, and I'm not putting my balls in anyone's pocket I don't know."

So he sort of nodded and said, "Oh." I said, "If you think about it, Mr. President, when is there a big problem at the Department of Justice? It's when you have a deputy and Attorney General who aren't getting along. Look what happened to Meese with his situation. The reason you have an associate Attorney General is that the Attorney General wasn't getting along with the deputy, and you created a third position to bypass him. Look what happened to Thornburgh." I said, "I really feel I need someone who—"

He said, “You have someone in mind?” I said, “Yes, I do.” He said, “Well, I’ll tell you what. You just interview the guy we have in mind. But if you feel that way about it, you take your guy.” I said, “Fine.” That was it. I thought that was interesting.

Meador: Who was it you brought in, you picked?

Barr: I took a guy who was my aide while I was deputy. He was a U.S. attorney from Vermont, [George J.] Terwilliger.

Meador: On that point, can you describe in your time there in the department, the role of the associate Attorney General as compared with the deputy?

Barr: When I was the deputy, there was no associate. I was acting associate. So everything came to me.

Meador: In other words, that position was simply not filled.

Barr: Never filled it.

Meador: Never filled throughout the Bush administration?

Barr: No, I had to fill it. We filled it at the very end. That was part of my deal, that I picked the deputy, but I’d put in somebody as associate they were satisfied with. But throughout the Bush administration up until maybe the last eight months, there was no associate. And when I was assistant, I was basically the number-three person in the Department, and then when I was deputy, there was no associate. To me, that’s the best way to run the Department.

Meador: What did you use the associate for in those last eight months when you filled the position?

Barr: I gave him some of the civil functions.

Meador: Did you feel the associate was sort of a fifth wheel in the picture or something like that?

Barr: It depends. I think that if an Attorney General does not have experience in the Department of Justice, it might be better to have two senior people who can bring in different perspectives and abilities. You might bring somebody in who can make the railroads run on time, and somebody who had more political sense and could run certain initiatives and so forth. I think a lot depends on what the lineup is. But I didn’t feel the need for an associate when I was deputy, and when I was Attorney General I didn’t need an associate. We had a great associate who made a good contribution, but I don’t think it was strictly necessary. But if you have people with gaps in their knowledge or experience, then it might be good to have some extra people around.

Riley: I wanted to come back and ask a question about the Noriega stuff. You had mentioned that you wanted to talk a little bit about your conversation with Bush with respect to your appointment. Was Bush in the White House when all of this was going on with Noriega?

Barr: Yes, he was the President.

Riley: Can you talk a little bit about your observations about what he was doing at the time? We're curious about his operating style in a foreign policy episode or crisis. Is he directing people in a very hands-on fashion? Is he relying on folks to do his work for him and standing back and making broad decisions behind the scenes or—?

Barr: Basically on foreign policy matters, my observation was limited because we would have discussions in broader groups and then he would walk into the Oval Office with Cheney, Scowcroft, and Powell and sometimes Gates, too. And they would have more limited conversations. Examples of times where I actually saw the decision-making process would be certain covert action approvals, where we would discuss a covert action. I would be in on those meetings because of the legal dimensions. He was very engaged and understood what was going on and would make the decision in a very executive way.

Another time I saw him engaged in a crisis situation was the Los Angeles riots. The state verdict came down on the cops. I was out in a press conference within a few minutes of it, I think. You know, it was like fifteen minutes later I issued a statement. I went down to the press room and said, "There's still a pending federal investigation. This isn't the end of the process. The federal government will still continue to review this, blah, blah, blah. But we're not going to tolerate any of this stuff out in the streets."

Then he called and wanted to know what we were up to and make sure we got a statement out. I said we'd just gotten a statement out. Then he said he wanted me to come by. I guess actually, later, as things got worse in California, he said he wanted me to come by the next morning at six or some ungodly hour. Overnight I had prepared this plan to use 2,000 or more federal officers to supplement what was out there, basically to enforce the law out there. A lot of people think that the Department of Justice can just click its fingers and get a lot of resources, but the fact of the matter is it's very difficult. We had only 150 marshals available as part of their special operations group. We put together an amazing polyglot organization of FBI, SWAT [Special Weapons and Tactics] teams, U.S. marshal SWAT teams, Border Patrol special operations group, a prison special operations group, and things like that. Even the Park Police put in their SWAT team.

We scraped together 2,000 people and told them to stand by at different airports and rally early that morning, because I figured the President might want something done. I showed up at the meeting. I had to go with [William] Sessions, [redacted]

Meador: He was the FBI director.

Barr: [redacted]The President wanted to know what the violence was about, and I told him that there were a lot of street gangs involved and this was primarily

centered on street gang activity. I told him the names of the gangs that were involved, that the violence was largely street gang activity, big-time gang, not like street gangs in the 1950s—Crips-type gangs.

I explained that the LA police force is a very small police force—it's highly mobile, but it's very small. I said, "The National Guard is all screwed up, and they're having trouble getting the National Guard there. We have two other choices. You can get as many civil guys out there as you can, and I have 2,000 who can move, but I would need air support from—" Powell was sitting there. I said, "I need Colin's help in getting them out there, but I could get you 2,000 people out there by three or four in the afternoon, assuming the military transports were available."

I said, "The only other alternative would be regular Army." We had just gone through an exercise two years earlier in St. Croix, so I was very familiar with how to use regular Army in a domestic situation. I understood all the code sections and what you had to do. That would require a declaration by the President, basically a breakdown—I've forgotten the term at this point, but basically the President has to issue a proclamation telling people to cease and desist and go to their homes. It's sort of an antiquated statute. And then if they don't cease and desist, you're allowed to use regular Army.

Young: Is a request from the Governor? Can the Governor make the request for intervention?

Barr: Well, he could, but I don't think that that's a prerequisite for using federal troops. I said we can get everything ready to use federal troops, but that was really the only other alternative. And Colin Powell said what troops were available, what bases, and so forth.

So he said, "Go ahead. Let's launch those civilian guys. Let's not try to resort to regular military right now." I said, "Okay, who should I have George Terwilliger talk to?" Powell gave me a name. And in an hour, they had transports starting off on the east coast flying across the country, landing at Birmingham, Alabama, picking up the FBI agents there, landing in the next city, basically hopscotching across the country. Then they had Air Force buses waiting at the Air Base busing these guys in. So we did get everybody out there at the time I said.

I was hanging around the Oval Office at that point, and the President was on the phone to the Governor. He was on the phone to the mayor, getting reports, asking, "Where's the National Guard? When can you get the National Guard up there?" Very much engaged.

While I was there, he probably talked three or four times to the Governor and one of the members of the Cabinet who was out there in California at the time. He talked to him. He was very engaged. He talked to some civil rights leaders who were calling in, and he was very much in command. Then he made the decision toward the end of the day that more power would be needed, and so we implemented the plan of using federal forces. That was an interesting episode.

Young: Did he go out there?

Barr: No, but he went later.

Young: Did you go out there with him on that?

Barr: No. There was a debate about whether he should go out and how soon he should go out.

Riley: Did you take a position on that?

Barr: I probably said he probably shouldn't go out. I don't recall. My role in those things, I felt, was to be more of a law-and-order kind of person, not tolerating this kind of stuff. One of my disappointments is that we were prepared, and set up task forces, and could have brought federal indictments against a lot of the people involved, the gangs involved. I went out there, and we had these rooms that looked like war rooms in organized crime cases. There were pictures of the gangs, and who reports to whom, and videotapes showing the individuals involved. We could have cleaned that place up. That was shut down by the Clinton people when they came in.

My idea was, "Fine, we can bring a federal case against the cops. We're also bringing a federal case against these people." Unfortunately, we just brought the federal case against the cops and never pursued the gangsters.

Meador: You say you had to launch that before the end of the administration?

Barr: No, we had launched the federal—We had set up a joint task force with the state people and were preparing to bring federal charges using RICO [Racketeer Influenced and Corrupt Organizations Act] and other things against—

Meador: But they had not actually been brought before—

Barr: The case had not been brought. Then when the Clinton people came in, they said, "Let the state people handle this." And, of course, nothing was done.

Riley: Did you have a similar opportunity during your involvement in the Noriega situation to see the President in action?

Barr: Yes, we'd have the National Security Council-type meetings discussing what was happening, and why we were having difficulty locating Noriega, things like that. He was very engaged.

Meador: You mentioned the FBI. Can you say anything about the relationship between the Attorney General and the FBI in your time? Anything particularly noteworthy there, or stressful? How would you characterize that?

Barr: [redacted] I personally don't think there's any institutional problem the way it's structured, and I think the Bureau should be a little bit separate and apart, the way it is. And if you can work closely with the right people at the FBI, the Attorney General's interests can be satisfied. My basic problem was that, when I was assistant and the

deputy, I'd forged a very strong relationship with the second tier of leadership at the FBI, became very close to them, and still am very close to those people. I thought they were fantastic, able people at the FBI. Sessions, in my opinion, was [redacted] in my mind, very deficient.

Meador: What do you think explains his appointment to that position?

Barr: Well, they were sort of desperate. Four or five people they had offered the job to turned them down. [redacted] I had talked to the President about the need to remove him after the election, and that was the plan.

But that notwithstanding, because of the strong relationship with the guys who were in charge of the different divisions and the deputy and so forth, we had a great relationship with the FBI. You see, when I was deputy, I met with their deputy once a week. The head of the criminal division met with the head of the FBI criminal division once a week, and the four of us met together frequently. I got budget relief. I got money for the FBI. They supported the programs that I thought were important, so when I wanted to move foreign counterintelligence officers from FCI [Federal Correctional Institution] over to violent crime, I did it. And they did it.

Meador: Did the FBI field investigations do their own potential judicial nominees? Did you review each of those files yourself, or did you leave that to somebody else?

Barr: I left that to somebody else.

Meador: You didn't look at the files yourself?

Barr: No. I think there were one or two files where a Senator was pushing somebody who engaged in Clintonesque behavior, and I had to see, okay what does the file say? What's the basis for turning this person down? I might look. You know, someone put a sticker on the page, and I would read the paragraph, but I wouldn't go through files.

Meador: Griffin Bell had an assistant who put paper clips on the edge of the page where some problem appeared, and Bell said, "I like to see a file with no paper clips in it."

Barr: I'm sure somebody went through those. I know there are people who went through the files, but I really wasn't interested in that stuff. If somebody had done something that had certain panache and deserved to be discussed with me, I'd get the facts, but I wouldn't go poring over a person's file.

Meador: The three disqualifying things that always struck me about potential judicial nominees were either liquor, women, or taxes. Does that cover it, in your view? Were they the problems that you encountered that may knock somebody out of the running?

Barr: You said money?

Meador: Liquor, women, and taxes.

Barr: Yes, I guess that's right.

Young: Never men?

Meador: I hadn't heard of that one, maybe so. It's a new ballgame.

Young: Drugs.

Barr: Drugs could do it. Action that involved discrimination or something like that would do it. There are a lot of reasons nowadays to knock somebody out. I had a lot of background investigations, and no one could ever find anything. I told my FBI friends it meant I could cover my tracks very well. I remember someone called me up and said the FBI interviewer had asked if I ever told jokes. What kind of jokes did I tell? I said, "Well, Jesus, they're getting into jokes"—quickly mentally flipping through my repertoire of jokes. But fortunately, the agent was experienced enough not to push that line of questioning.

Baker: That's a problem for getting people to agree to serve on the Cabinet or any of these positions.

Barr: Sure it is. Right.

Meador: I think the list of disqualifying factors or circumstances has grown greatly, don't you?

Barr: Oh, yes. One is added every year or so. But on the other hand, things that used to be disqualifying no longer would be. A certain amount of sexual indiscretion is overlooked.

Young: You talked earlier about some programs and changes you wanted to institute within the Department of Justice and the fate of those efforts, some successful, but maybe not all of them as successful as you would like to have seen. Can you tell us about that experience and about the White House response?

Barr: That's a big topic area. Basically, my attitude was every function can be improved and will be improved. We put together a proposal for every single component, even the trustees. What's their mission? What are they doing? How could we do it better? What are the priorities? Are we being as efficient and as effective as we can be? I had every component come in, basically saying, what's our job? What are our priorities? How can we do it better? What laws have to be changed? What administrative rules have to be changed? What are the resource issues? I'd have every component come in to do that.

Young: When did you do this? When you first became Attorney General?

Barr: I started it when I was acting Attorney General but didn't start implementing it until I was confirmed. I drove people hard to do this. I drove them very hard to do the work and set firm deadlines. A lot of that stuff was done administratively, but there were a lot of other things that required either legislative support or budget changes that I couldn't implement directly. Now, Steve Colgate, who just left, was the head of administration when I was there and stayed there during Clinton's administration. He said he still kept those big books, and every time Janet Reno said, "Is there something we can do in the immigration area" or something, he would take out the bible and say, "Well, here are fifteen things that Barr suggested to do, but they required—" She'd propose it, and it would get passed because it was a Democratic Congress. But Congress was preventing us from doing a lot of this stuff.

One of the biggest areas was immigration, which was a constant, chronic problem. People have said every Attorney General and every Deputy Attorney General who has tried to do something about immigration has been broken by the Agency. But I did try to make a lot of changes at the immigration—

Meador: What were the major problems you saw there that you tried to correct?

Barr: I think we made some headway in professionalizing the administrative people there. I brought in people who had won awards throughout government—you know, SES [Senior Executive Service] level people—as good administrators—for example, people in the IT [information technology] area and budget area and so on. I'd get them out of OMB [Office of Management and Budget], get them elsewhere, bring them over as part of essentially a management SWAT team to try to get some efficient and effective and accountable management at that place.

But then there are basic problems having to do with resources, the lack of Border Patrol. I was trying to cut fat and put it out onto the line, so I would eliminate resources and slots in certain functions, and I would create new Border Patrol positions and put those people out on the line. But I couldn't do enough of that. I needed more resources devoted to the Border Patrol. Border Patrol is actually a very important, effective agency, but it frequently gets short shrift.

Meador: What was your experience in trying to control the Mexican border? Was it out of control, or under control, or somewhere in between?

Barr: It was out of control but controllable and getting under control. Good steps were taken, and the Bush administration was getting a lot more control over it, including putting up the fences. I believe that with a little bit more resources— I had a study done and a plan done for how a few tens of millions of dollars more investment could make a world of difference along the Mexican border. There were just certain gaps that we had to fill. But good effective fences did cut down substantially on immigration. It was a big issue out in California, so I devoted a lot of effort and energy to doing our best to shut down the border in California. We kept on pushing them further west, and then eventually you get them going over long stretches of open ground, and once you get them out of the cities—

Young: You mentioned earlier that you'd done very well budgetarily in terms of increases—15 percent is the figure you used—but these were resources that you needed on top of that.

Barr: Right. Immigration just never was as successful getting funding. I would ask for more, but OMB would shoot it down because INS was not a sexy place to put money. I kept pointing out to Darman that immigration was a significant issue. In my opinion, there's support for cracking down on illegal immigration as they come in. Where you start getting into the more political problem is where you try to take away benefits and protections while the people are here. But most people, including Hispanics in California, supported aggressive stands to stop them coming across the border.

One of the basic problems with the INS is the division between service and enforcement. You have half the agency processing claims for asylum and being—or should be—service-oriented, and the other half being enforcement. They're both under the same roof, and that's a schizophrenic agency. I believe that they should be divided. I think Bush is right, George W. is right. But most of the proposals were divided and then part of it put under the State Department. In my opinion, any enforcement function under the State Department is doomed to failure because basically—

Meador: You mean enforcement function under State? Because there's also been a suggestion of putting enforcement under the Labor Department, hasn't there?

Barr: Yes, yes. But my view is the Department of Justice is the right place for it. It's just that you should divide those functions so that you have one agency looking at enforcement and the other one becoming service-oriented toward the people who are here. But we had massive problems.

Here's a perfect example of the State Department and Justice. One of the biggest problems we have with immigration—or had, I think it's still a problem—is the abuse of the asylum laws. People would get on the airplane, they'd come to the United States, and then they'd claim asylum as soon as the airplane touched down. Under our laws, we have this very robust process that they have to go through. They'd be put out on parole pending their asylum hearing, and then they'd disappear. Then we tried detaining them, and we ran out of space in New York. We had 40,000, 50,000 a month. It was just unbelievable, the influx coming into the United States claiming asylum. I can't vouch for that figure, but we just didn't have the space to put them.

Other than crossing the border, this became the primary means of entry into the United States. And unlike crossing the border, these people tended to stay, whereas most of the people who cross the border go back. So I came up with a plan, which was that 80 percent of these people came in through six airports—London, Paris, Tokyo. They were all channeled through certain airports overseas. We had a program that we had started in Canada, and basically the idea was that we would screen people, with American INS officials there, before they get on the plane, and really look over their credentials and their *bona fides* and so forth.

I had to fight State Department tooth and nail on this because that would put an extra burden on their consular officials, and they wanted have fewer Americans overseas. They didn't want to

have INS people overseas. I showed the huge amount of money that we would save, plus the security benefit of screening people before they get on planes coming over here. Eventually I got into a situation where I had something State Department wanted badly. They needed some Justice Department approval on something. I went over to have lunch with Larry Eagleburger, and I said, "Larry, I'm not going to do this unless you let me put INS people in these six airports." He agreed. So we started expanding the program.

Meador: Is that continuing?

Barr: I don't know whether Clinton is continuing it. That's a digression.

Baker: I was actually going to follow up on that, asking about the State Department and conflicts over the issue of immigration in the United States and Mexico. Given the Bush administration's relationship with Salinas, was the State Department putting any pressure on you not to be as aggressive in cracking down on illegal immigration?

Barr: Occasionally they would call up and sort of take the Mexican line about us being too aggressive on our side of the border. But that wasn't really a high level—

Baker: I know in my area, Mexico is highly sensitive to what they see as a militarization of the border.

Barr: Right, and that's what we would be accused of, because we would allow the training of troops. We have Marines and so forth in training on the border.

Baker: The Justice Department, working with the Defense Department, would coordinate these?

Barr: Right, and the State Department was very skittish about that.

Baker: That it would look threatening to Mexico.

Barr: Yes. But the drug area was the main area, the high-level area of confrontation between Justice and the State Department. On the drug war, when I became Attorney General, part of the review with DEA [Drug Enforcement Agency] was, "Look, we've built this great infrastructure now, we know where these people live. The Medellin cartel, we know exactly where they live, and we know when their planes take off. We've seen them land. We're charting all this stuff. We're spending over a billion dollars a year in military budget just watching this all happen in front of us. Now we need an end game. And whose end game is this? There are only two end games: You either lock them up or you shoot them, one or the other. Basically it's either a Justice end game, or it's a national security end game. I was trying to force discussion. What's our end game here? How do we incapacitate these organizations?"

I proposed certain steps. I had six things we can do now to exploit the information we have to actually make an impact on the drug traffic. I basically said that if I could do these six things, then I could halve the cocaine coming into the country, or more, by October. But I ran into primarily State Department resistance on it. Just to give some examples: We had this system in

Mexico where they'd fly the planes up from Colombia. As they would be coming in, we'd have planes circling around, and we'd estimate where they were going to land. Then we'd scramble these helicopters and planes that have our Mexican police that we had co-opted and were keeping incorrupt. We would then swoop, the DEA as advisors with the federal police would come in, and we would then take over the airfield, capture the plane, destroy the drugs or destroy the plane, and so forth. This had pushed the trafficking all the way down the peninsula so it was now coming into Central America. Virtually no aircraft were coming into northern Mexico. They were all coming into places like Guatemala.

We had one State Department helicopter in Guatemala, and that was doing marijuana eradication under a State Department program. I said, "Right now, 70 percent of the coke coming into the country is coming through Central America. Most of that is coming through Guatemala at this stage, and 0.1 percent of the marijuana is coming through Guatemala. Can we use this helicopter to do the same thing down in Guatemala that we're doing—to push them down even further?"

The State Department wouldn't let us do it. So I asked for some Blackhawk helicopters from the Army National Guard, and they didn't want to part with them. Before Desert Storm, the Army wanted to militarize the drug war. They saw it as a new mission beyond the Cold War. So the Army was very interested in the drug war—you couldn't keep the Army out of the drug war. They'd seize that mission and throw any resource they could muster because they viewed that as their post-Cold War mission. Then Desert Storm happened, and you couldn't get those guys anywhere near the drug war. All of a sudden I got a bill for like a million something dollars for airlifting DEA agents to Peru. I said, "What am I getting billed for? You used to do that for free." But that was the basic attitude shift that occurred.

Baker: Why was the State Department so resistant?

Barr: Because the State Department is not interested in the drug war. It's an irritant to them. They're interested in maintaining good relations with the government. They're not interested in the drug war. The only guy who was ever interested in the drug war in the State Department is Robert S. Gelbard, the guy down in Bolivia. He was tough, and he ended up in a high position in the Clinton administration. He actually did something. He shut them down in Bolivia, and we worked very closely with him. But most of them were not interested.

Anyway, most of these things I couldn't get done.

Meador: Was there much discussion in the Bush administration about using the military forces for either immigration or drugs? Was that ever part of the discussion?

Barr: Oh, yes, using the military in drugs was always under discussion. I personally was of the view it was a national security problem. I personally likened it to terrorism. I believe you can use law enforcement to some extent, particularly in the U.S., but the best thing to do is not to extradite Pablo Escobar and bring him to the United States and try him. That's not the most effective way of destroying that organization.

The other example was in Upper Huallaga Valley, which was the front line of the drug war. Virtually all the coke is produced in the Upper Huallaga Valley, 80 percent of all the coke. The rest of it is produced in Bolivia, but 80 percent was produced in Peru, in a place that was very manageable in size. We had these base camps there, just like Vietnam-era base camps, with DEA agents and co-opted national police. They have to fly it out of the Upper Huallaga Valley because they can't get through the jungle. So that's the weak link in the entire thing. They're flying it out of the Upper Huallaga Valley.

The Peruvians started shooting down planes, and that forced them to go at night. But we had these Vietnam-era Huey helicopters that were always in for maintenance, and one Korean War-era plane that supplied them from Lima had to go over the Andes with oxygen masks that dropped down. And that was the front line of the drug war.

So I said, "What is this nonsense? I want Blackhawk helicopters, I want more DEA agents there, and I want good support. We will shut down these little airports and really give them a hard time in Peru." I couldn't get it done. Before I left, I said, "You know, we're going to lose agents because these things are rickety and they're old." After I left, a Huey went down, and DEA agents were killed. I still don't know what they're flying down there. I never followed up on it.

The drug war was the biggest frustration I faced. The Bush administration did a very good job putting in place the building blocks for intelligence building and international cooperation, but we never tightened the noose. We never used the information we had, and the building blocks, and the relationships we had, to figure out, "Okay, now what do we do and how are we going to do it?"

Meador: Did the President ever get drawn in on these discussions or take a position?

Barr: He didn't take a position, but there were meetings where I would express frustration, as would some others. But without the military and the State Department supporting you overseas, it's very difficult to make progress. Bob Gates was very supportive, and together with the CIA we were able to do some very good things. But I didn't find the others particularly supportive.

Young: The military dropped out.

Barr: Yes, they weren't interested.

Young: And the State Department never was an enthusiast.

Barr: Right.

Young: Where did the drug czar, so to speak, fit into all of this?

Barr: Well, [William] Bennett became sort of an irritant to Thornburgh in the sense that we never liked the idea of a drug czar. We thought the drug czar was the Attorney General. So when the drug czar was formed, we did our best to coexist with him. Our view was that was basically a strategy-setting organization, but Bennett liked to go out with a flak jacket and go on raids and

get publicity and all that kind of stuff. I personally like Bill Bennett. I'm a friend of Bill Bennett's, and I think he was very important in the administration. But I don't think that that mechanism makes much sense, because he doesn't have any real power.

Baker: And he wasn't able then to bring in the military and the State Department, which is the idea of having a drug czar in the first place, to coordinate.

Barr: Right. But in my view, if you really want someone who controls—you can't set somebody up and then take the resources of other agencies and let them order them around. You have to pick an agency and say, "This is your function. You use your equipment and your resources. You can borrow from others, but there has to be an operational agency in charge." They would never trust Justice overseas, so they would never put Justice in charge. State Department wasn't interested in it, and the military lost interest.

Baker: If the President had taken a very strong stand and had basically told his Secretaries of Defense and State, "You will cooperate on this with the Justice Department," might that have made a difference?

Barr: Oh yes, it would have made a difference. I don't blame Bush particularly, because I think there were other priorities at the time, and we were feeling our way to what the solution is here on the enforcement side anyway. But I think there's a lot more that can be done in the drug war outside the United States with Presidential leadership, and we lost an opportunity to do it. Then Clinton de-emphasized the international stuff, and so I think we're not in particularly good shape.

I don't know if any President is ever going to take it on, because there's an increasing view that it's a bloody battle, and we're never going to be able to win it, so why take it on in the first place? My attitude is if you're not going to fight a real war, if you're not really going to try to do something about this in a meaningful way, then don't pretend you are. It's a waste of people's time and lives. That was my greatest frustration. You know, there are 65 different agencies involved, everyone was turf-conscious. It was pathetic. It goes to the coordination of law enforcement generally. I had a fight with Brady over this thing, which is the basic division in law enforcement between the Treasury agencies and the Justice agencies. That division is felt in the drug war, but it's felt across the board.

Basically, my view was, as I expressed to Brady, things that go clink should belong to the Treasury Department, things that go bang should belong to the Justice Department. Okay, Secret Service—we didn't want protection anyway, because we don't want the President to get killed on our watch. So you keep the Secret Service. That's a historical anomaly, so to speak.

Baker: ATF [Bureau of Alcohol, Tobacco, and Firearms].

Barr: ATF. Guns and bombs and kicking in doors and stuff, that's Justice Department. That's not a revenue function. You want to do alcohol, fine. But bring these guys into the Department of Justice. Customs? Fine. You worry about widgets coming in that haven't paid duty, that's customs. But eighteen Blackhawk helicopters in Florida flying over, doing a drug bust, is not

customs. That should be the Justice Department. Narcotics should be Justice. And it's led to a complete screw-up because every committee on the Hill wants its own little police department. Basically, Treasury is a favored agency, because Treasury doesn't really threaten people very much. So Dennis DeConcini would shower money on the Treasury agencies.

But the Justice Department people basically don't like, because the Justice Department was viewed as someone who might get you someday and put you in prison. No one wants to give the Justice Department any resources. So you ended up with a situation where eighteen brand-new Blackhawk helicopters were sitting in Florida while customs agents danced around in their flight suits, and DEA agents were dying in Peru in Huey helicopters. You know, it just doesn't make any sense.

Riley: Did you have any allies on Capitol Hill that you could count on?

Barr: Not on these issues—maybe [Orrin] Hatch to some extent. But, whereas people like [Fritz] Hollings were basically antagonistic toward us, partly because of party reasons, Treasury would get *carte blanche* on their budgets.

Riley: But there was political mileage to be gained in taking a position in support of a war on drugs.

Barr: Yes, but the way they wanted it, every committee wants their own little police force. They wanted to have a war on drugs. But giving it all under the judiciary committee and the appropriations justice subcommittee, that's not the way to fight the drug war. We want to have hearings on the drug war, so we need Customs under us. And we like to go down to shoot guns at FLETC [Federal Law Enforcement Training Center]—The primary training base for law enforcement agents in the United States is run by the Treasury Department. If I wanted to get new agents or new Border Patrol, I had to negotiate with the Treasury Department for priority in training. I said, "Why the hell is the law enforcement training base in the United States run by the freaking Treasury Department?" It doesn't make any sense.

I would raise these issues and push. I said I wanted these agencies under the Department of Justice. There's good public policy reason for it, and in my opinion, this has been borne out. These agencies all have penis envy of the FBI, and so everyone's trying to out-macho everybody else. They would invite camera crews on their raids and stuff so the camera crews can get to see "ATF" on the back of raid jackets and so forth. The Treasury Department was completely unprofessional in that they would tip off the media before raids.

And guess what? That's what happened at Waco. Everything that has gotten screwed up has generally started off as a non-Justice Department operation, including Ruby Ridge, which was an ATF case. That's what happens on these things. Lack of adult supervision is not good.

I tried to get Brady to see the light, but Brady was not a very imaginative guy and just took the party line. I tried to elevate it in OMB, but I could not get any support for it. Reno was blessed by having a Secretary of the Treasury who actually had some sense. [Lloyd] Bentsen said, "I

don't want any part of this." Bob Rubin didn't want any part of it. [Al] Gore came out with a study saying these agencies should be part of the Justice Department, and Reno shot it down.

Riley: Did you find the President's relationship with Brady to be problematic for you in this also? I mean, the obstacle was there, but did it become more—

Barr: Yes, I thought it was problematic. The fact that Brady was a colleague—he was the same age and a buddy of the President's—made it very hard for me to take him on and made him a little more arrogant about the position he took with the Department of Justice.

Young: The same must have been true of Jim Baker, I should think, although he may not have been involved at that level for most of your issues.

Barr: Baker, personally, is a very reasonable guy, and we didn't lock horns. The time I got crossways with Baker was on an antitrust announcement that I made about the Japanese. He got really pissed off at me because he thought I was upsetting relations with Japan. One of my closest friends was Bob Kimmitt, and he was Undersecretary of State, so basically I could usually—not on big issues like our relationship with Mexico, but usually on operations or something else—I could talk to Bob Kimmitt and we could work something out.

Meador: Speaking of training. They set up this institution now down at the University of South Carolina, training U.S. attorneys and so on. Was that under way in the Bush administration or was that something that came later?

Barr: I did it.

Meador: You did it?

Barr: Yes. I did it because I sat back and watched Treasury and the other agency law enforcement functions getting all their budget requests, and I said, "Who are our friends on the Hill?" We had a few friends, basically people who were friendly because they believed in the Justice Department. I said, "Look, we have a lot of assets. In fact, our agency is growing by leaps and bounds, we have a lot of facilities, we have to be more strategic about where we place these things."

I had an inventory done of all our facilities, and then I'd go in to Bobby Byrd, and I'd say, "I can put this, this, this, and this in West Virginia, but what I need is your help over here, here, and here." And Bobby Byrd could deal with that. So I basically shut down some facilities and moved them to West Virginia. Then I'd say to Hollings, who was the head of our appropriations committee, "What can we do for South Carolina?" They were shutting down an air base in Myrtle Beach. So I said, "Justice will take it over, and we'll put a training facility there for U.S. attorneys and for agents and so on."

Meador: In Myrtle Beach.

Barr: Yes, at the Air Force base. I figured it would be nice to have a beach, beachfront property. Our proposal was to help out, put a big facility in South Carolina. Then over time it was pared back to just the AUSA training facility, and he said he didn't want it in Myrtle Beach, he wanted it in Columbia. And he wanted it associated with the University of South Carolina. So I authorized it, and he became very friendly after that. I was his "buddy."

Meador: My recollection is that it hadn't been created in your time there, it was just planned to launch, and it came into being later, is that right?

Barr: No, it was planned and launched when I was there. The ribbon was cut after I left.

Meador: I see.

Baker: That sort of brings us to state law enforcement initiatives. I know—you and federalism would like to devolve more U.S. government responsibilities onto the states. In the war on drugs, were you able to do that? What relationship did the Justice Department have with local law enforcement?

Barr: My views on that were not so much on the drug war. It was the reform of the criminal justice system. We had good relationships on the drug war, but not as good as—I can get into later, if you want to, why Treasury had better ones at the time—but my view was that we were continuing what had started under Reagan. Reagan had reformed the criminal justice system of the federal government so it was a very tough system, and what we had to do was finish that at the federal level, put in place the enforcement infrastructure we needed, enforce those laws, and have a tougher system.

Basically, we now had to get the states to make their systems like the federal system. What I felt was that we had to define what the federal role was in violent crime. Violent crime was becoming a big problem. It had gone on for a number of years and was at record levels in 1991. A lot of it was gang related and drug related.

My view was that we had to define what the federal role was, and then we had to get the states to do the rest. And the federal role, in my opinion, was drug organizations that were multi-state, guns—because historically gun enforcement had been done by the federal government—and organized crime. To branch out, to make sure we were branching out from the traditional Mafia organizations to include street gangs, and that street gangs were as much a threat as organized crime in the traditional sense of the word. Guns, drugs, and organizations.

Baker: So you were pushing for more rigorous state legal mechanisms, sentencing guidelines—

Barr: On the one hand, what I wanted to do was set up a blueprint for saying, "Here are the things that we recommend you need to do to your state systems." That was the 23 recommendations, which I still get called about today. People say it's a bible on their desks. It's 23 recommendations on how to have a better criminal justice system, coupled with joint programs with the states on certain enforcement things that would serve almost an educative role in showing what could be done with effective law enforcement. Setting up a joint task force to go

after the large gangs in major cities, the Weed and Seed program, and Trigger Lock were the three joint state and local federal programs that were meant to show how the aggressive use of tough laws can make an impact. Those were the three programs that were done, coupled with explaining, "This is how you have to change your system."

Meador: Did you do anything about policies relating to federal and state prosecutions where there was a concurrent jurisdiction in terms of deferring to the state during prosecutions? Did you address that at all?

Barr: Yes. Typically you defer to the state. But where we didn't was the gun enforcement, which got a lot of criticism from federal judges and from others, because all of a sudden they discovered federalism and didn't like the big federal role. That's the program the DAs loved because they'd find these guys with yellow sheets a mile long—violating gun laws, using guns in violent crime—and all that they could get was eighteen months. We could get twenty years mandatory minimums. So they brought them to us, and we put them away in federal prison. It had a radical impact. The federal prison population grew 12 percent in 1992 alone, and most of them were violent offenders.

Young: Going back to what you were previously saying about these three programs, was the Governors association ever involved in this?

Barr: I made a presentation to the Governors. I think Bill Weld actually invited me to do that, and I started working with a few of the Governors, Tommy Thompson. I got into juvenile crime as well. So I forged relationships with a few of the Governors. [Pete] Wilson and I, strangely enough—he had put a hold on my nomination, a weird situation because what the antitrust was doing, it affected Hollywood. He put a hold on my nomination for Attorney General, and we ended up being very good friends because of our positions on violent crime, going after gangs and shutting down the border with California. We became very good friends, and he was very supportive of what we were trying to do. We did work a lot with the Governors, the DAs, the attorneys general. I spent a lot of time with states' attorneys general.

Meador: Did you ever have dealings with state courts or the Conference of Chief Justices and groups like that, or the state judiciaries?

Barr: I did a little bit. I just want to tell you, there's one vignette. As I was trying to get this stuff done, during the campaign, Bush was out in California. It was the weirdest damn thing because I'd been batting my head against the wall trying to get some of this stuff done. I got a call at home from the President: "I'm out here with Pete Wilson, and he's been telling me what a fantastic job you're doing on these law enforcement initiatives in California. But he wants more help. Are there things we could do on this, this, this, and this, and others?" I said, "Well, Mr. President, I have a package of proposals sitting on Dick Darman's desk. They've been sitting there for a long time, and it addresses precisely these issues." "Well, we better get on top of that when I get back" and so forth.

Baker: But nothing ever happened?

Barr: Nothing happened.

Young: Why not?

Barr: Because of the interagency process. But anyway, going back to judges—I spoke at a few judicial conferences and things like that, but I didn't have that much contact. I met with [William] Rehnquist once a year, the last year I was deputy and the year I was Attorney General.

Meador: I was going to ask you, during the four years you had in the department, was there any kind of regular contact with the federal judiciary, the judicial courts of the United States, to develop measures or to help federal courts, improve federal courts? Did you do anything like that, or testify in committees in favor of bills designed to do something about the federal courts?

Barr: No, I basically fought with the federal judges over two issues, because they were always bitching about the caseload. They continued to send judges who would complain to me and claim they were representing federal judges. They didn't like these terrible cases being brought into their courtrooms, these violent crime cases and drug cases and so forth. This was not the stuff that should be brought into federal court. I said to them privately, and said a number of times publicly, that this was elitist nonsense, that they were there to serve the people, and if this was a high federal priority, they'd do their jobs as judges. They're not above the fray, and the fact that they would rather piddle around with some antitrust case or something else was irrelevant. I had no sympathy for their bitching about those kinds of crimes in federal court.

The other big thing—and I still think it's the main problem with the federal judiciary—is they'd always be talking about their caseload—and this was, by the way, the only criterion that was of any importance to me—not the only, but the main criterion of importance to me in picking district court judges: They don't use summary judgment. If you read the Supreme Court's cases on summary judgment, there's a lot of latitude to use summary judgment. And they don't. Federal judges don't use summary judgment the way they should. As a result, their dockets are all crammed up. So my number one prescription for the federal judiciary is that they should use summary judgment. Everything goes to trial, apparently. Do you disagree with that?

Meador: I've always thought summary judgments should be used more than they are.

Barr: It's terrible.

Meador: If you think the federal courts are bad, the state courts are even worse on it. They rarely use summary judgment, most of them. I think they're scared to. They'd rather let a jury decide it than take the heat.

Barr: And so they chew up resources and time with trials that should never be held. And the costs they impose on society—because basically no one wants to take a risk of going to trial—is bad. So I had this uneasy relationship with the judiciary because they didn't like the kinds of cases we were bringing. They thought we were federalizing street crime. That was their basic beef.

Meador: Did you ever appear before the Judicial Conference of the United States to talk to them or discuss things with them at one of their meetings?

Barr: No, I just appeared at circuit conferences.

Young: We've dialed back to the earlier subject. In answer to the question you said, "interagency process" and smiled. I think you ought to talk about what that means.

Barr: I wasn't sure what it meant. Usually it means delay in bureaucracy, having meetings, and having people ponder things, but no decision ever being made. There was never really a coherent interagency process. There was no forum for my kinds of issues on the domestic side, and therefore I tried to bring things over on the national security side because you actually were dealing with pretty good people over there and an efficient process.

Riley: Did you have many interactions with Roger Porter and his shop?

Barr: Yes. As I said in my remarks before, Roger is a very intelligent guy, but he came at things from an academic process, policy process standpoint. [redacted]

Riley: In your time in Washington, have you seen other models of people in that kind of domestic policymaking apparatus in the White House who have done a good job? You said that you felt like the interagency process was more process than results oriented.

Barr: No, I haven't. I haven't thought that much about this. But part of it is the domestic agenda—outside of the management of the economy, as economic policy-setting—there's a discrete cast of characters. It's an analog to national security: head of the Council of Economic Advisors, head of OMB, Secretary of the Treasury, whatever. You have a group there.

But on other domestic policy issues, the cast of characters could shift from issue to issue. And the agency with primary jurisdiction doesn't necessarily want to get other agencies involved. I'm sympathetic to that. You know, if I want to do this, why do I want HUD [Housing and Urban Development] sitting there deciding whether I should do it? It's a difficult thing to do. You need a President, ultimately, who puts advisors in the White House who are really focused on certain domestic issues. An issue has to become sufficiently important to do that.

Young: There's one theory or interpretation of Darman's position in the administration—which was obviously a leading one in many areas of domestic policy—and that is that the name of the game ceases to be policy itself and becomes the money. It's the primacy of fiscal issues. The power—even with no Darman there—would tend to gravitate to OMB or to somebody who had an agency with plenty of resources, plenty of expertise, and plenty of information about the budget and everything goes through that. Was that one of the blockages to results-oriented domestic policy, in your understanding?

Barr: It wasn't OMB as an institution, it was the leadership of OMB. OMB is a great institution, and any President worth his salt would want a strong OMB. They're the best professionals in government in OMB, and you need that function. But, in my opinion, you need someone who's broader-gauged than a bean counter. And I don't even think that Darman was necessarily a bean counter. He viewed himself as a policy guy too. I just think he had a tin ear. I think he was dissociated from what real people care about, and had his own ideas of what was important as policy.

Also, his personality was such that he essentially enjoyed the process of killing other agencies' initiatives, because it made him feel more important. There were occasions toward the very end where I think he became a little bit more interested in some of the stuff I was doing, a little more tractable. But by that time it was too late to really do anything.

The President said to me after the election that one of his regrets was that he was not supportive of the domestic Cabinet officials who had particular agendas they were trying to get done. He mentioned that he knew I had been trying to do some things in the law enforcement area, and he regretted not having been more supportive of it. I don't know if it would have had an impact on the election across the board, certainly not just Justice Department stuff. The forces at work were maybe too profound. But it might have made a difference.

Young: Well, from the outside, it looks like, for all of the differences that there were—and there were many, between domestic policy and foreign affairs and national security policy, both in terms of the personalities and the agencies involved, and the close-knittedness of the national security people—it looks like there really were two people more or less in charge of affecting domestic policy. And those were Darman and Sununu. This is not my theory—I don't know what to think. But in so many discussions, both Darman and Sununu emerge as having the President's ear and being key people on certain issues of domestic policy, just as much so as Jim Baker, Brent Scowcroft, Bob Gates, and Dick Cheney.

Barr: I think the economic policy team for a long period was weak and divided, but I don't know enough about economic policy to know whether it made a difference. A President can be much more successful if he's good on international, because he controls that. Now, in domestic policy, the pivotal fact was the recession that arguably was caused by over-enthusiastic monetary policy that tanked the economy too long and too deep. I don't know whether better people would have been able to cope with that, or whether the President could have changed that. [redacted] But when you're a Republican, you have to be, because you're sailing against an unbelievable headwind in the media coverage of an administration. Anyone who suggests that the media is not extremely biased against Republican administrations is just being disingenuous. It clearly exists. So you need a good communicator, and he wasn't.

Once the economy tanked, and the media started covering it as if we were in the middle of the Great Depression, even during the quarters where we were recovering, the President was in a position which was a no-win proposition for him. I was at Cabinet meetings where this basic problem was discussed, which is, if you speak the truth—which is that the thing is turning

around—then the media is all over you saying, "You're out of touch, you don't understand the pain." Even though the economy had turned around.

But then if you go out and do what the media is basically telling you you have to do, which is, "I feel your pain, things are terrible, blah, blah, blah," then you're saying the theme that they want you to. You're reinforcing the notion that we're in the depths of a depression. I think that the media had him where they wanted him to be, and they drove it home. I don't know whether anybody but the great communicator himself could have gotten out of that box.

Meador: How would you evaluate Sununu as a Chief of Staff?

Barr: I love Sununu. I like him because he's a very upfront New Yorker. He intimidated some people, but if you understood him and you were a New Yorker, you could get along with him just fine. My instinct is that he was a far better Chief of Staff than people give him credit for. And maybe because some people were "intimidated" by him or didn't like his brash, in-your-face manner, they didn't stand up to him on policy, and therefore there was no give-and-take the way there should be in policy development.

I do think that the budget deal they reached was a big mistake, and he played a role in that. But apart from that, he made the trains run on time, and in the domestic area he was at least somebody you could go to as an enforcer and someone who could provide some adult supervision where it was needed in the domestic area. I'm not that sure about his role in the foreign policy area. He was certainly more of a neophyte. But I think the guy is great. I like him.

One of the things that got me into the press when I was deputy was the altercation I had with Secretary [Louis W.] Sullivan over his change of HIV policy on immigration. In other words, under the immigration law, it says that if someone has a dangerous, contagious disease they're not allowed into the United States unless the Attorney General gives them a special waiver. Otherwise, they can't come in. They have to be treated for it if it's curable, and if it's not curable, they still can't come in. The Attorney General can give a waiver for hardship like medical treatment or to visit family or something. The law had actually been changed from "dangerous, contagious disease" to allowing the Secretary of HHS [Health and Human Services] to list "diseases of public health significance" or something like that. He wanted to de-list HIV as a disease of public health significance and leave in curable diseases like syphilis and TB [tuberculosis] on the list, but take off HIV.

So Sununu called me when I was Deputy Attorney General. They didn't want to muddy up Thornburgh on this because they figured Thornburgh was going to have to go run for the Senate. So he called me up and said, "Sullivan is about to come out with this rule. We need some Justice input on it." I said, "I understand." So I asked for a meeting with OMB—this was the interagency process.

So the guy at OMB—not Darman, but Darman's deputy—held a meeting. I went over, and the Deputy Secretary of HHS went over and said, "What's your problem?" I said, "I'm not only in charge of immigration, but I'm a lawyer for the administration, and I have problems with this. How can you possibly say that HIV is not a disease of public health significance?" "Well, blah,

blah, blah. He's the top doctor, he's the doctor of the administration, and this is his position, and that's it." So I said, "Okay, well I'm the top lawyer in the administration, and that's it, that rule is illegal, so I'm not clearing it." Then it turned into a big fight and went public. I took all the heat, but Sununu was in the background.

[BREAK]

Riley: … war on drugs, there was always a demand-side question dealing with the drug use in the U.S. Was there engagement with the education department at all?

Barr: Who was the Secretary of Education?

Young: Well, [Lauro] Cavazos first, and then Lamar Alexander.

Barr: Was that the order?

Young: Yes.

Barr: I thought Cavazos was at the end.

Young: No, Cavazos was held over from Reagan. He was Secretary under Reagan, and then Lamar Alexander was called in.

Barr: [redacted]
I thought Lamar was great and always on top of things, but I didn't really get to work with him that much. I worked a little with Jack Kemp because, as HUD, he was involved with trying to get drugs out of public housing, and that was part of our big push in the cities. So I worked with Kemp. Let's see, who else?

Young: In the education department, there was an issue about announcement of a policy that it was illegal or not permitted to support black colleges or something like that. I'm not remembering exactly what it was, but it created quite a furor. It was an affirmative action issue. I'm wondering if you got involved in that at all.

Barr: Yes, it probably would have been good for me to go back over files. I think there were occasions on both sides of the civil rights issue where I vaguely recall some incident where someone suggested that we couldn't give assistance to black colleges, and the Justice Department came out very quickly saying no, that was wrong, you could give assistance to black colleges. There were people who were going too far to the right. Then there were people going too far to the left sometimes, where we had to intervene and say, "What you want to do on that program is a quota, it isn't permissible." Again, you'll have to dig in my memory on things, but I don't remember any significant altercation with Education. The most significant altercation I had with an agency over something that was important, again, was on this HIV policy with HHS that got into the newspapers.

Meador: If I could shift a little bit from relationships with other departments to Congress. In the four years of the Bush administration, did the Justice Department develop any significant pieces of legislation, any bills, that it really went to bat to try to get enacted by Congress?

Barr: The principal one was the crime bill. There was another civil rights bill, the Americans with Disabilities Act.

Meador: Was that a Justice Department-created bill?

Barr: Thornburgh was one of the main proponents of it. I don't know who else would have done it, but I think it was largely drafted at the Department of Justice, and Thornburgh was one of its chief proponents as a piece of civil rights legislation.

Meador: Did you ever go up and testify yourself on pending legislation?

Barr: Well, as OLC and later as deputy, I was the main testifier for Justice on things.

Baker: So you did on the Civil Rights Act of '91?

Barr: Yes, I testified. That was the bill to undo some of those decisions—

Baker: Wards Cove [*Wards Cove Packing Co.* v. *Antonio*]?

Barr: Yes. I dealt a lot with [Edward] Kennedy trying to reach agreement, where we could reach agreement on certain civil rights—I always enjoyed dealing with Kennedy because he was very direct and he knew how to make a deal. It's very easy dealing with him. He'd call up and say, "Look, I know you don't want to go too far in this direction, but here's an issue we can isolate where I think you would agree with me. And if I guarantee you that this bill will stay at that dimension and we won't use it as a vehicle, can we work together on it? And in return, here's something I can do for you." We'd just cut a deal, and it was done.

Baker: And he'd stand by his deals?

Barr: Yes, he would stand by his deals. It was the art of the possible, so it was usually something that could be done.

Young: Did you find that unusual with members of Congress?

Barr: Yes, most members of Congress—I don't know how to analogize it, but it was almost like dealing with an infant. [laughter] They always want more, you're never sure how to please them, and so forth. It was difficult.

Baker: That was across the aisle, on both sides?

Barr: Yes.

Young: That was my next question.

Barr: Sometimes your friends are your worst enemies. Let me just say that I had great relationships on the Hill, on both sides of the aisle, because I worked them very hard—worked them not in the sense of lobbying, but I would return calls promptly, and I would make sure that when someone asked us to look at something, we'd look at something, we'd get back to them, and so forth. As a result, I had a very good relationship, except with Jack Brooks. It was very difficult dealing with the House Committee because Brooks was very ornery and very partisan.

Baker: Wasn't he always threatening a subpoena?

Barr: Yes, he was constantly threatening to subpoena us and throw us in jail. He was a very partisan guy. In contrast, Chuck Schumer, who was in the House at that point, the head of the Crime Subcommittee, was very responsible and easy to deal with. Joe Biden and I had a very good relationship, became friends. It was easy dealing with him as well.

Young: Well, that comes out quite clearly in the record, starting with your confirmation as Attorney General. Those things become noticeable historically when you hear so much about deadlock and division and conflict between the administration and Congress, and it's not the whole story.

Riley: One of the early issues—according to the briefing materials—that you were asked to go to Congress on was the flag burning. We haven't touched on that yet, and that's something that probably historically people will want to look back on. Can you tell us your story about how that issue emerged, your role in it, how things eventually resolved themselves?

Barr: Was it the Johnson case?

Baker: *Texas* v. *Johnson*?

Barr: *Texas* v. *Johnson* invalidated either prosecution or the statute that said you couldn't burn the flag. That plus some flag burnings precipitated a move for a constitutional amendment to prohibit the burning of the flag, the desecration of the flag. The more liberal forces didn't like the idea of a constitutional amendment, at least on this subject, and so they tried to head it off by suggesting that somehow you could do a statute that would pass constitutional muster under the *Johnson* case. And they wheeled out Larry Tribe and [Geoffrey] Stone from Chicago and [Walter] Dellinger from Duke, who all prostituted themselves by going up there and suggesting that yes, you can craft a statute that would be constitutional. We obviously wanted a constitutional amendment. And from my standpoint it was clearly a legal imperative if you wanted to protect the flag, but I'm sure there were also others outside Justice, I'm sure there were political motivations as well. It was a good political issue.

I had to go up and explain that you could not do it by statute, you had to do it by constitutional amendment. In the process, I became somewhat friendly with Larry Tribe and Walter Dellinger, even though they were on the other side. Then later, when the flag statute was passed, it had to be defended in the Supreme Court—the Department of Justice tried to defend it. I think the Hill

actually filed briefs because they weren't sure we were going to defend it vigorously. Of course, we were right all along. It got struck down.

At the time it had some currency as an issue, and people were all exercised about it. It would be interesting if in the future people will wonder why that was an issue.

Young: The Solicitor General then was Starr?

Barr: Yes.

Young: Was that a case in which there was a discussion about the politics of that issue, what would be done by the Solicitor General?

Barr: The basic standard in the Department of Justice, the rule we followed—and I think it's basically the standard—is that generally you will try to support the constitutionality of a statute even if the Department of Justice itself has doubts about its constitutionality. There's a presumption that you will defend the constitutionality of congressional enactments, with an exception, which is that any statute that impinges on executive prerogative we will not defend. As I recall, we had a discussion and we decided: We think this is not constitutional, but we will apply our general standard and make the best case possible.

Meador: That touches on something you mentioned briefly this morning. There's a longstanding tradition about the independence of the Solicitor General, and I wonder how that played out during the four years of the Bush administration. Was the SG's office given a very high degree of independence, or was a short leash kept on it? How would you describe that?

Barr: Generally, I would say it had a significant amount of independence, but I think that, depending on who the SG is, they tend sometimes to get carried away with themselves and start viewing themselves as the so-called tenth justice who has some kind of loyalty or responsibility apart from being an appointee of the President. I personally don't buy that and believe that the person is carrying out the role. The President is the chief law enforcement officer under the Constitution, and the SG is just carrying out part of his function. I have never believed that there's anything wrong with White House or other components in the Justice kibitzing or even trying to turn around what an SG is trying to do. You know, most people don't want to get into that because most of those issues are not of political significance. But if an issue of political significance comes up, then people have kibitzing rights—

Meador: Was Starr the SG throughout the Bush administration?

Barr: Yes.

Meador: All four years?

Barr: Yes.

Meador: Do you have any evaluation of him as SG that you would care to offer?

Barr: I think he was an excellent SG. I had a disagreement with him on *Cruzan*, and I had a disagreement with him on *qui tam* and a couple of other cases here and there. But, by and large, I think he was a very good SG.

There was one incident that one of my former aides is constantly reminding me about because it was sort of a funny scene. We were stopping Haitian boat people as soon as they came out of Haiti. We intercepted them on the high seas and turned them around and put them back into Haiti, because we viewed them as economic refugees, not political refugees. So this judge up in New York kept on putting stays on us and actually enjoining the Coast Guard and the Justice Department out on the high seas, claiming we were violating different things.

We used these emergency things where we went right from the district court up to the Supreme Court to get the stay lifted. We did it twice in a row. The Supreme Court lifted the stay twice in a row. Then this judge slapped on another stay. He was doing it on the theory that we were violating the High Seas Act, the High Seas Treaty that was implemented through the High Seas Act. I forget exactly the details. This would have been a big problem.

Brent Scowcroft called me and said, "When are you going to get that thing lifted? We have tens of thousands of people heading to the United States, and our ships are just stopped. We can't use our ships." So I said, "I'll get it lifted this afternoon." He said, "You'd better. This is important. We can't have a judge in New York enjoining military forces of the United States." He was all exercised about it. He said, "Do you have a backup plan?" I said, "Yes, I have a backup plan." He said, "What's your backup plan?" I said, "My backup plan is that if we can't get the stay done, we put our ships within the three-mile limit of Haiti and stop the boats within the three-mile limit, and then we'll put them back on shore." There was this long silence.

I said, "You see, that way we wouldn't be violating the High Seas Act." And he said, "But that would violate international law, wouldn't it?" And I said, "Yes, but it wouldn't violate American law." [laughter] He said, "Hmm, let's hope we don't have to go to plan two.**"** So anyway, one of my aides came in and said, "Ken Starr is going to come in here and tell you that he can't go back to the Court because it will exhaust the Court's patience. We've already been up there twice on some emergency procedure, and we just can't go to the well too many times. He's going to come in here, and he's going to be citing all kinds of stuff, and he's going to tell you that."

So the door opened in my conference room, and I'm sitting at the table, and he started walking toward me with this stack of books with little yellow stickums coming out. I said, "Ken, I need a fucking stay by three o'clock."

Baker: Preemptive strike.

Barr: "And that's an order." And he said, "Okay," and he turned around and he walked out. Excuse the language. If you knew Ken Starr, you would know that he was quite taken aback by it. Ken would never use such language. He not only got the stay, but the Court said that the district court could not exercise any further jurisdiction in the case. So it just shut the thing

down. It was great. That's an example of the SG sometimes viewing the relationship with the Court, but needing some guidance on what they have to do for an administration.

Meador: I'm a little hazy on this point. Was Starr appointed by Bush, or was he already there?

Barr: He was appointed by Bush.

Meador: Do you know the story behind that appointment? Was that a Bush decision, or who really was instrumental in that appointment?

Barr: I don't know how the idea arose. He was very highly regarded, and I think he was probably getting a little bored on the court. [redacted] In retrospect, I wish he had been put on the Court instead of Souter, but also I think it was a mistake for him to do that, because when you take those positions, then you start collecting baggage.

Meador: A mistake for him to become SG?

Barr: Yes.

Meador: He would have been better off to stay on the D.C. circuit?

Barr: Oh yes, he'd be on the Supreme Court, in my opinion.

Riley: Was his name on the list of eight or so you talked about earlier?

Barr: Yes.

Meador: Was it a close competition between him and Souter at that time?

Barr: Yes, I think there was. I regret very much that he's not on the Supreme Court. I think that was a mistake on his part to take that job.

Baker: How were *amicus* decisions made by the Justice Department? Was that the Solicitor General's decision? Did you get input from the White House counsel on which ones the United States wanted to sign on?

Barr: I think generally it would be the SG's call, but I'm sure there were cases where either the AG—either Thornburgh or me—just said we wanted to be an *amicus*, this is important. I don't recall a dispute over any of that. Maybe you can remind me of one.

Baker: Oh, no, not that there was a dispute. I was interested in the process.

Barr: On a politically sensitive case, we would talk it over with Boyden and say, "We want to be *amicus* on this." Things having to do with abortion and things like that.

Baker: Affirmative action cases—

Barr: Yes, civil rights cases and things like that, we would obviously, or some issue dealing with federalism or something like that. But I don't recall. Basically, the SG—like most jobs in government, and like the Justice Department as a whole—95 percent of it is not that politically charged, and decisions will be made pretty much the same regardless of which party is in power. You just do it day in and day out. You have a lot of independence doing that kind of thing. Usually it's in those few areas where you start getting into delicate issues that people will be looking over your shoulder. As I say, in the criminal justice process there was never an incident where anyone discussed a criminal case with me, at least no one in the White House or no one in the executive branch. Every once in a while, a member of Congress might blunder in and want to get involved.

Meador: When you became Attorney General, were there any changes you wanted to make, or did make among the Assistant AGs or at that level in the Department?

Barr: No, I was pretty much satisfied with the people there. There were some who left, and I was involved in naming the successors. But I don't recall forcing out any Assistant AG, and if there were a few who were a little bit of a problem, you just worked around them, through your own staff. I did leave certain people in place who I otherwise probably would have liked to leave simply to block the White House from putting their own person there. It's true: If you create a vacancy, you never know what you're going to get. I knew the White House people—"Wouldn't it be great to give this job to so-and-so?" All of a sudden, the incumbent looked a lot better.

Meador: When you moved to the deputy slot, Luttig became OLC, right? Was that your pick or somebody else's?

Barr: When I became deputy, well, there was never any doubt because it was Thornburgh's pick. But people would say that Mike and I were joined at the hip. We were very close at OLC. I treated him as more than just a principal deputy there and encouraged as much access for him to Thornburgh directly so he became trusted by Thornburgh. There was never any question that when I left OLC it would be him at OLC. Thornburgh asked me if I'd be his Chief of Staff as well as deputy, and I said I didn't think that would be a good idea for him. For me to be deputy and his chief running his staff would be—He needed someone who just focused on his stuff. So Mike started playing more of a role as sort of a counselor with Thornburgh and Thornburgh's staff. At that point it was basically Thornburgh, Mike, and me. As I said, there was no associate.

Meador: It's interesting how Justice Departments vary from one administration to another in various ways in dealings with the White House. I have a sense from what you're saying here, that in the Bush administration, OLC played a far larger role than it has in some other administrations. Is that your impression? Do you have a basis to compare it with other administrations?

Barr: It was my impression that while I was there and while Luttig was there, it played the biggest role it's ever played in the government. It took a lot of the functions out of other

components in Justice—as I said, Office of Policy was basically collapsed—and it took on more of a role of being the enforcer for the Attorney General within the Department, to some extent.

Meador: And in judicial selection, I gather.

Barr: It did play a larger role in judicial selection, and it played a larger role within the executive branch in terms of policing the general counsels, clearing testimony.

Baker: And, in fact, that organization you mentioned this morning of general counsels, which you worked together on—I know that your primary mission there was to secure Presidential authority so that you wouldn't be sending mixed signals on issues like executive privilege. Did that also assist outside of the issue of Presidential power on other types of issues, you had a direct link to agencies?

Barr: Oh, yes, definitely.

Baker: With Sullivan, that example that you gave us with Sullivan's list of HIV—

Barr: But on a more positive note, they came a lot more for advice.

Baker: So they would initiate it, then?

Barr: When I arrived, I think there were eight or nine lawyers. And one of the reasons we grew to twenty-six in a short period of time was that I think people realized that Boyden put a lot of stock in OLC, and so did Thornburgh. The other thing was that OLC, when I got there, had begun viewing itself almost as a court rather than as a counsel giving advice to a client. As a result, the average time it took to get an opinion was six months.

Baker: That's too long.

Barr: It's too long. Their attitude was "no opinion before its time," almost like an ivory tower court. The integrity of the opinion was more important. I came out of private practice, and my attitude is, *Well, a good lawyer is objective and will tell the client what the law is.* You don't have to be an Article III court to be objective and to have your primary duty be advising people what the right answer is under the law. But you don't have to act like a judge to do that. You can do that as a lawyer. So I basically said, "We're a service organization. When people ask for our opinions, we're going to get them out the door and to them in time for them to use them." So the time it took to get an opinion out fell dramatically to just a few weeks, a couple of weeks, three weeks, four weeks, depending on the complexity of the opinion. But it became much quicker [snaps fingers], and as it became quicker, more people started asking advice. So we got a lot more requests for opinions.

Baker: Then that lasted through your tenure at Justice, that OLC maintained [inaudible] and this inter-relationship with the agency attorneys also? That continued after?

Barr: Yes. Now, Luttig left just as I became Attorney General, and he had a deputy named [Timothy] Flanigan. I felt there wasn't enough time to send anybody else up and get them confirmed, and if I moved Flanigan, then I felt somebody else would be pushed on me. So I kept Flanigan there. And while he did a superb job, Flanigan didn't have the same relationship with me that I had with Thornburgh or that Luttig had with me. Luttig was very close to me, and Luttig and I both became close to Thornburgh. I did not necessarily turn to Flanigan for many things above and beyond just producing opinions, whereas I would say that my role and Luttig's role was much more than producing opinions. It was more consigliore, sometimes an enforcer within the department, things like that.

Meador: In relation to these other agencies and so on, did you ever have any problems about the so-called independent litigating authority? Did you ever get crossed up with them about that problem? I recall that as being a sort of sore spot at times.

Barr: Yes, we made assertions a lot. We tried to head off other agencies like the SEC [Securities and Exchange Commission] and the FCC [Federal Communications Commission] and claim that they couldn't assert certain positions in their litigation. We never really made that much headway with it, but that was a constant irritant. The IG [Inspector General] was another constant irritant.

Meador: It seems that I recall efforts at various times for different agencies to acquire independent litigating authority, there was a sort of thirst out there among some agencies to get that, and that was being resisted by the Justice Department.

Barr: Definitely. The Justice Department definitely would resist independent litigating authority just like we resisted other law enforcement authority elsewhere. And that's why there was constantly a problem with the inspector generals that came across when I was there, because I tried to slap the wrists of the inspector generals and curtail their authority, and that became somewhat of a *cause célèbre*. Proliferation of law enforcement authority or litigation authority is a constant problem.

Meador: Can I ask you a question about recruiting new talent for the Justice Department? A so-called honors program was in there for a long, long time. I had a feeling that somewhere back in there—I don't know, fifteen, twenty years ago—it seemed to fall on hard times or lower its standards. In your time, was the honors program alive and well in terms of trying to recruit top law school graduates to bring into the department?

Barr: Yes, when I was there—and I think it's still the case—there's no trouble recruiting top legal talent in the Department of Justice. It's very hard to get in from law school. Usually you require two or three years of experience in a top law firm before you'll even consider bringing somebody in. It's still very desirable. We raised the salary levels of the assistant U.S. attorneys, and that created more demand for those jobs.

Meador: Did you feel that the Department was retaining talent for long numbers of years, or was there a lot of in and out?

Barr: We were basically retaining talent. There are certain different patterns in different offices. In the southern district of New York, the pattern is for people to go in for short periods of time, in training. But in most other offices in the United States, except certain big cities, it's generally a career pattern, people in there for 20, 25 years. I think one of the great problems faced by the Department of Justice did start occurring while I was there, but it really accelerated and became a severe problem under Reno.

Part of it was the natural retirement of a very talented group of people who came in at the end of World War II. Like many other institutions, there was just a long backlog of four or five years of war, and a lot of the really good quality people who had held positions of leadership in the military then went to law school and were coming out. The Department of Justice picked up a lot of top-flight people. I'd have to say, it included a lot of Jewish lawyers who in the early days were discriminated against by Wall Street firms and so forth, and a lot of them chose to go into the Department of Justice.

That generation started retiring, and I think that was a big loss to the Department. I found that there was a gap. The experience level was starting to drop when I left the Department, and my understanding is that during the Clinton administration it has dropped precipitously. A lot of career people have left, and the average age of AUSAs is getting younger and younger.

The same thing has happened at the FBI, and that happened particularly under the Clinton administration. The FBI was at risk because a lot of its top agents were in their fifties, and they could retire unless they were retained and there was a special reason to stay. There was great inducement to leave. And, as you probably know, the FBI as an institution did not look favorably on the Clinton administration. They didn't like his conduct, and they didn't like the priorities of the administration. So there was an exodus, and the average age of the FBI has fallen precipitously. The average age of the agents is very young. The experience levels have dropped. I think that's a big challenge for the Department of Justice and its prosecutorial power.

One of the things I took away from the Department of Justice is what awesome power prosecutorial power is. There's no other power like it in government. Maybe the power to shoot a foreigner in war, but the prosecutive power destroys lives. And who makes the judgment to bring a case, to indict? Who makes that judgment? Frequently it's some young person who has a lot of vested interest in a particular case. Who's supervising that person? How does that person get the perspective and the judgment and seasoning in life to take a broad view? I think it's a real problem now.

I think the other big problem is this notion that has gained currency that there's something wrong about political officials reviewing cases. Actually this has largely been precipitated by the liberal critics of the Department of Justice and by the Democrats on the Hill. It's very destructive to personal liberty because what they're trying to do is to say that political-level people shouldn't be reviewing cases. You leave it to the professionals, leave it to the line attorney. If someone second-guesses a line attorney, then there's something wrong.

In fact, my attitude is—and if these people only knew—the second-guessing is not for political reasons, it's really because someone is exercising some maturity of judgment and putting things

in perspective and saying, “Why would you indict this person over this?” It’s like the case against [Charles] Robb, in my opinion, was not a righteous case. That was a situation where adult supervision prevailed.

Meador: What case was that? I’m sorry.

Barr: Senator Robb.

Meador: Senator Chuck Robb.

Barr: Yes, and that happened on my watch. I think that was a case where an AUSA had a particular ax to grind. I’m not saying the guy was acting improperly by his own lights, but he had lost perspective and he was on a headhunt. It’s very easy for prosecutors to go hunting for scalps.

Meador: I think this tendency goes way back, to view the staff, lower-level decisions, as being the accurate one and anything decided higher up the line as somehow improper. I’ve seen that a long time.

Barr: Well, that’s a very bad thing. But I think it started picking up after Watergate, the idea that the Department of Justice has to be “independent.” And from there you get that it should be even independent of the political appointees who are there, and that somehow the career person has some kind of—My experience with the Department is that the most political people in the Department of Justice are the career people, the least political are the political appointees. That’s an overstatement to dramatize a point. But I found that a lot of the career people, when I got pressing them on something, would start giving me political calculus. And I would say, “That’s not your job. I don’t want your political advice. I don’t want you to start bringing in political considerations.”

I think that things are getting worse in this regard because as the average age of prosecutors falls—coupled with the tendency for political appointees to be afraid to review anything—there is a lot of injustice being done in the law enforcement function.

Baker: You’re speaking here about the potential abuse for prosecutorial discretion. Is this tied in, then, to some of your long-stated opposition to the special prosecutor’s office because it really does remove that discretionary authority from some political accountability?

Barr: That’s exactly it. You’re absolutely right. The independent counsel statute is a manifestation of this that’s made worse by the fact that you take the prosecutor and by statute give him a single focus. So you almost remove any perspective or resource constraint on the person. No resource constraint, single perspective, a political environment where you’re almost driven to find something or else you’ve wasted—To justify your existence. And no ultimate accountability.

[redacted]

It was interesting. I was certainly the most senior non-prosecutor at the Department of Justice. I was surrounded by prosecutors, most of them career prosecutors who were political appointees. Most of our political appointees at Justice were career prosecutors, which is interesting. They were not political hacks. In that context, at the time—but certainly since that time—I have come to feel that political supervision of the Department is very important. Politically responsible people. Someone ultimately has to answer to the political process. I think the thing is being driven the opposite way.

Now they're trying to tie that in with Bush. As I said, they were hands-off on the criminal stuff. But where this ties in, was on all the independent counsel fights I had because I predicted to people—As soon as I was confirmed, I said, "We're going to get more requests for independent counsels in this last year than you've ever seen." At some point the public integrity section told me that I had received more requests for independent counsel in eighteen months than all my predecessors combined. It was a joke. They wanted one on Neil Bush, they were requested on several Cabinet Secretaries, they wanted it on Clayton Yeutter, they wanted one on Baker, they wanted one on Bush and Baker on Iraqgate.

Baker: There was that BNL [Banca Nazionale del Lavoro] bank case.

Barr: Yes, the BNL case. They wanted one on Inslaw and all this stuff. All the conspiracy theories were going around. I didn't believe in the statute, but applying the statute, there was no basis for any of these cases. Brooks was in high gear here, and I got into this big pissing contest on Iraqgate. The way I tried to defuse the situation was—even though an independent counsel was not required, in my opinion, because they didn't meet the statutory test—I just used my inherent authority—which is now all the AG has because the statute has been killed. But at the time I used my inherent authority to appoint outsiders to come in and conduct investigations. On Inslaw I could never quite understand what the allegation was.

Baker: Justice had stolen some software or something? And was trying to bankrupt the company—

Barr: Right, and we were in cahoots with Israeli intelligence, and there was this octopus theory and that we had murdered people. None of it had supposedly happened on my watch or Thornburgh's watch, but we were always getting castigated about this, and we could never quite understand what it was. I remember Thornburgh came to a staff meeting and said, "Will someone please explain to me what the hell the Inslaw matter is?" I felt the same way.

But anyway, I appointed a retired Democratic judge named Nicholas Bua, from Chicago, who was well known to Paul Simon. I didn't announce it until my confirmation hearing. Simon asked what I was going to do about Inslaw, and I said, "Well, I'm glad you asked because I've just asked Judge Nicholas Bua to come in and conduct an investigation. I've promised him *carte blanche*. Let the chips fall where they may." Paul Simon said, "He's an excellent man, that's great news." And that was it. Once Simon gave his imprimatur, that issue was off the table. Bua just thought the thing was nonsense and came out with a report saying it was nonsense.

Then the other one was [Frederick] Lacey on Iraqgate where I kept on saying no to Iraqgate, no to Iraqgate, kept on saying no, no, no, no. Then two things happened that made it hard for me politically to hold the line. One was an allegation that the CIA hadn't turned over all the information—there were some cables or stuff that the CIA hadn't located. Then the other one was—this goes to something you mentioned, Dan, and this is one thing I told Gonzales when I was giving him my advice on how to handle relationship with the Justice Department as White House counsel.

Some newly hired assistant counsel to the President, who had previously worked in the Justice Department in the administration, was sort of showing off that he knew his way around the Department of Justice and had been asked a question about what's happening on this BNL case. He personally called up the AUSA in Atlanta and asked about the case. And this woman AUSA named [Gale] McKenzie, the call ruined her life because she spent the next three years trying to persuade people there was nothing inappropriate. She basically faxed him a newspaper article describing the status of the case. This became a thing of the White House trying to lean on the prosecutors to cover up the prosecution of the BNL.

So those two things created another firestorm. I had gotten things on the right track, but this created another firestorm. So I brought in Lacey. I had actually called Ben Civiletti. I asked Ben to come in, and I asked him if he would do it—because there's no question that Ben is a committed Democrat, but at the same time he's a professional. He's a very honorable guy. Civiletti wanted to do it, but he was headed towards a big trial. He tried to figure out if there was a way he could do it, and decided he couldn't do it. So I picked Lacey, who was unfortunately a Republican. But he was a distinguished judge in New Jersey.

He came in, and he did an investigation. I remember the President did call me from Air Force One. He was headed out to some campaign event, and he said, "Just explain what all this is about. I might get asked a question about Iraqgate. Explain what's going on and what this guy Lacey is doing." So I explained that all to him. He never discussed the substance or anything. He just wanted to know if he was asked a question, what Lacey was doing. Lacey came out with a report after the election saying that Iraqgate was all nonsense.

The third one was the House bank. Congressman Brooks and some Democrats (who are still there, so I won't mention their names) came and basically tried to bully me into backing off the House bank investigation. Two of them took me back in my office, asked me if they could speak to me privately, and threatened that life could be very difficult for me if this thing was really investigated. So I told them, "That's tough. It's going to be investigated." They tried to get me to back off and not have records subpoenaed. I didn't back off, but I appointed Judge Malcolm Wilkey—who was the judge I had clerked for—to come in and do it, to run the House banking investigation. He was another independent counsel.

My point there basically is that the Department of Justice is dealing with Congress all the time, and the divisions are dealing with Congress all the time, there's oversight going on. And having us conducting investigations of over a hundred members of Congress at once would just be distracting. So I set up this separate unit to do it. Those were the three that I brought in under that authority. I turned down all the rest.

At the very end, one thing that still was bitter to me was the Passportgate matter, where the allegation was that there was something improper done in the search for Clinton's passport records at the State Department during the election period. And initially, some of the career people in the public integrity section had some kind of wacky theory, a very broad theory that if the search was done for a political reason, it was improper. That it was theft of government property because you were depriving the government of the good and faithful services of a public servant by having a public servant do something that wasn't proper, something like that. This was theft of government property. I said this was all a crock. I wasn't going to support that theory. It was much too broad, and I didn't believe that if an executive official has the power to open a file and look in a file, it's not illegal that he may have a political motivation in doing so. What he does with that information may later create a problem, but not searching the file itself.

So anyway they kept on coming back to the drawing board, and they finally came in with a much more narrow thing, suggesting that one of the people in the White House, Janet Mullins, had been untruthful, and lied, violated 1001. I felt, based on what I was told by the public integrity section and the head of the criminal division, that I essentially didn't have any choice because there was an allegation of wrongdoing by a covered person that required further investigation. I asked that she come in and be interviewed. You see, under the independent counsel statute, the Attorney General cannot subpoena anyone, or force or compel anyone, to give testimony.

I thought the thing could be cleared up just by talking to her. The statute was scheduled to expire, I think, on December 15 or December 8. The Republicans were getting attacked for letting it die and threatening to veto any replacement bill. I think her lawyer just felt I was going to let the thing expire, let the clock run, and that would be that. I didn't feel I could do that. Plus I felt from an overall standpoint if people felt I was playing fast and loose and not enforcing the statute, it would just give impetus to pass another independent counsel statute. So I went to the court and had an independent counsel appointed, [Joseph] diGenova, who was a Republican and a good prosecutor.

Baker: Was that because Mullins's attorney had recommended that she not come and talk to you?

Barr: Yes. Mullins's attorney advised her not to come. Everyone was mad at me. In fact, in the President's diary, he said, "Everyone is down on the AG over here." I don't know if he said this for history's sake, or if he was posturing here, or whether he really said it, but he said, "I have confidence in the Attorney General. I'm sure he did what was right under the circumstances." But a lot of people in the White House were very irritated that I had done this and felt I should have just let the clock run.

I still believe it was the right thing to do for a host of reasons, not the least of which was these people were ultimately exculpated and got all their attorneys' fees and so forth. But that still was very bitter to me. I wanted to go through the entire time period without ever having an independent counsel. But in this situation, I had to do it.

During my last few days in office, Bernie Nussbaum arrived on the scene and came in and said, "So what advice do you have?" I said, "Well, we've killed the independent counsel law, and we've taken the heat for it. As a Republican, I would love to see you guys live under that statute. But as an American, I know it's a terrible law. It's debilitating to anyone in the executive branch, it's just terrible. Let it die and let us take the heat for it. Don't breathe new life into that statute."

And he said, "Well, we're committed. The President is committed to having the most ethical administration in history. We have nothing to fear from the independent counsel statute. So we're going to seek its reauthorization." And I said, "Be my guest." And he was gone a year later. [laughter]

Riley: But others were not.

Barr: Others lasted eight years.

Young: Can we turn to another kind of politics in the Bush administration? You mentioned, and a number of other people have mentioned, that the budget deal was a kind of turning point in the administration, or at least began what ended as a defeat for reelection. Did you notice any change, first of all, in your relations with Congress or with Congress members' attitudes toward the administration, including but not necessarily restricted to matters pertaining to your department after that deal had been made?

Barr: Not really. I mean, I didn't experience it. Maybe that's because on my portfolio my relations were dictated by the issues I had to deal with.

Young: The reason I ask is that others who have commented on this have said that things then became extremely partisan, and "The Democrats were out to do us in. They were already thinking about the next election, and they had us over a barrel." At that point, what they saw as bipartisanship or something approximating it—the inclination to work together, to compromise on issues—began to decline. I'm just asking whether that was your experience or it wasn't.

Barr: Not on my issues. But my issues, the partisan people were partisan from day one, trying to make life difficult for us. Justice sometimes can engender bipartisanship because of the issues we work on, so people who were very partisan, like Schumer, I could deal with. I could deal with Biden. Nothing changed there. But then, as the election approached, it got harder. Biden called me up and said, "Well, Bill, I'm going to have come after you on this Iraqgate stuff. I'm going to go public and have to basically attack you for not appointing an independent counsel." I said, "Well, thanks a lot. But I'm doing the right thing here, and this is all bullshit, and you know it."

Young: But he called you. That's something.

Barr: Yes. I had a good relationship with most of those guys.

Young: What about how you saw what happened in the White House before or after Sununu's departure?

[redacted]

Meador: During that year, did there come a time, in your recollection, when you or others in the administration began to sense that Bush had a reelection problem, that things weren't all going well? Was there some moment in time when the realization began to set in?

Barr: I remember—in early March, I believe—there was a Cabinet meeting where Kemp and I both talked, and I was trying to second what Kemp was saying more than anything else. Kemp and I talked later after the Cabinet meeting and basically said to each other, "We're going to lose this election." I would say around March I felt we were going to lose the election.

Meador: Now, what gave you that feeling?

Barr: Just the correlation of forces, the way things were headed, and the lack of organization on our side.

Young: That was discussed at the Cabinet meeting?

Barr: Kemp basically was saying, "We've got to get off our ass, Mr. President, or we're going to lose this campaign."

Riley: Was the President receptive to that kind of input, or did you get the sense that he was still feeling fairly calm and confident?

Barr: I don't know what he was feeling. I think there was a combination of things. I don't think he was cocky about things, but I do think that he wasn't sure what to do about things. There were a number of things going on. My own view was that the President probably felt that when push comes to shove, he couldn't imagine that the American people would elect someone like Bill Clinton, a draft dodger, a huckster. That the American people would elect someone like that as

President of the United States? I don't think he believed that could happen. Over me? Who has a record of service to the country, and the handling of Desert Storm and so forth? So I think he had a hard time coming to the realization that it was potentially there. This is may be my own projection, I never heard him say anything about this. But it was certainly my own attitude: *Well, if the American people are going to do that, then let 'em do it. If that's what the American people—*

Meador: Fatalism.

Barr: It's more like, *you deserve the leadership you get. And if that's what you want, I'm not going to debase myself. I've performed. I've done what I'm going to do. And if you want somebody else, be my guest if that's what it comes to*. Maybe a little bit of that. I think another strand here is that he's a very loyal person, and he does not clean house. As I said last time, he's a gentleman of the old school, and he's loyal to his people. He doesn't seek scapegoats or chop heads off at the first sign of trouble. He stuck with certain people too long. I think that was part of it. He wasn't willing to make the kind of deep shakeup that was necessary.

I think that he was of the generation that maybe didn't have the kind of feel for what was going on in the country and how to connect with the American people that may be necessary in the communication age—the sense of empathy, being one of you, and that type of thing. He didn't come across that way.

Young: You know, they always said Reagan was hard of hearing. Well, maybe to some of the buzz in Washington, but he was never hard of hearing about outside. He had almost an instinct, I think, for that, that Bush maybe did not have, for reading the tea leaves of public sentiment.

Barr: That might be true. I think part of it also, though, is "I'm not going to go down and play the game, acting, and being somebody I'm not." George Bush is a private person, he's reserved in his dealings with people, to some extent. He's a warm, sensitive guy, and he's an intelligent guy and a cagey guy. But he's not the kind of guy who's going to stand up there and act, and bite his lip, and put on a charade. He has a little bit of pride in the sense that "I'm not going to be somebody I'm not," not even to stay as President of the United States.

Meador: Given all of that, how do you explain how he got as far as he did in politics? I mean, he came a long way up through the ranks and was successful politically. How did he do all that so well, and then in the end seem to fall short?

Barr: Well, the kinds of positions he had were positions where he didn't have to please the electorate. He had to please political colleagues. But I also think something has gone on in American politics itself. It moved since World War II days from a society that still had an aristocratic component. I'm not saying we were an aristocracy by any means, but there was an aristocratic component, there was a sense that there were certain people who—through achievement and through their conduct and through other things—have earned a certain stature in society. But we are becoming more and more a vulgar society. It calls for different kinds of politicians, different kinds of people on the tube.

Everyone now thinks that their opinion is just as good as anybody else's. Thirty years ago, someone would say, "Well, you know, gee, if the Secretary of State says that, he knows more than I do about that." We live in a world of Jerry Springer. Everyone is encouraged to believe that their opinion is *just as good* as everybody else's, not because it's more thoughtful, rational, or closer to an objective truth, but because it's *their* opinion. And that kind of environment requires a different kind of politician. He has to be a panderer.

Young: Yes, but this infection, this contagion, also afflicts a lot of politicians.

Barr: Oh yes. And a breakdown of party discipline—

Young: I mean, look at congressional behavior. Sometimes it's hard to award people like this the respect that their elders in another age might have merited.

Meador: What I think I hear you saying is that time had moved on, and Bush and the times had sort of gotten a little out of synch with each other. The time had moved on beyond him, so to speak.

Barr: No, what I would say is, first, Republicans have to be better communicators to win and hold power, because they have to counteract the big headwind. He was not a good communicator. Second, his demeanor and bearing in the environment in which he—The times had shifted in that respect, and people wanted more pandering to them than someone like Bush. Bush wasn't going to pander. When he did, he didn't come across as genuine.

Young: Well, apparently, in one respect, somewhat like Jimmy Carter, he was extremely good in the face-to-face context, meeting people and local groups and so forth. He was at his weakest as a communicator when he was coming across in the mass media, in front of the camera, which was Reagan's great strength, that he could do that.

But if you look at the first Presidential campaign and compare it with the second, it's the difference between night and day in terms of the way it was organized, the way the President came across. Some of the enthusiasm he communicated, especially in his acceptance speech, which came back to haunt him—

Meador: What would you say about that comment on the difference between the first campaign and the second campaign? Could you comment on that, the point he just made? Why were they different, did you think they were different, and why?

Barr: The initial polls, as I recall, during the period in the first campaign when we were looking at the Vice Presidential candidates, were very scary. It looked like there were some wacko ideas being—not wacko, but I mean people were really searching around for what kind of Vice President, and how do we get ourselves out of this hole? So it had all the earmarks of a disaster. I can't remember exactly what started turning the thing around.

Young: [Michael] Dukakis. Dukakis was way ahead. It turned around at the convention, the convention speech.

Barr: At the convention it started closing up.

Young: Yes.

Barr: But the other thing is, Dukakis started making some big mistakes. I think part of the difference was Atwater. There was someone in charge, someone self-confident.

Young: Atwater and Sununu. Both did different things, but—

Barr: Elections when you're an incumbent are always different because a lot of the people around you are people who may be good at governing, but are not necessarily good at running campaigns. In Clinton's case, they were good at running campaigns, period.

Young: There was a blurring of the distinction.

Barr: But Bush actually felt—I think I heard him discussing this at one point—he said that the skills that it takes to win an election are different from the skills it takes to govern. Just because someone has been a good campaign person doesn't necessarily mean that they should be given a particular position in government, because they are far different things. He had a certain respect for the process of governing, I felt, in real contrast to Clinton, who viewed it as an extension of the campaign. The power was to be used to help you keep power. Bush had this ethic that you believe in good government and doing the right thing, and that was instilled across the board. That's not to say people didn't have an eye on politics. Maybe part of it was that you're an incumbent, your schedule, the people you're dealing with, and everything else is a little bit different from when you're not an incumbent.

Riley: Might some of this have been a reaction to his experience in the first campaign, which had heavy populist elements that don't seem to mesh very well with the more patrician figure that you've painted. You've got the ACLU, and the flag waving, and—at least under the scenes, the sort of Willie Horton sub-element. Do you think he comes through that and feels like maybe, *That's not the way I like spending my hours*?

Barr: No, I don't think so. The Willie Horton thing, I don't think that bothered anybody. I think it was Gore who first came out with the Willie Horton thing.

Riley: Yes, sure.

Barr: No, I don't think it was a reaction like that. I don't know. There are some people who suggest that he was on medication for his health a little bit, and it took the fight out of him. I wouldn't be surprised if that were the case; I don't know. If he was on medication at the time, it probably did have an impact on him. But if you look at the big picture, I'm not sure. The economy was such, and the way the media was playing the economy was such, that the basic problem was his inability to communicate and come across as the common guy.

Meador: Do you see any parallel here between his experience in reelection and Jimmy Carter's reelection experience? You had one-term Presidents, one of each party, who were defeated for reelection. Is there any kind of comparability here at all?

Barr: I think the thing that got Carter in trouble was that he was almost throwing up his hands. He went up to Camp David and accused the country of malaise and tried to figure out—This public exhibition, *Gee, what's going on? What's gone wrong?*—which sort of suggests that things were out of his control. Then you had the Iran thing in which they *were* out of his control. It was a combination of domestic malaise and the humiliation of the United States. I think it was a little different for Bush. I don't think Bush got to the point of *Gee, I don't know what's going on here,* accusing the country of malaise.

It's easy to look back and say, "If he had done this, this, this, and this, it would have been different." I don't know. I think there were a number of things that had to be straightened out, given the economy and given apparently the way people feel about the economy, the all-importance of it. I don't know whether he could have.

Meador: You don't see any one or two dramatic points along the way that, had they gone differently, the election might have gone differently? Nothing stands out as being a critical, fatal turning point or anything like that?

Barr: No.

Young: Except you have said that the budget deal, the election might have been lost right there.

Barr: Well, it could have been.

Young: The breaking of his very dramatic pledge.

Barr: As I think I said last time, I remember saying at the time, "We've lost the election." I was still at OLC, the first year of the administration. I said, "We're not going to get reelected here because of this." Then Desert Storm masked the inherent weakness of the administration. To the extent policy makes a difference, Desert Storm was a double-edged sword. It was a great achievement, but it allowed people like Darman and others to basically say, "Hey, he's very popular, and we have these great achievements, so why is the drug war important, or why worry about immigration?"

Riley: I think we got testimony that during the last year there were efforts to approach the Cabinet officers to say, "What can you bring us that we can market, or that we can trumpet as being a part of a domestic initiative?" Do you recall these kinds of efforts and suggestions that you made about initiatives that were developed within Justice that would be useful for the President to flex his muscles domestically?

Barr: A lot of that happened under Skinner. That's what I referred to as the process for process's sake. They'd have a meeting where they'd discuss potential lists of issues. I'd say, "I've had my issues over there since January, and I can't get any action. I'm doing this, this, and this. I've

asked for the President to be involved in this event and this event. I've made all kind of trip proposals for this initiative, that initiative, and I can't get any answers from you freaking people."

Riley: It just didn't go anywhere.

Barr: No. I'd say, "I have my proposals over there. I'm not going to go to more meetings where you sit around making action lists. This list of issues isn't going to turn the election around." By the time they got around to that, it was sort of late in the game. Part of the problem is that—this is sort of philosophical, I guess—but if you have the economy running against you, then it seems to me you have to be able to move the debate up to a higher philosophical level. And a lot of the people in the Bush administration were technicians. They were people who could put together a list of three issues. They would say, "If we amended this provision of this act, we could get thirty extra dollars to people who adopt kids" or something like this.

You're sitting there listening to this string of all these little "initiatives," and you're thinking, *What's this going to accomplish?* Basically, what you then have to do, when you have the economy the way it is, you have to be able to fight the election on the plane of ideas, which is, "Look, we stand for this kind of government, they stand for this. They want to take your money away, they don't trust you." It's basically what George W. Bush finally got to, which is, "They want to take your money and spend it for you, and we want you to keep it." You have to get to certain basic ideas about the difference between them and us and what we mean programmatically. [redacted]

Baker: The vision thing.

Barr: The vision thing. Then he couldn't take the campaign to that level, and no one around him could. Let me just say, one turning point—not turning point, it was probably lost already, but I remember Bennett talking about it—that kid who stood up in Richmond, I guess it was, in Virginia. To me it epitomized the entire election, the pandering that was going on, and the difference between politics today and the Clintonesque politician and Bush.

This guy gets up and says, "We are your children, what are you going to do for us?" Remember that question? And the President sort of fumbled around, this little specific and that little specific, the student loan program or whatever. And Bennett—I forget if Bennett said it publicly or said it privately—but he said, "You know, that was a potential turning point. The President, a man of ideas, could just say, 'I'm not going to do anything for you. I'm running to be the Chief Executive of the Republic. I'm not your father, and I'm not going to take care of you like a parent. How do you like them apples?'"

I mean, start getting down to what the basis of government is. "I'm here to be the Chief Executive of the federal government, and our job is to protect the security of the country and do certain basic things, and that's what I'm going to do. You're independent and responsible. I'm not doing anything for you."

Young: That message may have gotten through even though he didn't say it. That he was just the Chief Executive, he wasn't the President of the people.

Barr: I don't know about that, though.

Meador: Richmond, I thought, was one of the lower points in his campaign. He didn't come out looking good after Richmond.

Barr: The debate.

Meador: Yes, the Richmond debates. That's where he looked at his watch, you remember? You know, the famous looking at the watch? The press made a lot out of that.

Could you describe the role of Quayle in the Bush administration compared to, for example, what you see with Cheney now, what you saw with Gore during Clinton's time? How would you describe and characterize Quayle's role in the administration?

Barr: I think the President treated Quayle very well. As far as I could tell, he brought him into the decision-making process on the key decisions. I'm not sure. I don't think he necessarily carried much extra weight because he was a Vice President. I think his voice was one of a number of voices at meetings and deliberations, from what I could tell.

Meador: Did he make significant contributions at any time?

Barr: I think he did on the regulatory task force where he was trying to increase productivity by reducing regulations and so forth, and encouraging improvements in American productivity, which did, in fact, occur. I think he did a good job there. He was a pretty substantive guy.

Meador: Do you have a sense that Bush relied on him for much, or was he just sort of around there as a participant in discussions? Did Bush look to him to do much?

Barr: I don't think Bush relied on him to the extent, for example, that George W. will rely on Cheney as a gray head and somebody who brings a lot of experience to the table. I don't think he did that.

Young: Of course, Quayle, as I understand it, was occasionally asked on some quite important issues to speak, to do some work on the Hill. And he was a significant voice, perhaps, in the debate within the administration on the question of not going to Congress to seek authority to have a debate on the Iraq war. He had a very good reputation as a Senator, a very good reputation.

Barr: It became politically convenient to mock him. I mean, ridicule is a great political tool, and if you can get someone pinned down and characterized the way they did [Gerald] Ford, to some extent, it's great, but unfortunately—

Young: There are two things that haven't been mentioned here concerning the declining months of the Bush administration, where often the focus is on Skinner, and the watch, and the signs like that. But something else happened as a result of the budget deal that seems clear, and that was that there was a divide, a wedge driven within the Republican Party, and you had quite dramatic defection on the part of the conservative Republicans, [Newt] Gingrich and others. The division within the Republican Party, it seems to me, the conflicts within the Republican Party, did not help Bush at all, and in fact may have been contributing to the fate of the election. What's your feeling on that?

Barr: Well, I think that's true, and more—probably worse than the division—is the demoralization of your base, essentially. I traveled a lot, and I traveled a lot to California, because I figured that, within the bounds of propriety, the more I spoke out about the administration, the policies and so forth, in certain places like California, the better. Very early on I could tell that things were in pretty bad shape. Orange County, where you'd expect very strong support, people were very hostile, Republicans were hostile. I'd go back, I'd talk to people at the White House, go up to Darman and others and say, "Things are bad out there."

Meador: What were they hostile about?

Barr: The administration.

Meador: Specifically on what basis?

Barr: Either specific issues—they're not listening, or I'd be taken into the corner by a group of Republicans who'd say, "Listen to the stupid things they've done. They've done this, this, this, and this." Not just policies, but inside politics. "Joe Blow, who's been a county leader here, can't even get his phone calls returned"—that type of stuff.

Young: And also there was significant dissatisfaction being expressed during the bad days, before things turned around, in the economy, by businessmen. Corporate donors, the people who had contributed a lot—not only was there complaining about the breaking of the pledge, but long before Clinton apparently started "it's the economy" and "feeling your pain," there was significant complaint, or request for some kind of action to try to turn things around from their own business constituencies. The President apparently was not in the mode to take any action in response to those complaints.

Barr: Yes. And I think part of that, frankly, is lack of care and feeding of your constituents from the White House. In the Reagan White House, they had a much more effective outreach program, and Clinton obviously carried it to new levels. But the Bush White House was very inept in this area.

Young: Do you think that the President didn't think that was necessary? Or was it a technical failing? Or Darman and Sununu didn't think it was necessary? Because you would think—especially when storm clouds appear on the horizon—that the White House would be very active in that regard. Was this true, and if so why?

Barr: I don't know. I'm sure if I looked over the table of organization and remembered who was in what job, I would have positive critical remarks to make—

Young: Dave Demarest was saddled with the job. He occupied the position of Director of Communications with Bobbie [Barbara] Kilberg. We have not talked with them. If you look at other administrations, there's a pretty heavy investment, not just by Clinton, but in other administrations, a pretty heavy investment in that outreach.

Barr: A lot of the people in the Bush White House, in my opinion, were not the kinds of people or had the kinds of background, or kind of life experience, that they understood the Reagan-Democrat kind of mentality. They didn't. There was a little bit too much WASPiness.

Young: In other words, they weren't good politicians, is that what you're saying?

Barr: No. Well, maybe that is what I'm saying. They weren't down-and-dirty politicians in the sense that they were willing—

Young: But some were not outside the Beltway.

Barr: They weren't outside the Beltway— Frankly there was a gap, and is a gap, in the Republican Party, between the country club Republican set and the more ethnic, blue collar, or Roman Catholic element.

Young: Buchanan—

Barr: Not so much Pat Buchanan, [redacted] Not so much that type, frankly, not the real right-wing people like Pat Buchanan. I would say more the mainstream Catholic vote, which is the swing vote, frankly. I'm not into running campaigns or politics, and we actually tried to stay away from the campaign. I didn't go down to the convention, but I'm obviously interested in politics. My view was that the key constituent, the reason Bush lost the election, had largely to do with the Catholic vote. And if you really start looking at the votes, if the Catholics go Republican, Republicans win. If the Catholics go Democratic, the Democrats win. It happened this last election. They went very tidily for Bush whereas they'd gone against his father.

But I'm using them more as a proxy for Reagan Democrats, a little bit more ethnic, a little bit more blue collar, a little bit more middle America, less upper crust country-club type. I think there were too many people in the White House who were country club Republicans.

Riley: This is where the Atwater deficiency—

Barr: This is where the Atwater deficiency came in. I would talk to people. I was active in a number of groups of that ilk, and people would try to get me: "You've got to get this group in here, you've got to get that group. Go speak to these people, go speak to that group." A bunch of idiots over there didn't understand. "Oh gee, there's a proposal to speak to this group and a proposal to speak to this group." I mean, whoever's making the decisions of allocating the time,

the care and feeding type activity, I don't think was exercising very good judgment. There were also too many people in charge of the campaign. They had a triple-headed monster there, and no one was in charge.

Meador: Are you aware of any consideration ever being given to dropping Quayle and picking up another Vice President?

Barr: No.

Meador: You don't think that was ever considered seriously?

Barr: I think probably people considered it, but I think it was rejected quickly.

Riley: You said that you had not gone to the convention, but obviously you watched it. Can you report here your reactions? Do you have recollections? Did you feel like that was a good convention? Was it one that you felt was a missed opportunity?

Barr: I can't remember how I felt about it. I tried doing everything I could, I felt we were going to lose the election. I wasn't saying that to people in the Department of Justice, I was being a cheerleader. But privately, I thought we were going to lose the election, so I probably didn't feel too good about the convention.

Riley: Jim introduced the Buchanan factor. That's something you haven't talked much about. You dealt with immigration issues, and I recall that was one of his crucial issues during that year. Were you asked by the administration to take a more upfront role on that issue based on Buchanan's challenge?

Barr: [redacted]. My attitude was to stress the fairness of our system, and that we let more people into our country than all the rest of the world put together. If you take all the countries of the world and add up how much legal immigration they allow, we allow more in than I think the rest of the world combined, very high levels of immigration in our country. I tried to talk the positive, it was great and good, something we should continue. But the corollary to it was an orderly process, where everyone got a fair opportunity to come in here, and from certain countries, just because they border on us, we shouldn't allow people to come crashing in the back door instead of waiting their turn. There are people in the Philippines waiting in line for ten to fifteen years to come. They don't have the luxury of breaking our laws and running across the border. You could do it in a way that's not as negative—

Baker: Or xenophobic.

Barr: So he was more xenophobic, and I was trying to do it more like, we have to let the fairness of our process work, and we have an open front door. The corollary to that is we can't let people come crashing in the back door. We owe it to people who are standing in line to let them in according to our rules. So I took that up myself, and, as I said, when the President called me

from California, it was like he just discovered this was a hot issue in California. It was a massive issue in California at that time. It's funny. It's gone the other way, but at the time—

Young: He had to go there to find that out?

Barr: I guess. I kept on coming back and saying to people, immigration is a big issue in California. You know, there's a way of playing it that's not bashing the Hispanics, because I'm a big believer that the Republicans have to reach out to the Hispanics, and so the immigration issue has to be dealt with sort of carefully, but—

Baker: But the White House wasn't structured in such a way that you could make an appointment and see the President individually on these kinds of issues.

Barr: Oh, yes, I could. I think Skinner in his own way tried to get me over there a few times to talk to the President about these things. I went over to talk about violent crime—that was that meeting where he had just gotten off the phone with Yeltsin.

Meador: Was it your impression that if you wanted to see the President at any time, then you could see him?

Barr: Definitely. There was no problem with that.

Baker: There was no "palace guard," as they called [H.R.] Haldeman and [John] Ehrlichman?

Barr: No. I mean, you can't just say, "Hey, I want to go over and schmooze with him" without a reason. They would make sure that you weren't doing an end run and trying to cut off a policy debate by going in and getting him to ratify something you wanted to do. But apart from that, if you had a reason to see the President, including that you thought the President should hear about something and you wanted to brief him on it, you could set up a meeting. I went over to talk to him about violent crime specifically for that reason.

Young: Do you know of any instances where the President wanted to get something done that was not moving along as he would like it and where there was some dispute about whether it should be done, or sitting on it by his own staff, when the President called people together and pounded the table—so to speak—and said, "Get this done, this is a high priority of mine, now cut through all the crap and do it"? Did he ever lay down the law like that that you know of on an issue—let's say defense policy—with his staff?

Barr: With his staff? I wasn't on his staff, but I can't think of an instance with domestic policy where I saw him do that. He may have done that.

Baker: Of course, that brings us to the Persian Gulf War, where he really did do that and was able to mobilize a lot of "this will not stand" sort of sentiment, mobilize a lot of support.

Barr: It's interesting, because a lot of his politics, I think, is personal politics. He believes in personal relationships, establishing relationships, working, talking to people, reaching out to

people. That's something that's very suited to international affairs, because you're dealing with a select group of individuals. He tried to do that in domestic—He tried to reach out and have relationships with civil rights leaders and politicians and people around the country and so forth. But domestic policy is a little bit more difficult to run that way. The Gulf War obviously was his greatest display of competence and leadership as President.

Young: Also where there was an enemy in a way that there isn't—

Baker: As clearly defined—

Young: Unless you make one using, "This is what we believe, that's what they believe." It's not a declaration of war, but it's a declaration of purpose, as you were mentioning earlier, which he really didn't do. The deeper he got into electoral trouble, the less he seemed capable of doing that.

Barr: Well, as I think I said here last time, before the Gulf War, the number-one issue for the American public was drugs and crime, crime in particular. It's hard to put yourself back in that period, but crime had been soaring, the murder rate was astronomical. All the polls showed, prior to August 2—or whenever it was that the Iraqis invaded—that drugs and crime were the number-one issue.

So, with that in mind, not reacting to the politics so much, but because I believe this is the role of the Department of Justice, we tried to put together a program. This was when Thornburgh was still there. We had crime summits. Our basic message was very simple. I worked a great deal on developing this and getting the studies to support it. Developing Weed-Seed and Trigger Lock was very simple then. Predatory violence is the one thing that government can do something about. Crimes of passion we can't. If someone blows away their grandmother for turning off the Super Bowl, we can't do anything about that. That's a crime of passion. But predatory violence is something we can do something about, and the overwhelming proportion of predatory violence is done by the same people. A very small group, less than half of one percent, just keeps on committing these crimes. So we have to go after that group, these repeat violent offenders, and incapacitate them by putting them in prison—very simple. We get them off the street, the crime rate will go down. I still believe that's the case. Anyway, we got all this ready, we started this process. The Gulf War comes along, and then the number-one issue is international affairs.

By the time the Gulf War started dissipating, the economy started going up the chain as an issue, and he wasn't going to make any headway on the economy. One of the things about drugs and crime was that in those days, people still gave Republicans credit for being tougher on crime and tougher on drugs. It was still a high priority. Even when the economy went up, it only dropped to third place or something like that. I was there saying, "Look, this is an issue that cuts in our favor. People are concerned about it, and we should have the President more involved in talking about these issues."

But the Gulf War came right at a time when it preempted the momentum, and trying to focus the President on a domestic agenda that was number one—crime and drugs—at that time. He went and did the Gulf War thing, and then by the time the glow of that had gone, the economy had

sprung up to the number-one position, and he had a team that was fumbling around with that. I don't know how much was under his control in the first place. Then it became harder for me to sell crime.

Young: But there's another theoretical logic in this, that as the economy heated up—didn't heat up, but got up to the top of the problem list—you need an alternative until the gradual recovery or the stabilization.

Barr: That was my point.

Young: And so, this is obviously the time to talk about crime and things that people care about, not to talk about the economy if there's fear in the White House that if you say something about it, you're acknowledging it's a problem. Just talk about something else that matters to people. I sometimes have trouble figuring out the logic of the way these things happen.

Barr: I'm not suggesting that you could make an election out of talking about crime. And I don't think you could by talking about the economy. I thought that basically what was required was first, identify the big issues that should cut our way, like crime, and then go out and campaign partly on those. But also then you take the campaign to the level of ideas, and explain why—notwithstanding this little bump in the road on the economy—overall you're going to be better with us. And that was never done. Now, with the Gulf War, that was probably one of the most memorable interactions I had with Bush as far as I was concerned. I was Deputy Attorney General at the time. I think Thornburgh was out of the country when this stuff first hit, when things were coming to a head on the legal issues.

Young: Yes.

Barr: I had been the head of OLC anyway, and so I think it was sort of natural. I'd been the guy still going to the national security meetings, so I think it was natural that they asked my legal advice on it. I think Thornburgh was out of the country anyway, but I had had Luttig working for weeks on this issue. I had told him not to put anything in writing, but basically do all the research. These are issues that anyone interested in executive authority knows by heart anyway, and I'm not sure how much original research was necessary here. But we had people doing a lot of research.

We knew the issue would eventually come, and the President would need some advice on the parameters of his power. First, I believed that the President did not require any authorization from Congress, and I believed that the President had constitutional authority to launch an attack against the Iraqis. But I also knew that it didn't much matter what I thought, because that's what he was going to do. He believed he had the authority to do it, and that's ultimately more important than what I believe.

He didn't put 500,000 troops over there for them to sit there, and there was no doubt in my mind that he was going to go on the offensive unless the Iraqis withdrew unilaterally. So I figured at some point I'd be asked my opinion on this. Then, before I knew it, I got this call that there was going to be a meeting over in the Cabinet Room to discuss the legal issues surrounding the

operations in the Gulf. So I went over there, and there was a cast of characters there, probably a bigger meeting than it should have been. The main figures were there including Cheney and Baker and Scowcroft, the President, Sununu.

Young: How about Colin Powell?

Barr: Colin Powell was there.

Young: Were you all at that meeting with research done by Luttig? What had you done by way of preparation for that meeting?

Barr: I had discussed it with Luttig at length. OLC knows all this stuff anyway, because we do stuff on covert actions and things like that. So it's almost like boilerplate what the powers of the President are in war. I had him go back and do more research. I myself spent a little time reading some of this stuff about the Founders' belief, and what war was, and what did they mean by "declare war" and all that kind of stuff.

Young: Quayle was at this meeting?

Barr: Probably. Although—

Meador: Was this *the* meeting to decide whether to go or not go?

Barr: No. There's a book called *The Commanders,* which has a fairly accurate description of this. The date of it I forgot exactly, I think it was in December. It could have been January, but I think it was December. In any event, I'm not sure if Quayle was there, because I was sitting in the seat directly opposite the President, which is usually the seat for the Vice President. The Cabinet, as you probably know—you have the President, the Vice President directly, then the big four sit on either side of the President and Vice President. So when I got there, my place was right opposed to the President. I was sitting where the Vice President usually sits. So I'm not sure where he was.

But then they had some staff people there, and I saw that they had pads out in front of them, which means someone is going to be taking notes at this meeting. When I tell this story, it's actually true, but when I was leaving my office, Senator [William S.] Cohen was on the floor, a Republican purportedly, giving this speech saying that if any lawyer ever advised the President that he had the authority—because this was really being debated at the time, and there were op-ed pieces and so forth—if any lawyer told the President that he had authority to unilaterally attack the Iraqis, then that lawyer would be impeached. I was putting on my jacket listening to this going over to the meeting.

So I went over to the meeting. It was one of these out-of-body experiences, because any constitutional lawyer would love to be asked this question under these circumstances. The President said, "Bill"—and I'm sure part of this was display. I realized that, and therefore answered accordingly. There was no doubt in my mind that he could do it.

He said, “Bill, I’ve been reading these articles. This op-ed piece the other day said I don’t have the authority to launch an attack on the Iraqis. What’s your view, what’s the Justice Department’s view on whether I have the authority?” I’m sort of flattered that he asked me a cold question without having discussed it with me first, because it meant he knew what answer I was going to give him.

I said, “Mr. President, there’s no doubt that you have the authority to launch an attack.” I explained why I thought he did under the Constitution as Commander-in-Chief, and I gave him some different theories. After saying he could do it, I gave him a secondary theory—which I was sort of proud of at the time, it was a bootstrap argument. I said, “Now another reason here, Mr. President, is—even for the critics who would say that that wasn’t true—there’s no doubt that you have the authority to put 500,000 troops in the field. Congress authorized—through the approval of the UN whatever they are, resolutions, and through their authorization and all that stuff, Congress has definitely approved you putting 500,000 troops over there face-to-face with the Iraqi Army.

We have intelligence that they have weapons of mass destruction—chemical weapons, biological weapons—and your job as Commander-in-Chief is to make sure those troops are not preemptively attacked. If you feel as Commander-in-Chief that in order to protect your Army in the field you have to launch first, you absolutely can do that.” Which I thought was an ingenious argument, [redacted]

I said, “However, Mr. President, even though you have the power to do this unilaterally, without any consultation with Congress or what have you, you certainly would be in a better position, the strongest possible position, if Congress did pass a resolution. It would not be the law. It wouldn’t be a statute authorizing you to do it, but a resolution supporting what you did.”

The reason I say that is because on the Hill at that point they were actually talking about passing a resolution that said the opposite, that he *could not* use force *unless* he got their approval. There were some in the administration who were saying, “Just let them do it, screw them, ignore them, and let them pass whatever they want.”

I said, “I think it’s better to get up there and engage, to get up there and see if we can head off that kind of resolution and, in fact, get a resolution in support of it.” He said, “Well, suppose they pass a resolution saying I *cannot* do it. What impact does that have?” I said, “It’s irrelevant. It’s not a statute. It’s just an expression of opinion. They can’t change the Constitution by expressing their opinion on the matter. I would say you could still do it.”

But I said, “I think, under Justice [Robert H.] Jackson’s opinion in *Youngstown*, if Congress is with you on this and does something supportive, then you’re in your strongest possible position. But even if they don’t, I think you’re okay.”

And Cheney said, “You’re giving him political advice, not legal advice.” I said, “No, I’m giving him both political and legal advice. They’re really sort of together when you get to this level.” Then there was a debate as to whether he should get up on the Hill and push. I was saying he should, and Boyden Gray was saying he should. There were others who were opposed.

Eventually he made the decision after that meeting that he would. The White House went full bore on that vote and got the vote turned around, and then ultimately won the vote. That was an interesting experience. I enjoyed that.

Meador: Can I ask another question on the international front? Early on in the Bush administration, the Soviet Union was coming apart, the wall came down in Berlin, and one thing and another. I seem to recall some criticism of Bush, that he was moving too slowly on that front. For example, there was a big question about the Baltic countries, Lithuania, Estonia, Latvia—their independence from the Soviet Union and so on. Do you recall any involvements in all that process, anything going on inside that you know about?

Barr: The only involvement we had in that process was institution building over there and requests for the Department of Justice to use one of our programs to go over and work with those countries to help build their law enforcement and their court system and so on. But I don't recall any other involvement.

Riley: You weren't asked for advice about sovereignty questions related to the deterioration or any of the changes in regimes?

Barr: As to who was really in power?

Baker: Diplomatic recognition questions?

Riley: Yes, diplomatic recognition.

Barr: No, the only recognition question we had was the invasion of Panama. It was great because we took these guys, we brought them onto a U.S. base, they were sworn in as the President and Vice President of Panama—this is all while the helicopters were flying there. They were recognized as the legitimate government of Panama, and then they requested U.S. help, all in about twenty minutes.

Riley: So that's the difference between foreign policy and domestic policy: The pace is slightly faster?

Barr: That tells you what the recognition power is.

Young: Don't you wish you could have done that in reverse when it comes to independent Lithuania and recognize it immediately?

Meador: It's sort of curious that Panama involved Justice so heavily, and these other questions over in Eastern Europe did not involve—They were State Department matters, I suppose.

Baker: Because you had that criminal prosecution and pending indictment.

Barr: Justice was heavily involved in Panama from day one because it was technically an arrest mission. It was funny because I was home during Christmas, and my parents came down to visit.

I had what's called a STU 3 [Secure Telephone Unit] phone at my house, which is an encrypted phone. Brent Scowcroft was very concerned about Justice getting out of control. So the deal was that we would make arrests, but each arrest had to be personally approved by Scowcroft. So I would get calls. I had two secure phones in my house, one to the White House. I'd get calls, and my parents would be sitting there—it was Christmastime, the Christmas tree and everything.

"Okay, we have Colonel so and so Gonzales holing up in this thing, and he's expressed an interest in surrendering."

These would be calls from DEA agents with the troops in the field. They'd say, "We want to apprehend him and make the arrest. This is a member of PDF [Panamanian Defense Forces] who's on our list." They went in with a list of people to arrest. Then I would call Scowcroft and say, "Okay, Colonel so and so, he's on the list, can we arrest him?" And then he would say, 'Hold on," and he'd come back—I'd have two phones—and he would say, "Okay, yes, you can arrest him," I'd say, "Okay, you can arrest him." Scowcroft would tell me it was okay, I would tell them it was okay.

This was when I was in OLC. OLC is supposed to be a bunch of eggheads. We had this joke that one of our first episodes in OLC was the breakdown of law and order in St. Croix after Hurricane Hugo. That was an interesting situation. It showed the Justice Department moving very fast, and everyone else moving very slowly. That was an amazing situation. I was at home, and I got this call from the command center. Again, I was the Assistant Attorney General. There was no deputy at the time. It was Thornburgh.

They said, "The Navy has picked up a call from a ham radio operator, a deputy U.S. marshal who says that the hurricane has destroyed the prison and destroyed the infrastructure there; there are hundreds of prisoners now roaming the island out of this prison; there are gangs; there's a total breakdown of law and order. Civilians are in grave danger, holing up in houses and guns and things like that. It's a complete return to the state of nature."

I called the FBI guys, and I said, "How long will it take you to get a recon group down there to see what's going on?" And they said, "Okay, we'll start out now." So the FBI flew in this team of three from Puerto Rico. The next morning, we got the information from the FBI, "It's rioting, it's a complete state of nature here, machine gun firing in the streets," and so forth.

Baker: A [Thomas] Hobbesian state of nature, really.

Barr: The Coast Guard then went in, went in close to shore, they confirmed it. People started swimming out from the docks to get in Coast Guard boats. The Coast Guard sent in shore patrols just to secure the perimeter. People started fleeing to them. It was a very dangerous situation. Meanwhile, the Governor on the other island, St. Thomas, was saying there was no problem. I think his name was Farrell [Alexander Farrelly] or something like that.

What the hell do we do? We started quickly looking at the legal books. What authority do we have to go in there and start enforcing the law in St. Croix? We looked at some statutes, and we finally decided that without Presidential authority we could send down law enforcement people

to defend the federal function. That is, we said, "People are interfering with the operation of our courts" and so on. I said, "We can send people down to defend the federal function, keep our courts open, and if they see any crime being committed in front of them, then, as law enforcement officers, they can make the arrest." Our object was just to get federal law enforcement down there and play it by ear. Technically, we couldn't send them down to—

Meador: Did you consider interference with the mail as a basis?

Barr: Yes, we had a whole list of things like that, interference with the mail, interference with the courts. But basically we were claiming that there was breakdown, civil unrest that was interfering with the federal function. We found these old cases that said the federal government could go in there. This was without declaring martial law.

Meanwhile, the Coast Guard was getting more and more alarmed. So that morning I said to Thornburgh, "We should send the FBI hostage rescue team down there with 150 U.S. marshals as well, and just do it." He said okay. I called the White House, Bob Gates, and I said, "Okay, we're going down. We have an Iowa National Guard aircraft that's just been flown in, and we're going to send the FBI hostage rescue team and 150 marshals from Louisiana. We're going to get them in today."

He said, "Hold on, we're getting a lot of very bad information here, and we're crossways with the Governor. The President's thinking about this further." I said, "We feel that our people's lives are in danger. We have a lot of federal employees down there, Justice Department employees, and they've specifically asked for help." So about twenty minutes later, he comes on and says, "Okay, here's the deal. The 82nd Airborne military police are going in. We want you guys to wait until you go in with them."

Meador: Who said that?

Barr: Gates or Scowcroft, one of them. It was basically they had finally decided. They said, "Okay, but we have to figure out what legal authority" and so forth. This lawyer from the Defense Department came over to my office and—bless the military, they had this book, "What to do with civil unrest." Plan 304. They opened it up, because they hadn't used federal troops in municipal United States, in U.S. territory, for civil control, since in the mid-'60s. We were trying to figure out what to do. That's where I learned all this law, which is: now the President has to issue a proclamation, and then he can do this and that and this.

The reason I'm telling the story, Dan, is this is Mike Luttig's finest hour. We have all these documents prepared, one document federalizing the police down there, making them under federal control. We deputized the 82nd Airborne military police as U.S. marshals. We had all kinds of these legal documents prepared, and we were going to trump the Governor. Luttig had to go in and say to the Governor, "You have to ask for federal assistance. If you don't, then we're coming in anyway, and we'll basically make you look bad." He had these documents, and he had a letter that he wanted the Governor to sign.

Well, first we had to make the decision who was going to go down there. I was sitting there and Luttig was sitting there, and I said, "Mike, I have three kids, you don't have any children. You're going down." [laughter] So that evening he called me from Andrews Air Force Base. He said, "Bill, you wouldn't believe this. The FBI hostage rescue team is here with tiger stripes and camouflage paint and M16s, and we're all sitting in the plane. If you look down the plane, you see all these guys sitting there with tiger stripes, M16s." And there I am with my Hush Puppies, my Izod shirt, and my chinos.

But anyway, he went down there, and it all worked out very well. That was a very interesting exercise, because in about twenty minutes we made the decision to send people down, and the guy from DOD [Department of Defense] came over, and we were writing up all these orders.

Young: I take it what you sent down there was adequate to take care of the problem, is that right?

Barr: Oh, yes. It was interesting because we worked it out. We set up little teams with one U.S. marshal or FBI agent and two members of the 82nd Airborne. They'd go off on patrols. The military guys were saying, "We're scared. Our guys are going to be tied up in all kinds of problems if a member of the Airborne shoots an American citizen." They were very worried about the *posse comitatus* stuff and all that. So we said okay—

Young: Were these people from all these various agencies or outfits trained to work together as a team?

Barr: No, this was all done ad hoc.

Young: Because the story on Grenada was a very different story.

Barr: This was all done ad hoc. We sent a real strong guy, FBI guy, down there named [David] Woody Johnson, and Woody became the deputy for a while at the FBI. He got together with the military guys, and they worked it out very quickly.

Baker: Sounds like Justice really took the initiative on that.

Barr: I was very proud of that, because we just decided we were going to do it, and we sort of dragged everybody else with us. They said, "Well, if they're going to do it, that sort of forces our hand." That's when I met Admiral [William] Crowe, who was at that point, I guess he was—What was Admiral Crowe's job at that point?

Young: Chair of the Joint Chiefs?

Baker: Yes.

Barr: Then he made Powell chair after Crowe retired.

Riley: Actually, Crowe went to London under—

Barr: Yes, he retired and then endorsed Clinton. So Crowe was there in the situation room. It was bizarre, because that was my first exposure—This was very early on, and they brought in this map of St. Croix, and he brushes it out. There were three or four of us and Admiral Crowe and this Coast Guard guy. The Coast Guard ship was patched through on the loudspeaker, and they're talking—"Where's this?"—looking all around—"Where's the airport, where's the airbase?" It felt a little amateurish at the time. [laughter]

Baker: At least it wasn't a tourist map.

Riley: If it makes you feel any better, I can remember listening to tapes from the [John F.] Kennedy administration at the Kennedy Library from the early '60s, listening to the President: "How far is it from Columbus, Georgia, to Birmingham, Alabama? Exactly how are we going to get these troops from whichever fort they were—Where is that fort again? Where is Anniston, Alabama? I don't know where that is."

Meador: Doesn't he pronounce his name Crowe, as in crowd?

Barr: Yes, it probably is Crowe. He was an interesting guy. He must have had some problem with his eyes, because during the thing he kept on licking his hand and rubbing his eye, licking his hand. Maybe he had some kind of problem, but it was a strange habit.

Meador: Do you have any idea why he endorsed Clinton?

Barr: No, I don't.

Young: I'd like to call a five-minute break and then dial back to some unfinished business on the election. [Ross] Perot, for example, hasn't been mentioned, and also I'd like to have your observations on the idea people versus the MBA-type approach, the process people within the White House itself.

[BREAK]

Young: I think the tape just started, and what we were talking about was the kind of job the Attorney General performs, and the kind of department the Department of Justice is. That was what Mr. Barr was mentioning when the tape started rolling.

Baker: In fact, I think many Attorneys General ended up being administrators more than anything else, just trying to keep the mechanics operating. Is that a real problem? Did you find as Attorney General that the demands of the operation sometimes deflected you away from the bigger picture issues?

Barr: Yes. I didn't find that I was deflected, but I felt that a lot of it was managing—not managing in a bean counter sense, but basically just making sure people knew what the priorities were we were pursuing.

Young: How much of that did you lay on the Deputy Attorney General?

Barr: A lot, because that's what I did as deputy. But because I came out of that position, I used the deputy staff a lot to continue doing that.

Meador: You mentioned early on that you gave Gonzales, when he started his administration, some advice about the Justice Department. Do you feel at liberty to say what that was, what you told him?

Barr: Well, I basically told him that they should be very strict about contacts between the Department of Justice and the White House, that he had a lot of very talented people in his office, he had brought in a lot of thoroughbreds. And a lot of them would want to be players and impress people with all their contacts. They had a lot of friends over at the Justice Department because it's sort of an inbred group to some extent. There are a lot of young conservative lawyers in the Washington area, and they all know each other, and they're going to have a tendency to want to be players and show off to their friends.

I said, "You've got to make sure these guys stick to their knitting and do not pick up the phone to call around the Department of Justice." I told him the experience that damned near got the Iraqgate investigation all torqued up was just some innocent stray call from a lawyer that became a big *cause célèbre* during the campaign. I gave him that vignette. But I'm sure I wasn't telling him anything new.

Meador: My impression is that you thought that Boyden Gray was a very good White House counsel.

Barr: Yes, I do.

Meador: You give him high marks.

Barr: Very high marks. You know, there are people who suggest that he guided the thing, he shouldn't have gotten into policy area. But those are the things that interested him. I give him extremely high marks. I don't recall any serious fight with him. I mean, if we had disagreements, we talked them through, and he appreciated the independence of Justice. He never called up about a criminal matter or did anything inappropriate. When the fact that the President was keeping a diary—I know nothing about this, except a vague recollection, based on press reports. Apparently it turned out that the President was keeping a diary and had felt that this stuff was not responsive to some subpoena in the Iran-Contra matter. There was a question of him having to turn his diary over, and whether he should turn it over further, and also once he turned it over, potentially being interviewed about stuff in his diary.

I remember Boyden informed me about this at some point, and we talked about it and agreed that neither of us could play a role in this at all and that outside counsel had to be provided the President.

I think he handled matters very well. It was very difficult because of the constant pendency of the Iran-Contra case and Lawrence Walsh, who I thought was a—I don't know what to say in polite company. He was certainly a headhunter and had completely lost perspective, and was out there flailing about on Iran-Contra with a lot of headhunters working for him. The whole tenor of the administration was affected by that.

In any event, it was very hard to maneuver the administration through all that stuff, and he did a good job. We didn't lose sight of the fact that there's a difference between being a government lawyer and representing an individual in his personal capacity in a criminal case. We were always very conscious of that, and none of us got into the business—the way the Clinton people did—of representing the President in a personal capacity versus doing our jobs as government lawyers. I think he did a great job.

Riley: Some earlier testimony we've had, in discussions, has him very much in the center of the Civil Rights Act. Were you drawn into that? Did he draw you into that?

Barr: Which Civil Rights Act? One that was dealing with the Cove case?

Baker: *Wards Cove* v. *Antonio*.

Barr: Yes, I was drawn into that.

Young: You were speaking about the legislation.

Riley: Right, I was speaking about the legislation. I'm not sure—

Barr: As I recall—I might be wrong on this—we had won some cases. The Supreme Court had come in with some cases that the civil rights people thought were a step back for civil rights—for example, disparate impact, evidence and all that kind of stuff, basically that moved the thing more in the direction of a conservative opinion on how far you can go on affirmative action.

And there was a reaction on the Hill against that, so the question was putting up legislation that restored a balance but didn't go too far to the left. There was obviously a lot of concern that once you put an act up on the Hill, you get legislation moving on the Hill, you don't know where it's going to end up. But yes, I was involved to some extent on that. I forgot exactly when that was.

Baker: I think he vetoed the '99 —

Riley: He vetoed it as being a quota bill, and it was all a debate about it being a quota bill.

Barr: When was that, in 1990? I'm sure I supported the veto, probably was one of the ones arguing for a veto with Boyden.

Riley: I have a vague recollection of there being a rather unusual clarifying memo or something.

Baker: Signing statement.

Riley: Signing statement. Were you involved at all and consulted in the drafting of that?

Barr: Yes. I can't remember the details, but we would have drafted the signing statement.

Baker: Now you described signing statements in one of your talks here or one of your articles, as being of two different types: one where you felt that the act had a provision which was unconstitutional but the act as a whole, you felt, was necessary to sign. The other reason to use a signing statement is as a legislative history, to help provide interpretation for future courts perhaps if they're analyzing that. So in this case, with the Civil Rights Act signing statement in 1991, do you remember which camp that fell into?

Barr: Probably interpretive. This raises the whole debate that came up that we felt that the President could refuse to enforce unconstitutional laws, especially if they dealt with his prerogatives. Congress's game is to take a piece of must-pass legislation and throw something that's quite offensive on it that derogates some Presidential power, that's one of their tactics. So our attitude was "Fine, we'll sign the bill. We're just not going to enforce the unconstitutional part." There was a mini debate about whether it's appropriate not to enforce the law.

Baker: If it's selective law enforcement.

Meador: Did you have any court decisions in which the court relied upon the signing statements as part of legislative history in interpreting the statute?

Barr: I don't remember.

Meador: I just wondered where that idea came from, whether it was original in the Bush administration or whether there's some history behind it. I don't recall running into a decision where the signing statement was relied upon by a court. Maybe there are some. I just don't recall any.

Barr: I can't remember. There had been articles written about signing statements, so I'm sure I knew at one point. The rationale basically was that in the legislative process, the President's signature is as much a legislative act as the passage by Congress itself, and therefore looking at just what Congress thought is interesting. But what the President thinks is just as important.

Baker: Franklin Roosevelt did something on one of the early actions that had a legislative veto in there. He issued his own opinion of the Attorney General's finding that that was an unconstitutional derogation of executive power. I gave a copy of that to Charles Cooper when I interviewed him. He was interested in that one.

Young: Was the Bush White House so closed to ideas, so concerned with policy, process, that it was closed to bold ideas on themes, as they were sometimes called, or visions?

Barr: Yes, generally I'd say that's a fair criticism. I don't think Sununu personally was, but I think a lot of the people involved in the policy process were. So I think that's a fair criticism.

Young: Darman went out of his way once, in public—maybe more than once—to ridicule the "new paradigm" idea. Now whether the "new paradigm" idea is a good idea, a good metaphor for ideas and themes in the administration, or whether it's simply the stalking horse for something else, I don't know. But I'd like to hear your thoughts on that.

Barr: I know [James] Pinkerton was the guy on the new paradigm, but I can't remember what the new paradigm consisted of. My reaction to Darman is simply that Darman's basic problem is that if it's not invented by Darman, it's no good. I don't care what it is, if anything gets any kind of attention that's not a Darman idea, then he tended to torpedo it. That was his problem, I think.

Young: I see. Well, what do you think Darman's ideas were?

Barr: I don't know. His main idea seemed to be to enforce the budget agreement that he had fashioned, and spend most of his time policing it. Now, I can't remember exactly what the new paradigm was, but it wasn't only Darman.

Young: Jack Kemp I think, in fact, invented that term, didn't he? Maybe not. Maybe it was Jim Pinkerton. But these were people who were concerned about the bully pulpit, and the Presidency and this administration as the source of new ideas. They weren't being satisfied. In fact, they were being side-blocked.

Barr: Oh, absolutely. I would talk to Kemp about that a lot. It's hard to explain. You know Darman's a very intelligent guy, and there may be some areas where he can contribute on the level of ideas and themes and so forth, but he didn't seem to produce much in that administration that was productive. I forgot what role Pinkerton had. You mentioned Bill Kristol. I think Bill Kristol tried very hard—and Quayle did also—to become a little bit more thematic and focus on some basic policy differences, and try to create policies—or at least articulate policies and cluster initiatives in a way that could be explained and reflect the basic differences between the parties. But there wasn't much support for that.

[redacted]

Young: People often cite this as contrast between Reagan and Bush, that Reagan had a few very important ideas that did resonate—with Reagan Democrats as well as others—and kept at it fairly consistently.

Barr: On the other hand, there's also the fact that Bush was coming at the end of two terms of Reagan. And if you're going to storm the wall—which Reagan and Bush did, Reagan as President, Bush as Vice President—you storm the wall. You had certain limited objectives you were trying to break through, and you did. You accomplished a lot of what the whole effort was about. Bush comes sort of as the aftermath of that. It's a little hard to be revolutionary if you've won the revolution over the past eight years, so to speak.

Meador: I've heard Bush's term characterized as a third Reagan term. Is there anything to that, do you think?

Barr: I think there's something to that. But Bush is unfairly characterized—a lot of the so-called true believers are very unfair to Bush. I think the main problem was what I just said: The Reagan people spent their force because they felt they were doing a revolution, they were taking power. The conservatives were finally in power, they got certain basic things done. And once that happened, you don't—I mean, who is Bush running against at that point? He was really running as a successor, sort of a consolidator, and there's a little less pizzazz to that. It's like being an army of occupation versus the guy who actually storms the beaches. There's a little less pizzazz to that by nature.

Now, as I would say to my conservative brethren—and I'm a conservative—"Don't give me this shit about the Reagan administration being the end-all and be-all of conservatives." I was in the White House in the Reagan administration, and there was more selling out of the conservatives during the Reagan administration than you ever saw under George Bush. And that is a goddamned fact. People will forgive Ronald Reagan for that because on the big things he was true, and he accomplished the big things that he set out to accomplish. So they'll forget the daily sellouts by the Reagan administration.

Meador: Do you have any examples of these daily sellouts?

Barr: Now you're going back to '82 and '83. I mean, it was constant, and it was partly because the Reagan administration was extremely sloppy in who they put into power. They had a lot of people who hadn't been around government, hadn't really been around Washington, didn't know—It was just a polyglot group of people who came in, and frequently very bizarre things were done that you would never expect out of a conservative administration.

People would go and complain to Reagan, and Reagan let it happen a lot. People forget how frustrated the conservatives were during a big part of the Reagan administration. The troika, the constant battles with Baker, Meese, and [Michael] Deaver. Meese was not in control, and the conservatives spent most of their time gnashing their teeth because Jim Baker and Mike Deaver were running the show. They forget all that.

And then George Bush comes in, probably has in rank and file throughout the departments more conservatives working proportionately than existed in the Reagan administration, and on the important issues, held the line across the board. And these guys are still bellyaching about it. I have very little patience for it.

Riley: There was a fundamental difference, at least in public presentation, of Reagan making a declaration that the government was effectively the enemy, and Bush basically making the opposite claim, that it wasn't the enemy, it was something to be used for certain ends. Is that maybe the root of where some of this grousing comes from?

Barr: [redacted] I'm just saying that when it comes to the conservative critique of the Bush administration, it's very unjustified, and they're forgetting a lot of the problems they had in the Reagan administration. They're forgiving the Reagan administration for sins that were far worse than anything committed in the Bush administration. The Bush administration was a fairly conservative administration—on judicial appointments, conservative judges, basically. So I don't think the conservatives have a legitimate beef on Bush. But Bush never got their blood going the way Reagan did.

Baker: Bush made more headway—and this is partly because of the Justice Department—on issues of abortion and in the courts. I was wondering if you could speak about the case of *Russ* v. *Sullivan*, and if there was dissension in the Justice Department with the career attorneys versus those who were higher up in the Justice Department making decisions.

Barr: Remind me what that case was about.

Baker: That was the gag rule cutting off federal funding to clinics that gave advice about abortion—didn't just perform abortions, but gave advice on abortions. Do you remember that case?

Barr: Yes. I don't recall dissension within the department. I'm sure there were career lawyers who groused about it, but it never reached my level.

Baker: So it wasn't serious grousing.

Barr: No, I didn't hear any serious—Was there press coverage about grousing?

Baker: I think there was a little bit at the time, some of the career attorneys coming out saying, "This is a change in precedent. In the past, moneys have been cut off for the provision of abortion, but not for the advisory function between physicians and patients."

Barr: No, I don't recall that much dissension about it. Bush held the line on the right-to-life issues across the board.

Young: You feel you got a fair shake from the press?

Barr: I got a fairer shake from the press than many other people did. I don't think the Bush administration got a fair shake. I think William Safire was contemptible because he would call

me a criminal because I wasn't appointing independent counsel on Iraqgate, and he didn't understand what Iraqgate was about. I think that the press was basically going at it. The *Washington Post* particularly was going after me, primarily because they wanted to get the Iraqgate thing rolling, and I don't think that was fair. Basically that was mostly the editorial page people. But I think the reporters who covered the Department of Justice basically were as fair as it could be to any Republican Attorney General. I basically got good press, I thought, because I spent a lot of time. I would talk to them.

Young: You did. I'd like you to talk about that a bit, the time you spent with the press.

Barr: [redacted] I felt that it's a necessary evil, and I tried to be as candid as I could. I didn't talk to them much off the record. It wasn't a question of me picking up the phone and talking to them behind the scenes. But I tried to talk to them, give them access to me. They could come up and sit down in my office, and I would talk to them. I tried to do that on a regular basis with each of the major reporters.

There were some very good reporters covering the Department of Justice. Ron Ostrow of the *Los Angeles Times* was one of the deans of the reporters in Washington. He had written a book about Griffin Bell. He had covered the Justice Department for many years, and he was a thoroughgoing professional. He set the tenor of the press corps there because he was the longest-serving one. Then David Johnston of the *New York Times,* and then there was Sharon LaFraniere of the *Washington Post*.

Meador: Did you hold formal press conferences?

Barr: Yes, I had press conferences. What Thornburgh did, and what Janet Reno did, I thought was a waste of time and also counterproductive. Thornburgh would go down every week at the same day—on a Tuesday or something—go down and stand there and set the expectation that he would go down. So even if there was nothing to talk about, he'd go down and then conversations would go off on different things. Then at the worst time to have a press conference, you'd have to have a press conference, because it was his regular Tuesday press conference.

My attitude was break them up. They're like herd animals, to some extent, when they're together. The best thing to do is break them up and deal with them one-on-one and not try to get your points across in a group setting. But when I had a major announcement to make—it might be indictment of Libyans, or something like that—I would have a press conference, or to announce a major policy initiative. But the way I preferred to do it was one-on-one time with individual reporters.

I would take a reporter with me on a trip. If I was making a trip to the Mexican border, or something important out in California, I would take Ron Ostrow with me. The next trip I would take David Johnston. They'd ride in the plane, they'd get to see me uninhibited—talk to me, and I would talk to them. That's the way I dealt with the press. I basically was favorably treated, I think.

Meador: Did you ever hold meetings with departmental employees in the Great Hall?

Barr: Yes.

Meador: How often did you do that, and for what purpose?

Barr: Well, I never had sort of group grope meetings—you know, "Let's get together and talk about mission" or anything like that. Usually it was a specific event. If the Department had done something, I wanted to give out awards on something, an important case or a series of cases, I would have award ceremonies. People would speak at those. After Talladega, I had a big thing where I gave out awards to people. It's funny, people have asked me, what is the single most—the event that had the greatest impact and you feel the most satisfaction about? It would actually be Talladega.

Young: Why is that?

Barr: Because I made the right decision that actually saved people's lives, in my opinion, and in other people's opinion.

Meador: Can you say precisely what that decision was?

Barr: When I was acting Attorney General—in fact, right as I was named as acting Attorney General—the Marielito Cubans—who were still in prison—took over. We were deporting to Cuba. You know, the Marielito Cubans were mostly scum—these people were the scummiest of the scum. These were people who had been through so many review processes and given so many breaks. They'd committed crimes here, since coming here, serious crimes. These were people we were deporting to Cuba. In Cuba, they probably faced very severe prison conditions, very inhumane prison conditions. So they had nothing to lose by resisting going back to Cuba.

They took over the whole building of a prison, a prison section in Talladega, Alabama, and they were holding initially, I think, ten or eleven hostages—who were Justice Department employees—with homemade knives and—

Young: How many Cubans were involved?

Barr: A hundred and twenty. They had secured themselves in there behind the big steel gate doors, and they had the eleven hostages in there. We didn't have a federal death penalty. They had made it clear they would rather die than go back to Cuba, and we didn't seem to have much leverage at that point. The head of the Bureau of Prisons, Mike Quinlan, came into my office and said, "We have a plan." And I said, "Okay, what's your plan?"

He said, "This is a Bureau of Prisons matter, and we're responsible for handling it. What we're going to do is we're going to go up, and we're going to cut these bolts, and we're going to do this, do that and so forth. We're going to have our SORT team, Special Operations Response

Teams, go in, and blah, blah, blah." I said, "Okay, how long is this going to take?" He said, "We think this is going to take twenty to thirty minutes to gain entry."

I said, "That's not a good plan. Forget about it. These are our employees, this is our responsibility. You're not going to do it. The FBI is going to do it."

I put the FBI in charge of the situation. I called all the people I trusted from the FBI, and we talked about it for a while. I said, "This is not going to come out. Number one, we're making no concessions, okay? Number two, unless they surrender, this is going to require a hostage rescue operation, because I don't see that this is going to come out very well, being able to negotiate our way out of this. So start putting a plan together right now, and start practicing it. I want to review the plan personally."

So they started doing that, and they brought the plan over. This is why I didn't have that much sympathy for Janet Reno on Waco. They came over, and I went over the plan with them. I understood everything that was going to happen, and the basic problem was that we were not sure where the hostages were in this building, and there were 150 cells. If they were smart, we figured at some point what they would do—and the cells are not cells with bars, they're cells with doors, steel doors, with little looking-glass windows through them. So if you come through the gate, these big steel doors and gates—there are two different obstacles to get through. Once you get into the compound, you'd be faced with three levels of doors, and you wouldn't know where the hostages were.

If they distributed the hostages in all the cells, it would almost be a mission impossible to get in. But there were certain common rooms on the first floor, and we felt that they still were holding them in the common rooms, and which were which? If they were holding them on one side like a conference room, or a room over there, or over there, it would make a lot of difference, if you went the wrong direction and so forth. So my attitude was, first we'll talk to these people and see if we can get something. We need a plan to get in there quick, but we also want some intelligence as to where these people are so we're not going in blind.

Now, these agencies tend to want to move. And my attitude was that I would keep them in check. I wasn't going to just listen to what they had to say. I'd work with them on it, and I would use their judgment, but ultimately, just because they wanted to go, I wasn't necessarily going to let them go.

We talked to them, and they had these demands. They wanted TV cameras to come in and talk about the injustices and all this kind of stuff. I wouldn't make any concessions. No food. And during the process I said, "I'd like you to figure out how to get some microphones in there." They were working on that. They could handle that. At one point we sent in some food, just to get microphones in on the trays. They did that, so we started picking up some of their discussions. They were hungry. They were eating ketchup in hot water, that's all they had to eat.

They were still trying to figure out where exactly the hostages were. Meanwhile, I approved the plan, and then the FBI went to a sister prison in Jessup, Georgia, and started rehearsing the rescue operation at this sister prison, which has the identical configuration.

Riley: Was that created for that reason?

Barr: No. It was just the same type of prison, cookie-cutter design. We went to a prison that was exactly the same, and I told them to keep on rehearsing it. We tried to figure out different ways of figuring out where the hostages were. And then all of a sudden someone noticed that there was a figure up in one of the windows who kept on tapping his head. And so the FBI guys were observing him for a long time and realized that he had a primitive code, that one tap was A, two taps was B, three taps was C, and he was sending messages.

It turns out this guy was a non-Cuban. There were four or five non-Cubans in the compound, and they had been put in their cells by the Cubans, and this guy was signaling. He was an American Indian, was in for 40 years without parole. Later, we gave him some slack. But he basically was signaling "IRS room." So we figured he was telling us that the hostages were in this room that was used by the IRS for interviews.

Then at some point, one of the women put on this fit like she was going into a fit, and they thought she was dying—one of the women hostages. So we made some trade. I think I said I would not allow a television camera, but I would allow a print journalist to interview them at the gate if they allowed this woman out, because they said she was very sick. So they traded for that. We got her out. She was acting like she was dead. As soon as they turned the corner on the stretcher, she's up. She had faked it, and she gave all kinds of information. She said, "They're being held in the IRS room."

Early on we established communication by getting a telephone in that had a bug in it, so that was another way of getting a microphone in that could pick up their conversation. They were getting more and more irate and contentious. They wanted to be able to stay in the United States and go through another review process and all this kind of stuff.

I'm into this because this was interesting to me, this whole affair. So we figured, based on her information, that they were in the IRS room, and it was getting late. Then they started playing this Russian roulette type thing, but they weren't going all the way. They were taking their ID badges and putting them in a bag and pulling them out and saying that they were going to shoot the person. They weren't actually playing Russian roulette, but it was starting to move in that direction. They were starting to lose control, and they were becoming more adamant.

Basically, the FBI was ready to go in. I said, no, one more day. "What I want you to do is, before I tell you you can go in, I want you to feed them. And we're going to make a concession, but all we're going to ask for is the ability to feed our hostages through the bars. We're not going to trust them to give our hostages food. So all we're going to say is, 'We want to make sure that the hostages are okay, so we personally have to feed them through the bars, and in return for that we'll give you food.'"

So they agreed to that, and that was done to try to confirm at the very end where they were by watching where they took them from and where they put them back. We sent these guys in white coats, who were actually FBI agents. We gave them food, and then we gave each of the hostages

food. They were fed through the bars by the FBI agents we sent. Some of them muttered that they were in the IRS room. And they watched to see that they were taking them back in that direction.

Then there was a curve ball. One of the women at the end said, "They're holding us in the cells." This created a lot of consternation because this wasn't the information that I had, which was that they're not being held in the cells. She said it in Spanish, and the guy who was there, the agent, was Spanish. What word did she use? Does that word mean a cell? If they're in the cells, it's pretty dangerous to go in there. But finally we said it's contrary to all the other information we had.

So I called and said, "Okay, what's the best time to do it?" They said four o'clock in the morning. That's the optimum time. That's why we fed them when we did, because after being fed, the blood rushes to their stomach and they get sleepy. We heard them saying, "Great party, but I'm going to go to sleep." That was one reason I wanted to feed them, because they hadn't eaten in a long time, and we figured it would get them more lethargic that night.

At this point Sessions comes back from his vacation in Myrtle Beach. Basically, I was dealing this entire time with Floyd Clark, who was the deputy, and Bill Baker, who was head of the criminal division, and Larry Potts. So we said, "Okay, four o'clock in the morning." They're going to come and pick me up at my home. The press was starting to ask, "What's going on?" They picked me up at night without headlights and all that, so there was no information that anything was going on. I went down to the FBI command center.

I called Sununu earlier that evening and I said, "We're going in, but I'm not calling to ask your permission. We're going to do this. I'm just informing you." He was up at Kennebunkport. I said, "If the thing goes south, I don't want people to suggest that I asked your permission to do it or anything." So he said, "Okay, just one bit of advice." He's a smart guy. He said, "Is everybody in the Bureau with you on this?" I said, "Yes, they've been chomping at the bit on this one."

He said, "Well, how about the hostage negotiators?" I said, "Yes, I think they're with me on this thing." He said, "Well, my advice to you is you lock them in on that. You make sure that the hostage negotiators aren't going to come out at the end and say that you acted prematurely." I said, "Okay, good advice."

So I asked the number-two guy at the Bureau, and he said okay. They had some really good guys from the Bureau down there on the scene. They went to each of the hostage negotiators, and they all came back and agreed with the decision. So everyone was locked in. Then at four o'clock—I have this on videotape, because they shot it on videotape down there. I was up in the command center at the FBI, and at this point there are ten hostages in there. Oh, we were told by the woman that they had a plan that if they heard an explosion, if they thought they were being rescued, they were all going to hold the door to that room, because the Cubans had these guys with knives outside who had instructions to use the knives on the hostages. They made a mistake being outside the room.

So at four in the morning, I was sitting there in the room, and they had a direct line down there. There was a guy saying, "Okay, the teams are getting on the trucks." They use these big Suburban trucks and they had set up lines, and there was a lot of stuff done to confuse the Cubans. "They're going up, they're picking up speed, they're in front, they're planting the charges."

I'm sitting there, my heart pounding very hard. And then all of a sudden I heard on the microphones this huge explosion, and a guy at the FBI, a guy who was giving me these comments says "Holy shit!" And the explosion sounded so loud and his reaction, I thought, *Shit, they used too much explosive, it's going to collapse or something*, but—

Young: What was the explosion blowing up, what was it doing?

Barr: They were blowing the steel doors out of the way. They went in through three different entrances. Actually, they were sending the team in through three different places, and they put explosives up to blow holes through.

Young: How many were going in?

Barr: Ninety went in right at the beginning.

Baker: Wow.

Barr: And then followed up by over a hundred. Then, after the explosion, I heard pop-pop-pop-pop, and it sounded like gunfire, and I said, "Holy shit, they're going to wind up shooting all those people." Well, it turned out one of the charges didn't go off. Two of them went off, and they all got in. And the popping was they were throwing stun grenades as they went. When they got to the door, they found two Cubans with knives pushing the door in, and one of them grabbing a hostage. They got there and tackled the two guys, and then they just incapacitated all of them.

And I said, "Get a plane down there because they're going right to Cuba tonight or tomorrow morning. They're going to Cuba first thing," and by eleven o'clock they were already being put on the plane to Cuba before the civil rights lawyers and all these people could come with injunctions and stuff. So—

Meador: How many days had elapsed from the beginning to this point?

Barr: Nine days. We had kept all the reporters away. The reporters were out there, "Well, things are quiet," and all of a sudden a big bang, the building shakes, and smoke starts coming out of the back. I was very proud of it because it was very professionally handled it. Within a few seconds of the explosion, the hostages were rescued. I was sitting there, my heart was pounding, and then the guy said, "Okay, the hostages are coming out, one— two— three—I think all nine of them are out." I said, "Go down and make sure all nine or ten, whatever, are out. Count them. I want you personally to go and count them." So he ran over there and counted and came back. He said, "They're all out." I called Sununu and said, "Okay, it's all over. It's fine."

Baker: Do you credit your handling of that for Bush's decision to name you Attorney General? That was speculation at the time.

Barr: Why I was—

Baker: That you handled it so well and then that you didn't grandstand afterwards, that that really came to Bush's attention.

Barr: Yes, I think it did. He called me the next morning and said how proud he was about it and how well handled he thought it was. I think it probably played a role. I think there were a lot of people who supported me as Attorney General because they felt I knew the Department and I had run it well. In an election year, you don't want to change. *The guy seems to have it running okay.* I think people on the National Security Council were for me, but I think that probably was the icing on the cake because I think he felt, *Gee, this guy could actually pull something like that off.*

I went down that morning on the FBI plane. I got there maybe three hours after the actual rescue itself, and went into the room. The families were with the hostages, and they were crying and hugging me, and the FBI guys were all psyched because this was a success. This was the first time the hostage rescue team had been used.

Baker: It works!

Barr: It works. They'd been in operation since the '70s, and this was the first time they'd ever been used in a real thing like this. They'd been used for crowd control and other things, but—

Meador: This was entirely an FBI operation, right? No other personnel were involved in it?

Barr: Well, it was huge. The FBI were the first in, and then they were followed in by what are called the SORT teams. Those are huge gladiator-type guys who keep control over the prison. One thing I didn't realize is that there are no guns in prisons, in federal facilities. Order is kept by brute force, if necessary. These guys spend their entire time lifting weights. Well, these SORT teams would line up in phalanxes, and as soon as the FBI was in, they all just flooded in.

Young: These are prison personnel, employees?

Barr: Bureau of Prisons. The whole thing was handled by the FBI and the Bureau of Prisons. The FBI guys were to get them on the ground, incapacitate them, and then the SORT team guys came and took over, put the handcuffs on them. They lay naked outside for most of the rest of the day until they were put on planes. When I got down there, they were scary-looking people. They were tough people. They were pretty scary people.

I felt good about it. I felt that we had made zero concessions except when I wanted to actually get something for it. We got these people out alive. The Bureau did things in a very disciplined way. It worked like clockwork. It boosted me a lot, actually, internally, especially with the FBI,

because when I got off the plane, one of the top FBI officials there said, "You've got balls." They were happy that somebody had made the decision, hadn't backed down—

Baker: And yet had the patience to wait until the right moment. It probably did buy you some goodwill.

Barr: It brought a lot of goodwill. That was the most satisfying thing that happened. Then the hostages gave me this plaque, and each of them signed it. It's engraved, and they all wrote personal comments like, "I believe I'm alive today because of you." That was more important than all the legal stuff, frankly.

Young: Was this the first time you ever did anything like this?

Barr: Yes.

Young: So you were learning as you went?

Barr: I was learning as I went. One of the things I did is I spent a lot of time out in the field. I'd go out and visit Quantico, I'd visit the FBI offices in major cities. I'd visit the U.S. attorneys. I tried to get a good feel for what was going on. [redacted]

Baker: That was quite a story.

Barr: I think it played a role in Bush's— He called me, as I say. He was very complimentary.

Young: He should have been. How did Bush handle conflict among his staff and his advisors? Or did he ever get conflicting advice in substantial matters? This is the question that many people ask about Presidents. Did they not like to have conflict? Did they want it resolved before it comes?

Barr: He didn't act like conflict was a bad thing. I think he felt, and he sort of gave the impression, like any good leader, that it's okay to have conflict among your subordinates, and is in fact healthy, and let them go at it. He seemed to enjoy that. He would sort of smile when people were going at it. He wouldn't act like, *Oh, gee, guys, you know that's inappropriate.*

I think most of the real conflicts were probably resolved in smaller sessions in the Oval Office. And I never witnessed a situation in the Oval Office where he said, "You're right and you're wrong." However, at NSC—

Young: Making a ruling, saying, "That's enough—"

Barr: Oh, I've seen him make rulings, but he never really got into the to and fro of personally delving into the argument while two people were having it out. I would see him do it more in the national security arena. I remember some discussions of covert actions where people would be taking different positions, and he would directly challenge someone. He would say, "Hey, come on. Do you really believe that? I mean, come on."

Meador: You don't think he was the type of President who wanted all of this worked out below him so he was presented with some one final position?

Barr: No. I'm sure that generally people like to do that for the small bureau items, but I think he didn't mind on significant issues to have conflict.

[redacted]

Meador: I read that Eisenhower always wanted everything on a one-page memo. Did Bush have any notions about how he wanted things presented to him?

Barr: Not that I'm aware of, except they had a format of short option papers that clearly set out options one, option two, option three, recommendation: Defense recommends this, State recommends this, Justice recommends this.

Young: I've seen some of the documents in the Bush library with his notations or instructions—I haven't seen enough to make any generalizations, but it's clear that there are some matters in which he is very familiar with the details and wants to know more. I don't know that he micromanaged them, but there were a fair number of these things in foreign affairs, national security affairs, in which he was very much on top, and all he wants is the details. Much more selective is my impression, the specificity of his advice or request for follow-up or something on domestic affairs. But it's not just one page with a sign-off. There are often additional questions, whatever happened to, or why is—?

Meador: Griffin Bell had a theory, I believe, if I remember correctly, that whoever writes the options controls the decision. Would you agree with that?

Barr: Yes, frequently that's true. That's why I usually asked to see the option paper before—

Baker: So you could edit how yours is framed.

Barr: You know a lot of them are frequently false options, and there's a lot of gamesmanship played by the White House staff in that respect.

Baker: A couple of the books that have come out on the Bush administration have characterized it in terms like "guardianship," "status quo Presidency," "procedural Presidency," emphasizing the fact that the President was not confrontational and liked the lower profile decision making. Do you think that's a fair assessment of the Bush style, from your experience? I guess status quo because, as you just said, the revolution occurred earlier, the breaching of the walls with the Reagan administration, which left a different function for George Bush to fill.

Barr: Well, I think it's fair to say it is sort of a consolidation.

Baker: Okay, rather than a status quo.

Barr: You're consolidating the front lines after breakthrough. I think there was a lot of procedure in the Reagan administration, so I'm not sure that procedural—I think there was plenty of substance, but there were no bold domestic initiatives, or direction taken, or policies staked out generally. I think that would be fair.

His greatest accomplishments were in international relations, clearly. I'm not an expert on any of this, but my impression is that some of the advice he was getting on the economy was actually correct. The American economy needed to fundamentally reorient itself, and that required a painful process of certain industries downsizing, and people losing jobs and being retrained, and productivity increases being required in certain other industries, which means displacement of workers and so forth. I think the advice he was getting was that this was a difficult adjustment, but it was one that had to be done in order to set the stage for a more productive, growing economy, oriented more toward the technological, the new technology, the information age, and that interference in it would be detrimental.

Trying to come up with industrial policy to save certain industries or to prop up certain non-productivity could be counterproductive. I believe that the economy did go through that transformation, and there's no doubt about the increased productivity and growth that has been experienced, starting with the last quarter of 1992. It's been remarkable. It was an essential readjustment in the economy, and he paid the personal price for it. But his laissez-faire, to some extent—keeping hands off and letting it happen—was maybe, in a sense, the highest statesmanship. Doing the convenient thing and subsidizing industries and playing fair trade policies and things like that could have been very counterproductive. I'm not an economist, but I think there might be something—

Young: President Bush was suffering, in many ways, from the budget deal. There were still some accomplishments from that that had very long-term benefits in terms of restoring the economy—the caps on spending and so forth—which I think, in retrospect, will be viewed as the far more important aspect than the view that one had at the time. He had to pay a price, pay more taxes for that, but they did accomplish a fairly good regime of discipline on spending, from which the next President really benefited more than Bush did.

Barr: Right.

Young: You had something to do with President Bush on the disorder in Los Angeles, and the Rodney King beating, and this outbreak of violence that was more extreme, but perhaps not unique, in terms of the change in the climate of crime, or the types of crime. Was President Bush shocked by this dramatic event in Los Angeles? Did it have an effect on him? Did he see it as an indicator of something wrong that had to be fixed in America?

Barr: I can't tell the extent to which he was shocked. He seemed surprised and wondered what was going on, what was this all about and why the violence, that ugly violence. He asked me. Some people would probably disagree with what I told him, but I did lay a lot of it on gang activity.

Young: And you had a program to try and deal with that kind of thing.

Barr: Yes.

Young: But that didn't galvanize.

Barr: Well, no one stopped me. We did make a lot of progress against gangs. But he wasn't as comfortable in that policy area, I guess. My basic take was that this was not civil unrest or the product of some festering injustice. This was gang activity, basically opportunistic. I don't know why he wasn't more interested in these issues.

Young: How do you think a second Bush administration would have differed, if at all, from the first, if he had gotten reelected?

Barr: I don't know how much it would differ. It would have been considered more successful because the economy would have continued growing, and he would have gotten credit for that.

Young: Would there have been some changes made?

Barr: Personnel changes?

Young: Yes.

Barr: I assume there would have been, yes. Obviously, I don't think Baker was interested in staying on as Chief of Staff. I wasn't planning on staying the whole next term as AG. I probably would have stayed one year more, because I didn't have any money. I lost all my money. I had used up all my savings. I had $15,000 when I left government. I had three kids in private schools and a mortgage, so I couldn't afford to stay, even if I wanted to. So there would have been some changes.

Meador: Can you think of any other significant Cabinet changes that probably would have been made?

Barr: Somebody would have to remind me, let's see—

Meador: You had Eagleburger at State by that time, right?

Barr: I think he probably would have stayed in State.

Young: He was acting—

Meador: Did he ever become—

Young: Yes, I think he was confirmed, after it was all over. Darman? Do you think there would have been a change there?

Barr: I don't know. He may have been eased out. You know, Baker was always watching after Darman.

Young: That's another connection that may have had something to do with Darman's power.

Barr: Oh, sure.

Young: He had a powerful protector.

Barr: Without Baker, I think his power would have been a lot less. But, you know, he's a very commanding individual, he's a very bright guy. He's an engaging guy, also. I liked Darman in many ways. But Darman unleashed, I'm not sure is a good thing. [laughs] Basically, he became a symbol of what a lot of rank-and-file Republicans thought was wrong, as I say, the country club Republican types. And in some ways he deserved that label.

Young: I think of him as just a consummate inside-the-Beltway politician, and that was his career, very successful. He served a lot of people well, but never getting out, and perhaps he should.

Meador: You mentioned earlier today that you spoke several times at circuit judicial conferences. Do you remember in essence the sorts of subjects you discussed at those conferences?

Barr: They usually wanted me to talk about either judicial selection or federal law enforcement policy, why we were putting all these bad cases in the courtrooms. One of those two things was generally the topic. They usually wanted to talk about their big workload, and how they needed help, and I wouldn't get more judges through the process. Now, in retrospect, I think a big mistake was made in judicial selection. It was made over in Boyden's office, primarily, and among many, some of the true believers at the Department of Justice. It's like when you have a baby. Your first baby drops the pacifier, and you boil it in water. By the time you have your third kid, you pick up the pacifier and plug it right back in the kid's mouth. It was the same as selecting judges. These people get into office, and they start poring over some poor schlemiel who wants to be on the district court, and they're acting like this is a Supreme Court appointment. They want perfection, and they're worried about the person's views on this, this, this, and this. As a result, the process moved much too slowly.

My attitude was, Look, okay, circuit court judges, let's be a little bit more attentive to who we put on there and make sure they've got their philosophy straight and we're happy with it, okay? But we can't do that for every district court judge. And furthermore, district court judges aren't the ones ultimately making these decisions, the kinds of ones we're worried about. We want good, law and order-type judges who won't let prisoners out, and we want guys who aren't going to manage institutions and take over school systems and that kind of stuff. Basically we want guys who will throw out cases under summary judgment, craftsman-like judges. We don't need perfection. And frankly, if this guy is pro-abortion it doesn't—I'm anti-abortion myself, but I can live with a few district court judges who are not "right" on right to life.

There was too much grinding at the beginning, and we lost a lot of time. I think that was a big mistake. Part of my advice to the new Republican administration was "Don't look for perfection in every district court judge appointment. Just start getting them out there."

Meador: You mentioned earlier that you met sometimes with Rehnquist. How often did you meet with Rehnquist?

Barr: Just a couple of times.

Meador: In the whole time you were there?

Barr: Yes, at Justice. I talked to him about things like the rules, different conferences on rules, the state of the judiciary. I supported higher judicial salaries and that kind of stuff.

Young: We have about ten minutes left. Do you have thoughts on the Bush Presidency as a whole? What do you think it was best at, not so good at? How do you think history ought to look at this Presidency after everybody is away from the scene?

Barr: Well, first, in the wake of Clinton, the American people have been reminded—at least for the next couple of years until they forget it again—that there are certain attributes that they really do want in a President. People I talked to—even people who were upset with George Bush at the time and didn't vote for him—think very well of him now, because in retrospect they think he was a man of honor, and a man of character, and a man they were actually proud to have as President of the United States, as frustrated as some of them may have been with his policies at times. I think, in the wake of Clinton, Americans are reminded that that's not a bad thing to have in a President. Already, I think even in retrospect, the American people look at him well. They think he was a man of dignity and character and brought respect to the office.

I think, obviously, his greatest contribution will go down in history as dealing with the Vietnam syndrome in the sense that I think Americans had gotten themselves into the state of mind that they didn't want to see American military intervention, and they were always wringing their hands about it, and so forth. He used military power where it should be used, which is why we went over with a decisive force to achieve a clearly defined objective, and did it with just overwhelming force as quickly as possible, which is the only way you should use military power, in my opinion. But by doing that successfully and showing how it can be done, I think

Americans were a little more comfortable with using our power overseas. And I think ending the Vietnam syndrome was important for our psyche as a country.

Young: It was a good thing?

Barr: A very good thing, in my opinion. Restore a little bit of pride and a little bit of notion that America *is* a superpower, and we can use our military and use it well and achieve good objectives.

Meador: Following up on that just a second, there has been criticism in later times that he didn't go on and let our military forces wipe out the Iraqi Army. Was there any discussion about that at the time within the administration as to whether to keep going a little longer?

Barr: Well, there was discussion, but I wasn't a party to the real discussion. I'm sure it took place in the Oval Office with Cheney, Powell, and Baker. I think the big picture actually is that he was right in that decision. If you look at it from this standpoint: I think a big part of what he was doing was establishing a doctrine and an approach to using military power. You define your objectives in advance, you have the discipline to stick to them, use the force to achieve them at minimum cost to American lives. And then have the discipline to say when you've won, and declare victory. He never articulated the objective as overthrowing Saddam Hussein. It was always to liberate Kuwait.

Now, I do believe that part of the objective was to destroy the Iraqi war-making capability as much as we could, and we did. But I believe that a lot of the good of Desert Storm could have been undone if we had a protracted period of scurrying around fighting a guerilla war in Iraq, looking around for Saddam Hussein the way we spent two weeks looking around for Noriega in tiny Panama. I think we could have suffered more casualties. Our objective would have become more muddled.

What are we trying to do here? Replace a government? Replace it with what? Are we going to occupy this place? What's our objective once we start running around? Now, I don't think he was adverse to—in the context of the operation—trying to knock off Saddam Hussein. I think there were probably Cruise Missiles shot at places where they thought he was. But we weren't able to get him. Once the military objective was achieved, I think it was probably right to stop.

It's easy for armchair critics to say, "Oh, we should have finished the job." But you don't know what would have happened. A lot of what was good about Desert Storm could have been lost in a messy aftermath. So I personally don't criticize him for that decision. It's easy for people to—Iraq's not a small country and—

Young: There was not only what you call the turning around of the Vietnam syndrome, but there was also some historic work done—at least a precedent, perhaps—for international cooperation in that venture. It was really quite historic and important and very unusual, which probably would have not turned out as well as it did without Bush's personal imprimatur on that, because his papers and little notes that you see in the library on this show that he was constantly on the

phone negotiating the terms of that alliance for this purpose, and that was an extremely difficult—

Barr: He was masterful at it, and only he could have done it, I think. Reagan couldn't have done it, I don't think. Reagan could have done it with our military power, but not put together—But I think at the same time, Bush established a very important principle that Clinton has not observed, which is that despite the fact that we put together an international coalition and shared the cost of it, this whole thing, basically we broke even on the deal. The important thing was that America never subordinated our interests to a multinational organization. We didn't say, "Oh, only if you say—" We basically maintained our own national objectives and our own national command.

Meador: Why is it you say Reagan couldn't have put this thing together the way Bush did?

Barr: I don't think Reagan could have put together the international coalition the way Bush did.

Meador: Why not? Why do you say that?

Barr: I don't think he had the relationships or the stature—I mean, he had the stature as the President, but he didn't have the personal trust and relationships with international leaders that Bush did.

Young: And with some of them the old acquaintance.

Barr: Yes, long-time acquaintance. I think probably Reagan might have brought out more anti-American antibodies as well, than Bush did. Bush had a great team—Cheney and Baker and Powell, Bob Gates. Those were all great people. Part of the preparedness of American forces was obviously under Reagan. Bush continued those policies, but it was ending the Vietnam syndrome, and I think that will go down as a big achievement and could set the stage for a much better world, in my opinion.

More generally, other than his character, overall, I think the administration was an administration that was free from scandal. It was an administration that believed in good government and was not a highly partisan, politics-first kind of administration. It was actually an administration that cared about trying to do the right thing and was fairly competent in what it did. Maybe it wasn't politically successful, given the economic circumstances. But generally, across the board, I think that policies were fairly balanced, successful, reasonably conservative. Government wasn't viewed as the enemy, but by the same token, it wasn't a status approach to things. It was a decent administration. I don't know what other people say.

Young: Against some theories and expectations that when you have the White House in the hands of one party, and the Congress in the hand of the other, it's a formula for deadlock, stalemate, nothing can get accomplished. I think that cannot be said of the Bush years when measured against the expectation that nothing was going to happen. If you look at it that way, at the obstacle in getting anything through, and also the very judicious use of the veto power, I think it was used to help balance a partisan, unbalanced situation. And it worked out with not a

lot of acrimony that became public except some from the Republicans themselves who felt betrayed.

Barr: I think that's fair. I mean it is one that certainly I was acutely aware of at the time. I reminded people that it was trench warfare with the Hill, to some extent. It was very hard being in an administration where you had very partisan Democrats, and they were always dumping on you. And I reminded people that Reagan at least wasn't behind the eight ball all his eight years like that. A lot of what he accomplished proactively, he accomplished when he had working control of Congress, which Bush never had.

Meador: I had a feeling in the Carter years that Carter had more trouble almost with Democrats than he did with Republicans. Can you say anything about George Bush? Did he have more problems with some of the Republicans than he did with Democrats?

Barr: I don't know what he would say. I guess I wouldn't go that far. That's pretty extreme, because Democrats were a hell of a big problem. With friends like some of our Republican friends you don't need enemies. They're always the ones who will get you. Take this guy [James] Jeffords right now on the tax package. He's really hurting George W. Bush, one guy from Vermont. So they're always the worst enemy.

Young: Newt Gingrich did a few things to George Bush, didn't he? Things that didn't help him. S

[redacted]

Young: Ross Perot.

Meador: Yes, somebody we haven't mentioned today is Perot. Do you have anything to say about his role in the campaign there?

Barr: I think Perot is another example of ego. It was a very unfortunate situation.

Meador: Do you think he cost Bush the election?

Barr: I don't know. It was very hard for Bush to win, once he was in. I think there's no doubt that with him being in, it was almost impossible for Bush to win. The question is, if he was not there, would Bush have won? And I don't know the answer.

Young: I think we're obliged to get Bill Barr to his car in a very few minutes. I want to thank you very much for—

A Special Weekly Report From The Wall Street Journal's Capital Bureau

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Body

A HIGH-TECH SUMMIT at the White House is planned for this month.

Bush officials e-mail several hundred prospective CEO invitees seeking input on issues to be discussed. The confab comes as Bush high-tech supporters grumble that he is taking them for granted. "I haven't seen any focus" on telecom issues, says William Barr, Verizon general counsel and attorney general under Bush's father.

One problem is resolving who will be the point person on tech issues. Commerce Secretary Evans lobbies for putting the main advocate at his agency; the industry prefers one in the White House. One potential compromise: an interagency tech panel led by a cabinet official and an industry leader.

Venture capitalist Floyd Kvamme is asked to recruit in Silicon Valley for tech types willing to move to Washington.

RUMSFELD'S RULE: Don't move too fast on building a missile-defense shield.

The defense secretary appears likely to say no to a Pentagon plan to start construction in July on a ground-based shield similar to one Clinton proposed. The Pentagon would award a contract April 16 for site preparation in Alaska for the shield's radar. Missile-defense fans in Congress have hoped Bush would start work this year to show support for the system, but the move would create diplomatic tensions.

Pentagon officials say it doesn't matter whether work in Alaska begins this year or in 2002. The earliest a shield could be completed is 2006. Rumsfeld, meantime,continues to review several ground, sea and space-based options to ultimately develop a national missile-defense system.

BUSH BEGINS pushing Clinton-appointed prosecutors out the door.

Nearly a third of the 93 U.S. attorneys named by Clinton have already submitted resignations. Holdovers are given target dates for departing. But Alejandro Mayorkas in Los Angeles, who called the Clinton White House to advocate a pardon for convicted cocaine trafficker Carlos Vignali, is among those asked to leave soon.

In Chicago, Scott Lassar, who is probing a potential GOP bribery scandal, can stay until Illinois GOP Sen. Fitzgerald suggests a successor. But House speaker Hastert of Illinois prefers a faster exit. In New York, Mary Jo White, who is investigating the Clinton pardons, indicates she wants to stay on indefinitely.

After Clinton's mass firing of GOP appointees in 1993 was blasted by Republicans, the goal is an orderly phaseout.

BUSH'S TEAM restarts its hunt for a Securities and Exchange Commission chairman. Some focus on Pfizer Vice President Peggy Foran after Pfizer Chairman Bill Steere spurns the post. Others are sought for two other SEC seats; lawyers Stanford Ladner, backed by Sen. Lott, and Oliver Pennington, backed by Sen. Gramm, are candidates for a GOP seat.

MCCAIN GAINS another outlet to maintain a high national profile. The Arizona GOP senator will be Massachusetts Sen. Kennedy's sparring partner on the daily "Face Off" debate on 140 radio stations, which started with Kennedy and Bob Dole.

CARTER COMEBACK? Secretary of State Powell invites the former Democratic president in for a private talk that lasts about an hour. A top topic: what the U.S. could do about Africa's problems.

QUOTE ME: Leon Fuerth, who shunned the media as Gore's national security adviser, is promoted as a talking head on foreign policy. Furth "was known for avoiding the spotlight," his publicist concedes, but Gore "once described him as a cross between a rabbi and a stand-up comic."

FILTER FIGHT: The American Civil Liberties Union plans to sue on Tuesday to overturn a law requiring some schools and libraries to install pornography-filtering software on Internet computers. Backers include unsuccessful GOP congressional candidate Jeffrey Pollock, whose campaign Web site was blocked by software filters because of messages on abortion and gun control.

LOBBYING HEATS UP over federal funding for embryonic stem-cell research.

The Juvenile Diabetes Research Foundation, American Society of Cell Biology and others form an advocacy coalition. It hires Vicki Hart, who worked for GOP Senate leaders Dole and Lott, to lobby Congress. Meanwhile, the University of Wisconsin regents, most of whom were appointed by former Wisconsin governor and now Health and Human Services Secretary Thompson, vote to support federal funding; some research is done there.

GOP lawmakers opposed to the research, including New Jersey Rep. Smith, meet with Thompson to urge he block funding. More than 20 lawmakers write Bush arguing that research using adult stem cells is more promising in finding cures for diseases. Researchers dispute that.

A congressional foe of embryonic stem cell research says "every indication is that Bush is solid" on stopping funding.

MINOR MEMOS: The Modern Humorist Web site publishes a Bush scrapbook called, "My First Presidentiary." . . . At a synagogue here, Connecticut Sen. Lieberman joins in a song to the tune of "Piano Man" that ends: "We know that next time you can win it. If our Bubbies would just punch their cards right." . . . To avoid a Florida repeat, Los Angeles sends voters two pages of instructions for the coming mayor's election, including how to clear their own chads.

Notes

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THE LOCKERBIE VERDICT: NEWS ANALYSIS; Courts a Limited Anti-Terror Weapon

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Body

The split verdict today in the trial of two Libyans charged in the bombing of Pan Am Flight 103 brought to a muddled close a prosecution that represented one of Washington's most ambitious attempts to use criminal law as a weapon against a horrific act of international terror.

Like the trial of four defendants in New York charged in the 1998 bombing of two American embassies in East Africa, the trial in the Netherlands of the two Libyans demonstrated that the United States, and allies like Britain, seem intent on showing that they have options in responding to terrorism -- and are not limited to military force.

The government's reliance on forensic evidence and the standards of criminal law scored one success today: the murder conviction of Abdelbaset Ali Mohmed al-Megrahi.

The Scottish judges presiding over the trial sentenced Mr. Megrahi to life imprisonment, although he might someday be eligible for parole. Mr. Megrahi said throughout the trial that he was not guilty.

But to some of the victims' family members, and some American counterterrorism officials, the verdict against Mr. Megrahi and the acquittal of a second Libyan, Al Amin Khalifa Fhimah, was a deeply unsatisfying result.

The outcome seemed to underscore the limits of criminal law in these circumstances by failing to punish those viewed by some intelligence and law enforcement authorities as the real culprits: senior Libyan officials and Col. Muammar el-Qaddafi, Libya's leader.

With such a mixed result, today's verdict brought little sense of closure to the painful case of Pan Am 103. Instead, the trial's end confronted President Bush with his first vexing terrorism issue: what to do about Libya now.

Today, Bush administration officials said American sanctions against Libya would not be relaxed until its government accepted responsibility for the Lockerbie bombing and compensated the victims' families. United Nations sanctions were suspended but not lifted in 1999 when the suspects were handed over for trial.

At the Justice Department, Robert S. Mueller 3rd, the acting deputy attorney general, said the government would continue its investigation. "The United States remains vigilant in its pursuit to bring to justice any other individuals who may have been involved in the conspiracy to bring down Pan Am Flight 103," Mr. Mueller said.

But other officials said the United States was almost powerless to determine whether Mr. Megrahi's superiors were implicated in the bombing without the cooperation of Libya, which they said was unlikely.

Moreover, the verdicts left open broader questions about whether the rules of courtroom combat, with strict standards of evidence, are adequate in the face of brutal acts of terror. Such attacks are devised by the perpetrators to make it difficult, if not impossible, to detect who is responsible, and frustrate the criminal justice process.

The verdicts revived a longstanding debate among officials who deal with terrorism. Some experts have said that terrorism cannot be viewed as a criminal justice matter, like a bank robbery or a homicide. Instead, they have said, it is a national security threat that should be dealt with by military force when state sponsorship is proven.

William P. Barr, who was attorney general when the Justice Department brought charges against the two Libyans in 1991, said justice had been done in the case. But he added, "The main question is whether the criminal justice system is in itself the right response."

Although the record has been erratic, presidents have at times adopted more forceful approaches. President Clinton ordered cruise missile strikes after the East Africa embassy bombings. Those strikes were aimed at Osama bin Laden -- whom Washington accuses of being the mastermind of the attacks -- even though the bin Laden-inspired terrorist apparatus is a stateless organization of anti-American Islamic militants.

Senior American security officials have weighed how to respond to other terror attacks, like the bombing of the Navy destroyer Cole, which killed 17 sailors in October. So far, while the investigation uncovered possible links to Mr. bin Laden, no military action has been taken.

In 1986, President Reagan ordered air strikes against Libya after holding it responsible for a terrorist bombing at a discotheque in Berlin frequented by American servicemen. But there has never been any military action against Libya in response to Pan Am 103.

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If History Is a Guide, It's Risky for Bush Not to Pick Close Ally as Attorney General

The Wall Street Journal

January 17, 2001 Wednesday

THE WALL STREET JOURNAL.
U.S. EDITION

Section: POLITICS & POLICY; Pg. A28

Length: 1317 words

Byline: By David S. Cloud and Bob Davis, Staff Reporters of The Wall Street Journal

Body

WASHINGTON -- President-elect George W. Bush went outside his usual circle of friends and allies to nominate John Ashcroft as his attorney general. Will he come to regret it?

Even before John F. Kennedy picked his 35-year-old brother and campaign manager as the nation's top law-enforcement official in 1960, many incoming presidents have tended to value personal and political loyalty more than legal credentials in choosing their attorneys general. That's because a Justice Department run too independently of the president can cause the White House more problems than it solves. By picking an attorney general he isn't close to, Mr. Bush is taking that risk with former Missouri Sen. Ashcroft, whose confirmation hearings began yesterday before the Senate Judiciary Committee.

The new president can't be entirely confident how Mr. Ashcroft will respond if confronted by allegations of high-level administration wrongdoing. Nor is it certain that Mr. Ashcroft, who as a Republican senator had a long record of unyielding support for conservative positions on abortion, race and judicial appointments, will keep in step with Mr. Bush's sometimes more moderate stances on these and other issues. His nomination is strongly backed by conservative groups, while his views are under sharp attack from liberal groups.

"Ashcroft is a somewhat unusual attorney general pick because he represents a very strong constituency, and he doesn't have very strong links to Bush," says Paul Light, a scholar at the Brookings Institution. "He's somebody who may not be as unquestioningly loyal as past attorneys general have been."

Unquestioned loyalty has been a prerequisite for many in the job for much of the past four decades. Robert Kennedy learned he was getting the job after President-elect John Kennedy told him minutes before the announcement that he needed a cabinet member who would provide "the unvarnished truth, no matter what," according to an account in Evan Thomas's recent Robert Kennedy biography.

He felt the political pressures of the job acutely, according to Robert Blakey, a Notre Dame University law professor and former Justice Department prosecutor during the Kennedy years. At a meeting to discuss cases early in the

administration, Mr. Blakey recalls, prosecutors detailed several in which Democratic politicians, some close to the White House, were under investigation for ties to organized crime.

"If I don't stop doing this, my brother will put me on the Supreme Court, where I can't do any harm," he recalls Mr. Kennedy joking. Mr. Blakey says the investigations went forward without interference. But in other cases, the attorney general alerted the White House that investigators were pursuing potentially explosive allegations involving the president's ties to unsavory characters.

President Nixon also put a premium on political reliability. His first two attorneys general -- lawyers John Mitchell and Richard Kleindienst -- were active in his 1968 political campaign. The Nixon White House tried to take advantage of the situation to close off any investigation of the White House role in the Watergate break-in. At one point, Mr. Kleindienst called in Henry Petersen, the chief of the department's criminal division, for a meeting with White House lawyer John Dean.

Mr. Dean later testified that he told Mr. Petersen that "he didn't think the White House could stand a wide-open investigation." Mr. Petersen testified he gave assurances there wouldn't be a "fishing expedition" at the White House. Mr. Mitchell was later indicted for obstructing justice for his role in the coverup; Mr. Kleindienst pleaded guilty to a misdemeanor.

President-elect Jimmy Carter, who had promised during his campaign to choose an attorney general without regard to political considerations, turned to Griffin Bell, a personal friend and confidant. Ronald Reagan's two attorneys general, William French Smith and Edwin Meese, both were longtime associates and friends.

As in Watergate, however, personal ties were no guarantee that the White House could escape inquiry. A special prosecutor was appointed by Mr. Bell to investigate loans made by Carter friend Bert Lance's National Bank of Georgia to the Carter peanut warehouse; no wrongdoing was found, but the prosecutor's report embarrassed the Carters. And it was Mr. Meese and his aides who uncovered a memo laying out the diversion of arms-sales proceeds to the Nicaraguan contras during Mr. Reagan's presidency, though he was later criticized for his handling of the case.

There have been exceptions to the loyalist trend. At the height of the Watergate scandal, Mr. Nixon had no choice but to appoint Elliott Richardson, a Boston brahmin proud of his reputation for integrity, who appointed Archibald Cox as an independent special prosecutor. When President Nixon ordered Mr. Richardson to fire Mr. Cox six months later, he resigned rather than comply in what became known as the "Saturday Night Massacre."

When President Gerald Ford took office, he named Edward Levi as attorney general. Mr. Levi is seen as the model of the independent attorney general. A former University of Chicago president renowned for his probity and judgment, Mr. Levi helped restore the department's reputation in the wake of Watergate. Mr. Ford didn't know Mr. Levi personally before he offered him the attorney general position.

In nominating Mr. Ashcroft, Mr. Bush made a point of saying that he would foster "integrity" at a Justice Department whose reputation has been battered during Janet Reno's eight-year tenure as attorney general.

Ironically, as in Mr. Ashcroft's relationship with Mr. Bush, Ms. Reno had virtually no relationship with Mr. Clinton before coming to Washington. Nor has she been a particularly influential adviser to Mr. Clinton. She has been criticized for not appointing an independent counsel to probe the White House role in the 1996 campaign finance scandal and for reaching a plea agreement with Indonesian donor James Riady that requires no jail time. But, to the frustration of the White House, she also set in motion sensitive investigations such as that of Independent Counsel Kenneth Starr.

It's impossible to say how Mr. Ashcroft would respond if confronted by any allegations of wrongdoing in the Bush administration. William Barr, attorney general under Mr. Bush's father, says that an arms-length relationship is a plus for a president now that the independent prosecutor law has expired. That's because in cases of alleged White House malfeasance, the attorney general will have to do investigations himself, or appoint special prosecutors who report to him. That could make the pressure on Mr. Ashcroft even more intense than it was on Ms. Reno.

Loyal Propositions?
Some presidents have proposed appointing faithful allies to be attorneys general:
Attorney General(Years): Robert F. Kennedy(1961-1964)
Relationship to President: Kennedy's brother and campaign manager
Attorney General(Years): John N. Mitchell(1969-1972)
Relationship to President: Nixon's law partner and campaign manager
Attorney General(Years): Griffin B. Bell(1977-1979)
Relationship to President: Longtime Carter friend
Attorney General(Years): William French Smith(1981-1985)
Relationship to President: Reagan's friend and personal lawyer
Attorney General(Years): Edwin Meese III(1985-1988)
Relationship to President: Longtime top Reagan aide
But other presidents have picked nominees with whom they have little or no relationship:
Attorney General(Years): Elliot L. Richardson(1973)
President: Nixon
Previous background: State official; secretary of Health Education and Welfare and Defense
Attorney General(Years): Edward Levi(1975-1977)
President: Ford
Previous background: University president and professor
Attorney General(Years): Benjamin Civiletti(1979-1981)
President: Carter
Previous background: Justice Department official

Notes

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Telecom Act Gets Harsh Words, Lukewarm Praise At Summit

Newsbytes

August 21, 2000, Monday

Section: NEWS

Length: 534 words

Byline: Dick Kelsey; Newsbytes

Dateline: ASPEN, COLORADO, U.S.A.

Body

Finding out how the Telecommunications Act of 1996 is working is about the same as asking around to see how the big game went last night - it depends on who you talk to.

The act and the Federal Communications Commission (FCC) took their licks today at the Aspen Summit, but some praise was dished out as well, though the positives were lukewarm compared to some of the remarks from the act's detractors.

William P. Barr, executive vice president and general counsel of Verizon Communications, lashed out at the FCC's public interest test imposed on merging telecommunications companies.

"What they really do in the practical world is use it to extort concessions from anyone who's unlucky enough to have a merger over which they have jurisdiction," said Barr, "because they will say, 'You can't get the votes unless you do this and this and this.'"

Barr, who served as US Attorney General under President Bush, was executive vice president of GTE when it merged with Bell Atlantic early this year.

There to defend the telecom act and the commission was FCC plans and policy chief Robert Pepper, who noted Internet growth has doubled since the act took effect. He also said infrastructure investment has grown significantly among long distance, local exchange, power, pipeline and other companies in the backbone business - but not until very recently.

"What we have seen now is a result of competition directly related to the '96 act, this competitive dynamic between cable modems with high bandwidth networks provided by cable and high bandwidth networks provided on local loops."

Pepper said competition in residential and business markets generated by the telecom act triggered a tenfold jump in the cable modem count in 1998 - from 50,000 to 500,000 - and a similar growth rate of digital subscriber lines (DSLs) in the following year. And DSL is catching up fast.

"Junk economics," sniffed Peter Huber, a senior fellow at the Manhattan Institute, noting that the FCC has lost much of the litigation related to the act. Is that by design?

"The FCC knows they can win by losing," Huber said. "They continue to promulgate rules that will not hold up in court and have not held up in court while the status quo is maintained."

The act has a fan in Rick Bailey, newly-appointed vice president and chief counsel for AT&T Broadband, who says the law is "fabulously successful," pointing to statistics presented by the FCC's Pepper and blaming litigation tactics by incumbent local exchange carriers (ILECs) for delays in opening markets to competition.

Seemingly on the fence is Intel Corp. policy director Peter Pitsch, a former FCC official during the Bush administration.

The telecom act is "pretty much the way the world works," he said. "The fact that the act has such ambiguity in it is not an accident. There were some really tough issues that got punted."

But it was Barr who fired the harshest words, concluding his address by saying simply, "It's time for the FCC to get out of the way."

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Regional Bells Win Partial Court Victory --- FCC Rules Are Overturned On What Rivals Pay For Access to Networks

The Wall Street Journal

July 19, 2000 Wednesday

Section: ECONOMY; Pg. A2

Length: 1024 words

Byline: By Deborah Solomon, Staff Reporter of The Wall Street Journal

Body

A federal appeals court handed regional Bell phone companies a partial victory yesterday, striking down U.S. rules governing what they can charge competing carriers for leasing portions of their phone networks.

In so doing, the Eighth U.S. Circuit Court of Appeals in St. Louis further clouds the competitive local-phone environment by creating uncertainty about what rival carriers will be required to pay to connect to the regional Bells' networks. The ruling also could ultimately hurt some consumers.

The companies' "interconnection agreements" have already prompted scores of lawsuits across the country, with incumbent Bells and competitors fighting over price and access. The opinion will likely require most states to renegotiate those prices, a process that could take months, industry observers said.

But the decision also delivered a severe blow to the Baby Bells by rejecting their contention that the prices they charge should include the historical costs they incurred in building out their phone networks. Using that model could have resulted in higher prices for competitors.

The opinion throws out a pricing model crafted by the Federal Communications Commission that essentially required the Baby Bells to charge competitors discounted rates for connecting to their networks. Instead, the court said the price should be based on what it costs the incumbents to provide network elements -- such as local phone lines -- to competitors.

Under the ruling, consumers could face higher prices for some services offered by competitive carriers. While carriers now receive a discount of about 50% on the prices they pay the Bells, the new pricing method would probably result in discounts of only 30% to 40%, said Scott Cleland, a telecom analyst with Precursor Group. Some carriers may pass those increased costs along to customers, analysts said.

Because the incumbent carriers control the critical "last mile" that connects the phone company's network to a customer's home or business, the nation's roughly 600 competitive carriers must lease portions of the incumbent's network to provide phone and Internet service.

Competitors of the Bells said the court's decision, while it may delay competition, was not a total disaster. John Windhausen, president of the Association for Local Telecommunications Services, said the impact on competitive carriers and customers will be minimal in the short term, because current prices were set when the FCC's pricing methodology was stayed by an earlier Eighth Circuit decision under laws and policies that are not affected by yesterday's decision.

Others say the financial impact of the decision is a wash. "For competitive carriers, the part that is unfavorable is the disruption and the fact that the interconnection agreements have to be redone," said Dhruv Khanna, general counsel for Covad Communications Group, a competitive telecommunications provider.

Overall, he said, the decision is positive for his company and other carriers because it doesn't allow the Bells to assume historical costs when setting prices.

The Eighth Circuit struck down current rules that call for the Bells to set prices based on a "hypothetical" model that considers what it would cost the Bells to provide those network elements if they were operating an efficient, state-of-the-art network. That model was used because regulators didn't want competitors to be penalized for the older, legacy networks operated by many of the Bells.

The court said the hypothetical model violated the 1996 Telecommunications Act because Congress "was dealing with reality, not fantasizing about what might be." It sent the pricing rules back to the FCC, which may ask for a stay of the ruling, appeal it to the U.S. Supreme Court or quickly draft new rules. The agency hasn't made a decision about what course to take, FCC officials said.

Industry observers view the court's opinion as "throwing the process into disarray once again" and will result in at least another year of legal wrangling over the 1996 Telecommunications Act, according to Charlie Kennedy, a telecommunications attorney with law firm Morrison & Foerster in Washington.

Several of the incumbent carriers said they considered the opinion a total victory.

"Today's ruling . . . vindicates our view that [the FCC model] unlawfully denies incumbent carriers recovery of their real-world costs," said **William P. Barr**, general counsel for Verizon Communications Inc. and former U.S. attorney general.

FCC Commissioner William Kennard said there are "no clear winners or losers in today's decision." While the court rejected the pricing model of the incumbents, it also "did not fully accept the FCC's pricing principles."

Industry observers expect this opinion, like so many others surrounding the 1996 act, to be appealed. This is just the latest chapter in a long-running saga over the act. The Supreme Court in February 1999 upheld most of the FCC's implementation of the act, but sent pricing and some other issues to the Eighth Circuit for review.

Mark Wigfield contributed to this article.

The Last Mile

A federal appeals court struck down pricing rules drawn from the 1996

Telecommunications Act

Who it impacts: The Baby Bells and competitive telecommunications carriers, such as Covad Communications Group, Pac-West Telecomm Inc. and Northpoint Communications Group.

What it means: Competitive carriers may face higher prices for some `network elements' including local loops, as a result of the opinion, which changes the pricing model under which Baby Bells can set their rates.

How it will Effect consumers: If competitive carriers have to pay higher prices, their customers could also face higher rates if providers pass along their extra costs.

When something will happen: Not for a while. The opinion heads to the Federal Communications Commission, which can either draft new pricing rules or take legal action. The FCC may ask for a stay of the opinion or appeal it to the U.S. Supreme Court. No decision has been made. The ruling doesn't take effect for 45 days, and the FCC must appeal to the Supreme Court within 90 days.

Notes

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Court Strikes Down Rules For Phone Company Prices

The New York Times

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Byline: By SETH SCHIESEL

By SETH SCHIESEL

Body

A Federal appeals court handed local telephone companies a legal victory yesterday as it struck down pricing rules that Federal regulators had hoped would foster competition in local communications markets.

The Federal Communications Commission, whose rules were overturned, could ask the Supreme Court to review yesterday's decision. But if the ruling stands, it could entail millions of dollars in additional network-connection costs for long-distance giants like AT&T and Worldcom as well as for new companies that are trying to break into the local telephone business.

Put simply, yesterday's ruling could lead to an increase in the fees that other companies pay for connecting to the networks of incumbent local carriers. When AT&T or a small start-up offers local phone service in New York, for example, the company usually pays a fee to Bell Atlantic (which recently merged with GTE and renamed itself Verizon) for using the copper wires into customers' homes. Yesterday's ruling could lead to an increase in that fee.

"In a nutshell I think this means these rates will go up," William P. Barr, the former Attorney General who is Verizon's general counsel, said in a telephone interview yesterday. Using the telecommunications shorthand "CLEC's" to refer to new local phone companies as competitive local exchange carriers, he added, "To the extent that CLEC's have been getting a free ride, that's going to stop."

An AT&T official, speaking on the condition that he not be identified by name, said: "The fact that so few American consumers have a choice of local service is regrettable. If the price for interconnection with the incumbent network goes up, it will only make this process harder, if feasible at all. It will hardly be a victory for public policy."

In the Telecommunications Act of 1996, the government required incumbent local phone companies -- not only the Bells but also carriers like GTE and Southern New England Telecommunications -- to open their networks to outside competitors.

To implement that requirement, the F.C.C. came up with a system to determine just what the incumbents could charge competitors for using the necessary elements of their networks to provide local service. The commission's system required the incumbents to charge as if they used the most efficient, technically advanced communications equipment on the market. That methodology was meant to encourage the incumbents to invest in their networks and also to make it less expensive for new carriers to enter local markets.

But the incumbent phone giants, which do not always use the most efficient, technically advanced equipment on the market, protested that the rate system was unfair and that the prices they were allowed to charge were in some cases below their actual costs. The incumbents argued that they should be able to charge fees based on their actual costs, not the costs of a hypothetical network.

Yesterday, a three-judge panel for the United States Court of Appeals for the Eight Circuit, in St. Louis, agreed with the local carriers, saying that the F.C.C. rules violated the communications act itself. "Congress was dealing with reality, not fantasizing about what might be," the court wrote.

The decision invalidating the pricing rules would not take effect for 45 days. An F.C.C. official said a decision on whether to ask for a stay and whether to appeal the ruling could come within weeks.

"There are no clear winners or losers in today's decision," William E. Kennard, the F.C.C. chairman, said in a released statement. "We will take immediate steps to minimize any uncertainty created by this decision while continuing to foster competition and consumer choice in local telephone service."

The local phone incumbents did lose in one major aspect of the court's decision. The incumbents had asked the court to overturn the F.C.C.'s practice of basing prices on future network costs, rather than on historical costs for building those systems. The court rejected that argument, which could have enabled the local carriers to charge even higher prices for connecting to their networks.

But on balance, yesterday's decision was a victory for local phone carriers. In addition to invalidating the F.C.C. rate structure, which covered piece-by-piece access to networks, the court paved the way for the local incumbents to increase the wholesale rates they charge for providing a complete package of local services to competitors.

The court also made it easier for local phone incumbents in rural areas to avoid having to open parts of their networks to outsiders.

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Restoring Justice:; If Bush wins, a great and urgent task

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June 5, 2000

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IN the span of a few hours on January 8, 1982, the Reagan Justice Department, in office less than a year, wrapped up three troublesome cases it had inherited from previous administrations. First, the department withdrew a mammoth antitrust suit against IBM. William Baxter, the new head of the antitrust division, explained that he had little choice in the matter; after 13 years of trying, the Justice Department simply didn't have much of a case. Next, Baxter announced the settlement of an equally mammoth antitrust suit against AT&T-in a historic deal that led to the breakup of the phone company. And finally, the department reversed the government's position in the Bob Jones University case, in which the school had challenged the Internal Revenue Service's policy of denying tax-exempt status to institutions that discriminate against blacks. Saying the IRS had made up the policy on its own, with no authority from Congress, the Reaganites sided with Bob Jones.

Bang, bang, bang. It was a decisive example of a new administration clearing the decks, getting rid of high-profile cases that had languished in the Nixon, Ford, and Carter administrations and freeing the Justice Department to work on the new president's agenda.

Next January, if George W. Bush wins the White House, Republicans will, for the first time in 20 years, take over the department following a Democratic administration. There will again be plenty to clear out-the Microsoft case will likely linger into the next year, to name one big example-but Republicans will face problems far greater than any pending court case. The Clinton Justice Department, in the view of many in the GOP as well as some independents and Democrats, has been deeply compromised by a series of fundamentally political initiatives-lawsuits against tobacco companies, threats of suits against gun manufacturers-and by its own actions in investigations involving the president and other top administration officials. Unlike the Carter/Reagan transition, which veterans of both sides remember as a smooth hand-off between lawyers who had a mutual respect, the greatest challenge facing Repub licans in a Clinton/Bush transition would be the restoration of the department's integrity. "There's been a leadership vacuum, and the department has been politicized," says former Bush administration attorney general William Barr. "The primary task will be to rebuild professionalism and morale-the department has to be re-professionalized."

SMOKED OUT

One of the earliest and biggest decisions a new attorney general will have to make is what to do with United States v. Philip Morris, R. J. Reynolds, Brown & Williamson, Lorillard, Liggett, and American Tobacco. Announced by Bill Clinton in his January 1999 State of the Union address, and filed by the Justice Department last September, the lawsuit accuses cigarette makers of a 45-year conspiracy to deceive the government and the public about the health risks of smoking. It asks that the tobacco companies be forced to turn over all profits earned as a result of the conspiracy-in effect, everything they have made since the mid 1950s.

The problem with the suit, according to many experts, is that it has no firm basis in law. The Justice Department argues that a statute providing for the government to be reimbursed for the treatment of injured soldiers, a law

covering Medicare insurance, and RICO, the federal racketeering statute, together empower the government to sue Big Tobacco. "I was surprised that the federal government was even bringing a case, unless it was just to put the companies out of business," says Carter administration attorney general Griffin Bell, who in private practice has represented Brown & Williamson. Adds Michael Uhlmann, a veteran of the Ford Justice Department and Reagan White House, "It's so novel and so potentially mischievous that it would be irresponsible for the new administration not to take a very, very hard look at it."

And look at it they would. While George W. Bush has not said what he would do with the case, he has stated on many occasions that he believes in "legislation instead of lawsuits." If he is elected, and if that principle guides his decisions in office, it is possible that a Republican Justice Depart ment will withdraw the suit, bringing the litigation-and a major part of Bill Clinton's war on Big To bacco-to an abrupt end.

The department might well make a similar decision in the case of gun manufacturers. Housing secretary Andrew Cuomo has threatened to sue gun makers unless the companies agree to a number of concessions that the administration calls "gun safety" measures. Although Cuomo is leading the charge, if a suit were ever brought, it would be the Justice Department's job to do the suing. A new attorney general might conclude that, as in the case of tobacco, the gun suit has no legal grounding-that any action on the issue should come from Congress, not from the courts-and dispense with Cuomo's campaign.

Beyond that, a new Justice Department would look at dozens of other politically tinged Clinton initiatives. Justice's efforts to take over police departments in New York and Los Angeles would certainly face scrutiny. So would dozens of decisions in the field of civil rights and affirmative action, where the administration has supported racial preferences in education and numerical remedies in employment cases, among other things. The same would be true of the department's defense of racially gerrymandered congressional districts.

Finally, the department would have to finish up the case of United States v. Microsoft. Although a new administration would have the option of reversing course-it could still withdraw the case, in spite of Judge Thomas Penfield Jackson's ruling that Microsoft is a monopoly-it seems more likely that a new attorney general would decide against any drastic action. "I do not think the next administration can or would disown the Microsoft case," says Stuart Gerson, who headed the department's civil division in the final years of the Bush administration. "It's a decided case." But Gerson is quick to add that a new administration might have new ideas on the proper remedy for the Microsoft monopoly; even though the Clinton administration has called for the company to be broken in two, a Republican Justice Department might throw its weight behind a less severe penalty.

THE HANGOVER OF SCANDAL

As complex as those cases are, a new attorney general would face a far more delicate task in dealing with the legacy of the Clinton scandals and their effect on the Justice Department. The department's credibility has been enormously damaged by its behavior in the campaign- finance investigation and the Monica Lewinsky affair-to name just the two most serious examples-but there are serious questions about what a new administration could do to make things right. Should it devote time and energy to investigating the investigations? Or simply strengthen safeguards against corruption and move on?

First, campaign finance. When Janet Reno resisted calls from Republicans (and some Democrats) to ask for an independent counsel to investigate the web of illegal foreign donations to the 1996 Clinton/Gore reelection campaign, she committed Justice itself to a probe that would touch on the president, the vice president, and top White House and Democratic National Committee officials. Reno chose a relatively low-ranking prosecutor to head a new campaign-finance task force, and then made sure the investigation's scope was severely limited. Even when Reno was forced to bring in a respected prosecutor, Charles La Bella, to head the investigation, she maintained tight control.

"They did not use the tactics that are normal in most cases, which is you get the smaller fry and work your way up," says Sen. Fred Thompson, who had many unhappy run-ins with the department in the course of his own campaign-finance investigation. (Thompson was for several years a federal prosecutor.) "They were prohibited from doing that

in some cases, and that's just short of a cover-up." All the while-even after it was revealed that La Bella and FBI director Louis Freeh favored an independent counsel-Reno remained dead-set against an outside investigation. In the end, she made plea-bargain deals with two of the main figures in the scandal, John Huang and Charlie Trie, in which both men got no-jail, wrist-slap punishments and did not admit any wrongdoing relating to the 1996 presidential campaign.

Reno's actions left more than a few Republicans sputtering with rage and frustration. But what can be done now? There are some who would urge the new attorney general to take a look at the conduct of the campaign-finance investigation, perhaps by appointing a quasi-independent group of outsiders, like retired federal judges, to conduct a probe. "Given the cloud that has hung over a lot of these investigations, any new administration would want to take a thorough look at that," says Michael Uhlmann. The new attorney general, Uhlmann adds, "would need to know whether it was simply a matter of mistakes being made, or whether there was something worse."

Others aren't so sure. "I'm skeptical that a new department would devote substantial resources to going back over those," says William Barr. "My guess is that a new Justice Department would probably leave a lot of those investigations to Congress." And would Congress be terribly interested? "I think that's pretty much all over with," says Fred Thompson. "I think the new administration ought to be mostly forward looking."

The same reasoning might apply to the issue of the department's conduct in the Lewinsky matter. In many episodes during the investigation, Reno and her subordinates supported White House positions against independent counsel-and fellow Justice Department prosecutor-Kenneth Starr. For example, on the questionable and ultimately discredited notion that there was a "protective-function privilege" barring Secret Service officers from testifying before Starr's grand jury, Reno sided with the president in a way that seemed designed to delay the probe with months of litigation.

Then there was the department's decision to investigate Starr himself. In November 1998, just days before Starr's much-awaited testimony before the House Judiciary Committee, Reno called him to the Justice Department and sprang the news that the department's Office of Professional Responsibility was investigating alleged misconduct by his office. It seemed like a clear attempt to undermine a duly appointed prosecutor. According to authors Susan Schmidt and Michael Weisskopf in the new book Truth at Any Cost: Ken Starr and the Unmaking of Bill Clinton, Starr was furious, "unable to comprehend how an attorney general could launch an investigation of the author of the impeachment referral just as Congress was getting ready to act on it."

Starr told Reno it was vitally important that the Office of Professional Responsibility probe be kept secret. Reno promised there would be no leaks. "If it's public," she said, according to Schmidt and Weisskopf, "the only person madder than you is me." What Starr didn't know was at that very hour his office had received a call from a reporter who had gotten word of the new investigation. The Justice Department had leaked the news even before Starr was finished hearing it.

While the incident showed the department acting in bad faith to protect the president and harm the prosecutor, and no doubt tarnished the reputation of the department in some Washington legal circles, there seems little that a new attorney general could-or should-do about it. "When you're looking at the Justice Department and Starr, the department wasn't really the problem," says one former Republican official. "If you focus too much on Janet Reno, you miss it, because it's the Clinton administration-the publicity machine that the government ran designed to denigrate Ken Starr." Whatever the case, it's all over now, and a new administration would be unwise to spend the political capital required to reopen the case.

Instead, a new attorney general must address the question that was at the center of Janet Reno's tenure: How should the Justice Department deal with allegations of wrongdoing by high government officials? The problem is sure to arise in a new administration and is especially critical now that the independent-counsel law has expired. If the next attorney general doesn't answer the question quickly and straightforwardly, he'll inevitably find himself in the middle of a scandal with no rules to go by.

CLEANING HOUSE

Looking back, it's clear that many of the problems of the Clinton Justice Department began to emerge even before Bill Clinton took office. First the president-elect let the entire transition period pass without a solid candidate for attorney general. Then, once in office, he backed down from his first choice of Zoe Baird, unsuccessfully floated the name of Kimba Wood, and finally settled on third choice Reno, who wasn't sworn in until March 12, 1993, seven weeks into the new administration.

Even worse, the new president-and First Lady-seemed eager to run the department from the White House. They installed Webster Hubbell, a friend of both Clintons, as the No. 3 official in the department. By 1995, Hubbell was in prison, guilty of cheating his law clients. "The idea of having someone like that in the department for a long period of time, having him plead and be unrepentant, having him refuse to cooperate with law enforcement, sent a terrible message," says one former Republican Justice official. "Terrible." At about the same time, the new administration seemed unconcerned by charges of partisanship and mismanagement when it took the extraordinary step of firing every United States attorney in the country. "That made my jaw drop," Michael Uhlmann recalls. "Most U.S. attorneys are not active partisans, and, although the attorney general had the right to dismiss them, there was no particular reason why one would wish to exercise it." And then came the investigations of the president. In early 1994, Reno appointed a Whitewater special prosecutor, Robert Fiske, only after the White House gave her the signal to do it. Then, after a panel of federal judges fired Fiske and appointed Starr-this was long before the Lewinsky scandal-Reno stood by silently as the president resisted subpoenas and actively encouraged witnesses not to cooperate with prosecutors.

But being vulnerable to the whims of the White House compromised the Justice Department's performance in matters stretching far beyond the investigations of high officials. It also made the department vulnerable to foolish ideas like the tobacco lawsuit. In 1997, Reno told Congress that she had no legal grounds on which to bring the suit. The next year, after the president made it clear that a tobacco suit would be a featured part of his legacy, she decided that there was a basis for action after all. To run the case, she hired a veteran antitobacco activist who had spent his career working for Ralph Nader, Henry Waxman, and David Kessler. And then she claimed that politics played no role in the matter.

The result of all of this is that the Justice Department is in a precarious state as the presidential election approaches. Everyone interviewed for this article stated strongly that it is crucial for the next president to appoint an attorney general who is not only a person of integrity but who also has the strength and skill to restore the department's independence from the White House. "It will be the biggest challenge of the next administration," says Fred Thompson. "The attorney general has been in over her head, and the department has suffered substantially. You have to restore competence, management, and morale."

And who could do that? It's hard to argue the case for Al Gore. Not only has the vice president made passionate statements supporting administration policies on issues like tobacco and guns, he has also defended the president repeatedly and emotionally through the course of several scandals. And just for good measure, his brother-in-law was a top official in the department for most of the Clinton years. It seems unthinkable that Gore would initiate the reforms the department needs so badly. That kind of overhaul could come only with a turnover in parties controlling the executive branch. "If you want to clean house, it would be better to have a Republican," says Griffin Bell. "Then, you can just change everybody."

Load-Date: May 26, 2000

Document: SWEET LITTLE LIES

SWEET LITTLE LIES

Richmond Times Dispatch (Virginia)

May 23, 2000, Tuesday,, CITY EDITION

Section: EDITORIAL,

Length: 287 words

Body

An astounding tidbit stood out in a blistering piece in The Boston Globe: Al Gore has trouble telling the truth.

Everyone already knows the alpha male was reared on a tobacco farm in Carthage, Tennessee.

They know he saw (define saw - with his eyes, or engaged in?) combat in 'Nam; they know he invented the 'Net.

All fibs. Little white lies. Bunk.

In a 1984 ad Gore's campaign claimed, "He wrote the bipartisan plan on arms control that U.S. negotiators will take to the Russians." But Kenneth Adelman, who led the U.S. Arms Control and Disarmament Agency at the time, retorted, "That is a vast overstatement. He had nothing to do with what we proposed to the Soviets."

So, the Vice President used a teevee commercial to stretch the truth. Sound familiar?

In the heat of the 1997 gubernatorial race, Democratic candidate Don Beyer aired an ad throughout the Commonwealth proclaiming, "[Beyer has] worked to abolish parole and to put criminals behind bars."

Former U.S. Attorney General **William Barr**, who served as a co-chairman of the Commission to Abolish Parole, fired off a corrective:

It simply is not true. In fact, it's flat-out dishonest . . . . I was there and he had as much to do with abolishing parole as the man in the moon.

And Richmond lawyer Frank Atkinson, who negotiated for Governor George Allen during the parole debate, told reporters Beyer "absolutely did not lift a finger."

The Northern Virginia Volvo dealer was trounced at the polls.

The lesson? Many politicians - including GeorgeW and AlG, DonnieB and JimmieG - exaggerate their achievements, resumes, and records. Yet when a pol gets caught in one white one too many, it may lead to voter distrust - and defeat.

Classification

Language: ENGLISH

Subject: PAROLE (90%); CAMPAIGNS & ELECTIONS (89%); US DEMOCRATIC PARTY (78%); POLITICAL CANDIDATES (76%); ARMS CONTROL & DISARMAMENT (75%); VOTERS & VOTING (73%); GOVERNORS (73%)

Company: UNITED STATES ARMS CONTROL & DISARMAMENT AGENCY (55%)

Organization: UNITED STATES ARMS CONTROL & DISARMAMENT AGENCY (55%)

Person: DON BEYER (75%); AL GORE (73%)

Geographic: RICHMOND, VA, USA (68%); TENNESSEE, USA (79%); VIRGINIA, USA (79%); UNITED STATES (92%)

Load-Date: May 27, 2000

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 02:00:59 p.m. EST

Document: Boom Times Continue to Fuel Law-Firm Billings

Boom Times Continue to Fuel Law-Firm Billings

The Wall Street Journal

March 13, 2000 Monday

Section: LAW; Pg. B17

Length: 543 words

Byline: By Margaret A. Jacobs, Staff Reporter of The Wall Street Journal

Body

Law-firm billing rates continue to rise, as the legal industry benefits from the economic boom.

Attorneys with major law firms, and their clients in corporate law departments, say in interviews that legal rates have already risen 5% to 10% this year, as they have for the past three or four years. And more increases could be coming as some firms try to recoup higher salaries paid to associates who are tempted to jump to Internet-related businesses.

Law firms that serve the technology industry are leading the pack both in terms of raising junior-lawyer salaries and in raising hourly billing rates.

"I don't know if it's because law firms are especially busy now or whether it's a reaction to what they need to pay to retain top talent -- but the increases far exceed inflation," says Karen Flynn, associate general counsel of Elf Atochem North America Inc. in Philadelphia.

The Seattle law firm Preston, Gates & Ellis provides a case study of what is going on. Preston Gates, which has 325 attorneys and has done work for Elf Atochem in the past, although not recently, expects

to raise the hourly rates it charges clients about 5% on April 1, says Chairman Richard Ford. The increase would slightly exceed last year's, he adds.

Lawyers in a few hot practice areas, including technology, probably will see "double-digit" increases in their rates, Mr. Ford says, while some partners will have rises of as much as 20%.

Microsoft Inc. is Preston Gates's largest client, and technology companies provide one-third of the law firm's business. Microsoft Chairman Bill Gates is the son of William H. Gates Jr., a retired partner with Preston Gates.

On the associate-salary front, Preston Gates is considering following competitors that have increased the starting salary for first-year associates in Seattle by 47%, to $125,000 from $85,000. The firm has already put through that increase in its San Francisco branch office.

At some other top firms, the billing rate for first-year associates has risen 33% this year, to $200 an hour from $150, says Joseph Altonji of Hildebrandt International Inc., a law-firm consultant based in Somerset, N.J. "Many of these firms have unsolicited work coming in the door daily," says Mr. Altonji. "With these firms, the companies don't resist" the increases.

But Stephen Bokat, general counsel of the U.S. Chamber of Commerce in Washington, predicts there will be a "huge backlash" from companies outside the technology world if law firms try to pass on additional associate-salary increases.

Elf Atochem's legal department is already assessing the increases with an eye toward negotiating decreases, says Ms. Flynn. The most likely candidates for reductions: firms performing routine matters. Those representing the company in sensitive litigation are the least likely to be asked to renegotiate, she says.

GTE Corp. General Counsel **William Barr** says he has responded to the fee increases by shifting work away from New York firms, which tend to have the highest hourly rates. He uses firms in Texas, Chicago, Los Angeles and Richmond, Va., that have also passed along increases but have relatively lower hourly rates overall. He says he avoids firms that put many young lawyers on matters. "They're pretty ineffective," he explains.

Notes

PUBLISHER: Dow Jones & Company

Classification

Language: ENGLISH

Publication-Type: Newspaper

Journal Code: J

Subject: LEGAL SERVICES (92%); LAWYERS (92%); WAGES & SALARIES (90%); LAW PRACTICE (90%); LAW FIRM BILLABLE RATES (90%); CORPORATE COUNSEL (89%); INTERVIEWS (89%); LAW FIRM ASSOCIATE SALARIES (89%); INFLATION (78%); BUSINESS & PROFESSIONAL ASSOCIATIONS (73%); CASE STUDIES (73%); CHAMBERS OF COMMERCE (70%); C31 Markets/Marketing; C314 Pricing; CCAT Corporate/Industrial News

Company: K&L GATES LLP (92%); ARKEMA INC (83%); MICROSOFT CORP (54%)

Ticker: MSFT (NASDAQ) (54%)

Industry: LEGAL SERVICES (92%); LAWYERS (92%); LAW PRACTICE (90%); LAW FIRM BILLABLE RATES (90%); CORPORATE COUNSEL (89%); LAW FIRM ASSOCIATE SALARIES (89%); I835 Law Firms; IBCS Business/Consumer Services

Person: BILL GATES (89%)

Geographic: SEATTLE, WA, USA (92%); WASHINGTON, USA (92%); NEW JERSEY, USA (79%); PENNSYLVANIA, USA (79%); UNITED STATES (92%); NORTH AMERICA (79%)

DJI Codes: IDU, NND, ICS, LAW, SVC, DIG, DSV, EMB, IOV, PRC, WSJ, NME, LLW, LMJ
DJI Descriptors: Industrial, Newswire End Code, General Industrial & Commercial Services, Law Firms, All Industrial & Commercial Services, Industrial Goods & Services, Professional Services, Embargoed Journal Stories, Industry Overview, Pricing, Wall Street Journal, North America, Law, Large Majors

Load-Date: December 5, 2004

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:59:41 p.m. EST

Document: GTE Welcomes AOL Time Warner's Statement on Open Acc…

GTE Welcomes AOL Time Warner's Statement on Open Access

Business Wire

February 29, 2000, Tuesday

Length: 460 words

Dateline: WASHINGTON, Feb. 29, 2000

Body

GTE sees America Online and merger partner Time Warner's commitment to the principles of non-discriminatory open access on Time Warner's cable systems as a positive first step towards giving consumers a choice of Internet service providers (ISPs).

"We're pleased that AOL and Time Warner have agreed to open their high-speed cable service to multiple ISPs. While their statement leaves some important areas unaddressed, GTE applauds it as an important step in the direction of open access," said **William P. Barr**, GTE Executive Vice President and General Counsel. "Among its most positive features are AOL Time Warner's commitment not to discriminate against unaffiliated ISPs; a promise not to limit customers' ability to watch streaming video; and a commitment to allow ISPs to have direct relationships with their broadband customers. This is a strong rebuke to the rest of the cable industry, which has refused to allow their customers to have the same choice of ISPs in the broadband world as they have today with dial-up' Internet access. Moreover, it stands in sharp contrast to the hollow statements made by AT&T, which have been so hedged by restrictions and caveats as to be meaningless. The rest of the cable industry should embrace these principles and work towards opening their networks to fulfill the promise of the 21st century Internet.

"The AOL Time Warner statement itself highlights a major obstacle to achieving open access. Their commitments are expressly made subject to Time Warner's restrictive agreements with other cable companies and its affiliated ISP, Road Runner. This difficulty demonstrates the grossly anti-competitive effects of the cable companies' interlocking ownerships and web of horizontal and vertical agreements, all designed to perpetuate their video monopoly and leverage it to limit competition in the Internet world. Indeed, by its attempt to acquire Media One, AT&T is not only expanding its restrictive practices over more of the industry but, through Media One's ownership interest in Time Warner and Road Runner, is putting itself in the position where it can thwart AOL Time Warner's ability to implement its commitments," said Barr.

In response to the AOL Time Warner announcement, Evertt Williams, GTE Vice President-National Data Market Management, stated that, "GTE intends to initiate commercial negotiations to ensure that its own ISP - GTE.net - obtains non-discriminatory access to both AT&T's and AOL Time Warner's broadband cable system."

Editor's Note: Today AOL and Time Warner issued a memorandum of understanding (MOU) setting out its commitment to open access.

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Classification

Language: ENGLISH

Subject: CONSUMERS (90%); AGREEMENTS (89%); EXECUTIVES (75%); LAWYERS (72%); CUSTOMER RELATIONS (72%)

Company: AOL INC (98%); AT&T INC (86%); AOL INC (98%); AT&T INC (86%)

Ticker: T (NYSE) (86%); GTE T (NYSE) (86%)

Industry: CABLE INDUSTRY (93%); COMPUTER NETWORKS (90%); BROADBAND (90%); INTERNET SERVICE PROVIDERS (90%); TELECOMMUNICATIONS SERVICES (89%); ENTERTAINMENT & ARTS (88%); (88%); INTERNET VIDEO (78%); INTERNET & WWW (78%); STREAMING MEDIA (73%); LAWYERS (72%)

Load-Date: March 1, 2000

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:37:04 p.m. EST

BAM, GTE and Alltel swap markets

Radio Comm. Report

February 7, 2000, Monday

Section: Pg. 6

Length: 735 words

Byline: Hilary Smith

Body

NEW YORK-Bell Atlantic Corp., GTE Corp. and Alltel Corp. signed an agreement last week to exchange wireless interests in 13 states, eliminating the overlapping cellular properties that would result from the combination of Bell Atlantic and Vodafone AirTouch plc, announced Sept. 21, the companies said.

Bell Atlantic and GTE will transfer wireless interests in 27 markets, involving 14 million pops, in Alabama, Arizona, Florida, Ohio, New Mexico, South Carolina and Texas.

Alltel will transfer interests in 42 markets, involving about 8.9 million pops, in Illinois, Indiana, Iowa, Nevada, New York and Pennsylvania, and pay about $600 million in compensation to Bell Atlantic, GTE and Vodafone AirTouch.

The companies said they also have signed a national roaming agreement that will allow their customers to roam on each other's networks at reduced rates. All the companies use Code Division Multiple Access networks.

Kevin Beebe, group president of communications for Alltel, said the agreement gives Alltel five very strong regional clusters.

"The roaming agreement also gives us a path so that by the end of 2001, we will have an on-network cost structure for off-network traffic. Alltel will be the only regional wireless company in the U.S. that can say that," Beebe said.

Covering more than 265 million pops, Bell Atlantic, GTE and Alltel will have 50 percent more coverage than both Sprint PCS and AT&T Wireless Services Inc., according to Beebe. Sprint has about 130 million pops and AT&T has approximately 170 million, he said.

About 700 Bell Atlantic and 1,000 GTE employees will be joining Alltel, while about 900 Alltel employees will join the new Bell Atlantic/GTE/Vodafone AirTouch venture, said the companies.

Bell Atlantic President and Chief Executive Officer Dennis F. Strigl will become president and CEO of the new venture.

PrimeCo Personal Communications President and CEO Lowell C. McAdam will become executive vice president and chief operating officer.

Edward Langston, currently chief financial officer of the USA/Asia Pacific region for Vodafone AirTouch, will be the new vice president and CFO, and Richard J. Lynch will continue as executive vice president and chief technical officer.

The merger of Bell Atlantic and Vodafone AirTouch's domestic wireless operations is expected to be completed this spring, and the Bell Atlantic/GTE/Alltel transaction should be completed by mid-year, the companies said.

In related news, Bell Atlantic and GTE filed a proposal to meet the public-interest test with the Federal Communications Commission to complete the companies' planned merger.

The proposal calls for the Internet backbone and related data business of GTE Internetworking to be transferred to a corporation that is owned and controlled by third-party public shareholders and operated independently of the merged company.

The merged company would only retain 10-percent equity interest with the option to increase its ownership interest to a controlling level once it receives sufficient relief to operate the business, the companies said.

The filing also included a package of commitments that will further promote the widespread deployment of advanced services, competition and help ensure that consumers continue to receive quality telephone services. These commitments are patterned closely after those that the FCC adopted in approving SBC Communications Inc.'s merger with Ameritech Corp.

The companies announced a proposal to invest $500 million for three years after merging outside of their traditional local service territories to compete with traditional telephone services offered by incumbent local exchange carriers or to provide advanced services to mass market customers.

The companies also said GTE would end its mandatory minimum charge on long-distance calls once AT&T does the same.

"The merger of Bell Atlantic and GTE is vastly different from other recent mergers," said **William Barr**, executive vice president and general counsel of GTE. "It is neither a horizontal merger between actual competitors nor a lateral merger of adjacent regional Bell companies. It is a unique combination of complementary assets that will generate enormous public interest benefits."

The FCC is expected to put the companies' proposal out for formal comment with the target close of the merger at the end of the first quarter.

Classification

Language: ENGLISH

Subject: AGREEMENTS (90%); EXECUTIVES (89%); MERGERS (89%); EXECUTIVE MOVES (89%); CORPORATE RESTRUCTURING (77%); SHAREHOLDERS (60%)

Company: ALLTEL CORP (95%); VERIZON COMMUNICATIONS INC (95%); AT&T MOBILITY LLC (93%); AT&T INC (93%); VERIZON WIRELESS INC (92%); VODAFONE GROUP PLC (86%); ALLTEL CORP (95%); VERIZON COMMUNICATIONS INC (95%); AT&T MOBILITY LLC (93%); AT&T INC (93%); VERIZON WIRELESS INC (92%); VODAFONE GROUP PLC (86%); FEDERAL

COMMUNICATIONS COMMISSION (61%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (61%)

Ticker: VZC (LSE) (95%); VZ (NYSE) (95%); T (NYSE) (93%); VOD (NASDAQ) (86%); VOD (LSE) (86%)

Industry: WIRELESS TELECOMMUNICATIONS CARRIERS (92%); WIRELESS INDUSTRY (91%); TELECOMMUNICATIONS SERVICES (90%); PERSONAL COMMUNICATIONS SERVICE (78%); CODE DIVISION MULTIPLE ACCESS (78%)

Person: LOWELL MCADAM (79%)

Geographic: NEW YORK, USA (92%); ARIZONA, USA (79%); NEW MEXICO, USA (79%); IOWA, USA (79%); ILLINOIS, USA (79%); PENNSYLVANIA, USA (79%); ALABAMA, USA (79%); FLORIDA, USA (72%); UNITED STATES (92%); ASIA (79%)

Load-Date: February 14, 2000

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:59:01 p.m. EST

Bell Atlantic Corp

Proposal Filed with FCC etc

Bell Atlantic Corp
27 January 2000

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Bell Atlantic
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GTE

Bell Atlantic and GTE File Formal Proposal with
Federal Communications Commission

Proposal Outlines Changes for GTE Internetworking Structure and
Defines Voluntary Merger Commitments

WASHINGTON -- Bell Atlantic and GTE today filed with the FCC a proposal to meet the public interest test and complete the companies' merger.

'The merger of Bell Atlantic and GTE is vastly different from other recent mergers, it is neither a horizontal merger between actual competitors nor a lateral merger of adjacent regional Bell companies. It is a unique combination of complementary assets that will generate enormous public interest benefits,' said William P. Barr, executive vice president and general counsel of GTE. 'The combined company's long distance, wireless and data capabilities across Bell Atlantic's territories and GTE's national footprint promise a strong competitor that will be able to offer innovative service packages to satisfy customer needs.'

In the filing the companies outlined how they will restructure the GTE Internetworking business and proposed a set of comprehensive commitments to facilitate prompt approval of their merger. (See enclosed summary of the filing.)

Under the proposal, the Internet backbone and related data business of GTE Internetworking would be transferred to a corporation that is owned and controlled by third party public shareholders and operated independently of the merged Bell Atlantic-GTE. The merged company will retain only the ten percent equity interest expressly permitted by the Telecommunications Act of 1996, and an option to increase its ownership interest to a controlling level once it receives sufficient interLATA relief to operate the business. This option will be exercisable within five years of closing the merger.

The companies' filing also included a comprehensive package of commitments that will further promote the widespread deployment of advanced services, promote competition, and help ensure that consumers continue to receive high-quality, low-cost telephone services. These commitments are patterned closely after those that the FCC adopted in approving the SBC-Ameritech merger, subject to modification where appropriate to reflect the differences between that merger and this one.

As part of these commitments, the companies propose to invest $500 million

outside their traditional local service territories over three years after merger closing.

'We will fulfill this commitment,' Barr said, 'by applying the latest technology to meet the needs of the market.'

These expenditures will go toward providing services that compete with traditional telephone services offered by incumbent local exchange carriers, or to provide advanced services to mass market customers. The companies also said GTE would end its mandatory minimum charge on long distance calls once AT&T does the same.

'The merger of Bell Atlantic and GTE will produce enormous benefits and readily satisfies the FCC's public interest standard. We look forward to working with the Commission to bring this matter to a satisfying solution,' said Tom Tauke, senior vice president for Government Relations at Bell Atlantic. 'Under this proposal the ownership and control of GTE Internetworking will be transferred to new shareholders through an initial public offering. This addresses the long distance issue in a way that lives up to both the letter and the intent of the 1996 Telecommunications Act. It will allow us to comply with the ten percentownership restrictions, but still provides a path to increase our interest once we have achieved sufficient interLATA relief.'

The FCC is expected to put the companies' proposal out for formal comment. The companies are still targeting to close the merger around the end of the first quarter or early in the second.

Bell Atlantic is at the forefront of the new communications and information industry. With nearly 44 million telephone access lines and 12 million wireless customers worldwide, Bell Atlantic companies are premier providers of advanced wireline voice and data services, market leaders in wireless services and the world's largest publishers of directory information. Bell Atlantic companies are also among the world's largest investors in high-growth global communications markets, with operations and investments in 23 countries.

GTE: With 1998 revenues of more than $25 billion, GTE is a leading telecommunications provider with one of the industry's broadest arrays of products and services. In the United States, GTE provides local service in 28 states and wireless service in 18 states, as well as nationwide long-distance, directory, and internetworking services ranging from dial-up Internet access for residential and small-business consumers to Web-based applications for Fortune 500 companies. Outside the United States, the company serves customers on five continents. Additional information about GTE can be obtained at http://www.gte.com.

EXECUTIVE SUMMARY

Bell Atlantic and GTE today filed a comprehensive proposal with the Federal Communications Commission (FCC) to resolve the issues raised in connection with their proposed merger.

Today's filing consists of two major parts:

- A proposal to transfer the Internet backbone and related assets of GTE Internetworking to a corporation that will be owned and controlled by third party public shareholders and will operate independently of the merged Bell Atlantic-GTE. At issue are the long distance and Internet-related service offerings that GTE provides to consumers and businesses within the 13 in-region states and District of Columbia served by Bell Atlantic.

Under this proposal, the merged company will receive only the ten percent equity interest expressly permitted by the Telecommunications Act of 1996, and an option to increase its ownership interest to a controlling level (i.e., 80 percent) once it receives sufficient interLATA relief to operate the business. This option will only be exercisable within five years from the closing of the

merger. To ensure that the merged company is in full compliance with all the requirements of section 271, GTE will also exit certain businesses that are prohibited to Bell Atlantic, including voice long distance within Bell Atlantic's non-271-approved states.

- A comprehensive package of commitments that will further promote the widespread deployment of advanced services, promote competition, and help to ensure that consumers continue to receive high-quality, low-cost telephone services. These commitments are patterned closely after those that the FCC adopted in approving the SBC-Ameritech merger, subject to modification where appropriate to reflect the material differences between that merger and this one. The commitments include:

  - Establishing a separate affiliate to provide advanced data services;

  - Providing competing carriers with access to uniform interfaces for obtaining access to operations support systems within each of the companies' respective service areas;

  - Establishing specific carrier-to-carrier performance plans (Including both measurements and incentive payments);

  - Extending the terms of post-merger negotiated interconnection agreements to competing carriers operating anywhere in Bell Atlantic or GTE serving territory;

  - Deploying advanced data services to low income urban and rural areas;

  - Establishing enhanced Lifeline plans; and

  - Establishing specific compliance and enforcement mechanisms to ensure that the commitments are adhered to fully following completion of the merger.

As part of these commitments, the companies also propose to spend a minimum of $500 million outside of their traditional local service territories within three years of merger closing. These expenditures will go toward providing services that compete with traditional telephone services offered by incumbent local exchange carriers or to provide advanced services to mass market customers. The companies also said GTE would end its mandatory minimum charge on long distance calls, as soon as AT&T does the same.

The companies reiterated the strong public interest benefits of their proposed merger in today's filing, noting that the Department of Justice and all but two of the state regulatory commissions whose approval is needed already have approved the merger. 'By creating a truly national competitor with the reach and mix of services necessary to take on AT&T/TCI/Media One, MCI-WorldCom and Sprint, the merger of Bell Atlantic and GTE will generate enormous benefits for the Internet, long distance, wireless, local and national bundled services markets,' the companies said in their filing.

The companies go on to point out that their merger is different in fundamental respects from other recent mergers. It is not a merger of actual competitors like MCI and WorldCom. And it is not a Bell-to-Bell merger of adjacent service territories. Rather, it is a merger of broadly complementary assets dispersed nationwide. Specific market benefits include:

- Internet and Data Services. Promoting competition in the critically important Internet backbone business, which is today highly concentrated and is dominated to an increasing degree by the Big Three long distance incumbents. This will enhance competitiveness of the Internet itself and advanced services generally.

- Long Distance. Allowing the combined company to use long distance capacity on the facilities-based national network that GTE is deploying for carrying its combined traffic volumes, including traffic originating in New York. It

also allows the merged company to begin offering competitive services in packages to businesses both in New York and in L.A., Seattle, Dallas, or other GTE areas. This will make the combined long distance business of the merged company a more effective competitor, and speed deployment of a fourth national facilities-based long distance network.

- Wireless. Combining the complementary wireless properties of Bell Atlantic, GTE, and Vodafone will create a third national wireless network that can compete effectively in a business where national coverage has proven to be increasingly important.

- Local and Bundled Service Offerings. The combination of the two companies' massive investments outside their traditional service areas in long. distance, Internet and wireless businesses will create a critical fourth nationwide provider with the reach and mix of services necessary to compete effectively in the emerging national market for bundled services.

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The Washington Post

The Crime Conundrum

By Michael A. Fletcher
January 16, 2000

Why is crime down in America?

The drop in crime is one of the great successes of the 1990s, every bit as welcome, unforeseen and important as the skyrocketing stock market. Serious crime has fallen for more than seven years in a row, to the lowest level in a quarter century. Robbery is at rates last achieved in the 1960s. And murder has declined a third since 1993, and now stands at levels not seen in more than three decades.

The benefits of the decline are plain. Corporate America is discovering the nation's inner cities. Starbucks is on Harlem's 125th Street. New movie theaters have opened for the first time in a generation in places like Chicago's South Side and Jamaica, Queens. In-town apartments from New York to Los Angeles are at a premium. There are fewer hollow-eyed crackheads and more tourists prowling the streets of the nation's biggest cities. And some even say that the drop in crime is eroding poverty, even if there are those who argue that it is the decline in poverty that is eroding crime.

There is no consensus on why crime has declined so swiftly and steeply, although theories abound. Is it the booming economy, whose benefits are now trickling even to the poor and undereducated? Are longer prison sentences and record incarceration rates to be credited? With nearly 2 million convicts behind bars, America is home to a quarter of the world's prison inmates, and that's not counting 4 million plus who are on probation or parole.

Is it the declining popularity of crack? Smarter policing? Or is it the sheer number of new cops on the nation's streets? Might it be a demographic quirk, a benefit reaped by a nation with fewer adolescents and young men in their peak crime years? Or is it a statistical gift, a return to a less extreme level of mayhem after a crazy spike sent crime rates careering off the charts?

Much of the evidence offered to support these theories is, in the end, contradicted by history or otherwise unraveled. Yes, the economy is better. But it also boomed during the 1960s, when crime began its steep upward march. Not only that, but in the past, crime has waned during economic downturns, most notably during the hardscrabble years of the Great Depression.

The fact that more people are in prison offers an appealing theory but, if that is the case, why then are crime rates often worst in places where the incarceration rates are the highest?

More and smarter police makes some sense as an explanation, but why then has crime also declined where police forces are generally thought to be inefficient? And why has crime been high in places with relatively large numbers of police officers? Washington, with its high number of officers and declining but still sky-high crime rate, offers stark evidence of that.

Likewise, crime has historically gone both up and down as the youth population has fallen. And despite the much-publicized decline, crime remains at levels much higher than the 1960s.

Inhibition and Incarceration

Typically, what one believes about what is driving crime down is linked to what one believes lies at the root of crime in the first place.

Are criminals natural-born? Are they bred by genetics, bad parents or dire social conditions? Are their choices rational, or are they driven by blind economic desperation? Does race somehow predispose people to crime?

Those who pin crime on social factors believe that if society can amend those conditions, then crime will decline. Others believe that crime will decline only if we take enough criminally inclined people off the streets and inhibit those remaining with the prospect of harsh punishment if they transgress.

It is a debate that has raged in one way or another since criminology emerged as a discipline more than a century ago. And it continues to underlie the theories of those whose opinions help craft contemporary crime policy.

Robert E. Moffit is the scion of a family of Philadelphia police officers, and his plaid sports coat and demonstrative manner make him come off more like a cop than the professional policy wonk he is. The former Reagan administration official and director of domestic policy at the conservative Heritage Foundation believes criminals make rational choices about their line of work. They commit crimes because they weigh their chances and decide it is worth the risk.

As a result, he says, the answer to decreasing crime is simple: The criminal's calculus must be altered; police and prisons must raise the price of crime by making apprehension sure and punishment swift and severe. That way, fewer people will see crime as a good choice. And while he acknowledges that economic factors play a minor role in reducing crime, Moffit is convinced that smart policing and tougher prison sentences are far more important.

That view has proven persuasive in Congress and many state legislatures that have imposed mandatory criminal sentences and appropriated money to hire tens of thousands of new police officers and prison guards over the past decade.

For years, criminologists have warned of the perils of "hot spot" crime areas, habitual felons and the corrosive and dispiriting effects of allowing small violations of the law to go unpunished. What's changed, Moffit says, is that police and policymakers are finally listening and gearing their efforts accordingly.

"The notion that a police commander in the 1950s, 1960s would listen to a Harvard professor would have been crazy," Moffit says. For years, he says, police departments did not operate scientifically; instead they were guided largely by intuition. Where police themselves once argued that crime rates were largely a product of demographics or social factors out of their control, they now increasingly rely on computer analysis of where, when and what kinds of crimes are committed, then attempt to keep a step ahead by deploying forces finely tuned to disrupting existing criminal patterns.

Police are also expending more money and energy to target minor crimes, not primarily for their own sake, but as an aid in stamping out serious ones. This approach, argued most memorably by criminologists George Kelling and James Q. Wilson, is rooted in the belief that going after even petty crimes will create an atmosphere that makes all crime less likely.

"We are not dealing with a sociological phenomenon that is beyond our control," Moffit says. "The problem is in fact solvable."

Like others who credit police and the criminal justice system with reducing crime, Moffit offers the experience of New York City as Exhibit A.

There, the city's top police officials have adopted the policing techniques of the moment, both targeting major crime trends proactively and aggressively going after petty criminals--subway fare beaters, loiterers, those who drink or urinate in public. Moffit says not only does that approach make New York a less menacing and more livable place, but it also nets many serious criminals. In 1991, one out of every six fare beaters carried a weapon or was wanted on an outstanding warrant.

Overall, New York's approach coincides with astounding results. Crime has dropped 55 percent in the past six years in that once famously unruly city. And even after a slight increase last year, murder is down almost 70 percent since 1990.

New York's success has given considerable ammunition to those who argue that there is a direct link between policing and crime. But what happens after the cops are finished also attracts their

attention: Criminals are going to jail in record numbers. In fact, the nation's crime reduction has come after more than a decade of spiraling incarceration rates. The number of people in the nation's prisons and jails has nearly quadrupled since 1980, and is projected to surpass 2 million early this year.

Moffit sees the huge incarceration rate as the unfortunate price of fighting crime, and an important reason why we now appear to be winning. It is a proposition put in stark terms by William P. Barr, the Bush administration attorney general who said that the country had a "clear choice"--build more prisons or tolerate higher rates of violent crime.

Or as Moffit says: "The thug in prison can't shoot your sister. That makes sense."

Rehabilitation and Education

Moffit's admonition certainly resonates. Recent Justice Department surveys found that a third of the suspects arrested for violent felonies were on probation or parole, or free on bail.

And there is little question that the public is cheering the hard-liners. In New York, Mayor Rudolph Giuliani is riding his crime-fighting success into front-runner status in that state's U.S. Senate race. Baltimore Democrat Martin O'Malley was swept to election as mayor largely on his promise to institute "zero tolerance" policing in a city demoralized by crime. In Virginia, former governor George Allen is touting his leadership in abolishing parole and thereby lengthening prison sentences as a central theme of his Senate campaign. Virginia also is among some two dozen states that have imposed mandatory sentences for repeat offenders or eliminated parole in attempts to reduce crime.

"If anybody says the police are not a part of this, they are intellectually dishonest," Moffit says.

Then there is the "but": But if tough policing and longer prison sentences are what really stops crime, then why did crime continue to rise in the late 1980s and early 1990s, when incarceration rates were growing most rapidly? In fact, incarceration rates were rising for 19 years before crime spiked in 1992 and began to decline. Did it really take that long for the benefit to be realized? And what is going on in a place like San Francisco, where both crime and incarceration rates are down?

Those questions fairly jump from James Austin, a George Washington University criminologist who is convinced tough policing and imprisonment policies are relatively minor factors when it comes to reducing crime.

Between 1995 and 1998, violent crime declined 33 percent in San Francisco, a reduction greater even than New York experienced in that period. More stunning is that the city reduced crime

while simultaneously slashing the number of people it sent to prison--from 2,136 in 1993 to 703 in 1998, according to a recent study.

While New York City's hard-line approach to fighting crime grabbed international headlines and praise, San Francisco has quietly employed an approach that stresses alternative sentences and education for offenders and community involvement--strategies that long ago were dismissed in some quarters as ineffective.

"This study debunks the notion that longer and more punitive sentences are the most effective ways to fight crime," says Khaled Taqi-Eddin, a policy analyst for the Center of Juvenile and Criminal Justice who studied San Francisco's crime drop.

It is the kind of argument Austin has been making for years. Now he is working on the third edition of his book "It's About Time: America's Imprisonment Binge," an academic tract that criticizes the nation's reliance on prisons to fight crime.

In the book, he and co-author John Irwin, an ex-con turned PhD and San Francisco State professor, argue that the prison population's rapid growth is creating a crippling financial burden that is diverting billions of dollars from educational and other programs that offer lasting solutions to crime.

"If it is true that incarceration rates are what dictate crime rates, how do you ever explain the fact that the highest crime rates are in places with high incarceration rates?" Austin says.

Rather than being the product of tough law-and-order policies, Austin calls the declining level of crime a happy result of the confluence of several factors: a robust economy; declining drug and alcohol use, which experts call a response to lower unemployment rates and better drug education; and the fact that young males between 15 and 24, the most crime-prone demographic group, are a smaller portion of the nation's overall population.

Also, after decades of spiraling crime increases, he says, we are seeing something of a "regression to the mean," which means crime is sliding back after hitting an unusual peak that was largely due to the nation's crack epidemic.

Only grudgingly does Austin acknowledge that the larger prison population could play more than a minor role. In an earlier edition of his book, Austin stated flatly that "there has been no increase in public safety produced by the imprisonment binge."

Now he amends that slightly. With more than 3 percent of the nation's adults under supervision of the criminal justice system, a percentage that has nearly tripled since 1980, he says, "you do have more people than ever being watched closely. That has some effect."

Juggling the Numbers

Reared in bucolic Wheaton, Ill., Austin got his first up-close experience with prison when he took a job with the Illinois corrections system after graduating from Wheaton College. He worked for four years as a counselor in the notorious prisons at Joliet and Statesville--a job he now dismisses as nothing more than "window dressing for rehabilitation" but one that helped shape his view of crime.

Initially, Austin says he was anxious about working around so many convicted criminals. But that quickly changed. "The thing that I never will forget is just how normal people were in prison," Austin says. "When you think of a criminal you think of someone plotting 24 hours a day to commit crimes. But the reality is much different."

As Austin sees it, criminals are mostly desperate losers who end up behind bars because they have few options. In his book, he cites surveys showing most prison inmates were convicted of petty crimes--ones that did not involve significant amounts of money or injury to others.

"Offenders appeared to have taken foolish risks for very modest potential gain," he says.

It is a view that contrasts sharply with more popular and fearsome notions of criminals. In a collection of essays he edited along with former attorney general Edwin Meese III, Moffit points to one study that found that over an 11-year period, 240 criminals had committed 500,000 crimes--an average of about 190 crimes per criminal per year.

"I have no problem with the point of view that there are a number of people who need to be incarcerated for a long period of time," Austin says. "But that is not everyone in prison. That is maybe 15 to 20 percent of the [prison] population."

As so frequently happens in this debate, those who disagree with Austin also disagree with his numbers.

Moffit cites studies suggesting that many prisoners are habitual criminals. One found that 43 percent of inmates released from prison were rearrested within three years, half of them for violent crimes.

"Probably yes, there are too many people in prison," he says. But, he adds, the vast majority of those who are in prison should be there.

Underpinning the argument is a reaction to what Moffit and others see as the bad old days of the 1960s and early 1970s, when crime was accelerating, but more and more criminals were getting off with light sentences and very early paroles--often as much a reaction to clogged courts and overcrowded prisons as it was to liberal philosophy.

Moffit believes that the factors controlling crime come down to a matter of family values: broken homes, abusive parents and plain moral failure are what cause people to break the law, he says. Unfortunately, he argues, these are not things we know how to fix effectively. Anti-poverty efforts, social programs and educational opportunities appear to make little difference. Here Moffit quotes Sen. Phil Gramm (R-Tex.): "If social spending stopped crime we would be the safest country in the world."

Racism, Crime and Injustice

That bottom-line way of viewing crime prevention reached something of a zenith in a report released last year by two leading economists, the University of Chicago's Steven D. Levitt and John J. Donohue III of Stanford Law School. The nation's crime drop, they argued, is the result of an increase in abortions following the Supreme Court's 1973 decision establishing a constitutional right to the procedure. Fewer crimes are being committed now, the authors concluded, because many unwanted children who might have grown up in bad households and in conditions that often lead to criminal lives were never born. Interestingly, it was 19 years after the abortion ruling--which would have put the generation-that-wasn't in the midst of its high-crime years--that crime began its rather steep descent.

If the logic was compelling to some, it was infuriating to many others; there was no escaping the reality of the people whose abortions were being talked about: young black women. Any discussion of crime based on biological factors--and nothing could be more biological than birth itself--carries the specter of racism because of the disproportionate share of prison inmates who are African American. Not only is the desire to blame the imbalance on race highly inflammatory, but many would call the imbalance itself evidence of racism.

Blacks accounted for 31 percent of the nation's prison population in 1923, a time when they were arguably more oppressed than protected by the criminal justice system. Now, despite decades of civil rights reforms, the numbers have only grown more lopsided--about half of the nation's prison inmates are black, even though black people account for only 12 percent of the country's population. (Hispanics, about 11 percent of the population, account for 15 percent of the prison population.)

Overall, blacks are more than 10 times as likely as whites to be incarcerated. Some studies say that 29 percent of black males born this year can expect to be imprisoned during their lifetimes.

Even some who ultimately found merit in the idea that there was a link between abortion and crime felt compelled to point out problems with the theory. Writing in the Los Angeles Times, Stanford Law School professor R. Richard Banks observed, "There is good reason to look with suspicion on any 'scientific' finding that could be interpreted as 'evidence' that yes, indeed,

black Americans are inferior. One could view this as the latest in a long line of pseudo-scientific claims of black degeneracy, whose proponents invariably insist they lack any trace of racial bias, and are simply hard-nosed scientific investigators in single-minded pursuit of the truth, however uncomfortable or unpopular that truth may be."

The same can be said for other researchers who continue to cast about for crime's biological roots. They look to isolate genetic factors that may predispose people to crime and to develop ways to counter them. This small but resilient specialty continues despite being dismissed as a waste of time and money by many mainstream researchers, who point out the ludicrous and offensive history of that branch of research.

From the late 19th century, when Cesare Lombroso, an Italian who was considered the father of criminology, theorized that criminals were genetic throwbacks, complete with heavy jaws and cheekbones, unusually large or small ears, odd nose shapes, protruding lips and sloped foreheads, European researchers repeatedly confused racial stereotyping with meaningful analysis.

Some see a more subtle form of racism in the new enthusiasm for get-tough laws. While many in New York applaud the city's new smiling face, African Americans and Hispanics often seethe because they feel their communities bear the brunt of aggressive police practices, such as stopping and frisking "suspicious" people for weapons, and arrests for minor offenses.

And since they believe that purely economic factors are what drive crime--clearly crime is frequently highest in neighborhoods where opportunities are the fewest--they see waging war against crime mainly with police and prisons as a sure way to compound the existing injustices in society.

These concerns were amplified last month by the Milton S. Eisenhower Foundation, a private group that carries on the work of a presidential commission formed to probe the underpinnings of the social unrest of the late 1960s. It issued a report saying the recent decline in crime, which it ascribes to a range of factors from the booming economy to demographics, has been accompanied by a terrible development--a high incarceration rate and the "criminalization" of a huge swath of the population.

Also, the report warned, the crime drop may even be foisting a false sense of security on an unsuspecting American public that believes incarceration offers a lasting solution. But, the report points out, the vast majority of prisoners are eventually released--and released each year in ever greater numbers--no more able to build stable lives and neighborhoods than when they went in. As a result, the authors warned, when it comes to crime, the worst may be yet to come.

"While it is true that levels of violent crime have fallen since the early part of the 1990s, it is also true that violent crime in big cities is generally worse today . . . than when the Violence Commission drew its devastating portrait of our ravaged cities" in the 1960s, the report says. "We may be in a real sense losing the war on crime even as we have successfully hidden some of the losses behind prison walls."

But the safest prediction may well be that there is no way to know what will happen with crime rates, because the factors that influence them are too complex to understand.

In his new book, "Butterfly Economics: A New General Theory of Social and Economic Behavior," British economist Paul Ormerod argues that human behavior is essentially unpredictable, in large part because individuals are as likely to be influenced by one another as they are by objective factors such as poverty or the police. Will crime rise or fall in the next generation? You can ask the same thing about hemlines with as much chance of accurately predicting the answer, he maintains.

"That is why there is this vast literature on criminology that often contradicts itself," he says. "But you have to think of this in a nonlinear sense, rather than in a traditional way. Human behavior is often self-reinforcing . . . and it can have inexplicable results."

Is There Really "Law" in International Affairs?

*John R. Bolton**

It is hard to imagine a more desperately tedious-sounding topic than whether "international law" is really "law." Practicing lawyers and legal academics, let alone normal people, may become overwhelmed with boredom just reading the title of such an essay, even before plunging into the text. Beneath the comatose appearances, however, a political battle of immense significance is underway. Indeed, close observers believe the struggle may already be almost over, with enormous adverse consequences to the international interests and constitutional system of the United States.

There is a rich tradition of skepticism about the "legality" of international law,[1] although much of the intellectual debate consists of two streams of argument that never really engage in actual combat. Critically, skepticism about international law does not depend at all on whether one's foreign-policy views are internationalist, isolationist or lie at any point in between, but rather on properly understanding why nations behave as they do among themselves and whether concepts of law used domestically can be exported

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1. Robert H. Bork, *The Limits of 'International Law,'* NAT'L INT., Winter 1989-90, at 3. Even a leading international human rights advocate has called international law "that most airyfairy of disciplines, at worst a mirage and at best a hostage to international politics." GEOFFREY ROBERTSON, CRIMES AGAINST HUMANITY: THE STRUGGLE FOR GLOBAL JUSTICE, at xx (1999).

wholesale into international affairs. This is an important conceptual point to make at the outset, if for no other reason than to avoid the rhetorical onslaught of the "international law" advocates who immediately label any skeptic as an "isolationist," with overwhelmingly negative implications. In fact, of course, one can be a vigorous internationalist, and simultaneously thoroughly unimpressed by the tenuous claims of "international law."[2]

I. IS IT "LAW" OR ISN'T IT?

As with any body of literature that is purportedly "law," the central philosophical question about "international law" is a liberty issue: How does this corpus of "law" affect individuals in the exercise of their individual freedom? For many years, during virtually the entire history of international law until World War II, even its most vociferous advocates rarely argued anything other than that international law governed conduct among nation-states. Individuals and associations were rarely affected directly, and even the impact of international law on nation-states and their respective citizens was at most highly limited. Today, however, the central debates in the field are precisely about international law's command over individuals and groups within states. Although now largely targeted against war criminals and other alleged reprobates, the logic of today's international law proponents drives them toward more pervasive international command-and-control structures that will deeply affect the domestic policies and constitutions of all nations. Thus, the liberty question has never before been posed so dramatically, nor have the implications of the possible answers to this question been quite so clear as now.

To start, let us define in summary fashion what, at least in the United States, "law" is commonly understood to be. We understand "law" to be a system of commands, obligations and rules that regulate relations among individuals and associations, and the sources of legitimate coercive authority in society. These are the forces that can compel behavior and enforce compliance with rules.

For any system of law, there are two basic prerequisites for legitimacy (and hence compliance). *First*, it has to exist within a coherent structural framework—a constitution—that defines the government's authority, and by so doing, limits it, thus preventing arbitrary authority. The great scholar, Professor McIlwain, once said, "All constitutional government is by definition limited government."[3] It is critically important for a free person's understanding of law that there is an over-arching structure within which the subsidiary aspects of the law develop. *Second*, the source of coercive

2. I have elaborated on this point in the international political context in John R. Bolton, *Unilateralism Is Not Isolationism*, *in* ROYAL INSTITUTE OF INTERNATIONAL AFFAIRS, UNDERSTANDING UNILATERALISM IN AMERICAN FOREIGN RELATIONS 50, 50-82 (Gwyn Prins ed., 2000).

3. CHARLES HOWARD MCILWAIN, CONSTITUTIONALISM: ANCIENT AND MODERN 21 (1958).

authority—the "rule of law"—rests on popular sovereignty or public accountability through reasonably democratic popular controls over the creation, interpretation, and enforcement of laws, the three broad ways in which law develops. Any other definition of law is either incoherent or unacceptable to a free person. Of course, much of the world's law does not rest on popular sovereignty, even in many Western European countries commonly accepted as "democracies." In Chinese, for example, there is no distinction between the phrase "rule of law" and "rule by law," a distinction we see as fundamental for liberty purposes.

These admittedly somewhat abstract definitions and principles have very important practical implications. The first is that the sources of law are identifiable and authoritative. The second is that the mechanism for interpreting and resolving conflicts and disputes among parties under law is agreed upon. The third is that the source of law enforcement (including execution and compliance activities), as well as the methods and procedures for declaring and changing the law, is also agreed upon. This is true both in public and private law, in civil as well as criminal, and in law enforcement as well as the typical civil disputes that occupy much of our courts' time. These practical implications are all embodied in the United States Constitution and its system of government, exemplifying the kind of legal system acceptable to a free person. One need not argue that a proper structure of government *must* be like that of the United States, with three separate branches, but the Constitution is conceptually quite clear in defining the heads of authority for law creation, interpretation, and enforcement.

Among other problems with "international law," there are simply no agreed-upon sources.[4] Recognizing this gaping hole, its advocates have written reams of attempted explanations, but even their best guesses are failures.[5] For example, one way in which "international law" is said to

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4. Human-rights advocate Geoffrey Robertson once again supplies a pungent analysis of this problem of "international law":

> Its rules have to be extrapolated from dozens of overlapping conventions, from explanations contained in the mindnumbing tomes and indigestible treaties which count as "sources" of customary law, along with the interminable debates and resolutions of the UN General Assembly, not to mention the obscure *travaux préparatoires* of all the conferences which led to all the conventions.

ROBERTSON, *supra* note 1, at xx.

5. The most commonly cited sources for international law are found in Article 38(1) of the Statute of the International Court of Justice:

> a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
>
> b. international custom, as evidence of a general practice accepted as law;
>
> c. the general principles of law recognized by civilized nations; and

develop is through treaties, the written, agreed-upon documents that nations sign and pledge to follow. Treaties are often analogized to contracts, agreements between people, businesses, or other kinds of associations. This analogy is fundamentally wrong.[6] One of the simplest and best definitions of "contract" is from Restatement (Second) Contracts, stating: "A contract is a promise or a set of promises for the breach of which the law gives a remedy. . . ."[7] This definition has two parts. The first part is "a promise," and the second is "for the breach of which the law gives a remedy." By "remedy" we mean that when one contracting party breaches his or her obligation, there is a judicial mechanism to either obtain damages for the breach of the promise or to get specific performance of that to which the parties had agreed. The Restatement's brief definition fully embodies the practical implications of real law described above. It is not just an abstract exchange whereby "I promise X and you promise Y." The promises take place within a system, where if one party breaches its promise, there is a defined way to get remedies. There is a process to decide which promises are legitimate and a procedure to enforce a court order that a party has breached a promise. The very concept of a contract, in other words, takes place within a coherent universe.

Compare this to a treaty. A treaty is an exchange of promises—period. It is a flat misunderstanding of reality to believe that there are enforcement mechanisms "out there" internationally that conform to the kind of legal system that exists in the United States. The U.S. Supreme Court long ago understood this critical difference, even if the dreamier supporters of international law could not.

A treaty is primarily a compact between independent nations. It depends for the enforcement of its provisions on the interest and the honor of the governments which are parties to it. If these fail, its infraction becomes the subject of international negotiations and reclamations, so far as the injured party chooses to seek redress, which may in the end be enforced by actual war.

This is not domestic law at work. Accordingly, there is no reason to consider treaties as "legally" binding internationally, and certainly not as "law" themselves.

> d. judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

Statute of the International Court of Justice, as annexed to the Charter of United Nations, June 26, 1945, 59 Stat. 1055, 1060 (1945), T.S. No. 993, 3 Bevans 1153, 1976 Y.B.U.N. 1052 [hereinafter I.C.J. Statute].

6. Even the United States Supreme Court has made this mistake. *See* Chae Chan Ping v. United States, 130 U.S. 581, 600 (1889).

7. RESTATEMENT (SECOND) OF CONTRACTS § 1 (1979).

It is at this point that advocates of international law usually deploy the "isolationist" broadsword, arguing that this view means the end of all treaties, international chaos, and a retreat into the "American cave." These are all overreactions. Simply because treaties are not "law" does not mean that states are not in some sense bound by them, or that states may dismiss or ignore treaty promises without consequence. Nor does it mean that failing to consider treaties as law unleashes anarchy upon the world. Consider three sentences about treaties:

Sentence One: The United States is morally bound by its treaty obligations.

Sentence Two: The United States is politically bound by its treaty obligations.

Sentence Three: The United States is legally bound by its treaty obligations.

Now, two points that more fully explain the import of "de-legalizing" treaties that is manifested in the differences among these three sentences. First, these three sentences say three different things. Being morally bound is not the same as being politically bound, and being politically bound is not the same as being legally bound. Second, Sentences One and Two are true, while Sentence Three is false. There is no legal mechanism—no coherent structure—that exists today on a global level to enforce compliance with treaties, a fact international law advocates flatly ignore.

This is emphatically *not* to say that the United States should freely ignore its treaty obligations. Indeed, moral and political obligations in the real international world are often far more binding than "law." Take, for example, Article 5 of the NATO Treaty, the bedrock of foreign policy in the United States for fifty years, which provides explicitly "that an armed attack upon one or more [member] in Europe or North America shall be considered an attack against them all."[8] Are we legally bound by Article 5? What if, during the Cold War, the signatories to the Warsaw Pact had attacked Germany, and the Chancellor had called the President of the United States and said: "We've got a problem here. The Soviets have attacked, and I am invoking Article 5 of the NATO Treaty?" Suppose then that the President had said: "Well, I have Article 5 here, and I don't read it to say that we're bound to come to your defense."

Would the Chancellor then have gone to court to obtain an injunction to force the United States to abide by Article 5? Of course not. Our word in that case is our political word and our moral word. It has nothing to do with legality. That is why, properly understood, the distinction between "legal" and other commitments implies not anarchy, but rather a truer, more realistic understanding of treaty obligations. Indeed, the precise "legal"

8. North Atlantic Treaty, Apr. 4, 1949, art. 5, 63 Stat. 2241, 2244, 34 U.N.T.S. 243, 246 (amended by Protocol on Accession of Greece and Turkey, Oct. 17, 1951, 3 U.S.T. 43, 126 U.N.T.S. 350).

obligation contained in Article 5 is surprisingly weak, providing only that each NATO member "will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, *such action as it deems necessary*, including the use of force, to restore and maintain the security of the North Atlantic area."[9]

A second source of "international law" is the ways in which nations behave, the practices they engage in over the years, a source that evolves and becomes international law. This "state practice" is the basis of what is called "customary international law," which is said to be just as binding on nations[10] as, for example, laws that have passed through the constitutional system of the United States. But this is plainly wrong. Practice is practice, and custom is custom; neither one is law. Customary international law changes under this definition when state practice changes, which led former Attorney General Bill Barr to opine: "Well, as I understand it, what you're saying is the only way to change international law is to break it."[11] This telling remark shows the incoherence of treating "customary international law" as law.

Moreover, customary international law is always "out there" developing. In the debate over the International Criminal Court,[12] Japanese Ambassador Owada said, "We ought to leave open the possibility of expanding the jurisdiction of the International Criminal Court as new criminal offenses crystallize in the international system."[13] Imagine citizens of the United States learning that their laws "crystallized" in Washington, rather than being enacted by both Houses of Congress. We would say unhesitatingly that we will not be governed by laws that "crystallize," but only by laws adopted through a defined constitutional process. Thus, with respect to treaties, one can at least argue that generally a president has to sign them, and the Senate has to give its advice and consent, so there is some semblance of formal consideration and decision.

This point is particularly important because of the campaign to incorporate customary international law into our federal law by judicial decision, an entirely separate battlefront where there is even less democratic involvement. The locus of this dispute recently has been the Alien Tort Statute, an obscure provision of the Judiciary Act of 1789, which provides that Federal District Courts have jurisdiction over certain suits by aliens for

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9. *Id.* (emphasis added).

10. *See, e.g.*, GERHARD VON GLAHN, LAW AMONG NATIONS: AN INTRODUCTION TO PUBLIC INTERNATIONAL LAW 14 (7th ed. 1996) ("Custom represents a second source of international law . . . . [F]ailing to follow a legal custom entails the possibility of punishment, sanctions, or retaliation; it means, therefore, state responsibility toward other nations.").

11. Personal conversation with author.

12. Rome Statute of the International Criminal Court, U.N. Doc. A/Conf. 183/9, July 17, 1998, 37 I.L.M. 999 (not yet entered into force).

13. Ambassador Hisashi Owada, Remarks at the Rome Conference (June 15, 1998), *at* http://www.un.org/icc/index.htm.

torts "committed in violation of the law of nations . . . ."[14] A 1980 Federal appellate court decision essentially held that this statute opened U.S. courts to adjudicate claims based on "customary international law."[15] A contrary opinion by Judge Robert H. Bork, writing in a divided panel of the District of Columbia Circuit,[16] rejected that argument, holding that the Act may give the court jurisdiction, but it does not create a cause of action—that is, a substantive basis for judicial relief. The role of "customary international law," in areas well beyond the Alien Tort Statute, is now under intense debate in academic circles, and it has enormous implications.[17] This is not simply a philosophical debate between "monism" and "dualism," but an intensely practical political struggle. If international law can, in effect, be incorporated into U.S. law by judicial decision, it is far easier and far less democratic than struggling to get Congress to adopt it by statute.

There is another important source of international law, which the academics refer to quite regularly: the writings of academics! This notion is pervasive in international law circles, especially among the academics who stand most to benefit from its uncritical acceptance, and reflects one of its most basic undemocratic aspects. There is no better response than William F. Buckley, Jr.'s famous statement that he would rather be governed by the first two thousand names in the Boston telephone directory than by the faculty of Harvard University.[18]

In addition to the absence of legitimately authoritative sources of international law, there is no process to bind it to the political consent of the world's population. There are no international democratic institutions that provide legitimacy for any aspect of international law. There are also no definitive dispute resolution mechanisms, and there are certainly no agreed-upon enforcement, execution or compliance mechanisms. These are not just technical, mechanistic deficiencies that can be fixed by creating new institutions. Rather, these are conceptual and institutional flaws that show fundamentally why international law is not law. They highlight graphically the point that the analysis of international law is basically a liberty question. No free person should subject himself to an untried system of authority based so much on assumptions and so little on reality.

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14. Alien Tort Statute, ch. 646, 1 Stat. 73, 79 (1789) (codified at 28 U.S.C. § 1350 (1994)).

15. Filartega v. Pena-Irala, 630 F.2d 876 (2d Cir. 1980).

16. Tel-Oren v. Libyan Arab Republic, 726 F.2d 774 (D.C. Cir. 1984).

17. The specific problems with an expansive view of the Alien Tort Statute are explored in Curtis A. Bradley & Jack L. Goldsmith, III, *The Current Illegitimacy of International Human Rights Litigation*, 66 FORDHAM L. REV. 319 (1997). The broader debate has been joined in Curtis A. Bradley & Jack L. Goldsmith, III, *Customary International Law as Federal Common Law: A Critique of the Modern Position*, 110 HARV. L. REV. 815 (1997); Harold Hongju Koh, *Is International Law Really State Law?*, 111 HARV. L. REV. 1824 (1998); and Curtis A. Bradley & Jack L. Goldsmith, III, *Federal Courts and the Incorporation of International Law*, 111 HARV. L. REV. 2260 (1998).

18. *See* WILLIAM F. BUCKLEY, JR., RUMBLES LEFT AND RIGHT 134 (1963).

Advocates of "international law" acknowledge that these arguments are, indeed, accurate with respect to *domestic* law, but they say: "We are talking about *international* law, so, of course, none of that applies."[19] This is their central mistake: the conceptual underpinnings for legitimate law, in both form and substance, must apply whether we deal with municipal, state, federal or international law. If they are absent, that law lacks legitimacy and, therefore, the binding force that is central to any acceptable definition of real law.

II. WHY DOES IT MATTER?

Why does any of this matter? In the United States, until now, "international law" has hardly touched us. We have not thought it terribly important. Before World War II, the "law of nations" dealt with fishing rights, rights of passage through international waters, the return of prisoners of war, and very little else. Since World War II, however, "international law" has grown enormously, and it is accumulating force that will even more dramatically impede us in the future. In the rest of the world, international law and its "binding" obligations are taken for granted. Even here, many believe that international problems can be solved through legal devices, that nations can, for example, sign a treaty that renounces aggressive war.[20] Once we have signed such a treaty, then that law is binding on us, is it not? We will abjure aggression, and, of course, the other signatories will do so as well. And if they do not, why that's just illegal! Unfortunately, this enthusiasm has never troubled even slightly those inclined to use force, but it does impair our ability to understand real events in the real world.[21]

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19. Thus, while ultimately sympathetic to "international law," H.L.A. Hart nonetheless correctly observes that "some theorists, in their anxiety to defend against the skeptic the title of international law to be called 'law,' have succumbed to the temptation to minimize these formal differences, and to exaggerate the analogies which can be found in international law to legislation or other desirable formal features of municipal law." H. L. A. HART, THE CONCEPT OF LAW 232 (2d ed. 1997).

20. General Treaty for the Renunciation of War as an Instrument of National Policy, Aug. 27, 1928, 46 Stat. 2343, 94 L.N.T.S. 57 [hereinafter Kellogg-Briand Pact] states in Article I: "The High Contracting Parties Solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another." *Id.* art. I.

21. Nonetheless, violations of the Kellogg-Briand Pact were at the core of the Nuremberg indictment of German war leaders for the crime of aggressive war. ANN TUSA & JOHN TUSA, THE NUREMBERG TRIAL 58-59, 177-78 (1986). The Nuremberg Tribunal essentially adopted this argument:

> After the signing of the pact, any nation resorting to war as an instrument of national policy breaks the pact. In the opinion of the Tribunal, the solemn renunciation of war as an instrument of national policy necessarily involves the proposition that such a war is illegal in international law; and that those who plan and wage such a war, with its inevitable and terrible consequences, are committing a crime in so doing.

Hirota v. MacArthur, 338 U.S. 197, 212 n.12 (1949) (Douglas, J., concurring).

There are four key issues for the United States: (a) the rhetorical—and, accordingly, the political—value of the word "law"; (b) the unique international status of the United States, and the efforts to limit and undercut that status through purportedly "legal" mechanisms; (c) the implications of domesticizing "international law" for limiting and constraining the exercise of Constitutional structures and reducing the ability of the United States' institutions of representative government to make decisions independently from "international law"; and (d) restraining the United States from using its military power through a variety of mechanisms. We consider each in turn, showing by specific example how claims that "international law" has binding and authoritative force ultimately ring either hollow or unacceptable to a free people.

A. The Rhetorical Value of the Word "Law"

In large measure, this debate about "international law" is about the ethical and political persuasiveness of the world "law," and when it may legitimately be invoked to order our conduct. U.S. citizens generally are a very law-abiding people. When somebody says, "That's the law," our inclination is to abide by that law. Thus, if "international law" is justifiably deemed "law," Americans will act accordingly. On the other hand, if it is not law, it is important to understand that our flexibility and our policy options are not as limited as some would have us believe. It follows inexorably, therefore, that the rhetorical persuasiveness of the word "law" is critically important. The advocates of international law have long recognized this phenomenon, while the skeptics have too long ignored or under-appreciated the underlying political stakes at issue.

For example, when people assert that we are *required* to pay assessments to the United Nations, they invariably say that the United States has a "solemn legal obligation." When spoken, it is universally in a low, deeply earnest voice, and, in fact, "legal obligation" sounds much better than "political deal," which is basically what the UN Charter represents.[22] Arguing that something is a matter of "international law" has more sit-up-and-take-notice force. Claims made by decision makers both in the executive branch and in Congress in the name of "international law" are more intimidating than claims of "international custom" or "state practice."[23]

Not only is the "solemn legal obligation" theory contrary to simple common sense, it has been repeatedly rejected by the United States Supreme

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22. *See generally* EDWARD C. LUCK, MIXED MESSAGES: AMERICAN POLITICS AND INTERNATIONAL ORGANIZATION 1919-1999, at 224-53 (1999). Luck acknowledges that Article 17 of the UN Charter (dealing with UN financing) "simply leaves these inherently political matters up to the member states to decide." *Id.* at 242.

23. Glanville L. Williams, *International Law and the Controversy Concerning the Word "Law,"* 22 BRIT. Y.B. INT'L L. 146, 162 (1945).

Court, and not merely for the lack of enforcement mechanisms.[24] In the American system, treaties have no special or higher status than other acts of Congress, or, for that matter, than the Constitution. For purposes of the law of the United States, treaties do not exist apart from or outside of that body of law, or in a position superior to or superseding the Constitution, or any of its requirements or prohibitions.

There is widespread confusion on this point, among even knowledgeable and sophisticated foreign policy analysts. The confusion appears to stem largely from a misreading both of the Supremacy Clause of the Constitution, and of the well-known opinion by Justice Holmes in *Missouri* v. *Holland*.[25] The Supremacy Clause provides:

> The Constitution, and the laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.[26]

The inclusion of "treaties" in the Clause was a deliberate effort by the Framers to subordinate contrary State laws to treaties entered into by the national government. Under the Articles of Confederation, States had frequently enacted laws that, for example, clashed with the Treaty of Paris of 1783. Just as the Framers intended duly laws at the national level to supersede contrary State laws, so too, were national treaties intended to trump State law under the Supremacy Clause.[27]

The Constitution entrusted the treaty-making power solely to the national government, by providing that the President "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur . . . ."[28] Indeed, the Framers also provided that "[n]o State shall enter into any Treaty, Alliance, or Confederation" to make it completely clear that the treaty power belonged only to the national government.[29]

In *Missouri* v. *Holland*, the State of Missouri challenged the constitutionality of the Migratory Bird Convention of 1916 with Great Britain, as well as the statute and regulations intended to implement the treaty. Missouri argued that the Convention, which attempted to limit the

24. *See, e.g.*, Edye v. Robertson, 112 U.S. 580 (1884).

25. 252 U.S. 416 (1920).

26. U.S. CONST. art. VI, cl. 2.

27. *See, e.g.*, Reid v. Covert, 354 U.S. 1, 16-17 (1957); Crosby v. National Foreign Trade Council, 530 U.S. 363 (2000).

28. U.S. CONST. art. II, § 2, cl. 2.

29. *Id.* art. I, § 10, cl. 1.

killing and capturing of migratory birds in the United States and Canada, violated the Tenth Amendment. The Supreme Court rejected Missouri's argument, and upheld the validity of the treaty, as well as the implementing statute and regulations. Justice Holmes specifically concluded that "[t]he treaty in question does not contravene any prohibitory words to be found in the Constitution."[30] Nonetheless, his opinion added expansively:

> It is said that a treaty cannot be valid if it infringes the Constitution, that there are limits, therefore, to the treaty-making power;, and that one such limit is that what an act of Congress could not do unaided, in derogation of the powers reserved to the States, a treaty cannot do . . . . Acts of Congress are the supreme law of the land only when made in pursuance of the Constitution, while treaties are declared to be so when made under the authority of the United States. . . . We do not mean to imply that there are no qualifications to the treaty-making power, but they must be ascertained in a different way. It is obvious that there may be matters of the sharpest exigency for the national wellbeing that an act of Congress could not deal with but that a treaty followed by such an act could, and it is not lightly to be assumed that, in matters requiring national action, "a power which must belong to and somewhere reside in every civilized government" is not to be found.[31]

Having dealt with the Convention itself, Justice Holmes summarily upheld the implementing statute: "If the treaty is valid, there can be no dispute about the validity of the statute under Article I, [Section] 8, as a necessary and proper means to execute the powers of the Government."[32]

Apprehension about the implications of Justice Holmes' dicta grew particularly acute after World War II with the formation of the United Nations and numerous other international organizations, as some became concerned that the Treaty power might be used as a "back door" to amend the Constitution. This anxiety in turn led to an extended discussion about whether to amend the Constitution to provide that treaties could become effective U.S. law only through subsequently enacted legislation that itself must pass constitutional muster. This debate over the "Bricker Amendment,"[33] while inconclusive, highlighted the relationship of treaties to the United States' legal system. Perhaps sensing the need to quiet the trepidation generated by *Missouri* v. *Holland*, the Supreme Court revisited

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30. 252 U.S. at 433.

31. *Id.* at 432-33 (citation omitted).

32. *Id.* at 432.

33. There are several versions of the Amendment. *See, e.g.*, Amendment of Constitution Relating to Treaties and Executive Agreements, S.J. Res. 1-A, 83d Cong. (1953).

the issue in *Reid* v. *Covert*.[34] There, the Court invalidated the murder convictions of wives of United States' servicemen who had accompanied them as dependents overseas, and who were convicted of murdering them by military courts martial. A plurality of the Court concluded that, in general, military trials of civilians violated the Constitution, while Justices Frankfurter and Harlan limited their opinions only to capital cases.

The plurality opinion by Justice Black rejected an argument by the government that courts martial of dependents accompanying the United States' military overseas were required to implement international agreements made with the countries where they were stationed. The Court concluded that "no agreement with a foreign nation can confer power on the Congress, or on any other branch of Government, which is free from the restraints of the Constitution."[35] After quoting the Supremacy Clause, Justice Black wrote:

> There is nothing in this language which intimates that treaties and laws enacted pursuant to them do not have to comply with the provisions of the Constitution . . . . It would be manifestly contrary to the objectives of those who created the Constitution, as well as those who were responsible for the Bill of Rights—let alone alien to our entire constitutional history and tradition—to construe Article VI as permitting the United States to exercise power under an international agreement without observing constitutional prohibitions. In effect, such construction would permit amendment of that document in a manner not sanctioned by Article V.[36]

Justice Black said unambiguously that *"[t]his Court has regularly and uniformly recognized the supremacy of the Constitution over a treaty."*[37] He then concluded: "There is nothing in *Missouri v. Holland* that is contrary to the position taken here. There the Court carefully noted that the treaty involved was not inconsistent with any specific provision of the Constitution."[38]

Thus, whatever the legal impact of a treaty, that impact must be determined consistently with the Constitution and subordinate law of the United States. Here again, there is considerable confusion about the effect of U.S. treaty obligations and what it means to say that they constitute "the supreme Law of the Land." In the context, for example, of UN assessments, the conventional argument is that these assessments are the result of a

34. *See Reid*, 354 U.S. at 1.

35. *Id.* at 16.

36. *Id.* at 16-17.

37. *Id.* at 17 (emphasis added).

38. *Id.* at 18.

treaty obligation, hence are the "Law of the Land" and are legally binding on Congress to pay in a full and timely fashion.

This line of argument is flatly incorrect. To the extent that adherence to the UN Charter carries any obligation, it is political in nature, and subject to all of the possibilities for modification or abrogation of any political arrangement. That renders it fundamentally different from a treaty that purports to affect the domestic relationship between the government and its citizens, or among private citizens, as the Supreme Court has repeatedly recognized. In *Edye* v. *Robertson* (the "Head Money Cases"),[39] the Court upheld as constitutional a per-person fee on immigrants to be used for the support of those who needed care or assistance after landing. The ship owners challenging the fee's validity argued that the statute establishing the fee violated several U.S. treaty obligations. The Court rejected this argument, and in so doing articulated the important distinction between the effects of treaties in the international arena, on the one hand, and within the United States, on the other. As noted above, in the international sphere, treaties that failed resulted in "negotiations and reclamations" between governments, perhaps "in the end . . . enforced by actual war."[40]

With respect to a treaty's domestic impact, however, the Court explained that:

> [A] treaty may also contain provisions which confer certain rights upon the citizens or subjects of one of the Nations residing in the territorial limits of the other, which partake of the nature of municipal law, and which are capable of enforcement as between private parties in the courts of the country.[41]

In such circumstances:

> [*A*] *treaty, then, is a law of the land as an act of Congress is, whenever its provisions prescribe a rule by which the rights of the private citizen or subject may be determined.* And when such rights are of a nature to be enforced in a court of justice, that the court resorts to the treaty for a rule of decision for the case before it as it would to a statute.[42]

The Supreme Court's distinction in the *Head Money Cases* echoes the same point made in Number 75 of *The Federalist*: "[treaties] are not rules prescribed by the sovereign to the subject, but agreements between sovereign and sovereign."[43] As the Court indicates, when treaties operate as "municipal

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39. 112 U.S. 580 (1884).

40. *Id.* at 598.

41. *Id.*

42. *Id.* at 598 (emphasis added).

43. THE FEDERALIST NO. 75, at 504-05 (Alexander Hamilton) (Jacob E. Cooke ed., 1961).

law," they are justiciable as are all other similar legal requirements.[44] "An illustration of this character is found in treaties which regulate the mutual rights of citizens and subjects of the contracting nations in regard to rights of property by descent or inheritance, when the individuals concerned are aliens."[45] Internationally, however, resolving disputes arising under treaties requires political adjustments—not legal adjudication—among the states party to the treaty, up to and including war.

Precisely this kind of political environment is where the dispute over UN assessments is to be found, not in cognizable legal obligations. The Supreme Court has recognized:

> [B]ut that circumstances may arise which would not only justify the government in disregarding [a treaty's] stipulations, but demand in the interests of the country that it should do so, there can be no question. Unexpected events may call for a change in the policy of the country. Neglect or violation of stipulations on the part of the other contracting party may require corresponding action on our part. When a reciprocal engagement is not carried out by one of the contracting parties, the other may also decline to keep the corresponding engagement.[46]

These exact words could be used today to describe the rationale for the withholding of U.S. assessed contributions to the UN.

In short, treaties are "law" to the extent that they constitutionally adjust private-private and private-public relationships within the United States.[47] Treaties are "political" (or "moral") and not legally binding to the extent that they purport to affect relations among national governments. There may be good and sufficient reasons to abide by the provisions of a treaty, and in most cases one would expect to do so because of the mutuality of benefits that treaties provide, but not because the United States is "legally" obligated to do so. As the Supreme Court observed in *Chae Chan Ping v. United States*: "[W]hilst it would always be a matter of the utmost gravity and delicacy to refuse to execute a treaty, the power to do so was prerogative, *of which no nation could be deprived without deeply affecting its independence . . . .*"[48]

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44. *Head Money* Cases, 112 U.S. at 598.

45. *Id.*

46. *Chae Chan Ping*, 130 U.S. 581, 600-01.

47. The foregoing discussion does not address the important question of whether treaties are or should be self-executing in United States domestic legal terms. Two of the best analyses of this significant and developing area are John C. Yoo, *Globalism and the Constitution: Treaties, Non-Self-Execution, and the Original Understanding*, 99 COLUM. L. REV. 1955 (1999), and John C. Yoo, *Treaties and Public Lawmaking: A Textual and Structural Defense of Non-Self-Execution*, 99 COLUM. L. REV. 2218 (1999).

48. *Chae Chan Ping*, 130 U.S. at 602 (emphasis added).

B. The Unique International Status of the United States

The United States is now engaged in the third serious debate this century about our place among the nations. The first debate centered on the League of Nations after World War I, the next on the United Nations after World War II, and, fittingly, this third debate takes place after our victory in the Cold War. The current centerpiece is whether the nation-state will survive for long in anything like its present form.[49] For the most part, those advocating limiting its role are fundamentally antipathetic toward the nation-state in general,[50] and antipathetic toward one nation-state in particular—the United States.[51] Although relatively new in the United States in its current incarnation, this debate is already well along in many other countries, virtually all of which seem relaxed about having "law" made for them by others. Not so in the United States.

The European Union ("EU"), for example, is currently striving for "ever closer union," evidenced by the recent adoption of a common currency through the European Monetary Union.[52] Another important example of integration is trade policy, where it is no understatement to say that the EU's fifteen members have ceased to exist as nation-states for those purposes. They no longer make independent policy on trade matters as nation-states. Symbolic of that change is that when the G-7 now meets on trade matters, they meet as four: the United States, Japan, Canada and the European Union. Germany, Italy, France, and the United Kingdom do not separately participate in G-7 trade meetings because they no longer have national authority outside of EU deliberations.

This disappearing act is not true on all matters, particularly foreign and security policy,[53] but one should not underestimate the seriousness of the Europeans surrendering their sovereignty to the EU. While there are many reasons for this development, the theoreticians of the Europeanist movement

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49. *See* John R. Bolton, *Should We Take Global Governance Seriously?*, 1 CHI. J. INT'L L. 205 (2000).

50. *See, e.g.*, THE COMMISSION ON GLOBAL GOVERNANCE, OUR GLOBAL NEIGHBORHOOD 70-71 (1995) [hereinafter OUR GLOBAL NEIGHBORHOOD] ("In an increasingly interdependent world, old notions of territoriality, independence, and non-intervention lose some of their meaning . . . . [T]he principle of sovereignty and the norms that derive from it must be further adapted to recognize changing realities.").

51. The Co-Chairmen of the Commission on Global Governance describe the alternatives facing the world as "a new era of security that responds to law and collective will and common responsibility" versus going "backwards to the spirit and methods of . . . the sheriff's posse—dressed up to masquerade a global action." *Id.* at xix.

52. The "European Communities" evolved into the "European Union" through the Maastricht Treaty on European Union, signed Feb. 7, 1992, at Maastricht, Holland.

53. The Maastricht Treaty formalized the "Common Foreign and Security Policy," institutionalized at the 1997 Amsterdam Summit, which provided for the creation of a European Union "High Representative" to help formulate that policy. *See* PETER W. RODMAN, DRIFTING APART? TRENDS IN U.S.-EUROPEAN RELATIONS 27-34 (1999).

largely believe that the institution of the nation-state is historically responsible for instability in Europe, and for three wars in less than 100 years between France and Germany.[54] They are, therefore, determined to work toward eliminating the concept of the nation-state on that continent, and while busy with that task, they and their allies are trying to obliterate it in the rest of the world as well.[55]

There is considerable popular agreement in Europe with the argument that European Union is necessary to avoid fighting another war on the continent. This is now virtually an article of faith, for which the United States bears considerable responsibility through our Cold War policies in Europe. Starting with the Marshall Plan, the United States encouraged European economic integration as well as membership in NATO,[56] perhaps never foreseeing the consequence that integration would proceed as far as it has.

Nonetheless, there is substantial evidence that most people in Europe have also not fully considered the actual implications of the continual erosion of their national sovereignties. When votes actually occur, there is a broad gap between elite opinion, which supports the erosion, and popular opinion. That is why Denmark initially rejected the Maastricht Treaty in a 1992 referendum;[57] why France accepted Maastricht in a referendum by only the narrowest of margins;[58] why Norway again voted against joining the EU in a

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54. UWE W. KITZINGER, THE POLITICS AND ECONOMICS OF EUROPEAN INTEGRATION: BRITAIN, EUROPE AND THE UNITED STATES 1-20 (1961). Thus, French Foreign Minister Robert Schuman, in 1950, described his proposal for what became the European Coal and Steel Community "as the first step in the federation of Europe." *Id.* at 10.

55. *See* Jeremy Rabkin, *Is EU Policy Eroding the Sovereignty of Non-Member States?*, 1 CHI. J. INT'L L. 273 (2000).

56. Secretary of State George C. Marshall stressed the importance of an integrated European role from the outset: "[T]here must be some agreement among the countries of Europe as to the requirements of the situation and the part those countries themselves will take in order to give proper effect to whatever action might be undertaken by this Government. It would be neither fitting nor efficacious for this Government to undertake to draw up unilaterally a program designed to place Europe on its feet economically. That is the business of the Europeans. The initiative, I think, must come from Europe." George C. Marshall, Address at Harvard University, June 5, 1947, *quoted in* CHARLES L. MEE, JR., THE MARSHALL PLAN: THE LAUNCHING OF THE PAX AMERICANA 272-73 (1984). *See also id.* at 125-29.

57. In the first vote, those opposed to Maastricht prevailed by a margin of 50.7% to 49.3%. In the second vote, supporters of Maastricht succeeded with a 55-45% margin. On September 28, 2000, Danish voters participated in another referendum, on whether to join the European Monetary Union. They voted against adopting the Euro by a 53-47% majority, with a record high turnout of 86% of the voting population. Almar Latour & Michael R. Sesit, *Danish Voters Reject the Euro, Dealing Blow to Single Currency*, WALL ST. J. EUR., Sept. 29-30, 2000, at 1. *See also* Almar Latour, *Why Tiny Denmark's Euro Vote Matters*, WALL ST. J., Aug. 25, 2000, at A10.

58. The French referendum was on Sunday, September 20, 1992, and the pro-Maastricht position prevailed. John Major, Prime Minister of the United Kingdom at the time, recounted that one observer made the jaundiced comment, "They found Cook County," recalling the infamous result that gave Kennedy his victory over Nixon in the 1960 U.S. presidential race. JOHN MAJOR, THE AUTOBIOGRAPHY 337-39 (1999).

1994 referendum;[59] and why in the United Kingdom, despite strong Labour Party support for joining the EMU, and an overwhelming Labour House of Commons majority, Prime Minister Tony Blair is still afraid to say so explicitly.[60] European elites do their best to obscure the gap between elite and popular opinion, and it is relatively easy for them to do so because, bluntly stated, European political institutions are not as democratic as those of the United States.[61] The European elite are the ones who wanted the EMU, as much for political as for economic reasons. This is why the stakes in the EMU are so high: if the common currency fails, political elites all over Europe will be on the defensive. If it succeeds, the EU will be a far more unified "economic space"—one larger than the United States. Not only will they have to accept the consequences whatever the outcome, but so will the United States.

Efforts to minimize or override the nation-state under the weight of "international law" have found further expression in the expansive elaboration of the doctrine of "universal jurisdiction."[62] Until recently an obscure, theoretical creature in the academic domain, the doctrine gained enormous public exposure (although very little scrutiny) during the efforts of an opportunistic Spanish magistrate to seize and extradite General Augusto Pinochet of Chile from the United Kingdom during a medical visit there.

Even defining "universal jurisdiction" is not easy because the idea is evolving so rapidly. For example, the sixth edition of *Black's Law Dictionary*, published in 1990, does not even contain an entry for the term.[63] The idea was first associated with pirates, who were said to be *hostes humani generis* ("enemies of the human race"). The 1990 *Black's Law Dictionary* presents "pirates" as an example of *hostes humani generis*, suggesting that they alone would be covered by "universal jurisdiction."[64] Because pirates were beyond the control of any state and thus not subject to any existing criminal justice system, the idea developed that it was legitimate for any aggrieved party to deal with them. Such "jurisdiction" could be said to be "universal" because the crime of piracy was of concern to everyone, and because such jurisdiction did not comport with more traditional jurisdictional bases, such as

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59. John Darnton, *A Blank Piece in EU's North Corner*, INT'L HERALD TRIB., Nov. 30, 1994, at 1.

60. *See* HUGO YOUNG, THIS BLESSED PLOT: BRITAIN AND EUROPE FROM CHURCHILL TO BLAIR 472-515 (1998).

61. As one Norwegian opponent of EU membership put it, "My English is not too good, but it is good to say we told the politicians and the press to get stuffed." Simon Haydon (of Reuters), *Norway Votes Against Joining Europe*, MOSCOW TRIB., Nov. 30, 1994, at 3.

62. The following discussion draws on my article, *Judge of the Seven Seas?*, LEGAL TIMES, Jan. 11, 1999, at 21. *See also* John R. Bolton, *The Global Prosecutors: Hunting War Criminals in the Name of Utopia*, FOREIGN AFF., Jan.-Feb. 1999, at 157.

63. *See* BLACK'S LAW DICTIONARY (6th ed. 1990).

64. *Id.* at 871.

territoriality or nationality. In a sense, the state that prosecuted pirates could be seen as vindicating the common interest of all states.[65]

A key element in the criminal characterization of piracy is that, by definition, pirates operate on the high seas beyond state boundaries. As the Italian Alberico Gentili wrote in the late 16th century, the sea "is by nature open to all men and its use is common to all, like that of the air."[66] Referring to ancient history, Gentili argued:

> Romans justly took up arms against [pirates] even though those peoples had touched nothing belonging to the Romans, to their allies, or to any one connected with them; for they had violated the common law of nations . . . . Piracy is contrary to the law of nations and the league of human society. Therefore war should be made against pirates by all men.[67]

In short, this is not "jurisdiction" in a legal process sense, but instead a justification for the legitimate use of force. It is a far cry from what "human rights " activists, NGOs, and academics, who repeatedly confuse the roles of force and law, have in mind today. From a very narrow foundation, theorists have enlarged the concept of universal jurisdiction to cover far more activities, with far less historical or legal support, than arose earlier in the context of piracy. At the same time, they have omitted reference to the use of force and substituted their preferred criminal prosecution. The proscribed roster of offenses now typically includes genocide, torture, war crimes and crimes against humanity, which are said to vest prosecutorial jurisdiction in all states.[68]

Announcing his decision in the November 25, 1998, decision of *Ex parte Pinochet*, Lord Nicholls described the crimes of which the General stood accused: "International law has made it plain that certain types of conduct . . . are not acceptable conduct on the part of anyone."[69] Although that decision (overturned and set for rehearing because of lapses in judicial ethics by one of the majority judges,[70] but subsequently readopted in

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65. Slave trading is also frequently considered to be the subject of universal jurisdiction, following similar reasoning. VON GLAHN, *supra* note 10, at 256.

66. Alberico Gentili, *De jure belli libri tres, quoted in* Thomas Meron, *Common Rights of Mankind in Gentili, Grotius and Suarez*, 85 AM. J. INT'L L. 110, 114 (1991).

67. *Id.*

68. The expansion of universal jurisdiction is thus closely related in substantive terms to international war crimes tribunals and the International Criminal Court. *See* discussion *infra* pp. 43-47.

69. Regina v. Bow St. Metro. Stipendiary Magistrate, *ex parte* Pinochet Ugarte, 4 All E.R. 897 (H.L. 1998).

70. Regina v. Bow St. Metro. Stipendiary Magistrate, *ex parte* Pinochet Ugarte (No. 2), 1 All E.R. 577 (H.L. 1999).

substance)[71] did not actually rest on universal jurisdiction, Lord Nicholls was, in fact, stating the doctrine's essential foundation.

The worst problem with universal jurisdiction is not its diaphanous legal footings but its fundamental inappropriateness in the realm of foreign policy. In effect (and in intention), the NGOs and theoreticians advocating the concept are misapplying legal forms in political or military contexts. What constitutes "crimes against humanity" and whether they should be prosecuted or otherwise handled—and by whom—are not questions to be left to lawyers and judges. To deal with them as such is, ironically, so bloodless as to divorce these crimes from reality. It is not merely naïve, but potentially dangerous, as Pinochet's case demonstrates.

Morally and politically, what Pinochet's regime did or did not do is primarily a question for Chile to resolve.[72] Most assuredly, Pinochet is not, unlike a pirate or a slave trader, beyond the control of any state. Although many people around the world intensely dislike the solution that Chile adopted in order to restore constitutional and democratic rule in 1990—especially the various provisions for amnesty—the terms and implementation of that deal should be left to the Chileans themselves. They (and their democratically elected government) may continue to honor the deal, or they may choose to bring their own judicial proceedings against Pinochet. One may accept or reject the wisdom or morality of either course (and I would argue that they should uphold the deal), but it should be indisputable that the decision is principally theirs to make.[73] The idea that Spain or any other country that subsequently filed extradition requests in the United Kingdom has an interest superior to that of Chile—and can thus effectively overturn the Chilean deal—is untenable. And yet, if the British had ultimately extradited Pinochet to Spain or elsewhere, that is exactly what would have happened. A Spanish magistrate operating completely outside the Chilean system will effectively have imposed his will on the Chilean people. One is sorely tempted to ask: "Who elected him?" If that is what "universal jurisdiction" means in practice (as opposed to the theoretical world of law reviews), it is hopelessly flawed.

Spain *does* have a legitimate interest in justice on behalf of Spanish citizens who may have been held hostage, tortured, or murdered by the Pinochet regime. And the Spanish government may take whatever steps it ultimately considers to be in the best interest of Spanish citizens, but its recourse lies with the government of Chile, and certainly not with that of the United Kingdom. If the government of Spain—as opposed to a loose cannon

71. Regina v. Bow St. Metro. Stipendiary Magistrate, *ex parte* Pinochet Ugarte (No. 3), 2 All E.R. 97 (H.L. 1999).

72. I address here only the jurisdictional issue, not the arguably more important question of whether the underlying actions amount to "criminal offenses" under any conventional legal definition, or how they came to be so characterized. For these purposes, correctly or not, we can simply assume them to be "criminal" in some sense.

73. *See* John R. Bolton, *Bring Back the Laxalt Doctrine*, POL'Y REV., Aug.-Sept. 2000, at 3.

magistrate—were truly serious, it would have approached the government of Chile directly. Whether Spain proceeded through judicial action or diplomatic channels (or both, or through military means) would, of course, have been up to Spain; in turn, Chile could have responded as it chose. But in this proper bilateral context, the Pinochet question would have been primarily a political matter. In actuality, the attempt to extradite Pinochet while he was in London was thus not the exercise of law; it was political theater.[74]

Much the same could be said about the debate over whether allegations of war crimes by members of Indonesia's armed forces in East Timor should be tried by Indonesia, or in a special tribunal to be created by the United Nations. This, too, is a question that is not simply a matter of legal process, but one that reaches the heart both of democratic theory and practice, and of national sovereignty. A UN panel of experts, formed to investigate the violence in East Timor, recommended to the Secretary General that the Security Council establish an international court along the lines of those established for Yugoslavia and Rwanda.[75] By contrast, a human rights commission appointed by the Indonesian government recommended to the country's Attorney General that top military leaders be tried in Indonesian courts.[76] There is no dispute that atrocities took place (although the specifics remain subject to further investigation), and there is no dispute that someone should be held accountable. But the remaining questions—who should do the accounting, and how—pose a critical philosophical debate for which Indonesia's answer could set an important precedent.

As in Chile, the key issue in Indonesia is whether nations, especially emerging democracies, are to be afforded the chance to confront the realities of their own histories. They should set the moral, political and legal standards by which they wish to be judged, implement those standards in viable judicial codes and institutions, and then live with the consequences of those decisions. This is one critical way in which fledgling democracies mature. To take critical decisions, such as those facing Indonesia, out of their hands is to deny them the chance for historical responsibility. To be sure, the decisions they make may not be those that self-assured, higher moralists might make, but that is inherent in the concept of popular sovereignty and autonomy. Facing up to the past, reckoning how to deal with the consequences autonomously, and then consciously taking responsibility for their decisions are central to moral choice. Anyone is free to offer Indonesia advice, but it is precisely the democratic responsibility to make its own decisions that would be at risk if the decisions were internationalized. To

74. In fact, the entire matter could have been averted had Pinochet been properly accredited and accepted by the United Kingdom as having diplomatic status. Now that the extradition ploy has elucidated this loophole in universal jurisdiction, others will surely take heed, actually making this episode less likely in the future.

75. Colum Lynch, *UN Panel Recommends Timor Tribunal*, WASH. POST, Jan. 31, 2000, at A15.

76. Raphael Pura, *Jakarta Blames Ex-Top General For Mass Violence in East Timor*, WALL ST. J., Feb. 1, 2000, at A23.

abort Indonesia's assumption of responsibility for its citizens' actions is not just elitist and paternalistic, but fundamentally violates the assumptions of democratic government. Unlike unfortunate Chile, Indonesia should be given the breathing space it needs to confront what happened in East Timor, and neither spared the pain of so doing nor the lesson of living with whatever it decides.

Indeed, the predominant view in the United States has been that this is precisely the kind of dispute best left to the political branches. Chief Justice Melville Fuller said clearly in *Underhill* v. *Hernandez*: "Redress of grievances by reason of such acts must be obtained through the means open to be availed of by sovereign powers as between themselves."[77] Judge Robert H. Bork, concurring in *Tel-Oren* v. *Libyan Arab Republic*, warned against a role for courts that "would raise substantial problems of judicial interference with nonjudicial functions, such as the conduct of foreign relations."[78] Stressing the purely legal aspects of a dispute—central to the entire contemporary concept of universal jurisdiction—not only ignores the political component, but foists responsibility onto the least-equipped branch of government. Widespread use of the doctrine would almost surely exacerbate political tensions between countries without adequately addressing the underlying causes of their original disagreement.

Because of the substantial publicity surrounding the Pinochet matter, we can expect copycat efforts covering a range of other "crimes against humanity" in the near future.[79] But adding purported crimes (shocking though they may be) to the list of what triggers universal jurisdiction does not make the concept any more real. Nor does a flurry of law review articles (and there has been far more than a flurry) make concrete an abstract speculation.[80] In fact, "universal jurisdiction" is conceptually circular: universal jurisdiction covers the most dastardly offenses; accordingly, if the offense is dastardly, there must be universal jurisdiction to prosecute it. Precisely because of this circularity, there is absolutely no limit to what

77. 168 U.S. 250, 252 (1897).

78. 726 F.2d 774, 804 (D.C. Cir. 1984).

79. Western human rights groups persuaded a magistrate in Senegal to bring charges against Hissene Habre, the deposed dictator of Chad, who had been living in Dakar since his ouster in 1990. *Ex-Chad Ruler Is Charged by Senegal with Torture*, N.Y. TIMES, Feb. 4, 2000, at A3. However, those charges were dropped when the judge in question was replaced with another. *Senegal Criticized for Dropping Charges*, WASH. POST, July 6, 2000, at A16.

80. *See, e.g.*, Theodor Meron, *War Crimes Law Comes of Age*, 92 AM. J. INT'L L. 462 (1998); Michael Scharf, *Accountability for International Crime and Serious Violations of Fundamental Human Rights: The Letter of the Law: The Scope of International Legal Obligation to Prosecute Human Rights Crimes*, 59 J. L. & CONTEMP. PROBS. 41 (1996); Christopher C. Joyner, *Accountability for International Crime and Serious Violations of Fundamental Human Rights: Arresting Impunity: The Case for Universal Jurisdiction in Bringing War Criminals to Accountability*, 59 J. L. & CONTEMP. PROBS. 153 (1996); Eric S. Kobrick, *The Ex Post Facto Prohibition and the Exercise of Universal Jurisdiction over International Crimes*, 87 COLUM. L. REV. 1515 (1987).

creative imaginations can enlarge it to cover, and we can be sure that they are already hard at work.

Any concept that can expand so dramatically so quickly—from piracy to genocide—is unlikely to slow down soon. Although one area of expansion will almost certainly be the official conduct of foreign policy, the realm of business and commercial activity will not be overlooked.[81] Typically, the existing "universal jurisdiction" crimes require an element of illicit governmental action, but not all do. For the creative activist, glossing over a "state action" requirement should prove no hurdle at all in proscribing what, in Lord Nicholls words, is "not acceptable conduct on the part of anyone." Consider just three examples: (i) major environmental disasters, particularly those with international implications like an oil spill at sea, could easily be envisaged as "crimes against humanity," and therefore subject to prosecution universally. An analogy to maritime piracy would be strained, to say the least, but not beyond either the ability or inclination of NGOs and academic theorists; (ii) unsatisfactory wages, hours or other conditions of employment at multinational corporations are already targets of union and human rights activists, who would not need much encouragement to liken such practices to slavery; and (iii) mining or manufacturing near sites of cultural or historical interest—what UNESCO devotees like to call the "common heritage of mankind"—could quite readily become the subject of universal jurisdiction, especially since the states where such activities occur might be classified as too weak to vindicate their own interests.

Thus, an oil company whose tanker broke up on the high seas could be brought to trial in an environmentally conscious Nordic state. A law-wage transnational could be prosecuted by a righteous Social Democratic government in Europe. A "culturally insensitive" company could be indicted almost anywhere cultural sensitivity is an issue. In each case, senior corporate executives could be arrested, detained and ultimately extradited for trial in countries far removed from any traditional nexus to the alleged offenses. Surely, no one will object, for they are, after all, *hostes humani generis*, are they not? We are not yet at this point, but the warning signs are clear. Consigning "universal jurisdiction" to the isolated debates of legal academics is seriously ill-advised from both foreign and economic policy perspectives, and more dispassionate analysis of the concept is sorely needed. Here is a clear case where law is too important to be left to law professors.

Moreover, there are undoubtedly issues, such as those involving terrorism, that are not really suitable for a "legal" resolution. One such example may be the case of Pan Am 103, blown out of the sky over Lockerbie, Scotland, on December 21, 1988.[82] Nine years after the UN Security Council

81. *See* Anne-Marie Slaughter & David Bosco, *Plaintiff's Diplomacy*, FOREIGN AFF., Sept.-Oct. 2000, at 102, 109-12 [hereinafter *Plaintiff's Diplomacy*].

82. *See generally* Susan & David Cohen, PAN AM 103: THE BOMBING, THE BETRAYALS, AND A BEREAVED FAMILY'S SEARCH FOR JUSTICE (2000).

condemned Libya for its involvement in the conspiracy to destroy Pan Am 103, and subsequently imposed limited economic sanctions, Libya agreed to turn over two of its intelligence agents who had been indicted for murder by prosecutors in the United States and Scotland.[83] Although the beginning of their trial on May 3, 2000, before a special Scottish court, sitting in the Netherlands (at Libya's insistence)[84] might seem like something to celebrate, a time for rhetoric about "the international rule of law," the trial actually marks the final collapse of United States policy against Libyan terrorism, and the end of its efforts for a real vindication of Pan Am 103's victims. This collapse embodies both a failure of will to use military force to respond to a brutal attack on United States citizens, and self-imposed, potentially crippling limitations on even the narrow avenue of prosecution.

The basic wrong turn in policy began with the Bush Administration's decision in 1991-92 to judicialize the Pan Am 103 matter rather than to use force, in effect treating this Libyan act of terror like a domestic murder case, rather than the political-military attack that it was. In January 1992, the Security Council took the unprecedented step of deploring Libya's failure to cooperate with international law-enforcement efforts.[85] Two months later, in another unprecedented step, the Council's Resolution 748 imposed economic sanctions against Libya.[86] Although hailed at the time as great victories, in fact, there was little enthusiasm for the initial Council condemnation of Libya, and there was barely enough support for the subsequent imposition of sanctions.[87] Since 1992, the United States has faced continuous pressure to scale back or eliminate the sanctions on any pretext, largely from Europeans who would rather trade with Moammar Gadhafi than punish him for murder.[88] Ironically, not even Gadhafi played along with this charade. In an April 3, 2000 speech to the African-European summit in Cairo, just before the opening of the trial, he declared that "Africa is not a ping-pong ball to be hit

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83. Helene Cooper, *Libya Hands Over Pan Am 103 Suspects As U.N. but Not U.S. Suspends Sanctions*, WALL ST. J., Apr. 6, 1999, at A28.

84. Donald G. McNeil, Jr., *Trial of 2 Accused in Pan Am Bombing Finally Beginning*, N.Y. TIMES, May 4, 2000, at A1.

85. S.C. Res. 731, U.N. SCOR, 3033d mtg. at 51, S/RES/731 (1992).

86. S.C. Res. 748, U.N. SCOR, 3063d mtg. at 52, S/RES/748 (1992).

87. Resolution 748 was adopted by a vote of 10-0-0 (China, India, Zimbabwe, Cape Verde, Morocco).

88. Thus, although the existing sanctions were marginally strengthened in U.N. Security Council Resolution 883, Nov. 11, 1993, that same Resolution provided in operative Paragraph 16 that the Council was prepared to review the sanctions "with a view to suspending them immediately if the Secretary-General reports to the Council that the Libyan Government has ensured the appearance of those charged with the bombing of Pan Am 103 for trial before the appropriate United Kingdom or United States court. . . ." Russia went along with the new sanctions only reluctantly, and Germany and Italy were reported to be opposed. *See* Paul Lewis, *Russia Warned Over Libya Sanctions by U.S., Britain and France*, N.Y. TIMES, Nov. 4, 1993, at A5; Julia Preston, *U.N. Council Adds Sanctions on Libya*, WASH. POST, Nov. 12, 1993, at A39.

once by Europe, once by the U.S.," and "we do not need democracy; we need water pumps."[89]

Even assuming that military retaliation was out of the question, either because of the passage of time between the destruction of Pan Am 103 and the point at which the United States and Great Britain's investigators could reasonably conclude that Libya was responsible, or because of a conscious policy decision not to use force, several critical mistakes were made. Ironically, these mistakes weaken national legal institutions, but do not correspondingly strengthen international ones, except in their unreliable appearance, again contributing to the political theater nature of "international law."

Initially, Secretary of State Madeleine Albright conceded, without getting anything in return, that the case would be tried under Scottish law, which does not provide for the death penalty for convicted murderers.[90] While Scotland undeniably has a jurisdictional claim in the case, because eleven of its citizens died on the ground near Lockerbie, the claim of the United States is far stronger, given that 189 of its citizens were among the 270 total fatalities. One can imagine valid reasons for deferring to the Scots, but to lose even the possibility of the death penalty without obtaining a single one of its objectives in exchange is a stunning failure of United States diplomacy.[91] The second concession (holding the trial in the Netherlands rather than in Scotland) also had adverse consequences. Leaks that the United States would accept the Pan Am 103 trial in a third country originally appeared in July 1998, before the terrorist bombings of U.S. embassies in Kenya and Tanzania.[92] Yet even after those bombings, and the subsequent military retaliation, the Clinton Administration gave way on the Pan Am 103 trial location, which had previously been non-negotiable, either in the United States or Scotland.[93]

A further concession is embodied in the August 1998, Security Council Resolution, namely that UN Secretary General Kofi Annan would name international "observers" to "monitor" the Scottish judges' conduct of the

89. Ray Takeyh, *Qadhafi at the European-African Summit: Is He Moderating His Stand?*, POLICYWATCH, Apr. 17, 2000, at 1, 1-2.

90. Monte Williams, *Families of Pan Am Victims Split Over Policy Shift*, N.Y. TIMES, July 25, 1998, at A13.

91. In international circles, Secretary Albright's decision to forego the death penalty might well have won her plaudits, given international opposition to the United States' use of the death penalty generally. *See infra* p. 31 and note 117.

92. Thomas W. Lippman, *Plan to Move Pan Am Trial Is Weighed*, WASH. POST, July 22, 1998, at A19. Lippman reported that "senior U.S. officials" believed "it is far more likely Gadhafi will refuse the offer, thus reinforcing U.S. and British efforts to keep the U.N. sanctions in place." *Id.*

93. Robert S. Greenberger, *U.S. Set to Offer Pan Am Suspects Netherlands Trial*, WALL ST. J., Aug. 24, 1998, at A5.

trial.[94] Whatever the individual qualifications of the five trial observers named to date—and one of them is reported to have served as a lawyer for Libya's UN Mission in New York[95]—the fact remains that this concession is insulting to the entire Scottish judicial system. The idea that Scottish justice might not be up to Libya's high standards of due process, or that there is some "international" standard that is somehow better than Scotland's (and, implicitly, the United States') is truly remarkable. An equally negative precedent is the agreement by the United States and Great Britain that the defendants, if convicted and imprisoned, would be "monitored" by the United Nations.[96] The notion that Scottish prisons might not meet Libyan standards is breathtaking. In nations where the rule of law prevails, prisoners generally are required to be treated humanely, are allowed to consult with counsel, to practice their religions, to receive legitimate visitors, and the like. For understandable security reasons, prisoners are not treated uniformly. Convicted murderers do face different circumstances than tax evaders. Nonetheless, Scotland still qualifies as a democratic, civilized-enough place that it can be expected to meet its own legal standards. These concessions raise the prospect that future controversial cases with even the slightest international coloration will be subject to calls for UN monitoring or oversight. What seems at first like a slight concession to Gadhafi's peculiar sensitivities is actually a potentially open-ended invitation to global entanglements in domestic criminal justice systems.[97] The result is a net *lowering* of legal standards, not an enhancement.

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94. S.C. Res. 1192, U.N. SCOR, 3920th mtg., S/RES/1192 (1998). In fact, the two Libyan defendants were not actually handed over until April 5, 1999. Gordon Cramb, George Parker & Gautam Malkani, *Pan Am Bomb Suspects Flown in for Murder Trial*, FIN. TIMES, Apr. 6, 1999, at 1.

95. *Annan Names Five Observers for Lockerbie Trial*, REUTERS WIRE REP., Apr. 28, 2000.

96. *See* Letter from United Nations Secretary General Kofi A. Annan to Colonel Muammar Al-Qadhafi, Leader of the Revolution, Socialist People's Libyan Arab Jamahiriya, (Feb. 17, 1999) (on file with author). *See also infra* note 98.

97. Yet another concession, highly controversial in the United States, involves a February 17, 1999, letter sent by Secretary General Annan, which essentially guaranteed to Gadhafi that he would not be linked to the murders at the trial. Annan's letter has only recently been made public, but it reflects that Libya's "understanding" of the arrangements for the two defendants is fully shared by the United States and the United Kingdom. Secretary Albright had previously refused requests from members of Congress, families of the Pan Am 103 victims, and journalists for a copy of the letter, which had been retrospectively classified by the Department of State. In unambiguous terms, the Secretary General's letter insulates Gadhafi from criminal liability for the bombing, which many believe he personally ordered. An attachment to Annan's letter containing the "understanding" states: "The two persons will not be used to undermine the Libyan regime." Certainly, the United States has, at times, decided not to proceed with criminal trials that might have had an adverse impact on national security. Because of concerns about protecting intelligence sources and methods, or because of overriding foreign policy priorities, even clearly winnable prosecutions have been abandoned. Such decisions reflect tough assessments as to when critical national interests legitimately trump criminal justice priorities. But what the United States and the United Kingdom have done here is something far different. These concessions to Gadhafi are made to a potential defendant, or at least a co-conspirator, in the murder that is the very subject of the investigation. *Id.*

In the foregoing examples, responsibility for a critical aspect of national self-governance has been taken away—or given away—from the nations most deeply affected. More precisely, the responsibility has migrated from the elected representatives of the people most directly affected to others, whose interests, opinions, motivations and capabilities are often far-removed from the consequences of the actions under scrutiny. Not only is authority being reduced, but so, too, is the inevitable legitimacy that flows from the decision-making of representative governments. In some purely theoretical sense, this migration may resemble a "legal" process, but it is hardly one that free citizens would knowingly choose if they fully understood what was happening to their liberty and authority.

C. The Implications of Domesticizing "International Law"

The dissolving of nation-states into the European Union is important not only in its "international" impact, but also in the "domestic" impact on EU member states. They fully understand that transferring various "competencies" to Brussels reduces their respective national "domestic" authorities, and they do so openly, sometimes by treaty, and sometimes by explicitly amending their respective national constitutions. Indeed, the rapidity with which constitutions are being amended to conform to the EU's emerging shape makes these constitutions more like statutes, as sovereignty shifts from the nation-state to Brussels. And the practice of divesting themselves of authority in favor of multilateral institutions now extends outside the EU. Germany and France, for example, after signing the 1998 Statute of Rome creating the International Criminal Court, are in the process of amending their constitutions to conform them to the Statute.[98]

American opponents of the nation-state are rarely so overt. Indeed, they face an entirely different and arguably far more difficult problem under the U. S. Constitution. Is it theoretically legitimate for a President to sign, and the Senate to ratify, a treaty creating an international structure superior to the Constitution? As discussed previously,[99] the answer is clearly "no," at least not without an amendment to the Constitution, as Justice Black, writing for a Supreme Court plurality, said in *Reid* v. *Covert*, "This Court has regularly and uniformly recognized the supremacy of the Constitution over a treaty."[100] In the United States, it is politically inconceivable that anybody could advocate a treaty that would actually require amending the

98. *See* "Summary of ratification and implementation of the Rome Statute of the International Criminal Court," *in* Letter from the Permanent Mission of Germany to the United Nations (undated) (on file with author). *See also* letter from Marie-Claire Gerardin, of the French Ministry of Foreign Affairs, to the author (Aug. 28, 2000) (explaining France's amendment to its Constitution). Additional information can be obtained at http://www.assemblee.nationale.fr *and* http://www.senate.fr.

99. *Reid*, 354 U.S. at 1.

100. *Id.* at 17.

Constitution. In fact, we may be the *only* country in the world that cares so deeply about our constitutional autonomy, but we have good reason to do so.

Not so dramatic as outright Constitutional amendment is the less visible but increasingly more pervasive approach of trying to establish domestic policy through international agreement. Although advocated because "global" problems require "global" solutions, the proposed policy changes are often precisely those that would be advanced whether there was a "global" aspect or not. These objectives are often impossible to achieve domestically (or almost insuperably difficult) through traditional political means, such as legislation, because there are too many opponents who can block Congressional action. Accordingly, the advocates turn to international agreements as a way to "back door" the United States' domestic political process, thus "binding" Congress and eliminating its ability to "subvert" the treaty objectives.

One current variation on this theme is the argument, discussed above, that the United States is "legally" bound to pay whatever assessment is presented to it by the United Nations, because Congress lacks the power to authorize and appropriate a different amount.[101] Under this variation, membership in the UN and adherence to Article 17 of the Charter strips Congress of its discretion over financial contributions and "binds" Congress to the level presented in the UN's assessment notice.

The House of Representatives rejected precisely this argument 204 years ago. Several provisions of the Jay Treaty of 1796, establishing "mixed commissions" to address various issues, required appropriations to make them effective. Supporters of the Treaty argued that, since it had been duly ratified, Congress was obligated to make the necessary appropriations. Opponents, by contrast, argued that separate legislative action was required by the Constitutional provision that "no money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law."[102]

Historical discussion of the congressional debate over the Jay Treaty has concentrated on the struggle by Congress to obtain the negotiators' instructions. Nonetheless, while the debate was confused, at best, on several points, the financial question was also one of great significance. As it turned out, the opponents, led by Congressmen James Madison and Albert Gallatin, prevailed on the appropriations issue, certainly in the court of history.[103] While the House appropriated the money necessary to implement the Treaty, it also adopted a Resolution that stated:

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101. *See supra* Part II.A.

102. U.S. CONST. art. I, § 9, cl. 2.

103. *See* THE CONSTITUTION OF THE UNITED STATES OF AMERICA 502-03 (Killian & Becks eds., 1987). *See also* SAMUEL B. CRANDALL, TREATIES, THEIR MAKING AND ENFORCEMENT (John Byrne & Company 1916) (1904).

> [W]hen a treaty stipulates regulations on any of the subjects submitted by the Constitution to the powers of Congress, it must depend for its execution as to such stipulations on a law or laws to be passed by Congress, and it is the constitutional right and duty of the House of Representatives in all such cases to deliberate on the expediency or inexpediency of carrying such treaty into effect, and to determine and act thereon as in their judgment may be most conducive to the public good.[104]

Thus, two centuries of House precedents confirm the legitimacy of the House and the Senate, making their own judgments on appropriations—or any other legislation—independent of any prior treaty ratification. Authorizing or appropriating less than the full amount of a UN agency's assessment is doing nothing more or less than what Madison and Gallatin successfully urged two centuries ago.

In fact, the idea that treaties, ratified alone by the Senate, can supplant the legislative role of the House of Representatives, in and of itself should demonstrate both the grave constitutional and political weaknesses of the "back door" approach to domestic legislation. The Supreme Court has already, at least in passing, noted this point:

> A treaty is made by the President and the Senate. Statutes are made by the President, the Senate and the House of Representatives. The addition of the latter body to the other two in making a law certainly does not render it less entitled to respect in the matter of its repeal or modification than a treaty made by the other two. If there be any difference in this regard, it would seem to be in favor of an act in which all of the three bodies participate. And such is, in fact, the case in a declaration of war, which must be made by Congress, and which, when made, usually suspends or destroys existing treaties between the nations thus at war.[105]

Moreover, this analysis is entirely consistent with an essentially unquestioned line of congressional practice that treaties can be voided or unilaterally modified by subsequent congressional action. The first example of such action took place shortly after the Jay Treaty controversy. In 1798, relations with France had deteriorated to the point that Congress voided previously existing treaties between that country and the United States. The key explanatory language of the repealing statute stressed that:

> Whereas the treaties concluded between the United States and France have been repeatedly violated on the part of the French Government; and the just claims of the United States

104. 5 ANN. OF CONG. 771, 782 (1796).

105. *Head Money Cases*, 112 U.S. at 599.

> for reparation of the injuries so committed have been refused, and their attempts to negotiate an amicable adjustment of all complaints between the two nations have been repelled with indignity; and whereas, under authority of the French Government, there is yet pursued against the United States a system of predatory violence, infracting the said treaties and hostile to the rights of a free and independent nation.[106]

Where Congressional actions modifying treaties have been challenged judicially, there is an unbroken line of Supreme Court precedent holding that such legislative actions are entirely lawful and constitutional. Thus, in *Chae Chan Ping* v. *United States*, a statute prohibiting the entry into the United States of certain Chinese laborers was challenged on the ground that it contravened existing treaties between the United States and the Emperor of China. The Supreme Court agreed that the challenged statute in fact violated the treaties indicated, but was not thereby invalid. The Court reasoned:

> A treaty . . . is often merely promissory in its character, requiring legislation to carry its stipulations into effect. Such legislation will be open to future repeal or amendment. If the treaty operates by its own force, and relates to a subject within the power of Congress, it can be deemed in that particular only the equivalent of a legislative act, to be repealed or modified at the pleasure of Congress. In either case the last expression of the sovereign must control.[107]

Moreover, Congress may exercise this authority for whatever reason it chooses: "it is wholly immaterial to inquire whether it has, by the statute complained of, departed from the treaty or not; or, if it has, whether such departure was accidental or designed; and if the latter, whether the reasons therefor were good or bad."[108]

Even though, to date, ultimately futile at stifling domestic political attitudes, the attractiveness of the "back door" still persists. A particularly vivid contemporary example of trying to obtain internationally what is

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106. 1 Stat. 578 (1798), *quoted in Chae Chan Ping*, 130 U.S. at 601.

107. *Id.* at 600.

108. *Id.* at 602. *See also* Whitney v. Robertson, 124 U.S. 190, 194 (1888) ("By the Constitution a treaty is placed on the same footing, and made of like obligation, with an act of legislation. Both are declared by that instrument to be the supreme law of the land, and no superior efficacy is given to either over the other . . . . [I]f the two are inconsistent, the last one in date will control the other . . . ."); Head Money Cases, 112 U.S. at 597 ("We are of the opinion that, so far as the provisions in that act may be found to be in conflict with any treaty with a foreign nation, they must prevail in all the judicial courts of this country."); Cherokee Tobacco, 78 U.S. 616, 621 (1871) ("A treaty may supersede a prior act of Congress . . . and an act of Congress may supersede a prior treaty."); *Reid*, 354 U.S. at 18 ("This Court has also repeatedly taken the position that an Act of Congress, which must comply with the Constitution, is on a full parity with a treaty, and that when a statute which is subsequent in time is inconsistent with a treaty, the statute to the extent of the conflict renders the treaty null.").

impossible to obtain domestically is the Kyoto Protocol on global warming.[109] Many environmental groups wanted a series of changes in environmental and economic policy that they knew Congress, a messy, democratic institution, would reject. They concluded, logically from their tactical perspective, that it was much easier to persuade an international conference to adopt environmental standards that could then be presented to the Senate, saying in effect: "Because the President has signed this international treaty, the credibility of the United States is on the line. Surely the Senate must ratify." In fact, the strategy at the Kyoto conference was to make the United States look isolated and intransigent, as a Greenpeace delegate said even before the opening gavel: "There is a growing feeling that the U.S. is becoming the bully of the conference."[110] Sure enough, when Vice President Gore arrived in Kyoto, he instructed the U.S. delegation to change its position.[111]

Although there was a considerable delay before the Clinton Administration finally signed the Protocol and submitted it to the Senate,[112] it is now pending. Because political opposition in the Senate has remained unchanged, however, the Kyoto agreement is not going to be ratified, and implementing legislation is not going to be adopted. But now, the United States has been tactically out-maneuvered in the international arena, and made to look isolated. It suggests that, as a political tactic to obtain substantive policy change that cannot be obtained through domestic political activity, the international arena is much more attractive.[113] And the example of Kyoto is further proof that "international law" today is very much about binding, restricting and limiting the United States.

In fact, there is already an emerging vehicle for this process in international "civil society," a movement that has astutely, if dishonestly, misappropriated the name of an important and legitimate component of national polities. "Civil society" as it currently functions in the international arena amounts to the collection of advocacy NGOs in a variety of fields such as human rights and the environment,[114] something far different from the voluntary, non-business/non-labor, civic, religious and charitable associations that make up domestic "civil society." What actually seems to be happening is that the international NGOs are becoming an alternative to national

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109. Kyoto Protocol to the United Nations Framework Convention on Climate Change, Dec. 10, 1997, 37 I.L.M. 22. *See* JEREMY RABKIN, WHY SOVEREIGNTY MATTERS 80-92 (1998).

110. Mary Jordan, *Economy Chills Warming Treaty*, WASH. POST, Dec. 1, 1997, at A1.

111. Joby Warrick, *Gore Urges Resolution at Climate Talks*, WASH. POST, Dec. 8, 1997, at A1.

112. Joby Warrick, *Fast Track Toward Climate Goals*, INT'L HERALD TRIB., Nov. 18, 1998, at 4.

113. Senator Larry Craig, a Republican opponent of Kyoto, stated: "If this agreement is signed . . . it will be the first time in our history that an American administration has allowed foreign interests to control and limit the growth of the U.S. economy." Bruce Clark, *Senate Rejection of Pact Predicted*, FIN. TIMES, Dec. 11, 1997, at. 6.

114. *See, e.g.*, WILLIAM KOREY, NGOS AND THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (1998).

governments as vehicles for decision-making.[115] In reality, however, it is precisely the detachment from governments that makes such a "civil society" so troubling, at least for democracies. Within each democratic government, political interests compete for power: the legitimate, constitutional authority flows from victory, in order to implement their policy preferences. In the international context, this includes the authority to negotiate on behalf of the entire nation, including opposing political forces that lost electorally. "Civil society," by contrast, seeks to re-argue its preferred issues, by trying to leverage political power from outside of the democratic polities where they have been unsuccessful politically. This "outside" political power may well, over the long term, leave them in a stronger domestic position than their opponents, who have neither access to nor allies beyond their own countries. In effect, therefore, "civil society" attempts to renegotiate the basic constitutional issue of democracies—who governs?—to its own advantage.[116]

An important contemporary example of precisely this leverage at work is the current international campaign against the use of the death penalty in the United States, aspects of which have been played out during the 2000 presidential campaign. Hofstra University law professor Peter Spiro, for example, has asserted that the U.S. death penalty "is the area where American law 'most clearly is trespassing on crystallizing international norms.'"[117] Without being diverted into an extensive argument about the pros and cons of the death penalty, there should be little doubt that the extent to which the death penalty has, in the last several years, been adopted and reaffirmed at the State and Federal levels, shows that the measure has strong public support. This support is not, to be sure, universal, and considerable controversy and debate still surrounds both the general subject and application of the death penalty in particular cases. Nonetheless, the decision to provide for the penalty in the current context has been made only after full debate and in the unchallenged exercise of democratic authority and legitimacy. Death penalty opponents obviously remain free to debate the issue, and to press for reconsideration, and they continue to do so actively.

Students of democratic theory might think that the results of this free and open process by which citizens and their elected representatives have made their policy decisions should be sufficient. They would be wrong. Death penalty opponents have turned outside of the United States Constitution and polity to try to find added support for their campaign inside the United States

115. "[T]ogether, we [the NGOs] are a superpower." *Id.* at 27 (quoting a leading NGO activist, Jody Williams).

116. The "Millennium Forum" of NGOs convened in New York just before the 2000 UN General Assembly "to present a comprehensive and coherent opinion to world leaders. Techeste Ahderom, *Activism in the Millennium*, EARTH TIMES, Mar. 16, 2000, at 27. Adherom was Co-Chair of the Millennium Forum, which was a suggestion of the Commission on Global Governance: "The Forum Process will also strengthen the capacity of civil society to influence the governments of member-states of the UN on issues on the [General] Assembly's agenda—and those off it." OUR GLOBAL NEIGHBORHOOD, *supra* note 50, at 259-60.

117. Lyle Denniston, *States' Legal Role Grows Globally*, BALTIMORE SUN, June 1, 1998, at 2A.

in two ways. First, they have attempted to use international agreements—such as the Vienna Convention on Consular Relations[118]—in litigation against the application of the death penalty, and second, they have tried to mobilize *international* public opinion against the prevailing majority view *within* the United States.

The first strategy was applied in the 1998 case of Angel Breard, a Paraguayan national, convicted in Virginia of a particularly brutal murder: the killing of a single woman whom he followed home and stabbed five times in the neck, following an attempted rape.[119] Guilt was unquestioned because of Breard's own confession at trial in June 1993 (against the advice of both his experienced, court-appointed attorney and his Paraguayan mother), and because of extensive DNA testing and microscopic evidence from his victim's corpse. Breard had been living in the United States since 1986, and it was uncontested that he had a good command of English. He had almost immediate and continuing access to his family and counsel from the time of his arrest in August 1992. A jury sentenced Breard to death, pursuant to Virginia law, because of "future dangerousness" and the "vileness" of his crime.[120]

Breard then received the benefit of every possible judicial review. His jury conviction was affirmed by the Supreme Court of Virginia;[121] and the United States Supreme Court denied review.[122] Breard then brought a state habeas corpus petition, which was twice denied by the trial court. The state Supreme Court also twice rejected his habeas appeals.[123] During all of these proceedings, Breard never raised the Vienna Convention on Consular Relations. In analogous cases, such a procedural default would bar a person from using certain defenses in later proceedings, even defenses based on the Constitution.

Only in a new habeas corpus petition, filed in a federal district court in Virginia, filed by five new court-appointed attorneys, did Breard finally raise the Vienna convention issue. The precise question at issue—and the principal point of attack for Breard's counsel and their sympathizers—was whether Virginia's failure to advise Breard at the time of his arrest that he could consult with Paraguayan consular officials, pursuant to the Vienna

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118. Vienna Convention on Consular Relations and Optional Protocol on Disputes, Apr. 23, 1963, 21 U.S.T. 77, 596 U.N.T.S. 261 [hereinafter *Vienna Convention*].

119. Breard v. Greene, 523 U.S. 371 (1998). The following discussion draws on my article, John Boton, *We Gave Angel Breard Justice*, LEGAL TIMES, May 4, 1999, at 27.

120. These particulars are described in Respondent's Brief in Opposition to Breard's Petition for Certiorari, filed in the U.S. Supreme Court March 19, 1998, at 2-5 [hereinafter *Respondent's Brief*], *quoting* Breard v. Commonwealth, 445 S.E.2d 670 (Va. 1994).

121. 445 S.E.2d at 670.

122. Breard v. Virginia, 513 U.S. 971 (1994).

123. The history of Breard's litigation is summarized in *Respondent's Brief*, *supra* note 120, at 4-5.

Convention, was enough to set aside his conviction. There was never any claim that Virginia had denied such access, only that it had not informed Breard of the option. Breard's new petition was rejected.[124] The U.S. Court of Appeals for the Fourth Circuit affirmed,[125] and also denied Breard's petition for rehearing. Paraguay filed a separate federal suit to enjoin Virginia from proceeding, but the district court dismissed the case,[126]and the Fourth Circuit affirmed.[127]

None of this should be very surprising, since the preamble to the Vienna Convention itself expressly states that its subject is "consular relations privileges and immunities," and that the purpose of such privileges and immunities "is *not to benefit individuals* but to ensure the efficient performance of functions by consular posts."[128] Indeed, the Supreme Court did not find the case difficult, denying Breard's and Paraguay's petitions for *certiorari* and applications for a stay, and rejecting the contention that any error in Breard's case caused him any real harm:

> Even were Breard's Vienna Convention claim properly raised and proven, it is extremely doubtful that the violation should result in the overturning of a final judgment of conviction without some showing that the violation had an effect on the trial . . . . In this case no such showing could even arguably be made."[129]

The Court also held that international law generally recognizes that "the procedural rules of the forum State govern the implementation of the treaty in that State . . . . This proposition is embodied in the Vienna Convention itself."[130]

Thus, in thirteen distinct decisions, by five different courts in four separate proceedings, in litigation lasting five years and eight months, Breard either failed to raise the Vienna Convention or had his arguments about the Convention rejected. But this was not the end of the matter. Although Paraguay and the Department of State had been in diplomatic conversation about Breard since April 1996, when Paraguay first contacted the Department asking for information, Paraguay (assisted by U.S. lawyers referred by Breard's domestic American counsel) waited for two years until April 3, 1998 to file suit in the International Court of Justice ("ICJ"), a mere eleven days before Breard's scheduled execution. Mirroring arguments made by the Solicitor General in the Supreme Court, State Department lawyers

124. Breard v. Netherland, 949 F.Supp. 1255 (E.D. Va. 1996).

125. Breard v. Pruett, 134 F.3d 615, 616 (4th Cir. 1998).

126. Republic of Paraguay v. Allen, 949 F.Supp. 269 (E.D. Va. 1996).

127. Republic of Paraguay v. Allen, 134 F.3d 622 (4th Cir. 1998).

128. *Vienna Convention, supra* note 118 (emphasis added).

129. Breard v. Greene, 523 U.S. at 377.

130. *Id.*

argued that the ICJ had no jurisdiction to hear Paraguay's case, that Paraguay was wrong on the merits, and that the stay of Breard's execution sought from the ICJ was impermissible. The ICJ, in response, called upon the United States not to execute Breard while it considered the applicability of the Vienna Convention,[131] and even Secretary of State Madeleine Albright got into the act. She took the extraordinary step of writing to Virginia Governor James Gilmore to ask him to stay the execution, for two reasons. First, she said that executing Breard "could lead some countries to conclude incorrectly that the U.S. does not take [the Vienna Convention] seriously," which could pose risks to citizens of the United States overseas. Second, given the ICJ opinion, she said that executing Breard "could be seen as a denial by the United States of the significance of international law and the [ICJ's] processes in its international relations."[132]

Neither Governor Gilmore nor the Supreme Court were impressed, and Breard was executed on schedule on April 14. The Court's *per curiam* opinion said unequivocally that, if Governor Gilmore "wishes to wait for the decision of the ICJ, that is his prerogative. But nothing in our existing case law allows us to make that choice for him."[133]

Moreover, Secretary Albright's concern for "international law" relating to citizens of the United States traveling abroad was entirely misplaced. Any foreign government with even a minimal knowledge of due process (by any civilized definition) will understand that Breard received all possible legal protections, procedurally and substantively, in more than ample measure. Governments without such minimal knowledge will not be deterred by the Vienna Convention in any case. If respect for the rule of law is generally absent in a country, there is no reason to believe that adherence to the Vienna Convention might be the sole exception. Moreover, the Convention does not guarantee that trials abroad will be conducted by U.S. standards, but only that American citizens must be advised that they can consult with consular officials. It is fanciful to believe that consular officials—as opposed to experienced criminal defense attorneys—can offer the real assistance needed by United States' citizens in legal trouble overseas. Albright's real failure, and those who supported the intrusion of "international law" into the Breard case, was ignoring the legitimate, indeed overwhelming, national interest in honoring our own laws and our own Constitution.[134]

The second strategy, mobilizing international opinion against the death penalty, has come most recently in the form of a rapporteur authorized by the

131. *Case Concerning the Vienna Convention on Consular Relations (Paraguay v. United States)*, 1998 I.C.J. (April 9), *reprinted in* 37 I.L.M. 810, 819 (1998).

132. Letter from Secretary of State Madeleine K. Albright to Virginia Governor James S. Gilmore, III (Apr. 13, 1998) (on file with author).

133. Breard v. Greene, 523 U.S. at 378.

134. *See* Curtis A. Bradley, *Breard, Our Dualist Constitution, and the Internationalist Conception*, 51 STAN. L. REV. 529 (1999).

United Nations Human Rights Commission to investigate death penalty law and practice in the United States.[135] Although this Human Rights Commission rapporteur (and others who have recently investigated the United States on "religious intolerance"[136] and "violence against women"[137]) could undoubtedly find more useful work to do investigating other UN member states, his deployment here emphasizes the workings of what can only be described as an effort to subvert the use of the death penalty in the United States. To begin with, the rapporteur's explicit mandate covered only "extrajudicial, summary or arbitrary executions." Can anyone seriously argue that any level of the United States government has, in recent years, carried out an execution in such a lawless manner? One may argue (incorrectly, in my view) that the death penalty falls disproportionately on one group or another, but there is simply no credible argument that the administration of the death penalty in the United States is "extrajudicial, summary or arbitrary."

Indeed, the rapporteur himself gives his real agenda away when he writes in his report that "information concerning the extension of the scope and the reintroduction of death penalty statutes in several states prompted" his visit.[138] This admission reflects unambiguously the pursuit of a political agenda, or is otherwise a confession of just how undisciplined an international organization the UN is. There are "extrajudicial executions" in the world, and the UN's inability to focus its scarce resources where the real problems exist is telling evidence for many citizens of the United States of fundamental structural flaws in the institution itself. Further evidence is found in the rapporteur's unbelievable recommendation that our government "include a human rights component in training programmes for members of the judiciary."[139]

While one unguided rapporteur (or even several) is hardly a threat to the Republic, there can be no argument that something else more troubling is at work here. The rapporteur, in his forty-page, single-spaced, heavily footnoted report about his "mission" to the United States, is quite explicit: "The United Nations had gradually shifted from the position of a neutral observer . . . to a

135. *Report of the Special Rapporteur of the Commission on Human Rights on Extrajudicial, Summary or Arbitrary Executions, Mr. Bacre Waly Ndiaye, submitted pursuant to Commission resolution 1997/61, Addendum, Mission to the United States of America,* U.N. Doc E/CN.4/1998/68/Add. 3, Jan. 22, 1998 [hereinafter *Death Penalty Report*].

136. *Report submitted by Mr. Abdelfattah, Special Rapporteur, in accordance with Commission on Human Rights resolution 1998/18, Addendum, Visit to the United States of America,* U.N. Doc. E/CN.4/1999/58/Add. 1, Dec. 9, 1998.

137. *Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, Ms. Radhika Cosmaraswamy, in accordance with Commission on Human Rights resolution 1997/44, Addendum, Report on the mission to the United States of America on the issue of violence against women in state and federal prisons,* U.N. Doc. E/CN.4.1999/68/Add. 2, Jan. 4, 1999.

138. *Death Penalty Report, supra* note 135, at 2.

139. *Id.* at 27.

position favouring the eventual abolition of the death penalty."[140] Most United States' citizens will wonder how the UN arrived at such a position, which was certainly never debated in Congress. Moreover, how and when did the "United Nations" ever come to believe that it had authority to make such judgments in the first place? Whether abolition of the death penalty is the personal opinion of some rapporteur from Senegal is, of course, completely irrelevant to the domestic debate on the issue. But the rapporteur and his allies are clearly trying to do something more here: leverage the stature and legal "authority" of the UN (such as they are) into that debate, through his finding that the use of the death penalty in the United States violates "international law."[141] The rapporteur goes on to recommend, in light of his findings, that "the Special Rapporteur on the independence of judges and lawyers" make a visit to the United States.[142] He also recommends that our police receive "training on international standards on law enforcement and human rights."[143]

The United States is not alone in facing these pressures from international organizations. Australia has recently come under criticism for "mandatory sentencing" laws in Western Australia and the Northern Territory by the UN Committee on the Elimination of Racial Discrimination ("CERD"), which asserts that Aboriginal citizens are adversely affected by the practice.[144] This is not a case of reporting on "human rights" violations by a totalitarian state, but is instead a direct and unambiguous interference in the internal affairs of a democratic UN member. Citizens can and should debate the merits of mandatory sentencing, and its impact on racial minorities, and Australians are perfectly capable of making up their minds on the subject without help (or implicit pressure) from outsiders. Moreover, CERD itself is not composed of member UN governments, but eighteen "experts" acting in their individual capacities, elected by signatories to an international convention.[145] It has no more international authority or legitimacy than any random collection of eighteen people at an intersection outside UN headquarters in New York.

One could well ask why CERD could not find more important work to do in any number of other countries where problems of racial discrimination are not only more severe but, because of the lack of basic democratic freedoms, far less likely to be resolved satisfactorily. In fact, CERD's comments on Australia epitomize the larger pattern of action in the name of "human rights" that is having the perverse effect of taking critical political and legal

140. *Id.* at. 4.

141. *Id.* at 25-26.

142. *Id.* at 27-28.

143. *Death Penalty Report, supra* note 135, at 28.

144. Virginia Marsh, *Canberra Slams UN Report on Aborigines*, FIN. TIMES, Mar. 31, 2000, at 6.

145. G.A. Res. 2106A, U.N. GAOR, 20th Sess., Supp. No. 14, at 47; U.N. Doc. A/RES/2106A (1965).

decisions out of the hands of nation-states by overriding their own internal decision-making processes and effectively superseding national constitutional standards. But it is both wrong and excessively defensive to act as though international "human rights" standards should reflexively apply when the constitutional application of democratic principles produces a different result. Does CERD possess greater wisdom and maturity than the Australian electorate? Do Australian officials really trust a group of "international experts" to produce better policy for Australia (or its components) than their own voters? Why should Australia feel any need to conform to someone else's definition of "human rights" or good public policy?

Both of these international interferences in democratic societies are illegitimate. We should understand clearly that to whatever extent the death-penalty rapporteur's or CERD's efforts have an impact, they represent a shift away from a constitution-based decision-making structure toward one that subjects us to the vagaries of world opinion.[146] As with the examples in the previous section, authority (and, therefore, the ability to confer legitimacy, a central element of anything that can reasonable be called "law") is being taken from citizens and their elected representatives and being sent overseas. A free people should simply find this unacceptable. Ironically, the death-penalty rapporteur in particular picked his target accurately. It is precisely because the United States is not simply one among 189 members of the United Nations that our debate on the death penalty, as on so many other domestic policy issues, makes us the focus of so much effort to bind our policies through international constraints. Every time the United States bends its knee to this kind of international pressure, it sets a significant—and detrimental—precedent.

D. Restraining the United States From Using Its Military Power

Another hidden agenda is making the unilateral use of United States' force harder by raising the political and military risks and costs of such action, thus making it less attractive to senior decisions makers; requiring other nations (whether through the Security Council or other mechanisms) to participate in the consideration of the use of force by the United States; and locking the United States into interpretations of "international law" rather than relying on Constitutional or statutory reasoning. Since the national security of the United States is the ultimate responsibility of its central government, the weakening of that authority is perhaps the most definitive and most crippling paralysis of "international law" of all the examples discussed herein.

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146. "When a government . . . invites external legitimation of its own practices and institutions by signing a human rights convention, it might indirectly compromise its autonomy by altering conceptions of appropriate political authority held by actors in civil society, who may then press for the reorganization of domestic structures." STEPHEN D. KRASNER, SOVEREIGNTY: ORGANIZED HYPOCRISY 119 (1999).

1. The Case of Former Yugoslavia

Consider NATO's bombing campaign against former Yugoslavia, which was not authorized by the Security Council. Although many opposed the NATO action because there were insufficient national interests of the United States at stake, there was almost no disagreement here that, within the terms of international law, the U.S. was perfectly justified.[147] By contrast, several legal academics argued that NATO violated Article 2(3) of the UN Charter, which states that "Members shall settle their international disputes by peaceful means," and Article 2(4) which requires that member states "refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state."[148]

To the contrary, however, nothing in the Charter requires any member to give up its fundamental ability to protect its own national interest. Article 51 expressly recognizes the "inherent right of individual or collective self-defense" for all members. While Article 51 applies specifically when a member faces armed attack, the "inherent right" it recognizes is far broader. Most United States' citizens—in Congress and the general public—would be very surprised to hear that by ratifying the UN Charter over five decades ago, they had given up their ability to use military force to advance and defend what we define to be in our national interests. Such a conclusion certainly permits other nations to make a parallel analysis on their own behalf, but that is what most of them do anyway, and it is inevitable in a world that still consists of nation-states. To some, this may not be a pretty picture, but that is a matter of aesthetics, not law.

Ironically, the Clinton Administration and its supporters asserted the "right of humanitarian intervention" to justify military operations to prevent ethnic cleansing or potential genocide, but this "right" is even more malleable than most principles of international law and is a treacherous ground on which to stand. Its high-minded morality is especially susceptible to cynical manipulation, as Hitler might have done to justify intervention to protect Sudetan Germans from "mistreatment" in Czechoslovakia. Today, ultra-nationalist Russian governments could assert "humanitarian" grounds to intervene in the affairs of the new states of the former USSR, which have substantial Russian minorities. This Russian concern is far from hypothetical and already evident in several former Soviet republics from Georgia to Tajikistan.[149]

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147. I have previously argued that while the NATO air campaign was bad policy, it was unquestionably legitimate under "international law." *See* John R. Bolton, *Clinton Meets 'International Law' in Kosovo*, WALL ST. J., Apr. 5, 1999, at A23. The discussion in the text draws on that article.

148. U.N. CHARTER art. 2, paras. 3,4.

149. *See, e.g.*, Charles Clover, *Tajikistan Peace Agreement Leaves Unanswered Questions*, FIN. TIMES, July 1, 1997, at 8.

If humanitarian grounds sufficed for Clinton Administration decision-makers to justify NATO attacks in former Yugoslavia, these grounds can be amply supported "legally" as legitimate United States' national interests under Article 51. One may agree or disagree that such "interests" justify the risk of losing American citizens' lives for something so tangential to traditional security concerns, but that is policy disagreement, not a matter of law. Likewise, one might argue that the foregoing reading of Article 51 effectively eviscerates the provision, by allowing it to be interpreted so broadly that almost any pretext can be used to satisfy it. Such an argument, however, misses the basic tenet of Article 51, which acknowledges the "inherent right of individual and collective self-defense." Surely, if an "inherent right" means anything, it means the ability of each member to decide its interests without supervision or review. Otherwise, the right is hardly "inherent" in any coherent sense of the word.

Outside of the United States, however, that was an unpopular position. During the NATO air war against Yugoslavia, Secretary General Kofi Annan expressed the predominant view that "unless the Security Council is restored to its pre-eminent position as the sole source of legitimacy on the use of force, we are on a dangerous path to anarchy."[150] Shortly thereafter, in a report to the United Nations' membership, Annan repeated his argument, stating that military actions (such as the NATO air campaign) amounted to threats to the "very core of the international security system . . . . Only the Charter provides a universally legal basis for the use of force."[151]

Implicitly, therefore, in Annan's view, NATO's failure to obtain Council authorization made its actions illegitimate, which is what those pursuing the hidden agenda want to hear: while one cannot stop the United States from using force because it is so big and powerful, one can ensure that it is illegitimate absent Security Council authorization. UN High Commissioner for Human Rights, Mary Robinson, was even more pointed, announcing: "[C]ivilian casualties are human rights victims."[152] She asked, "If it is not possible to ascertain whether civilian buses are on bridges, should those bridges be blown?"[153] Her basic objection, however, was not to civilian casualties, but to the bombing itself. During the war, she said, "NATO remains the sole judge of what is or is not acceptable to bomb,"[154] and she did not mean it as a compliment. Even more basically, she, like Annan, asserted

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150. *Annan Visits Macedonia to Discuss Refugees*, INT'L HERALD TRIB. (Hong Kong), May 20, 1999, at 4.

151. Michael Littlejohns, *"Significant" Rise in Wars, Disasters*, EARTH TIMES, Sept. 16-30, 1999, at 22.

152. Interview by BBC World Service with Mary Robinson, UN High Commissioner for Human Rights (May 10, 1999).

153. Steve Boggan, *NATO Is Warned on War Crimes*, DAILY YOMIURI (from THE INDEPENDENT), May 9, 1999, at 9A.

154. Report on the Human Rights Situation Involving Kosovo, submitted by Mary Robinson to the Commission on Human Rights, Geneva, Apr. 30, 1999, OHCHR/99/04/30/A, at 2.

that NATO's lack of Security Council authorization violated international law:

> It surely must be right for the Security Council of the United Nations to have a say in whether a prolonged bombing campaign in which the bombers choose their target at will is consistent with the principle of legality under the Charter of the United Nations.[155]

Mrs. Robinson's peripheral position in international affairs did not expose her to the full measure of criticism that one might have expected, but her elaboration of Annan's basic position further evidences the direction the Secretary General was traveling.

Now, in fact, both Annan and Robinson are badly mistaken, their analysis being unsupported either by the UN Charter or by fifty-five years of UN practice. Not surprisingly, most of the "legal" criticism of the NATO bombing campaign came from the academic left, even though, as a political and policy matter, the political left (and at least some of the political right) in the United States supported the anti-Milosevic military action.[156] In fact, in the summer of 1999, European and Canadian law professors filed a "complaint" with Louise Arbour, then the Prosecutor of the International Criminal Tribunal for Yugoslavia ("ICTY"), alleging that NATO's use of force was an illegal act of aggression and that several actions during the aerial campaign specifically amounted to war crimes or crimes against humanity.[157] Arbour ordered an internal staff review of these allegations, resulting in the preparation of a staff report. Although Arbour's successor, Carla Del Ponte, in response to news reports, subsequently denied that she was conducting a "formal inquiry" into NATO's actions, her carefully-worded statement only raised more questions about what she actually was doing.[158]

Even Del Ponte's subsequent declination to indict NATO officials does not finally resolve the matter.[159] Non-governmental organizations (NGOs) hoping to change Pentagon behavior as much as the international "rules" themselves, through the threat of prosecution, continued the assault. They hope to constrain military options, and thus lower the potential effectiveness

155. *Id.* at 4.

156. Yugoslav President Slobodan Milosevic had also proclaimed that NATO's bombing was illegal, and Yugoslavia filed a complaint against the "aggressor" nations before the International Court of Justice. *Yugoslavia* v. *United States of America* was dismissed for lack of jurisdiction on June 2, 1999. Press Release, I.C.J. Press Communiqué, International Court of Justice Rejects Yugoslavia Request for Provisional Measures (June 2, 1999) *available at* http://www.un.org/news/press/docs/19991.

157. Charles Truehart, *War Crimes Court Is Looking at NATO*, WASH. POST, Dec. 29, 1999, at A20.

158. Steven Lee Myers, *Kosovo Inquiry Confirms U.S. Fears of War Crimes Court*, N.Y. TIMES, Jan. 3, 2000, at A6.

159. Charles Truehart, *U.N. Tribunal Rejects Calls for Probe of NATO*, WASH. POST, June 3, 2000, at A9.

of such actions, or raise the costs to successively more unacceptable levels by increasing the legal risks and liabilities perceived by top civilian and military planners of the United States and its allies undertaking military action. Indeed, the ICTY Prosecutor's review of the allegations against NATO is a virtual road map to the future role of NGOs in pressuring and cajoling the Prosecutor of the International Criminal Court (ICC) into adopting their worldview (thus providing yet another reason to reject the ICC).

Amnesty International and Human Rights Watch, for example, were quite willing to make the judgments Mrs. Del Ponte had avoided, following the path blazed by Mary Robinson. Amnesty asserted less than a week after Del Ponte's announcement that "NATO forces violated the laws of war leading to cases of unlawful killing of civilians." The NGO complained loudly about NATO attacks on a "civilian" television transmitter in Belgrade, even though it served the Milosevic regime's propaganda purposes.[160] Similarly, Human Rights Watch had earlier concluded that NATO violated international law, but stopped short of labeling its actions as "war crimes."[161] In another recent report, this NGO announced its opposition to the sale by the United States to Israel of air-to-ground missiles, because of the Israeli "war crime" of attacking Lebanese civilian targets.[162] Of course, much the same could also be said about air attacks by the United States during the Persian Gulf War, aimed at destroying critical communications and transportation infrastructure inside Iraq, in order to deny it to Saddam's military. If these targets are now "off limits," the United States' military will be far weaker than it would otherwise be.

This is precisely the agenda of many in the "human rights" movement. The events leading to the internal ICTY staff report are a virtual road map to the future role of NGOs in pressuring and cajoling future national and international prosecutors. It is unacceptable to begin with that a small group of academic ideologues could have moved the ICTY Prosecutor even to the extent they have. Emerging ICC procedures, for example, already contemplate an even larger role for NGOs, which will inevitably provide the dominant ideological compass for the Prosecutor.[163] Law Professor Diane F. Orentlicher in effect gave the game away when she crowed, "the future the United States government feared is here sooner than it expected."[164]

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160. Pauline Jelinek, *Report Calls NATO Raid In Belgrade a War Crime*, WASH. POST, June 7, 2000, at A26; *see also* Rosemary Bennett, *NATO Accused of Kosovo Crimes*, FIN. TIMES, June 8, 2000, at 8.

161. Bradley Graham, *Report Says NATO Bombing Killed 500 Civilians in Yugoslavia*, WASH. POST, Feb. 7, 2000, at A2.

162. Press Release, Human Rights Watch, No New U.S. Missiles for Israel (May 24, 2000) *available at* http://www.humanrightswatch.org/hrw/press/2000/05/israelo524.htm.

163. Professor Peter Spiro said, "NGO leaders have emerged as a class of modern day, nonterritorial potentates, a position rather like that commanded by medieval bishops," *quoted in* Plaintiff's Diplomacy, *supra* note 81, at 111.

164. Myers, *supra* note 158, at A6.

The future arrived for the United Kingdom shortly thereafter when it was sued in the European Court of Human Rights in Strasbourg by families of Argentine sailors who died in the 1982 sinking of the Argentine battleship *General Belgrano* during the Falklands War.[165] The plaintiffs argue that torpedoing the warship violated the 1907 Hague Convention[166] because it was sunk outside of a 200-mile "exclusion zone" around the Falklands (known as the Malvinas in Argentina), unilaterally declared by the United Kingdom, and thus not in a legitimate theater of operations. Although it is merely a "human rights" lawsuit that seeks monetary damages on behalf of the deceased Argentines, the *Belgrano* litigation is an entirely predictable adjunct to recent efforts to criminalize the use of force in international affairs. Nonetheless, this case raises several new, unacceptable precedents, such as second-guessing a military decision eighteen years after it was made in the heat of combat. No civilians or civilian targets were even arguably involved. Complaining today that sailors on the *Belgrano* died as a result is a direct challenge not to one particular military decision, but to the very fact of the war itself, which is not a "legal" complaint, but a political one.

Moreover, the belligerent governments, both now indisputably democracies, have already resolved their general differences over the Falklands and their specific differences over the sinking of the *General Belgrano*. Diplomatic relations between the combatants were restored in 1990, and in 1994 Argentina agreed that the incident was "a legal act of war." The *Belgrano*'s captain himself has said: "I realized from the outset that the 200-mile limit did not exclude danger or risks. It was the same in or out."[167] One might question the wisdom of the outcome, but what is not legitimate is for such public policy questions to be removed from the political field and assigned to judges, especially international ones. This is not simply a technical, legal question, but a basic issue of the allocation of power and responsibility between the political and judicial branches of government, with the notable point that the judicial "branch" involved here is not part of any recognized government. One can predict with confidence that the *Belgrano* case will not be the last of its kind filed in Strasbourg.

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165. Robert Shrimsley and Ken Warn, *Britain Faces Legal Action Over Sinking of Belgrano*, FIN. TIMES, June 30, 2000, at 2; Andy McSmith, *Belgrano Families to Sue Britain*, DAILY TELEGRAPH, June 30, 2000, at 2.

166. Convention between the United States and Other Powers Respecting the Laws and Customs of War on Land, 36 Stat. 2277, T. S. No. 539 (1907).

167. *See* McSmith, *supra* note 165.

2. International "Justice"

The International Criminal Court (ICC),[168] which the Clinton Administration has not tried to join, although it dearly wants to,[169] purportedly has jurisdiction even over individual officials from countries that do not agree to it. One of the ICC's most striking aspects is the extent to which the rhetoric of its supporters parallels the 1945 rhetoric of the supporters of the International Court of Justice. Among that court's many failings, its worst is the crassly political way its members are selected, by horse trading among General Assembly members, and the equally political way in which its judgments are crafted. Exactly the same will be true of the ICC, convincingly demonstrating why it is fundamentally a political and not a legal institution. In this important sense, the ICC is the logical institutional end-point of the doctrine of "universal jurisdiction" discussed above.[170]

Indeed, the history of the allegations against NATO in the Yugoslav air campaign, briefly recounted above, show just how intensely politicized such matters will inevitably be, and that in fact, top leaders in the United States, not just individual soldiers, are the real targets of the ICC. ICC advocates had previously responded to such arguments by decrying them as scare tactics, scoffing at comparisons between the former U.S. independent counsel statute and the ICC's prosecutor. Invariably, they had pointed to the professionalism and self-control shown by ICTY prosecutors to cast doubt on concerns about the dangers posed by the essentially independent ICC prosecutor. Even though the ICTY Prosecutor subsequently declined to indict any NATO officials, she said carefully, "although some mistakes were made by NATO, I am very satisfied that there were was no deliberate targeting of civilian or unlawful military targets by NATO during the bombing campaign."[171] However, Mrs. Del Ponte also stated explicitly that she was not opining on the basic "legality" of the NATO campaign, which was "not our task and is not part of our brief, just as we cannot decide on general responsibilities of countries or international organizations. It is our task to pinpoint possible individual responsibilities."[172]

Moreover, by actively considering the complaints, and by effectively rejecting their substantive allegations, the Prosecutor nonetheless implicitly

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168. I have discussed the ICC at length in John R. Bolton, *Country Danger: What's Wrong with the International Criminal Court*, 54 NAT'L INT., at 60. *See also Symposium: Toward an International Criminal Court? A Debate*, 14 EMORY INT'L L. REV. 159 (2000).

169. President Clinton's decision to sign the Rome Statute on December 31, 2000, the last date permissible to be an original signatory, and in the President's waning days in office, amounted to the final proof that he had always wanted to endorse the ICC. See John R. Bolton, *Unsign That Treaty*, WASH. POST, Jan. 4, 2001, at A21, for a criticism of the appropriateness and logic of the President's "midnight decision."

170. *See supra* Part II.B.

171. Truehart, *supra* note 159 at A9.

172. *Id.*

concluded that she had jurisdiction over the incidents alleged. In short, she was asserting that, had there been sufficient evidence or credible allegations of war crimes by NATO personnel, she would have had the requisite authority to launch prosecutions against them. While it may comfort some in the short term that no NATO officials were prosecuted this time, the longer-term repercussions are far more troubling. Many in Congress were surprised to find that the ICTY, created in 1993 at the behest of the Clinton Administration, has assumed jurisdiction over more than Balkan war criminals. The idea that the Security Council can create tribunals of limited scope and authority, and exercise authority over the tribunals once created, is already a casualty of Del Ponte's vindication of NATO's bombing campaign.

Indeed, just a few days later, the New York Times reported that tribunal officials were saying "privately that they hoped their report would cause NATO countries to review their rules of engagement in order to lessen the chances of civilian casualties."[173] Once, merely prosecutors, they have become military strategists—a new goal for aspiring law students and professors. Moreover, Del Ponte qualified her declination to prosecute by saying that "some mistakes were made by NATO," and at least as stated publicly, that she based her decision on the absence of intent, perhaps the easiest of the elements of any criminal offense for a prosecutor to consider subjectively.

Nor have the actual operations of the Yugoslav and Rwanda tribunals been free from criticism, criticism that foretells in significant ways how an ICC might actually operate. A UN experts' study (known as the "Ackerman Report," after its chairman) noted considerable room for improvement in the work of the tribunals.[174] The Report notes that, in 1999, ICTY's annual budget was $94,103,800, covering a total of 838 assessed-budget personnel, and that ICTR's budget amounted to $68,531,900, with 779 assessed-budget personnel. While these figures are not well known in Congress or in other UN member governments, they most certainly show that neither court is starved for funding. Even with these large expenditures and personnel, however, the pace of the Tribunals' work has been slow. The Ackerman Report states that "[i]deally, the trial of an accused should commence and be concluded expeditiously following an indictment. But that has not generally been the case in ICTY or ICTR."[175]

Moreover, ICC opponents have warned that the court will be subjected to intense political pressures by parties to disputes seeking to use the tribunal to achieve their own non-judicial objectives, such as score-settling and

173. Steven Erlanger, *Rights Group Says NATO Bombing in Yugoslavia Violated Law*, N.Y. TIMES, June 8, 2000, at A7.

174. *Report of the Expert Group to Conduct a Review of the Effective Operation and Functioning of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda*, U.N. Doc. A/54/634 (1999) [hereinafter *Report of the Expert Group*]. The panel's chairman was an American citizen, Jerome Ackerman, a former member and chairman of the UN Administrative Tribunal.

175. *Id.* at 18.

gaining advantage in subsequent phases of the conflict. The Ackerman Report, in discussing the ICTY's quandary about whether to pursue "leadership" cases or low-level suspects, points out precisely how such political pressures work, and their consequences: "Unavoidable early political pressures on the Office of the Prosecutor to act against perpetrators of war crimes . . . led to the first trials beginning in 1995 against relatively minor figures. And while important developments . . . have resulted from these cases, the cost has been high. Years have elapsed and not all of the cases have been completed."[176] In short, political pressures on the Tribunals, to which they respond, are very real threats.

Indeed, one important result of the Prosecutor's focus on leadership cases, in her own view, has been "to further worsen the difficulties in obtaining state cooperation, particularly in the ICTY region."[177] This finding underscores the central problem of inserting criminal-law institutions into still-unresolved political or military contexts, while believing naively that such tribunals can function impartially, like a municipal traffic court. The Ackerman Report makes clear that, in such unsettled contexts, the leadership defendants "are viewed by many, however mistakenly, as heroic rather than criminal figures warranting prosecution. Local politicians see cooperation with the ICTY in such cases as political suicide."[178] The experts go on to identify another central reality that ICC advocates too often, and too naively, ignore: "If there is insufficient political resolve in the region and elsewhere to implement the mandate of the Security Council, the Prosecutor's policy of focusing on top leadership may, paradoxically, be self-defeating."[179]

The Ackerman Report explores many other aspects of the ICTY/ICTR experience that have direct applicability to the ICC, notably the integration of the Prosecutor and the Chambers: "Unlike the prevailing situation in national jurisdictions, the Prosecutor, while independent in many respects, is an organ of the Tribunals, and to a degree is integrated into their rules."[180] Moreover, the Registry (which essentially comprises the support structures for the Tribunals, including incarceration), because of its "unusual dual role, is occasionally faced with seeming conflicts in discharging its responsibilities."[181] These are serious matters, too often dismissed simply as minor administrative concerns.

Many of the Ackerman Report's findings thus reflect the inherent difficulties of the multilateral versus national prosecution of alleged war criminals. It says, for example that creation of the ICTY and ICTR "almost

176. *Id.* at 36.

177. *Id.* at 52.

178. *Id.*

179. *Id.*

180. *Report of the Expert Group, supra* note 174, at 15.

181. *Id.* at 14.

inevitably presented issues either unforeseen or not fully appreciated, issues that would unfold only through the often costly process of trial and error."[182] This cautionary language is, of course, directly applicable to the United States' consideration of the ICC. Although ICC proponents predict almost nothing but smooth sailing, the actual experience of the ICTY and the ICTR proves that much of what lies ahead for so unparalleled an institution is simply unforeseeable, and that the level of risk is accordingly quite high.

ICC supporters argue that the threat of liability to national decision-makers will deter them from undertaking illegal actions.[183] However, the Statute is so vague that no one can confidently advise a President of the United States what is illegal and what is not. This is a way of binding and constraining the United States, and one can already see its limiting effects, at least indirectly. NATO's Yugoslav air campaign shows the inhibiting effect, as evidenced by testimony of a key U.S. military official, of arguments that protect even legitimate targets from bombing, or that restrict, and perhaps dangerously so, the timing of such operations.[184] Indeed, it may well be that NATO was more inhibited by "international law" in the Kosovo campaign than was the Milosevic regime in Belgrade, thus proving that those who don't really need to be deterred will be, and those that should be the principle targets of international "justice" will simply ignore it.

Serbs (and others) were already facing charges for crimes and crimes against humanity allegedly committed in Bosnia before the Kosovo air war began. If there ever were a case where the prospect of ultimate prosecution and sentencing should have been palpable to senior political and military leaders, those in Belgrade should have understood best of all. Nonetheless, the Yugoslav leadership proceeded with its campaigns against civilians in Kosovo as if the ICTY did not exist. Even more importantly, the Milosevic regime not only ignored the threat of NATO military action, it dramatically stepped up the pace of ethnic cleansing in Kosovo after the NATO bombing actually began. It defies credulity to believe that a regime not deterred by precision-guided bombs and missiles literally falling on its head will somehow be deterred by the threat of war-crimes prosecutions at some distant, hazy point down the road. Nonetheless, Secretary of State Madeleine Albright's ill-disguised desire for the United States to join the ICC continues to assert itself. Her repeated threats of bombing Serbia if it failed to sign the

182. *Id.* at 12.

183. Also central to the arguments of ICC proponents is the Rome Statute's purported jurisdiction over nationals of non-signatories. This assertion is directly related to the efforts to overcome the problem highlighted by Hart's analysis: "Whereas a municipal court has a compulsory jurisdiction to investigate the rights and wrongs of 'self help', and to punish a wrongful resort to it, no international court has a similar jurisdiction." HART, *supra* note 19, at 233.

184. *See, e.g.*, Dana Priest, *Air Commander Says He Would Have Bombed Belgrade First*, WASH. POST, Oct. 22, 1999, at A34 (reporting on the Senate testimony of Lt. Gen. Michael C. Short).

Rambouillet Accords having failed, she simply turned to the next set of threats on her clipboard, which failed as well.

3. Arms Control

Similarly, the 1997 Land Mine Convention, which essentially prohibits anti-personnel land mines, was also signed by almost every nation except the United States, to the Clinton Administration's chagrin. The Convention's advocates are attempting to make the United States' use of land mines in defense, principally of anti-tank land mines, appear illegitimate.[185]

A related development occurred in the context of the Senate's rejection of the proposed Comprehensive Nuclear Test Ban Treaty,[186] the first major international agreement to be rejected since the Versailles Treaty.[187] Rather than accepting defeat, the Clinton Administration insisted instead that it was still pressing for ratification—a political event which would truly be the equivalent of Hell freezing over—and that, pursuant to Article 18 of the Vienna Convention on the Law of Treaties[188] (which the United States has also not ratified) the United States was bound to comply with the terms of the rejected treaty and forego nuclear testing. Apart from the separation-of-powers issues legitimately and acutely raised by this bizarre analysis of the existing domestic political landscape in the United States, the Clinton Administration's approach rested entirely on the purportedly binding force of "customary international law."[189] Nowhere publicly did the President or his senior officials invoke his Constitutional authority as Commander in Chief, which undeniably provides plenary authority to declare a self-imposed moratorium on nuclear testing, as a justification for this policy.

Under the Clinton Administration's CTBT reasoning, it could also declare itself bound by the "customary international law" force of the widely accepted Land Mine Convention, and thus bind the United States not only without ratification, but even without signing by the Executive Branch.[190] This

185. Thus, Jody Williams, one of the NGO activists who campaigned for the treaty, said "if the United States wants to stand outside the tide of history and stand with Cuba, Turkey, Pakistan and China, that's fine." Maria Burnham, *Land-Mine Opponent Applauds New Treaty*, WASH. TIMES, Nov. 20, 1997, at A15.

186. Comprehensive Nuclear Test Ban Treaty, U.N. Doc. A/50/1027, Annex, Aug. 26, 1996, *reprinted in* 35 I.L.M. 1839 (1996).

187. Treaty of Peace between the Allied and Associated Powers and Germany, June 28, 1919, 2 Bevans 43 (signed at Versailles).

188. U.N. Doc. A/CONF.39/27 (1969).

189. James Rubin, spokesman for the Department of State, said "we believe that so long as the president . . . expresses his intention to seek advice and consent pending whatever time frame he chooses, customary international law applies." He added "other countries actually care about international law even if some in the United States don't." Bill Gertz, *Albright Says U.S. Bound by Nuke Pact*, WASH. TIMES, Nov. 2, 1999, at A1.

190. President Clinton's decision to sign the Rome Statute, see *supra* note 168 and accompanying text, also seems to have been motivated by his reading of Article 18.

peculiar approach to international agreements must undoubtedly spring from concealed philosophical sources within the Administration, which have not been revealed as of this writing, but which quite probably also contain other threats to the independent exercise of judgment by the United States.

III. CONCLUSION

The "agenda" of constraining the United States through international law is neither carefully planned nor entirely coherent, but it is an unmistakably discernible tendency. In fact, the tendency has friends in high places. Two years ago, at his speech at the United Nations, President Clinton said, "[t]he forces of global integration are a great tide, inexorably wearing away the established order of things."[191] It is hard to say exactly what that means, but the thrust is clear: global integration is "out there," it is sweeping over us, and those who stand against it are on the wrong side of history.

The lessons we should draw are clear: the way to deny the conclusions—the consequences of the growth of international law—is to deny the assumptions, and to argue that the underpinnings of international law rest on unacceptable premises for peoples who believe they are entitled to be free. This is why the relationship between international law, whatever it is, and the United States Constitution remains so central. Three possibilities exist in theory. First, international law is subordinate to the Constitution, a formulation that would make it essentially trivial for our purposes. Second, international law is equal to the Constitution, a formulation that would lead to chaos, because two such bodies of law cannot function as equivalents. Third, international law is superior to the Constitution; its requirements override the Constitution, and trump our constitutional arrangements.

If asked, "Does international law trump national constitutions?," most international lawyers would say, "Of course!" Most American citizens would emphatically disagree, however. We should be unashamed, unapologetic, uncompromising American constitutional hegemonists. International law is *not* superior to, and does not trump, the Constitution. The rest of the world may not like that approach, but abandoning it is the first step to abandoning the United States of America. International law is not law; it is a series of political and moral arrangements that stand or fall on their own merits, and anything else is simply theology and superstition masquerading as law.

191. President Clinton, Remarks to the 52nd Session of the U.N. General Assembly (Sept. 22, 1997).

GOVERNMENT'S BALANCING ACT; AUTHORITIES TRY TO ENCOURAGE FUN WHILE WARNING OF POSSIBLE TERROR AND URGING VIGILANCE.

Chicago Tribune

December 24, 1999 Friday, CHICAGOLAND FINAL EDITION

Section: NEWS; Pg. 3; ZONE: N

Length: 862 words

Byline: By Naftali Bendavid, Washington Bureau.

Dateline: WASHINGTON

Body

The federal government, issuing a stream of cautious terrorism warnings in recent days, is trying to send a delicate, two-part message, urging the public to be alert for potential catastrophe while assuring Americans everything is under control.

This duality has been evident in virtually all the public warnings and alerts issued by government leaders as 2000 approaches. The message seems to be: Terrorists may be lurking, but don't panic or stay home.

"They are trying to strike a balance between alerting people and encouraging them to be extra vigilant, but not giving the terrorists a victory by cowing people into changing their behavior or not enjoying the holiday season," said **William Barr**, who served as attorney general in the Bush administration.

The difficulty with such a two-pronged message, some experts say, is that it runs the risk of becoming meaningless, leaving the public uncertain about just how serious the threat is and whether to attend festive gatherings.

The most recent example came early Thursday, when the FBI warned that individuals in Frankfurt, Germany, might be planning to send bombs in small parcels addressed to the U.S.

The information is "unsubstantiated," the FBI said, and the public was being notified only "out of an abundance of caution," but that did not mean the threat was not serious. "Questionable packages should not be handled, and local authorities should be notified," the bureau said.

As agencies began receiving reports over the past few days of potential violence aimed at U.S. citizens in this country and abroad, they found they had two priorities.

On the one hand, they wanted to encourage citizens to attend festivities. The Clinton administration, after all, has invested substantial energy in New Year's 2000, sponsoring a series of "millennium evenings" at the White House and planning an America's Millennium Gala at the Lincoln Memorial on Dec. 31.

The gala, to be hosted by actor-musician Will Smith, will include remarks by President Clinton, performances by well-known artists and an original movie by Steven Spielberg.

The last thing the administration wants is for people to stay away from that event and similar ones designed to create a feeling of well-being about the nation and its accomplishments.

Authorities also do not want to prompt a flood of calls to police by a petrified public. Nor do they want to give any ideas to violent fanatics.

On the other hand, concrete incidents have alerted federal agencies to real threats. Ahmed Ressam was arrested in Washington state last week when authorities allegedly found bomb-making materials in his car after he crossed the border from Canada.

On Thursday, prosecutors persuaded a federal court to hold in jail two other suspects who had been arrested earlier this week at a Canadian border crossing in Vermont. Prosecutors say they have linked one of the suspects, Lucia Garofalo, to the Algerian Islamic League, which they say has terrorist leanings.

Meanwhile, Jordan has arrested 13 suspected terrorists purportedly planning attacks against the U.S.

Some suggest the agencies are issuing the warnings in part so that, if a tragedy does occur, they cannot be blamed for not warning people or for not being on top of the situation.

"It is done in order to say afterward, 'We told you, and we did our duty, and it's too bad if you were injured or killed or damaged,' " said Emilio Viano, an American University terrorism expert. "It's a reflection of the type of times we're living in that people want to cover themselves, to minimize the finger-pointing in case anything happens."

But as people are told there is no reason to stay away from large celebrations, yet to keep an eye out for suspicious packages, there is a risk the message will become meaningless, some say.

"I think it is muddled, but there is no way out of it," said Viano, who serves as an adviser to the crime prevention branch of the United Nations. "The government for obvious reasons has the duty to inform people. On the other hand, they don't want to offend the tourist industry."

The president expressed this duality in an interview with CNN's Larry King on Wednesday.

"My advice to the American people would be to go on about their business and do what they would intend to do at the holiday season, but to be a little more aware of people and places where they find themselves," Clinton said.

Over the past week and a half, alerts have been issued by the State Department, the Federal Aviation Administration, the armed forces, the FBI and other federal law-enforcement agencies.

These warnings have supplanted fears of a Y2K computer glitch among some of the public. "There is a certain psychosis developing, and I hope they tone it down in the next week," Viano said.

Still, some experts say the government is doing the best it can to walk a difficult line.

"From what I can tell, they have been presenting it at the right level of threat," said Mitchell Hammer, a terrorism expert who helped decipher the Unabomber writings. "Given that some of these are unsubstantiated reports, this is an appropriate tone to take--moderate vigilance."

Graphic

PHOTOPHOTO: A worker mounts lights near the Lincoln Memorial in Washington, D.C., on Thursday in preparation for the America's Millennium Gala celebration that the White House is hosting on New Year's Eve. KRT photo by Chuck Kennedy.

Classification

Language: ENGLISH

Subject: US FEDERAL GOVERNMENT (90%); TERRORISM (90%); ARRESTS (89%); SPECIAL INVESTIGATIVE FORCES (89%); PUBLIC PROSECUTORS (88%); LAW ENFORCEMENT (87%); BORDER CONTROL (78%); BOMBS & EXPLOSIVE DEVICES (78%); HOLIDAYS & OBSERVANCES (69%); ATTORNEYS GENERAL (69%); LAWYERS (67%); SINGERS & MUSICIANS (61%); LAW COURTS & TRIBUNALS (60%)

Company: FEDERAL BUREAU OF INVESTIGATION (82%); FEDERAL BUREAU OF INVESTIGATION (82%)

Organization: FEDERAL BUREAU OF INVESTIGATION (82%); FEDERAL BUREAU OF INVESTIGATION (82%)

Industry: LAWYERS (67%); ARTISTS & PERFORMERS (66%); ACTORS & ACTRESSES (66%); SINGERS & MUSICIANS (61%)

Person: BILL CLINTON (71%); STEVEN SPIELBERG (50%); WILL SMITH (50%)

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Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:57:51 p.m. EST

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BROADBAND PRICE REGULATION FEARED

Television Digest

November 22, 1999, Monday

Section: THIS WEEK'S NEWS

Length: 275 words

Body

Govt. regulation of access to broadband networks will lead to regulation of pricing for those networks, NCTA Senior Vp Daniel Brenner told Bureau of National Affairs Internet forum Nov. 15 in Washington. However, telco officials said lack of broadband access would force consumers to pay twice to get ISP of their choice and would lead to limits on streaming media. In general, panelists didn't break new ground in debate.

Cautioning against bringing in "weight of government regulations" on industry, Brenner said requiring broadband access would put cable in common carrier model: "If you want access, you have to regulate the prices." Best way to develop broadband market is for "market to run its course," Brenner said.

Competition and innovation would be stifled if cable operators kept out competing ISPs, open access backers said. GTE Exec. Vp **William Barr** said cable operators would discriminate in

content type, such as limiting streaming video, he said. Open access proponents aren't demanding unbundling of broadband cable as telephony operators are required to do, but opening access to all ISPs, Barr said.

Innovation would be stifled if architecture of high-speed Internet were allowed to be based on business model of company, rather than needs of end users, said George Vradenburg, AOL senior vp-global & strategic policy. Cable modem customers have option to set up their own browsers and "click to the content platform" of their choice, AT&T Vp-Public Policy Elaine McHale said: "From the customer perspective, it is an open system."

Classification

Language: ENGLISH

Subject: PRICES (90%); CONSUMERS (78%); PUBLIC POLICY (78%); PRICE MANAGEMENT (78%); EXECUTIVES (73%); EDITORIALS & OPINIONS (50%)

Company: BUREAU OF NATIONAL AFFAIRS INC (BLOOMBERG BNA) (58%); BUREAU OF NATIONAL AFFAIRS INC (BLOOMBERG BNA) (58%)

Industry: BROADBAND (92%); CABLE INDUSTRY (90%); INTERNET VIDEO (90%); INTERNET SERVICE PROVIDERS (90%); TELECOMMUNICATIONS SERVICES (90%); MODEMS (78%); TELECOMMUNICATIONS (78%); PRICE MANAGEMENT (78%); STREAMING MEDIA (78%); TELECOMMUNICATIONS EQUIPMENT (72%); CABLE & OTHER DISTRIBUTION (70%); TELEPHONE SERVICES (70%)

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Telco Demands Access

Multichannel News

November 1, 1999

Section: Pg. 1; Vol. 20; No. 45; ISSN: 0276-8593

Length: 1320 words
Highlight: GTE Corp files an antitrust lawsuit against Comcast Corp, TeleCommunications Inc and Excite@Home Corp claiming the agreement between the companies that makes consumers purchase Internet access from Excite@Home to receive a high-speed cable modem connection hinders GTE's competitive opportunities

Body

ABSTRACT:

GTE Corp files an antitrust lawsuit against the cable industry and TeleCommunications Inc (now known as AT&T Broadband & Internet Services), Excite@Home Corp and Comcast Corp. The complaint claims that the moving of cable companies into the Internet access market is in conflict with laws that prohibit companies with a large share of one market from forcing the sale of one product based on the purchase of another product. Specifically, explained general counsel William Barr, a consumer cannot get a high-speed connection from a cable modem without purchasing Internet access from Excite@Home. GTE is involved as a competitor and claims its Internet service provider is affected by the other companies' agreements.

GTE Makes Antitrust Claim Vs. Cable

By TED HEARN & JOE ESTRELLA

WASHINGTON -- GTE Corp. slammed the cable industry with an antitrust lawsuit designed to crater a business model that bundles high-speed transport with content-rich Internet access.

The suit, filed in federal court in Pittsburgh last week, claims that cable's Internet business runs afoul of laws that prohibit robust market participants from conditioning the sale of one product on the purchase of another.

GTE's suit named TeleCommunications Inc. (now AT&T Broadband & Internet Services), Comcast Corp. and Excite@Home Corp., the data-over-cable service partly owned by those MSOs, as defendants. GTE asked the court to issue an injunction and award damages.

GTE executive vice president and general counsel William Barr said cable's Internet business violates the law because a cable-modem subscriber can't obtain a high-speed connection without purchasing Internet access from Excite@Home.

photo omitted

"It is an illegal tying arrangement or practice," Barr added.

GTE can claim it is an injured party because its Internet-service provider, gte.net, cannot compete head-to-head with Excite@Home for the business of cable-modem subscribers.

A cable-modem customer who wants gte.net instead of Excite@Home, Barr said, still has "to pay twice" -- a demonstration that cable is using its market power to undermine competition in the Internet-access market.

GTE chairman and CEO Charles Lee, here last week on unrelated business, said the suit was designed to pry open cable's data platform for gte.net.

"Any customer should have the right to pick gte.net ... even if they're using a cable modem, or they should be able to go directly to AOL [America Online Inc.]. It's a matter of opening the market and giving the consumer a choice," Lee said.

The suit came as a surprise to some, but the only thing that should have been a surprise was the timing. In testimony before the House Judiciary Committee (where antitrust legislation aimed at cable is pending) in July, Barr accused cable of violating antitrust laws.

A few weeks later, Legg Mason Wood Walker Precursor Group telecommunications analyst Scott Cleland penned a report called: "Antitrust: A Sleeping Giant in the Cable Open-Access Debate."

Barr, a former attorney general in the Bush administration, said GTE wasn't using the court case as leverage to gain access to cable lines.

"Is GTE interested just in cutting a deal for GTE? The answer is no. We're interested in adopting a regime of open access so that people can choose their own ISPs," Barr said.

The cable-industry reaction was predictably hostile to yet another legal incursion by opponents, both commercial and governmental, into its Internet business.

"This lawsuit appears to be yet another illegitimate step in GTE's ongoing effort to protect its own monopoly by seeking forced-access regulations on would-be competitors," AT&T Corp. general counsel James Cicconi said.

Cable lawyers who were interviewed dismissed the suit as legal fiction that won't last long in court.

"It doesn't meet any of the legal requirements for an antitrust suit," said Paul Glist, who represents cable operators and the National Cable Television Association from time to time on various matters. "It's clearly a political play."

A threshold legal matter is whether high-speed and dial-up Internet-access platforms are separate services or competitors in the same market. Although Excite@Home and fellow data-over-cable service Road Runner have 90 percent of the high-speed market, they claim less than 3 percent of the estimated 40 million U.S. homes connected to the Internet.

"There is a clear distinction, we think, between dial-up narrowband service and broadband services," said Henry Weissmann, GTE's outside counsel with Munger, Tolles & Olson in Los Angeles.

Weissmann said GTE had to meet a four-part test to prevail. He said the case had to involve two separate products involve a tying arrangement between the two products involve market power in the sale of the first product (high-speed transmission) and show that the "practice effects a non-insubstantial amount of interstate commerce."

A cable attorney said GTE couldn't meet the four factors because cable does not sell transport as a separate service, whether the customer wants Internet access or Home Box Office.

And GTE will not succeed in establishing that cable's Internet-access business is commercially separate from the dial-up market dominated by AOL, which has about 19 million subscribers, the attorney added.

"GTE has a constrained notion of the market. We think the relevant market is the entire Internet-access market, of which we have a really small piece," the lawyer said.

Schwab Washington Research Group cable analyst Paul Glenchur said recent court decisions are not especially helpful in determining "the relevant market" in the kind of case filed by GTE.

"The jurisprudence in tying cases is kind of in flux. That whole area of law is a bit fluid," Glenchur added.

Janco Partners cable analyst Ted Henderson said GTE had a weak case. "I think it's clearly laughable in some points ... To call cable a monopoly is simply ludicrous in my mind. They are just trying to launch like everybody else," Henderson said.

But he added that the case could delay the rollout of broadband and cast a shadow over cable stocks.

The GTE lawsuit could help several franchising authorities that are currently fighting to unbundle cable's broadband pipe, said Joe Van Eaton, a lawyer based here representing Portland, Ore., in its open-access fight with AT&T.

A finding that GTE had been injured by anti-competitive behavior by AT&T, Comcast and Excite@Home would help the cities, Van Eaton said. He added that even if the court finds no anti-competitive behavior, it would not undercut cities' position that federal law allows them to impose open access as a way of promoting competition in their local markets.

Yet Paul Kagan Associates Inc. cable analyst John Mansell said a loss by GTE could cause the forced-access issue to "recede into the sunset."

"Maybe it puts some cities on notice that they could be dragged into these kind of lawsuits, and that it's going to cost them a lot of legal bills," Mansell added.

For AT&T, the biggest danger is that the GTE lawsuit raises the specter of antitrust behavior, which could make the cities' job easier by spurring lawmakers to step in and enact legislation forcing the company to unbundle its network, Van Eaton said.

Meanwhile, AT&T last week continued to signal that it may be softening its position on open access.

During an analyst conference call last week, AT&T chairman C. Michael Armstrong denied that the company tried to defuse the open-access issue by proposing a plan to the Federal Communications Commission that would allow unaffiliated ISPs onto its network.

However, he said, AT&T is looking at carrying multiple service providers once its exclusive agreement with Excite@Home expires, but on "private commercial terms" only.

"The company early on decided to make this a life-or-death battle," Van Eaton said. "I think they've come to the decision that it's a dangerous battle to be in."

Load-Date: January 17, 2005

Document: MSOs SUED ON OPEN ACCESS

MSOs SUED ON OPEN ACCESS

Television Digest

November 1, 1999, Monday

Section: THIS WEEK'S NEWS

Length: 574 words

Body

GTE escalated open access fight with antitrust suit against AT&T, Comcast and their co-owned high-speed Internet operator ExciteAtHome. It alleged MSOs' requirement that customers sign up for AtHome to receive high-speed service is violation of federal antitrust "tying" rules. Suit, filed Oct. 25 in U.S. Dist. Court, Pittsburgh, also charged that AtHome's exclusive partnerships with MSOs are unlawful. "You shouldn't let the person who owns the driveway dictate where people go," GTE Exec. Vp-Gen. Counsel **William Barr** said in conference call Oct. 25. Critical to GTE's case, as Barr and outside counsel Henry Weissmann of Munger Tolles Olson in L.A. admitted, is treating high-speed Internet service as market distinct from video service and narrowband dial-up Internet service.

ISPs such as GTE no longer can wait for regulatory relief, Barr said. He feels "most of the experts at the FCC do agree with our position" on open access, but commissioners are hesitant. In particular, he said, Chmn. Kennard "mistakenly believes he can

jawbone these companies into making significant concessions, but I have my doubts about that." If FCC or Justice Dept. does take action, Barr said, "it will be too late, another case of regulators standing by and watching the damage being done but not being ready to take action to stop it."

Cable operators have power over transport, Weissmann said, and when they use that power to require customers to sign up for their ISP they're performing illegal tying under antitrust law. Company needn't be monopolist to violate tying law, he said, but instead must offer 2 separate products (in this case, high-speed transport and ISP service), require purchase of one to get other, have market power, and "affect a not insubstantial amount of interstate commerce." Pittsburgh was chosen for suit, Barr said, because GTE wanted at least 2 MSOs and AT&T and Comcast, both of which own AtHome stakes, operate in that market.

Suit seeks injunction against MSOs' practices and damages. Weissmann wouldn't predict timetable, but said it would take at least several months before decision could be handed down, even if GTE's fast-track request is adopted.

OpenNet Co-Dir. Rich Bond said "GTE's action today in Pittsburgh strikes a blow for consumers." Since Telecom Act, he said, "GTE has spent millions on lawyers in an effort to prevent consumers from reaping the benefits of competition, as the law intended. They have lost every significant case. It would be absurd for the court to find that the antitrust laws should be used to protect an entrenched monopolist, such as GTE, with a greater-than-95% market share."

Comcast Vp-External Affairs Joe Waz said: "No one should be surprised that GTE, which has sued the FCC at every turn to stop local phone competition, should try similar tactics to slow down facilities-based Internet competition." AT&T Gen. Counsel James Cicconi said that while cable was providing local telephony to homes, "GTE is using every trick in the book to delay that competition." NCTA Pres. Robert Sachs said "within the past 3 months, cable modem competition has forced GTE to reduce the cost

of its own high-speed offerings by at least 20 percent… GTE appears to prefer to fight once again in courtrooms, not the marketplace."

Classification

Language: ENGLISH

Subject: LITIGATION (90%); ANTITRUST & TRADE LAW (90%); CONSUMERS (89%); ENERGY & UTILITY LAW (88%); SUITS & CLAIMS (78%); US FEDERAL GOVERNMENT (77%); INTERSTATE COMMERCE (77%); LAWYERS (75%); INJUNCTIONS (73%); JUSTICE DEPARTMENTS (70%); COMMUNICATIONS LAW (68%)

Company: COMCAST CORP (76%); COMCAST CORP (76%); FEDERAL COMMUNICATIONS COMMISSION (83%); FEDERAL COMMUNICATIONS COMMISSION (83%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (83%); FEDERAL COMMUNICATIONS COMMISSION (83%)

Ticker: CMCSA (NASDAQ) (76%); CCV (NYSE) (76%)

Industry: COMPUTER NETWORKS (90%); BROADBAND (90%); CABLE & OTHER DISTRIBUTION (89%); ENERGY & UTILITY LAW (88%); CABLE INDUSTRY (78%); TELECOMMUNICATIONS (78%); COMMUNICATIONS REGULATION & POLICY (78%); LAWYERS (75%); COMMUNICATIONS LAW (68%); MARKET SHARE (60%); CONFERENCE CALLS (55%)

Load-Date: November 1, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:56:38 p.m. EST

Document: GTE sues cable firms over access

GTE sues cable firms over access

USA TODAY

October 26, 1999, Tuesday,, FINAL EDITION

Section: MONEY;

Length: 369 words

Byline: Paul Davidson

Body

GTE fired a new salvo in its bid to force cable companies to open their high-speed networks to rival Internet service providers, filing an antitrust lawsuit against two giants Monday.

The move shifts to the courtroom a battle that has played out in hundreds of local towns, the Federal Communications Commission and Congress.

In a lawsuit filed in federal court in Pittsburgh, GTE charges that AT&T and Comcast are violating antitrust laws by requiring their high-speed Internet, or "cable modem," subscribers to also buy the online content of their partner, Excite At Home.

Antitrust tie-in laws bar companies with "market power" in one product from forcing customers to take a second product. "They're limiting consumer choice," says GTE general counsel **William Barr**. But AT&T lawyer Mark Rosenblum called the lawsuit "silly."

Today, cable modem subscribers who prefer to get their Internet gateway service from America Online, GTE or other Internet service providers must still pay about $ 40 to the cable giants for the entire package.

Thus far, the FCC has decided not to force cable titans to open their networks, fearful of squashing investment in the nascent broadband market and citing the alternative service offered by phone companies.

But Internet service providers say cable giants own one of two wires into homes, the phone line is the other, and that cable modem service, with 1 million subscribers, is the main broadband alternative.

Swayed by those arguments, several communities have voted to force AT&T to open its network as a condition of approving its acquisition of Tele-Communications Inc.

In the lawsuit, GTE contends the cable companies have power in broadband, which it says is a separate market because it costs much more than regular Internet access and provides added features, such as video. AT&T says it's just a piece of the much larger access market.

Antitrust expert Robert Litan says the lawsuit is "premature" because the broadband market is so young. But industry analyst Scott Cleland says GTE has a good case, though the lawsuit, which could take years to decide, might be a ploy to get AT&T to negotiate.

Classification

Language: ENGLISH

Subject: SUITS & CLAIMS (92%); LITIGATION (91%); ANTITRUST LITIGATION (90%); ANTITRUST & TRADE LAW (90%); JOINT VENTURES, MERGERS & ACQUISITIONS LAW (89%); US FEDERAL GOVERNMENT (77%); ENERGY & UTILITY LAW (77%); LAWYERS (77%); CONSUMER LAW (76%); CORPORATE COUNSEL (72%); LAW COURTS & TRIBUNALS (72%); INDUSTRY ANALYSTS (61%)

Company: AT&T INC (96%); AOL INC (56%); AT&T INC (96%); AOL INC (56%); FEDERAL COMMUNICATIONS COMMISSION (84%); FEDERAL COMMUNICATIONS COMMISSION (84%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (84%); FEDERAL COMMUNICATIONS COMMISSION (84%)

Ticker: T (NYSE) (96%); AOL (NYSE) (56%)

Industry: CABLE INDUSTRY (93%); COMPUTER NETWORKS (91%); TELECOMMUNICATIONS EQUIPMENT (90%); BROADBAND (90%); MODEMS (90%); INTERNET SERVICE PROVIDERS (90%); TELEPHONE SERVICES (78%); TELECOMMUNICATIONS SERVICES (78%); COMMUNICATIONS REGULATION & POLICY (78%); INTERNET & WWW (78%); ENERGY & UTILITY LAW (77%); LAWYERS (77%); CORPORATE COUNSEL (72%); INDUSTRY ANALYSTS (61%)

Geographic: PENNSYLVANIA, USA (78%); UNITED STATES (79%)

Load-Date: October 26, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:55:34 p.m. EST

Document: Web wars: GTE sues cable firms;

Web wars: GTE sues cable firms;

The Tampa Tribune (Florida)

October 26, 1999, Tuesday,, FINAL EDITION

Section: BUSINESS & FINANCE,

Length: 570 words

Byline: Tribune staff, wire report;

Body

Spurred by an experiment in the Bay area, GTE Corp. sues AT&T Corp over high-speed Internet access.

Based on results of a Tampa Bay area experiment, GTE Corp. on Monday sued cable operators AT&T Corp. and Comcast Corp. over customers' Internet access.

The antitrust lawsuit alleges that AT&T and Comcast illegally force customers to buy from their affiliated Internet service provider, Excite@Home, if they want high-speed, cable-modem Web access.

That practice, says the complaint filed in U.S. District Court in Pittsburgh, is an unlawful "tying" arrangement.

The suit is the latest move in an ongoing battle over "open access" to cable lines, similar to telephone line access, that could force cable operators to open Internet access to all competitors. The fight has pitted GTE and other Internet service providers against cable operators.

"Today Americans can choose among thousands of ISPs when they sign up for Internet access with the telephone companies," said **William P. Barr**, GTE's general counsel. "But in the high-speed Internet access world of (AT&T) and Comcast, consumers don't have a choice."

The suit was spurred by a two-month experiment in about 50 Clearwater homes this year, GTE officials said Monday.

Comcast said it would fight the suit.

"No one should be surprised that GTE, which has sued the FCC at every turn to stop local phone competition, should try similar tactics to slow down facilities-based Internet competition. We will not let them do that to consumers," said Joe Waz, Comcast's public counsel.

Added Jim Cicconi, AT&T general counsel: "This lawsuit appears to be yet another illegitimate step in GTE's ongoing effort to protect its own monopoly by seeking forced-access regulations on would-be competitors."

The Federal Communications Commission has declined to address the issue, though some local governments have voted to open access.

Much of the cable industry is opposed to opening their lines. Some companies, including AT&T, once said it would be technologically difficult to do.

But GTE says it disproved that with the Clearwater experiment.

GTE said it showed that for less than $ 1 per household - a $ 60,000 piece of equipment serving 80,000 customers - a cable company can allow consumers to use any Internet service provider to connect to the World Wide Web.

Now, if Tampa Bay consumers want high-speed cable modem access, they must use Time Warner's Road Runner - or GTE's WorldWind, if they live in Pinellas County - which averages $ 50 a month. To get another Internet provider, such as America Online, they must pay AOL another $ 10 a month on top of its monthly fee.

GTE plans to allow its Pinellas cable-modem subscribers a choice in ISPs in coming months. GTE has not determined a cost structure or a timeline.

Excite@Home, also named in the suit, has an exclusive contract to provide high-speed Internet access over AT&T cable lines.

"It would be absurd for the court to find that the antitrust laws should be used to protect an entrenched monopolist such as GTE - with a greater than 95 percent market share - from a new competitor like Excite@Home, which has less than 2 percent market share," Excite@Home said.

AT&T owns 26 percent of Excite@Home. Staff writer Cherie Jacobs Lane contributed to this report. Information from Bloomberg News Services was included.

Classification

Language: ENGLISH

Subject: SUITS & CLAIMS (93%); LITIGATION (90%); CONSUMERS (89%); CORPORATE COUNSEL (77%); LAWYERS (77%); US FEDERAL GOVERNMENT (75%); REGIONAL & LOCAL GOVERNMENTS (70%); ENERGY & UTILITY LAW (69%)

Company: AT&T INC (98%); COMCAST CORP (95%); GTE CORP (93%); AOL LLC (61%); AT&T GENERAL BUSINESS SYSTEMS (53%); AT&T GENERAL BUSINESS SYSTEMS (53%); AT&T INC (98%); COMCAST CORP (95%); GTE CORP (93%); AOL LLC (61%); AT&T GENERAL BUSINESS SYSTEMS (53%); AT&T GENERAL BUSINESS SYSTEMS (53%); FEDERAL COMMUNICATIONS COMMISSION (54%); FEDERAL COMMUNICATIONS COMMISSION (54%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (54%); FEDERAL COMMUNICATIONS COMMISSION (54%)

Ticker: T (NYSE) (98%); CMCSA (NASDAQ) (95%); CMCSA (NASDAQ) (91%)

Industry: CABLE INDUSTRY (94%); TELECOMMUNICATIONS SERVICES (94%); CABLE & OTHER DISTRIBUTION (91%); COMPUTER NETWORKS (90%); BROADBAND (90%); INTERNET SERVICE PROVIDERS (90%); INTERNET & WWW (90%); TELECOMMUNICATIONS EQUIPMENT (89%); MODEMS (89%); COMMUNICATIONS REGULATION & POLICY (78%); CORPORATE COUNSEL (77%); LAWYERS (77%); TELEPHONE SERVICES (76%); LOCAL TELEPHONE SERVICE (74%); ENERGY & UTILITY LAW (69%); ENTERTAINMENT & ARTS (67%); (67%)

Geographic: TAMPA, FL, USA (92%); PENNSYLVANIA, USA (79%); UNITED STATES (93%)

Load-Date: October 28, 1999

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 09:41:50 p.m. EST

Document: TELECOM RIVALS WAR OVER INTERNET ACCESS

TELECOM RIVALS WAR OVER INTERNET ACCESS

The Columbian (Vancouver, WA.)

October 26, 1999, Tuesday

Section: Business; Pg. c2

Length: 448 words

Byline: BRUCE MEYERSON, Associated Press writer

Body

NEW YORK -- AT&T Corp., already wrangling with local governments for control over who can sell Internet service on its cable systems, is being challenged on another front with a federal antitrust suit.

The suit filed Monday by telephone rival GTE Corp. could force a firmer stance by federal officials, who've largely shied away from the issue except to oppose local laws regulating cable-Internet access.

GTE Corp. is charging monopolistic practices by both AT&T and Comcast, another cable company that owns an interest in ExciteHome, a cable Internet service that is controlled by AT&T.

ExciteHome holds exclusive rights to provide Internet access on AT&T's and Comcast's cable systems, and customers wishing to use another Internet service such as America Online need to pay two monthly fees.

"The defendants are illegally exploiting their economic power over high-speed Internet access to deprive Americans of their right to choose their ISP," GTE said in announcing the suit.

"Today, Americans can choose among thousands of ISPs when they sign up for Internet access with the telephone companies," said **William P. Barr**, executive vice president and general counsel of GTE, which has only about half a million subscribers to its Internet service. "But in the high-speed Internet access world of (AT&T) and Comcast, consumers don't have a choice. They are forced to accept AtHome as their only on-ramp to the Internet."

AT&T, Comcast and Excite Home all issued brief statements attacking the suit as hypocritical, calling GTE a monopoly in the markets where it provides local phone service.

They also reiterated arguments that cable lines are just a new form of competition for telephone companies whose copper lines are the primary means by which people access the World Wide Web.

"The overwhelming majority of customers must access the Internet over dial-up facilities from GTE and the other local telephone monopolies," said Jim Cicconi, AT&T general counsel. "Now that AT&T is trying to use cable facilities to bring choice to the monopolies' customers, GTE is using every trick in the book to delay that competition."

AT&T has been fighting similar battles on numerous fronts almost since the very start of its foray into cable earlier this year.

Hoping to bypass the Baby Bell system for providing telephone and Internet service, AT&T is spending more than $ 100 billion to buy and upgrade a broad swath of the nation's cable systems.

As part of its purchase of Tele-Communications Inc., one of the nation's two biggest cable companies, AT&T gained control of ExciteHome, which it placed at the focal point of the new cable Internet initiative.

Classification

Language: ENGLISH

Subject: CONSUMERS (78%); COMMUNICATIONS LAW (78%); REGIONAL & LOCAL GOVERNMENTS (78%); CABLE SYSTEM REGULATION (78%); LAWYERS (77%); LITIGATION (77%); LICENSING AGREEMENTS (71%)

Company: AT&T INC (96%); COMCAST CORP (96%); VERIZON COMMUNICATIONS INC (93%); AOL INC (56%); AT&T GENERAL BUSINESS SYSTEMS (52%); AT&T INC (96%); COMCAST CORP (96%); VERIZON COMMUNICATIONS INC (93%); AOL INC (56%); AT&T GENERAL BUSINESS SYSTEMS (52%)

Ticker: T (NYSE) (96%); CMCSA (NASDAQ) (96%); CCV (NYSE) (96%); VZC (LSE) (93%); VZ (NYSE) (93%); AOL (NYSE) (56%)

Industry: TELECOMMUNICATIONS SERVICES (94%); CABLE INDUSTRY (90%); COMPUTER NETWORKS (90%); BROADBAND (90%); INTERNET SERVICE PROVIDERS (90%); INTERNET & WWW (90%); TELEPHONE SERVICES (89%); LOCAL TELEPHONE SERVICE (89%); COMMUNICATIONS LAW (78%); CABLE SYSTEM REGULATION (78%); TELECOMMUNICATIONS (78%); LAWYERS (77%)

Geographic: UNITED STATES (93%)

Load-Date: October 26, 1999

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 09:13:31 p.m. EST

Document: GTE files antitrust suit against AT&T, Comcast;CABLE: The s…

GTE files antitrust suit against AT&T, Comcast; CABLE: The suit says the companies force customers to buy Web access from Excite@Home.

Orange County Register (California)

October 26, 1999 Tuesday, MORNING EDITION

Section: BUSINESS;

Length: 383 words

Byline: Bloomberg News

Body

GTE on Monday accused cable operators AT&T and Comcast in an antitrust lawsuit of illegally forcing customers to buy Internet access from their affiliate, squelching competition from rivals like GTE's Internetworking unit.

GTE, a local telephone company and an Internet service provider, said AT&T and Comcast required cable customers to buy Excite@Home's service as a condition for getting installation of an Internet modem on their cable box.

The lawsuit, filed in federal court in Pittsburgh, was the latest effort in GTE's campaign to force local cable franchises to open Internet access to all competitors.

The suit by GTE, which is set to be acquired by Bell Atlantic, "signals a major ratcheting up of the open-access fight," said Scott Cleland, managing director of Legg Mason's Precursor Group.

GTE, America Online and other Internet service providers have been campaigning to force cable TV companies to open their high-speed Internet connections to unaffiliated service providers.

While the Federal Communications Commission has opted not to impose such a requirement, several local governments have voted to require open access.

FCC staff reiterated the need for a hands-off approach to regulating cable Internet connections in a report this month. Aimed at discouraging regulation by local governments, the report found only about 1 million of 40 million residential Internet subscribers have high-speed hook-ups.

GTE's lawsuit charges that Comcast and AT&T, which became the No. 2 cable operator through its purchase of Tele-Communications Inc., leveraged their cable monopoly by forcing customers to subscribe to the Internet service provided by Excite@Home. AT&T owns 26 percent of Excite while Comcast owns 8 percent.

Cable customers who want to subscribe to AOL, MindSpring, GTE's Internetworking or other Internet services must pay for Excite@Home and the second Internet service provider, said **William P. Barr**, GTE's general counsel.

"Cable has a de facto monopoly over a very substantial portion of the homes," Barr said.

Excite@Home, also named in the lawsuit, has an exclusive contract to provide high-speed Internet access over AT&T's cable lines.

GTE shares fell 6 cents, to $ 71.69, while AT&T rose $ 1.69, to $ 44.69.

Classification

Language: ENGLISH

Subject: LITIGATION (91%); REGIONAL & LOCAL GOVERNMENTS (90%); SUITS & CLAIMS (90%); CABLE SYSTEM REGULATION (90%); ENERGY & UTILITY LAW (87%); LAWYERS (74%); CORPORATE COUNSEL (73%); COMMUNICATIONS LAW (72%); CONTRACTS & BIDS (67%)

Company: COMCAST CORP (97%); AT&T INC (95%); AOL INC (56%); LEGG MASON INC (56%); COMCAST CORP (97%); AT&T INC (95%); AOL INC (56%); LEGG MASON INC (56%); FEDERAL COMMUNICATIONS COMMISSION (82%); FEDERAL COMMUNICATIONS COMMISSION (82%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (82%); FEDERAL COMMUNICATIONS COMMISSION (82%)

Ticker: CMCSA (NASDAQ) (97%); CCV (NYSE) (97%); T (NYSE) (95%); AOL (NYSE) (56%); LM (NYSE) (56%)

Industry: CABLE INDUSTRY (93%); COMPUTER NETWORKS (91%); BROADBAND (90%); CABLE & OTHER DISTRIBUTION (90%); CABLE SYSTEM REGULATION (90%); INTERNET SERVICE PROVIDERS

(90%); INTERNET & WWW (90%); ENERGY & UTILITY LAW (87%); TELEVISION INDUSTRY (78%); COMMUNICATIONS REGULATION & POLICY (78%); LAWYERS (74%); CORPORATE COUNSEL (73%); MODEMS (73%); COMMUNICATIONS LAW (72%); TELEPHONE SERVICES (72%); LOCAL TELEPHONE SERVICE (72%)

Geographic: PENNSYLVANIA, USA (79%); UNITED STATES (79%)

Load-Date: November 3, 1999

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:26:42 p.m. EST

COMCAST NAMED IN INTERNET LAWSUIT / GTE, WHICH ALSO NAMED AT&T IN THE FEDERAL ACTION, / WANTS ACCESS TO THE CABLE FIRMS' HIGH-SPEED CAPACITY.

The Philadelphia Inquirer

OCTOBER 26, 1999 Tuesday SF EDITION

Section: BUSINESS; Pg. D01

Length: 703 words

Byline: Patricia Horn, INQUIRER STAFF WRITER

Body

The battle for control of Internet access over cable-television networks reached the federal courts yesterday.

The local-phone company GTE Corp. filed an antitrust lawsuit in Federal District Court in Pittsburgh against Comcast Corp., AT&T, and their affiliated Internet service provider, Excite@Home.

The lawsuit by the Dallas-based company charges that the companies illegally force consumers to subscribe to their exclusive Internet service provider, Excite@Home, in order to obtain their high-speed Internet service. Both companies own a stake in Excite@Home.

That practice, the complaint says, is an unlawful "tying" arrangement.

The issue in the lawsuit cuts to the heart of the country's Internet policies: Should cable companies have to sell their high-speed broadband capacity to any Internet service provider that requests it, on the same terms at which they sell it to their affiliates, such as Excite@Home?

"Today, Americans can choose among thousands of ISPs when they sign up for Internet access with the telephone companies," said **William P. Barr**, GTE's general counsel. "But in the high-speed Internet access world of [AT&T] and Comcast, consumers don't have a choice."

Comcast and AT&T both said they would fight the case.

"No one should be surprised that GTE, which has sued the [Federal Communications Commission] at every turn to stop local-phone competition, should try similar tactics to slow down facilities-based Internet competition," said Joe Waz, Comcast's public counsel. "We will not let them do that to consumers." He said he could not comment further because he had not been served a copy of the lawsuit.

"This lawsuit appears to be yet another illegitimate step in GTE's ongoing effort to protect its own monopoly by seeking forced-access regulations on would-be competitors," said AT&T's general counsel, Jim Cicconi.

GTE said it chose to file in Pennsylvania because it is Comcast's home state and because both AT&T and Comcast have large operations in the state. The company said it did not plan to file suits against other major cable companies, many of which employ similar exclusive ISP arrangements. It said it hoped that other companies would change their practices upon resolution of this suit.

GTE's action comes as Pennsylvania is considering legislating open access; just last week the House Consumer Affairs Committee had a hearing on the issue in Harrisburg.

Supporters of open access - largely Internet service providers, telephone companies, and consumer groups - say it would increase competition among high-speed Internet access providers, minimize control over online content, and reduce consumer prices.

Supporters say that in some markets, particularly in rural areas, many homes and businesses may have only one choice for high-speed service, the cable company.

Opponents, mostly the cable industry, say the act would regulate the Internet, hurt their industry, cause higher prices, and delay deployment of high-speed Internet access.

They say there are other ways to get high-speed service, and that more are developing, such as digital subscriber lines, satellites, and wireless cable companies.

Voicenet, an Ivyland Internet service provider, applauded the lawsuit.

Though Voicenet has had enormous demand for high-speed service, it cannot reach as many customers as it would like because of limitations in the digital subscriber line technology, the telephone alternative to cable's high-speed service, the company's president, Carmen DiCamillo, said. That is why his company would like to be able to lease high-speed access from cable companies, he said.

The two sides are contesting the issue in city halls, county offices, state legislatures, Congress and the courts.

According to GTE's lawsuit, the defendants illegally force their cable modem subscribers to buy the Excite@Home ISP service. Customers who would prefer another Internet service provider - such as GTE, America Online or Mindspring - can get such services only if they also pay for the @Home service.

GTE, which has 500,000 Internet customers nationwide, is asking the court to issue an injunction to stop the practice, and also seeks damages.

Classification

Language: ENGLISH

Subject: SUITS & CLAIMS (91%); LITIGATION (91%); CONSUMERS (90%); CONSUMER PROTECTION (89%); LAW COURTS & TRIBUNALS (78%); PUBLIC POLICY (78%); LAWYERS (78%); CORPORATE COUNSEL (77%); CONSUMER PRICE INDEX (76%); CONSUMER WATCHDOGS (76%); PRICES (72%); ENERGY & UTILITY LAW (65%); Us Lawsuit Internet Television Communications Business And; Industry

Company: AT&T INC (95%); COMCAST CORP (95%); VERIZON COMMUNICATIONS INC (93%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (54%); FEDERAL COMMUNICATIONS COMMISSION (54%)

Ticker: T (NYSE) (95%); CMCSA (NASDAQ) (95%); CCV (NYSE) (95%); VZC (LSE) (93%); VZ (NYSE) (93%)

Industry: TELECOMMUNICATIONS SERVICES (94%); INTERNET SERVICE PROVIDERS (92%); CABLE INDUSTRY (90%); COMPUTER NETWORKS (90%); BROADBAND (90%); CABLE & OTHER DISTRIBUTION (90%); TELEPHONE SERVICES (90%); INTERNET & WWW (90%); TELEVISION INDUSTRY (78%); LAWYERS (78%); COMMUNICATIONS REGULATION & POLICY (78%); CORPORATE COUNSEL (77%); ENERGY & UTILITY LAW (65%)

Geographic: PITTSBURGH, PA, USA (79%); DALLAS, TX, USA (78%); HARRISBURG, PA, USA (73%); PENNSYLVANIA, USA (92%); UNITED STATES (79%)

Load-Date: October 22, 2002

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 04:08:21 p.m. EST

MUST READ: How one hacked laptop led to an entire network being compromised

Telcos go to war: GTE sues AT&T

Upping the ante in the battle for open access, GTE accuses AT&T of antitrust violations.

By Lisa M. Bowman | October 26, 1999 -- 00:00 GMT (17:00 PDT) | Topic: Mobility

Upping the ante in the battle for open access, GTE Corp. is going to court to stop AT&T Corp. and Comcast from forcing subscribers to their cable modem service to also sign up with the @Home ISP.

In its antitrust complaint, filed Monday in federal court in Pittsburgh, Pa., GTE claims that AT&T (http://xlink.zdnet.com/cgi-bin/texis/cofinder/cofinder/CoDetail.html?CoId=C0001791) (NYSE:T (http://www.zdii.com/industry_list_new.asp?mode=news&ticker=t)) and Comcast are violating antitrust law by illegally tying the @Home Internet access service, which is partially owned by AT&T, to their broadband offerings

The suit also claims the companies are striking exclusive deals that leave out other broadband providers such as GTE Corp. (http://xlink.zdnet.com/cgi-bin/texis/cofinder/cofinder/CoDetail.html?CoId=C0002650) (NYSE:GTE (http://www.zdii.com/industry_list_new.asp?mode=news&ticker=gte)).

GTE General Counsel William P. Barr said the deals in effect require customers to pay twice if they want to sign up with an alternative Internet provider -- once to @Home and again to the ISP of their choice.

"You shouldn't let the person who owns the driveway dictate where people go," Barr said.

AT&T called the suits an "illegitimate effort" in GTE's efforts to protect its monopoly in the local telephone market. "Now that AT&T is trying to use cable facilities to bring choice to .... customers, GTE is using every trick in the book to delay that competition," the company said in a statement.

As a major telecom player, GTE is one of several companies with a vested interest in the battle for control of the pipes that lead to your house. GTE's ISP has 500,000 customers, and the company, along with others such as America Online Inc., have appealed to Congress to make sure that cable companies don't cut off access to their Internet services. GTE also offers DSL service, which competes with cable modems to bring broadband to the home.

Barr said the issue is much broader than just an AT&T vs. GTE debate. He said open access should be the rule in both telecommunications and Internet policy. When asked if he would be interested in coming to an access agreement with AT&T, Barr replied: "Is GTE interested in cutting a deal just for GTE? The answer is no."

The issue also is playing out in several local jurisdictions, including San Francisco, Calif., and Cambridge, Mass., which are considering whether to require cable companies to open up access to

their residents. Portland, Ore., has taken the strongest position so far, ruling that the AT&T must open up its lines to outside ISPs. AT&T sued to overturn the decision, but lost. It's now appealing, and the first hearing in that part of the case is scheduled for next week.

RELATED TOPICS: LEGAL SMARTPHONES MOBILE OS SECURITY HARDWARE REVIEWS

Document: GTE Files Suit Over Internet Access; AT&T, Comcast, Excite …

GTE Files Suit Over Internet Access; AT&T, Comcast, Excite At Home Accused of Illegal 'Tying'

The Washington Post

October 26, 1999, Tuesday, Final Edition

Section: FINANCIAL; Pg. E01

Length: 842 words

Byline: Peter S. Goodman, Washington Post Staff Writer

Body

An intense national battle over control of high-speed links to the Internet flowed into another arena yesterday, as local telephone company GTE Corp. asked a federal court in Pittsburgh to force cable companies to offer their customers an equal choice of Internet service providers.

GTE filed an antitrust lawsuit against two cable companies--Tele-Communications Inc., now owned by AT&T Corp., and Comcast Corp.--as well as a third company, Excite At Home, which connects customers to the Internet over cable lines. AT&T and Comcast both own substantial interests in Excite.

For years, people have connected to the Internet using computer modems and telephone lines, dialing in to the Internet service company of their choice. But as sophisticated services such as video-on-demand and teleconferencing flood communications networks with computer data, industry leaders are racing to provide faster access to the Internet, with no dialing required.

Upgraded cable television lines have emerged as a direct path, competing with another route being rolled out by local phone companies, DSL, or digital subscriber line, which effectively transforms regular copper phone lines into swift arteries of information.

Cable companies have sought to leverage their established links with millions of homes into market share in the burgeoning Internet world. AT&T has led the way, spending more than $ 100 billion to acquire TCI and other cable franchises throughout the country.

A key to the equation: AT&T and Comcast offer their customers a single portal to the Internet--the Excite At Home service. If customers prefer a different Internet provider, they can go there, but they still must pay for Excite.

And that, GTE argues in the suit filed yesterday, amounts to an illegal "tying" under federal antitrust law, a policy that forces customers to buy two products to get the one they want.

"This is an issue of fundamental telecommunications policy," **William P. Barr**, GTE's general counsel and a former U.S. attorney general, said at a news conference. "Open access should be the rule."

In a blistering statement AT&T's general counsel, James W. Cicconi, portrayed the suit as a frivolous attack lobbed by a local telephone franchise concerned that cable will allow customers to bypass its monopolistic grip on its markets.

"The overwhelming majority of customers must access the Internet over dial-up facilities from GTE and the other local telephone monopolies," Cicconi said.

"It is preposterous and ironic for a monopoly like GTE to use the antitrust laws to block emerging competition."

For months, open access has comprised a central fault line of lobbying and litigation within a communications world being refashioned by technology. GTE and other local phone companies say they can't fairly compete for high-speed Internet customers if cable lines are not open to all. Dulles-based America Online Inc., the nation's largest Internet service provider, has made the open access fight its own, as it seeks a fast route into homes.

Consumer advocates have portrayed the open-access debate as one that will determine the very future of the Internet--one that is freewheeling and open, or compromised by electronic fences and controlled by powerful corporations.

To date, the debate has played out in cities and counties across the country as some local authorities--Portland, Ore., most notably--have refused to transfer TCI's cable licenses to AT&T unless the company allows customers to link up with any Internet provider. AT&T has maintained that opening its lines would be technically challenging, costly and unnecessary.

AT&T's opponents have sought to persuade federal regulators to intervene. In the new realm of communications, they argue, cable systems are indistinguishable from phone systems, serving as conduits for the same services.

Indeed, AT&T plans to sell phone service over its cable lines. Just as federal authorities have forced local companies to lease their networks to rivals, they argue, cable companies should be forced to do the same.

But the Federal Communications Commission, led by Chairman William E. Kennard, has declined to regulate, arguing that "broadband," as high-speed access is known, is a nascent area, one best nurtured by market forces. Cable has no monopoly, Kennard argues, since DSL and satellite systems offer other means of moving fat loads of data fast. Moreover, Kennard says, strong cable companies offer the best prospect for local telephone competition.

But yesterday's action elevates the open access debate to a new federal arena, while providing cable opponents with a shiny tool in their fight, analysts said.

"It gives GTE the power of legal discovery to find out the facts it hasn't been able to find out in a political regulatory debate," said Scott Cleland, an analyst with Legg Mason Precursor Group.

"Internal [memorandum.] Think of all the documents the government used against Microsoft. That's what they're looking for: Smoking guns."

Classification

Language: ENGLISH

Subject: LAWYERS (89%); LITIGATION (89%); ANTITRUST & TRADE LAW (89%); SUITS & CLAIMS (78%); CORPORATE COUNSEL (77%); LOBBYING (77%); LEGAL MONOPOLIZATION (77%); CABLE SYSTEM REGULATION (77%); COMMUNICATIONS LAW (73%); ATTORNEYS GENERAL (72%); PRESS

CONFERENCES (60%)

Company: COMCAST CORP (97%); AT&T INC (96%); VERIZON COMMUNICATIONS INC (93%); COMCAST CORP (97%); AT&T INC (96%); VERIZON COMMUNICATIONS INC (93%)

Ticker: CMCSA (NASDAQ) (97%); CCV (NYSE) (97%); T (NYSE) (96%); VZC (LSE) (93%); VZ (NYSE) (93%)

Industry: CABLE INDUSTRY (94%); COMPUTER NETWORKS (91%); WIRED TELECOMMUNICATIONS CARRIERS (90%); CABLE & OTHER DISTRIBUTION (90%); TELEPHONE SERVICES (90%); INTERNET SERVICE PROVIDERS (90%); TELECOMMUNICATIONS SERVICES (90%); INTERNET & WWW (90%); BROADBAND (89%); LAWYERS (89%); LOCAL TELEPHONE SERVICE (89%); TELECONFERENCING (78%); WEBSITES & PORTALS (78%); MODEMS (78%); TELECOMMUNICATIONS (78%); COMMUNICATIONS REGULATION & POLICY (78%); CORPORATE COUNSEL (77%); VIDEO ON DEMAND (77%); CABLE SYSTEM REGULATION (77%); TELEVISION INDUSTRY (77%); COMMUNICATIONS LAW (73%)

Geographic: PENNSYLVANIA, USA (78%); UNITED STATES (92%)

Load-Date: October 26, 1999

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:27:54 p.m. EST

GTE files antitrust suit against AT&T over high-speed Internet access

The Associated Press

October 25, 1999, Monday, AM cycle

Section: Business News

Length: 754 words

Byline: By BRUCE MEYERSON, AP Business Writer

Dateline: NEW YORK

Body

Less than a week after an apparent victory in Florida, AT&T's control over providing high-speed Internet services through its cable TV systems is being threatened by an antitrust suit by telephone and Internet company GTE Corp.

GTE, which is being acquired by Bell Atlantic, filed the suit in a federal court in Pittsburgh on Monday. The company alleges monopolistic practices by AT&T and Comcast, another cable company that owns an interest in ExciteAtHome, a cable Internet service that is controlled by AT&T.

The suit complains that AT&T and Comcast are denying consumers the right to pick their Internet service by forcing them to pay an access fee to ExciteAtHome, regardless of whether they subscribe to an Internet service provider such as America Online, the industry leader with 19 million subscribers and one of AT&T's harshest critics.

"The defendants are illegally exploiting their economic power over high-speed Internet access to deprive Americans of their right to choose their ISP," GTE said in a statement announcing the suit.

"Today, Americans can choose among thousands of ISPs when they sign up for Internet access with the telephone companies," said **William P. Barr**, executive vice president and general counsel of GTE, which has only about half a million subscribers to its Internet service. "But in the high-speed Internet access world of (AT&T) and Comcast, consumers don't have a choice. They are forced to accept AtHome as their only on-ramp to the Internet."

AT&T, Comcast and ExciteAtHome all issued brief statements attacking GTE as a hypocritical monopoly in the markets where it provides local telephone service. They also reiterated arguments that cable lines are just a new form of competition for telephone companies whose copper lines are the primary means by which people access the World Wide Web.

"The overwhelming majority of customers must access the Internet over dial-up facilities from GTE and the other local telephone monopolies," said Jim Cicconi, AT&T general counsel, in a statement. "Now that AT&T is trying to use cable facilities to bring choice to the monopolies' customers, GTE is using every trick in the book to delay that competition."

The suit could force a more definitive stance from federal regulators, who've largely shied away from the issue except to discourage efforts by local governments to intervene with their own cable laws.

AT&T has been fighting similar battles on many other fronts almost since the very start of its foray into cable several months ago.

Hoping to bypass the Baby Bell system for providing telephone and Internet service, AT&T is spending more than $ 100 billion to buy and upgrade a broad swath of the nation's cable systems. As part of its purchase of Tele-Communications Inc., one of the nation's two biggest cable companies, AT&T gained control of ExciteAtHome, which it placed at the focal point of the new cable Internet initiative.

Many local governments have bristled, however, at the notion of allowing AT&T to completely dominate what some see as the most promising way - at least in the near term - to provide a more robust Internet service than is possible over regular dial-up connection through copper phone lines.

Several of the governments have moved to pass laws requiring AT&T and other cable companies to share their lines with rivals for a fee in the same way that long-distance calling companies pay the Baby Bells to complete their calls over their local phone networks.

AT&T and other cable operators argue that they are spending billions of dollars to upgrade their cable systems for Internet and telephone service and should be allowed to recoup their investments. They also argue that DSL, the high-speed Internet connection that uses a regular phone line, is a viable alternative for providing Internet access.

The standoff initially looked grim for AT&T, which has been trying to ease a highly public spat with AOL and is suing to overturn laws passed in Portland, Ore., and Broward County, Fla., requiring open access to cable systems.

But last week, county commissioners for Miami-Dade County in Florida voted against passing similar regulations.

In August, the Federal Communications Commission asserted that it holds the ultimate authority to regulate Internet access.

Thus far, however, federal officials have opted to remain on the sidelines, fearful that regulatory intervention will discourage companies from making investments to bring these services to consumers quickly.

Classification

Language: ENGLISH

Subject: ANTITRUST LITIGATION (90%); CONSUMERS (89%); CABLE SYSTEM REGULATION (77%); LAWYERS (77%); LITIGATION (77%); CONSUMER PROTECTION (75%); EXECUTIVES (68%); REGIONAL & LOCAL GOVERNMENTS (62%)

Company: AT&T INC (96%); COMCAST CORP (96%); VERIZON COMMUNICATIONS INC (91%); AOL INC (56%); AT&T GENERAL BUSINESS SYSTEMS (52%); AT&T INC (96%); COMCAST CORP (96%); VERIZON COMMUNICATIONS INC (91%); AOL INC (56%); AT&T GENERAL BUSINESS SYSTEMS

(52%)

Ticker: T (NYSE) (96%); CMCSA (NASDAQ) (96%); CCV (NYSE) (96%); VZC (LSE) (91%); VZ (NYSE) (91%)

Industry: CABLE INDUSTRY (90%); COMPUTER NETWORKS (90%); BROADBAND (90%); CABLE & OTHER DISTRIBUTION (90%); INTERNET SERVICE PROVIDERS (90%); TELECOMMUNICATIONS SERVICES (90%); INTERNET & WWW (90%); TELEPHONE SERVICES (89%); LOCAL TELEPHONE SERVICE (89%); CABLE SYSTEM REGULATION (77%); LAWYERS (77%)

Geographic: PENNSYLVANIA, USA (79%); FLORIDA, USA (79%); UNITED STATES (93%)

Load-Date: October 25, 1999

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:27:09 p.m. EST

Document: GTE Sues AT&T, Comcast, Excite@Home Over Cable Intern…

GTE Sues AT&T, Comcast, Excite@Home Over Cable Internet Access

TheStreet.com

October 25, 1999 Monday

TheStreet.com

Section: BREAKING NEWS; Telecom

Length: 761 words

Byline: By Michael Brick, Staff Reporter

Dateline: October 25, 1999 8:22 PM ET

Body

GTE (GTE:NYSE) said it filed a lawsuit today against the cable service unit of AT&T (T:NYSE), Comcast (CMCSK:Nasdaq), as well as the Internet service provider they both use, Excite@Home (ATHM:Nasdaq).

The suit alleges that the two cable companies are illegally forcing their customers to use Excite@Home.

GTE, which runs its own Internet service provider and carries local service in 28 states, wants to offer its service over AT&T's high-speed cable lines. Currently, customers who use AT&T's high-speed lines must use Excite@Home or pay a fee.

Before even reading the Federal antitrust lawsuit, AT&T angrily fired back that GTE monopolizes local telephone service in many areas, creating a monopoly on standard Internet service.

The GTE suit charges that the cable companies illegally use "market power" in the cable sector to demand market power in Internet service, GTE officials said.

"This is an issue of fundamental telecommunications policy rather than antitrust law," **William Barr**, executive vice president and general counsel for GTE, said in a news conference. "You shouldn't let the person who owns the driveway dictate where people go."

Although neither telephone company has a monopoly on cable lines and Excite@Home does not have a monopoly on Internet service, the relationships amount to an unlawful "tying" of services, GTE officials said. GTE argues that because cable modems are the predominant form of high-speed access, AT&T's and Comcast's ownership of cable lines and exclusive deals with Excite@Home constitute an effective monopoly on high-speed access.

High-speed service is new but is quickly gaining popularity. "Now that AT&T is trying to use cable facilities to bring choice to the monopolies' customers, GTE is using every trick in the book to delay that competition," Jim Cicconi, AT&T general counsel, said in a statement. "If the antitrust laws condemn anything, it's GTE's dismal record of closed markets, captive customers, high prices and poor service."

Comcast officials did not return calls for comment.

Excite@Home also assailed GTE. "It would be absurd for the court to find that the antitrust laws should be used to protect an entrenched monopolist, such as GTE, with a greater than 95% market share, from a new competitor, like Excite@Home, who has less than 2% market share," the company said in a statement.

GTE made reference to America Online (AOL:NYSE) and MindSpring (MSPG:Nasdaq), competing Internet service providers, in a news release, and mentioned the Department of Justice and the Federal Communications Commission in a news conference. But none of these have joined the suit, although GTE said that those companies and agencies are all familiar with the argument and that some Internet service providers agree with it.

Dave Baker, vice president for legal and government relations for MindSpring, declined to comment on whether his company has been asked to join the suit. But he supported GTE's argument.

"Customers cannot today get cable modem Internet access without using their company's ISP," Baker said. "Customers ought to be able to choose their ISP using cable the way they can over any other wire."

America Online declined to comment.

GTE also said it has demonstrated that providing the access it seeks it is technologically possible, as evidenced by tests it ran on its own cable wires in Florida. It said the companies it sued are stalling while they corral customers into their service.

Internet service providers "tend to be somewhat sticky products in the sense that once you get a customer into them, email lists, buddy lists" and the like keep customers hooked," Barr said.

Recent legislation has addressed the same issue relating to telephone lines. Line owners must offer customers their choice of Internet service provider. The cable owners have argued that applies only to telephone lines.

The suit seeks injunctive relief and unspecified damages. The company chose to sue AT&T and Comcast in Pittsburgh federal court because the two companies do business there. GTE officials said they hope other cable owners will follow the company's example if the suit is successful.

GTE said it would be open to a market solution, but not if that means linking with another cable company.

Stocks of the companies involved in the lawsuit were mixed today. GTE fell 1 1/16, closing 71 11/16. AT&T gained 1 11/16 to 44 11/16. But Comcast's class B shares fell 9/16 to 38 15/16. And Excite@Home rose 3/4 to 39 13/16.

Classification

Language: ENGLISH

Subject: SUITS & CLAIMS (89%); LITIGATION (88%); ANTITRUST & TRADE LAW (84%); ANTITRUST LITIGATION (68%); LAWYERS (65%); CORPORATE COUNSEL (63%)

Company: AT&T INC (97%); COMCAST CORP (97%); AT&T GENERAL BUSINESS SYSTEMS (52%); AOL INC (50%); AT&T INC (97%); COMCAST CORP (97%); AT&T GENERAL BUSINESS SYSTEMS (52%); AOL INC (50%)

Ticker: T (NYSE) (97%); CMCSA (NASDAQ) (97%); CCV (NYSE) (97%); T (NYSE) (97%); CMCSA (NASDAQ) (97%); CCV (NYSE) (97%)

Industry: CABLE INDUSTRY (89%); INTERNET SERVICE PROVIDERS (85%); COMMUNICATIONS REGULATION & POLICY (68%); TELECOMMUNICATIONS (68%); TELECOMMUNICATIONS SERVICES (68%); INTERNET & WWW (67%); LOCAL TELEPHONE SERVICE (66%); LAWYERS (65%); CORPORATE COUNSEL (63%)

Load-Date: October 26, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:54:29 p.m. EST

Document: W&M CHIEF QUESTIONS GOVERNOR'S BOARD CLAIM;S…

W&M CHIEF QUESTIONS GOVERNOR'S BOARD CLAIM; SULLIVAN CALLS DISPUTE AN ENGAGEMENT IN VIGOROUS DEBATE

Richmond Times Dispatch (Virginia)

September 10, 1999, Friday,, CITY EDITION

Section: AREA/STATE,

Length: 806 words

Byline: Andrew Petkofsky; Times-Dispatch Staff Writer

Dateline: WILLIAMSBURG

Body

A day after Virginia Education Secretary Wilbert Bryant described governing board members of state colleges and universities as "foot-soldiers of the governor," College of William and Mary President Timothy J. Sullivan yesterday greeted his school's board of visitors as "Bryant's Battalion."

In opening remarks at the board's two-day meeting, Sullivan made a few jokes about Bryant's choice of words. He also made clear his disagreement with the secretary's position that the appointed board members are accountable primarily to the governor and, through the governor, to the taxpayers who finance the state higher education system.

Bryant had expressed his views in Roanoke on Wednesday at a meeting of Gov. Jim Gilmore's Blue Ribbon Commission on Higher Education.

Sullivan yesterday told the board members their most important obligation is to help students realize their potential.

"Everything we do here is about our students and their education," he said.

Sullivan said later that he considered his strong response to Bryant's point of view as an engagement in "vigorous debate [over] important areas of higher education." He also said that Bryant's opinions "are not mainstream in terms of current practice and current legal structure."

The secretary had said at the commission meeting that board members should be wary of rubber-stamping their school president's priorities and should compare administration priorities with those of the governor.

When Blue Ribbon Commission Executive Director Maureen Riley Matsen updated the board on the commission's progress yesterday, some board members offered questions and comments in response to what Bryant had said a day earlier.

Member Jeffrey L. Slagenhauf said that in New York the centralization of the higher education system led in some ways to mediocrity.

Matsen responded that the commission's discussions are not aimed at bringing more centralization to higher education, but simply at making sure board members understand their duties and obligations.

J. Edward Grimsley, the board's rector and also a member of the Blue Ribbon Commission, said Bryant's point of view should not surprise anyone. He pointed out that the W&M board's bylaws say specifically that board members are "appointed by and accountable to the governor."

But Grimsley, a former editorial page editor of The Times-Dispatch who has served on the board under three governors, also said that no governor has ever approached him on any issue the board was considering.

Paul C. Jost, a board member who has continued to attack a four-year employment contract the board granted to Sullivan in June, yesterday had an assistant videotape the board meeting after first requesting that the board begin taping its own meetings.

No one on the board seconded Jost's motion, so he made his own tape with the board's permission.

Jost and Elizabeth McClanahan, another board member appointed by Gilmore, have questioned the legality of the June board meeting in Washington at which Sullivan's contract was granted, and McClanahan has taken steps to have the attorney general's office investigate.

Jost said that if the meeting is ruled to have been illegal, he'd like to reopen discussion on parts of the contract relating to Sullivan's sabbatical and the contract's language governing the conditions under which Sullivan could be fired.

So far there's been no opinion issued on that meeting, but the attorney general's office has concluded that two other meetings, one of them involving the hiring of the law school dean, were not technically legal. Grimsley, the rector, said the board would take action today to make the actions taken at those earlier meetings legal.

Jost also has said in a letter to Grimsley that a consultant and a board member gave false information to the board at the meeting concerning Sullivan's contract. The accused board member, Vice Rector **William P. Barr**, said yesterday that he would discuss the allegation in Jost's letter during today's meeting.

Dennis Slon, W&M's vice president for development, announced yesterday that the school set a fund-raising record by raising $ 31.8 million during the year ending June 30. That figure represents a 28.7 percent increase over the previous year, when $ 24.7 million was raised.

Also yesterday, Gilmore announced that he has appointed Belden Bell, Robert S. Roberson and Donald N. Patten to the board of visitors. He also reappointed R. Scott Gregory.

Bell serves as counselor to the president of the Heritage Foundation. Roberson is president of a Newport News investment company, and Patten, a former vice mayor of Newport News, is a partner in a city law firm. Gregory, first appointed to the board in 1995, is a senior consultant with McGuire Woods Consulting in Richmond.

Graphic

PHOTO

Classification

Language: ENGLISH

Subject: COLLEGES & UNIVERSITIES (91%); EDUCATION DEPARTMENTS (91%); TALKS & MEETINGS (90%); BOARDS OF DIRECTORS (90%); GOVERNORS (90%); GOVERNMENT ADVISORS & MINISTERS (90%); EDUCATION SYSTEMS & INSTITUTIONS (89%); SCHOOL BOARDS (78%); BOARD CHANGES (78%); APPOINTMENTS (78%); PUBLIC SCHOOLS (73%); EXECUTIVES (72%); EMPLOYMENT CONTRACTS (69%)

Company: BRYANT'S CHOICE (90%); BRYANT'S CHOICE (90%); BLUE RIBBON COMMISSION (60%)

Organization: BLUE RIBBON COMMISSION (60%)

Industry: COLLEGES & UNIVERSITIES (91%); EDUCATION SYSTEMS & INSTITUTIONS (89%); PUBLIC SCHOOLS (73%)

Person: JIM GILMORE (58%)

Geographic: ROANOKE, VA, USA (79%); NEW YORK, USA (79%); VIRGINIA, USA (79%)

Load-Date: September 15, 1999

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 09:48:03 p.m. EST

Document: Political enemies become legal allies in Net fight

Political enemies become legal allies in Net fight

The Patriot Ledger (Quincy, MA)

August 13, 1999 Friday, ROP Edition

Section: BUSINESS;

Length: 409 words

Body

WASHINGTON -- David Kendall, President Clinton's top private lawyer and Brett Kavanaugh, former senior aide to special prosecutor Kenneth Starr, are arguing on the same side of one of the biggest legal fights in years.

Adversaries earlier in the year, Kendall and Kavanaugh are allies in the battle over which companies will dominate high-speed Internet service delivered through cable systems.

Kendall, representing America Online, and Kavanaugh, whose firm represents GTE, are among the many advisers converting the dispute into business.

N.Y. Times News Service

When Kendall and Kavanaugh found themselves in a room together, meeting with the Federal Communications Commission's general counsel on the issue, "their eyes were like saucers," recalled **William Barr**, the general counsel at GTE and former U.S. attorney general, who also was at the meeting.

Their common adversary is AT&T, which is acquiring cable systems and offers high-speed Internet access over those lines exclusively through a company, Excite(at)Home, in which it owns a major stake. Led by America Online and GTE, many Internet service providers and other telephone companies have mounted a nationwide campaign to force AT&T to permit cable customers to use Internet providers other than Excite(at)Home without additional fees.

The AT&T opponents have several business interests with billions of dollars in future revenues at stake. GTE is developing a rival high-speed Internet service, and many smaller providers believe they will be doomed if AT&T's system becomes popular. Some of the other telephone companies in the fray either are competitors of AT&T or are using the issue to press for greater deregulation and the ability to compete with the company's long-distance service.

AT&T contends it would have little incentive to upgrade its cable systems to provide high-speed Internet service if it must serve as a carrier for all providers, and that in any case, comparable telephone- and satellite-based services will ensure competition.

The price tag for hiring such prominent advisers and lobbyists is unavailable, but executives and lawyers involved in the case estimate that it is already in the tens of millions of dollars.

"In a field where exaggeration is common, it is fair to say that this issue is regarded as the most important public policy question in telecommunications for the decade," said Andrew Jay Schwartzman, president of Media Access Project, a consumer group.

Classification

Language: ENGLISH

Subject: LAWYERS (91%); CORPORATE COUNSEL (78%); TALKS & MEETINGS (78%); DEREGULATION (78%); LOBBYING (75%); US FEDERAL GOVERNMENT (75%); PUBLIC POLICY (75%); CONSUMER PROTECTION (74%); CONSUMER WATCHDOGS (74%); PUBLIC PROSECUTORS (73%); ENERGY & UTILITY LAW (70%); ATTORNEYS GENERAL (54%)

Company: AT&T INC (95%); AOL INC (57%); AT&T INC (95%); AOL INC (57%); FEDERAL COMMUNICATIONS COMMISSION (57%); FEDERAL COMMUNICATIONS COMMISSION (57%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (57%); FEDERAL COMMUNICATIONS COMMISSION (57%)

Ticker: T (NYSE) (95%); AOL (NYSE) (57%)

Industry: LAWYERS (91%); CABLE INDUSTRY (90%); COMPUTER NETWORKS (90%); BROADBAND (90%); INTERNET SERVICE PROVIDERS (90%); TELECOMMUNICATIONS SERVICES (89%); TELEPHONE SERVICES (87%); CORPORATE COUNSEL (78%); TELECOMMUNICATIONS (76%); COMMUNICATIONS REGULATION & POLICY (76%); INTERNET & WWW (71%); ENERGY & UTILITY LAW (70%); LONG DISTANCE TELEPHONE SERVICE (68%)

Person: BILL CLINTON (58%)

Geographic: UNITED STATES (94%)

Load-Date: August 17, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:50:01 p.m. EST

Fight for Internet Access Creates Unusual Alliances

The New York Times

August 13, 1999, Friday, Late Edition - Final

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Section: Section A; ; Section A; Page 1; Column 1; National Desk ; Column 1;

Length: 1740 words

Byline: By STEPHEN LABATON

By STEPHEN LABATON

Dateline: WASHINGTON, Aug. 12

Body

Unimaginable as it might have seemed a year ago, President Clinton's top private lawyer and the former senior aide to Kenneth W. Starr in the impeachment battle recently joined to argue on the same side of one of the biggest legal fights in years.

The two men, David E. Kendall and Brett M. Kavanaugh, are but one example of the unusual alliances being forged in the dispute over which companies will end up dominating high-speed Internet service delivered through cable systems.

Mr. Kendall, representing America Online, and Mr. Kavanaugh, whose firm represents G.T.E., are among a legion of advisers who are quickly finding business in the dispute, which has turned into the latest full employment act for lawyers and lobbyists here and in many cities around the nation.

Their common adversary in the fight is AT&T, which is rapidly acquiring cable systems and offers high-speed Internet access over those lines exclusively through a company, Excite@Home, in which it owns a major stake. Led by America Online and G.T.E., a coalition of Internet service providers and other telephone companies have mounted a nationwide campaign to force AT&T to let cable customers use Internet providers other than Excite@Home without additional fees.

The AT&T opponents have several business interests with billions of dollars in future revenues at stake. G.T.E. is developing a rival high-speed Internet service, and many smaller providers believe that if AT&T's system proves popular, they will be doomed if they are shut out. Some of the other telephone companies in the fray are either competitors of AT&T or are using the issue to press for greater deregulation and the ability to compete with the company's long-distance service.

AT&T contends that it would have little incentive to upgrade its cable systems to provide high-speed Internet service if it must serve as a carrier for all providers and that in any case, comparable telephone- and satellite-based services will insure competition.

While a precise figure on spending on the lawyers and lobbyists and for campaign contributions is not available, executives and lawyers involved in the case estimate that it is already in the tens of millions of dollars.

"In a field where exaggeration is common, it is fair to say that this issue is regarded as the most important public policy question in telecommunications for the decade," said Andrew Jay Schwartzman, president of Media Access Project, which promotes consumer rights and diversity on the airwaves and has taken sides against AT&T.

"In the near term," Mr. Schwartzman said, "there's billions of dollars in revenue at stake. Over the longer term, the outcome of this fight will play a large role in determining who will be the dominant telecommunications and Internet players for the next decade. As a consequence, the bedfellows are stranger than strange."

When Mr. Kendall and Mr. Kavanaugh found themselves on the same side recently, for instance, "their eyes were like saucers," recalled William P. Barr, the general counsel at G.T.E. and a Attorney General in the Administration of President George Bush, who was in the same room with them.

For their part, consumer groups have joined the anti-AT&T side but acknowledge that they are in an awkward position, allied with telephone companies that they have sharply criticized in the past. The consumer advocates have also criticized William E. Kennard, the chairman of the Federal Communications Commission, after lobbying fiercely to get him appointed two years ago. Mr. Kennard has in essence sided with AT&T by formulating a policy that only the Federal Government, and not local authorities, has jurisdiction, but ruling out intervention for now.

There have been high-stakes struggles over telecommunications policy in the past, but perhaps never one fought on so many fronts, including a number of localities where approval is needed -- and conditions on the Internet issue can be attached -- if AT&T is to assume the franchises of the cable companies it is acquiring.

One reason cable has become a focus of the Internet battle is that it is expected to be a dominant source of high-speed service, at least in the near term. Today fewer than 1 million homes have such connections, offering speeds 10 to 80 times those of conventional phone lines. But by 2002 the number of high-speed customers is expected to reach 10 million to 16 million, industry analysts say, with 60 percent to 85 percent using cable connections.

The current dispute is also notable because it involves a convergence of technology that has far outpaced laws, court opinions and regulatory decisions, all of which treat cable and telephones differently and, for better or worse, have said little explicitly about the Internet.

On one front where AT&T's opponents have scored their biggest gains, the issue is heading to a Federal appeals court. It will hear oral arguments in October over a decision by Portland, Ore., to require AT&T to open its cable lines there to any Internet company on the same terms as Excite@Home.

The dispute also is moving to a new group of cities that are considering whether to permit AT&T to acquire the cable franchises controlled by Media One. Among other places, new skirmishing is expected in the suburbs of Boston and in other parts of Massachusetts, where a drive to get the issue on a statewide ballot in 2000 began this week, as well as Minneapolis-St. Paul, Richmond and major parts of Florida.

In Washington and cities around the nation, both sides have retained battalions of advocates. This week, for instance, the anti-AT&T forces announced that in addition to Mr. Kendall, they had retained Lloyd Cutler, the former White House counsel, and Bruce Ennis, a leading Washington lawyer.

For its part, AT&T and the cable industry have retained many of Washington's lobbyists, including Vin Weber, the former Republican representative from Minnesota, and the lobbying firm founded by the late Dan Dutko, a major Democratic fund-raiser who died in an accident two weeks ago. More than 50 lobbyists for AT&T and the cable companies showed up at an organizational meeting last December.

"A lot of people have told me that they owe me thank-you notes," said Gregory Simon, a former top aide to Vice President Gore, who is collaborating with Richard Bond, a former chairman of the Republican National Committee, in directing the anti-AT&T coalition. "They were retained just so I couldn't hire them. In Washington it took weeks to find somebody who was not lobbying for AT&T. I could not find three firms that had not been retained on this issue."

Nonetheless, the regional Bell telephone companies have managed to retain some well-known Washington figures for the fight, including Haley Barbour, a former chairman of the Republican National Committee; Michael D. McCurry, the former White House press secretary; and Susan Molinari, the former Republican Congresswoman from Staten Island. They say that Congress and Federal regulators should eliminate restrictions on their clients to make it easier to offer high-speed Internet services to compete against AT&T.

The experience in Florida is illustrative of the magnitude and fervor of the struggle. Local records show that AT&T and the cable companies have retained more than 40 lobbyists in the state. G.T.E. responded by persuading officials in Broward County to adopt an ordinance requiring AT&T to open its cable system to other Internet service providers -- and by agreeing to pay the county's legal costs if AT&T sued over the issue. AT&T lawyers say they are preparing to challenge G.T.E.'s legal assistance to the county.

There have also been Potemkin-like efforts at local organizing, a process that is known by some consumer advocates as Astroturf campaigns, in contrast to grass roots. Contrived rallies were staged in front of San Francisco City Hall, for instance, and both sides have made extensive use of telephone banks to gin up support by asking loaded questions and making alarmist predictions.

Executives and lobbyists from all sides are pouring campaign contributions into the coffers of the major Presidential contenders, although none of the candidates have stated a clear preference. (The issues have transcended party politics, although some of the major players have been identified with particular candidates. For example, James W. Cicconi, general counsel and head of government relations for AT&T and a former aide to President George Bush, was recently co-chairman of a fund-raiser in Washington for George W. Bush. George Vradenberg, the general counsel for America Online, is a top adviser and fund-raiser for John McCain. And Mr. Simon has been raising money for his former boss, Vice President Gore.)

Lawyers on both sides say the candidates are not likely to take a position that could jeopardize more donations.

While competing legislation over the issue was introduced in Congress in recent weeks, both sides acknowledge that there is nothing the lawmakers will likely do any time soon. As a result, the anti-AT&T forces have embarked on a strategy of trying to find support in states and municipalities, hoping the issue may then begin to resonate with more force in Washington.

Despite the intensity of the fight, there is a widespread assumption that it will be settled either at the corporate bargaining table or by a Supreme Court decision, which could be years away.

"Everybody's got a business motivation here and everybody likes cloaking their arguments in terms like open access," Mr. Cicconi said, "but what's really going on here is AOL has a business plan and wants the government to put its thumb on the scale to tip the balance in its favor." He said the opposition has been "going in at the local level and hiring as many people as possible who have connections with city commissioners and local officials."

But consumer groups and AT&T's corporate rivals say the battle is as much over principle as it is over business.

"I'm in awe of the magnitude and money involved," said Donna N. Lampert, who had to leave her law firm, which represents major cable companies, to continue her work for America Online. "But at its core this is really about an important principle. This involves a lot more than whose garage the Mercedes will be parked in, as the saying goes about big money cases. It involves who will control the Internet."

http://www.nytimes.com

Graphic

Chart/Map: "OVERVIEW: A Growing Battle Over Internet Access"

Fight for Internet Access Creates Unusual Alliances

Battles are being fought at the Federal, state and local levels to determine whether AT&T must offer competitors equal access to its cable customers in providing high-speed Internet service. Map highlights places where AT&T has prevailed, AT&T has failed and cities and states where lobbying battles are being waged.

Portland, Ore. -- Voted to deny the transfers of cable licenses unless AT&T treated all high-speed Internet providers equally. As a result, AT&T says it cannot develop high-speed service in the area. A Federal judge ruled against AT&T's court challenge two months ago; an appeal will be heard in October.

San Francisco -- Last month approved local cable licenses for AT&T but said it would revisit the issue this winter. Also agreed to support Portland in the lawsuit filed by AT&T and said that if Portland prevails on appeal, the decision would also be binding on AT&T in San Francisco.

Federal Government -- AT&T and the cable companies have so far tamped down opposition to limiting access and no bills are expected to be adopted soon. The Clinton Administration has taken no position; the Federal Communications Commission, while asserting that it has jurisdiction, has said no intervention is called for at this point, in essence siding with AT&T.

Broward County, Fla. -- Adopted an ordinance to require equal treatment of all Internet service providers by AT&T. The company has filed a lawsuit in Federal court to strike down the ordinance. (pg. A14)

Load-Date: August 13, 1999

Document: AT&T Files Appeal In Open Access Case

AT&T Files Appeal In Open Access Case

Newsbytes

August 11, 1999, Wednesday

Section: NEWS

Length: 757 words

Byline: Bob Woods; Newsbytes

Dateline: WASHINGTON, DC, U.S.A.

Body

AT&T Corp. [NYSE:T] has asked a federal Appeals Court to overturn a lower federal court decision that forced the long-distance - and now cable television - giant to open its Portland, Ore. broadband cable TV system to competition.

Last June, Federal District Court Judge Owen Panner ruled that Portland and Multnomah County, which surrounds Portland, could force AT&T to open its Portland network to competition. The initial ruling came as the result of a lawsuit AT&T had filed against the city and county.

In the appeal, filed with the Ninth Circuit Court of Appeals, AT&T said both the Constitution and the Telecommunications Act of 1996 do not allow local governments to force any cable company to open its networks.

"The District Court upheld the (local) ordinances on the ground that the Communications Act was intended to 'interfere' only minimally with local regulations of cable service and that the Ordinances implicate no constitutionally protected interest," AT&T said in the brief. "This is patently wrong."

"The ordinances are preempted by four separate provisions of the Communications Act… (and) also violate the First Amendment and Commerce Clause (of the Constitution)," AT&T asserted.

Newsbytes obtained a copy of the appeal, which was filed earlier this week by AT&T.

AT&T recently bought Tele-Communications Inc. (TCI) and MediaOne, two of the four largest cable companies in the US, earning the nickname "Ma Cable" in the process. Now, as local officials are asked to

transfer local TCI and MediaOne franchises to AT&T, they are now deciding if those cable networks should be opened to competition as part of the handover.

The openNet Coalition, a group of more than 200 local Internet service providers (ISPs) who would benefit from any denial of the appeal, said on Tuesday it would file a "friend-of-the-court brief" in support of the lower court ruling.

"Local authorities have the right -- and we believe the duty -- to protect local competition and consumer choice in cable Internet service," said Greg Simon, openNet Coalition co-director, in a statement. "Portland stood up for its citizens by opposing the vested interests that want to deny consumers a choice and now we are going to stand up for Portland by filing a brief on their behalf."

The openNet Coalition also said it would hire four well-known attorneys to prepare briefs "in support of the right of cities to enact open access policies," the group said in a statement.

Ian, note: "litigator" is not a formal title, and shouldn't be capitalized here. The attorneys include President Clinton's defense counsel David Kendall, who will represent the openNet Coalition, and **William Barr**, former US attorney general, who will represent GTE. Additionally, former White House Counsel Lloyd Cutler will represent US West, and Supreme Court litigator Bruce Ennis of Jenner & Block will represent the Oregon Internet Service Provider Association.

Other areas that will either consider or already have faced the open access issue include San Francisco and Los Angeles, Calif., and Miami and Broward County, Fla. Denver voters, meantime, will vote on open access in a ballot referendum this fall.

Meantime, legislation surrounding the issue of open cable network access was introduced last month in the House by Rep. Earl Blumenauer, D-Ore.

The "Consumer and Community Choice in Access Act," H.R. 2637, would clarify the Federal Communications Commission's (FCC) authority to resolve interconnection, technical and logistical standards disputes that might occur if local communities demand that cable companies provide open access. The bill also would allow open access through leased access requirements.

"(The bill) is giving the localities a great chance to guide them on their own technological future," Blumenauer said.

H.R. 2637 would also strengthen a locality's ability to require open access, Blumenauer said, and would make telecommunications services run by cable companies subject to common carrier regulations.

The bill does not, however, require open access as a hard and fast rule.

The legislation was referred to the House Committee on Commerce.

Reported By Newsbytes.com, http://www.newsbytes.com .

12:11 CST

(19990811/Press Contacts: Rochelle Cohen, AT&T, 202-457-3933; Sydney Rubin, Ignition Strategic Communications for the OpenNet Coalition, 202-224-1162 /WIRES TELECOM, ONLINE, BUSINESS, LEGAL/CABLEOPEN/PHOTO)

Classification

Language: ENGLISH

Subject: LAW COURTS & TRIBUNALS (90%); APPEALS (90%); APPELLATE DECISIONS (90%); DECISIONS & RULINGS (90%); ORDINANCES (90%); ENERGY & UTILITY LAW (90%); APPEALS COURTS (90%); LAWYERS (89%); LITIGATION (89%); LEGISLATION (78%); JUDGES (78%); CONSTITUTIONAL LAW (78%); CONSUMERS (77%); REGIONAL & LOCAL GOVERNMENTS (76%); COMMUNICATIONS LAW (73%); SUITS & CLAIMS (73%); CONSUMER LAW (73%)

Company: AT&T INC (98%); AT&T INC (98%)

Ticker: T (NYSE) (98%)

Industry: COMMUNICATIONS REGULATION & POLICY (99%); CABLE INDUSTRY (90%); ENERGY & UTILITY LAW (90%); BROADBAND (89%); CABLE & OTHER DISTRIBUTION (89%); LAWYERS (89%); TELECOMMUNICATIONS (77%); TELEVISION INDUSTRY (77%); COMPUTER NETWORKS (76%); COMMUNICATIONS LAW (73%); INTERNET SERVICE PROVIDERS (67%)

Geographic: PORTLAND, OR, USA (93%); OREGON, USA (79%); UNITED STATES (79%)

Load-Date: August 12, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:49:07 p.m. EST

Document: GTE PRAISES BROWARD DECISION, AT&T CALLS ACTIO…

GTE PRAISES BROWARD DECISION, AT&T CALLS ACTION CLEARLY WRONG'

WASHINGTON TELECOM NEWSWIRE

July 14, 1999, Wednesday

Section: WTN NOTEBOOK

Length: 128 words

Body

Broward County, Fla., voted 4-3 to allow Internet service providers to gain access to any cable modem service in a market, the second community to take such action.

The County Commission, meeting in Ft. Lauderdale, acted on a request from GTE, which has sought access to MediaOne's cable network, a request that was refused. "The efforts of local authorities to promote equal access to the franchises cable-modem platform will assure a high level of competition among ISPs," GTE General Council **William Barr** said. AT&T Vice President Ken McNeely said the "unfortunate" decision will discourage technology investments. McNeely quoted FCC Chairman William Kennard, who said the Internet "will not work" if localities set different rules for access. (WTN 1137-99)

Classification

Language: ENGLISH

Subject: COUNTIES (78%); COUNTY GOVERNMENT (78%); TALKS & MEETINGS (72%)

Company: AT&T INC (95%); AT&T INC (95%); FEDERAL COMMUNICATIONS COMMISSION (57%);

FEDERAL COMMUNICATIONS COMMISSION (57%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (57%); FEDERAL COMMUNICATIONS COMMISSION (57%)

Ticker: T (NYSE) (95%)

Industry: CABLE INDUSTRY (90%); COMPUTER NETWORKS (90%); MODEMS (78%); INTERNET SERVICE PROVIDERS (78%); INTERNET & WWW (78%); TELECOMMUNICATIONS EQUIPMENT (73%)

Geographic: FORT LAUDERDALE, FL, USA (59%); FLORIDA, USA (79%)

Load-Date: July 15, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:48:08 p.m. EST

Broward County Passes Cable Open Access Ordinance; GTE hails decision as a consumer victory

Business Wire

July 13, 1999, Tuesday

Length: 415 words

Dateline: FT. LAUDERDALE, Fla.

Body

July 13, 1999--GTE hailed today's decision by the Broward Board of County Commissioners to give local high-speed Internet users a choice among Internet Service Providers (ISPs) when using cable modem service. The Board adopted a general ordinance requiring MediaOne, and all other cable operators under its authority, to provide open access to their cable systems for high-speed Internet connections. Prior to this ruling, MediaOne, which is being acquired by AT&T, refused to allow access to the Internet through other providers on an equal basis with its ISP. "This forward-thinking decision increases consumer choice and access to the Internet," said **William P. Barr**, GTE Executive Vice President - Government and Regulatory Advocacy and General Counsel. "We congratulate the Broward County Commissioners for standing up for their constituents and rejecting the cable industry's massive lobbying, advertising blitz and bullying tactics that included lawsuit threats. The efforts of local authorities to promote equal access to the franchised cable-modem platform will assure a high level of competition among ISPs, and ultimately hold down the cost." Broward County joins the City of Portland and Multnomah County, Ore., in requiring that monopoly cable operators open their fast-lane Internet access services to multiple ISPs, allowing consumers a choice. AT&T challenged Portland's right to require open access. However, U.S. District Court Judge Owen Panner ruled in June that local communities have the authority to require cable operators to open their high-speed Internet access platforms. San Francisco's Board of Supervisors takes up the issue on July 26 when it considers requiring open access as a condition for transferring TCI's cable franchise to AT&T.

(AT&T closed its merger with TCI in 1999). On July 27, Miami-Dade County is expected to act on a general ordinance similar to the one passed in Broward County today.

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Today's News On The Net - Business Wire's full file on the Internet

with Hyperlinks to your home page.

URL: http://www.businesswire.com

Classification

Language: ENGLISH

Subject: LEGISLATIVE BODIES (90%); COUNTIES (90%); COUNTY GOVERNMENT (90%); CABLE SYSTEM REGULATION (89%); CONSUMERS (78%); CONSUMER LAW (77%); JUDGES (76%); BOARDS OF DIRECTORS (73%); LITIGATION (73%); LAWYERS (70%); CORPORATE COUNSEL (69%); EXECUTIVES (69%); SUITS & CLAIMS (68%); LAW COURTS & TRIBUNALS (64%)

Company: AT&T INC (95%); FL-GTE AT&T INC (95%)

Organization: FL-GTE

Ticker: T (NYSE) (95%); GTE T (NYSE) (95%)

Industry: CABLE INDUSTRY (94%); INTERNET SERVICE PROVIDERS (92%); COMPUTER NETWORKS (91%); BROADBAND (90%); INTERNET & WWW (90%); CABLE & OTHER DISTRIBUTION (89%); CABLE SYSTEM REGULATION (89%); MODEMS (78%); TELECOMMUNICATIONS EQUIPMENT (72%); LAWYERS (70%); CORPORATE COUNSEL (69%); ENTERTAINMENT & ARTS (68%); (68%)

Geographic: MIAMI, FL, USA (78%); PORTLAND, OR, USA (70%); OREGON, USA (79%); FLORIDA, USA (79%); UNITED STATES (79%)

Load-Date: July 14, 1999

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 03:57:39 p.m. EST

Document: Goodlatte Tries To Pin Down AT&T On Cable Access

Goodlatte Tries To Pin Down AT&T On Cable Access

Newsbytes

June 30, 1999, Wednesday

Section: NEWS

Length: 864 words

Byline: Robert MacMillan;Newsbytes

Dateline: WASHINGTON, DC, U.S.A.

Body

Rep. Robert Goodlatte, R-Va., in a fractious question- and-answer session in the House Judiciary Committee today grilled an AT&T Corp. executive, trying to force him to admit that AT&T is preserving a monopoly by not allowing cable consumers to receive high-speed cable Internet access unless it is AT&T's own product.

The argument came during a drawn-out yet passionate hearing at which telecommunications, Internet and cable industry representatives, as well as investors and consumer advocates, debated the pros and cons of two bills from Goodlatte and Rep. Rick Boucher, D-Va., that would mandate open cable access, and also allow incumbent local exchange carriers (ILECs - the baby Bells and GTE Corp.) to offer long distance data services.

The bills are H.R. 1686, the "Internet Freedom Act," and H.R. 1685, the "Internet Growth and Development Act."

The basic premise advocated by anti-cable groups, mainly local telephone companies, is that cable companies are allowed to operate in a monopolistic, unregulated fashion while ILECs are precluded by the Telecom Act of 1996 from offering high-speed data services across inter-LATA (local access transport area) boundaries. Therefore, they say, the ILECs should not be bound by Telecom Act strictures on voice communications, despite the Federal Communications Commission's different viewpoint.

Pro-cable and long distance provider forces, however, say that the cable infrastructures were not born into monopoly like the ILECs, and that rules allowing high-speed DSL (digital subscriber line) service across inter-LATA boundaries would be detrimental to high- speed Internet competition. Long distance

groups also claim that allowing the baby Bells and GTE to offer long distance data service allows them to subvert key portions of the Telecom Act that require open competition in their local markets before being allowed to compete in long distance markets.

AT&T Vice President for Law Mark Rosenblum told Goodlatte that no companies that offer cable data access are shutting out competitors because once users of AT&T's AtHome or Time-Warner Inc.'s Road Runner cable services are surfing online, they are welcome to visit any Website. Rosenblum said that these users can access free Websites such as Yahoo! Inc., or pay sites such as America Online.

Goodlatte, as well as Rep. Bobby Scott, D-Va., responded with the argument favored by open access groups - that customers who want high-speed cable access and their original ISP cannot have both - they must buy the cable access, and then continue paying for their original narrowband ISP which they must access via the cable service.

"If you want to be an Internet service provider and compete head- to-head with AtHome, (your customers) need to pay extra to do it with AtHome," Goodlatte said. "I understand why you would not want to see it as a monopoly, (but) it is a monopoly in terms of the access you have."

Rosenblum countered, saying "I don't think we provide a closed platform."

Rosenblum argued that Congress must not approve the Goodlatte-Boucher legislation because it would allow ILECs a competitive advantage over AT&T and other companies seeking to provide "choice" in high-speed Internet access.

GTE Executive Vice President and General Counsel **William Barr** said that cable companies actually are "asserting that they have the right to engage in a grossly anti-competitive process." He added, however, that ILECs are actually the group that is being unfairly excluded from data services by the Telecommunications Act of 1996.

"The rules say you can't compete," Barr said. "We're not asking for a lock-in, just to compete."

AOL Senior Vice President of Global and Strategic Policy George Vradenburg said that the cable industry has "remained a monopoly in the age of convergence...we can no longer pursue an historical, fundamentally schizophrenic attitude."

Rosenblum disagreed, saying that passing the Goodlatte-Boucher legislation would hurt competition by marking "a sharp and unwarranted departure from established antitrust policy."

MCI-WorldCom Inc. Executive VP and General Counsel Michael Salsbury agreed with Rosenblum, saying that the bills would "eviscerate" Section 271 of the Telecom Act that requires ILECs to open up their markets to local competition.

Also appearing at today's hearing was Portland, Ore., Commissioner Erik Sten, who, along with that city, denied AT&T the franchises of Tele-Communications Inc. until it offered open access on its cable pipe to competing ISPs.

AT&T lost a lawsuit that it filed, seeking to persuade a federal judge that localities cannot make such decisions. The company now is appealing.

"The idea of having one way to access the Internet...is not acceptable in Portland, Oregon," Sten said.

He also quoted an unnamed AT&T official as telling an Oregon newspaper that he hopes Portland has a large legal budget to withstand an appeal.

"Well, we don't, but we have principles," he said.

Reported by Newsbytes.com, http://www.newsbytes.com .

13:20 CST

(19990630/WIRES ONLINE, TELECOM, LEGAL, BUSINESS/)

Classification

Language: ENGLISH

Subject: COMMUNICATIONS LAW (90%); US DEMOCRATIC PARTY (89%); US REPUBLICAN PARTY (78%); LEGISLATION (78%); CONSUMERS (77%); CONSUMER PROTECTION (77%); CONSUMER LAW (77%); INTERNET SERVICE REGULATION (76%); EXECUTIVES (73%); CONSUMER WATCHDOGS (72%); ENERGY & UTILITY LAW (71%); EDITORIALS & OPINIONS (50%)

Company: AT&T INC (95%); VERIZON COMMUNICATIONS INC (91%); YAHOO! INC (84%); TIME WARNER INC (63%); AOL INC (51%); AT&T INC (95%); VERIZON COMMUNICATIONS INC (91%); YAHOO! INC (84%); TIME WARNER INC (63%); AOL INC (51%); FEDERAL COMMUNICATIONS COMMISSION (54%); FEDERAL COMMUNICATIONS COMMISSION (54%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (54%); FEDERAL COMMUNICATIONS COMMISSION (54%)

Ticker: T (NYSE) (95%); VZC (LSE) (91%); VZ (NYSE) (91%); YHOO (NASDAQ) (84%); TWX (NYSE) (63%)

Industry: CABLE INDUSTRY (94%); TELECOMMUNICATIONS SERVICES (94%); TELECOMMUNICATIONS (91%); COMMUNICATIONS LAW (90%); LOCAL TELEPHONE SERVICE (90%); INTERNET & WWW (90%); COMPUTER NETWORKS (89%); BROADBAND (89%); LONG DISTANCE TELEPHONE SERVICE (89%); INTERNET SERVICE PROVIDERS (89%); COMMUNICATIONS REGULATION & POLICY (89%); WIRED TELECOMMUNICATIONS CARRIERS (77%); INTERNET SERVICE REGULATION (76%); ENERGY & UTILITY LAW (71%); ENTERTAINMENT & ARTS (70%); (70%); TELEPHONE SERVICES (69%)

Person: BOB GOODLATTE (79%); RICK BOUCHER (59%); ROBERT C SCOTT (59%)

Geographic: UNITED STATES (79%)

Load-Date: July 7, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:46:37 p.m. EST

The new soap on cable: GTE tests cause a stir in cable access debate

Connected Planet

June 21, 1999

Section: A.M. REPORT; ISSN: 0040-2656

Length: 466 words

Byline: DAVID SCHOBER

Body

GTE tossed gasoline onto the fiery open cable access fray last week by challenging AT&T's claims that opening cable networks to competitors would be prohibitively expensive and technically difficult. AT&T's partner, Excite@Home, questioned the technical feasibility and the company's push towards regulation.

The challenge came two weeks after the Portland, Ore., cable authority ruled that the municipality has the right to require AT&T to open its network. GTE said it successfully completed tests using off-the-shelf equipment, allowing three different Internet service providers access to the company's network and successfully debunking the claims of AT&T and others.

"People saying that they can't offer open access is ridiculous," said William Barr, executive vice president and general counsel of GTE. "It is analogous to a telephone company saying that they need four or five lines to the home to provide long-distance service."

The total system costs approximately $60,000 for 80,000 homes. For the test, the company placed a Redback ISP manager, which is essentially a router, between the city hubs and the ISPs. By positioning the device high in the network hierarchy, the company claims that it gets rid of problems associated with managing multiple ISPs.

Barr used the test announcement as a platform to rail against regulators who were not paying attention to AT&T's current consolidation of lines, he said. "Regulators have missed the boat twice this century. Here we are for the last 15 years trying to undo things, and right under their noses the old dogs are up to their same tricks again," he said.

Milo Medin, Exite@Home founder and chief technology officer, questioned GTE's tactics and political motives. "Usually when you have technical

trials, you have your chief engineers talk about [the trial] - you don't have your general counsel do it in Washington," he said.

Medin also disputed the technical feasibility of the open network system, which used the same router as a digital subscriber line (DSL) network. This setup would not account for rogue users or ISPs using more than their share of upstream bandwidth. "In DSL you don't have to worry about users trying to contend for shared resources," Medin said.

Even if this is possible, because cable companies are stimulating competition in the broadband world and soon the local exchange world, regulating them now will do more damage then good, Medin said.

The biggest issue to Excite@Home is whether another company should have the right to use a network that others built. "[America Online] can go spend money and build their own cable network if they want. What these people want is a free ride on the billions that other people have spent," Medin said.

Load-Date: June 23, 1999

Document: Excite@Home Slams GTE's "Open Access" Cable Plan

Excite@Home Slams GTE's "Open Access" Cable Plan

Newsbytes

June 16, 1999, Wednesday

Section: NEWS

Length: 608 words

Byline: Bob Woods; Newsbytes

Dateline: WASHINGTON, DC, U.S.A.

Body

Two days after GTE Corp. [NYSE:GTE] and America Online Inc. [NYSE:AOL] claimed any closed cable television system supporting Internet access could be opened to competition like local telephone networks have to long distance telephone companies, Excite@Home Inc. [NASDAQ:ATHM] said the announcement was political in nature and was intended to "derail development and deployment of the nation's broadband cable Internet system."

Excite@Home, in fact, has a new name for the so-called Open Access issue: "Forced Access."

In a Washington, DC press conference, former Federal Communications Commission (FCC) Chief of Staff Blair Levin - now a consultant to Excite@Home - said GTE and AOL have not met the first hurdle in explaining why the federal government should come in and regulate the Internet industry, even with their collective test of an "open" cable system in Clearwater, Fla.

Last Monday at a separate Washington press conference, GTE Executive Vice President of Government and Regulatory Advocacy **William Barr** said open access can be had by the use of a "simple, off-the-shelf" $60,000 device that is both scalable and is inserted into a cable operation on a regional basis.

The device, which GTE officials characterized as a kind of router, can work on any cable system that is already capable of offering Internet access via cable modem. What's more, the box is already made by companies like Cisco Systems, GTE also said.

Each $60,000 device would supply a choice of ISPs to 80,000 cable customers. And as with other routers, the boxes can be stacked to greatly increase that number per cable system. The new system is

also compliant with current cable technologies and the new Data Over Cable System Interface Specifications (DOCSIS), officials added.

Excite@Home Chief Technology Officer (CTO) Milo Medin, who also founded @Home, said "GTE has not split the atom" in this case. "The GTE doesn't deal with fundamental issues of how cable network capacity is allocated among users of different ISPs," he said. "Because the CMTS (cable modem termination system) of the cable system controls access to the bandwidth in terms of the upstream and downstream resources, it is the only device in the system that can arbitrate access. If you put this device out in front of the cable network, it doesn't control access to the upstream. So one ISP's customers can take over the channel and interfere with other customers."

Excite@Home also believes that since GTE/AOL's test focused only on a small part of the overall system, it did not address the need for a distributed network, proxy servers, and network management software, all of which "make a broadband network perform and scale."

Questions of customer support, network management, and advanced services also were not addressed by GTE/AOL, Medin also said.

Instead, GTE/AOL's approach was to go to the press with its results, instead of taking the data to groups of engineers to gain their input, Medin also said.

While Excite@Home is not against the concept of "open access" or "forced access," it thinks the process is much more complicated than GTE/AOL have made it out to be, Medin said in a question posed by Newsbytes. "In particular, if you want to support a particular number of ISPs (Internet service providers), how do you decide what fair access is, especially where there's no requirement as to what an ISP's business model must be," he said.

Reported by Newsbytes.com, http://www.newsbytes.com

13:04 CST Reposted 14:47 CST

(19990616 /WIRES ONLINE, TELECOM, BUSINESS, LEGAL/EXHOME/PHOTO)

Classification

Language: ENGLISH

Subject: EXECUTIVES (89%); INTERNET SERVICE REGULATION (78%); COMPUTER & INTERNET LAW (78%); PRESS CONFERENCES (77%); ENERGY & UTILITY LAW (75%); CUSTOMER SERVICE (63%)

Company: AOL INC (94%); VERIZON COMMUNICATIONS INC (93%); CISCO SYSTEMS INC (58%); AOL INC (94%); VERIZON COMMUNICATIONS INC (93%); CISCO SYSTEMS INC (58%); FEDERAL COMMUNICATIONS COMMISSION (83%); FEDERAL COMMUNICATIONS COMMISSION (83%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (83%); FEDERAL COMMUNICATIONS COMMISSION (83%)

Ticker: VZC (LSE) (93%); VZ (NYSE) (93%); CSCO (NASDAQ) (58%)

Industry: CABLE INDUSTRY (90%); COMPUTER NETWORKS (90%); TELECOMMUNICATIONS SERVICES (90%); INTERNET & WWW (90%); NETWORK SOFTWARE (89%); TELECOMMUNICATIONS EQUIPMENT (89%); BROADBAND (89%); MODEMS (89%); INTERNET SERVICE PROVIDERS (89%); BANDWIDTH

(78%); DATA TRANSMISSION (78%); TELEVISION INDUSTRY (78%); INTERNET SERVICE REGULATION (78%); COMPUTER & INTERNET LAW (78%); COMMUNICATIONS REGULATION & POLICY (78%); TELEPHONE SERVICES (77%); LOCAL TELEPHONE SERVICE (77%); ENERGY & UTILITY LAW (75%); COMPUTER SOFTWARE (73%); NETWORK SERVERS (72%); LONG DISTANCE TELEPHONE SERVICE (71%)

Geographic: DISTRICT OF COLUMBIA, USA (79%); FLORIDA, USA (79%); UNITED STATES (93%)

Load-Date: June 17, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:43:58 p.m. EST

Document: CORRECTION: Choice of Internet Providers Is Possible, GT...

CORRECTION: Choice of Internet Providers Is Possible, GTE Executive Says

ST. PETERSBURG TIMES

June 16, 1999, Wednesday

Length: 79 words

Body

William Barr, GTE's executive vice president and general counsel, said the cable companies have been "using the excuse that it's not technically feasible to give customers a choice of" Internet providers. He said the two-month project in Clearwater refuted that by using off-the-shelf equipment and software upgrades at a cost of less than $ 1 a customer.

Visit sptimes.com, the World Wide Web site of the St. Petersburg Times, at http://www.sptimes.com

Classification

Language: ENGLISH

Subject: EXECUTIVES (88%); LAWYERS (71%)

Company: ST PETERSBURG TIMES (57%); ST PETERSBURG TIMES (57%)

Ticker: GTE

Industry: CABLE INDUSTRY (90%); INTERNET & WWW (87%); COMPUTER SOFTWARE (71%); LAWYERS (71%)

Load-Date: June 18, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:43:26 p.m. EST

Document: No Headline In Original

No Headline In Original

Communications Daily

June 16, 1999, Wednesday

Section: COMM DAILY NOTEBOOK

Length: 369 words

Body

GTE and America Online (AOL) declaration that they have solution for cable modem open access (CD June 15 p7) is overly simple and part of political effort to impede deployment of broadband Internet access, ExciteAtHome said Tues. Limited demonstration on Clearwater, Fla., cable system of router typically used with DSL service isn't representative of requirements for supporting scalable broadband capacity demands, it said. MSO-controlled broadband company said it's "inappropriate" for GTE to try to force govt. intervention because broadband market has emerging competitors. Results were announced Mon. at news conference in Washington while cable industry was in Chicago at annual NCTA show (CD June 15 p7). When asked about timing of announcement, GTE Exec. Vp-Gen. Counsel **William Barr** said news of test already had been leaked, so company decided to make information available. ExciteAtHome scheduled news conference in Washington today (June 16), 11 a.m., for more detailed rebuttal. GTE and AOL are dominant in dial-up market and

speedy development of broadband Internet is not in their interest, ExciteAtHome said. Broadband network operator said utilizing simple off-shelf device would require that operators redesign cable data networks, slow development, move away from interoperable standards. ExciteAtHome also said GTE "glossed over": (1) There's no way to partition cable network capacity effectively among varying ISPs and services. (2) GTE approach makes it more difficult and expensive to provide cable services, including installation and troubleshooting. (3) GTE option would replace standards-based switching equipment with proprietary solutions. (4) Demonstration didn't address need for distributed network, proxy servers or network management software that allow scaling and performance of broadband networks. NCTA spokesman said: "We always find it ironic when our competitors tell us how to run our business, particularly GTE, which describes itself as a 'substantial ISP.' Any business issues between competing online providers should be resolved in the marketplace, not by government regulation."

Classification

Language: ENGLISH

Subject: PRESS CONFERENCES (75%)

Company: AOL INC (58%); AOL INC (58%)

Ticker: AOL (NYSE) (58%)

Industry: BROADBAND (93%); CABLE INDUSTRY (91%); COMPUTER NETWORKS (90%); MODEMS (78%); INTERNET & WWW (78%); ENTERTAINMENT & ARTS (76%); (76%); TELECOMMUNICATIONS EQUIPMENT (73%); COMPUTER SOFTWARE (72%); NETWORK SOFTWARE (71%); NETWORK SERVERS (66%)

Geographic: FLORIDA, USA (79%); UNITED STATES (92%)

Load-Date: June 15, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:44:44 p.m. EST

Document: Test shows cable access easy, GTE says

Test shows cable access easy, GTE says

The Dallas Morning News

June 15, 1999, Tuesday, THIRD EDITION

Section: BUSINESS;

Length: 270 words

Dateline: IRVING

Body

IRVING - GTE Corp. said a test of its cable system in Clearwater, Fla., showed that cable operators can easily and cheaply give multiple Internet service providers access to their high-speed networks.

The test showed that cable companies could use a $ 60,000 piece of equipment to provide about 80,000 customers with a choice of multiple Internet service providers, GTE said.

Bloomberg News

Irving-based GTE conducted the test to undermine arguments of AT&T Corp. that it is technically difficult to provide open access to cable networks. AT&T, the second-largest U.S. cable company, requires its cable modem customers to subscribe to Excite At Home Corp., its affiliated Internet service provider. Customers who want to use another Internet service provider must also pay for Excite At Home.

"This open access solution is inexpensive, [and] it works on every kind of cable system capable of offering Internet access," said **William Barr**, GTE executive vice president and general counsel.

America Online Inc., the largest U.S. Internet service provider, is leading the battle to force cable companies to give Internet service providers access to their networks. The providers won a victory earlier this month when a federal judge ruled that AT&T must allow competitors to use its cable networks in Portland and Multnomah County, Ore.

GTE is the third-largest U.S. local-phone company and is on the verge of being acquired by No. 1 local-phone provider Bell Atlantic Corp. GTE operates an online service, GTE.net, and controls one of the largest Internet backbones.

GTE's shares climbed $ 3.50 to $ 69.81 Monday.

Classification

Language: ENGLISH

Subject: LAWYERS (66%); JUDGES (51%)

Company: AT&T INC (95%); VERIZON COMMUNICATIONS INC (95%); AT HOME CORP (83%); AOL INC (69%); AT&T INC (95%); VERIZON COMMUNICATIONS INC (95%); AT HOME CORP (83%); AOL INC (69%)

Ticker: T (NYSE) (95%); VZC (LSE) (95%); VZ (NYSE) (95%); AOL (NYSE) (69%)

Industry: CABLE INDUSTRY (96%); INTERNET SERVICE PROVIDERS (94%); COMPUTER NETWORKS (91%); CABLE & OTHER DISTRIBUTION (90%); TELECOMMUNICATIONS SERVICES (90%); TELEPHONE SERVICES (78%); MODEMS (73%); INTERNET & WWW (73%); LAWYERS (66%)

Geographic: PORTLAND, OR, USA (54%); OREGON, USA (79%); FLORIDA, USA (78%); UNITED STATES (79%)

Load-Date: June 16, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:42:48 p.m. EST

Document: OPENING CABLE

OPENING CABLE

COMMUNICATIONS TODAY

June 15, 1999

Section: Vol. 5, No. 115

Length: 117 words

Body

GTE [GTE] and America Online [AOL] yesterday tried to refute one of AT&T's [T] main arguments against open access for cable broadband -- that it isn't technologically feasible. A GTE-owned cable system in Florida was opened to multiple Internet service providers (ISPs) using relatively inexpensive technology from Sunnyvale, Calif.-based hardware vendor Redback Networks. The system was unveiled at a news conference at the National Press Club in Washington. "Cable operators don't have to change a single wire in their networks to open up cable access," said **William Barr**, GTE executive vice president and general counsel. "You can add as many ISPs as you wish."

Classification

Language: ENGLISH

Company: AOL INC (58%); AOL INC (58%); NATIONAL PRESS CLUB (57%); NATIONAL PRESS

CLUB (57%)

Organization: NATIONAL PRESS CLUB (57%); NATIONAL PRESS CLUB (57%)

Ticker: AOL (NYSE) (58%); AOL (NASDAQ) (87%); RBAK (NASDAQ) (56%)

Industry: CABLE INDUSTRY (91%); BROADBAND (90%); INTERNET SERVICE PROVIDERS (90%); COMPUTER NETWORKS (73%); CABLE & OTHER DISTRIBUTION (71%)

Geographic: SAN FRANCISCO BAY AREA, CA, USA (73%); CALIFORNIA, USA (73%); UNITED STATES (90%)

Load-Date: June 15, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:42:25 p.m. EST

Document: No Headline In Original

No Headline In Original

Communications Daily

June 15, 1999, Tuesday

Section: COMM DAILY NOTEBOOK

Length: 255 words

Body

GTE Mon. announced successful test of upgraded router ISP Manager Device that allows cable operators to provide open access to cable modem platforms. Test was conducted at GTE's Clearwater, Fla., cable system with America Online (AOL), CompuServe, GTE.net.GTE Media Ventures Pres. Rick Wilson said company spent $60,000 in test to pass 80,000 homes with open access technology. He said router is used with DSL service and is on store shelves now. He said program debunks MSOs' claims that there are technical obstacles to providing open access to their broadband networks. George Vradenburg, AOL senior vp-global & strategic policy, said: "We now know that when cable operators say that they can't open their networks, what they mean is that they won't open their networks." Test used 4 different cable modem platforms, including next-generation model, Wilson said. **William Barr**, GTE exec. vp-gen. counsel, said regulators have missed boat twice this century by allowing telecom operators to buy up local lines and create closed systems and now are "stumbling over themselves" to correct

damage caused by monopolies. He drew analogies between current broadband network operators and old AT&T that fought to maintain its long distance-local monopoly. Barr said he will brief FCC on systems and invite commissioners to Clearwater to view test. GTE also operates cable system in Cal. and said test will be expanded there, with other ISPs invited to participate.

Classification

Language: ENGLISH

Subject: EXECUTIVES (73%)

Company: AOL INC (58%); AOL INC (58%)

Ticker: AOL (NYSE) (58%)

Industry: CABLE INDUSTRY (93%); BROADBAND (90%); MODEMS (90%); WIRED TELECOMMUNICATIONS CARRIERS (78%); TELECOMMUNICATIONS EQUIPMENT (78%); CABLE & OTHER DISTRIBUTION (78%); TELECOMMUNICATIONS (78%); TELECOMMUNICATIONS SERVICES (78%); LOCAL TELEPHONE SERVICE (72%)

Geographic: FLORIDA, USA (73%); UNITED STATES (72%)

Load-Date: June 14, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:41:52 p.m. EST

Document: SUMMARY: GTE Demonstrates Ease Of Cable Open Access…

SUMMARY: GTE Demonstrates Ease Of Cable Open Access to Multiple ISPs; Clearwater Trial Shows One-Time Investment of Less Than $ 1 Per Home Would Provide Consumer Choice

Business Wire

June 14, 1999, Monday

Length: 1035 words

Dateline: WASHINGTON

Body

June 14, 1999--GTE today announced that, using its cable network in Clearwater, Fla., it has clearly established that cable modem systems easily can be operated on an "open access" basis that allows customers to select the Internet service provider (ISP) of their choice. GTE conducted the Clearwater demonstration project over the past two months in conjunction with AOL, CompuServe Classic, as well as its own ISP, GTE.net. GTE Executive Vice President and General Counsel **William P. Barr** said: "Using the excuse that it's not technically feasible to give customers a choice of ISPs, cable companies have been forcing their customers to pay for and use the ISPs that they own, such as @Home and RoadRunner. "GTE's demonstration pilot flatly discredits the claim that open access and consumer choice are technologically complicated and costly. Using a simple, off-the-shelf device, GTE has shown there is a low-cost solution that is feasible, flexible, scalable and easy to incorporate, giving consumers a real choice." GTE is uniquely positioned to demonstrate the feasibility of open access. While it owns cable systems in Florida and California, it is primarily an Internet company with a substantial ISP (GTE.net) and a large local phone company that already offers customers open access to the Internet. Describing results of the pilot program, Barr said, "This open access solution is inexpensive; it works on every kind of cable system capable of offering Internet access, and it involves no intrusion into the cable operator's management of its own network."

George Vradenburg, AOL Senior Vice President for Global and Strategic Policy said: "GTE has proven that open access works as well on cable as it does on phone lines. Cable providers can easily and affordably open up their networks for high-speed Internet competition - and they should do so now. American consumers deserve nothing less. "Consumers don't want to pay for two ISPs to get the one they want - regardless of whether they are connecting over cable or telephone wires - and this demonstration proves

once and for all that there is no 'technical' reason they should ever have to. We know now that when the cable industry says it 'can't' open its network, it really means it 'won't'," Vradenburg said.

Consumers Are Denied a True Choice Today

Today, Americans with high-speed cable modem service don't have a choice of Internet service providers. Cable companies have refused to open their networks as telephone companies have done. Rather, cable companies package cable modem service together with their affiliated ISP service. If consumers want to choose their own ISP (such as GTE.net or AOL), they are forced to pay twice, once to purchase the cable company's affiliated ISP and a second time for the ISP that they prefer. In addition, this doubling up causes a deterioration of service quality and allows the cable company to control what the ISP delivers to the customer. Such a scheme locks customers into the cable company's chosen ISP in order to get high-speed Internet access, and denies consumers effective choice. Multiple Solutions Demonstrated

Working with several different vendors and "off-the-shelf" available equipment, GTE made changes to its cable modem platform that allows competing ISPs to have direct access to their customers. The technological solutions demonstrated by GTE work whether the cable system is analog or digital. They will work with all varieties of cable modems. "Our solution requires a single one-time investment of $ 60,000 to give 80,000 customers a choice of ISPs," said Rick Wilson, president of GTE's subsidiary Media Ventures. "That's less than a dollar a home passed. We took on this experiment because we know that our customers want choices. And GTE accomplished in less than two months, and with minimal expense, what the cable industry said couldn't be done. Today GTE demonstrated that consumers can have a choice of ISPs whether their cable company uses the technology of today, tomorrow or the next millennium," he added.

On-Going Public Policy Debate

Congress is currently weighing two bills that would require cable modem service providers to open up their networks to competing ISPs. In addition, numerous local communities and several states have entered the public policy debate despite cable industry threats of litigation. Just last week, a District Judge in Portland, Ore., ruled that cities have the authority to ensure open access and competition in cable-delivered Internet services. GTE strongly supports these efforts to ensure continued consumer choice of ISPs. "Today's announcement debunks one of the myths the cable companies have tried to create to block open access," said GTE General Counsel Barr. "The path is now clear for legislators and regulators to ensure that cable customers have the same choices that telephone customers already enjoy."

About GTE

With 1998 revenues of more than $ 25 billion, GTE is a leading telecommunications provider with one of the industry's broadest arrays of products and services. In the United States, GTE provides local service in 28 states and wireless service in 17 states, as well as nationwide long-distance, directory, video and internetworking services ranging from dial-up Internet access for residential and small-business consumers to Web-based applications for Fortune 500 companies. Outside the United States, the company serves customers on five continents.

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with Hyperlinks to your home page.

URL: http://www.businesswire.com

Classification

Language: ENGLISH

Subject: CONSUMERS (89%); EXECUTIVES (76%); LAWYERS (69%)

Company: DC-GTE

Organization: DC-GTE

Ticker: GTE

Industry: CABLE INDUSTRY (91%); COMPUTER NETWORKS (90%); INTERNET SERVICE PROVIDERS (90%); TELECOMMUNICATIONS SERVICES (90%); INTERNET & WWW (90%); TELECOMMUNICATIONS EQUIPMENT (89%); CABLE & OTHER DISTRIBUTION (89%); TELEPHONE SERVICES (89%); MODEMS (89%); BROADBAND (78%); ENTERTAINMENT & ARTS (78%); (78%); TELEPHONIC EQUIPMENT (73%); LAWYERS (69%)

Geographic: FLORIDA, USA (90%); CALIFORNIA, USA (75%); UNITED STATES (92%)

Load-Date: June 15, 1999

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 09:07:06 p.m. EST

Document: Cable Systems Can Be "Open" Says GTE

Cable Systems Can Be "Open" Says GTE

Newsbytes

June 14, 1999, Monday

Section: NEWS

Length: 637 words

Byline: Bob Woods;Newsbytes

Dateline: WASHINGTON, DC, U.S.A.

Body

In an "in your face" move at AT&T Corp. [NYSE:T] and Time Warner Inc. [NYSE:TWX], GTE Corp. said tests at one of its local cable television systems proves that such systems can be "opened" to outside Internet service providers (ISPs) easily and with little additional cost.

AT&T, which has recently cut several checks to buy cable TV providers like Tele-Communications Inc. (TCI), has said it would not allow other Internet service providers (ISP) to provide Net access services over its own local cable TV networks because of complexity and cost factors. Time Warner has also made similar statements.

What's more, America Online Inc. [NYSE:AOL], which has already announced plans to go broadband with two regional Bell operating companies and has been fighting AT&T's cable issues along the way, participated in the test.

GTE Executive Vice President of Government and Regulatory Advocacy **William Barr** said in a press conference and demonstration today in Washington, DC that open access can be had by the use of a "simple, off-the-shelf" $60,000 device that is both scalable and is inserted into a cable operation on a regional basis.

The device, which GTE officials characterized as a kind of router, can work on any cable system that is already capable of offering Internet access via cable modem. What's more, the box is already made by companies like Cisco Systems, GTE also said.

Each $60,000 device would supply a choice of ISPs to 80,000 cable customers. And as with other routers, the boxes can be stacked to greatly increase that number per cable system. The new system is also compliant with current cable technologies and the new Data Over Cable System Interface Specifications (DOCSIS), officials added.

Generally, the system works in a way similar to how long-distance companies enter local networks, in a concept Barr called "open- access lite." Barr said local cable companies "don't have to move one wire for this service."

One of the big problems with current Internet access-via-cable plans is that customers must pay for incoming Net access and outgoing costs with a second ISP. GTE's new system eliminates that second access fee, and brings competition to the broadband- via-cable market. Eventually, as competition becomes wider in the market, costs to the consumer should go down, Barr also said.

"The path is now clear for legislators and regulators to ensure that cable customers have the same choices that telephone customers already enjoy," Barr added.

The company will further test the system in its Clearwater, Fla.-area cable systems.

GTE plans to brief the Federal Communications Commission (FCC) on the new system, company officials added.

AOL also tested the system with its own online service and the Compuserve Classic service, AOL Senior Vice President for Global and Strategic Policy George Vradenburg said at the press conference.

"Consumers don't want to pay for two ISPs to get the one they want - regardless of whether they are connecting over cable or telephone wires - and this demonstration proves once and for all that there is no 'technical' reason they should ever have to," Vradenburg said. "We know now that when the cable industry says it 'can't' open its network, it really means it 'won't.'"

Today's announcement comes as Congress weighs two bills that would force cable TV operators to open their systems to other ISPs. And last week, a Portland, Ore. federal judge ruled that AT&T had to provide open access over its cable infrastructure to competitors who want to provide high-speed Internet access service.

AT&T called the decision "inexplicable."

Reported by Newsbytes.com, http://www.newsbytes.com .

15:06 CST

(19990614/WIRES ONLINE, TELECOM, BUSINESS, LEGAL/GTE/PHOTO)

Classification

Language: ENGLISH

Subject: ENERGY & UTILITY LAW (89%); PRESS CONFERENCES (69%); LEGISLATIVE BODIES (67%)

Company: AT&T INC (98%); TIME WARNER INC (94%); VERIZON COMMUNICATIONS INC (93%); AOL INC (84%); CISCO SYSTEMS INC (58%); AT&T INC (98%); TIME WARNER INC (94%); VERIZON COMMUNICATIONS INC (93%); AOL INC (84%); CISCO SYSTEMS INC (58%)

Ticker: T (NYSE) (98%); TWX (NYSE) (94%); VZC (LSE) (93%); VZ (NYSE) (93%); CSCO (NASDAQ) (58%)

Industry: INTERNET SERVICE PROVIDERS (91%); CABLE TELEVISION (90%); CABLE INDUSTRY

(90%); COMPUTER NETWORKS (90%); CABLE & OTHER DISTRIBUTION (90%); TELEVISION INDUSTRY (90%); TELECOMMUNICATIONS EQUIPMENT (89%); BROADBAND (89%); ENERGY & UTILITY LAW (89%); INTERNET & WWW (89%); TELECOMMUNICATIONS SERVICES (78%); MODEMS (77%); LOCAL TELEPHONE SERVICE (77%); COMMUNICATIONS REGULATION & POLICY (77%); LONG DISTANCE TELEPHONE SERVICE (50%)

Geographic: DISTRICT OF COLUMBIA, USA (79%); FLORIDA, USA (79%); UNITED STATES (92%)

Load-Date: June 16, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:41:07 p.m. EST

Document: OTHER CITIES MAY IMPOSE OPEN ACCESS AFTER PORT…

OTHER CITIES MAY IMPOSE OPEN ACCESS AFTER PORTLAND DECISION

Communications Daily

June 8, 1999, Tuesday

Section: TODAY'S NEWS

Length: 1027 words

Body

Many municipalities are expected to impose open access provisions in wake of Portland's court victory Fri. (CD June 7 p1), attorneys and insiders said. Some could be cities that approved transfer of TCI to AT&T with so-called "Portland" clause, allowing it to impose open access if Portland prevailed. We're told other cities could act when reviewing transfer of MediaOne licenses to AT&T, or during license renewal process. Meanwhile, FCC Cable Bureau staff will meet today (Tues.) and discuss issue, with it now "possible" according to source that Commission could step into open access, area it has avoided until now (CD June 4 p3, May 20 p3). Meanwhile, AT&T Gen. Counsel James Cicconi told analysts Fri. that decision would have "no practical effect" on company's business plans.

"Some cities will move [to impose open access] before the appeal" is complete, said Joseph Van Eaton, attorney for Portland

and Multnomah County. He said it could be 6-8 months before parties could even file arguments, too long for cities to wait.Among cities with "Portland" clauses in their TCI transfers are
Seattle, San Francisco and L.A., none of which would comment on their plans. Cicconi gave similar estimate on legal timetable. Appeal will go to 9th U.S. Appeals Court, San Francisco, known for shortage of judges and backlog of cases. Cicconi said appeal decision normally could be expected by Sept. or Oct., but he wasn't familiar with 9th Circuit's docket and couldn't make guess on this case. Discussing appeal, he told analysts "I have zero expectations that the decision will stand."

Van Eaton disagreed. "I think the decision will do well" in 9th Circuit, he said, as it was "very well focused" and easily defensible. He dismissed suggestion appeals court might dismiss case because it was cable regulators that were imposing Internet access terms: "TCI insisted [AtHome] was a cable service. None of the parties challenged that." Twice in decision Judge Owen Panner ▾ said he wasn't ruling on merit of open access, merely on jurisdiction of municipality to impose it. Van Eaton said that would strengthen case on appeal, all the way to U.S. Supreme Court. High Court, he said, "has a lot of conservative justices that are not pro-judicial activism," and he said they would respect Panner's limited decision.

"We may have to get involved" in open access, FCC official said. Source said Chmn. Kennard has been reluctant to become involved in issue that could lead to regulating Internet, particularly when there currently are so few cable Internet subscribers. However, official said Portland decision makes it "possible" that Commission might act, perhaps by issuing Notice of Inquiry (NoI). Meanwhile, Commission will issue public notice today (Tues.) seeking comment on Internet Ventures' (IV) petition for leased access (CD June 3 p2), which official said could become vehicle for open access comments. Van Eaton said MediaOne merger probably would be vehicle that open access proponents would use. That merger could "force the FCC to take a stand," he said. He said he felt Portland decision would give MediaOne merger "greater prominence." AT&T last week began running full-page newspaper

ads, including one in Washington Post Mon., defending MediaOne acquisition and saying it would give consumers more choice.

Cicconi downplayed decision to investors, saying it wouldn't impede deployment of AtHome and other advanced services nationwide. Only area affected will be Portland and Multnomah County, where AT&T won't offer such services. AT&T spokesman said that since company currently isn't providing AtHome there, it's not required to offer access to competing ISPs, so open access requirement has no real effect. Van Eaton, however, claimed that once court's judgment is issued, AT&T is required to provide access. Washington attorney William Freedman called AT&T's decision to withhold AtHome from Portland "astounding." Freedman, who represents IV, said AT&T's action "underscores they're a corporation that wants to make a profit." Problem, he said, is that AT&T's cable pipe provides public service that should be accessible to others. Court's ruling supported that position, he said, which he said also is position of IV in its quest for leased access for ISPs. IV Pres. Don Janke took opportunity to call for city manager of Spokane to reconsider IV's complaint against TCI for leased access in that city. He said clause in Portland's open access provision required "commercial leased access," and his company was ready to provide such service.

Decision continued to draw praise from AT&T's numerous opponents. USTA said it applauded "Portland cable regulators who refused to be intimidated by AT&T." Calling for choice in local telephony while barring competitors from its network, USTA said, "would be laughable were it not so successful in having its cake and eating it too." OpenNet coalition of ISPs said decision was "a victory for the right of local communities to require competition in the Internet marketplace." GTE, which was intervenor in suit on behalf of municipalities, said decision "increases consumer choice." Gen. Counsel **William Barr** said it "validates the struggle by local communities across the country to stand up to the cable companies, who've used their city franchise lock to raise rates 22% in the past 3 years… Other communities scheduled to review AT&T's takeover of MediaOne, as well as those in the cable franchise renewal process, can look to the Portland

decision as a way to promote Internet consumer choice." Bay Area Open Access Coalition (BOAC) called open access "key to continuing the incredible cultural, intellectual and technological explosion" of Internet: "No one should have a monopoly on accessing the Internet." BOAC hopes to persuade San Francisco Board of Supervisors to impose open access through its "Portland" clause enacted in TCI transfer.

Classification

Language: ENGLISH

Subject: LAW COURTS & TRIBUNALS (89%); APPEALS (89%); APPELLATE DECISIONS (89%); APPEALS COURTS (89%); LAWYERS (78%); CITY GOVERNMENT (77%); TALKS & MEETINGS (75%); CABLE SYSTEM REGULATION (75%); INTERNET SERVICE REGULATION (75%); LICENSES & PERMITS (71%); BUSINESS PLANS (68%)

Company: AT&T INC (86%); AT&T INC (86%); FEDERAL COMMUNICATIONS COMMISSION (57%); FEDERAL COMMUNICATIONS COMMISSION (57%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (57%); FEDERAL COMMUNICATIONS COMMISSION (57%)

Ticker: T (NYSE) (86%)

Industry: CABLE INDUSTRY (89%); LAWYERS (78%); CABLE SYSTEM REGULATION (75%); INTERNET SERVICE REGULATION (75%)

Geographic: PORTLAND, OR, USA (92%); UNITED STATES (79%)

Load-Date: June 7, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:40:33 p.m. EST

Document: Federal Court Upholds Local Open Access Requirement

Federal Court Upholds Local Open Access Requirement

Business Wire

June 4, 1999, Friday

Length: 443 words

Dateline: PORTLAND, Ore.

Body

June 4, 1999--

GTE Hails Decision as a Consumer Victory

Early this afternoon, the United States District Court in Portland upheld the decision of the City of Portland and Multnomah County, Oregon to require AT&T/TCI to provide "open access" to unaffiliated Internet Service Providers on its cable modem platform. When the city and county imposed the requirement several months ago, AT&T/TCI immediately sued. The court's decision, by Judge Panner, rejected each and every argument made by AT&T/TCI. GTE, which intervened in the case on the side of the city and county, hails the court's decision as effectively preventing AT&T/TCI from extending its cable monopoly into the Internet market. "The court's decision upholding the city and county's right to require 'open access' increases consumer choice and access to the Internet," said **William P. Barr**, GTE Executive Vice President - Government and Regulatory Advocacy and General Counsel. "It also validates the struggle by local communities across the country to stand up to the cable companies, who've used their city franchise lock to raise rates 22 percent in the past three years - and now are in a position to do the same with Internet users." The city and county imposed the "open access" requirement as a condition for transferring TCI's local cable franchise license to AT&T. "The efforts of local authorities to promote equal non-discriminatory access to the franchised cable-modem platform will assure a high level of competition among ISPs, and ultimately hold down the cost," Barr said.

"Other communities scheduled to review AT&T's takeover of MediaOne, as well as those in the cable franchise renewal process, can look to the Portland decision as a way to promote Internet consumer choice."

About GTE With 1998 revenues of more than $ 25 billion, GTE is a leading telecommunications provider

with one of the industry's broadest arrays of products and services. In the United States, GTE provides local service in 28 states and wireless service in 17 states, as well as nationwide long-distance, directory, and internetworking services ranging from dial-up Internet access for residential and small-business consumers to Web-based applications for Fortune 500 companies. Outside the United States, the company serves customers on five continents.

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briana.gowing@hq.gte.com

Today's News On The Net - Business Wire's full file on the Internet
with Hyperlinks to your home page.
URL: http://www.businesswire.com

Classification

Language: ENGLISH

Subject: LAW COURTS & TRIBUNALS (91%); DECISIONS & RULINGS (90%); CABLE SYSTEM REGULATION (89%); CONSUMER LAW (89%); CONSUMERS (78%); LAWYERS (74%); SUITS & CLAIMS (73%); SMALL BUSINESS (66%); TELECOMMUNICATIONS SECTOR PERFORMANCE (66%)

Company: AT&T INC (95%); GTE AT&T INC (95%)

Organization: GTE

Ticker: T (NYSE) (95%); GTE T (NYSE) (95%)

Industry: CABLE INDUSTRY (90%); INTERNET & WWW (90%); COMPUTER NETWORKS (89%); MODEMS (89%); CABLE SYSTEM REGULATION (89%); INTERNET SERVICE PROVIDERS (89%); WIRELESS INDUSTRY (77%); TELECOMMUNICATIONS (77%); CLOUD COMPUTING (77%); TELECOMMUNICATIONS SERVICES (77%); TELECOMMUNICATIONS EQUIPMENT (76%); LAWYERS (74%); TELECOMMUNICATIONS PROVIDERS (72%); TELECOMMUNICATIONS SECTOR PERFORMANCE (66%)

Geographic: PORTLAND, OR, USA (91%); OREGON, USA (79%); UNITED STATES (93%)

Load-Date: June 5, 1999

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:14:36 p.m. EST

Document: There may be new Bell in town

There may be new Bell in town

News and Observer (Raleigh, NC)

May 8, 1999 Saturday,, FINAL EDITION

Section: BUSINESS;; LEAD

Length: 599 words

Byline: FROM STAFF AND WIRE REPORTS

Body

GTE customers in Durham and Research Triangle Park could soon be served by the nation's largest local telephone company.

The merger between GTE and Bell Atlantic cleared a major hurdle Friday when it overcame antitrust concerns and won approval from the Justice Department.

The deal now faces an even bigger challenge from the Federal Communications Commission, which is expected to issue a decision at the end of the year. Company shareholders and several states also must sign off.

A GTE-Bell Atlantic combination would boast 60 million local customers, including 337,000 in North Carolina. By comparison, BellSouth, which serves Raleigh and Chapel Hill, has 23 million customers. GTE and Bell Atlantic had combined 1998 revenues of $ 57 billion, nearly three times BellSouth's.

But what the new telecommunications giant will be called or what new services it will offer remain to be seen.

"In the short run, in the next nine months or even the next year, I don't think our customers will see any changes at all," Mark Tosczak, a spokesman for GTE's Durham operations, said Friday.

After that, a Bell Atlantic-GTE combination should boost both GTE's local and wireless services, industry analysts said.

"All areas where GTE has local or wireless operations in another Baby Bell territory give Bell Atlantic a competitive foot in the door," said Scott Wright, a telecommunications analyst with Fahnestock & Co. in New York. "So, customers in areas that are relatively attractive, like Raleigh-Durham, might find they're

getting a lot of attention. If Bell Atlantic decides it wants to show the brand name in those areas, then I would imagine these customers will see some interesting services."

Rex Mitchell, an analyst with NationsBanc Montgomery Securities, said GTE's wireless customers probably will notice the biggest improvements.

"Bell Atlantic has a better reputation for service than GTE does," he said. "Bell Atlantic leads the industry where GTE has been lagging behind in terms of revenue and subscriber growth."

With the exception of a small number of wireless customers in the western part of the state, New York-based Bell Atlantic does not do business in North Carolina. The merger will have a direct impact only in states where GTE's and Bell Atlantic's wireless services areas overlap.

The two companies secured the Justice Department's approval only after they agreed to sell their wireless operations in 65 local markets, including Chicago; Houston; Richmond, Va.; and Tampa, Fla. The Justice Department said it's one of the largest such divestitures ever required for a merger.

The deal faces opposition in two states and careful scrutiny by the FCC. Chairman William Kennard signaled that his agency would not approve the merger at the expense of consumers. He has said he is concerned that a Bell Atlantic-GTE combination, because of its size, could impair the development of competition in local phone markets.

"The FCC is treading on eggshells," said analyst Linda Varoli of Merger Insight. "Congress wants them to speed up decisions, but the FCC wants to be seen as protecting the public interest."

Bell Atlantic and GTE hailed the Justice Department's decision. The antitrust settlement "underscores that this merger will strengthen competition and deliver to consumers a new, top-tier telecommunications provider that will rival existing and emerging national and global carriers," said **William P. Barr**, executive vice president and general counsel for GTE.

Bell Atlantic stock climbed $ 2.313 to $ 58.188, while GTE gained $ 2.75 to $ 67.

Classification

Language: ENGLISH

Subject: APPROVALS (89%); CONSUMERS (78%); DIVESTITURES (78%); TELECOMMUNICATIONS SECTOR PERFORMANCE (78%); JUSTICE DEPARTMENTS (77%); BUSINESS FORECASTS (76%); ENERGY & UTILITY LAW (76%); SHAREHOLDERS (73%)

Company: VERIZON WIRELESS INC (92%); FAHNESTOCK & CO INC (66%); AT&T SOUTHEAST (57%); VERIZON WIRELESS INC (92%); FAHNESTOCK & CO INC (66%); AT&T SOUTHEAST (57%); FEDERAL COMMUNICATIONS COMMISSION (58%); FEDERAL COMMUNICATIONS COMMISSION (58%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (58%); FEDERAL COMMUNICATIONS COMMISSION (58%)

Ticker: BAC (NYSE) (53%); BAC (LSE) (53%); 8648 (TSE) (53%)

Industry: TELECOMMUNICATIONS SERVICES (94%); WIRELESS INDUSTRY (91%);

TELECOMMUNICATIONS (90%); INDUSTRY ANALYSTS (88%); TELECOMMUNICATIONS SECTOR PERFORMANCE (78%); LOCAL TELEPHONE SERVICE (78%); ENERGY & UTILITY LAW (76%); TELEPHONE SERVICES (73%)

Geographic: DURHAM, NC, USA (88%); TAMPA, FL, USA (79%); RALEIGH, NC, USA (73%); RESEARCH TRIANGLE, NC, USA (58%); RICHMOND, VA, USA (51%); NORTH CAROLINA, USA (93%); NEW YORK, USA (92%); VIRGINIA, USA (79%); FLORIDA, USA (79%)

Load-Date: May 8, 1999

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 09:20:44 p.m. EST

Document: Bell Atlantic-GTE Merger Conditionally Cleared of Antitrus…

Bell Atlantic-GTE Merger Conditionally Cleared of Antitrust Concerns

THE RECORD (NEW JERSEY)

May 8, 1999, Saturday

Length: 500 words

Byline: By Scott Moritz

Body

The Justice Department cleared the merger of Bell Atlantic and GTE Corp. on Friday, contingent on the two companies selling overlapping wireless phone business in nine states.

The $ 81.4 billion planned merger of the two companies would create the largest local service telephone company and the largest wireless service provider in the United States.

"When companies get bigger they have to get better and we have concerns that Bell Atlantic may not be getting better," said Phyllis Salowe-Kaye of New Jersey Citizen Action in Hackensack. Consumer groups and competitors say Bell Atlantic has yet to deliver the benefits it promised consumers when it merged with Nynex two years ago.

Officials from the two companies say consolidation in the industry -- both internationally and in the U.S. where AT&T Corp. is cobbling together cable systems to offer consumers a range of services including telephone -- have changed the rules of competition. It's a global market where only the large survive, analysts and company officials have said.

"This merger promises a new era in consumer choice for telecommunications products and services," **William Barr**, executive vice president and general counsel for GTE, said in a statement.

The anti-trust clearance from the Justice Department is the first in a series of approvals the two companies will need to complete the merger.

Bell Atlantic, which is New Jersey's local phone service, dominates nearly the entire Eastern Seaboard and due to the sprawling territories GTE controls, regulators in as many as three-dozen states must examine the deal.

Starting later this month, the New Jersey Board of Public Utilities will consider public comment on the implications of a Bell Atlantic-GTE merger.

The Federal Communication Commission is reviewing the merger to determine what benefit it would have to the public and its impact on competition. One issue the FCC is expected to address is how the combined company will serve GTE's long distance customers. The FCC, which has never blocked a telecommunications merger, is likely to attach conditions to its approval, say analysts.

GTE Chairman and Chief Executive Charles Lee stands to receive $ 24.9 million if he completes his Irving, Texas-based company's merger with New York-based Bell Atlantic, according to a filing with the Securities and Exchange Commission.

And Bell Atlantic Chairman and Chief Executive Ivan Seidenberg, is expected to get $ 13.9 million for his part of deal. Lee would become chairman and share the chief executive position with Seidenberg. The companies have not decided on a name for the new entity.

A shareholder vote on the merger will be conducted at the companies' annual meetings on May 18 for GTE and May 19 for Bell Atlantic.

The Department of Justice is still reviewing the proposed $ 84.7 billion merger of SBC Communications and Ameritech.

Visit The Record, Hackensack, N.J., on the World Wide Web at http://www.bergen.com

Classification

Language: ENGLISH

Subject: CONSUMERS (90%); APPROVALS (90%); JUSTICE DEPARTMENTS (90%); US FEDERAL GOVERNMENT (89%); ENERGY & UTILITY LAW (89%); EXECUTIVES (87%); COMMUNICATIONS LAW (78%); INDUSTRY CONSOLIDATION (78%); CONSUMER PROTECTION (75%); SHAREHOLDERS (73%); SECURITIES LAW (73%); LAWYERS (72%); CONSUMER WATCHDOGS (70%); TALKS & MEETINGS (69%)

Company: AT&T INC (96%); VERIZON COMMUNICATIONS INC (93%); VERIZON WIRELESS INC (92%); SERVICE TELEPHONE CO INC (72%); AT&T INC (96%); VERIZON COMMUNICATIONS INC (93%); VERIZON WIRELESS INC (92%); SERVICE TELEPHONE CO INC (72%); US DEPARTMENT OF JUSTICE (93%); US DEPARTMENT OF JUSTICE (93%); CITIZEN ACTION FUND (57%); CITIZEN ACTION FUND (57%)

Organization: US DEPARTMENT OF JUSTICE (93%); US DEPARTMENT OF JUSTICE (93%); CITIZEN ACTION FUND (57%); CITIZEN ACTION FUND (57%)

Ticker: T (NYSE) (96%); VZC (LSE) (93%); VZ (NYSE) (93%); GTE (NYSE) (93%); T (NYSE) (67%); BEL; GTE; BEL; T; SBC; AIT

Industry: TELECOMMUNICATIONS SERVICES (99%); WIRELESS INDUSTRY (90%); MOBILE & CELLULAR COMMUNICATIONS (90%); TELEPHONE SERVICES (90%); ENERGY & UTILITY LAW (89%);

TELECOMMUNICATIONS (89%); COMMUNICATIONS LAW (78%); WIRELESS TELECOMMUNICATIONS CARRIERS (78%); CABLE INDUSTRY (78%); MOBILE & CELLULAR TELEPHONES (78%); LOCAL TELEPHONE SERVICE (78%); PUBLIC UTILITIES COMMISSIONS (77%); TELECOMMUNICATIONS EQUIPMENT (73%); SECURITIES LAW (73%); LAWYERS (72%); LONG DISTANCE TELEPHONE SERVICE (70%)

Person: IVAN SEIDENBERG (79%)

Geographic: NEW JERSEY, USA (93%); NEW YORK, USA (79%); TEXAS, USA (79%); UNITED STATES (92%)

Load-Date: May 12, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:39:50 p.m. EST

Document: AT&T empire-building worrisome

AT&T empire-building worrisome

The Globe and Mail (Canada)

May 8, 1999 Saturday

Section: REPORT ON BUSINESS COLUMN; Pg. B2

Length: 869 words

Byline: ERIC REGULY

Body

What do you get when you when you cross the world's biggest phone company with the biggest cable company and the biggest software company? The answer, according to the competitors who are watching this dark entity take shape like a tornado on the horizon, is a communications monster bent on world domination.

The monster in question is AT&T, which became the top cable company this week with the $54-billion (U.S.) purchase of MediaOne Group. At the same time, AT&T struck a $5-billion side deal with Bill Gates to use Microsoft's ubiquitous Windows software to power the set-top boxes that will deliver digital TV, phone and Internet services to millions of couch potatoes. The new AT&T will have access to about 60 per cent of American homes, giving it a tight grip on the delivery systems that will shape the converging communications and entertainment markets of the 21st century. AT&T won't stop in the United States. Canada and Europe will inevitably become its next targets.

The irony is that AT&T, the former American Telephone & Telegraph that was known as Ma Bell in gentler times, was broken up by the federal government in the early 1980s because it utterly dominated the local and long-distance markets. AT&T was shorn of its regional phone companies, called Baby Bells. It retained its long-distance business, the manufacturing operations and Bell Laboratories.

Less than two decades later, AT&T is almost as powerful as it ever was and the regulators are twitching nervously again. The company found the path of least resistance to regain access to the regional market and moved with such speed that it left competitors stunned. The 1996 Telecommunications Act set the stage for sweeping deregulation, ostensibly allowing the local, regional and long-distance companies to compete in each other's markets in a free-for-all that was supposed to provide consumers with endless choice and rock-bottom prices. It didn't work as planned. The Baby Bells used the act as an excuse to merge with each other, effectively preventing AT&T from bringing her children back into the house. But the sly old lady found another route into regional markets -- it bought cable companies instead.

Under chairman Michael Armstrong, AT&T launched its drive into the regional markets early this year with the $55-billion purchase of Tele-Communications Inc., one of the largest cable companies. Then it beat Comcast for ownership of MediaOne, another cable giant. In a matter of months, the largest phone company had also become the largest cable company.

The beauty of the strategy was that the cable companies have considerable flexibility compared with the Baby Bells. With the cable companies at its side, AT&T can compete with Baby Bells without being regulated like them. The cable companies, for instance, have enormous freedom to raise rates, deny competitors access to their networks and sell various services in one package, a technique known as "bundling." AT&T's vision is to use a single pipe to deliver cable TV, high-speed Internet access and local, long-distance and wireless phone services into the home. The Baby Bells, meanwhile, are pretty much limited to local and wireless services.

Will AT&T get away with being the sole provider of these services for two-thirds of the country? **William Barr**, legal counsel for GTE, a local phone company, said the AT&T-MediaOne merger "will awaken even the most supine regulators to recognize that AT&T is attempting to reassemble its dominant position right under their noses."

GTE shouldn't count on the regulators rising up against "the Evil Empire," as it called AT&T, as they did once before. The regulators may decide that the AT&T-MediaOne deal is not consumer-unfriendly because the new company will compete directly with the Baby Bells, which are themselves monopolies or so close to it that it hardly matters. But this is not the real issue. The problem is that AT&T, as a cable owner, will not be required to open its local networks to competitors, notably Internet service providers. This is clearly anti-competitive.

Canadians should be concerned because there is little doubt that AT&T would like to clone its strategy in Canada, which it considers an extension of its home market. The logical route is through Rogers Communications, which is already a partner with AT&T in the wireless business. Under existing foreign ownership laws, AT&T could not buy control of a cable company. But this restriction could very well disappear as long as Canadian content laws on programming are met.

There is a way to prevent AT&T from squeezing out the competition in the markets it covers. Regulators in the United States should require AT&T to open its cable networks to rivals, just as the Baby Bells are being forced to pry open their networks, as the minimum condition for approval of the MediaOne takeover. Canadian regulators should force Canada's cable companies to do the same. Open access would allow Internet services to keep growing in North America and prevent a repeat of the 1980s, when AT&T had to be dismantled because it didn't know the meaning of competition.
Readers can leave phone messages at (416) 585-5399, or send E-mail to ereguly@globeandmail.ca

Classification

Language: ENGLISH

Publication-Type: Newspaper

Subject: DEREGULATION (78%); CONSUMERS (77%); US FEDERAL GOVERNMENT (76%); BUSINESS OPERATIONS (69%); COMMUNICATIONS LAW (66%); telecommunications industry; acquisitions; competition

Company: AT&T INC (97%); MICROSOFT CORP (57%); BELL LABORATORIES (54%)

Organization: AT&T; MedioOne Group

Ticker: T (NYSE) (97%); MSFT (NASDAQ) (57%)

Industry: COMPUTER SOFTWARE (90%); CABLE INDUSTRY (90%); TELEPHONE SERVICES (90%); LONG DISTANCE TELEPHONE SERVICE (89%); TELECOMMUNICATIONS SERVICES (89%); CABLE TELEVISION (78%); SOFTWARE MAKERS (78%); BROADBAND (78%); TELECOMMUNICATIONS (78%); COMMUNICATIONS REGULATION & POLICY (78%); DIGITAL TELEVISION (74%); COMPUTER NETWORKS (73%); TELECOMMUNICATIONS EQUIPMENT (72%); INTERNET & WWW (69%); COMMUNICATIONS LAW (66%)

Person: BILL GATES (57%)

Geographic: UNITED STATES (93%); CANADA (79%); EUROPE (79%); NORTH AMERICA (79%); United States

Load-Date: January 12, 2007

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:38:12 p.m. EST

Document: Bell Atlantic Corp Stmnt Re Merger Approval.

Bell Atlantic Corp Stmnt Re Merger Approval.

London Stock Exchange Aggregated Regulatory News Service (ARNS)

May 7, 1999 Friday 12:00 AM GMT

Length: 455 words

Body

BELL ATLANTIC CORPORATION 7 May 1999
Contact: John Killian, Bell Atlantic 212-395-1152
George Lieb, GTE
972-507-2462

Department of Justice Clears
Bell Atlantic-GTE Merger
Companies enter consent decree to resolve wireless
overlaps

Today the U.S. Department of Justice (DOJ) gave its approval to the merger of
Bell Atlantic and GTE. The two companies and DOJ agreed to a consent decree to dispose of the companies' overlapping wireless properties. No other conditions were imposec
After an exhaustive review of the transaction, DOJ carefully considered and rejected all of the other various competitive arguments raised by opponents of the merger, includi
"The decision by DOJ today underscores that this merger will strengthen competition and deliver to consumers a new, top-tier telecommunications provider that will rival exist
"We are extremely pleased with the outcome of the department's investigation. Some of the department's best antitrust attorneys were dedicated to our merger and gave it a
"When we announced the merger," Young explained, "we knew we would need to address certain issues related to the companies' wireless overlaps. The decree gives us full fl
It also allows us to retain 10 megahertz (MHz) of broadband spectrum in areas where we choose to sell our PCS properties. Finally, we have the time to resolve wireless confli
GTE and Bell Atlantic announced last July that the two companies have agreed to a merger of equals. To date, 27 state public utility commissions have cleared the merger. Th
Shareholder voting on the merger is under way by both companies and will be completed at their annual meetings on May 18 (GTE) and May 19 (Bell Atlantic).

Classification

Language: ENGLISH

Publication-Type: Newswire

Subject: JUSTICE DEPARTMENTS (91%); LAW ENFORCEMENT (90%); ANTITRUST & TRADE LAW (90%); APPROVALS (89%); LAWYERS (77%); CONSUMERS (74%); LEGISLATION (74%); CONSUMER LAW (73%); CORPORATE COUNSEL (72%); EXECUTIVES (72%); SHAREHOLDERS (72%); TALKS & MEETINGS (69%); LABOR UNIONS (64%)

Company: VERIZON COMMUNICATIONS INC (95%); VERIZON WIRELESS INC (92%)

Ticker: VZC (LSE) (95%); VZ (NYSE) (95%)

Industry: TELECOMMUNICATIONS (91%); WIRELESS INDUSTRY (90%); PERSONAL COMMUNICATIONS SERVICE (89%); BROADBAND (77%); LAWYERS (77%);

TELECOMMUNICATIONS SERVICES (77%); CORPORATE COUNSEL (72%); TELECOMMUNICATIONS EQUIPMENT (72%)

Geographic: UNITED STATES (92%)

Load-Date: May 14, 2008

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 03:49:21 p.m. EST

Document: SUMMARY: GTE's Bill Barr on AT&T-Media One merger

SUMMARY: GTE's Bill Barr on AT&T-Media One merger

Business Wire

May 6, 1999, Thursday

Length: 226 words

Dateline: WASHINGTON

Body

May 6, 1999--

Background: The following may be attributed to **William P. Barr**, Executive Vice President and General Counsel for GTE

An AT&T-Media One merger will face big trouble. The cable systems that AT&T has been acquiring are classic monopolies.

AT&T's attempt to leverage off those monopolies and deny equal access to other Internet service providers is a blatant attempt to lock up access to the Internet as well as the Internet itself. Although the FCC and other regulators have been focused on excessive restrictions on the ability of the telephone companies to compete in the long-distance and Internet markets, this deal will awaken even the most supine regulators to recognize that AT&T is attempting to reassemble its dominant position right under their noses. I am confident that regulators, Congress, and/or the courts will protect the development of the Internet from the effects of these anti-competitive tactics.

CONTACT: GTE, Washington
Bob Bishop, 202/463-5206; (Pager: 800/706-1719)
bbishop@dcoffice.gte.com

Today's News On The Net - Business Wire's full file on the Internet

with Hyperlinks to your home page.

URL: http://www.businesswire.com

Classification

Language: ENGLISH

Subject: ANTITRUST & TRADE LAW (90%); LAWYERS (74%)

Company: AT&T INC (95%); DC-GTE AT&T INC (95%); FEDERAL COMMUNICATIONS COMMISSION (57%); FEDERAL COMMUNICATIONS COMMISSION (57%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (57%); FEDERAL COMMUNICATIONS COMMISSION (57%); DC-GTE FEDERAL COMMUNICATIONS COMMISSION (57%); FEDERAL COMMUNICATIONS COMMISSION (57%)

Ticker: T (NYSE) (95%); GTE T (NYSE) (95%)

Industry: INTERNET & WWW (92%); COMPUTER NETWORKS (90%); CABLE INDUSTRY (77%); TELECOMMUNICATIONS SERVICES (77%); LAWYERS (74%); TELEPHONE SERVICES (71%); INTERNET SERVICE PROVIDERS (71%)

Geographic: UNITED STATES (79%)

Load-Date: May 7, 1999

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 09:08:48 p.m. EST

Ball bounces to regulators

May 6, 1999: 6:58 p.m. ET

Government agencies prepare to probe A&T, MediaOne merger deal

NEW YORK (CNNfn) - AT&T's planned buyout of MediaOne Group is giving government regulators something else to deal with in an already frenetic atmosphere.

Already burdened by the rapid changes roiling the telecom space, regulators are trying to determine how they should approach the AT&T (T) plan to gobble up cable giant MediaOne Group (UMG).

Robert Rosenberg, president of Insight Research Corp. in Parsippany, N.J., a telecommunications market research firm, said regulatory agencies do not have a good track record in standing up to mega-mergers.

"I don't think they have the belly for it," he said. "It runs faster than the regulators can absorb it. They see little political gain in standing up to this consolidation. Unless there's a clear violation of the laws or statutes, I don't think they're going to stop it."

In addition, regulators must also contend with the changes sparked by Telecommunications Act of 1996. The act was drafted to open the market to competition in the face of the imminent convergence of the telephone, computer and Internet sectors, as well as cable television.

The mix became even more complex as AT&T and Microsoft (MSFT) announced the software giant will invest $5 billion in AT&T preferred securities, aiding AT&T's purchase of MediaOne.

Microsoft, in turn, will gain greater access to AT&T's advanced set-top devices, used to deliver communication and information services via cable into the home.

Jennifer Rose, spokeswoman for the U.S. Department of Justice, said the agency will investigate AT&T's acquisition of MediaOne.

"We'll go by our merger guidelines," she said, adding that it was too soon to comment on the Microsoft deal.

Representatives of the Federal Trade Commission and the Federal Communications Commission were not immediately available for comment.

"Deeply troubled"

But, Ken Johnson, a spokesman for Rep. Billy Tauzin, chairman of the House Telecommunications subcommittee, said the Louisiana Republican is urging regulators to examine the AT&T-MediaOne merger plan very closely.

"He's deeply troubled by the proposal," Johnson said. "He's urging the FCC, the Justice Department and the FTC to take a long, hard look at it. At first blush, there are some aspects that are encouraging. It's offering consumers one-stop shopping. But if you're the only shop offering one-stop shopping, that's not good for consumers."

Johnson said Tauzin believes the AT&T-MediaOne deal should at the very least be subjected to the same kind of constraints imposed upon Ameritech (AIT) and SBC (SBC).

And the U.S. Senate Committee on Commerce, Science and Transportation said it will hold a hearing June 17 on mergers and consolidations in the telecom industry.

Need for competition

On the competitive front, William P. Barr, executive vice president and general counsel for GTE Corp. (GTE), issued a statement calling AT&T's cable system acquisitions "classic monopolies" and a "blatant attempt to lock up access to the Internet as well as the Internet itself."

Barr said "this deal will awaken even the most supine regulators to recognize that AT&T is attempting to reassemble its dominant position right under their noses."

Rosenberg of Insight Research Corp. stressed the importance of competition in the telecommunications industry.

"If only three companies are left standing at the end of the day," he said, "that's not going to produce the level of competition that I think we expected to see. There have to be five, six or seven big companies competing - then you've got the possibility of losing customers and never seeing them again. And that puts the fear of God in marketing departments."

Document: CABLE ACCESS ON FCC'S FRONT BURNER

CABLE ACCESS ON FCC'S FRONT BURNER

BROADBAND NETWORKING NEWS

March 16, 1999

Section: Vol. 9, No. 6

Length: 404 words

Body

Cable unbundling isn't a dead issue at the FCC, despite the agency's decision not to take advantage of two recent opportunities to address the issue. During a speech at a Legg Mason investment workshop in Washington on March 11, FCC Chairman William Kennard confirmed open-access requirements for cable providers are not a done deal.

Proponents of open access argue that the cable pipe, when used to deliver broadband services to consumers, ought to be subject to the same regulations as the copper wires of local exchange carriers. Open access would allow independent Internet service providers to compete with @Home [ATHM], Roadrunner and other cable-based ISPs, which typically have exclusive deals to offer services over a particular cable system.

The FCC declined to address open access in its recent report to Congress on the state of broadband deployment because the commission couldn't figure out a logical way to deal with the issue, Kennard said. The agency also declined to make open access a condition of

approval of the merger of AT&T [T] and Tele-Communications Inc. [TCOMA]. Commissioners didn't think a merger review was an appropriate forum for creating new regulations.

The FCC will continue to study the open-access issue to see if lack of access becomes a problem, and whether a regulatory solution exists, Kennard said.

Investors at the Legg Mason conference also heard from Kennard's predecessor, former FCC Chairman Reed Hundt, who chastised those who question the FCC's role in approving mergers. The idea that the FCC should have no greater role than the U.S. Department of Justice (DoJ) "is a cranky, unlawyerly, almost illiterate commentary," Hundt said.

Also at the conference was Anne Bingaman, former chief of the DoJ's antitrust division, who questioned whether approval of these 'mega-mergers would set a precedent, making it impossible to stop future mergers. Bingaman, for example, dismisses SBC's [SBC] claims that it is too small to compete out of region without merging with Ameritech [AIT].

William Barr, senior vice president and general counsel for GTE [GTE], which is trying to merge with Bell Atlantic [BEL], said the next merger partners will be incumbents and interexchange carriers -- such as Level 3 [LVLT], that own large amounts of data capacity.

Classification

Language: ENGLISH

Subject: ENERGY & UTILITY LAW (90%); APPROVALS (89%); JOINT VENTURES, MERGERS & ACQUISITIONS LAW (89%); MERGERS (89%); CONFERENCES & CONVENTIONS (89%); JUSTICE DEPARTMENTS (86%); US FEDERAL GOVERNMENT (78%); CONSUMERS (76%); LAW ENFORCEMENT (68%); ANTITRUST & TRADE LAW (68%); LAWYERS (64%); EXECUTIVES (62%)

Company: AT&T INC (85%); LEGG MASON INC (58%); AT&T INC (85%); LEGG MASON INC (58%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Ticker: T (NYSE) (85%); LM (NYSE) (58%); TCOM (NASDAQ) (61%)

Industry: CABLE INDUSTRY (90%); ENERGY & UTILITY LAW (90%); TELECOMMUNICATIONS SERVICES (90%); BROADBAND (79%); TELECOMMUNICATIONS PROVIDERS (76%); INTERNET SERVICE PROVIDERS (76%); COMPUTER NETWORKS (73%); CABLE & OTHER DISTRIBUTION (71%); LAWYERS (64%)

Geographic: UNITED STATES (92%)

Load-Date: March 16, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:34:18 p.m. EST

Document: MEANWHILE...

MEANWHILE...

COMMUNICATIONS TODAY

March 15, 1999

Section: Vol. 5, No. 50

Length: 163 words

Body

GTE [GTE] may have an ace up its sleeve as it awaits approval of its merger with Bell Atlantic [BEL] -- it is the only local exchange carrier with a significant Internet backbone. The other big backbone providers are all long-distance carriers. FCC commissioners have reacted favorably to the notion that the merger would create a major new cross-market competitor in the data-backbone arena, GTE General Counsel **William Barr** told us last week. "They believe, as we believe, that you need five or six strong competitors," Barr said. "My impression is they appreciate that the GTE-Bell Atlantic merger is not strictly a lateral merger. There is a vertical element." The final sticking point for the merger, other than some overlapping wireless businesses, will be how to reconcile the fact that GTE provides long-distance, while Bell Atlantic is still banned from that market. The FCC is considering several ways to handle that.

Classification

Language: ENGLISH

Subject: APPROVALS (78%)

Company: VERIZON WIRELESS INC (92%); VERIZON WIRELESS INC (92%); FEDERAL COMMUNICATIONS COMMISSION (84%); FEDERAL COMMUNICATIONS COMMISSION (84%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (84%); FEDERAL COMMUNICATIONS COMMISSION (84%)

Ticker: BEL (NYSE) (92%); BEL (NYSE) (94%)

Industry: TELECOMMUNICATIONS SERVICES (77%); LONG DISTANCE TELEPHONE SERVICE (57%)

Load-Date: March 15, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:33:58 p.m. EST

Document: KENNARD SEES REVAMPED AGENCY IN 5 YEARS

KENNARD SEES REVAMPED AGENCY IN 5 YEARS

Communications Daily

March 15, 1999, Monday

Section: TODAY'S NEWS

Length: 560 words

Body

FCC Chmn. Kennard said he will introduce proposal Wed. to revamp agency structure over next 5 years but warned that effort shouldn't turn into "backdoor rewrite" of Telecom Act. He told reporters at briefing that he will submit proposal at House Communications Subcommittee's reauthorization hearing (CD March 10 p5). Kennard didn't give many details about plan but did say it would "grapple with convergence" problem that's plaguing agency's industry-specific bureaus. He said he will seek comments on his "blueprint for the future" in May or June and produce more "definitive" version in fall. Plan represents Kennard's personal thoughts, not overall Commission views. In somewhat unusual request, subcommittee asked each commissioner to offer personal views on agency restructuring, rather than presenting joint views. Kennard told reporters that plans developed by other commissioners also had some "great" ideas, although he didn't elaborate.

As example of regulatory problems caused by converging

industries, Kennard said he hopes to deal with fact that cable and phone companies both are rolling out high-speed data services but under different forms of regulation. He said he doesn't want "superbureau," which could result if agency tried to lump all similar issues into one place. He said "convergence has to be dealt with structurally but also culturally." Asked whether he might recommend Internet Bureau, Kennard said that would be ironic since he has been stressing that he's "not interested in regulating the Internet."

New plan would "put more flesh" on proposal he made last fall to create Enforcement and Public Information Bureaus, Kennard said. FCC will look very different in 5 years as industry moves to "fully competitive marketplace," he said. Instead of concentrating on current ratemaking and "gatekeeper" functions, it will focus primarily on enforcement, consumer protection and spectrum allocation, he said. He said he hopes that calls for FCC revamping won't turn into "backdoor effort to rewrite the 1996 Act" because "we need change, not chaos."

On another topic, Kennard said proposed colocation order that's on Thurs. meeting agenda will "fine-tune" current colocation requirements to assure that competitors can get access to incumbent LEC central offices. For example, it will make rule changes to deal with space shortages in central offices, offer way of resolving disputes when incumbents say new entrants are harming their networks, look at so-called "line-sharing." Chmn. said he hears "all the time from CLECs about the difficulty in getting into the central office" as well as cost of doing so.

Kennard acknowledged that timing of FCC's decision on GTE-Bell Atlantic merger hinges on sticky question of how BA's interLATA restrictions will affect GTE's data business. GTE Gen. Counsel **William Barr** said earlier in week that merger might be delayed while companies try to get either Sec. 271 approval throughout BA region or waiver of interLATA restriction for data traffic (CD March 12 p2). FCC originally planned to vote on merger in summer but Kennard said interLATA issue may delay that. He said vote on SBC-Ameritech issue still is on track for this

summer.

Classification

Language: ENGLISH

Subject: WIRELESS REGULATION (79%); INTERNET SERVICE REGULATION (79%); COMMUNICATIONS LAW (77%); TALKS & MEETINGS (69%)

Company: BELL ATLANTIC MOBILE (50%); BELL ATLANTIC MOBILE (50%); FEDERAL COMMUNICATIONS COMMISSION (91%); FEDERAL COMMUNICATIONS COMMISSION (91%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (91%); FEDERAL COMMUNICATIONS COMMISSION (91%)

Ticker: WED (TSX) (58%)

Industry: TELECOMMUNICATIONS SERVICES (89%); WIRELESS REGULATION (79%); INTERNET SERVICE REGULATION (79%); COMMUNICATIONS LAW (77%); TELECOMMUNICATIONS (77%); COMMUNICATIONS REGULATION & POLICY (77%); INTERNET & WWW (71%); LONG DISTANCE TELEPHONE SERVICE (65%)

Load-Date: March 13, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:33:28 p.m. EST

Document: HUNDT FAVORS KEEPING SPECTRUM CAP

HUNDT FAVORS KEEPING SPECTRUM CAP

Radio Comm. Report

March 15, 1999

Section: News; Pg. 7

Length: 537 words

Byline: Heather Forsgren Weaver

Body

WASHINGTON-The cellular industry apparently knew what it was doing when it waited for Reed Hundt to retire as chairman of the Federal Communications Commission before asking that the spectrum cap be lifted. ''Let's not talk about lifting the spectrum cap. The spectrum cap is the reason we have a competitive wireless market,'' Hundt told an investment conference last week.

The spectrum cap restricts wireless carriers to a total of 45 megahertz of spectrum in any geographic area.

The Cellular Telecommunications Industry Association filed a forbearance petition in September to lift the cap.

Congress established procedures in the Telecommunications Act of 1996 that allow entities to ask the FCC to ''forebear'' from enforcing rules that have become moot because of competition. The procedures require the FCC to rule on such requests within one year but gives the agency the option of a 90-day extension if necessary.

The Personal Communications Industry Association opposes lifting the cap at this time, said PCIA President Jay Kitchen at the same conference. ''PCIA's position is a timing issue. Remove the cap, just not now,'' Kitchen said.

Whether the FCC will lift the cap could have a significant impact on the proposed $53 billion merger of Bell Atlantic Corp. and GTE Corp. Indeed, **William Barr**, GTE senior vice president and general counsel, said the issue of spectrum was delaying Department of Justice approval of the marriage.

''My expectation is that (the Justice Department) will approve the merger. The only (issue of concern at this point is) the spectrum cap-the (personal communications services) overlap of cellular properties … The timing is being dictated by this issue … The more aggressive we are about how much spectrum we

want to keep could (delay) the approval … If we don't want to be that aggressive, we would get a decision by the end of this month,'' Barr said.

Most of the overlap occurs because of Bell Atlantic's interest in PrimeCo.

Barr further gave a time line for closing the GTE/Bell Atlantic merger-provided approval is granted by DOJ and the FCC-that does not have the merger closing until sometime after the turn of the century. Since the FCC must act on the CTIA forbearance petition before the end of this century, such a decision could impact whether GTE/Bell Atlantic divests itself of the overlapping spectrum.

In other action at the Legg Mason Investment Percursors in Telecom, Internet, and Electronic Commerce meeting, FCC Commissioner Harold Furchtgott-Roth said he has received the information he requested from the bureaus, which was held up last month when FCC Chairman William Kennard's office said FCC commissioners must first go through his office to get information from the bureaus.

The way the FCC handles mergers in the future could change if Rep. Billy Tauzin (R-La.), chairman of the House telecommunications subcommittee, has his way. Tauzin told reporters after addressing the second day of the Legg Mason conference that he hopes to ''end the business of holding up people when they come before the FCC for relief, either in the form of mergers or applications'' during the upcoming FCC re-authorization process.

Classification

Language: ENGLISH

Subject: US FEDERAL GOVERNMENT (90%); WIRELESS REGULATION (90%); CONFERENCES & CONVENTIONS (90%); APPROVALS (89%); BUSINESS & PROFESSIONAL ASSOCIATIONS (89%); ASSOCIATIONS & ORGANIZATIONS (89%); LAW ENFORCEMENT (88%); JUSTICE DEPARTMENTS (86%); LEGISLATION (78%); COMMUNICATIONS LAW (76%); PETITIONS (75%); MERGERS (70%); EXECUTIVES (67%); LAWYERS (63%)

Company: VERIZON COMMUNICATIONS INC (93%); COMMUNICATIONS INDUSTRIES ASSOCIATION OF JAPAN (56%); LEGG MASON INC (51%); VERIZON COMMUNICATIONS INC (93%); COMMUNICATIONS INDUSTRIES ASSOCIATION OF JAPAN (56%); LEGG MASON INC (51%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION (57%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION (57%)

Ticker: VZC (LSE) (93%); VZ (NYSE) (93%); LM (NYSE) (51%)

Industry: TELECOMMUNICATIONS (91%); WIRELESS REGULATION (90%); WIRELESS INDUSTRY (90%); MOBILE & CELLULAR COMMUNICATIONS (90%); PERSONAL COMMUNICATIONS SERVICE (89%); WIRELESS INTERNET ACCESS (78%); TELECOMMUNICATIONS SERVICES (78%); COMMUNICATIONS LAW (76%); WIRELESS TELECOMMUNICATIONS CARRIERS (73%); LAWYERS (63%); ELECTRONIC

COMMERCE (60%)

Geographic: UNITED STATES (79%)

Load-Date: March 18, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:32:52 p.m. EST

Document: GTE GIRDS FOR NEW CHALLENGE TO PRICING RULES

GTE GIRDS FOR NEW CHALLENGE TO PRICING RULES

COMMUNICATIONS TODAY

March 15, 1999

Section: Vol. 5, No. 50

Length: 206 words

Body

The U.S. Supreme Court decision that caused so much crowing at the FCC (CT, 1/26) might not be the resounding win the agency thought. **William Barr**, the GTE [GTE] general counsel and former U.S. Attorney General who argued against the FCC at the high court, told us he is certain that the commission will be back in court this spring defending its pricing rules. Barr thinks the 8th U.S. Circuit Court of Appeals in St. Louis will demand to hear new oral arguments before it judges the legality of the FCC's method for determining how much incumbent local exchange carriers (ILECs) can charge competitors for unbundled loops and other network elements -- a highly charged issue the court left hanging.

GTE will argue that FCC rules result in such low prices for network elements that an unconstitutional "taking" of ILEC property could result. The "taking" challenge has been waiting in the wings while ILECs use other tactics to gut key parts of the 1996 Telecommunications Act. It may soon take center stage. "At the right time," Barr said, "the taking argument will be raised." ILECs hope

their new argument will have more success than the failed "bill-of-attainder" challenge.

Classification

Language: ENGLISH

Subject: LAW COURTS & TRIBUNALS (90%); APPEALS (90%); DECISIONS & RULINGS (90%); SUPREME COURTS (90%); LAWYERS (90%); PRICES (90%); CORPORATE COUNSEL (77%); COMMUNICATIONS LAW (73%)

Company: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); SUPREME COURT OF THE UNITED STATES (91%); SUPREME COURT OF THE UNITED STATES (91%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); SUPREME COURT OF THE UNITED STATES (91%); SUPREME COURT OF THE UNITED STATES (91%)

Industry: LAWYERS (90%); CORPORATE COUNSEL (77%); LOCAL TELEPHONE SERVICE (74%); COMMUNICATIONS LAW (73%); TELECOMMUNICATIONS SERVICES (73%); TELECOMMUNICATIONS PROVIDERS (69%); TELECOMMUNICATIONS (69%)

Geographic: UNITED STATES (79%)

Load-Date: March 15, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:32:05 p.m. EST

In Phones, the New Number is Four

The Wall Street Journal

March 8, 1999 Monday

Section: Pg. B1

Length: 1132 words

Byline: By Stephanie N. Mehta, Staff Reporter of The Wall Street Journal

Body

Once there was just one giant phone company. Then the Justice Department broke up the most far-reaching monopoly in U.S. history: American Telephone & Telegraph Co. That set the stage for years of chaotic competition between dozens of little and large players.

But now, after a series of megadeals, the phone industry is coalescing into a quartet of supercarriers -- AT&T Corp., MCI WorldCom Inc., SBC Communications Inc., and Bell Atlantic Corp. The pendulum swung from monopoly to fragmentation and is now settling in between, at oligopoly.

In numerous other industries, from airlines to tobacco, oligopoly is a time-honored business arrangement. But with phones, the arrangement raises special concerns, particularly as the industry pushes into areas that aren't regulated.

Wireless carriers, for example, aren't obliged to serve everyone who wants a cellular phone, so people with poor credit can be denied service. Similarly, the burgeoning megacarriers won't be required to serve everyone as they branch into new markets and services. As the industry titans battle for the choicest customers, some people -- and some communities -- may find themselves left on the sidelines.

None other than AT&T is leading the way in industry consolidation. The long-distance provider expects to soon close its $44 billion deal to buy one of the country's largest cable players, Tele-Communications Inc. AT&T intends to use the cable operator to bypass the Baby Bells and deliver local-telephone service, high-speed Internet access and entertainment to millions of residential customers.

AT&T has also formed an alliance with Time Warner Inc.'s cable unit, a move that should allow AT&T to offer local phone service to about 40% of the country.

AT&T is also moving fast in the hot field of cellular telephones. After buying enough cell-phone companies and licenses to give it nationwide reach, AT&T launched a hugely popular flat-rate, nationwide calling plan that has sharply reduced the cost of wireless calls. Rivals are now scrambling to offer their own versions.

Two of the former Baby Bells have also emerged as giants. SBC, based in San Antonio, has been involved in a whirlwind of pricey acquisitions, including its purchase of sister Bell Pacific Telesis Group in 1997. It is currently waiting for regulators to give a green light to buy Ameritech Corp. for $75 billion, a move that extends its reach into the Midwest. SBC has promised it will offer services to businesses and ultimately consumers in 30 new markets outside SBC's and Ameritech's local-service territories if regulators approve the deal.

SBC's growth has been matched by Bell Atlantic, which has already swallowed Nynex Corp., another Baby Bell. Earlier this year, Bell Atlantic, based in New York, made a daring play in the cellular field by trying to scoop up AirTouch Communications Inc., only to be outgunned by London-based Vodafone Group PLC. Bell Atlantic's $65 billion merger with GTE Corp., which needs government approval, is pending.

Meanwhile, MCI WorldCom has completed more than 50 acquisitions in recent years. Its strategy is to build a huge international network and concentrate on serving big multinational business customers, where the profit margins are high. Sprint Corp. and local carriers BellSouth Corp. and U.S. West Inc. have stayed out of the merger fray, arguing that they can serve their customers without major acquisitions. But analysts say that the companies will need to get bigger to compete on a national scale.

Reed Hundt, former chairman of the Federal Communications Commission and a senior adviser with consultants McKinsey & Co., says consumers will be better off with the new oligopoly. "There will be multiple national carriers, a handful of local regional operators and great variety and tremendous creativity in marketing," he predicts.

But rural home owners, low-spending phone users, and small businesses may not enjoy the choice and lower prices that this competition will bring to corporations and big-spending consumers. "There is a large percentage of telephone customers that nobody wants to serve," acknowledges Royce S. Caldwell, president of operations at SBC. "It is unrealistic to think that every customer is attractive to the marketplace."

Fred Peralta, mayor of Taos, N.M., would love to see competition for the town's 5,000 residential customers with local carrier U S West Inc. But he worries that companies can't justify spending millions to build new phone networks in rural towns with the hope of winning a handful of customers. "It's just not going to happen," says Mr. Peralta.

Indeed, Taos isn't on SBC's list of 30 new markets it plans to serve initially if its Ameritech purchase wins approval. And TCI doesn't serve Taos, making it an unlikely candidate for AT&T to serve immediately.

Even some urban areas may have to wait to see new choices and new services. Dallas appears to have the potential to be a hotbed of competition: It is served by SBC's Southwestern Bell unit and TCI. And since GTE provides local service in the Dallas suburbs and to a small number of consumers in Dallas itself, it too is a potential rival.

But the lack of competition in Dallas so far underscores the difficulty of delivering competing local-telephone services in a business with a unique combination of heavy capital equipment and a crazy-quilt of regulators. TCI, for example, first must upgrade its cable to add more capacity and two-way capability -- a project that won't be completed until the end of next year, AT&T has said. "This vision cannot happen overnight," C. Michael Armstrong, AT&T's chairman, said in recent testimony before the FCC.

Local phone service, as long as it depends on a wire running into a customer's home, is a natural monopoly. It is also a vital service. The local phone market thus continues to be heavily regulated. Residential telephone rates are held artificially low by state and federal regulators -- and federal subsidies help compensate the Bells and GTE for serving rural areas.

In Patoka, Ind., for example, GTE charges customers $6.20 a month for basic service. Yet the company says it costs $103.22 to serve residential customers there. That makes it impossible for firms not receiving subsidies to compete in the area. "Companies will go where they can make money," notes William Barr, GTE's general counsel.

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                    The Big Four
  U.S. residential customers, in millions*
  AT&T/TCI             80
  Bell Atlantic/GTE    41
  SBC/Ameritech        30
  MCI WorldCom         20
  *Includes customers from large pending acquisitions; some customers
may
  Source: Companies
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(See related article: "Big Business: Let's Play Oligopoly! --- Why Giants Like Having Other Giants Around" -- WSJ March 8, 1999)

Notes

PUBLISHER: Dow Jones & Company

Load-Date: December 5, 2004

Document: Let them decide: Supreme Court revives FCC authority for …

Let them decide: Supreme Court revives FCC authority for pricing rules

Connected Planet

February 1, 1999

Section: A.M. Report; ISSN: 0040-2656

Length: 438 words

Byline: Sarah Schmelling

Body

The Supreme Court last week reinstated the authority of the FCC for setting local rules when it overturned a 1997 8th Circuit Court decision. Competitive local exchange carriers, long-distance companies and the FCC immediately applauded the decision, while regional Bell operating companies faced yet another disappointment in their race to provide long-distance.

In short, the Court decided that the FCC-not the states-has the right to implement the local provisions of the 1996 Telecommunications Act. It declared that the 8th Circuit Court was incorrect in ruling that a network element leased by a competitor must be part of the physical facilities and equipment used to provide local service, so services such as directory assistance and caller ID must now be available to competitors. It upheld the FCC's conclusion that RBOCs must make network elements available whether or not a competitor owns facilities, and it reinstated an FCC rule that forbids incumbents to separate already-combined elements before leasing them to competitors. In addition, the court revived the FCC's "pick-and-choose" rule, meaning that competitors can select portions of previous interconnection agreements.

CLECs see the move as a victory.

This decision is several years in the making, and the wait has stymied competition," said Robert Taylor, president and CEO of Focal Communications Corp., a Chicago-based CLEC. "Overturning the 8th Circuit Court decision shows that the FCC's rules are valid, and that's great news for CLECs."

Because many states were already using the FCC's rules as guidelines, business for facilities-based CLECs won't change dramatically, said Cronan O'Connell, vice president of industry affairs for the Association of Local Telecommunications Services. But it's good that these issues have been addressed and carriers can move on, she said.

Heartening some RBOCs is the Supreme Court's request that the FCC re-evaluate its "necessary and impair" standards for incumbent-provided elements. It said that the FCC did not consider whether incumbents should provide elements even if they are also available from another source.

In a statement, GTE General Counsel **William Barr** referred to this part of the decision as a "smashing victory" that "sounds the death knell on sham unbundling."

A strong benefit of the ruling for CLECs is the revival of the FCC's forward-looking, or TELRIC, pricing, said Brian Thomas, vice president of external affairs for CLEC GST Telecommunications.

GTE, for one, says it will continue to contest the lawfulness of TELRIC pricing methodology.

Classification

Language: ENGLISH

Subject: LAW COURTS & TRIBUNALS (90%); COMMUNICATIONS LAW (90%); DECISIONS & RULINGS (90%); ENERGY & UTILITY LAW (90%); SUPREME COURTS (89%); LAWYERS (72%); EXECUTIVES (65%)

Company: FOCAL COMMUNICATIONS CORP (97%); CLEC GST TELECOMMUNICATIONS (57%); FOCAL COMMUNICATIONS CORP (97%); CLEC GST TELECOMMUNICATIONS (57%); FEDERAL COMMUNICATIONS COMMISSION (94%); SUPREME COURT (75%); 8TH CIRCUIT COURT (71%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); SUPREME COURT (75%); 8TH CIRCUIT COURT (71%)

Ticker: FCOM (NASDAQ) (97%)

Industry: TELECOMMUNICATIONS SERVICES (94%); COMMUNICATIONS LAW (90%); ENERGY & UTILITY LAW (90%); TELECOMMUNICATIONS (89%); LOCAL TELEPHONE SERVICE (78%); LAWYERS (72%); LONG DISTANCE TELEPHONE SERVICE (71%)

Load-Date: February 25, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:27:04 p.m. EST

HIGH COURT DECLARES INTERCONNECTION IS FEDERAL JOB

Radio Comm. Report

February 01, 1999

Section: News; Pg. 10

Length: 578 words

Byline: Heather Forsgren Weaver

Body

WASHINGTON-A Supreme Court decision Jan. 25 that gives the FCC jurisdiction over setting nationwide standards for interconnection could have implications beyond local telephone competition and wireless entry into the local telephone market.

Indeed, the Supreme Court's ruling gets to the heart of the issue of jurisdiction of the local telephone market. In a 5-3 decision, the Supreme Court voted to give the Federal Communications Commission interconnection jurisdiction. Justice Sandra Day O'Connor did not participate in the decision because of a well-known conflict of interest involving stock interests in AT&T Corp.

The implications for the wireless industry do not come directly from the decision. However, the FCC has been sitting on interconnection issues related to the wireless industry-most notably paging interconnection-and it is now hoped the FCC will move on these items.

The Personal Communications Industry Association, which represents the paging industry, issued a statement urging the FCC to ''immediately clear the hurdles to fair interconnection agreements for all wireless carriers. We're thrilled that there are no more obstacles, and we hope the (FCC) will play a strong and decisive role in interconnection.''

The decision means there could be movement on a number of fronts because the decision impacts both the wireless and wireline industries, said Thomas Sugrue, chief of the FCC's Wireless Telecommunications Bureau.

Sugrue also believes the decision ''removes any doubt'' about whether wireless carriers are subject to federal or state jurisdiction. ''This will put back on the federal sphere the interconnection rules,'' he said.

The paging industry also could benefit from the court's affirmation of the FCC's pick-and-choose rule, said Wayne Markis of Handy Page.

The Cellular Telecommunications Industry Association said in a report to its members that the dramatic shift in power to the FCC is ''good news for wireless carriers, which traditionally have benefited from federal pre-emption of state regulations, (however) it is tempered by the potential risk that a strengthened FCC will be more inclined to assert its regulatory authority over (commercial mobile radio services) carriers.''

CTIA specifically points out the shift in power could be good for its calling-party-pays initiative, a view supported by Kevin Condon of Warburg Dillon Read. ''With regulatory authority in the hands of the states, who we believe are more prone to (incumbent local exchange carrier) influence than the FCC, we did not expect CPP to be implemented anytime soon. We believe the Supreme Court's recent bias toward federal rather than state regulation for wireline may also apply to wireless and could help spur implementation of CPP,'' Condon said.

When the decision was announced, it was hard to tell the winner from the loser. Both sides in the debate declared victory. ''Today's ruling on network elements is a smashing victory,'' said **William P. Barr**, executive vice president and general counsel of GTE Corp. ''The ILECs must stop trying to avoid the inevitable and open their local networks to new competitive entrants,'' said H. Russell Frisby Jr., of the Competitive Telecommunications Association.

FCC Chairman William Kennard called the ruling monumental, and said he was ''heartened that we are now ending a phase after the implementation (of the telecom act) where there was so much uncertainty.''

Graphic

Sugrue

Classification

Language: ENGLISH

Subject: LAW COURTS & TRIBUNALS (90%); DECISIONS & RULINGS (90%); SUPREME COURTS (90%); BUSINESS & PROFESSIONAL ASSOCIATIONS (89%); COMMUNICATIONS LAW (78%); APPEALS (78%); AGREEMENTS (76%); ASSOCIATIONS & ORGANIZATIONS (73%)

Company: AT&T INC (93%); COMMUNICATIONS INDUSTRIES ASSOCIATION OF JAPAN (56%); AT&T INC (93%); COMMUNICATIONS INDUSTRIES ASSOCIATION OF JAPAN (56%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Ticker: T (NYSE) (93%)

Industry: WIRELESS INDUSTRY (93%); TELECOMMUNICATIONS (90%); LOCAL TELEPHONE SERVICE (90%); PAGING (90%); WIRELESS TELECOMMUNICATIONS CARRIERS (89%); COMMUNICATIONS

REGULATION & POLICY (89%); COMMUNICATIONS LAW (78%); PERSONAL COMMUNICATIONS SERVICE (78%); WIRED TELECOMMUNICATIONS CARRIERS (78%); MOBILE & CELLULAR COMMUNICATIONS (78%); TELECOMMUNICATIONS SERVICES (78%)

Geographic: UNITED STATES (79%)

Load-Date: February 4, 1999

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:38:00 p.m. EST

Supreme Court Permits FCC to Set Local Phone Market Rules ; --Authority Rests With FCC, Not States.

Facts on File World News Digest

January 28, 1999

Section: UNITED STATES

Length: 1171 words

Body

The Supreme Court January 25 overturned a lower court ruling that had curbed the authority of the Federal Communications Commission (FCC) to set policy on opening the $ 100 billion local telephone market to competition. The high court's ruling culminated a three-year-long legal battle among regional telephone companies, or Baby Bells, long-distance companies, the FCC and the states over regulation of the local telephone market. The justices held that the FCC, not individual states, had the authority to set pricing and competition guidelines under the Telecommunications Act of 1996. (See p. 55A1; 1998, p. 71D1; 1996, p. 63A1)

The justices voted, 5-3, in most aspects of the decision. Justice Sandra Day O'Connor did not participate in the case, AT&T Corp. et al. v. Iowa Utilities Board, which consolidated eight separate appeals.

The dispute before the high court stemmed from a set of rules issued by the FCC in August 1996 that governed competition in local telephone markets. The Telecommunications Act, signed by President Clinton in February of that year, had freed local and long-distance telephone companies to compete in each other's markets; the act also called on the FCC to set regulations for competition in the local-telephone market. (See 1997, p. 579F3; 1996, pp. 953D2, 641D2)

One of the FCC rules at issue in the case was the so-called interconnection order. The provision required local telephone companies to sell access to nearly every component of their telephone networks at discounted prices. Network components included such items as electronic boxes, copper wires, switching computers and call-waiting software.

The FCC rule also required local phone companies to let market newcomers pay for access to individual components, rather than buying into a company's entire network. Cable-television service providers, wireless-communications companies and long-distance telephone companies were among the newcomers to the local telephone market.

Compliance with the FCC rules was required for Baby Bells and other regional carriers that sought to enter the long-distance market. Under the Telecommunications Act, regional carriers were not permitted to enter the long-distance market until they had proven to the FCC that they had opened their local-telephone markets to competition.

Since the passage of the Telecommunications Act, long-distance carriers had been scrambling to make inroads into the local-telephone service market. Desire to gain access to the lucrative local-calling market had unleashed a frenzy of mergers between major long-distance carriers and local-telephone service providers, as well as numerous legal challenges to FCC rules.

Among the major mergers prompted by the telecommunications overhaul were AT&T Corp.'s acquisition of cable television company Tele-Communications Inc. (TCI) and WorldCom Inc.'s purchase of MCI Communications Corp. In addition to those deals, Baby Bells Ameritech Corp. and SBC Communications Inc. had agreed to merge. (Both Ameritech and SBC had been rejected in their bid to enter the long-distance markets, and both had launched legal challenges of the FCC competition rules.) Also in 1998, Bell Atlantic Corp., the nation's largest local-telephone service provider, announced plans to merge with GTE Corp., a diversified telecommunications company. (See 1998, pp. 669E3, 538A3, 427D3, 319A1)

Baby Bells, GTE Challenge FCC-- AT&T, the Baby Bell companies and GTE Corp. immediately challenged the FCC's 1996 rules. They asserted that the new rules placed unfair burdens on their businesses. They contended that the "historic" cost of building telephone networks should be considered in setting a price for access to their networks. State telephone regulators also opposed the rules, arguing that the FCC had usurped states' regulatory authority.

The U.S. 8th Circuit Court of Appeals in St. Louis, Missouri upheld the complaints brought by the Baby Bells, GTE and state regulators. The court held that the Telecommunications Act gave state commissions, not the FCC, primary responsibility for setting pricing policies in the local telephone market. Consequently, the court nullified the FCC pricing rules, asserting that the commission had no jurisdiction to set such regulations. The court also held that the interconnection order had been poorly drafted by the FCC.

Majority Backs FCC Authority-- The Supreme Court held that the FCC retained primary authority over deregulating the local-calling market. While the justices rejected the lower court's contention that Congress had delegated such regulatory authority to the states, they agreed with the lower court's assertion that the FCC's interconnection order would be too impractical to implement.

Justice Antonin Scalia wrote the majority opinion. Justice Clarence Thomas wrote a separate concurring opinion that was joined in part by Chief Justice William H. Rehnquist and Justice Stephen G. Breyer. Justice David H. Souter also issued a concurring opinion.

In his opinion, Scalia conceded that the Telecommunications Act was vague in describing the extent of the FCC's regulatory authority. However, he asserted that the Communications Act of 1934 "explicitly gives the FCC jurisdiction to make rules governing matters to which the 1996 Act applies."

'Interconnection' Rule Struck Down-- In his opinion, Scalia also asserted that the FCC had failed to meet criteria set out in the Telecommunications Act when it drafted its interconnection order. Specifically, Scalia asserted, the FCC had failed to give adequate consideration to the act's "necessary and impair" standards when it ordered local carriers to provide access to their network elements. Those standards required the FCC to weigh whether such access was "necessary" to promote competition, and whether lack of access would "impair" a new entrant in the market.

With this portion of the decision, the justices ordered the FCC to develop a new set of rules to determine what network elements the local carriers would be required to sell to new competitors. The lower court would then be required to evaluate the revised rules in the context of the Supreme Court's decision.

Reaction-- Reed Hundt, who was chairman of the FCC when the Telecommunications Act was passed, January 25 praised the high court's ruling. Hundt said, "For three years Congress pounded the FCC, saying we didn't get it right. We were a rogue agency. But we said all along that Congress couldn't conceivably have passed a national policy without giving us authority to write national rules."

Baby Bells and GTE were heartened by the justices' decision to vacate the FCC's interconnection order. **William Barr**, GTE's general counsel, that day said, "Competitors increasingly will have to use their own equipment and the equipment of others, not just Bell and GTE facilities." He added, "We feel vindicated in our argument that the FCC went grossly overboard" in drafting its rules governing individual network elements.

Classification

Language: ENGLISH

Subject: LAW COURTS & TRIBUNALS (90%); COMMUNICATIONS LAW (90%); APPEALS (90%); DECISIONS & RULINGS (90%); ENERGY & UTILITY LAW (90%); BROADCASTING REGULATION (89%); PRICES (89%); LEGISLATION (78%); SUPREME COURTS (78%); AGENCY RULEMAKING (78%); ACQUISITIONS (66%)

Company: AT&T INC (96%); VERIZON COMMUNICATIONS INC (58%); AT&T INC (96%); VERIZON COMMUNICATIONS INC (58%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); IOWA UTILITIES BOARD (56%); IOWA UTILITIES BOARD (56%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); IOWA UTILITIES BOARD (56%); IOWA UTILITIES BOARD (56%)

Ticker: T (NYSE) (96%); VZC (LSE) (58%); VZ (NYSE) (58%)

Industry: TELECOMMUNICATIONS SERVICES (99%); LOCAL TELEPHONE SERVICE (91%); COMMUNICATIONS LAW (90%); TELEPHONE SERVICES (90%); ENERGY & UTILITY LAW (90%); TELECOMMUNICATIONS (90%); WIRED TELECOMMUNICATIONS CARRIERS (89%); LONG DISTANCE TELEPHONE SERVICE (89%); BROADCASTING REGULATION (89%); TELEVISION INDUSTRY (89%); UTILITIES INDUSTRY (89%); COMMUNICATIONS REGULATION & POLICY (89%); COMPUTER NETWORKS (78%); WIRELESS INDUSTRY (76%); COMPUTER SOFTWARE (73%); PUBLIC UTILITIES COMMISSIONS (73%); CABLE & OTHER DISTRIBUTION (66%)

Load-Date: February 18, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:26:40 p.m. EST

Supreme Court Restores Federal Rules Aimed at Opening Local-Phone Markets

The Wall Street Journal

January 26, 1999 Tuesday

THE WALL STREET JOURNAL.
U.S. EDITION

Section: Pg. A2

Length: 1059 words

Byline: By Stephanie N. Mehta and Edward Felsenthal, Staff Reporters of The Wall Street Journal

Body

The Supreme Court restored federal rules aimed at opening the $100 billion local-telephone market to rivals, dealing a blow to state utility regulators and the Baby Bell telephone companies.

The decision, hailed as a victory for the Federal Communications Commission and potential Bell competitors, returns authority for implementing the Telecommunications Act of 1996 to the FCC. This marks a shift away from the historic practice of letting the states dictate most local-telephone regulations. The Bells must adhere to the FCC's controversial "interconnection order," which forces them to lease their networks to rivals at deep discounts.

"It's clearly a good day for the FCC," said Scott Cleland, managing director of Legg Mason Precursor Group, adding that the decision "restores their primacy in setting telephone regulation."

The court ruled 5-3 that the FCC had the authority to issue the rules, although other portions of the decision were unanimous or 7-1. Justice Sandra Day O'Connor didn't participate in the case.

The court's ruling reverses a decision by the U.S. Court of Appeals for the Eighth Circuit in St. Louis. The earlier ruling essentially suspended the FCC interconnection order, prompting the states to begin setting their own pricing rules. In most cases, the states' prices closely mirrored the federal rules.

As a result, industry executives and state regulators said they don't expect the high court's ruling to affect existing agreements between the Baby Bells and competitors. "We hope we'll be able to work with the FCC to minimize any disruptions in existing contracts," said Bob Rowe, a member of the Montana Public Service Commission.

Still, the court ruling would lend a new uniformity to pricing policies by giving the commission jurisdiction to set those prices. That should make it easier in the future for competitive carriers seeking to do business across multiple states.

William Kennard, the FCC chairman, heralded the ruling as "a monumental victory for consumers who want choice among telephone providers."

The court unanimously upheld an FCC rule requiring the Bells to lease individual pieces of their networks to long-distance providers at predictable and generally discounted prices. But the court said the FCC didn't adequately take into account whether a network element was truly needed when the agency granted rivals blanket access to such network parts.

The Bells and GTE Corp. took solace in this part of the ruling. "Competitors increasingly will have to use their own equipment and the equipment of others, not just Bell and GTE facilities," said William Barr, GTE's general counsel. "We feel vindicated in our argument that the FCC went grossly overboard" in its rules governing the individual network pieces.

This portion of the decision could accelerate the Bells' deployment of high-speed Internet access services to consumers. Some of the Bells have said it would be unfair for them to invest billions to upgrade their networks for such high-speed services, only to be forced to lease those upgraded lines to rivals at government-mandated discounts. Under the Supreme Court ruling, the Bells could argue that such lines are not necessary for rivals to establish competing service.

Meanwhile, the Bells and GTE have another opportunity to oppose the FCC's pricing plan. The Eighth Circuit, which had stripped the FCC of its jurisdiction, must now consider the validity of the agency's national pricing scheme. Some observers believe the Bells and GTE may be successful in getting the Eighth Circuit to throw out the FCC pricing, since that court in the past has been friendly to the local carriers.

The Telecommunications Act of 1996 -- and the FCC rules that followed -- sought to open former monopolies to competition. The FCC rules aimed to make it easier for rivals -- the big long-distance companies, in particular -- to offer service to residential customers.

Instead, small upstart carriers and the long-distance companies until recently have ignored the residential market, choosing to serve businesses, which pay higher rates. These rivals have countered that the Baby Bells and GTE have stalled competition, in part, with legal challenges to the Telecom Act.

Separately, the Supreme Court reversed a lower court ruling that limited companies' flexibility to alter their retirement plans. The appeal stemmed from a claim by retired workers at General Motors Corp.'s Hughes Aircraft Co. to a share of a pension-plan surplus. The Hughes employees contended the company had changed its plan so much that it effectively ended it, triggering a provision in federal law that requires the distribution of some surpluses to workers.

Hughes changed its plan in 1989 to provide incentives for early retirement and again in 1991 to eliminate contributions by new employees and reduce their benefits. A federal judge initially concluded that Hughes had only amended the plan, not terminated it. The U.S. appeals court in San Francisco later ruled the workers had a legitimate claim.

Writing for a unanimous court yesterday, Justice Clarence Thomas said the employees didn't lose any retirement benefits when Hughes made the changes. He said defined benefits plans such as Hughes's place the risk on the employer, who must cover any underfunding or can reduce or suspend contributions if the plan is overfunded.

Kathy Chen contributed to this article.

Reassembling the Telecom Act

-- February 1996: President Clinton signs the act into law.

-- August 1996: The Federal Communications Commission sets rules for implementing the act, including the pricing and terms for connecting to local networks.

-- September 1996: GTE Corp. and the Bells file suit to block the FCC's order.

-- July 1997: The U.S. Court of Appeals for the Eighth Circuit in St. Louis throws out the FCC's pricing rules; SBC Communications challenges the constitutionality of a key part of the act.

-- December 1997: The U.S. District Court in Wichita Falls, Texas, declares part of the act unconstitutional.

-- July 1998: Federal appeals court in New Orleans overturns the Witchita Falls ruling.

-- January 1999: Supreme Court reinstates FCC jurisdiction over pricing.

Journal Link: For the full text of the Supreme Court's decision on phone rates, see The Wall Street Journal Interactive Edition at http://wsj.com

Notes

PUBLISHER: Dow Jones & Company

Load-Date: December 5, 2004

Document: High Court Says Local Phone Giants Don't Have to Sell Access

High Court Says Local Phone Giants Don't Have to Sell Access

The New York Times

January 26, 1999, Tuesday, Late Edition - Final

Distribution: Business/Financial Desk

Section: Section C; ; Section C; Page 1; Column 2; Business/Financial Desk ; Column 2;

Length: 959 words

Byline: By SETH SCHIESEL

By SETH SCHIESEL

Body

The Supreme Court yesterday issued a ruling that could delay efforts to open the $100 billion local telephone business to competition.

The Court overturned a Federal Communications Commission rule that had forced the Baby Bells and other local phone giants to sell access to almost all parts of their networks, such as copper wires and switching computers, to competitors.

Yesterday's decision could make it harder for new local phone companies to link to incumbents' systems, especially those that deliver advanced services like high-speed Internet access. That could put off the day when more than a handful of United States consumers have a choice of local phone company.

The Court also, however, handed the F.C.C. a big victory by ruling that the Telecommunications Act of 1996 gives the commission, not the states, general authority to set rules meant to enhance competition. The Court also upheld a handful of the commission's other regulations aimed at stimulating competition.

The rulings wrapped up a three-year legal battle among the Bell companies, the long-distance titans, the F.C.C. and the states over the jurisdiction and substance of local-telephone regulation.

"I woke up today with a bad case of the flu and was lying in bed and the news of the decision was an elixir," William E. Kennard, the commission's chairman, said. "It had a healing effect on my whole body."

"This should accelerate the pace of local competition because it will bring certainty to the implementation of the act," he added.

But in requiring the local phone incumbents to sell access to almost every part of their networks, the commission went too fast, the Court ruled. Network parts consist of hundreds of components, ranging from electronic boxes on the sides of homes to call-waiting software.

The commission violated the act by failing to consider whether forcing the local incumbents to provide access to each network part was "necessary" to promote competition and whether new entrants would be "impaired" by having to get the network part on their own, the Court said.

The commission must now develop a new set of rules to determine which parts of their networks the local phone giants must resell to competitors, using the "necessary and impair" standard. That process that could take months. And after the new rules are made, it is unlikely that the list of network parts the local phone incumbents are required to provide will be as long as it was before.

Daniel P. Reingold, head telecommunications analyst at Merrill Lynch, said the ruling could force new local companies to invest more on their own because they cannot rent access to the incumbents' systems.

Michael Salsbury, MCI Worldcom Inc.'s general counsel, and Mark C. Rosenblum, the AT&T Corporation's vice president for law and public policy, each ventured that the commission could legitimately keep all of the same network parts on the list.

But Mr. Kennard seemed to imply that was unlikely.

"We'll have to go back to the drawing board," he said. "There may be some skirmishes around the edges, but when the dust settles we know that the competitors will get access to that core of services which are necessary."

People close to the commission said it could become especially difficult to require the local incumbents to sell access to new technologies because it would be hard to define them as necessary to a new entrant. A person close to the commission said that an order on how the local phone giants must sell access to their high-speed Internet systems, which was set to be released as soon as Thursday, would have to be redrafted in light of yesterday's ruling.

"On the must-win defensive issue, the Bells won convincingly," said Scott Cleland, an analyst for the Legg Mason Precursor Group. "They essentially completely prevented a disaster."

One senior Bell company executive said yesterday that his company would use wrangling over the "necessary and impair" standard to advance his company's long-distance aspirations.

Another complication is that the local incumbents could potentially challenge many of the hundreds of deals they have made to connect their networks to those of their competitors, many of which were based on the assumption that the incumbents had to sell access to all of their systems.

"They are all potentially subject to challenge," said **William P. Barr**, chief counsel for the GTE Corporation.

One question is whether either new entrants or incumbents will be willing to negotiate during a time of regulatory uncertainty.

"We've got to come up with some interim guidance to the industry and we're going to be digging into that in the next several days," Mr. Kennard said. "We hope that people will take a deep breath and wait."

Meanwhile, the Court's upholding of some of the F.C.C.'s other regulations for local phone competition -- such as a rule forbidding incumbents to break up network parts they generally provide in a package -- will advance the commission's plans. And the ruling giving the F.C.C., not the states, general authority to make the rules for local telephone competition will surely resonate in Washington. Since the act's passage, the commission has come in for blistering criticism from some members of Congress for its aggressive approach to regulation.

"I feel totally vindicated," said Reed E. Hundt, Mr. Kennard's predecessor, who was vilified by many politicians and local phone executives before and after retiring in 1997. "For three years I and then Chairman Kennard were told that we were running a rogue agency and that we needed to learn how to read. And it turned out we were right."

He added, "This means that Bill Kennard is the man and that I'm going to Disneyland."

http://www.nytimes.com

Classification

Language: ENGLISH

Subject: DECISIONS & RULINGS (90%); COMMUNICATIONS LAW (89%); ENERGY & UTILITY LAW (89%); LITIGATION (89%); CONSUMERS (78%); APPEALS (78%); US FEDERAL GOVERNMENT (78%); LEGISLATION (78%); PUBLIC POLICY (78%); AGENCY RULEMAKING (78%); LAWYERS (75%); LAW COURTS & TRIBUNALS (73%); SUPREME COURTS (73%); CORPORATE COUNSEL (67%); INFLUENZA (51%)

Company: AT&T INC (85%); VERIZON COMMUNICATIONS INC (84%); MERRILL LYNCH & CO INC (58%); SUPREME COURT (US); FEDERAL COMMUNICATIONS COMMISSION AT&T INC (85%); FEDERAL COMMUNICATIONS COMMISSION AT&T INC (85%); VERIZON COMMUNICATIONS INC (84%); MERRILL LYNCH & CO INC (58%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); SUPREME COURT (US); FEDERAL COMMUNICATIONS COMMISSION FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Ticker: T (NYSE) (85%); VZC (LSE) (84%); VZ (NYSE) (84%)

Industry: WIRED TELECOMMUNICATIONS CARRIERS (90%); TELEPHONE SERVICES (90%); LOCAL TELEPHONE SERVICE (90%); TELECOMMUNICATIONS SERVICES (90%); COMMUNICATIONS REGULATION & POLICY (90%); COMMUNICATIONS LAW (89%); ENERGY & UTILITY LAW (89%); TELECOMMUNICATIONS (89%); BROADBAND (78%); COMPUTER NETWORKS (77%); LAWYERS (75%); COMPUTER SOFTWARE (71%); INTERNET & WWW (70%); CORPORATE COUNSEL (67%)

Geographic: UNITED STATES (79%)

Load-Date: January 26, 1999

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:38:35 p.m. EST

Document: FCC bests regional Bells; Court defines telecom rules

FCC bests regional Bells; Court defines telecom rules

The Boston Herald

January 26, 1999 Tuesday, ALL EDITIONS

Section: FINANCE;

Length: 442 words

Byline: By JENNIFER HELDT POWELL

Body

The U.S. Supreme Court dealt a blow to Bell Atlantic, GTE and other regional Bells with a ruling yesterday that clarifies the 1996 Telecommunications Act and smoothes the way for local telephone service competition.

The ruling defines the rules incumbent telephone carriers must follow when leasing equipment to challengers and gives the Federal Communications Commission the power to set the rates, which had been set by the states.

"This will have a dramatic impact on opening up that market like it was intended to be," said Fred Voit, senior analyst with the Yankee Group.

A federal pricing scheme provides more certainty, Voit said.

The rate ruling will have little effect in Massachusetts, where regulators had followed federal pricing guidelines, but it limits their flexibility, the regulators said.

"I'm disappointed, I think state regulators have the best knowledge about the rate structures in this area," said Department of Telecommunications and Energy Commissioner Paul Vasington. "I think Massachusetts customers would be better served by having those decisions made here."

The court's 8-0 decision marked a win for the FCC, which wrote the rules.

Despite court battles, Bell Atlantic has been opening the local market to competitors, James G. Cullen, president and chief operating officer, claimed in a written statement. "As of the end of 1998, Bell Atlantic had spent $ 1 billion and dedicated more than 1,000 employees to opening the local marketplace to competition," he said.

William Kennard, FCC chairman, said the ruling was "a monumental victory for consumers who want choice among telephone providers," and called on all parties to drop further legal challenges to the Telecom Act.

But some carriers appeared ready to launch another round of court battles. GTE general counsel **William Barr** said the ruling opened the door to challenging the substance of some FCC rules.

"We will vigorously contest the lawfulness of the FCC's pricing methodology and we expect to prevail," Barr said.

The justices did side with the Bells and GTE on one point today. They told the FCC to take another look at rules letting competitors lease individually seven "unbundled" elements of existing networks - such as the line that runs from the street to the house and the box that connects the outside lines to the inside of the house.

The court told the FCC to consider whether each of the seven elements is "necessary" for competition. The regional carriers say they should only have to provide the so-called local loop connecting individual homes to the network.

HERALD WIRE SERVICES CONTRIBUTED TO THIS STORY

Classification

Language: ENGLISH

Subject: ENERGY & UTILITY LAW (90%); COMMUNICATIONS LAW (89%); PRODUCT PRICING (89%); US FEDERAL GOVERNMENT (78%); CONSUMERS (77%); CAPITAL EQUIPMENT LEASING (77%); US STATE GOVERNMENT (76%); LAWYERS (75%); LAW COURTS & TRIBUNALS (73%); SUPREME COURTS (73%); EXECUTIVES (66%); CORPORATE COUNSEL (63%)

Company: VERIZON WIRELESS INC (92%); YANKEE GROUP (57%); VERIZON WIRELESS INC (92%); YANKEE GROUP (57%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); SUPREME COURT OF THE UNITED STATES (91%); SUPREME COURT OF THE UNITED STATES (91%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); SUPREME COURT OF THE UNITED STATES (91%); SUPREME COURT OF THE UNITED STATES (91%)

Industry: ENERGY & UTILITY LAW (90%); TELECOMMUNICATIONS (90%); COMMUNICATIONS REGULATION & POLICY (90%); COMMUNICATIONS LAW (89%); PRODUCT PRICING (89%); TELEPHONE SERVICES (89%); PUBLIC UTILITIES COMMISSIONS (78%); LOCAL TELEPHONE SERVICE (78%); CAPITAL EQUIPMENT LEASING (77%); LAWYERS (75%); CORPORATE COUNSEL (63%)

Geographic: MASSACHUSETTS, USA (92%); UNITED STATES (79%)

Load-Date: January 26, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:25:03 p.m. EST

COURT REINSTATES RULES ON LOCAL PHONE MARKETS; TELECOM: DECISION UPHOLDS FCC'S AUTHORITY TO ENCOURAGE COMPETITION BY IMPOSING REGULATIONS ON REGIONAL CARRIERS.

Los Angeles Times

January 26, 1999, Tuesday,, Home Edition

Section: Business; Part C; Page 1; Financial Desk; Top Story

Length: 750 words

Byline: JUBE SHIVER Jr., TIMES STAFF WRITER

Dateline: WASHINGTON

Body

In a decision that could lead to lower phone bills nationwide, the Supreme Court reinstated complex federal rules aimed at opening up the $ 100-billion local phone market to competition.

The high court upheld the authority of the Federal Communications Commission to set the price, terms and conditions that GTE Corp., PacBell parent SBC Communications Inc. and the four other regional Bell telephone companies must offer in sharing their communication facilities with rivals.

However, the Supreme Court instructed the FCC to be more specific about what kinds of communication equipment and services the existing carriers are required to share with rivals.

"This is the end of the first wave of resistance to telecom reform," said Michael Salsbury, general counsel for long-distance giant MCI WorldCom Inc., which, along with AT&T Corp., had petitioned the Supreme Court to take up the telephone case. "This means FCC can make broad national rules to foster competition."

To promote competition in accordance with the Telecommunications Act of 1996, the FCC approved rules in August 1996 requiring the Baby Bells and GTE to offer their competitors--which range from small

start-ups such as RCN Corp. to long-distance giants such as AT&T--access to their local phone network at discounted prices.

Regulators hoped the plan would jump-start local phone competition by enabling new carriers to compete with incumbents more quickly than if they were required to construct their own networks from scratch.

But the Baby Bells balked, suing on grounds that the FCC did not have the authority to supersede state and local regulation.

The Supreme Court decision puts more pressure on the Bells to open their markets in accordance with federal law and makes it more financially appealing for rivals to challenge the Bells.

The decision was the second defeat in a week for GTE and the Baby Bells, which provide more than 80% of the local phone service in the United States.

Last Tuesday, the Supreme Court rejected an appeal by Bell Atlantic Corp., SBC and US West Inc. to lift long-distance restrictions Congress placed on the Baby Bells when it passed the Telecommunications Act in 1996.

"This latest decision is good news for the consumer," said Mark Cooper, policy director for the Consumer Federation of America. "We think there is about $ 10 a month of excess charges on phone bills that can be squeezed out" by competition.

Indeed, as a result of the Telecommunications Act, supporters say local telephone competition is already proceeding at a faster pace than long-distance competition, where it took 15 years for challengers to gain 40% of the long-distance market.

According to John Windhausen, president of the Assn. for Local Telecommunications Carriers in Alexandria, Va., new phone entrants now control 3% of the nation's local phone lines and 5% of local telephone revenues, figures nearly double the totals of a year ago.

But GTE--which has agreed to be acquired by Bell Atlantic for about $ 58 billion--vowed to carry on its legal fight notwithstanding the Supreme Court ruling. And experts were not surprised.

"While the court, by a bare majority, upheld the FCC's jurisdiction to impose pricing rules . . . the substantive validity of those pricing rules is now open to challenge," said **William P. Barr**, GTE's general counsel. "We will vigorously contest the lawfulness of the FCC's" rules.

"Unfortunately, I think these people are hard learners," said Jeanne Schaaf, a senior telecommunications analyst at Forrester Research in Cambridge, Mass. "I don't think the court decision will change them . . . only more competition" will.

But some Baby Bells on Monday were sounding considerably less competitive than GTE following the court ruling. Several carriers say they have changed their tune and are trying to tone down their aggressiveness and be more accommodating of regulators.

Bell Atlantic spokesman Shannon Fioravanti, for example, said the carrier is currently working closely with New York state officials in hopes of becoming the first regional Bell in the country to be granted permission to offer long-distance service.

Shares of GTE and the Bells dropped after the ruling. GTE lost $ 4 to close at $ 64.75, SBC fell $ 2.31 to close at $ 54.31, and BellSouth Corp. dropped $ 5.06 to close at $ 43. Bell Atlantic lost $ 4.25 to close at $ 54.44 and US West declined $ 4.06 to close at $ 57.38. All trade on the New York Stock Exchange.

Classification

Language: English

Subject: DECISIONS & RULINGS (90%); SUPREME COURTS (90%); ENERGY & UTILITY LAW (90%); LAW COURTS & TRIBUNALS (89%); COMMUNICATIONS LAW (89%); APPEALS (89%); US FEDERAL GOVERNMENT (89%); LEGISLATION (78%); PUBLIC POLICY (78%); APPROVALS (77%); CONSUMER PROTECTION (77%); PRICES (77%); LAWYERS (75%); SUITS & CLAIMS (73%); PETITIONS (73%);

CONSUMER WATCHDOGS (70%); CORPORATE COUNSEL (69%)

Company: AT&T INC (95%); VERIZON COMMUNICATIONS INC (95%); RCN CORP (68%); U S WEST INC (63%); AT&T INC (95%); VERIZON COMMUNICATIONS INC (95%); RCN CORP (68%); U S WEST INC (63%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Ticker: T (NYSE) (95%); VZC (LSE) (95%); VZ (NYSE) (95%)

Industry: TELECOMMUNICATIONS SERVICES (99%); ENERGY & UTILITY LAW (90%); TELECOMMUNICATIONS (90%); LOCAL TELEPHONE SERVICE (90%); COMMUNICATIONS LAW (89%); TELEPHONE RATES (89%); LONG DISTANCE TELEPHONE SERVICE (89%); TELEPHONE SERVICES (89%); COMMUNICATIONS REGULATION & POLICY (89%); LAWYERS (75%); TELECOMMUNICATIONS EQUIPMENT (72%); CORPORATE COUNSEL (69%)

Geographic: VIRGINIA, USA (79%); UNITED STATES (92%)

Load-Date: January 26, 1999

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 04:43:10 p.m. EST

Document: ANALYST WARNS INTERCONNECTION DECISION COUL...

ANALYST WARNS INTERCONNECTION DECISION COULD CAUSE UNCERTAINTY

WASHINGTON TELECOM NEWSWIRE

January 26, 1999, Tuesday

Section: WTN NOTEBOOK

Length: 207 words

Body

Despite the bullish reactions by the FCC and competitive local exchange carriers, the Supreme Court decision on interconnection rules could delay local telephone competition or at least limit the way it is provided, Merrill Lynch analyst Dan Reingold warned today in a conference with the investment community. He said that the high court injected uncertainty about the use of unbundled network elements (UNEs) that could result in another round of court action lasting as long as two years.

Reingold was among several who said the Supreme Court's decision could limit how much competitors can use UNEs as a means of entering the local telecom market. Reingold said the decision appears to favor competitors that use their own facilities because use of UNE platforms as an entry strategy may be placed in limbo for awhile. GTE General Counsel **William Barr** said in a conference call with analysts yesterday that GTE may challenge current UNE platform (UNE-P) arrangements with competitors because the Supreme Court decision may change UNE rules. Washington communications attorney Chris Savage said he expects the FCC to issue an interim order emphasizing that current UNE rules are in effect until new ones are written. (WTN 119-99)

Classification

Language: ENGLISH

Subject: LAW COURTS & TRIBUNALS (90%); APPEALS (90%); DECISIONS & RULINGS (90%); SUPREME COURTS (90%); LAWYERS (74%); CORPORATE COUNSEL (68%)

Company: MERRILL LYNCH & CO INC (58%); MERRILL LYNCH & CO INC (58%); FEDERAL COMMUNICATIONS COMMISSION (91%); FEDERAL COMMUNICATIONS COMMISSION (91%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (91%); FEDERAL COMMUNICATIONS COMMISSION (91%)

Ticker: MLY (LSE) (58%); MER (NYSE) (58%); 8675 (TSE) (58%)

Industry: LOCAL TELEPHONE SERVICE (90%); TELECOMMUNICATIONS (78%); TELECOMMUNICATIONS SERVICES (78%); CONFERENCE CALLS (78%); LAWYERS (74%); INDUSTRY ANALYSTS (72%); CORPORATE COUNSEL (68%)

Geographic: UNITED STATES (79%)

Load-Date: January 27, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:24:35 p.m. EST

Communications: FCC Has Power Over Local Phone Pricing, but Rules Must Be Improved, Justices Say

ANTITRUST & TRADE REGULATION DAILY

January 26, 1999

Section: NEWS

Length: 1426 words

BNA Snapshot

By Nadya Aswad

Body

WASHINGTON (BNA) -- The Federal Communications Commission did not exceed its jurisdiction in promulgating rules governing the pricing of local intrastate telephone services that incumbent local exchange carriers must offer to new market entrants, the U.S. Supreme Court decided Jan. 25 (AT&T v. Iowa Utilities Board U.S., No. 97-826, 1/25/99).

The high court's ruling was cheered on both sides. The FCC found a "victory for consumers" in the court's approval of its authority to establish a methodology for setting prices that incumbent local exchange carriers must charge to new market entrants.

Companies challenging the FCC's local market entry regulations claimed victory because the Supreme Court's decision directs the FCC to revisit earlier determinations on which elements of local network service must be provided to new entrants. Also, the lawfulness of the pricing methodology prescribed by the FCC is still a live issue in the wake of the court's action today, they claimed.

"Since the Court did not rule on the merits of the FCC's current pricing rules, many of the most significant decisions on local competition lie ahead," said Ameritech executive vice president Kelly Walsh.

Sharp Split Over FCC Authority.

The Supreme Court, speaking through Justice Antonin Scalia, held that the FCC has jurisdiction under the 1996 Telecommunications Act to design a pricing methodology and to promulgate rules regarding state review of pre-existing interconnection agreements between incumbent local exchange carriers (ILECs) and other carriers.

The 1996 statute obligates current providers of local telephone service to facilitate the entry of competing companies into local telephone markets. A group of incumbent LECs and state utility commissions challenged the FCC's First Report and Order, which established a framework to implement the statute's competition provisions. The cases were consolidated in the Eighth Circuit, which, among other things, found that the FCC exceeded its authority in issuing the pricing regulations.

A five-justice majority of the Supreme Court reversed that ruling. In enacting the 1996 statute, Congress expressly directed that it be inserted into the 1934 Communications Act, which states, at 47 U.S.C. § 201(b), that "[t]he Commission may prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this Act." By becoming a part of this earlier law, the 1996 statute -- including its local competition provisions -- is subject to the FCC's broad regulatory authority, the court said.

The 1934 statute also states, at 47 U.S.C. § 152(b), that "nothing in this chapter [with specified exceptions] shall be construed to apply or to give the [FCC] jurisdiction with respect to … charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate communications service."

The court rejected the ILECs' argument that because the local competition measures are not specified as exceptions, the presumption remains that states retain their traditional authority over local telephone service. This reasoning was flawed, the court said, because it "ignores the fact that § 201(b) explicitly gives the FCC jurisdiction to make rules governing matters to which the 1996 Act applies."

Justice Clarence Thomas, joined by Chief Justice William H. Rehnquist and Justice Stephen G. Breyer dissented on the authority question. The regulations challenged on jurisdictional grounds "contravene the division of authority set forth in the 1996 Act and disregard the 100-year tradition of state authority over intrastate telecommunications," Thomas said.

Unbundling Rules.

The FCC promulgated a number of rules to implement the 1996 statute's requirement that requesting carriers be allowed to lease elements of an incumbent's network "on an unbundled basis." Only one rule ran into trouble: 47 C.F.R. § 51.319, which requires incumbents to give requesting carriers access to a minimum of seven network elements. A separate rule calls for access to additional elements on a case-by-case basis.

The Telecommunications Act directs the FCC to consider, when deciding what network elements should be made available, "whether (A) access to such network elements as are proprietary in nature is necessary; and (B) the failure to provide access to such network elements would impair the ability of the telecommunications carrier seeking access to provide the services that it seeks to offer."

The court said the FCC failed to use any limiting standard at all in fashioning its rule and thereby did not comply with the statutory command. Under the FCC's view, the "necessary" standard was met even if requesting carriers could obtain the requested proprietary element from another source, and the "impairment" standard was satisfied if the competitor would experience any increase in cost or decrease in quality if the element were denied. Under this methodology, the new entrants, rather than the FCC, determine whether access is necessary or whether impairment would occur in its absence, the court said.

This scheme impermissibly allows the FCC to "blind itself to the availability of elements outside the incumbent's network," and distorts the "ordinary and fair meaning" of the terms "necessary" and "impair," the court said, vacating the rule.

Justice David H. Souter dissented on this point. The FCC "was approaching the task of giving reasonable interpretations to 'necessary' and 'impair' by asking whether Congress would have mandated economic inefficiency as a limit on the objective of encouraging competition through ease of market entry." The commission's decision to give primacy to that question is entitled to deference in light of the statute's ambiguity, Souter said, and its reading of the statute is reasonable as a consequence.

Although the court vacated the rule, it said the FCC reasonably determined in the rule that features, such as operational support systems, operator services, directory assistance, and vertical switching services, qualify as network elements subject to the statute's unbundling requirements.

Pick and Choose Rule.

The court also upheld the FCC's "pick and choose" rule, which enables competitors to selectively choose contractual terms from among those the ILEC previously negotiated with other carriers. Challengers argued that the rule unfairly allows new entrants to avoid becoming subject to all the terms of an agreement. Acknowledging the reasonableness of this argument, the court nonetheless found it "hard to declare the FCC's rule unlawful when it tracks the pertinent statutory language almost exactly."

Justice Sandra Day O'Connor, who owns shares of AT&T stock, did not participate in the case.

Both Sides Claim Big Victory.

The high court's decision "is a monumental victory for consumers who want choice among telephone providers," said FCC Chairman William E. Kennard. The Supreme Court "affirmed the most important components of the national blueprint for competition as designed by Congress and implemented by the FCC," said Kennard.

"This is an excellent time to reaffirm our partnership with the states and to work together for the benefit of consumers," said FCC Commissioner Susan Ness.

But there was consolation for the ILECs. The Supreme Court, while granting the FCC a lot of authority, said that FCC has to go back to the drawing board [on Rule 319] on what parts of the phone network are necessary to be provided to competitors, "a significant victory for the Bells and GTE," said Scott Cleland, an industry analyst with Legg Mason's Washington office.

"Today's decision helps solidify the rules of the road for competitive entry into local markets and sets in place a framework that the entire industry can follow," said Rep. Thomas J. Bliley (R-Va.), chairman of the House Commerce Committee.

The ruling on network elements was a "smashing victory," said William P. Barr, GTE executive vice president and general counsel. "While the Court, by a bare majority, upheld the FCC's jurisdiction to impose pricing rules on the states, the substantive validity of those pricing rules is now open to challenge on remand in the Eighth Circuit," said Barr. "We will vigorously contest the lawfulness of the FCC's total element long-run incremental cost (TELRIC) pricing methodology, and we expect to prevail," he said.

Load Date: June 18, 2004

Document: Supreme Court Upholds FCC Competition Rules - Update

Supreme Court Upholds FCC Competition Rules - Update

Newsbytes

January 25, 1999, Monday

Section: NEWS

Length: 920 words

Byline: Robert MacMillan;Newsbytes

Dateline: WASHINGTON, DC, U.S.A.

Body

The US Supreme Court today issued a split decision that upholds many of the Federal Communications Commission's (FCC) rules that are supposed to promote local telephone competition.

The decision overturns an 8th Circuit Appeals Court ruling in favor of local telephone companies, which had supported individual states' rights in setting local competition rules.

The FCC's original 1996 rules, as defined in the Telecommunications Act, call on incumbent local exchange carriers (ILECs) such as the baby Bells, to open their local phone networks at highly discounted prices.

House Commerce Committee Chairman Thomas Bliley, R-Va., called the decision a "big win" for the Telecom Act. "Once again, the Telecommunications Act has passed another test… This is a good birthday present as we approach the third anniversary of the (Act)," Bliley said. "Today's decision helps solidify the rules of the road for competitive entry into local markets and sets in place a framework that the entire industry can follow."

Senate Commerce Committee Chairman John McCain, R-Ariz., was more critical of the Act, saying that its various rulings on several issues "underscores the Telecom Act's ambiguity that has led to biased rulings by the FCC."

ILECs challenged the original rules, saying that state commissions should set the basic rules for competition, but the FCC has argued that a federal competition policy is better. ILECs also claim

that they have the right to offer their network services to would-be competitors at higher-than-average rates.

The rules set forth by the FCC were supposed to usher in the promised telecommunications competition that until now has never existed in any widespread form in the US. However, the constant court challenges in federal and state settings have forbidden such competition from achieving more than baby steps in most markets in the US.

The Supreme Court did not prohibit state regulators and ILECs from challenging the individual aspects of various federal rules.

"While the court, by a bare majority, upheld the FCC's jurisdiction to impose pricing rules on the states, the substantive validity of those pricing rules is now open to challenge on remand in the 8th Circuit," said GTE Executive Vice President and General Counsel **William P. Barr**.

A GTE official told Newsbytes that the company will not file a new lawsuit challenging the Supreme Court's decision not to review the FCC's pricing rules.

Telecommunications analyst Jeffrey Kagan said that it is likely that ILECs will challenge these aspects.

"If unchallenged by the Bells, this ruling may indeed have the effect of opening local markets faster. Competitors don't have to juggle the rules and rates of 50 different states," Kagan said, adding that baby Bells would be happier with 50 different sets of rules because it would slow the efforts of competitive local exchange carriers(CLECs) and long distance companies that are trying to break into the local market. "Basically we are back to square one."

"The decision essentially returns us to August 1996 when the FCC's rules were first issued," said MCI-WorldCom Inc. General Counsel Michael H. Salsbury. "The question now is whether the incumbent local carriers will comply with the law of the land or subject consumers to additional years of litigation delays."

Although the decision is a loss for the baby Bells, Justice Antonin Scalia, writing for the court, said the FCC did not give adequate consideration to all the issues involved when it adopted regulations that require traditional local phone companies to provide competitors with access to various unbundled network elements.

BellSouth Corp. Associate General Counsel William Barfield in a statement praised the court's decision to nix the FCC's unbundled network elements criteria. "(T)he court did agree with us that the FCC was overly broad in defining which parts of our network we would be required to separate out and sell to our competitors at bargain- basement prices," Barfield said. "It was the intent of Congress -- and fairness would dictate -- that we should not be required to sell to our competitors network elements that they can easily obtain elsewhere on their own."

The court said that the FCC cannot allow those competitors to "pick and choose" different local elements -- that is, to buy or lease various aspects of the ILECs' network elements -- at whatever terms they want.

"This ruling might have the desired effect of opening local markets more quickly, but at terms the Bells won't like too much," Kagan said. "They would have preferred to unbundle the network elements and force competitors to rebundle them at a higher cost."

In an AT&T statement, General Counsel Jim Cicconi said that "Although the court vacated and sent back an FCC rule that defines network elements, the decision does not mean that the FCC's list of elements is wrong -- merely that the FCC needs to consider additional factors in defining network elements."

In a Bell Atlantic statement, President and Chief Operating Officer James G. Cullen said that "today's decision makes it clear that elements of our network do not have to be unbundled when they are available from other sources, including pieces competitors can provide by themselves."

Reported by Newsbytes News Network, "http://www.newsbytes.com">http://www.newsbytes.com .

16:35 CST

(19990125/WIRES TELECOM, ONLINE, LEGAL, BUSINESS/)

Classification

Language: ENGLISH

Subject: US REPUBLICAN PARTY (90%); COMMUNICATIONS LAW (90%); ENERGY & UTILITY LAW (90%); LAW COURTS & TRIBUNALS (89%); DECISIONS & RULINGS (89%); SUPREME COURTS (89%); LITIGATION (89%); ANTITRUST & TRADE LAW (89%); APPELLATE DECISIONS (78%); PUBLIC POLICY (78%); JURISDICTION (78%); LAWYERS (75%); RESTRAINT OF TRADE (74%); DRIVING & TRAFFIC LAWS (73%); SUITS & CLAIMS (73%); APPEALS COURTS (73%); ANNIVERSARIES (69%); US PRESIDENTIAL CANDIDATES 2008 (67%); CORPORATE COUNSEL (60%)

Company: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); SUPREME COURT OF THE UNITED STATES (93%); SUPREME COURT OF THE UNITED STATES (93%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); SUPREME COURT OF THE UNITED STATES (93%); SUPREME COURT OF THE UNITED STATES (93%)

Industry: TELECOMMUNICATIONS (92%); LOCAL TELEPHONE SERVICE (91%); COMMUNICATIONS LAW (90%); ENERGY & UTILITY LAW (90%); TELECOMMUNICATIONS SERVICES (90%); COMMUNICATIONS REGULATION & POLICY (89%); TELEPHONE SERVICES (77%); LAWYERS (75%); DRIVING & TRAFFIC LAWS (73%); TELEPHONIC EQUIPMENT (72%); INDUSTRY ANALYSTS (70%); CORPORATE COUNSEL (60%)

Person: JOHN MCCAIN (58%)

Geographic: UNITED STATES (93%)

Load-Date: January 27, 1999

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 09:11:18 p.m. EST

Document: Summary: Supreme Court strikes down blanket unbundling …

Summary: Supreme Court strikes down blanket unbundling rules and opens door for challenge to TELRIC pricing scheme.

Business Wire

January 25, 1999, Monday

Length: 332 words

Dateline: WASHINGTON

Body

Jan. 25, 1999-- Background: The United States Supreme Court Monday issued its ruling in AT&T v. Iowa Utilities Board, Nos. 826 et al. By a vote of 7-1, the Court ruled that the FCC failed to construe properly the legal standards in section 251(d)(2) of the Telecommunications Act of 1996 that govern which network elements incumbent carriers must make available.

It therefore vacated in its entirety the FCC rule (51.319) that sets forth the network elements that incumbent carriers must provide. By a vote of 5-3, the Court upheld the jurisdiction of the FCC to issue rules purporting to implement the pricing provisions of sections 251 and 252. The Court did not rule on the substantive validity of the pricing rules.

GTE Corp. issued the following statement regarding the ruling:

"Today's ruling on network elements is a smashing victory," said GTE's Executive Vice President and General Counsel **William P. Barr**, who argued the network elements issues on behalf of incumbent carriers before the Court. "The Supreme Court has said clearly and forcefully that the FCC unlawfully imposed blanket unbundling requirements on incumbent carriers. This ruling sounds the death knell of sham unbundling." Barr added: "While the Court, by a bare majority, upheld the FCC's jurisdiction to impose pricing rules on the States, the substantive validity of those pricing rules is now open to

challenge on remand in the Eighth Circuit. We will vigorously contest the lawfulness of the FCC's total element long - run incremental cost (TELRIC) pricing methodology, and we expect to prevail."

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Today's News On The Net - Business Wire's full file on the Internet
with Hyperlinks to your home page.
URL: http://www.businesswire.com

Classification

Language: ENGLISH

Subject: LAW COURTS & TRIBUNALS (90%); DECISIONS & RULINGS (90%); SUPREME COURTS (90%); ENERGY & UTILITY LAW (90%); SUITS & CLAIMS (78%); AGENCY RULEMAKING (78%); LEGISLATION (77%); CORPORATE COUNSEL (72%); LAWYERS (72%); COMMUNICATIONS LAW (71%)

Company: VERIZON COMMUNICATIONS INC (84%); DC-GTE VERIZON COMMUNICATIONS INC (84%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); SUPREME COURT OF THE UNITED STATES (92%); SUPREME COURT OF THE UNITED STATES (92%); IOWA UTILITIES BOARD (84%); IOWA UTILITIES BOARD (84%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); SUPREME COURT OF THE UNITED STATES (92%); SUPREME COURT OF THE UNITED STATES (92%); IOWA UTILITIES BOARD (84%); IOWA UTILITIES BOARD (84%); DC-GTE FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); SUPREME COURT OF THE UNITED STATES (92%); SUPREME COURT OF THE UNITED STATES (92%); IOWA UTILITIES BOARD (84%); IOWA UTILITIES BOARD (84%)

Ticker: VZC (LSE) (84%); VZ (NYSE) (84%); GTE VZC (LSE) (84%); VZ (NYSE) (84%)

Industry: ENERGY & UTILITY LAW (90%); PUBLIC UTILITIES COMMISSIONS (78%); COMPUTER NETWORKS (77%); INTERNET & WWW (77%); TELECOMMUNICATIONS (76%); CORPORATE COUNSEL (72%); LAWYERS (72%); COMMUNICATIONS LAW (71%)

Geographic: UNITED STATES (79%)

Load-Date: January 26, 1999

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 09:09:41 p.m. EST

Document: KENNARD CALLS SUPREME COURT DECISION A MONU...

KENNARD CALLS SUPREME COURT DECISION A MONUMENTAL VICTORY'

WASHINGTON TELECOM NEWSWIRE

January 25, 1999, Monday

Section: TODAY'S NEWS

Length: 596 words

Body

FCC Chairman William Kennard said today's divided Supreme Court decision upholding most of the Commission's interconnection rules is a "monumental victory" for consumers. In the first reaction to the lengthy decision, Kennard said the Court reaffirmed "the most important components" of the interconnection rules. "It's time to stop investing in litigation and focus instead on opening local phone markets to competition," Kennard said. In preliminary reactions, GTE and CompTel agreed with Kennard that the decision will benefit consumers.

The Court voted 5-3 to overturn the 8th Circuit Appeals Court decision on the interconnection rules, which it said exceeded the FCC's jurisdiction. Justice Antonin Scalia, writing for the majority, held that the FCC has "general jurisdiction" to impose rules for local competition (WTN 108-99, January 25). The Court also said that the FCC's unbundling access rules -- except for one section -- were consistent with the act. The court threw out that section of the rules.

GTE said the decision on network elements was a "smashing victory" while CompTel said it was "very pleased" with the overall decision. GTE Executive Vice President **William Barr** said the 7-1 decision to eliminate the network elements section "sounds the death knell of sham unbundling." The Court's 5-3 vote to uphold pricing elements will allow companies to return to court to challenge the rules. GTE will "vigorously contest" those rules.

Early reaction from other major players was mixed. Bell Atlantic President James Cullen said the decision will have limited effect on the telecom market since competition is already developing. He said the decision makes it clear the Bell companies don't have to unbundle network elements when such facilities are available elsewhere. Competitors have deployed "their own switches, fiber, operator services and other elements they clearly do not need from us," Cullen said.

The Personal Communications Industry Association said the decision removed any lingering hurdles blocking "fair interconnection" between all telecom carriers. Senior Vice President Mary McDermott hailed

the decision an "important victory" for the Commission and urged swift action to "play a strong a decisive role in interconnection."

At issue is how the FCC developed a rule that forbids incumbents to separate already combined network elements before leasing them to competitors. The Court said the FCC "did not adequately consider" all factors when developing the rule. Scalia wrote that the Commission's premise was incorrect, since the law required it to determine "on a rational basis" which network elements to be made available, considering the "necessary" requirements.

Although upholding the Telecom Act, Scalia noted that the Act is a "model of ambiguity or indeed even self-contradiction." He added: "That is most unfortunate for a piece of legislation that profoundly affected a critical segment of the economy worth tens of billions of dollars."

In separate opinions, Justice David Souter dissented from that part of the decision relating to unbundling. Justices Clarence Thomas, Stephen Breyer and Chief Justice William Rhenquist dissented from the conclusion that the FCC was within its jurisdiction on setting prices, and wrote that the majority gave the Commission "unbounded authority" to regulate issues that traditionally had been left to the states. On his own, Breyer wrote that the FCC's unbundling rules are unlawful since they fail to provide reasons for incumbents to share services. (WTN 111-99)

Classification

Language: ENGLISH

Subject: CONSUMERS (90%); DECISIONS & RULINGS (90%); LITIGATION (90%); ENERGY & UTILITY LAW (89%); LAW COURTS & TRIBUNALS (78%); APPEALS (78%); APPELLATE DECISIONS (78%); SUPREME COURTS (73%); APPEALS COURTS (73%); ASSOCIATIONS & ORGANIZATIONS (73%); EXECUTIVES (71%); COMMUNICATIONS LAW (68%); FIBER OPTICS (63%)

Company: COMMUNICATIONS INDUSTRIES ASSOCIATION OF JAPAN (52%); COMMUNICATIONS INDUSTRIES ASSOCIATION OF JAPAN (52%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Industry: ENERGY & UTILITY LAW (89%); TELECOMMUNICATIONS (89%); COMMUNICATIONS REGULATION & POLICY (89%); TELECOMMUNICATIONS SERVICES (79%); LOCAL TELEPHONE SERVICE (76%); PERSONAL COMMUNICATIONS SERVICE (74%); COMMUNICATIONS LAW (68%); FIBER OPTICS (63%)

Person: ANTONIN SCALIA (78%)

Load-Date: January 26, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:24:03 p.m. EST

Document: A COURTLY UPHOLDING OF LAW'S RIGHTNESS;4TH CIR...

A COURTLY UPHOLDING OF LAW'S RIGHTNESS; 4TH CIRCUIT'S RULINGS ARE RARELY OVERTURNED

Richmond Times Dispatch (Virginia)

January 10, 1999, Sunday,, CITY EDITION

Section: AREA/STATE,

Length: 3235 words

Byline: Mark Johnson; Media General News Service; And Tom Campbell; Times-Dispatch Staff Writer

Body

Kenneth Starr, the nation's best-known prosecutor, took time off from investigating President Clinton last summer to argue a case before the 4th U.S. Circuit Court of Appeals in Richmond.

It was a rich one - an appeal of a $ 390 million decision against his client, Meineke Discount Muffler Shops Inc.

After Starr and the plaintiffs' lawyers finished, the three black-robed judges on the panel announced they would greet counsel.

They got up from their chairs and marched in line down from the podium, across the courtroom's putting-green carpet, past the fluted wood-paneled columns to where the lawyers stood behind their tables. As in a receiving line, each judge shook each lawyer's hand and gave a greeting before continuing the circular route back to their chairs.

It was no special treatment for Starr. The same ritual takes place after every 4th Circuit hearing. It is a tradition so old that even the judges don't know how it started.

"The 4th Circuit is the most polite court in the country,'' celebrity lawyer Alan Dershowitz joked to a Richmond audience a couple of years ago. "Just before they affirm and send your client to prison, they come down and shake your hand and tell you how much they enjoyed your argument.''

As well as most polite, the 4th Circuit has a reputation as most conservative among the nation's 12 regional courts of appeals. It's a distinction that has gained little public notice, at least partly because of the judges' courtliness and professionalism.

"The 4th Circuit may be the most civilized and rational of them all,'' said A.E. Dick Howard, a University of Virginia law professor.

Instead of thundering into the legal realm with an ideological blunderbuss, the judges - mainly the conservative majority - are quietly working at the forefront of a continuing shift within the judiciary to limit the role of the courts in society. Critics of this conservative approach, often called judicial restraint, say what's really being restrained are individual constitutional rights.

"This court's decisions do not reflect a belief in restraint on government power," said Gerald T. Zerkin, a Richmond lawyer and veteran death penalty litigator. "To the contrary, the decisions reflect a commitment to allowing the government in most instances to do as it pleases. That does not in the least comport with my sense of what a real conservative is."

Judicial restraint advocates believe that legislatures and governors and presidents properly make law; they are directly answerable to the people. The proper role of the courts is to determine whether an issue fits within existing law, not to single-handedly craft a solution through new law.

"There has been for several years now a solid conservative majority on that court and a majority that is willing to use its power to keep the law in the 4th Circuit on the conservative side when any important issue comes up,'' said Arthur D. Hellman, a University of Pittsburgh law professor and author of bookson the federal appellate courts.

The 4th Circuit comprises Virginia, West Virginia, Maryland and the Carolinas. While its decisions are binding only in those states, its influence is considerably broader.

The nation's 12 regional appeals courts mainly handle cases that rise from U.S. District Courts in that circuit. They are one step below the U.S. Supreme Court and are the routes by which most issues reach the high court.

In the process, the circuits also settle much of the nation's legal wrangling on their own; only a fraction of their cases are accepted on appeal by the Supreme Court.

In the federal fiscal year from October 1996 through September 1997, the 12 circuit courts of appeal issued opinions or orders ending 51,194 cases.

During that same period, the Supreme Court disposed of 6,737 cases, nearly all by refusing to hear them and letting the rulings of the circuits stand. The justices heard arguments and issued opinions on only 90 cases.

"The numbers tell you the role it plays," said Judge Paul V. Niemeyer, a Baltimore-based member of the 4th Circuit. "The circuit is the final court in so many phases of society.''

The 4th Circuit has 15 judgeships, two of them currently vacant. In addition to the 13 active judges, four other judges are on senior status, meaning they are semi-retired and usually do not take on a full share of the court's work. Currently, only three of the four senior judges actively hear any cases.

Membership has changed in the past year, with one judge's death, another taking senior status and two appointments in October. Whether the changes will affect the court's direction remains to be seen. Clinton could further change the court's makeup with appointments to the two remaining judgeships, but he has not indicated when he will submit names to the Senate for consideration.

In its 1996-97 term, the 4th Circuit judges issued opinions or orders concluding 4,629 cases. For the 1997-98 term that ended Sept. 30, they concluded 5,233 cases.

At the 4th Circuit's judicial conference in June, Supreme Court Chief Justice William H. Rehnquist told the assembled judges and lawyers that the high court heard only one case from the 4th Circuit last term- and affirmed it.

"That says something, I think, quite positive about this circuit," Rehnquist said.

Richmond's former Senior U.S. District Judge Robert R. Merhige Jr. has sat as a substitute judge on 4th Circuit cases and also has seen his own decisions reviewed by the court.

"They work very hard," Merhige said. "This circuit makes work for themselves. They don't just depend on law clerks."

Merhige said the 4th Circuit follows the unusual routine of circulating all written opinions for comment among all the judges. In recent years, the judges have more openly disagreed on some issues, he said. But: "They're all good guys dedicated to doing right," Merhige said. "On that you can quote me."

The court also is "doing right" in a political sense, according to its critics, by issuing decisions that push the law in a more conservative direction.

The 4th Circuit has issued hard-hitting decisions in high-profile cases that directly conflict with other federal appeals courts. That is effectively forcing the Supreme Court to hear those cases to settle the questions and deal with issues it otherwise might not have to confront.

"Over the past five years, this court has had some of the cutting-edge issues come before it," said one 4th Circuit judge, who asked not to be identified. "The Supreme Court is always looking for a way out of a case" because of its enormous workload, the judge said. "The 4th Circuit's decisions in these prominent cases essentially say that we have faced the other circuit precedents and said they're wrong."

In the last year, the 4th was the only circuit to uphold the ban imposed by a state - Virginia - on partial-birth abortions. It overturned an injunction delaying the law's implementation during court proceedings, as it did in an earlier case against Virginia's new law requiring teen-agers to notify a parent before getting an abortion. The court also sided with the tobacco industry against Food and Drug Administration regulation of nicotine.

"The 4th Circuit judges give a lot of consideration to following precedent and to avoid making new law,'' said Judge William B. Traxler Jr. of South Carolina, appointed by Clinton this year.

Chief Judge J. Harvie Wilkinson III and Judge J. Michael Luttig, both from Virginia, are among the most consistent leaders in the judiciary's shift to a more limited role.

"I don't think there's any circuit you could point to that you would say is out in front of them in that regard," said **William P. Barr**, attorney general under President Bush.

The court's more liberal critics agree. That, they said, is the problem.

The Constitution gives the courts the responsibility of protecting individual rights, even from the actions of the government. Anti-death penalty lawyers and abortion rights supporters contend that the 4th Circuit often abandons that role.

Some lawyers go further, complaining that time after time the 4th Circuit agrees that a trial judge made mistakes in a criminal case but upholds the conviction nevertheless, saying the outcome was correct. Similarly, court critics say, in employment cases, the court tends to rule in favor of corporations over the individual rights of workers.

"Certainly in terms of criminal cases, and most obviously capital post-conviction cases, the court can fairly be characterized as the most hostile to claims of constitutional error," Zerkin said. "That's borne out by the numbers. There is no other circuit in which the [defendant appealing a death sentence] can never obtain relief."

Between 1976, when the death penalty was reinstated, and 1995, the 4th Circuit maintained the lowest rate of reversal for death-penalty appeals under 15 percent, according to James Liebman, a Columbia University law professor who studies the appellate courts. The reversal rate among the other major circuits is above 25 percent, Liebman said.

Zerkin said the 4th Circuit is not unique in frequently finding that mistakes by the trial court amount to "harmless error" and therefore upholding a conviction. "You see courts doing that all over," he said. "I'm just saying the numbers speak for themselves."

According to John H. Blume, a Cornell University law professor, the 4th Circuit has granted even partial relief to the defendant in only 6 percent of the capital appeals it has heard since 1976.

Blume is counsel in one Virginia case that will be reviewed by the U.S. Supreme Court. Judge Merhige, in U.S. District Court, found sufficient trial error to nullify the state-court conviction and death sentence of Tommy David Strickler for abducting, robbing and killing a 19-year-old woman near Harrisonburg in 1990.

Merhige ordered a new trial after finding that prosecutors withheld evidence from defense lawyers showing that a key witness initially could not identify Strickler. The lawyers said the information was held in privileged police files and not revealed to the defense.

A three-judge panel of the 4th Circuit reversed Merhige and dismissed Strickler's appeal. The judges held that Strickler's lawyers should have asked for the evidence before trial and that Strickler should have raised the issue earlier.

The judges' basis for that opinion included issues the state lawyers on the other side did not raise, contends Strickler's lawyer, Barbara Hartung of Richmond.

"They reach out and they create, sometimes, a ground for review that the parties never raised," Hartung said.

The high court will hear arguments in the Strickler case March 3.

As nearly all appeals-court decisions must, the Strickler opinion rested on application of law, legal doctrine and precedent rather than on the often-emotional, dramatic stuff a trial is made of - evidence, testimony and passionate argument.

Wilkinson, the 4th Circuit's chief judge, said that while the work can be "pretty dry, it can never be completely an intellectual exercise, because that makes it too arid."

Judges, however, "take the veil" when they go on the bench and separate their legal thinking from their personal ideologies, Wilkinson said.

"Our loyalty is to the law," he said.

"The words liberal and conservative are words that belong to the political process," he said. "I don't think they belong in the judicial process. .*.*. When I'm driving home from work at night, the last thing in the world I'm thinking about are the words 'liberal' and 'conservative.'

"I'm asking myself, 'Did we follow the Supreme Court? Were we faithful to the intentions of Congress? Did we properly interpret the text of a statute? Do we do justice to the individual litigant involved?' '' Wilkinson said. "Those are my reference points, and those are my guideposts." J. Harvie Wilkinson III Chief judge of the 4th Circuit since Feb. 15, 1996.

Appointed: In 1984 by President Reagan.

Born: Sept. 29, 1944, in New York.

Home and chambers: Charlottesville.

Family: Married; two children.

Education: Graduated from Yale University, 1967; law degree, University of Virginia, 1972.

Military service: U.S. Army, 1968-69.

Political experience: Unsuccessful Republican candidate for Congress from Virginia in 1970.

Career highlights: Law clerk to Justice Lewis F. Powell Jr., 1972-73; assistant, associate and full professor at U.Va. law school, 1973-78; editorial page editor of The Virginian- Pilot in Norfolk, 1978-82; deputy assistant U.S. attorney general, civil rights division, 1982-83; his fourth book on law and history, "One Nation Indivisible: How Ethnic Separatism Threatens America," was published in 1997.

Sam J. Ervin III Appointed: In 1980 by President Carter.

Born: March 2, 1926, in Morganton, N.C.

Home: Morganton.

Family: Married, four children.

Education: Graduated from Davidson College 1948; law degree, Harvard Law School, 1951.

Military service: U.S. Army, 1944-46, and 1951-52. Career highlights: Practiced law, 1952-67; judge, North Carolina Superior Court, 1967-80; served as chief judge of the 4th Circuit, 1989-96. Clyde H. Hamilton Appointed: In 1991 by President Bush.

Born: Feb. 8, 1934, in Edgefield, S.C.

Family: Two children.

Home: Columbia, S.C.

Education: Graduated from Wofford College, 1956; law degree from George Washington University, in 1961.

Military service: U.S. Army, 1956-58.

Career highlights: Practiced law, 1961-81; judge, U.S. District Court, South Carolina, 1981-91.

Robert B. King Appointed: In 1998 by President Clinton.

Born: Jan. 29, 1940, in White Sulphur Springs, W.Va.

Home: Charleston, W.Va.

Family: Married, four children.

Education: Graduated from West Virginia University, 1961; law degree from West Virginia University, 1968.

Military service: U.S. Air Force, 1961-64.

Career highlights: U.S. District Court law clerk, 1968-69; federal prosecutor, 1970-74, and U.S. attorney, 1977-81; practiced law, 1975-77 and 1981-98.

J. Michael Luttig Appointed: In 1991 by President Bush.

Born: June 13, 1954, in Tyler, Texas.

Home: Alexandria.

Family: Married, two children.

Education: Graduated from Washington & Lee University, 1976; law degree from the University of Virginia, 1981.

Career highlights: White House assistant counsel, 1981-82; clerk, U.S. Circuit Court of Appeals in Washington, D.C., 1982; clerk, assistant to U.S. chief justice, 1983-85; practiced law, 1985-89; Justice Department, 1989-91.

M. Blane Michael Appointed: In 1993 by President Clinton.

Born: Feb. 17, 1943, in Charleston, S.C. Home: Charleston, W.Va. Family: Married, one child.

Education: Graduated from West Virginia University, 1965; law degree, New York University, 1968.

Career highlights: Private practice and federal prosecutor, 1968-75; U.S. District Court law clerk, 1975-76; counsel to West Virginia governor, 1977-80; practiced law in Charleston, W.Va., 1981-93. Diana Gribbon Motz Appointed: In 1994 by President Clinton.

Born: July 15, 1943, in Washington.

Home: Baltimore.

Family: Married to U.S. District Judge J. Frederick Motz of Maryland; two children.

Education: Graduated from Vassar College, 1965; law degree from the University of Virginia, 1968.

Career highlights: Practiced law, 1968-71 and 1986-91; worked for Maryland attorney general, 1971-86; Maryland state appellate judge, 1991-94.

Francis D. Murnaghan Jr. Appointed: In 1979 by President Carter.

Born: June 20, 1920, in Baltimore.

Home: Baltimore.

Family: Remarried after divorce; three children.

Education: Graduated from Johns Hopkins University, 1941; law degree from Harvard, 1948.

Military service: U.S. Navy, 1942-46.

Career highlights: Practiced law, 1948-50; service with State Department in West Germany, 1950-52; assistant Maryland attorney general, 1952-54; practiced law, 1952-79.

Paul V. Niemeyer Appointed: In 1990 by President Bush.

Born: April 5, 1941, in Princeton, N.J.

Home: Baltimore.

Family: Married; two children.

Education: Graduated from Kenyon College, 1962; attended University of Munich in Germany, 1962-63; law degree from University of Notre Dame, 1966.

Career highlights: Practiced law in Baltimore, 1966-88; judge, U.S. District Court in Maryland, 1988-90.

William B. Traxler Jr. Appointed: In 1998 by President Clinton.

Born: May 1, 1948, in Greenville, S.C.

Family: Married.

Education: Graduated from Davidson College, 1970; law degree from University of South Carolina, 1973.

Military service: U.S. Army Reserve, 1970-78.

Career highlights: Private practice, 1973-74; state court prosecutor, 1975-85; state court judge, 1985-92; U.S. District Court judge, 1992-98.

H. Emory Widener Jr. Appointed: In 1972 by President Nixon.

Born: April 30, 1923, in Abingdon.

Home: Abingdon.

Family: Two children.

Education: Attended Virginia Tech; degree from United States Naval Academy; law degree from Washington & Lee University.

Military service: U.S. Navy during World War II and Korean War; decorated for valor.

Career highlights: Practiced law, 1953-69; judge, U.S. District Court for Western Virginia, 1969-72 (chief judge, 1971-72).

William W. Wilkins Jr. Appointed: In 1986 by President Reagan.

Born: March 29, 1942, in Anderson, S.C.

Home: Greenville, S.C.

Family: Married; three children.

Education: Graduated from Davidson College, 1964; law degree, University of South Carolina, 1967.

Military service: U.S. Army, 1967-69.

Career highlights: Assistant to U.S. Sen. Strom Thurmond, R-S.C., 1970; practiced law, 1971-75; state court prosecutor, 1975-81; judge, U.S. District Court, 1981-86.

Karen J. Williams Appointed: In 1992 by President Bush.

Born: Aug. 4, 1951, in Orangeburg County, S.C.

Home: Orangeburg, S.C.

Family: Married; four children.

Education: Graduated from Columbia College, 1972; law degree from University of South Carolina, 1980.

Career highlights: Teacher of English and social studies in Orangeburg and Columbia schools beginning in 1972; practiced law, 1980-92.

Senior judges still hearing cases John D. Butzner Jr., Richmond Appointed: In 1967 by President Johnson.

Born: 1917.

Military service: 1942-45.

Career highlights: Private practice, 1945-58; state judge, 1958-62; U.S. District Court judge, 1962-67.

Senior status: Since 1982.

Kenneth K. Hall, Charleston, W.Va. Appointed: In 1976 by President Ford.

Born: 1918.

Career highlights: Private practice, 1948-53; state judge, 1953-71; U.S. District Court judge, 1971-76.

Senior status: Since 1998.

J. Dickson Phillips Jr., Durham, N.C. Appointed: In 1978 by President Carter.

Born: 1922.

Career highlights: Private practice, 1948-60; law professor and dean, University of North Carolina, 1960-78.

Senior status: Since 1994.

Graphic

PHOTO

Classification

Language: ENGLISH

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Company: 4TH CIRCUIT (93%)

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DINGELL SAYS FCC MISMANAGED IMPLEMENTATION OF TELECOM ACT

Communications Daily

December 14, 1998, Monday

Section: TODAY'S NEWS

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Body

Ranking House Commerce Committee member Dingell (D-Mich.) railed against FCC Fri. as "micromanaging" in its job of implementing Telecom Act and said he plans to join Telecom Subcommittee Chmn. Tauzin (R-La.) in reintroducing legislation to curb agency's authority. Speaking at conference sponsored by FCBA and Practising Law Institute, Dingell said bill would shift one of FCC's key powers to state regulators -- determination of whether local phone companies have opened their markets enough for them to qualify for entry into long distance market. Goal is to get telecom competition back on track now that it has been "derailed by the dithering of the FCC," he said. Dingell was particularly critical of way FCC regulates local phone companies, saying Congress never intended that Commission keep local telcos out of long distance market for this long. "The FCC seems bent on protecting one industry against another," he said. His proposed legislation also would allow incumbent LECs to offer advanced networking services without regulation. For

example, Bell companies would be able to provide services that cross LATA boundaries, which isn't permitted now for traditional telephone services. "There are no monopolies on data transmission," he said, so such regulation doesn't make sense: "LATAs are imaginary lines. It's silly to make telephone companies cease moving data at imaginary LATA edges."

Dingell told reporters later that legislation might be even stronger because he was considering proposing abolition of FCC, with its functions moved to Commerce Dept. At very least, size of Commission should be reduced and functions limited, he said. Perhaps, he said, Congress should "get rid of people" at FCC, for example reducing number of commissioners. Asked which ones, Dingell suggested Chmn. Kennard, saying he's had little success in implementing Act's goals. Dingell acknowledged that ex-Chmn. Hundt was responsible for some of actions Dingell disliked. Dingell said he didn't know when bill would be introduced.

Dingell also accused FCC of turning merger review process into "free-for-all" by trying to "extract a grab-bag of concessions" from merging companies. Echoing comments by Comr. Powell Thurs. (CD Dec 11 p1), Dingell said it's not fair to seek concessions from merging companies rather than industry as whole. He said he was concerned about potential overuse of "public interest" standard by FCC. Dingell said he realizes that definition of public interest "lacks precision" but Congress assumed FCC could define it properly. "It appears we failed in that assumption."

Rise in telecom mergers must be reviewed carefully, but it's also necessary to consider those mergers in context of larger world economy, Dingell said. "This is happening at the same time that Exxon and Mobil and hundreds of others around the country and world are considering mergers," he said.

GTE Gen. Counsel **William Barr** said companies need to have nationwide presence to compete in future and, while top 3 long distance companies already have that presence, ILECs can get it only through consolidation. Mergers of local telcos "don't

eliminate competition, they create a competitor in the national market," he said. Analyst Scott Cleland said "consolidations are happening everywhere. The game has become international."

Classification

Language: ENGLISH

Subject: LEGISLATION (90%); COMMUNICATIONS LAW (78%); COMMERCE DEPARTMENTS (78%); CONFERENCES & CONVENTIONS (77%)

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WHEN CONGRESS PLAYS TELEPHONE; Courtly Manners

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Body

Courtly Manners

The law at issue before the Supreme Court on October 13 was nothing if not ambitious: The Telecommunications Act of 1996 attempted to restructure the entire telephone industry. But the law was also very poorly drafted, undermined by the legislative compromises required to get it enacted. And on this day the act's glaring ambiguities and maddening vagueness threatened to bog down the arguments in a two-hour hearing in **AT&T Corporation v. Iowa Utilities Board** and seven companion cases.

But then two of the lawyers Jenner & Block's Bruce Ennis, Jr., and GTE Service Corp.'s William Barr pulled the proceeding out of the morass by putting the law into a larger context. It took the clearheaded arguments of counsel to bring out the policy preferences that had been blurred by the legislative process.

The telecommunication act's primary aim was to introduce competition into the $100 billion local telephone market. Long the preserve of local monopolies, the market is now dominated by the merger-thinned ranks of the Baby Bells and a few others. In return for letting new rivals into their markets, the locals got the chance under the act to expand into the long-distance market.

The act also scrambled the formerly clear-cut division of regulatory authority between the states and the federal government, in which state utility commissions oversaw the local service providers while the Federal Communications Commission regulated interstate long-distance carriers. The eight cases before the Court supposedly will clarify the new roles of each in the local market. Once the regulatory confusion is eased, consumers may learn whether their local rates are lowered one intended goal of the congressional effort.

The FCC was on its way toward assuming a dominant role over the local markets when it ran into strong resistance in the U.S. Court of Appeals for the Eighth Circuit. In the summer of 1997 it ruled that the act does not give the FCC authority to devise a price methodology to determine what local telephone companies could charge competitors for use of their networks. That scuttled the FCC's plan to set a nationwide policy pegging local access charges to future, competitive cost levels, rather than at higher levels that would cover the locals' historic costs. If the FCC is powerless in this area, the task of devising pricing methods would fall to state utilities commissions.

The circuit court also struck down an FCC rule allowing the new rivals to gain access to elements of the local service providers' networks such as lines and switches at the lowest rates charged to anyone else. In addition, it nullified an FCC rule that required the local companies to unbundle their networks that is, break them up so that

these elements can be leased individually by competitors. Those rulings prompted appeals to the Supreme Court by both the FCC and the would-be new entrants into local markets.

But the circuit court upheld some of the FCC's rules, prompting local service providers to pursue their own appeals to the Court. The Eighth Circuit said that the FCC may require the locals to sell all network elements necessary to provide local service, even if the newcomer has done nothing to create local facilities on its own. It also upheld the FCC rule that requires locals to sell network elements to their new rivals, even if the new competitors could have bought those elements elsewhere. And it allowed the FCC to require the locals to sell their finished retail services, such as caller ID and call forwarding, at cut-rate prices.

The Supreme Court's hearing on the eight appeals was split. The first hour was reserved for disputes over FCC jurisdiction to issue pricing rules for local service. The second hour was for questions about the FCC mandates (upheld by the circuit court) on favorable access to locals' network elements.

Solicitor General Seth Waxman, speaking for the FCC, introduced the Court to the sometimes bewildering maze of numbered sections in the Telecommunications Act, talking details more than concepts. That had the effect of drawing the justices too deeply into specifics, and Waxman found himself reaching vainly for certainty amid the ambiguous phrasing in the act. Challenged by Chief Justice William Rehnquist and Justice Anthony Kennedy for relying on one disputed grant of FCC authority, Waxman skipped around elsewhere in the act to locate other grants. When several justices tried to get Waxman to deal conceptually with the act's division of regulation between state and federal authority, the solicitor general seemed stuck in the details, darting back and forth between numbered sections, looking for reinforcement of FCC powers.

Next up was Ennis, a partner in the Washington, D.C., office of Chicago's Jenner & Block, representing MCI Telecommunications Corp. and speaking for the would-be new entrants in the local markets. From the beginning, he approached the FCC authority issue more broadly than Waxman had, and thus began to move the Court out of the bog of detail into some of the real-world consequences of the circuit court ruling against the FCC. He complained of delay and the postponement of multibillion-dollar investment decisions. His presentation made some sense of what Waxman substantively had said before him.

Led by Justice Stephen Breyer into a discussion of preserving prerogatives for the state commissions to set local access rates, Ennis stayed away from a fixation on the specifics. He replaced that focus with commonsense rationales for FCC oversight of access pricing. He did seem to be exaggerating somewhat the scope of FCC authority, but that, too, had a commonsense cast to it.

The state commissions' advocate, Diane Munns of Des Moines, general counsel of the Iowa Department of Commerce's utilities division, was so raptly devoted to her chosen theme that her argument wound up sounding unreasonable. Keenly determined to show that the FCC has no pricing authority whatsoever in the new regulatory environment for local service, Munns succeeded only in creating the impression that regulatory chaos might well be the result, with 50 differing state interpretations of pricing methodology.

Answering questions from Justices John Paul Stevens, Antonin Scalia, and Kennedy, Munns suggested that the state commissions would not be bound in any way to try to work out uniformity in pricing formulas. But, in a seeming contradiction, she then suggested that federal district courts, overseeing disputes about the individual states' pricing dictates, would supply some uniformity.

Those comments led Justice Ruth Bader Ginsburg to suggest that Munns was advocating a truly novel regime, one in which a federal law was being administered with no federal executive presence in the scheme. Munns did not dispute that characterization and moved aggressively to nail down her argument that the FCC simply was written out of the pricing regulatory structure altogether. She soon lapsed into the style of argument that Waxman had used on the other side, moving from section to section in the act to find justifications for keeping the FCC out of local pricing determinations.

Harvard law professor Laurence Tribe, representing BellSouth Corporation and speaking for the locals, focused upon what he called the interaction of the precise statutory provisions of the act. He suggested, with some

exaggeration, that Congress had acted with great precision in assigning jurisdiction under the act a comment that Justice Scalia promptly derided. Tribe seemed committed to infusing clarity into the act's allocation of regulatory authority, but that necessarily kept him focused on specifics, to the neglect of conceptual argument.

Tribe wound up embracing Munns's rather awkward point that the states' discretion could lead to varying interpretations from state to state, but that in the end, the federal courts could hold them in line under a general federal principle. Scalia protested that the professor was trying to argue both in favor of federal courts deciding the meaning of pricing standards and in favor of states' discretion. I mean, take one position or the other, Scalia suggested.

Like Munns, Tribe was not giving the justices a rationale for reading the act his way, but rather was simply insisting that the sometimes opaque language of the law was self-evident in the state commissions' favor. He even suggested that if you immerse yourself in this statute, as he was doing, the Court would see how very limited the assigned role of the FCC was in the new local regulatory scheme. His interpretation, he suggested rather grandly, was the only way to give coherent meaning to the statute's assignment of authority over telephone pricing methodology.

Round Two: A Change Of Style

After the crowd of lawyers had changed their places for the second hour, William Barr, the former U.S. attorney general and now an executive with the largest local telephone company, brought his exuberant, self-assured style to the lectern. Speaking for the locals, Barr, who is GTE's executive vice president and general counsel, was given the luxury of making his opening points without interruption from the bench. He made the most of that, discussing Congress's policy choices in down-to-earth words, leaving out the legalisms. It was simple, even elemental, but it supplied a context the justices seemed to want to hear.

Graphically, he described a line that Congress had drawn through the local telephone industry, with different levels of access for the new entrants to the locals' facilities on each side of that line. And he sketched out, with conversational informality, the standards of access that he said Congress had decreed.

Now, he said, drawing himself up, we're not here today because we are quibbling over the application of those standards and think the line should be drawn a little bit to one side or the other. We're here because the FCC obliterated those lines. What it all means, he said, is that the FCC had given the new rivals the most promiscuous right of access that you can imagine. Likening the local systems to a mousetrap, he said, the new entrants were not content merely to take the locals' spring on the trap, and the mousetrap itself. They haven't stopped there, he said. They're taking the cheese.

Congress, Barr argued, wanted to give the new rivals access only to those parts of a local network that the entrants actually needed in order to compete. But, he said, the FCC had authorized the rivals to take anything they wished from the locals' existing network, not looking to any outside alternatives. Prompted by Justice Ginsburg, Barr ticked off the alternative sources of facilities a new entrant could find, if it merely looked. But instead of encouraging the new rivals to find such alternative sources on their own, he said, the FCC came up with a rule that says we take access [to the existing local's network] as a given in every case. The FCC, he said, decided to adopt a rule that says you never look beyond the incumbent's network.

Parroting the FCC's reasoning, Barr went on: Congress told us to give access to everything. [But the act] seems to talk about need. We'll interpret need by saying you never look outside the network. You never look to see if there's another switch in the market. Barr summed up: That violates the plain meaning of any need standard.

Actually, he continued, the FCC had abandoned the need standard entirely, instead adopting a standard whereby we can just rely on what people want. If there's something out there, then the person will want it. The entrant will take it. When Justice Ginsburg wondered how the need standard could be fairly interpreted, Barr answered with a commonsense definition under which the FCC would have drawn distinctions between a local's facilities that an

effective competitor did not have to have in order to compete, and those that were reasonably needed to compete effectively.

Barr's recitation finally was slowed a bit by questioning from Justice Breyer, who has a knack as Barr does of putting matters in plain English. Breyer suggested that the FCC had done the best it could in defining the need for new entrants' access to local network facilities, so the locals should have come up with something better. You come up with a standard. I didn't see in any of these briefs a better standard. Barr retorted that no standard the FCC could have applied would lead to the conclusion that in every market, every competitor needs everything.

At a critical point, Barr translated his easygoing comments into a strong policy point: The key insight here is that you don't advance competition by taking things that a competitor could actually compete on and turning it over to a competitor. When crowded a bit by Justice Kennedy on what new entrants might need, Barr did not yield ground. Even if a new entrant had an alternative source for a network element, he doesn't want to use it because he wants to avoid competing. The purpose of the statute is to make him compete. The fact that he wants [an element from the local's network] doesn't mean he needs it. A want rule is not the same as a need rule.

Even when the justices returned to the language of the act dealing with access to elements, Barr kept his answers on a nonlegalistic level. He generally succeeded in making the technical operating links in a local telephone system seem commonplace, easy to understand.

Solicitor General Waxman, returning to the lectern to respond to Barr on issues about access to network elements, chose not to imitate Barr's informal manner although Waxman has in other cases shown a relaxed, comfortable style of his own. This time, the solicitor general was restrained, deeply serious, and quite technical. Justice Breyer, whose keen eye for technical detail does not displace his instinct for everyday language, succeeded in getting Waxman to talk about Congress's policy choices and the nature of the competitive world it wanted to set up in local telephone markets.

Waxman moved easily between the economic policy goals lying behind the telecommunications act and the technical characteristics of telephone exchange operation. He seemed to welcome the opportunity to stay largely away from the act's complex language. Mostly, the Court left Waxman alone as he answered Breyer. Indeed, for a significant period of time, it appeared that Breyer and Waxman were conversing alone about the economics of telephone competition.

Along the way, the solicitor general managed to garner a little sympathy for the FCC from Breyer. The justice noted that the commission had only six months to write the rules under attack by the locals and had vowed to change the rules if the realities of competition in the industry required that later.

As their exchange lengthened, Justice Kennedy interrupted, asking: Are all of the points you have just made responsive to Mr. Barr's argument that the commission failed to heed the word need in the statute? Waxman said no, and, in a moment, provided an answer to Barr. But in the answer, he largely resorted to technical details. In the process, he conceded that the FCC had, in fact, determined what new entrants needed in order to compete only on the basis of what they could obtain from the existing local network, not from outside, alternative sources. It was reasonable to do that, he said, because the FCC was confronting an environment in which there was no competition, so the incumbent local's own network was the proper target for new rivals' right of access.

Representing AT&T and speaking for the new entrants, David Carpenter, a partner at Chicago's Sidley & Austin, protested that Barr's argument would leave local telephone customers with little or no price competition. The implication and necessary consequence of Barr's argument, Carpenter said, was that only a big firm like AT&T with resources to build its own facilities would be able to enter a local market, and then the customer would still have only two choices in price and service, not several.

Justice Ginsburg, picking up on Barr's complaint that the FCC had not forced the new entrants to look at alternative sources for local network elements, wondered if there were in fact other places where the needed elements could be found. At first Carpenter did not answer directly, instead raising a complaint about tying up local access in a

mass of litigation. But he did get around to a reply to Ginsburg, assuring her that the FCC had determined that people won't request things they don't need.

Chief Justice Rehnquist, not satisfied with that reply, suggested that Congress had mandated a need standard for network access, and that the FCC has got to defer to that. Carpenter agreed, and went on to say that the FCC, in fact, had addressed the issue of need, but did so by defining need as avoiding added costs. Under that approach, Carpenter said, if new entrants could find elements elsewhere at lower cost, they wouldn't seek them from the local company.

Justice David Souter questioned whether the FCC's need approach was a generalized one that would never get down to a particular entrant's need for a particular element. Carpenter agreed with that interpretation, but said the FCC was allowed to avoid a situation in which each entrant's need for access would become a subject for litigation. If the FCC is satisfied that the new entrants won't ask for things they don't need, the act's need standard is satisfied, Carpenter contended. He did not seem to have made the point convincingly.

A bit later, he tried another tack, suggesting that relations between the locals and the new entrants were so strained that no one [among new entrants] in their right mind would rely on these people for facilities if they could obtain them from another source themselves.

When his turn for rebuttal came, Barr, representing GTE, contended that AT&T's strategy for entering GTE's market was simply to obtain GTE's network, but that the Eighth Circuit court of appeals had not allowed it to do so. When Justice Souter asked him to reply to Carpenter's point that the entrants would not come to the locals for elements if they had an alternative, Barr had a simple, disdainful, response: Tell that to the chairman of AT&T.

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11/22/98 Wash. Times (D.C.) A11
1998 WLNR 373502

Washington Times (DC)

November 22, 1998

Section: METROPOLITAN TIMES METRO BRIEFS VIRGINIA WILLIAMSBURG

Board member opposes college's drinking rules

FROM WIRE DISPATCHES AND STAFF REPORTS

A former U.S. attorney general and member of the College of William and Mary's Board of Visitors is taking the administration to task for one of its rules governing student-run parties where alcohol is served.

William Barr says the rule requiring student groups to submit guest lists in advance is "idiotic."

Mr. Barr, attorney general under President Bush, was joined by board members R. Scott Gregory and Paul C. Jost in his criticism. They said the requirement ruins spontaneity for students and may be causing some students to leave campus to drink, and then drive home.

William and Mary, along with several other state colleges and universities, has implemented measures to try to curb binge drinking after the alcohol-related deaths of five students last fall.

Sam Sadler, the college's vice president of student affairs, said the long-standing rule was being enforced to promote responsible behavior.

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---- Index References ----

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Other Indexing: (BOARD; COLLEGE OF WILLIAM) (Barr; Bush; Mary; Paul C. Jost; R. Scott Gregory; Sam Sadler; William; William Barr)

Edition: Final

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Document: Bells and GTE Hope to Win by Losing at Supreme Court

Bells and GTE Hope to Win by Losing at Supreme Court

The New York Times

October 19, 1998, Monday, Late Edition - Final

Distribution: Business/Financial Desk

Section: Section C; ; Section C; Page 2; Column 1; Business/Financial Desk ; Column 1; ; News Analysis

Length: 942 words

Byline: By SETH SCHIESEL

By SETH SCHIESEL

Body

There tend to be two sorts of regulatory disputes in the communications industry: the wildly Byzantine and the merely arcane.

The Byzantine seemed on display at the Supreme Court last Tuesday as some of the nation's most prominent lawyers wrangled over the Federal Communications Commission's plan for bringing competition to local telephone markets. They relied not on broad constitutional principles but on subtle interpretations of dense subsections of the Telecommunications Act of 1996.

But the complexity of the courtroom arguments tended to obscure something that became clear later in the week: Some factions within the local telephone industry might actually prefer to lose a big part of this case in the interest of expediting a more important victory later.

At stake are the terms under which the local telephone incumbents -- the five Bells and the GTE Corporation -- must open their networks to competitors, be they upstarts or long-distance carriers hoping to enter the local business. The local telephone market is worth about $100 billion.

"The court realizes that the telecommunications industry is essentially the central industry," said **William P. Barr**, the former Attorney General who is now chief counsel for GTE and who argued before the court

on Tuesday. "This case raised fundamental issues about how competition will unfold and the structure of that market in the future."

Shortly after the Telecommunications Act of 1996 became law, the F.C.C. issued an order that told the states how to set prices for the various elements of the local phone companies' networks that competitors might want to use. In that order, the commission did at least two things that the Bells and GTE despised.

The first was to mandate what is known as a "forward-looking" pricing model. Under such a system, a local incumbent is allowed to recover only those costs that it would bear if its network were of the most modern and efficient type. An equivalent would be if a taxi driver charged customers based on the costs of operating his car but was told to pretend that his car got 50 miles to the gallon and was in tip-top shape.

The long-distance companies think that is a great idea because it gives them cost-effective access to local networks without having to bear the cost of building such networks themselves. "It is not economically possible to build loops to every house in America," Bruce J. Ennis Jr., who argued for the newly merged long-distance giant MCI Worldcom Inc. at the Supreme Court, said in an interview, referring to copper telephone lines. "We need to be able to lease elements from the incumbents."

But many taxis, and many equivalent phone networks, are decrepit gas-guzzlers. The local phone companies think they should be allowed to pass along the sometimes higher costs of maintaining and operating even the oldest parts of their networks to the new carriers that want access to those systems.

Not long after the F.C.C. order came out, the Bells and GTE sued the Government, charging that the Telecommunications Act did not give the commission authority to tell the states to use a forward-looking pricing system. Last year, the United States Court of Appeals for the Eighth Circuit in St. Louis agreed. Significantly, the court did not rule on the merits of the commission's rules -- whether forward-looking price models were fair to begin with.

The local phone carriers also challenged another provision of the F.C.C.'s order, which forced them to offer the different parts of their networks as complete packages for their competitors, largely alleviating the need for their rivals to do such assembly work themselves. The St. Louis court ruled against the commission on that score, as well, and both issues were argued at the Supreme Court last week.

The commission's uniform national pricing rules never went into effect, forcing the Bells and their competitors to take up the matter in proceedings before 50 different state utility commissions. The upshot, though, is that many, if not most, of the states have adopted forward-looking pricing schemes similar to what the commission proposed two years ago anyway -- and which the local phone companies had hoped to avoid. If the Bells and GTE want to appeal those state decisions, they must litigate state by state.

So now comes the rub for the Bells and GTE. Remember: the Eighth Circuit, which has already demonstrated sympathy for the local companies, never ruled on whether the forward-looking cost models were fair. If the local phone industry succeeds in convincing the Supreme Court that authority to set local-network pricing models does lie with the states and not with the commission, the fairness question has no chance of rebounding to the Eighth Circuit.

So now, some lawyers for the local phone industry are thinking that it may actually be better for them to lose in the Supreme Court by having the justices declare that the commission does indeed have jurisdiction. That would send the case back to the Eighth Circuit. And that way, the local companies could hope to have the lower court consider the merits of forward-looking pricing -- and perhaps declare it unfair across the country. "I think there's a good chance that we lose on jurisdiction," said a lawyer who works for a local phone company. "And to me, No. 1, it's not that bad."

Whatever the outcome, an Eighth Circuit ruling on the merits of forward-looking pricing might end up with the same parties back before the Supreme Court. But for the Bells and GTE, some of their proponents believe, a loss now might be the best chance at eventual victory.

Classification

Language: ENGLISH

Subject: COMMUNICATIONS LAW (90%); LEGISLATION (90%); ENERGY & UTILITY LAW (90%); SUPREME COURTS (89%); PRICES (89%); LAW COURTS & TRIBUNALS (77%); PRICE MANAGEMENT (77%); LAWYERS (77%); ATTORNEYS GENERAL (72%); INTERVIEWS (66%); CONSTRUCTION COSTS (64%)

Company: VERIZON COMMUNICATIONS INC (93%); SUPREME COURT (US); GTE CORP VERIZON COMMUNICATIONS INC (93%); GTE CORP VERIZON COMMUNICATIONS INC (93%); FEDERAL COMMUNICATIONS COMMISSION (84%); FEDERAL COMMUNICATIONS COMMISSION (84%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (84%); FEDERAL COMMUNICATIONS COMMISSION (84%); SUPREME COURT (US); GTE CORP FEDERAL COMMUNICATIONS COMMISSION (84%); GTE CORP FEDERAL COMMUNICATIONS COMMISSION (84%); FEDERAL COMMUNICATIONS COMMISSION (84%)

Ticker: VZC (LSE) (93%); VZ (NYSE) (93%)

Industry: TELECOMMUNICATIONS (92%); COMMUNICATIONS LAW (90%); ENERGY & UTILITY LAW (90%); LOCAL TELEPHONE SERVICE (90%); COMMUNICATIONS REGULATION & POLICY (90%); TELEPHONE SERVICES (89%); TELECOMMUNICATIONS SERVICES (89%); LONG DISTANCE TELEPHONE SERVICE (87%); PRICE MANAGEMENT (77%); LAWYERS (77%); TELEPHONIC EQUIPMENT (71%); CONSTRUCTION COSTS (64%)

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Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 03:52:17 p.m. EST

Justices monitor fray over phone law; Long-distance giants, local monopolies argue over intent of 1996 act; Telecommunications

The Baltimore Sun

October 14, 1998, Wednesday,, FINAL EDITION

Section: BUSINESS,

Length: 660 words

Byline: Lyle Denniston, SUN NATIONAL STAFF

Body

WASHINGTON -- The Supreme Court waded into the maze of new legal rules for local telephone service yesterday, as the companies with a monopoly in that area complained that potential competitors want "a free ride on our networks."

In a two-hour hearing on the meaning of the Telecommunications Act passed two years ago, the justices seemed confused not only about a myriad of details of that law but also about what Congress had intended to achieve.

Little time was spent weighing the effects on telephone users, in homes and businesses, as the hearing parsed the law, section by section, technical phrase by technical phrase, word by word. The court heard clashing interpretations from the six lawyers who took turns debating the law's scope.

Attorneys for the federal government and would-be competitors in the local-service market -- the companies that now offer long-distance service -- argued that Congress meant to break the local telephone monopoly and that it gave the Federal Communications Commission a major role in encouraging competition.

Bruce J. Ennis Jr., speaking for the long-distance companies, said a lower-court ruling that curbed the FCC's authority "has severely undone the rapid achievement of competition" in the local market and said "multibillion-dollar decisions" about entering the market have had to be put on hold.

But lawyers for the local companies and the state regulatory agencies that oversee those companies insisted that the FCC must be restrained because it was trying to force the local companies to lease every service they offer -- including customer billing -- to new competitors, even though the entrants would not need every service to compete.

William P. Barr, a former U.S. attorney general who is a lawyer for the local companies, said the FCC had given the new competitors "the most promiscuous right of access you can imagine." The long-distance companies, Barr said, not only want the spring on the mousetrap, they want the whole trap, too, "and they're taking the cheese!"

Before Congress passed the 1996 law, there was a distinct separation in the telephone industry between local service and long-distance. State utility commissions policed the locals, and the FCC monitored the long-distance companies.

Competition had entered the long-distance market, but not the local scene.

Congress cleared the way for each segment to cross over into the other's business, with both the FCC and the state commissions given some role. The overall intent was to generate competition -- to give consumers a wider selection of services and better prices resulting from the new competitive atmosphere.

But in a sweeping decision in July 1997, the 8th U.S. Circuit Court of Appeals in St. Louis removed all of the FCC's power over the prices that local phone companies charge when they open their networks to rivals.

The appeals court said Congress left that task with the state commissions. The court also cut back on most of the FCC's network-sharing rules, while upholding a few of those.

Both sides in the dueling industry, along with the FCC and the state commissions, took the case on to the Supreme Court. After yesterday's hearing, the justices will begin studying the case and writing a decision that is likely to emerge sometime next year.

Besides hearing the local telephone cases, the court acted on another business-related case yesterday. It agreed to clarify when state laws that regulate insurance policies are to be displaced by the federal law governing employee benefit rights, the Employee Retirement Income Security Act.

The justices said they would review a case on whether ERISA bars California from enforcing a state common-law rule that allows insured people to collect benefits even though they filed their benefit claims after the deadline imposed by their policy. The issue was raised in an appeal by UNUM Life Insurance Co. of America.

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Company: FEDERAL COMMUNICATIONS COMMISSION (83%); FEDERAL COMMUNICATIONS COMMISSION (83%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (83%); FEDERAL COMMUNICATIONS COMMISSION (83%)

Industry: ENERGY & UTILITY LAW (90%); LAWYERS (90%); LOCAL TELEPHONE SERVICE (90%); LONG

DISTANCE TELEPHONE SERVICE (89%); UTILITIES INDUSTRY (89%); TELEPHONE SERVICES (78%); TELECOMMUNICATIONS (78%); COMMUNICATIONS LAW (73%); PUBLIC UTILITIES COMMISSIONS (73%)

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Date and Time: Dec 12, 2018 05:51:18 p.m. EST

RAISING THE BARR AT GTE/BELL ATLANTIC?; Bar Talk

The American Lawyer

October, 1998

THE AMERICAN LAWYER

Section: Pg. 24

Length: 320 words

Byline: Paul Manuele

Body

Bar Talk

There will be an embarrassment of riches but only room for one at the top. So who will lead the in-house legal department at Bell Atlantic Corporation following its $55 billion merger with GTE Corporation? Company insiders are speculating that the big resume of William Barr, GTE's 48-year-old executive vice president and general counsel, will win out over the experience of James Young, 47, Bell Atlantic's general counsel.

Barr is a relative novice at telecommunications. He joined Stamford, Connecticut-based GTE in 1994, but he served as the U.S. attorney general in the last days of the Bush administration. Young has spent 15 years at Bell Atlantic and been the top legal officer since 1992.

It will probably be several months before leadership changes are announced. The merger is not even expected to close until the middle of next year. But three in-house soothsayers say that the position will likely go to Barr. He is leading the internal merger integration task force dealing with legal, regulatory, and government affairs issues. Most see it as an indication that Bill Barr would be the new GC, says one Bell Atlantic executive, who spoke on condition of anonymity.

Young declined to comment through a spokesman, who warned against reading too much into Barr's role in premerger planning. But even Young may be convinced that he's not likely to land the top job. Young has reportedly told his top lawyers that he expects Barr to become the company's top legal officer after the Bell Atlantic/GTE merger, according to a source familiar with the situation.

Barr is evasive about his future. A transition team has been established, and I've been asked to head that effort and work closely with Jim Young and [Morrison Webb, Bell's executive vice president in charge of corporate communications] to come up with some recommendations, says Barr. But it's too early to speculate about senior positions right now.

Load-Date: April 16, 2011

Document: IS STARR REPORT JUST ABOUT SEX?

IS STARR REPORT JUST ABOUT SEX?

Investor's Business Daily

September 15, 1998

Section: National Issue; Pg. A1

Length: 1341 words

Byline: By Matthew Robinson, Investor's Business Daily

Body

For the White House and its allies in the media, the Monica Lewinsky scandal is about one thing: sex.

But to four of America's former attorneys general who recently spoke with *IBD*, the controversy swirling around President Clinton and his aides is about something far deeper: the rule of law.

The bipartisan group of four former attorneys general, including top cops from the Carter, Reagan and Bush eras, have worked together twice before on legal questions related to Independent Counsel Kenneth Starr's probe of Clinton.

The first time, in the spring, they wrote a letter defending the right of Starr to do his job.

The second time, they joined forces to file a friend-of-the-court brief in June opposing the White House's claim of a ''protective function privilege'' for Secret Service agents.

What is their concern?

Simply put: the rule of law.

In his four-minute speech to the nation on Aug. 17, Clinton called his affair with Monica Lewinsky a private matter. In fact, he spent nearly a third of his time attacking Starr. He even called Starr's investigation ''the pursuit of personal destruction.''

The speech was meant to explain why Clinton lied to the American people for seven months before admitting his affair with a 21-year-old former White House intern. Clinton White House aides and allies, such as James Carville, charge that Starr's probe is about nothing but sex.

But the four attorneys general think the high-stakes attacks on Starr are unwarranted, even dangerous.

''This is not a case merely about sex. It goes to the key issue of whether the president is above the law,'' said Edwin Meese, attorney general under President Reagan.

Judge Griffin Bell, attorney general for President Carter, agrees.

''My interest in the matter is the rule of law. It's the basis of all business and national life. It's one of the hallmarks of this nation,'' Bell said. ''We are all ruled by it.''

This concern extends to the precedents being set by the White House's legal challenges and tactics.

''What I don't understand about the modern psyche is that nobody cares about the truth,'' said **William Barr**, an attorney general under President Bush. ''The whole system should be geared to getting the truth. But it has been geared to stonewalling and spinning what people think.''

Richard Thornburgh, who also served Bush, agrees.

''Starr is vulnerable to unrestrained criticism, and he has had no opportunity to rebut outrageous claims,'' Thornburgh said.

Ironically, all four attorneys general *oppose* the independent counsel act. In fact, they've lobbied against it.

Still, they united to defend Starr in their letter, which said, in part: ''As former attorneys general, we are concerned that the severity of the attacks on Independent Counsel Kenneth Starr and his office by high-level government officials and attorneys representing their particular interests . . . appears to have the improper purpose of influencing and impeding an ongoing criminal investigation and intimidating possible jurors, witnesses, and even investigators.''

The four added that Starr is an ''individual of the highest personal and professional integrity. As a judge . . . he exhibited exemplary judgment and commitment to the highest ethical standards and the rule of law.''

For all four, the White House's tactics have become more clear and more disturbing since Starr was appointed.

The White House decided on a ''lift and loft'' strategy. While White House staff and Clinton allies painted Starr as a political partisan, Clinton stayed high above the fray.

That tack changed with Clinton's speech admitting the Lewinsky affair.

''I was dismayed that a speech that clearly acknowledged serious wrongdoing was devoted to attacking Ken Starr,'' Thornburgh said.

But the letter was written for another reason.

''We were also disturbed that the incumbent attorney general wasn't coming to (Starr's) defense. There has been only silence,'' Barr said.

Thornburgh said they were trying to provide ''a counterforce'' to Attorney General Janet Reno's reticence.

It's uncommon for the former attorneys general to work together this way.

''It takes a great deal to prompt four attorneys general to file in a case. The significance is magnified by the fact that they were the central figures in developing executive privilege,'' said Jonathan Turley, a George Washington University law professor and pro bono lawyer in the Secret Service case.

It was what Thornburgh called the ''vilification and delay'' by the White House that worried the four attorneys general.

Their friend-of-the-court brief came from a concern for the law governing Secret Service agents. All four attorneys general were also leery of Clinton's repeated claims of executive privilege.

''This (protective-function claim for Secret Service agents) was an example of creating a privilege that never existed,'' Meese said.

''The position they argued is outrageous. (Secret Service) officers are supposed to report evidence of crime. They are sworn law enforcement officers,'' Bell said.

If not, added Bell, ''We wouldn't have the same country. We'd have a palace guard.''

And Thornburgh, for one, thinks Clinton is setting a bad precedent.

''He has taken a very reckless view,'' Thornburgh said. ''Speaking for myself, when I was attorney general, we put a lot of consideration into any executive privilege. We went that extra mile to keep flexibility but also to abide by Congress.''

The White House has lost every court challenge against Starr - a fact each attorney general pointed out to *IBD*.

Meese sees a strong trend toward politicizing government resources.

''One of the things that the White House has done is use the legal counsel's office and other legal branches for their private use,'' Meese said. ''Clinton seems to be the source of this major corruption.''

The Starr investigation isn't the only place where scandal has touched the law. The Democratic National Committee has had to return some $ 2.8 million in illegal campaign donations. But Reno refuses to appoint an independent counsel to look into it.

She's started two limited probes linked to the matter. One is looking into charges that Vice President Al Gore raised soft money from the White House that he knew would be used for the Clinton-Gore campaign.

The second is looking into charges that former White House Deputy Chief of Staff Harold Ickes lied to Congress about his role in the fund-raising scandal.

For nearly two years, Congress and editorial pages across the nation have demanded a full investigation.

''I have a great respect for Attorney General Reno. But I am very puzzled by her reasoning,'' Thornburgh said. ''I agree with FBI Director (Louis) Freeh that this is the strongest possible case for appointing an independent counsel. The case is related to the election of the person who appointed her.''

But Reno has rejected the advice of Freeh and of Charles LaBella, the Justice Department campaign fund-raising task force chief.

What does all of this say?

''We should care about what actually happened and what the facts are before we start talking about consequences,'' Barr said. ''The White House talked about a 'modified hangout' strategy. I just don't understand that. It's either true or not true.''

''Starr should be given the chance to get the facts out. We live in a world of spin control and ad hominem attacks,'' Barr added. ''And we're seeing a lot of hatchet jobs.''

''We have a new thing in the United States when we start trying the prosecutor,'' Bell said. ''And we are deciding by polls whether a prosecutor can go forward with his investigation.''

Such maligning of prosecutors, Bell warns, can damage the rule of law. ''We'll soon let off the privileged or anybody who can run a spin machine.''

Classification

Language: ENGLISH

Subject: RULE OF LAW (90%); SCANDALS (90%); INVESTIGATIONS (90%); ATTORNEYS GENERAL (90%); POLITICAL SCANDALS (78%); LOBBYING (73%); JUDGES (72%); SPECIAL INVESTIGATIVE FORCES (68%)

Company: WHITE HOUSE INC (95%); SECRET SERVICE (55%); WHITE HOUSE INC (95%); SECRET SERVICE (55%)

Person: RONALD REAGAN (89%); BILL CLINTON (79%); GEORGE W BUSH (78%); JIMMY CARTER (78%)

Geographic: UNITED STATES (92%)

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Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:18:04 p.m. EST

A Troubling Legal Legacy

Newsweek

August 24, 1998, U.S. Edition

Section: NATIONAL AFFAIRS; Pg. 25

Length: 877 words

Byline: BY STUART TAYLOR JR. AND DANIEL KLAIDMAN; TAYLOR, a coauthor of this article, is a senior writer at National Journal and a NEWSWEEK contributing editor.

Highlight: Why the presidency may never be the same.

Body

THE LANGUAGE IN *CLINTON V. Jones* was legalistic but unequivocal: "it is . . . settled that the president is subject to judicial process in appropriate circumstances." The unanimous decision, handed down in May 1997, went on to hold that presidents are not immune from being sued while in office for private conduct. The drama that has followed -- part criminal probe, part scandal, part soap opera -- flowed unexpectedly from this landmark opinion. And now, even though Paula Jones's suit has been dismissed, the echoes from her sexual-harassment claim are still reverberating: it was in a deposition made possible by the Supreme Court's ruling that Clinton denied having "sexual relations" with Monica Lewinsky.

The Jones precedent isn't the only legal legacy of the Clinton scandals that may alter the way presidents do business. Lawyers in the White House Counsel's Office stopped taking notes well over a year ago, lest they be subpoenaed by Kenneth Starr. Lloyd Cutler, counsel to Carter and Clinton, predicts that in the future, "people in the White House are not going to write memos. They're going to be very circumspect in the advice they give. Future presidents are going to be very circumspect in terms of to whom they open their minds." All this, say Cutler and others, is the result of Starr's success in forcing testimony from Clinton's White House lawyers, from his advisers, from his Secret Service protectors -- and, finally, from the president himself. These precedents, in Cutler's view, "have severely weakened the presidency as an institution."

Most experts agree there has been at least some damage to the presidency: Clinton has litigated and lost claims of privilege that might otherwise have been available as bargaining chips for future presidents. "Some of the deference that has traditionally been accorded to the presidential office has been eroded," says William Barr, who was attorney general under Bush. So far, Starr has defeated three major privilege claims:

Attorney-client privilege: The U.S. Court of Appeals, affirming a decision by Chief Judge Norma Holloway Johnson of the U.S. district court in Washington, has ruled that Bruce Lindsey and other White House lawyers cannot invoke attorney-client privilege to withhold evidence from criminal investigations like Starr's. This decision and a similar one last year mean that Starr could at least in theory subpoena the White House counsel to testify tomorrow about what the president told him today. Presidents may have to hire private lawyers whenever they want to be assured of confidentiality.

Executive privilege: Judge Johnson has ruled that Starr had made a sufficient showing of relevance to his criminal investigation to override Clinton's claim of executive privilege to block some of Starr's inquiries to presidential aides, including Sidney Blumenthal. This was no surprise, given the Supreme Court's 1974 holding, in *U.S. v. Nixon,* that executive privilege must ordinarily yield to the needs of the criminal process.

Secret Service privilege: The administration's effort to create a new "protective function" privilege to shield agents and officers from Starr's subpoenas was rejected first by Judge Johnson and later by nine D.C. Circuit judges, without dissent. The precedent: agents and officers may testify about what they see or hear in a president's most private moments.

In addition, Clinton has consented to testify after facing the first grand-jury subpoena ever directed at a sitting president. This precedent will make it hard for future chief executives to resist similar demands.

If the presidency has been diminished, who's responsible? Democrats like Cutler -- joined by Lawrence Walsh, a Republican -- blame Starr. "A prosecutor doesn't do his job by reaching to the extreme limit of the law on every issue," says Walsh. "He does it by having a sense of fairness and a sense of restraint and a sense that some people's responsibilities -- in this case the president's -- may be even greater than his own."

GOP lawyers, however, think Clinton bears the responsibility for saddling future presidents with adverse precedents by pressing weak legal claims against an unappealing factual backdrop. They say Starr's tactics are vindicated by his victories in court, and that it is Clinton who's hurt the presidency, both by his conduct and, according to Reagan White House counsel A. B. Culvahouse, by "foolishly litigating tough issues with extremely bad facts that clearly would be viewed unsympathetically by the judiciary."

There is one patch of common ground. Clinton and Starr supporters do agree that whatever damage has been done to the presidency may be offset by one possible by product of the Starr-Clinton battles: the death (or defanging) of the independent-counsel statute. The law will expire next year unless Congress renews it -- and nobody's betting on that. "The root problem," says former Justice Department lawyer Larry Simms, "is that we have criminalized politics, and unless we recognize that people are going to do things in this town that include not always telling the truth, then we're just on a treacherous path." There are, in other words, some realities that no law can repeal.

Graphic

Picture, Starr wars: Who weakened the presidency -- he or Clinton? RON HAVIV -- SABA

Load-Date: August 25, 1998

End of Document

Document: BELL ATLANTIC AND GTE OUTLINE SEC. 271 AND 706 PL...

BELL ATLANTIC AND GTE OUTLINE SEC. 271 AND 706 PLANS IN MERGER

Communications Daily

August 3, 1998, Monday

Section: TODAY'S NEWS

Length: 936 words

Body

Bell Atlantic (BA) acquisition of GTE in $52.9-billion stock swap would boost GTE resources to challenge rival Bell companies within its own region and give BA nationwide reach to meet competitive goals of Telecom Act, top lawyers for both companies said last week. They said they expect current restrictions on BA's Sec. 271 application in N.Y. to be approved soon, with "cascading approvals" in other states completed about time merger is set to close sometime next year, but if such authority isn't granted, company sees Sec. 706 plans acting as "backup," lawyers said. "I believe.. that this is a highly procompetitive merger and should not encounter any significant regulatory problems," said **William Barr**, GTE exec. vp-gen. counsel. Comments were made in teleconference with Wall St. analysts shared day later with reporters. Companies confirmed one possible approach to resolve concerns about BA's entering in- region long distance ahead of Sec. 271 approval, saying FCC and Justice Dept. in past have approved

"trust" arrangement in which assets that fall under legal restrictions are spun off to trustee until necessary approvals have been obtained. James Young, BA exec. vp-gen. counsel, cited successful application of such measures twice when Bell companies sought acquisitions involving restricted activities: (1) Pacific Telesis $432-million purchase of Communications Industries, which would have put company into wireless business despite MFJ restrictions later lifted. (2) Nynex plan to share ownership with Cable & Wireless of Private Transatlantic Telecommunications Service (PTAT) undersea cable, which would have put Bell company in violation of MFJ restriction on international traffic.

Such approach would be used for GTE's long distance and data network only if other approvals aren't received, lawyers stressed, adding that they were confident Sec. 271 applications eventually would be approved by states, FCC, Justice Dept. Young said FCC and Judge Harold Greene, who oversaw MFJ, had endorsed trustee approach, and he called it "option" that would give company ability to acquire assets quickly when restrictions are lifted. He said that among drawbacks to such approach is inability to control or manage restricted unit since under "blind trust" approach, trustee runs venture and parent company can't interfere in operations.

Young said he remained confident BA would get needed Sec. 271 authority in its region ahead of final merger, with N.Y. likely to receive first attention, followed quickly by Pa. and Mass. BA is "pushing ahead as quickly as possible" to win long distance approval using Sec. 271, he said, and N.Y. approval should come by 4th quarter. "Everything is in place," Young said. "Once that [N.Y.] is done, we'll have a clear path to cascade through the rest of our states." BA remains "very confident" of winning Sec. 271 approvals, he told analysts, "but we are working like crazy to have the 706 relief in place for this deal." Young called 706 process "a fallback" in case of delays on long distance relief. He said N.Y., Pa. and Mass. applications have highest priority, then N.J. and rest of New England, followed by Va. and Md., with Del., D.C. and W. Va. last.

Regulators so far haven't raised any "alarm bells" about planned transaction, Barr said, and in GTE's sprawling territory he suggested some regulators view merger as chance for company to begin competing with rivals such as SBC, BellSouth, Ameritech. "They [regulators] are not as concerned by GTE as a fortress," Barr said. "They will see this as carrying competition nationwide and will not see it as a significant potential competitive problem." In GTE region, regulators will view deal as giving company more resources "to attack" other carriers in market, he said. Barr also said he doubted govt. officials would seek to extend Bell company restrictions to GTE region as condition of merger.

In discussion with analysts, Barr said combining 2 companies would create new competitor able to challenge other Bells in region, noting that GTE region is "embedded" in Ameritech, BellSouth, SBC and U S West regions, which "creates a situation where you have very strong LEC-to-LEC competition promise." He rejected suggestions that merger would remove GTE and BA as competitors to each other since GTE is more focused on battling SBC in Cal. and Tex. and BellSouth in Fla. "One of the least likely attacks was for us to go to Bangor, Maine," Barr said. GTE is "inextricably tied" to SBC and BS, which operate alongside GTE in southern Cal. and Tampa, Fla., he said.

In another merger-related development, AirTouch Communications said Fri. that PrimeCo Personal Communications partnership with Bell Atlantic prohibits partners from withdrawing and requires 2 companies to agree if assets are disposed of. AirTouch didn't comment further except to say "it is early in the process" to identify future actions. Agreement has 3 basic elements: (1) PrimeCo operating partnership and TomCom technical marketing operation have restrictions on outside activities, including acquisition of wireless systems in regions where other partner operates. Agreement gives company 6 months to dispose of new properties to avoid conflict. (2) Transfer restrictions prohibit partners from withdrawing from partnership. (3) Any disposal decision needs agreement of both companies.

Classification

Language: ENGLISH

Subject: APPROVALS (90%); COMMUNICATIONS LAW (78%); HOLDING COMPANIES (78%); PARENT COMPANIES (78%); LAWYERS (77%); JUSTICE DEPARTMENTS (77%)

Company: VERIZON WIRELESS INC (92%); VERIZON WIRELESS INC (92%); FEDERAL COMMUNICATIONS COMMISSION (55%); FEDERAL COMMUNICATIONS COMMISSION (55%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (55%); FEDERAL COMMUNICATIONS COMMISSION (55%)

Industry: TELECOMMUNICATIONS (89%); COMMUNICATIONS REGULATION & POLICY (89%); COMMUNICATIONS LAW (78%); WIRELESS INDUSTRY (78%); LAWYERS (77%); LONG DISTANCE TELEPHONE SERVICE (69%)

Load-Date: August 2, 1998

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:16:21 p.m. EST

NewsRoom

7/9/98 Boston Globe C1
1998 WLNR 2425709

Boston Globe (MA)

July 9, 1998

Section: Business

TELECOM MERGER GETS EUROPE'S OK DECISION SEEN PUTTING $46B MCI-WORLDCOM DEAL ON TRACK FOR FINAL APPROVAL

Joann Muller, Globe Staff

The proposed merger between telephone giants WorldCom Inc. and MCI Communications Corp. now appears to be on a fast track following yesterday's decision by European regulators to grant antitrust clearance to the $46 billion deal.

As a condition for approving the gigantic merger, however, the European Commission insisted MCI divest its entire Internet business to ensure the combined companies don't wield too much power in the global market for Internet service.

The decision ends a grueling, seven-month antitrust review by the European Union's top regulatory agency, which wasn't satisfied with earlier concessions offered by MCI.

The deal is still subject to approval by the US Justice Department and the Federal Communications Commission, but because the Justice Department has worked closely with the EC in reviewing the case, US approval is considered likely.

Jeffrey Kagan, an industry consultant based in Atlanta, said he expects quick US approval for two reasons: "One, the EU has put the company through the ringer, and two, there's nothing else for MCI/WorldCom to give."

When antitrust objections to the merger first arose, MCI responded by striking a deal in May to sell its wholesale Internet business to the United Kingdom's Cable & Wireless PLC for $625 million.

The proposed divestiture included MCI's worldwide Internet backbone -- all of its lines and equipment that carry Web traffic -- as well as its reseller contracts with various Internet service providers. But MCI planned to hold on to its own residential and business customers.

But the European Commission demanded MCI sell all of its Internet assets.

"WorldCom is currently the leading player in the market, with MCI one of its main competitors. The merger would have given the combined entity a market share of some 50 percent of the relevant market," the commission said in a statement. "The parties have committed to divesting MCI's Internet assets, thus eliminating the overlap with WorldCom Internet business.

WorldCom and MCI said in a combined statement that they expect US regulators to approve the deal soon and anticipate completing the merger before the end of the summer.

MCI spokesman Jim Monroe would not identify potential buyers of its Internet business, valued at about $1 billion, but Cable & Wireless had indicated recently it was still in talks with MCI, even after regulators shot down the original deal.

The conditional approval seemed to appease rival GTE Corp., which had sued to block the merger on antitrust grounds.

"GTE has maintained all along that the Commission should reject the combination of the world's two biggest Internet providers unless and until MCI and WorldCom agree to eliminate any overlap in their Internet businesses through a complete divestiture. The announcement by the commission today thoroughly vindicates GTE's position," said William Barr, GTE's executive vice president and general counsel.

But GTE said safeguards must be placed to ensure the combined companies do not try to recapture divested MCI Internet customers who also buy other MCI services.

While the forced sale of its Internet business is a setback for MCI, Kagan emphasized the Internet industry is still young, and there is plenty of time for the combined company -- to be called MCI WorldCom -- to rebuild its Internet business.

The merger would create a telecommunications giant with combined 1998 revenue of about $32 billion, and about one-quarter of the $70 billion US long-distance market. The company would be the strongest competitor to number one US long-distance company AT&T Corp. as well as a formidable global competitor. MCI is the second-biggest US long-distance company while WorldCom is number four.

MCI stock closed at 61 7/16, up 9/16, and WorldCom closed at 50 5/8, up 1/4, on the New York Stock Exchange.

MULLER;07/08 CAWLEY;07/09,05:49 WORLD09

---- Index References ----

Company: INTERMEDIA COMMUNICATIONS INC; MCI INC; WORLDCOM INC; MCI COMMUNICATIONS CORP; FEDERAL COMMUNICATIONS COMMISION; CABLE AND WIRELESS PLC

News Subject: (Legal (1LE33); Antitrust Regulatory (1AN52); Technology Law (1TE30); Monopolies (1MO68); World Organizations (1IN77); Mergers & Acquisitions (1ME39); European Union (1EU94); Major Corporations (1MA93); Economics & Trade (1EC26); Corporate Groups & Ownership (1XO09))

Industry: (TV (1TV19); Telecom Carriers & Operators (1TE56); Telecom Regulatory (1TE65); Entertainment (1EN08); Cable Regulatory (1CA73); Manufacturing (1MA74); Telecom (1TE27); TV Regulatory (1TV84); Cable TV (1CA92))

Region: (Americas (1AM92); North America (1NO39); Europe (1EU83); USA (1US73))

Language: EN

Other Indexing: (CABLE WIRELESS; CABLE WIRELESS PLC; COMMISSION; CORP; EC; EU; EUROPE; EUROPEAN COMMISSION; EUROPEAN UNION; FEDERAL COMMUNICATIONS COMMISSION; GTE; INTERNET; JUSTICE DEPARTMENT; MCI; MCI COMMUNICATIONS CORP; MCI INTERNET; MCI WORLDCOM; MCI/WORLDCOM; NEW YORK STOCK EXCHANGE; US JUSTICE DEPARTMENT;

WORLDCOM; WORLDCOM INC; WORLDCOM INTERNET) (Jeffrey Kagan; Jim Monroe; Kagan; TELECOM MERGER; William Barr)

Edition: Third

Word Count: 779

End of Document

Document: GTE's William Barr 'gratified' that European Commission wi…

GTE's William Barr 'gratified' that European Commission will Require Divestiture of MCI Internet Business

Business Wire

July 8, 1998, Wednesday

Length: 479 words

Dateline: WASHINGTON

Body

July 8, 1998--

GTE today issued the following statement that can be attributed to **William P. Barr**, Executive Vice President and General Counsel for GTE Corp.

"We are pleased that the European Commission is requiring a complete divestiture of MCI's entire Internet business, both wholesale and retail customers, as a remedy for the threat of monopolization posed by the WorldCom/MCI merger.

"WorldCom started out saying there was 'no problem' on the Internet; then they said, only a 'minor' fix would be needed; and now they are bowing to complete divestiture. It has been a gratifying progression.

"GTE has maintained all along that the Commission should reject the combination of the world's two biggest Internet providers unless and until MCI and WorldCom agree to eliminate any overlap in their Internet businesses through a complete divestiture. The announcement by the Commission today thoroughly vindicates GTE's position. On the merits, the Commission has embraced GTE's views that a combination of these two Internet businesses would be fundamentally anticompetitive. As a remedy the Commission has also agreed with GTE that the previously proposed partial spin-off of Internet assets to Cable & Wireless was wholly inadequate. Today's announcement appears to confirm that the Commission will settle for nothing less from WorldCom/MCI than the total divestiture advocated by GTE.

"GTE's remaining concern is that the European Commission build adequate safeguards to ensure that the spin-out of MCI's Internet business will be durable and fully effective. In particular, it is critical that safeguards are in place to prevent a combined WorldCom/MCI from capturing back the divested Internet customers who currently buy other services from MCI. GTE is committed to working with the European Commission and the Department of Justice, as part of the continuing review of the merger, to achieve that result. Until GTE is satisfied that the necessary safeguards are in place, moreover, GTE will continue to pursue the Internet claims raised in its pending lawsuit challenging the WorldCom/MCI merger.

"The enforcement actions taken by antitrust authorities on the Internet side do not address the serious competitive problems caused by this deal in long distance markets, where MCI and WorldCom are the second and fourth largest carriers. Regardless of the outcome in Europe, GTE, along with other companies, will continue to press its claims on long distance issues before the FCC, the Justice Department and in the district court."

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Today's News On The Net - Business Wire's full file on the Internet

with Hyperlinks to your home page.

URL: http://www.businesswire.com

Classification

Language: ENGLISH

Subject: DIVESTITURES (90%); JOINT VENTURES, MERGERS & ACQUISITIONS LAW (89%); MERGERS (89%); ANTITRUST & TRADE LAW (89%); CORPORATE COUNSEL (78%); LAWYERS (78%); AGENCY RULEMAKING (78%); JUSTICE DEPARTMENTS (78%); EU MERGER REGULATION (77%); LITIGATION (73%); ENFORCEMENT ACTIONS (72%); LAW ENFORCEMENT (67%); SUITS & CLAIMS (63%); LAW COURTS & TRIBUNALS (62%)

Company: VERIZON COMMUNICATIONS INC (96%); VERIZON COMMUNICATIONS INC (96%); EUROPEAN COMMISSION (94%); EUROPEAN COMMISSION (94%); GTE

Organization: EUROPEAN COMMISSION (94%); EUROPEAN COMMISSION (94%); GTE EUROPEAN COMMISSION (94%); EUROPEAN COMMISSION (94%)

Ticker: VZC (LSE) (96%); VZ (NYSE) (96%); GTE VZC (LSE) (96%); VZ (NYSE) (96%)

Industry: TELECOMMUNICATIONS SERVICES (90%); INTERNET & WWW (90%); COMPUTER NETWORKS (89%); LONG DISTANCE TELEPHONE SERVICE (89%); CORPORATE COUNSEL (78%); LAWYERS (78%)

Geographic: EUROPE (91%)

Load-Date: July 9, 1998

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:36:23 p.m. EST

Document: WorldCom

WorldCom

Irish Company News

July 1998

Business and Industry

Section: Pg. 34; Vol. 2; No. 7; ISSN: 1393-5216

Length: 889 words

Highlight: WorldCom is negotiating the possibility of acquiring PostGem or forming a strategic alliance with the subsidiary of of Ireland's An Post

Body

ABSTRACT:

WorldCom is negotiating the possiblitiy of acquiring PostGem or forming a strategic alliance with the subsidiary of of Ireland's An Post. PostGem provides electronic communications services in Ireland and owns the Internet service provider Ireland On-Line. An Post is unlikely to sell PostGem but would most likely sell a minority stake of 25% or more. WorldCom is expected to pay IrPd10-15 mil for a stake in PostGem, depending on the size of the stake it would acquire. Ireland On-Line has 40,000 customers, with 70% of subscriptions paid for by businesses. PostGem needs international connectivity to grow the business. The company also needs to gain expertise in Internet telephony. Both of these needs would be filled with an alliance with WorldCom. Article included discussion of WorldCom/MCI merger and its impact on the Internet market.

Telecommunications group WorldCom is in talks with PostGem, the An Post subsidiary about a possible buyout or a strategic alliance. PostGem provides a broad range of electronic communications services in Ireland and also includes Internet service provider Ireland On-Line. The talks are still at a preliminary stage and that it is unlikely An Post would sell the whole subsidiary, although WorldCom would favour a straight acquisition. However, a strategic alliance whereby WorldCom, would take 25 per cent or more is under consideration.

WorldCom is one of Ireland's largest providers of telecommunications services to the corporate sector and is keen to expand its market. Sources say PostGem would provide such a vehicle. No price has been mentioned yet, but industry estimates say IRPd10 million IRPd15 million would be a realistic figure, depending on the stake WorldCom gets.

An attraction for WorldCom would be access to Ireland On-Line (IOL) which now has 40,000 customers. Although seen as more orientated towards the residential market, it has said 70 per cent of its subscriptions are paid for by businesses.

PostGem needs to develop IOL and needs to get into Internet telephony, but the company doesn't have much experience in it. Internet telephony is expected to form a major part of future development in telecommunications. PostGem also needs international connectivity to give the bandwidth and technical support. At present the company uses UUNET Technologies, which is the Internet of WorldCom, so the WorldCom investment in PostGem would be a logical next step in the development of the An Post subsidiary.

PostGem needs to be developed and to provide international voice services, otherwise the value of the company will eventually fall. At present, WorldCom carries traffic for PostGem on its international network. WorldCom and PostGem are currently finalising arrangements under which PostGem will distribute some of WorldCom's services such as international frame relay services used for the transfer of high-speed data.

It is not known how much the An Post subsidiary makes each year, or if it is in profit. An Post, in common with other State companies consolidates its operations into its profit and loss account. However, Ireland On Line, which employs 75 people, is expected to break even for the first time this year.

WorldCom bought out TCL Telecom last year for an undisclosed figure. The US-based global telecommunications group is an acquisitive one. Last year it was involved in the biggest over takeover of a telecoms company when it bought MCI for IRPd24.6 billion.

The European Commission cleared the $37 billion (IRPd27 billion) merger between MCI Communications Corp and WorldCom on July 8 but insisted that MCI sell off its Internet businesses to ensure the two companies did not dominate the market for Internet "connectivity" services to retail customers and Internet service providers. WorldCom employs 50 people in Ireland, providing services to the corporate market.

MCI is the second-largest and WorldCom the fourth-largest long-distance carrier in the United States and the Commission has insisted from the start that the merger partners eliminate the overlap between MCI's Internet interests and WorldCom's UUNet Technologies.

The Commission said the buyer would have to be approved by both EU and US regulators, which are reviewing the deal, and that it might appoint a trustee to oversee the divestiture. It also imposed a "non-compete" clause barring the merged entity from trying to win back MCI Internet customers that are transferred to the new owner. The clause would apply for a limited period, but officials declined to give details.

MCI and WorldCom both welcomed the Commission's decision, saying they expected to complete their merger this summer following US regulatory approval.

US telecoms company GTE Corp, which filed suit in the United States to block the merger, hailed the Commission's decision to require MCI to divest all of its Internet assets. But executive vice-president, **William Barr** said that GTE would not drop its lawsuit until it was sure the selloff was "durable and fully effective", with safeguards to prevent MCI from recapturing divested Internet customers who buy other MCI services. Furthermore, he said, the ruling did not address "the serious competitive problems caused by this deal in long-distance markets", an issue where the Commission expressed no concerns.

Classification

Language: ENGLISH

Document-Type: Journal; Fulltext; Abstract

Journal Code: IRISCOMN

Acc-No: 1600125

Subject: ALLIANCES & PARTNERSHIPS (90%); BUYINS & BUYOUTS (90%); STRATEGIC PARTNERSHIPS (90%); TALKS & MEETINGS (89%); TELECOMMUNICATIONS SECTOR PERFORMANCE (79%); DIVESTITURES (78%); MERGERS (78%); TAKEOVERS (78%); COMPANY PROFITS (70%); All company; Corporate strategy; Mergers, acquisitions & divestitures

Company: VERIZON COMMUNICATIONS INC (94%); WORLDCOM

Organization: EUROPEAN UNION (59%)

Ticker: VZC (LSE) (94%); VZ (NYSE) (94%)

Industry: TELECOMMUNICATIONS (92%); COMPUTER NETWORKS (90%); INTERNET SERVICE PROVIDERS (90%); TELECOMMUNICATIONS SERVICES (90%); INTERNET & WWW (89%); BANDWIDTH (79%); TELECOMMUNICATIONS PROVIDERS (79%); TELECOMMUNICATIONS SECTOR PERFORMANCE (79%); INTERNET TELEPHONY (77%); Information industry; Online services; Telecom services; Telecommunications

Product: 481317 (Data communications services); 737500 (On-line service providers)

Geographic: EUROPE (58%); EUROPEAN UNION MEMBER STATES (58%); Ireland; European Union (EUCX); Ireland (IRE); Western Europe (WEEX)

Load-Date: January 9, 2005

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 01:13:09 p.m. EST

6/26/98 AP Online 00:00:00

AP Online

June 26, 1998

Section: Washington

Secret Service testimony in Lewinsky probe hangs in balance

PETE YOST

WASHINGTON

Whitewater prosecutor Kenneth Starr insists the Secret Service must testify about President Clinton and former White House intern Monica Lewinsky, a move the law enforcement agency says would increase the risk of assassination.

If three agency employees are compelled to answer questions, "presidents will inevitably distance themselves from their protectors and the ability of the Secret Service to executive its protective mission will be undermined," the Justice and Treasury departments said in court papers.

The Secret Service is appealing before the U.S. Circuit Court of Appeals a ruling by U.S. District Judge Norma Holloway Johnson rejecting a proposed protective function privilege that would keep the three Secret Service personnel from giving grand jury testimony. Presidential safety would not be affected by the testimony and the proposed privilege has never been recognized at the federal or state level, Johnson said.

The appeals court was to hear arguments today.

Starr is seeking testimony from uniformed Secret Service officers Gary Byrne and Brian Henderson and agency lawyer John Kelleher about what they or others learned while guarding Clinton.

During lengthy questions by Starr's office, Byrne and Henderson refused to answer 19 questions and Kelleher refused to answer four.

"The long-term interest of the Secret Service like all law enforcement agencies is served by permitting its agents to present evidence that is relevant to a federal criminal investigation," Starr said in federal appeals court papers.

"The proposed privilege has the effect of forcing sworn law enforcement officers to remain silent while in the possession of evidence that could affect serious federal criminal proceedings," Starr added.

Former President Bush sided with the Secret Service's position, while former Presidents Carter and Ford said Secret Service personnel should testify in criminal cases.

"If a president feels that Secret Service agents can be called to testify about what they might have seen or heard then it is likely that the president will be uncomfortable having the agents nearby," Bush wrote.

Four former attorneys general supported Starr, saying "the public does not want the president to feel comfortable discussing possible criminal information in front of any public servant, let alone a law enforcement officer." The four are Griffin Bell of the Carter administration and Edwin Meese, Richard Thornburgh and William Barr of the Reagan and Bush administrations.

Compelling the Secret Service testimony could result in a president denying his protectors the last few feet of proximity that may be the difference between life and death, says Secret Service Director Lewis Merletti.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Police (1PO98))

Industry: (Entertainment (1EN08); Celebrities (1CE65))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (JUSTICE; SECRET SERVICE; TREASURY; US CIRCUIT COURT OF APPEALS; WHITE HOUSE) (Brian Henderson; Bush; Byrne; Carter; Clinton; Edwin Meese; Ford; Gary Byrne; Griffin Bell; Henderson; John Kelleher; Johnson; Kelleher; Kenneth Starr; Lewis Merletti; Monica Lewinsky; Norma Holloway Johnson; Presidential; Presidents Carter; Reagan; Richard Thornburgh; Secret; Secret Service; Service; Starr; Whitewater; William Barr)

Word Count: 544

End of Document

6/20/98 Wash. Times (D.C.) A4
1998 WLNR 368991

Washington Times (DC)

June 20, 1998

Section: NATION

Starr argues testimony won't imperil president

Jerry Seper - THE WASHINGTON TIMES

Independent counsel Kenneth W. Starr said in court papers yesterday that allowing uniformed Secret Service officers who guard President Clinton to testify in the Monica Lewinsky probe would not place the president in jeopardy.

"There is no reasonable basis for the Secret Service's prediction that presidential safety will be compromised by the testimony of its personnel," Mr. Starr said in a motion filed with the U.S. Circuit Court of Appeals, which will hear arguments in the case Friday.

Meanwhile, four former U.S. attorneys general said in a brief there was no basis for the Secret Service refusal for its officers to testify. Griffin Bell, who served in the Carter administration, and Edwin Meese, Richard Thornburgh and William Barr, who served under Presidents Reagan and Bush, said "in any area where a president may fear possible allegations of criminal conduct, the chilling effect of a criminal inquiry would be a positive, not a negative influence."

"No court has ever recognized a protective function privilege in the prior 222 years of American jurisprudence," they said. "The public does not want the president to feel comfortable discussing possible criminal information in front of any public servant, let alone a law enforcement officer."

Prosecutors want to call two uniformed Secret Service officers to testify on what they might have seen at the White House regarding numerous visits by Miss Lewinsky, and also are seeking the testimony of a Secret Service lawyer who briefed the officers.

The agency has told the court that forcing the testimony of its personnel could place Mr. Clinton in jeopardy, possibly leading to his assassination. In documents filed June 12, the agency agreed with an earlier Justice Department brief opposing efforts by Mr. Starr to compel the testimony of uniformed officers Gary Byrne and Brian Henderson and of legal counsel John Kelleher.

Mr. Starr has said the testimony is essential to the Lewinsky probe. The grand jury is probing the former intern's account on 20 hours of secretly recorded audiotapes that she had an affair with Mr. Clinton and that he and others told her to lie about it in the Paula Jones sexual misconduct suit. Mr. Clinton has denied the accusation.

Prosecutors want to know if White House officials - including Mr. Clinton - perjured themselves in the Lewinsky case, suborned perjury from others, obstructed justice in the case or tampered with potential witnesses.

U.S. District Judge Norma Holloway Johnson ruled in Mr. Starr's favor last month to compel the testimony, forcing an appeal by the Justice Department and the agency. An appeals panel consisting of Judge A. Raymond Randolph, appointed by President Bush, and Judges Stephen Williams and Douglas Ginsburg, appointees of President Reagan, will hear the arguments.

Justice said forcing Secret Service officials to testify would damage the bonds of trust between the president and those who guard him, placing him in jeopardy.

In his filing, Mr. Starr said a claimed "protective function privilege" has no basis in law, and the officers would be compelled as sworn law enforcement authorities to testify about any possible felonies they witnessed.

"Should a Secret Service employee happen to observe a state or military secret, that observation would be privileged (and we would not seek its disclosure)," he wrote. "But that does not convert every presidential word and action into a state secret."

G0036166-062098

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33))

Region: (District Of Columbia (1DI60); USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (BUSH; JUSTICE DEPARTMENT; LEWINSKY; MISS LEWINSKY; MONICA LEWINSKY; PRESIDENT BUSH; SECRET SERVICE; STARR; US CIRCUIT COURT OF APPEALS; WHITE HOUSE) (A. Raymond Randolph; Brian Henderson; Clinton; Douglas Ginsburg; Edwin Meese; Gary Byrne; Griffin Bell; Independent; John Kelleher; Judges Stephen Williams; Kenneth W. Starr; Norma Holloway Johnson; Prosecutors; Reagan; Richard Thornburgh; Starr; William Barr)

Edition: Final

Word Count: 699

End of Document

NewsRoom

6/8/98 Miami Herald 17
1998 WLNR 3327145

Miami Herald (FL)

June 8, 1998

Section: Business Monday

INTERNET CARRIERS WILL OUTRUN PROTECTIONISTS

DAVID POPPE, Herald Staff Writer

A mid all the hoopla and headlines over the Justice Department's antitrust scrutiny of computer giants Microsoft and Intel, it's easy to overlook the bizarre, unhealthy vetting the pending MCI-WorldCom merger has received from regulators on both sides of the Atlantic.

You may have read that in late May, MCI agreed to sell its Internet unit to Britain's Cable & Wireless for $625 million. That was done to satisfy European and U.S. regulators who worried that a combined MCI-WorldCom would dominate the Internet backbone, which is the high-capacity communications network that carries traffic between Internet service providers.

By some estimates, as many as 60 percent of all such ISPs would have contracts with MCI-WorldCom to carry their traffic. Regulators worry the merged company would have too much power to set pricing and control Internet access.

But the folks at the U.S. Justice Department and the European Commission seem to have overlooked a few facts. The Internet is growing incredibly quickly and its backbone is far more a work in progress than a closed system. Huge companies like AT&T, Sprint and GTE operate their own backbone networks. New companies are building networks that will transmit data much faster than today's backbone.

Competitive pricing

Pricing is extremely competitive on the Internet, and there are no signs of predatory behavior anywhere. MCI's backbone unit has agreements to share traffic with 40 other Internet providers, hardly a sign of danger.

Plus, MCI's backbone unit should generate about $220 million in sales this year, about 1 percent of the company's total sales. That figure shouldn't frighten anyone.

European antitrust regulators -- there is an oxymoron in there somewhere -- cry that MCI-WorldCom will enjoy a near-monopoly on Internet transmissions. The charge is so absurd that I half-expect to learn Inspector Clouseau is heading the European Commission's telecom division.

For the record, there are more than 1,500 ISPs that don't use MCI-WorldCom for backbone support.

Maybe what the Commission meant to say is that British Telecom is still peeved that it tried to strong-arm MCI into accepting a low bid and lost out to a better offer from a feistier company.

GTE's sour grapes?

On this side of the Atlantic, GTE also cried foul. That's even less intellectually honest. At least the Europeans can make the plausible argument that they have no clue how the Internet works. GTE knows better. It is a major backbone operator.

GTE, of course, also tried to buy MCI and lost. And the reader may remember that GTE is the local telephone company in a number of U.S. cities, including Tampa, so it understands what a true market choke hold looks like.

Yet GTE General Counsel William Barr, the former Attorney General, has the audacity to liken MCI-WorldCom's power in cyberspace to the Bell systems' emergence in the telephone market in the early 20th Century. ``We can't allow one company to swoop in at this stage and buy up more than half of the Internet -- not only the superhighway but all customers and destinations as well,'' Barr said recently on CNBC.

Apparently, it slipped Barr's mind that there is an obscure little company called America Online that controls more than 12 million on-line customers and signed a deal last fall with WorldCom to lock in low rates for backbone service for the next five years.

An AOL spokeswoman tells me the company is happy with WorldCom and has a portfolio of suppliers for backbone service, reducing its dependence on any single company.

Sounds like a real antitrust nightmare, eh?

Justice Department orders

Some people who follow these issues for a living find the entire spectacle ridiculous. When MCI announced the sale to Cable & Wireless, the Justice Department reportedly told MCI that it would not approve the merger until discussing the divestiture with MCI's competitors. Remember, GTE's Barr used to run the Justice Department. On Friday, a top European Commission official said he wouldn't vote to allow the merger.

``We have a very unsympathetic view compared to the rest of the world, it seems,'' says Ken McGee, vice president and research fellow at the Gartner Group consulting firm in Stamford, Conn. ``If all the regulators could do after so many months of investigating WorldCom and MCI is come up with MCI divesting less than 1 percent of its assets that generate less than 1 percent of its revenues, then that's been the biggest waste of public funds since investigating Monica.''

Jeffrey Kagan, a well-known telecom analyst in Atlanta, agrees. ``I thought the concerns were overblown anyway, since the Internet is too dynamic and fast-growing for any company or even government to control, but if this move won't make it go away I don't know what will,'' he says.

MCI-WorldCom is going to dominate the Internet? How? Qwest Communications, a startup, has raised $2 billion and already built half of a planned 18,000-mile network of high- capacity fiber that will, among other things, act as the backbone of Internet2, a superspeed network linking U.S. universities.

New tech on horizon

Sprint, the nation's No. 3 long-distance company, likewise has spent $2 billion on new technology to deliver voice, video and data signals over one phone line simultaneously for less money than today's domestic long-distance. AT&T says it is upgrading its data network, too.

McGee, the Gartner Group analyst, says European concerns are especially galling, given that most European phone companies enjoy protectionist regulations that inhibit competition and have made little effort to build the high-speed networks needed to handle Internet traffic.

``If the European community is so concerned about the amount of traffic that this new merged company would carry, then our advice to them would be to look up the word `competition' in the dictionary and go build competing platforms themselves, rather than feed off of people who had the insight and vision to create this infrastructure years ago.," McGee says. ``Give us a break."

He's right. Monopolists and sore losers shouldn't dictate regulatory policy. And when it comes to backbone, we should all be more worried about our Justice Department's than about the Internet's.

David Poppe covers technology and telecommunications for The Herald. His Virtual View column on issues in technology appears occasionally. You can e-mail him at dpoppe@herald.com or send a letter the old-fashioned way, by fax, at (305) 376-2066.

TECHNOLOGY

---- Index References ----

Company: INTERMEDIA COMMUNICATIONS INC; MCI INC; TIME WARNER INC; INTEL CORP; CABLE AND WIRELESS PLC; GARTNER INC; QWEST COMMUNICATIONS INTERNATIONAL INC

News Subject: (Legal (1LE33); Antitrust Regulatory (1AN52); Monopolies (1MO68); Judicial (1JU36); Major Corporations (1MA93); Infrastructure (1IN78); Technology Law (1TE30); World Organizations (1IN77); Mergers & Acquisitions (1ME39); European Union (1EU94); Economics & Trade (1EC26); Corporate Groups & Ownership (1XO09))

Industry: (Telecom Regulatory (1TE65); Internet Service Providers Equipment (1IN52); Internet Service Providers (1IN56); Manufacturing (1MA74); Cable Equipment (1CA96); I.T. Analysts Report (1IT76); Internet Technology (1IN39); Cable TV (1CA92); I.T. Regulatory (1IT67); E-Commerce (1EC30); TV (1TV19); Internet Regulatory (1IN49); I.T. (1IT96); Internet Services (1IN96); Telecom Carriers & Operators (1TE56); Entertainment (1EN08); Internet Usage Statistics (1IN79); Telecom Markets (1TE97); I.T. in Telecom (1IT42); Cable Regulatory (1CA73); Internet (1IN27); Telecom (1TE27); TV Regulatory (1TV84); E-Commerce Industries (1EC99); Communications Industry Analysts (1CO52); Internet Advanced Technology (1IN45))

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Regulators May Push WorldCom, MCI --- Sale of Internet Holdings By One May Be Needed For Merger Approval

The Wall Street Journal

May 27, 1998 Wednesday

Section: Pg. A3

Length: 822 words

Byline: By John R. Wilke, Staff Reporter of The Wall Street Journal

Body

WASHINGTON -- U.S. and European antitrust enforcers are likely to demand a substantial divestiture of Internet capacity by either WorldCom Inc. or MCI Communications Corp. as a condition for approval of their $37 billion merger, government officials said.

European regulators found that the merged companies would control more than half the traffic on the Internet's "backbone" transmission network. WorldCom and MCI are the two largest backbone operators, Sprint Corp. is third and GTE Corp. is fourth.

In talks with the companies, European regulators are demanding the sale of either WorldCom's UUNet Technologies Inc. unit or MCI's Internet business, and won't be satisfied by a planned partial sale of MCI's Internet assets, officials said. A European Commission antitrust official in Brussels said yesterday that "there is only one possible remedy, and that is divestiture of either WorldCom or MCI's holdings."

U.S. Justice Department officials also have raised serious concerns about the companies' potential dominance of the Internet, but are still completing their review, people close to the case said.

The European Union's antitrust chief, Karel Van Miert, will raise the issue when he meets with U.S. officials in Washington next week. "We are trying to obtain the same concessions as the Justice Department," Mr. Van Miert said. "Any overlap between MCI and WorldCom should be eliminated."

Mr. Van Miert's spokesman said European and U.S. authorities hope to announce a decision simultaneously. European regulators must act by a July 15 regulatory deadline, but the U.S. review could take longer. The Federal Communications Commission must also approve the deal.

Spokesmen for both companies declined to comment on talks with European regulators, saying they are confidential. They said the deal is still on track to close by midsummer, but wouldn't detail the scope of any Internet asset sales under discussion.

John Sidgmore, WorldCom's vice chairman, recently called the deal "pro-competition" and said that WorldCom is "the first company ever to stand up and fight" with entrenched telephone companies, "which have been monopolies in Europe for 100 years." The EC held a hearing on the merger earlier this month.

He added that WorldCom has invested over $2 billion of its own capital in Europe to build plants and expand operations, resulting in over 1,000 new jobs a year. "This deal is good for Europe, good for the U.S. and good for the world," Mr. Sidgmore said.

In a confidential report given to both companies, European officials take a starkly different view. "MCI and WorldCom would be in effective control of the market" and could capture most future growth, creating a "snowball effect," the report warned.

WorldCom executives insist that regulatory problems aren't significant. Chief Executive Bernard Ebbers told shareholders at last week's annual meeting that only a "small remedy" would be needed to address antitrust concerns.

Mr. Van Miert's office reacted sharply yesterday, saying he "is surprised that Mr. Ebbers could make such statements before shareholders" and that his comments "are simply not true."

A WorldCom official who attended the annual meeting in Clinton, Miss., said that Mr. Ebbers may have been misunderstood and that his assertion was intended simply to provide perspective. Mr. Ebbers would be willing to make some concessions to protect the deal, the official said.

WorldCom's $37 billion stock deal won over MCI last year, after a bidding war triggered by British Telecom PLC and later joined by GTE with a $28 billion all-cash offer. GTE has opposed the WorldCom-MCI deal and filed a lawsuit in U.S. District Court in Washington seeking to block it on antitrust grounds.

"On the Internet side, this deal is dead," declared William Barr, the former attorney general under President Bush who is now GTE's general counsel. "What else does it mean when Commissioner Van Miert says any overlap should be eliminated?"

GTE has submitted to the Justice Department letters from two investment bankers valuing MCI's Internet business at more than $4 billion under current market conditions. It is the company's fastest-growing major business, with sales of $83 million in the first quarter and 1997 annual revenue of $230 million, an MCI spokesman said. Competitors dispute those numbers, saying they understate the size of the business.

The proposed deal also came under fire yesterday from the Senate Judiciary Committee, where Arlen Specter (R., Pa.) urged the Justice Department not to accept "a fig leaf remedy" that would let it go forward without steps to protect consumers.

The prospect of a significant asset sale by MCI or WorldCom didn't damp Wall Street enthusiasm yesterday. Shares of WorldCom rose 50 cents in active trading to close at $45.75, while MCI ended at $53.4375, up 53.125 cents. Both trade on the Nasdaq Stock Market.

Jennifer L. Schenker in Paris contributed to this article.

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U.S. News & World Report

May 25, 1998

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Byline: By William J. Holstein; Fred Vogelstein; Jack Egan

Highlight: The Baby Bells bulk up, but they may not be invincible

Body

When Congress passed the landmark Telecommunications Act two years ago, the goal was simple: create more competition in the telephone business so that prices would drop and service would improve. But the announcement last week that SBC Communications, the former Southwestern Bell, was buying Chicago-based Ameritech for $ 62 billion seemed to indicate that precisely the opposite is happening--the Baby Bells are consolidating into four regional bastions, and consumers may be no better off today than they were before.

Members of Congress, regulators, and rivals howled with indignation over the proposed SBC-Ameritech merger. "This deal is a punch in the solar plexus for America's competition policy," fumed former Federal Communications Commission boss Reed Hundt. But the most serious challenge to the four remaining Baby Bells--SBC, U S West, Bell Atlantic, and BellSouth--is likely to come not from Washington but from the marketplace. A raft of new competitors providing wireless services, high-speed cable connections, fiber-optic links, and satellite hookups has begun chipping away at the Baby Bells' market dominance.

Wired. Scarcely noticed in the hullabaloo over the planned SBC-Ameritech merger, for example, was AT&T Wireless's announcement that it will offer customers a cheaper, flat rate for its service. Suddenly, wireless phone companies like AT&T Wireless and Sprint PCS, which had already adopted a similar pricing structure, seem like more credible competitors.

At the same time, upstarts known as CLECS (competitive local exchange carriers) are stringing thousands of miles of fiber optics in the nation's biggest metropolitan areas. In the process, they are picking off the local phone companies' best business customers. A Princeton, N.J.-based company called RCN, for example, is giving Bell Atlantic fits in the high-volume Boston-New York-Washington corridor. "The monopoly phone business is over," crows RCN CEO David McCourt. "They can whine about it as much as they want, but there's nothing they can do about it."

The Bells see these competitors as barbarians at their gates, of course, which is one reason SBC and Ameritech teamed up. The Bells' strength is that, along with GTE Corp., they control about 85 percent of the nation's 160 million local phone lines. That gives the Bells a huge measure of control over the link between the home and the wide world of communications. Flush with cash from record earnings, the Bells are trying to fend off competitors by offering their own wireless systems, faster phone lines, and improved services. But so far they lag behind their more nimble-footed rivals. Many experts predict that just five or six powerhouses will emerge from this fight--and that one or more of the Bells may not be among them. U S West, the smallest of the Bells, may be the most vulnerable.

Wireless service could turn out to be the biggest threat to the Baby Bells. AT&T Wireless and Sprint PCS, a joint venture of Sprint and cable companies Tele-Communications Inc., Comcast, and Cox, have been building digital cellular networks that are now available to more than 100 million Americans. Digital phones offer better quality than analog cell phones, including wider coverage areas and fewer interrupted calls. None of the Bells has comparable nationwide networks.

With prices for wireless service dropping, the difference between what AT&T and Sprint PCS charge and what the Baby Bells charge on their land lines has narrowed considerably. It now costs about 15 cents to 20 cents a minute for wireless services, compared with about 3 cents a minute on a Bell land line. When other features such as call waiting and caller ID (for which the Bells charge dearly) are factored in, the gap narrows further. Jilene Hansen, a Minneapolis radio advertising salesperson, used to spend about $ 50 a month on her home U S West phone, plus another $ 50 a month on a local cell phone. But she scrapped them both last September in favor of a Sprint PCS phone that costs about $ 80 a month. "Why pay $ 50 a month for a U S West land-line phone that is stuck there on the wall?" Hansen asks.

Close call. The upshot is that the two long-distance carriers--AT&T and Sprint PCS--have found a way to compete in the local phone business without spending billions of dollars to build land lines. No one is predicting that all Americans will soon give up their local Bell lines for wireless connections. But as costs fall and quality improves, more consumers may choose a wireless service for their second home line. Merrill Lynch estimates that the number of wireless minutes grew to 3.8 percent of all phone minutes by the end of 1997, and that wireless's share will reach 7.3 percent by 2000. AT&T's and Sprint's wireless prices are expected to keep moving toward parity with the Bells' land lines.

Similarly, the cable industry is taking on the Baby Bells by spending more than $ 7 billion a year to turn antiquated analog equipment into high-speed digital autobahns. "It's been massive," says Tom Wolzien, an analyst at Sanford Bernstein & Co. in New York. Unlike analog equipment, digital lines will carry two-way traffic. The new systems also will be able to transmit cable TV signals, Internet traffic, faxes, and voice on the same wire, allowing the cable companies to completely bypass local phone companies.

That's already happening in Orange County, Calif., where Cox Communications of Atlanta has been stealing business from Pacific Bell (owned by SBC) with an all-in-one package of voice, data, and cable television. The telephone charge is 30 percent cheaper than Pac Tel's rates. Says Wolzien: "If this catches on, SBC is screwed in California," because regulators don't yet allow local phone companies to change prices at will to meet competition. Cox hopes to have similar offerings in San Diego and Phoenix by year's end.

The Internet poses still another challenge to the Baby Bells. Cable companies Time Warner, Media One, and At Home (a consortium of TCI, Cox, Comcast, and three other companies) already have installed 155,000 cable modems in households on Long Island, N.Y., and in Akron, Ohio; Fremont, Calif.; and Arlington Heights, Ill., outside Chicago. For $ 35 to $ 40 a month on top of the cable bill, customers receive Internet access at speeds sometimes faster than office connections. Analysts believe that 300,000 households will have cable modems by the end of 1998, a number that could grow to 4 million by 2000. That's still tiny compared with the lines controlled by the Bells, but the number encompasses some of the most lucrative customers--the ones with personal computers, faxes, and similar gear. "The impact could be devastating," says Frank Governali, an analyst at Credit Suisse First Boston in Portland, Maine.

Sniper fire. The fiber-optics lines that telecom upstarts are rolling out across the country also will offer huge new pipelines into homes. In a guerrilla war against Bell Atlantic, tiny RCN (which stands for Residential Communications Network) is laying 1,000 miles of fiber-optic lines a year in the Northeast corridor. Its print ads show the four American presidents carved into stone in Mount Rushmore, S.D., and ask: "You choose your president. Why not your phone and cable company?"

RCN's McCourt dismisses the Bell system's consolidation as an act of desperation. "They don't have a good growth strategy, so they're merging for the sake of merging," he says. His company offers bargain pricing for a multimedia menu that includes local and long-distance phone service, plus 100-channel digital cable and Internet connections. Depending on what a customer signs up for, the whole package could undercut established providers' prices by 30 percent. Salomon Smith Barney estimates that independent providers added more new business lines in the first quarter of 1998 than did the Bells.

Individually, none of these interlopers can smash the Bell near-monopolies. But the net effect could be to snare the choicest segments of their business--"cream skimming" is how GTE general counsel **William**

Barr refers to it. The Bells are certain to do whatever it takes to repel the challengers. They're introducing their own high-speed Internet connection and wireless networks, and relying on their prodigious lobbying and legal prowess to push their way into the long-distance business. (The law currently prohibits them from entering long-distance markets until they open their own local markets to competition.)

Despite all the venting over the SBC-Ameritech deal, it seems unlikely that Congress will reopen the Telecom Act to curb the power of the Bells. "That bill took over 10 years to do," says Greg Simon, a former key Clinton administration aide on telecom reform. "The political will just isn't there."

Besides, given the sheer complexity of the $ 200 billion telephone industry and the prospect that new technologies and new competitors will erode the power of the Bells over time, some experts are arguing that Washington shouldn't even attempt to reopen the law. With 20-20 hindsight, they note that the lawmakers didn't get it right the last time. Congress predicted that the Telecommunications Act would bring full competition in two years and that phone rates for virtually everyone would fall. "Our expectations were way out of line with reality," says Governali of CS First Boston. "We're restructuring one of the biggest industries in the world."

One basic calculation behind that law--that long distance was the place to be--may be totally wrong. Congress assumed that the Bells would be so eager to break into the lucrative long-distance market that they could be sweet-talked into opening their local bastions to competition. Instead, prices have fallen sharply on long distance, and local service has become more profitable. "Basic local telephone service has turned out to be much more profitable than anyone thought," says John Windhausen, general counsel for the Competition Policy Institute, a Washington, D.C.-based think tank. The reason is the explosion in second lines and add-on services such as call waiting, caller ID, and call answering. It costs the local companies pennies to deliver these services, but together they can add more than $ 20 to each monthly bill.

The most important question for lawmakers is whether the intense competition that's benefiting urban areas and big corporate customers will percolate down to the mass market--including households in rural areas and small businesses. "There's more real competition in Manhattan south of 59th Street than in all of SBC's territory" throughout the South, complains Mark Cooper, research director for the Consumer Federation of America.

For the moment, at least, the telecom wars seem to be undermining the traditional commitment to universal service. The goal of policy makers has long been to ensure that every American had equal access to telephone service. While rural areas receive basic phone service, they clearly do not enjoy the same quality of service that urban dwellers do with the latest offerings in wireless, cable, and fiber optics. Nor are they fully benefiting from price competition. In fact, experts reckon that rates in some Western states will go up by a few dollars a month as the telephone industry's subsidy system is dismantled.

The challenge of improving everyone's telephone service and at the same time lowering prices is a formidable one. It may be that the Bells are throwing their weight about, dinosaurlike, in an increasingly desperate bid to remain supreme. But this much is clear: The telecom revolution is far from over, and more Americans will be reaping the benefits.

Graphic

Drawing, No caption (Illustrations by Phil Foster for USN&WR)

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May 17, 1998

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Days numbered for law on independent counsel Lengthy investigations leave Congress with little interest in renewal.

NEIL A. LEWIS

The New York Times

WASHINGTON - In a little more than a year, the law that authorized the appointment of independent counsels is set to expire - to the delight and relief of the Clinton administration, many Democrats and a good number of Republicans as well.

If that happens, the five independent prosecutors now investigating current and former Clinton appointees would become the last of their species. And extinction seems like a real possibility: Congress appears to have little appetite for renewing the law.

Republican complaints in the Iran-contra affair about the dangers of an open-ended, unaccountable prosecutor have been echoed by Democrats about the Whitewater investigation. And with the White House up for grabs in 2000, either party could be a target again.

There are some in Washington who, having lived through Watergate, are haunted by the specter of President Nixon firing Archibald Cox, the Watergate special prosecutor. They still believe that an administration cannot fairly investigate itself.

So they are designing ways to amend the law to make it palatable enough to win renewal when the Ethics in Government Act, one of the chief post-Watergate reforms, expires June 30, 1999.

``A number of lawmakers here feel the law is simply unfixable,'' said Linda Gustitis, a senior staff counsel to Sen. Carl Levin, a Michigan Democrat. ``Others believe there should be some structure in place but perhaps restricted to really serious cases. ''

Among those who are committed to renewing the law, albeit with significant changes, are Levin and Rep. Jay Dickey, an Arkansas Republican. Both believe the law's critics ignore the problem the law was designed to solve in the first place: The public may not trust the Justice Department to investigate other officials in the administration.

``For a long while, I thought people wanted to abolish the law," Dickey said. ``But now I believe they don't. I think people want some form of independent examination of their elected officials. "
But concerns about conflicts of interest have been overshadowed by criticism of the tactics of Kenneth Starr, the independent counsel whose investigation of the Clintons' Whitewater real estate deal has expanded to the president's sex life.

Debate about the law intensified last week when Attorney General Janet Reno announced that she would use it to seek an independent prosecutor to investigate allegations of corruption against Labor Secretary Alexis Herman - the seventh independent counsel appointed in the Clinton administration.

Herman was baffled and angry. To some, Reno seemed inconsistent in choosing to seek an independent counsel to look into Herman while she steadfastly resisted doing so for the far broader and more serious allegations about campaign fund raising by the Democrats in 1996. Reno's aides said she was, in both cases, simply following the precise provisions of the law.

The law provides that when confronted with serious allegations against fellow administration officials, the attorney general must ask a three-judge federal court to choose a prosecutor outside the department.

One model for what could happen if the law expires is the campaign finance investigation prompted in large part by allegations that donations from China and other foreign countries, which are illegal, were accepted by the Democratic Party. After Reno declined to seek the appointment of an independent prosecutor, the investigation has been left within the Justice Department.

But so far that inquiry has demonstrated only the principal flaw in having the department investigate the administration; there are legions of critics and skeptics who question whether department officials have pulled their punches because the investigation involves senior Democratic officials from the president on down.

Another model is to have the attorney general choose a special prosecutor from outside the Justice Department, presumably someone with a reputation for rectitude. That is how Cox came to be the first

Watergate prosecutor.

Clinton aides may bristle at any linking of Watergate and Whitewater. But the two scandals may serve together as history's bookends for the independent prosecutor law: Watergate made it necessary, and Whitewater may unmake it.

The Clinton administration has sharply revised its opinion about the law. William P. Barr, the attorney general under President George Bush, recently recalled that in the Clinton transition he urged Bernard Nussbaum, the incoming White House counsel, to oppose renewal of the law. He said that Nussbaum told him: ``We have higher standards. " He pushed for renewal.

Four years later Nussbaum found himself under investigation by an independent counsel looking into whether he lied to Congress about the hiring of a security aide at the White House.

A senior White House lawyer involved in Whitewater said last week that he hoped to be around to ``preside at the burial of the independent counsel law. "
Any consideration of the law in the Senate would be handled by the Governmental Affairs Committee headed by Sen. Fred S. Thompson, a Tennessee Republican. Senior staff aides to Thompson said he was ``still wondering if the law is salvageable. "

---- Index References ----

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NewsRoom

The Nation: How to Build a Better Independent Counsel; Tripping Over the Ghosts of Watergate

The New York Times

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By NEIL A. LEWIS

Dateline: WASHINGTON

Body

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Making It Palatable

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But concerns about conflicts of interest have been overshadowed by criticism of the tactics of Kenneth W. Starr, the independent counsel whose investigation of the Clintons' Whitewater real estate deal has expanded to the President's sex life.

And the debate about the law intensified last week when Attorney General Janet Reno announced she would use it to seek an independent prosecutor to investigate allegations of corruption against Labor Secretary Alexis Herman -- the seventh independent counsel appointed during the Clinton Administration.

Ms. Herman pronounced herself baffled and angry. To some, Ms. Reno seemed inconsistent in choosing to seek an independent counsel to look into Ms. Herman while she steadfastly resisted doing so for the far broader and more serious allegations about campaign fund raising by the Democrats in 1996. Ms. Reno's aides said she was, in both cases, simply following the precise provisions of the law.

The law provides that when confronted with serious allegations against fellow Administration officials, the Attorney General must ask a three-judge Federal court to choose a prosecutor outside the Department.

One model for what could happen if the law expires is the current campaign finance investigation prompted in large part by allegations that donations from China and other foreign countries, which are illegal, were accepted by the Democratic Party. After Ms. Reno declined to seek the appointment of an independent prosecutor, the investigation has been left within the Justice Department.

But so far that inquiry has only demonstrated the principal flaw in having the Department investigate the Administration; there are legions of critics and skeptics who question whether Department officials have pulled their punches because the investigation involves senior Democratic officials from the President on down.

Another model is to have the Attorney General choose a special prosecutor from outside the Justice Department, presumably someone with a reputation for rectitude. That is how Mr. Cox came to be the first Watergate prosecutor.

Clinton aides may bristle at any linking of Watergate and Whitewater. But the two scandals may serve together as history's bookends for the independent prosecutor law: Watergate made it necessary and Whitewater may unmake it.

The Clinton Administration has sharply revised its opinion about the law. **William P. Barr**, the Attorney General under President George Bush, recently recalled that during the Clinton transition he urged Bernard W. Nussbaum, the incoming White House counsel,to oppose renewal of the law. He said Mr. Nussbaum told him, "We have higher standards." He pushed for renewal.

Four years later, Mr. Nussbaum found himself under investigation by an independent counsel looking into whether he lied to Congress about the hiring of a security aide at the White House.

A senior White House lawyer involved in Whitewater said last week that he hoped to be around to "preside at the burial of the independent counsel law."

Any consideration of the law in the Senate would be handled by the Governmental Affairs Committee headed by Senator Fred S. Thompson, a Tennessee Republican. Senior staff aides to Mr. Thompson said he was "still wondering if the law is salvageable."

Here are some of the changes in the law that are being debated:

Make It a Full-time Job

This is by no means the most important recommendation, but it has the widest support. Critics and supporters of the law alike have criticized Mr. Starr for maintaining his $1 million-a-year law practice while he investigates the President.

Mr. Cox, the Watergate prosecutor, has said he thinks the fact that Mr. Starr has retained his private law clients is deplorable.

Apply It to Fewer Officials

The Attorney General must seek an independent counsel if there is specific and credible evidence of a crime committed by one of several dozen officials specified in the current law. These range from the President to the chairmen of the national political parties.

Several proposals would limit the scope to the President, the Vice President and perhaps the heads of the four most important Cabinet departments -- Treasury, State, Defense and Justice.

Limit the Duration and Budget

Representative Dickey has proposed a limit of two years. After that, the prosecutor would have to ask Congress for an extension and an additional appropriation.

This effort to speed up the process is aimed at eliminating the public impatience that became an ingredient of both the Iran-contra investigation led by Lawrence E. Walsh and Mr. Starr's Whitewater investigation.

But as Mr. Dickey acknowledges, this would create its own problems, the most important of which is that it could encourage efforts to impede or delay an investigation. Mr. Starr has said his investigation has been slowed by the Clinton Administration's efforts to invoke executive privilege, attorney-client privilege and even a new privilege that would block Secret Service agents from testifying.

Mr. Walsh recently complained that the Central Intelligence Agency had been masterly at hiding documents until the last possible moment, hoping to outlast him.

Apply It Only to Actions Taken During the Term of Office

Senator Levin has argued that an independent counsel should only be authorized to deal with issues involving behavior while in office or at least should go no farther back than the political campaign that launched the administration.

This, of course, would have precluded the Whitewater investigation, which began with questions about a real estate deal in 1978 when Mr. Clinton was Governor of Arkansas.

Bar Expansion of Investigations

Senator Levin has also suggested that investigations should no longer be allowed to expand into unrelated matters. The Whitewater inquiry, for example, branched off into an investigation of the White House travel office and a probe of the propriety of the Clinton Administration's acquisition of Federal Bureau of Investigation files on Republicans.

The problem, of course, is who would handle such matters if they arose.

Give the Attorney General Greater Discretion

The most hotly contested part of the law is the provision that requires the Attorney General to ask for an independent counsel unless he or she can conclusively demonstrate within 90 days that the allegations in question are false.

A negative is always difficult to prove and is especially so under the law: During the 90 days, the Attorney General may not subpoena witnesses or compel testimony.

Graphic

Photo: Kenneth W. Starr, the Whitewater independent counsel, could be among the last of an endangered species. (Associated Press)

Classification

Language: ENGLISH

Subject: US REPUBLICAN PARTY (90%); POLITICAL PARTIES (90%); PUBLIC PROSECUTORS (90%); INVESTIGATIONS (90%); US DEMOCRATIC PARTY (90%); CRIMINAL INVESTIGATIONS (89%); LEGISLATIVE BODIES (89%); US PRESIDENTS (89%); APPOINTMENTS (89%); ETHICS (78%); ATTORNEYS GENERAL (78%); CAMPAIGN FINANCE (77%); POLITICAL SCANDALS (77%); JUSTICE DEPARTMENTS (77%); CORRUPTION (77%); LAW ENFORCEMENT (73%); FUNDRAISING (73%)

Company: CLINTON ADMINISTRATION (94%); DEMOCRATIC PARTY (71%); JUSTICE DEPARTMENT (60%)

Organization: CLINTON ADMINISTRATION (94%); DEMOCRATIC PARTY (71%); JUSTICE DEPARTMENT (60%); CLINTON ADMINISTRATION (94%); DEMOCRATIC PARTY (71%); JUSTICE DEPARTMENT (60%)

Industry: REAL ESTATE (71%); (69%)

Person: RICHARD NIXON (57%); CARL LEVIN (57%)

Geographic: ARKANSAS, USA (79%); UNITED STATES (79%)

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Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 09:19:18 p.m. EST

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Sinocast

May 13, 1998

GTE Suit, Probes Of MCI-WorldCom Advance

Inter@ctive Week (May 11, 1998) -The proposed $38 billion MCI Communications Corp.-WorldCom Inc. merger faces challenges on at least four fronts now, with European regulatory hearings this week coinciding with a new antitrust lawsuit filed by competitor GTE Corp. and a continuing probe by the U.S. Department of Justice. The Federal Communications Commission also must rule on the merger and is investigating. GTE, whose $28 billion offer for MCI was thwarted by WorldCom's bid, has been a central merger opponent. GTE filed suit in federal court last week, seeking to block the merger over its effects on long-distance competition as well as Internet connections. The company (www.gte.com) also successfully argued that the European Commission, which planned to hold deal hearings May 12 and 13, should pursue an extended investigation of the alleged stranglehold the combined company would have over cyberspace through its substantial control of Internet backbone. Separately, the DOJ, in its antitrust inquiry, has sent multiple document demands to telecommunications companies regarding a wide range of Internet and phone businesses. "We are confident that the merger authorities will conclude that this merger is unlawful and cannot go forward," said William Barr, GTE's general counsel. He said the company seeks no immediate injunction because regulators are hanging up the deal for now. "I view this lawsuit essentially as a firewall for GTE," Barr said. "If not all our concerns are addressed, we have to be in a position to protect our interests." He said MCI and WorldCom each control about 25 percent of Net backbone, followed by Sprint Corp., with around 15 percent, and GTE with 8 percent to 10 percent. European regulators tentatively concluded MCI-WorldCom would control close to half the backbone. WorldCom (www.wcom.com), however, has emphasized that it and MCI (www.mci.com) together garner about 20 percent of Internet revenue. As challenges mount, MCI and WorldCom representatives continue to express confidence that the merger will sail through. "The long-distance and Internet markets are two of the most open telecommunications markets in the world," said MCI spokesman Frank Walter. "They (GTE) want to prevent MCI-WorldCom from being greater competition to the local markets" where GTE is an incumbent provider. MCI and WorldCom -- which had said the deal would close by midyear -- now are saying late summer, after the European Commission's July 15 decision deadline. By Louis Trager, Kimberly Weisul and Larry Dignan -0- For additional Ziff-Davis online information, access Ziff-Davis on Compuserve (GO ZIFFNET) or ZD Net on the Internet (http://www.zdnet.com)

---- Index References ----

Company: INTERMEDIA COMMUNICATIONS INC; MCI INC; MCI WORLDCOM INC; WORLDCOM INC; SPRINT CORP; MCI COMMUNICATIONS CORP; FEDERAL COMMUNICATIONS COMMISION; COMPUSERVE CORP; GTE CORP; ZIFF DAVIS INC

News Subject: (Legal (1LE33); Antitrust Regulatory (1AN52); Technology Law (1TE30); Business Lawsuits & Settlements (1BU19); Monopolies (1MO68); Business Litigation (1BU04); Mergers & Acquisitions (1ME39); Major Corporations (1MA93); Economics & Trade (1EC26); Corporate Groups & Ownership (1XO09))

Industry: (Telecom Carriers & Operators (1TE56); Telecom Regulatory (1TE65); Manufacturing (1MA74); Telecom (1TE27))

Region: (Americas (1AM92); North America (1NO39); Europe (1EU83); USA (1US73))

Language: EN

Other Indexing: (COMPUSERVE; DOJ; EUROPEAN; EUROPEAN COMMISSION; FEDERAL COMMUNICATIONS COMMISSION; GTE; GTE CORP; GTE SUIT; MCI; MCI WORLDCOM; MCI COMMUNICATIONS CORP; SPRINT CORP; US DEPARTMENT OF JUSTICE; WORLDCOM; WORLDCOM INC; ZIFF DAVIS; ZIFF DAVIS PUBLISHING CO) (Barr; Frank Walter; Inter; Internet; Kimberly Weisul; Larry Dignan; Louis Trager; Probes; Separately; William Barr)

Word Count: 563

End of Document

5/11/98 Wash. Times (D.C.) (Pg. Unavail. Online)
1998 WLNR 5492346

Washington Times, The (KRT)

May 11, 1998

GTE FILES TO BLOCK WORLDCOM MCI LINK

Doug Abrahms

May 9--GTE Corp. filed a lawsuit late Thursday seeking to block WorldCom's $37 billion takeover of MCI Communications Corp., saying the combined company would have dominant control of the Internet.

May 9--GTE Corp. filed a lawsuit late Thursday seeking to block WorldCom's $37 billion takeover of MCI Communications Corp., saying the combined company would have dominant control of the Internet.

GTE, which lost a bidding war last year for District-based MCI, said the merged WorldCom-MCI would control between 40 percent and 60 percent of the Internet backbone service. GTE filed its lawsuit in U.S. District Court in Washington.

The Justice Department and the European Union also are investigating aspects of the merger, especially about WorldCom-MCI's control over the Internet.

"I'm confident that those agencies are going to find the deal illegal and move to block it," said William Barr, GTE's general counsel and former U.S. attorney general.

GTE also said a combined WorldCom-MCI would control too much of the long-distance market, he said.

"The Internet market and long-distance markets are extremely competitive markets," said MCI spokesman Frank Walter. "We view (GTE's) claims without merit."

MCI estimates that the combined company would control only 21 percent of the Internet traffic based on revenue, he said.

GTE's current revenue from Internet services is twice that of MCI's, Mr. Walter said.

"We don't believe anyone can accurately measure how much traffic is carried on any of the individual Internet networks," he said. "GTE has used the courts and other measures to keep competitors out of their local markets for decades."

European Union antitrust officials will hold hearings next week on the WorldCom-MCI merger, and GTE officials are expected to testify, Mr. Walter said. The EU is expected to make a decision by July about whether to oppose the union.

MCI expects the merger to be completed in late summer, he said.

---- Index References ----

Company: INTERMEDIA COMMUNICATIONS INC; MCI INC; MCI COMMUNICATIONS CORP; GTE CORP

News Subject: (Business Lawsuits & Settlements (1BU19); Business Litigation (1BU04); Mergers & Acquisitions (1ME39); Major Corporations (1MA93); Corporate Groups & Ownership (1XO09))

Industry: (Telecom Carriers & Operators (1TE56); Telecom (1TE27); Manufacturing (1MA74))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (EU; EUROPEAN UNION; GTE; GTE CORP; JUSTICE DEPARTMENT; MCI; MCI COMMUNICATIONS CORP; US DISTRICT COURT; WORLDCOM; WORLDCOM MCI) (Frank Walter; Walter; William Barr)

Ticker Symbol: GTE; MCIC

Word Count: 386

End of Document

5/9/98 Denv. Post C02
1998 WLNR 8606308

Denver Post (CO)

May 9, 1998

Section: BUSINESS

BRIEFING

FINANCE CHIEFS HINT IMPATIENCE WITH TOKYO: The world's top finance ministers are counting on Japan to restart its fizzling economy and ease the Asian crisis, and several hinted Friday in London they are growing impatient with Tokyo after seeing few results. After a closed session of the G-7 finance ministers, Dominique Strauss-Kahn of France said the Japanese delegation had responded to concerns from the others with the "same discussions, same answers...I'm not looking for answers - I'm looking for results," he said. The ministers, gathering a week before their heads of government meet, had politics on their agenda, but some said old distinctions between politics and finance may be blurring in an increasingly global economy. U.S. Treasury Secretary Robert Rubin pointed out that the massive economic woes that will dominate the talks started last summer with the devaluation of currencies in small Asian countries. (AP) STOCKS HALT LOSING STREAK: Stocks halted a three-session losing streak Friday as traders found little to worry about in a stronger-than-expected report that unemployment was at a 28-year low of 4.3 percent in April. The Dow Jones industrial average finished 78.47 higher at 9,055.15, down 91.92 for the week. The Standard & Poor's 500 rose 13.00 to 1,108.14, while the Nasdaq composite index rose 29.23 to 1,864.37. Advancing issues outnumbered decliners by an 8-to-5 margin on the New York Stock Exchange, where volume totaled 567.89 million shares, down from Thursday's pace. The NYSE composite index rose 5.50 to 575.72, and the American Stock Exchange composite index rose 1.98 to 744.23. (AP) GTE SEEKS TO BLOCK WORLDCOM-MCI MERGER: GTE Corp. is suing in an effort to stop the big WorldCom-MCI merger, contending it would crimplawsuit raises the same points GTE has made to the Justice Department and other regulatory bodies that are investigating the $37 billion deal. GTE general counsel William Barr said Friday the lawsuit was "a firewall," filed in case regulators don't stop the merger. (AP) GLICKMAN SEEKS AID FOR FARMERS: With thousands of northern Plains farmers facing financial ruin, Agriculture Secretary Dan Glickman said Friday that Congress should restore the power he lost two years ago to speed payment of farm subsidies and raise government loan rates. "I haven't called for a wholesale rewrite of the 1996 farm bill, but I do believe that the (1996) farm bill takes away a lot of authority I need," Glickman said in a Friday interview. Growers from western Minnesota to Montana have been hit by several years of bad crops due to disease and wet weather and now they can't get crop insurance and private credit. Farmers would normally receive their annual government payments in two installments, one in November and the other thefollowing January. Glickman says Congress should allow him to send the first payment out a couple of months earlier to farmers who need the money. (AP) CHRYSLER SHAREHOLDERS FIGHT MERGER: Several Chrysler Corp. shareholders have filed two separate lawsuits to try to block the merger of Chrysler and Daimler-Benz until the shareholders say they can be assured of getting the best price for the deal. The lawsuits state that because Daimler/Chrysler will be a German company, Chrysler shareholders are "effectively surrendering the right...to obtain the best price reasonably available." The plaintiffs also claim the directors of Chrysler have failed to obtain the best price available when they approved the transaction. The lawsuits, filed Thursday and Fridayin Delaware Chancery Court in Wilmington, Del., ask the court to enjoin the defendants from taking further steps until there is a process to determine

the best price for Chrysler. A Chrysler spokeswoman declined to comment. The parent of Mercedes-Benz aexhausted and it will stop accepting new applications. The visas in the H-1B program go to jobs such as computer programmers, health professionals and college professors. The INS said it has already given out the 65,000 visas allowed. Last year, the first time the entire allocation was used, the ceiling wasn't hit until September. Under the procedures outlined by INS, the freeze on new applications would last until Oct. 1, the start of the new fiscal year. Congress is moving swiftly, however, to pass legislation that would raise the ceiling for the remainder of this year and the next several years. (AP) US WEST OFFERS SECURITY EXCHANGE: US West Inc. said Friday it has begun offering holders of $1.1 billion in preferred securities the chance to exchange them for similar new preferred securities or tender them for cash. The offer stems from the pending split of US West into two separate, publicly traded companies - MediaOne Group and the new US WEST. The split is expected to occur in mid-June, following avote of the company's shareowners on June 4. Before the split, the company will refinance all the debt issued or guaranteed by US West Inc., including the 1.1 billion in preferred securities. (The Denver Post) ANALYTICAL BUYS BUSINESS IN INDIA: Analytibusinessr information formats into digital form using various technologies. (The Denver Post) ADMINISTRATION TO LIST FED CANDIDATES: Aides to President Clinton have a list of three to five candidates to fill the vacancy Federal Reserve Gov. Susan Phillips will create atthe end of June, an aide familiar with the search said Friday. Gene Sperling, Clinton's top economic adviser, said the administration had already started looking at a candidate for the job several months ago, but the unidentified candidate dropped out aithas completed its acquisition of Ambassador Apartments Inc., following a vote by Ambassador shareholders on Friday to approve the stock-transfer deal. AIMCO is a real estate investment trust based in Denver. Once the previously announced merger with Ins

---- Index References ----

Company: APARTMENT INVESTMENT AND MANAGEMENT CO; AMBASSADOR APARTMENTS INC; AMEDISYS INC; CHRYSLER LTD; COMCAST MO GROUP INC; DAIMLER AG; FCA CANADA INC; GTE CORP; MCI COMMUNICATIONS CORP; MERCEDES BENZ BANK AG; WORLDCOM INTERNATIONAL DATA SERVICES INC

News Subject: (Business Management (1BU42); Corporate Events (1CR05); Corporate Groups & Ownership (1XO09); Equity Instruments (1EQ90); Funding Instruments (1FU41); G7 Industrialized Nations (1GR55); Group of Industrialized Nations (1GR50); Major Corporations (1MA93); Mergers & Acquisitions (1ME39); Stock Closings (1ST40); World Organizations (1IN77))

Industry: (Agriculture (1AG63); Agriculture, Food & Beverage (1AG53); Automobiles (1AU45); Automotive (1AU29); Financial Services (1FI37); Investment Management (1IN34); Land Transportation (1LA43); Passenger Transportation (1PA35); Securities Investment (1SE57); Transportation (1TR48))

Region: (Americas (1AM92); Asia (1AS61); Colorado (1CO26); Delaware (1DE13); Eastern Asia (1EA61); Far East (1FA27); Japan (1JA96); North America (1NO39); U.S. Mid-Atlantic Region (1MI18); U.S. West Region (1WE46); USA (1US73))

Language: EN

Other Indexing: (Mercedes-Benz; June; Dominique Strauss-Kahn; Robert Rubin; Hillary Clinton; Dan Glickman; Gene Sperling; William P. Barr; Bill Barr; Susan Phillips)

Edition: SAT1

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NewsRoom

5/9/98 Ventura County Star (CA) D01
1998 WLNR 8466536

Ventura County Star (CA)

May 9, 1998

Section: Business

GTE sues to block telecom merger

LONG-DISTANCE: It says WorldCom's purchase of MCI would hurt market.

James Rowley Bloomberg News

WASHINGTON -- GTE Corp. is suing to block WorldCom Inc.'s proposed $41.8 billion purchase of MCI Communications Corp. claiming the acquisition will hurt long-distance competition and create a company with a "stranglehold" on the Internet. GTE one of the largest U.S. local phone companies said the combined WorldCom/MCI will control about half of the world's Internet traffic and hurt competition in the U.S. long-distance market. Last year GTE lost its own bid to buy MCI when WorldCom agreed to pay billions of dollars more.

GTE said it believes the combination will dominate the Internet and data-services market -- where GTE is increasingly focused. "We want to see the deal prohibited" said William Barr GTE's general counsel.

The suit is intended to put GTE in position to challenge the combination "in the unlikely event we are not satisfied that all our concerns have been met" in a government action said Barr. "We think (government regulators) are taking our concerns seriously."

"I view this lawsuit as E a fire wall for GTE" said Barr who served as attorney general in the Bush administration. "We have to be in a position to act to protect our own interests. And to be in that position down the road we have to start this litigation now."

James Rill who served as Barr's antitrust chief at the Justice Department is among those representing GTE in the case.

WorldCom's acquisition of MCI needs the approval of the FCC U.S. Justice Department and the European Commission. The European Commission will hold hearings on Tuesday and Wednesday regarding the WorldCom/MCI combination. Barr is scheduled to personally argue GTE's case before the commission.

---- Index References ----

Company: GTE CORP; MCI INC; MCI COMMUNICATIONS CORP

News Subject: (Antitrust Regulatory (1AN52); Economics & Trade (1EC26); Government Litigation (1GO18); Legal (1LE33); Monopolies (1MO68))

Industry: (Telecom (1TE27); Telecom Carriers & Operators (1TE56))

Region: (Europe (1EU83))

Language: EN

Other Indexing: (William P. Barr; Bill Barr; James Rill)

Edition: Ventura

Word Count: 281

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Document: GTE Sues to Halt MCI-Worldcom Deal

GTE Sues to Halt MCI-Worldcom Deal

The New York Times

May 9, 1998, Saturday, Late Edition - Final

Distribution: Business/Financial Desk

Section: Section D; ; Section D; Page 3; Column 3; Business/Financial Desk ; Column 3;

Length: 222 words

Byline: By Reuters

Body

The GTE Corporation, which lost a bidding war for the MCI Communications Corporation last year, said yesterday that it had filed a Federal antitrust lawsuit to block MCI's $37 billion acquisition by Worldcom Inc.

GTE said the suit, filed in United States District Court in Washington late Thursday, concerned the MCI-Worldcom merger's threat to competition, and was not an attempt to win MCI for itself. The suit says the combined company would monopolize the Internet and threaten competition in long-distance telephone markets.

"GTE has consistently opposed this merger as highly anti-competitive," **William P. Barr**, executive vice president and general counsel of GTE, said.

MCI said that it saw no new threat from GTE's complaint and that it still expected the merger to close this summer. The deal has received shareholder approval but remains subject to regulatory scrutiny in the United States and Europe.

GTE, a local phone company based in Stamford, Conn., contends that the combined MCI-Worldcom would own 40 percent to 60 percent of the Internet "backbone" network that transmits and routes data for Internet service providers. The suit also predicts significantly diminished competition in the retail long-distance market created by merging the second- and fourth-largest long-distance phone companies.

Classification

Language: ENGLISH

Subject: MERGERS (90%); JOINT VENTURES, MERGERS & ACQUISITIONS LAW (78%); SHAREHOLDERS (78%); SUITS & CLAIMS (78%); LITIGATION (78%); ANTITRUST & TRADE LAW (78%); LAWYERS (74%); CORPORATE COUNSEL (73%)

Company: VERIZON COMMUNICATIONS INC (98%); GTE CORP; MCI COMMUNICATIONS CORP; WORLDCOM INC VERIZON COMMUNICATIONS INC (98%); MCI COMMUNICATIONS CORP; WORLDCOM INC VERIZON COMMUNICATIONS INC (98%); WORLDCOM INC VERIZON COMMUNICATIONS INC (98%)

Organization: GTE CORP; MCI COMMUNICATIONS CORP; WORLDCOM INC

Ticker: VZC (LSE) (98%); VZ (NYSE) (98%)

Industry: LONG DISTANCE TELEPHONE SERVICE (92%); COMPUTER NETWORKS (90%); TELEPHONE SERVICES (90%); TELECOMMUNICATIONS SERVICES (90%); LOCAL TELEPHONE SERVICE (75%); LAWYERS (74%); CORPORATE COUNSEL (73%); INTERNET SERVICE PROVIDERS (67%)

Geographic: CONNECTICUT, USA (78%); UNITED STATES (93%); EUROPE (79%)

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5/9/98 Wash. Post (Wash., D.C.) C02
1998 WLNR 8131675

Washington Post, The (Washington, D.C.)

May 9, 1998

Section: Business

GTE SUES IN BID TO STOP WORLDCOM-MCI DEAL

Mike Mills

GTE Corp. has escalated its war against the proposed WorldCom-MCI merger, filing suit in a federal court in the District to stop what would be the largest telecommunications buyout in history.

The lawsuit asserts that WorldCom Inc.'s pending $37 billion purchase of MCI Communications Corp. of the District would monopolize the market for carrying data on the main trunk lines of the Internet.

The suit also claims that the union of two long-distance telephone companies would decrease competition in the long-distance market as well.

GTE general counsel William Barr said the suit creates a "fire wall" to protect the company "in the unlikely event" that regulators fail to stop the merger.

The Justice Department is continuing an investigation of the deal. And European Commission regulators, who on April 28 issued a statement raising tentative objections to the merger, will hold two days of hearings next week.

GTE contends that MCI, one of the original carriers of Internet data, and WorldCom, through its Herndon-based UUNet Technologies Inc. subsidiary, would account for more than 50 percent of the market of data flows on Internet "backbone" lines.

The merger would create "a very unstable market structure that will lead to dominance and monopolization," Barr said. "If this merger goes through, MCI-WorldCom will dictate the terms" for others who seek access to the Internet.

Barr said the suit, filed Thursday evening, was unrelated to GTE's failed attempt last year to purchase MCI itself.

MCI officials dismissed GTE's contention that the combined company, or any company, could dominate the Internet.

"The Internet backbone market has grown from nine providers a few years ago to 40 today," said MCI spokesman Frank Walter. He cited new companies that are building nationwide networks of fiber-optic lines, such as Qwest Communications Inc., IXC Communications Inc. and Level 3.

After surveying traffic patterns of Internet service companies and backbone providers, Hillary Mine, a senior vice president at Probe Research Inc. in Cedar Knolls, N.J., concluded that MCI and WorldCom together carry more than half of all Internet traffic. But she agreed with MCI's assertion that rapidly growing investments by new Internet backbone companies, spurred by demand for capacity that doubles every 100 days, give Internet service companies and users more choices.

"I just don't think they can dominate" the Internet, Mine said of MCI and WorldCom. "Market power will remain dispersed." Analyst Alan Pearce, president of Information Age Economics, a District research firm, agreed. But because so little is known about market power and the Internet, he added, "I think an investigation of the Internet's backbone capacity is merited."

The GTE case was assigned yesterday to U.S. District Judge Thomas Penfield Jackson, the same judge who has presided over the Justice Department's antitrust fight with Microsoft Corp.would lend legitimacy to a tech community thirsting for recognition beyond its borders.

The conference has about 100 government and corporate sponsors, including The Washington Post Co.

Conference promoters hope attracting tech officials from more than 50 countries will help undo the notion that the region is equated solely with government and politics.

"This is a big step in disabusing the world's business community that we're just part of a government town," said Gerald Gordon, president of the Fairfax County Economic Development Authority. "People don't usually think of this area as a place of good ideas."

Gordon said the economic impact of the World Congress won't be known for years, until relationships forged here mature into possible business deals. He said Fairfax County already has drawn three business relocation prospects because of the congress.

But the notion that this is a can't-miss event in technology circles is perhaps optimistic. Like many tech insiders interviewed, Frank Sparacino, a technology analyst for Barrington Research Associates Inc. in Chicago, had not heard of the World Congress before a reporter asked him about it.

"I've met with hundreds of technology CEOs in the last few months, and no one's ever mentioned it," echoed John A. McLean, former managing partner of the Greater Washington Initiative, an economic development group. "This is a nice deal for Fairfax County, but it's not the Olympics of anything," said McLean, who is now a management consultant in Alexandria.

Novell Inc. spokesman Jonathan Cohen said the networking giant based in Provo, Utah, will not be sending anyone to the conference. Its executives will attend four other spring conventions, including the PC Expo in New York.

Even some area tech boosters said the event's organizers may have created impossible expectations for the event. "This will be a good and interesting conference and I certainly plan to go," said a Northern Virginia technology official, who requested anonymity. "But all the hype around it is setting us up for disappointment and, I fear, embarrassment."

Some officials questioned the full-scale advertising campaign -- including big posters and banners at the region's three airports -- given that the $1,250-a-head event is not geared to grass-roots technology enthusiasts and consumers. World Congress organizers said they are avoiding the formula of tech megatrade shows like Comdex, where companies unveil new products. Instead, they're trying to create an issue-oriented forum to discuss such topics as the international effects of technology on society, business and government. America Online of Dulles, perhaps the region's best-known technology

company, would have preferred the consumer approach. "It's an internal technology conference," said spokeswoman Tricia Primrose, explaining why AOL is not participating in the World Congress. "We're really more interested in the consumer shows." CAPTION: Promotional material includes this glossy placard for the high-tech meeting.spur a recovery -- much like the growth surge that followed the public spending boost injected into the Japan's economy in 1995.

In a tight spot, "the Japanese government does ultimately come up with the goods," argues ING-Baring's Pelham Smithers in a recent report. "The economy does recover, and does so quickly and vigorously, and the stock market does go up. . . . The winners therefore should be those that brush aside the cynical orthodoxy of the time."

Despite repeated blunders in 1997, Japanese economic policy makers "are now doing things right in many areas, but not getting the credit for it that they deserve," agrees Nomura Research Institute economist and former Federal Reserve official Richard Koo. CAPTION: Koichi Kato, secretary general of Japan's Liberal Democratic Party, defends Japan's economic programs at the National Press Club Tuesday.hts to hunt and fish existed already. They were simply being guaranteed for the future.

"So what if the treaties are old? The Constitution is older and everyone respects its authority."

The litigation transpired at a time when the Ojibwe were reaping a windfall from two lavish casino and hotel complexes the band opened in the early 1990s. One of them, Grand Casino Mille Lacs, is right by the shore of the lake, in the heart of the reservation, where unemployment has shrunk from 46 percent 10 years ago to single digits today. The band has also improved housing and living conditions on the reservation, built a new government center on Mille Lacs and begun acquiring land throughout the area. This year's walleye harvest has lent a sweet finish to a stunning reversal of Ojibwe fortunes.

Everyone on both sides of Mille Lacs is grateful that the violent confrontations that accompanied Indian fishing in Wisconsin have not been repeated in Minnesota. And a very warm spring allowed the Ojibwe to finish up their harvest well in advance of the sport fishing season. But that may not always be the case.

"Normally the ice goes out a week before the opener," said Tim Chapman, who with his wife, Tina, runs Scenic Bay Resort not far from Bob DeFeyter's place on the southeast corner of the lake.

"That means sooner or later you're going to see nets spread across people's favorite fishing spots on opening day. And I don't know what will happen then."

"We just want what's best for the lake," Tina said, "and we don't think netting and spearing can be good for the lake no matter who's doing it."

The best interests of the lake are now a matter of official record. The courts have required the state's Department of Natural Resources to limit the fish harvest on Mille Lacs. The DNR has done so by increasing the minimum "keeper" size, limiting the number of large fish that can be taken, and -- most significantly -- by setting a cap on the aggregate total walleye catch by both Indians and sport anglers. This year's cap is 260,000 pounds.

Since the Indians have already taken their 40,000-pound allotment, that leaves 220,000 pounds for the regular fishing season. Last year -- not an especially good one -- sport anglers caught 270,000 pounds of walleye on Mille Lacs.

Few people around Mille Lacs can believe that the DNR would actually close the season on the lake if the cap is reached. But Jack Wingate, a DNR fisheries manager, said not only could they do that, they'd have to.

"We have no choice," said Wingate. "We are required to do so by the court. There's no question it would be economically disastrous to that area. But we would really have few options.

"If the Indian harvest grows to 100,000 pounds, you'll see significant restrictions," Wingate said. "And at some point that's going to drive fishermen away because they'll not be able to keep what they catch."

But for today, most will set aside their arguments to concentrate on fishing. Bob DeFeyter will be there. So will Tim Chapman, hauling customers out on his launch. Brad Kalk, having fished the tribal season, planned to buy a license for the regular season and fish the opener just like everybody else. Up and down the shore, the resorts are booked solid. You can't find anybody who isn't ready. Okay, maybe one person. "Me?" Jim Genia said. "Oh no. No. I don't fish. Actually, I don't like the taste of walleye." CAPTION: Don Wedll, natural resources commissioner for the Ojibwe, says whites apply equality concerns only to "tribal issues they disagree with," such as the Indians' right to harvest Lake Mille Lacs' walleye, below.

---- Index References ----

Company: ATWOOD OCEANICS LEASING LTD; NOMURA RESEARCH INST LTD; MICROSOFT CORP MSN INTERNET; AOL ADVERTISING FINLAND OY; SUPERFLY ADVERTISING INC; AOL ADVERTISING NORWAY AS; WORLDCOM; MCI WORLDCOM INC; JUSTICE DEPARTMENT; FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY; DEN NORSKE REVISORFORENING; DALTON NICOL REID PTY LTD; TIME WARNER INC; PRIVATCONSULT VERMOEGENSVERWALTUNG GMBH; VERIZON COMMUNICATIONS INC; MCI LLC; GTE CORP; MICROSOFT CORP; AOL LLC; QWEST CAPITAL FUNDING INC; MICROSOFT CORP (NORTH CAROLINA); WORLDCOM INC; MICROSOFT CORP (SEATTLE); UUNET TECHNOLOGIES INC; BARRINGTON RESEARCH ASSOCIATES INC; AMERICA ONLINE LATIN AMERICA INC; MICROSOFT CORP (TEXAS); CONSTITUTION MINING CORP; MCI INC; GTE DELAWARE LP; AOL ADVERTISING DENMARK APS; MICROSOFT CORPORATION (INDIA) PVT LTD; NATIONAL PRESS CLUB; EUROPEAN COMMISSION; CONSTITUTION RESEARCH AND MANAGEMENT INC; COMMISSION EUROPEENNE; AOL INC; MCI COMMUNICATIONS CORP; GTE INTERNETWORKING; NOMURA RESEARCH INSTITUTE LTD; AROMATICS OMAN LLC

News Subject: (Legal (1LE33); Economic Development Agencies (1EC15); Judicial (1JU36); Government (1GO80); Economic Development (1EC65); Major Corporations (1MA93); Economics & Trade (1EC26); Corporate & Business Law (1XO58); Business Litigation (1BU04); Corporate Legal Management (1XO33); Corporate Events (1CR05); Government Litigation (1GO18); Business Management (1BU42); Regulatory Affairs (1RE51); Business Lawsuits & Settlements (1BU19))

Industry: (Telecom Regulatory (1TE65); Telecom Carriers & Operators (1TE56); Infrastructure (1IN78); Internet Regulatory (1IN49); Internet Usage Statistics (1IN79); Internet (1IN27); Emerging Internet Business Applications (1EM61); Internet Infrastructure (1IN95); Telecom (1TE27); Internet Technology (1IN39); Internet Infrastructure Policy (1IN62))

Region: (Far East (1FA27); U.S. West Region (1WE46); Americas (1AM92); USA (1US73); Europe (1EU83); North America (1NO39); Eastern Asia (1EA61); Asia (1AS61); Utah (1UT90); Japan (1JA96))

Language: EN

Other Indexing: (AMERICA ONLINE; AOL; BARRINGTON RESEARCH ASSOCIATES INC; COMDEX; COMMUNICATIONS INC; CONSTITUTION; DEAL; DEPARTMENT OF NATURAL; DNR; EUROPEAN COMMISSION; FAIRFAX COUNTY; FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY;

FEDERAL RESERVE; GTE CORP; ING BARINGS PELHAM SMITHERS; JUSTICE DEPARTMENT; LIBERAL DEMOCRATIC PARTY; MCI COMMUNICATIONS CORP; MICROSOFT CORP; NATIONAL PRESS CLUB; NOMURA RESEARCH INSTITUTE; OJIBWE; PC; PROBE RESEARCH INC; QWEST COMMUNICATIONS INC; UUNET TECHNOLOGIES INC; WORLDCOM; WORLDCOM INC) (Age Economics; Alan Pearce; Barr; Bob DeFeyter; Brad Kalk; Frank Sparacino; Frank Walter; Gerald Gordon; Gordon; GTE; GTE SUES; Hillary Mine; Indians; Jack Wingate; Jim Genia; John A. McLean; Jonathan Cohen; MCI; McLean; Mille Lacs; Richard Koo; Thomas Penfield Jackson; Tim Chapman; Tina; Tricia Primrose; Washington Initiative; Wedll; William Barr; Wingate)

Product: DAILY

Edition: Final

Word Count: 1678

End of Document

Document: SHORT CUTS

SHORT CUTS

Newsday (New York)

May 9, 1998, Saturday,, ALL EDITIONS

Section: BUSINESS;

Length: 548 words

Byline: Compiled from staff, Associated Press and Bloomberg News reports.

Body

GTE CORP., which lost a bidding war for MCI Communications Corp. last year, said Friday it filed a federal antitrust lawsuit to block victorious WorldCom Inc.'s $37 billion acquisition of MCI.

The lawsuit, filed in U.S. District Court in Washington late Thursday, alleges the combined telecommunications company would monopolize the Internet by controlling 40 percent to 60 percent of the "backbone" network that transmits data and threatening competition in long-distance telephone markets. "From the outset, GTE has consistently opposed this merger as highly anticompetitive," said **William Barr**, executive vice president and general counsel of GTE.

MCI said it expects the merger to close during the summer. "The long-distance and Internet markets both could not be more open to competition. There is broad competition," MCI spokesman Frank Walter said. The proposed merger is subject to scrutiny from U.S. and European regulators. THUNDERBIRD'S RETURN. Ford Motor Co. said Friday that it would bring back the Thunderbird - or at least the venerable name - on an all-new car due in a year or two. The car maker said it would be a rear-wheel drive coupe, like its predecessor, which was discontinued last year because of weak sales. Ford did not release a sketch or other illustration but said the styling would feature "design cues true to the heritage of the original Thunderbird" from 1954.

Jac Nasser, president of Ford Automotive Operations, said in statement, "With the new T-bird, we promise to bring back the magic of owning and driving an American icon." Ford declined to say whether the car would seat two, as did the original, or more. DOUBLE WHAMMY? About a dozen states probably will file an antitrust lawsuit against Microsoft separate from one being considered by the Justice Department, a state official said Friday. While cautioning that no final decision had been made how the case would be handled, the official said that - barring extraordinary concessions by Microsoft - the states' lawsuit would be filed within 10 days in federal court in Washington. The Justice Department also is

looking into Microsoft's business practices and considering a broad antitrust case that could come next week. WINNING WIRED. Advance Publications Inc.'s Conde Nast unit is buying Wired magazine, ending nearly two years of speculation about the trendy chronicler of the online age. Wired Ventures Inc. said it would use the money from the sale to pay off debt and fund online ventures such as the HotBot search engine and online publications HotWired and Wired News. Several other bidders had bid; Conde Naste's price was put at $75 million by the Wall Street Journal. MEAT-Y SHUTDOWNS. Agriculture Department inspectors ordered some operations at 34 meat and poultry plants to shut down in the first quarter, under a new system designed to catch contaminated products before they reach the market. The temporary shutdowns were prompted by the plants' failure to meet the new rules, which require companies to have systems in place to catch potential health hazards before contaminated food reaches consumers, the USDA said. Several of the plants closed during the quarter are owned by Tyson Foods Inc. of Springdale, Ark., the nation's largest poultry processor.

Classification

Language: English

Subject: SUITS & CLAIMS (89%); LITIGATION (89%); LAW COURTS & TRIBUNALS (77%); TELECOMMUNICATIONS SECTOR PERFORMANCE (77%); ACQUISITIONS (77%); JUSTICE DEPARTMENTS (75%); LAWYERS (74%); CORPORATE COUNSEL (73%); AGRICULTURE DEPARTMENTS (73%); EXECUTIVES (70%); FOOD SAFETY REGULATION (61%)

Company: VERIZON COMMUNICATIONS INC (98%); FORD MOTOR CO (94%); MICROSOFT CORP (82%); ADVANCE PUBLICATIONS INC (81%); WIRED VENTURES INC (62%); WALL STREET JOURNAL (50%); VERIZON COMMUNICATIONS INC (98%); FORD MOTOR CO (94%); MICROSOFT CORP (82%); ADVANCE PUBLICATIONS INC (81%); WIRED VENTURES INC (62%); WALL STREET JOURNAL (50%); JUSTICE DEPARTMENT (57%)

Organization: JUSTICE DEPARTMENT (57%)

Ticker: VZC (LSE) (98%); VZ (NYSE) (98%); FORDP (PAR) (94%); F (NYSE) (94%); MSFT (NASDAQ) (82%)

Industry: (91%); LONG DISTANCE TELEPHONE SERVICE (90%); TELECOMMUNICATIONS SERVICES (90%); TELECOMMUNICATIONS (78%); TELECOMMUNICATIONS SECTOR PERFORMANCE (77%); INTERNET & WWW (77%); ELECTRONIC PUBLISHING (76%); LAWYERS (74%); CORPORATE COUNSEL (73%); AGRICULTURE DEPARTMENTS (73%); AUTOMOBILE MFG (73%); AUTOMOTIVE MFG (73%); MEATS (70%); AUTOMAKERS (68%); FOOD SAFETY REGULATION (61%); POULTRY (60%); POULTRY PROCESSING (50%)

Geographic: UNITED STATES (94%)

Load-Date: May 9, 1998

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 12:04:28 p.m. EST

GTE Sues to Bar MCI-WorldCom Union --- Another Possible Result: Delays if Authorities Approve Combination

The Wall Street Journal

May 8, 1998 Friday

Section: Pg. A3

Length: 800 words

Byline: By John J. Keller, Staff Reporter of The Wall Street Journal

Body

GTE Corp., attacking WorldCom Inc.'s planned $37 billion purchase of MCI Communications Corp., sued in federal court to block the merger or at least tie it up for months if regulators give the deal a green light.

The complaint, filed late yesterday in Washington, D.C., district court, seeks to block the merger on two principal grounds: that it would hurt competition in the long-distance communications industry and that it would give MCI-WorldCom unfair dominance over the primary long-distance networks that carry Internet data traffic globally.

It is a bold gambit by GTE, which itself lost to WorldCom in the bidding war for MCI last November. Frustrated by WorldCom's all-stock offer that topped its own $28 billion cash bid, GTE, one of the nation's largest local phone companies, kept its offer for MCI on the table until two months ago, when MCI's and WorldCom's shareholders approved the purchase agreement.

But GTE has continued to press the Justice Department and the European Commission to block the deal on the same grounds cited in its suit. WorldCom declined to comment on the suit.

"This is a classic red-herring tactic by GTE, which is determined to keep WorldCom and MCI from opening up their local monopoly market to competition," an MCI spokesman said, adding that an MCI-WorldCom union would expand competition in all markets.

Meanwhile, there are growing signs that the Justice Department and the EC are listening closely to GTE and its lead counsel, former U.S. Attorney General William Barr. The Justice Department sent subpoenas in March to other U.S. carriers asking for details on their Internet and long-distance operations, including traffic patterns from calls and computer usage, and the companies have begun submitting this data to the department. The justice agency is expected to issue a finding sometime this summer.

The EC, which is working against a formal deadline of July 15, has issued a detailed number of objections to the merger, which MCI and WorldCom must answer in a two-day series of hearings next week in Brussels.

The EC's most serious objection centers on the potential domination of the Internet. Opponents of the MCI-WorldCom merger complain that the new company would have an unfair share of the world's Internet traffic. Internet competition is a hotbutton issue in Europe, which is concerned that American companies could lock up the Internet as they did other high-tech industries in the last two decades.

While MCI and WorldCom boasted freely when they announced their merger that the combined business would be the world's largest carrier of Internet traffic, the two companies have since denied repeatedly that the combination will give MCI-WorldCom dominance of the Internet.

Details of the EC's statement of objections are sketchy, because the European body has kept it under wraps at WorldCom's insistence. Moreover, the EC has ordered GTE and Sprint Corp., which brought complaints against MCI and WorldCom, not to disclose the EC's statement about the deal.

Reached last night by phone about the complaint, Mr. Barr said, "We have every confidence that all the enforcement agencies that are looking at this are going to find it's illegal and block it." Indeed, he added, "the Europeans have already taken steps in this direction by formally filing a statement of objections." GTE's counsel added that GTE's talks with regulators, particularly in the last few weeks, convinced the company that it had a strong claim on which to base its suit. "We wanted to wait until the Justice Department collected the data from other carriers," he said.

For that reason, Mr. Barr said, GTE has no current plans to seek a preliminary injunction against the merger but will try to block it if its "concerns are not adequately addressed" by regulators.

GTE's complaint claims that the MCI-WorldCom deal would "substantially lessen competition" by joining the nation's No. 2 and No. 4 long-distance companies. The complaint also states that the combination of two of the world's biggest providers of Internet-transmission services would "destroy the critical competitive balance that exists on the Internet today by creating a dominant provider of Internet backbone service."

While GTE has found it difficult to ramp up its own long-distance business, the Internet is its most critical long-term strategic concern. The complaint notes that, were MCI-WorldCom to proceed as one, the new company's Internet transmission services would "dwarf" those of other players, giving the new company "a majority or large plurality of 40% to 60% or more of customer traffic and traffic exchanged with peers." In fact, the complaint adds, MCI-WorldCom's Internet-transmission business would be "at least two to three times larger than the next largest backbone operator, Sprint."

Notes

PUBLISHER: Dow Jones & Company

Load-Date: December 4, 2004

Document: GTE SUES TO BLOCK PURCHASE OF MCI

GTE SUES TO BLOCK PURCHASE OF MCI

The Seattle Times

May 08, 1998, Friday, Final Edition

Section: BUSINESS;

Length: 446 words

Byline: BLOOMBERG NEWS

Dateline: WASHINGTON

Body

WASHINGTON - GTE is suing to block WorldCom's proposed $ 41.8 billion purchase of MCI Communications, claiming the acquisition will hurt long-distance competition and create a company with a stranglehold on the Internet.

GTE, one of the largest U.S. local phone companies, said the combined WorldCom-MCI will control about half of the world's Internet traffic and hurt competition in the U.S. long-distance market. Last year, GTE lost its own bid to buy MCI when WorldCom agreed to pay billions of dollars more.

GTE said it believes the combination will dominate the Internet and data-services market - where GTE is increasingly focused. "We want to see the deal prohibited," said **William Barr**, GTE's general counsel.

"The merger will give MCI-WorldCom a stranglehold over the burgeoning Internet," the GTE complaint said. "The Internet will cease to be an open, highly competitive marketplace and rapidly degenerate into a closed network dominated by a single megafirm."

The suit is intended to put GTE in position to challenge the combination "in the unlikely event we are not satisfied that all our concerns have been met" in a government action, said Barr. "We think (government regulators) are taking our concerns seriously."

"I view this lawsuit as . . . a fire wall for GTE," said Barr, who served as attorney general in the Bush administration. "We have to be in a position to act to protect our own interests. And to be in that position down the road, we have to start this litigation now.

"We are not intending to leapfrog in any way what the government agencies are doing," he said. "We think they are right on target, and we expect they are going to block the deal."

WorldCom's acquisition of MCI needs the approval of the Federal Communications Commission, U.S. Justice Department and European Commission.

WorldCom is the No. 4 U.S. long-distance phone company, and MCI is No. 2. GTE believes WorldCom-MCI "would form one network controlling 40 percent to 60 percent of Internet traffic," said a GTE spokesman. With that market share, Barr said WorldCom-MCI would be in a position to dictate terms of arrangements between Internet traffic carriers.

MCI said GTE's suit is merely an effort to fend off competition. "They want to prevent MCI-WorldCom from bringing competition to (GTE's) local markets where GTE has a virtual monopoly," said Frank Walter, an MCI spokesman. "This merger will be pro-competition and pro-consumer."

Walter said the combined company will have 20 percent of the U.S. Internet market based on revenue. MCI said it was unable to give a reliable estimate for traffic.

WorldCom officials declined to comment.

Classification

Language: ENGLISH

Subject: US FEDERAL GOVERNMENT (89%); SUITS & CLAIMS (89%); LITIGATION (89%); ENERGY & UTILITY LAW (78%); LAWYERS (75%); APPROVALS (73%); ATTORNEYS GENERAL (72%); CORPORATE COUNSEL (69%); JUSTICE DEPARTMENTS (69%)

Company: VERIZON COMMUNICATIONS INC (96%); VERIZON COMMUNICATIONS INC (96%)

Ticker: VZC (LSE) (96%); VZ (NYSE) (96%)

Industry: LONG DISTANCE TELEPHONE SERVICE (91%); INTERNET & WWW (90%); TELECOMMUNICATIONS SERVICES (89%); ENERGY & UTILITY LAW (78%); LOCAL TELEPHONE SERVICE (78%); COMMUNICATIONS REGULATION & POLICY (77%); LAWYERS (75%); MARKET SHARE (71%); CORPORATE COUNSEL (69%)

Geographic: UNITED STATES (94%); EUROPE (79%)

Load-Date: May 9, 1998

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 12:03:15 p.m. EST

Document: Starr wins another round; look for more Clinton delay tactics

Starr wins another round; look for more Clinton delay tactics

The Associated Press

May 5, 1998, Tuesday, AM cycle

Section: Washington Dateline

Length: 738 words

Byline: AP News Analysis, By RON FOURNIER, AP Political Writer

Dateline: WASHINGTON

Body

After weeks of reeling beneath a barrage of White House criticism, Whitewater prosecutor Ken Starr is suddenly four-for-four in legal skirmishes against President Clinton.

But don't count out this president, the master of delay - the ultimate survivor.

"When people start using words like 'stonewall' over and over and over again, he will lose standing," predicted A.B. Culvahouse, White House counsel under President Reagan. "So far, he's not paying that price."

Yet the cost of his defense-by-delay rose measurably Tuesday, when word leaked from a federal courthouse in Washington that a judge had short-circuited Clinton's executive privilege claim. The ruling is under wraps, but the bottom line is that aides Bruce Lindsey and Sidney Blumenthal must answer some questions for a grand jury investigating Clinton's relationship with former White House intern Monica Lewinsky.

Citing the judge's gag order, the president has refused to acknowledge that he has invoked executive privilege - let alone justify his actions. In a remarkable exchange overseas last month, the Clinton dodged reporters' questions by saying aides in Washington were responsible for the executive privilege claim.

This is all part of a larger political strategy to shelter Clinton from comparisons to Richard Nixon, who triggered a constitutional crisis and public uproar by refusing to turn over Watergate tapes until ordered to do so by the Supreme Court.

So far, his strategy has worked. His job approval rating is still at an all-time high and few Americans are telling pollsters they object to the use of executive privilege.

Critics expect him to continue down this same road: Refuse to comment on the legal action - hoping the public won't pay attention - and do what he can to drag the case out.

"I think you can expect the Clinton strategy to continue to be delay, delay, delay, delay," Republican strategist Ralph Reed said. Indeed, presidential lawyers were mulling whether to appeal the judge's ruling - an action that could keep the question up in the air for many more months.

Supporters argue that Clinton is protecting himself from a zealous prosecutor and upholding a critical constitutional privilege. The public understands - or isn't paying any attention, they say.

"Denying the privilege is a significant event. However, the public is wise and they will not make judgments until they know whether or not there were efforts to obstruct justice," said Tom Rauh, a Democratic activist from New Hampshire.

Still, the judge's ruling caps a highly successful run for Starr. In recent days:

-The Whitewater grand jury indicted close Clinton friend Webb Hubbell on Thursday.

-Former Clinton business partner Susan McDougal was indicted Monday.

-Monica Lewinsky lost her claim of immunity in a ruling last month that lifted a major roadblock to his inquiry.

Still pending:

-The Clinton administration's unique claim of privilege shielding the testimony of Secret Service officials who guard the president and the White House.

Republicans hope the executive privilege ruling leaves Clinton one less route out of this mess.

Reed called it a "devastating setback for Clinton, because not only is he on the wrong side of history but now he's beginning to lose the only thing that's kept them afloat, which is a sense that they can delay indefinitely coming clean with the facts."

Other GOP officials, particularly lawyers, realize Clinton has many more cards to play.

"I doubt whether it will have much of a political impact but I've been puzzled by the lack of a political impact all along," said **William Barr**, an attorney general under President Bush. "I've been upset that a lot of the prerogatives of the presidency have been sacrificed for the personal interests of this particular president."

Stephen Gillers, professor of law at New York University, said he was not surprised by the ruling and expects it to be upheld. But that doesn't mean Clinton won't take a few more turns at bat.

"Clinton still has the Secret Service privilege he's created. There's still the spousal privilege. There's attorney-client privilege. There are all types of privileges he has yet to tap. And sure, he could appeal, though he may decide it looks better to let the aides speak," Gillers said. "That's a political decision."

EDITOR'S NOTE: Ron Fournier covers the White House and politics for The Associated Press.

Classification

Language: ENGLISH

Subject: JUDGES (90%); DECISIONS & RULINGS (89%); GRAND JURY (89%); PUBLIC PROSECUTORS (89%); US REPUBLICAN PARTY (78%); APPEALS (78%); INDICTMENTS (78%); LITIGATION (78%); CRIMINAL DEFENSES (78%); OBSTRUCTION OF JUSTICE (78%); LAWYERS (75%); LAW COURTS &

TRIBUNALS (74%); SUPREME COURTS (74%); CRIMINAL INVESTIGATIONS (73%); SUITS & CLAIMS (70%); POLLS & SURVEYS (70%)

Organization: WHITE HOUSE (84%)

Industry: LAWYERS (75%)

Person: RONALD REAGAN (79%); BILL CLINTON (79%); RICHARD NIXON (58%)

Geographic: UNITED STATES (93%)

Load-Date: May 5, 1998

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 12:01:54 p.m. EST

5/4/98 Telecommunications 15
1998 WLNR 7754514

Telecommunications

May 4, 1998

Volume v64; Issue n18

EU competition officials send queries on WorldCom-MCI deal.

The proposed merger between MCI Communications Corp and WorldCom Incis the subject of a statement of objections from the CompetitionDirectorate of the European Commission. One of the issues discussed inthe document, which was sent to the two companies involved, is thelikely effect of the union on the global market for Internet backboneservices. MCI intends to answer this criticism during a hearing to beheld in Brussels on May 1998 by asserting that the merged entity wouldhold less than 20% of the Internet market in terms of revenue.

The European Commission's competition (antitrust) authorities have sent a "statement of objections" to WorldCom, Inc., and MCI Communications Corp. outlining concerns about the two companies' proposed merger, an MCI spokesman confirmed. He would not discuss in detail the issues discussed in the document but said they included concerns about the impact the merger would have on the international market for Internet backbone services.

The spokesman said those concerns first were raised earlier this year when the European Commission announced it would investigate the proposed merger further (TR, March 9). MCI and WorldCom will have a chance to respond to the EC's concerns during a hearing to be held May 12-13 in Brussels, the spokesman said.

Among other things, MCI plans to tell the European officials that a combined MCI WorldCom would control no more than 20% of the Internet market, as measured by revenues.

Critics of the proposed merger have maintained that it would allow MCI and WorldCom to lock up the market for infrastructure crucial to the growth of the Internet as a new telecom medium.

William P. Barr, GTE Corp.'s executive vice president-government and regulatory advocacy and general counsel, said the European Commission's latest statement of objections represented "an appropriate and very serious step." He said, "This is far from routine. Very few transactions reviewed by the [commission] reach this stage."

GTE believes the EC "has recognized that the combined company would have a dominant position in the market for Internet backbone services and that this is the focus of the EC's objections," Mr. Barr continued.

"WorldCom/MCI has missed every deadline for approval they have set for themselves. They not only don't have approval now, they have been presented...with a list of serious and substantial objections to their deal from a body that has the authority, and indeed the obligation, to block anticompetitive transactions such as this," he said.

The MCI spokesman said the EC's competition authorities were expected to make a decision in their current investigation of the merger proposal by mid-July. Meanwhile, the merger is being reviewed in the U.S. by the Justice Department and the FCC.

---- Index References ----

Company: WORLDCOM INC; MCI; CENTRAL CAFETERO FLOR DE PATRIA GERONIMO BRICENO AND CIA CORP; MARSK CONTAINER INDUSTRI AS; MCI INC; MOTOR COACH INDUSTRIES INTERNATIONAL INC; WORLDCOM; MCI WORLDCOM INC; JUSTICE DEPARTMENT; MCI COMMUNICATIONS CORP; WORLDCOM INC MCI GROUP; MCI LLC; FEDERAL COMMUNICATIONS COMMISSION; GTE CORP; FOMENTO DE CONSTRUCCIONES Y CONTRATAS SA

News Subject: (European Union (1EU94); EU News (1EU58); Monopolies (1MO68); Major Corporations (1MA93); Economics & Trade (1EC26); Antitrust Regulatory (1AN52); Corporate Groups & Ownership (1XO09); Mergers & Acquisitions (1ME39); World Organizations (1IN77); Government (1GO80); Business Management (1BU42))

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

Region: (Belgium (1BE51); Europe (1EU83); Western Europe (1WE41))

Language: EN

Other Indexing: (COMPETITION DIRECTORATE; CORP; EC; EU; EUROPEAN COMMISSION; FCC; GTE; JUSTICE DEPARTMENT; MCI; MCI COMMUNICATIONS CORP; MCI WORLDCOM; WORLDCOM; WORLDCOM INC; WORLDCOM/MCI) (Barr; William P. Barr)

Keywords: (Business); (Telecommunications industry); (Communications); (Mergers, acquisitions and divestments); (European Union. European Commission. Competition Directorate); (European Union. European Commission. Competition Directorate - Records and correspondence); (Telecommunications industry); (Telecommunications industry - Mergers, acquisitions and divestments); (Telecommunications services industry); (Telecommunications services industry - Mergers, acquisitions and divestments)

Company Terms: MCI COMMUNICATIONS CORP; MCI INC

Product: COMMUNICATIONS; Broadcasting and Telecommunications

Sic: 4800

Naics Code: 513

Ticker Symbol: MCIC; WCOM

Word Count: 552

End of Document

Document: Aberdeen American News, S.D., Farm and Business Briefs C...

Aberdeen American News, S.D., Farm and Business Briefs Column

ABERDEEN AMERICAN NEWS

May 1, 1998, Friday

Length: 819 words

Body

FARM & BUSINESS SCENE APPLY NOW FOR EASEMENTS ON FLOODED AG LAND: The Natural Resources Conservation Service is accepting applications for permanent easements on frequently flooded agricultural land in 11 northeastern South Dakota counties: Brown, Marshall, Day, Spink, Clark, Day, Codington, Hamlin, Deuel, Grant and Roberts. NRCS, an agency of the U.S. Department of Agriculture, can purchase permanent easements through the Emergency Watershed Protection Program. The easements are for agricultural land that has been subject to repeated flood damage or located where flooding can be expected to reoccur. Applications are being accepted for evaluation at NRCS offices in the 11 counties. There are three categories:

Vegetative buffer areas along a river or stream. The easement area will be restored to maximize flood plain functions and for fish and wildlife habitat. No cropping, grazing or timber harvest will be allowed.

Lands considered in high risk of flooding. The areas will be restored for wildlife. Haying and grazing will be allowed using NRCS guidelines. Cropping will not be allowed.

Land subject to periodic flooding. Cropping, haying and grazing will be allowed.

US WEST AND QWEST FORM COMMUNICATIONS ALLIANCE: US West Communications and Qwest Communications have announced a marketing alliance that will offer customers one-stop shopping for all local and long distance calls that includes a single bill and simplified pricing. The service will be available in all states where US West offers service. Numbers to call for more information are (800) 244-1111 (residential) and (888) 596-2475 for businesses.

PAY-PHONE CALLS GO UP TO 35 CENTS IN SEVEN STATES: US West is raising the price of a pay-telephone local call from 25 cents to 35 cents in seven states, the company said Friday. The change affects Washington, Oregon, Arizona, Colorado, Minnesota, Utah and New Mexico. The process of converting phones to the new rate was to begin Friday and will take several months to complete, the company said. "There are many other pay-phone service providers competing vigorously for sites where customers want pay phones," said David Anastasi, vice president and general manager of US West's Public Access Solutions and Smart Card Division. Directory assistance charges will also increase to 35 cents in Colorado, Minnesota, New Mexico and Arizona, the company said. US West provides telecommunications services to more than 25 million customers in 14 states.

GTE CORP. SUES TO STOP PHONE COMPANY MERGER: GTE Corp. is suing in an effort to stop the big WorldCom-MCI merger, contending it would crimp competition and possibly raise prices in the Internet and long-distance businesses. GTE, which itself made an unsuccessful bid for MCI last November, says the merger would violate antitrust laws. MCI says GTE is just worried about competition. The lawsuit, filed late Thursday in federal court, raises the same points GTE has made to the Justice Department and other regulatory bodies that are investigating the $37 billion deal. GTE general counsel **William Barr** said Friday the lawsuit was "a firewall," filed in case regulators do not stop the merger. Under the merger, MCI-WorldCom would control between 40 percent and 60 percent of Internet traffic flowing on "backbones" in the United States, Barr said. GTE accounts for between 8 percent and 10 percent of such Internet backbone traffic, Barr said.

NORTH DAKOTANS NEED MORE MOISTURE: Farmers say it's too dry to plant grain in some parts of North Dakota. "There's no moisture to germinate it," said Dean Meyer, who ranches near Watford City. "There's quite a few around here, including myself, who have quit planting and are waiting for rain." Much of western North Dakota got light snow or a rain-snow mix Thursday. But farmers, already stressed from low prices and the blizzards and floods of last year, say more moisture is needed. "We had just a little bit of snow, but the dirt is still blowing. There's a chance of rain, so we're still praying," Dean's wife, Shirley, said. Emmons County extension agent Mike Hanson said farmers in his county went 75 days without moisture last year.

COAL PRODUCTION RISES: Domestic coal production rose 3 percent to 21.9 million tons last week from 21.2 million tons the week before, the U.S. Department of Energy said Friday. The U.S. coal industry produced 21.5 million tons in the same week last year, according to the department's Energy Information Administration. Wyoming ranked first among the 25 coal-producing states with 5.8 million tons produced. West Virginia was second with 3.7 million tons, and Kentucky was third. North Dakota produced 610,000 tons, down 11,000 tons from the previous week but up 43,000 tons from the same week last year.

Visit Dakota News Net, the World Wide Web site of the Aberdeen American News, at http://www.dnn.com/

Classification

Language: ENGLISH

Subject: EASEMENTS & RIGHTS OF WAY (95%); NATURAL RESOURCES (90%); FLOODS & FLOODING (90%); CONSERVATION (90%); FLOOD ZONES (90%); WILDLIFE (90%); PRICES (89%); PRICE INCREASES (86%); SUITS & CLAIMS (84%); LITIGATION (83%); AGRICULTURAL COMMODITY REGULATION (79%); AGRICULTURE DEPARTMENTS (79%); ENVIRONMENT & NATURAL RESOURCES (78%); AQUIFERS & WATERSHEDS (78%); FOOD SAFETY REGULATION (76%); RIVERS (76%); FISHES (73%); ECOSYSTEMS & HABITATS (73%); WATER QUALITY REGULATION (71%); ALLIANCES & PARTNERSHIPS (66%); MANAGERS & SUPERVISORS (64%); LAW COURTS & TRIBUNALS (60%); LAW ENFORCEMENT (60%); JUSTICE DEPARTMENTS (50%); SMART CARDS (50%)

Company: VERIZON COMMUNICATIONS INC (85%); QWEST CORP (55%); VERIZON COMMUNICATIONS INC (85%); QWEST CORP (55%); US DEPARTMENT OF AGRICULTURE (58%); US DEPARTMENT OF AGRICULTURE (58%)

Organization: US DEPARTMENT OF AGRICULTURE (58%); US DEPARTMENT OF AGRICULTURE (58%)

Ticker: VZC (LSE) (85%); VZ (NYSE) (85%); VZC (LSE) (85%); VZ (NYSE) (85%)

Industry: EASEMENTS & RIGHTS OF WAY (95%); FLOOD ZONES (90%); TELEPHONE SERVICES (87%); LOCAL TELEPHONE SERVICE (87%); TELECOMMUNICATIONS SERVICES (87%); PRICE INCREASES (86%); AGRICULTURAL COMMODITY REGULATION (79%); AGRICULTURE DEPARTMENTS (79%); TELECOMMUNICATIONS (78%); FOOD SAFETY REGULATION (76%); LOGGING INDUSTRY (68%); FORESTRY & LOGGING (54%); SMART CARDS (50%)

Geographic: ARIZONA, USA (92%); NEW MEXICO, USA (92%); COLORADO, USA (92%); OREGON, USA (79%); UNITED STATES (92%)

Load-Date: November 12, 1998

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 12:01:12 p.m. EST

4/29/98 TR Daily (Pg. Unavail. Online)
1998 WLNR 7628540

TR Daily

April 29, 1998

EU NOTES CONCERNS ABOUT MCI-WORLDCOM MERGER

Table of Contents

European Commission competition authorities have sent a "statement of objections" to WorldCom, Inc., and MCI Communications Corp. outlining concerns about the two companies' proposed merger, an MCI spokesman in Washington confirmed. He would not discuss in detail the issues discussed in the document but said they included concerns about the impact the merger would have on the international market for Internet backbone services. The spokesman said those concerns first were raised earlier this year when the European Commission announced it would investigate the proposed merger further (TR, March 9).

MCI and WorldCom will have a chance to respond to the commission's concerns during a two-day hearing to be held May 12-13 in Brussels, the MCI spokesman said. Among other things, MCI plans to tell European officials that a combined MCI WorldCom would control no more than 20% of the Internet market, when measured by revenues. He said European Commission competition authoritiesare expected to make a decision on whether to approve the merger by mid-July.

In the U.S., meanwhile, the merger also is being reviewed in the U.S. by the Justice Department and the FCC. And, departing from MCI's characterization of the European Commission's statement, William P. Barr, GTE Corp.'s vice president-government and regulatory advocacy and general counsel, said the document represents "an appropriate and very serious step" by the European Commission.

"This is far from routine. Very few transactions reviewed by the [commission] reach this stage," Mr. Barr said. "We believe that the EC has recognized that the combined company would have a dominant position in the market for Internet backbone services and that this is the focus of the EC's objections."

TR Daily, April 29, 1998 19980429 TR Daily -->

---- Index References ----

Company: MCI INC; RESURGENS COMMUNICATION GROUP; WORLDCOM; WORLDCOM INC; MOTOR COACH INDUSTRIES INTERNATIONAL INC; MCI COMMUNICATIONS CORP; WORLDCOM INC WORLDCOM GROUP; FEDERAL COMMUNICATIONS COMMISSION; WORLDCOM INC GA; WORLDCOM INC MCI GROUP; JUSTICE DEPARTMENT; MARSK CONTAINER INDUSTRI AS; MCI WORLDCOM INC; MCI LLC

News Subject: (Legal (1LE33); Government (1GO80); World Organizations (1IN77); Mergers & Acquisitions (1ME39); European Union (1EU94); EU News (1EU58); Economics & Trade (1EC26); Major Corporations (1MA93); Corporate Groups & Ownership (1XO09))

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

Region: (Europe (1EU83))

Language: EN

Other Indexing: (CORP; EC; EUROPEAN COMMISSION; FCC; JUSTICE DEPARTMENT; MCI; MCI COMMUNICATIONS CORP; MCI WORLDCOM; TR; WORLDCOM; WORLDCOM INC) (Barr; EU NOTES CONCERNS; Table; William P. Barr)

Word Count: 364

End of Document

Document: EUROPEAN REGULATORS SET 2-DAY HEARING ON MCI-…

EUROPEAN REGULATORS SET 2-DAY HEARING ON MCI-WORLDCOM INTERNET ISSUES

Communications Daily

April 29, 1998, Wednesday

Section: TODAY'S NEWS

Length: 681 words

Body

European Commission (EC) set May 12-13 hearing in Brussels on WorldCom's $37-billion takeover of MCI at which regulators and antitrust officials will question both companies about control of Internet traffic. EC already had raised series of questions about merger and late Mon. sent both companies new request for information and schedule for hearings. WorldCom and MCI officials repeatedly have dismissed worries about Internet control, citing rapid expansion of Internet service provider business and growing presence of other Internet backbone providers. Most recently, MCI Chmn. Bert Roberts accused competitors of "disinformation" campaign on Internet control issue (CD April 22 p8). Company said merger still is scheduled to close in midyear.

MCI and WorldCom officials were studying "fairly lengthy document" late Tues. and declined to elaborate on contents or even reveal number of pages. Frank Walter, MCI dir.-corporate communications, said EC's "statement of objections" is "standard part" of its detailed, 4-month review now under way. Walter said company will provide response during private meetings in Brussels that several competitors are likely to attend. He wouldn't comment on possible similarities between Justice Dept. investigation and EC queries. In conference call with Wall St. analysts last week, Worldcom CEO Bernard Ebbers said he expected companies would receive document.

Dissenting view came from GTE, which remains chief critic of merger since its own bid for MCI was eclipsed by WorldCom deal when arrangement with British Telecom fell through (CD Nov 11 p1). **William Barr**, exec. vp-govt. & regulatory advocacy, said EC's move is "an appropriate and very serious step." He said statement is "far from routine. Very few transactions reviewed by the EC reach this stage. This action recognizes, as we have said from the start, that this deal is anticompetitive." GTE said EC had recognized "that the combined company would have a dominant position in the market for Internet backbone services," which has been chief argument of most opponents. It said EC request posed "serious and substantial objections" to deal and Barr said MCI and WorldCom "have missed every deadline for approval they have set for themselves."

Under EC procedures, "statement of objections" provides detailed information on what Commission requires to clear deal under existing antitrust rules, officials said. Even though MCI and WorldCom are U.S.-based, EC can halt transaction on ground that it would be anticompetitive in Europe, although it has exercised such power only rarely. Industry observers said EC more likely would seek to negotiate some resolution with 2 companies, similar to consent decree arrangements in U.S. MCI and WorldCom officials haven't ruled out possible negotiated arrangements.

In U.S., Justice Dept. has broadened its review of deal by seeking detailed traffic data from numerous Internet service providers and backbone operators to create benchmark for measuring MCI WorldCom traffic share. Last week, FCC asked 2 companies for documents already submitted to DoJ, move that one lawyer familiar with investigation said indicates Commission is "nowhere close to making decision" on deal (CD April 22 p6). MCI spokeswoman denied that FCC's request would upset merger timetable. She said companies will provide information, but not until FCC issues protective order imposing confidentiality, move that requires agency to seek comments.

In Chicago speech April 21, MCI's Roberts blamed merger foes for "disinformation" campaign on Internet control and said such arguments "fall of their own weight." He offered 3 reasons claims are wrong: (1) Internet is "simply too large and growing too fast" to be dominated by single player. (2) New players, such as Qwest, IXC, Williams and Level 3, are adding capacity almost daily. (3) Large backbone carriers, such as MCI, are carrier's carriers and "have no business reason in the world to charge for peering, or sharing networks, in a way that would alienate or block out those customers."

Classification

Language: ENGLISH

Subject: JUSTICE DEPARTMENTS (89%); EUROPEAN UNION INSTITUTIONS (79%); TAKEOVERS (78%); TALKS & MEETINGS (78%); EXECUTIVES (73%)

Company: VERIZON COMMUNICATIONS INC (92%); VERIZON COMMUNICATIONS INC (92%); EUROPEAN COMMISSION (95%); EUROPEAN COMMISSION (91%)

Organization: EUROPEAN COMMISSION (95%); EUROPEAN COMMISSION (91%)

Ticker: VZC (LSE) (92%); VZ (NYSE) (92%)

Industry: COMPUTER NETWORKS (89%); TELECOMMUNICATIONS (77%); INTERNET & WWW (77%); MARKET SHARE (75%); CONFERENCE CALLS (66%)

Geographic: BRUSSELS, BELGIUM (90%); EUROPEAN UNION MEMBER STATES (79%); EUROPE (74%)

Load-Date: April 28, 1998

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 12:00:42 p.m. EST

Europe to Detail Concerns on Merger Of WorldCom, MCI

The Wall Street Journal

April 27, 1998 Monday

Section: TECHNOLOGY & HEALTH; Pg. B6

Length: 426 words

Byline: By Julie Wolf and Jared Sandberg, Staff Reporters of The Wall Street Journal

Body

The European Commission is likely to send WorldCom Inc. and MCI Communications Corp. a statement as early as today setting out its objections to their planned merger, the latest move by government investigators to scrutinize the companies' Internet businesses.

The commission last month began an in-depth inquiry into WorldCom's planned $37 billion acquisition of MCI. Issuing a so-called statement of objections is routine in cases where the commission continues to harbor concerns about the impact of a merger on competition.

The move will give the companies a clearer idea of the changes they may have to make to obtain European Union regulatory clearance. The commission has the power to block large-scale mergers, even if both companies are American. But it rarely rules against deals, preferring to negotiate changes with companies.

Commission officials said the document will set out in greater detail concerns regarding the combined market share the two companies will hold in long-distance high-capacity lines used for Internet services. Last month, the U.S. Department of Justice stepped up its investigation of those issues and sent out civil subpoenas to competitors requesting detailed Internettraffic information to determine the size of MCI and WorldCom's businesses.

European Commission officials said the case is complex and the commission is having difficulty establishing precise market shares and determining which markets are most important. It plans to hold closed-door hearings on the case sometime in the next two months.

Competition Commissioner Karel Van Miert has said the commission received numerous comments from competitors about the case. Sprint Corp. and GTE Corp. have strongly objected on the grounds that the combination could disrupt rivals' services by upsetting the delicate cooperation among providers to exchange Internet traffic. "I believe the Europeans have taken our concerns about monopolization of the Internet seriously, and I expect the European Commission to object to a merger of WorldCom and MCI's Internet businesses," said William P. Barr, general counsel at GTE.

WorldCom's chairman, Bernard Ebbers, who has anticipated the European Commission's move, said in a conference call with analysts that he doesn't think there will be material conditions that would affect the closing of the merger.

Mark Weeks, a spokesman for WorldCom in London, noted that "it would be normal" for the EU to send a statement of objections at this stage in its inquiry. "We look forward to receiving that and addressing" the concerns.

Notes

PUBLISHER: Dow Jones & Company

Load-Date: December 4, 2004

Document: MCI/WorldCom Merger: Can Plug Still Be Pulled?

MCI/WorldCom Merger: Can Plug Still Be Pulled?

Investor's Business Daily

April 7, 1998

Section: Computers & Technology; Pg. A8

Length: 1020 words

Byline: By Reinhardt Krause, Investor's Business Daily

Body

While most analysts believe WorldCom Inc. will win approval to buy MCI Communications Corp., rivals still are pressing regulators to amend or scuttle the deal.

The $ 37 billion merger - the largest ever -is getting scrutinized by U.S. and European regulators, though the two companies say it's on track.

Rivals, though, may have reason to be optimistic. They point to the Justice Department's decision last month to sue Lockheed Martin Corp. to block its $ 12 billion purchase of Northrop Grumman Corp.

''The Justice Department sees the stakes of this merger to be even higher than Lockheed-Northrop,'' said **William Barr**, executive vice president of GTE Corp. ''Wall Street's record in understanding what Justice is going to do in recent years hasn't been very good. This deal is headed for a cliff.''

GTE may be biased in opposing the merger. It courted MCI before WorldCom stepped in with a better offer. Last week, GTE formally withdrew its offer.

Also opposing the merger are Bell Atlantic Corp. and Sprint Corp. Like GTE, they're building advanced data networks to carry Internet traffic, in competition with WorldCom and MCI.

The opponents charge that WorldCom plus MCI would wield too much influence over Internet pricing and traffic flow.

Yet, there's been no public outcry from smaller Internet service providers, analysts say. These smaller ISPs lease or buy network capacity from large backbone operators.

But an industry trade group has sent mixed signals, raising some eyebrows.

Early this year, the U.S. Internet Providers Association filed with the Federal Communications Commission opposing the merger. The USIPA represents about 100 ISPs.

In a Jan. 26 FCC filing, the USIPA said: ''MCI/WorldCom will potentially have the ability to abuse its market power by decreasing and increasing prices at will to eliminate ISP competitors.''

On Feb. 5, the McLean, Va.-based trade group withdrew its FCC filing.

USIPA Chairman Orhan Onaran is president of Erol's Internet Inc., a Springfield, Va.-based ISP. On Jan. 21, RCN Corp. said it would buy Erol's for $ 110.5 million in cash and stock. That sale closed in early March.

And RCN's chairman is David McCourt. Until March 11, he was a member of WorldCom's board of directors. McCourt didn't return phone calls seeking comment.

Onaran says he never discussed the USIPA's position on MCI/WorldCom with McCourt.

The trade group withdrew its FCC filing because ''it was incorrectly filed,'' said Ramsey Woodworth, a USIPA attorney.

''It was a complete disconnect on our part. We thought they wanted to go forward, and they (the USIPA) had decided not to,'' said Woodworth, an attorney with Washington-based Wilkes, Artis, Hedrick & Lane .

The firm also represents San Diego-based Simply Internet Inc. That small ISP has filed a brief with the FCC objecting to the merger.

Onaran says the law firm, which has represented the group for almost a year, submitted the FCC filing without getting approval from the USIPA's three-member board.

The lack of strong opposition from most everyone but direct WorldCom rivals remains one reason that analysts think the deal will be approved. But analysts also believe some strings will be attached.

The Justice Department has asked backbone operators for more detailed information on how Internet data flows between their networks.

Such inquiries won't block the merger, say analysts.

''This deal is getting done,'' said Scott Cleland, an analyst at Legg Mason Wood Walker in Washington. ''The problems that have arisen are not deal breakers. There are things that may have to be modified.''

The combined firm, for example, might be required to sell some backbone assets. Backbone refers to the infrastructure that makes the Internet run.

GTE and others claim MCI/WorldCom would be so powerful that it wouldn't need to cooperate with other backbone operators.

Eric Paulak, an analyst at Stamford, Conn.-based Gartner Group, disagrees. He says the Internet backbone market will get new entrants. He points to Denver-based Qwest Communications International Inc. and others.

Qwest is building a 16,000-mile fiber-optic network. It's slated to be completed by mid-'99.

''MCI/WorldCom will never be able to close itself off from the rest of the world,'' said Paulak, ''because their customers are going to complain when they can't reach someone else.''

WorldCom's UUNet subsidiary is one of the largest ISPs. Last year, UUNet said it would begin charging smaller ISPs fees to deliver their network traffic.

Among large Internet backbone operators, a quid pro quo exists under which they provide network access to each other for free.

Some analysts, though, say UUNet's policy may be a sign of things to come, regardless of the MCI/WorldCom merger.

''The economics of the Internet are changing,'' said Jeffrey Kagan, president of Atlanta consulting firm Kagan Telecom Associates.

Business customers are demanding higher reliability and faster access on the Internet, he says. And they'll have to pay for it.

Merger opponents such as Bell Atlantic and GTE say WorldCom would control more than half of Internet traffic through its backbone network if the merger occurs.

MCI and WorldCom use a different yardstick. They say the most reliable measure of Internet market share is revenue. Based on revenue, their combined market share of Internet backbone services would be about 20%.

Analysts say that the Justice Department could impose safeguards on a MCI/WorldCom deal. The safeguards would ensure that WorldCom rivals get fair access to its backbone network.

Federal regulators have taken similar measures in other recent mergers, says Mary Lou Steptoe, former head of the competition bureau at the Federal Trade Commission.

''In some recent cases, the government has taken upon itself a supervisory role when it comes to access issues,'' said Steptoe, a lawyer at Skaddan, Arps, Slate, Meagher & Flom in Washington.

Classification

Language: ENGLISH

Subject: MERGERS (90%); ANTITRUST & TRADE LAW (89%); APPROVALS (78%); US FEDERAL GOVERNMENT (78%); BOARDS OF DIRECTORS (78%); LAW ENFORCEMENT (76%); BUSINESS FORECASTS (76%); LAWYERS (76%); JUSTICE DEPARTMENTS (76%); BUSINESS & PROFESSIONAL ASSOCIATIONS (72%); PRICE CHANGES (71%); PRICE INCREASES (70%); EXECUTIVES (69%)

Company: VERIZON COMMUNICATIONS INC (98%); LOCKHEED MARTIN CORP (84%); NORTHROP GRUMMAN CORP (83%); SPRINT CORP (68%); RCN CORP (63%); EROL'S INTERNET (52%); VERIZON COMMUNICATIONS INC (98%); LOCKHEED MARTIN CORP (84%); NORTHROP GRUMMAN CORP (83%); SPRINT CORP (68%); RCN CORP (63%); EROL'S INTERNET (52%); US DEPARTMENT OF JUSTICE (83%); US DEPARTMENT OF JUSTICE (83%)

Organization: US DEPARTMENT OF JUSTICE (83%); US DEPARTMENT OF JUSTICE (83%)

Ticker: VZC (LSE) (98%); VZ (NYSE) (98%); LMT (NYSE) (84%); NOC (NYSE) (83%); S (NYSE) (68%)

Industry: COMPUTER NETWORKS (90%); COMMUNICATIONS REGULATION & POLICY (78%); LAWYERS (76%); TELECOMMUNICATIONS SERVICES (74%); PRICE CHANGES (71%); PRICE INCREASES (70%); INTERNET & WWW (66%)

Geographic: VIRGINIA, USA (79%); UNITED STATES (92%)

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Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

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NewsRoom

3/13/98 Wash. Post (Wash., D.C.) F03
1998 WLNR 8141181

Washington Post, The (Washington, D.C.)

March 13, 1998

Section: Business

MCI-WORLDCOM DEAL REVIEW REQUESTED; VA. OFFICIAL CITES COMPETITIVE CONCERNS

Mike Mills

Virginia Attorney General Mark Earley asked federal regulators yesterday to take a hard look at whether the proposed $37 billion sale of MCI Communications Corp. to WorldCom Inc. would impede competition on the Internet.

"We think these companies are good companies, and their presence in Virginia is very positive," Earley said. But he added: "Virginia has a very unique interest in making sure the Internet . . . remains competitive." Much of the early work on the Internet was done in Northern Virginia, and the state hosts thousands of Internet-related jobs.

Earley appeared with his counterpart from South Carolina, Charlie Condon, at a news conference that was organized in part by GTE Corp., the telephone company that failed in its own attempt to acquire MCI and has been waging a campaign against WorldCom's deal.

Earley's statement did not sit well with many Virginia state officials, who have worked hard to support WorldCom's plans to build a campus-style facility near Dulles International Airport for its UUNet Internet subsidiary in Loudoun County.

Larry Rosenstrauch, Loudoun County's economic development director, said he was concerned about the announcement's impact on the move. "All I know is that it wasn't received well by WorldCom and MCI," he said. "And if they're not happy about it, we're not happy about it. I don't think we'd be prudent not to be concerned."

Responded Earley: "As the attorney general for the state of Virginia, I have an obligation to be concerned about protecting the consumers of Virginia, and we want to be sure that the proposed WorldCom-MCI merger is carefully reviewed."

MCI spokeswoman Jamie DePeau said she "cannot speculate on what impact this might have" on the decision to build in Loudoun County.

In addition to the Justice Department, the Federal Communications Commission and the European Commission, 22 states have laws empowering them to rule on the merger. So far, 12 have sanctioned the deal; 10, including Virginia, have yet to act.

Critics of the deal say the combined company would carry as much as 60 percent of the transmissions on the Internet's trunk lines, raising a possibility of restraint of trade. The companies say the figure would be much lower.

GTE's role in yesterday's news conference at the Hyatt Regency Hotel on Capitol Hill included booking the room in which it was held. According to a hotel clerk, public relations firm Powell Tate, which represents GTE, made the reservation. GTE officials did not dispute that the firm acted on their behalf.

Condon said afterward that GTE General Counsel William Barr, a U.S. attorney general under President Bush, asked him to hold the briefing during a recent visit to his state. "I was initially contacted by GTE to look at this issue," Condon said. "But I can tell you, these same {concerns} would apply if GTE were taking over MCI. . . . The issue is one of a monopoly developing out there."

Barr said there was "nothing subterranean" about GTE sponsoring the event. "GTE has made no secret from day one that we view a merger of WorldCom and MCI as highly anti-competitive." Yesterday morning Barr also briefed attorneys general from a dozen states and their staffs.

In its attempt to break up the WorldCom deal, GTE also has supported efforts by the Communications Workers of America and Jesse Jackson's Rainbow/PUSH Coalition to oppose the merger. They argue that the merger would promote nonunion labor and hamper diversity in telecommunications.

The deal also has drawn the opposition of Ralph Nader's Consumer Project on Technology, which is holding a symposium today with the CWA at the Mayflower Hotel called "WorldCom/MCI Merger: Is the Internet at Risk?"

Barr said GTE's campaign is not revenge for being a "rejected suitor" to MCI or an effort to quash the deal so GTE can revive its own offer. "Our deal is dead," he said. Washington Post staff writers Stephanie Stoughton and Justin Blum contributed to this report.Washington and Baltimore. The chain already has identified a site in the District that "is a definite maybe," he said.

Perhaps the biggest change for those familiar with the chain is Giant's willingness to consider outsourcing functions it has normally performed itself. Giant is famously vertically integrated, meaning Giant employees do nearly everything involved in opening and running a store, including building stores, designing ads and making ice cream.

The chain has hired several consulting firms to help identify business units that would be more efficient to outsource. "We're looking at everything," Manos said. "I'm talking about everything." CAPTION: PETE L. MANOSmpany also will rename its federal business unit the "federal sector" to better describe its target market. CSC, which has 7,300 employees in the Washington area, said the change would improve "internal efficiencies." Both changes are scheduled to take effect May 30. A federal judge in Las Vegas, meanwhile, canceled a March 16 hearing on bylaw changes that Computer Sciences had enacted to fend off Computer Associates International's hostile tender offer. CAI said last week it would let the bid expire that day because of CSC's tactics in fighting the offer. US Airways urged the Transportation Department to levy sanctions against Britain, claiming the British were hindering its efforts to start service on May 7 between Charlotte, N.C., and London's Gatwick airport. Arlington-based US Airways said the agency should retaliate by suspending British Airways' service between New York and Gatwick. First Virginia Banks, expanding its presence on Maryland's Eastern Shore, said it will acquire five branches from the Bank of Maryland, a subsidiary of Mason-Dixon Banchares. The branches in Bishopville, Crisfield, Federalsburg, Princess Anne and Salisbury will be merged with First Virginia's affiliate Atlantic Bank or Farmers Bank of Maryland. CAPTION:PRESSING MATTERSnal.

Jenkins is a Little Rock employee of Entergy Corp., where she has worked most recently in marketing, according to Entergy spokesperson Cathy Roche. Jenkins has not returned numerous calls or answered a letter asking for comment. Ferguson, Clinton's co-defendant in the Jones lawsuit, in his deposition described several contacts between a woman and Clinton, according to a source familiar with it. Ferguson said that at least four times he escorted Jenkins past the Secret Service in 1992. Once was at 5:15 a.m. on the day Clinton left Little Rock for Washington.

In his deposition, Clinton recalled meeting her at her apartment when he was governor and estimated they did so fewer than 10 times. He said he did not remember troopers taking him there.

Clinton also said he has talked to Jenkins two or three times since the Jones case was filed, both on the phone and in person. He called her from the White House and also saw her at two political rallies.

Clinton said he remembered meeting Jenkins in the mansion's basement, which functioned as an office, to say goodbye before he left for Washington. He said he also met with her around Christmas 1992 to give her presents.

Browning, a high school classmate of Clinton in Hot Springs, was not among the seven women about whom Wright allowed evidence, but her name came up tangentially during Clinton's deposition. Browning has said that Clinton perjured himself in denying that they had a sexual relationship, which she says ended in 1992.

Jones's attorneys believe that several aspects of Browning's Oct. 28, 1997, deposition are relevant in Jones's case. Browning described a conversation with Clinton in May 1988 that she said she wrote about in her journal.

"We had a long intense discussion about sexual addiction," Browning said in an interview with The Post. In his deposition, Clinton did not recall a discussion about sexual addiction. Browning came up when Clinton was asked whether he had ever denied to Browning that Flowers was his lover. Clinton replied that he did so in a conversation at their 30th high school reunion in 1994. During that conversation, Clinton testified, he denied having a relationship with Browning but said she was in love with him.

Clinton testified that Browning told him at the reunion that she was writing a novel suggesting they had had an affair. He said she told him she needed the money.

But Browning said she began working on a novel in 1986, not to make money but "as a kind of therapy." Staff writer Peter Baker and staff researcher Alice Crites contributed to this report. CAPTION: Beth Gladden Coulson, the wife of an Arkansas oil company executive, has denied having had an affair with then-Gov. Clinton. He appointed her to a state appellate court when she was a 32-year-old municipal judge. CAPTION: Dolly Kyle Browning, a high school classmate of the president's, has said that the president perjured himself in denying that they had a sexual relationship, which she says ended in 1992. She also says she had a long discussion with the then-governor in 1988 about sexual addiction, which in his deposition he said he did not recall.

---- Index References ----

Company: CONNECTICUT SURETY COMPANY IL; ATLANTIC BANK; CSC COMPUTER SCIENCES BV; CHRISTOPHER STREET CAPITAL LTD; CSC SCANDIHEALTH AS; COMPUTER SCIENCES CANADA INC; MCI MANAGEMENT SPOLKA AKCYJNA; CAIRO SCIENTIFIC CORP; CSC SAS; COMPUTER SIMULATION CENTER; JONES SODA CO; COMPUTER SCIENCES RAYTHEON; MCI WORLDCOM INC; COMMERCIAL AIRCRAFT INTERIORS LLC; MCI CAPITAL TOWARZYSTWO FUNDUSZY INWESTYCYJNYCH SPOLKA AKCYJNA; CSC; VERIZON COMMUNICATIONS INC; MCI LLC; CSC COMPUTER SCIENCES ITALIA SPA; GTE CORP; CHINA SECURITIES CO LTD; COUNTRY STYLE COOKING RESTAURANT CHAIN CO LTD; CSC SVERIGE AB; HYATT REGENCY HOTEL; MCI; MUNICIPALITY CREDIT ICELAND PLC; US AIRWAYS GROUP INC; MCI INC; CHANG JIANG SHIPPING GROUP PHOENIX CO LTD; GTE DELAWARE LP; CREDITCARD SERVICES COMPANY S A L; ENTERGY LOUISIANA INC; EUROPEAN COMMISSION; ENERGY 1 CORP; COMPUTER SCIENCES PARSONS LLC; US AIRWAYS INC; COMMISSION EUROPEENNE; CAPITAL SHOPPING CENTRES PLC; NEXTERA ENERGY INC; ENTERGY CORP; CWA; CA INC; AMORIM CORK COMPOSITES

SA; BANK OF MARYLAND; FEDERAL COMMUNICATIONS COMMISSION; CSC SWITZERLAND GMBH; CONTEMPORARY SERVICES CORP; COMMUNICATIONS SUPPLY CORP; CSC COMPUTER SCIENCES (PORTUGAL) LDA; WORLDCOM; JUSTICE DEPARTMENT; CHINA STEEL CORP; CSCAPE GROUP PLC; CWA CELLULOSE WERK ANGELBACHTAL; ENTERGY LOUISIANA LLC; HYATT INTERNATIONAL CORP; WORLDCOM INC; CONTINENTAL SCHOOL OF CAIRO (THE); POWELL TATE; MCI TELECOMMUNICATIONS LTD; JONES DISTRIBUTION CORP; COMPUTER SCIENCES CORP; GRAN TIERRA ENERGY INC; CSC DANMARK AS; MCI COMMUNICATIONS CORP; GTE INTERNETWORKING; COMPUTER SCIENCES CORPORATION INDIA PVT LTD; CYBER SPACE COMMUNICATIONS CO LTD; MACONDRAY AND CO INC

News Subject: (Legal (1LE33); Antitrust Regulatory (1AN52); Judicial (1JU36); Mergers & Acquisitions (1ME39); Monopolies (1MO68); Major Corporations (1MA93); Economics & Trade (1EC26); Corporate & Business Law (1XO58); Corporate Groups & Ownership (1XO09); Corporate Legal Management (1XO33); Corporate Events (1CR05); Government Litigation (1GO18); Online Legal Issues (1ON39); Regulatory Affairs (1RE51); Business Management (1BU42))

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

Region: (Americas (1AM92); USA (1US73); Maryland (1MA47); Arkansas (1AR83); U.S. Mid-Atlantic Region (1MI18); North America (1NO39); U.S. Southeast Region (1SO88))

Language: EN

Other Indexing: (ATLANTIC BANK; BANK OF MARYLAND; BETH GLADDEN COULSON; CAI; COMMUNICATIONS WORKERS; COMPUTER ASSOCIATES INTL; COMPUTER SCIENCES; CSC; CWA; ENTERGY; ENTERGY CORP; EUROPEAN COMMISSION; FARMERS BANK OF MARYLAND; FEDERAL COMMUNICATIONS COMMISSION; GTE; GTE CORP; HYATT REGENCY HOTEL; JONES; JUSTICE DEPARTMENT; MAYFLOWER HOTEL; MCI; MCI COMMUNICATIONS CORP; MCI MERGER; OFFICIAL; POWELL TATE; RALPH NADERS CONSUMER PROJECT; SECRET SERVICE; TRANSPORTATION DEPARTMENT; US AIRWAYS; WHITE HOUSE; WORLDCOM; WORLDCOM MCI; WORLDCOM INC) (Alice Crites; Anne; Arlington; Barr; Browning; Bush; Cathy Roche; Charlie Condon; Clinton; Condon; Counsel William Barr; Dolly Kyle Browning; Earley; Ferguson; Flowers; Giant; Jamie DePeau; Jenkins; Jesse Jackson; Justin Blum; Larry Rosenstrauch; Manos; Mark Earley; PETE L. MANOSmpany; Peter Baker; Responded Earley; Stephanie Stoughton; Virginia; Virginia Attorney; Virginia Banks)

Product: DAILY

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Document: PHONE DEAL DRAWS MORE SCRUTINY

PHONE DEAL DRAWS MORE SCRUTINY

Pittsburgh Post-Gazette (Pennsylvania)

March 11, 1998, Wednesday,, SOONER EDITION

Section: BUSINESS,

Length: 557 words

Byline: JAMES ROWLEY, BLOOMBERG NEWS

Body

GTE Corp., International Business Machines Corp., Sprint Corp. and PSINet Inc. confirmed the U.S. Justice Department subpoenaed information about their Internet services for its review of WorldCom Inc.'s $ 41.8 billion acquisition of MCI Communications Corp.

A spokesman for MCI and WorldCom said the two companies did not expect the Justice Department's antitrust review to delay the transaction, scheduled to be completed by midyear. The Justice Department has redoubled its focus on Internet service in recent weeks, industry officials said. WorldCom shareholders were scheduled to vote today in Jackson, Miss., on approving the acquisition.

Some industry analysts have said they expect the combined company to control as much as 50 percent of Internet ''backbone'' services - a figure strongly disputed by MCI and WorldCom. The Justice Department has been ''actively soliciting information for some period of time now,'' making ''extensive document requests,'' said Sprint Vice President David Eisenberg.

Eisenberg said department lawyers have recently ''increased their focus on Internet-related issues'' as a result of the European Commission's decision to carefully scrutinize the transaction. The EU, voicing concern that the combined company would dominate the Internet, said last week it would conduct a four-month review.

Shares of MCI fell 1 5/1 6 to close at 46, and WorldCom fell 5/8 to 37 7/8 . WorldCom, which carries about 40 percent of the world's Internet traffic, recently bought the ANS Communications network-services unit of America Online Inc. It also recently purchased Compuserve Corp. In 1996, WorldCom became one of the world's largest suppliers of advanced data services with its acquisition of UUNET Technologies.

Critics of the proposed merger argue that the combined company would control enough Internet traffic to favor its own customers and raise transmission prices for competitors. Sprint's Eisenberg, IBM

spokesman Tara Sexton and GTE general counsel **William P. Barr** confirmed that the Justice Department had sought information about their companies' Internet services. The subpoenas were first reported in the Wall Street Journal.

Barr and Eisenberg said the Justice Department's request for tests of Internet traffic flow reflected an interest in measuring the combined company's market share.

The Justice Department ''has been very concerned about the impact on the Internet,'' and the request for data ''reflects that concern and the need to measure the real power that MCI and WorldCom will have together,'' Barr said.

PSINet Inc. Chairman and CEO William L. Schrader confirmed that the Herndon, Va.-based Internet services company had also received informational requests from the Justice Department. Schrader said PSINet doesn't oppose the merger but is concerned that the combined company would use its market power to set prices for interconnections between carriers.

MCI spokesman Frank Walter disputed the notion that the Justice Department's request represented a widening of its investigation. ''We think that is a point being stroked by our competitors, primarily Sprint and GTE large Internet players who have a vested interest in closing the merger down,'' Walter said.

Justice Department spokesman Michael Gordon said the agency had no comment on the review.

Classification

Language: ENGLISH

Subject: JUSTICE DEPARTMENTS (90%); ACQUISITIONS (89%); SUBPOENAS (78%); SHAREHOLDERS (77%); LAWYERS (74%); APPROVALS (73%); PRICE INCREASES (72%); CORPORATE COUNSEL (67%); EXECUTIVES (67%); EUROPEAN UNION (66%); EUROPEAN UNION LAW (66%); INTERNATIONAL ECONOMIC ORGANIZATIONS (65%)

Company: VERIZON COMMUNICATIONS INC (98%); PSINET INC (93%); SPRINT NEXTEL CORP (93%); INTERNATIONAL BUSINESS MACHINES CORP (91%); COMPUSERVE INTERACTIVE SERVICES INC (66%); AOL INC (66%); WALL STREET JOURNAL (52%); SPRINT CORP (93%)

Organization: US DEPARTMENT OF JUSTICE (94%); US DEPARTMENT OF JUSTICE (94%); EUROPEAN COMMISSION (55%); EUROPEAN COMMISSION (55%)

Ticker: VZC (LSE) (98%); VZ (NYSE) (98%); S (NYSE) (93%); IBMC (BRU) (91%); IBM (NYSE) (91%); IBM (LSE) (91%); AOL (NYSE) (66%)

Industry: COMPUTER NETWORKS (90%); INTERNET & WWW (90%); TELECOMMUNICATIONS SERVICES (79%); MARKET SHARE (74%); LAWYERS (74%); PRICE INCREASES (72%); INDUSTRY ANALYSTS (70%); CORPORATE COUNSEL (67%)

Geographic: JACKSON, MS, USA (79%); MISSISSIPPI, USA (79%); VIRGINIA, USA (79%); EUROPE (55%)

Load-Date: March 11, 1998

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Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 13, 2018 10:11:15 a.m. EST

Document: WorldCom-MCI deal: A threat? Rivals fear Net power

WorldCom-MCI deal: A threat? Rivals fear Net power

USA TODAY

March 11, 1998, Wednesday,, FINAL EDITION

Section: MONEY;

Length: 407 words

Byline: Paul Davidson

Body

Two reports slated for release today say a combined WorldCom-MCI would dominate Internet traffic and use that status to jack up prices or sabotage rivals.

The studies, sponsored by the Economic Policy Institute, come as MCI and WorldCom shareholders today are expected to approve the $ 37 billion union.

"Its prospective dominance over the Internet would crowd out rival vendors and imperil interconnection on nondiscriminatory terms," says a report by Dan Schiller, a communications professor at the University of California at San Diego.

Both studies urge federal regulators to deny the largest merger in corporate history.

A June 1997 survey by *Boardwatch* magazine says WorldCom's and MCI's backbone networks -- highways that carry Internet transmissions -- handle 55% of all Internet connections.

MCI spokeswoman Jamie Depeau blasted the figure. "Their number is false because there's no accurate way to measure traffic," she says. The only rough gauge, she says, is Internet market share, and WorldCom and MCI have just 20% of worldwide sales. "That's hardly dominant."

But some competitors say Internet traffic can be measured by monitoring transmissions when one backbone provider hands off traffic to another. **William Barr**, general counsel of backbone provider GTE, says his company recently found that it was transferring about 60% of its traffic to WorldCom or MCI.

Depeau says the figure is biased since GTE lost to WorldCom in its bid for MCI.

As part of its review of the proposed merger, the Justice Department is asking Internet backbone providers to measure traffic flows to WorldCom-MCI networks so they can assess antitrust concerns.

Barr says his biggest fear is that WorldCom-MCI would slow transmissions it gets from other carriers to encourage Internet service providers to switch to its network. Because of its dominance, it would have little concern about retaliation.

Another worry is that WorldCom-MCI would begin charging rival backbone networks based on computer bits transmitted. The major providers now exchange transmissions for free.

"Given their economic power, they will most likely attempt to change the interconnection agreement," says PSINet CEO William Schrader. Yet the head of the No. 2 backbone provider says WorldCom ultimately would not raise prices or degrade service because of a backlash in the Internet community.

Classification

Language: ENGLISH

Subject: MERGERS (89%); ANTITRUST & TRADE LAW (89%); PRICE CHANGES (78%); PUBLIC POLICY (77%); AGREEMENTS (77%); ECONOMIC POLICY (77%); PRICE INCREASES (73%); APPROVALS (72%); SHAREHOLDERS (72%); ECONOMIC NEWS (72%); COLLEGE & UNIVERSITY PROFESSORS (71%); JUSTICE DEPARTMENTS (66%); LAWYERS (64%)

Company: VERIZON COMMUNICATIONS INC (92%); VERIZON COMMUNICATIONS INC (92%); ECONOMIC POLICY INSTITUTE (84%); ECONOMIC POLICY INSTITUTE (84%); UNIVERSITY OF CALIFORNIA (57%); UNIVERSITY OF CALIFORNIA (57%)

Organization: ECONOMIC POLICY INSTITUTE (84%); ECONOMIC POLICY INSTITUTE (84%); UNIVERSITY OF CALIFORNIA (57%); UNIVERSITY OF CALIFORNIA (57%)

Ticker: VZC (LSE) (92%); VZ (NYSE) (92%)

Industry: COMPUTER NETWORKS (90%); INTERNET & WWW (90%); PRICE CHANGES (78%); INTERNET SERVICE PROVIDERS (74%); PRICE INCREASES (73%); MARKET SHARE (72%); COLLEGE & UNIVERSITY PROFESSORS (71%); LAWYERS (64%)

Geographic: SAN DIEGO, CA, USA (79%); CALIFORNIA, USA (88%)

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Document: JUSTICE DEPT. SEEKS DETAILED INTERNET DATA IN REV...

JUSTICE DEPT. SEEKS DETAILED INTERNET DATA IN REVIEW OF WORLDCOM-MCI MERGER

Communications Daily

March 11, 1998, Wednesday

Section: TODAY'S NEWS

Length: 1246 words

Body

U.S. antitrust investigators requested sweeping one-week snapshot of Internet backbone traffic as review of $37-billion WorldCom-MCI merger targeted charges that combination would give new company dominance over Internet, especially backbone services. Justice Dept. (DoJ) sent civil subpoenas last month to numerous WorldCom-MCI rivals such as AT&T, GTE and Sprint. It sought detailed traffic data, revenue and interconnection information as it evaluates same concerns raised by European Commission (EC) last week, lawyers familiar with process told us Tues. Many questions posed by DoJ also have been raised by rivals in filings seeking to block merger, one lawyer said. "I think it is clear that the Department is taking very seriously the concerns raised by the Internet industry," GTE Exec. Vp **William Barr** said.

MCI turned aside Internet arguments, accused critics of "self-serving" motives and argued that labor union opposition is misplaced. Frank Walter, MCI dir.-corporate communications, told us Internet industry is "very competitive market" with 40 backbone providers and more than 4,000 Internet service providers (ISPs). Industry observers and others familiar with DoJ request said agency is "getting very serious" about Internet issue, and one lawyer said he was "very surprised" at degree of sophistication and knowledge shown by DoJ staffers. Final agency conclusions are at least 6 months away, source said, citing need to process volumes of data collected by carriers.

DoJ had asked WorldCom-MCI for additional information last year, and sources said numerous individuals from rival companies already have provided documents and information. Latest request, made Feb. 12 and disclosed this week, is most detailed and comes even as EC moved its separate investigation into more detailed examination focusing on Internet (CD March 5 p5). WorldCom and MCI executives were complying with DoJ officials while also preparing for today's MCI shareholders meeting in S. Sioux City, Neb., where merger for shares in WorldCom is expected to be endorsed.

Companies such as Sprint received 13-page civil information demand (CID), also known as subpoena, that sought specific information about Internet business activities, such as traffic and data exchanges with other carriers. Sprint Vp-Law David Eisenberg said effort is part of process to "get the best factual background." DoJ asked carriers to record traffic March 1-7, then provide results within a week, sources

said. Carriers also were asked to develop tests to show possible reliance on networks owned or run by WorldCom and MCI. Eisenberg said request also sought some information he wouldn't disclose. Although 13 pages long, most of request is instructions for satisfying CID, one official said.

Lawyer familiar with request said govt. asked for data to assess "degree of the dependency" of networks on each other and extent to which WorldCom and MCI "have a dominant position" in Internet market. Request required some carriers to gather information not usually collected, but one official said it didn't create "onerous" burden. Companies also were asked to: (1) Identify destination of traffic originating on their networks. (2) Break down Internet traffic by category, such as by ISP and business customers, and then measure traffic within each category. At one company, data were collected by installing software on routers to monitor traffic.

Eisenberg said latest request for data follows earlier DoJ queries relating to small and midsized business market, wholesale long distance business and ownership and control of transatlantic cables. In each case, he said, Sprint employees were interviewed by DoJ investigators; he declined to elaborate on answers. AT&T declined to comment on DoJ process.

WorldCom and MCI have said Internet backbone business is highly competitive and dynamic. MCI's Walter said rivals have engaged in "self-serving" campaign to block merger. He said Sprint, which has complained about merger on ground it will give combined company control of Internet, as recently as Tues. positioned itself on its Web site as making "more Internet connections than any company in the world." Web site also claims that "more Internet traffic flows over our [Sprint]all-fiber network than over any other" network. "This is rhetoric and misleading information our competitors are trying to put out," Walter told us.

WorldCom and MCI said that, based on revenue figures, which it considered better barometer of Internet use, combined company would handle about 20% of all traffic. In responding to recent CWA complaints about merger, Walter said "CWA members should wonder why WorldCom and MCI employees make more than CWA members." He said 5-city comparison showed WorldCom and MCI employees earned more and received larger bonuses than workers in jobs covered by CWA labor contracts. Since 1990, MCI has hired 34,000 employees, including 11,000 since 1995, although in same period it has eliminated some jobs. "We have established a loyal and satisfied employee base," Walter said. MCI Chmn. Bert Roberts is expected to address labor union issue at shareholder meeting today.

Economic Policy Institute Opposes Merger

Even as DoJ intensified examination, Economic Policy Institute (EPI) in D.C. released 2 reports that argued against govt. approval of combination based on Internet and other issues. Dan Schiller, prof. at U. of Cal.-San Diego, said deal is "mistake waiting to happen." Citing published reports and statements by industry rivals, he said merger is: (1) Attempt to develop WorldCom-MCI market power over Internet. (2) Effort to jettison residential customers and pursue "favored customer groups" such as business. (3) Threat to financial health of both companies by adding debt to WorldCom. (4) Threat to future investment in telecom network and for labor relations in industry.

EPI said 5 leading Internet backbone providers handle about 80% of U.S. traffic, with WorldCom and MCI either owning or controlling majority of facilities. WorldCom-MCI would have 3,000 points of presence, 500,000 router ports and control 40-60% of backbone services, Schiller said. Combined company would supply America Online, CompuServe and Microsoft Network with Internet connections. WorldCom's 1996 purchase of MFS and its UUNet subsidiary and latest acquisition of ANS networking subsidiary of AOL gave it greater control over network, report said. "With its attempt to swallow MCI, WorldCom stands to finally achieve its goal -- unparalleled market dominance over the entire Internet," he said.

In another paper, Rutgers U. Prof. Jeff Keefe said WorldCom-MCI would own 4 major backbones -- ANS, CompuServe, MCI and UUNet -- and administer 5 Network Access Points, including MAE West in L.A. and MAE East in D.C. -- "most heavily trafficked in the world." Keefe said: "After the merger, all backbones will be owned by WorldCom-MCI or will operate on facilities leased from WorldCom-MCI, except for those using Sprint's facilities." He said it's difficult to examine market issue, since companies disagreed on just what to measure. MCI contends its revenues should be considered and market should consist of all Internet services. Others suggest Internet backbone service should be treated as separate market, with service providers treated separately. He said DoJ and FCC review "may hinge on determination" of 2 distinct markets.

Classification

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Subject: JUSTICE DEPARTMENTS (90%); SUBPOENAS (89%); LAWYERS (89%); INVESTIGATIONS (89%); EUROPEAN UNION INSTITUTIONS (76%); SHAREHOLDERS (73%); SHAREHOLDER MEETINGS (73%); TALKS & MEETINGS (71%); LABOR UNIONS (53%)

Company: VERIZON COMMUNICATIONS INC (92%); SPRINT NEXTEL CORP (85%); SPRINT CORP (85%); VERIZON COMMUNICATIONS INC (92%); SPRINT NEXTEL CORP (85%); SPRINT CORP (85%); EUROPEAN COMMISSION (83%); EUROPEAN COMMISSION (57%)

Organization: EUROPEAN COMMISSION (83%); EUROPEAN COMMISSION (57%)

Ticker: VZC (LSE) (92%); VZ (NYSE) (92%); S (NYSE) (85%)

Industry: COMPUTER NETWORKS (90%); LAWYERS (89%); INTERNET & WWW (89%)

Geographic: EUROPE (72%); EUROPEAN UNION MEMBER STATES (57%)

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Document: WorldCom, MCI Probe Is Widened

WorldCom, MCI Probe Is Widened

The Wall Street Journal

March 10, 1998 Tuesday

Section: Pg. A3

Length: 988 words

Byline: By John R. Wilke and Jared Sandberg, Staff Reporters of The Wall Street Journal

Body

The Justice Department widened its investigation of WorldCom Inc.'s proposed acquisition of MCI Communications Corp., signaling that the $37 billion transaction could face antitrust problems.

Regulators are focusing on how dominant the combined companies would be in Internet services, according to documents and people who have been interviewed for the investigation. If the combination is approved, industry analysts estimate the companies would control more than half of Internet traffic through the high-capacity cables and computers that form the backbone of the international data network.

The Justice Department recently hired outside experts to review the case. It has sent civil subpoenas to companies competing with WorldCom and MCI in Internet backbone traffic, including GTE Corp., International Business Machines Corp., Sprint Corp. and PSINet Inc. It also submitted a second formal request for information to WorldCom and MCI, a move that often signals that a deal is facing delay and further investigation. The proposed transaction is already facing tough scrutiny in Europe. European Union antitrust regulators last week launched an investigation that could delay the deal by months. The European Commission said that it was "concerned about the parties' combined market

share in relation to the supply of Internet backbone services" and that these include "the provision of a network of high-capacity, long-distance connections capable of carrying data nationally and internationally."

The Justice Department's 13-page civil subpoenas, known as civil investigative demands, were dated Feb. 12 and sent to most companies that operate Internet "backbone" networks. Among other things, the companies were ordered to conduct a series of tests that gauge traffic flow from their networks and determine the level of their reliance on similar networks run by WorldCom and MCI. They were also asked highly technical questions about their data-traffic patterns and volume and the interaction of their networks with other Internet networks.

The fate of the WorldCom-MCI deal could help shape the future of the Internet and how its services are priced and delivered. Major Internet access providers strike so-called peering agreements with one another to exchange traffic at interchange points in a free manner. If one entity controls the lion's share of networks, it could easily degrade the performance of rivals by neglecting such exchange points. At the same time, critics say, WorldCom and MCI could ensure that customers of their own Internet access enjoy speedy connections and raise the cost to rivals. John Sidgmore, WorldCom vice chairman and chief executive officer of its big Internet access unit, UUNet Technologies, denied that the industry would become any less competitive if MCI and WorldCom were combined. He called charges that the company could degrade competitors' networks "preposterous" and indicated that price boosts would be counterproductive for a combined entity. He also disputed that a combination would dominate Internet traffic, saying the merged companies would have only 20% of the industry's revenue.

He also was largely unfazed by competitors' charges and the government's new actions. "It's not a surprise that this is going to be a lengthy and complex deal in an industry where everybody sues everybody about everything," Mr. Sidgmore said. "That's part of the communications industry today."

Few of the insiders following the government investigation think the MCIWorldCom deal will be stopped outright. More likely, they say, the department will demand safeguards to encourage competition and restrain pricing, and could ask for the sale of some assets. One possible approach, these people said, would be measures to protect "openness" in the network among peers, and allow small networks that want to connect to their larger peers to do so freely.

In the subpoenas, the Justice Department asked that the Internet companies conduct tests March 1 through March 7 that measure the flow of their traffic to other networks. The results are expected to help the agency determine whether MCI and WorldCom would together control so much of the Internet that they could have an adverse impact on competitors and ultimately Internet users. "If you allow one player to acquire over 50% of the market, they are in a position to degrade the connection or increase the cost of connections," said J. Richard Devlin, chief counsel at Sprint. A merger, he added, "would potentially short-circuit the growth of this global-information network and fundamentally change its course."

William P. Barr, general counsel at GTE, said "The irony here is that we're spending hundreds of millions of dollars and decades of regulatory effort to try to dismantle the traditional telephone companies and hammer them into a network of networks" like the Internet. "But right under our noses through a series of blitzkrieg acquisitions one player is getting a dominant position on the Internet -- the future of all telecommunications."

An MCI spokesman countered that Internet competition is increasing, not decreasing. He added that there are nearly 40 backbone providers, 4,000 smaller Internet service providers and new entrants such as Qwest Communications International Inc. laying massive networks of their own.

Indeed, one of the key issues that the Justice Department must consider is the difficulty new companies face in entering the Internet backbone business. If the barrier to entry is low, officials might be somewhat more inclined to approve the merger even if the market is concentrated, because other companies could enter. To evaluate this and other issues, the department recently hired two prominent antitrust experts, Carl Shapiro, a former Justice Department official now teaching at the University of California at Berkeley, and Michael Katz, former chief economist of the Federal Communications Commission.

Notes

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Company: VERIZON COMMUNICATIONS INC (98%); INTERNATIONAL BUSINESS MACHINES CORP (70%); SPRINT CORP (70%); PSINET INC (70%); ADVCOS WORLDCOM INC WORLDCOM GROUP (USA); IBM INTERNATIONAL BUSINESS MACHINES CP (USA); UNITEL SPRINT CORP (USA)

Organization: US DEPARTMENT OF JUSTICE (94%); EUROPEAN UNION (56%); EUROPEAN COMMISSION (55%)

Ticker: VZC (LSE) (98%); VZ (NYSE) (98%); IBM (NYSE) (70%); IBM (LSE) (70%); S (NYSE) (70%)

Industry: COMPUTER NETWORKS (90%); INTERNET & WWW (89%); INTERNET SERVICE PROVIDERS (77%); TELECOMMUNICATIONS SERVICES (77%); INDUSTRY ANALYSTS (76%); MARKET SHARE (66%); I3302 Computers; I7902 Telecommunications; I79021 Wired Telecommunications; I7902101 Local Telephone Services; IINT Internet/Online Services

Geographic: EUROPE (87%); EUROPEAN UNION MEMBER STATES (87%); NAMZ North American Countries; USA United States; USC Central U.S.; USCT United States - Connecticut; USDC United States - District of Columbia; USE Eastern U.S.; USKS United States - Kansas; USMS United States - Mississippi; USNY United States - New York; USS Southern U.S.

DJI Codes: TEC, UTI, CPM, CPR, LDS, RTL, TEL, TLS, DCO, DTE, HIY, HOT, NET, TNM, TST, WEI, JUS, CT, DC, KS, MS, NME, NY, US, USC, USE, USS, MJR, SMJ, TPT

DJI Descriptors: Technology, Utilities, Computer Makers, Computers, Long Distance Telephone Providers, Regional Telephone Systems, Telecommunications, All, Telephone Systems, Computer Hardware, Telecommunications, High-Yield Issuers, Hot Stories, Internet, Acquisitions, Mergers and Takeovers, Antitrust News, Dow Jones Total Market Index, Justice Department, Connecticut, District of Columbia, Kansas, Mississippi, North America, New York, United States, Central U.S., Eastern U.S., Southern U.S., Major Business News, Small Majors, Business and Finance Column Stories

Load-Date: December 6, 2004

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 09:49:38 p.m. EST

Document: U.S. Studying WorldCom-MCI Impact

U.S. Studying WorldCom-MCI Impact

Associated Press Online

March 10, 1998; Tuesday 16:37 Eastern Time

Section: Financial pages

Length: 516 words

Byline: JEANNINE AVERSA

Dateline: WASHINGTON

Body

Federal regulators are taking a hard look at whether WorldCom's proposed takeover of MCI Communications would dampen competition and drive up prices of Internet and long-distance services.

The $37 billion merger biggest in U.S. history is being reviewed by the Justice Department, which is collecting detailed information from the companies and their rivals.

GTE Corp. and Sprint Corp., which have raised concerns about the merger, confirmed Tuesday they have received civil subpoenas from Justice. Both companies provide long-distance service and operate high-capacity networks that carry Internet and other data traffic, known as the Internet backbone business.

Attorneys for GTE and Sprint said Justice is seeking detailed information about the proposed merger's impact on competition and pricing in the Internet and long-distance businesses. The agency currently is focusing more on Internet competition and pricing issues, attorneys said.

The Justice Department would not comment on the review.

WorldCom and MCI reject rivals' allegations that the merger would lead to higher pricing in the Internet and long-distance businesses, said MCI spokesman Frank Walter.

''The issues involving the Internet are being stoked by our Internet competitors, primarily Sprint and GTE,'' Walter asserted. He said the merger is on track for completion later this year.

A combined MCI-WorldCom would control at least 50 percent of Internet traffic in the United States and 25 percent of the nation's long-distance business, analysts say.

The Justice Department will assess the merger's impact on so-called interexchange points essentially the high-speed lines that connect one company's Internet backbone with another's, attorneys said.

William Barr, GTE general counsel, and David Eisenberg, Sprint's vice president for law, contend a combined MCI-WorldCom would have no incentive to upgrade those interexchange connections because 50 percent of the Internet traffic would begin and end over MCI-Worldcom's own network.

Another possible result, GTE attorneys contend, is that MCI-WorldCom would so dominate the Internet backbone business that it would charge Internet service providers and others inflated prices to use the network.

Those price increases ultimately could be passed along to consumers surfing the Net at home or work.

MCI's Walter said the combined companies would control 20 percent of U.S. Internet network revenue.

GTE and Sprint attorneys also said the Justice Department is interested in the merger's impact on long-distance prices, mainly for residential customers.

WorldCom accounts for 40 percent of residential long-distance service sold to other companies at wholesale rates, said GTE attorney Mark Schechter. Those other companies then retail the service to consumers.

(PROFILE

(CO:WorldCom Inc; TS:WCOM; IG:TLS;)

(CO:MCI Communications; TS:MCIC; IG:TLS;)

(CO:GTE Corp; TS:GTE; IG:TLS;)

(CO:Sprint Corporation; TS:FON; IG:TLS;)

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The Nightly Business Report NIGHTLY BUSINESS REPORT (NPR 6:30:00 pm ET)

March 10, 1998

Section: Business

Length: 3827 words

Guests: Robert Glynn, Irving R. Levine PG&E Chairman & CEO Interview on

Body

<Time: 00:00:00>

PAUL KANGAS, NIGHTLY BUSINESS REPORT, ANCHOR: The Justice Department is taking a closer look at another high profile merger after MCI's competitors complain the

company's proposed merger with WorldCom (WCOM) will create a dominant force on the Internet.

Good evening. I'm Paul Kangas.

JEFF YASTINE, NIGHTLY BUSINESS REPORT, ANCHOR: And I'm Jeff Yastine.

It's another record day on Wall Street with the Dow and S&P 500 setting all time highs. And these Internet domain names could have a great deal of company in the future if government and industry can reach a consensus.

MCI and WorldCom's proposed $37 billion merger is coming under more scrutiny by the Justice

Department. Shares of both companies were among the most active today as investors pondered

whether the deal would be put in jeopardy over antitrust concerns regarding the Internet.

Stephanie Woods reports.

STEPHANIE WOODS, NIGHTLY BUSINESS REPORT, CORRESPONDENT: Sprint (FON) and GTE (GTE) confirmed to NIGHTLY BUSINESS REPORT they've received subpoenas from the Justice Department regarding the WorldCom/MCI merger. These competitors are warning regulators the merged company will dominate the Internet.

WILLIAM BARR, GENERAL COUNSEL, GTE: The combined WorldCom/MCI will really place all the other networks in a dependent position and they will have too much leverage and they will be able raise prices unfairly and they will be able to diminish the performance of the other networks.

WOODS: WorldCom/MCI says it still expects the deal to close by the end of the year. A company source says the Justice investigation was anticipated and the controversy is being fueled by competitors. Sources close to the company say there's no chance MCI/WorldCom will rule the Internet. Competition from AT&T (T), Sprint and regional Bells and other Internet service providers should keep prices low and access fair and the future promises to be even more competitive. Companies like Telegen (TLGN) and Qwest (QWST) building new high speed networks. Sprint argues the merger would bring regulation to the entire Internet industry.

JOHN HOFFMAN, VICE PRESIDENT, EXTERNAL AFFAIRS, SPRINT: With, we produce through this merger, a single dominant force in the Internet, have we now created a situation where regulation is necessary and does this government -- does this industry want to have -- create a situation that cries out for regulation of the Internet?

WOODS: Most analysts don't think the Justice Department will kill the deal but it may put up significant hurdles.

SCOTT CLELAND, DIRECTOR, LEGG MASON PRECURSOR GROUP: One thing they could request is some type of language that would prevent them from discriminating against competitors on access to the Internet. They could also remedy it by asking for some of the equipment and some of the backbone pipes to be divested to another entity.

WOODS: MCI and WorldCom shareholders each meet tomorrow to vote on the proposed merger. The companies expect overwhelming support.

Stephanie Woods, NIGHTLY BUSINESS REPORT, Washington.

KANGAS: In the absence of any new earnings warning from a computer- related company, high tech stocks spearheaded an opening rally on Wall Street this morning which lifted the NASDAQ Index 16 3/4

points by 10:00 a.m. and then the blue chips joined the upturn with the Dow Industrial Average jumping 56 points to a new intra-day high at the 8623 level by 10:30 this morning. As early futures related buy programs slacked off during mid-session, the market backed down slightly with the Industrial Average posting a 47 1/2 point gain at 1:30 p.m. while the NASDAQ Index was up only 11 points. Stocks bounced back on reports that super bullish analyst Ralph Acampora reinstated his Dow 10,000 target for 1998.

The Dow Jones Industrial Average then went on to post a closing gain of 75.98 points at a record high of 8643.12. In today's 83 1/2 point trading range, the Dow closed down only 7 points from the best level of the session, up 76 1/2 points from the low of the day. The NASDAQ Composite Index closed up 23.38 at 1748.51. It had a 23 3/4 point trading range. The Index ended just a touch below its best level of the day.

Back on the big board, volume up a bit from yesterday at 631.4 million shares and we see a lot more up volume than down volume. That was impressive, 300 million more up volume shares.

The Dow Transports up almost 38 points.

Utilities hit a record high for the second day running, up 2.61.

And the Closing Tick moderately bullish at +337.

Standard & Poor's 500, 100, 400, all record highs as indicated by the asterisks.

KANGAS: And, all nice gains.

The Bridge Futures Price Index edged 1.38.

And all records on this board, New York Composite, the Value Line, the Russell2000 -- they didn't quite make it. About 1 point shy of a record high.

But the Wilshire 5000 easily a record high with that 108-point closing gain.

The bond market opened slightly lower today, taking its queue from light profit-taking overseas. But prices firmed up a bit after that on news that last year's fourth quarter U.S. productivity rose a solid 1.6 percent. Even though that was down from the consensus estimate for a 2 percent rise.

A further decline in oil futures was another plus, which helped tax free and corporate issues wipe out early losses to close mostly unchanged. While the Treasury market ended with small gains.

The 5-year notes, if we can see those, up a 1/32.

The 10-year notes up 1/32, as well.

The Bellwether 30-year bond up 2/32. With the yield at 5.96 percent.

And the Lehman Brothers Long Treasury Bond Index was up 1.34.

I'll be back shortly to show you where the action was on Wall Street today.

YASTINE: The holding company for Pacific Gas & Electric (PCG) is forming an alliance with energy giant, Ultramar Diamond Shamrock (UDS). PG&E will manage more than $2 billion in energy purchases and provide energy services to UDS installations in North America. The alliance is expected to cut energy costs at UDS by 15 to 25 percent. And, joining us now is the Chairman, CEO and President at PG&E Corporation, Robert Glynn. And Mr. Glynn, thanks for joining us.

ROBERT GLYNN, CHAIRMAN & CEO, PG&E: It's nice to be with you this evening.

YASTINE: The first question I guess is, I understand the advantages here for Ultramar Diamond Shamrock. But, what are the advantages for your company?

GLYNN: Well, for our company, we have the opportunity to share in the energy costs savings that we're able to produce for Ultramar Diamond Shamrock at their many facilities across the United States and Canada.

YASTINE: Will this lead to more in the way of earnings for profits for PG&E?

GLYNN: Oh, you bet it will. I mean, we're an energy business and this is what we do. It provides a wonderful opportunity for our interests and for Ultramar Diamond Shamrock to have the same interests, which is lowering the costs that they spend on energy every year.

YASTINE: And how do you do it through sort of a joint all- encompassing alliance like this. How do you end up lowering costs?

GLYNN: Well, we have formed this alliance to reduce their costs basically in 3 ways. The first one is to help them reduce the overall amount of energy that they use, by using it more efficiently and more wisely in their many, many facilities.

YASTINE: And these are things that they can't do on their own. They're using sort of PG&E's expertise in

this, I guess.

GLYNN: These are things that they're choosing to out source, if you will, to PG&E Corporation where we do this for a living in order to enable themselves to focus on what they do as their core business, which is refining petroleum into useful products and then marketing and selling them downstream. It lets us focus on producing the energy cost reductions for them.

YASTINE: And let me ask you just a little bit about earnings here. Analysts were predicting a $1.80 for fiscal '98. Fiscal '99, $2.10. Do you expect that to increase somewhat or be comfortable with higher earnings with this deal?

GLYNN: Well, I think that this transaction is an example of the kind of business opportunity that's going to enable us to grow earnings steadily in the future.

YASTINE: I see. And also, are you predicting that you'll have more alliances? Are you looking for more alliances like this one with UDS?

GLYNN: We're looking hard for them and I'm predicting that we'll find them.

YASTINE: And do you think that others in the industry might be deciding to do more of this, or perhaps are actively hunting around for more deals, similar to this currently?

GLYNN: Well, it wouldn't surprise me if a competitor or two would be interested in trying to set up an opportunity like this, as well.

YASTINE: How long did it take you guys to put this deal together? We've got about 20 seconds.

GLYNN: We've been in active involvement with UDS for about 5 months of very intensive processing as they've moved through their selection process to choosing us last week.

YASTINE: Alright. We'll leave it there then. Mr. Glynn, thank you very much.

GLYNN: Thank you. It's very nice to be with you this evening.

YASTINE: We've been talking with Robert Glynn, chairman, CEO & president at PG&E Corp.

KANGAS: Once again, the bulls stampeded on Wall Street today, creating all kinds of records for the major averages. Including the Industrials, up nearly 76 points. First time ever above 8600 on the close, and way above it today. And the broader market higher by a 19 to 10 ratio. 303 new yearly highs, 15

new lows.

For the 29th time out of the last 30 trading sessions, Compaq Computer (CPQ) topped the active list. I think that's a modern day record for activity. Down 1/16 today on 39.8 million shares.

K Mart Corp (KM) which recently reported better-than-expected earnings, up 3/8.

AT & T Corp (T) rose 1 7/16. CitiBank (CCI) has awarded AT&T's network out-sourcing unit a 5-year contract worth some $750 million.

Even the oil patch was alive on the up side today.

Schlumberger Ltd (SLB) up 1 7/16.

PepsiCo Inc (PEP) rising another 7/8 after an upgrade by Schroder & Company yesterday.

US West Media (UMG) doing well. Up 1 7/16. Washington Services reported insider buying recently. Director Robert Krandall bought 1,000 shares and Vice President James Anderson bought 12,200 shares.

Bay Networks Inc (BAY) up 3/4.

LCI International (LCI) up 1 13/16. And, of course, Qwest (QWST) is making a buy out bid for that company.

Micron Technology (MU) edged up 1/8.

And then IBM (IBM) participating in the rally. Up 1 3/8.

Bowater (BOW) up 5 3/16. Of course, the company, yesterday, announced it's going to acquire Avenor (ANR), the Canadian forest products firm. And today, Merrill Lynch upgraded the stock from "accumulate" to "near- term buy." Merrill Lynch did the same thing with

Circuit City (CC). And, Merrill Lynch did the same thing with

Computer Sciences (CSC). Up 2 3/8. Finally, we see

Continental Air B (CAI) rising 3 1/8. Morgan Stanley upgraded it from "outperform" to a "strong buy."

Northrop Grumman (NOC) plunging another 3 1/16 after dropping 20 yesterday after the Department of

Justice fundamentally opposes the merger with Lockheed Martin (LMT).

And Travelers Group (TRV) up 2 1/4. The best point size gainer in the Dow today.

IP Timberlands (IPT), the biggest percentage move, up 3 5/16. Now the story here, IP Forest Resources, which is the company's managing general partner, will exercise its right to buy out all of these units -- 7 1/4 million of them -- at a price of $13.63 each.

Aquila Gas (AQP) up 3 9/16. The company has retained Merrill Lynch to explore strategic alternatives including possible merger or sale of the firm.

Pentacon International (JIT) went public today. The company's in the business of distributing fasteners, screws, bolts, nuts and so forth to industry. 5.2 million shares offered at 10. Opened at 13. High of the day 13 3/8. Had a good opening day.

Championship Auto Racing (OPW) up almost 4 points. Now this company of course owns, operates and sanctions auto racing teams. The symbol OPW stands for open wheel I think, 4.7 million shares offered at 16. Opened at 19. The high, 20 15/16.

Ritchie Brothers Auctioneers (RBA) this is a company, a major auctioneer of industrial equipment worldwide, 2.9 million shares offered at 17. Opened at 21 1/16, high 21 7/16.

Finally, one of the few losers, Consolidated Cigar (CIG) off 3 13/16. The company reportedly sees little or no growth in the first quarter of this year.

NASDAQ trading, a nice gain of 23 1/3 points, but not a record high. Of course it was down 28 1/3 yesterday. Volume just under 800 million shares. 24 stocks up for every 18 lower.

Intel (INTC) topped the active list, up 7/16.

Dell Computer (DELL) a 2 point gain.

Microsoft (MSFT) doing well, up nearly 2.

Cisco Systems (CSCO) edged up 5/32.

Chancellor Media (AMFM) down 3/16.

Sun Microsystems (SUNW) up 4 21/32. Salomon Smith Barney upgraded an "outperform" to "buy."

Morgan Stanley repeated a "strong buy" on Sun.

Yahoo (YHOO) down 5/16 after 2 days of strong gains.

WorldCom Inc (WCOM) down 3/4.

And MCI Communications (MCIC) down 1 5/16. Justice Department widening its probe of antitrust possibilities.

Oracle (ORCL) up 1 7/16.

NewsEDGE (NEWZ) up 2 27/32. The Alex Brown Brokerage began coverage with a "buy."

Datum Inc (DATM) down 2 3/8. Company sees a first quarter loss about $0.30 a share.

And Aseco Corp (ASEC) off 1 3/8. This company is warning its fourth quarter earnings will be well below expectations.

The American Exchange Index up just over 3 1/3 points. Volume up about 3 1/4 million shares from yesterday. 326 issues closed higher, 267 lower.

Topping the active list, Standard & Poor's Depository Receipts (SPY) up one full point, reflecting that new high and nearly a 12 point gain in the S&P 500 Index.

Carematrix Corp (CMD) used to be called Standish Care Company, well, the company was rather standoffish today, saying it had no news to account for that big jump.

And Andrea Electronics (AND) up 1 11/16. This company said its anti- noise headsets will be exclusively recommended for use by the Interactive Learning International Corporation. That's our Wall Street Wrap Up.

Jeff.

YASTINE: Well, the familiar Internet top level domains of .com, .org, .net and .gov, could be joined by dozens more if agreement can be reached on just how to do it. That topic has been the source of heated debate within the government and the Internet community.

Scott Gurvey reports.

SCOTT GURVEY, NIGHTLY BUSINESS REPORT, CORRESPONDENT: What's in a name? If you're talking about the name for your Internet site, the answer is a lot. They are called domain names, like NIGHTLY BUSINESS.org and they are the Internet equivalents of addresses and telephone numbers. There have been scores of lawsuits over the rights to these names which are still for the most part, assigned by one company under exclusive contract with the government. This is a

result of the Internet's origins as a noncommercial, government operated research project and tool. Today, virtually everyone wants the domain name system turned over to the Internet community. Coming up with a plan to do that is the responsibility of Special Presidential Adviser Ira Magaziner.

IRA MAGAZINER, SENIOR PRESIDENTIAL ADVISER, POLICY DEVELOPMENT: Yes, yes and what we're suggesting is that some of the functions like assigning numbers for example -- everybody on the Internet has a specific number and you want to make sure that that's coordinated so numbers don't clash with each other. That we think should be done by a coordinated nonprofit body. On the other hand, the assigning of names where you might want to have a certain name on the Internet. Somebody else wants another name. We think that can be done in a competitive way and in a market place environment. Since names have a commercial value to them, we think having a competition among different registrars who would register names would be an effective way to go to allow market efficiencies to commit.

GURVEY: What happens to a company that has its name, Pepsi-Cola (PEP), McDonald's (MCD), something like that and now has the McDonalds.com and we add a whole bunch of additional domains to this. Would they be going to register all of them?

MAGAZINER: Well, that would be up to them but they certainly could and I think if they have an internationally valid trademark then there should be a presumption that they can protect that trademark in the various top level domains if they choose to, if they would like to and so I suspect that's what will happen and that's one reason why we don't want to have an unlimited number of new top level names because that would mean that a company like a McDonald's would have to register in 1,000 different places and that would not be very efficient. On the other hand, if you have an Acme Electric in one place and Acme Pizza someplace else, there ought to be some room for each of them to say that they Acme on the Internet.

GURVEY: What would happen legally? I mean how would disputes be resolved?

MAGAZINER: Well, basically initial there would be an alternate dispute resolution mechanism set up within the registry system that would try to resolve disputes with respect to trademark. Ultimately of course, trademark holders would have recourse to the courts as they do now, but there's a very, very small number of cases today where there are disputes relative to the total size of the Internet.

GURVEY: You mentioned some of the international component. How does the international community work in this system right now? Had it gotten cooperation from most of the other countries.

MAGAZINER: We've been in consultation with other countries, both governments and private sector and I think so far the process we've set in motion to privatize this system is by and large getting good support.

GURVEY: Talk to me a little bit about electronic commerce in a more general sense. How big has this Internet thing become?

MAGAZINER: Well it's growing by leaps and bounds. Just 4 years ago there were about 3 million people on the Internet. Today there are 100 million people on the Internet and we believe that by the year 2005, there will be a billion people on the Internet worldwide.

GURVEY: What are the impediments? What does it take to get to the next step where some sort of Internet connection and regular purchasing by Internet is in every home?

MAGAZINER: Well, I think there needs to be a more predictable legal environment globally for doing business.

MAGAZINER: So that people feel comfortable that their privacy is protected. So they feel comfortable that authentication can be done around the world. And intellectual property can be protected. And so on. So I think the setting of that predicted legal environment is important.

And then secondly, I think those who are investing in electronic commerce want to be sure that governments are not going to over regulate and over tax and over sensor the Internet. And so a lot of what we've been working on with our electronic commerce strategies since the president released it last July is to try to secure international agreements that would create this predictable legal environment and try to ensure that governments are not going to over tax and over regulate the Internet.

GURVEY: Thank you, I appreciate it.

MAGAZINER: My pleasure.

KANGAS: Tomorrow, a look at the high flying retail sector and whether there's still time of investors to cash in.

YASTINE: The Securities and Exchange Commission is coming to the rescue of investors befuddled by mutual fund prospectuses. The SEC today approved changes aimed at simplifying the information mutual fund companies provide investors. The new prospectuses will set aside the legalese and technical jargon

in favor of a straight forward, plain English accounting of the fund's strategy, risk performance, and fees.

KANGAS: The judge from last year's landmark secondhand smoke case which was settled for $350 million is taking over another Florida tobacco case. Miami Dade circuit judge, Alan Postman, is bowing out of the Engle sick smokers class action lawsuit against the tobacco industry because of illness. Judge Robert Cay (ph) could start the Engle trial next month.

YASTINE: In tonight's commentary, Irving R. Levine, Dean of International Studies at Lynn University, says lawmakers should exercise some caution before trying to spend a budget surplus.

IRVING R. LEVINE, COMMENTARY: The government is forecasting huge budget surpluses after decades of deficits. The sums of money involved are mouthwatering. The estimates call for surpluses of $8 billion this year, $53 billion 5 years from now, a surplus of $115 billion 3 years after that.

Washington is already debating how to spend that money whether on Social Security, on Medicare, on tax cuts or on paying off the national debt. But government accuracy when it comes to estimating is far from impressive. Official forecasts of the deficit at the beginning of last year turned out to be off by $100 billion. When Medicare was launched 30 years ago the cost was predicted to run at under $20 billion annually. Instead, last year the cost was 10 times greater.

So before we start spending the expected surpluses consider what could go wrong. The costs of Asia's problems on the U.S. economy and on tax revenue are unknown. Costs for El Nino damage, for expansion of NATO, for extended military commitments for Iraq and Bosnia are not even in the budget.

In view of the record, officials should heed a paraphrase of a time tested aphorism, don't count your surplus chickens before they're hatched.

I am Irving R. Levine.

YASTINE: And that's NIGHTLY BUSINESS REPORT for Tuesday, March 10.

And we want to remind you this is the time of year your public television station seeks viewer support.

KANGAS: Support that makes programs like NIGHTLY BUSINESS REPORT possible.

YASTINE: Thanks for joining us.

I'm Jeff Yastine.

Good night, Paul.

KANGAS: Good night, Jeff.

I'm Paul Kangas, wishing all of you the best of good buys.

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Organization: JUSTICE DEPARTMENT (72%)

Ticker: VZC (LSE) (92%); VZ (NYSE) (92%); T (NYSE) (58%); LM (NYSE) (50%)

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Regulators Scrutinize Proposed WorldCom/MCI Deal; Frans Seda Discusses Indonesia's Financial Crisis; Saturn Plant Workers Challenge Happy Family Image

CNN CNN MONEYLINE WITH LOU DOBBS 19:00 pm ET

March 10, 1998; Tuesday 7:00 pm Eastern Time

Section: News; Business; SHOW

Length: 3763 words

Byline: Jan Hopkins, Rhonda Schaffler, Steve Young, Brian Cabell, Bill Dorman, Terry Keenan, Myron Kandel

Highlight: Regulators are closely scrutinizing the proposed WorldCom/MCI deal because without the biggest and fastest Internet circuits, everything on the Internet would stop. It bills itself as a different kind of car company, but workers at General Motors' Saturn plant are challenging the company's happy family image. Former Indonesian Finance Minister Frans Seda discusses Indonesia's current financial crisis.

Body

ANNOUNCER: Live from the financial capital of the world, New York City, this is MONEYLINE WITH LOU DOBBS. Sitting in tonight, Jan Hopkins.

JAN HOPKINS, HOST: Good evening.

Blue-chip stocks blasted through the 8,600 level today. Investors put aside profit worries and jumped full force into the market.

The Justice Department sets its sights on the world's biggest merger, investigating whether a combined WorldCom and MCI will dominate cyberspace.

Workers at a different kind of car company have begun to vote on whether they need an old-fashioned kind of labor contract.

And Wall Street analysts are paid top dollar to predict profits, but after last week's big earnings surprises, it seems analysts aren't earning their pay.

But, first, the roaring stock market. A rebound in tech stocks led a broad-based rally to a new record on Wall Street. The Dow Jones Industrial Average jumping nearly 76 points to 8,643, closing above the 8,600 level for the first time ever. The NASDAQ wiped out most of yesterday's losses, finishing up 23 points at 1,748, less than 30 points from a record high. The Standard & Poor's 500 is at a record tonight.

Rhonda Schaffler has the story of a mid-winter rally that today pushed stocks further into the stratosphere.

(BEGIN VIDEOTAPE)

RHONDA SCHAFFLER, CORRESPONDENT (voice-over): The records kept falling on Wall Street as a technology rebound sparked a broad-based rally. Investors brushed aside their earnings angst, turning the March sell-off in high-tech bellwethers into a buying opportunity. Among the leaders of today's high-tech rally, Sun Microsystems Microsystems gained more than $4. Dell Computer, Microsoft, and IBM all posted solid gains. But earnings forecasts are slipping, and analysts say the market is being driven more by its own upward momentum than by corporate performance.

JIM MELCHER, PRESIDENT, BALESTRA CAPITAL: We're clearly in the midst of a mania -- a classic mania. How long it will go on is anybody's guess. These things do tend to run on.

JORDAN KIMMEL, STOCK STRATEGIST, FIRST MONTAUK SECURITIES: The issue here is this is momentum driven. The investors are acting long term. So anything unexpected is a pullback and a buying opportunity. You must respect a bull market. This is what a bull market looks like.

SCHAFFLER: And this is what a bull market looks like. Since bottoming out at 7,580 on January 9, the Dow Industrials have shot up an incredible 1,063 points, or 14 percent.

(END VIDEOTAPE)

SCHAFFLER: Even some of the more bullish analysts are now saying they expect a pullback in the market soon. First-quarter earnings won't start coming out for another month. Until then, the only major news on corporate profits is likely to be negative earnings warnings.

Jan.

HOPKINS: Thanks, Rhonda.

Not so fast on what could be the world's largest merger, WorldCom's proposed buyout of MCI. Regulators are gathering comments from GTE, IBM, and other competitors. At issue, whether the new bigger WorldCom would have too much control of the Internet. MCI stock today fell 1-5/16, and WorldCom lost 5/8.

Steve Young reports.

(BEGIN VIDEOTAPE)

STEVE YOUNG, CORRESPONDENT (voice-over): Regulators are closely scrutinizing the proposed WorldCom/MCI deal because, without the biggest and fastest Internet circuits, the backbone, everything on the Internet would stop, and analysts say the $37-billion WorldCom/MCI colossus would control more than half the backbone traffic. Competitors fear such an Internet giant could hurt them in many ways.

WILLIAM BARR, GENERAL COUNSEL, GTE: This will allow them to use that leverage not only to impose unfair prices for interconnection with other networks but, more importantly, to degrade the quality and the performance of the other networks on the Internet.

DAN SCHILLER, COMMUNICATIONS PROFESSOR, UNIVERSITY OF CALIFORNIA -- SAN DIEGO: They reason that there will be then one-stop shopping, and that will function as a magnet for the high-volume users that they prefer to reach, the power users as some call them. This will place smaller carriers unquestionably at a disadvantage.

YOUNG: MCI argues that there's no reliable way to measure Internet traffic but says the combined company would have just 20 percent of Internet service revenue, and many analysts say they expect the MCI/WorldCom deal to pass muster.

SCOTT CLELAND, TELECOMMUNICATIONS ANALYST, LEGG MASON PRECURSOR GROUP: You know the old adage that the enemy of my enemy is my

friend? Well, WorldCom/MCI is viewed as the enemy of the Bell monopoly, and the government wants to break up the Bell monopoly, and so they are looking at the MCI/WorldCom merger favorably because of that.

(END VIDEOTAPE)

YOUNG: Many analysts still expect Washington to approve the deal, although not without demanding changes to protect competitors.

Jan.

HOPKINS: Thanks, Steve.

The government probe of the WorldCom/MCI proposal comes just one day after Lockheed Martin and Northrop Grumman announced federal regulators are opposed to their $8-billion deal. Today, the two defense stocks both fell at the hands of disappointed investors. Northrop Grumman stock dropped another 3-1/16 after yesterday's 20- 1/8-point slide. Lockheed Martin, which had gained ground Monday, slipped 3-9/16.

Worker productivity in the final quarter of last year was weaker than first estimated, and labor costs were higher. Today's report from the Labor Department showed that non-farm businesses increased their productivity at a rate of 1.6 percent, but that was less than the 2 percent initially estimated, and the cost of employing workers rose more than expected, 3.5 percent. It's a potentially inflationary sign, but the bond market brushed off the numbers and closed up only slightly.

It bills itself as a different kind of car company, but workers at General Motors' Saturn plant are challenging the company's happy family image. Seventy-two hundred workers today began voting on whether to kill their unique contract and adopt the same agreement as every other GM unionized worker.

Brian Cabell reports.

(BEGIN VIDEOTAPE)

BRIAN CABELL, CORRESPONDENT (voice-over): When it was born in the mid-'80s, Saturn was a new car at a new plant with a new way of doing things, a challenge to the highly popular and dependable Japanese compact cars, and for union members who chose to come to Tennessee where the cost of living was lower than up north, there was a promise that management and labor would work together almost as family. The workers would have a considerable say in how the car was designed, manufactured and marketed.

JOSEPH RYPKOWSKI, PRESIDENT, UAW LOCAL 1853: In a more traditional system, management is in control. Well, quite honestly, we don't know if they're smart enough to do that.

CABELL: Although most workers here agree they're more involved in decision-making than they would be at other General Motors plants, some say it's just a show.

STAN KURISENGA, SATURN WORKER: We get together, and we have these team meetings, but our say usually doesn't -- it's what they want to do, you know. It's like you don't really have a say.

CABELL: Complaints like that mean that the innovative Saturn contract could be overturned in this week's vote. Money is an issue here as well. The Saturn contract has a lower guaranteed wage than the standard GM contract, but Saturn offers higher bonuses if the car sells well. A standard G.M . contract also rewards seniority, which Saturn does not, and in the minds of some, a GM contract better guarantees security.

DANIEL LAWRENCE, SATURN WORKER: Basically, if you're a disabled person or somebody gets hurt at work or medical -- the medical benefits at General Motors are better.

CABELL: In short, Saturn seemed to offer workers more risk, downside and upside. As long as the car sold well, which it has for most of the '90s, workers profited. Customers raved about the car and the dealerships which offered one price for each car, no wheeling and dealing. Saturn owners trekked to Tennessee to show their appreciation, and the plant held parties for them, but, recently, sales have declined, and so have bonuses and worker enthusiasm. That's led to the call for a change to the traditional GM contract, the old way of doing things.

(END VIDEOTAPE)

CABELL: There was a similar vote on this contract some six years ago. At that point, 87 percent voted for the Saturn contract, the innovative contract. Both sides concede that this week's vote will be considerably closer, but even among the staunchest Saturn supporters -- those who staunchly support the Saturn contract, there is some dismay, especially with General Motors.

There is a belief here that General Motors is trying to draw Saturn more under the GM umbrella, trying to make Saturn less unique, less innovative than it's been for the last six years. There's also a feeling among many workers here that Saturn needs to diversify its products. It needs, for one thing, they, say, sport utilities, trucks, vans. They'd like to see something different from what they have. Right now, that's not apparently in the offing.

We will have results of this contract sometime late tomorrow afternoon.

Jan, back to you.

HOPKINS: Brian, any polls that indicate how the vote might go?

CABELL: Our informal polls indicate that those who support the Saturn contract as it is believe they'll win by two-thirds of the vote, those who would like to return to a more traditional contract believe it's going to be very close. So I think most people believe they will uphold the Saturn contract, but it will be considerably closer than it was six years ago.

HOPKINS: Thanks, Brian Cabell.

Up next, Indonesia's economy is in chaos, but at least one job is secure, the president's. We'll have a live report from Jakarta. I'll be talking to the IMF's point man on the crisis, Stanley Fisher. I'll ask him if the IMF will walk away from Indonesia.

(COMMERCIAL BREAK)

HOPKINS: Indonesia's economic crisis is in our MONEYLINE focus once again tonight. The nation is struggling with near hyperinflation, food riots, and economic collapse, but amid the turmoil, its president today begins his seventh consecutive term. Many in the country question his ability to revive the economy but do so at their own risk.

Bill Dorman has a report from Jakarta.

(BEGIN VIDEOTAPE)

BILL DORMAN, CORRESPONDENT (voice-over): The result was never in doubt. By acclamation, President Suharto is elected to another five- year term. Suharto has ruled Indonesia for 32 years, longer than any other leader in Asia.

The choice is not unanimous in the country, but criticism of the president can be dangerous here. This magazine cover showing Suharto as the king of spades and saying the president is in crisis landed the editor in police headquarters for seven hours of questions this week. This edition quickly sold out. The magazine may soon be shut down.

In Jakarta's suburbs, criticism of the government is more cautious.

PRIANGGORO WIDODO, ASSISTANT DIRECTOR, PERIKANAN MODENA: Yes, the government is having trouble dealing with the economy, but I think the international community should take a closer look at us as business people instead of lumping us together with the government.

DORMAN: But to critics, such as the International Monetary Fund, too often the differences between business and government are difficult to distinguish.

(END VIDEOTAPE)

DORMAN: As those differences with the IMF continue to sharpen, time is becoming critical.

Joining me now in Jakarta, the former finance minister and the man who signed the first IMF deal between Indonesia and the IMF Frans Seda.

Thank you for joining us. How critical is time right now?

FRANS SEDA, FORMER INDONESIAN FINANCE MINISTER: It is critical because the economy is going down, but the main problem is we don't

have a clear picture ourselves how to solve it, and we are in trouble with everybody. That is actually the main trouble what we are facing. The perception not yet clear.

DORMAN: So in terms of -- for people who are perhaps not familiar with Indonesian politics, as President Suharto begins a new term, what is important to watch for now?

SEDA: What the new government will do and what they will do how to come out of the crisis after the last speech of the president where he said that the IMF package -- actually, it is not the IMF package. It

was -- it is our package agreed by the IMF -- so that this package agrees to the constitution. That should be cleared by the new government.

DORMAN: Mr. Seda, thank you very much for joining us. Frans Seda, former finance minister and a man at the center of politics here in Jakarta.

Back to you in New York, Jan.

HOPKINS: Thanks. Bill Dorman in Jakarta.

Joining me now from our Washington studios is the IMF's point man on Indonesia, deputy managing director Stanley Fischer.

Welcome back to MONEYLINE, Mr. Fischer.

STANLEY FISCHER, FIRST DEPUTY MANAGING DIRECTOR, IMF: Thank you.

HOPKINS: You are making news on the wires saying that the IMF plan in Indonesia is flexible now. What do you mean by flexible?

FISCHER: Well, as we've shown in both Thailand and Korea, we have to adjust our programs as reality changes, and we would have to renegotiate the monetary program and the fiscal program because the Indonesian economy has changed. Those things we do always. Also, because the exchange rate is way off from where we expected, we could see that we'd have to allow -- that we would want to allow some imports of food at cheap prices, things which would take care of the difficult social problems that there are in Indonesia because of this crisis. So we're flexible in that regard, but in the overall framework, the need to get on and undertake structural measures that have been agreed to, that will need to be done to get this economy moving again.

HOPKINS: You also are quoted as saying that a currency board might work, and yet yesterday your boss was saying that a currency board for Indonesia was surreal. There seems to be a change of heart here.

FISCHER: No. Actually, there's a change of time perspective. I was asked specifically could you see one working six months from now. We have long said that if the preconditions were in place, namely that they fix the banking sector problems and they fix their corporate debt problems, one could see a currency board working somewhere down the road. The managing director was talking about whether one would be

feasible within days or weeks, and there is some talk of that. That wouldn't work.

HOPKINS: Are you at all concerned about the IMF losing credibility if you change plans and change positions when you negotiate with perhaps the next country down the road?

FISCHER: That's always a concern, but there is always the right element of flexibility to deal with changing circumstances. What we won't do is change the basic approach which says that Indonesia has a host of governance problems that need to be dealt with, has a banking sector problem that needs to be fixed, has a corporate debt problem that needs to be fixed. Those things which are central to this program plus a good fiscal policy and a good monetary policy will not change, and that's the element of flexibility that you need to have without being too rigid.

HOPKINS: Is there anything that would make the IMF walk away from Indonesia this point?

FISCHER: I fear so, but I see no advantages to spelling that out.

HOPKINS: What about the next round of loans? Are they still being delayed?

FISCHER: We have to negotiate every time there's a release, and the next branch is $3 billion. We have to negotiate the framework going forward in which that will apply, and we haven't yet had a chance to negotiate with the Indonesians the fiscal and the monetary policy and the structural measures that will be agreed to for the next three months until the following disbursement, if this one gets made. So we're not holding it up any longer than is necessary to get the negotiations done.

HOPKINS: Thanks very much. Stanley Fischer, the first deputy managing director of the International Monetary Fund, joining us from Washington. Thank you.

FISCHER: Thank you.

HOPKINS: And just ahead, they move markets and sometimes make billion-dollar mistakes. Wall Street's analysts performing worse than expected recently. We'll tell you how it affects your stocks. That's next on MONEYLINE.

(COMMERCIAL BREAK)

HOPKINS: It can roar down a speedway at 240 miles an hour. But today, this open-wheel race car sped a bit slower down Wall Street, on the debut trading day for championship auto racing teams. The hype may have paid off. Shares in the auto race operator soared 3 15/16 from the $16 offering price. Not bad for a company that lost more than $15 million last year.

Tonight's MONEYLINE movers Immunex rose 4 7/8. Clinical trials show its drug, Enbrel (ph), to be effective against rheumatoid

arthritis. Ticketmaster Group up 1 5/8 after agreeing to a sweetened takeover bid from USA Networks. USA will pay $400 million in stock for the half of Ticketmaster it doesn't already own. USA Networks , a media company run by Barry Diller, lost 1 1/2.

Computer Learning Centers fell 7 1/4. The state of Illinois sued after students alleged the company misled them about the quality of its technology courses.

And Consolidated Cigar (CIG) fell 3 3/4. The maker of Monte Cristo cigars said earnings will be hurt by slower orders and increased competition. That stock fell short today and so did the analysts that misread the company's financial picture. Those analysts aren't the only ones to fall behind the curve on earnings forecasts recently. Terry Keenan reports on the false prophets of Wall Street, and how they can lead to dramatic and unpleasant surprises for investors.

(BEGIN VIDEOTAPE)

(BEGIN VIDEO CLIP)

STUART VARNEY: The world's largest PC maker, the latest to warn investors about disappointing earnings.

(END VIDEO CLIP)

TERRY KEENAN, CORRESPONDENT (voice-over): Monday morning, March 9, and Wall Street was on the verge of panic. Compaq Computer, one of the street's favorite stocks, had warned it wouldn't make any money in the current quarter. Analysts raced for cover, and with good reason. Of the 31 who cover Compaq, just one had a sell rating on the stock. Why did so many highly-paid analysts miss the mark? Some say it's a reflection of a troubling decline in the quality of research in recent years.

DICK HOOEY, EQUITY RESEARCH DIRECTOR, DREYFUS: The brokerage firm analysts don't have as their primary objective getting the stock recommendations right. Part of the problem is that in many cases, Wall Street analysts do not do independent research.

KEENAN: Questions about the quality and independence of that research come at a time when analysts' market clout and paychecks are larger than ever. Top analysts now take home more than $1 million a year, and top dollar goes to the rainmakers who bring new investment banking clients in the door. It's a connection that can color the recommendations. A Harvard Business School study shows that analysts whose firms have investment banking ties with the companies they cover were overly optimistic about those companies' prospects. Robert Olstein runs a mutual fund that tries to take advantage of analyst miscues. He says he finds no shortage of opportunities.

ROBERT OLSTEIN, PRESIDENT, OLSTEIN FUNDS: Errors are more serious than picking winners, and that people should be more interested in where they can go wrong in long-term investing as opposed to what can they pick with the highest return. And that's why I am so concerned about the analytical community not spending enough time with the

numbers and risk, as opposed to what a stock is going to earn for the next quarter.

(END VIDEOTAPE)

KEENAN (on camera): Well, it boils down to good, old-fashioned homework, and more and more mutual fund companies are starting to do their own -- hiring their own teams of analysts to do the heavy lifting rather than rely on the big Wall Street firms.

Jan.

HOPKINS: Interesting. Thanks Terry.

Up next: If you're a small investor about to plow money into the stock market, Myron Kandel say don't, until you hear what he has to say.

(COMMERCIAL BREAK)

HOPKINS: Myron Kandel used to be an aggressive bull, but now he sees market peril ahead, and he warns small investors to watch out.

Myron?

MYRON KANDEL, FINANCIAL EDITOR: Well, Jan, today's big market rally has not changed my view that a pullback is in the wings. Today's gains on top of the big move last Friday might even have been what the Wall Street pros call a sucker's rally. That used to mean, get the little guys in and then pull the rug.

In recent years, though, the little guys were a lot smarter than many of the pros. They used market drops to buy some more, and then watched prices go higher. But even though the market has gone up in a spectacular fashion over the last 15 years, there have been some interruptions, and I think another one is due. When the Dow finished a gangbuster February with a 600-point gain, I began waving a warning flag, and I'm waving it even more frantically tonight.

I'd be foolish to try to predict the exact moment a decline will begin, and there could be some more winning days before the market moves down in earnest. But I am expecting a pullback of six to eight percent to start pretty soon. But I stress, a pullback, not a collapse. So my advice is, don't get suckered in by a brief rally, and keep your powder dry to pick up some real bargains a month or two from now.

Jan?

HOPKINS: Thanks, Mike. We'll bring you back.

Finally tonight, you don't pay more than $100 for a front-row theater tickets to hear canned music. But that's a possibility for some of Broadway's best-known musicals, if rank-and-file musicians vote to strike this weekend. Today, their union approved a strike vote over a pay dispute, which could lead to the first Broadway silencing in nearly 25 years. "Phantom of the Opera," for one, has an

orchestra soundtrack ready to go if they choose to use it. But other shows have different plans. Sources at "Rent" tell MONEYLINE, the hit play would close if the musicians trade the pit for the picket line.

That's MONEYLINE for this Tuesday. I'm Jan Hopkins in for Lou Dobbs. Good night from New York.

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TR Daily

March 10, 1998

JUSTICE REQUESTS INTERNET DATA FROM MCI-WORLDCOM COMPETITORS

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Responding to "civil investigative demands" issued by the Justice Department's Antitrust Division, several U.S. providers of Internet backbone services last week monitored and collected data on their network volume and Internet traffic routing patterns to help DoJ gauge the likely marketplace impact of the proposed merger of WorldCom, Inc., and MCI Communications Corp. Several antitrust experts consulted by TR today viewed the most recent DoJ information requests as signaling a shift to a deeper level of analysis, comparable to the European Commission's decision last week to open a "second-phase" investigation of the proposed merger. Another expert, however, saw the DoJ demands reflecting only "a healthy curiosity about a very rapidly evolving industry segment."

News of a new round of detailed investigative inquiries issued last month by Justice confirmed that antitrust authorities on both sides of the Atlantic have concerns about the combining of MCI's and WorldCom's Internet backbone market shares--the reason cited in last week's European Commission announcement that it would launch a second-phase review (TR, March 9). An MCI spokesman acknowledged Justice's keen interest in that market but said the DoJ review is "moving forward about as we expected." He said MCI and WorldCom don't view the latest information demands as a sign that Justice's review is "widening" but rather as merely "part of their standard review cycle." And he said the companies still expect to receive required regulatory clearances in time to close their merger by midyear.

The MCI spokesman saw nothing extraordinary in Justice's demand that MCI's and WorldCom's competitors monitor their Internet traffic patterns and report the data to the government. "That's their process, to be able to make a recommendation, and it's applaudable that they're looking at it" in detail to make sure they understand the market dynamics, he added. "We think they'll conclude that the market is not dominated by one or two companies and that the opportunity for market entry is wide-open," he said. "We expect them to investigate this thoroughly, but we're confident the merger will be approved."

DoJ's decision to issue a new round of civil investigative demands to several of MCI's andWorldCom's Internet backbone competitors last month is not an uncommon step to take in reviewing a transaction as large as their $37 billion merger, one antitrust expert told TR today--particularly if the Antitrust Division analysts have serious questions "that involve information which only these companies have," he added.

Another expert added that Antitrust Division analysts "obviously are very interested in the Internet. It's a new industry, not a mature industry like railroads or telephone companies, where the business relationships are well known." The review of the MCI-WorldCom merger provides "a great opportunity for hard-working, curious lawyers to go to school

and learn about something they're interested in," he said. He added that it's "routine for the department in one way or another to measure market share. The best way is to ask competitors for their estimates of what the market share is."

While companies normally might be expected to chafe at the burden of complying with informational requests as complex as those Justice apparently issued last month, "if the companies are interested in helping the government's case [against a merger]--and most of these companies would be--they might be happy to do the studies and report the data," one antitrust expert observed. "It's very common these days for competitors to visit with [the Justice Department or Federal Trade Commission]" to promote their own interests in impeding or promoting a merger, he said.

Issuing such sweeping information requests to competitors isn't unusual, "but it is fairly deep into the process," this expert noted. "This deal has been under review at Justice for some time." And it's likely to continue under review for some time, he suggested. Because mergers between telecom companies such as MCI and WorldCom require regulatory approvals by not only DoJ, but also the FCC, several state regulatory commissions, and European Commission authorities, "MCI and WorldCom don't have the ability to pressure Justice to approve the deal on a timely basis," he said. "The EC just decided to take another four months for its review. Justice knows it can take its time and doesn't have to worry about missing any contractual deadlines for the deal to close."

Officials of three companies that have opposed themerger in comments filed with the FCC and/or filings with the Justice Department--Bell Atlantic Corp., Sprint Corp., and GTE Corp.--confirmed today that they'd received the new investigative inquiries last month and had complied with Justice's request to monitor their Internet traffic and traffic patterns. Under regulations governing such Hart-Scott-Rodino reviews, Justice has only a set time to complete a review after it's gathered all necessary information. But it's free to ask for more information when needed, and the new requests for information last month mean the review is still "cooking" rather than fizzling out, one observer noted.

David Eisenberg, Sprint vice president-law, confirmed that the company received DoJ's latest civil investigative demand "related to Internet matters," as well as others previously seeking more general information on the long distance and Internet businesses. He and Bell Atlantic and GTE officials contacted by TR today said DoJ's inquiries in recent weeks have been more narrowly targeted on issues related to the merger's potential impact on the Internet backbone services market.

Mr. Eisenberg acknowledged that responding to DoJ's request for a "specific set of tests and measurements" entails time and expense for the companies doing the network monitoring. "But in our view, it was a manageable request," he said. He noted that Justice had circulated a draft of its network monitoring request in advance to companies that later received demands to carry out the monitoring.

"They were asking us if the data collection was `doable,'" he explained. "I think the Justice Department was being careful and thorough" in framing its demand for market share information in a way that could be complied with readily, he added. He confirmed that Sprint performed the requested monitoring last week and that the company's engineers are reviewing the resulting data before forwarding their analysis to Justice.

William P. Barr, GTE's general counsel and executive vice president-government and regulatory advocacy--and a former U.S. Attorney General--said he believes DoJ's "unprecedented" move in "asking these companies to gather such data" indicates Justice "has very serious concerns" about the impact on the Internet if the merger is allowed togo forward as proposed.

In past merger reviews, Justice has moved to collect "existing data" that would help it weigh the potential impact on specific markets, he observed. "This was done to set up a new test," he added. The companies were asked "essentially to put odometers on all their routers and measure their market share," he said.

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---- Index References ----

Company: BELL ATLANTIC CORP; VERIZON COMMUNICATIONS INC; MCI INC; RESURGENS COMMUNICATION GROUP; WORLDCOM; WORLDCOM INC; GENERAL TELEPHONE ELECTRONICS CORP; SPRINT CORP; MCI COMMUNICATIONS CORP; MOTOR COACH INDUSTRIES INTERNATIONAL INC; WORLDCOM INC WORLDCOM GROUP; FEDERAL COMMUNICATIONS COMMISSION; CENTRAL TELEPHONE CO OF VIRGINIA; WORLDCOM INC GA; WORLDCOM INC MCI GROUP; JUSTICE DEPARTMENT; MARSK CONTAINER INDUSTRI AS; MCI WORLDCOM INC; GTE CORP; UNITED TELECOMMUNICATIONS INC; SPRINT NEXTEL CORP; CENTEL CORP; CAROLINA TELEPHONE AND TELEGRAPH CO; MCI LLC

News Subject: (Legal (1LE33); Business Management (1BU42); Antitrust Regulatory (1AN52); Sales & Marketing (1MA51); Monopolies (1MO68); Judicial (1JU36); Major Corporations (1MA93); Online Legal Issues (1ON39); Government (1GO80); Market Share (1MA91); Market Data (1MA11); World Organizations (1IN77); Mergers & Acquisitions (1ME39); European Union (1EU94); EU News (1EU58); Online Marketing (1ON52); Economics & Trade (1EC26); Corporate Groups & Ownership (1XO09))

Industry: (Networking Regulatory (1NE52); Telecom Regulatory (1TE65); Internet Market (1IN84); Networking Administration (1NE06); I.T. in Government (1IT22); Internet Technology (1IN39); I.T. Regulatory (1IT67); Internet Regulatory (1IN49); Telecom Carriers & Operators (1TE56); Online Government (1ON34); I.T. (1IT96); Internet Usage Statistics (1IN79); I.T. in Telecom (1IT42); Internet (1IN27); Network Benchmarking & Measurement (1NE97); Networking (1NE45); Telecom (1TE27))

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Rivals cheer as Europeans probe WorldCom-MCI merger.

Several groups welcomed the EC's decision to conduct asecond-phase investigation of the proposed WorldCom Inc-MCICommunications Corp merger. The Communications Workers of America, forinstance, praised the commission's decision and called for thesimilar move by US regulators. Sprint Corp also expressed its approvalof the investigation due to concerns about the significant market shareof the combined companies.

WorldCom, Inc., and MCI Communications Corp. reacted cautiously last week to news that the European Commission was opening a "second-phase" investigation in its review of the companies' proposed merger. The commission now can take up to four more months before rendering a final decision on whether it approves of the union between the two American carriers.

"The commission decided to carry out a second-phase inquiry, given that on the basis of information obtained in investigations carried out to date, it is concerned about the parties' combined market share in relation to the supply of Internet backbone services," the commission said in a statement March 4. "Services affected by the merger are the provision of a network of high-capacity long distance connections capable of carrying data nationally and internationally and interconnected with other networks of similar scale through peering arrangements."

In a joint response, MCI and WorldCom said they "remain confident that the commission will approve the transaction and expect [the merger] to be completed on schedule in mid-1998." They said they would "continue to cooperate fully" with the commission in order to "demonstrate the competitive benefits that the merger will deliver in the U.S., Europe, and around the world."

In the U.S. the Communications Workers of America reacted with pleasure at what it called the commission's decision to "put the brakes on" the proposed merger. The commission, it said, has "declined to rubber-stamp the proposed megamerger. . .and has determined instead that a thorough examination of the serious consequences of the deal is necessary." It urged regulators in the U.S. to undertake a similarly thorough review of the threat of an MCI-WorldCom "monopoly" in long distance and Internet backbone services.

Sprint Corp. also "applauded" the European Commission's planned probe. A merged WorldCom/MCI "would carry more than half of all U.S. Internet backbone traffic. control more than half of all direct connections to the lnternet, and have connections with nearly two-thirds of all Internet service providers," Sprint said. "Such market dominance would have profound implications for Internet performance and pricing."

William P. Barr, GTE Corp.'s executive vice president and general counsel, said the European decision "heralds the growing awareness by antitrust enforcement agencies that the merger is anticompetitive and not in the public's interest in the U.S. and abroad." He added that as a result of the merger, WorldCom/MCI would own "four major Internet backbone networks, controlling more than half of the Internet destinations in the U.S."

---- Index References ----

Company: SPRINT NEXTEL CORP; WORLDCOM INC; CENTRAL CAFETERO FLOR DE PATRIA GERONIMO BRICENO AND CIA CORP; MCI INC; SPRINT CORPORATION (PCS GROUP); CENTEL CORP; WORLDCOM; MCI WORLDCOM INC; CENTRAL TELEPHONE CO OF VIRGINIA; MCI COMMUNICATIONS CORP; WORLDCOM INC MCI GROUP; MCI LLC; CAROLINA TELEPHONE AND TELEGRAPH CO; SPRINT CORP

News Subject: (Monopolies (1MO68); Market Share (1MA91); Major Corporations (1MA93); Sales & Marketing (1MA51); Economics & Trade (1EC26); Antitrust Regulatory (1AN52); Corporate Groups & Ownership (1XO09); Mergers & Acquisitions (1ME39); Business Management (1BU42))

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STARR DEFENDERS:

Investor's Business Daily

Four former attorneys general for Presidents Reagan, Bush and Carter condemnedattacks on the independent counsel. Griffin B. Bell, Edwin Meese III, William P. Barr and Richard L. Thornburgh said in a joint statement that the attacks onKenneth Starr "by government officials and attorneys representing their particular interests, among others, appear to have the improper purpose of influencing and impeding an ongoing criminal investigation and intimidating possible jurors, witnesses and even investigators." CLINTON FUND-RAISING SCANDAL:Yogesh Gandhi, suspected of illegally funneling $325,000 in foreign contributions to the Democratic Party, was arrested by the FBI on unrelated fraud charges as he prepared to fly home to India, the JusticeDepartment announced.

Gandhi was taken into custody at his home in Walnut Creek, Calif. Another DNC fund-raiser, Johnny Chung, has agreed to plead guiltyto two counts of conspiring to exceed spending limits. CLINTON INTERN SCANDAL:President Clinton angrily denounced a leak of details of his account ofthe Monica Lewinsky controversy as Vernon Jordan returned to a grand jury to testify about his role in the case. Clinton said it "is illegal to leak and discuss" his sworn deposition in the Paula Jones suit. Sources familiar with Clinton's Jan. 17 deposition in that civil suit confirmed that Clinton acknowledged under oath that he and close friend Jordan had discussed efforts to find Lewinsky a job and a lawyer. MEDICARE EXPANSION:Calling Medicare "a way we honor our duty to our parents," President Clinton said he is confident a new commission charged withstudying reforms of the health-care program will ensure it survives for cominggenerations of elderly Americans. Vice President Al Gore echoed Clinton's sentiments, saying swift reform is necessary so that Medicare will be braced toreceive hordes of retiring baby boomers that will enter the system in 2010. Clinton wants to enact a proposal to allow people ages 55 to 64 to buy into Medicare at $ 300 to $ 400 per month. A NEW STATE?The House voted 209-208 to hold a special referendum in Puerto Rico this year for the U.S. territory to become the 51st state. The bill had the strong backing from the White House and both GOP and Democratic House leaders. All but 43 Republicans voted against it, and all but 31 Democrats voted for it. DRUNKEN DRIVER CRACKDOWN:The Senate moved to ban open alcohol containers in operating vehicles. But lawmakers rejected another measure to stop drive- through alcohol sales. Senate leaders also reached agreement to add some $ 5 billion to mass transit funding through 2003, bringing the total amount of proposed spending to $ 40 billion. GOP EDUCATION PLAN:The Republican National Committee announced the creation ofan education task force to be made up of six governors, six House members and six senators. The group will focus on spending education funds more efficientlyand giving parents more school choice. SPECIAL GUEST WITNESS:Federal Judge Royce Lamberth ordered former Clinton adviser James Carville to appear in a deposition in the class-action lawsuit against the government in the Filegate scandal. Carville had claimed he was toobusy appearing as a guest on the NBC sitcom "Mad About You."

---- Index References ----

Company: NBC UNIVERSAL INC; CARTER AND CARTER GROUP PLC; CARTER AND ASSOCIATES LLC; WIHLBORGS FASTIGHETER AB NEW; NATIONAL BROADCASTING COMMISSION; FURR S RESTAURANT GROUP INC; REPUBLICAN NATIONAL COMMITTEE; WHITE HOUSE; NATIONAL BANK OF COMMERCE (UGANDA) LTD

News Subject: (Social Welfare (1SO83); Social Issues (1SO05); Government (1GO80))

Industry: (Healthcare (1HE06))

Language: EN

Other Indexing: (CARTER; DEMOCRATIC HOUSE; DEMOCRATIC PARTY; DNC; DRUNKEN; FBI; GOP; JUSTICEDEPARTMENT; NBC; PRESIDENTS REAGAN; REPUBLICAN NATIONAL COMMITTEE; SENATE; SPECIAL; WHITE HOUSE) (Al Gore; Bush; Carville; CLINTON; Edwin Meese; Gandhi; Griffin B. Bell; James Carville; Johnny Chung; Jordan; Lewinsky; Monica Lewinsky; Richard L. Thornburgh; Royce Lamberth; Sources; STARR DEFENDERS; Vernon Jordan; William P. Barr)

Word Count: 651

End of Document

3/6/98 Comm. Daily (Pg. Unavail. Online)
1998 WLNR 3854712

Communications Daily

March 6, 1998

GTE joined other companies in praising European Commission

GTE joined other companies in praising European Commission (EC) for expanding investigation into WorldCom acquisition of MCI to consider effects on control of Internet backbone (CD March 5 p7). William Barr, GTE exec. vp-general counsel, said decision "heralds the growing awareness by antitrust enforcement agencies that the merger is anticompetitive and not in the public interest." GTE, which still has pending offer for MCI, said merger would give combined entity ownership of 4 major backbone networks, "controlling more than half of the Internet designation in the U.S." He said WorldCom ownership would give it "power to squeeze out competitors, restrict access and raise prices." EC has 4 months to complete investigation.

---- Index References ----

Company: INTERMEDIA COMMUNICATIONS INC; MCI INC

News Subject: (Monopolies (1MO68); World Organizations (1IN77); European Union (1EU94); Antitrust Regulatory (1AN52); Economics & Trade (1EC26))

Region: (Europe (1EU83))

Language: EN

Other Indexing: (EC; EUROPEAN COMMISSION; GTE; MCI; WORLDCOM) (William Barr)

Word Count: 146

Document: No Headline In Original

No Headline In Original

Communications Daily

March 6, 1998, Friday

Section: TELEPHONY

Length: 123 words

Body

GTE joined other companies in praising European Commission (EC) for expanding investigation into WorldCom acquisition of MCI to consider effects on control of Internet backbone (CD March 5 p7).

William Barr, GTE exec. vp-general counsel, said decision "heralds the growing awareness by antitrust enforcement agencies that the merger is anticompetitive and not in the public interest." GTE, which still has pending offer for MCI, said merger would give combined entity ownership of 4 major backbone networks, "controlling more than half of the Internet designation in the U.S." He said WorldCom ownership would give it "power to squeeze out competitors, restrict access and raise prices." EC has 4 months to complete investigation.

Classification

Language: ENGLISH

Subject: INVESTIGATIONS (73%); LAWYERS (56%)

Company: VERIZON COMMUNICATIONS INC (92%); VERIZON COMMUNICATIONS INC (92%); EUROPEAN COMMISSION (92%); EUROPEAN COMMISSION (84%)

Organization: EUROPEAN COMMISSION (92%); EUROPEAN COMMISSION (84%)

Ticker: VZC (LSE) (92%); VZ (NYSE) (92%)

Industry: COMPUTER NETWORKS (88%); LAWYERS (56%)

Geographic: UNITED STATES (76%); EUROPE (58%); EUROPEAN UNION MEMBER STATES (58%)

Load-Date: March 5, 1998

Content Type: News

Terms: "william barr"

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Date and Time: Dec 17, 2018 11:47:07 a.m. EST

3/4/98 TR Daily (Pg. Unavail. Online)
1998 WLNR 7628175

TR Daily

March 4, 1998

EUROPEAN COMMISSION SETS LONGER REVIEW OF MCI-WORLDCOM MERGER

Table of Contents

WorldCom, Inc., and MCI Communications Corp. reacted cautiously today to news that European Commission competition authorities had decided to open a "second phase" investigation in its review of the companies' proposed merger. The commission now can take up to four more months before deciding whether to approve the merger. "The commission decided to carry out a second-phase inquiry given that on the basis of information obtained in investigations carried out to date, it is concerned about the parties' combined market share in relation to the supply of Internet backbone services," the commission said in a statement today.

MCI and WorldCom responded by issuing a joint statement that they "remain confident that the commission will approve the transaction and expect [the merger] to be completed on schedule in mid-1998." They added that they will "continue to cooperate fully" with the commission and to "demonstrate the competitive benefits that the merger will deliver in the U.S., Europe, and around the world."

The Communications Workers of America welcomed the commission's decision to "put the brakes on" the proposed merger. The union said the commission "declined to rubber-stamp the proposed mega-merger. . .and has determined instead that a thorough examination of the serious consequences of the deal is necessary." It urged regulators in the U.S. to undertake a similarly thorough review of the threat of an MCI-WorldCom "monopoly" in long distance and Internet backbone services.

In recent weeks, CWA has mounted a public campaign against the MCI-WorldCom merger, arguing that it would give the combined company market power over pricing and interconnection in the Internet backbone services market (TR, Feb. 2).

William P. Barr, GTE Corp. general counsel and executive vice president-government regulatory advocacy, said the announcement "heralds the growing awareness by antitrust enforcement agencies that the merger is anticompetitive and not in the public's best interest in the U.S. and abroad." "If allowed to dominate the Internet backbone, WorldCom/MCI would have the power to squeeze out competitors, restrict access, and raise prices," he stated.

TR Daily, March 4, 1998 19980304 TR Daily -->

---- Index References ----

Company: RESURGENS COMMUNICATION GROUP; MCI INC; WORLDCOM; WORLDCOM INC; MCI WORLDCOM INC; MARSK CONTAINER INDUSTRI AS; MCI COMMUNICATIONS CORP; MOTOR COACH INDUSTRIES INTERNATIONAL INC; WORLDCOM INC WORLDCOM GROUP; WORLDCOM INC MCI GROUP; WORLDCOM INC GA; MCI LLC

News Subject: (Legal (1LE33); Antitrust Regulatory (1AN52); Monopolies (1MO68); World Organizations (1IN77); Mergers & Acquisitions (1ME39); European Union (1EU94); EU News (1EU58); Major Corporations (1MA93); Economics & Trade (1EC26); Corporate Groups & Ownership (1XO09))

Industry: (Internet Regulatory (1IN49); Telecom Carriers & Operators (1TE56); Telecom Regulatory (1TE65); Internet (1IN27); Emerging Internet Business Applications (1EM61); Long-Distance Services (1LO42); Telecom (1TE27); Telecom Services (1TE09))

Region: (Europe (1EU83))

Language: EN

Other Indexing: (COMMUNICATIONS WORKERS; CORP; CWA; EUROPEAN COMMISSION; MCI; MCI WORLDCOM; MCI COMMUNICATIONS CORP; TR DAILY; WORLDCOM; WORLDCOM INC) (Table; William P. Barr)

Word Count: 449

End of Document

NewsRoom

3/2/98 Telecommunications 29
1998 WLNR 7719315

Telecommunications

March 2, 1998

Volume v64; Issue n9

Strickling suggests separate broadband units for ILECs; 'advanced telecom' plea lauded.

FCC associate general and General Counsel Office Competition Div headLarry Strickling has proposed that incumbent local exchanger carrierscreate separate units to own and manage broadband communicationsservices. This would allow them to circumvent regulatory restrictionswhich would have been applicable on their advanced services. Strickling,however, hastened to clarify that this is his own opinion and not thatof the FCC.

Incumbent local exchange careers (ILECs) should establish separate units to own and operate broadband networks, thereby escaping certain regulatory requirements that otherwise would be imposed on their advanced services, Larry Strickling, FCC associate general counsel and chief of the General Counsel Office's Competition Division, said last week.

Emphasizing that he was voicing his personal views and not those of the Commission, Mr. Strickling said a stand-alone broadband unit would free ILECs' broadband networks from requirements to unbundle network elements and provide service to competitors at wholesale prices. That would give ILECs more of an incentive to build facilities for advanced services, he said.

Bell Atlantic Corp. and U S WEST Communications, Inc., recently have asked the FCC to reduce regulatory restrictions on packet-switched networks. They want to provide high-speed, broadband interLATA (local access and transport area) services, as well as higher-speed local services such as xDSL (digital subscriber line) (TR, Feb. 2 and separate story in this issue).

His remarks came during a Feb. 28 panel discussion at a conference sponsored by the Alliance for Public Technology. APT recently asked the FCC to get the ball rolling on implementing the "advanced telecom service deployment" goals of the 1996 Telecommunications Act - goals it says can only be reached by deployment of new facilities.

Mr. Strickling said that new market entrants also would benefit from his proposal, which "would put the ILECs to work" to "fix current problems" with OSS (operation support system) interfaces. "Large companies and structures tend to crush innovation," he stated.

He also suggested that networks built after the passage of the 1996 Telecommunications Act be exempted from section 251 (interconnection) obligations and TELRIC (total-element long-run incremental cost) pricing for unbundled network elements. New facilities "weren't part of the original [local exchange] bottleneck," he said.

Barr Wants Recognition of 'High-Cost' Areas

Members of Congress should "get off their duffs" and provide "a clear and explicit statement" that addresses universal service support not just for "needy customers," but also for "high-cost communities," said William P. Barr, GTE Corp.'s executive vice president-governmental and regulatory advocacy and general counsel.

Mr. Barr said it's time for "an up-or-down vote" that recognizes the existence of high-cost areas. "It's a transfer of payments, but it's one that society deems is important to do. I think we'll win on that," he added.

"The FCC's sabotage of the universal service provisions of the statute" represents a major threat to the goals of the 1996 Act, he continued. Congress called for "a new system of universal service," but the FCC and "many states" have "abdicated" their responsibility to reform the old system of subsidies, he said.

The result has been that the subsidy now flows to new market entrants who "cherry pick" customers, he continued. "Particularly if there's no pricing flexibility" for the incumbent local exchange carrier, "you don't have competition; you have arbitrage - taking advantage of an artificially created price," he said.

Mr. Barr also charged the FCC with engaging in "deliberate low-balling of the amount of subsidy needed," by setting "frivolous" cost models and playing regulatory games with the revenue streams that are included in universal service support calculations. Asked whether Congress needs to revisit the Act, Mr. Barr said he'd like to see "Congress readdress telecommunications deregulation much more forcefully on the universal service side."

Mr. Barr saw the pending WorldCom, Inc., merger with MCI Communications Corp. as a threat to achieving the Act's goal of creating competition and relying on it to maintain high-quality services and promote innovation. He said the nation's phone networks need to adopt the Internet "network of networks" model. In the Internet world of packet-switched data networks, service providers "all have an incentive to maintain high-quality interconnections," he said. At the interconnection points where traffic backups occur, "the players negotiate" to persuade each other to add routers and eliminate bottlenecks, he noted.

But WorldCom's merger with MCI would give WorldCom control over "50% to 60% of the destination points" on the Internet, Mr. Burr said. With the second- and third-largest players controlling only about 15% and 10%, respectively, WorldCom would have "a very dominant position if this MCI deal goes through, and in our view, [it] threatens the monopolization of the Internet," he said.

GTE believes that the proposed combination of WorldCom's and MCI's Internet backbone assets represents "a tipping point" that would give the merged company market power to raise its Internet rivals' costs, while degrading the performance of their networks, he said. WorldCom is "a company that's bought up almost 60% of the Internet in a little over 18 months," he said. "It's insane to allow this thing to happen. They can't let this one go by."

Rowe Is 'Impressed' with APT Plea

Montana Public Service Commissioner Bob Rowe told the APT audience that he was "impressed" with the alliance's recent petition asking the FCC to move on section 706 ("advanced telecommunications incentives") of the Act. Section 706 requires the FCC to assess the rate at which advanced telecom services are being deployed across the nation.

The FCC has until Aug. 8 to initiate a notice of inquiry on the subject and 180 days thereafter to complete the inquiry. If the agency finds advanced services aren't being deployed in a "timely" manner, it must "take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment."

In its petition to the FCC, APT requested that the FCC launch both a notice of proposed rulemaking and a notice of inquiry. It also recommended that the Commission do the following:

(1) Set a "sunset" date for section 251(c) of the Act (interconnection obligations of ILECs);

(2) Gradually phase out the unbundled network element/TELRIC "scheme" over a reasonable period of time, "especially" with regard to switches;

(3) Consider eliminating regulation of depreciation rates;

(4) Deal with issues surrounding embedded costs in an "open and accountable manner";

(5) Levy on Internet service providers access charges that are "reasonable" and acceptable to the Internet industry, but that will create "incentives to build the new high-capacity, packet-switched networks"; and

(6) Encourage price reform, pricing flexibility, and retail price deregulation.

Mr. Rowe said it was "unlikely" that he would agree with "everything in the petition." The "majority of [telcos'] embedded cost claims" - which are implicated in the pricing, depreciation, and investment incentive issues raised in APT's petition - will lie on the intrastate side of the jurisdictional fence, he noted.

Referring to the "E-rate" universal service program to subsidize telecom services for schools and libraries, Mr. Rowe said, "One of the possibilities created by the Act is the aggregation of customer load," or volume, to obtain service that is "bigger and faster, not just cheaper." His impression, however, "is that at this point most applications" from schools seeking E-rate subsidies haven't aggregated demand but rather have been from individual entities. "I'm afraid this is a missed opportunity," he said.

Responding to a question about how best simultaneously to preserve universal service and "add section 706 on top of that," he suggested that it wouldn't be a short, straight path to advanced telecom service deployment. Rather, "you'll need feedback" on efforts to achieve the goal and "iterations" of efforts in response to the feedback, he said. "I'm concerned [that there not be] a lot of litigation to shut down discussions," he added.

APT Board member and former FCC General Counsel Henry Geller said the Commission should look for ways to spur deployment of facilities-based advanced services. "Facilities-based investment is plagued by uncertainties" surrounding the U.S. Supreme Court's pending review of a lower court's decision to overturn the FCC's local competition pricing rules (TR, July 21, 1997; and Jan. 19), he said.

Mr. Geller urged the Commission to take immediate action on APT's petition. "It would be deplorable for the FCC to wait until August" to initiate proceedings on section 706, he said. "We can't afford to wait six more months."

---- Index References ----

Company: WORLDCOM INC; AUTOMATED POWER TECHNOLOGIES; CENTRAL CAFETERO FLOR DE PATRIA GERONIMO BRICENO AND CIA CORP; MCI; MARSK CONTAINER INDUSTRI AS; MCI INC; MOTOR COACH INDUSTRIES INTERNATIONAL INC; WORLDCOM; MCI WORLDCOM INC; BELL ATLANTIC CORP; MCI COMMUNICATIONS CORP; WORLDCOM INC MCI GROUP; MCI LLC; VERIZON COMMUNICATIONS INC; FEDERAL COMMUNICATIONS COMMISSION; GTE CORP; FOMENTO DE CONSTRUCCIONES Y CONTRATAS SA

News Subject: (Legal (1LE33); Judicial (1JU36); Mergers & Acquisitions (1ME39); Government (1GO80); Economics & Trade (1EC26); Corporate Groups & Ownership (1XO09); Business Management (1BU42))

Industry: (Telecom Regulatory (1TE65); Telecom Information & Video Services (1TE88); I.T. (1IT96); Advanced Telecom Technology (1AD41); Networking Technology (1NE74); Internet Regulatory (1IN49); Wireline Telecom Regulatory (1WI37); Broadband (1BR88); Networking Connectivity Solutions (1NE47); Broadband & Full Service Networks (1BR74); Broadband Services (1BR03); Internet (1IN27); CLECs & Alternative Carriers (1CL29); I.T. in Government (1IT22); Internet Infrastructure (1IN95); Telecom (1TE27); Communications Convergence (1CO94); Internet Infrastructure Policy (1IN62); I.T. Regulatory (1IT67); Networking Regulatory (1NE52); Advanced Digital Technologies (1AD50); I.T. in Telecom (1IT42); Networking (1NE45); Digital Broadcasting (1DI81))

Region: (Americas (1AM92); USA (1US73); North America (1NO39))

Language: EN

Other Indexing: (APT; APT BOARD; BELL ATLANTIC CORP; COMPETITION DIVISION; CONGRESS; CORP; COUNSEL OFFICE; FCC; FCC GENERAL COUNSEL HENRY GELLER; GENERAL COUNSEL OFFICE; GTE; MCI; MCI COMMUNICATIONS CORP; MONTANA PUBLIC SERVICE; MR GELLER; US SUPREME COURT; WORLDCOM; WORLDCOM INC) (Barr; Bob Rowe; Burr; ILECs; Larry Strickling; Rowe; Strickling; William P. Barr)

Keywords: (Business); (Telecommunications industry); (Communications); (Beliefs, opinions and attitudes); (Telecommunications industry); (Telecommunications industry - Laws, regulations and rules); (Telecommunications services industry); (Telecommunications services industry - Laws, regulations and rules)

Product: COMMUNICATIONS; Broadcasting and Telecommunications

Sic: 4800

Naics Code: 513

Word Count: 1792

End of Document

Document: HYDE READY TO TURN UP HEAT ON RENO;JUSTICE DEP...

HYDE READY TO TURN UP HEAT ON RENO; JUSTICE DEPARTMENT FACES CONGRESSIONAL MICROSCOPE

Chicago Tribune

March 2, 1998 Monday, NORTH SPORTS FINAL EDITION

Section: NEWS; Pg. 1; ZONE: N

Length: 1008 words

Byline: By Naftali Bendavid, Washington Bureau.

Dateline: WASHINGTON

Body

Rep. Henry Hyde has faced the same frustration time after time.

Atty. Gen. Janet Reno sits unflappably before his committee, saying she "can't comment on that" or "it would be premature" or using another of her terse trademark phrases to leave his inquiries unanswered.

Hyde (R-Ill.), the genteel but dogged chairman of the House Judiciary Committee, is determined to do something about it. He's dusting off a process called authorization that was last used on the Justice Department two decades ago. It allows Congress to scrutinize every dollar the department spends.

"It's a department shrouded in mystery. When you ask questions, you don't get answers," Hyde said. "We're not going to go gently into the night. We are going to keep asking questions, and maybe we'll find someone who will answer them."

He added ominously, "Or maybe a court will force them to be answered."

Andrew Fois, the assistant attorney general who deals with Congress, declined to comment in detail on Hyde's intentions. "We will cooperate and work with him in every way possible," Fois said.

Officially, Congress is supposed to authorize the activities of an agency each year before giving it money to operate. This is a part of Congress' role, overseeing how citizens' money is spent.

Because every penny is examined, this can be a long process. Lawmakers air every quibble they have, and those at the department in question often cringe at the prospect.

The process is even more contentious with a controversial department such as Justice. Judiciary Committee members are likely to battle over everything from immigration to affirmative action to independent counsels to the death penalty to the FBI.

Such hassles have increasingly prompted lawmakers to skip authorization. Only three U.S. departments are now authorized--State, Defense, and Housing and Urban Development. Justice has not been authorized since 1979.

Hyde said that after 20 years of avoiding the microscope, the Justice Department needs a look. "I think we have to take the watch apart and reassemble it," he said.

For the last month, Hyde's plans have been dramatically eclipsed by the controversies surrounding President Clinton, especially because it is Hyde's committee that could launch an impeachment inquiry if independent counsel Kenneth Starr reaches incriminating conclusions in the Monica Lewinsky matter.

As the scandal cools, at least temporarily, Hyde is pushing ahead with his authorization idea. Committee staffers are assembling a draft bill, and a hearing is scheduled for March 11.

Despite Hyde's frustration with what he sees as the department's stonewalling, the chairman is expected to offer a low-key plan that would include no controversial proposals for restructuring the department.

The Judiciary Committee and the Justice Department appear to be moving toward a non-controversial bill each could support, one that would neither eliminate venerable programs nor radically change policy.

There is the possibility that when hearings begin, Hyde might lose control. The committee's sessions sometimes resemble schoolyard brawls, and any member could offer an amendment that would ignite a firestorm.

Rep. Barney Frank (D-Mass.), an irascible, sharp-tongued liberal, has sounded a warning shot, predicting the Republicans will have no greater luck getting information out of Reno than they have in the past.

"I always think it's healthy for people to work off their frustration, but they can't rattle her," Frank said. "She remains calm, and they get upset. This will be more of the same."

Abner Mikva, a former White House counsel, federal judge, and Chicago-area congressman, said Congress must move cautiously. Justice handles sensitive investigations, from terrorism to organized crime, and many techniques must remain secret, Mikva said.

"If Chairman Hyde starts asking about all the dollars they spent in Oklahoma City, that can compromise some very, very delicate information," added Mikva, a Democrat. "How much of that does he really want to get into?"

Hyde said he is prepared for any Democratic attacks. "No matter what we do, they will object to it," he said.

William Barr, attorney general under President George Bush, said he supports Hyde's action.

"This department has been stonewalling a great deal," Barr said. "I think (Hyde) should use whatever weapons he has in his arsenal."

Hyde would like to push ahead in time to influence the department's 1999 budget of $21 billion, but the job is massive. The department has 108,700 employees, more than any other except the Pentagon and Veterans Affairs. One Justice Department unit, the Immigration and Naturalization Service, is bigger than four Cabinet agencies.

The department's sweep also is daunting.

It includes not only the INS and FBI but also all 94 U.S. attorney's offices, plus the Drug Enforcement Administration, the Civil Rights Division, the Bureau of Prisons, the Tax Division, the Environment Division and the Antitrust Division.

Since President Clinton took office, the department's budget has jumped by a startling 87 percent, even as other agencies have seen their money shrink.

On the other side of the Capitol, Sen. Orrin Hatch (R-Utah), chairman of the Senate Judiciary Committee, has no immediate plans to tackle authorization, aides said. If Hyde pushes forward, that could prod the Senate into action.

Another purpose lurks behind this drive: the Judiciary Committee is seeking to reassert its power, which some feel has been usurped by the Appropriations Committee.

The Judiciary Committee is supposed to set spending limits while appropriators decide how much to actually spend. Without authorization, the caps haven't been imposed in 20 years.

The department's vastness, Hyde argues, is no reason not to take on the job; rather, it underscores the importance of the task.

"I have no dead cats I'm looking at in the closet," the chairman said. "It's a big, costly, important agency, and it would be nice every few years to take a look at it."

Graphic

PHOTOS 2PHOTO (color): Atty. Gen. Janet Reno's Justice Department is "shrouded in mystery. When you ask questions, you don't get answers," Rep. Henry Hyde says.; PHOTO: House Judiciary Committee Chairman Henry Hyde: "I think we have to take the watch apart and reassemble it." Tribune file photo.

Classification

Language: ENGLISH

Subject: ATTORNEYS GENERAL (90%); LAW ENFORCEMENT (89%); JUSTICE DEPARTMENTS (89%); US REPUBLICAN PARTY (77%); LEGISLATION (76%); US FEDERAL GOVERNMENT (75%); IMPEACHMENT (73%); HOUSING AUTHORITIES (70%); CAPITAL PUNISHMENT (67%); AFFIRMATIVE ACTION (51%); IMMIGRATION (50%); CITIES (50%)

Company: US DEPARTMENT OF JUSTICE (90%); US DEPARTMENT OF JUSTICE (90%)

Organization: US DEPARTMENT OF JUSTICE (90%); US DEPARTMENT OF JUSTICE (90%)

Industry: HOUSING AUTHORITIES (70%)

Person: BILL CLINTON (52%)

Load-Date: March 2, 1998

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 11:45:18 a.m. EST

FCC AIDE SAYS SEPARATE AFFILIATE REQUIREMENT WOULD SPUR BROADBAND SERVICES

Communications Daily

March 2, 1998, Monday

Section: TODAY'S NEWS

Length: 484 words

Body

Requiring incumbent telcos to form separate affiliates to offer broadband data services might spur development of advanced networks and end roadblocks that have held back competition in general, FCC official told audience of consumer advocates Fri. Larry Strickling, chief of FCC's Competition Div., said at conference sponsored by Alliance for Public Technology (APT) that theory is simple: Telco's affiliate would operate as competitive LEC, meaning it would have to negotiate with its parent to get interconnection and access to unbundled network elements. Because parent would have incentive to see affiliate become successful, it would move more quickly to solve problems that have delayed build-out of new networks. Also part of equation, he said: Separate affiliates could offer their broadband networks without some regulations required of parents.

Strickling, who emphasized that idea is his own and doesn't reflect FCC policy, said concept calls for "putting incumbent LECs to work to solve these problems." His comments were made at conference that looked at why telephone industry hasn't worked faster to develop high-bandwidth networks for Internet traffic and other advanced services. He said he's not talking about broader LCI proposal that advocates dividing Bell companies into retail and wholesale units but concept is similar.

Corning Vp Timothy Regan said incumbents' investment in fiber cable actually has gone down 6.4% since Telecom Act was passed. By contrast, telcos' investment in fiber increased 85% shortly after AT&T divestiture. Regan blamed incumbents' investment qualms on regulatory, market and technological uncertainties. Bell Atlantic Senior Vp Edward Young said telcos will need "right incentives before we put several hundred million dollars worth of fiber in the ground."

Henry Geller, member of APT board and fellow at Markle Foundation, said FCC must act quickly to encourage deployment of broadband networks, as required by Telecom Act. He said Act mandates that FCC hold inquiry by Aug. 8 but it ought to act faster and consider rulemaking rather than only inquiry. APT recommended in Feb. 18 petition that FCC remove some regulatory barriers to development of advanced telecom services, for example not applying Act's Sec. 251 requirements to advanced networks. Sec. 251 requires incumbents to open networks to competitors.

GTE Gen. Counsel **William Barr** said in lunch speech that Telecom Act's goal of developing innovative services through competition has been "sabotaged" by FCC pricing policies such as "deliberate low-balling of the amount of universal service support necessary." He said industry needs "leadership and courage from public officials" willing to set "realistic support levels." He said he would like to see Congress "readdress" universal service provisions of Telecom Act to "come to grips with what is adequate funding."

Classification

Language: ENGLISH

Subject: COMMUNICATIONS LAW (89%); CONFERENCES & CONVENTIONS (89%); PRODUCT DEVELOPMENT (89%); PRICES (78%); EXECUTIVES (77%); CONSUMER PROTECTION (73%); FIBER OPTICS (70%); PRICE MANAGEMENT (68%); DIVESTITURES (66%)

Company: PUBLIC TECHNOLOGY INC (58%); PUBLIC TECHNOLOGY INC (58%)

Organization: PUBLIC TECHNOLOGY INC (58%); PUBLIC TECHNOLOGY INC (58%)

Industry: TELECOMMUNICATIONS SERVICES (94%); TELECOMMUNICATIONS (92%); COMMUNICATIONS LAW (89%); BROADBAND (89%); COMMUNICATIONS REGULATION & POLICY (89%); BANDWIDTH (78%); SPONSORSHIP (73%); INTERNET & WWW (71%); FIBER OPTICS (70%); PRICE MANAGEMENT (68%)

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2/27/98 TR Daily (Pg. Unavail. Online)
1998 WLNR 7628149

TR Daily

February 27, 1998

STRUCTURAL SEPARATION FOR ILECS' BROADBAND NETWORKS ENDORSED

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Incumbent local exchange carriers (ILECs) should establish separate units to own and operate broadband networks, thereby escaping regulatory restrictions that otherwise would be imposed on their advanced services, Larry Strickling, FCC associate general counsel and chief of the General Counsel Office's Competition Division, said today. During a panel discussion at a Washington conference sponsored by the Alliance for Public Technology, Mr. Strickling stressed that he was voicing his personal views, and not those of the Commission.

He said a stand-alone broadband unit would free ILECs' broadband networks from requirements to unbundle network elements and provide service to competitors at wholesale prices. That would give ILECs more of an incentive to build facilities foradvanced services, he said. Mr. Strickling said new entrants also would benefit from his proposal, which "would put the ILECs to work" to "fix current problems" with OSS (operation support system) interfaces. "Large companies and structures tend to crush innovation," Mr. Strickling stated.

He suggested that networks built after the passage of the 1996 Telecommunications Act be exempted from section 251 (interconnection) obligations and TELRIC (total-element long-run incremental cost) pricing for unbundled network elements. New facilities "weren't part of the original bottleneck," he stated.

In a luncheon address during the APT conference, William P. Barr, GTE Corp. executive vice president-governmental and regulatory advocacy and general counsel, saw "the FCC's sabotage of the universal service provisions of the statute" as a major threat to the goals of the framers of the 1996 telecom Act. Although Congress clearly called for "a new system of universal service," the FCC and "many states" have "abdicated" their responsibility to reform the old system of subsidies, he said.

Mr. Barr also charged the FCC with engaging in "deliberate low-balling of the amount of subsidy needed," by setting "frivolous" cost models and playing "regulatory games" with the revenue streams that are included in universal service support calculations. Asked whether Congress needs to revisit the Act and fix it, Mr. Barr said he'd like to see "Congress readdress telecommunications deregulation much more forcefully on the universal service side" to ensure sufficient funding on a timely basis for continuing U.S. universal service policy.

"I think it's time for Congress to get off their duffs on this," he said. Law-makers need to give the industry and regulators "a clear and explicit statement" that addresses support not just for "needy customers" but for "high-cost communities," he added. "Let's have an up-or-down vote" that recognizes the existence of high-cost areas, he said. "It's a transfer of payments, but it's one that society deems is important to do. I think we'll win on that."

Mr. Barr also saw the pending WorldCom, Inc., merger with MCI Communications Corp. as a threatto achieving the telecom Act's goal of introducing and then relying on competition to maintain high-quality services and promote innovation. He said the nation's phone networks need to adapt the Internet model of a network of networks.

In the Internet world of packet switched data networks, service providers don't just have an incentive to compete with each other; "they all have an incentive to maintain high quality interconnections," he said. At the interconnection points where traffic backups occur, "the players negotiate" to persuade each other to add routers and eliminate bottlenecks, he noted.

But over the last 18 months, WorldCom has acquired providers of Internet backbone capacity and agreed to a merger with MCI that would give WorldCom control over "50% to 60% of the destination points" on the Internet, Mr. Barr said. With the second- and third-largest players controlling only about 15% and 10% respectively, WorldCom would have "a very dominant position if this MCI deal goes through, and in our view, [it] threatens the monopolization of the Internet," he said.

TR Daily, February 27, 1998 19980227 TR Daily -->

---- Index References ----

Company: MCI INC; RESURGENS COMMUNICATION GROUP; WORLDCOM; WORLDCOM INC; GENERAL TELEPHONE ELECTRONICS CORP; MOTOR COACH INDUSTRIES INTERNATIONAL INC; MCI COMMUNICATIONS CORP; WORLDCOM INC WORLDCOM GROUP; FEDERAL COMMUNICATIONS COMMISSION; WORLDCOM INC GA; WORLDCOM INC MCI GROUP; MARSK CONTAINER INDUSTRI AS; MCI WORLDCOM INC; AUTOMATED POWER TECHNOLOGIES; GTE CORP; MCI LLC

News Subject: (Conventions, Conferences & Trade Shows (1CO42); Major Corporations (1MA93); Government (1GO80); Economics & Trade (1EC26))

Industry: (Networking Regulatory (1NE52); Telecom Regulatory (1TE65); Broadband Services (1BR03); Broadband & Full Service Networks (1BR74); CLECs & Alternative Carriers (1CL29); Network Services (1NE60); I.T. in Government (1IT22); I.T. Regulatory (1IT67); Internet Regulatory (1IN49); I.T. (1IT96); Broadband (1BR88); I.T. in Telecom (1IT42); Wireline Telecom Regulatory (1WI37); Internet (1IN27); Internet Infrastructure Policy (1IN62); Internet Infrastructure (1IN95); Networking (1NE45); Digital Broadcasting (1DI81); Telecom (1TE27))

Region: (North America (1NO39); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (APT; COMPETITION DIVISION; CONGRESS; CORP; FCC; GENERAL COUNSEL OFFICE; GTE; MCI; MCI COMMUNICATIONS CORP; TR; WORLDCOM; WORLDCOM INC) (Barr; ILECs; Incumbent; Larry Strickling; Law; Strickling; STRUCTURAL SEPARATION; Table; William P. Barr)

Word Count: 825

End of Document

NewsRoom

Document: Death penalty advisers remain Reno's secret

Death penalty advisers remain Reno's secret

USA TODAY

January 16, 1998, Friday,, FINAL EDITION

Section: NEWS;

Length: 550 words

Byline: Kevin Johnson

Dateline: WASHINGTON

Body

WASHINGTON -- When it comes to deciding whether the federal government will seek the death penalty, Attorney General Janet Reno said Thursday that the "the buck should stop with me."

But before she ever reaches that point, there are at least four career Justice Department officials who secretly shape the life-and-death decision. And their identities, if Reno continues to control the process, will never be known.

Reno says identifying the panel members would make them the focus of intense scrutiny and perhaps influence the advice they provide. And Justice Department spokesman Bert Brandenburg says there also is concern about the panel's safety. "I have had situations," Reno said Thursday without elaborating.

But former attorney general **William Barr** questions the need for such a process, adding that the committee "smacked of a secret court."

"Arguing that the safety of these people could be compromised is a little preposterous," says Barr, who served President Bush. "I mean you have federal prosecutors going into court face-to-face with members of organized crime. How exposed can you be?"

Reno created the advisory panel shortly after her appointment in 1993. Previous attorney generals depended on top subordinates within the department. Until recently, the death penalty panel worked in relative obscurity, in most cases known only to the lawyers who appeared before them.

That was before Ted Kaczynski was charged as the Unabomber and Timothy McVeigh and Terry Nichols were brought to trial in the Oklahoma City bombing.

In the Oklahoma City case, the government sought the death penalty against both defendants. McVeigh was condemned to death last year. But Nichols escaped the death penalty earlier this month when a jury deadlocked on the question of punishment.

The panel also advised Reno to pursue the death penalty in the Kaczynski case. But with questions about Kaczynski's sanity emerging in his trial, federal prosecutors are considering a proposed plea agreement under which he would spend life in prison without possibility of parole.

The process used by the panel in determining how to advise Reno is just as secretive as the group's makeup. Lawyers familiar with the procedure describe it this way:

Federal prosecutors and defense attorneys are allowed to make their case for whether or not the government should pursue the death penalty against a defendant. Panel members are drawn from various sections of the Justice Department, including the Criminal and Narcotics Divisions. They can question lawyers appearing before them. Sometimes they just listen.

Since 1993, 260 death penalty cases have been reviewed by Reno. Capital punishment was authorized in 81 of those cases, or 31%.

"What we've tried to do is to have an effort under way that can give me the best advice possible," Reno says. "And to discuss the inner working . . . is a deterrent to my getting the best information possible."

The process itself, however, is what troubles some lawyers.

"It's nothing but a rubber stamp," says Ronald Woods, one of Nichols' lawyers. "We went up there to speak to that committee, but in our case we knew the decision had already been made. We were talking in the wind."

Graphic

PHOTO, B/W, AP

Classification

Language: ENGLISH

Subject: ATTORNEYS GENERAL (92%); CAPITAL CRIMES (90%); CAPITAL PUNISHMENT (90%); LAWYERS (90%); LAW ENFORCEMENT (89%); JUSTICE DEPARTMENTS (89%); PUBLIC PROSECUTORS

(89%); AGREEMENTS (78%); CORRECTIONS (77%); ORGANIZED CRIME (77%); JURY TRIALS (73%); BOMBINGS (73%); PAROLE (68%); JAIL SENTENCING (68%)

Company: JUSTICE DEPARTMENT (67%)

Organization: JUSTICE DEPARTMENT (67%)

Industry: LAWYERS (90%)

Person: GEORGE W BUSH (58%)

Geographic: OKLAHOMA CITY, OK, USA (90%); UNITED STATES (79%)

Load-Date: January 16, 1998

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 11:43:56 a.m. EST

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No Headline In Original

Communications Daily

November 17, 1997, Monday

Section: TELEPHONY

Length: 220 words

Body

Proposed WorldCom-MCI merger will face "tough road" in U.S. and Europe as regulators scrutinize Internet ownership and likely elimination of at least one and possibly more competitors, GTE Exec. Vp-Gen.

Counsel **William Barr** predicted. GTE also withdrew documents on its proposed MCI merger at Justice Dept. (DoJ) Fri., citing "board-approved" $37-billion deal that will be very difficult to overcome, he said. Unlike Bell Atlantic-Nynex merger, which combined 2 companies with different markets and only "potential" for competition, WorldCom transaction and parallel $3-billion deal to buy Brooks Fiber Properties will remove competitor, Barr said. "That deal does not enhance local competition," he said in American Enterprise Institute speech late Thurs. He accused FCC and state regulators of inaction in translating Telecom Act into rules, and said reliance on models to set prices ignores reality. He said models are based on hypothetical network that doesn't exist, creating financial assumptions that won't work when carriers apply numbers to existing operations. "Your models can't change reality," Barr said. As he began talk, he joked that many at FCC were "rooting for" GTE-MCI combination because "a lot of them wanted to get Bill Barr [to show up]and talk about forward-looking prices."

Classification

Language: ENGLISH

Subject: JUSTICE DEPARTMENTS (77%); COMMUNICATIONS LAW (73%)

Company: VERIZON COMMUNICATIONS INC (92%); AMERICAN ENTERPRISE INSTITUTE FOR PUBLIC POLICY RESEARCH (56%); VERIZON COMMUNICATIONS INC (92%); AMERICAN ENTERPRISE INSTITUTE FOR PUBLIC POLICY RESEARCH (56%)

Ticker: VZC (LSE) (92%); VZ (NYSE) (92%)

Industry: TELECOMMUNICATIONS (78%); COMMUNICATIONS REGULATION & POLICY (78%); COMMUNICATIONS LAW (73%)

Geographic: UNITED STATES (79%)

Load-Date: November 16, 1997

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 11:42:31 a.m. EST

Document: MORNING BRIEFCASE

MORNING BRIEFCASE

THE DALLAS MORNING NEWS

November 14, 1997, Friday, HOME FINAL EDITION

Section: BUSINESS; MORNING BRIEFCASE; Pg. 10D

Length: 857 words

Body

Workplace productivity

jumps an unexpected 4.5%

WASHINGTON - Productivity at U.S. workplaces unexpectedly grew in the third quarter at the fastest pace in five years, easing fears that labor shortages could lead to renewed inflation.

Productivity - the key to living standards - surged at an annual rate of 4.5 percent from July through September, helping to push unit labor costs down 0.3 percent, the Labor Department said Thursday.

The growth in nonfarm productivity - output per number of hours worked - was the most since a 5.9 percent jump during the final three months of 1992. Many analysts were looking for a growth rate of 3 percent.

Productivity is considered the key to Americans' standard of living because greater efficiency means businesses can increase wages without raising prices as workers produce more with the same amount of work.

"Such high productivity growth implies downward pressure on inflation," said Jerry Jasinowski, president of the National Association of Manufacturers."Unit labor costs declined, which means that the recent pickup in wages should be of little concern because productivity gains will offset them."

- Associated Press

Nader conference urges U.S.

to get tough with Microsoft

Software maker likens event to ambush

WASHINGTON - Consumer advocates, high-tech consultants and rivals of Microsoft Corp. railed against the giant computer software maker Thursday as an out-of-control monopoly that should be reined in by the government.

"Imagine going into a shoe store and being told there is only one shoe you can try on," said Gary Reback, a California lawyer who has argued in cases against Microsoft, in a speech at the conference,"Appraising Microsoft and Its Global Strategy," sponsored by Ralph Nader.

Microsoft officials and their allies gathering at the same Washington hotel said the Nader conference was a media event staged by competitors who have been unable to knock Microsoft chief executive Bill Gates' empire from its place atop the industry.

Robert Herbold, Microsoft's executive vice president, said in a letter Thursday to Mr. Nader:"It is regrettable that you appear to have aligned yourself with a small band of Microsoft's detractors whose apparent goal is to enlist the government's assistance in their efforts to compete with Microsoft." Mr. Herbold said Mr. Reback's boss, Larry Sonsini, is a director of Microsoft competitor Novell Inc. and owns 54,100 Novell shares.

Microsoft's Mr. Herbold responded,"For us to participate in this kind of environment would be like walking into an ambush with sharpshooters on every hilltop."

- Associated Press

BRIEFLY

From Wire Reports

Worldcom-MCI merger may encounter trouble

WASHINGTON - A WorldCom Inc.-MCI Communications Corp. combination would be anti-competitive and will have a tough time passing regulatory and Justice Department muster, GTE Corp. general counsel **William Barr** said Thursday. Because WorldCom is the United States' No. 4 long-distance company and MCI is No. 2, their combination would be anti-competitive, Mr. Barr said. On the other hand, GTE, one of the nation's largest local-phone companies, combined with MCI would make the two"more effective competitors" in their respective lines of business, he said.

Columbia to pay former chief $ 9.88 million

NASHVILLE, Tenn. - Columbia/HCA Healthcare Corp. said it agreed to pay former chairman and chief executive Richard Scott $ 9.88 million when he resigned in July amid a government probe of the company. Mr. Scott, 44, received a one-time payment of $ 5.13 million and will receive an annual "consulting fee" of $ 950,000 for five years under a severance agreement included in Columbia's quarterly filing with the Securities and Exchange Commission.

Digital close to selling assets, source says

MAYNARD, Mass. - Digital Equipment Corp. is close to selling the assets of its computer network equipment business to Cabletron Systems Inc., a person familiar with the situation said. Digital could get as much as $ 500 million for the business, according to The Wall Street Journal, which reported Thursday that an agreement is near. Chairman Robert Palmer declined to comment on the report at the company's annual meeting Thursday.

NOTES

Cowles Media Co., parent company of the Star Tribune (MinneapBolis), said it was sold Thursday to McClatchy Newspapers Inc. for $ 1.4 billion.

The Securities and Exchange Commission proposed rules Thursday that would allow mutual funds and public companies to send a single shareholder document to different investors who live in the same house, reducing company expenses and paperwork for family members who have invested in the same company or mutual fund.

Ford Motor Co. is recalling about 82,000 Aerostar minivans after two reports of transmission failures at high speeds.

Siemens AG, a German electronics and engineering company, is close to paying about $ 1.5 billion in cash and assuming debt to buy the conventional power generation units of Westinghouse Electric Corp., The Wall Street Journal and the Financial Times reported Thursday.

- Compiled by R. Marina Levario

Graphic

PHOTO(S): Ralph Nader.

Classification

Language: ENGLISH

Subject: PRODUCTIVITY (92%); INFLATION (90%); LIVING STANDARDS (90%); WAGES & SALARIES (77%); PRICES (77%); LABOR DEPARTMENTS (74%); EXECUTIVES (72%); LABOR SHORTAGES (72%); PRICE INCREASES (69%); BUSINESS & PROFESSIONAL ASSOCIATIONS (69%); CONSUMER WATCHDOGS (68%); ASSOCIATIONS & ORGANIZATIONS (67%); LAWYERS (65%); CONSUMER PROTECTION (65%); JUSTICE DEPARTMENTS (64%); CORPORATE COUNSEL (63%)

Company: MICROSOFT CORP (92%); NOVELL INC (83%); VERIZON COMMUNICATIONS INC (82%); MICROSOFT CORP (92%); NOVELL INC (83%); VERIZON COMMUNICATIONS INC (82%); NATIONAL ASSOCIATION OF MANUFACTURERS (56%)

Organization: NATIONAL ASSOCIATION OF MANUFACTURERS (56%)

Ticker: MSFT (NASDAQ) (92%); VZC (LSE) (82%); VZ (NYSE) (82%)

Industry: FOOTWEAR (73%); SOFTWARE MAKERS (72%); COMPUTER SOFTWARE (71%); PRICE INCREASES (69%); LAWYERS (65%); SHOE STORES (64%); CORPORATE COUNSEL (63%); HOTELS & MOTELS (50%)

Person: RALPH NADER (78%); BILL GATES (50%)

Geographic: CALIFORNIA, USA (79%); UNITED STATES (94%)

Load-Date: December 9, 1997

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 11:40:12 a.m. EST

NewsRoom

11/14/97 Wash. Telecom News 00:00:00

Washington Telecom Newswire

November 14, 1997

GTE TO WITHDRAW DoJ MERGER APPLICATION TODAY

GTE will withdraw its Justice Department (DoJ) application to merge with MCI today, Executive Vice President-General Counsel William Barr said yesterday. But he said at an American Enterprise Institute event in Washington he was "skeptical" the WorldCom-MCI merger would pass regulatory scrutiny. Barr also called previous FCC commissioners "cowards," saying they refused to make tough decisions to promote real local competition.

Barr said GTE will not top WorldCom's $51-per-share offer for MCI. Although WorldCom has won the bidding, he said, it has a tough road to DoJ approval. "The WorldCom deal is anticompetitive," Barr said. "It is a classic horizontal merger." He said one of its effects would be to take a competitive local exchange carrier out of the market.

Barr complained about "the knee-jerk reaction" of policymakers who have said the Telecom Act was not intended to lead to mergers. He said some mergers promote competition, such as those that better position Bell companies to "carry on war outside their boundaries." Mergers are "something to be expected and, in the appropriate case, approved of," Barr said.

The current "impasse" between Bell companies and long distance companies over Section 271 applications is "an outrage," Barr said. He said although GTE does not have the same restrictions, he agrees with the Bell companies that the long distance carriers are refusing to enter local markets despite enough local carrier support. "We have 600 people sitting there like the Maytag repairman," Barr said. "We get no requests."

Barr blamed the situation on regulatory miscues, saying the FCC has underpriced unbundled elements and failed to account for universal service subsidies. He said that by pricing elements too low, the FCC has "preempted competition" because new entrants have no incentive to provide their own. Allowing new entrants to

lease elements at or below cost also "facilitates and exacerbates the problem of cherrypicking" the most lucrative customers, Barr said. He said the Commission has made the choice "to disadvantage incumbents" by "taking subsidies and putting them in the pockets of new entrants as an incentive to enter" certain markets to create "the illusion of competition."

The only way to develop competition in the local residential market is to create a "neutral method" to carry out universal service, Barr said. He said he accepts that the setting of local rates is "a political decision" but the current method of gauranteeing them is predicated on a monopoly system. The solution is to "use targeted vouchers," Barr said, so that payment of a subsidy does not "depend on who serves the customer." He added that while the intent of universal service has been "a social program of redistribution of income through the telecom system," today wealthy suburbs such as Greenwich, CT, also receive subsidies based on phone density.
(WTN 1120-97)

---- Index References ----

Company: INTERMEDIA COMMUNICATIONS INC; MCI INC; MAYTAG CORP; BELL

News Subject: (Monopolies (1MO68); HR & Labor Management (1HR87); Business Management (1BU42); Antitrust Regulatory (1AN52); Major Corporations (1MA93); Economics & Trade (1EC26))

Industry: (Telecom Carriers & Operators (1TE56); Long-Distance Services (1LO42); Telecom Regulatory (1TE65); Telecom (1TE27); Telecom Services (1TE09); Manufacturing (1MA74); CLECs & Alternative Carriers (1CL29))

Language: EN

Other Indexing: (AMERICAN ENTERPRISE INSTITUTE; BELL; FCC; GTE; JUSTICE DEPARTMENT; MAYTAG; MCI; WITHDRAW; WORLDCOM; WORLDCOM MCI) (Barr; Counsel William Barr)

Word Count: 622

End of Document

Document: Independent Investigation Into Alleged GTE Document Tam...

Independent Investigation Into Alleged GTE Document Tampering Completed; Report Found Some GTE Personnel Acted Improperly; Company Outlines Actions

Business Wire

November 7, 1997, Friday

Length: 670 words

Dateline: THOUSAND OAKS, Calif.

Body

Nov. 7, 1997--Former California Supreme Court Chief Justice Malcolm M. Lucas has completed an independent investigation of alleged document tampering by GTE California personnel in connection with a 1992-93 probe of improper sales activity at the company's foreign Language Assistance Center.

Chief Justice Lucas presented his findings to California Public Utilities Commission President Gregory Conlon on Oct. 30, and company officials briefed other CPUC commissioners Thursday.

Although Chief Justice Lucas found no evidence of the alleged document shredding, he did determine that a small number of GTE California management employees had acted improperly during 1992-93, by altering one document requested by the commission in connection with its selling-practices probe.

Further, the report stated that these employees had also misled the CPUC at that time regarding circumstances leading to the company's discovery of the improper sales practices, as well as the time period in which those practices occurred.

''We are deeply disappointed to learn of the conduct of a small number of employees in this matter,'' said John Appel, president of GTE Network Services. ''We regard this situation very seriously and are imposing appropriate discipline on the employees involved.

''Companies are made up of people, and sometimes people make bad judgments,'' he said. ''On behalf of GTE, I offer my sincere apology to our customers and to the California commission, along with our pledge that such behavior will not be repeated.''

William P. Barr, GTE executive vice president and general counsel, said the company's decision to have Chief Justice Lucas conduct the independent investigation is consistent with a comprehensive ethics and compliance effort that the company instituted in 1994.

''GTE is committed to the highest standards of ethical conduct, and to ensure we maintain those standards, we continually review and upgrade our practices and procedures to both detect and prevent misconduct,'' Barr said.

Barr added that all GTE California employees who deal with legal and regulatory matters will undergo additional ethics training, to be conducted by outside experts.

The company said it will continue to cooperate fully with the CPUC in its own ongoing investigation of this matter, which began in July.

Chief Justice Lucas was hired by GTE in May 1997 to conduct the investigation following allegations by a GTE employee who is suing the company in an unrelated matter. In court papers filed in April 1997, the employee alleged that company officials had ordered the shredding of a document during the 1992-93 investigation by the CPUC.

Assisting the former chief justice in the investigation were former U.S. Attorneys Charles J. Stevens and George L. O'Connell of Sacramento, and former FBI agent Daniel W. Ray of San Francisco.

GTE has worked with the CPUC since 1993 to monitor the sales activities of its Language Assistance Center, which markets local telephone services and calling features to non-English-speaking customers. The monitoring resulted from a finding in mid-1992 that GTE employees had charged some customers for unrequested calling services.

GTE has paid nearly $ 2 million in commission-ordered refunds to customers, and made additional contributions to educational programs in the state equal to $ 3.2 million. The company also revamped its training and compensation practices to further ensure adherence to ethical selling practices.

GTE officials pledged to continue monitoring the center with the assistance and input of the CPUC.

CONTACT: GTE California, Thousand Oaks, Calif.
Larry Cox, 800/227-5556 (24-Hour News Bureau)

Today's News On The Net - Business Wire's full file on the Internet

with Hyperlinks to your home page.

URL: http://www.businesswire.com

Classification

Language: ENGLISH

Subject: CRIMINAL INVESTIGATIONS (90%); INVESTIGATIONS (90%); LAW COURTS & TRIBUNALS (89%); SALES & SELLING (89%); ETHICS (89%); EXECUTIVES (78%); LAW ENFORCEMENT (78%); MISCONDUCT (78%); SUPREME COURTS (78%); REGULATORY COMPLIANCE (78%); US STATE GOVERNMENT (78%); LAWYERS (78%); LITIGATION (78%); BUSINESS ETHICS (77%); MANAGERS & SUPERVISORS (73%); SUITS & CLAIMS (73%); SPECIAL INVESTIGATIVE FORCES (73%); LANGUAGE & LANGUAGES (72%); ENERGY & UTILITY LAW (71%); CORPORATE COUNSEL (63%)

Company: GTE NETWORK SERVICES (55%); GTE NETWORK SERVICES (55%); CALIFORNIA ENERGY COMMISSION (90%); SUPREME COURT OF CALIFORNIA (84%); SUPREME COURT OF CALIFORNIA (84%); CALIFORNIA PUBLIC UTILITIES COMMISSION (58%); CALIFORNIA ENERGY COMMISSION (58%)

Organization: CALIFORNIA ENERGY COMMISSION (90%); SUPREME COURT OF CALIFORNIA (84%); SUPREME COURT OF CALIFORNIA (84%); CALIFORNIA PUBLIC UTILITIES COMMISSION (58%); CALIFORNIA ENERGY COMMISSION (58%); GTE/INVESTIGATION CALIFORNIA ENERGY COMMISSION (90%); SUPREME COURT OF CALIFORNIA (84%); SUPREME COURT OF CALIFORNIA (84%); CALIFORNIA PUBLIC UTILITIES COMMISSION (58%); CALIFORNIA ENERGY COMMISSION (58%)

Ticker: GTE

Industry: PUBLIC UTILITIES COMMISSIONS (90%); UTILITIES INDUSTRY (89%); LAWYERS (78%); ENERGY & UTILITY LAW (71%); CORPORATE COUNSEL (63%); TELEPHONE SERVICES (50%); LOCAL TELEPHONE SERVICE (50%)

Geographic: SACRAMENTO, CA, USA (79%); SAN FRANCISCO, CA, USA (79%); CALIFORNIA, USA (93%)

Load-Date: November 8, 1997

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:43:24 p.m. EST

11/2/97 Richmond Times-Dispatch A8
1997 WLNR 1172545

Richmond Times Dispatch (VA)

November 2, 1997

Section: General

ACQUITTAL = REIMBURSEMENT? BILL WOULD DETER RASH PROSECUTIONS, PANEL LEADER SAYS

Mark Johnson Media General News Service

Here's the scene: A criminal defendant who just received a ``not guilty'' verdict after a long and expensive federal trial steps before a cluster of news cameras and microphones. Expected to give thanks that justice prevailed, he instead declares: ``I want my money back!''

Under legislation already passed by the House, the U.S. government might have to pay some acquitted defendants' legal bills.

The proposal was written by Rep. Henry J. Hyde, R-Ill., chairman of the House Judiciary Committee, who contends that the legislation would deter reckless or malicious prosecutions and compensate the wrongly accused for dragging them through a financial and emotional wringer.

``You crush (people) like a bug when you indict them,'' said Bill Jung, a former federal prosecutor in Tampa, Fla., and Miami and now a Tampa criminal defense lawyer. ``The very charge itself is going to ruin them.''

Critics, including the Clinton administration and former attorneys general from both political parties, denounced the legislation as a ``drastic'' measure that will scare off federal prosecutors from anything but an airtight case. Attorney General Janet Reno said she will recommend that President Clinton veto the legislation.

``If this bill became law, people like John Gotti, who beat the rap at his first trials, and John Hinkley and John DeLorean, who were also acquitted, could wind up with big taxpayer checks,'' said Deputy Attorney General Eric Holder, referring to a mob boss, a would-be presidential assassin and an automaker who was accused of funneling millions from his company through a Swiss bank account but was cleared of embezzlement charges.

Hyde took a routine spending bill and added an amendment that would allow criminal defendants who are the ``prevailing party'' in a criminal trial to turn around and ask the judge to order the government to pay his or her expenses.

The burden then falls on the government to prove that they were ``substantially justified'' in bringing a criminal case.

``There is a legitimate fear that a federal prosecutor could become politically involved with a particular case, could forget that his or her duty is not to win but to ensure justice or could simply make an incredibly poor legal decision,'' Hyde said during remarks on the House floor last month. ``Such errors in judgment can devastate the lives of innocent defendants.''

Most federal criminal cases never go to trial. For the year between October 1995 and September 1996, federal district courts handled 60,000 criminal defendants, according to the Administrative Office of the U.S. Courts. Of those, 48,000, or 80 percent, entered a guilty plea without going to trial. Another 4,060, or 6.76 percent, were tried and found guilty.

Only 902, or 1.5 percent, of the defendants were acquitted.

Opponents of Hyde's amendment say the checks already are built into the judicial system to keep prosecutors in line. Prosecutors must persuade a grand jury to indict someone and then must convince a trial jury that the defendant is guilty beyond a reasonable doubt.

``This is a very high standard and rightly so," wrote Griffin Bell, attorney general under President Carter, in a recent newspaper column. ``It means that tough and often important cases against some defendants cannot always be won and that criminals are sometimes acquitted along with the innocent."

Evidence can be suppressed in a trial, Bell said. A sexually abused child may be too shaken to testify. A key witness may disappear or die.

``We should not punish prosecutors and send the bill to the public when someone beats the rap," Holder said.

Four former attorneys general, Democrats Bell and Benjamin R. Civiletti and Republicans Richard L. Thornburgh and William P. Barr, sent a letter last Tuesday to congressional leaders urging them to reject Hyde's amendment.

``It can chill prosecutions," said Virginia Attorney General Richard Cullen, a former U.S. Attorney, arguing that politically appointed federal prosecutors may shy from a case that is at all risky or potentially expensive.

Hyde said his amendment won't deter law enforcement. Only cases where the government didn't have a ``reasonable basis" to prosecute will be eligible for compensation, he said.

``It sort of ties in to what we're hearing about the IRS, the public perception of the government being overbearing," said Robert H. Edmunds Jr., former U.S. Attorney in Greensboro, N.C., now practicing criminal defense law. ``That's not my experience at all in the overwhelming majority of criminal prosecutions but . . . there are instances where a prosecution is not justified."

The legislation is based on the Equal Access to Justice Act, used in civil and administrative cases in which the government wrongly sues a person or business. Between 1990 and 1994, the government paid between $1 million and $8.2 million per year in awards under that act, Hyde said.

The Congressional Budget Office estimated Hyde's amendment could cost the government between $1 million and $7.5 million a year, which would come out of the Justice Department's budget.

``There are cases where compensation may be warranted," said Barr, attorney general under President Bush. ``Those are a distinct minority of the cases. What's being proposed (by Hyde) is a regime where the presumption is that defendants should be reimbursed."

Barr said Hyde's legislation should be carefully thought out and examined instead of tacked on to an appropriations bill. He said he would like to see a mechanism where judges could determine if the defendant was entitled to his expenses instead of Hyde's proposal, which presumes the government should pay unless it proves otherwise.

The legislation is expected to be approved by a conference of members from both the House and Senate, then it will be sent back to be voted on by both houses before it goes to the president.

WASHINGTON

PHOTO

(lcs)

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Legislation (1LE97); Government (1GO80); Government Litigation (1GO18); Political Parties (1PO73); Public Affairs (1PU31))

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Other Indexing: (ADMINISTRATIVE OFFICE; CONGRESSIONAL BUDGET OFFICE; HOUSE; HOUSE JUDICIARY COMMITTEE; IRS; JUSTICE DEPARTMENT; PHOTO; REIMBURSEMENT; SENATE; US COURTS) (ACQUITTAL; Barr; Bell; Benjamin R. Civiletti; Bill Jung; Bush; Carter; Clinton; Critics; Democrats Bell; Eric Holder; Griffin Bell; Henry J. Hyde; Holder; Hyde; Janet Reno; John DeLorean; John Gotti; John Hinkley; Richard Cullen; Richard L. Thornburgh; Robert H. Edmunds Jr.; Virginia Attorney; William P. Barr)

Edition: City

Word Count: 1190

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MCI Winner Will Walk Regulatory High Wire

The Wall Street Journal

October 29, 1997 Wednesday

Section: TECHNOLOGY & TELECOMMUNICATIONS; Pg. B8

Length: 884 words

Byline: By Bryan Gruley and Leslie Cauley, Staff Reporters of The Wall Street Journal

Body

WorldCom Inc. and GTE Corp., the dueling bidders for MCI Communications Corp., each argue that the other will have a tough time persuading regulators to bless a proposed merger.

They're both right.

While many experts think either deal would pass regulatory muster, both raise serious issues of competition -- or the lack of it -- in the local-phone, long-distance and Internet businesses. Federal and state regulators easily could take a year or more, especially if California, as expected, poses a problem for GTE.

Anticipating regulators is important as MCI shareholders decide whether to go with WorldCom, the Jackson, Miss., longdistance firm that has offered $30 billion in stock, or GTE, the Stamford, Conn., phone company that has offered $28 billion in cash. Investors stand to lose if regulators tarry, or attach conditions that hamper the companies' growth. On consumers' behalf, regulators must decide whether the combinations could reduce competition and, in theory, force prices up.

"Each deal has pluses and minuses, but they're problematic because they take players out of competition with each other rather than increase competitors," says Gene Kimmelman, co-director of Consumers Union's Washington office.

In Washington last week, WorldCom's chief lobbyist, Catherine Sloan, said, "Our deal is much faster and cleaner." William Barr, GTE's general counsel, countered that the WorldCom deal "has more substantial risk of being blocked."

Both deals raise issues that haven't been explored in depth by antitrust enforcers at the Justice Department or by the Federal Communications Commission. But WorldCom may have a slight edge in the states, where regulators could pause longer over a GTE-MCI deal.

GTE is a longstanding local-phone company with monopolies in 28 states. Regulators generally view such operations as subsidized assets, because they have benefited from state protections. WorldCom and MCI, on the other hand, grew up in the long-distance market, where regulators don't protect rates and market share. Because long-distance carriers don't enjoy monopolies, state regulators tend to go easier on them. WorldCom has about 7% of the long-distance market; MCI, about 17%.

Both GTE-MCI and WorldCom-MCI would need approval of the more than two dozen states that require reviews of utility mergers. One of the toughest is likely to be California. California alone requires merging utilities with more than $500 million in annual state sales to share half their expected "synergy" savings with consumers.

Regulators typically host public hearings around the state, a process that can easily eat up a year in major cases. That's about how long it took California to approve SBC Communications Corp.'s acquisition of Pacific Telesis Group, consummated in April. And California regulators took four years to approve GTE's purchase of Contel in the early 1990s.

Both WorldCom and GTE hope to shorten the wait for shareholders by using "voting trusts" that, with the permission of the FCC, would allow the companies to close the financial end of a deal before regulators finish their work. Such arrangements were designed chiefly for hostile takeovers, meaning it's unlikely either company could use one if it struck a friendly deal with MCI.

If either bidder did try to press ahead with a voting trust, many states, including California, would likely oppose it, predicts Jerry Thayer, staff counsel to the California Public Utilities Commission. "Not only does that circumvent the regulatory process, but it undermines it completely," Mr. Thayer says. "That's very bad [for consumers.]"

WorldCom and GTE will tout the prospect that their respective proposals will bring competition to the local-phone business for the first time. But regulators will focus on the anticompetitive problems either deal could create.

For example, the Justice Department is likely to worry that GTE could use its local monopolies in combination with MCI's long-distance service to keep rivals out of local markets. Meantime, FCC officials are likely to press GTE to accept conditions like those Bell Atlantic Corp. swallowed to get clearance of its acquisition of Nynex Corp. Those conditions were designed to force Bell Atlantic to open its local markets to competition.

A WorldCom purchase of MCI would join the No. 4 long-distance carrier with No. 2, respectively. That's likely to worry antitrust enforcers because the long-distance business already has few major competitors. But the companies will argue that the market will be hotly competitive once the Baby Bells are allowed to enter it; they are prohibited until the FCC concludes that they have opened their local markets to competition.

Antitrust enforcers also will explore whether a combined WorldCom-MCI would control so much U.S. Internet traffic that it could exert too much pricing power. WorldCom counters that lots of companies can and do offer Internet access, so consumers can seek another provider if prices go too high.

Regulators are growing even more cautious as lawmakers complain that last year's telecommunications law has brought about more consolidation than competition. Told that each bidding team thinks it could get all necessary approvals for an MCI deal in a few months, Mr. Thayer, the California staff counsel, just says, "Good luck."

Notes

PUBLISHER: Dow Jones & Company

Load-Date: December 6, 2004

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Document: Merger Could Change MCI's Wireless Strategy

Merger Could Change MCI's Wireless Strategy

Wireless Week

October 27, 1997

Section: Pg. 1; ISSN: 1085-0473

Length: 463 words

Byline: Edward Warner

Highlight: GTE's proposed merger with MCI Communications could boost MCI's wireless strategy, improving cellular coverage and marketing know-how

Body

WASHINGTON--GTE Corp. last week said its planned merger with MCI Communications Corp. offers an opportunity to improve MCI's wireless strategy, enhancing cellular coverage and marketing expertise.

MCI has "not been pushing its wireless products," except to a small part of its customer base, said GTE General Counsel **William Barr** in a meeting with reporters here. He said GTE's national wireless business is one of the chief assets it would bring to MCI and envisioned a bundling of long-distance, local telephony and wireless service, as AT&T Corp. already plans to offer.

There's "a lot of potential [if we] give MCI the GTE wireless product," Barr said.

"GTE gives [MCI] a wireless story," said Jane Zweig, senior vice president of marketing and client relations for Wheaton, Md.-based consultancy Herschel Shosteck Associates Ltd.

photo omitted

However, the Yankee Group estimates that only about 10 percent of the customers in MCIOne, that company's bundling program, subscribe to cellular services.

MCI's current wireless strategy is to resell service. MCI talks of seeking tight integration between its switches, something cellular carriers haven't been able to offer the company, but which MCI sees being made possible by personal communications services. MCI has committed to 10 billion minutes of PCS airtime from NextWave Telecom Inc.

Mark Lowenstein, vice president of mobile communications for Boston-based the Yankee Group sees a GTE-MCI merger not changing that relationship. "MCI will continue to resell" wireless service, but a merger with GTE would expand MCI's cellular footprint, which now encompasses only 15 to 20 cities, he said.

In addition, he said GTE Telecommunication Services Inc., a Tampa, Fla.-based business unit offering carrier data-exchanges for roamers, could give MCI the "wireless overlay network" to integrate MCI and PCS carriers' switches.

GTE is the local exchange carrier that sued and won an overturning of the FCC's 1996 interconnection rules-regulations wireless carriers liked. However, GTE also has committed to being a competing LEC-regardless of the merger-in seven cities by the year-end. So GTE has a vested interest in gaining fair interconnection rates, just like wireless carriers, Bart said.

GTE's aim of being a CLEC, Bart said, shows how the merger would promote local-network competition. Since GTE's existing LEC network is a patchwork of networks, rather than a regionwide system, he said there's no danger an MCI-GTE tie-up would let the company "build a fortress" against

CLECs, as could the merger of a Bell company and a major long-distance carder.

Wireless could become part of a GTE-MCI venture in local telephony: Some of the airtime MCI plans to buy from NextWave is earmarked for wireless local loop service, NextWave said.

Classification

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Document-Type: Journal; Fulltext

Journal Code: WIREWEEK

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Subject: MERGERS (89%); ENERGY & UTILITY LAW (78%); CUSTOMER RELATIONS (77%); EXECUTIVES (76%); TALKS & MEETINGS (76%); LAWYERS (73%); All company; Corporate strategy; Mergers, acquisitions & divestitures

Company: VERIZON COMMUNICATIONS INC (98%); AT&T INC (93%); SYNIVERSE HOLDINGS INC (65%); YANKEE GROUP (56%); GTE CORP; MCI COMMUNICATIONS CORP

Ticker: VZC (LSE) (98%); VZ (NYSE) (98%); T (NYSE) (93%)

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MCI Suitors Court Justice Dept.

InternetWeek

October 27, 1997

Section: Pg. 1; ISSN: 0746-8121

Length: 1084 words

Highlight: WorldCom and GTE are trying to prove that their bids for MCI will find easier approval from DOJ antitrust and merger reviews division and FCC probes into public interest conflicts

Body

ABSTRACT:

WorldCom and GTE are each trying to prove that its bid for MCI will find easier approval from the Department of Justice's (DOJ) antitrust and merger reviews division and FCC probes into public interest conflicts and the forces of competition. The very earliest either company could get regulatory approval to buy MCI would be March 1998. But an accelerated schedule is unlikely, according to sources at the FCC. That didn't stop either bidder from laying it on thick last week. WorldCom conjured an image of MCI's founder, the late Bill McGowan, coming back from the grave to prevent GTE from taking over the company. GTE played the innocent angle of wanting to give consumers more choice by providing more competition to AT&T and the Bell companies for local and long distance telephone service. Unfortunately, GTE is well-known for using the regulatory system to try to keep competitors out of its markets. "This is a company that has litigated tooth and nail against competition in its own market," according to Genevieve Morelli, executive vice president of Competitive Telecommunications Association, an organization that represents the long distance industry. Because GTE "has been really aggressive in litigating in its own markets against attempts by would-be competitors to enter those markets," its attempt to merge with MCI raises serious anticompetitive concerns, she said.

Concerns over the potential for GTE and MCI to dominate local and long distance telephone service markets may be a lightning rod for comments by Bell companies and AT&T. GTE has local telephone and

wireless facilities in 29 states and long distance service in 50 states. A combined GTE/MCI would have more than $40 billion in revenues, more than 21 million local lines, more than 24 million long distance lines and "significant positions in every key area of the telecommunications market," GTE said. In the WorldCom /MCI deal, controlling an estimated 40 percent of the Internet backbone may raise antitrust concerns because it could raise prices for access. WorldCom subsidiary Uunet Technologies Inc. earlier this year raised the ire of small ISPs when it announced it would only provide free transport for peers. WorldCom vice president and associate general counsel Rick Heitmann said there are no plans to back off the Uunet peering policy. WorldCom outside counsel Andrew Lipman told reporters that when the DOJ understands the Internet, it will decide that no company can truly control or dominate it, particularly since there are an estimated 4,000 ISPs in the United States alone.

Byline: Kate Gerwig

The battleground for MCI shifted last week from Wall Street to Washington, D.C.

And with the change of venue came regulatory hyperbole served up by the bucketful, even by Washington standards.

Just two weeks ago, WorldCom and GTE were arguing over which was better-stock or cash, respectively-to complete the multibillion-dollar acquisition of MCI. Now each is trying to prove that its bid will find easier approval from the Department of Justice's (DOJ) antitrust and merger reviews division and FCC probes into public interest conflicts and the forces of competition.

Since regulatory procedures take on a life of their own, FCC lawyers contacted by InternetWeek just laughed. And no one can accurately predict how long it takes DOJ to rule on antitrust matters. The very earliest either company could get regulatory approval to buy MCI would be March 1998. But an accelerated schedule is unlikely, according to sources at the FCC.

That didn't stop either bidder from laying it on thick last week. WorldCom conjured an image of MCI's founder, the late Bill McGowan, coming back from the grave to prevent GTE from taking over the company.

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Antitrust Concerns

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WorldCom vice president and associate general counsel Rick Heitmann said there are no plans to back off the Uunet peering policy.

WorldCom outside counsel Andrew Lipman told reporters that when the DOJ understands the Internet, it will decide that no company can truly control or dominate it, particularly since there are an estimated 4,000 ISPs in the United States alone.

"We're not clear, even as a concept, that an Internet market even exists," Lipman said, making the point that if the DOJ looked at the combined WorldCom /MCI share of voice, data and Internet services as one market, the merged company would not dominate any market.

A new Internet access study from the Maloff Group International last week estimated the size of the U.S. market at $8.4 billion today, with estimated growth to $50 billion in three years.

GTE general counsel **Bill Barr** predicted GTE's proposed MCI merger would receive less antitrust scrutiny because the two companies would be the dominant carrier in few markets.

Where GTE and MCI Metro local presence overlaps in major markets, Barr said the company would be prepared to divest the MCI Metro units.

John Rendleman contributed to this story.

Classification

Language: ENGLISH

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Journal Code: INTERNWE

Acc-No: 1231615

Subject: JUSTICE DEPARTMENTS (90%); ANTITRUST & TRADE LAW (90%); ENERGY & UTILITY LAW (89%); APPROVALS (78%); JOINT VENTURES, MERGERS & ACQUISITIONS LAW (78%); US FEDERAL GOVERNMENT (78%); MERGERS (77%); LAW ENFORCEMENT (76%); PRICES (76%); CONSUMERS (75%); LAWYERS (75%); LITIGATION (74%); BUSINESS & PROFESSIONAL ASSOCIATIONS (73%); TELECOMMUNICATIONS SECTOR PERFORMANCE (70%); FEDERAL INVESTIGATIONS (70%); CORPORATE COUNSEL (69%); EXECUTIVES (63%); ASSOCIATIONS & ORGANIZATIONS (63%); PRICE INCREASES (61%); All company; All government; Antitrust regulations; Government finance; Mergers, acquisitions & divestitures; New laws

Company: VERIZON COMMUNICATIONS INC (92%); UUNET TECHNOLOGIES INC (60%); GTE CORP; MCI COMMUNICATIONS CORP; WORLDCOM

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); US DEPARTMENT OF JUSTICE (94%); COMPETITIVE TELECOMMUNICATIONS ASSOCIATION (59%)

Ticker: VZC (LSE) (92%); VZ (NYSE) (92%)

Industry: LONG DISTANCE TELEPHONE SERVICE (89%); ENERGY & UTILITY LAW (89%); TELECOMMUNICATIONS (89%); LOCAL TELEPHONE SERVICE (89%); TELEPHONE SERVICES (86%); TELECOMMUNICATIONS SERVICES (78%); INTERNET & WWW (77%); LAWYERS (75%); TELECOMMUNICATIONS SECTOR PERFORMANCE (70%); CORPORATE COUNSEL (69%); PRICE INCREASES (61%); Telecom services; Telecommunications

Product: 481000 (Telecommunications services)

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1997 WLNR 7020873

Telecommunications

October 27, 1997

Volume v63; Issue n43

GTE, WorldCom attorneys square off over MCI bids.

Counsels for GTE Corp and WorldCom Inc held press conferences aboutthe advantages of each companies' bids for MCI Communications Corp.GTE counsel William P. Barrs claimed that a merger with MCI would createan organization capable of competing with industry leaders such asAT&T Corp. On the other hand, WorldCom counsel Andrew D. Lipman saidthat his company's offer would provide faster returns for MCIshareholders.

Counsel representing GTE Corp. and WorldCom, Inc., squared off last week in tit-for-tat press conferences called to tout the companies' respective competing bids for MCI Communications Corp. (TR, Oct 6 and Oct. 20).

GTE argued that its proposed merger with MCI would be procompetitive, creating a powerhouse best positioned to take on the two most dominant players in a any given region - AT&T Corp. and the local Bell operating company.

WorldCom's counsel insisted that the company's takeover of MCI could be accomplished on a faster time frame and would be subject to far less regulatory scrutiny than a merger of MCI and GTE. WorldCom said it's in the best interest of MCI shareholders to back WorldCom's $30 billion stock swap offer over GTE's $28 billion all-cash bid for a simple reason: Shareholders would realize returns sooner.

William P. Barr, GTE senior vice president and general counsel, called his company's proposed merger with MCI the "most procompetitive in the telecom services industry." He said that unlike a potential combination of MCI and WorldCom, a GTE-MCI union would combine two companies with almost no overlap in product lines.

Mr. Barr said a GTE-MCI union would jump-start his company's plan to provide competitive local services outside of its current operating region. He said such a merger would "precisely" create the vertically integrated, all-services provider envisioned by the Telecommunications Act of 1996 by uniting MCI's brand name, competitive local facilities, and increasingly business-focused agenda with GTE's resources and vast number of consumer subscribers.

With the exception of GTE's Tampa, Fla., telco, MCI's competitive local exchange carrier (CLEC) - MCImetro - largely isn't targeting cities where GTE is the incumbent LEC. GTE's telcos mostly provide services in outlying suburban areas beyond MCImetro's target, Mr. Barr said. He did note a limited number of areas where MCImetro's target markets overlap with GTE's local service area. Such a case exists in greater Seattle, where MCImetro primarily competes with U S WEST Communications, Inc., downtown but also offers CLEC services in the suburb of Redmond, where GTE is the incumbent.

And unlike certain reports regarding WorldCom (TR, Oct. 6, p. 34), Mr. Barr said GTE has no plans to abandon the consumer long distance market. A combined GTE-MCI "will reach all consumers and has the potential to serve all consumers." Further, he said a GTE-MCI union, much more than a merged WorldCom-MCI, would have the "wherewithal" to deploy facilities and provide "true" competition, as opposed to reselling an incumbent telco's product. "We expect [a merger of GTE and MCI] to be approved by all the regulators in the states and the federal government who will look at it," Mr. Barr said.

On the other hand, Mr. Barr called a WorldCom-MCI union "largely horizontal" and said it would represent "an amalgamation of two former competitors." Such a union would combine the nation's second- and fourth-largest facilities-based CLECs and the largest and second-largest backbone data network providers, he added. A WorldCom-MCI merger "raises far more serious antitrust concerns," Mr. Barr argued.

WorldCom Takeover "Cleaner, Quicker"

At the WorldCom press conference, Washington attorney Andrew D. Lipman said WorldCom already has filed applications to transfer MCI's licenses to an independent trustee with most of the necessary state and federal regulatory bodies. The company expects to receive FCC and antitrust approvals by the end of first quarter 1998, if not sooner. That would allow MCI shareholders to realize their profits almost a year before any proceeds could be received by GTE, he said. "Our deal is in the pipeline and ready to go."

Mr. Lipman said GTE, which is seeking to sign a mutually agreed upon merger pact with MCI, wouldn't have the option of temporarily transferring control of MCI to a trustee until final FCC approval is gained. FCC policy doesn't allow companies with friendly takeover agreements to use the voting trust mechanism, he said. Otherwise, every merger agreement that comes before the Commission would be structured that way, he said. The process of temporarily transferring to a trustee control of a company that's the target of a hostile takeover was established by the FCC in 1986, Mr. Lipman recalled.

In a friendly merger, GTE wouldn't be able to employ the voting trust. It would go before federal and state authorities under a process similar to the one Bell Atlantic Corp./NYNEX Corp. and SBC Communications, Inc./Pacific Telesis Group employed to gain approvals for their mergers, Mr. Lipman said. As with those proceedings, "A GTE-MCI proceeding likely would take up to a year," he said. Thus MCI shareholders wouldn't be able to realize profits until first quarter 1999, a full year after they already would have received WorldCom shares.

In a statement issued in response to the WorldCom press conference, GTE said, "WorldCom is dead wrong. There is no doubt that GTE can use the FCC voting trust procedures to respond to WorldCom's hostile offer," said GTE's outside counsel, Washington attorney Richard E. Wiley.

"The FCC clearly and unambiguously has held that once there is an outstanding hostile offer, a competing friendly offeror can avail itself of the same voting trust procedures as the hostile offeror," said Mr. Wiley. He pointed to two precedents. In a 1993 case involving the transfer of broadcast television licenses, Viacom, Inc. - the friendly suitor in a nasty takeover battle with QVC, Inc., for Paramount Communications, Inc. - was permitted to use the voting trust mechanism. In 1986 the FCC approved a voting trust for Rellance Capital Group's friendly acquisition of John Blair & Co.

Mr. Wiley said, "The whole rationale of the FCC's policy is that, in the context of competing offers, shareholders should be able to make their decision based on economic value, unencumbered by differences in predictions over the timetable for regulatory approval."

At the WorldCom conference Mr. Lipman said that adding to the potential delay is the fact that a GTE-MCI merger would have to go before the California Public Utilities Commission. Given GTE's status as a large local exchange carrier

in that state, the California commission likely would take its time reviewing a GTE-MCI deal, as it did with SBC's takeover of Pacific Telesis. The commission also likely would demand a pound of flesh, as when it required Pacific Bell to refund $247.5 million to ratepayers as a condition of approval (TR, April 7).

The WorldCom counsel predicted a proposed WorldCom-MCI merger would sail through regulatory reviews. WorldCom is a veteran at pushing mergers and acquisitions through, Mr. Lipman said. "Given our status as a non-dominate carrier, we believe that we can get all the federal, state, and other approvals done by the end of the first quarter 1998...Our deal is much faster and cleaner."

Mr. Lipman contended that GTE has sour relations with the FCC and state regulatory commissions, which would result in those regulatory bodies taking an excruciatingly close look at any GTE-MCI deal. "GTE has essentially treated the FCC as a punching bag on local competition," he said, noting that it was GTE who took the lead in appealing the Commission's regulations implementing the local competition provisions of the 1996 Telecommunications Act. And GTE has filed 25 lawsuits in 19 states challenging "carder interconnection" arbitration orders.

Regulatory concerns aside, Mr. Lipman argued that WorldCom and MCI simply make a better fit. "MCI and WorldCom have a lot in common. We have similar legacies, missions, and competitive instincts...We have both forged significant inroads in businesses dominated by incumbent industry giants. Together we have a better chance of challenging the entrenched local monopolies - GTE and the [Bell companies] - than either of us would on our own," he said.

GTE, on the other hand, is an old local telephone monopoly, he said. "GTE has a widespread reputation of being anticompetitive to the opening of its markets - local competition and interconnection," Mr. Lipman said. "I would think [former MCI Chairman] Bill McGowan would have to return from his grave to haunt any GTE takeover of the once competitive MCI. You can't find two more different corporate cultures." GTE has the least consumer friendly reputation and is the most bureaucratic of the local exchange carriers, he charged.

Further a WorldCom-MCI union would generate greater economic efficiencies, Mr. Lipman said. Cost synergies resulting from a WorldCom-MCI merger have been estimated to be about $2.5 billion. It has been estimated that a GTE-MCI merger would create synergies resulting in $1.5 billion in cost savings.

Mr. Lipman discounted Mr. Barr's argument that MCImetro only is taking GTE head on in Tampa. "MCI is seeking interconnection agreements with GTE in 10 states," he said. "What GTE is doing is seeking to eliminate its most likely competitor." This is not the kind of merger envisioned by Congress when it passed the 1996 Act, he said.

---- Index References ----

Company: AT&T INC; SBC COMMUNICATIONS INC; QVC INC; MARSK CONTAINER INDUSTRI AS; WORLDCOM; MOTOR COACH INDUSTRIES INTERNATIONAL INC; MCI WORLDCOM INC; LCA J; NYNEX CORP; VIACOM INTERNATIONAL INC; VERIZON COMMUNICATIONS INC; MCI LLC; PACIFIC TELESIS GROUP; GTE CORP; FOMENTO DE CONSTRUCCIONES Y CONTRATAS SA; WORLDCOM INC; VIACOM INC; MCI; PARAMOUNT COMMUNICATIONS INC; MCI INC; GTE DELAWARE LP; MCI COMMUNICATIONS CORP; BELL ATLANTIC CORP; GTE INTERNETWORKING; SHAREHOLDERS; CBS CORP; FEDERAL COMMUNICATIONS COMMISSION; WORLDCOM INC WORLDCOM GROUP

News Subject: (Monopolies (1MO68); Major Corporations (1MA93); Economics & Trade (1EC26); Antitrust Regulatory (1AN52); Corporate Groups & Ownership (1XO09); Mergers & Acquisitions (1ME39); Business Management (1BU42))

Industry: (CLECs & Alternative Carriers (1CL29); Telecom Regulatory (1TE65); Telecom Carriers & Operators (1TE56); TV Regulatory (1TV84); Telecom (1TE27); Broadcast TV Regulatory (1BR23); Entertainment (1EN08); Wireline Telecom Regulatory (1WI37); Broadcast TV (1BR25); TV (1TV19))

Region: (North America (1NO39); USA (1US73); Americas (1AM92); Florida (1FL79); Washington (1WA44))

Language: EN

Other Indexing: (BELL ATLANTIC CORP; CALIFORNIA; CALIFORNIA PUBLIC UTILITIES COMMISSION; CLECS; COMMISSION; CONGRESS; CORP; FCC; GTE; GTE MCI; GTE CORP; JOHN BLAIR CO; LEC; MCI; MCI COMMUNICATIONS CORP; NYNEX CORP; PACIFIC TELESIS; PACIFIC TELESIS GROUP; PARAMOUNT COMMUNICATIONS INC; QVC; RELLANCE CAPITAL GROUP; SBC; SBC COMMUNICATIONS INC; SHAREHOLDERS; VIACOM INC; WEST COMMUNICATIONS INC; WORLDCOM; WORLDCOM MCI; WORLDCOM INC) (Andrew D. Lipman; Barr; Bill McGowan; Lipman; MCImetro; Richard E. Wiley; Wiley; William P. Barr; William P. Barrs)

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1997 WLNR 3604169

Communications Daily

October 24, 1997

WORLDCOM SEES ITS MCI BID AS QUICKER AND CLEANER THAN COMPETING GTE OFFER

WorldCom said Thurs. its bid for MCI has fewer regulatory risks and better chance of creating strong IXC-LEC competitor than competing GTE offer, which could become "lightning rod" for RHCs to demand quicker long distance entry. Lawyers said what they called GTE's history of blocking competitors' access to markets will result in considerable scrutiny, delaying process and denying benefits to investors. Andrew Lipman of Swidler & Berlin, counsel to WorldCom, said $30-billion WorldCom deal could be completed by first quarter of 1998 but GTE process could take until end of next year. "We have a much cleaner path than our opponent [GTE]," Federal Affairs Vp Catherine Sloan said. WorldCom response came 2 days after GTE Gen. Counsel William Barr painted WorldCom deal as fraught with anticompetitive issues (CD Oct 22 p2).

GTE and WorldCom appear to have adopted strategies to boost consideration of own plans by attacking competitor, sometimes using harsh language and comparisons. In fact, Sloan joked at D.C. briefing for reporters that she was part of "truth squad" to offset GTE comments earlier. As lawyers battled in press, top executives and outside advisers began meeting separately to discuss each proposal. MCI CFO Douglas Maine confirmed separate meetings with 2 companies and British Telecom to "evaluate these proposals more fully" and consider "very complex" issues. Review will be in "context of the BT merger and accordingly [board and management] will make a recommendation to shareholders." WorldCom and GTE signed confidentiality agreements with MCI to begin discussions.

Lipman portrayed GTE as anticompetitive, citing its leadership in challenging FCC authority to set rates and conditions for local markets. He said it has used FCC as "punching bag" in repeated challenges to rules issued to carry out Telecom Act. By comparison, he said, WorldCom has introduced competition successfully in many markets, first in long distance and, through MFS acquisition, local markets.

Timing is key issue for WorldCom, and Lipman repeatedly stressed ability to obtain regulatory approvals more quickly than GTE. For example, he said, WorldCom had filed applications in 50 states seeking quick review and approval of deal. GTE told analysts last week it expected to close deal by end of year, and has calculated benefits of combination starting in early 1999. Lipman said state regulatory review in states where GTE is incumbent LEC are likely to delay final approval but WorldCom-MCI combination of nondominant carriers would be quicker. He noted WorldCom's track record in quickly closing similar deals with smaller carriers.

In answer to questions, however, Sloan and Lipman said even if unsolicited offer turns into negotiated deal involving MCI and WorldCom, timing remains same even though MCI-BT partnership took more than year to win approvals. Sloan said agencies already have conducted review of BT as part of existing deal.

WorldCom said it expected SEC approval of tender offer by end of month, with FCC proceeding on proposed voting trust executive by middle of next month. Lipman said company was confident it would receive all regulatory approvals, including Justice Dept., FCC and state commissions, by early next year, allowing it to complete deal by end of first quarter.

GTE "waged all-out war on the FCC and progressive state regulators," Lipman said, was "protagonist" in seeking court reversal of Commission rules, challenged interconnection agreements approved by 25 states and argued at 20 state commissions seeking rural LEC exemptions "that it's the largest local exchange carrier." He said: "GTE has the widespread reputation of being anticompetitive." He referred to MCI's own news releases and to speeches by Chmn. Bert Roberts and other executives, who have challenged GTE on its action dealing with opening its local markets.

GTE-MCI deal also is likely to prompt RHCs to argue that approval of merger involving monopoly in 29 states should lead FCC to approve RHC Sec. 271 applications on ground that either GTE should be treated like RHCs or RHCs should get same benefits as GTE. WorldCom made similar argument earlier in week, noting chorus of RHC officials who have hinted at such strategies. GTE deal "will become a lightning rod for competition issue" with RHCs, Lipman said, while WorldCom's nondominant status will allow it to escape such scrutiny before FCC and other states. GTE probably would face intense scrutiny, Lipman said, and Cal. PSC would demand refunds to GTE customers based on benefits of merger -- argument it sought to make in SBC-Pacific Telesis transaction.

Lipman accused GTE of trying to "deflect the focus from the flaws and inefficiencies" of its own proposal by attacking as WorldCom bid as anticompetitive. GTE is seeking "to blunt or negate" issues likely to be raised in its bid. Lipman said FCC and other regulators should apply same conditions as they imposed on Bell Atlantic-Nynex merger and should treat them "not as a ceiling but as a floor."

In Oct. 21 GTE briefing, Barr said WorldCom deal would "raise far more serious anticompetitive" concerns for regulators and said GTE offer had 5 procompetitive benefits that would: (1) Jump-start facilities-based competition. (2) Create stronger competitor to AT&T-RHCs that dominate U.S. market. (3) Form company able to offer all products, not niche services. (4) Establish company with ability to spend $9 billion annually on infrastructure. (5) Create ability to serve to all customers, not only high-price businesses. WorldCom deal would create single company that Barr said would control 28% of IXC market and would violate Justice Dept. guidelines.

---- Index References ----

Company: INTERMEDIA COMMUNICATIONS INC; MCI INC; PACIFIC TELESIS GROUP

News Subject: (Monopolies (1MO68); Legal (1LE33); Mergers & Acquisitions (1ME39); Antitrust Regulatory (1AN52); Technology Law (1TE30); Major Corporations (1MA93); Economics & Trade (1EC26); Corporate Groups & Ownership (1XO09))

Industry: (Telecom Carriers & Operators (1TE56); Telecom Regulatory (1TE65); Telecom (1TE27); Manufacturing (1MA74))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (ATLANTIC NYNEX; BT; FCC; FEDERAL AFFAIRS VP CATHERINE SLOAN; GTE GEN; IXC; JUSTICE DEPT; LEC; MCI; MFS; PACIFIC TELESIS; PSC; SEC; SLOAN; WORLDCOM; WORLDCOM MCI) (Andrew Lipman; Barr; Bert Roberts; COMPETING GTE; GTE; Lipman; RHC; RHC Sec.; RHCs; William Barr)

Word Count: 1257

Document: GTE COMES TO LIFE Bid for MCI puts phone firm on the map

GTE COMES TO LIFE
Bid for MCI puts phone firm on the map

The San Francisco Chronicle

OCTOBER 24, 1997, FRIDAY, FINAL EDITION

Section: BUSINESS; Pg. B1

Length: 1423 words

Byline: Jonathan Marshall, Chronicle Staff Writer

Body

California's ''other'' phone company is finally stepping out of the backwater into the front ranks of U.S. telecommunications giants.

Connecticut-based GTE Corp., which serves about a fifth of California residents, has long been dismissed as a sleepy, backward phone company. It serves a patchwork of mostly small, rural or suburban communities -- the ones AT&T ignored while forming its monopoly in the early part of the century.

But GTE's $ 28 billion, all-cash offer for MCI Communications last week has made it a real contender in the global telecom sweepstakes. With a recent series of bold acquisitions and partnerships, it has become one of the country's first full-service carriers.

GTE

GTE already serves customers in 29 states and generated revenues of more than $ 21 billion last year. Combining its far-flung local phone network with MCI's long-distance operations would pull in more than $ 40 billion in revenues. It would control 21 million local lines, 24 million long-distance customers, 5 million wireless users and have a commanding position in the Internet service business.

''Ten years from now we'll be one of the leading global firms competing for telecommunications services to customers around the world,'' said Kent Foster, president of GTE.

Belying its stodgy reputation, GTE this year spent $ 465 million to buy into an ultra-modern fiber-optic network built by Qwest Communications Corp. in Denver. This will give GTE a super-fast highway for voice and data services across the country.

And it paid $ 616 million for Cambridge-based BBN Corp., one of the country's premier suppliers of Internet and data services to corporate America, including AT&T, Intel and Hewlett Packard. GTE also pledged to spend hundreds of millions of dollars on the latest networking equipment from Cisco Systems and other suppliers.

GTE plans to create the world's fastest Internet backbone, said Foster. Within a few years, he predicted, the same backbone will be used to carry voice traffic, digitally coded to travel over the Internet more cheaply than over traditional phone networks.

''Their overall strategy is quite brilliant,'' said Barry Sine, an analyst at SBC Warburg Dillon Read. ''They are accumulating a critical set of assets needed to be one of the major players in this industry.''

GTE says it was the first telephone company to offer, on one bill, a complete bundle of services including local, long distance, wireless and Internet, giving it a key competitive advantage. Its geographic breadth and diverse strengths set it apart from most other phone companies:

* Its wireless division serves 4.3 million customers in 17 states, including the Bay Area, making it the fifth largest wireless service provider in the United States. GTE's Airfone service, which operates on nearly 2,000 planes, has handled more than 75 million calls since it began three years ago.

* Since it began offering long- distance service last year in all 50 states, GTE has already signed up 1.5 million customers.

* GTE had $ 2.8 billion in revenues last year from international operations, including phone companies in Canada, the Dominican Republic and Venezuela. It has wireless ventures in Argentina and Taiwan and now runs a paging service in China.

* The company also has cable TV systems serving about 40,000 customers in Ventura County and the Tampa Bay area in Florida. It offers the nation's only interactive TV service, which lets people shop, bank, play games and prepare for the Scholastic Aptitude Test at home. By 2004, the company plans to offer video in 66 markets with 7 million people.

* In less than a year, GTE has become a mid-size Internet service provider, with 200,000 customers. It also offers high-speed, two-way Internet access to cable customers for about $ 50 a month.

One of GTE's greatest strengths, however, is its legal and lobbying clout, thanks in no small part to the savvy of its chief counsel, former U.S. Attorney General **William Barr**.

Barr helped persuade Congress, in the 1996 Telecommunications Act, to give GTE the right to offer long-distance service, while regional Bell companies remain barred from that market until they prove to federal regulators that their local markets are fully open to competition.

Barr has also filed successful lawsuits blocking decrees by the Federal Communications Commission aimed at making GTE and other local phone companies more open to competition.

These victories have competitors fuming. AT&T and MCI, for example, complain that GTE resisted letting them into its local markets, contrary to the intent of the 1996 act.

In California, GTE began switching customers over to AT&T only this month, and at a rate of only 10 per day, said Lois Hedg-peth, president of AT&T's Pacific region. She said GTE is about a year behind Pacific Bell in opening its markets.

''GTE is world class at obstructing local competition,'' she charged. ''Getting them to open up their markets is as hard as getting a 2-year-old to sit still for a day.''

Larry Cox, a spokesman for GTE, denied the accusation. ''These competitors just aren't ready to roll out their services to market,'' he said. ''We haven't turned down any AT&T orders for customers.''

GTE also has a bad reputation to live down with many local customers in California. ''Historically it's had terrible service quality,'' said Regina Costa, an analyst with The Utility Reform Network, a consumer organization based in San Francisco.

But GTE's Cox said that impression is outdated and reflects an era when the company's reliance on antiquated gear did indeed set it apart from more progressive companies.

In the late 1980s, he said, GTE invested $ 5 billion in California to leapfrog Pacific Bell with the latest technology. By 1995, he said, GTE was the only phone company in California to boast a 100 percent digital network. Digital systems are the state of the art for reliability, quality and security.

Bay Area residents are likely to hear more from GTE as it expands outside its traditional service territories, which are concentrated mostly in Southern California.

''Northern California is one of the markets we are targeting for expansion,'' said GTE's Foster. ''We intend to offer a package of local, long-distance, wireless, Internet and other services.''

GTE has already bid for many government and small-business customers in Pacific Bell territory, said Todd Eliason, president of Business Markets for GTE Communications Corp., based in Dallas.

GTE has won numerous emergency 911 contracts with public agencies, including a recent five-year, million-dollar deal with the Oakland police department. And it won a prize Internet service account for a media lab in Beverly Hills run by Creative Artists Agency and Intel Corp.

It is also competing to provide telecommunications services to several major California universities and the state of California.

GTE still faces significant challenges as it struggles to join the premier ranks of telecommunications providers. In the long-distance market, for example, it merely resells service prodvided by WorldCom -- the company that's bidding against GTE for MCI.

And GTE's wireless operations are flagging, said Michael Elling, an analyst at Prudential Securities. Customer growth has slowed dramatically since new competitors, such as PCS companies, have entered GTE's cellular markets. ''They are proving they don't know how to compete,'' he said.

Finally, GTE's proposed MCI acquisition raises questions of how two very different corporate cultures could be joined.

If MCI's enrepreneurial zest rubs off on GTE, the combination would be a success. But if GTE's less-competitive culture dominates, the merger could be a bust.

''It would take incredible energy and coordination to bring those two companies together,'' said Steve Koppman, an analyst at Northern Business Information.

The takeover would also load GTE with $ 54 billion in debt. Moody's Investors Service last week lowered its rating on GTE's long-term debt and preferred stock a notch.

But some analysts say those are only temporary blemishes on a bright picture.

''Raising their debt is troublesome, but with some patience, GTE will satisfy all the rating agencies that it is worthy of increases'' in debt ratings, said Axxel Knutson, an analyst at Montrose Capital Management in New York. ''MCI substantially increases the long-term merit of GTE. GTE has the potential for extraordinary earning power if they get their act together.''

Classification

Language: ENGLISH

Subject: TELECOMMUNICATIONS SECTOR PERFORMANCE (90%); FIBER OPTICS (89%); SUBURBS (72%); SWEEPSTAKES (70%); MULTINATIONAL CORPORATIONS (70%)

Company: VERIZON COMMUNICATIONS INC (98%); BBN CORP (66%); CENTURYLINK INC (58%); CISCO SYSTEMS INC (55%); INTEL CORP (53%); HEWLETT-PACKARD CO (53%); VERIZON COMMUNICATIONS INC (98%); BBN CORP (66%); CENTURYLINK INC (58%); CISCO SYSTEMS INC (55%); INTEL CORP (53%); HEWLETT-PACKARD CO (53%)

Ticker: VZC (LSE) (98%); VZ (NYSE) (98%); CTL (NYSE) (58%); CSCO (NASDAQ) (55%); INTC (NASDAQ) (53%); HPQ (NYSE) (53%)

Industry: TELECOMMUNICATIONS SERVICES (94%); TELECOMMUNICATIONS (91%); LONG DISTANCE TELEPHONE SERVICE (90%); TELECOMMUNICATIONS SECTOR PERFORMANCE (90%); TELEPHONE SERVICES (90%); WIRED TELECOMMUNICATIONS CARRIERS (89%); TELECOMMUNICATIONS EQUIPMENT (89%); WIRELESS INDUSTRY (89%); FIBER OPTICS (89%); COMPUTER NETWORKS (88%); TELECOMMUNICATIONS EQUIPMENT MFG (78%); LOCAL TELEPHONE SERVICE (78%); WIRELESS TELECOMMUNICATIONS CARRIERS (74%); INTERNET SERVICE PROVIDERS (74%); TELEPHONIC EQUIPMENT (71%); SWEEPSTAKES (70%); INDUSTRY ANALYSTS (68%); NETWORKING EQUIPMENT (68%)

Geographic: CALIFORNIA, USA (92%); CONNECTICUT, USA (79%); UNITED STATES (92%)

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WashingtonPost.com

October 24, 1997

MCI REPORTS 3RD-QUARTER LOSS, CITES ONE-TIME SPECIAL CHARGE

Mike Mills

MCI Communications Corp. yesterday reported a net loss of $182 million for its third quarter, which it attributed to a one-time charge. It disclosed the numbers as two companies making rival bids for MCI said each other's proposal was likely to trigger regulatory problems. Without the after-tax charge of $317 million, which was related to restructuring several business customer contracts, eliminating some retail stores and other items, MCI would have earned $135 million in net income (19 cents a share), down from 55 percent from $304 million (44 cents) a year earlier. Analysts said those lower results reflect the cost of its continuing struggle to enter the local phone market and to counter slow growth in its long-distance business by focusing more on the highest-paying customers.

"This is a company that has had some problems in its core business, local and long-distance, and is in a transition period to address those problems," said Barry Sine, an analyst for securities firm SBC Warburg Dillon Reed Inc. in New York. MCI's efforts to enter the local telephone market will cost the company about $700 million this year, instead of the $800 million projected earlier, the company said. Revenue from the local phone business doubled to $92 million in the quarter. Total revenue for the quarter was $4.82 billion, a 3 percent increase from $4.69 billion during the same period last year. For the nine-month period, MCI's net income dropped 56 percent, to $393 million (56 cents) from $899 million ($1.29) including the charges. MCI's results, while in line with Wall Street estimates, are of heightened interest because of a battle for control of the company. British Telecommunications PLC had planned to buy the company for about $21 billion. Then, on Oct. 1, WorldCom Inc. offered $30 billion in stock. Two weeks later GTE Corp. entered the bidding with a $28 billion all-cash offer. British Telecom isn't likely to bid higher, analysts say, but the 20 percent stake it already owns in MCI makes it a key player in negotiations. WorldCom shares have fallen since GTE's offer, and yesterday briefly dipped below a $34 floor upon which its offer was contingent, before closing at $34, down 31 1/4 cents a share. If WorldCom buys MCI and WorldCom shares trade below $34, MCI shareholders would make less money on the deal. WorldCom and GTE officials yesterday escalated public attacks on each other. "Our deal is much faster and cleaner than that of GTE," said Catherine Sloan, WorldCom's top Washington lobbyist. "Our deal carries a lot less regulatory risk." The Justice Department and the Federal Communications Commission, which must approve any such merger, likely would impose stiff conditions on an acquisition of MCI by GTE, Sloan said. GTE has resisted opening its local telephone markets to competitors, she said, and regulators would frown upon the loss of MCI as a competitor in GTE's local markets. WorldCom's outside counsel Andrew Lipman added that GTE's bid for MCI would become a "lightning rod" for the regional Bell companies, which would demand to be allowed into the long-distance business immediately if GTE is allowed to purchase MCI. "WorldCom would pose more of a problem for regulators," said GTE general counsel William Barr, in a phone interview on Tuesday. "Theirs is just a traditional horizontal merger that would involve the number two and number four long-distance carriers. And in the data market, it would combine the number one and two Internet access providers." Barr said, however, that GTE would consider accepting regulatory conditions to a GTE-MCI

merger that would address concerns about competition. "I recognize that there are some peripheral overlaps that you find in any large deal like this," he said. He cited Tampa, where MCI Metro is competing against GTE for downtown business customers, as an "obvious" example. "If they {regulators} feel there is not enough competition, they could make a condition that we spin off Metro" in Tampa, he said.

---- Index References ----

Company: GTE CORP; MCI INC; BELL INDUSTRIES INC; MCI COMMUNICATIONS CORP; BT GROUP PLC; TECH MAHINDRA LTD

News Subject: (Corporate Events (1CR05); Business Management (1BU42); Corporate Financial Data (1XO59); Mergers & Acquisitions (1ME39); Corporate Groups & Ownership (1XO09))

Industry: (Telecom (1TE27))

Region: (Florida (1FL79); USA (1US73); North America (1NO39); Americas (1AM92); U.S. Southeast Region (1SO88))

Language: EN

Other Indexing: (SBC WARBURG DILLON) (Andrew Lipman; Catherine Sloan; Barry Sine; Bill Barr)

Word Count: 656

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Document: GTE CONSIDERS COMPETITION

GTE CONSIDERS COMPETITION

Pittsburgh Post-Gazette (Pennsylvania)

October 23, 1997, Thursday,, SOONER EDITION

Section: BUSINESS,; NEWS BRIEFS

Length: 111 words

Body

GTE Corp. said it would consider making it easier for competitors to gain a foothold in the company's local phone markets, if necessary, in order to win federal approval of its $ 33.51 billion bid for MCI Communications Corp. **Bill Barr**, GTE's top lawyer and former U.S. attorney general, was confident that the acquisition plan would gain the required approval from the Justice Department and Federal Communications Commission. Still, he said GTE might further open its markets to competition if that's what government officials demand.

This column contains information from local and wire dispatches, including Associated Press, Reuters and Bloomberg News.

Classification

Language: ENGLISH

Subject: ATTORNEYS GENERAL (78%); APPROVALS (77%); LAWYERS (73%); ENERGY & UTILITY LAW (72%); JUSTICE DEPARTMENTS (72%)

Company: VERIZON COMMUNICATIONS INC (95%); ASSOCIATED PRESS (57%); BLOOMBERG LP (57%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (57%); US DEPARTMENT OF JUSTICE (57%); US DEPARTMENT OF JUSTICE (57%); FEDERAL COMMUNICATIONS COMMISSION (57%)

Ticker: VZC (LSE) (95%); VZ (NYSE) (95%)

Industry: LAWYERS (73%); ENERGY & UTILITY LAW (72%)

Geographic: UNITED STATES (79%)

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Document: Willing to lose serviceGTE CORP.: Phone company might op…

Willing to lose service
GTE CORP.: Phone company might open markets if it helps deal for MCI.

Ventura County Star (California)

October 23, 1997, Thursday

Section: Business; Pg. D01

Length: 547 words

Byline: Bloomberg News

Body

Washington -- GTE Corp. would consider making it easier for competitors to gain a foothold in the company's local phone markets if necessary to win federal approval of its $33.51 billion bid for MCI Communications Corp., GTE's general counsel said.

GTE operates its GTE California regional division in Thousand Oaks.

Bill Barr, GTE's top lawyer and former U.S. attorney general, said he was confident the acquisition plan would gain the required approval from the Justice Department and Federal Communications Commission.

Still, he told the Bloomberg Forum that GTE might further open its markets to competition if that's what government officials demand.

The company would "certainly consider anything they suggest," Barr said. "We think our markets are open, but if they have specific concerns, we're obviously willing to talk about that."

Barr said he expected the Justice Department will need until the second quarter of 1998 to make any decision on GTE's bid for MCI or on WorldCom Inc.'s competing offer. GTE is offering $28.32 billion in cash, or $40 a share, while WorldCom is bidding $41.50 a share, or $29.38 billion, in stock. Both companies would assume about $5.19 billion in debt.

The Justice Department and the FCC each must sign off on any acquisition involving MCI. The Justice Department, which looks for antitrust problems, generally decides on telecommunications mergers first. The FCC then considers whether the combination is in the public interest.

Barr said GTE also might sell part of the MCImetro Inc. unit, which offers local phone service in selected cities around the country, mainly to businesses. Justice Department and FCC officials are expected to ask whether competition would suffer in places where both GTE and MCI sell local service.

Those areas include Tampa, Fla., where both companies sell, and three other places -- Seattle, Washington; Portland, Ore.; and Raleigh-Durham, N.C. -- in which MCI does business in the city and GTE sells service in nearby areas.

"There are quick fixes that can be adopted there -- perhaps the sale of the Metro facilities in that city," Barr said.

That would mean dropping parts of a business in which MCI already has invested, and lost, a lot of money. In July, MCI said it could lose more than $800 million in the local phone market this year.

Barr downplayed the possibility that GTE would accept FCC pricing rules struck down by a federal appeals court in July. He said the appeals court ruling left local phone pricing decisions to the states, not the FCC.

"It's something that GTE is not in position to give away, in a sense," Barr said.

GTE lawyers already have met with top Justice Department and FCC officials to discuss the combination. They're trying to convince regulators that the acquisition would be pro-competitive, in part because the new company could offer one-stop shopping for customers -- the possibility of local, long-distance, wireless and data services all in one.

Although government officials have just begun their review, the reaction from the Justice Department so far has been generally positive, Barr said.

"People appreciate that these companies may indeed make a very good marriage and a strong competitor in the marketplace," he said.

Classification

Language: English

Subject: US FEDERAL GOVERNMENT (90%); ENERGY & UTILITY LAW (90%); JUSTICE DEPARTMENTS (90%); APPELLATE DECISIONS (89%); LAWYERS (89%); PRICES (89%); PRICE MANAGEMENT (78%); APPROVALS (77%); DECISIONS & RULINGS (77%); ATTORNEYS GENERAL (76%); LAW COURTS & TRIBUNALS (75%); TALKS & MEETINGS (75%); CORPORATE COUNSEL (72%); APPEALS (72%); APPEALS COURTS (60%)

Company: VERIZON COMMUNICATIONS INC (98%); GTE CORP (97%); MCI COMMUNICATIONS CORP (92%); WORLDCOM INC (64%); JUSTICE DEPARTMENT (92%); FEDERAL COMMUNICATIONS COMMISSION (92%)

Organization: US DEPARTMENT OF JUSTICE (85%); US DEPARTMENT OF JUSTICE (85%); FEDERAL COMMUNICATIONS COMMISSION (84%); FEDERAL COMMUNICATIONS COMMISSION (84%)

Ticker: VZC (LSE) (98%); VZ (NYSE) (98%)

Industry: ENERGY & UTILITY LAW (90%); LAWYERS (89%); LOCAL TELEPHONE SERVICE (89%);

TELECOMMUNICATIONS (78%); PRICE MANAGEMENT (78%); TELECOMMUNICATIONS SERVICES (78%); COMMUNICATIONS REGULATION & POLICY (75%); TELEPHONE SERVICES (73%); CORPORATE COUNSEL (72%)

Geographic: TAMPA, FL, USA (79%); SEATTLE, WA, USA (79%); RALEIGH, NC, USA (77%); PORTLAND, OR, USA (67%); DURHAM, NC, USA (53%); NORTH CAROLINA, USA (79%); OREGON, USA (79%); WASHINGTON, USA (79%); CALIFORNIA, USA (79%); FLORIDA, USA (79%); UNITED STATES (93%)

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1997 WLNR 3631309

Communications Daily

October 22, 1997

WORLDCOM AND GTE LAWYERS TRADE CLAIMS ON COMPETITIVE BENEFITS OF MCI MERGER

MCI would be more powerful competitor by merging with WorldCom or GTE, but top lawyer of each company sharply disagreed Tues. on likely market benefits, ease of regulatory review, approval of either's competitive bid. WorldCom lawyer Andrew Lippman said GTE effort to position $29-billion cash offer as supporting Telecom Act "blinks reality" and ignores GTE's repeated legal efforts to block access in 29 states. GTE Gen. Counsel William Barr said that WorldCom deal would "raise far more serious anticompetitive" concerns for regulators and that GTE offer had 5 pro-competitive benefits.

WorldCom has focused its argument mostly on financial benefits of its all-stock offer, but in response to GTE publicity campaign several WorldCom executives launched counterattack. Lippman called GTE effort "big lie" in which it was focusing on benefits but ignoring company's history of waging legal battles in 19 states against market-opening efforts. He suggested FCC and Justice Dept. (DoJ) reviews would impose conditions similar to restriction in Bell Atlantic-Nynex merger, approved in Sept., to accelerate market opening. "Bell Atlantic should be a floor," Lippman told us.

Bidding for company has kept top executives of 3 U.S. companies occupied, working through financial analyses, legal issues and regulatory strategies, although top executives have remained silent. In luncheon meeting with reporters in Washington, Barr said GTE deal doesn't have "anticompetitive" issues and he expects regulatory approval. GTE-MCI has 5 benefits, he said, because it would: (1) Jump-start facilities-based competition. (2) Create stronger competitor to AT&T-RHCs that dominate U.S. market. (3) Form company able to offer all products, not niche services. (4) Establish company with ability to spend $9 billion annually on infrastructure. (5) Create ability to provide service to all customers, not only high-price businesses.

Barr said WorldCom-MCI would combine No. 2 and No. 4 IXCs to create single company that he said would control 28% of long distance market "in an already consolidated market that would violate DoJ guidelines." On data side, combination of MCI with its backbone network and WorldCom through UUNet would control almost 40% of data moving on Internet, he said, and both levels warrant antitrust reviews. When asked about GTE's own Internet service, Barr said its acquisition of BBN gave it reseller of Internet access, not facilities that controlled access. He said WorldCom already has suggested new pricing plan for handing off Internet traffic, based on volume, abandoning traditional bill-&-keep arrangement. WorldCom dropped plan after outcry among Internet providers.

GTE bid for MCI, and its pro-competition arguments, prompted several critics to recall MCI's own complaints -- legal and public -- that GTE has been acting to thwart competition. Most recently, MCI Pres. Timothy Price charged that GTE "is rapidly becoming known... as the world champion litigator," citing 25 suits in 19 states challenging arbitration orders. Chmn. Bert Roberts last year also complained that GTE was seeking "guaranteed profits they always received in the past" by blocking access to markets.

However, questioned about GTE's position in-region, Barr said that combining GTE and MCI wouldn't reach level where antitrust concerns would be triggered. He said GTE-MCI deal: (1) Doesn't preclude competition by eliminating potential local players. (2) Doesn't "fortify" GTE at expense of potential competitors, noting that MCI market share in GTE territory is 13%. (3) Doesn't alter local market footprint as would RHC-AT&T merger. He rejected argument that FCC or DoJ might impose conditions on in-region operations, saying such move would place GTE at competitive disadvantage to RHCs.

Lippman said GTE plan ignores fact that in some markets, such as Honolulu, Tampa and W. L.A., GTE has more than 25% of long distance customers, and linkup with MCI would increase penetration to detriment of other carriers. Regulatory review, he said, should include analysis of GTE on market basis, not against U.S. model -- where company claims it carries 1% of long distance traffic. He said FCC should treat GTE as if it were an RHC for purposes of reviewing merger.

---- Index References ----

Company: BELL ATLANTIC CORP; INTERMEDIA COMMUNICATIONS INC; MCI INC

News Subject: (Legal (1LE33); Antitrust Regulatory (1AN52); Technology Law (1TE30); Monopolies (1MO68); Mergers & Acquisitions (1ME39); Major Corporations (1MA93); Economics & Trade (1EC26); Corporate Groups & Ownership (1XO09))

Industry: (Internet Regulatory (1IN49); Telecom Carriers & Operators (1TE56); Telecom Regulatory (1TE65); Internet Usage Statistics (1IN79); Internet (1IN27); Manufacturing (1MA74); Telecom (1TE27); Internet Technology (1IN39))

Region: (Americas (1AM92); North America (1NO39); USA (1US73))

Language: EN

Other Indexing: (BBN; BELL ATLANTIC; BELL ATLANTIC NYNEX; FCC; GTE GEN; JUSTICE DEPT; MCI; MCI PRES; RHC; WORLDCOM) (Andrew Lippman; Barr; Bert Roberts; Counsel William Barr; DoJ; GTE; GTE LAWYERS TRADE CLAIMS; Lippman; Timothy Price; W. L.A., GTE)

Word Count: 939

End of Document

Document: MCI meets to sort out merger bids

MCI meets to sort out merger bids

USA TODAY

October 22, 1997, Wednesday,, FINAL EDITION

Section: MONEY;

Length: 324 words

Byline: Paul Davidson

Body

MCI's board is expected to meet, perhaps as early as today, to weigh the takeover offers of its three suitors: British Telecom, WorldCom and GTE.

MCI has not commented on the bids.

But its marketing savvy and

lucrative business customer base make it the prize catch in the

rapidly consolidating communications industry.

Some observers bet MCI will choose the financial certainty of GTE's $ 28 billion all-cash offer over WorldCom's $ 30 billion stock bid and British Telecom's $ 21 billion proposal.

Yet antitrust experts say the GTE deal would face the most regulatory scrutiny because it would combine local and long-distance Goliaths for the first time since the Bell breakup.

Under one likely scenario, analysts say, regulators could OK a merger with conditions that limit the combined company's marketing might or force it to open its regions to rivals.

MCI has 20% of the $ 80 billion-a-year long-distance business. GTE serves 21 million local customers in rural and suburban communities in 29 states.

Digesting MCI would make GTE a formidable long-distance player in those communities. That poses the risk of the carrier charging long-distance rivals exorbitant fees to access its local networks or otherwise make life difficult for competitors, says Philip Verveer, a communications lawyer.

An even greater threat would be GTE-MCI's marketing power, because it alone could package local and long-distance service to all its local customers, says Gene Kimmelman of the Consumers Union.

A GTE-MCI marriage should not be blessed unless the company makes it easier for rivals to enter its local phone markets, says Anne Bingaman, former head of the Justice Department's antitrust division.

But **William Barr**, GTE's general counsel, argues the company's local markets are too small and far apart to raise anti-competitive concerns and says a merger would actually foster competition.

Classification

Language: ENGLISH

Subject: TAKEOVERS (90%); MERGERS (89%); ANTITRUST & TRADE LAW (89%); JOINT VENTURES, MERGERS & ACQUISITIONS LAW (78%); BUSINESS FORECASTS (78%); CONSUMERS (77%); CONSUMER PROTECTION (77%); CONSUMER WATCHDOGS (72%); RURAL COMMUNITIES (67%); LAWYERS (66%); CORPORATE COUNSEL (65%); JUSTICE DEPARTMENTS (65%); SUBURBS (52%)

Company: BT GROUP PLC (92%); VERIZON COMMUNICATIONS INC (92%); BT GROUP PLC (92%); VERIZON COMMUNICATIONS INC (92%)

Ticker: BT (NYSE) (92%); BT (LSE) (92%); VZC (LSE) (92%); VZ (NYSE) (92%); BT.A (LSE) (92%)

Industry: TELECOMMUNICATIONS (91%); LONG DISTANCE TELEPHONE SERVICE (90%); TELECOMMUNICATIONS SERVICES (90%); LOCAL TELEPHONE SERVICE (78%); LAWYERS (66%); CORPORATE COUNSEL (65%)

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NewsRoom

10/21/97 Wash. Telecom News 00:00:00

Washington Telecom Newswire

October 21, 1997

BARR CALLS WORLDCOM BID FOR MCI ANTICOMPETITIVE

GTE Associate General Counsel William Barr met with reporters in Washington today to emphasize why he believes GTE's offer for MCI is a better deal than the one proposed by WorldCom. Primary among his reasons was that a GTE-MCI merger would be less likely to raise antitrust concerns.

Barr also cited the flexibility of GTE's offer, which is for $28 billion cash but could include stocks and/or options if MCI wanted. Another benefit, he said, is that GTE favors a "friendly" deal among GTE, MCI and BT that would include future cooperation with BT. He said a GTE purchase also is more complementary because, unlike the WorldCom proposal, it would allow companies with virtually no overlapping market share to enter regions and services that they never have before.

There currently are two dominant players -- AT&T and a regional Bell company -- in virtually every market, Barr said, and a partnership with MCI would make possible more and better competition against those players. He said the deal would: (1) Jumpstart local competition, especially with the use of MCI's national brand to enter new competitive markets. (2) Spur additional long distance competition by providing an alternative to bundled local, long distance and wireless services that he expects AT&T to be providing in the future.

(3) Promote a marketplace where companies can provide all products, not just local or long distance. (4) Provide the merged company the wherewithal to build networks, create jobs and spring innovations. (5) Give the company the potential to reach all customers through a merged national/local network. He said most new entrants are focusing their business plans narrowly on the "top echelon" of consumers, particular large businesses. But MCI and GTE already serve suburban and rural customers in local and long distance markets, respectively, which he said also would appeal to regulators.

Barr said WorldCom's deal raises many anticompetitive concerns because it would be a horizontal merger between two existing competitors with similar business goals. GTE competes with MCI in only a few local markets -- Tampa in particular -- and would be willing to divest MCI's local operations in "a handful" of regions if required, he said. He said that while WorldCom has said its deal also would promote local competition, "that's mostly smoke and mirrors" because Brooks Fiber and MCImetro compete for the same customers and have "a substantial amount of overlap."

Barr said MCI and WorldCom would control 40 percent of the facilities-based Internet access market and 28 percent of the domestic long distance market. But, he said, GTE and MCI, while still controlling about 27 percent of the Internet access, would be a different story since GTE's BBN Corp. provides access through resale, not its own facilities. Long distance market share, he said, is not an issue since what little long distance GTE provides is in markets in which MCI holds only a 13 percent share on average.

Wall St. analysts have been "enamored" with WorldCom Chairman Bernard Ebbers for some time, Barr said, suggesting why they have seemed to favor WorldCom's proposal over GTE's. He said that once they "get their feet on the ground" they should realize that GTE's proposal would be better for MCI employees, shareholders and customers. "We're not talking about pulling out of the residential market, for example," he said.
(WTN 1026-97)

---- Index References ----

Company: INTERMEDIA COMMUNICATIONS INC; MCI INC; BBN CORP

News Subject: (Monopolies (1MO68); Mergers & Acquisitions (1ME39); Antitrust Regulatory (1AN52); Major Corporations (1MA93); Economics & Trade (1EC26); Corporate Groups & Ownership (1XO09))

Industry: (Telecom Carriers & Operators (1TE56); Telecom Regulatory (1TE65); Telecom (1TE27); Manufacturing (1MA74))

Language: EN

Other Indexing: (BBN CORP; GTE; GTE MCI; INTERNET; MCI; MCIMETRO; WORLDCOM) (Barr; BARR CALLS; Bernard Ebbers; Brooks Fiber; Counsel William Barr; Primary; Wall St.)

Word Count: 751

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NewsRoom

10/21/97 TR Daily (Pg. Unavail. Online)
1997 WLNR 6831947

TR Daily

October 21, 1997

BARR SAYS GTE-MCI UNION WOULD PROMOTE COMPETITION

Table of Contents

William P. Barr, GTE Corp. senior vice president and general counsel, today called the company's proposed merger with MCI Communications Corp. the "most procompetitive in the telecom services industry." Meeting with reporters today at GTE's Washington office, Mr. Barr said that, unlike a potential combination of MCI and WorldCom, Inc., a GTE-MCI union would combine two companies with almost no overlap in product lines. And it would create a powerhouse best positioned to take on the two most dominant players in a any given region--AT&T Corp. and the local Bell operating company.

Mr. Barr said a GTE-MCI union would jump-start his company's existing plan to provide competitive local services outside of its current operating region.

He said such a merger would "precisely" create the vertically integrated, all-services provider envisioned by the Telecommunications Act of 1996 by uniting MCI's brand name, competitive local facilities, and increasingly business-focused agenda with GTE's resources and vast consumer subscribers. With the exception of GTE's Tampa, Fla., telco, MCI's competitive local exchange carrier (CLEC), MCImetro, isn't targeting cities where GTE is the incumbent LEC. GTE's telcos largely provide services in outlying suburban areas beyond MCImetro's target, Mr. Barr said.

And unlike certain reports regarding WorldCom (TR, Oct. 6, p. 34), Mr. Barr said GTE has no plans to abandon the consumer long distance market. A combined GTE-MCI "will reach all consumers and has the potential to serve all consumers." Further, he said a GTE-MCI union, much more than a WorldCom-MCI combination, would have the "wherewithal" to build out facilities and provide "true" competition, as opposed to reselling an incumbent telco's product. "We expect [a merger of GTE and MCI] to be approved by all the regulators in the states and the federal government that will look at it," Mr. Barr said.

On the other hand, Mr. Barr called WorldCom-MCI union "largely horizontal" and said it would represent "an amalgamation of two former competitors." Such a union would combine the nation's second-and fourth-largest facilities-based CLECs and the largest and second-largest backbone data network providers, he added. A WorldCom-MCI merger "raises far more serious antitrust concerns," Mr. Barr concluded.

TR Daily, October 21, 1997 19971021 TR Daily -->

---- Index References ----

Company: MCI INC; WORLDCOM; MARSK CONTAINER INDUSTRI AS; GENERAL TELEPHONE ELECTRONICS CORP; MCI COMMUNICATIONS CORP; MOTOR COACH INDUSTRIES INTERNATIONAL INC; GTE CORP; MCI LLC

News Subject: (Monopolies (1MO68); Mergers & Acquisitions (1ME39); Antitrust Regulatory (1AN52); Major Corporations (1MA93); Economics & Trade (1EC26); Corporate Groups & Ownership (1XO09))

Industry: (Telecom Carriers & Operators (1TE56); Telecom Regulatory (1TE65); Telecom (1TE27); Wireline Telecom Regulatory (1WI37); CLECs & Alternative Carriers (1CL29))

Language: EN

Other Indexing: (BARR; CLECS; CORP; GTE; GTE MCI; LEC; MCI; MCI COMMUNICATIONS CORP; TR; WORLDCOM; WORLDCOM MCI) (Barr; Table; William P. Barr)

Word Count: 477

End of Document

Telecommunications: Rivals Assail GTE on Impact Of Bid for MCI - Correction Appended

The Wall Street Journal

October 20, 1997 Monday

Correction Appended

Section: Pg. B1

Length: 1118 words

Byline: By Leslie Cauley, Staff Reporter of The Wall Street Journal

Body

How will phone consumers fare if GTE Corp. succeeds in its $28 billion bid for MCI Communications Corp.?

GTE, a sprawling company that operates local-phone monopolies in 28 states, says a combination with MCI would ignite competition across the phone industry. But its rivals contend the company uses every regulatory and legal trick in the book to block competitors from getting in -- despite the passage of deregulation aimed at opening local markets last year. Even Anne Bingaman, the outgoing chief of the Justice Department's antitrust division, recently referred to GTE's "scorched-earth litigation tactics."

The rivals have some evidence. GTE has sued to block federal rules aimed at encouraging local competition. It has fought "interconnection agreements" imposed by states to let newcomers hook up to its networks. It often has appealed when states ordered it to grant advantageous rates to new rivals. And despite GTE's $20 billion-plus in annual revenue, it has tried to take advantage of rules that exempt tiny carriers from opening up their markets, arguing some of its smaller systems deserve protection, too.

In the competition for phone customers, GTE has an advantage over the Baby Bells, thanks to its unusual position as a big phone company that grew up outside the Bell System. Unlike the Bells, GTE didn't have to prove to federal regulators that its markets were open to competition before it could offer long-distance service. As a result, GTE could take a hard line with regulators and rivals without worrying about hurting its ability to enter the $70 billion long-distance market.

MCI had agreed to be acquired by 20%-owner British Telecommunications PLC, then received a $30 billion stock offer from WorldCom Inc. on Oct. 1, only to get the $28 billion overture from GTE last week. A GTE-MCI deal would combine the second-largest local-service company in the U.S. with the second-largest long-distance provider.

"Thus far, GTE has done everything possible to delay competition in its own markets. If there's a way to slow competition, they pursue it," charges Steve Davis, a vice president at AT&T Corp. Consumer advocates fret that a union of GTE and MCI, given their collective legal and market power, might wind up translating into fewer choices and higher prices for customers.

"These are two companies that were supposed to be competing in every market. [A merger] turns them into one. That arithmetic doesn't help consumers," says Mark Cooper, research director for the Consumer Federation of America. "Without competition, prices just won't go to where they're supposed to go -- which is down."

GTE dismisses such worries. William Barr, GTE's general counsel, says a takeover of MCI would be "good for competition because it does exactly" what was intended in deregulating the telecom industry last year -- generate greater competition that leads to better offerings for customers.

For the past decade, after all, the long-distance business has been divided between three big brands holding about 90% of the market: AT&T, trailed distantly by MCI and Sprint Corp. With GTE's deep pockets and network know-how, Mr. Barr argues, MCI would be better positioned to go after No. 1 AT&T in long distance and to compete with the Baby Bells and other carriers in local service. Rivals would have to respond with their own competitive offerings, he says.

GTE has a fearsome legal assault team. Rivals shudder at the notion that it might join up with MCI -- a company that played a big role in breaking up the old AT&T in 1984 and that is so legally aggressive it sometimes is called a law firm with an antenna.

Sprint has tried invading GTE's local markets, attempting to reach accords on the interconnection pacts that dictate terms, conditions and prices for hooking up to GTE's local-phone networks. But in almost every case Sprint was forced to get state regulators to step in and "arbitrate" because GTE was so tough to deal with, says John Hoffman, Sprint's senior vice president of external affairs.

"They seem to be exercising their [legal] rights to a greater extent than anybody else," Mr. Hoffman says. "They're not wrong to do it, but their actions are not, in my view, procompetition."

Congress slapped tough requirements on the Bells in the telecom act last year, requiring them to open up their monopolies before letting them into the long-distance business. If GTE buys MCI, the feds should apply much the same demands, Mr. Hoffman says.

Congress had imposed those restrictions to prevent the kinds of anticompetitive abuses that led to the breakup of the old Ma Bell. GTE, in a bit of historical luck, escaped that requirement because it was never a part of the old Bell System, even though, by revenue, it is larger than some Bells.

Rivals also take issue with what they see as GTE's sometimes overly creative approach to interpreting the new rules of competition in play since last year. Under the rules, carriers with less than 2% of the nation's phone lines don't have to open up their markets to new competitors, a provision aimed at protecting the nation's small, independent carriers, some of which just have a few hundred customers.

AT&T's Mr. Davis says that GTE has sought the so-called "rural" exemption in 17 states, including Pennsylvania, Ohio and Washington. GTE argues that some of its individual state operations, because they have less than 2% of the phone lines in the country, qualify for the exemption. GTE's markets are strewn throughout 28 states in the U.S. as opposed to the Bells, whose operations are concentrated by state and region.

Until last week, when GTE's stunning all-cash bid was received, MCI was one of GTE's most vocal critics. Just last month, MCI accused GTE in filings to regulators in several states of trying to use "old, tired" regulatory arguments to charge "excessive" access fees to long-distance carriers to handle calls.

In Texas, for example, MCI asked regulators to "bring these sky-high charges back down to Earth for the good of Texas consumers," saying that the overcharges provide "an unfair, anticompetitive advantage" to GTE's nascent long-distance arm.

On MCI's Web page yesterday, the carrier was still blaming "anticompetitive behavior and foot-dragging" by the Bells and GTE for "sabotaging" last year's deregulatory legislation. MCI also calls GTE "world-class litigators," and cites the carrier for what it sees as numerous examples of anticompetitive behavior.

Whether MCI continues to view GTE in such harsh light isn't clear, now that a $28 billion cash offer is on the table. MCI now declines to comment on GTE's track record, or on the question of whether a GTE takeover would ultimately help or hinder competition.

Notes

PUBLISHER: Dow Jones & Company

Correction

Corrections & Amplifications

FORMER FEDERAL ANTITRUST CHIEF Anne Bingaman described GTE Corp.'s legal approach as "scorched-earth litigation tactics" in Senate testimony after leaving the Justice Department's antitrust division and becoming a senior vice president at LCI International Inc., a GTE rival. An article on Monday's Marketplace page incorrectly indicated that Ms. Bingaman made the statement before resigning. (WSJ Oct. 22, 1997)

Load-Date: December 6, 2004

10/20/97 Comm. Daily (Pg. Unavail. Online)
1997 WLNR 3603494

Communications Daily

October 20, 1997

MCI WEIGHS GTE COMPETITION CLAIM AGAINST WORLDCOM SHARE VALUE

MCI plans talks with WorldCom and GTE, perhaps this week, to sort through financial analyses, antitrust concerns and operational issues as 2 suitors attempt to sell their multibillion-dollar bids to regulators, shareholders, employees. GTE and WorldCom have set out different campaigns, with GTE focusing on procompetitive benefits of combining IXC and LEC to sell regulators and WorldCom pitching steady and rapid rise in share price as making deal more valuable to MCI shareholders than either GTE or British Telecom (BT). Analysts appeared to support WorldCom bid as better for shareholders, but Wall St. resolved first-day jitters about GTE and its share price ended week higher after tumbling 11% in 2 days.

In N.Y. Stock Exchange trading, GTE rose $1.3125 to $46.06 in active trading of 5.3 million, suggesting management explanation of transaction had eased analysts' fears. MCI lost 43.75 cents to end at $37.6875 on 10.2 million shares and WorldCom was down 62.5 cents to close at $34.125 on 10.5 million shares -- both companies trading more slowly than earlier in week. BT continued its climb, rising 87.5 cents to end at $77. AT&T and Sprint gained after posting sharp losses Thurs.: AT&T rose $1.625 to end at $45.1875 on 8.7 million shares and Sprint, which fell $2.50 Thurs., was up $3 to end at $56.5625 on 1.1 million shares.

In interviews with Communications Daily last week, key GTE officials confirmed that top executives, including Chmn. Charles Lee, have had "long relationship" with MCI and BT executives and have had informal discussions "on regular basis" for 3-4 years about partnership. Renegotiated MCI-BT deal created opportunity for latest offer, GTE Vice Chmn. Michael Mason said: "We want a full partnership with BT." He wouldn't comment on speculation that BT executives persuaded GTE to make counteroffer. "This did not spring out of some opportunistic situation," Mason said.

Industry speculation focused on BT's Chmn. Iain Vallance and

his interest in retaining investment in MCI. Insiders suggested timing of GTE bid and MCI-BT decision to remove restrictions barring talks on other offers was more than coincidental. Analysts also have noted that GTE offer is aimed at creating 3-way partnership with BT and MCI, while WorldCom bid is straight tender offer, with BT considered outsider. Although WorldCom also proposed 3-way negotiation, result is for merger of WorldCom and MCI with BT's holding diluted to less than 10%.

WorldCom officials in Jackson, Miss., didn't return calls Fri. seeking additional comment on offer, and its N.Y.-based P.R. firm didn't respond to queries about bid by our deadline. Company said in statement that it welcomed chance to meet MCI and discuss its offer.

GTE, meanwhile, aggressively pushed its offer, both as financial benefit and as appealing to regulators who must consider any combination in terms of antitrust and public interest considerations. GTE Gen. Counsel William Barr predicted WorldCom will face "serious difficulties" in winning support for proposal since merger would further concentrate ownership of IXCs and wouldn't create competitor for AT&T and RHCs. WorldCom deal "has substantial anticompetitive effects and they can't point to any procompetitive benefits," Barr told us late Fri.

Barr offered 5 benefits of GTE-MCI linkup: (1) It would create company that could launch facilities-based competition in local markets, key goal of Telecom Act. (2) It would create company with full array of services, meeting goal of Act to encourage companies to expand beyond existing markets and provide ability to reach national customer base quickly based on each company's distribution channels. (3) It would strengthen MCI's ability to compete in long distance market against AT&T and RHCs by combining LEC and IXC services. (4) Combined companies would have "wherewithal" to invest, own and operate facilities, not be "niche player living off temporary" price advantages. (5) It would have scope and scale to serve all markets. "This is a dream transaction," Barr said.

Although GTE has been legal foe of FCC, especially on resale rates and rules, Barr predicted merger proposal would win favorable review from new Commission. He said GTE agrees with Chmn. Hundt that facilities-based competition remains chief goal of Telecom Act. "I think the Commission will see that this is a market-based solution, a business solution," Barr said. Legal fights over resale "should not obscure the fact that we agree on these broader principles and this is a business solution in fruition of the Telecom Act," he said. He said FCC Chmn.-designate William Kennard would be "open-minded and fair" in considering deal, and he expects

"fair hearing" from others.

Comr.-nominee Michael Powell did some work for GTE before joining Justice Dept. earlier this year and in testimony he has said he would recuse himself from considering any GTE-related issues at least through year-end. GTE proposal probably wouldn't go before full Commission until early next year, officials have said.

CWA Pres. Morton Bahr, who earlier had criticized WorldCom-MCI linkup as anticompetitive, on Fri. enthusiastically endorsed GTE offer as "precisely the kind of partnering" sought by Telecom Act. He said GTE-MCI merger "would provide true competition in the industry, without any of the antitrust problems that were raised by other recent takeover bids." He cited "significance" of GTE pledge to invest $9 billion in infrastructure and promote "growth of good-paying jobs in the information industry." After WorldCom bid (CD Oct 2 p1), Bahr had said deal was "worst nightmare scenario," citing "crushing concentration of anticompetitive power in long distance communications" and vowed union would work "to oppose this deal." CWA represents some GTE workers; Worldcom is nonunion.

---- Index References ----

Company: INTERMEDIA COMMUNICATIONS INC; BT GROUP PLC

News Subject: (Monopolies (1MO68); Antitrust Regulatory (1AN52); Major Corporations (1MA93); Economics & Trade (1EC26))

Industry: (Telecom Carriers & Operators (1TE56); Long-Distance Services (1LO42); Telecom Regulatory (1TE65); Telecom (1TE27); Telecom Services (1TE09); Manufacturing (1MA74))

Region: (United Kingdom (1UN38); Europe (1EU83); England (1EN10); Western Europe (1WE41))

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Other Indexing: (BRITISH TELECOM; BT; CWA; FCC; GTE; GTE GEN; IXCS; JUSTICE DEPT; NY STOCK EXCHANGE; PR; SPRINT; TELECOM ACT; WORLDCOM) (Bahr; Barr; Charles Lee; Counsel William Barr; Iain Vallance; Mason; MCI; MCI WEIGHS GTE COMPETITION CLAIM AGAINST; Michael Mason; Michael Powell; Morton Bahr; Renegotiated; William Kennard)

Word Count: 1280

End of Document

Telecom: Crossing Wires: GTE Targets Policy Makers in Promoting Bid

The Wall Street Journal

October 17, 1997 Friday

Section: Pg. A8

Length: 1012 words

Byline: By John R. Wilke and Bryan Gruley, Staff Reporters of The Wall Street Journal

Body

WASHINGTON -- GTE Corp. opened a second front in its battle with WorldCom Inc. for MCI Communications Corp., trying to convince policy makers in Washington that its plan will be good for consumers.

GTE said its $28 billion bid for MCI should win federal approval because it will ignite new competition against AT&T Corp. and the Bell telephone monopolies.

GTE also lashed out at WorldCom's rival $30 billion stock bid for MCI, saying it would limit competition and leave residential customers on hold. "We're going to serve all markets and all Americans, not just cherry-pick big business customers," said **William Barr**, GTE general counsel, in a telephone interview. " WorldCom wants to jettison most of MCI's residential business and would dominate the Internet," boosting prices for Internet users, he said.

GTE's aggressive strategy, seeking to win over policy makers as it fights to win over MCI shareholders on Wall Street, suggests the fight, if it lasts, could get nasty.

WorldCom said again yesterday that it has no plans to abandon MCI's residential customers and that its proposed acquisition would do more to spark competition to the vast communications industry, which is rapidly restructuring itself following last year's sweeping rewrite of the nation's communications laws. A spokeswoman also called GTE's charge that WorldCom would raise Internet charges "bogus" and that "pricing on the Internet is highly competitive."

Justice Department and Federal Communications Commission officials have signaled that either deal would get a tough review, which could take as long as a year to complete. But GTE said it expects to be able to close the transaction before getting all the approvals, using a special voting trust that the FCC sometimes permits in hostile-takeover situations. The company said it expects to complete the transaction by Dec. 31, 1998.

The new company envisioned by GTE would be a communications powerhouse, with $55 billion in annual revenue, 21 million local customers, 24 million longdistance customers, and five million wireless subscribers.

The biggest regulatory hurdle in the proposed deal is GTE's lock on local phone service in fast-growing markets in California, Florida, Oregon, Washington and Texas. But GTE indicated yesterday it might accept conditions from regulators in return for getting the deal approved.

Mr. Barr said he expected that the Justice Department would focus on overlaps between GTE and MCI in Tampa, Fla.; Portland, Ore.; and Seattle. While GTE will contend that other rivals make those areas competitive anyway, he said, "we're going to look at these with the regulators."

Charles Lee, GTE's chairman and chief executive, added in an interview with Wall Street Journal editors and reporters in New York that "we think the fixes on this are narrow."

Mr. Barr also said that GTE's holdings outside major cities would boost competition in those markets. For example, the company provides local phone service in Santa Monica, Calif., and would use that as a beachhead to enter Los Angeles.

GTE officials briefed key regulators and lawmakers in Washington earlier this week, including Justice Department antitrust chief Joel Klein and incoming FCC Chairman William Kennard. The company is saying that it will have the financial might and the will to attack both the Baby Bells in local phone markets and AT&T and other long-distance carriers in their markets, creating the kind of competition that Congress hoped for when it passed the new telecommunications law last year.

"We think it's the most pro-competitive kind of combination one can think of," Mr. Lee said.

At the FCC, Commissioner Susan Ness wouldn't comment specifically on the GTE proposal but said the FCC would hold it to a tough standard for approval. "Some mergers promote competition and some do not," she said. "I judge each on a case-bycase basis, and I will be looking for a competition-enhancing outcome." The FCC is in the midst of a wholesale personnel change, and Ms. Ness is the only current commissioner who will be voting on an MCI deal if it is presented to the agency.

Mr. Barr said the presence on the FCC of two incoming Republicans, Michael Powell and Harold Furchtgott-Roth, with "market-oriented, pro-competitive" viewpoints also should help GTE. The FCC has had just one Republican commissioner, Rachelle Chong, since Andrew Barrett vacated his seat last year and wasn't replaced.

Working against GTE would be the belief held by some at the FCC and on Capitol Hill that the company has unfairly exploited its peculiar regulatory position. While the Baby Bells must prove their local markets are open to competition before they enter the long-distance phone business, GTE is under no such restriction. Yet GTE has led the local phone industry's attack on FCC rules for opening local markets, angering some FCC staffers and lawmakers.

Sen. Patrick Leahy, ranking Democrat on the Senate Judiciary Committee, questioned whether the Justice Department and FCC were adequately policing competition. "I don't see them carrying out their watchdog role aggressively, and that leaves the public without anyone watching the store." A spokesman for Rep. Billy Tauzin (R., La.), chairman of the House communications subcommittee, said the proposed deal "has the potential to remake the industry, and we will watch it closely. When the smoke clears, we want to make sure there is more than one company standing."

GTE has assembled an all-star team of former federal officials to push for the deal. James Rill, a former Justice Department antitrust chief, will argue to antitrust enforcers that the businesses of the two companies are largely complementary and have few of the kinds of geographic overlaps that would create antitrust problems. Richard Wiley, a former FCC chairman, says he will tell the FCC that "this is not AT&T-SBC," referring to the discussions earlier this year between AT&T and SBC Communications Inc., the Texas-based Bell, which outgoing FCC Chairman Reed Hundt called "unthinkable."

"We think this is eminently thinkable," Mr. Wiley said.

Notes

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Company: VERIZON COMMUNICATIONS INC (98%); AT&T INC (93%); WALL STREET JOURNAL (50%); ADVCOS WORLDCOM INC WORLDCOM GROUP (USA)

Organization: FEDERAL COMMUNICATIONS COMMISSION (54%)

Ticker: VZC (LSE) (98%); VZ (NYSE) (98%); T (NYSE) (93%)

Industry: INTERNET & WWW (90%); ENERGY & UTILITY LAW (89%); TELECOMMUNICATIONS SERVICES (89%); TELECOMMUNICATIONS (78%); COMMUNICATIONS REGULATION & POLICY (78%); TELEPHONE SERVICES (76%); LOCAL TELEPHONE SERVICE (76%); PRICE INCREASES (73%); LAWYERS (71%); INTERNET CRIME (68%); I7902 Telecommunications; I79021 Wired Telecommunications; I7902101 Local Telephone Services

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USA (92%); WASHINGTON, USA (92%); FLORIDA, USA (92%); NEW YORK, USA (79%); CALIFORNIA, USA (79%); UNITED STATES (94%); NAMZ North American Countries; USA United States; USCT United States - Connecticut; USDC United States - District of Columbia; USE Eastern U.S.; USMS United States - Mississippi; USS Southern U.S.

DJI Codes: UTI, LDS, RTL, TEL, TLS, DTE, HIY, HOT, TNM, TST, WEI, FCC, JUS, CT, DC, MS, NME, US, USE, USS, SMJ, TPT
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MCI Ready for Talks With It's Suitors; Prospect of Takeover Brings Calls for Regulatory Review

The Washington Post

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Byline: Mike Mills, Washington Post Staff Writer

Body

Breaking the ice after two weeks of silence, MCI Communications Corp. yesterday said it would begin negotiations with WorldCom Inc. and GTE Corp., two rival suitors that hope to buy MCI in what has become the richest corporate takeover battle in history.

The announcement came as some critics began demanding tough regulatory scrutiny of a merger with either of the two -- but especially GTE.

MCI issued a statement saying it received permission to talk to WorldCom and GTE from the phone giant to which it is already betrothed, British Telecommunications PLC.

WorldCom is offering $ 30 billion in stock for MCI, or $ 41.50 per share, while GTE countered on Wednesday with an all-cash offer of $ 28 billion, or $ 40 per MCI share.

Both bids vastly surpass BT's $ 21 billion offer. Rather than increasing its bid, BT -- which already owns 20 percent of MCI -- will likely try to broker some kind of three-way deal that would ensure the British carrier access to the U.S. market, most analysts say.

GTE Chairman Charles Lee yesterday made clear overtures to BT, telling analysts in a conference call that "we have great respect and admiration for British Telecom. They are a strong, important, powerful institution in this world."

Analysts say the last shoe has yet to drop. "I don't think we're done yet," said Daniel Zito, an analyst with securities firm Legg Mason Wood Walker Inc. in Baltimore. "WorldCom is capable of upping its bid."

Zito said he would prefer WorldCom as a partner for MCI but that "from a shareholder's perspective, all else being equal, cash wins."

A WorldCom-MCI combination would create a new long-distance power with its main strengths in Internet, long-distance and special telephone services to business customers. If GTE, which provides local phone service to millions of American homes and businesses, ends up buying MCI, it would be the first nationwide local and long-distance company with significant market share since the breakup of AT&T in 1984.

Either merger would require the approval of the Justice Department and the Federal Communications Commission. But consumer groups and industry rivals are reacting particularly strongly to the idea of a GTE-MCI deal.

"I think some strong conditions should be considered if this were ever to be approved," said Anne K. Bingaman, former chief of the Justice Department's antitrust division and now an executive at long-distance carrier LCI Communications Corp. of McLean.

"They have a virtually 100 percent share of the local phone business" in their markets in 29 states, she said. "There is no chance for long-distance competitors to get in and offer the same end-to-end service. I have trouble seeing how somebody could honestly look at these facts about GTE. . . . They have huge barriers erected around every one of these territories."

GTE clearly doesn't see it that way. In every market "there are two dominant companies, AT&T and the regional Bell companies," said GTE General Counsel **William Barr**, a former U.S. attorney general. "GTE and MCI will create a far more effective competitor in the marketplace."

Unlike a merger of WorldCom and MCI, which have competing Internet and local phone businesses, Barr said, a GTE-MCI combination "is not a merger of two companies who compete against each other in the same market and are consolidating their market share."

The regional Bell companies would love a chance to hook up with a major long-distance provider like MCI. But they can't: Last year's Telecommunications Act requires them to open up their local phone markets first. So far no Bell company has met that test. But GTE, the nation's largest local carrier at the time, is not a regional Bell and was exempted from that requirement.

Since early last year, GTE has gained more than 1 million new long-distance customers. At the same time, GTE has aggressively protected its local market from competitors. It has been the most combative of any local phone company in the courts and at regulatory agencies.

If the GTE-MCI merger goes to regulators for approval, Bingaman said the Justice Department and FCC should at least apply the same standard on GTE that the Bells face.

But that seems unlikely, according to another former Justice Department official who requested anonymity. The main reason is that GTE faces no restrictions on its ability to offer long-distance service, the official said. He added that the Justice Department's antitrust division also has been reluctant to block or limit mergers that merely have the potential for stalling competition.

The Bells hope all of this talk about MCI merging with future rivals will aid their efforts to persuade regulators to let them into the long-distance business.

"This is evidence that the restrictions are obviously outmoded that prevent us from offering long-distance service to our customers," said Sid Boren, an executive vice president for strategic planning for BellSouth Corp. in Atlanta.

Graphic

Photo, MCI - THE CHOICES: MCI's shareholders and top executives must weigh three bids in what could be the biggest corporate buyout ever. FOR SHAREHOLDERS BRITISH TELECOMMUNICATIONS PLC's Bid BT was the first bidder, and its offer is the smallest. Last November, BT agreed to buy MCI for cash and BT stock. But BT shareholders argued the price was too high and urged BT to renegotiate or abandon the deal. In August BT forced MCI to cut the price 22 percent, to $21 billion in stock and cash. WORLDCOM's Bid Chairman Bernard Ebbers shocked Wall Street on Oct. 1 with a $30 billion all-stock bid, equal to $41.50 for each MCI share and the largest of the three bids. MCI shareholders taking this offer effectively would be betting that the Mississippi telecommunications company's stock price would keep rising. With an offer 40 percent higher than BT's, analysts predicted that many would take the risk. Then along came GTE. GTE's Bid On Wednesday, GTE offered $28 billion, or $40 a share, for MCI. That's less than WorldCom's offer, but the GTE bid is all cash, which means shareholders would not have to bet on a

stock's future, and could invest the money any way they wanted. The question: whether to take WorldCom's higher but riskier offer or play it safe -- but too safe? -- with GTE. FOR MCI MANAGEMENT BRITISH TELECOMMUNICATIONS PLC's Bid At the management level, MCI and BT are quite similar. Though MCI Chairman Bert Roberts didn't like it when BT renegotiated its price, the companies were settling into a long marriage before Ebbers's wake-up call. Whoever acquires MCI may well continue to work with BT in international markets. WORLDCOM's Bid Roberts would take BT's stiff upper lip over Ebbers's lip any day, most analysts believe. Ebbers has left it unclear what, if any, role Roberts would play after a WorldCom takeover. WorldCom, whose customers are companies, might not want MCI's huge residential business. But MCI's data and local p

Classification

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Company: VERIZON COMMUNICATIONS INC (98%); BT GROUP PLC (84%); LEGG MASON WOOD WALKER INC (66%); VERIZON COMMUNICATIONS INC (98%); BT GROUP PLC (84%); LEGG MASON WOOD WALKER INC (66%); JUSTICE DEPARTMENT (59%)

Organization: JUSTICE DEPARTMENT (59%); JUSTICE DEPARTMENT (59%)

Ticker: VZC (LSE) (98%); VZ (NYSE) (98%); BT (NYSE) (84%); BT (LSE) (84%); BT.A (LSE) (84%)

Industry: INDUSTRY ANALYSTS (90%); TELECOMMUNICATIONS (90%); TELECOMMUNICATIONS SERVICES (90%); BUSINESS TELEPHONE SERVICE (89%); LONG DISTANCE TELEPHONE SERVICE (89%); TELEPHONE SERVICES (89%); LOCAL TELEPHONE SERVICE (89%); ENERGY & UTILITY LAW (78%); COMMUNICATIONS REGULATION & POLICY (77%); MARKET SHARE (74%); CONFERENCE CALLS (70%)

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October 13, 1997

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Bells deride GTE's online yellow pages lawsuit, cite competition.

Bell regional holding companies are scoffing at GTE New MediaServices Inc's claim that five Bell regional holding companies andsome of their affiliates, Netscape Communications Corp and Yahoo! Incand conspiring to monopolize the Internet yellow pages market.Spokespersons from BellSouth Corp and U S WEST Communications agree thatthe accusations are totally without merit. They deride GTE for resortingto lawsuits rather than facing stiffer competition.

Bell regional holding companies that GTE New Media Services, Inc., has charged with antitrust violations were scoffing at the lawsuit last week and declaring that the Internet "yellow pages" market is competitive. Bell Atlantic Corp. denied being a party to the agreement GTE that alleges is a conspiracy to keep it out of the market.

GTE's lawsuit named Netscape Communications Corp. and Yahoo!, Inc., as well as the five Bell regional holding companies and certain of their affiliates. GTE charged that they conspired to "restrain and monopolize" the Internet yellow pages market.

According to the lawsuit filed Oct. 6 in the U.S. District Court in Washington, the Bell companies paid a substantial premium to induce Netscape and Yahoo! to exclude GTE and other competitors from the Netscape Guide by Yahoo! Internet Yellow Pages. GTE sought treble damages and injunctions to halt the alleged antitrust violations. It also requested a preliminary injunction.

GTE's lawsuit focuses on a color-coded U.S. map displayed on the Netscape Guide, which reflects the traditional Bell company local exchange service territories. GTE charged that Ameritech Corp., BellSouth Corp., Bell Atlantic, SBC Communications, Inc., and U S WEST, Inc., paid Netscape to implement the map. GTE said the arrangement precludes it and other competitors from having access to the guide and suppresses competition in the Internet yellow pages market.

GTE asked the court to bar the Bell companies from continuing to offer their joint Internet yellow pages service and to prohibit the use of the color-coded map. It requested that Yahoo! restore GTE to the Internet access position it had prior to the arrangement with the Bell defendants.

GTE said it discovered the agreement among the Bell companies and Yahoo! during a Sept. 22 deposition of John T. Nofs, director-business development at Ameritech Interactive. The deposition was taken in connection with GTE's lawsuit against Netscape and Yahoo! (case no. 97-06879-E in the Texas District court for Dallas County). That lawsuit alleged a breach of a contract pertaining to GTE's placement on the Netscape Guide.

An Ameritech spokesman, noting that he hadn't reviewed the lawsuit in its entirety, told TR that "the idea that any one, two, or 10 companies could monopolize the Internet is absurd." A spokesman for Bell Atlantic Big Yellow, an online directory service, said the company "had never been part of the [Bell companies'] joint national Internet yellow pages. In fact, we compete against it."

A spokesman for BellSouth Corp. said, "Based on the GTE press release, we found their accusations to be totally without merit. BellSouth and its marketing partners are bringing an alternative to the World Wide Web, [thereby] increasing competition. Rather than face that competition, GTE would prefer to try their case in the courts and in the news media, too." The online directory operations of the marketing partners are independent, and the pages are built and maintained separately, he added.

A spokeswoman for U S WEST said that based on a "cursory review" of GTE's filing, "we think the complaint is totally without merit." The online directory service market is "a highly competitive industry," she added. "The marketing arrangement is not only legal, it is pro-competitive and good for consumers and advertisers." Spokespersons for Yahoo! and SBC declined to comment, saying they hadn't had time to review the lawsuit.

"The Baby Bells have established a cartel arrangement that violates the premises of a competitive marketplace," according to William P. Barr, GTE executive vice president and general counsel. "The [Bell companies] couldn't beat us on a level playing field, so they pulled back their own national products, carved up the country into exclusive territories, forced competitors off key locations on the Internet, and intend to divide the winnings among themselves," Mr. Barr said in a statement.

GTE claimed that Bell company executives participated in a series of closed-door meetings this summer to discuss details of implementing their joint Internet yellow pages "scheme."

The lawsuit alleges that the Bells' "joint goal is to restrain competition in Internet yellow pages, a new and fast-growing relative of traditional print yellow pages, and drive competitors, like the plaintiff's SuperPages service, from the market."

It further alleges that in July, the Bells "enlisted two of the Internet's dominant players, Netscape and Yahoo!, into their cartel to implement their conspiracy. Yahoo! assumed responsibility for and quickly obtained the final [Bell] participant in the defendants' cartel - NYNEX, which subsequently was acquired by Bell Atlantic.

"Although NYNEX's Big Yellow Internet yellow pages had nationwide business listings prior to joining the cartel, it agreed to limit its participation to the northeast and mid-Atlantic region." GTE said Ameritech and U S WEST similarly "subordinated" previously existing nationwide Internet yellow pages to the Bell's "scheme."

It also claims that "the defendants' calculated demands for exclusive access pushed plaintiff's SuperPages service, and the Internet yellow pages services of other, smaller competitors, off the Netscape Guide and relegated them to less-desirable and less-accessible locations."

GTE said Internet directory information companies Four11, WhoWhere, and "others unknown at this time" participated as co-conspirators in the case. But it didn't name them as defendants in the lawsuit. Yahoo! announced Oct. 8 that it has reached a definitive agreement to acquire Four11.

The Bell affiliates named in the lawsuit are Ameritech Publishing, Inc.; Ameritech Interactive Media, Inc.; Ameritech Interactive Media Services, Inc.; BellSouth Enterprises, Inc.; BellSouth Advertising and Publishing Corp.; Intelligent Media Ventures, Inc. (a subsidiary of BellSouth Enterprises, Inc.); Bell Atlantic Electronic Commerce Services, Inc.; Pacific Telesis Group; Pacific Bell Interactive Media; U S WEST Media Group, Inc.; and U S WEST Dex, Inc.

---- Index References ----

Company: NETSCAPE COMMUNICATIONS CORP; AT&T INC; CLOVER TECHNOLOGIES(AMERITECH); SBC COMMUNICATIONS INC; PACIFIC BELL; BELLSOUTH CORP; YAHOO INC; BELLSOUTH ADVERTISING AND PUBLISHING CORP; AMERITECH CORP; BELL ATLANTIC CORP; BELLSOUTH; NYNEX CORP; VERIZON COMMUNICATIONS INC; BELLSOUTH CORP AVI AND TRAVEL SERVICES; BELLSOUTH ENTERPRISES INC; GTE CORP; PACIFIC TELESIS GROUP

News Subject: (Legal (1LE33); Antitrust Regulatory (1AN52); Monopolies (1MO68); Economics & Trade (1EC26); Corporate & Business Law (1XO58); Business Litigation (1BU04); Corporate Legal Management (1XO33); Technology Law (1TE30); Online Legal Issues (1ON39); Business Management (1BU42); Business Lawsuits & Settlements (1BU19))

Industry: (Telecom Regulatory (1TE65); Telecom Carriers & Operators (1TE56); Internet Media Content (1IN04); Traditional Media (1TR30); Internet Regulatory (1IN49); E-Commerce (1EC30); Online Services (1ON37); E-Commerce Industries (1EC99); Internet (1IN27); Emerging Internet Business Applications (1EM61); Retail (1RE82); Telecom (1TE27); Yellow Pages, White Pages & Directory Publishing (1YE19); Internet Media (1IN67); Directories & Yellow Pages (1DI08); Publishing (1PU26))

Region: (Americas (1AM92); USA (1US73); Texas (1TE14); North America (1NO39))

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Other Indexing: (AMERITECH; AMERITECH CORP; AMERITECH INTERACTIVE MEDIA SERVICES INC; AMERITECH INTERACTIVE MEDIA INC; AMERITECH PUBLISHING INC; BELL ATLANTIC; BELL ATLANTIC CORP; BELL ATLANTIC ELECTRONIC COMMERCE SERVICES INC; BELLSOUTH; BELLSOUTH ADVERTISING; BELLSOUTH CORP; BELLSOUTH ENTERPRISES INC; GTE; GTE NEW MEDIA SERVICES INC; INTELLIGENT MEDIA VENTURES INC; JOHN T NOFS; NETSCAPE; NETSCAPE COMMUNICATIONS CORP; NETSCAPE GUIDE; NYNEX; PACIFIC BELL; PACIFIC TELESIS GROUP; PUBLISHING CORP; SBC; SBC COMMUNICATIONS INC; TEXAS DISTRICT; TR; US DISTRICT COURT; WEST MEDIA GROUP; YAHOO) (Barr; Bell; Bells; Internet; Internet Yellow; The; William P. Barr; Yellow; Yellow Internet)

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Company Terms: NETSCAPE COMMUNICATIONS CORP; YAHOO INC; GTE NEW MEDIA SERVICES INC

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CHICAGO TRIBUNE

October 12, 1997

Section: NEWS

LONG ARM OF FBI STRETCHING EVER FARTHER

Naftali Bendavid, Washington Bureau.

The FBI's team in Detroit had a banner day.

Agents announced they had helped arrest nine robbers who dressed up as police officers and burst into homes yelling, "Police!" Then the gang would make off with any cash or drugs they found.

"What really rubbed us the wrong way is they were posing as police officers to get in the door," FBI Special Agent Dawn Moritz said.

The same day, Sept. 10, FBI Director Louis Freeh was talking informally to reporters in the bureau's fortress-like Washington headquarters about the agency's role overseas as part of its growing mission.

"We are expanding our activities around the world in a very unprecedented way," Freeh enthused. "We are in our laboratories, in our information and databases, in our automation procedures, really continuously involved in very great and very historic changes."

These two scenes suggest just how much the FBI is changing.

Traditionally, FBI agents have been law enforcement's equivalent of the military's Special Forces, specialists who tackle a relatively small number of federal crimes: public corruption, white-collar crime, Mafia terror or bank robberies.

But the world is changing. The Internet has led to new types of fraud. International terrorism casts a shadow of fear, and global organized crime enterprises flourish.

So the FBI is expanding its reach with a dazzling array of new projects: A counter-terrorism center. A high-tech laboratory. A computerized fingerprint center. A chemical-biological-nuclear response program. A revamped hostage rescue team. A computer investigations initiative.

All of which prompts many, inside and outside the agency, to ask: Is the FBI taking on more than it can handle?

"I do think we're asking the FBI to do too much with too little," said William Barr, attorney general under President George Bush. "The FBI is frequently caught in a situation--and they may be bringing it partly on themselves--where

the political leadership says, `This is the crime du jour,' and that pushes the bureau into an allocation of resources that might not otherwise make sense."

Sen. Charles Grassley (R-Iowa), a frequent FBI critic, is even more direct.

"I look at the FBI kind of like Pac Man, gobbling up everything, jurisdiction after jurisdiction, function after function," Grassley said. "They get more money, they hire more people, and it's just gobble, gobble, gobble, gobble."

While virtually every other federal agency has been cut back, in some cases drastically, the FBI has seen dramatic growth since Freeh took over four years ago, expanding from about 9,000 agents to 11,200. Its budget has exploded by 40 percent, to $2.8 billion from $2 billion.

Even FBI leaders concede the bureau may be stretched too thin.

"A lot of times, we are given jurisdiction over new laws but with no resources to address it," said outgoing FBI Deputy Director William Esposito. "Something has got to give. As an administrator of the organization, you have to sit back and say, `What gives?' We can't be all things to all people."

The FBI's expansion has several roots. As crime has become an ever-hotter issue over the last decade, Congress has turned more and more local crimes--from drug dealing to carjacking--into federal offenses. And when a new federal crime is created, it generally becomes the FBI's responsibility.

Whatever the merits of this approach, it enables lawmakers to tell voters they are doing something about crime.

Much of the bureau's expansion, though, has not come from specific new laws. Rather, Freeh will simply ask Congress to insert funding for some new project into the FBI budget.

And these days, Congress rarely says no.

Every few months, FBI leaders seem to announce a new priority. Health-care fraud, crimes against children, deadbeat dads, hate crimes, foreign spies, false telemarketing all have been declared major FBI concerns.

Agents themselves wonder if the array of new projects blurs their mission and threatens the quality of their work.

"FBI agents want to take the lead in addressing evolving criminal activity which utilizes new technologies," said John Sennett, president of the FBI Agents Association. "But we often worry how our responsibilities can keep growing at the current rate and still allow us to properly cover the traditional categories of investigation that have always kept us more than busy."

Added one agent, "The manual just keeps getting thicker."

To be sure, the worry is not universal. The bureau is the nation's top police agency, some note, so why shouldn't it handle America's major crimes?

"The FBI has historically taken on missions that were of national significance, and this is a logical progression," said Tom Reppetto, a longtime Chicago police officer who heads New York's Citizens Crime Commission. "Crime has become more international. A guy can punch a keyboard and move money from one continent to another, and then to a third. The tasks they have undertaken are a logical progression of what they have always done."

When Freeh took the helm of the FBI in 1993, the importance of international policing was burned in his brain.

As a young prosecutor, his greatest triumph was winning the famous Pizza Connection case, which dismantled a vast Mafia heroin network. To do it, Freeh had to work closely with Italian authorities, and the experience stayed with him.

The FBI is planting its flag overseas like a company with an aggressive franchising plan. Last year, it began a campaign to double its overseas offices by the year 2000, to 46 from 23.

New outposts have opened in such places as Poland, Pakistan and Saudi Arabia.

Two years ago, the agency even opened a full-fledged police academy in Budapest, Hungary. Ridiculed by some as "Quantico East"--a reference to the FBI Academy in Quantico, Va.--it trains 250 officers a year from former Soviet Bloc countries.

Among Freeh's first acts as director was a barnstorming tour of 11 East European nations, a highly unconventional act for an FBI director. His message: It is in America's interest to ensure that the fledgling democracies develop strong police forces and do not descend into criminal chaos.

"Criminals do not recognize borders except to manipulate them," the normally sedate Freeh thundered to a Berlin audience. "We have no time to waste. The enemy has already broken through the gate."

For most of the bureau's 89-year history, violent crimes such as murders, robberies and rapes were left to local police. Like schools and traffic, street crime was considered a local problem, and the FBI was needed to focus on more complex offenses.

That changed in the early 1980s when the public's sentiment against drugs was so strong that the FBI was drafted into the drug war, even though the Drug Enforcement Administration was doing that job full time.

The FBI's focus on violent crime is, if anything, intensifying. More than 700 agents are working with local police on 152 "Safe Streets" task forces. Many wonder if that manpower could be better used elsewhere.

"I don't understand why the FBI is involved at all in street crime," said H. Scott Wallace, director of the National Legal Aid and Defender Association. "I thought that's what we had local police forces for."

But others say violence is precisely where the nation's elite investigators should be focused. Michael Gearty, an FBI agent based in Detroit, said the agents assigned to violent crime are not chasing run-of-the-mill muggers, but bigger, more dangerous crime rings.

"This is not the hit-and-miss of a local police department," Gearty said. "We are trying to do the best we can with limited resources. We try to prioritize our objectives. And in a city like Detroit, violent crime has to be up there or we wouldn't be doing our job."

Freeh is pushing out the borders of the FBI empire in other ways too. The bureau has 75 agents posted to other federal agencies, more than it has ever had.

Most FBI leaders are confident the bureau is up to the task. But even some longtime supporters warn there are limits.

"When you overload it, you run the risk of it not doing many things well," said Lee Caldwell, the FBI's No. 2 man from 1978 to 1985. "It is within all of our capacities to do X number of things well. But when it goes to Y, the quality of our performance might suffer. I don't think the bureau is immune to that."

---- Index References ----

News Subject: (Violent Crime (1VI27); Legal (1LE33); Social Issues (1SO05); Police (1PO98); Automobile Crime (1AU99); Crime (1CR87); Judicial (1JU36); Property Crime (1PR85); Criminal Law (1CR79))

Region: (Americas (1AM92); North America (1NO39); Hungary (1HU94); Europe (1EU83); USA (1US73); Central Europe (1CE50); Michigan (1MI45); Eastern Europe (1EA48))

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Other Indexing: (CITIZENS CRIME COMMISSION; CONGRESS; CRIME; DEFENDER ASSOCIATION; DRUG ENFORCEMENT ADMINISTRATION; FBI; FBI AGENTS ASSOCIATION; INTERNET; NATIONAL LEGAL AID) (Agent Dawn Moritz; Among Freeh; Charles Grassley; Criminals; Freeh; Gearty; George Bush; Grassley; H. Scott Wallace; Health; John Sennett; Lee Caldwell; Louis Freeh; Mafia; Michael Gearty; Pizza Connection; Tom Reppetto; William Barr; William Esposito)

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Document: GTE Suit Alleges RBOCs Monopoly Of Net Yellow Pages Ma…

GTE Suit Alleges RBOCs Monopoly Of Net Yellow Pages Market

Newsbytes News Network

October 7, 1997

Length: 1068 words

Highlight: GTE files suit against the 5 RBOCs, as well as Netscape Communications and Yahoo, claim that the companies have conspired to restrain and monopolize the Internet Yellow Pages market

Body

ABSTRACT:

GTE Corp Monday filed suit against the five regional Bell telephone operating companies (RBOCs), along with Netscape Communications and Yahoo, alleging that the seven companies have been operating a telco cabal plus two to monopolize the Internet Yellow Pages market. The complaint, filed today by GTE in the US District Court for the District of Columbia, claims the companies have conspired to restrain and monopolize the Internet Yellow Pages market, and seeks injunctive relief from continued alleged RBOC violations of US antitrust laws. According to the suit, the RBOCs earlier this year illegally agreed to create a joint national Internet Yellow Pages, rather than competing among themselves, in order to divide up the national market in keeping with their traditional regional territories. The Bell companies developed a color-coded map to illustrate the territorial divisions, the suit asserts, putting the map on certain key Internet sites to promote their services with consumers. The suit charges that the RBOCs then paid a substantial premium to Netscape and Yahoo to exclude GTE and other competitors from their existing spots on the Netscape Guide by Yahoo and other locations. GTE's suit claims that the RBOCs' "anti-competitive behavior" was designed to "unlawfully limit access to GTE's Internet Yellow Pages service, SuperPages", and similar services. "GTE SuperPages is an industry leader in providing up-to-date addresses and phone numbers for millions of businesses across the country," GTE Executive Vice President and General Counsel **William P. Barr** said in a statement. In its suit, GTE asked the court to bar the RBOCs from continuing to offer their joint Internet Yellow Pages, bar the use of the color- coded map and return GTE to the Internet access position it held prior to the alleged agreement between the RBOCs and the Internet companies. GTE also asked the court to order an expedited 60-day discovery process so the court can rule quickly on the request for injunctive relief.

WASHINGTON, DC, U.S.A., 1997 OCT 7 (NB) -- By Bill Pietrucha. GTE Corp. [NYSE:GTE] Monday filed suit against the five regional Bell telephone operating companies (RBOCs), along with Netscape

Communications [NASDAQ:NSCP] and Yahoo [NASDAQ:YHOO], alleging that the seven companies have been operating a telco cabal plus two to monopolize the Internet Yellow Pages market. The complaint, filed today by GTE in the US District Court for the District of Columbia, claims the companies have conspired to restrain and monopolize the Internet Yellow Pages market, and seeks injunctive relief from continued alleged RBOC violations of US antitrust laws. According to the suit, the RBOCs earlier this year illegally agreed to create a joint national Internet Yellow Pages, rather than competing among themselves, in order to divide up the national market in keeping with their traditional regional territories. The Bell companies developed a color-coded map to illustrate the territorial divisions, the suit asserts, putting the map on certain key Internet sites to promote their services with consumers. The suit charges that the RBOCs then paid a substantial premium to Netscape and Yahoo to exclude GTE and other competitors from their existing spots on the Netscape Guide by Yahoo and other locations. GTE's suit claims that the RBOCs' "anti-competitive behavior" was designed to "unlawfully limit access to GTE's Internet Yellow Pages service, SuperPages", and similar services. "GTE SuperPages is an industry leader in providing up-to-date addresses and phone numbers for millions of businesses across the country," GTE Executive Vice President and General Counsel **William P. Barr** said in a statement.

"The RBOCs couldn't beat us on a level playing field, so they pulled back their own national products, carved up the country into exclusive territories, forced competitors off key locations on the Internet and intend to divide the winnings among themselves." Spokespersons for the five RBOCs told Newsbytes they would have to wait until they read the suit before they could comment. According to Barr, however, the "Baby Bells have established a cartel arrangement that violates the premises of a competitive marketplace. It is unfair to consumers and advertisers as well as to competitors," In its suit, GTE asked the court to bar the RBOCs from continuing to offer their joint Internet Yellow Pages, bar the use of the color- coded map and return GTE to the Internet access position it held prior to the alleged agreement between the RBOCs and the Internet companies. GTE also asked the court to order an expedited 60-day discovery process so the court can rule quickly on the request for injunctive relief. Barr said that prior to the alleged conspiracy earlier this year, Netscape entered into an agreement with GTE in October 1996, to provide links to GTE's SuperPages from the Netscape Web site. The contract has been renewed once, and is effective until April 10, 1998. Similar access also was provided by Netscape to other competing Internet Yellow Pages providers, he said. In its suit, GTE alleges that Yahoo acquired management of the "Guide" and "Destinations" extensions of the Netscape home page in early July, and, at the RBOCs' urging, Yahoo and Netscape terminated the hyperlink access to GTE's SuperPages and other competitors in July 1997. The suit also alleges that Yahoo, Netscape and the RBOCs entered into agreements to alter Netscape's Web site "to give preferential access exclusively to the RBOCs' Internet Yellow Pages services." "It's clear from these anticompetitive actions that the RBOCs seek to create an old Bell system-type monopoly in the nationwide Internet Yellow Pages market," Barr said. By allocating territories among themselves, the RBOCs have "agreed to allow each RBOC to dominate the Internet Yellow Pages in the region allocated to it by the cartel, and to forego competing against the other RBOCs in the regional markets allocated to them," GTE said in its filing. "The effect is to funnel tens of millions of new and existing users to the color-coded Internet Yellow Pages map of the RBOCS while effectively excluding GTE and other Internet Yellow Pages providers from Internet access points." (19971007/Press Contact: Bob Bishop, GTE, 203-965-3982 e-mail bbishop@dcoffice.gte.com Reported by Newsbytes News Network: http://www.newsbytes.com)

Classification

Language: ENGLISH

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Journal Code: NEWSNEWN

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LAW (74%); AGREEMENTS (72%); PRODUCT PROMOTION (72%); EXECUTIVES (64%); All government; Litigation

Company: YAHOO! INC (96%); VERIZON COMMUNICATIONS INC (93%); YELLOW PAGES INCOME FUND (91%); GTE CORP; NETSCAPE COMMUNICATIONS CORP (AMERICA ONLINE INC); YAHOO INC

Organization: US DISTRICT COURT FOR THE DISTRICT OF COLUMBIA (83%)

Ticker: YHOO (NASDAQ) (96%); VZC (LSE) (93%); VZ (NYSE) (93%)

Industry: INTERNET & WWW (90%); COMPUTER NETWORKS (89%); YELLOW PAGES ADVERTISING (89%); TELECOMMUNICATIONS SERVICES (78%); TELECOMMUNICATIONS (77%); LAWYERS (74%); PRODUCT PROMOTION (72%); Information industry; Publishing; Telecom services; Telecommunications

Product: 481397 (Specialized telecommunications services)

Geographic: DISTRICT OF COLUMBIA, USA (91%); UNITED STATES (93%); United States; North America (NOAX); United States (USA)

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Date and Time: Dec 12, 2018 02:56:11 p.m. EST

Document: GTE Sues Netscape and Yahoo Over Internet Yellow Pages …

GTE Sues Netscape and Yahoo Over Internet Yellow Pages Access

The New York Times

October 7, 1997, Tuesday, Late Edition - Final

Distribution: Business/Financial Desk

Section: Section D; ; Section D; Page 10; Column 3; Business/Financial Desk ; Column 3;

Length: 668 words

Byline: By STEVE LOHR

By STEVE LOHR

Body

The GTE Corporation filed an antitrust suit yesterday accusing the five regional Bell telephone companies, as well as two Internet companies, Netscape Communications and Yahoo Inc., with conspiring to limit competition in the emerging market for on-line yellow pages.

In the lawsuit, filed in United States District Court in Washington, GTE contended that the Bell companies pooled their resources and paid handsomely for an exclusive contract to be carried on Netscape's popular home page on the World Wide Web, whose reference section is prepared by Yahoo. Before the exclusive deal, GTE and other suppliers of national on-line yellow pages had been among the choices on Netscape's reference section.

But on July 18, the GTE suit charged, the access to its yellow pages service, GTE Superpages, through Netscape's Internet home page, was cut off -- denying GTE access to one of the most heavily trafficked locations on the Internet.

The dispute over business-telephone listings raised questions about the legal ground rules covering the sale of "real estate" on the Web. The Bell companies, an industry analyst estimated, might have paid as much as $4 million for the exclusive display of their joint yellow-pages offering, called the Original Yellow Pages.

But **William P. Barr**, an executive vice president and general counsel of GTE, argued, "These companies formed a group, agreed not to compete, and as a group went to Netscape and Yahoo to gain an exclusive listing in the guide section of Netscape's home page."

The Bell companies' agreement threatens competition, said Mr. Barr, a former United States Attorney General. As a result, the arrangement could increase the cost to businesses of Internet yellow-pages listings and the cost of electronic commerce that is expected to some day result from the Internet listings, he added.

The regional Bell companies responded that the case was "without merit." Geoff Potter, a spokesman for Ameritech, the Bell that serves several states clustered around the Great Lakes, said, "The notion that any 1, 2 or 10 companies could monopolize the Internet is absurd on its face."

Internet analysts and antitrust experts say GTE may have a difficult time proving its case. Part of GTE's argument is that Netscape's home page is a "critical Internet access point," and that any deal that denies competitors access to it is an unfair restraint of trade.

Software companies, including Netscape, have argued in the past that the Microsoft Corporation's dominance of desktop operating software is a "critical access point" in personal computing. Microsoft rivals have said that their software products, from spreadsheets to Internet browsers, face an unfair obstacle when competing against similar Microsoft products.

But to date, such antitrust arguments against Microsoft have not progressed very far in Washington or in the courts, though the company remains under investigation.

"If you can't make the claim stick against Microsoft, it is going to be very difficult to prove on the wide open World Wide Web," said Adam Schoenfeld, an analyst for Jupiter Communications, a research firm.

Under antitrust law, the Bell companies' arrangement could well qualify as a legitimate joint venture, assembling complementary regional listings, according to Charles F. Rule, a partner at Covington & Burling, a Washington law firm. "And the fact that the Bell group may be able to pay more than GTE is not in and of itself anticompetitive," said Mr. Rule, a former chief of the Justice Department's antitrust division.

A spokesman for another of the regional phone-service providers, Bell Atlantic, said that contrary to GTE's accusation that it sought to eliminate competition, it continued to compete with the other Bell companies in the market for Internet yellow pages with a stand-alone national directory.

Netscape could not be reached for comment yesterday. A spokesman for Yahoo also said last night that the suit was without merit.

Classification

Language: ENGLISH

Subject: COVENANTS NOT TO COMPETE (90%); RESTRAINT OF TRADE (89%); ANTITRUST & TRADE LAW (89%); BUSINESS TORTS (78%); SUITS & CLAIMS (78%); LAWYERS (78%); CONSPIRACY (78%); LITIGATION (78%); ELECTRONIC COMMERCE (73%); ATTORNEYS GENERAL (73%); CORPORATE COUNSEL (72%); LAW COURTS & TRIBUNALS (72%); INVESTIGATIONS (68%)

Company: YAHOO! INC (95%); VERIZON COMMUNICATIONS INC (95%); YELLOW PAGES INCOME FUND (92%); MICROSOFT CORP (81%); AT&T INC (58%); GTE CORP; NETSCAPE COMMUNICATIONS; YAHOO INC YAHOO! INC (95%); NETSCAPE COMMUNICATIONS; YAHOO INC YAHOO! INC (95%); YAHOO INC YAHOO! INC (95%); VERIZON COMMUNICATIONS INC (95%); YELLOW PAGES INCOME FUND (92%); MICROSOFT CORP (81%); AT&T INC (58%)

Organization: GTE CORP; NETSCAPE COMMUNICATIONS; YAHOO INC

Ticker: YHOO (NASDAQ) (95%); VZC (LSE) (95%); VZ (NYSE) (95%); MSFT (NASDAQ) (81%); T (NYSE) (58%)

Industry: COMPUTER NETWORKS (90%); YELLOW PAGES ADVERTISING (90%); INTERNET & WWW (90%); COMPUTER SOFTWARE (89%); INDUSTRY ANALYSTS (87%); COMPUTER OPERATING SYSTEMS (78%); INTERNET BROWSERS (78%); LAWYERS (78%); REAL ESTATE (78%); TELECOMMUNICATIONS SERVICES (78%); (77%); TELEPHONE SERVICES (73%); ELECTRONIC COMMERCE (73%); CORPORATE COUNSEL (72%); SOFTWARE MAKERS (63%); PERSONAL COMPUTERS (60%); BUSINESS TELEPHONE SERVICE (53%)

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Document: GTE Says Baby Bells, Netscape, Yahoo! Formed Internet Yell…

GTE Says Baby Bells, Netscape, Yahoo! Formed Internet Yellow Pages Cartel

The Wall Street Journal

October 7, 1997 Tuesday

Section: TECHNOLOGY; Pg. B6

Length: 646 words

Byline: By Jared Sandberg, Staff Reporter of The Wall Street Journal

Body

GTE Corp. filed suit against five of the regional Bell operating companies as well as Netscape Communications Corp. and Yahoo! Inc. for allegedly "conspiring to restrain and monopolize the Internet Yellow Pages market."

GTE, which runs a national Internet Yellow Pages directory dubbed Superpages, filed suit against Ameritech Corp., BellSouth Corp., Bell Atlantic Corp., SBC Communications Inc., U S West Inc., Yahoo and Netscape yesterday in U.S. District Court in Washington, D.C. The suit alleges that they had banded together as a "cartel" to shut competitors out of the highly trafficked sites operated by Netscape and Yahoo.

The suit alleges that the regional Bell operating companies agreed not to compete with each other with their national Internet Yellow Page offerings but divided the nation by their respective regions. Specifically, Stamford, Conn.-based GTE objects to the depiction of a U.S. map that has been divided up into regions and points users only to the Yellow Page services offered by the Baby Bells.

The suit, which seeks injunctive relief and damages, says GTE and others were on equal footing in listings on Netscape and Yahoo Web sites until regional Bell operating companies conducted a series of phone calls and closed-door meetings throughout the country before July in "a conspiracy to capture, control and dominate the Internet Yellow Pages market." By July, executives from the regional Bells met at the Fairmont Hotel in San Jose, Calif., "to seize and lock up for their exclusive use the Netscape Guide by Yahoo."

Bell Atlantic said it doesn't participate on-line with the other Bells, but competes with them. A spokesman for BellSouth said the suit is "completely without merit." Netscape said it is "confident" it "hasn't violated any law." The other companies named as defendants had no immediate comment.

The suit has been assigned to the very same federal judge, Harold Greene, who was responsible for making sure the Bells didn't engage in the monopolistic practices that led to the break up of its parent company, the old AT&T Corp. GTE executives contend the Bells haven't changed their tune. "They're going back to their exclusive franchise," said **William P. Barr**, general counsel of GTE.

Mr. Barr said the Bells "couldn't beat us on a level playing field, so they pulled back their own national products, carved up the country into exclusive territories, forced competitors off key locations on the Internet and intend to divide the winnings among themselves."

The potential winnings are enormous. Though Yellow Page ad revenue on the Internet is presently anemic, the Yellow Pages Publishers Association estimates that by the year 2010, on-line revenue will surpass that of the printed versions, which currently amounts to a whopping $11.5 billion.

The GTE suit comes at a time when a number of telecommunications companies, including GTE, are arguing that the Bells shouldn't be allowed into the $70 billion long-distance market. GTE, often referred to as the eighth Bell, has no restriction, and has been moving aggressively to offer one-stop shopping of telecommunications services, sometimes in competition with the other Bells. The suit could add to the controversy about the Bells' business practices and whether they are adhering to the spirit of competition encouraged by last year's sweeping telecommunications legislation.

Antitrust experts said that GTE, which would theoretically benefit from the reduced competition that it alleges, might run into skepticism from the courts. "Any competitor would benefit from less competition," said Joel Chefitz, chairman of the antitrust group at Katten Muchin & Zavis. Mr. Chefitz also noted that there's nothing to prevent GTE from entering into a similar joint venture with other popular Web sites. Yet, if the arrangement deprives consumers of choices, GTE could have a stronger case.

Notes

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(73%); LAW COURTS & TRIBUNALS (71%); TALKS & MEETINGS (66%); CORPORATE COUNSEL (62%); C12 Legal/Judicial; C18 Ownership Changes; C184 Joint Ventures; C34 Monopolies/Antitrust; CCAT Corporate/Industrial News; M11 Equity Markets; MCAT Market News; NRMF Routine Market/Financial News

Company: AT&T INC (95%); VERIZON COMMUNICATIONS INC (95%); YAHOO! INC (95%); AOL INC (93%); YELLOW PAGES INCOME FUND (92%); AT&T SOUTHEAST (84%); U S WEST INC (72%); BER APPLIED INDUSTRIAL TECHNOLOGIES INC(USA); BLSATT BELLSOUTH CORPORATION (USA); SBCATT S B C COMMUNICATIONS INC (USA); YAHCOR YAHOO INC (USA)

Ticker: T (NYSE) (95%); VZC (LSE) (95%); VZ (NYSE) (95%); YHOO (NASDAQ) (95%)

Industry: YELLOW PAGES ADVERTISING (90%); INTERNET & WWW (90%); COMPUTER NETWORKS (89%); MARKETING & ADVERTISING REVENUE (77%); DIRECTORY & DATABASE PUBLISHING (77%); LAWYERS (75%); HOTELS & MOTELS (64%); CORPORATE COUNSEL (62%); I3302 Computers; I330202 Software; I475 Printing/Publishing; I7902 Telecommunications; I79021 Wired Telecommunications; I7902101 Local Telephone Services; IINT Internet/Online Services; IMED Media

Geographic: SAN JOSE, CA, USA (71%); DISTRICT OF COLUMBIA, USA (79%); CALIFORNIA, USA (79%); CONNECTICUT, USA (76%); UNITED STATES (92%); NAMZ North American Countries; USA United States; USC Central U.S.; USCA United States - California; USCT United States - Connecticut; USE Eastern U.S.; USGA United States - Georgia; USIL United States - Illinois; USPA United States - Pennsylvania; USS Southern U.S.; USTX United States - Texas; USW Western U.S.

DJI Codes: CYC, TEC, UTI, IAS, MED, PUB, RTL, SOF, TEL, TLS, DCO, DCS, DIT, DME, DTE, HIY, JVN, LWS, NET, TST, WEI, CA, CT, GA, IL, NME, PA, PRM, TX, US, USC, USE, USS, USW, LMJ, TCH
DJI Descriptors: Consumer Cyclical, Technology, Utilities, Information & On-Line Services, Media, Publishing, Regional Telephone Systems, Software, Telecommunications, All, Telephone Systems, Computer Hardware, Computer Software, Internet, Telecommunications, High-Yield Issuers, Joint Ventures, Lawsuits, Antitrust News, Dow Jones Total Market Index, California, Connecticut, Georgia (U.S.) Illinois, North America, Pennsylvania, Pacific Rim, Texas, United States, Central U.S., Eastern U.S., Southern U.S., Western U.S., Large Majors

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GTE SUES BELLS AND INTERNET COMPANIES FOR YELLOW PAGES PRACTICES

WASHINGTON TELECOM NEWSWIRE

October 6, 1997, Monday

Section: WTN NOTEBOOK

Length: 253 words

Body

GTE today filed suit in a federal court against the five regional Bell companies, Netscape and Yahoo! for "conspiring to restrain and monopolize the Internet yellow pages market." It asked the U.S. District Court, D.C., for an injunction to bar the Bells from offering a joint Yellow Pages site and force Netscape and Yahoo! to return GTE's competing site "to the Internet access position it held prior to the illegal agreement."

GTE said the Bells created a joint site this year rather than compete against each other, and then paid "a substantial premium" to Netscape and Yahoo! to remove GTE's site. "The [Bells]couldn't beat us on a level playing field, so they pulled back their own national products, carved up the country into exclusive territories, forced competitors off key locations on the Internet and intend to divide the winnings among themselves," said **William Barr**, executive vice president-general counsel. "There are literally hundreds of players in the online directory business," a spokesman for Ameritech said, "so the idea that any one, two or ten companies could monopolize the Internet is absurd on its face." He and representatives of the other Bell companies and Yahoo! said they could not comment on specifics until they had time to review the 300-page filing. "This sounds like a dispute between GTE and the [Bell companies]," a spokewoman for Netscape said. "We're familiar with the facts of the case and we're confident that Netscape has not violated any law." (WTN 974-97)

Classification

Language: ENGLISH

Subject: SUITS & CLAIMS (90%); LITIGATION (78%); LAWYERS (75%); CORPORATE COUNSEL (67%)

Company: YAHOO! INC (95%); YELLOW PAGES INCOME FUND (91%); AT&T INC (90%); YAHOO! INC (95%); YELLOW PAGES INCOME FUND (91%); AT&T INC (90%)

Ticker: YHOO (NASDAQ) (95%); T (NYSE) (90%)

Industry: COMPUTER NETWORKS (90%); INTERNET & WWW (90%); LAWYERS (75%); CORPORATE COUNSEL (67%)

Geographic: UNITED STATES (79%)

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Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

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10/6/97 Wash. Times (D.C.) C3
1997 WLNR 390863

Washington Times (DC)

October 6, 1997

Section: METROPOLITAN TIMES TOP OF THE NEWS ELECTIONS '97

Gilmore vs. Beyer: Round 2 Second debate targets undecided

Andrew Cain - THE WASHINGTON TIMES

RICHMOND

RICHMOND - It has all the trappings of a main event, with former Virginia Gov. L. Douglas Wilder as referee.

This year's candidates for governor, Democrat Donald S. Beyer Jr. and Republican James S. Gilmore III, are set to square off tonight in their second debate.

The prime-time clash at Virginia Commonwealth University, to be broadcast statewide, comes just four weeks before the election. It also gives the two men a pivotal opportunity to sway undecided voters in a race the polls say is too close to call.

But both are trying to downplay expectations for the debate.

"I think it's important, but it's not the only hurdle in the campaign," Mr. Beyer said last week.

"What's driving the campaign is not debates," Mr. Gilmore said. "What's important to the people in the election is how my program hopes and promises to influence their daily lives."

The endorsement of the mercurial Mr. Wilder, a Democrat who was the nation's first elected black governor, is among the spoils of the debate. He will moderate as questions are posed by political science professors Robert Holsworth of VCU and Larry Sabato of the University of Virginia during the event, scheduled to run from 8 to 10 p.m.

Mr. Beyer went out of his way Saturday night to praise Mr. Wilder during President Clinton's fund-raiser for the Democratic candidate in Crystal City, which the former governor skipped.

"Eight years ago," Mr. Beyer told guests, "I traveled the length and breadth of this commonwealth with another lieutenant governor, a man nobody said could win - hell would freeze over - a man who suffered through racial injustice and discrimination all his life and never wavered, a man who made Virginia the best-managed state in the nation two times in a row - my friend, Governor Doug Wilder."

Most black voters already are breaking toward Mr. Beyer. But if the charismatic Mr. Wilder backs Mr. Gilmore or sits on his hands, Mr. Beyer will suffer a bruising, symbolic defeat.

Mr. Beyer, who rocked the July 19 debate with his call for a state income-tax credit against the personal property tax on automobiles, is likely to come out swinging tonight, branding his Republican foe as a conservative who is out of the mainstream.

"Most knockout punches are self-inflicted," Mr. Beyer said last week, dampening speculation he will swing from his heels.

The Democrat's recent ads and speeches have gone after Mr. Gilmore by attacking religious broadcaster Pat Robertson, founder of the Christian Coalition, who has donated $50,000 to the Gilmore campaign.

Mr. Beyer has tried to paint Mr. Gilmore as an "extremist" because he opposes abortions after eight to 12 weeks, even in cases of rape or incest. The Democrat calls Mr. Robertson a powerful symbol in the race.

"He's powerful not just because of who he is, but rather because of the agenda that flows from Pat Robertson," Mr. Beyer said, ticking off Mr. Gilmore's opposition to abortion, support of school vouchers and opposition to mandatory sex education.

Mr. Gilmore likely will stay focused on his promise to add 4,000 elementary school teachers and to slash the personal property tax on cars and trucks.

For the Republican and his tax-cut plan, the timing of the debate couldn't be better: Personal property taxes are due today in Alexandria and Arlington and Fairfax counties.

The former state attorney general also heads into the debate brimming with confidence. Although public polls show the race too close to call, Mr. Gilmore hints in speeches that his private polls show him taking a modest lead.

Mr. Gilmore said he will not be surprised if Mr. Beyer, the sitting lieutenant governor, goes on the attack.

"He may do that. If so, he'd be consistent with his television campaigning," Mr. Gilmore said.

Mr. Gilmore likely will repeat his call for Mr. Beyer to yank a television ad in which the president of the state Fraternal Order of Police says the lieutenant governor helped abolish parole in Virginia.

Virginia Attorney General Richard Cullen and former U.S. Attorney General William Barr, who headed Gov. George F. Allen's Commission to Abolish Parole, released a statement saying "neither Don Beyer nor anyone on his staff ever assisted us in any way."

More than 90 journalists have credentials to cover the debate, scheduled to air on TV stations in Fairfax, Richmond, Roanoke, Norfolk and Charlottesville, and nationally on C-SPAN2.

Mr. Beyer and Mr. Gilmore likely will try to get their jabs in early. Halfway through the debate, the competing "Monday Night Football" features a clash of unbeaten teams, the Denver Broncos and the New England Patriots.

It could have been worse. Mr. Wilder first proposed the debate for next Monday - when the Washington Redskins meet the Dallas Cowboys on "Monday Night Football."

R0071758-100697

Photos, A) Donald S. Beyer Jr.; B) James S. Gilmore III; C) Pat Robertson

---- Index References ----

Company: DENVER BRONCOS FOOTBALL CLUB

News Subject: (Judicial (1JU36); Legal (1LE33); Taxation (1TA10); Government (1GO80); World Elections (1WO93); Global Politics (1GL73); Tax Law (1TA64); Public Affairs (1PU31))

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Region: (USA (1US73); Americas (1AM92); Virginia (1VI57); North America (1NO39))

Language: EN

Other Indexing: (CHRISTIAN COALITION; DEMOCRAT; DEMOCRATIC; DENVER BRONCOS; TV; UNIVERSITY OF VIRGINIA; VCU; VIRGINIA; VIRGINIA COMMONWEALTH UNIVERSITY) (Beyer; Clinton; Donald S. Beyer Jr.; Doug Wilder; Fairfax; Fraternal Order; George F. Allen; Gilmore; Halfway; James S. Gilmore; L. Douglas Wilder; Larry Sabato; Pat; Pat Robertson; Richard Cullen; Robert Holsworth; Robertson; Wilder; William Barr)

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NewsRoom

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Sinocast

October 6, 1997

GTE Suit Says RBOC Cartel Blocking Competition In Internet Yellow Pages

WASHINGTON (Oct. 6) BUSINESS WIRE -Oct. 6, 1997-- Baby Bells Blocking Competitors' Access to Prime Internet Locations GTE today filed suit against the five regional Bell telephone operating companies (RBOCs) -- and two dominant Internet players, Netscape Communications and Yahoo!, Inc. -- for conspiring to restrain and monopolize the Internet Yellow Pages market, and asked a federal court for injunctive relief from continued RBOC violations of U.S. antitrust laws. The complaint was filed with the United States District Court for the District of Columbia. According to the suit, the RBOCs, beginning in 1997, illegally agreed to create a joint national Internet Yellow Pages rather than compete against each other as they had been doing, and instead, to divide up the national market among themselves in keeping with their traditional regional territories. The Bell companies developed a color-coded map to illustrate the territorial divisions and then placed that joint map on certain key Internet sites to promote their services with consumers. The suit charges that the RBOCs then paid a substantial premium to Netscape and Yahoo! to exclude GTE and other competitors from their existing spots on the Netscape Guide by Yahoo! and other locations. GTE said that the RBOCs' anti-competitive behavior was designed to unlawfully limit access to GTE's Internet Yellow Pages service, SuperPages", and similar services. "GTE SuperPages(R) is an industry leader in providing up-to-date addresses and phone numbers for millions of businesses across the country," said GTE Executive Vice President-General Counsel William P. Barr. "The RBOCs couldn't beat us on a level playing field, so they pulled back their own national products, carved up the country into exclusive territories, forced competitors off key locations on the Internet and intend to divide the winnings among themselves." RBOC Cartel Deprives Consumers and Advertisers of Benefits of Competition "The Baby Bells have established a cartel arrangement that violates the premises of a competitive marketplace. It is unfair to consumers and advertisers as well as to competitors," Barr said. In its suit, GTE asked the court to bar the RBOCs from continuing to offer their joint Internet Yellow Pages, bar the use of the color-coded map and return GTE to the Internet access position it held prior to the illegal agreement between the RBOCs and the Internet companies. GTE also asked the court to order an expedited 60-day discovery process so that the court can rule quickly on the request for injunctive relief. The suit noted that until reaching the cartel agreement, the RBOCs had competed against each other as well as with GTE SuperPages(R) and other companies in the Internet Yellow Pages business. Earlier this year, the RBOCs decided to suppress competition among themselves, allocate the national market for Internet Yellow Pages, and drive other suppliers from the market by denying them access to popular locations on the Internet. "Service providers, consumers, and advertisers all lose as a result of the cartel's actions," Barr said. "This is an attempt to knock competitors out of the market. If left unchecked, consumers will have fewer choices for Internet Yellow Pages services, and advertisers will inevitably pay higher prices for the limited advertising space that remains." Financial Inducements by RBOC Cartel Enticed Internet Companies to Go Along Prior to the conspiracy, Netscape entered into an agreement with GTE in October 1996, to provide links to GTE's SuperPages(R) from the Netscape Web site. The contract has been renewed once, and is effective until April 10, 1998. Similar access was also provided by Netscape to other competing Internet Yellow Pages providers. In its suit, GTE says that Yahoo! acquired management of the "Guide" and "Destinations" extensions of the Netscape home page in early July, and, at the RBOCs' urging, Yahoo! and Netscape terminated the hyperlink access to GTE's SuperPages(R) and other competitors in July 1997. The suit alleges Yahoo!, Netscape and the RBOCs entered

into agreements to, among other things, alter Netscape's Web site to give preferential access exclusively to the RBOCs' Internet Yellow Pages services. Pooling resources of the five companies, the RBOC cartel paid a substantial premium intended to bid up the price of Internet access for Yellow pages providers, to raise rivals' costs to non-competitive levels, and ultimately, to deprive rivals of access to key points on the Internet, damaging their ability to compete. Barr noted that even new industries and technologies such as the Internet are bound by the legal requirements of fair competition. "The Internet is still a new frontier and many of the rules of electronic commerce are yet to be defined, but it is subject to the same antitrust laws that have governed America's businesses throughout this century," Barr said. RBOCs Seek to Restore Old Bell Monopoly "It is clear from these anticompetitive actions that the RBOCs seek to create an old Bell system-type monopoly in the nationwide Internet Yellow Pages market. GTE is trying to succeed in the Internet Yellow Pages marketplace the fair way, by offering the best service possible for America's consumers and advertisers," Barr said. By allocating territories among themselves, the RBOCS have "agreed to allow each RBOC to dominate the Internet Yellow Pages in the region allocated to it by the cartel, and to forego competing against the other RBOCs in the regional markets allocated to them," GTE said in its filing. "The effect is to funnel tens of millions of new and existing users to the color-coded Internet Yellow Pages map of the RBOCS while effectively excluding GTE and other Internet Yellow Pages providers from Internet access points." SuperPages Description GTE's SuperPages(R) provides a national listing for 11 million businesses and access to more than 60,000 Web sites. SuperPages(R) also includes graphics and sound, interactive locator maps, and listings that can be updated on a daily basis. SuperPages(R) is offered by GTE New Media Services, an affiliate of GTE Directories Corporation, a leader in linking buyers and sellers through effective advertising and information media. GTE Directories is part of GTE Corp., a publicly held telecommunications company. -0- emb/ny* bk CONTACT: Media: Bob Bishop, GTE, 203-965-3982 Internet: bbishop@dcoffice.gte.com or Brian Blevins, GTE, 972-718-6920 Internet: brian.blevins@telops.gte.com or Bobbi Hennessey, GTE Directories, 972-453-7700 Internet: bobbihen@aol.com KEYWORD: DISTRICT OF COLUMBIA INDUSTRY KEYWORD: INTERACTIVE/MULTIMEDIA/INTERNET TELECOMMUNICATIONS GOVERNMENT COMED Today's News On The Net - Business Wire's full file on the Internet with Hyperlinks to your home page. URL: http://www.businesswire.com H

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TR Daily

October 6, 1997

GTE LAWSUIT CHARGES RBOCS, INTERNET COMPANIES WITH MONOPOLIZING ONLINE `YELLOW PAGES' MARKET

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GTE New Media Services, Inc., today filed a lawsuit against the five Bell regional holding companies, Netscape Communications Corp., and Yahoo!, Inc., charging they conspired to restrain and monopolize the Internet "yellow pages" market. The GTE complaint filed in the U.S. District Court in Washington, D.C., charged that the Bell companies paid a substantial premium to induce Netscape and Yahoo! to exclude GTE and other competitors from the Netscape Guide by Yahoo! Internet Yellow Pages. GTE sought treble damages and injunctions to halt the alleged antitrust violations.

Spokesmen for Yahoo! and Netscape could not be contacted by TRDaily's deadline. An Ameritech spokesman said he had not reviewed the lawsuit in its entirety but told TR, "the idea that any one, two or 10 companies could monopolize the Internet is absurd." A Bell Atlantic Big Yellow spokesman said the company "had never been part of the RBOCs' joint national Internet Yellow Pages. In fact, it competes against it," he said.

GTE's lawsuit focused on a color-coded yellow pages map of the U.S. that Netscape had tailored to reflect the traditional Bell company local exchange service operating regions. GTE charged that Ameritech Corp., BellSouth Corp., Bell Atlantic Corp., SBC Communications, Inc., and U S WEST, Inc., pooled their resources and paid Netscape a substantial amount of money to implement the color-coded map. GTE said that arrangement precludes GTE and other competitors from having access to the guide and suppresses competition in the Internet yellow pages market.

"The Baby Bells have established a cartel arrangement that violates the premises of a competitive marketplace," according to William P. Barr, GTE executive vice president and general counsel. "The RBOC's couldn't beat us on a level playing field, so they pulled back their own national products, carved up the country into exclusive territories, forced competitors off key locations on the Internet, and intend to divide the winnings among themselves," Mr. Barr said in a statement.

GTE claimed that Bell company executives participated in a series of closed-door meetings held this summer to discuss details of implementing their joint Internet yellow pages "scheme." GTE called the arrangements they proposed a "calculated plan to reconstitute the yellow pages monopoly once enjoyed by the RBOCs under the old Bell system." GTE said Internet directory information companies Four11, and WhoWhere, and "others unknown at this time," participated as co-conspirators in the case.

GTE asked the court to bar the Bell companies from continuing to offer their joint Internet yellow pages service and to prohibit the use of the color-coded map. It requested that Yahoo restore GTE to the Internet access position it had prior to the arrangement worked out with the defendants.

GTE said it discovered the agreement among the Bell companies and Yahoo! during a Sept. 22 deposition of an Ameritech employee in connection with GTE's lawsuit against Netscape and Yahoo! That lawsuit alleged a breach of a contract pertaining to GTE's placement on the Netscape Guide by Yahoo! yellow pages.

TR Daily, October 6, 1997 19971006 TR Daily -->

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Company: BELL ATLANTIC CORP; VERIZON COMMUNICATIONS INC; AT&T INC; SOUTHWESTERN BELL CORP; BELL HOWELL HOLDINGS CO; NETSCAPE COMMUNICATIONS CORP; BELL HOWELL OPERATING CO; W BELL AND CO INC; SBC COMMUNICATIONS INC; PROQUEST CO; BELLSOUTH CORP; AMERITECH CORP; BELL AND HOWELL CO; YAHOO INC

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GTE sues five Baby Bells

October 6, 1997: 7:23 p.m. ET

Antitrust lawsuit seeks to block joint Internet Yellow Pages service

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NEW YORK (CNNfn) - GTE Corp. said Monday it is suing five Baby Bell phone companies and two Internet providers for allegedly monopolizing the Yellow Pages market on the Internet.

The suit contends the companies are breaking antitrust laws by working together on one Yellow Pages service instead of competing against each other.

The companies named in the lawsuit are Ameritech Corp., BellSouth Corp., Bell Atlantic Corp., SBC Communications Inc., Pacific Bell, and several of their subsidiaries.

The two Internet providers, Yahoo! and Netscape, allowed the Bells to unfairly push GTE out of the market, the lawsuit said.

"The Baby Bells have established a cartel arrangement that violates the premises of a competitive marketplace," said William Barr, executive vice president and general counsel. "It is unfair to consumers and advertisers as well as to competitors."

Geoff Potter, a spokesman for Ameritech, denied any wrongdoing.

"There are literally hundreds of players in the online directory business," Potter said. "The very idea that any one, two, or 10 of those companies could possibly monopolize the Internet is patently absurd."

The other Bells and the Internet providers weren't immediately available for comment.

GTE is seeking an injunction in U.S. District Court in Washington, D.C. to stop the Baby Bells from operating the service. GTE also wants the Internet access position it had before the Bells started the arrangement.

GTE said its Internet Yellow Pages service, SuperPages, has been unfairly hurt by the arrangement.

SuperPages and the Bells had competed against each other until the five phone companies decided to join forces in a national Yellow Pages earlier this year.

The Bells developed a color-coded map that outlined the territories and then paid Netscape and Yahoo to exclude SuperPages, the suit alleges.

GTE said Yahoo and Netscape cut SuperPages's hyperlink in July. GTE sued both providers in a separate lawsuit for breach of contract.

"The Internet is still a new frontier and many of the rules of electronic commerce are yet to be defined, but it is subject to the same antitrust laws that have governed America's businesses throughout this century," Barr said.■

-- Martine Costello

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Telecommunications

October 1, 1997

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Putting it all together: Has one-stop shopping arrived?

Deregulation and competition in the local and long-distance telecommarkets promised 'one-stop shopping,' but such convenience isstill a dream despite the fact that nearly every service provider nowtouts it heavily. An ideal model for one-stop shopping would be a singleglobal provider or integrated carrier bundling all forms of voice, data,multimedia and wireless services. Numerous administrative, regulatoryand other hurdles block the chance of any company being able to offersuch bundles. User skepticism and resistance to change are significantproblems; only 21 percent of executives in one poll favor obtaining allservices from the local exchange carriers (LECs). The Telecom Act of1996 has failed to deliver true competition, and providers cannot yetbundle services for lower prices than in the past. Administrative issuesinclude the difficulty of presenting a single bill for multipleservices. Experts are not betting on any particular business model whenforecasting who will emerge as the leader in one-stop shopping.

It is virtually impossible to find a telecom service provider today that's not touting a "one-stop shopping" plan of one sort or another. The concept is both logical and timely: Why deal with multiple carriers, particularly now that the Telecommunications Act of 1996 will supposedly allow long-distance and local exchange carriers to get into each other's businesses? Yet, true one-stop shopping is nowhere near to becoming a reality. The road between where the industry is today and where it could and should go is a bumpy one indeed.

Before reviewing the current state of one-stop shopping for telecom services, a universal definition is needed. The ideal model is a single global provider, or an integrated carrier, that bundles all forms of services, including switched voice, TV programming, wireless, multimedia, Internet access, and highspeed data. (Some have even referred to these as "super carriers.") Also in that mix should be value-added services such as virtual voice and data networks, multiple forms of services and facilities outsourcing, and equipment management down to the desktop. The available one-stop shopping infrastructure provides traffic transport over a variety of media, including fiber optic, VSAT, digital wireless, hybrid optic coaxial cable, radio, and twisted pair transmission facilities. The reliability in terms of uptime is 99.9 percent for all types of services. Not to be forgotten is administration. Not only is unified billing a reality for all types of services, but integrated services providers deliver it in an electronic format that adds significant value to the bundle of services purchased.

One reason for the bumpy road is latent user skepticism. One might think that telecom managers would be among the strongest supporters of one-stop shopping as a way of simplifying their jobs. This isn't necessarily the case. The idea of having a single carrier for both local and long distance apparently does not sit well with members of the Communications Managers Association (CMA). In a Telecommunications, magazine survey conducted last year (September 1996, pp. 3741), 66 percent of respondents rated d& option as not important. When ranking the factors used in making a

decision on selecting a carrier, only 6 percent saw a single source for local or long distance as "most important." Survey respondents gave numerous reasons for their reluctance to buy into the one-stop shopping concept. One who uses nine local exchange carriers (LECs) and experiences problems put it this way: "If they can't provide good local service, why would we buy long distance from them?" Another said, "There's just too much uncertainty about how all of this new competition is going to work out in practice."

A similar survey by Deloitte & Touche Consulting Group showed that only 21 percent of executives spending at least $5 million a year on telecommunication favored LECs as their one-stop shopping vendors. Seventy-five percent said they would go with their long-distance interexchange carrier as a single source of telecom services. Jennifer Taylor, head of communications consulting for Price Waterhouse's Entertainment, Media, and Communications Group (San Francisco), says corporations are "less concerned about one-stop shopping than they are about getting the best deal, easy service provisioning, and management information. Their buying criteria are totally different from residential consumers." In fact, according to a recent Price Waterhouse/Kenan Systems Communications Preference Survey, 55 percent of residential subscribers say they prefer to buy not only telephone, but also television services from one company. Preference for one bill for all services was even stronger, with 69 percent expressing interest. Respondents also held a much higher opinion of LECs than the telecom professionals, with more than 80 percent giving LECs an "excellent" or "good" rating.

One message emerging from both businesses and the general public to telecom providers is that as customers, they will be demanding buyers. "Certainly the companies are going to go price shopping. As competition heats up, there are going to be tremendous price choices," says Frank Slavik, a TeleChoice analyst. Many buying decisions will be made on billing procedures, with the nods going to those that offer one bill for services. "We've known people have wanted this for a long time," Slavik says. Here, the edge goes to the long-distance carriers. "The local providers have not fared as well as the long-distance companies in providing easy-to-read bills," he says.

There are firm large bumps in the road to one-stop shopping:

* Regulatory. Just how long it will take local and long-distance carriers to get into each other's businesses is anyone's guess. The recent Bell Atlantic foray into long distance is promising. But until this happens on a wider basis, true one-stop shopping is stymied.

* Administration. Legacy back office billing and reporting systems leave the existing players in need of costly upgrades. New providers have an advantage.

* User Resistance. Getting telecom managers to change their attitudes is a major marketing challenge. Conventional wisdom advises never putting all of one's eggs into one provider's basket.

YOU CALL THIS "REFORM"?

Until the regulatory bumps are smoothed out, the debate over one-stop shopping is little more than a debate. The Telecommunications Act of 1996 is not delivering in terms of turning telecom providers into aggressive competitors able to bundle services for lower prices and improved performance. "This law has been a disaster," says Sen. John McCain (R-Ariz.). Since it was signed into law in February 1996, less than .5 percent of U.S. subscribers have gained access to competitive local service, according to the Yankee Group (Boston, Mass.). With the exception of Bell Atlantic, not one RBOC has, in the judgment of regulators, opened its calling area market to the degree that it can be permitted to compete with long-distance carriers. When the Act was passed, AT&T vowed to be a major player in local exchange service, providing such service in all 50 states and having a third of the market share in five to 10 years. Right now, it offers very limited local calling in only six states: California, Connecticut, Georgia, Illinois, Michigan, and New York.

Critics of the new law view the major telecom providers as choosing to make love, not war. This includes Nynex and Bell Atlantic, SBC Communications and Pacific Bell, and for a short time before it was aborted, AT&T and SBC. All want to join forces, not compete. The FCC is insistent that they allow rivals into their businesses before merging. The Bell Atlantic/Nynex $23 billion marriage is a good example of the complexities of creating a competitive marketer out of a monopoly. The $23.7 billion merger was held up by the FCC because it wanted guarantees, which following a year-long investigation by the U.S. Justice Department's antitrust division. Resolution of the conflict came from an array of concessions that FCC Chairman Reed Hundt called "more than compensation for the loss of Bell Atlantic as a potential competitor in the Nynex region." Included in these concessions, most of which were aimed at removing technical barriers, are agreement on how competitors would access the Bell Atlantic/Nynex infrastructure, pricing based on forward-looking costs rather than embedded costs, and methods for tracking how the merged RBOCs are treating rivals. A key component is a uniform electronic system for ordering services and switching customers.

While this action is good for one-stop shopping, at least for the 13 states in the Bell Atlantic/Nynex calling area, it does not clarify how other markets will be opened to competition. The day before this agreement was reached, an appellate court in St. Louis sharply limited the FCC's right to set terms on the pricing and connections conditions for competitors to local phone carriers. The three-judge panel said the FCC "trampled on the states' rights" to carry out key elements of the Act. This a major victory for the RBOCs and GTE because it prohibits the FCC from imposing deep discounts on network connections for their competitors. "The states are in charge of setting wholesale prices," said William Barr, the former attorney general who argued the case for GTE. The FCC's Hundt said an appeal is planned based on the ruling being inconsistent with the mandate and intent of Congress. "We cannot believe the Congress intended to have 93 district courts and 12 appeals courts and the Supreme Court deciding over the next five years what based on costs' or other language means," Hundt said.

All this legal and regulatory wrangling results in more roadblocks to integrated carriers trying to emerge as sources of one-stop shopping. The same can be said of charges by the RBOCs that the long-distance carriers are resisting entering the local business as a means of keeping them out of the long-distance business. Costs are factors, too. MCI recently announced that losses from trying to provide local phone services this year would be $800 million, or double what was previously estimated.

Open competition will become a reality, "but it will happen a lot slower than anyone wanted," predicts Taylor of Price Waterhouse. "It's very hard for regulators to get out of the business of regulation, even though they say they haven't put up any barriers." The ultimate winners in the race to offer one-stop shopping will be the carriers who are the most aggressive in offering bundled services to their corporate customers. "They have to not violate regulations, while also not using regulations as an excuse for not being aggressive," she says.

FULFILLING THE BILLING

Another bump in the road to one-stop shopping is in the form of administrative problems -- presenting a single bill for multiple telecom services. In the back offices of the established carriers, particularly the RBOCs, there are many legacy billing system issues that will take time to resolve. Bob Kiburz, vice president of strategy and planning for Kenan Systems Corp. (Cambridge, Mass.), has seen firsthand the challenges in this area, since his company is a supplier of convergent billing systems. "Bill consolidation is a good start that accelerates a carrier's move toward one-stop shopping," he says. The newer providers, such as competitive local exchange carriers (CLECs) and cable companies, "have a real advantage [over established carriers] by not having these legacy system problems," he adds.

The administrative implications of delivering one-stop shopping go far beyond upgrading some legacy billing systems. What telecom managers really want from their providers is a single point of contact for all administrative aspects of services. In particular, this includes routine changes and upgrades in services, and strategic forecasting and reporting.

The term coming into use in the industry is "customer care," which covers most back office aspects of providing and managing bundled communications services.

The demand by business customers for this single point of contact requirement will drive the upgrading of back office operations. "They want to be able to call in and talk with someone who can adjust their service, handle inquiries about billing, talk about new products, and have access to all parts of the vendor organization," says Kiburz. A key benefit in the single point of contact administration is that it greatly reduces, if not eliminates, finger pointing when something goes wrong.

Convergent billing and order management software and systems are now available to resolve the back office problems of established carriers. Still, few are making this a priority; inertia and investments in legacy systems are the primary reasons. According to Kiburz, "Dynamics unrelated to the technology are the sticking point."

This gives the CLECs and cable companies a distinct window of opportunity. Corporations are beyond the early adapter phase when it comes to doing business with CLECs such as Teleport and MFS (now part of WorldCom) as a way to drive down costs without jeopardizing operating efficiency. From a regulatory point of view, they have, the advantage of being able to offer both local exchange and long-distance service now, while the RBOCs are months -- or years -- away. GTE is in a niche, being able to offer both local and long distance, but is similar to the RBOCs in terms of back office operations.

The RBOCs are expected to take two to three years to install updated back office systems, while the CLECs have set January 1, 1998 as their deadline for having advanced billing and order management systems operational. "Even if you take away the regulatory issues [limiting access to new markets], the CLECs can have a year jump on the RBOCs," says Kiburz.

RESISTANCE TO CHANGE

The resistance of established telecom providers to modernizing their back offices is only the beginning in terms of resistance to change. According to the Communications Managers Association survey, telecom managers are reluctant to change as well. Few will openly admit that they resist change, but many are leery of putting all their eggs into one provider's basket: 37 percent of survey respondents indicated that they would not be likely to switch local service to a long-distance carrier, while 10 percent foresaw such as a change as highly likely. The matter of ordering long distance from a local carrier generated a similar response, with 64 percent indicating they would not be likely to switch.

Carriers' lack of experience in offering competitors' services had a large impact on CMA membership. Joan McCarthy, a communications analyst for defense contractor AIL Systems (Deer Park, N.Y), said that for now she "wouldn't give them a chance without some time-in-service performance data." Another source who requested anonymity said that cellular and cable companies are "a bit scary" as local access providers. He recommended that they first prove they can deliver reliable service to the home market before approaching business users.

There is no surefire way of overcoming such entrenched lethargy in the marketplace. Competition will pressure the established telecom providers to modernize, while savvy end users will put pressure on their in-house telecom providers to add new services and consolidate those they have now. "The individual residential consumer is also a corporate consumer, particularly when working at home," says Price Waterhouse's Taylor. "When I go into Lotus Notes at night and do on-line research from home, I'm every bit wearing my corporate hat." If her carrier negatively affects her ability to do business at night, she says, "I'm a very unhappy camper." This unhappiness will be made known to her telecom department.

Telecom managers also need to be aware of all the attention that the so-far nonexistent competition is getting in business publications. "Budget is a large consideration, and any information services group want$ to show improvement in

productivity for level of dollars spent, especially when their CEO is seeing all those articles about competition bringing costs down," says Taylor.

AND THE WINNER IS ...

When it comes to predicting who will emerge as the leading one-stop shopping providers, the experts are not placing any serious wagers. The consensus is that individual carriers are going to emerge; the CLECs or LECs are not expected to beat out the long-distance carriers or vice versa. Sanjay Mewada, a senior analyst with the Yankee Group, believes that a carrier's success lies in deploying a three-stage strategy: first, offer bundled services second, expand into applications tied to bundles of services: third, solve the corporation's telecom needs on an end-to-end basis.

Mewada says that setting up call centers and Web hosting are good examples of this strategy in operation. "One-stop shopping must save money in one form or another, but the value proposition can be complex," he says. An example of this would be a bundle of services that costs the same as if purchased separately, but results in internal savings through ease of administration or reduction in staff.

For both telecom managers and providers, the success of one-stop shopping will undoubtedly be based on cost savings in one form or another. "One of the low hanging fruits for reducing costs is to consolidate providers, and clearly there can be more consolidation in telecommunications," says Taylor. "When buying is centralized, as it is in a large corporation, they know better than anyone else how to squeeze vendor margins." Her advice for carriers is to "increase the value propositions to corporate customers." One-stop shopping is the first step in creating greater value for the enterprise's telecom dollars.

Getting One-Stop Shopping Now

At the present time, the two best sources of one-stop shopping for telecom services are WorldCom and GTE. Both are relatively free of regulatory restrictions, and WorldCom is targeting corporate customers.

WorldCom owns and has in place three essential elements: its long-distance voice net, MFS's local net, and UUNet's Internet network. These are bundled as the Internet service, which includes local, long distance and Internet access over a dedicated T1 circuit, and an integrated billing plan. What is lacking is wireless. When asked about savings, WorldCom cites an Atlanta-based user getting a $.01 per minute savings on long-distance calls and a flat rate of $45.89 on each local business line, versus $48.30 from BellSouth -- a 5 percent reduction. UUNet Internet access is $545 per month (64-kbps port, 32-kbps committed information rate); that is reduced to $518 on a two-year contract. WorldCom estimates the bottom-line savings to be $500 to $700 per month. One drawback is that the company's data network services are not yet integrated into one-stop shopping billing.

GTE, long both a LEC and long-distance carrier, received a special exemption from the competitive restrictions placed on the RBOCs and long-distance carriers by the Telecommunications Act of 1996. It already has an extensive local/wireless (29 states) and long-distance (nationwide) network; the acquisition of BBN Corp. provides Internet access. Having a much stronger brand franchise than WorldCom, GTE is better positioned to become a national one-stop shopping provider. The company has announced an integrated carrier business plan, set up its own CLEC to serve business customers, and begun to build out its fiber-based infrastructure. "GTE has the short-term advantage over the RBOCs and the long-distance carriers because it is in both businesses, while they have to wait on the regulatory process to do the same," says Sanjay Mewada, a senior analyst with the Yankee Group.

The ability to offer local service is the key to one-stop shopping becoming a reality for AT&T, MCI, and Sprint. All are making efforts in local service, but WorldCom with MSF's ATM-based fiber backbone and GTE with its existing customer base are significantly ahead. Still, it will be a year or more before WorldCom has any significant competition

even from GTE. The hope that cable companies and wireless companies will come on strong is now pretty much discounted. Cable providers are focused on residential customers and bypass business areas, and have only a few test customers for all types of telephony services. Wireless carriers are focused on getting digital PCS services up and running and fighting off intense competition in their core business of voice, with little interest in data applications or local loop bypass.

---- Index References ----

Company: MSF LTD; AT&T INC; SBC COMMUNICATIONS INC; YANKEE GROUP; MARSK CONTAINER INDUSTRI AS; TELECHOICE(CORSABE); MOTOR COACH INDUSTRIES INTERNATIONAL INC; WORLDCOM; CENTEL CORP; LCA J; CENTRAL TELEPHONE CO OF VIRGINIA; NYNEX CORP; MEXICANA DE AVIACION; MCI LLC; CHEMICAL METHODS ASSOCIATES INC; CAROLINA TELEPHONE AND TELEGRAPH CO; GTE CORP; FOMENTO DE CONSTRUCCIONES Y CONTRATAS SA; YANKEE GROUP FINANCIAL INC; CMA; MCI; PACIFIC BELL; BELLSOUTH CORP; KENAN SYSTEMS CORP; MCI INC; KPMG; BBN CORP; CREATIVE MARKETING ALLIANCE INC; BELL ATLANTIC CORP; BELLSOUTH; LUCENT TECHNOLOGIES INC; FEDERAL COMMUNICATIONS COMMISSION; PRICEWATERHOUSECOOPERS LLP

News Subject: (Infrastructure (1IN78); Economics & Trade (1EC26))

Industry: (Telecom Regulatory (1TE65); Long-Distance Services (1LO42); I.T. (1IT96); Networking Markets (1NE31); Telecom Carrier Operational Support Services (1TE92); Telecom Markets (1TE97); Entertainment (1EN08); Internet Regulatory (1IN49); Broadcast TV (1BR25); Internet Usage Statistics (1IN79); Communications Industry Analysts (1CO52); Television Networks (1TE85); Networking Connectivity Solutions (1NE47); Internet (1IN27); Bundled Telecom Services (1BU78); Telecom Services (1TE09); TV Regulatory (1TV84); Telecom (1TE27); Internet Technology (1IN39); Broadcast TV Regulatory (1BR23); I.T. Regulatory (1IT67); Networking Regulatory (1NE52); Networking (1NE45); Telecom Engineering Services (1TE94); TV (1TV19))

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Other Indexing: (BBN CORP; BELL ATLANTIC; BELL ATLANTIC/NYNEX; BELLSOUTH; CLEC; CLECS; CMA; COMMUNICATIONS GROUP; COMMUNICATIONS MANAGERS ASSOCIATION; CONGRESS; DELOITTE TOUCHE CONSULTING GROUP; FCC; FULFILLING; GTE; KENAN SYSTEMS COMMUNICATIONS PREFERENCE SURVEY; KENAN SYSTEMS CORP; LECS; MCI; MFS; MSF; NYNEX; PACIFIC BELL; PRICE WATERHOUSE; RBOC; RESISTANCE; SBC; SBC COMMUNICATIONS; SPRINT; SUPREME COURT; SYSTEMS; TELECHOICE; TV; US JUSTICE DEPARTMENT; VSAT; WINNER; WORLDCOM; YANKEE GROUP) (Bill; Bob Kiburz; Conventional; Frank Slavik; Hundt; Internet; Jennifer Taylor; Joan McCarthy; John McCain; Kiburz; Mewada; Reed Hundt; Regulatory; Resolution; Sanjay Mewada; Seventy; Slavik; Taylor; User Resistance; UUNet Internet; William Barr)

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Telecommunications Reports

September 22, 1997

Industry Calls For Patience As Senate Probes Lack Of Competition; Kohl Wants All Appeals Heard in D.C.

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Members of a Senate panel last week sought answers to why the Telecommunications Act of 1996 has failed to deliver on it promises of new carrier competition and service innovation for consumers. But at a hearing of the Senate Judiciary Committee's subcommittee on antitrust, business rights, and competition, representatives of incumbent local exchange carriers and their prospective competitors said the Act is working—albeit slowly.

Opening the hearing, subcommittee Chairman Mike DeWine (R., Ohio) said, "Unfortunately, we have seen little of the head-to-head competition we anticipated." Sen. DeWine and subcommittee ranking member Herbert Kohl (D., Wis.) led the nonconfrontational questioning. Judiciary Committee Chairman Orrin Hatch (R., Utah) and Sens. Arlen Specter (R., Pa.) and Strom Thurmond (R., S.C.) also attended parts of the hearing.

Industry and regulatory officials suggested few legislative changes, preferring to lay the blame for the slow development of competition on their competitors or on the FCC. But Sen. Kohl addressed concerns that excessive litigation in numerous courts is slowing competition.

On the day of the hearing, Sen. Kohl introduced the Court Consistency in Communications Act (S 1188). It would consolidate in the federal courts in Washington, D.C., "all appeals of FCC decisions under Title II of the Communications Act of 1934 and state commission decisions under section 252 of the Telecommunications Act of 1996."

Sen. Kohl said the bill is needed to "have some judicial certainty about the rules of the game—and to have it sooner rather than later." The bill has been referred to the Judiciary Committee.

The bill was applauded by FCC Chairman Reed E. Hundt, who said "appeals are growing like kudzu all over the country." When asked by Sen. Kohl if the FCC should have done more to induce competition, Mr. Hundt conceded that the Commission "couldn't have done enough. . .or we'd see more competition." He said, "Only one Bell in one state has made a serious effort" to open its local market to competition, referring to Ameritech Corp. in Michigan.

Klein, Hundt Explain Split Merger Views

Sen. Kohl asked Mr. Hundt and Joel I. Klein, assistant attorney general-antitrust, to explain why the FCC placed conditions on the merger of NYNEX Corp. into Bell Atlantic Corp. when the Justice Department hadn't done so. Mr. Hundt said the "FCC has a public-interest standard" to consider when evaluating merger proposals, and that's what it focused on when it imposed conditions on Bell Atlantic and NYNEX.

Mr. Klein agreed, saying Justice "looked at different questions" and had to view the merger under section 7 of the Clayton Act. "If we thought we had the evidence, we would have sued to block the merger," he said.

Asked by Sen. DeWine what he would tell residential consumers wondering about the status of competition, Mr. Klein said competition is a "work in progress. I think we're on the path to something very good."

Mr. Klein also emphasized the need for performance "benchmarks" in considering Bell companies' applications for in-region interLATA (local access and transport area) service authorization. He said benchmarks of a Bell's performance before and after it is allowed into interLATA markets will be essential to ensure that there is no anti-competitive behavior once the Bell has earned the "carrot" of interLATA market entry.

Ameritech Paints Dire View of 'Road Map'

Barry K. Allen, Ameritech executive vice president, said the Act is a "good law, but it's only been half implemented." He criticized the "road map" for Bell companies' interLATA market entry that the FCC outlined in its order rejecting Ameritech-Michigan's interLATA service bid (TR, Aug. 25). "Local markets are open," he said. He suggested that Congress pressure the FCC to grant applications in specific states—namely Illinois and Michigan—to "test the waters."

Mr. Allen painted a much more dire picture than Ameritech had in its initial reaction to the FCC's "road map." Criticizing the FCC for "micromanagement," Mr. Allen said it will be "months or years" before Ameritech will be ready to meet the FCC's requirements.

John Shapleigh, executive vice president for Brooks Fiber Properties, Inc., said Ameritech hasn't complied with its interconnection agreements. Brooks has experienced service outages and hasn't received parity in installation times, he told the subcommittee. Still, he said the Act is working. "This is the beginning of exponential growth" in local exchange competition, he said. But he cautioned that it's a "very complex, capital-intensive business."

Congress must be patient for competition to arrive, said Mark C. Rosenblum, AT&T vice president-law and public policy. "Congress recognized this work would be complex and that no one could readily duplicate the local carriers' networks, least of all overnight," he said. He added that Congress shouldn't "reward efforts to undermine the Act by relaxing its enforcement."

William Barr, GTE Corp. executive VP and general counsel, agreed with Mr. Allen's statement that the Act has been "half implemented." But instead of criticizing the interLATA market-entry provisions, Mr. Barr said the primary problem is that the FCC hasn't implemented a new system of universal service subsidies.

The FCC is "closing its eyes" to the need to replace the current system, which allows new entrants to "cherry-pick" customers paying above-cost rates to subsidize residential ratepayers, he said.

Citing hikes in cable TV and long distance rates and threats of local service rate increases, Gene Kimmelman, co-director of Consumer Union's Washington office, said residential consumers aren't as optimistic as the industry in the wake of the Act. "We may be going backwards" away from competition, he said.

Congress was "scammed" by cable TV companies that "wanted rules relaxed on ownership limits," Mr. Kimmelman said. "Unless Congress is prepared to fine-tune the Telecommunications Act by putting a lid on rates for monopoly services and a moratorium on mergers until competition develops, the only way to bring down prices for consumers is through aggressive antitrust and regulatory action to implement the Act's principles," he said.

Telecommunications Reports, September 22, 1997 19970922 Telecommunications Reports -->

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Industry: (Telecom Carriers & Operators (1TE56); Telecom Regulatory (1TE65); Wireline Telecom Regulatory (1WI37); CLECs & Alternative Carriers (1CL29); Long-Distance Services (1LO42); Telecom (1TE27); Telecom Services (1TE09))

Region: (Americas (1AM92); North America (1NO39); District of Columbia (1DI60); USA (1US73); Michigan (1MI45))

Language: EN

Other Indexing: (AMERITECH; AMERITECH CORP; AMERITECH PAINTS DIRE; BELL; BELL ATLANTIC CORP; BROOKS; BROOKS FIBER PROPERTIES INC; CONGRESS; CONSUMER UNION; CORP; COURT CONSISTENCY; FCC; HERBERT KOHL; JUDICIARY COMMITTEE; JUSTICE; JUSTICE DEPARTMENT; KLEIN HUNDT EXPLAIN SPLIT MERGER; KOHL; NYNEX; NYNEX CORP; SENATE; SENATE JUDICIARY COMMITTEE; TV) (Allen; Arlen Specter; Barr; Barry K. Allen; Citing; DeWine; Gene Kimmelman; Hundt; Joel I. Klein; John Shapleigh; Kimmelman; Klein; Mark C. Rosenblum; Mike DeWine; Orrin Hatch; Reed E. Hundt; Strom Thurmond; Table; Telecommunications Reports; William Barr)

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1997 WLNR 3620358

Communications Daily

September 18, 1997

SENATORS EXAMINE ROLE OF LAWSUITS IN SLOWING LOCAL COMPETITION

Competition is moving far slower than Congress expected when it passed Telecom Act last year, and part of problem is large amount of litigation challenging new law. That was view of members of Senate Judiciary Committee's Antitrust Subcommittee Wed. at hearing that sought progress report from FCC, Dept. of Justice and representatives of incumbent and competitive LECs. Telecom Act has "failed to deliver," said Sen. Kohl (D-Wis.): "Competition has moved closer to the speed of molasses than the speed of light." Subcommittee Chmn. DeWine (R-O.) said few people have choice of local carrier yet, cable rates are rising "at 3 times the rate of inflation" and "the only significant choice I am aware of is lawyers choosing where to file their lawsuits." Kohl announced introduction of bill to bring all suits into single expert court.

Despite expressions of concern by subcommittee members, hearing was relatively quiet and had predictable answers to questions. Only Kohl and DeWine remained through session, other members making brief appearances. Sen. Specter (R-Pa.) said that lack of attendance isn't indication of lack of interest. He said that he, for one, had to attend another hearing but "there is a lot of concern and we will be reviewing the record [of hearing] closely." DeWine said Congress's job isn't just to pass legislation "and forget about it," its job also is to "ensure that the laws we pass achieve the intended result."

Biggest news came in announcement by Kohl that he had introduced bill Wed. to require that all challenges to Telecom Act be consolidated in one U.S. Appeals Court. Challenges are pending in Appeals Courts in D.C., New Orleans, St. Louis. FCC Chmn. Hundt, who recently urged such action, said bill was "great idea" that would "shorten the judicial process." Right now, he told subcommittee, "we have appeals growing like kudzu all over the place." New "Court Consistency in Communications Act" is needed because "the promise of the Telecom Act has gotten bogged down in

litigation," Kohl said.

Ameritech Exec. Vp Barry Allen blamed slow progress on FCC for putting up what he said were "roadblocks." He said its recent decision on Ameritech Mich. long distance bid is supposed to represent road map to help company prepare next application but it's too complex and full of "minutiae." It could take Ameritech "months, perhaps years," to understand it well enough to file new application, Allen said. FCC should "resist setting additional hurdles," he said.

AT&T Vp Mark Rosenblum, on other hand, blamed incumbent LECs for "delaying tactics" and court challenges. AT&T entry has been "thwarted" because suits filed by incumbents have left rules unsettled, he said. Incumbents "have pursued a broad strategy to generate uncertainty by litigating against the Act rather than implementing it." Brooks Fiber Exec. Vp John Shapleigh said solution is to step up FCC oversight "so there's no sliding back," particularly over operations support systems (OSS) offered by incumbents.

DoJ Antitrust Chief Joel Klein acknowledged that "results have not been what some expected" and there have been "setbacks" but it takes time to introduce new competition to any market: "The process of opening the local markets to competition is not a sprint but a long distance run that requires persistence." He said that if Ameritech "put shoulders to the wheel" and responded to FCC guidelines "in a constructive way" it could be offering long distance service in year. Hundt agreed "absolutely" that industry should be further along in local exchange competition but said expectations may have been too high. Large amount of litigation by incumbent LECs is one reason for delay, he said.

GTE Gen. Counsel William Barr said company's court challenges haven't stopped competitive process because it hasn't filed for any stays in conjunction with those suits. He said it's "smokescreen" to say "incumbents are getting in the way" because they have challenged rules. GTE has filed several suits challenging state regulatory decisions involving interconnection agreements with competitors. He also said he agreed with Klein that "competition takes time." MCI "struggled for years and years" to enter long distance competition, while Telecom Act has been around for only 18 months, he said.

Consumers Union Co-Dir. Gene Kimmelman said things are getting worse, rather than better, because of growing number of mergers in telecom and cable businesses: "I'm afraid Congress was scammed by telecommunications companies" seeking less regulation. "Vigilant FCC oversight is needed" to hold down cable rates and place

moratorium on mergers, he said.

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News Subject: (Legal (1LE33); Antitrust Regulatory (1AN52); Technology Law (1TE30); Government (1GO80); Monopolies (1MO68); Business Lawsuits & Settlements (1BU19); Business Litigation (1BU04); Judicial (1JU36); Economics & Trade (1EC26))

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Region: (Americas (1AM92); North America (1NO39); USA (1US73))

Language: EN

Other Indexing: (AMERITECH; APPEALS COURTS; BROOKS FIBER EXEC; CONGRESS; CONSUMERS UNION CO; DOJ ANTITRUST CHIEF JOEL KLEIN; FCC; GTE; GTE GEN; KLEIN; LAWSUITS; MCI; NEW "COURT CONSISTENCY; SENATE JUDICIARY COMMITTEE; US APPEALS COURT) (Allen; Biggest; Counsel William Barr; DeWine; FCC; FCC Chmn. Hundt; Gene Kimmelman; Hundt; John Shapleigh; Kohl; Mark Rosenblum; SENATORS EXAMINE; Specter; Subcommittee Chmn. DeWine; Vigilant FCC; Vp; Vp Barry Allen)

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The right connections

U.S. News & World Report

September 8, 1997

Section: BUSINESS & TECHNOLOGY; Pg. 44

Length: 1744 words

Byline: By Fred Vogelstein
Highlight: A legal loophole propelled GTE to the top of the heap

Body

Americans love to hate their phone companies. It's sport, like complaining about the IRS or the post office. A little more than a decade ago, however, Southern Californians didn't just gripe about theirs, GTE Corp.; they revolted against it. Santa Monica city officials threatened to drop GTE; the University of California--Los Angeles spent millions of dollars to install its own phone switches that would bypass GTE's antiquated equipment. Customers protested by the thousands, complaining of line static, misdirected calls, disconnections, and the many hours spent without any service at all. One group of disgruntled users even staged a demonstration on the steps of regulators' Los Angeles offices, wearing necklaces of tin cans connected together with string. "We were the pits," admits GTE Chairman Charles Lee.

No one is laughing at GTE today, however. In a complicated drama that began with the recent telecommunications reform legislation, GTE won a critical advantage--and is now stronger than ever. Its network--generations out of date in the early 1980s--has been completely revamped thanks to $ 48 billion in improvements. The utility also has built the nation's fifth-biggest cellular business and just last May announced plans to buy a quarter of Qwest Communications' Internet capacity for around $ 500 million. This fall, using a new data transmission technology called ADSL, it will begin offering residential and small-business users affordable dial-up Internet service on regular phone lines that's as fast as the service found in big corporations.

Indeed, GTE's once sneering peers--MCI, AT&T, and the local telephone companies--are now seething about its uncharacteristically aggressive behavior. Since Congress passed the sweeping Telecommunications Act early last year, GTE has been using its newfound muscle to grab market share. In the 18 months since the act was ratified in February 1996, GTE has wooed more than 1.3 million new long-distance customers, mostly from AT&T. Meanwhile, its stock, once the dog of the industry, has become a Wall Street favorite. "For now, they're essentially in the sweet spot" of the telecommunications business, says Tod Jacobs, an analyst at Sanford C. Bernstein & Co.

GTE's transformation is only partly the result of business smarts, though. An even bigger factor behind the company's recent success is that it hit the jackpot in Washington: A loophole in the Telecommunications Act has allowed GTE into the $ 70 billion long-distance market, while other big local exchange carriers--Bell Atlantic, SBC Communications, U S West, and Ameritech--are still forced to sit on the sidelines. The result is that GTE can offer both long-distance and local service, but its competitors cannot.

Your call. The importance of this to GTE can't be overstated. Bundling local and long distance together is the cheapest way to deliver telecommunications services, and consumers prefer to receive them in one package. Moreover, GTE, which has some 20 million local phone customers in 28 states and major cities like Los Angeles and Dallas, is well positioned to capitalize on its status as the largest provider of both long-distance and local services. Its local business gives the utility detailed information about its customers' calling patterns--information that comes in handy when GTE tries to sell long-distance and other calling services. Long-distance providers don't

have as much access to this information because most of their wires don't yet connect to customers' homes. "In the case of GTE, the Telecom Act didn't get it right," grouses John Zeglis, AT&T's top lawyer, who is touted as a possible successor to AT&T Chairman Robert Allen. "GTE is accumulating long-distance customers rapidly, and it has no incentive to open its local phone network" to competition.

How did GTE get such a big edge? Simply put, it exploited political chaos. The Telecom Act was one of the most complex bills lawmakers had faced in years, and the lobbying was some of the most ferocious. Local and long-distance solicitors inundated congressmen daily with complicated issues to decide. But GTE had just one issue to pitch, and it wasn't a very complicated one. It wanted Congress to tear up the agreement GTE made with the government in the 1980s, when it bought Sprint. GTE no longer owned Sprint, having sold it in 1992. Under the Sprint agreement, GTE could sell long-distance services only through a separate company in an arm's-length fashion. In other words, it couldn't use information from one business to help it sell services in another. GTE lobbyists argued that the agreement handicapped the company in the marketplace--and Congress agreed to scrap it.

"I don't think the government appreciated what an enormous loophole it was creating," says CS First Boston analyst Frank Governali. For most phone companies, telecommunications reform was mostly about unraveling the terms of the 1984 AT&T breakup, which gave the Baby Bells local monopolies in return for staying out of the long-distance business. But GTE had never been part of the Bell system. For that reason and because GTE had long been known as a third-rate player, no one paid much attention to it. "[GTE] just slipped through the cracks," says Mike Brown, AT&T's chief lobbyist at the time. "There was so much stuff to get on top of"--the Telecom Act addresses phones, television, cable, radio, the Internet, and cellular communications--"I was going nuts," adds Anne Bingaman, the Justice Department's point person on the bill and now a top executive at LCI International, a midsize long-distance provider. "I said, 'GTE is getting away with murder here,' but there was so much to do, there was no one really arguing with them. No one had time."

Others who spotted the loophole weren't alarmed because they didn't think GTE's anomalous advantage would last long. Certainly, no one thought that a year and a half later GTE would still be the only local company with the right to offer local and long-distance services. But the act requires local companies like SBC Communications and U S West to open their markets to competition before they can enter the long-distance market, and they have been slow to do so. They fear that as soon as they do, the long-distance companies will swoop in and take their best customers before they can snare enough of the long-distance customers to offset the losses. And the Federal Communications Commission has been firm: No competition, no long distance. The agency recently rejected Ameritech's proposal to offer long-distance service in Michigan, saying that while the company was getting closer, it still hadn't provided nondiscriminatory access to its system. Earlier this year, FCC regulators rejected an SBC Communications plan to offer long-distance service in Oklahoma.

A big reason for the delay in local phone competition may also be the fierce tactics that GTE is employing. GTE's chief counsel, William Barr, former President Bush's attorney general, denies this. "The fact that AT&T, for example, hasn't come into the market against us is a function of their own plans, facilities, and limitations." But competitors and regulators accuse the company of pursuing a scorched-earth legal strategy. "GTE is rapidly becoming known not as a world-champion competitor but as the world-champion litigator," MCI President Timothy Price said in July. Says Greg Simon, the Clinton administration's leading staff member on telecommunications reform," The impetus for the entire act was to [prevent this from happening], to get telecommunications policy out of the courts."

Barr has sued regulators and GTE's competitors in state courts in 20 of 28 states where GTE operates and in federal court. Although the Telecom Act requires GTE to do business with competitors, critics say Barr has stalled and forced rivals to take GTE to arbitration. Barr says that's a matter of opinion, but he is up front about the fact that once the current legal avenues are exhausted, he is prepared to challenge the constitutionality of the government's attempts to dictate prices.

Legal eagle. He uncorked a federal suit last fall after the FCC published a set of pricing rules GTE didn't like. These rules laid out how much GTE and other local companies could charge long-distance companies to use their network. But Barr said these prices were way too low--below GTE's cost of providing the service. The upshot was

that GTE rushed into federal court in October claiming that Congress had never intended the FCC to make pricing rules--that it had intended the state utility commissions to do so. Never mind that the congressional leadership filed a brief to the contrary, saying it was its intention to give the FCC pricing power. GTE won a stay in the fall, and last month, the U.S. Eighth Circuit Court of Appeals in St. Louis backed GTE's position. Barr remains steadfast. "Basically the problem was that the FCC was very biased against us, and we thought its entire [price-setting] philosophy was wrong. You don't promote competition by holding down the incumbent," he says.

Barr didn't stop there. Having forced the long-distance companies to go through the time-consuming process of getting price rulings on a state-by-state basis, he challenged each utility commission's ruling. The results of those suits "don't deviate from the FCC rules as much as we'd like, but we made up 40 percent of the gap between what the FCC said prices should be and what we wanted," Barr says.

Many experts say the U.S. Supreme Court may have to unravel this mess. But Barr says that by the time he's through--that is, after he has secured good prices for GTE in all of its markets--it may be too hard for even the Supreme Court to reverse. Most states will have likely set their own prices by then, and "so for the Supreme Court to say go back to square one would be very disruptive," he says.

Of course, Barr and the rest of GTE's management team know that eventually their competitors will get into their markets. This is when GTE's transformation will truly be put to the test. Even today, customers rank GTE dead last in satisfaction, according to a J. D. Power survey last year. "Once competition does get going, GTE is much more exposed," says Jacobs, the analyst at Sanford Bernstein. The question is when that competition will begin.

Graphic

Drawings: No caption (Illustrations by Curtis Parker for USN&WR)

Load-Date: September 5, 1997

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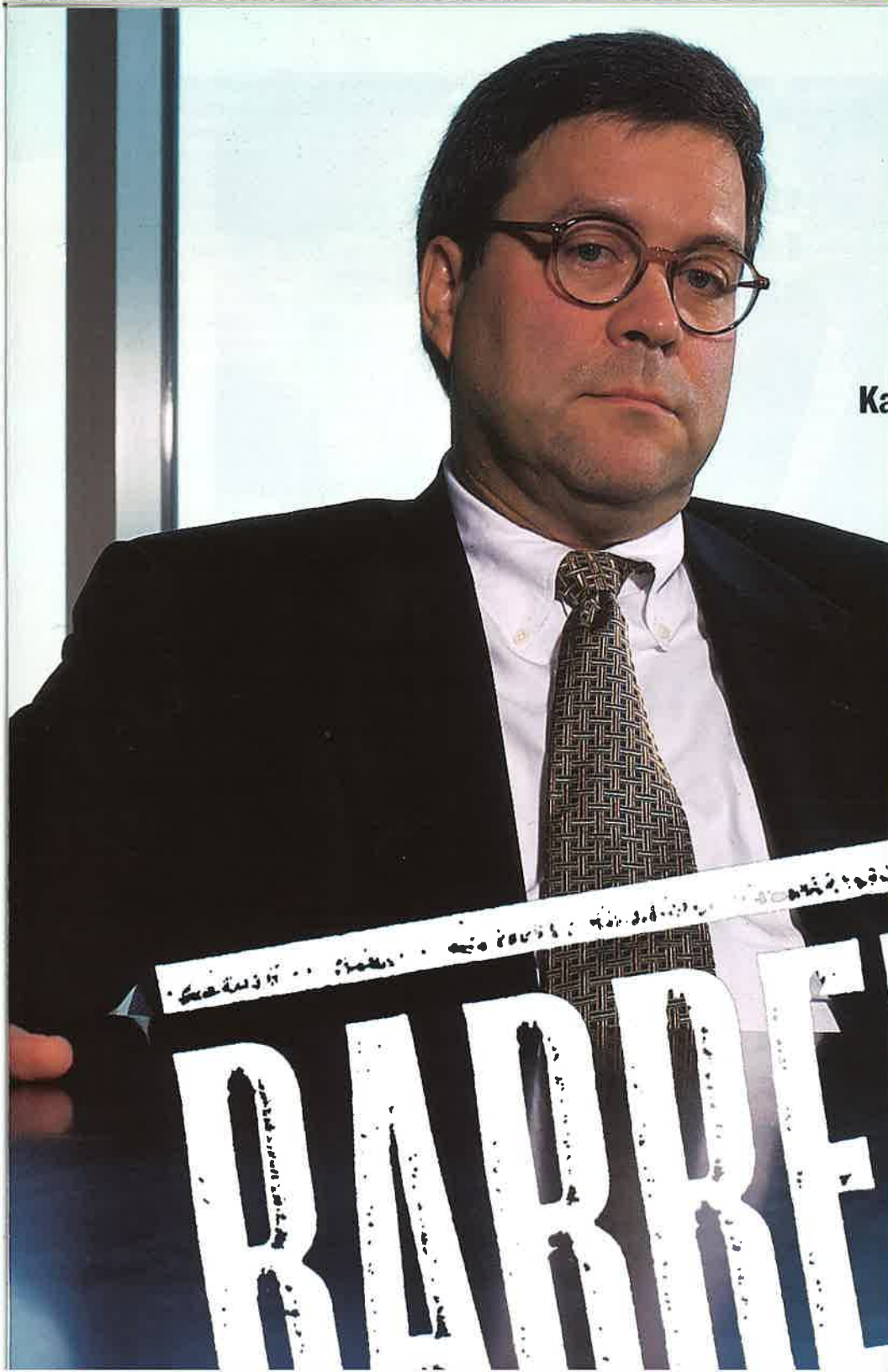
tele.com
INTERVIEW BY
Karen Lynch and
Gail Lawyer
BARRED!

FCC AND WOULD-BE COMPETITORS GET TAKEN ON, TRIPPED UP, AND TOSSED OUT BY GTE POWER LAWYER **BILL BARR**

IT'S TOUGH TO DISTINGUISH THE good guys from the bad guys in the telecom policy debate now raging across the United States. But everyone has heroes and villains. To some, GTE Corp. general counsel William Barr is the villain—the man who has done more than any other to stop the development of a competitive local services market. ¶Reed Hundt, the outgoing chairman of the Federal Communications Commission, summarized the villainous view of Barr in a public speech last month: "GTE told the Eighth Circuit Court last fall that if the FCC's pricing rules went into effect, GTE would suffer 'substantial and rapid losses of market share.' In other words, they said the FCC pricing rule would cause competition right away. They got an injunction from the Eighth Circuit. The result: The telcos have lost hardly any market share since the law was passed." ¶To others, Barr is more of a hero, as one of

PHOTOGRAPHS BY DAVID SHARPE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the few Washington telecom lawyers to address the telecommunications business as a business—shareholders' rights and all—rather than an exercise in industrial and social policy. "I keep pointing out to people that the companies we're dealing with in this industry are publicly traded organizations, and the people running these organizations are subject to a variety of responsibilities," says Washington telecom attorney Kenneth Robinson. "If you feel that an action by a regulatory agency is tantamount to taking your shareholders' property, you have an enforceable responsibility to protect it."

There are also lots of winners and losers in the telecom game. But love him or hate him, almost everyone puts Barr in the winners' circle. By keeping GTE from being treated like a Bell company under the Telecommunications Act of 1996, Barr gained his employer a lead of 18 months (and counting) on any other big U.S. player. As Barr describes it, "Obviously the legislation puts GTE in the position of being the only large local exchange company that can move immediately into all aspects of the telecommunications business—long distance, video, and so forth."

With the law enacted, Barr then launched a number of court battles that have preserved GTE's lead. Barr's biggest victories so far have been won in the United States Court of Appeals for the Eighth Circuit in St. Louis, against the FCC and its interconnection order defining the terms for connecting new competitors to the incumbent telcos' networks. "This has pockets of support in places like Pyongyang and Havana," Barr said when arguing in St. Louis against what he calls the FCC's "central planning." In particular, he opposed the FCC's guidelines for the prices new competitors should pay incumbent telcos for wholesale services and unbundled elements. (Unbundled elements are the portions of the incumbent's network—like the line into a household—that competitors can combine with their own network elements—say, a switch—to create a service.) Barr won; the 50 state regulatory commissions, where he expects local incumbents to get a better deal, will have full authority to set prices.

St. Louis was just one battleground in a larger war. GTE has also filed against the FCC's orders on universal service, price caps, the charges long-distance companies have to pay local telcos for access to their networks, and more than 20 interconnection agreements arbitrated by state regulatory commissions. Barr says he will be there when the FCC appeals the Eighth Circuit decision to the Supreme Court—where he may also participate in SBC Communications Inc.'s Supreme Court appeal of part of the Telecom Act.

Along the way, Barr could go from being villain to hero to winner to loser and back again, in a market where telcos' legal positions change as fast as their business plans—and where companies' fortunes are punted in a continuous loop from political agency to courtroom to Congress.

None of this seems to faze Barr, a former U.S. attorney general who fought the "War on Crime" under former President Bush. His blunt, plain-spoken, colorful style often leaves opponents looking dour by comparison—in court and out. Before GTE, the 46-year-old Barr had little to do with telecommunications. His background includes a master's degree in Chinese studies and a stint as a CIA analyst. "Actually, I have found that my Chinese studies have been the single most important preparation I've had for dealing with the FCC," he says. "I have found when you read the FCC rules from right to left they make more sense than from left to right." He spoke with **tele.com** editor-in-chief Karen Lynch and services editor Gail Lawyer in Washington.

There are people who say Bill Barr will sue anything that moves just so GTE can maintain its privileged position. What would you say to that? I would say that GTE's objective is to get a fair wholesale price. And in many cases that requires strong advocacy with state commissions as well as review in federal courts. GTE has not done anything to date that delays competition. People have to remember that the marketplace is open right now for facilities-based entrants to come in and compete. And indeed, there are facilities-based entrants that are competing with us. The legal issues we're arguing have to do with the price that a new entrant has to pay GTE when it wants to come in and piggyback onto our system. GTE is entitled to get full compensation for that. If that requires going to court, we're going to do that. But we have not sought stays in any state.

Then what is causing the delay? The real delay is coming from the inability of the long-distance companies to get into the local market because they don't have their acts together. They don't have the billing systems. They don't have the technical systems to support local network elements. Right now, we have resale prices set in our larger states. In California they've been in effect for many months, and AT&T is not coming to compete because they are not ready. Moreover, I believe that their tactic is to keep the Bell companies out of long distance as long as possible. They are more concerned with protecting the long-distance market. The more they come in to compete against the local companies, the faster they are opening up an avenue for the local companies to come in and compete with them for long distance.

How is it that GTE became the standard-bearer for the Bell companies, arguing for them at the Eighth Circuit Court? We're not dependent on FCC approval to get into long distance. We are already in long distance. That has given us freedom of action. Where we feel the rules are unfair, we're going to challenge them. Unfortunately, some of the Bells don't have that luxury. They have to live with those rules to get into long distance.

How is it that GTE is not subject to this? GTE has always been treated differently from the Bell companies.

Did you do much lobbying to make sure it stayed that way in the Telecom Act? We were very active in the legislative process.

But on that particular point? Of course.

What is GTE's legal strategy? To achieve a fair set of ground rules for local competition. When you deregulate a former exclusive franchise and you open up the market to competition, there is a distinct risk that the incumbent is not going to be treated fairly. The incumbent company has a massive investment based on an exclusive franchise agreement with the state, and the proposition was that the investment was going to be recovered. When you change the rules, there is a risk that there is going to be stranded investment that the local company is not going to be given a fair opportunity to recover. Moreover, politicians are going to be looking around for a source of revenue to pay for their social programs. Universal service is a social program. It's a good one. It's one that the local companies support, but it is a program of reallocating or redistributing income so that residential customers don't pay full cost for the service they're getting. And a small segment of customers—mostly business customers—

are paying more. When you terminate the monopoly on which that is based, where are you going to get that funding? There is a risk right now that everyone is going to look to the local company to be the deep pocket for the social programs that have been adopted in the last six years. Therefore, it's very important for the local companies to take a strong stand.

What have you gotten in the Eighth Circuit Court ruling? We've won on the issue of jurisdiction. The FCC is not to be involved in setting prices. The states, I think, will be more reasonable than the FCC was in setting wholesale prices.

Why would the states be more reasonable? Because the FCC prices were driven by a particular philosophy: to subsidize new entrants and constrain the incumbent companies to force—not through competition, but through price arbitrage—a reallocation of market share. I don't think the states share that philosophy. But sometimes major issues will be involved. For example, is there a requirement to reflect subsidy costs for universal service in wholesale prices? I believe that under the statute you clearly have to reflect the subsidy in wholesale prices to the extent to which it is included in retail prices. That is a major issue that may be decided upon review.

At least some of the interim prices set by the states are pretty much in line with the range the FCC had proposed. Do you expect the permanent rates to be different? The states took an initial cut at this while the suit in the Eighth Circuit was still pending, and most states have set interim prices. Even that interim set of prices, at least for GTE, provided some relief from the FCC prices. Now that the states clearly have jurisdiction, those prices will continue to evolve for a number of reasons. One is that when the states acted on interim prices, they were still heavily influenced by the FCC because the jurisdictional question was still in the air. I think they paid some deference to the FCC because of that. Now I think they are going to feel more empowered to take their own approach.

Don't local telephone companies really feel they will get a better deal from the states because they have local political power? I don't think there is any bias in the state commissions in favor of the local exchange companies. I think the advantage for the local companies is simply instead of having one forum—the FCC—making one set of rules, so you have only one shot, you now have numerous forums in which to pursue reasonable results.

In general, what do you think of the Telecom Act? Like any law, it's a series of compromises. So we're not necessarily enamored with every part of it. But on balance, it was a sound approach as it was written. I think the FCC has come in and tried to distort it.

Are there parts of the law that you don't like? Yes, there are parts of the law that I don't like. I do think the law went too far in permitting the use of unbundled network elements. I think the only argument for that would be if they can demonstrate that something is an essential facility. And I question whether once you have interconnection, and the ability to tailor your network, what else you can really term an "essential" facility. I would argue it would just be the wire into everybody's home.

So why don't you sue? Unless the statute is unconstitutional, we can't reverse it.

Is SBC's Supreme Court challenge of the Telecom Act going to open the whole law to review? I think SBC is just focusing on the 14-point checklist for a competitive local market. I don't think that is going to open up the statute.

Some people say the Telecom Act is unraveling bit by bit, and the whole thing is going to have to be rewritten. I don't know if the whole act is going to unravel. I think you may have to have Congress address the issue of universal service because the

FCC position is that the statute does not provide for one national product to pay for universal service nationwide. And that is a step back from our national policy of universal service, in which every American has had affordable telephone service.

Is there any legislation being written now? Probably next year.

What do you think of the FCC's Competition Task Force? I think it's typical of the FCC's approach to competition. It's set up rules that don't really promote competition. Then you have the long-distance companies that are flubbing their entry into the local market. And what is the FCC's response? To set up another regulatory task force to look at whether competition is developing fast enough. It's just a typical regulator's approach.

Do you intend to challenge this Competition Task Force? I haven't thought about it. [Editor's note: The same afternoon this interview took place, GTE filed a petition asking the FCC to disband its Competition Task Force.]

Hasn't GTE's unique position enabled it to go forward in long-distance service, and not have to spend a lot of time meeting the Telecom Act's 14-point checklist? We have responsibility for opening up our network, entering into interconnection agreements, and providing unbundled elements, which we've been doing. In some ways you can say that GTE should be the poster child of the Telecom Act. We are doing exactly what policymakers hoped would come out of the Telecom Act. We are moving aggressively into long distance. We are moving into other people's local markets—we'll be in seven different markets by the end of this year. We are actually investing in facilities, making a national data network. As you know, we have purchased BBN Corp., an Internet company. So GTE has moved aggressively, ever since the Telecom Act was signed. Within days, we were in the long-distance business. And we've been moving at a very fast clip, expanding our business and bringing competition into other markets.

You're now also general counsel of an Internet company. Should the Internet become subject to the same sort of regulation as telecommunications companies? That's an easy one: No.

Should it be wholly unregulated? Well, nothing is wholly unregulated. I think that maximum freedom is desirable. A key question that exists is the extent to which access to the Internet is subsidized by unlimited usage of Internet access at low local rates. And there the Internet community would obviously like to keep that low-cost access. Local telephone companies argue that that's a subsidy and should be priced at cost. It's obviously an issue I have to take another look at now that I represent both sides of the fence. But generally, GTE's position has been that services should be priced at cost, and to the extent that policymakers decide to reduce it below cost—that is, to subsidize it—then there has to be an adequate mechanism of funding that subsidy.

Some observers are asking why, long after the Telecom Act was passed, is there still no competition? I think those criticisms are unfair. First, to the extent that people wanted competition based on resale, the resale rules had to be put in place. And those rules are just now getting in place. To the extent to which new entrants didn't have to depend on those rules and were ready to engage in facilities-based competition, that competition is occurring. It's not particularly evident to the public at large because it is focused on the high-value customers, the business customers that are providing substantial margin precisely because of universal service. New entrants can come in and pick away the business customers that had been supporting universal service. No one is going to go out and compete for residential customers who are paying below cost. That's one of the reasons you have to fix universal service if you want the benefits of competition to flow to everybody.

Do you think the telecommunications market is too litigious? What would be surprising is if you could pull off a transformation of this type without fundamental legal issues coming up, and without litigation.

NewsRoom

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Telecommunications Reports

August 25, 1997

LECs Want Court To Disallow Provision of Unbundled 'Platform'

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Four local exchange carriers (LECs) have asked the U.S. Court of Appeals for the Eighth Circuit (St. Louis) to clarify or reconsider its position regarding whether new market entrants can purchase all of a LEC's unbundled network elements in order to provide a competitive local exchange service.

GTE Corp., SBC Communications, Inc., BellSouth Corp., and U S WEST, Inc., petitioned for a rehearing of part of the decision in Iowa Utilities Board v. FCC (case no. 96-3321), in which the court overturned major segments of the FCC's Common Carrier docket 96-98 "carrier interconnection" order (TR, July 21).

The LECs objected to recent statements by AT&T Corp. suggesting that the court's decision left a "loophole" that would allow requesting carriers to purchase a combined "platform" of unbundled network elements that they then could use to provide local exchange service (TR, July 28). They cited AT&T's reference to language in the interconnection order —now codified as part 51.315(b) of the FCC's rules—stating that "except upon request, an incumbent LEC shall not separate requested network elements that the incumbent LEC currently combines."

AT&T believes this provision requires incumbent LECs to provide network elements "not as uncombined pieces—i.e., as 'unbundled' network elements—but rather as a preassembled platform ready for providing finished telephone service," the LECs informed the court. They disagreed with AT&T's view.

They asked the appeals court to clarify that part 51.315(b) of the FCC's rules "cannot lawfully be read to prohibit an incumbent LEC from delivering network elements to a requesting carrier on an unbundled (i.e., uncombined) basis, and that instead the rule was left in place on the understanding that it prohibited incumbent LECs only from separating or disassembling individual network elements." Otherwise, the court should vacate that section of the rules, the LECs advised.

According to William P. Barr, GTE's Senior Vice President and General Counsel, AT&T's position would be "directly contrary to the Eighth Circuit's clear statement that 'requesting carriers will in fact be receiving [network] elements on an unbundled basis.'"

Mr. Barr said that would "merely turn the purchase of supposedly unbundled elements into an end-run around the separate provisions that Congress established in the Telecommunications Act allowing entrants to purchase finished services from incumbents for resale."

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---- Index References ----

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8TH APPEALS COURT ASKED TO CLARIFY INTERCONNECTION OPINION

WASHINGTON TELECOM NEWSWIRE

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Body

GTE and several Bell companies filed a petition for rehearing at the Eighth U.S. Appeals Court, St. Louis, yesterday asking it to clarify or reconsider "one narrow aspect" of its recent decision on the FCC's interconnection order that they say AT&T is using as a "loophole" to obtain unbundled elements as a fully combined platform.

The petitioners are contesting the court's opinion that new entrants should be allowed to purchase all the network elements needed to provide telephone service as a preassembled platform from the incumbent telco. Although the court ruled that it would be unlikely for competitors to purchase a whole network of unbundled elements because it would be costly and difficult to reassemble them, the petitioners said AT&T already is doing so.

As it stands, the interconnection order allows competitors to avoid any costs or risks associated with combining unbundled elements to provide service, the petitioners said. GTE President **William Barr** told us that requiring local incumbents to provide assembled platforms to competitors "would be directly contrary" to the court's intent and "would merely turn the purchase of supposedly unbundled elements into an endrun around the separate provisions" that Congress established in the Telecom Act allowing entrants to purchase finished services for resale.

AT&T Vice President-Law and Public Policy Mark Rosenblum denied that the company merely is trying to do resale less expensively, saying that investing in unbundled elements such as switches may end up costing more than leasing capacity on a per-minute or per-line basis. But, he said, buying a network platform would allow AT&T to customize features in a way that cannot be done with resale. Rosenblum said AT&T's efforts to purchase platforms is not a new strategy and it has been pursuing that approach as its "absolute bedrock" since the Telecom Act's passage.

At issue is a rule in the interconnection order that the court did not vacate that provides that "except upon request, an incumbent LEC [local exchange carrier]shall not separate requested network elements that the incumbent LEC currently provides." The petitioners said AT&T is using this "loophole" to mean

that, when a requesting carrier orders all of the elements needed to provide finished phone service, the incumbent must provide them "not as uncombined pieces… but rather as a preassembled platform ready for providing finished telephone service." Such a reading "cannot find support anywhere" in the court's ruling, they said.

The petitioners requested that the court take one of two steps: (1) Clarify that its ruling does not prohibit an incumbent from delivering network elements unbundled and that it was left in place to keep incumbents from separating or disassembling individual elements. (2) Vacate the rule. If the court does not clarify or vacate, the petitioners recommended it reconsider its opinion that competitors may purchase all the elements needed to provide finished phone service.

Rosenblum said that since the court issued its opinion, the FCC and several state commissions also have affirmed that the rule forbidding disassembly still stands, and he sees no need for the court to clarify its intent. "There is no legitimate interest to be served by agreeing" with the petitioners, he said. Preventing incumbents from disassembling network segments they already provide in combined form, Rosenblum said, forbids them from "deliberately sabotaging their competitors, which is what they are trying to do here."

Other petitioners include BellSouth, SBC, Southwestern Bell Telephone Co. and U S West. (WTN 811-97)

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Telecommunications

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Barr gives states road map for 'avoiding controversy.' (GTE Corp. Senior VP and Gen. Counsel William P. Barr)(On the Record...)(Interview)

It's been a year since the FCC issued its landmark "carrier interconnection" order - the first in its "trilogy" of orders implementing local exchange competition provisions of the Telecommunications Act of 1996 - and many of the most complex issues surrounding local market restructuring still haven't been settled. The focus recently shifted to the states, when an appeals court overturned major portions of the FCC's order and said the agency had exceeded its jurisdictional boundaries (TR, July 28). Now the states will be "more inclined to do their own thinking," says William P. Barr, GTE Corp.'s Senior Vice President and General Counsel.

Former U.S. Attorney General Barr, who has led GTE's uncharacteristically high-profile fight against the FCC's effort to establish national guidelines and various state interconnection decisions, has a "wish list" for the states. He also has some warnings. In an interview with TR Aug. 8 - exactly one year after the congressionally mandated deadline for FCC issuance of the federal interconnection order (TR, Aug. 5 and 12, 1996) - Mr. Barr said states that properly handle universal service and wholesale rate-setting "will avoid a lot of controversy and be able to move forward with competition."

TR: Even after the U.S. Court of Appeals for the Eighth Circuit stayed the FCC's interconnection order, most states went along with the federal pricing policies and resale discounts in their interim arbitrations. Now that the FCC's pricing policies are basically dead, do you see the states changing their stance as they address permanent rates?

Barr: Yes, I think the states will change. First, in the initial round of setting prices, the states made it clear that they didn't have much time to look at cost studies, and therefore, what they were doing was on an interim basis. In the interim, a lot of cost studies and data have been prepared, so I think the states will be basing their permanent decisions on a better evidentiary foundation.

Second, I do think that a number of the states were influenced by the FCC rules and were somewhat in limbo as to what was going to happen with them and essentially hedged their bets by sticking somewhat close to those rules and formulas. Now, after the Eighth Circuit's decision, they'll be more inclined to do their own thinking.

Third, I think it's an oversimplification to say that they essentially followed the FCC's rules. Most of our states made it clear that they were not going to rely on a "hypothetical network" but were going look at our actual costs, and that's a critical distinction.

Finally, in the first round the states put off the issue of subsidy costs - the embedded subsidies in our retail prices - under the illusion that it was going to be dealt with in May by the FCC's universal service order [in docket 96-45]. The FCC has punted on that issue - thrown it back into the laps of the states [TR, May 12]. The states are really legally required to deal with the subsidy issue in setting interconnection rates going forward now. That is, they can't just ignore the implicit subsidies in our prices. If they're going to maintain implicit subsidies in the retail prices, they have to recognize those in the wholesale prices.

TR: The federal pricing rules were overturned primarily on jurisdictional grounds, putting this back in the states' hands officially. But GTE has been taking state arbitration decisions to court. What is GTE looking for in these court battles?

Barr: The initial state decisions came out prior to the Eighth Circuit's final ruling, during the period of the stay. We had a number of issues - including the [network element] unbundling rules and TELRIC [total-element long-run incremental cost] - that hadn't been addressed by the Eighth Circuit. To preserve our legal position on those issues, it's necessary for us to seek review in district courts as set out by the statute. A number of these issues are now going to be addressed in the permanent rate-setting and wholesale price-setting proceedings in the states.

The appeals of some of these rules may just relate to this interim period. The primary issue, in our view, is the handling of universal service. The principal policy issue facing the states - and we think it's also the principal legal issue facing the states - is, "How do you introduce competition into a market where the price structure is grossly distorted by subsidies?"

The states in the past have relied upon the monopoly system to fund universal service. They have kept residential rates low by requiring businesses and long distance callers to pay higher rates, and also by having vertical services pay higher rates. You can't engraft competition onto a market where you have that kind of price distortion. If you ignore those subsidies and allow new entrants to come in without contributing to universal service in an equitable way, then all you do is create arbitrage and siphon off the subsidies that were flowing to keep residential rates low, and instead direct them into the coffers of the new entrants. They become not subsidies for keeping local service low, but subsidies for new entrants. It's terrible public policy that can't be justified on any basis...

The fact that the local companies in the past have had the burden of supporting [universal service] and have acted essentially as a conduit for flowing these subsidies from one set of customers to the other can't be used as a basis for favoring new entrants and penalizing the incumbents. If there's a social policy of keeping residential rates low and affordable, then it has to be borne equitably, and that's what the statute requires. I think it's clear under section 254(f) of the statute that all new entrants have to contribute on a competitively neutral basis to universal service.

The central question that has to be asked by the states at this point is, "How are the new entrants going to contribute, and when are they going to contribute?" The fact of the matter is that new entrants are not contributing. New entrants are in the marketplace taking away customers, exploiting the fact that we are required to include large subsidies in our business rates, and they are not paying one thin dime to support universal service.

The statute says they have to. The states have to deal with that, and they have to deal with it promptly. Many state regulators seem to have the feeling that this is something that they can sort of play around with for two or three years to come up with a system. I don't think the statute contemplates that...

TR: Do you see the universal service pricing debate taking the front burner now, and then the resale pricing rules following?

Barr: See, our point has been that they are inextricably related. Our fundamental point from day one has been that if you set our price based on cost for unbundled network elements, then you have to include as part of that cost the subsidy cost, unless you come up with some other system that deals with that in an outboard fashion.

In other words, it may cost us $35 to serve a business customer whose rate is $75, but that difference is subsidy, that difference is contribution that the state rate system requires us to collect from the business customer in order to pay for the fact that Aunt Tilly out in the rural area may be paying $12 for the service that still costs $35.

And all we're saying is that as long as that implicit subsidy is imposed upon us in our business rate, when a new entrant comes to buy elements to serve that business customer, it should pay a wholesale rate that reflects that cost, that contribution cost. Otherwise, you are allowing them to come in and, at a $30 or $35 wholesale rate, cherry-pick away that business customer and siphon off the subsidy into their own treasury. That is an indefensible and asinine public policy. What it does is massively subsidize new entrants to come in.

That means it encourages inefficient entry into the marketplace by players who are not competing for customers, in fact, but are simply playing the game of arbitrage. And it takes the funds that in the past were used to keep residential rates low and diverts those funds into the pockets of the new entrants, leaving no support for universal service. Our argument has been that you can't set interconnection rates without considering whether or not you still have implicit subsidies embedded in retail rates...

TR: There have been concerns about appeals of state interconnection decisions going to the U.S. district courts. The fear is that definitions of terms in the statute - things like "based on cost" - would be addressed by numerous district courts and then appeals courts. There might be inconsistencies. How will interpretation problems be resolved?

Barr: It's not unusual to have rates set in the different states. There are a lot of factors that go into setting appropriate, fair, and nondiscriminatory wholesale rates, such as, for example, the extent of historic investment, the rate of depreciation that has been allowed in the past, the structure of subsidies in that state [and] the extent to which there's already been rebalancing. And states should be free to take into account those factors...

I don't see that much room for mischief in some of the basic definitions of the statute. "Based on cost," at a minimum, indicates that if you read it with an understanding of constitutional principles, the local companies have to at least recover their costs, all their costs. And there's some discretion left to the states on the amount of profit that's permitted...

TR: The Eighth Circuit didn't completely address the issue of "takings," under the Fifth Amendment, as regards TELRIC pricing. Isn't that going to come up again?

Barr: Yes. One part of the "takings" argument was addressed by the court. Our primary "takings" argument that we said would be immediately effectuated by the rules was what we call the "commandeering of the local company's network" - essentially turning over control of that network to competitors. The primary rule to which that related was the FCC-imposed obligation to upgrade the network at the direction of the new entrants...The court agreed with us on that point and struck down the FCC rule that required the upgrading of the network at the direction of competitors...

The other part of the argument wasn't that takings would immediately follow from imposition of the rules, but that if the rules were allowed to stand, they would lead ultimately to takings; therefore, the statute should not be construed to support those kinds of rules. And that, because the court did not address TELRIC, really is an issue that's left for another day. As the court said, if the states adopt pricing rules that aren't compensatory, you always have the ability to go into court at that point...

Our argument had been directed toward the TELRIC formula and wanting the court to address it right then and there. They did not...So you will see the "takings" issues come back, now that the action has shifted to the states, in two areas. One is the issue of stranded investment and the extent to which we're permitted to recover our historic costs, particularly costs that have been imposed on us by the artificial...extension of depreciation periods.

And the second area you'll see the "takings" argument involves universal service: an effort to require local exchange companies to subsidize residential and mini rates without being given the benefit by the government of recovering those funds through some other avenue. That's a "taking"...To the extent the states fail to put in place a universal service apparatus that's competitively neutral, that will be challenged as unconstitutional.

TR: AT&T is urging the FCC to revive some of the rejected policies in the exercise of its authority in other proceedings. For example, the FCC might do so through the changes it is making to the access charge system or through the "section 271" reviews of Bell company applications to provide in-region interLATA services. Can the FCC do that?

Barr: The extent to which they do it - I think, attempt to do it - they will simply make those other rules more vulnerable to legal challenge. They have certain obligations in dealing with access charges and certain policies that have to be effectuated through access, and they undermine those policies by trying to force companies and states to adopt their views on other matters. They're simply going to weaken their position legally on those access rules. Same on section 271.

TR: So one way or another, whether the states try to adopt these disputed policies or the FCC tries to bring them up again, they're ultimately going to be decided by the courts.

Barr: Our administrative law process has always relied on review...You know, it's not a question of delaying things. It's not a question of fighting the introduction of competition into the local exchange. It's a question of getting a good, sound set of rules put into place. And where we think policy-makers have made a mistake, we're going to seek to have that corrected. A state that deals forthrightly with universal service and a state that sets realistic wholesale rates based on the actual costs of the local exchange company will avoid a lot of controversy and be able to move forward with competition.

TR: What do you want the states to do in terms of universal service and GTE's "auction" proposal.

Barr: The first thing the states have to do on universal service is adopt an interim rule that will give them a little bit of time to put in place a more permanent structure. That interim rule should provide that [companies] coming into the marketplace by buying the network elements of the incumbent must contribute to universal service through those wholesale prices, by recognizing whatever subsidy is implicit in the incumbent's retail prices.

So that's an anti-cream-skimming rule that simply means that the new entrant has to contribute to universal service to the same extent in its pricing as the incumbent does. That would be an interim rule. Then the states have to quickly move toward setting up an explicit system of supporting universal service.

The GTE proposal starts off by trying to target subsidy as much as possible to those who really need it, either on a voucher basis for low-income people or by breaking down "study areas" to the small 250-household tracks and targeting the support levels to communities where it's really necessary to provide that kind of support. Then our proposal is to set a level of subsidy and allow new entrants to "bid down" the amount they would require to serve the same area. Let's say it costs $30 to serve a particular residential community, but rates were set at $20, so $10 of subsidy was necessary. A new entrant could come in and say, "Well, we can serve that community with only $8 of subsidy because we can be more efficient"...

The initial level of support should largely be based on historical costs of the incumbent company. States have been setting rates based on their analysis of what the actual costs of the local exchange company are and serving customers. If you start off with that historical number, then the marketplace will correct it...

To me, when Congress passes a statute and says, "We want to institute competition," that means you should let the marketplace determine prices. If in fact the initial level of subsidy is too high and someone can come in and make money

with less support, then they'll do it. That's what using competition and using the marketplace means. And I don't know why policy-makers are not more willing to let the marketplace work because that's what the statute is all about.

---- Index References ----

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A time bomb ticks behind prison bars; As Washington disbands the welfare state, millions of dollars are being poured into the 'jailhouse state' United States

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Byline: DAVID HAY in Los Angeles

Body

THE United States Government may be rushing to disband the welfare state, but it is spending more money than ever on a replacement, the "jailhouse state".

The US now has the highest rate of incarceration in the Western world - four times that of Australia and most European countries. And it costs the nation more than $US40 billion ($54 billion) a year.

In 1990, the US prison population was 300,000. Federal and State jails in America today hold more than 1.2 million inmates.

In addition, 500,000 are behind bars in local jails, according to the Department of Justice. More than 200 new prisons have been built over the past seven years to house the explosion in the jail population.

A senior policy analyst at the Urban Institute in Washington, Mr Bill Sable, said: "If most Americans knew how many of their fellow citizens were behind bars they would be shocked."

Professor Joshua Dressier, a criminologist at the McGeorge Law School in Sacramento, California, said the system was in crisis.

"This is a ticking time bomb," he said.

"Only when the public realises how much of their tax dollars are being spent on prisons will it start to be defused."

The African-American community has fiercely attacked the "lock them up and throw away the key" policy, which is backed by many Americans.

While African-Americans make up just 5 per cent of the US population, they account for almost 50 per cent of the prison population.

Mr Sable said: "When you look at the racial and geographic breakdown of who's inside our jails it is startling."

For example, half those behind bars in Maryland come from Baltimore, a city with only 12 per cent of the State's population.

In California, 37 per cent of inmates are from Los Angeles County, an area housing only 12 of the State's population.

"If you broke it down within LA County you'd find an even more striking racial bias," Mr Sable said.

"There are areas in that city where vast numbers of the male population are simply not around ... they're behind bars."

Criminologists point to two major factors behind the staggering increase in the incarceration rate, which shows little sign of slowing.

The first is the adoption of truth-in-sentencing laws by 28 States, with more to sign on soon. Under these statutes, the opportunity for parole is either eliminated or greatly reduced.

Under the Federal Crime Act of 1994, States which adopted these tough sentencing laws are eligible for large grants to construct new prisons. The Federal Government abolished parole in 1987.

The second factor is a tough new policy towards sentencing on drug-related crimes.

Between 1984 and 1992, sentences for drug-related crimes not involving the use of a weapon grew from three years' imprisonment with the possibility of parole to 5 1/2 years with no parole.

The harsh anti-drug sentencing policies have

continued. Washington State now has a law barring judges from sentencing first-time drug offenders to parole or rehabilitation. More than 90 per cent of such offenders now go directly to jail, most of them with no parole.

Of the 1.6 million Americans in prison, more than 35 per cent have been jailed for drug-related offences. In Federal prisons, the proportion rises to 66 per cent.

Using prisons to attack the drug problem has been widely condemned.

Mr Sable said: "This is not the way to deal with the problem. Even though many more drug offenders are inside, drug problems on the outside have shown no sign of abating."

African-American criminologists say the tough sentencing laws for drug users amount to a racially motivated attack on the black community.

The black civil rights leader the Rev Jesse Jackson said many more black Americans were convicted of drug-related crimes because inner city communities were unfairly targeted.

In these areas, drug use is more widespread. There is no dole for the unemployed after six months, and for many people the drug trade is the only way of making a living.

Many of those convicted take their drug habits inside, where there are few rehabilitation programs.

According to the Los Angeles Times, more than 100,000 State prison inmates have a history of chronic drug and alcohol abuse. The prison system's care clinics have places for only 400 of them.

The head of the Department of Corrections in Washington State, Mr Chase Riveland, said: "We're locking up poor people from the inner cities, who sell drugs to support their habits, instead of treating their addiction."

But how effective in combating crime is the US policy of erecting a massive prison state?

Conservatives laud the policy, pointing out that the rate of violent crime, especially in such urban centres as New York and Los Angeles, has declined markedly since 1994.

"It has held the crime rate lower than it would have been," argues a former Attorney-General in the Bush Administration, Mr **William Barr**.

"The price of putting these people in prisons is lower than the price of leaving them out on the streets where they would commit more crimes."

Professor Dressler, however, is not as willing to concede that harsh prison policy is making America a safer place.

"THE increase in incarceration rates are having only a minimal effect on the street," he said. "A much greater determinant is the threat which arises from a higher certainty of arrest and knowing that incarceration is almost certain after that.

"But there are many other factors underlying the decrease in our crime rate, including the improvement in the economy."

With the growing numbers behind bars - by 2000, more than 2 million Americans will be in jail - there has been a matching right-wing shift in attitudes towards inmates.

"Our prison system has mostly abandoned the concept of rehabilitation," Professor Dressler said.

Budget priorities have been directed towards new construction rather than inmate programs. The prisons are so overcrowded that administrators are too over-burdened to have time or money to devote to rehabilitation. Professor Dressler said: "Prisons have been expanding at such a rate that more and more wardens are being hired who do not have a rehabilitation mentality.

"It's not just coincidence that many southern States have returned to chain gangs. This new generation of wardens prefers to exhibit hostility toward prisoners rather than spend time moulding them into a more socially acceptable character."

Most jails are overcrowded, brutal places, with younger or weaker inmates regularly attacked, raped or murdered and an increasing number are HIV-positive.

An increasing number of prisoners, 64,000, in Federal and State jails are women, putting further burdens on the prison health care system. In North Dakota, 54 per cent of inmates are female. Six per cent of them arrive pregnant.

Prisons are becoming bastions of illness and increased crime. Early this year, California broke up a Mexican gang that was terrorising many institutions.

Debates such as how to privatise more jails and how to increase inmates' productivity to help offset the cost of their incarceration drown out voices urging lawmakers to put present policies under the microscope.

Graphic

Illus: Doing it hard ... prisoners in leg irons in Alabama, one of many southern States that has reintroduced chain gangs. Photograph by AP/GLENN BAESKE

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The Tough Guy in Local Phones; Disdaining Regulators, Whitacre Carves Out SBC Empire

The New York Times

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Byline: Edward E. Whitacre Jr.

By MARK LANDLER

By MARK LANDLER

Dateline: SAN ANTONIO, July 18

Body

Most businessmen in this South Texas city were still contemplating their morning coffee. But Ed Whitacre was in full cry, excoriating what he called the Federal Government's unfair treatment of the local telephone industry. Then his own phone rang.

Striding across his Texas-size office here, Mr. Whitacre picked up the receiver, listened intently and hung up without a word. Only a smile spreading across his craggy face hinted at the story: An appeals court in St. Louis had just thrown out the Federal Communications Commission's rules governing competition in the local phone market -- the same rules he had just been inveighing against.

For Edward E. Whitacre Jr., the chairman of SBC Communications and a zealous defender of the local phone industry, it was as if the gods had finally heard him.

"Our stockholders own the local phone network -- lock, stock, and barrel," Mr. Whitacre said. "Now here comes the F.C.C., saying, 'we'll let everybody else lease that network at a 70 percent discount.' They expect us to tank our stockholders. No way."

Talk like that has made Mr. Whitacre a lightning rod in the growing debate about why competition has been so slow in coming to telephone service. On this day, the United States Court of Appeals for the Eighth Circuit handed him a victory over would-be competitors for local telephone service like AT&T and MCI Communications. The court ruled that the F.C.C. does not have the right to impose national guidelines on how SBC and the other regional Bell companies open their markets.

But Mr. Whitacre knows that the war for $100 billion local phone market is only starting. Indeed, on Saturday, the F.C.C. announced a sweeping agreement with Bell Atlantic and Nynex that will open their local-service markets to competition. Some analysts said the commission might be able to use that deal to pry open the monopolies of other Bells.

For his part, Mr. Whitacre acts as though he is defending the Alamo -- which is appropriate in a way, since the famous old garrison is only a few blocks away from SBC's downtown headquarters. And Mr. Whitacre looks like one might imagine Davy Crockett did, if he had lived to be 55.

Never mind that SBC is hardly besieged: The company, which used to be called Southwestern Bell, has $25 billion in revenue, a territory that stretches from the Mississippi to the Pacific, and the fastest growth rate of the six Baby Bells. It is also the most pugnacious -- earning a reputation among critics as a company that will do almost anything to thwart the competition promised by the Telecommunications Act of 1996.

"We need to talk turkey here," said Reed E. Hundt, the F.C.C. chairman and Mr. Whitacre's nemesis. "SBC will not willingly embrace the national commitment to competition."

SBC's chairman responds that he is simply looking for a level playing field. But his down-home Texan traits -- the slow drawl, lanky 6-foot-4-inch frame and relaxed gait -- mask a chief executive who is considerably more ambitious than even the average Baby Bell executive.

"Don't let that slow Southern accent fool you," said Sam Ginn, the chairman of Airtouch Communications. "He is a tough, smart, shrewd executive."

In the last 15 months, Mr. Whitacre acquired another Baby Bell, Pacific Telesis, for $16.7 billion, applied for Federal permission to enter the long-distance business in Oklahoma, sued to overturn portions of the Telecommunications Act, and initiated negotiations with AT&T on what would have been the largest corporate merger in history.

People with knowledge of the matter said Mr. Whitacre also killed the AT&T negotiations -- partly out of anger over a speech by AT&T's chairman, Robert E. Allen, in which he accused the Baby Bells of dragging their feet in opening the local phone market.

Mr. Whitacre even played an off-stage role in AT&T's recent management turmoil. John R. Walter, the AT&T president who resigned last week after the board told him he would not be named chief executive, first came under a public cloud during the SBC negotiations when it became apparent that Mr. Allen was ready to turn over command of the combined company to Mr. Whitacre rather than Mr. Walter.

Mr. Whitacre refused to discuss the talks with AT&T, which neither company ever confirmed. ("I might write a book some day," he said, after brushing off several questions about the subject.)

But the fact that SBC was negotiating a merger with AT&T in which it could have emerged as the dominant player speaks volumes about the company's muscle.

"We broke out of the mold when we found we could be successful nationwide," Mr. Whitacre said. "We're not the biggest, but I think we're certainly the best in this country."

With five years of double-digit earnings growth, a booming cellular business, a successful investment in Telefonos de Mexico, and a primary market in California and Texas, two fast-growing states, few industry watchers dispute that claim.

Frank Governali, an analyst at Credit Suisse First Boston, said that SBC's only vulnerability may be in California, which he said would come under fierce assault from new rivals because the state, the most populous by far, is such an attractive market.

The strength of SBC's core market helps explain why Mr. Whitacre resolutely defends it. Several analysts noted that he believes local phone service will always be more profitable than long distance.

"We can never forget that the heart of our business is local service," he said. "It's been our business for over 100 years."

If SBC's competitors are to be believed, the company will play hard ball to hold on to these customers. In a recent letter to the F.C.C., MCI Communications accused SBC of calling customers immediately after they had been wooed by MCI about switching their local service, in order to sow doubts about MCI. Such tactics are brazen even for a Bell, said Jonathan Sallet, the chief policy counsel at MCI.

"Although some of the Bells try to pull the wool over your eyes, SBC is a wolf in wolf's clothing," he said.

Mr. Whitacre rejects the accusation that SBC is anticompetitive. By the end of this year, he said, the company will have spent $1.2 billion and hired 4,000 new employees to open its markets.

Most of these people work in customer service centers, where they process requests to switch local phone customers from SBC to rival carriers. At one such center in downtown Dallas, employees pass a security checkpoint intended to keep out SBC's regular salespeople, who could comb through the records if they wanted to hold on to customers.

Unpleasant as it is, Mr. Whitacre said SBC was willing to sustain lost customers in order to gain entry into the long-distance market. But the company was recently rejected by the F.C.C. in its first bid to offer long-distance service -- in Oklahoma, because the commission concluded that there was barely a hint of competition.

SBC went into combat mode. James D. Ellis, a bluff Iowa native who is the company's general counsel, filed a Federal lawsuit seeking to overturn the parts of the Telecommunications Act that put conditions on Bell entry into long distance. Mr. Ellis said the act unfairly bars the Bells from entering the market.

William P. Barr, the general counsel of GTE, which has been allowed into long distance, said SBC's argument was shaky. "I agree with them that the regulators have been heavy-handed and unfair," said Mr. Barr, a former United States Attorney General. "But it will be hard for them to get the act struck down as unconstitutional."

Given all the sparks SBC sets off, one would think the company's executive suite is a noisy place. But subordinates say Mr. Whitacre is a quiet chief executive who listens carefully before making a decision. At SBC, he has gathered a cadre of executives, many of them Texans, who have worked with him for years and share his philosophy.

The tightness of SBC's management enables the company to move swiftly to seize opportunities. Michael J. Price, a managing director at Lazard Freres & Company, who advised the company on its acquisition of Pacific Telesis, said Mr. Whitacre nailed down that deal in three weeks, when it might have taken another chief executive several months.

Since then, SBC has moved just as fast to meld Pacific Telesis into its operations. Mr. Whitacre has not hesitated to ruffle feathers -- shutting down the executive dining room at Pacific Telesis headquarters in San Francisco and requisitioning its corporate jet.

In 1992, Mr. Whitacre moved SBC's headquarters from St. Louis to San Antonio to capitalize on the region's torrid growth. Since then, he has purchased a 1,200-acre ranch 80 miles north of here, where he keeps a small bulldozer to clear brush and dig ponds on his property.

But Royce S. Caldwell, the president of SBC's core telephone operations and of Mr. Whitacre's closest confidants, said one ought never to forget that the boss is an intense man. On a recent weekend, Mr. Whitacre had Mr. Caldwell and another guest, the Mexican communications tycoon Carlos Slim Helu, out to the ranch for a convivial evening.

The next Monday morning, Mr. Whitacre called Mr. Caldwell to his office to confront him on an SBC business matter. "I swear, I got the worst chewing out of my life," said Mr. Caldwell, with a rueful laugh.

Graphic

Photo: Edward E. Whitacre Jr. moved the headquarters of what would become SBC Communications to San Antonio to capitalize on the region's torrid growth. The company, charting its own growth path, has since acquired Pacific Telesis. (Edward Ornelas for The New York Times)

Chart: "Edward E. Whitacre Jr."

Chairman, SBC Communications Inc.

BIOGRAPHICAL

BORN Nov. 4, 1941; Ennis, Tex.

EDUCATION B.S. in industrial engineering, Texas Tech University, 1964.

PROFESSIONAL Joined Southwestern Bell in 1963 as a student engineer; worked in operations in Texas, Arkansas and Kansas; named president in 1988, chairman and chief executive in 1990.

HOBBIES golf, fishing, bulldozing brush on his ranch.

MASTERSTROKES

EXPANDED aggressively into wireless, under Cellular One brand.

AVOIDED costly and unsuccessful expansion into video.

LOBBIED successfully for state rules in Texas that favor SBC over potential competitors.

MADE SBC the first Baby Bell to acquire a fellow Bell, Pacific Telesis.

UNDERSCORED national scope of new, larger SBC by negotiating to merge with AT&T.

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Eight Circuit strongly rebukes FCC for stepping into intrastate jurisdiction.

The Court of Appeals for the Eight Circuit rejected severalprovisions of the FCC's Common Carrier docket 96-98. The ruling wasprompted by the commission's failure to observe jurisdictionallimits with regards to preemption cases. The rejection, which includedFCC's pricing and other interconnection rules, is expected toseverely stem the commission's enforcement plans.

The FCC's apparent failure to recognize its proper jurisdictional boundaries has resulted in a federal appeals court's rejecting several provisions of its landmark Common Carrier docket 96-98 "carrier interconnection" order (TR, Aug. 12, 1996).

In an opinion issued last Friday in Iowa Utilities Board et al. v. FCC (consolidated cases beginning at no. 96-3321), the U.S. Court of Appeals for the Eighth Circuit (St. Louis) overturned several portions of the order - including the pricing and "pick and choose" provisions it already had stayed (TR, Oct. 21, 1996).

But the opinion written by Judge David R. Hansen and joined by Roger L. Wollman and Chief Judge Pasco M. Bowman went further, chiding the FCC for the general preemption claims included in a summary of the interconnection order. And the court limited the agency's authority to act on complaints seeking preemption of state actions on the grounds they violate section 251 of the Telecommunications Act of 1996. This could severely hamper the FCC's enforcement plans, FCC officials said.

In some respects, the court didn't go as far as the local exchange carriers (LECs) had urged. The court upheld the FCC's requirement that LECs provide access to their operation support systems (OSS) as an unbundled network element.

It didn't address the merits of the FCC's "total-element long-run incremental cost" (TELRIC) costing methodology or the FCC's provisions regarding determination of the proper"avoided costs" when setting wholesale rates. 'The court merely ruled that the FCC couldn't compel states to use those methodologies. Many states, however, have used the FCC's general principles in arbitration proceedings and can continue to do so.

The court overturned the following provisions of the federal interconnection order:

* The pricing provisions, including the "proxy rates" for interconnection and service resale;

* The FCC's interpretation of the Act's "pick and choose" provision, which allows new competitors to "pick and choose" individual provisions contained in interconnection agreements negotiated by others;

* The provisions placing the "burden of proof" on small or rural LECs to demonstrate that they should be exempt from interconnection mandates;

* The requirement that interconnection agreements signed before the 1996 law's enactment be filed with state commissioners and that the terms of those agreements be made available to competitors; and

* The commentary portion of the order, which asserts that the FCC's "regulations under section 251 are binding on the states, even with respect to intrastate matters."

The court also rejected some portions of the FCC's unbundling rules, although it upheld the FCC's list of network elements that LECs must unbundle. Although the full implications aren't yet clear, the ruling that LECs can't be compelled to combine unbundled network elements for new market entrants could have implications for the full "platform" of unbundled network elements many interexchange carriers (IXCs) would like to assemble, sources told TR.

Hundt Plans Appeal to Supreme Court

The FCC will appeal the order to the U.S. Supreme Court, FCC Chairman Reed E. Hundt told reporters late Friday. "This is the first time in the history of the FCC where a court has ruled that where Congress has written a statute, the FCC doesn't necessarily have the authority to write the rules to implement it," Mr. Hundt said. He expressed confidence that the FCC will win its appeal, saying that the court's failure to allow the FCC to implement these rules amounts to "reversible error."

Although most state regulators seem to be following many of the federal pricing guidelines, Mr. Hundt still was worried that the decision could lead to the "balkanization of national communications policy."

Christopher Wright, FCC Deputy General Counsel, noted that legally, only one official definition of a term in a federal law can survive. Because the FCC was rebuked in its effort to define the Act's requirement that interconnection and unbundled network element prices be "based on cost," that definition now will have to be hammered out in 93 district courts, 12 appeals courts, and, eventually, the U.S. Supreme Court, he said.

"States don't really have the authority to define what these phrases mean," Mr. Wright said. "District courts now have that authority."

'Parallel' Authority Rejected

State regulators and incumbent LECs had told the court that sections 252(c)(2) and 252(d) of the federal statute grant the states authority to determine the rates involved in implementing the local competition provisions of the Act.

The court said the FCC and its supporters don't contest those claims. Rather, they contend that section 251(d)(1) gives the FCC"parallel authority" to issue regulations governing the rate-setting methods the states must use. Section 251(d)(1) says, "Within six months after the date of enactment of the Telecommunications Act of 1996, the Commission shall complete all actions necessary to establish regulations to implement the requirements of this section."

The FCC also points to section 252(c)(1), which directs state commissions to ensure that arbitrations of interconnection negotiations "meet the requirements of section 251, including the regulations prescribed by the Commission pursuant to section 251." The FCC said this provision requires states to follow its rate-setting mandates.

But the court was "not persuaded" by the FCC's interpretation. "We believe the subsection 251(d)(1) operates primarily as a time constraint, directing the Commission to complete expeditiously its rulemaking regarding only the areas in section 251 where Congress expressly called for the FCC's involvement," the court said. "Nowhere in section 251 is the FCC authority specifically to issue rules governing the rates for interconnection, unbundled access [to network elements], and resale, and the transport and termination of telecommunications traffic."

Possibly, the most direct indication of the court's narrow view of the FCC's authority comes in a footnote. The court said the FCC's authority is "limited to subsections 252(b)(2) (number portability), 251(c)(4)(B) (prevention of discriminatory conditions on resale), 251(d)(2) (unbundled network elements), 251(e) (number administration), 251(g) (continued enforcement of exchange access) and 251(h)(2) (treatment of comparable carriers as incumbents)."

The court also was unpersuaded by the FCC's claims to authority under general rulemaking provisions that predate the Telecommunications Act of 1996, such as section 201(b) of the Communications Act of 1934.

"We conclude that none of the statutory provisions relied upon by the FCC supply it with jurisdiction over the pricing of local telephone service," the court wrote. "The absence of any direct FCC pricing authority over local telephone service is fatal to the agency's theory that the Act requires the state commissions to share such pricing authority with the FCC."

The FCC's attempt to point to the Cable Television Consumer Protection and Competition Act of 1992 as an example of parallel federal and state jurisdiction over rates also backfired. "In sharp contrast to the Telecommunications Act, several provisions of the Cable Act explicitly grant the Commission the authority to regulate the rates of cable companies and explicitly require state authorities to follow the Commission's ratemaking rules," the court said.

The Cable Act "demonstrates that Congress is capable of clearly expressing its desire to grant the FCC authority over local rates when it wishes to do so," the court wrote. "The Telecommunications Act contains no such articulation with respect to the local competition provisions."

Putting the final nail in the coffin, the court touted section 2(b) of the Communications Act and the U.S. Supreme Court's landmark 1986 decision in Louisiana Public Service Commission v. FCC as further bars to the FCC's ability to get involved in intrastate ratemaking. In that case (TR, June 2, 1986), the Supreme Court "explained that section 2(b) 'fences off' intrastate matters from FCC regulation," the Eighth Circuit explained.

The Supreme Court ruled that section 2(b) constitutes an "explicit congressional denial" of FCC authority and suggested that Congress could override section 2(b)"only by unambiguously granting the FCC authority over intrastate telecommunications matters or by directly modifying section 2(b)."

The appeals court said it "rejected [the FCC's] interpretation as being inconsistent with the plain meaning of the Act, and we have concluded exactly the opposite - that the Act directly and straightforwardly assigns to the states the authority to set the prices regarding the local competition provisions of the Act in subsections 252(c)(2) and 252(d)."

It also found that the FCC failed to meet the final possible justification for its foray into intrastate ratemaking - that it met the "impossibility" exception that evolved out of the Louisiana decision. The "quite narrow" exception provides that the FCC may preempt state regulation of intrastate telecommunications matters only when it is impossible to separate the interstate and intrastate components of the FCC's regulation, and state regulation would negate the FCC's lawful authority over interstate communications.

"Telecommunications ratemaking traditionally has been capable of being separated into its interstate and intrastate components," the court said. And the FCC also hasn't shown that the states' authority to establish the rates would "negate" any valid authority the FCC has over interstate communications.

But in another footnote, the court upheld the FCC's authority over interconnection between LECs and commercial mobile radio service (CMRS) carriers. "Because Congress expressly amended section 2(b) to preclude state regulation of entry of and rates charged by CMRS providers, and because section 332(c)(1)(B) gives the FCC authority to order LECs to interconnect with CMRS carriers, we believe the Commission has the authority to issue rules of special concern to the CMRS providers," it said.

Scope of 'Pick and Choose' Nixed

Regarding the previously stayed "pick and choose" provision, section 252(i) of the Act requires LECs to make available "any interconnection, service, or network elements provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carder upon the same terms and conditions as those provided in the agreement."

The court said the FCC had allowed new competitors to adopt provisions of previously filed interconnection agreements "without being required to accept the terms and conditions of the agreements in their entirety." The FCC's problem is primarily in its interpretation of the scope of the rule, according to the court.

It said section 252(i) doesn't reveal Congress' intent, requiring the court to "look at the structure and language of the statute as a whole." It found that the Act was designed to foster voluntary negotiations between interconnecting carders. But the FCC's interpretation of the "pick and choose" rule would thwart negotiations, the court said.

"During a negotiation, an incumbent LEC would be very reluctant to make a concession on one term in exchange for a benefit on another term when faced with the prospect that a subsequent competing carrier will be able to receive the concession without having to grant the incumbent the corresponding benefit," the court wrote. "In this manner, the FCC's rule would discourage the give-and-take process that is essential to successful negotiations."

Burden Lifted from Rural Telcos

Also at issue were FCC rules regarding the exemptions that small or rural LECs can receive from the Act's interconnection mandates. The FCC had placed the burden of proof on LECs seeking such exemptions, requiring them to demonstrate that their compliance with the Act's competition provisions would cause an "undue economic burden beyond the economic burden that is typically associated with efficient competitive entry."

Sections 251(f)(1) and 252(f)(2), which govern the mini telco exemptions, indicate that state commissions have the exclusive authority to make these determinations, the court said. It found "no indication that state commissions must follow FCC standards in conducting these inquiries." And it pointed to the legislative history, noting that both the House and Senate rejected bills that gave FCC concurrent jurisdiction with the states to administer the waiver and exemption provisions.

The court also rejected the FCC's statement that its general authority to hear complaints under section 208 of the Communications Act empowers it to review state-approved interconnection agreements.

"The language and design of the Act indicate that the FCC's authority under section 208 does not enable the Commission to review state commission determinations or to enforce the terms of interconnection agreements under the Act," the

court said. "Additionally, the complete absence of any reference to section 208 in the Act bolsters our conclusion that Congress did not intend to allow the FCC to review the decisions of state commissions."

Again, the court pointed to section 2(b) of the Communications Act. "Such review or enforcement authority would enable the FCC to review and redetermine state commission determinations of the just and reasonable rates that incumbent LECs can charge their competitors for interconnection, unbundled access, and resale - rates that we previously decided were off limits to the FCC," it said.

The court also rejected FCC attempts to require that interconnection agreements negotiated before the federal telecom law was passed be submitted to state commissions for approval. That provision would give competitive local exchange carriers access to provisions of the call termination agreements between neighboring incumbent LECs. Because those agreements were between companies that generally weren't competing with each other, they have provisions desirable to CLECs, such as waiving payment for terminating calls on each other's networks ("bill and keep").

Once again, the court said the FCC didn't have authority to make such a determination. The FCC had read section 252(d)(2)(B)(ii) as implying that it has the power to regulate generally under section 252 because it "withdraws" federal authority to regulate the costs associated with the transport and termination of calls. If it didn't have this general authority, the FCC reasoned, there would be no need to withdraw it.

But the court was "not persuaded that this subsection's denial (not withdrawal) of power to the FCC...implies that the Commission has the authority to determine which intrastate interconnection agreements must be submitted for state approval under section 252(a)(1).

"This grasp for some sort of statutorily based jurisdiction over these interconnection agreements does not qualify as the straightforward grant of authority that is necessary to penetrate the section 2(b) fence," it said.

The court even rejected statements the FCC had made in the commentary portion of its order. In that section, the FCC said its "regulations under section 251 are binding on the states, even with respect to intrastate matters."

The court again bristled at the encroachment onto state authority. "The FCC's blanket statement that state rules must be consistent with the Commission's regulations promulgated pursuant to section 251 is not supportable in light of subsection 251(d)," the court said. "The FCC's belief that merely an inconsistency between a state rule and a Commission regulation under section 251 is sufficient for the FCC to preempt the state rule is an unreasonable interpretation of the statute in light of section 251(d)(3) and the structure of the Act."

The FCC had a little better luck defending provisions pertaining to unbundled network elements. Rejecting the LECs' contentions, the court upheld the FCC's list of network elements that LECs are required to unbundle. LECs had said that the Act's definition of "network element" is limited to the physical parts of an incumbent LEC's network that are involved in transmitting calls from one point to another. Under this narrow definition, LECs said OSSs don't qualify as unbundled network elements (UNEs).

The court backed the FCC's definition of the term "network element" as including "all of the facilities and equipment that are used in the overall commercial offering of telecommunications." It said that definition is "a reasonable conclusion and entitled to deference."

The court also supported the FCC's definition of what it means to provide interconnection and unbundled access "at any technically feasible point" as required by the Act. It rejected the view that the FCC must consider economic impacts when it determines "technical feasibility." On the other hand, it rejected the FCC's belief that incumbent LECs must provide unbundled access to all network elements "for which it is technically feasible."

"The FCC's interpretation that an element for which unbundling is technically feasible must presumably be unbundled is contrary to the plain meaning of the Act and cannot stand," the court wrote.

Questions Arise on Combining UNEs

Another provision that LECs had opposed was the requirement that they combine all available unbundled network elements into a so-called "unbundled platform." The court backed the FCC's requirement that LECs unbundle all elements, but it said LECs cannot be compelled to combine those elements for the new competitor.

"While the Act requires incumbent LECs to provide elements in a manner that enables the competing carriers to combine them, unlike the Commission, we do not believe that this language can be read to levy a duty on the incumbent LECs to do the actual combining of elements," the court said. "The fact that the incumbent LECs object to this rule indicates to us that they would rather allow entrants access to their networks than have to rebundle the unbundled elements for them."

The court found that LEC charges that the UNE rules are a violation of the "takings" clause in the Fifth Amendment to the U.S. Constitution aren't "ripe" for review. "We have already vacated several of the unbundling rules that constitute a significant portion of this particular complaint," it said. "Thus, we are skeptical that the remaining FCC unbundling rules will effect an actual taking.

"Nevertheless, because many of the ratemaking procedures have been held in abeyance in anticipation of our decision and given the fact that we have vacated many of the FCC's pricing rules in this opinion, we cannot, as of yet, determine whether the incumbent LECs are receiving or will receive just compensation for providing competing carriers with access to their networks."

Finally, the court upheld the FCC's requirement that incumbent LECs provide wholesale discounts off "promotional" rates to resellers of local services. "The Commission's determination that promotional rates that are effective for more than 90 days qualify as 'retail rates' is a reasonable interpretation of the Act's terms and was not made arbitrarily or capriciously," the court said.

LECs Bask in Apparent Victory

Initial reaction to the decision indicated a victory for LEC interests that appealed the FCC's interconnection order. Just as clearly, interexchange carriers, which backed the FCC's view that a strong national policy framework is needed, suffered a setback.

FCC Commissioner Susan Ness said the appeals court had put local competition "on hold" and called on states to preserve the "incalculable" benefits to consumers that could be lost if "Congress' goal of competition in the local telephone marketplace" is not met. "Now, more than ever, it is up to the public utility commissions in each of the 50 states to decide whether and to what extent new entrants will have an opportunity to compete fairly with incumbents," she said. "It is the state commissions that will decide whether competition is promoted, hindered, or foreclosed."

Commissioner Rachelle B. Chong called the decision "another speed bump in our arduous journey to bring competition to the local telephone markets, consistent with Congress' intent." Despite the overall thrust of the ruling, she noted that the court had affirmed the FCC in several respects.

Commissioner James H. Quello said the ruling will delay competition in local markets. "That result is at odds with the intent of Congress...and is injurious to the public interest by denying consumers the benefits of robust competition in the provision of local telephone services." Despite Mr. Hundt's assurance that the FCC would appeal the ruling, Mr.

Quello said "the decision to seek judicial review will be based on our evaluation of the public interest as articulated" in the 1996 Act.

On Capitol Hill, Sen. Edward J. Markey (D., Mass.) said Congress "gave the FCC a carefully balanced directive to implement the Act. In my opinion, the FCC did a skilled job in fulfilling that task." The court's interpretation is "overwhelmingly one-side and flawed," he said.

Sen. John McCain (R., Ariz.) said the decision "deals a crippling blow to the FCC's ability to exercise preemptive jurisdiction to implement the provisions of the 1996 Act aimed at increasing competition in the provision of telephone service." He also was "very concerned that this serious setback to the FCC's regulatory plan may mean that the telecom act will now be even more ineffective in bringing about increased competition."

William P. Barr, GTE Corp.'s General Counsel who argued the court case on behalf of GTE and the Bell companies, termed the decision "a major victory not only for GTE and other local exchange carriers, but also for the state commissions and the American consumer." He said the court "has thwarted the FCC's massive power grab" by clearly stating "that the FCC has no jurisdiction to issue pricing rules and proxy prices." The FCC's rules were unfairly biased against local exchange companies, and GTE is pleased that they have been voided," he added.

SBC Communications, Inc., General Counsel James D. Ellis said the decision "upheld the key arguments we made in our appeal. One of the clearest elements of the Telecommunications Act of 1996 is Congress' intent that the state regulators should play the primary role in overseeing the transition to a competitive marketplace, and that the states - not the FCC - have jurisdiction over the specific pricing of local interconnection, unbundled network elements, and resale rates."

U.S. Telephone Association President and Chief Executive Officer Roy M. Neel said the decision confirms the LEC view that "the states' role in fostering competition is critical" to ensuring that real choices reach all telecom consumers. "The court's affirmation of the 1996 [law's] desire for companies to negotiate interconnection agreements privately and in good faith is what has been happening in the marketplace since before the Act was passed, and...this will continue."

Charlie Russ, Executive VP-law and public policy for U S WEST, Inc., said the FCC's order "advantaged AT&T and MCI at the expense of consumers...This is a victory for consumers, states, and for competition that promotes investment in the nation's [telecom] network."

A BellSouth Corp. spokesman said the court "confirms that the Act encourages voluntary negotiations with competitors over pricing and a leading role for state commissions...That's why BellSouth continues to work through these negotiations."

AT&T was disappointed that the court didn't vacate its stay of the pricing and network unbundling provisions of the FCC's interconnection order "and restore this critical federal oversight to the new national policy." Mark Rosenblum, VP-law and public policy, told reporters during a phone-in news conference that AT&T executives are "preserving our options" to appeal the ruling after further review.

AT&T continues to believe "uniform national implementation and enforcement under FCC auspices" are critical to fulfilling the intent of Congress, he said. But while the court stay has been in effect, "we've done pretty well in the state proceedings," which generally have been consistent with the Act's mandates and the FCC's intentions, Mr. Rosenblum said. "Nothing we have been demanding...has been ruled off the field" by the court he said.

MCI's Chief Policy Counsel, Jonathan B. Sallet, said he expects the 'setback for American consumers' looking to choose their local telco 'to be reviewed by the U.S. Supreme Court. In the meantime, the decision underscores what MCI has been saying all along: An urgent need exists for action at the state and federal levels.'

Thomas E. Wheeler, President and CEO of the Cellular Telecommunications Industry Association, said, 'While the court overturned the FCC's rules as they apply to the interconnection of wireline phone companies and new entrants, it confirmed the FCC's rules with respect to interconnection between local companies and wireless providers.'

Jay Kitchen, President of the Personal Communications Industry Association, said the court 'recognizes the FCC's legitimate authority to ensure fair interconnection arrangements for all CMRS providers.' He called for the FCC to 'immediately enforce reciprocal compensation rules between LECs and CMRS providers.'

Heather Gold, President of the Association for Local Telecommunications Services, said the decision 'reaffirms the status quo under which facilities-based competitive local telephone companies have been operating for nearly a year.' ALTS expects 'local competition will continue to move forward under the leadership of state and federal authorities,' she said, noting that the court 'largely reaffirmed the FCC's authority to define unbundled elements to include such elements as operation support systems and directory assistance.'

Debra Berlyn, Executive Director of the Competition Policy Institute, said she is 'disappointed that the court erroneously rejected the FCC's role in determining prices for local competition.' But she added, 'We're encouraged by the states' efforts this past year' to set prices based on forward-looking cost models.

National Cable Television Association President Decker Anstrom lamented that the 'telcos have succeeded in delaying local competition.' He added, 'Without meaningful, enforceable interconnection rules, competition to the local phone monopolies will be difficult.'

But George Reed-Dellinger of HSBC Washington Analysis disputed the conventional wisdom that the ruling was a big win for the LECs. 'Competition will still go forward because the states have already adopted pro-competitive initiatives that are quite similar to the FCC's, but not similar enough to allow the FCC to let the Bells into long distance,' he said.

---- Index References ----

Company: AMIGULA INC; AT&T INC; PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION; ACT; ADVANCED COMPUTER TECHNOLOGY; SBC COMMUNICATIONS INC; MCI; BELLSOUTH CORP; MARSK CONTAINER INDUSTRI AS; MCI INC; MOTOR COACH INDUSTRIES INTERNATIONAL INC; INTERACT INC (NEW YORK NEW YORK); LCA J; ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES; US COURT OF APPEALS; ADVANCED COMPOSITE TECHNOLOGY INC; BELLSOUTH; BELLSOUTH CORP AVI AND TRAVEL SERVICES; FEDERAL COMMUNICATIONS COMMISSION; GTE CORP; FOMENTO DE CONSTRUCCIONES Y CONTRATAS SA; ACCELERATED COMPUTER TECHNOLOGIES INC; APPLIED COMPUTER TECHNOLOGY INC; ACT INC

News Subject: (Legal (1LE33); Economics & Trade (1EC26); Arbitration & Mediation (1AR68); Judicial (1JU36); Technology Law (1TE30); Government (1GO80))

Industry: (Internet (1IN27); CLECs & Alternative Carriers (1CL29); Telecom Services (1TE09); Telecom Regulatory (1TE65); Telecom Residential Services (1TE75); Legal Services (1LE31); Accounting, Consulting & Legal Services (1AC73); Internet Infrastructure (1IN95); Telecom (1TE27); Legal Services Regulatory (1LE16); Internet Infrastructure Policy (1IN62); Internet Regulatory (1IN49); Wireline Telecom Regulatory (1WI37))

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Other Indexing: (ACT; ALTS; ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES; BELL; BELLSOUTH; BELLSOUTH CORP; CABLE ACT; CABLE TELEVISION CONSUMER PROTECTION; CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION; CMRS; COMMISSION; COMMUNICATIONS ACT; COMPETITION; COMPETITION POLICY INSTITUTE; CONGRESS; CORP; COURT OF APPEALS; EIGHTH CIRCUIT; FCC; GTE; IOWA UTILITIES BOARD; LEC; LOUISIANA; LOUISIANA PUBLIC SERVICE COMMISSION; MCI; NATIONAL CABLE TELEVISION ASSOCIATION; PARALLEL AUTHORITY; PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION; RURAL TELCOS; SBC COMMUNICATIONS INC; SENATE; SUPREME COURT; TELECOMMUNICATIONS; TELECOMMUNICATIONS ACT; US COURT OF APPEALS; US SUPREME COURT; US TELEPHONE ASSOCIATION; UNE; VP) (Additionally; Charlie Russ; Christopher Wright; Counsel; David R. Hansen; Debra Berlyn; Decker Anstrom; District; Edward J. Markey; George Reed; Heather Gold; Hundt; Hundt Plans Appeal; James D. Ellis; James H. Quello; Jay Kitchen; John McCain; Jonathan B. Sallet; LECs; LECs Bask; Mark Rosenblum; Pasco M. Bowman; Policy Counsel; Quello; Questions Arise; Rachelle B. Chong; Reed E. Hundt; Roger L. Wollman; Rosenblum; Roy M. Neel; Susan Ness; Thomas E. Wheeler; William P. Barr; Wright)

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Communications Daily

July 21, 1997

APPEALS COURT OVERTURNS KEY PARTS OF FCC INTERCONNECTION ORDER

In stunning loss for FCC, 8th U.S. Appeals Court, St. Louis, overturned several parts of Commission's 1996 interconnection order Fri., including what some view as guts of agency's effort to oversee development of local competition, its national pricing guidelines and methodologies. Concentrating primarily on state-federal jurisdictional issue, court said FCC didn't have authority to set rules that would have to be followed by state regulators. GTE Gen. Counsel William Barr, who argued case before court in Jan., said action was "major victory, not only for GTE and other local exchange carriers, but also for the state commissions and the American consumer."

FCC Chmn. Hundt immediately announced plans to appeal decision to U.S. Supreme Court, saying ruling "is wholly inconsistent with the mandate and intent of Congress." This is "very regrettable setback" for Telecom Act, he said. FCC Deputy Gen. Counsel Chris Wright said court read Telecom Act very narrow reading, to point of upholding FCC's authority in Sec. 251 only in instances where sentences begin "The Commission [shall]." Hundt said this was "first time in the history of the FCC" that court had ruled Commission doesn't have authority to implement communications law. Wright, who litigated case, said he's confident Supreme Court will hear case and "decide in our favor by next June."

Senate Commerce Committee Chmn. McCain (R-Ariz.) said panel may have to "revisit" Telecom Act as result of court decision and will look at that possibility in conjunction with hearings he plans to hold in Sept. McCain said court's action "has all but collapsed" foundations Congress set for bringing competition to local markets. Decision, he said, "deals a crippling blow to the FCC's ability to exercise preemptive jurisdiction to implement [Telecom Act] provisions aimed at increasing competition." He noted that Hundt plans to appeal to Supreme Court but said "we cannot wait that long to see if the patient lives or dies."

Key among decision rulings: (1) Court didn't even rule on specifics of FCC's requirement for cost-based Total Element Long-Run Incremental Cost (TELRIC) prices because it decided FCC didn't have authority in first place to enact measures governing state actions. (2) It said FCC's "pick-&-choose rule," which lets competitor pick more attractive terms from another competitor's interconnection agreement with common incumbent LEC (ILEC), "conflicts with [Telecom Act's] design to promote negotiating binding agreements." Hundt said it's shame that provision was negated because now "little guy" won't have ability to get same "pricing deals" that "big guy" can negotiate. (3) Court overturned FCC rules for exempting rural carriers from interconnection rules. (4) It said FCC didn't have authority to review and enforce agreements approved by state regulators. (5) FCC "violated the plain terms" of Act by requiring incumbents to provide competitors with unbundled elements, OSS access and interconnection at levels of quality "superior" to those incumbents have for themselves.

Court did agree with FCC on several other issues, although they were less significant: (1) It upheld FCC's requirement that incumbent ILECs offer competitors access to their operational support systems, operator services, vertical switching features. (2) It upheld FCC decision to let competitors construct their entire networks out of unbundled elements, although it said disadvantages of doing so could prompt them to rely on resale instead. (3) It said it was "skeptical" of ILEC argument that unbundling rules constitute unconstitutional "taking" of ILEC property.

Hundt said lack of national pricing rules undoubtedly will delay development of local competition because it will take so long before national rules are determined. He said that even if 8th Circuit isn't overruled, eventually there will have to be national pricing guidelines because it's impractical to have different rules in every state. However, such guidelines will be developed through court system, as result of challenges of state rulings, he said. Telecom Act allows challenges through U.S. Dist. Courts and Appeals Courts, he said: "There are 93 district courts and 12 appeals courts. No one will know what it means for maybe 5 years."

Hundt said he's hopeful that state regulators meeting this week at NARUC session in San Francisco will adopt resolution to follow forward-looking cost formula for setting prices, action that would offer some national guidance that's now lacking.

Case was heard by panel composed of Presiding Judge Pasco Bowman and Judges David Hansen and Roger Wollman. Decision was written by Hansen.

Court said that it wasn't "convinced" by FCC's argument that it and states have parallel authority -- Commission to set guidelines and states to set prices. "Nowhere in Section 251 is the FCC authorized specifically to issue rules governing the rates for interconnection, unbundled access and resale, and the transport and termination of telecommunications traffic," decision said. "The Commission's reliance on general rulemaking provisions that predate the Telecommunications Act... also fares no better... The absence of any direct FCC pricing authority over local telephone service is fatal to the agency's theory that the Act requires the state commissions to share such local pricing authority."

FCC Comr. Ness said that decision is "an enormous setback for Congress's goal of competition in the local telephone marketplace" and warned that "the benefits that consumers will lose are incalculable." She said it's now up to states to decide "whether competition is promoted, hindered or foreclosed." Comr. Quello said "practical effect" of ruling is to delay further introduction of local competition and that's "at odds with the intent of Congress." However, he said he's "heartened" that decision "affirmed the FCC's plenary authority over Commercial Mobile Radio Service [CMRS]." Comr. Chong called decision "another speed bump in our arduous journey to bring competition to the local telephone marketplace, consistent with Congress's intent." She too said she was pleased that decision at least affirmed FCC authority to issue rules of "special concerns to CMRS providers."

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Technology Law (1TE30); Government (1GO80); Economics & Trade (1EC26))

Industry: (Telecom Regulatory (1TE65); Telecom (1TE27); Wireline Telecom Regulatory (1WI37); CLECs & Alternative Carriers (1CL29))

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NewsRoom

FCC Rules on Local Phone Networks Are Thrown Out by Appellate Court

The Wall Street Journal

July 21, 1997 Monday

Section: Pg. A3

Length: 958 words

Byline: By John R. Wilke and Leslie Cauley, Staff Reporters of The Wall Street Journal

Body

WASHINGTON -- Competition in the $90 billion local-telephone market could be significantly delayed by a court ruling that sharply limits the ability of federal regulators to set terms on prices and connections to the local phone networks.

The harshly written ruling issued Friday by the U.S. appeals court in St. Louis threw out Federal Communications Commission rules governing how local phone companies must open their networks to rivals. The three-judge panel said the FCC trampled on states' rights to carry out key elements of the 1996 Telecommunications Act, which was intended to deregulate the telephone industry and spur competition in both local and long-distance service.

The ruling "is an invitation to the Balkanization of national telecommunications policy," FCC Chairman Reed Hundt said. He called it "wholly inconsistent with the mandate and intent of Congress" and promised to appeal the case to the Supreme Court.

The decision is a big victory for the Bell companies and GTE Corp., which said it will keep the FCC from imposing deep discounts on the network connections for their competitors. "This makes it crystal clear that the states are in charge of setting wholesale prices," said William Barr, the former attorney general who argued the case for GTE.

GTE has already benefited from the suspension of the FCC rules while the case was pending, averaging 15% discounts off of retail prices, compared with the 17% to 25% discounts in the FCC rules. "The FCC's role setting wholesale prices has been seriously curtailed," benefiting local phone companies, he said.

Judge David R. Hansen, who wrote the opinion, called the section of the Communications Act that preserves the states' rights in the matter "a Louisiana-built fence that is hog tight, horse high and bull strong, preventing the FCC from intruding on the states' intrastate turf."

In addition to rejecting the pricing guidelines, the court threw out an FCC rule called "pick and choose" that forced local phone companies to offer network elements at comparable negotiated prices to all comers. The FCC adopted this approach so that small competitors could win the same terms as large companies under similar circumstances.

That rule, the court said, "would frustrate the Act's design to make privately negotiated agreements the preferred route to local telephone competition."

The court also rejected the FCC's claim to arbitrate pricing and interconnection disputes between local phone companies and their would-be competitors, saying such disputes should be mediated by the federal courts.

FCC officials are particularly upset by the loss of this provision. They say its practical effect will be to delay competition in markets around the country as they get tangled up in the courts. "We cannot believe the Congress intended to have 93 district courts and 12 appeals courts and the Supreme Court deciding over the next five years what `based on costs' or other language means," Mr. Hundt said. He noted that local phone companies have already sued over terms in more than 20 states.

Scott Cleland, a policy analyst at Legg Mason, said the ruling could also be strongly favorable to the Baby Bells as the FCC writes rules to re-apportion subsidies that keep some phone rates artificially high to help cover the cost of providing service to hard-to reach areas. "This will protect the Baby Bells from being shortchanged by the FCC as it rewrites universal service rules and re-allocates subsidies," he said. That's because the decision limits the FCC's authority over in-state phone markets, which account for about a third of the estimated $23 billion of phone subsidies at issue, he said.

The court also struck down the FCC's rule that would have forced the Bells to upgrade their networks to offer new services, whether they wanted to or not, when they were asked to do so by a competitor. Rivals had argued that the provision was necessary to ensure that the Bells kept their networks current.

Long-distance operators found little to cheer about in Friday's order. But some, including AT&T Corp., tried. Mark Rosenblum, AT&T's vice president of law and public policy, said "good aspects" of the ruling included the court's affirmation that the Bells have an obligation to let rivals use their electronic ordering systems and various elements of their network, such as the lines that run between switching sites and customers' homes. The court also rejected the Bells' argument that rivals have to pay "access" fees when such equipment is used.

Mr. Rosenblum noted that the court also rejected the Bells' argument that "cost-based" pricing was unconstitutional, and found that the different types of local competition are equally protected under the law. The Bells had argued that the federal telecommunications law favored competitors who operated their own networks.

James Ellis, general counsel for SBC Communications Corp., said he hoped the court's ruling would cause the FCC "to re-examine some of the policies they have been pursuing" as of late. The Bells are particularly incensed about the agency's plans to create a task force to look at whether they are opening up their local phone markets. The FCC's action came in response to MCI Communications Corp.'s recent disclosure that the losses this year from its efforts to provide local phone service would total $800 million, more than double earlier projections.

Some Bells, however, believe long-distance carriers are holding back from entering the local phone business just to keep the Bells out of the long-distance business. Under the law, the Bells must meet a 14-point checklist showing they are open to competition before they can enter the long-distance business. The FCC is responsible for making that call.

Notes

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Blake Bath Discusses the Local and Long-Distance Telecommunications Battle

CNN CNN BUSINESS DAY 06:00 am ET

July 21, 1997; Monday 6:11 am Eastern Time

Section: Business; PACKAGE/INTERVIEW

Length: 1156 words

Byline: Lauren Thierry; Allan Dodds Frank; Stuart Varney

Highlight: Blake Bath, telecommunications analyst at Lehman Brothers, discusses the local and long-distance companies battle and the latest on the NYNEX-Bell Atlantic merger.

Body

LAUREN THIERRY, CNN ANCHOR: Well, long distance phone carriers face new obstacles in their bid to break into the local phone market. Friday, a federal appeals court struck down key parts of a sweeping plan to open local phone markets to long-distance companies including AT&T and MCI.

Allan Dodds Frank has the story.

(BEGIN VIDEOTAPE)

ALLAN DOODS FRANK, CNN CORRESPONDENT (voice-over): For long distance carriers AT&T, MCI and LCI, the decision by the U.S. Court of Appeals was a sound defeat.

The long distance companies, especially MCI, had been counting on the Federal Communications Commission's help in reducing the cost of breaking into the local telephone service business. But GTE and the regional Bells have fiercely opposed the notion that they should be forced by the FCC to help their competitors.

WILLIAM BARR, EXC. V.P. & GEN. COUNSEL, GTE: The long distance companies seem to have been depending on handouts from the FCC and getting large subsidy payments and incentives to come in and really to do very little work or investment themselves and really, to cherry pick off valuable customers.

FRANK (voice-over): The appeals court ruled in favor of GTE, saying the FCC lacks the authority to force local companies to sell wholesale service to long-distance companies and set rates. MCI condemned the decision as a blow to consumers.

It also a blow to MCI. The long-distance carrier recently announced it faces losses of $800 million this year and blamed the high cost of entering the local phone business as the main problem. The ruling is sure to slowdown long distance carriers. They would now have to negotiate with each of the 50 states to offer local service.

TOM BELL, TELECOM ANALYST, THE CATO INSTITUTE: If you are a big carrier that covers all the U.S., now you have different pricing models, perhaps, in different states and that makes your business a little more complicated. So, for the big carriers, like AT&T and MCI, it makes their job a little more complicated. For them, that's a down side.

FRANK (on-camera): The FCC said it will appeal the ruling to the Supreme Court. FCC Chairman Reid Hunt (ph) said the ruling could delay competition and delay he said quote, "Can mean death for competition."

Allan Dodd Frank, CNN Financial News, New York.

(END VIDEOTAPE)

VARNEY: Question, at what does the appeals court ruling mean to the local and long-distance companies battling out and to phone customers who may be just caught in the middle?

THIERRY: For answers to those questions and the latest on the NYNEX/Bell Atlantic merger, we turn now to Blake Bath, telecommunications analyst at Lehman Brothers. He is in our Washington bureau this morning.

Good morning to you, Mr. Bath.

BLAKE BATH, TELECOMMUNICATIONS ANALYST, LEHMAN BROTHERS: Good morning, Lauren. Good morning, Stuart.

THIERRY: Well, first of all, over the weekend, the NYNEX/Bell Atlantic merger was approved. Was this widely anticipated in the investment community?

BATH: Yes, well, actually, it was not quite approved. We expect the FCC to come out in the next two weeks…

THIERRY: Right.

BATH: … with their approval. This was anticipated. The timing was unclear. What was also unclear was what kind of provisions the FCC would attach to the merger. It sounds as though they have come down on the side of competition here.

VARNEY: Without getting too technical, are we going to see other Baby Bells merge at some point?

BATH: We don't, at this point, forecast additional Bell mergers. We have already had two big ones. The numbers are starting to work against you in looking at additional mergers.

THIERRY: What is the larger message here when we see the putting Humpty Dumpty back together again? We had all these breakups of the phone companies. Now we see them coming back together again. What did or did not work for this to happen?

BATH: I think the larger message is that the industry is changing. Scale is becoming important. What all these companies are trying to do is broaden their product lines, get into additional lines of service, offer everything to their customers; and, frankly, that just means being large so you can partner with adjacent industry companies like Microsoft, Intel, Compaq and so forth. The bigger you are the more effective a partner you are.

VARNEY: Would you agree that the average consumer simply cannot keep pace with what's going on in the communications industry because there is all kinds of new players, all kinds of new technology, hard to get a handle on precisely where we are going with this?

BATH: Yes it is, and to this point, consumers have not really benefited from the deregulation of the telecommunications industry. Those benefits are probably several years away, once we have sorted out the full de-regulatory impacts.

THIERRY: And yet, can you say that those benefits will, in fact, take place at the consumer level?

BATH: I think they will. I think they are going to be felt first with business customers and again over a much longer timeframe you will see the benefits begin to accrue to consumers.

THIERRY: Perhaps even via the last hurdle then to get approvals that they will have to stick to that plan?

BATH: No question. I think you've got many regulators involved here who will hold the companies feet to the fire over time.

VARNEY: OK, give me the names of some companies which you think are very well positioned to take advantage of all this extraordinary change in this industry? Which stocks should I buy?

BATH: I actually have a buy rating on AT&T. I am one of the few. I think their stock is so beaten up, and I think there is a turnaround underway. For the rest of the companies, you know, we have a more neutral view, at this point, given, you know, what we view as a lot of investment, a lot of diluted spending prior to reaping the benefits of getting into these additional lines of business.

THIERRY: So, the management shakeup at AT&T does not worry you that much though?

BATH: Oh, it certainly does. But I think the turnaround is underway, getting beyond the soap opera that's playing out at the top levels of AT&T, they do have a very strong management team underneath them. And I think we will see when AT&T reports this morning, a number of very good signs about their future.

VARNEY: Can I just ask real fast, AT&T closed Friday at 34 and change. Is it a $40 stock, $45?

BATH: I mean, I believe it is a 50 plus dollar stock over the next 12 months. Investors are so negative about this company. It is one of the least institutionally owned of the Dow Jones 30 Industrial Stocks.

Again, once investors see the turnaround that we believe is underway and once the management picture clears, we think this is a $50/$55 stock.

VARNEY: Well, thank you very much. Blake Bath, thanks for being with us.

Classification

Language: ENGLISH

Transcript: 97072102V07

Subject: ENERGY & UTILITY LAW (88%); APPELLATE DECISIONS (87%); APPEALS (87%); DECISIONS & RULINGS (72%); APPEALS COURTS (71%); US FEDERAL GOVERNMENT (71%); PHONE HACKING (71%); CONSUMERS (71%); LAW COURTS & TRIBUNALS (71%); INDUSTRY ANALYSTS (60%); RESEARCH INSTITUTES (60%)

Company: VERIZON COMMUNICATIONS INC (92%); AT&T INC (86%); LEHMAN BROTHERS HOLDINGS INC (55%); VERIZON COMMUNICATIONS INC (92%); AT&T INC (86%); LEHMAN BROTHERS HOLDINGS INC (55%); FEDERAL COMMUNICATIONS COMMISSION (93%); FEDERAL COMMUNICATIONS COMMISSION (93%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (93%); FEDERAL COMMUNICATIONS COMMISSION (93%)

Ticker: VZC (LSE) (92%); VZ (NYSE) (92%); T (NYSE) (86%)

Industry: LOCAL TELEPHONE SERVICE (90%); LONG DISTANCE TELEPHONE SERVICE (89%); ENERGY & UTILITY LAW (88%); TELECOMMUNICATIONS SERVICES (87%); TELEPHONE SERVICES (87%); PHONE HACKING (71%); TELECOMMUNICATIONS (71%); INDUSTRY ANALYSTS (60%)

Geographic: UNITED STATES (79%)

Load-Date: July 21, 1997

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 11:26:55 a.m. EST

Ruling favors regional Bells
Court strips FCC of power to regulate pricing within local telephone markets.

Kansas City Star (Kansas & Missouri)

July 19, 1997 Saturday, METROPOLITAN EDITION

Section: BUSINESS;

Length: 969 words

Byline: TED SICKINGER, Staff Writer

Body

In a victory for the local telephone monopolies, a U.S. federal appeals court on Friday threw out federal rules that were supposed to govern prices local phone companies could charge competitors for use of their local networks.

The court said that state utility commissions, not the Federal Communications Commission, have the power to set prices in local telephone markets.

The decision may delay the arrival of competitive local phone service. It may also have some effect on the prices consumers will pay.

Long-distance companies such as MCI Communications Corp. and AT&T Corp. are dependent on the regional Bells in their efforts to break into the $ 100 billion local phone market. They say it is too expensive to build their own local networks. So they plan to lease

capacity and services from the Bells, put in their own telephone switches, then resell the service to businesses and consumers.

They hoped the federal rules would expedite their interconnection negotiations with the Bell companies and provide more favorable prices than those being negotiated under state utility commissions.

But a three-judge panel of the 8th U.S. Circuit Court of Appeals in St. Louis said Friday that the Federal Communications Commission did not have jurisdiction to issue pricing rules that pre-empt state regulations.

The decision means that interconnection rules put in place by state utility commissions will remain in effect, and it allows other states to move forward with their own rules. The court said the FCC's pricing rules would remain in effect in cases where states had not established their own rules.

The FCC said it would appeal the decision to the Supreme Court.

In a related filing on Friday, MCI asked the FCC to intervene on its behalf in Missouri, where its interconnection negotiations with Southwestern Bell are stalled.

The Missouri Public Service Commission has established interim pricing on the various elements of Southwestern Bell's and GTE's local networks and is expected to issue final pricing by the end of August.

The Bells are expected to get more favorable pricing from state commissions than from the FCC, and they hailed the decision as a victory for states' rights and consumers.

"We're very pleased with the court's ruling, which upheld the key arguments we made in our appeal of the FCC's interconnection order," said James Ellis, general counsel for SBC Communications, Southwestern Bell's parent company.

The local phone companies contended that the pricing structure established by the FCC rules unfairly deprived them of the right to recoup the historical costs of building and maintaining their networks. The prices provided only for the collection of future costs.

GTE Corp. and Bell local companies said the FCC rules would have unfairly required local phone companies to offer services and parts of their networks to competitors at prices below cost. States also fought the rules, saying they violated states' jurisdiction.

The decision is likely to help profits at the Bells and GTE. **Bill Barr**, general counsel at GTE and former U.S. attorney general, said the average discount GTE has to offer its competitors under the state rules is 15 percent. The FCC had said the Bells and GTE should offer a 17 percent to 21 percent discount.

The decision is "a victory for consumers and competition in telecommunications," said BellSouth Corp. spokesman John Schneidawind.

But the decision was clearly a defeat for the long-distance companies, which viewed the FCC's rules as fair and argued that they should have been carried out as quickly as possible so competition in the local phone markets could begin.

Even Sprint Corp., which has interests in both long-distance and local service, found fault with Friday's decision.

"What this does is shift things to a state-by-state approach," said Bill White, Sprint spokesman. "It would have been preferable to have a national approach. This just slows down the process."

Companies have been free to negotiate with one another over connecting their networks, and states have been free to arbitrate those talks - but without the framework of the federal rules.

The regional Bells do have an incentive to let the competition in: The Bells must prove to the FCC and the Justice Department that they have opened themselves to competitors before those agencies will allow them to take a crack at the $ 70 billion long-distance business.

In Missouri, however, MCI says its efforts to negotiate an interconnection agreement covering local telephone customers in Kansas City and St. Louis have been stymied by Southwestern Bell Telephone Co. And the company says the Missouri Public Service Commission has consistently failed to move the process along.

In its filing on Friday, the company asked the FCC to force the Missouri commission to set deadlines on the negotiations.

The Public Service Commission said that the arbitration process is complicated but that they expect to make a decision within a month.

Shares in the regional Bells and GTE rose or pared losses on the news. Shares of long-distance companies AT&T Corp. and MCI Communications Corp. fell. Sprint's shares were up slightly.

Bloomberg News contributed to this article.

Classification

Language: ENGLISH

Subject: ENERGY & UTILITY LAW (92%); CONSUMERS (90%); APPEALS (90%); APPELLATE DECISIONS (90%); PRICES (90%); LAW COURTS & TRIBUNALS (89%); COMMUNICATIONS LAW (89%); PRODUCT PRICING (89%); LITIGATION (89%); APPEALS COURTS (89%); US FEDERAL GOVERNMENT (78%); DECISIONS & RULINGS (78%); SUPREME COURTS (78%); PRICE MANAGEMENT (78%); HOLDING COMPANIES (77%); PARENT COMPANIES (77%); LAWYERS (75%); CONSTRUCTION COSTS (73%); JURISDICTION (73%)

Company: VERIZON COMMUNICATIONS INC (94%); AT&T INC (87%); VERIZON COMMUNICATIONS INC (94%); AT&T INC (87%); FEDERAL COMMUNICATIONS COMMISSION (85%); FEDERAL COMMUNICATIONS COMMISSION (85%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (85%); FEDERAL COMMUNICATIONS COMMISSION (85%)

Ticker: VZC (LSE) (94%); VZ (NYSE) (94%); T (NYSE) (87%)

Industry: ENERGY & UTILITY LAW (92%); PUBLIC UTILITIES COMMISSIONS (90%); LOCAL TELEPHONE

SERVICE (90%); COMMUNICATIONS LAW (89%); PRODUCT PRICING (89%); TELEPHONE SERVICES (89%); TELECOMMUNICATIONS SERVICES (89%); UTILITIES INDUSTRY (89%); PRICE MANAGEMENT (78%); LONG DISTANCE TELEPHONE SERVICE (77%); LAWYERS (75%); CONSTRUCTION COSTS (73%)

Geographic: SAINT LOUIS, MO, USA (78%); MISSOURI, USA (93%); UNITED STATES (92%)

Load-Date: July 19, 1997

Content Type: News

Terms: "bill barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 02:28:09 p.m. EST

Document: COURT REJECTS KEY TELEPHONE RULES;FCC SAID TO E…

COURT REJECTS KEY TELEPHONE RULES; FCC SAID TO EXCEED ITS AUTHORITY TO SET PRICES

Richmond Times Dispatch (Virginia)

July 19, 1997, Saturday,, CITY EDITION

Section: BUSINESS,; (ljb)

Length: 583 words

Byline: From Wire and Staff Reports

Body

A federal appeals court yesterday threw out key parts of new regulations aimed at opening the $ 100 billion local phone market to long-distance companies and other rivals.

The 8th U.S. Circuit Court of Appeals said the Federal Communications Commission exceeded its authority by setting prices for would-be rivals to either lease pieces of existing local phone networks to provide local service or buy local phone service and then resell it to consumers.

Such pricing authority, the St. Louis court ruled, resides with individual states. The ruling essentially preserves the status quo because the FCC's pricing rules, adopted in August, were suspended by the same court and never took effect.

David Roddy, chief telecommunications economist for Deloitte & Touche Consulting Group, believes the ruling will delay local phone competition for consumers. ''For all practical purposes, your local telephone company now will be your local telephone company in 10 years,'' he said.

GTE Corp., which has 600,000 customers in Virginia, considered the ruling ''a major victory not only for GTE and other local exchange carriers, but also for the state (utility) commissions and the American consumer,'' said **William P. Barr**, an executive vice president.

Bell Atlantic Corp., Virginia's largest local telephone company, commented on the ruling through its trade group, the United States Telephone Association. Roy Neel, the association's president, said the ruling supports the position that state commissions are critical to fostering local phone competition. The court has supported Congress' desire that companies privately negotiate agreements to hook up their networks, Neel said.

The FCC plans to appeal the ruling directly to the Supreme Court.

''It is a very regrettable setback for the purpose and intent of the 1996 Telecommunications Act,'' said FCC Chairman Reed Hundt. ''In several significant respects, the decision is wholly inconsistent with the mandate and intent of Congress.''

State regulators have been moving forward with their own pricing rules in an effort to bring local phone competition to customers.

It is unclear whether the appeals court ruling will delay or accelerate the day when local phone customers have multiple companies to buy local phone service from -- just as they do now with long-distance service.

The FCC's rules were intended to carry out provisions in the Telecommunications Act deregulating those industries. The law made it possible for local and long-distance companies to get into each other's businesses, subject to state and federal regulatory conditions.

''We conclude that the Act plainly grants the state commission, not the FCC, the authority to determine the rates involved in the implementation of the local competition provisions of the Act,'' the three-judge panel said in a lengthy opinion.

Local phone companies argued that the FCC's rules forced them to give competitors, such as AT&T and MCI, access to local networks at prices well below their actual costs.

The FCC had defended its jurisdiction to set prices, saying the rules set a national policy to guide states into the new era of competition. But, the agency argued, they gave states leeway to make decisions that would best serve local customers.

The court did uphold the FCC's rules on what specific parts -- such as call forwarding, call waiting and directory assistance -- local phone networks must make available for would-be rivals to lease.

Classification

Language: ENGLISH

Subject: LAW COURTS & TRIBUNALS (90%); CONSUMERS (90%); APPEALS (90%); APPELLATE DECISIONS (90%); ENERGY & UTILITY LAW (90%); APPEALS COURTS (90%); COMMUNICATIONS LAW (89%); PRODUCT PRICING (89%); DECISIONS & RULINGS (89%); US STATE GOVERNMENT (89%); DEREGULATION (89%); US FEDERAL GOVERNMENT (78%); SUPREME COURTS (78%); EXECUTIVES (74%); ASSOCIATIONS & ORGANIZATIONS (74%); ECONOMICS (72%); AGREEMENTS (72%)

Company: GTE CORP (68%); DELOITTE & TOUCHE (54%); BELL ATLANTIC CORP (51%); GTE CORP (68%); DELOITTE & TOUCHE (54%); BELL ATLANTIC CORP (51%); FEDERAL COMMUNICATIONS COMMISSION (95%); UNITED STATES TELEPHONE ASSOCIATION (51%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (95%); UNITED STATES TELEPHONE ASSOCIATION (51%)

Ticker: GTE (NYSE) (68%); BEL (NYSE) (51%)

Industry: TELECOMMUNICATIONS SERVICES (94%); LOCAL TELEPHONE SERVICE (93%); TELEPHONE

SERVICES (91%); ENERGY & UTILITY LAW (90%); COMMUNICATIONS LAW (89%); PRODUCT PRICING (89%); LONG DISTANCE TELEPHONE SERVICE (89%); TELECOMMUNICATIONS (89%); COMMUNICATIONS REGULATION & POLICY (89%); TELECOMMUNICATIONS RESELLERS (78%); CONSULTING SERVICES (74%); TELEPHONIC EQUIPMENT (73%)

Geographic: UNITED STATES (93%)

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Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 04:44:16 p.m. EST

Document: Appeals court tosses FCC pricing rules Local-phone competi…

Appeals court tosses FCC pricing rules Local-phone competition may be further delayed

THE DALLAS MORNING NEWS

July 19, 1997, Saturday, HOME FINAL EDITION

Section: BUSINESS; Pg. 1F

Length: 543 words

Byline: Jennifer Files, Staff Writer of The Dallas Morning News

Body

A federal appeals court on Friday rejected pricing rules the Federal Communications Commission set to open the nation's $ 100 billion local-phone markets, a move that could further delay competition.

Local-phone companies, led by GTE Corp., said the rules would force them to sell services and equipment to new competitors below cost. The 8th U.S. Circuit Court of Appeals in St. Louis didn't address that issue but said the federal agency was out of line in setting guidelines that supersede state regulations.

The decision comes just days after the FCC set up a task force to determine whether local-phone companies unfairly block new competitors, such as AT&T Corp. and MCI Communications Corp. It won't immediately change the landscape of competition, though, because the court previously issued a stay halting the FCC's pricing order. Phone companies have already negotiated more than 1,200 agreements to connect their systems under state rules, and analysts said that those will probably stand.

The FCC said it will appeal the decision to the Supreme Court.

A spokeswoman for the Public Utility Commission of Texas declined to comment on how the ruling might affect Texas competition until the agency reviews the 300-page order.

Long-distance companies, who lost a bid to receive uniformly steeper discounts than they'll get under the state rules, called the ruling a mistake."Today's 8th Circuit Court decision is a setback for American consumers, who look forward to the day when they can choose their local-telephone company," said Jonathan B. Sallet, MCI chief policy counsel.

Local-telephone companies disagreed."The FCC's rules were unfairly biased against local-exchange companies, and GTE is pleased that they have been voided," said **William P. Barr**, GTE executive vice

president and general counsel. He argued the case on behalf of GTE and the nation's largest regional local companies.

The rules were established to implement the 1996 Telecommunications Act, passed by Congress 18 months ago to deregulate the nation's telephone markets. The law allowed new competitors, most significantly major long-distance companies, to begin selling local-phone services.

Generally, would-be competitors prefer to rent services or networks from existing local-phone companies rather than to spend billions to build their own systems. The FCC's order set guidelines for states to determine prices at which the local-phone companies would sell to their new rivals.

The FCC said Baby Bells and GTE should offer discounts of 17 percent to 25 percent. Most states set them closer to 15 percent, GTE said. Texas' are deeper, about 22 percent.

Local-phone companies say the high discount rates fail to take into account the costs of building their phone networks. The lower the discounts local-phone companies must provide, the higher their profits will be.

Long-distance companies did win on some points in the court ruling. They may put pieces of networks together at a lower cost than paying for the whole network outright, analysts said. And local companies still must make their operational support systems available.

"It's not a complete wipeout for them," said Dwight Allen, a telecommunications expert at Deloitte & Touche.

Classification

Language: ENGLISH

Subject: ENERGY & UTILITY LAW (91%); LAW COURTS & TRIBUNALS (90%); APPEALS (90%); US FEDERAL GOVERNMENT (90%); APPELLATE DECISIONS (90%); APPEALS COURTS (90%); PRICES (90%); COMMUNICATIONS LAW (89%); DEREGULATION (89%); CONSUMERS (78%); PRODUCT PRICING (78%); DECISIONS & RULINGS (78%); SUPREME COURTS (78%); AGREEMENTS (78%); US STATE GOVERNMENT (78%); DELAYS & POSTPONEMENTS (77%); LAWYERS (75%); CONSTRUCTION COSTS (71%); CORPORATE COUNSEL (63%); EXECUTIVES (63%)

Company: VERIZON COMMUNICATIONS INC (94%); AT&T INC (93%); VERIZON COMMUNICATIONS INC (94%); AT&T INC (93%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); PUBLIC UTILITY COMMISSION OF TEXAS (55%); PUBLIC UTILITY COMMISSION OF TEXAS (55%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); PUBLIC UTILITY COMMISSION OF TEXAS (55%); PUBLIC UTILITY COMMISSION OF TEXAS (55%)

Ticker: VZC (LSE) (94%); VZ (NYSE) (94%); T (NYSE) (93%)

Industry: ENERGY & UTILITY LAW (91%); TELEPHONE SERVICES (90%); TELECOMMUNICATIONS

SERVICES (90%); COMMUNICATIONS LAW (89%); LONG DISTANCE TELEPHONE SERVICE (89%); PRODUCT PRICING (78%); PUBLIC UTILITIES COMMISSIONS (78%); TELECOMMUNICATIONS (78%); TELEPHONIC EQUIPMENT (77%); LAWYERS (75%); CONSTRUCTION COSTS (71%); CORPORATE COUNSEL (63%)

Geographic: UNITED STATES (92%)

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7/19/97 Wash. Post (Wash., D.C.) C01
1997 WLNR 7184387

Washington Post, The (Washington, D.C.)

July 19, 1997

Section: Business

COURT OVERRULES FCC ON PHONE RATE RULES; MOVE EXPECTED TO DELAY LOCAL-SERVICE RIVALRY

Mike Mills

In a ruling that critics say will further delay competition in local telephone service, a federal appeals court yesterday stripped federal regulators of important rule-making powers in the $100 billion per year local phone market.

A three-judge panel in St. Louis said the Federal Communications Commission overstepped its bounds by establishing rules on prices that existing local phone companies can charge competitors who want to lease their phone lines, switches and other equipment.

The regional Bell companies and GTE Corp., which hold monopoly control over most of the nation's 150 million telephone lines, applauded the ruling, saying that states -- not the federal government -- were better able to decide the fairest price.

"The FCC's prices were extraordinarily low and one-size-fits-all," said GTE legal counsel and former U.S. attorney general William Barr. "Now we will get more rational prices from states than those we ultimately saw from FCC."

But others say the ruling is the latest indication that a 1996 law designed to open the local telephone business to competition may not be working. While some smaller competitors are having success grabbing business customers in cities, long-distance giants AT&T Corp. and MCI Communications Corp. have made only sporadic headway in offering local service. Those companies say the Bells and GTE are illegally blocking their way into the market.

"Without question, this will slow down the pace of competition," said Scott Cleland, a telecommunications analyst for Legg Mason Wood Walker Inc. "Competition was only possible because the FCC tweaked rules to make sure it happens. What the court said was that they can't skew the rules anymore to make that happen."

Critics contend that the Bell companies have tremendous power in state regulatory bodies and will be able to keep prices charged to competitors comparatively high. The lack of a single federal model, they say, will open the door to years of state-level litigation.

The decision deals a major blow to the FCC, whose broad mandate to regulate the nation's phone system has never been so broadly refuted by the judicial branch. FCC Chairman Reed E Hundt called the ruling "very regrettable" and said his agency would appeal to the Supreme Court.

Congress, as part of a huge new telecommunications law enacted last year, ordered the FCC to come up with rules that would force local telephone monopolies to lease all or parts of their networks to competitors.

When the agency issued its rules last August, state regulators, the regional Bell companies and GTE sued, saying the FCC had overstepped its bounds by issuing pricing "guidelines" for the states. The local carriers said the rates were so low that they amounted to a giveaway of local phone facilities to competitors.

Those opponents won an early victory in October when the judges ordered a freeze preventing the pricing formula from taking effect until they reached a final decision.

Yesterday the judges ruled that the telecommunications law "straightforwardly assigns to the states the authority to set the prices" and that FCC pricing rules were "inconsistent with the plain meaning" of the law. "The FCC lacks jurisdiction to issue the pricing rules," the judges wrote.

The court also rejected an FCC rule that essentially gives the agency veto power over state pricing decisions by allowing disgruntled parties to appeal such decisions to the FCC.

But at the same time, it handed the FCC a Pyrrhic victory of sorts. Though the court said the FCC had no power to enforce them, it didn't challenge the agency's pricing methods, which were based on projections of today's lower cost of building phone networks. Some states have adopted those methods on their own authority; the Bells would have preferred that the court declare them "confiscatory."

The ruling was the third sign in recent weeks that local telephone competition might be more difficult to achieve than earlier believed by proponents of the telecommunications law. Merger talks failed last month between AT&T and local Bell SBC Communications Inc. And on Wednesday, AT&T was thrown into more turmoil when John Walter, an executive thought to be in line to run the company, resigned. In addition, MCI's merger plans with British Telecommunications PLC were thrown into disarray after MCI said its local phone division expects to lose $1.7 billion through 1998, double its previous estimates, because of obstructions by local carriers.ngent state regulations.

Doctors and managed-care companies also are battling over a variety of curbs on managed care's power, including a provision that would give doctors the final say on how long a health plan should pay for a patient to stay in the hospital.

On a separate front, hospitals are trying to blunt an effort to dock their pay when they discharge patients after a shorter-than-average stay. The theory behind the proposal is that the current payment system can force the government to pay twice for the same care. Here's how it works:

First, a hospital collects a fixed Medicare payment for a patient's inpatient care based on the nature of the treatment rather than the length of the hospital stay. Then the hospital transfers the patient to a nursing or rehabilitation facility, which charges Medicare a daily rate while the patient recuperates. If the hospital has a financial interest in the nursing facility, it can double-dip by shortening the initial hospital stay and extending the rehab phase.

The Congressional Budget Office estimates that the government could save $3.7 billion by reducing the payment for inpatient care in such scenarios. Hospital lobbyists say that would tend to defeat the government's long-standing policy of pushing for greater efficiency and shorter hospital stays.

In the Senate, hospitals won a partial reprieve that would allow them to collect the full inpatient fee if the patient receives continuing care at home rather than in a nursing home. But that infuriates the nursing home lobby, which is afraid of losing business to the home care industry.

One major beneficiary of the reprieve would be giant Columbia/HCA Healthcare Corp., which owns hospitals and home care agencies.

While battling other industry groups, HMOs in certain urban markets are also at odds with HMOs in some rural areas over how much Congress should narrow the gap between their Medicare reimbursement levels. The current system, for instance, pays HMOs $748 a month to cover a senior citizen in Dade County, Fla., while offering $227 a month in Chippewa County, Minn.

The payments are supposed to reflect geographic differences in the cost of doing business. But HMOs on the short end of this arrangement argue that the differences are overblown. In Chippewa County, the payment level is so low that no HMOs are serving the Medicare population, said Tom Lehman, director of legislative affairs for Blue Cross Blue Shield of Minnesota. But narrowing the gap as Congress proposes could cost Medicare billions.

The hospital industry is similarly torn by internal strife, which is reflected in the conflict between two Chicago hospitals.

Northwestern Memorial Hospital is seeking a relaxation of complicated rules governing how Medicare reimburses hospitals for construction projects. The change would give Northwestern as much as $15 million to spend on a mammoth rebuilding project. No one knows how many hospitals would benefit from the rule change, but all the hospitals that don't benefit would lose federal funds.

That includes Northwestern's cross-town rival Rush-Presbyterian-St. Luke's Medical Center, which said it could lose as much as $180,000 a year in federal funds to help make its competitor more competitive.

Some of the big winners in the Medicare budget could be nurse practitioners, who seek expanded freedom to bill Medicare directly and to practice without physician supervision. Stephanie Reed, a lobbyist for the American Nurses Association, said those arrangements make more sense than leaving nurse practitioners dependent for their reimbursement on "a physician who may be only technically collaborating with them."

The American Medical Association, which represents doctors, opposes the change. "We feel they need the supervision of physicians," said James Stacey, an AMA spokesman.

Christian Scientist sanatoriums also stand to win. The Senate bill would provide Medicare coverage of care in nonmedical institutions for people who believe in a religious method of healing. A federal court recently rejected as unconstitutional an earlier, narrower attempt to provide such coverage.

Meanwhile, oxygen equipment providers could emerge among the big losers. They are scrambling to prevent a 37.5 percent cut in their payments.

One of the more narrowly focused lobbying efforts is pharmaceutical maker SmithKline Beecham PLC's campaign to get Medicare to cover anti-nausea tablets for cancer patients undergoing chemotherapy. SmithKline argues that the tablets are about half the price and easier to administer than the intravenous products Medicare now covers, making the proposal a plus for patients and taxpayers alike.

The House Ways and Means Committee version of this provision would cover SmithKline's anti-nausea tablet but not a competing product made by Glaxo Wellcome Inc. SmithKline's Burt Rosen, vice president for government relations, said his company does not object to covering the Glaxo product.

The American Medical Association and the National Right To Life Committee both want to make it legal for doctors outside the Medicare program to treat Medicare beneficiaries, bill them personally and charge whatever amount of money doctor and patient agree upon.

Critics argue that could undermine the Medicare system and leave elderly patients vulnerable to financial exploitation. Advocates see it as a freedom-of-choice issue. And the National Right To Life Committee says it is needed to prevent "involuntary euthanasia" because cost-cutters for the government and the managed-care industry are making medical services less accessible, potentially denying patients lifesaving treatment. Unless seniors are permitted to pay their own way, "the consequences would be rationing and ultimately involuntary death for millions of Americans," said Burke Balch, director of the group's department of medical ethics. CAPTION: RECONSIDERING MEDICARE (This chart was not available)

---- Index References ----

Company: MCI MANAGEMENT SPOLKA AKCYJNA; LEGG MASON WOOD WALKER INC; GLAXO WELLCOME INC; PRAIRIE SUN BANK; BT GROUP PLC; NORTHWESTERN CAPITAL FINANCING II; MCI CAPITAL TOWARZYSTWO FUNDUSZY INWESTYCYJNYCH SPOLKA AKCYJNA; AMERICAN NURSES ASSOCIATION; VERIZON COMMUNICATIONS INC; MCI LLC; FIRST COPPER TECHNOLOGY CO LTD; GTE CORP; NORTHWESTERN MUTUAL INVESTMENT SERVICES LLC; CORPORATION SDN BHD; MEDICAL CENTER OF SHERMAN LLC; NORTHWESTERN INVESTMENT MANAGEMENT COMPANY LLC; MCI; MUNICIPALITY CREDIT ICELAND PLC; MCI INC; GTE DELAWARE LP; CONGRESSIONAL BUDGET OFFICE; FEDERAL COMMUNICATIONS COMMISSION; BELL LTD; AMA SPOLKA Z OGRANICZONA ODPOWIEDZIALNOSCIA W LIKWIDACJI; GLAXO WELLCOME PLC; GLAXOSMITHKLINE USA; AMERICAN MEDICAL ASSOCIATION; NORTHWESTERN NATIONAL INSURANCE COMPANY OF MILWAUKEE WISCONSIN; FINANZIARIA CERAMICA CASTELLARANO SPA; FOSHAN CONCH CEMENT CO LTD; SMITHKLINE BEECHAM ANIMAL HEALTH (SWA) (PTY) LTD; PRZEDSIEBIORSTWO HANDLOWE AMA SPOLKA AKCYJNA; NORTHWESTERN CORP; SMITHKLINE BEECHAM CORP; GLAXO SMITH KLINE; MEDICARE GROUP; FOMENTO DE CONSTRUCCIONES Y CONTRATAS SA; SMITHKLINE BEECHAM PLC (DUPLICAE); GLAXOSMITHKLINE AUSTRALIA PTY LTD; SMITHKLINE BEECHAM INTERNATIONAL CO; MCI TELECOMMUNICATIONS LTD; FARM CREDIT CANADA; I NET SPA; GRAN TIERRA ENERGY INC; GTE INTERNETWORKING; MCI COMMUNICATIONS CORP; LEGG MASON INC; NORTHWESTERN MEMORIAL HOSPITAL; MACONDRAY AND CO INC

News Subject: (Social Issues (1SO05); Legal (1LE33); Social Welfare (1SO83); Antitrust Regulatory (1AN52); Judicial (1JU36); U.S. Medicare & Medicaid (1ME80); Government (1GO80); Monopolies (1MO68); Health, Education & Welfare (1HE31); Economics & Trade (1EC26); Business Litigation (1BU04); Lobby & Pressure Groups (1LO18); Corporate Events (1CR05); Regulatory Affairs (1RE51); Business Management (1BU42); Business Lawsuits & Settlements (1BU19))

Industry: (Healthcare Practice Specialties (1HE49); Insurance (1IN97); Healthcare Regulatory (1HE04); Health Insurance (1HE18); Financial Services Regulatory (1FI03); Geriatrics (1GE28); Health Insurance Regulatory (1HE77); Insurance Regulatory (1IN40); Financial Services (1FI37); Healthcare (1HE06); Insurance Industry Legal Issues (1IN64))

Region: (U.S. Midwest Region (1MI19); Americas (1AM92); USA (1US73); Minnesota (1MI53); North America (1NO39))

Language: EN

Other Indexing: (AMA; AMERICAN MEDICAL ASSOCIATION; AMERICAN NURSES ASSOCIATION; BELL; BELL SBC COMMUNICATIONS INC; BELLS; BLUE CROSS BLUE; BRITISH TELECOMMUNICATIONS PLC; COLUMBIA/HCA HEALTHCARE CORP; CONGRESS; CONGRESSIONAL BUDGET OFFICE; CORP; COURT; FCC; FEDERAL COMMUNICATIONS COMMISSION; GLAXO; GLAXO WELLCOME INC; GTE; GTE CORP; LEGG MASON WOOD WALKER INC; LIFE COMMITTEE; MCI; MCI COMMUNICATIONS CORP; MEDICAL CENTER; MEDICARE; NORTHWESTERN; NORTHWESTERN MEMORIAL HOSPITAL; SENATE; SMITHKLINE; SMITHKLINE BEECHAM PLC; SUPREME COURT) (Advocates; Burke Balch; Burt Rosen; Christian Scientist; Congress; HMOs; James Stacey; John Walter; Reed; Scott Cleland; Stephanie Reed; Tom Lehman; William Barr)

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NewsRoom

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Sinocast

July 18, 1997

Local Telephone Companies Win Appeal of FCC Order in Landmark Case;
Court Rules States, Not FCC, Have Jurisdiction to Set Pricing Rules for

Local Competition WASHINGTON (July 18) BUSINESS WIRE -July 18, 1997-- The following may be attributed to William P. Barr, GTE Executive Vice President - Government & Regulatory Advocacy, and General Counsel, who argued the case on behalf of GTE and the Regional Bell Operating Companies. "The Eighth Circuit has thwarted the FCC's massive power grab. The court decision clearly states that the FCC has no jurisdiction to issue pricing rules and proxy prices. The FCC's rules were unfairly biased against local exchange companies, and GTE is pleased that they have been voided. "This is a major victory not only for GTE and other local exchange carriers, but also for the State commissions and the American consumer." We will comment more extensively after completing our review of the opinion. --30--MF/ph* CONTACT: GTE, Washington Bob Bishop, 202/463-5206 (Pager: 1-800-706-1719) Internet: bbishop@dcoffice.gte.com URL: http://www.gte.com KEYWORD: DISTRICT OF COLUMBIA INDUSTRY KEYWORD: COMED COMPUTERS/ELECTRONICS TELECOMMUNICATIONS Today's News On The Net - Business Wire's full file on the Internet with Hyperlinks to your home page. URL: http://www.businesswire.com

---- Index References ----

News Subject: (Sales (1SA20); Legal (1LE33); Business Management (1BU42); Technology Law (1TE30); Economics & Trade (1EC26); Contracts & Orders (1CO29))

Industry: (Telecom Regulatory (1TE65); Telecom (1TE27); CLECs & Alternative Carriers (1CL29))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (COMPUTERS; COURT RULES STATES; EIGHTH CIRCUIT; FCC; GTE; LOCAL COMPETITION WASHINGTON; LOCAL TELEPHONE; REGIONAL BELL OPERATING) (Bob Bishop; Counsel; William P. Barr; Win Appeal)

Word Count: 239

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7/18/97 TR Daily (Pg. Unavail. Online)
1997 WLNR 6831322

TR Daily

July 18, 1997

INITIAL REACTION INDICATES SETBACK FOR FCC, IXC INTERESTS, `MAJOR VICTORY' FOR LECS, STATES

Table of Contents

Initial reaction to today's critical decision by the U.S. Court of Appeals for the Eight Circuit clearly indicated a victory for local exchange carrier (LEC) interests that appealed the FCC's interconnection order. Just as clearly, interexchange carrier interests who backing the FCC's view that a strong national policy framework is needed suffered a setback. FCC Chairman Reed E. Hundt indicated the Commission will ask the Supreme Court to review the ruling.

William P. Barr GTE Corp.'s Executive Vice President-government and regulatory advocacy and General Counsel, who argued the appeals court case on behalf of GTE and the regional Bell operating companies, termed the decision "a major victory not only for GTE and other local exchange carriers, but also for the state commissions and the American consumer."

FCC Commissioner Susan Ness said the appeals court had put local competition "on hold" and called on state commissions to preserve the "incalculable" benefits to consumers that could be lost if "Congress' goal of competition in the local telephone marketplace" is not met. "Now, more than ever, it is up to the public utility commissions in each of the 50 states to decide whether and to what extent new entrants will have an opportunity to compete fairly with incumbents,"Commissioner Ness said. "It is the state commissions that will decide whether competition is promoted, hindered, or foreclosed."

Commissioner James H. Quello said the court's ruling would "delay further the introduction of competition into the local telephone marketplace." He found good news, however, in the court's affirming the Commission's "plenary authority over commercial mobile radio service." Although FCC Chairman Reed E. Hundt indicated the matter will be taken to the Supreme Court (see separate story), Commissioner Quello said a decision whether to seek judicial review "will be based on our evaluation of the public interest as articulated in the telecommunications reform act."

AT&T Corp. said it was disappointed the court did not vacate its stay of the pricing and network unbundling provisions of the FCC's interconnection order "and restore this critical federal oversight to the new national policy." Mark Rosenblum, Vice President-law and public policy, told reporters during a phone-in news conference that AT&T executives are "preserving our options" to appeal the ruling after further review.

AT&T continues to believe "uniform national implementation and enforcement under FCC auspices" are critical to fulfilling the intent of Congress, he said. But while the appeals court stay has been in effect, "we've done pretty well in the state proceedings," which generally have been consistent with the Act's mandates and the FCC's intentions, Mr.

Rosenblum said. "Nothing we have been demanding of the LECs has been ruled off the field," by the appeals court ruling, he stressed.

MCI Chief Policy Counsel Jonathan B. Sallet said he expects the "setback for American consumers" looking to choose their local telco "to be reviewed by the U.S. Supreme Court." In the meantime, today's decision underscores what MCI has been saying all along--an urgent need exists for action at the state and federal levels." He said MCI has been encouraged "that state utility commissions have generally supported the need for forward-looking, procompetitive pricing and that regulators across the nation--most recently through the FCC's announcement this week calling for stronger enforcement actions--are focusing on the need to enforce" the Act.

Thomas E. Wheeler, President and CEO of the Cellular Telecommunications Industry Association, said the decision upheld the FCC rules in regard to interconnection charges between wireless and wireline companies. "While the court overturned the FCC's rules as they apply to the interconnection of wireline phone companies and new entrants, it confirmed the FCC's rules with respect to interconnectionbetween local phone companies and wireless providers," he said.

U.S. Telephone Association President and Chief Executive Officer Roy M. Neel said the decision confirmed the local exchange carrier industry view that "the states' role in fostering competition is critical" to ensuring real choices reach all telecom consumers. "The court's affirmation of the 1996 telecommunications act's desire for companies to negotiation interconnection agreements privately and in good faith is what has been happening in the marketplace since before the Act was passed, and we are confident this will continue."

Heather Gold, President of the Association for Local Telecommunications Services, said the decision "reaffirms the status quo under which facilities-based competitive local telephone companies have been operating for nearly a year." ALTS expects "local competition will continue to move forward under the leadership of state and federal authorities," she said, noting that the court "largely reaffirmed the FCC's authority to define unbundled elements to include such elements as operational support systems and directory assistance."

For GTE, Mr. Barr said the appeals court "has thwarted the FCC's massive power grab" by clearly stating "that the FCC has no jurisdiction to issue pricing rules and proxy prices." The FCC's rules were unfairly biased against local exchange companies, and GTE is pleased that they have been voided," he added. A BellSouth Corp. spokesman said the FCC's order had "subverted the intent of Congress" and that the appeals court had confirmed "that the Act encourages voluntary negotiations with competitors over pricing and a leading role for state commissions."

SBC Communications, Inc., General Counsel James D. Ellis said the decision "upheld the key arguments we made in our appeal. One of the clearest elements of the Telecommunications Act of 1996 is Congress' intent that the state regulators should play the primary role in overseeing the transition to a competitive marketplace, and that the states--not the FCC--have jurisdiction over the specific pricing of local interconnection, unbundled network elements, and resale rates."

For U S WEST Communications, Charlie Russ, Executive Vice President-law and public policy, said the FCC's "position on competition advantaged AT&T and MCI at the expense of consumers. Appropriately, the court ruled that the FCC overstepped its authority, usurped important state rights, and failed to meet the long-term needs of consumers."

TR Daily, July 18, 1997 19970718 TR Daily -->

---- Index References ----

Company: MCI INC; AT&T INC; SBC COMMUNICATIONS INC; MARSK CONTAINER INDUSTRI AS; US COURT OF APPEALS; SOUTHWESTERN BELL CORP; GENERAL TELEPHONE ELECTRONICS CORP;

MOTOR COACH INDUSTRIES INTERNATIONAL INC; BELLSOUTH CORP; ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES; FEDERAL COMMUNICATIONS COMMISSION; GTE CORP

News Subject: (Legal (1LE33); Technology Law (1TE30); Government (1GO80); Judicial (1JU36); Economics & Trade (1EC26))

Industry: (Telecom Carriers & Operators (1TE56); Telecom Regulatory (1TE65); Wireline Telecom Regulatory (1WI37); CLECs & Alternative Carriers (1CL29); Telecom (1TE27))

Region: (Americas (1AM92); North America (1NO39); USA (1US73))

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Other Indexing: (ALTS; ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES; BELLSOUTH CORP; CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION; CONGRESS; FCC; GTE; LECS; MCI; SBC COMMUNICATIONS INC; SUPREME COURT; TELECOMMUNICATIONS; TR; US COURT OF APPEALS; US SUPREME COURT; US TELEPHONE ASSOCIATION) (Barr; Charlie Russ; Congress; Corp.; Counsel; Heather Gold; Initial; INITIAL REACTION; James D. Ellis; James H. Quello; Jonathan B. Sallet; Mark Rosenblum; Ness; Policy Counsel; Quello; Reed E. Hundt; Rosenblum; Roy M. Neel; Susan Ness; Table; Thomas E. Wheeler; William P. Barr GTE Corp.)

Word Count: 1303

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NewsRoom

7/18/97 AP Online 00:00:00

AP Online

July 18, 1997

Section: Finance

Court: FCC exceeded authority in local phone pricing

JEANNINE AVERSA

WASHINGTON

A federal appeals court on Friday threw out key parts of new regulations aimed at opening the $100 billion local phone market to long-distance companies and other rivals.

The 8th U.S. Circuit Court of Appeals said the Federal Communications Commission exceeded its authority by setting prices for would-be rivals to either lease pieces of existing local phone networks to provide local service or buy local phone service and then re-sell it to consumers.

Such pricing authority, the St. Louis court ruled, resides with individual states.

The ruling essentially preserves the status quo because the FCC's pricing rules, adopted last August, were suspended by the same court and never took effect.

Still, the FCC plans to appeal the ruling directly to the Supreme Court.

"It is a very regrettable setback for the purpose and intent of the 1996 Telecommunications Act," said FCC Chairman Reed Hundt. "In several significant respects, the decision is wholly inconsistent with the mandate and intent of Congress."

State regulators have been moving forward with their own pricing rules in an effort to bring local phone competition to customers.

It is unclear whether the appeals court ruling will delay or accelerate the day when local phone customers have multiple companies to buy local phone service from just as they do now with long-distance service.

But David Roddy, chief telecommunications economist for Deloitte & Touche Consulting Group, believes the ruling will delay local phone competition for consumers.

"For all practical purposes, your local telephone company now will be your local telephone company in 10 years," he said.

The FCC's rules were intended to carry out provisions in the Telecommunications Act deregulating those industries. The law made it possible for local and long-distance companies to get into each other's businesses, subject to state and federal regulatory conditions.

"We conclude that the Act plainly grants the state commission, not the FCC, the authority to determine the rates involved in the implementation of the local competition provisions of the Act," the three-judge panel said in a lengthy opinion.

GTE Corp., backed by regional Bell telephone companies, led the attack on the pricing provisions, which went to the heart of the FCC's rules.

"The Eighth Circuit has thwarted the FCC's massive power grab," said GTE general counsel William Barr, who argued the case. "The FCC's rules were unfairly biased against local exchange companies."

But long-distance carrier MCI called the ruling "a setback for American consumers, who look forward to the day when they can choose their local telephone company."

Local phone companies argued that the FCC's pricing rules forced them to give competitors, such as AT&T and MCI, access to local networks at prices well below their actual costs.

The FCC had defended its jurisdiction to set prices, saying the rules set a national policy to guide states into the new era of competition. But, the agency argued, they gave states leeway to make decisions that would best serve local customers.

Roddy believes the court decision will make it more difficult for would-be rivals to break into the local phone business because they'd have to go to regulatory commissions in each state a lengthy and expensive process.

"This is the brick wall at the end of the tunnel," he said.

However, the court did uphold the FCC's rules on what specific

parts such as call forwarding, call waiting and directory assistance local phone networks must make available for would-be rivals to lease.

"We believe that the FCC reasonably concluded that these features qualify as network elements that are subject to .... the Act."

---- Index References ----

Company: MCI INC; FEDERAL COMMUNICATIONS COMMISION; GTE CORP

News Subject: (Judicial (1JU36); Legal (1LE33); Technology Law (1TE30); Economics & Trade (1EC26))

Industry: (Telecom Carriers & Operators (1TE56); Long-Distance Services (1LO42); Telecom Regulatory (1TE65); Telecom (1TE27); Wireline Telecom Regulatory (1WI37); Telecom Services (1TE09))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (CONGRESS; DELOITTE TOUCHE CONSULTING GROUP; EIGHTH CIRCUIT; FCC; FEDERAL COMMUNICATIONS COMMISSION; GTE; GTE CORP; MCI; SUPREME COURT; US CIRCUIT COURT OF APPEALS) (David Roddy; Reed Hundt; Roddy; William Barr)

Word Count: 738

End of Document

MONEYLINE WITH LOU DOBB Looks at the Latest Business and Financial News and Welcomes John Bogle of the Vanguard Group

CNN CNN MONEYLINE WITH LOU DOBBS 19:00 pm ET

July 18, 1997; Friday 7:00 pm Eastern Time

Section: Business; SHOW

Length: 3375 words

Byline: Lou Dobbs, Rhonda Schaffler, Allen Dodds Frank, Kelli Arena, James Q. Wilson

Highlight: This edition of MONEYLINE WITH LOU DOBBS looks at the latest financial and business news. The stock markets heat up to record- breaking heights, but the trade deficit takes a surprising turn for the worst. For long distance carriers AT&T, MCI, and LCI, the decision by the U.S. Court of Appeals was a sound defeat. Also, "Made in the USA" label will soon mean " Mostly Made in the USA." Finally, John Bogle, chairman of Vanguard joins us to discuss his fear that the stock market may be overheated.

Body

CNN ANNOUNCER: Live from the world's financial capital, New York City, this is MONEYLINE WITH LOU DOBBS.

LOU DOBBS, CNN HOST: Good evening. A powerful sell-off sweeping Wall Street today. A bitter end to a historic week that saw the Dow Jones Industrials cross 8000 for the first time, then plunge back below that level, 7900 as well. Volume for the week was the heaviest ever. The Dow Jones Industrial average sinking more than 130 points at 7890.46, a loss today of 1 1/2 percent for the week. Blue chips down 31 points. The NASDAQ Composite Index fell more than 20 3/4, ending the week at 1547.99. However the NASDAQ composites still gain 45 points on the week.

Setting the tone today, Microsoft, which plunged almost $9 a share. That still left it at more than $10 on the week. Investors dump Microsoft after a near two-fold increase in quarterly profits failed to impress Wall Street.

SANJIV HINGORANI, SOFTWARE ANALYST, FURMAN SEIZ: As people realize that we are now in a 12-month period for Microsoft, which is very different from the last 24 or 36 months for this company, in

terms of a deceleration and potential earnings growth, I believe the stock could only come down over the next several months.

DOBBS: Following Microsoft's slide, Motorola lost $7 a share. COMPAQ sliding almost $4, Cisco Systems down more than 2 1/4. Bonds also crushing stock prices. Bonds sold off on news of a sharp rise in consumer confidence. The treasury's Bell Weather fell more than 1/2 a point in price and the yield rose to 6.52 percent. Trading volume on the big board this week set a record. Almost three billion shares were traded.

Rhonda Schaffler is here now and has more on this tumultuous week, Rhonda?

RHONDA SCHAFFLER, CNN FINANCIAL NEWS CORRESPONDENT: Lou, certainly, this was not a week for the faint of heart. A week when the Dows triumphantly smashed through 8000, and then gave that level and more.

(BEGIN VIDEOTAPE)

(voice-over): A heart stopping week on Wall Street, on Wednesday the Dow closed above 8,000 for the first time ever. And market capitalization hit an all-time high of $9.8 trillion. By double witching Friday, however, investors backed off.

JOSEPH BATTAPAGLIA, CHIEF INVESTMENT STRATEGIST, GRUNTAL: The two fundamental worries is that interest rates will go up. Alan Greenspan is speaking next Tuesday, maybe he will get belligerent again about the old, irrational exuberance. So there is a worry. And the other is that the president actually made a threat against the Europeans about trade. It's awfully premature to say these are things that will now change the good bull condition. So today, I would say, is mostly profit taking.

SCHAFFLER: The NASDAQ suffered a similar fate. Euphoria over growth prospects for the computer industry and solid earnings reports from market leaders like Intel, fueled the index to an all-time high on Wednesday, the tenth-straight record close. But it was short lived. On Friday, the NASDAQ sold off, led by Microsoft, as investors worried about future earnings. One analyst says it might be time to watch from the sidelines.

JASON PONTIN, EDITOR, "THE RED HERRING" MAGAZINE: The market is seriously overheated. Most of these companies really could never go and recover the evaluations they have. I would urge caution. Overall, these companies are going to increase in value. But over the short term, you might want to consider moving your stock and just say, "I've had a great ride, thank you very much."

(END VIDEOTAPE)

SCHAFFLER: Of course, we can't lose sight of the fact investors have a lot to be thankful for. Even with today's drop, the Dow is up 22 percent since January, the NASDAQ up 20 percent this year. Lou?

DOBBS: Good start on the year; thank you, Rhonda.

Well, the trade deficit took a surprising turn for the worse, rising in the month of May to nearly almost $10.25 billion. Imports hit a record high, while exports fell.

(BEGIN VIDEO CLIP)

WILLIAM DALEY, COMMERCE SECRETARY: We would like to see our exports grow even at a greater pace than they have been growing. They are up over 53 percent, I believe it is, over four and 1/2 years ago when this administration came in. So we have a lot of work to do, no doubt about it. But we feel good about the overall economy. We feel good about trade, as part of that picture.

(END VIDEO CLIP)

DOBBS: The administration doesn't feel so good about the surging trade deficit with China, which rose to $3.25 billion, surpassing the deficit with Japan.

A major retooling at Stanley Works underway; the hardware giant is cutting 4,500 jobs, just about 1/4 of its work force. The company's Chief Executive Officer John Trani (ph) promised sweeping changes when he took over in January. And since then, Stanley's Stock has risen 70 percent. Today it fell more than $2 a share.

Twin set-backs for AT&T today. First, a blue chip executive publicly took himself out of consideration for the company's top job, Eastman Kodak Chairman and CEO George Fisher says he will stay put That ends speculation that Fisher might take over from AT&T's Retiring Chairman and CEO Robert Allen.

The second setback, a federal appellate court today overturned key parts of a sweeping plan to open up local phone markets to AT&T and other long-distance carriers. Allan Dodds Frank is here tonight and has the report for us. Allan?

ALLAN DODDS FRANK, CNN CORRESPONDENT: Lou, this legal defeat for AT&T was a victory for the regional Baby Bells. Ever since the court- ordered break-up of AT&T, the parent has been inching to get back into local phone service business. Today's ruling will complicate that effort, and not just for AT&T.

(BEGIN VIDEOTAPE)

(voice-over): For long distance carriers AT&T, MCI, and LCI, the decision by the U.S. Court of Appeals was a sound defeat. The long distance companies, especially MCI, had been counting on the Federal Communications Commission's help in reducing the costs of breaking into the local telephone service business. But GTE and the regional Bells have fiercely opposed the notion that they should be forced by the FCC to help their competitors.

WILLIAM BARR, EXECUTIVE VICE PRESIDENT & GENERAL COUNSEL, GTE: The long distance companies seem to have been depending on handouts from the FCC, and getting large subsidy payments and incentives to come in, and really could do very little work or investment themselves, and really to cherry-pick off valuable customers.

FRANK: The Appeals Court ruled in favor of GTE, saying the FCC lacks the authority to force local companies to sell wholesale service to long distance companies at set rates. MCI condemned the decision as a blow to consumers. It's also a blow to MCI. The long-distance carrier recently announced it faces losses of $800 million this year, and blamed the high cost of entering the local phone business as the main problem. The ruling is sure to slow down long distance carriers. They would now have to negotiate with each of the 50 states, to offer local service.

TOM BELL, TELECOM ANALYST, THE CATO INSTITUTE: If you're a big carrier that covers all the U.S., now you have different pricing models, perhaps, in different states. and that makes your business a little more complicated. So for the big carriers, like AT&T and MCI, it makes their job a little more complicated. For them, that's the downside.

FRANK: The FCC said it will appeal the ruling to the Supreme Court.

(END VIDEOTAPE)

FRANK: FCC Chairman Reed Hundt says the ruling could delay competition and delay, he said, "...can mean death for competition." Lou?

DOBBS: Allan, thank you.

Well coming up next here on MONEYLINE, my guest heads a company with $300 billion under management. And John Bogle of the Vanguard Group says there are some similarities between right now and 1929. Stay with us.

(COMMERCIAL BREAK)

DOBBS: On Wall Street today, blue chips took a nosedive, erasing all of their gains for the week. The Dow Jones Industrials tonight back below 8000 at 7890.46, a loss of more than 130 points on the day for the week. The Dow down just over 31 points. The volume today approaching 590 million shares, and declining issues beating out advancers by a five to two margin. The Composite fell 6.99. The S&P dropped 16.31 while the Dow transports lost 22 points on the day. The Utilities Index, down 1.94 following the bond mark at Lort (ph). The NASDAQ composite tonight at 1547.99 after a loss of 21.86. The NASDAQ, however, on the week up 45 points and volume, more than 668 1/2 million shares traded today.

The American Exchange Composite index 633.59, down 3.75 and the volume more than 25 1/2 million shares traded there. And for the week, the heaviest week of trading on Wall Street ever.

In tonight's MONEYLINE "Focus," the wild week on Wall Street. My guest tonight heads a company that runs three of America's ten-largest mutual funds. The Vanguard Group has been averaging $3 billion in new investment every month. But Vanguard's Chairman John Bogle is concerned that the market way be overheated. And he joins me tonight from Philadelphia. John, good to have you with us back here on MONEYLINE.

JOHN BOGLE, CHAIRMAN, VANGUARD GROUP: Good evening, Lou.

DOBBS: Well this market, today, I'm sure made a number of investors nervous. Why are you concerned?

BOGLE: Well, the concerns are that we are selling, I think, in the market much more of a speculative basis than an investment basis. I mean, an investment is when you are betting on the fundamentals like earnings dividends and speculation is when you are betting on the price being higher today than tomorrow, for whatever reason. And I think there is too much speculation in this market.

DOBBS: It has, however, been a very good bet for investors, as you construct it, hasn't it?

BOGLE: It has been a marvelous bet. It's been an unbelievable bet.

DOBBS: And in terms of the fundamentals, earnings continue to be positive and on the upside, in terms of surprises. Do you expect that to change, or where is your concern there?

BOGLE: Well, we are in a real bull market, fair enough, for earnings growth. Corporate earnings are growing for the Standard & Poor Index stocks to something like 15 percent a year, maybe 17 percent a year. But everybody should realize that in the previous five years, to past five years that I described, there was no growth whatsoever. They were stuck at $25 a share. So it is -- I think the market is projected things to continue, that historically simply don't continue at this kind of a pace.

DOBBS: John, when you talk about some concerns and shifting expectations, particularly concerning earnings, it wasn't more than year ago that many gurus and pundits, certainly with most with credentials considerably less than your own, were suggesting that corporate America had, basically, wrung out all the excess. Had cut their expenses to bottom line, and that everything had to be driven from top line. Yet, we have continued too see those margins improve. Do you think that is nearing an end?

BOGLE: Well, we have had a tremendous increase in the top line. Put another way: Business is just good, and it's good not only in America, but really pretty good all over the world. So we are in -- there is no question, we are in an important economic boom.

DOBBS: And with that important economic boom -- and it is a powerful surge obviously on Wall Street -- what would you expect to trip it all up, to ruin what seems to be by any definition a perfect world right now?

BOGLE: Well, sometimes you don't know very much about what it will be, but sooner or later if you get a balloon -- I suppose it's fair to say all balloons burst eventually. Among the things that could trigger it was the -- would be the rise of inflation, which has been extremely dormant, brilliantly dormant from standpoint of investor and the buying public. And that might precipitate a rate increase by the Federal Reserve. There could simply be a slowdown of the economies around the globe. And perhaps most important of all, investors could just, for one reason or another, known to nobody in the world, just decide their expectations are too high. And markets sell today, particularly, on high expectations.

DOBBS: Right, at this juncture, what would your counsel to investors be?

Well, I'm pretty much, as Vanguard's sort of motto goes, a "stay the course guy." We have a saying, I used it in my book, "Never think you know more than the market does." Nobody does! And so we just -- what we are trying to do in Vanguard, where we put out a lot of warnings to investors about the high level of stock prices, because I think we have a consensus that stock prices are high. We are trying to have them get emotionally ready for a decline that may come. But we are not telling them to act on their emotions, now, by selling. Nor are we telling them to jump in when it goes down. None of us are good enough to know that. So it is, pretty much, stay the course.

DOBBS: OK, John Bogle, as always, great to have you with us. Good talking with you.

BOGLE: Thanks, Lou.

Well, coming up next, here on MONEYLINE, if the government has its way, the "Made in the USA" label will soon mean "Mostly Made in the USA." Stay with us.

(COMMERCIAL BREAK)

DOBBS: IBM surging 4 7/8. Merrill Lynch raises 12 month price target for IBM to 150 dollars a share. The company's earnings are expected to be released Monday, after the close of trading. Microlinear plunged 37 percent. Second quarter net rose 35 percent, failed to meet Wall Street estimates. The integrated circuit maker blame slowing orders and a shrinking profit margin. Columbia/HCA continuing its slide. Its shares down 1 3/8 today, down 18 percent since Tuesday. A widening investigation by the FBI, into the company's billing practices is pressuring the stock price. Gillette sinking 3 7/8 today. Second quarter profits, there up 15 percent, barely meeting expectations. A strong dollar has diminished Gillette's overseas earnings.

In other corporate news tonight, Montgomery Ward rejected HFS's offer to buy its direct mail unit. The retailer calls it low and highly conditional. Neither company disclosed terms of the bid. The bankrupt retailer says it will not consider anything less than a billion dollars.

Time Warner, the parent of this network, selling American Lawyer to investment firm Wasserstein Perella today. The price was not disclosed, but it is estimated to be around $70 million. And President Clinton today nominating financier Felix Rohatyn (ph) as Ambassador to France. Rohatyn retired as managing director from Lazard Freres, earlier this year. The appointment had been expected and in some quarters, anxiously awaited.

The federal trade commission is pushing for a less than literal interpretation of the "Made in U.S.A." label. Saying 75 percent domestic content should be OK. The proposed change has some lawmakers and unions up in arms, but big business can hardly wait. Kelli Arena has the story from Washington.

(BEGIN VIDEOTAPE)

KELLI ARENA, CNN CORRESPONDENT (voice-over): "Made in the U.S.A." It's a qualifier that strikes an emotional response with many consumers. It means that all, or virtually all of a product is American made. The federal trade commission is considering changing that, and some members of Congress say that amounts to deceiving consumers.

REP. BOB FRANKS, (R-NJ): I don't think we should fold our tent, and allow the standard to be reduced, by people who might have another motive at heart. People who might want to be able to ship some of their factories off-shore, and still carry the "Made in the U.S.A." label.

ARENA: New standards would permit "Made in the U.S.A." claims, as long as 75 percent of a product's manufacturing costs are incurred in the U.S., or if the product is primarily assembled in the U.S. The FTC says, the current 50-year-old policy has never really been defined.

ELAINE KOLISH, FEDERAL TRADE COMMISSION: The industry members have asked us: They said, even if you keep that standard, please tell us what it means. Do we have to go back all the way to the beginning of the manufacturing process?

ARENA: Industries pushing for a change include, shoe companies such as "New Balance." Bicycle and auto parts makers, consumer electronics firms, and home products companies such as 3M.

ROBIN LANIER, INTERNATIONAL MASS RETAIL ASSN: There are very few U.S. manufacturers, who actually do make everything in the United States. And when I say everything, I mean, they're making a widget out of raw material that was completely mined in United States out of parts that were completely fabricated in the United States with labor that was completely U.S. labor. Most complicated manufacturing products today just can't meet that kind of standard.

ARENA: The FTC is accepting public comments on the issue through mid August.

Kelli Arena, CNN Financial News, Washington.

(END VIDEOTAPE)

DOBBS: Coming up next on MONEYLINE. A man who lost billions of dollars today, but hold the garage sale. He may be all right, nonetheless. Stay with us.

(COMMERCIAL BREAK)

DOBBS: What are the chances you could start a business, muscle out all of the competition, legally of course, and then rake in billions of dollars in profits? Probably about one in 12 million. MONEYLINE contributing editor James Q. Wilson explains.

(BEGIN VIDEOTAPE)

JAMES Q. WILSON, MONEYLINE CONTRIBUTING EDITOR: Thirty years ago a mafia boss eager to convert his illegal profits into a legal business, might have come up with this idea. Lets have our product made legal. But to protect it from competition, let's get a law passed that would ban anyone else from being in our business. Finally let's cut the amount of money we pay out to customers, and keep even more of it for ourselves. Sounds ridiculous doesn't it? What government would ever allow the mob to do that? Governments didn't do anything for the mob. Instead, they did it for themselves. It's called the State Lottery. Most states have one. They are monopolies. All would be lottery rivals are kept illegal. State lotteries are now the biggest gambling enterprise in the country.

The average lottery pays out only half of its receipts in prizes. Private competitors by contrast, usually pay out far more. Horse tracks pay out 80 percent of their earnings, and casino gaming tables pay out over 90 percent. As a government monopoly, a state lottery could advertise their product in ways that would bring a government investigation if a private firm did it. Most lotteries don't tell players the odds against winning, and many emphasize a get rich quick theme. Most people think the lottery is fun, and I have no quarrel with them. But if what they want is fun, why don't they demand that the states pay out 90 percent of its earnings? Why don't they insist on knowing the odds? States claim that they can't pay out more, because the lotteries earn them 10 billion dollars a year. Most of this goes to schools. Do you think the schools have become better as a result? This is James Q. Wilson.

DOBBS: And now some perspective on the volatility of the market this week, courtesy of none other than the richest man in the world, Bill Gates. Monday morning, Gates was worth $36 billion. He went home Monday night, he had made $2 billion more. Tuesday, the value of his stock in Microsoft grew by almost a billion. Wednesday, Bill Gates became a $40 billion man for the first time ever. Thursday, his holdings

went above $42 billion, but then big trouble. Microsoft reported tepid earnings after the bell, and in after hours trading, his fortune began to erode. Gates lost $2.5 billion today, leaving him with a profit of only $3.3 billion this week. But that $3.3 billion that Bill Gates earned this week, outranks the total net worth of all but 21 of Gates' Forbes 400 companions.

And that's the bottomline for the night. Thanks for being with us. Have a great weekend, good night from New York.

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HUNDT: FCC SHOULD APPEAL 8TH CIRCUIT DECISION TO SUPREME COURT

WASHINGTON TELECOM NEWSWIRE

July 18, 1997, Friday

Section: TODAY'S NEWS

Length: 320 words

Body

FCC Chairman Reed Hundt said today's decision of the U.S. Court of Appeals for the Eighth Circuit, St. Louis, to overturn parts of the FCC's interconnection order (WTN 709-97, July 18, 1997) "is wholly inconsistent with the mandate and intent of Congress" and the agency should appeal it to the U.S. Supreme Court for "relief."

FCC Commissioner Susan Ness said the decision is a "wrong number" and an "enormous setback" for consumers: "The benefits that consumers will lose are incalculable."

However, GTE General Counsel **William Barr** said the decision is a "major victory" for local carriers and state commissions. Barr said the Eighth Circuit "thwarted the FCC's massive power grab" by stating that the Commission does not have the jurisdiction to set pricing rules and proxy prices. SBC agreed that the "court has forcefully upheld the states' jurisdiction in these matters," and said: "With this ruling behind us, we can all move forward with opening local and long distance markets as intended under the Telecommunications Act."

A spokesman for the Iowa Utilities Board (IUB), the lead state challenger to the order, said the decision is a "win for state commissions and state rights." He said the IUB is particularly pleased the court struck down the FCC's rules that set national standards for pricing.

MCI called the decision a "setback" for consumers and urged federal and state regulators to take steps "to ensure that local telephone markets are soon freed from the grips of monopolies." MCI said it is encouraged that state utility commissions have generally supported forward-looking, procompetitive pricing.

Ness said that "more than ever" it is up to the public utility commissions to "decide whether competition is promoted, hindered or foreclosed." She said the agency will do its best "to work in partnership with states on these issues." (WTN 710-97)

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Subject: CONSUMERS (90%); APPEALS (90%); ENERGY & UTILITY LAW (90%); US STATE GOVERNMENT (90%); SUPREME COURTS (89%); LAW COURTS & TRIBUNALS (78%); APPELLATE DECISIONS (78%); DECISIONS & RULINGS (78%); APPEALS COURTS (78%); PRODUCT PRICING (75%); COMMUNICATIONS LAW (74%); LAWYERS (72%); ANTITRUST & TRADE LAW (68%)

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July 7, 1997

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SBC's challenge to Telecom Act could hinge on ruling that separate treatment of Bells is punitive.

SBC Communications has raised essential issues regarding theTelecommunications Act. The Act noticeably singles out the company fromother local exchange carriers. However, interexchange carriers claimthat the move was just SBC's attempt to protect local exchangemonopoly. Other Bell companies are expected to join SBC's positionthat certain parts of the Act are unconstitutional.

Challenging the constitutionality of the line-of-business restrictions included in the Telecommunications Act of 1996, SBC Communications, Inc., has raised some novel constitutional questions that rarely have been considered by the courts, industry observers said last week. Many doubted that SBC had much of a chance to prevail in court, but some said its argument that the Act improperly singles out the Bell operating companies from other local exchange careers could have merit.

Interexchange carriers dismissed SBC's filing as another attempt by the Bell company to protect its local exchange monopoly, despite the Act's promise of competition in all markets.

Unable to convince the FCC that it has opened its local exchange markets to competition (TR, June 30), SBC now will try to convince a federal district court that sections 271 through 275 of the Act are unconstitutional. Those provisions restrict the Bells' entry into certain lines of business - including the provision of in-region interLATA (local access and transport area) services.

SBC's basic position is that sections 271-275 - titled the "special provisions concerning Bell operating companies" - are "punitive" because they single out the Bells for special treatment, SBC said in its "complaint for declaratory judgment and injunctive relief." Other local exchange carriers, including GTE Corp., are free to enter any markets.

The complaint was filed July 2 with the U.S. District Court for the Northern District of Texas. SBC has hired Harvard law professor Laurence Tribe, who specializes in constitutional law, to handle its case.

Other Bell companies may join the challenge later. At least one - BellSouth Corp. - also has retained Mr. Tribe. But BellSouth said it won't make a final decision on joining SBC's lawsuit until the FCC acts on one of its forthcoming petitions to provide in-region interLATA services.

Meanwhile, at TR's news deadline, SBC was expected to ask the U.S. Court of Appeals for the D.C. Circuit to review the FCC's decision rejecting its application for authority to provide interLATA services in Oklahoma.

Discussing the constitutional challenge, William Dreyer, Senior Executive Vice President-external affairs at SBC, said that striking down the restrictions would benefit consumers by increasing interLATA service competition. "The lawsuit challenges only that portion of the Act which singles out and excludes SBC from competing in certain lines of business. SBC is not challenging those portions of the Act which require all local exchange companies, including SBC, to open their local networks to competition," he added.

Mr. Tribe said he has "no doubt that the 'special provisions' are unconstitutional and cannot be properly enforced against SBC...The Act ignores some fairly basic constitutional principles with respect to the 'special provisions' directed only at the Bell operating companies."

SBC recognized "from the day the Act became law" that sections 271-275 "presented serious constitutional issues," said General Counsel James Ellis. But he said SBC "believed that it was appropriate to let the process go forward, in the hope that, the constitutional problem notwithstanding, the Act would operate as Congress intended - to accelerate rapid private-sector deployment of advanced telecommunications and information technologies." The FCC's recent rejection of its interLATA bid triggered SBC's challenge, the company said.

SBC's position that parts of the Act may be unconstitutional first came to light in its application for in-region interLATA service authority (TR, April 14). In a footnote, SBC said section 271, "along with other provisions of the 1996 Act...single out and impose burdens on the [Bell operating companies] by name, constitutes and unconstitutional bill of attainder, and also violates both separation of powers and equal protection principles." SBC had said it "preserves these arguments in the event that an appeal from the Commission's decision is necessary."

'Bill of Attainder' May Be SBC's Best Hope

SBC's strongest argument may relate to the "bill of attainder." The U.S. Constitution says Congress can't pass a law naming specific parties and imposing different requirements on them than it imposes on others. But case history involving bills of attainder is very limited, observers said. The SBC challenge represents a "novel constitutional question that has hardly ever been addressed by the courts," one observer said.

The question is whether the Act's line-of-business restrictions on Bell companies are punitive, the observer explained. The restrictions described in the Act are similar to those imposed on Bell companies by the 1982 antitrust consent decree that broke up the Bell System. That decree led to the creation of Southwestern Bell Corp. (now SBC Communications) and the other Bell regional holding companies. So the argument can - and likely will - be made that Congress didn't really "impose" the restrictions. Rather, it merely continued restrictions already in place under the consent decree.

Not all observers discount SBC's argument. "It is one thing for companies in the context of litigation to agree to restrictions and then have those restrictions approved by the judiciary," one longtime industry observer told TR. "It is another thing to have those restrictions imposed on the companies by the legislation." He added, "You can, in a court of law, waive your constitutional rights."

A major problem for SBC, however, could be that the company would have to demonstrate that the disparity in regulation was meant as a punishment, one observer explained. SBC sought in its complaint to address that point. "Other similarly situated local exchange careers are not subject to the same restrictions," SBC said. "These 'special provisions concerning Bell operating companies' are punitive in nature, are not justified by any prospective remedial objective, and are, in some respects, more stringent than the line-of-business restrictions in the [AT&T Corp. antitrust] consent decree."

SBC also said section 274 of the Act, which prohibits Bell operating companies from engaging in "electronic publishing" for four years after its enactment, violates its freedom of speech under the First Amendment to the Constitution. The

Act "singles out and targets by name a handful of companies for unique exclusions from entire lines of business and imposes special restrictions on their right to engage in protected First Amendment expression," Mr. Tribe said. "Never before in our nation's history has a federal statute imposed such far-reaching restrictions on the speech activities of a few expressly named parties."

FCC Commissioner Susan Ness said Congress "carefully crafted a statutory framework that determined when, and under what circumstances, the Bell companies could obtain relief from an antitrust consent decree. I believe Congress got it right." SBC's lawsuit "appears to be an effort to circumvent [Congress'] framework, to enable it to offer long distance service without first opening its local markets to competition," she added.

"While we agree with SBC as a policy matter that the restrictions placed on the [Bells] go too far and are ill-advised, as a legal matter it will be a tall order to have that part of the statute struck down as unconstitutional," said William P. Barr, Executive VP-government and regulatory advocacy and General Counsel for GTE. "Clearly there was a rational basis for Congress to treat the [Bells] and independent telephone companies like GTE differently," Mr. Barr said.

Jonathan B. Sallet, Chief Policy Counsel at MCITelecommunications Corp., called SBC's action "absurd." He added, "The Bill of Rights does not give monopolies the right to gouge consumers. We trust the federal court will recognize this action for what it is: a desperate attempt by an entrenched local monopoly to avoid opening its local telephone market to competition."

On Capitol Hill, Rep. W.J. (Billy) Tauzin (R., La.) also defended the federal statute. "The law isn't the problem. It's the way the law is being implemented that's the problem," he said. He blamed the FCC's three primary orders implementing provisions of the Act - the so-called "competitive trilogy" - for creating an environment that would lead the Bell companies to challenge the law out of frustration. A spokesman for Mr. Tauzin hinted that the lawsuit may lead federal lawmakers to rethink their opposition to "reopening the Act."

Highlights...

* SBC says Bell-specific provisions of Act are "punitive."

* Complaint rests on constitutional restrictions on "bills of attainder."

* Electronic publishing restrictions violate First Amendment, SBC says.

* Tribe hired to argue case; other Bells may join in complaint later.

---- Index References ----

Company: BELL CARTER FOODS INC; AT&T INC; SBC COMMUNICATIONS INC; BELLSOUTH; BELLSOUTH CORP AVI AND TRAVEL SERVICES; BELLSOUTH CORP; SOUTHWESTERN BELL TELEPHONE CO; FEDERAL COMMUNICATIONS COMMISSION; GTE CORP; FOMENTO DE CONSTRUCCIONES Y CONTRATAS SA; US COURT OF APPEALS

News Subject: (Legal (1LE33); Monopolies (1MO68); Major Corporations (1MA93); Intellectual Freedoms & Civil Liberties (1IN08); Economics & Trade (1EC26); Antitrust Regulatory (1AN52); Judicial (1JU36); Civil Rights Law (1CI34); Government (1GO80))

Industry: (CLECs & Alternative Carriers (1CL29); Telecom Regulatory (1TE65); Telecom Carriers & Operators (1TE56); Telecom Services (1TE09); Long-Distance Services (1LO42); Political Science (1PO69); Social Science (1SO92); Telecom (1TE27); Science (1SC89); Science & Engineering (1SC33); Wireline Telecom Regulatory (1WI37))

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The Mystery of Janet Reno;
What Is Janet Reno Thinking?

The New York Times

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By Jeffrey Goldberg;

Jeffrey Goldberg is a contributing writer for the Magazine. His most recent article, on Southern Baptists' attempts to convert Jews, appeared in March.

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Body

In may 1993, the Clinton White House sent Janet Reno to the Senate in order to call for the reinstatement of a law, the independent counsel statute, that Reno's predecessor as Attorney General, the Bush appointee William Barr, had tried enthusiastically to kill. The statute, which allows for the appointment of an independent prosecutor in cases of high-level executive-branch wrongdoing, had long been anathema to Republicans, who felt it was used as a nightstick against them during the Reagan and Bush years. The Democrats, of course, had grown quite fond of the statute, which was drawn up in the wake of Watergate, and hoped to revive it.

"Bernie Nussbaum came to see me during the transition," Barr said recently, referring to Clinton's first White House counsel. "I told him, don't breathe new life into the statute. As a Republican, I said, nothing would please me more than seeing you guys live under it. As an American, I think it makes life in the executive branch miserable. But he said that the President and he were committed to run an Administration at the highest ethical standards" -- Nussbaum denies that this exchange took place -- and I said, be my guest."

It fell to Reno, then in her third month as the nation's top law enforcement official, to make the case for the reauthorization, and she did so with alacrity. "It is absolutely essential for the public, in the process of the criminal justice system, to have confidence in the system," Reno told the Senate Governmental Affairs Committee, "and you cannot do that when there is conflict or an appearance of conflict in the person who is, in effect, the chief prosecutor." The statute was soon reauthorized by Congress.

Four years later, Reno finds herself in an unhappy predicament. During Clinton's first term she was quite liberal in the use of the statute, asking for independent prosecutors to investigate Mike Espy, then Secretary of Agriculture; Henry Cisneros, then Housing and Urban Development Secretary; Ron Brown, then Commerce Secretary, and, at the President's public urging, the Whitewater affair. But now, several months into her second term as Attorney

General -- a second term that, by some accounts, the President granted her only with great reluctance -- she is under considerable pressure to seek the appointment of yet another independent prosecutor to investigate yet another Clinton scandal, the fund-raising practices of the President's re-election campaign.

The President has expressed no desire to see an independent counsel appointed to investigate the charge that he knowingly and flagrantly violated campaign finance laws, and Reno has been, in the eyes of most Republicans, many editorial writers and even some Democrats, suspiciously agreeable. House Speaker Newt Gingrich has compared Reno to the felonious Nixon Attorney General, John Mitchell, and asked if she were "the protector of the President or the enforcer of the law." (Washington being Washington, Gingrich made these statements even as he was tidying up his own ethics mess.) Janet Reno has been called many unkind things during her four tumultuous years as Attorney General -- unfit to lead, myopic, unintelligent and, more frequently, too odd for Washington. But her integrity has never been seriously challenged, until now.

That the attacks on Reno's integrity stem from a case involving the alleged misdeeds of others may seem paradoxical, but so is the nature of the job. The Attorney General is the President's loyal aide when forging policy on issues of crime and justice, yet she is also responsible for enforcing Federal law as head of the Justice Department, even as those laws apply to the Administration she works for.

There is something paradoxical, too, in the new, intensified relationship Reno has with the President. She is a woman who came to Washington and immediately found herself relegated to the outermost circle of Clinton advisers. Now she has moved to center stage -- not because of policy matters but because of the alleged sins of the White House she works for.

The campaign finance scandal -- Senate hearings on which are scheduled to begin this week -- comes at an unfortunate moment for Reno, because it has obscured the fact that she finally seems comfortable in her job, and is in it for the duration, despite the early-stage Parkinson's disease that now afflicts her. If she had the personality of a Rudolph Giuliani (or a Bill Clinton), she would be seizing credit for the dramatic dip in national crime rates -- not rightfully, necessarily, though she would certainly be blamed if crime were going up. Moreover, her department has scored some high-profile prosecutorial victories, most recently in the case of Timothy McVeigh. And though hers is a largely symbolic generalship, she has had significant success from the bully pulpit, preaching about volunteerism and early childhood development and greatly expanding the rhetorical possibilities of the office -- imagine Dick Thornburgh, or for that matter John Mitchell, making "deadbeat dads" into a policy centerpiece, or talking up the importance of prenatal care as a key to crime prevention.

Such advocacy has helped secure respect for her outside Washington. This reputation partly explains why she has felt no need to defend herself against the charge, inside the Beltway, that she's protecting the President. She has explained, apparently to her own satisfaction, the reasons she thinks it unnecessary to remove a Justice Department task force from the investigation of campaign fund-raising and hand it over to an independent counsel. In a letter she sent in April to the chairman of the Senate Judiciary Committee, the Utah Republican Orrin Hatch, Reno maintained she would need "specific and credible" evidence that a person covered by the statute -- one of about two dozen high Administration officials, including the President -- may have committed a crime and, barring that, she wrote that she would remove herself from the investigation only if she concluded that "there is a potential for an actual conflict of interest, rather than merely an appearance of a conflict of interest." The fact that she had once advocated the independent counsel statute as necessary precisely because even the appearance of a conflict of interest can undermine confidence in the system presented still another paradox, at least to those who are now convinced Washington has finally got to Reno.

Since the release of the letter to hatch, reno has uttered barely a newsworthy word on campaign finance, even as it has continued to rivet the capital. Reno is not the most forthcoming high official, in any case. Her weekly news briefing is a fascinating ritual in which she invites reporters to ask her anything they want and then manages to say nothing at all. Nor is this just a problem she has at the office. Even her close friend Walter Dellinger, the acting Solicitor General, acknowledges, "She is not the easiest person to chat up."

This is not to say that she is ungracious. She is courtly and solicitous, quite the opposite of the crazed Amazon portrayed on the Saturday Night Live" skit "Janet Reno's Dance Party." She is, however, as tall as "Saturday Night Live" would have her.

In her office at the Justice Department one morning not long ago, she smiled serenely when the subject of the independent counsel statute was raised. Did she still support the statute as written?

"I think it's best while this issue is pending not to comment," she replied.

I then read aloud her comment to the Senate committee in 1993 about the necessity to trigger the statute even when there is the mere appearance of a conflict of interest. Did she still stand by this language?

"I think Congress has tried to address it," she said, carefully, "because in a situation with respect to a covered person, Congress has in effect said what it thinks is the scope of an appearance of conflict, and then gives an additional part to it, and as I have said, I have not found specific and credible evidence with respect to a covered person."

I tried again, asking if the alleged campaign finance abuses might fit into the category of an appearance of conflict of interest. I mentioned the memos written by Harold Ickes, the former White House deputy chief of staff, that detail the President's hands-on involvement in raising "soft money" that may have then been used not for Democratic Party matters but, illegally, for Clinton's campaign advertising.

"It's very important when you look to make sure you don't jump to conclusions," Reno replied. "I think Congress said, Here are the covered people. I think it is generally correct where whether there is a conflict or not, there may be by the relationship an appearance and then you have got to look at everything and make sure that you're judging on facts and not innuendo and that's what we're trying to do."

I then asked her to define the word "appearance."

"I think you have to take every case on a case-by-case basis and look at the evidence," she said.

I asked again if she stood by her 1993 statement on the appearance of conflict.

"Mmm-hmmm," she affirmed, barely.

Having hit a 6-foot-2 stone wall, I tried a bit of indirection.

"Is it true," I asked, "that you are Janet, Queen of the Bunny Planet?"

Reno laughed -- guffawed, really, and said, "It's a wonderful children's book, isn't it?" Two weeks before, Jamie Gorelick, who was Deputy Attorney General during Reno's first term, had mentioned that Reno is especially enamored of a children's book series called "Voyage to the Bunny Planet." It tells stories of little boy and girl bunnies who, having terrible, miserable days, dream of a place "far beyond the moon and stars, 20 light years south of Mars," where "spins the gentle Bunny Planet, and the Bunny Queen is Janet." Queen Janet then takes the little bunnies on a tour of the day as it should be.

Gorelick, the mother of two small children, introduced the Attorney General to the Bunny Planet series, and Reno now reads the books during story hours at a Washington elementary school she has "adopted."

Among Reno's aides, the Bunny Planet has become a running gag, but Gorelick sees deeper meaning in Reno's attraction to the character of Queen Janet. "It's not a joke," says Gorelick, who is now an official at the Federal National Mortgage Association. "It's not just the similarity of the names. The Bunny Queen tries to make the world a better place for kids. It's really her vision of a better world for children."

Reno admitted that her goal is to make the world a little better place, but waved off Gorelick's analysis. "It's just the magic of the words," she said.

Still, Gorelick may be on to something. Reno is among the Administration's foremost advocates for children, a surprising role for the chief Federal law enforcement officer to adopt. She is also an advocate for volunteerism, and drug treatment on demand, and gives speeches that could just as easily be delivered by a Surgeon General rather than an Attorney General. It is her populist oratory, her unusual willingness to accept blame and her reputation for straight talk when she is speaking with citizens groups or law enforcement people -- she possesses naturally what every congenitally inauthentic politician yearns for, sincerity and plain-spokenness -- that has made her a figure of great appeal, at least outside Washington.

But here's the mystery. Throughout the independent counsel controversy, Janet Reno, the straight-talking prosecutor from the Everglades, has been contorting and bending her words in ways that would do proud the more obfuscatory members of the D.C. bar. Nowhere was this more in evidence than at a Senate Judiciary Committee oversight hearing at the end of April, shortly after Reno rejected, for the fourth time, calls for her to seek the appointment of an independent counsel to look into the President's '96 campaign. One question at the center of the controversy is whether the Clinton campaign erased the line between soft money and hard money. So-called soft money is raised, without limits, for the ostensible purpose of "party building." "Hard" money, on which limits are placed, is raised to elect candidates. Soft money may be spent to create "issues advocacy" advertisements, which are meant to educate voters, but it cannot be spent on "express advocacy" advertisements, which are designed to win votes for political candidates.

Deep into the afternoon session of the hearing, Reno was asked a seemingly simple question by the Pennsylvania Republican Arlen Specter, a former prosecutor who knows how to handle a witness. Specter first read to Reno the text of a television advertisement from last year's campaign, which states, in part: "Head Start, student loans, toxic cleanup, extra police, anti-drug programs. Dole-Gingrich wanted them cut. ...Dole-Gingrich: deadlock, gridlock, shutdowns. The President's plan: finish the job, balance the budget, reform welfare, cut taxes, protect Medicare. President Clinton gets it done."

Specter then asked the Attorney General the following question: "Could that possibly be language, taken as a whole, that says anything other than urge the election expressly of President Clinton?"

It seemed clear enough that the advertisement was designed not to educate the voting public about, say, the dangers of toxic waste. Here is how Reno saw it, however:

"I think it is important again to consider the whole framework by which we have to judge that and the fact that the elections commission is in place to look at these decisions, to look at the message, to render advisory commission opinions. At this point the whole area is so murky, we cannot find clear and specific and credible evidence that the law has been violated."

Specter: "Well, Attorney General Reno, if that is express advocacy the law has been violated. So the question is: Can you say to us that it is your legal judgment that that is not express advocacy?"

Reno: "Based on the processes that have been established by the Department of Justice, the MOU" -- memorandum of understanding -- "with the elections commission, this is a situation in which we would not find specific and credible evidence that a crime had been committed that would justify triggering the statute."

After the hearing, I asked Specter what he thought of Reno's answer.

"I do not want to use the word gobbledygook," he said, by way of using the word gobbledygook. "But it was unintelligible."

Was she intentionally unintelligible?

"I do not want to impugn motives," he said.

Later, in her office, I asked Reno about her answers to Specter.

"What the issue there is that it was one of the most complicated issues," she said. "As he asked that particular question -- that's an easy question to answer, or could be, but in terms of the law it's a much more complicated issue, and so I may have not been as articulate as I could have been. And also, just the context of that oversight hearing on soft-money issues, hard-money issues -- it is one of the most difficult areas I have to deal with."

But how would she have ill served the American people if she had simply said that the ad sounded like a campaign ad for Bill Clinton?

"Because," she answered, "I did have to go back and describe what the Federal Election Commission has done and go into details and again, that's what we're trying to do in terms of responding to everybody. Just lay it all out so they can understand the whole history."

Earlier, Reno's chief of staff, a straight-talking ex-Miami prosecutor named John Hogan, had told me that, when it comes to Federal election law, "by being plain-spoken you can mislead." He went on to say, "Any of the phrases they talk about can be overdefined," and then immediately, and wistfully, noted the looking-glass quality of his observation.

When I mentioned Hogan's statement to Reno, she said that he "has a point." She added, "One of the things I have tried my level-best to do is when I'm confronted with a major issue I've got to explain -- I say, 'Go tell somebody to put that in plain English.' This one is very, very difficult to explain."

But, I asked, "if the American people can't understand the system, and the system can't be explained, is something then rotten with system?"

I immediately realized my mistake. Bluntness was not going to be lightly forgiven.

"I'm not going to comment because you're using inflammatory language," she said, "and that probably gives us a good point to say that this is a pending matter and I shall not comment."

T he question that goes unasked is this: why would Reno, who presumably values her reputation for straight talk and integrity, contort her words and evade questions, all the while bringing down scorn on her head, when she has the discretionary power to ask, this very second, for an independent counsel?

There are any number of answers to that question. Hers, of course, is that she is exactly right on the law, even if she has been suddenly dispossessed of her ability to explain herself plainly. Another possible answer is that she is using her office to protect the President.

If Janet Reno were a close friend of President Clinton, say, in a relationship like that between Ronald Reagan and Edwin Meese, the pressure on her to trigger the statute would have long ago grown unbearable. But because it is well known that she is not close to the President, she can still seem credible when she decides against triggering the statute. In other words, she provides the President cover by not providing him with cover.

But that is much different than accusing Reno of engaging in a Watergate-style cover-up. To borrow language from the independent counsel debate, there is no specific and credible evidence that Reno agreed to stonewall Congress on appointing an independent counsel in exchange for a second term as Attorney General. There are important Republicans who do maintain, however, that she is not wholly immune to pressure from the White House.

"There is tremendous pressure on her," Senator Hatch told me. "She knows she serves this Administration and she knows that the President gave her this opportunity. There should be a natural tendency for her to want to protect the President."

But Reno never promised to protect the President. According to John Hogan, Reno's chief of staff, the President told Reno when he was first interviewing her for the job in early 1993 that he'd heard she was not a "team player." Hogan recalls that Reno told the President that she would be a fine team player, unless he did anything "illegal or unethical." The President, Hogan says, laughed out loud at her answer and appointed her later, a testament to

either his desperation, his true innocence or a level of political sophistication so sublime that he could predict that Reno's reputation for independence would one day provide him with political cover.

Reno didn't provide much cover early on. At one point during Clinton's first term, 3 of the other 13 Cabinet members Reno would meet

at Cabinet meetings were under investigation by independent counsels she had requested, and she gained the enmity of much of the White House staff for creating the appearance of an Administration drowning in scandal. Particularly critical were those working to get Clinton re-elected last year.

"The last thing she cared about was whether Clinton was re-elected or not," Dick Morris, the President's former political strategist, told me. He then inadvertently paid Reno a compliment: "Sometimes I thought she didn't realize she would lose her job if Clinton lost."

Reno is, of course, the accidental Attorney General. The Clintons (Hillary played an active role in Justice Department staffing) had decided to name a woman to the job, but their first choice, Zoe Baird, and then their second, Kimba Wood, were done in by what became known as "Nannygate." Reno, a self-described "old maid," had no problems with immigrant domestics and taxes, and that's mainly what interested the White House.

"I called the President and said, 'Here's somebody who won't have these personal difficulties,' " says Senator Bob Graham, the Florida Democrat who attended Harvard Law School with Reno and who is also a friend of Clinton's. "She is single, yes, but Janet is just a very careful person in her personal life, particularly in regard to her standards of conduct." What also comforted the White House was that she was the only one of the three original candidates to have been vetted by voters, who had returned her repeatedly to the top prosecutor's job in Dade County.

Reno did not have any easy go of it during the first term. Along with the independent counsel investigations of other Cabinet members, there was the debacle at Waco, the worst moment of her career, in which, trusting the deeply flawed advice of the F.B.I., she ordered the gas attack on the Branch Davidians, which led members of the cult to set fire to their compound, resulting in the deaths of an estimated 80 people. And there was the perception in the White House that she was more social worker than prosecutor. Even today, the social-worker epithet rankles Reno. This is the woman, after all, who was the chief prosecutor in Dade County during its "Miami Vice" heyday. "I've probably asked for the death penalty far more often than people who call me a social worker," she told me. John Hogan, her chief of staff, is more explicit: "I don't know how many people Dick Morris has ever sent to the electric chair."

Morris, who attacks Reno in his memoir for trying to block many of President Clinton's crime initiatives, seems to have misinterpreted Reno's record. In truth she has been, as she promised the President, the model of an Administration team player on issues of policy. She has abandoned, or at least shelved, many of her liberal beliefs, in order to support Clinton's get-tough approach to crime. Early in the term, she was critical of mandatory minimum sentencing for nonviolent drug offenders, but she soon learned the White House game plan: never expose Clinton's right flank on crime.

"I think anybody who is going to function in government has to realize that you can't get everything you want," Reno says.

Friends say this has been difficult for her. Talbot D'Alemberte, a former president of the American Bar Association and Reno's mentor, says, "She's taken some grief from friends about the way things are going on crime policy." He clearly counts himself as one of those friends. "I think some of the policies I've seen are silly," he says. "I'm not a fan of the death penalty, and adding new death penalties contributes nothing. . . .I'm really sorry that the Administration has not picked up Janet's rhetoric on programs that can prevent crime."

It is an open secret that crime policy, which has traditionally been set at the Justice Department, was taken over by the White House staff, under the direction of Rahm Emanuel, now the President's senior adviser. "Her willingness to have us develop policy is a sign of strength, not weakness," Emanuel says. Despite her deference to the White

House on most issues of policy, Reno has never become a friend, or even much of a sounding board, for the President.

"I doubt the two of them ever met alone in the two years I was at the White House," Morris says. "He felt she was outside his Administration, almost kind of an auditor. He was very critical of her. It was almost like dealing with a foreign country."

Unlike other Cabinet members, including her friend Donna Shalala, the master networker who runs the Department of Health and Human Services, Reno seldom if ever drops by the White House in the early evening to work the halls, or have coffee with the President.

"She and the President have respect for each other, but for whatever reason, they've never been able to develop the kind of personal relationship that other Presidents had with their Attorneys General," says John Schmidt, who served during Clinton's first term as Associate Attorney General and is now a candidate for governor in Illinois.

There is another aspect, insiders say, to Reno's problems within the Administration, one she shares with other senior Administration women.

"I do think women have a slightly tougher time at the upper levels because the men assume that the women don't understand politics," Shalala says. "It took me a very long time to make the White House understand that. The White House has at least caught up with me." Shalala recalled parties given by senior Administration women during the first term at which the talk turned to sexism. "I can't say to you that Reno was telling the stories," Shalala said. "But she wasn't in the corner, and she giggled along with everybody else."

Shortly after Clinton won re-election last November, articles began appearing that suggested that the President would rather start the new term with a new Attorney General. On different occasions, the President was presented with the opportunity to say kind things about Reno, and didn't. Reno doesn't respond to subtlety, however. She stated publicly her desire to stay, which would have forced the White House to very publicly remove her. But at the same time, when leaders of national police and law enforcement groups called up offering their lobbying help to keep Reno in the job -- she has developed quite a constituency among national policing groups -- she told her aides to decline all help. "She said, 'The President has a right to make his decision without pressure,' " one aide, Nicholas Gess, the director of intergovernmental affairs, said.

When I asked Reno how she felt about the pressures during the transition period, and about the unkind talk that had apparently been emanating from the White House, she said she just "chuckled about it." And from the White House now, all is butter. "Janet Reno, outside of Madeleine Albright, is one of the most respected officials in America," Rahm Emanuel says magnanimously. "She is highly respected here." Emanuel has not always been so sweetly complimentary of Reno, Justice Department officials say. When asked if he has ever been critical of the Attorney General, he replied, "There hasn't been a single Cabinet officer in history about whom someone in the White House hasn't said, 'Goddammit, what's going on there?' "

What exactly transpired between Clinton and Reno as his second term began no one can or will say. The President would not discuss it. All he would say, in a written statement, is: "Janet Reno is an invaluable asset to my Administration. As Attorney General, she has exhibited the highest standards of integrity and professionalism, a deep understanding of the needs of law enforcement and a personal commitment to our nation's young people. She is an integral part of my Administration's efforts to fight crime, improve our juvenile justice system and protect our environment."

Those who know Reno best are convinced that she remains her own person. "The thing about Janet is that is she discovers evidence adverse to the President, she won't hesitate to use it," D'Alemberte says. "I doubt the President feels very protected by her."

SO IF SHE'S NOT PROTECTING HER PRESIDENT, THEN WHY DOES SHE have such a difficult time explaining her decision? Her critics say it is because her position is defensible only in the most narrow, overly legalistic terms. Her defenders, however, say that by its nature, Federal election law is arcane and confusing.

"I think you ought to give a prize to anyoe who can succinctly and plainly explain the Federal campaign and contribution laws," says Benjamin Civiletti, who served as Attorney General under Jimmy Carter.

Just because Reno can't explain herself, in other words, doesn't mean her decision not to trigger the statue is wrong. What might be happening now, Justice Department officials say, is that the complexity and confusion of the case - and of the statue - is causing people to throw up their hands and call for an independent counsel to straighten everything out.

But Lee Radek, the chief of the Justice Department's public integrity section and the man overseeing the campaign finance investigation, says, "Nowhere in the statute does it say you can have an independent counsel because it's all a big mess."

Radek says that Reno has guidelines to follow when considering whether to take the investigation away from him and turn it over to an independent counsel. "In order to trigger, no matter what, you've got to have a specific and credible allegation that a person has committed a crime," Radek explained. "Now you look at two questions. Is he a covered person? If he is, then you go for an independent counsel. But if he isn't a covered person, then you look to see if there is a conflict of interest. If there's a conflict of interest, then the Attorney General has the discretion to trigger the statute."

A key question is whether the Clinton campaign, under the direct coordination and control of the President, the most important covered person, knowingly flouted the laws governing campaign spending by turning the Democratic National Committee, a party organization, into a soft-money collection-and-advertising front for the campaign. The President's critics hold that money raised by Clinton during those famous "coffees" at the White House was funneled, in the main and illegally, to the D.N.C. Justice Department officials say privately that the violations of election law the President is alleged to have committed are of the type never prosecuted criminally, if only because the regulations are, in effect, a patchwork of laws and court orders that sometimes contradict one another.

"Frequently when the Federal Election Commission tries to regulate something, the courts say they've gone too far, under the First Amendment," says Robert S. Litt, a Deputy Assistant Attorney General in the criminal division.

The real crime, some officials say, is that election law is loophole-filled and invites abuse by unscrupulous campaigns. Even if the President directed the spending of soft money for hard-money purposes, the argument goes, it is not at all clear that any law has been broken. "The law in his area is complicated and in flux," Litt said.

No it isn't says Reno's first Deputy Attorney General, Philips Heymann, now a professor at Harvard Law School. He says, in essence, that the Justice Department is buying into a fiction scripted by the White House - that is, just because you call it soft money doesn't make it soft money.

"They maintain that whatever money is paid into the D.N.C. is automatically soft money," he said. "But the people who donate it plainly intend to give it to the President because they want his approval, so if the President raises the money and puts it in my bak account with the understanding that he has a right to control it and spend it, then it's not money at all, but his. What the Justice Department is saying is that candidates can always avoid the law by this most easy of charades. I want them to say this is a violation of the Federal Election Campaign Act, and if they don't want to treat it as criminal, let them stand up and say that."

RENO'S RELUCTANCE to appoint an independent counsel may have nothing to do with the White House and everything to do with her loyalty to her investigators inside the Justice Department. They maintain they can do the job, and what she is essentially doing as some see it, is giving them the chance. When Reno arrived in Washington, she arrived in Washington, she arrived without friends, without a cadre of aides to install all along the fifth floor corridor at Main Justice. She had joined the Administration relatively late, and the White House had already stacked the halls with its own people - Webster Hubbell as Associate Attorney General, for one. Reno forged friendships, though, among the ranks of the career prosecutors. And especially because the department is currently so bereft of top political appointees - the criminal division, under which the campaign finance investigation is being run, has

been without a permanent head for nearly two years - she has listened to the career people, and the career people want to investigate campaign fund-raising.

"She's doing this because the career people, every which way short of sophistry, are trying to keep the case," Joseph diGenova says. He is a former U.S. Attorney, a Republican who was independent counsel in the Bush passport affair. "I do not believe for one moment that Reno or anybody in the department is motivated to protect the President. They are in this to show that the career people can do it, and she backs them."

Radek, a bluff, cheerful man of 54, was unwilling to discuss details of the ongoing investigation when I spoke to him, but he was happy to defend the Justice Department's ability to invesitgate the executive branch. The independent counsel statute is an insult," Radek said. "It's a clear enunciation by the legislative branch that we cannot be trusted on certain species of cases."

But Radek also denied that Reno is reflexively beholden to the career prosecutors. "She does not always do what the career people tell her to do," he said. "There is nothing passive about the way she makes decisions. It is so discouraging to see her excoriated for doing what she always does, which is call it as she sees it." Radek went on to say that the independent counsel statute places his prosecutors in a no-win situation. "It we do very well in our investigation, we have to turn the case over to an independent counsel. If we don't find anything, then we're criticized for not making the case.

"The fact is, through the history of the public integrity section, and its observation of and consultation with U.S. Attorney, I've never seen a problem with a prosecution going easy on the party of the administration in power," he added. "In fact, the opposite is often true - prosecutors are motivated to go the extra mile. They're often more strict with the incumbent administration to avoid the appearance of favoritism."

Over and over again in the halls of the Justice Department, career prosecutors - and political appointees, too - point to the conviction of Representatives Dan Rosentkowski three years ago on corruption charges as proof the department will prosecutors - and political appointees, too - point to the conviction of Representative Dan Rosentkowski three years ago on corruption charges as proof the department will prosecute without political interference.

At the time of his conviction, Rostenkowski was a key figure in the effort by the Clinton Administration to move its health care package through Congress, and Republicans feared that the Clinton Justice Department would go easy on Rostenkowski in order to assure that he remained as chairman of the House Ways and Means Committee. Newt Gingrich, then the House minority whip, said at the time he worried that there would be "some kind of rigged deal where 15 or 20 felony counts magically get reduced to a misdemeanor to allow him to stay in charge of health care."

That didn't happen; Rosetenkowski was indicted on multiple felony counts, and is now in jail, and the Clinton health care initiative failed. And what happened to Eric Holder, the U.S. attorney for the District of Columbia, who brought the case against Rostenkowski? At this writing, he is the Administration's nominee to replace Jamie Gorelick as Deputy Attorney General, the No. 2 position at Justice.

The Rostenkowski case should confirm to the world, Justice officials say, that the Department is fully capable, in theory, of handling the investigation into campaign fund-raising, even if it reaches all the way to the top, and that Clinton should not take undue comfort in the fact that the investigation is still in the hands of the Justice Department.

"An independent counsel would almost be a better break than what Clinton's going to get from the career Justice people," Dick Morris says. "There's a fetish for independence that is manifested there."

Morris's views are not widely shared in the White House, though. Most of the President's advisers would still rather have the investigation in the hands of the Justice Department, if only because Federal prosecutors under Reno will not end the case by declaiming from the Federal courthouse steps about the corrupt nature of the entire fund-raising process. The Justice Department prosecutors might very well bring the exact same charges in the matter

that an independent counsel would bring, but they are bound by rules of discretion that simply do not bind a wildly ambitious or highly partisan independent counsel.

FEW PEOPLE IN WASHington, even those partisans who wield the independent counsel statute like a club, profess to like it. Critics say the politicized and public nature of the statute has made the appointment of independent counsels tantamount to indictment. "When an independent counsel is appointed now, the whole presumption of guilt shifts," says Lloyd Cutler, former White House counsel to Presidents Carter and Clinton.

Others argue that there is something inherently unfair when a prosecutor is handed unlimited time and unlimited resources to investigate a single individual. "Too much unreviewable power in the hands of a prosecutor is a dangerous thing," says Joseph diGenova, who led a three-year independent counsel investigation into accusations that Bush Administration officials rifled State Department passport files for incriminating information on Bill Clinton. "To only have one case to work on is a dangerous thing, because when a prosecutor has an array of cases, there is a kind of Darwinian case selection." In other words, prosecutor drop weaker cases in favor of stronger ones. "That doesn't come into play with an independent counsel because of the single-natured purpose of the statute," diGenova says.

That said, by di Genova's reading, the campaign finance mess does qualify for an independent counsel. "It is a miserable statute, but it's the law," he says. "If there's ever a case that qualifies for an independent counsel, it's this one."

'ALL THIS BANGING just makes her more stubborn," says Talbot D'Alemberte. "Just look at the way her jaw line sets."

If it is true that Reno's reluctance to trigger the independent counsel statute has made her look bad, at least to some, it is also true that few officials in Washington care less about spin than Reno. "There's a feeling that we're getting her into trouble with the press and with Congress," Radek says. "But to her great credit, she never brings that up. It doesn't concern her."

Tom Fiedler, the political editor of The Miami Herald who has reported about her since the 1970', said recently: "Washington is a culture that values responding to consensus. You can't be stiff-necked. You have to shed responsibility and bend to the prevailing winds. People in Washington get frustrated with her because she's supposed to bend to their whims. … The harder you push, the more dug in she'll get."

This is behavior that is seen as odd in compromise-driven Washington, but wouldn't necessarily be understood as such anywhere else. Reno never goes off the record with reporters; she never dishes Cabinet gossip; she stands awkwardly, and often alone, at the few receptions she attends.

"I don't think she cares about Washington," says Rahm Emanuel, who does. "She might have one of the world's greatest poker faces, but I really don't think she cares."

To hear Reno tell it, she has never much cared what people think about her, ever since she was a gangly girl at her first cotillion in Miami. "I was 5-11 1/2 when I was 11 years old and I had to go to cotillion when I was 12," she recalled. "Our cotillion teacher was a wonderful, wonderful lady. She was my P.E. teacher in elementary school and she was incredible - she taught me how to shoot baskets.

"But she was basically a dance teacher. I can remember walking into cotillion and young men coming to my waist, and I guess I felt a little bit like an odd duck. And Mrs. Nowakowski was 5-8 and a very striking woman, and as I would slump, she would make me stand up straight. And after I had two years of cotillion, I think after that I never felt like an odd duck again, that I always had the capacity to look out from me and have the sense -." She stops suddenly.

"She was a wonderful person. She died about a year or so ago, and they read a letter that I wrote to her -." Reno stops, choking up, and begins crying behind her big square glasses.

"She made you feel like you were special," she went on. "When I won my first election, she sent me a note that just said, 'Attagirl.' … I think I've always felt kind of awkward and knobby-kneed, and as my mother said, knock-kneed, and I've oftentimes felt like I was all arms and legs, but after Mrs. Nowakowski, it didn't bother me."

The point of the story, of course, is that not much has bothered her since. Reno is often described as the most inner-directed official in Washington, which is why she seems at peace, even though it could reasonably be assumed that in some respects she is a lonely woman. And decisions on such questions as the independent counsel statutes could certainly be lonely ones.

When I asked her once what she like about Washington, the converation turned to her solitary pursuits - her exploration by canoe of wetlands, her long walks down the towpath of the C&O Canal. "A lot of the people that I've come to regard as friends for the rest of my life are centered around the Department of Justice, and one of the ways I keep my perspective on things is to have breaks from what I do all day long," she says. "What I enjoy doing is not going to socialize with people on a casual basis. It's not relaxing."

HER OBSTINACY, AND HER aloneness, separate her from Washington. They keep her from playing Washington games, but hey also might keep her from responding to reasonable opinion and advice, especially when that opinion and advice comes from Capitol Hill or the pressw. It is a theory Senator Hatch has considered. Having failed to change Reno's mind so far on the independent counsel matter, Hatch is "moving to give her a little bit of leeway here," he told me recently. "She doesn't want to appear that she's caving into Congress. I want to give her a little room."

Reno has spoken movingly about how important it is for the public to have faith in the justice system. Yet this faith is being tested each time a new revelation about Clinton's campaign fund-raising emerges, and each time Reno responds by refusing requests to ask for an independent counsel. And this faith is tested, whether she likes it or not, not just by conflicts of interest, but also by the simple appearance of a conflict.

There has been little sign of a shift in her thinking. Her prosecutors have constructed a narrow argument against triggering the statute, and she continues, at increasing cost to her reputation and to that of the Justice Department, to defend it. "There's a lot of sniping at her that she isn't a hands-on administrator, that she's a terrible Attorney General," says William Barr, her Republican predecessor. "I say, hands-on, shmands-on, that's a nice thing. But aren't you looking for an Attorney General who will do the right thing? I think she has acted with integrity, until now."

To her way of thinking, Reno is doing the right thing, and she presumably believes that she, and her reputation, will prevail. But when the Senate hearings on campaign finance commence, the blief that Reno is protecting the President may well harden, and spread beyond the Beltway. If that happend, she is likely to confront just how alone an official can be.

Graphic

Photos: In his pocket? Reno's critics claim that she is protecting the President, but she and Clinton have never been very close. They meet here with Bill Lann Lee, an Assistant Attorney General. (pg. 18)

Load-Date: July 18, 1997

SBC Files Challenge to Telecom Law --- Texas Bell Wants Court To Strike Down Hurdles In Long-Distance Arena

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Body

SBC Communications Inc. challenged the constitutionality of a key part of last year's sweeping telecommunications law, contending it unfairly hinders efforts by the six Bell companies to enter the lucrative long-distance telephone business.

In a lawsuit filed in federal court in Wichita Falls, Texas, the company argued that the law makes it harder for the Bells to begin offering long-distance service than it does for GTE Corp. and other independent local-service providers. "This is discrimination, pure and simple," said William Dreyer, SBC's executive vice president for external affairs.

The suit comes on the heels of last week's decision by the Federal Communications Commission to reject SBC's bid to offer long-distance service to its Oklahoma customers. The ruling "was the last straw," said Edward Whitacre, chairman and chief executive officer of the San Antonio, Texas, company.

"We've done everything that can possibly be done to comply" with the new law, Mr. Whitacre said in an interview. "The FCC is playing games with us."

The regional Bell operating companies had been barred from offering long-distance service in their areas since the 1984 breakup of Ma Bell. But last year's telecom law scrapped the ban for carriers that show they have opened their local markets to competition. The provision applies only to SBC, the other Bells and their operating units. The FCC, with the advice of the Justice Department, decides whether the Bells have succeeded.

Independent local carriers such as GTE are free to enter the long-distance business and have been grabbing market share from AT&T Corp. and MCI Communications Corp. even as those long-distance giants have struggled to make inroads in the local phone business. GTE has pushed aggressively into the long-distance market in the past year and has an ambitious plan to invade SBC territories adjacent to GTE's customers.

SBC asked the court to strike down the long-distance hurdles and let the Bells immediately sell long-distance service in their own regions. The company, which has hired renowned constitutional lawyer Laurence Tribe to argue its case, stressed that it isn't challenging separate portions of the law that require the Bells to open their markets to new rivals.

SBC's lawsuit is yet more evidence that Congress's attempt to open the nation's telecom markets to competition is thus far a failure. Instead of invading one another's phone, video and other communications markets, potential rivals have squared off in scores of lawsuits filed in state and federal courts across the country.

The Justice Department, which declined to comment on SBC's move, would defend the law against the company's challenge, with the help of the FCC. William Kennard, the FCC's general counsel and a nominee to fill a vacant seat on the commission, said, "We are confident that Congress acted within the bounds of the Constitution in passing the telecommunications act, and we will vigorously defend the law."

Some saw the lawsuit as another effort by the Bell to quash local phone competition. "What an activist, greedy monolith they are," said Timothy Price, president of MCI, based in Washington, D.C. Referring to SBC's chairman, he said: "It's classic Whitacre: `Read my lips -- no competition.'" Mr. Price said SBC "would be better off spending its millions to improve service to its customers than to mount legal challenges to protect its monopoly."

GTE chief counsel **William Barr** said he sympathizes with SBC's reservations about the telecom law, but he noted that GTE, based in Stamford, Conn., doesn't have any restrictions on its business because it hasn't ever been sued by the federal government for anticompetitive conduct, as the Bells and AT&T were in the early 1980s. "We were never a part of the AT&T Bell monopoly," Mr. Barr said. "There was no past conduct proven of monopolistic practices, nor does GTE dominate any region."

AT&T, based in New York, said it hadn't seen the lawsuit. But a spokeswoman said local telephone companies "seem to be putting more energy into avoiding the intent of the telecom act than into meeting their responsibilities under the law."

The challenge is curious because SBC and the other Bells lobbied aggressively for the very provisions being challenged by SBC. "Seventeen months after the telecom act was passed . . . they finally get around to reading it," MCI's Mr. Price said.

James Ellis, SBC's general counsel, said the company "from the beginning" questioned the constitutionality of the long-distance provision but supported the measure anyway in the belief that the FCC would follow the "spirit" of the law in deciding when to allow the Bells into the long-distance business.

The lawsuit also follows the end of merger talks between SBC and AT&T last week. Federal regulators had indicated a deal would meet fierce opposition. And this week, Mr. Whitacre publicly blasted the FCC, saying regulators had "trouble seeing the picture in Oklahoma from their desks in Washington."

SBC also feels the FCC offered little guidance as to how the company might win the FCC's blessing in the next go-round. "We need to know what the rules are," Mr. Whitacre said yesterday, "because they're adding something to it we don't see in print."

FCC officials have said SBC's application was woefully lacking; for example, the company cited as evidence of competition four residential customers of Brooks Fiber Properties Inc. -- all four of whom are Brooks employees taking service on an experimental basis. Commissioner Susan Ness said yesterday that SBC's lawsuit looks like an effort "to enable it to offer long-distance service without first opening its local markets to competition."

The lawsuit contends the long-distance provisions infringe on the company's First Amendment right to free speech. They also violate the Constitution's equal-protection and separation-of-powers clauses, as

well as the prohibition against singling out individuals for punishment, the company contends.

The SBC challenge could easily take more than a year to wend through the federal court system. Meantime, other Bell companies are studying the challenge. Atlanta-based BellSouth Corp., which also has hired Mr. Tribe, agrees that the longdistance provisions "are seriously flawed," said Walter Alford, BellSouth's general counsel. But the company is unlikely to join the challenge until after it has filed at least one long-distance application, Mr. Alford said. "Obviously if we're treated reasonably by the FCC, this whole challenge will be moot," he said.

The SBC lawsuit is the second to challenge the constitutionality of part of the telecom law. Last week, the Supreme Court struck down a portion of the law designed to keep smut off the Internet.

Path to Long Distance

What the Baby Bells must offer to potential rivals before they can enter the long-distance business:

-- Ability to connect to local networks at a reasonable cost

-- Access to telephone poles, conduits and rights-of-way owned by the Bells

-- Access to emergency phone services

-- Use of white pages directories

-- Ability for customers to switch carriers without changing their phone numbers

Source: Telecommunications Law of 1996

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Industry: TELECOMMUNICATIONS SERVICES (94%); TELECOMMUNICATIONS (91%); COMMUNICATIONS LAW (90%); LONG DISTANCE TELEPHONE SERVICE (90%); ENERGY & UTILITY LAW (90%); LOCAL TELEPHONE SERVICE (89%); LAWYERS (78%); COMMUNICATIONS REGULATION & POLICY (78%); CORPORATE COUNSEL (73%); MARKET SHARE (72%); I7902 Telecommunications; I79021 Wired Telecommunications; I7902101 Local Telephone Services

Geographic: SAN ANTONIO, TX, USA (79%); TEXAS, USA (92%); NAMZ North American Countries; USA United States; USCT United States - Connecticut; USE Eastern U.S.; USS Southern U.S.; USTX United States - Texas

DJI Codes: UTI, LDS, RTL, TEL, TLS, DTE, ITP, LWS, PBP, TST, WEI, FCC, JUS, CT, NME, TX, US, USE, USS, LMJ, MJR, TPT
DJI Descriptors: Utilities, Long Distance Telephone Providers, Regional Telephone Systems, Telecommunications, All, Telephone Systems, Telecommunications, Information Technology Policy and Issues, Lawsuits, Public Policy & Regulatory Issues, Antitrust News, Dow Jones Total Market Index, Federal Communications Commission (FCC) Justice Department, Connecticut, North America, Texas, United States, Eastern U.S., Southern U.S., Large Majors, Major Business News, Business and Finance Column Stories

Load-Date: December 6, 2004

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 11:23:48 a.m. EST

NewsRoom

7/3/97 Dallas Morning News (Pg. Unavail. Online)
1997 WLNR 5540007

Dallas Morning News, The (KRT)

July 3, 1997

SAN ANTONIO-BASED SBC COMMUICATIONS INC. ATTACKS 1996 TELECOMMUNICATIONS LAW

Jennifer Files

Jul. 3--SBC Communications Inc. challenged part of the Telecommunications Act of 1996 in court Wednesday, contending the 17-month-old law illegally discriminates against Southwestern Bell and the other local-phone companies that used to be part of AT&T.

Jul. 3--SBC Communications Inc. challenged part of the Telecommunications Act of 1996 in court Wednesday, contending the 17-month-old law illegally discriminates against Southwestern Bell and the other local-phone companies that used to be part of AT&T.

The lawsuit alleges the act is unfair in allowing GTE and other independent phone companies to sell long-distance and other new services immediately, while Baby Bells must wait until they can prove they've opened their local markets to competition.

It is the most fundamental challenge yet to last year's sweeping telecommunications reform law and the latest sign that local and long-distance telephone companies alike are increasingly frustrated by regulatory roadblocks and disputes with other firms about competition.

The suit comes just days after SBC's talks to merge with AT&T Corp. fell apart under strong opposition from Federal Communications Commission Chairman Reed Hundt and senators who oversee antitrust policy.

Besides the long-distance issue, the suit challenges parts of the act that for now prohibit Baby Bells from manufacturing telecommunications equipment or engaging in electronic publishing or alarm-monitoring businesses.

San Antonio-based SBC said it began working on the lawsuit as long as a year ago but decided to file it last week, after the FCC turned down the company's application to provide long-distance in Oklahoma. Though the Oklahoma Corporation Commission, which regulates the state's utilities, recommended SBC's request be approved, the FCC said there wasn't yet enough local-phone competition in the state.

SBC said the FCC's blanket rejection didn't give them much guidance as to what the company was doing right and where more work needed to be done. After that, said SBC general counsel Jim Ellis, "We just could not see that we had much choice" but to sue.

"The promise of full competition that Congress hoped to unleash has been thwarted by the unconstitutional restrictions on SBC's ability to compete, by the misapplication of certain provisions of the Act by the Federal Communications Commission, and by the endless tactics of our competitors to delay competition and block our entry into the long-distance and other markets."

FCC Commissioner Susan Ness said that Congress was careful to decide under what circumstances Baby Bell companies should be able to sell long-distance. "I believe Congress got it right."

SBC's competitors, all of which are involved in their own challenges of the law, its implementation or the terms of new phone competition, quickly opposed the lawsuit.

An MCI spokesman called it "absurd," and a top Texas AT&T official said the suit was "outrageous."

"They've regressed to their core competency: creating regulatory roadblocks and litigating where necessary," said Rian Wren, AT&T vice president-local services for the Southwest.

SBC's petition, filed in federal court in Wichita Falls, repeatedly singles out GTE, the nation's second-largest local-phone company after SBC, as having advantages the Baby Bells don't enjoy.

Few could argue with that: GTE started selling long-distance last year, and it's already won 1.2 million long-distance customers. That new business added $50 million to 1996 revenue at the company, which is moving its headquarters to the Dallas area.

GTE long-distance revenue is expected to total more than $300 million this year, said analyst Bob Wilkes of Brown Bros. Harriman in New York.

The question is whether the former Baby Bells and GTE should get equal treatment. The telecom act treated them differently, largely because they were in different situations to begin with: The former AT&T units control large regions of the United States, including most of the nation's big cities. GTE fills in the gaps, mostly in rural markets.

SBC attorneys say Congress isn't allowed to write laws that apply to some companies but not others.

In response, GTE executive vice president and general counsel William P. Barr said, "It will be a tall order to have that part of the statute struck down as unconstitutional. Clearly there was a 'rational' basis for Congress to treat the 1/8former AT&T units 3/8 and independent phone companies like GTE differently in the act."

SBC is represented by Wichita Falls lawyer Lonny D. Morrison, a former State Bar of Texas president. Company officials say they expect a decision within three to six months, and that SBC picked the Wichita Falls court because it has a reputation for moving cases along quickly.

SBC's Mr. Ellis said the company plans to appeal the Oklahoma decision on Thursday. The company also filed two separate suits challenging other portions of the Telecommunications Act. One challenges the FCC rules spelling out the terms and conditions under which Bell companies must connect their networks to potential competitors. The second contests the FCC's rules on fees paid to local-telephone companies to complete long-distance calls.

GTE is also challenging FCC rules designed to subsidize phone service for rural and poor customers, arguing that the rules actually undermine continuation of affordable phone service.

"The fact that there have now been three lawsuits in the last few weeks is just an indication of how important getting the rules right is for all of these players," said Scott Wright, an analyst at Argus Research.

Public complaints by phone companies have escalated in recent weeks. SBC chairman Edward E. Whitacre Jr., who usually doesn't speak out on such issues, blasted regulators for the Oklahoma decision in a speech Tuesday. AT&T officials, meanwhile, were attacking SBC even as the companies were considering merging.

---- Index References ----

Company: MCI INC; SBC COMMUNICATIONS INC; COMMUNICATIONS INC; FEDERAL COMMUNICATIONS COMMISSION

News Subject: (Legal (1LE33); Government (1GO80); Economics & Trade (1EC26); Major Corporations (1MA93))

Industry: (Telecom Carriers & Operators (1TE56); Telecom Regulatory (1TE65); Wireline Telecom Regulatory (1WI37); Manufacturing (1MA74); Long-Distance Services (1LO42); Telecom (1TE27); Telecom Services (1TE09))

Region: (Kansas (1KA13); Americas (1AM92); Oklahoma (1OK58); North America (1NO39); Texas (1TE14); USA (1US73))

Language: EN

Other Indexing: (ARGUS RESEARCH; ATTACKS; COMMUICATIONS INC; COMMUNICATIONS INC; CONGRESS; FCC; FEDERAL COMMUNICATIONS COMMISSION; GTE; MCI; OKLAHOMA; OKLAHOMA CORPORATION COMMISSION; SBC; SBC COMMUNICATIONS INC; SOUTHWESTERN BELL; STATE BAR) (Baby Bell; Baby Bells; Bell; Bells; Bob Wilkes; Edward E. Whitacre Jr.; Ellis; Harriman; Jim Ellis; Lonny D. Morrison; Reed Hundt; Rian Wren; Scott Wright; Susan Ness; William P. Barr)

Ticker Symbol: SBC

Word Count: 1177

End of Document

7/3/97 TR Daily (Pg. Unavail. Online)
1997 WLNR 6831223

TR Daily

July 3, 1997

BOCS SYMPATHETIC BUT CAUTIOUS IN RESPONSE TO SBC CHALLENGE

Table of Contents

SBC Communications, Inc.'s constitutional challenge yesterday of the line-of-business restrictions on Bell operating companies that were incorporated in last year's federal telecom law drew some sympathy from other Bell companies today. But only BellSouth Corp. said it was considering joining SBC's lawsuit in federal district court in Texas. Meanwhile, SBC this afternoon filed a petition asking the U.S. Court of Appeals for the District of Columbia to review the FCC decision denying its application for authority to provide interLATA (local access and transport area) services in Oklahoma (TR, June 30).

Spokesmen for Bell Atlantic Corp. and U S WEST Communications, Inc., both said company executives were studying the SBC lawsuit and that it was premature to say whether they might support it. The U S WEST spokesman said, "We're sympathetic to a lot of their concerns, but our focus right now is opening our market to competition" and meeting the Telecommunications Act of 1996's requirements for in-region interLATA service market entry. The Bell Atlantic spokesman also said the lawsuit looked like "it may have some merit. But our main strategy is to try and meet [the Act's `competitive] checklist' requirements. We hope to have applications approved by the end of the year."

A NYNEX Corp. spokeswoman said the issues raised in the SBC lawsuit deserve careful study and said SBC's claims "may have merit. She added that NYNEX is "working very hard to meet" the Act's competitive checklist requirements and intends to apply for authority to provide interLATA services "in some states this year." An Ameritech Corp. spokesman declined to comment on the SBC filing today.

BellSouth Associate General Counsel William Barfield voiced sympathy for SBC because "the FCC's decision against SBC's application to enter long distance in Oklahoma clearly violates the intent of Congress in opening up both the local exchange market and the long distance market." He said BellSouth has hired Harvard University constitutional law professor Lawrence Tribe to explore the possibility of joining SBC's lawsuit. Mr. Tribe also is representing SBC in that lawsuit. "No decision has been made, in part because BellSouth thinks it's only fair to wait and see how it is treated when it applies for long distance relief at the FCC," Mr. Barfield said.

In a statement issued last yesterday, FCC Commissioner Susan Ness said she believes Congress "got it right" in carefully crafting "a statutory framework that determined when, and under what circumstances, the Bell companies could obtain relief from an antitrustconsent decree." She said the SBC lawsuit "appears to be an effort to circumvent" the framework established by Congress "to enable it to offer long distance service without first opening its local markets to competition."

A telecom antitrust expert consulted by TR said SBC's argument in the lawsuit filed yesterday in Texas makes "a reasonable argument, although I'm not sure how persuasive it is, that this is a `bill of attainder." SBC based its constitutional challenge of provisions of the Telecom Act incorporating line-of-business restrictions on the BOCs on an argument that the law singled out the BOCs by imposing on them, and not on other similarly situated carriers, a series of restrictions barring them from engaging in otherwise lawful businesses. Its lawsuit said the restrictions "are punitive in nature" and in some respects are "even more stringent than the line-of-business restrictions in the AT&T consent decree." It charged that the restrictions violate the constitutional doctrine of separation of powers, the Bill of Attainder clause, and the equal protection component of the Fifth Amendement.

TR's antitrust expert said SBC's argument that the Act imposed restrictions "on one class of companies which other companies that are similarly situated don't have to bear" recognizes that "the constitutional standards that govern restrictions imposed by consent decree are different from the constitutional standards that govern restrictions imposed by legislation. It is one thing for companies in the context of litigation to agree to restrictions, rules, etc. and then have those restrictions approved by the judiciary. It is another thing to have those restrictions imposed on the companies by the legislature." Section 9, clause 3, of the Constitution prohibits Congress from passing bills of attainder, that is laws that single out individuals or classes of persons for punishment. "It's a novel constitutional question which has hardly ever been addressed by the courts," TR's source said.

"I think the problem they will have is that they have to show that the differential in regulation is a punishment," the source said. "You'd have to persuade a court that restrictions Congress found to be in the public interest constitute a punishment." In a case involving a bill of attainder argument, the U.S. Court of Appeals for the District of Columbia ruled against a rider inserted in annual budget reconciliation legislation to prevent publisher Rupert Murdoch from getting a second waiver of the newspaper/broadcast cross-ownership ban, TR's source observed. "But the Murdoch case involved an absolute deprivation. Here, there's no absolute deprivation; the statute says to the Bell companies you can get what you want by meeting certain requirements."

SBC's lawsuit notes that many local exchange carriers, including GTE Corp.'s telephone operating companies, are offering bundled long distance and local exchange services without the legal restrictions imposed on the Bell companies. William P. Barr, GTE's Executive Vice President-government and regulatory advocacy and General Counsel, said the company agrees with SBC "as a policy matter that the restrictions placed on the RBOCs go too far and are ill-advised." But "as a legal matter, it will be a tall order to have that part of the statute struck down as unconstitutional," he added. "Clearly there was a rational basis for Congress to treat the RBOCs and independent phone companies like GTE differently in the Act."

TR Daily, July 3, 1997 19970703 TR Daily -->

---- Index References ----

Company: BELL ATLANTIC CORP; VERIZON COMMUNICATIONS INC; NYNEX CORP; AT&T INC; FINANCIAL SOFTWARE CUSTOM DEVELOPMENT USA CORP; GENERAL TELEPHONE ELECTRONICS CORP; SOUTHWESTERN BELL CORP; FEDERAL COMMUNICATIONS COMMISSION; SBC COMMUNICATIONS INC; US COURT OF APPEALS; BELLSOUTH; AMERITECH CORP; GTE CORP; BELLSOUTH CORP

News Subject: (Legal (1LE33); Business Lawsuits & Settlements (1BU19); Business Litigation (1BU04); Judicial (1JU36); Major Corporations (1MA93); Technology Law (1TE30); Government (1GO80); Economics & Trade (1EC26))

Industry: (Telecom Regulatory (1TE65); I.T. in Government (1IT22); Bundled Telecom Services (1BU78); I.T. Regulatory (1IT67); Telecom Services (1TE09); Political Science (1PO69); Telecom Carriers & Operators (1TE56);

I.T. (1IT96); Wireline Telecom Regulatory (1WI37); I.T. in Telecom (1IT42); Science (1SC89); Science & Engineering (1SC33); Long-Distance Services (1LO42); Telecom (1TE27); Social Science (1SO92); Networking Markets (1NE31))

Region: (Oklahoma (1OK58); North America (1NO39); Texas (1TE14); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (AMERITECH CORP; BELL ATLANTIC; BELL ATLANTIC CORP; BELLSOUTH; BELLSOUTH CORP; BOCS; CONGRESS; CORP; FCC; GTE; HARVARD UNIVERSITY; NYNEX; NYNEX CORP; SBC; SBC COMMUNICATIONS INC; TR; US COURT OF APPEALS) (Barfield; BOCS SYMPATHETIC; Constitution; Counsel; Counsel William Barfield; Lawrence Tribe; Murdoch; Rupert Murdoch; Section 9; Spokesmen; Susan Ness; Table; Tribe; William P. Barr)

Word Count: 1237

End of Document

NewsRoom

6/26/97 TR Daily (Pg. Unavail. Online)
1997 WLNR 6831182

TR Daily

June 26, 1997

GTE TAKES UNIVERSAL SERVICE APPEAL TO 8TH CIRCUIT

Table of Contents

GTE Corp. yesterday asked the U.S. Court of Appeals for the Eighth Circuit (St. Louis) to review the FCC's recent universal service order (TR, May 12). Executive Vice President and General Counsel William P. Barr said, the FCC order "fails to ensure that quality services will be provided at affordable prices to customers in rural and poor areas." The methodology adopted by the Commission "systematicallyunderstates the amount of universal service support needed to service high-cost areas," he added.

GTE objected to reports that it will challenge provisions of the universal service order covering services for schools and libraries. GTE said it has taken no position on those issues. After the FCC denied its request to stay some provisions, GTE had petitioned the same St. Louis appeals court to review the FCC's orders restructuring the access charge and price cap regimes (TR, June 23).

TR Daily, June 26, 1997 19970626 TR Daily -->

---- Index References ----

Company: VERIZON COMMUNICATIONS INC; GENERAL TELEPHONE ELECTRONICS CORP; US COURT OF APPEALS; FEDERAL COMMUNICATIONS COMMISSION; GTE CORP

News Subject: (Legal (1LE33))

Language: EN

Other Indexing: (EIGHTH CIRCUIT; FCC; GTE; GTE CORP; TR; US COURT OF APPEALS) (Executive; Table; William P. Barr)

Word Count: 192

NewsRoom

NewsRoom

6/26/97 Dallas Morning News 13D
1997 WLNR 6655717

Dallas Morning News

June 26, 1997

Section: BUSINESS

GTE fights rules on subsidies to poor, rural customers

WASHINGTON

WASHINGTON - GTE Corp. is challenging in court federal rules set up to maintain subsidies for poor and rural telephone customers, arguing that the rules actually undermine the continuation of affordable phone service.

The Federal Communications Commission's order "fails to ensure that quality services will be provided at affordable prices to customers in rural and poor areas," GTE executive vice president and general counsel William Barr said. "Far from being competitively neutral, the FCC order invites cherry-picking and threatens to undermine affordable phone service. " The rules, adopted by the FCC on May 7, would also help pay for linking the nation's schools and libraries to the information superhighway. GTE, one of the nation's largest local-telephone companies, isn't opposing that portion of the FCC's rules.

GTE, which is moving its headquarters to the Dallas area, is also challenging in federal court the FCC's so-called access charge rules, which would cut by about 7 percent in the next year the $23 billion that local-phone companies collect to complete long-distance calls.

The universal service rules, approved by the FCC on May 7, are intricately linked to the broad plan to cut and revamp the access charges.

SBC Communications, a San Antonio-based regional Bell phone company, has also filed an appeal in federal court challenging the access charge rules.

Whether or not the court stays the order, the legal battle could delay full implementation of the rules for as long as a year, analysts say.

The GTE and SBC suits are filed in the same court, the U.S. Court of Appeals for the Eighth Circuit, which is considering a challenge of the FCC's rules defining the terms and conditions under which a local-telephone company must connect its network to potential competitors. The court challenge has slowed competition in the local-telephone market, which in turn has halted Bell companies' entry into the long-distance market.

---- Index References ----

Company: AT&T INC; FEDERAL COMMUNICATIONS COMMISSION

News Subject: (Economics & Trade (1EC26))

Industry: (Long-Distance Services (1LO42); Telecom Regulatory (1TE65); Telecom (1TE27); Telecom Services (1TE09))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (EIGHTH CIRCUIT; FCC; FEDERAL COMMUNICATIONS COMMISSION; GTE; SBC; SBC COMMUNICATIONS; US COURT OF APPEALS; WASHINGTON GTE CORP) (William Barr)

Edition: HOME FINAL

Word Count: 402

End of Document

Document: GTE Asks Court To Review Universal Service

GTE Asks Court To Review Universal Service

COMMUNICATIONS TODAY

June 26, 1997

Length: 123 words

Body

GTE Corp. [GTE] yesterday filed a petition in the 8th U.S. Circuit Court of Appeals asking for a review of the FCC's Universal Service Order. "GTE is challenging the FCC's Universal Service Order because that order fails to ensure that quality services will be provided at affordable prices to customers in rural and poor areas," said GTE Executive Vice President and General Counsel **William Barr**. "The FCC's methodology systematically understates the amount of universal service support needed to serve high-cost areas."

Barr said the company chose to file its case in the 8th Circuit because that court already is considering challenges to FCC orders on interconnection and dialing parity.

Classification

Language: ENGLISH

Subject: PETITIONS (90%); LAW COURTS & TRIBUNALS (78%); APPEALS (78%); APPEALS COURTS (78%); PRICES (77%); LAWYERS (74%); RETAIL PRICES (71%); RURAL COMMUNITIES (56%)

Company: VERIZON COMMUNICATIONS INC (95%); VERIZON COMMUNICATIONS INC (95%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Ticker: VZC (LSE) (95%); VZ (NYSE) (95%); GTE (NYSE) (95%)

Industry: LAWYERS (74%); RETAIL PRICES (71%)

Load-Date: June 26, 1997

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 11:23:17 a.m. EST

NewsRoom

6/25/97 Reuters News 00:00:00

Reuters

June 25, 1997

GTE Corp seeks review of FCC service order.

WASHINGTON, June 25 (Reuter) - GTE Corp filed a petition for review on Wednesday of the Federal Communications Commission's universal service order in the U.S. Court of Appeals for the Eighth Circuit.

"GTE is challenging the FCC's universal service order because that order fails to ensure that quality services will be provided at affordable prices to customers in rural and poor areas," GTE's general counsel William Barr said in a statement.

GTE said the FCC order opens the way for phone companies to select only the most lucrative customers and undermines affordable phone service.

GTE has taken no position regarding a challenge to the schools and libraries provisions of the FCC's universal service order.

---- Index References ----

Company: FCC CO LTD; GTE INTERNETWORKING; VERIZON COMMUNICATIONS INC; FIRST COPPER TECHNOLOGY CO LTD; FEDERAL COMMUNICATIONS COMMISSION; GTE DELAWARE LP; GTE CORP; FOMENTO DE CONSTRUCCIONES Y CONTRATAS SA; FARM CREDIT CANADA; US COURT OF APPEALS

News Subject: (Economics & Trade (1EC26))

Region: (North America (1NO39); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (EIGHTH CIRCUIT; FCC; FEDERAL COMMUNICATIONS COMMISSION; GTE; GTE CORP; US COURT OF APPEALS) (William Barr)

Word Count: 118

NewsRoom

Document: No Headline In Original

No Headline In Original

Communications Daily

June 23, 1997, Monday

Section: TELEPHONY

Length: 88 words

Body

GTE has joined SBC Communications in asking 8th U.S. Appeals Court, St. Louis, to overturn FCC's access charge and price cap orders.

GTE filed petitions Thurs. to appeal those 2 orders, which GTE Gen. Counsel **William Barr** said "are heavily biased against GTE and other incumbent local exchange companies." GTE spokesman said company also plans to appeal universal service order. Cable & Wireless (C&W) Fri. filed appeal of access charge order only, challenging portion related to switched access local transport rates.

Classification

Language: ENGLISH

Subject: APPEALS (88%); APPELLATE DECISIONS (88%); PETITIONS (88%); APPEALS COURTS (73%)

Company: AT&T INC (92%); CABLE & WIRELESS WORLDWIDE PLC (72%); AT&T INC (92%); CABLE & WIRELESS WORLDWIDE PLC (72%); FEDERAL COMMUNICATIONS COMMISSION (84%); FEDERAL COMMUNICATIONS COMMISSION (84%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (84%); FEDERAL COMMUNICATIONS COMMISSION (84%)

Ticker: T (NYSE) (92%)

Industry: LOCAL TELEPHONE SERVICE (71%)

Geographic: UNITED STATES (58%)

Load-Date: June 21, 1997

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 11:22:23 a.m. EST

6/23/97 Comm. Daily (Pg. Unavail. Online)
1997 WLNR 3613005

Communications Daily

June 23, 1997

GTE has joined SBC Communications in asking 8th U.S. Appeals

GTE has joined SBC Communications in asking 8th U.S. Appeals Court, St. Louis, to overturn FCC's access charge and price cap orders. GTE filed petitions Thurs. to appeal those 2 orders, which GTE Gen. Counsel William Barr said "are heavily biased against GTE and other incumbent local exchange companies." GTE spokesman said company also plans to appeal universal service order. Cable & Wireless (C&W) Fri. filed appeal of access charge order only, challenging portion related to switched access local transport rates.

---- Index References ----

Company: SBC COMMUNICATIONS INC; CABLE AND WIRELESS PLC

News Subject: (Legal (1LE33); Major Corporations (1MA93))

Industry: (Telecom Carriers & Operators (1TE56); Telecom (1TE27); Manufacturing (1MA74))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (CABLE WIRELESS; FCC; GTE; GTE GEN; SBC COMMUNICATIONS; US APPEALS; US APPEALS COURT) (Counsel William Barr)

Word Count: 112

NewsRoom

Document: GTE asks appeals court to review FCC orders

GTE asks appeals court to review FCC orders

Business Wire

June 20, 1997, Friday

Length: 201 words

Dateline: WASHINGTON

Body

June 20, 1997--GTE Corp. (NYSE:GTE) announced that it filed petitions yesterday for review of the FCC's access charge reform and price cap orders in the U.S. Court of Appeals for the Eighth Circuit and that it will soon file a petition for review of the FCC's universal service order in that same court.

"The FCC's universal service, access charge reform and price cap orders are unlawful and should be struck down," said GTE's Executive Vice President and General Counsel **William P. Barr**.

"Far from being deregulatory and competitively neutral, these orders are heavily biased against GTE and other incumbent local exchange carriers.

"We agree with the FCC that these orders are integrally related to the First Report and Order on interconnection that is currently under review in the Eighth Circuit, and we look forward to the Eighth Circuit's review of these orders."

CONTACT: GTE Corp.
Bob Bishop, 202/463-5206
Pager: 1-800-706-1719
Internet: bbishop@dcoffice.gte.com

Classification

Language: ENGLISH

Subject: APPEALS (90%); DEREGULATION (90%); APPEALS COURTS (90%); PETITIONS (90%); LAW COURTS & TRIBUNALS (77%); LAWYERS (71%)

Company: VERIZON COMMUNICATIONS INC (95%); VERIZON COMMUNICATIONS INC (95%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); GTE-CORP FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Ticker: VZC (LSE) (95%); VZ (NYSE) (95%); GTE VZC (LSE) (95%); VZ (NYSE) (95%)

Industry: TELECOMMUNICATIONS SERVICES (90%); LAWYERS (71%); LOCAL TELEPHONE SERVICE (54%)

Geographic: UNITED STATES (78%)

Load-Date: June 21, 1997

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:23:16 p.m. EST

NewsRoom

4/15/97 USA TODAY 08A
1997 WLNR 3050060

USA Today (USA)

April 15, 1997

Section: NEWS

Reno loses in no-win situation

Kevin Johnson

Where Attorney General Janet Reno sees myriad shades of gray in the ongoing probe of Democratic campaign fund-raising, others see a clear-cut need for the appointment of an independent counsel.
Harvard law professor Laurence Tribe said Monday that mounting political pressure has placed Reno in a ``damned-if-you-do or damned-if-you-don't position."

``The fact that she didn't appoint a special counsel shows that she has backbone," Tribe said. ``But it probably won't be the right decision.

``I think Janet Reno is an extraordinary, upright woman, but the decision to be made here is an institutional one, about whether a conflict exists for her to continue making decisions about this investigation."

Even those opposed to the independent counsel law said that the time had come for Reno to remove herself from the process.

``This should not be a hard decision at all," said former attorney general William Barr, a Republican appointee. ``This is not the kind of case that should be handled as business as usual in the Department of Justice. . . . This thing needs adult supervision."

Barr said the fact that Vice President Gore acknowledged raising campaign money for the Democratic Party from his White House office at least placed the issue on the threshold of requiring an independent counsel.

Federal election law prohibits fund-raising for individual campaigns on federal property. The Justice Department has said that restriction does not apply to ``soft money" -- unlimited, unregulated donations to political parties.

``I think we've already reached the point where there are credible allegations against a covered (administration) official," he said.

Although Barr remains opposed to the independent counsel law, he said Reno had the option -- short of asking a panel of federal judges to name an independent counsel -- of appointing her own outside ``representative" to supervise an ``arms-length" investigation.

That option, however, would not be acceptable to congressional Republicans because it does not remove Reno from the appointment process.

Pursuing her current course is undermining the bipartisan support Reno enjoyed as a Clinton Cabinet officer.

``These decisions rarely come without political pressure attached," said Alexia Morrison, a former independent counsel appointed during the Reagan administration.

Although Reno continues to reject calls for an independent counsel on the campaign finance issue, she has requested the appointment of independent counsels in four separate probes, three involving Clinton Cabinet officials and the fourth in the Whitewater probe.

``The attorney general's decision reflects a picture of where we are at this moment in time," said Justice Department spokesman Bert Brandenburg. ``That all could change tomorrow."

Counsel rejected, 1A

PHOTO, B/W, Lennox McLendon, AP

NOTES: WASHINGTON; See related stories: 01A,08A

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Government (1GO80); Political Parties (1PO73); Public Affairs (1PU31))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Nevada (1NE81))

Language: EN

Other Indexing: (CLINTON CABINET; DEPARTMENT OF JUSTICE; JUSTICE DEPARTMENT; PHOTO; WHITE HOUSE) (Alexia Morrison; Barr; Bert Brandenburg; Gore; Harvard; Janet Reno; Laurence Tribe; Lennox McLendon; Reagan; Reno; Tribe; William Barr)

Edition: FINAL

Word Count: 581

End of Document

Document: In Funds Probe Decision, Reno Defers to Career Staff; Attor...

In Funds Probe Decision, Reno Defers to Career Staff; Attorney General Gains Insulation From Political Pressures on Appointing Independent Counsel

The Washington Post

April 07, 1997, Monday, Final Edition

Section: A SECTION; Pg. A01

Length: 1593 words

Byline: Pierre Thomas, Washington Post Staff Writer

Body

Once, sometimes twice a week, Attorney General Janet Reno picks up the telephone and calls a veteran Justice Department lawyer named Mark M. Richard for an update on the investigation of questionable campaign contributions to the Democratic Party. At the end of the conversation, and often during its course, Reno invariably pops the question: Do you have evidence that would trigger the independent counsel statute?

To date the answer has been no. And Reno has confidently accepted the conclusions of Richard and the career department attorneys heading the high-profile election inquiry -- despite intensifying pressure from congressional Republicans and even some Democrats to do otherwise.

She will have to make another decision by Friday when she must respond to a request by Republicans on the House and Senate Judiciary committees that she seek court appointment of an independent counsel to probe campaign finance practices.

Reno's deference to the judgment of career lawyers such as Richard on such a critical matter offers insight into how she handles divisive criminal investigations with high-stakes political implications. It also illustrates the extraordinary power and influence of a few longtime Justice Department attorneys, all largely unknown to the public.

Reno's reliance on these lawyers is clear.

"At this point," she told a Senate panel in March, "I have not received from the . . . career lawyers who have handled these issues through Republican and Democratic administrations, [information] that they

have specific and credible evidence of a violation of law by" a person covered under the independent counsel statute or persons "with whom I would have a conflict of interest."

Since the allegations about questionable Democratic contributions and fund-raising efforts first surfaced near the end of last year's presidential campaign, Reno has tried to underscore the role of her department's career prosecutors. The message she has tried to accentuate is that the career lawyers, not political appointees, are playing the most critical roles in the investigation.

Indeed, last November, when the Justice Department was required to respond to calls for an independent counsel from the watchdog group Common Cause, it was Richard, not Reno, who penned the reply.

"The Department's record over the years demonstrates that career prosecutors are capable of conducting thorough and fair investigations and prosecutions, even of politically powerful members of the incumbent party," wrote Richard, a 29-year veteran of the department who is now deputy assistant attorney general for the criminal division. "As the criminal division reviews your allegations in depth, we will continue to consider whether invocation of this [the independent counsel] clause is appropriate."

Reno has justified her reliance on the career prosecutors based on the breadth of their experience and tradition. Senior Justice Department officials point out that on the four occasions when Reno has recommended appointment of an independent counsel to investigate high administration officials, her decisions were based in part on the recommendations of career Justice Department lawyers and/or the FBI. In cases in which the career lawyers were less certain that an independent counsel was necessary, Reno opted for investigations overseen by outside prosecutors.

"It is fair to say that if she got a recommendation to invoke the independent counsel statute, a decision on what to do would not come too far afterward," said one senior Justice Department official. "Relying heavily on the career lawyers ensures consistency. This ensures neutrality."

Such a position also provides at least some insulation against charges of playing politics, some experts said.

"It is the tendency of persons overseeing these types of investigations to make it appear impersonal, that they are just cogs in the wheel," said Georgetown University law professor Paul Rothstein. "They try to give the perception of impartiality and to relieve themselves of the suspicions about conflict of interest that go along with the job."

Joining Richard in overseeing the Justice Department task force is Lee Radek, the head of the criminal division's Public Integrity Section. A Justice Department attorney for more than a quarter century, Radek in the 1970s helped create the Public Integrity Section, which investigates allegations of corruption by public officials.

Working under Radek and providing specialized legal expertise to the task force is Craig Donsanto. A 27-year Justice Department veteran, he serves as the director of the Public Integrity Section's election crime branch and is considered the Justice Department's guru on election law issues.

Donsanto is also the author of "Federal Prosecution of Election Offenses," and he has largely defined the department's decisions on what constitute campaign finance violations under federal statutes. His editor on that book, Laura Ingersoll, is the task force's working supervisor. Donsanto has expressed concern that federal guidelines on foreign "soft money" are murky and thus hard to prosecute.

Richard, Radek, Donsanto and Ingersoll all either did not repond to requests for an interview or declined to be interviewed for this article.

While Reno has staked her reputation on the work of these faceless people, she fully understands the implications of their deliberations, sources said. The task force leadership, which also includes two senior FBI supervisors, meets once a week to plot strategy, review grand jury testimony and study the work of the 25 FBI agents who are chasing leads in the widening inquiry. Reno has met with the group at least twice and is updated following each session.

Philip B. Heymann, the former deputy attorney general who served with Reno at the beginning of the Clinton administration, agreed that such long-term career lawyers are thought to have "more credibility on such matters than any political appointee." As a result, he said, "their influence is formidable."

In the current debate over whether the independent counsel statute should be invoked, Heymann added, Reno is under considerable pressure to rely on the Justice Department's veteran attorneys. "The career people are saying that they don't think the law applies. For the attorney general to go counter to what the career lawyers are recommending, it would make it appear that she is going out of her way to make trouble for the White House. I happen to think that the career lawyers are wrong, but it's very hard for the attorney general to come to that conclusion and overrule the career lawyers."

William P. Barr, attorney general under President George Bush, agreed that "certain career people have been influential for a long time, regardless of administrations." Barr argued, however, that there are

special circumstances that call for the attorney general to use discretion and not be so rigid in interpreting the law.

"People are missing the point," Barr said. "Sometimes there are major investigatory issues with political ramifications that are simply not suitable for career lawyers to supervise. I don't think the attorney general can take the position that this kind of case can be handled like business as usual. This is where Reno has been in error."

Victoria Toensing, deputy assistant attorney general for the criminal division during the Reagan administration, said that while she agreed that career lawyers in the Public Integrity Section are capable of conducting impartial investigation of administration officials, "it's where you have the White House or the Justice Department as possible suspects in the probe that you run into problems." She said "it's time" to begin steps toward an independent counsel.

A number of senior political appointees within the Justice Department argue that oversight by career lawyers in the task force investigation is likely to be far more impartial than an independent counsel probe, which they believe would be politicized -- in part because of the conservative three-judge panel that appoints the outside counsel. These officials also point out that regardless of whether an independent counsel or the Justice Department oversees the probe, the FBI will be the primary investigative agency conducting it.

WHAT THE STATUTE REQUIRES

Following are provisions of the independent counsel statute:

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Graphic

Photo, justice department photo, MARK M. RICHARD LEE RADEK

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WITH COOKE'S DEATH, LOYAL REDSKINS FANS RECALL GLORY DAYS; OWNER'S COMMITMENT TO THE TEAM SEEN AS UNIFYING FORCE FOR REGION

Eric L. Wee

Ruben Castaneda

Whether or not they liked his public image or the way he conducted his personal life, Washington Redskins fans remembered team owner Jack Kent Cooke as a man who craved a winning team as much as any loyal fan and brought the region together by bringing home championships.

"Oh my goodness! It's a tragedy," exclaimed Dana Mebane, a 21-year-old college student, upon hearing of Cooke's death.

A Redskins fan since she was a toddler, Mebane said she has watched almost all the team's games with her family. She recalled the team's winning seasons through the early 1990s and the excitement in the stands on game days. Washington was united when the Redskins won, she said. For that feeling of community, she is thankful to Cooke.

"The team wouldn't have been here if it weren't for him. There is so much spirit when the Redskins play," she said. "He created all of that."

At Tunnicliff's sports bar on Capitol Hill, where Redskins admirers for decades have stopped in for a drink before games and a party after victories, longtime fans passed the news from bar stool to bar stool. Nursing pints of beer and chewing on cigars, they nodded quietly, and the talk soon turned to running back John Riggins, quarterback Doug Williams and other players from the team's glory years.

"He was a wonderful sports owner for the city of Washington. He spent money, and he spent it wisely," said John Conroy, a 55-year-old lawyer who has been a fan of the Redskins since 1969 and first heard about Cooke's death at the bar. "He did what was needed to build a winning organization."

Like many, Conroy didn't care for what he saw of Cooke's personality in public. The multimillionaire businessman often appeared brash and arrogant, whether in negotiating to build a new stadium or putting a gate on his property.

To Conroy, he was a glad-handing manipulator who came across as insincere. When he saw Cooke on television, Conroy said, he thought Cooke was still, at the core, a slick encyclopedia salesman who just happened to make it big.

"On a personal level, I thought the guy was a total whack job."

But in the end, he remembered Cooke as the man who was willing to pay big salaries so the Redskins could get talented players. He respects him for shelling out $175 million to build the new stadium in Prince George's County and wished that Cooke could have lived long enough to have seen his team play in its new home.

Nearby, John Hancock, 50, of Arlington, agreed that Cooke's football legacy overshadowed his life off the field.

"I don't think sports fans could have asked for a better owner. He was willing to pay players and keep them around," Hancock said. "While other owners wanted to look at the bottom line, Jack Kent Cooke wanted to win."

Jack Cully, 60, said he respected Cooke's leadership of the Redskins and his tough demeanor. With his tattered Redskins Super Bowl banner hanging behind him at an Eastern Market dairy counter where he sells cheese, Cully eulogized Cooke as a straight-shooter who told things the way they were. Cooke, he said, was a rarity who combined hard-nosed business tactics with a sense of being fair.

The question of what happens next with the Redskins was on the minds of many fans. Clyde Jackson, 43, who took in the news at George Starke's Head Hog barbecue in Bethesda, said he does not think much will change with Cooke's son and grandson working in the organization.

But other loyal followers worried about whether John Kent Cooke will have the same commitment to the team that his father did. "What's going to happen now?" asked Barbara Birnmam, 48. "I'm concerned. Gus {Frerotte} isn't signed; Darrell Green isn't signed. . . . I hope he made a will that's very specific." Cameron Beatley, 31, even worries that his hometown team might be vulnerable to being moved without Cooke anchoring it.

"I just don't know whether his son has the strength of character like his father did," Beatley said, as he picked up cheese and vegetables at Eastern Market for dinner. "I don't know if anyone has the strength he did." of interest that go along with the job."

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"Hatoyama should take that warning seriously," said Kenji Watanabe, 47, chairman of a right-wing group called the Great Japan Sincerity Association. Like many nationalists interviewed, he said violence and terrorism are the most effective ways to get their message out.

The motto of another leading ultranationalist group, Japan Alliance, is "One assassination saves millions of lives." The group's first two presidents were both involved in political assassinations before World War II. Their successor, Hiroki Ooto, 80, said he would not hesitate to do the same.

Some right-wingers have close ties to Japan's yakuza organized crime families; they are missing parts of their little fingers, a sign of membership in the Japanese mob. Police estimate that a third of all right-wing groups have direct gangster ties.

Both the yakuza and the right-wingers say they are motivated by respect for traditional Japanese society, making them natural bedfellows. And they have collaborated in crime to earn money to further their cause, threatening businesses and corporations with disruption if they don't cough up, police say. While some right-wingers are simply thugs, police say, many of the older activists believe they are improving Japan by upholding traditional values.

Before the march began at the Yasukuni Shrine, the activists met to plan strategy in a small noodle shop nearby. "I am doing this because I love my country, and I like expressing that feeling," said Tamotsu Takase, 34, an executive in a construction materials company. "I feel I am correcting things that cannot be corrected by law."

Others sounded more bitter. "Everybody is taking Japan lightly and looking down on us," one marcher said. "We must build a Japan that is respected." CAPTION: A right-wing Japanese activist salutes at Tokyo's Yasukuni Shrine. CAPTION: Right-wingers in uniforms bow and pray for luck at Tokyo's Yasukuni Shrine, symbol of nationalism. CAPTION: Loudspeaker bus used by right-wing activists to spread their message enters temple parking lot.ation in suburban Los Angeles, and the next year he became a U.S. citizen by special act of Congress, citizenship being a Federal Communications Commission requirement to own a radio station. The FCC later revoked the station's license, citing as one reason two fraudulent listener contests that Cooke helped devise.

Shortly after his $350,000 purchase of 25 percent of the Redskins, Cooke abruptly decided to retire. He said he needed a rest, but he soon grew bored with playing golf, and he went back to work.

In 1964, he created a cable television company to bring high-quality television reception to areas with poor picture quality. The company would later merge into Teleprompter Corp., which was the nation's largest cable TV company during the 1970s, with Cooke as its largest shareholder.

He acquired the Lakers for $5.2 million in 1965. Among the players he would sign for the club were superstars Kareem Abdul-Jabbar, Wilt Chamberlain and Earvin "Magic" Johnson. He also acquired a National Hockey League franchise for Los Angeles for $2 million and was about to launch the Kings in 1966 when he reached an impasse with the L.A. Coliseum Commission over playing dates in the city's sports arena.

Cooke wanted exclusive rights to the arena 365 days a year. The Coliseum Commission said no. Cooke said fine; he'd build his own arena. Fifteen months later, he opened the Fabulous Forum in Inglewood, circular in design, with Greek columns, which cost him $16 million.

In 1971, he originated closed-circuit telecasts of boxing matches to theater audiences with the first Muhammad Ali-Joe Frazier fight at Madison Square Garden in New York. Each fighter was paid what then was an astonishing fee of $2.5 million, and the business of prizefighting was changed forever.

Cooke suffered a heart attack in 1973, about a year after he had gained control of Teleprompter, but he cut short his convalescence to travel to New York for nine months of tough and protracted negotiations for loan extensions to save the company from financial overcommitments by its previous management. Successful in those dealings, Cooke returned to Los Angeles to run his sports empire from the Forum. In 1981, Teleprompter would be acquired by Westinghouse Electric Corp. For his shares in the company, Cooke would get $70 million, plus a $4.65 million consulting contract.

By then, his 42-year marriage to Jeannie Carnegie Cooke had collapsed. She left him in July 1976, writing him, "Unfortunately, I can't measure up to your competitive nature." A 30-month property settlement battle ended in 1979 with Cooke agreeing to an even split of all his assets, which at the time were estimated at $80 million. The final judgment was signed by Las Vegas Superior Court Judge Joseph A. Wapner, who later became known to millions of television viewers as the judge on TV's "People's Court."

A court-appointed psychiatrist, Allen E. Davis, testified during the proceedings that Jeannie Cooke had "described her marital relations as having been extremely stressful for her . . . because of her husband's aggressiveness and demands on her to accompany him on all business trips, and frequent business-related entertaining, such that she felt shaky inside for years,' had visible tremors, and became so depressed she attempted suicide four times between 1965 and 1976."

Jack Kent Cooke would later call that divorce "one of the worst mistakes I ever made in my life."

But he moved to sever his West Coast ties soon after the final decree was signed, relocating in Northern Virginia and selling the Kings, the Lakers, the Forum and a 13,000-acre ranch in the Sierra foothills for $67.5 million. That same year, he spent $87 million for several midtown Manhattan properties, including the right to lease space in the Chrysler Building through 2029, a form of ownership.

In October 1980, he married sculptor Jeanne Maxwell Williams Wilson, who had been director of women's events at the Sands Hotel and Casino in Las Vegas, where Cooke had moved after his first wife left him. They had been dating for three years, but their marriage lasted 10 months.

On Jan. 5, 1981, Cooke opened a new chapter in Redskins history by firing coach Jack Pardee and hiring Joe Gibbs, who would lead the team to its three Super Bowl championships.

During his years in the Washington area, Cooke's business fortune increased more than tenfold. While presiding over the Redskins, he engineered dozens of multimillion-dol\lar business deals, including the purchase in 1985 of the Los Angeles Daily News for $176 million, the acquisition and sale of cable television franchises from Syracuse, N.Y., to Alaska for a profit of $500 million, and the addition of real estate holdings in New York in addition to the Chrysler Building.

In 1984, he bought Elmendorf Farm, a 503-acre horse breeding farm near Lexington, Ky., which is at the heart of the world's most famous breeding ground for thoroughbreds. Its failure to produce a Kentucky Derby winner was a sporting and financial disappointment to Cooke, who had the farm on the market for $7.5 million when he died.

Cooke's eldest son, Ralph Kent Cooke, managed the Elmendorf Farm operation until he died of liver failure at 58 in September 1995. Ralph Kent Cooke had sided with his mother during his parents' divorce proceedings, and his father had declared him a nonperson for two years, but they later reconciled. At his death, Ralph Kent Cooke was awaiting trial on charges of possession of cocaine and drug paraphernalia resulting from a raid on the farm by Lexington police, postal inspectors and federal drug agents in March 1995. He pleaded not guilty.

In his personal life, Cooke's 1987 third marriage, to Suzanne Martin, 43 years younger than he, lasted 10 weeks. They had met at a swimming pool two years earlier when Cooke was on a business trip to Florida. Pregnant when they were married, she promised Cooke that she would get an abortion the day after the wedding, but she said she was unable to go through with it after checking into the hospital. Furious that she had not kept the promise, Cooke divorced her. Their daughter, Jacqueline Kent Cooke, was born in January 1988, the same month Cooke's Redskins won their second Super Bowl.

On May 5, 1990, Cooke married Marlene Ramallo Chalmers, a native of Bolivia who had served 3 1/2 months in a federal prison for conspiracy to import less than a kilogram of cocaine. The marriage was annulled in 1994 on the grounds that a divorce from her previous husband was invalid.

They were remarried in July 1995. He was 82 at the time, and her age was described in various court documents as 38, 42 and numbers in between.

"Love is lovelier the second time around," Jack Kent Cooke said at that marriage, quoting the lyrics of a popular song.

Additional survivors include a son from his first marriage, John Kent Cooke, an executive with the Redskins. The Life and Times of Jack Kent Cooke 1910: Jack Kent Cooke's parents emigrate from South Africa. Oct. 25, 1912:Cooke born in Hamilton, Ontario. 1930s: He quits school and sells encyclopedias door-to-door. 1933: Marries 17-year-old Jeannie Carnegie. 1937: Cooke becomes manager of a Stratford, Ontario, radio station owned by Roy Thompson, who later became Lord Thompson, the Fleet Street publishing giant. Late 1940s: Cooke and Thompson control a chain of newspapers, magazines and radio stations, a motion picture production company, an advertising agency and a plastics company. 1951: Cooke acquires the Toronto Maple Leafs baseball team of the Class AAA International League. 1952: Sporting News names Cooke minorleague executive of the year. 1960: He becomes a U.S. citizen by a special act of Congress. 1960: Cooke acquires 25 percent of the Washington Redskins for $350,000. 1964: He creates a cable television company that later would be merged into Teleprompter. 1965: Cooke acquires the Los Angeles Lakers basketball team for $5.2 million. 1966: He acquires a National Hockey League franchise, the Los Angeles Kings, for $2 million. 1967: He opens his own sports arena, the Fabulous Forum, at a cost of $16 million. 1971: He creates the concept of closed-circuit telecasts of boxing matches to theater audiences with the first Muhammad Ali-Joe Frazier fight at Madison Square Garden. July 1976: Jeannie Carnegie Cooke, his wife of 42 years, leaves him. 1979: Cooke sells the Kings, the Lakers, the Forum and a 13,000-acre ranch in the Sierra foothills for $67.5 million. He moves to Northern Virginia and takes control of the Redskins from Washington lawyer Edward Bennett Williams. 1980: He marries sculptor Jean Maxwell Williams Wilson; their marriage lasts 10 months. 1981: He fires Jack Pardee as head coach of the Redskins and hires Joe Gibbs. 1985: Cooke becomes sole owner of the Redskins. 1987: His third marriage, to Suzanne Martin, 43 years younger than he, lasts 10 weeks. 1990: He marries Marlene Ramallo Chalmers, a native of Bolivia. 1994: Their marriage is annulled. July 1995: He and Chalmers are remarried. September 1995: Cooke's eldest son, Ralph Kent Cooke, dies at 58. He managed the Elmendorf Farm operation. 1996: Cooke begins construction of new Redskins stadium in Landover. CAPTION: Investments included Chrysler Building CAPTION: In 1984, Cooke bought Elmendorf Farm Inc., a 503-acre horse farm near Lexington, Ky. CAPTION: Cooke purchased the Los Angeles Daily News in 1985. CAPTION: Accustomed to success: Jack Kent Cooke also won big in the 1970s as owner of the Los Angeles Lakers, who were led in 1975 by coach Bill Sharman, left, and center Kareem Abdul-Jabbar, one of several superstars whom Cooke brought to Los Angeles. CAPTION: Hailing the Redskins: At a 1987 game at RFK Stadium, Cooke celebrated a Redskins touchdown with television reporter Lesley Stahl.

---- Index References ----

Company: SIERRA LTD; SANDS HOTEL AND CASINO; FUJAIRAH BUILDING INDUSTRIES P S C; FBI SA; FINANZIARIA CERAMICA CASTELLARANO SPA; MANHATTAN ASSOCIATES INC; FOSHAN CONCH CEMENT CO LTD; JUSTICE DEPARTMENT; FLEET STREET FINANCE ONE PLC; LAS VEGAS SPORTS CONSULTANTS INC; JACK; SIERRA; FIRST COPPER TECHNOLOGY CO LTD; FOMENTO DE CONSTRUCCIONES Y CONTRATAS SA; WESTINGHOUSE ELECTRIC CORP; LA MUNICIPALITE DE CULLY; MADISON SQUARE GARDEN INC; RENO; MANHATTAN ASSOCIATES LTD; INFORMATICA APLICATA SA; TELEPROMPTER CORP; NATIONAL HOCKEY LEAGUE; FORUM INSTITUT FUER MANAGEMENT GMBH; FARM CREDIT CANADA; MANHATTAN DEVELOPMENT AS; DE RADIOCOMUNICACIONES MOVILES SA; HARBIN MANHATTAN MULTI LINE GROUP CO LTD; SIERRA INDUSTRIAL EQUIPMENT; MANHATTAN ASSOCIATES PTY

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Region: (Far East (1FA27); New York (1NE72); Americas (1AM92); Nevada (1NE81); USA (1US73); U.S. West Region (1WE46); South America (1SO03); California (1CA98); U.S. Mid-Atlantic Region (1MI18); North America (1NO39); Bolivia (1BO11); Eastern Asia (1EA61); Asia (1AS61); Kentucky (1KE38); Latin America (1LA15); North Carolina (1NO26); Japan (1JA96); U.S. Southeast Region (1SO88))

Language: EN

Other Indexing: (AAA INTERNATIONAL LEAGUE; CIA; COLISEUM COMMISSION; CONGRESS; COOKE; CULLY; DANA MEBANE; ELMENDORF FARM INC; FABULOUS FORUM; FBI; FCC; FEDERAL COMMUNICATIONS COMMISSION; FLEET STREET; FORUM; GEORGE STARKES HEAD HOG; GREAT JAPAN SINCERITY ASSOCIATION; GUS; HATOYAMA; JACK; JACK CULLY; JACK KENT COOKE; JACQUELINE KENT COOKE; JAPAN ALLIANCE; JEANNIE CARNEGIE; JEANNIE CARNEGIE COOKE; JEANNIE COOKE; JOHN KENT COOKE; JUSTICE DEPARTMENT; KENTUCKY DERBY; LAKERS; LAS VEGAS; LAS VEGAS SUPERIOR COURT; MADISON SQUARE GARDEN; MANHATTAN; MEBANE; NATIONAL HOCKEY LEAGUE; PUBLIC INTEGRITY SECTION; RALPH KENT COOKE; REDSKINS; RENO; SANDS HOTEL; SIERRA; TELEPROMPTER; TELEPROMPTER CORP; TUNNICLIFF; TV; WESTINGHOUSE ELECTRIC CORP; WHITE HOUSE; YASUKUNI SHRINE) (Allen E. Davis; Barbara Birnmam; Barr; Beatley; Cameron Beatley; Chalmers; Clinton; Clyde Jackson; Conroy; Darrell Green; Donsanto; Doug Williams; Edward Bennett Williams; Elmendorf Farm; Farm; Fifteen; George; George Bush; Hancock; Heymann; Hiroki Ooto; Ingersoll; Jean Maxwell Williams Wilson; Jeanne Maxwell Williams Wilson; Joe Gibbs; John Conroy; John Hancock; John Riggins; Joining Richard; Joseph A. Wapner; Kareem Abdul; Kareem Abdul-Jabbar; Kenji Watanabe; Laura Ingersoll; Lee Radek; Lesley Stahl; MARK M. RICHARD; Marlene; Marlene Ramallo Chalmers; Nursing; Philip B. Heymann; Pregnant; Radek; Reagan; Richard; Roy Thompson; Suzanne Martin; Tamotsu Takase; Thompson; William P. Barr; Wilt Chamberlain)

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End of Document

Document: Independent-Counsel Dilemma Highlights Reno's Woes

Independent-Counsel Dilemma Highlights Reno's Woes

The Wall Street Journal

April 4, 1997 Friday

Section: POLITICS & POLICY; Pg. A10

Length: 1270 words

Byline: By Eva M. Rodriguez, Staff Reporter of The Wall Street Journal

Body

During her first four years as attorney general, Janet Reno had to contend with the conflagration at Waco, deadly law-enforcement missteps at Ruby Ridge, the resignation in disgrace of Associate Attorney General Webster Hubbell, and the appointment of four independent counsels to investigate ethical lapses of Clinton-administration officials.

Turns out that may have been the easy stuff.

Now the attorney general, who fought tenaciously for another term at the helm of the Justice Department, is facing even bigger headaches. By the middle of this month, she must decide whether there is enough evidence of improper campaign fund raising by the Democratic National Committee to justify still another independent-counsel investigation.

She must grapple with a Federal Bureau of Investigation that has been criticized as a puppet of the president, and with an FBI director who is determined to erase that perception, even if it means publicly quarreling with the White House. And, there are allegations that the Immigration and Naturalization

Service, too, has bent the immigration laws to bolster Democratic voting rolls by granting citizenship too quickly and too easily.

To top things off, the attorney general has been running an administrative behemoth with only the lukewarm support of her boss and with a number of top-level vacancies that have left her without much-needed policy and political advisers.

While the independent-counsel question is but one of many nettlesome issues Ms. Reno must contend with, her choices on this matter offer a glimpse into how she has exerted, or failed to exert, her power at the department. They may also go a long way in explaining the recent friction between Ms. Reno and FBI Director Louis Freeh.

For months, Republicans and a smattering of Democrats have tried to push Ms. Reno to hand off the fund-raising investigation to an outside prosecutor. Later this month, Ms. Reno must respond to a Senate resolution urging her to call for an independent counsel. While the White House would certainly prefer not to have another independent counsel, the appointment of an outside prosecutor would ease the pressure on Mr. Freeh.

Publicly, Ms. Reno has shouldered the responsibility for refusing to seek an independent counsel. Privately, she has deferred decision-making on the matter to a troika of career lawyers, who are more accustomed to evaluating problems through a narrow legal lens than through a policy-maker's prism. Ms. Reno has also been hurt by not having a Senate-confirmed chief in the department's Criminal Division to weigh in on the issues surrounding an independent counsel; Mr. Clinton hasn't named anyone to the Criminal Division post. Just this week, she also lost Deputy Attorney General Jamie Gorelick, who was well-respected as a manager but who has returned to private practice.

In part because of her respect for the rank and file, Ms. Reno has come to rely exclusively on the technical perspectives given by the career professionals, according to three high-ranking Justice Department officials. So much so that she doesn't believe she has a policy call to make, at least not when it comes to the independent-counsel matter.

The statute requires the attorney general to seek an outside prosecutor if there is credible evidence that a "covered person" has broken a federal law. Covered persons include the president, vice president, and other high-ranking executive-branch employees.

But the statute also gives the attorney general the option of seeking an independent counsel if financial, personal or political conflicts of interest prevent the Department of Justice from investigating at arm's length. Critics who have been calling for an independent counsel believe the current fund-raising scandal -- with its links to the White House and the upper echelon of executive-branch officers -- is ripe for such an appointment.

So far, that rationale has failed to sway the Justice Department, where career professionals -- election-law specialist Craig Donsanto, public-integrity chief Lee Radek, and criminal-division veteran Mark Richard -- are most influential. They have bored into the minutiae of the cases at hand. In the process, they have also dug a hole for the attorney general.

In an October 1996 internal memorandum, Mr. Donsanto argued that federal election law does not seem to prohibit national parties from receiving "soft money" contributions from foreign nationals. Messrs. Radek and Richard relied on Mr. Donsanto's conclusions on soft money to evaluate whether the independent-counsel statute had been triggered.

They began with the premise that they had to first determine whether the behavior alleged constituted a crime. Then, and only then, could the attorney general move on to the next level and decide whether credible evidence existed that a covered person had committed those violations.

Likewise, the team reasoned, Ms. Reno could not invoke her discretion to seek an independent counsel for purposes of avoiding a conflict of interest until and unless there was credible proof of a criminal violation.

Coupled with Mr. Donsanto's conclusions, the prosecutors ruled out virtually any possibility of invoking the independent-counsel statute for an investigation into soft-money contributions from foreign nationals.

"The law has always been that you have to have specific credible evidence of a criminal violation," says Justice Department spokesman Bert Brandenberg. "That's what the law says, and there's no way around that."

Not everyone agrees. "I think a lot of people are missing the point," says former Attorney General **William Barr**, who is a critic of the independent-counsel statute, although he believes Ms. Reno has the legal justification to call for one in this matter. "The attorney general has to recognize that there are certain kinds of cases that can not be handled on a business-as-usual basis."

Even people who believe she is wrong about this matter also believe she is probably erring for many of the right reasons. A hypertechnical interpretation of the independent counsel statute might, after all, be legally defensible. Politically, however, Ms. Reno appears to be in a no-win situation.

Especially for FBI Director Freeh. While Ms. Reno is standing tough, appearing to slough off political pressure to appoint an independent counsel, Mr. Freeh has had to scramble to salvage his own public image, as well as that of the bureau. Officials close to Mr. Freeh say the director still feels the sting of congressional rebukes for allegedly tipping off the White House on various investigations.

Mr. Freeh, who was appointed by Mr. Clinton in 1993 to a 10-year term, has now chosen a course of action that has at times caused him to clash with his two bosses, Ms. Reno and Mr. Clinton.

During one episode, Mr. Freeh and the bureau came under fire from the administration for purportedly failing to brief the president on alleged attempts by the Chinese government to funnel money into U.S. elections. The White House and the bureau traded public punches on the matter, each accusing the other of misrepresenting what had happened. Just last month, in another tussle with the White House, Mr. Freeh was criticized by some within the administration for limiting the amount of information given to the White House counsel about the ongoing Justice Department probe into Chinese contributions -- a briefing on which Ms. Reno has already signed off.

Both of these disputes may have been avoided had an outside prosecutor been at the helm of the fund-raising probe. At the moment, however, that still seems an unlikely possibility.

Notes

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3/13/97 Wash. Times (D.C.) B9
1997 WLNR 304875

Washington Times (DC)

March 13, 1997

Section: BUSINESS

Consumers, phone firms jostle as FCC readies ruling on rates

Doug Abrahms - THE WASHINGTON TIMES

The Federal Communications Commission is about to recalculate Americans' phone bills, and everybody has a view about who should get the potential savings.

Two consumers groups want the FCC to cut the subscriber line charge listed on everybody's phone bills, which runs $3.50 a month. Public schools want to use about $2.25 billion to connect classrooms to the information highway.

And the Baby Bell regional phone companies want the FCC to move slowly in changing any phone charges so they can afford to maintain the nation's telephone networks, especially in rural areas that are more expensive to service.

Lawmakers at a Senate Commerce Committee hearing yesterday expressed frustration that in the year since the passage of a massive telecommunications reform law, the biggest result has been increases in cablebill, I did not vote for a phone increase," said Sen. John D. Rockefeller IV, West Virginia Democrat.

One of the biggest potential phone bill cuts - and the one causing the biggest battle among phone rivals - could come May 7, when the FCC makes a ruling that is expected to reduce access charges paid by the long-distance companies to the Baby Bells. A substantial reduction in those charges, totaling about $23 billion, could lower consumers' phone bills by several dollars a month.

A portion of that money is used to subsidize phone service nationwide, and some goes to subsidize phone service for low-income families. Another part picks up part of the tab for rural phone service, where longer stretches of telephone line are needed between houses.

William Barr, GTE Corp.'s general counsel, said the local phone companies require more than $20 billion to subsidize universal service.

"The average consumer can get unlimited use of this [telephone] network for a monthly fee that is no more than the price of a single tank of gasoline," he said.

The FCC plans to "slash" access charges, which will cut the funding for universal service paid to local phone companies like GTE and the Bells, he said.

But long-distance giant AT&T, along with the Consumer Federation of America and Consumers Union, said the cost to provide phone service to rural areas was much lower than the Bells' estimates. The consumer group said at least $7 billion could be shaved off annually and returned to consumers.

AT&T said access fees could be cut by $10 billion and the long-distance company would pass those savings on to consumers and businesses. The access charges paid to the Baby Bells by the long-distance carriers are "grossly overpriced," said Gail McGovern, AT&T executive vice president.

FCC Chairman Reed Hundt tried to ease concerns yesterday in rural areas that the changes in access charges would cause local phone bills to skyrocket. Mr. Hundt said the FCC was not going to make any change in phone bills in rural areas, which make up about 8 percent of the nation's consumers.

J0024270-031397

---- Index References ----

Company: FEDERAL COMMUNICATIONS COMMISION

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

Industry: (Telecom Carriers & Operators (1TE56); Long-Distance Services (1LO42); Telecom Regulatory (1TE65); Telecom (1TE27); Telecom Services (1TE09))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

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Other Indexing: (BABY BELL; BABY BELLS; BELLS; FCC; FEDERAL COMMUNICATIONS COMMISSION; GTE; SENATE COMMERCE COMMITTEE) (Gail McGovern; Hundt; IV; John D. Rockefeller; Lawmakers; Reed Hundt; William Barr)

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3/11/97 AP Online 00:00:00

AP Online

March 11, 1997

Section: Washington

Campaign money, trips are part of Chinese lobbying campaign

JIM DRINKARD

WASHINGTON

President Clinton touched off a public quarrel with the FBI by saying he should have been informed when agents told White House national security aides that China might be trying to influence U.S. elections.

This latest twist in the furor surrounding foreign political donations to the Democratic Party occurred Monday as a member of Congress said the FBI told her as early as 1991 that the Chinese government was interested in making campaign contributions to sway U.S. lawmakers.

And it came as Senate Republicans prepared to authorize an investigation into illegal fund-raising during the 1996 presidential and congressional campaigns. Before authorizing the probe, the Senate was expected to defeat a Democratic proposal to also look at millions of dollars in campaign "soft money" donations.

Rep. Nancy Pelosi, D-Calif., apparently was among a small circle of lawmakers warned to look out for approaches from the Chinese, including campaign gifts that might be passed through intermediaries. The group also included California's two Democratic senators, Dianne Feinstein and Barbara Boxer, and Sen. Daniel Patrick Moynihan, D-N.Y.

Clinton on Monday ordered an investigation into why he wasn't told when the FBI passed similar warnings to two National Security Council aides last June. "The president should know," he said at a news conference.

The president and senior aides suggested they might have been more careful about accepting contributions from Asian sources had they known about the alleged Chinese scheme.

The White House said the two NSC officials clearly recalled being urged "not to disseminate the information outside the briefing room."

When the FBI responded later Monday that it had "placed no restriction whatsoever" about information going up the chain of command, White House press secretary Mike McCurry said, the FBI was "in error" leaving the White House and FBI at an embarrassing impasse.

McCurry said the two NSC aides whom government sources identified as Edward J. Appel, an FBI agent on loan to the White House, and Rand Beers were "adamant" in their recollections of the June 3, 1996, briefing.

Appel declined to comment Monday night, and efforts to locate a telephone number for Beers were unsuccessful.

The Justice Department is investigating possible foreign influences on the 1996 campaign, as is Congress. And questions about the FBI-NSC briefing were sure to arise during Senate Intelligence Committee hearings, beginning today, on the nomination of Anthony Lake, Clinton's national security adviser at the time, to be CIA director.

Pelosi said FBI agents approached her in San Francisco in late 1991 and early 1992 with warnings that China "is going to attempt to get funds into campaigns in the United States."

She told reporters Monday that she heard nothing more until last June, when the FBI came to her again. "They said to be on the lookout for any new initiatives or overtures from any ... intermediary of the Chinese government."

Pelosi, one of China's most persistent critics in Congress, said she reported several contacts to the FBI, but had no way of knowing whether China was behind any of them.

A transcript of a Feb. 26, 1992, appropriations hearing shows Pelosi raised the issue of Chinese involvement in U.S. politics with William Barr, then-attorney general under President Bush. Barr said he could not discuss it publicly and asked that Pelosi communicate with him privately. In an interview, Barr said he couldn't recall the exchange or whether the Justice Department ever investigated Chinese contributions.

China said today it is too principled and too poor to waste money on U.S. elections.

"We have never been interested in using improper methods to stick our hands in other countries' affairs," said Chinese Foreign Ministry spokesman Cui Tiankai. "In developing China's economy and society, there are many places where money is needed. We don't have money to support U.S. political parties and elections, and we don't want to spend money that way."

The FBI warnings are just one sign of what appears to be a multifaceted Chinese lobbying campaign. The Chinese government also paid for more than a dozen congressional officials to travel to China last year and shared costs for scores of other trips, according to federal disclosure reports and interviews.

The travel often was paid for by the Chinese People's Institute for Foreign Affairs, which sponsored 15 trips last year costing $102,096. At least 50 additional trips were carried out with some government support from Beijing, according to the records and interviews.

In early July, Sen. Rod Grams, R-Minn., and Democratic Reps. Eddie Bernice Johnson and Solomon Ortiz of Texas, traveled with four aides to China for a week of "fact finding." The institute picked up the $46,384 tab, records show.

And from Nov. 30 to Dec. 10, Reps. Spencer Bachus, R-Ala., and Ken Calvert, R-Calif., traveled on an institute-sponsored trip to China and Hong Kong. Total cost: $24,959.

Asia experts say China and business interests in Hong Kong, which will become part of China on July 1, are working hard to gain favor with U.S. policy-makers.

China also hopes to head off any attempts to restrict its trade status with the United States.

In other developments Monday:

Democrats released a copy of a 1995 invitation by congressional Republicans to donors who would pay specific amounts to meet with GOP congressional leaders in government buildings. For $15,000, donors were offered breakfast with then-Senate Majority Leader Bob Dole in the Senate Caucus Room. For $45,000, they could attend that breakfast and then lunch with House Speaker Newt Gingrich. Donors of $100,000 got to go to a reception with GOP presidential candidates.

The Washington Post reported in today's editions that a senior counsel for the House Commerce Committee, David Cavicke, called

investment companies about making $100,000 donations to the GOP, days after Congress passed legislation reforming the securities and mutual fund industry.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Legislation (1LE97); United Nations (1UN54); Government (1GO80); Political Parties (1PO73); Public Affairs (1PU31))

Region: (District Of Columbia (1DI60); China (1CH15); USA (1US73); Americas (1AM92); North America (1NO39); Asia (1AS61); California (1CA98); Eastern Asia (1EA61))

Language: EN

Other Indexing: (CAMPAIGN; CHINESE; CHINESE FOREIGN MINISTRY; CHINESE PEOPLES INSTITUTE FOR FOREIGN AFFAIRS; CIA; CONGRESS; DEMOCRATIC; DEMOCRATIC PARTY; DEMOCRATIC REPS; FBI; GOP; HOUSE COMMERCE COMMITTEE; HOUSE SPEAKER NEWT GINGRICH; JUSTICE DEPARTMENT; NATIONAL SECURITY COUNCIL; NSC; REPS; REPUBLICANS; SENATE; SENATE CAUCUS ROOM; SENATE INTELLIGENCE COMMITTEE; SENATE REPUBLICANS; WHITE HOUSE) (Appel; Barbara Boxer; Barr; Bob Dole; Bush; California; Clinton; Cui Tiankai; Daniel Patrick Moynihan; David Cavicke; Dianne Feinstein; Eddie Bernice Johnson; Edward J. Appel; Ken Calvert; McCurry; Mike McCurry; Nancy Pelosi; Pelosi; Rod Grams; Solomon Ortiz; Spencer Bachus; Total; William Barr)

Word Count: 1206

End of Document

NewsRoom

3/10/97 AP Online 00:00:00

AP Online

March 10, 1997

Section: Washington

Clinton: Should have been told of allegations against China

RON FOURNIER

WASHINGTON

President Clinton today ordered top advisers to determine why allegations that China might try to influence congressional elections were not shared with him or his senior aides sooner.

"The president should know," Clinton declared.

Six months before the election, the FBI briefed mid-level National Security Council aides at the White House about intelligence reports out of China. Clinton and his aides said they did not learn about the allegations until last month.

In a joint news conference with Egyptian President Hosni Mubarak, the president was asked why he did not seem angry that the information was withheld. "What I seem and what I feel may be two different things," Clinton said.

Clinton asked his top lawyer, Charles F.C. Ruff, and his national security adviser, Sandy Berger, to find out why the FBI insisted that the briefing be confidential.

"Then I'll make whatever decision is appropriate," Clinton said. Failure to share the information was a mistake, he said, adding that there is no point in "expending a lot of energy" on something that has already taken place.

"There's no point shedding more heat than light in this situation," he said.

The development is part of a growing controversy about the fund-raising tactics of Clinton and fellow Democrats. Privately,

White House officials said they believe the FBI briefing if shared with Clinton's senior political team could have prompted them to be more circumspect in accepting donations, perhaps preventing the cash-for-access affair.

Clinton touched on the same point:

"Had we known about the reports, the first thing I would have done is I would have given them to ... (senior White House officials) and I'd say, 'Listen, look at these, evaluate them and make recommendations about what, if any, changes we ought to make and what we should be alert to. And so, it would have provoked ... a red flag on my part."

White House press secretary Mike McCurry said the Justice Department conducted the briefing on the condition that the information not be circulated within the White House. "They were given a briefing on very specific ground rules and they respected those ground rules," McCurry said of the NSC aides, who work for President Clinton.

In another development, congressional records show the Justice Department may have known at least as early as five years ago that China was trying to make campaign contributions to influence members of Congress.

Rep. Nancy Pelosi, D-Calif., raised the issue at a hearing on Feb. 26, 1992, saying "credible sources" had told her the department knew of Chinese attempts to make political contributions.

Then-Attorney General William Barr, who served in the Bush administration, declined to discuss the matter at a public hearing and asked that Pelosi bring it up with him privately.

Barr said today he did not recall the exchange or whether Chinese contributions ever became the subject of a department investigation. Pelosi was not available for comment.

She was a persistent critic of Bush administration policy toward China, urging that its favored trading status be revoked to pressure Beijing to improve its human rights record.

As for the briefing of the NSC aides, McCurry said the ground rules requiring secrecy were unusual. As a result, he said, senior White House aides and Clinton first learned about alleged efforts by China to influence Congress when The Washington Post reported them in February. The matter could become an issue in the confirmation hearings of former NSC chief Tony Lake, who is

Clinton's nominee for CIA director.

It also raised new questions: Why would the Justice Department want the information kept secret and why would the NSC staff members agree not to pass it along?

A senior White House official, speaking on condition of anonymity, said the briefing concerned allegations that there "might be an attempt" to influence congressional elections. It has been reported that four months later, in October 1996, the Justice Department opened its criminal investigation into the matter.

McCurry refused to disclose the names of the NSC aides, saying they work "in intelligence matters." He said his answers were restricted because he does not want to appear to be hindering a Justice Department inquiry.

Two California senators who were among lawmakers allegedly targeted by the Chinese government plan to make illegal campaign donations say the FBI briefed them about China's attempt to influence U.S. policy.

Sen. Barbara Boxer said today that, like her Democratic colleague, Dianne Feinstein, she, too, received a classified FBI briefing last year about the Chinese government's efforts to gain influence in Washington.

Boxer's statement said she was "told to be on the alert for any Chinese nationals or representatives of the Chinese government contacting her office in an effort to influence United States foreign policy."

She said she instituted a policy to carefully screen requests to talk with her or members of her senior staff. The senator said she notified the FBI of all "relevant requests" for such meetings and, "The FBI has never indicated a problem with any of these requests."

Feinstein told reporters Sunday she is asking is asking FBI Director Louis Freeh to elaborate on the cryptic, 10-minute briefing last June when agents warned her to be on guard for contributions from China. "There were no specifics about who or how or what to look for," she said.

The Washington Post reported Sunday that Feinstein was among at least six members of Congress briefed by the FBI about the possibility that laundered Chinese money could be coming their way.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Legislation (1LE97); United Nations (1UN54); Government (1GO80))

Region: (District Of Columbia (1DI60); China (1CH15); USA (1US73); Americas (1AM92); North America (1NO39); Asia (1AS61); Eastern Asia (1EA61))

Language: EN

Other Indexing: (CIA; CONGRESS; DEMOCRATIC; FBI; JUSTICE DEPARTMENT; NATIONAL SECURITY COUNCIL; NSC; WHITE HOUSE) (Barbara Boxer; Barr; Boxer; California; Charles F.C. Ruff; Clinton; Dianne Feinstein; Failure; Feinstein; Hosni Mubarak; Louis Freeh; McCurry; Mike McCurry; Nancy Pelosi; Pelosi; Sandy Berger; Tony Lake; Two; William Barr)

Word Count: 1127

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NewsRoom

2/24/97 Comm. Daily (Pg. Unavail. Online)
1997 WLNR 3617586

Communications Daily

February 24, 1997

At request of AT&T and BT/MCI, U.S. Dist. Court, Richmond,

At request of AT&T and BT/MCI, U.S. Dist. Court, Richmond, ruled Feb. 20 that GTE suit seeking review of Va. State Corp. Commission arbitration order on GTE's interconnection with AT&T and BT/MCI was filed too early. Court said it would dismiss suit without prejudice. GTE said it plans to refile as soon as possible. GTE Senior Vp-Gen. Counsel William Barr said "very important issues remain to be resolved regarding the terms of interconnection" in Va. and other states. He said AT&T and BT/MCI request to court "is nothing but a ploy to postpone the resolution of those issues." Barr said GTE "expects to prevail on its claim" that Va. arbitration order violates Telecom Act. AT&T said it's "pleased" that court "followed the law" and "rejected GTE's attempt to unnecessarily complicate the process of opening the local market to competition." It said it hopes this would be first of many dismissals, charging that GTE's appeals "are a waste of everyone's time." AT&T urged GTE to finalize all agreements with it around country and "start devoting resources" to open market to competition "rather than spend[ing] all their time and resources trying to delay giving customers the benefit of having a choice of local service."

---- Index References ----

News Subject: (Legal (1LE33))

Industry: (Telecom Carriers & Operators (1TE56); Telecom (1TE27))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (BT; BT/MCI; COURT; COURT RICHMOND; GTE; GTE SENIOR VP; RICHMOND; STATE CORP; US DIST; VA) (Barr; Counsel William Barr)

Word Count: 260

End of Document

NewsRoom

2/21/97 Wash. Telecom News 00:00:00

Washington Telecom Newswire

February 21, 1997

VIRGINIA COURT DISMISSES GTE'S INTERCONNECTION COMPLAINT

A Virginia court dismissed Thursday GTE's lawsuit over an interconnection arbitration decision governing its interconnection with AT&T and BT/MCI in the state. At the request of AT&T and BT/MCI, the U.S. District Court, Richmond, ruled that GTE's suit seeking review of the Virginia State Corporation Commission's arbitration order was filed too early. GTE said it plans to refile the suit as soon as possible. GTE General Counsel William Barr said the company "expects to prevail on its claim" that the Virginia arbitration order violates the Telecom Act. GTE has filed suits in several states saying that interconnection arbitration decisions set the wholesale discount rates too high (WTN 075-97, January 24, 1997).
(WTN 179-97)

---- Index References ----

Company: MCI INC

News Subject: (Business Lawsuits & Settlements (1BU19); Business Litigation (1BU04); Legal (1LE33))

Region: (USA (1US73); Americas (1AM92); Virginia (1VI57); North America (1NO39))

Language: EN

Other Indexing: (GTE; MCI; TELECOM ACT GTE; US DISTRICT COURT; VIRGINIA; VIRGINIA COURT; VIRGINIA STATE CORPORATION COMMISSION) (Counsel William Barr; INTERCONNECTION COMPLAINT)

Word Count: 160

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NewsRoom

Document: GTE Statement on Resolution of Virginia Interconnection Is…

GTE Statement on Resolution of Virginia Interconnection Issues

U.S. Newswire

February 21, 1997 16:25 Eastern Time

Section: NATIONAL DESK

Length: 428 words

Dateline: WASHINGTON, Feb. 21

Body

The following was released by GTE:

At AT&T's and British Telecom/MCI's request, the U.S. District Court for the Eastern District of Virginia yesterday ruled that GTE's lawsuit seeking review of the Virginia State Corporation Commission's arbitration order governing GTE's interconnection with AT&T and BT/MCI was filed too early. The court ruled that it would dismiss the lawsuit without prejudice, which means that GTE may file its lawsuit again once the Virginia State Corporation Commission has approved an arbitration agreement implementing the Commission's order. Because the arbitration order violates GTE's rights under the Telecommunications Act of 1996, the company plans to refile the suit at the earliest possible date.

The following may be attributed to **William P. Barr**, GTE senior vice president and general counsel:

"Very important issues remain to be resolved regarding the terms of interconnection in Virginia and in other states. AT&T's and BT/MCI's request to the court is nothing but a ploy to postpone the resolution of those issues. In the Telecommunications Act of 1996, Congress specifically provided for judicial review of state commission arbitration determinations. GTE believes that Congress intended for such

review to be expeditious. AT&T and BT/MCI, however, have acted to postpone this judicial review in Virginia and are seeking to do so in other states. GTE South will refile its lawsuit and expects to prevail on its claim that the Virginia commission's arbitration order violates the Telecommunications Act of 1996."

Editors: Some computer systems do not recognize the "at" sign. It is an important component of e-mail addresses and should be used in place of the symbol (At) in the contact information above.

Classification

Language: ENGLISH

Subject: ENERGY & UTILITY LAW (91%); LITIGATION (91%); ALTERNATIVE DISPUTE RESOLUTION (90%); SUITS & CLAIMS (90%); COMMUNICATIONS LAW (89%); AGREEMENTS (89%); DECISIONS & RULINGS (78%); US STATE GOVERNMENT (78%); LAWYERS (74%); LAW COURTS & TRIBUNALS (73%); APPROVALS (73%); CORPORATE COUNSEL (72%)

Company: AT&T INC (95%); VERIZON COMMUNICATIONS INC (92%); AT&T INC (95%); VERIZON COMMUNICATIONS INC (92%); VIRGINIA STATE CORPORATION COMMISSION (84%)

Organization: VIRGINIA STATE CORPORATION COMMISSION (84%)

Ticker: T (NYSE) (95%); VZC (LSE) (92%); VZ (NYSE) (92%)

Industry: ENERGY & UTILITY LAW (91%); PUBLIC UTILITIES COMMISSIONS (90%); COMMUNICATIONS LAW (89%); TELECOMMUNICATIONS (89%); LAWYERS (74%); CORPORATE COUNSEL (72%)

Geographic: VIRGINIA, USA (95%); UNITED STATES (79%)

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:31:41 p.m. EST

Document: GTE Challenges Arbitration Order

GTE Challenges Arbitration Order

Newsbytes

January 27, 1997, Monday

Section: NEWS

Length: 356 words

Dateline: BEAVERTON, OREGON, U.S.A.

Body

(NB) -- By Bill Pietrucha. GTE has filed suit in federal district court in Eugene, Oregon, challenging the arbitration order handed down January 13, 1997, between GTE and AT&T.

The arbitration order, GTE alleged in its suit, violates its rights under the Telecommunications Act of 1996.

The arbitration order sets the prices and terms that GTE would be required to make its local telephone services and network available to AT&T. AT&T then would use these services and network to compete for GTE's existing local customers.

According to GTE, the Oregon Public Utility Commission's orders would require GTE to provide its services to AT&T at wholesale discounts of 21 percent. Instead of pricing network elements based on cost, as the 1996 Act requires, the commission's order would also require GTE to provide its network elements to AT&T at an effective discount of approximately 48 percent, GTE alleged "Under the 1996 Act, the wholesale discount and the pricing of our network elements need to be based on our costs," Timothy J. O'Connell, attorney for the GTE Northwest Region, said.

"Unfortunately, in this case, the commission chose prices set on US West Communications' costs, without regard for the fact that GTE's service territory is proportionately more rural and suburban, which leads to higher costs," he said. "As a result, the commission set prices that are at odds with the 1996 Act. The commission orders also impose a number of onerous non-pricing terms that are contrary to the Act."

William P. Barr, GTE senior vice president and general counsel, said that while "GTE strongly supports free and fair market-based competition, these decisions are nothing more than corporate welfare for AT&T."

According to Barr, GTE has filed suits in 11 other states, claiming that those AT&T arbitration orders violated its rights under the Telecommunications Act. On December 20, 1996, GTE filed a similar suit in Washington state.

(19970127/Press Contact: Melissa Barran, GTE, 206-261-5855; e-mail missy.barran@telops.gte.com
Reported by Newsbytes News Network: http://www.newsbytes.com

Classification

Language: ENGLISH

Subject: ENERGY & UTILITY LAW (90%); PRICES (90%); LEGISLATION (78%); SUITS & CLAIMS (78%); US STATE GOVERNMENT (78%); LAWYERS (78%); LITIGATION (78%); COMMUNICATIONS LAW (77%); CORPORATE COUNSEL (66%); EXECUTIVES (63%)

Company: AT&T INC (95%); QWEST CORP (55%); AT&T INC (95%); QWEST CORP (55%); OREGON PUBLIC UTILITY COMMISSION (57%); OREGON PUBLIC UTILITY COMMISSION (57%)

Organization: OREGON PUBLIC UTILITY COMMISSION (57%); OREGON PUBLIC UTILITY COMMISSION (57%)

Ticker: T (NYSE) (95%)

Industry: ENERGY & UTILITY LAW (90%); TELECOMMUNICATIONS (89%); PUBLIC UTILITIES COMMISSIONS (78%); LAWYERS (78%); COMMUNICATIONS LAW (77%); LOCAL TELEPHONE SERVICE (77%); CORPORATE COUNSEL (66%); TELEPHONE SERVICES (56%)

Geographic: EUGENE, OR, USA (58%); OREGON, USA (92%); WASHINGTON, USA (79%); UNITED STATES (79%)

Load-Date: July 7, 1998

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:23:50 p.m. EST

Document: GTE SUES PUCO, SAYS PHONE RULING AIDS AT&T

GTE SUES PUCO, SAYS PHONE RULING AIDS AT&T

Columbus Dispatch (Ohio)

January 24, 1997, Friday

Section: NEWS LOCAL & NATIONAL,

Length: 251 words

Body

State utility regulators have been hit by a lawsuit claiming they unfairly advanced AT&T's bid to re-enter the local telephone business.

GTE, a telephone company based in Marion, Ohio, sued the Public Utilities Commission of Ohio on Wednesday in U.S. District Court in Akron, contending the state agency violated the company's rights under the federal Telecommunications Act of 1996.

GTE charged that on Dec. 24 PUCO issued an unfair order detailing rules to connect GTE's local phone system with one to be started by AT&T. Among other things, the order requires GTE to sell AT&T its local services at a 16-percent wholesale discount.

''GTE strongly supports free and fair market-based competition,'' said **William P. Barr**, senior vice president and general counsel. ''However, these decisions are nothing more than corporate welfare for AT&T.''

The Marion company wants its case reviewed under the federal telecommunications law enacted last year and not under state standards.

GTE has customers in of Delaware, Madison and Union counties.

PUCO spokesman Dick Kimmins said, ''We will vigorously defend our position in court.''

This is the first time the commission has been sued over the course of approving four interconnection agreements.

Previous decisions set the ground rules for the connection of Ameritech Ohio, the state's largest telephone company, with competitors AT&T and MCI. A connection agreement between Ameritech and Sprint was ordered yesterday by the commission.

Classification

Language: ENGLISH

Subject: SUITS & CLAIMS (91%); ENERGY & UTILITY LAW (90%); AGREEMENTS (90%); US STATE GOVERNMENT (90%); LITIGATION (90%); COMMUNICATIONS LAW (78%); LEGISLATION (76%); LAWYERS (75%); CORPORATE COUNSEL (73%); LAW COURTS & TRIBUNALS (72%); EXECUTIVES (68%)

Company: AT&T INC (97%); AT&T INC (97%); PUBLIC UTILITIES COMMISSION OF OHIO (91%); PUBLIC UTILITIES COMMISSION OF OHIO (91%)

Organization: PUBLIC UTILITIES COMMISSION OF OHIO (91%); PUBLIC UTILITIES COMMISSION OF OHIO (91%)

Ticker: T (NYSE) (97%)

Industry: TELECOMMUNICATIONS SERVICES (94%); PUBLIC UTILITIES COMMISSIONS (91%); ENERGY & UTILITY LAW (90%); TELECOMMUNICATIONS (90%); LOCAL TELEPHONE SERVICE (90%); COMMUNICATIONS LAW (78%); ENERGY & UTILITY REGULATION & POLICY (78%); TELEPHONE SERVICES (78%); COMMUNICATIONS REGULATION & POLICY (78%); LAWYERS (75%); CORPORATE COUNSEL (73%)

Geographic: AKRON, OH, USA (58%); OHIO, USA (93%); UNITED STATES (79%)

Load-Date: January 25, 1997

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:33:48 p.m. EST

1/21/97 Comm. Daily (Pg. Unavail. Online)
1997 WLNR 3614802

Communications Daily

January 21, 1997

FCC AND COMMUNICATIONS INDUSTRY GET DAY IN COURT ON INTERCONNECTION RULES

ST. LOUIS -- Jurisdictional issues took forefront Fri. as 8th U.S. Appeals Court, St. Louis, heard 3 hours of argument on legality of FCC interconnection rules. Three-judge panel composed of Presiding Judge Pasco Bowman and Judges David Hansen and Roger Wollman raised questions about issues ranging from legalities of state-federal relations to effect of FCC competition rules on rural telcos and new entrants. Eighth Circuit was chosen to hear consolidated appeals filed by LECs and state regulatory commissions in several appeals courts.

While judges' broad-ranging questions offered little indication of how they would rule, it was clear they were giving very detailed consideration to issues. Panel didn't say when it would issue ruling. Court in Oct. stayed part of interconnection order dealing with pricing rules pending its action on appeals of agency's orders.

Debate over FCC's authority to become involved in state pricing issues turned into semantic argument over how to interpret Telecom Act. GTE Gen. Counsel William Barr, representing large and midsized incumbent LECs, insisted that Telecom Act is clear that states, not FCC, have jurisdiction to set prices for interconnection and cited statutes that he said showed that Commission has overstepped its authority. Judge Bowman asked Barr how that view compares with view of 6 members of Congress who submitted brief recently saying Congress intended that FCC have role in setting pricing guidelines. Barr responded that when individual members of Congress express their views after a law is passed, it "has no bearing" on legal interpretations of intent of Congress. He said he doesn't "think much" of that brief or one submitted earlier by another group of congressional members, taking opposed view.

Attorneys for FCC, long distance companies and other new

entrants read Telecom Act to say that Commission had ample authority to set guidelines. FCC attorney Chris Wright said FCC "would have been derelict in its duties if it hadn't issued these rules" because Congress required it to do so. Attorney Bruce Ennis, representing MCI, said there's "no conflict," that Telecom Act clearly says there should be "shared" or "parallel" authority, with FCC setting rules and states establishing actual prices for interconnection.

Judge Bowman asked if it's important for new entrants to have "national uniformity" in pricing rules and Ennis replied "it's crucial." In response to question from Judge Wollman about fact that states are following FCC rules anyway, Ennis said state action validates FCC rules: "The fact that the states are doing the same thing is evidence that this action was not capricious."

However, Diane Munns, gen. counsel of Ia. Utilities Board, said most states aren't necessarily following FCC pricing standards to the letter in arbitrating interconnection agreements and might have to make modifications if Commission rules are upheld. She said that's whole point -- that states need flexibility. Judge Hansen asked Munns if she agreed that Telecom Act requirement for "just and reasonable rates" meant all states must follow same rules and whether states can vary yet still have "just and reasonable rates." Munns said that's right.

Munns, who was representing numerous state commissions that appealed order, said states are appealing only on jurisdictional pricing issue, not on additional challenges to structural issues such as unbundling that LECs have presented. She said basic point is that "FCC has no authority to dictate pricing decisions by the states... Congress said the states would do it. The FCC cannot come into the intrastate arena as it has here."

Along with jurisdictional issues, Barr urged court to vacate several other parts of interconnection order, declaring they violate Telecom Act. Among those issues were portion of order that permits new entrants to construct their entire networks out of unbundled elements and order's requirements for access to LEC operations support systems (OSSs).

AT&T attorney David Carpenter said Congress didn't place limitations on how new entrants can use unbundled elements. It gave competitors "freedom to combine elements any way we want," he said. He told court that incumbent LECs "are asking you to add provisions that Congress left out. They are seeking roadblocks to something that would be good for consumers." He also stressed importance of competitive access to OSSs, saying it's "critical." Competitors will be "jokes in the market if we can't have access to

those systems," Carpenter said.

Barr also urged court to throw out TELRIC (total element long-run incremental costs) pricing standard, and not rule simply on its jurisdictional use, because FCC already has said it plans to apply that standard elsewhere, for example in weighing RHCs' Sec. 271 applications for long distance entry. Barr said that if court doesn't deal with pricing rules now, LECs "will be back here" for "piecemeal reviews" every time FCC applies TELRIC. Bottom line is that it forces LECs to offer their facilities to competitors at prices that are well below cost, he said.

Courtroom wasn't nearly as crowded as expected, with only about 120 people attending, about half of them as part of teams of attorneys. Nonetheless, courthouse staffers were somewhat frazzled by requirements of communications industry, including mound of about 50 cell phones checked with security staff at entry checkpoint.

Judges appeared particularly interested in argument by Maureen Mahoney, attorney for Rural Telephone Coalition, who said FCC set rules that subverted Telecom Act's provisions giving rural telcos exemption from interconnection rules. She said concerns stem from 2 requirements: (1) Rule that places burden of proof on telcos to show why they should continue to have exemption if competitor seeks entry. She said new entrant should have to make that case, not telco. (2) Requirement that in making such a case, showing "undue economic harm" isn't enough. Telcos also have to show that economic harm isn't just normal outgrowth of facing competition for first time. In answer to several questions from judges, Mahoney said Telecom Act is clear that "requesting carrier has the burden." FCC attorney Christopher Wright said Commission's impression is that rural telcos just don't want competition.

---- Index References ----

News Subject: (Legal (1LE33); Government (1GO80); Economics & Trade (1EC26))

Industry: (Internet Regulatory (1IN49); Internet (1IN27); Internet Infrastructure (1IN95); Internet Infrastructure Policy (1IN62))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (CONGRESS; COURT; GTE GEN; LEC; LOUIS; RURAL TELEPHONE COALITION; ST; TELRIC; US APPEALS COURT) (Along; Barr; Bottom; Bowman; Bruce Ennis; Carpenter; Chris Wright; Christopher Wright; COMMUNICATIONS INDUSTRY; Courtroom; David Carpenter; David Hansen; Debate; Diane Munns;

Eighth Circuit; Ennis; FCC; Hansen; LECs; Mahoney; Maureen Mahoney; Munns; Nonetheless; Pasco Bowman; RHCs; Roger Wollman; Utilities Board; William Barr; Wollman)

Word Count: 1405

End of Document

The Lawyer Leading the Charge Against the F.C.C.'s Regulations

The New York Times

January 20, 1997, Monday, Late Edition - Final

Distribution: Business/Financial Desk

Section: Section D; ; Section D; Page 1; Column 2; Business/Financial Desk ; Column 2; ; Biography

Length: 1337 words

Byline: William P. Barr

By MARK LANDLER

By MARK LANDLER

Dateline: ST. LOUIS, Jan. 17

Body

When **William P. Barr** is prepping for a big legal case, he brooks no interruptions. And this week, Mr. Barr was holed up in a hotel room here preparing for one of the biggest cases of his career: the GTE Corporation's challenge of the Federal Government's rules on opening up the $100 billion local telephone business.

So when he received a call from GTE's chairman, Charles R. Lee, Mr. Barr told him, "You have 60 seconds."

Normally, a company's general counsel would not treat his chairman like a junior associate at a law firm. But Mr. Barr is not a normal general counsel; he is a former United States Attorney General under President George Bush. He is also leading a landmark legal assault on how the Government plans to carry out the Telecommunications Act of 1996.

On Friday morning, Mr. Barr stood up in a Federal court here to deliver his 40-minute argument. His basic thrust was that the Federal Communications Commission had no business ordering GTE or other local phone companies to open their networks to new competitors like long-distance providers or cable system operators. The same court has already temporarily suspended the F.C.C. rules that do this. Several experts said they expected the court to overturn them entirely.

"This is a case in which a Federal agency has run riot with the mandate given to it by Congress," said Laurence H. Tribe, a constitutional expert at Harvard Law School who was hired by several regional Bell telephone companies that are following GTE's lead in suing the Government. Mr. Tribe is helping Mr. Barr draft his argument.

The United States Court of Appeals for the Eighth Circuit is not expected to rule on the case until spring. But Mr. Barr's campaign may have already had an effect: The F.C.C. has softened its stance toward the local phone companies in subsequent proceedings. And Mr. Barr has become a standard bearer for those who believe the Government is shackling GTE and the Bells in its zeal to unshackle the rest of the industry.

"I'm not a bomb thrower by any means," Mr. Barr said in an interview after he completed his oral argument, "but my basic philosophy is that you don't get anywhere by kowtowing to regulators."

Officials at the F.C.C., however, said Congress directed them to open up the local telephone market. They said Mr. Barr's tactics were downright incendiary. "He has turned this into a sort of holy war," one top official said, speaking on condition of anonymity. "The problem with holy wars is that they take you where you don't want to go."

If GTE prevails in its case, the F.C.C. fears, the competition promised by the telecommunications act will be strangled by countless other legal challenges. Officials say that allowing the states to dominate the process, as Mr. Barr proposes, would result in a crazy-quilt of regulations that could deter potential new competitors like AT&T or Time Warner.

And executives from these companies and other potential new rivals say that if Mr. Barr succeeds, GTE and other local companies will be able to thwart them simply by making it too costly for these newcomers to gain access to their local networks.

As he relaxed with a drink of Scotch after his court appearance here, Mr. Barr did not look like a man who wanted to bring the deregulation of the phone business to a screeching halt. A native New Yorker who plays the bagpipes and laughs easily, the 46-year-old Mr. Barr earned a reputation as an approachable and politically astute Attorney General.

But he also showed a steely side. In August 1991 Mr. Barr ordered a Federal Bureau of Investigation hostage rescue team to storm a Federal prison in Talladega, Ala., where Cuban inmates had seized 10 hostages. The inmates were arrested and the hostages were released unharmed.

"Bill's intelligence is leavened with a heavy dose of common sense and street smarts," said Theodore B. Olson, a partner in the law firm of Gibson, Dunn & Crutcher in Washington who has known Mr. Barr since the Reagan Administration, when Mr. Olson was a senior official in the Justice Department and Mr. Barr was a domestic policy adviser in the White House.

Mr. Barr was Attorney General for barely a year before President Bush was defeated by Bill Clinton, and he said he regretted not having more time in the job. Though he returned to private practice at a Washington law firm in 1993, colleagues said he was on the prowl for a high-profile challenge to take the place of being the nation's top lawyer.

In 1994, Mr. Barr accepted an offer to join GTE, the largest provider of local phone service, with 17 million customers and more than $20 billion in revenues. Despite its size, GTE has not developed a strong image in an industry dominated by AT&T, MCI Communications, and ambitious Bell companies like Bell Atlantic. GTE is based in Stamford, Conn.

But for a lawyer seeking to take on the regulators, GTE does have one crucial advantage: Unlike the Baby Bells, it was allowed to expand into long distance as soon as the telecommunications act became law last February. GTE has already attracted nearly 850,000 long-distance customers -- and is signing them up at a rate of 6,000 a day.

The Bells, by contrast, have to satisfy a checklist of requirements before they can get into the market -- chief among them, that there is genuine competition in their local market. It is up to the F.C.C. to decide when a Bell company has met the checklist.

Because the Bells face this day of reckoning with the F.C.C., they were reluctant to take on the commission in August, when it released its first set of rules governing local competition.

Not so Mr. Barr. He went to Federal court a few days after the rules were released, asking that they be immediately stayed. When only one of the other seven Bell companies joined in the request, Mr. Barr

said the companies were suffering from the Stockholm syndrome -- a condition in which hostages fall in love with their captors.

The seven Bell companies have since thrown their support behind GTE. But executives at several of the Bells said Mr. Barr's sweeping pronouncements still made them nervous.

Ameritech, for example, recently became the first Baby Bell to file for permission to get into the long-distance market. The company, which offers local phone service in five Midwestern states, said it was concerned about anything that would "distract" from that effort, according to Kelly Welsh, the company's general counsel.

In his oral argument on Friday, Mr. Barr accused the F.C.C. of overstepping its jurisdiction in setting the prices that local phone companies must charge new competitors for access to their local networks. It is an argument well suited to his legal philosophy, which he said emphasizes the prerogatives of the states and the sanctity of property rights.

Mr. Barr, who is a conservative Republican, said the commission's approach to regulation was reminiscent of the "central planning" of Communist governments. "This approach still has support in pockets like Pyongyang and Havana," he said in a quip that provoked hearty laughs from the three judges in the St. Louis courtroom.

Mr. Barr has also enjoyed poking fun at the F.C.C.'s chairman, Reed E. Hundt. When Mr. Hundt recently described the three major planks of the deregulatory process as a "trilogy," Mr. Barr declared, "Having seen Moe, I don't hold out much hope for Larry and Curly."

Such remarks rankle officials at the F.C.C., who noted that Mr. Barr was lucky his case had been assigned to the United States Court of Appeals for the Eighth Circuit. Two of the judges on the panel, Pasco M. Bowman and Roger L. Wollman, were appointed by President Ronald Reagan, while the third, David R. Hanson, was named by President Bush. In their opinion granting the stay, the judges were sharply critical of the F.C.C.'s effort to assert jurisdiction over the states.

With victory in the air and a Scotch in his hand, Mr. Barr was not about to touch that issue. "They're good judges," he said blandly.

Graphic

Photo: "You don't get anywhere by kowtowing to regulators," said **William P. Barr**, in St. Louis last week. The F.C.C. says a states-rights approach might stifle competition. (Peter Newcomb for The New York Times)

Classification

Language: ENGLISH

Subject: LAWYERS (91%); US FEDERAL GOVERNMENT (90%); CORPORATE COUNSEL (78%); LEGAL SERVICES (78%); APPELLATE DECISIONS (76%); LEGISLATION (76%); LAW SCHOOLS (73%); LAW COURTS & TRIBUNALS (72%); APPEALS (72%); COMMUNICATIONS LAW (71%); INTERVIEWS (70%); SUITS & CLAIMS (69%); US PRESIDENTS (69%); ATTORNEYS GENERAL (69%); ENERGY & UTILITY LAW (68%); APPEALS COURTS (67%)

Company: VERIZON COMMUNICATIONS INC (91%); GTE CORP; FEDERAL COMMUNICATIONS COMMISSION VERIZON COMMUNICATIONS INC (91%); FEDERAL COMMUNICATIONS COMMISSION

VERIZON COMMUNICATIONS INC (91%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); GTE CORP; FEDERAL COMMUNICATIONS COMMISSION FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Ticker: VZC (LSE) (91%); VZ (NYSE) (91%)

Industry: LAWYERS (91%); LOCAL TELEPHONE SERVICE (90%); COMMUNICATIONS REGULATION & POLICY (90%); TELEPHONE SERVICES (89%); TELECOMMUNICATIONS SERVICES (89%); CORPORATE COUNSEL (78%); LEGAL SERVICES (78%); CABLE INDUSTRY (76%); TELECOMMUNICATIONS (76%); LAW SCHOOLS (73%); HOTELS & MOTELS (72%); COMMUNICATIONS LAW (71%); ENERGY & UTILITY LAW (68%); LONG DISTANCE TELEPHONE SERVICE (65%)

Person: GEORGE W BUSH (56%)

Geographic: UNITED STATES (93%)

Load-Date: January 20, 1997

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 02:50:26 p.m. EST

Document: Battle over phone lines goes to appeals court

Battle over phone lines goes to appeals court

Austin American-Statesman (Texas)

January 18, 1997

Section: Business; Pg. D6

Length: 235 words

Body

ST. LOUIS -- A federal appeals court was asked Friday to overturn government rules that have pitted local phone companies against long-distance carriers that hope to piggyback on their lines into consumers' homes.

Local phone companies are upset because they say Federal Communications Commission rules force them to give access to competitors, such as AT&T and MCI Communications, at prices below their actual cost.

Judge Pasco Bowman questioned the FCC's decision to not force long-distance carriers to pay a surcharge for accessing another company's network.

Chris Wright, who represented the FCC, said the commission was discussing proposals to help local phone companies recover losses due to competition.

It's not clear what the commission will do,'' Wright said. I can assure you there's vigorous debate on what should be done.''

Lawyer Bruce Ennis, who represented the long-distance carriers, said his clients must be granted access to the networks of local phone companies at a reduced price if they are ever to compete for customers.

William Barr, general counsel for GTE Corp., argued for the regional telephone companies and said the FCC overstepped its bounds in determining the rates competitors must pay to use local phone companies' networks. Barr said states should be allowed to set rates because of differences in population, network configurations and other factors.

Classification

Language: ENGLISH

Subject: APPEALS (90%); APPELLATE DECISIONS (90%); ENERGY & UTILITY LAW (90%); LAW COURTS & TRIBUNALS (78%); LAWYERS (78%); CONSUMERS (77%); PRICES (77%); APPEALS COURTS (73%); CORPORATE COUNSEL (68%)

Company: VERIZON COMMUNICATIONS INC (93%); VERIZON COMMUNICATIONS INC (93%); FEDERAL COMMUNICATIONS COMMISSION (93%); FEDERAL COMMUNICATIONS COMMISSION (93%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (93%); FEDERAL COMMUNICATIONS COMMISSION (93%)

Ticker: VZC (LSE) (93%); VZ (NYSE) (93%)

Industry: TELECOMMUNICATIONS SERVICES (99%); LONG DISTANCE TELEPHONE SERVICE (90%); TELEPHONE SERVICES (90%); ENERGY & UTILITY LAW (90%); LOCAL TELEPHONE SERVICE (90%); LAWYERS (78%); CORPORATE COUNSEL (68%)

Load-Date: January 18, 1997

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 11:14:51 a.m. EST

NewsRoom

1/18/97 Reuters News 00:00:00

Reuters

January 18, 1997

Phone companies renew attack on FCC rule.

Shera Dalin

ST. LOUIS, Jan 17 (Reuter) - Attorneys for local phone companies and state regulators Friday renewed their attack on the Federal Communications Commission's reading of a landmark telecommunications law, questioning its constitutionality.

Lawyers, arguing before a three-judge panel of the 8th U.S. Circuit Court of Appeals in St. Louis, said the FCC's interpretation of key provisions of the Telecommunications Act of 1996 -- adopted by Congress to help open up the $100 billion local phone market -- actually stifles competition.

They said it may drive smaller players out of the market.

"The FCC's interpretation of the act creates some serious constitutional issues," Diane Munns, an attorney representing state public service commissions, told the court.

The court suspended the FCC order in October. The judges were to confer Friday, and a decision could come within 60 days, a court clerk said.

Whatever the decision, it is expected to be appealed to the U.S. Supreme Court.

At issue are pricing rules. The appeals court, in suspending the order, sided with the local carriers and state regulators who charged the FCC overstepped its power by issuing national rules on pricing and other matters instead of leaving those issues to the states.

The FCC order requires, among other things, that the Baby Bells and other local carriers lease their phone lines to new competitors at discounts of up to 25 percent.

Lawyers expect the court ultimately will rule against the FCC and the long-distance companies, which favor the order.

The court wrote in October that the order's opponents "have a better than even chance of convincing the court the FCC's pricing rules conflict with the plain meaning" of the 1996 law.

In court Friday, the local companies continued their attack.

"The (FCC) can't point to any provision that gives them perpetual, hovering, rule-making authority over local markets," said William Barr, an attorney for GTE Corp. and several midsize local telephone companies.

Mark Kravitz, an attorney for several midsize local phone companies, said the order would have a "devastating impact" on midsize carriers, who might be forced out of business if a telecommunications giant such as AT&T Corp.(could provide the same service on the smaller carriers' lines.

"These rules affect (local telephone companies) from competing in their own markets," Kravitz said.

Nonetheless, lawyers for the FCC pointed out that states are choosing to enforce the FCC's interpretation despite the court battle. Twenty-nine of 31 states have already adopted the suspended pricing policies.

"There is unanimous agreement that the commission got the pricing rules right," said FCC attorney Chris Wright. "If the commission got it wrong, than what Congress intended was no pricing rules."

FCC Chairman Reed Hundt has warned that piecemeal deregulation -- with judges around the nation ultimately deciding terms for opening local phone markets -- would have a "very negative impact" on industry efforts to raise capital.

FCC officials have said the case will not be resolved before the Supreme Court until spring 1998, at the earliest -- one thing the phone companies seem to agree with.

---- Index References ----

Company: FCC CO LTD; GTE INTERNETWORKING; VERIZON COMMUNICATIONS INC; FIRST COPPER TECHNOLOGY CO LTD; FEDERAL COMMUNICATIONS COMMISSION; GTE DELAWARE LP; GTE CORP; ST CORP; FOMENTO DE CONSTRUCCIONES Y CONTRATAS SA; FARM CREDIT CANADA

News Subject: (Legal (1LE33); Economics & Trade (1EC26); Regulatory Affairs (1RE51); Judicial (1JU36))

Industry: (Telecom Regulatory (1TE65); Telecom (1TE27))

Region: (North America (1NO39); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (BABY BELLS; CONGRESS; CORP; FCC; FEDERAL COMMUNICATIONS COMMISSION; GTE CORP; LOUIS; ST; SUPREME COURT; US CIRCUIT COURT OF APPEALS; US SUPREME COURT) (Chris Wright; Diane Munns; Kravitz; Mark Kravitz; Nonetheless; Reed Hundt; Twenty; William Barr)

Word Count: 503

Document: Showdown in sessionFCC interconnection rulings trial begins

Showdown in session
FCC interconnection rulings trial begins

Connected Planet

January 13, 1997

Section: POLICY & REGULATION; ISSN: 0040-2656

Length: 550 words

Byline: BETH SNYDER, Switching & Transmission Editor

Body

Like the longtime rivalry between Wyatt Earp and Ike Clanton, the Federal Communications Commission's feud with local exchange carriers has come down to a final fight. The arena is a courtroom instead of the OK Corral, but the shootout promises to be just as pernicious.

The Eighth Circuit Court of Appeals in St. Louis will hear arguments from both sides, starting Jan. 16. The same court already froze the pricing portion of the FCC's rules, pending the outcome of this trial (Telephony, Oct. 21, 1996, page 6).

At stake are millions of dollars in access and unbundled loop charges, as well as the FCC's rights and how much influence the commission has over state regulatory issues.

William Barr, GTE's general counsel who will present the LECs' arguments, is confident about his case- in spite of a recent handful of state regulatory agency decisions that are unfavorable to LECs.

"If anything, those decisions show that the states are perfectly able to reach an agreement without this 'cozy relationship' that the FCC refers to all the time between the states and the local carriers.

"I also think that some of the way-off-the-mark states show how the FCC has tainted the process," Barr said, referring to states such as Pennsylvania, where the Public Utilities Commission refused to hear arguments from either the LECs or interexchange carriers and used the FCC's pricing formula instead. GTE has filed lawsuits in several states, including Penn-

sylvania, to have the state regulatory agencies' decisions re-examined.

Dawn Honeyman, an analyst with TeleChoice, Verona, N.J., disagrees.

"A couple of states are no big deal. They're not California, Texas and Florida," Honeyman said. "I don't think anybody can dispute that the LECs have more power at the state level.

There are several possible outcomes to the trial. The court could throw out the FCC rules and give the states the power to decide; the court could throw out the rules and order the FCC to write new rules; or the FCC could win and the decision would stand.

However, the FCC's chances look bleak. The appeals court did not seem to support the FCC rulings when it issued the pricing freeze: "We believe that the petitioners have a better-than-even chance of convincing the court that the FCC's pricing rules conflict with the plain meaning of the [Telecom Reform] Act." Another passage states, "We believe that the petitioners have demonstrated they will likely succeed on the merits of their appeals based on their argument, that under the act, the FCC is without jurisdiction to establish pricing regulations regarding intrastate telephone service." This is the same court that will decide whether the rest of the rules stand.

If the FCC loses, so could consumers. With 50 states to deal with for each new local service provider, the process suddenly gets much more complicated. "My opinion is that the FCC is not going to win," Honeyman said. "I think that's unfortunate. Maybe the FCC did overstep Congress' intentions, but to throw it back to the states is going to impede competition.

Even industry and political speculation believes that rejected interconnection rulings could bode poorly in general for the FCC-an organization already struggling against the tide of big government downsizing.

Classification

Language: ENGLISH

Subject: ENERGY & UTILITY LAW (90%); US STATE GOVERNMENT (90%); COMMUNICATIONS LAW (89%); APPELLATE DECISIONS (89%); APPEALS COURTS (89%); PETITIONS (89%); PRICES (89%); AGREEMENTS (78%); JURISDICTION (78%); LAW COURTS & TRIBUNALS (77%); REGULATORY COMPLIANCE (76%); LAWYERS (73%); CORPORATE COUNSEL (72%); SUITS & CLAIMS (72%); LITIGATION (72%)

Company: FEDERAL COMMUNICATIONS COMMISSION (98%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (98%)

Industry: ENERGY & UTILITY LAW (90%); LOCAL TELEPHONE SERVICE (90%); TELECOMMUNICATIONS SERVICES (90%); COMMUNICATIONS LAW (89%); UTILITIES INDUSTRY (89%); COMMUNICATIONS REGULATION & POLICY (89%); PUBLIC UTILITIES COMMISSIONS (78%); TELEPHONE SERVICES (78%); TELECOMMUNICATIONS (78%); LAWYERS (73%); CORPORATE COUNSEL (72%)

Geographic: TEXAS, USA (79%); CALIFORNIA, USA (79%); PENNSYLVANIA, USA (79%); FLORIDA, USA (79%)

Load-Date: April 8, 1997

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 11:13:50 a.m. EST

Document: GTE Files Seventh Suit Over State Arbitrated Rates

GTE Files Seventh Suit Over State Arbitrated Rates

COMMUNICATIONS TODAY

January 9, 1997

Length: 328 words

Byline: Carol L. Bowers, Business Editor

Body

GTE Corp. yesterday (1/8) sued the Texas Public Utility Commission and the Public Service Commission of Wisconsin over interim interconnection rates set in arbitration proceedings.

This brings to seven the total number of suits GTE has filed in federal district courts across the country, protesting state rules that will govern how the company must treat newcomers to its local telephone markets. GTE already had filed suit against commissions in Illinois, Missouri, Pennsylvania, Virginia and Washington over interconnection rates set in those states.

GTE, the first incumbent local exchange carrier to exercise its right to appeal state arbitration decisions in court, claims the decisions violate the Telecommunications Act of 1996. The company argues that wholesale discount and pricing of network elements should be based on actual costs.

"GTE strongly supports free and fair market-based competition," said **William Barr**, former U.S. attorney general and GTE's general counsel and senior vice president.

The company has filed so many lawsuits, he said, because "real, facilities-based competition that spurs innovation and creates jobs will only happen after reasonable and just policies are established by the state commissions."

In the Texas case, GTE is protesting the commission's decision to award AT&T and MCI Communications Corp. a 22.99 percent wholesale discount.

An MCI spokesman defended the commission's decision, noting it relieved the company of "unfair" restrictions on resale and buildout requirements established by the Texas state legislature. The commission's decision, he said, "is moving in the right direction in terms of promoting local competition."

In Wisconsin, GTE is suing over an arbitration case involving AT&T in which the commission set an 18.45 percent discount rate. AT&T had no comment on the suit at our deadline.

Classification

Language: ENGLISH

Subject: SUITS & CLAIMS (92%); COMMUNICATIONS LAW (90%); ALTERNATIVE DISPUTE RESOLUTION (90%); ENERGY & UTILITY LAW (90%); LITIGATION (90%); US STATE GOVERNMENT (89%); PRICES (78%); LAW COURTS & TRIBUNALS (77%); APPEALS (77%); LEGISLATIVE BODIES (72%); ATTORNEYS GENERAL (72%); JOB CREATION (52%); EMPLOYMENT GROWTH (52%)

Company: VERIZON COMMUNICATIONS INC (96%); AT&T INC (94%); VERIZON COMMUNICATIONS INC (96%); AT&T INC (94%); PUBLIC SERVICE COMMISSION OF WISCONSIN (84%)

Organization: PUBLIC SERVICE COMMISSION OF WISCONSIN (84%)

Ticker: VZC (LSE) (96%); VZ (NYSE) (96%); T (NYSE) (94%); GTE (NYSE) (97%); MCIC (NASDAQ) (83%)

Industry: COMMUNICATIONS LAW (90%); PUBLIC UTILITIES COMMISSIONS (90%); ENERGY & UTILITY LAW (90%); TELECOMMUNICATIONS SERVICES (90%); TELECOMMUNICATIONS (78%); LOCAL TELEPHONE SERVICE (76%); TELECOMMUNICATIONS RESELLERS (75%); TELECOMMUNICATIONS PROVIDERS (71%)

Geographic: TEXAS, USA (93%); WISCONSIN, USA (92%); ILLINOIS, USA (79%); UNITED STATES (92%)

Load-Date: January 9, 1997

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 11:09:56 a.m. EST

Nobody happy in disputesGTE files first suit challenging arbitration decision

Connected Planet

December 16, 1996

Section: A.M. REPORT; ISSN: 0040-2656

Length: 277 words

Byline: BETH SNYDER, Associate Editor-News

Body

Nobody got what they wanted from the Pennsylvania Public Utilities Commission arbitration rulings last week. GTE and AT&T entered into arbitration several months ago in the Keystone state to settle interconnection differences such as resale discount rates and local loop unbundling charges.

AT&T also entered into the same arbitration with Bell Atlantic.

Shortly after the PUC filed its decision in the first case, GTE filed a landmark lawsuit as the first telecom company to take a state regulatory body's arbitration ruling to federal court. The 22.8% discount rate is too high, said **William Barr**, GTE vice president and general counsel. GTE had asked for a 7% to 10% rate.

The local loop charge, approximately $13, was way short of GTE's actual cost of $27, he said.

AT&T fired back at GTE, saying Barr and company are the ones suing the Federal Communications Commission to let states decide pricing. Now that a state has decided in a way unfavorable to GTE, the company is suing again, AT&T charged.

But in the dispute with Bell Atlantic, AT&T was decidedly less pleased. The interexchange carrier issued a statement expressing disappointment about the rates. AT&T said the 20.71% off the rate a local carrier charges retail customers was too low and was a reversal of a higher figure, 22.9%, quoted by the PUC just three weeks earlier. AT&T was asking for 27.9%, while Bell Atlantic proposed 14.49%.

Ironically, both GTE and AT&T complained that the Pennsylvania PUC would not hear arguments or evidence supporting their respective desired rates. Both also said they have misgivings about the state

wanting to promote true competition.

Classification

Language: ENGLISH

Subject: ENERGY & UTILITY LAW (91%); ALTERNATIVE DISPUTE RESOLUTION (90%); SUITS & CLAIMS (90%); US STATE GOVERNMENT (90%); LITIGATION (90%); LAWYERS (73%); CORPORATE COUNSEL (71%)

Company: AT&T CORP (93%); BELL ATLANTIC MOBILE (86%); AT&T CORP (93%); BELL ATLANTIC MOBILE (86%); FEDERAL COMMUNICATIONS COMMISSION (67%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (67%)

Ticker: T (NYSE) (93%)

Industry: ENERGY & UTILITY LAW (91%); PUBLIC UTILITIES COMMISSIONS (90%); UTILITIES INDUSTRY (89%); LOCAL TELEPHONE SERVICE (77%); TELECOMMUNICATIONS SERVICES (77%); COMMUNICATIONS REGULATION & POLICY (76%); LAWYERS (73%); TELECOMMUNICATIONS (72%); CORPORATE COUNSEL (71%)

Geographic: PENNSYLVANIA, USA (92%)

Load-Date: May 19, 1997

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 11:09:07 a.m. EST

NewsRoom

12/16/96 Telecomm. Rep. (Pg. Unavail. Online)
1996 WLNR 6143113

Telecommunications Reports

December 16, 1996

GTE Files Legal Challenge To Pennsylvania Arbitration

GTE North, Inc., has filed a lawsuit asking a federal district court to overturn an arbitration order issued by the Pennsylvania Public Utility Commission. Calling the order "grossly unfair" and "onerous," GTE said the commission failed to consider its cost studies and relied instead on federal "proxy rates"—ranges of wholesale discounts for resellers and rates for unbundled network elements that the FCC considers acceptable.

The federal pricing provisions, which were outlined in the FCC's "carrier interconnection" order (Common Carrier docket 96-98), shouldn't be used because they've been stayed by a federal appeals court, GTE said (TR, Oct. 21).

Last week's lawsuit—filed in the U.S. District Court for the Western District of Pennsylvania—is the first legal challenge to an arbitration decision under the terms of the Telecommunications Act of 1996. Section 252(e)(6) of the Act gives parties the right to seek federal court review of arbitration orders issued by state commissions.

"It boils down to the fact that we don't think the commission did its job," William P. Barr, GTE Senior Vice President and General Counsel, said last week during a teleconference. In arbitrating the interconnection dispute between GTE and AT&T Corp., the PUC didn't hold hearings to evaluate its cost studies properly, as states such as California and Florida have done, Mr. Barr said. "They made no attempt whatsoever to look at what our costs are," he said.

In the order, the PUC directed the telephone company to provide its local exchange services for resale at a 22.8% discount. GTE said its cost studies had demonstrated that a discount of between 7% and 10% was appropriate. Further, the PUC mandated rates for unbundled network elements that are 64% below the telcos' costs, GTE said. For example, Mr. Barr said GTE's cost studies show that unbundled local loops should be priced at $27. The PUC ordered an unbundled loop rate of $12.29.

Mr. Barr said that the primary area of contention is use of the terms avoided and avoidable. The Telecommunications Act mandates that wholesale rates be based on the telcos' retail rates, less costs that are "avoided" by providing wholesale service, he noted.

But Mr. Barr said the FCC and some states are basing wholesale discounts on all costs that are "avoidable," not just those that actually are "avoided" (TR, Aug. 12). "We think we are going to win this clearly in the courts," he said.

The challenge is likely to be the first of many. Mr. Barr called the Pennsylvania decision an "outlier" but said other lawsuits challenging unfavorable decisions—including one in Missouri (see separate story)—are likely.

Meanwhile, last week AT&T said it might challenge a separate Pennsylvania commission order resolving its arbitration case with Bell Atlantic-Pennsylvania (see separate story).

Telecommunications Reports, December 16, 1996 19961216 Telecommunications Reports -->

---- Index References ----

Company: BELL ATLANTIC CORP; VERIZON NORTH INC; GENERAL TELEPHONE ELECTRONICS CORP; FEDERAL COMMUNICATIONS COMMISSION; GTE CORP; GTE NORTH INC; GTE MTO INC

News Subject: (Legal (1LE33); Economics & Trade (1EC26))

Industry: (Telecom Regulatory (1TE65); Telecom (1TE27); Wireline Telecom Regulatory (1WI37))

Region: (Pennsylvania (1PE71); USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (BELL ATLANTIC; FCC; GTE; GTE FILES LEGAL CHALLENGE; GTE NORTH INC; PENNSYLVANIA; PENNSYLVANIA PUBLIC UTILITY COMMISSION; PUC; SECTION 252; TR; US DISTRICT COURT) (Barr; Counsel; Telecommunications Reports; William P. Barr)

Word Count: 586

End of Document

Document: GTE SUES OVER LOCAL PHONE RATE DISCOUNT SET BY …

GTE SUES OVER LOCAL PHONE RATE DISCOUNT SET BY PENNSYLVANIA PUC

Los Angeles Times

December 13, 1996, Friday,, Home Edition

Section: Business; Part D; Page 3; Financial Desk

Length: 213 words

Byline: KAREN KAPLAN, SPECIAL TO THE TIMES

Body

GTE Corp. filed suit Thursday over local phone rates set by the Pennsylvania Public Utilities Commission, the first suit of its kind since the Telecommunications Act of 1996 went into effect in February and opened the nation's $ 90-billion market for local phone service to competition.

State commissions throughout the country are deciding how much of a discount local phone companies such as GTE and the Baby Bells should offer to companies that want to compete for customers by reselling their services.

In Pennsylvania, the Public Utilities Commission said GTE should offer a 28.8% discount to competitors that want to resell local phone service. The Stamford, Conn.-based phone company said it should only have to give a 7% to 10% discount, based on a detailed accounting of its costs. GTE also said the commission dramatically underestimated its cost of maintaining its network.

Although each state is responsible for setting its own wholesale rates, the Federal Communications Commission has suggested that discounts be in the 17% to 25% range. In California, regulators decided that GTE's wholesale discounts should be in the 7% to 12% range. GTE General Counsel **William P. Barr** said more suits could follow in other states that require high discounts.

Classification

Language: English

Subject: ENERGY & UTILITY LAW (91%); US STATE GOVERNMENT (90%); SUITS & CLAIMS (78%); COMMUNICATIONS LAW (73%); LITIGATION (73%); LAWYERS (72%)

Company: VERIZON COMMUNICATIONS INC (95%); VERIZON COMMUNICATIONS INC (95%); PENNSYLVANIA PUBLIC UTILITY COMMISSION (93%); FEDERAL COMMUNICATIONS COMMISSION (56%); FEDERAL COMMUNICATIONS COMMISSION (56%)

Organization: PENNSYLVANIA PUBLIC UTILITY COMMISSION (93%); FEDERAL COMMUNICATIONS COMMISSION (56%); FEDERAL COMMUNICATIONS COMMISSION (56%)

Ticker: VZC (LSE) (95%); VZ (NYSE) (95%)

Industry: ENERGY & UTILITY LAW (91%); LOCAL TELEPHONE SERVICE (91%); TELEPHONE RATES (90%); PUBLIC UTILITIES COMMISSIONS (90%); TELEPHONE SERVICES (90%); TELECOMMUNICATIONS SERVICES (90%); UTILITIES INDUSTRY (89%); TELECOMMUNICATIONS (78%); TELECOMMUNICATIONS RESELLERS (77%); COMMUNICATIONS LAW (73%); LAWYERS (72%)

Geographic: PENNSYLVANIA, USA (91%); CALIFORNIA, USA (79%); CONNECTICUT, USA (71%)

Load-Date: December 13, 1996

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:33:02 p.m. EST

Document: DIGEST

DIGEST

The Washington Post

December 13, 1996, Friday, Final Edition

Section: FINANCIAL; Pg. D01; DIGEST

Length: 1357 words

Body

BankAmerica said it will cut approximately 3,700 jobs and close about 120 California branches as part of a restructuring. San Francisco-based BankAmerica, which has 92,700 workers worldwide, also will take a pretax charge of $ 280 million in the fourth quarter to cover restructuring costs.

Vinik Partners, a hedge fund group headed by former Fidelity Magellan Fund investment manager Jeffrey Vinik, acquired an 8.1 percent stake in BTG, a Vienna-based diversified information technology company. According to an SEC filing, the Boston-based group and its affiliates purchased 655,700 common shares at $ 15.87 to $ 20.90 a share from Nov. 1 to Dec. 11 for investment purposes.

Orion Network Systems of Rockville received an $ 89 million contract to provide satellite communications capacity to South Korean telecommunications company Dacom. Orion said it also reached an agreement under which Hughes Space & Communications International will build and launch the satellite for Orion. The terms of that contract were not disclosed.

Pension shortfalls more than doubled, to $ 64 billion, when interest rates sharply declined a year ago. The Pension Benefit Guaranty Corp. said the single-employer pension plans it insures had assets of only $ 415 billion to cover $ 479 billion in liabilities at the end of 1995.

Thirty-year mortgage rates rose last week, after falling the previous seven weeks, the Federal Home Loan Mortgage Corp. reported. The rate on a 30-year fixed mortgage rose to 7.57 percent from 7.44 percent a week ago, according to the government-sponsored enterprise known as Freddie Mac.

New claims for jobless benefits fell by 13,000 last week, the third straight decline, indicating that the labor market has strengthened in recent weeks. The Labor Department said new applications for unemployment insurance fell to a seasonally adjusted 317,000 last week, down from 330,000 the week before. The new level was the lowest since late August.

The FAA has proposed requiring periodic inspections for cracks to prevent possible leakage from the center fuel tank of later-model Boeing 747 jumbo jets, officials said. However, the agency's order would not affect the oldest 747-100 models similar to TWA Flight 800, which crashed in July after an explosion that investigators believe occurred near the nearly empty fuel tank between the wings.

Witco said it will close a third of its factories and eliminate about 1,800 jobs, or a quarter of its work force, over the next three years as it seeks to become a leading specialty chemical company. The Greenwich, Conn.-based firm will take a pretax charge of $ 421 million in the fourth quarter to cover the costs of restructuring and for other items.

GTE opened a new front in its legal battle to be "fairly" compensated by competitors that use its local telephone networks. The company filed suit alleging that the Pennsylvania Public Utilities Commission set discounts too high for competitors who lease GTE's phone network. GTE counsel **William P. Barr** said a similar discount level set yesterday by Virginia regulators also "seems too high," but did not indicate whether legal action would be taken.

Oneok and Western Resources agreed to an alliance combining the natural gas assets of both companies as part of a $ 660 million transaction. Under the agreement, Tulsa-based Oneok, parent of Oklahoma Natural Gas, will acquire all the natural gas assets of Topeka, Kan.-based Western Resources, making it the ninth-largest gas distribution company in the United States.

Digital Equipment cut prices by as much as 50 percent on its Alpha microprocessors, which compete with Intel's popular Pentium Pro computer chips. Digital has acted this year to generate more demand for the Alpha, which is among the world's fastest microprocessors, but it has been unable to make inroads against the Pentium and other microprocessors made by Intel.

The New York Times will begin publishing a four-section Northeast edition in Washington and Boston on Jan. 20. The newspaper said the new editions will include late-breaking news, zoned television listings and zoned weather packages.

Genentech chairman Robert Swanson, who co-founded the company 20 years ago and is considered one of the fathers of the biotechnology industry, will retire at the end of the year. He also will step down from the San Francisco company's board, but will continue as an adviser and consultant.

Business airfares are expected to rise as much as 9 percent in 1997, jumping from already record highs, according to predictions released by American Express. The cost of car rentals, hotel rooms and meals also are expected to increase slightly.

Conrail shareholders should vote against a CSX proposal that would exempt CSX from Pennsylvania law and let it acquire Conrail, a Bethesda shareholder consulting firm recommended. Institutional Shareholder Services said CSX's two-tiered $ 8.44 bid is coercive and unfair to shareholders. It said a hostile $ 10 billion cash bid for Conrail by Norfolk Southern is superior. Pennsylvania law forbids two-tiered acquisitions like the one CSX has proposed. Conrail shareholders are to vote on whether to opt out of the law on Dec. 23.

MFS Communications and its UUNet Technologies unit, which is based in Fairfax, unveiled services that let companies connect their corporate computer networks with those of partners and customers. The two so-called extranet products come with a service guarantee and security options. MFS also will provide more sophisticated technology for measuring how the computer network is used.

GM will spend $ 3.8 million buying back older vehicles and will take other steps to offset air pollution generated by more than a half-million Cadillacs recalled last year, the Justice Department said. The buybacks are part of a $ 45 million settlement GM signed last year requiring the recall of the Cadillacs, which allegedly were equipped with illegal devices that defeated pollution controls.

Citibank is setting up an automated teller machine for in-line skaters that will debut next week in Miami Beach's South Beach district. "It's the first ATM, as far as we know, in the nation specially for rollerbladers," branch manager Rolando Hernandez said.

EARNINGS

Federal Express said its fiscal second-quarter net income rose 15 percent, to $ 103.7 million, with the help of two special gains, and unveiled a plan to impose a 2 percent surcharge to offset the cost of fuel.

Oracle's second-quarter earnings rose 31 percent, to $ 179 million, as its software applications revenue increased 77 percent.

General Mills said its second-quarter earnings rose 7.5 percent as sales grew following a price cut on its Big G cereals. The company earned $ 156.7 million in the quarter ended Nov. 24, up from $ 145.7 million in the same period last year.

LOCAL BUSINESS

Gannett's chief financial officer, Douglas McCorkindale, predicted a 16 percent gain in 1996 profit from operations from increases at its USA Today newspaper and cable television operations. McCorkindale said the publishing and broadcasting company is expected to earn $ 3.80 to $ 3.85 a share, up from $ 3.29 in 1995.

Czech Industries' stockholders voted to change the name of the Rockville company to Eastbrokers International. Company Chairman Michael Sumichrast said the new name better reflects the company's core business of providing financial services in Central and Eastern Europe.

F&M National of Winchester, Va., declared an 18 cents per share cash dividend. This is an increase for the fourth quarter of 1/2 cent following the 1/2 cent increase in the third quarter. The dividends, on an annual basis, are projected at 72 cents per share for 1997, an increase of 9.4 percent over 1996.

Litton Industries has agreed to buy the Racal Marine Group, a marine radar company, from Britain's Racal Electronics for $ 49 million. Racal Marine will work closely with a business Litton bought in May, Charlottesville-based Sperry Marine. That purchase made Litton the world's largest producer of marine electronic navigation systems.

Classification

Language: ENGLISH

Subject: INTEREST RATES (90%); MORTGAGE RATES (90%); UNEMPLOYMENT INSURANCE (89%); JOBLESS CLAIMS (89%); COMPANY EARNINGS (89%); LABOR DEPARTMENTS (78%); LABOR FORCE (78%); US STATE GOVERNMENT (78%); LABOR SECTOR PERFORMANCE (78%); TELECOMMUNICATIONS SECTOR PERFORMANCE (77%); AGREEMENTS (77%); CONTRACTS & BIDS (77%); SECURITIES LAW (77%); ENERGY & UTILITY LAW (74%); MANAGERS & SUPERVISORS (73%); CORPORATE RESTRUCTURING (73%); PENSION & RETIREMENT PLANS (72%); MANUFACTURING FACILITIES (72%); AVIATION ADMINISTRATION (67%); AIRCRAFT ACCIDENTS (66%); SUITS & CLAIMS (65%); INVESTIGATIONS (64%)

Company: BANK OF AMERICA CORP (92%); FEDERAL HOME LOAN MORTGAGE CORP (FREDDIE MAC) (91%); PENSION BENEFIT GUARANTY CORP (68%); LORAL SPACE & COMMUNICATIONS INC (56%); BOEING CO (56%); HUGHES SPACE & COMMUNICATIONS CO (56%); BANK OF AMERICA CORP (92%); FEDERAL HOME LOAN MORTGAGE CORP (FREDDIE MAC) (91%); PENSION BENEFIT GUARANTY CORP (68%); LORAL SPACE & COMMUNICATIONS INC (56%); BOEING CO (56%); HUGHES SPACE & COMMUNICATIONS CO (56%)

Ticker: BAC (NYSE) (92%); BAC (LSE) (92%); 8648 (TSE) (92%); LORL (NASDAQ) (56%); BOE (LSE) (56%); BAB (BRU) (56%); BA (NYSE) (56%)

Industry: MUTUAL FUNDS (90%); INTEREST RATES (90%); MORTGAGE BANKING & FINANCE (90%); MORTGAGE RATES (90%); UNEMPLOYMENT INSURANCE (89%); SATELLITE INDUSTRY (88%); (79%); BANKING & FINANCE (79%); PUBLIC UTILITIES COMMISSIONS (78%); TELECOMMUNICATIONS SECTOR PERFORMANCE (77%); TELECOMMUNICATIONS (77%); SECURITIES LAW (77%); COMMON STOCK (76%); ENERGY & UTILITY LAW (74%); SATELLITE COMMUNICATIONS SERVICES (74%); TELECOMMUNICATIONS SERVICES (73%); PENSION & RETIREMENT PLANS (72%); HEDGE FUNDS (72%); MANUFACTURING FACILITIES (72%); CHEMICALS (71%); (71%); (71%); COMPUTING &

INFORMATION TECHNOLOGY (71%); MORTGAGE LOANS (70%); LOCAL TELEPHONE SERVICE (68%); CHEMICALS MFG (68%); AVIATION ADMINISTRATION (67%); AIRCRAFT ACCIDENTS (66%); PASSENGER & CARGO AIRCRAFT (66%); SPECIALTY CHEMICALS MFG (60%)

Geographic: BOSTON, MA, USA (79%); SAN FRANCISCO, CA, USA (79%); CALIFORNIA, USA (90%); MASSACHUSETTS, USA (79%); PENNSYLVANIA, USA (79%); CONNECTICUT, USA (73%)

Load-Date: December 13, 1996

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 04:51:33 p.m. EST

GTE Contests State Commission Order in Federal District Court

U.S. Newswire

December 12, 1996 13:59 Eastern Time

Section: NATIONAL, STATE AND BUSINESS DESKS

Length: 589 words

Dateline: WASHINGTON, Dec. 12

Body

GTE North Inc. filed suit today in federal district court seeking a ruling that the Pennsylvania Public Utility Commission's Dec. 6, 1996, order in an arbitration between GTE North and AT & T violated GTE North's rights under the federal Telecommunications Act of 1996.

In filing this action, GTE North exercised its right under section 252(e) (6) of the 1996 act to obtain federal court review of state commission arbitration determinations. GTE North filed its suit in the western district of Pennsylvania and named as defendants the commissioners of the Pennsylvania Public Utility Commission (in their official capacity) and AT & T Communications of Pennsylvania Inc. The Pennsylvania Commission's arbitration order set the prices and other terms at which GTE North would be required to make available to AT & T its local telephone services and use of its local telephone network, which AT & T would then use to compete for GTE North's existing local customers. Among other things, the commission's order would require GTE North to provide its services to AT & T at a 22.8 percent discount and to provide its network elements to AT & T at an effective 64 percent discount.

"The Pennsylvania Commission didn't follow the act," said **William P. Barr**, GTE Corp.'s senior vice

president and general counsel. "Instead of taking into account the evidence of GTE North's actual costs, the Pennsylvania Commission improperly relied on the FCC's unlawful proxy prices, which have been stayed by the U.S. Court of Appeals for the Eighth Circuit and which a number of proceedings throughout the country have shown to be wildly arbitrary. As a result, the commission set prices that are grossly unfair and far below what the 1996 act calls for. The commission's order also imposes a number of onerous non-pricing terms that are contrary to the 1996 act.

"The Pennsylvania Commission's order is nothing more than corporate welfare for AT & T," Barr added. "If local competition is to develop as Congress intended, state commissions must faithfully implement the 1996 act. Rulings like the Pennsylvania Commission's will instead thwart the development of real, facilities-based competition and stifle innovation and job creation. GTE will take steps to protect its rights under the 1996 act whenever a state commission fails to follow the requirements of the act."

Editors: Some computer systems do not recognize the "at" sign. It is an important component of e-mail addresses and should be used in place of the symbol (At) in the contact information above.

Classification

Language: ENGLISH

Subject: ENERGY & UTILITY LAW (90%); US STATE GOVERNMENT (90%); LAW COURTS & TRIBUNALS (89%); PRICES (88%); APPEALS (78%); APPELLATE DECISIONS (78%); LEGISLATION (78%); SUITS & CLAIMS (78%); LITIGATION (78%); LAWYERS (75%); APPEALS COURTS (73%); COMMUNICATIONS LAW (72%); EXECUTIVES (65%); JOB CREATION (50%)

Company: VERIZON NORTH INC (96%); AT&T INC (95%); VERIZON COMMUNICATIONS INC (84%); AT&T COMMUNICATIONS & COMPUTER PRODUCTS SOURCING & MANUFACTURING (57%); VERIZON NORTH INC (96%); AT&T INC (95%); VERIZON COMMUNICATIONS INC (84%); AT&T COMMUNICATIONS & COMPUTER PRODUCTS SOURCING & MANUFACTURING (57%); PENNSYLVANIA PUBLIC UTILITY COMMISSION (91%)

Organization: PENNSYLVANIA PUBLIC UTILITY COMMISSION (91%)

Ticker: T (NYSE) (95%); VZC (LSE) (84%); VZ (NYSE) (84%)

Industry: PUBLIC UTILITIES COMMISSIONS (90%); ENERGY & UTILITY LAW (90%); LOCAL TELEPHONE

SERVICE (90%); TELECOMMUNICATIONS (77%); LAWYERS (75%); (73%); COMPUTING & INFORMATION TECHNOLOGY (73%); TELECOMMUNICATIONS SERVICES (73%); COMMUNICATIONS LAW (72%); TELEPHONE SERVICES (68%)

Geographic: PENNSYLVANIA, USA (96%); UNITED STATES (79%)

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:24:33 p.m. EST

NewsRoom

12/12/96 Reuters News 00:00:00

Reuters

December 12, 1996

FOCUS - GTE files suit to overturn Penn. phone ruling.

Roger Fillion

WASHINGTON, Dec 12 (Reuter) - GTE Corp. filed suit in a U.S. court Thursday to overturn a decision by Pennsylvania regulators governing the terms by which AT&T Corp. can hook up to GTE's local phone network under the new communications law.

The suit -- likely to be followed by others -- is the first of its kind by a local phone company against state regulators. It is expected to further muddy the outlook for deregulation of the $100 billion local phone market.

The suit, filed in a federal court in Pennsylvania, also represents a further escalation in the legal battel GTE is waging over the terms it must use to open its local network to new competitors under the communications law.

Stamford, Conn.-based GTE already has led the legal assault by local carriers against the Federal Communications Commission landmark "interconnection" order for opening local phone monopolies to competition.

A U.S. appeals court recently suspended key provisons of the order. "This looks like stage two of GTE's legal strategy," said attorney Alfred Mamlet of Steptoe & Johnson.

GTE argued the Pennsylvania Public Utility Commission merely relied on the FCC's now-suspended reference prices for linking to the local network and set prices too low.

The commission's interim order requires GTE to lease its local network to AT&T at a 22.8 percent discount, according to GTE. The FCC's now-suspended order required local carriers to lease their networks at disounts of 17 percent to 25 percent.

Pennsylvania also told GTE to offer AT&T individual pieces of its network such as call-switching devices and directory assistance at an effective 64 percent discount, GTE said.

GTE General Counsel William Barr accused Pennsylvania regulators of setting prices that were "grossly unfair" and "far below" those called for by the communications law.

"The Pennsylvania commission's order is nothing more than corporate welfare for AT&T," Barr added.

Barr hinted GTE was prepared to file suit against other state regulators whose arbitration decisions it considers unfair. "Where we have significant problems with a (state) commission's action, we won't hesitate to go in and seek review (by the courts)," he said.

Scott Cleland, an analyst for Schwab Washington Research Group, said the suit further clouds the outlook for deregulation of the local market. "Big time!," he said.

He also said deregulation increasingly will be left in the hands of the courts, instead of state or federal regulators, as more carriers file suit over state arbitration decisions.

Many state decisions have mirrored the FCC's pricing guidelines -- to the delight of long-distance carriers such as AT&T and MCI Communications Corp.. The regional Baby Bells and GTE acknowledge they are not pleased.

"It's particularly ironic that GTE is taking this action, since it was the very company that championed the court stay of the FCC's ... prices by arguing that the states and not the FCC should decide these matters," said AT&T Vice President Steve Davis.

---- Index References ----

Company: PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE CO; FCC CO LTD; GTE DELAWARE LP; FARM CREDIT CANADA; PENNSYLVANIA REAL ESTATE INVESTMENT TRUST; GTE INTERNETWORKING; VERIZON COMMUNICATIONS INC; COMMUNICATIONS CORPORATION OF SOUTHERN INDIANA; PENNSYLVANIA INTERNATIONAL RACEWAY INC; FIRST COPPER TECHNOLOGY CO LTD; PENNSYLVANIA CONVENTION CENTER AUTHORITY; COMMUNICATIONS CORPORATION OF INDIANA; GTE CORP; FEDERAL COMMUNICATIONS COMMISSION; FOMENTO DE CONSTRUCCIONES Y CONTRATAS SA; PENNSYLVANIA CLINICAL SCHOOLS INC

News Subject: (Monopolies (1MO68); Legal (1LE33); Economics & Trade (1EC26); Antitrust Regulatory (1AN52); Corporate & Business Law (1XO58); Business Litigation (1BU04); Corporate Legal Management (1XO33); Corporate Events (1CR05); Deregulation (1DE96); Business Management (1BU42); Regulatory Affairs (1RE51); Business Lawsuits & Settlements (1BU19))

Industry: (Telecom Regulatory (1TE65); Telecom Services (1TE09); Long-Distance Services (1LO42); Telecom (1TE27))

Region: (U.S. Mid-Atlantic Region (1MI18); North America (1NO39); USA (1US73); Americas (1AM92); Pennsylvania (1PE71))

Language: EN

Other Indexing: (COMMUNICATIONS CORP; FCC; FEDERAL COMMUNICATIONS COMMISSION; GTE; GTE CORP; PENNSYLVANIA; PENNSYLVANIA PUBLIC UTILITY COMMISSION; SCHWAB WASHINGTON RESEARCH GROUP) (Alfred Mamlet; Baby Bells; Barr; Counsel William Barr; FOCUS; Scott Cleland; Steptoe Johnson; Steve Davis)

Word Count: 485

NewsRoom

Lawyer Shapes GTE's Strategy In Telecommunications Battles

The Wall Street Journal

December 5, 1996 Thursday

Section: LAW; Pg. B11; Legal Beat

Length: 1093 words

Byline: By Paul M. Barrett, Staff Reporter of The Wall Street Journal

Body

In the battle to reshape the telecommunications industry, one of GTE Corp.'s hottest strategists is its general counsel, William Barr.

Mr. Barr, 46 years old, has for the moment thwarted federal regulators' efforts to control prices as part of the deregulation of the $100 billion local-telephone industry. And the aggressive way he did it has brought him a prominence well beyond that of traditional corporate counsel.

In the kind of high-risk engagement typically carried out by high-priced attorneys from outside law firms, Mr. Barr stood up in October and successfully made the argument against federally dictated prices to a federal court in Kansas City, Mo. His move astounded many lawyers. "In all my years in dealing with many, many general counsel, I've never seen anything quite like this," says James Rill, a veteran attorney with a Washington law firm.

Rather than merely murmuring advice in the boardroom and keeping track of outside law firms, Mr. Barr launches litigation that has become a major part of GTE's competitive planning. Behind the scenes at GTE, Mr. Barr is among the senior executives helping to review potential candidates for a major merger the company is contemplating (although he won't discuss that). He has shaken up his 125-person legal staff and forced outside law firms to compete hard for work they once more or less took for granted.

Mr. Barr does have some rather unusual management experience, having served as a precocious U.S. attorney general in the Bush administration. He began his career as a legislative staff member at the Central Intelligence Agency, attending law school at night at George Washington University. He later served in the Reagan administration, joined a Washington law firm, and then climbed to the top of the Justice Department.

After President Clinton's election in November 1992, Mr. Barr returned to the Washington law firm, but soon decided that working on product-liability cases wasn't as exciting as being the nation's top cop. He joked in a melancholy way with friends about getting used to driving his own car again and missing the men in sunglasses talking into their sleeves.

When GTE got in touch in 1994, Mr. Barr was perplexed, because his knowledge of the telecommunications industry was limited to his own phone number. Not to worry, said GTE Vice Chairman Michael Masin; the company wanted someone willing to take risks and help it navigate the chaotic new world of deregulation. Mr. Barr, who says his favorite Justice Department exploit was ordering an FBI platoon to suppress an inmate revolt in an Alabama prison, was ready for some excitement.

Mr. Barr's first major assignment was making sure that the deregulation bill working its way through Congress contained language favoring GTE. Relying on longstanding ties to Republicans, he personally lobbied everyone from thenSen. Robert Dole to staff members of the House Judiciary Committee. The final bill, enacted earlier this year, included a special section removing antitrust limits on GTE's move into long-distance service.

The landmark legislation also opened the way for long-distance carriers to crack local phone monopolies. GTE, of Stamford, Conn., the nation's largest local-phone company, has operations in 28 states and annual revenue of $20 billion.

Last July, senior GTE officials gathered around a speaker phone at corporate headquarters to listen to a Federal Communications Commission news conference on how it intended to deregulate the local phone market. Mr. Barr piped up that the FCC rules were "horrendous" from GTE's perspective and that GTE shouldn't take them lying down. Among other things, the FCC forced GTE and others to offer substantial percentage discounts on local service, so that long-distance concerns such as AT&T Corp. could buy it cheaply and resell it to customers who wanted to deal with only one phone company.

Mr. Barr then spearheaded a suit seeking a court order to stop the FCC rules immediately. Most of the other local phone companies hesitated to seek an immediate "stay" order, fearing that would anger the FCC and spur the agency to slow their entry into the long-distance business. But Mr. Barr was concerned that if the rules remained in place while litigation dragged on, the FCC's discount rates would be adopted by state officials who also have an important say in setting local charges.

At one point, when Ameritech Corp. balked at Mr. Barr's strategy, he dictated a scathing brief by phone that accused the Chicago-based carrier of falling victim to the "Stockholm syndrome," in which hostages attempt to curry favor with a captor, in this instance, the FCC. Some industry lawyers now refer to Ameritech as "the Swedish company." Donald Falk, an outside Ameritech lawyer, responds simply: "We have a thick skin."

Government officials complain that the free-market Republican is actually impeding efforts to foster local phone competition. And other telecom attorneys grumble privately that Mr. Barr tends to grandstand.

Mr. Barr doesn't apologize for the gangbusters style he cultivated at the Justice Department. As for the point about discouraging competition, he says that Congress wanted to encourage long-distance companies to invest in cutting-edge facilities, not allow them to buy local service at bargain prices and merely resell it. Further, he insists that Congress intended for state-level officials, not the FCC in Washington, to determine appropriate local discounts.

He really turned heads when he argued the suit against the FCC before the Eighth U.S. Circuit Court of Appeals. He "was very effective in his argument," acknowledges Christopher Wright, the vanquished FCC lawyer. State officials are now in local phone-rate proceedings, but aren't using FCC rules as strict guidelines.

In January, Mr. Barr is going back to court, this time in St. Louis, to argue for a permanent suspension of the pricing rules -- and even his foes at the FCC concede he'll probably win again.

Mr. Barr, who makes close to $1 million a year in salary and bonus, isn't by any means a solo performer. At a strategy session late last month at GTE's Dallas offices, he gathered some 30 lawyers from no fewer than six outside firms from across the country.

GTE's own legal department has acquired enough prestige for Mr. Barr lately to hire two former Supreme Court clerks; five others are applying. Waiting for a ride at a Dallas airfield, Mr. Barr's youthful legal retinue breaks into a game of tarmac touch football. Smiling on the sidelines, the boss looks like he's having fun again.

Notes

PUBLISHER: Dow Jones & Company

Load-Date: December 5, 2004

End of Document

A REVOLVING DOOR LEADS TO THE TOP; Corporate Brief; In-House Counsel

The National Law Journal

December 2, 1996 Monday

THE NATIONAL LAW JOURNAL

Section: Pg. 2 (col. 4); Vol. 19

Length: 1291 words

Byline: ***William P. Barr***, GTE Corp., Stamford, Conn.

Body

Corporate Brief

In-House Counsel

title: Senior vice president and general counsel.

age: 45.

size of legal department: 127 lawyers.

primary outside counsel: Covington & Burling, Washington, D.C.; Wiley, Rein & Fielding, Washington, D.C.; Kirkland & Ellis, Washington, D.C. (litigation); O'Melveny & Myers L.L.P., Washington, D.C., and New York offices (corporate); Simpson Thacher & Bartlett, New York; Baker & Botts L.L.P., Houston. During Mr. Barr's year and a half as general counsel, GTE has begun using Kirkland & Ellis and has increased the amount of work it gives to Wiley Rein. It is an outstanding communications firm and I wanted to consolidate a lot of our regulatory work in one placeAnd for antitrust work we've used [Washington, D.C.'s] Shyler, Shannon, Collyer & Rill.

deputies: Marianne Drost (corporate), Ward Wueste (regulatory), Bruce Brafman (general law), Richard Stimson (GTE Mobilnet Operations) and Richard Cahill (GTE Telephone Operations Group).

route to the top: Mr. Barr's career path has been circuitous. A native New Yorker, Mr. Barr received undergraduate and master's degrees in Chinese studies from Columbia University and went to law school as a lark: At the time I was primarily interested in becoming a Sinologist, but all my friends at Columbia were going to law school so I took the LSAT-I woke up late for it-and ended up doing OK. Mr. Barr-who attended George Washington University National Law Center at night while working at the CIA, graduated second in his class in 1977. After the Republicans lost [in 1976] and Stansfield Turner came in [to head the CIA] I didn't really like him, so I thought well, hell, I'll go and get a clerkship. Mr. Barr clerked for Judge Malcolm Wilkey, of the U.S. Circuit Court for the District of Columbia before joining Washington, D.C.'s Shaw, Pittman, Potts & Trowbridge. From 1982 to 1983 he served on the White House Domestic Policy Staff, but returned to Shaw Pittman as a partner in 1984. In 1989 he joined the Justice Department and in 1991 became attorney general. He returned to Shaw Pittman again in 1993, but in June 1994 a headhunter called me and I signed up with GTE in July. I told them I didn't know much about telecommunications law, but they said that was OK because of my experience in Washington in both private

practice and the government. They felt that the future of the telecom industry would be dependent on the outcome of regulatory and legislative processes and a lot of the old ruleswould no longer be applicable.

on hiring new firms: A lot of general counsel are trying to limit the number of outside firms they use. And in some areas I'm trying to consolidate, but I'm not afraid to use a new firm. I like to spread the work geographically-so for example I'll use Hunton & Williams for [southern] litigation-the rates are lower and I think the quality of work is just as good.

On critical matters I try to get the best possible person, and that can be partly through reputation. We just hired [Herbert] Wachtell, of [New York's] Wachtell, Lipton Rosen & Katz, for some major litigation, and I had no previous dealings or relationship with him.

On the other hand some of the lawyers I've given work to are those I've had personal relationships with over the years, in and out of government. Mr. Barr had worked with Kirkland & Ellis' Paul Capuccio at the Justice Department, as well as Jim Rill, of Shyler, Shannon, Collyer & Rill, before turning to them in private practice. Obviously I've gotten to meet and know a lot of different lawyers, so I tend to try to use people I know of and know their capabilities.

on cost-cutting: We have a standard agreement that we insist counsel subscribe to, and it says what we pay for and what we don't. It cuts down on copying and other things we think should just be overhead. It's worked very well. We also have discount agreements with firms we give significant work to, and I've worked out deals also to bring lawyers from firms in-house on a temporary basis and then given some business to those firms.

legal department structure: Each business unit has a general counsel who reports to me, plus I have a headquarters staff. Generally a lot of regulatory work is done in-house. We operate in 28 different states, so we have all these proceedings before commissions. We do a lot of commercial work, and we do a lot of corporate and securities work in-house. We do some litigation, but a diminishing amount. I favor outsourcing litigation. My view is that with a limited amount of in-house slots I'd rather devote it to someone with a unique skill within the company, someone with unique business knowledge rather than a fungible litigator. Doing a Sec. 7 employment case doesn't really require an in-house person.

changes in the profession: One of the biggest changes is the increasing quality of in-house legal staff. I brought in two Supreme Court clerks who were partners in major firms, and I have sitting in my desk drawer right now resumes from four or five others who have since contacted me to come here. I have no problem recruiting top-notch people-my problem is not having open slots for people who want to comeIt's a major shift, because it means more supervision of outside firms and more teaming up on projects, rather than handing off completely.

pet peeve:[Outside counsel] churning a case. I know, having been in private practice for 10 years, the kind of effort you need to effectively handle a particular matter. There are some firms that overdo it and spend too much money.

life in-house: I pay very well for quality peopleWhat they can do here is focus on the needs of one client and get to learn a business. They don't have the Mickey Mouse of time sheets andalso don't have the pressure of having to go out and beat the bushes for clientsAnd telecom is a very interesting area right now. Most people feel we are in the information era, so this is a good area in which to gain some expertise.

his salary: The aggregate including bonus is approximately $1 million in cash, not including stock options.

his day: Legislative, Federal Communications Commission and state regulatory issues that affect the way we do business take up about 30 percent of my time. The rest is spent on corporate issues, monitoring various cases, administrative matters and regular corporate matters like serving on the Executive Leadership Council, which is the senior advisory group for GTE's chairman.

regrets: None. The longer I'm here, the more I am convinced it was a smart move. I'm having a ball. I don't miss private practice. Occasionally I miss some of the issues you deal with in governmentthough it would be different now with the venomous atmosphere in Washington.

family: His wife Christine is a children's librarian and they have three daughters ages 12, 15 and 18. They are my principal interest in life. The Barr household also includes a basset hound, a yellow Labrador and a Rhodesian Ridgeback.

extracurricular interests: I'm still involved in various Republican National Committee groups. But my hobby is bagpiping. I've been playing since I was 8 years old. I was taught by a former pipe-major in the Highland Light Infantry who'd come over to play in Brigadoon on Broadway. I'm with the City of Washington Pipe Band, and we've been to Scotland and Canada and other places to compete.

sports: I just swim; I'm not a golfer. He's also a fair-weather New York Yankee fan. If they're doing well, I'll follow.

last books read: I usually read three at the same time. Irving Bartlett's biography of John C. Calhoun; Conservatism in America by Clinton Rossiter; and Aeschylus' Oresteia. I like history and politics;I don't read much fiction.

Jonathan Foreman

Classification

Language: ENGLISH

Publication-Type: Newspaper

Subject: LAWYERS (91%); CORPORATE COUNSEL (90%); GRADUATE & PROFESSIONAL SCHOOLS (90%); MAJOR US LAW FIRMS (90%); LAW SCHOOLS (90%); ATTORNEYS GENERAL (77%); COMMUNICATIONS LAW (74%); EXECUTIVES (74%); JUSTICE DEPARTMENTS (73%); LITIGATION (73%); COLLEGES & UNIVERSITIES (71%); NEW BUSINESSES (69%); ANTITRUST & TRADE LAW (68%); LAW ENFORCEMENT (67%); ETHNIC & CULTURAL STUDIES (66%); LAW COURTS & TRIBUNALS (61%)

Company: WILEY REIN LLP (94%); O'MELVENY & MYERS LLP (91%); BAKER BOTTS LLP (91%); SIMPSON THACHER & BARTLETT LLP (91%); KIRKLAND & ELLIS LLP (91%); COVINGTON & BURLING LLP (91%); PILLSBURY WINTHROP SHAW PITTMAN LLP (85%); GTE TELEPHONE OPERATIONS INC (55%)

Organization: COLUMBIA UNIVERSITY (82%)

Industry: LAWYERS (91%); CORPORATE COUNSEL (90%); GRADUATE & PROFESSIONAL SCHOOLS (90%); MAJOR US LAW FIRMS (90%); LAW SCHOOLS (90%); TELECOMMUNICATIONS (88%); COMMUNICATIONS LAW (74%); LITIGATION (73%); COLLEGES & UNIVERSITIES (71%); TELECOMMUNICATIONS SERVICES (69%)

Geographic: DISTRICT OF COLUMBIA, USA (94%); NEW YORK, USA (93%); UNITED STATES (97%)

Load-Date: April 17, 2011

NewsRoom

11/18/96 Telecomm. Rep. (Pg. Unavail. Online)
1996 WLNR 6142891

Telecommunications Reports

November 18, 1996

States Hold On to Pricing Role As Supreme Court Upholds Stay

At least for the next several months, state regulators will retain their authority over pricing of interconnection, unbundled network elements, and wholesale pricing. That's the result of last week's decision by the U.S. Supreme Court to uphold a stay of the pricing and "pick and choose" provisions of the FCC's "carrier interconnection" order (TR, Oct. 21).

The FCC and new local market entrants hoping to revive the effectiveness of the federal pricing standards will have their next chance Jan. 17, when the U.S. Court of Appeals for the Eighth Circuit (St. Louis) is scheduled to hear oral arguments on challenges to the FCC's Common Carrier docket 96-98 order. The Eighth Circuit's recent partial stay of the FCC's order will remain in effect until the appeals court rules on the merits of the appeals.

In a statement after the Supreme Court's ruling, FCC Chairman Reed E. Hundt congratulated the states for a "major jurisdictional victory." He said that "for all practical purposes, the states have complete control over the prices new entrants will pay to share the existing telephone networks during the critical period when competition is supposed to begin in the local telephone markets."

Echoing recent remarks to reporters in Washington (TR, Nov. 11), Mr. Hundt stressed that "the important goal for the FCC now is to find new ways to work with the states as they each adopt a competition policy through rules and interconnection agreements."

William P. Barr, GTE Corp. Senior Vice President and General Counsel, said the company is "pleased that the Supreme Court recognized that the arguments made by the FCC were without merit." He said, "The Eighth Circuit's stay ensures that local competition is implemented in accordance with the process mandated by Congress, not with the FCC's unauthorized rules."

The stay prevents "grossly arbitrary and distorted pricing rules from going into effect and ruining the whole process," Mr. Barr added. GTE was among the first entities seeking a stay of the order pending judicial review (TR, Oct. 7).

Roy M. Neel, President and Chief Executive of the U.S. Telephone Association, said the high court has recognized "the significance of the local telephone industry's major concerns with the establishment of national pricing structures and the interference with states' rights to set rules appropriate to their individual markets."

Potential local market entrants vowed to continue fighting for implementation of the federal pricing rules stayed by the appeals court. Mark Rosenblum, AT&T Corp. VP-law and public policy, said AT&T continues to believe the interconnection rules "are grounded in sound logic and accurately follow the intent" of the Telecommunications Act of 1996.

"For that reason, we will continue to defend the FCC's rules before the court of appeals and will press for adoption of forward-looking, cost-based pricing models in other jurisdictions," Mr. Rosenblum said. Jonathan Sallet, MCI Communications Corp.'s Chief Policy Counsel, said he is confident that the appeals court ultimately will rule in the FCC's favor.

Eighth Circuit To Hear Case Jan. 17

Meanwhile, the Eighth Circuit has scheduled oral argument Friday, Jan. 17, on petitions for review of the interconnection order. The court also granted requests from appellants and respondents to modify the final briefing schedule in the case.

The court previously granted a request by large and midsize local exchange carriers to extend the deadline for filing their opening brief until Nov. 18. When that extension order sparked protests from industry interests supporting the FCC, the court set Nov. 18 as the deadline for opening briefs from all petitioners and their supporting intervenors.

The deadline for briefs to be filed by the FCC and its supporting intervenors was extended from Dec. 16 until Dec. 23. The deadline for reply briefs of the petitioners and their supporters was extended from Dec. 31 until Jan. 6. "No further extensions or modification of these dates will be granted," the court declared.

Telecommunications Reports, November 18, 1996 19961118 Telecommunications Reports -->

---- Index References ----

Company: VERIZON COMMUNICATIONS INC; MCI INC; GENERAL TELEPHONE ELECTRONICS CORP; US COURT OF APPEALS; MCI COMMUNICATIONS CORP; FEDERAL COMMUNICATIONS COMMISSION; GTE CORP; MCI LLC

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

Industry: (Telecom Regulatory (1TE65); Telecom (1TE27); Wireline Telecom Regulatory (1WI37))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (CORP; EIGHTH CIRCUIT; FCC; GTE; GTE CORP; MCI COMMUNICATIONS CORP; SUPREME COURT; TR; US COURT OF APPEALS; US SUPREME COURT; US TELEPHONE ASSOCIATION; VP) (Barr; Counsel; Hundt; Jonathan Sallet; Mark Rosenblum; Policy Counsel; Potential; Reed E. Hundt; Rosenblum; Roy M. Neel; Telecommunications Reports; William P. Barr)

Word Count: 829

Document: SUPREME COURT REFUSES TO LIFT STAY ON INTERCON...

SUPREME COURT REFUSES TO LIFT STAY ON INTERCONNECTION ORDER

COMMUNICATIONS TODAY

November 13, 1996

Length: 579 words

Body

The Supreme Court yesterday (11/12) rejected pleas by the FCC, AT&T, MCI Communications Corp. and others to lift the stay on pricing portions of the commission's Interconnection Order, imposed by the 8th Circuit Court of Appeals last month (CT, 10/16).

The news apparently wasn't a complete surprise to FCC Chairman Reed Hundt, who acknowledged last Friday (11/08) that the Supreme Court probably would not lift the stay (CT, 11/12). Accordingly, after he received news of the court's decision yesterday, Hundt congratulated the states for winning a "major jurisdictional victory."

"For all practical purposes, the states have complete control over the prices new entrants will pay to share the existing telephone networks during the critical period when competition is supposed to begin in local telephone markets," Hundt said, adding that the FCC now must find new ways "to work with the states as they each adopt a competition policy through rules and interconnection agreements."

The full court reviewed the case in its weekly meeting last Friday. Justice Clarence Thomas, who oversees the 8th Circuit and therefore had first crack at the case, originally rejected the

petitions to lift the stay (CT, 11/1), which paved the way for appeal.The FCC then took its arguments to Justice Ruth Bader Ginsburg. The AT&T party filed separately with Justice John Paul Stevens. Both handed over the proceeding to all nine justices for consideration.

Now the case will head back to the 8th Circuit, where the Interconnection Order will be reviewed "on its merits" in January.

No Surprises Here

After learning of the court's decision, AT&T and MCI said they were disappointed.

"We will continue to defend the FCC's rules before the Court of Appeals and will press for adoption of forward-looking, cost-based pricing models in other jurisdictions, such as state PUC proceedings," Mark Rosenblum, AT&T vice president-law and public policy, said.

Expressing similar sentiments, MCI Chief Policy Counsel Jonathan Sallet said his company will "continue to pursue all available legal remedies" and will "continue our efforts to offer local service, focusing on those states that are embracing true competition."

On the other hand, parties such as the U.S. Telephone Association (USTA), U S WEST Inc., GTE Corp. and the Iowa Utilities Board (IUB) were pleased with the Supreme Court's decision.

"Based on the 8th Circuit's stay order, which the Supreme Court has left in place, we expect to prevail on the merits of our argument that the states, not the FCC, have jurisdiction over pricing. We are also challenging a broad range of other defects in the FCC's rules, and we expect to prevail on those challenges as well," GTE Senior Vice President and General Counsel **William Barr** said.

U S WEST Chairman and CEO Richard McCormick said essentially that the show will go on.

"Negotiations and arbitration proceedings are continuing at the state level. Arbitration decisions already have been reached in five of U S WEST Communications' 14 states," he noted.

USTA President and CEO Roy Neel added that his organization will "aggressively pursue appeal of the FCC Interconnection Order...We believe the order significantly favors new entrants at the expense of the local telephone company and with no benefit to consumers."

Classification

Language: ENGLISH

Subject: LAW COURTS & TRIBUNALS (90%); SUPREME COURTS (90%); ENERGY & UTILITY LAW (90%); PRICES (90%); APPEALS (89%); DECISIONS & RULINGS (89%); APPELLATE DECISIONS (78%); APPEALS COURTS (78%); JURISDICTION (78%); PETITIONS (78%); TALKS & MEETINGS (77%); AGREEMENTS (77%); PRICE MANAGEMENT (77%); ASSOCIATIONS & ORGANIZATIONS (76%); RESTRAINT OF TRADE (74%); COMMUNICATIONS LAW (73%); PUBLIC POLICY (72%)

Company: VERIZON COMMUNICATIONS INC (97%); AT&T INC (95%); U S WEST INC (62%); VERIZON COMMUNICATIONS INC (97%); AT&T INC (95%); U S WEST INC (62%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Ticker: VZC (LSE) (97%); VZ (NYSE) (97%); T (NYSE) (95%); T (NYSE) (90%); MCIC (NASDAQ) (80%); GTE (NYSE) (67%)

Industry: ENERGY & UTILITY LAW (90%); UTILITIES INDUSTRY (89%); TELECOMMUNICATIONS SERVICES (78%); PUBLIC UTILITIES COMMISSIONS (77%); PRICE MANAGEMENT (77%); COMMUNICATIONS LAW (73%); LOCAL TELEPHONE SERVICE (73%)

Person: RUTH BADER GINSBURG (58%); JOHN PAUL STEVENS (58%); CLARENCE THOMAS (58%)

Geographic: UNITED STATES (79%)

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Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 11:00:18 a.m. EST

Document: GTE Applauds Supreme Court Denial of Requests to Overtu…

GTE Applauds Supreme Court Denial of Requests to Overturn Stay of Pricing Provisions of FCC Interconnection Order

U.S. Newswire

November 12, 1996 11:51 Eastern Time

Section: NATIONAL AND BUSINESS DESK, TELECOMMUNICATIONS WRITER

Length: 402 words

Dateline: WASHINGTON, Nov. 12

Body

The U.S. Supreme Court today denied requests by the FCC and by AT&T and others to overturn the stay of the FCC's pricing rules imposed by the U.S. Court of Appeals for the Eighth Circuit.

"GTE is pleased that the Supreme Court recognized that the arguments made by the FCC and others were without merit, and that it upheld the Eighth Circuit's stay order in its entirety," said Senior Vice President and General Counsel **William P. Barr**."The Eighth Circuit got it right."

"The Eighth Circuit's stay ensures that local competition is implemented in accordance with the process mandated by Congress, not with the FCC's unauthorized rules. The stay prevents grossly arbitrary and distorted pricing rules from going into effect and ruining the whole process. It does not delay the timetable set forth in the Telecommunications Act of 1996 for the introduction of competition, but instead allows for a more level playing field," Barr explained.

"We look forward to proceeding with our full case in the Eighth Circuit," Barr added. "Based on the

Eighth Circuit's stay order, which the Supreme Court has left in place, we expect to prevail on the merits of our argument that the States, not the FCC, have jurisdiction over pricing. We are also challenging a broad range of other defects in the FCC's rules, and we expect to prevail on those challenges as well."

Editors: Some computer systems do not recognize the "at" sign. It is an important component of e-mail addresses and should be used in place of the symbol (At) in the contact information above.

Classification

Language: ENGLISH

Subject: LAW COURTS & TRIBUNALS (90%); SUPREME COURTS (90%); APPEALS (78%); APPELLATE DECISIONS (78%); LAWYERS (75%); LEGISLATION (74%); DELAYS & POSTPONEMENTS (73%); APPEALS COURTS (73%); JURISDICTION (73%); COMMUNICATIONS LAW (68%)

Company: SUPREME COURT OF THE UNITED STATES (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); SUPREME COURT OF THE UNITED STATES (94%)

Organization: SUPREME COURT OF THE UNITED STATES (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); SUPREME COURT OF THE UNITED STATES (94%)

Industry: LAWYERS (75%); COMMUNICATIONS LAW (68%); TELECOMMUNICATIONS (53%)

Geographic: UNITED STATES (90%)

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:22:25 p.m. EST

Heading for a showdown
Federal interconnection soldiers march into legal battlefield

Connected Planet

November 11, 1996

Section: POLICY & REGULATION; ISSN: 0040-2656

Length: 490 words

Byline: SANDRA GUY, News Editor

Body

Sorting out the rules of local telephone competition will require lengthy court battles, but local exchange carriers will end up the better for it, says **William Barr**, GTE's general counsel and senior vice president.

Barr, who served as U.S. attorney general under former President Bush, argued the LECs' case before the Eighth U.S. Circuit Court of Appeals in St. Louis-the court that in September froze key pricing rules aimed at opening local markets to competition.

The U.S. Supreme Court last week refused to set aside the stay, denying petitions from the Federal Communications Commission, interexchange carriers and others.

"We think this is very good news for the local exchange companies," Barr said last week. "It means a set of very onerous and unfair rules that the FCC was trying to impose on us have been rebuffed by the courts. And the states have been put back in charge of managing the process of the transition to a competitive market.

Barr likely will take up the states' rights cause on behalf of GTE, Southern New England Telecommunications, U S West and Cincinnati Bell when the circuit court hears arguments about the FCC's entire interconnection order, starting Jan. 17. The order deals with giving competitors access to incumbents' unbundled network elements and encompasses pricing and related issues as well. Although many LECs opposed the order, only the four that Barr represented requested that the circuit court suspend the rules.

The carriers contend that state regulators should have jurisdiction over the pricing aspects of interconnection because the states' histories in dealing with the LECs-and particularly the Bell regional holding companies-will result in fairer terms than the FCC's one-size-fits-all pricing guidelines.

They also argue that the federal rules would force them to subsidize competitors entering their markets. Therefore, the large competitors could sell the incumbents' network services at lower prices.

"If the prices are set too low-the way the FCC wanted-no one is going to invest in the network," Barr said. "It will just be parasites living off the network built by the [RHCs] and GTE, not putting anything into the ground themselves. There will be no jobs and no innovations. Ultimately, that's bad for the American consumer.

The potential for a patchwork quilt of state rules evoked mixed feelings from one analyst. Market-by-market competition would mean that the four or five telecom companies competing in New York, for example, would be different from those competing in Atlanta or New Orleans, and the varying market dynamics would drive pricing, said Melodie Reagan, director of local and long-distance consulting at TeleChoice, Verona, N.J.

Such complexity would put the burden on new players, she said. "If, everywhere you go, you have to play by different rules, it makes it a very complex business arrangement for the smaller market entrants."

Classification

Language: ENGLISH

Subject: LAW COURTS & TRIBUNALS (90%); ENERGY & UTILITY LAW (90%); PRICES (89%); APPELLATE DECISIONS (78%); SUPREME COURTS (78%); SUITS & CLAIMS (78%); LAWYERS (78%); EXECUTIVES (77%); US FEDERAL GOVERNMENT (77%); PRODUCT PRICING (76%); US STATE GOVERNMENT (75%); HOLDING COMPANIES (74%); ATTORNEYS GENERAL (73%); APPEALS COURTS (73%); JURISDICTION (73%); PETITIONS (73%); CORPORATE COUNSEL (72%)

Company: GTE SOUTHERN NEW ENGLAND TELECOMMUNICATIONS (72%); GTE SOUTHERN NEW ENGLAND TELECOMMUNICATIONS (72%); FEDERAL COMMUNICATIONS COMMISSION (92%); SUPREME COURT OF THE UNITED STATES (58%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (92%); SUPREME COURT OF THE UNITED STATES (58%)

Industry: ENERGY & UTILITY LAW (90%); LOCAL TELEPHONE SERVICE (90%); TELECOMMUNICATIONS (89%); LAWYERS (78%); TELECOMMUNICATIONS SERVICES (78%); PRODUCT PRICING (76%); COMMUNICATIONS REGULATION & POLICY (75%); CORPORATE COUNSEL (72%)

Person: GEORGE H W BUSH (57%); GEORGE W BUSH (57%)

Geographic: NEW YORK, USA (79%); NORTHEAST USA (79%); UNITED STATES (94%)

Load-Date: May 19, 1997

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 10:58:20 a.m. EST

Document: New York Firms Called Pricey, Arrogant

New York Firms Called Pricey, Arrogant

The Wall Street Journal

November 11, 1996 Monday

Section: LAW; Pg. B8; Legal Beat

Length: 645 words

Byline: By Paul M. Barrett, Staff Reporter of The Wall Street Journal

Body

NEW YORK -- Many companies think big New York law firms remain top-notch in quality but charge too much and aren't very nice about it either, a new study by the Harris Research Group found.

Almost two-thirds of the in-house counsel at 300 large companies polled by Harris reported that New York law firms are failing to control costs, or are becoming "less cost-competitive" when compared with firms in other major cities. A fifth of the corporate counsel also said they're considering cutting back on their use of New York firms.

In interviews, half a dozen corporate counsel echoed the sentiments of poll participants, who were promised anonymity. They said that a modest shift away from New York firms began some years ago, though it hasn't markedly accelerated. "I have found that I can go to Chicago firms or Los Angeles firms and get just as high quality from those firms, often for a lower price," said **William Barr**, general counsel of GTE Corp. in Stamford, Conn.

The poll, released last week, was commissioned by Jaffee Associates, a Washington consulting firm that advises law firms.

The survey found that the premier New York law firms used most by big corporations are among those regarded as the most overpriced and overbearing. For example, three firms that ranked at or near the top on the corporate counsels' "most-used" list "took win, place and show when we asked which firms were the most arrogant and which firms tend to overstaff projects the most," said Jay Jaffee, chairman of Jaffee Associates, in an interview. Those three, respectively, were: Skadden, Arps, Slate, Meagher & Flom; Cravath, Swaine & Moore; and Sullivan & Cromwell.

Top partners with those firms acknowledged that some corporate clients are alarmed by legal fees in general and lately have forced law firms to compete more on price. Senior lawyers at New York firms still charge $400 and up for some types of work. But the big-firm attorneys stressed that they have enjoyed two consecutive strong years, casting some doubt on the notion that clients are looking elsewhere.

"There has been an increase in the use of New York firms . . . although that is difficult to prove," said Robert Sheehan, executive partner of Skadden Arps, which has 1,125 lawyers. Mr. Sheehan suggested that the poll respondents may not have taken into account recent belt-tightening efforts by the law firms. "This isn't the '80s; there has been a conscious change in management here." He added that Skadden Arps's "culture is exactly the opposite of arrogance."

Samuel Butler, presiding partner at Cravath, said the overstaffing charge was "simply untrue" as applied to his firm, whose regular clients regard it as "extremely efficient." He added that he hopes clients don't see 388-lawyer Cravath as arrogant, but if they do, "there's not much I can do about it."

At 456-lawyer Sullivan & Cromwell, Chairman Ricardo Mestres said: "We do the necessary, and we believe we do it efficiently. . . . We find clients generally satisfied."

John Stark, general counsel of PPM America Inc., a Chicago investment firm that manages $30 billion and retains New York attorneys, said that the poll results reminded him of a lyric from a hit song by the rock group Talking Heads: "Same as it ever was." New York law firms have always been the most expensive and least sensitive to clients' fee worries, Mr. Stark said. The difference today, he added, is that customers have gotten more willing to shop around.

In other notable findings, most poll respondents said that New York firms remain "superior" to other leading law firms in the areas of corporate law, banking and finance, bankruptcy, international trade and litigation. Firms in other cities were described as giving New York firms more competition in terms of quality in the areas of intellectual property, white-collar crime, insurance, real-estate and employment law.

Notes

PUBLISHER: Dow Jones & Company

Classification

Language: ENGLISH

Publication-Type: Newspaper

Journal Code: J

Subject: CORPORATE COUNSEL (90%); POLLS & SURVEYS (90%); LEGAL SERVICES (90%); LAWYERS (90%); INTERVIEWS (89%); MAJOR US LAW FIRMS (89%); RESEARCH REPORTS (77%); RANKINGS (73%); NCAT Content Types; NEDC Commentary/Opinion

Company: SKADDEN ARPS SLATE MEAGHER & FLOM LLP (95%); CRAVATH SWAINE & MOORE LLP (92%); YORK LAW LLC (92%); SULLIVAN & CROMWELL LLP (84%); VERIZON COMMUNICATIONS INC (69%); SULCRO SULLIVAN AND CROMWELL (NY) (USA)

Ticker: VZC (LSE) (69%); VZ (NYSE) (69%)

Industry: CORPORATE COUNSEL (90%); LEGAL SERVICES (90%); LAWYERS (90%); MAJOR US LAW FIRMS (89%); CONSULTING SERVICES (66%); I835 Law Firms; IBCS Business/Consumer Services

Geographic: NEW YORK, USA (94%); CONNECTICUT, USA (72%); NAMZ North American Countries; USA United States; USE Eastern U.S.; USNY United States - New York

DJI Codes: IDU, ICS, LAW, SVC, EDC, NME, NY, US, USE, LGB, LLW, LMJ
DJI Descriptors: Industrial, General Industrial & Commercial Services, Law Firms, All Industrial & Commercial Services, Editorials and Columns, North America, New York, United States, Eastern U.S., Legal Beat Column, Law, Large Majors

Load-Date: December 5, 2004

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 10:58:47 a.m. EST

Document: Telecom Logjam

Telecom Logjam

Information Week

October 28, 1996

Section: Pg. 97; ISSN: 8750-6874

Length: 764 words

Byline: Thyfault, Mary E

Highlight: A court ruling has frozen a key portion of the Telecom Act of 1996 concerning the prices that the Bells and other local telephone companies charge rivals for leased service

Body

ABSTRACT:

By placing the responsibility for network services pricing on states, the US Court of Appeals has slowed the pace towards the attainment of the deregulation goals of the Telecom Act of 1996. Earlier, the FCC has determined that regional Bell companies should lease their network services to competitors for 17-25% less than retail rates, thus allowing them to resell services at a profit. Observers fear that the decision serves as a prelude to legal obstacles before local carriers could enjoy the benefits of a competitive telecommunications market. Alan Ditchfield of Progressive Insurance Co. sees one-stop shopping agreements for international, domestic, and local services as the main benefit of a deregulated environment. Brian Moir of the International Communications Association thinks that states may set unreasonably high resale rates such that competitors may find it unprofitable to compete with entrenched carriers. Regional Bell companies argue that they have to set varying rates in different states to account for such factors as higher costs of doing business in rural areas.

Managers remain frustrated after ruling freezes key part of Telecom Act

Will meaningful, nationwide local telecommunications competition ever emerge from the U.S. legal system? Telecom managers are shaking their heads in frustration after a court ruling this month that

freezes a key portion of the Telecom Act of 1996.

"We had been looking for the Telecom Act to break the logjam," says Alan Ditchfield, CIO of Progressive Insurance Co. in Mayfield Village, Ohio. "Now confusion reigns again--and the loser is the user. This snake dance is a major problem for us."

At issue are the prices that the Bell companies and other entrenched local telephone companies can charge rivals for leased service. The FCC ruled in August that the Bells should lease their net- work services to competitors at prices 17% to 25% below retail, arguing that those rates would enable market entrants to resell services at a profit (IW, Aug. 5, p. 14). But the U.S. Court of Appeals ruling, in response to petitions by several entrenched local telephone companies, stops the FCC from implementing national rules and leaves pricing regulation to the states for now.

Ditchfield and other users say they fear the appeals court ruling is just the first of many legal obstacles that competitive local carriers must overcome before corporations will see the benefits of competition in the local telecom market. Users also fear that the Telecom Act, which was signed into law in February, will be implemented as a patchwork of varying state rules.

"I don't know how we'll ever be able to write national contracts if we have to bargain individually With each state," says Ditchfield, who cites one-stop shopping contracts for international, domestic long-distance, and local service as the major benefit of telecommunications competition. Adds Linda Tratnick, manager of network services for a large Ohio company: "I don't want to deal with 20 or 30 vendors because I don't have the staff to manage that."

photo omitted

One of the reasons Congress ordered telecom legislation in the fast place was to push laggard states to promote "competitive thinking," says Brian Moir, the Washington counsel for the International Communications Association, the country's largest telecom user group. "This ruling takes the gun away from the heads of those states," he says. Moir estimates that only 15 states are moving rapidly to implement local telecom competition rules.

Moir and others argue that the states may set resale rates so high that competitors will not be able to make a reasonable profit to compete with the entrenched carriers. That's what happened prior to the Telecom Act in upstate New York, where Rochester Telephone sold services to competitors at only 5% below their retail price. AT&T and others eventually quit selling local services in Rochester, saying they couldn't cover their costs.

But the Bells argue that they need to set different rates in different states because it costs more to provide service in, for example, rural areas. "The FCC's vision of stacking the deck against the local phone companies has been dealt a blow," said **William Barr**, GTE's general counsel.

The way users see it, however, that blow will slow the march of competition. "Those entering the market are going to have to fight a lot more battles and be up against a lot more roadblocks," says Ruth Michaleki, telecom director for the University of Nebraska. "Divestiture will be absolutely joy compared to this."

--Mary E. Thyfault

Classification

Language: ENGLISH

Document-Type: Journal; Fulltext; Abstract

Journal Code: INFOWEEK

Acc-No: 00775347

Subject: COMMUNICATIONS LAW (91%); APPEALS (90%); APPELLATE DECISIONS (90%); DECISIONS & RULINGS (90%); ENERGY & UTILITY LAW (90%); PRICES (90%); LEGISLATION (89%); EXECUTIVES (79%); TELECOMMUNICATIONS SECTOR PERFORMANCE (78%); APPEALS COURTS (77%); PETITIONS (77%); RETAIL PRICES (75%); LAW COURTS & TRIBUNALS (72%); LEGISLATIVE BODIES (71%); Information Technology; Legislation; Litigation; Telecommunications

Company: PROGRESSIVE INSURANCE CO LTD (72%); Information Technology

Organization: FEDERAL COMMUNICATIONS COMMISSION (91%); INTERNATIONAL COMMUNICATIONS ASSOCIATION (59%)

Industry: TELECOMMUNICATIONS (95%); COMMUNICATIONS LAW (91%); ENERGY & UTILITY LAW (90%); LOCAL TELEPHONE SERVICE (90%); COMMUNICATIONS REGULATION & POLICY (90%); TELEPHONE SERVICES (88%); TELECOMMUNICATIONS SECTOR PERFORMANCE (78%); TELECOMMUNICATIONS SERVICES (78%); RETAIL PRICES (75%); RETAILERS (73%); Telecom services; Telecommunications

Product: 481333 (Local telephone communications, except radiotelephone)

Geographic: NEW YORK, USA (79%); UNITED STATES (93%); United States; North America (NOAX); United States (USA)

Load-Date: November 29, 1999

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 10:57:30 a.m. EST

Document: GTE Files Supreme Court Brief on Telecommunications Law

GTE Files Supreme Court Brief on Telecommunications Law

U.S. Newswire

October 28, 1996

Section: NATIONAL AND BUSINESS DESKS, SUPREME COURT WRITER

Length: 927 words

Dateline: WASHINGTON, Oct. 28

Body

GTE today filed in the U.S. Supreme Court a brief opposing the applications by the FCC and AT&T to overturn the stay of the FCC's pricing rules ordered by the U.S. Court of Appeals for the Eighth Circuit.

"The arguments made by the FCC and AT&T are meritless and provide no basis for the extraordinary Supreme Court intervention that they seek," said GTE Senior Vice President and General Counsel **William P. Barr**."The Eighth Circuit's carefully crafted opinion properly applied all the factors relevant to a stay."

In its brief, GTE shows that the text and structure of the Telecommunications Act of 1996 plainly commit authority over pricing to state commissions, not to the FCC. It further explains that the FCC's unauthorized pricing rules would have derailed the negotiation and arbitration process set forth in the Telecommunications Act of 1996 and would have inflicted irreparable harm on incumbent local exchange carriers.

GTE's brief also makes clear that the Eighth Circuit's limited stay does not affect at all the statutory timetable for the completion of arbitrations. The stay therefore does not delay at all the introduction of local competition, but instead ensures that local competition is implemented in accordance with Congress' vision, not the FCC's.

Editors: Some computer systems do not recognize the "at" sign. It is an important component of e-mail addresses and should be used in place of the symbol (At) in the contact information above.

Bob Bishop for GTE, 202-463-5206 or 703-378-4684 (after 6 p.m.) or bbishop(At)dcoffice.gte.com (e-mail)

Classification

Language: ENGLISH

Subject: ALTERNATIVE DISPUTE RESOLUTION (90%); SUPREME COURTS (90%); LAW COURTS & TRIBUNALS (89%); ENERGY & UTILITY LAW (89%); LEGISLATION (88%); APPEALS (78%); APPELLATE DECISIONS (78%); COMPUTER & INTERNET LAW (77%); COMMUNICATIONS LAW (74%); APPEALS COURTS (73%); LAWYERS (72%); CORPORATE COUNSEL (71%); EDITORIALS & OPINIONS (68%)

Company: AT&T INC (95%); AT&T INC (95%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); SUPREME COURT OF THE UNITED STATES (92%); SUPREME COURT OF THE UNITED STATES (92%); UNITED STATES (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); SUPREME COURT OF THE UNITED STATES (92%); SUPREME COURT OF THE UNITED STATES (92%)

Ticker: T (NYSE) (95%)

Industry: ENERGY & UTILITY LAW (89%); COMMUNICATIONS REGULATION & POLICY (88%); COMPUTER & INTERNET LAW (77%); COMMUNICATIONS LAW (74%); TELECOMMUNICATIONS (74%); LOCAL TELEPHONE SERVICE (74%); LAWYERS (72%); CORPORATE COUNSEL (71%)

Geographic: UNITED STATES (90%)

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:28:41 p.m. EST

Document: STATES WIN FIRST ROUND OF INTERCONNECT WAR

STATES WIN FIRST ROUND OF INTERCONNECT WAR

Radio Comm. Report

October 21, 1996

Section: News; Pg. 1

Length: 1574 words

Byline: Debra Wayne

Body

WASHINGTON-Any euphoria felt by wireless carriers following the recent adoption of new interconnection and local competition rules by the Federal Communications Commission should have melted away by now as the commission faces a long, uphill battle in federal court to defend the proxy-pricing aspects of the order.

The industry, which had been looking forward to interconnection rates equal to fractions of pennies, will have to continue negotiations with local exchange carriers and state commissions in the interim that may end up in contracts containing higher-than-anticipated rates. The upside is that if the court upholds the FCC's pricing methodology, those contracts will be ratcheted down. The downside is the appeals court believes FCC foes have a good chance of winning their case when all is said and done.

A 21-page decision handed down Oct. 15 by a three-judge panel of the U.S. Court of Appeals for the Eighth Circuit in St. Louis has stayed the proxy-pricing rules until oral arguments can be heard and evaluated in January by those opposing or upholding the FCC's position. As anticipated, the judges took a states'-rights position in validating all four criteria set forth by several local exchange carriers and public utilities in the original petitions for stay filed at the court in August and September, and following oral arguments almost three weeks ago.

First and foremost, the judges wrote that the petitioners presented a strong argument that the commission ''exceeded its jurisdiction by imposing national pricing rules for what is essentially local service.'' They added that nowhere in the Telecommunications Act of 1996 is the FCC ''specifically authorized to issue rules on pricing … This absence indicates a likelihood that Congress intended to grant state commissions the authority over pricing of local telephone service, either by approving or disapproving agreements negotiated by the parties.'' In a footnote, the judges admitted they were skeptical and had serious doubts regarding the FCC's interpretation of the Telecom Act.

The panel also agreed with petitioners that negotiations between LECs and would-be competitors have broken down since the FCC's order was adopted because ''the proxy rates effectively establish a price ceiling, an observation recognized by the FCC itself, which inevitably confines and restricts the give-and-take characteristics of free negotiations and arbitrations.'' While the FCC, in its comments and arguments prior to last Tuesday's decision, had said that ''allegations of irreparable harm are merely speculative and that there is no certainty that proxy rates will ever be applied to the petitioners,'' the judges wrote it would be almost impossible for negotiators to work under a no-stay scenario due to the specter of proxy pricing. In addition, absent a stay, if the court ultimately rules for the LECs, any LEC who could prove economic damage due to institution of proxy prices even for a short period could not recoup those losses in court, thus adding fuel to the irreparable-harm fire.

Finally, despite the commission's assertion that a stay would block the road to open competition, the court harked back to the success many states have had since the signing of the telecom bill last February. It pointed out that Connecticut, Florida and Iowa already had established new rate structures based on local market conditions. ''Moreover, the FCC-imposed rate for Iowa is substantially higher than the state-set rate, which was based on the full record from a contested case proceeding, while in Florida, the FCC proxy rate is substantially lower than the state-set rate.''

Victory was sweet for Bell company and state commission proponents, with GTE Corp. speaking for the group. ''Competition will move forward now as seen by Congress,'' commented **William Barr**, GTE's senior vice president and general counsel, who argued the LEC case in front of the panel. ''The FCC's version of stacking the deck against LECs has been dealt a blow.'' Like the judges, Barr encouraged LECs and state commissions to continue interconnection negotiations, but he admitted that most significant states will not plug in the FCC's proxy prices, even if they have no new interconnection policy in place now, because they are arbitrarily low. Instead, each will use its own methodology. ''Even the FCC realizes its methodology (in devising proxy prices) was wacko when it discounted prices 40 percent to 50 percent,'' he said.

On the other hand, the fallout was swift. ''The Eighth Circuit's stay throws a monkey wrench into the carefully designed congressional machinery for introducing competition into the local exchange marketplace,'' said FCC Chairman Reed Hundt. ''We intend to go immediately to the Supreme Court. We will ask them to lift the stay so that the congressional competition policy can promote investment and job growth all over the country.'' GTE's Barr believes it would be highly unlikely for the highest court in the land to rule against a circuit court on such a matter.

''This can't be a good thing if aspects of the pricing rules have been stayed,'' said Rob Hoggarth of the Personal Communications Industry Association when he first learned of the appeals court action. ''We will be looking for opportunities for the wireless industry to seek some options.'' PCIA has petitioned the court to be an intervener on the FCC's side.

''The irony of this unfortunate decision is that the states and the new entrants appear to want essentially the same thing-full and open competition at the local level,'' commented PCIA President Jay Kitchen in a written statement. ''We are dismayed at the court's decision. PCIA is working closely with members and other parties to deal with this legal setback. We have examined the court decision carefully, are studying our options thoroughly and will plan our strategy accordingly.''

Tom Wheeler, president of the Cellular Telecommunications Industry Association, said, ''Obviously, we're disappointed that the court stayed the order, but onward to January.'' Wheeler took heart in that other parts of the order, including reciprocal termination rates, remain in place for wireless carriers.

While admitting that many wireless carriers have been stalled since the order was first stayed Sept. 27, Wheeler said his group has been urging its constituency to continue negotiating for fair and reasonable rates. ''It's a long way between three cents and two-tenths of a cent,'' he added.

Participants in a Cato Institute round-table discussion that took place just prior to the court's release of its decision pitted LEC and competitive interests against each other one more time in hopes of swaying interconnection opinions one way or the other. David Baker, head of the Georgia Public Utilities Commission, said most utilities commissioners don't want to take the regulatory bat away from the FCC-they just don't need such a weapon in their states. ''Georgia opened up its markets long before the Telecommunications Act of 1996, and we now have 24 competitors to BellSouth,'' he explained.

Agreeing was Robert Blau, vice president of regulatory affairs for BellSouth. ''Why did the commission go to such great lengths (to supersede state rules)? So that new entrants could get into the market quickly and LECs would lose market share quickly,'' he said. ''The likely consequences are that a lot of new resellers will enter the market, pushing rates down in metropolitan areas and up in rural areas.''

Not many states are as progressive as Georgia, commented Oscie Thomas, vice president of government affairs for AT&T Corp., which stands behind the FCC's order.

Wrapping the discussion up was Peter Pitsch, a former FCC attorney now in private practice along with being an adjunct fellow of the Hudson Institute. ''The potential for cost reduction in telecom is

tremendous,'' he said. ''We should not be surprised that telecom carriers will experience painful changes, and the people will pay for what they get. Carriers need to think two and three years down the road beyond interconnection.''

Classification

Language: ENGLISH

Subject: APPELLATE DECISIONS (90%); PETITIONS (90%); COMMUNICATIONS LAW (89%); AGREEMENTS (89%); PRICES (89%); US FEDERAL GOVERNMENT (78%); LEGISLATION (78%); LAW COURTS & TRIBUNALS (77%); DECISIONS & RULINGS (77%); LITIGATION (77%); APPEALS COURTS (77%); ALTERNATIVE DISPUTE RESOLUTION (76%)

Company: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Industry: TELECOMMUNICATIONS SERVICES (90%); COMMUNICATIONS LAW (89%); TELECOMMUNICATIONS (89%); LOCAL TELEPHONE SERVICE (89%); WIRELESS INDUSTRY (78%); WIRELESS TELECOMMUNICATIONS CARRIERS (73%); TELEPHONE SERVICES (73%)

Geographic: UNITED STATES (92%)

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10/17/96 Wash. Times (D.C.) A1
1996 WLNR 365834

Washington Times (DC)

October 17, 1996

Section: A

Walsh book reprises '92 boost for Clinton Accuses Dole of hypocrisy on pardons

Andy Thibault - THE WASHINGTON TIMES

For the second presidential election in a row there was an "October surprise" courtesy of former Iran-Contra independent counsel Lawrence Walsh, and again the beneficiary is Bill Clinton.

"Walsh is like Dracula," said Joseph diGenova, the former U.S. attorney for the District. "You put a stake through his heart and he's still there."

Mr. diGenova and other prominent lawyers yesterday accused Mr. Walsh - whose new book accuses Bob Dole of hypocrisy over presidential pardons - of padding his pocketbook and confusing the issues surrounding the president's possible criminal culpability in Whitewater.

Releasing two chapters of his forthcoming book, Mr. Walsh said this week that Mr. Dole "urged pardons for crimes of constitutional dimension" in the Iran-Contra scandal in 1992.

President Bush pardoned former Defense Secretary Caspar W. Weinberger before he was to go on trial on charges of lying about his knowledge of the Reagan White House's secret arms sales to Iran.

Robert Bennett, who represented Mr. Weinberger and now is Mr. Clinton's personal attorney, stood up for Mr. Dole yesterday. In a telephone interview from San Diego, Mr. Bennett called Mr. Walsh's statements on Mr. Dole "an unfair, vicious attack."

"Walsh's conduct then was outrageous, and his conduct now is outrageous," Mr. Bennett said. "Walsh is bored . . . and he wants to be a player in history. It was he who was a McCarthy for criticizing a statesman like Cap Weinberger."

It was Mr. Walsh's indictment of Mr. Weinberger four days before the 1992 presidential vote that was credited with stalling a comeback by Mr. Bush in his race against Mr. Clinton.

"Walsh's conduct is transparently hypocritical. It's commercial aggrandizement," Mr. diGenova said. "President Clinton's friends are under investigation. There's no comparison."

Mr. Walsh's most recent statement came amid Mr. Dole's new offensive against Mr. Clinton, in which he accuses the president of presiding over one of the most unethical administrations in history.

Mr. Clinton also has been accused of dangling pardons before former Arkansas Gov. Jim Guy Tucker and James and Susan McDougal, convicted in May on 24 felony counts in the first Whitewater trial in connection with a $3.13 million scam involving Madison Guaranty Savings and Loan Association, which was owned by the McDougals.

Mr. Walsh's indictment of Mr. Weinberger "was calculated to affect the election," said William Barr, who was Mr. Bush's attorney general.

"Walsh is a vindictive person who completely mismanaged the independent counsel's office," Mr. Barr said. "The people he indicted were not people who could implicate the president, or Bob Dole, for that matter. But now you have a witness [Susan McDougal] who is being asked about President Clinton's role. Clearly, the dangling of pardons is an effort to obstruct the process."

Mr. Walsh's book, "Firewall: The Iran-Contra Conspiracy and Coverup," is to be released next spring, but "in the interest of full disclosure during the current presidential campaign, I am releasing two chapters" now, the former independent counsel said.

At the same time, Mr. Clinton is attacking Whitewater independent counsel Kenneth W. Starr the same way Mr. Dole attacked Mr. Walsh four years ago. Mr. Clinton said "there's a lot of evidence" that Mr. Starr is politically motivated to find evidence against him and first lady Hillary Rodham Clinton.

Mr. Bennett declined to comment on the pardons for Tucker and the McDougals. "I leave that question to others," he said.

Mark Levin, a lawyer who served as chief of staff to former Attorney General Edwin Meese and is now president of the Landmark Legal Foundation, said personal gain is at the core of the distinction between the pardon of 1992 and the potential pardons before Mr. Clinton.

"When Mr. Dole was talking about pardoning Caspar Weinberger, he had no personal stake in the matter," Mr. Levin said. "On the other hand, President Clinton is dangling pardons under the noses of individuals who were his former business partners and others whose testimony can, in fact, harm him."

Mr. Walsh presided over the longest and most expensive independent investigation in U.S. history. The seven-year, $40 million probe netted 11 convictions. But the two convictions Mr. Walsh considered his top victories - of Lt. Col. Oliver North and former National Security Adviser John Poindexter - were overturned.

The remaining nine minor convictions of U.S. officials and others involved arms transactions.

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Photo (color), Lawrence Walsh

---- Index References ----

Region: (Iran (1IR40); USA (1US73); Americas (1AM92); North America (1NO39); Western Asia (1WE54); Asia (1AS61))

Language: EN

Other Indexing: (ARKANSAS; DEFENSE; LANDMARK LEGAL FOUNDATION; LAWRENCE WALSH; LOAN ASSOCIATION; NATIONAL SECURITY; REAGAN WHITE HOUSE; WALSH) (Accuses Dole; Barr; Bennett; Bill Clinton; Bob Dole; Bush; Cap Weinberger; Caspar W. Weinberger; Caspar Weinberger; Clinton; Coverup; Dole; Edwin Meese; Firewall; Hillary Rodham Clinton; James and Susan McDougal; Jim Guy Tucker; John Poindexter; Joseph; Kenneth W. Starr; Levin; Madison Guaranty Savings; Mark Levin; McDougals; Mr.; Oliver North; Photo; Robert Bennett; Starr; Susan McDougal; Tucker; Walsh; Weinberger; William Barr)

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1996 WLNR 366857

Washington Times (DC)

October 17, 1996

Section: BUSINESS

Phone-rates ruling won't thwart marketing

Doug Abrahms - THE WASHINGTON TIMES

Telecommunications companies stringing their own lines throughout U.S. cities won't be affected by a federal appeals court ruling that puts proposed wholesale local phone rates on hold.

C-Tek Corp. began hooking up telephone customers in New York last week, and plans to start offering residential phone service in the Washington-Baltimore area sometime next year. For other companies wanting to resell local phone services, the court's decision is only a temporary delay, according to some telephone analysts.

"I don't see this [court decision] as a big deal," said Kim Wallace, a telecommunications analyst at Lehman Brothers. "On the ground level, real competition was not going to come into effect for two years anywhere in the country."

The U.S. Court of Appeals in St. Louis on Tuesday temporarily blocked an FCC rule that set strict rules for pricing wholesale local phone rates across the nation. The court, which will hear arguments on the case in January, said the FCC did not give states enough leeway in setting local phone rates.

MCI and other long-distance companies are planning to resell the Baby Bells' local phone service to speed up competition, which could be delayed by several years if they had to string their own phone lines throughout all the nation's city streets. The wholesale price on local telephone service will have a big effect on how fast they move into that market.

MCI, AT&T Corp. and the FCC criticized the court's decision, saying it would slow down telephone competition.

"We're going to the U.S. Supreme Court to ask that the stay be dissolved," said Jonathon Sallet, MCI's chief policy counsel. "Absent the FCC rules, the [Baby Bells] will now be engaged in delaying tactics" to open up their local networks.

This week's court decision is only a bump in the long road in breaking open the local telephone monopoly. State utility commissions are working busily on regulations that will set the rules for breaking up the local phone monopolies.

The Maryland Public Service Commission heard testimony from Bell Atlantic Corp., MCI Communications Corp. and other companies last week on setting prices and making other rules surrounding the breakup of Bell Atlantic's bottleneck on local communications services. The commission will release its order by Nov. 8, a deadline imposed by the Telecommunications Act signed in February, a PSC spokeswoman said.

The appeals court decision does not affect actions by the state commissions, which must establish rules for opening up the local phone networks over the next few months, said William Barr, general counsel for GTE Corp. and a former U.S. attorney general. GTE and the Baby Bells said the court order returns control of local telephone service to the states, where it belongs.

"The court's action validates our view of a key point. In the Telecommunications Act itself, Congress explicitly gave the states - not the FCC - responsibility for these pricing matters," Mr. Barr said.

For companies building their own telephone networks, the court's decision has little impact.

"We don't see the order having one iota of impact on our ability to compete [for local phone service]," said Royce Holland, president of MFS Communications Co.

The Omaha, Neb.-based company has built local phone networks in many U.S. cities and provides local phone services mostly for business customers in competition with the Baby Bells. But MFS is leasing its phone network to C-Tek, which will sell phone services to consumers in the Northeast, Mr. Holland said.

Mr. Holland does worry that this week's court case and other expected lawsuits will just slow the overall momentum of deregulating the telecommunications industry.

"Another clear winner is the American Bar Association in this one," he said.

J0017567-101796

---- Index References ----

Company: BELL ATLANTIC CORP; LEHMAN BROTHERS HOLDINGS INC; MCI INC; AMERICAN BAR ASSOCIATION; MCI COMMUNICATIONS CORP; GTE CORP; LEHMAN BROTHERS INC

News Subject: (Legal (1LE33); Business Management (1BU42); Technology Law (1TE30); Sales & Marketing (1MA51); Sales (1SA20); Judicial (1JU36); Economics & Trade (1EC26))

Industry: (Telecom Carriers & Operators (1TE56); Telecom Regulatory (1TE65); Wireline Telecom Regulatory (1WI37); Telecom Residential Services (1TE75); Long-Distance Services (1LO42); Telecom (1TE27); Telecom Services (1TE09))

Region: (Maryland (1MA47); Americas (1AM92); North America (1NO39); Western Europe (1WE41); Netherlands (1NE54); Europe (1EU83); USA (1US73))

Language: EN

Other Indexing: (AMERICAN BAR ASSOCIATION; BABY BELLS; BELL ATLANTIC; BELL ATLANTIC CORP; C TEK CORP; CORP; FCC; GTE; GTE CORP; LEHMAN BROTHERS; MARYLAND PUBLIC SERVICE COMMISSION; MCI; MCI COMMUNICATIONS CORP; MFS; MFS COMMUNICATIONS CO; PSC; US COURT OF APPEALS; US SUPREME COURT) (Absent; Barr; Holland; Jonathon Sallet; Kim Wallace; Royce Holland; William Barr)

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NewsRoom

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1996 WLNR 6479404

Washington Post, The (Washington, D.C.)

October 16, 1996

Section: Business

COURT HALTS FCC RULES ON PHONE COMPETITION; RULING FAVORS EXISTING LOCAL SERVICE PROVIDERS

Mike Mills

A U.S. court in St. Louis yesterday blocked federal rules that aim to open the $100 billion local telephone market to competition, at least until it hears a case on the rules early next year.

While it is too early to say how the ruling will affect local phone rates or the pace of competition down the road, it does mean that for now states have full authority to set the prices that local phone companies may charge to future competitors that want to lease all or parts of their local phone networks.

The ruling comes in the wake of a telecommunications law, enacted in February, that requires local telephone companies to allow competitors to connect to their wires, switches and poles to offer competing local service.

The law allows competitors to either lease the entire network at a discounted rate, or lease only components of the network and link them to their own facilities.

Under the law, rivals first get an opportunity to reach voluntary agreements on the rates for the connections. But if they fail, the law requires states to arbitrate final terms, based on rules set by the Federal Communications Commission. Maryland, Virginia and the District of Columbia are among the states in the arbitration process.

When the FCC set its rules in August, state regulators, the regional Bell companies, GTE Corp. and other local telephone providers immediately filed suit, complaining that the agency overstepped its authority to order states to use specific pricing guidelines.

The Court of Appeals yesterday effectively said there is a "likelihood" that the FCC rules would harm the local carriers. Until it issues a final ruling on the case, its "stay" prevents the rules from taking effect.

The FCC said it would immediately appeal to the Supreme Court. The ruling "throws a monkey wrench into the carefully designed congressional machinery for introducing competition into the local exchange market," said FCC Chairman Reed Hundt in a prepared statement.

"This is good news for consumers because states, which are most familiar with the needs of consumers, now will continue to have the job of setting prices for these services," said Ed Young of Bell Atlantic Corp.

But those hoping to offer local services, including long-distance giants AT&T Corp. and MCI Communications Corp., said states are more likely to approve higher connection rates for competitors without the FCC rules, and that would lead to higher local phone rates or simply discourage competition altogether.

"The rules the FCC came up with are precisely the ones you need if you're going to have competition develop," said Mark Rosenblum, vice president for law and public policy for AT&T.

In general, the FCC rules allowed competitors to lease entire local phone networks at discounts of 17 percent to 25 percent below retail prices charged by the incumbent carriers.

Competitors were told by the FCC they also could lease as many as seven individual components of local phone networks, including switches and directory assistance. Though it did not set exact rates for those elements, the agency suggested "proxy" rates that states could use as guidelines in setting prices.

The FCC based those proxy rates, and the general wholesale discounts, on the cost local carriers incur by offering various services. The FCC used a complicated formula that, local carriers believed, did not properly take into account their historical investment in their networks. The FCC, along with AT&T, MCI and other new competitors, countered that the lower-cost formula was necessary to spur competition and keep rates low.

The local carriers said Congress never intended the FCC to have so much power over pricing of in-state phone service. The court seemed to agree: "Nowhere" in the new law "is the FCC specifically authorized to issue rules on pricing," the three-judge panel wrote.

"The FCC's effort to stack the deck against the local phone companies has been rebuffed," said GTE General Counsel William Barr.

An FCC official, speaking on condition of anonymity, said the law orders the FCC to ensure "just and reasonable" local rates -- the same words that have long applied to the agency's authority over long-distance rates.

In addition to blocking the pricing rules from taking effect, the court also temporarily barred another FCC rule that allows a phone company's competitors to "pick and choose" the best rates for individual parts of a phone network from any previous agreements with other competitors.

Oral arguments in the case are scheduled for January.r, photofinishing services and its new Advantix line of cameras and film. Sprint's third-quarter earnings rose 16 percent, to $312.4 million, on a strong performance from its long-distance business. Ameritech, the Chicago-based regional phone company, said third-quarter earnings rose 12 percent, to $519 million, on increased returns from international investments, continued phone line growth and an increase in cellular customers. Caterpillar's third-quarter profit leaped 45 percent, to $310 million, primarily due to higher prices, stronger volume and the effects of a stronger U.S. dollar. Mattel's third-quarter profit increased 11 percent, to $168 million. The toymaker attributed the improvement to robust sales of Barbie dolls, Hot Wheels cars and Cabbage Patch Kids dolls. The company also expanded its stock buyback program to 10 million shares from 8.75 million shares. Amgen said its third-quarter net income rose 23 percent, to $179 million, from $146 million in the same period a year earlier, on increased sales of Epogen and Neupogen, the blood cell promoting drugs that have made the California-based company a biotech leader. Revenue rose 15 percent, to $567 million, from $493 million. Honeywell's third-quarter earnings rose 20 percent, to $101.1 million as its home, industrial and aviation control segments showed improvement. Sun Microsystems, maker of computer workstations, reported a 45 percent increase in first-quarter profit to $123.4 million. LOCAL BUSINESS

North American Vaccine of Beltsville has signed an agreement with drug giant Abbott Laboratories for Abbott to market and distribute North American Vaccine's diphtheria, tetanus and whooping cough vaccines. North American Vaccine received a $13 million fee from Abbott upon signing the agreement and could receive an additional $29 million if it reaches certain milestones in developing a new generation of vaccines. Guilford Pharmaceuticals, the Baltimore-based drug firm, declared a 3-for-2 stock split payable by way of a stock dividend. The dividend is payable Nov. 12 to holders of record on Oct. 28. Diagnon, a medical research company based in Rockville, reported that net income fell 54 percent, to $17,895, in its fiscal first quarter, ended Aug. 31. Revenue rose 3 percent, to $2.3 million. Mason-Dixon Bancshares reported net income increased 5 percent, to $2.1 million, in the third quarter. Mason-Dixon is the Westminster, Md.-based parent of Carroll County Bank and Trust and the Bank of Maryland. Diehl Graphsoft, a Columbia-based developer of computer aided design software, said earnings nearly tripled, to $352,977, in its fiscal first quarter, ended Aug. 31. The company attributed the improvement to "robust sales of MiniCad 6 for Macintosh and strong initial sales of MiniCad for Windows." Chesapeake Biological Laboratories, an Owings Mills, Md.-based maker of health care products, said earnings more than tripled, to $364,000, in its fiscal second quarter, ended Sept. 30. Revenue nearly doubled, to $3 million. CAPTION: TREASURY BILLS (This chart was not available)on, CSX will acquire 40 percent of Conrail's stock at $92.50 a share and the remaining 60 percent at a ratio of 1.85619 CSX shares for each Conrail share. Because of Pennsylvania's anti-takeover law, Conrail shareholders must vote first to allow CSX to buy more than 20 percent of Conrail.

CSX stock fell yesterday to $46.75, a drop of $2.75. But Conrail stock rose $14.37 1/2 to $85.37 1/2. Norfolk Southern closed at $95, up $3. CAPTION: IN PROFILE THE MAKING OF A RAILROAD MERGER CSX Business: The rail, shipping and trucking company dates back to the early 19th century and the charter of the nation's first railroad, the Baltimore and Ohio Railroad. Headquarters: Richmond Rail route: 18,645 miles in 20 states in the East, Midwest and South as well as Ontario, Canada. 1995 revenue: $10.5 billion 1995 profit: $618 million Employees: 29,500 in rail; 18,400 in shipping, trucking Yesterday's stock price: $46.75, down $2.75. CONRAIL Business: The largest freight railroad in the Northeast, Conrail was created in 1976 after the bankruptcy of Penn Central and other rail lines. It went public in 1987. Headquarters: Philadelphia Rail route: 11,000 miles of track in 12 states, the District and Quebec, Canada. 1995 revenue: $3.7 billion 1995 profit: $264 million Employees: 23,510 Yesterday's stock price: $85.371/2, up $14.371/2. SOURCES: Bloomberg Business News, company reportsp to 100 percent because respondents with "no opinion" are not shown. The margin of sampling error for the overall results are plus or minus 4 percentage points. Interviewing was done by ICR Research of Media, Pa. -- Compiled by Mario A. Brossard CAPTION: Andrew Cooper, left, who participated in Post focus group, and J. Vincent Cordice of Union of Black Men of Queens at last year's Million Man March. breaks have risks. Universities, they say, could have less incentive to hold down tuition if they know the government will pay most of the bill. Teachers could face pressure to inflate grades to keep students eligible for the B average that his tax credit requires.

Also, some analysts say they doubt Clinton's plan will greatly expand student access to college. Most of the benefits, they say, will be reaped by middle-class families intent on sending their children to college anyway.

"Clinton is making a substantial commitment to higher education, and I give him credit for that, but this will not get aid to the people who need it most, like a larger Pell Grant would do," said Lawrence Gladieux, who studies education policy for the College Board. "This is a windfall for the middle class."

But here in Georgia, educators say that every bit of aid counts. State officials say Hope scholarships have expanded college opportunity. Nearly 60 percent of high school graduates in Georgia now go on to college, compared with 51 percent eight years ago. The national rate is 62 percent. The state is also making the program more rigorous. To keep a Hope scholarship, students soon will only be able to use grades from core courses such as math or English to reach a B average -- not elective courses, which are often easier.

"Access to college has become a huge issue," said Jacquelyn Belcher, DeKalb's president. "Both parents in many families are working. Most students are working. And they're still trying to keep up with the costs. More than ever, people see the benefits of a college education. But affording one is getting much more difficult." CAPTION: WHERE THEY STAND: EDUCATION PRESIDENT CLINTON

Clinton has given prominent attention to education by expanding and revamping federal aid for college loan programs and resisting attempts by GOP leaders to cut school funding. He is proposing $1,500 tax credits for students to attend college for two years and wants to increase funding for computer technology in public schools. Key actions: 1989: Presides with then-President George Bush over education summit that leads to new national goals for schools. 1994: Adds $2.8 billion to federal education spending. Creates Goals 2000, a program to give states aid for school reform. 1996: Proposes $1,500 tax credit for students in their first two years of college, as long as they maintain a B average. ROBERT J. DOLE

Dole has spent his campaign chiding the education establishment, saying teacher unions and bureaucrats are stifling excellence. He wants to give children publicly funded vouchers for private school and has urged educators to focus more on basic skills. He also supports spending increases for some college aid programs. Key actions: 1979: Opposes creation of the Department of Education. 1995: Blocks attempts by House Republicans to have college students pay the interest that accrues on tuition loans while they are still in school. 1996: Proposes $5 billion plan to give 4 million students scholarships of either $1,000 or $1,500 to pay tuition at private schools. The federal government would split the cost with states. CURRENT ISSUES CLINTON

DOLE Opposes Abolishing Department of Education

Supports Opposes Tuition vouchers for private schools

Supports Supports College lending directly through federal Opposes

government, not banks Supports Increasing Pell Grants for needy

Supports

college students Supports AmeriCorps service program

Opposes

---- Index References ----

Company: PENNSYLVANIA ELECTRIC CO; PENNSYLVANIA ASSOCIATES LP; SUN MICROSYSTEMS MANAGEMENT SERVICES CORP; SUN MICROSYSTEMS BELGIUM NV; SUN MICROSYSTEMS DO BRASIL INDUSTRIA E COMERCIO LDA; MCI MANAGEMENT SPOLKA AKCYJNA; NORFOLK SOUTHERN PROPERTIES INC; SUN MICROSYSTEMS DANMARK APS; NORFOLK SOUTHERN CORP; SUN MICROSYSTEMS OY; ABBOTT DIABETES CARE; HONEYWELL HOLDINGS PTY LTD; VYSIS INC; SUN MICROSYSTEMS SLOVAKIA S R O; PENNSYLVANIA AMERICAN WATER CO; MCI CAPITAL TOWARZYSTWO FUNDUSZY INWESTYCYJNYCH SPOLKA AKCYJNA; UAB "ABBOTT LABORATORIES"; ABBOTT LABORATORIES DE CHILE LDA; FIRST COPPER TECHNOLOGY CO LTD; HONEYWELL DEUTSCHLAND GMBH; NORTH EASTERN ELECTRIC POWER CORPN LTD; GTE CORP; ABBOTT LABORATORIES DE MEXICO SA DE CV; SUN MICROSYSTEMS POLAND SP ZOO; CATERPILLAR COMMERCIALE SRL; SUN MICROSYSTEMS SCOTLAND BV; HONEYWELL GMBH; SUN MICROSYSTEMS DE CHILE SA; SUN MICROSYSTEMS SCOTLAND LP; SUN MICROSYSTEMS ITALIA SPA; ABBOTT LABORATORIES DO BRASIL LDA; CENTRAL D D TUZLA U STECAJU;

GTE DELAWARE LP; CENTRAL TRANSPORT RENTAL GROUP LTD; MATTEL INTERNATIONAL FINANCE BV; MATTEL EUROPE MARKETING BV; CENTRAL PURCHASING LLC; BANK OF MARYLAND; FEDERAL COMMUNICATIONS COMMISSION; ABBOTT LABORATORIES (SINGAPORE) PVT LTD; CENTRAL AD VRBAS; SUN MICROSYSTEMS AUSTRALIA PTY LTD; SUN MICROSYSTEMS (HELLAS) SA; HONEYWELL SPECIALTY CHEMICALS SEELZE GMBH; SUN MICROSYSTEMS PTE LTD; COLLEGE BOARD; SUN MICROSYSTEMS LTD; CENTRAL PROVINCES RAILWAYS CO LTD; FINANZIARIA CERAMICA CASTELLARANO SPA; FOSHAN CONCH CEMENT CO LTD; SUN MICROSYSTEMS IRELAND LTD; HONEYWELL SP ZOO; NORFOLK SOUTHERN RAILWAY COMPANY (DUPLICATE); CATERPILLAR INC; PENNSYLVANIA REAL ESTATE INVESTMENT TRUST; HONEYWELL SRL; HONEYWELL GARRETT SA; CATERPILLAR FINANCIAL SERVICES ARGENTINA SA; HONEYWELL S R O; HONEYWELL INTERNATIONAL INC; HONEYWELL CO LTD; FOMENTO DE CONSTRUCCIONES Y CONTRATAS SA; SUN MICROSYSTEMS LLC; ABBOTT LABORATORIES (HUNGARY) HEALTH PRODUCTS AND MEDICAL EQUIPMENT TRADING AND SERVICING LIMITED LIABILITY CO; MATTEL INC; MATTEL GMBH; SUN MICROSYSTEMS AS; CATERPILLAR SARL; SUN MICROSYSTEMS SCOTLAND HOLDING LP; SUN MICROSYSTEMS (NZ) LTD; PENNSYLVANIA SERVICES CORP; MCI TELECOMMUNICATIONS LTD; HONEYWELL INC; FARM CREDIT CANADA; SUN MICROSYSTEMS AB; OWINGS MILLS LP; SUN MICROSYSTEMS GLOBAL SERVICES BV; GRAN TIERRA ENERGY INC; SUN MICROSYSTEMS CZECH S R O; SUN MICROSYSTEMS OF CANADA INC; MCI COMMUNICATIONS CORP; BELL ATLANTIC CORP; GTE INTERNETWORKING; HONEYWELL SPOL SRO; PENNSYLVANIA AVENUE ADVISERS LLC; PENNSYLVANIA INTERNATIONAL RACEWAY INC; CATERPILLAR UNDERGROUND MINING PTY LTD; HONEYWELL AEROSPACE UK; ABBOTT LABORATORIES SA; PENNSYLVANIA CLINICAL SCHOOLS INC; SUN MICROSYSTEMS (SCHWEIZ) AG; CATERPILLAR WORLD TRADING CORP; CENTRAL SECURITIES CORP; CENTRAL AD BEOGRAD U STECAJU; CATERPILLAR REDISTRIBUTION SERVICES INTERNATIONAL SARL; SUN MICROSYSTEMS KK; CATERPILLAR INTERNATIONAL FINANCE LTD; CATERPILLAR FINANCIAL SERVICES GMBH; NORFOLK SOUTHERN RAILWAY CO; CATERPILLAR CIS LLC; MASON DIXON INTERMODAL INC; SUN MICROSYSTEMS FEDERAL INC; ABBOTT LABORATORIES CA; CATERPILLAR FINANCIAL SERVICES NORWAY AS; AMGEN INC; CENTRAL KIMBERLEY DIAMONDS LTD; MCI LLC; VERIZON COMMUNICATIONS INC; CENTRAL ELECTRIC COOPERATIVE INC; SUN MICROSYSTEMS SOUTH AFRICA; CORPORATION SDN BHD; CATERPILLAR OF AUSTRALIA PTY LTD; CATERPILLAR FINANCIAL CORPORACION FINANCIERA SOCIEDAD ANONIMA ESTABLECIMIENTO FINANCIERO CREDITO; ABBOTT LABORATORIES (PUERTO RICO) INC; MCI; MUNICIPALITY CREDIT ICELAND PLC; CATERPILLAR FINANCIAL MEMBER CO; SUN MICROSYSTEMS OF CALIFORNIA INC; MCI INC; HONEYWELL CONTROL SYSTEMS LTD; SPRINT SP ZOO; HONEYWELL AUTOMATION INDIA LTD; ABBOTT LABORATORIES HELLAS SA; PENNSYLVANIA CONVENTION CENTER AUTHORITY; MATTEL EUROPA BV; CENTRAL PETROLEUM LTD; SUN MICROSYSTEMS EGYPT LLC; CATERPILLAR FINANCIAL SERVICES CORP; HONEYWELL ELECTRONIC MATERIALS INC; ABBOTT LABORATORIES (MALAYSIA) SDN BHD; PENNSYLVANIA STATE UNIVERSITY (THE); PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE CO; SUN MICROSYSTEMS SCOTLAND LTD; CENTRAL INSURANCE CO LTD; MASON DIXON BANCSHARES INC; ABBOTT LABS DIAGNOSTICS DIV; ABBOTT LABORATORIES URUGUAY SA; HONEYWELL SL; CATERPILLAR INSURANCE HOLDINGS INC; SPRINT BIOSCIENCE AB; CATERPILLAR INSURANCE SERVICES CORP; SUN MICROSYSTEMS (MIDDLE EAST) BV; SPRINT COMMUNICATIONS COMPANY LP; SUN MICROSYSTEMS EUROPE PROPERTIES BV; MASON DIXON POLLING AND RESEARCH; HONEYWELL FINANCE LP; HONEYWELL TECHNICAL SERVICES SRL; CENTRAL INDIA POLYESTERS LTD; ABBOTT LABORATORIES ARGENTINA SA; HONEYWELL TECHNOLOGY SOLUTIONS INC; ABBOTT LABORATORIES S R O; PENNSYLVANIA LAND HOLDINGS COMPANY LLC; CATERPILLAR FINANCIAL SERVICES GMBH AND CO KG; SUN MICROSYSTEMS BILGISAYAR SISTEMLERI LTD STI; SUN MICROSYSTEMS MIDDLE EAST; ABBOTT LABORATORIES; SUN MICROSYSTEMS GES

MBH; CENTRAL INDUSTRIES PLC; CENTRAL DE VALORES SICAV SA; MATTEL EUROPE HOLDINGS BV; SUN MICROSYSTEMS NEDERLAND BV; WORDSTAR INTERNATIONAL INC; CENTRAL DE ESTACIONAMIENTOS AGUSTINAS SA; CATERPILLAR; ABBOTT LABORATORIES POLAND SP ZOO; SUN MICROSYSTEMS EUROPEAN HOLDING BV; ABBOTT LABORATORIES LTD; CATERPILLAR COMMERCIAL LLC; SUN MICROSYSTEMS GMBH; HONEYWELL AVIONICS SYSTEMS LTD; ABBOTT LABORATORIES PAKISTAN LTD; HONEYWELL PTE LTD; PENNSYLVANIA TREASURY DEPARTMENT (THE); MACONDRAY AND CO INC

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Industry: (Pharmaceuticals Regulatory (1PH03); Investment Management (1IN34); Telecom Regulatory (1TE65); Long-Distance Services (1LO42); Drugs (1DR89); Legal Services (1LE31); Financial Services Regulatory (1FI03); Accounting, Consulting & Legal Services (1AC73); Legal Services Regulatory (1LE16); Securities Investment (1SE57); Telecom Services (1TE09); Vaccines (1VA57); Pharmaceuticals & Biotechnology (1PH13); Pharmaceuticals (1PH33); Telecom (1TE27); Financial Services (1FI37))

Region: (Americas (1AM92); USA (1US73); Maryland (1MA47); U.S. Mid-Atlantic Region (1MI18); North America (1NO39); Pennsylvania (1PE71))

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Other Indexing: (ABBOTT LABORATORIES; AMERICAN VACCINE; AMERICAN VACCINE OF BELTSVILLE; AMERITECH; AMGEN; BANK OF MARYLAND; BARBIE; BELL ATLANTIC CORP; BLOOMBERG BUSINESS NEWS; BROSSARD CAPTION; CABBAGE PATCH KIDS; CAPTION; CATERPILLAR; CENTRAL; COLLEGE BOARD; CONGRESS; CORP; COURT; COURT OF APPEALS; CREATES GOALS 2000; CSX; CSX BUSINESS; DEPARTMENT OF EDUCATION; DOLE OPPOSES ABOLISHING DEPARTMENT OF EDUCATION; EPOGEN; FCC; FEDERAL COMMUNICATIONS COMMISSION; GOP; GTE; GTE CORP; HEADQUARTERS; HEADQUARTERS: PHILADELPHIA; HONEYWELL; HOUSE REPUBLICANS; ICR RESEARCH; MASON DIXON; MASON DIXON BANCSHARES; MATTEL; MCI; MCI COMMUNICATIONS CORP; NORFOLK SOUTHERN; NORTH; OPPOSES; OWINGS MILLS; PENNSYLVANIA; SPRINT; SUN MICROSYSTEMS; SUPPORTS; SUPPORTS AMERICORPS SERVICE; SUPPORTS INCREASING PELL GRANTS; SUPPORTS OPPOSES TUITION; SUPPORTS SUPPORTS COLLEGE; SUPREME COURT) (Andrew Cooper; Chesapeake Biological Laboratories; Clinton; Counsel William Barr; Diagnon; Diehl Graphsoft; Dole; Ed Young; FAVORS EXISTING LOCAL; George Bush; Guilford Pharmaceuticals; Hot Wheels; Interviewing; J. Vincent Cordice; Jacquelyn Belcher; Key; Lawrence Gladieux; LOCAL BUSINESS; Mario A.; Mark Rosenblum; Neupogen; Ohio Railroad; Oral; Reed Hundt; ROBERT J. DOLE; South; Universities; Virginia)

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U.S. PHONE CHANGES PUT ON HOLD: MCI, AT&T to appeal judge's decision to stall new act pending court case

The Financial Post (Toronto, Canada)

October 16, 1996, Wednesday,, DAILY EDITION

Section: SECTION 1, NEWS; Pg. 11; Appointment Notice

Length: 425 words

Byline: Peter Morton Washington Bureau Chief

Dateline: Washington, DC

Body

Stunned by a St. Louis court's decision yesterday that stalls the sweeping reform of the U.S. telecommunications industry, the U.S. Federal Communications Commission and two major U.S. long-distance telephone companies say they will appeal to the Supreme Court.

FCC chairman Reed Hundt, along with MCI Telecommunications Corp. and AT&T Corp. said they will ask the Supreme Court to overrule the St. Louis appeal court's decision to suspend the new Telecommunications Act until a court challenge is heard in 1997.

''The (St. Louis decision) throws a monkey wrench into the carefully designed congressional machinery for introducing competition into the local exchange market,'' Hundt said.

The appeal court agreed to suspend implementation of the act until next year after GTE Corp., several regional ''Baby Bell'' companies and some local phone carriers complained that the FCC exceeded its authority in introducing regulations related to the act approved by Congress this summer.

Several state governments also argued that the FCC's proposed interconnection rules were an unfair intrusion on their jurisdiction.

The court agreed, saying that the new FCC pricing rules would make pricing negotiations among telephone companies impossible, resulting in losses for local telephone companies.

The sweeping telecommunications bill was designed to open competition among long-distance and local phone companies to offer service in each other's once-protected areas. The FCC developed pricing regulations in August to go along with the act.

AT&T and MCI had both planned to offer local phone service in competition with the regional Bell telephone companies in the US$100-billion local telephone market.

''We're clearly disappointed,'' said MCI's public policy spokesman Robert Stewart. ''But ultimately, it will be the consumers who will win out.''

AT&T vice-president Mark Rosenblum also said the long-distance giant will support the FCC in its Supreme Court challenge.

''We believe the FCC's interconnection rules are exactly what Congress intended . . . and are exactly what is necessary for consumers to enjoy the benefits of local competition that the act promises,'' he said.

The U.S. Telephone Association praised the appeal court decision because it ''sends a clear signal that the (FCC) missed the mark intended by Congress.''

GTE general counsel **William Barr**, a former U.S. attorney general, predicted that the Supreme Court would not lift the stay. A decision is expected within days, he added.

Classification

Language: ENGLISH

Subject: LAW COURTS & TRIBUNALS (92%); COMMUNICATIONS LAW (90%); APPEALS (90%); DECISIONS & RULINGS (90%); ENERGY & UTILITY LAW (90%); LITIGATION (90%); APPEALS COURTS (90%); CONSUMERS (89%); APPELLATE DECISIONS (89%); SUPREME COURTS (89%); US FEDERAL GOVERNMENT (78%); PUBLIC POLICY (78%); LAWYERS (78%); APPROVALS (73%); JUDGES (73%); ATTORNEYS GENERAL (73%); PRODUCT PRICING (71%); REGIONAL & LOCAL GOVERNMENTS (69%); CORPORATE COUNSEL (60%)

Company: AT&T INC (95%); VERIZON COMMUNICATIONS INC (94%); AT&T INC (95%); VERIZON COMMUNICATIONS INC (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); United States Communications Commission; MCI; Telecommunications Corp. (Q/MCIC); AT&T Corp. (Z/ATNT, N/T)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Ticker: T (NYSE) (95%); VZC (LSE) (94%); VZ (NYSE) (94%)

Industry: TELECOMMUNICATIONS SERVICES (99%); TELECOMMUNICATIONS (92%); COMMUNICATIONS LAW (90%); TELEPHONE SERVICES (90%); ENERGY & UTILITY LAW (90%); LOCAL TELEPHONE SERVICE (90%); COMMUNICATIONS REGULATION & POLICY (90%); LONG DISTANCE

TELEPHONE SERVICE (89%); LAWYERS (78%); PRODUCT PRICING (71%); CORPORATE COUNSEL (60%)

Geographic: UNITED STATES (94%)

Load-Date: November 4, 1997

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 09:44:43 a.m. EST

Document: U.S. Appeals Panel Delays Rules Allowing Full Phone Compe…

U.S. Appeals Panel Delays Rules Allowing Full Phone Competition

The New York Times

October 16, 1996, Wednesday, Late Edition - Final

Distribution: Business/Financial Desk

Section: Section D; ; Section D; Page 1; Column 5; Business/Financial Desk ; Column 5;

Length: 695 words

Byline: By MARK LANDLER

By MARK LANDLER

Body

In a major setback for the Government, a Federal court suspended new rules yesterday that govern competition in the local telephone business.

The court ruling could put off the start of full competition in the nation's telecommunications business by delaying the efforts by big long-distance carriers like AT&T to enter local phone markets, and by erecting new hurdles to the entrance of the local phone companies into the long-distance market.

The United States Court of Appeals for the Eighth Circuit in St. Louis had issued a temporary stay on the rules on Sept. 27. Yesterday, a three-judge panel of the court extended the stay -- saying that GTE and other local phone companies were likely to prevail in their broader case against the regulations, which the Federal Communications Commission issued in August.

So the rules, which were to have taken effect on Oct. 1, will not be imposed until at least January, when the court is to review the case on its merits. And given the strong language in the opinion yesterday, some industry executives said the F.C.C. might have to go back to the drawing board and devise new regulations.

Several industry experts said the ruling could sharply inhibit the development of competition in the $90 billion local phone business, since the F.C.C.'s rules set out the terms by which local phone companies must open their networks to new competitors.

"Everything revolves around these rules," said Scott Cleland, managing director of the Washington Research Group, a telecommunications consulting firm, "This introduces a high level of uncertainty into the industry, and puts billions of dollars of investment up in the air."

The F.C.C. said yesterday that it planned to appeal the stay to the United States Supreme Court. A senior executive at MCI Communications said the long-distance industry planned to join in the F.C.C.'s appeal.

Reed E. Hundt, chairman of the F.C.C., said through a spokeswoman:

"The stay endangers investment and job growth. In short, it's a roadblock to the information highway."

But executives at GTE and other local phone companies applauded the ruling, which they said validated their argument that the F.C.C. did not have the right to impose sweeping rules on how much they can charge new competitors for access to their local networks.

"The F.C.C.'s vision of stacking the deck against the local phone companies has been dealt a blow," said **William P. Barr**, general counsel of GTE and a former United States Attorney General.

In addition to GTE, U S West, Cincinnati Bell and Southern New England Telephone, part of the Southern New England Telecommunications Corporation, had requested the stay. They were joined by state regulators from Iowa, Florida, South Dakota and Louisiana.

The court did not freeze all the F.C.C. provisions. The so-called interconnection rules cover a vast array of complex issues about how long-distance carriers and cable television companies would connect their networks to the networks of the local carriers.

But the court stayed the provisions that have to do with how much a local carrier can charge a competitor for that access. GTE and the states contend that the cost of maintaining a local telephone network -- and hence the amount they should be allowed to charge for it -- vary widely from state to state. They argue that these prices should not be determined by the F.C.C. with a one-size-fits-all formula.

Some industry executives said the court's decision to halt the pricing regulations -- while allowing the other rules to take effect -- could mitigate the effect of the ruling on local competition.

"If everything had been stayed, it would have slowed down local competition," said Walter Alford, general counsel of the BellSouth Corporation, "But this shouldn't damage anybody."

BellSouth did not join in GTE's request for a stay because it feared that such an action could slow its entry into the long-distance business. Mr. Alford said BellSouth would be able to open its local markets to competition regardless of the stay. That will allow it to apply for entry into long-distance service without delay, he said.

Classification

Language: ENGLISH

Subject: AGENCY RULEMAKING (90%); EXECUTIVES (87%); LAW COURTS & TRIBUNALS (78%); APPEALS (78%); US FEDERAL GOVERNMENT (78%); APPELLATE DECISIONS (78%); DECISIONS & RULINGS (78%); SUPREME COURTS (78%); LAWYERS (78%); APPEALS COURTS (78%); ENERGY & UTILITY LAW (77%); US STATE GOVERNMENT (73%); ATTORNEYS GENERAL (73%); MANAGERS & SUPERVISORS (68%); CORPORATE COUNSEL (60%); EDITORIALS & OPINIONS (50%)

Company: VERIZON COMMUNICATIONS INC (84%); CINCINNATI BELL INC (58%); AT&T CORP; FEDERAL COMMUNICATIONS COMMISSION VERIZON COMMUNICATIONS INC (84%); FEDERAL COMMUNICATIONS COMMISSION VERIZON COMMUNICATIONS INC (84%); CINCINNATI BELL INC

(58%); FEDERAL COMMUNICATIONS COMMISSION (93%); FEDERAL COMMUNICATIONS COMMISSION (93%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (93%); FEDERAL COMMUNICATIONS COMMISSION (93%); AT&T CORP; FEDERAL COMMUNICATIONS COMMISSION FEDERAL COMMUNICATIONS COMMISSION (93%); FEDERAL COMMUNICATIONS COMMISSION FEDERAL COMMUNICATIONS COMMISSION (93%); FEDERAL COMMUNICATIONS COMMISSION (93%)

Ticker: VZC (LSE) (84%); VZ (NYSE) (84%); CBB (NYSE) (58%)

Industry: TELECOMMUNICATIONS SERVICES (94%); TELEPHONE SERVICES (90%); LOCAL TELEPHONE SERVICE (90%); LONG DISTANCE TELEPHONE SERVICE (89%); TELECOMMUNICATIONS (89%); LAWYERS (78%); ENERGY & UTILITY LAW (77%); COMMUNICATIONS REGULATION & POLICY (77%); CONSULTING SERVICES (66%); CORPORATE COUNSEL (60%)

Geographic: NORTHEAST USA (92%); UNITED STATES (94%)

Load-Date: October 16, 1996

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 09:31:51 p.m. EST

Document: US Appeals Court Stays Interconnection Law

US Appeals Court Stays Interconnection Law

Newsbytes News Network

October 16, 1996

Length: 387 words

Highlight: US Court of Appeals in Missouri suspends pricing and "pick and choose" portions of the FCC's interconnection order

Body

WASHINGTON, DC, U.S.A., 1996 OCT 16 (NB) -- By Bob Woods. Score one for the regional Bell operating companies (RBOCs), the so-called "Baby Bells," when it comes to competition on their home fronts. The US Court of Appeals in Missouri suspended, or stayed, parts of the Federal Communications Commission's (FCC) interconnection order which lets local and long distance telephone companies cross into each other's businesses.

Specifically, the US Court of Appeals suspended the pricing and so- called "pick and choose" elements of the interconnect order. Until now, the Baby Bells have been forced to extend discounts and other advantages to phone companies entering their local markets.

The decision also places regulatory oversight with state panels instead of a federal panel, a provision that is agreeable with the Baby Bells and GTE Corp., which also provides local service in many areas.

The FCC said it will ask the US Supreme Court to lift the partial stay on its order, which should happen sometime next year. Many of the Baby, Bells along with GTE, had asked for the stay.

FCC Chairman Reed Hunt said the partial stay throws a "monkey wrench" into the plan to introduce competition into the local marketplace.

One of the companies eyeing the lucrative market said it is disappointed the Appeals Court issued the stay. Mark Rosenblum, AT&T vice president of law and policy, said that the question before the court was only "whether the FCC had the authority to adopt these (interconnect) rules." He said the Telecom Act remains the law of the land, and that AT&T intends to vigorously defend the FCC's rules.

Rosenblum added that AT&T is confident that the interconnect portion of the Act will be affirmed when it is heard by the Supreme Court next year.

On the flip side, GTE Senior Vice President and General Counsel **William P. Barr** said he is pleased the Appeals Court ordered the stay. "The court's action validates our view of a key point: In the Telecommunications Act itself, Congress explicitly gave the states -- not the FCC -- responsibility for these pricing matters."

Barr added that interconnect negotiations and state arbitration proceedings will continue between GTE and the Baby Bells and companies wanting to compete with them.

(19961016/Press Contacts: Jeffrey Kagan, Kagan Telecom Associates, 770-591-2677)

Classification

Language: ENGLISH

Document-Type: Journal; Fulltext

Journal Code: NEWSNEWN

Acc-No: 749595

Subject: APPEALS (90%); APPELLATE DECISIONS (90%); ENERGY & UTILITY LAW (90%); APPEALS COURTS (90%); LAW COURTS & TRIBUNALS (89%); COMMUNICATIONS LAW (89%); SUPREME COURTS (89%); US FEDERAL GOVERNMENT (78%); LAWYERS (70%); CORPORATE COUNSEL (64%); EXECUTIVES (64%); ALTERNATIVE DISPUTE RESOLUTION (60%); All government; Litigation

Company: AT&T INC (86%); VERIZON COMMUNICATIONS INC (84%); KAGAN TELECOM ASSOCIATES (51%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); SUPREME COURT OF THE UNITED STATES (55%)

Ticker: T (NYSE) (86%); VZC (LSE) (84%); VZ (NYSE) (84%)

Industry: TELECOMMUNICATIONS SERVICES (94%); ENERGY & UTILITY LAW (90%); COMMUNICATIONS LAW (89%); TELECOMMUNICATIONS (89%); COMMUNICATIONS REGULATION & POLICY (89%); TELEPHONE SERVICES (76%); LOCAL TELEPHONE SERVICE (76%); LAWYERS (70%); CORPORATE COUNSEL (64%); Telecom services; Telecommunications

Product: 481300 (Telephone communications, except radiotelephone)

Geographic: MISSOURI, USA (79%); DISTRICT OF COLUMBIA, USA (79%); UNITED STATES (95%); United States; North America (NOAX); United States (USA)

Load-Date: October 21, 2004

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 09:31:01 p.m. EST

Supreme Court Next Stop;
APPEALS COURT STAYS FCC INTERCONNECTION PRICING RULES

Communications Daily

October 16, 1996, Wednesday

Section: Vol. 16, No. 201; Pg. 1

Length: 1189 words

Body

Eighth U.S. Appeals Court, St. Louis, stayed key part of FCC interconnection order Tues., placing pricing rules and so-called "pick-&-choose" provision in limbo until next year when court acts on numerous appeals of agency's order filed by LECs and state PUCs. Action means states will continue arbitrating interconnection agreements but without federal guidance on pricing. Other part stayed, pick-&-choose provision, lets new entrants take advantage of any parts of agreements negotiated with incumbent LEC by any other new entrants. Stay will remain in effect for several months at least. Court won't rule on appeals until after it hears oral arguments in mid-Jan.

FCC Chmn. Hundt announced that agency would "immediately" seek reversal by U. S. Supreme Court. He said stay "throws a monkey wrench into the carefully designed congressional machinery for introducing competition into the local exchange market." Supreme Court appeal probably would go to Justice Clarence Thomas, who hears appeals from 8th Circuit, court spokesman said. However, Thomas could refer case to full court if he wished.

GTE Gen. Counsel **William Barr** said company is "obviously very pleased" by court's action because "it's precisely what we asked the court to do" when Appeals Court heard oral arguments on stay in Kansas City. He said stay "means we can move forward with competition, with negotiations and arbitration continuing without the FCC's attempt to stack the deck against the local phone companies." Barr said states have a lot of "discretion" in arbitrating agreements and some still might use FCC-mandated total element long-run incremental cost model (TELRIC) but now can "do so on their own volition."

Bell Atlantic Vp Ed Young said action "puts pricing decisions back in the hands of the states . . . That's the key issue -- that the states are clearly in control of opening up competition." In turn, that offers incumbent LECs more certainty and "clear path" to enter long distance service, Young said. USTA said decision "sends the clear signal that the Commission missed the mark intended by Congress." LECs will continue current negotiation and arbitration process during stay, USTA said.

New entrants obviously were disappointed. MCI said it would "pursue all legal remedies available, including a request to the U.S. Supreme Court to open these local markets to competition as Congress intended."

Stays had been sought by several parties -- Cincinnati Bell, GTE, Southern New England Telephone, U S West and regulatory commissions in Ia., Fla. La., S.D.

Appeals Court decision was strongly worded in some areas. As expected, ruling basically came down to whether Congress had intended states or FCC to set prices. Court emphasized that Telecom Act didn't give FCC authority to do so and questioned its argument that it wasn't setting prices, merely offering guidelines. It said FCC's proxy rates might be construed as setting federal prices because competitors would tend to hold out for proxy rates in negotiations and arbitration. Court said: "We are persuaded . . . by the petitioners' evidence that the negotiations preferred by the Congress are already breaking down due to the competitors' desire to hold out for the FCC's proxy rates." Decision was reached by panel of Judge David Hansen, who wrote order, and Judges Roger Wollman and Pasco Bowman.

Court said bottom line is that those appealing agency's order "have a better than even chance of convincing the court that the FCC's pricing rules conflict with the plain meaning of the Act." To get stay, parties must prove that they have chance of winning case challenging FCC rules. Court said it was "skeptical that the FCC's roundabout construction of the statute could override what, at first blush, appears to be a rather clear and direct indication . . . that the state commission's should establish prices."

Other reaction: (1) AT&T said FCC's interconnection rules "are exactly what the Congress intended . . . and are exactly what is necessary for consumers to enjoy the benefits of local competition that the act promises." Therefore, company plans to "defend the FCC's rules vigorously" and is "confident" that they will be upheld. (2) Intermedia Communications said stay wouldn't affect it much because it's "less dependent on the FCC's order than many of our competitors" because it's facilities-based.

BellSouth emphasized that "nothing in today's stay should delay interconnection negotiations under way between BellSouth and its potential competitors." It said it already had signed some 20 agreements with competitors, some of them even before FCC order was issued.

NARUC Pres. Cheryl Parrino said stay "highlights the critical need" for "close collaborative implementation efforts by the state and the FCC." She said federal-state partnership is "necessary" to ensure rapid development of local competition and emphasized that stay won't "slow the onset of competition." Parrino said federal and state policies "must work in concert to bring the benefits of competition to the nation's consumers."

Four states that sought stay obviously were pleased with decision. Ia. Utilities Board Gen. Counsel Diane Munns said IUB was "very excited by this decision. We're particularly pleased with [court's] analysis on the merits of this case." She said pricing provisions were "the guts" of interconnection order and it was important that one particular pricing methodology wasn't "mandated." States should be "free" to use TSLRIC or proxy prices, she said.

State regulators in Fla. breathed "a sigh of relief" when they learned of court decision, PSC Comr. Julia Johnson said. She said stay would enable PSC to "bring competition to the market" and, "more importantly, to protect our local ratepayers." Johnson said interconnection order "has too many mandates" and court recognized that. She said court also recognized states' right to set prices. She said state commissions and FCC have same goal -- establishing competitive marketplace -- but, "philosophically, we have different views of how to get there."

La. PSC Gen. Counsel Brian Eddington said state commission was "ecstatic" that stay includes geographical deaveraging: "Throw the confetti! Geographical deaveraging is dead!" He said deaveraging would result in La.'s rural ratepayers seeing "dramatic increase" in their rates while urban consumers' rates would go down. Eddington said La. has done statewide averaging, which he said is more "value-based" approach. S.D. PUC Chmn. Kenneth Stofferahn said agency was "delighted" court "saw it the way we did. Pricing for local competition must remain in the states' hands because all states have different costing inputs." He said Telecom Act clearly intended "states to control pricing issues."

Cal. PUC Pres. Greg Conlon said decision was "very positive" but he was "disappointed that it had to be done." He said that while Telecom Act itself was supportive of competition and states' rights, interconnection order was "preemptive of states' intrastate rights" and it was "important" that court recognized that.

Classification

Language: ENGLISH

Subject: LAW COURTS & TRIBUNALS (90%); APPEALS (90%); APPELLATE DECISIONS (90%); APPEALS COURTS (90%); SUPREME COURTS (89%); AGREEMENTS (89%); PRICES (89%); DECISIONS & RULINGS (78%); PRICE MANAGEMENT (78%); LITIGATION (78%); COMMUNICATIONS LAW (60%)

Company: CINCINNATI BELL INC (51%); CINCINNATI BELL INC (51%); SUPREME COURT OF THE UNITED STATES (90%); SUPREME COURT OF THE UNITED STATES (90%); FEDERAL COMMUNICATIONS COMMISSION (86%); FEDERAL COMMUNICATIONS COMMISSION (86%)

Organization: SUPREME COURT OF THE UNITED STATES (90%); SUPREME COURT OF THE UNITED STATES (90%); FEDERAL COMMUNICATIONS COMMISSION (86%); FEDERAL COMMUNICATIONS COMMISSION (86%)

Ticker: CBB (NYSE) (51%)

Industry: LOCAL TELEPHONE SERVICE (89%); PRICE MANAGEMENT (78%); TELECOMMUNICATIONS SERVICES (78%); TELEPHONE SERVICES (69%); TELECOMMUNICATIONS (69%); COMMUNICATIONS LAW (60%)

Person: CLARENCE THOMAS (73%)

Geographic: MISSOURI, USA (79%); NORTHEAST USA (79%); UNITED STATES (93%)

Load-Date: October 16, 1996

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 09:44:05 a.m. EST

Document: Federal Court Delays FCC Regulation

Federal Court Delays FCC Regulation

NPR Morning Edition Morning Edition (NPR 10:51 am ET)

October 16, 1996

Section: News; Domestic; Package

Length: 703 words

Byline: BARBARA BRADLEY;

Guests: WILLIAM BARR, General Counsel, GTE;JONATHAN SELLIT, Chief Policy Counsel, MCI;SCOTT CLELAND, Managing Dir., Washington Research Group

Highlight: Local phone companies are disappointed about a recent ruling that postpones an FCC regulation until the case can be heard in February. The ruling was meant to encourage competition in the local phone markets.

Body

Federal Court Delays FCC Regulation

BOB EDWARDS, Host: A Federal Appeals Court has suspended rules designed to end local telephone monopolies. A three-judge panel in St. Louis yesterday decided that key parts of the rules released by the Federal Communications Commission in August may not be legal and should not be put into effect until the court can hold a full hearing.

Analysts said the decision is not a fatal blow to local phone competition, but could delay lower prices and other consumer benefits.

NPR's Barbara Bradley reports.

BARBARA BRADLEY, Reporter: In February, Congress passed the Telecommunications Act which, among other things, is supposed to open up the local phone market, just as a similar law broke up AT&T's monopoly in 1984.

Laying down phone lines for a local network is expensive, so in August the FCC ordered the local phone companies, known as Baby Bells, to lease space on their lines at steep discounts. The idea was to encourage other companies to enter the local market while they built their own networks. The local companies sued, saying the discounts were too steep and would let new competitors offer local service more cheaply than they could, and still break even.

William Barr [sp] is general counsel of GTE, one of the companies that sued.

WILLIAM BARR, General Counsel, GTE: The FCC's view was that this was going to jumpstart

competition, but we felt what they were trying to do was really dictate the outcome by shifting

customers away from us to these new entrants.

BARBARA BRADLEY: Moreover, Barr says, it's the State Regulatory Commission's and not the FCC that

should determine the price of local phone service.

Yesterday a federal court in St. Louis agreed that the new rules should not go into effect until the court hears the case in February.

The ruling is a major disappointment for Jonathan Sellit [sp], chief policy counsel at MCI, which wants to compete in the $100 billion local market. He points out that since Ma Bell was broken up 12 years ago, long distance prices have dropped by nearly 70 percent and the quality has improved.

JONATHAN SELLIT, Chief Policy Counsel, MCI: And these are the benefits that Congress and the FCC wanted to bring to local telephone markets. And that's the risk here - the risk that the benefits to competition and consumers will be delayed if the FCC order does not go into effect.

BARBARA BRADLEY: The ruling will delay full-throttle competition for at least a year, according to Scott Cleland [sp], managing director of the Washington Research Group, which analyzes the industry. And it's not just a matter of pricing, he says. The court has cast a pall over the flashier promises of deregulation - technological breakthroughs that would allow new services and one-stop shopping, where one company could supply your cable TV, local, long distance, cellular, and Internet services.

SCOTT CLELAND, Managing Dir., Washington Research Group: Billions of dollars in telecom investment are going to be in a type of legal purgatory. Why would you want to spend a lot of money in long-term investment if you didn't know what the core economics of your business decision would be?

BARBARA BRADLEY: The FCC and companies like MCI are appealing the stay to the Supreme Court. But analysts say the new FCC rules, which were months in the making, are in serious jeopardy. And if the Supreme Court throws the rules out, one analyst says, we'll have to start all over again.

I'm Barbara Bradley in Washington.

[This program has been professionally transcribed by Journal Graphics. JG has used its best efforts to assure the transcript accurately reflects NPR's original broadcast, but makes no guarantees or representations that the transcription is identical to the original NPR broadcast. The official record of an NPR broadcast is the audio tape of the original broadcast.]

Classification

Language: ENGLISH

Transcript: 1978-5

Subject: LAW COURTS & TRIBUNALS (90%); COMMUNICATIONS LAW (90%); APPEALS (90%); DELAYS & POSTPONEMENTS (90%); APPELLATE DECISIONS (90%); LEGAL MONOPOLIZATION (90%); JUDGES (90%); ENERGY & UTILITY LAW (90%); ANTITRUST & TRADE LAW (90%); SUITS & CLAIMS (89%); DEREGULATION (89%); PRICES (89%); US FEDERAL GOVERNMENT (78%); LAWYERS (78%); AGENCY RULEMAKING (78%); APPEALS COURTS (78%); CORPORATE COUNSEL (77%); CONSUMERS (76%); BUSINESS FORECASTS (76%); PRICE CHANGES (75%)

Company: FCC&COS (96%); FCC&COS (96%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Industry: TELECOMMUNICATIONS SERVICES (94%); LOCAL TELEPHONE SERVICE (91%); COMMUNICATIONS LAW (90%); ENERGY & UTILITY LAW (90%); TELEPHONE RATES (89%); TELEPHONE SERVICES (89%); LONG DISTANCE TELEPHONE SERVICE (87%); TELECOMMUNICATIONS (78%); LAWYERS (78%); CORPORATE COUNSEL (77%); PRICE CHANGES (75%)

Geographic: UNITED STATES (79%)

Load-Date: October 17, 1996

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 09:42:44 a.m. EST

Document: APPEALS COURT DELAYS FCC'S TELEPHONE RULES;AGE...

APPEALS COURT DELAYS FCC'S TELEPHONE RULES; AGENCY HAD PLANNED TO OPEN INDUSTRY TO COMPETITION

Richmond Times Dispatch (Virginia)

October 16, 1996, Wednesday,, CITY EDITION

Section: BUSINESS,; (lko) REGULATION

Length: 446 words

Byline: The Associated Press

Dateline: ST. LOUIS

Body

A federal appeals court yesterday put on hold Federal Communications Commission rules for opening up the telephone industry to competition.

Phone and cable TV companies had asked the 8th U.S. Circuit Court of Appeals to block the rules temporarily until they can challenge the legality in the same appeals court in January.

FCC Chairman Reed Hundt immediately attacked the decision and said the federal agency would ask the Supreme Court to lift the stay.

''The 8th Circuit's stay throws a monkey wrench into the carefully designed congressional machinery for introducing competition into the local exchange market,'' Hundt said.

Opponents of the rules hailed the decision as vindicating their position that the rules were unfair.

The three-judge panel wrote in its opinion that the FCC seemed to have overextended its jurisdiction into pricing of telecommunications services, which it said was an issue for states to decide.

''What it means is that the FCC's efforts to stack the deck against local phone companies have been rebuffed,'' said **William Barr**, general counsel for GTE Corp.

The court's decision, he said, signaled a belief the phone companies had a strong case and would ultimately prevail.

The FCC issued the rules in early August to provide guidance for companies in complying with the Federal Telecommunications Act of 1996. The act removes competitive barriers between telephone, cable and other communications companies.

Local phone companies said the rules would mean their subsidization of the entrance of competitors into their markets. Cable TV companies were upset because they believe the rules would allow telephone companies to offer a new form of video service before they could.

In their appeal, opponents argued that the FCC rules take away from the states too much power to set rates. They said states should set their own rates because national standards do not take into consideration differences in geography, population and network configuration, among other things.

The other companies filing appeals against the rules include Bell Atlantic Corp., BellSouth Corp., Pacific Telesis Group, SBC Corp., Southern New England Telephone Co. and U S West Inc. The National Cable Television Association appealed on behalf of the nation's cable companies.

The appeals were filed in separate courts but consolidated in the 8th Circuit.

Several long-distance telephone companies, including Sprint Corp. and AT&T Corp., favor the FCC rules, saying that the local companies have not shown that they would suffer immediate irreparable harm. The rules would allow these companies to compete in local telephone markets

Classification

Language: ENGLISH

Subject: APPEALS COURTS (91%); LAW COURTS & TRIBUNALS (90%); APPEALS (90%); US FEDERAL GOVERNMENT (90%); APPELLATE DECISIONS (90%); ENERGY & UTILITY LAW (90%); BROADCASTING REGULATION (90%); COMMUNICATIONS LAW (89%); DELAYS & POSTPONEMENTS (89%); LEGISLATION (78%); DECISIONS & RULINGS (78%); SUPREME COURTS (78%); BUSINESS & PROFESSIONAL ASSOCIATIONS (78%); LITIGATION (78%); LAWYERS (75%)

Company: FEDERAL COMMUNICATIONS COMMISSION (94%); 8TH CIRCUIT (59%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); 8TH CIRCUIT (59%)

Industry: ENERGY & UTILITY LAW (90%); TELECOMMUNICATIONS (90%); BROADCASTING REGULATION (90%); TELECOMMUNICATIONS SERVICES (90%); COMMUNICATIONS LAW (89%); CABLE & OTHER DISTRIBUTION (89%); TELEPHONE SERVICES (89%); TELEVISION INDUSTRY (89%); LOCAL TELEPHONE SERVICE (89%); CABLE INDUSTRY (78%); LAWYERS (75%); LONG DISTANCE TELEPHONE SERVICE (68%)

Geographic: NORTHEAST USA (79%); UNITED STATES (79%)

Load-Date: October 17, 1996

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 09:43:19 a.m. EST

Document: GTE to Hold Media Briefing and Issues Statement on Today'...

GTE to Hold Media Briefing and Issues Statement on Today's Court Ruling

PR Newswire

October 15, 1996, Tuesday - 16:12 Eastern Time

Section: Financial News

Length: 249 words

Dateline: WASHINGTON, Oct. 15

Body

The U.S. Court of Appeals for the 8th Circuit today issued a stay of the Federal Communications Commission's (FCC) Interconnection Order, pending judicial review of that order.

GTE Senior Vice President and General Counsel **William P. Barr** made the following statement regarding the court's action:

"GTE is pleased the court has issued a stay, halting implementation of the pricing provisions of the FCC's Interconnection Order.

The court's action validates our view of a key point: in the Telecommunications Act itself, Congress

explicitly gave the states -- not the FCC -- responsibility for these pricing matters.

"Granting of the stay facilitates the introduction of competition in local phone markets. Interconnection negotiations and state arbitration proceedings will continue; that's the process the Act established and the way Congress intended local markets to be opened to competition.

"Congress' vision of a level playing field is being restored, while the FCC's effort to stack the deck against the local phone companies has been rebuffed.

"GTE will continue to pursue our appeal of the full FCC Interconnection Order, which we think is fatally flawed."
SOURCE: GTE Corporation
/EDITORS' ADVISORY: GTE Senior Vice President and General Counsel **William**

P. Barr will brief the media and respond to questions via teleconference today (Tuesday, Oct. 15) at 3.45 p.m. EDT -- dial 1-800-633-8414, ID: FCC Interconnection Ruling./

CONTACT: Bob Bishop of GTE, 202-463-5206 (After 6 p.m., 703-378-4684) Internet:

bbishop@dcoffice.gte.com

Classification

Language: ENGLISH

Subject: APPEALS (78%); US FEDERAL GOVERNMENT (78%); APPELLATE DECISIONS (78%); DECISIONS & RULINGS (78%); ENERGY & UTILITY LAW (78%); LITIGATION (78%); APPEALS COURTS (78%); LAWYERS (75%); ALTERNATIVE DISPUTE RESOLUTION (74%); EDITORIALS & OPINIONS (60%); COMMUNICATIONS LAW (55%)

Company: VERIZON COMMUNICATIONS INC (91%); GTE Corporation; Federal Communications Commission VERIZON COMMUNICATIONS INC (91%); Federal Communications Commission VERIZON COMMUNICATIONS INC (91%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); GTE Corporation; Federal Communications Commission FEDERAL COMMUNICATIONS COMMISSION (94%); Federal Communications Commission FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Ticker: VZC (LSE) (91%); VZ (NYSE) (91%); VZC (LSE) (91%); VZ (NYSE) (91%); GTE

Industry: LOCAL TELEPHONE SERVICE (90%); ENERGY & UTILITY LAW (78%); TELECOMMUNICATIONS (78%); LAWYERS (75%); COMMUNICATIONS LAW (55%)

Geographic: UNITED STATES (79%)

Load-Date: October 16, 1996

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 02:57:23 p.m. EST

Document: Appeals Court Postpones FCC Telecommunications Rules

Appeals Court Postpones FCC Telecommunications Rules

October 15, 1996, Tuesday, PM cycle

Section: Business News

Length: 484 words

Byline: By ED SCHAFER, Associated Press Writer

Dateline: ST. LOUIS

Body

Handing a major setback to the government, a federal appeals court has temporarily put on hold new rules for opening up the telephone industry to competition.

Phone and cable TV companies had asked the 8th U.S. Circuit Court of Appeals to temporarily block the rules until they can challenge the legality in the same appeals court in January.

Federal Communications Commission Chairman Reed Hundt immediately attacked Tuesday's decision and said the federal agency would ask the Supreme Court to lift the stay.

"The Eighth Circuit's stay throws a monkey wrench into the carefully designed congressional machinery for introducing competition into the local exchange market," Hundt said.

Opponents of the rules hailed the decision as vindicating their position that the rules were unfair.

The three-judge panel wrote in its opinion that the FCC seemed to have overextended its jurisdiction into pricing of telecommunications services, which it said was an issue for states to decide.

"What it means is that the FCC's efforts to stack the deck against local phone companies has been rebuffed," said **William Barr**, general counsel for GTE Corp.

The court's decision, he said, signaled a belief the phone companies had a strong case and would ultimately prevail.

The FCC issued the rules in early August to provide guidance for companies in complying with the Federal Telecommunications Act of 1996. The act removes competitive barriers between telephone, cable and other communications companies.

Objections emerged from almost every side of the industry about the rules.

Local phone companies said the rules would mean they would have to subsidize of the entrance of competitors into their markets. They worry that the large competitors will turn around and sell their network services at lower prices.

Cable TV companies were upset because they believe the rules allow telephone companies to offer a new form of video service before they could.

In their appeal, opponents argued that the FCC rules take too much power from the states over setting local rates. They said states should set their own rates because national standards do not take into consideration differences in geography, population and network configuration, among other things.

The other companies filing appeals against the rules include Bell Atlantic Corp., BellSouth Corp., Pacific Telesis Group, SBC Corp., Southern New England Telephone Co. and U S West Inc. The National Cable Television Association appealed on behalf of the nation's cable companies.

The appeals were filed in separate courts but consolidated in the 8th Circuit.

Several long-distance telephone companies, including Sprint Corp. and AT&T Corp., favor the FCC rules, saying that the local companies have not shown that they would suffer immediate irreparable harm. The rules would allow these companies to compete in local telephone markets

Classification

Language: ENGLISH

Subject: LAW COURTS & TRIBUNALS (90%); APPEALS (90%); US FEDERAL GOVERNMENT (90%); APPELLATE DECISIONS (90%); ENERGY & UTILITY LAW (90%); APPEALS COURTS (90%); COMMUNICATIONS LAW (89%); BROADCASTING REGULATION (89%); LEGISLATION (78%); DECISIONS & RULINGS (78%); SUPREME COURTS (78%); BUSINESS & PROFESSIONAL ASSOCIATIONS (78%); LITIGATION (78%); LAWYERS (75%); PRICES (74%); PRODUCT PRICING (68%)

Company: VERIZON COMMUNICATIONS INC (93%); AT&T INC (86%); SPRINT NEXTEL CORP (84%); AT&T SOUTHEAST (63%); U S WEST INC (63%); PACIFIC TELESIS GROUP INC (52%); SPRINT CORP (84%); VERIZON COMMUNICATIONS INC (93%); AT&T INC (86%); SPRINT NEXTEL CORP (84%); AT&T SOUTHEAST (63%); U S WEST INC (63%); PACIFIC TELESIS GROUP INC (52%); SPRINT CORP (84%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Ticker: VZC (LSE) (93%); VZ (NYSE) (93%); T (NYSE) (86%); S (NYSE) (84%)

Industry: ENERGY & UTILITY LAW (90%); TELECOMMUNICATIONS (90%); TELECOMMUNICATIONS SERVICES (90%); COMMUNICATIONS LAW (89%); CABLE & OTHER DISTRIBUTION (89%); TELEPHONE

SERVICES (89%); BROADCASTING REGULATION (89%); TELEVISION INDUSTRY (89%); LOCAL TELEPHONE SERVICE (89%); CABLE INDUSTRY (78%); LAWYERS (75%); PRODUCT PRICING (68%); LONG DISTANCE TELEPHONE SERVICE (68%)

Geographic: NORTHEAST USA (79%); UNITED STATES (79%)

Load-Date: October 16, 1996

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 09:42:06 a.m. EST

10/7/96 Radio Comm. Rep. (Pg. Unavail. Online)
1996 WLNR 1195741

Radio Communications Report

October 7, 1996

COURT DELIBERATES STAY OF INTERCONNECTION RULES

By Debra Wayne

WASHINGTON-A three-judge circuit court panel last week continued to deliberate whether to extend a temporary stay of the Federal Communications Commission's interconnection and local competition rules. There are mixed industry opinions regarding how wireless carriers will be affected either way the court votes. Since the temporary stay went into effect on Sept. 27, wireless carriers have been concerned about the status of pending interconnection negotiations with local exchange carriers and if LECs would continue to talk ``in good faith" if they had any inkling the court would overturn all or parts of the FCC's recently adopted order. When the judges do release a decision, it could involve any or all of four scenarios: no stay; staying the entire order; staying all pricing provisions of the order; or just staying proxy prices, which are scheduled to go into effect Nov. 8. ``What the stay is doing is muddying the water," said Tom Wheeler, president of the Cellular Telecommunications Industry Association. ``We are urging members to keep on negotiating at the state level. The law says there will be reciprocity, so that issue should move ahead." Wheeler also pointed out that the Telecommunications Act of 1996 designated the FCC as final arbiter if agreements cannot be reached at the state level. ``Our members are extremely concerned over the outcome," said Jay Kitchen, president of the Personal Communications Industry Association. ``The effects of a stay would be devastating to the wireless industry. We worked very hard with the FCC and Congress on this, and the decisions that were made were right. They could be tweaked, but they are in the right direction." While Kitchen also is urging his constituency to continue interconnection negotiations, he pointed out that paging carriers, while assured by law of mutual compensation, still have not reached that goal. The three judges appointed to hear the case against the order are Pasco Bowman II, David Hansen and Roger Wollman. The panel heard oral arguments regarding a continuance of the stay Oct. 3 in Kansas City, although the actual reconsideration hearings, scheduled to begin early in the first-quarter 1997, will take place in St. Louis. The judges reportedly are not prone to quick decisions, and all are considered to be pro-states' rights. Following the short hearing, GTE Senior Vice President and General Counsel William Barr, who argued in favor of a stay on behalf of LECs, said, ``The primary argument is that the FCC lacks the right to dictate (interconnection) prices to the states. We would suffer irreparable harm if no stay is granted." Barr did say that LECs will move forward on the competition front ``without delay," even during this fractious period, but maintained that LECs ``just want fair treatment and compensation equal to the parts of their networks competitors want to take." One Washington attorney who has made no secret of his concerns regarding the FCC's action is Russell Lukas, a principal of Lukas, McGowan, Nace and Gutierrez. ``It would be extraordinary for any court to stay FCC rules, but the FCC did an extraordinarily poor job of outlining national rules," he told RCR. ``If the court does decide to continue the stay, it probably would focus on the pricing issue." Lukas believes the FCC overstepped its authority when it included proxy pricing in the order, a matter that traditionally has been handled at the state level.

EOA=ENDOFABSTRACT

---- Index References ----

Company: FEDERAL COMMUNICATIONS COMMISION

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

Industry: (Telecom Regulatory (1TE65); Telecom (1TE27); Wireline Telecom Regulatory (1WI37); CLECs & Alternative Carriers (1CL29))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION; CONGRESS; COURT; EOA; FCC; FEDERAL COMMUNICATIONS COMMISSION; GTE; PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION; RCR) (Barr; Counsel William Barr; Debra Wayne; Gutierrez; Jay Kitchen; Kitchen; Lukas; Roger Wollman; Russell Lukas; Tom Wheeler; Wheeler)

Word Count: 698

End of Document

Document: Phone rules to be debated;KC will be the site of discussions ...

Phone rules to be debated;
KC will be the site of discussions over local competition regulations.

Kansas City Star (Kansas & Missouri)

October 3, 1996 Thursday, MID-AMERICA EDITION

Section: BUSINESS;

Length: 689 words

Byline: MARTIN ROSENBERG, Staff Writer

Body

Lawyers from around the country will be in Kansas City today to challenge federal rules governing the start of competition in the local telephone business.

Several local phone companies will ask a panel of three federal court judges to set aside guidelines adopted in August by the Federal Communications Commission to break up local phone monopolies.

The FCC says the guidelines are needed to ensure that local phone companies speedily sell access to their systems to new competitors.

Reed Hundt, FCC chairman, said, "We continue to be confident that our position will prevail."

Long-distance companies, including Sprint Corp., argue that the federal rules are vital to spur the development of competition in the $ 90 billion-a-year local phone business.

"The federal rules are not too extensive," said John Hoffman, Sprint senior vice president for external affairs. "They are just right."

But GTE Corp. and others want a stay in the implementation of the rules pending an appeal in federal court early next year.

Local phone companies argue that the FCC rules will require them to sell access to competitors at a loss.

William P. Barr, GTE senior vice president and a former U.S. attorney general under President George Bush, said, "We believe Congress intended to let the states and the free-market system - not an onerous order from big government in Washington, D.C. - shape the future of telecommunications in this country."

The case was assigned to the U.S. Court of Appeals for the 8th Circuit, which is hearing cases today in Kansas City.

The court will hear 15 minutes of oral arguments from each of four groups: the local phone companies, long-distance companies, the FCC and state regulators.

The court Friday temporarily delayed implementation of the rules, which had been set to go into effect last Monday. The court could rule on the stay as early as today but a decision could take weeks to reach, lawyers said.

Congress in February passed a broad act that replaced a 62-year-old communications law and unleashed cable television, local and long-distance companies to freely compete with one another.

As directed by the act, the FCC adopted rules to implement the act.

For more than a decade consumers have been free to select a long-distance carrier. Kansas City area consumers soon will be able to ask their local cable television company, Sprint, AT&T or possibly even an electric utility such as UtiliCorp United Inc. to provide local phone service.

Local service in Kansas City is provided exclusively by Southwestern Bell Telephone Co. Local service enables callers to call across town or send and receive long-distance calls.

Under the law, would-be local telephone companies are to enter into negotiations with the monopoly phone companies. The goal is to determine technically how new companies can get access to the existing phone grid and at what cost.

If the negotiations become deadlocked, state regulatory commissions are to arbitrate.

The FCC rules established benchmark prices for access to local phone networks. Long-distance companies say the FCC prices are needed to keep pressure on the local phone companies to open their systems.

Steve Weber, an AT&T attorney based in Jefferson City, said, "The only way you are going to have meaningful competition is by a broad national policy."

Local phone companies are among the largest corporations in the country, he said, and cannot be regulated state by state.

"These businesses are national in scope, and there has to be a certain level of (price) uniformity on a national level," Weber said.

Bob Bishop, GTE director of public affairs, said the pricing issues should be settled by negotiations or by states. The FCC should not try to dictate prices, when local phone companies' costs vary.

"They (the FCC) have poisoned the negotiation process," Bishop said. "They're trying to micromanage competition. "

Classification

Language: ENGLISH

Subject: ENERGY & UTILITY LAW (90%); CONSUMERS (89%); LAWYERS (89%); EXECUTIVES (88%); JUDGES (79%); COMMUNICATIONS LAW (78%); US FEDERAL GOVERNMENT (78%); APPELLATE DECISIONS (78%); US STATE GOVERNMENT (78%); BROADCASTING REGULATION (78%); LAW COURTS & TRIBUNALS (77%); APPEALS (77%); APPEALS COURTS (77%); SUITS & CLAIMS (74%); NEW BUSINESSES (73%); ATTORNEYS GENERAL (72%)

Company: VERIZON COMMUNICATIONS INC (91%); AT&T INC (85%); SPRINT NEXTEL CORP (84%); BLACK HILLS CORP (61%); SPRINT CORP (84%); SPRINT CORP (73%); GTE CORP (62%); FEDERAL COMMUNICATIONS COMMISSION (95%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (91%); FEDERAL COMMUNICATIONS COMMISSION (91%)

Ticker: VZC (LSE) (91%); VZ (NYSE) (91%); T (NYSE) (85%); S (NYSE) (84%); BKH (NYSE) (61%)

Industry: TELEPHONE SERVICES (90%); ENERGY & UTILITY LAW (90%); LOCAL TELEPHONE SERVICE (90%); TELECOMMUNICATIONS SERVICES (90%); LONG DISTANCE TELEPHONE SERVICE (89%); LAWYERS (89%); COMMUNICATIONS LAW (78%); TELECOMMUNICATIONS (78%); BROADCASTING REGULATION (78%); COMMUNICATIONS REGULATION & POLICY (77%); TELEVISION INDUSTRY (76%); ELECTRIC POWER INDUSTRY (73%); CABLE & OTHER DISTRIBUTION (65%); NATURAL GAS & ELECTRIC UTILITIES (50%)

Person: GEORGE W BUSH (52%)

Geographic: MISSOURI, USA (93%); DISTRICT OF COLUMBIA, USA (79%); UNITED STATES (93%)

Load-Date: October 3, 1996

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 13, 2018 10:25:43 a.m. EST

Document: GTE supports Temporary Stay of FCC Interconnection Order

GTE supports Temporary Stay of FCC Interconnection Order

Business Wire

October 3, 1996, Thursday

Length: 324 words

Dateline: WASHINGTON

Body

Oct. 3, 1996--Today, GTE presented oral arguments of behalf of incumbent local exchange carriers in support of a continuance of a temporary stay of the Federal Communications Commission's Interconnection Order.

The stay was granted on Friday, Sept. 27, by the U.S. Eighth Circuit Court of Appeals in St. Louis.

Arguments were heard today by the court in Kansas City.

GTE, several other local telephone companies, the National Association of Regulatory Utility Commissioners and four state Public Service Commissions have filed appeals of the FCC Interconnection Order. Those appeals are ongoing.

The Telecommunications Reform Act established the process for competitive entry into local markets. Continuance of the temporary stay will not affect the process; parties will continue to negotiate under the act and state commissions will continue their arbitrations under the act.

"Far from delaying the transition to competition (as some falsely claim), a stay of the FCC's order will ensure that the transition to competition complies with the process Congress chose. While the stay is in effect, parties will negotiate agreements under the act and state commissions will continue their arbitration proceedings. In short, the transition to completion will continue right on schedule," said **William P. Barr**, GTE senior vice president and general counsel. "GTE will continue to negotiate interconnection agreements in the local telecommunications markets it serves even as we challenge in court the FCC's rules. We expect to prevail in that challenge," Barr said.

CONTACT: GTE
Bob Bishop, 202-463-5206,
703-378-4684 (after 6 p.m.),
e-mail: bbishop(At)dcoffice.gte.com

Classification

Language: ENGLISH

Subject: ENERGY & UTILITY LAW (93%); LAW COURTS & TRIBUNALS (90%); COMMUNICATIONS LAW (90%); ALTERNATIVE DISPUTE RESOLUTION (90%); APPEALS (90%); US FEDERAL GOVERNMENT (90%); AGREEMENTS (90%); US STATE GOVERNMENT (90%); APPELLATE DECISIONS (77%); APPEALS COURTS (77%); LAWYERS (73%); ENERGY DEPARTMENTS (72%); ASSOCIATIONS & ORGANIZATIONS (56%)

Company: NATIONAL ASSOCIATION FOR FEMALE EXECUTIVES (57%); NATIONAL ASSOCIATION FOR FEMALE EXECUTIVES (57%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS (57%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS (57%); GTE/FCC FEDERAL COMMUNICATIONS COMMISSION;

Industry: ENERGY & UTILITY LAW (93%); COMMUNICATIONS LAW (90%); TELECOMMUNICATIONS (90%); LOCAL TELEPHONE SERVICE (90%); TELECOMMUNICATIONS SERVICES (90%); COMMUNICATIONS REGULATION & POLICY (90%); UTILITIES INDUSTRY (89%); TELECOMMUNICATIONS PROVIDERS (78%); TELEPHONE SERVICES (73%); LAWYERS (73%); ENERGY DEPARTMENTS (72%)

Geographic: MISSOURI, USA (91%); UNITED STATES (79%)

Load-Date: October 4, 1996

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:35:29 p.m. EST

Document: Appeals Court Is Ready to Hear FCC Rules Dispute

Appeals Court Is Ready to Hear FCC Rules Dispute

Omaha World Herald (Nebraska)

October 3, 1996 Thursday, SUNRISE EDITION

Section: BUSINESS;

Length: 760 words

Byline: BLOOMBERG BUSINESS NEWS

Dateline: Washington

Body

A federal appeals court could decide as soon as today whether to continue a freeze on new federal rules designed to open local phone markets to competition.

Local phone companies, such as U S West, which oppose the Federal Communications Commission rules, hope for a quick decision to extend the freeze. The companies say the rules are unconstitutional and unfair and require them to offer their services and parts of their networks wholesale to competitors at prices substantially lower than actual cost.

AT&T Corp., MCI Communications Corp., and other potential competitors, however, say the rules are just and should be implemented as quickly as possible to let competition in the local phone markets begin.

A three-judge panel - all Reagan and Bush administration appointees - temporarily halted the rules at the request of local phone companies and state regulators on Sept. 27. The panel will hear oral arguments at the 8th U.S. Circuit Court of Appeals in Kansas City, Mo., today on whether the freeze should continue until the court decides the merits of the rules themselves in January.

The panel could decide any time between today and several weeks from now whether to extend the stay.

The FCC rules were mandated by the Telecommunications Act of 1996, which gave the agency the job of hammering out the details of forcing open longtime monopoly local telephone markets and networks to competitors.

The rules would have gone into effect last Monday.

The regional Bells and other local companies don't argue that they shouldn't open their markets. Rather, they say the law provides that they must be allowed to recover their costs, plus a "reasonable" profit, when providing access to their networks to competitors - something the firms contend isn't possible under the rules.

Today's decision to continue the temporary stay or lift it is "very important, a key decision," said Robert Stewart, director of public policy at MCI Communications Corp., "We think the court wants to proceed quickly." Baby Bell companies also hope for a quick decision but acknowledge that it might not come. "If the judges have read the briefs, and are sure of what they're going to do, then you could see a quick ruling," said Bill McCloskey, BellSouth Corp. spokesman. "But if arguments are as complex" as they have been to date, he said, it could take a few weeks.

If a longer stay is granted, local phone companies will have succeeded in stalling the entry of competitors - at least until January - into their $ 100 billion market. Likewise, they will have delayed their own entry into the $ 70 billion market for long-distance services. The Bells have to prove that they've opened themselves to competitors before the FCC and the Justice Department will let them take a crack at the long-distance business.

Still, **William Barr**, general counsel for local phone operator GTE Corp. and a former U.S. attorney general under President Ronald Reagan, said the temporary stay won't delay the transition to competition. Rather, he said, "a stay of the FCC's order will ensure that the transition to competition complies with the process Congress chose." Local phone companies cheered the court's decision last Friday to halt the rules temporarily. "BellSouth is encouraged that the court has decided it is necessary to take a close look at these onerous rules," said BellSouth's McCloskey, at the time.

Key to the local phone companies' argument is their contention that the pricing structure established by the FCC rules is unfair because it doesn't let them recoup the historical costs of building and maintaining their networks. The prices provide only for the collection of future costs.

Jonathan Sallet, MCI's chief policy counsel, defended the future-based cost method, and predicted that the rules will be upheld. "We are confident that once oral argument is held, the rules will be put back on track," he said. "Historical pricing is not justified. Forward-based pricing is the mechanism that should be used." Like each of four groups that will argue, potential competitors will have just 15 minutes to make their case. They will be represented by AT&T Corp.'s David Carpenter, while local phone incumbents will be represented by GTE's Barr. State regulators will be represented by the Iowa Utilities Board, and the FCC will represent itself.

Circuit Court Judges Pasco M. Bowman, Roger L. Wollman ▾, and David R. Hansen ▾ will hear the arguments.

Classification

Language: ENGLISH

Subject: APPEALS (90%); US FEDERAL GOVERNMENT (90%); APPELLATE DECISIONS (90%); ENERGY & UTILITY LAW (90%); TELECOMMUNICATIONS SECTOR PERFORMANCE (89%); JUDGES (89%); LAW COURTS & TRIBUNALS (78%); LEGISLATION (78%); DECISIONS & RULINGS (78%); PUBLIC POLICY (78%); LITIGATION (78%); APPEALS COURTS (78%); PRICES (78%); US STATE GOVERNMENT (77%); COMMUNICATIONS LAW (73%); LAW ENFORCEMENT (63%); JUSTICE DEPARTMENTS (50%)

Company: AT&T INC (93%); VERIZON COMMUNICATIONS INC (93%); AT&T SOUTHEAST (63%); AT&T INC (93%); VERIZON COMMUNICATIONS INC (93%); AT&T SOUTHEAST (63%); FEDERAL COMMUNICATIONS COMMISSION (93%); FEDERAL COMMUNICATIONS COMMISSION (93%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (93%); FEDERAL COMMUNICATIONS

COMMISSION (93%)

Ticker: T (NYSE) (93%); VZC (LSE) (93%); VZ (NYSE) (93%)

Industry: ENERGY & UTILITY LAW (90%); LOCAL TELEPHONE SERVICE (90%); TELECOMMUNICATIONS SERVICES (90%); LONG DISTANCE TELEPHONE SERVICE (89%); TELECOMMUNICATIONS SECTOR PERFORMANCE (89%); TELEPHONE SERVICES (89%); TELECOMMUNICATIONS (78%); COMMUNICATIONS LAW (73%)

Geographic: KANSAS CITY, MO, USA (79%); MISSOURI, USA (79%); UNITED STATES (92%)

Load-Date: October 4, 1996

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 09:40:21 a.m. EST

10/3/96 TR Daily (Pg. Unavail. Online)
1996 WLNR 6144132

TR Daily

October 3, 1996

GTE ATTORNEY SAYS LECS, STATES FEAR FCC `RETALIATION'

Table of Contents

GTE Corp. General Counsel William Barr, who argued on behalf of four telephone companies seeking to stay the FCC's interconnection order in a federal appeals court hearing in Kansas City, Mo., this morning, told reporters later he believes telcos and state regulators that oppose the order have declined to seek a stay because they fear "retaliation" from the Commission. Mr. Barr, a former U.S. Attorney General during the Bush administration, briefed reporters during a teleconference after today's oral arguments before a three-judge panel of the U.S. Appeals Court for the Eighth Circuit. Asked to respond to Mr. Barr's remarks, an FCC official said, "We base our decisions on the law, the economics, and the facts. That's what we do."

Noting that U S WEST, Inc., was the only Bell regional holding company to join in the stay request, Mr. Barr said that companies that hope to enter interLATA (local access and transport area) long distance markets fear that if they "opposed implementation of the order," the FCC "would hold that against them" in evaluating their long distance entry applications. He said Ameritech Corp. had declined to seek a stay of the interconnection order because its executives feared the Commission "would retaliate by delaying RBOC entry." He said "several" state commissioners had told him theywere worried that the FCC "would take it out on them in the next rulemaking, which has to do with universal service." He predicted that "you'll see a number of other states joining" to support the stay requests later.

Mr. Barr also said that if the appeals court does not grant a stay, GTE likely will mount court challenges to resale and unbundled network component rates that states have begun imposing under the FCC order's guidelines. Absent a stay, the appeals court would hear arguments against the FCC order next January, and an order might not come until March or April 1997, he noted. Where states impose "arbitrarily low" rates in the meantime, "we may be forced to challenge them in court at that time," Mr. Barr said. Beginning Nov. 8, if not sooner, state panels arbitrating interconnection negotiations between incumbent local exchange carriers and new local service entrants will be required to impose the "proxy" resale rate ranges set forth in the FCC order, he said.

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Company: VERIZON COMMUNICATIONS INC; AT&T INC; GENERAL TELEPHONE ELECTRONICS CORP; FEDERAL COMMUNICATIONS COMMISSION; AMERITECH CORP; GTE CORP

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

Industry: (Telecom Regulatory (1TE65); Telecom (1TE27))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (AMERITECH CORP; EIGHTH CIRCUIT; FCC; GTE CORP; RBOC; TR; TR DAILY MAIN PAGE; US APPEALS COURT) (Absent; Barr; Beginning Nov; Bush; Counsel William Barr; GTE; GTE ATTORNEY; Table)

Word Count: 479

End of Document

How Bureaucrats Rewrite Laws

The Wall Street Journal

October 2, 1996 Wednesday

Section: Pg. A18

Length: 1271 words

Byline: By John J. DiIulio Jr.

Body

As the historic 104th Congress draws to a close, scholars have already begun to debate its legislative record. Some stress that the first Republican Congress in four decades enacted fewer major laws than any Congress since the end of World War II. Others respond that it was only natural that a new conservative Congress committed to restraining the post-New Deal rise of national government activism would pass fewer big-government bills. Likewise, while some interpret President Clinton's bright re-election prospects as a negative referendum on the GOP-led House and Senate, others focus on how Republicans ended up setting the agenda on everything from balancing the budget to welfare reform.

For at least two reasons, however, both sides in this early war over the 104th's history are firing intellectual blanks. One reason is that it is not yet clear how much of the legislation will stick politically. For example, Mr. Clinton has made plain that, if reelected, he plans to "fix" the new welfare law. And should the House fall to the Democrats, ultraliberal committee chairmen will move quickly to undo much of what the Republicans did legislatively on welfare, crime, immigration and more.

The other and more fundamental reason is that, no matter what happens in November, it is by no means certain that the laws passed by the Republican Congress over the last two years will survive administratively.

Victories won on the legislative battlefield are routinely lost in the fog of bureaucratic wars over what the laws mean and how best to implement them. One of many recent examples is how the Federal Communications Commission has already virtually rewritten the Telecommunications Act of 1996.

On Feb. 8, President Clinton signed the first major rewrite of telecommunications law in 62 years. To many observers, the act represented the culmination of a series of political and judicial decisions that began in 1974 when the U.S. Justice Department filed an antitrust suit against AT&T, leading to a breakup of the old telephone monopoly and the creation in 1984 of the seven regional "Baby Bells." The bill-signing ceremony, the first ever held at the Library of Congress, was draped in symbolism. The president signed the bill with a digital pen that put his signature on the Internet. On a TV screen, comedian Lily Tomlin played her classic telephone company operator Ernestine, opening her skit with "one gigabyte" instead of "one ringie-dingie."

During the debate over the bill and for weeks after its enactment, the press played up the law's social-policy side-shows, like the requirement that most new television sets contain a "V-chip" enabling parents to lock out programs deemed inappropriate for children. But its true significance lay in removing barriers to competition in the telecommunications industry, and devolving responsibility for remaining regulation to the states. While its language is often technical, you need not be a telecom junkie to understand the letter of the law or the record of floor debates in Congress.

For example, Sections 251 and 252 of the law promote competition in local telephone markets, expressly giving state commissions authority to decide, via a strictly localized, case-specific process, what constitutes "just and reasonable" rates. It affords the FCC no role whatsoever in setting local exchange prices: "Nothing in this chapter shall be construed to apply or to give the Commission jurisdiction with respect to . . . charges, classifications, practices, facilities, or regulations for or in connection with intrastate communication service."

The law's devolutionary language and deregulatory intent was so clear that groups such as the National Council of Governors' Advisors quickly produced reports advising key state and local decision makers to prepare for "telewars in the states." Soon, one NCGA report on the law explained, "governors' offices, state legislatures and state public utility commissioners will be drawn into state debates on how to ensure a `level playing field for competition' among those firms seeking to provide local and intrastate telephone service." The major battles, the NCGA predicted, would be over the terms of price and interconnection agreements. Telephone company rivals could be expected to lobby governors, utility commissions and state legislatures in search of allies.

But within six months of the law's enactment, the FCC declared a victor in the "telewars in the states" -- namely, itself. The commission produced a 600-page document promulgating presumptive national pricing standards in local telephone markets. The FCC insists that the order is necessary to pry open local markets to long-distance carriers like AT&T, small firms like Teleport, and cable and wireless companies. Otherwise, the commission asserts, incumbent local carriers like the Regional Bell Operating Companies will remain invulnerable to real competition as potential entrants to intrastate markets are forced to contend with 50 different, localized state regulatory regimes.

But the FCC's rushed, revanchist rewrite of the telecommunications law is based on a hypothetical pricing scheme that only an armchair economist could love. In its hundreds of pages of national regulatory dictates, the FCC almost completely ignores the actual costs that local companies incurred to create the system, and the regional and other variations in how they operate.

On Aug. 28, GTE Corp. and Southern New England Telephone Co. jointly challenged the FCC in court, arguing that the FCC's order constitutes an uncompensated taking under the Fifth Amendment by requiring them to sell their services at below actual costs. The order, they claim, would almost certainly enervate competition by permitting long-distance giants like AT&T to buy up local phone networks at huge discounts -- an ironic potential outcome indeed given how all this began in 1974. Moreover, not only giants like AT&T but fly-by-night arbitrage artists could enrich themselves at the expense of consumers on the spread between actual operating costs and the prices set by the FCC. In response to the suit, a federal appeals court ordered a temporary stay of the FCC regulations and will hear oral arguments in the case tomorrow.

At a recent press conference, GTE's senior vice president and general counsel, former U.S. Attorney General William P. Barr, demanded to know why the FCC believes that it is better at making decisions "for 50 states than the state commissions are, who have done this historically, who have all the data that are relevant to the state before them."

But whether or not the FCC is wiser than the states, and regardless of who is right about the economics of the case, the FCC bureaucrats' order mocks key provisions of a democratically enacted law. The FCC's action is at odds not only with the textbook understanding of "how a bill becomes law," but with the first principles of limited government and American constitutionalism.

The FCC's action should serve to remind us that the devolution and deregulation of federal authority are always in the administrative details. On telecommunications, welfare, and almost every other major issue, big government is

the administrative state in which judges and unelected officials, and not the elected representatives who debate and enact the laws, govern us all.

Mr. DiIulio is professor of politics and public affairs at Princeton, director of the Brookings Center for Public Management and adjunct fellow at the Manhattan Institute.

(See related letter: "Letters to the Editor: Opening Up Local Phone Companies" -- WSJ Nov. 29, 1996)

Notes

PUBLISHER: Dow Jones & Company

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Document: EIGHTH CIRCUIT COURT STAYS INTERCONNECTION OR...

EIGHTH CIRCUIT COURT STAYS INTERCONNECTION ORDER; ORAL ARGUMENTS SCHEDULED FOR THURSDAY

PCS WEEK

October 2, 1996

Section: Vol. 7, No. 40

Length: 648 words

Body

The U.S. Court of Appeals for the Eighth Circuit late last week issued a temporary stay of the FCC's Interconnection Order until oral arguments can be heard before the panel Thursday, Oct. 3, in Kansas City, Mo.

The plaintiffs will argue their positions in groups--incumbent local exchange carriers, state utility boards, the FCC and companies that are seeking entry into the local exchange market--according to their views on the issues. Each group has been instructed to appoint one lawyer who will have 15 minutes to represent their position.

FCC Chairman Reed Hundt said he thought it was legitimate for the court to want to hear oral arguments in the case but added, "We continue to be confident that our position will prevail."

"The reasons for the urgency to get the temporary stay [were] that all the rules were scheduled to take effect Sept. 30," said Mark Evans, an attorney with Kellogg Huber, which represents three Bell operating companies (BOCs) in the suit against the FCC.

"But [now] nothing can happen until after this oral argument Oct. 3 on the motions themselves," Evans said.

The court has two choices: to issue a stay that will keep the rules from taking effect until the final outcome of the case, or allowing the rules to take effect, which means they could be overturned later.

Although Evans' clients (Bell Atlantic Corp. , BellSouth Corp. and Pacific Telesis) did not seek the stay, other companies involved in the suit against the FCC--including GTE Corp. , Southern New England Telephone Co. (SNET), U S WEST Communications , and the public service commissions in Florida and Iowa--did seek one.

"Granting the temporary stay doesn't tell you what the outcome will be, but it indicates this is a court that's taking the issue very seriously," Evans said.

Bill Brittingham, a spokesman for PacTel, agreed the temporary stay was "very promising."

"We're pleased the court realizes this issue must be addressed in a rapid and timely manner," he said.

...Applauding The Decision

GTE Corp., one of the first companies to announce that it planned to appeal the Interconnection Order, was very pleased with the court's decision to hear oral arguments.

"Far from delaying the transition to competition (as some falsely claim), a stay of the FCC's order will ensure that the transition to competition complies with the process Congress chose. While the stay is in effect, parties will negotiate agreements under the [Telecommunications Reform] Act, and state commissions will continue their arbitration proceedings. In short, the transition to competition will continue right on schedule," **William Barr**, GTE senior vice president and general counsel, said in a written statement.

SNET, which announced its intent to appeal the same day as GTE, also applauded the court's decision.

"We're pleased that the court extended the effective date of the order. We will hear the arguments, and we will continue to make our case, which we believe is a strong one. That so many companies have joined us in challenging the order indicates that we've raised some convincing arguments," SNET spokesman Kevin Moore said.

BellSouth spokesman Bill McCloskey said his company is "encouraged that the court is taking a close look at these onerous rules and is pleased that the court is moving so quickly."

Bell Atlantic spokesperson Shannon Fioravanti said that the stay indicates the judges take the merits of the appeal very seriously.

"Bell Atlantic has strongly maintained that there are several serious issues in the Interconnection Order, particularly those concerning the rights of states to determine pricing for telecommunications services," Fioravanti said.

Classification

Language: ENGLISH

Subject: APPEALS (90%); APPELLATE DECISIONS (90%); ENERGY & UTILITY LAW (89%); LAWYERS (89%); LITIGATION (89%); APPEALS COURTS (89%); SUITS & CLAIMS (78%); ALTERNATIVE DISPUTE RESOLUTION (77%); US STATE GOVERNMENT (77%); APPOINTMENTS (76%); CORPORATE COUNSEL (70%); COMMUNICATIONS LAW (68%); AGREEMENTS (68%)

Company: VERIZON COMMUNICATIONS INC (95%); AT&T SOUTHEAST (66%); QWEST CORP (53%); VERIZON COMMUNICATIONS INC (95%); AT&T SOUTHEAST (66%); QWEST CORP (53%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Ticker: VZC (LSE) (95%); VZ (NYSE) (95%); GTE (NYSE) (91%); BEL (NYSE) (90%); BLS (NYSE) (55%)

Industry: PUBLIC UTILITIES COMMISSIONS (89%); ENERGY & UTILITY LAW (89%); LAWYERS (89%); TELECOMMUNICATIONS SERVICES (89%); LOCAL TELEPHONE SERVICE (77%); TELECOMMUNICATIONS PROVIDERS (72%); CORPORATE COUNSEL (70%); COMMUNICATIONS LAW (68%); TELECOMMUNICATIONS (68%)

Geographic: FLORIDA, USA (77%); UNITED STATES (79%)

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9/28/96 Wash. Post (Wash., D.C.) C02
1996 WLNR 6490967

Washington Post, The (Washington, D.C.)

September 28, 1996

Section: Business

PHONE COMPETITION RULES DELAYED; COURT TO DETERMINE IF REGULATIONS TAKE POWER AWAY FROM STATES

Mike Mills

A U.S. appeals court in St. Louis put a temporary freeze yesterday on broad new federal rules that would open the $100 billion-per-year local telephone market to competition.

The decision threatens to delay the arrival of competitors to the nation's local telephone markets, which remain largely monopolized.

State regulators, along with GTE Corp. and most of the regional Bell companies, asked for the reprieve while the court considers their claim that the rules are overly complex and take too much power away from states.

The rules, issued by the Federal Communications Commission in August, were supposed to take effect Monday. They were devised as part of a new federal law that aims to bring more competition to the local and long-distance telephone markets.

"We continue to be confident that our position will prevail," FCC Chairman Reed E. Hundt said in a statement.

An FCC official, who requested anonymity, said it was natural for the court to want time to "get its hands around" the complex case.

On Thursday the court will hear oral arguments on whether to continue postponing the rules until the court decides on the underlying complaints.

Gene Kimmelman, Washington co-director of the Consumers Union, expressed concern over yesterday's ruling. "If it is found that this whole complicated set of criteria for interconnection may involve the FCC going beyond its authority, this would be an amazing setback for the process of bringing competition to the local market," he said. "They would have to go back and revamp the whole set of rules."

The local phone companies particularly oppose FCC provisions that established suggested benchmark rates that competitors should be charged for leasing capacity on the existing company's local phone network. Those suggested rates have all but halted an ongoing process of negotiating connection agreements between competitors and local phone

companies, Bell officials say. But judicial freezes of federal rules are rare, and the ruling came as a bit of a surprise to local phone companies. William Barr, GTE counsel and former Justice Department antitrust chief, earlier in the week gave "one in three" odds that the freeze would be granted.

Barr urged the court to quickly send the rules back to the FCC. Otherwise, he said, "you're probably looking at a two- to three-year process of legal challenges" by local phone companies. Markets Inc. CAPTION: PATRICIA BENASSIagency considers critical to improving the financial performance of local public housing authorities and the condition of their properties. Those measures include giving local officials more flexibility in using rehabilitation funds to demolish and replace older units and adjusting rents to encourage more working families to stay in public housing.

House Republicans lamented the demise of their measure, which would have made some of those provisions permanent. "It's a sad day for working families in public housing," said Rep. Rick Lazio (R-N.Y.), chief author of the House bill and chairman of its subcommittee on hous ing and community opportunity. The Senate was intent on "protecting the status quo" and "keeping public housing as a place that warehouses the poor and provides disincentives toward work."

Some local public housing officials acknowledged that the lack of permanent changes would make it more difficult for housing providers to manage projects at a time when Congress continues to appropriate less money. "None of us thought {the reform} was perfect," said David I. Gilmore, the D.C. public housing receiver. "My grave concern is that we're living in a world at a time of decreasing subsidies, and this is one of the most highly regulated businesses."

The Multi-Housing Council, a District-based lobby group for owners of tenant-based subsidized housing, said landlords and managers of apartments will be forced to adhere to outdated federal rules that drive up their operating costs. The group had sought changes that would eliminate federally mandated leases and set the number of subsidized recipients to which a landlord must rent.

Patrick Dober, the group's vice president, said, "I think it's evident that public housing is in extreme need of reform. The problem is you could have housing providers continue to be reluctant to participate in the program when there are major obstacles to their participating."

But housing advocates had a different view, saying the reform measures being considered would have been overly harsh on public housing residents. "Repeal of the {30 percent cap} would create undue rent burdens on people who by definition need the subsidy," said Deborah Austin, director of legislation and policy for the Low Income Housing Coalition in the District. bill, and Republicans are declining to attach a stripped down version to the spending measure.

Senate Minority Leader Thomas A. Daschle (D-S.D.) was pushing to have the Senate vote on some delayed Clinton judicial appointments. But he denied Democrats trying to squeeze concessions from Republicans.

House Speaker Newt Gingrich (R-Ga.) and Senate Majority Leader Trent Lott (R-Miss.) had hoped to wrap up the work of the 104th Congress by the weekend and send their members home to campaign, but that appeared unlikely as the negotiations continued to grind on. Lott dismissed pessimistic Democratic forecasts that Congress would be forced to pass a short-term resolution to keep the government operating beyond the start of the new fiscal year before a final deal was struck. But he said the Senate likely would have to put off a vote on the spending deal until Monday.

While members impatiently awaited a final deal on the spending bill, Congress continued to complete legislation:

The House voted 218 to 198 to grant the Federal Aviation Administration greater autonomy and new tasks for improving safety as part of legislation authorizing FAA programs for the coming two years. The Senate was to vote on the $19 billion authorization bill and send it to the president.

The House also approved a measure, 384 to 30, to protect the nation's declining fisheries, clearing the legislation for Clinton's signature. Although the White House has indicated its support for the legislation, some Democrats complained they were forced to accept the Senate's somewhat weaker version of the bill intended to clamp down on wasteful fishing practices and protect fish habitat.

The Senate unanimously approved a $4.6 billion bill for four years of water and flood control projects, sending it to the White House. Seven environmental and conservation groups dropped their opposition to the measure after some projects were eliminated and others were revised. CAPTION: Senate Majority Leader Trent Lott (R-Miss.) briefs reporters on status of negotiations with White House on remainder of fiscal 1997 spending bill.the United States, Saudi Arabia and others. Clashes between Soviet and Afghan government troops and the rebels pick up. More than 5 million Afghans flee to Pakistan and Iran; most have since returned. 1980s: Despite the presence of 115,000 Soviet troops in Afghanistan, the rebels continue to control much of the countryside. 1987: Najibullah becomes president. A new constitution is adopted. U.S.-made Stinger anti-aircraft missiles are introduced and eventually swing conflict in rebels' favor. 1988: Afghanistan, Pakistan, the Soviet Union and the United States sign accord providing for Soviet withdrawal, a halt to outside help for the rebels and the return of the Afghan refugees. April 1992: Najibullah is ousted. Rival guerrilla groups fight for control of Kabul. President Burhanuddin Rabbani emerges a victor, but continued fighting kills 10,000 civilians in 1993 alone. 1994: Rebel Taliban Islamic militia emerges as a new force and since then has taken over about two-thirds of Afghanistan. In 17 years of war, about 1 million people have died. SOURCE: Reuter drab uniforms formed a cordon across the road to keep out potential protesters. Protesters did converge on another potential flash point, the crossroad leading to the Jewish settlement of Netzarim. But police prevented them from getting anywhere near the Israeli posts.

In some cases, police officers handled the mostly youthful protesters with almost fatherly indulgence, sometimes draping an arm around a shoulder to emphasize their eagerness to avoid confrontation.

"What we had yesterday was enough," explained police Capt. Shaban Awad. "Fifty killed -- it's enough. We want to avoid more violence." In Jerusalem the tunnel that sparked three days of lethal conflict was closed to tourists today. In many parts of Israel and the Palestinian self-rule territories, attention turned from fighting to burying the dead. Israeli Staff Sgt. Itamar Sudai, who died at Joseph's Tomb Thursday, was laid to rest at Mount Herzl with eulogies from top army brass and a tribute from a survivor of the battle there. "My brother," said the young soldier, identified only as Uri, "you've gone before me. All our dreams were so close to being realized. So close, and in a minute, everything's gone." Correspondent John Lancaster in Gaza contributed to this report. CAPTION: Israeli security forces advance toward Palestinians at the compound of al-Aqsa mosque in Jerusalem's Old City. CAPTION: Palestinian policeman holds gun to head of Palestinian who threw stones at Israeli soldiers. CAPTION: Injured Palestinian is led outside Jerusalem's al-Aqsa mosque compound where Israeli forces opened fire on stone-throwing crowd of worshipers, killing three. CAPTION: Palestinian hurls stone toward Israeli troops near Ramallah in West Bank.8 are being defended by incumbents 30 are open, 18 the South *Plus one independent and one vacancy

---- Index References ----

Company: CONSUMERS UNION; GTE DELAWARE LP; FARM CREDIT CANADA; FINANZIARIA CERAMICA CASTELLARANO SPA; FEDERAL AVIATION; JUSTICE DEPARTMENT; FOSHAN CONCH CEMENT CO LTD; FEDERAL AVIATION ADMINISTRATION; URI LLC; GRAN TIERRA ENERGY INC; GTE INTERNETWORKING; VERIZON COMMUNICATIONS INC; FIRST COPPER TECHNOLOGY CO LTD; FEDERAL COMMUNICATIONS COMMISSION; GTE CORP; FOMENTO DE CONSTRUCCIONES Y CONTRATAS SA; STATE ELECTRICITY COMMISSION OF VICTORIA

News Subject: (Social Issues (1SO05); Legislation (1LE97); Price Controls & Subsidies (1PR05); World Conflicts (1WO07); Socio Economic Groups (1SO18); Government (1GO80); Prices (1PR65); Home Sales Figures (1HO75);

Economics & Trade (1EC26); Public Affairs (1PU31); Lobby & Pressure Groups (1LO18); Top World News (1WO62); Global Politics (1GL73); Political Parties (1PO73); Regulatory Affairs (1RE51))

Industry: (Real Estate Regulatory (1RE53); Real Estate (1RE57); Housing (1HO38))

Region: (Western Asia (1WE54); Americas (1AM92); USA (1US73); Afghanistan (1AF45); Palestine (1PA37); Israel (1IS16); North America (1NO39); Asia (1AS61); Middle East (1MI23))

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Other Indexing: (104TH CONGRESS; CAPTION; CAPTION: PALESTINIAN; CONGRESS; CONSUMERS UNION; FAA; FCC; FEDERAL AVIATION ADMINISTRATION; FEDERAL COMMUNICATIONS COMMISSION; GENE KIMMELMAN; GTE; GTE CORP; HOUSE; HOUSE ALSO; HOUSE REPUBLICANS; HOUSE SPEAKER NEWT GINGRICH; INJURED PALESTINIAN; ISRAELI STAFF; JUSTICE DEPARTMENT; MARKETS INC; MULTI HOUSING COUNCIL; PALESTINIAN; SENATE; SENATE MAJORITY; STATE; STATES; URI; WHITE HOUSE) (Aqsa; Barr; Burhanuddin Rabbani; Clashes; Clinton; Correspondent John Lancaster; David I. Gilmore; Deborah Austin; Fifty; Itamar Sudai; Lott; Patrick Dober; PHONE COMPETITION RULES; Reed E. Hundt; Repeal; Rick Lazio; Shaban Awad; Thomas A. Daschle; Trent Lott; William Barr)

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Edition: Final

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Document: Court Orders a Stay on New F.C.C. Telephone Regulations

Court Orders a Stay on New F.C.C. Telephone Regulations

The New York Times

September 28, 1996, Saturday, Late Edition - Final

Distribution: Business/Financial Desk

Section: Section 1; ; Section 1; Page 39; Column 3; Business/Financial Desk ; Column 3;

Length: 635 words

Byline: By MARK LANDLER

By MARK LANDLER

Body

A Federal court ordered a stay on new Government telephone regulations yesterday so that the GTE Corporation and other local phone companies could present oral arguments against the rules.

GTE and other local phone companies, which filed a series of lawsuits against the Federal Communications Commission rules earlier this month, immediately applauded the decision, although several executives noted that a temporary stay was not the equivalent of a rejection of the regulations.

The rules, which were adopted by the F.C.C. on Aug. 8, set the terms and conditions by which local phone companies must open their networks to new competitors such as long-distance carriers and cable-television operators. They were scheduled to go into effect on Sunday.

The United States Court of Appeals for the Eighth Circuit, in St. Louis, said the phone companies and the F.C.C. would be allowed to present 15-minute arguments for and against the rules next Thursday.

"BellSouth is encouraged that the court has decided that it is necessary to take a close look at these onerous rules," said John Schneidawind, a spokesman in the Washington office of the BellSouth Corporation. "We are pleased that the court moved so quickly."

While BellSouth did not file suit against the rules, the company has argued that they constitute an unreasonable encroachment by the Government on the marketplace. GTE, the Southern New England

Telephone Company, and several state regulatory commissions filed a series of lawsuits against the rules -- citing much the same objections as BellSouth.

"We believe Congress intended to let the states and the free market system -- not an onerous order from big government in Washington, D.C. -- shape the future of telecommunications in this country," **William P. Barr**, GTE's senior vice president and general counsel, said in a statement.

The F.C.C.'s top lawyer said he was not surprised by the court's stay and expected the Government to prevail in the case.

"It is not surprising that the court would want to hear oral arguments on this issue," said William E. Kennard, the general counsel of the F.C.C. "We feel good about this."

In its order, the court said it hoped to rule on the merits of the phone companies' case by January 1997. It was not immediately clear whether the court's stay would extend until January. But one lawyer familiar with the matter said the court could lift the stay after the oral arguments, while still deliberating the broader merits of the case.

GTE and the regional Bell operating companies have been enmeshed in tough negotiations with AT&T and other long-distance carriers to reach so-called interconnnection agreements, which set the terms and prices by which the local phone companies would open their networks.

The F.C.C.'s rules aim to establish guidelines for much of these talks. Among other things, they stipulate how the Bells must carve up their networks to allow access to other carriers. And the rules set out what the Bells can charge competitors for leasing parts of their networks.

Despite the court's stay, several industry executives said they expected the interconnection talks to proceed. In numerous states, the Bells and AT&T have requested Federal mediation to break various logjams.

Because of their length and almost microscopic detail, the F.C.C.'s interconnection rules were seen as a setback for the local providers and a victory for long-distance carriers like AT&T. The F.C.C. is scheduled to tackle access charges -- another major element of local-phone regulation -- in a rule-making scheduled for later this month.

The Bell companies have assembled formidable firepower in their effort to overturn these rules: recruiting several high-profile law firms and public-relations specialists to argue their case.

Classification

Language: ENGLISH

Subject: SUITS & CLAIMS (90%); LITIGATION (90%); US FEDERAL GOVERNMENT (89%); LAWYERS (89%); COMMUNICATIONS LAW (78%); APPEALS (78%); APPELLATE DECISIONS (78%); DECISIONS & RULINGS (78%); ENERGY & UTILITY LAW (78%); AGREEMENTS (78%); BROADCASTING REGULATION (78%); CORPORATE COUNSEL (77%); LAW COURTS & TRIBUNALS (73%); APPEALS COURTS (73%); EXECUTIVES (71%)

Company: VERIZON COMMUNICATIONS INC (93%); AT&T SOUTHEAST (84%); GTE CORP VERIZON COMMUNICATIONS INC (93%); AT&T SOUTHEAST (84%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); GTE CORP FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL

COMMUNICATIONS COMMISSION (94%)

Ticker: VZC (LSE) (93%); VZ (NYSE) (93%)

Industry: TELECOMMUNICATIONS SERVICES (99%); TELEPHONE SERVICES (90%); LOCAL TELEPHONE SERVICE (90%); LAWYERS (89%); COMMUNICATIONS LAW (78%); ENERGY & UTILITY LAW (78%); TELECOMMUNICATIONS (78%); BROADCASTING REGULATION (78%); COMMUNICATIONS REGULATION & POLICY (78%); CORPORATE COUNSEL (77%); TELEVISION INDUSTRY (76%); LONG DISTANCE TELEPHONE SERVICE (74%); CABLE & OTHER DISTRIBUTION (69%)

Geographic: DISTRICT OF COLUMBIA, USA (79%); NORTHEAST USA (79%); UNITED STATES (93%)

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Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 04:41:18 p.m. EST

Document: The U.S. Court of Appeals for the 8th Circuit in St Louis Toda…

The U.S. Court of Appeals for the 8th Circuit in St Louis Today Granted GTE's Request for Oral Argument on its Motion to Stay Implementation of the Federal Communications Commission's (FCC) Interconnection Order, Pending Resolution of GTE's Appeal

PR Newswire

September 27, 1996, Friday - 17:13 Eastern Time

Section: Financial News

Length: 212 words

Dateline: WASHINGTON, Sept. 27

Body

The following statement regarding the Court's action can be attributed to **William P. Barr**, GTE senior vice president and general counsel:

GTE is pleased that the Court will hear oral arguments on GTE's stay motion and that it has blocked the FCC's interconnection order from becoming effective while it decides GTE's motion. We believe Congress intended to let the states and the free market system -- not an onerous order from big government in Washington, D.C. -- shape the future of telecommunications in this country.

We look forward to the opportunity to present the Court our arguments on why the flawed order should be stayed for the entirety of the appeal process.

Far from delaying the transition to competition (as some falsely claim), a stay of the FCC's order will ensure that the transition to competition complies with the process Congress chose. While the stay is in effect,

parties will negotiate agreements under the Act and state commissions will continue their arbitration proceedings. In short, the transition to competition will continue right on schedule.

Additional information about GTE can be found on the Internet at http://www.gte.com

SOURCE GTE Service Corporation

CONTACT: Bob Bishop of GTE, 202-463-5206 (After 6 p.m., 703-378-4684) Internet: bbishop@dcoffice.gte.com

Classification

Language: ENGLISH

Subject: ENERGY & UTILITY LAW (90%); APPEALS (89%); US FEDERAL GOVERNMENT (89%); APPELLATE DECISIONS (78%); APPEALS COURTS (78%); LAWYERS (75%); ALTERNATIVE DISPUTE RESOLUTION (73%); SUITS & CLAIMS (73%); COMMUNICATIONS LAW (70%); AGREEMENTS (70%)

Company: SERVICE CORP INTERNATIONAL (55%); GTE Service Corporation; Federal Communications Commission SERVICE CORP INTERNATIONAL (55%); Federal Communications Commission SERVICE CORP INTERNATIONAL (55%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); GTE Service Corporation; Federal Communications Commission FEDERAL COMMUNICATIONS COMMISSION (94%); Federal Communications Commission FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Ticker: SCI (NYSE) (55%); SCI (NYSE) (55%); GTE

Industry: COMPUTER NETWORKS (90%); ENERGY & UTILITY LAW (90%); TELECOMMUNICATIONS (75%); LAWYERS (75%); COMMUNICATIONS LAW (70%)

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Content Type: News

Terms: "william p. barr"

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Date and Time: Dec 16, 2018 09:24:29 p.m. EST

FCC DENIES REQUESTS FOR STAY OF INTERCONNECTION ORDER

WASHINGTON TELECOM NEWS

September 23, 1996

Section: Vol. 4, No. 37

Length: 228 words

Body

The FCC last week gave thumbs down to requests for a stay of the commission's interconnection order filed by GTE Corp., Southern New England Telephone Co. (SNET), and U S WEST Inc.. The commission said the companies failed to meet the four-pronged test required for a stay, namely that the petitioners are likely to prevail on the merits, that they will suffer irreparable harm if a stay is not granted, that other interested parties will not be harmed if the stay is granted, and that the public interest favors the grant. The agency also said it is especially important this particular order is not being halted because it would hurt ongoing negotiations and arbitrations.

GTE fully expected the FCC's decision. Filing a stay request with the commission is a required judicial step parties have to take before it can ask a court to block the order. GTE last Monday (9/16) asked the U.S. Court of Appeals for the Eighth Circuit in St. Louis to stay the order.

"[O]ur action in the court in no way slows [the process of

competition] down," said GTE senior counsel **William Barr**. "Issuance of a stay will not affect the process. Parties will continue to negotiate under the [1996 Telecom] Act, and state commission will continue their arbitrations under the Act, as they are already doing," Barr said.

Classification

Language: ENGLISH

Subject: ALTERNATIVE DISPUTE RESOLUTION (90%); ENERGY & UTILITY LAW (90%); PETITIONS (78%); APPEALS (74%); APPELLATE DECISIONS (74%); COMMUNICATIONS LAW (73%); APPEALS COURTS (68%)

Company: VERIZON COMMUNICATIONS INC (93%); U S WEST INC (91%); VERIZON COMMUNICATIONS INC (93%); U S WEST INC (91%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Ticker: VZC (LSE) (93%); VZ (NYSE) (93%); GTE (NYSE) (92%)

Industry: ENERGY & UTILITY LAW (90%); TELECOMMUNICATIONS SERVICES (90%); COMMUNICATIONS LAW (73%); TELECOMMUNICATIONS (73%)

Geographic: UNITED STATES (79%)

Load-Date: November 12, 1996

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 09:37:21 a.m. EST

NewsRoom

9/18/96 Dallas Morning News 10D
1996 WLNR 6014323

Dallas Morning News

September 18, 1996

Section: BUSINESS

FCC refuses to overturn phone competition rules

WASHINGTON

WASHINGTON - The Federal Communications Commission said Tuesday it rejected a motion filed by local telephone companies seeking to halt a set of sweeping new phone competition rules.

The FCC said it denied a joint petition filed late last month by GTE Corp. and Southern New England Telecommunications Corp. The agency Tuesday also rejected a similar petition filed by US West Communications Group Inc.

The denial, which was expected, paves the way for court action. Indeed, GTE earlier Tuesday said it filed a stay of the FCC order with the U.S. Appeals Court in St. Louis. Almost a dozen court appeals have been filed by local phone companies and state regulators.

Critics say the new FCC rules go beyond what Congress had in mind when it passed the new telecommunications reform law.

"The FCC is trying to override both the marketplace's and the states' role," GTE general counsel William Barr said in a statement.

Long-distance companies, which have argued the need for a strong FCC role as competitive barriers are dismantled, praised the agency's decision Tuesday.

"MCI looks forward to the implementation of the FCC order and a speedy resolution to the outstanding issues that remain," said Jonathan Sallet, chief policy counsel at MCI Communications Corp.

The FCC's interconnection order spells out how long-distance phone companies, cable TV operators and others can enter the $90 billion local calling market. The process of negotiating agreements that would allow new competitors to plug into local phone networks has already begun

---- Index References ----

Company: MCI INC; MCI COMMUNICATIONS CORP; FEDERAL COMMUNICATIONS COMMISSION; GTE CORP

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

Industry: (Long-Distance Services (1LO42); Telecom Regulatory (1TE65); Telecom (1TE27); Telecom Services (1TE09))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (COMMUNICATIONS GROUP INC; CONGRESS; ENGLAND TELECOMMUNICATIONS CORP; FCC; FEDERAL COMMUNICATIONS COMMISSION; GTE; GTE CORP; MCI; MCI COMMUNICATIONS CORP; SOUTHERN; TV; US APPEALS COURT) (Critics; Jonathan Sallet; William Barr)

Edition: HOME FINAL

Word Count: 320

End of Document

LOCAL TELCOS SAY MERGERS WILL INCREASE COMPETITION

WASHINGTON TELECOM NEWSWIRE

September 11, 1996, Wednesday

Section: TODAY'S NEWS

Length: 481 words

Body

Several Bell companies said today that mergers among local telcos will increase competition, while long distance carriers said they would create monopolies and avoid competition. The remarks came at a hearing before the Senate Committee on the Judiciary.

At the hearing on the state of competition in telecom, representatives from Bell Atlantic and SBC Communications said their planned mergers will put them in competition with much larger companies, such as AT&T, MCI and Sprint. James Ellis, senior executive vice president and general counsel of SBC, said the merger with PacTel will give the company the finances, resources and management talent to compete with larger carriers.

However, Michael Salsbury, executive vice president and general counsel of MCI, said the mergers are "monopolistic."

Committee Chairman Orrin Hatch (R-UT) said the mergers were not in themselves anti-competitive and could aid the competitiveness of American companies in the global market. He also said rates may be reduced as a result of the mergers.

In arguing their position, Bell Atlantic and SBC said they would not have been competitors with merger partners Nynex and PacTel, respectively, because they did not want to compete in markets where they do not have network facilities, brand recognition or a customer base. James Young, vice president and general counsel of Bell Atlantic, said the company had looked at entering into the New York market but decided against it. Ellis said SBC never had any intention of competing in California but had applied to serve the local markets in New York and Illinois.

MFS President Bernard Ebbers said the Bells had a monopolistic attitude and were not willing to break into new markets: "For our purposes, we are willing to start from the ground and build our way up," he said.

Patrick Leahy (D-VT) said he opposed the mergers because "instead of seeing new entrants into every market, we are seeing old monopolies getting bigger and expanding their reach...The two mergers

between Bell companies will concentrate almost 45 percent of all the local phone lines in the country in the hands of two companies."

William Barr, senior vice president and general counsel of GTE, said the mergers would not be in GTE's interest because of increased competition, but added that there is no basis for concern from an antitrust standpoint. He said the companies are not "singly suited and uniquely qualified" to be competitors.

Robert Atkinson, senior vice president for legal, regulatory and external affairs of the Teleport Communications Group, raised a separate concern that the merger of Bell companies would cause "chaos, confusion and distraction" within the companies and their services would deteriorate. He suggested the companies should be required to maintain operations at levels no worse than today's standards. (WTN 805-96)

Classification

Language: ENGLISH

Subject: EXECUTIVES (90%); LAWYERS (90%); CORPORATE COUNSEL (89%); MERGERS (89%); US REPUBLICAN PARTY (77%); LEGISLATIVE BODIES (77%); US DEMOCRATIC PARTY (74%); INTERNATIONAL TRADE (68%); BRANDING (51%)

Company: AT&T INC (96%); VERIZON WIRELESS INC (92%); TELEPORT COMMUNICATIONS GROUP INC (57%); AT&T INC (96%); VERIZON WIRELESS INC (92%); TELEPORT COMMUNICATIONS GROUP INC (57%); NEW YORK (60%)

Organization: NEW YORK (60%)

Ticker: T (NYSE) (96%)

Industry: LAWYERS (90%); TELECOMMUNICATIONS SERVICES (90%); CORPORATE COUNSEL (89%); TELECOMMUNICATIONS (89%); LONG DISTANCE TELEPHONE SERVICE (78%); LOCAL TELEPHONE SERVICE (78%); BRANDING (51%)

Person: PATRICK LEAHY (57%); ORRIN HATCH (57%)

Geographic: NEW YORK, USA (92%); CALIFORNIA, USA (79%); ILLINOIS, USA (78%); UNITED STATES (79%)

Load-Date: March 19, 1997

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 09:34:39 a.m. EST

Document: Baby Bells defend proposed mergers

Baby Bells defend proposed mergers

United Press International

September 11, 1996, Wednesday, BC cycle

Section: Washington News

Length: 721 words

Byline: BY REX NUTTING

Dateline: WASHINGTON, Sept. 11

Body

The usual lines were drawn Wednesday at a Senate hearing on proposed multibillion-dollar mergers in the telephone industry. Top lawyers for the Baby Bells said the mergers will help them compete against even larger companies, such as AT&T. But executives of other companies, consumer advocates, and telecommunications experts said the mergers will stifle competition in the local phone market, as promised by the new telecommunications reform law. Sen. Orrin Hatch, R-Utah, chairman of the Senate Judiciary Committee, called the oversight hearing to examine how the proposed mergers of Bell Atlantic and Nynex, SBC Communications and Pacific Telesis, and WorldCom and MFS Communications would affect competition in telecommunications. The three proposed mergers are valued at more than $50 billion. The $20 billion Bell Atlantic/Nynex merger would create the second-largest U.S. phone company, with 25 percent of U.S. phone lines. The $16.5 billion SBC/PacTel merger would join the two smallest Baby Bells, creating a company with 21 percent of U.S. phone lines. The $14.4 billion WorldCom/MFS merger would unite the fourth-largest long-distance company with a growing local phone and Internet access provider, creating a company with significant facilities to compete in all phone markets. ''Big is not necessarily bad,'' Hatch cautioned in his opening remarks, but Sen. Patrick Leahy, D-Vt., said he was concerned that competition in the local phone market could be jeopardized by the mergers of the four Baby Bells. James R. Young, general counsel for Bell Atlantic Corp., and James D. Ellis, general counsel for SBC Communications Inc., argued that the proposed mergers would not reduce local competition and would increase competition in long distance.

Young and Ellis insisted that the seven regional Bell operating companies had no intention of competing with each other for local service because they have no presence in each other's territory. A potential

competitor in both markets disagreed. Michael H. Salsburg, general counsel of MCI Communications Corp., said the proposed mergers ''will harm competition.'' ''The incumbent monopolies, while crying that they are facing competition, are doing everything possible to thwart new entrants and kill its development,'' Salsburg said. Most of the seven Bells have filed appeals against the Federal Communications Commission's new interconnection regulations, which would determine the ground rules for local phone competition. If the rules are delayed, so will be competition, Salsburg said. **William P. Barr**, general counsel of GTE Corp., the largest non-Bell local phone company, said the mergers were not anti-competitive and suggested that complaints ought to be viewed skeptically when ''voiced by powerful industry competitors.'' Weak industry competitors also said the mergers could be anti- competitive. Robert C. Atkinson, senior vice president for Teleport Communications Group Inc., and Bernard Ebbers, president of WorldCom, said the Baby Bells were fighting interconnection every step of the way and would continue to hold on to their monopoly powers as long as possible. Ebbers wondered why he was even called to testify, since neither WorldCom nor MFS are dominant companies. Ebbers even went so far as to call the lawyers sent by the other companies ''pitbulls.'' Atkinson said the two Bell mergers should be delayed until after each company complies with the interconnection checklist, guaranteeing real competition for local phone customers. Ron Binz, chairman of the Competition Policy Institute, agreed that antitrust regulators should force the Bells to compete locally before approving the mergers. Such a requirement is not authorized by antitrust law or the new telecommunications law. Two telecommunications experts, Robert W. Crandall of the Brookings Institution and Peter W. Huber of the Manhattan Institute, argued that convergence in the telecommunications industry would soon obliterate any distinctions between wire-line and wireless, broadcast and common carrier, and local and long distance. Crandall and Huber argued that the Baby Bells, no matter how big they are, will not be able to dominate the industry the way the old Ma Bell did.

Classification

Language: ENGLISH

Subject: MERGERS (90%); CORPORATE COUNSEL (89%); LEGISLATIVE BODIES (89%); LAWYERS (89%); US REPUBLICAN PARTY (78%); COMMUNICATIONS LAW (78%); US FEDERAL GOVERNMENT (78%); AGENCY RULEMAKING (78%); ENERGY & UTILITY LAW (77%); US DEMOCRATIC PARTY (76%); CONSUMER LAW (73%); EXECUTIVES (72%); CONSUMER PROTECTION (72%)

Company: VERIZON COMMUNICATIONS INC (98%); AT&T INC (95%); TELEPORT COMMUNICATIONS GROUP INC (84%); MFS COMMUNICATIONS CO INC (57%); VERIZON COMMUNICATIONS INC (98%); AT&T INC (95%); TELEPORT COMMUNICATIONS GROUP INC (84%); MFS COMMUNICATIONS CO INC (57%); SENATE JUDICIARY COMMITTEE (59%)

Organization: SENATE JUDICIARY COMMITTEE (59%)

Ticker: VZC (LSE) (98%); VZ (NYSE) (98%); T (NYSE) (95%)

Industry: TELECOMMUNICATIONS (91%); LOCAL TELEPHONE SERVICE (90%); TELECOMMUNICATIONS SERVICES (90%); CORPORATE COUNSEL (89%); TELEPHONE SERVICES (89%); LAWYERS (89%); COMMUNICATIONS REGULATION & POLICY (89%); COMMUNICATIONS LAW (78%); ENERGY & UTILITY LAW (77%); LONG DISTANCE TELEPHONE SERVICE (73%); INTERNET & WWW (66%); INTERNET SERVICE PROVIDERS (51%)

Person: PATRICK LEAHY (58%); ORRIN HATCH (58%)

Load-Date: September 12, 1996

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 03:34:42 p.m. EST

NewsRoom

9/10/96 Wash. Times (D.C.) B7
1996 WLNR 303169

Washington Times (DC)

September 10, 1996

Section: BUSINESS

Bells united in fight against FCC rules

Doug Abrahms - THE WASHINGTON TIMES

Ameritech yesterday joined the rest of the regional Bell companies in filing suit against the Federal Communications Commission to block its new rules intended to break up the local phone monopolies.

The seven Bells have filed lawsuits the past week in federal appeals court in Washington. They argue that the FCC's final rules, released last month, will force local phone companies to lease their lines to competitors at below cost.

BellSouth Corp. hired Lawrence Tribe, a constitutional expert who teaches at Harvard University, to argue that the government rules illegally take away the company's property.

The constitutional issue stems from "the sense that they're taking property without just compensation," said John Schneidawind, a BellSouth spokesman.

In 1993, Bell Atlantic hired Mr. Tribe in a lawsuit against the federal government to overturn a statute that prohibited the Bells from providing cable television services in areas where they offered phone service. Bell Atlantic won its suit, which led to phone companies entering the cable TV market.

The long road to telecommunications reform started at Capitol Hill, reached the FCC and eventually will lead to state commissions, where the final decisions on phone rates and competition will be made. Experts said the current court challenges are just a detour.

The new FCC rules lay out guidelines to be used by state regulatory commissions to break the local phone monopolies. One rule that particularly bothers the Bells requires them to lease their lines at discounts of 17 percent or greater to long-distance companies and other potential rivals.

Kim Wallace, a telecommunications analyst at Lehman Brothers in Washington, said the FCC is merely carrying out the orders of the telecommunications law that was signed in February.

"The FCC has done nothing other than that," he said. "This [the lawsuit strategy] is, in my opinion, a futile attempt at a delaying tactic."

The Bells face an uphill battle in overturning the rules because the FCC is considered an expert agency and has been working on the guidelines for 18 months, he said. The lawsuits were expected.

"Everything is footnoted. Everything is cross-referenced," Mr. Wallace said. MCI Communications Corp., based in Washington, is trying to open up local phone monopolies across the country. It wants to negotiate with the Bells to tap into their networks and lease some of their services.

But MCI has filed for arbitration in 28 states because it couldn't agree on terms and prices with the Bells, said Jonathon Sallet, MCI's chief policy counsel.

"I think these [lawsuits] are delay tactics," he said. "It's an attempt to stop competition in its tracks."

Analysts said the Bells are mounting serious opposition to the FCC rules, as shown by the hiring of Mr. Tribe. GTE, the nation's largest local phone company, hired former Attorney General William Barr as its general counsel.

"In our view, the FCC's interconnection order stands Congress' intention in passing the act on its head," Mr. Barr said in a statement. "Local phone companies would be required to subsidize resellers that include some of the largest corporations in the country."

The Justice Department, however, urged the court to reject the suits.

J0061955-091096

---- Index References ----

Company: BELL ATLANTIC CORP; LEHMAN BROTHERS HOLDINGS INC; MCI INC; SBC COMMUNICATIONS INC; MCI COMMUNICATIONS CORP; FEDERAL COMMUNICATIONS COMMISION; BELLSOUTH CORP; LEHMAN BROTHERS INC

News Subject: (Monopolies (1MO68); Business Lawsuits & Settlements (1BU19); Business Litigation (1BU04); Judicial (1JU36); Legal (1LE33); Antitrust Regulatory (1AN52); Technology Law (1TE30); Economics & Trade (1EC26))

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

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (AMERITECH; BELL ATLANTIC; BELLSOUTH; BELLSOUTH CORP; FCC; FEDERAL COMMUNICATIONS COMMISSION; GTE; HARVARD UNIVERSITY; JUSTICE DEPARTMENT; LEHMAN BROTHERS; MCI; MCI COMMUNICATIONS CORP) (Barr; Bells; Congress; John Schneidawind; Jonathon Sallet; Kim Wallace; Lawrence Tribe; Tribe; Wallace; William Barr)

Edition: Final

Word Count: 661

End of Document

NewsRoom

Document: LECS CLASH OVER INTERCONNECT

LECS CLASH OVER INTERCONNECT

Radio Comm. Report

September 02, 1996

Section: News; Pg. 1

Length: 960 words

Byline: Debra Wayne

Body

WASHINGTON-Wireless carriers looking for relief from high interconnection costs may have to wait a bit longer before the proxy pricing suggested by the Federal Communications Commission in its recently voted interconnection order becomes a reality.

GTE Corp. and the Southern New England Telephone Co. filed a motion Aug. 28 at the commission to stay implementation of the order pending judicial review. In addition, both companies will be filing a petition for review with the U.S. Court of Appeals as soon as the order is published in the Federal Register. If the commission declines the request, both companies will file with the court for a stay within 10 days. The National Association of Regulatory Utilities Commissioners and BellSouth Corp. also plan to file an appeal at the court of the FCC's jurisdictional analysis.

According to the joint GTE/SNET motion, the pricing suggested by the FCC ''would force incumbent local exchange carriers to offer competitors interconnection, unbundled access and resold services below cost,'' and that such pricing ''will stifle the negotiation process Congress built into the (Telecommunications Act of 1996) before it even gets started.'' A stay at this time ''would cause no harm'' because such negotiations could continue without new FCC rules.

Speaking for the Cellular Telecommunications Industry Association, Tim Ayers said, ''We're going to fight it. The FCC acted appropriately, and it carried out the intention of Congress. We will support the order in our filings.''

Going even further was Mark Golden of the Personal Communications Industry Association. ''It can come as no surprise that somebody decided to challenge the interconnection order. I suspect there will be a long list of people with different sets of specific items they want to challenge and complain about,'' he said. ''We're obviously disappointed that it is happening because it creates a certain degree of uncertainty, confusion and problems. Absent getting a judge to issue an absolute stay of the effective

date of the order, which I think is highly unlikely, you may be able to force some reconsideration, and that will take some time as well.''

Golden continued, ''Absent that highly unlikely outcome, the PCS providers we represent will be entitled to reciprocal compensation at the maximum level set by the FCC order, which is highly attractive and fully justified as well. We'll have to work through the various judicial processes but while that's happening, the industry will be on its way, and that's the important thing for us to keep in mind.''

William Barr, GTE's senior vice president and general counsel, said during a briefing that the FCC had overstepped its boundaries when it included proxy pricing in the order. ''This is a state issue,'' Barr said. ''The order overrides the marketplace and the states' role.'' And even if the FCC did have such authority, Barr said the pricing does not compensate local exchange carriers for the real costs of providing service on their networks.

''The prices require us to sell under cost, and that is unconstitutional,'' Barr said. ''We say that it is below cost because FCC figures weren't based on costs of the (embedded) infrastructure but on future carriage costs. The prices are improper because they are presumptive and are grossly below actual costs. They are so far out of line that we don't know how they got their numbers.'' The order's pricing standards do not address the recovery of LEC joint and common costs, Barr said.

''Requiring local companies to subsidize resellers-some of whom will be among the nation's largest companies-would not create true competition, would not encourage investment in facilities or innovation and would not create any new jobs,'' Barr said. ''Where is the incentive to invest in new innovative services or facilities if companies making the investment are forced to turn around and sell at prices below cost?''

Barr also charged the commission with failing to take into account prior state-adopted resale discounts. He said California signed off on GTE's and PacTel's discounts-7 percent for residential service and 12 percent for business service-and that the FCC wants to ''dictate'' another 5 percent.

He added that it was ''interesting'' that the two other industries recently deregulated-gas and electricity-were entitled by their regulatory body, the Federal Energy Regulatory Commission, to be compensated for their actual costs.

Mickey Sims, general manager and chief executive officer of Poka Lambro PCS Inc., a C-block personal communications services winner, said all this action comes as no surprise to him. Sims serves on the U.S. Telephone Association's small business committee, and he participated in a conference call Aug. 27 regarding this issue. He joked that the best thing for any wireless carrier to do was ''quit the business and become a lawyer.''

Graphic

Ayers

Classification

Language: ENGLISH

Subject: COMMUNICATIONS LAW (90%); PRICES (90%); BUSINESS & PROFESSIONAL ASSOCIATIONS (89%); US FEDERAL GOVERNMENT (78%); PETITIONS (77%); APPEALS (76%); APPELLATE DECISIONS (76%); JUDGES (76%); APPEALS COURTS (76%); ASSOCIATIONS & ORGANIZATIONS (74%); LAWYERS (72%)

Company: VERIZON COMMUNICATIONS INC (84%); AT&T SOUTHEAST (70%); COMMUNICATIONS

INDUSTRIES ASSOCIATION OF JAPAN (54%); VERIZON COMMUNICATIONS INC (84%); AT&T SOUTHEAST (70%); COMMUNICATIONS INDUSTRIES ASSOCIATION OF JAPAN (54%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS (56%); CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION (54%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS (56%); CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION (54%)

Ticker: VZC (LSE) (84%); VZ (NYSE) (84%)

Industry: COMMUNICATIONS REGULATION & POLICY (99%); TELECOMMUNICATIONS SERVICES (94%); COMMUNICATIONS LAW (90%); WIRELESS INDUSTRY (90%); TELECOMMUNICATIONS (90%); TELECOMMUNICATIONS RESELLERS (90%); PERSONAL COMMUNICATIONS SERVICE (89%); UTILITIES INDUSTRY (89%); WIRELESS TELECOMMUNICATIONS CARRIERS (78%); MOBILE & CELLULAR COMMUNICATIONS (78%); LAWYERS (72%); LOCAL TELEPHONE SERVICE (72%)

Geographic: NORTHEAST USA (78%); UNITED STATES (92%)

Load-Date: September 10, 1996

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 09:33:36 a.m. EST

NewsRoom

8/29/96 L.A. Times 1
1996 WLNR 5126952

Los Angeles Times

August 29, 1996

Section: Business

Rules on Phone Deregulation Face Legal Fight

Telecom: Opposition by state regulators, industry could delay start of competition in local market. FCC defends changes.

JUBE SHIVER Jr.

TIMES STAFF WRITER

WASHINGTON

Telephone industry lawyers and the nation's utility commissioners said they would file a legal challenge today against controversial new federal rules aimed at deregulating the $100-billion local phone market.

The National Cable Television Assn. reportedly led the pack late Wednesday by filing court papers with the U.S. Court of Appeals, protesting that the rules are arbitrary and capricious.

Meanwhile, GTE Corp., Southern New England Telephone and the National Assn. of Regulatory Utility Commissioners--a group of state regulators--said they would file a similar lawsuit today, when the new Federal Communications Commission rules on telephone interconnection are expected to be officially published in the Federal Register.

If the legal challenges succeed, they could significantly delay the long-awaited introduction of competition in the local phone service market--an objective of the landmark telecommunications reform law enacted in February. The FCC regulations spell out exactly how the directives in the new law should be implemented.

Although state regulators and industry representatives initially reacted favorably when the FCC approved the general outlines of the rules at an Aug. 1 meeting, they said they did an about-face when the fine print emerged in more than 650 pages of regulations issued by the agency a few weeks later.

We "have some fundamental disagreements with our federal colleagues," NARUC President Cheryl Parrino said in a statement. She said the rules usurp nearly all state regulatory authority over local phone service.

"We have big government trying to micro-manage competition rather than letting the marketplace and the states do their job," said Bob Bishop, a spokesman for GTE, the nation's largest local phone company, with 16 million telephone lines.

FCC officials were not available for comment. But Reed Hundt, chairman of the agency, issued a statement saying the rules are consistent with the wishes of federal lawmakers.

"The 1996 Telecommunications Act and our implementing rules are designed to fulfill the congressional intent to introduce competition into the local exchange marketplace," Hundt said. "All private parties are welcome to seek any judicial review they believe is appropriate."

Long-distance giant AT&T Corp. also rejected the challenges as unfounded.

"It's not surprising that monopolists would take whatever steps are necessary to try to preserve their monopoly," it said in a statement.

Industry executives said Pacific Telesis, Bell Atlantic, BellSouth and perhaps other regional Bell companies will probably challenge the rules as well.

The new telecom law and the FCC regulations are aimed at lowering phone rates by giving consumers a choice of local companies. Federal officials hope to encourage rivals to build their own local phone networks to compete with existing providers.

But many industry executives say the rules will actually discourage the construction of new facilities because they make it highly attractive for would-be competitors to simply buy excess local phone capacity from current carriers and resell it to customers.

"Who's going to deploy any kind of equipment facilities or new services if they have to turn around and sell them to their competitors at below cost?" William P. Barr, GTE's general counsel, said in a prepared statement.

The FCC regulations define eight areas of telephone service--ranging from the sharing of switches and directory assistance facilities to electronic services such as call forwarding--that must be "unbundled" by local carriers and offered to competitors at reasonable rates. They also set guidelines on what level of discount local carriers must provide to rivals who want to resell their services.

---- Index References ----

Company: BELL ATLANTIC CORP; FEDERAL COMMUNICATIONS COMMISSION; BELLSOUTH CORP

News Subject: (Legal (1LE33); Antitrust Regulatory (1AN52); Monopolies (1MO68); Infrastructure (1IN78); Legislation (1LE97); Government (1GO80); Government Litigation (1GO18); Economics & Trade (1EC26))

Industry: (Telecom Regulatory (1TE65); I.T. in Government (1IT22); Cable TV (1CA92); I.T. Regulatory (1IT67); Internet Regulatory (1IN49); TV (1TV19); I.T. (1IT96); Entertainment (1EN08); Wireline Telecom Regulatory (1WI37); I.T. in Telecom (1IT42); Cable Regulatory (1CA73); Internet (1IN27); Internet Infrastructure (1IN95); Internet Infrastructure Policy (1IN62); Telecom (1TE27); TV Regulatory (1TV84); Networking Markets (1NE31))

Region: (North America (1NO39); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (BELL ATLANTIC; BELLSOUTH; CORP; FCC; FEDERAL COMMUNICATIONS COMMISSION; FEDERAL REGISTER; GTE; NATIONAL ASSN; NATIONAL CABLE TELEVISION ASSN;

REGULATORY UTILITY COMMISSIONERS; SOUTHERN; US COURT OF APPEALS) (Bob Bishop; Cheryl Parrino; Hundt; Reed Hundt; William P. Barr)

Keywords: TELEPHONE INDUSTRY -- UNITED STATES; GOVERNMENT DEREGULATION; SUITS; TELECOMMUNICATIONS

Edition: Home Edition

Word Count: 746

End of Document

Document: PHONE, CABLE FIRMS SEEK TO BLOCK FCC ON TELECO…

PHONE, CABLE FIRMS SEEK TO BLOCK FCC ON TELECOM RULES

Pittsburgh Post-Gazette (Pennsylvania)

August 29, 1996, Thursday,, SOONER EDITION

Section: BUSINESS,

Length: 591 words

Byline: DENISE LAVOIE, THE ASSOCIATED PRESS

Dateline: STAMFORD, Conn.

Body

Phone and cable TV companies objected yesterday to the Federal Communication Commission's new rules that set the pace of deregulation in their industries.

The National Cable Television Association formally protested the rules, announced by the FCC Aug. 1, to the U.S. Court of Appeals, saying they were arbitrary and capricious.

At the same time, GTE Corp. and Southern New England Telephone Co. asked the FCC not to implement the rules until a court reviews them. The companies stopped short of going to court but said that was a next step.

The agency wrote the rules to provide guidance for fulfilling the Federal Telecommunications Act of 1996, which removes competitive barriers among telephone, cable and other communications firms.

The FCC declined specific comment on the objections.

In a statement, FCC Chairman Reed Hundt said, ''As I have stated before, the 1996 Telecommunications Act and our implementing rules are designed to fulfill the congressional intent to introduce competition.''

Cable, phone and wireless executives for years have talked about the need to deregulate their business. But the process has been very slow, as each company tries to protect its interests. Congress took two sessions to pass a law, and the FCC's rules-making process this summer was marked by further corporate lobbying.

The NCTA, the cable industry's largest trade group, fears that the rules will allow telephone companies to enter a new form of video programming before they can.

And GTE and SNET said the rules result in local phone companies subsidizing the entrance of competitors into their markets.

The FCC identified seven pieces of telephone network that local companies such as SNET and GTE - must lease to competitors - such as long-distance companies - upon request. It also sets a formula for calculating wholesale prices for lease of the local network to competitors entering the market.

''We can't hope to compete fairly with these giants who can then turn around and sell our network services at much less than we can,'' said Fred Page, president of SNET Network Services.

One of the law's ultimate goals was to encourage companies to build their own local networks to compete with existing local phone companies.

But **William P. Barr**, GTE's general counsel, said the rules discourage other companies from setting up their own competitive networks.

''Who's going to deploy any kind of equipment facilities or new services if they have to turn around and sell them to their competitors at below cost?'' Barr said.

One long-distance carrier that would benefit from the law, AT&T, issued a statement that said GTE and SNET were bringing up old arguments. ''It's not surprising that monopolists would take whatever steps are necessary to try to preserve their monopoly,'' AT&T said.

The National Cable Television Association objected to a portion of the rules for so-called ''open video systems,'' a concept placed into the law chiefly as a way for telephone companies to distribute video other than through the technical and regulatory structures of traditional cable TV systems.

Cable TV companies, according to the FCC rules, may not start an open video system unless they have competition in their market. The NCTA said Congress would have placed such a restriction in the law if it had intended it.

The cable TV trade group earlier this month also complained that the FCC rules were vague on whether telephone companies could use their telephone revenue to invest in new video services.

Classification

Language: ENGLISH

Subject: DEREGULATION (91%); COMMUNICATIONS LAW (90%); LEGISLATION (90%); ENERGY & UTILITY LAW (90%); BUSINESS & PROFESSIONAL ASSOCIATIONS (89%); LOBBYING (78%); US FEDERAL GOVERNMENT (78%); APPELLATE DECISIONS (78%); BROADCASTING REGULATION (78%); PRICES (77%); WHOLESALE PRICES (74%); APPEALS (72%); SUITS & CLAIMS (72%); APPEALS COURTS (72%); LAWYERS (70%); CORPORATE COUNSEL (66%)

Company: VERIZON COMMUNICATIONS INC (91%); VERIZON COMMUNICATIONS INC (91%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); NATIONAL CABLE TELEVISION ASSOCIATION (84%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); NATIONAL CABLE TELEVISION ASSOCIATION (84%)

Ticker: VZC (LSE) (91%); VZ (NYSE) (91%)

Industry: TELECOMMUNICATIONS SERVICES (94%); COMMUNICATIONS LAW (90%); ENERGY & UTILITY LAW (90%); TELECOMMUNICATIONS (90%); COMMUNICATIONS REGULATION & POLICY (90%); TELEPHONE SERVICES (89%); TELEVISION INDUSTRY (89%); LOCAL TELEPHONE SERVICE (89%); CABLE INDUSTRY (78%); ENTERTAINMENT & ARTS (78%); (78%); CABLE & OTHER DISTRIBUTION (78%); LONG DISTANCE TELEPHONE SERVICE (78%); BROADCASTING REGULATION (78%); WHOLESALE PRICES (74%); LAWYERS (70%); CORPORATE COUNSEL (66%)

Geographic: NORTHEAST USA (73%); UNITED STATES (79%)

Load-Date: September 6, 1996

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 13, 2018 09:15:22 a.m. EST

Document: GTE, SOUTHERN NEW ENGLAND TELEPHONE ASK FCC ...

GTE, SOUTHERN NEW ENGLAND TELEPHONE ASK FCC TO STAY INTERCONNECTION ORDER

COMMUNICATIONS TODAY

August 29, 1996

Length: 1114 words

Body

GTE Corp. and the Southern New England Telephone Company (SNET) yesterday (8/28) asked the FCC to stay the interconnection order. The two companies also plan to challenge the order in the U.S. Court of Appeals.

GTE and SNET both have several disagreements with the order.

First, GTE said the commission does not have the authority to set national pricing standards. "The statute clearly vested the responsibility to determine prices...marketplace negotiations, and with unresolved issues being arbitrated by the state commissions," GTE Senior Vice President and General Counsel **William Barr** said in a news conference. "We believe the FCC order overrides the marketplace's and states' roles by presuming to establish these nationwide standards."

"In the legislation that was passed, the role of the states was an issue that was discussed and controversial, and the states succeeded in carving out a role for themselves," Barr said. "The FCC order really attempts to reverse the decision made by Congress."

SNET pointed out that Connecticut enacted telecommunications

legislation two years ago that opened the market to competition. President of SNET's Retail Group Ron Serrano said that 120 companies are authorized to provide intraLATA toll service in the state, and 15 companies are certified to offer local service.

"In the name of opening up this market to competition, do we really want to replace a progressive and flexible set of state regulations with over 700 pages of detailed and inflexible regulations," Serrano added.Cost-Methodology Violates Telecom Act

GTE argued that even if the commission has the authority to set national pricing standards, the forward-looking cost methodology used in the order violates the Telecom Act. The statute orders rates provided by incumbent local exchange carriers (LECs) to be "just and reasonable," Barr pointed out. In calculating prices, the commission settled on the so-called Total Element Long-Run Incremental Cost (TELRIC), plus a "reasonable share" of joint costs.

While the FCC said this method is preferable because it will replicate the conditions of a competitive market and encourage efficient entry, LECs have attacked TELRIC for overlooking what it actually costs to build a network.

"Obviously, if the rates are below our actual costs, that's an uncompensated taking under the [U.S. Constitution], and we believe the statute cannot be construed to authorize that kind of below-cost pricing," Barr said.

Incumbent LECs also should be compensated in full for joint and common costs, Barr continued. He added that these costs, which include repair equipment, are "clearly a part of actual costs of our network elements and have to be recovered."

Barr, who served as attorney general under President George Bush, pointed out as "interesting" that when the gas pipeline and electric power industries were deregulated in a fashion similar to the telecom industry, the federal authorities allowed the old monopolies to be compensated for their actual costs. The FCC's interconnection order is a "radical departure from past practices of federal agencies," he said.

SNET's Serrano said that the way the order is structured will in effect give "some of the biggest corporations a free ride into local markets" requiring local companies to "subsidize their competitors." He added that the situation is analogous to a small pizza parlor

trying to compete with Pizza Hut.

"The consumer won't win in this sort of environment. It's like requiring a local pizza parlor on Wooster Street in New Haven, Conn.,...to let a national chain like Pizza Hut use its brick ovens whenever Pizza Hut wants without paying for the costs of using the ovens," Serrano said, noting that the local pizza parlor probably wouldn't be in business for long, which would eliminate consumer choice.

Default Prices Below Cost

A final attack on the order is based on the belief that the default prices the commission ruled states may use instead of applying TELRIC are "grossly below" the actual cost.

Barr specifically criticized the default price range of 0.2 cents to 0.4 cents per minute for switching, under which the commission allowed the states to operate. The prices "are so far out of line that you really have to question how they got those numbers," he said.

Barr added that not even TELRIC yields prices that cheap. "[The FCC] describe[s] a methodology and then it uses presumptive prices that have no relationship to the methodology," he said. The default discount range for resale rates of 17 percent to 25 percent also is much too steep, he said.

"The sad thing about the FCC order, in my view, is that it really turned the statute on its head," Barr said. The order changed the Act into a "statute for parasites," he said. Because of the deep discounts, few or no new local competitors are likely to invest in new facilities, he predicted.

GTE's and SNET's actions come less than three weeks after the commission released the order. Barr said GTE does not expect the FCC to stay the order. Rather, the request is a necessary judicial step before the company can ask the circuit court to stay the order. The two companies will go to court as soon as the order is published in the Federal Register, which is scheduled to occur today (8/29).

Earlier this week, the National Association of Regulatory Utility Commissioners (NARUC) said it would challenge the order in court as well. If appeals with similar arguments are filed in different circuits, the court system will conduct a lottery to decide which

circuit will handle the cases. Barr said GTE may file with the D.C. Circuit because that court has significant "experience" with FCC matters.

Response

FCC Chairman Reed Hundt said that he has not seen the motion for a stay of the interconnection order. He added, however, that "all private parties are welcome to seek any judicial review that they believe is appropriate. We promise fair and expeditious review of all filings."

AT&T Corp. also reacted to the announcement by GTE and SNET.

"GTE's and SNET's arguments have been made before and rejected by the FCC. It's not surprising that monopolists would take whatever steps are necessary to try to preserve their monopoly," the company said, adding that Congress intended for the FCC to implement a "national framework."

Classification

Language: ENGLISH

Subject: ENERGY & UTILITY LAW (90%); PRICES (90%); COMMUNICATIONS LAW (89%); DEREGULATION (89%); LEGISLATION (88%); ALTERNATIVE DISPUTE RESOLUTION (77%); APPEALS (77%); US STATE GOVERNMENT (76%); CONFERENCES & CONVENTIONS (75%); LAWYERS (74%); ATTORNEYS GENERAL (73%); CORPORATE COUNSEL (70%); EXECUTIVES (70%)

Company: VERIZON COMMUNICATIONS INC (95%); VERIZON COMMUNICATIONS INC (95%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Ticker: VZC (LSE) (95%); VZ (NYSE) (95%); GTE (NYSE) (92%)

Industry: TELECOMMUNICATIONS SERVICES (94%); ENERGY & UTILITY LAW (90%); COMMUNICATIONS LAW (89%); TELECOMMUNICATIONS (89%); LOCAL TELEPHONE SERVICE (89%);

UTILITIES INDUSTRY (89%); COMMUNICATIONS REGULATION & POLICY (88%); TELEPHONE SERVICES (78%); LAWYERS (74%); TELECOMMUNICATIONS PROVIDERS (73%); CORPORATE COUNSEL (70%); PIPELINE TRANSPORTATION (50%)

Person: GEORGE W BUSH (55%)

Geographic: CONNECTICUT, USA (79%); NORTHEAST USA (79%); UNITED STATES (93%)

Load-Date: November 5, 1996

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 09:31:51 a.m. EST

GTE to fight "unfair' rules on competition

Tampa Bay Times (FL) (Published as St. Petersburg Times) - August 29, 1996

- Author/Byline: Compiled from Wire Reports
- Edition: 0 SOUTH PINELLAS
- Section: BUSINESS
- Page: 6E

GTE Corp. said it will challenge and seek a stay of federal rules designed to open the nation's $100-billion local telephone market to competition.

GTE on Wednesday called the Federal Communications Commission rules ""unfair'' because they would force local phone companies like GTE to ""subsidize'' competitors.

Competitors won't have any incentive to build their own local phone networks if they can lease access to the existing networks of local phone companies at big discounts, argued William Barr, senior vice president and general counsel at GTE.

The FCC rules outline national guidelines for the states to follow as they oversee the opening of local phone markets to competitors.

But GTE, joined by Southern New England Telecommunications Corp., argued that the FCC does not have the authority to promulgate national pricing standards and in effect override the marketplace. Telephone companies are supposed to negotiate deals with one another to allow new players to enter local phone markets. And, should negotiations fail, state regulators are supposed to arbitrate and finalize agreements by December.

If GTE's request for a stay is granted, it would stall the introduction of competition in Tampa Bay and the other local markets nationwide, analysts said.

At least half-dozen companies including AT&T, MCI and Time Warner plan to offer local telephone service in the Tampa Bay market. Most of these companies are expected to lease local lines from current area telephone service provider GTE.

AT&T, in response to GTE's action, defended the FCC rules.

""It's not surprising that monopolists,'' AT&T said of GTE, ""would take whatever steps are necessary to try to preserve their monopoly.''

- *Index terms: business*
- *Record: 007*

Document: GTE says FCC rules are biased;Telecom law guidelines may f…

GTE says FCC rules are biased;
Telecom law guidelines may face court challenge

Fort Worth Star-Telegram (Texas)

August 29, 1996, Thursday, FINAL AM EDITION

Section: BUSINESS;

Length: 784 words

Byline: Leslie Gornstein, Star-Telegram Writer

Body

GTE Corp. challenged the Federal Communications Commission yesterday, saying the agency's guidelines for overhauling telecommunications are unfairly favorable to long-distance companies.

GTE and another company that provides local phone service, Southern New England Telecommunications Corp., asked the FCC to halt its enforcement of new laws until a judge can intervene.

GTE provides local and mobile phone service in 28 states, including parts of Northeast Tarrant and Dallas counties. The corporation is based in Stamford, Conn., but its telephone operations and Internet service headquarters are in Irving, where it employs 7,000.

Local phone companies and other critics say the FCC's 688-page guidelines for the Telecommunications Act of 1996 sap power from states and mandate unfair prices.

The law, enacted in February, allows local phone companies, long-distance services and cable providers to enter one anothers' businesses.

It also requires local phone service monopolies, such as GTE and Southwestern Bell in North Texas, to open their networks to competitors at reasonable, wholesale prices.

Typically, local phone companies do that through deals called interconnection agreements, in which network access is leased at a discount.

But local competition in Texas has been slow in coming. So far, GTE has agreed to open its lines to one competitor, MFS. Southwestern Bell has signed interconnection agreements with seven companies. But most of the new competitors will focus on business customers, not consumers.

In a news conference yesterday, GTE characterized its request as a first step that will eventually lead to a U.S. appeals court.

But cable companies said yesterday that they are skipping the FCC request and suing to challenge the rules. The National Cable Television Association asserted that the FCC has assumed authority that Congress did not intend it to have.

Other companies, including Southwestern Bell, have also expressed annoyance at the FCC actions, but yesterday's announcements marked the industry's first formal challenges.

State regulators took their own shots yesterday. The National Association of Regulatory Utility Commissioners said it also plans to appeal the FCC rules.

"We still have some fundamental disagreements with our federal colleagues," said Cheryl Parrino, president of the organization.

FCC Chairman Reed Hundt said yesterday that he had not seen GTE's request. But in a short release, he responded to the regulators' announcement.

"NARUC's announcement that it will appeal the jurisdictional analysis of our interconnection order should not and will not prevent the states and the FCC from moving ahead quickly as partners in implementing these rules," he said.

The FCC has 10 days to respond to the GTE request.

Southwestern Bell criticized the FCC but said it is still studying the guidelines and has not decided whether to appeal them.

"It appears that the FCC has ignored the law," said Danley Hubbard, senior vice president at SBC Communications, parent of Southwestern Bell. "SBC strongly supports competition in the telecommunications industry, but we support specific means to establish such competition as enacted by Congress. "

U S West, which serves 14 Western and Midwestern states, also issued a statement supporting GTE.

At the heart of GTE's argument is money.

Bill Barr, GTE general counsel, said yesterday that the wholesale prices suggested by the FCC guidelines are much too low to compensate GTE for its costs. For example, he said, the FCC suggests charging 0.02 cents to 0.04 cents for each call routed by computerized phone switches. But that does not account for some overhead costs, he said.

In a blistering criticism of the guidelines, Barr said the FCC has made it too easy for long-distance companies to abandon plans to build phone networks. Instead, he said, AT&T and others will simply take advantage of the low-priced systems of existing local carriers.

Barr accused the FCC of changing the law into "a statute for parasites. "
"Why would anyone want to build a network when they can buy one at a 40 percent discount, or a 60 percent discount? " he said. "This has really slammed the brakes on the job growth envisioned at the law's incipiency. "

The FCC rules have also slowed competition by hindering negotiations with would-be competitors, Barr said.

AT&T, the nation's largest long-distance company, responded with its own criticism of GTE.

"They don't like what they see, so they do what they do best," said Rian Wren, vice president of local services for the Southwest.

"They litigate. "

Sprint, another leading long-distance company, issued a written statement calling GTE's action "unfortunate. "

Classification

Language: ENGLISH

Subject: LEGISLATION (90%); ENERGY & UTILITY LAW (90%); COMMUNICATIONS LAW (89%); AGREEMENTS (89%); ANTITRUST & TRADE LAW (88%); ASSOCIATIONS & ORGANIZATIONS (85%); US FEDERAL GOVERNMENT (78%); SUITS & CLAIMS (78%); US STATE GOVERNMENT (78%); BUSINESS & PROFESSIONAL ASSOCIATIONS (78%); CONSUMERS (77%); APPEALS (77%); APPELLATE DECISIONS (77%); BROADCASTING REGULATION (77%); PRICES (77%); ENERGY DEPARTMENTS (73%); LAW COURTS & TRIBUNALS (72%); UNFAIR PRICING (69%); WHOLESALE PRICES (69%); CUSTOMER RELATIONS (65%); PRESS CONFERENCES (64%); APPEALS COURTS (64%); EXECUTIVES (60%)

Company: VERIZON COMMUNICATIONS INC (95%); AT&T INC (86%); VERIZON COMMUNICATIONS INC (95%); AT&T INC (86%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Ticker: VZC (LSE) (95%); VZ (NYSE) (95%); T (NYSE) (86%)

Industry: TELEPHONE SERVICES (92%); TELECOMMUNICATIONS (91%); LOCAL TELEPHONE SERVICE (91%); ENERGY & UTILITY LAW (90%); TELECOMMUNICATIONS SERVICES (90%); COMMUNICATIONS REGULATION & POLICY (90%); COMMUNICATIONS LAW (89%); CABLE INDUSTRY (89%); UTILITIES INDUSTRY (89%); PUBLIC UTILITIES COMMISSIONS (78%); WIRELESS INDUSTRY (78%); COMPUTER NETWORKS (77%); BROADCASTING REGULATION (77%); TELEVISION INDUSTRY (77%); LONG DISTANCE TELEPHONE SERVICE (74%); WIRELESS TELECOMMUNICATIONS CARRIERS (73%); ENERGY DEPARTMENTS (73%); MOBILE & CELLULAR COMMUNICATIONS (73%); MOBILE & CELLULAR TELEPHONES (72%); UNFAIR PRICING (69%); WHOLESALE PRICES (69%); CABLE & OTHER

DISTRIBUTION (68%)

Geographic: DALLAS, TX, USA (77%); TEXAS, USA (92%); CONNECTICUT, USA (79%); NORTHEAST USA (79%); UNITED STATES (79%)

Load-Date: August 22, 1997

Content Type: News

Terms: "bill barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 02:20:44 p.m. EST

Document: Appeals Planned;GTE AND SNET SEEK STAY OF FCC INTE...

Appeals Planned;
GTE AND SNET SEEK STAY OF FCC INTERCONNECT ORDER

Communications Daily

August 29, 1996, Thursday

Section: Vol. 16, No. 169; Pg. 1

Length: 840 words

Body

In first of what probably will be many challenges to FCC interconnection order, GTE and SNET filed joint motion with Commission Wed. asking it to halt implementation of order pending federal court review. Companies plan to file separate court appeals within days. GTE Gen. Counsel **William Barr** said it was doubtful that FCC would agree to stay but said action was procedural necessity. Companies told FCC that they would seek court stay if agency didn't act in 10 days.

Companies are poised to file suits as soon as order is published in Federal Register, expected today or tomorrow. GTE said it will appeal to U.S. Appeals Court, D.C.; SNET said it probably would go to same court. Appeals can be filed in any appeals court but eventually will be consolidated, Barr said. He predicted that many suits would be filed by RHCs, NARUC, others.

Barr said GTE challenge will be based on 4 arguments: (1) FCC didn't have authority to require national pricing standards. He said Telecom Act gave that authority to marketplace and state regulators, and FCC order attempts to overrides both. (2) Total Element Long Run Incremental Cost (TELRIC) pricing methodology won't compensate incumbent LECs for cost of their networks and resulting requirement for "below-cost" pricing represents unconstitutional "taking" of property. (3) Order doesn't allow LECs to recover full amount of joint and common costs due to them. Those are costs that normally are partly allocated to several services because they support different things. Examples are repair costs, equipment, buildings. (4) Default proxy prices are "grossly below actual cost" and result in "very substantial discounts." GTE is especially upset about default price range for switching, which it charged was "so far out of the ballpark we think it's capricious."

Barr said order's wording turns Telecom Act into "statute for parasites" because there's no incentive for competitor to be facilities-based. Only 2 kinds of companies would benefit, he said: (1) "Storefront parasites arbitraging on the spread." (2) Large companies such as AT&T that would be able to "acquire the local network at very substantial discounts" without building own networks.

"The issue is whether or not these rules are fair," said Fred Page, SNET network services pres. Order requires SNET to sell services "significantly below cost, subsidizing our competitors, many of whom, like AT&T, dwarf our company." Order is "very bad news" for its customers, said Ron Serrano, pres. of SNET's retail unit. Requiring any company to sell below cost discourages investment, he said. Conn. is "in a different place" than rest of country because it already has robust competition, he said. Serrano said order would lock industry into set of inflexible standards: "It is mired in detail that cannot possibly work because it is rigid and insensitive to regional differences."

AT&T said GTE-SNET action "is to be expected from a monopolist trying to protect its monopoly."

FCC Chmn. Hundt said it's "inappropriate" for him to comment on merits of GTE-SNET petition until he has had opportunity to read it, but he emphasized that Commission's rules "are designed to fulfill the congressional intent" of introducing competition to local exchange. Parties "are welcome to seek any judicial review that they believe is appropriate," he said. "We promise fair and expeditious review of all filings."

Meanwhile, Ga. PSC will decide next week whether to appeal FCC order, said Comr. Stan Wise, who characterized FCC decision as having "an adverse effect on most of the consumers in Georgia." He said he had recommended that PSC file appeal because FCC order requires states to deaverage rates geographically for interconnection and unbundled elements. He said requirement "encourages zoned pricing" and would result in different rates for different areas of state. That could lead to new entrants' "cherry-picking" low-cost urban areas and "blacklisting" or not serving high-cost rural areas. Wise said incumbent BellSouth (BS) currently averages cost of providing local loop statewide, which keeps phone service in rural towns at reasonable price. Under new requirement, cost of local loop would be averaged within 3 rate zones, which most likely would be urban, suburban and rural areas, he said.

Deaveraging cost of service would require BS to sell its lines to competitors at their true price, meaning cost of lines in urban areas would be low cost while rural areas would be "through the roof," he said. That would result in companies' competing in urban cities only "where there's a financial carrot," he said.

Wise said requirement is "unconstitutional" because it "preempts states' rights" to set rates within their borders. "The FCC has clearly stepped over the line with this decision and we need to call them on it," he said. He said "right place" for such decisions to be made is "in the states . . . States would know how to phase [the requirement] in over time" to lessen impact on rural areas.

Classification

Language: ENGLISH

Subject: LAW COURTS & TRIBUNALS (90%); APPEALS (90%); APPEALS COURTS (90%); APPELLATE DECISIONS (89%); PRICES (87%); STADIUMS & ARENAS (77%); COMMUNICATIONS LAW (72%); PRODUCT PRICING (72%)

Company: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Industry: COMMUNICATIONS LAW (72%); PRODUCT PRICING (72%); TELECOMMUNICATIONS (72%); RETAILERS (60%)

Geographic: UNITED STATES (79%)

Load-Date: August 29, 1996

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 09:30:02 a.m. EST

Document: First Union settles suit

First Union settles suit

The Star-Ledger (Newark, New Jersey)

August 29, 1996 Thursday, STATE EDITION

Length: 670 words

Body

First Union Corp. said it has settled a Florida class action lawsuit that charged the bank had imposed unauthorized insurance costs on auto and boat loan customers.

First Union National Bank of Florida set aside $4.7 million for cash refunds to customers who paid their loans and insurance charges in full, and agreed to credit another $19.4 million to borrowers with outstanding loans.

Consumers complained that First Union had imposed coverage that wasn't authorized by their loan contracts. In a practice known as collateral-protection insurance, banks making boat and auto loans reserve the right to buy additional insurance if they believe the borrower has insufficient coverage. It then passes on the charges for that extra coverage to the buyer. GTE to challenge FCC ruling GTE Corp. and Southern New England Telecommunications Corp., say they will challenge new federal rules designed to open the nation's $100 billion local telephone market to competition, company officials said. If the Federal Communication Commission does not grant a stay of its rules within 10 days, GTE plans to seek a stay in federal court, said **William Barr**, senior and vice president and general counsel at GTE.

A stay, if granted, would stall the introduction of competition in the nation's local markets, analysts say. H&R Block delays breakoff H&R Block Inc. postponed the spinoff of its remaining stake in CompuServe Corp. as the unit's basic online services lose customers and it bets on the largely unproven profitability of the Internet.

The company said it still intends to separate the volatile CompuServe from its profitable tax-preparation business. Since H&R Block sold a 20 percent stake in an initial public offering in April, CompuServe's shares plunged 56 percent. `New' D&B names execs The "new" Dun & Bradstreet Corp., which is scheduled to become an independent publicly traded company later this fall, appointed Philip C. Danford to the position of vice president and treasurer and Daniel S. Miller to the position of vice president - tax and financial planning.

The "new" Dun & Bradstreet, based in Murray Hill, will be one of the three independent companies to be formed when the current Dun & Bradstreet Corp. completes its restructuring. Danford and Miller will report to Frank Sowinski, senior vice president and chief financial officer of the "new" Dun & Bradstreet Corp. Ciba, Sandoz post earnings Ciba-Geigy and Sandoz, which are merging to form Novartis, the world's No. 2 drug company, reported disappointing results for the first half of 1996. Ciba's profit rose 6

percent, well below the 12 percent gain expected by analysts. A 12 percent gain at Sandoz was slightly below expectations.

Ciba posted a net profit of 1.59 million Swiss francs ($1.33 million). That's up from 1.50 Swiss francs a year earlier. Ciba said its sales were up 4 percent, but that growth strengthened in the second quarter and the company expects the trend to continue through the rest of the year.

Sandoz' profit was 1.24 million francs ($1.04 million), up from 1.11 million francs. Sandoz said pharmaceutical sales rose to nearly half its overall revenue, up from 40 percent a year ago. Treasury auction results Yields on five-year Treasury notes fell in yesterday's auction to the lowest level since May. The high yield was 6.568 percent, down from 6.625 percent at the last auction on July 24. It was the lowest rate since five- year notes sold for 6.565 percent on May 30.

The notes will carry a coupon interest rate of 6 percent with each $10,000 in face value selling for $9,971.50. A total of $12.5 billion in notes were sold out of bids totaling $26.7 billion. Pru Securities fined The New York Stock Exchange fined Prudential Securities Inc. $125,000 for failing to supervise telephone-sales employees who used "aggressive sales pitches" to lure investors to buy securities.

A Big Board disciplinary panel found that during 1992 and 1993 the securities firm violated numerous times, though it didn't say exactly how many.

Classification

Language: ENGLISH

Publication-Type: Newspaper

Journal Code: nsl

Subject: APPOINTMENTS (90%); COMPANY PROFITS (89%); COMPANY EARNINGS (89%); CONSUMERS (78%); SUITS & CLAIMS (78%); LITIGATION (78%); TAXES & TAXATION (77%); DEMERGERS & SPINOFFS (75%); LAWYERS (75%); ENERGY & UTILITY LAW (74%); CORPORATE COUNSEL (73%); COMMUNICATIONS LAW (73%); TELECOMMUNICATIONS SECTOR PERFORMANCE (73%); EXECUTIVES (71%); FINANCIAL RESULTS (70%); TAX PREPARATION SERVICES (63%)

Company: FIRST UNION CORP (96%); FIRST UNION NATIONAL BANK OF FLORIDA (92%); DUN & BRADSTREET CORP (84%); H & R BLOCK INC (83%); GTE CORP (83%); COMPUSERVE CORP (82%); SOUTHERN NEW ENGLAND TELECOMMUNICATIONS CORP (69%); NOVARTIS AG (51%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (56%)

Ticker: DNB (NYSE) (84%); HRB (NYSE) (83%); CSRV (NASDAQ) (82%); NVS (NYSE) (51%); NOV (LSE) (51%)

Industry: CONSUMER LENDING (90%); (78%); BANKING & FINANCE (78%); SALES FINANCING (78%); AUTOMOBILE FINANCING (78%); PERSONAL FINANCE (78%); TELECOMMUNICATIONS

SERVICES (78%); TELECOMMUNICATIONS (77%); LAWYERS (75%); ENERGY & UTILITY LAW (74%); PHARMACEUTICALS INDUSTRY (74%); CORPORATE COUNSEL (73%); COMMUNICATIONS LAW (73%); TELECOMMUNICATIONS SECTOR PERFORMANCE (73%); LOCAL TELEPHONE SERVICE (73%); INDUSTRY ANALYSTS (70%); INITIAL PUBLIC OFFERINGS (63%); TAX PREPARATION SERVICES (63%)

Geographic: NORTHEAST USA (56%)

Load-Date: April 2, 2007

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 09:31:15 a.m. EST

Document: AT&T's local entry hits hang-up; GTE protests move, citing u…

AT&T's local entry hits hang-up; GTE protests move, citing unfair FCC regulations

The Herald-Sun (Durham, NC)

August 29, 1996 Thursday, Final Edition

Section: BUSINESS; Pg. B6

Length: 562 words

Byline: MURRAY COLEMAN The Herald-Sun

Body

Less than two weeks after AT&T asked for government help to crack into local phone markets, GTE Corp. announced it was taking the fight to a higher court.

William Barr, a senior vice president and general counsel for the Stamford, Conn.-based company, said Wednesday his company was filing documents with the Federal Communications Commission to block its rival's rush.

The hurry to march into uncharted territories by the long-distance giant resulted from the passage of the Telecommunications Act in February. Congress mandated that local phone providers, such as GTE -- which serves Durham -- must allow companies to use its lines and equipment for resale to customers.

The act, which included few specific details on how to carry out an industry-wide deregulation, is to be administered and implemented by the FCC.

But Barr, in a news teleconference Wednesday afternoon, said the guidelines the FCC drew up for determining a price to charge resellers is unfair.

``They set presumptive prices that are grossly below the actual costs of providing [system] elements and services,'' he said. ``We say it is below cost because the FCC states outright that it can't be based on the actual cost of building the system.''

Reed Harrison, AT&T's lead negotiator in the company's talks with GTE to forge an arrangement, has said GTE is offering a 10 percent discount for using its equipment.

He said AT&T wants a 30 percent to 40 percent discount off retail prices.

On Aug. 15, AT&T announced the impasse had reached a point of no return. AT&T officials filed requests for state utility regulators to arbitrate the debate in North Carolina and other states where GTE has a lock on local dialing services.

Barr said GTE filed its protest Wednesday with the FCC for a ruling that would stay the execution of the agency's order for establishing pricing guidelines.

``Court rules provide that before they will grant a stay you must first ask the agency for a stay,'' he said. ``Perhaps [the FCC] will surprise us and grant us a stay. But this is a first step. We have told the FCC that if we don't get a stay within 10 days, we'll go to the court to seek a stay.''

At stake is use of a telephone system that supports 190,000 customers in the greater Durham area.

Dawn Honeyman, a consultant with research firm TeleChoice, says GTE has more to lose by deregulation than most other local phone providers.

She pointed out that GTE is one of the few companies the FCC has allowed to operate local and long-distance service after the Telecommunications Act was passed.

``The Baby Bells had to meet the criteria of a 14-point checklist in order to get into the local phone service market,'' Honeyman said. ``GTE didn't fall under that checklist.''

With a leg-up on the competition, she added that it is only natural GTE at least makes an attempt to keep ahead of AT&T.

``The longer GTE can keep AT&T from selling local access,'' Honeyman said, ``the longer they can be the only ones out there selling both services.''

AT&T, on the other hand, is anxious to take advantage of deregulation before more competition develops from regional Bell companies working through the 14-point restrictions.

``When all of the regional Bell operating companies start getting into long-distance service in a big way,'' she said, ``then AT&T, which has the lion's share of that market, will be the target everyone goes after.''

Classification

Language: ENGLISH

Publication-Type: Newspaper

Subject: DEREGULATION (90%); ENERGY & UTILITY LAW (89%); PRICES (89%); EXECUTIVES (77%); PROTESTS & DEMONSTRATIONS (76%); COMMUNICATIONS LAW (76%); US FEDERAL GOVERNMENT (76%); RETAIL PRICES (74%); LAWYERS (71%); CONSTRUCTION COSTS (67%); LOCAL PHONE SERVICE; COURTS

Company: AT&T INC (95%); VERIZON COMMUNICATIONS INC (93%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%)

Ticker: T (NYSE) (95%); VZC (LSE) (93%); VZ (NYSE) (93%)

Industry: LOCAL TELEPHONE SERVICE (90%); TELECOMMUNICATIONS SERVICES (90%); TELEPHONE

SERVICES (89%); ENERGY & UTILITY LAW (89%); TELECOMMUNICATIONS (89%); UTILITIES INDUSTRY (89%); TELEPHONIC EQUIPMENT (78%); COMMUNICATIONS LAW (76%); PUBLIC UTILITIES COMMISSIONS (76%); RETAIL PRICES (74%); LONG DISTANCE TELEPHONE SERVICE (72%); LAWYERS (71%); ENERGY & UTILITY REGULATION & POLICY (70%); CONSTRUCTION COSTS (67%)

Geographic: DURHAM, NC, USA (72%); NORTH CAROLINA, USA (79%); CONNECTICUT, USA (79%)

Load-Date: August 20, 2004

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 09:30:32 a.m. EST

GTE PLANS TO APPEAL FCC INTERCONNECTION ORDER IN FEDERAL COURT

WASHINGTON TELECOM NEWSWIRE

August 28, 1996, Wednesday

Section: TODAY'S NEWS

Length: 491 words

Body

GTE said today it plans to challenge the FCC's interconnection order in federal court because it oversteps the intent of the Telecom Act by setting national pricing standards.

As a precursor to the court challenge, GTE also said it asked the FCC today to hold off implementing the order while the legal challenges are under way, and said it would ask a court to stay the order if the agency does not do so within 10 days. Southern New England Telephone (SNET) joined GTE in its action at the FCC, but could take separate court action.

The FCC rules amount to an "uncompensated taking" of GTE property, in violation of the Fifth Amendment to the Constitution, that will deprive the company of the chance to recover the actual cost of building its network, GTE General Counsel **William Barr** said. That is a "radical departure" from previous federal deregulation of the gas pipeline and electric power industries, which "expressly recognized" that former monopolies were entitled to recover the actual cost of their network, he said.

Telcos will not be able to recover actual costs under the FCC's Total Element Long-Run Incremental Cost (TELRIC) pricing model because it prices network elements at the hypothetical cost of building a network now, rather than based on the actual cost to do so in the past, when telecom costs may have been higher, Barr said.

The FCC's default pricing standards also do not follow TELRIC and impose greater discounts that are "grossly below" actual costs, he said. GTE fears that some states may not do their own cost studies and instead adopt the default ranges, he said.

California, for example, has done detailed studies that determined that the resale discount should be 7 percent for residential and 12 percent for business lines, while the FCC suggests 17 to 25 percent, Barr said. The default costs of using a switch also could give discounts of up to 60 percent, he said.

In addition to the GTE arguments, SNET, the local provider in

Connecticut, said the FCC's order doesn't fit its situation. Connecticut enacted legislation two years ago and state regulators have licensed more than 120 companies to provide instate toll service and 15 companies to offer local service. The FCC's order would require Connecticut to redo much of the work that it already has done, SNET said.

Court challenges can be filed in any federal court, but GTE and SNET both said the U.S. Court of Appeals in Washington is a good candidate. All the appeals are consolidated in one court that is chosen at random by judicial officials. That choice is made 10 days after the order is published officially in the Federal Register. FCC officials have said they anticipate publishing the order Thursday.

AT&T said the GTE action "is to be expected from a monopolist trying to protect its monopoly...This is just another barrier to opening that monopoly."
(WTN 766-96)

Classification

Language: ENGLISH

Subject: COMMUNICATIONS LAW (90%); DEREGULATION (90%); PRICES (90%); LAW COURTS & TRIBUNALS (78%); APPELLATE DECISIONS (78%); LEGISLATION (78%); PRICE MANAGEMENT (78%); LITIGATION (78%); APPEALS COURTS (78%); US STATE GOVERNMENT (76%); CONSTRUCTION COSTS (73%); ENERGY & UTILITY DEREGULATION (73%); CORPORATE COUNSEL (71%); LAWYERS (71%); ANTITRUST & TRADE LAW (67%)

Company: SOUTHERN NEW ENGLAND TELECOMMUNICATIONS CORP (57%); SOUTHERN NEW ENGLAND TELECOMMUNICATIONS CORP (57%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Industry: TELECOMMUNICATIONS (91%); COMMUNICATIONS LAW (90%); UTILITIES INDUSTRY (89%); PRICE MANAGEMENT (78%); TELECOMMUNICATIONS SERVICES (78%); COMMUNICATIONS REGULATION & POLICY (78%); ENERGY & UTILITY POLICY (78%); CONSTRUCTION COSTS (73%); ENERGY & UTILITY DEREGULATION (73%); CORPORATE COUNSEL (71%); LAWYERS (71%); ELECTRIC POWER INDUSTRY (69%); PIPELINE TRANSPORTATION (53%)

Geographic: CONNECTICUT, USA (91%); CALIFORNIA, USA (79%); NORTHEAST USA (79%); UNITED STATES (92%)

Load-Date: March 19, 1997

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 09:29:30 a.m. EST

Document: GTE and SNET File Motion for a Stay of the FCC Interconne…

GTE and SNET File Motion for a Stay of the FCC Interconnection Order; GTE will Appeal Ruling in Federal Court of Appeals

PR Newswire

August 28, 1996, Wednesday - 13:30 Eastern Time

Section: Financial News

Length: 372 words

Dateline: WASHINGTON, Aug. 28

Body

Saying the Federal Communications Commission's (FCC) interconnection order violates the intent of the Telecommunications Act of 1996, GTE and SNET today plan to file a motion at the FCC to halt the implementation of the order, pending judicial review of that order. GTE will file a Petition for Review in the U.S. Court of Appeals challenging the FCC order immediately after the order is placed on public notice. If the FCC fails to halt implementation of the order, GTE said it will request a stay of the rules from the Court.

In February, Congress passed the Telecommunications Act of 1996, rewriting a 62-year-old communications act. The FCC's order comes in the wake of Congressional removal of competitive barriers in the telecommunications industry. "Congress passed the Act to deregulate the industry, foster competition and spur investment, innovation and job creation. The FCC's order thwarts these objectives," said **William P. Barr**, GTE senior vice president and general counsel.

"Congress explicitly rejected centralized rulemaking and instead established a framework for deregulation that relied first on marketplace negotiations and then left unresolved issues to be decided by the states. In issuing a 668-page order dictating national prices and regulating virtually every aspect of the local market for telecommunications, the FCC has overridden both the marketplace's and the states' role."

Under the order, local phone companies that have built and operated the local network would be required to wholesale both their services and parts of their network to resellers at prices substantially below cost. "Requiring local companies to subsidize resellers -- some of whom will be among the nation's largest companies -- would not create true competition, would not encourage investment in facilities or innovation, and would not create any new jobs. Where is the incentive to invest in new innovative

services or facilities if companies making the investment are forced to turn around and sell at prices below cost?" Barr said.

Additional information about GTE can be found on the Internet at http://www.gte.com.

SOURCE GTE Service Corporation

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Classification

Language: ENGLISH

Subject: COMMUNICATIONS LAW (91%); DEREGULATION (91%); LEGISLATION (90%); ENERGY & UTILITY LAW (90%); APPEALS (89%); APPELLATE DECISIONS (89%); APPEALS COURTS (89%); PRICES (87%); US FEDERAL GOVERNMENT (78%); PETITIONS (77%); EMPLOYMENT GROWTH (73%); LAW COURTS & TRIBUNALS (72%); LAWYERS (70%); JOB CREATION (68%); PRODUCT INNOVATION (68%)

Company: SERVICE CORP INTERNATIONAL (52%); GTE Service Corporation; Federal Communications Commission; SNET SERVICE CORP INTERNATIONAL (52%); Federal Communications Commission; SNET SERVICE CORP INTERNATIONAL (52%); SNET SERVICE CORP INTERNATIONAL (52%); FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Organization: FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%); GTE Service Corporation; Federal Communications Commission; SNET FEDERAL COMMUNICATIONS COMMISSION (94%); Federal Communications Commission; SNET FEDERAL COMMUNICATIONS COMMISSION (94%); SNET FEDERAL COMMUNICATIONS COMMISSION (94%); FEDERAL COMMUNICATIONS COMMISSION (94%)

Ticker: SCI (NYSE) (52%); SCI (NYSE) (52%); GTE

Industry: TELECOMMUNICATIONS (92%); COMMUNICATIONS LAW (91%); ENERGY & UTILITY LAW (90%); COMMUNICATIONS REGULATION & POLICY (90%); COMPUTER NETWORKS (89%); LOCAL TELEPHONE SERVICE (78%); LAWYERS (70%)

Geographic: UNITED STATES (79%)

Load-Date: August 29, 1996

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:21:41 p.m. EST

Document: Editorial; Bullying is un-American

Editorial; Bullying is un-American

The Boston Herald

August 16, 1996 Friday, FIRST EDITION

Section: EDITORIAL;

Length: 304 words

Body

If free speech is part of the American tradition then People for the American Way should get a new name. It is engaging in a most un-American attempt at censorship.

People for the American Way recently sent a memo to conservative churches telling them that if they distribute the Christian Coalition's voter guides they will jeopardize their tax-exempt status.

The memo is based on a pending lawsuit by the Federal Election Commission against the coalition, contending that its voter guides are in fact an illegal campaign expenditure by a corporation (illegal because not reported).

The guides seek to inform the public on candidates' positions. They do not endorse specific candidates and are perfectly legal as voter education.

For years, the FEC has sought to expand the definition of campaign expediture to cover educational efforts. It has aggressively perused conservative groups like the Christian Action Network. It has lost every time.

At the same time, the commission ignores leftist groups.The AFL-CIO, which is represented on the Democratic National Committee, is spending $ 35 million "educating" the public on the evils of a Republican Congress, without a peep of protest from the FEC.

As former Attorney General **William Barr** explained in The Wall Street Journal, to protect the First Amendment the Supreme Court has allowed great latitude to corporations engaged in political education.

An expenditure violates federal law "only if it specifically calls for the election of a particular candidate."

The coalition hopes to distribute 50 million voter guides, many through churches. People for the American Way probably knows the FEC will lose its suit, but in the meantime, it hopes to stop churches from exercising their rights.

Free speech is part of the American way. Bullying is not.

Classification

Language: ENGLISH

Subject: POLITICAL PARTIES (90%); US FEDERAL GOVERNMENT (90%); CONSERVATISM (90%); RELIGION (89%); CHRISTIANS & CHRISTIANITY (88%); US REPUBLICAN PARTY (78%); US DEMOCRATIC PARTY (78%); CAMPAIGNS & ELECTIONS (77%); LIBERALISM (77%); ELECTIONS (76%); POLITICAL ORGANIZATIONS (76%); ELECTION AUTHORITIES (76%); VOTERS & VOTING (76%); SUITS & CLAIMS (76%); LITIGATION (76%); CENSORSHIP (72%); LAWYERS (72%); TAX EXEMPTIONS (71%); ATTORNEYS GENERAL (71%); SUPREME COURTS (66%); EDITORIALS & OPINIONS (50%)

Company: WALL STREET JOURNAL (55%); WALL STREET JOURNAL (55%); PEOPLE FOR THE AMERICAN WAY (93%); PEOPLE FOR THE AMERICAN WAY (93%); FEDERAL ELECTION COMMISSION (83%); FEDERAL ELECTION COMMISSION (83%); CHRISTIAN COALITION (58%); CHRISTIAN COALITION (58%); AFL-CIO (55%); DEMOCRATIC NATIONAL COMMITTEE (55%); DEMOCRATIC NATIONAL COMMITTEE (55%)

Organization: PEOPLE FOR THE AMERICAN WAY (93%); PEOPLE FOR THE AMERICAN WAY (93%); FEDERAL ELECTION COMMISSION (83%); FEDERAL ELECTION COMMISSION (83%); CHRISTIAN COALITION (58%); CHRISTIAN COALITION (58%); AFL-CIO (55%); DEMOCRATIC NATIONAL COMMITTEE (55%); DEMOCRATIC NATIONAL COMMITTEE (55%)

Industry: LAWYERS (72%)

Geographic: UNITED STATES (94%)

Load-Date: August 16, 1996

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 09:27:34 a.m. EST

Document: No Headline In Original

No Headline In Original

CNN Crossfire 7:30 pm ET

July 28, 1996

Section: News; Domestic; Show; Interview

Length: 4231 words

Body

Pres. BILL CLINTON: This year, I signed into law an anti-terrorism act, which made terrorism a federal offense, expanded the role of the FBI in solving these crimes and imposed the death penalty for terrorism. As strong as the bill was, it did not give our law enforcement officials some of the powerful tools I had recommended, because they wanted and needed them.

LYNNE CHENEY: [voice-over] What can make America safe again and what will be the cost to liberty?

ANNOUNCER: Live, from Washington, Crossfire Sunday. On the left Bob Beckel, on the right, Lynne Cheney.

In the crossfire, **William Barr**, former Attorney General in the Bush Administration and Laura Murphy, Washington director of the American Civil Liberties Union.

BOB BECKEL, Co-Host: Good evening and welcome to Crossfire Sunday. In the wake of the bombing in Atlanta, President Clinton and several members of Congress are calling for tougher steps to combat terrorism, steps that will likely draw criticism from civil libertarians. In a moment a debate on how far government can and should go, to combat terrorism.

But first here's Jeanne Meserve on the investigations into the bombing in Atlanta and the crash of TWA Flight 800. Jeanne?

[News break]

LYNNE CHENEY, Co-Host: The World Trade Center, Oklahoma City, TWA Flight 800, the pipe bomb in Centennial Park - Americans are feeling vulnerable and their political leaders are reacting. President Clinton has invited the FBI director and Congressional leaders to the White House tomorrow, to - and I quote 'Do whatever is necessary' as the President put it to track down terrorists. But words like 'whatever is necessary' are troubling to some people on the left and on the right. How much liberty will we have to give up they ask, to do whatever is necessary? Lawmakers have overreacted before. At one point early in American history they enacted legislation that the party in power used to silence its political opponents. In the first part of the 20th century, bombings across the United States including one on Wall Street killed 38 people, and led to unjustified raids, jailings and deportation. Can Americans achieve the safe and ordered society they long for and still keep their constitutional liberties?

Bob?

BOB BECKEL: Bill Barr, tomorrow, or Tuesday, I guess, Centennial Park will reopen but you will have to go through metal detectors. Centennial Park is a public park, Central Park is a public park. What's the difference? Why not put metal detectors in Central Park, or are what we're doing here trampling on 4th Amendment rights against illegal search and seizure, when you- when you stop people going into a public park.

WILLIAM BARR, former Attorney General: Well, I think the distinction is that you have a high profile event that has been a magnet for terrorists going on in Atlanta. You already have had a bomb go off and so I think it is a prudent step probably to put metal detectors on that park, while the Olympics are going on. I think that is the distinction. I don't think that is an invasion of 4th Amendment rights.

BOB BECKEL: Well, but - but why would it not- I mean, every time something like this happens, and I mean, I am not in any way trying to justify this, but law enforcement keeps asking, when these things happen, for more power. And yet, these things seem to keep happening. The technology available to terrorists seems to get ahead of law enforcement. And at some point is it really worth- is it worth the cost? Is it worth trampling on people's, potentially trampling on peoples' rights? Or should we just say 'There is not a whole lot we can do.'

WILLIAM BARR: Well, I don't think we should trample on peoples rights. I think that is the line. The issue is really can we be doing more? Can we take prudent steps now within our constitutional tradition to do a better job or to meet the threat as it is materializing today? And I think there are things we can do. I think what President Clinton is doing now may be understandable for a politician in an election year to try to show some control and act as if there is something that could be done, that will have an impact - you know, 'More legislation; pass these materials.' I favor most of the proposals that are being

suggested, but I think they are of marginal use frankly. I do think there are things we could do, though, in the area of Aircraft security - you put your finger on it: upgrading our technology. I- right now we have a Balkanized law enforcement system in the- in the federal government that really isn't pushing the kind of technological things that we could use. So there are steps we can take to improve, but we are not going to be able to stop terrorism.

LYNNE CHENEY: Laura, let me ask you - I know one of the objections that the ACLU has had is this- to this idea of 'roving wiretaps.' In other words, if there is a bad guy that is using nine phones, with one court order, if there is a 'roving wiretap' legislation, with one court order the FBI can tap all those phones. I am not sure I understand why you see that as a threat to our civil liberties.

LAURA MURPHY, Director, Washington DC, ACLU: I don't see a problem with the existing statute on roving wiretaps. Right now, they have to get a court order and they have to show that the person who is being wiretapped is changing phones for the purpose of evading law enforcement. That is a- that- that respects the 4th Amendment requirements. What we have seen in the past and in the previous terrorism bill is roving wiretaps with no restrictions. Basically, you can say, 'We will tap any phone that this person is likely to use,' and then you get into a massive wiretapping situation. Right now, over 1500 innocent conversations are intercepted with a wiretap on- for one individual on one phone. And that goes into about 12 million innocent conversations that are intercepted.

LYNNE CHENEY: But aren't there laws that say that when the FBI comes across one of those conversations they have to more or less throw it in the trash? They have to minimize their use of it?

LAURA MURPHY: They do have to minimize their use of it, and if they use it they are violating the law. But that doesn't stop them from collecting the information; that doesn't stop us from knowing that big government is alive and well, despite what President Clinton said in his State of the Union Address.

LYNNE CHENEY: This is so interesting. You must feel slightly - I don't know - chagrined at having people on the right - people on the far right support your position? The idea that big government is just too much and I want them out of my life.

LAURA MURPHY: I am never chagrined when people support the right position and the right position here is less government because more government, more metal detectors, more wiretapping authority, historically has been misused to go after people who are politically unpopular. They develop profiles of people to stop in the airport. Is it any accident that they are foreign speaking individuals or darker skinned individuals? The problem is that they have gone too far. So I don't care that the NRA agrees with us; the Friends Service Committee agrees with us on wiretapping, too.

BOB BECKEL: Probably the only good the NRA ever did.

Bill, let me get back, I don't want to let you off on this 4th Amendment - let's assume that Tuesday morning, somebody is stopped because- and their bags are checked and somebody finds three marijuana joints in somebody's pocket and the police move in to arrest them. Isn't that exactly the kind of thing that we are trying to avoid with the 4th Amendment? In other words that they might have been looking for bombers or people with guns and they find drugs and then they arrest the guy.

WILLIAM BARR: No, in fact - I mean, there is nothing objectionable under the 4th Amendment there, that happens everyday with traffic stops.

BOB BECKEL: Well-

WILLIAM BARR: The- as long as the police have probable cause to - to stop a car for an offense-

BOB BECKEL: But-

WILLIAM BARR: -the fact that they may find drugs in there-

BOB BECKEL: Well, but that- [crosstalk] it doesn't make any -

LAURA MURPHY: That was a hotly debated issue before the court.

BOB BECKEL: Yeah, that was a hotly debated issue and by the way, I mean I'm- I'm violently opposed to that. But where does this stop? I mean this gets back to the -

WILLIAM BARR: Well, Bob, are you suggesting we shouldn't screen people who get on planes?

BOB BECKEL: No, the only place I would agree is on planes because then you are in a captive situation-

WILLIAM BARR: Well, that is the example you used.

BOB BECKEL: No, no. That's not a public park. What if I want to go in and to to the bathroom in a public park? I mean, I've got to get - go through a metal detector here? Because it's a public park?

WILLIAM BARR: Well, if-

BOB BECKEL: I can understand-

WILLIAM BARR: -you know, it is a public park but it is now being used by the Olympics. Now, I'm

saying that after the Olympics are done and probably it should be treated like any other public park. But when the President is in town, they make people walk through medical- metal detectors. Do you think that-

LAURA MURPHY: But- but the- the problem is this false notion that these metal detectors are going to make people safer. That this new terrorism bill is going to make people safer. And the- it's not going to make people safer. They promised us that terrorism would end when they signed that bill on April 24. There is very little that law enforcement can do other than what it's- what it has the authority to do right now. To make people safer. They don't need more powers to surveil us to violate our 4th Amendment rights. This is - this is an election year. We've got to remember this gang. And everybody is going to step up and say 'This is the magic bullet.'

WILLIAM BARR: Well, no one ever promised anybody that terrorism was going to stop and there are things we can do to to intercept terrorism and acts of terrorism. Will we be 100 percent successful? No, but we can save lives.

BOB BECKEL: Okay. We're going to have to take a break. When we come back, how much terrorism is too much terrorism when it comes to the politics of President Clinton?

[Commercial break]

WILLIAM COHEN, (R), Maine: I think the American is going to say 'I will take a little less of my liberty in order to have more security. And I think that is going to increase as the bombs- meaning not only these kind of bombs but chemical and biological weapons become something that are in the hands of people who means us no good will.

Rep. NEWT GINGRICH: But the worst thing we could to is decide to become a police state, both because in the long run it would increase terror as more and more people were alienated. But also because it- it is the ultimate defeat.

BOB BECKEL: Welcome back to Crossfire Sunday. What would it be without Newt Gingrich? President Clinton and

Congressional leaders meet tomorrow to discuss tougher steps to combat terrorism, but does the federal government really need more power? And if so, how much is too much?

Our guests are Laura Murphy, Washington D.C. director of the American Civil Liberties Union and Bill Barr who was the former Attorney General.

Lynne?

LYNNE CHENEY: Well, it's very interesting Laura was nodding 'yes,' as Newt Gingrich was speaking. I am sure there are not a whole lot of issues that you agree with on? The politics of this are very interesting. But of course, ultimately it's got human life and people are dying and- and -

LAURA MURPHY: Well, the problem with what Newt Gingrich said is that his rhetoric has gone in the direction of civil liberties-

LYNNE CHENEY: Yes.

LAURA MURPHY: - the actions of this Congress, with regard to the counter-terrorism bill that was signed into law in April, really violate peoples civil liberties in the sense that now people are deportated [sic] with secret evidence.

LYNNE CHENEY: Oh, but they didn't do as much as the President wanted them to do is the point.

LAURA MURPHY: Oh, but these are small things compared to what they got in the terrorism bill.

LYNNE CHENEY: Which is the ability to keep prisoners on death row from bargaining forever to stay alive.

LAURA MURPHY: Right. It becomes a grab bag, it becomes overreaching. It becomes a vehicle to enact everything that law enforcement wants.

LYNNE CHENEY: Well, let me ask you this-

LAURA MURPHY: Right. It becomes a grab bag, it becomes over-reaching, it becomes a vehicle to enact everything that law enforcement wanted.

LYNNE CHENEY: -let me just ask you this-

LAURA MURPHY: It's a wish list.

LYNNE CHENEY: -let me just ask you a question then. You know maybe you and I could agree on. I, too, am uneasy about intrusions into my privacy and my civil rights. Maybe the best way to handle this terrorism - how would you feel about this? Right now, in Libya Muammar Qaddafi is protecting two of the people that we have indicted for the bombing of Pan Am 103. Wouldn't we be better served to counter terrorism, by going after them in a military way than by these constant intrusions into our civil rights in this country?

LAURA MURPHY: Well, I can't say that we would be better served. I don't know whether military action is the solution to ending international terrorism. I think that peace negotiations. But I will agree with you on the domestic front: that we should not proceed with these new wiretapping laws - 75 percent of the American people oppose wiretapping. Where does that come from? Not from some CNN poll, but from the Bureau of Justice Statistics. So they- they are going down a very dangerous path here, our political leaders of both parties, by pushing this wiretapping. It doesn't work.

BOB BECKEL: Okay, let me ask- let me ask Bill Barr- by the way, you conservatives didn't want to go to Bosnia, but you wanted to invade Libya, that's wonderful.

LYNNE CHENEY: No, no, not invade.

BOB BECKEL: Okay, sorry - military - I don't know how else I should read that, but in any event, Bill Barr you - what would you do - let's make it clear - by the way it seems to me that you are getting a little outnumbered here, pal, on the 4th Amendment issue - it's supposed to be two on two but let's take three on one, you are- you are a tough guy - what would you do? I mean, if you could be the emperor of the United States and you could take whatever steps you wanted to combat terrorism, what would you do?

WILLIAM BARR: Well, first, on air traffic - which is a special case in my view, because you do have more control over-

BOB BECKEL: Right.

WILLIAM BARR: -that - I would push to deploy all available technology for bomb detection. I would upgrade the quality of the security personnel, I would insist on full searches of U.S. planes. I would use our diplomatic powers to insure that we can maintain safe havens at foreign airports or we're just not going to serve those countries. I do think we can make air traffic much more safe - that's number one. I don't think it requires any loss of civil liberties. I would use profiles, however, in checking people coming on to U.S. planes.

LAURA MURPHY: See?

WILLIAM BARR: I want to say something about the American Civil Liberties Union position on profiles - which is trying to use your reasonable suspicion that somebody may be up to something in order to target them. Look at curfews in the city - this is typical of what the ACLU does: they say that police shouldn't have the discretion to go-

LAURA MURPHY: I thought we were here to talk about terrorism-

WILLIAM BARR: -to go to- Well, I am using an example- which is that you say that the police shouldn't have the discretion to go and take a gang off a street corner and say 'Move it, move along!' And so the upshot of that is, every kid in the city has to be home at 10:00. So you say, 'It's okay if they do it to everybody, but we just don't want them doing it to certain people.' Israeli intelligence will tell you that profiles are the number one effective step of catching people involved in terrorist activities.

LAURA MURPHY: Yes, and let me tell you about the profile that occurred after the Oklahoma City bombing.

WILLIAM BARR: Okay, now-

LAURA MURPHY: The profile that occurred, developed into the arrest of Abraham Amhad [sp?], a man who was going on lawful business from Oklahoma City, to Chicago to London-

WILLIAM BARR: You don't think he should be been questioned?

LAURA MURPHY: No, I don't think he should have been paraded through Heathrow Airport in handcuffs-

WILLIAM BARR: Well-

LAURA MURPHY: -because- merely because he was an Arab American.

WILLIAM BARR: -well, he was-

LAURA MURPHY: If that's your idea of profiles-

WILLIAM BARR: -he was apprehended by the Brit-

LAURA MURPHY: -then that's an invitation-

WILLIAM BARR: -he was apprehended by the British.

LAURA MURPHY: -well, what you are talking about-

WILLIAM BARR: But- but-

LAURA MURPHY: -is an invitation on a silver platter to go after people who-

WILLIAM BARR: No, what I'm talking about-

LAURA MURPHY: -are unpopular.

WILLIAM BARR: -I'm talking about-

LAURA MURPHY: And it turned out to be Americans. Are we going to profile people who look like you? I don't think so, because you are going to say-

LYNNE CHENEY: Well, of course we will, if he's suspicious.

LAURA MURPHY: -'I'm Bill Barr, I'm formerly Attorney General of the United States.'

WILLIAM BARR: Well, if- if-

BOB BECKEL: Go ahead- go ahead, Bill.

LAURA MURPHY: People don't have that kind of power like you.

WILLIAM BARR: On airplanes- on airplanes, for example, if- if an American family is traveling with small children and going back to their home in Oshkosh, yeah, I'm not going to be that concerned about searching their luggage. But if some guy appears from Syria and we don't know anything about him, yes, I am going to want to look in his luggage. Do you have a problem with that?

LAURA MURPHY: I do have a problem with-

WILLIAM BARR: Well, that's- that's the story of-

LAURA MURPHY: -the profiles that go on-

WILLIAM BARR: -of the ACLU-

LAURA MURPHY: No, I have a problem- I have a problem-

WILLIAM BARR: -that's why- that's why-

LAURA MURPHY: -with typecasting and stereotyping based on race and nationality-

WILLIAM BARR: Well, everyone is going to have their baggage checked because you don't allow people to use common sense-

LAURA MURPHY: No, no. We're going to use common sense-

WILLIAM BARR: -judgment.

LAURA MURPHY: -and we're going to come up with a fair system, but profiles ain't what's happening in this-

WILLIAM BARR: Okay, then on foreign terrorism-

LAURA MURPHY: -in this context.

WILLIAM BARR: -since you asked the question, Bob, on foreign terrorism, I would rely on increasing our intelligence activities overseas, sharing our intelligence, I would- I would always insist on retaliation against foreign nations that support terrorism. So in that respect, once we learned that Libya was behind Pan Am 103, I think we should have taken military action against them. And on-

BOB BECKEL: How about roving wiretaps, Bill? You didn't-

WILLIAM BARR: Okay, on domestic groups-

BOB BECKEL: Yeah?

WILLIAM BARR: -I- I do support roving wiretaps. I don't think that is a big ticket item. On domestic, I do think that the FBI needs broader latitude and clear assurance that they are allowed to monitor the activities of domestic groups-

BOB BECKEL: Okay, very quickly- one other for both of you: this is about national ID cards. Do you favor national ID cards, or fingerprinting of American citizens?

WILLIAM BARR: I favor, as we get technology which are- that can read fingerprinting, I think ultimately, for aircraft safety, we should require people to get their fingerprints checked as they go through, yeah.

LYNNE CHENEY: Okay, Laura, I just want to-

LAURA MURPHY: Let's have a pass card system in South Africa- like South Africa.

LYNNE CHENEY: -disagree with you for a minute about the profiles. I find myself completely on Bill Barr's side on this one. And in fact, I sense a little self censorship going on right now. If you look at the likely list of people who might have had reason to bomb TWA 800 - and Time magazine was very brave in setting this out - there are a number of groups and they are mostly in the Middle East - we would be stupid not to focus a lot of effort on looking at groups, for example, connected with Mr. Yousef who is currently on trial in New York-

LAURA MURPHY: But look at the Oklahoma City bombing.

LYNNE CHENEY: -for threatening to bomb American Airlines.

LAURA MURPHY: But look at the Oklahoma City bombing. Look at the Free Men, look at the person who is under suspicion for planting the bomb in Atlanta.

LYNNE CHENEY: But you do have to set priorities.

LAURA MURPHY: American, white, male.

LYNNE CHENEY: Okay, and so we would be pretty stupid, since his voice was American, white, male-

LAURA MURPHY: But profiles don't work.

LYNNE CHENEY: -to look at other ethnic groups, wouldn't we?

LAURA MURPHY: They end up in stereotypes and they go underneath the need for good policing. Good policing-

LYNNE CHENEY: Well, they sound like me setting priorities.

LAURA MURPHY: -good policing is specific. And what Mr. Barr is talking about in terms of roving wiretaps is being able to just gather and collect information on people. That's not-

WILLIAM BARR: No, there is no change-

LAURA MURPHY: -acceptable.

WILLIAM BARR: -in standard going on.

BOB BECKEL: Okay, quick, last comment. Go ahead, Bill.

WILLIAM BARR: There is no change in the constitutional standard. All we're talking about is preserving the ability of law enforcement to follow people who are engaged in similar activities.

LYNNE CHENEY: Well, that has to be-

LAURA MURPHY: Basically criminal predators-

LYNNE CHENEY: -that has to be the last word.

WILLIAM BARR: Based on a court warrant.

LYNNE CHENEY: Laura? That does have to be the last word.

LAURA MURPHY: -based on a criminal precedent.

LYNNE CHENEY: Okay. Thank you very much for being with us; Laura Murphy of the ACLU, Bill Barr, former Attorney General. It was a pleasure to have both of you.

And Bob and I will be back in a minute to decide if there are some good answers to these tough questions.

[Commercial break]

LYNNE CHENEY: You know, there really are a lot of places that the left and the right agree when it comes to expanding the powers of government and a lot of us on the right don't want that and a lot of you on the left don't want it. But we really disagree on this issue of profiles. What is wrong with setting priorities? Why shouldn't the police in Atlanta be looking for a white male, since that is the voice that was called in. You shouldn't quit looking for everybody else, but shouldn't you set your priorities there?

BOB BECKEL: Well, first of all I knew we couldn't stay comfortable, or agree on too many things - so let's get right at it. Laura made a good point. They didn't look for white blonde people, male or female, like yourself, in Oklahoma City, they went right after an Arab. Now the fact of the matter is that we jump to conclusions. When you are a black person and driving in a white neighborhood, you get stopped. Why? Because you are in essence profiled.

LYNNE CHENEY: But right now- Bob, right now-

BOB BECKEL: Wait a minute. How many blacks get stopped in white neighborhoods because these cops think-

LYNNE CHENEY: Listen, if my CIA-

BOB BECKEL: -'If a black guy is in a white neighborhood, he must be doing bad things.'

LYNNE CHENEY: -isn't at this moment looking at Arab groups in the Middle East, Islamic groups in the Middle East to see if they are guilty of the bombing of TWA 800, I'm disappointed.

BOB BECKEL: It's one thing about that, it's another thing-

LYNNE CHENEY: Because that is where they should be looking.

BOB BECKEL: -about stopping people in this country, the land and the home of the free and the brave and to be left alone! Speaking of the left, from the left, I am Bob Beckel. Good night from Crossfire.

LYNNE CHENEY: And from the right, I'm Lynne Cheney.

Join Bill Press and Bob Novak, again tomorrow night for another edition of Crossfire. Same time, 7:30 PM, Eastern.

The preceding text has been professionally transcribed. However, although the text has been checked against an audio track, in order to meet rigid distribution and transmission deadlines, it has not yet been proofread against videotape.

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NewsRoom

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Washington Times (DC)

July 10, 1996

Section: A

Dole shifts stance on assault weapons Aims to keep all guns from criminals

Paul Bedard - THE WASHINGTON TIMES

RICHMOND

RICHMOND - Bob Dole yesterday abruptly abandoned his promise to the National Rifle Association that he would lead the fight to repeal the assault-weapons ban. Instead, he focused on barring criminals from buying any type of firearm.

"We've moved beyond the debate over banning assault weapons," the Republican presidential candidate said in an address to about 200 Virginia State Police officers. "It sounds good, it's a nice sound bite, you can say it on television and everybody thinks they're safe, but we've got assault weapons [anyway]."

Mr. Dole's comments and subsequent elaboration by his aides means that he no longer stands by the promise he made April 10, 1995, in a letter to NRA lobbyist Tanya Metaksa to make the repeal of the assault-weapon ban backed by President Clinton a priority.

"The terms of his letter have already expired," said Nelson Warfield, a spokesman for Mr. Dole, who recently retired as Senate majority leader to run full-time for president and thus is no longer in a position to facilitate legislative repeal of the ban.

Four days after Mr. Dole's letter, the Republican National Committee received a $40,000 contribution from the NRA.

Mr. Dole said the ban has been a failure and presumably doesn't need to be repealed because 11 of the 17 outlawed guns are "back on the market in some other form."

William Barr, attorney general in the Bush administration and a Dole traveling companion yesterday, agreed, saying: "The assault-weapon ban is not really relevant anymore."

Mrs. Metaksa said she didn't see any change in Mr. Dole's position, and she noted that the NRA backs Mr. Dole's call for a national instant background check of gun buyers to supersede the Brady law, which calls for a five-day waiting period but does not mandate a background check of buyers.

In a brief telephone interview, she added that if Congress approves the repeal of the assault-weapons ban, "I would expect if he was president [he would] sign it. I view Senator Dole as being consistent."

Clinton-Gore re-election campaign spokesman Joe Lockhart in Washington accused Mr. Dole of trying to muddy his past support of repealing the assault-weapons ban despite polls showing widespread support for the ban.

"Once again, Bob Dole has managed to confuse everyone on an important issue," Mr. Lockhart said. "Bob Dole needs to come clean - either reverse his decision on assault weapons or face the electorate squarely in the pocket of Washington's gun lobby."

By abandoning his promise to the NRA without clearly stating his opposition to the Republican-backed repeal of the assault-weapons ban, Mr. Dole appeared to mute anger from the NRA and seemed to be tough on guns, a position aides hope will win him votes among women and youths.

Crime, guns and especially gun use by teen-agers have dominated the 1996 presidential campaign this week as each political camp has tried to appear tough on crime and unforgiving of teen pistol packing.

Mr. Clinton, for example, hosted a White House ceremony Monday to push a program - actually in place for more than two years - to track handguns that minors use in crimes and to punish those who sell them.

Mr. Dole noted that Mr. Clinton's suggestion is "the same idea they announced three years ago."

"The real issue is keeping guns out of their hands in the first place," he said.

The candidate came here to highlight Virginia's trend-setting program, which requires all gun buyers - not just those getting handguns - to face a three-minute instant background check. Mr. Dole watched at the state police academy as the instant checks filed by gun stores from around the state were sent in and approved via computer.

"I'm a strong believer in the Second Amendment, the right to keep and bear arms," Mr. Dole said. "I've fought many battles over the years to keep government from infringing that right. But everybody understands that some people must not own guns. The question is how we can separate those who may not own guns without infringing the rights of those who may - law-abiding citizens."

Mr. Dole said the White House should move quickly to help states switch from the loosely enforced Brady law to mandatory instant checks. He accused the White House of delaying the program.

He said that if he is elected, he would sign an executive order in January 1997 to set up a national instant background check program "without any more studies" and add convicted juvenile offenders to the list of those barred from buying guns.

Gov. George F. Allen crowed about his state's program and touted Mr. Dole as a man who would be a tough president.

"Bob Dole doesn't just talk. Bob Dole acts," the Republican governor said, and he portrayed liberals and Clinton supporters as apologists for criminals.

"These criminal apologists, whenever a crime was committed, they would blame society, they would blame neighborhoods, they would blame the teachers, they'd blame the parents, they'd even say it was the trauma of potty training to apologize for the criminal," Mr. Allen said.

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Photo, Gov. George F. Allen applauds Bob Dole yesterday in Richmond. He praised the presidential nominee-to-be as a man of action on crime., By Kenneth Lambert/The Washington Times

---- Index References ----

News Subject: (Government (1GO80); Public Affairs (1PU31))

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Denver Rocky Mountain News (CO)

July 7, 1996

Section: News/National/International

FBI CAN'T KEEP A SECRET INVESTIGATORS GET BLACK EYE FOR LETTING RUMORS SLIP OUT, RAISING UPROAR ABOUT PRIVACY AND POTENTIAL FOR BLACKMAIL

Michael Hedges Scripps Howard News Service

WASHINGTON

The FBI has a problem digging up inaccurate information on people - and then it can't keep the information secret, critics say.

Gary Aldrich, after being an FBI agent assigned to the White House for several years, wrote a tell-all book highly critical of the Clintons. He repeated loosely documented tales, rumors and second-hand allegations.

That follows the bureau's black eye for giving the Clinton White House hundreds of sensitive files on Reagan and Bush administration officials containing potentially devastating information and undigested charges about everything from drug use to sexual habits to financial dealings.

Critics are questioning whether the FBI can be trusted with such material, and if the information is even needed for national security.

``Filegate is the latest of a number of actions that evince widespread disregard for the privacy of American citizens," the American Civil Liberties Union said in a statement that criticized both the Clinton White House and the FBI.

The ACLU called the release of background files a ``Big Brother attack on privacy."

If the ACLU represents the liberal view, the Cato Institute emphasized conservatives' distrust of big government.

``Inevitably, the bigger and more obtrusive the bureaucracy becomes, the more you are going to have abuses of power and invasions of privacy," said Edward Hudgins, CATO's director of regulatory studies. ``I think the FBI has shown an inability to manage the information it gathers."

Jim Fox, former head of the FBI's New York office, said, ``Generally, the agents are upset with these things. They think it makes them look stupid."

Fox said the Aldrich book, Unlimited Access, has gained few friends in the FBI. It might also hamper bureau work.

``I'm afraid it will make people reluctant to give the kind of information that goes into these raw files,'' Fox said.

But William Barr, attorney general in the Bush administration, said the problem isn't with the FBI. ``I have always found the FBI careful and discreet,'' he said. ``They were taken advantage of by the Clinton White House on the Bush-Reagan files. They depended on the honor of people in high places, and they were let down.''

LIB5

---- Index References ----

Region: (District Of Columbia (1DI60); USA (1US73); Americas (1AM92); North America (1NO39))

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CNN Crossfire 7:30 pm ET

July 4, 1996

Section: News; Domestic; Show; Interview

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Body

Sen. ROD GRAMS, (R-MN): It's time to reopen Pennsylvania Avenue for our visitors, for our business community, our commuters, our residents, for every American who celebrates freedom and believes that giving into fear is not an acceptable response to democracy.

BILL PRESS: [voice-over] Tonight, Pennsylvania Avenue in front of the White House. Keep it closed or open it back up?

ANNOUNCER: [voice-over] From Washington, Crossfire. On the left, Bill Press. On the right, John Sununu. In the crossfire, former Secret Service agent Chuck Vance and **Bill Barr**, former attorney general.

BILL PRESS: Good evening, welcome to Crossfire, and happy birthday, United States of America.

[voice-over] Like every Fourth of July, tonight, hundreds of thousands of Americans jammed into the nation's capital to ooh and ah over fireworks on the mall and to take a stroll around the White House. This year, like last year, it may be harder to reach the street in front of the White House, but, once you get there, you can have a lot more fun. You can roller blade, you can play street hockey, you can stand out in the street and take a dumb photo - here is me in front of the White House - or you can just hang out. But you can't drive or park in front of the White House because that two-block stretch of Pennsylvania Avenue has been closed to vehicular traffic since right after the Oklahoma City bombing at the urging of the Secret Service. Lately, the Secret Service has come under pressure to reopen

Pennsylvania Avenue from Mayor Marion Barry, some members of Congress, nearby businesses and some commuters who don't like having to detour two blocks around. But in an interview with The Washington Post this week, Secret Service agent Eljay Bowron refused to budge. 'Look what happened in Saudi Arabia,' he said. 'A truck bomb planted on Pennsylvania Avenue could do similar, serious damage to the White House and its occupants.'

[on camera] So, tonight, we celebrate the Fourth with fireworks over Pennsylvania Avenue. Does it belong to people in cars or to people on foot or roller blades? Must it remain closed to protect the President?

John.

JOHN SUNUNU: Chuck Vance, I have nothing but the greatest of admiration and respect for the Secret Service. Part of their job is to give the ultimate focus to the security of the President. As part of the singular focus, they've been trying to close Pennsylvania Avenue for years. Why did the Clinton administration cave in to these pressures and let that happen?

CHUCK VANCE, Former Secret Service Agent: Well, when you say for years, John, I think, number one, it started in '83 right after the Beirut bombing, and that was a change in the world climate. That's the first time they used a large explosive against a building. Number two is I think what's happened- what happened at the White House recently in '94, the two incidents we had brought to the forefront the fact that we need to do something about Pennsylvania Avenue. There was a study done clear back in 1986 which determined that a large explosive would do serious damage to the White House. That study was brought forward. It was reconfirmed in 1994, and that's what they finally concluded. That's what the committee- the select committee that examines security at the White House finally determined that it was necessary to do.

JOHN SUNUNU: But, Chuck, in the middle of the Gulf war when there certainly was more pause for concern than there is now, the administration decided that it was important enough to the American public not to cave into those threats, to keep that open. Why has this White House caved in?

CHUCK VANCE: Well, I think two things. One is, unfortunately, security, though we'd like to be proactive, is often reactive, and what you had was you had the World Trade Center bombing, and then shortly thereafter, of course, you had the Oklahoma City bombing. So, consequently, I think, the fact that terrorism and large bombs have come to the American shores created the atmosphere that-

JOHN SUNUNU: But all those studies and all those examples you're giving require bombs in large vehicles. It's one thing to close the Avenue to large vehicles, that might be acceptable, but why do you have to close it to small cars?

CHUCK VANCE: Well, did you ever consider the fact that you could bring in two or three vehicles and detonate them at the same time? I mean, you don't necessarily have to compact your explosived in one major vehicle.

BILL PRESS: **Bill Barr**, let me ask you, first of all, as attorney general, you had no direct authority over the Secret Service, right? They're under Treasury. You were head of Justice.

BILL BARR, Former Attorney General: That's correct.

BILL PRESS: Maybe you could straighten something out for me. You know, Secretary of Defense Bill Perry- people today are calling for his resignation because he did not do enough to protect our military over in Saudi Arabia, and yet the Secret Service is coming under condemnation because- for doing too much to protect our President. I don't get this obvious conflict here, Bill.

BILL BARR: Well, I think it's important to discuss what exactly are we trying to protect, and let's lay that out on the table. The Secret Service should be protecting the life of the President of the United States. In my view, the threat to the life of the President from a car bomb on Pennsylvania Avenue is negligible. Moreover, there are alternatives to protecting the structure of the White House. Snd, finally, I would say that the costs of closing Pennsylvania Avenue, America's main street, in- is too high. It knuckles under terrorists. It knuckles under the terrorists, and it's having a devastating impact on the city. It's-

BILL PRESS: But don't you think it's also important and part of the responsibility of the Secret Service - if not direct, the indirect - to protect the building and the people who work in the White House and who surround the President? Aren't they also important, Bill, to-

BILL BARR: They are important, but if we are going to start protecting government buildings, there are a lot of government buildings in Washington. There's the Capitol. There are all the Senate and House office buildings. There are all the different agencies. There are a lot of people working in those buildings. I think a terrorist attack designed to kill a lot of innocent people and maybe demolish a government building could hit anywhere in the city, and the White House right now is probably the best-protected facility in Washington.

BILL PRESS: But one would argue that the White House is special. Now, today, they've moved - fortunately, I believe, and too late for some people - the fence in Saudi Arabia to 400 feet in front of the building. If we reopen Pennsylvania Avenue, the White House building itself is going to be 300 feet from Pennsylvania- from the gate in front of the White House. So those soldiers over there are going to be better protected than the President of the United States. It doesn't make any sense, Bill.

BILL BARR: No. No, the soldiers over there will- the attack on the White House from 300 feet is not going to kill the President of the United States.

BILL PRESS: How do you know?

BILL BARR: I haven't heard anyone suggest that it would.

BILL PRESS: How do you know where he's going to be in the building-

BILL BARR: Well, look-

BILL PRESS: -on the grounds?

BILL BARR: You know, the President is much more vulnerable when he's outside the White House. Are we going to have- now draw a 400-foot perimeter around the President when he's in a church, when he's making a speech at a hotel?

JOHN SUNUNU: In fact, there-

BILL BARR: You know, that's ridiculous.

JOHN SUNUNU: -have been suggestions when the President travels to have almost that same equivalent from the Secret Service, and presidents time after time after time have said, 'It's more important for us to have access to the public, to be able to look the public in the eye and have them look us in the eye.' That's reasonable.

CHUCK VANCE: But, John, there's a difference. There's a difference in when the President travels, for instance, than when he's in a stationary position. One of the things you have to do to hurt the President of the United States is know where he is going to be at what time. The White House is very obvious. You don't move the White House. The President is a moving target literally. So, consequently, you don't need the level of security. To argue, for instance, that I-

JOHN SUNUNU: To get-

CHUCK VANCE: I'm sorry.

JOHN SUNUNU: OK. No. But to get the same damage at 300 feet that you get at 100 feet, you need a bomb at least nine times as big. It goes- it's the square of the distance.

BILL BARR: Well, they would have to bring a flat-

JOHN SUNUNU: That's ridiculous.

BILL BARR: -a flatbed truck.

JOHN SUNUNU: They'd have to build a- bring a railroad car full of explosives.

CHUCK VANCE: Yeah, but the question-

BILL BARR: It's the job of a security person- and I respect this. They have a single focus, and their job is to say- push the envelope an additional step, an additional step and also to make the job easy for themselves. If I was the President's security, I'd be recommending all manner of things. I think what's a surprise here is that it's the responsibility of the President and others to push that back and try to find a reasonable balance.

BILL PRESS: I want to follow up on that because, you know, look, if there's a flood or an earthquake, you call in FEMA. You've got a boat accident. You call in the Coast Guard. There's one government agency with one job to protect the President. It's the Secret Service. They tell us this is necessary. Who are you, who am I to second guess the Secret Service?

CHUCK VANCE: Well, let me interrupt-

BILL PRESS: Let him answer, and then we'll give-

JOHN SUNUNU: [crosstalk] -presidential staff.

BILL PRESS: But, John, I'd like to-

JOHN SUNUNU: To answer the question-

BILL PRESS: John, I'm interested in what you have to say. I'm more interested in the answer of our guest.

JOHN SUNUNU: There is still a presidential staff whose responsibility is to give the-

BILL PRESS: John, my question was directed toward our guest. Thank you. Bill, please.

BILL BARR: When I was the attorney general and the deputy attorney general, I was responsible for effacing counterterrorism in the United States specifically during the Gulf war. I know something about it, and if the FBI recommended something to me, I didn't necessarily jump simply because they recommended it, OK. You can use your common sense and independent judgment. Let's talk about the President's security. If someone wanted to kill the President of the United States, it is much more easy, for example, to do it with a private airplane, a mortar attack from Constitution Avenue, a truck just-

BILL PRESS: No, but-

BILL BARR: A small truck from Constitution could put mortar shells right into the Rose Garden.

CHUCK VANCE: This is-

BILL PRESS: All right. Go ahead. Go ahead, Chuck.

CHUCK VANCE: This is not the point. I mean, we're arguing here-

JOHN SUNUNU: But it is the point.

CHUCK VANCE: No, John. It's like arguing the reason I'm not going to lock up my house is because potentially it will burn down anyhow and destroy all my things. What we're trying to do is make the environment more secure, what the Secret Service is trying. To argue that the President is a target at other places doesn't hold water.

JOHN SUNUNU: No. You see, Chuck, you've missed the point again that is missed by the Secret Service all the time. There are lots of individual decisions that have to be looked at, but they have to be looked at in the context of all the alternatives associated with all the activities of the President and all the responsibilities of the presidency. It was your job in the Secret Service to insist on the security aspect, and it's the job- in spite of Bill not letting me give him the explanation, it is the job of the President's chief of staff and the President's staff and then the President himself who makes the ultimate decision to balance out America's broad needs against what you are looking at.

BILL PRESS: All right. All right, John.

And to Bill. But in making that decision, isn't prevention of a bomb like this better than having to clean up and explain and bury the bodies afterwards?

BILL BARR: Well, again, if we're trying to pro- I noticed that the head of the Secret Service has never said that a bomb blast on Pennsylvania Avenue of a 5,000-pound bomb would kill the President of the

United States. In today's paper, it talks about blowing out windows, OK.

BILL PRESS: He said serious damage and possible loss of life in the White House.

BILL BARR: Damage- OK, but any government building is subject-

BILL PRESS: We're talking about the White House, Bill. Don't go into all government buildings. We'll deal with those later. We're talking about protecting the White House.

BILL BARR: Well, no. The reason we protect the White House is to protect the President, OK, and I don't want to live in a city where every government building has a 400-foot perimeter because there might be a bomb attack on it. The President does not need to close Pennsylvania Avenue to be safe. There are alternatives. There are steps that can be taken within the White House closer to the President's position, and there are steps that could be taken out on Pennsylvania Avenue. The- Pennsylvania Avenue could be rerouted a little. It could be lowered.

CHUCK VANCE: They looked at all the alternatives.

BILL PRESS: OK, Chuck. We'll be back in a minute, and when we are, we'll talk a little bit about other threats, such as the plane that landed on the White House lawn.

Pres. CLINTON: [May 20, 1995] Access to the White House itself will not be limited. The area will be converted into a pedestrian mall, and people will be able to visit, as they always have, they'll be able to have their picture out front with cardboard figures, as they always have, they'll be able to go to Lafayette Park and protest against the President, as they always have, and, indeed, they will be able to do that more protected themselves from becoming innocent victims of those who would seek to destroy the symbols of our freedom.

[Commercial break]

JOHN SUNUNU: Welcome back to Crossfire.

The closing of Pennsylvania Avenue in front of the White House has stirred a flap and a bit of a movement to reopen the Avenue.

We've been weighing the pluses and minuses of that with our guests, Chuck Vance, former Secret Service agent, and **Bill Barr**, former attorney general.

Bill Press.

BILL PRESS: **Bill Barr**, John said earlier that there was more pause for safety and concerns during the Gulf war than now. I would take exception to that. April 19, 1995, Oklahoma City. This week in Phoenix, Arizona, they arrested the Viper Militia who had all these bombs equal to the Oklahoma City bomb, and they had maps, and their targets were federal buildings. The point is- maybe not the White House, but the point is we now have not just foreign terrorism, we've got domestic terrorism in our- on our shores now we have to deal with. Doesn't that really double the need, again, for being cautious at least, being safe?

BILL BARR: Well, no, I don't think the militia- the so-called militia doubles the need for domestic security, but I do agree there's a terrorism threat in the United States, and I think our response should be the response that the British have, OK. You can go to London right now, and the Queen in Buckingham Palace has 50 feet away from the street, Number 10 Downing Street, 50 feet, and the venerable House of Commons, 50 feet, traffic passing by. That building, the oldest part of it, was built in the 15th century. The British keep a stiff upper lip and go along with their business. They haven't shut down London because the IRA is launching car bombs.

BILL PRESS: Well, to be honest, we haven't shut down Washington either. There's a two-block stretch that's closed. Let me tell you I go down- [crosstalk] Yeah, I go down there all the time. I drive across town. I take cabs across town. I go down there in front of the White House. People are having a great time. What's the big deal, frankly, about that two blocks? What problem has it really caused?

BILL BARR: Well, first, I think there is the question of shutting down one of the main arteries in our nation's capital, the main street of the United States. It's knuckling under-

BILL PRESS: But it's done. It's done.

BILL BARR: It's knuckling under the terrorism and changing the way we live because of some nitwits down in Arizona. That's ridiculous, in my view.

BILL PRESS: But what's- but answer my question, please. What's the big deal about that two-block stretch?

BILL BARR: It is disrupting the-

BILL PRESS: What big problem has it caused?

BILL BARR: Well, it's affecting business downtown. It's affecting- it's disrupting the traffic patterns downtown. Businesses are talking about moving out. Now-

BILL PRESS: There are no businesses across from the White House.

CHUCK VANCE: We're talking about-

BILL BARR: Look, what's next, Bill? Four hundred feet is- most security people would say 200 feet is pretty ample for a car bomb, OK, but going out to 400 feet to protect against a car bomb that may damage the White House- there are more proximate threats, a laws [sp?] missile from the top of Washington Hotel, mortars from the mall. Those are much more realistic threats to the President's life. Next thing you know, the Secret Service is going to say, 'Let's take down Washington- the Washington-'

CHUCK VANCE: Bill, they have been-

BILL BARR: '-Hotel. Let's-' you know, security- I think the most surprised person in Washington, D.C., was the head of Secret Service when the President said that he would go along with his proposal.

JOHN SUNUNU: Chuck, why haven't they addressed other things? The issues he's raised are certainly ones- but the plane landed- a plane landed on the lawn of the White House coasting up to the White House living-

CHUCK VANCE: John, that study attacked-

JOHN SUNUNU: What have they done to stop that?

CHUCK VANCE: That- that study that they did- the- we keep talking about the Secret Service doing this. The Secret Service didn't do it. The Secret Service recommended it, and then there was an advisory committee- a blue-ribbon advisory committee that came up with 11 strong recommendations, one of which was to close Pennsylvania Avenue. This is just one of which- they also dealt with the problem of the air traffic and what might happen on an attack by the air, but the bottom line is that they haven't closed the White House. People go in and out of the White House all the time. There's tours with our chief executive in there, and we're the only residence of a head of a state that does that. So we haven't changed much. Like you said, we're talking about two blocks here.

JOHN SUNUNU: Frankly, because they keep the people on that side of the White House mostly that is closest to Pennsylvania Avenue because the President's almost never there.

CHUCK VANCE: Well- but the point is, John, we're talking about the White House and the first family and the people in the White House, their danger from a large explosive and, for that, we're talking about inconveniencing a few shops and a few people?

JOHN SUNUNU: No. We're talking about the difference between 300 feet, which is more than an acceptable perimeter without having to close the Avenue, and 400 feet having to close the Avenue.

CHUCK VANCE: John, they looked at all those. The committee looked at all those- the alternatives, and they couldn't come up with an alternative that would work and still be safe.

BILL PRESS: All right, Bill. You know, I agree with you that in making a- and John in making any decision, you've got to weigh the pros and cons. All right. Now the Avenue's closed. So now I think the burden is on the people who want to reopen it. I ask you what public policy is so important that it outweighs the Secret Service's- they say- as they express it, their need to protect the President of the United States? Is it a hot dog stand across Lafayette Square? Is it a cab getting from here to here instead of having to go around Lafayette Square? Is it a commuter that has to-

BILL BARR: No. According-

BILL PRESS: -take a different route than before? What is it?

BILL BARR: Number one, as I said, there are alternatives to achieve the same degree of risk-

BILL PRESS: Like what?

BILL BARR: -that is to reduce the risk-

BILL PRESS: Like what?

BILL BARR: For example, lowering the street by a couple of feet, two feet, putting up a four- or five-foot wall.

BILL PRESS: Imagine what that would cost. All those utilities there and everything. The- [crosstalk] No, but the Secret Service said they looked at that and it would just be outrageously expensive at this time we're trying to-

BILL BARR: No, no. What they said was-

BILL PRESS: -not spend money for anything.

BILL BARR: No, what they said was it would be outrageously expensive to put a tunnel in.

BILL PRESS: Well, to lower it, you've got to do the same thing.

BILL BARR: No, you don't. No, you don't. And then the head of the Secret Service dismisses walls as a speed bump when most experts would tell you that, if there is a wall, it does direct the explosion up and over the intended the target.

BILL PRESS: So are you saying that the ability of the commuters to drive that two blocks is more important than protecting the President of the United States?

BILL BARR: No. I would say keeping our main street open, keeping the United States from knuckling under to terrorists the way the British keep Victoria Circle-

BILL PRESS: Should we get rid of the-

BILL BARR: -the way the British keep Victoria Circle right in front of Buckingham Palace open-

BILL PRESS: Well, should we get rid of the metal detectors at the airports, too, get rid of all cops, get rid of the Secret Service, get rid of the bulletproof-

BILL BARR: No, because I think that's a rational balance.

JOHN SUNUNU: Your ranting and raving is as ridiculous as your basic premise, Bill. Let me ask Chuck-

BILL PRESS: Well, no. This is a logical extension of where he's going.

JOHN SUNUNU: Why don't we express the same concern for the Senators in the Hart building or the Congressmen in the Russell building?

CHUCK VANCE: Well, in the first, they're not as big a target. They're not as major a target. If I'm a-

JOHN SUNUNU: What do you mean? There's more of them.

CHUCK VANCE: Yeah, but if I'm a terrorist, I'm going to go after the- your head of state. I'm not going to go after- or- if I'm a domestic terrorist or a foreign terrorist-

BILL BARR: This is the great flaw in the argument.

JOHN SUNUNU: But that's the fallacy. We are- the arguments that are given by those who want this closed are arguments that apply to the damage of the building. The emotional side of the argument that

you're raising, the concern about the President of the United States, doesn't apply to the-

BILL PRESS: Protect them all is the answer. Protect them all.

BILL BARR: And that means shutting down Washington, D.C.

BILL PRESS: No, it doesn't. No, it doesn't.

BILL BARR: [crosstalk] -400-foot security zone around the capital, around the capital office buildings, around the Supreme Court, then you're not going to have traffic in the Washington, D.C., area.

CHUCK VANCE: Four hundred feet has come from-

BILL BARR: But I think John-

BILL PRESS: Gentlemen, happy Fourth of July. I'm sorry. On that point, we do have to take a break. Thank you, **Bill Barr**, for coming in. Chuck, thank you very much for being here. And when we come back, John Sununu and I are going to shut down this argument once and for all.

[Commercial break]

JOHN SUNUNU: Bill, there's a great movie opening this week which has an alien spaceship over the White House with a ray coming down and wiping it out. If the Secret Service sees that, they're going to want to put a dome over the White House.

BILL PRESS: John, I think only aliens could agree with your point of view on this. You know something? I trust the Secret Service, number one, but, secondly, I admit, this is personal for me. I love it the way it is. I go down there. People are having fun. I love being able to walk around, not having to dodge cars or trucks and smell all their fumes. Keep it closed.

JOHN SUNUNU: But, Bill, the rest of the world looks at that and says America has caved in to terrorism. That is wrong.

BILL PRESS: The rest of the world looks at that and says that the United States has given this beautiful building to the people. We gave it to the people last year. Don't take it back from the people and give it to the cars! It's crazy.

JOHN SUNUNU: People have been doing things all the time. Don't cave in to terrorism, Bill.

BILL PRESS: It's not caving in to terrorism, John. It's taking proper precautions.

JOHN SUNUNU: You have. You liberals are so soft.

BILL PRESS: Get out of here. We've got- listen, we've got bulletproof limousines, we've got the metal detectors-

JOHN SUNUNU: This is ridiculous.

BILL PRESS: -in the airports. It's not giving in. It's just being safe.

JOHN SUNUNU: Three hundred feet is more than enough, and you can still have automobile traffic on the street.

BILL PRESS: Happy Fourth, John. From the left, I'm Bill Press. Good night for Crossfire.

JOHN SUNUNU: And from the right, I'm John Sununu. Join us again next time for another edition of Crossfire.

The preceding text has been professionally transcribed. However, although the text has been checked against an audio track, in order to meet rigid distribution and transmission deadlines, it has not yet been proofread against videotape.

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May 30, 1996

Section: A Section

Whitewater, other political ghosts still haunt the Clintons: The president's bid for re-election will be marred by other investigations.

MICHAEL HEDGES

Scripps Howard News Service

WASHINGTON - The convictions of three friends and former associates of President and Mrs. Clinton are just the latest in a series of political problems Clinton will face before the November election.

By Labor Day, when Americans traditionally begin focusing on their choice for president, Clinton will have testified in yet another trial - this time about loans to his 1990 gubernatorial campaign.

Also before the election, those convicted Tuesday - James and Susan McDougal and Arkansas Gov. Jim Guy Tucker - may have been compelled to give testimony before a federal grand jury in Arkansas about the Clintons' Whitewater dealings.

And a federal grand jury in Washington, which has already heard testimony from Hillary Clinton, will be finishing its look at whether White House insiders lied or obstructed justice after the firing of White House travel office staff and the suicide of Vincent Foster.

Those are the known hazards.

The White House was quick to downplay the convictions, emphasizing that they don't touch Clinton and issuing a seven-page list of comments by jurors that Clinton's videotaped testimony was not an issue in the trial.

"There was one thing everyone involved with this trial agreed on: the president had nothing to do with the allegations that were the subject of this trial," said White House spokesman Mark Fabiani.

But the mood in the White House was somber compared to an upbeat Whitewater special prosecutor Kenneth Starr, who promised, "We move forward."

The immediate result of the convictions Tuesday is to give credibility and momentum to Starr's investigations, experts said. "This proves that an effective team of prosecutors are boring in on Whitewater, and that will put a lot of pressure on the White House," said William Barr, who was attorney general in the Bush administration.

Tucker resigned his governor's post effective in July. He may be called to testify before the grand jury on two meetings he had with Clinton in October and November 1993.

Experts said James McDougal is less significant as a witness because he damaged his credibility by giving a wide range of public statements on Whitewater, unlike his ex-wife and Tucker. He could provide invaluable leads to prosecutors if he cooperated; so far, however, he has remained a Clinton loyalist.

Susan McDougal, 41, has refused to cooperate with Starr so far, but now she faces a possible 17 years in prison and $1 million fine.

The possibility of a presidential pardon if Clinton is reelected could be a factor in whether those convicted decided to cooperate, legal experts said.

Mrs. McDougal got an illegal $300,000 loan from former Arkansas Judge David Hale, who said Clinton had pressured him to give it. FBI experts testified in her trial that $50,000 of that money found its way into Whitewater accounts.

That loan came at a time when Whitewater Development Corp., jointly owned by the Clintons and McDougals, was losing thousands of dollars a month.

With Hale's credibility boosted by the convictions Tuesday, Starr can be expected to press ahead on the details of Whitewater financing.

In less than three weeks, Little Rock bankers Herby Branscum and Robert Hill will face Starr's prosecutors on charges of illegally raising money for Clinton's 1990 gubernatorial campaign. They are charged with illegally funneling more than $13,000 to Clinton and other Arkansas politicians.

While it was legal for Clinton to accept the money, the implication of Starr's case is that the money was a payoff for naming Branscum to a state highway commission -- which Clinton denies.

Clinton has been called as a defense witnesses in the case and faces another videotaped cross examination.

A federal grand jury in Washington is exploring whether there was a coverup of Whitewater or the Travelgate" scandal growing out of the firing of White House travel office employees.

Mrs. Clinton has testified before that grand jury on her billing records from the Rose Law Firm. The records vanished until they showed up in the White House last year -- almost two years after they were subpoenaed.

Mrs. Clinton's fingerprints were on the records, but the White House was quick to note that may mean nothing unless the prints can be dated to the period when the records were under subpoena.

(Michael Hedges is a reporter for Scripps Howard News Service)

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---- Index References ----

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A PUNISHING NEW REGIME

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Body

When James Coleman Jr. first met Stephen Booker in 1983, Booker was 17 days from death. Booker had killed a 93-year-old woman in Gainesville, Fla., apparently while under the influence of drugs and alcohol. Six years and countless court hearings later, Coleman convinced the courts to spare his client's life because Booker had not been allowed to offer all the evidence for softening his punishment.

But with Congress' recent enactment of strict timetables and daunting hurdles in the death row appeals process, Coleman is not sure he would agree to represent Booker today.

Those of us who take these cases are motivated by our belief that even despicable capital defendants ought to have lawyers, says Coleman, a partner at Washington, D.C.'s Wilmer, Cutler & Pickering.

There is a tension between that and the time that you have. So some people will decide they can't afford to do it. It's as simple as that.

Coleman's dilemma illustrates perhaps the most immediate effect of the reform of the death penalty appeals process, or habeas corpus, signed into law by President Bill Clinton April 24: It is likely to exacerbate what many consider a critical shortage of qualified death row lawyers.

With the death row population at 3,061 and growing, Congress has delivered a one-two punch in recent weeks. On April 1, lawmakers killed funds for the 20 special offices nationwide that assist attorneys defending death row inmates. Then members passed the habeas law, which presents death row lawyers with complex new rules, shorter deadlines -- and a much smaller chance of victory.

Tough Cases Now Even Tougher

The new law was pushed by conservatives frustrated that murderers can cheat the death chamber for decades by pursuing endless habeas appeals, in which the convicts argue that their trial was unconstitutionally bungled. Under the reform, prisoners will be allowed only one federal appeal -- except in extraordinary circumstances -- and it must be filed within a year.

That scares defense lawyers, who say the habeas process is crucial because a life is at stake and because criminal trials are so often flawed.

It is generally volunteer lawyers who handle habeas appeals, and the system is haphazard at best. Of the roughly 2,000 death row denizens who are ready to file habeas petitions or have already done so, at least 400 have no lawyer. That's because representing dead men walking is complicated, time-consuming, and emotionally draining.

For a lawyer with a full caseload and no familiarity with death penalty law, a one-year deadline for filing an appeal is a frightening prospect.

A lot of the good lawyers are going to look at the time limits and say, No way am I going to get involved in that,' predicts Sean O'Brien, executive director of the nonprofit Public Interest Litigation Clinic in Kansas City, Mo. A lawyer is obligated not to take a case he can't handle competently. That has to do as much with a lawyer's caseload as with a lawyer's personal competence.

The problem is aggravated because the reform creates 26 pages of new, vaguely worded rules. This new legislation has made an already complex -- for some people, mystifying -- area of the law three times more complex and mystifying, says George Kendall, an attorney with the NAACP Legal Defense and Educational Fund Inc. That factor alone is really running people off. And even people who did a case three or four years ago are going to say, 'I've got to go back to Habeas School 101 again.'

Habeas Law Compounds Stigma

Also rearing its head is a simple psychological factor: Lawyers don't like to take cases that are losers, and the habeas law makes it harder to save a client's life. Federal judges are now allowed to nix a death sentence only if it involves an unreasonable application of clearly established federal law -- a standard defense lawyers fear will be almost impossible to meet.

Those who fought hard for the habeas bill consider this so much hand wringing.

I'm always concerned about having competent counsel representing people in this condition. On the other hand, we have half a million lawyers in this country, says Sen. Orrin Hatch, R-Utah. We are the most lawyer-ridden society in the world. I don't think it will be a problem.

Hatch, who chairs the Senate Judiciary Committee, also argues that making appeals harder forces defense lawyers to put their energy where it should be -- into the original trial. Until now, our best capital litigators were content to work only on habeas cases, Hatch says. I hope now that will change and they will realize that the trial is the main event.

Paul Kamenar, executive legal director of the conservative Washington Legal Foundation, points out that the Constitution does not guarantee a right to a habeas review. So Congress is certainly not obligated to make sure these inmates get lawyers, he says.

Where there is a slack, that could be made up through efforts of the various state bar associations and at the national level through the American Bar Association, Kamenar says. It's not like the resources are going to disappear tomorrow.

The current reform rose from the ashes of a habeas agreement painstakingly crafted three years ago by Sen. Joseph Biden Jr., D-Del. The Biden proposal, like this one, would have imposed strict filing deadlines. But in return, it would have required that death row inmates be represented by experienced, competent lawyers.

When the Republicans took over Congress, they simply dropped the latter part of the deal. William Barr, who served as attorney general in the Bush administration, says if the Democrats had made some small concessions a few years ago, they could have avoided the more stringent measure passed last month.

The irony is, this bill is much tougher than what we would have settled for, says Barr, now senior vice president and general counsel of GTE. I said to Biden when this all started coming down, 'You should have cut a deal with us while you could.' He just laughed. He kind of agreed.

Biden, ranking Democrat on the Judiciary Committee, could not be reached for comment. But he spoke out against the current habeas law on the Senate floor last June: I am certain all of my colleagues would agree that although the death penalty should be applied swiftly and with certainty, the worst thing in the world would be for it to be applied wrongly.

While the new habeas law does not require states to provide lawyers, it does give special benefits to those jurisdictions that do. If a state creates a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel, then its inmates get just six months, not a year, to file a federal appeal. And the judge that hears the appeal must rule on it within six months.

But it's not at all clear which states, if any, now qualify for the six-month deadline -- so many inmates across the country don't know if they have six months or a year to file a habeas appeal. Lawyers in California and Pennsylvania have filed suits asking federal judges to declare that their states are not eligible for the sixmonth deadline.

In some places, a scramble has begun to comply with the new standards. Texas legislators, for example, never bothered providing post-conviction lawyers for death row inmates. But now they're eager to force their prisoners to file their appeals within six months, so they recently passed a law providing for attorneys to be paid $100 an hour from state coffers.

But Texas is running into problems. For one thing, the state's Court of Criminal Appeals, which is responsible for paying the lawyers, requested $4 million over two years, but legislators provided only $2 million. That has made it a little difficult to fund it, concedes Rick Wetzel, the court's executive administrator.

Further, the lawyers' payments are tentatively capped at $7,500 per case, and many lawyers apparently aren't willing to take on capital cases for that price. So the court has located post-conviction attorneys for only 25 inmates, and roughly 125 of the state's death row prisoners remain lawyerless.

Another state that may foreshadow the future is Missouri. Missouri was one of 20 states with a Death Penalty Resource Center, but Congress defunded these offices April 1. At least seven of them have shut down, while the others are hanging on with state funds.

The centers, created in 1988, drew fire from opponents who saw them as taxpayer-funded think tanks that devised endless ways to evade legitimate death sentences. Supporters said they brought a measure of rationality and order to capital defense.

When Missouri's resource center shut down, three of its eight lawyers, including Sean O'Brien, formed the Public Interest Litigation Clinic to continue taking death cases.

But they can't keep up. I can think of four death penalty cases where the courts have called us and I have had to say no because we are completely inundated, O'Brien says. Ethically, I'm not in a position to take these cases.

Of the roughly 60 Missouri death row inmates who have filed habeas petitions, two are without a lawyer. To some that might not sound like a crisis, but O'Brien disagrees.

The crisis is not just having a lawyer who's a warm body, but a lawyer who knows the habeas corpus process, O'Brien says. Of the 60 lawyers representing inmates in the federal system, exactly five have handled a death case before. Fifty-five had never seen a death case in their lives. That's the crisis.

No Chance To Undo Erroneous Convictions

It is unclear exactly what will happen to death row inmates forced to wait a long time for a lawyer. Ronald Tabak, who chairs the American Bar Association's Death Penalty Committee, predicts that more people will wrongly die.

What we are heading for, quite clearly, is a substantial increase in people who -- if their cases were handled properly -- could show they were convicted in constitutional error, says Tabak, a special counsel at New York's

Skadden, Arps, Slate, Meagher &Flom. But because they do not get adequate representation they will get executed.

Supporters of the law say that such concerns reflect opposition to the death penalty, not actual doubts about guilt. The key thing that's lost in this debate on habeas reform is that in most of the cases, there is not a claim of innocence, says Kamenar of the Washington Legal Foundation.

Ultimately, though, advocates on both sides say it will take a lot of litigation to clarify exactly what the new law means.

Indeed, the rush to court was already under way last week, when the U.S. Supreme Court agreed to consider a Georgia case raising jurisdictional questions about the new law. The justices, on a 5-4 vote, with the conservatives in the majority, agreed to hear oral arguments in **Felker v. Turpin** June 3 -- an extraordinarily expedited schedule.

The justices seem to be focusing primarily on a provision in the new law that allows federal appeals courts to have the final say on whether an inmate can file a second habeas petition. Some suggest that stripping the Supreme Court of the final say unconstitutionally restricts its jurisdiction.

But that is a fairly narrow question, and litigation centered more squarely on the law's new roadblocks to successful habeas petitions is certain to follow.

Those whose job it is to recruit death penalty lawyers are taking no chances. Esther Lardent, chief consultant to the ABA's Post-Conviction Death Penalty Representation Project, has signed up about 300 lawyers in recent years.

Now Lardent is intensifying her efforts. In coming weeks, the ABA program will send letters to 70,000 attorneys across the country. Then former judges and other prominent figures in each state will call these lawyers and ask them to take on cases.

Meanwhile, the Washington Council of Lawyers has begun a campaign to recruit small and medium-sized firms to work on capital cases, supplementing the larger firms that traditionally take on such work. More than 60 lawyers and 20 law students have signed up for the drive, which organizers hope will spread to other states.

Despite the obstacles, some predict the new habeas law will galvanize death penalty opponents, provoking some to take on capital cases who otherwise wouldn't be inclined to do so.

Douglas Robinson, a partner at the Washington, D.C., office of Skadden, Arps, has handled death penalty work in the past and says he would do so again, new law or no new law.

I'm troubled by the fact that you take a case, and it would have been a meritorious case before, and now it's somewhat of a hopeless case, Robinson says. But I wouldn't let that deter me. I would fight the good fight, and hopefully other lawyers would as well.

a1. **The author is a news editor at** Legal Times **of Washington, D.C., an affiliate of the** Law Journal.

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Four Former Attorneys General Say Dole is Right on Liberal Clinton Judges

U.S. Newswire

April 24, 1996

Section: NATIONAL DESK, POLITICAL WRITER

Length: 680 words

Dateline: WASHINGTON, April 24

Body

The following was released by th e Dole for President campaign:

FOUR FORMER ATTORNEYS GENERAL SAY DOLE IS RIGHT

ON LIBERAL CLINTON JUDGES

Griffin Bell, attorney general -- President Jimmy Carter:

"Bob Dole hit the mark with his recent speech on the federal judiciary. The principles outlined in the speech are the principles that should guide any president in selecting the men and women who will sit on the federal bench. Bob Dole is also right to question the continuing involvement of the American Bar Association in the judicial selection process. Based on my experience over the years, the organized bar should be eliminated from the judicial selection process. If information from a non-constitutional group is needed, Bob Dole's idea of establishing a Judicial Integrity Panel to replace the ABA in the judicial selection process merits consideration. I have every confidence that, as president,

Bob Dole will appoint judges who will rule fairly and will not have a preconceived agenda." (4/23/96)

Edwin Meese III, attorney general -- President Ronald Reagan:

"Every American should applaud Bob Dole's position on federal judges. He has made clear that he will provide real leadership for a better country by appointing judges who respect the Constitution and who understand the need to protect law-abiding citizens from crime. Having been the nation's chief law enforcement officer, I commend Bob Dole for his common sense measures to improve the federal judiciary and to make our society more safe." (4/24/96)

William P. Barr, attorney general -- President George Bush:

"Sen. Bob Dole is right on target in his critique of President Clinton's judicial appointments. President Clinton's appointments would undoubtedly get even worse if he were elected to a second term, since he would no longer face the disciplining threat of another election. The issue of judicial appointments ought to be a critical one in the upcoming presidential election. This country cannot afford any more judges who will handcuff the police in the war on crime, who will destroy the ability of communities to protect themselves from predators, and who will act as social engineers of a liberal policy agenda. As president, Bob Dole will appoint judges who will uphold the rule of law, not undermine it." (4/24/96)

Dick Thornburgh, attorney general -- President George Bush:

"I read with great interest your recent speech to the American Society of Newspaper Editors in which you address the problem of how judges should comport themselves to maintain our system of ordered liberty. I agree with many of the points in your analysis. I too have been disappointed by decisions in which some recently appointed judges appear to be willing to stretch a legal doctrine or fudge an evidentiary point to let particular defendants go free without serious thought as to the harmful effect their actions might have on society as a whole....I also commend you on your frank and accurate characterization of the American Bar Association as a liberal interest group. I have long supported the notion that the ABA should be made to choose between its advocacy of liberal causes on the one hand and its assumed role as an 'independent' reviewer of federal judicial candidates on the other." (4/23/96)

Dole for President Campaign Press Office, 202-414-8050

Classification

Language: ENGLISH

Subject: JUDGES (91%); APPOINTMENTS (91%); ATTORNEYS GENERAL (90%); ELECTIONS (78%); RULE OF LAW (78%); HEADS OF GOVERNMENT ELECTIONS (78%); CAMPAIGNS & ELECTIONS (78%); US PRESIDENTIAL CANDIDATES 2008 (78%); LIBERALISM (78%); US PRESIDENTIAL ELECTIONS (78%); ASSOCIATIONS & ORGANIZATIONS (75%); LAW ENFORCEMENT (70%); BUSINESS & PROFESSIONAL ASSOCIATIONS (70%); POLICE FORCES (69%)

Company: AGS (FRANCE) (59%); AGS (FRANCE) (59%); AMERICAN BAR ASSOCIATION (57%); AMERICAN BAR ASSOCIATION (57%); UNITED STATES (95%)

Organization: AMERICAN BAR ASSOCIATION (57%); AMERICAN BAR ASSOCIATION (57%)

Person: RONALD REAGAN (79%); BILL CLINTON (79%); GEORGE W BUSH (58%); JIMMY CARTER (58%)

Geographic: UNITED STATES (94%)

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April 8, 1996

FOR WHITEWATER COMMITTEE COUNSEL, A PAINSTAKING APPROACH

R.H. Melton

Michael Chertoff is a prosecutor in search of a case, a lawyer so determined to get to the bottom of the confusing Whitewater matter that the special Senate committee, which he serves as chief counsel, has called 121 witnesses and consumed 47 days with probing, often accusatory questions into the affair. He has guided the committee through a maze of Arkansas connections and shed light on the frenetic damage control campaign waged inside the White House in the years since Whitewater became a political problem for President Clinton and his wife, Hillary Rodham Clinton. But in 30,000 pages of tedious and at times excruciating testimony, Chertoff has yet to develop a strong narrative thread or reach conclusions about the Clintons' involvement in the failed savings and loan at the heart of the Whitewater matter.

But Chertoff is not finished. At best, he says, the hearings are 85 percent complete, with the remaining issues the toughest territory of all. And that has been the problem as the Senate tries to decide how much more time to give the special Whitewater committee, an issue that has been tied up in filibuster and negotiation for more than a month. Democrats, who want to limit the hearings, said the sessions have been a colossal waste of taxpayers' money and a thinly veiled Republican attempt to drag out Whitewater through the presidential campaign in the hope of doing slow but cumulative damage to Clinton. Republicans, led by committee Chairman Alfonse M. D'Amato (N.Y.), argue that they are untangling a complex whodunit that cannot be resolved until all the facts are known. And they blame the White House for delaying, if not obstructing, the delivery of important documents that the committee has sought under subpoena for months. Chertoff's style and strategy have been a central part of the debate. As the panel's lead counsel, Chertoff has been much of the public face and voice of the inquiry and the committee's driving force. He has pieced together obscure documents to make important points and has showed witnesses a relentless skepticism that often keeps them on the witness stand for hours. To adversaries, Chertoff's painstaking approach to constructing a story line of the Whitewater saga -- sometimes with no help from reluctant administration witnesses -- has turned what might otherwise be short committee sessions into grueling seven-hour marathons. For example, Chertoff was grilling Susan Strayhorn, the former secretary to a key Whitewater figure, when she cut off his long-winded question by saying, "I'm sorry. Mr. Chairman, could we have a short break? I'm nodding off here." The audience laughed, but Sen. Paul S. Sarbanes (Md.), the committee's senior Democrat, used Strayhorn's retort to comment on Chertoff's technique. "It's a strange way of proceeding," Sarbanes said. "This sort of process, it seems to me, is just wasting time, chewing up time." Democrats grumble privately that Chertoff must be under intense pressure from D'Amato to slow proceedings to nudge them closer to the presidential conventions and election, but Chertoff shrugs at that suggestion. This is the Chertoff way, he says, and besides, D'Amato's charge to him has always been to follow the trail whether the result, in the chairman's words, "is good, bad or indifferent." Chertoff supporters who have followed the confusing and interwoven threads of the Whitewater saga see nothing devious in his methods. Former attorney general William P. Barr, who considered Chertoff part of his inner circle when Chertoff was U.S. attorney in New Jersey, said Whitewater is custom-designed for his former adviser.

"Mike can put himself in the middle of things, take complex financial cases and figure out what motivates people and what kind of paper trail will be left," he said. In Whitewater, Barr said, Chertoff "has a theory of the case mapped out in his mind -- what the potential violations were and what the motivations were -- and he's methodically putting the squeeze on." "There is a certain conditioning involved here where the public, day after day, becomes somewhat immune to the significance of these events," Sen. Frank H. Murkowski (R-Alaska), a Whitewater committee member, told reporters recently. "Something is out there and we haven't got it yet." Chertoff says he is "very comfortable with the kinds of things we're doing. I grew up as a lawyer assembling cases piece by piece, circumstantial evidence by circumstantial evidence. I could see how strong those cases could be, even with very uncooperative witnesses, by standing back and looking at a pattern." No one seemed better suited to sort through it all than Chertoff, a rabbi's son whose ascent from childhood in suburban New Jersey has been a singularly smooth one: Harvard undergraduate, then Harvard Law School, a Supreme Court clerkship, triumphs against the Mob in New York and white-collar criminals in New Jersey, and today, at age 42, a plum partnership in a national law firm. John Savarese, who worked with Chertoff in prosecuting the Mafia 10 years ago, describes him as "one of these guys that lives and breathes the case he's working on. He wakes up in the morning and while in the shower thinks about how he's going to cross-examine the next witness that day." New York Mayor Rudolph W. Giuliani, who as U.S. attorney in Manhattan put Chertoff in charge of the landmark "Commission" case against the Mafia, says his former lieutenant has "a sense of anger and injustice that drives him to work harder." To solve the Whitewater case, Chertoff would like to grill James B. McDougal and his former wife, Susan McDougal, owners of Madison Guaranty Savings & Loan and the Clintons' partners in the Whitewater land venture who are on trial in Little Rock on fraud charges, as well as former municipal judge David Hale. Hale alleges that Clinton, while Arkansas governor, pressured him to make an improper loan to Susan McDougal. Those witnesses may be important because they could be in a position to know the Clintons' states of mind and intent over the course of the Whitewater deal. Were their interlocking relationships anything more than southern-style back-scratching between political friends and business partners? Or did the Clintons pointedly ignore any red flags about Madison's precarious financial position? So far, the committee has succeeded in sharpening the Whitewater picture -- for instance, Hillary Clinton's role as a Madison lawyer -- but not in finding a major piece of evidence, a "smoking gun" that proves demonstrable wrongdoing by the Clintons in Arkansas. In classic Washington style, it has been the White House conduct -- its chronic tardiness in producing important documents -- that earned the committee's scrutiny and ire. "Around town, there's a sense of bafflement as to why these miscues are occurring, since it's hard to see what the actual illegal conduct was in the original Whitewater," said Jan Baran, a Washington lawyer who has handled a number of politically charged cases for Republicans. Baran said the committee's major accomplishment has been "to reveal a pattern of behavior that has been less than forthcoming, in terms of information. It's the conventional folklore: The biggest potential crime is not the underlying cause, but subsequent conduct which can constitute obstruction of justice or perjury." Or, as Sen. Lauch Faircloth (R-N.C.), a Whitewater committee member, put it the other day: "The White House started out to make a poodle out of a possum, and they've created a bigger and uglier possum." The opossum hunt is on hold for now -- it will take about two weeks to gear up for fresh hearings should they resume -- giving Chertoff, who commutes by train from New Jersey, some extra time to ponder Whitewater's enduring puzzle: "Were the people at the center of this thing passively ignorant or actively engaged or consciously avoiding knowledge" of impropriety? "My personality is such that having taken on that question, I'm absolutely dead set about seeing it through to the end," Chertoff said. "I don't know what the end will be, and I can't say I've always been successful. But I can tell you I've never left an investigation without exhausting every avenue available." CAPTION: After calling 121 witnesses, Senate Whitewater committee chief counsel Michael Chertoff says hearings are at best 85 percent complete.

---- Index References ----

News Subject: (Government Litigation (1GO18); Legal (1LE33); Racketeer Influenced & Corrupt Organizations (RICO) (1RI18); Crime (1CR87); Social Issues (1SO05); U.S. Presidential Campaigns (1US04); Campaigns & Elections (1CA25); Criminal Law (1CR79); U.S. President (1US75); U.S. Congressional Campaigns (1US07))

Region: (U.S. Mid-Atlantic Region (1MI18); U.S. Southeast Region (1SO88); New York (1NE72); Americas (1AM92); New Jersey (1NE70); North America (1NO39); USA (1US73); Arkansas (1AR83))

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THE LAST HURRAH?; Corporate Counsel; Inside Moves

The American Lawyer

April, 1996

THE AMERICAN LAWYER

Section: Pg. 79

Length: 670 words

Byline: Scott Medintz

Body

Corporate Counsel

Inside Moves

THOUGH A RECENTLY PUBlished survey of U.S. corporate legal departments conducted by Price Waterhouse shows spending for legal departments on the rise in 1994, that may be the last such report for a while.

The survey of 240 departments ranging in size from between one and five attorneys to more than 70 found that compared to the prior year, spending rose an average of 4.6 percent for in-house legal services and dropped 4.4 percent for outside legal services. In addition, the report concluded, the proportion of total legal spending devoted to in-house counsel increased steadily, from an average of 40.6 percent of total legal spending in 1991 to an average of 46.5 percent in 1994.

But according to two in-house experts, the survey's findings may represent the tail end of a trend. There was probably double-digit in-house growth in the eighties and early nineties, says Peter Zeughauser, former senior vice-president and general counsel of The Irvine Company and now an independent consultant. I would be surprised if it's not reversed or nearly reversed by now.

William Barr, former U.S. attorney general and now senior vice-president and general counsel of Stamford, Connecticut-based GTE Corporation, agrees that enthusiasm for moving legal work in-house has largely come and gone. It did reflect the philosophy of the GTE legal group, but it's not my philosophy, and now we are changing, says Barr, who arrived at GTE in 1994. Though the GTE department has 125 lawyers, Barr says that it has shrunk slightly due to corporate downsizing. He says he would rather fill his in-house slots with lawyers adept at the larger competitive issues facing GTE than with, say, employment or product liability specialists, whose work tends to be performed in larger volumes. You can go out and buy that, says Barr.

William Tong, the editor of the Price Waterhouse survey, says the report of a relative decline in outside legal costs reflects a drop in spending on litigation, which is traditionally handled by outside firms. Total spending on litigation fell 8.8 percent, due, Tong says, to greater emphasis on preventive lawyering and alternative dispute resolution; more litigation being performed by in-house attorneys, whose hourly rates-even adjusted for department overhead-average 26 percent less than the rates of their outside counterparts; and the growing use of alternative fee arrangements.

Also, notes Tong, at least until now, corporations have been expanding the responsibilities of their in-house lawyers, spending more to do so. In particular, attracting the personnel for such departments requires a greater investment. To get and keep good people you have to pay them more, says Tong. Indeed, the survey reports that the gap between the cost of in-house and outside counsel shrunk in 1994: While the average hourly rate of in-house lawyers rose $7, to $137 (4.3 percent), the average hourly rate of outside counsel rose $3, to $185 (only 1.6 percent). It's a phenomenon the survey dubs cost creep.

Huge waves of people went in-house in the eighties and gained seniority, and their pay packages have maybe doubled, even tripled, explains Zeughauser. Meanwhile, he says, the nature of the work hasn't changed, and outside rates remained relatively unchanged.

Zeughauser asserts that the cost creep is one factor that has shifted the momentum from in-house spending back to outsourcing.

Still, Turner Broadcasting System, Inc., vice-president and general counsel Steven Korn says that in the last few years his department has spent more in-house than outside. That may change in 1995 and 1996, he says, but only because of the anomalous outside legal expenses associated with Turner's ongoing merger with Time Warner Inc.

I still think it's generally more efficient to do work in-house, says Korn. But I also think it's dangerous to read too much into these trends-we're going to do legal work wherever it's best done, and a lot of factors go into that. Cost is only one.

Load-Date: April 16, 2011

Document: A Turnaround on No-Fault Divorce

A Turnaround on No-Fault Divorce

Omaha World Herald (Nebraska)

February 15, 1996 Thursday, SUNRISE EDITION

Section: EDITORIAL;

Length: 706 words

Byline: MONA CHAREN, CREATORS SYNDICATE

Dateline: WASHINGTON

Body

By little baby steps, Americans are seeking to undo the Age of Aquarius. According to The New York Times, Michigan, Idaho, Georgia, Iowa and Pennsylvania are considering a repeal of their "no-fault divorce" laws.

No-fault divorce was part of the '60s push for individual autonomy above all else. It did provide some adults with more freedom, but that freedom has cost children and society dearly. By removing the concept of fault - mental cruelty, desertion, adultery - 1960s lawmakers sent a powerful signal about the moral standing of marriage itself. How solemn a commitment can marriage be if it is easier to dissolve than a commercial contract?

No-fault divorce laws ensured that divorces would be granted even if one member of the couple opposed the split. The unstated assumption behind such "reform" was that marriage is an institution for adults, aimed at achieving adult happiness. If it isn't making both partners happy, why not permit divorce?

Because, as we've been reminded in the intervening decades, marriage is not just about adult happiness (though it does conduce to happiness - including sexual satisfaction - better than any other arrangement).

Marriage is also the bedrock of stable families, strong communities and a healthy society.

What happens to children when parents divorce? For decades, we told ourselves, as the saying went, that "it is better to come from a broken home than to live in one." Whereas in the 1940s and 1950s,

majorities of Americans told pollsters that it was better for an unhappy couple to stay together for the sake of the children than to divorce, by the mid-1960s, that sentiment had reversed.

Now, 30 years into the experiment with easy divorce, we are seeing that the earlier consensus was right. As far as children's well-being goes, divorce is a calamity. According to "Father Facts," a publication of the National Fatherhood Initiative, children of divorce are much more likely to drop out of school, to engage in premarital sex and to become pregnant than children of intact families.

The average income of women with children declines by 73 percent after divorce. The advantage of growing up with educated parents is obliterated by divorce.

Only 8.3 percent of children living with both parents exhibit significant emotional or behavioral problems, compared with 19.1 percent of those living with their mothers only and 23.6 percent of those living with their mothers and stepfathers. A study of 17,000 children, controlled for age, sex, race, maternal employment and family income, found that children living with a parent and a stepparent or a divorced mother only were 20 to 30 percent more likely to suffer an accident, 40 to 75 percent more likely to repeat a grade at school, and 70 percent more likely to be expelled from school than were children who lived with both parents.

Even 10 years after a divorce, researcher Judith Wallerstein found, children felt "less protected, less cared for and less comforted" than children in intact families.

For many children of divorce, fathers simply fade away. Forty percent of children in fatherless homes report that they have not seen their fathers in at least a year. Of the other 60 percent, only one in six sees his father an average of once a week.

Ten years after a divorce, more than two-thirds of children say that they haven't seen their fathers for at least a year.

All children of divorce suffer pain. Some of them visit pain on others.

Seventy percent of children in state reform institutions grew up in single-parent or no-parent homes.

As former Attorney General **William Barr** put it: "If you look at the one factor that most closely correlates with crime, it's not poverty, it's not employment, it's not education. It's the absence of the father in the family." The depressing statistics go on and on. So, here's a cheer for the states that are working to re-reform divorce law. Waiting periods for couples with children should be mandatory. Counseling for couples considering marriage is a good idea. And most of all, revive the concept of fault - healthy marriages and a healthy society demand it.

Classification

Language: ENGLISH

Subject: DIVORCE & DISSOLUTION (91%); CHILDREN (90%); FAMILY (89%); MARRIAGE LAW (77%); FAMILY LAW (77%); STEPPARENTS (77%); PREGNANCY & CHILDBIRTH (73%); POLLS & SURVEYS (66%); SCHOOL DROP OUTS (60%); PERSONAL & FAMILY INCOME (60%); SCHOOL SUSPENSION & EXPULSION (50%)

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Document: Ex-CIA top official suggests stripping agency of spy mission

Ex-CIA top official suggests stripping agency of spy mission

The Baltimore Sun

January 20, 1996, Saturday,, FINAL EDITION

Section: TELEGRAPH (NEWS),

Length: 776 words

Byline: Tom Bowman and Scott Shane, SUN STAFF

Body

WASHINGTON -- A former top U.S. intelligence official yesterday called for the Central Intelligence Agency to be stripped of its spying role and left with the sole job of analyzing information gathered by other government agencies.

Retired Adm. Bobby Ray Inman, former deputy director of the CIA and director of the National Security Agency, proposed that the job of recruiting agents abroad should go to a new agency, which he suggested could be called the International Operations Agency.

Appearing before a 17-member federal commission charged with making recommendations for the future of all intelligence agencies, Admiral Inman said the CIA's spying can skew its analysis because the agency naturally defends the information gathered by its agents.

"You want independent judgment of the reliability of the information collected," he said, noting that CIA analysts at times challenged reports from NSA but failed to apply the same scrutiny to intelligence gathered by their own agency.

Admiral Inman's proposal would radically alter the intelligence community by transferring control of all U.S. spies overseas, including the Defense Intelligence Agency, to the new agency.

"It will be expensive," he added. "You can't do effective clandestine collection on the cheap."

He also said the United States must put more emphasis on recruiting and training agents who work abroad under "nonofficial cover," posing as businessmen or engineers, for example, rather than diplomats.

Concentrating all U.S. agents in an embassy can be risky, the admiral said, noting that when militants seized the U.S. Embassy in Tehran, the hostages included all the American spies in Iran. "We were

essentially blind," he said.

Admiral Inman was one of a half-dozen former top government officials who suggested changes in the way the United States conducts its spying during a day-long hearing before the commission, headed by former Defense Secretary Harold Brown, who served under President Carter.

Yesterday's hearing was the only public session by the commission, which for the past year has held closed-door hearings, heard from scores of experts and visited other countries to study the management of spy services.

Mr. Brown said the commission will release its report before its March 1 deadline.

Both Mr. Brown and the commission's vice chairman, former New Hampshire Republican Sen. Warren Rudman, declined to give any indication of what changes they will propose, except to say they would be "controversial" and involve management, budget, personnel and technology issues.

"I think we will make some recommendations that will irritate some people," said Mr. Brown.

They would not say whether the commission was leaning toward a decrease or an increase in the spy community's estimated $ 28 billion annual budget.

While the witnesses devoted their time to discussing CIA and the military intelligence units, Mr. Rudman said the recommendations will also have an impact on NSA.

The agency, whose 20,000 employees at Fort Meade conduct global eavesdropping, is Maryland's largest employer and provides more than $ 700 million annually in contracts to companies in the state.

Despite the end of the Cold War, witnesses and commission members said global unrest shows the need for continued intelligence spending, particularly to support U.S. military operations.

"There's never been a greater need for a robust intelligence capability," said former Attorney General **William P. Barr**.

"We need a very strong covert-action capability."

Former Defense Secretary Frank Carlucci also called for preserving a covert-action unit, saying that if the United States had engaged in timely covert action in Bosnia, "we might not have 20,000 troops there now."

Another witness, Joseph Nye, suggested removing the National Intelligence Council, a research group that provides intelligence information to all government agencies, from the CIA and revamping it as a "National Estimates Council."

It would provide more timely information and rely more on academics and other outside experts to keep track of trends and developments abroad.

Mr. Nye, former chairman of the NIC and now dean of the Kennedy School of Government at Harvard University, said such a new organization can bring in academics and employees from other government agencies to distill information for policy makers.

"I get the impression that more and more valuable information comes from open sources," said Mr. Rudman, who said it was one of the commission's more important areas for discussion.

"So much of what we once called intelligence is open source."

Graphic

PHOTO, ASSOCIATED PRESS, Former CIA Deputy Director Bobby Ray Inman said a new agency should be created to take over covert operations.

Classification

Language: ENGLISH

Subject: INTELLIGENCE SERVICES (93%); US FEDERAL GOVERNMENT (90%); ESPIONAGE (90%); EMBASSIES & CONSULATES (89%); PUBLIC HEARINGS (78%); TECHNICIANS & TECHNOLOGICAL WORKERS (77%); US REPUBLICAN PARTY (74%); NATIONAL SECURITY (73%); SPECIAL INVESTIGATIVE FORCES (73%); MULTINATIONAL CORPORATIONS (71%); HOSTAGE TAKING (69%)

Company: SECURITY AGENCY FENIX AS (58%); SECURITY AGENCY FENIX AS (58%); CENTRAL INTELLIGENCE AGENCY (94%); CENTRAL INTELLIGENCE AGENCY (94%); NATIONAL SECURITY AGENCY (84%); NATIONAL SECURITY AGENCY (84%); DEFENSE INTELLIGENCE AGENCY (55%); DEFENSE INTELLIGENCE AGENCY (55%)

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Industry: BUDGETS (89%)

Person: JIMMY CARTER (50%)

Geographic: TEHRAN, IRAN, ISLAMIC REPUBLIC OF (54%); NEW HAMPSHIRE, USA (79%); UNITED STATES (95%); IRAN, ISLAMIC REPUBLIC OF (92%)

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White House Defies Senate Subpoena

Facts on File World News Digest

December 14, 1995

Section: UNITED STATES ; Whitewater Affair

Length: 1043 words

Body

The White House, citing lawyer-client and executive privilege, December 12 refused to hand over documents subpoenaed by the Senate panel investigating the so-called Whitewater affair. The documents requested by the panel concerned a controversial 1993 White House meeting. (See below, p. 611B2)

The Senate panel's Whitewater inquiry had resumed October 25, after recessing in August. The panel had continued to focus upon the relationship of President Clinton and First Lady Hillary Rodham Clinton with Madison Guaranty Savings and Loan, a failed thift currently under investigation for alleged fraudulent business practices. The panel was also considering whether the White House had improperly intervened in the investigation.

The Senate committee December 8 had voted, 10-8, along party lines to subpoena the documents. The panel's action had been prompted by the White House's ordering of two of its lawyers -- William Kennedy and Bruce Lindsey -- to invoke the lawyer-client privilege when asked about a November 5, 1993 meeting during committee testimony. Kennedy, who no longer worked for the White House, and Lindsey had testified on December 5 and November 29, respectively.

The documents sought by the committee in the subpoena included notes taken by Kennedy during the 1993 briefing. Along with Kennedy and Lindsey, Bernard Nussbaum and Neil Eggleston, then White House lawyers, attended the meeting, as did three attorneys who did personal work for Clinton: Stephen Engstrom, James Lyons and David Kendall. Kendall had since become the president's chief personal lawyer.

The White House meeting had taken place a few weeks after news had surfaced that the Resolution Trust Corp. (RTC), an agency of the Treasury Department created to dispose of the assets of insolvent thrifts, had named the president and First Lady in its investigation of Madison Guaranty.

At about the same time that the details of the RTC investigation began to surface, the White House also learned that David Hale, an Arkansas judge with ties to Madison Guaranty, had charged that Clinton in 1986 had pressured him to grant a fraudulent $300,000 Small Business Administration (SBA) loan to Susan McDougal, a co-owner of Madison Guaranty. President Clinton maintained that Hale's charges were

untrue. Hale, who was later found guilty of fraud, had said he offered to keep quiet about the loan in exchange for a White House agreement to help arrange a plea bargain for him. The White House had rejected the offer. (Republicans on the Whitewater panel were currently seeking testimony from Hale, the Wall Street Journal reported December 11.) (See p. 611A3)

During the November meeting, White House staff members had reportedly pressed officials from two agencies involved in the investigations of Madison Guaranty and Hale -- the Treasury Department and the SBA -- for information on the cases. In seeking the subpoena, the Senate panel said it was attempting to find out to what extent White House aides had improperly gained confidential information about the agencies' investigations and whether they had attempted to stymie either of them.

Though the White House had acknowledged that it had taken some improper actions by seeking information from the government agencies, it nonetheless had maintained that its purpose in pressing the agencies for information was to prepare itself for press inquiries and to brief a new lawyer on the Whitewater matter. White House aides denied that they had attempted to thwart the investigations.

White House Explains Its Defiance -- Kendall December 12 sent a 46-page legal brief to the Senate panel that laid out the White House's reasons for contending that the notes from the meeting were protected by the lawyer-client privilege.

Kendall wrote in the memo, "The president and the presidency, although distinct conceptually, are at times inseparable practically. On matters of common interest, the lawyers for each -- White House counsel and personal counsel -- must be able to talk frankly in confidence, and delineate areas of responsibility, just as the president must be able to talk in confidence to both."

In the past, Clinton had said that he wished to make public all the facts regarding Whitewater and that he had no intentions of using the lawyer-client protection.

Some legal experts questioned whether White House lawyers who offered the president personal counsel could invoke the lawyer-client privilege. **William Barr**, who had been attorney general under President George Bush, December 13 called the use of the privilege "preposterous." But Christopher B. Mueller, a law professor at the University of Colorado, the same day opined that "the fact that he's president of the United States doesn't mean that he lacks the privilege."

In a separate legal memo released December 12, Kendall also said that the president could invoke his executive privilege to block the subpoena. Executive privilege gave the president the right to withhold information if its disclosure would harm policy deliberations or diplomatic negotiations. It could not be used to obstruct investigations into White House wrongdoing. President Richard Nixon had unsuccessfully invoked the privilege in the Watergate scandal. (See 1994, p. 731E3)

Reactions -- Senator Alfonse D'Amato (R, New York), chairman of the Whitewater Senate panel, December 12 accused the White House of attempting to impede the committee's investigation and called its invocation of executive and lawyer-client privilege "extraordinary and troubling."

In an interview on "NBC Nightly News," Clinton December 13 asserted that the panel's subpoena was a politically inspired move designed to damage his image and to force him to waive any right to confidentiality. "I believe that even the president ought to have the right to have a confidential conversation with his minister, his doctor, his lawyer," said Clinton. The president also insisted that the White House had been cooperative in the investigation, noting that it already had turned over 50,000 pages of documents to the panel.

D'Amato said December 13 that the Senate panel would soon take a vote on whether the lawyer-client privilege was applicable in the case.

Classification

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PRESIDENTIAL CANDIDATES 2016 (78%); CRIMINAL INVESTIGATIONS (78%); US PRESIDENTIAL CANDIDATES 2008 (78%); ATTORNEY CLIENT PRIVILEGE (78%); AGREEMENTS (78%); US POLITICAL PARTIES (78%); CORPORATE WRONGDOING (75%); CRIMINAL CONVICTIONS (66%); TREASURY DEPARTMENTS (63%); INSOLVENCY & BANKRUPTCY (62%); PLEA AGREEMENTS (60%)

Company: WALL STREET JOURNAL (51%); WALL STREET JOURNAL (51%)

Industry: SMALL BUSINESS LENDING (89%); LAWYERS (89%); BANK FAILURES (75%); TREASURY DEPARTMENTS (63%)

Person: BILL CLINTON (90%)

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WashingtonPost.com

December 14, 1995

LEGAL EXPERTS UNCERTAIN ON PROSPECTS OF CLINTON PRIVILEGE CLAIM

Ruth Marcus; Susan Schmidt

Experts on the attorney-client privilege said yesterday that President Clinton's refusal to turn over notes of a Whitewater meeting to Senate investigators raises novel and complicated legal issues, but disagreed over whether it ultimately could succeed in keeping the documents secret. In briefs submitted Tuesday to the Senate Whitewater committee, the White House and the Clintons' personal lawyers outlined their claim that a White House lawyer's notes of the November 1993 meeting were protected by attorney-client privilege, the long-standing legal doctrine that shields confidential communications with lawyers. Both White House and private lawyers attended the session, which the briefs said was designed to provide necessary information to the Clintons' newly retained lawyers at Williams & Connolly and to allocate responsibility between the White House and private lawyers for handling Whitewater-related matters.

The briefs said that was a necessary and legitimate use of the government lawyers and that Clinton was entitled to assume that the communications between his two sets of lawyers would remain private. They likened the situation to lawyers representing two defendants who have adopted a joint strategy in a criminal case; in those circumstances of "common interest," the lawyers may communicate freely among themselves without worrying about giving up the attorney-client privilege. The briefs said the White House and outside lawyers could be seen as having two distinct clients with a common goal -- the Office of the President and the Clintons personally. "I believe that even the president ought to have a right to have a confidential conversation with his minister, his doctor, his lawyer," Clinton said in an interview with NBC yesterday. But Republicans have argued the presence of government lawyers defeated Clinton's claim of privilege. They also have pointed to the presence of presidential adviser Bruce Lindsey, at the time the head of the White House personnel office, to argue that the session was not shielded from disclosure. The White House says the work was legitimately government-related because of the president's position, but lawyers who have represented the White House in the past questioned how government attorneys could involve themselves in the Clintons' private financial and legal matters. "Asserting attorney-client privilege is preposterous in my view," said former Bush administration attorney general William P. Barr. He said that while the private lawyers' conversations would have been protected by attorney-client privilege, the presence of the government attorneys destroys that protection because they are not entitled to represent the president in that regard. Part of the issue turns on what information White House officials transmitted to David E. Kendall, the Williams & Connolly attorney representing Clinton, and the propriety of how it was obtained. That, in fact, is one of the questions Republicans are trying to answer in obtaining the notes. The White House has maintained that in the months before the meeting it obtained confidential investigative information to respond to expected media inquiries. The Republicans want to know if that information was turned over to Kendall during the Nov. 5 meeting. Some legal experts said they agreed with the White House analysis. "I don't think the combination of lawyers makes a difference," said University of Colorado law professor Christopher B. Mueller. "Both as chief executive and as a citizen the president has a right to counsel" and "the fact that he's the president of the United States doesn't mean that

he lacks the privilege." He said Lindsey's presence "complicates matters a little bit, but the best rule is that the privilege applies even when outsiders are present if those outsiders are necessary to the communication process." The White House and Williams & Connolly briefs argued that Lindsey, a lawyer, was giving legal advice to the president even though he was not on the counsel's staff at the time and that in any case he was an integral participant in the meeting because of his knowledge of Whitewater. New York University law professor Stephen Gillers, an expert on legal ethics, said he initially had been skeptical of the president's invocation of attorney-client privilege but changed his mind after reading the briefs. "The oddity here is that Clinton is in both sets of clients, in one way with his presidential hat on and in one way as a private individual. The lawyers who represent the president have information that the lawyer who represents the Clintons legitimately needs and that's the common interest," he said. "It's true that government lawyers cannot handle the private matters of government officials," Gillers said. "However, perhaps uniquely for the president, private and public are not distinct categories so while the principle is clear the application is going to be nearly impossible." American University law professor Paul Rice said the claim was not only appropriate but important for Clinton to make to protect his prerogatives as president. "Since all of them were lawyers and this is basically a transferring from the public side to the private . . . I think it's a legitimate claim," he said. "Had there been a broader range of people present I would have been more skeptical." Nancy Moore, a Rutgers University law professor, said the Clintons' argument could encounter resistance from courts, which are often reluctant to expand the use of attorney-client privilege. "The privilege is not always looked favorably upon by courts," she said. "There is a long history of construing it somewhat narrowly, which gives the White House an uphill battle given that the claims they're making are novel claims."

---- Index References ----

Company: OFFICE OF THE PRESIDENT REPUBLIC OF CHINA (TAIWAN)

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December 13, 1995

WHITE HOUSE REJECTS SUBPOENA; WHITEWATER NOTES CALLED CONFIDENTIAL

Susan Schmidt

The White House yesterday formally refused to release records subpoenaed by the Senate Whitewater committee, saying they are protected under the attorney-client privilege, a claim of confidentiality President Clinton has said in the past he did not expect to invoke. The White House also said the notes taken by then-White House associate counsel William Kennedy during a Nov. 5, 1993, meeting are protected by executive privilege, the legal principle first recognized during the Watergate scandal that protects the confidentiality of the president's decision-making process. But the White House said it is not now making that legal claim. The White House said last night that Clinton has already offered to turn over to the committee the information it needs.

"We now have no choice but to say enough is enough," it said in a statement. The committee and the Senate now are expected to vote to enforce the subpoena, setting in motion a battle that appears headed for court. The committee is seeking extensive notes that Kennedy took during a meeting he attended with three other White House officials and three private attorneys for the Clintons. The meeting took place less than a week after the news broke that the president and Hillary Rodham Clinton were named in requests for a criminal investigation that the savings and loan cleanup agency had sent to the Justice Department. Members of the committee have said the meeting is crucial to understanding a principal issue they are investigating: What use the White House made of information it improperly obtained from federal agencies that were conducting criminal investigations touching on the Clintons. The panel has been looking into whether White House officials used confidential information to try to protect the Clintons from exposure in probes of a failed Arkansas thrift and a loan company backed by the Small Business Administration. The Whitewater committee voted last Friday to issue the subpoena after negotiations between the committee staff and the Clintons' lawyers broke down. It marked the first time the White House and the committee have reached an impasse over documents the White House says are privileged. Asked in an interview in March 1994 if he would ever claim executive or attorney-client privilege on Whitewater matters, Clinton said: "My interest . . . is to get the facts out. . . . So it's hard for me to imagine a circumstance in which that would be an appropriate thing for me to do." Sen. Alfonse M. D'Amato (R-N.Y.), chairman of the Whitewater committee, predicted the White House's refusal to turn over the records "will ultimately be damaging to the president and first lady." He said in a statement that it was "an attempt to stonewall our committee and the public will be outraged." The Clintons' personal attorney, David Kendall, in whose offices at Williams & Connolly the meeting was held, sent a 46-page legal memo to the committee outlining his reasons for considering the meeting protected by the attorney-client privilege. White House lawyers sent a separate legal memo that also argued the meeting would be covered by executive privilege if it chose to make such a claim. Those attending the Nov. 5 meeting included then-White House counsel Bernard Nussbaum, and one of his associates, Neil Eggleston; Bruce Lindsey, a presidential political aide in charge then of Whitewater damage control; and two other private attorneys. Said Kendall's memo: "If they make the notes public, partisan investigators will next claim that they have waived the confidentiality of {their} entire

relationship {with Kendall}." In addition, he wrote, "a president must be able to receive confidential legal advice about any personal matter including personal matters that might affect his public duties. "The president and the presidency, although distinct conceptually, are at times inseparable practically. On matters of common interest, the lawyers for each -- White House counsel and personal counsel -- must be able to talk frankly in confidence, and delineate areas of responsibility, just as the president must be able to talk in confidence to both." Some legal experts said yesterday that the Clintons' practice of having government lawyers do their private legal work could make it difficult to assert the attorney-client privilege. Further, several experts said, if White House officials obtained confidential government investigative information improperly or inadvertently, it should not have been given to private attorneys representing potential defendants. Government lawyers really can't act as private lawyers, said former Bush administration attorney general William P. Barr. "A government lawyer has only one master, that is the government," he said. "They cannot assert that privilege against the government itself, whom they serve. "What's really being asserted here is executive privilege, but they are afraid to use the word." He referred to the White House claim that the meeting was to divvy up responsibilities, and if those discussions can't remain confidential, the counsel's office can't do its job. "No one could be a stronger proponent of presidential power, but they simply don't have a leg to stand on," he said. The White House long has contended that it obtained investigative information simply for the purpose of responding to expected press inquiries, and not to thwart any investigations or improperly aid in a legal defense. Kendall wrote that information published in the media in the days leading up to the meeting was "vastly more specific than any information conveyed by the {Resolution Trust Corp.} and the Treasury Department to the White House" in the prior two months. Handwritten notes made by White House aides in October 1993, a month earlier than the meeting in question, show however that they knew details about the investigation that would not surface in the media for many months. Those notes were turned over to Congress earlier this year. If the White House does fall back on an executive privilege claim, it may have to show what government purpose is being served by protecting the discussion at the meeting. Executive privilege is claimed when the White House believes disclosing information would harm policy deliberations or diplomatic negotiations, not to shield the White House from answering allegations of wrongdoing.

---- Index References ----

Company: RESOLUTION TRUST CORP 1995 2

News Subject: (U.S. President (1US75); Executive Bodies (1EX50); Legislation (1LE97); Government (1GO80); Legal (1LE33); U.S. Legislation (1US12); Government Litigation (1GO18); Civil Rights Law (1CI34); Government Institutions (1GO90))

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Document: Murphy Brown syndrome

Murphy Brown syndrome

The Washington Times

November 11, 1995, Saturday, Final Edition

Section: Part C; COMMENTARY; Pg. C1

Length: 649 words

Byline: Betsy Hart

Body

The Census Bureau has just released a fascinating report. It seems the overall U.S. rate of single motherhood dropped slightly from 1992.

While a staggering one child in four is born out of wedlock in America, the figures showed a significant increase among affluent, white, well-educated, working women choosing to become single moms.

According to Amara Bachu, a statistician and demographer who wrote the Census Bureau's report, this is the "Murphy Brown Syndrome."

Brown, of course is the fictional sitcom character who heard her biological clock ticking in her 40s and decided to bear a child out of wedlock.

Well, life sometimes imitates art and, in real life, the big boom in out-of-wedlock births was among women in their 30s whose biological clocks were ticking loudly, Ms. Bachu told the Reuters news service. In fact, in all other demographic groups - including blacks and Hispanics - the out-of-wedlock birthrate has remained steady or dropped slightly since 1982. But for white, educated, professional women in their 30s, the rate has more than doubled since that time.

True, such moms account for a very small percentage of all out-of-wedlock births. But what does it say that their numbers are increasing when the others are becoming constant?

It says two things. One, too many women have waited too long, putting their personal lives on hold and are regretting it now. For decades, some feminists have been telling the sisterhood they could have it all; professional acclaim, money and, someday, if they wanted it, a home life on their terms.

Only it didn't quite happen that way. For too many women the scenario apparently went like this: First, they freely engaged in the sexual revolution, which is shorthand for a woman not requiring a

commitment from a man before putting a smile on his face. Then the men moved on to new pastures - and to other women who would give them the milk without making them buy the cow, as my mother used to say - and the women left behind threw themselves into their work like never before.

After all, there were those who told them that would be their greatest fulfillment, anyway.

Only slaving away at law firms writing legalese for the back of credit cards wasn't all it was cracked up to be. And then there was that darned clock. Reality check. These women very much want to have kids. Only now, the available men don't seem like much of a catch. They may be good for making babies, but not to live with. What to do?

Rescript Murphy Brown's life, of course. After all, these women have money and education. What more could their children want?

The answer, of course, is dads. In fact, as former Attorney General **William Barr** noted looking at the statistical evidence, "If you look at the one factor that most closely correlates with crime, it's not poverty, it's not employment, it's not education. It's the absence of the father in the family."

In addition, children of single parents are twice as likely to drop out of school. In fact, children from low-income, two-parent families outperform students from high-income single parent homes! Children in single-parent homes have higher rates of psychological problems and suicide as well.

The overwhelming evidence is that dads don't just provide income. In addition to love, a dad provides needed discipline, emotional and physical support, a sense of security, and, most of all, a male role model all kids - and especially boys - need.

This information is not exactly new. Liberals have come to accept it. So why is the number of Murphy Browns still rising? Dan Quayle, call your office. There's work to be done.

Betsy Hart, a former White House spokesman, is a frequent commentator on CNN and other national public affairs shows.

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Prison Riots Prompt Review of Sentencing, Facilities

NPR All Things Considered All Things Considered (NPR 4:30 pm ET)

October 31, 1995

Section: News; Domestic; Package

Length: 1116 words

Byline: JON GREENBERG

Guests: PAT KEENAN, Retired Computer Analyst;RON JONES, Alabama Corrections Commissioner;**WILLIAM BARR**, Frmr. Attorney General;CHASE REVELAND, Washington Corrections Commissioner;MARK MOWER, Sentencing Project;

Highlight: Recent riots sparked by prisoners' frustration with what they view as overly harsh sentences for crack cocaine have raised many questions about drug sentencing and the effectiveness of the U.S. prison system.

Body

ROBERT SIEGEL, Host: This is All Things Considered. I'm Robert Siegel.

NOAH ADAMS, Host: And I'm Noah Adams. Laws against crack cocaine are coming under sharper scrutiny. The Supreme Court has agreed to hear a case accusing federal prosecutors in Los Angeles of using crack laws to single out blacks for prosecution. President Clinton has now signed a bill to retain harsher penalties for crack than for powder cocaine, but he wants the policy reviewed. Prison officials say those tougher penalties for crack sparked the recent unrest at several federal prisons. Others say the riots reflect broader problems in U.S. correctional facilities. NPR's Jon Greenberg reports.

JON GREENBERG, Reporter: The fires were still burning at the medium security prison in Talladega, Alabama, when reports first connected the riot with crack cocaine sentencing laws. Congress had voted

less than 24 hours before the first sign of unrest. Pat Keenan [sp] says many federal prisoners were watching Congress closely. Keenan, a retired computer analyst in suburban Maryland, has a son serving 15 years for distributing crack and possessing a handgun. She remembers talking to her son several months ago when a rumor went around his prison in Pennsylvania that the penalties for crack had been reduced.

PAT KEENAN, Retired Computer Analyst: My sense was that he didn't want people to get excited them as truth that was circulating because it would just be opening them up for a bigger disappointment to find out that that rumor really wasn't true.

RON JONES, Alabama Corrections Commissioner: It's a classic case that we've been teaching about in corrections and social psychology for a lot of years.

JON GREENBERG: Ron Jones is the corrections commissioner in Alabama.

RON JONES: The case of Talladega and subsequent prisons is classic case where inmates in the federal prison system were given a lot of false hope or rising expectation. Expectations were muted, and therefore they had unrest. Now the moral of the story is don't ever give your inmates any reason to have rising expectations. We don't in our prison system. That's why our prison system's quiet.

JON GREENBERG: Jones is best known for bringing back the chain gang. He says the federal disturbances provide no grounds for concern about prison conditions in general. Other officials, current and former, agree. The man who helped double the number of beds in the federal system, former Attorney General **William Barr**, says if there's any lesson to be learned it's that managing criminals will always be difficult. He notes violent offenders make up an increasing percentage of the prison population.

WILLIAM BARR, Frmr. Attorney General: Prisoners are always looking for something as a pretext for sort of anti-social behavior and reacting against the system, and the fact that there are people on the outside who have now started wringing their hands and suggesting that, gee, we should be easier on crack cocaine dealers, you know, gives them sort of a pretext to engage in this kind of activity, but it could just as easily have been, you know, they didn't like the food or some privilege was taken away and they didn't have as many television sets as they wanted.

JON GREENBERG: But many people are worried. They argue if all that inmates need is a pretext, that underscores the fragility of the system. The commissioner of corrections in Washington State, Chase Reveland [sp], says the prison population has skyrocketed, placing enormous pressures on vocational and education program budgets. That leaves too many prisoners with little to fill their time.

CHASE REVELAND, Washington Corrections Commissioner: The person that we can plug into a legitimate job or into an education program, I think we can help them realize that they can have some value, do have some value and can have some potential, and I think when we erase hope from any human being, incarcerated or not, we're taking away the thing that makes an individual really try to become a productive member of our community.

JON GREENBERG: That philosophy simply doesn't work, according to Alabama Commissioner Ron Jones. He argues the past 20 years prove more programs don't make for better prisoners or less crime. And what's worse, Jones warns, talking about providing more programs will make the situation worse because it breeds false hope that the money will be there to pay for them. Jones says his inmates are no dummies. They watch the news, and they know they can expect nothing from the state budget writers. Jones acknowledges that life inside is getting tougher, but he insists that doesn't matter. He likes to compare himself to the famous football coach, Vince Lombardi [sp].

RON JONES: With Vince Lombardi, you know, he would treat you like dirt, but he always treated everybody the same. You run prisons the same way. It doesn't matter how hard you treat inmates, but you better treat 'em all the same, you know, and that's the bottom line. I've had chain gangs now for most part of a year. And I got to say that those are the easiest inmates for my staff to deal with in my prison system.

JON GREENBERG: Jones says basic principles of corrections research support his approach. His critics say his policies have more to do with politics. Some analysts say inmates are more likely to rebel because they sense they are pawns in a political game. Mark Mower [sp] with the Sentencing Project, a Washington-based advocacy group, says more and more prisoners feel the criminal justice system treats them unfairly.

MARK MOWER, Sentencing Project: We see sheriffs taking away coffee from inmates. We see Congress taking away Pell Grants so inmates can't continue education, removal of weight-lifting equipment in prison. These are things that have absolutely no correctional objectives or impact in any kind of constructive way. I think they're purely symbolic acts designed to send a message both to prisoners and to the public that we are being tough and this is how we're going to prove it.

JON GREENBERG: Mower says unless the country rethinks its approach to prisons, the months ahead will be marked with more riots, and in contrast to the recent incidents in which no one was seriously hurt, Mower says the disturbances will turn more violent. This is Jon Greenberg in Washington.

Classification

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October 29, 1995

Section: News; Domestic; Show; Interview

Length: 4497 words

Body

Rep. MAXINE WATER, (D-CA): Federal sentences for crack are 100 times greater - 100 times greater - than those for powder cocaine. The implications of this disparity are severe.

Rep. BOB BARR, (R-GA): Yes, they come from the same base. Yes, they are chemically similar, but, in their effects, they are very, very different, and crack cocaine is much more dangerous.

ANNOUNCER: [voice-over] From Washington, Crossfire Sunday. On the left, Bob Beckel. On the right, Lynne Cheney. Tonight, Crime and Punishment. In the crossfire, former Attorney General **William Barr** and, in New York, Democratic Congressman Charles Rangel.

LYNNE CHENEY: Good evening, and welcome to Crossfire Sunday.

So much is happening in Washington these days that many Americans didn't even notice when Congress voted to maintain federal penalties that punish crack dealers much more harshly than those who push powder cocaine. But one group that may have been watching was the prison population.

[voice-over] Within 24 hours of the congressional vote, there was prison unrest in a number of states, including Alabama, Tennessee, Pennsylvania and Illinois, and according to some, including Louis Farrakhan, Jesse Jackson and Representative Maxine Waters of the Congressional Black Caucus, the disturbances were a protest over the congressional vote. The harsher penalties for crack unfairly impact the black population, they say, and, in the interest of racial justice, need to be reduced. Those who

support the harsher penalties - and this includes not only the overwhelming majority of the Congress but Attorney General Janet Reno - argue that crack is uniquely harmful because of the violent crime and social disruption it causes.

[on camera] Was justice done in the recent congressional vote, or does justice demand a change?

Bob.

BOB BECKEL: You know my answer to that.

Bill Barr, two real cases I'm going to refer to here. Black- young, black man, 23 years old, sells 26 grams of crack cocaine. He gets 14 years mandatory. A white guy, 26 years old, sells 30 grams of powder cocaine, he gets three years. That isn't equal justice, not in the country I grew up in.

WILLIAM BARR, Former Attorney General: Well, I think it is equal justice. The penalties on crack cocaine are there because crack cocaine, while it is a similar drug drawn from the same base, is really a different drug in terms of its impact. It's cheap. It's the drug of choice of juveniles. It's associated with violence. It's associated with the decomposition of families, crack babies, spousal abuse, child abuse. As you know, in 1985, all these social indices just went off the charts. It had a catastrophic impact, and so I think a stiffer penalty for crack cocaine is warranted. Moreover, we're not talking about penalties for people who merely possess drugs. We're talking about penalties against the people involved in dealing these drugs.

BOB BECKEL: OK, but let me follow up on that. The U.S. Sentencing Commission did a study of drug cases last year. A hundred and forty-six cases. Eight were high-level pushers that got sent to federal prison. Ninety-three were either street sellers, lookers or couriers. Now those 93- they got harsher crimes than wholesale distributors of powder cocaine. Now that just is not fair. That doesn't add up. You're not getting the people- the big supplier. You're taking these kids who are couriers on the street, and they're getting the same time as some white dude down in Miami who's sending pounds of drugs into Washington every day.

WILLIAM BARR: Well, that's simply not true. We're- the people involved in crime that are sent to federal prison are major distributors. The average crack offender in federal prison was caught with over 109 grams of crack, was in possession of a weapon and has a long criminal history record. Crack is, by and large, distributed by gangs in the United States, street gangs like the Crips [sp?] and the Bloods, and these individuals you cite were probably gang members who had long criminal history records. These are not first-time offenders. In fact, the statute specifically provides a safety valve for first-time offenders.

BOB BECKEL: Lynne.

LYNNE CHENEY: Congressman Rangel, my friend, Bob, wanted to talk about some real-life examples, and I have some for you. A teacher came up to me in Chicago a week or so ago and told me what it's like to try to teach in a classroom where there are crack babies. Crack kindergarteners they are now. These poor, little kids can hardly learn themselves. They can't control their violent impulses. They can't sit still at a desk. Not only are they not learning themselves, they're disrupting the atmosphere in the classroom so no one can learn. This is kind of a microcosm, it seems to me, for the severe damage that crack is wreaking, not only to individuals but to society. I am just surprised, knowing that you are interested in having our society be one that functions well, that you would want to lessen penalties for crack when it is such a uniquely harmful drug. How can you explain that?

Rep. CHARLES RANGEL, (D-NY): It's not unusual, Lynne, that you would not know my position on important issues. As a matter of fact, as a former federal prosecutor, I have never advocated lowering the sentences for any drug pushers. What we are talking about is the disparity in sentences, and I think Bill said we were talking about distribution and sales. No. We're talking about possession as well as distribution and sales. I really believe that, if we want to get at the problem that you're talking about, Lynne, that what we have to do is improve our schools, make certain we have job opportunities, and not concentrate on going into these communities that you're talking about and giving a longer sentence to younger people so that one out of every three black youngsters that's male are going to end up in jail one way or the other.

LYNNE CHENEY: But, Congressman-

Rep. CHARLES RANGEL: So if you want to get out of it, if you wanted to increase the sentences, I'm saying don't have one scale for white kids and another scale for black kids.

LYNNE CHENEY: That is so annoying when you consistently put any difference, any population difference, any representation of the population differences in terms of- in racial terms.

Rep. CHARLES RANGEL: Well, let's look at the facts. Ninety percent of those that have been charged with violating the crack law are black.

LYNNE CHENEY: But, Charlie, don't-

Rep. CHARLES RANGEL: Less than 3 percent are white.

LYNNE CHENEY: Charlie, why-

Rep. CHARLES RANGEL: Now what do you want to do?

LYNNE CHENEY: Charlie, let's explain this perhaps by saying that more people who are involved in crack are black than white.

BOB BECKEL: That's wrong. That's just plain wrong.

Rep. CHARLES RANGEL: Well, let's-

BOB BECKEL: Listen, the- HHS- the federal government- 2.5 million-

LYNNE CHENEY: No, no, no, no, no.

BOB BECKEL: -known crack users are white. One million are black.

LYNNE CHENEY: Wait a minute. You're talking about people on-

BOB BECKEL: That is-

WILLIAM BARR: Wait a minute, Bob. You're mixing-

BOB BECKEL: -because you're not chasing rich, white kids in the suburbs. That's why.

WILLIAM BARR: No, no, no. You're mixing apples and oranges.

LYNNE CHENEY: Apples and oranges.

WILLIAM BARR: For one thing-

Rep. CHARLES RANGEL: It is not! It's cocaine.

WILLIAM BARR: Charlie, first, if you're interested in parity, then why don't you agree that we should maybe raise the penalties for powder cocaine rather than lower the penalties for crack? But I want to say something-

Rep. CHARLES RANGEL: First of all- let me answer that.

WILLIAM BARR: Wait. Charlie, let me finish.

BOB BECKEL: Hold on. Let him-

Rep. CHARLES RANGEL: You just asked me a question.

WILLIAM BARR: I want to address the parity.

Rep. CHARLES RANGEL: If we're talking about a level playing field, that's one issue, and that has not been raised. I'm saying that you're targeting poor, black communities, and the results are there in the jails-

WILLIAM BARR: Charlie-

Rep. CHARLES RANGEL: -and that's a fact.

WILLIAM BARR: -let me discuss this issue of parity. Number one, the issue is not who uses crack, although blacks disproportionately use crack based on all evidence, including emergency room admissions which are 56 percent black-

Rep. CHARLES RANGEL: And the answer is to put them in jail?

WILLIAM BARR: -but the issue is who distributes crack cocaine, and I think it's very hard to find a white distributor of crack cocaine. The fact is blacks distribute crack cocaine. Now-

Rep. CHARLES RANGEL: Now why do pass over the possession?

WILLIAM BARR: -in terms of disparity, Charlie-

Rep. CHARLES RANGEL: Why do you pass over the possession?

WILLIAM BARR: In terms of disparity, LSD offenses - and it only takes 1 gram of LSD to get a 10-year mandatory minimum - mostly all whites. In terms of cocaine, disproportionately impacts Colombians. In terms of methamphetamine-

BOB BECKEL: Bill-

WILLIAM BARR: -disproportionately white.

BOB BECKEL: Bill- Bill- Bill, look, let's go back to possession for a second because you don't seem to want to answer that. Chevy Chase, Maryland, is full of powder cocaine, and rich kids- lawyers' kids use

it, and the cops don't bother them. You go into these jails around here, and look who's in there for possession. They are black kids who are being followed by cops. Why not let the cops go out- and this is-

WILLIAM BARR: You're talking about two different-

BOB BECKEL: No, I'm not!

WILLIAM BARR: Bob, you find me-

BOB BECKEL: What I'm saying is-

WILLIAM BARR: Bob-

BOB BECKEL: -the reason you won't raise- you can't raise mandatory minimums on cocaine use is there are a lot of lawyers and professionals out there that use it every day, and you couldn't possibly put them in jail for 10 years mandatory. You couldn't stand the political heat. So go in the ghetto, and take these kids-

WILLIAM BARR: It has nothing to do-

BOB BECKEL: -and-

WILLIAM BARR: Bob, it has nothing-

BOB BECKEL: Wait. Why-

LYNNE CHENEY: That's ridiculous.

BOB BECKEL: Wait. How do you get away with saying it's ridiculous? You don't believe these suburbs are full of drug users who are professional people?

WILLIAM BARR: The issue isn't drug users, Bob.

BOB BECKEL: It isn't?

WILLIAM BARR: You find me a drug user in federal prison, not states, not-

BOB BECKEL: OK. OK.

WILLIAM BARR: You find me someone in federal prison who's there for mere possession.

Rep. CHARLES RANGEL: You know-

WILLIAM BARR: There aren't any. There were 3,400 convictions.

Rep. CHARLES RANGEL: You know-

WILLIAM BARR: There were 3,400 convictions on crack cocaine cases in the federal system last year. Of those, 51 were under 21, not in possession of a gun, possessed less than 50 grams and did not have serious criminal history records.

Rep. CHARLES RANGEL: Could I say something, please?

BOB BECKEL: Go ahead, Charlie.

Rep. CHARLES RANGEL: If you look and see who they're targeting here- you just find the poorest of the communities with the worst schools with the highest unemployment, and you will find crack in these communities. They're black, and they are minority communities. These are the communities that we're willing to spend $20,000 and $30,000 and $40,000 a year to lock them up in jail, and you would not find anyone in the Congress that's advocating support for these insane disparities talking about improving the system. If you take a look at the jails- and it's no sense being awkward about the fact that they're black and Hispanic- if you take a look, you would see that these blacks and Hispanics are unemployable. You would find that they're jobless and they're hopeless. If you take a look at the same black and Hispanic community where they finished school, where they have job training, where they are working, you will find they're not out there doing drugs, doing crime and irresponsibly making babies, and so our answer to the whole problem is to jail them. Them are not in the suburbs. Them are not in the colleges.

LYNNE CHENEY: Charlie, let me just stop you for a second.

Rep. CHARLES RANGEL: Them are in the poor, urban communities.

LYNNE CHENEY: You're going on on so many different issues here. You and I totally agree-

Rep. CHARLES RANGEL: It's one issue. Who ends up in the jails?

LYNNE CHENEY: You and I are totally in agreement that we need to do something about the education system in our whole country, not just in the inner city, that we need to do something about jobs in the whole country, not just in the inner city. Where you and I disagree fundamentally and where I think you

are not helpful to this debate is when you attribute racist motivation to a sentencing system that ends up putting more black people in jail than white people.

Rep. CHARLES RANGEL: Lynne, you don't know-

LYNNE CHENEY: That is not unjust, Charlie, because more black people are committing the crime.

Rep. CHARLES RANGEL: Lynne, you don't know what it feels like to be a black male-

LYNNE CHENEY: This is true.

Rep. CHARLES RANGEL: -and to be a father and to know that, just because you're black, just because you're male, that when you're born, chances are one out of three is going to end up in jail, and that's just when you're born. Now-

LYNNE CHENEY: Charlie-

Rep. CHARLES RANGEL: -you can call it what you want, but if you check the jails and see who's in there, check the joblessness and see where it is, check the laws where you see- where it's a hundred times more-

LYNNE CHENEY: Charlie, you and I agree on that-

Rep. CHARLES RANGEL: It's unfair.

LYNNE CHENEY: -but where we don't agree is whether the system is racist and, Charlie, it isn't.

Rep. CHARLES RANGEL: Well, if the conclusion is racist, Lynne, what would you do about it? If you agree that the conclusion ends that way, that it never was intended that way, that they didn't care who was using it, it just turned out to be blacks, and why are blacks so overproportionately in the jails over crack, what would you suggest we do, Lynne? I-

BOB BECKEL: I'm going to suggest we-

Rep. CHARLES RANGEL: I ask the Attorney General, too, you know.

BOB BECKEL: Charlie, I'm going to have to suggest we take a break. The U.S. Sentencing Commission has recommended that Congress level these sentences. The Congress has said no. The question is will Bill Clinton go along with Congress or not, when we come back.

Rep. ED BRYANT, (R-TN): Blacks are not in jail because the system treats them any differently than anybody else. These blacks in jail are there because they were dealing one of America's most dangerous drugs that's plaguing our society.

Rep. KWEISI MFUME, (D-MD): Don't say to black people in this country, 'You deserve to go to jail for something that white people don't go to jail for.' It is unfair. It is outrageous. It is despicable.

[Commercial break]

BOB BECKEL: Welcome back to Crossfire Sunday.

Blacks use crack cocaine in greater numbers than whites, who use mostly powder cocaine and, therefore, blacks are serving much longer sentences than whites for use of the same drug. Is this equal justice?

We're talking about this with our guests, former Attorney General **William Barr** and, in New York, Democratic Congressman Charlie Rangel.

Lynne.

LYNNE CHENEY: You know, Congressman, when the Congress voted recently not to follow the Sentencing Commission's recommendations, they were really doing what the chief judge of the District of Columbia, what the D.C. police chief, what the attorney- the federal attorney for the District wanted to do. All three testified about how crack has devastated the nation's capital, and all three said don't lower penalties. It seems to me that the black community should be applauding the Congress for not lowering these penalties. Don't you agree?

Rep. CHARLES RANGEL: Lynne, there's a commission that the Congress created to study these things and to evaluate it, and most all of the witnesses that they called said that these sentences were not reducing the use of crack, they were certainly not reducing the distribution of crack, and they suggested that the disparity in sentences was cruel and unfair. The Congress, in a very political way, rejected the commission, and so what I'm saying is that you can pick two or three people, like Bill Barr, that would believe that the best way to deal with social economic problems is to leave them alone where drugs are the only way to-

LYNNE CHENEY: That's not fair.

WILLIAM BARR: Hey, wait a minute.

Rep. CHARLES RANGEL: [crosstalk] -and then you go lock them up. If you say it's unfair, why hasn't anyone started to talk about what do you do in lieu of just locking them up and throwing away the key?

LYNNE CHENEY: I think we should let Bill Barr respond.

Rep. CHARLES RANGEL: No one discusses-

BOB BECKEL: Go ahead, Bill. Go ahead.

WILLIAM BARR: Charlie, that's- as you know, that's unfair because, you know, when I was Attorney General, you applauded me for the weed and seed program which tried to combine law enforcement-

Rep. CHARLES RANGEL: We worked that out together.

WILLIAM BARR: [crosstalk] -and that was kept by the Clinton administration, but I don't think it would be wise to pour money into the inner city unless the inner city's willing to take a stand against crack cocaine. But I want to make something very clear.

Rep. CHARLES RANGEL: Wait a minute. Something-

WILLIAM BARR: We're not talking about penalties that are a hundred times greater. What we're talking about is the amount of the drug-

Rep. CHARLES RANGEL: We're talking about the amount.

WILLIAM BARR: -the amount of drug necessary to trigger stiff penalties, and crack cocaine is very potent. It's 20 times more potent than powder cocaine, and it's trafficked in very small amounts, five grams, and powder cocaine is trafficked in larger amounts, and it's not as potent, and throughout the drug laws, those distinctions are made and used as the basis of different penalties. The only reason-

Rep. CHARLES RANGEL: Well, is that used for heroin?

WILLIAM BARR: The only reason crack was targeted in 1986, as you well know, was not because of racist attitudes. It was precisely because the black community was screaming bloody murder because the crack epidemic hit, and the rhetoric at that time was that the whites didn't care enough about the blacks and were part of a conspiracy to destroy the black community because we were not enforcing the drug laws.

BOB BECKEL: Bill-

Rep. CHARLES RANGEL: Are you telling me, Bill-

BOB BECKEL: Let me ask Bill a question here. Is this bipartisan-

Rep. CHARLES RANGEL: Bill, are you telling me that the black community thought that they-

BOB BECKEL: Hey, Charlie, let me just ask a question for a second. This bipartisanship that you were talking about-

Rep. CHARLES RANGEL: It's unfair to say the black community advocated this policy.

WILLIAM BARR: I'll tell you right now today I have not met any mother in a project who has to send their kids out through the gauntlet of drug peddlers who want to reduce the sentences on crack. Most of the people- blacks I see advocating reducing the sentences on crack are people whose children don't have to live with the consequences.

Rep. CHARLES RANGEL: You keep talking about reduction. First of all, I think you're misstating the facts when over and over you say you're talking about distribution and sales when you know possession gets you this sentence, you can just have it in your possession, and two-

WILLIAM BARR: Find me just one in the federal system, Charlie.

Rep. CHARLES RANGEL: Well, I'm talking about the law, and you know I'm talking about the law, Bill.

WILLIAM BARR: Well, find me someone who's been prosecuted for just possession.

Rep. CHARLES RANGEL: Well, find some of- why don't you find some of the white crack dealers in the prison when- you only find 3 percent of them white.

BOB BECKEL: OK. Can I ask Bill Barr- let me-

Rep. CHARLES RANGEL: Aren't the white parents concerned, too?

BOB BECKEL: Let me ask you a question. This is a bipartisan commission that was set up by Congress, including the Attorney General of the United States on that commission. These are not softies on crime, and yet unanimously, except for the Attorney General, as I understand, they recommended evening out these sentences. Now what do you know that they don't know?

WILLIAM BARR: It was a 4-to-3 vote.

BOB BECKEL: OK, but, nonetheless, they voted for it, right? That's a democracy.

WILLIAM BARR: It was a 4-to-3 vote.

BOB BECKEL: Well- so what do you think that those four people know that you- you know that they don't know?

WILLIAM BARR: Well, first, I- they want to go to a one-to-one relationship, and I think the crux of their problem is they want to reduce the penalties for crack to meaningless penalties, and I would- if parity is the issue, then you should raise the penalties for powder cocaine. I think a very critical point here is this, that penalties for cocaine - powder - were set before the crack epidemic, and half a kilo was a reasonable amount to catch the people who were trafficking in powder cocaine. Then the crack epidemic came, and I think Congress had a reasonable response to stamp out this cancer, but if you want to punish powder on the theory that it is ultimately used for crack and, therefore, should bear some of the responsibility, then you should raise the penalty on powder, not-

BOB BECKEL: OK. I-

WILLIAM BARR: -reduce it for crack.

BOB BECKEL: That makes a lot of sense, but, you know, you kept saying- Charlie said where are the white crack distributors. Well, where they are are the whites who bring in big bulk of powder cocaine that becomes crack. So you can't separate out- blacks are the only ones who distribute crack cocaine. They get it from a lot of white-

WILLIAM BARR: Bob, believe- and when the white distributor or the Colombian distributor distributes powder cocaine, believe me, he doesn't do it in five-gram amounts.

BOB BECKEL: Right. I agree.

WILLIAM BARR: He comes in with bricks of- kilos. That's why the law is directed at larger amounts, but - I don't care - raise the penalties for powder.

LYNNE CHENEY: Well, let me ask Charlie a question about the politics of this, Bill, if you don't mind. Do you think there's any realistic chance that President Clinton will veto what the Congress did? Janet Reno's on record saying that the congressional action was the one that they should have taken. She thinks that the disparity is perfectly justified. You cast a very lonely vote when you voted to go with the

Sentencing Commission's recommendations because 332 members of Congress voted to keep the harsher penalties in place. The politics of it are against you, aren't you?

Rep. CHARLES RANGEL: Yes. First of all, the Attorney General's position is not clear. She believes that there should be some changes in the law as relates to just possession and that that should be less, not one-to-one, but she believes that the disparity's too great. She has not been very outspoken in what her position is publicly. The second thing is I do hope that President Clinton has the political courage to strike this down and to veto it because it is clear that this Congress is not even thinking about reducing any sentences be- no matter how unfair it is because of the politics of it all. I would hurriedly add, too - and this should raise an eyebrow - that one of the growing businesses that we have in this country is the prison business, and it's expanding, and it's growing on the local and state level, and they do have a lobbying group in the State of New York. Make no mistakes about it.

BOB BECKEL: Charlie, let me ask Bill Barr to reply on that point. There are- these prisons are overcrowded. Lots and lots of people in there for drug use. You're seeing these disturbances in federal prisons. Doesn't it worry you that it seems that prison seems to be the only real answer to this right now and that, ultimately, has got to lead to overcrowding and an explosion?

WILLIAM BARR: Prison is not the only answer, but you can't have an answer at all unless you have a strong criminal-justice system. No country has reduced drug demand or anything else unless it has a very strong, zero-tolerance policy on drugs, and if we abandon it, there's going to be no hope for the black community because these drug penalties you're talking about for crack are meaningless. No one distributes crack cocaine in amounts of 500 grams. It's ridiculous. It would be giving carte blanche-

LYNNE CHENEY: That-

WILLIAM BARR: -to the drug dealers.

LYNNE CHENEY: That has to be our last word. Thank you very much for being with us, Bill Barr. Thank you very much, Congressman Rangel. Bob and I will be back in a minute and straighten this all out.

[Commercial break]

BOB BECKEL: You know, it doesn't look like equal justice, Lynne, because it's not equal justice. The fact of the matter is that black kids are being pursued in the ghetto relentlessly by police, but in the suburbs, it's go easy, take it easy, turn your back on it. We don't mind seeing black kids because we expect them to be in jail-

LYNNE CHENEY: Bob- Bob-

BOB BECKEL: -but not in the white suburbs.

LYNNE CHENEY: Crack is worse than powder cocaine. It causes all sorts of social disruption and violence that powder cocaine doesn't, but maybe we can agree on something. Let's equalize the situation a little more, but let's not do it by dropping penalties for crack. Let's raise the penalties for powder.

BOB BECKEL: OK. I'm for doing that as long as the pursuit is equal, too.

From the left, I'm Bob Beckel. Good night for Crossfire Sunday.

LYNNE CHENEY: And from the right, I'm Lynne Cheney. Join us again same time next week for Crossfire Sunday, and tune in tomorrow night for another edition of Crossfire, 7:30 p.m. Eastern.

The preceding text has been professionally transcribed. However, although the text has been checked against an audio track, in order to meet rigid distribution and transmission deadlines, it has not yet been proofread against videotape.

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SENTENCING STUDY SEES RACE DISPARITY

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EC MO DE NA

Nearly one in three African American men in their 20s is in jail, prison, on probation or parole -- a sharp increase over the approximately 25% of five years ago, a study concluded Wednesday.

The Sentencing Project, an organization critical of stiffer sentencing policies and the "war on drugs," also found that African American women in their 20s showed the greatest jump of all demographic groups under criminal justice supervision -- up 78% from 1989 to 1994.

African Americans and Latinos were found to constitute nearly 90% of offenders sentenced to state prison for drug possession.

"Public policies ostensibly designed to control crime and drug abuse have in many respects contributed to the growing racial disparity in the criminal justice system, while having little impact on the problems they were aimed to address," the study said.

"If one in three young white men were under criminal justice supervision, the nation would declare a national emergency," said Marc Mauer, assistant director of the Sentencing Project and co-author of the study. "The devastating impact of these policies demands no less a national response because it primarily affects the African American community."

The reaction of the Clinton Administration to the findings was mixed, with Lee P. Brown, director of White House Office of National Drug Control Policy, hailing the study's conclusion about young black males and its recommendation for expanded drug treatment and prevention, rather than focusing largely on law enforcement, as "exactly right."

The Justice Department, however, questioned the report's suggestion "that drug enforcement policies are the most important factor in the rise in minority criminal justice populations."

The department said the report's conclusions "are a troubling reflection of the terrible impact of crime on our minority communities." Social and economic factors, including poverty, family breakdown and poor educational and economic opportunities, contribute to the situation, the department added.

The report, written before a jury's acquittal Tuesday of O.J. Simpson, said:

"Regardless of where one stands on his guilt or innocence, what is clear is that a wealthy and famous African American was able to assemble a very formidable defense. This is contrasted with the typical scene in almost every courthouse in cities across the country, where young African American and Hispanic males are daily processed through the justice system with very limited resources devoted to their cases."

Factors contributing to the increase in young black males and females becoming involved in the criminal justice system include "the continuing disproportionate impact of the 'war on drugs' on minority populations, the new wave of 'get tough' sentencing policies . . . (and) the continuing difficult circumstances of life for many young people living in low-income urban areas in particular," the report said.

In estimating that 827,440 black males from ages 20 to 29, or 32.2% of that population, are under criminal justice control on any given day in 1995, the study calculated the current total on the basis of the annual rate of increase for criminal justice populations from 1989 to 1994.

The report estimated that the criminal justice system spent about $6 billion a year supervising black males in their 20s.

The study, citing difficulties in obtaining accurate data on Latinos, said it is not certain "of the extent by which this population increased within the criminal justice system." Imprisonment statistics for Latinos "indicate that the proportion of Hispanic inmates in state and federal prisons has doubled since 1980."

The 78% jump in black women in their 20s in jail, prison or on probation or parole for crimes reflected the "enormous increase in the numbers of black women" imprisoned for drug offenses, according to the study. In the five-year period ending in 1991, the number of black, non-Latino women in state prisons for drug offenses increased from 667 to 6,193.

"This 828% increase was nearly double the increase for black non-Hispanic males and more than triple the increase for white non-Hispanic females," the report said. Citing "much research," the study said that with the exception of drug law enforcement, "race plays a relatively minor role in sentencing and incarceration."

Former Atty. Gen. **William P. Barr**, who testified on racial disparities in the criminal justice system during the George Bush Administration, said Wednesday that "there's no statistical evidence of racism in the criminal justice system. The data I have seen shows that if a black and a white commit a crime, they are just as likely to be convicted and ultimately incarcerated."

The Sentencing Project report cited "increasing evidence that the set of policies and practices contained within the phrase 'war on drugs' has been an unmitigated disaster for young blacks and other minorities."

The study faulted the media for oversimplifying the "evidence of young black men engaging in murder and mayhem."

For 1993, African American males and females constituted 45.7% of all arrests for violent crime. "While clearly disturbing and very disproportionate to the overall percentage of blacks in the population, it is nonetheless clear that the majority of arrestees for violent offenses are white," the study said.

"The proportion of overall violent crime attributed to African Americans has not changed appreciably over time, but has fluctuated with a narrow range of 44%-47% of all violent crime for the past 20 years," the report said.

"What has changed in recent years is the age composition of those males engaged in violent crime, particularly with a substantial and disturbing increase in the murder rate of young black men since the mid-1980s."

The Sentencing Project urged policies that would begin to "reverse the dramatic trends documented in the study without endangering public safety."

These policies would include shifting anti-drug spending priorities to emphasize prevention and treatment rather than law enforcement by using drug courts and offering treatment in prisons; creating more sentencing options for nonviolent drug and property offenders; and eliminating mandatory sentencing and other sentencing policies that the study said have had a disproportionate impact on women and minorities.

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ATTORNEYS WHO COME IN-HOUSE FROM THE COLD

Saundra Torry

Former attorney general Bill Barr, now the top lawyer at telecommunications giant GTE Corp., was stunned at the response to his announcement last month that he had snared two partners from major law firms to join him in-house at GTE.

In the following few weeks, Barr got resumes from five former Supreme Court law clerks now in private practice at big firms, all looking to switch to the corporate world. "I am bowled over by the number of people wanting to come in-house," Barr said. "I could staff the entire office" with Supreme Court law clerks.

Wave goodbye to the days when partners at major firms sneered at in-house corporate legal departments as being the second string. These days, many corporate law departments are considered first class. Onetime partners from top-echelon firms in Washington and beyond often head these offices and talented younger partners are vying for jobs as their lieutenants.

The trend is fueled from two directions.

Partnership at major firms has turned into a rat race -- with less lawyering and more marketing, with constant pressure to hustle business and bill more hours. Senior partners, who once were the worldly counselors to CEOs, now often find themselves answering to in-house lawyers on narrow, mundane projects or bickering over some picayune portion of their bills. Former Morrison & Foerster chairman Carl Leonard, who moved from the San Francisco firm this year to legal consulting, put it bluntly: "Life inside law firms ain't so much fun anymore."

Meanwhile, general counsel's offices, as in-house legal departments are known, have become far more attractive. With prominent lawyers in charge and increasing pressure to trim legal costs, they keep much of the fascinating legal work in-house. The general counsels and their lieutenants often make more money than they did at firms, and better yet, they get to issue orders to the law firm partners who once reigned supreme. How's that for an eye-opening turnabout?

Suddenly, when headhunters phone to woo partners from their law firm perches, the partners are returning the calls.

Just witness the big-name lawyers from the District and elsewhere who have made the jump in the past year. Kirkland & Ellis's Thomas Gottschalk, the biggest gun in the firm's D.C. office, left to take the top legal job at General Motors Corp.; Barr left his partnership at D.C.'s Shaw, Pittman, Potts & Trowbridge to become GTE's senior vice president and

general counsel; and Joseph Ryan, managing partner of giant O'Melveny & Myers in Los Angeles, came east to head the legal department at Bethesda-based Marriott International Inc.

While Ryan and others interviewed would not disclose their salaries, corporate filings indicate that their jobs are quite lucrative.

According to Marriott's proxy statement, Ryan's predecessor, Sterling D. Colton, who also was Marriott's vice chair, received $321,000 in salary in 1994 and more than $195,000 in bonus and was awarded potentially lucrative stock options that year.

At Fortune 100 companies, the compensation for general counsel ranges from $450,000 to $750,000 in cash and, with stock awards, could exceed $1 million a year, said Beth Green Olesky of Russell Reynolds Associates, one of the nation's top executive recruiting firms. "The scales fell from the eyes of some partners" when they saw how wrong their assumptions were that in-house counsel were poorly paid, she added.

Benjamin Heinemen, a Washington super-lawyer with Sidley & Austin, became one of the path breakers in 1987 when he took the top legal job at General Electric Corp. Zoe Baird, President Clinton's first nominee for attorney general, was already at GE's legal shop, having left a Washington partnership at O'Melveny to go in-house. Baird has since moved on to the top legal job at Aetna Life & Casualty, while Heinemen has lured more than a half-dozen other bright Washington lights to join him as top lieutenants. Now that trend is broadening.

Not only are more companies seeking "big-time partners to be general counsel," said Heinemen, but they are also wooing younger partners "to head special functions," such as litigation, tax and finance or antitrust.

Barr, for instance, recently recruited J. Goodwin "Win" Bennett from Dewey Ballantine's D.C. office to handle mergers and acquisitions at GTE, and Peter Lieb, of Jones, Day, Reavis & Pogue's New York office, to focus on litigation.

Practically every in-house convert echoed this thought: Corporate work thrusts them into the thick of a broad sweep of business issues.

"To me, the sizzle was not just the counseling part," but a "high degree of participation" in nonlegal issues, questions such as, "Should we make this investment?" or "Should we buy the Ritz-Carltons?" said Marriott's Ryan, who wanted a chance to put his business acumen to work.

Barr said he turned down an offer for more money from a corporation in "a more pedestrian business" because he wanted the opportunity "to get into the technological, fast-moving, cutting-edge business" at GTE.

Several of these freshly minted in-house lawyers also noted that the urge to move on struck as the phrase "retirement savings" started to mean more to them. "A 42-year-old doesn't think {about} that," Ryan said. "But a 54-year-old says, Wait a minute here.' "

"At a firm, it's always what you make, minus" contributions to a health plan, life insurance and pension, said Kirkland's Paul Cappuccio, who has watched friends such as Gottschalk and Barr go in-house. "But at a corporation, it's what you make, plus" health and pension benefits, stock and stock options, he added.

Stock offers a way to build equity -- something that doesn't happen in a law firm.

Maryellen Cattani, who has twice been a law firm partner and twice a general counsel, said when she moved from a corporation to San Francisco's Morrison & Foerster in 1989, she found private practice frustrating. Collegiality and pure law had lost out to competition among partners and hustling for business, she said.

She also felt an "inherent conflict" between the large number of billable hours that law firms want and the cost-effective legal advice that corporations demand. She wanted to control costs, she said, but that "met with unhappiness" at the law firm, "where the name of the game was revenues."

She soon moved back out to take the top legal job and sit on the executive committee of American President Cos. Ltd., a huge shipping corporation in Oakland.

But Cattani and others cautioned that a lawyer trades law firm frustrations for another set of challenges and risks by going in-house.

The hours can be just as long, and instead of being an outside adviser, an in-house lawyer often must tell colleagues and even superiors that they can't do something they want to do.

The biggest risk, Barr said, is that you have one client to satisfy -- the corporation's chairman. "They are right there in your office, and you can't say, I'll get back to you later,' " Barr added. "You are frequently on the spot."

All in all, though, in-house still looks pretty good to those on the outside. Bennett, who started at GTE last Wednesday, said he got plenty of congratulations from law-firm colleagues, and, he added, "I think deep down a few people . . . are jealous." Making New Friends

The Association of Trial Lawyers of America (ATLA), long known for its Democratic ties, is raising the GOP flag at its convention next week.

"Please join us for a reception honoring Republican Defenders of the Civil Justice System," says the invitation to a New York Hilton bash July 17 for seven GOP senators and six House members.

ATLA's Linda Lipsen says the 13 lawmakers aren't expected to attend because Congress will be in session that night. "But we'll be . . . talking about what a great job they did," she promised.

Bills capping punitive damages passed the House and Senate, and are now are headed for a conference committee. But ATLA's Senate "defenders" did manage to modify the far-reaching House version.

Victor Schwartz, who lobbies for ATLA's corporate opponents, wished them well: "I am pleased that ATLA can save some money, for in this case they would only need a very small room."

Said Lipsen: "We have a lot of Republican trial lawyers that want to attend." * CAPTION: GOING CORPORATE Bill Barr Current job: Senior vice president and general counsel, GTE Corp., Stamford, Conn. Former job: Partner, Shaw, Pittman, Potts & Trowbridge, D.C. Maryellen Cattani Current job: Executive vice president and general counsel American President Cos. Ltd., Oakland Former job: Partner, Morrison & Foerster, San Francisco Joseph Ryan Current job: Executive vice president and general counsel, Marriott International Inc., Bethesda Former job: Managing partner, O'Melveny & Myers, Los Angeles with fewer and less expensive employees. Most part-timers do not receive benefits, such as health care, and because they are assigned to less than full-time shifts they can be brought into the branch only when they are needed to serve customers. In the past, tellers would work a full eight-hour shift, so banks would pay employees to be available -- even if there were no customers. Other Industries Transformed

Banks also are trying to increase the efficiency of their branches through acquisitions. The industry is consolidating in order to push more customers through its existing branches, taking advantage of economies of scale.

Similar transformations are underway in other service industries, particularly the airlines, where major carriers are experimenting with shifts to part-time work to meet peak demand needs without paying employees for slack periods. Delta and other airlines are also counting on new technology to eliminate the paper ticket as the first step toward cutting thousands of jobs in the industry. Without the ticket, airline passengers will have little need to deal with a human until they reach the departure gate.

Historically labor-intensive services can now be provided by machines. Perhaps nowhere is this more evident than in telecommunications, where voice mail is eliminating the need for telephone operators and even secretaries.

But banks cannot eliminate the human element completely. They must keep enough branches open to retain their customer base, because customers are apt to go to the competition if finding a branch is too difficult. Therefore, banks have to bring down the costs of existing branches, rather than just closing them.

"Let's say we have a branch, and 1,000 people go to the branch," Citizens' Springer said. "Now let's say we add an ATM, and 500 people go to the ATM. And now you have to maintain a branch for 500 people, with the same staffing. You really can't eliminate one or the other."

Matilda Weiner, a secretary in downtown Washington, illustrates the problem. "I just use {the ATM} for taking money out," she said while waiting in line to withdraw cash from a NationsBank ATM on 15th Street. "If I make a deposit, I want someone to put their hands on it."

One contrarian is Taylor Burke Jr., chairman and chief executive of Burke and Herbert Bank and Trust Co., an Alexandria bank with 12 branches in Virginia, which refuses to change its old-fashioned, customer-friendly ways. "You've got to have human tellers," Burke said. Other financial institutions' emphasis on technology has provided the small bank, which has $560 million in assets, with a new sales pitch: "We don't give them any of this stuff," Burke said, because his customers don't care about high-tech banking.

"We were practically the last bank in America to start using a computer, so maybe someday we'll have to" offer more services electronically, said Burke, who pointed out that the bank has ATMs at its branches, too. "But not in the foreseeable future." Branches are far from dead, bank executives emphasized, because too many people still prefer to have that access available. "There are always customers that will want face-to-face" banking, Crestar's Ragan said.

"If you could get people to be comfortable with a non-branch delivery mechanism, then you could get rid of that whole fixed overhead structure," Citizens' Springer said, but most customers want to be able to use branches sometimes and high-tech alternatives at other times. "Most people want the best of all possible worlds," he said. * CAPTION: PEOPLE VS. MACHINES What it costs the banks for large bank in-house operations Teller transaction with customer

$.90 - $1.15 ATM cash withdrawal on in-house ATM

.22 - .28 ATM cash withdrawal on networked machine .50 - .65 ATM deposit transaction

.50 - 1.25 Telephone banking (automated response) .20 - .35 Telephone banking (through bank employee)2.00 - 2.25 Number of ATMs installed annually (This chart was not available) Monthly customer ATM transactions (This chart was not available) SOURCES: Mentis Corp., Bank Network News CAPTION: Bank crowds typically peak at lunchtime, such as at this Crestar branch at 20th and K NW. CAPTION: Citizens Bank CEO Jeff Springer says he admires ATMs'

"peopleless" ability to cut costs. CAPTION: Many financial institutions are looking for ways to push customers out of the bank lobby to the money-saving automated teller machines.

---- Index References ----

Company: BANK OF PROTECTION (THE); TRUST CO (THE); BANK DER OESTERREICHISCHEN POSTSPARKASSE AG; TRUST COMPANY OF CONNECTICUT; CITIZENS BANK AND TRUST; GEOKINETICS EXPLORATION INC; MARRIOTT; ATM SPOLKA AKCYJNA; TRUST COMPANY OF THE OZARKS; CITIZENS BANK OF PENNSYLVANIA; CITIZENS BANK; TRAVELERS PROPERTY CASUALTY CORP; GENERAL ELECTRIC DO BRASIL LDA; CITIZENS BANK AND TRUST CO INC; ATM ELECTRONIC CORP; TRUST COMPANY FIDUCIARY SERVICES LTD; BANK NETWORK NEWS; VERIZON COMMUNICATIONS INC; GTE CORP; CITIZENS BANK OF CANADA; BANK OF WALTERBORO; BANK OF BELLEVILLE; CITIZENS BANK MINNESOTA; ATLA SRL; CITIZENS BANK THE; GTE DELAWARE LP; GENERAL ELECTRIC CO; CITIZENS BANK AND TRUST MS; CITIZENS BANK OF ROGERSVILLE; PARTNER REINSURANCE CO LTD; SODEXHO MARRIOTT SERVICES INC; GE TRANSPORTATION PARTS LLC; CITIZENS BANK OF SPENCER; AEGEAN BALTIC BANK SA; HOTEL PARIS CHAMPS ELYSEES SNC; MARRIOTT HOTELMANAGEMENT GMBH; ATM SERVICES SP ZOO; MARRIOT INVESTMENTS LTD; BANK OF BENNINGTON; GE GLOBAL ELECTRONIC CO LTD; CITIZENS BANK AND TRUST CO THE; BANK; TRUST COMPANY (RE SERVICES) LTD (THE); GE APPLIANCE CARIBBEAN AND CO; TRUST CO LTD (THE); CITIZENS BANK AND TRUST CO OF JACKSON; MARRIOTT INTERNATIONAL INC (SPAIN); CITIZENS BANK WEALTH MANAGEMENT NA; MARRIOTT INTERNATIONAL HOTELS INC ORGANIZACNI SLOZKA; AB BANK LIMITED; CITIZENS BANK AND TRUST CO; MARRIOTT DISTRIBUTION SERVICES INC; BANKEAST; CITIZENS BANK (INC); CITIZENS BANK OF FLORIDA; CITIZENS BANK OF NORTHERN KENTUCKY INC; GRAN TIERRA ENERGY INC; GTE INTERNETWORKING; AMERICAN PRESIDENT COS LTD; CITIZENS BANK AND SAVINGS CO; CITIZENS BANK AND TRUST OF GRAINGER COUNTY; MARRIOTT INTERNATIONAL INC; BANK FINSERVIS OAO; MOTORS LIQUIDATION CO

News Subject: (Legal (1LE33); Corporate Groups & Ownership (1XO09); Corporate & Business Law (1XO58); Corporate Legal Management (1XO33); Corporate Events (1CR05); Judicial (1JU36); Business Management (1BU42); Regulatory Affairs (1RE51))

Industry: (Banking (1BA20); Legal Services (1LE31); Financial Services Regulatory (1FI03); Accounting, Consulting & Legal Services (1AC73); Legal Services Regulatory (1LE16); Financial Services (1FI37))

Region: (U.S. Mid-Atlantic Region (1MI18); North America (1NO39); New York (1NE72); USA (1US73); Americas (1AM92); U.S. West Region (1WE46); California (1CA98))

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Other Indexing: (AETNA LIFE CASUALTY; AMERICAN PRESIDENT; AMERICAN PRESIDENT COS LTD; ASSOCIATION OF TRIAL LAWYERS; ATLA; ATM; ATTORNEYS; BANK; BANK NETWORK NEWS; BURKE; CITIZENS BANK; CIVIL JUSTICE SYSTEM; CONGRESS; COS LTD; DEWEY BALLANTINE; GE; GENERAL ELECTRIC CORP; GENERAL MOTORS CORP; GOP; GTE; GTE CORP; HERBERT BANK; HOUSE; HOUSE AND SENATE; MACHINES; MARRIOTT; MARRIOTT INTERNATIONAL INC; MENTIS CORP; MORRISON FOERSTER; NATIONSBANK ATM; PARTNER; REAVIS POGUE; RUSSELL REYNOLDS ASSOCIATES; SENATE; SUPREME COURT; TRUST CO) (ATMs; Baird; Barr; Benjamin Heinemen; Bennett; Beth Green Olesky; Bill Barr; Burke; Burke Jr.; C.; Carl Leonard; Cattani; Citizens; Citizens' Springer; Clinton; Collegiality; Crestar; Delta; Gottschalk; Heinemen; Historically; J. Goodwin; Jeff Springer; Joseph Ryan; Kirkland; Kirkland Ellis; Linda Lipsen; Lipsen; Marriott; Maryellen Cattani; Matilda Weiner; Onetime; Paul Cappuccio; Peter

Lieb; Potts Trowbridge; Republican Defenders; Ryan; Sterling D. Colton; Thomas Gottschalk; Victor Schwartz; Wave; Zoe Baird)

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June 2, 1995

Section: Washington

WASHINGTON TODAY: Big Changes in Store for Death Row Appeals?

LAURIE ASSEO

WASHINGTON

State death row inmates who challenge their convictions in federal court assert a right that has been called the "symbol and guardian of individual liberty."

Now, Republicans and Democrats seem ready to enact some fundamental changes in the way prisoners can exercise the right written into the Constitution 208 years ago.

Fed up with reports of inmates spending a decade or more on death row while pursuing various legal strategies, many Democrats are willing to limit the filing of such appeals.

Republicans support that, but they want to go even further by setting a new legal standard that would make it harder for such appeals to succeed.

The GOP proposal is "a sea change of a sort that withdraws 200-year-old rights," says Columbia University law professor James S. Liebman, an expert on the process known as habeas corpus.

The Constitution allows people who are in custody to challenge the legality of their confinement by seeking a writ of habeas corpus Latin for "you have the body."

That means death row prisoners and other state inmates whose convictions have been upheld by state appeals courts can go to federal court to argue that their rights were violated at trial.

It's known as the "Great Writ." In 1968, Chief Justice Earl Warren called the provision the guardian of individual liberty.

The scope of that appeal right has been narrowed in recent years by the Supreme Court. In 1991, the justices gave most inmates only one chance to file a federal appeal.

Senate Republicans would write a similar provision into federal law. Separate proposals by Senate and House Republicans would set a one-year time limit for filing federal appeals and less time if the state provided a lawyer for the state habeas appeal. They also would set strict time limits for federal courts to act on such appeals.

But the most far-reaching change might be the GOP proposals to require federal courts to defer to state court rulings on legal issues unless they are unreasonable.

That's the main issue on which Republicans part company with the Democrats. The Clinton administration and former Senate Judiciary Chairman Joseph Biden, D-Del., want time limits for filing appeals, coupled with incentives for states to provide adequate trial lawyers for poor defendants. But they don't want to curb the review power of federal judges.

Federal courts always have made their own independent decisions on issues of law in such cases.

Liebman says the Republicans' proposed standard would require a federal court to uphold an incorrect state ruling, so long as it was not unreasonable.

That could increase the chances of an innocent person being executed, according to lawyers who defend inmates. Stephen Bright, director of the Southern Center for Human Rights in Atlanta, says that deferring to decisions by elected state judges can bring too much political pressure on cases.

But Texas Attorney General Dan Morales, who backs the Senate Republicans' bill, says it's entirely proper for federal judges to defer to reasonable state court rulings. "Texas courts are fully capable of assuring that legitimate review is had," he says.

Morales wants to shorten the habeas appeal process to four years at most. After that the system begins losing its legitimacy, he contends.

Setting time limits for filing appeals would be a huge change in itself. There is no limit now, which means death row inmates can wait until an execution date has been set to file a habeas appeal.

The proposal would have less effect on prisoners who are not on

death row. They already have an incentive to file quickly in hopes of getting out of prison.

But a time limit would create one more chance for a mistake that could doom an inmate's appeal, no matter how valid it is otherwise.

Robert Morin, a Washington, D.C., criminal defense lawyer, says the process of reviewing death penalty appeals already appears to be speeding up because many legal issues have been resolved since the Supreme Court restored capital punishment in 1976.

Indeed, the number of executions has been rising since hitting double digits in 1984. There were 38 executions in 1993, 31 last year and 26 so far this year with 1995 not half over. There are more than 2,000 people on death row nationwide.

William P. Barr, attorney general for President Bush, says he tried to get revisions similar to the current GOP proposals through the Democratic Congress at the time, but would have been willing to compromise.

"In retrospect, Joe Biden should have cut a deal with me," he quipped.

EDITOR'S NOTE Laurie Asseo covers the Supreme Court and legal issues for The Associated Press.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Prisons (1PR87); Government (1GO80))

Region: (District Of Columbia (1DI60); USA (1US73); Americas (1AM92); North America (1NO39); Texas (1TE14))

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Other Indexing: (COLUMBIA UNIVERSITY; CONSTITUTION; DEMOCRATIC CONGRESS; EDITOR; GOP; SENATE; SENATE REPUBLICANS BILL; SOUTHERN CENTER; SUPREME COURT) (Bush; Clinton; Dan Morales; Democrats; Fed; James S. Liebman; Joe Biden; Joseph Biden; Liebman; Morales; Republicans; Robert Morin; Senate; Senate Republicans; Separate; Stephen Bright; Texas; Texas Attorney; WASHINGTON TODAY; William P. Barr)

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Man in the Background at the F.B.I. Now Draws Some Unwelcome Attention

The New York Times

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Length: 1822 words

Byline: Larry A. Potts

By STEPHEN LABATON

By STEPHEN LABATON

Dateline: WASHINGTON, May 27

Body

For years, Larry A. Potts toiled quietly at the headquarters of the Federal Bureau of Investigation, occasionally working 36 hours at a stretch to engineer some of the bureau's greatest successes.

Now he finds himself in the spotlight, suddenly and uncomfortably: ranking Republicans in Congress have questioned his handling of operations that proved to be two of the F.B.I.'s biggest fiascoes. One was the raid two years ago on the Branch Davidian compound near Waco, Tex., that led to a fire leaving most of the Davidians dead. The other, the year before, was the standoff with Randy Weaver, a white separatist wanted on weapons charges, at his cabin at Ruby Ridge, Idaho, where an F.B.I. sniper fatally shot Mr. Weaver's wife.

Law-enforcement officials say that anger over the Government's actions at Waco and Ruby Ridge may have motivated those involved in the bombing of the Federal Building in Oklahoma City, whose investigation Mr. Potts is also overseeing.

To all but the closest of F.B.I.-watchers, Mr. Potts would seem one of many faceless desk agents at the J. Edgar Hoover Building here, an unlikely symbol of any possible excess of the Federal Government. But for years he has wielded considerable power, first as an Assistant Director and now as Deputy to Director Louis J. Freeh. And with the Oklahoma City bombing focusing new attention on the complaints of right-wing paramilitary groups, his decisions of years past are themselves drawing new, critical scrutiny.

It was a reflection of Mr. Potts's participation in some of the biggest triumphs and tragedies of the F.B.I. that Mr. Freeh, in a single stroke earlier this year, both censured him for what the Director called a "failure of management" in the Ruby Ride standoff and then declared an intention to promote him to the bureau's No. 2 position. Attorney General Janet Reno approved the promotion earlier this month.

Mr. Freeh said he was disciplining Mr. Potts for carelessness in supervision of the Federal agents at Ruby Ridge, where the siege had been touched off by a shootout in which a United States marshal and Mr. Weaver's son were killed. At issue in Mr. Potts's censure was the hasty and, the bureau later found, improper relaxation of the F.B.I.'s policy on when deadly force may be used. It was after that relaxation that an F.B.I. sniper shot two people at the Weaver cabin, one of them Mr. Weaver's wife, Vicki, who was killed by a single shot to the head while standing in a doorway, her baby in her arms.

Under the bureau's lethal-force rules, agents may use their weapons only if they reasonably perceive an imminent danger of serious bodily harm. But the rules were rewritten during the Ruby Ridge siege to authorize the shooting of any men seen near Mr. Weaver's cabin with weapons in their hands. One agent interviewed by the bureau after the standoff said the change had been interpreted to mean, "If you see 'em, shoot 'em."

In the official record, Mr. Potts's role in the easing of the rules is disputed and quite muddled. Mr. Freeh has said his review found that Mr. Potts had simply failed to read the change, which had been proposed by agents in the field. But the F.B.I. commander on the scene, Eugene F. Glenn, who is now special agent in charge of the bureau's Salt Lake City office, has said that Mr. Freeh's review was a cover-up intended to protect Mr. Potts and find lower-level scapegoats, and indeed there is evidence that Mr. Potts personally approved the change.

Other officials have said that Mr. Potts knew of the change from telephone conversations between himself and agents at the scene. And, in response to questioning by an F.B.I. agent who looked into the shootings not long after they occurred, Mr. Potts himself acknowledged that he had approved the change and said it had been consistent with broader bureau policy. (Actually, Mr. Freeh later found, it violated various provisions of the Constitution.)

Five months after Ruby Ridge, four agents of the Bureau of Alcohol, Tobacco and Firearms, and an unknown number of Branch Davidians, were killed in a shootout when the firearms bureau raided the group's compound near Waco in an effort to seize its leader, David Koresh, who was wanted for weapons offenses. Another standoff ensued, and Mr. Potts was one of two senior officials who traveled to Texas, viewed the compound and then forcefully told Attorney General Reno that she had no choice but to order the F.B.I. to go forward with a plan for a tear-gas assault on the camp.

Later accounts of her decision-making show that she had been hesitant to approve the assault but did so after meeting with Mr. Potts and other senior F.B.I. officials two days before the operation. A Justice Department review of the Government's handling of the Waco incident did not question the decisions of any senior officials, instead blaming Mr. Koresh for the entire episode, including the fire that killed some 80 people inside the compound.

But Congress is now preparing hearings into both Waco and Ruby Ridge, and Speaker Newt Gingrich said recently that Mr. Potts's promotion to Deputy Director might delay Congressional consideration of the Clinton Administration's proposals on fighting domestic terrorism.

And, prompted by a letter from Mr. Glenn, the Ruby Ridge commander who alleged a cover-up, the Justice Department's Office of Professional Responsibility is to open a review.

Finally, a civil suit has also been filed in a Federal court in Idaho naming Mr. Potts as one of several officials who were involved in the lethal-force policy change, which, the suit says, led to the shooting of Mrs. Weaver and Kevin Harris, a friend of the Weavers who was wounded while running into their cabin.

The relationship between the F.B.I. Director and his new Deputy began to blossom five years ago when Mr. Freeh, as the lead prosecutor, and Mr. Potts, as the lead F.B.I. inspector, cracked the case of a serial bomber who had killed a Federal judge in Alabama and a civil rights lawyer in Georgia. Mr. Potts received a commendation from President George Bush for his work on that case and not long afterward was made an Assistant Director.

Mr. Potts declined to be interviewed for this article. But in an interview at his office shortly after the end of the Waco standoff, he recalled having watched the fire on television at the bureau's command center in Washington.

"What gnaws at me," he said then, "is that I don't like not being successful. I wanted to see this thing end with those people walking out and no one else getting hurt."

On the day of the fire, he said, he stayed at the office until after 11 P.M., making sure steps were being taken to preserve what was left of the scene. After he arrived home and fell asleep, he received a post-midnight telephone call from Ms. Reno, who had just concluded an appearance on the ABC News program "Nightline."

"She said, 'Listen, I appreciate your approach to this and your support,' " he recalled. "She was very stand-up."

As for the review then planned, he said: "The easy answer is we take a look at it and see if there's anything we can learn from it. We are always our worst critics." But he quickly added, somewhat presciently, that he did not think Waco would have an effect on anyone's career.

Mr. Potts, who has a wife and three children, also said the incident had taken its toll on his family. He said his daughter, then a high school junior, was in a history class when another student criticized the bureau's handling of the Davidians. "She immediately went for his throat, in a verbal sense," he said.

He said his children "knew what I was going through with this, because they essentially had not seen me for two months" and "even when I was home I'd get phone calls constantly about this case and was totally preoccupied."

Mr. Potts, 47, has been at the F.B.I. for 21 years, rising from an agent whose specialty was white-collar and public-corruption cases. While in the bureau's Cleveland office during the 1980's, he was the case agent assigned to Jackie Presser, then head of the International Brotherhood of Teamsters, who maintained close ties to organized crime. For years, Mr. Presser was also an F.B.I. informer who, by some accounts, manipulated the bureau to shield himself from prosecution.

One case against him, begun in 1982, was halted by Justice Department officials in Washington as an indictment neared in 1985, in part because the bureau had told prosecutors that Mr. Presser's role as an informer would be disclosed at trial. Ultimately, though, Mr. Presser was indicted; he died in the summer of 1988 before the case was ever resolved.

More recently Mr. Potts reorganized the bureau's investigation of hundreds of failed savings and loan associations, and was one of the senior F.B.I. officials who oversaw a tense standoff between guards and rebellious inmates at a prison in Talladega, Ala., in 1991. The standoff ended with no deaths or serious injuries.

Democrats and Republicans alike have spoken admiringly of Mr. Potts.

"He was deliberate and careful, and I developed a great deal of confidence in his judgment," said **William P. Barr**, who was Attorney General in the Bush Administration. "One of his hallmarks is he was able to step back from an issue and view it not from a parochial aspect but from a much broader perspective. Traditionally the bureau has had a reputation of being very narrow. But he always offered a broader view. I can't think of enough good things to say about him."

Robert S. Mueller 3d, who as Assistant Attorney General for the criminal division during the Bush Administration was Mr. Potts's counterpart at the Justice Department, said that during one Presidential election campaign, pressure had been brought on Mr. Potts to undertake an investigation of a candidate. Believing there was insufficient evidence, Mr. Potts refused to yield to that pressure, said Mr. Mueller, who would add only that the election had occurred before 1992. He declined to identify the candidate, the direction from which the pressure had come or the nature of the inquiry sought.

Others have a different view of the new Deputy Director.

David Nevin, one of the lawyers suing Mr. Potts on behalf of Mr. Harris over the events at Ruby Ridge, said the evidence would show that Mr. Potts had been actively involved in the lethal-force policy change that, Mr. Nevin said, resulted in the shooting of his client and Mrs. Weaver.

In announcing the censure of Mr. Potts, though, Mr. Freeh said that the mistake did not justify denying the promotion and that the error had been only of omission: failing to read a change written in the field.

"I know him probably better than anyone at the bureau," the Director said, "and I can't think of anyone more qualified for the job. I think there was a serious failure, but it was an oversight failure. There was no intentional misconduct."

Graphic

Photo: In a single stroke earlier this year, Larry A. Potts of the F.B.I. was both promoted and disciplined by the bureau's Director. (Associated Press)

Classification

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Company: FEDERAL BUREAU OF INVESTIGATION (FBI); BRANCH DAVIDIANS FEDERAL BUREAU OF INVESTIGATION (94%); BRANCH DAVIDIANS FEDERAL BUREAU OF INVESTIGATION (94%); FEDERAL BUREAU OF INVESTIGATION (94%)

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San Francisco Examiner (CA)

May 24, 1995

Section: NEWS

FBI AGENT'S PROMOTION LAMBASTED GINGRICH, EDITORIAL WRITERS UNITED IN CRITICISM OF DEPUTY

Dan Freedman EXAMINER WASHINGTON BUREAU

WASHINGTON

Since his promotion this month as FBI deputy director, Larry Potts has found himself a symbol of federal law-enforcement-run-amok in the eyes of many critics ranging from House Speaker Newt Gingrich, R-Ga., to editorial writers of major newspapers.

Gingrich, noting that Potts had been criticized by his own superiors for his handling of a 1992 FBI siege in Idaho, said, "Why would you put in that position a man who's already been censured?"

The speaker said the Potts appointment would make members of Congress take a step back when it considers President Clinton's proposed anti-terrorism bill and remind the FBI that it is not immune to congressional oversight.

The Washington Post, not known as a backer of Gingrich, called Potts "a strange choice . . . a wrong one." And the New York Times, another Gingrich critic, said the appointment, coming after the censure, reflected "two-faced management" of the FBI.

But past and present colleagues who have worked with the deputy during his 21-year career in the FBI are pouring on the superlatives for Potts, the bureau's day-to-day commander of the Oklahoma City bombing investigation. They say he's well qualified to hold the No. 2 position behind FBI Director Louis Freeh.

"I think the world of Larry Potts," said former Attorney General William Barr, who ran the Justice Department in the Bush administration from 1991 to 1993. "There's no better senior agent in the FBI."

Howard Shapiro, the FBI's legal counsel, said of the 47-year-old agent: "He is simply the single most-talented career government servant I have ever encountered."

Dueling perceptions on Potts reflect controversy surrounding the role of federal law enforcement in the wake of the Oklahoma City bombing, a deed apparently motivated by anger at controversial FBI actions involving Potts.

He was among the senior FBI officials who devised the ill-fated tear-gas attack on the Branch Davidian compound outside Waco, Texas, on April 19, 1993, which, according to official reports, prompted religious cult leader David Koresh to set the place on fire, killing about 80 Davidians, including 25 children.

Potts was also in charge of the FBI siege at the Ruby Ridge, Idaho, cabin of white supremacist Randy Weaver when an FBI sniper shot and killed Weaver's wife, Vicki, on Aug. 22, 1992.

Freeh censured Potts in January for failing to overturn a faulty FBI directive in Idaho that gave agents over-broad authority to fire their weapons.

At the same time Freeh said he enthusiastically supported Potts to be his top deputy. Four months later Attorney General Janet Reno approved the promotion.

Among those criticizing the promotion was Sen. Larry Craig, R-Idaho, who said, "It's sending the wrong message to the American people."

Spokesmen for armed militia organizations said Reno's decision would fuel anti-government paranoia among many people.

"She (Reno) just confirmed their worst nightmares," said Samuel Sherwood, director of the U.S. Militia Association of Blackfoot, Idaho.

Potts also has detractors within the bureau. One is Eugene Glenn, the on-scene commander at Ruby Ridge whom Freeh suspended for 15 days and then reassigned because of his role in approving the faulty rules on the use of deadly force.

Glenn is contesting Freeh's punishment, significantly more severe than Potts' censure.

Glenn's Washington-based lawyer, William Bransford, charged that Potts had approved the rules.

Freeh, however, said Potts was guilty only of leaving his command post after working 36 hours straight and not seeing the faulty guidelines, which arrived in Washington 40 minutes after he went home. Vicki Weaver was shot several hours afterward.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Police (1PO98))

Region: (Idaho (1ID22); USA (1US73); Americas (1AM92); Oklahoma (1OK58); North America (1NO39); Nevada (1NE81))

Language: EN

Other Indexing: (ATTORNEY; BRANCH DAVIDIAN; FBI; GINGRICH; HOUSE SPEAKER NEWT GINGRICH; JUSTICE DEPARTMENT; RUBY RIDGE; US MILITIA ASSOCIATION; WEAVER) (Clinton; David Koresh; Dueling; Eugene Glenn; FBI; FBI AGENT; Freeh; Glenn; Howard Shapiro; Janet Reno; Larry Craig; Larry Potts; Louis Freeh; Potts; PROMOTION LAMBASTED; Randy Weaver; Reno; Samuel Sherwood; Spokesmen; Vicki; Vicki Weaver; William Barr; William Bransford)

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Albany Times Union (NY)

May 21, 1995

Section: MAIN

FBI OFFICIAL IS A TARGET OF DUELING PERCEPTIONS

DAN FREEDMAN Times Union Washington bureau

WASHINGTON Since his promotion this month as FBI deputy director, Larry Potts has found himself a symbol of federal law-enforcement-run-amok in the eyes of many critics ranging from House Speaker Newt Gingrich to editorial writers of major newspapers.

Gingrich, noting that Potts had been criticized by his own superiors for his handling of a 1992 FBI siege in Idaho, said, ``Why would you put in that position a man who's already been censured?''

The GOP speaker said the Potts appointment would make members of Congress ``take a step back'' when it considers President Clinton's proposed anti-terrorism bill and ``remind'' the FBI that it is not immune to congressional oversight.

The Washington Post called Potts ``a strange choice . . . a wrong one.'' And The New York Times said the appointment, coming after the censure, reflected ``two-faced management'' of the FBI.

But past and present colleagues who have worked with the deputy over his 21-year career in the FBI are pouring on the superlatives for Potts, the bureau's day-to-day commander of the Oklahoma City bombing investigation. They say he's well qualified to hold the No. 2 position behind FBI Director Louis Freeh.

``I think the world of Larry Potts,'' said former Attorney General William Barr, who ran the Justice Department in the Bush administration from 1991 to 1993. ``There's no better senior agent in the FBI.''

Howard Shapiro, the FBI's legal counsel, said of the 47-year-old agent: ``He is simply the single most talented career government servant I have ever encountered.''

Dueling perceptions on Potts reflect controversy over the role of federal law enforcement in the wake of the Oklahoma City bombing, a deed apparently motivated by anger at controversial FBI actions involving Potts.

He was among the senior FBI officials who devised the ill-fated tear-gas attack on the Branch Davidian compound outside Waco in 1993, which, according to official reports, prompted religious cult leader David Koresh to set the place on fire, killing 80 Davidians, including 25 children.

Potts also was in charge of the FBI siege at the Ruby Ridge, Idaho, cabin of white supremacist Randy Weaver when an FBI sniper accidentally shot and killed Weaver's wife Vicki in 1992.

In January, Freeh censured Potts for failing to overturn a faulty FBI directive in Idaho that gave agents broad authority to fire their weapons.

At the same time, Freeh said he ``enthusiastically'' supported Potts to be his top deputy. Four months later, Attorney General Janet Reno approved the promotion.

Ira Raphaelson, former special counsel for savings-and-loan fraud cases during the Bush administration, said Potts backed him in resisting political pressure to bring premature S&L prosecutions as a way of driving statistics up, which would then enable officials to say they were addressing S&L fraud.

He added that Potts also skillfully supervised an undercover probe of corrupt trading practices in the Chicago commodities markets. The probe netted 45 convictions, Raphaelson said.

Potts has his detractors within the FBI. One is Eugene Glenn, the on-scene commander at Ruby Ridge whom Freeh suspended for 15 days and then reassigned because of his role in approving the faulty rules on the use of deadly force.

Glenn is contesting Freeh's punishment, significantly more severe than Potts' censure.

Glenn's Washington-based lawyer, William Bransford, charged that Potts had approved the rules. ``If there was something wrong with the rules, then my client shouldn't take the rap for it,'' Bransford said.

Freeh, however, said Potts was guilty only of leaving his command post after working 36 hours straight and not seeing the Idaho guidelines, which arrived in Washington 40 minutes after he went home. Vicki Weaver was shot several hours afterward.

Ultimately, Potts was censured for a failure to act rather than for any specific action in Idaho and criticized for the disastrous FBI raid in Texas.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Police (1PO98))

Region: (Idaho (1ID22); USA (1US73); Americas (1AM92); Oklahoma (1OK58); North America (1NO39))

Language: EN

Other Indexing: (ATTORNEY; BRANCH DAVIDIAN; CONGRESS; FBI; GINGRICH; GOP; HOUSE SPEAKER NEWT GINGRICH; JUSTICE DEPARTMENT; RUBY RIDGE; WEAVER) (Bransford; Bush; Clinton; David Koresh; Dueling; Eugene Glenn; Freeh; Glenn; Howard Shapiro; Ira Raphaelson; Janet Reno; Larry; Larry Potts; Louis Freeh; Potts; Randy Weaver; Raphaelson; Vicki; Vicki Weaver; William Barr; William Bransford)

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NewsRoom

DEPUTY DIRECTOR OF FBI A LIGHTNING ROD FOR ANGER ; CRITICS INCLUDE NEWT GINGRICH

Plain Dealer (Cleveland, Ohio)

May 21, 1995 Sunday, FINAL / ALL

Section: NATIONAL; Pg. 11A

Length: 724 words

Byline: By DAN FREEDMAN; HEARST NEWSPAPERS

Dateline: WASHINGTON

Body

Since his promotion this month as FBI deputy director, Larry Potts has found himself a symbol of federal law-enforcement-run-amok in the eyes of many critics ranging from House Speaker Newt Gingrich to editorial writers of major newspapers.

Gingrich, noting that Potts had been criticized by his own superiors for his handling of a 1992 FBI siege in Idaho, said, "Why would you put in that position a man who's already been censured?"

The GOP speaker said the Potts appointment would make members of Congress "take a step back" when it considers President Clinton's proposed anti-terrorism bill and "remind" the FBI that it is not immune to congressional oversight.

The Washington Post, hardly a backer of Gingrich, called Potts "a strange choice … a wrong one." And the New York Times, another Gingrich critic, said the appointment, coming after the censure, reflected "two-faced management" of the FBI.

But past and present colleagues who have worked with the deputy over his 21-year career in the FBI are pouring on the superlatives for Potts, the bureau's day-to-day commander of the Oklahoma City bombing investigation. They say he's well qualified to hold the No. 2 position behind FBI Director Louis Freeh.

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At the same time, Freeh said he "enthusiastically" supported Potts to be his top deputy. Four months later, Attorney General Janet Reno approved the promotion.

Spokesmen for armed militia organizations said Reno's decision would fuel anti-government paranoia among many people. "She (Reno) just confirmed their worst nightmares," said Samuel Sherwood, director of the U.S. Militia Association of Blackfoot, Idaho.

On the other side, colleagues of Potts insist the controversy obscures his reputation for intelligent and creative thinking, sterling integrity and good management skills.

"Larry Potts is the best the bureau ever produced," said Ira Raphaelson, former special counsel for savings-and-loan fraud cases during the Bush administration. "He … takes the job incredibly seriously."

Raphaelson said Potts backed him in resisting political pressure to bring premature S&L prosecutions as a way of driving statistics up, which would then enable officials to say they were addressing S&L fraud.

Robert Mueller, who headed the Justice Department's criminal division during the Bush administration, praised Potts' work in Boston in the late 1980s when Mueller was a federal prosecutor there and Potts was assistant chief of the local FBI bureau.

The two worked closely on an investigation in which several area police officers were convicted of winning their positions fraudulently by obtaining advanced copies of civil service tests.

Mueller picked Potts in 1990 to lead a probe of the package-bomb murders of federal Judge Robert Vance in Birmingham, Ala. and civil rights lawyer Robert Robinson in Savannah, Ga. He picked Freeh, then an assistant U.S. attorney in New York, to head the prosecution.

The investigation had bogged down in turf disputes between competing agencies and jurisdictions. Potts and Freeh put it back on track and sent the bomber to prison for life in 1991.

Classification

Language: ENGLISH

Subject: LAW ENFORCEMENT (90%); SPECIAL INVESTIGATIVE FORCES (90%); US FEDERAL GOVERNMENT (89%); LAWYERS (89%); ATTORNEYS GENERAL (89%); CULTS & SECTS (84%); LEGISLATIVE BODIES (78%); COUNTERTERRORISM (78%); JUSTICE DEPARTMENTS (78%); INVESTIGATIONS (78%); US PRESIDENTIAL CANDIDATES 2012 (77%); US REPUBLICAN PARTY (76%); SHOOTINGS (76%); TERRORISM (74%); PARAMILITARY & MILITIA (74%); BOMBINGS (74%); RACISM & XENOPHOBIA (73%); ASSOCIATIONS & ORGANIZATIONS (73%); WRITERS (72%); CRIMINAL INVESTIGATIONS (71%); APPROVALS (69%); RELIGION (50%)

Company: WASHINGTON POST CO (56%); NASH HOLDINGS LLC (56%); GRAHAM HOLDINGS CO (56%); WASHINGTON POST CO (56%); NASH HOLDINGS LLC (56%); GRAHAM HOLDINGS CO (56%); FEDERAL BUREAU OF INVESTIGATION (94%); FEDERAL BUREAU OF INVESTIGATION (94%)

Organization: FEDERAL BUREAU OF INVESTIGATION (94%); FEDERAL BUREAU OF INVESTIGATION (94%)

Ticker: WPO (NYSE) (56%); GHC (NYSE) (56%)

Industry: LAWYERS (89%); WRITERS (72%)

Person: NEWT GINGRICH (79%); BILL CLINTON (57%)

Geographic: OKLAHOMA CITY, OK, USA (92%); IDAHO, USA (93%); UNITED STATES (79%)

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Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 12:15:39 a.m. EST

Document: Other Voices;As always, a father's place is in the home

Other Voices;
As always, a father's place is in the home

The Atlanta Journal and Constitution

May 6, 1995, Saturday,, ALL EDITIONS

Section: EDITORIAL,; Dick Williams

Length: 571 words

Byline: Dick Williams

Body

As we approach Mother's Day, pause for a moment and think about fathers. For a terrifying new statistical compilation tells us that attention to fatherhood is far more important than planning a Mother's Day brunch.

William Bennett, a social thinker and former Cabinet member, has been warning for some time that a focus on births out of wedlock wasn't adequate in the larger search for cures to the welfare culture. Divorce, he argues, is more widespread and brings with it many of the same social ills - poverty, crime and poor educational performance. The two go hand- in-glove.

Comes now Wade F. Horn, director of the National Fatherhood Initiative in Lancaster, Pa., with a slim statistical abstract to terrify. For starters, he notes that in 1960, fewer than 6 million children lived in single-parent families. Today the number is 18 million. Almost 40 percent of American children live in a home in which their biological father isn't present. For the first time in American history, the average child will live for a significant period of time without a father at home.

Add in the out-of wedlock births - 5.3 percent of live births in 1960, 30 percent today - and we have the makings of social chaos. This year, 700,000 white babies and 500,000 black babies will be born out of wedlock. Research shows that almost half of women who gave birth as teenagers will go on welfare within a year of that birth.

One of the chief consequences is crime. Georgians know well that juvenile crime is exploding. Former U.S. Attorney General **William Barr** pinpointed the cause in a statement largely ignored by the press.

"If you look at the one factor that most closely correlates with crime, it's not poverty," he said, "it's not employment, it's not education. It's the absence of the father in the family."

In "Father Facts," Horn looks at hundreds of studies and finds the same result:

> Seventy-two percent of adolescent murderers grew up without fathers.

> Sixty percent of America's rapists grew up in homes without fathers.

> A 1991 survey of 13,986 prison inmates found 43 percent grew up in a single-parent household.

Horn and "Father Facts" also suggest that declining scores on the Scholastic Aptitude Test and generally lower academic achievement across the nation can be attributed directly to absent fathers. The numbers are clear. Only 11.6 percent of children living with both parents repeat a grade in school. For children of never-married mothers, the number is 29.7 percent and for children living with a divorced mother, it is 21.5 percent.

Perusing "Father Facts" is deadening. For this surely is an issue government can't do much about. As Horn writes, "But in the end, most of what government can - and should - do will most affect the margins. Cultural problems demand cultural solutions."

Sure, government can reform the tax code and welfare system to favor marriage, it can go after deadbeats and it can reform laws to make divorce more difficult or costly - to encourage reconciliation. But that amounts to a windsock in a tornado.

Horn offers no silver bullet, but argues for a reconnection between masculinity and fatherhood - a tricky concept in the modern world. He and others, however, make a brilliant point. Paternity - making a baby - isn't manhood. Fatherhood is.

Dick Williams is an Atlanta writer. His column appears Saturdays and Tuesdays (in the Journal).

Classification

Language: ENGLISH

Subject: CHILDREN (90%); PREGNANCY & CHILDBIRTH (90%); INFANTS & TODDLERS (90%); PARENTS (89%); SINGLE PARENTS (89%); ADOLESCENTS (78%); STATISTICAL METHOD (78%); FAMILY (78%); STATISTICS (78%); BIRTHS & BIRTH RATES (78%); POVERTY & HOMELESSNESS (76%); JUVENILE JUSTICE (73%); MARRIAGE (71%); HISTORY (71%); JUVENILE CRIME (70%); PRISONERS (70%); STANDARDIZED ACADEMIC TESTING (70%); GRADE LEVEL RETENTION (61%)

Geographic: LANCASTER, PA, USA (56%); PENNSYLVANIA, USA (79%); UNITED STATES (94%)

Load-Date: June 27, 1995

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Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 12:15:05 a.m. EST

Document: 'Doe 2' search 'back to zero' after hyped raid

'Doe 2' search 'back to zero' after hyped raid

The Washington Times

May 4, 1995, Thursday, Final Edition

Section: Part A; Pg. A1

Length: 1368 words

Byline: Michael Hedges; THE WASHINGTON TIMES

Body

The search for "John Doe 2" was renewed yesterday after hopes fizzled that two men arrested in a dramatic FBI raid - announced at the White House by Attorney General Janet Reno - might be suspects in the Oklahoma City bombing.

Gary Alan Land, a stocky, limp-haired man whom the FBI suspected of being the elusive second John Doe, and his gaunt traveling companion, Robert Jacks, were released in Carthage, Mo., early yesterday morning.

The FBI conceded there was nothing linking them to the bombing other than a string of coincidental motel stays in the same towns as suspect Timothy McVeigh.

Mr. Land and Mr. Jacks, who had been on a leisurely cross-country odyssey, told reporters they may go to California or hang around Carthage.

"We didn't do it. We're clean. We just got questioned. That's it," Mr. Jacks told reporters through a car window.

A federal law enforcement official said: "In terms of finding John Doe 2, we've eliminated two names from the list. Otherwise, we're back to zero."

Current and former high-level law enforcement officials said false steps are inevitable in pressurized investigations, but they questioned the process of the probe.

"Nobody is leading any investigation in Oklahoma City; it is being done out of the Blue Room" at the White House, said Thomas Cash, former head of the Miami office of the Drug Enforcement Administration.

"There is a total politicization of the process. When I see the attorney general answering questions about an investigation going on 2,000 miles away, that is troubling," he said.

William Barr, who was attorney general in the Bush administration, said Miss Reno generally has performed well. "Instead of letting rumors run rampant, she is trying to be forthcoming," he said. "The downside of that is that you can be a little premature on some announcements. I think that is just the way things happen; it might be best to be a little careful in trying to make late-breaking news."

There were no major breaks yesterday in the investigation into America's worst terrorist attack. The death toll has risen to 145.

Evidence was gathered at a lake outside Herington, Kan., where the FBI thinks the 4,800-pound fertilizer-and-fuel-oil bomb was built. A law enforcement official said the material from the lake will be compared with evidence from the Herington home of Terry Nichols, who is being held as a material witness in the case, to see if he can be tied directly to the bomb.

Most officials said high-profile investigations often hit a lull at the stage where massive amounts of evidence are being digested.

"There is no doubt in my mind the FBI will break the case," Mr. Barr said. "It takes a while, but other cases like this - for example, the Vance case, where a federal judge was killed in a bombing - have taken a while."

While agreeing that patience is warranted, former FBI Director William Sessions counseled that politicians should be careful not to be perceived as taking advantage of a tragedy.

"There has been some criticism . . . of politicization," he said. "I think the lowest key you can give to any of these cases is best."

The Justice Department yesterday had no comment on Miss Reno's Tuesday statements. The FBI said the arrests of the two men were by the book, even if they didn't yield the hoped-for results.

"We went before a federal magistrate and got a probable-cause warrant," said Oklahoma City FBI spokesman Dan Vogel. "That is the check in the system. We are following the leads we are getting and we are getting hundreds a day, and if we weren't, people would say we were negligent."

A $2 million Justice Department reward in the case has generated nearly 14,000 calls to a hot line, the FBI said yesterday. Those tips have led to at least a dozen people being detained and questioned in the hunt for John Doe 2.

Jo Ann Bell of the American Civil Liberties Union's Oklahoma City branch said she worries that individual freedoms will be bruised during the probe.

"I think probably the passions and emotions in a case like this get a little out of hand," she said. "Any time you are pulling people out of motels and cars for questioning, that has to be used judiciously."

In the early hours after the bombing "the homes of Middle Eastern people were surrounded, and they were considered suspects because of their religion," she said. "When the government acts in haste, it can be like a pack of wild dogs."

A federal grand jury in Oklahoma has heard from the owners of a gun shop in Antigo, Wis., whose card was in Mr. McVeigh's possession when he was arrested.

Ed and Linda Paulsen appeared before the grand jury at Tinker Air Force Base, just outside Oklahoma City. "We told them what we've been saying all along, that we have absolutely no association with the man," Mr. Paulsen said after his appearance. He has speculated that Mr. McVeigh got the shop's card at a gun show.

In Wichita, Kan., yesterday, the public defender representing Terry Nichols appealed a ruling allowing Mr. Nichols to be transferred to Oklahoma City for questioning as a material witness in the bombing. That appeal will be heard by a federal appellate court in Denver.

Mr. Nichols' brother, James, lost the first round of his court battle Tuesday in Milan, Mich., when a federal magistrate ordered him held until a May 12 preliminary hearing on charges the brothers made "unregistered explosives" from 1992 to 1994.

****BOX

THE VICTIMS

Victims of the April 19 bombing at the Alfred P. Murrah Federal Building in Oklahoma City continue to be identified. Here are additional sketches of those killed, from information provided by relatives, friends

and funeral directors:

PEOLA AND CALVIN BATTLE were in the building applying for disability assistance for Mr. Battle. Mr. Battle had recently suffered a stroke, said one of their four daughters, Janet. The body of Mrs. Battle, 51, was recovered. Mr. Battle is missing in the rubble.

JAMES E. BOLES, 51, was the local administrative officer for the U.S. Department of Agriculture. He also had a small farm, where he raised chickens and rabbits. He is survived by his wife and two sons.

PAUL G. BROXTERMAN, 44, had moved to Oklahoma City two weeks before the bombing to take a job as an agent for HUD's inspector general. He previously was a law enforcement officer for the Bureau of Indian Affairs and the Food and Drug Administration's inspector general. He is survived by his wife and three children.

DIANA LYNN DAY, 38, "always had a smile on her face," said her brother, the Rev. Bill Day Jr. of Northwest Church of Christ. The mother of an 11-year-old boy, she was a program assistant with HUD.

PETER DEMASTER was a civilian employee for the Defense Department. His wife, Kay, was talking on the phone with her in-laws in Sheboygan, Wis., when someone came to the door. She promised to call back and hung up. When she phoned again, it was to tell her in-laws she just had been notified that her husband's body had been recovered from the rubble of the federal building.

DORIS HIGGINBOTTOM, 44, was a purchasing agent for the Agriculture Department's Animal and Plant Health Inspection Service. She is survived by her husband, two children and her mother.

JAMES K. MARTIN, 34, had moved to Oklahoma City in February to take a job as a highway engineer with the Federal Highway Administration. He is survived by his parents and a sister.

CARTNEY KOCH MCRAVEN was at the Social Security office changing her name after her marriage four days earlier. Mrs. McRaven, 19, was an airman at Tinker Air Force Base. She is survived by her husband, a senior airman.

ANTONIO REYES, 55, dedicated much of his life to volunteer work, especially children's causes. He was a HUD employee. He is survived by his wife, daughter and son, 30-year-old Michael, who was a HUD asset manager on the seventh floor and survived a four-story fall in the blast.

Graphic

Box, THE VICTIMS, By The Washington Times

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Company: FEDERAL BUREAU OF INVESTIGATION (93%); FEDERAL BUREAU OF INVESTIGATION (93%)

Organization: FEDERAL BUREAU OF INVESTIGATION (93%); FEDERAL BUREAU OF INVESTIGATION

(93%)

Industry: LAWYERS (77%); HOTELS & MOTELS (71%)

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1995 WLNR 5209615

Houston Chronicle

May 4, 1995

Section: A

Vows to reopen Davidian case, probe militias spur House fight

NANCY MATHIS, JOSH JOHNSON, Houston Chronicle Washington Bureau

WASHINGTON

WASHINGTON -- The Oklahoma bombing took on a political cast Wednesday as a key House Republican pledged congressional hearings "as soon as possible" into alleged abuses by federal agents involved in the 1993 Branch Davidian debacle in Waco.

Democrats, in turn, demanded an investigation into right-wing paramilitary militias that advocate violence against the government and expressed dismay at the GOP's intentions to reopen the Waco case.

The partisan differences highlighted the most political display on Capitol Hill since the April 19 bombing of the federal building in Oklahoma City. Timothy McVeigh, the man charged in the blast, was suspected of committing the crime to protest the federal government's actions at Waco and has ties to the militia movement.

The Branch Davidians, 75 of whom died in a fire that ended a 51-day siege with federal agents on April 19, 1993, have become martyrs to pro-gun, anti-government advocates. They contend federal agents overstepped their bounds in enforcing gun laws.

Members of the sect killed four agents from the Bureau of Alcohol, Tobacco and Firearms to start the standoff with the government.

"This committee must take seriously its oversight responsibility. We must not allow our backing of federal law enforcement officers to become an inducement for unlawful activity," said Rep. Bill McCollum, R-Fla., chairman of the House crime subcommittee.

"Is this a delicate balance? Of course it is, but it is the substance of our responsibilities. In this vein, let me say I intend to go forward with hearings on alleged abuses of federal law enforcement powers as soon as practical," McCollum said during a committee hearing on the Oklahoma City bombing.

He said hearings would "begin as soon as possible." Shortly after the 1993 raid, the House Judiciary Committee, then led by Texas Democrat Jack Brooks, held a one-day hearing that prompted complaints it was too limited.

Sen. Arlen Specter, R-Pa., said he also wants to hold hearings on Waco in his Senate Judiciary subcommittee on terrorism. Specter is seeking the Republican nomination for president.

Later Wednesday, Democrats on the House crime subcommittee demanded congressional hearings into the militias that have drawn the national limelight since the Oklahoma City bombing. Militia members train with weapons and oppose the government.

In a letter to Rep. Henry Hyde, R-Ill., chairman of the House Judiciary Committee, the lawmakers cited reports that militias have sprung up in 47 states, including one in Michigan that has been connected to McVeigh.

The Democrats said they were dismayed that Republican leaders would reopen the Waco case but not investigate the militia movement.

"Go ask the American people, "Who are you more afraid of, the Bureau of Alcohol, Tobacco and Firearms, or right-wing extremist groups that carry a lot of arms,' " said Rep. Charles Schumer, D-N.Y., senior Democrat on the crime subcommittee.

The political fight over future hearings overshadowed testimony by officials from the Clinton administration and former officials from Republican administrations.

Former Attorney General William Barr, who served under President Bush, called on all politicians to condemn the militia movements that believe they are at war with the federal government.

Barr, a Republican, denounced the "effort to demonize" federal law enforcement officials by equating them with Nazis, as some members of Congress and pro-gun organizations have done.

Clinton administration officials also sought to assure committee members that the proposed anti-terrorism initiative by President Clinton would not trample on civil liberties.

Deputy Attorney General Jamie Gorelick said the administration would seek to alter a controversial provision giving the president absolute authority to designate terrorist organizations. She said the modifications would allow for judicial review of the president's designations.

"This administration is committed to standing up to terrorism without sacrificing our precious constitutional rights," Gorelick testified.

"I think we're moving in a very dangerous direction," cautioned Rep. John Conyers, D-Mich., senior Democrat on the Judiciary Committee.

---- Index References ----

News Subject: (Religion (1RE60); Legal (1LE33); Legislation (1LE97); Social Issues (1SO05); Police (1PO98); Government (1GO80); Global Politics (1GL73); World Conflicts (1WO07); Judicial (1JU36); Civil Unrest (1CI11); Religious Cults (1RE76))

Region: (Americas (1AM92); Oklahoma (1OK58); North America (1NO39); Texas (1TE14); USA (1US73); Michigan (1MI45))

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Other Indexing: (ATTORNEY; BRANCH DAVIDIAN; BRANCH DAVIDIANS; BUREAU OF ALCOHOL; CONGRESS; DAVIDIAN; DEMOCRAT; DEMOCRATS; DEPUTY ATTORNEY; GOP; HOUSE; HOUSE JUDICIARY COMMITTEE; JUDICIARY COMMITTEE; NAZIS; OKLAHOMA; SENATE JUDICIARY; TOBACCO) (Arlen Specter; Barr; Bill McCollum; Bush; Charles Schumer; Clinton; Firearms; Gorelick; Henry Hyde; Jack Brooks; Jamie Gorelick; John Conyers; McCollum; McVeigh; Specter; Timothy McVeigh; Vows; William Barr)

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NewsRoom

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1995 WLNR 2550475

USA Today (USA)

April 25, 1995

Section: NEWS

NEW SIDES TO OLD DEBATE ON SURVEILLANCE

Bruce Frankel

In the 1970s, Vietnam war protesters were outraged by government snooping into their lives. The country was aghast at the Watergate break-in. And the FBI, it seemed, had gone too far investigating civil rights leaders such as Martin Luther King.
But the terror bombings in Oklahoma City last week, and at the World Trade Center in 1993, have radically altered the nation's concerns about investigating domestic groups - especially those who increasingly espouse hate and violence.

Today, President Clinton, members of Congress and lawmakers nationwide, some of whom backed curbs on FBI procedures in the 1970s, are calling for expanding the government's power to ferret out this new breed of well-armed, mobile and computer-literate terrorists.

"When it comes to counterterrorism, everything is back on the table," says Seattle Mayor Norm Rice, meeting with other mayors in Denver.

Clinton wants new laws to establish an FBI counterterrorism center, funds to infiltrate suspected terrorist groups, and legislation authorizing the FBI to review hotel registers and to search credit records of suspected terrorists.

The proposals strike a common-sense chord among police, prosecutors and much of the public, eager to see an end to terrorist violence that now seems able to reach anywhere in the USA.

But civil libertarians are quick to caution about threats to rights of privacy, free speech and freedoms taken for granted in a nation coming to grips with domestic terror.

"What we're afraid of is that history is once again repeating itself," says Phil Gutis of the American Civil Liberties Union. "During many times of fears and tragedy, we have seen the government harass and investigate and arrest innocent people solely because of their race, religion, origin, and political beliefs.

"It's the ACLU's fear that we are about to embark down that road again."

After the political and constitutional outcry against FBI abuses, many uncovered after the death of Director J. Edgar Hoover in 1972, Congress strictly limited how far the agency could go in trying to infiltrate groups and investigate individuals deemed to be a threat to the nation's security.

The FBI couldn't get wiretaps, open mail, monitor computer messages or go undercover unless the agency could prove the target was engaged in criminal activity and violence.

Civil libertarians hailed the restrictions, but law enforcement agencies say the wall of obstacles made FBI agents shy away from investigating groups - such as the hundreds of militias that have been arming themselves.

When the guidelines were enacted in April 1976, there were 4,868 domestic security investigations pending in the intelligence division of the FBI.

Less than six months later, there were only 626. By August 1982, there were 38.

FBI agents - fearful of prosecution and angry over being tarred as "nearly as bad as the Gestapo" - began to send their domestic cases back marked "closed." Some refused to plant bugs approved by the attorney general.

"The attitude became, `Why should we do intelligence work' if the government is going to indict us?" " says Robert Heibel, former deputy chief of counterterrorism.

Former attorney general Bill Barr says that during the Bush administration, "We were concerned about extreme right-wing groups in the country, but the surveillance and investigation of these groups was not as thorough as it should have been because of domestic restrictions."

Now, says former FBI deputy director for investigations Oliver "Buck" Revell, "if we are unsuccessful in preventing significant acts of terrorism because of a failure to take prudent precautions, the ensuing public demand for action could result in Draconian measure."

Backers also note that other democracies facing terrorist threats give police much broader powers:

-- National identity cards must be produced on demand in places like Switzerland.

-- Police search and seizure tactics are less restrictive in Europe. Police checks are routine along roadways and suspicious luggage can be opened without the owner present.

-- Seven nations - France, Spain, Portugal, the Netherlands, Germany, Belgium and Luxembourg - agreed last month to use a central computer to track border crossings, illicit goods and terrorism.

-- In Israel, handbags are routinely inspected at movie theaters and public buildings; civil guards patrol at night; streets are commonly blocked off as police check for bombs.

"We in Israel have gotten used to (terror)," says Ariel Merari, a terrorist expert at Tel Aviv University. "You must learn that whatever you do, there is no foolproof answer. (But) if you harden everything in an attempt to combat terror, you have a police state."

Those who recall an FBI laden with abuses have similar concerns.

In addition to investigations of civil rights and anti-war groups in the 1960s and 1970s, they cite as an example the investigation of the Committee in Solidarity with the People of El Salvador in the 1980s.

"They were investigated under the rubric of terrorism and it extended to over 100 organizations. A third were churches and church groups. A third were student campus organizations. And not one was engaged in criminal activity," says David Cole, constitutional law professor at Georgetown University Law Center.

The price of removing restraints on the government frightens James Zogby, president of the Arab American Institute. He says he isn't convinced that the FBI ought to be trusted to determine how to ensure political rights.

"They weren't up to the challenge before and they're not ready for the challenge today," says Zogby. "We have been victims of the FBI's overzealousness in the past."

Because Arab Americans spoke out against U.S. policies in Lebanon, he says, they became targets of surveillance and harassment.

"We had late-night FBI visitations. They were interviewing our neighbors. They were talking to our children's friends in school," he says. "That kind of stuff has been our experience and we're not ready to relive it."

Still, the debate this time seems different to some.

At the height of the anti-Vietnam war movement, the greatest threats were bombings of university labs. Now, whether in the Oklahoma bombing or the poison gas attack on a Tokyo subway or the bombing of the World Trade Center - the danger seems greater.

"There's a great difference between the late '60s and '70s, when many people were overreaching to find all kinds of conspiratorial links with Moscow," says Alan Westin, a Columbia University law professor. "Today, the dangers are objectively more real and far greater in scale."

Contributing: Haya El Nasser, Tom Squitieri, William M. Welch and Abe Rabinovich in Israel

PHOTO,b/w,Sam Mircovich,Reuters

NOTES: See related stories: 01A, 02A, 03A, 04A
See sidebar: 02A
CATEGORY: Cover Story

---- Index References ----

News Subject: (HR & Labor Management (1HR87); Legal (1LE33); Business Management (1BU42); Social Issues (1SO05); Strikes & Work Stoppages (1ST12); Police (1PO98); Benelux (1BE50); Judicial (1JU36); International Terrorism (1IN37); Civil Rights Law (1CI34); World Organizations (1IN77); Sept 11th Aftermath (1SE05))

Region: (Oklahoma (1OK58); North America (1NO39); Western Europe (1WE41); Far East (1FA27); Indo China (1IN61); Europe (1EU83); Israel (1IS16); Americas (1AM92); Vietnam (1VI02); Asia (1AS61); Mediterranean (1ME20); Middle East (1MI23); USA (1US73))

Language: EN

Other Indexing: (ACLU; AMERICAN CIVIL LIBERTIES; ARAB AMERICAN INSTITUTE; ARAB AMERICANS; COLUMBIA UNIVERSITY; CONGRESS; FBI; GEORGETOWN UNIVERSITY LAW CENTER;

PHOTO; TEL AVIV UNIVERSITY; USA) (Abe Rabinovich; Alan Westin; Ariel Merari; Backers; Bill Barr; Bush; Clinton; Contributing; David Cole; Director J. Edgar; James Zogby; Norm Rice; Phil Gutis; Robert Heibel; Sam Mircovich; Tom Squitieri; William M. Welch; Zogby)

Edition: FINAL

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Document: Watered Down Malpractice Reform Bill Clears Senate Panel

Watered Down Malpractice Reform Bill Clears Senate Panel

The Associated Press

April 25, 1995, Tuesday, AM cycle

Section: Washington Dateline

Length: 789 words

Byline: By CHRISTOPHER CONNELL, Associated Press Writer

Dateline: WASHINGTON

Body

A watered down package of medical malpractice reforms won approval by the Senate labor committee Tuesday after the panel approved an amendment that would allow states to override the law. The committee also scrapped a $ 250,000 ceiling on punitive damages.

A disappointed Sen. Nancy Kassebaum, R-Kan., the committee chairman, complained afterwards that "the strong props have been … knocked out" of her bill by the state opt-out amendment inserted by Sen. Spencer Abraham, R-Mich.

"It essentially guts" the main purpose of the bill, which is to guide the states on how to deal with medical malpractice litigation, Kassebaum told reporters.

Abraham said he offered the amendment because he believes states should be able to follow their own laws on local malpractice disputes. To gain an exemption, a state would have to pass a law declaring that the federal provisions did not apply to malpractice disputes within its borders.

The federal bill would seek to discourage frivolous lawsuits and encourage patients actually harmed by their physicians or hospitals to settle their grievances out of court.

Kassebaum's original proposal would have limited punitive damage awards to $ 250,000 or three times a patient's actual economic losses, whichever is greater.

But Sen. Christopher Dodd, D-Conn., instead got the Senate Labor and Human Resources Committee to abandon the $ 250,000 ceiling and leave it up to the trial judge, not juries, to decide how much to

award.

Most medical malpractice cases do not involve punitive damages. Physicians and hospitals have been lobbying instead for a separate $ 250,000 limit on awards for pain and suffering. The House added such a cap to its product liability bill last month, but Kassebaum left it out of her bill.

The labor committee bill, approved on a party-line vote of 9-7, would impose these restraints on medical malpractice lawsuits:

- Patients' attorneys could collect no more than 25 percent of awards over $ 150,000, and 33 percent of lower awards.

- A two-year time limit on patients' filing malpractice lawsuits after they discover an injury and its cause.

- Doctors and hospitals could pay awards over $ 100,000 periodically rather than in lump sums.

- States would be encouraged to experiment with alternative dispute resolution mechanisms. If a disputant insisted on going to court and received an award 25 percent lower than the arbitrator recommended, that party would have to pay the other side's legal costs.

- Patients could not collect twice for the same damages from different parties.

- Patients could not collect an award from a deep-pocketed defendant - usually a hospital or physician - out of proportion to the defendant's share of the blame.

- Judges, not juries, would determine punitive damages, but half the money would be spent on disciplining and licensing doctors or lower Kassebaum stressed that the measure "does not place a cap on anyone's right to obtain full and fair compensatory damages" when injured by a doctor's or hospital's negligence. She said the malpractice reforms were culled from bills the White House and Senate panels endorsed last year.

But Sen. Edward M. Kennedy, D-Mass., charged said Kassebaum's bill was "all about protecting negligent doctors and their insurance companies," not ensuring better care for working Americans.

Republican leaders were hoping to fold the malpractice reforms into the Senate product liability bill, which the chamber debated for a second day. That measure includes a ceiling of $ 250,000 or three times actual damages for punitive damage awards in lawsuits over faulty products.

"I expect considerable resistance from the opponents - including a filibuster - and attempts to weaken the (product liability) bill," Sen. Slade Gorton, R-Wash., an author of the bipartisan measure, told a news conference.

Four former attorneys general, who served in the Nixon, Reagan and Bush administrations, issued a statement calling for legislation including "broad solutions which go beyond product liability reform measures." The four are **William Barr**, Dick Thornburgh, Edwin Meese and William Saxbe.

But Dodd, the Democratic Party chairman and a strong proponent of product liability reform, warned that bundling it with malpractice legislation could "jeopardize it all."

Martin Hatlie, an American Medical Association official who heads a coalition called the Health Care Liability Alliance, said the Abraham amendment would undermine the federal reforms.

"Instead of really resolving some of these issues finally at the federal level, it's going to send the trial lawyers and their lobbyists back to the state legislatures to open up this can of worms all over again," said Hatlie.

Classification

Language: ENGLISH

Subject: PROFESSIONAL NEGLIGENCE (99%); MEDICAL MALPRACTICE (92%); APPROVALS (90%); LEGISLATION (90%); HEALTH CARE LAW (90%); LEGISLATIVE BODIES (90%); DAMAGES (90%); PHYSICIANS & SURGEONS (90%); LITIGATION (90%); PUNITIVE DAMAGES (90%); JURY TRIALS

(89%); SUITS & CLAIMS (89%); JUDGES (87%); HEALTH CARE REFORM (78%); BUSINESS TORTS (78%); WOUNDS & INJURIES (78%); ALTERNATIVE DISPUTE RESOLUTION (73%); POLITICS (73%); US PRESIDENTIAL CANDIDATES 2008 (65%); PRODUCT LIABILITY (63%)

Industry: MEDICAL MALPRACTICE (92%); HEALTH CARE LAW (90%); PHYSICIANS & SURGEONS (90%); HOSPITALS (89%); HEALTH CARE REFORM (78%)

Person: CHRISTOPHER DODD (58%)

Load-Date: April 25, 1995

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 12:13:19 a.m. EST

GTE Seeks Lifting Of Decree Banning Long-Distance Sale

The Wall Street Journal

April 14, 1995 Friday

Section: TECHNOLOGY; Pg. B3

Length: 415 words

Byline: By John J. Keller, Staff Reporter of The Wall Street Journal

Body

NEW YORK -- GTE Corp. asked a federal court in Washington to dissolve the 1984 decree that bars the company from selling long-distance communications service via its local telephone business.

The Justice Department, which has taken a hard line on the division of local and long-distance services, is likely to oppose GTE's motion. GTE said the agency had declined its offer to join in the company's effort to get District Judge Harold H. Greene to lift the long-distance ban.

"They want to control things," said William P. Barr, GTE's general counsel and a former attorney general in the Bush Administration. The Justice Department declined comment on GTE's plan.

Like the regional Bell companies, GTE wants to offer a full plate of communication services. With its local phone business in places such as California now under attack from AT&T Corp. and other long-distance rivals, GTE wants to resell the long-distance services of other carriers to its local phone customers. Unlike the Bells, GTE doesn't want to operate the long-distance facilities.

GTE said such a plan would give its phone customers one source for all their communications needs. The company would also be able to send and receive long-distance video programming; set up a long-distance signaling network; and distribute long-distance calling cards.

The 1984 consent decree, which differs from the one under which AT&T and its former Bell phone companies operate, let GTE into the long-distance business so long as it operated separately from its local phone business. GTE in 1992 sold the remainder of its half share in long-distance carrier Sprint to partner United Telecommunications Inc., now Sprint Corp. Last October, GTE sold its international satellite business, GTE Spacenet, to General Electric Co.

GTE, the nation's largest local phone business, also operates the second-largest wireless communications company after AT&T in the U.S.

"If we succeed in terminating the decree there are no restrictions as to the extent our companies can proceed with offering an interexchange [long-distance] service," said Mr. Barr. "Now that GTE has divested itself of these properties, there is no legal justification for continuing these restrictions."

The regional Bell companies have been fighting furiously to win legislation that would free them to run long-distance service through their local phone lines. While such a bill has been wending its way slowly through Congress, the Bells probably won't see passage before next year.

Notes

PUBLISHER: Dow Jones & Company

Load-Date: December 5, 2004

Document: DoJ Talks Fail;GTE ASKS JUDGE GREENE TO REMOVE DE...

DoJ Talks Fail;
GTE ASKS JUDGE GREENE TO REMOVE DECREE, PLANS EXPANDED SERVICES

Communications Daily

April 14, 1995, Friday

Section: Vol. 15, No. 72; Pg. 1

Length: 621 words

Body

GTE asked U.S. Dist. Judge Harold Greene Thurs. to remove 1984 consent decree that prohibits its companies from offering long distance services and restricts some internal operations. GTE said, pending Greene's action, it planned to resell long distance through LECs, offer advanced services to other carriers, combine IXC and international functions in Hawaii and offer credit card for services. Company said Oct. sale of Spacenet cleared way for lifting decree, which is separate from MFJ decree covering RHCs and AT&T. DoJ might oppose action, source said.

GTE Senior Vp-Gen. Counsel **William Barr** said circumstances that triggered decree in 1984 were removed with sale of Sprint unit in 1992 and Spacenet last year: "Now that GTE has divested itself of these properties, there is no legal justification for continuing these restrictions." GTE lawyer Ward Wueste said company tried to work out agreement with DoJ in months since Spacenet sale, but discussions failed. He declined to elaborate. He said company was confident it would present Greene with "good case" for lifting restrictions.

DoJ didn't have immediate public comment. Decree language covers more than Sprint and Spacenet acquisitions, and sources said govt. feels GTE should remain subject to portions relating to other services. DoJ has until June 5 to comment on motion; GTE response is due July 17. In statement, AT&T took issue with GTE's action, saying GTE remained local monopoly. "If this decree were vacated, only GTE -- with its local monopoly intact -- could provide both local and long distance service to customers in GTE territory."

GTE decree was imposed in 1984 when company sought to acquire former Southern Pacific Communications, Sprint, and Southern Pacific Satellite, known as Spacenet. Decree required GTE's LECs to: (1) Avoid providing interexchange services. (2) Remain separate from Sprint and Spacenet. (3) Provide non-discriminatory equal access to all IXCs. (4) Maintain information services as separate subsidiary. GTE now resembles company as it existed before Sprint-Spacenet acquisition, Wueste said,

and decree wasn't necessary. Barr said: "Factual predicate for the decree has vanished and its restrictions must be removed."

In memorandum filed at court to support motion, GTE said it was entitled to relief "as a matter of law." Memo said company had divested assets that were "Government's sole legal claim" on long distance and remaining provision on information services "have either been removed by the Court or superseded by federal regulation." GTE said motion required "no factual inquiry or assessment" of competition.

Company challenged govt. "theory" that company had "implicit agreement to be perpetually bound" by long distance provisions, saying company would never have made such an agreement. "Text of the decree itself and the Government's contemporaneous representations . . . strongly demonstrate that the decree's interexchange provisions would not survive divestiture." Company said even if it had agreed, "fundamental constitutional limits on the power of federal courts to enforce remedial consent decrees would bar continued enforcement of the decree."

In 1992, DoJ ordered GTE to halt sales of Signalling System-7 (SS-7) services, concluding operating companies were violating decree (CD Dec 9/92 p1). Independent Telecommunications Network complained about GTE sales and sought relief. Barr said that if relief is provided, company would immediately offer SS-7 and advanced services, some limited by decree, to other carriers. Without decree, he said, GTE also would combine resale of domestic interexchange service by GTE Hawaiian Telephone with its international facilities.

Classification

Language: ENGLISH

Subject: DIVESTITURES (89%); BUSINESS OPERATIONS (78%); LAW COURTS & TRIBUNALS (73%); CUSTOMER SERVICE (63%)

Company: SPRINT NEXTEL CORP (91%); SPRINT CORP (91%); SPRINT NEXTEL CORP (91%); SPRINT CORP (91%)

Ticker: S (NYSE) (91%)

Industry: LONG DISTANCE TELEPHONE SERVICE (89%); CREDIT CARDS (71%)

Geographic: HAWAII, USA (79%)

Load-Date: April 14, 1995

Content Type: News

Terms: "william barr"

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Date and Time: Dec 17, 2018 12:12:23 a.m. EST

Document: GTE Wants Court to Scrap Ban on Long-Distance Services

GTE Wants Court to Scrap Ban on Long-Distance Services

The Associated Press

April 13, 1995, Thursday, BC cycle

Section: Business News

Length: 155 words

Dateline: IRVING, Texas

Body

GTE Corp. said Thursday it asked a federal judge in Washington, D.C., to scrap a 1984 consent decree that prevents the company's telephone unit from offering long-distance service.

A favorable ruling would also allow GTE to offer video services via its phone lines.

The Baby Bells also have asked for modification of a separate consent decree that keeps them out of the long-distance and video markets.

GTE agreed to the provision in order to gain Justice Department approval for its 1982 acquisition of Southern Pacific Communications Co., now the long-distance carrier Sprint, and Southern Pacific Satellite Co., or Spacenet.

The company sold Sprint in 1992 and Spacenet in 1994.

"Now that GTE has divested itself of these properties, there is no legal justification for continuing these restrictions," said GTE general counsel **William Barr**.

GTE Telephone Operations is the country's largest local telephone company.

Classification

Language: ENGLISH

Subject: JUDGES (90%); DIVESTITURES (78%); LAWYERS (75%); APPROVALS (73%); JUSTICE DEPARTMENTS (70%); CORPORATE COUNSEL (69%)

Company: GTE CORP (96%); SPRINT & SOUTHERN PACIFIC SATELLITE CO (74%); GTE CORP (96%); SPRINT & SOUTHERN PACIFIC SATELLITE CO (74%)

Ticker: GTE (NYSE) (96%)

Industry: LONG DISTANCE TELEPHONE SERVICE (94%); TELECOMMUNICATIONS SERVICES (90%); TELEPHONE SERVICES (78%); LOCAL TELEPHONE SERVICE (78%); LAWYERS (75%); CORPORATE COUNSEL (69%)

Geographic: DISTRICT OF COLUMBIA, USA (73%); UNITED STATES (79%)

Load-Date: April 13, 1995

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 17, 2018 12:11:49 a.m. EST

Document: No Headline In Original

No Headline In Original

ABC NEWS This Week With David Brinkley (ABC 11:30 am ET)

March 19, 1995

Section: News; Domestic; Show; Analysis

Length: 8983 words

Body

ANNOUNCER: From ABC News, This Week with David Brinkley. Now, from Washington, substituting for David Brinkley, Cokie Roberts.

COKIE ROBERTS, ABC News: It seems like everyone in Washington is under investigation these days. This past week, the government launch another official probe. In independent counsel will look into statements Housing Secretary Henry Cisneros made to the FBI. That makes three independent counsels examining this administration. Two other are still collecting taxpayer dollars for probes into past administrations. Why are all these investigations going on? Is Washington more corrupt, or have politicians decided that the best way to get their enemies is by making them seem like crooks? Should the law that provides for these independent counsels be changed or repealed outright? We'll ask our guests:

[voice-over] Lloyd Cutler, former special counsel to the President; Robert Bennett, personal attorney to the President; Senator Carl Levin, Democrat from Michigan; Richard Thornburgh, former attorney general. Our discussion here with George Will, Sam Donaldson and Julie Johnson, here on our This Week program.

[on camera] First, the news, though's there's not very much news this morning. More rain is on the way for waterlogged California. A major Pacific storm is expected to hit tonight. Basketball great Michael Jordan will be back in his Chicago Bulls uniform today, ready to play the Indianapolis Pacers; and a rally on Capitol Hill is planned for today. Organizers expect over a thousand children to protest Republican budget cuts and welfare proposals. Senators from the Finance Committee have been meeting this weekend to discuss those proposals, plus the tax cuts approved by a House Committee.

The chairman of the that Senate tax-writing committee is here with us now - Republican Bob Packwood or Oregon. Welcome, Senator Packwood.

Sen. ROBERT PACKWOOD, (R), Oregon: Morning, Cokie.

COKIE ROBERTS: So, tax cuts. The House is ready to go ahead and put them through. Is the Senate?

Sen. ROBERT PACKWOOD: The first question we asked- absolutely no tax cuts unless they're paid for. And, of course, as you look at the House spending cuts, the bulk of them are just sort of a generic lid without specifying what they are.

COKIE ROBERTS: You've seen that before.

Sen. ROBERT PACKWOOD: Well, I was here in 1982 when President Reagan got burned, and he agreed to a tax increase. And the promise was one dollar in taxes for three dollars in spending cuts. Well, he got the dollar in tax increases, and he never got the spending cuts.

COKIE ROBERTS: So- so you're saying the House budget proposals aren't specific enough, and you have to have those before you'll even look at a tax cut?

Sen. ROBERT PACKWOOD: Yeah, I think that would be a fair statement, and we would want to see- before we'd even consider tax cuts, we'd want to see those in law or in the same bill that's going to become law. Short of that, I don't think we'd considered them at all.

COKIE ROBERTS: So what happens now? If the House goes lickety-split, passing this bill, are you all just going to say no, hold it up?

Sen. ROBERT PACKWOOD: No, no. They'll send it over to us. We will bundle it all into a- into a gigant- reconciliation bill, as we call it, a big budget bill, and we will look at it at that time, but I- I think this feeling on the- on the Finance Committee, Republican and Democrat, is that the best thing we can do for the taxpayers of this country is to try to move toward deficit reduction, and if that gets their mortgage interest rate to down a point or two, that is more important than anything we can do for them.

COKIE ROBERTS: So- I can see, though, a battle brewing inside the Republican Party here. There are people in the House, particularly, who are adamant about tax cuts, and I talked to a Republican House member last week, who said that the Christian Coalition is very insistent about these credits for children, that that was their big political push. What do you all do? Do the Republicans just fight it out?

Sen. ROBERT PACKWOOD: Cokie, ask any Republican conservative- conservative or Democrat when they

go home, 'Are you getting a demand for these tax cuts?' What you normally get is a demand for deficit reduction. All I'm saying is that in the Senate and in the Finance Committee that has jurisdiction of these, we'll look at the whole package, but the first thing we're looking for is deficit reduction.

COKIE ROBERTS: Now, for deficit reduction, you made a statement a while back that you thought they'd have to get about $400 billion out of Medicare and Medicaid over the next few years. That is a huge sum of money and very sensitive programs. Do you- again, political problem there?

Sen. ROBERT PACKWOOD: It's a good, debatable question, and we debate this within the Republican Party. If we honestly come up with a budget - even if the press doesn't like it, but they say it honest - that gets us to balance in seven years, is that a political winner or is it a loser because of what you have to do to get there? I think it's a winner. I think the public would say, 'Thank gosh, they've finally done it.' But there's no question. There's going to be some shared sacrifices.

COKIE ROBERTS: One- so- so you say you're willing to take the- you're willing to take the gamble of cutting these programs and- in order to get a balanced budget.

Sen. ROBERT PACKWOOD: As- as one of my fellow senators said yesterday, 'Well, let's hold hands and we'll go over the cliff together and see what happens.'

COKIE ROBERTS: One of the things you've also talked about is the home mortgage deduction, something else very near and dear to the hearts of most Americans. You're talking about limiting that as well.

Sen. ROBERT PACKWOOD: There's a possibility of that. At the moment, you can have a home mortgage of up to a million dollars and deduct the interest. Three percent of the mortgages in this country are about $250,000, and sometimes you're hard-pressed to say, 'Why should a poor devil working in the mill who's making twenty, twenty-five thousand dollars if he's lucky, have to subsidize somebody who's got a half-a-million-dollar mortgage and is making $200,000 or $300,000 a year?

COKIE ROBERTS: One last thing, Senator, and that is on affirmative action. Do you- something you've supported for a long time. Do you see the Republican Party changing its position there?

Sen. ROBERT PACKWOOD: It- I see America changing if, by affirmative action, you mean quotas, if you mean group entitlements where there is no evidence of any past discrimination. Maybe different argument if you can show past discrimination, but where there is none, you're hard-pressed to justify it.

COKIE ROBERTS: Okay. Thank you very much, Senator Bob Packwood. We'll be back with the rest of the program - a look at the independent counsel mania that's gripping official Washington - in a moment.

[Commercial break]

COKIE ROBERTS: The announcement this week that an independent counsel would be investigating Housing Secretary Henry Cisneros started a lot of grumbling in Washington about why all these federal investigations are going on and whether they should be. Here's ABC's Michele Norris. Michele?

MICHELE NORRIS, ABC News: [voice-over] Cokie, this week Housing Secretary Henry Cisneros joined a long list of Clinton officials facing investigation by independent counsels.

HENRY CISNEROS, Housing and Urban Development Secretary: I'm disappointed by that outcome, but I'm hopeful that the investigation will be completed expeditiously.

MICHELE NORRIS: [voice-over] The list begins right at the top. President Clinton and the First Lady's financial dealings are under review as part of the Whitewater investigation. Agriculture Secretary Mike Espy resigned and is still under investigation for accepting corporate gifts. Commerce Secretary Ron Brown, involved in a series of questionable business deals, may also face an independent counsel. Meanwhile, Transportation Secretary Federico Pena breathed a sigh of relief when the Justice Department this week closed an investigation into his business dealings.

Prof. LARRY SABATO, University of Virginia: The independent counsels are out of control - maybe not every one of them individually, but collectively, the system is. We're practically at the point where we're investigating ourselves to death.

MICHELE NORRIS: [voice-over] With so many ongoing investigations, members of both parties are beginning to question the independent counsel statute and whether the threshold for political or personal missteps has become unreasonably low.

Pres. BILL CLINTON: [March 3, 1995] We live in a time now where the first thing people call for is a special counsel.

MICHELE NORRIS: [voice-over] The law's origins reach back to the Watergate scandal and the infamous Saturday night massacre when President Nixon fired special prosecutor Archibald Cox after he defiantly subpoenaed Oval Office tape recordings.

[on camera] After Watergate, Congress decided that an administration could not be trusted to investigate itself. Instead, prosecutors from outside the government would be recruited by a three-judge panel when top-ranking officials were accused of wrongdoing.

[voice-over] Senator Carl Levin sponsored the re-authorization of the Independent Counsel Law last year.

Sen. CARL LEVIN, (D), Michigan: It has proven its usefulness over the years. With all of its warts, it's a lot better than the alternative, which is to have the administration, in effect, investigating itself.

MICHELE NORRIS: [voice-over] But some say independent counsels are too independent - an army of lawyers with unlimited budgets, complete autonomy and the broad authority to expand investigations well beyond their original scope.

WILLIAM BARR, Former Attorney General: I think this creates one individual outside any kind of supervision or institutional constraint who could become a law unto themselves and have the power to make or break a particular individual.

MICHELE NORRIS: [voice-over] Critics most often cite the six-and-a-half-year investigation of the Iran-Contra affair. Independent counsel Lawrence Walsh billed taxpayers $40 million, including controversial charges for first-class travel and expensive hotel bills. Two independent counsels from past administrations are ongoing - the investigation of Reagan HUD Secretary Samuel Pierce and now, five years later, former Interior Secretary James Watt - and the problems that grew out of the 1992 campaign when the Bush administration searched through candidate Clinton's passport files. In all, 16 independent counsel investigations have been launched since 1978. Collectively, they have cost $68.5 million and the meter is still running. But defenders of the independent counsel law say the cost to taxpayers is justified.

CHARLES LEWIS, Center For Public Integrity: If a prosecutor is like a bird dog and he's looking for facts and he's looking for trails, investigative leads, sometimes they take years on these major investigations. People have to accept that.

MICHELE NORRIS: [voice-over] Putting cost aside, politicians on both sides of the aisle have used the statute as a political weapon.

Prof. LARRY SABATO: It's perfectly clear to both Democrats and Republicans that when the other party is in charge of the White House, one of the tool that you use to oust them and to regain power is to use the independent counsel law to investigate.

MICHELE NORRIS: Ironically, this administration had strongly supported the independent counsel law when it came up for re-authorization last June, but the White House has changed its tune, saying the law is overused now that it's come around to claim so many of its own. Cokie?

COKIE ROBERTS: Thank you, Michele. When we return, we'll talk to Senator Carl Levin of the Governmental Affairs Committee, and to former Attorney General Richard Thornburgh, in a moment.

[Commercial break]

COKIE ROBERTS: Joining us now are Senator Carl Levin, Democrat of Michigan, and a member of the Senate Governmental Affairs Committee; and Richard Thornburgh, who served as attorney general during the Reagan and Bush administrations. And here in the studio are George Will and Sam Donaldson, both of ABC News.

Senator Levin, do you think that Attorney General Reno should have named an independent counsel to investigate Henry Cisneros?

Sen. CARL LEVIN, (D), Michigan: I have to rely on her judgment. That's the purpose of the law, to give to the attorney general that kind of authority because of the belief that unless you have an independent counsel, someone who can carry on a investigation independently, you are not going to have public confidence in the outcome. For instance, when she asked for an independent counsel for Cisneros, I think that the public said, 'That's good. There will be an independent investigation whichever way it goes.' And when she decided not to have an independent counsel appointed for Federico Pena, I think the public had confidence in a decision not to proceed against him. And that public confidence is what the independent counsel law is all about. Without it you are not going to have public confidence that high-level officials in the executive branch are going to be investigated in an independent and objective way so that they're not above the law.

COKIE ROBERTS: Mr. Thornburgh, three independent counsels for this administration, two still in business from past administrations - has this law gone too far?

RICHARD THORNBURGH, Former Attorney General: I think it has, Cokie. I think we have this elaborate superstructure that was created in the past-Watergate period that really has gotten out of control. This is an area where, I think, a page of history is worth a volume of logic. People often forget that the most famous independent counsel that was ever appointed, Archibald Cox and his successors, were brought into being without the existence of this law that's on the books now. And six months before that, a sitting Vice President was successfully removed from office through an investigation carried out by the Department of Justice. I've served in the Department of Justice under five presidents, and I've never seen any lack of zeal on the part of prosecutors to investigate official corruption. If anything, we got complaints about too much zeal. And I think what we've now done is go overboard in the direction of tilting the process in favor of having these high-profile interventions undertaken.

GEORGE WILL, ABC News: Senator Levin, in response to Cokie's question, you said you'd trust the attorney general's judgment in calling for this special prosecutor. Is there really much judgment involved? That is, isn't the threshold so low that once an independent counsel gets called for, the call

itself produces a momentum to chose one? That is, it simply gets called if there are reasonable grounds for warranting further investigation. Should the threshold be raised?

Sen. CARL LEVIN: We have tightened the threshold. You must now have specific evidence from a credible source that there has been a violation of law. It is a very specific threshold and if that threshold is met that further investigation is warranted. the attorney general is supposed to pick an independent counsel. I think it's worked pretty well. Do I think there's been some mistakes? I do. I think there's mistakes in judgment on the part of the recent court, by the way, in picking an independent counsel to look into the Whitewater matter, when that counsel had a recent record of very partisan political Republican activity. That should not have been the choice to be looking into the Whitewater matter. Do I have disagreements with the way some independent counsel have operated? Of course, I do. The issue, though, is the principle. Do we want high-level officials close to the President to be investigated by an independent person where there is specific evidence from a credible source of wrongdoing? I think you're not going to have public confidence unless you have that independence.

GEORGE WILL: Mr. Thornburgh, I gather, in response to the point just made by the senator, you believe that the law is an implicit libel of the Justice Department under any administration, that the Justice Department can indeed be trusted. Have I stated your view right?

RICHARD THORNBURGH: Well, that's part of it, but I wouldn't want to put it on a personal pique basis. I think there's some fundamental principles that are at stake here. One is, as a prosecutor, I always went by the precept that you follow the evidence wherever it leads, and if it leads to particular identified individuals who have violated specific crimes, then they're charged. Here, the process is turned on its head. You start with a target. It's almost as if that individual is presumed guilty until proved innocent, particularly given the high-level profiles of these things. The other mischievous part of this superstructure that's been erected by the law is that the independent counsel finds himself all dressed up and nowhere to go. There's a lot of pressure to follow through on a costly and lengthy investigation that, in many cases, imposes enormous financial burdens on the putative defendants. And the final thing that I find objectionable in principle is the practice that's grown up of issuing reports after an investigation has concluded there is no criminal wrongdoing. We've seen that in three or four cases where the independent counsel will make gratuitous comments about wrongdoing of cases where he couldn't accumulate enough evidence to bring criminal charges.

SAM DONALDSON, ABC News: Governor Thornburgh, you cite Watergate as an example of why you think an independent counsel is not needed-

RICHARD THORNBURGH: Yeah.

SAM DONALDSON: People recall that Archibald Cox was fired under the orders of President Nixon, and

wouldn't you agree it was simply the public pressure mounting against Mr. Nixon, including an impeachment investigation in the House, that caused the outcome to be what it was-

RICHARD THORNBURGH: Absolutely.

SAM DONALDSON: -not that his Justice Department investigated him and was credible?

RICHARD THORNBURGH: No, I do agree that it is public pressure, and it's a political process that generates the need. After all, you'll recall that the special counsel in the Whitewater investigation was not appointed originally under the law. He was appointed because of public pressure and political pressure on the President to see that the attorney general someone to look into the-

SAM DONALDSON: The law- the law didn't exist when he was appointed.

RICHARD THORNBURGH: That's right.

SAM DONALDSON: The law had lapsed.

RICHARD THORNBURGH: That's right, and we got along just as well without it and can do so now.

SAM DONALDSON: Now, Senator Levin, Senator Grassley has suggested that this law be extended to members of Congress, not just aimed at the executive branch. Would you be for that?

Sen. CARL LEVIN: The law does cover members of Congress. The attorney general can use this law anytime she sees fit against a member of Congress, or she can prosecute a member of Congress herself. She's got two options relative to members of Congress. We specifically amended this law to make it very clear that members of Congress are covered. The attorney general may prosecute independently or may prosecute herself.

SAM DONALDSON: Well, I'm curious, then, Senator. There have been a number of instances where an independent counsel has been recommended by the attorney general for people in the executive branch. If the law for Congress has the same language - that is, if credible evidence cannot be dismissed, she has to appoint one - why has she not appointed one for far? There are several members of Congress, I suggest, that credible evidence exists that they may have broken the law.

Sen. CARL LEVIN: She may appoint an independent counsel, get one appointed for a member of Congress, but there is no inherent conflict of interest when the Justice Department is investigating and prosecuting a member of Congress. They are not close to the President, they are not in the executive branch. There is a separation of powers which makes it very easy for a attorney general to prosecute a

member of Congress. It is very difficult for an attorney general to be prosecuting the HUD secretary. Do we really believe the attorney general would have gotten 12 convictions of the Bush HUD secretary's people? Now Pierce himself has never been indicted, but people very close to Pierce have been convicted. It was a scandal of major proportion in that agency. Do we really believe that the public would have confidence in an attorney general investigating the President's own HUD secretary? I don't think that public confidence would exist when it's that close to the President.

SAM DONALDSON: Governor Thornburgh, as you know, when you were attorney general, independent counsel Lawrence Walsh accused you of deliberately withholding documents he needed to make a case in order to protect some of the people he was investigating.

RICHARD THORNBURGH: Well, I think he was trying to cover up the fact that their prosecution pretty well crashed and burned in many instances. All I was doing was carrying out the responsibilities given by me- to me by the Congress to determine the accessibility of classified information to litigation of this type. I was following a congressional directive, not something where my own judgment was involved.

Sen. CARL LEVIN: Could I comment on that 'crash and burn' comment on Lawrence Walsh?

SAM DONALDSON: Yes.

Sen. CARL LEVIN: We had seven convictions by guilty plea obtained by Lawrence Walsh in the Iran-Contra scandal. There were four convictions by jury, two of which were overturned on technical grounds on appeal. He went after North, he went after Poindexter. He got significant convictions and then two people were pardoned by President Bush, including Weinberger, the big fish, who was pardoned by Bush just before the trial was going to begin by Lawrence Walsh. That was a very, very significant effort on his part that brought out to the public light very important information about the coverup of the hostage deal and the transfer of weapons for hostages by President Reagan and people close to him.

COKIE ROBERTS: That'll have to be the last word. Thank you, Senator Levin, and Mr. Thornburgh. Coming next, Robert Bennett, personal attorney to President Clinton, and Lloyd Cutler, former special counsel to Mr. Clinton, in a moment.

[Commercial break]

COKIE ROBERTS: Joining us now are Robert Bennett, President Clinton's personal attorney, and Lloyd Cutler, formerly special counsel to Mr. Clinton. Gentlemen, we're hearing a lot of complaining about this independent counsel now that Democrats are in power and Democrats are getting investigated. This is just- is this just a switch now that the Democrats suddenly don't like this law because they're the ones who are- whose ox is getting bored?

ROBERT BENNETT, Personal Attorney to the President; Well, Cokie, I think there's hypocrisy on both sides. When I was representing Caspar Weinberger - who should never have been investigated and, contrary to what the senator said, it was a witch hunt - I can't tell you the number of Republicans who told me how outrageous the statute was and how unnecessary it was, and now it doesn't seem like such a bad idea. I think this is the big problem. We've put Congress, by the statute, into the criminal law process, and we've created a monster.

COKIE ROBERTS: You were for it, as I recall, Mr. Cutler.

LLOYD CUTLER, Former Special Counsel: I was very much for it. I think, on balance, I would still be with Senator Levin, but I have to admit, Cokie, I've had some second thoughts.

COKIE ROBERTS: Because?

LLOYD CUTLER: Well, lots of reasons. One is our memories are so short. We now think that because that we have these several independent counsel appointed for President Clinton's appointees, that that reflects in some way on this administration. People forget that Ed Meese was the subject of three different independent counsel investigations, that Iran-Contra looked at Secretary Schultz, at Secretary Weinberger, at Donald Regan, at Bill Casey. We had Secretary Donovan, you remember. We had Sam Pierce. In most of these cases, except Bob wasn't a good enough lawyer to keep Weinberger from being indicted, but in most of these cases, there were no indictments. I think the law does need fixing. I agree with George and Sam. The threshold is much too low. I don't understand why, when the attorney general does the preliminary investigation, as she must, and that can last for five months - it's 90 days plus another 60 - she is not allowed to have a grand jury or to subpoena witnesses or grant immunity to anybody. So it is very difficult for her, in that 150-day period, to ascertain the facts. Moreover, she is not allowed to make a judgment of lack of criminal intent. If there are facts that are there - credible evidence, so called - she cannot conclude, as the in the case Mr. Cisneros, that there was no criminal intent to deceive.

COKIE ROBERTS: But you say that, in many of these case, no indictments were even brought, but in some ways, isn't that good for the person being investigated when an independent counsel - someone who is not working for the administration that person is working for - clears him?

LLOYD CUTLER: If he has any money left.

ROBERT BENNETT: Well, but I think we're distorting the issue a little bit here. I- the issue isn't really whether you have total dependence or total independence. Within the structure of the Department of Justice, there is no reason why a special counsel cannot be appointed, working within the framework of

that department. Leon Jaworski [sp?] was one of the most effective prosecutors on public corruption. He was not an independent counsel, but he was a special counsel operating within the restraints of the Department of Justice. The problem with the present statute is too much depends on the individual you pick. You take this vast machinery, this vast power of the Justice Department and you place it in- in essentially one person. And in the Iran-Contra case, at one point, Mr. Walsh said he had left all decisional authority to one of his- one of his young aides.

GEORGE WILL: This vast apparatus to which you refer is capable of bankrupting the people who are being investigated. In response to Cokie's question a moment ago- she said, 'Don't people feel good if they've been exonerated,' and you said, 'If they have any money left.' Is it not the case that some of the guilty pleas that Mr. Walsh got in Iran-Contra were pleas to stop bankrupting them? That was the easiest way to save some money.

LLOYD CUTLER: That could well be so, and the test to have your legal fees reimbursed by the government is that you must be a subject of the investigation, so called. If you were a mere witness, you cannot have your fees reimbursed. In addition-

COKIE ROBERTS: But you still have to pay the lawyers' fees.

LLOYD CUTLER: Yes. You can only be reimbursed for those expenses incurred because there was an independent counsel. If they would have been incurred if the Department of Justice had done it, you cannot recover. There must be 20 people in the present White House and in the Treasury Department who were simply witnesses in the investigation of these so-called White House Treasury contracts who have probably spent half their salary or more simply being properly represented to appear before a grand jury or a congressional committee.

GEORGE WILL: Mr. Bennett, the word of the week in Washington was 'materiality,' and the question is- first threshold question: did Mr. Cisneros lie to the FBI? And the second is was that material to his confirmation - would he have been confirmed if he'd told the truth about the amount of money he paid to his mistress. Some of the Republicans saying, 'Hmm, that seems to be a more relaxed standard,' that depends not whether you lie to the FBI, but whether it mattered. Have they changed the rules now?

ROBERT BENNETT: Well, I think the rules are always changing and that's the problem.

GEORGE WILL: That's a yes.

ROBERT BENNETT: Yeah. I think the attorney general, in this case, could have bitten the bullet and not gone forward. But, you know, Mr. Cisneros now is- is in the unfortunate position of now dealing with a to-be-named independent counsel who will have one case. There's an old saying in the law: 'Beware of the

lawyer with one case.' And as Justice Scalia said in his brilliant dissenting opinion, he said, 'How do you think it must feel to have your own independent special prosecutor assigned to you with nothing else in the whole world to do but to investigate you and with no competing responsibilities?'

COKIE ROBERTS: And unlimited resources

ROBERT BENNETT: And unlimited resources

GEORGE WILL: Mr. Cutler, would you respond to the matter of materiality? Have you changed the rules? Is this more relaxed? Are we saying that- are we sending a signal that lying to the FBI is not that serious?

LLOYD CUTLER: Well, to win a case on lying - false statements to the government - you've got to prove first that there was an intent to deceive and that it was material to some intervention. I don't think there's anything new about that, George.

SAM DONALDSON: Let's talk about what's happening to President Clinton in regard to when alleged wrongdoing occurred, if indeed there was any wrongdoing. Always before - correct me, I'm sure you will, if I'm wrong - an independent counsel has been appointed to investigate acts that were committed allegedly by an individual who held public office during the time they held public office. Whitewater seems to be able acts alleged against the Clintons that occurred years before he was elected president.

LLOYD CUTLER: Well, two answers to that, Sam. In the first place, the statute does cover any alleged criminal conduct occurring you take office.

SAM DONALDSON: But should it? That's what I'm asking.

LLOYD CUTLER: One could argue it should, because the same alleged bias that might exist - the unwillingness of an attorney general to go after someone in his own administration - would apply just as much to that.

SAM DONALDSON: So you agree it should.

LLOYD CUTLER: But I want to make the point about President Clinton that he is not and Mrs. Clinton is not the subject of the Whitewater inquiry. They are mere witnesses, and that is what they have been told till now-

SAM DONALDSON: Well, at the moment - if I may, Mr. Cutler - that may be true-

LLOYD CUTLER: -expensive as it's turned out to be.

SAM DONALDSON: -but the special- the independent counsel has a broad mandate. All right, what do you think about this issue?

ROBERT BENNETT: Well, Sam, I- you know, I'm talking against my self interest because these independent counsel are just wonderful for my practice. I'm putting three wonderful daughters through school on it, but as-

SAM DONALDSON: We'll stipulate you're a high-priced lawyer, Mr. Bennett.

ROBERT BENNETT: -as a citizen I'm outraged. This is an example of where what's on paper doesn't match what happens in practice. You get an independent counsel appointed. They come to Washington. They get office space. Mr. Starr has something like 20 attorneys now, something like 25 agents. I understand that my friend, Mr. Schmaltz [sp?], who's doing the Espy investigation, has a- has a similar number of people working for him. I would point out to you that, in the John Gotti case, I think the maximum number of prosecutors involved were four, and there were about seven or eight core agents. This thing takes on a life of its own.

SAM DONALDSON: Well, am I correct that, under the law at the moment, an independent counsel can be put in place because of certain allegations about a subject - let's say the subject is X?

ROBERT BENNETT: Yes.

SAM DONALDSON: But then, once that independent counsel starts working, he can go back to T and U and A and B and discover some misdeed at age of 15.

LLOYD CUTLER: All he needs is to find out that it's related.

ROBERT BENNETT: That's all.

LLOYD CUTLER: I think the healthiest thing of all would be if some attorney general fired some independent counsel. After all, this statute was held unconstitutional- constitutional because the attorney general had the power to review what the independent counsel was doing.

ROBERT BENNETT: The intervention in Whitewater, in my judgment,is an enormous waste of time and money.

GEORGE WILL: Are we perhaps too fastidious, in general, about the ethical past of the people we have in

public life? How many independent counsels could Daniel Webster have kept in business with his interesting business dealings. but aren't we glad, on balance, he was in the United States Congress?

LLOYD CUTLER: What about Thomas Jefferson?

GEORGE WILL: Well, case in point. Seriously, are we not perhaps too punctilious about trying to have sinless people?

LLOYD CUTLER: Oh, absolutely, and I do agree with what David Broder said this morning. It has a serious chilling effect on people wanting to be in public service, particularly if you have to be confirmed by the Senate.

ROBERT BENNETT: But, you see, what you have to understand- this has less to do with law enforcement and catching bad folks and more to do with scandal. We're in a culture of scandal and what we have done with this- this statute is we have institutionalized a mechanism by which members of the committee can start the criminal process running and it's a no-lose situation. If the attorney general appoints an independent counsel, they say, 'See? Someone high-level has obviously done something they shouldn't have done.' If the attorney general does not appoint somebody, they say, 'See, there's a coverup.' And I think what has to happen is the politicians on both sides of the aisle should call a truce, should back off and put this vast power back where it belongs, in the unusual, unique, rare case where there could be a conflict of interest where an attorney general would have to investigate himself or herself, there's no reason you can't go out and get a special counsel operating within the framework of the Justice Department.

COKIE ROBERTS: I think it would be- we probably shouldn't hold our breaths waiting for that to happen, but thank you both very much for coming, Mr. Bennett, Mr. Cutler. When we come back, our no-holds-barred discussion here in the studio, and joining us will be Julie Johnson of ABC News, in a moment.

[Commercial break]

ANNOUNCER: This Week With David Brinkley now continues. Once again from Washington, Cokie Roberts.

COKIE ROBERTS: Welcome, Julie.

JULIE JOHNSON, ABC News: Thank you.

COKIE ROBERTS: Well, we heard Senator Packwood, at the beginning of this hour, talking about taxes and he certainly didn't sound like he was ready to go for a big Republican tax cut. Sam, you think there's

going to be a little problem in the Republican Party?

SAM DONALDSON: Well, you know, Cokie, we have a rule here that we don't slam guests who have just been on the program, but there is no rule against praising them. I think Bob Packwood is exactly right. I don't think we should have a tax cut, because I think we should reduce the deficit, but if we're going to, we ought to say upfront how we're going to pay for it and the House Republicans just haven't done that.

COKIE ROBERTS: In fact, the bill that they put out this week, this capping what's going to be spent in discretionary spending, has the most wonderful categories that- elimination of duplication is one category.

SAM DONALDSON: Right - save $50 million. Thank you.

COKIE ROBERTS: That's right, $50 billion.

JULIE JOHNSON: Well, they went to all the perennial ones, too, the Amtrak subsidy, the Legal Services Corporation subsidies, but I think that this issue demonstrates probably more than anything else the difference between Senate Republicans and House Republicans, because I think when it comes down to it, whether you agree or disagree with who would actually benefit from some of these proposals, they've got proposals in there that are really questionable: the education cuts, the vocational education cuts, the adult ed. When they start moving toward welfare reform, I think some of these issues are going to be some real problems for them about what they're going to do with the cuts.

GEORGE WILL: Well, they were cut- voting this week on a $17-billion recision package. That's one percent of our multi one-and-point-six-something-trillion-dollar budgets. If you get this level of pain with this kind of trivial cuts, you can imagine how exciting it'll be to try and pay for these other tax cuts. However, let me say this about Mr. Packwood. I expect House Republicans to petition to expel Oregon from the union. I mean, when you get done with Hatfield and Packwood out of that one state, that's going to be a lot of trouble.

SAM DONALDSON: They're not in lockstep with the boys.

GEORGE WILL: It's one thing for Mr. Packwood to say correctly that the country is not clamoring for tax cuts. That is not, however, the final question that a representative in a deliberative body is supposed to ask. He's supposed to ask, 'Do we have the right size government? Would tax cuts be good even though the public may not understand that?' I don't think that ends the argument.

SAM DONALDSON: Well, let me talk about technique.

JULIE JOHNSON: How and also can they pay with it- pay for it as well? I mean, I think Sam's exactly right, with technique, but can they get the money for the tax cuts-

SAM DONALDSON: Well, let me tell you-

JULIE JOHNSON: -and I think that's where American people have some question marks.

SAM DONALDSON: You play right into my hands - technique and where have they got the money? In the House- let me show you a technique they used to try to get the money. Friends of the House Republicans will say it was just hard ball. Others will say it's kind of slimy, but here's what they did. A Democrat-

GEORGE WILL: Which do you think?

SAM DONALDSON: A Democrat, Lucille Roybal-Allard from California, wanted to - I have to consult my notes, 'cause it's very difficult - wanted to restore transportation and home services for the elderly and frail, $37 million, and they accepted her amendment. And people said, 'Well, these Republicans aren't bad guys, after all.' Ah. They accepted her amendment, so then, when the Democrats wanted to restore $200 million for veterans' benefits that had been cut by taking them from the space program, Republicans said, 'Under the House rules this amendment of Mrs. Roybal-Allard's forestalls the use of this technique. We can't do that. We'll take the money from the National Service Corps. And now Democrats are in a position, they can't vote against the veterans, they have to now-

COKIE ROBERTS: Well, they could-

SAM DONALDSON: -vote against other important-

GEORGE WILL: Why can't- why can't they vote against veterans?

COKIE ROBERTS: Well, they could vote against veterans. They just don't have the nerve to vote against veterans.

SAM DONALDSON: Well, they don't have the nerve to.

COKIE ROBERTS: I must say my reaction to this was the Republicans are finally catching on how to run the House of Representatives. They've got it- they've got it together.

SAM DONALDSON: Well, they're- Cokie, they're running in an underhanded way that says to a-

COKIE ROBERTS: Why?

SAM DONALDSON: -well-meaning representative who thinks she's doing great for her constituents, 'Yeah, we'll take your amendment,' and that forestalls $200 million of cuts elsewhere.

COKIE ROBERTS: The other thing that's coming up this week on the House floor will be welfare reform, and that has really caused a lot of discussion. I must say, the discussion has moved so far away from it used to be. One of the most interesting things is to see how everybody is on board about people going to work, how people- how a lot of people are on board about cutting benefits for future children, once somebody's on welfare. Things that, a few years ago, would have been unthinkable to be discussed in Washington, now you get a consensus around

GEORGE WILL: Thirty years ago this month, Moynihan published this Moynihan Report on the crisis of the black family, at which time the illegitimacy rate in black America was, I think, 26 percent. Today it's 68 percent. Today the illegitimacy rate in white America has gone from two percent to 22 percent since 1960. That terrifies people. We have no idea what to do about it, but clearly something must be done, Republicans and others feel, for the government to stop sending a signal that the stigma against illegitimacy is trivial and unimportant.

JULIE JOHNSON: Well, I think, in looking, though, at the policy debate, first of all, they're going to have to decide not just about illegitimacy, but about jobs, and that is let's just supposed we just end welfare as we know it, and I think that there's a lot of support in the black community as well as elsewhere for doing that. But the question is then what do you do? Do you send these people into Fortune 500 companies? Do you send them where? And I think that that is the difficulty that both the House and the Senate is going to have and face if they do anything meaningful. It's very easy to do something that's politically popular and has a rhetorical feel to it that is easily embraced, but to really do what I think everyone in the country wants, which is to see people become empowered, get back into the workforce-

COKIE ROBERTS: And start paying taxes.

JULIE JOHNSON: -they're right. You have to do much more than just sort of talk about illegitimacy.

SAM DONALDSON: Julie, everyone is for workfare - I think that's right - but when people can't get a job because one isn't available, or they're not trained for it, where do their children go? The speaker floated the idea of maybe orphanages, but he has withdrawn that, knowing that that's not the answer. What do you do with children? What sort of safety net do you put in place? No one has answered that.

JULIE JOHNSON: And children are the ones who are really the beneficiaries of the AFDC program in the country.

SAM DONALDSON: What the Republicans have said is, 'We'll give a block grant to the states. Let them figure it out.' Well, to what extent, George, will some states do it right and some states not do it?

GEORGE WILL: I think the threshold question is what are the chances that any state will do it as badly as the federal government has done? Then, what are the chances, with 50 governors out there and 50 state legislatures, that with 50 flowers blooming you'll get some good flowers?

SAM DONALDSON: Well, I'd hate to live in a state where the flower doesn't bloom very well, it turns out to be a weed. What happens to the children in that state?

COKIE ROBERTS: Well, and what happens-

GEORGE WILL: Your anxiety about American federalism is not new, but it's also not well grounded. The fact is we do not-

SAM DONALDSON: Well, I'll tell you what happens. The children, if they can make it, will go to the states where there is a good program in place. Those states will then be under a burden. They will say to the federal government, 'I need more money for my block grant, because State Y isn't doing it right.'

COKIE ROBERTS: That- that- that whole fight is going to be very interesting to see how the states respond to each other. The other thing that Senator Packwood talked about this morning was affirmative action, and how the Republican Party is moving - as is the Democratic Party as well - moving on that issue. And Senator Dole, who has been one of the great supporters of affirmative action over the years, saying now that he thinks that preferences should be gone, any preferences on the basis on sex or race. Is this going to be a huge fight that is politically bruising to both parties, or where- what do you think's going to happen?

JULIE JOHNSON: I think we're just marching right into '96 election with a real wedge issue that neither party really knows what to do with properly. I mean, Senator Dole, who has been a longtime champion of affirmative action has made this 180-degree turnaround, and at the same time, Bill Clinton, who was sort of a private champion of these ideas or occasionally a public champion, is having dinner parties at the White House to determine really what should be done, and he's telling people - I talked to one who had dinner with him about it - telling people he really doesn't know how to explain the issue to the public, which is clearly very angry about it. So Bill Clinton is in the posture he normally is, and I think that the Republicans have the baton right now, but it's going to be one that's going to perhaps bite them, because why- white women are still clearly very large beneficiaries of affirmative action, and they vote Republican, many of them.

SAM DONALDSON: We- we white men are very angry about it. Of course, we still have 85 to 87 percent

of the jobs, but we perceive that we don't have 88 percent anymore, and so we're terribly angry and believe we're being discriminated against. Folks, you got to ask yourself a question. Has discrimination been erased in this country? If so, then we don't need affirmative action.

GEORGE WILL: Okay, good-

SAM DONALDSON: If you could honestly say that women and minorities are on an equal footing and get jobs equally according to their merit, then, hey, I'm for it, but I can't say that.

GEORGE WILL: You have just rephrased your question in a different way. It's one thing to say, 'Has discrimination ended?' It's another thing to say, 'Is everyone on an equal footing?' Now, if the pursuit is for-

SAM DONALDSON: Well, that's what's the definition of discrimination, George.

GEORGE WILL: It is not everybody being equal in their starting race at life.

SAM DONALDSON: On merit, I said. On merit, I said.

GEORGE WILL: Look, Sam, there are many laws against discrimination. There are many agencies that exist solely to find it and root it out. Why, given that, do you need affirmative action? I'll tell you why. It's because of the pursuit of now, (A), diversity for its own sake, that you're going to produce a workforce with a certain demographic configuration. And also it is because a lot of groups in this racial, ethnic and gender spoils system that has developed have a huge economic stake in being presumed victims of the wickedness of American life.

JULIE JOHNSON: Well, I do think that corporate America is not exactly where you are, George. I mean, the CEO of Proctor & Gamble was also at one of these White House dinners on affirmative action, and I think what their concern is, quite frankly, is that the Congress, in repealing, will not prevent corporate America and employers for deciding that they do want a diverse workplace. And if that's something that Proctor & Gamble wants, or any particular company, I think what they're worried about-

GEORGE WILL: The CEO- the CEO-

JULIE JOHNSON: -is that the government will now not let them do that.

GEORGE WILL: The CEO of a Fortune 500 company is far more like than unlike a government bureaucrat. He's basically not spending his money, he's administering something that he wants to administer with clear rules, and he wants to satisfy various constituencies.

SAM DONALDSON: Well, you know that affirmative action-

COKIE ROBERTS: Well, it is true-

SAM DONALDSON: -laws drive with the government contracts. That's what they drive to. If you have what, more than 50 employees- I've forgotten all the thresholds. We're talking about, when we talk about laws that govern this, government contracts.

COKIE ROBERTS: Well, it-

SAM DONALDSON: If we're talking about society, we're talking about something else.

COKIE ROBERTS: Well, but there is a sense in society that the government has this interest at heart, and I must say that, you know, any lady of a certain age has had the experience of being told, 'We will not hire you because you are a woman.' Now, that experience is many years ago-

SAM DONALDSON: You're still a spring chicken in my book, kid.

COKIE ROBERTS: Oh, thank you. Thank you there, Sam. But the- but it is true that we worry, I think, that if this- if the attitude is pervasive, that you don't- no longer have to be concerned about these things, that for women to get into the boardrooms to become company presidents, vice presidents, will be more difficult if everybody just says, 'Never mind anymore.'

JULIE JOHNSON: And you had a glass ceiling report that came out this week that suggested 'Never mind anymore' may lead you with a very monochromatic and not very gender-integrated board room.

COKIE ROBERTS: We had another report this week, Sam, that was troubling for you, that was a report about people who receive farm subsidies who don't necessarily live on farms, and your name was mentioned.

SAM DONALDSON: You bet my name was mentioned, and I asked you to bring it up and I appreciate your doing it. You know, anyone who's watched this show knows that I have ranching interests in New Mexico - my native state - knows that I work within the system of subsidies that exists in the ranch and farm industry. My father bought the land in 1918. It's been in the family ever since. Now that my mother's dead - she died in 1988 - I operate it and I have expanded it into additional ranching material, and I hope someday to retire in New Mexico. This isn't a tax dodge for me. I operate that ranch within the system that exists, and it's the system that depends on farm subsidies, which, if you watch this show, you know I oppose and have opposed repeatedly. We need to reform them. You know, my

neighbors in Lincoln County, New Mexico, Julie, think of me as a traitor, because I'd like to- they believe that I helped kill the wool and mohair subsidy. Last year, Congress killed it. It's being phrased out over two years, and that's exactly the right thing to have done.

JULIE JOHNSON: Is there a question that is raised, do you think, out of this report about your own integrity, or is there a hypocritical question of- what do you think is the issue that led Senator Alfonse D'Amato to bring it up on the Senate floor?

SAM DONALDSON: I can't speak for Senator D'Amato's motives - he has every right to criticize me or anyone else from the Senate floor - but I'll tell you I've worked to change this system within the system that I found. Many, many years ago - and Senator D'Amato missed this, I guess his research was not complete - we raised cotton on the farm and cotton has been under a price support program. You had to be in the government loan. And we were supported with all the other cotton farms for that- you know, you could say, Julie, 'Well, get out of the family business. Sell it off.' I don't think that's reasonable, anymore than if I said to members of Congress, 'Sell all your interests and give to the poor.'

GEORGE WILL: Doesn't your argument vindicate the fundamental conservative criticism of an interventionist government? That is, once the government intervenes to put a web of kindly, compassionately meant subsidies in place, that everyone then becomes dependent on them. You can't unilaterally withdraw - you'll be at a competitive disadvantage - so active interventionists subsidizing redistributive government generates lobbies for the continuation of government.

SAM DONALDSON: You are right, George, and I've said it repeatedly. We must get rid of farm subsidies. But my guess is what will happen is that it's going to be painful for some farmers, and they should be helped by the federal government to make a transition, but in the end, we're going to have a more competitive economic system and farming will do better than it's doing today. Today, I have to pay $70 for a ewe because the subsidies are built in. Get rid of them, I'll pay $35 for a ewe. Get no subsidy money, but still make a profit so I can pay my five workmen, their profit-sharing which I have for them as well as their health insurance which I have for them, as well as their 401K plan which I have for them. Okay?

GEORGE WILL: Enough.

SAM DONALDSON: Enough?

COKIE ROBERTS: And I hope that- hope that no coyotes come along.

SAM DONALDSON: Ah, hell, The coyotes are eating us alive.

COKIE ROBERTS: Thank you all very much. That's all the time we have. I'll be back with a final word in a moment.

[Commercial break]

COKIE ROBERTS: That's our program for this Sunday morning. David Brinkley will be back next week. I'm Cokie Roberts. For all of us here at ABC News, have a nice day.

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Gen. Carns Withdraws As CIA Head Nominee

ABC NEWS World News Saturday (ABC 6:30 pm ET)

March 11, 1995

Section: News; Domestic; Show; Package

Length: 4142 words

Highlight: The Clinton administration has again been forced to withdraw a nominee for a top government post, this time retired Air Force General Michael Carns as CIA director, following improprieties found by an FBI check

Body

ANNOUNCER: From ABC, this is World News Saturday. Here's Catherine Crier.

CATHERINE CRIER: Good evening. For the fifth time, the Clinton administration has been forced to withdraw its nominee for a top government post. This time, it was retired Air Force General Michael Carns, the President's choice to take over the Central Intelligence Agency. The White House moved quickly today to minimize the political damage by nominating the popular deputy defense secretary, John Deutch, to replace him. The story from ABC's Jackie Judd.

JACKIE JUDD, ABC News: [voice-over] General Carns' nomination, made only four weeks ago, ended abruptly after FBI background checks suggested he likely violated immigration and labor policies by not properly registering or paying a Filipino immigrant who had lived with the Carns family for several years.

Carns, who remained behind closed doors at his California home, issued a statement calling these '...innocent errors' which would have been 'exploited' had he not withdrawn. But Carns said the principal reason for pulling out was an unspecified 'list of venomous and abusive accusations … aimed at smearing his wife and children,' which he said 'killed his willingness' to endure the confirmation process.

MICHAEL McCURRY, White House Spokesman: General Carns came to the conclusion he didn't want to be bait in the latest Washington feeding frenzy.

JACKIE JUDD: [voice-over] Carns says he alerted the White House early on. The FBI, however, found the situation more complex than he had indicated.

Sen. ARLEN SPECTER, (R), Chairman, Intelligence Committee: It's a little hard to understand how the White House did not pick up on those matters, and it is yet another indication of the question on credibility and competency of the United States on- on foreign policy.

JACKIE JUDD: [voice-over] Carns met the Filipino, Elbino Runos, through relatives when stationed at Clark Air Force Base in the Philippines, and brought Runos to the U.S.

[on camera] Sources close to Runos say he told FBI agents he had been paid only a fraction of the minimum wage he was legally entitled to, and which Carns had promised him. One source claims that Runos made no abusive allegations, and that Carns must be, quote, 'a liar or exploiter to say otherwise.'

[voice-over] Regardless, the Clinton administration had no stomach for another battle with Congress, especially when it's trying to salvage Henry Foster's nomination as surgeon general, and officials feared a fight would have exposed the President to charges of a double standard, after having deserted attorney general nominee Zoe Baird, who had similar problems. So, in an effort at damage control, Deputy Defense Secretary Deutch was quickly named to replace Carns. A source says Deutch, who already has passed FBI background checks, reluctantly accepted because the White House is desperate for a quick and painless confirmation. Jackie Judd, ABC News, Washington.

CATHERINE CRIER: The withdrawal of Carns is just one more embarrassment for a White House plagued by a series of failed nominations. As ABC's Jerry King reports, finding candidates that can survive the approval process has become a political and procedural nightmare.

JERRY KING, ABC News: [voice-over] First there was Zoe Baird, then Kimba Wood, for the same job, attorney general. Both withdrew. There was Admiral Bobby Inman, to be defense secretary, and Lani Guinier to head the civil rights division at the Justice Department. Now the vetting process has claimed General Carns. Is the White House not doing its homework?

MICHAEL McCURRY: In the past, nominations for high office didn't go through this type of scrutiny. They do now, and we have to live with the results.

JERRY KING: [voice-over] Everything is open to scrutiny. The vetting process can take three months, with pages of long, detailed questionnaires about finances and a nominee's public and private life, going back to age 18. Then the FBI double-checks with relatives, friends and neighbors, for example, any history of bizarre behavior, drug or alcohol abuse, traffic tickets, shoplifting or other petty crimes.

BOYDEN GRAY, former White House Counsel: None of these things, individually, would be disqualifying. But if there's a pattern of conduct, such as adultery, for example, if there's a pattern of blatant misconduct, why, you would say, 'Gee whiz, the American public wouldn't want someone like this serving in a position of high responsibility.'

JERRY KING: [voice-over] Former CIA director Robert Gates defends the thorough nature of the process, but he says the nation pays for it.

ROBERT GATES: The process has become so intimidating, in many respects, that really good people would be deterred, in some cases, from being willing to allow their names to be entered into consideration.

JERRY KING: How does General Carns view that process now? In his letter asking the President to withdraw his nomination, Carns complains, 'One is innocent until nominated; thereafter, one must struggle to prove innocence.' Jerry King, ABC News, the White House.

CATHERINE CRIER: Even after clearing the approval process and making it into office, a number of Clinton administration appointees continue to be dogged by allegations of illegal or unethical behavior. ABC's Michele Norris looks at the unprecedented number of calls for appointing independent counsels.

MICHELE NORRIS, ABC News: [voice-over] President Clinton promised that his Cabinet would introduce a new era of high ethical standards.

MIKE ESPY: [October 1994] I have, therefore, decided to tender my resignation to the President.

MICHELE NORRIS: [voice-over] Agriculture Secretary Mike Espy resigned after an independent counsel began investigating whether he improperly accepted gifts from companies that he was supposed to regulate. Now the Justice Department is considering whether to seek independent counsels to investigate three other Cabinet members: HUD Secretary Henry Cisneros, for allegedly misleading FBI agents about payments to his former mistress; Commerce Secretary Ron Brown, for questionable financial dealings; and Transportation Secretary Federico Pena, for a possible conflict of interest involving earlier business ventures.

Pres. BILL CLINTON: We live in a time now where the first thing people call for is a special counsel.

MICHELE NORRIS: [voice-over] Even the President himself is a target. Mr. Clinton and the First Lady's financial dealings are under review as part of the Whitewater investigation, now led by Kenneth Starr.

[on camera] Members of both parties are beginning to question the use of independent counsels, court-appointed attorneys with unlimited budgets, who often take years to complete their work.

WILLIAM BARR, former Attorney General: That person is a law unto themselves, and there's no other political official like that in our government that has no checks on them whatsoever.

MICHELE NORRIS: [voice-over] Much of the criticism focuses on the six-and-a-half-year investigation of the Iran/Contra affair. Independent counsel Lawrence Walsh spent $47 million for a total of seven guilty pleas and convictions.

Rep. JAY DICKEY, (R), Arkansas: The independent counsel is absolutely out of control in several areas, and we've got to somehow bring it in without it looking like we're trying to conceal fraud or corruption.

MICHELE NORRIS: [voice-over] But in Washington's increasingly partisan environment, there are no signs of that happening anytime soon. Michele Norris, ABC News, Washington.

CATHERINE CRIER: Coming up, Mother Nature deals another deadly blow in California, a whole new threat to abortion providers, and what the judge and the lawyers are saying that the Simpson jurors can't hear.

[Commercial break]

CATHERINE CRIER: At least six people are believed dead in the gale-force Pacific storms that have been pounding California, causing widespread flooding and mudslides. ABC's Gary Shepard looks at the areas that have been hardest-hit.

GARY SHEPARD, ABC News: [voice-over] The storm slammed into central and southern California last night with several inches of heavy rain. In Santa Barbara, a retired federal judge died when he was swept out of his home by raging floodwaters. When the sun came up this morning, there was misery in Malibu. New mudslides destroyed more homes and forced police to close the Pacific Coast Highway for several miles in both directions. One long-time resident said this latest onslaught was painful.

CALIFORNIA RESIDENT: I've lived here ever since the late '50s, and I've never seen anything like this before, ever.

GARY SHEPARD: [voice-over] Farther north, in Monterey County, a levee on the Pajaro River burst, devastating this community with floodwaters. Many lives were saved by rescue workers. In Coalinga, near Fresno, a 100-foot section of Interstate Highway Five disappeared when a bridge collapsed and left at least half a dozen people missing and feared dead. In addition, a 200-mile stretch of Interstate Five

was closed to all traffic by the disaster.

So far, there are thousands homeless, and at least 34 counties now declared disaster areas, and another storm is already on its way. Gary Shepard, ABC News, Los Angeles.

CATHERINE CRIER: There was more abortion-related violence today in Brookline, Massachusetts, where last December a gunman opened fire with fatal results. More than 100 demonstrators from both sides of the abortion debate gathered outside a Planned Parenthood clinic. An anti-abortion demonstrator allegedly struck an abortion-rights supporter with his cane, and broke several of her teeth.

The escalating violence at abortion clinics has claimed at least five lives in the past two years. It has created a growing sense of fear and a whole new threat to abortion providers, as ABC's Julie Johnson reports.

JULIE JOHNSON, ABC News: [voice-over] It was only one day after two people were killed at a Brookline, Massachusetts clinic that death threats were posted on the door of an abortion clinic in this Long Island building. That was enough for Ronald Morey, who owns the building. He says he's pro-choice, but now he's trying to evict the abortion clinic.

RONALD MOREY, Landlord: I think, if you boil it down, really, what you're faced with is fear, a very real fear, and at this stage of the game, frankly, I'm just not prepared to sacrifice real human lives for principle.

JULIE JOHNSON: [voice-over] But the clinic, Long Island Gynecological Services, still has eight years left on its lease. Now the two sides are in court, with Morey arguing he has the right to protect his property and his other tenants.

[on camera] Abortion clinic protests are still bringing parties to the courtroom, but the legal issues are changing. There are now new questions about property rights and the risk of doing business with an abortion provider.

[voice-over] The lawyer for the Long Island clinic says these are new tools being used by abortion opponents.

DAVID ROSENBERG, Clinic Attorney: They have now evolved into a way of trying to do indirectly what they could not do directly, and that is to put pressure on landlords not to lease facilities to doctors who perform abortions.

JULIE JOHNSON: [voice-over] In Lincoln, Nebraska, similar pressures have repeatedly delayed

construction at a new Planned Parenthood clinic.

CHRIS FUNK, Lincoln Planned Parenthood: We have gone through about 20 subcontractors, and two general contractors, who would not work with us.

JULIE JOHNSON: [voice-over] That reluctance came after anti-abortion activists sent 100 companies a letter suggesting that they 'consider not bidding on this project.'

PAM TABOR, Anti-Abortion Activist: It's just a matter of having the facts presented, and then the contractors and suppliers making a good business decision.

JULIE JOHNSON: [voice-over] The Lincoln clinic is scheduled to open in June, but its experiences and the battle in Long Island over a clinic's lease stand as warnings to abortion clinics around the country that a new round of fights, different fights, lie ahead. Julie Johnson, ABC News, Mineola, New York.

CATHERINE CRIER: House Speaker Newt Gingrich said goodbye to his students at Georgia's Reinhardt College today, teaching at the last session of his 10-week course called 'Renewing American Civilization.' Gingrich, a history professor, said he's leaving the classroom for a few years because his wife wants him to slow down. His critics have charged that he uses the class as a political forum, and the class is now the subject of a congressional ethics inquiry. Gingrich used his last class to take a swipe at the media.

Rep. NEWT GINGRICH: And you now have a devastatingly more cynical, devastatingly more adversarial system which makes it harder to report the truth, because the truth isn't always cynical.

CATHERINE CRIER: Well, 30 years ago, George Wallace, then the governor of Alabama, symbolized white southern resistance to the civil rights movement. But yesterday, in Montgomery, Wallace shook hands and even sang 'We Shall Overcome' with those who were recreating the famous Selma-to-Montgomery civil rights march.

When we return, where in the world is Michael Jordan?

[Commercial break]

CATHERINE CRIER: The O.J. Simpson murder trial wrapped up week seven with some high drama. Prosecutors had the controversial detective Mark Fuhrman unwrap items he said he found in Simpson's Bronco: a shovel, a large plastic bag, and a towel, but they didn't reveal to the jury what that evidence may mean. Presumably, jurors will get an explanation on Monday, but one thing they may never hear is the content of all those head-to-head conversations between Judge Ito and the lawyers, known as sidebars. In Los Angeles, here's ABC's Cynthia McFadden.

CYNTHIA McFADDEN, ABC News: [voice-over] Even the judge is getting tired of them.

Judge LANCE ITO, Los Angeles Superior Court: Having to start the morning with a sidebar conference, I don't know if that's a good sign.

CYNTHIA McFADDEN: [voice-over] Certainly not a good sign for the jurors, who have spent more than 10 percent of their time in the courtroom waiting for the conclusion of a sidebar. There have been more than 150 of them. Sidebars, or bench conferences, got their name from their location at the bar next to the judge's bench, where the judge rules whether controversial evidence can be admitted.

Transcripts of the sidebars reveal information the jurors may never hear. For example, Detective Tom Lange's testimony was interrupted as he told the jury about what happened when he called the Brown family to tell them Nicole was dead.

Det. TOM LANGE, Los Angeles Police Department: Denise Brown began to scream over the phone, what I believed to be hysterically.

MARCIA CLARK: And what did she say?

CYNTHIA McFADDEN: [voice-over] The jury will never know. The defense asked for a sidebar. To find out what Denise Brown screamed, you have to do what the jurors cannot do, read the sidebar transcripts. Marcia Clark revealed at sidebar that Denise's first reaction upon hearing her sister was dead was to yell, 'He did it,' was to accuse O.J. Simpson.

Other sidebar transcripts reveal the lawyers have said the following: That a credit card receipt from Bloomingdale's shows Nicole Brown Simpson purchased gloves like those found at the murder scene for her husband; that Candace Garvey, who saw Simpson at his daughter's dance recital, said she thought O.J. Simpson was on drugs the day of the murder; that O.J. Simpson has not yet decided whether to permit his children to be called as witnesses; and that part of Simpson's defense may be that the month before the murders, he was being stalked by unknown assailants.

[on camera] There have been so many sidebars, slowing down the proceedings to such an extent, that this has become a favorite courthouse souvenir. Even Judge Ito has one. So why would the judge permit so many sidebars?

LESLIE ABRAMSON, Defense Attorney: You don't have to let them approach, just because they want to. I think Judge Ito is doing it because he wants to be fair, he wants to avoid hostility in his courtroom, to the extent that he can, and because he's generally very patient.

MARCIA CLARK: May we approach?

Judge LANCE ITO: All right.

CYNTHIA McFADDEN: [voice-over] But as the trial drags into its eighth week, Judge Ito's patience may be wearing a bit thin, for despite their length, rarely do the arguments at sidebar lead the judge to change his rulings. Though silent in the courtroom, sidebars speak volumes, volumes the jurors will never hear. Cynthia McFadden, ABC News, Los Angeles.

CATHERINE CRIER: Possibly running a close second to the Simpson trial in the hierarchy of national obsessions is sports superstar Michael Jordan's immediate future. He quit playing minor league baseball yesterday, fueling some speculation that he's going back to basketball and the Chicago Bulls. Today, everybody was trying to find Jordan, including ABC's Dick Schaap.

DICK SCHAAP , ABC News: [voice-over] The number was right, but the size was wrong. Michael Jordan did not show up at the Chicago Bulls game last night. He was not among the spectators who rooted for his return.

1st CHICAGO BULLS FAN: He's definitely coming back, if not tomorrow, in a month. He's coming back.

2nd CHICAGO BULLS FAN: We hope he's coming back. Come back, Michael.

DICK SCHAAP: [voice-over] Nor among his former teammates, who surely would welcome him.

B.J. ARMSTRONG, Chicago Bulls Guard: We don't know, and Michael will have to answer all those questions, and soon as you guys can find him, I guess he'll be able to answer them.

DICK SCHAAP: [voice-over] Jordan was spotted emerging from his Chicago office last evening, but then he vanished again. He was not spotted at his Chicago restaurant, nor at the Bulls' workout this morning, getting himself in playing shape.

PHIL JACKSON, Chicago Bulls Coach: Michael, from his own personal standpoint, is not going to embarrass himself by not being ready to play.

DICK SCHAAP: [voice-over] Nor visiting the well-guarded Phoenix home of the Bulls' owner, Jerry Reinsdorf.

[on camera] Where's Michael? No one who knows is saying- but his fans will return to the shrine tonight,

to pray for a sighting soon, preferably in uniform. Dick Schaap, ABC News, Chicago.

CATHERINE CRIER: Michael Jordan may be lost in Chicago, but police there have made a major find as a result of a minor traffic incident. Police officers stopped two cars that had been driving erratically, and inside one of them they found a Picasso valued at $650,000. It was stolen more than a year ago from a Chicago gallery. Except for a small scratch, the painting was none the worse for wear.

In a moment, too much talk about world poverty.

[Commercial break]

CATHERINE CRIER: In Pakistan's capital of Karachi, an emotional farewell today for two American consulate employees who were gunned down this week in a terrorist attack. Their bodies will arrive at Washington's Andrews Air Force Base tomorrow. A third American who was injured in the attack is also coming home. Washington is offering a $2-million reward for information leading to the killers.

CATHERINE CRIER: In Denmark today, world leaders lined up to denounce poverty and its devastating effects on social and political stability. What those attending a United Nations summit on poverty couldn't agree on was what to do about it. ABC's Jim Laurie reports.

JIM LAURIE, ABC News: [voice-over] It was one of those conferences long on talk by familiar faces, all of them agreeing there's an immense problem that must be dealt with. One-fifth of the world is dirt-poor.

PAUL BRANNEN, Christian Aid Charity: There are a billion people, one billion people in the world today who are so poor that they have to live on less than a dollar a day.

JIM LAURIE: [voice-over] But few agree what to do about that, though there are ideas. Denmark and Austria agreed to forget several hundred million dollars owed it by African countries. No other nations followed suit. Another idea had donor countries guarantee they'd devote 20 percent of aid budgets to basic programs, education and health. All agreed, nice idea, but no one would commit to it.

PAUL BRANNEN: A lot of the rich countries like to spend their aid budgets on trade agreements, so they have trading relationships with third-world countries, to ensure that products are bought from the rich country in exchange for the aid.

JIM LAURIE: [voice-over] The truth is, many rich nations feel their money is going to corrupt governments and not to the people who need it most.

PETER YOUNG, Adam Smith Institute: The fundamental problem is, the aid is not going to the people of

the third-world countries. Aid is going to the third-world governments, to the third-world public sector who, in most cases, are the people who are preventing development.

JIM LAURIE: [voice-over] Twenty-five million dollars were spent on this conference. That's nearly as much as the U.S. has spent for a year of development aid to Haiti. Jim Laurie, ABC News, London.

CATHERINE CRIER: When we come back, where to find some of the smartest kids in the country.

[Commercial break]

CATHERINE CRIER: Finally tonight, a look at some of the smartest kids in the country. Forty of them, from 17 states, are here in Washington today. They're competing for thousands of dollars in scholarships in the Westinghouse Science Talent Search, America's oldest high school science competition. We decided to drop by, and we were amazed by what we heard.

DANIEL BISS, Bloomington, Indiana: The title here is 'On the Symmetry Groups of Hypergraphs of Perfect Cwatsets.'

JORDAN CUMMINS, Livingston, New Jersey: 'Unprecedented Aromatic Intramolecular 1, 5-Hydrogen Migration in Benzophenones - New Free Radical Rearrangement.'

LAURA MANFIELD, Forest Hills, New York: 'Nitric Oxide-Cyclooxygenase Interactions in Chondrocytes.'

CATHERINE CRIER: [voice-over] To call these kids smart is a little like saying Einstein was saying good in math. They are the creme de la creme, with average SAT scores of 1,366, out of 1,600. That's almost 500 points above the national average. But that's as simple as their math gets.

SAMI DASGUPTA, Silver Spring, Maryland: A polynomial like Xsquared +2X +2 is called irreducible because it can't be factored into polynomials with lower degree.

CATHERINE CRIER: [voice-over] This isn't a traditional science fair. You won't find any clay volcanoes with fake lava here.

Prof. RICHARD GOTT, Westinghouse Science Talent Search: It's gotten more complex as science itself has gotten more complex.

CATHERINE CRIER: [voice-over] But it's also more than just numbers and theories.

TRACY PHILLIPS, Long Beach, New York: Science isn't- it's not just cold and technical, it's creative and

imaginative and compassionate.

CATHERINE CRIER: [voice-over] Tracy Phillips built an electronic device called 'Money Talks' which reads money denominations for the blind. Kara LeVine had concerns about the environment.

KARA LeVINE: I developed an environmentally friendly newspaper printing ink which is derived from pine trees.

CATHERINE CRIER: [voice-over] Her ink got high marks from Panama City News Herald and with readers, as well.

KARA LeVINE: It doesn't come off on your hands as bad.

CATHERINE CRIER: [voice-over] These finalists may be smart, but they still have a sense of humor, and in case you find yourself getting bored, there's even a project on yawning.

JOEL WOLLMAN, Cedarhurst, New York: The sound of the yawn, the 'uuh' of the yawn, is crucial to a yawn's contagiousness.

CATHERINE CRIER: The top winner will receive a $40,000 scholarship, but all the contestants have their eyes on a much bigger prize: five former Westinghouse winners have gone on to win the big one, the Nobel Prize.

And that's World News Saturday. I'm Catherine Crier. For all of us here at ABC News, good night.

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Rising Star: How a Young Lawyer Is Making His Mark At a Washington Firm --- At 33, Paul Cappuccio Gets Plum Jobs, Helps Arrange Clerkships at High Court --- Playing the `Bad Cop' for GM

The Wall Street Journal

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Byline: By Paul M. Barrett, Staff Reporter of The Wall Street Journal

Body

WASHINGTON -- Looking for a perch in private law practice in late 1992, Paul Cappuccio was reminded by a senior partner of a big firm that he would have to serve as an apprentice for a while. It was all well and good that Mr. Cappuccio had been a Supreme Court law clerk and a top aide at the Justice Department, the older attorney said. But "someone like Harry Pearce" -- then general counsel at General Motors Corp. -- "cannot let 31-year-olds handle key assignments."

Mr. Cappuccio crossed that law firm off his list.

Instead, he joined the Washington office of Kirkland & Ellis. Only a few months later, none other than Harry Pearce personally approved Mr. Cappuccio's handling of critical court briefs in a GM product-liability crisis that led the government to try to force the recall of five million pickup trucks. After Mr. Cappuccio

helped win some major victories, Mr. Pearce, now an executive vice president, thanked him in a note for providing "the ideal blend of very aggressive lawyering with very careful lawyering."

This is how it goes for Washington's hottest young legal trouble-shooter.

Typically, even the law-school stars elevated for a year or two to draft opinions for Supreme Court justices have to descend from Mount Olympus and toil anonymously in a regular job until they acquire a little gray hair. But not Mr. Cappuccio. Now all of 33, he is making his own rules at Kirkland & Ellis, bringing the large Chicago-based firm lucrative, cutting-edge business from the likes of GTE Corp. and Bell Atlantic Corp. His biggest coup came when GM, a longtime Kirkland client, called on him last year to assist the auto maker's current general counsel, Thomas Gottschalk, in stopping the pickup recall.

GM, to be sure, is always a formidable legal adversary, and Mr. Gottschalk, a former Kirkland partner, had experience fending off recall efforts. Nevertheless, "it was truly surprising" that out of its army of outside lawyers, GM sent Mr. Cappuccio to the bargaining table, says a government official familiar with the case.

Mr. Cappuccio, who declines to discuss the negotiations, at times played the "bad cop," stressing that GM was prepared to spend many years and many millions of dollars wrangling in court -- a prospect that he correctly calculated the Justice Department didn't relish. "We're not going to recall the trucks," he declared at one point in the negotiations. "We're not going to modify the trucks. We're not even going to clean the trucks . . . because the evidence shows there's nothing wrong with them." In December, the administration agreed to drop the recall in exchange for GM spending a relatively paltry $51 million over five years on safety programs.

A skilled browbeater when he needs to be, Mr. Cappuccio tempers his bluster with an irreverent folksiness that has appealed to powerful admirers at every stage of his career. Called "Pooch" by his friends, he still has a touch of working-class West Peabody, Mass., in his accent. While he was getting top marks at Harvard Law School in the mid-1980s, his father, an electrical-company serviceman, was cleaning fluorescent-light fixtures at the university. The mints served at his law-school graduation came from the candy factory where his mother then worked.

A Catholic-school striver, the teenage Mr. Cappuccio peddled ladies' pumps at Thom McAn. "Selling shoes was great training for being a lawyer," he says. "You're persuading people to do what you want them to do, but without them realizing that you're persuading them."

Although Mr. Cappuccio isn't an antitrust authority, Bell Atlantic decided it needed him to chart strategy for a high-stakes antitrust suit against AT&T Corp. last year. "He's very good at characterizing the essence of a complicated case in short, even amusing, terms," says John Thorne, Bell Atlantic's associate general counsel. (The suit was later settled.)

Some detractors resent Mr. Cappuccio's precociousness and occasionally overbearing manner. But tap a Cappuccio client, and superlatives flow. "He's the fastest legal writer I have ever met, and the quality is as good as or better than any lawyer I know," James Durkin, a senior in-house lawyer at GM, says enthusiastically. "I don't know of anyone of his generation in private practice who is more talented," adds **William Barr**, GTE's general counsel and President Bush's attorney general.

Viewed as a shoo-in for a full Kirkland partnership this fall, Mr. Cappuccio is said to have been paid more than $300,000 in 1994 as a "nonequity" partner. That is more than twice what someone his age would ordinarily make at a ritzy Washington firm. Yet you wouldn't know it from his appearance or lifestyle. Overweight at the moment (though vowing to diet), he wears rumpled off-the-rack suits. "He's a genius," says Paul Clement, a Kirkland associate, "but at least he's not a genius who's a sharp dresser." A big chunk of his income last year went to buy his parents a house in Naples, Fla.

At the Justice Department in 1991-92, Mr. Barr handed his "young consigliere" politically sensitive missions such as the legal defense of the Bush administration's forced repatriation of Haitian refugees. "The president had me at the White House day after day, [asking,] `Is the judge going to block us, what are we going to do about it?'" Mr. Barr recollects. Back at Justice, he adds, "I turned it over to Paul, and he just handled it."

Three times, lower courts ordered the Coast Guard to stop turning back the Haitians; three times, a team of department lawyers coordinated by Mr. Cappuccio went to the Supreme Court and got the orders set aside. "Fainter hearts couldn't have handled that," Mr. Barr says. The blunt winning argument: The judiciary should butt out of foreign policy.

Mr. Cappuccio, who is single, nurtures a huge network of friendships. In private practice, some of these relationships have boosted his billable hours. He consults with Mr. Barr at least several times a week on regulatory law and other GTE business. On many weekends, they get together at Mr. Barr's McLean, Va., home to shoot the breeze.

A canny conservative, the former law clerk to Justices Antonin Scalia and Anthony Kennedy has a singular, if informal, role in deciding which young lawyers will get to draft Supreme Court opinions for them as well as for Justice Clarence Thomas. An important part of this self-assigned job is steering brainy, right-leaning law students to federal appeals-court judges -- such as Cappuccio pals Alex Kozinski in Pasadena, Calif., and Laurence Silberman in Washington -- who, in turn, serve as "feeders" for the conservative Supreme Court justices. Some insiders jokingly call certain high-court clerks "Cappuccio hires."

To the dismay of some conservative cronies, though, Mr. Cappuccio brags that a couple of his best buddies are Democrats and that he has worked closely with Laurence Tribe, the liberal titan of Harvard Law School. Mr. Cappuccio is assisting the constitutional-law scholar in representing Bell Atlantic -- so far, successfully -- in a major First Amendment case that could be headed for the Supreme Court. Bell Atlantic is seeking to eliminate a law that inhibits regional phone companies from providing video services. "He's a real pleasure to work with," Prof. Tribe says. "Larry's a gas," Mr. Cappuccio says.

Until college, Mr. Cappuccio confesses, he was a Democrat himself, "a kid from Massachusetts who grew up thinking the Kennedys are royalty." But working on Edward Kennedy's stumbling presidential campaign in 1980 drove the Georgetown University sophomore into the Reagan camp. "Reagan was belittled as some sort of clown, but he was talking about, and sticking by, ideas: a color-blind society, low taxes, individual responsibility."

At Harvard Law, Mr. Cappuccio found compatriots in the Federalist Society, a then-fledgling organization for conservatives. Today, he enjoys cult-figure status among them. He is "the man who pulls all the strings," jokes Christopher Landau, whom Mr. Cappuccio recruited at Harvard to clerk for Justice Scalia. Mr. Landau, now 31, went on to work for Justice Thomas as well and now is at Kirkland.

The story of how Messrs. Landau and Cappuccio ended up at the firm further illustrates the Cappuccio knack for manipulating situations in a way that may help his friends but certainly benefits himself. After George Bush was defeated in November 1992, the administration lawyer most hotly sought-after by fancy law firms was Solicitor General Kenneth Starr, a former federal judge, veteran Supreme Court advocate and, inevitably, Cappuccio chum. Kirkland, which has 450 lawyers, won the competition, offering Mr. Starr a seven-figure salary and the freedom to teach and ponder future political moves.

The official line, picked up in the trade press, was that the youthful Cappuccio-Landau duo came along as an add-on. In fact, Mr. Cappuccio had decided on Kirkland well before Mr. Starr, largely because he liked the idea of being backed by its ferocious trial-litigation department and valued its reputation for letting ambitious lawyers buck the traditional seniority system. Edward Warren, a Kirkland partner, says he and Mr. Cappuccio teamed up to persuade Mr. Starr to come aboard. "I saw he was an angle-player from the beginning," Mr. Warren says admiringly.

Mr. Cappuccio was initially seen as Mr. Starr's No. 2 man, but once the work got under way, he dazzled clients on his own. His independence became complete last August, when Mr. Starr was appointed special Whitewater prosecutor.

Now, Mr. Cappuccio operates like a benevolent ward boss. He has expanded his recruiting activities to include wooing former Supreme Court clerks to Kirkland. And he reinforces personal ties by doling out assignments for important clients.

Yet Mr. Cappuccio occasionally shows impatience with mediocre lawyers or other distractions. Out on a walk with a colleague during one all-night brief-writing session, he was accosted by a panhandler. "I'm up at 4 a.m. working, and I should feel bad for this guy?" he asks, recounting the incident. The beggar apologized, saying he didn't intend to bother the lawyers. "Intent is irrelevant!" Mr. Cappuccio snapped. The issue of intent was central in the brief he was drafting that night, he says, somewhat sheepishly.

In addition, some lawyers at other firms who have worked with Mr. Cappuccio on joint projects complain that he tends to exaggerate his importance, but that is a charge clients such as GM's Mr. Durkin emphatically reject. Within Kirkland, there is some envy -- expressed only off the record -- over his special status and pay. "Any time you have a meritocracy, that's anxiety-creating," the firm's Mr. Warren says, "and Paul creates a lot of it."

Mr. Cappuccio is unfazed. "Look," he says, "99% of my partners have been wonderfully supportive, and I think I'm a good partner." He pauses, grinning, then adds: "But, hey, I realize I'm not always Mr. Sensitive."

(See related letter: "Letters to the Editor: So He's Great at Law; What About Decency?" -- WSJ March 24, 1995)

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Freeh Reign

He's Eliminated Red Tape and Senior Posts, Given Agents More Power and Fewer Desk Jobs, Promoted International Cooperation and His Friends--In Just 17 Months, Louis Freeh Has Made a Mark on the FBI as Indelible as J. Edgar Hoover's.

Ronald J. Ostrow

Ronald J. Ostrow covers the Justice Department for The Times. His last article for the magazine was a profile of Atty. Gen. Janet Reno

Hands plunged deep into the pants pockets of his blue suit, Louis J. Freeh stands before the agents and support staff of the Indianapolis field office of the FBI, laying out his vision of their future. His accent is thick--"the law" rhymes with "the drawer"--and with his flat "Just the facts, ma'am" tone, he sounds astonishingly like Joe Friday of TV's "Dragnet," if Sgt. Friday had hailed from New Jersey.

Standing 5-foot-8, Freeh does not tower over the lectern like Wayne R. Alford, the special agent in charge of the Indianapolis office, who introduced him this day and exhorted his ranks to give the new director "a great big Hoosier welcome." But almost immediately, the director has the attention of the 125 or so agents and clerks who fill the seats and crowd the ecru-colored walls of the white-collar crime squad's work area.

Partly, it is the way that Freeh tries to personalize a time-worn ritual. He presents Bill Amos with a 40-year service award; Amos joined the bureau when its new director was 4 years old. As Freeh hands over the watch, he notes that his own was filched by his 2-year-old son, the youngest of four children. "I've used all the constitutionally approved interrogation methods," he deadpans, but the culprit won't talk.

But mostly it is the message that comes later that captivates his audience. As Freeh describes the things he plans to scrap or drastically reshape in what may be the most tradition-bound agency in all the Federal government, eyes widen. He speaks of overhauling the FBI's inspections--the process feared most by field agents and their bosses--and decentralizing disciplinary power. And when Freeh declares that the bureau's hallowed executive-development system, with its many required relocations, is "historically a very discouraging program," the agents exchange sidelong glances. Obviously, this is a new kind of director.

Indeed. After his speech, Freeh holds a series of meetings with the agents, proceeding squad by squad, ending with the support staff. The agents' bosses, Alford and his assistant, are not invited, another break with tradition, and the agents seem uncertain, visibly hesitant to break the silence.

"I didn't come out here to be the FBI mascot and be petted," Freeh assures them. "I really came out to listen to you. Tell me not just about your cases but what I need to know--your suggestions, criticisms."

"I'd prefer you call me by my first name," he says, trying to put them at ease, "but inevitably people have trouble with that." Clearly they do, since it is an absolutely unprecedented request in this paramilitary organization. But though no one can muster the fortitude to call him Louie, the agents gradually loosen up. Freeh listens, nodding occasionally, and learns that limits on telephones set aside for receiving calls from confidential informants have pinched pennies but risked security of the phones. And that rigid personnel practices have sometimes cost the bureau talent.

Although the FBI director has always regularly visited the 56 field offices, this level of information exchange is unheard of. Flying home from Indianapolis, Freeh recalls a mid-1970s visit by the then-director of the New York field office, the bureau's largest, where Freeh was assigned as a young agent. "The director came in, spoke to us as a group, posed for pictures and said goodby. Did he learn anything?" Freeh asks, diplomatically sidestepping the question of whether the director was Clarence M. Kelley or William H. Webster. "You just get a more basic level of information doing this--more unfiltered. There's really no substitute for it."

In the last 17 months, Freeh has changed the FBI more drastically and done it faster than any director who preceded him, including J. Edgar Hoover. Freeh has broken many time-honored Washington patterns--by responding directly and with little qualification to questions on Capitol Hill, by explaining his recommendations and actions respectfully, but firmly.

Certainly, Atty. Gen. Janet Reno relies on him heavily. When asked about the recent abortion clinic slayings in Massachusetts, she answered that she had talked with Freeh for much of the afternoon, as if that alone would signal her seriousness about combatting the violence. And no criticism is heard from the White House; Freeh is widely regarded as one of Clinton's best appointments.

Of course any shake-up, especially of an agency as volatile as the FBI, is never without its explosions. Freeh's recent discipline of those involved in the shooting of a woman in Idaho drew charges of favoritism. And there was much grumbling in the ranks of Alcohol, Tobacco and Firearms agents recently over the credit given the FBI for the apprehension of the suspect in the abortion-clinic murders.

But these are minor criticisms, murmurs in the midst of the storm. The very idea of a compact, quiet 44-year-old former agent taking it upon himself to change what is probably the most complicated and prickly agency in Washington is unlikely enough. But Freeh has done more than make changes; he's turned the bureau inside out, demanding that the FBI lose its image of aloofness and enter the modern age of integrated domestic and international crime fighting. And he's done this without losing his street-agent mystique, which may explain the criticism from within his own ranks. Because Freeh's career within the FBI is the most unlikely element of all. He didn't follow the bureau's clear-cut career track. He never made it to the middle-management stage. He was an agent. Now he runs the place.

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By its nature, the FBI is not an agency easily understood, much less managed. And the bureau Freeh took over was fraught with turmoil. William Sessions, his predecessor and the first FBI director fired by a President, insisted on viewing the Justice Department ethics investigation of him as a politically motivated inquiry. This unprecedented internal dissension dominated the news for months, overshadowing genuine reforms that Sessions brought about.

Almost from the day Freeh took charge, the former FBI agent and federal prosecutor began making fundamental changes. (Many of the first steps reflected a management study ordered by Sessions.) Freeh stripped away layers of bureaucratic red tape. Special agents in charge were given the power to approve certain undercover operations, and the

review of such operations now requires a two-page form, rather than the traditional 15 to 30. And the requirement that agents maintain at least a specified number of confidential informants, regardless of what the sources produce, has been replaced with a much broader measure.

After only six weeks on the job, Freeh overhauled the top management structure of the bureau, abolishing two senior posts and naming the first woman, the first Latino and the second black to serve as assistant directors. Then he moved 600 agents and supervisors from desks in Washington and other bureaus onto the streets.

He also disrupted time-honored pomp and protocol. Gone is the long-favored armored limousine; Freeh regularly climbs into the back seat of a minivan driven by an FBI employee. Gone, too, is the three- or four-man security team that invariably accompanied past directors whenever they left headquarters. For the flight to Indianapolis, Freeh walked through the National Airport terminal accompanied only by Jim Bucknam, his chief aide on trips to field offices. (Freeh is not just another business traveler, of course. As he boards the plane, he hands the gate agent a yellow slip of paper, notification that he's armed, so that the flight crew knows who is carrying weapons and where they're seated. Beneath his suit coat, Freeh wears a holstered 9-millimeter semiautomatic pistol of the type that street agents carry.)

Revamping the way the bureau polices itself, Freeh has given his special agents expanded disciplinary authority and issued so-called "bright line" regulations, so clear that no one can fail to understand them. Under the new rules, "homosexual conduct is not per se misconduct"; and the blanket bar against anyone who has ever used drugs has been dropped. He also declared that anyone found leaking information "can expect the maximum punishment."

If anybody saw this as showcasing, the discipline of two 30-year-plus veterans proved otherwise. James Fox, head of the New York office, had publicly denied that an informant in the World Trade Center bombing case had given the FBI advance word, despite admonishments from Freeh himself not to comment. And Jim Ahearn, Phoenix, Ariz., field-office chief, had been quoted as saying that Atty. Gen. Reno was behaving more like "a social worker" than like the nation's top prosecutor. Both were suspended just before their respective retirements.

William P. Barr, who briefly headed the Justice Department under President George Bush, says he is not surprised at the extent of the changes being made by the first insider director since Clarence M. Kelley headed the bureau two decades ago. "Insiders make the best agents of change," Barr contends. "They tend to see how the system really works."

The general consensus in Washington and in law enforcement across the country is that Freeh, with his take-no-prisoners attitude, was exactly what the Bureau needed; halfway measures would have only added to the chaos. But many of the changes, some insiders say, reflect a disturbing pattern. Critics accuse Freeh of having created a Friends of Louis corps by favoring individuals he had worked with previously and bringing an unusual number of outsiders into key staff positions. The FBI would not supply a precise count of how many of Freeh's nearly 200 appointments were individuals he knew from earlier service, but Freeh acknowledges the charge and has made joking references to "FOLs."

His recent disciplining of the 12 FBI officials, supervisors and agents involved the 1992 slaying of Vicky Weaver in Idaho has made the criticism a little more pointed. Although Freeh found "no intentional misconduct," he said that those disciplined "demonstrated inadequate performance, improper judgment, neglect of duty and failure to exert proper managerial oversight." The recommended punishment ranged from letters of censure to demotion and extended to a Freeh favorite, Acting Deputy Director Larry A. Potts, for whom Freeh recommended a letter of censure. Yet Freeh told reporters that he has "complete confidence" in Potts, and that he wanted Atty. Gen. Reno to appoint Potts to the No. 2 post on a permanent basis. Many were left open-mouthed, especially in light of the much stricter punishment meted out to Fox and Ahearn for misspeaking.

"The new Career Development Program is that if you're a friend of Louis, you're promoted, and if you're not, you're dogs - - -," says a former mid-level official at bureau headquarters, insisting that his decision to retire in 1993 was not related to Freeh's arrival.

Some of the controversy emanates from Freeh's appointment of a triumvirate of federal prosecutors he knew when he served in the U.S. attorney's office in Manhattan. He named Robert B. Bucknam, 43, chief of staff; Howard M. Shapiro, 34, is the FBI's first general counsel, and Bucknam's brother, James R., 32, heads up the new office for ending interagency turf fights. "He may be relying too heavily on the views of a certain group of friends, including their estimates of other people in the organization, creating a clique," worries a former senior Justice Department official.

A former senior FBI official familiar with how Freeh works with the Bucknam brothers and Shapiro scoffs at the suggestion that they shape the FBI director's policy-making, saying that idea "short-changes his own level of self-confidence and ability. He's a bright guy who knows the bureau. He's not going to blindly accept advice from anybody."

But the criticism is not confined to grumblings about cronyism. The disciplinary crackdown has also prompted some bureau veterans to simply quip "He's back," a reference to Hoover and his highly arbitrary punishments. One unhappy official describes Freeh as "Hoover with kids."

Some longtime special agents who otherwise support Freeh worry about the downsizing at headquarters and the national academy in Quantico, Va.

Oliver B. (Buck) Revell, recently retired head of the FBI's Dallas office, has held virtually every key post at the bureau except for director and deputy director. While supporting the reduction of headquarters' staff and delegating authority to the field, Revell says: "I do have concerns with the pace and hope it doesn't impair the ability of the laboratory and training divisions to carry out their missions."

Part of Freeh's downsizing at headquarters replaced agents with non-agents. The blow to the morale of middle managers has been so devastating, one former headquarters official claims, that he's been flooded with calls from former colleagues searching for positions in the private sector.

One agent who retired in 1993 belittles Freeh's hands-on attitude, specifically the squad meetings, likening them to agents sitting around field offices "having coffee and playing 'If I were king of the castle.' "

*

Even when he was a kid growing up in North Bergen, N.J., the middle son of a modestly successful real estate broker and appraiser, Louis Freeh was more disciplined and purposeful than most. Family and church mattered. And, despite a safely middle-class background, he somewhere acquired an instinct for the streets.

He went on to Rutgers: four years as an undergraduate, three years of law school. He worked hard: Phi Beta Kappa, summer jobs loading trucks, earning his state real estate license while a law student. He was too busy to be a school politician, but he was the natural leader among his colleagues. "We never knew we were following Louis," says Ed Henrichsen, a childhood friend who attended St. Joseph of the Palisades with Freeh. "He just seemed to have the good ideas."

He also "was sort of an urban Indian," recalls Greg Gaze, a retired Air Force pilot living in San Diego. He and Freeh were college roommates, sharing an apartment in a rough section of New Brunswick, N.J. When they went out for pizza, Freeh would point out a drug house here, a numbers parlor there. "He could read that stuff," Gaze says Freeh joined the FBI right out of law school. Later, he would say he had never wanted to do anything else from the time he was a boy,

but some friends and family members don't remember it quite that way. According to his mother, Bernice Freeh, 1975 "was a year that the FBI needed lawyers, and he just took it."

Only a year after joining the bureau, Freeh played an important role in a landmark investigation of union racketeering known as UNIRAC. The young agent went undercover, joined a health club frequented by the mob and spent hours in the sauna, chatting with the suspect and watching envelopes stuffed with payoff money change hands. The investigation, according to students of the bureau, offered the first concrete evidence that the FBI was becoming serious about attacking organized crime and led to the conviction of 125 union and New York waterfront figures. Freeh won a special commendation from Director Webster and was promoted to a supervisor's job in Washington.

In 1981, Freeh left the FBI to become a prosecutor in the southern district of New York, then generally recognized as the most prestigious of the 93 U.S. attorney offices in the country. His rate of climb there matched his record at the bureau: head of the organized crime unit, deputy U.S. Attorney and finally associate U.S. Attorney.

The investigation in the Pizza Connection heroin case, which Freeh ran, ranks among the longest, most expensive and most successful criminal investigations ever conducted. His success in the massive effort led to what may have been an even more difficult assignment: rescuing a disintegrating federal effort to solve the 1989 mail-bomb killings of a federal appellate judge in Birmingham, Ala., and a civil rights attorney in Savannah, Ga.

For months the investigation had been an embarrassing failure. Agents thought they knew the perpetrator, a career criminal named Walter Leroy Moody Jr., but they had been unable to assemble conclusive proof. Freeh learned that Moody frequently talked to himself, so he bugged Moody's cell and picked up such musings as "Kill those damn judges" and "you can't pull another bombin'." The evidence gathered contributed significantly to a 71-count criminal conviction.

Shortly after that, then-President Bush named Freeh to a federal judgeship in New York City, the job Freeh had to give up to become FBI director.

One of Freeh's first considerations as he pondered whether to accept President Clinton's offer was his family. Freeh's wife, Marilyn, is no stranger to the FBI. She met him in 1980 during his brief stint as a labor-racketeering supervisor at FBI headquarters. At the time, she was a paralegal in the bureau's Civil Rights section. She says she probably would have taken the test to become an agent herself if she hadn't gotten married. Louis Freeh, discussing the job offer with the President, asked for just two assurances: that he would be independent, and that he could use his own judgment in deciding when he needed to be at home. Clinton guaranteed both points.

Freeh schedules his job around his family, something few do in the nation's capital. He seldom attends embassy parties, glittery dinners or other Washington events at which his predecessor was a fixture, and he manages to avoid overnight trips.

"I try to get home at 7 p.m. on weekdays--one, 'cause it's my job to give (my boys) their baths," he says. "Mom refuses to give four boys a bath, which you can certainly sympathize with. I also get a chance to do a little bit of homework with them. Then we try to have a reading. We pick a newspaper article or a magazine article and sit around for about 10 minutes, which is about the span of the lower end of attention for the four of them."

Freeh is opposed to an overdose of television. When one of his sons was asked in a school assignment to describe his father, the youngster wrote: "My Father. He doesn't like to watch TV."

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In the courtyard at FBI headquarters is a curving wall that serves as a backdrop for outdoor ceremonies. The ugly, fortress-like headquarters structure is named for J. Edgar Hoover, director for 48 years until his death in 1972. Hoover also is memorialized in a quotation printed on that wall in raised gold letters: "The most effective weapon against crime is cooperation . . . the efforts of all law enforcement agencies with the support and understanding of the American people."

But Hoover's words did not match his actions. Under his command, the FBI made law enforcement cooperation a one-way street, taking both information and credit from others and giving little in return. When Freeh took his oath of office in the FBI courtyard on Sept. 1, 1993, he decried turf wars, saying, "We should try to follow the advice that we often give our children: Play with your friends, be fair and honest with them, and share your toys."

Practically speaking, the lack of intelligence-sharing, and the failure of FBI and Drug Enforcement Administration offices in the same cities to keep each other informed, made it all too easy for them to stumble over each other's informants, blow an electronic surveillance or, worst of all, buy or sell drugs from each other through informants and witnesses. Two months after Freeh was sworn in as FBI director, the Attorney General appointed him to a second post: director of Investigative Agency Policies. "The American people don't want to hear about two bureaucrats fighting over jurisdiction, who gets credit for a case or who was there first," Freeh says, "and I don't want to hear it."

Several who took part in the first meeting Freeh held with the the DEA, FBI, Immigration and Naturalization Service and the Marshals Service remember it as a fists-clenched session, especially when Freeh ordered the DEA and FBI to come up with plans to integrate their drug intelligence bases in six weeks, not the one-to-two years estimated in advance.

At the DEA, senior officials bristled at what they considered a ineptly camouflaged transference of power: Fighting drugs was to become an FBI show. But as Freeh ruled against the preferences of top officials of the bureau--for example, when he dispatched five FBI agents to work at the El Paso Intelligence Center, a tactical drug intelligence unit that the FBI had shunned for years--many became less defensive.

The problem of fragmented federal law enforcement, as Freeh sees it, grew out of America's aversion toward a national police force. But he's convinced that the competing agencies can be integrated short of a merger. He sees the need, down the road, of going beyond Justice Department entities to such Treasury Department units as the Customs Service, Bureau of Alcohol, Tobacco and Firearms and the Secret Service. Historically, those organizations are no less leery of FBI credit-grabbing than the DEA, but Freeh has held "preliminary discussions" with Ronald K. Noble, undersecretary of the Treasury for enforcement.

At the same time, Freeh has pushed his agency further into the global arena, pledging to collaborate with foreign police, prosecutors and judges in battling "terrorism, drug trafficking and organized crime in our global village."

Three months after he took office, he stood in the 12th-Century Palatine Chapel of the Palace of the Normans in Palermo, Sicily, participating in a memorial mass for two Mafia prosecutors and more than a score of their colleagues and families who had been slain in recent years by the underworld organization. Some of those prosecutors had worked with him when he was an obscure federal lawyer grappling with major drug cases. "No more should the Mafia hang as a millstone around the neck of freedom," Freeh declared in an emotion-charged speech. "Turn them out from your towns and churches where they can be exposed to the light of the law which will sear and destroy them."

On that same trip, he met with German police officials to discuss joint efforts against violent extremist organizations and the threat of stolen nuclear materials. In late June and early July, he led a delegation of U.S. law-enforcement officials through Eastern Europe and Russia for meetings with their counterparts there and to open the FBI's first office in Moscow. These ventures were unusual, especially during a time of budget cuts, but they were important, Freeh says, for two reasons. First, he says, the rapid growth of organized crime there represents a direct threat to the United States. And

second, he is convinced that instilling democratic values and policing practices in their newly reformed security agencies is critical to the survival of democracy.

And he isn't confining himself to democratic nations. Sometime this year, he hopes to open an office in Bejing; this marks the first time the FBI has ever had a presence in China, which, with the Soviet Union had for so long been considered the bureau's primary foreign intelligence threat. These moves toward international cooperation reflect a concern he has always felt, a concern which deepened during his trip to Europe last summer when he took a walking tour of Auschwitz.

At the heart of the Holocaust was "the corruption and usurpation of the regular, civilian police forces sworn to uphold the civil and human rights of people in a free society," he told an audience at Jagiellonian University in Krakow. "Those trusted to protect the people became the instruments of terror . . . . For the police, more than any other segment of society or government, the rule of law must always remain sacrosanct."

Later, he recalled: "Of all the things I've done in my life--agent, prosecutor, judge--walking through that camp and appreciating that history really defined for me what we do, what we do here as policemen. The lesson was simple but so powerful. We protect people, No. 1, and we need somebody to protect the people from the police."

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News Subject: (Legal (1LE33); Social Issues (1SO05); Police (1PO98); Judicial (1JU36); Economics & Trade (1EC26))

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VIRGINIA DEMOCRATS REJECT GOVERNOR'S TAX PLAN

David Lerman

RICHMOND, Va.--Feb. 3--Democratic legislators shot down Gov. George Allen's $2.1 billion tax-cut plan Thursday in two separate committee votes in the Virginia legislature that could mean the death of the Republican governor's most important initiative this year.

RICHMOND, Va.--Feb. 3--Democratic legislators shot down Gov. George Allen's $2.1 billion tax-cut plan Thursday in two separate committee votes in the Virginia legislature that could mean the death of the Republican governor's most important initiative this year.

The lopsided votes by the Democratic-controlled House and Senate finance committees marked a major defeat for Allen, who has pushed for tax cuts as a way to curb state spending and fulfill his campaign promise to create 125,000 jobs.

Allen, who had anticipated the blow, called a news conference before the vote to say he would try to revive his plan. The five-year proposal would triple the personal exemption on individual income taxes and phase out a local business tax. Quoting former British Prime Minister Margaret Thatcher, who will visit the General Assembly today, Allen said, "Sometimes you have to fight a battle more than once before you win it." Then he added, "We have just begun to fight!"

Even Republican legislators acknowledged the tax plan stands a slim chance of winning approval this year without committee approval.

"These things are dead for the session," said Sen. John H. Chichester, R-Stafford, a member of the Senate Finance Committee. "My advice would be we've got to salvage what we can out of this and turn the page."

The resounding rejection was only the latest in a series of blows to Allen's legislative agenda this year. Proposals to create charter schools and

abandon a mandatory sex education program in public schools have already been killed in committees. Even Allen's plan to overhaul welfare, which many thought had bipartisan support, was derailed - at least temporarily - by a Senate committee on Thursday. That plan, which limits welfare benefits to two years and requires most recipients to work, failed to win approval on a 7-7 vote. But it could be revived today and remains alive in the House.

And Allen's plan to borrow money for prison construction has come under fire from some House leaders, who question the need to drive the state deeper into debt when many of the projects could get under way this year even without a new bond proposal.

Fearful of losing support for the prison bonds, former U.S. Attorney General William P. Barr and former U.S. attorney Richard Cullen, who led Allen's fight to abolish parole, held a news conference Thursday to stress the importance of securing new money to build prisons.

But nothing was as vital to Allen's success this year as his bid to cut taxes. Allen labeled the Democratic assault on his plan a "Thursday night massacre" and vowed to use the issue in this fall's elections, when he hopes to obtain a Republican majority in the General Assembly for the first time this century.

"All of that will come up in the campaigns," Allen said. "That shouldn't be any surprise."

Opposition to the income tax cuts, which were once deemed politically unassailable, had been building for weeks. Democrats successfully cast the plan as a choice between painful cuts in education, police and health programs or a savings of $33 next year for a family of four.

"I'm not willing to sell the future of Virginia for 33 pieces of silver," said Senate Finance Committee Chairman Hunter B. Andrews, D-Hampton, in voting against the plan. "That's what it boils down to. I'm not going to be crucified on that."

The committee killed the plan on a 12-3 vote, which fell strictly along party lines. The House Finance Committee voted 15 to 7 against the plan, with only a few partisan defections.

The committees also killed a plan to phase out a locally administered gross receipts tax on businesses. Local officials had lobbied vigorously against the plan, saying they cannot afford to lose the millions of dollars generated annually by the Business, Professional and Occupational License, or BPOL, tax.

The administration offered to replace those revenues with state funds, but legislators never considered that pledge very credible. The BPOL tax generates about $300 million a year - money the state would have to find by

making additional cuts in programs.

Many legislators said local leaders would be forced to raise property taxes to make up the shortfall if the BPOL tax were scrapped.

"I cannot in good conscience vote to repeal this tax, knowing we will press down on the homeowners of Virginia in their local real estate taxes," Andrews said.

Defeat of the tax cuts would free up nearly $149 million that could be used to restore some of the unpopular budget cuts to school systems, state colleges and local police departments, among other things, that Allen proposed for the fiscal year that begins July 1. The House and Senate budget committees have until Sunday to offer their own budget proposals.

In a last-ditch attempt to rescue the tax cuts, Republican legislators offered an alternative plan that would phase in the cuts more slowly by targeting the income tax breaks to lower-income families first and holding off on eliminating the BPOL tax until the year 2002.

But the committees rejected those alternatives with little discussion, saying it was too late to consider a new plan that had not been part of public hearings. Thursday was the deadline for the finance committees to act on revenue bills.

Allen blamed Democrats for rejecting a tax-cut plan he said voters overwhelmingly support. "These are the changes the people of Virginia resoundingly said they wanted in their state government," he told reporters.

But Allen never campaigned on a pledge to cut taxes, promising only never to increase them. And lawmakers from both parties said Allen was to blame for crafting an ill-conceived plan that the state could not afford.

"I don't think the philosophy of the bill was well-thought-out," said Chichester, the most senior Republican of the Senate, in assessing the BPOL tax plan. "The state could not come up with the replacement revenues forever. That was silly."

Andrews said it would be fiscally irresponsible to enact sweeping tax cuts when the federal government is considering tax and budget changes that he said could have a huge impact on Virginia revenues.

"This is not the time to do this," Andrews said. And after eight public hearings on Allen's budget and tax proposals, Andrews added, "I think it was clear the people of Virginia didn't want this."

Despite the action of the two committees, the tax plans could be revived through several possible parliamentary maneuvers. Allen can send the legislature a new bill to consider, an option he hinted Thursday he may try.

He also could try to attach a tax cut as an amendment to some other bill the legislature will consider. But those tactics rarely succeed and both chambers are controlled by Democrats, who will surely resist such attempts unless a bipartisan compromise can be forged.

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---- Index References ----

News Subject: (Local Government (1LO75); Legal (1LE33); Judicial (1JU36); Taxation (1TA10); Prisons (1PR87); Government (1GO80); Economics & Trade (1EC26); Tax Law (1TA64))

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Congress struggles to rein in spending
Balanced-budget amendment's fate remains uncertain

The Baltimore Sun

January 18, 1995, Wednesday,, FINAL EDITION

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Byline: Karen Hosler, Washington Bureau of The Sun

Body

WASHINGTON -- The Republican drive to put Congress under the restraints of a balanced-budget amendment has taken on the tone of an addict's plea for help: Stop us before we spend again.

"It's the only hope we have," said Sen. Orrin G. Hatch of Utah, chairman of the Judiciary Committee.

Mr. Hatch, along with other conservative Republicans, says he fears that the country may be headed for bankruptcy because Congress cannot just say no. "We've got to get the amendment in place to have the fiscal mechanism to force us to live within our means," he said.

Supporters of the amendment say they have barely the two-thirds vote needed in both houses. The passion of opponents was evident yesterday when Sen. Robert C. Byrd, a West Virginia Democrat, invoked a rarely used parliamentary device to halt action on the amendment, at least for 24 hours.

But as Republican leaders try to resolve a debate that has simmered for a half-century, it is still not clear that the amendment would work as intended -- or that the public will want it to work once it understands the consequences.

According to the Congressional Budget Office, $ 1 trillion worth of spending cuts would be needed to balance the budget by 2002, as the constitutional amendment requires. Already, the Capitol is ringing with the calls of special-interest groups pleading to be exempted.

"What's most likely is that Congress will come up with an unprecedented amount of gimmicks to get around it," said Robert Greenstein, director of the Center on Budget and Policy Priorities, an advocate for the concerns of the poor.

"If the amendment works," he said, "it may be like Prohibition: The cuts will be so severe, they will lead to recession, maybe two recessions, Congress won't be able to act, and the amendment will finally be repealed."

Yet the balanced-budget amendment this year may have its best chance of winning congressional approval since the first version was introduced in 1936.

Many swing-vote lawmakers say their skepticism has been overcome by a sense that Congress won't get serious about reducing the $ 5 trillion national debt until this symbolic hurdle is cleared.

"We may just have to get it out of our system," said Republican Sen. Nancy L. Kassebaum of Kansas, a former opponent of the balanced-budget amendment who is now having second thoughts. She acknowledged that the amendment "isn't going to reduce the deficit by 1 cent."

The stakes are high because Republicans made approval of the amendment a major plank in their congressional campaign platforms last fall.

The chairman of the Senate Budget Committee, Pete V. Domenici of New Mexico, contends that without the pressure of a constitutional amendment, his party would be unable to take the painful steps necessary to balance the budget.

'The acme of arrogance'

Mr. Byrd declared yesterday that "it is the acme of arrogance" for Congress to pass a constitutional requirement that the budget be balanced without first detailing what sacrifices that might entail.

But the House majority leader, Rep. Dick Armey of Texas, bluntly predicted what would happen if the spending cuts needed to balance the budget were revealed before the amendment was passed.

"The fact of the matter is, once members of Congress know exactly, chapter and verse, the pain that the government must live with in order to get to a balanced budget, their knees will buckle," he said in a recent television interview.

The House and Senate are considering similar versions of the amendment, both of which would require the budget to be balanced by 2002 or in the second year after ratification by at least 38 states.

Once the amendment takes effect, the president would be required every year to submit to Congress a budget in which revenue matches spending. Congress could revise the budget, but it could not spend more money than it has unless a three-fifths majority of each house of Congress approved. A three-fifths vote would also be required to raise the limit on the national debt.

Exceptions would be provided in case of war or "imminent and serious military threat."

No specific enforcement method is provided for. Technically, the federal courts could intervene in budget decisions, but they are not expected to do so, according to **William P. Barr**, who served as attorney general in the Bush administration.

Approval of the amendment would give the lawmakers "some moral fiber and changes the question from whether we have a balanced budget to how we balance the budget," said Martha Phillips, executive director of the Concord Coalition, a grass-roots lobby that is working to eliminate the budget deficit.

Critics note that Congress has often proved adept in slipping out of self-imposed spending limits. Among the recent failures was the Gramm-Rudman Act of 1985, which was supposed to have put the budget on a path to being balanced by 1991.

"I've been around a long time, and this is about my fifth glide path," James L. Martin, a lobbyist for the National Governors Association, said of the latest amendment.

Shifting burdens

The governors worry that Congress will turn over much of its burden to the states. Legislation to prevent that shift is also on the GOP fast track. But Democrats, like Gov. Howard Dean of Vermont, say they don't have much faith in it.

What might be worse, some economists say, is if the balanced-budget amendment actually works as intended and imposes such tight fiscal control on Congress that it could not respond to a shrinking economy by stimulating growth.

"Enforcing balance every year would lead to wider swings in the business cycle," the White House budget director, Alice M. Rivlin, recently told the Senate Judiciary Committee.

Among interests that depend on government funding, even the tiny Corporation for Public Broadcasting, known to be high on the GOP hit list, is waging a vigorous campaign to be spared. It used taxpayer

money for a poll that showed most taxpayers don't want its funding to be cut.

"I fully expect every tax-subsidized interest group in this city to rush around telling every person who they send a taxpayers' check to that this is their moment to make sure they keep getting checks," House Speaker Newt Gingrich said yesterday.

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Organization: CONGRESSIONAL BUDGET OFFICE (55%); CONGRESSIONAL BUDGET OFFICE (55%)

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Byline: In New York: ROBERT MAC NEIL; In Washington: JAMES LEHRER; GUESTS: ALICE RIVLIN, Budget Director; REP. JOHN KASICH, Chairman, House Budget Committee; MICHAEL FEELEY, Minority Leader, Colorado Senate [D]; CHUCK BERRY, Speaker, Colorado House of Representatives [R]; CYNTHIA TUCKER, Atlanta Constitution; LEE CULLUM, Dallas Morning News; PHIL HASLANGER, Capital Times; PATRICK McGUIGAN, Daily Oklahoman; ED BAUMEISTER, Trenton Times; CLARENCE PAGE, Chicago Tribune; CORRESPONDENTS: JULIAN MANYON; IAN WILLIAMS; ROGER ROSENBLATT

Body

[NETWORK DIFFICULTY]

NEWS SUMMARY

MR. LEHRER: Heavy fighting raged throughout the capital of Chechnya today. Russian tanks fired hundreds of shells and rockets on the center of the city. According to some reports, the Russian forces now control about 2/3 of Grozny and are closing in on the presidential palace. But Chechen rebels are still defending that building which has been hit repeatedly by tank fire. Russia sent fresh troops into the area today. At least 39 Russian soldiers are being held prisoners of war. The rebels have offered to swap them for Chechen prisoners. Late today, the Russian government announced a two-day unilateral cease-fire that will go into effect tomorrow. The order requires Chechen forces to disarm within that time. We'll have more on the story later in the program. Robin.

MR. MAC NEIL: Jury selection began today in the trial of 12 Muslim men accused of conspiring to blow up several New York City landmarks, including the World Trade Center. A bomb exploded in the Twin Towers

in February, 1993, killing six people. Officials claimed that other attacks were being planned against the United Nations, FBI offices, and a bridge and two tunnels. Four men with alleged ties to the defendants have already been convicted for the Trade Center bombing. Prosecutors charge the attacks were designed to punish the U.S. for its support of Israel. John Salvi pleaded innocent today to murder charges related to the shootings at two abortion clinics in Massachusetts last month. Salvi's accused of killing two and wounding five others in the attack. He was ordered held without bail. He's also charged with shooting at a Virginia abortion clinic.

MR. LEHRER: A week of heavy rains has flooded parts of Northern California. Worst hit were low-lying areas from San Francisco to Eureka, 225 miles to the North. Hundreds of people have been evacuated as the Petaluma, Napa, and Rushing Rivers neared or passed flood stage. Schools and roads were closed in many areas. Officials in Sonoma and Napa Counties have declared a state of emergency. Weather forecasters expect more rain through the week. Heavy fog was blamed for an accident that killed five people on Interstate 40, near Little Rock, Arkansas, today. Eight tractor-trailers and one other vehicle were involved. The impact caused an explosion and fire. Four of the trucks were carrying livestock, many of which were killed or injured in the accident.

MR. MAC NEIL: A two-day conference on air safety opened in Washington today. It brings together airline executives pilots, maintenance chiefs, and government officials. Secretary of Transportation Federico Pena called the meeting after the industry experienced four major accidents last year, killing two hundred eighty-seven people. It was the worst year for commercial aviation accidents since 1988. Pena had this to say in his opening remarks.

FEDERICO PENA, Secretary of Transportation: It is up to each of us in this room to take the lead and to demonstrate to ourselves and to the American people that we will do everything possible not only to maintain but to improve our already high safety standards and performance. And we will not settle for anything less than zero accidents.

MR. MAC NEIL: The head of the Airline Pilots Association said efforts to cut costs have eroded airline safety. He said that doesn't mean the system isn't safe but the margins of safety have eroded.

MR. LEHRER: Republicans and Democrats traded charges about a balanced budget amendment today. Democrats said Congress should specify what programs would be cut before the constitutional amendment was sent to the state legislatures for ratification. House Minority Leader Richard Gephardt spoke at a Capitol Hill news conference.

REP. RICHARD GEPHARDT, Minority Leader: The balanced budget amendment, as drafted by the Republicans, is proof that they want to govern by gimmick. By passing an amendment Republicans can say they stand for fiscal integrity without actually doing anything about it. Let me be very clear about this. Democrats believe in a balanced budget. But the question isn't whether you do it. It's how you do it, and on whose backs it is done.

MR. LEHRER: House Speaker Newt Gingrich was asked about the Democratic response at a Washington news conference this afternoon.

REP. NEWT GINGRICH, Speaker of the House: We're going to have a lot of stuff on the table a long time before the states ratify this amendment, but we're not going to play some mickey mouse game from a failed establishment that had 40 years to get the job done, failed totally, and is now trying to be obstructive.

MR. LEHRER: A House vote on the amendment is now expected during the week of January 23rd. We'll have more on the story right after this News Summary. Sen. Bennett Johnston, Democrat of Louisiana, announced today he will not seek re-election next year. He has served in the Senate since 1973.

MR. MAC NEIL: The United States and Canada intervened in the foreign exchange markets today in another attempt to bolster the Mexican peso. The action came at the request of the Mexican government. The Mexican Federal Reserve also began drawing on a North American bailout package this morning. The peso has lost more than a third of its value over the past month. North Korea announced it will lift restrictions on trade and financial transactions with the United States later this month. The decision is part of an agreement reached last October to dismantle North Korea's nuclear program.

MR. LEHRER: And that's it for the News Summary tonight. Now it's on to the balanced budget amendment, our regional editors and commentators, a Chechnya update, and a Roger Rosenblatt essay.

FOCUS - BALANCING ACT

MR. LEHRER: First tonight, the first item in the Republican Contract with America, a balanced budget amendment. We begin our coverage with the opening day of testimony and debate before the House Judiciary Committee. Here are excerpts.

REP. BOB FRANKS, [R] New Jersey: Every family must work to meet the challenge of balancing their household budget, or they will face serious and sometimes ruinous consequences. A small business won't stay in business long if its expenditures outpace its income. It's long past time for the federal government to live under the same standards of accountability as the rest of American society.

REP. PATRICIA SCHROEDER, [D] Colorado: There is nothing in the Constitution that precludes us from balancing the budget now that I know of. I understand it's a new day, but I think we have to ask the questions Americans want answered. How do we deal with Social Security? Is it going to be on budget? Or are we going to take it off budget and keep it off budget like we said it should be done last year, and run it the way it was supposed to be run? What happens in the area of national security? What happens in so many different areas, and what happens if we pass this, and we don't balance the budget?

WILLIAM BARR, Former Attorney General: It seems to me that if one suggests that we have to make those hard choices first and specify cuts that are to be made, it's really designed to mobilize the special interests to prevent the reform from taking place and to keep in place a system that has worked to their advantage. This is a debate over a basic principle, a basic structural principle, the basic rules that should govern the process, and, therefore, it seems to me that it's inappropriate to turn attention to the specifics that may have evolve in the future.

REP. JOSE SERRANO, [D] New York: Traditionally, people have always been afraid to balance budgets or balance on the back of the poor. And while my district is composed of people who are hard workers, there are some who need Medicaid, and there are some who may need a free lunch program, and there are some who may need educational funding. I'm giving you a great opportunity here. What would you tell them if you were me, how this balanced budget is going to help them without cuts, because you've said that there will be no cuts that will hurt anyone? How do we sell that?

REP. JOE BARTON, [R] Texas: If we don't pass a balanced budget amendment and we continue down this road, in my opinion, we're going to have a financial catastrophe in the near future, and there will be no federal government as we know it today to help anybody, because we can't finance these huge debt loads that we keep putting upon ourselves.

MR. LEHRER: Now, our own debate. It comes from Washington with Alice Rivlin, President Clinton's budget director, and John Kasich, the Ohio Republican and new chairman of the House Budget Committee, and it comes from Colorado, a state we've been using as a sounding board on the first 100 days of the new Congress. With us from Denver are Rep. Chuck Berry, the Republican speaker of the Colorado House of Representatives, and Sen. Michael Feeley, a Democrat and minority leader of the Colorado Senate. First, Ms. Rivlin, to you, is a basic principle of governing at issue here on this issue of the constitutional amendment on balancing the budget?

MS. RIVLIN: I don't think it's a basic principle of governing exactly, but it is a question of the role of the Constitution. We are not arguing about whether the deficit is too large. Everybody thinks it is. The Clinton administration has a strong record of bringing the deficit down in cooperation with the Congress. What we are arguing about is whether fiscal policy should be written into the Constitution. We don't believe it should. We believe that the hard choices that are necessary to balance the budget ought to be made by the Congress and the President, and we at least ought to know what those choices are. Those who are in favor of balancing the budget by writing it into the Constitution better tell us what will be cut, what would have to be done before we do that.

MR. LEHRER: But should this be -- should this be in the constitutional amendment, itself? In other words, the states and everybody know specifically what's going to be cut, is that your argument?

MS. RIVLIN: Yes. I think anyone who argues that we should write into the Constitution a balanced budget should say right up front before this amendment goes anywhere, certainly before it goes to the states for ratification, what would be cut, how it would get to that balanced budget.

MR. LEHRER: Congressman Kasich, you don't think that should be done. Why is that, sir?

REP. KASICH: Well, Jim, first of all, I mean, we need to have the balanced budget amendment, because I think it's been proven that we have been unable to be able to hold off the special interest groups, and they have been able to call the tune. And that's unfortunate because we are clearly mortgaging the next generation. And that's a legacy that none of us who are in a position of authority to do something about that would be proud to have as our legacy. Jim, in terms of whether we need to have the specifics or not, let me tell you, those folks who argue for the specifics are going to be -- I don't mean Director Rivlin in this case -- but most people who argue we ought to have the specifics will be the ones that will turn around and argue that the specifics are not acceptable. Let me -- let me suggest to you that we are going to see the most massive downsizing of the federal government we have seen maybe in many of our lifetimes. And, Jim, part of the way in which we get to the balanced budget over seven years is we bring in a lot of creative and systemic changes. We're just not going to do it the traditional green eye shade way of a little nick here and a cut there. We're looking at elimination of programs. We're looking at privatizing programs. We're looking at devolving programs to the states. But, frankly, every year, if you are creative and innovative, and if you drive your people to do that, you can come up with a whole series

of reforms that allow you to get there without having to cause this "pain," and to do it in ways that are smarter and better, and so we're going to have a lot of the specifics out. You know, my two budgets have been very specific in nature. We'll be specific with the Contract with America paying for it, we'll be specific in terms of our five year budget proposal, but I will tell you next year we'll be more creative than we'll be this year, and we don't want to say what we're going to be six or seven years down the road, because we're going to be looking at a much different, more creative picture.

MR. LEHRER: So you would agree, though, that -- with what the Congressman said in the testimony, that this has to do with a concept of governing, rather than with the specifics, is that correct?

REP. KASICH: Well, Jim, look, if we don't have a balanced budget amendment that empowers the Congress to tell the special interests with a soft heart, I understand your concerns but with a strong spine we have got to balance a budget, and we have got to say to the next generation we will fail here. I agree with the director that it would be ideal if we were able to do this, but we are clearly not able to do it. We have gotten an "F" in that, and that's why it is necessary to give us the tool. We need to have the tool to tell special interests, I'm sorry, we can't afford it.

MR. LEHRER: What about that argument, Ms. Rivlin, that this would immediately put everybody in the same league? You sit across the table from somebody, and they want you to do this, you say, hey, we can't do that, because we've got to balance the budget because of the constitutional amendment.

MS. RIVLIN: I think it's much too easy to talk about special interests and privatizing and devolving. Let's get down to cases here. Are we going to cut defense? Are we going to cut Social Security? Are we going to cut Medicare? Those are the big things in the budget. If you look at what it would take to balance the budget, it would take, if you did it over seven years, which is quite a long time, it would take by the Congressional Budget Office's calculations cuts of about $1.2 trillion. Now, you can't get that just by nickel and diming. You've got to do that by having a very different federal government, and that would mean cuts in Social Security and Medicare and defense and other things, things that people want.

MR. LEHRER: Can it be done without cutting Social Security, Medicare, defense, and other things that people want, Congressman?

REP. KASICH: No. The only thing off the table is Social Security, but I would say that instead of the federal government spending $13.2 trillion over the next seven years, we would have to go on this huge diet and spend only $11.8 trillion. And, in fact, to get to the balanced budget over seven years, we would actually have, excluding Social Security, you would actually have a slight increase in federal spending. The problem is, is that we have a group of people who are in charge now in this government who believe that government makes better choices than individuals, and that has to be stopped. The simple fact of the matter is we hear about, for example, cuts in Medicare. Medicare is going up by over 12 percent a year. If Medicare goes up only 10 percent, then, you know, people run around and say these are incredible cuts. The simple fact of the matter is, is that the private sector has been able to use a number of creative and innovative efforts to slow the growth of health care costs, while still maintaining quality. We've got to study those examples. We've got to control the growth in these programs while still maintaining quality. Take, for example, the FAA. I have proposed that we privatize the operation of the air traffic control system. It saves $19 billion and will lend for a more efficient system. The problem is the administration went eyeball-to-eyeball with this kind of change, and they blinked. They opted for a government-run corporation. Henry Cisneros went to the White House and argued against the President's idea about eliminating HUD. The special interest groups dominate the day here, and what we want, we think the President's moved in our direction. What we really want is we want the President to join us. When we lay our proposal on the table, we take these special interest groups on, and we have real change. We want him to help us.

MR. LEHRER: But the President isn't about to join him, is he?

REP. KASICH: But he might?

MR. LEHRER: I'm sorry. I'm going to ask Alice Rivlin that. [laughter] I'm going to ask his budget director that.

MS. RIVLIN: Yes. On some of these proposals, the President will very likely join. There are certainly creative ways of reducing the size of government that we could agree on, but what we're arguing about at the moment is not that. We are arguing about whether we should write this straight jacket into the Constitution for the next 200 years before we look at what is involved in actually doing it.

MR. LEHRER: All right. I want to now bring Colorado into that very argument. Mike Feeley, does this have, the argument that you've been listening to here, does it have relevance to you in Colorado?

MR. FEELEY: Oh, yes. There's no question about it. You know, I think that if we write a gimmick like this into the Constitution, that people in Washington aren't going to necessarily develop the political will that it takes to do what they already have the power to do. But more importantly, from our perspective in the

state, we're very concerned about balancing the federal budget; they'll be balancing it on the back of the states.

MR. LEHRER: In what way? How would they do that?

MR. FEELEY: We are already subjected to substantial federal mandates, many of them unfunded. We've got environmental regulations, air quality issues. We've got a number of issues where the federal government has said, well, this is a terrific idea, we'd like to pass it, we'd like the political credit for getting that done, but we don't have the money to pay for it, and we don't want to find the money to pay for it. So they pass that along to the states. I think that they have demonstrated, the federal government has demonstrated over a period of time that they don't have the will to make those tough decisions. I don't think that by putting this in the Constitution it's going to change anything. I think there will be even a greater inclination to move the costs on to the states who are already strapped.

MR. LEHRER: Now, Chuck Berry, you're in the same legislature, and you look at this issue, and you see it differently. Why?

MR. BERRY: Well, I think a constitutional amendment will require the federal government to balance the budget, and if they don't, people can go to court and enforce the Constitution. There are some --

MR. LEHRER: So that they don't need the will. In other words, Mike Feeley says they don't have the will. You're saying they wouldn't need it with a constitutional amendment, is that right?

MR. BERRY: I agree that the Congress hasn't had the will in the last 40 years to balance the budget, and it's very difficult to do it in the future, given the power of the special interest groups that want to spend more and more of our federal tax dollar. That's why it needs to be in the Constitution, so we can have externally imposed discipline on the Congress, but they really have no choice but to balance the budget.

MR. LEHRER: What about Mike Feeley's fear that they'll do it on your back, in other words, they will balance the federal budget but they'll just shift the burdens to you all in the states?

MR. BERRY: Well, I'm hopeful that this new Congress, in addition to passing a balanced budget amendment, will work on the mandates legislation and basically say that there won't be any more unfunded federal mandates passed on to the states where they say this is a good program, states, you go pay for it. I agree with Mike in that area, but I'm hopeful that the new Congress will address that issue while they're addressing the balanced budget amendment.

MR. LEHRER: Mike Feeley, you have a balanced budget amendment already imposed in the state of Colorado on the state government. Why don't you think -- first of all, how do you think that works for you all, and if you think it works, why, why not try it at the federal level?

MR. FEELEY: Well, I think that the situation between the federal government and state government is substantially different. We're much smaller. We, however, have had to discipline ourselves to ensure that we don't pass along mandates to local governments, to our counties and our cities, and we have a tradition of, of not doing that, even though we get caught at it every now and then, and I think that the federal government just does not have that discipline or that tradition. We're fighting with years and years of bloated federal budgets that have not been properly handled. The tools are there right now to balance the budget.

MR. LEHRER: Congressman Kasich, what do you say to the Mike Feeleys of this world that say what you all will do up here in Washington is just balance it on their -- just shift it over?

REP. KASICH: You know, we're going to have a statute that's going to do the unfunded mandates, and then we're going to come back with a constitutional amendment. And we've got George Voinovich and the Republican governors who raised the most cain about unfunded mandates leading the effort to try to block a continuation of that. In fact, not only are we not going to mandate any more, we've got to look at repealing a lot of stuff that we already mandated on them, onerous laws like the Clean Air Act which went too far and was not based on good science, but you know what, the legislator that just spoke made my point. In 1979, I carried the balanced budget amendment in the state legislature. They said at the time, well, Congress will do it on its own, and that was in 1979, and, of course, we've rung up probably a trillion dollars in debt in the meantime. What the legislator said is right. That balanced budget amendment in the states forces the legislators to prioritize. Without it at the federal level, Jim, this is not political, this is not Republicans against Democrats, this is about the future of this country. And, you know, there's concern about putting it in the Constitution. Let me tell you my concern. If we don't give the Congress the tools and the backbone to stand up against special interest groups, we'll be back here in another five years deeper in debt, and we are going to mortgage the future of our children. Of course, we shouldn't mandate anything on local government. We'll stop that practice, but, my goodness, if we can get that balanced budget amendment, we can sit there with the special interest groups, and those special interest groups and people from home and tell 'em we can't afford it.

MR. LEHRER: Alice Rivlin, let me raise to you the point that Chuck Berry raised in Colorado, that without a federal amendment, without a constitutional amendment, the folks in Washington, and he includes you as well as the people in Congress, do not -- will not have the will to do it, to balance the budget.

MS. RIVLIN: I believe we have shown otherwise. The Clinton administration, together with the last Congress, made enormous progress on getting the budget deficit down. We have taken it down from $290 billion in 1992 to under $200 billion this year. Now, that's still too much, but we didn't need a constitutional amendment top do that. We just needed to vote the specifics, and that's what we need to do again. And this Congress has more conservatives in it, more people that want to cut programs, so I don't see why we need a constitutional amendment. We just need to do it.

MR. LEHRER: Chuck Berry, what about that point? In fact, that point's been made by others, that, hey, wait a minute, we now have a Republican Congress, people are committed to cutting waste and, and all kinds of things out of the federal budget, why do you need a constitutional amendment? And also, you heard what Alice Rivlin said, the Clinton administration is on board too, so what's the problem?

MR. BERRY: Apparently, in the last Congress, the Clinton administration working with the Democratic Congress imposed the largest tax increase in American history. That's one of the ways that they thought that they could reduce the budget. Most Americans don't want that. They want to start by cutting spending, and absolutely, as Congressman Kasich says, there's going to be a long list of cuts on the table. But in the meantime, we've been working on this for 40 years. I think we owe it to our children and our grandchildren to put this kind of limitation in the Constitution. You know, Thomas Jefferson, late in his life, wrote a letter and said if there was one change he could make in the Constitution of the United States it would be to put a debt limit in there to not allow the Congress to pass on a debt from one generation to another. We've done that in several generations here in America in this century, and I think it's time to stop. And it would be a real legacy, I believe, for the long term to stop this kind of action, put in our federal Constitution the same kind of limitations that we have in the states, and the whole system, I believe, will work better in the long run.

MR. LEHRER: Mike Feeley, what do you think? Will it not only -- do you think -- first of all, you obviously don't think it will work better? What do you think would be the impact in your state of Colorado if there is, in fact, a constitutional amendment?

MR. FEELEY: Well, I think that the special interests that are there right now and are fighting for programs are still going to be there, even if this passes. I think there's all types of questions that would be opened up in the event we do pass it. How long does it take? I am disappointed that the leadership in Congress right now won't answer the simple questions, what programs are going to be cut, is Medicaid going to be cut, is defense going to be cut? I don't see why we can't have that discussion so the people before they enact this into the Constitution, before they carve it in stone, can't start discussing and thinking about some of the issues that will be necessary in order to achieve a balanced budget.

MR. LEHRER: Congressman Kasich, tell Mike Feeley why you can't have that discussion now.

REP. KASICH: Well, no, we -- I would commend him to the two budgets that the Republicans wrote over the last two years, the cutting spending first budget and the budget last year, and we will have a budget that will come out in April, so before, it will get us on the glide path to zero, so he'll have an opportunity to take a look at it, but what I would say to the gentleman is that next year we'll even be more creative than we were this year in an effort to try to dramatically innovate federal government programs. Jim, one other comment about special interests. You know, they're not just people that wear black hats. They're the Farm Bureau and the people who own the small markets across the country and the transit officials, all of them come here and say, I'm right, I've got to be carved out, and what the balanced budget amendment says is to all of them, look, we've got to set priorities, and of course, you're still going to be here, of course, you're still going to have demands, but we can't mortgage the future, and you know what, they come to understand that. They come to shake their heads and say, yeah, I guess you've got a problem, similar to what happened during the early years of Gramm-Rudman.

MR. LEHRER: So what do you do? What do you use, Alice Rivlin, if you don't have the tools of the balanced budget amendment, how do you deal with the people that John Kasich just went through?

MS. RIVLIN: Oh, I think we have all the tools we need, and John Kasich and his colleagues have just got to join us in a little courage and say, we need to cut these programs and we will do that, and everything has to be cut, and that is unnecessary or a low priority, but we've got to keep the things that the government really must do and not cut those in mindless ways.

MR. LEHRER: What would you say to people who, who would say, well, this election on November the 8th was about a feeling in the country that that courage does not exist in Washington right now?

MS. RIVLIN: I think Washington listens to the country. I think they have heard -- we have all heard -- certainly we in the Clinton administration have heard that the country wants a less big and much less interfering federal government, and I think they can get it without writing it into the Constitution in ways

that in years down the road might be very harmful, more harmful to our grandchildren than a -- than the situation we have now.

MR. LEHRER: Well, we have to leave it there. Alice Rivlin, gentlemen, John Kasich in Washington and gentlemen in Colorado, thank you, thank you all four very much.

FOCUS - EDITORS' VIEWS - BALANCED BUDGET AMENDMENT

MR. MAC NEIL: Now the same balanced budget debate as viewed by our panel of regional editors and columnists. With us tonight are four regulars, Ed Baumeister of the Trenton, New Jersey Times; Clarence Page of the Chicago Tribune; Lee Cullum of the Dallas Morning News; and Cynthia Tucker of the Atlanta Constitution. They're joined tonight by Patrick McGuigan of The Daily Oklahoman in Oklahoma City and Phil Haslanger of The Capital Times in Madison, Wisconsin. Cynthia Tucker, will the country be better off? Will our grandchildren be better off with a balanced budget amendment in place or without it?

MS. TUCKER: Robin, I fear that they won't be. Let me say first of all that the country is absolutely too deeply in debt, and Congress must absolutely discipline spending, but I have two concerns about the balanced budget amendment. One is that it would give the President and Congress absolutely no room in special cases. Sometimes to get out of depressions or recessions, history teaches us that the government needs to spend more money, increase public spending. You might -- the government might have to go into debt to do that, and the balanced budget amendment would not allow that. But my greater fear is that Congress would find a series of gimmicks to escape really following the spirit of a balanced budget amendment. Suppose, for example, they decide to take Medicare off budget. We just don't count that. And we'll continue to spend as much on it as we ever have, or perhaps even more, but we'll call the budget balanced. And I have the very great fear that if we do that, we'd be in bigger trouble than we are now.

MR. MAC NEIL: Lee Cullum, how do you feel about the fears that Cynthia Tucker has?

MS. CULLUM: Robert, I think Cynthia makes some sense. There is no question that to write this economic policy, a balanced budget, into the Constitution as a constitutional principle does do away with the Keynesian stimulus that would allow us to lower taxes or increase spending in order to fight a recession, no doubt about that. However, the deficit is so high now, in excess of $200 billion, that such a stimulus is out of the question and will be out of the question for another ten or twenty years. So I think we're going to have to have the balanced budget amendment to force this country, not just the Congress, the country to face up to its true circumstances, and if twenty, thirty years from now the amendment has to be repealed, that can be done. Jefferson, himself, would approve of that, but for the next two decades, we're going to need the amendment.

MR. MAC NEIL: Phil Haslanger in Madison, we need it specially for the next two decades, what do you feel?

MR. HASLANGER: No, I don't think so. I think I share Cynthia's concerns that politicians are ultimately very creative people and will find ways to get around this. I'm concerned that if the amendment does go into effect, we're going to have federal judges making decisions about budgets, rather than Congress, because people will be challenging the decisions and taking it to court. I'm concerned about what will be pushed back upon the states. And I'm -- what happens if we take an amendment out to the states, and the states don't adopt it, is that a green light then for Congress to spend as much as it wants?

MR. MAC NEIL: How about that, Patrick McGuigan in Oklahoma City?

MR. McGUIGAN: No, it wouldn't be a green light for more spending. I think clearly this debate that's even gotten this amendment this close to enactment shows that the people want fiscal discipline. One of the things that interests me about this is the lack of times that the experience of the states is actually compared to what they discuss here. We've had this since the 1940's in Oklahoma, and it seemed to work pretty well. The state operates on estimated revenues. Those estimates are revised as you get closer to the fiscal year. People operate within those parameters. It does not end policy debates. It does not end the process that has to be gone through of deciding what you really want to spend money on, and what you have to cut this year. That will all continue, but what it does bring to bear is the discipline of a balanced budget. And if we don't get that in this country, all the horror stories that Kasich and others have pointed to, I fear, will come true.

MR. MAC NEIL: Well, Mr. McGuigan, what about the argument of Mr. Feeley, the minority leader in the Colorado senate, where they, like you, have a requirement to balance the budget, that the federal government is just a different institution than state governments, that it needs to have a different flexibility?

MR. McGUIGAN: Well, it's certainly a different institution. It's a different level of our government. The problem is, other than defense, the federal government has gotten into a lot of things that are best left to the states and the people. This whole tenth amendment and the prairie wildfire movement that's happening out here in the West is linked to this idea of rolling back the role of government. And one of

the things Kasich is trying to point out in all of this is the things the Republicans intend to do that will, in fact, lessen the role of the federal government in our lives and leave more of these questions to the states and the people where they belong.

MR. MAC NEIL: Ed Baumeister, do you see this as mainly an effort to get rid of the deficit or reduce the debt, or an effort to get rid -- Republicans to get rid of programs that Democratic administrations have accumulated?

MR. BAUMEISTER: I think it's the latter, clearly. I mean, when you listen to Congressman Kasich, what he's saying is, listen, we can't do this, we can't balance the budget without this. You know, we had a 12-step program in Gramm-Rudman-Hollings, and that didn't work, and now we need another 12-step program to get us to do it. It's like him saying, you know, please send me to my room. It seems to me that what this is, is an attempt to use the financial difficulties of the nation to re-craft, re-design the role of government. Clearly, the Republicans think it's much too big everywhere, and I think in most newspapers this morning there's a picture of a federal helicopter moving a Canadian wolf to the United States, to Yellow Stone, and people ask me: Should we be spending money on that? I think that there is probably the Republican will to balance the budget, given the current crop in the Congress, but I think it goes well beyond that. It goes -- it goes to the accretion of programs since the New Deal, and they see this as an effective way of getting it done.

MR. MAC NEIL: Clarence, how do you see it?

MR. PAGE: Well, I certainly agree that the public wants -- demands some fiscal responsibility and discipline in budget making in Washington. Unfortunately, I disagree that we have had a real debate so far. Sen. Paul Simon from Illinois, the state I operate out of, kind of launched this debate in earnest a few years ago as a leading Democratic proponent of a balanced budget amendment, and the reason why he did was sort of as a last resort, something John Kasich referred to earlier, "we can't balance the budget without it, we need these tools." There's one of my friends back in Chicago who says it's like Washington is sending out a ransom note on itself saying that stop us before we spend again. In fact, it's kind of a -- too good to be true, and it probably is not true, that this balanced budget amendment is going to bring the budget into balance. What it will do is to throw ultimate budget making authority over to the Supreme Court. We heard that earlier in the comments made by the Colorado legislators, that if Congress can't come to agreement on, on who's going to feel the most pain, it goes to the Supreme Court, in other words, an unbalanced budget goes to the court. What would the Supreme Court do? It probably would demand across-the-board cuts, meaning everybody gets angry and starts looking for the folks who first advanced this balanced budget amendment idea. I suspect that it may not even get through the states, but when it really gets to the point where it's down to two or three states, we may see a lot of people balking.

MR. MAC NEIL: One of the arguments that the Clinton administration is putting forward, and we heard Ms. Rivlin articulate it again, is that Republicans should have to spell out the cuts they would make to balance the budget. Lee Cullum in Dallas, do you think the Republicans should have to do that before the movement to make the amendment goes forward?

MS. CULLUM: No, Robin, I don't think that makes any sense. It's perfectly obvious if you start spelling out the cuts, we'll never get this amendment passed. I think it's a practical political matter. We're talking about a painful thing here. It's -- I think there is going to be a pain for a number of people. There already is. This is simply a ratification of what already exists. I do want to say that we have a balanced budget amendment here in Texas. We've had it for more than the whole of the century. We've had only one problem back in 1903. The state comptroller, who last Friday, every Friday before the legislature meets on Tuesday, and it meets tomorrow here in Texas, must say how much money is available for the next two years. In Texas, it's 78.2 billion for the next two years. In 1903, the comptroller gave his report. People got so upset they shot and killed him, but they still couldn't raise the 4/5 vote it would take to override his figures. So the balanced budget amendment endures in Texas. I think it would endure in the country but with some activity in the courts. Clarence is right about that.

MR. MAC NEIL: Cynthia, do you think the Republicans should have to spell out what the cuts would be before they go ahead with the amendment as the White House is saying?

MS. TUCKER: I think that both the Republicans and the Democrats ought to come forward and let the people know honestly what would be involved in balancing the budget. Alice Rivlin gave the figures earlier this evening, $1.2 trillion in cuts. Now, again, I think that this -- the government needs to have much more fiscal discipline, but I think that the average American voter believes that the budget can be balanced by tossing off a few widely unpopular programs, foreign aid, welfare spending, grants to the humanities and the arts. That is simply not the case. And I think the American people ought to be informed about what the hard choices will be if the budget is going to be balanced.

MR. MAC NEIL: How about that, Mr. McGuigan?

MR. McGUIGAN: I don't agree at all. I mean, the entire fiscal situation will change in the next two or three years as the Republicans make some of these other cuts. The economy will be more dynamic. The

situation will change. We also have a balanced budget amendment in Oklahoma that's somewhat similar to the one in Texas. The estimate of revenue is put forward, the board of equalization can then tinker with that if they wish, and then that is what is sent to the legislature. It's fine tuned as the fiscal year approaches. This has not been the source of crisis. What's been the source of crisis is that dollar figure. Once you know what that dollar figure is, that's what you have to work with, no more, no less. This idea that somehow what has worked in 48 of the states relatively well cannot work on the national level is just offensive to me. I don't understand it.

MR. MAC NEIL: Is it offensive to you, Phil Haslanger?

MR. HASLANGER: Well, I think there are a couple of points that are worth making here. One is I'm less concerned about what the - - whether the Republicans and Democrats spell out the cuts in the future is looking at what they're talking about right now. They're talking about a big increase in military spending. They're talking about a middle class tax cut. Those aren't things that are going to help bring down the deficit. Beyond that, we kind of look at what's been happening in Wisconsin, like Texas, like Oklahoma, we have a balanced budget amendment in this state. We have since the beginning of the state, but the state also can borrow money on capital budget, which is not included in the federal budget, and when a state gets in trouble, it looks to the federal government for help, whether it's for a hurricane or an earthquake or for a savings & loan crisis.

MR. MAC NEIL: Clarence Page, the Washington Post in an editorial yesterday says the really dangerous thing in this proposal from their point of view is that in this balanced budget amendment a 3/5 majority in both Houses would be required to vote for an unbalanced budget, which the Post argues would enshrine minority control in the Congress. Do you agree with that? Do you see that as a danger? What do you think?

MR. PAGE: That's an interesting mechanism or scenario, which is undoubtedly true. I wonder, though, about the real problem, which is that the most, the most widely felt pain that would be felt in the budget would be the most necessary cuts, in other words, the biggest spending items and the most popular items, Social Security, Medicare, Medicaid, and defense. I don't know of any minority in Congress that seriously wants to offend such, such large blocks of voters as are represented by those groups, and so I really suspect that we're going to run into a continued problem trying to get Congress to be accountable and that this balanced budget amendment is a cop-out, tossing accountability over to the courts as Congress always does with hot button issues like abortion and affirmative action.

MR. MAC NEIL: Do you think this super majority, heavily weighted majority, issue is an important one?

MR. BAUMEISTER: It is. The right hand is the balanced budget amendment. The left hand is the super majority. As we were discussing before, there's an attempt here to bring down the size of this beast and hand in hand, if it goes through, it well may work.

MR. MAC NEIL: Go back to you for a moment, Mr. McGuigan. Are you saying that you think because of the changing economy and the cuts the Republicans will make in the next couple of years, that you can balance the budget over seven years without doing what Ms. Rivlin said you will have to do, and that is either cut Social Security or Medicare or defense, because those are the only items in the budget that are big enough to cut?

MR. McGUIGAN: I don't know what the situation will be in two or three years. No one can predict that. I do know that just as in Oklahoma, we had budget crises in 1990, and the situation is different now, what the spending needs to be directed towards. Right now, the discussion is on higher education and corrections. In 1990, it was more focused on common education. The issues and the dynamic changes, the nature of Congress changes. As far as the super majority requirement goes, that is, in fact, a protection for minorities, minorities of a different kind maybe than the way we define them normally, but property owners, people who are income producers, people who are income earners. Those folks, that provides a little bit of protection against the ability of simple majorities to increase taxes on their backs in order to continue some of these programs.

MR. MAC NEIL: Cynthia, how do you feel about the Kasich argument, which Mr. McGuigan I think agrees with, that because of creative budgeting over the next few years that it won't be necessary to make the sort of draconian cuts that Ms. Rivlin and the Democrats say?

MS. TUCKER: It would have to be very creative, indeed, Robin. It strikes me as a very similar argument that the supply side economists made in the early 80's, that we're going to cut taxes, and we're going to produce so much income that the debt will automatically disappear. Well, we know what happened to that. Let me say one more thing about the balanced budget amendment in the states. Georgia has a balanced budget requirement in state law in its constitution. It's very similar to that of Texas, but I have never been persuaded that that is the best way to do business. It does not allow any imagination, anywhere to go, when you have special needs, and I was delighted to hear someone say earlier that we have to bear in mind that the states do not bear most of the responsibility for taking care of people who are in need, taking care of people who are elderly. So it is easy enough for the states to balance their budget. Those are the things that we expect the federal government to do.

MR. MAC NEIL: Okay. Sorry to cut into you, Cynthia, but we have to end it there. Thank you and everyone else.

UPDATE - BATTLE FOR CHECHNYA

MR. LEHRER: Next tonight, that Russian war in Chechnya. Much of the latest fighting has been over the presidential palace in the Chechen capital of Grozny. Julian Manyon of Independent Television News reports.

JULIAN MANYON, ITN: The Chechens are now making a desperate stand around their presidential palace. In the ruins left by constant shelling, small groups of fighters try to save their wounded as they exchange fire with Russian snipers. They are heavily outnumbered, totally outgunned, but they are still fighting. Under shell fire, the Chechens are still pushing in reinforcements. Indeed, in this confused battle in an inner city, they may even be scoring some successes. [artillery fire] Heavy fighting is now going around the Denamo football stadium over there, which is about 1/2 mile away from the presidential palace. The football stadium is one of the main staging points for the Russian forces inside the city. And the fact that so much fighting is happening there indicates that in that district at least, the Chechen lines are holding. But the presidential palace is at the heart of the battle, and while the Chechens still hold it, the Russians cannot claim any kind of victory. Scores of the rebels, both men and women, are still occupying the building which has been repeatedly set ablaze by the Russian shells which strike each day and night. The basement has been turned into a makeshift hospital, where volunteer medical staff work in the hearth light to try and save the wounded. The Chechens still hold one important card, a large number of Russian prisoners. In a village south of Grozny, they paraded 39 members of the supposedly elite Russian Parachute Brigade. THese men were sent on a reconnaissance mission but surrendered when they were cut off.

MR. LEHRER: Several Russian military units have been involved in the effort to bring Chechnya under control. Among them are troops from the interior ministry. Ian Williams of Independent Television News met up with some of them this weekend in the town of Nazran. Here is his report.

IAN WILLIAMS, ITN: On a muddy hillside in Western Chechnya, troops from Russia's interior ministry scramble at the sight of an approaching armored personnel carrier. They don't know if it's one of theirs or one of the Chechens'. As it passes, they open fire, wildly, still none the wiser who they're firing at. Minutes later, a white car is spotted on a road below them. With little thought, they again open fire. Somebody shouts that it looks like a car from which a gunman fired at them yesterday, and they give chase in a small tank, shooting at the car in the distance. This is how we met these troops, when our car came under fire without warning. A passenger in another traveling on the same road was shot in the chest. These soldiers are nerveless and ill disciplined. One officer, who told us only that his name was Yuri, said they're only responding to attacks on them, launched from local villages.

YURI: [speaking through interpreter] During the night, the local population comes out. They have an arms dump somewhere here. During the night, they mine the roads, and in the morning, our armor gets blown up. Snipers are shooting at night. We have already lost several of our guys. It's hard.

IAN WILLIAMS: These men are isolated and confused. During the quieter periods, they have target practice, firing at boxes and bottles on the slopes behind their camp. The base is near the village of Zartan Yurit, some 20 miles West of Grozny. Their role is, supposedly, to disarm fighters who may have fled to villages outside the capital. But few of these men want to be here. They don't understand what they're supposed to be doing. All they know for sure is that the local people don't want them, and the more nervous they get, the more cruel and unpredictable they become. These pictures were shot earlier in another local village where 52 cows were slaughtered by interior ministry troops. They attacked a farm in apparent retribution after a sniper allegedly fired at them from the village. The deputy commander of 2,000 interior ministry troops in the region is Andre Skripnikov, known as "The Owl." He told us he is a cruel person by nature and believes the soldiers here have been betrayed by the Russian government.

ANDRE SKRIPNIKOV: [speaking through interpreter] We, as the interior ministry troops, are conducting battles of so-called local significance here, but we are losing people for the sake of nothing. It is terrible what we have here. If I had an order to go back home, I would be happy to go and hug my wife and children. I don't need anything else.

IAN WILLIAMS: The troops complain they are short of food and at the weekend, they shot a cow from a local farm, this time for a meal. They have been able to celebrate new year and the Russian Christmas last weekend. These men, interior ministry troops and special Spetsnas forces, are among the toughest in the Russian armed forces. But many complain that Christmas was a somber event. Few of their families know they are stationed in Chechnya, nor that they are already fighting what is becoming the second more deadly phase of the Chechen War. There's been much talk about if there will be a guerrilla war once Grozny has been taken. This provides ample evidence that such a war is already beginning, and these troops, inexperienced and edgy, are already bearing the brunt of it. Since our car had been crippled by gunfire, we left the area courtesy of an army truck, passing columns of fresh tanks heading for Grozny, more than 30, plus all manner of support vehicles. For these tanks, Grozny is still the target, though another war is already underway in the countryside and hills around them.

ESSAY - EXPOSED TO DANGER

MR. MAC NEIL: Finally tonight, essayist Roger Rosenblatt talks about some of the unintended casualties of conflicts like the one in Chechnya.

ROGER ROSENBLATT: A painful statistic reported in the New York Times a few weeks ago: 56 journalists were killed in war zones in 1993. Many of these 56 were photographers, photojournalists, which sadly makes sense. Photojournalists have to get close to the action, which means close to the danger. Once in Beirut in 1982, a photographer had to be pulled down from the top of a roof of a building which he had climbed to get a clear picture of the people who were shooting at him. He was crazy, to be sure. But most photographers are. Or to go softer on their mental stability, the will to get the effective shot puts them, by necessity, in the line of fire. So they may not be crazy technically, but it helps. What they are doing in these murderous places like Rwanda, the Sudan, Somalia, Haiti, Central America, Northern Ireland, Bosnia, the Middle East, is getting a representation of the story so that people not there can see it. The debate over whether photography is a true art will probably never be settled, but one thing it has in common with art, the art of literature as well as the arts of painting and sculpture, is that it makes one see. To see is to believe, which is why there is a proper fight these days over computer digitized photographs. The altered picture makes you believe what you see, but what you see is not what the photographer saw, because people know how important, how trusted pictures are, how seriously they are taken, how much they reveal. Photojournalists are treated much more warily in war zones or anywhere else actually than writers. I recently wrote a story in Brooklyn, New York, a minor war zone, with the great photographer, Sebastian Salgado. Nobody minded my presence in the neighborhood in which we traveled. I was deemed odd but harmless with my pen and pad of paper. Salgado, on the other hand, was a source of imperiling exposure with his camera, someone who for any reason did not wish to be seen could be caught in a lens. The great war photographers, James Nachtway, Susan Miseilas, Eugene Smith, know that when people turn away from them, they are also turning away from the truth. Sometimes when these photojournalists pursue the truth too avidly, someone shoots them back. You remember Eddie Adam's famous photo of the Viet Cong prisoner being shot with a pistol by a Vietnamese officer, or the most famous war photo of all, Robert Cappa's Spanish Civil War soldier taking a bullet on the run. In both these instances, two shots went off at the same time. One caught death; one caught the life of death. It is the life of death that war journalists seek to show; the moments of extreme human behavior in which all gestures toward rationality, peace treaties, truces, talks have been cast away like trash, and people are naked apes again, though better armed. Why does one need to see the light of death? Why send photojournalists to places where they are likely to be killed? Editors suffer a good deal of heartsick guilt when a reporter dies on assignment. Why do the journalists go? To get the story, is always the answer. And maybe that is deeper than it sounds. The story in Rwanda or Bosnia or in Haiti is of people who do not know how to get along in groups, in other words, the oldest story, the story of us. So year after year, men and women with pens, pads, and cameras in hand are dispatched to continue to tell this old story, because the story is incomplete, not yet fully told, and it always has a bad end. One day, perhaps, we will get the story of us right, and there will be no danger in telling it. Until then, war journalists will go to work, and many will die, as many as 56 in a year, for no higher purpose than to show the world what it looks like. I'm Roger Rosenblatt.

MR. MAC NEIL: An American photojournalist, a young freelancer named Cynthia Elbaum, was killed by a Russian bomb in Chechnya two weeks ago.

RECAP

MR. MAC NEIL: Again, the other major stories of this Monday, jury selection began in New York for 12 Muslim men charged with plotting a wave of urban terrorism, and flooding forced evacuation of several hundred people in Northern California. More rain was forecast for the area later this week. Good night, Jim.

MR. LEHRER: Good night, Robin. We'll see you tomorrow night. I'm Jim Lehrer. Thank you, and good night.

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A trail of persistent rumors leads to Mena Scandal could dwarf Whitewater

Hugh Aynesworth - THE WASHINGTON TIMES

MENA, Ark.

MENA, Ark. - It's a story with everything: tales of drug smuggling, gunrunning, bags of cash dropping from the sky, murder by ambush, revenge in the dead of night, and laced with the names of famous spies and godfathers, pilots and presidents.

If only half the particulars are true - and nobody is sure of the discount rate on the stories - it could be a scandal to dwarf anything seen before in U.S. politics.

But despite a long run as a staple of congressional rhetoric, radio talk shows and investigations by most major news organizations, the accurate particulars remain elusive. Nevertheless, it's a story that won't go away, and its locale - the rugged hills deep in the Ouachita National Forest in the remote mountain counties of what has become America's most interesting state - and its connection, if any, to the Whitewater scandals lend the Mena story the elements and the aura of a bomb ticking beneath the feet of the famous and the powerful.

Litigation, some of it already in the works, may force the answers to some questions. One prominent Arkansas politician, Bill Alexander, who served 12 terms in the U.S. House of Representatives, where he was the chief deputy Democratic whip, is working with lawyers for one plaintiff who accuses Bill Clinton's chief of security with manipulating evidence.

Mr. Alexander's interest in Mena (which is across the state from his old congressional district) is not new. He began hearing about Mena as early as 1988, and as a congressman he asked the General Accounting Office (GAO) to investigate how the investigation of foreign drug trafficking bears on the formulation of U.S. policy.

In a confidential report from the House Appropriations Committee, dated Feb. 22, 1989, the first paragraph of a six-page, single-spaced report says: "The Reagan administration repeatedly blocked the efforts by the GAO to obtain information concerning this investigation."

In 1991, Mr. Alexander obtained a $25,000 grant from the federal government to be used by the Arkansas State Police to reopen the investigation. Mr. Alexander got a commitment from the Arkansas attorney general, Winston Bryant, to help. But before the investigation got under way, Mr. Alexander was upset in the Democratic primary in 1992 - the

investigation was not an issue in the campaign - and Bill Clinton was running for president. Few politicians at home wanted to stir up anything to hurt the candidacy of their very own good ol' boy.

"There was enough evidence to begin cracking it open," says Mr. Alexander, who four years ago pushed hard for hearings on Mena by House subcommittees on Commerce, Justice, State and Judiciary, "and suddenly nobody wanted to touch it. I want to know why.

"The basic problem here is that I [had] the highest possible clearance that the government can provide for secrecy. I [was] cleared for secrets that the president gets - and no one else - but I [was] denied access to information in a criminal investigation in my state."

The Mena story is fraught with conjecture, much of it spun by its central figure, a swashbuckling pilot named Barry Seal, now dead. There is no proof that the clandestine events are linked to Whitewater, but many of the figures linked to Mena are figures who have been closely tied to Bill Clinton and the failure of Madison Guaranty Savings & Loan Association of Little Rock in 1989, with its ties to Whitewater Development Corp., the real-estate partnership of Madison owner James B. McDougal, Mr. Clinton and their wives.

Mr. Clinton has disclaimed any participation in or knowledge of any such activity at Mena, the most recent denial in answer to a question at his Oct. 7 news conference.

Events at Mena "were primarily a matter for federal jurisdiction," he said. "The state really had next to nothing to do with it. The local prosecutor did conduct an investigation based on what was in the jurisdiction of state law. The rest of it was under the jurisdiction of the United States attorneys who were appointed successively by previous administrations. We had nothing - zero - to do with it."

The denial was greeted with some skepticism in Arkansas, where Mr. Clinton's determination to know about everything going on while he was governor is still remarked on. Others linked by speculation and circumstance include Webster L. Hubbell, a close Clinton friend and confidant who pleaded guilty to bilking Little Rock's Rose Law Firm, where he was a partner with Hillary Rodham Clinton, and its clients of $390,000; Dan R. Lasater, a Little Rock investment banker and longtime contributor to Mr. Clinton's campaigns, who went to federal prison for distributing cocaine; and figures in the administrations of Presidents Reagan and Bush, through their efforts to supply arms to the Nicaraguan Contras.

The nub of the story is this: That Mena's airport was the base for a large aviation operation, with planes flying arms to the Contras in Nicaragua and returning from Central America with drugs, which were then distributed throughout the United States. Some of the flights were illegal; all of them were clandestine.

Though the Mena story has been a staple of gossip and intrigue for years, it was given new life last year with the publication of a book called "Compromised: Clinton, Bush and the CIA," by Terry Reed, a former Air Force intelligence officer. In it, he asserts that Mr. Clinton was aware of the scheme to use the planes that took arms to the Contras to return with drugs, and that through Dan Lasater he received 10 percent of the hundreds of millions of dollars in drug profit, which Mr. Lasater laundered.

Mr. Clinton emphatically denies any such activity, and Mr. Reed has presented no proof. Nevertheless, the Reed allegations have taken on a life of their own.

TAKE THE MONEY AND RUN

Mr. Reed, who says he was a CIA operative during the the 1980s, says the 10 percent of the drug profits were dropped in the dead of night onto a small ranch outside of Little Rock in 1984 and 1985 - satchels of $100 bills - and laundered by

Dan Lasater either through banks or the Arkansas Development Finance Authority, a state development agency that Mr. Clinton, as governor, organized in 1985. Mr. Reed asserts that Mr. Clinton acquiesced in the planning and operation of the scheme and compelled state agencies to help hide evidence.

In this scenario, George Bush, the late William Casey, Oliver North, two Republican attorneys general, a cadre of CIA "enforcers" and several Mafia figures were involved in one way or another, either in the illegal operations or by assisting, for reasons of national security, in the cover-up of the scheme.

Mena figures have told investigators they trained Panamanian pilots at the airport and worked with pilots employed by the Palestine Liberation Organization. Mr. Reed says he taught two groups of Nicaraguan pilots how to maneuver the weapons drops to Nicaraguan Contras fighting the Marxist Sandinista government.

One of the lumbering C-123K transport planes, of the model that was the workhorse of the Vietnam war, was often seen at Mena in 1984 and 1985, and identified later as the very plane flown by Eugene Hasenfus when he was shot down in the Nicaraguan mountains in 1986 delivering U.S. arms shipments to the Contras.

John Gotti, the New York Mafia boss, is said to have established a base in this remote area as a safe transit point for shipments of drugs. The files of investigators are filled with Swiss bank account numbers and purported details of how low-level CIA functionaries carried millions of dollars to deposit in banks in Switzerland.

Some of these assertions were made by figures on both the right and left who have been discredited. The descriptions of the Mafia connection came from an Oregon man who was once charged by federal authorities with making up a story about witnessing an October 1980 meeting involving Reagan aides Donald Gregg and Mr. Casey, who he said had tried to persuade Iranian officials to delay the release of the Tehran hostages until Mr. Reagan was inaugurated in 1981. The man was acquitted, but few believed his story.

SMOKING GUN

But it's Bill Clinton, who held Arkansas in tight thrall for his 12 years as governor, who is the subject of most of the speculation. What did he know, when did he know it - and what did he do about it? Everyone with a connection to Mr. Clinton and to Mena attracts close scrutiny, too. Webb Hubbell's fall from power has thrust him and the firm into the spotlight again. In his book, Mr. Reed accuses Mr. Hubbell, the former U.S. associate attorney general who resigned in March, and the Rose Law Firm of manipulating large sums of money from Mena.

"When the book was first done, three large publishers refused to publish it unless we took out references to Mr. Hubbell," Mr. Reed said in a recent interview. "We felt we couldn't do that."

Perhaps because the embarrassment over Mena would be bipartisan embarrassment, perhaps because they don't want to distract attention from a bold agenda, Republican enthusiasm for looking into the Mena story seems to have diminished considerably since Nov. 8. But some sort of congressional inquiry may be inevitable.

"I wouldn't expect Mena to get any congressional attention until the Whitewater probes have finished," says one veteran House staffer. "But from what we already know, I'd bet we'll be able to follow the bouncing ball once everything starts rolling."

Rep. Dan Burton, Indiana Republican, one of those who have taken the House floor to argue for an investigation of Mena, is one of the Republicans who have cooled their rhetoric since the November elections.

"There obviously were some questionable activities going on at both the Mena airport and the Whitewater land development project," Mr. Burton told The Washington Times. "Presently there are investigations into both of these matters. It would be premature to comment before the investigations are completed."

One who probably knows the case far better than anyone else, Bill Duncan, a former IRS investigator who tried for years to get an appropriate federal agency to look into Mena, speculates that nobody will be interested in looking closely now. "Who's going to investigate it?" he asks.

"For there to be an effective, thorough, productive investigation of what went terribly wrong in Mena," he says, "partisan politics will have to be laid aside, because many of the issues involved cut clearly across party lines and through multiple administrations."

SEAL AND THE SETUP

Tales about Mena began in the early 1980s when Adler Barriman "Barry" Seal - who once flew the Boeing 747 passenger jetliner for Trans World Airlines - bought a hangar at the Rich Intermountain Regional Airport north of Mena and turned it into a center for modification of high-performance airplanes.

Nearly everything about the Mena story revolves around Mr. Seal, a heavyset drug-smuggling pilot with a penchant for the spectacular - a man whose career often put him in close proximity with famous people. Some were honest and legitimate. Some were not.

He was born in Baton Rouge, La., where the politics of the bizarre is not unknown, and he nourished the perception that he was a special kind of crook - not exactly a Robin Hood, because he didn't often give to the poor, but a red-blooded American who could beat the Colombian bad guys (and to some extent, the American politicians) at their own game.

He weaved heroic tales of how he stared down drug lords in their own dens, how he deftly maneuvered planes below radar to deliver expensive illicit cargo to primitive jungle airstrips, how he played one federal agent against another as they scrambled to catch him.

One former Seal confidant, who served time in prison for other activities, told a Houston FBI agent several years ago that Mr. Seal was the ultimate intelligence gatherer and that alone made him seem "almost magical" to those who worked with him.

"He had so many connections to federal agencies that he usually knew what was going down days before it happened," the one-time pal said . "You think he didn't play on that kind of information?"

Even though all but his most credulous friends knew that many of his heroic tales were made up, there always seemed to be enough truth to blur final evaluation. That aura, that mystical bearing, is one reason why there are so many conflicting opinions about Mr. Seal and what went on at Mena.

Some people think he was merely a journeyman drug smuggler who talked a good game, who got caught and paid a debt by helping federal agents grab others. To handle this assignment Mr. Seal had to have fast airplanes in top working order. Thus the connection at Mena.

Others think Mr. Seal not only worked for the Drug Enforcement Administration (the agency concedes that much) and the CIA (which doesn't concede anything), but hustled on his own.

When he first arrived in Mena, Mr. Seal was no more noticeable than any of the others who congregated for coffee at the Lime Tree Inn on Mena's main street. He told good stories, but none had anything to do with drug smuggling. That was in 1981, four years after he started making his drug runs.

He told friends later that federal agents had been getting too close to his Louisiana operations. He had needed a more remote, quieter place.

Mena (population 5,154) was perfect: One of the most remote locations in North America, yet relatively close to Central America. The terrain has not changed much since the land was first settled more than a century ago by solid, hard-working men and women of Anglo-Saxon stock who mind their own business and expect others to do the same. It's just down the road from settlements with plain, straightforward names: Acorn, Umpire, Ink, Board Camp and Pine Ridge - the latter the home of the once-famous Jot 'Em Down Store, where the two fictional country storekeepers Lum 'n Abner held forth every Sunday night in the '30s and '40s as one of the top-rated network radio comedy shows. (Visitors still seek out the Jot 'Em Down Store.)

He struck up a partnership with Mena businessman Fred Hampton and quickly staffed the new hangar-headquarters with trusted mechanics and pilots he had worked with in earlier operations. Within months he established an outfit rivaled by few outside the military.

Working mostly at night, when prying eyes from the other airport operations could not see what they were doing, Mr. Seal's team rebuilt airplanes, adding state-of-the-art navigational equipment, extra fuel tanks and door latches and hatches to make a smuggler's work easier.

Later, after he was arrested in 1984 on cocaine-distribution charges - and became a valuable "asset" in the U.S. government sting operations that snared several international drug merchants - he would claim that over a span of more than seven years he made more than 100 trips to South America and brought back more than $4 billion worth of cocaine.

Much of what has become "the Mena story" occurred in the year or so before Mr. Seal was arrested by DEA agents and the two years during which he was operating stings for both the DEA and CIA.

During that time, he made what his DEA case agent, Robert Joura, called "the most important case DEA ever worked." At risk of brutal death, he inflitrated the Colombian cocaine cartel and then testified against several important narcotics kingpins.

Mr. Seal also collected the evidence to prove Sandinista complicity in Nicaraguan drug running, hiding cameras aboard his cargo plane to document the loading of $66 million worth of cocaine (1,452 pounds) by Sandinista official Federico Vaughan.

But a few months later, in February 1986, Mr. Seal was slain in a Baton Rouge halfway house at the hands of hired gunmen dispatched by the Colombian drug cartel.

MYTHS AND THEORIES

There's little doubt that Mr. Seal made many millions flying the contraband not only into the United States, but also to other countries. He is thought to have turned a fortune running guns to Nicaragua - and to Panama.

Nobody has yet pinpointed where the money went. In a dispatch by Ambrose Evans-Pritchard, the London Sunday Telegraph reported recently that more than $1.6 million in Seal "earnings" is known to be in an interest-bearing bank account in the Cayman Islands.

One federal agent who worked the Louisiana cases against Mr. Seal says that figure "shows just how ridiculous such `facts' have become" in the growing Seal legend.

Mr. Seal testified before Congress that he had made at least $50 million in his trafficking. The IRS, needing no further evidence, dunned him for the taxes on that sum.

Rumors persist that diaries kept by Mr. Seal, along with personal financial papers, have been located and may become public. Mr. Duncan, the former IRS investigator, says he has heard this but does not know who controls the material. He had been told the Seal documents "are significant and corroborate" some of the current theories.

In a rare interview, Dan Lasater, the Little Rock investment banker, one-time cocaine distributor and sometime Clinton fund-raiser, called accusations about him "unfounded" and says his relationship with Mr. Clinton had been greatly exaggerated.

"I haven't spoken to Bill Clinton since 1986," he says. He says he has been in the presence of Mr. Clinton only eight times in his life.

That worries Mr. Duncan, who with Russell Welch, an Arkansas State Police investigator, did the early spadework and built a federal money-laundering case, which he and others say was sidetracked by higher-ups in Washington.

"My No. 1 concern is that people that could investigate this are going to be so afraid of being called conspiracy theorists and kooks themselves that they're not going to tackle it because of all that," he says.

Earlier this year, Terry Reed and his theories became the hit of talk radio around the country. Pat Robertson's television show, "The 700 Club," praised it lavishly. His book is not a partisan attack on Mr. Clinton, though it describes him as the greatest beneficiary.

In one account, Mr. Reed and his co-author, John Cummings, write that Mr. Clinton urged Mr. Seal to accept a CIA assignment in an even-bigger covert enterprise in Mexico, as the governor smoked a marijuana cigarette in minivan parked outside a Little Rock restaurant.

He says Mr. Clinton, "inhaling with expertise," told him that Oliver North had been "leaning" on him to get a definite commitment from him. He describes Mr. North, known to Mr. Reed at the time as "John Cathay," as the nominal leader of a secret Reagan administration scheme based in Mena to help arm and finance the Contra efforts.

Another account in his book has Mr. Clinton getting a dressing down from a CIA official dispatched by Bill Casey, known as "Frank Johnson," who blamed Mr. Clinton for skimming too much money from the guns-drugs-training scam.

"You're supposed to get 10 percent of the take, not 10 percent of the gross," snapped the CIA man to the chagrined governor as several participants watched in amazement as they sat in a munitions bunker at Little Rock Air Force Base.

Mr. Reed said he later learned that "Frank Johnson" was, in fact, William P. Barr, then a top Justice Department official and later attorney general.

"It's ludicrous," Mr. Barr said recently by telephone from Connecticut. "I've never met Mr. Clinton, never met Bill Casey, never used an alias and have never been to Arkansas. And it wasn't until a few months ago that I ever met Ollie North."

He said he was a lobbyist for the CIA in 1987 but has done no work for the agency since.

Most others named as participants also deny Mr. Reed's story.

Mr. North did not return telephone calls, but, answering a question during his unsuccessful campaign for the U.S. Senate in Virginia, said he had never met or spoken with Mr. Reed.

Mr. Reed writes at length about a man named Joe Evans, a Seal mechanic-partner who he says helped with training the first of two secret classes of Contra pilots at Nella, a tiny landing strip just north of Mena. He writes that Mr. Reed helped organize the training and was the lead instructor. He and Mr. Evans worked closely, he said.

When the two met on camera during a CNN interview of Mr. Reed a few weeks ago, Mr. Evans said, "I've never seen this man before - until he walked through that door."

FACT OR FANTASY?

One ranking congressional aide told The Washington Times in an interview that while Mr. Reed's charges occasionally seemed absurd, "he's not the only one we have making such accusations."

"We can no more afford to rule out his allegations without investigating them than we can to accept everything he says as gospel."

THE PROBE

Though Mr. Reed's accusations are the most colorfully detailed, it is the story of two investigators, Messrs. Duncan and Welch that may in the end accomplish an all-out investigation. Nobody has questioned their motives or integrity.

Mr. Duncan first received a tip that money was being laundered here in April 1983. Mr. Welch was already working his own sources, collecting evidence on this and chasing down other reports of unusual happenings - like sporadic gunfire and unusual air traffic over the mountains near Mena. Mr. Duncan and Mr. Welch met in July 1985 and began sharing information.

The evidence seemed persuasive: Fred Hampton and those who worked for the Seal-Hampton company regularly traded cash for cashier's checks at banks in Mena, Russellville, Booneville and other small towns in western Arkansas.

"Barry just didn't like bank accounts," Mr. Hampton told The Times recently.

Records of more than $250,000 in such transactions were subpoenaed. Then the two probers gathered signed affidavits from several key "traders." The investigators knew they didn't have a smoking gun, though a couple of witnesses said they saw heavy weapons and cocaine inside the Seal cargo planes.

The key, the investigators concluded, was to get indictments against two or three of the Seal employees, then persuade them to testify against others.

And though they had proof that $250,000 had been washed in the cash-for-cashier's-checks routine, they figured there was a lot more money out there somewhere.

Mr. Duncan lobbied the U.S. attorney's offices in both Fort Smith and Little Rock to authorize him to scrutinize rumored conduits through banks in Little Rock and elsewhere. The federal prosecutors declined.

Finally, a federal grand jury was sworn to hear the Mena cases in Fort Smith. The investigators thought this was a hopeful first step; it is not in the nature of a grand jury to decline to indict when the prosecutor demands it. Nevertheless, the grand jury declined.

"We found out later that the grand jury heard only three witnesses and was not shown most of the evidence we had collected," Mr. Duncan says.

J. Michael Fitzhugh, who had been named U.S. attorney in Fort Smith in the midst of the investigation, said he detected no unusual aspects to the case. The grand jury "just didn't feel they had enough to charge anyone," he says.

However, one grand juror was so angered that she broke the rule that grand jurors never discuss their secret proceedings. The case been blatantly mishandled, she later told a congressional investigator, and several grand jurors thought "there was some type of government intervention," according to a transcript obtained by the Wall Street Journal. "Something is being covered up."

With hindsight, Mr. Duncan thinks he should not have been surprised. "The Mena investigations were never meant to see the light of day. Investigations were interfered with and the justice system was subverted." He was never given the opportunity to explain his case in detail to the jury.

Mr. Welch has since resigned from the state police and now works for the Polk County Sheriff's Office in Mena. Mr. Duncan left the IRS after an internal disagreement and now works on Medicaid fraud for the state Attorney General's Office in Little Rock. Both men say they have been warned that further comment will not help their career advancement.

THE STONE WALL

The first such indication of what might have happened had come in February 1988 when Mr. Duncan was asked to testify before a House Judiciary subcommittee on crime. Before he left for Washington, his partner telephoned him to say that a former Mena deputy sheriff might have come up with the reason why the federal prosecutor, Mr. Fitzhugh, handled the Fort Smith grand jury session the way he did.

"Barry Seal claimed he paid a $500,000 bribe to Edwin Meese [then U.S. attorney general] to stonewall the investigation," Mr. Welch told Mr. Duncan.

Mr. Duncan says he did not necessarily believe the Seal claim, but he immediately told IRS lawyer Mary Ann Curtin in the Disclosure Division that if he was asked, he would admit to the congressional questioners he had heard such a claim.

Mr. Duncan says his IRS superiors instructed him to dodge the question and told him not to comment on his "problems" with the U.S. attorney.

"It was not a matter of volunteering information," Mr. Duncan wrote in a June 20, 1989 affidavit to the IRS, "it was a matter of truthfully and completely answering to the best of my ability questions from the subcommittee."

He said that if he were to be asked about the interagency "problems," he would just say, "I would have done it differently."

And if asked about the call from Mr. Welch, Mr. Duncan was told to reply, "I have no information."

The IRS lawyers - including Disclosure Division chief Peter Filpi - explained that what he had been told by Mr. Welch was not actually "information."

Mr. Duncan said he thought such replies would put him at risk of perjury.

The IRS lawyers said the agency "could not have an allegation about a bribe to the attorney general attributed to an IRS agent."

Finally, when Mr. Duncan insisted that he would tell the truth, the IRS lawyers agreed that he could tell the committee that he had no other information, beyond Mr. Welch's phone call.

R0028564-010395

Photos, A) Another thread in the tale is the accusation that Oliver North sent arms to the Contras from Mena.; B) Edwin Meese was the target of an accusation by drug-running pilot Barry Seal.; C) Bill Alexander, a former Arkansas congressman, has pushed the effort find out just what went on at the airport in Mena., A&B) NO CREDIT; C) By AP Map (color), Mena / Area of detail, By The Washington Times

---- Index References ----

Company: BOEING CO (THE); TRANS WORLD AIRLINES INC; SEAL

News Subject: (Legal (1LE33); Social Issues (1SO05); Police (1PO98); Judicial (1JU36); Legislation (1LE97); Taxation (1TA10); Government (1GO80); Government Litigation (1GO18); Tax Law (1TA64); Crime (1CR87); Criminal Law (1CR79); Political Parties (1PO73); Public Affairs (1PU31))

Industry: (Military Support Aircraft (1MI85); Smuggling & Illegal Trade (1SM35); Airports (1AI61); Transportation (1TR48); Aerospace & Defense (1AE96); Defense (1DE43); Aerospace (1AE56); Accounting, Consulting & Legal Services (1AC73); Military Forces (1MI37); Air Transportation (1AI53); Fixed-Wing & Helicopters (1FI11))

Region: (Panama (1PA92); Central America (1CE62); North America (1NO39); Western Europe (1WE41); Latin America (1LA15); Europe (1EU83); Central Europe (1CE50); Louisiana (1LO72); South America (1SO03); Colombia (1CO48); Nicaragua (1NI86); Americas (1AM92); USA (1US73); Switzerland (1SW77); Arkansas (1AR83))

Language: EN

Other Indexing: (700 CLUB; AIR FORCE; AP MAP; ARKANSAS; ARKANSAS DEVELOPMENT FINANCE AUTHORITY; ARKANSAS STATE POLICE; BOEING; BUSH; CIA; CNN; COMMERCE; CONTRAS; DEA; DEMOCRATIC; DISCLOSURE DIVISION; DRUG ENFORCEMENT ADMINISTRATION; FACT; FBI; GAO; GENERAL ACCOUNTING OFFICE; GEORGE BUSH; HOUSE; HOUSE APPROPRIATIONS COMMITTEE; HOUSE JUDICIARY; IRS; JOT; JUDICIARY; JUSTICE; JUSTICE DEPARTMENT; LIME TREE INN; LOUISIANA; MADISON GUARANTY SAVINGS LOAN ASSOCIATION; MAFIA; MARXIST SANDINISTA; MYTHS; NEW YORK MAFIA; NICARAGUAN; NICARAGUAN CONTRAS; OUACHITA NATIONAL FOREST; PALESTINE LIBERATION ORGANIZATION; POLK COUNTY SHERIFFS; PRESIDENTS REAGAN AND BUSH; REAGAN; RICH INTERMOUNTAIN REGIONAL; ROCK; ROCK AIR FORCE BASE; SANDINISTA; SEAL; SETUP; STATE; STONE; TRANS WORLD AIRLINES; US HOUSE OF REPRESENTATIVES; US SENATE; WHITEWATER; WHITEWATER DEVELOPMENT CORP) (Alexander; Ambrose Evans-Pritchard; Barr; Barry; Barry Seal; Barry Seal.; Bill Alexander; Bill Casey; Bill Clinton; Bill Duncan; Burton; Casey; Clinton; Dan Burton; Dan Lasater; Dan R. Lasater; Donald Gregg; Duncan; Edwin Meese; Eugene Hasenfus; Evans; Federico Vaughan; Fitzhugh; Frank Johnson; Fred Hampton; Hampton; Hillary Rodham Clinton; Hubbell; Indiana Republican; J.; James B. McDougal; Joe Evans; John Cathay; John Cummings; John Gotti; Lasater; Litigation; Lum; Mary Ann Curtin; Mena; Mena Scandal; Michael Fitzhugh; North; Oliver North; Ollie North; Pat

Robertson; Peter Filpi; Reagan; Records; Reed; Robert Joura; Robin Hood; Russell Welch; Seal; Terry Reed; Visitors; Webb Hubbell; Webster L. Hubbell; Welch; William Casey; William P. Barr; Winston Bryant)

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Quotes and more in 1994

Kansas City Star (Kansas & Missouri)

December 28, 1994 Wednesday, METROPOLITAN EDITION

Section: BUSINESS;; JERRY HEASTER

Length: 618 words

Byline: JERRY HEASTER

Body

tx:It's time once again to share some of the year's most insightful quotations.

This annual serving of wit and wisdom from your Uncle Fearless accomplishes two things. It keeps the necessity for real work at bay while contributing to your intellectual development at a time of year when such endeavors are low on most everyone's list of priorities. As always, the first is my favorite:

-- We want to move toward the West, and we know it is not possible without golf. (Otakar Jureka, vice chairman of Investioni Bank, the Czech Republic)

-- I have this fundamental optimism. When I walk into a grocery store and look at all the products you can choose, I say, No king ever had anything like I have in my grocery store today. (Microsoft chairman Bill Gates)

-- It is unlikely that we will ever be capable of building a world that is qualitatively better than we ourselves are. (French political theorist Jean-Francois Revel, on why totalitarianism is a "deadly substitute" for human self-improvement.)

-- We're going to push through health-care reform regardless of the views of the American people. (Sen. Jay Rockefeller, West Virginia Democrat.)

-- The basic insight of federalism is that you can run away and vote with your feet from a small tyranny, but you cannot run away from a big tyranny. (Former U.S. Attorney General **William Barr**)

-- If you empower dummies, you get bad decisions faster.

(Harley-Davidson chief exec Rich Teerlink)

-- If we depend on Congress to reform the Democratic party, we'll sit here until the funeral. (Al From, president of the Democratic Leadership Council)

-- (Baseball) has to purge itself of the rage between the owners, who consider business a competitive sport, and the players, who regard competitive sport as a business. (Robert Lipsyte, sports writer, The New York Times)

-- Just as even the fieriest congressional Democrats slowly degenerated from tribunes of the poor to servants of the teachers' unions, trial lawyers and big-city mayors, so now the new Republican majority will encounter profitable opportunities to abandon ideology for self-interested policies. (David Frum, conservative writer)

-- It's amazing how much you can learn when you study. (Dale Carter, Kansas City Chiefs Pro Bowl cornerback)

-- This continuous downsizing - it's corporate anorexia. You can get thin, but it's no way to get healthy. (Gary Hamel, expert on competitiveness)

-- Inequality is simply the price we pay for a general level of prosperity unimaginable under any other economic system. (Michael Prowse, Financial Times columnist)

-- Soccer (is like) a prom for ninth graders. There's a lot of tortured posing, self-conscious strutting (and) moody sulking, but few people actually score. (David Brooks, The Wall Street Journal Europe)

-- The key is not the tightening itself. By the time you get to the scene of the crime, small children in Guatemala know the (Federal Reserve) is going to tighten. The real question is, are they out of our face? (Analyst Larry Wachtel, on Oct. 27)

-- Placing child care comparatively low on one's personal agenda does not bestow the right to insist that it be granted a top spot on the nation's political agenda. (Michael K. Meyerhoff, executive director of Epicenter Inc., a family advisory and advocacy agency in Wellesley Hills, Mass.)

Jerry Heaster's column appears Wednesday, Friday, Saturday and Sunday in the Business section. To share a comment with Heaster, call 816 889-7827 and enter 2301.

Classification

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Company: MICROSOFT CORP (56%); MICROSOFT CORP (65%)

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NewsRoom

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USA Today (USA)

December 13, 1994

Section: NEWS

PRISON BUSINESS IS A BLOCKBUSTER AS SPENDING SOARS, SO DO THE PROFITS

Sam Vincent Meddis

Deborah Sharp

COLEMAN, Fla.

COLEMAN, Fla. - From his barbecue stand along U.S. Highway 301, Butch Willett sees the future: a massive federal prison rising in this tiny corner of rural Florida.
"I love it," he says with an iron logic. "If it brings money into my pocket, I'm all for it."

Here in the former "Cabbage Capital of the World" (pop. 854), word that the Federal Bureau of Prisons was shopping for a central Florida site for a new $134 million prison sent local boosters into overdrive.

"We were on the phone with Washington morning, noon and night" to snare the 3,200-inmate prison, says Jack Pae, a former Sumter County economic development director.

In a year when the nation's prison population topped 1 million for the first time, Coleman's jockeying is typical of a vast rush to cash in on the booming $31 billion incarceration business.

From infirmary beds to razor wire, from construction workers to guards, there's been "unprecedented growth," says Morris Thigpen, director of the National Institute of Corrections. "People joke (that) we seem to be heading toward the day when you're either going to be in prison or working in some sort of way with corrections."

But the need for more prisons is no joke. It's driven by a decade's worth of "get-tough" laws enacted in response to a crime-weary nation: longer sentences, mandatory terms for some violations and parole reductions.

Such steps have sparked a fierce debate over the wisdom and morality of coping with crime with mortar and steel.

Civil rights activist Jesse Jackson compares the "jail-industrial complex" to the much-criticized link between defense companies and the Pentagon. He warns that massive prison growth, combined with cuts in social services and welfare, is "a substantial step toward fascism."

But William Barr, attorney general in the Bush administration, disagrees. He says locking up violent and repeat offenders is the only practical way to reduce crime.

"It is a sorry state, but I don't see any alternative," he says.

Neither do most government officials. Prison spending has soared by hyperbolic proportions, nearly eightfold from the $4 billion spent in 1975. And that means big profits for many businesses:

-- Star Sprinkler Corp. of Milwaukee expects next year to sell 50,000 high-security fire sprinklers designed so that inmates cannot hang themselves from them. "A very lucrative and fast-growing market," says Star's John Corcoran.

-- Corrections Corporation of America, a Nashville company created in 1983 to run prisons, now manages 23 institutions with 12,000 inmates. It has proposals to oversee 5,000 more beds.

-- Correctional Medical Systems of St. Louis provides medical care to more than 150,000 inmates. In 1987, it treated just 45,000. And demand for medical services is bound to rise as stiffer sentencing brings in more lifers. Eventually, many cell blocks may turn into geriatric wards.

-- Former Philadelphia city councilman Jimmy Tayoun has started a consulting service for new inmates - less than six months after his own release from federal prison in June. Tayoun, convicted on corruption charges, gives advice on what to bring and how to act behind bars.

"I said, `God, there's a need for this service,' " says Tayoun, who's already received 13 inquiries from defense lawyers seeking his help for their clients.

-- Advertising in Corrections Today magazine has tripled since the late 1980s. Among the products hawked in the American Correctional Association publication: handcuffs, body armor, chewing tobacco and dandruff shampoo.

-- Hiring and training of correctional workers is "the fastest-growing function . . . out of everything that government does," says Meredith DeHart of the U.S. Census Bureau.

More than 523,000 full-time employees worked in corrections in 1992 - more than in any Fortune 500 company except General Motors - up from 169,000 in 1972.

The surge has accounted for massive growth in spending - even in states where other government budgets are being cut. State prison costs grew almost twice as fast as overall spending between 1982 and 1992. This year, corrections spending is expected to grow 7.7%, more than for any other program.

The increase is all part of frenzied game of catch-up:

-- Last year, 22 jurisdictions squeezed nearly 51,000 inmates into local jails because of overcrowded prisons.

State prisons are operating at 118% of capacity.

-- In 41 states, the entire prison system or a major institution was under court order to remedy crowding or poor services.

Partly because the number of prisoners has tripled since 1980 - a feat it took the previous 50 years to match - the new federal crime bill provides nearly $9 billion for state prison construction. Next year's Republican-controlled Congress is expected to add even more funds.

So the competition for a piece of the prison pie is fierce.

To persuade federal officials to select Coleman, the Sumter County Commission passed a series of resolutions lauding the project. Local residents toured the oak-dotted countryside with prison honchos, offering them no less than 11 sites. Leaders made hundreds of calls and posted countless letters.

"Five, six, seven years ago," says federal prison official Bill Patrick, "it wasn't so easy to find sites for prisons. Folks had the wrong idea - Alcatraz, James Cagney."

But hard times dislocated not-in-my-backyard sentiments.

"Communities started looking for any kind of economic growth," Patrick says. "They started realizing we were a recession-proof, environmentally clean, attractive, safe industry."

A year after construction began here, one-quarter of the prison - which includes 2.5 million concrete blocks and more than 4 miles of fencing - is complete. And the 1,000 construction workers say they're grateful.

"I was fortunate to find this job," says Steve Sommer of Brooksville, a new father. As a labor foreman, he earns $8 an hour - $2 more than he did as a mechanic.

"We can't hire enough people," says Hyman Construction superintendent Mike Frank. "It's never been, `Sorry, we're not hiring.' It's `When can you go to work?' "

Leaders in the county seat, 10 miles away, are enthusiastic project backers. But some closer neighbors are less thrilled.

"We just felt like there could have been a whole lot more looking into it before they dumped it here," says Margie Sovercool, who can see the prison's rising cellblocks from her home. While husband Raleigh locks once unlatched doors, she now carries pepper spray while she gardens.

Some states are beginning to have doubts about corrections spending in the face of increasingly tax-hostile citizens. They question whether taxpayers can afford to pay the tab.

In Colorado, some lawmakers say it's politically unacceptable to oppose the public's demand for harsher criminal punishment, but others are left to contemplate funding cuts in education and road construction. Some openly wonder whether the prison "binge" will eventually bankrupt the state.

"Projected growth goes completely off the chart," state corrections chief Ari Zavaras told legislators. "When it will all end, I'm not sure." Prison, jail spending skyrockets Local, state and federal government agencies spent more than $31.2 billion on jails and prisons in 1992, a 359% increase from 1980. Expenditures:

(in billions)

State Local Federal '92 $18.4 $10.4 $2.4

GRAPHIC,b/w,Sam Ward,USA TODAY,Source: Bureau of the Census(Line graph)\ GRAPHIC,b/w,USA TODAY(Map)\ PHOTOS,b/w,Phelan M. Ebenhack,AP(2)

NOTES: PRISONS

See related stories: 10A
See info box at end of text

---- Index References ----

Company: GENERAL MOTORS CORP; CORRECTIONS CORP OF AMERICA

News Subject: (Judicial (1JU36); Legal (1LE33); Economic Development (1EC65); Prisons (1PR87); Economics & Trade (1EC26))

Industry: (Construction (1CO11); Correctional Facilities (1CO72); Commercial Construction (1CO15))

Region: (USA (1US73); Americas (1AM92); Florida (1FL79); North America (1NO39))

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Other Indexing: (AMERICAN CORRECTIONAL ASSOCIATION; BUREAU; BUTCH WILLETT; CENSUS; CORRECTIONAL MEDICAL SYSTEMS; CORRECTIONS CORP; FEDERAL BUREAU OF PRISONS; GENERAL MOTORS; GRAPHIC; NATIONAL INSTITUTE OF CORRECTIONS; NOTES; PENTAGON; PRISON; PROFITS; SOARS; SOURCE; STAR; STAR SPRINKLER CORP; STATE LOCAL; US CENSUS BUREAU; USA) (Alcatraz; Ari Zavaras; Bill Patrick; Civil; Coleman; Communities; Expenditures; Folks; Hyman Construction; Jack Pae; James Cagney; Jesse Jackson; Jimmy Tayoun; John Corcoran; Margie Sovercool; Meredith DeHart; Mike Frank; Morris Thigpen; Patrick; Phelan M. Ebenhack; Projected; Sam Ward; Steve Sommer; Tayoun; William Barr)

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Christopher Calls Summit of the Americas a Success

CNN NEWS 7:05 am ET

December 11, 1994

Section: News; International; Live Report

Length: 916 words

Byline: CLAIRE SHIPMAN

Highlight: Secretary of State Warren Christopher called the Summit of the Americas the "most productive" summit he's ever attended. Leaders signed a declaration that would lead to free trade by the year 2005.

Body

RALPH WENGE, Anchor: President Clinton and other western hemisphere leaders are celebrating progress on free trade at the Summit of the Americas. CNN's Claire Shipman joins us now from Miami with the latest on the summit as well as some new political concerns for the president. Claire, good morning.

CLAIRE SHIPMAN, Correspondent: Good morning, Ralph. Well, the U.S. Secretary of State is calling it the most productive summit he's ever attended. The leaders of the hemisphere have pledged to create the world's largest free trade zone by the year 2005. And President Clinton and his wife, and the 33 other leaders and their spouses celebrated last night at a glittering black tie extravaganza, featuring artists from all over the region.

And potentially, it is a deal worth celebrating - a $13 trillion market with 850 million people. Now, the leaders signed the official declaration late yesterday afternoon. But the deal was worked out well in advance, it's essentially an extension of NAFTA, the North American Free Trade Agreement, between the United States, Canada and Mexico. There's some concern that many of the Latin American countries won't be able to meet the standards in the next ten years that are necessary, for example, minimum wage for workers, and workers' rights. But, the Latin American countries really wanted to set that earlier

deadline. The leaders also agreed on some other issues like ways to fight drug trafficking and corruption; ways to battle environmental degradation and on some other items like health care and education. And the U.S. came under some criticism for its efforts to fight drug trafficking. Many of the leaders here think those efforts have been ineffectual so far and there's a sense that the wealthier nations who are largely the consumers of the drugs ought to play more of a role in the battle against drugs. But on the whole, the mood was upbeat at the summit and it should have been a good day for President Clinton, another big trade deal, but as CNN's Wolf Blitzer, it hasn't been the best of weeks for Mr. Clinton.

WOLF BLITZER, Senior White House Correspondent: The bad news for Mr. Clinton doesn't seem to stop, even while he's in Miami, trying to focus on Latin American trade. Sources confirm the independent council investigating outgoing Agriculture Secretary, Mike Espy, has now dramatically expanded his probe to include the entire relationship between a large poultry firm in Arkansas with the president and first lady.

WILLIAM BARR, Fmr. Attorney General: The Republicans were in power for twelve years and they sort of learned, what's permissable in this city and what isn't permissable. These people have come in from outside and they thought they could get away with a lot of things that simply don't cut the mustard here, and they're learning that.

BLITZER: It's all more bad news for an already embattled president, who in recent days, has suffered through several major political embarrassments, including some tough criticism from the centrist Democratic leadership council, the conviction of former Associate Attorney General, Webster Hubbell on two felony counts, the resignation of Treasury Secretary Lloyd Bentsen, and the firing of Surgeon General, Joycelyn Elders.

DEE DEE MYERS, White House Press Secretary: There are always problems, there is always trouble for any president, and this president has certainly seen his share. But, he never gives up, that doesn't mean he can't focus on the big things, the things the American people sent him to Washington to work on.

BLITZER: Commerce Secretary, Ron Brown, who may be asked to head the president's reelection campaign, acknowledges there is a perception of dissaray.

RON BROWN, Commerce Secretary: But I do believe that any time that that perception exists, you have to try to eliminate that perception, if it's a negative one, and I know we're working very hard to do that.

BLITZER: But for now, Mr. Clinton's problems are getting worse. What started off as a modest investigation into Espy's allegedly accepting free tickets for travel and sporting events from Tyson Foods, has snowballed. Independent counsel, Donald Smaltz [sp?], has already subpoenaed thousands of Tyson documents. Another ominous sign - Smaltz has already been in touch with Whitewater independent

counsel, Kenneth Star, to see if there's any overlap. One area may involve Mrs. Clinton's nearly $100,000 commodities trading profit in 1979, made as a result of advice from James Blair, a close family friend and Tyson Foods' general counsel.

When the president gets back to Washington, his immediate need will be to put together a new domestic agenda. Aides concede that won't be easy with all these distractions.

Wolf Blitzer, CNN, Miami.

SHIPMAN: The president will head back to Washington early this afternoon, and in terms of morning events, it's expected that the United States, Mexico and Canada will announce negotiations to expand NAFTA right away to include one other country, Chile. The leaders have also announced there will be another Summit of the Americas in 1996, in Bolivia.

I'm Claire Shipman, reporting live from Miami.

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Company: TYSON FOODS INC (60%); TYSON FOODS INC (60%); NORTH AMERICAN FREE TRADE AGREEMENT (82%); NORTH AMERICAN FREE TRADE AGREEMENT (82%)

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Geographic: NORTH AMERICA (92%); UNITED STATES (92%); LATIN AMERICA (92%); MEXICO (79%); CANADA (79%)

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GOP TO SEEK NEW, STRONGER ANTI-CRIME BILL

Los Angeles Times

November 12, 1994, Saturday, Home Edition

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Length: 1105 words

Byline: JA

By DAVID G. SAVAGE and RONALD J. OSTROW, TIMES STAFF WRITERS

Dateline: WASHINGTON

Body

EC MO DE NA

Republicans who will take control of Congress in January said Friday that they will quickly pass a stronger crime bill to end lengthy appeals for convicted criminals, give police more leeway in searching for evidence and encourage states to require violent offenders to serve longer terms, build more prisons and adopt sentencing reforms.

"We want to pass a real crime bill and we are committed to bringing it forward within the first 100 days," said Rep. Bill McCollum (R-Fla.), a leader on crime legislation in the House Judiciary Committee.

Republicans on Capitol Hill have chafed for more than a decade at their inability to pass ever-tougher measures to combat crime. While Democrats have moved to the right on crime, their senior committee chairmen in the House often bottled up what they saw as extreme proposals.

Now, suddenly, the way is cleared for Republicans to wage their own legislative war on crime.

"We won't have (Jack) Brooks blocking us any more," a jubilant McCollum said, referring to the crusty chairman of the House Judiciary Committee who was defeated by Texas voters on Tuesday.

The proposals are spelled out in "The Taking Back Our Streets Act" section of the Republican "contract with America," which more than 300 Republican candidates signed before the election.

But unlike the far-reaching Republican proposals for a balanced budget, tax cuts and strict time limits for welfare, the proposed anti-crime initiatives are not revolutionary. Many simply piggyback on popular state proposals, such as imposing mandatory prisons terms for repeat, violent offenders.

In other instances, the steps would expand programs included in this year's crime legislation. For example, the new crime law gives some money to states to encourage the adoption of "truth-in-sentencing" laws and the Republicans want to devote more money to that purpose.

It is widely agreed that the public has grown angry at hearing of violent criminals who, for example, might be sentenced to 15 years in prison but would become "eligible for parole" in perhaps four years. Under truth-in-sentencing, which became part of federal law in 1988, convicted criminals must serve at least 85% of their prison sentences.

Pointedly, the Republican leaders have distanced themselves from tough proposals advocated during the Ronald Reagan era, such as dropping the so-called Miranda warnings or scrapping the "exclusionary rule," which bars the use of illegally obtained evidence.

Sen. Orrin G. Hatch (R-Utah), expected to become chairman of the Senate Judiciary Committee, was asked Friday if he favors loosening the Miranda rule that makes a confession illegal when police fail to warn a suspect of his right to remain silent and to consult a lawyer.

"I have some trouble there," Hatch said. "Personally, I think that the Miranda warning probably is a good thing," Hatch told interviewers on the Court TV program, "Washington Watch."

Similarly, McCollum was asked whether Republicans might broadly attack the Supreme Court's 1961 decision that excludes illegally obtained evidence from a criminal trial.

"No, we won't want to excuse a clearly illegal search that violates someone's rights," he said. "But if an officer thought he was complying with the law in good faith, we don't want that evidence thrown out."

Twice during the 1980s, Republicans won broad support on Capitol Hill to amend the law to allow the use of criminal evidence turned up by "good faith" police searches but senior Democrats blocked the proposals from coming to a vote on the House floor.

Most Republicans also deny that they intend to repeal the recently enacted ban on the possession of certain assault weapons.

"That's not in the contract," McCollum said. "Some people might bring it up but I don't think it will be part of the agenda." Hatch said that he opposed the assault weapon ban but doubts that a majority in the Senate would want to reopen the issue next year.

Nonetheless, Republican lawmakers and their advisers on crime said that there is broad agreement on five key proposals for a new crime bill:

* Reduce the social spending included in the recent crime law and give more of the money to city officials to fight crime as they see fit. The crime bill passed last summer provides $6.9 billion over six years for crime prevention programs, many of which were derided by Republicans as wasteful.

"I think the first priority will be to take out the pork-barrel programs and turn it into block grants for local governments to use for crime prevention," said Richard K. Willard, a former Reagan Administration official who has advised House Republicans on crime.

The current law is "broken up into little programs that reflect federal judgments more than the states'," said **William P. Barr**, attorney general during the George Bush Administration.

In the past, "block grants" have been criticized as a Republican version of pork-barrel spending, and this proposal will likely meet strong opposition from the Democrats.

* Cut off "frivolous" appeals for Death Row inmates.

"We want to give them one bite of the apple and that's it," McCollum said. State prosecutors complain that state inmates should not be permitted to repeatedly appeal their cases in federal court. In recent years, the Supreme Court has tightened the law to end most such repeat appeals but the Republicans propose to end them entirely, except where the inmate can show convincing new evidence that he is innocent.

* Expand the "good faith exception" to warrantless police searches. The Supreme Court in 1984 ruled that criminal evidence can be used if police followed a search warrant that was later declared defective.

The Republicans say that they want to expand this idea to allow the use of evidence in situations where police are "following proper procedures" but a judge later concludes that they erred.

Depending on how this proposal is defined, it could prove highly controversial.

* Encourage longer prison terms for violent offenders. The Republicans want to increase spending to $10.5 billion over six years to build more prisons and to require states to keep convicts behind bars until they have served 85% of their sentences.

* Punish those who use guns in committing crimes. The "contract with America" proposes a mandatory 10-year prison term for anyone who uses a gun in a crime and a mandatory 20-year term for a second such offense.

The Republicans say they think that their proposals will get wide support in Congress, as well as the signature of President Clinton.

"We hope this will be a bipartisan effort," McCollum said.

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PUT CRIMINALS BEHIND BARS, NEW STUDY URGES

Plain Dealer (Cleveland, Ohio)

November 3, 1994 Thursday, FINAL / ALL

Section: NATIONAL; Pg. 21A

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Byline: By TOM BRAZAITIS; PLAIN DEALER BUREAU CHIEF

Dateline: WASHINGTON

Body

A new study concludes that the surest way to stop or at least slow down the increase in all crimes, and violent crimes in particular, is to put convicted criminals behind bars and make sure they stay there.

One expert critic immediately branded the report "simplistic and misleading" and predicted criminologists would laugh at it.

The 50-state "Report Card on Crime and Punishment," issued yesterday by the American Legislative Exchange Council, says that during a permissive era in the 1960s and 1970s, when crime policies were based on "root-cause" theories, the incarceration rate went down and the crime rate soared.

From 1960 to 1980, the incarceration rate decreased nationally by 62 percent, from 55 inmates per 1,000 reported crimes to 21 inmates per 1,000 crimes, whereas the crime rate increased by 215 percent.

From 1980 to 1992, a new get-tough approach resulted in a 146 percent increase in the incarceration rate and a corresponding 5 percent decrease in the crime rate, the report says. In the foreword to the report, former Attorney General **William P. Barr** says the "sea change" that occurred after 1980 shows that getting tough works.

Figures for Ohio mirror the national trend. The state's incarceration rate declined 69 percent and the overall crime rate increased 229 percent, including a 496 percent increase in violent crime, from 1960 to 1980. Conversely, from 1980 to 1992, the state's incarcertation rate increased 229 percent, whereas the overall crime rate declined 14 percent and the violent crime rate increased at the reduced rate of 6 percent.

Taking an opposing view, Mark Mauer, assistant director of the Sentencing Project, which promotes programs that reduce reliance on incarceration, said the report "flies in the face of mainstream criminology" and "completely ignores other factors that could be related to the crime rate."

Among the ignored factors, Mauer said, are the coming of age of the baby boom generation in the 1960s, which added great numbers to the criminal population, and the influence of alcohol and drugs, cited in a high percentage of violent crimes.

Mauer said crime and punishment cannot be analyzed easily because statistics are only partial. Half of all crimes are not reported to the police, Mauer said. Of those that are reported, a substantial number do not result in an arrest and conviction. Only about 3 percent of all serious crimes result in a prison sentence.

The report says that increases in spending on social welfare programs beginning with President Johnson's "Great Society" programs in the mid-1960s were more than matched by increases in crime rates. Conclusion: Spending on social welfare programs does nothing to reduce crime.

"The clear relationship between crime rates and incarceration indicates that if there should be a priority placed on scarce public funds, it should be on increasing incarceration rates, particularly for violent offenders," the report says.

Mauer said the report's principal investigators, Michael Block, a professor of economics at the University of Arizona, and Steve Twist both have had ties to the National Rifle Association and have been "primary authors of NRA propaganda."

By choosing the 1960-to-1980 period to illustrate the rise in crime and the 1980-to-1992 period to demostrate a decrease in crime rates, the report creates a false premise that leads to false conclusions, Mauer said.

Because 1980 was an unusually high year for crime, the years before seem to show an alarming increase and the years after a significant decrease, he said. If the dividing year had been 1978, "you wouldn't find much difference in the annual average increase in the crime rate" before or after.

As for any connection between incarceration rates and crime rates, Mauer said that in the first half of the 1980s, incarceration rates went up and crime rates went down; but in the second half of the 1980s, when incarceration rates again went up, crime rates also went up. "There should be a correlation, but instead we see contradictory results," he said.

The report makes the point that approximately one-third of all violent crimes are committed by an offender who is on probation, parole or pretrial release. Mauer counters that a high percentage of those on probation, parole or on pretrial release were guilty of minor offenses, not violent crimes. "Unless we want to lock up every shoplifter for 20 years, it's an unfortunate fact of life," he said.

To the report's main thesis that the way to combat crime is to build more prisons and fill them with criminals serving long terms, Mauer said the prison population has been going up since 1973 until today there are four times as many people locked up as there were 20 years ago - yet crime has increased steadily.

Classification

Language: ENGLISH

Subject: CRIMINAL OFFENSES (99%); CRIME RATES (94%); VIOLENT CRIME STATISTICS (90%); PRISONS (90%); PRISONERS (90%); JAIL SENTENCING (90%); SENTENCING (89%); CRIMINAL CONVICTIONS (78%); TRENDS (78%); WELFARE BENEFITS (76%); ARRESTS (73%); RESEARCH REPORTS (73%); BABY BOOMERS (61%); ATTORNEYS GENERAL (52%)

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1994 WLNR 1004390

Richmond Times Dispatch (VA)

November 3, 1994

Section: Area/State

STUDY PRISONS CUT RATE OF CRIME BUT ITS METHOD RAISES QUESTIONS

FRANK GREEN Times-Dispatch Staff Writer

Three decades of FBI figures demonstrate that higher imprisonment rates have cut crime growth in states that have built more prisons, a provocative study contends.

The findings were released yesterday by the American Legislative Exchange Council, a national association of state legislators. They contradict those of many criminal justice and corrections experts, who have long argued there is no evidence more incarceration means less crime.

The "Report Card on Crime and Punishment," based on crime and imprisonment data from 1960 through 1992, concluded that "there is an indisputable relationship between crime rates and incarceration figures."

Of the 10 states where violent crime rates decreased most between 1980 and 1992, six were among the 10 states which increased their violent crime incarceration rates the most, said the study.

While most criminologists define the incarceration rate as the number of people in prison divided by the total population of a state or nation, this study uses a different methodology. Researchers divide the number of prisoners by the number of crimes reported in the FBI's annual Crime Index. They call this the "criminal incarceration rate."

Critics were quick to respond. Alvin J. Bronstein, head of the American Civil Liberties Union's National Prison Project, dismissed the study as "voodoo criminology. They are misrepresenting everything."

Dr. Christopher Baird, of the National Council on Crime and Delinquency, said "this is one more version of the same overly simplistic type of analysis that has been periodically rehashed since the Reagan administration."

"It is not research; no serious study of crime would analyze its relationship to punishment without considering other measures of social change," argued Baird.

In any case, the ALEC study adds gasoline to the volatile debate, here and across the country, over the relationship between crime and punishment and demonstrates again how crime figures can be used to fuel either side.

The 2,600-member group describes itself as a bipartisan organization of state legislators "dedicated to advancing policies which expand free markets, promote economic growth, limit government and preserve individual liberties."

Among those speaking for ALEC in Washington yesterday was former U.S. Attorney General William P. Barr, a co-chairman of Gov. George Allen's parole abolition commission that drafted the legislative proposals that will require an estimated $1 billion to $2 billion in new prison construction in Virginia over the next 10 years.

"This study makes a strong case that increasing prison capacity is the single most effective strategy for controlling crime," wrote Barr in the study's foreword.

Among other things, the study's "report card" on Virginia said the state had the second steepest climb in the per capita inmate cost from 1960 to 1992 behind only Georgia's.

In 1990, the average annual cost per Virginia inmate of $18,187 -- when adjusted for inflation -- was 243 percent greater than the 1960 cost of $5,300.

State officials said part of the reason for the relative high cost here is that Virginia has a higher than average ratio of corrections officers to inmates, which cuts down on inmate assaults and which has given the state one of the lowest escape rates in the country.

The higher expenditures, they also say, leaves Virginia one of the few states in the country where federal courts are not, at least in part, running the prisons following suits by the ACLU and others.

The study also reported that from 1960 to 1980, "the experience in Virginia mirrored the national trend," as Virginia's criminal incarceration rate declined 62 percent while its crime rate increased 180 percent. But, from 1980 to 1992, the criminal incarceration rate increased 85 percent and the crime rate declined 7 percent.

According to the study's "time clock," there is a murder in Virginia every 15 hours and 32 minutes; a rape every 4 hours and 22 minutes; a robbery each hour; and an aggravated assault every 42 minutes.

Baird, however, said that the biggest reason behind the growth in crime from 1960 to 1980 was the maturation of male baby-boomers into the age group most prone to commit crimes.

Baird said that "incarceration rates, even when presented as a ratio to total crime rather than population, fade to insignificance. They have no role in explaining increases in U.S. crime rates."

CHART

(ljb)

---- Index References ----

News Subject: (Violent Crime (1VI27); Crime (1CR87); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Legislation (1LE97); Criminal Law (1CR79); Prisons (1PR87); Government (1GO80))

Region: (USA (1US73); Americas (1AM92); Virginia (1VI57); North America (1NO39))

Language: EN

Other Indexing: (ACLU; ALEC; AMERICAN CIVIL LIBERTIES UNION; AMERICAN LEGISLATIVE EXCHANGE COUNCIL; CHART; FBI; NATIONAL COUNCIL; NATIONAL PRISON PROJECT; PUNISHMENT) (Alvin J. Bronstein; Baird; Barr; Christopher Baird; George Allen; METHOD RAISES; Reagan; STUDY PRISONS CUT; William P. Barr)

Edition: City

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1994 WLNR 4219152

Los Angeles Times

November 2, 1994

Section: Main News

State Counsel Questions Parts of Prop. 187

PAUL FELDMANTIMES STAFF WRITERS

TIMES STAFF WRITERS

A Proposition 187 mandate that police question arrestees about their legal residence status would violate constitutional guarantees of privacy, according to a state advisory opinion released Tuesday, but provisions barring illegal immigrants from receiving social and health services generally conform with existing law.

While bestowing its legal stamp on cutting off such services to illegal immigrants, the nonpartisan office of the legislative counsel found that the initiative's reporting requirements for health, social service and educational programs may violate U.S. guidelines and threaten federal funding.

The legislative counsel's mixed opinion, while lacking force of law, adds a new twist to the contentious debate about the legality of Proposition 187, the sweeping ballot initiative that would make illegal immigrants in California ineligible for most state-funded services. The proposition has galvanized debate on the issue of illegal immigration and become the central voter concern of Tuesday's elections.

The counsel, which acts as a kind of lawyer for the California Legislature, was asked by Assemblywoman Grace F. Napolitano (D-Norwalk) to study potential conflicts between Proposition 187 and federal law. The 43-page report is strictly a legal analysis, deliberately omitting mention of some of the more emotional possible impacts, such as the potential spread of communicable diseases among those lacking health care.

Though some of the counsel's findings come as no surprise, others add new dimensions to the swirling proposition debate while providing legal-brief ammunition to one side or the other.

For instance, the legislative counsel found that denying illegal immigrant youngsters public school education not only runs counter to U.S. law--as proposition backers have long conceded--but also would fly in the face of the California Constitution. The state Supreme Court, the opinion noted, deemed education a "fundamental interest," entitling all children to primary and secondary schooling.

In a related matter, however, the opinion found that the initiative's prohibition against the enrollment and attendance of illegal immigrants at public colleges and universities did not violate federal law. The proposed post-secondary

educational ban has not generated as much controversy as the measure's strictures on enrollment in the lower grades, but critics have vowed to fight the plan.

In fact, passage of Proposition 187 in Tuesday's elections would probably trigger a barrage of lawsuits seeking to invalidate the incendiary measure virtually section by section. Opponents have indicated their intention to battle under both U.S. and California law to retain the right of education for illegal immigrant children.

The public debate about Proposition 187 has focused on schooling, health care and public services, but the counsel's report opened up a potentially broad new legal front: the measure's requirement that law enforcement authorities--including local police, the California Highway Patrol and other officers statewide--attempt to verify the status of arrestees suspected of being illegal immigrants. The names of apparent unlawful residents are to be reported to the U.S. Immigration and Naturalization Service.

The "intrusive nature" of such questioning, the report concluded, would violate constitutional privacy guarantees and create "the increased potential of harassment . . . (of) groups that might be discriminated against."

A wide array of law enforcement figures, including Los Angeles County Sheriff Sherman Block and Los Angeles Police Chief Willie L. Williams, have expressed public opposition to Proposition 187, asserting that their already overburdened officers would become quasi-immigration agents. Provisions requiring that authorities question suspected illegal immigrant arrestees about their residence status, critics say, would also sow distrust among immigrants, prompting wary crime victims, witnesses and informants to shun police.

Proposition 187 proponents argue that such police questioning is necessary to ensure that illegal immigrants picked up by police are promptly turned over to U.S. Immigration and Naturalization authorities and deported or otherwise returned to their homelands.

"When a person has been arrested for a crime, it is the obligation of the police agency involved to identify that person because you don't want them back out on the street committing more crimes," said Ron S. Prince, chairman of the Proposition 187 campaign.

Prince called the legislative counsel's opinion on the law enforcement provisions "bizarre."

But anti-187 forces said the new report underlined the initiative's illegality and the confusion that would result if the ballot measure passed and was implemented.

Mark Rosenbaum, legal director of the American Civil Liberties Union of Southern California, called the legislative counsel's office "a conservative, cautious set of attorneys with a bent to uphold state legislation," adding: "If they're saying this is flawed . . . what does that say about the legal integrity of this measure?"

On the core issue of benefits, the legislative opinion found that Proposition 187 provisions barring illegal immigrants from receiving taxpayer-funded social services and non-emergency health care do not conflict with federal law. That finding is significant, but it does not reflect the principal arguments posited against those provisions.

On the crucial funding issue, the advisory opinion agreed that Proposition 187 probably does clash with federal reporting and privacy guidelines, thus threatening U.S. aid to California for health, social and education services. Such conflicts could arise, for instance, on proposition requirements that the names of suspected illegal immigrants applying for welfare and Medi-Cal benefits be turned over to the INS, the legislative counsel's opinion stated.

Thus the report, in essence, provides a legal underpinning for the assertion that California could lose billions of dollars in federal aid if Proposition 187 is implemented--a central dispute in the campaign.

The official California ballot pamphlet says the measure places at risk up to $15 billion in federal funds.

Proposition 187 supporters have disputed the figure as exaggerated, and contended, moreover, that Washington would never take such Draconian action against the nation's most populous state.

Meanwhile, former U.S. Atty. Gen. William Barr waded into the debate Tuesday, accusing current Justice Department officials of undertaking an unprecedented politically partisan role by involving themselves in a state initiative process. President Clinton, Atty. Gen. Janet Reno and other top Administration officials have gone on record against Proposition 187.

"This is a real important policy issue and the people of California should be able to decide it on the merits," said Barr, who served as the nation's chief law enforcement officer under former President George Bush. "Trying to cut short the debate with that kind of rhetoric is doing a disservice to the people of California."

In another development, Taxpayers Against 187, a coalition of groups opposed to the ballot measure, asserted Tuesday that their overnight tracking polls show for the first time that Proposition 187 may be slightly trailing. Their latest poll, conducted by a Texas-based research organization Monday night, showed the measure behind by a 44%-41-% margin. The poll's margin of error was 4.7%, a spokesman for the group said.

A week ago, the Los Angeles Times Poll had the measure ahead among likely voters by a 51%-41% margin.

---- Index References ----

News Subject: (Crime (1CR87); Legal (1LE33); Judicial (1JU36); Social Issues (1SO05); Criminal Law (1CR79); Police (1PO98))

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Region: (USA (1US73); Americas (1AM92); North America (1NO39); California (1CA98))

Language: EN

Other Indexing: (AMERICAN CIVIL LIBERTIES; JUSTICE DEPARTMENT; NATURALIZATION; PROPOSITION; STATE COUNSEL; STATE SUPREME COURT; US IMMIGRATION; US IMMIGRATION AND NATURALIZATION) (Barr; Clinton; George Bush; Grace F. Napolitano; Janet Reno; Mark Rosenbaum; Opponents; Prince; Ron S. Prince; Sherman Block; William Barr; Willie L. Williams)

Keywords: PROPOSITION 187 (ILLEGAL IMMIGRATION); CALIFORNIA -- LAWS; CIVIL RIGHTS; LAW ENFORCEMENT; CALIFORNIA -- EDUCATION; WELFARE PROGRAMS

Edition: Home Edition

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NewsRoom

Document: NEW MEXICO ONE OF THE MOST CRIME-RIDDEN STATE...

NEW MEXICO ONE OF THE MOST CRIME-RIDDEN STATES, STUDY SAYS

States News Service

November 2, 1994, Wednesday

Length: 605 words

Byline: By David B. Houston, States News Service

Dateline: WASHINGTON

Body

New Mexico had the nation's sixth worst crime rate in 1992, according to a study released Wednesday.

The state ranked eighth in violent offenses.

However, the American Legislative Exchange Council, a Washington-based organization that provides information to state legislatures, said that while the nation's criminal offenses rose 200 percent nationally from 1960, New Mexico's jumped more than 169 percent.

In 1960, the state had the nation's seventh highest crime rate.

The organization used statistics showing growth in murder, rape and assault, as well as burglaries and vandalism, to urge the federal government to stop meddling in the fight against crime and leave it up to the states. The 1992 figures are the most current, the group said.

"Most of what is done in Washington against violent crime is posturing because the federal government can do very little," said **William Barr**, who was attorney general during the Bush administration.

In 1992, the group said there were 935 violent crimes reported per 100,000 people in New Mexico, up from 615 in 1980 and 143 in 1960. Overall, there were 6,434 reported crimes per 100,000 people in 1992, compared to 5,979 and 2,387 in 1960.

"We have too high a crime rate, too high a violent crime rate," said New Mexico Attorney General Tom Udall. As these statistics show, "our problems are very deep-seated."

The group supports tougher sentencing measures including the so-called "three strikes, you're out" and truth in sentencing laws designed to keep criminals incarcerated for longer periods of time.

"There is no greater threat to the American Dream, and the liberty of law-abiding people, than the threat of crime," said Samuel A. Brunelli, the group's president.

Added Barr: "There will be no progress against violent crime until we restore the integrity of the criminal justice system."

Between 1980 and 1992, overall crime stabilized or declined as a result of increased incarcerations, while violent crime rate grew 27 percent nationwide, the group said. New Mexico followed the national trend.

Udall said his office has taken significant steps to attack crime on a long-term basis, including tackling New Mexico's high alcohol problem and forming a task force with the FBI to catch violent fugitives and put them back behind bars. He also cited measures from the federal crime bill including money for more policing and the "three strikes, you're out" law.

The organization dismissed crime prevention measures such as gun control and social spending on the "root cause" of crime, saying its study found no correlation between these preventative actions and crime reduction.

The study's two authors, Michael Block and Steve Twist, are affiliated with the National Rifle Association. Twist is the former director of the NRA's crime prevention program, they said.

The study follows a report released last week by the Justice Department which said the nation's prison population has risen to over 1 million, an increase of more than 11 percent in the last year, and the second largest increase ever recorded. New Mexico's prison population rose 7.7 percent in 1993 to a total of 3,704.

Prisoner advocacy groups, meanwhile, sharply criticized the study. "Its voodoo criminology," said Joan Dolby of the American Civil Liberties Union. "There is a gross discrimination of poor people, blacks and women in our criminal justice system."

She said the Legislative Exchange Council didn't consider the benefits of reforming young offenders entering the criminal system, adding that they should be given jobs to deter them from committing more crimes.

Classification

Language: ENGLISH

Subject: CRIMINAL OFFENSES (99%); CRIME RATES (93%); US FEDERAL GOVERNMENT (90%); VIOLENT CRIME STATISTICS (90%); STATISTICS (90%); ASSOCIATIONS & ORGANIZATIONS (90%); SENTENCING (89%); CRIME PREVENTION (89%); RESEARCH REPORTS (89%); FIREARMS (83%); CRIMINAL LAW (78%); LAW ENFORCEMENT (78%); SEXUAL ASSAULT (78%); TRENDS (78%); LEGISLATIVE BODIES (78%); SENTENCING GUIDELINES (78%); SPECIAL INVESTIGATIVE FORCES (78%); BURGLARY (73%); GUN CONTROL (63%); SUBSTANCE ABUSE (60%); VANDALISM (56%)

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Organization: AMERICAN LEGISLATIVE EXCHANGE COUNCIL (84%)

Person: TOM UDALL (52%)

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FLORIDA LEADS NATION IN CRIME

States News Service

November 2, 1994, Wednesday

Length: 649 words

Byline: By David B. Houston, States News Service

Dateline: WASHINGTON

Body

Florida had the worst crime rate in the nation in 1992, topping California in both violent and nonviolent offenses, according to a study released Wednesday.

The American Legislative Exchange, a Washington-based organization providing information to legislatures in the 50 states, said that while the nation's criminal offenses rose 200 percent nationally from 1960. In 1992, Florida's jumped 209 percent. In 1960, Florida had the nation's fourth highest crime rate.

The organization used statistics showing growth in such violent crime as murder, rape and assault, as well as burglaries and vandalism, to urge the federal government to stop meddling in the fight against crime and leave it up to the states. The 1992 figures are the most current, the group said.

"Most of what is done in Washington against violent crime is posturing because the federal government can do very little," said **William Barr**, attorney general during the Bush administration.

Gov. Lawton Chiles' campaign spokeswoman said Wednesday she had not seen the report on would not comment. She said it was "not news" that the report ranked Florida No. 1 in crime in the nation.

Republican gubernatorial candidate Jeb Bush has made crime-prevention one of the centerpieces of his campaign against Chiles, accusing Chiles of dropping the ball on fighting crime.

In 1992, the group said there were 1,207 violent crimes reported per 100,000 people in Florida, up from 984 in 1980 and 223 in 1960. Overall, there were 8,358 reported crimes per 100,000 people in 1992, compared to 8,402 and 2,705 in 1960. The state's population grew from 5 million in 1960 to 13 million in 1990.

"There is no greater threat to the American Dream, and the liberty of law-abiding people, than the threat of crime," said Samuel A. Brunelli, the group's president. Brunelli and Barr called for tougher sentencing measures including the so-called "three strikes, you're out" and truth in sentencing laws designed to keep criminals incarcerated for longer periods of time.

"There will be no progress against violent crime until we restore the integrity of the criminal justice system," Barr said.

Between 1980 and 1992, overall crime stabilized or decline, but the violent crime rate grew 27 percent nationwide. Florida followed the national trend.

The group attributes the decline in overall crime to an increase in incarcerations.

The organization dismissed crime prevention measures such as gun control and social spending on the "root cause" of crime, saying its study found no correlation between these actions and crime reduction. The study's two principle authors, Michael Block and Steve Twist, are affiliated with the National Rifle Association and Twist is the former director of the NRA's crime prevention program, they said.

The study follows a report released last week by the Justice Department which said the nation's prison population has risen to over 1 million, an increase of more than 11 percent in the last year, and the second largest increase ever recorded. Florida's prison population rose 10.8 percent in 1993 to a total about 56,000.

Prisoner advocacy groups responded with disgust to the study. "Its voodoo criminology," said Joan Dolby of the American Civil Liberties Union.

"There is a gross discrimination of poor people, blacks and women in our criminal justice system," she said. Dolby said the Legislative Exchange Council didn't consider the benefits of reforming young offenders entering the criminal system. She said young offenders should be given a job so they won't want to commit more criminal act.

Marc Mauer, assistant director of the Sentencing Project in Washington, D.C., said it was sad that crime has become so politicized. Referring to the governor's race in Florida, Mauer said, "Democrats and Republicans alike are in a race to show how tough they can be" on crime.

Classification

Language: ENGLISH

Subject: CRIMINAL OFFENSES (94%); CRIME RATES (91%); US FEDERAL GOVERNMENT (90%); VIOLENT CRIME STATISTICS (90%); ASSOCIATIONS & ORGANIZATIONS (90%); SENTENCING (89%); CRIME PREVENTION (89%); RESEARCH REPORTS (89%); US REPUBLICAN PARTY (79%); POPULATION GROWTH (78%); CRIMINAL LAW (78%); RANKINGS (78%); LAW ENFORCEMENT (78%); TRENDS (78%); LEGISLATIVE BODIES (78%); STATISTICS (78%); SENTENCING GUIDELINES (78%); GOVERNORS (77%); POPULATION SIZE (76%); US PRESIDENTIAL CANDIDATES 2016 (73%); SEXUAL ASSAULT (73%); BURGLARY (73%); JUSTICE DEPARTMENTS (73%); POLITICAL CANDIDATES (72%); ATTORNEYS GENERAL (68%); GUN CONTROL (62%); VANDALISM (56%)

Person: JEB BUSH (79%)

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1994 WLNR 4710448

SACRAMENTO BEE, THE (CA)

October 31, 1994

Section: MAIN NEWS

WAVE OF SUITS DUE TO FOLLOW PROP. 187: IF IT PASSES, APPEALS WOULD DELAY EFFECTS

Brad Hayward Bee Capitol Bureau

In the rancorous debate over Proposition 187, both sides can agree on at least one thing: The initiative is a full-employment act for lawyers.

Proponents wrote the measure largely as a vehicle to challenge a U.S. Supreme Court ruling. Its most prominent supporter, Gov. Pete Wilson, says its main effect will be to create litigation. And opponents are now rushing to prepare a series of lawsuits in the event the initiative passes Nov. 8.

The public battle has focused on what Proposition 187 seeks to do - namely, deny public education, non-emergency medical care and some social services to undocumented immigrants - and that vitriolic battle has propelled the initiative to center stage in California's upcoming election.

"This is the issue which has achieved the greatest penetration into the minds of the voters," said Mark Petracca, a political scientist at the University of California, Irvine. "Any person who doesn't know about 187 is the person you want on the O.J. Simpson jury."

But the reality is that, despite all the sound and fury, many of the reforms the initiative seeks to implement could be tied up in court for years. Some might never take effect.

Even the experts on such issues are reluctant to speculate on just what Proposition 187 - intentionally left vague in many areas by its authors and condemned by critics as a Pandora's box of legal and constitutional tangles - would look like when the courts finished with it.

"Proposition 187 treats the Constitution like a dart board," said attorney Mark Rosenbaum of the American Civil Liberties Union, which is considering legal action on the initiative's health and social services provisions.

A loose coalition of initiative opponents has formed to plot legal strategy in the event Proposition 187 wins. The groups include the Mexican American Legal Defense and Educational Fund, the ACLU, and a handful of nonprofit immigrant-rights organizations based in Los Angeles and San Francisco.

Representatives of those groups said they expect to file at least half a dozen lawsuits challenging various elements of the initiative. Some predict an additional flurry of legal activity by local school districts and other agencies around the state as well.

Some legal action could begin as soon as the day after the election. Other lawyers said they would wait a few weeks to get a better sense of exactly how the state planned to implement various provisions.

If the initiative passes, it will be up to the state to defend it in court.

The most prominent legal issue to be confronted is the initiative's ban on public education for undocumented immigrants, which conflicts with a 1982 U.S. Supreme Court ruling that struck down a similar law in Texas. Initiative proponents hope the court will take up the matter again and allow the ban; opponents argue that such a policy should remain unconstitutional.

In the Texas case, Plyler vs. Doe, the court ruled 5-4 that denying public education to undocumented children violates the equal protection clause of the Constitution's 14th Amendment. The majority also expressed concerns about the creation of a permanent U.S. underclass and said children are not to be held responsible for their parents' actions.

"At the least, those who elect to enter our territory by stealth and in violation of our law should be prepared to bear the consequences, including, but not limited to, deportation," the majority wrote. "But the children of those illegal entrants are not comparably situated."

Backers of 187 hold out hope for a new ruling, in part because of the changed composition of the court.

Only three of the justices involved in the 1982 case remain on the bench: John Paul Stevens, who sided with the majority, and William Rehnquist and Sandra Day O'Connor, who sided with the minority.

In addition, supporters say the environment around immigration issues has changed. The initiative is consistent with stepped-up federal enforcement of immigration laws, they say, and it aims to ease a state financial burden more serious than what Texas experienced in 1982.

"California has a compelling case to present," said William Barr, U.S. attorney general in the Bush administration. "Even if you read Plyler broadly, I doubt it would muster a majority today."

But opponents are skeptical.

"When the court makes a pronouncement on constitutional principles, it is declaring essentially the law of the land," said Peter Roos, a San Francisco attorney who represented undocumented children in the Plyler case. "For it to reverse itself on a situation that is nearly identical to one it addressed only 12 years ago is very unlikely."

Peter Schey, a Los Angeles attorney who was also involved in the Plyler case, is now involved in the legal effort against Proposition 187. Schey said the initiative, if anything, is more Draconian than the Texas law because it requires schools to turn in suspected undocumented immigrants.

Schey and others said they plan to challenge the initiative on a number of other grounds as well. For example:

* The state's non-partisan legislative analyst has said the initiative's reporting requirements appear to clash with federal laws that require schools, health facilities and other agencies to keep information about students, patients and clients confidential if they want to get federal funding.

* The measure would require people "reasonably suspected" of being undocumented immigrants to be reported. While initiative supporters say that simply means people unable to prove their legal status, opponents say the measure allows for the suspicion to be based on other grounds - opening the door to civil rights or discrimination arguments.

* Opponents also argue that the initiative's reporting requirements wrongly make state and local officials responsible for enforcing immigration law, which is a federal responsibility.

Alan Nelson, the former Immigration and Naturalization Service chief who co-authored the initiative, said he expects the only major legal issue to be the challenge to Plyler vs. Doe. The other arguments, he said, largely amount to "scare tactics" that will prove either false or fixable.

"I'm hoping after the election there will be a calming among a lot of these people who are making these outrageous statements," Nelson said. "Let's implement this thing fairly and effectively so we can avoid some of the horror stories."

Nelson said if the measure passes on Nov. 8, no one need worry about what services he or she can get Nov. 9. The education provisions would not kick in until January 1995; the other provisions would not be implemented until agencies had time to plan how to do so.

In addition, some of the attorneys planning legal challenges said they hope to get temporary restraining orders or preliminary injunctions preventing the initiative's provisions from being immediately implemented. But most were unable to predict confidently whether or not any provisions would take effect before heading to court.

One person who has stated an opinion on that subject is Wilson. Asked recently whether he believed the initiative would have any real effects other than creating lawsuits, the governor said: "Certainly not before a long, arduous appellate process in the courts."

By the time the Supreme Court makes a final decision on the challenge to the Plyler vs. Doe case, Wilson said, "I will probably be enjoying a great deal more peace than at the present time, because I will have completed the four years of my second term."
CAMPAIGN *94*

---- Index References ----

Company: AMERICAN CIVIL LIBERTIES UNION; REGENTS OF THE UNIVERSITY OF CALIFORNIA (THE); TEXAS TELECOMMUNICATIONS LP; UNIVERSITY OF CALIFORNIA

News Subject: (Social Issues (1SO05); Immigration & Naturalization (1IM88); Legal (1LE33); Judicial (1JU36))

Region: (Texas (1TE14); California (1CA98); North America (1NO39); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (ACLU; AMERICAN CIVIL LIBERTIES UNION; AMERICAN LEGAL DEFENSE; CONSTITUTION; IMMIGRATION; NATURALIZATION SERVICE; SUITS; SUPREME COURT; TEXAS; US SUPREME COURT; UNIVERSITY OF CALIFORNIA) (Alan Nelson; Educational Fund; Irvine; John Paul Stevens; Mark Petracca; Mark Rosenbaum; Nelson; O.J. Simpson; Opponents; Pete Wilson; Peter Roos; Peter Schey; Plyler; Sandra Day O'Connor; Schey; William Barr; William Rehnquist; Wilson)

Keywords: ELECTION IMMIGRATION

Edition: METRO FINAL

Word Count: 1502

End of Document

10/29/94 St. Petersburg Times 2B
1994 WLNR 2152337

St Petersburg Times

October 29, 1994

Section: TAMPA BAY AND STATE

STATE ATTORNEYS ENDORSE BUSH

Five Florida state attorneys and former U.S. Attorney William P. Barr endorsed Republican Jeb Bush on Friday. Barr said he believes Bush's plan for speeding up the execution of inmates on death row is ""a workable and effective response to a judicial system that is approaching gridlock." State Attorneys Bernie McCabe, Willie Meggs, Bruce Colton, Earl Moreland and Norm Wolfinger signed letters supporting Bush's plan for making all criminals serve 85 percent of their sentences. Seven of the state's 20 state attorneys have endorsed Chiles as the two candidates battle for endorsements within the criminal justice system.

Tax Cap Committee files suit

The Tax Cap Committee has asked the Federal District Court to order state officials to restore the Voter Approval of New Taxes constitutional amendment to the November general election ballot. The committee filed suit Thursday after the Florida Supreme Court failed to act on a previous suit asking for a rehearing of the high court decision striking the Voter Approval measure from the ballot. Tax Cap also asked the court to correct minor flaws in the ballot language. Tax Cap's Proposition 4, to limit government revenue amendments that deal with multiple subjects, remains on the November ballot.

Construction group favors Bush

Associated Builders and Contractors, a construction industry trade association, has endorsed Jeb Bush in the race for governor. ""Our greatest special interest is in the health and welfare of our community and the philosophical role of small business to the success of our country," wrote Dan Shaw, executive vice president of the Florida group.

It's a big year for voters

A record number of Floridians - 6.55-million - are registered to vote in the Nov. 8 general election, state officials said Friday. About two-thirds of the state's 9.9-million residents old enough to vote this year are registered to exercise that right.

Democrats warned about records

State elections officials warned the Democratic Party on Friday that they are going to scrutinize the party's sloppy record-keeping of in-kind contributions such as direct mail, research and polling. Lynda Russell, executive director of

the Democratic Party, said the party had asked officials to clarify procedures for reporting such contributions because of ""confusion and frustration."over the rules.

Democrats fire back over ads

Democratic leaders Friday accused Republicans of violating elections law in airing a blistering TV ad campaign against Democrats running for the state Cabinet. In one ad, the GOP attacks Agriculture Commissioner Bob Crawford, Education Commissioner Doug Jamerson and secretary of state candidate Ron Saunders. The ad urges viewers to vote Republican while never mentioning the names of the GOP challengers.

SERIES: CAMPAIGN NOTEBOOK; POLITICS

TYPE: DIGEST

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Government (1GO80); Political Parties (1PO73); Public Affairs (1PU31))

Region: (USA (1US73); Americas (1AM92); Florida (1FL79); North America (1NO39))

Language: EN

Other Indexing: (CHILES; DEMOCRATIC; DEMOCRATIC PARTY; FEDERAL DISTRICT COURT; FLORIDA; FLORIDA SUPREME COURT; GOP; STATE; STATE ATTORNEYS; TAX CAP; TAX CAP COMMITTEE; TV; VOTER APPROVAL) (Barr; Bob Crawford; Bruce Colton; Bush; Contractors; Dan Shaw; Democrats; Doug Jamerson; Earl Moreland; Jeb Bush; Lynda Russell; Norm Wolfinger; Republican; Republican Jeb Bush; Ron Saunders; STATE ATTORNEYS ENDORSE; William P. Barr; Willie Meggs)

Edition: CITY

Word Count: 565

End of Document

Document: PRISON POPULATION PASSES 1 MILLION, REFLECTS CH…

PRISON POPULATION PASSES 1 MILLION, REFLECTS CHANGES

St. Louis Post-Dispatch (Missouri)

October 28, 1994, FRIDAY, FIVE STAR Edition

Section: NEWS; Pg. 3A

Length: 561 words

Dateline: WASHINGTON

Body

The number of state and federal prison inmates topped 1 million for the first time this summer, reflecting tougher sentencing on an array of crimes and a greater proportion of drug arrests leading to prison terms, the Justice Department reported Thursday.

The survey, conducted by the Bureau of Justice Statistics, found that 1,012,851 men and women were in state and federal prisons June 30. The bureau said the country's prison population grew by almost 40,000 inmates in the first six months of this year, equivalent to 1,500 new inmates a week.

This figure does not include prisoners in local jails. In 1992, the last time they were counted, 445,000 people were in jails.

The incarceration rate nationwide also reached an all-time high, with 373 of every 100,000 people behind bars - up from 188 for each 100,000 a decade earlier. Only Russia has a higher rate.

California, the nation's most populous state, had more federal and state inmates than any other state, with 124,813 men and women locked up. The incarceration rate, however, was only slightly above the national average, at 382 for each 100,000. That compares with a rate of 164 for every 100,000 in 1984.

Texas was second with 100,136.

Missouri had a prison population of 16,657 and an incareration rate of 321. The prison population in Illinois was 35,614, with an incarceration rate of 302.

The report also gave racial breakdowns of the prison population. At the end of last year, 1,432 out of every 100,000 blacks in the country were in prison, more than seven times the 203 white inmates for every 100,000 whites in the country.

The total prison population of 1,012,851 is double the number of a decade ago. The cause appears to be harsher treatment of criminals, not a sharp increase in crime.

Other statistics show that the crime rate for violent offenses peaked in 1981, at 35 incidents per 1,000 population, said Allen Beck, a statistician at the department. In 1992, the latest year for which there was data, there were 32 violent crimes per 1,000 people, the Justice Department said.

Instead, the prison population expanded because Americans lost faith in rehabilitation and turned to a "lock 'em up" strategy, analysts and corrections specialists said.

"It reflects an increasingly widespread belief that the rehabilitation strategies of the last several decades have not worked," said Gerald Caplan, dean of McGeorge Law School in Sacramento, Calif., and former head of the National Institute of Justice, the Justice Department's research arm. "It's a desperation strategy in the absence of other alternatives. No one really knows what to do."

The growth in the prison population, Justice Department statisticians say, can be attributed to an increase in the number of crimes solved by police and to an increase in the tendency on the part of judges, sometimes required by law, to sentence defendants to prison terms, especially for drug offenses.

In 1980, 19 people of every 1,000 who were arrested for drug violations were sent to prison. By 1992, 104 people were being imprisoned for every 1,000 arrested for drug offenses, a fivefold increase.

William Barr, former President George Bush's attorney general, said the leveling off of violent crimes in recent years proves the effectiveness of the strict incarceration movement of the late 1980s.

Classification

Language: English

Subject: PRISONS (94%); CORRECTIONS (91%); PRISONERS (91%); JAIL SENTENCING (90%); CRIME RATES (89%); STATISTICAL METHOD (89%); LAW ENFORCEMENT (89%); STATISTICS (89%); JUSTICE DEPARTMENTS (89%); CRIMINAL OFFENSES (89%); POPULATION GROWTH (78%); SENTENCING (78%); ARRESTS (78%); CRIME CLEARANCE RATES (78%); RACE & ETHNICITY (77%); VIOLENT CRIME STATISTICS (77%); CORRECTIONS WORKERS (73%); CONTROLLED SUBSTANCES CRIME (73%); POLLS & SURVEYS (72%)

Company: NATIONAL INSTITUTE FOR COMMUNITY BANKING INC (51%); NATIONAL INSTITUTE FOR COMMUNITY BANKING INC (51%); US DEPARTMENT OF JUSTICE (58%); BUREAU OF JUSTICE STATISTICS (58%); BUREAU OF JUSTICE STATISTICS (58%); US DEPARTMENT OF JUSTICE (58%)

Organization: US DEPARTMENT OF JUSTICE (58%); BUREAU OF JUSTICE STATISTICS (58%); BUREAU OF JUSTICE STATISTICS (58%); US DEPARTMENT OF JUSTICE (58%)

Geographic: SACRAMENTO, CA, USA (79%); CALIFORNIA, USA (93%); ILLINOIS, USA (79%); UNITED STATES (79%)

Load-Date: October 29, 1994

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 11:45:20 p.m. EST

10/28/94 L.A. Times 36
1994 WLNR 4209940

Los Angeles Times

October 28, 1994

Section: Main News

Sterner Penalties Send U.S. Prisoner Count Past 1 Million

Corrections: State and federal inmate population grew due to tough sentencing, Justice Department says. Crime rate dropped, meanwhile.

ELIZABETH SHOGRENTIMES STAFF WRITER

TIMES STAFF WRITER

WASHINGTON

The number of state and federal prison inmates topped 1 million for the first time this summer, reflecting tougher sentencing on an array of crimes and a greater proportion of drug arrests leading to prison terms, the Justice Department reported Thursday.

The incarceration rate nationwide also reached an all-time high, with 373 of every 100,000 people behind bars--up from 188 per 100,000 a decade earlier. Only Russia has a higher rate.

California, the nation's most populous state, had more federal and state prisoners than any other state, with 124,813 men and women locked up. The incarceration rate, however, was only slightly above the national average, at 382 per 100,000. That compares to a rate of 164 per 100,000 in 1984.

The prison population of 1 million is double the number a decade ago. The cause appears to be harsher treatment of criminals--not a sharp increase in crime.

Other statistics show that the crime rate for violent offenses peaked in 1981, at 35 incidents per 1,000 population, according to Allen Beck, a statistician at the department. In 1992, the latest year for which there was data, there were 32 violent crimes per 1,000 people, according to the Justice Department.

Instead, the prison population expanded because Americans lost faith in rehabilitation and turned to a "lock-'em-up" strategy, analysts and corrections specialists said.

"It reflects an increasingly widespread belief that the rehabilitation strategies of the last several decades have not worked," said Gerald M. Caplan, dean of McGeorge Law School in Sacramento and former head of the National Institute of Justice, the Justice Department's research arm. "It's a desperation strategy in the absence of other alternatives. No one really knows what to do."

William P. Barr, former President George Bush's attorney general, said that the leveling off of violent crimes in recent years proves the effectiveness of the strict incarceration movement of the late 1980s, which he spearheaded.

"It has held the crime rate lower than it would have been," Barr said in an interview. "The price of putting these people in prisons is lower than the price of leaving them out on the street where they would commit more crimes."

Some criminologists agreed.

Without the tougher policies for locking up violent criminals, "the violent crime rates would have gone up at least 15% and probably much, much more," said Jeffrey Roth, a criminologist at the Urban Institute, a Washington-based research center.

Roth and others have disputed policies put in place by Congress in recent years that markedly increased incarceration rates for drug offenders and other nonviolent criminals.

"If instead of building so many more prisons they had spent the same money on prevention with young people, we might well have had a real drop in violence," Roth said.

The Justice Department attributed half of the increase in state prison populations and three-quarters of the increase in federal prison populations between 1980 and 1992 to people convicted of drug offenses.

Between 1980 and 1992, the proportion of drug arrests that resulted in prison admissions grew fivefold, from 19 per 1,000 to 104 per 1,000. Currently, 60% of federal prisoners are behind bars for drug convictions, most of them for trafficking.

Prison populations have also swelled because of increases in the arrests and likelihood of incarceration for a variety of crimes, including aggravated assault, burglary and sex offenses, according to Justice Department officials. More parolees and people on probation ended up behind bars again because of heightened surveillance and widespread drug testing.

In federal prisons, the increase in inmates is also attributable to harsher sentencing guidelines. In 1987, the federal government abolished parole and since then, 10 states have passed measures to mandate "truth in sentencing," so that criminals serve their full sentences.

Some corrections specialists have argued that prisons filled up in the last decade because of misguided policies, like the war on drugs, that have cost taxpayers large sums but have ignored underlying problems.

Despite all the drug convictions, drugs are still widely available, especially in the inner cities where most arrests are made, said Chase Riveland, who heads the Department of Corrections in Washington state. "We're locking up poor people from the inner cities, who sell drugs to support their own habits instead of treating their addictions."

Conservatives and liberals alike predicted that prison populations will continue to mushroom because of both tougher sentencing policies and an expected rise in the teen-age population starting at the end of this decade. Teen-agers account for a disproportionately large share of crime.

Behind Bars

The nation's prison population exceeds 1 million for the first time, the Justice Department announced.

Inmates in state and federal prisons:

June, 1994: 1,012,851

States with the most inmates:

California: 124,813

Texas: 100,136

New York: 65,962

Florida: 58,052

Ohio: 41,156

States with the highest incarceration rates per 100,000 residents:

Texas: 545

Louisiana: 514

South Carolina: 504

Oklahoma: 501

Growth in first half of 1994: 40,000 inmates, the equivalent of 1,500 a week--or three additional 500-bed prisons.

Source: Justice Department

---- Index References ----

News Subject: (Crime (1CR87); Legal (1LE33); Judicial (1JU36); Social Issues (1SO05); Criminal Law (1CR79); Forecasts (1FO11); Prisons (1PR87); Population Demographics (1PO77))

Industry: (Smuggling & Illegal Trade (1SM35))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); California (1CA98); Texas (1TE14))

Language: EN

Other Indexing: (CONGRESS; DEPARTMENT OF CORRECTIONS; JUSTICE DEPARTMENT; MCGEORGE LAW SCHOOL; NATIONAL INSTITUTE OF JUSTICE; STERNER PENALTIES SEND U S PRISONER COUNT; URBAN INSTITUTE) (Allen Beck; Barr; California; Chase Riveland; Conservatives; Florida; George Bush; Gerald M. Caplan; Growth; Jeffrey Roth; Louisiana; Ohio; Oklahoma; Roth; Texas; William P. Barr)

Keywords: STATISTICS; PRISONERS -- UNITED STATES; SENTENCING; PRISONS -- POPULATION

Edition: Home Edition

Word Count: 1065

End of Document

NewsRoom

10/28/94 USA TODAY 01A
1994 WLNR 2321564

USA Today (USA)

October 28, 1994

Section: NEWS

POPULATION OF PRISONERS TOPS 1 MILLION

Sam Vincent Meddis

For the first time, there are more than 1 million inmates in state and federal prisons - about the population of Phoenix, the 8th largest city.
A Justice Department report Thursday showed 1,012,851 prisoners at the end of June.

The number, which has doubled since 1985, is up 71,000 in a year, the second largest annual surge ever.

Reaction is divided:

-- "Good!" says William Barr, attorney general in the Bush administration. Many crimes have been prevented by keeping criminals locked up, he says. "It's going to have to go up further."

-- People are "feeling no safer than they did 10 years ago," and prison growth has been a waste of money, says Marc Mauer of the Washington-based Sentencing Project.

The U.S. incarceration rate is second only to Russia's.

Among other findings:

-- The incarceration rate among blacks is 1,432 per 100,000, compared to 203 per 100,000 among whites.

-- The top states in number of inmates: California with 124,813 and Texas, 100,136.

"People are just flat tired of crime, and they want politicians to do something about it," says Texas prison spokesman David Nunnelee.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Forecasts (1FO11); Prisons (1PR87); Population Demographics (1PO77))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Texas (1TE14))

Language: EN

Other Indexing: (JUSTICE DEPARTMENT) (David Nunnelee; Marc Mauer; Reaction; William Barr)

Edition: FINAL

Word Count: 225

End of Document

Document: A DUBIOUS RECORD: 1 MILLION INMATES

A DUBIOUS RECORD: 1 MILLION INMATES

The Roanoke Times (Virginia)

October 28, 1994, FRIDAY,, METRO EDITION

Section: NATIONAL/INTERNATIONAL,

Length: 592 words

Byline: LOS ANGELES TIMES

Dateline: WASHINGTON

Body

The number of state and federal prison inmates topped 1 million for the first time in history, reflecting tougher sentencing on an array of crimes and a greater proportion of drug arrests leading to prison terms, the Justice Department reported Thursday.

The incarceration rate nationwide also reached an all-time high, with 373 of every 100,000 people behind bars - up from 188 per 100,000 a decade earlier. Only Russia has a higher rate.

California, the nation's most populous state, had more federal and state prisoners than any other state, with 124,813 men and women locked up. Texas came in second with 100,136. New York came in third with 65,962.

The prison population of 1 million is double the number of a decade ago. The cause appears to be harsher treatment of criminals, not a sharp increase in crime.

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Some criminologists agreed.

Without the tougher policies for locking up violent criminals, ''the violent crime rates would have gone up at least 15 percent and probably much much more,'' said Jeffrey Roth, a criminologist at the Urban Institute, a Washington-based research center.

The Justice Department attributed half of the increase in state prison populations and three-quarters of the increase in federal prison populations between 1980 and 1992 to people convicted of drug offenses.

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In federal prisons, the increase in inmates also is attributable to harsher sentencing guidelines. In 1987, the federal government abolished parole and since then 10 states have passed measures to mandate ''truth in sentencing,'' so that criminals serve their full sentences.

Conservatives and liberals alike predicted that prison populations will continue to mushroom because of both tougher sentencing policies and an expected rise in the teen-age population starting at the end of this decade. Teen-agers account for a disproportionately large share of crime.

The Associated Press contributed information to this story.

Classification

Language: ENGLISH

Subject: PRISONS (93%); CRIME RATES (91%); CORRECTIONS (90%); LAW ENFORCEMENT (90%); PRISONERS (90%); CRIMINAL OFFENSES (90%); JAIL SENTENCING (90%); ARRESTS (89%); VIOLENT CRIME STATISTICS (89%); JUSTICE DEPARTMENTS (89%); CONTROLLED SUBSTANCES CRIME (89%); SENTENCING (78%); INTERVIEWS (77%); STATISTICAL METHOD (77%); STATISTICS (77%); LAWYERS (74%); CORRECTIONS WORKERS (73%); CRIMINAL CONVICTIONS (73%); ATTORNEYS GENERAL (72%); RESEARCH INSTITUTES (70%); GRADUATE & PROFESSIONAL SCHOOLS (64%); LAW SCHOOLS (64%)

Company: NATIONAL INSTITUTE FOR COMMUNITY BANKING INC (54%); NATIONAL INSTITUTE FOR COMMUNITY BANKING INC (54%); US DEPARTMENT OF JUSTICE (84%); US DEPARTMENT OF JUSTICE (84%)

Organization: US DEPARTMENT OF JUSTICE (84%); US DEPARTMENT OF JUSTICE (84%)

Industry: LAWYERS (74%); GRADUATE & PROFESSIONAL SCHOOLS (64%); LAW SCHOOLS (64%)

Person: GEORGE W BUSH (57%); GEORGE H W BUSH (54%)

Geographic: SACRAMENTO, CA, USA (79%); CALIFORNIA, USA (93%); UNITED STATES (92%)

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Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 11:44:11 p.m. EST

10/27/94 St. Petersburg Times 1A
1994 WLNR 2176222

St Petersburg Times

October 27, 1994

Section: NATIONAL

WE THOUGHT WE HAD PROBLEMS, ""YOU DON'T KNOW ME, BUT I USED TO BE YOUR BOSS"; AND A VERY INTERESTING RESUME

BILL DURYEA

SUE CARLTON

Last week we shared with you the tale of a burglary spree on Bill's block and the heightened vigilance thereon. Small potatoes compared to the story of a 36-year-old Hyde Park architect whose home was burglarized five times within two and a half weeks (that's five times, 17 days).

""It all started on a Tuesday, I believe, about four to five weeks ago," said the architect, who preferred not to become any better known to his tormentors. ""There was a break-in to my back porch and someone stole my lawnmower."

Number two came the very next day, apparently courtesy of the same burglar, through the back porch again.

""I didn't think he'd come back the very next day," the man said in amazement. Gone this time: fishing poles and a weed-eater.

The following night, somebody rummaged through his shed (there was nothing left on the porch, apparently), but found nothing worth stealing.

Five days later, while the man was at work, two men backed up an old Toyota to his house and proceeded to fill it like Santa's sled with every electronic item he owned.

""That time they cleaned me out," he said. He thinks this team might have gotten tipped off by the first burglar in the same way travelers exchange recommendations on good restaurants and hotels.

They were almost caught when a car alarm went off and a neighbor looked out. Ironically, it was the car alarm on the stolen car being driven by the burglars.

""I guess they like to protect their stolen goods," the man noted a little acidly.

Finally, the man decided to buy an alarm system. Of course, there's little left to protect, he acknowledged.

About five days later, he planned to meet with the alarm salesman, but they had to push it back a night because the salesman was running late. Instead, the man went out to dinner and spent two hours bending his date's ear about his horrible misfortune.

He returned to find that he had been victimized a fifth time.

""He took my power tools," the man said, summoning all available irony. ""The ones I had used to fix my door from the last time."

I'll take attorneys general for 200: At a dog and pony show for Jeb! Bush, Tampa Deputy Police Chief John Cuesta was trying to impress upon the candidate and his aides how democratic is the drug scourge in Tampa. Why even a visiting assistant federal prosecutor, on loan to Tampa to handle an overload of drug cases, once was nabbed in a crack cocaine sting, he said.

One of Bush's entourage expressed some interest in the anecdote, and Cuesta asked if the visitor was with the U.S. Attorney's Office.

""So to speak," said the gentleman. ""I actually was the attorney general of the United States."

Deputy Chief Cuesta, meet William Barr, attorney general under Jeb's pop, George Bush, and now working on Jeb's campaign for governor.

""I had been introduced, but I didn't catch the name," Cuesta said. ""He looked familiar, but I couldn't connect the two. And neither did anyone else."

Knowing he'd be a good candidate for an American Express commercial, Barr laughed heartily.

No stranger to a courtroom: You'd think there were already enough interesting characters in the Manny Machin vs. The Neighborhood Vermin case playing out in county court this week. You've got a controversial defense lawyer, plus the state attorney, the police chief and the pirates of Gasparilla - not to mention a couple of drooling possums, one of them an albino.

Turns out even Mike Dockery, owner of a wildlife capture service who displayed the possums to the jury this week, has an interesting background as well.

He used to be a bank robber.

Got a tip? Call us at 226-3350.

COLOR PHOTO

a purple monster head

SERIES: Tampa Uncuffed

TYPE: COLUMN

---- Index References ----

Company: HYDE PARK; TOYOTA MOTOR CORP; AMERICAN EXPRESS CERTIFICATE CO

Region: (USA (1US73); Americas (1AM92); Florida (1FL79); North America (1NO39))

Language: EN

Other Indexing: (AMERICAN EXPRESS; BOSS; HYDE PARK; JEB; NEIGHBORHOOD VERMIN; SANTA; TOYOTA) (Barr; Bush; Cuesta; Deputy Chief Cuesta; George Bush; Ironically; John Cuesta; Mike Dockery; Number; Small; Turns; William Barr)

Edition: TAMPA

Word Count: 744

End of Document

Document: FBI DIRECTOR FREEH PREFERS A HANDS-ON APPROAC...

FBI DIRECTOR FREEH PREFERS A HANDS-ON APPROACH TO HIS JOB GOVERNMENT NAYSAYERS ARE PLEASANTLY SURPRISED WITH THE FIFTH BUREAU CHIEF'S PROGRESS

The Times Union (Albany, NY)

September 25, 1994, Sunday,, THREE STAR EDITION

Section: MAIN,

Length: 1147 words

Byline: DAN FREEDMAN; Times Union Washington bureau

Dateline: WASHINGTON

Body

It was the last day of FBI Director Louis Freeh's July trip to Moscow and things seemed to be drawing to an uncertain conclusion.

He had scheduled a July 4 ribbon-cutting for a new FBI liaison office, a demonstration of the bureau's commitment to fighting international organized crime. But the ceremony didn't come off because the U.S. Embassy hadn't assigned office space. And word circulated that the two agents assigned to the post were not yet in Moscow on a full-time basis.

At a press conference before his departure, Freeh told reporters that one FBI agent had, in fact, been working in the capital of the former Soviet Union.

''And since Saturday,'' Freeh added, ''he's had a second agent on the ground working in that capacity, and that's me.''

Sometimes, that's the image the 44-year-old director likes to project Director Freeh, the man who knows what it's like to work the streets, having been a special agent himself between 1975 and 1981.

Even though he's in charge now, agents on his security detail call him ''Louie'' to his face.

A year ago, when Freeh was sworn in as the FBI's fifth director, some within the bureau thought he would be a go-along, get-along director who would change things incrementally, if at all.

They were wrong.

Describing his first year of a 10-year term in the tradition-bound, insular FBI, Freeh said in an interview, ''I came here with specific ideas about things I want to change and we made a lot of changes in the year, astounding changes. My objective wasn't to rock the boat per se. It was to fix things that needed fixing.''

Freeh inherited a bureau still in a deep funk over his predecessor, William Sessions, who was fired by President Clinton in July 1993 amid allegations of improprieties. Sessions had pushed the bureau on technical issues such as DNA genetic identification and computerized fingerprinting. And he had begun the painful process of doing something about racial and ethnic bias within the FBI.

But Sessions was a hands-off director, leaving day-to-day management to career agents. These senior managers handled the important cases, but internal problems festered. Among them were a bloated bureaucracy, inconsistent disciplinary policies and a perception that a number of FBI officials were loose cannons when it came to dealing with the news media.

By contrast, Freeh is hands-on. Every morning at 8 a.m. he goes over pending FBI cases and other issues with an inner corps of aides and assistant directors, mostly concerned with criminal investigations and national security.

He turned 300 headquarters desk jobs into positions for field agents investigating crimes. And he knocked out an entire level of bureaucracy by eliminating the two associate deputy director's positions, thus shortening the chain of command between Freeh's office and the average street agent.

Freeh has removed or transferred virtually all of the 11 assistant directors and nearly half of the special agents in charge of the FBI's 56 field offices.

He suspended James Fox, the top agent in New York, for answering press questions on the World Trade Center bombing, and James Ahearn, agent-in-charge in Phoenix, for criticizing Attorney General Janet Reno in a newspaper quote. Both were within days of retiring after lengthy FBI careers.

He removed another agent-in-charge from a field office he declined to identify, saying he was chagrined to discover that agents were waiting to use a pay phone because supervisors had appropriated a disproportionate share of office phone lines.

''He's not a leader,'' Freeh told reporters in July, referring to the busted agent-in-charge. Phone lines subsequently were added to the office, which FBI insiders identified as San Juan, Puerto Rico.

Freeh also has issued a blizzard of new regulations, toughening rules and punishments for personal misconduct on the job, including sexual harassment.

His decisiveness has won praise from widely divergent ends of the political spectrum.

Former Attorney General **William Barr**, a staunch conservative who helped Freeh win appointment as a federal judge in 1991 during the Bush administration, said: ''He's been able to take some of the difficult steps that were resisted by the bureau. It required breaking the mold a little bit, taking on the bureaucratic inertia. He's a forceful guy so it's harder to sandbag him.''

Rep. Don Edwards, D-Calif., the liberal chairman of the House Judiciary subcommittee that oversees the FBI and a longtime critic of the bureau, said Freeh's year in office had left him ''surprised and pleased. He came right in and took charge.''

And Bernardo Perez, FBI agent-in-charge in Albuquerque, N.M., who in 1988 won a landmark discrimination lawsuit against the bureau on behalf of Hispanic agents, called Freeh a director who is ''impatient for change. He is refreshingly to the point and a lot of the changes he's made are needed.''

Freeh's aggressive moves have led to some grumbling within the bureau that he has an ''authoritarian'' mind-set or makes ''snap judgments.''

The removals of senior agents such as Fox and Ahearn sent a chill through the bureau's senior ranks, insiders familiar with the inner workings of the FBI said.

''There's no question I shouldn't have said what I said, but I thought the punishment was heavy,'' said Fox, now employed by an insurance company in New York City. ''It was like using a sledge-hammer to kill an ant.''

In addition, many in the bureau believe Freeh favors FBI agents who he knows from the 10 years he served as a prosecutor in the U.S. attorney's office in Manhattan. Any agent in this group is referred to

derisively as an FOL, short for ''Friend of Louie.'' In conversations in halls and offices at FBI headquarters, FOL is pronounced ''fool.''

Freeh insisted that all promotions have been approved by the bureau's career board, and that none of them were ''jury-rigged.'' He added: ''The bureau has an astoundingly powerful rumor capacity. It's the nature of the organization.''

Even Freeh's critics say morale within the bureau has improved since hitting rock bottom last year with the Sessions' firing. ''When you put those (criticisms) in perspective with all the positives, on balance it's a pleasure to work with the man,'' an agent said.

Freeh is a self-acknowledged homebody father of four young boys. He'd rather watch them play soccer or basketball than attend Washington's never-ending rounds of weekend meetings, seminars and round tables.

He recalls one night when he was in the midst of an intense game with his two older sons and didn't hear the phone ring. It was Attorney General Reno.

His then 4-year-old son Sean responded, ''He's playing Nintendo,'' and that was the end of the conversation. The next day, Freeh said, Reno laughed and told him it wasn't all that important anyway.

Classification

Language: ENGLISH

Subject: LAW ENFORCEMENT (90%); SPECIAL INVESTIGATIVE FORCES (90%); INVESTIGATIONS (89%); ORGANIZED CRIME (78%); INTERVIEWS (78%); MANAGERS & SUPERVISORS (78%); FINGERPRINTING (78%); EMBASSIES & CONSULATES (77%); NATIONAL SECURITY (76%); CRIMINAL INVESTIGATIONS (76%); PRESS CONFERENCES (70%); DISMISSALS (61%); RACE & ETHNICITY (60%); DNA (60%)

Company: FEDERAL BUREAU OF INVESTIGATION (94%); FEDERAL BUREAU OF INVESTIGATION (94%)

Organization: FEDERAL BUREAU OF INVESTIGATION (94%); FEDERAL BUREAU OF INVESTIGATION (94%)

Geographic: MOSCOW, RUSSIAN FEDERATION (90%); UNITED STATES (79%)

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SMALL CRIME, SHORT TIME; THE OREGON SOLUTION FOR DEALING WITH NONVIOLENT CRIMINALS

The Roanoke Times (Virginia)

September 14, 1994, WEDNESDAY,, METRO EDITION

Section: VIRGINIA,

Length: 2027 words

Byline: BY BOB EVANS NEWPORT NEWS DAILY PRESS FOR THE ASSOCIATED PRESS

Dateline: SALEM, ORE. NOTE: LEDE

Body

This series is a combined project of The Associated Press, the Daily Press of Newport News, the Richmond Times-Dispatch, The Roanoke Times & World-News and the Virginian-Pilot of Norfolk.

Should Steve Buning be in prison?

At 32, Buning has been convicted 26 times of crimes such as drug possession, drunken driving, breaking into a business to steal cigarettes, and punching a police officer in the mouth. More recently, he got caught passing forged payroll checks in an attempt to defraud several companies of about $ 5,000.

Buning has been using the addictive drug methamphetamine for about 13 years and doesn't plan to stop, despite the efforts of two state-paid drug rehabilitation programs.

''I like the feeling,'' Buning explained with a shrug, raising his hands and arms in a ''What? Me Worry?'' gesture that made the tattoo of a naked woman writhe on his right forearm. On the other side of that forearm were needle marks from his drug habit.

Buning has spent 2 1/2 years behind bars, but never more than three to four months at a time. That's because he victimizes businesses, never homes or people he can see. ''I don't do person crimes, man,'' he said. "I wouldn't want that done to me.''

He doubts longer prison terms would alter his behavior.

Deciding what to do with the Steve Bunings of the world is a major issue for states considering tougher criminal justice systems. Thieves and other nonviolent criminals are more numerous than the violent ones; the ratio was 6-to-1 in Virginia between 1988 and 1992.

A lock-'em-up policy for nonviolent offenders can cost taxpayers millions - sometimes billions - more dollars for new prisons and guards. But downplaying incarceration for these offenders leaves a risk that they will commit more crimes, perhaps violent ones.

The Allen solution

Virginia Gov. George Allen has proposed abolishing parole and establishing ''truth in sentencing'' to keep violent offenders behind bars longer. As for offenders such as Buning, Allen's Commission on Parole Abolition and Sentencing Reform has recommended that prison terms remain the same - unless the criminal has a violent offense on his record. In that case the prison term would increase by 300 percent to 500 percent.

As for ''appropriate offenders,'' who are never specifically defined in the Allen proposal, the governor would generally encourage expansion of alternatives to incarceration, such as home electronic monitoring and intensive probation.

But Allen's plan emphasizes the notion of slamming criminals behind bars. In prison construction costs alone, the governor's plan would cost Virginia taxpayers up to $ 250 million more during the next 10 years than if the system remained the same.

Virginia doesn't lock up all its thieves now, but 50 percent of its prisoners are in for property crimes, said Rick Kern, director of the state Department of Criminal Justice Services. The percentage would fall to between 30 percent and 40 percent under Allen's reform plan, he said. All told, the plan would add about 5,200 more inmates to prison by the year 2001 and 7,900 more by 2014, Kern said.

Kern and former U.S. Attorney General **William Barr**, co-chairman of Allen's commission, said the group decided against recommending alternatives to punishing thieves because thieves often graduate to murder, rape and armed robbery. Of the adult violent offenders convicted in Virginia between 1990 to 1992, 31 percent previously had been convicted as adults of a property crime.

Also, Barr notes, reducing punishment for thieves would raise costs to taxpayers for catching, prosecuting and jailing these criminals for new crimes.

The Oregon alternative

Oregon and several other states trying to reduce violent crime decided to cut prison terms for thieves and find other ways to punish or control them. They wanted to make room behind bars, and in their budgets, for longer sentences for violent criminals.

An option chosen by Oregon taxpayers and legislators in 1989 was an outgrowth of that desire. They were tired of a revolving-door criminal justice system in which a parole board could cut a 20-year prison sentence to a few months and judges could send child molesters with multiple convictions to outpatient treatment instead of jail.

Sentencing guidelines were created for Oregon judges. Discretionary parole was abolished for new offenders. Prisoners could reduce their sentences a maximum of 20 percent by behaving in prison and trying to turn their lives around.

Thieves and nonviolent criminals were targeted for less prison time, while violent offenders on average received sentences that were 41 percent longer, the Oregon Corrections Department said. Rapists, for example, typically serve nearly six years today, compared with less than 31/2 years in 1986.

Oregon's choices dramatically changed the makeup of its prisons. In 1986, violent criminals comprised one-third of Oregon's prison population. The figure now is more than two-thirds. Thieves now account for 20 percent of the prison population, down from 50 percent, the state Corrections Department said.

Oregon built new prisons to house additional violent criminals but would have had to construct still more if punishments for nonviolent offenders had remained the same, said Dave Factor, executive director of the Oregon Criminal Justice Council, a state agency that analyzes crime and sentencing data.

Oregon prison cost savings

Instead of paying $ 45 to $ 50 a day to lock up, house, feed and clothe those crooks, Oregonians chose to spend $ 2 to $ 12 a day for supervised probation for people like Buning who steal or use drugs, said Frank Hall, director of the Oregon Department of Corrections.

Supporters of the Oregon approach say the alternative - prison for virtually all criminals - guarantees high costs without the promise that crime will be stopped or even reduced.

Arrests in Virginia and elsewhere are made in only about one-fourth of all crimes, critics note. And for every example of a state where crime rates fell after more people were locked up longer, criminologists can point to several where a high incarceration rate was followed by an even higher crime rate or no change at all.

''It's an ongoing debate. It's one of those schisms in this profession that will always be going on,'' said Factor, the Oregon crime analyst. ''Everyone picks the version they want to hear.''

Since Oregon made its changes, violent crime has increased 9 percent, FBI statistics show. Nearby California repeatedly has increased punishments for all offenders. Its violent crime rate is up 14 percent since 1989.

Hall, a former Virginian who runs Oregon's prisons, said 30 years of working in prisons has shown him that crime rates have little to do with what happens behind bars.

''Crime comes from the community,'' and that's where you fight it, with education, jobs, well-baby care, teen pregnancy prevention and other programs, he said. What counts is how you spend the money from taxes in all of those areas, plus prisons, he said.

That's why about 25 percent of his corrections budget goes for remedies such as community probation, drug treatment and supervised parole. Keeping offenders in their communities where they have a chance of finding jobs and nurturing ties to loved ones is more likely to change someone's behavior than prison, he said.

Changing behavior, not punishment, is the key to reducing crime, Hall said. He added that you can punish someone without sending him to prison.

For thieves and other offenders, Hall said, short prison or jail stays can work better than prison - if they're coupled with follow-up probation and other programs. Studies show that, after a few weeks, people get used to prison as a routine anyway, he said, so the punishment effect declines.

'Intermediate sanctions'

In Oregon, people who steal, or who use drugs but are not caught dealing them, typically are sentenced to one to three months in a local jail to show them what total loss of freedom is like. Then they must endure intermediate sanctions - punishments that cost less than prison, Hall said.

Intermediate sanctions can include time spent under house arrest or electronic monitoring, days assigned to drug rehabilitation programs, time spent clearing brush, pulling weeds or participating in other supervised community service work.

They also can include days enrolled in intensive supervised probation programs where participants must meet with job counselors, drug counselors or probation officers daily and must file daily reports on how they plan to spend the next 24 hours.

Probation officers then make random checks in person or by phone to ensure those reports are accurate. If not, the offender can be returned to jail or sent to prison without a court or parole board hearing. In Virginia, probation and parole violators are entitled to a hearing, and this would continue under the Allen plan.

Steve Buning is on probation in Marion County, Ore., which includes the state capital of Salem. He served a 90-day jail term for the check forgeries more than a year ago, did his community service and would be off probation except that he still has not paid restitution to the businesses he defrauded.

As a result, he was still subject to random drug tests and other requirements in July. When Buning's urine came up positive for drugs in early July, his probation officer sent him to a work center for 16 days as punishment.

There, Buning was locked up at night in a room similar to a bare-bones Army barracks. During the day he had to look for work or do community service, in this case clearing brush in 95-degree weather.

The cost to supervise and house Buning at the work center, $ 45a day, is more than regular probation but about $ 10 a day less than prison, Oregon officials say. Probation officials say if Buning commits further violations, he'll be brought back for a longer term in the work center or jail, maybe even prison if he behaves badly enough. The hope is to change his behavior without the high cost of prison.

Rick McKenna, a supervisor at the work center, has worked with people like Buning for 20 years. He is convinced it's wiser to spend money on alternatives to prison than to lock up a thief every day of the year and not have that money to spend on schools, roads, libraries or other needs.

''He's not a dangerous person,'' McKenna said of Buning. ''He's a thief, and we just keep applying sanctions.''

Earlier this month, Buning's urine tested positive for drugs again and he requested drug treatment, said his probation officer, Steve Carroll.

''I think he's finally burned out on it,'' Carroll said.

There are failures in community-based and intermediate sanctions programs, and not just by the felons.

McKenna, while a champion of the concept, said Oregon's legislators and bureaucrats never have put up enough money to pay for all the probation officers and programs needed for the felons diverted from prison.

As a result, he said, some on probation don't get the degree of supervision they should. The average probation officer's caseload averaged 50 a few years ago, he said. Now it's 78.

Oregon taxpayers, though, want to spend only so much for such programs. Earlier this year, a petition to send all felony property crime offenders to prison - at an estimated cost of $ 300 million a year, or $ 100 per person - didn't attract enough signatures to get on the ballot for a statewide referendum.

And when the Oregon legislature voted to add $ 10 million to its corrections budget last year, Hall helped sell the increase to legislators by pledging to shift $ 7 million into community-based education, counseling and probationary programs designed to serve as alternatives to prison for people like Steve Buning.

Hall said 80 percent of people sentenced to probation in Oregon still complete their terms without being caught committing another crime or even violating one of the many rules of probation. ''That tells me that to keep an orderly society, you don't have to lock everybody up,'' he said.

Graphic

PHOTO: AP. 1. In Oregon, Steve Buning, a nonviolent offender, is given supervised probation instead of a long prison term. 2. Frank Hall, a former Virginia, is director of Oregon's Department of Corrections. color. Graphic by Stephen Rountree: What Oregon pays for one offender for one day. color.

Classification

Language: ENGLISH

Subject: JAIL SENTENCING (90%); SUBSTANCE ABUSE (90%); SENTENCING (89%); PAROLE (89%); CORRECTIONS (89%); PRISONS (89%); CRIMINAL OFFENSES (89%); GOVERNORS (88%); ELECTRONIC MONITOR SENTENCING (77%); LARCENY & THEFT (77%); LAW ENFORCEMENT (77%); FRAUD & FINANCIAL CRIME (77%); PROBATION (77%); CONTROLLED SUBSTANCES CRIME (77%); SENTENCING GUIDELINES (77%); ILLEGAL DRUGS (76%); COUNTERFEITING & FORGERY (76%); ALTERNATIVE SENTENCING (76%); DRIVING WHILE INTOXICATED (76%); METHAMPHETAMINE (71%); SUBSTANCE ABUSE TREATMENT (71%); CONSTRUCTION COSTS (62%)

Company: VIRGINIAN-PILOT (72%); ROANOKE TIMES (72%); VIRGINIAN-PILOT (72%); ROANOKE TIMES (72%)

Industry: (66%); CONSTRUCTION (66%); CONSTRUCTION COSTS (62%)

Geographic: VIRGINIA, USA (94%)

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Document: A TALE OF TWO STATES; HOW OREGON, TEXAS DEAL W...

A TALE OF TWO STATES;
HOW OREGON, TEXAS DEAL WITH CRIMINALS

The Virginian-Pilot (Norfolk)

September 14, 1994, Wednesday,, FINAL EDITION

Section: FRONT,

Length: 2281 words

Byline: BOB EVANS, NEWPORT NEWS DAILY PRESS

Dateline: SALEM, ORE.

Body

Should Steve Buning be in prison? At 32, Buning has been convicted 26 times for crimes such as drug possession, drunken driving, breaking into a business to steal cigarettes and punching a police officer in the mouth. More recently, he got caught passing forged payroll checks to defraud several companies out of about $ 5,000.

Buning has been using the addictive drug methamphetamine for about 13 years and has no plans to stop, despite the efforts of two state-paid drug rehabilitation programs,

''I like the feeling,'' Buning explained with a shrug, raising his hands and arms in a ''What? Me Worry?'' gesture that makes the tattoo of a naked woman writhe on his right forearm. On the other side of that forearm were needle marks from his drug habit.

Buning has spent 212 years behind bars, but never more than three to four months at a time. That's because he victimizes businesses, never homes or people he can see. He doubts longer prison terms would alter his behavior.

Deciding what to do with the Steve Bunings of the world poses a dilemma for states considering tougher criminal justice systems. Thieves and other nonviolent criminals are much more numerous than the violent ones; the ratio was 6 to 1 in Virginia between 1988 and 1992.

A lock-'em-up policy for nonviolent offenders can cost taxpayers millions, sometimes billions more dollars for new prisons and guards.

But downplaying incarceration for these offenders leaves a risk that they will commit more crimes, perhaps violent ones.

THE ALLEN SOLUTION

Gov. George Allen has proposed abolishing parole and establishing ''truth in sentencing'' to keep violent offenders behind bars longer. As for offenders like Buning, Allen's Commission on Parole Abolition and Sentencing Reform has recommended that prison terms remain the same, unless the criminal has a violent offense on his record. In that case the prison term would increase by 300 percent to 500 percent.

As for ''appropriate offenders,'' who are never specifically defined in the Allen proposal, the governor would generally encourage expansion of alternatives to incarceration, such as home electronic monitoring and intensive probation.

But Allen's plan emphasizes the notion of slamming criminals behind bars. In prison construction costs alone, the governor's plan would cost Virginia taxpayers up to $ 250 million more during the next 10 years than if the system remained the same.

Virginia doesn't lock up all its thieves now, but 50 percent of its prisoners are in for property crimes, said Rick Kern, director of the state Department of Criminal Justice Services. The percentage would fall to between 30 percent and 40 percent under Allen's reform plan, he said.

All told, the plan would add about 5,200 more inmates to prison by the year 2001 and 7,900 more by 2014, Kern said.

Kern and former U.S. Attorney General **William P. Barr**, co-chairman of Allen's commission, said the group decided against recommending alternatives to punishing thieves because thieves often graduate to murder, rape and armed robbery. Of the adult violent offenders convicted in Virginia from 1990 to 1992, 31 percent previously had been convicted as adults of a property crime.

Also, Barr notes, reducing punishment for thieves would raise costs to taxpayers for catching, prosecuting and jailing these criminals for new crimes.

THE OREGON ALTERNATIVE

Oregon and several other states trying to reduce violent crime decided to cut prison terms for thieves and find other ways to punish or control them. They wanted to make room behind bars, and in their budgets, for longer sentences for violent crooks.

That was the eventual outgrowth of an option Oregon taxpayers and legislators chose in 1989. They were tired of a revolving-door criminal justice system where a parole board could cut a 20-year prison sentence to a few months and judges could send child molesters with multiple convictions to outpatient treatment instead of jail.

Sentencing guidelines were created for Oregon judges. Discretionary parole was abolished for new offenders. Prisoners could reduce their sentences a maximum of 20 percent by behaving in prison and trying to turn their lives around.

Thieves and nonviolent criminals were targeted for less prison time, while violent offenders on average received sentences that were 41 percent longer, the Oregon Corrections Department said. Rapists, for example, typically serve nearly six years today compared to less than 312 years in 1986.

Oregon's choices dramatically changed the makeup of its prisons. In 1986, violent criminals made up one-third of the prison population.

The figure now is more than two-thirds. Thieves now account for 20 percent of the prison population, down from 50 percent, the state Corrections Department said.

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OREGON PRISON COST SAVINGS

Instead of paying $ 45 to $ 50 a day to lock up, house, feed and clothe those crooks, Oregonians chose to spend $ 2 to $ 12 a day for supervised probation for people like Buning who steal or use drugs, said Frank Hall, director of the Oregon Department of Corrections.

Supporters of the Oregon approach say the alternative - prison for virtually all criminals - guarantees high costs without the promise that crime will be stopped or even reduced.

Arrests in Virginia and elsewhere are made in only about one-fourth of all crimes, critics note. And for every example of a state where crime rates fell after more people were locked up longer, criminologists can point to several where a high incarceration rate was followed by an even higher crime rate or no change at all.

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''Crime comes from the community,'' and that's where you fight it, with education, jobs, well-baby care, teen pregnancy prevention and other programs, he said. What counts is how you spend the money from taxes in all of those areas, plus prisons, he said.

That's why about 25 percent of his corrections budget goes for remedies such as community probation, drug treatment and supervised parole, Hall said. Keeping offenders in their communities where they have a chance of finding a job and nurturing roots to loved ones is more likely to change someone's behavior than prison, he said.

Changing behavior, not punishment, is the key to reducing crime, Hall said. He added that you can punish someone without sending him to prison.

Oregon's 'intermediate sanctions'

In Oregon, people who steal, or who use drugs but are not caught dealing them, typically are sentenced to a month to three months in a local jail to show them what total loss of freedom is like. Then they must endure intermediate sanctions - punishments that cost less than prison, Hall said.

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Graphic

Color photos, Associated Press, TENTS IN TEXAS, Inmates erect tents at Palestine Tent Camp in Texas last May. Despite a prison building boom that began in 1987, the Lone Star State has had to set up temporary work camps, with prisoners sleeping in tents, until permanent facilities are available the first of next year., ; OREGON'S APPROACH, Steve Buning, 32, clears brush in Oregon. He's been convicted 26 times for mostly nonviolent crimes and has spent 2 1/2 years behind bars - but never more than three to four months at a time. In Oregon, people who steal typically are sent briefly to jail. Then they are monitored electronically or participate in supervised community service work., ; Graphics, TIMES-DISPATCH, AP, PAYING THE PRICE, SOURCES: Senate Finance Committee; Department of Corrections; Governor's Commission on Parole Abolition and Sentencing Reform., ; WHAT OREGON PAYS FOR ONE OFFENDER FOR ONE DAY, SOURCE: Oregon Department of Corrections

Classification

Language: ENGLISH

Subject: CORRECTIONS (90%); PRISONS (90%); JAIL SENTENCING (90%); SUBSTANCE ABUSE (90%); SENTENCING (89%); LARCENY & THEFT (89%); PAROLE (89%); PRISONERS (89%); GOVERNORS (89%); CRIMINAL OFFENSES (89%); ELECTRONIC MONITOR SENTENCING (78%); ILLEGAL DRUGS (78%); COUNTERFEITING & FORGERY (78%); LAW ENFORCEMENT (78%); FRAUD & FINANCIAL CRIME (78%); PROBATION (78%); ALTERNATIVE SENTENCING (78%); DRIVING WHILE INTOXICATED (78%); CONTROLLED SUBSTANCES CRIME (78%); SENTENCING GUIDELINES (78%); METHAMPHETAMINE (73%); SUBSTANCE ABUSE TREATMENT (73%); PROPERTY CRIMES (73%); CONSTRUCTION COSTS (64%)

Industry: (67%); CONSTRUCTION (67%); CONSTRUCTION COSTS (64%)

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9/14/94 Richmond Times-Dispatch A1
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Richmond Times Dispatch (VA)

September 14, 1994

Section: Area/State

CRIME CRISIS OTHER FIXES OREGON TRIES LESSER PENALTIES NONVIOLENT OFFENDERS MAY NOT GO TO PRISON

BOB EVANS Newport News Daily Press

Should Steve Buning be in prison?

At 32, Buning has been convicted 26 times for crimes such as drug possession, drunken driving, breaking into a business to steal cigarettes and punching a police officer in the mouth.

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Allen's plan emphasizes the notion of slamming criminals behind bars. In prison construction costs alone, the governor's plan would cost Virginia taxpayers up to $1 billion over the next 10 years.

Virginia doesn't lock up all its thieves now, but 50 percent of its prisoners are in for property crimes, said Rick Kern, director of the state Department of Criminal Justice Services. The percentage would fall to between 30 percent and 40 percent under Allen's reform plan, he said. All told, the plan would add about 5,200 inmates to prisons by 2001 and 7,900 more by 2014, Kern said.

Kern, and former U.S. Attorney General William P. Barr, one of the co-chairmen of Allen's commission, said the group decided against recommending alternative punishments for thieves.

The reason is that thieves often graduate to murder, rape and armed robbery, they said. Of the adult violent offenders convicted in Virginia between 1990 and 1992, 31 percent previously had been convicted of a property crime as adults.

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Thieves and nonviolent criminals were targeted for less prison time, while violent offenders on average received sentences that were 41 percent longer, the Oregon corrections department said. Rapists, for example, typically serve nearly six years today compared with less than 3 1/2 years in 1986.

Oregon's choices dramatically changed the makeup of its prisons. In 1986, violent criminals made up one-third of Oregon's prison population. The figure now is more than two-thirds. Thieves now account for 20 percent of the prison population, down from 50 percent, the corrections department said.

Oregon built new prisons to house violent criminals but would have had to construct still more if punishments for nonviolent offenders had remained the same, said Dave Factor, executive director of the Oregon Criminal Justice Council, a state agency that analyzes crime and sentencing data.

Instead of paying $45 to $50 a day to lock up, house, feed and clothe those crooks in prison, Oregonians chose to spend $2 to $12 a day for supervised probation for people like Buning who steal or use drugs, said Frank A. Hall, director of the Oregon Department of Corrections.

Supporters of the Oregon approach say the alternative -- prison for virtually all criminals -- guarantees high costs without the promise that crime will be reduced.

Arrests in Virginia and elsewhere are made in only about one-fourth of all crimes, critics note. And for every example of a state where crime rates fell after more people were locked up longer, criminologists can point to several where a higher incarceration rate was followed by an even higher crime rate or no change at all.

"It's an ongoing debate. It's one of those schisms in this profession that will always be going on," said Factor, the Oregon crime analyst. "Everyone picks the version they want to hear."

Since Oregon made its changes, violent crime has increased 9 percent, FBI statistics show. Nearby California repeatedly has increased punishments for all offenders. Its violent crime rate is up 14 percent since 1989.

Hall, a former Virginian who runs Oregon's prisons, said 30 years of working in prisons has shown him that crime rates have little to do with what happens behind bars.

"Crime comes from the community," and that's where you fight it, with education, jobs, well-baby care, teen pregnancy prevention and other programs, he said. What counts is how you spend the money from taxes in all of those areas, plus prisons, he said.

That's why about 25 percent of his corrections budget goes for remedies such as community probation, drug treatment and supervised parole, Hall said. Keeping offenders in their communities where they have a chance of finding a job and nurturing ties to loved ones is more likely to change someone's behavior than prison, he said.

Changing behavior, not punishment, is the key to reducing crime, Hall said. He added that you can punish someone without sending him to prison.

For thieves and other offenders, Hall said short prison or jail stays can work better than prison -- if they're coupled with follow-up probation and other programs. Studies show that after a few weeks people get used to prison as a routine, he said, so the punishment effect declines.

In Oregon, people who steal, or who use drugs but are not caught dealing them, typically are sentenced to a month to three months in a local jail to show them what total loss of freedom is like. Then they must endure "intermediate sanctions," punishments that cost less than prison, Hall said.

Intermediate sanctions can include time spent on house arrest or electronic monitoring, days assigned to drug rehabilitation programs, time spent clearing brush, pulling weeds or participating in other supervised community service work.

They also can include days enrolled in intensive supervised probation programs where participants must meet with job counselors, drug counselors or probation officers daily and must file daily reports on how they plan to spend the next 24 hours.

Probation officers then make random checks to ensure those reports are accurate. If not, the offender can be returned to jail or sent to prison without a hearing.

In Virginia, probation and parole violators are entitled to a hearing, and this would continue under the Allen plan.

Steve Buning is on probation in Marion County, Ore., which includes the state capital of Salem. He served a 90-day jail term for the check forgeries more than a year ago, did his community service and would be off probation except that he still has not paid restitution to the businesses he defrauded.

As a result, he was still subject to random drug tests and other requirements in July. When Buning's urine came up positive for drugs in early July, his probation officer sent him to a work center for 16 days as punishment.

There, Buning was locked up at night in a room similar to a bare-bones Army barracks. During the day he had to look for work or do community service, in this case clearing brush in 95-degree heat.

The cost to supervise and house Buning at the work center, about $45 a day, is more than regular probation but less than prison, Oregon officials say. They say if Buning screws up again, he'll be brought back for a longer term in the work center or jail, maybe even prison if he behaves badly enough. The hope is to change his behavior without the high cost of prison.

Rick McKenna, a supervisor at the work center, has worked with people like Buning for 20 years. He is convinced it's wiser to spend money on alternatives to prison than to lock up a thief every day of the year and not have that money to spend on schools, roads, libraries or other needs.

"He's not a dangerous person," McKenna said of Buning. "He's a thief, and we just keep applying sanctions."

Earlier this month, Buning's urine tested positive for drugs again and he requested drug treatment, said his probation officer, Steve Carroll.

"I think he's finally burned out on it," Carroll said.

There are failures in community-based and intermediate sanctions programs, and not all by the offenders.

McKenna, while a champion of the concept, said Oregon's legislators and bureaucrats never have put up enough money to pay for all the probation officers and programs needed for the felons diverted from prison.

As a result, he said, some on probation don't get the supervision they should. The average probation officer's case load averaged 50 a few years ago, he said. Now it's 78.

Oregon taxpayers, though, want to spend only so much for such programs. Earlier this year a petition to send all property crime felons to prison -- at an estimated cost of $300 million a year, or about $100 per Oregonian -- didn't attract enough signatures to get on the ballot for a referendum.

And when the Oregon Legislature voted to add $10 million to its corrections budget last year, Hall helped sell the increase to legislators by pledging to shift $7 million into community-based education, counseling and probationary programs designed to serve as alternatives to prison for people like Steve Buning.

Hall said 80 percent of people sentenced to probation in Oregon still complete their terms without being caught committing another crime or even violating one of the many rules of probation. "That tells me that to keep an orderly society, you don't have to lock everybody up," he said.

ALLEN PLAN EXCERPTS

* Property crimes

About 50 percent of Virginia prisoners are in for property crimes. The percentage would fall to between 30 percent and 40 percent under the Allen plan.

* Inmate projections

The prison population would increase by 5,200 inmates by the year 2001 and 7,900 more by 2014.

* Nonviolent offenders

Sentences for nonviolent offenders with a prior conviction for violent crime would increase threefold to fivefold because "many nonviolent offenders 'graduate' to violent offenses, and many people arrested and convicted for nonviolent property crimes actually are violent criminals," according to the plan.

* Alternatives

Local judges are encouraged to expand use of alternative sentences such as supervised probation, home electronic monitoring or day reporting centers, but the plan contains no specific funding or timetable for promoting them.

DID YOU KNOW?

* In 1992, after five years of stepped-up prison-building, Texas had beds for 52,000 inmates and an incarceration rate of 553 prisoners for every 100,000 residents. That rate is expected to almost double by the year 2000, when the system will house 206,000.

* Prison construction has become such a priority in Texas that twice this year legislators have approved taking $100-million chunks of funding away from other state programs to spend on corrections.

* Last year, 56 percent of Texas voters rejected a referendum on borrowing $750 million to build schools. A few months later, 70 percent of Texas voters approved borrowing $1 billion to build prisons.

* When the Oregon legislature voted to add $10 million to its corrections budget last year, legislators pledged to shift $7 million into community-based education, counseling and probationary programs designed to serve as alternatives to prison.

SALEM, Ore.

CHART; PHOTO

(lka) FACING THE FEAR, PAYING THE PRICE

---- Index References ----

News Subject: (Violent Crime (1VI27); Legal (1LE33); Social Issues (1SO05); Legislation (1LE97); Taxation (1TA10); Government (1GO80); Tax Law (1TA64); Crime (1CR87); Judicial (1JU36); Property Crime (1PR85); Criminal Law (1CR79); Prisons (1PR87))

Industry: (Accounting, Consulting & Legal Services (1AC73))

Region: (Americas (1AM92); North America (1NO39); Texas (1TE14); USA (1US73); Virginia (1VI57); Oregon (1OR01))

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Other Indexing: (ALLEN; ARMY; CRIMINAL JUSTICE SERVICES; FBI; OREGON CRIMINAL JUSTICE COUNCIL; OREGON DEPARTMENT OF CORRECTIONS; PRISON; SALEM; STATE DEPARTMENT; VIRGINIAN) (Allen; Alternatives; Barr; Buning; Carroll; Crime; CRIME CRISIS; Dave Factor; Discretionary; Factor; Frank A. Hall; George Allen; Gov; Hall; Inmate; Kern; LESSER PENALTIES NONVIOLENT OFFENDERS; McKenna; Nearby California; Nonviolent; Oregon; Oregonians; Rick Kern; Rick McKenna; Sentencing Reform; Steve Buning; Steve Bunings; Steve Carroll; Studies; Texas; William P. Barr)

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PAROLE REFORM IN VIRGINIA

By **BOB EVANS Daily Press**
DAILY PRESS

SEPTEMBER 14, 1994

Should Steve Buning be in prison?

At 32, Buning has been convicted 26 times for crimes such as drug possession, drunken driving, breaking into a business to steal cigarettes and punching a police officer in the mouth. More recently, he got caught passing forged payroll checks to defraud several companies out of about $5,000.

Buning has been using the addictive drug methamphetamine for about 13 years and has no plan to stop, despite the efforts of two state-paid drug rehabilitation programs.

"I like the feeling," Buning shrugged, raising his hands and arms in a "What? Me Worry?" gesture that makes the tattoo of a naked woman writhe on his right forearm. On the other side of that forearm were needle marks from his drug habit.

Buning has spent 2 1/2 years behind bars, but never more than three to four months at a time. That's because he victimizes businesses, never homes or people he can see. "I don't do person crimes, man. I wouldn't want that done to me."

He doubts longer prison terms would alter his behavior.

Deciding what to do with the Steve Bunings of the world poses a dilemma for states considering tougher criminal justice systems. Thieves and other nonviolent criminals are much more numerous than the violent ones; the ratio was 6-to-1 in Virginia between 1988 and 1992.

A "lock-'em-up" policy for nonviolent offenders can cost taxpayers millions, sometimes billions more dollars for new prisons and guards. But downplaying incarceration for these offenders leaves a risk that they will commit more crimes, perhaps violent ones.

Gov. George Allen has proposed abolishing parole and establishing "truth in sentencing" to keep violent offenders behind bars longer. As for offenders like Buning, Allen's Commission on Parole Abolition and Sentencing Reform has recommended that prison terms remain the same - unless the criminal has a violent offense on his record. In that case, the prison term would be up to six times longer.

The Allen proposal would generally encourage expansion of alternatives to incarceration, such as home electronic monitoring and intensive probation, for "appropriate offenders" - although the governor's plan doesn't define that term.

But Allen's plan emphasizes the notion of slamming criminals behind bars. In prison construction costs alone, the governor's plan would cost Virginia taxpayers up to $250 million more over the next 10 years than if the system remained the same.

Virginia doesn't lock up all its thieves now, but 50 percent of its prisoners are in for property crimes, said Rick Kern, director of the state Department of Criminal Justice Services. The percentage would fall to between 30 percent and 40 percent under Allen's reform plan, he said. All told, the plan would add about 5,200 more inmates to the state's prison population by the year 2001 and 7,900 more by 2014, Kern said.

Kern and former U.S. Attorney General William P. Barr, co-chairman of Allen's commission, said the group decided against recommending alternatives to punishing thieves because thieves often graduate to murder, rape and armed robbery. Of the adult violent offenders convicted in Virginia between 1990 to 1992, 31 percent previously had been convicted as adults of a property crime.

Also, Barr notes, putting thieves back on the street too quickly just means taxpayers would spend more to catch, prosecute and jail them again.

Oregon and several other states trying to reduce violent crime decided to cut prison terms for thieves and find other ways to punish or control them. They wanted to make room behind bars, and in their budgets, for longer sentences for violent criminals.

That was the eventual outgrowth of Oregon's 1989 effort to crack down on crime. The state's taxpayers and legislators were tired of a revolving-door criminal justice system where a parole board could cut a 20-year prison sentence to a few months and judges could send child molesters with multiple convictions to outpatient treatment instead of jail.

Sentencing guidelines were created for Oregon judges. Discretionary parole was abolished for those sentenced under the new law. Prisoners could reduce their sentences a maximum of 20 percent by behaving in prison and trying to turn their lives around.

Thieves and nonviolent criminals were targeted for less prison time, while violent offenders on average received sentences that were 41 percent longer, the Oregon corrections department said. Rapists, for example, typically serve nearly six years today compared to less than 3 1/2 years in 1986.

Oregon's choices dramatically changed the makeup of its prisons. In 1986 violent criminals were a third of Oregon's prison population. Now they're two-thirds. Thieves account for 20 percent of the prison population, down from 50 percent, the state corrections department said.

Oregon built new prisons to house additional violent criminals but would have needed still more if punishments for nonviolent offenders had remained the same, said Dave Factor, executive director of the Oregon Criminal Justice Council, a state agency that analyzes crime and sentencing data.

Instead of paying $45 to $50 a day to lock up, house, feed and clothe non-violent criminals in prisons, Oregonians chose to spend $2 to $12 a day for supervised probation for people like Buning who steal or use drugs, said Frank Hall, director of the Oregon Department of Corrections.

Supporters of the Oregon approach say the alternative - prison for virtually all criminals - means high costs without the promise that crime will be stopped or even reduced.

Arrests in Virginia and elsewhere are made in only about one-fourth of all crimes, they note. And for every example of a state where crime rates fell after more people were locked up longer, criminologists can point to several where a high incarceration rate was followed by an even higher crime rate or no change at all.

Since Oregon made its changes, violent crime has increased 9 percent, FBI statistics show. Nearby California repeatedly has increased punishments for all offenders. Its violent crime rate is up 14 percent since 1989.

Oregon voters complain about crime and often will talk about the lenient sentencing of thieves as a critical factor. But they have refused to pay for more prisons.

Earlier this year a petition to send all felony property crime offenders to prison - at an estimated cost of $300 million a year, or $100 per state resident - couldn't attract enough signatures to get on the ballot for a statewide referendum.

And when the Oregon legislature voted to add $10 million to its corrections budget last year, corrections director Hall helped sell the increase to legislators by pledging to shift $7 million into community-based education, counseling and probation programs designed to serve as alternatives to prison for people like Steve Buning.

Hall, a former Virginian, said 30 years of working in prisons has shown him that crime rates have little to do with what happens behind bars.

"Crime comes from the community," and that's where you fight it, with education, jobs, well-baby care, teen pregnancy prevention and other programs, he said. What counts is how you spend the money from taxes in all of those areas, plus prisons, he said.

That's why about 25 percent of his corrections budget goes for remedies such as community probation, drug treatment and supervised parole, Hall said. Keeping offenders in their communities where they have a chance of finding a job and nurturing roots to loved ones is more likely to change someone's behavior than prison, he said.

Changing behavior, not punishment, is the key to reducing crime, Hall said. He added that you can punish someone without sending him to prison.

For thieves and other offenders, Hall said, short prison or jail stays can work better than prison - if they're coupled with follow-up probation and other programs. Studies show that after a few weeks, people get used to prison as a routine anyway, he said, so the punishment effect declines.

In Oregon, people convicted of theft or drug possession are typically sentenced to a month to three months in a local jail to show them what total loss of freedom is like. Then they must endure intermediate sanctions - punishments that cost less than prison, Hall said.

Intermediate sanctions can include time spent on house arrest or electronic monitoring, days assigned to drug rehabilitation programs, time spent clearing brush or pulling weeds, or participation in other supervised community service work.

They also can include days enrolled in intensive supervised probation programs where participants must meet with job counselors, drug counselors or probation officers daily and must file daily reports on how they plan to spend the next 24 hours.

Probation officers then make random checks in person or by phone to ensure those reports are accurate. If not, the offender can be returned to jail or sent to prison without a court or parole board hearing. In Virginia, probation and parole violators are entitled to a hearing, and that would continue under the Allen plan.

Steve Buning is on probation in Marion County, Ore., which includes the state capital of Salem. He served a 90-day jail term for the check forgeries more than a year ago, did his community service and would be off probation except that he still has not paid restitution to the businesses he defrauded.

As a result, he was still subject to random drug tests and other requirements in July. When Buning's urine came up positive for drugs, his probation officer sent him to a work center for 16 days as punishment.

There, Buning was locked up at night in a room similar to a bare-bones Army barracks. During the day he had to look for work or do community service, in this case clearing brush in 95-degree weather.

The cost to supervise and house Buning at the work center, $45 a day, is more than regular probation but about $10 a day less than prison, Oregon officials say. That's a small savings in Buning's case, but spread over thousands of probationers it adds up to big money.

Probation officials say if Buning stumbles again, he'll be brought back for a longer term in the work center or jail, maybe even prison if he behaves badly enough. The hope is to change his behavior without the high cost of prison.

Rick McKenna, a supervisor at the work center, has worked with people like Buning for 20 years. He is convinced it's wiser to spend money on alternatives to prison than to lock up a thief every day of the year and not have that money to spend on schools, roads, libraries or other needs.

"He's not a dangerous person," McKenna said of Buning. "He's a thief, and we just keep applying sanctions."

Earlier this month Buning was in his third drug rehabiltation program and "at a crossroads," said his probation officer, Steve Carroll. He said Buning got caught with dirty urine again and when confronted, asked for the new treatment program.

Carroll said he's worked with Buning off and on for 15 years and believes his charge now might be ready for help. "I think he's finally burned out on it."

There are failures in community-based and intermediate sanctions programs, and not just by the felons.

McKenna, while a champion of the concept, said Oregon's legislators and bureaucrats never have put up enough money to pay for all the probation officers and programs needed for the felons diverted from prison.

As a result, he said, some on probation don't get the degree of supervision they should. The average probation officer's case load averaged 50 a few years ago, he said. Now it's 78.

Hall said he'd like to have more money to reduce the caseload for probation officers. Still, he said, 80 percent of people sentenced to probation in Oregon complete their terms without being caught committing another crime or even violating one of the many rules of probation. "That tells me that to keep an orderly society, you don't have to lock everybody up," he said.

This 'attr(data-c-typename)' is related to: Jails and Prisons, Theft, Crime

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1994 WLNR 213498

Washington Times (DC)

September 6, 1994

Section: COMMENTARY OP-ED

If it's a real crime bill you want, look at Gov. Allens's

Samuel Francis - THE WASHINGTON TIMES

Now if it's a crime bill you want, forget the Frankenstein monster that flopped about on Capitol Hill a couple of weeks ago. Look at the state legislation sponsored by Republican Gov. George Allen of Virginia. The Republicans on Capitol Hill get the Forrest Gump Man of the Year Award for their low-IQ selective opposition to President Clinton's bill, but Mr. Allen may turn out to be the Isaac Newton of crime control.

While the centerpiece of the Clinton bill is "prevention" - a new code word for amassing immense wads of pork and pitching it sort of in the direction of supposed members of Future Street Thugs of America - Mr. Allen's legislation contains, as far as I can tell, not one single item about "preventing" crime. The bill's architects, mainly former U.S. Attorney General William Barr, are unapologetic about that. "The most effective method of prevention," he says, "is to take the rapist off the streets for 12 years instead of four." Bingo.

What Mr. Barr and Gov. Allen are talking about is a quaint little concept that used to be known as "justice." Under this theory, you assume that people who haven't committed any crimes are innocent and therefore that the state has no business seeking to "prevent" them from committing any. Also under the justice concept, you assume that people known to have committed crimes are likely to commit them again, so you keep them locked up.

Which brings us to the central concept of the Allen bill, the abolition of parole. Under Virginia's criminal justice system at present, the actual time served in prison by convicted criminals is only about one-third of the sentences handed down by the courts. For rape and sodomy, the time served is a whopping half of the sentence given.

Under the Allen bill, all that would end. It does away with parole for first-time offenders entirely, increases the actual time served by convicts by 100 percent to 700 percent and relies on state sentencing guidelines for judges. The administration argues that if the bill had been in effect seven years ago, it would have prevented at least 4,400 crimes, including 78 murders.

Needless to say, the criminals lobby doesn't much care for this approach. The Washington Post and the Richmond Times Dispatch sedulously collected the usual gang of liberals to moan and groan about the bill.

Woe, woe, woe. What about the poor criminals? What about their families? What about the overcrowded prisons? What about the overburdened taxpayers who'll have to pay for all of it?

"What happens to their kids, their families that they can't support?" whines Julie McConnell of the ACLU, described by the Times Dispatch as "an outspoken opponent of plans to end parole and establish longer prison terms." Miss McConnell's concern for the children and families of convicted killers and rapists is touching, but she'd gain a more sympathetic ear from Janet Reno.

And if your heart is so callous that you think rather of the children and families of those murdered, robbed and raped by the gorillas for whom Miss McConnell is so weepy, there's always the cold-eyed fiscal argument. "We'll pay and pay and pay," screams Paul Keve, a criminal justice egghead from Virginia Commonwealth University. "We ought to be willing to pay a lot to reduce and control crime, but this just won't do it." Where, do you suppose, was Professor Keve when Mr. Clinton's $30 billion crime package was on the congressional plate last week?

What came out of Capitol Hill was perhaps the biggest installment yet of anarcho-tyranny - the form of government under which we now live, where the state is unwilling or unable to punish real criminals so it criminalizes the innocent and calls it "crime control."

The Clinton bill punishes the innocent by stripping them of the right to buy semi-automatic weapons, while it does nothing to punish the guilty except invent new capital offenses for crimes against members of the ruling class -murdering congressmen, Supreme Court justices, federal judges and various federal employees. Why anyone would ever consider whacking any of these munchkins I can't imagine.

What's wrong with anarcho-tyranny is that it totally abandons the concept of justice, the idea that those who commit evil should be punished while those who don't shouldn't be. Under the Allen bill, there's a lot of justice but very little anarcho-tyranny. Whatever the administrative wrinkles Virginia lawmakers need to iron out, the governor has rediscovered the real moral foundations of serious law enforcement.

Samuel Francis, a columnist for The Washington Times, is nationally syndicated. His column appears here Tuesday and Friday.

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---- Index References ----

News Subject: (Violent Crime (1VI27); Crime (1CR87); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Legislation (1LE97); Criminal Law (1CR79); Sex Crimes (1SE01); Government (1GO80))

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NewsRoom

8/24/94 Richmond Times-Dispatch A1
1994 WLNR 994769

Richmond Times Dispatch (VA)

August 24, 1994

Section: Area/State

QUICK ACTION SOUGHT ON PAROLE CHANGES ALLEN
SAYS HE WILL NOT TOLERATE DELAY ON PLAN

FRANK GREEN Times-Dispatch Staff Writer

Gov. George Allen issued an in-your-face challenge to the General Assembly yesterday to expedite passage of the most sweeping set of changes proposed for Virginia's criminal justice system in modern times.

Allen accepted his commission's $850 million Proposal X to abolish parole, lengthen terms for violent and repeat offenders and restore truth in sentencing less than a month before the start of the Assembly's Sept. 19 special session.

He did not explain how the state will pay for the new prisons and as much as $402 million in additional annual operating costs required by 2005 -- a cost kept down because Virginia's current 20,000 inmates would remain eligible for parole.

But in a carefully staged, multimedia presentation rife with references to murder, mayhem, rape and criminal predators, the governor made it clear he wanted the changes passed by the end of next month and in effect by Jan. 1.

"What the people of Virginia and I will not tolerate is delay," Allen warned.

William Barr, former U.S. Attorney General and a co-chairman of Allen's Commission on Parole Abolition and Sentencing Reform took things one step further.

"Delay means blood. It means victims. How much blood are we going to pour out in Virginia?" asked Barr.

In Virginia, a criminal can serve as little as one-sixth of an imposed sentence. Allen said, "the people of Virginia understand, they understand very clearly, that violent criminals don't serve enough time in prison."

"The eyes of the people of Virginia are going to be on the General Assembly," said Allen, speaking before law enforcement officials, legislators and others at the City of Richmond's new police training academy. He also announced that he had garnered bipartisan sponsorship for his parole abolition and sentencing reform bills.

Proposal X, which a staff study contends would prevent nearly 120,000 crimes and save victims about $2.7 billion over the next 10 years, would require about 52,000 prison beds by 2005. The state now has roughly 20,000 inmates.

However, that figure is only 3,000 beds more than the number that would be needed by the year 2005 under the current parole system run at the traditional parole grant rate of 40 percent per year.

Paul Timmreck, Virginia Secretary of Finance, said that more than $600 million of the estimated $837 million that Proposal X would cost for new prison construction would have to be spent anyway under the current system.

Allen did not outline how the prisons and additional operating costs would be paid for, but said that he has been discussing financing with Sen. Hunter B. Andrews, D-Hampton, chairman of the Senate Finance Committee, and Del. Robert Ball, D-Henrico, head of the House Appropriations Committee.

Because it would impose longer sentences -- as much as seven times longer for some violent offenders and because inmates now in prison would still be eligible for parole, the full effects of Proposal X would not be felt for its first 10 years.

The plan calls for strong substance abuse treatment programs for as many as 700 inmates. Approximately 80 percent of all inmates have substance abuse problems.

The commission's final report, issued yesterday, also noted that future initiatives could include a crime victim's "bill of rights," more restrictive pretrial detention; the reform of juvenile justice laws; and the expansion of the death penalty.

Barr noted that some opponents to tougher sentencing argue that more should be spent on prevention. But he called that a false dichotomy. Putting proven repeat offenders in prison is prevention, he said.

Julie McConnell, of the American Civil Liberties Union, remained unconvinced after yesterday's meeting. "I agree, the choice is not between incarceration and prevention."

"I think the answer is that we have to do both," she said.

Allen's program will only prevent a small part of the crime problem. "It's extremely important . . . that we institute programs that will prevent those crimes," said McConnell.

Salim Khalfani, a ranking member of the Virginia State Conference of the National Association for the Advancement of Colored People, also attended yesterday's meeting and also remains unconvinced.

"If we really want to do something about solving crime, I think there are other things we can look at besides longer incarceration and abolishing parole," he said.

Khalfani said that "everybody is for truth in sentencing, but we want to see some money spent that will prevent people from getting involved in criminal activity in the first place."

However, two prominent black Virginians on the governors commission made it clear they would push for Proposal X.

Virginia Supreme Court Justice Leroy Hassell conceded "there are no easy answers."

But, noting that he had expressed fears of the dangers of prisoners losing the hope of parole, he said, "I say that Proposal X offers hope . . . hope to people who desire to improve the quality of life in their neighborhoods."

Richmond City Manager Robert C. Bobb said he would push hard to win support for the proposal with local elected officials and even in churches.

"Every violent crime is an infuriating tragedy. But when violent crime is committed by those who should be behind bars, we become responsible for those tragedies, those of us in government," said Bobb.

Bobb said that "many of these criminals, once they are released, wreak havoc again and again . . . we can try rehabilitation on some if we must.

"But with the most hardened violent criminals who have demonstrated no compassion for human life and no concern for the laws of the commonwealth, the prison doors must be shut on parole."

FOOTING THE BILL

Gov. George Allen proposes several ways to offset the costs of his plan to abolish parole and lengthen prison sentences for violent criminals.

* Two-for-one

"Double-bunking" or "double-celling" 2,100 inmates, reducing need for three new prisons at a saving of about $150 million.

* Inmate labor

Use inmates to build prisons.

* Prefab work camps

Build minimum security camps for about $20,000 per inmate -- rather than the average $69,000 per inmate for maximum security prisons.

* Prison alternatives

Expand use of prison alternatives for "appropriate offenders."

(ldb)

---- Index References ----

News Subject: (Crime (1CR87); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Criminal Law (1CR79); Prisons (1PR87))

Region: (USA (1US73); Americas (1AM92); Virginia (1VI57); North America (1NO39))

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Bobb; Expand; George Allen; Gov; Hunter B. Andrews; Inmate; Julie McConnell; Khalfani; McConnell; Paul Timmreck; Prefab; Prison; QUICK; Robert Ball; Robert C. Bobb; Salim Khalfani; Sentencing Reform; William Barr)

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Daily Press

August 24, 1994

Section: State

ALLEN TOUTS PLANS FOR NO PAROLE
GIVES GENERAL ASSEMBLY DEADLINE TO TAKE ACTION

BOB EVANS and DAVID LERMAN Daily Press

Gov. George Allen kicked off a public relations blitz for his no-parole plan Tuesday, warning the Democratic-controlled General Assembly to take action by Sept. 30 or face public ire.

At the final meeting of Allen's commission on parole abolition, the Republican governor sought to beat back possible stall tactics or Democratic-backed alternatives during the legislature's special session next month to consider his plan.

"The eyes of Virginia, the people of Virginia, will be on the General Assembly," he said. "They need to understand there's folks watching. Victims are watching. The law-abiding citizens of Virginia are watching."

Allen said he would not give legislators a copy of his full proposal, and its costs, until next week. Still, he said, there would be no excuse for legislators not to vote on his $850 million plan by Sept. 30.

Hoping to place public pressure on the legislature to meet that deadline, Allen today will launch a three-day tour of the state to tout his proposal, including a stop Friday in Virginia Beach.

And tonight, Allen will appear on Cable News Network's "Larry King Live" to debate his plan with a criminal defense attorney.

Allen's pledge to abolish parole was the centerpiece of his election campaign. Democratic legislative leaders have already indicated he is likely to get much of what he wants.

Del. James Almand, D-Arlington, who heads up the legislative panel studying alternatives, said he expected the Allen proposal to be the framework for any legislative action.

Almand said he is sure the legislators will agree with Allen to increase sentences for violent offenders, maintain punishments for non-violent offenders, and alter the parole system. But the legislators might not agree to go as far as Allen's commission, which calls for abolishing parole entirely for new offenders and increasing sentences for violent offenders by as much as seven times what is served now.

Almand says his panel is considering ways to dramatically increase the time violent offenders will actually serve in prison without losing the discretion a parole board has to keep the most violent and dangerous criminals behind bars longer than even Allen's plan.

Similarly, he said, the legislature would be looking hard at the costs of the Allen plan.

At the Allen commission's meeting Tuesday, State Secretary of Finance Paul Timmreck revealed some more of the details of the costs of the no-parole plan, which he said are still subject to revision.

Timmreck said that in addition to the six new prisons the General Assembly plans to open in 1996 and 1997, and even with more double-bunking, there will still be a shortfall of 10,278 beds by 1999 and 22,328 beds by 2005. The prison system now has room for 19,500 inmates, about 1,800 beds short of current needs.

Meeting the future shortfall comes with a price tag: an additional $385.4 million for construction and $185 million a year for additional operations costs, Timmreck said.

For their part, members of Allen's commission used their final meeting to highlight the crime problem and respond to some of the skepticism Allen's plan has already generated.

"We are going to see a bloodbath in this state unless we act decisively now," warned William Barr, a former U.S. attorney general and co-chairman of Allen's commission.

"Even if the cost of this were substantially higher," Barr said, "government has a moral obligation to pay that price" to protect public safety.

Barr and others said much of the criticism over the cost of the plan overlooks the fact that the state would need to build almost as many new prisons anyway, even if no parole reforms were enacted. They cited a burgeoning increase in the crime-prone population of 15- to 24-year-olds during the rest of the decade.

Even without Allen's plan, they noted, the number of inmates is expected to more than double by 2005.

---- Index References ----

Company: TIME WARNER INC

News Subject: (Legal (1LE33); Judicial (1JU36); Prisons (1PR87))

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Document: REPORT: PAROLE PLAN COULD HAVE PREVENTED 4,400…

REPORT: PAROLE PLAN COULD HAVE PREVENTED 4,400 FELONIES

The Roanoke Times (Virginia)

August 20, 1994, SATURDAY,, METRO EDITION

Section: VIRGINIA,

Length: 575 words

Byline: MARGARET EDDS STAFF WRITER

Dateline: RICHMOND

Body

At least 4,400 felonies - including 78 homicides, 151 rapes and 399 robberies - could have been averted if the Allen administration's plan to lock up criminals longer had been in effect between 1986 and 1993, state officials claimed Friday.

If those numbers are adjusted to reflect the gap between actual convictions and crimes reported to police, that means almost 120,000 felonies could be prevented and $ 2.7 billion in related costs saved in the next decade with Allen's plan, they said.

Some Democrats responded cautiously to the forecast, but a co-chairman of Allen's parole commission said the numbers should convince doubters that it is time to act.

''These are real cases … an analysis of real life in Virginia,'' said former U.S. Attorney Richard Cullen of Richmond at a news conference called to release the data. ''Every day we wait, we are sacrificing Virginians.

''Anyone on the fence that sees this report is going to quickly jump off the fence,'' he said.

The data, prepared by the state's Criminal Justice Research Center, became a dramatic addition to the pending debate over parole and sentencing reform.

Advocates said the numbers are persuasive, both because the research center staff is respected by the legislature and because the data reflect relatively conservative forecasting assumptions.

For instance, prison and court costs were omitted in figuring the financial impact and unreported crime was not considered in forecasting averted crime.

Allen has called a special session of the legislature for Sept.19 to consider abolishing parole and revamping sentencing. His commission, which will approve its final recommendations next week, advocates at least doubling the time served by violent criminals, and increasing it by up to 700 percent for repeat violent offenders.

To project the impact the changes would have on crime, the research center evaluated about 7,500 cases from 1986-1993 in which individuals who served time for a felony later were convicted of another felony.

Researchers concluded that 1,644 - or 60 percent - of the cases in which the second crime was violent could have been prevented if the Allen plan had been in effect. About 2,729 nonviolent crimes could have been averted, they said.

Overall, about 54 percent of the second-time felonies could have been prevented, the officials said.

Rick Kern, director of the research center, said the preventable convictions probably reflect from 5 percent to 10 percent of total felony convictions during the period.

But he said he knows of no other single program - preventive or otherwise - that could have so dramatic an effect on crime in so short a time.

What the data show, said Kern, is that ''a small core of offenders are responsible for a great many crimes.''

Legislators and lobbyists who have been skeptical of the Allen plan said they could not address the numbers without more time for analysis.

But one critic, state Sen. Joseph Gartlan, D-Alexandria, said the approach is consistent with a controversial concept advocated by former U.S. Attorney General **William Barr**.

Barr, the co-chairman of Allen's parole commission, long has supported the idea that keeping a relatively small group of offenders behind bars for lengthy periods could have dramatic impact on reducing crime and its related costs.

''That theory has been roundly criticized and challenged around the country,'' Gartlan said.

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Roanoke Times (VA)

August 18, 1994

Section: EDITORIAL

CRIME BILL WON'T REDUCE CRIME

AFTER reading your Aug. 14 editorial ("Defeats for the country") concerning the crime bill and how our representatives voted, I'd like to offer a few comments.

Let's inform readers about a few "goodies" in the so-called crime bill. It proposes the following: $100 million to increase young criminals' self-esteem; more than $150 million for arts and crafts programs; $50 million for sports programs, such as midnight basketball; and more than $250 million for job-training programs, despite the fact that America already has 75 such federally funded programs.

I wonder how many readers realize that, compared to 30 years ago, we're actually sending fewer criminals to jail per crime committed. In 1960, 738 criminals went to prison for every 1,000 violent crimes. By 1980, it had dropped to 227 for every 1,000 violent crimes. During this period, the nation's crime rate tripled! Yet our president, liberal congressmen and this newspaper would have us believe that the National Rifle Association and the gun lobby are to blame for our crime problems

They want us to believe that banning guns, and throwing good money after bad on more failed social programs, are the ways to cut crime.

The only way to reduce crime is to incarcerate criminals. Yes, it will cost a great deal of money to build more prisons, but it will be money well spent. According to William Barr, co-chairman of Gov. Allen's committee on the abolition of parole and sentence reform, the typical repeat violent offender on the streets costs society more than $400,000 per year, compared with $20,000 to $25,000 for incarceration.

There is tremendous pressure on our representatives to pass the crime bill. I hope they'll stand firm in their opposition to this terrible waste of our money.

PAUL BISBEE BEDFORD

Lawyer takes the biggest bite

IN THE Aug. 9 news article about the settlement in the vicious dog attack ("Roanoke girl to get $250 per month plus $4,000 for injuries after dog bite"), it was stated that "the settlement requires Henegar to pay $20,000 - $16,000 of which will go to Candice's attorney, Richard Lawrence."

Perhaps the court needs to re-establish which one was the vicious dog in this case, the Samoyed that was ordered destroyed or the attorney.

NELSON E. LEFTWICH JR. BEDFORD

Yet to come is the best nonfeasance

I'M FASCINATED by your July 30 editorial, "Public vs. private interests," wherein you so accurately conclude, "To allow growth to occur now in a way that would haunt the tax-paying public later would be nonfeasance." I certainly am looking forward to sequel editorials with this perspective also holding the federal government to such responsibility! I can visualize these provocative headlines:

"Clinton's budget unbalanced - guilty of nonfeasance."

"Federal pensions unfunded - it's nonfeasance."

"Health-care mandates judged nonfeasance."

"Welfare-reform plan clearly nonfeasance."

"Social Security benefit exceeds premium - it's nonfeasance."

Surely, in the future, you'll not hold county officials to standards higher than that of federal elected officials.

WILLIAM R. COWEN RADFORD

Sentiment brews for new tea party

DISREGARDING critics' pleas who say the project is too costly and of dubious scientific value, the U.S. Senate on Aug. 3 approved a $2.1 billion expenditure in fiscal year 1995 for continuing the development of a space station for orbiting the earth by the year 2002. Since the measure was favored by the Clinton administration, as well as the National Aeronautics and Space Administration, Virginia Sen. Charles Robb supported the bill, just as he has most other expenditures favored by the administration.

Most Americans cannot comprehend $2.1 billion. However, it's as if one spent in excess of $2,885 each day since the birth of Jesus Christ.

Americans will always right a wrong. Unfortunately, they're most often slow in doing so. Someday - soon, I hope - they're going to realize the tremendous damage that's been done to our country by big-spending politicians since the end of World War II. When that happens, we're going to have another Boston Tea Party - but this time in Washington, D.C.

In the meantime, Virginians can take a major step in November toward returning some semblance of sanity to the federal government by sending Robb home to pack. He's yet to see a spending bill with which he does not concur, or a tax increase!

CLAUDE E. STEWART JR. VINTON

---- Index References ----

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1994 WLNR 991318

Richmond Times Dispatch (VA)

August 17, 1994

Section: Area/State

PAROLE PROPOSAL CLEARS FIRST HURDLE SENTENCING REFORM OFFERS NO GUARANTEES

FRANK GREEN Times-Dispatch Staff Writer

No assurances were offered yesterday that a nearly $1 billion prison-building and sentencing reform proposal would keep Virginia's crime rate from rising, much less, as Gov. George Allen has promised, "stop the bleeding."

But its proponents believe the sweeping plan, if adopted, will reduce a large rise in crime predicted for the next decade and restore public confidence in the criminal justice system by establishing truth in sentencing.

In any case, it appears the reluctance of the Allen parole board to free inmates could make the governor's "Proposal X" cheaper in the long run than no change at all.

A subcommittee of the Governor's Commission on Parole Abolition and Sentencing Reform adopted the plan outlined yesterday. If approved by the full commission next Tuesday, it may be considered next month in a special session of the General Assembly and possibly go into effect on Jan. 1.

In a nutshell, the plan would end parole, increase the actual terms served by violent criminals by as much as sevenfold, keep the terms now served by nonviolent offenders the same and require inmates to serve at least 85 percent of the sentence imposed.

Current inmates remain eligible for parole. But while there would be no parole for future inmates, they would get a period of probation after release ranging from six months to three years added to their sentence.

"This is a huge step in the right direction toward bringing truth to sentencing in Virginia" where many criminals serve a fraction of their terms, said state Sen. Kenneth W. Stolle, R-Virginia Beach, chairman of the subcommittee.

Richard Cullen, a former U.S. attorney for the Eastern District of Virginia and the commission's co-chairman, said that state officials will soon be able to show how many lives will be saved and crimes prevented by the plan. "The impact is going to be tremendous," he said.

But Sen. Edward M. Holland, D-Arlington, who supports the plan, was less certain of its effect. "It's my view that we're getting ready to promise something that I hope to the Lord that we can deliver," he said.

The voluntary sentencing guidelines called for in the plan are based on historical data on the length of time criminals now serve for various crimes -- not sentences that can be reduced as much as four/fifths as they can be now.

Virginia's prisons now hold roughly 20,000 inmates, half of them for violent and half for nonviolent crimes. By focusing on violent offenders, Proposal X would shift their ratio behind bars to 60 percent to 70 percent.

A new wrinkle in the plan involves consideration of clemency for exemplary geriatric prisoners who are no longer a threat.

"Good-time" sentence reductions, which now amount to 300 days per year of good behavior off the average inmate's sentence, would be called "limited earned sentence credits" and be limited to a maximum of 15 percent off a total sentence.

The plan would need $800 to $850 million for prison construction to accommodate an estimated 52,000 inmates by April of 2005, with $600 million of that required even if Proposal X were not adopted, according to John Mahone, deputy secretary of finance.

Operating costs for the prison system five years from now also would rise an additional $160 million under the proposal, he said. But much of the operational costs would be incurred even without Proposal X.

Proposal X would require nearly 3,000 more prison beds by April 2005 than a system that was not changed and kept the traditional parole grant rate of more than 40 percent, Richard Kern, of the Criminal Justice Research Center, said.

But the parole board appointed by Allen in April has predicted a grant rate averaging just 15 percent a year, though it cut the grant rate to between 5 percent and 6 percent last month, and to 10 percent the month before.

If Proposal X is not made law and the 15 percent grant rate retained, the state will actually have to pay for an additional 2,658 prison beds by April 2005 because there will be far more nonviolent offenders in prison than violent ones, said Kern.

The plan's effects will be more pronounced during its second decade than its first. By the year 2014, it is estimated it would require an additional 7,900 prison beds over a system that kept a 40 percent grant rate.

Part of the impetus behind the effort is demographic data showing an upcoming boom in the size of the state's crime-prone age group of teens and young adults.

In the last decade, as the size of the violence-prone age group decreased, the violent crime it committed increased -- boding ill for the future.

"Beginning in 1996, the population of young people between the ages of 15 and 24 in Virginia is projected to rise, and rise continuously until approximately 2005," Stolle said yesterday.

Stolle said "this expected rise in crime will create significant additional demand for prison bed space even without reforms to increase the length of time violent criminals stay behind bars."

William Barr, a former U.S. attorney general and also a commission member, noted there is a current debate on whether government resources are best used for prevention rather than punishment.

"I think this proposal, while it's punishment, it's also the most effective form of prevention. The most effective prevention of rape is to take the rapist and lock him up for 12 years instead of for four," said Barr.

After yesterday's meeting Cullen said, "I'm not here to say that there won't be an increase in the crime rate."

But he warned that "we are on the verge of having a forest fire and the winds are beginning to start to howl and we have to do something about it now."

"What I'm here to say is we will certainly reduce what that increase will be, substantially, by doing what we're doing," he said.

Stafford County Commonwealth's Attorney Daniel M. Chichester said "the great irony of this legislation is that the beneficiaries . . . will never know that they're beneficiaries because they will never be victims of crime."

CHART; PHOTO

(ljc)

---- Index References ----

News Subject: (Crime (1CR87); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Criminal Law (1CR79); Prisons (1PR87))

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NewsRoom

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Richmond Times Dispatch (VA)

August 17, 1994

Section: Area/State

PAROLE PROPOSAL CLEARS FIRST HURDLE LONG TERMS NOT CERTAIN TO CUT CRIME

BOB EVANS Newport News Daily Press

Gov. George Allen's plan to abolish parole and increase prison terms probably won't do much to stop bloodshed from violent crime, according to judges and criminologists from states where similar tactics have been tried.

More imprisonment, even by targeting violent offenders, doesn't always lead to less crime, they say.

Parole abolition and sentencing guidelines for judges can reduce racial bias and geographical disparities in sentencing, these experts say. Such measures also can help states better predict how many prison beds will be needed and can increase public confidence in the justice system.

But those steps have their costs, these and other experts say. Virginians will have to pay millions of dollars to build new prisons. And without a parole board, the state loses its discretion to make individualized judgments about who to keep behind bars longer.

Gov. George Allen's Commission on Parole Abolition and Sentencing Reform announced the basics of an $850 million crime-fighting plan yesterday. It calls for elimination of discretionary parole for new offenders, increasing the actual time served for violent criminals by between 100 percent and 700 percent, and continued use of statewide sentencing guidelines by judges.

The co-chairmen of the Allen commission, former U.S. Attorney General William P. Barr and former U.S. Attorney Richard Cullen, say their no-parole, truth-in-sentencing approach is similar to the one enacted for the federal judicial system during the Reagan and Bush administrations.

Coupled with longer sentences for violent criminals, this strategy can deter crime, Barr and Cullen say. Because of this, state court prosecutors in Virginia and elsewhere often look for ways to take cases to federal courts instead of state courts, they say.

But Timothy Matthews, staff director of the American Probation and Parole Association, disagreed. "If you want to see an example of a screwed-up system, look at the federal government," says Matthews, whose group helps set standards and provides training for probation and parole officers nationwide.

Critics of federal crime policy say the best place to see the federal system at work is Washington, D.C., where the prosecutors and courts adhere to the federal system alone. In most states, the vast majority of criminal cases is brought in state courts.

Washington, D.C., led the nation in incarceration in 1992, with 1.3 percent of its population in prison. The district also led the nation in violent and nonviolent crime that year, according to the FBI.

The federal government and Washington aren't unique, Matthews and others say.

Louisiana in 1992 had the highest incarceration rate of any state, 478 per 100,000 residents. It also ranked sixth in the nation in total crime that year. South Carolina had the second-highest incarceration rate that year and the sixth-highest violent crime rate.

Barr said Tuesday that the reason those states failed to stem crime with incarceration is because they didn't select the violent offenders for dramatically longer sentences like the Allen commission has proposed. Instead, he said, those states simply increased the sentences of all criminals.

But in 1984, the state of Washington undertook reforms very similar to the steps Allen, Cullen and Barr are calling for. Discretionary parole for new offenders was abolished, judges used guidelines for sentencing, and actual prison time for violent offenders increased by 50 percent.

During the past 10 years under this system Washington state has increased some penalties even further, but it has seen no reduction in overall crime. The violent crime rate has increased 43 percent during the same period, more than the national average.

Barr said he was not familiar with Washington state's record. He said it is obvious that locking up a violent criminal longer will keep that person from committing a new crime, and therefore will at least reduce the crime rate compared with what it would be if that person was loose on the streets.

But locking more people up for longer periods simply has a minimal effect on crime, the bipartisan National Academy of Sciences concluded after studying crime statistics from 1960 to 1982. It concluded in the mid-1980s that doubling the nation's 1982 prison population might at best result in a 10 percent to 20 percent drop in crime.

Since 1982 the nation's incarceration rate has more than doubled while violent crime increased 32 percent by 1992, according to the FBI. Total crime, violent and nonviolent, has gone up and down but remains about the same.

"We've been building and building and building more prison beds for years and we don't feel safer," says lawyer Daniel P. Santos, legal counsel to the governor of Oregon. "If we build more prisons will we feel safer then? Probably not. The question then is: What do we do next?"

Oregon abolished discretionary parole in 1989 and increased sentences for violent offenders by 41 percent. Violent crime has not declined.

Social science journals abound with articles by criminologists who say harsher punishments don't decrease crime because the roots of crime grow from social factors such as unemployment and education. So few crimes are solved -- usually less than 30 percent -- that there could be little or no effect on crime rates anyway, they say.

They add that the "common sense" view espoused by Allen and Barr -- that punishment deters crime -- doesn't hold true because crooks usually act on impulse, under the influence of drugs or the belief they won't get caught.

There is even less reason to believe that eliminating parole curbs crime, say more than a dozen judges, prosecutors and criminologists interviewed in recent months.

Aggravated assaults are the most common violent crimes, according to FBI statistics. Paul Lipscomb, a Circuit Court judge in Oregon, says the typical aggravated assault involves someone who gets drunk.

"If they're drunk and they're in a fight, they're not going to think 'I'm going to get 15 years' or whatever, much less when they'll be eligible for parole," Lipscomb says.

Policy-makers tend to assume everyone thinks just like them -- in a rational, well-thought-out manner, Lipscomb says. But an unemployed, high-school dropout with a transient lifestyle and few close friends or family members has a different outlook on life.

"There are a lot fewer social disincentives operating on them to keep them on the straight and narrow," he says. "You and I have a lot more to lose."

Only 13 states and the federal government do not have discretionary parole for newly convicted felons, according to the Association of Paroling Authorities International. Instead, most states have responded to criticisms of parole by restricting their parole board's authority, eliminating mandatory parole or increasing the time an inmate must serve before becoming eligible for parole, says M. Kay Harris, associate professor of criminal justice at Temple University in Philadelphia.

But the publicity that comes from taking a strong step such as abolishing parole is too intoxicating for many politicians to resist, she says.

North Carolina, for example, abolished discretionary parole, brought it back to handle overcrowding, and this year will abolish it again. All within 15 years.

Calls to ban parole usually come after a board guesses wrong about who will do evil upon release, says Matthews of the parole and probation association.

Many states that banned parole in the 1980s filled their prisons to the point that courts ordered them to release inmates, he says. Without a parole process, those states were forced to set criminals free without any individualized review of who is more or less likely to kill someone, he says.

"He can be the baddest guy in the prison, and when his time is up, his time is up," Matthews says.

David L. Fallen, executive director of the Washington State Sentencing Commission, says when his state and others eliminated parole and established sentencing guidelines 20 to 25 years ago, they were responding to problems such as public criticism of parole boards and judges, racial and geographic bias in sentencing, and overcrowded prisons.

He and others from states that have adopted this approach say states are more able to predict and plan for future prison populations because it removes the uncertainties of unrestrained discretion for judges and parole boards.

But they caution that states need to go beyond the simplistic approach of locking up more and more people and get to the causes of crime, because each year a new group of criminals comes of age.

"Everybody's looking for a quick, magic bullet," says James Ellis, a Circuit Court judge in Portland, Ore., for the past 25 years. "We should be looking at teen-age pregnancy. That's the major producer of our business here. Teen mothers usually don't raise good citizens."

ALLEN PLAN

Gov. George's Allen's commission on parole abolition and sentencing reform released an $850 million, nine-point program yesterday:

Abolish all parole

Effective Jan. 1, 1995

Truth-in-sentencing

Revise and expand sentencing guidelines to reflect actual time served in prison

Increase sentences

100 percent for violent, first-time offenders

Increase sentences

300 percent to 700 percent for violent offenders with prior violent convictions

Increase sentences

300 percent to 500 percent for nonviolent offenders with prior violent convictions; special clemency/release program for older inmates

New sentencing commission

Will recommend changes in sentencing guidelines

Retain jury sentencing

Limit "good time"

Not to exceed 15 percent of overall sentence

Probation

Continue probation for up to three years after release

(ljc) ANALYSIS; (Editor's note: This report will be followed in September by a five part-series on crime, parole and prisons in Virginia. That project is a combined effort of The Associated Press, the Daily Press in Newport News, the Richmond Times-Dispatch, The Roanoke Times and World-News and the Virginian-Pilot of Norfolk.)

---- Index References ----

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The Washington Post

ALLEN OFFERS PLAN TO ABOLISH PAROLE

By Peter Baker
August 17, 1994

RICHMOND, AUG. 16 -- Virginia Gov. George Allen's administration produced an $850 million crime plan today that would abolish parole, increase sentences for violent criminals by as much as 700 percent and require the construction of dozens of new prisons in the next decade.

The throw-away-the-key proposal responds to a rising fear of crime and takes a decidedly more conservative approach than the federal legislation President Clinton hopes to rescue in Congress this week.

If passed, the Allen proposal would put a tremendous strain on an already overburdened state budget and prison system. The plan, elements of which have been tried with mixed success in other states, does not address how Virginia should pay for such massive construction or how a burgeoning inmate population should be handled in the meantime.

Seven months in the making, the Allen parole proposal is intended to be the centerpiece crimefighting initiative and the lasting legacy of the Republican governor's administration. Allen has called for a special session of the General Assembly beginning Sept. 19 to "stop the bleeding," as he puts it.

"We are on the verge of having a forest fire and the winds are starting to howl, and we have to do something about it now," said Richard Cullen, a former federal prosecutor and co-chairman of the administration panel that generated the plan.

Allen's plan has the virtue of public appeal, according to polls in which Virginians endorsed abolishing parole, but some critics consider it an emotional reflex that would do far less to combat crime than advertised.

"It's just not a sensible thing," said Paul Keve, professor emeritus of justice administration at Virginia Commonwealth University. "We'll pay and pay and pay. We ought to be willing to pay a lot to reduce and control crime, but this just won't do it. It's the wrong approach."

Virginia is heading down a path already taken by the federal government and more than a dozen states that have eliminated parole. In most of those cases, prisoners are serving substantially more time behind bars, and law enforcement officials consider their new system

more honest because the time sentenced more closely matches the time served. However, ending parole has had little discernible effect on crime rates, and some states have found it so costly and unwieldy that they have had to release inmates or reestablish parole.

Allen aides pledged to avoid other states' mistakes and said today that they will present a financing plan soon. In addition to the prison construction costs, operating expenses are projected to increase by $370 million a year by 2005, almost doubling the state's corrections budget.

Unlike the federal crime bill being debated in Washington, the Allen plan contains no prevention programs. William P. Barr, an attorney general under President Bush and the other co-chairman of Allen's commission, made no apologies for that. "The most effective method of prevention is to take the rapist off the street for 12 years instead of four," he said.

Under Virginia's current system, the sentence handed down by a judge often has little bearing on how long a criminal actually will be locked up. With credit for good behavior and parole, inmates can get out of prison after serving as little as one-sixth of their sentences. A life sentence can mean release after 12 years. The Allen plan would eliminate parole and allow no more than 15 percent of an inmate's sentence to be reduced based on exemplary conduct. New voluntary sentencing guidelines would be determined according to how much time prisoners actually are serving now.

Nonviolent offenders -- who now make up about half of the 23,000 men and women behind bars in the state -- would spend the same amount of time incarcerated, but officials are planning to steer many of them to 10 proposed work camps.

But sentences for violent criminals would jump dramatically. Those convicted of a violent crime for the first time would spend twice as much time behind bars. Those with prior records would remain in custody for three to seven times as long. The typical second-degree murderer, for example, now spends about five years behind bars after parole and good behavior are considered, but that would increase to 10 years under the Allen plan. A convict with an especially violent criminal record would be sent away for 39 years, with no possibility of parole. The new rules would apply to all crimes committed after Jan. 1.

"The great irony of this proposal is that if it passes undiluted, the great beneficiaries of this will never know they're beneficiaries because they'll never be victims of crime," said Daniel M. Chichester, commonwealth's attorney in Stafford County. Whether it passes undiluted, though, remains an open question.

Since Allen romped to his landslide victory last year, partly by promising to abolish parole, Democratic legislative leaders have been reluctant to stand in his way, and, if anything, they

have rushed to put forward their own tough-on-crime plans to preempt him. The parole issue places them in an especially uncomfortable position. As much as some Democrats doubt the wisdom of Allen's plan, they do not want to give Republicans ammunition to paint them as soft on crime in the crucial 1995 midterm legislative elections. So far, any public criticism has focused not on the concept but on mechanics, such as the cost. "Certainly crime is on the front of everybody's minds, and even the Democrats have been moving to be tougher on crime," said Del. Linda T. "Toddy" Puller (D-Mount Vernon). "It'll be hard to vote against it if it has a funding formula."

As a possible foil, the legislature has its own parole commission studying ways to revamp the system. But it seems likely that money will be the real battleground come September.

But Allen aides said the plan would not be as expensive as many predict, adding that costs could be minimized by opening the work camps and housing more inmates in each cell.

A plan offered by Gov. George Allen's administration proposes to end parole and increase the actual time served in prison for various criminal offenses. Below is a look at three offenses and what the current average time served is compared to what the proposal would do.

..... No prior ..... Prior violent

..... Violent ..... convictions*

..... offense**.....

ARMED ROBBERY

Current average time served in

years; averages from 1988-92 data .... 2.7..... 5.4

Proposed average time to be

served, in years ..... 4.1 ..... 21.6

RAPE

Current average time served in

years; averages from 1988-92 data .... 5.6 ..... 11.2

Proposed average time to be

served, in years ..... 6.7 ..... 44.8

FIRST-DEGREE MURDER

Current average time served in

years; averages from 1988-92 data ... 12.4 ..... 24.8

Proposed average time to be

served, in years ..... 14.7 ..... LIFE

*Basic case

**Includes a conviction or "juvenile adjudication" for a crime

with a "statutory maximum penalty of 40 years or more."

SOURCE: Governor's Commission on Parole Abolition and Sentencing Reform

Document: SOME EXPERTS DOUBT CHANGE WILL CUT CRIME; THE...

SOME EXPERTS DOUBT CHANGE WILL CUT CRIME; THEY QUESTION THE EFFECTIVENESS AND COST OF ALLEN'S SENTENCING REFORMS.

The Virginian-Pilot (Norfolk)

August 17, 1994, Wednesday,, FINAL EDITION

Section: FRONT,

Length: 1107 words

Byline: BOB EVANS, NEWPORT NEWS DAILY PRESS

Body

Gov. George F. Allen's plan to abolish parole and increase prison terms probably won't do much to stop bloodshed from violent crime, according to judges and criminologists from states where similar tactics have been tried.

More imprisonment, even by targeting violent offenders, doesn't always lead to less crime, they say.

Parole abolition and sentencing guidelines for judges can reduce racial bias and geographical disparities in sentencing, these experts say. Such measures also can help states better predict how many prison beds will be needed and can increase public confidence in the justice system.

But those steps have their costs, these and other experts say. Virginians will have to pay millions of dollars to build new prisons. And without a parole board, the state loses its discretion to make individualized judgments about whom to keep behind bars longer.

On Tuesday, Allen's Commissionon Parole Abolition and Sentencing Reform announced the basics of a crime-fighting plan that includes about $ 850 million for new prisons. The cost is about $ 250 million more than the state already had planned to spend on new prisons. The proposal calls for eliminating discretionary parole for new offenders, increasing the actual time violent criminals serve by 100 percent to 700 percent, and continuing the use of statewide sentencing guidelines by judges.

The panel's co-chairmen, former U.S. Attorney General **William P. Barr** and former federal prosecutor Richard Cullen, say their no-parole, truth-in-sentencing approach is similar to federal reforms under Presidents Ronald Reagan and George Bush.

Coupled with longer sentences for violent criminals, the strategy can deter crime, Barr and Cullen say. Because of the disparity between state and federal sentencing guidelines, state court prosecutors in Virginia and elsewhere often look for ways to take cases to federal courts instead of state courts, they say.

But Timothy Matthews, staff director of the American Probation and Parole Association, disagreed. ''If you want to see an example of a screwed-up system, look at the federal government,'' said Matthews.

Critics of federal crime policy say the best place to see the federal system at work is Washington, where prosecutors and courts adhere to the federal system alone. In most states, the vast majority of criminal cases are brought in state courts.

Washington led the nation in incarceration in 1992, with 1.3 percent of its population in prison. The district also led the nation in violent and nonviolent crime that year, according to the FBI.

The federal government and Washington aren't unique, Matthews and others say.

Louisiana in 1992 had the highest incarceration rate of any state, 478 per 100,000 residents. It also ranked sixth nationally in total crime that year. South Carolina had the second-highest incarceration rate that year and the sixth-highest violent-crime rate.

Barr said Tuesday that those states failed to stem crime with incarceration because they didn't target violent offenders for dramatically longer sentences, as Allen's commission recommends. Instead, he said, those states simply increased the sentences of all criminals.

But in 1984, the state of Washington enacted reforms very similar to the steps Allen, Cullen and Barr advocate. Discretionary parole for new offenders was abolished, judges used sentencing guidelines, and actual prison time for violent offenders increased 50 percent.

In a decade under this system, Washington state has increased some penalties even further, but the overall crime rate has not declined. The violent-crime rate has increased 43 percent during that period, more than the national average.

Barr said he was not familiar with Washington state's record. He said it is obvious that confining violent criminals longer will keep them from committing new crimes and therefore will at least reduce the crime rate compared with what it would have been had the criminals remained free.

Locking more people up for longer periods has a minimal effect on crime, the bipartisan National Academy of Sciences concluded after studying crime statistics from 1960 to 1982. It concluded in the mid-1980s that doubling the nation's 1982 prison population might reduce the crime rate 10 percent to 20 percent at best.

Since 1982 the nation's incarceration rate has more than doubled, while violent crime had increased 32 percent by 1992, according to the FBI.

There is little reason to believe that eliminating parole curbs crime, say more than a dozen judges, prosecutors and criminologists interviewed in recent months.

Aggravated assaults are the most common violent crimes, according to FBI statistics. Paul Lipscomb, a Circuit Court judge in Oregon, said the typical aggravated assault involves someone who gets drunk.

''If they're drunk and they're in a fight, they're not going to think, 'I'm going to get 15 years' or whatever, much less when they'll be eligible for parole,'' Lipscomb said.

Policy-makers tend to assume everyone thinks just as they do - in a rational, deliberate manner, Lipscomb said. But an unemployed, high school dropout with a transient lifestyle and few close friends or family members has a different outlook on life.

''There are a lot fewer social disincentives operating on them to keep them on the straight and narrow,'' he said.

Only 13 states and the federal government do not have discretionary parole for newly convicted felons, according to the Association of Paroling Authorities International. Instead, most states have responded to criticisms of parole by restricting the authority of their parole boards, eliminating mandatory parole or increasing the time an inmate must serve before becoming eligible for parole, said M. Kay Harris, associate professor of criminal justice at Temple University in Philadelphia.

David L. Fallen, executive director of the Washington State Sentencing Commission, said that when his state and others eliminated parole and established sentencing guidelines 20 to 25 years ago, they were responding to problems such as public criticism of parole boards and judges, bias in sentencing, and overcrowded prisons.

He and others from states that have adopted this approach say states can better predict and plan for future prison populations because the guidelines remove the uncertainties of unrestrained discretion for judges and parole boards.

But they caution that states should go beyond the simplistic approach of locking up more people and get to the causes of crime, because each year a new group of criminals comes of age.

Classification

Language: ENGLISH

Subject: SENTENCING (92%); PAROLE (91%); PRISONS (91%); JUDGES (91%); SENTENCING GUIDELINES (91%); CORRECTIONS (90%); JAIL SENTENCING (90%); CRIME RATES (89%); US STATE GOVERNMENT (89%); PUBLIC PROSECUTORS (89%); US FEDERAL GOVERNMENT (86%); LAW ENFORCEMENT (78%); PROBATION (78%); CRIMINAL OFFENSES (78%); SPECIAL INVESTIGATIVE FORCES (78%); RANKINGS (76%); PUBLIC POLICY (74%); CRIME PREVENTION (73%); VIOLENT CRIME STATISTICS (73%); ATTORNEYS GENERAL (65%)

Person: RONALD REAGAN (59%); GEORGE W BUSH (59%)

Geographic: UNITED STATES (94%)

Load-Date: August 26, 1994

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 13, 2018 04:35:09 p.m. EST

Document: LONG SENTENCES, LOW COST;ALLEN REFORM PLAN'S P...

LONG SENTENCES, LOW COST; ALLEN REFORM PLAN'S PRICE: $ 300 MILLION

The Roanoke Times (Virginia)

August 17, 1994, WEDNESDAY,, METRO EDITION

Section: VIRGINIA,

Length: 922 words

Byline: MARGARET EDDS STAFF WRITER

Dateline: RICHMOND

Body

Violent criminals would spend at least twice and up to seven times as long behind bars under a sweeping overhaul of Virginia's prison sentencing practices proposed on Tuesday by the Allen administration.

The unexpectedly low cost - estimated at $ 250 million for new prisons over 10 years, plus up to $ 54 million in added annual operating costs - stunned critics. Some had predicted a price tag as high as $ 3 billion when Gov. George Allen advocated eliminating parole and overhauling sentencing during his campaign last fall.

The recommendations, contained in a subcommittee report to Allen's parole commission, include eliminating parole by Jan. 1 and requiring future prisoners to serve at least 85 percent of their sentences.

The report offers the clearest glimpse to date of a parole reform plan that is to be released in full next week and will be considered at a special legislative session in mid-September.

Allen has not yet said how he will fund the proposed changes, which come on the heels of substantial prison building in the 1990s. Even without the Allen plan, known as Proposal X, annual prison operating costs are projected to grow by $ 370 million and prison construction costs by at least $ 620 million over the next decade.

"Once these recommendations are enacted into law … Virginia's citizens will finally have a criminal justice system they can trust," said Sen. Kenneth Stolle, R-Virginia Beach, who headed the parole commission subcommittee that drafted the sentencing recommendations.

Former U.S. Attorney General **William Barr** and former federal prosecutor Richard Cullen, chairmen of the parole commission, predicted that Virginians will be much safer if the proposed changes are approved because a core group of violent criminals will be removed from society.

But some others were more cautious. "We're getting ready to promise something to the people of Virginia, and I hope to God that we deliver," countered Arlington Sen. Edward Holland, who represents the legislature's Democratic majority on the subcommittee.

Observers from the American Civil Liberties Union and the Democratic side of the legislature questioned whether Allen's plan can be accomplished at so relatively low a cost.

"It sounds awfully low to me. … I'm amazed. I'm very skeptical," said House Speaker Thomas Moss, D-Norfolk.

"I'm shocked they can do it for that amount of money," added Julie McConnell, associate director of the ACLU.

But members of the parole commission and their administrative staff said a sophisticated computer analysis has allowed them to project that Proposal X will add 3,000 inmates to the state system over the next decade.

Larger growth would come in the second decade. State officials said attempting to project the higher costs for the second decade would be a meaningless exercise. Demographic trends could change significantly, for instance, or crime might be reduced because of Proposal X and other developments, they said.

At the heart of the Allen plan is a revision of the voluntary guidelines used by judges in sentencing criminals. Current guidelines are based on the sentences historically given in Virginia. Under the change, the sentences would reflect the amount of time criminals are actually spending in prison - a much lower figure.

The result is that while some sentences may appear to decrease under the new guidelines, the lack of parole will mean that prisoners end up spending more time behind bars.

Judges still could depart from those guidelines, but they would have to explain why in writing. Juries, which impose about 6 percent of the sentences in criminal cases, would be affected only indirectly by the changes.

The plan, which would apply only to those criminals entering the system after Jan. 1, recommends that no penalty be less than the time currently served for a specific crime. But individuals convicted of violent crimes, or who have a violent crime in their history, would serve significantly longer sentences.

For instance, the average length of sentence for a Virginian convicted of first-degree murder from 1988 to 1992 was 40 years and five months. But the average time served was 12.4 years. Under Proposal X, the time served would double to 24.8 years, if the inmate had no prior record or other aggravating circumstance.

However, if the inmate had been convicted previously of a violent crime with a maximum penalty of less than 40 years, the time served would jump to 49.6 years. Currently, inmates in that category are serving an average of 14.1 years.

If the previous violent crime has a maximum penalty of more than 40 years, a murderer would be sentenced to life in prison under Proposal X. Inmates in that category now serve an average of 14.7 years.

The plan also calls for creating a new system of geriatric release and gubernatorial clemency, because a larger number of prisoners would be spending most of their lives in prison.

Cullen said he cannot promise the plan would reduce Virginia's crime rate, largely because the number of people 16 to 24 years old - a crime-prone population group - is due to begin growing next year.

But the crime rate will not increase as quickly as it would without Proposal X, Cullen said.

Critics lamented that the administration is not focusing more effort on crime prevention techniques.

"If you're just going to throw money at the back end, it's not going to solve the problem," said McConnell.

"Without prevention, it's just an endless cycle."

Graphic

PHOTO: AP. Former U.S. Attorney General **William Barr** (fifth from left) speaks during Tuesday's meeting. Graphic: Chart by AP: For the longer term. color.

Classification

Language: ENGLISH

Subject: PAROLE (91%); PRISONS (91%); SENTENCING (90%); CORRECTIONS (90%); JAIL SENTENCING (90%); PRISONERS (89%); LEGISLATIVE BODIES (88%); US REPUBLICAN PARTY (78%); CRIMINAL LAW (78%); TRENDS (78%); US STATE GOVERNMENT (78%); PUBLIC PROSECUTORS (78%); CONSTRUCTION COSTS (77%); POLITICAL PARTIES (75%); HUMAN RIGHTS ORGANIZATIONS (74%); POPULATION & DEMOGRAPHICS (72%)

Industry: CONSTRUCTION COSTS (77%); (67%); CONSTRUCTION (67%)

Geographic: VIRGINIA BEACH, VA, USA (73%); VIRGINIA, USA (94%); UNITED STATES (92%)

Load-Date: August 22, 1994

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AP Online

August 6, 1994

Section: Washington

The Measured Attorney Who'll Take Over the Whitewater Investigation

CONNIE CASS

WASHINGTON

Through a string of politically charged legal cases, Kenneth Starr has nurtured a reputation as a precise, cool-headed attorney and a fair-minded judge.

Starr assumed the lead in yet another high-profile case on Friday when a three-judge panel appointed him to take over the independent Whitewater probe.

Now in private practice, Starr was appointed a federal judge by President Reagan and was President Bush's solicitor general the government's chief courtroom lawyer.

More recently he was selected by a federal judge to serve as an impartial arbiter of which portions of Sen. Bob Packwood's diaries were too personal to be turned over to the Senate Ethics Committee for its sexual harassment investigation of Packwood, R-Ore.

Former colleagues on the federal appeals court in Washington, liberals and conservatives alike, have praised Starr, 48. Known for his low-key, courtly style on the bench, he was seen as a moderate conservative whose views were not always predictable.

Chip Mellor, president of the conservative Institute for Justice, praised Starr as an excellent candidate "to clear the air."

"As solicitor, Starr bent over backwards to avoid partisanship, even to the point of incurring the wrath of some conservatives on more than one occasion," Mellor said, citing cases involving property rights and commercial speech.

In 1990, Attorney General Dick Thornburgh picked Starr to investigate accusations that Justice Department aides had leaked damaging information about a congressman to reporters. At the time, Thornburgh said Starr "in this town has universal respect for (his) integrity."

In a model of lawyerly precision, Starr upheld Thornburgh's power to exempt top aides from internal Justice Department discipline, without endorsing the attorney general's decision not to punish the aides involved.

Starr has argued more than two dozen cases before the Supreme Court, and was often cited as a candidate for the high court during the Bush administration.

Unlike Robert B. Fiske, whom Starr replaces as independent counsel, Starr has no experience as a courtroom prosecutor.

William Barr, who was attorney general during the Bush administration, described Starr as "an excellent lawyer, very fair minded, balanced."

"I think he will do a good job," Barr said.

At the age of 37, Starr was named to the U.S. Court of Appeals in Washington. One of his major opinions struck down an affirmative action hiring plan of the District of Columbia Fire Department. He also was known for protecting free speech rights.

When President Bush asked Starr to become solicitor general, Starr accepted, but expressed reluctance at leaving the bench. "I really loved being a judge on that court," he said at the time.

As solicitor general, Starr argued in favor of a federal ban on flag-burning, argued in favor of a Minnesota law requiring parental notification when a minor seeks and abortion, and argued for the state of Missouri in a right-to-die case.

Earlier this year, he helped General Motors' defend itself against lawsuits challenging the fuel tank design and safety of GM pickup trucks.

Starr was born in Vernon, Texas, the son of a minister. He received degrees from George Washington University and Brown before graduating from law school at Duke.

He clerked for Chief Justice Warren E. Burger from 1975-77 before joining the Washington office of the Los Angeles law firm Gibson, Dunn & Crutcher.

When a senior partner, William French Smith, was named attorney general under Reagan, Smith brought Starr to the Justice Department as his counselor, beginning his career in government.

---- Index References ----

Company: GENERAL MOTORS CORP

News Subject: (Judicial (1JU36); Legal (1LE33))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (ATTORNEY; DISTRICT OF COLUMBIA FIRE DEPARTMENT; GENERAL MOTORS; GEORGE WASHINGTON UNIVERSITY; GIBSON DUNN CRUTCHER; INSTITUTE FOR JUSTICE; JUSTICE DEPARTMENT; MEASURED ATTORNEY; MINNESOTA; SENATE ETHICS COMMITTEE; SUPREME COURT; US COURT OF APPEALS) (Barr; Bob Packwood; Brown; Bush; Chip Mellor; Dick Thornburgh; Kenneth Starr; Mellor; Reagan; Robert B. Fiske; Starr; Thornburgh; Warren E. Burger; William; William Barr)

Word Count: 720

End of Document

Document: Man in the News -- THE WHITEWATER INQUIRY: THE CO...

Man in the News -- THE WHITEWATER INQUIRY: THE COUNSEL; A Prosecutor Overnight -- Kenneth Winston Starr

The New York Times

August 6, 1994, Saturday, Late Edition - Final

Distribution: National Desk

Section: Section 1; ; Section 1; Page 8; Column 5; National Desk ; Column 5; ; Biography

Length: 909 words

Byline: Kenneth Winston Starr

By CATHERINE S. MANEGOLD,

By CATHERINE S. MANEGOLD, Special to The New York Times

Dateline: WASHINGTON, Aug. 5

Body

Few Democrats or Republicans who have worked with Kenneth W. Starr expressed any doubt today that he would be a fair and thoughtful prosecutor in the Whitewater case. But several voiced surprise at his selection because his new role is a decided departure in a distinguished career: his first time ever as a prosecutor at any level.

A respected Washington insider and several times a contender for a nomination to the Supreme Court under Republican Presidents, Mr. Starr carries a reputation as a soft-spoken, even-tempered professional whose work is marked by thoroughness.

The only cautionary notes sounded after the announcement by legal experts and former colleagues were that he was being asked to develop instincts almost instantly that some lawyers take years to refine and that his own political aspirations, though they never landed him in elected office, were bound to lend a partisan air to the investigation that was largely absent with his predecessor, Robert B. Fiske Jr.

Supporters of Mr. Starr, and they are many, say the former Solicitor General and Federal appeals court judge will be able to rise above both politics and his own inexperience to cast a balanced eye on a difficult inquiry. They also say he is likely to be comfortable in the inevitable glare of publicity with a personal style that is polite to the point of near blandness.

"He will be extremely thorough," said Alan Slobodin, the president of the legal studies division of the Washington Legal Foundation, a law and public policy group of which Mr. Starr is a member. "But it is not going to be a witch hunt."

Consistently described as judicious, balanced and fair-minded, Mr. Starr won accolades today from those who have worked both with and against him. "If I was going to be a subject of an investigation, I would rather have him investigate me than almost anyone I can think of," said Arthur B. Spitzer, the legal director of the American Civil Liberty Union's Washington office. "I don't have the feeling that he is a fervid prosecutor in the sense that he thinks that anyone accused of something must be guilty."

Decidedly Conservative

Though he has won a reputation as concertedly conservative, he wins the kind of praise rarely accorded those of pronounced ideology.

"There's a really small cast of people who have accumulated the kind of credentials he has," said Lincoln Caplan, author of "The 10th Justice," (Knopf, 1987) a book focusing on the office of Solicitor General. "Such people prove their reliability to the culture by transcending rank partisanship. He managed to be consistently conservative without being sharp-edged."

By the same token, Mr. Starr is not expected to back away from difficult areas of the investigation. Tex Lezar, a Republican candidate for lieutenant governor in Texas who has worked with both Mr. Fiske and Mr. Starr at different times, said that neither would "treat the President of the United States like a drug dealer with a long rap sheet" but that Mr. Starr, in particular, provided President Clinton's critics with "a pretty good guarantee" that there would not be a whitewash of any aspect of the President's former business dealings or the behavior of his staff.

In many ways, Kenneth Winston Starr was always on a course toward the pinnacles of power here. Born July 21, 1946, in Vernon, Tex., the son a Baptist minister, he rose smoothly and quickly through the ranks in a legal community that can be as bitter as it is big.

After receiving his B.A. from George Washington University, Mr. Starr moved north to complete a master's degree at Brown University and then south to study law at Duke. His first foray into the often-fused life of law and politics was as a clerk for Chief Justice Warren E. Burger from 1975 to 1981.

Loved Being a Judge

A decade ago, when he was 37, he was appointed by President Ronald Reagan to the Court of Appeals for the District of Columbia Circuit. When President Reagan asked him to leave the bench to work as the Solicitor General, he said he had agonized over the decision because he had come to love the job.

In the case of a Minnesota law requiring the notification of both parents of a minor seeking an abortion, Mr. Starr sided with the anti-abortion movement. His conservative stripes were on display again when he argued in favor of a ban against flag burning in the spring of 1990. But he usually managed to pull through those cases without drawing vitriol or contempt from the opposing side.

The Whitewater investigation will prove a hotter fire.

William P. Barr, who was Attorney General under President George Bush when the Justice Department first heard of Whitewater, and who worked with Mr. Starr throughout the 1980's, said he regretted Mr. Fiske's departure because he believed that at the very least it would lose time.

Mr. Starr, whose life barely hints at a single idiosyncrasy, dresses in the dark suits and mild ties that have long been the Washington uniform. His home life could be lifted from a 1950's pamphlet about the American family. He makes his home in McLean, Va., with his wife, Alice, and their three children, Randall Postley, Carolyn Marie and Cynthia Anne.

And his resume completes the picture of a solid citizen. Among the civic activities listed there are his membership in a nonprofit housing corporation, his work as a coach in the Little League and his role as a Sunday school teacher.

Classification

Language: ENGLISH

Subject: POLITICAL PARTIES (90%); PUBLIC PROSECUTORS (90%); US REPUBLICAN PARTY (89%); CONSERVATISM (89%); LAWYERS (89%); JUDGES (78%); US DEMOCRATIC PARTY (78%); POLITICAL CANDIDATES (78%); APPELLATE DECISIONS (77%); LAW COURTS & TRIBUNALS (76%); POLITICS (76%); PROFESSIONAL WORKERS (75%); APPEALS (73%); PUBLIC POLICY (73%); SUPREME COURTS (71%); APPEALS COURTS (71%); WRITERS (60%)

Company: SOLICITOR GENERAL&FEDERAL (59%); SOLICITOR GENERAL&FEDERAL (59%); WASHINGTON LEGAL FOUNDATION (54%); WASHINGTON LEGAL FOUNDATION (54%)

Organization: WASHINGTON LEGAL FOUNDATION (54%); WASHINGTON LEGAL FOUNDATION (54%); WASHINGTON LEGAL FOUNDATION (54%); WASHINGTON LEGAL FOUNDATION (54%)

Industry: LAWYERS (89%); WRITERS (60%)

Geographic: TEXAS, USA (79%); UNITED STATES (94%)

Load-Date: August 6, 1994

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:56:46 p.m. EST

7/21/94 Wash. Post (Wash., D.C.) C01
1994 WLNR 5488126

Washington Post, The (Washington, D.C.)

July 21, 1994

Section: Style

CLANDESTINATION: ARKANSAS; MENA IS A QUIET LITTLE PLACE. SO HOW DID IT BECOME THE CLOAK-AND-DAGGER CAPITAL OF AMERICA?

Howard Schneider

Mention the CIA around Mena, Ark., and the response is likely to be an exasperated sigh and a pep talk about the local economy.

It's not that the 5,475 residents of this mountain village have anything against spying per se. But after a decade of being placed at the center of a purported CIA-backed gun, drug and money-laundering conspiracy, they'd like to forget the 1980s and get back to the important things. Like last month's Lum 'n' Abner festival honoring two hometown radio stars.

Conspiracies, says Mayor Jerry Montgomery, are bad for business, and the residents of Mena are weary of hearing their home talked about like the root of all evil. They've seen their town on "Geraldo." It has been featured on Pat Robertson's "700 Club." And now it finds itself at the center of a new book that's become something of an underground classic. If all the stories are true, it's as if the town were founded by the CIA, funded by BCCI and maintained for the amusement of investigators and journalists.

"It's absurd," Montgomery said of the publicity Mena has received over the last 10 years as an alleged center of covert operations. "It's all going on strictly because of politics."

Though he is not sure whose politics.

"First it was the Reagan administration. Then the Bush administration. And now we're into the Clinton administration. I don't know whether it's Democrats versus Republicans or Republicans versus Democrats. ... It is utterly absurd."

Most recently, alleged dark deeds at Mena have helped foster the cult of conspiracy that has taken root among some of Clinton's more virulent opponents. From ugly speculation about the "real story" behind White House aide Vincent Foster's death to menacing videotapes being marketed by the Rev. Jerry Falwell linking Clinton to a series of deaths in Arkansas, the result has been a steady undercurrent of gossip in talk show, televangelist and other circles about supposed Faustian deals Clinton cut on his way to the top.

Is the president a murderer? A dope fiend? A stooge of the CIA? Were his campaigns enriched by money funneled through some secret BCCI pipeline to Arkansas?

It's all out there, and more, and in most cases the goings-on at the Mena airport figure at least peripherally into the equation.

Like any good conspiracy theory, the one surrounding Mena is a potent blend of fact and hypothesis, with enough of one to keep some people credulous, and enough of the other to render the big picture mostly unverifiable. Key people die. Others disappear. What is left in the end are fragments that mean everything to the believers and little to anyone else.

In the case of Mena, there are more than a few who have kept the faith.

The small town in western Arkansas has been the source of big-time speculation since the early 1980s, and not without some reason. According to investigative records compiled by the Arkansas State Police and other agencies, the Mena Intermountain Municipal Airport served as a second home for Barry Seal, a drug-smuggler-turned-undercover-agent.

Seal's presence at the airport beginning in the early 1980s led some local, state and federal investigators to try to figure out what he was doing there. The effort left several of those involved frustrated and convinced that someone higher in the government was running interference.

At the very least, according to court and investigative records, Seal's work for the Drug Enforcement Administration entailed his presenting to the outside world the image of a rambunctious high-tech pirate, while transferring cocaine and cash between Colombian cartel members and his government "handlers" in the United States. He helped the DEA penetrate the Colombian cocaine network and testified in high-level cases in Nevada and Miami -- until he was assassinated in 1986, a crime for which three Colombian nationals were convicted.

End of story?

Not according to Terry Reed, a former Little Rock businessman who claims it is only the beginning. In "Compromised: Clinton, Bush and the CIA," Reed writes that he was an intimate of Seal's, and says they were both at the center of an extensive, Arkansas-based CIA effort to train pilots for the Nicaraguan contra forces, manufacture and ship thousands of illegal weapons and parts to the contras, and help launder hundreds of millions of dollars in agency funds.

Co-written with John Cummings and published by a small New York firm that specializes in intelligence and conspiracy stories, it's a tale in which duffel bags of cash are dumped into the Arkansas night and funneled into the local bond market, businessmen conspire and feud to make thousands of M-16 automatic-weapons parts, and Oliver North and other Washington officials lurk in the background.

Then-Gov. Bill Clinton even has a cameo role or two, as do many of the people in his circle, including the Rose firm and former associate attorney general Webster Hubbell. In one memorable scene in the book, the future president pops into a meeting in an abandoned Army ammunition bunker to complain to North and future U.S. attorney general William P. Barr that he had taken great risks to accommodate the CIA's covert trade and didn't want it to end. According to the book, the state collected a 10 percent "commission" on all of the CIA's "black money," some of which allegedly was laundered through close Clinton ally and once prominent bond broker Daniel Lasater.

Far-fetched?

From Barr and North to Reed's social and business contacts in Little Rock, the people mentioned in the book have labeled it a work primarily of Reed's fancy.

"It's Oliver North meets Oliver Stone," said White House spokesman John Podesta. "It's 8:30 on a Friday night and I'm sitting in the White House and you're asking me if he {Clinton} was in a bunker with Oliver North. It's a bad joke."

Calling the various stated conspiracies "a cumulative distraction," Podesta added, "You can only state over and over again the outrage that it is."

Several others mentioned in the book have contacted lawyers about possible libel suits. One, J.V. Brotherton, has filed suit on behalf of himself and his manufacturing firm, which the book says was involved in the illegal weapons scheme.

Reed, a pilot who in the book and in follow-up interviews insists he trained contra fliers at a makeshift airfield and helped Seal drop cash onto a farm near Little Rock, says the truth will come out in court. His publisher also asserted the truth of the tale in its response to Brotherton's lawsuit.

"There was something going on there that the government desperately wanted to hide," said Reed's co-author, John Cummings. He noted that a trial has been slated for September in a civil action Reed brought against law enforcement officials who charged him with insurance fraud several years ago. A judge tossed out that case and Cummings predicted the new trial will show "who's lying and who isn't."

According to others around Arkansas, it is possible Reed may have been up to something during his days in Little Rock. The owner of one Arkansas machine tool company, for example, remembers Reed asking questions about how to manufacture an M-16 part. But at this point it is hardly clear what he was actually doing.

The book "is totally false, and crackpot," said Barr, who was described in it as using the code name "Robert Johnson" to conduct CIA business while in private practice. "I never have been in Arkansas. I have never met Clinton. I have never even met {former CIA director William} Casey, much less had a relationship" to represent him in meetings, as the book describes.

"The only thing that's wrong is it should be labeled fiction," said Lasater, a once-prominent bond broker whose cocaine indictment -- he pleaded guilty to conspiracy to possess cocaine for distribution -- is woven into the book as part of a CIA effort to damage Clinton. In nonpartisan style, the book contends President Bush was also deeply involved in the Arkansas program.

"The guy has got a real problem with the truth," said Wally Hall, sports editor of the Arkansas Democrat-Gazette, and a social acquaintance of Reed's. According to the book, he and his wife were dining with Hall and his wife at a Mexican restaurant in Little Rock one night when a Clinton aide summoned Reed to a van outside. There, according to the book, Clinton sat in a swivel chair smoking a marijuana cigarette and discussing CIA business. Hall said he never dined with Reed at that restaurant, or anywhere else where Clinton was present.

The Seal Connection

Whatever the ratio of fact to theory, the book has struck a minor nerve, playing off the sort of anything's-possible-in-Arkansas sentiments that have fueled some of the wilder notions about Clinton's Whitewater land deal and his rise to power. The 550-pager hit the bestseller list briefly in California, and has been one of the biggest hits, with 50,000 copies in print, for publisher SPI Inc. Reed says he has done more than 100 hours of local radio interviews and is negotiating for a book tour of the Wal-Mart chain.

One of the reasons for the interest, perhaps, is that the book combines enough verifiable facts with Reed's theorizing to keep the story rolling. Reed did work for several years in Little Rock, part of the time in a business with Hubbell's father-

in-law. Some of the key relationships described in the book did exist in some form, though the individuals involved say the book's interpretation of them is wildly inaccurate.

Barr, for example, once worked for the CIA as a lobbyist, but says he did no work for the agency after a stint on Capitol Hill in the 1970s.

The Iver Johnson arms company near Little Rock, which the book portrays as being at the center of the gun-manufacturing effort, did ship a load of weapons to Nicaragua through a Mexican distributor, according to former plant engineer J.A. Matejko. But Matejko, described in the book as part of the CIA plan, says the rifles were M-1s, not M-16s, and that the incident led the company to at least temporarily lose its export privileges.

Russellville, Ark.-based Park-O-Meter Inc., owned by Webb Hubbell's brother-in-law Seth "Skeeter" Ward Jr., did make some gun parts for Iver Johnson, another relationship characterized in the book as part of the CIA weapons scheme. But Ward said the parts were firing pins, not M-16 bolts as the book contends, and that it was casual business arranged by a company salesman, not, as the book describes, CIA work strong-armed out of the agency by Ward's father, Seth Ward Sr.

Reed "is a perfect example of someone who is a legend in their own mind," said the younger Ward, attributing the stir over Reed's book to "Clinton hype."

Finally, there is the enduring mystery of Seal, which lies at the core of the tale and makes almost anything seem possible. Seal was a garrulous smuggler who, facing a prison sentence in Florida in the mid-1980s, instead went undercover for the DEA, according to Robert Joura, the assistant special agent in charge of the agency's Houston office and the agent who coordinated Seal's undercover work. According to Joura and Arkansas State Police investigative records, Seal was based in Baton Rouge, La., but frequently visited Mena to have his planes, including a C-123 transport, serviced and modified for long-range flight.

Along with helping the DEA, Seal, according to Joura, was enlisted by the CIA for one sensitive mission -- providing photographic evidence that the Sandinista regime was letting Colombian cocaine move through Nicaragua. Joura said he and Seal met with two CIA agents to arrange for remote-controlled camera equipment and plan the trip.

North, now a candidate for the U.S. Senate from Virginia, said recently through a campaign aide that he was kept aware of Seal's mission through "intelligence sources." And ultimately the pictures Seal brought back helped build support for American military aid to the contras.

The pictures were later published, which compromised Seal's identity and ruined two other missions the DEA was planning, Joura said. Seal, said Joura, had purposefully placed himself in all the pictures as proof of his involvement. In 1986 he was gunned down outside a Salvation Army halfway house in Baton Rouge.

In yet another conspiracy-stoking morsel, the C-123 used by Seal was the same one later piloted by Eugene Hasenfus when he was shot down over Nicaragua while piloting illegal U.S. arms shipments to the contras in 1986. That event helped ignite the Iran-contra scandal. Hasenfus, in a phone interview from his home in Wisconsin, said his use of Seal's old plane was sheer coincidence.

Seal was a flesh-and-blood adventurer. His brother Wendell says he may have helped transport government goods as far back as the Bay of Pigs, and by the end of his life had become entangled in so many relationships "it was hard to tell who were the good guys and who were the bad guys."

He was also, first and foremost, an entrepreneur. His wife, Deborah, said she was not privy to all of his activities, but assumed they ran the gamut. She believes she overheard him once discussing a shipment of guns to South America on

the telephone, but also saw "shopping lists" around the house for such items as bluejeans and rubber rafts. Joura said he once helped Seal load his plane with Froot Loops and other consumer goods in demand among the cartel.

But, according to Joura, Seal almost certainly was not at the center of any larger conspiracy. Far from being deep into work for the CIA, Joura said Seal would break down crying sometimes out of fear of being sent to prison. He agreed to the one mission for the CIA in a vain hope that the agency would write a letter helping him avoid jail, Joura said. When Seal came up for sentencing in a separate case in Louisiana, Joura said, the agency shunned him completely, to the point of even denying any knowledge of the agents Seal and Joura met with.

Seal "was no James Bond," Joura said. "There were a lot of desperate days with Barry. ... If he had an ace in the hole and had been doing all this stuff for the CIA ... he would have alluded to something."

Guilty by Association?

Seal's frequent trips to Mena did arouse the suspicion of local, state and even some federal officials, who began investigating a possible smuggling ring.

The agents involved say the investigations were never completed to their satisfaction, nor were they given a full explanation of Seal's work for the government. To this day they suspect Seal's work in Mena went beyond his ties to the DEA, its true nature sheltered by authorities higher in the government.

Former IRS investigator William Duncan, for example, says he documented about $250,000 that was laundered through local banks in Mena by associates of Seal's, cash Seal apparently used to pay for modifications to his planes.

But Duncan, who is now a Medicaid fraud investigator with the Arkansas attorney general's office, says he was never allowed to follow what he suspected was a larger trail of funds to financial institutions in Little Rock, and it plagues him still.

"I can assure you there was a coverup. ... Everything I did tells me there was," said Duncan.

But was it the CIA's money, as Reed's book contends? Barry Seal's? Or someone else's?

Seal testified before Congress once that he earned as much as $50 million during his years as a smuggler. The IRS took him at his word and billed him for it, but his wife and her attorney say that if he collected that much, he left no map to the treasure. The money was either spent, Joura and others speculate, on Seal's endless array of vehicles, boats and electronic gadgets or hidden somewhere only he knew about. Seal always acted as if money was no concern to him, Joura said. He handled his own substantial plane repair bills while working for the DEA, Joura said, and spoke of the apparent theft of $1 million in Krugerrands as if it was unfortunate but not devastating.

Meanwhile, Mena Mayor Jerry Montgomery said he suspects the town's reputation is a drag on its economy. Otherwise why, after seven years of begging, is the federal government still unwilling to help Mena expand its notorious airstrip?

Seems a CIA covert landing base ought to get some respect, but Montgomery said the city has had no luck so far, even though the airport and various painting, upholstery and mechanical companies located around it are economic mainstays.

Mena's connections, however, may finally be of use. Montgomery said he recently wrote White House Chief of Staff Thomas F. McLarty for help in securing the $2 million Mena needs to start landing bigger planes.

"People here are very peaceful and quiet," said Montgomery. "We feel we have a very clean environment."

Of course, shortly thereafter, McLarty was demoted ...

ers" (Rawson Assoc. 590 pp., $35).

Here are some of her suggestions for creating an environment that makes guests feel special.

* Furnishing the perfect guest room: Stock the desk with postcards of the area, stamped, so the guest just has to write them and pop in the mailbox. Supply piles of great books, a tin of freshly baked cookiesand a jug of fresh water with ice. Check the screens in the windows. "Nothing worse than having bugs sneak in while your guest is up reading," she says.

* What's the worst thing you can do as a guest? "Arrive with uninvited children or pets."

* What's the worst thing you can do as a host? "Try and get your house guests invited to a dinner party that you were invited to."

Baldrige and her husband just came back from four days with friends in Watch Hill, R.I. What did Baldrige send for a house gift? Cookies and cakes from the Harry & David catalogue and a big hunk of prosciutto.

---- Index References ----

Company: DEA MEDIAGROUP SPA; CROW TECHNOLOGIES 1977 LTD; ELECTRICA DEL SUR OESTE SA; INFORMATICA APLICATA SA; US SENATE; DE RADIOCOMUNICACIONES MOVILES SA; BINH CHANH CONSTRUCTION INVESTMENT SHAREHOLDING CO; HARRY AND DAVID; ARKANSAS ELECTRIC COOPERATIVE CORP; WAL MART STORES INC; ARKANSAS AUTOMATIC SPRINKLERS INC; SVENSKA PETROLEUMINSTITUTET; PRESSE INVESTISSEMENTS SAS; DRUG ENFORCEMENT ADMINISTRATION; SALVATION ARMY; INTERNATIONAL RAILWAY SYSTEMS SA; SPARINVEST PROPERTY INVESTORS AS; ARKANSAS AEROSPACE INC; WAL MART DE MEXICO S A B DE CV; ARKANSAS LOUISIANA AND MISSISSIPPI RAILROAD CO; IMMOBILIARE AZIONARIA SPA

News Subject: (Social Issues (1SO05); Legal (1LE33); Defamation, Libel & Slander (1DE07); Fraud (1FR30); Judicial (1JU36); Emerging Market Countries (1EM65); Government (1GO80); Local Government (1LO75); Criminal Law (1CR79); Crime (1CR87); Smuggling & Illegal Trade (1SM35); Political Parties (1PO73))

Industry: (Security Agencies (1SE35); Security (1SE29))

Region: (Colombia (1CO48); Central America (1CE62); Americas (1AM92); USA (1US73); South America (1SO03); Arkansas (1AR83); North America (1NO39); Louisiana (1LO72); Florida (1FL79); Nicaragua (1NI86); Latin America (1LA15); U.S. Southeast Region (1SO88))

Language: EN

Other Indexing: (ARKANSAS; ARKANSAS STATE POLICE; ARMY; BARRY; BARRY SEAL; BCCI; CIA; CONGRESS; DEA; DRUG ENFORCEMENT ADMINISTRATION; FROOT LOOPS; HARRY DAVID; IRS; MEDICAID; O METER INC; REPUBLICANS; ROSE; SALVATION ARMY; SANDINISTA; SEAL; SEAL CONNECTION; SETH; SETH WARD SR; SPI; US SENATE; WAL MART; WHITE HOUSE) (Along; Baldrige; Barr; Brotherton; Bush; Check; Clinton; Cookies; Cummings; Daniel Lasater; Deborah; Duncan; ers; Eugene Hasenfus; Faustian; Hall; Hasenfus; Hubbell; Iver Johnson; J.A. Matejko; J.V. Brotherton; James Bond; Jerry Falwell; Jerry Montgomery; John Cummings; John Podesta; Johnson; Joura; Lasater; Matejko; McLarty; Montgomery; Oliver Stone;

One; Podesta; Rawson Assoc.; Reagan; Reed; Robert Johnson; Robert Joura; Skeeter" Ward Jr.; Supply; Terry Reed; Thomas F. McLarty; Vincent Foster; Wally Hall; Ward; Webb Hubbell; Webster Hubbell; William Duncan; William P. Barr; William} Casey)

Product: DAILY

Word Count: 3032

End of Document

Document: USING TV FORMAT, ALLEN PUSHES PLAN TO ABOLISH P...

USING TV FORMAT, ALLEN PUSHES PLAN TO ABOLISH PAROLE; BUT THE GOVERNOR REVEALED NO NEW DETAILS DURING THE HOURLONG BROADCAST TUESDAY.

The Virginian-Pilot (Norfolk)

June 22, 1994, WEDNESDAY,, FINAL EDITION

Section: LOCAL,

Length: 500 words

Byline: WARREN FISKE, STAFF WRITER

Dateline: RICHMOND

Body

Gov. George F. Allen took to the airwaves Tuesday night in a public-relations campaign to build support for his sweeping plan to abolish parole and overhaul criminal sentencing.

''I have listened to thousands of Virginians who tell me they're fed up with a criminal system that coddles criminals rather than locking them up,'' Allen said during a town meeting program that was aired on public television stations throughout the state.

Allen revealed no new details of his plan - known as Proposition X - during the hourlong broadcast. He will convene the General Assembly on Sept. 19 with hopes of passing new sentencing guidelines that would require violent criminals to serve longer prison sentences.

The plan calls for eliminating parole, the practice of releasing prisoners who have served only a fraction of their sentences. It would also reduce from 300 to 60 the number of days each year that prisoners could, through good behavior, reduce sentences.

''Our goal is that (violent criminals) serve at least 85 percent of their sentences,'' Allen said.

About 75 people - many of them invited by the governor and sympathetic to his proposal - sat in the audience. There were several dramatic moments as victims of rape and families of people who were

murdered by felons out on parole called for tougher punishment of criminals. Carol Schindler, a Newport News police officer, described how her colleague and fiance - Larry Bland - was murdered last month while on patrol. A parole violator is charged in the case. ''Through the failure of the judicial system, I have not only lost my partner and my best friend, but my fiance and the rest of my life,'' Schindler said.

But Julie McConnell, a spokeswoman for the American Civil Liberties Union, warned Allen that violent crime will not decrease until the government gets serious about solving poverty. ''The idea that the abolition of parole will lower violent crime is implicitly based on the idea that there is a finite number of criminals,'' she said. ''I respectfully suggest that this is a fallacy.''

Allen hosted the show with two key advisers who are helping him form his no-parole proposal - former U.S. Attorney General **William Barr** and former federal prosecutor Richard Cullen.

Barr said that murderers in Virginia receive an average prison sentence of 36 years but are released - because of parole and lenient good-behavior policies - after having served 10 years. Rapists serve an average of four years of a nine-year sentence, he said, and armed robbers serve four years of a 14-year sentence.

''If we keep violent criminals incapacitated behind bars, that person won't be hurting other law-abiding citizens,'' Allen said.

Still unknown is the cost of his plan. Critics have said that building and maintaining new prisons could cost billions. Allen has said that some of the cost could be defrayed by developing alternatives to incarceration for nonviolent criminals and making prisons more efficient.

Classification

Language: ENGLISH

Subject: SENTENCING (92%); PAROLE (90%); CORRECTIONS (90%); PRISONERS (90%); CRIMINAL OFFENSES (89%); JAIL SENTENCING (89%); SEX OFFENSES (89%); PRISONS (88%); GOVERNORS (79%); FELONIES (78%); LAW ENFORCEMENT (77%); PUBLIC PROSECUTORS (77%); SENTENCING GUIDELINES (77%); PUBLIC HEARINGS (76%); TALKS & MEETINGS (71%); ROBBERY (69%); HUMAN RIGHTS ORGANIZATIONS (69%)

Industry: TELEVISION INDUSTRY (76%); PUBLIC TELEVISION (73%); PUBLIC RELATIONS (73%); PUBLIC BROADCASTING (73%)

Geographic: VIRGINIA, USA (92%); UNITED STATES (92%)

Load-Date: September 6, 1994

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 11:33:48 p.m. EST

Document: ALLEN FIELDS PAROLE QUESTIONS GOVERNOR HOLDS ...

ALLEN FIELDS PAROLE QUESTIONS GOVERNOR HOLDS TV 'TOWN MEETING'

The Roanoke Times (Virginia)

June 22, 1994, WEDNESDAY,, METRO EDITION

Section: VIRGINIA,

Length: 460 words

Byline: Associated Press

Dateline: RICHMOND

Body

Gov. George Allen wrapped up a series of town meetings on his parole abolition plan with a statewide broadcast Tuesday night in which Virginians called in questions about the proposal's costs and benefits.

Callers to the hourlong show broadcast on public television stations asked whether ending parole would make prisons harder to run and be more costly.

Allen said the costs have not been estimated. ''It's not as if all of this is going to hit in the first year,'' he said.

The governor said the cost of keeping violent offenders in prison longer would be far less than the cost to society of high crime rates.

Former U.S. Attorney General **William Barr**, co-chairman of Allen's commission on ending parole, said prisons could still maintain discipline because inmates would be able to reduce their sentences by 15 percent through good behavior.

Allen said he was confident that his plan would pass the General Assembly, but a key Democratic legislator declined to pledge support to ending parole.

''I think a plan will pass'' to require longer sentences, said Del. James Almand of Arlington, chairman of the Courts of Justice Committee.

''There is a recognition that our system needs to be simplified, and violent criminals need to serve longer sentences,'' he said.

The show opened with a parade of crime victims' relatives recounting the grisly murders that took their loved ones.

Among those Allen recruited to his cause was Newport News police officer Carol Schindler, whose fiance, fellow officer Larry Bland, was shot to death in May while making a traffic stop. The man charged with the murder, Maurice O. Boyd, was sentenced to 10 years in prison for manslaughter in 1983 but was paroled after six years and seven months.

''Why was his murderer on the street?'' Schindler asked on the program. ''Why was this sorry excuse for a human ever released?''

Allen has called a Sept. 19 special session of the General Assembly to consider abolishing parole and reforming sentences.

Allen's Commission on Parole Abolition and Sentencing Reform also held town meetings in Portsmouth, Alexandria and Roanoke. Most speakers supported an end to parole, but some said the promise of early release is needed to keep inmates in line.

Inmates now serve an average of about one-third of their sentences. Allen wants them to serve at least 85 percent, but part of his plan could involve reducing the length of some sentences and keeping nonviolent offenders out of prison.

While the costs of the reforms have not been determined, the state has estimated that it will need to build nine prisons to house an additional 7,000 inmates by 1999. One 800-bed prison the state wants to build in Wise County would cost about $ 52 million.

Classification

Language: ENGLISH

Subject: CRIME RATES (90%); SENTENCING (90%); PAROLE (90%); CORRECTIONS (90%); TALKS & MEETINGS (89%); MURDER (89%); PRISONS (89%); PRISONERS (89%); GOVERNORS (89%); LEGISLATIVE BODIES (78%); PUBLIC HEARINGS (78%); JAIL SENTENCING (77%); SENTENCING GUIDELINES (77%); MANSLAUGHTER (75%); LAW ENFORCEMENT (75%); LITIGATION (75%); ATTORNEYS GENERAL (69%)

Company: BARR CO PRINTERS (56%); BARR CO PRINTERS (56%)

Industry: PUBLIC TELEVISION (78%); TELEVISION INDUSTRY (78%); PUBLIC BROADCASTING (73%)

Geographic: ROANOKE, VA, USA (78%); VIRGINIA, USA (79%); UNITED STATES (79%)

Load-Date: September 8, 1994

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 11:30:05 p.m. EST

PAROLE COMMISSION PROMOTES TOUGHER SENTENCING AT MEETING

The Ledger-Star (Norfolk)

June 9, 1994, THURSDAY,, FINAL EDITION

Section: LOCAL,

Length: 464 words

Byline: ASSOCIATED PRESS

Dateline: ROANOKE

Body

Nobody mentioned Friel Cregger by name, but his criminal history pervaded a public hearing put on by Gov. George Allen's Commission on Parole Abolition and Sentencing Reform.

As with the commission's first town meeting in Alexandria last week, several crime victims gave emotional accounts of their ordeals and complained that their attackers had committed previous violent crimes and served little time behind bars.

Cregger's first and last rape victims in Wythe County testified that their experiences exemplified what they see as a fact: repeat sex offenders cannot be rehabilitated and should spend longer periods behind bars.

''These men don't get better, they just get more violent as time goes by,'' Marilyn Crisp told the commission Wednesday night.

Ms. Crisp said Cregger raped her in November 1991, 13 years after he raped Connie Seagle and two days before he killed himself while being chased by police.

''Time and time again he was released with only minimal punishment,'' Ms. Seagle said.

Wythe County Sheriff Wayne Pike, a member of the commission, said Cregger once took him on a tour of 62 homes where he peeked at women in the windows. A sex offense, Pike said, ''was his only

gratification … the system never took this offender seriously.''

Wythe County Sheriff's Capt. Doug Cooley said Virginia's revolving-door justice system - with inmates serving a small percentage of their sentences - is making criminals arrogant and frustrating law enforcement officers.

''Those attitudes are what I think you people can change,'' Cooley told the commission.

Bob Leonard told how agonizing it is to go to Richmond every year to oppose the parole of the man who killed his mother and grandfather and kidnapped him when he was a 16-year-old in 1975.

''I can not understand why these people should even be considered for parole,'' Leonard said.

''It dramatizes the impact of the parole system on the victims,'' former U.S. Attorney General **William Barr**, the commission co-chairman, said of Leonard's story.

But several people, including a prosecutor, said they were concerned that abolishing parole - which would require more prison construction - may be too expensive for taxpayers. The commission is still working on a cost estimate.

Roanoke Commonwealth's Attorney Don Caldwell said he supports truth-in-sentencing and stiffer penalties for violent offenders. But he added, ''I don't know if we as taxpayers can afford to abolish parole. There are people salvageable in prison who are worth taking a risk on.''

Johnette Shabazz said taking away prisoners' hope for parole would be dangerous for correctional officers and hurt efforts to rehabilitate inmates so they don't commit crimes when they eventually serve all their time.

Classification

Language: ENGLISH

Subject: SEX OFFENSES (91%); SEXUAL ASSAULT (90%); SHERIFFS (90%); JAIL SENTENCING (90%); SENTENCING (89%); PAROLE (89%); CORRECTIONS (89%); PRISONS (89%); PRISONERS (89%); CRIMINAL OFFENSES (89%); SENTENCING GUIDELINES (89%); LAW ENFORCEMENT (78%); PUBLIC HEARINGS (78%); PUBLIC PROSECUTORS (78%); TALKS & MEETINGS (73%); KIDNAPPING & ABDUCTION (73%); FINES & PENALTIES (72%); CORRECTIONS WORKERS (69%)

Industry: (66%); CONSTRUCTION (66%)

Geographic: RICHMOND, VA, USA (78%); ROANOKE, VA, USA (71%); VIRGINIA, USA (79%); UNITED STATES (79%)

Load-Date: September 6, 1994

Content Type: News

Terms: "william barr"

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Date and Time: Dec 16, 2018 11:28:54 p.m. EST

Document: BARR BOOSTS SMIETANKA BID

BARR BOOSTS SMIETANKA BID

South Bend Tribune (Indiana)

June 7, 1994, Tuesday,, TRIBUNE

Section: LOCAL/AREA,

Length: 217 words

Byline: LISA CRIPPS Tribune Staff Writer

Body

ST. JOSEPH - Former U.S. Attorney General **William Barr** visited St. Joseph this morning to endorse Republican John Smietanka in his bid for Michigan attorney general.

Barr served as U.S. attorney general under former President George Bush. He became well-known for his role in supervising the resolution of prison riots and hostage-taking at the Talladega prison in Alabama and for supervising law enforcement efforts in St. Croix after Hurricane Hugo.

Barr planned to spend the day helping Smietanka on the campaign trail with speeches and fund-raisers. Smietanka served as the principal associate deputy attorney general under Barr from 1990-92 and is now challenging Democrat Frank Kelley for the state attorney general position.

Barr praised Smietanka saying he is better suited to fight the violent crime which the general public is worried about.

"Nothing has affected our freedom and our lives more than growing violent crime," Barr said.

Kelley has not been providing the leadership to knock out violent crime, Barr said.

One of Smietanka's campaign issues is the relatively low number of attorneys working in the criminal division of the attorney general's office. There are 250 attorneys in the staff and approximately seven of those attorneys work in the criminal division.

Classification

Language: ENGLISH

Subject: ATTORNEYS GENERAL (92%); LAWYERS (90%); CRIMINAL OFFENSES (90%); US REPUBLICAN PARTY (78%); CAMPAIGNS & ELECTIONS (78%); US DEMOCRATIC PARTY (78%); PLATFORMS & ISSUES (73%); LAW ENFORCEMENT (71%); US STATE GOVERNMENT (71%); FUNDRAISING (70%); RIOTS (57%); HOSTAGE TAKING (57%)

Company: ST CROIX VINEYARDS (57%); ST CROIX VINEYARDS (57%)

Industry: LAWYERS (90%)

Person: GEORGE W BUSH (57%)

Geographic: MICHIGAN, USA (79%); ALABAMA, USA (79%); UNITED STATES (93%)

Load-Date: November 24, 1998

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 11:27:49 p.m. EST

6/6/94 Wash. Times (D.C.) A1
1994 WLNR 232073

Washington Times (DC)

June 6, 1994

Section: A

`Partisan' grab seen in environment cases

Jerry Seper - THE WASHINGTON TIMES

Federal prosecutors have accused Rep. John D. Dingell of making a "blatantly partisan bid" to strip the Justice Department of its jurisdiction over environmental crimes in favor of politically appointed U.S. attorneys.

The criticism, relayed by Mr. Dingell's staff to Attorney General Janet Reno, came after the Michigan Democrat was given confidential information about a pending grand jury case being handled by the department's Environmental Crimes Section (ECS), law enforcement sources said.

The information included prosecution strategy and a review of charges in a case under review in El Paso, Texas.

Several ECS lawyers and others said U.S. attorneys nationwide, through the Attorney General's Advisory Committee, have aggressively sought Mr. Dingell's help in winning control over environmental cases. The president appoints U.S. attorneys.

"This is white-knight stuff for a lot of these prosecutors," a department official said. "They want to be viewed as beating up on environmental polluters. For them it is not a matter of legal analysis, and that could be dangerous.

"This is nothing more than a blatant partisan bid to win control over the prosecution of environmental criminals, and nothing more."

The ECS has been under attack by Mr. Dingell, chairman of the House Energy and Commerce Committee, for two years amid accusations that the section and its chief, Bush appointee Neil Cartusciello, failed to pursue environmental criminals aggressively.

The accusations, which surfaced as Democratic fodder in the 1992 presidential campaign, later were shown to be false. But Mr. Dingell's efforts to discredit the section and many of its 31 lawyers have continued.

Mr. Dingell's concerns, the sources said, were relayed to Miss Reno by staff members from the Energy and Commerce subcommittee on oversight and investigations. They complained that efforts by prosecutors in the El Paso case had been "insufficient." Miss Reno responded with a directive ordering ECS prosecutors to explain what they had done.

It is against federal law for grand jury information to be revealed to anyone, and it is against Justice Department policy to discuss an ongoing investigation.

"It is inconceivable that confidential information on a pending case would be leaked for partisan political purposes," a department official said. "It means, of course, the rights of the defendant in the case are being trampled, along with the system itself."

A second department official said Mr. Dingell had "no business" possessing confidential investigative information. "The conversation between Miss Reno and Mr. Dingell about the case is highly troubling," he said. "It was a gross breach of the separation of powers."

Department spokesman Carl Stern confirmed that Mr. Dingell's staff had "heard about problems in a case in El Paso" and had relayed their concerns to the attorney general. He said acting Associate Attorney General William C. Bryson, who oversees the ECS, asked the section for a status report on the investigation.

"The attorney general asked Bryson to check it out, and he did - discovering that the problem had gone away," Mr. Stern said.

The spokesman said he was not aware of any specific problems with the case and did not know where Mr. Dingell had obtained his information.

"Perhaps he read something about the case in the newspapers, which certainly would be a public source," Mr. Stern said. "But we welcome any concerns people might have. Telephone us and we will be happy to look into them."

Dennis Fitzgibbons, spokesman for Mr. Dingell, denied that his boss had discussed any active case with Miss Reno, adding that the subcommittee was "not interested in open cases, only those that have been closed." He did not elaborate.

Mr. Cartusciello, who submitted his resignation last month, declined comment. He is expected to leave the section this month.

Having been rebuffed in 1992 by the Bush administration in efforts to interrogate ECS lawyers on their handling of cases, Mr. Dingell rekindled his interest through the oversight and investigations subcommittee after President Clinton assumed power.

He charged during the 1992 campaign that ECS prosecutors had given "preferential treatment" to some suspects, declined to prosecute others under "highly questionable circumstances" and were ready to "trivialize financial penalties."

His allegations were repeated by candidates Bill Clinton and Al Gore, who accused the section of "letting criminals off the hook after they pollute our air and our water and our land." After Mr. Clinton's victory, Mr. Dingell renewed demands for an ECS investigation, and one was approved by Associate Attorney General Webster L. Hubbell, a longtime Clinton associate.

But the investigation found that the Dingell accusations were false. Four career Justice Department lawyers assigned by Mr. Hubbell to look into the matter - none of whom worked in the ECS - concluded that section lawyers had acted "properly" and "reasonably" in their cases.

A 325-page report said there was "no shortage of competence or good faith in any aspect of the program." The March 14 report said Mr. Dingell was "mistaken in several instances," and it exonerated Mr. Cartusciello.

Written by Jeffrey Minear of the department's Solicitor General's Office, Assistant U.S. Attorney Daniel Seikaly, and criminal division lawyers Mary Incontro and William Corcoran, the report said there was "no credible evidence" that decisions by ECS lawyers were influenced by "improper criteria."

"The controversies . . . stand as examples of how misleading or incomplete testimony before a congressional subcommittee can wrongly impugn the professional judgment and conduct of career government attorneys," the report said.

Acting Assistant Attorney General Lois Schiffer, who heads the department's environment and natural resources division, has refused to sign off on the report, although Miss Reno ordered her to do so last month. The order came after the attorney general met with ECS lawyers who said Ms. Schiffer ignored the report and interpreted their concerns about Mr. Dingell as a "threat."

Mr. Dingell's ECS concerns have prompted the department's top officials to accommodate the 20term veteran. They were ordered to let his committee investigators interrogate ECS prosecutors and to surrender documents in 20 environmental cases begun during the Bush administration.

Some ECS prosecutors said they felt "sold out" by the order, and former Attorneys General William P. Barr, a Republican, and Benjamin R. Civiletti, a Democrat, decried the interrogations. They said Congress had no legitimate oversight basis for questioning department lawyers and warned that the policy would have a "chilling effect" on prosecutions.

G0056140-060694

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Technology Law (1TE30); Police (1PO98); Government Litigation (1GO18))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Nevada (1NE81); Texas (1TE14))

Language: EN

Other Indexing: (ADVISORY COMMITTEE; ATTORNEYS; COMMERCE; CONGRESS; DEMOCRAT; DEPARTMENT; ECS; EL PASO; ENERGY; ENVIRONMENTAL CRIMES SECTION; HOUSE ENERGY AND COMMERCE COMMITTEE; JUSTICE DEPARTMENT; MICHIGAN DEMOCRAT) (Al Gore; Benjamin R. Civiletti; Bryson; Bush; Carl Stern; Cartusciello; Clinton; Daniel Seikaly; Democratic; Dennis Fitzgibbons; Dingell; Hubbell; Janet Reno; Jeffrey Minear; John D. Dingell; Lois Schiffer; Mary Incontro; Miss Reno; Neil Cartusciello; Partisan; Schiffer; Stern; Telephone; Webster L. Hubbell; William C. Bryson; William Corcoran; William P. Barr; Written)

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Document: WASHINGTON INSIGHT

WASHINGTON INSIGHT

Los Angeles Times

May 31, 1993, Monday, Home Edition

Section: Part A; Page 5; Column 5; National Desk

Length: 560 words

Byline: JA

By PAUL HOUSTON

Body

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PRIME POTOMAC PLAYER: A buttoned-up Brit he's not. Thoughtful, charming and wide-ranging in contacts he is, as Washington's most visible foreign diplomat and social lion. Sir Robin Renwick, British ambassador to the United States, has been in the middle of U.S.-European strategy talks on Bosnia. In part, that's because he is close friends with the likes of President Clinton's foreign policy adviser, Anthony Lake, Defense Secretary Les Aspin and CIA Director R. James Woolsey, not to mention all their counterparts in previous Republican administrations. He also has strong personal links to some of America's top black leaders -- largely because he was instrumental, as ambassador to South Africa, in getting that country's president, Frederik W. de Klerk, to release black revolutionary Nelson Mandela from prison as a start toward peace. . . . Renwick said his government hasn't bought Clinton's proposed air strikes against Bosnian Serbs because Britain, although "quite a warlike country," is fearful of "a quagmire" in the region. But "we are not excluding the use of air power. It may come to that," he said in his embassy office, amid 10 books he plans to read while on speaking trips around the United States. . . . Renwick gives famously fabulous parties, enlivened by blue-grass bands and an orchestra of electronic robots. His favorite team: the Washington Redskins. "Pro football," he avers, "is much more spectacular than soccer."

*

TURNABOUT: George Bush's last attorney general, **William P. Barr**, is open-mouthed over the Clinton White House leaning on the FBI for help in the travel office fiasco. "Let's just say, if this happened on my watch, I wouldn't be let up for air," said Barr, who could be excused if he's luxuriating in the Democrats'

discomfort: He was accused by some Democrats during the presidential campaign of, ahem, politicizing the Justice Department.

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PROBE PLANNED: Intrepid House investigator John D. Dingell (D-Mich.) is organizing broad hearings into "a morass of waste and mismanagement" from government contracting. High on Dingell's target list: an Energy Department contract with the University of California under which he says $500 million in "excess taxpayer dollars" has been overpaid to a UC pension fund -- and needs to be recovered.

*

PEROT GLOW: Republican House freshmen were aglow after 1992 presidential also-ran Ross Perot endorsed some of their reform ideas (line-item veto, etc.) in meetings at the Capitol. "He wanted to be helpful in any way he could," said freshman class president Howard P. (Buck) McKeon (R-Santa Clarita). McKeon added that it's "way too early" to say whether he could support Perot for President in 1996 if he ran as a Republican. For one thing, GOP presidential hopeful Jack Kemp is the star attraction at a McKeon fund-raiser in Studio City next month.

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SHORT TAKES: The First Lady, a native of Park Ridge, Ill., has joined a Washington-based Chicago Cubs fan club, noting that in 35 years of rooting for the perennially hapless team, she has "developed a set of expectations that will probably never be met. However," added the wife of the man from Hope, Ark., "hope springs eternal." . . . Dorothy (Doro) Koch, daughter of former President Bush, has a new baby and a new bumper sticker on her van: "Don't Blame Me -- I Voted for Bush." PAUL HOUSTON

Graphic

Photo, Robin Renwick

Classification

Language: ENGLISH

Subject: EMBASSIES & CONSULATES (92%); US REPUBLICAN PARTY (89%); POLITICAL PARTIES (89%); AMERICAN FOOTBALL (89%); US DEMOCRATIC PARTY (89%); PROFESSIONAL SPORTS (78%); TALKS & MEETINGS (77%); FOREIGN POLICY (77%); PUBLIC POLICY (76%); VETO (76%); JUSTICE DEPARTMENTS (75%); US PRESIDENTIAL CANDIDATES 2008 (73%); PUBLIC CONTRACTING (73%); INTERNATIONAL RELATIONS (71%); CAMPAIGNS & ELECTIONS (70%); LAW ENFORCEMENT (68%); MUSIC GROUPS & ARTISTS (65%); SOCCER (64%); CONTRACTS & BIDS (64%); ATTORNEYS GENERAL (63%)

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Organization: WASHINGTON REDSKINS (54%); WASHINGTON REDSKINS (54%)

Industry: MUSIC GROUPS & ARTISTS (65%)

Person: BUCK MCKEON (79%); ROSS PEROT (79%); BILL CLINTON (77%); JOHN DINGELL (55%); GEORGE W BUSH (55%)

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Content Type: News

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Justice ordered to research Clinton immunity from suit

The Washington Times

May 19, 1994, Thursday, Final Edition

Section: Part A; Pg. A1

Length: 996 words

Byline: Michael Hedges and Paul Bedard; THE WASHINGTON TIMES

Body

The White House yesterday defended itself against charges of conflict of interest in ordering the Justice Department to review whether presidents are immune from lawsuits such as the sexual misconduct suit filed against President Clinton.

White House Counsel Lloyd Cutler asked Justice to look into the matter shortly after Mr. Clinton's private attorney, Robert S. Bennett, referring to a 1982 Supreme Court decision, said he would argue that a sitting president cannot be sued because it would paralyze the presidency.

White House Press Secretary Dee Dee Myers said the suit brought by former Arkansas state employee Paula Corbin Jones, who charges that Mr. Clinton entreated her to perform oral sex on him in 1991, has an "institutional impact" on the presidency and, as a result, is justifiably something the Justice Department should explore.

"There are institutional implications for this," Miss Myers said. "Certainly this will affect not just this president, but future presidents. There are institutional concerns that affect the presidency, public questions."

But Mrs. Jones' attorneys cried foul over the research ordered by the White House, because Mr. Clinton has retained Mr. Bennett to defend him.

"I understood he had his own counsel, an extensive and very competent team. Now to weigh in with the Justice Department with at least the appearance of doing research in the president's interest seems excessive," said Gilbert K. Davis, Mrs. Jones' lead attorney.

Joseph Cammarata, Mrs. Jones' co-counsel, said: "Some may see this as being consistent with Mr. Clinton's prior use of government resources for personal benefit. And by the way, we've got a couple of projects we'd like the Department of Justice to research for us."

Mr. Bennett said Mr. Clinton would not benefit from the research and said a Justice Department review of the immunity issue was proper.

"It is preposterous to suggest that the Department of Justice is not going to take a position on a matter that affects the institution of the presidency," Mr. Bennett said.

"I'm having absolutely no communications with the Justice Department on this," he added.

Mr. Bennett said he is researching the same questions privately, including whether a case can be sealed and then reopened when Mr. Clinton leaves the White House.

"I will also be filing pleadings as his private attorney. If civil suits like this are allowed to go forward, it will paralyze the presidency and open the floodgates for copycat suits."

As to whether his client would accrue any indirect benefit from research into the question by the Justice Department, Mr. Bennett said: "I'm doing my own research. The president is not going to save 5 cents by anything the Justice Department does on this."

Some constitutional scholars say such research could benefit the president - and thus raise issues of ethics.

"Inevitably this will help the president's defense, and if the Justice Department didn't do the research, Mr. Clinton's lawyers would have to," said Stephen Gillers of New York University Law School. "But it is a legitimate area to pursue. I think it is necessary for Justice to do this; the case clearly deals with the immunity issue."

Bruce Fein, a constitutional scholar, said: "I think it falls into a gray area. It is sort of government-subsidized research for the president, but on the other hand you could argue that it protects the institution."

But Mr. Fein said that, at least politically, Mr. Clinton would make a mistake by allowing the case to be decided on the issue of immunity. "Any immunity can be waived. To me, the best policy he could take is to waive immunity and attack the charges."

William P. Barr, attorney general under President Bush, said: "I am a partisan Republican, but if the shoe were on the other foot, this is exactly the kind of thing I think the Justice Department should research. At some point it is appropriate for the Justice Department to give an opinion on the issue of immunity. . . . The department will have to be careful that in doing the research they do not become an advocate for President Clinton."

Mr. Bush's White House counsel, C. Boyden Gray, endorsed Mr. Cutler's decision to seek a Justice review of current law.

"Sooner or later Justice is going to get into this. I don't find it that out of the ordinary," Mr. Gray said, adding that he might well have done the same thing if Mr. Bush had been in a similar position.

Mr. Gray said that "at a certain point, some court is going to ask" Justice for its view of whether a sitting president can be sued for events that took place before the election.

In the 1982 Supreme Court decison cited by Mr. Bennett, Nixon vs. Fitzgerald, the court ruled in a 5-4 vote that no U.S. president could be sued for damages for actions taken while in office.

The case stemmed from a lawsuit by a civilian Pentagon analyst, A. Ernest Fitzgerald, who said he was fired after disclosing cost overruns in the C-5A air transport program.

Justice Lewis F. Powell Jr. wrote the majority opinion that "absolute presidential immunity was a functionally mandated incident of the president's unique office."

Justice Byron White ▾ wrote for the four dissenters that such a view would be "a reversion to the old notion that the king can do no wrong."

"Whatever the president does, and however contrary to the law he knows his conduct to be, he may, without fear of liability, injure federal employees or any other person within or without the government," Justice White wrote.

In any case, some legal experts said the decision would not apply to the Jones case.

"I think the case law is rather clear that the president has no immunity for acts committed when he wasn't in office," Mr. Fein said.

Graphic

Photo, Robert S. Bennett

Classification

Language: ENGLISH

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Company: US DEPARTMENT OF JUSTICE (93%); US DEPARTMENT OF JUSTICE (93%)

Organization: US DEPARTMENT OF JUSTICE (93%); US DEPARTMENT OF JUSTICE (93%)

Industry: LAWYERS (90%)

Person: BILL CLINTON (79%)

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NewsRoom

5/6/94 St. Petersburg Times 2
1994 WLNR 2181379

St Petersburg Times

May 6, 1994

Section: CITY TIMES

FLORIDA IS PASSING IN GROWTH, FAILING ELSEWHERE

JOSEPH H. FRANCIS

People continue to flock to Florida, lured by superb weather, endless sunshine and coastline - and low taxes. Sometime during the next five years Florida will become the nation's second-most populous state. Welcome to paradise, folks.

Read no further unless you care about the quality of life of Florida's citizens, including our children.

The April 26 article by Adam Yeomans, ""Advocates want more for state's children," brings news that has become all too familiar: ""Florida ranked 48th among all states based on a composite of 10 indicators for health, education and well-being (of children)." This pattern of governmental neglect, according to child care advocates, is also why ""we end up being No. 49 in percent of students graduating on time."

Sick at heart, I decided to look back at similar recent news reports in your paper. Here is what I found. I probably missed some, but what I did find is enough to sicken anyone.

Jan. 2, 1994: ""Stopping the cycle of abuse," editorial. ""In the Tampa Bay region, they (children) are dying of abuse and neglect at an alarming rate, the third highest in the nation for a major metropolitan area." Orlando is the second worst and Miami the fourth worst of the largest 39 metropolitan areas in the nation. Your editorial says, ""What can we expect in a state whose population balks at contributing to the state's revenue base in a way more commensurate with its relative wealth?" Tax-Watch ranks Florida 44th in the nation in terms of state and local taxes as a share of personal income.

Feb. 23, 1994: ""Crime report card gives Florida a failing grade," by Lucy Morgan. ""Florida has the nation's highest overall crime rate and violent crime rate, according to government statistics. . . . "The state gets an F for prior public policy,' Barr said. "It's a disaster, a basket case.' " (Barr is former U.S. Attorney General William Barr.)

Jan. 6, 1994: ""We're No. 1," editorial. ""Florida still ranks as the worst state for giving out food stamps to people who don't qualify for them. . . . In 1992, Florida distributed $256.7-million worth of food stamps in error, a national record. . . ." According to HRS Secretary Jim Towey, ""The biggest problem we have . . . is people coming in and lying to us.' " (Can you believe this?)

June 24, 1993: ""In comparison, we're failing," editorial. ""According to a study released this week by the National Collegiate Athletic Association, this state's public institutions of higher learning graduated just 41 percent of the students who entered as freshmen on athletic scholarships in the mid-1980s. Our private schools graduated 47 percent."

Graduation rates are (you guessed it) higher at colleges everywhere else in the nation, even at colleges, like Florida's, which make sports a priority over academic achievement.

Here, without elaboration or attribution, is more of the cruel truth:

Florida ranks 40th in per-pupil spending on public education.

Florida hate crimes - i.e., attacks on people because of their color, religion, ethnic background or sexual orientation - are in excess of 300 per year. Florida ranks fifth in the nation in anti-Semitic vandalism.

Florida is the third worst in the nation in the percentage of residents under the age of 65 without health insurance.

Florida's high school dropout rate is the third-highest in the nation.

Florida is 44th nationwide in the proportion of its unemployed workers receiving unemployment benefits.

Florida ranks 32nd in state care for the mentally ill.

Florida is in the top 20 states in personal income but in the bottom 10 in funding aid to families with dependent children.

The governor and Legislature, rather than debating such arcane topics as how far from school property a child must distance himself/herself to qualify for the right to say a prayer, should instead be asking the Almighty's forgiveness for lacking the guts to do what they know must eventually be done: reform the tax system to make it fairer, and add a graduated personal income tax to broaden the revenue base. Like it or not, there is simply no other way to stop Florida's relentless descent toward Third World quality of life for low- and middle-income Floridians.

Joseph H. Francis lives in St. Petersburg. Guest columnists write their own views on subjects they choose, which are not necessarily the opinions of this newspaper.

SERIES: GUEST COLUMN

---- Index References ----

News Subject: (Social Welfare (1SO83); Social Issues (1SO05))

Region: (USA (1US73); Americas (1AM92); Florida (1FL79); North America (1NO39))

Language: EN

Other Indexing: (ALMIGHTY; COLUMN; HRS; NATIONAL COLLEGIATE ATHLETIC ASSOCIATION; PASSING) (Adam Yeomans; Barr; Feb; Guest; Jan; Jim Towey; Joseph H. Francis; Lucy Morgan; Read; Semitic; Sick; William Barr)

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1994 WLNR 4534487

Daily Press

May 6, 1994

Section: State

LITTLE PROBATION MEANS HIGHER COSTS
STUDY: COMMISSION SHOULD EXAMINE VA.'S INFREQUENT USE

The Associated Press

Virginia's infrequent use of probation is a key reason the state spends nearly double the national average for each person supervised in its corrections system, a study released Thursday says.

An analysis by William Lucy, a University of Virginia planning professor, found that Virginia in 1990 spent $7,937 per person in the system - the fifth highest average in the country.

The national average was $4,152.

``I was a bit shocked," Lucy said from his Charlottesville office.

He also found that Virginia had 1.2 people on probation for every person incarcerated, about one-third the national average of 3.5 to 1.

``According to our own Department of Corrections, it costs 25 times more to incarcerate someone than to supervise him on probation," Lucy said. ``And that's just for operations; it doesn't take into account the cost of building prisons."

He said it is not surprising that the state with the lowest corrections cost is also the one that uses probation the most. Minnesota's probationers outnumber inmates by a 19-to-1 margin, and its prison system spends only $1,990 per person supervised.

Lucy said the Governor's Commission on Parole Abolition and Sentencing Reform should examine why Virginia has been reluctant to use probation.

``I suspect it has a fair amount to do with our statutes, but it also could have a lot to do with judges and prosecutors," Lucy said.

William Barr, the former U.S. attorney general who is co-chairman of the governor's commission, said probation is one of several cost-saving measures being studied by a subcommittee.

He said Lucy's findings ``confirm a point that I've been making - that Virginia's system is not as efficient as it could be."

Former state Secretary of Public Safety O. Randolph Rollins said the per-person corrections cost cited by Lucy is puzzling.

``There's no reason why that figure should be so different unless the other states are providing a lot less services," said Rollins, who serves on a legislative commission that also is studying parole reform.

He said Virginia tends to provide more intensive and longer supervision of probationers and parolees, and that could account for some of the difference.

Gov. George Allen has scheduled a special legislative session on parole reform Sept. 19. Barr's commission has recommended abolishing parole, imposing mandatory sentencing guidelines and scaling back sentence reductions for good behavior.

Lucy said abolishing parole and lengthening sentences for some crimes would push the state's prison costs even higher.

Barr said that is not necessarily the case.

``I don't think the costs are going to shoot up," he said. ``First of all, this is going to be phased in. It doesn't affect the current prison population, so the effect will be spread out over a very long period."

---- Index References ----

News Subject: (Legal (1LE33); Judicial (1JU36); Prisons (1PR87))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (DEPARTMENT OF CORRECTIONS; PROBATION; UNIVERSITY OF VIRGINIA) (Barr; George Allen; Gov; Lucy; Minnesota; Rollins; Safety O. Randolph Rollins; Sentencing Reform; Virginia; William Barr; William Lucy)

Edition: Williamsburg

Word Count: 564

4/29/94 Wash. Times (D.C.) A1
1994 WLNR 228682

Washington Times (DC)

April 29, 1994

Section: A

Reno sides with staff in challenge to Dingell

Jerry Seper - THE WASHINGTON TIMES

Attorney General Janet Reno has been forced to intervene in a bitter in-house battle on behalf of angry lawyers in the Justice Department's Environmental Crimes Section who were threatened with congressional hearings over since-disproven charges of incompetence.

Some of the lawyers - mostly career prosecutors - have told friends and associates they are considering resigning because of ongoing political interference, ineffective leadership at the "highest levels" of the department and unsubstantiated allegations that they had mishandled cases.

The uproar was prompted by the refusal of acting Assistant Attorney General Lois Schiffer, a political appointee who heads Justice's Environment and Natural Resources Division, to sign off on a March 14 report clearing Environmental Crimes Section (ECS) prosecutors in the handling of seven cases during the Bush years.

The cases had been targeted by Rep. John D. Dingell, Michigan Democrat, who pressured Miss Reno into allowing the unprecedented questioning of midlevel department prosecutors at congressional hearings.

According to law enforcement sources, Miss Reno met with ECS lawyers last week and after a stormy meeting, during which there was a shouting match, agreed to order Ms. Schiffer to endorse the report and adopt its conclusion - that none of the seven cases, including one involving safety violations at the Rocky Flats weapons plant in Colorado, had been mishandled.

"The report clearly exonerates the Environmental Crimes Section from any wrongdoing, but those in charge refused to sign off on it," said one source familiar with the report. "They were afraid of alienating Mr. Dingell, who very obviously has sought to turn the section into a political football."

Justice Department spokeswoman Ana Cobian, to whom questions were directed concerning the report and Ms. Schiffer's response to it, did not return calls to her office seeking comment.

The sources said more than half of the 31 career ECS lawyers have indicated they may resign if ongoing controversies are not corrected. They said many of the lawyers' concerns were outlined in a series of meetings this month and last with Ms. Schiffer.

Her refusal to endorse the department's report and her interpretation of the lawyers' concerns as "a threat" prompted a call for the meeting last week with Miss Reno, the sources said.

Some career Justice Department lawyers already have quit, citing the continuing political controversy that has engulfed the section for more than two years.

At least one was forced out after Mr. Dingell publicly challenged his commitment and effectiveness. Neil S. Cartusciello, the ECS chief named during the Bush administration, resigned last month under fire - although the department report specifically exonerated his stewardship of the unit.

The ECS controversy erupted in 1992, when Mr. Dingell, chairman of the House Energy and Commerce Committee, accused section lawyers of mishandling important cases. His allegations later became 1992 presidential campaign fodder, when then-candidates Bill Clinton and Al Gore accused ECS lawyers of "letting criminals off the hook after they pollute our air and our water and our land."

The Dingell allegations later were shown to be false.

Miss Reno, however, along with Deputy Attorney General Webster L. Hubbell, who has since resigned, had already set into motion a new policy giving Mr. Dingell access to career Justice Department lawyers.

To the dismay of many department officials, Miss Reno authorized House Energy and Commerce Committee investigators to cross-examine ECS lawyers they suspected of "undermining" environmental cases during the Bush administration.

The order calling for ECS lawyers to submit to the interrogations was signed by Mr. Hubbell, who quit last month to answer overbilling accusations at his former Little Rock law firm. He agreed to allow congressional investigators to interrogate ECS lawyers in at least seven cases.

Congressional inquiries in the past have been directed at political appointees, like Miss Reno, or at department supervisors. Line attorneys had been shielded from congressional second-guessing.

Two former attorneys general, William P. Barr of the Bush administration and Benjamin R. Civiletti of the Carter administration, decried the new Reno policy. They said it failed to protect career lawyers from the political pressures of Congress.

"Congress simply has no legitimate oversight basis for questioning line attorneys about specific cases," Mr. Civiletti said.

More than a dozen career ECS lawyers were specifically targeted by Mr. Dingell in what he described as "a legislative oversight inquiry." The lawyers were ordered to submit to the interviews voluntarily or under subpoena and were told to produce documents from 20 environmental cases begun during the Bush administration.

But the in-house review, conducted by four Justice Department lawyers, said ECS prosecutors had acted "properly" and "reasonably" in their handling of the cases. The report said there was "no shortage of competence or good faith in any aspect of the program."

The 325-page report was written by Jeffrey Minear of the department's Solicitor General's Office; Assistant U.S. Attorney Daniel Seikaly; and criminal division lawyers Mary Incontro and William Corcoran.

It said there was "no credible evidence" that decisions by ECS lawyers were influenced by "improper criteria," adding that Mr. Dingell was "mistaken in several instances."

"The controversies . . . stand as examples of how misleading or incomplete testimony before a congressional subcommittee can wrongly impugn the professional judgment and conduct of career government attorneys," the report said.

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---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Legislation (1LE97); Government (1GO80))

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Other Indexing: (COMMERCE COMMITTEE; CONGRESS; ECS; ENVIRONMENTAL CRIMES SECTION; HOUSE ENERGY; HOUSE ENERGY AND COMMERCE COMMITTEE; JUSTICE; JUSTICE DEPARTMENT; NATURAL RESOURCES DIVISION; ROCKY FLATS) (Al Gore; Ana Cobian; Benjamin R. Civiletti; Bush; Carter; Civiletti; Clinton; Daniel Seikaly; Dingell; Hubbell; Janet Reno; Jeffrey Minear; John D. Dingell; Lois Schiffer; Mary Incontro; Michigan Democrat; Miss Reno; Neil S. Cartusciello; Reno; Schiffer; Webster L. Hubbell; William Corcoran; William P. Barr)

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1994 WLNR 985315

Richmond Times Dispatch (VA)

April 20, 1994

Section: Area/State

PAROLE PANEL OUTLINES PLANS COSTS, PROBLEMS STUDIED

FRANK GREEN Times-Dispatch Staff Writer

Amid hopeful promises but sobering forecasts, the Commission on Parole Abolition and Sentencing Reform presented its "Proposal X" yesterday, the most comprehensive revision of the state's justice system ever attempted.

The plan will be refined by the commission before being presented to Gov. George Allen and then considered by the General Assembly in a special session scheduled for September. Allen hopes the changes will go into effect by January.

Its goals include limiting racial, sexual, geographic and other forms of sentencing disparity, making more inmates help pay for their incarceration, and keeping violent and career criminals in prison longer.

Overall, the plan's designers hope to make criminals serve an average of 85 percent of their sentences while serving a minimum of 75 percent. Between parole and good-time sentence reductions, Virginia inmates now serve an average of 30 percent, with a low of 21 percent.

Some of the proposals have been tried in other states with mixed results. Guidelines have made progress against sentencing disparities, but no state can show that ending parole reduced crime -- and some have found the price tag too high.

Commission members believe Virginia will be able to avoid pitfalls encountered elsewhere by learning from their experiences.

"In a real sense, our destiny is in our own hands. If we want to do something about crime and improving the protection and safety of the public it's going to have to be done here in Richmond," said William P. Barr, a commission co-chairman.

Barr said, "I go around the country and see all the ferment that is going on in state capitols and I'm proud to be part of this process.

"There's a lot of reform effort under way, but nowhere is there really the kind of comprehensive approach under way as we have here in Virginia," said Barr, a private lawyer and the former U.S. attorney general.

Key elements of the proposal are the elimination of parole and the imposition of mandatory sentencing guidelines. Jury sentencing would be kept under the proposal, though Virginia is only one of seven states where it is still done.

Richard Cullen, a former U.S. attorney and the commission's other co-chairman, said that "while we are committed to a mandatory system of guidelines, we also will have built-in flexibility."

The biggest economic -- and perhaps, political -- challenge appears to be finding less expensive alternatives to traditional prison for nonviolent offenders. Roughly half the state's 20,000 inmates are serving time for nonviolent offenses, but 85 percent of that number are drug offenders.

During the 1980s it was the drug offenders, most of whom are in prison for possession of drugs with the intent to distribute or for drug distribution, whom the public and elected leaders wanted locked up.

Now, as demonstrated in Allen's landslide victory last November, the public is fed up with violent and repeat offenders to the point of wanting to see parole ended and so-called "truth in sentencing" put in practice.

But -- if the experiences of other states are a guide -- the biggest obstacle presented will be finding the money to pay for it.

"Proposal X," as the Barr-Cullen commission calls it, recommends that nonviolent offenders be housed "in cost-efficient, secure facilities with job/work requirements." Many will help pay for the costs of the incarceration, freeing up space and resources needed to incarcerate more dangerous offenders.

Some nonviolent felons will not go to prison at all, but Cullen said, "We want to be careful because we're obviously expanding risk, any time we divert someone who has historically been imprisoned.

"This, ladies and gentlemen of the commission, is our greatest challenge if we are going to radically restructure the way we treat convicted felons and violent felons in Virginia," said Cullen.

Dick Hickman, deputy staff director for the Senate Finance Committee, told the commission members their "basic task is to balance your sentencing objectives with the available resources."

Hickman warned that "we're going to need some careful planning and some tough management over the next several months to prevent serious problems in the near future."

Even without the current push to toughen up on criminals, the state's rate of incarceration has almost tripled since 1975. From 1983 to 1993, the corrections budget has grown 120 percent -- from $134 million to $296 million.

The General Assembly has already authorized construction of nine new prisons with more than 7,000 beds since 1990 to meet the needs of the projected prison population by 1996. But it will not be enough.

Unless things are changed, the way things are operating now -- with parole, which Allen says has been too lenient, acting in part as a safety valve -- could require 10 more prisons to meet state needs by 1999.

To build those prisons would cost $200 million a year for three years -- accounting for some 70 percent of the state's entire debt capacity, said Hickman.

"Virginia faces a large and growing gap between the projected (prison and juvenile learning center) populations, as best as we can project them" and the amount of money available.

"The costs of public safety are going to continue to be a driving force in the state budget" along with education and Medicaid and, "given the trends we're seeing today, corrections will become an even greater driving force," said Hickman.

He also said that demographics show that within public safety, the juvenile crime arena "is going to be a critical growth area of the 1990s." Growth in serious juvenile crime is projected to rise by 114 percent from 1992 to 2002.

But paying for any new prisons that might be needed may not be the most difficult task. Hickman said "it's a lot easier for us to finance a prison than it is to find locations where we can staff them, and that are politically acceptable."

Among other things, the commission got a report on changes made in Texas where, from 1992 to 1996, the state is expected to double its inmate capacity to 146,000 and dedicate 12,000 beds to substance abuse treatment.

Texas, however, kept parole. It also will spend billions to accomplish its goals and by the year 2000, one in every 21 adults in Texas will be under the control of the criminal justice system.

CURRENT SYSTEM

* Sentencing

Voluntary guidelines

* Parole

Discretionary and mandatory

* Average time served

21 percent to 47 percent of

sentences

* Nonviolent offenders

Held in same prisons, at same cost, as violent criminals

* "Good time" reductions

Offenders, on average, serve 30 percent of sentences

* Probation

Officers supervise 68 offenders, on average

NEW PROPOSALS

* Sentencing

Mandatory guidelines

* Parole

Abolished

* Average time served

75 percent to 100 percent of sentences

* Nonviolent offenders

Housed in "cost-efficient facilities"

* "Good time" reductions

Offenders, on average, serve 85 percent of sentences

* Probation

Hire more officers to reduce caseloads

TENTATIVE HEARINGS

June 2. Roanoke

June 9. Alexandria

June 15. Portsmouth

June 17. Richmond

(ljc)

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Prisons (1PR87))

Region: (USA (1US73); Americas (1AM92); Virginia (1VI57); North America (1NO39); Texas (1TE14))

Language: EN

Other Indexing: (COMMISSION; PROPOSALS; SENATE FINANCE COMMITTEE; VIRGINIA) (Abolished; Allen; Assembly; Barr; Cullen; Dick Hickman; Discretionary; George Allen; Held; Hickman; Hire; Jury; Nonviolent; Parole; PAROLE PANEL OUTLINES PLANS; Probation; Proposal; Richard Cullen; Roughly; Sentencing; Sentencing Reform; Voluntary; William P. Barr)

Edition: City

Word Count: 1402

End of Document

4/20/94 Roanoke Times & World News A1
1994 WLNR 1133756

Roanoke Times (VA)

April 20, 1994

Section: VIRGINIA

NO-PAROLE PROPOSAL UNVEILED OFFICIALS: PRISONS ALREADY BURSTING NOTE: ABOVE

MARGARET EDDS STAFF WRITER

RICHMOND

Gov. George F. Allen's parole commission on Tuesday unveiled the broad outline of a plan for abolishing parole, while state officials acknowledged that stricter parole policies already are straining Virginia's prisons.

A dramatic drop in the number of prisoners being paroled - from about 40 percent of those up for discretionary parole last year to about 22 percent in the last two months - could leave Virginia short thousands of prison beds by 1999, a legislative analyst warned members of Allen's Commmission on Parole Abolition and Sentencing Reform.

Even a 28 percent parole rate !translates into shortfall of 7,089 beds by 1999,! said Richard E. Hickman, deputy staff director of the Senate Finance Committee. Given the lower actual rate, the shortage is likely to be higher, he said.

Secretary of Public Safety Jerry Kilgore downplayed the shortfall, which is roughly the equivalent of 10 prisons. !We're confident we can handle it through developing a lot of alternatives,! Kilgore said. !We don't feel alarmed about it.!

But Dr. Rick Kern, Virginia state government's top criminologist, said crowding from stricter parole may begin to hit already-overcrowded local jails by early summer. !It's a big issue of concern,! Kern said. !I wouldn't say the numbers are a crisis yet,! but pressure will mount as fewer people are released, he added.

Former U.S. Atty. Richard Cullen, a co-chairman of the parole reform commission, said the rise in prisoners is !one of several challenges! his group faces as they work toward a special legislative session this September.

Allen made sentence reform and elimination of parole the centerpiece of last fall's gubernatorial election, and analysts expect the issue to be a major test of his administration.

Cullen and co-chairman William Barr, a former U.S. Attorney General, outlined what they said will be the guiding principles of Allen's reform proposal, including creation of mandatory sentencing guidelines that judges will be expected to follow in most instances.

Currently, Virginia judges have wide discretion in setting penalties for specific crimes. Voluntary sentencing guidelines are available to them, but they aren't required to follow the suggestions. Unlike judges in many states, Virginia judges do not even have to explain why when they depart from the guidelines.

Despite the switch to a mandatory sytem, some judicial flexibility will remain, Cullen said. !Judicial discretion will be retained, but limited,! he said.

Under the plan, which Cullen and Barr referred to as !Proposal X,! parole will be abolished. That will be accomplished largely by shortening current sentences to more nearly reflect that time that is actually being served.

In many cases, Virginia criminals serve only a fraction of the time to which they are sentenced. Under the !truth in sentencing! plan, offenders would serve between 75-100 percent of the time given them, they said.

Cullen and Barr's intention is to increase the length of incarceration for violent offenders, career criminals and others who pose a significant risk to public safety, they said.

To accomplish that, they acknowledged, many non-violent offenders will have to be housed in less-secure and less-expensive facilities. Others will be placed in community programs or given other alternative punishments.

About 48 percent of Virginia's roughly 20,000 prisoners were involved in non-violent crimes, Cullen said. About 85 percent of those are serving time for a drug-related offense.

!We are studying a way to incarcerate these people in a cost-effective but secure facility,! Cullen said. !This is where our challenge is going to be.!

In other matters, the commission heard testimony that the federal crime bill currently before Congress could help stem the state's shortfall in bed space by producing an influx of cash. Congress is aiming toward acting on the crime bill by mid-May.

An official with the Texas Criminal Justice Policy Council outlined his state's alternate route to crime control: massive prison building.

In what may be the largest prison buildup in the nation's history, Texas expects to more than double its prison bed space by 1996. The number of beds will soar from 55,000 in 1992 to 146,000 in 1996 under a $2 billion construction program approved by voters.

!The case for incarceration will be tested in Texas,! promised Tony Fabelo, executive director of the council. By the year 2000, Fabelo said, one out of every 70 adults in Texas will be incarcerated.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Prisons (1PR87))

Region: (USA (1US73); Americas (1AM92); Virginia (1VI57); North America (1NO39); Texas (1TE14))

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Other Indexing: (CONGRESS; KILGORE; PUBLIC SAFETY JERRY KILGORE; SENATE FINANCE COMMITTEE; TEXAS; TEXAS CRIMINAL JUSTICE POLICY COUNCIL; US ATTY; VIRGINIA) (Allen; Barr; Cullen; Fabelo; George F. Allen; Gov; Kern; Parole Abolition; Richard Cullen; Richard E. Hickman; Rick Kern; Sentencing Reform; Tony Fabelo; Voluntary; William Barr)

Edition: METRO

Word Count: 908

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GTE Seeks Lifting Of Decree Banning Long-Distance Sale

The Wall Street Journal

April 14, 1995 Friday

Section: TECHNOLOGY; Pg. B3

Length: 415 words

Byline: By John J. Keller, Staff Reporter of The Wall Street Journal

Body

NEW YORK -- GTE Corp. asked a federal court in Washington to dissolve the 1984 decree that bars the company from selling long-distance communications service via its local telephone business.

The Justice Department, which has taken a hard line on the division of local and long-distance services, is likely to oppose GTE's motion. GTE said the agency had declined its offer to join in the company's effort to get District Judge Harold H. Greene to lift the long-distance ban.

"They want to control things," said William P. Barr, GTE's general counsel and a former attorney general in the Bush Administration. The Justice Department declined comment on GTE's plan.

Like the regional Bell companies, GTE wants to offer a full plate of communication services. With its local phone business in places such as California now under attack from AT&T Corp. and other long-distance rivals, GTE wants to resell the long-distance services of other carriers to its local phone customers. Unlike the Bells, GTE doesn't want to operate the long-distance facilities.

GTE said such a plan would give its phone customers one source for all their communications needs. The company would also be able to send and receive long-distance video programming; set up a long-distance signaling network; and distribute long-distance calling cards.

The 1984 consent decree, which differs from the one under which AT&T and its former Bell phone companies operate, let GTE into the long-distance business so long as it operated separately from its local phone business. GTE in 1992 sold the remainder of its half share in long-distance carrier Sprint to partner United Telecommunications Inc., now Sprint Corp. Last October, GTE sold its international satellite business, GTE Spacenet, to General Electric Co.

GTE, the nation's largest local phone business, also operates the second-largest wireless communications company after AT&T in the U.S.

"If we succeed in terminating the decree there are no restrictions as to the extent our companies can proceed with offering an interexchange [long-distance] service," said Mr. Barr. "Now that GTE has divested itself of these properties, there is no legal justification for continuing these restrictions."

The regional Bell companies have been fighting furiously to win legislation that would free them to run long-distance service through their local phone lines. While such a bill has been wending its way slowly through Congress, the Bells probably won't see passage before next year.

Notes

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CHICAGO TRIBUNE

April 11, 1994

Section: NEWS\

WHAT'S A WHISTLE-BLOWER WORTH?
LOBBYISTS SEEKING LIMITS ON REWARDS

Rogers Worthington, Tribune Staff Writer.

With $22.5 million deposited at his bank Friday, it was Christmas in April for Douglas Keeth. It also was a huge increase in the wages of whistle-blowing, a practice that has been known to lead to poverty and worse.

Keeth, 46, a former finance officer with Connecticut-based United Technologies Corp., was awarded the money in a $150 million settlement by UTC with the Justice Department. He exposed fraudulent billing practices at UTC's Sikorsky Aircraft division.

Under 1986 amendments to the False Claims Act, he was entitled to 15 to 25 percent of the settlement. Even though he got the minimum 15 percent, the award was the biggest ever for a whistle-blower.

"He is very happy, not only because of the money, but because a decision he made in 1989 proved to be a decision that had value," said David Golub, Keeth's lawyer.

But not everyone is happy for Golub and other whistle-blowers who have recently done well by doing good.

"You want to set a high enough incentive, but you don't want to make it tens of millions of dollars," said former U.S. Atty. Gen. William Barr, who served in the Bush administration. "At those amounts, you are taking money out of the taxpayer's pocket."

Rep. John Duncan (R-Tenn.) agrees and is sponsoring a bill to cap the awards at $1 million. "I don't think the original intent of the legislation was to give the kinds of awards they are receiving," he said. "If companies have ripped off the government and taxpayers, that money should go back to the government."

But others argue that most of the money-85 percent-does go back to the government, and that the big awards are worth every cent.

"We put some incentives in and the federal treasury is about $600 million better off than it otherwise would have been," said Sen. Charles Grassley (R-Iowa), who led the 1986 effort to build in protections and incentives for whistle-blowers.

The False Claims Act was enacted in 1942 but was little used before 1986. The Justice Department was, as one congressional staff counsel put it, "routinely slapping the defendants on the wrists in fraud cases."

Since 1986, about 500 whistle-blower suits have been filed, according to Taxpayers Against Fraud and other watchdog groups.

"We need to keep incentives because the Justice Department doesn't do the job thoroughly enough all by themselves. They need outside help," Grassley said.

John Phillips, a lawyer specializing in whistle-blower cases, points out that while the reward for exposing wrongdoing may sometimes be large, the risks always are.

"Keeth was a corporate vice president. He had to understand when he finally undertook this action that the chances of him having any future in that company, or ever working again in the defense industry, were zero," Phillips said.

In fact, said Golub, although Keeth was kept on the payroll, he was given nothing to do. Since 1990, he has not even bothered going to work, Golub said.

Compared with other whistle-blowers, Keeth got off easy. Joblessness, divorce, ill health, poverty, suicide, even murder, have befallen other whistle-blowers.

Lisa Hovelson, director of Taxpayers Against Fraud and a former member of Grassley's staff, said sponsors of the 1986 legislation recognized the magnitude of the whistle-blowers' risks and pushed for the guaranteed minimum award.

"What was driving the debate on the percentages was the recognition that there needed to be a floor, a guaranteed minimum," she said.

Proof they were on the right track, she said, is that since 1986 whistle-blower settlements have totaled four times those reached through the Defense Department's voluntary disclosure program for contractors.

The fact that Keeth is the highest-ranking corporate officer to blow a whistle could send a chill through boardrooms of companies across America that do business with the government.

"You don't see people at his level very often taking a chance and sacrificing their career," said Golub, who stands to become a millionaire himself out of the award.

The next biggest award was for $100 million, which netted $15 million for salesman C. Jack Dowden in 1992 from his employer, National Health Laboratories. That company had fraudulently billed Medicare and Medicaid for blood tests it never performed.

The high awards have provided incentives for the development of an experienced group of whistle-blower attorneys, attracting high-priced Washington lawyers who have found they can make money taking on such cases, which are dense with facts and documents and take years to resolve.

"For the first time, there is more money to be made in attacking fraud than in defending it," said Tom Devine, legal director for the Government Accountability Project, a waste and fraud watchdog group.

Keeth took his action under a Civil War-era provision called Qui Tam, Latin for "one who sues on behalf of himself and the king." It grew out of 1860s frauds by Army defense contractors, such as selling the same horse several times and

using sawdust to bulk out gunpowder shipments. Qui Tam allows a citizen to act, in essence, as a citizen-prosecutor. In the 1860s such a citizen could recover up to half the settlement or fine.

In the mid-1980s UTC brought Keeth, who had been with Essex Co., a subsidiary wire and cable manufacturer, into its headquarters as a promising young financial officer. When Sikorsky's billing irregularities were made known to UTC by someone inside the company, Keeth was named to the internal investigative team.

The irregularities involved inventory accounting practices that resulted in billing the government for materials not yet in the company's inventory. In essence, instead of reimbursing Sikorsky, the government was giving the company interest-free loans.

But the report Keeth had helped write at the end of the nine-month investigation noted other, wide-ranging misconduct in accounting practices.

In April 1989, after the report was turned in, UTC management decided to put all copies under wraps. After complaining to his superiors, according to Golub, Keeth quietly filed his suit in May 1989, alleging a cover-up.

In June, UTC submitted another report to the government. According to a spokesman for the Justice Department, which already had Keeth's complaint in hand, the revised report "significantly understated" the misconduct found by the investigative team.

"Mr. Keeth brought the allegations of improper conduct to our attention," said the spokesman. "Because the numbers were so huge, we decided to proceed independently."

Defense contractors and others who do business with the government are lobbying hard to block government employees, acting as individuals, from filing Qui Tam suits in cases where they do not think the government is acting quickly enough to investigate fraud.

But the contractors also want to see a halt to actions such as Keeth's, which was begun after the company had entered into voluntary disclosure of its billing practices.

"United Technologies had already filed a voluntary disclosure pertaining to these things in early 1988, and Mr. Keeth filed his suit in 1989," said Alan Yuspeh, a lawyer representing a consortium of 22 defense contractors. Under the Defense Department's voluntary disclosure program, a contractor voluntarily can return money to "adjust irregularities," as Yuspeh put it.

Watchdog groups now see Keeth's case as a strong argument against defense industry lobbyists who want to cut off the possibility of Qui Tam suits being filed once a company has entered into voluntary disclosure.

Only someone on the inside can know what is being covered up, added Danielle Brian, director of the Project on Government Oversight, a non-profit group that monitors government waste and fraud.

"The government would never know where all the bones are buried," she said.

Lobbyists representing the consortium of defense contractors are seeking to redefine just who can be a whistle-blower, and when. According to a compilation by the Project on Government Oversight, 20 of the 22 contractors have pleaded guilty or paid penalties or settlements that total more than half a billion dollars since 1990.

And there's more to come. Many of the cases filed in the 1980s still are working their way through the legal pipeline.

---- Index References ----

Company: UNITED TECHNOLOGIES CORP; NATIONAL HEALTH LABORATORIES INC

News Subject: (Crime (1CR87); Legal (1LE33); Judicial (1JU36); Social Issues (1SO05); Criminal Law (1CR79); Government (1GO80); Major Corporations (1MA93))

Industry: (Aerospace & Defense (1AE96); Manufacturing (1MA74))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (ARMY; DEFENSE DEPARTMENT; DOUGLAS KEETH; ESSEX CO; FALSE CLAIMS ACT; GOVERNMENT ACCOUNTABILITY PROJECT; JUSTICE DEPARTMENT; KEETH; LOBBYISTS; MR KEETH; NATIONAL HEALTH LABORATORIES; PROJECT; QUI TAM; SIKORSKY; TAXPAYERS AGAINST FRAUD; UNITED TECHNOLOGIES; UNITED TECHNOLOGIES CORP; WORTH) (Alan Yuspeh; C. Jack Dowden; Charles Grassley; Compared; Danielle Brian; David Golub; Golub; Grassley; Joblessness; John Duncan; John Phillips; Keeth; Lisa Hovelson; Phillips; Tom Devine; William Barr; Yuspeh)

Keywords: FEDERAL; BUSINESS; FRAUD; ETHICS; FIRST; AWARD; FINANCE; EMPLOYEE

Edition: NORTH SPORTS FINAL\

Word Count: 1641

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3/29/94 Daily Press (Newport News, VA) B1
1994 WLNR 4492048

Daily Press

March 29, 1994

Section: Local

WEIGHING THE PRICE OF ABOLISHING PAROLE
SAVING MONEY VS. SAVING SOCIETY

BARRY FLYNN Daily Press

Private contractors might supervise many non-violent criminals who would never see the inside of a prison so that the prison terms of violent convicts could be extended, a high-ranking member of Gov. George Allen's administration said Monday.

The governor's parole and sentencing commission is considering a range of cheaper alternatives to the approximately $18,000 a year it now costs to hold a prisoner in a traditional jail cell, said Jerry W. Kilgore, Allen's secretary of public safety.

These alternatives could include "community-based punishment" such as electronic monitoring, daily reporting and halfway houses, Kilgore said.

"We've got to look at privatizing many of these services" if the state tries them, he added. This is necessary "so that we haven't created an entire bureaucracy that we can't get rid of," he said.

Kilgore was part of a panel discussion on abolishing parole held at the College of William and Mary Monday night. Allen plans to call a special session of the General Assembly in September to take up his plan to end parole for violent criminals.

Abolishing parole would effectively extend many prisoners' sentences far beyond what they now serve and thus sharply increase costs of the state prison system.

While acknowledging an end to parole would drive up the costs of the state's prison system, Kilgore added: "We actually won't have to come up with the money until 2004, 2010." That's because the effects would not be felt until new prisoners become eligible for parole years from now.

However, neither Kilgore nor William P. Barr, a former U.S. attorney general now serving as chairman of Allen's parole commission, could estimate how much might be saved by using community-based punishments for less dangerous criminals.

Barr said out of 7,500 new admissions to the prison system, 1,700, or about 22 percent, are for larceny and fraud - non-violent crimes. However, he added that those non-violent criminals typically pass through the system's "revolving door" faster than others and so end up representing even a smaller percentage of the prison population.

He also argued that longer sentences reduce crime and save society far more than it costs to keep those prisoners locked up.

"It saves money" to keep prisoners in jail longer, he said. "But even if it doesn't save money, it's a cost we have to meet."

Panelists for the discussion were Gene M. Johnson, state deputy director of corrections; Margaret P. Spencer, an associate professor at W&M's Marshall Wythe School of Law; John F. McGarvey, a lawyer who represents prisoners; William P. Barr, a former U.S. attorney general; and Jerry W. Kilgore, state secretary of public safety.

---- Index References ----

News Subject: (Legal (1LE33); Judicial (1JU36); Prisons (1PR87))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (COLLEGE OF WILLIAM; MARSHALL WYTHE SCHOOL OF LAW; SAVING SOCIETY) (Allen; Assembly; Barr; Gene M. Johnson; George Allen; Jerry W. Kilgore; John F. McGarvey; Kilgore; Margaret P. Spencer; Mary Monday; WEIGHING; William P. Barr)

Edition: Final

Word Count: 541

Document: EXPERTS: ABOLISHING PAROLE NO EASY FIX; THE MOV...

EXPERTS: ABOLISHING PAROLE NO EASY FIX; THE MOVE WOULD BE EXPENSIVE, AND A PANEL DEBATING THE ISSUE OFFERED OTHER SOLUTIONS.

The Virginian-Pilot (Norfolk)

March 29, 1994, TUESDAY,, FINAL EDITION

Section: LOCAL,

Length: 649 words

Byline: LYNN WALTZ, STAFF WRITER

Dateline: WILLIAMSBURG

Body

Gov. George F. Allen's plan to abolish parole may not be all it's cracked up to be, several panelists said at a forum here Monday night.

To implement such a plan, said speakers at the College of William and Mary's law school, the state would have to spend hundreds of millions of dollars on new prisons or revamp its system of determining whom to incarcerate.

But, they concluded, Virginians are sick of criminals getting light sentences for murder and other violent crimes, and they're ready for change.

''The public is angry because we haven't been honest,'' said Walter S. Felton Jr., state deputy attorney general. ''Juries are sentencing in the dark. The public wants change beyond political rhetoric.''

The panelists addressed concerns that reflected the current public debate on violent crime and sentencing reform in Virginia:

How do you stop escalating violence?

Does incarceration work as a deterrent?

Are prisons rehab centers or warehouses?

With prisons already overflowing, can the state justify putting even more people behind bars?

If the governor wants to keep violent criminals in jail longer, how will he pay for it?

''The question of parole is extremely difficult and controversial,'' said the forum's moderator, Paul Marcus, acting dean of the Marshall-Wythe School of Law. ''Many states are currently studying the parole system, and we can expect dramatic changes over the next few years.''

Ideas offered by the panelists ranged from more simple steps, like truth in sentencing, to revamp ing the entire incarceration system.

But even with no changes in parole, the prison system is a locomotive quickly running out of track, said Margaret P. Spencer, associate professor at the law school and a member of the Virginia Board of Corrections and the Legislative Commission on Sentence and Parole Reform.

''By 1999 the state will be 7,096 beds short,'' she said. ''The cost for construction alone to house these individual prisoners would be $ 420 million.''

Further, Spencer doubts that abolishing parole would make much of a difference. Only 8 percent of violent offenders ever go before a parole board, she said. The rest are freed under mandatory release dates.

''I'm not sure increased incarceration has an impact,'' she said. ''Prison is a passage, a way of life, a badge of honor. It's not a deterrent to violence. Drug offenders are replaced on the street as soon as they're arrested.''

Nevertheless, Jerry W. Kilgore, Virginia's secretary of public safety, pledged to stiffen sentences for violent offenders. He argued that parole could be abolished without increasing the burden on prisons if there were alternatives for nonviolent offenders, such as home incarceration and community-based punishment.

William P. Barr, former U.S. attorney general and chairman of the governor's Commission on Parole Abolition and Sentencing Reform, favors targeting ''predatory criminals.''

''Incapacitate them,'' he said. ''Let's focus on them and keep them in prison until they have passed the peak of high criminal activity.''

Career criminals commit most of their crimes between their teens and early 20s, with criminal activity dropping off sharply in the mid-30s.

Barr also called for truth in sentencing. Currently, he said, the average time served for rape is 4.2 years; for robbery, 3.8 years; and for a drug offense, 1.2 years.

''People have a right to know,'' he said. ''A sentence is given in public court that has little resemblance to the real sentence.''

John F. McGarvey, a lawyer, argued, however, that the parole system has ''gotten a bad rap.''

''Violent offenders are not being paroled, especially the first time around,'' he said. ''Parole provides an incentive for prisoners to toe the line. If there's no hope and no reward, I can't believe they're going to come out better people than they went in.''

Classification

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COLLEGE & UNIVERSITY PROFESSORS (72%); LEGISLATIVE BODIES (72%); ATTORNEYS GENERAL (54%)

Industry: LAW SCHOOLS (90%); GRADUATE & PROFESSIONAL SCHOOLS (89%); LAWYERS (89%); COLLEGE & UNIVERSITY PROFESSORS (72%)

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1994 WLNR 5701649

WashingtonPost.com

March 27, 1994

PUTTING POWER INTO PRACTICE; BIG WASHINGTON NAMES FIND MIXED SUCCESS AS LAWYERS

Benjamin Weiser

NEW YORK -- Sir Colin Southgate, chairman of the British conglomerate Thorn EMI, needed help: The firm's profitable U.S. subsidiary, Rent-A-Center, had been accused in an article in the Wall Street Journal of price-gouging and preying on low-income customers in offering VCRs, TVs and other equipment. Congress had held hearings and was threatening action. The firm's board wanted someone with a "squeaky clean" reputation to investigate and determine whether the allegations were true. Southgate consulted his advisers, and one name stood out: former U.S. senator Warren B. Rudman, who had joined a prestigious New York law firm after retiring from the Senate in 1992.

Rudman and a team of lawyers went to work. Three months later, the board was reassured when Rudman reported that as best as he could determine, the allegations were "either incorrect or misleading." Last month, Southgate announced the findings, and said that if Congress decided to press the matter, he felt confident his firm would have a powerful defender in Rudman. "Nobody on the Hill is going to doubt his word," Southgate said recently. "That was very important in our selection." Rudman is just one of the dozens of lawyers who left government positions after the 1992 election, resulting in a glut on the market that made it difficult for some to find work in their firms of choice. But there was still a seller's market for that elite group of lawyers -- including Rudman and a handful of other ex-congressional and administration officials perceived to have legal skills along with their solid reputations. Indeed, at a time when the legal profession was still recovering from the economic downturn, there were bidding wars for their services and offers of annual compensation ranging from $600,000 to $1.3 million. Rudman was courted by a dozen firms, and ultimately chose Paul, Weiss, Rifkind, Wharton & Garrison, where senior partner Arthur Liman was an early and ardent backer. "Everybody knew that Warren Rudman was an extraordinary lawyer and he was very much in demand," Liman said. "I was determined that he was going to come here and not get away." Among other top officials eagerly sought by law firms were Kenneth W. Starr, the solicitor general; William P. Barr, the attorney general; Carla A. Hills, the trade representative; and Mel Levine, a California member of the House. Today, as lawyers describe that frenzied grab for high-priced former government talent, many still question whether, as a general rule, such investments are worthwhile. "It's certainly a common belief all over the country -- and in a lot of boardrooms -- that a recent high person in the government can do things that nobody else can do," said Lloyd Cutler, the Washington lawyer who just returned to the lofty levels himself as White House counsel. "On the whole, it isn't true. "If you look at the Washington firms that have done well year by year, you don't find many of these big recent stars," Cutler said in an interview before his new appointment. Usually, he said, they land at firms from other cities that are seeking to enhance their clout in the nation's capital. "It's the key to the mint, they think." "I think it's a lot of baloney myself," said Milton S. Gould, a founding partner at New York's Shea & Gould, which closed this year after disagreements among its partners over many issues, including the performance of Shea's own Washington celebrities -- former trade representative Hills and her husband Roderick Hills, a former chairman of the Securities and Exchange Commission. While Gould declined to comment on the Hillses' effectiveness,

he said his experience has been that bringing other former senior officials to meetings didn't usually accomplish much for clients. "It's all window dressing; every time I wish I'd left them out in the car," Gould said. Bradford W. Hildebrandt, a management consultant to law firms, said, "A lot of them have never made a payroll in their life. They don't understand the need to make money at the practice of law. They don't really understand that clients want real substance and are put off by the sort of glad-handing, salesman approach." Exodus From Office Clearly, though, some firms have decided such investments can pay off. After the 1992 election, 53 officials from the Bush administration and 20 former members of Congress went to law firms, according to a September 1993 report by Congress Watch, a watchdog group under Ralph Nader's Public Citizen. Said director Nancy Watzman, "Their worth to these firms is not to go to the library and look up cases." Nor did the elite group have to send out resumes or read the job classifieds. Former California representative Levine, 50, who wanted to practice international law, said he felt it would be "unseemly for me to call anybody on my behalf, so I just sort of waited to see who called me." He heard from 25 firms, and seriously considered six. He finally joined Gibson, Dunn & Crutcher, a Los Angeles firm with a Washington office, where he hopes to use his experience to help U.S. firms do business abroad. Former representative Beryl F. Anthony Jr. of Arkansas, a friend of the Clinton family, was valued by a number of firms that wanted to establish or broaden their legislative practices. Though Anthony, like every member of Congress, was barred from lobbying his former colleagues for one year, there was no prohibition against contacting White House officials, which he has done for some drug industry clients. Former attorney general Barr said he was courted by half a dozen firms but cut the exercise short "because I didn't want to drag this thing out." Eventually, he turned down some higher offers to rejoin (for the third time) D.C.'s Shaw, Pittman, Potts & Trowbridge, where he had worked as a young associate and then partner in the early 1980s in between various government sojourns. Another top prospect was Starr, who had the added attraction of once being a federal appellate judge as well as Bush's solicitor general. After hearing from about 20 firms, he joined the D.C. office of Chicago's Kirkland & Ellis. Bringing Out Big Guns One example of how these lawyers are deployed occurred a few weeks ago when General Motors Corp. took the unusual step of asking a federal district court judge to step aside in a South Carolina case because the automaker felt the judge was biased. It did not leave the matter to its local counsel. At a Feb. 25 hearing, GM brought to the courtroom Starr, Barr and Griffin Bell, President Jimmy Carter's attorney general. The judge denied the allegations of bias but agreed to withdraw from the case. For all the prominent officials who have made the successful transition to law firms, there have been some well-known disappointments. Some New York lawyers describe two past Paul, Weiss hires -- former Supreme Court justice Arthur Goldberg and former U.S. attorney general Ramsey Clark -- as less than effective in private practice. Clark, who left the firm in 1973 after only three years, said, "I guess it was purely a personal thing. I found the commercial law practice unpleasant, the role that money played in it unpleasant, and the issues that were chosen by the clients -- it wasn't how I wanted to spend my time." In the early 1980s, Walter Mondale worked for the District office of Chicago's Winston & Strawn, where some criticized him for failing to bring in new business. Mondale's friends defend his legal abilities and say the former vice president's talents were misused. He was more successful when he joined the Minnesota firm of Dorsey & Whitney, where he practiced corporate and international law from 1987 to 1993, when he was named ambassador to Japan. "We valued him highly," said firm chairman Tom Moe. Part of the difficulty in measuring the success or failure of high officials who go into private practice is that Washington legal practice is so different from the rest of the country. Many out-of-town firms keep an eye on their partners' hourly billings, said consultant Hildebrandt, but what about the Washington lawyer who, in one 10-minute phone call, gains access for a client to a key decision maker? "It works if that individual is not going to be judged by a billable hours standard," Hildebrandt said. "Their real ability is to open doors." Ambassador Stuart E. Eizenstat, a former Carter administration official who in the 1980s successfully built up a Washington practice for Atlanta's Powell, Goldstein, Frazer & Murphy, said if there is any formula for success, it is to hire officials who still have their legal skills and reputations intact, and are willing "to work as hard as you worked in government." Those were some of the characteristics that made Rudman attractive, lawyers said. Rudman, now 63, had in 12 years in the Senate developed a no-nonsense reputation and served in such sensitive committee assignments as intelligence and the Iran-contra panel. Indeed, Rudman's first call from Paul, Weiss was from Liman, with whom he had worked on the Iran-contra probe. When law firms first talked with Rudman, he said he made it clear that he wanted to practice law -- that he had no desire to become a rainmaker who would be expected to attract business on reputation alone, or a full-time lobbyist. He did not, he said, rule out making occasional appearances on the Hill. Recently, for example, he stopped

by the office of Rep. Joseph P. Kennedy II (D-Mass.) with the head of Rent-A-Center to discuss his findings. Last fall, when Thorn EMI asked Paul, Weiss, its New York lawyers, for a recommendation of someone who might look into the Wall Street Journal's allegations about Rent-A-Center, Rudman emerged as an obvious choice. Not only was the company's reputation at stake, but Southgate was concerned about proposed legislation from Rep. Henry B. Gonzalez (D-Tex.) that would, if enacted, put Rent-A-Center under the federal consumer credit laws and effectively cap the prices it could charge. "The most important thing for me was to actually look for somebody whose reputation was absolutely second to none," Southgate said. "I looked at a long list. We talked to our advisers. My main aim obviously was to counteract that article as far as the Hill was concerned." Rudman was assisted by other Paul, Weiss lawyers and two prominent consulting firms that surveyed Rent-A-Center's customers and staff and examined its records. The 14-week probe, Rudman said, was "very challenging -- like running a congressional investigation." Rudman was so busy during this period that he said it was one reason he withdrew his name from consideration for the post of defense secretary when it was offered. When Thorn EMI announced Rudman's findings Feb. 22, the Journal responded with a statement that it stood by its story. More recently, Rep. Gonzalez has said that Rudman's findings "would have no bearing" on his efforts. But in London, stock market analyst Brian Newman, who watches Thorn EMI for the brokerage house Henderson Crosthwaite, said Rudman's report "has gone a long way to restoring investor confidence in Rent-A-Center." As for Southgate, he is a satisfied Paul, Weiss client, and believes he got his money's worth. He won't disclose Rudman's fee, but he acknowledged it was expensive. When you pick "the cream," he said, "you end up with a very rich dessert." Staff researcher Mary Lou White assisted with this article.

---- Index References ----

Company: RENT A CENTER INC; DOW JONES AND CO INC; GOULD INVESTORS LP; MOTORS LIQUIDATION CO; HUNTING PLC; DORSEY AND WHITNEY LLP; CARTERS INC; THORN EMI LTD

News Subject: (Legal (1LE33); Judicial Cases & Rulings (1JU36); Government Litigation (1GO18))

Industry: (Legal Services (1LE31); Accounting, Consulting & Legal Services (1AC73))

Region: (U.S. Mid-Atlantic Region (1MI18); North America (1NO39); California (1CA98); Americas (1AM92); Illinois (1IL01); U.S. West Region (1WE46); USA (1US73); New York (1NE72); U.S. Midwest Region (1MI19))

Language: EN

Other Indexing: (HENDERSON CROSTHWAITE; PAUL WEISS RIFKIND WHARTON) (Tom Moe; Warren Rudman; George Bush; Mary Lou White; Kenneth Starr; Ralph Nader; Griffin Bell; Arthur Liman; Roderick Hills; Bradford Hildebrandt; Henry Gonzalez; Mel Levine; Arthur Goldberg; Colin Southgate; Joseph Kennedy II; Brian Newman; Walter Mondale; Milton Gould; Nancy Watzman; James Carter; Ramsey Clark; William Barr; Stuart Eizenstat; Beryl Anthony Jr.; Lloyd Cutler)

Word Count: 1912

End of Document

3/17/94 Times Union (Alb.) B2
1994 WLNR 286564

Albany Times Union (NY)

March 17, 1994

Section: CAPITAL REGION

CAUSES OF CRIME IN DISPUTE CONSERVATIVE GROUP BLAMES HIGH NEW YORK CRIME RATES ON SOFT SENTENCES BUT CRIMINOLOGIST SAYS STUDIES SHOW NO LINK BETWEEN THE TWO

Staff and wire reports

ALBANY New Yorkers suffer one of the highest crime rates in the nation in part because of soft sentences for violent criminals, a conservative think tank said Wednesday an argument that was vehemently disputed by a leading criminologist and the Cuomo administration.

The study by the American Legislative Exchange Council was used by the Assembly Republican minority to promote a crime-fighting package that features stiffer sentencing guidelines. Gov. Mario M. Cuomo and legislators are endorsing competing measures this election year designed to get tough on criminals.

The report said New York is ``markedly more lenient'' toward violent criminals than other states, with violent criminals spending 10.6 percent less time in prison than in most other states for the same crime.

But at least one nationally renowned criminologist argued that academic studies into violent crime have shown that sentencing patterns have little, if anything, to do with crime rates.

``We know that it's young males between the ages of 15 and 34 that commit most violent crimes,'' said Alan Lizotte, associate dean of the School of Criminal Justice at the University at Albany. Lizotte noted that baby boomers began hitting that age range in the early '60s, and said the number of males in that age range went ``through the roof'' during the '60s and '70s.

About a dozen GOP Assembly members said at a news conference that they agreed with the report's conclusion that shorter prison terms mean higher crime rates. They were joined by William Barr, a U.S. attorney general during the Bush administration.

With New York's incarceration rates below the national average, Barr said the state's justice system is considered a joke by some criminals and needs to emulate tougher federal systems.

The report said New York's poor record of keeping violent criminals in jail has greatly contributed to a number of alarming crime statistics, including:

New York's violent-crime rate ranks second among the states; its overall crime rate ranks 14th.

New Yorkers today are nearly 10 times as likely to suffer serious injury as a result of violent crime compared with 1960.

While admitting that New York increased its incarceration rates from 1980 to 1986, the report noticed a slowdown since 1986 with a corresponding increase in crime.

However, several of the statistics the study cites are misleading. For example, New York's violent-crime rate in 1992 (the last year for which figures are available) was at its lowest level since 1988. Among those violent crimes, the murder rate has dropped in each of the past three years, and the rape rate is at its lowest point since 1976.

And as Lizotte pointed out, during the period since 1960 there has been an explosion in the population group that commits most violent crime.

In 1960, the number of male New Yorkers between the ages of 14 and 29 (who then, as now, make up roughly 60 percent of those arrested) totaled just less than 1.5 million or 8.7 percent of the state's population. By 1980 their numbers had reached more than 2.2 million 12.7 percent of the population.

The report also drew a sharp rebuke from Cuomo's top criminal justice official.

Richard Girgenti, Cuomo's director of criminal justice services, called the study ``simplistic'' because it failed to take into account the proliferation of guns and drug problems. He added that in the 1970s, both crime rates and incarceration rates rose.

Robert Gangi, executive director of the Correctional Association of New York, said he was befuddled by the group's conclusions, since New York's prison population has increased from 12,500 in 1973 to about 65,000 now.

``It's scary that any self-respecting group that claims to do policy analysis can look at the New York experience and say the problem is that we don't lock up enough people,'' he said.

Times Union/JOHN CARL D'ANNIBALE MICHAEL K. BLOCK, above, an economics professor at the University of Arizona, and Samuel A. Brunelli, executive director of the American Legislative Exchange Council, discuss crime and its causes at a Times Union editorial board conference Wednesday. They also attended a news conference in Albany.

---- Index References ----

News Subject: (Crime (1CR87); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Criminal Law (1CR79))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); New York (1NE72))

Language: EN

Other Indexing: (ALBANY; AMERICAN LEGISLATIVE EXCHANGE COUNCIL; ASSEMBLY REPUBLICAN; CONSERVATIVE; CORRECTIONAL ASSOCIATION; GOP ASSEMBLY; SCHOOL OF CRIMINAL JUSTICE; TIMES UNION; UNIVERSITY OF ARIZONA) (Alan Lizotte; Barr; Bush; Cuomo; JOHN CARL; Lizotte; Mario M. Cuomo; MICHAEL K. BLOCK; Richard Girgenti; Robert Gangi; Samuel A. Brunelli; William Barr)

Edition: THREE STAR

Word Count: 840

End of Document

NewsRoom

3/3/94 Windsor Star (Canada) D8
1994 WLNR 3276658

Windsor Star (Canada)

March 3, 1994

Michigan jail population up

LANSING, Mich.

LANSING, Mich. (AP) - Michigan is putting more criminals in prison and seeing a lower crime rate because of it, a national legislative group said Wednesday.

Michigan ranks fourth among the 50 states for locking up criminals, the American Legislative Exchange Council said. The group ranked Michigan 12th nationally for the number of violent crimes and 21st for the number of violent criminals in prison.

Michigan's prisons now hold 36,554 inmates, the Department of Corrections said. The number has steadily risen over the past decade, as the size of the system was doubled, a spokeswoman said.

"I'd give Michigan a B+," for its crime fighting efforts, said former U.S. attorney general William Barr. He was at the Capitol to help announce the council's report.

"The message today is a mixed one," he said.

Barr said Michigan residents are more likely to be victims of crime than they were 30 years ago. But, he said, the state is doing more to punish criminals and keep them off the streets.

"Michigan should stay the course. Punishment is the most effective prevention," said Barr.

He served as attorney general under president George Bush from November 1991 to January 1993.

Barr said state lawmakers can't be distracted by costs when discussing crime and prisons. They said the higher costs are paid by

victims of crime.

---- Index References ----

Company: AMERICAN LEGISLATIVE EXCHANGE COUNCIL INC; MICHIGAN; AMERICAN LEGISLATIVE EXCHANGE COUNCIL

News Subject: (Social Issues (1SO05); Criminal Law (1CR79); Legal (1LE33); Prisons (1PR87); Crime (1CR87); Judicial (1JU36))

Region: (U.S. Midwest Region (1MI19); North America (1NO39); Americas (1AM92); USA (1US73); Michigan (1MI45))

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Other Indexing: (AMERICAN LEGISLATIVE EXCHANGE COUNCIL; MICHIGAN) (Barr; George Bush; William Barr)

Edition: Final

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Document: Locking up of criminals cuts Michigan crime rate

Locking up of criminals cuts Michigan crime rate

The Record (Kitchener-Waterloo, Ontario)

March 3, 1994 Thursday Final Edition

Section: FRONT; Pg. A12; News

Length: 195 words

Dateline: LANSING, MICH.

Body

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ASSOCIATED PRESSThe group ranked Michigan 12th nationally for the number of violent crimes and 21st for the number of violent criminals in prison.

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Classification

Language: ENGLISH

Subject: CRIME RATES (93%); CORRECTIONS (90%); PRISONS (78%); PRISONERS (78%); LAWYERS (75%); CRIMINAL OFFENSES (73%); ATTORNEYS GENERAL (69%)

Organization: AMERICAN LEGISLATIVE EXCHANGE COUNCIL (84%)

Industry: LAWYERS (75%)

Geographic: MICHIGAN, USA (95%); UNITED STATES (92%)

Load-Date: September 21, 2002

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Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 11:15:29 p.m. EST

Document: Crime report card gives Florida a failing grade

Crime report card gives Florida a failing grade

St. Petersburg Times (Florida)

February 23, 1994, Wednesday, City Edition

Times Publishing Company

Section: TAMPA BAY AND STATE; THE LEGISLATURE; Pg. 4B

Length: 466 words

Byline: LUCY MORGAN

Dateline: TALLAHASSEE

Body

Florida is failing to deal with crime even though it probably spends more than $ 20-billion a year on the problem, says a national legislative group.

At a news conference Tuesday, former U.S. Attorney General **William Barr** joined members of the conservative American Legislative Exchange Council to talk about Florida's problems. A handful of legislators and Marion Hammer, lobbyist for the National Rifle Association, lined up with the group as it issued a special report card on crime.

TLYCRIME

Florida failed to keep up with dramatic increases in violent crime during the 1980s, and despite modest progress in recent times must now play "catch up" at a greater rate than other states, Barr said.

"Hurricane Andrew was dramatic," Barr said. "But as sad as this state's experience with the hurricane was, there has been more of a disaster with the spread of violent crime."

Florida has the nation's highest overall crime rate and violent crime rate, according to government statistics. The state's crime rate is five times higher than in 1960, but its incarceration rate has been reduced by nearly half, from 88.9 percent of sentences served in 1960 to 42.8 percent in 1992.

Barr said national surveys indicate there is a direct correlation between the number of people in prison and the overall crime rate. If more people are locked up, there is less crime, he said.

From 1980 to 1991, the 10 states with the greatest increases in criminal incarceration rates experienced an average 12.7 percent decrease in crime, the group said. Conversely, the 10 states with the weakest incarceration rates saw crime increase an average of 6.9 percent during the decade. The only states that reduced the rate of violent crime during the decade were those that increased their incarceration rate more than the national average.

"The state gets an F for prior public policy," Barr said. "It's a disaster, a basket case."

The state should build more prisons and keep people until they have served at least 85 percent of their sentences, the group said. But they oppose any move toward gun control for help.

"Gun control is a dead end," Barr said. "It won't reduce the level of violent crime in our society."

Barr and council officials estimated the cost to Floridians at $ 20-billion a year, noting the state not only spends an enormous amount of money to operate prisons and its criminal justice system, but businesses and individuals spend almost as much for private security.

The state also suffers from lost economic opportunities. Barr said one Washington, D.C., neighborhood afflicted by random shotgun slayings noticed a 30-percent decrease in neighborhood business after the shootings.

Graphic

BLACK AND WHITE PHOTO; **William Barr**

Classification

Language: ENGLISH

Subject: CRIME RATES (92%); VIOLENT CRIME STATISTICS (91%); CRIMINAL OFFENSES (90%); CORRECTIONS (89%); PRISONS (89%); FIREARMS (89%); JAIL SENTENCING (89%); GUN CONTROL (89%); LOBBYING (78%); SENTENCING (78%); PUBLIC POLICY (78%); LEGISLATIVE BODIES (78%); CRIME STATISTICS (78%); SHOOTINGS (76%); HURRICANES (74%); NEWS BRIEFS (72%); TROPICAL STORMS (69%); STATISTICS (69%); POLLS & SURVEYS (68%)

Company: AMERICAN LEGISLATIVE EXCHANGE COUNCIL (58%); NATIONAL RIFLE ASSOCIATION OF AMERICA (57%)

Organization: AMERICAN LEGISLATIVE EXCHANGE COUNCIL (58%); NATIONAL RIFLE ASSOCIATION OF AMERICA (57%)

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Date and Time: Dec 16, 2018 11:14:01 p.m. EST

2/21/94 Charlotte Observer (N.C.) 1C
1994 WLNR 1741033

Charlotte Observer (NC)

February 21, 1994

Section: METRO

HOUSE DELAYS ACTION ON LOTTERY REFERENDUM

Associated Press

A weekly look at S.C. government during the legislative session.

* Don't place your bets just yet. The full House has delayed action on a committee-passed bill that would let voters decide whether to authorize a state lottery. Objections by a few members sent it down on the House calendar.

Supporters say they face a tough fight to get approval from two-thirds of the members. A group promoting casino gambling said it would spend $200,000 to lobby legislators.

* Endorsed: The House Ways and Means Committee has endorsed Rep. Billy Boan's bill phasing out residential property taxes for schools over four years and with the state making up the $180 million schools would lose. The bill also caps local government and school spending during those four years. The Chamber of Commerce says the measure does not do enough to prevent the tax burden from being shifted to businesses. The Lancaster Democrat's bill now goes to the full House.

* Flying the Confederate Flag: Senators have introduced legislation calling for a November referendum on flying a Confederate battle flag similar to one already atop the State House and in House and Senate chambers. The bill calls for the Battle Flag of the Army of Northern Virginia. It is the third bill to call for a referendum and was sent to the Judiciary Committee.

Black lawmakers want to push for a vote this year to pull down the flag, which has flown since 1962.

QUOTE OF THE WEEK

* ``It's the difference between laughing at the criminal justice system and crying at the criminal justice system."

- William Barr, a former U.S. attorney general, speaking at the State House last week in support of anti-crime legislation pushed nationwide and in South Carolina.

The House has endorsed removing the confidentiality of juveniles' criminal records if they have been convicted of violent crimes. It already has endorsed a bill that bans parole for ``drug kingpins."

The Senate Judiciary Committee has endorsed a bill to mandate life in prison without parole for felons convicted of two violent crimes. THIS WEEK

* Tuesday at 2:30 p.m. - The House Environmental Affairs II Subcommittee is scheduled to take up a bill that would make it harder for lawmakers to keep the low-level nuclear waste landfill near Barnwell open to out-of-region waste. YOUR VOICE

* To contact a member of the S.C. House, call the House clerk's office, (803) 734-2010, for the lawmaker's phone number and address. For the same information about a state senator, call the Senate clerk's office, (803) 734-2311. To find out the status of a bill, call (800) 922-1539.

PHOTO

1
1. Boan 2. Barr

COLUMN: Capitol Dispatches * Your Voice in South Carolina

---- Index References ----

News Subject: (Legal (1LE33); Government (1GO80); Legislation (1LE97); Local Government (1LO75); Judicial (1JU36))

Region: (North America (1NO39); Americas (1AM92); South Carolina (1SO63); USA (1US73))

Language: EN

Other Indexing: (ARMY; COMMERCE; CONFEDERATE; HOUSE; HOUSE ENVIRONMENTAL AFFAIRS II; JUDICIARY COMMITTEE; LANCASTER DEMOCRAT; PHOTO; QUOTE; SENATE; SENATE JUDICIARY COMMITTEE; STATE HOUSE) (Barr; Billy Boan; Black; William Barr)

Edition: THREE

Word Count: 538

End of Document

NewsRoom

2/20/94 Rocky Mtn. News 3A
1994 WLNR 558277

Denver Rocky Mountain News (CO)

February 20, 1994

Section: NEWS/NATIONAL/INTERNATIONAL

$3 BILLION REGIONAL PRISON BILL COULD BACKFIRE AT STATE LEVEL FEDS WANT GREATER PORTION OF SENTENCES TO BE SERVED, WHICH IN TURN COULD LEAD TO MORE CROWDING OF JAILS

CHARLES S. CLARK CONGRESSIONAL QUARTERLY

In state capitals and in Washington, the desire to crack down on crime is crashing up against a prison system bursting at the seams.

Faced with such crowding, state corrections officials might be expected to cheer the $22 billion crime bill passed by the Senate in November. It includes $3 billion to build regional prisons that states could use to handle their inmate overflow.

But there's a catch: To make use of the new federal cells, states would have to pass "truth-in-sentencing laws" requiring prisoners to serve at least 85% of their terms.

"Regional prisons would be devastating to states, and would cost us millions if we took them up on it," says Chase Riveland, formerly Colorado's prison czar, now secretary of the Corrections Department for the state of Washington. "The crime bill is a lot of rhetoric that is not helpful in the long term."

The Justice Department announced in October: "There are more men and women in state and federal prisons than ever before." The number of inmates grew by an average of 1,600 a week in the first half of 1993, with the federal prison population growing at twice the states' rate.

The number of inmates in state and federal prisons quadrupled from 1970 to 1990, according to the Sentencing Project, a Washington advocacy group. The country's incarceration rate of 455 inmates for every 100,000 people has now surpassed that of South Africa to become the highest in the developed world.

Counting prisoners in county and city jails, a total of 1.2 million adults in the United States are behind bars.

The resources devoted to corrections have not kept pace. The federal prison system is 36% over capacity, according to the Bureau of Prisons. Forty states and the District of Columbia are under court orders or consent decrees to limit their prison populations due to overcrowding, according to the National Prison Project of the American Civil Liberties Union.

In Georgia, some prison inmates are housed in trailers; in New Jersey, many must live in tents; and in North Carolina, inmates by the hundreds are sent to rented cells in Rhode Island. In California, federal and state prisons are stuffed to nearly double their combined maximum capacity.

"In many parts of the country, you have to make a reservation to go to jail," says Rep. William Hughes, D-N.J., a veteran member of the House Judiciary Committee who specializes in prison issues.

The reasons for the inmate explosion include:

* A rise in violent crime,

* Improvements in law enforcement and new penalties against drunken driving and firearms violations.

* But the major force clearly has been the introduction of mandatory minimum sentences, which were enacted at the state and federal levels beginning in the mid-1980s.

Currently on the books for more than 100 federal crimes, many related to drug trafficking, mandatory minimums have vastly boosted the average time actually served by inmates.

Chief Justice William Rehnquist, in a speech last June, said that mandatory minimum sentences are a "good example of the 'law of unintended consequences.' There is a respectable body of opinion which believes that these mandatory minimums impose unduly harsh punishment for first-time offenders - particularly for 'mules' (runners) who played only a minor role in drug distribution schemes. . . .(They) have also led to an inordinate increase in the federal prison population and will require huge expenditures to build new prison space."

Mandatory sentences "represent a major shift in power from judges to prosecutors," says Beth Carter, spokeswoman for the Campaign for an Effective Crime Policy, which was mounted by corrections specialists seeking an end to political demagoguery on crime.

"Many state corrections officials say that prison overcrowding results when mandatory sentencing detracts from their ability to identify and put away the violent criminals."

Yet expanding the mandatory-minimum approach to the state level is precisely the approach taken in the Senate crime bill and by conservative proponents of a general crime crackdown.

"The American criminal justice system must be reformed, particularly at the state level, to eliminate 'revolving-door' justice," proclaims the founding statement of The First Freedom Coalition, a Washington advocacy group headed by Bush administration Attorney General William Barr. "Violent criminals must stay in prison for the entire length of their sentences. Releasing such offenders after a fraction of their sentences have been served results in more victimization."

Critics say that quite apart from costs, the problem with building more prisons to house more prisonsers for longer periods is that it has already been tried - with little success.

Nationally, the prison population has grown by 102% since 1983, but violent crime still rose 40%, notes the Sentencing Project.

A National Academy of Sciences panel last year concluded that increased incarceration had "apparently little effect" on crime.

"While average prison time served per violent crime roughly tripled between 1975 and 1989," the panel said, "reported levels of serious violent crime (remained at) about 2.9 million per year."

Overall, counters Paul McNulty, executive director of the First Freedom Coalition, the rise in prison population has cut crime. The effect would be more demonstrable, he says, were it not for the increased juvenile violence since 1987. Until the mid-1980s, he says, the movement to incarcerate as a check "was on course."

Regardless of who is right, advocates of longer sentences and more prisons clearly have the upper hand politically, at least for this year.

"Because polls show crime to be the No. 1 concern, and because there are governors' elections in many big states this year, the politicians want to out-demagogue each other," says Kenneth Schoen, director of justice programs at the Edna McConnell Clark Foundation, which supports alternatives to building prisons.

"But back in the legislatures and state finance committees, they're looking for other ways out, because all the tough talk comes without funds."

LIB1 LIB1

Bulldog banner p.1A - INMATE POPULATION EXPLODES / STATES STRAIN TO HOUSE NEWLY CONVICTED CRIMINALS IN OVERCROWDED JAILS.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Prisons (1PR87))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (AMERICAN CIVIL LIBERTIES; BUREAU OF PRISONS; CORRECTIONS DEPARTMENT; EDNA MCCONNELL CLARK FOUNDATION; EFFECTIVE CRIME POLICY; HOUSE JUDICIARY COMMITTEE; JUSTICE DEPARTMENT; NATIONAL ACADEMY OF SCIENCES; NATIONAL PRISON PROJECT; OVERCROWDED; SENATE; SENTENCING PROJECT) (Beth Carter; Bulldog; Chase Riveland; Chief Justice William; CONVICTED CRIMINALS; Counting; Critics; Forty; Kenneth Schoen; Nationally; Paul McNulty; Releasing; William Barr; William Hughes)

Edition: BULLDOG

Word Count: 1253

End of Document

2/17/94 Columbia State (SC) 2B
1994 WLNR 1276709

Columbia State (SC)

February 17, 1994

Section: METRO/REGION

LOCK UP MORE CRIMINALS TO CURB CRIME, GROUP SAYS
REPORT RECOMMENDS LEGAL CHANGES

LISA GREENE, Staff Writer

South Carolina legislators need to fight crime by locking up more criminals, a group of state lawmakers and national lobbyists said Wednesday.

In issuing preliminary numbers from its "Report Card on Crime" study, the American Legislative Exchange Council said that a South Carolinian is six times more likely to be a crime victim now than in 1960.

"South Carolina is not keeping violent criminals off the street," said Sam Brunelli, executive director of the council, a national bipartisan group of state legislators.

The group's report card recommended 10 legal changes. Versions of several of those proposals are pending in the General Assembly, including sentencing repeat criminals to life without parole, treating more juveniles as adults, and passing truth-in-sentencing rules.

The group didn't issue a grade for South Carolina, but when asked for one, Brunelli said he would give it a C-minus or a D.

South Carolina releases too many violent criminals, former U.S. Attorney General William Barr said. He pointed to statistics saying crime goes up when fewer criminals are imprisoned.

According to the group's statistics, South Carolina imprisons more criminals per capita than most of the nation, but it ranks 29th in the nation for incarcerating violent criminals.

"South Carolina is not using its prison space wisely," Barr said. "It has nonviolent prisoners taking up prison space."

However, the group's statistics did not match those issued by the S.C. Corrections Department. The group ranked South Carolina fifth in its overall incarceration rate in 1992, while corrections has ranked it first.

Rep. David Wilkins, R-Greenville, was among several state legislators at the conference. He said the costs of some bills -- for instance, one that would mandate life sentences for some repeat offenders could cost $58 million in extra prison costs -- shouldn't keep lawmakers from supporting them.

"I don't think they're so expensive that they're not affordable," he said. "The question is, can we afford not to do it?"

---- Index References ----

Company: AMERICAN LEGISLATIVE EXCHANGE COUNCIL INC; AMERICAN LEGISLATIVE EXCHANGE COUNCIL; LOCK

News Subject: (Legal (1LE33))

Region: (North America (1NO39); Americas (1AM92); South Carolina (1SO63); USA (1US73))

Language: EN

Other Indexing: (AMERICAN LEGISLATIVE EXCHANGE COUNCIL; LOCK; SC CORRECTIONS DEPARTMENT) (Assembly; Barr; Brunelli; David Wilkins; Sam Brunelli; William Barr)

Edition: FINAL

Word Count: 412

End of Document

2/8/94 Richmond Times-Dispatch A1
1994 WLNR 1010270

Richmond Times Dispatch (VA)

February 8, 1994

Section: Area/State

JULY '95 IS REFORM TARGET AT ITS FIRST MEETING, PAROLE PANEL URGED TO SET EXAMPLE

FRANK GREEN Times-Dispatch Staff Writer

Gov. George Allen told his Commission on Parole Abolition and Sentencing Reform yesterday that he wants both tasks accomplished by July 1995, just 14 months after his proposed special General Assembly session on parole would meet.

The commission met for the first time yesterday. Its job is to design one of the most sweeping sets of changes ever proposed for Virginia's criminal justice system.

Allen cited the federal system as a model from which Virginia could learn, and other states could then learn from Virginia.

"You are now on the cutting edge of a reform effort that can provide an example for the nation," Allen said.

"We simply cannot escape the fact that law-abiding people will never be safe so long as these grisly, violent predators are quickly freed to roam the streets."

It took the federal government 14 years to create sentencing reforms and end parole. Other states have rushed into the process with sometimes disastrous results. In Florida, for example, dangerous criminals had to be released because of crowding, and a massive prison construction effort was started.

"It's going to be a complicated (task) to the extent that we are engaging in the truly radical reform" of the Virginia system, conceded Richard Cullen, a co-chairman of the commission.

But he said the goal is not complicated: to devise a new system in which a violent criminal remains in prison longer, "thereby preventing him from preying on society."

Though the commission will be studying costs, Allen gave no hint yesterday where the money would come from to build and operate the new prisons that he said would be needed as a result of reforms.

Since the U.S. government ended parole and set up sentencing guidelines in 1987, the federal inmate population jumped from 20,621 in 1986 to 73,500 in 1992. The total is projected to reach 119,000 by 1999. The Federal Bureau of Prisons' annual budget is now $2.1 billion.

Virginia has roughly 20,000 inmates and a corrections budget still under $500 million.

Cullen, a former U.S. attorney for the Eastern District of Virginia, said, "Money is not something that grows on trees in Virginia. We have to be conscious that the people, while demanding true reform . . . want us to recognize that they are paying for it."

Cullen said less expensive alternatives might be found for the roughly 7,200 Virginia inmates with no previous convictions for violent crime. They now cost the state $115 million a year to keep behind bars.

Cullen said the commission would ask the Assembly in its special session to create a group to restructure sentences for all offenses, perhaps with stiffer terms for violent offenders and prison alternatives for nonviolent and drug offenders.

He also said the Assembly would be asked "to abolish parole by a date certain. That date will be set in conjunction with the new sentencing structure." Current inmates would not be affected.

Allen has yet to set a date for the special session, but Cullen said it appears it would be set for early May.

The goal is truth in sentencing for Virginia, a state where parole and good-time incentives can mean criminals serve as little as one-sixth of their sentences and where juries are not told of a defendant's criminal record before sentencing.

Though the state has relatively low crime and high incarceration rates, voters have made it clear they want change.

State Supreme Court Justice Leroy R. Hassell told the commission, "Just last month, I had a lady who served on a jury in Richmond stop me on the street to complain. She was very distraught because she later learned that even though her jury had imposed a rather lengthy sentence, the person had only served a mere portion of that sentence."

Richmond City Manager Robert C. Bobb, another commission member, said that many criminals, once released, "wreak havoc on our community again and again. We can try rehabilitation on some, and on nonviolent criminals" try alternatives to incarceration.

"But with the most hardened, violent criminals who have demonstrated absolutely no . . . concern for human life, and no concern for the laws of the commonwealth, the prison doors must shut and in my opinion never be opened."

He added that "when violent crimes are committed by those who should be behind bars, we become responsible for these tragedies -- those of us in public office."

Former U.S. Attorney General William P. Barr, the other commission co-chairman, pointed out that since the federal government eliminated parole, many local law enforcement officials have opted to turn over the prosecution of violent criminals to federal court to keep them off the street longer.

In recent years, murderous drug operations in Richmond, such as the Johnson-Brown and Newtowne gangs, have been prosecuted in federal court, where true life terms and even three death sentences have been imposed.

Barr said when some gang members arrested in Philadelphia learned they were going to be prosecuted by federal authorities, "some of them started to cry."

"Shouldn't we have not one system in this country that makes criminals cry, but 51 systems in this country that are capable of making criminals cry and striking terror in their hearts?"

(While the federal system eliminated parole, it still permits inmates to earn up to 54 days a year -- after the first year -- to be shaved off their sentences for good behavior.)

Allen cautioned that the task at hand will not be easy.

"Virginia's liberal, lenient system of parole is an entrenched system, and many in the bureaucracy and even the legal community have an interest in seeing it perpetuated," Allen said.

He also warned of political one-upmanship that could damage prudent plans.

"In addition, there are some people and organizations active on the political scene who will vocally oppose any attempt to lengthen the prison time served by criminals," he said.

"These folks mean well, but they see efforts to make punishment more predictable and more certain as a threat to civil liberties of criminals rather than as protection for the civil rights of law-abiding Virginians."

Allen said the work of a General Assembly commission studying parole and sentencing reform, which has been under way for the past year, will be incorporated into his commission's work.

PHOTO

(lgw)

---- Index References ----

News Subject: (Violent Crime (1VI27); Crime (1CR87); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Criminal Law (1CR79); Prisons (1PR87))

Region: (USA (1US73); Americas (1AM92); Virginia (1VI57); North America (1NO39))

Language: EN

Other Indexing: (FEDERAL BUREAU OF PRISONS; JOHNSON BROWN; PHOTO; STATE SUPREME COURT) (Allen; Assembly; Barr; Cullen; George Allen; Gov; Leroy R. Hassell; Richard Cullen; Robert C. Bobb; Sentencing Reform; Shouldn; William P. Barr)

Edition: City

Word Count: 1249

End of Document

2/8/94 Roanoke Times & World News C3
1994 WLNR 1154145

Roanoke Times (VA)

February 8, 1994

Section: VIRGINIA

ALLEN REVEALS OUTLINE OF PAROLE-ABOLITION PLAN

MARGARET EDDS STAFF WRITER

RICHMOND

Following up on the central pledge of his campaign, Gov. George Allen on Monday unveiled the broad outline of a plan to abolish parole in Virginia and replace it with revised penalties for every offense from drug possession to murder.

But those expecting a quick fix to parole woes will be disappointed.

It will be mid-1995 before two commissions - one recommending guidelines for the reform, the other matching sentences to specific crimes - finish work and the system is in place, Allen indicated.

Speaking to the first session of a 32-member commission on parole and sentencing reform, Allen said the effort to remove "grisly, violent predators" from the streets puts members on "the cutting edge of a reform effort that can provide an example for the nation."

The commission is expected to present recommendations at a special legislative session, probably in May, and the reform should be in place 14 months later, organizers said.

According to Allen and former U.S. Attorney Richard Cullen, co-chairman of the commission, the reform effort will aim to extend the prison terms of violent offenders, largely by providing less-costly punishments for the nonviolent.

But the difficulty of reducing violent crime by keeping the most violent criminals behind bars is underscored in data recently reported by the Department of Criminal Justice Services. Those figures show that more violent crimes are committed by nonviolent offenders on parole than by violent offenders similarly freed.

Larceny, fraud, most drug crimes and most property crimes - including burglary - are considered nonviolent offenses. Violent crimes include homicide, rape, robbery and aggravated assault.

Allen, Cullen and the commission's other co-chairman, former U.S. Attorney General William Barr, generally envision patterning Virginia's sentencing structure on the federal system. Judges or juries operate within a range of penalties for each offense, and criminals must serve the sentence given.

Virginia convicts now may serve one-third or less of the time to which they are sentenced.

"Those who say Virginia is a tough, law-and-order state are not talking to the people on the front lines, the prosecutors, who frequently turn violent criminals over for prosecution in the federal system in order to keep them behind bars for mandatory prison terms without the possibility of parole," Allen told the commission.

Commission members include prosecutors, judges, victims advocates, legislators and business representatives.

Cullen cautioned that the commission must balance the desire to end parole against the cost of doing so. Abolishing parole while keeping sentences at their current length would send prison populations soaring.

The result, Cullen said, is that the commission will have to study sentencing alternatives: boot camps, electronic monitoring, community service and other less expensive punishments.

Deciding who stays behind bars will be a major challenge, Cullen and others acknowledged. "Risk assessment" techniques to be used likely will focus on such factors as age and previous criminal records, staff members said.

For instance, more than 7,000 of the state's roughly 16,500 prisoners are incarcerated for nonviolent crimes and have no previous convictions for violent crimes, according to the Department of Criminal Justice Services.

As outlined by Cullen, the special session will be used to name and instruct a sentencing commission. Legislators, acting on the commission's recommendations, may be asked to set criteria for expanded use of alternate punishments, for example.

"No one is going to suggest reforming the criminal justice system is the only answer," Barr said, "but there can be no answer without it."

---- Index References ----

News Subject: (Violent Crime (1VI27); Crime (1CR87); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Legislation (1LE97); Criminal Law (1CR79); Prisons (1PR87); Government (1GO80))

Region: (USA (1US73); Americas (1AM92); Virginia (1VI57); North America (1NO39))

Language: EN

Other Indexing: (DEPARTMENT OF CRIMINAL JUSTICE SERVICES; PLAN; US ATTORNEY) (Allen; ALLEN REVEALS; Barr; Cullen; George Allen; Larceny; Richard Cullen; Risk; William Barr)

Edition: NEW RIVER VALLEY

Word Count: 752

End of Document

PENNSYLVANIA REPUBLICANS UNVEIL FINDINGS FROM 'REPORT CARD ON CRIME'

PR Newswire

February 1, 1994, Tuesday - 15:06 Eastern Time

Section: State and Regional News

Length: 911 words

Dateline: HARRISBURG, Pa., Feb. 1

Body

Although crime continues to be a problem, a "Report Card on Crime" issued by the American Legislative Exchange Council (ALEC) Tuesday, shows that Pennsylvania suffers lower crime rates than do most other states.

Dauphin County Rep. Jeffrey E. Piccola and Montgomery County Sen. Stewart J. Greenleaf, Republican chairmen of the House and Senate Judiciary committees, joined former U.S. Attorney General William P. Barr and other state legislators in unveiling the report card findings, as well as a list of recommendations to fight crime.

According to the report, Pennsylvania's crime rate ranks 45th among the 50 states and its violent crime rate ranks 32nd. However, Barr noted that changes in Pennsylvania's crime rates mirror changes in the state's incarceration rates.

"Between 1960 and 1980, Pennsylvania slashed its incarceration rates and the crime rate soared," said Barr, who served as attorney general under President Bush from 1991 to 1993. "Since 1980, Pennsylvania has increased incarceration rates and its total crime rate has declined while the rise in its violent crime rate has slowed."

In praising the Pennsylvania General Assembly, Barr said state legislators have already implemented or are currently considering ALEC's 10 recommendations to fight crime.

"If Pennsylvania's lawmakers are successful in approving these recommendations, this state will definitely be on the right track to combat crime and protect its citizens," Barr said.

Piccola said the General Assembly has worked to enact a host of mandatory sentencing laws to ensure violent criminals receive swift and certain punishment for their actions.

"We have also responded to the epidemic of drug-related crime with the passage of mandatory sentences for drug dealers," Piccola said. "Additionally, we have provided law enforcement officers with new tools to more effectively combat high-level dealers such as a strengthened drug forfeiture statute."

Piccola added that the state's tough stance on crime has driven up the prison population, which has led to the largest prison expansion initiative in the history of the commonwealth.

"Five new correctional facilities were dedicated in 1993. Two new prisons are ready for construction. But such massive expansion does not come without massive cost," Piccola warned. It is estimated the five new prisons will cost $50 million per year in debt service payments over the next 20 years and an additional $200 million in operating expenses.

To put things in perspective, Barr said the federal government, in an attempt to prevent premature deaths, spends $2.6 million per death for a clean environment.

"If this cost/benefit analysis is applied to the criminal justice system, the government would be spending four or five times more than it does at present to ensure career criminals and violent offenders are locked up," Barr said.

In the area of violent crimes committed by juveniles, Piccola said the rise in such crimes shows Pennsylvania's current approach has been a failure.

"All too often we place violent youths in minimum-security facilities with non-violent youths. We need to ensure we have adequate, secure facilities to contain the more violent youths," Greenleaf said.

Piccola has proposed the construction of two new maximum security prisons for the most violent juvenile offenders. He also suggested empowering courts to sentence these dangerous young criminals for longer periods of time and lowering the age threshold of "juvenile offender" to 13 years.

"Present law is unrealistic in that it defines dangerous juvenile offenders as those between the age of 15 and 18. Our police and district attorneys advise us repeatedly of the unbelievably young ages of these very violent criminals," Piccola said.

ALEC's report encourages enactment of "three strikes, you're out" legislation, which would mandate life imprisonment without release for the third conviction of a violent or serious felony.

"With regard to the 'three strikes, you're out' legislation, these are the types of violent offenders we want to have off our streets. In these cases, incapacitation is the best deterrent," Piccola said. However, he urged a thorough analysis so "we understand up front what it will mean for prison populations and allow for appropriate planning."

When asked about gun control, both Piccola and Barr said they opposed banning guns. However, Barr added that the government could seek to restrict access to minors or prohibit felons and those suffering from mental illness from purchasing guns.

"Existing gun control laws, both federal and state, should be enforced. We need to concentrate on the criminal rather than the gun," Barr said.

Barr said his experience as a prosecutor proved that there is one criminal justice system that brings tears to the eyes of violent criminals -- the federal system.

"What we need is 51 criminal justice systems to bring tears to the eyes of criminals and strike fear in the hearts of would-be criminals," Barr said.

Founded in 1973, ALEC is the nation's largest bipartisan, individual membership organization of state legislators. ALEC's goal is to ensure that legislative members are fully armed with the information, research and ideas they need to address the most pressing needs of its citizens.

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CONTACT: Rep. Jeffrey E. Piccola, 717-787-4751

NewsRoom

1/24/94 AP Online 00:00:00

AP Online

January 24, 1994

Section: Domestic

Clinton Endorsement or No, Experts Doubt Life In Prison for 3-Time Felons

ARLENE LEVINSON

Washington state voters brushed aside concerns about costs and elderly inmates last November when they embraced a law that will put three-time violent criminals in prison for life with no parole.

Now "three strikes, you're out" is in. Similar laws are proposed in at least 10 other states, and this latest attempt to stop violence is expected to get its biggest plug yet from President Clinton in his State of the Union speech Tuesday night.

Despite an avid public and enthusiastic prosecutors, criminal experts say it's a bad idea.

"People love simple solutions to complex problems," said James Austin, executive director of the National Council on Crime and Delinquency, a non-profit research institute in San Francisco. "Basically, we've got a baseball slogan driving a complex social problem, violent crime."

Others interviewed Monday also warned of draining away good money that would be better spent eradicating the root causes of crime, like poverty and drug addiction. They also pointed out that that an aged criminal is most likely a harmless one.

Professor Todd Clear, who teaches criminal justice at Rutgers University in New Jersey, estimated it costs $1 million to lock up a 30-year-old criminal for life.

"Is this really a wise use of resources?" he said. While the value of a life saved from averted crime can't be measured, he said, "What could you do to make life better for people if you had a million dollars?"

It's not about money alone, Clear said.

"If you want absolutely no crime whatsoever, then kill all 17-year-old boys," he said, then reeled off some statistics.

90 in every 100,000 Americans were incarcerated in 1973. Now that number is 360 per 100,000.

The nation's prison population has swelled from 200,000 to 900,000 in the last 20 years.

Today's violent offenders have served three times the prison time their predecessors did in 1975.

"We have tried toughness for 20 years and we seem not to be getting the lesson," Clear said, "that spitting out offenders does nothing for the communities that spit them out."

Tell that to one happy prosecutor, John Ladenburg of Pierce County, Wash.

"We as a nation are full of hope and we are slow to admit there are people like this who will not change and we ought to lock them up," said Ladenburg, chief prosecutor for Pierce County, Washington's second-most-populous county with 650,000 people and about 50 murder trials a year.

"It's a fair price to pay for having committed these sins against the society," said Ladenburg, who helped push the "three strikes, you're out" ballot measure to its 3-1 victory at the polls.

Earlier this month, Ladenburg's office trumpeted the arrest of an alleged three-time felon with a news release announcing that rape suspect Cecil Davis had "struck out."

Davis's case comes less than a month after the Washington law went into effect. After doing time once for robbery and a second time for attacking two people with an ice pick, he was arrested Dec. 26, 1993, in a brutal attack on a 24-year-old woman who prosecutors say was repeatedly raped, beaten, knifed and left for dead. Unable to speak because of stab wounds in her throat, the victim drew a map that led police to Davis, 34.

Ladenburg said the trial was put off until Oct. 9 to allow the defense to prepare in light of the new law.

The law may prove tricky to use. Long jury trials may result if the court insists on the need to prove the first two convictions were proper. Defense attorneys can also be expected to challenge the law's constitutionality and whether it amounts to cruel and

unusual punishment.

"The courts could put procedural hoops in our way, and prosecutors wouldn't use it because it would be so burdensome," Ladenburg acknowledged.

And while he heartily favors life without parole for those he calls "the worst of the worst," Ladenburg cautions against expecting too much. "Too many people try to paint it as a cure-all. It's not meant as a cure-all," he said. "I think people who didn't understand that will be disappointed."

States proposing some version of "three strikes, you're out" include Alaska, California, Florida, Kansas, Missouri, New Jersey, New York, North Carolina, Ohio and South Carolina.

And Clinton has publicly backed life prison for three-time violent felons, most recently on CNN's "Larry King Live" last week.

During his speech, Clinton is expected to specifically endorse a proposal by Sen. Trent Lott, R-Miss., included in a Senate-passed crime bill, requiring life sentences for those convicted of three violent crimes. The legislation may be mostly symbolic, since it requires the third crime occur on federal property.

The path is well trodden, said William Barr, an attorney general in the Bush administration. "I not only agree with it," said Barr. "I called for it when I was attorney general.

"Clinton is very late getting on to the bandwagon," said Barr, now a private attorney in Washington, "The American people, they're ready for the 'three strikes and you're out.' "

---- Index References ----

News Subject: (Violent Crime (1VI27); Crime (1CR87); Non-Profit Organizations (1NO22); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Criminal Law (1CR79); Forecasts (1FO11); Prisons (1PR87); Philanthropy (1PH09))

Industry: (Science & Engineering (1SC33); Trends in Technology (1TR23))

Region: (USA (1US73); Americas (1AM92); New Jersey (1NE70); North America (1NO39))

Language: EN

Other Indexing: (CNN; NATIONAL COUNCIL; RUTGERS UNIVERSITY; SENATE) (Barr; Basically; Cecil Davis; Clinton; Clinton Endorsement; Davis; Delinquency; James Austin; John Ladenburg; Ladenburg; Long; Todd; Trent Lott; William Barr)

Word Count: 1002

End of Document

NewsRoom

1/16/94 Sacramento Bee A3
1994 WLNR 4713257

SACRAMENTO BEE, THE (CA)

January 16, 1994

Section: MAIN NEWS

REGRETS OVER CHOICE OF TIE?

James Richardson Bee Capitol Bureau

Sheriff Mickey - Assemblyman Larry Bowler, R-Elk Grove, probably wishes he had chosen to wear something other than a Mickey Mouse tie last week when he joined former U.S. Attorney General William Barr and Marc Klaas, the father of slain kidnap victim Polly Klaas, for a press conference in the Capitol. When Klaas spoke, he told reporters, "I'm standing here listening to Mr. Barr's chilling but eloquent words, and at the same time I'm looking at a Mickey Mouse tie. And I think that the time to t reat crime in this country as a Mickey Mouse issue is really passed." Bowler, a retired Sacramento County sheriff's lieutenant, looked a bit sheepish. He later told a reporter, however, he was only wearing the appropriate attire for "working in Disneylan d" and was not embarrassed by Klaas' remark.

Minds his words - Before launching into his State of the Public Safety address last week, Republican Attorney General Dan Lungren took a swipe at Democratic gubernatorial hopeful Kathleen Brown, who released her 33-point plan on crime last month. But Lungren's knock came with a nod to today's sensibilities on gender-neutral language. "I thought about coming up with maybe a 34-point plan on crime," the attorney general said, drawing laughs from his audience. "But I don't want to be accused of one-upmanship, or I guess to be politically correct, one up personship."

No shame - Bill Press, chairman of the state Democratic Party, was a bit embarrassed a week ago when he heard himself repeatedly saying on the radio, "I love every part of my body. I love my genitals." Press had made the comments during a conversation with a listener during his weekly call-in show on KFI radio in Los Angeles. The station chose that nugget of dialogue to promote a rerun of the program, which was on the subject of nudity on television. "I knew that taken out of context it w ould make me sound like Howard Stern West," Press told the Washington Post. "I was just trying to say, "Don't be ashamed of your body.' And I might be chagrined - but I am not ashamed."
CAPITOL INSIDER

---- Index References ----

News Subject: (Legal (1LE33); Government Litigation (1GO18); Judicial (1JU36))

Region: (North America (1NO39); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (DEMOCRATIC; KFI; MICKEY MOUSE; REGRETS; STATE DEMOCRATIC) (Barr; Bill Press; Bowler; Dan Lungren; Howard Stern; Kathleen Brown; Klaas; Larry Bowler; Lungren; Marc Klaas; Minds; Polly Klaas; Republican Attorney; William Barr)

Edition: METRO FINAL

Word Count: 412

End of Document

1/13/94 Times Union (Alb.) A11
1994 WLNR 270559

Albany Times Union (NY)

January 13, 1994

Section: MAIN

WHITEWATER INVESTIGATOR FACES A RAFT OF QUESTIONS

FRANK GREVE

Knight-Ridder

WASHINGTON

The special counsel will have to address numerous questions to determine whether the President, Hillary Rodham Clinton or their associates broke any laws or acted improperly. Here are some of the key questions in the Whitewater affair:

Question: Were depositors' funds diverted from Madison Guaranty Savings and Loan to help retire Bill Clinton's 1984 gubernatorial campaign debt?

Background: On April 4, 1985, at Governor Clinton's request, James B. McDougal, Madison's owner, held a fund-raiser in the savings and loan's lobby that raised $30,000 for Clinton. About $12,000 was in the form of cashier's checks drawn on Madison accounts, including $3,000 from a Madison officer's son who says he was unaware of his contribution.

Question: How much did the Clintons invest in the Whitewater deal, and how much did they gain or lose?

Background: The Clintons say they invested $68,900 in 1978 to develop a 230-acre Ozark Mountain vacation property. McDougal and his wife, who were close social and political friends of the Clintons, invested $92,000 in the partnership. The Clintons and the McDougals were 50-50 partners, and it is unclear why the McDougals paid more for their share.

The Clinton presidential campaign paid a Denver accounting firm to analyze the Clintons' investment. The accountants concluded that the couple had lost $69,000, but the Clintons never claimed the loss on their taxes. In fact, they reported a capital gain of $1,000 in their 1992 returns after selling Whitewater back to McDougal on Christmas Eve. If McDougal or his institution secretly subsidized the Clintons' interest in Whitewater, Clinton could be accused of a conflict of interest because his administration was in charge of regulating McDougal's failing thrift in the 1980s.

Question: Were the Clintons aware of the thrift's problems, and, if so, did they improperly use their influence to keep the thrift open?

Background: Arkansas' banking commissioner advised Gov. Clinton in late 1983 that McDougal was engaged in imprudent banking practices. Federal Home Loan Bank Board regulators criticized the thrift's "unsafe and unsound

lending practices" in 1984. At Governor Clinton's behest, McDougal says, he paid Hillary Clinton a $2,000-a-month retainer to help his thrift deal with state regulators in 1985. The principal regulator, state Securities Commissioner Beverly Bassett Schaffer, a Clinton appointee who once worked for McDougal, took no action against Madison until mid-1986 despite warnings from state and federal regulators.

Question: Did the Clintons or their political friends profit from the troubled thrift?

Background: By the time McDougal was forced out in mid-1986, several leading Arkansas Democrats, including Clinton's successor as governor, Jim Guy Tucker, had taken out loans from Madison that they could not repay. These and other bad Madison deals ultimately cost taxpayers $47 million.

Question: Have the Clintons dealt candidly with investigators, or have they interfered with inquiries?

Background: Whitewater files were secretly removed from the White House office of Vincent Foster, the Clintons' personal lawyer and deputy White House counsel, two days after his suicide last July. In addition, former Attorney General William P. Barr, who served under President George Bush, has told reporters that he believes the U.S. attorney's office in Little Rock concealed from him a 1992 Resolution Trust Corp. referral to the Justice Department that recommended a criminal investigation of Madison and Whitewater. The special counsel will look into both matters.

Question: Is it possible that the President or his wife violated any federal laws?

Background: If it were shown that savings and loan funds were illegally funneled to the Clintons' private investments or campaigns, that "would be a federal crime, and there would be a conspiracy if others were involved," said Georgetown University law professor Samuel Dash, former counsel to the Senate Watergate Committee.

Former federal prosecutor Peter Vaira of Philadelphia said, "There may also have been false statements made to federal regulators." But Washington lawyer E. Lawrence Barcella Jr., a former federal prosecutor, said, "It is difficult to find a ... federal criminal law that would be implicated."

Question: Are any other related investigations under way?

Background: Federal investigators are looking at whether Hillary Clinton's former law firm misled the Federal Deposit Insurance Corp. about its dealings with the thrift when it applied for business in 1989. Foster, then a partner in the Rose firm, wrote that "the firm does not represent any savings and loan associations in state or federal regulatory matters." He never mentioned that the firm had represented Madison.

---- Index References ----

Company: RESOLUTION TRUST CORP; FEDERAL DEPOSIT INSURANCE CORP

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

Industry: (Banking (1BA20); U.S. Thrift Industry (1US02); Financial Services (1FI37); Financial Services Regulatory (1FI03))

Region: (District Of Columbia (1DI60); USA (1US73); Americas (1AM92); North America (1NO39); Arkansas (1AR83))

Language: EN

Other Indexing: (FEDERAL DEPOSIT INSURANCE CORP; FEDERAL HOME LOAN BANK BOARD; GEORGETOWN UNIVERSITY; JUSTICE DEPARTMENT; MADISON; MADISON GUARANTY SAVINGS; RESOLUTION TRUST CORP; SECURITIES; SENATE WATERGATE COMMITTEE; WHITE HOUSE; WHITEWATER) (Arkansas Democrats; Beverly Bassett Schaffer; Bill Clinton; Clinton; Clintons; E. Lawrence Barcella Jr.; Foster; George Bush; Hillary Clinton; Hillary Rodham Clinton; James B. McDougal; Jim Guy Tucker; McDougal; McDougals; Peter Vaira; Samuel Dash; William P. Barr)

Edition: THREE STAR

Word Count: 961

End of Document

Document: Whitewater roar gets louder ;White House lashes out at GO…

Whitewater roar gets louder ;
White House lashes out at GOP appeals

The Washington Times

January 8, 1994, Saturday, Final Edition

Section: Part A; Pg. A1

Length: 1305 words

Byline: Jerry Seper; THE WASHINGTON TIMES

Body

The controversy over "Whitewater" yesterday blazed into a firestorm.

Republicans continued to press for the appointment of a special counsel to conduct an independent investigation into President Clinton's involvement in an Arkansas land-development deal and his partnership with the owner of a failed savings and loan. Meanwhile, the White House accused Republicans of "cannibalism" and insensitivity to the president while he is mourning the death of his mother.

At issue is whether the Justice Department can investigate the tangled business dealings of the president and first lady Hillary Rodham Clinton without fear or favor.

There were these developments in a day of acrimonious charge and swift countercharge:

* White House Counselor David Gergen accused Republicans of a partisan attempt to prevent Mr. Clinton from doing the "good things" he came to Washington to do.

* Senate Minority Leader Bob Dole of Kansas decried a "negotiated subpoena" of investment documents as aimed at shielding from public view the dealings of the Clintons and their former partner James B. McDougal. He demanded anew that Attorney General Janet Reno appoint a special counsel.

* House Minority Leader Robert H. Michel of Illinois asked the Justice Department to waive the statute of limitations - due to expire in March - with regard to accusations of fraud involving Whitewater Development Corp. and Mr. McDougal's failed Madison Guaranty Savings and Loan Association "so the investigation can be fully and properly conducted."

* The Justice Department denied a report in yesterday's editions of the New York Times that Miss Reno had decided to name an independent counsel if Congress passes an independent counsel bill. However, Miss Reno has hinted that she might consider making such an appointment if the new law is enacted.

* **William P. Barr**, who served as attorney general in the Bush administration, charged that Miss Reno had unwisely assigned "junior lawyers, lower-level lawyers" to investigate the accusations.

* Miss Reno strongly defended her decision not to name a special counsel.

As a Justice Department investigation of the Madison-Whitewater affair continues in Little Rock, questions remain about the Clintons' conduct in the Whitewater real estate development deal in partnership with Mr. McDougal, the relationship of Madison to Whitewater and whether funds were diverted from Madison to pay off debts from Mr. Clinton's successful 1984 re-election campaign for governor.

The probe also is investigating whether Mr. Clinton directed the Arkansas regulatory agency under his supervision to give special consideration to Madison's application to remain open after federal authorities wanted to close it because they thought it could no longer protect depositors' accounts.

In addition, investigators are looking into accusations that Mr. Clinton pressured the president of a Little Rock lending agency for a $300,000 loan, approved by the Small Business Administration, for Mr. McDougal's wife, Susan. Some of that money was put into the Whitewater account.

Other questions have been raised about Mrs. Clinton's role as attorney for Madison before state regulatory agencies at a time when her husband was supervising the regulators. Madison was closed in 1987 by federal regulators at a cost to taxpayers of about $50 million.

Much of the criticism leveled at the White House has focused on the Justice Department investigation, which now is being supervised by Miss Reno.

"Who really is in charge of the Justice Department's investigation?" Mr. Dole asked in a letter yesterday to Miss Reno. "Is it the White House, or is it the Justice Department's career prosecutors, as you claim? Nothing less than your credibility and the credibility of the administration are at stake here."

Mr. Barr, who was the attorney general under whom the Justice Department investigation began late in 1992, said inexperienced lawyers so far assigned to the probe lack the stature to question the president and first lady before a federal grand jury, if that becomes necessary.

In an interview on the Court TV cable channel, Mr. Barr said: "I think you have to have the very first string of the Department of Justice doing it, people who are known to be the first string, so the public will know it will be handled responsibly."

The Justice Department has said the Clintons are neither the target nor the focus of the investigation now being conducted by its career lawyers, but the inquiry has touched directly on the business affairs of both the president and his wife.

Amid growing media and public concern, the White House, under a federal subpoena negotiated by the Justice Department and Mr. Clinton's personal attorney, gave up documents relating to the Clintons' involvement with Whitewater and Madison. The subpoena, which guarantees that the records will remain sealed, was requested by the White House on Dec. 23 but was not made public until Wednesday.

The records include those taken from the office of Vincent W. Foster Jr., the White House deputy counsel who killed himself July 20. Mr. Foster held the documents in his additional role as the personal attorney for the president and Mrs. Clinton. The subpoena, issued without public notice on Christmas Eve, was served on the Clintons' new personal attorney, David Kendall, in Washington.

In his letter yesterday to Miss Reno, Mr. Dole urged her not to wait for congressional action to name a special prosecutor to investigate the accusations. "It is in the president's interest for you to stop hiding behind the fact that the independent counsel act has not been reauthorized," he said.

Mr. Dole suggested several lawyers to be considered as special counsels, including Griffin B. Bell and Benjamin R. Civiletti, who served successively as attorney general in the Carter administration, and Robert S. Bennett, a Washington lawyer who served as special counsel to the Senate Ethics Committee in its investigations of the Keating Five. Also on the list are former U.S. attorneys Michael Baylson, Anton Valukas and Dan Webb, and A.B. Culvahouse, counsel to former President Reagan.

Miss Reno rejected such demands in a letter yesterday to Mr. Dole and Iowa Rep. Jim Leach, the ranking Republican member of the House Banking Committee, who is investigating the Whitewater-Madison affair on his own. She said that such an appointment would not be "truly independent" and that the Justice Department investigation now under way would be "fair, thorough and impartial."

In the strongest and most emotional White House reaction to the controversy, Mr. Gergen yesterday chastised Republicans as insensitive to Mr. Clinton's mourning over the death of his mother, Virginia Kelley, who died at her home in Hot Springs, Ark., early Thursday morning.

"As the president goes home to bury his mother, to have the political opposition on the warpath, hammering away, raises all sorts of questions about what has happened in this town," Mr. Gergen said in an interview on NBC's "Today" show. "Where is the decency that we once had?

"There is a cannibalism that's loose in our society in which public figures such as the Clintons can try to come to this town to try to do something good for the country, and they get hammered away even though they're trying to do the right thing."

But he acknowledged that there were "questions that are difficult to answer" about the Clintons' investment. "There are murky facts here because the documents are incomplete, and I don't think anybody knows fully what happened."

Classification

Language: ENGLISH

Subject: US REPUBLICAN PARTY (90%); POLITICAL PARTIES (90%); LAW ENFORCEMENT (90%); JUSTICE DEPARTMENTS (90%); INVESTIGATIONS (90%); SUBPOENAS (89%); LAWYERS (89%); ATTORNEYS GENERAL (89%); ELECTIONS (78%); STATUTE OF LIMITATIONS (78%); APPOINTMENTS (78%); US PRESIDENTIAL CANDIDATES 2016 (77%); LAND USE PLANNING (77%); MINORITY BUSINESS ASSISTANCE (77%); REAL ESTATE DEVELOPMENT (77%); LEGISLATIVE BODIES (77%); US FEDERAL GOVERNMENT (76%); LEGISLATION (76%); CAMPAIGNS & ELECTIONS (73%); LAND USE & DEVELOPMENT (72%); US PRESIDENTIAL CANDIDATES 2008 (71%); APPROVALS (70%); SMALL BUSINESS (70%); GOVERNORS (60%)

Company: US DEPARTMENT OF JUSTICE (84%); US DEPARTMENT OF JUSTICE (84%)

Organization: US DEPARTMENT OF JUSTICE (84%); US DEPARTMENT OF JUSTICE (84%)

Industry: LAWYERS (89%); REAL ESTATE (78%); LAND USE PLANNING (77%); REAL ESTATE DEVELOPMENT (77%); BANK FAILURES (77%); SAVINGS & LOANS (77%); (77%); LAND SUBDIVISION (77%)

Person: BILL CLINTON (79%)

Geographic: LITTLE ROCK, AR, USA (88%); ARKANSAS, USA (92%); KANSAS, USA (79%); UNITED STATES (92%)

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Date and Time: Dec 16, 2018 09:43:46 p.m. EST

NewsRoom

1/6/94 Richmond Times-Dispatch A12
1994 WLNR 983735

Richmond Times Dispatch (VA)

January 6, 1994

Section: Editorial

KEEP CARL BAKER

Listen to former U.S. Attorney General William Barr. Regarding Carl Baker, the Superintendent of the Virginia State Police, Barr says: "He brought state and federal cooperation to new high levels. . . . (Baker is) one of the most outstanding law enforcement leaders I've met in the country." Crimebusters throughout the Commonwealth second the motion.

Baker's resume includes 20 years with the New York State Police. He entered as a trooper and retired as Deputy Superintendent. In 1990 he joined the Virginia State Police as director of the Bureau of Criminal Investigation. While there, he refused to let the desk define his job. He participated in drug busts and even went to the aid of stranded motorists. His 1992 promotion to Superintendent changed his title, but it did not change his attitude or approach. He has remained a cop's cop -- which means he has remained a citizen's cop, too.

Speeders groan when they see flashing lights in the rear-view mirror, but citizens in distress express relief when Smokey Bear pulls alongside. Troopers do more than write tickets and respond to accidents. One of Baker's boldest initiatives involves lending the State Police's energy and expertise to the fight against violent crime. That fight takes troopers not only to the scenic highways but also to the mean streets. Neighborhoods under siege welcome troopers working local beats. Troopers assisted in the arrest of suspects in the homicide at Saxon Shoes. The war on crime demands greater inter-jurisdictional and inter-agency cooperation.

Although some sheriffs have expressed reservations regarding such policies, Richmond's Andy Winston -- who recently retired as the most admired sheriff in the state -- has praised Baker's leadership in targeting violent crime. Infighting among various interests should not influence the naming of the Superintendent; the position should not be held hostage to any person or group.

George Allen made crime a centerpiece of his campaign. The reappointment of Baker would complement the prudent policies he proposed last year. By sticking with Baker, Allen also would emphasize that he will not allow turf fights to detract from the state's most compelling duty to its citizens -- the protection of life and property. Carl Baker has the experience; he has the vision; he has the guts. Virginia needs him as its Superintendent of State Police.

(lko)

---- Index References ----

Region: (USA (1US73); Americas (1AM92); Virginia (1VI57); North America (1NO39))

Language: EN

Other Indexing: (BUREAU OF CRIMINAL; DEPUTY SUPERINTENDENT; NEW YORK STATE POLICE; STATE POLICE; SUPERINTENDENT; VIRGINIA; VIRGINIA STATE POLICE) (Baker; Barr; CARL BAKER; Crimebusters; George Allen; Infighting; Listen; Neighborhoods; Speeders; William Barr)

Edition: City

Word Count: 476

End of Document

Document: Top U.S. prosecutor in N. Texas to resign Collins helped lead …

Top U.S. prosecutor in N. Texas to resign Collins helped lead effort against S&L fraud

THE DALLAS MORNING NEWS

January 6, 1993, Wednesday, HOME FINAL EDITION

Section: NEWS; Pg. 19A

Length: 887 words

Byline: Tracy Everbach , Jacquielynn Floyd, Staff Writers of The Dallas Morning News

Body

Marvin Collins, for seven years the top federal prosecutor in North Texas, announced Tuesday that he's resigning.

Mr. Collins, who helped lead Texas' biggest savings and loan fraud prosecutions, will return to his former job as chief of the civil section in the Tarrant County district attorney's office.

The hallmark of his tenure as U.S. attorney was prosecuting savings and loan officials and borrowers on bank fraud charges. Since 1985, more than 700 people in North Texas have been convicted for defrauding financial institutions -- more than in any other region in the nation.

"There's no finer U.S. attorney in the country than Marvin Collins,' said U.S. Attorney General **William P. Barr** in Washington. "He has been one of the department's finest leaders in the national fight against violent crime and financial institution fraud. The people of Texas and the American public as a whole have benefited greatly from his efforts. '

Mr. Collins had been expected to quit because of the change in administrations in Washington. The 50-year-old prosecutor accepted the political appointment in 1985 from Republican President Ronald Reagan, then was reappointed by President Bush in 1990.

During his term, Mr. Collins was both respected and criticized for focusing largely on the administrative aspects of his office. He didn't try a case in 7 1/2 years.

"The greatest accomplishment is the staff I've been able to assemble,' Mr. Collins said Tuesday during a news conference at his Fort Worth office. He said he will leave office Jan. 19 to provide President-elect Bill Clinton ample time to choose his successor.

"Obviously, with the election in November and I being a political appointee, it is time for me to move on to new pastures,' he said.

During Mr. Collins' term overseeing the 100-county Northern Judicial District of Texas, his staff grew from 33 to 79 lawyers, with teams specializing in accounting, forfeiture, environmental offenses and violent crime.

"He had a profound impact on the office, prioritizing things and doing a balancing act' with various federal agencies, said Bobby Gillham, former special agent in charge of the FBI's Dallas regional office. "Marvin is a low-key guy, not a news-grabber. He focused on trying to run his office and getting the job done. '

Larry Neal, spokesman for U.S. Sen. Phil Gramm, R-Texas, who nominated Mr. Collins for the U.S. attorney's job, praised Mr. Collins as "one of the premier U.S. attorneys in the country. He has distinguished himself across the board, particularly as a tough prosecutor of S&L crime. '

For the past two years, Mr. Collins has been awarded a Justice Department honor for outstanding prosecution of banking and savings and loan fraud.

The prosecutor was a major force in the founding of the Dallas Bank Fraud Task Force, organized in 1987 to investigate and prosecute the huge amount of fraud uncovered with savings and loan failures in North Texas.

The task force, which at one point had more than 150 law enforcement staffers, includes assistant U.S. attorneys and lawyers from the Justice Department's fraud and tax sections in Washington. It also includes agents, technicians and revenue agents of the FBI, Internal Revenue Service, U.S. Secret Service and examiners from the Office of Thrift Supervision.

Major S&L industry figures convicted during Mr. Collins' tenure included Don R. Dixon and Woody Lemons of Vernon Savings Association, Edwin T. McBirney III of Sunbelt Savings Association, Jarrett E. Woods of Western Savings Association and developer D.L. "Danny' Faulkner of the infamous Interstate 30 condominium fraud case. All were sentenced to prison terms and ordered to repay the government -- in Mr. Faulkner's case, as much as $ 40 million.

Mr. Collins, who lives in Fort Worth, will return to the Tarrant County DA's office Jan. 21 as civil chief, a post he held for three years before becoming U.S. attorney. He previously served as a prosecutor in the DA's office from 1975 to 1981.

Some colleagues have long said that Mr. Collins' ultimate goal is to be a judge. In 1989, he confirmed he was interested in a federal judgeship in Fort Worth, but the job went to another candidate. In November 1981, then-Gov. Bill Clements appointed him to a criminal district judgeship in Tarrant County, but he lost the November 1982 election for the seat.

Mr. Collins, a 1970 graduate of the University of Texas School of Law, said he does not know who his successor will be, but he expects a senior member of his staff to be appointed acting U.S. attorney.

A permanent appointment could be delayed, he said, because U.S. attorneys typically are nominated by the senior senator of the

incumbent president's political party -- a post that U.S. Sen. Lloyd Bentsen is scheduled to vacate in the next few weeks to assume new duties as President-elect Clinton's treasury secretary. On Tuesday, Gov. Ann Richards appointed Texas Railroad Commissioner Bob Krueger to the Senate seat.

Candidates who have been publicly mentioned for the U.S. attorney's job in North Texas are Dallas defense lawyers and ex-federal prosecutors Paul Coggins and Cheryl Wattley, and Fort Worth lawyer and former federal prosecutor Mike Heiskell.

Graphic

PHOTO(S): U.S. Attorney Marvin Collins announces his resignation Tuesday at a news conference at his Fort Worth office. Mr. Collins will return to the Tarrant County district attorney's office as chief of the civil section; (The Dallas Morning News: Louis DeLuca)

Classification

Language: ENGLISH

Subject: FRAUD & FINANCIAL CRIME (90%); PUBLIC PROSECUTORS (90%); APPOINTMENTS (90%); US REPUBLICAN PARTY (89%); LAWYERS (89%); CRIMINAL OFFENSES (89%); US FEDERAL GOVERNMENT (78%); PRESS CONFERENCES (78%); RESIGNATIONS (78%); SPECIAL INVESTIGATIVE FORCES (78%); CRIMINAL CONVICTIONS (77%); LAW ENFORCEMENT (77%); COUNTY GOVERNMENT (77%); US CONGRESS (76%); ATTORNEYS GENERAL (69%)

Company: FORT WORTH MORTGAGE (54%); FORT WORTH MORTGAGE (54%)

Industry: BANKING & FINANCE (90%); (89%); LAWYERS (89%); SAVINGS & LOANS (77%)

Person: RONALD REAGAN (79%); BILL CLINTON (70%); GEORGE W BUSH (58%); PHIL GRAMM (58%)

Geographic: DALLAS, TX, USA (79%); FORT WORTH, TX, USA (58%); TEXAS, USA (95%); UNITED STATES (95%)

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1/6/94 L.A. Times 1
1994 WLNR 4149680

Los Angeles Times

January 6, 1994

Section: Main News

Clintons to Deliver Files on Land Deal to Investigators

Probe: First Family's action is tied to grand jury subpoena that will help keep the papers private.

RONALD J. OSTROWTIMES STAFF WRITERS

TIMES STAFF WRITERS

WASHINGTON

President Clinton's personal lawyer today will begin giving federal investigators records of the First Family's Whitewater Development Corp. investment after a grand jury subpoena was issued, the White House said Wednesday.

The subpoena, issued Dec. 24 and disclosed in a White House statement Wednesday night, directs that the documents be surrendered to the Justice Department by Jan. 18. The White House said it would comply.

Bruce R. Lindsey, senior adviser to Clinton, said in the statement that the subpoena was issued at the request of the Clintons' lawyer, David E. Kendall, who sought the order "to assure the integrity of the documents and the privacy of the process."

Under the subpoena, the papers may only be viewed by Justice Department officials and are less likely to be made public.

It also has the effect of impeding access to the documents by Republicans in Congress who are trying to conduct an independent inquiry, Republican sources in Congress charged Wednesday.

The Justice Department is investigating the Clintons' investment in an Ozark Mountains vacation property development known as Whitewater to determine whether funds were improperly diverted to the project from Madison Guaranty Savings & Loan, a failed thrift run by James B. McDougal, the Clintons' partner in the Whitewater deal.

The five boxes of records to be delivered to the Justice Department include papers relating to Whitewater removed from the office of former deputy White House counsel Vincent Foster, who committed suicide last July 20.

The White House agreed two weeks ago to surrender the Foster papers but until Wednesday had not said when it would do so.

With attention to the real estate deal growing, the way the matter is resolved could have a lasting effect on Clinton's presidency, his advisers and critics agreed.

What had appeared to be benign and small-scale financial dealings while Clinton was governor of Arkansas are now being cast in terms of scandal with a grand jury subpoena, demands for a special prosecutor and calls for congressional hearings unless the White House can provide persuasive answers to dozens of questions.

White House officials--from the Clintons on down--have said they believe that continuing interest in the matter is driven by partisan politics. They have insisted that allegations of financial wrongdoing, conflicts of interest and gross cronyism are groundless.

"It's nothing but a Republican witch hunt," said White House political adviser Paul Begala.

But Leonard Garment--who had extensive experience with scandal as a White House lawyer under former President Richard Nixon--said the Whitewater matter could be a continuing migraine for the President and First Lady Hillary Rodham Clinton. In the lingo of Washington journalism, the Whitewater story has "legs"--or staying power, he said.

"The Whitewater affair potentially has legs, arms--and very sharp teeth," he added.

What is driving the Whitewater story are unanswered questions about the way the Clintons conducted their public and private business dealings. Here is an abbreviated rundown:

*

How much did the Clintons invest in the Whitewater real estate deal and how much did they gain or lose?

According to official accounts from the Clintons, they invested $68,900 in Whitewater beginning in 1978 while McDougal and his wife, Susan, put up $92,000. Despite the unequal shares, the partnership was structured as a 50-50 split. Why?

The Clintons have said they were merely "passive investors" in Whitewater who gave McDougal "total control" over the operation. They said they have no records of their investment or any profit or loss from it. Why not?

The investment raises several additional questions: Did the Clintons really put up their share of the partnership funds or were the funds a loan or gift from McDougal and his wife? If the Clintons did invest the money in Whitewater, where is the documentation?

Whitewater failed to file income taxes for three years in the 1980s and the impact on the Clintons' tax returns is unclear. Were the Clintons' finances and tax returns properly handled in those years?

There are also questions about the relationship between Madison Guaranty and Whitewater that may be covered by the records of the two entities, some of which are now in the hands of the Justice Department. Others have not been located.

McDougal said he delivered all the Whitewater records to the Arkansas governor's mansion in 1987, but the Clintons deny that they ever received them. There are allegations that some Whitewater land sales were sham transactions to hide contributions to Clinton's gubernatorial campaign and that Madison Guaranty funds were diverted to Whitewater.

Investigators also want to know about the alleged diversion of $110,000 in proceeds from a Small Business Administration-backed loan to buy land for the Whitewater development.

*

Were the Clintons, through their investment, parties to mismanagement of a federally insured thrift?

Madison Guaranty--owned by their friend, political contributor and investment partner McDougal--grew from an institution with assets of $6 million to a $107-million thrift in a three-year period in the early 1980s. Despite warning signs that the S&L was making questionable loans to insiders and numerous Clinton political associates, authorities did not close the bank until four years later.

A state securities commissioner appointed by Clinton approved a plan to recapitalize Madison Guaranty, which at the time was represented by Hillary Clinton and her partners at a Little Rock law firm. The thrift finally was shuttered in 1989, at a cost to taxpayers of at least $47.6 million.

Was Clinton aware of the thrift's problems and did the institution receive favorable regulatory treatment while he was governor? Who profited from the long delay in closing it?

Some of the loans that went into default were made to people with close ties to the Clintons--including current Gov. Jim Guy Tucker and Seth Ward, the father-in-law of Webster Hubbell, a former law partner of Hillary Clinton and now the No. 3 official at the Justice Department.

Madison Guaranty executives staged a fund-raiser in early 1985 to help Clinton retire $50,000 in debts from his 1984 gubernatorial campaign. Did the bank or its officers provide any other money for Clinton campaigns before or after 1985? Did the bank do any personal favors for the Clintons?

*

Have the Clintons dealt forthrightly with questions about the matter? Have they or their associates in any way interfered with the inquiries?

Suspicions about suppression of evidence arose last month when it was revealed that Whitewater-related files were secretly removed from the office of Foster and deposited with the Clintons' personal attorney two days after Foster's suicide in July.

After initially resisting turning over the files to the Justice Department for its inquiries into McDougal's business dealings and the death of Foster, Clinton relented just before Christmas and agreed to give up the records.

There is also a question about whether there are additional relevant documents in the files of the Rose Law Firm in Little Rock, where Hillary Clinton, Hubbell and Foster all worked together throughout the 1980s.

All three reportedly performed legal chores for McDougal and Madison Guaranty, but only the Foster files have turned up and it is not known how complete they are.

*

Was the initial investigation of Whitewater/Madison Guaranty delayed for political reasons and is the case being fairly investigated by the Clinton Justice Department?

Former Atty. Gen. William P. Barr, who served under former President George Bush, said Wednesday he believes that the U.S. attorney's office in Little Rock concealed from him in the fall of 1992 the existence of a Resolution Trust Corp. referral to the Justice Department seeking a criminal investigation of Madison Guaranty and Whitewater.

The delay could have aided then-candidate Clinton's campaign for the White House by deferring a criminal investigation in the final months of the 1992 campaign.

Barr said the Little Rock office failed to put the referral into two different reporting systems that would have brought the sensitive matter to his attention. He said he learned of the referral shortly before the November, 1992, election.

There are also questions about the ability of the Justice Department under Atty. Gen. Janet Reno, a Clinton appointee, to conduct an impartial investigation of the President.

Republicans in Congress have been pressing her to name an independent counsel to study the Whitewater affair.

What Do the Investigators Want?

Justice Department attorneys are investigating the failed Madison Guaranty Savings and Loan, headed by a former Clinton friend, business partner and political ally, James McDougal. Investigators are trying to determine whether depositors' funds were diverted to Clinton's 1984 gubernatorial campaign and to Whitewater Development Corp., a real estate venture once owned by the Clintons and McDougal. Clinton aides have said the President and First Lady Hillary Rodham Clinton never knew the source of the campaign money and were inactive co-owners of what they say was a money-losing real estate deal.

SOME KEY QUESTIONS INVESTIGATORS ARE SEEKING TO ANSWER

* How much did the Clintons invest in the Whitewater deal and how much did they gain or lose from the investment?

* Were the Clintons, through their investment, actively party to the looting of a federally insured thrift?

* Was political influence used to benefit the land investment or delay exposure of wrongdoing at the failed savings and loan? Did Clinton's political organization benefit from the dealings?

* Have the Clintons dealt forthrightly with the questions about the matter? Have they or their allies in any way interfered with the inquiries into it?

Source: Times Washington Bureau

---- Index References ----

Company: RESOLUTION TRUST CORP

News Subject: (Legal (1LE33); Judicial (1JU36); Taxation (1TA10); Government (1GO80); Government Litigation (1GO18); Tax Law (1TA64))

Industry: (Accounting, Consulting & Legal Services (1AC73); Real Estate (1RE57))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Arkansas (1AR83))

Language: EN

Other Indexing: (CLINTON; CLINTON JUSTICE DEPARTMENT; CLINTONS; CONGRESS; HUBBELL; JUSTICE DEPARTMENT; LOAN; MADISON GUARANTY; MADISON GUARANTY SAVINGS; MADISON GUARANTY SAVINGS LOAN; RESOLUTION TRUST CORP; ROSE LAW FIRM; SMALL BUSINESS ADMINISTRATION; SOURCE: TIMES WASHINGTON BUREAU; WEBSTER HUBBELL; WHITE HOUSE; WHITEWATER; WHITEWATER DEVELOPMENT CORP) (Barr; Bruce R. Lindsey; Clinton; Clintons; David E. Kendall; Foster; George Bush; Hillary Clinton; Hillary Rodham Clinton; James B. McDougal; James McDougal; Janet Reno; Jim Guy Tucker; Leonard Garment; McDougal; Paul Begala; Republicans; Richard Nixon; Seth Ward; Susan; Suspicions; Vincent Foster; William P. Barr)

Keywords: WHITEWATER DEVELOPMENT CORP; CLINTON, BILL; CLINTON, HILLARY; MADISON GUARANTY SAVINGS & LOAN ASSOCIATION; DOCUMENTS; SUBPOENAS; INVESTIGATIONS; INVESTMENTS

Edition: Home Edition

Word Count: 1977

End of Document

Document: Attorney General of Social Work

Attorney General of Social Work

The Wall Street Journal

January 5, 1994 Wednesday

Section: Pg. A14

Length: 1502 words

Byline: By Alicia Mundy

Body

At a time when America is focused on crime, and is ready for a serious look at firm but prudent punishment, the U.S. attorney general has become disconnected from her own troops -- the 4,000-some assistant U.S. attorneys who prosecute federal crimes on behalf of the Justice Department. Janet Reno may have definite plans to alter the department's approach to crime, but she appears to be living in an ivory tower.

In a recent effort to comprehend this division, I interviewed some 60 assistant U.S. attorneys. Their overwhelming concern was that Ms. Reno doesn't understand the daily difficulties facing federal prosecutors. Summed up one veteran drug prosecutor: "Am I now employed by the Justice Department or the Department of Social Work?"

For Ms. Reno, those are fighting words. Soon after a prickly recent interview with me, during which she bristled over suggestions that many of her career prosecutors were alienated and disenchanted, she addressed a conference of 500 federal drug prosecutors in New Orleans. "A reporter told me," she began her address, "that one of my prosecutors thinks I am more interested in being a social worker than attorney general." She went on to talk about the so-called root causes of crime. She ended by asking for

questions, but then sidestepped the most important one, thrown at her by a veteran drug prosecutor -- Jay Apperson from Virginia's Eastern District -- on her apparent determination to end mandatory minimum sentencing.

When Ms. Reno speaks publicly, she makes a point of addressing the NAACP, the American Civil Liberties Union and local bar associations. The National Association of Criminal Defense Lawyers can get access to her or her associates on short notice. But she gives short shrift to her own career prosecutors. "Who speaks for us?" one Los Angeles veteran asked.

This question has become especially acute lately, since Ms. Reno has called for a radical review of federal crime fighting tactics. The review is now being conducted by various "advisory groups" within the Justice Department, led by Ms. Reno's deputies. The changes that may emerge are profoundly troubling to field prosecutors, who fear that their powers will be eroded.

Ms. Reno's underlying philosophy appears to be that crime should be treated as a health and social issue. Among the policies being "studied" are: cutting back on mandatory minimum sentences in drug-related cases; returning to the plea bargaining prohibited by the 1989 "Thornburgh memo" and giving judges and defense attorneys more input in sentence reductions; dropping the automatic charges for using a gun in a federal crime; revising the rules on direct contact between prosecutors and potential witnesses in investigations; publicizing internal investigations of prosecutors; and emphasizing rehabilitation and drug treatment instead of punishment.

Most of these proposed changes read like a wish list from the defense bar. Veteran prosecutors have good reason to be worried.

Take mandatory minimums. Every drug prosecutor I interviewed praised their utility. Former Drug Enforcement Agency Director and Federal Prosecutor Robert Bonner says "mandatory minimums have been the strongest tool in getting low and midlevel dealers to cooperate with the government early enough in the case to help the government." And yet Ms. Reno told me in our interview: "Mandatory minimums shouldn't be used as leverage."

"What are they, if not leverage?" a narcotics section chief in Washington asked me when I repeated Ms. Reno's statement. "Listen, when a guy knows he's going to get only two to three years for distribution, he can handle it. He knows he'll get paid for his silence and come out of prison richer than the prosecutor who put him away." But, he adds: "When a guy is facing mandatory 10 to 15 years . . . he gives up the names of his bosses."

As to plea bargaining: "Yeah, I'd like more discretion in some cases," says a veteran in Virginia. "But those cases are few and far between." He adds: "She {Reno} worries about the system chewing up so-called first-time offenders. Remember, by the time he was tried, Pablo Escobar was a first-time offender."

Then there's the recent move to ignore the automatic additional five years for use of a gun in a federal crime. Several prosecutors say they've been "encouraged" by the new administration to ignore the firearms charge. Former Attorney General **William Barr** says: "We insisted on throwing the book at career violent offenders, and now that policy is being undermined." Ms. Reno's office admits that one of her advisory groups is studying the application of the gun charge as part of the "situation" with mandatory minimums. "Hey," says Mr. Barr, "don't whine about new gun control laws if you won't enforce the ones already on the books."

Another problem for prosecutors is Ms. Reno's proposal to merge the inspector general's office (which reports to Congress) and the Office of Professional Responsibility (which conducts internal investigations of prosecutors). "This will politicize the internal affairs unit," says former U.S. Attorney Henry Hudson of Virginia. What is more, "her proposal to open up OPR complaints during high-profile cases is an invitation to defense lawyers for target practice on prosecutors." One prosecutor who was exonerated by OPR last year remarked: "If they'd publicly opened the investigation of me while I was still prosecuting the larger case, I'd have been hung out to dry."

Also disturbing are the changes being studied regarding whether a prosecutor (or his agent) can contact the target of a criminal investigation. Such contacts help the feds pursue complex corporate or organized crime cases by allowing them to induce members of a criminal conspiracy to assist the government. Some state bar associations say direct contact between feds (including undercover agents) and potential witnesses and targets who are represented by counsel is an "ethical" violation.

Although Ms. Reno reiterated the right of feds to contact potential witnesses in July, Deputy Attorney General Philip Heymann and an advisory group of U.S. attorneys are reviewing the guidelines. Sources inside Justice complain that Mr. Heymann's initial draft suggested changes that were "defense bar fantasies" and "would have made it impossible for us to conduct undercover investigations or talk to witnesses who volunteered to help." Ms. Reno says she's been given one report on the subject, but won't discuss where she's going with it.

What's happening here? One possible reason for the disconnect between Ms. Reno and her troops may be the lack of federal prosecutorial experience in the top triumvirate of the Justice Department. Ms. Reno was a local prosecutor and then an elected politician. Assistant Attorney General Webster Hubbell 's private firm experience doesn't lend itself to sympathy with front-line prosecutors. And Mr. Heymann, though once an official of the criminal division, has had little experience as a federal prosecutor, and has spent the last decade as an academic.

Another reason might be the confusion as to Ms. Reno's constituency. Her power base is the White House, and its surrogates, Mr. Hubbell and Mr. Heymann. She's been playing to an elite audience: Bill and Hillary Clinton and assorted clientele from civil-rights organizations, the American Bar Association and groups like the Association of Trial Lawyers of America, who gave huge sums to the Clinton campaign. When Ms. Reno came on board, her career lawyers hoped that they'd gotten a prosecutor's prosecutor. But now they think she's too soft on crime.

"It's all very touchy-feely," says a prosecutor from San Antonio. After her congressional testimony on TV violence, one of her own spokemen moaned: "Next, she'll be testifying about school lunches."

Indeed, in a recent letter she sent to prosecutors with their pay slips, she outlined a kind of Zen management style, encouraging the importance of family togetherness and citing the National Performance Review's emphasis on "top-down support for bottom-up decision-making."

But a Washington-area prosecutor says: "We're not in social services. We're here to fight crime." Perhaps, he adds, Ms. Reno should take another job -- at health and human services. Or Janet Reno, surgeon general.

The attorney general seemed affronted that her prosecutors are questioning her policies. "Tell these prosecutors to stick with their job, which is prosecuting. And let me look at the larger issues," she told me. Even at this moment, though, she moves quickly to her favorite social policy themes. "I have to deal with many areas . . . such as juvenile delinquency prevention."

The troops in the trenches, she indicates, should just keep shooting. She'll tell them which direction to point and how much firepower they should use -- after her study groups meet.

Ms. Mundy writes for the Washingtonian magazine.

(See related letter: "Letters to the Editor: Reno Right to Focus On the Big Picture" -- WSJ Jan. 18, 1994)

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ANNOUNCER: Live from Washington, Crossfire. On the left, Mike Kinsley. On the right, John Sununu. Tonight, Battling Whitewater. In the crossfire, former Attorney General William Barr; and Lloyd Cutler, former counsel to President Carter.

MIKE KINSLEY: Good evening. Welcome to Crossfire. Senate Republican leader Bob Dole wants an independent prosecutor to look into the so-called Whitewater affair.

Sen. ROBERT DOLE (R-KS), Minority Leader: [NBC's 'Meet the Press'] For the President's sake and for the sake of the integrity of the attorney general's office, she should move. She's wasted a lot of time dragging her feet, and it's time she moved and appointed an independent counsel.
KINSLEY: Whitewater is shorthand for a complex tale of President Clinton's and Mrs. Clinton's financial dealings with the owner of a failed savings and loan back in Arkansas. Hillary Clinton claims there is no mystery: 'I am bewildered that a losing investment is still a topic of inquiry. I think what we said is adequate.' But the Clintons waited until December to turn over Whitewater files from the office of Deputy Counsel Vincent Foster, who committed suicide in July. That's just one aspect of the saga that bothers skeptics. The nub of the accusations is that as governor, Mr. Clinton, in return for financial favors, may have delayed the closing of his partner's S&L, costing the taxpayers millions. Critics admit there is no hard evidence against the Clintons, but they say, why not an independent investigation? Attorney General Reno says that career prosecutors in her department are on the case, and Democrats note that it was Republicans who killed the independent prosecutor law two years ago, back when Republicans were still in the White House. John?

JOHN SUNUNU: Lloyd Cutler, the Whitewater files have produced some very bizarre behavior out of the White House. First Mark Gearan had to admit that he chose his words carefully to mislead the press when the files were taken out of Vince Foster's office. Secondly, Stephanopoulos and Eller on Sunday said the files were sent over. Now Dee Dee Myers has to admit that they weren't sent over, and now Janet Reno won't appoint an independent prosecutor 'cause she said it won't look independent. With that bizarre behavior as a background, why are you here opposing The New York Times and the USA Today's for an independent prosecutor?

LLOYD CUTLER, Former Counsel to President Carter: I've been in favor of an independent counsel statute from the very beginning, going back to the time it was first passed. I think you, John, in your administration have been against it. It's a fine irony that after you killed the independent counsel statute, while your administration held the White House. Now you think that we need an independent counsel statute or we ought to appoint an independent counsel-

SUNUNU: No, no. See, you're misrepresenting it, Lloyd.

Mr. CUTLER: -as soon as the other side holds the White House.

SUNUNU: We said it was redundant because the attorney general always had that regulation. We're asking the attorney general now to exercise the right that Republicans always said was there and didn't need a law.

Mr. CUTLER: John-

SUNUNU: That's how-

Mr. CUTLER: -the times when an independent counsel is called for under the statute or when an attorney general should do it on his or her own is when there is some evidence of a possible criminal violation by a high government official, such as the President. The law doesn't even come into effect if there is no evidence. There is evidence, apparently, about Mr. McDougal, and there is a Justice Department grand jury-

KINSLEY: He's the partner-

SUNUNU: So your rigmarole about a statute a minute ago is really disingenuous-

Mr. CUTLER: You don't appoint an independent counsel just because someone is being investigated already by the criminal division and the President's name happens to come up in the inquiry.

SUNUNU: So you're really misrepresenting-

Mr. CUTLER: What suggestion is there that President-

SUNUNU: Lloyd-

Mr. CUTLER: -Clinton or Mrs. Clinton violated any federal criminal law? Which is the business of the Department of the Justice.

KINSLEY: Let's start with that. There is no evidence, is there, that President or Mrs. Clinton violated any federal criminal law?

WILLIAM BARR, Former Attorney General: Well, if there was hard evidence you wouldn't need an investigation, and that's not the-

Mr. CUTLER: What information is there?

Mr. BARR: I'm not-

KINSLEY: What evidence, hard or soft, is there?

Mr. BARR: The heart of the allegation is set forth by Jim Leach, who's been doing an investigation on this. Hardly- I can't think of someone who's more bipartisan on the Republican side than Jim Leach. Based on his investigation, he's written a story in The Washington Post where he lays out the heart of the allegation, and the heart of the allegation-

KINSLEY: He's got the allegation. Where's the evidence, though?

Mr. BARR: Evidence is not the threshold. It's credible allegations of wrongdoing that require some investigation, and the heart of this issue-

Mr. CUTLER: Is the wrongdoing, a federal crime?

Mr. BARR: Well, the heart of this allegation-

Mr. CUTLER: -even if it happened.

Mr. BARR: The heart of the allegation is that there was a federally insured S&L that was pilfered inside, the way hundreds of were- hundreds of such institutions were-

KINSLEY: Right.

Mr. BARR: -across the country. I put away 4000 people during two years for doing that. The pilfering of the institution, the allegations are here, that the Clintons were part of an inner circle that directly benefited from that and indeed that Clinton used his authority to keep this piggy bank open. Now, I'm not taking a position on whether these will ultimately prove to be meritorious, but I don't think Lloyd Cutler can sit here, and I would be shocked if the attorney general would say, that there is not a basis today for investigating and reviewing the business activities of the President and the First Lady.

KINSLEY: Look, no one is against investigating certainly Mr. McDougal, but even The Wall Street Journal, which is- the editorial page of The Wall Street Journal, which is Clinton's harshest critic probably, says there is no evidence, not no credible evidence, there is no evidence that Clinton in any way tried to influence the Arkansas regulators of this S&L.

SUNUNU: Lloyd, one of the best-

Mr. CUTLER: Even if he did, that would not violate federal law.

SUNUNU: Lloyd, the best time for a prosecutor to be named is when you're innocent. Why not deal with the perception of a problem by naming an investigator, clearing it up and moving on for the sake of the presidency?

Mr. CUTLER: John, if you did that every time there was an ordinary criminal investigation of Joe Blow or Mr. McDougal and the name of a high government official happened to come up, because the individual was a friend or a business associate, you would then appoint a special counsel.

SUNUNU: That was the practice for 12 years-

Mr. CUTLER: It was not the practice-

SUNUNU: People made that call. People were making that call constantly.

Mr. CUTLER: It was not the practice unless some high government official was being investigated for his possible violation of a federal, criminal law.

Mr. BARR: I think we're losing the view of the forest for the trees. I think everyone can agree with the premise that there are certain cases that are so sensitive and serious that they shouldn't be treated as business as usual, and whether you believe in the mechanism of a statutory independent counsel or something lesser, such as the attorney general bringing in a quasi independent person or even using a hand-picked SWAT team of the best people in the department, something extra has to be done to insure the public that there's not going to be political fixing in the case, that the case will be pursued vigorously, just as vigorously against anybody else, no one will be cut any slack.

Now, here's a case where, in order to develop it, and these cases are difficult, one has to blow through some roadblocks, maybe challenge privileges, maybe ask the President to come before a grand jury, maybe ask the First Lady to do it, maybe squeeze some of the President's best friends down in Arkansas. Asking low-level career prosecutors to do that, in my view, runs the risk that we're not going to have a thorough investigation.

KINSLEY: But, Bill, isn't it ironic, to say the least, that, as Lloyd was saying before, when Republicans were in power, you people opposed the special prosecutor, and not because, as John said, it was redundant-

SUNUNU: It was redundant.

Mr. BARR: The special prosecutor laws-

KINSLEY: You never-

SUNUNU: That's exactly the argument that was made, that it was redundant.

KINSLEY: Just a second. When you opposed the appointment of special prosecutors, for example, for Iran-Contra, I don't remember-

Mr. BARR: I was not there when-

KINSLEY: No, no, but when the Republicans did. You're our Republican tonight. I don't remember any Republican saying, 'You know, the Attorney General Ed Meese will appoint an independent prosecutor who will be almost as independent.' I don't recall them saying that at all. They said, 'No, there is no need for it. '

Mr. BARR: I have always said-

KINSLEY: Isn't it ironic, to say the least?

Mr. BARR: No, it's not ironic at all, Mike, and the independent counsel statute is irrelevant to our discussion.

KINSLEY: Why?

Mr. BARR: Because it's a type of mechanism for bringing in extra help, and I have always said, and I always acted as attorney general to bring in extra help. I appointed three judges in special situation. On the Silverado matter, which involved hypotheses and far less specific allegations than are being made now, I didn't let three relatively low-level people handle it. I brought in the Dallas Bank Task Force that had just put away 100 people, and I sent in an army of FBI agents, and no one has criticized that investigation, because I went for the best to assure that it would be done. In this case-

Mr. CUTLER: I agree with Bill that you should go for the best, but don't you think that's been done? This is in the hands of a career criminal division fellow, originally appointed by a Republican president, you told me outside, as a U.S. attorney and who then went into the career service. If it becomes- and the President, before the Justice Department asked to see his files, has offered to turn over his files.

Mr. BARR: No, I don't think-

Mr. CUTLER: If more needs to be done as we go along, more will be done, but before you appoint a so-called special counsel, which everyone will associate with the Ed Walshs and the other independent counsels appointed under the statute, don't you have to at least get to the point where you think you have a basis for investigating whether a high government official, here the President, or possibly even Mrs. Clinton, violated a federal criminal law, and I haven't heard anybody suggest that.

SUNUNU: The argument-

Mr. CUTLER: What you mention-

SUNUNU: It's been suggested that there were criminal matters to be investigating in the savings and loan-

Mr. CUTLER: Involving McDougal.

SUNUNU: Nobody asking that-

Mr. CUTLER: And that has happened.

SUNUNU: -anybody in particular be investigated. They're asking that the whole matter be investigated.

Mr. CUTLER: It is being investigated by career prosecutors.

Mr. BARR: Look, this case-

SUNUNU: RTC said that there was a possibility of criminal violations in the savings and loan matter.

KINSLEY: Bill Barr-

Mr. BARR: It's exactly like a case that came in your watch, the Paul Curran [sp?] matter. There was an allegation that Bert Lance, as the head of the National Bank of Georgia diverted- sent money- lent it to the Carters' business, the peanut-

KINSLEY: Right.

Mr. BARR: -for a warehouse. The statute was inapplicable. So there was no statute to rely upon. Griffin Bell appointed the Republican U.S. attorney- former Republican U.S. attorney-

KINSLEY: Sounds just like what Clinton- Janet Reno has done.

Mr. BARR: A Republican former U.S. attorney-

SUNUNU: The special investigator.

Mr. BARR: -who was not in the department at the time, who- the Southern District of New York, who was well known at the time, had a lot of stature, and he conducted a seven-month investigation. Now, I think Lloyd would have to agree with me that-

SUNUNU: And found nothing, and that's important.

Mr. BARR: I would think Lloyd would have to agree that the allegations that were made tying Clinton [sic] personally into that were far less specific than the allegations that are being set forth now.

Mr. CUTLER: Oh, no, they were much more specific. To begin with, Griffin Bell had a problem because he and his partner Charlie Kirbo in private life in the King, Spalding law firm were the personal counsel for former President Carter.

SUNUNU: Let's not debate the Carter one.

Mr. CUTLER: So he had a personal conflict of interest.

Mr. BARR: Was there evidence-

Mr. CUTLER: Second, the allegation was that the money loaned to the Carter warehouse before the election was really an illegal campaign contribution and that the proceeds had been used to finance-

SUNUNU: Lloyd, we've got to break here-

Mr. CUTLER: -the campaign. It had involved high government officials.

SUNUNU: We've got to break here. We'll be back, as we continue our investigation of the possibility of a special prosecutor.

REPORTER: Do you support the idea of naming of special prosecutor for the- to investigate the Whitewater affair?

Pres. BILL CLINTON: I have nothing to say about that. I've said that we've turned the records over. There's nothing else for me to say about that.

[Commercial break]

SUNUNU: Welcome back to Crossfire. The White House's Christmas wish was for the Whitewater savings and loan story to go away, but it still lingers on. Republicans have been calling for a special prosecutor to investigate what really happened in the Arkansas S&L land investment deal, and pressure is mounting for answers. With us tonight to discuss it is Lloyd Cutler, who is former counselor to President Carter, and William Barr, former attorney general for President Bush.

KINSLEY: Bill Barr, let's return, if you don't mind, to this question of possible Republican double standards on this question of independent prosecutors. Now, the case against Lawrence Walsh, the Iran-Contra prosecutor, was that

he was out of control, it went on for years, he wasted millions of taxpayer dollars, he brought unfair charges, and this is what happens when you have independent prosecutors. What's to stop that from happening if there's an independent prosecutor of the Whitewater case, if indeed that was what happened?

Mr. BARR: Well, if the attorney general appoints the prosecutor, then the attorney general could pull the plug on that prosecutor if there was sufficient abuse, but it would a tremendous political difficulty-

KINSLEY: It's exactly right.

Mr. BARR: It would be a tremendous political difficulty to do that.

KINSLEY: That's the problem. That's the part- you can't have it both ways and say, on the one hand, it's just as independent as if there is a truly independent prosecutor, so you don't need the law, and on the other hand, there would be- can't be fired-

Mr. BARR: Mike, you're making the perfect the enemy of the good. Having low-level government people, and they're good lawyers, I'm sure. Technically they're good lawyers and they're dedicated people, but having them, expecting them to make decisions about whether to call in the First Lady, whether to challenge a privileged claim and so forth, that's unfair, and that's unrealistic, and we don't need-

KINSLEY: Are you-

Mr. BARR: We don't necessarily need the full-blown, statutory, perfect, in your view, independent counsel to improve the situation.

Mr. CUTLER: Or a special counsel for that matter. Look what happened when you appointed Judge Lacey, a very fine Republican former judge, as your special counsel, rather than appoint a statutory independent counsel in order to look into the so-called Iraq-gate affair, whether Bush administration officials had done something criminal to cover up Iraq-gate, support for Iraq.

Mr. BARR: Some people made-

Mr. CUTLER: Judge Lacey, who is a fine man, and as far as I know wrote a fine report, was immediately criticized by Bill Safire as having been appointed as a friendly, supposedly, special counsel.

KINSLEY: But, Bill, would you-

SUNUNU: Lloyd-

Mr. CUTLER: And that's exactly what The New York Times said in its editorial.

KINSLEY: -swear that if this was a Republican administration and a Republican White House and a Republican first lady, and there was some talk about subpoenaing the first lady on the facts that are now available that the Republicans wouldn't be screaming and yelling prosecutorial abuse?

SUNUNU: I wouldn't swear that the Democrats would be screaming and yelling for this kind of a prosecutor.

Mr. BARR: Look, it doesn't advance-

SUNUNU: You've seen it.

KINSLEY: They would.

SUNUNU: They would, wouldn't they?

KINSLEY: There's a double standard on both sides, but at least the Democrats are saying, appoint- have a law-

SUNUNU: Michael, your good friends The New York Times and USA Today in an editorial are asking for this.

Mr. CUTLER: And they would have a counsel appointed-

SUNUNU: Your good friends.

Mr. BARR: Talking about double standards and making the point that probably people on both sides, to one extent or another, have political motivations doesn't advance the ball. I think The New York Times editorial this morning was right on point. Let's put politics aside and let's view the merits of the case and ask what's right in this case, and what's right in this case is to provide some assurance that there's going to be a vigorous and fair investigation done, and if Janet Reno were to appoint a sitting U.S. attorney, for example Mike Chertoff up in New Jersey, who's one of the best in the department and known to be, who they have kept on as a U.S. attorney, I'd go up to the Republicans and say, stop the hoot and the holler, the job will get done, and that's a sitting person.

SUNUNU: Lloyd, Bill Barr before the break-

Mr. CUTLER: Could I answer that?

SUNUNU: You can answer it in the answer.

Mr. CUTLER: All right.

SUNUNU: Bill Barr, before the break, gave an explanation of why you ought to appoint an independent counsel to show that there is nothing wrong. That parallels almost exactly Janet Reno's own testimony before the Senate a few months ago. Now she's reversed her field. What kind of pressure was put on Janet Reno, the attorney general, to change her-

Mr. CUTLER: John Sununu, if you think that pressure can be brought on Janet Reno, you'd better talk to the people who are now in your former chair in the White House.

SUNUNU: Well, then what made her change?

Mr. CUTLER: Janet Reno is, with all due respect to Bill, who I think was a very independent attorney general, Janet Reno is the first attorney general since Nick Katzenbach and Ed Levi, and that goes back, 25, 30 years at least, who has convinced the public of his or her total independence. Let's see if I can make some common ground here with Bill.

KINSLEY: Not too much. We don't like that here.

Mr. CUTLER: I agree that this case, because the President's and Mrs. Clinton's names have been mentioned, involves- should have some special handling. I think it is getting special handling. There is a grand jury. There is a criminal investigation of the RTC charges about Mr. McDougal. The person selected to run that is a Republican career prosecutor, originally appointed U.S. attorney by a Republican. There are people above him in the line at the Justice Department. If it's necessary to question either of the Clintons or to see their documents, you know that they're going to be made available.

SUNUNU: In that scenario-

Mr. CUTLER: And if at some point, and it certainly hasn't happened up to now, there is some indication warranting further investigation that either of the Clintons has- might have violated a federal criminal law, that might be the time to appoint the special counsel.

SUNUNU: How about if there's an indication of a possible violation of a state law?

Mr. CUTLER: A state law would not trigger-

SUNUNU: Because he's now a sitting president.

Mr. CUTLER: -not trigger the independent counsel statute and should not.

SUNUNU: It's not the statute we're talking about.

Mr. CUTLER: And it shouldn't trigger-

SUNUNU: We're talking about the right of the attorney general-

KINSLEY: The attorney general can't investigate violations of state laws, John.

SUNUNU: The attorney general can name an independent investigator-

KINSLEY: I defer to the counsel for your side. Isn't that correct? The attorney general can't investigate violations of state law.

Mr. BARR: That's true, but here a violation of state law would probably also entail a violation of federal law.

KINSLEY: Well, that- go ahead. Well, that brings up a point I wanted to ask you about, the merits of this case. This Madison savings and loans owned by this guy McDougal, their business partner, clearly was allowed to remain open way too long, and state regulators may have fallen down on the job, but surely federal regulators fell down on the job, too. The feds could have shut the place down, too, couldn't they?

Mr. BARR: The feds were trying to shut it down and were advising curtailment of its activities. That's my understanding, according to the newspapers-

Mr. CUTLER: The only thing I see-

Mr. BARR: And it was in the face of that, the federal determination that it was an unsound and unsafe institution that action was taken to keep it open, and I think that there are specific allegations about the role that the former governor played and-

KINSLEY: There are none that I know of.

Mr. CUTLER: There are none that I'm aware of.

Mr. BARR: There are people who say that he deliberately selected that particular regulator on the advice of McDougal.

KINSLEY: There is no-

Mr. BARR: I just went through 20 pages of specific allegations and newspapers. There's a lot of allegations-

KINSLEY: There's a lot of allegations, but there's no evidence. I could allege that you had something to do with it, you know.

SUNUNU: Lloyd-

Mr. CUTLER: The Wall Street Journal Bible of-

Mr. BARR: My documents haven't been requested by the Department of Justice on this case. Now, why is the department requesting to review all these documents? The bottom line-

Mr. CUTLER: They haven't as far as I know.

SUNUNU: Lloyd, do you want to predict whether we will get to an independent prosecutor?

Mr. CUTLER: I predict that the independent counsel statute will be repassed and that the Republicans, led by Bob Dole, will get it repassed so that they can invoke the provision that allows the Republicans on the House or Senate Judiciary Committee to ask for an independent counsel-

KINSLEY: OK.

Mr. CUTLER: -and put Janet Reno to the point where she must respond to that claim.

KINSLEY: Got to cut you off. Thanks, Lloyd Cutler. Thanks, William Barr. John and I will have a couple of seconds in just a moment.

[Commercial break]

SUNUNU: Mike, you don't need to pass law when one's not needed. Janet Reno has the authority to appoint this kind of an investigator. She ought to do it.

KINSLEY: John, the irony here is, if the Republicans hadn't been so stupid and arrogant two years ago as to kill that special prosecutor law. They themselves-

SUNUNU: Mike-

KINSLEY: Bob Dole himself-

SUNUNU: Even with a Democrat-

KINSLEY: -could invoke a special prosecutor. You guys thought there would never be a Democrat in the White House again.

SUNUNU: Mike, even with a Democrat in the White House, I think the law is a bad idea.

KINSLEY: Why is it a bad idea if it's redundant? You say it's-

SUNUNU: Because what it does is create situations in which people use it mischievously. The attorney general has the right to do this. She ought to do it.

KINSLEY: I agree she ought to do it, but an independent prosecutor would be truly independent with a law. From the left, I'm Mike Kinsley. Good night for Crossfire.

SUNUNU: From the right, I'm John Sununu. Join us again tomorrow night for another edition of Crossfire.

KINSLEY: PrimeNews is next. Here's Bernard Shaw to tell us what's coming up. Bernie?

BERNARD SHAW, PrimeNews: Thank you, Michael. Coming up at the top of the hour, much of the East Coast is being hit hard by snow. We'll give you the latest on flight delays and travel information. And a California woman suffering from leukemia says it came from a nuclear plant where she used to work. Those stories and more just ahead on PrimeNews.

Load-Date: March 29, 1994

80-JAN A.B.A. J. 25

ABA Journal
January, 1994

Developments
Lawrence I. Shulruff

AGENCY MERGER DEBATED
More independence proposed for Justice investigators

In the vernacular of Washington bureaucrats it is known simply as OPR. And if its detractors have their way, the Office of Professional Responsibility might be forced to issue an SOS.

That's because the OPR, a nine-lawyer team within the U.S. Department of Justice that investigates allegations of misconduct by department attorneys and investigators, may be merged with another Justice watchdog known as the OIG, the Office of the Inspector General.

The proposal to merge the two offices has raised some difficult questions. One is whether Justice Department investigators can remain unbiased when they probe allegations of abuse involving fellow employees. Another is whether giving the power to investigate the DOJ to an office supervised by Congress violates separation of powers.

The OPR was created in 1975 by order of the attorney general to ensure that Justice investigators and lawyers adhere to "professional standards." Its staff routinely investigates allegations involving prosecutorial and professional misconduct and reports the results to the attorney general. Michael Shaheen, who heads the office, during his 18 years on the job has investigated several of his bosses, including former attorneys general Benjamin Civiletti, Griffin Bell and Edwin Meese.

The OIG, with a staff of nearly 350, was created in 1988 to ferret out waste, fraud and abuse within the department and related organizations. The office, which reports to Congress, since its creation has had a poorly defined and awkward relationship with the OPR.

Senator Backs Change

Sen. John Glenn, D-Ohio, who introduced the legislation that established the inspector general's office, said that while the OPR and OIG were supposed to have had distinct investigative functions, a "turf war" has broken out between them.

Glenn is backing a merger of the OPR into the OIG's office to create an independent watchdog group not accountable to the attorney general that can monitor the Justice Department. Glenn's view that the offices should be merged also is shared by Deputy Attorney General Philip Heymann and Richard Hankinson, the current inspector general.

Glenn said at a Nov. 5 news conference that he supports the change because "the public must have confidence that allegations of wrongdoing or misconduct by federal prosecutors will be thoroughly and impartially investigated."

The controversy came to a boil last summer when Glenn, who chairs the Governmental Affairs Committee, introduced an amendment to an appropriations bill that would cut off funding for the OPR.

Glenn's amendment passed the Senate but was not acted on in the House. Yet he hopes the controversy generated by the proposal will force Attorney General Janet Reno to examine the issue.

Glenn offered the recent amendment in response to what he describes as an “unlawful” order entered in December 1992 by then-acting Attorney General George Terwilliger. The senator maintains the order “guts” the OIG's authority and expands the OPR's jurisdiction.

Not everyone familiar with the issue shares Glenn's outlook. Former Attorney General William Barr, now a partner at the Washington, D.C., law firm of Shaw, Pittman, Potts & Trowbridge, said that merging the two offices would create a balance of powers dilemma by “bringing Congress right into the middle of ongoing criminal cases.”

Because the inspector general reports to Congress, Barr said, members of Congress could pressure the OIG to investigate charges of misconduct for political purposes. The OPR, he said, “has no political ax to grind and its lawyers are discreet. That office is truly independent--exactly what you need in the department. And Mike Shaheen has the stature in the department to conduct truly independent investigations.”

The OPR's operations were reviewed in a somewhat critical Government Accounting Office report released in February 1992. The report examined 150 of the 889 cases reviewed by OPR between January 1988 and May 1990.

The study found that OPR investigators failed to properly document the findings of investigations, disregarded leads and neglected to establish investigative guidelines.

Despite these criticisms, the GAO staffers found no errors in investigations in cases they reviewed.

A 1991 report by Shaheen shows that OPR lawyers investigated 293 allegations of misconduct during the first nine months of that year based on on tips provided by department employees, judges, lawyers, inmates, anonymous sources and others. Of the investigations that were completed, the report states, allegations of misconduct were substantiated in about 9 percent of the cases.

Reno said she is reviewing the proposal to merge the two offices but at press time she had not indicated when a decision would be made. “I'm just extraordinarily proud of the lawyers in the Department of Justice,” she said during a Nov. 18 press conference when questioned about the proposed merger. “They do an incredible job day in and day out on difficult and complex issues.”

--Lawrence I. Shulruff

80-JAN ABAJ 25

Elected Officials Disagree on the Issue of Gun Control

CNN NEWS 10:15 am ET

December 13, 1993

Section: News; Domestic; Package

Length: 480 words

Byline: JILL DOUGHERTY
Highlight: Public officials disagree on whether or not gun control is the solution to the problem of violent crime in America. The issue will come to a head when Congress debates the anti-crime bill in January.

Body

LEON HARRIS, Anchor: If Hollywood's version of the wild, wild West were updated to portray shootouts in 1993, the old six-shooters would no doubt be replaced with those semi-automatic weapons. Firearms figure in a daily litany of heinous acts. CNNs Jill Dougherty takes a look now at how guns and crime are tied together.
JILL DOUGHERTY, Correspondent: A 15-month-old child is killed sitting on his mothers lap during a shooting at a Chicago gas station. In New York, a sixth person dies, victim of the Long Island train shooting. From East Coast to West Coast, people denounce the violence and debate the solution.

RUDY GIULIANI, New York Mayor-Elect: The most often used weapon now for homicide in New York - this is true of other American cities - is a 9 mm weapon. So, there's no question that we have to get much better control over the number of handguns, the automatic weapons.

RICHARD GARDINER, National Rifle Association: Regulating law-abiding citizens who just want to own a firearm for a legitimate purpose will have nothing to do with reducing violent crime.

DOUGHERTY: Most young people who own guns obtain them illegally, according to a newly released Justice Department report. The 1991 survey of boys at ten inner-city high schools reveals that more than one-fifth said they owned guns.

A former attorney general says he doubts stricter controls on gun sales would keep weapons out of the hands of criminals.

WILLIAM BARR, Fmr. Attorney General: I think the handgun licensing proposals are a diversion. I don't think they're going to have any impact on crime. Criminals operate outside the system today, and most criminals who have handguns today are already violating some kind of licensing law.

DOUGHERTY: Communities desperate to control the spread of weapons are trying different approaches. In San Francisco, a company offers gun owners a deal - turn in your weapons to police and get free concert tickets. California Senator Dianne Feinstein says the real change will come when citizens stand up and say-

Sen. DIANNE FEINSTEIN, (D-CA): - We've lost too many children, we've lost too many people. I don't intend to continue to worry about my child getting shot, going to school, or when I go down to cash my paycheck at the bank - or, even if I'm sitting in my living room and a bullet comes through the wall.

DOUGHERTY: The real debate will come early next year when Congress tries to decide what concrete steps to take to reduce the violence, reconciling a Senate and a House version of a crime bill.

Jill Dougherty, CNN, the White House.

Load-Date: December 13, 1993

OPINIONS ARE DIVIDED ON EFFECTIVENESS OF GUN CONTROL LAWS

CBS News Transcripts CBS MORNING NEWS (6:30 AM ET)

December 13, 1993, Monday

Section: Newscast

Length: 343 words

Body

MONICA GAYLE, co-anchor:

A Justice Department study shows guns are so easy for young people to get their hands on, new laws limiting their availability will probably have no real impact. Bob Orr reports on the latest string of violent crimes which have people across the country demanding action.

BOB ORR reporting:

Near Saint Louis, a family buried their 10-year-old daughter, one of two young girls recently abducted and murdered there. And in New York, a sixth person has died from the Long Island railroad shooting, as her family pleaded for an end to the violence.

Ms. ARLENE LOCICERO (Mother of Shooting Victim): It is the responsibility of our leaders to enact any and all legislation to preserve and protect life in a democracy which grants our freedom to live.

ORR: Crime is now America's biggest fear, and fighting it, one of the country's biggest problems.

Representative CHARLES SCHUMER (Democrat, New York): Anyone can get a gun these days. And we need a full-scale, full-court press to get the guns out of the hands of illegal people.

ORR: Schumer says one option gaining momentum would require every handgun owner to have a license. But opponents say that won't keep guns from criminals or even kids. And a new Justice Department report offers critics some strong ammunition. Sixteen hundred male teen-agers, some of them behind bars, were questioned in high-crime cities in 1991. The Justice Department study found 22 percent of those in school claimed to already own guns. And more than 80 percent of those in prison, said they had guns stashed at home.

Mr. WILLIAM BARR (Former Attorney General): Those guns that are used by kids are already being possessed illegally. There're already laws against it. I'm not sure that passing more laws are going to actually get them off the street.

ORR: Maybe so, but Congress seems intent on doing what it can to curb violence and ease fear now that crime is at the top of the president's agenda and at the front of America's mind. Bob Orr, CBS News, Washington.

Load-Date: April 27, 1998

Legislators Stew Over Solutions to Gun Violence

CNN NEWS 6:51 pm ET

December 12, 1993

Section: News; Domestic; Package

Length: 574 words

Byline: JILL DOUGHERTY

Highlight: Lawmakers are debating a number of different measures to get guns out of the hands of those likely to commit crimes with the weapons. Critics say legislation is only a small part of the solution.

Body

JEANNE MESERVE, Anchor: The Justice Department today released a new survey asking high school boys in ten different schools about gun use and drug habits. Off 750 students who completed the 1991 questionnaire, 22 per cent said they possessed guns, 75 per cent of those students who participated in drug dealing said they carried guns, 6 per cent of high school students who reported gun carrying said they took hard drugs like heroine, crack and cocaine and 6 per cent of those surveyed said they possessed a military-style assault weapon.

The concern about gun availability has lawmakers debating ways to get them out of the hands of those who may commit crimes. President Clinton last week, said he's looking at uniform gun licensing and some lawmakers predict passage of a strong crime bill next year. One thing is clear people want the violence to stop. CNN's Jill Dougherty reports.

JILL DOUGHERTY, Correspondent: A 15-month old child is killed sitting on his mother's lap during a shooting at a Chicago gas station. In New York, a sixth person dies, victim of the Long Island train shooting. From east coast to west coast people denounce the violence and debate the solution.

RUDY GIULIANI, New York Mayor-Elect: The most often used weapon now, for homicide in New York, this is true of other American cities, is a 9mm weapon. So, there's no question that we have to get much better control over the number of hand guns, the automatic weapons-

RICHARD GARDINER, National Rifle Association: Regulating law abiding citizens who just want to own a firearm for a legitimate purpose, will have nothing to do with reducing violent crime.

DOUGHERTY: Most young people who own guns obtain them illegally according to a newly released Justice Department report. The 1991 survey of boys at 10 inner city high schools reveals that more than 1/5 said they own guns. A former attorney general says, he doubts stricter controls on gun sales would keep weapons out of the hands of criminals.

WILLIAM BARR, Fm. Attorney General: I think the hand gun licensing proposals are a diversion. I don't think they're going to have any impact on crime. Criminals operate outside the system today, and most criminals who have hand guns today are already violating some kind of licensing law.

DOUGHTERY: Communities, desperate to control the spread of weapons, are trying different approaches. In San Francisco, a company offers gun owners a deal - turn in your weapons to police and get free concert tickets. California senator Dianne Feinstein says the real change will come when citizens stand up and say-

Sen. DIANNE FEINSTEIN, (D-CA.): We've lost too many children, we've lost too many people, I don't intend to continue to worry about my child getting shot going to school, or when I go down to cash my paycheck at the bank. Or even If I'm sitting in my living room and a bullet comes through the wall.

DOUGHTERY: The real debate will come early next year when Congress tries to decide what concrete steps to take to reduce the violence, reconciling a Senate version and a House version of a crime bill. Jill Doughtery, CNN, the White House.

Load-Date: December 13, 1993

CALIFORNIA SENAROR DIANNE FEINSTEIN, FORMER ATTORNEY GENERAL WILLIAM BARR AND FORMER NEW YORK MAYOR ED KOCH DISCUSS HANDGUN CONTROL AND CRIME

CBS News Transcripts FACE THE NATION (10:30 AM ET)

December 12, 1993, Sunday

Section: Interview

Length: 2152 words

Body

BOB SCHIEFFER, host:

And as we continue now, talking about what can be done to end the spiral of violence and crime in America. Senator Dianne Feinstein of California, who is a member of the Judiciary Committee, led the fight to ban assault weapons. She's in San Francisco this morning, her hometown. ***William Barr***, the former attorney general during the Bush administration, with us here in Washington. And Ed Koch, the former mayor of New York City.

Senator Feinstein, let me start with you. A--and a quick question first. How do who--you feel about what is going around now, this--this idea of a national program or a national law to license handguns? How do you come down on that?

Senator DIANNE FEINSTEIN (Democrat-California): Well, I think it may be a very good idea. I--I've been very concerned as I see the increasing number of deaths, and I recognize the statement that guns don't kill, people do; toughen our crime--our crime laws. And it's true. We need to do that and we need particularly to keep violent offenders in prison. In California, our law doesn't provide to take into consideration the threat to society an individual may be. When their time is up--they serve about 50 percent of their sentence--they come out regardless, and that's a terrible and a tragic mistake. And there's--"three strikes, you're out" is now being proposed for the ballot. I think that goes a long way.

But having said all of this, what I've been very concerned with is the increasing use of military-style assault weapons, weapons that were made for military use that are being used by civilians on our streets. Just last week, a man came up to me and he said, 'You know, my nephew, 12 years old, trick-or-treating on Halloween--he and two friends, also 12-year-o--12 years old, were mowed down by semiautomatic weapons on the streets of Pasadena.' That should not be happening in the United States of America, and I don't think these weapons of war should be made for civilian distribution. So I'm trying to stop it. The measure is now in the House of Representatives, and I'm hopeful that the people of this nation will rise up and say, 'We've had enough. Get these weapons off our streets.'

SCHIEFFER: Let me ask you just a little bit about that because I think it's fair to say--and I think even you would agree--you surprised a lot of people--e--even the chairman of your committee--Senator Biden, the chairman of the Judiciary Committee, and a lot of Democrats--when you got the Senate to pass that ban on military-style assault weapons in the Senate. But I'm told it's in some trouble in the House. How do you…

Sen. FEINSTEIN: That's correct.

SCHIEFFER: What's your analysis of what's going on in the House on that bill? Do you think it's going to pass there?

Sen. FEINSTEIN: Well, I--I'll--I--I'll tell you what I found in the year I've been in Washington. The strongest lobby in America isn't big business, it isn't big labor and it isn't big oil. It's big guns. And I've had people come up to me in the Congress and say, 'I know I should vote for this. It's the right thing to do, but I just can't do it and survive politically. The NRA will go after me.' Now, that's a terrible state of affairs in the United States of America when the gun lobby actually controls people. And I'm sorry to say it's my opinion and belief that that's the case today. The only thing that can beat the gun lobby is if the people of America, and particularly the women of America, are willing to stand up and say, 'We've lost too many children. We've lost too many people. I don't intend to continue to worry about my child getting shot going to school or when I go down to cash my paycheck at the bank, or even if I'm sitting in my living room and a bullet comes through the wall.' The time has come for us to say, 'We've had enough,' and begin to do the things that we can do--criminal justice sentencing…

SCHIEFFER: Mm-hmm.

Sen. FEINSTEIN: ...special treatment of young people, re--restoring parents so that they teach their youngsters the difference between right and wrong, good parenting, values in our society. It's time for all of that to come back. And for those of us who say we're leaders to begin to concentrate on those values and changing our laws and bringing families together again.

SCHIEFFER: All right. Well, let's talk to former Attorney General Barr. You heard what Mayor Giul--Mayor-elect Giuliani said. You just heard Senator Feinstein. How do you come down on this? Is--is the emphasis being placed in the right place, do you think? Is the gun lobby controlling America now? Is this biggest, powerful force, as Senator Feinstein said, not--not big business, but big guns?

Mr. ***WILLIAM BARR*** (Former Attorney General): No, I--I don't think so. I'm certainly not an apologist for NRA, as you know. But I'm concerned that this overemphasis on gun control is a problem because I don't think it's going to have much effect, ultimately, on crime. But I also think it's diverting attention from the central problem, and that is the collapse of the criminal justice system. We have 20 people gunned down each day in this country by people on bail, parole or probation--the Polly Klaas case, the Miami tourist, Michael Jordan's father. These are not e--the exception. They're today the rule, and we have to stop that crime being committed by repeat violent offenders and get these people off the street, stop the abuse in the parole system, get truth in sentencing and--and do something about protecting the people against these violent predators.

The problem with most of the gun-control proposals--and I agree there are certain things on the margin that may have some small effect. But the central problem are twofold. First, criminals operate outside the system, and it doesn't matter how broad or narrow or how heavy you make a regulatory system, a registration system or a licensing system. They operate outside it. That's what makes a criminal. The second thing is passing new laws doesn't have an impact on crime. Enforcing laws has an impact on crime. We already have men--20,000 gun-control laws on the books. Most criminals or would-be criminals who have firearms today are already violating the law and yet we're not prosecuting these people and putting them behind bars.

We had a program--the Trigger Lock program, as you know, Bob, and--where we were putting away 1,000--the federal government was stepping in and putting away 1,000 chronic violent offenders a month who were carrying arms or using weapons, and the average penalty we were getting for them was nine years without parole. Now, that's a waiting period, and yet, we see this administration pulling the rug out from under that program, slashing FBI agents and so forth. To me, it doesn't make sense to be touting gun control but not enforcing existing laws and getting chronic offenders off the street.

SCHIEFFER: I take your point about getting the offenders off the street and all of that, but what I--what is hard for me to understand is why is making an effort to get rid of some of these guns--how is that going to hurt anything? You know, when I grew up in my neighborhood down in Fort Worth, when I was a boy, we got in fights all the time but they were fistfights. A major event was when somebody hit somebody with a two-by-four or a baseball bat. These days, kids get in fights and they blow each other away with these guns. What does it hurt to try to get these guns off the street?

Mr. BARR: Those guns that are used by kids are already being possessed illegally. There are already laws against it. I'm not sure that passing more laws are going to actually get them off the street and get them out of the hands of people who shouldn't have them. Yes, we should get guns out of the hands of people who shouldn't have them. We should screen for felons. We should screen for the mentally ill. We should prohibit young people from owning guns. We should tighten up on gun dealers--or, the scrutiny of gun dealers.

But--but the fact remains that criminals are going to get guns. Fewer than 1 percent of the firearms in this country are involved in crime, and five out of every six guns that are used in crime are purchased illegally. They're not purchased over the counter. So I think the remedy has to fit the problem. For every chronic violent offender, a person with a long rap sheet who's out there as a predator--for each one of them, we already have over 200 guns in circulation. Now, Rudy Giuliani says, 'Let's use a task force to chase after the guns.' I say, let's use a task force to get that predator off the street and in prison for 10 years. That will take a bite out of crime, not chasing after guns.

SCHIEFFER: All right. Well, let's go to Mayor Koch--former mayor. You dealt with this problem. You were out there. There are--What?--2 million guns on the--how many guns are on the streets of New York now?

Mr. ED KOCH (Former New York Mayor): Two million guns illeg--illegally possessed in New York City.

SCHIEFFER: And what had you ought to do about that? Should you try to get rid of them…

Mr. KOCH: Well, I want to tell you…

SCHIEFFER: ...or should you concentrate more as former Attorney General Barr says? Where do you go?

Mr. KOCH: I agree overwhelmingly with the former attorney general, and I'll tell you why. In New York City, 2,000 people are, on the average, murdered every year by guns. Very serious. We have to deal with guns. But you should know that 500,000 felonies are reported every year, most of which are not including guns. And the--the--the Department of Justice says it's really a million 500,000 in New York City.

So what should we be doing? I think Rudy Giuliani's proposal hasn't been adequately discussed. It's not just licensing. It means that before you are legally able to have a gun put in your hands, you have to establish that you've passed a test, that you know how to use it, and then you'll be dealing primarily with the law-abiding citizen because, as the former attorney general says, criminals don't buy their guns over the counter, where the numbers are registered. They buy them under the counter, and there, what the Congress should be doing is creating a laboratory in Washington, DC, where they provide the funds for more jails, which they're doing in the current crime bill; more judges, which they're not doing; more cops, which they're doing; more assistant DAs and more legal aid and to create a criminal justice system where you have speedy trials and the expectation of punishment, which we don't have. They ought to be doing that immediately in Washington, DC, instead of the foolish suggestion of the mayor in Washington, DC, which is to call out the National Guard--first, she said, to pato--patrol the streets, and later retreated, saying they should be used in the precinct houses. That's called slave labor. They all have jobs. They're only called out in times of emergency.

So what I'm saying is, of course, we should be for gun control. That's the smallest part of dealing with crime in America--very important part. It will prevent kids from finding guns in the drawers of their parents, laid away there without care, and then shooting themselves or another child or someone else. It will not prevent a criminal--gun control--as it didn't prevent Colin Ferguson, who shot 25 people and killed five of them on the Long Island railroad. He got a gun legally in California, a state with a tougher law than the Brady law. In Brady's law, you only have to be defa--deferred for five days; in California, it was 15 days.

So it's not just a question of weeding out the people who have criminal records and the people who have mental disability records--very important. We should do that. But we have to focus on the criminal justice system, which is terrible, as the attorney general pointed out. People get out on parole. In California, people only serve half of the sentence that they're given for grave crimes. That guy, Damian Williams, is going to serve about three and a half years of the total of the 10-years sentence that was imposed upon him at the trial. I don't want to blame California.

That's true around the country. So what I'm saying is, yes, control guns. Don't delude yourself in thinking that by having stronger gun-control laws that you're going to be dealing with the criminals. They don't buy their guns legally. They buy them illegally.

SCHIEFFER: All right. Mayor Koch, I'm sorry. We have run out of time, so we're going to have to leave it there.

We'll be back with a closing word in just a moment.

(Announcements)

SCHIEFFER: A reminder that Edie Magnus will have the news tonight on the evening news. We'll see you here next week on FACE THE NATION.

Load-Date: April 27, 1998

FBI Chief, Attorney General To Undergo Crisis Training

The Associated Press

December 8, 1993, Wednesday, AM cycle

Section: Washington Dateline

Length: 761 words

Byline: By JAMES ROWLEY, Associated Press Writer

Dateline: WASHINGTON

Body

Attorney General Janet Reno and FBI Director Louis Freeh will undergo "dramatic tactical training" to help improve the Justice Department's response to crises like the 51-day standoff with a Texas religious cult, Freeh said Wednesday.

The director defended the FBI's handling of the 51-day standoff at the Branch Davidian compound near Waco, Texas, which ended in the deaths of as many as 85 cultists who authorities say were shot or perished in a fire set by the followers of David Koresh.

But he said the FBI is in the process of changing its procedures and planning for responses to such high-pressure incidents as the Waco siege, which began with the botched Feb. 28 raid by Treasury agents who tried to arrest Koresh on weapons charges.

Four agents and six cult members died in the shootout.

"We are taking very dramatic steps to integrate the hostage rescue operators with negotiators to make sure that operation works in tandem," Freeh said.

A Justice Department review of the Waco siege criticized the failure of the FBI's Hostage Rescue Team to consult with negotiators before taking steps to pressure the cult, such as cutting off electricity or blaring loud music at the compound.

Freeh said he and Reno will be given "some very important and dramatic tactical training and experience so we will have that experience that everyone else has when we have to face another crisis."

The course is being devised along with "substantial changes' in FBI training and plans for responding to future hostage crises and other dangerous emergencies, Freeh said after a speech at the National Press Club.

Reno attained near folk-hero status by taking responsibility for approving the FBI's April 19 tear-gas assault on the Mount Carmel compound, which prompted cultists to set fire to the building.

Freeh, who took office in September, said the bureau is devising other training programs in crisis management for managers and supervisors.

Also under consideration are plans to provide crisis management training to a corps of special agents in charge of FBI field offices.

These trained agents could "go into a particular location and take command of these difficult circumstances" so the FBI would not have to rely on a local FBI commander untrained in crisis management, Freeh said.

The changes come as the Justice Department investigates the 1992 siege of the home of an Idaho white supremacist by deputy U.S. marshals and FBI agents. Randy Weaver's wife, Vicki, was shot to death by an FBI sharpshooter while she held a baby in her arms. His 14-year-old son, Sam, died in an earlier shootout with federal marshals, one of whom also died.

The 11-day siege began when marshals tried to arrest Weaver for failing to appear in court on weapons charges. He was convicted of weapons violations and was sentenced to 18 months in prison.

In his speech, Freeh warned Congress about its accelerating tendency to make federal crimes out of offenses that have traditionally been in the jurisdiction of state and local law enforcement.

Noting that the bureau has been given jurisdiction to investigate parental kidnappings of children and carjackings, Freeh warned that "rapid, unchecked federalization of criminal activity could overwhelm the limited resources of federal law enforcement agencies."

Keeping the FBI focused on such major problems as gang violence, drug trafficking "requires a thoughtful, not knee-jerk, reorganization of our resources," the FBI director said.

During questioning, Free also said:

- The effectiveness of the death penalty in deterring crime "is probably very minimal."

- Minimum mandatory sentences for federal crimes applied to all types of defendants "are not amenable to fairness." The Senate has added more than a dozen new minimum mandatory sentences to its version of crime legislation.

The Hostage Rescue Team and FBI hostage negotiators are devising a series of simulated crises and training on ways to deal with them, the FBI said. Freeh expects to take the training in January, the bureau said.

In a statement issued later in the day, Freeh said all officials in the chain of command should have such training.

But the value of such training was questioned by former Attorney General ***William P. Barr***, who approved the successful FBI rescue of nine people held hostage in 1991 by rebellious Cuban inmates at a federal prison.

"I am not sure you can really train people for crisis management," Barr said. "I think each situation is different. It is hard to extract general lessons from any one event."

Load-Date: December 8, 1993

RENO SET TO 'DEFANG' INTERNAL WATCHDOG OF HER DEPARTMENT

Los Angeles Times

December 7, 1993, Tuesday, Home Edition

Section: Part A; Page 5; Column 4; National Desk

Length: 690 words

Byline: RJM

By RONALD J. OSTROW, TIMES STAFF WRITER

Dateline: WASHINGTON

Body

EC MO DE NA

Atty. Gen. Janet Reno is expected soon to ease out the Justice Department's veteran trouble-shooter, whose internal probes have embarrassed nearly every attorney general under whom he has served and on occasion even caused discomfort at the White House.

Under a plan awaiting Reno's approval, the Office of Professional Responsibility -- headed by Michael E. Shaheen Jr. since it was created in 1975 -- would be placed under the supervision of the Justice Department's inspector general.

Although the change would not eliminate Shaheen's job, he has made clear to department officials that he will not remain in the post under an arrangement that would significantly limit his independence.

The shift is important because of what the job has become under Shaheen, a former mayor of Como, Miss., who initially joined the department's civil rights division.

As originally envisioned by former Atty. Gen. Edward H. Levi, the office would act as the attorney general's eyes and ears, watching over the department's investigative operations. But it evolved into a much higher-profile operation.

Shaheen's office conducted the investigation that led to the firing of FBI Director William S. Sessions on grounds that he abused his position.

That followed Shaheen probes that led to the departure of two of former Atty. Gen. Dick Thornburgh's aides and a reorganization of the department's top command, resurrected the probe of former Teamsters President Jackie Presser and took former Atty. Gen. Benjamin Civiletti to task for his dealings with the White House on the investigation of the late Billy Carter, when his brother was President.

Other high points included an inquiry that found the FBI, under former Director J. Edgar Hoover, had conducted pervasive harassment of Dr. Martin Luther King Jr. and one that examined the adequacy of the department's antitrust investigation of IBM.

Reno's predecessor, former Atty. Gen. ***William P. Barr***, contends that Shaheen's office is the only department entity "with the credibility, stature and institutional history to conduct internal investigations" of possible high-level wrongdoing and to show sensitivity in looking into allegations against law enforcement officials.

But Carl Stern, Reno's chief spokesman, defended the proposed change on grounds of "streamlining," because the IG already looks into misconduct by lower-level personnel, while the OPR watches over higher officials.

Critics of the proposal argue, however, that the IG wears two hats and must report findings to Congress, which they contend would hamper the new office in its efforts to conduct confidential investigations for the attorney general.

The move pleases some lawmakers, such as Sen. John Glenn (D-Ohio), a champion of IGs. But critics contend it could be evidence that politics has entered the process of picking the department's internal watchdog -- an allegation Stern flatly rejects.

The skepticism arises partly because the plan was drawn up by Deputy Atty. Gen. Philip B. Heymann, who once said no individual should hold the OPR post as long as Shaheen has, a comment he has not repeated publicly since becoming the department's No. 2 official.

Moreover, Heymann is sponsoring a onetime student of his at Harvard's Kennedy School, Michael Bromwich, to succeed IG Richard Hankinson, whom Heymann has ordered to resign. Bromwich served for six weeks as a special assistant to Heymann in 1978 during a summer away from law school when Heymann headed the department's criminal division.

But Bromwich, with no help from Heymann, made his own reputation as a highly regarded lawyer in the U.S. attorney's office in Manhattan and then on the team that prosecuted Lt. Col. Oliver L. North of Iran-Contra fame, as well as in private law here.

His North work could cause problems with some Senate Republicans as he seeks confirmation. Bromwich's nomination is likely to fall within weeks of the final report by Iran-Contra Independent Counsel Lawrence E. Walsh, a document that is due to be released soon and is expected to be highly critical of the Ronald Reagan and George Bush administrations.

Load-Date: December 8, 1993

JURY-POWER ADVOCATE RUNS AFOUL OF JUDICIAL CLOUT; COURTS: URGING JURORS TO PUT THEIR CONSCIENCES ABOVE THE LEGAL CODE BRINGS ACTIVIST HIS LATEST BRUSH WITH THE LAW. SOME CALL GRASS-ROOTS MOVEMENT PATRIOTIC; CRITICS SEE ANARCHY.

Los Angeles Times

December 5, 1993, Sunday, Home Edition

Section: Part A; Page 3; Column 4; Metro Desk

Length: 1620 words

Byline: RJM

By TONY PERRY, TIMES STAFF WRITER

Dateline: SAN DIEGO

Body

EC MO DE ME

Jim Harnsberger sees himself as a patriot, a faithful and liberty-loving son of the Founding Fathers.

Others suggest that he might be better described as a scofflaw and scoundrel who is preaching nothing less than anarchy.

A short man with a loud voice and a confident manner, the 38-year-old "tax consultant" is the local vanguard of a nationwide movement called the Fully Informed Jury Assn.

From its command post in the Montana village of Helmville, FIJA is hip-deep in political lobbying and street-corner proselytizing in 40 states on behalf of jury nullification: the doctrine that juries in criminal cases have the right to follow their own consciences rather than the narrow dictates of the law.

"Having been through the criminal justice system here in San Diego," Harnsberger said, "I came to realize that the right to a jury trial doesn't mean much if judges are biased in favor of the prosecution."

In the past five years Harnsberger has been convicted in San Diego of reckless driving, grand theft and practicing tax preparation without a license, each time getting probation and a fine.

He is also the subject of more than 20 complaints at the California Department of Consumer Affairs filed by unhappy clients who say he pocketed their money and led them into losing business ventures. Similar complaints were filed against him in Hawaii.

This time, though, Harnsberger is in trouble for agitating on behalf of a controversial philosophy of jurisprudence.

On Monday, Harnsberger will once again come before the Bar of justice, accused of violating a judicial order that he stay at least 150 feet away from the steps of the downtown San Diego Courthouse when he hands out his pamphlets espousing jury nullification.

The five presiding judges of the Superior and Municipal courts issued the unprecedented order after ruling that "distribution of these written materials interferes with and obstructs the lawful administration of justice."

Undaunted, Harnsberger continued passing out pamphlets, saying that jurors could acquit guilty defendants without suffering any retribution. He was arrested and charged with a misdemeanor.

He plans to arrive in court armed with speeches about the 1st Amendment and the need for common folks to reject laws they find odious or illogical. He is particularly peeved at the judges who signed the order, which covers every courthouse in San Diego County.

"They are trying to shut me up but I'm not going to shut up because our courts are out of control," said Harnsberger. "These guys want to throw me in jail to make an example out of me and scare other people from exercising their rights."

The judges are equally adamant.

"These people think there is a rule that says jurors can do whatever the hell they want," said Superior Court Judge James R. Milliken. "They're entitled to their opinion, but they cannot stand outside the court and solicit a violation of the law by telling jurors to break their oath to follow the law. That is *not* protected by freedom of speech."

It is doubtful that he will get the chance, but Harnsberger would love to lecture the judges about William Penn, the Quaker gentleman and intellectual who founded Pennsylvania and was arrested on a street corner in London in 1670 for giving speeches about religious freedom that the Church of England found vexatious.

Penn's eloquence persuaded a jury to withstand crushing pressure from "cross and crown" and acquit him even though he admitted breaking a law that forbade advocacy of any beliefs other than those of the Anglican church.

The case is celebrated in legal textbooks for having established the primacy of the jury in English, and later American, law. Not surprisingly, Penn is a patron saint of the Fully Informed Jury Assn.

Ever the relentless advocate and persuasive salesman, Harnsberger this year persuaded the mayors of four suburban San Diego County cities to declare Sept. 5, the 323rd anniversary of Penn's acquittal, as Jury Rights Day.

Harnsberger and other FIJA activists want the legislatures in all 50 states to pass bills requiring judges to instruct jurors that they can disregard the law and vote their consciences.

So far, FIJA has had only meager success: a few laudatory comments by columnists and op-ed writers in smaller newspapers, and a bill that passed one house in Arizona before being killed.

But Don Doig, who dropped his career as a medical researcher to become FIJA's vice president and national coordinator, says critical mass is just around the corner, politically speaking.

"We have a general perception that government is being too obstructionist and authoritarian," Doig said. "Jury nullification is a defense mechanism."

The association's 3,000 members are a politically and socially eclectic lot, Doig said, with the common thread being that each has a gripe against the government.

The 5-year-old group has attracted people angry about income tax laws, gun laws, seat belt laws, motorcycle helmet laws, marijuana laws, Food and Drug Administration prohibitions against "alternative medicines" and asset forfeiture laws in drug cases.

Democrats, Republicans, libertarians and even a few John Birch Society members have joined up. The National Rifle Assn. has expressed support and so have some leaders of the anti-abortion movement, some of whose followers have been arrested for blocking clinic doors.

From Helmville, a town of 100 people 56 miles from the nearest stoplight, FIJA has cobbled together a nationwide communications network to spread the word, provide literature for the faithful and sell a variety of buttons, books, tapes and "Ban Bad Law" T-shirts.

A statewide convention is set for San Diego in February. After that, a major push into the Los Angeles courts is planned.

Alan Scheflin, a law professor at Santa Clara University who has written extensively in law journals about jury nullification, agrees wholeheartedly with the principle that jurors have a right to follow their consciences without fear of retribution. He wishes judges would tell jurors that. "Juries are an important institution that is in danger of being lost," Scheflin said. "Jury nullification allows a jury to exercise mercy when the law collides with a deeply held moral belief."

Scheflin said most cases where jury nullification becomes an issue involve taxes and the Internal Revenue Service. But he says jurors are not likely to buy the argument that someone is not paying taxes because of moral opposition.

"The tax protesters are the fringe element of the jury nullification movement," Scheflin said.

During the Vietnam War, defense attorneys for draft evaders often used a jury nullification argument. As the war dragged on and became more politically unpopular, juries were more reluctant to convict draft evaders, according to prosecutors and historians.

William Braniff, who spent 22 years as a federal prosecutor -- including five as U.S. attorney in San Diego -- said defense attorneys who make jury nullification arguments are not realistically expecting acquittals but rather hoping to find at least one sympathetic juror and force a hung jury.

Braniff is no fan of Harnsberger or his ideological allies. "If you follow the logic of what this man says, it's anarchy," said Braniff, now in private practice.

Kristine Strachan, a former prosecutor and now dean of the University of San Diego Law School, said that although it may be galling to judges and prosecutors, the truth is that jury nullification activists are firmly in the American tradition.

"The Founding Fathers thought that jurors should be allowed to acquit people who are guilty," Strachan said. "But that idea cuts so deeply in a democratic society that judges will not instruct jurors on that point and they will not let lawyers argue on that basis."

William Barr, U.S. attorney general in the latter years of the George Bush Administration, said he has seen sporadic cases of jury nullification. The tactic works, he said, when juries can be persuaded that the defendant has been "a victim of society" and that the government is "the real bad guy." Harnsberger believes that his efforts have swayed jurors in several San Diego cases, including a well-publicized case where a jury acquitted an AIDS patient of marijuana charges even though he admitted growing and using the plant. Harnsberger said two jurors told him that his pamphlets persuaded them to vote for acquittal.

Harnsberger started his sidewalk campaign last spring and estimates that he has given away 5,000 pamphlets before the Oct. 23 order that he keep 150 feet away from the courthouse.

Sherry Moffet, a senior enforcement analyst for the Department of Consumer Affairs, said her office has a complaint file on Harnsberger a foot-and-a-half thick. "He has a habit of finding older people with large amounts of money and then convincing them to get into investments that do not work," she said.

Harnsberger said the California complaints, like the ones in Hawaii, are the product of misunderstandings by his clients and vindictiveness on the part of investigators.

After his multiple calls to San Diego's most popular radio talk show, Harnsberger has attracted a following of people who have peppered the media and judiciary with letters decrying his arrest. He is being represented in court by the Escondido-based U.S. Justice Federation, which presents itself as a right-wing alternative to the American Civil Liberties Union.

Harnsberger could face up to a $1,000 fine and a year in jail. Win or lose, Harnsberger vows to return to the courthouse, pamphlets in hand. "I'm an in-your-face kind of guy when it comes to this stuff," he said.JURY SYSTEM

Graphic

Photo, Jim Harnsberger says he plans to keep defying a ban on handing out pamphlets near courthouses. MARILYNN YOUNG / For The Times

Load-Date: December 6, 1993

Barr: Career criminals must be U.S. focus

The Houston Chronicle

December 2, 1993, Thursday, 2 STAR Edition

Section: A; Pg. 38

Length: 292 words

Byline: ERIC HANSON; Staff

Body

A former U.S. attorney general said law enforcement officials should attack the U.S. crime crisis by concentrating on the career offenders who commit most of the offenses.

""Our strategy has to center on one basic truth,'' said

William P. Barr, attorney general during part of the Bush administration, ""and that is that most predatory violence is committed by a very small segment of society.
A group of chronic

repeat offenders.

""These are people who have embarked on a career of crime, who will commit crime when they are on bail, probation or parole,'' Barr said.

The increase in crime, he said, is being driven by crack cocaine, other illegal drugs and increased juvenile violence.

""The states are overwhelmed by the volume of crime. It is now more spread out geographically. Towns that never had crimes problems now have gangs and drive-by shootings,'' Barr said at a Wednesday luncheon of the Forum Club of Houston.

He also criticized government efforts to deal with crime through social programs and said it is time for tougher measures.

""The absolutely indispensable thing we have to do is restore the integrity of our criminal justice system and to make it effective in punishing and deterring and incapacitating criminals,'' he said.

He said one way to deter career criminals is to make prison sentences longer, partly as a deterrent and partly just to keep

them off the streets.

Barr, now in private practice, said states should adopt mandatory sentencing standards similar to the ones now used in the federal justice system.

The demand for increased prison space could be met by the establishment of a national regional prison system, as has been included in a recent Senate anti-crime bill.

Graphic

Mug: ***William P. Barr***

Load-Date: January 14, 1994

F.B.I. Shaken by Inquiry Into Idaho Siege

The New York Times

November 25, 1993, Thursday, Late Edition - Final

Distribution: National Desk

Section: Section A;; Section A; Page 1; Column 3; National Desk; Column 3;

Length: 2778 words

Byline: By DAVID JOHNSTON with STEPHEN LABATON,

By DAVID JOHNSTON with STEPHEN LABATON, Special to The New York Times

Dateline: WASHINGTON, Nov. 24

Body

The bloody standoff between the F.B.I.'s elite paramilitary force and a white separatist in Idaho has produced one of the largest and most wrenching internal inquiries ever conducted by the Justice Department, threatening some of the country's top law-enforcement officials with criminal prosecution.

The far-reaching inquiry, which has been under way for weeks but has remained largely unknown, centers on the operation at a remote ridge in August 1992 by the Hostage Rescue Team, the Federal Bureau of Investigation's unit trained to capture terrorists, hostage-takers and other violent criminals with minimal casualties.

Fatal Confrontation

The rescue unit was sent to the Idaho mountain after a confrontation between the white separatist, Randall C. Weaver, and Federal marshals in which one Federal agent and Mr. Weaver's 14-year-old son were killed. The next day a sniper from the rescue team shot and killed Mr. Weaver's wife, Vicki, who was in the doorway of their cabin holding their 10-month old daughter. She was not considered a threat, and the F.B.I. later acknowledged that she had been shot by mistake. After a 10-day siege, Mr. Weaver surrendered.

Deputy Attorney General Philip B. Heymann, who is supervising the inquiry, described it as a top-to-bottom review of the case. People who have been interviewed by Government agents in the course of the inquiry said the focus was on whether officials misjudged the danger the agents faced and knowingly violated the agency's limits on the use of deadly force by killing Mrs. Weaver. The inquiry is also examining whether officials failed to consider less aggressive tactics and later closed ranks to avoid scrutiny of their actions.

Investigators from the Office of Professional Responsibility, the Justice Department's internal ethics unit, have warned top managers, agents, prosecutors and former officials that they could face civil or criminal charges, including obstruction of justice and violations of civil rights law.

The Hostage Rescue team, with its black Ninja uniforms and body armor, its crack snipers and assault specialists, has achieved near heroic status within the F.B.I. and at the Justice Department. Team members have taken part in dozens of operations, including a 1991 case when they stormed a prison cell block to free hostages without firing a shot.

F.B.I. Shaken by Inquiry Into Idaho Siege

Another Assault

Earlier this year the team's performance was heavily criticized after it led the tear-gas assault on the Branch Davidian compound near Waco, Tex. It ended when the compound caught fire and at least 75 cultists died, including 25 children.

Now, after the two deadly incidents, agency officials are planning changes in managing crises.

The investigation of the Idaho siege has begun to reach the highest officials in the F.B.I. and the Justice Department in the Bush Administration, although investigators say many of the officials they interviewed are not likely to be charged.

Among those questioned is Larry A. Potts, head of the F.B.I.'s criminal investigative division, who is the most senior Washington official involved in allowing the agents to shoot without provocation, a change in procedures that led to the death of Mrs. Weaver.

Other officials who have been questioned include George Terwilliger 3d, the former deputy Attorney General, and Henry Hudson, former director of the United States Marshals Service. Investigators say they will also talk to William P. Barr, the former Attorney General; William S. Sessions, the former F.B.I. Director, and Floyd I. Clarke, the F.B.I.'s No. 2 official, who announced today that he was retiring. Officials said his departure was not related to the inquiry.

In interviews with The New York Times, Mr. Barr, Mr. Terwilliger and Mr. Sessions said they were not directly involved in the decisions that led to the death of Mrs. Weaver. Mr. Hudson defended the actions of the Marshals Service and said it had sought to exercise caution.

The agency's Director, Louis J. Freeh, would not permit any bureau officials to comment, and he himself declined to discuss the case because, he said, the inquiry was continuing. "Complex legal issues should not be prejudged," he said. "My priorities are firm: that the complete truth be discovered about this case; that the truth be given to the courts and the public, and that the law be fully upheld."

Some F.B.I. officials said they also feared that a separate investigation by a state prosecutor in Boundary County, Idaho, where the incident took place, could lead to homicide charges against agents.

The hostage team was called into the Idaho case on Aug. 21, 1992, after William F. Degan, a decorated United States marshal, and Mr. Weaver's son, Samuel, were killed in shootout on Ruby Ridge. The marshals had been preparing to arrest Mr. Weaver on weapons-selling charges.

That evening, the F.B.I. hostage team flew to Idaho and the next day they encircled the Weaver cabin. Then, acting under the relaxed restrictions on the use of force, a sharpshooter killed Mrs. Weaver.

Nine days later, Mr. Weaver and a family friend, Kevin Harris, both of whom were wounded, surrendered. Federal prosecutors in Boise, Idaho, charged them with killing Mr. Degan in a broad conspiracy to engage a violent confrontation with the Government. But in July, after the prosecution case all but collapsed under contradictions, Mr. Weaver and Mr. Harris were acquitted.

The Hostage Unit
Inquiry Stirs Deep Resentment

Within the ranks of the hostage-rescue unit, the inquiry has stirred deep resentment. Agents who took part in the operation defend their actions and regard the inquiry as unfair second-guessing of those who place themselves at risk. Some, including Richard M. Rogers, its commander, have refused to cooperate with investigators, officials said.

The questions about the F.B.I.'s conduct come more than a year after an initial review by the bureau itself in September 1992 justified the killing of Mrs. Weaver on grounds she had willfully placed herself in harm's way. But the agency's report, disclosed during Mr. Weaver's trial, failed to examine many issues now at the heart of the inquiry.

As a result, senior F.B.I. officials said the team's approach in Idaho was not subjected to critical study within the agency, a lapse that several officials said contributed to a repetition of some of the breakdowns eight months later when the unit carried out the Waco assault.

The timing could not be worse for the F.B.I. The agency defended its decision to attack the Branch Davidians with tear gas on the ground that the hostage team was fatigued after the 51-day siege. Officials later used that same argument to bring back an old proposal, now moving through Congress, to double the team's size to 100 agents and increase its budget to $10 million a year.

The Beginning

A Court Date Wasn't Met

Mr. Weaver's troubles with the law began when agents from the Treasury's Bureau of Alcohol, Tobacco and Firearms maneuvered him into selling two illegal sawed-off shotguns to undercover agents. In 1991, a court clerk's error led authorities to mail him a summons with the wrong date for a court hearing. He became a Federal fugitive when he failed to appear at the hearing.

Federal marshals, who are responsible for capturing fugitives, spent months planning how to arrest him.

Months before his death, Mr. Degan had warned senior officials that any attempt to storm Mr. Weaver's isolated cabin and arrest him could be very dangerous. On Friday, Aug. 21, 1992, he and two other marshals, armed and wearing camouflage gear, hiked up the mountain. At midday, at a trail crossing called the "Y" the marshals encountered Mr. Weaver, his son Samuel and Mr. Harris. They, too, were carrying weapons.

Who shot first is in dispute. But when it was over, Mr. Degan was dead from a chest wound. Sammy, as he was known, had died of gunshot wound in the back. The officers radioed to the base camp that the marshal had been killed and reported taking heavy fire -- an assertion that was later found by investigators to be incorrect but that led officials in Washington to conclude that the Federal agents at the scene might face a running gun battle.

The Fugitive

A Hapless Malcontent

At F.B.I. headquarters, officials knew almost nothing about Mr. Weaver. Until a Federal agent was killed, the agency had no jurisdiction in his case

As a result, F.B.I. officials say they relied on flawed information supplied by other agencies, mainly the marshals, an institutional rival whose relations with the F.B.I. are sometimes strained. Bureau officials assumed the worst, saying they perceived Mr. Weaver as a Rambo-like extremist prepared to use his superior knowledge of the rugged terrain and his military training in booby traps, weapons and explosives to kill as many agents as he could.

In retrospect, several F.B.I. officials said in interviews, they ultimately came to regard Mr. Weaver as a hapless malcontent who armed his family and frightened his neighbors but who had withdrawn from mainstream society rather than confront it. Despite his belligerent talk, there is no evidence that he initiated any illegal conduct even after his wife and son had been killed.

Log books kept by the F.B.I. and the Marshals Service contain accounts that were later found to be inaccurate. One log introduced during the trial said the deputies "drew multiple volleys of fire from the house" with another group of

marshals pinned down "unable to withdraw without exposing themselves to hostile fire." But investigators who inspected the scene later said they found fewer than 20 shell casings fired by both sides.

The Rules

Unusual Change Permits Shooting

By the time F.B.I. officials decided to dispatch the entire hostage team, Mr. Weaver had retreated with Mr. Harris to the family cabin. Mr. Rogers testified that when the unit arrived, the agents were confused about the size of the threat they faced.

But other agents who took part in the operation said the situation appeared to be stabilizing and some criticized Mr. Rogers for failing to adjust his tactics, noting that the F.B.I. headquarters rejected his operations plan on Saturday morning because it made no mention of trying to negotiate Mr. Weaver's surrender.

The marshals who accompanied Mr. Degan brought his body down from the mountain without incident. Shooting had long since ceased. And scores of local, state and Federal officers converged on the scene. Several officials said that Mr. Weaver had had little chance of escape and that the authorities had had little to lose by waiting for him to surrender.

Mr. Rogers, who prepared the rules of engagement for the operation as he and other officials flew west, kept in place an aggressive arrest plan, based, officials said, on the flawed assumption that the hostage rescue unit faced one of the most dangerous tasks ever assigned to it.

Mr. Rogers testified at Mr. Weaver's trial this summer that he had changed the rules of engagement because Mr. Weaver had demonstrated his willingness to kill Federal agents. He said the Idaho incident was the only time such a change had been made in his four-year tenure as commander of the rescue unit.

The standard policy for virtually all law-enforcement agencies permits law enforcement officials to use deadly force only if an agent or someone else is facing imminent threat of death or grievous bodily harm.

But as one F.B.I. sniper later put it, the change in the rules for Idaho gave agents the green light to kill any armed adult male they encountered on the mountain, even if he posed no immediate threat to anyone.

At the trial, Mr. Rogers testified that he obtained approval from Mr. Potts to change the rules. "I talked with our assistant director in charge of the criminal division, Mr. Larry Potts, I discussed these rules with him. He concurred fully."

But in a statement to investigators shortly after the incident, Mr. Potts said he had approved the change and that it was consistent with the deadly force policy. Several F.B.I. officials now say that Mr. Potts has disputed Mr. Rogers's statements that both men clearly understood to what extent the rules were being changed.

Investigators are trying to determine whether Mr. Potts sought advice or approval about the rules change from more senior officials. His associates regard him as an experienced manager unlikely to make any significant decisions without clearing them with his superiors.

The Sniper

A Marksman At the Siege

On the cold, drizzling afternoon of Saturday Aug. 22 as agents surrounded the Weaver cabin, 11 snipers took up positions.

Lon T. Horiuchi, a veteran agent, headed one of the highly trained sniper teams. Mr. Horiuchi, a West Point graduate who is regarded as one of the best shots in the F.B.I., testified that at about 6 P.M. he saw three people

leave the cabin, two adult men and one young woman. At the time, no effort had been made by the F.B.I. to talk to Mr. Weaver, a point that later left negotiators complaining bitterly.

Mr. Horiuchi said he had seen the three people moving around outside the house, slipping in and out of his sight. At about the same time, he said he heard a sound overhead, the throb of the F.B.I.'s helicopter carrying Mr. Rogers on an inspection flight.

Mr. Horiuchi testified that he had seen a man in his telescopic sight approach a nearby shed and fired a single shot, striking Mr. Weaver. He testified that he believed the man was going to shoot at the helicopter. But defense lawyers disputed that account primarily on forensic evidence that showed that the bullet had hit Mr. Weaver in the back of his shoulder, a position that made it unlikely he was trying to shoot at the helicopter. The lawyers said Mr. Weaver had simply been going into the shed to see his dead son.

After the first shot, Mr. Horiuchi said, he saw the three run back to the cabin. He followed another man through his telescopic sight as the man sprinted toward the door. The sniper aimed his rifle slightly ahead of his target so the man would, in effect, run into the bullet. He fired as the man rushed through the cabin's opened door. "I decided to neutralize that male and his rifle," Mr. Horiuchi later recalled.

The Weaver's teen-age daughter screamed, but the agents said they did not know whether the shot had hit its target. In fact, the second shot crashed through a door window through the skull of Mrs. Weaver, who was standing behind it holding her young daughter. The bullet killed Mrs. Weaver instantly, its fragments wounding Mr. Harris.

The Bureau

Strong Criticism By the Judge

Last month, the judge in Federal District Court in Boise who presided over the case rebuked the F.B.I. for misconduct during the trial. The judge, Edward J. Lodge, strongly suggested that the F.B.I. had covered up misconduct, saying in an extraordinary sanction order that said the bureau's behavior "served to obstruct the administration of justice."

People involved in the case said the order brought into the open a savage backstage battle that raged throughout the trial between Federal prosecutors and F.B.I. officials, who favored a narrow case focused exclusively on the shooting of Mr. Degan.

But prosecutors in the United States Attorney's office in Boise went ahead with a broad indictment that accused the Weavers and Mr. Harris of conspiring to cause a violent confrontation with authorities. The Government's strategy meant that the F.B.I. was forced to account in court for its actions, including the shooting of Mrs. Weaver and Sammy. This played into the hands of Mr. Weaver's defense team, led by Gerry Spence, who accused the agency of using tactics that amounted to murder.

The prosecutors have told investigators that the F.B.I. refused to cooperate in the case and closed ranks to block any effort to determine what had occurred on Ruby Ridge and that bureau officials dragged their feet in response to requests for evidence for the trial.

When the judge ordered the Government to turn over documents related to the shooting, the bureau sent a file by fourth-class mail that arrived in Idaho after he had finished testifying. The relevancy of the documents prompted Judge Lodge to recall the agent for more testimony.

In his order, Judge Lodge wrote that the F.B.I. caused "delays and countless arguments" and he came close to accusing the agency of concealing evidence, saying: "The actions of the Government, acting through the F.B.I., evidence a callous disregard for the rights of the defendants and the interests of justice."

Graphic

Photos: A Hostage Rescue Team member in a training exercise (United Press International) (pg. 1); Federal agents and reporters milled around the home of Randall C. Weaver last year near Naples, Idaho, after he surrendered, ending an 11-day siege. Weapons found at the house were displayed (Associated Press); Mr. Weaver, who was acquitted of murder and conspiracy charges, waited last month at Federal court in Boise, Idaho, for sentencing on convictions of lesser offenses stemming from the incident. (Troy Maben/The Idaho Statesman) (pg. B16)

Load-Date: November 25, 1993

Victim-Perpetrator Reconciliations Grow in Popularity

The Wall Street Journal

October 28, 1993 Thursday

Section: Pg. B1; Legal Beat

Length: 1605 words

Byline: By Ellen Joan Pollock, Staff Reporter of The Wall Street Journal

Body

Edna Brugger found a solution to her sleeping problems last week: She met and confronted the two young men who burglarized her home in February.

The confrontation was ordered by a judge in Elkhart, Ind., as part of a program that puts offenders across the table from their victims. By the time they are done, the victims and victimizers typically have agreed to some form of restitution. As important, advocates say, the victims have had a chance to vent, and the criminals have had a chance to consider the human consequences of their acts.

In her case, Ms. Brugger told the two burglars, "I feel like you're stealing another hour of sleep each night." They agreed to replace her cross-country skis and binoculars, and return the cash they stole from her husband's wallet. She says she has slept soundly since then: "I didn't believe that would happen," she says. "I think a lot of it has to do with my speaking my piece."

Such meetings, called victim-offender reconciliations or mediations, got their start in Canada, and the first program in the U.S. was launched in Elkhart in 1977 with the help of Mennonites. Since then, their popularity has grown steadily, and there are now about 125 programs nationwide. The reconciliation movement -- which for the most part is distinct from the victims' rights movement -- has also spread to Europe, Africa and New Zealand. In the U.S., most programs focus on young offenders and most cases involve vandalism, theft and other property crimes.

"It can be very healing to victims, and it can be very healing to offenders," says Howard Zehr, who helped launch the first reconciliation program in the U.S. Too often, he points out, victims are ignored by the criminal-justice system. And for people who commit crimes, this mediation "puts the humanity back into it so you have to understand the implications of what you did."

With a moderator at their side, victims typically ask the offenders why they committed the crime. Often they want to know why they were the target. And victims sometimes want to know exactly what the vandals did when they broke into their homes. Participants then usually negotiate a contract for restitution. Sometimes, offenders agree to perform various services to the victim or the community.

Most victims report that their fear and anger subsides after they've told the perpetrator how much they were hurt by the crime. But some reconciliation experts say the benefits of such programs go well beyond the emotional. In a 1992 study of programs for juveniles in four states, Mark S. Umbreit, a professor of social work at the University of Minnesota, found that offenders who participated in the mediations completed restitution 81% of the time. Similar offenders in court-administered programs that didn't involve such reconciliation meetings paid up only 58% of the time.

Prof. Umbreit also found that offenders who participated committed fewer subsequent crimes, and that the crimes they did commit were less serious than among a similar group that didn't participate. In Minneapolis, for example, only 22% of the offenders who faced their victims committed another crime, as opposed to 34% in a similar group. Prof. Umbreit says his findings on recidivism are encouraging but not statistically significant. Nevertheless, other studies on recidivism in the wake of victim-offender meetings have also found decreases in the likelihood that offenders will strike again.

Overburdened judges like victim-offender mediations, too. Frank Knight, a circuit-court judge in Corvallis, Ore., says his local program saves the courts from having to hold hearings to decide on restitution. "Regardless of the rehabilitation values, this program is providing a valuable service to the court and community in doing that."

Even criminal-justice experts who favor reconciliation caution that it doesn't apply equally well to all crimes and all criminals. Judge Knight, for example, notes that "it has a greater rehabilitative impact on a newer offender." And many proponents point out that with many criminals, it must be combined with drug, alcohol and other counseling to have any lasting effect.

Some lawyers worry that judges will be tempted to substitute reconciliation for incarceration. "I'd like people to focus first on defendants getting just punishment that satisfies the victim, rather than touchy-feely sessions that are supposed to make the defendant feel good," says former U.S. Attorney General ***William Barr***, who nonetheless doesn't oppose reconciliation. "What concerns me is that it can be presented as . . . a substitute for exacting proper punishment."

But many victims feel that they can help to reform offenders. After several boys burned down a shed used by the oldest Boy Scout troop in Oregon, they agreed during a mediation with the victims to pay $200 each in restitution. But representatives for the troop and church on whose grounds the shed sat agreed to reduce the amount for every "A" the boys received in school.

Separately, Virginia Hoeye was one of about 10 car owners to face off against two youngsters who had stolen emblems from cars in the Corvallis area. For Ms. Hoeye, making the youngsters understand what they did was far more important than the $1.11 she received from each boy to purchase clips to replace the emblem on her English Ford. "I was concerned about the boys. I saw this as a way to turn this around," she says.

Sometimes there is no way to turn it around. Some pioneers are beginning to experiment with mediation involving violent criminals, including murderers. Last year, Suzanne Molhan met the man who shot and killed her son, Stephen, early one morning on a Providence, R.I., street. Ms. Molhan had been grieving for 10 years, and had immersed herself in a support group she founded for survivors of murder victims. "I knew I needed to detach myself from the organization and go on with my life," she says.

Despite contrary advice from her support group and her daughter, Ms. Molhan decided to confront the man who had killed her son. With the help of a therapist and Prof. Umbreit, she spent 10 months preparing for the meeting. She even planned her entry into the prison conference room so that she would see the back of the convict's head first.

"It's allowed me to heal," says Ms. Molhan, who has since resigned as a leader of her support group. "It was like the last step. It was the last thing I could do."

She adds, "I hope that he never forgets the look on my face when I told him I lost the best friend in my life."

--- Thrashing It Out

Outcomes of a sample of victim-offender reconciliation programs in four cities

	ALBUQUERQUE	AUSTIN	MINNEAPOLIS	OAKLAND	TOTAL
Number of Negotiations	158	300	468	205	1,131
Agreements With: Financial Restitution	82	171	239	111	603
Personal Service to Victim	57	21	31	36	145
Community Service	29	130	107	39	305
AVG. FINANCIAL RESTITUTION	$287	$243	$135	$209	$200

Source: Prof. Mark. S. Umbreit, University of Minnesota

Insurance Coverage Upheld

The Texas Supreme Court ruled that an automobile insurer couldn't deny coverage to a policyholder who was being sued by his wife after an accident.

The state's highest court upheld an appeals court ruling that the "family-member exclusion" violated the state's Safety Responsibility Act, which requires automobile liability insurance, and conflicted with the underlying public policy.

The case arose when Randall Johnson was sued by his wife, who was injured in a collision between his truck and another vehicle. Mr. Johnson's insurer, National County Mutual Fire Insurance Co., offered to defend him if it could reserve its right to deny coverage and payment of any judgment under a policy exclusion that precluded coverage of family members' claims.

The court ruled that the exclusion "prevents a specific class of innocent victims . . . from receiving financial protection under an insurance policy." The court noted that 21 of 25 jurisdictions with mandatory-insurance laws hold family-member exclusions invalid because they are contrary to public policy.

In a dissenting opinion, Justice Craig Enoch said the ruling would create potential liabilities for the state's insurers.

(National County Mutual Fire Insurance Co. and Consumers County Mutual Insurance Co. vs. Randall Johnson, Supreme Court of Texas, D-2560)

Law Notes . . .

FLAG-BURNING CASE: A divided Ohio Supreme Court overturned the conviction of a woman who burned a U.S. flag to protest the Persian Gulf War, the Associated Press reported. In a 4-3 decision, the court said the judge should have told jurors that flag-burning is a protected form of expression, as determined by the U.S. Supreme Court in 1989, and wasn't in itself proof that the defendant had incited violence. The Ohio Supreme Court returned the case to Cuyahoga County Common Pleas Court. The county prosecutor's office said it hadn't been decided whether to retry the case or appeal to the U.S. Supreme Court.

POWER'S APPEAL: Katherine Power, the former antiwar radical who surrendered after 23 years to face charges connected to a deadly bank robbery, is challenging an order that bars her from selling her story, the Associated Press reported. Rikki Klieman, Ms. Power's lawyer, filed a motion in Suffolk County, Mass., Superior Court arguing

that the order violates Ms. Power's right to free speech. Ms. Power, 44 years old, pleaded guilty this month of manslaughter in the 1970 death of Boston Police Officer Walter Schroeder. She was sentenced to eight to 12 years in prison, plus 20 years' probation that included a condition barring her from making money from her story.

Andrea Gerlin contributed to this article.

Notes

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Juvenile system meting out tough form of justice

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Dateline: LOS ANGELES

Body

LOS ANGELES - In separate cases three years ago, Michael Harris and Walter Biggs, both of Los Angeles, were arrested and charged with robbery. Both Mr. Harris and Mr. Biggs (whose real names are not used here) were convicted and sentenced to custody. Mr. Harris, 16, served 21/2 years; Biggs, 25, however, did only 18 months.

It wasn't that Mr. Harris was the more dangerous criminal, nor was the difference merely one of the vagaries of the justice system. Mr. Harris did more time because, as a juvenile, he was sentenced to the California Youth Authority, while Mr. Biggs was sent to a state prison.

"That's not uncommon," one Los Angeles juvenile parole officer said. "Juveniles sent to the Youth Authority normally serve longer sentences than adults in state prison."

Such is the rougher, tougher world of juvenile justice.

It is a world where some states lock up larger percentages of children than adults, where youngsters who are traditionally denied jury trials may serve longer sentences than their adult counterparts, where youths are often housed in overcrowded facilities and sometimes punished in ways that would be unthinkable in state prisons.

All because people believed something that wasn't true.

Beginning about 1975, crimes by children in the United States began a steady decline, but the public perception was that juvenile delinquency was going through the roof. So the United States began to lock up its wayward youngsters at unprecedented rates, eventually transforming the way the nation deals with them.

Once, juvenile crime brought determined attempts to rehabilitate kids, even though that sometimes required keeping them in custody.

Today, virtually all authorities on juvenile justice agree, custody has become largely an end in itself. The pendulum has swung away from rehabilitation and toward punishment.

Recent juvenile crime statistics make it increasingly clear that it has not worked.

Starting in the mid-1970s, the experts say, the United States decided to get tough with its juvenile delinquents and to separate them from the rest of society, even though Justice Department figures showed juvenile crime declining. From 1978 to 1988, while the per capita rate of crime among youths dropped by 19 percent, their lockup rate increased by nearly 50 percent.

"The public got tough-minded, and the elected officials got tough-minded for them," said Fred Jordan, director of probation for San Francisco County. "We had a series of attorneys general who talked about the juvenile crime wave' even though the numbers weren't going up."

Until this shift began, juvenile court had functioned as society's stern surrogate parent; the court's role was to bolster family discipline - or provide discipline where there was none - by applying an additional measure of control and guidance for wayward children.

Children who committed crimes, the court reasoned, were not hardened criminals, but still-forming youngsters who often could be put back on track; they could be admonished, or counseled, or moved from dysfunctional homes to structured, nurturing environments. The court was there to protect and guide them, not to punish.

But in the tough-minded '70s and '80s, rehabilitation took a back seat. States passed laws calling for more and longer incarceration of the young, and when punishment inside juvenile facilities was deemed too soft, they enacted measures allowing thousands of children to be tried and sentenced as adults.

Few inside the juvenile-justice system believed that longer, stiffer sentences would rehabilitate children. In fact, studies in California show a correlation between longer sentences and how often minors return to crime. The public, however, wanted retribution, and many voices argued that as long as kids were in custody, at least they couldn't cause more trouble.

Increasingly, as children were locked up in large, prisonlike juvenile halls, youth camps and training schools, the facilities became overcrowded - breeding grounds for abuse and violence.

"The juvenile code now is a punishment model," said Jerome Wassom, director of the Washington state Division of Juvenile Rehabilitation. "There's a much greater emphasis on sending kids to state institutions."

But, despite the harsher penalties, something happened four years ago that caught juvenile officials off guard: The rate of serious crimes among the nation's children and youths began to rise.

In 1991, the most recent year for which figures are available, juvenile homicides, forcible rapes, robberies and aggravated assaults climbed to their highest levels in the nation's history.

Although there were still fewer offenses of all kinds per capita than there were 10 years earlier, the upsurge in more violent offenses has caused many in the juvenile-justice system to ask what has gone wrong.

Former U.S. Attorney General ***William P. Barr*** says the increases "clearly show that we must enact wholesale reform of the juvenile-justice system so that, for the vast majority of juvenile offenders, their first brush with the law is their last. But the long-term solution falls largely outside of law enforcement. It requires strengthening those basic institutions - family, schools, religious institutions, community groups - that are responsible for instilling values and creating law-abiding citizens."

Paradoxically - because it was assumed that the role of the juvenile court was to rehabilitate and assist those who came before it - safeguards that the justice system guarantees adults were not afforded to children. Such safeguards were considered unnecessary or undesirable.

Children in juvenile court, for instance, do not have the right to a jury trial, nor, in most states, are they allowed bail. To "protect the reputation of children," proceedings in juvenile court are closed to the public and the press.

Even the terminology of juvenile court is different - designed, officials say, to spare children the taint of criminal proceedings.

Holding facilities for children before court appearances - the equivalent of adult jails - are called "detention." Instead of findings of guilt or innocence, juvenile courts reach a "disposition" for juvenile offenders. Youngsters are not "sentenced" but "placed."

"The idea was that you were going to treat these kids," said Robert Walker, a family law lawyer in San Francisco who handles cases in juvenile court. "The children were going to get the services they needed." But now, he says, "although the terminology remains the same, the court has become much more like a minicriminal court."

These days the terms serve as mere euphemisms, said John O'Toole, director of the National Center for Youth Law in San Fran

End of Column # 2 cisco. "The justification in the past was that what was going to happen to you as a child was not going to be bad," he said. "That's just not true anymore. Kids are being punished, and they are being punished very harshly."

It is clear, say those who monitor the juvenile-court system, that more and longer incarceration does not appear to be working.

As the incarceration rate has gone up, so has the percentage of juveniles who are rearrested for crimes after their release.

"The way the system is set up now, they're coming out worse than when they went in," said David Lambert, an attorney for the YouthLaw Center, which has filed and won numerous cases regarding the treatment of juveniles in state facilities. "They come out embittered, hardened."

Consequently, some states are beginning to re-evaluate the way they handle children and are seeking more cost-effective methods.

The nation is spending more than $ 3.2 billion annually to keep children in custody, and the annual price tag for one youngster's incarceration averages more than $ 30,000.

Increasingly, juvenile-justice officials have begun to see an overriding correlation between juvenile delinquency and such factors as poverty, physical and emotional abuse, neglect, family dysfunction and educational deficiencies. Consequently, many have concluded that just locking up youths is not the answer.

In Philadelphia, presiding Juvenile Court Judge Frank Reynolds says, "Until you deal positively with these children, particularly those of the urban poor, you're going to suffer. The less time and energy a city spends on those children, the more miserable a city will become.

"If the major cities of this country do not begin to grasp that as an ever-present reality, their communities will continue to decline.'

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Terry denounces `climate of hate' - Continues shots at GOP's Allen

Washington Times, The (DC) (Published as The Washington Times) - October 14, 1993

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- Edition: 2
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- Page: C10

Blaming GOP opponent George Allen for taking the first shot, Virginia gubernatorial hopeful Mary Sue Terry yesterday continued to fire away at what she called the "radical right" Republican ticket.

"George Allen and the radical right have created a climate of hate in this state," Miss Terry, a Democrat, said at an Arlington press conference.

As examples she cited posters showing her standing next to Adolf Hitler with arms raised in a Nazi salute and a toll-free number set up earlier this year to "smear Terry."

Neither can be linked to the Allen campaign, but Miss Terry nevertheless blames her opponent for condoning such attacks.

"They did not step up to the plate and say, `This is wrong,' " she said.

Her remarks at Applied Bioscience International Inc. in Ballston came a day after a scathing televised debate in which she accused Mr. Allen of promoting "politics of hate." After watching a substantial lead in opinion polls evaporate over the last five months, Miss Terry has abandoned her above-the-fray pose to aggressively attack her opponent.

Her abrupt tactical shift could set the tone for the remainder of the race, a virtual dead heat with less than three weeks to go.

Miss Terry referred to GOP lieutenant governor candidate Michael Farris as "a poster boy for Pat Robertson" and said Mr. Allen's ties to the evangelist could endanger the public school system if Mr. Allen acts on promises to establish a school voucher plan in Virginia.

"Pat Robertson and the radical right would use our tax dollars to fund the construction of private universities through tax vouchers," Miss Terry said. "The radical right are trying to force their beliefs on the rest of Virginia."

Mr. Allen, stumping in Alexandria to talk about crime, responded by accusing Miss Terry of using "smear tactics" and promoting "the politics of fear."

While continuing to call his opponent a soft-on-crime liberal as attorney general, Mr. Allen predicted that voters would see more negative charges from the Terry camp and promised to "respond appropriately" before Election Day.

"She's simply desperate to do anything to hang on to power. She's out of energy, out of ideas and out of touch," he said.

Mr. Allen refused to disavow charges made by his supporters that his status as a husband and father makes him more qualified than Miss Terry, who is single, to serve as governor. Miss Terry chastised Mr. Allen during Tuesday night's debate for remarks by fellow Republicans who say that he is more a family man than Miss Terry.

"I'm proud of my family. I'm proud of my wife. . . . It's just a part of who I am. I'm not going to back down on that," he said. "Her campaign aides are saying we now have to use smear tactics, we have to inject fear. Well it won't work. . . . She's the one endorsing fear."

Mr. Allen appeared with former U.S. Attorney General William Barr and former federal prosecutor Richard Cullen, who said Virginia's violent crime rate shot ahead of the national rate during Miss Terry's eight years as attorney general.

"We have one of the worst revolving doors in the criminal justice system here in Virginia. Virginia has one of the most liberal parole systems in the country," said Mr. Barr, who served as attorney general under President Bush.

Miss Terry surrounded herself with more than a dozen Virginia business executives who said they support her fiscal policies.

"The fiscal conservatism of the state has been very good," said Edward Bersoff, president and CEO of BTG Inc. "I don't think we can afford [change]."

He also said Mr. Allen's politics could be bad for Virginia's economy because they could scare off new business.

"The big problems are businesses' perceptions of what this state is," Mr. Bersoff said. "If we're viewed as a radical state, that could be very harmful to us."

He called himself a Republican but said, "It's very difficult to be Republican in Virginia because it's too right-wing."

Some have labeled Miss Terry's remarks an act of desperation by a candidate used to holding a strong lead.

She blames Mr. Allen for firing the first shot.

"Who started out negative in this thing? Who began from the very beginning in the attack mode?" she said. "Now's the time to . . . show voters the sharp contrast."

- Caption: Photos, A & B) Mary Sue Terry (left) and George Allen are in a dead heat for governor.

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Body

ANNOUNCER: Live from Washington, Crossfire. On the left, Mike Kinsley. On the right, John Sununu. Tonight, Crime and Punishment. In the crossfire, former Attorney General **William Barr**; and U.S. District Judge Stanley Sporkin.

MIKE KINSLEY: Good evening. Welcome to Crossfire. Twenty-year-old Nicole Richardson's boyfriend was a drug dealer. She wasn't, but she gave his phone number to a customer. Her punishment? Ten years in prison, no parole. Nineteen-year-old Brenda Valencia drove her aunt to a cocaine buyer's house. She had no history of drug dealing or drug use herself but got 12 and a half years, no parole. In the 1980s, Congress passed stiff mandatory minimum sentences for drugs and other crimes: five years without parole for possessing a fifth of an ounce of crack and so on. The result has been an explosion in the federal prison population, billions in cost to the taxpayers, and some very rough justice. The effect on the drug trade is less clear. Many federal judges are in open rebellion against the mandatory sentences, saying they lead to manifest injustice in many cases, but with rising concern about crime, many states are looking at the federal system and thinking about copying it. Does that make sense? John?

JOHN SUNUNU: Judge Sporkin, it's pretty clear that Congress was reflecting the opinion of the people, the majority of the people when it passed those mandatory laws. Now a lot of the judges are trying to undo them. Why are the judges trying to oppose the will of the public?

STANLEY SPORKIN, U.S. District Judge: Because we're the ones that have to impose sentences. There is human beings in front of us, and when we see that the concept of the sentence- the punishment must fit the crime, it's not happening, and it's- as you can see that I'm not just one judge, but there are many throughout the country that are seeing this take place every single day, and they don't like it.

SUNUNU: But one of the principles of a democracy is that public officials, all three branches, ought to be reflecting the sense of the people, and what you're talking about is absolutely contrary to the sense of the public.

Judge SPORKIN: But you know, mistakes are made, and unfortunately there was a mistake made here. We're in the 1990s-

SUNUNU: The public doesn't feel that way, Judge.

Judge SPORKIN: And we're treating people like we're in the 14th century.

KINSLEY: Well, the premise of Crossfire is that the public has an open mind and might change it, if it hears arguments and doesn't keep hearing what the public believes-

SUNUNU: Well, we're going to give them an opportunity. These are guilty- these are folks who are guilty that are being sentenced.

Judge SPORKIN: Yeah, but the point is they're getting the wrong person. We have an interdiction program here in Washington. The couriers, who are nothing more than drones, or they call them mules, are bringing drugs into Washington. They're not really the drug dealers. They're the ones that are getting a tremendous amount of sentences. There's never any follow-through. Nobody goes back to determine who sent them into Washington, and we're loading up our prisons with a lot of people that ought not to be there for incredible amounts of time.

SUNUNU: Now, you're not suggesting that law enforcement is just taking the easy way out and not going after the tough ones?

Judge SPORKIN: I sure am.

KINSLEY: OK-

SUNUNU: Because of mandatory sentencing?

Judge SPORKIN: No, I'm saying that there's a whole panoply of problems here. What you have is that you have a program in which- that wasn't properly funded, in which it's Balkanized, in which what happens is you have local police, who are not able to go back up to New York, they don't have a travel budget to go to New York to follow through and find out who gave them money to the courier- the drugs-

KINSLEY: They're getting the lower-level people because they're the easiest ones to grab.

Judge SPORKIN: And that's an easy case to bring. You don't have to do any investigation.

KINSLEY: OK. Let me ask Bill Barr. You know, Judge Sporkin here, as you know, was a legendary crime fighter when he was at the SEC. He was appointed to the bench by Ronald Reagan. He's no liberal softie. He is opposed to these mandatory sentences, so is virtually every other- in fact, every judge who's spoken out, federal judge who's spoken out, they're all opposed to it. Why would they be opposed to it?

WILLIAM BARR, Former Attorney General: Well, first, not every judge is opposed to it. There's a substantial group of judges that are.

KINSLEY: Name one-

Mr. BARR: They want discretion. The judges want discretion in sentencing. In my view, it's perfectly appropriate, and in fact it is the general rule that the legislature, the people's representative, set the penalty, and the judge applies the penalty. There's nothing inherent in the judge's function to be able to lower the penalty or to exercise discretion on a penalty. Sometimes Congress has given judges that discretion, sometimes it hasn't. I think Congress did the right thing on drugs and guns when it imposed mandatory minimum sentences.

KINSLEY: Well, what about this- the case I mentioned in the open, about the girl who gave her boyfriend's phone number to the drug dealer.

Mr. BARR: Well, that's-

KINSLEY: Now, that- clearly, she deserves to be punished. She was involved in a drug deal, but 10 years? Isn't that a little excessive?

Mr. BARR: Well, that's her description of her involvement in that case. That was a major drug transaction. She participated in that transaction. She did not assist the government. She insisted on going to trial. I don't know the details of that case, but let's talk the general- this notion-

KINSLEY: One of the problems with these mandatory sentences is precisely what Judge Sporkin objects to, is everyone involved in the case, everyone gets punished on the basis of the weight of the drugs in the deal, so the judge would have no option to say, 'She's not as guilty as her boyfriend. She shouldn't go to jail for as long her boyfriend.' Now, doesn't that make sense?

Mr. BARR: This notion that there are a lot of hapless, innocent victims going to jail for long sentences is poppycock. The notion that we're filling the prisons with nonviolent first-time offenders is poppycock.

Judge SPORKIN: Well, how can you say that?

Mr. BARR: Let's base it on the statistics and the facts, OK? In the state prison system, 4 percent of the prison population are drug offenders who are nonviolent and have no previous offenses, and a high percentage of those are illegal aliens, 4 percent. In the federal prison system-

KINSLEY: Which is what we're talking about.

Mr. BARR: -we sentenced 38,000 people in 1992, 38,000, of those 3100 were drug offenders with no violent record and with no aggravating role in the offense.

KINSLEY: Well, I have-

Judge SPORKIN: I rest my case.

SUNUNU: That's 8 percent, Judge.

Mr. BARR: Of those 31 percent were illegal aliens-

KINSLEY: Well, the statistic I have-

SUNUNU: Thirty-one hundred out of 38,000 is 8 percent. That's not what's causing the overcrowding.

Mr. BARR: And about half of them were illegal aliens, who obviously don't have prior records in the United States.

KINSLEY: According to Stuart Taylor in Legal Times, a very respectable reporter, I'm sure you agree, he said that last year 50 percent of drug offenders sentenced to federal prison were people with no prior record, not involved in violence and not king pins, small fry. Small fry, no violence, no prior records, half of them.

Mr. BARR: Well, I just gave you the statistics.

KINSLEY: Well, I just gave you a statistic.

Mr. BARR: Well, I'm telling you what the facts are. There are 17,000 sentenced for drug offenses. Out of 38,000 people sentenced, there were 17,000 for drug offenses; 3100 were nonviolent, first-time offenders with no aggravating role in the transaction-

KINSLEY: How do you define first-time offender?

Mr. BARR: No prior criminal history.

KINSLEY: No- are you talking about arrests for jaywalking and stuff like that?

Mr. BARR: Right- well, I'm not sure about jaywalking.

KINSLEY: Or what about arrests without convictions, are they in there?

Mr. BARR: Yes.

KINSLEY: That's a criminal record? Well, that's not how it works in this country, Mr. Barr. You don't have a criminal record if you're just arrested but not convicted, I'm sorry to tell you.

Mr. BARR: Well, that is a record, it's not a prior conviction.

SUNUNU: Judge, let me go back to the reason Congress felt compelled to do this. The public saw a judiciary with flexibility that they felt was being so flexible it was allowing criminals that should be sentenced to walk, and in a sense, the same people that are now complaining about having to apply mandatory sentence brought us to whatever problem you're defining by failing to meet their responsibility to sentence.

Judge SPORKIN: But there are other- I mean, mistakes are made here. What happened here is they probably tied it too tight. For example, in fishing there's what's known as keepers, you have to throw back some that are too small. Here we've got too many people that are so small and we're sentencing them to ungodly amounts of time. I don't care about your statistics. I see it on a daily basis.

KINSLEY: Give us an example from your own-

Judge SPORKIN: I'll give you an example from the daily basis. A young woman who has a love interest in a man, she's 21 years old, she has a child. It is six months old. He drops in her bag 51 grams of cocaine. She gets caught in the interdiction program here in Washington, D.C., 10 years in prison. I mean, that's the kind of-

SUNUNU: She didn't know it was there? How can she be guilty if she didn't know-

Mr. BARR: You're talking about crack cocaine.

Judge SPORKIN: Well, let's assume she knew- I mean, obviously she knew there was something was in her bag, but the point I'm trying to make, these are the kinds of cases that you're seeing. A young woman in Chicago meets somebody in a bar, she has a romantic interest in him. He sends her to Miami to bring back- go to Miami, she gets some drugs in Miami, she gets caught in the airport or the train station here in Washington, five years in prison. Now-

Mr. BARR: This is exactly what I'm talking about. That is 15- the first case you mentioned is 1500 vials of crack. That destroys a lot of lives. That destroys a lot of lives in the inner city.

Judge SPORKIN: What-

Mr. BARR: Anyone who traffics in those kinds of narcotics today does so with a contumacious mind, they know what the score is, and they deserve the penalty.

KINSLEY: You know, you used that word contumacious in your testimony. What does it mean? I'm sorry to admit I don't know- I should know, I don't. What does it mean?

Mr. BARR: It mean contumacious.

KINSLEY: You're not going to- come on.

Mr. BARR: Willful.

KINSLEY: OK.

Judge SPORKIN: That even from the, you know, from the beginning time, you know, people make mistakes. A young woman makes a mistake, what are you supposed to do? The rest of her life she- you can make- why stop at five years? Why not make it a life sentence?

SUNUNU: Judge, people make mistakes in using crack. They're able to make that mistake in using crack, and we have seen the stories about how terrible crack is, because there are people out there willing to participate in the trade. Society decided that it was so bad that they wanted to put an absolute regulation, law in effect on the minimum sentence.

Judge SPORKIN: Yeah, but you- look, we're sending murderers in some states less time than these drug couriers. We're sending bank robbers- they get eight years-

Mr. BARR: They should get more. That's the answer, not releasing the drug traffickers.

KINSLEY: But you said yourself that 17,000 out of 38,000 people convicted of federal crimes last year were drugs. Is drugs really worth half the attention of the entire federal law enforcement mechanisms?

Mr. BARR: Absolutely, absolutely. In most cities over 80 percent of the people who commit violent crimes have drugs in their system at the time.

SUNUNU: So it's under represented. We'll be back in a minute, judge, and when we are, we'll talk about some alternatives, perhaps, to the mandatory sentence structure.

[Commercial break]

SUNUNU: Welcome back to Crossfire. Are mandatory minimum sentences producing an overcrowded prison system without any beneficial impact as a deterrence to crime? Or do we need more prisons to meet the real needs of our system of criminal justice? With us tonight to argue the pros and cons of crime and punishment are Judge Stanley Sporkin, U.S. district judge for the District of Columbia, and **William Barr**, former attorney general for President Bush.

KINSLEY: Bill Barr, the one way you can get a reduced sentence under these federal mandatory minimum guidelines is by providing what they call substantial assistance to the prosecutors. That means ratting on someone important. The trouble is, the lower down types don't have anyone important to rat on. The

upper types do, as a result, the mules, as Judge Sporkin calls them, get tougher sentences than the higher ups, and in fact, this woman who gave out her boyfriend's phone number and got 10 years, the boyfriend, who was the real drug dealer, got five years, 'cause he had someone to rat on. Now, isn't that ridiculous?

Mr. BARR: Well, as presented, that case does sound as if it was unfair, but we don't know who was given up by the boyfriend. Suppose the boyfriend gave up five or 10 major king pins of the organizations, that's very important for law enforcement to get.

KINSLEY: But here you are-

Mr. BARR: But you-

KINSLEY: Here you are emoting about how you need to get tough on drug dealers, and here's a case where the dealer got five years, and this woman who just gave out his phone number got 10, now is that justice?

Mr. BARR: That's her description of the case.

KINSLEY: No, that's-

Mr. BARR: You can harp on that-

KINSLEY: -Legal Times' description of the case.

Mr. BARR: Well, you can harp on that specific case all you want.

KINSLEY: I've got plenty others if you want.

Mr. BARR: No, you don't, I mean, Chuck Schumer held a hearing. He asked the judges, he asked the various groups that represent these prisoners to come forward with all their horror stories. In his own words, he had to beg for examples. He couldn't really find any of these-

KINSLEY: Oh, I-

Judge SPORKIN: I find that hard-

Mr. BARR: -egregious examples, but you put your finger on a much more important point as to why these are so important, why these mandatory minimums are so important. Drug organizations are secret. They have weapons, they have money. The only way prosecutors can dismantle those organizations is to have the hammer of a mandatory minimum and the only escape valve being cooperation with the prosecutor. If that drug courier or the drug trafficker has the option of going to try to persuade Judge Sporkin and his colleagues, 'Hey, I really wasn't that big a player and I don't have anyone to give up,' and that individual is put away for two years, we're never going to be able to crack these organizations.

SUNUNU: Judge Sporkin, how much flexibility do you want? What do you want the system to-

KINSLEY: How about answering that point?

SUNUNU: -change, not to the old one?

Judge SPORKIN: Well, first of all, the flexibility, there's got to be enough in the system to take care of the gross injustices, and there are gross injustices. To answer your problem, Bill, the problem is that it's a failed program. The program does not work, because we are Balkanized in the way we're fighting the drug- I had 20 years in fighting crime. I know how to set up a program. You don't set up a program where all you do is hit the courier and you forget about everything else, and that is happening, and-

SUNUNU: Michael's example-

Mr. BARR: That's not true.

SUNUNU: The counter example, the guy gave up the king pin.

Judge SPORKIN: That's not true? It is true. It's so true-

Mr. BARR: Major gangs are being taken down, the Medellin cartel, Cally [sp?] cartel cells are being taken down, and frequently those involved, starting with the couriers, but the point is this, judge, the judges had their hey day in the '60s and '70s. That's when there was discretionary sentences by judges.

SUNUNU: That's what failed, that's what failed.

Mr. BARR: And that was a complete failure. The legal system was falling apart. You had no deterrent, there was no predictability. People were getting let off because some judge, 'This guy only deserves six months,' another judge, 'This guy deserves 40 years.'

SUNUNU: Judge-

Mr. BARR: And we finally have a system that works.

SUNUNU: Let the judge respond.

KINSLEY: What evidence do you have that it works? That cocaine- there's as much cocaine being dealt in this country as there ever was.

Mr. BARR: The price of cocaine is going up and demand is going down. That suggests to me that there's been progress.

Judge SPORKIN: Look, all I can tell you is what I see everyday. You're talking statistics, I'm talking reality. I'm talking what I see everyday. What I'm seeing everyday, I don't see the big drug dealer. I'm seeing the person that's picked up at Union Station or at the bus depot here. I'm seeing that person going to jail for long periods of time. I had, for example, one of your drug experts on the stand, where a young woman was being prosecuted who was with the man who was the king pin. He goes to Richmond, Virginia, they let him off, never to be heard from again. The woman was ready to testify against him. I said, why don't you do it? He hemmed and hawed, and I said, because you don't have a travel budget to take you down to Richmond, Virginia, is that the fact? 'That's the fact,' and the fact is he'll never get prosecuted. Yet the woman will go to jail for 10 years. Now, that's ridiculous, and it is in America. It isn't right, and it's wrong.

SUNUNU: But let's get back to what caused the problem, judge. You're avoiding it. What caused the problem was a public perception of a judiciary that was so flexible that the public saw people getting off Scot-free for crimes they ought to be punished for.

Judge SPORKIN: Yeah, but you can't take- there you might have had some problems, but-

SUNUNU: That's just as anecdotal as what you're giving us.

Judge SPORKIN: All right, but what I'm trying to say to you is that you don't use a Draconian method to attack that. You don't say, what we're going to do now is we're going to take everybody that's involved in the drug trafficking, and we're going to put them away for life sentences.

SUNUNU: Give me a middle ground. Give me a middle ground that will work.

Judge SPORKIN: The middle ground was that if there was too much discretion in a judge, then what you could do is have an appellate process, which you have now.

SUNUNU: The public sees a judiciary- wait a minute. The public sees a judiciary that's created an appellate process-

KINSLEY: He's not your boss anymore-

SUNUNU: -that goes forever, that goes forever. Dozens of appeals, over and over again, avoiding the-

Judge SPORKIN: But you have that right now.

Mr. BARR: You need predictability in sentencing, you need tough sentences for drug trafficking.

KINSLEY: Well, look-

Mr. BARR: There is relief right now, Mike. Right now if the President and the attorney general believe there is any federal prisoner who's in prison unjustly, they can commute the sentence tomorrow, and then they take responsibility for it.

KINSLEY: How much time is the President of the United States and the attorney general going to be able to spend on these individual drug cases when there are 17,000 of them, as you said?

Mr. BARR: The deputy attorney general-

Judge SPORKIN: Sorry, that's unreal, that's unrealistic.

Mr. BARR: No, it isn't. The deputy attorney general reviews petitions on a regular basis. It's not unrealistic, because we're not dealing with many of these cases that are presented as unjust.

KINSLEY: There's two questions here that are getting a little confused. One is how much discretion that judges should have, and the other is how tough should the sentences be? You could have tougher sentences and more discretion or the other way around. How tough are you? In Michigan, they have mandatory minimums of life imprisonment for a lot of drug crimes, and people get swept into it who are not major drug dealers, who are first-time people who get tangled up in a web because of a boyfriend or a girlfriend or something like that. Now, do you favor that, lifetime with no chance of parole?

Mr. BARR: I personally don't favor it. I think the federal system works well, but that's for the people of Michigan to decide, but I do object to this notion that somehow participating in drug trafficking is some minor offense and that we- anyone who does it nowadays knows how serious it is, and the drug problem in the United States is devastating. It has hurt our society more than all the foreign wars combined.

SUNUNU: Are we getting folks that are being let off because the sentences are too tough?

Judge SPORKIN: Absolutely, absolutely. Everyday in the District of Columbia the juries there, who understand what's going on now, are acquitting people that should be convicted, and that's another problem that you have, and nothing can be done about it. There's no appeal to that, and it's happening every single day.

KINSLEY: How about that, Bill?

Judge SPORKIN: And you look at your conviction rate. It's way down in the District of Columbia.

Mr. BARR: Jury nullification is a problem in many jurisdictions.

KINSLEY: Well, what are you going to do about it?

Mr. BARR: Well, I-

KINSLEY: Isn't it an inevitable thing if-

SUNUNU: But isn't a jury taking care of the concerns that you've raised? Aren't they, as representatives of the people-

Judge SPORKIN: No, because it's wrong. I'm-

SUNUNU: -doing what you want to do?

Judge SPORKIN: No, because nobody here is saying that these people ought not to go to jail, but two years, three years, not 15, not 20 years. I gave you an example- I gave somebody an example of a case I had where a woman, who didn't have anything to eat, and a drug dealer gave her a $25 little bag of cocaine to go out and get some money, she goes and she sells it to an agent. Under the guidelines and the mandatory minimums, because she had some prior offenses, she's 49 years old-

KINSLEY: Not drug offenses?

Judge SPORKIN: Prior- I don't know whether they're all drug, but 21 years in jail was her- was what I had to sentence- was what I would have had to sentence to her unless- until we found some loophole that gave me an opportunity to sentence her maybe to eight years. What do you need here? You need 21 years for someone who is 49 years old? Thirty years old for-

Mr. BARR: I think any escape valve for so-called unjust cases have to be on the motion of the prosecutor. The prosecutor has to go and say, you know, first-time offender, so forth, so on.

KINSLEY: All right.

Mr. BARR: But if you cut the prosecutor out of that decision, then you will have the judges running the system the way they did in the '60s.

KINSLEY: Judge Sporkin is looking at his watch. You're out of order. Thanks a lot, Mr. Barr. Thank you, Judge Sporkin. John and I will be contumacious in just a moment.

[Commercial break]

KINSLEY: John, every grandstanding politician wants an easy way to seem tough on crime, tough on drugs, and this is a cheap, easy way to do it. It is not doing much about drugs. It is causing tremendous injustice, and it's costing a fortune to the federal taxpayer.

SUNUNU: Mike, the real problem is that the system of the '60s and early '70s was a bigger failure than this one. If you think there's a problem here, go back and see what happened to society then. It's the public that put this pressure on the lawmakers, and the judges are trying to get out of it.

KINSLEY: Obviously, look, you're right, there was too much discretion before. There's too little discretion now, but the problem is not so much the total amount of discretion as this height of the sentences, you could have less discretion and more reasonable sentences-

SUNUNU: I still have a feeling that closer to mandatory is just right.

KINSLEY: From the left, I'm Mike Kinsley. Good night for Crossfire.

SUNUNU: From the right, I'm John Sununu. Join us again tomorrow night for another edition of Crossfire.

KINSLEY: PrimeNews is next. I sentence Bernard Shaw to tell us what's coming up. Bernie?

BERNARD SHAW, PrimeNews: Thank you, Michael. Coming up on PrimeNews, two former Detroit police officers received sentences today for the beating death of motorist Malice Green. We'll have the outcome of this case. And how bad does sexual harassment have to be before it lands in court? The United States Supreme Court will decide that in what could be a landmark case. Those stories and much more ahead on PrimeNews.

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Reno entre el aplauso y la critica

El Nuevo Herald

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Reno entre el aplauso y la critica.

Washington -- No tiene objeto preguntarle a Janet Reno sobre sus logros en los primeros seis meses de su desempeno como secretaria de Justicia. "No he tenido tiempo de pensar en eso", dijo la ex fiscal estatal de Dade en uno de sus dias tipicamente agitados.

Otros, sin embargo, no pueden dejar de notar y analizar, alabar y criticar.

Reno es la reluciente estrella del gabinete del presidente Clinton, su rostro aparece en la portada de revistas mientras ella vuela de un lado a otro del pais para hablar ante audiencias que la aclaman. Aparece regularmente en los titulares de prensa en casos controversiales: la apelacion interpuesta en favor de los policias en el caso de la paliza a Rodney King, los encausamientos de los terroristas en Nueva York, los esfuerzos para deportar a John Demjanjuk, recien llegado de Israel.

Pero tanto estos como otros casos de similar notoriedad, ademas de la manera como Reno los ha manejado, han causado criticas en varios sectores.

Algunos observadores, tanto conservadores como liberales, se quejan de que Reno ha permitido la intrusion politica en decisiones cruciales y que ha subvertido sus propias prioridades cuando recibe una llamada de la Casa Blanca. Tambien dicen que se ha demorado en llenar muchas vacantes para puestos importantes y que ha pospuesto algunas decisiones, como por ejemplo, la de fusionar la Agencia de Lucha Contra las Drogas con la Oficina Federal de Investigaciones (FBI).

Incluso un amigo como el ex fiscal de Watergate, Sam Dash, dice que Reno ha tenido poco impacto hasta el momento en iniciativas como las medidas contra el crimen en general propuestas por Clinton.

Reno entre el aplauso y la critica

Sobre su cabeza pende la investigacion interna de la explosiva conclusion de la confrontacion en Waco. Mientras algunas fuentes dicen que Reno no sera criticada personalmente, el informe final que debe ser entregado antes del 1 de octubre, esta semana, encontrara que hubo fallas de inteligencia y analisis bajo su direccion.

El presidente Clinton alaba a Reno, diciendo que se apoya en su consejo y prestando oidos sordos a los insistentes rumores en Washington que dicen que en la Casa Blanca hay resentimiento por su popularidad.

"Creo que ha realizado una labor soberbia. Obviamente, se ha ganado la simpatia del pueblo americano por su franqueza y su presteza", dijo Clinton en una entrevista con el Herald.

Cito decisiones dificiles, como los encausamientos por conspiracion en el caso de terrorismo de Nueva York, y de los consejos que dio sobre varios nombramientos de alto nivel, como los de Ruth Bader Ginsburgh a la Corte Suprema y el de Louis Freeh como director del FBI.

"Creo que hasta el momento hemos logrado el equilibrio apropiado en la necesaria independencia del Secretario de Justicia en areas que afectan la administracion de justicia", dijo Clinton. "Y a pesar de todo hemos trabajado de manera muy cooperativa en materia de estrategias y nombramientos".

Anadio: "Digo que la gente debe sentirse orgullosa de ella. Ha realizado una gran labor".

Una accion reciente, sin embargo, ha creado dudas entre los fiscales de carrera. Reno ha permitido que investigadores del Comite de Energia Domestica y Comercio revisen archivos cerrados correspondientes a la seccion de delitos contra el medio ambiente para determinar si las corporaciones que violan leyes ecologicas han sido perseguidas con la debida energia.

Fiscales de carrera se han quejado en privado de violacion al concepto de la separacion de poderes, y de intrusion indebida por parte de otra rama del gobierno. El diario The Wall Street Journal critico a Reno en un trio de editoriales. Uno de ellos se refirio a ella como "la ostensible secretaria de Justicia", diciendo que habia renunciado a su independencia ante el Congreso.

El secretario de Justicia adjunto, Philip Heymann, dijo que la preocupacion de Reno era como lidiar con "la real sospecha del publico y el Congreso" ante las practicas del Departamento de Justicia.

"Cuando usted esta lidiando con sospechas que son muy reales, esta secretaria de Justicia quiere que seamos como un libro abierto", dijo Heymann. "Esta muy ansiosa de ser tan abierta y responsable como le sea posible".

Reno entre el aplauso y la critica

Activistas conservadores alegan que Reno ha llevado una agenda politica a su trabajo que ha sido ignorada por adoradores democratas y por la prensa.

"Es absolutamente chocante el grado en que la politica domina el Departamento de Justicia bajo la direccion de Reno. Esta a anos luz de todo de lo que se pueda acusar a los republicanos", dijo Thomas Jipping, abogado que trabaja para la Free Congress Foundation, grupo conservador.

Entre otros criticos estan el predecesor inmediato de Reno,

William Barr, que dice que Reno esta ayudando a desmantelar las severas sanciones criminales que los presidentes republicanos Bush y Reagan impulsaron en el Congreso. En vez de atacar el delito, tambien dijo que el gobierno de Clinton ofrece "generalidades" acerca de los programas sociales.

Observadores mas liberales defienden la agenda de Reno, aunque algunos aducen que no ha actuado con la suficiente rapidez para dejar su marca. El proyecto de ley sobre el delito apoyado por Clinton el 11 de agosto se menciona principalmente porque enfatiza una rapida imposicion de la pena de muerte y condenas adicionales de carcel obligatorias.

Reno se opone personalmente a la pena de muerte y ha cuestionado algunas condenas obligatorias para los infractores no violentos.

Reno y sus ayudantes insisten en que ella no juega a la politica. Por ejemplo, ignoro los pedidos de los grupos hebreos cuando decidio no apelar la orden de la Corte Suprema para que Demjanjuk, acusado de ser guardia de un campo de concentracion nazi, fuera readmitido en el pais.

Pero Reno complacio a la comunidad hebrea de Nueva York dos semanas despues cuando demoro una decision sobre la presentacion de acusaciones federales sobre derechos civiles contra los involucrados en el asesinato de un hasidico en Crown Heights, en 1991, y los motines que siguieron. Funcionarios del Departamento de Justicia habin concluido que no habia base para un caso federal, pero Reno demoro una declaracion para dar tiempo a los fiscales de Brooklyn a que se opusieran el encausamiento.

Reno tambien fue criticada en varios editoriales de periodicos de Nueva Jersey por aparecer recientemente con el gobernador James Florio, un democrata que aspira a la reeleccion. Pero el fiscal general adjunto Webster Hubell dijo que la visita enfatizo la prohibicion de Nueva Jersey de las armas de asalto y "control sobre las armas de asalto como parte de nuestra agenda".

Reno pasa mucho tiempo viajando: ha viajado a mas de 25 estados desde marzo. El publico frecuentemente aplaude su platica franca, aun cuando los exhorta a no recurrir al gobierno federal para solucionar todos los

problemas.

"Simpatizo con los abogados y nada me altera mas que los abogados indiferentes, a quienes no importan otros y estan demasiado preocupados por ellos mismos", dijo en una reunion de la Asociacion de la Judicatura Norteamericana.

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BUCK REVELL - The veteran FBI agent speaks his mind from Watergate to Waco

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Buck Revell has heard what people say about him.

Some use words such as arrogant and confrontational. Others prefer self-confident and decisive.

In nearly 30 years with the FBI, the 54-year-old special agent has defied tradition. He's spoken out when he's wanted to and criticized those he's believed were wrong - even when they were his bosses.

He battled former FBI Director William Sessions, a one-time ally who now says Agent Revell is "overridden with ambition."

Last February, Agent Revell, who heads the bureau's Dallas office, wrote Mr. Sessions a letter demanding that he resign. The letter accused him of damaging the bureau's reputation through ethics violations. President Clinton fired Mr. Sessions in June, saying he showed poor leadership.

"I can't say I'm too concerned about consequences," Agent Revell says, "because I think when you speak honestly and you speak in a situation where it's appropriate, then you shouldn't be too concerned.

"And I've always thought if you're too concerned about keeping your job then you're not doing your job."

"Like it or not, Buck's always right," says Tom Kelly, a retired FBI agent who once headed the bureau's Dallas field office. "His self-assurance and his ability to defend his opinion are the trademarks in his career."

The 54-year-old Oklahoma native spent most of the 1980s as third in command of the FBI. He acknowledges that his own bullishness may have kept him from becoming FBI director.

Rising through the FBI ranks, Agent Revell became one of the leading experts on counterterrorism. He's handled sensitive investigations, from organized crime to Middle East hijackings to the Iran-contra case.

When the 1991 riots broke out in Los Angeles, U.S. Attorney General Bill Barr immediately called him to command about 1,600 federal agents, including tactical and anti-terrorist teams.

"I needed to send someone out there who was a strong leader," the former attorney general recalls. "I needed someone who could deal with military commanders, the governor, the mayor, and who could control agents from several different agencies. I

specifically picked him, and he did a magnificent job."

Agent Revell counts among his friends writer Tom Clancy, who gleans from him some color for his spy thrillers.

"Buck's one of the good guys - he's tough and he's honest," says Mr. Clancy. "I go to Buck for background stuff, attitudinal stuff. But not for sensitive information - obviously, he'd have to arrest me."

In the early 1970s investigation of Watergate, the young agent shocked and enraged some FBI stalwarts when he turned over information to a special prosecutor that indicated the acting FBI director had lied.

In 1981, then-FBI Director William Webster censured Agent Revell for allegedly leaking details of a major white-collar crime investigation to a reporter.

In the mid-1980s, as chief of nationwide FBI investigations, he faced, fought and overcame accusations that he purposely suppressed the Iran-contra investigation.

And that was just in Washington.

Two years ago he came to Dallas after then-President George Bush put William Sessions in the top FBI slot, and Mr. Sessions promoted Agent Revell's former deputy to a position above him.

Agent Revell said he'd come to Dallas to retire. But since he's been here, he has been anything but retiring.

He criticized the "dysfunctional Texas prison system" for paroling violent criminals. Then he instituted his own solution: a task force that charges violent robbers in the federal system, which imposes lengthy sentences with no parole.

During last year's presidential election, he appeared on CBS' 60 Minutes to discuss a Dallas-based FBI investigation into

allegations that Republicans were wiretapping candidate Ross Perot. The charges later were determined to be unfounded.

After John Connally died in June, Agent Revell angered friends and family of the former Texas governor by suggesting that his body be autopsied. He was curious about bullet fragments left from the day John F. Kennedy was assassinated in Dallas. The family nixed the idea.

Last spring, during a congressional investigation into actions of federal firearms agents in the Branch Davidian standoff in Waco, he released a tape of negotiations between federal agents and cult members. Federal prosecutors had tried to keep the tape secret, and the Justice Department ruled that Agent Revell had erred in disclosing it.

The Sessions debate

Although his was the FBI office closest to Waco, Agent Revell didn't command any agents at the cult standoff. Mr. Sessions ordered him to stay away.

"He had no assignment in Waco," the former FBI director and ex-San Antonio federal judge says. "They didn't need Mr. Revell down there telling them how to run it."

Mr. Sessions says his decision to keep Agent Revell away from Waco had nothing to do with the letter demanding his resignation. The Dallas FBI chief had written it a couple of weeks before the federal raid that prompted the standoff.

"In my opinion," Agent Revell wrote, "your conduct and demeanor has been below the standards required of the director of the Federal Bureau of Investigation.

"I must ask you to do the right thing for the bureau and your country. Resign while you still have some semblance of dignity and before you do further harm to an agency that you have professed to honor and respect."

Mr. Sessions had been accused of misusing government

transportation, constructing a private security fence with public money and arranging a "sweetheart" loan on his Washington house. He denied any wrongdoing and called the allegations politically motivated by foes who wanted to oust him.

The former FBI director says he had "no inkling Mr. Revell would write me the kind of letter he did." He says he once relied on the agent's advice and insight.

But no more. The letter, he says, was based on a "snap judgment" and showed a "lack of understanding and fairness."

The Plano patriarch

To say that Buck Revell has a commanding presence is an understatement. At 6 feet 3 inches tall and more than 200 pounds, he towers over most people.

But those who know him well know a family man who dotes on his wife and his children and who babies his 120-pound Rottweiler, Boss.

His family ties, friends say, are vital to his strength.

"He's a very loyal and dedicated family person," says Dr. Lee Colwell, a former FBI associate director who heads the criminal justice department at the University of Arkansas in Little Rock.

That devotion is what has held his family together through repeated moves and the pressure of the FBI job, says Agent Revell's wife of 34 years, Sharon Ponder Revell.

"We have a real sense of family," she says. "It has been the glue that has kept us together."

Together, the couple has raised four children: Russell, 32; Jeff, 29; Chris, 27; and LeeAnne, 21.

At the couple's large Plano home, a wall reflects their affection. Unlike Agent Revell's office, which is filled with professional memorabilia - awards and plaques from governments and police departments - this wall is covered with family photos. Faded images of Agent Revell's

parents join poster-size shots of LeeAnne's gymnastic competitions and glossy portraits of

grandchildren.

"He's a real strong person, but there's a marshmallow softness inside," says Sharon Revell of her husband. "He's such a kind, softhearted person. His family and close friends see that."

Driving forces

Oliver Burgan Revell III was born in December 1938 on a farm in Muskogee, Okla.

His father, Oliver Burgan Revell Jr., was a 19-year-old sharecropper when he married 16-year-old Marie Rains.

The family had no running water or electricity, but "I didn't feel deprived," Agent Revell says.

His parents set out to make a more comfortable life for their children. By the time young Revell was 10, his father had served in the Navy during World War II, earned a degree, become a mechanic and received a pilot's license. During the war, Marie Revell worked in a Tulsa defense factory as a riveter.

"My dad pulled himself off of the farm and made something of himself. He and my mother are the ones who made us," he says.

One of his two younger brothers, Dennis Revell, recalls: "We had an extremely happy childhood. We had wonderful parents, a wonderful home and a lot of love.

"We also had a lot of fights - and he won," says the brother, a 50-year-old San Antonio roofing and sheet metal company president.

When young Burgan Revell - as his relatives call him - was a teen, his family moved to East Point, Ga., outside Atlanta. There, he says, he had an "idyllic" high school experience. He went on to the University of Georgia, where he played football under coach Wally Butts.

Then he decided to become a Marine pilot. He counts among his inspirations his pilot dad, a Marine neighbor, and Boston Red Sox left fielder and Marine Ted Williams.

Devotion to country, he says, has been the template of his life.

"I've been blessed in my life to serve the two greatest organizations in the United States - even the world: the U.S. Marines and the FBI," he proclaims.

Midway through college, he transferred to East Tennessee State University, where he later met Sharon Ponder, who had been dating his fraternity brother. When they broke up, "we started palling around," he says. "And we've been palling around ever since."

He credits her with helping him survive years of tough decisions and tough criticism.

"She's very supportive and understanding about the flak, the fallout part of the job," Agent Revell says. "She's always tried to protect the children and me, too.

"She's my hero."

Mrs. Revell, a registered nurse and administrator at a North Dallas residence for the elderly, took over the job of rearing the couple's three boys and Korean-born adopted daughter while her husband was rising through the FBI ranks and traveling around the world.

"I should have spent more time with the kids," he says. "I feel like I cheated myself and them."

But they didn't feel neglected, says one of his sons, Jeff, an FBI forensic photographer in Washington.

"We always understood it was part of the job and there wasn't anything we could do about it," he says. "My dad is the

hardest-working person I've ever seen in my life. He expects everyone to perform to the best of their ability. I couldn't be prouder of him if he was president of the United States."

The FBI rookie

In 1960, Agent Revell graduated from college and, following his plan, joined the Marines.

Three years later, an assignment changed his course.

As a Marine Corps legal officer, he was ordered to work with two FBI agents who were investigating Lee Harvey Oswald after President Kennedy's assassination. The shooting, he says, traumatized him, and working with the agents was cathartic. By November 1964, a year after the assassination, he had joined their ranks.

For the next six years, he worked as an FBI special agent in Kansas City and Philadelphia, investigating bank robberies, kidnappings, organized crime and espionage. In Philadelphia, he went to night school at Temple University and earned a master's degree in government and public administration.

A 1970 transfer to Washington triggered a chain of extraordinary events that put him in the middle of nearly every major political controversy, starting with Watergate.

At the time the young agent arrived at FBI headquarters, "the atmosphere there was one of pervasive fear."

In J. Edgar Hoover's waning years, he says, infighting and oppressive management had created an "unhealthy atmosphere" in the bureau. Agent Revell got a taste of it when he accidentally misspelled the word "apprised" (he wrote "appraised") in a letter to the Justice Department and was denied a raise for six months.

That, he says, was the first time he almost left the bureau.

Mr. Hoover, Agent Revell says, "built a great organization, then damn near destroyed it."

But on May 2, 1972, Mr. Hoover died. L. Patrick Gray was appointed acting director.

Agent Revell recalls that about that time, he heard from colleagues that the FBI, at the direction of President Richard M. Nixon and Secretary of State Henry Kissinger, had wiretapped White House staffers and journalists, trying to find press leaks. He says a high-ranking FBI official told him Mr. Gray knew about those wiretaps.

"Well, lo and behold," Agent Revell says, "Gray denied any knowledge of any such wiretaps," in testimony to the Senate Judiciary Committee during his confirmation hearings.

Feeling compelled to do what he believed was right, Agent Revell took the first of many brash moves in his FBI career: He told the special prosecutor in the Watergate case what he'd heard.

"There were people in the bureau who wanted to bury me because I didn't play the game by the rules," he recalls. But a high-ranking FBI official, Jim Adams, who later became associate director of the FBI, defended him. And he continued to be promoted through the ranks.

Mr. Gray resigned from the FBI in April 1973 after admitting that he had illegally destroyed evidence in the Watergate case.

Truth, consequences

From 1974 to 1980, the Revell family bounced around the country at the bureau's behest - Tampa for five months, Chicago for two years - then back to Washington.

By 1976, Agent Revell had gained the stature to handpick his next assignment. He returned to his home state as special agent in charge of the Oklahoma City field office. There came the next, and perhaps the most serious, challenge to his power.

It led to the "one injustice that's ever been done to me in my career in the FBI," he says.

Near the end of his four-year tenure in Oklahoma he was preparing to return to Washington and take over the influential position as head of nationwide criminal investigations. He got a call from Jack Taylor, then an investigative reporter for The Daily Oklahoman in Oklahoma City.

Mr. Taylor said he wanted to run some information past him. It turned out to be the background on an operation nicknamed Brilab, a corruption case involving Oklahoma politicians and organized crime figures.

Agent Revell says he didn't give Mr. Taylor any information on the pending investigation but unintentionally confirmed it by telling him that if he published the story, "some people will be hurt." Also, in "one of the dumbest moves in my career," he asked the reporter whether he knew anything about an oilman who was being investigated as part of the case.

A few weeks later, Mr. Taylor wrote revealing stories on the BRILAB case and on the businessman. Afterward, he insisted that Agent Revell was not a source.

"He didn't leak anything," says Mr. Taylor, now a free-lance writer. "He was innocent. In dealing with me, he's always been very straightforward and candid but he's never breached the FBI's own internal regulations."

FBI Director Webster ordered Agent Revell to take a polygraph test about the incident. The examiner reported that some of the agent's answers were deceptive. But Agent Revell insists that he was not lying. He hasn't trusted polygraph tests since.

"It probably was the best thing that ever happened to me because it instilled in me a disdain for the bureaucratic process," Agent Revell says. "No one was going to intimidate me again."

Judge Webster decided to censure Agent Revell and move him into a job as head of administrative services for the bureau, including personnel and budget. But, to the amazement of some, within a year, the FBI director put him back in charge of investigations.

His resilience has impressed many.

"He's absolutely as tough as a railroad spike," says U.S. Circuit Court Judge Stephen Trott of Boise, Idaho, a former U.S. associate attorney general. In the 1980s, he worked with Agent Revell to thwart terrorist hijackings of airliners in the Middle East.

"If I were in a trench in a war and someone said pick a couple of guys to get you out, Buck would be one of them," Judge Trott says.

Bill Rathburn, former Dallas police chief who worked with Agent Revell on counterterrorism activities for the 1984 Los Angeles Olympics, calls him "one of the true law enforcement professionals in the country."

Under fire

In the mid-1980s, Agent Revell defended the bureau in testimony before Congress. He faced accusations that, at the direction of Lt. Col. Oliver North, he held up the FBI's investigation into the clandestine sale of U.S. arms to Iran and diversion of the arms sales proceeds to Nicaraguan rebels.

When the congressional committee investigating Iran-contra issued its report, it determined that the bureau, including Agent Revell, had not delayed the investigation. But some believe that the negative publicity prevented him from being named FBI director.

Still, he is often tapped whenever a tough situation arises. Those have included the Persian Gulf war, during which he handled all counterterrorism operations in the U.S.

Agent Revell continues to speak out whenever he has strong opinions - which is often.

"I think you do a disservice if you try to cover up the wrinkles and warts" of the FBI, he says. "We're human beings and we do make mistakes.

"If we create this false aura of infallibility, we undermine our credibility with the public."

He'll stand his ground, at least for the next couple of years. Mandatory retirement for FBI agents is age 57.

After he leaves, he plans to write a book about the FBI, from the Kennedy assassination to the present. It won't be

autobiographical, he says, but it will include "all the things I've had an opportunity to participate in and also to observe.

"I'm an Okie from a farm in Oklahoma who by the grace of my family and hard work has been very fortunate."

- Caption: PHOTOS (DMN - Cindy Yamanaka) 1. FBI chief Buck Revell 2. Buck Revell with his Rottweiler, Boss, at home. CHART: OliverBurgan Revell III ; PHOTO LOCATION: 1. NR(C). 2. Disk 20b /NH_Revell17a(cf 64064).

- *Index terms: HIGH PROFILE INTERVIEW FBI CHIEF OLIVER BURGAN REVELL; III BUCK REVELL*
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Document: Hill committee asks Reno to allow interrogation in Exxon Va…

Hill committee asks Reno to allow interrogation in Exxon Valdez case

The Washington Times

September 15, 1993, Wednesday, Final Edition

Section: Part A; NATION; Pg. A3

Length: 957 words

Byline: Jerry Seper; THE WASHINGTON TIMES

Body

Attorney General Janet Reno's decision to allow a congressional committee to interrogate Justice Department prosecutors on their handling of specific cases has prompted a second committee request and raised fears of more to come.

Rep. George Miller, who has been critical of the Bush administration's handling of the Exxon Valdez case, has told the attorney general he wants to question line attorneys and review court records in that case - similiar to the access already granted by Miss Reno to Rep. John D. Dingell in 20 separate prosecutions.

"You have agreed to permit investigators from the Committee on Energy and Commerce to interview prosecutors and review department memoranda," Mr. Miller, California Democrat and chairman of the House Committee on Natural Resorces, said in an Aug. 9 letter. " . . . I would appreciate your granting this committee similar access to the department's personnel and its Exxon Valdez files."

Several current and former Justice Department officials and others described the Miller request as the beginning of a potential "floodgate of inquiries" into prosecutions during the Reagan and Bush administrations.

"This proves the point that many people have made: The door is open to all kinds of autopsies of past prosecutorial decisions," said former Deputy Attorney General George J. Terwilliger III. "Just where will it end?"

Rep. Henry J. Hyde, the Illinois Republican who called the decision to allow the interrogations an "outrageous politicizing of law enforcement," said he expects Democrats to seek a review of "every controversial environmental and other disposition of the last 12 years."

A Justice Department official, who asked not to be named, said there is concern among career prosecutors that the requests - now limited to environmental cases - will expand to other areas. He said some lawyers have already begun to "rethink the way they handle cases."

"Congress has pushed its way in the door," he said. "There's no telling what it will want next, or what lengths it will go to get it."

Mr. Terwilliger said the ruling puts prosecutors in the position of having to explain why they didn't indict in a case, or indicting everyone "and not having to explain anything."

Miss Reno ended the department's long-standing policy of protecting line attorneys from outside pressure in July when she approved their interrogation by Mr. Dingell's House Energy and Commerce Committee. She told reporters last week "a prosecutor must be accountable" for why some cases are prosecuted and others are not.

"What I want to try to do is to work with Congress and the American people to let people know that after we finish doing something, we can account for why we did it," she said.

Congressional inquiries in the past have been directed at political appointees, like Miss Reno, or at department supervisors. Line attorneys have been shielded from congressional second-guessing.

Criticism of the Reno decision also has come from two former attorneys general.

Benjamin R. Civiletti, a Carter administration appointee, said the decision would hamper the department's ability to "effectively and fairly" enforce the law. **William P. Barr**, who worked in the Bush administration, said it would have "a chilling effect" on the ability of prosecutors to do their jobs.

Miss Reno said House investigators could cross-examine line attorneys they suspect of "undermining" environmental cases during the Bush administration. At least 14 lawyers assigned to the department's environmental crimes section have been targeted.

Mr. Dingell, Michigan Democrat, said they gave "preferential treatment" to some suspects, declined to prosecute others under "highly questionable circumstances" and were ready to "trivialize financial penalties." He cited 20 cases in a recent letter to the department.

Daniel Weiss, spokesman for Mr. Miller, said no decision had been made by the department on whether the congressman would get access to the Exxon prosecutors or the documents.

Mr. Weiss said efforts had been unsuccesfful in the past to get "missing information" on the Exxon case and that Mr. Miller, as chairman of the Natural Resources Committee, felt it necessary to interview those directly involved. "There is no effort here to abuse this request," he said.

Justice Department spokesmen did not return telephone inquiries yesterday for comment.

Mr. Miller wrote that committee investigators wanted to question prosecutors on their handling of criminal and civil actions stemming from the March 1989 Exxon Valdez oil spill. He said the inquiry would include a look at a $1 billion settlement with Exxon Corp. and its shipping and pipeline companies.

He has been concerned over what he has described as a lack of vigorous prosecution by the department of the Alyeska Pipeline Service Co., a consortium of oil companies formed to operate the trans-Alaska oil pipeline and terminal at Valdez, Alaska.

In November, Alyeska agreed to pay the state of Alaska and the federal government $32 million to settle lawsuits over its failure to respond quickly to the Valdez spill. The settlement brought the government's case to an end.

Previously, Exxon agreed to a $150 million criminal fine, with $125 million of it suspended "in recognition of the company's voluntary expenditures" on cleanup. The Justice Department settlement also provided for Exxon to pay $100 million in restitution and an additional $900 million over the next decade to settle the state and federal governments' civil damage claims.

Graphic

Photo, Janet Reno says "a prosecutor must be accountable" for whether cases are prosecuted.

Classification

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Company: EXXON MOBIL CORP (94%); EXXON MOBIL CORP (94%)

Ticker: XOM (NYSE) (94%)

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COLUMN ONE;
HEROES, ZEALOTS OR VICTIMS?;
FEW LIKE BOUNTY-HUNTER LAW THAT ENCOURAGES REPORTING OF DEFENSE INDUSTRY FRAUD. SOME SAY WHISTLE-BLOWERS ARE PATRIOTS. OTHERS CALL THEM MALCONTENTS. EITHER WAY, MANY FIND LIVES IN RUINS.

Los Angeles Times

September 13, 1993, Monday, Home Edition

Section: Part A; Page 1; Column 1; Metro Desk; Non Dup; Profile

Length: 2680 words

Byline: RJM

By RALPH VARTABEDIAN, TIMES STAFF WRITER

Body

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William Schumer once had a life that was stable and blessed with good fortune. The former Hughes Aircraft executive negotiated multibillion-dollar defense contracts, earning $87,000 a year. He lived in a stylish suburban home with his wife, a past Olympic swimmer, and two children.

Then he became a whistle-blower, alleging in a 1989 federal lawsuit that Hughes had cheated the Air Force on the B-2 bomber project. Schumer began a treacherous slide, eventually losing his home, his career, his emotional health and nearly his life.

Earlier this year, Schumer hit bottom when he purchased a gun and threatened to kill himself. He was held by Los Angeles police for 48 hours of psychiatric observation. While in his hospital bed, an attorney called to say his wife was divorcing him.

With his lawsuit virtually dead, Schumer lamented recently, "all I have left is a little bit of dignity and a conviction that I did the morally correct thing. I don't have any money. I don't have any prospects. I am now contemplating homelessness."

Schumer says he is a victim of the False Claims Act, the controversial system that is supposed to be the federal government's front line against defense industry fraud.

The law, which dates back to the Civil War, was virtually moribund until it was amended in 1986 to attract more whistle-blowers like Schumer. It is a bounty-hunter system that allows individuals to sue contractors on behalf of the government and share up to 30% of any recovery.

Since the law was changed, about 590 suits have been filed and $400 million recovered by the government, according to Michael Hertz, director of commercial litigation at the Department of Justice.

However, the law also has drawn criticism from all sides -- whistle-blowers, the defense industry, the Pentagon and even some Justice Department attorneys.

For whistle-blowers, although a few have received large rewards, the preponderance have not fared as well. The Justice Department elects to prosecute less than half the lawsuits because they often lack merit. Many others wither away in a legal system that grinds down those who filed them.

And like Schumer, who left Hughes last year on stress leave, many whistle-blowers say the experience has been ruinous -- leading to lost careers and marriages, financial devastation, emotional turmoil and alienation from society.

Such problems can befall whistle-blowers whether they turn out to be right or wrong. This fallout can also change normal lives that are consumed by the cases.

To supporters, whistle-blowers are victims who are ostracized by their fellow employees and are easy targets for a politically powerful industry. One vocal advocate, Sen. Charles E. Grassley (R-Iowa), calls them patriots and says they should be decorated by President Clinton in the Rose Garden. The validity of their claims is proven by the $400 million in fraud recoveries, he says.

But to defense industry executives and other critics, the whistle-blowers are zealots and greedy malcontents whose allegations are often based on incomplete knowledge.

Industry executives, including many small contractors, say that whistle-blowers' "frivolous claims" have forced the industry to spend millions of dollars for legal defenses, expenses that are passed on to taxpayers through higher weapons prices.

The Justice Department plays a key role by having the right to intervene and prosecute the charges brought by whistle-blowers, whose moniker derives from sports referees. Though the agency endorses the law, many Justice Department attorneys privately believe that the system is an unconstitutional breach of their jurisdiction.

"You can't have private citizens running around as bounty hunters after corporations," former U.S. Atty. Gen. William Barr said in an interview. "Turning that power over to any Tom, Dick or Harry is a very unfair way to proceed. That's no way to run the government."

Pentagon officials despise the system, as well, saying it destroys business relationships and further diminishes their diluted authority.

Among the few who say the system works are certain legislators and the whistle-blowers' attorneys, some of whom have earned millions of dollars in contingency fees.

Whether patriots or zealots, whistle-blowers in case after case have fallen out of society's mainstream, ending up obsessed with proving their allegations and unable to get their lives moving again.

Many of the two dozen whistle-blowers interviewed for this story said they would not do it again. Cases filed under the False Claims Act usually take years to resolve -- the result of legal maneuvers by industry and government, as well as a lack of resources in the Justice Department.

David Peterson, a former Northrop supervisor of 125 engineers, has been waiting six years for a much-distracted Justice Department attorney to bring his fraud allegations to trial. In the meantime, his life has disintegrated.

In 1987, Peterson alleged that Northrop had set up a wacky scheme to circumvent Pentagon purchasing regulations on a nuclear missile guidance system. Peterson testified before Congress and appeared on the TV news show "60 Minutes."

But the momentary fame expired and he lost his wife and his $83,500-a-year. He says somebody burned down his house. And an effort to start a gun business failed.

Holed up in a cheap motel in the Nevada desert this year, Peterson said: "Since I left Northrop, I carry an AK-47 and three handguns -- a .45, a 9-millimeter and a .38 -- and a 12-gauge shotgun. Maybe it is a little security blanket. I always have a thousand rounds of ammunition with me."

Peterson said he doubts Northrop executives would attempt to hurt him, explaining his guns as just "something to keep handy. This is just a normal thing for me." Meanwhile, he works full time on his lawsuit, sorting through 40,000 pages of evidence in his motel, linked to the outside world by fax and personal computer.

"If you do this, you have to be prepared to sacrifice everything," he advises other potential whistle-blowers. "You have to be prepared to lose your family and your job. And to be called crazy. It does take a toll."

Experts disagree whether the pressure of fighting big corporations is to blame for the fall of whistle-blowers.

"The first time I meet a whistle-blower I look into their eyes," said Joe Coyne, an attorney who represents Northrop, Honeywell and other contractors. "There is a glint in their eyes and you can tell whether they are crazy or not."

Coyne estimates that defense contractors have spent $100 million since 1986 fighting mostly frivolous allegations. Whistle-blowers break rank precisely because they are disgruntled, he said.

"People who whistle-blow are not the top 10% of performers. They are the bottom 10% of performers. The guy who is on a golden career is happy about that. His home life may be better because of that," Coyne said.

But such harsh judgments come from an industry that has made its own embarrassing admissions. Virtually every big contractor has pleaded guilty to felonies and some former executives are now ex-cons.

"You are fighting $300-an-hour attorneys, a multibillion-dollar corporation and their connections in Congress," said George Pointon, who with John Kolbach alleged in testimony before Congress in 1987 that Lockheed had lost thousands of secret documents concerning the F-117A Stealth fighter. Though the two security officials never filed a lawsuit, Pointon said he was fired in 1990 and Kolbach in 1989.

"It was painful to tell my children that this would screw up their lives, but it was important enough to do," said Pointon, who operates four homes for abused children in Phoenix. "I have landed on my feet, but it separated me from my children and family."

Regardless of whether whistle-blowers are right or wrong -- or whether they are emotionally equipped to cope with their crisis -- the stresses on them can be enormous.

Jeff Kraul, 42, a production manager who joined David Peterson in suing Northrop for fraud, lives in a windowless warehouse at a secret location in Southern California, partly out of concern for his safety. He declared bankruptcy, lost his wife to divorce, has undergone five years of psychotherapy and doubts that he "will ever be allowed to work for a major corporation."

Roland Gibeault, who charged in a lawsuit that Genisco, a Simi Valley defense electronics firm, had falsified tests on Harm missiles in 1987, worked undercover with federal agents for a year, not even telling his wife about his secret job as an informer. The enormous time commitment and stress created by the case led to his divorce, a pattern in many other cases.

"I was out of my league," said Gibeault, a test technician. "I came from a dairy farm in New Jersey. I had no idea what was going on. They eat people like me for their breakfast. I was heartbroken."

Gibeault's allegations led to a recovery of $525,000. He was supposed to receive $131,000, mostly in 110,000 shares of Genisco stock with restricted sales rights. The stock price plunged and today it is worth less than the income taxes he owes on the award.

Brian Hyatt, a Northrop senior engineer who made national headlines in the mid-1980s when he alleged in testimony before Congress and in a federal lawsuit that the MX missile guidance system was faulty. He says he was fired from Northrop and he lost his lawsuit. He now works as a night security guard.

Grassley, the leading sponsor of the 1986 amendments, acknowledges that whistle-blowers remain vulnerable.

"I would encourage whistle-blowers to come forward, but I would know in the back of my mind that even with the best of intentions the laws don't offer much protection," Grassley said. "Whistle-blowing has to be a merit badge that is proudly worn."

That's a far cry from reality. The aerospace bust has jangled nerves in an already uptight business, fueling fears that more disgruntled workers will file lawsuits.

"It is an industry where people have a very high risk of psychological breakdown," said Bill Spindell, a psychologist who has treated whistle-blowers. "It is an industry characterized by very hard work and very good salaries. But alcohol and substance abuse are endemic in the community. Illicit sexual affairs are more common than average."

Spindell said whistle-blowers are "extremely moral people," but they have an exaggerated sense of their ability to correct wrongdoing -- a form of narcissism, adding: "Once you blow the whistle, you are squeezing toothpaste out of the tube and you will never put it back in again."

Ironically, some small contractors are in the same boat as whistle-blowers, alienated and financially devastated. Fred Clark virtually shut down his Orlando Helicopter Co. in Florida after an employee's fraud suit triggered an aggressive three-year probe into whether Clark violated contract specifications -- though the Army said the aircraft were fine.

The legal defense cost Clark $150,000, but more important, diverted his attention from business. The government, without apology, dropped the matter in May, 1992. The suit withered away, as well. But by then, the company, which Clark founded, was down to two employees from 40.

"The investigators should have been able to see through this whistle-blower very quickly," Clark said. "There is no fairness."

Prime contractors have the same complaints, but also have the resources for top legal talent and lengthy legal campaigns.

Sam Iacobellis, Rockwell International executive vice president, said the industry takes fraud allegations very seriously, but would rather deal with them by taking its own strong actions.

"That is the alternative to some whistle-blower lining his own pockets at the expense of somebody else," he said. "How often do these people see something they don't understand? It happens quite often. Some of these guys can barely write. It has not done anything to help the health of the industry."

Many Pentagon officials share that contempt.

"As a citizen, I feel this system stinks," said John Welch Jr., recently retired assistant Air Force secretary. "It is bounty-hunting. It creates a whole other loop of operation. It belies any trust in the system."

But Phillip Benson, a whistle-blower attorney, said that most cases are filed only after individuals have exhausted efforts to get management's attention. Benson has charged that the Pentagon is in cahoots with industry, accepting fraud to politically shelter weapons programs.

Indeed, Congress amended the law in 1986 because it believed that the Pentagon and Justice Department were slow to correct waste, fraud and abuse, Grassley said.

John Phillips, a Washington attorney who helped write the 1986 amendments, insists that the system is working well now. His firm, Hall & Phillips, has recovered $217 million, more than the Justice Department in recent years, he said.

One of Phillips' clients, Chester Walsh, received a record $11.5-million share of a $69-million settlement last year, stemming from his allegations that General Electric was involved in bribing an Israeli general.

Many Justice attorneys hate the whistle-blower law. Former Atty. Gen. Barr believes Congress encroached on the executive branch when it empowered private attorneys to represent whistle-blowers and sue on behalf of the government. A 1989 memo by Barr, asserting the law to be unconstitutional, has become part of an industry legal challenge.

Although Atty. Gen. Janet Reno endorses the False Claims Act, many Justice attorneys side with Barr. For one thing, many government attorneys deeply resent the multimillion-dollar fees won by private lawyers in the same types of cases they prosecute.

Justice officials have sought to low-ball whistle-blowers, according to one government attorney who asked not to be identified. Based on figures supplied by the department in March, $42 million was paid out to whistle-blowers out of recoveries of $358 million since 1986. That amounts to about 12%, less than the 15% minimum specified by law.

In addition, the Justice Department's 55 attorneys in Washington assigned to False Claims cases are too bureaucratic and have scant courtroom experience, he said. Whistle-blowers have long contended that the Justice Department is weak on prosecution.

Hertz said the Justice Department is serious about defense fraud and is attempting to carry out the will of Congress. The payout ratio appears low because settlements have occurred faster than payouts; and the ratio has risen recently to 15%, he said.

"Overall, the Justice Department would say the mechanism is a good idea," Hertz said. But he declined comment on his personal view of the system's constitutionality or merit.

Justice Department critics say the agency cannot be trusted to prosecute cases that jeopardize important weapons programs and that may interfere with civil servants' plans to get industry jobs. The government often cannot protect its own internal whistle-blowers.

"Whistle-blowers commit the cardinal sin in the defense industry: telling an embarrassing truth," said Ernest Fitzgerald, the dean of whistle-blowers who first told Congress of Lockheed's $2-billion overrun on the C-5A program in 1968.

Fitzgerald was fired from his Air Force job as a financial analyst. The Watergate tapes later revealed that then-President Richard Nixon had ordered his subordinates to "Get rid of that son of a bitch." Fitzgerald sued Nixon and settled for $142,000 in 1980. Congress then forced the Air Force to rehire him.

Fitzgerald came out a legendary hero, but many others have been left only with grief. Schumer's case was thrown out by a federal judge in Los Angeles, a decision he has appealed. Although he has a law degree, Schumer, now 59, has been unable to restart his career because of severe depression.

COLUMN ONE;HEROES, ZEALOTS OR VICTIMS?;FEW LIKE BOUNTY-HUNTER LAW THAT ENCOURAGES REPORTING OF DEFENSE INDUSTRY FRAUD. SOME SAY WHISTLE-BLOWERS ARE PATRIOTS. OT....

"Even if you do get money out of it, it's not worth it," said the former Hughes Aircraft executive. "How much money could compensate you for the loss of your career, your wife, your family and your home?"

Graphic

Photo, William Schumer, former Hughes Aircraft executive, say he lost his home, career and peace of mind after becoming a whistle-blower. JONATHAN ALCORN / For The Times; Photo, Roland Gibeault worked undercover with federal agents in an investigation of a defense firm. AL SEIB / Los Angeles Times; Photo, George Pointon says he was fired by Lockheed after he alleged the company had lost secret documents. SCOTT TROYANOS / For The Times

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End of Document

Document: No hurry in case of file search ;Dole seeks probe of Clinton a…

No hurry in case of file search ; Dole seeks probe of Clinton aides

The Washington Times

September 10, 1993, Friday, Final Edition

Section: Part A; Pg. A1

Length: 886 words

Byline: Michael Hedges; THE WASHINGTON TIMES

Body

The Justice Department says there is no "urgency" in deciding whether a special prosecutor should investigate reports that Clinton appointees violated the Privacy Act by searching the State Department files of Bush officials.

But Senate Minority Leader Bob Dole and Sen. Mitch McConnell of Kentucky, ranking Republican on the Senate Ethics Committee, yesterday asked Secretary of State Warren Christopher to provide prompt answers on the matter.

Mr. McConnell asked Attorney General Janet Reno on Sept. 1 to appoint a prosecutor to probe the case, in which the files of 160 former State Department officials reportedly were reviewed and information from some of the files was leaked to the news media.

"We haven't responded to that letter yet," Justice Department spokesman John Russell said. "We got the letter Friday, and we'll respond to it. It has been assigned. I don't detect any sense of urgency in responding to it."

The State Department's inspector general and the General Accounting Office (GAO), the investigative arm of Congress, have begun probes into Clinton officials' reported search of the personnel files, officials said yesterday.

State Department Inspector General Sherman Funk and investigators from the GAO met this week to ccordinate their efforts so that nothing would be done to jeopardize criminal cases, officials said.

"We've had some preliminary conversations with State, but it is still early time," said Cleve Corlett, a GAO spokesman. "We always seek cooperation when we do an investigation."

Investigators are concerned that statements made to one agency, such as the GAO, could be subpoenaed under the federal Jencks Act to defend against any charges resulting from other statements, officials said. When two agencies are investigating the same allegations, an early meeting is held to prevent a tainted prosecution.

Yesterday's letter to Mr. Christopher from Mr. Dole and Mr. McConnell said, "This situation could reflect the misconduct of an individual former campaign worker or represent evidence of far-reaching, politically motivated, illegal activity."

The senators called on Mr. Christopher to explain the use of the files, name those who received the leaked information and say whether the person who leaked information is still at the State Department.

A news item last week in The Washington Post quoted unnamed Clinton officials describing the contents of the State Department personnel files of Jennifer Fitzgerald, a longtime aide to President Bush who has been rumored to be romantically linked with him, and Elizabeth Tamposi, former assistant secretary of state for consular affairs.

Mrs. Tamposi was fired from the State Department in November after it was revealed she expedited a Freedom of Information Act request for information from the passport files of President Clinton and his mother, Virginia Kelley.

That case is the subject of a criminal investigation being conducted by special prosecutor Joseph diGenova, a former U.S. attorney.

Mr. Clinton mentioned the search of his and his mother's files frequently during the last week of the presidential campaign. He promised soon after the election that anyone in his administration who was caught using State Department files for political purposes would be fired "the next day."

The file searches by Clinton officials quickly triggered Mr. Funk's probe. A spokeswoman in his office said no timetable for that investigation has been set. Mr. Funk's office has taken custody of the roughly 160 files of State Department political appointees pulled by Clinton officials.

White House Press Secretary Dee Dee Myers has said those files were among those requested from the White House liaison office in the State Department. They had been stored in Maryland. She said all of that office's files were requested, not just the files mentioned.

Meanwhile, some conservative groups and Republicans suggest the Clinton administration is not taking the matter seriously enough.

"Normally, matters such as this would immediately trigger an investigation by the [Justice Department's] Office of Public Integrity," said **William P. Barr**, attorney general under Mr. Bush. That office probes and prosecutes corruption cases involving public officials and the electoral process.

"If something like this came up in the Reagan-Bush administrations, it would have immediately been moved onto the special-counsel track," said a former Justice Department official.

Some legal groups are urging Miss Reno and other federal officials to take action.

Mark R. Levin, a director at the Landmark Legal Foundation, wrote to Miss Reno and FBI Director Louis Freeh.

"If these actions - rummaging through hundreds of government personnel files and intentionally leaking certain information about those files . . . do not constitute violations of the Privacy Act, then the Act is meaningless and there are no serious protections against official misconduct of this sort," Mr. Levin wrote.

He called for Miss Reno to appoint Mr. diGenova to expand his probe of the Tamposi case to include the file searches by Clinton appointees.

Classification

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Company: WASHINGTON POST CO (51%); NASH HOLDINGS LLC (51%); GRAHAM HOLDINGS CO (51%); WASHINGTON POST CO (51%); NASH HOLDINGS LLC (51%); GRAHAM HOLDINGS CO (51%); US DEPARTMENT OF JUSTICE (92%); US DEPARTMENT OF JUSTICE (92%); US GOVERNMENT ACCOUNTABILITY OFFICE (55%); US GOVERNMENT ACCOUNTABILITY OFFICE (55%)

Organization: US DEPARTMENT OF JUSTICE (92%); US DEPARTMENT OF JUSTICE (92%); US GOVERNMENT ACCOUNTABILITY OFFICE (55%); US GOVERNMENT ACCOUNTABILITY OFFICE (55%)

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JUSTICE'S INTERNAL WATCHDOG IN A FIGHT FOR HIS JOB; MICHAEL SHAHEEN HAS OPERATED INDEPENDENTLY FOR YEARS, BUT HIS OFFICE MAY BE MERGED INTO THE INSPECTOR GENERAL'S

The Recorder (California)

September 9, 1993 Thursday

THE RECORDER

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Body

MICHAEL SHAHEEN HAS OPERATED INDEPENDENTLY FOR YEARS, BUT HIS OFFICE MAY BE MERGED INTO THE INSPECTOR GENERAL'S

WASHINGTON -- For almost 18 years, Michael Shaheen Jr. has been among the least visible, but most powerful, officials in the Department of Justice.

As the department's internal watchdog, Shaheen has investigated five of the last eight attorneys general. Most recently, his critical findings sped the departure of William Sessions as director of the FBI.

Simply by dropping a critical letter in a personnel file, Shaheen and his eight-lawyer Office of Professional Responsibility have snuffed out the promising careers of line prosecutors.

But now, after nearly two decades in office, Shaheen is fighting what appears to be a losing battle to keep his job.

Attorney General Janet Reno is reviewing a proposal to disband Shaheen's elite outpost and shift its duties to the department's inspector general. The change would end more than four years of internal wrangling that have pitted Shaheen against the inspector general, a post now held by Richard Hankinson.

A major advocate of the merger is Deputy AG Philip Heymann, who in the past has criticized Shaheen's long OPR tenure, but now declines comment.

Also backing the changes are Sen. John Glenn, D-Ohio, and other congressional Democrats, who long have complained that Shaheen is too close to the institution he is charged with monitoring.

Glenn has spearheaded the drive to place throughout the federal government inspectors general who could independently monitor an agency's performance -- and report to Congress.

Shaheen, in contrast, is answerable only to the attorney general, and critics have questioned whether he can effectively -- and independently -- police department lawyers and agents.

Shaheen declined comment for this article. Sources close to him, however, say the 52-year-old Justice Department veteran still hopes to persuade Reno to kill the Heymann initiative. According to a senior Justice official, Shaheen could make his case to Reno as early as this week.

Reno has not formally embraced the Heymann proposal, but a source familiar with her thinking says she is inclined to merge OPR and the inspector general's office. Asked about it at her weekly press conference last Thursday, Reno kept her own counsel.

My ultimate goal is to have an investigative capability and an ability to review the ethical conduct of all of us at the Justice Department that is fair, that is properly staffed, that is staffed by lawyers and investigators who can handle these matters in a thorough manner, she said.

But the AG then added that she is concerned about the lack of staffing at the Office of Professional Responsibility and the dependency of that office on other agencies.

THE POWER OF PRESTIGE

Those who back the OPR, however, say the size of the staff is less important than its prestigious nature. From modest, government-issue quarters on Justice's fourth floor, Shaheen has been able to mobilize a battalion of FBI agents, launch a grand-jury investigation and even wrest away control of a criminal probe from department prosecutors.

In contrast, critics say, the inspector general's office lacks the experience and the credibility to oversee the phalanx of professionals at Justice.

The 420 people who staff the inspector general's office are mostly investigators and auditors -- not lawyers -- a gumshoe operation accustomed to ferreting out waste and fraud, not abuses of prosecutorial power or the fine points of legal ethics.

And the inspector general is not necessarily a lawyer; Hankinson, currently in the job, is not.

The Department of Justice needs a small elite office that can attract good legal talent, that is perceived to be thorough, professional and carries the weight of the attorney general directly behind it, says former AG ***William Barr***.

That would be completely lost if the two offices are merged, adds Barr, now a partner in Washington's Shaw, Pittman, Potts & Trowbridge.

The tension between the OPR and the inspector general has been building ever since Congress set up Justice's IG in 1988, years after legislators insisted on similar offices at other federal agencies. Inspectors general report to both Congress and the executive branch, setting up a classic separation-of-powers fight.

Complicating matters at Justice was that the OPR, Justice's own internal watchdog, was left intact, and the responsibilities of the two offices were poorly defined.

That led to unnecessary duplication and competition between Shaheen and Inspector General Hankinson. And what started off as an uneasy co-existence between the two units developed into open turf warfare.

Even Shaheen's critics, however, say the IG's office as currently set up might not be able to replace OPR, and officials are considering changes. To begin with, they plan to staff the office with more lawyers.

And Deputy AG Heymann is eager to place one lawyer with close ties to the Democratic party at the helm of the newly enhanced inspector general's office. Three Justice Department sources say Heymann is supporting Michael Bromwich to be Justice's next IG. Bromwich, a former student of Heymann's at Harvard Law School and now a partner at the Washington office of Chicago's Mayer, Brown & Platt, declines comment.

In the meantime, Shaheen is holding on, and those close to him say he could continue to do so for years.

But the enigmatic civil servant, who was once the mayor of a small Mississippi town, might not have the political capital to preserve his office. And if the OPR goes under, Shaheen has informed department officials that he won't be part of the IG's office. Some of his staff, too, apparently will ask to be reassigned.

First, though, Shaheen will try to make the case for the OPR with Reno. A Justice Department source familiar with Shaheen's thinking says Shaheen doesn't quarrel with Reno's right to effectuate the merger, but believes consolidation would cost the AG control over her own personnel.

If the attorney general wants to preserve the full panoply of her prerogatives and powers, says one knowledgeable law-enforcement official, she will listen to the case for preserving OPR independently, and there will be no merger.

If she elects to forfeit some of her power and popularity and yields to the pressures of the Hill, adds the source, there will be a merger and she will suffer a diminution of her prerogatives.

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Whistles Blow More Often On Health Care

The Wall Street Journal

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Body

Whistle-blowers, the bane of the nation's defense contractors in the 1980s, are retooling for the 1990s to focus on health-care providers.

Last month, for instance, the Justice Department won a $400,000 settlement against a California neurologist who allegedly overbilled the government's Medicare program for diagnostic tests.

But the U.S. Treasury wasn't the only beneficiary. A public interest group that alerted the government to the problem earned a $36,000 bounty. "I think you are going to see a lot more of these cases," says Lisa Hovelson, executive director of the group, Taxpayers Against Fraud, which was organized in the mid-1980s to expose problems in the defense industry.

Whistle-blowers are becoming foot soldiers in the government's war on health-care fraud. Enticed by a federal law that offers them millions of dollars in potential rewards, a growing number of people are filing suits against medical businesses and doctors. In coming forward, they are helping the government get a handle on the multibillion-dollar fraud problem.

This summer, a Southern California man, Christopher "Jack" Dowden, received $15 million for tipping off the government in 1990 to questionable practices at National Health Laboratories Inc., the La Jolla, Calif., medical lab chain that paid $111.4 million to the U.S. last year to settle a record Medicare-fraud case.

Last month, Blue Cross & Blue Shield of Florida Inc. agreed to pay $10 million to settle allegations that the company, which administers the Medicare program in Florida, mishandled and caused massive backlogs in the processing of claims. The case was launched by a former Blue Cross analyst, who now stands to earn as much as $1.5 million for her work. Still other cases are wending their way through the courts.

Lynn Shapiro Snyder, a Washington attorney handling the Florida suit, sees a growing trend of companies, rather than individuals, using whistle-blower suits as a vehicle to stop anticompetitive practices.

To proponents, the advent of whistle-blowing in the medical field is all for the good. "It seems to me there is very definitely a movement in making great use of it in that area, and I'm glad," says Sen. Charles Grassley. The Iowa Republican sponsored amendments to the whistle-blower law in 1986 that have greatly liberalized its use. Next week, a Senate Judiciary Committee panel is holding hearings on the law, and will discuss pending legislation that would narrow a defense that companies have successfully used in defeating some suits.

The law in question, the False Claims Act, was enacted in 1863 to combat fraud against the Union army. It permits a private party to file suit on behalf of the U.S. against anyone who has made false claims with the government. Federal officials have the option of taking over the cases, but whistle-blowers are entitled to 15% to 30% of any recovery, plus attorneys' fees. Since 1986, about 516 suits have been brought, with total recoveries of about $358 million and whistle-blowers pocketing about $42 million, according to the Justice Department.

The bounty-hunting law has its critics. Former Attorney General William Barr questions the "mercenary" nature of the law, and feels it sparks frivolous litigation, undermines efforts by companies to police themselves and distracts from other law-enforcement priorities. In the majority of cases filed by whistle-blowers, he notes, the government declines to participate.

Carol C. Lam, a San Diego federal prosecutor who was involved in the NHL case, suggests the $15 million that Mr. Dowden received was on the high side. "Aside from the initial tip, he provided me with no additional information," she says, adding that "I will give him full credit for coming forward as a good citizen."

But supporters say whistle-blowers deserve what they get because of the risks they take, such as unemployment. "You need some examples like a Jack Dowden. You want that to be almost a beacon to others saying, `Look, the law works.' Here's a guy who did very well and took a very significant step," says John Phillips, a Washington attorney who represented Mr. Dowden, and has handled defense-contractor fraud suits as well.

Certainly, not all cases go so smoothly. In the Florida Blue Cross case, the whistle-blower is currently challenging the government's $10 million settlement in court as inadequate.

Susan Hollrith, a whistle-blower who helped the government recover $385,000 last November from an affiliate of Blue Cross & Blue Shield of the National Capital Area, calls the settlement in her case "pathetic." The affiliate allegedly overbilled the Agency for International Development in connection with its health-insurance program. Ms. Hollrith and her attorney received a total of $108,000.

Nonetheless, these cases are gaining momentum. Robert Vogel, a former Justice Department trial attorney, now is in private practice in Washington specializing in representing whistle-blowers in the health-care field. He sees it as a growth industry.

"Health care is definitely something that is more and more in the public consciousness, and I expect to see much more of an increase in these cases than we have already seen," he says. "You have a really screwed-up system out there."

Law Notes. . .

MILITARY BAN: A federal judge in Sacramento, Calif., ruled that the military's ban on gay men and lesbians serving in the armed forces is unconstitutional, the Associated Press reported. The case was filed by former sailor Mel Dahl, who was discharged from the Navy in 1982. It doesn't involve President Clinton's new "don't ask, don't tell, don't pursue" policy. A Justice Department spokesman said the government hasn't decided whether to appeal yet. He noted, however, that two similar federal court rulings are being appealed.

WHO'S NEWS: Fran Miller, a Boston University professor of health and antitrust law, has joined the Boston law firm of Nutter, McClennen & Fish, where she is of counsel on a part-time basis.

Notes

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COLUMN ONE;
A NATION'S CHILDREN IN LOCKUP;
POLITICAL AND SOCIAL PRESSURES HAVE SHIFTED THE FOCUS OF JUVENILE JUSTICE FROM REHABILITATION TO PUNISHMENT. THE RESULT, EXPERTS SAY, IS A SYSTEM THAT IS NOT WORKING AND IS OPEN TO ABUSE.

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By RON HARRIS, TIMES STAFF WRITER

Series: KIDS IN CUSTODY. How the nation handles crimes by juveniles. First in a series

Body

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In separate cases three years ago, Michael Harris and Walter Biggs, both of Los Angeles, were arrested and charged with robbery. Both Harris and Biggs (whose real names are not used here) were convicted and sentenced to custody. Harris, 16, served 2 1/2 years; Biggs, 25, however, did only 18 months.

It wasn't that Harris was the more dangerous criminal, nor was the difference merely one of the vagaries of the justice system. Harris did more time because, as a juvenile, he was sentenced to the California Youth Authority, while Biggs was sent to a state prison.

"That's not uncommon," one Los Angeles juvenile parole officer said. "Juveniles sent to the Youth Authority normally serve longer sentences than adults in state prison."

Such is the rougher, tougher world of juvenile justice.

It is a world where some states lock up larger percentages of children than adults, where youngsters who are traditionally denied jury trials may serve longer sentences than their adult counterparts, where youths are often housed in overcrowded facilities and sometimes punished in ways that would be unthinkable in state prisons.

All because people believed something that wasn't true.

Beginning about 1975, crimes by children in the United States began a steady decline, but the public perception was that juvenile delinquency was going through the roof.

So the United States began to lock up its wayward youngsters at unprecedented rates, eventually transforming the way the nation deals with them.

Once, juvenile crime brought determined attempts to rehabilitate kids, even though that sometimes required keeping them in custody.

Today, virtually all authorities on juvenile justice agree, custody has become largely an end in itself. The pendulum has swung away from rehabilitation and toward punishment.

Recent juvenile crime statistics make it increasingly clear that it has not worked.

Starting in the mid-1970s, the experts say, America decided to get tough with its juvenile delinquents and to separate them from the rest of society, even though Justice Department figures showed juvenile crime declining. From 1978 to 1988, while the per capita rate of crime among youths dropped by 19%, their lockup rate increased by nearly 50%.

"The public got tough-minded, and the elected officials got tough-minded for them," said Fred Jordan, director of probation for San Francisco County. "We had a series of attorneys general who talked about the 'juvenile crime wave' even though the numbers weren't going up."

Until this shift began, juvenile court had functioned as society's stern surrogate parent; the court's role was to bolster family discipline -- or provide discipline where there was none -- by applying an additional measure of control and guidance for wayward children.

Children who committed crimes, the court reasoned, were not hardened criminals, but still-forming youngsters who often could be put back on track; they could be admonished, or counseled, or moved from dysfunctional homes to structured, nurturing environments. The court was there to protect and guide them, not to punish.

But in the tough-minded '70s and '80s, rehabilitation took a back seat. States passed laws calling for more and longer incarceration of the young, and when punishment inside juvenile facilities was deemed too soft, they enacted measures allowing thousands of children to be tried and sentenced as adults.

Few inside the juvenile-justice system believed that longer, stiffer sentences would rehabilitate children. In fact, studies in California show a correlation between longer sentences and how often minors return to crime. The public, however, wanted retribution, and many voices argued that as long as kids were in custody, at least they couldn't cause more trouble.

Increasingly, as children were locked up in large, prison-like juvenile halls, youth camps, and training schools, the facilities became overcrowded -- breeding grounds for abuse and violence.

"The juvenile code now is a punishment model," said Jerome Wassom, director of the Washington state Division of Juvenile Rehabilitation. "There's a much greater emphasis on sending kids to state institutions."

But, despite the harsher penalties, something happened four years ago that caught juvenile officials off guard: The rate of serious crimes among the nation's children and youths actually began to rise.

In 1991, the most recent year for which figures are available, juvenile homicides, forcible rapes, robberies and aggravated assaults climbed to their highest levels in the nation's history. Although there were still fewer offenses of all kinds per capita than there were 10 years earlier, the upsurge in more violent offenses has caused many in the juvenile-justice system to ask what has gone wrong.

Former U.S. Atty. Gen. **William P. Barr** says the increases "clearly show that we must enact wholesale reform of the juvenile-justice system so that, for the vast majority of juvenile offenders, their first brush with the law is their last. But the long-term solution falls largely outside of law enforcement. It requires

strengthening those basic institutions -- family, schools, religious institutions, community groups -- that are responsible for instilling values and creating law-abiding citizens."

Paradoxically -- because it was assumed that the role of the juvenile court was to rehabilitate and assist those who came before it -- safeguards that the justice system guarantees adults were not afforded to children. Such safeguards were considered unnecessary or undesirable.

Children in juvenile court, for instance, do not have the right to a jury trial, nor, in most states, are they allowed bail. To "protect the reputation of children," proceedings in juvenile court are closed to the public and the press.

Even the terminology of juvenile court is different -- designed, officials say, to spare children the taint of criminal proceedings.

Holding facilities for children prior to court appearances -- the equivalent of adult jails -- are called "detention." Instead of findings of guilt or innocence, juvenile courts reach a "disposition" for juvenile offenders. Youngsters are not "sentenced" but "placed."

"The idea was that you were going to treat these kids," said Robert Walker, a family law attorney in San Francisco who handles cases in juvenile court. "The children were going to get the services they needed." But now, he says, "although the terminology remains the same, the court has become much more like a mini-criminal court."

These days the terms serve as mere euphemisms, said John O'Toole, director of the National Center for Youth Law in San Francisco. "The justification in the past was that what was going to happen to you as a child was not going to be bad," he said. "That's just not true anymore. Kids are being punished, and they are being punished very harshly."

In the late 1970s, states began to amend juvenile codes, often going so far as to write the word "punishment" into sentencing guidelines.

Now, according to the Justice Department, on any given day, about 100,000 juveniles nationwide are in lockup -- nearly a fifth of them in California.

As incarceration was mandated for specific offenses, discretion was increasingly taken out of the hands of juvenile-court judges.

Consequently, many judges say they find themselves straitjacketed, like Seattle Judge Norma Huggins, who says she sentenced one 15-year-old to two years in a state juvenile prison "because I had no choice."

"There was an outcry that children who are accused of crime need to get the same thing that adults get," said Huggins, who now handles adult cases. "But there is a difference. I see people every day who are professional criminals, who intend to live their lives taking advantage of other people. I don't think I can say that of a 15-year-old, that he's made up his mind to be a professional thief or a professional killer."

Adding to the punishment side of the ledger, many states rewrote laws so that more juveniles could be tried as adults. The result is that thousands are sent to adult prisons.

In New York, any juvenile 16 or older accused of committing a crime is automatically transferred to adult court and, if found guilty, sentenced to an adult facility. In Florida, about 6,000 juveniles are transferred to adult court each year at the sole discretion of the prosecuting attorney. In Illinois and Mississippi, any youth 13 or older can be tried as an adult for any crime. In 17 states, children as young as 14 can be tried in adult court.

In California, the Legislature in 1977 passed provisions so that, under a handful of serious charges such as murder, voluntary manslaughter and armed robbery, children 16 and older could be tried as adults. Each year, however, the list lengthened. Today it has grown to 24 offenses.

"Politicians keep beating their breasts wanting more and more punishment," said Michael Mahoney, former director of a maximum-security Illinois Youth Center and now executive director of a prison watchdog group in Joliet, Ill. "They seize upon some crime that has caught the public eye. Then they pass a law to make the punishment tougher, and the public nods its approval.

"I'm not arguing that there aren't some bad kids out there who need to be separated, but I think we have overdone it. I've seen 16-year-olds who are thugs, and I've seen 16-year-olds who are lost, mixed-up kids. This whole idea of pushing kids into the adult system belies the fact there's a large disparity in criminality, maturity and mental stability."

Juvenile-justice officials say that as the nation moved toward punishment, services that nurture children, bolster families or intervene to keep kids out of trouble began to diminish. Now, they say, issues that could or should have been resolved earlier are ending up in juvenile court.

"There aren't enough community resources to deal with a lot of problems," said Juvenile Court Judge Sherman Smith in San Francisco. "We should have better recreational systems. Police officers should have more positive interaction with the community. We need better schools. These are the kinds of things we should do. (But now) the court is the primary source of intervention when it comes to children. The court should not be part of the front-end process. The court should be the last resort."

In the juvenile-justice system, probation officers have long been a force to help delinquent kids get their lives back on track. Their job is to watch over children, monitor their school performance, talk with their instructors, visit their homes, counsel them, review their progress and recommend action.

Over the last 15 years, however, probation departments have seen their budgets slashed and their role changed as the numbers of youngsters assigned to each officer have soared. Like teachers in overcrowded classrooms, they have seen their effectiveness diminish.

In Chicago, Cook County probation officer Angela Pierce struggles to keep track of 60 troubled juveniles from the impoverished Inglewood community. She sees each of them once a month.

"I'm just scratching the surface," she said. "These kids need a lot more than I can give them."

In Los Angeles, county probation officer Lisa Cunningham said she envies Pierce. Her caseload is nearly 200 children. "I wanted to be a probation officer to help people, but I have so many people who need help that I don't have time to give them the attention they need," she said.

These days, juvenile-court officials say, if minors stay out of trouble, they do so mostly on their own. If they commit another offense, it is usually because the forces that first got them into trouble still exist.

"I had one kid who kept violating his probation," Chicago Juvenile Court Judge Charles May said. "As a part of his probation, he was supposed to be at home at night by a certain time, but he would always miss his curfew. So, he's back in court and I tell him that I'm going to have to put him in detention for 30 days.

"He says: 'Your honor, I just can't stay at home and watch my father beat up my mother.' Now what am I supposed to do? I can't let this kid continue to skip curfew and violate a direct court order. He's got to go home. But am I supposed to force him into a house where a father is abusing a mother?"

Many of the nation's juvenile-court judges face a similar quandary -- a stream of delinquent children with a horde of contributing problems, and few answers other than incarceration.

"In Pennsylvania, we sometimes cannot come up with the services for kids to stay at home, and because we cannot, we'll put them in jail," said Naomi Post, whose job as director of the Philadelphia juvenile court's Restitution and Resource Planning Unit is to find the most suitable placement for delinquent children. "We can't just leave the child at home where he or she is not getting any help."

"Locking up a kid and giving that kid some structure is a valid rehabilitation tool," said Judge Smith in San Francisco. "Just because you lock a kid up doesn't mean it's necessarily something negative. You're providing structure to show kids what to do right."

In nearly every state, judges and juvenile-court officials can point to model training schools where delinquent children have turned their lives around. But they admit such facilities are the exception.

Many of today's juvenile facilities have become overcrowded, often dangerous, sometimes brutal places where children sleep on floors, join gangs for their own protection and receive harsh, sometimes abusive, treatment by those who watch over them.

In Seattle, detention supervisor Ed Woodley described one facility as a "school for crime"; in Pennsylvania, Post said she "wouldn't send a dog to Cromwell Heights," one of the state's facilities for juveniles.

Because of a shortage of facilities, children who commit minor offenses often find themselves mixed in with tougher youths, said James Bell, staff attorney for the Youth Law Center in San Francisco.

There have been many stories of abuses inside juvenile facilities. In Florida, until a court order ended such practices in 1988, 10-year-olds sent to reform school for petty thievery were hogtied and thrown into strip-cell isolation, sometimes for as long as 60 days. In Oklahoma, prior to a court settlement in 1985, children were placed in straitjackets and put in isolation. In Idaho, 13- and 14-year-olds were "given the standing wall," in which they stood with noses pressed against the wall for as long as 16 hours a day for such infractions as talking.

In Arizona, children were handcuffed naked to beds or had their feet and hands handcuffed to the four corners of their bunk. In New Orleans, juvenile offenders complain that they are routinely beaten by sheriff's deputies at the local detention facility.

"We're talking about kinds of physical and mental punishment that don't go on even in adult institutions," said David Lambert, an attorney for the Youth Law Center, which has filed and won numerous cases regarding the treatment of juveniles in state facilities.

"Kids need to be held accountable, but not by punishing them by putting them in a brutal dehumanizing institution for six to eight months, where they continually learn to survive by intimidating other people, where they lose more respect for authority, which, in turn, increases the odds that when they are released from that institution they are going to engage in similar or worse criminal activity," he said.

It is clear, say those who monitor the juvenile-court system, that more and longer incarceration does not appear to be working. As the incarceration rate has gone up, so has the percentage of juveniles who are rearrested for crimes after their release.

"The way the system is set up now, they're coming out worse than when they went in," said Lambert of the Youth Law Center. "They come out embittered, hardened."

Consequently, some states are beginning to re-evaluate the way they handle children, and are seeking more cost-effective methods.

Currently, the nation is spending more than $3.2 billion annually to keep children in custody, and the annual price tag for one youngster's incarceration averages more than $30,000.

"The amount of money we're spending on them, we could almost pay them to stay out of trouble," said Dan MacAllair of the Center for Juvenile and Criminal Justice in San Francisco. "I mean, that's more than a year's tuition to Stanford or Harvard."

Increasingly, juvenile-justice officials themselves have begun to see an overriding correlation between juvenile delinquency and such factors as poverty, physical and emotional abuse, neglect, family dysfunction and educational deficiencies. Consequently, many have concluded that just locking up youths is not the answer.

In Philadelphia, presiding Juvenile Court Judge Frank Reynolds says that "until you deal positively with these children, particularly those of the urban poor, you're going to suffer. The less time and energy a city spends on those children, the more miserable a city will become. If the major cities of this country do not begin to grasp that as an ever-present reality, their communities will continue to decline."

NEXT: Who are the children in custody?

Youths Serve Longer

Adults in California Department of Corrections facilities serve far less time than juveniles convicted of the same or similar crimes.

	MONTHS SERVED	
	Adults	**Youths**
Homicide	41	60
Kidnaping	42	49
Robbery	25	30
Assault	21	29
Burglary	18	21
Theft (except auto)	11	18
Auto theft	13	17
Forcible rape	43	58
Other sex crimes	34	40
Narcotics	14	22
Other offenses	11	20
Average	16	26

Sources: Figures for adults from California Department of Corrections; figures for youths from California Youth Authority

Arrests vs. Jail

While arrest rates for juveniles dropped in the early 1980s, incarceration rates shot up. The trend in jail and prison rates for young offenders reflected growing public frustration with crime.

Number of arrests per 100,000
'91: 1,315
*

Jail and prison per 100,000
'91: 370
Sources: FBI Uniform Crime Report; 1979-1989 Census of Public and Private Juvenile Detention, Correctional and Shelter Facilities; U.S. Census

From Arrest to Incarceration: Juvenile Court in Action

Here is how juvenile suspects move through the system. This model, based on a cross-section of procedures, captures the major elements of most systems around the nation.

ARREST: Police bring youth to some type of screening office

SCREENING: Screening office:

A) Resolve the matter informally -- through a social service agency, voluntary restitution or informal probation

B) Send the case ahead for a court date

C) Dismiss the case for lack of merit

JUDGE: If the case is sent on for a hearing, a judge reviews the case and determines the final step

DECISION

A) If the offense is severe, send the case to adult court so youth can be tried as an adult

B) Commit the youth to a prison-like institute for delinquents

C) Place youth on probation or in a group home, foster home or some type of treatment facility

D) Dismiss the case

Among the differences in juvenile court:

* No jury trials

* Majority of states do not allow bail

* Proceedings are closed to the press and public

Graphic

Photo, A 13-year-old accused delinquent's only view of the free world is this window in his 9-by-9-foot cell at the Los Padrinos juvenile detention center in Downey, Calif. D. STEVENS / Sipa; Photo, Presiding Juvenile Court Judge Frank Reynolds of Philadelphia, left, in his courtroom. He warns that cities will suffer unless they deal with delinquency. . . . STEVE FLAX / For The Times; Photo, . . . At right, LAPD officers search suspected gang members. LEE CELANO / Sipa; Table, Youths Serve Longer / Los Angeles Times ; Chart, Arrests vs. Jail, LORENA INIGUEZ / Los Angeles Times ; Chart, From Arrest to Incarceration: Juvenile Court in Action, PAUL GONZALES / Los Angeles Times

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JUDGES VOICE ANGER OVER MANDATORY U.S. SENTENCES; COURTS: CRITICS CITE EXAMPLE OF WOMAN'S 10-YEAR TERM FOR FIRST DRUG OFFENSE. BUT LAW HAS STRONG SUPPORT.

Los Angeles Times

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By JIM NEWTON, TIMES STAFF WRITER

Body

<EC MO <DE ME <TM IB

Tonya Denise Drake is both criminal and victim -- a criminal, she concedes, by virtue of her brief involvement in the crack cocaine trade; a victim, according to her family, lawyer and the judge who sent her to prison, of a cruel and indifferent federal sentencing system that is coming under increasing attack nationwide.

Her friends and family acknowledge that Drake, a 28-year-old welfare mother of four, broke the law when she agreed to mail a package for a man she barely knew and which turned out to contain crack cocaine. But even though Drake got all of $47.40 for the task, the congressionally approved mandatory minimum sentence for her offense is 10 years in federal prison.

There is no parole, so even with the modest federal credit for good behavior, Drake will not be out of prison until after the year 2000.

"This woman doesn't belong in prison for 10 years for what I understand she did," U.S. District Judge Richard A. Gadbois Jr. ▾ said in imposing her sentence. "That's just crazy, but there's nothing I can do about it."

With those remarks, Gadbois became another in an ever-growing number of federal judges to publicly take issue with the federal mandatory minimum sentences. Atty. Gen. Janet Reno also has questioned the laws, and this week told a group of federal judges meeting in Santa Barbara that she expects to send a report to Congress on the subject next month.

Critics of the mandatory minimums have powerful opponents, however. Many law enforcement leaders and legal scholars believe that mandatory minimums are an important deterrent to crime, and they say that any dilution of the minimum sentences would weaken the national commitment to fighting drugs and violent crime.

"The only way to get a real hammer effect on some crimes is to set a floor below which the judge cannot go," said former Atty. Gen. **William P. Barr**, a strong supporter of mandatory minimums. "I think that as a philosophical matter the punishment ought to fit the crime. The drug problem is a national scourge that has cost us more blood, treasure and national spirit than all our foreign wars."

Most members of Congress appear to agree, and efforts to scrap the mandatory minimums have made little progress so far. Still, even some backers of the mandatory minimums -- including Rep. Charles E. Schumer (D-N.Y.), who chairs a key congressional subcommittee -- have shown a willingness to amend a sentencing system that is sending scores of first-time drug offenders to long terms in crowded federal prisons.

The mandatory minimums have struck hardest at black defendants, who make up nearly 40% of all inmates serving mandatory sentences, according to one recent study. (The same study found that the overall federal prison population was 28% black. African-Americans make up 11.7% of the U.S. population.)

Because the minimum sentences apply only to a few kinds of offenses -- almost all of them related to drugs or guns -- the people who break those laws face far more rigid sentences than other offenders.

In the Rodney G. King beating case, for instance, Los Angeles Police Officer Laurence M. Powell and Sgt. Stacey C. Koon each received sentences of 2 1/2 years -- substantially below federal guidelines -- because there is no mandatory minimum for violating another person's civil rights. There is one for selling or transporting crack cocaine, however, and that's why Drake's four young children will grow up without her.

"The law stinks," Gadbois said in Drake's case. "I don't know a judge who thinks otherwise."

In fact, Gadbois is just one of several federal judges in Los Angeles who have publicly voiced anger about the mandatory minimums. U.S. District Judges Terry J. Hatter Jr. and J. Spencer Letts each have publicly attacked the mandatory minimums, and Hatter went so far as to confront Reno about the issue when she recently visited Los Angeles.

Hatter has bitterly criticized a sentencing system that he said gives more discretion to young prosecutors than it does to experienced judges. Hatter is a liberal appointed by President Jimmy Carter, but Gadbois and Letts are moderate conservatives appointed by President Ronald Reagan. Both are sharply critical of the mandatory minimums. At a recent sentencing, Letts said the system is "worse than barbaric, it is uncivilized."

Mandatory minimum sentences are hardly new. They have been on the books for centuries and cover a range of offenses, from refusing to testify before Congress to failing to report seaboard saloon purchases. But few of those laws are enforced, and the vast majority of mandatory minimum sentences are handed down for drug and weapons violations.

In the 1950s and 1960s, much scholarly attention was focused on judicial discretion in sentencing and rehabilitation of criminal offenders. That gave way more recently, however, to a harder-line approach, particularly with respect to drug crimes.

In 1984, Congress enacted a slew of mandatory minimums in response to mounting frustration over what many elected officials saw as wide disparities in sentencing and excessively lenient judges. The mandatory minimums, according to proponents, provide strong deterrence by convincing would-be criminals that they cannot rely on a soft judge to escape harsh punishment.

Schumer, the New York Democrat, is a liberal on many issues. But as head of the House subcommittee on crime and criminal justice, he views mandatory minimums as an important part of federal sentencing. Schumer opposes a bill by Rep. Don Edwards (D-San Jose) to repeal the mandatory minimums.

Still, Schumer and some other supporters of the mandatory minimums have been distressed by what they consider to be egregious examples of the sentences being imposed on relatively minor criminals. But unlike Edwards, who supports outright abolition of the sentencing laws, Schumer hopes to create a safety valve that would allow judges to depart from the minimums in extraordinary cases, while requiring compliance the rest of the time.

Barr, however, disagrees with even that modification. "I'm against a safety valve at this point because I don't think the case has been made that it's needed," Barr said. "The notion that there are a lot of hapless, semi-responsible people out there . . . is a myth."

That view prevailed in the Justice Department under Presidents Reagan and George Bush, but Reno lately has sounded a different tune.

"I have a concern because there may be situations in which minimum mandatories are causing federal offenders to serve 10 or 15 years for being minor participants on a drug boat deal," Reno said in May. Earlier this week, speaking at the U.S. 9th Circuit Court of Appeals judicial conference in Santa Barbara, Reno said she had examined the crowding situation in the federal prison system and concluded that too many cells were being taken up by drug offenders convicted of relatively minor crimes.

The judges greeted Reno with a standing ovation at the opening and close of her remarks.

Minor defendants should be given incentives to "work their way out of what might be minimum mandatories, at least for first offenders, and at least second offenders who may not have serious prior histories," Reno added. Those were welcome words to the friends and family of Tonya Drake.

In 1990, Drake was living in Inglewood, trying to support four young children -- their ages ranged from 1 to 6 -- on the payments she received from the Aid to Families With Dependent Children program. Some members of Drake's family had occasionally run into trouble with the law, but her only offenses were traffic violations.

On June 21, Drake was at a swap meet when she ran into a man named Fred Haley in the parking lot. She had seen Haley around and had wondered about him: He drove new, fancy cars, and Drake suspected he might be a drug dealer.

So when Haley asked Drake if she would mail a package for him, she concedes she was a little suspicious. "I didn't know for sure, but I thought something was up," Drake told police. "I thought there might be cocaine in the package, but I wasn't sure."

Drake agreed to mail the package anyway because Haley handed her a $100 bill and told her she could keep the change -- $47.40 after postage. "I need money for my children, so I took the chance," she said.

But when Drake showed up at a nearby Airborne Express office, she was so nervous that a security guard got suspicious. He watched her fill out the address form for the package, then discreetly followed her to her car and wrote down her license plate number. Inside, the guard and another employee opened the package and found a suspicious plastic bag inside a box of laundry soap.

They called the Los Angeles Police Department and officers conducted a field test on the contents of the bag. It contained 232 grams of crack cocaine.

Had it contained powder cocaine, Drake would have been facing less than three years in prison for her role in mailing the package, and no mandatory minimum sentence. That is because of a second controversial aspect of federal drug laws: For the purposes of sentencing defendants, each gram of crack cocaine is considered the equivalent of 100 grams of powder.

Drake's package, however, did not contain powder cocaine. It contained crack. So instead of facing a sentence of roughly the same length that Powell and Koon received, she was subject to the federal mandatory minimum for possession of more than 50 grams of crack: 10 years. No exceptions, no room for a judge's discretion.

About the only way to get a lighter sentence is to provide substantial assistance to prosecutors. But in Drake's case, her lawyer says the only person she knew was Haley, and he died shortly after she was arrested. That left Drake with no one to give information about, and no way to escape the mandatory minimum.

Drake's family was dumbfounded.

"I told Tonya: 'They'll probably give you about six months and three years probation,' " her brother, Michael Drake, said in an interview this week. "That'll teach you. You'll never mail another package."

In fact, if Drake had been convicted in state court, the sentence would almost certainly have been less than she received.

Terry Amdur, a Pasadena lawyer who represented Drake at trial and through her appeals, researched a number of state crack cases and produced several examples as part of her defense.

In one case, Edwin Moren, who had prior drug and robbery convictions, pleaded guilty to possessing 102.4 grams of crack. He received a one-year jail term and a four-year suspended sentence. Had he been convicted in federal court, he would have faced a 10-year mandatory minimum.

Another suspect, Vicki Williams, pleaded guilty to possessing crack for sale. Williams, who also had a previous criminal drug conviction and was on probation at the time of her arrest, had 105 grams of crack when she was arrested. The federal mandatory minimum in her case would have been 20 years; instead, she was convicted in state court, where she received a three-year sentence.

One of the factors that goes into deciding whether to charge a suspect with a state or federal crime in a drug case is the amount of drugs involved, and prosecutors point out that neither of those suspects possessed as much crack as Drake did. But both of them had previous records, and no evidence suggested that Drake had any previous drug history.

Police searched the home where Drake was living at the time and found no drugs or drug paraphernalia. They did find two handguns, but both weapons were legal and belonged to Drake's brother-in-law, who also lived at the house with Drake's sister and their family.

"Tonya's case is a perfect example of the kind of egregious cases that we often hear about," said Julie Stewart, president of Families Against Mandatory Minimums, a Washington-based group that lobbies against such laws. "These are not isolated cases. They're happening all over the country."

Supporters of the mandatory minimums dispute that, saying the overwhelming majority of such sentences are handed down to defendants who are deeply involved in drug or weapons violations. The Justice Department study that Reno ordered is expected to explore that question. Stewart and other opponents of the mandatory minimums hope it will give them new ammunition in their fight to change the current laws.

For Drake, those efforts are gratifying, but they have little real meaning. Her appeals were exhausted in June, and she reported to the Bureau of Prisons on June 7 to begin her 10-year sentence. Today, she occupies a cell at the Federal Correctional Institution in Dublin, Calif.

Her current attorney, Robert C. Campbell III, says he is hoping Drake might get a pardon. That is a long shot, he concedes. But at this point, it is his client's only hope.

"We're a tightknit family," Michael Drake said this week, as his father and Tonya Drake's four tiny children nodded sadly. "We're still together. But where's the justice in this? . . . If you break the law, you get what you deserve. Give my sister what she deserves. She does not deserve 10 years."

Mandatory Minimums

Thousands of federal prisoners, most of them charged with drug and weapons violations, are serving mandatory minimum sentences. The number has grown in recent years, and minority defendants are disproportionately affected by the mandatory minimums.

Number of defendants imprisoned under mandatory minimum sentences:

1989: 13,402

Race of federal defendants:

Sentenced to mandatory minimums

Anglo: 34.8%

Black: 38.5%

Hispanic: 25.4%

Other: 1.3%

All federal defendants

Anglo: 46.9%

Black: 28.2%

Hispanic: 22.0%

Other: 2.9%

Notes: "Hispanic" includes white and black Hispanics, so all statistics underreport black defendants.

"Other" includes American Indians, Alaskan natives and Asian and Pacific Islanders.

Sources: U.S. Sentencing Commission, Special Report to Congress; Mandatory Minimum Penalties in the Federal Criminal Justice System, August, 1991.

Graphic

Photo, Tonya Denise Drake ; Chart, Mandatory Minimums, LORENA INIGUEZ / Los Angeles Times

Classification

Language: ENGLISH

Subject: SENTENCING (90%); CORRECTIONS (90%); JUDGES (90%); JAIL SENTENCING (90%); SENTENCING GUIDELINES (90%); DRUG POLICY (89%); PRISONS (89%); CRIMINAL OFFENSES (89%); CONTROLLED SUBSTANCES CRIME (89%); PAROLE (78%); LAW ENFORCEMENT (78%); PRISONERS (78%); COCAINE (78%); LEGISLATIVE BODIES (77%); CRIME PREVENTION (73%); AFRICAN AMERICANS (72%); US DEMOCRATIC PARTY (72%); RESEARCH REPORTS (60%)

Person: CHARLES SCHUMER (50%)

Geographic: UNITED STATES (92%)

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:47:49 p.m. EST

Document: How to Anger a Court: Ignore Its Letters

How to Anger a Court: Ignore Its Letters

The Associated Press

August 21, 1993, Saturday, AM cycle

Section: Washington Dateline

Length: 637 words

Byline: By CAROLYN SKORNECK, Associated Press Writer

Dateline: WASHINGTON

Body

The Justice Department and the 6th U.S. Circuit Court of Appeals are locked in a battle over the fate of John Demjanjuk, a retired Cleveland autoworker found by two U.S. judges to have worked at Nazi death camps.

The department has been reduced to begging the court in almost daily missives to block a three-judge panel's Aug. 6 order that would allow Demjanjuk - if he is freed by Israel - to return to the United States to help with the appeal of his 1986 extradition.

And the panel, on Friday, refused to reverse that order even though it appeared last week that Demjanjuk's departure from Israel is imminent.

Meanwhile, the Justice Department's request that all 14 of the 6th Circuit's judges review the panel's decision is pending.

The Israeli Supreme Court gave the department a breather Friday by giving Demjanjuk's opponents two weeks to make their case that he should be retried. The Israeli court earlier overturned his April 1988 conviction and death penalty, citing reasonable doubt that he was the Treblinka death camp's notorious "Ivan the Terrible."

How have the Justice Department and the 6th Circuit reached this impasse?

Some speculate that it goes back to early 1992. That's when the Justice Department failed to respond to two 6th Circuit letters asking what was behind news stories saying the department had hidden

information casting doubt on Demjanjuk's being "Ivan the Terrible."

"I think judges are very vain and when they don't get a response to their letters, they get angry," said Harvard Law School Professor Alan Dershowitz, who has criticized the handling of the case by Gilbert S. Merritt, the 6th Circuit's chief judge.

But Debra Nagle, the 6th Circuit's public information officer, rejected that scenario.

"That's absurd," she said. "This is not any kind of vendetta."

Unlike the current Justice Department behavior - showering the court with hurry-up letters - the 6th Circuit did not reveal its anxiety last year. Its first letter, sent Jan. 7, 1992, asked when the division would finish its investigation of allegations that it had suppressed the evidence on Demjanjuk and requested a copy of its findings.

It concluded: "The court appreciates your immediate attention to this request."

A follow-up letter sent May 4, 1992, said the court had received no acknowledgment of the first letter, and that although some department officials said by phone that a response was "in the works, nothing has materialized to date." The letter asked when a response could be expected.

On June 3, 1992, still having received no written response, Merritt reopened the extradition case without any request from Demjanjuk's lawyers to do so.

The department and the 6th Circuit used to get along.

Three separate three-judge panels in 1982 and 1985 approved Demjanjuk's denaturalization, deportation and extradition to Israel.

So why didn't the Justice Department respond to the January 1992 letter from court clerk Leonard Green, on behalf of Merritt, to Robert S. Mueller III, the criminal division's chief?

Some at Justice pushed for a response. Others held back.

Then-Attorney General **William Barr** said Friday that he didn't pay much attention to the case and referred calls to his then-chief of staff Daniel Levin, who, like Mueller, did not respond to a message left at his office.

However, Dershowitz said Justice was right not to have responded because that would have been an improper, out-of-court communication about a case that might be reopened.

He said Merritt also should not have reopened the case without a motion from Demjanjuk's lawyers.

"The essence of being a judge is that you sit and wait," Dershowitz said. "It's a reactive, not a pro-active job. If you want to create problems, become a lawyer."

Merritt did not respond to a request for comment.

Classification

Language: ENGLISH

Subject: DEMJANJUK WAR CRIMES CASE (91%); JUDGES (91%); JUSTICE DEPARTMENTS (91%); LAW COURTS & TRIBUNALS (90%); APPEALS (90%); APPELLATE DECISIONS (90%); APPEALS COURTS (90%); LAW ENFORCEMENT (89%); INVESTIGATIONS (89%); DECISIONS & RULINGS (78%); EXTRADITION (78%); CRIMINAL CONVICTIONS (78%); SUPREME COURTS (78%); LAWYERS (78%); HOLOCAUST (77%); CAPITAL PUNISHMENT (73%); CRIMINAL INVESTIGATIONS (72%); LAW SCHOOLS (63%); COLLEGE & UNIVERSITY PROFESSORS (50%)

Company: US DEPARTMENT OF JUSTICE (94%); US DEPARTMENT OF JUSTICE (94%)

Organization: US DEPARTMENT OF JUSTICE (94%); US DEPARTMENT OF JUSTICE (94%)

Industry: LAWYERS (78%); LAW SCHOOLS (63%); COLLEGE & UNIVERSITY PROFESSORS (50%)

Person: GILBERT S MERRITT (79%)

Geographic: CLEVELAND, OH, USA (79%); UNITED STATES (92%)

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 10:51:18 p.m. EST

RENO TO DECIDE ON NEW CHARGES IN BCCI SCANDAL; LITIGATION: CASE AGAINST CLIFFORD AND ALTMAN MAY BE ENDING AFTER ACQUITTAL IN NEW YORK. OTHERS STILL FACE TRIALS HERE AND ABROAD IN 5-YEAR-OLD BANK FRAUD.

Los Angeles Times

August 20, 1993, Friday, Home Edition

Section: Part A; Page 18; Column 1; National Desk

Length: 859 words

Byline: DG

By DOUGLAS FRANTZ, TIMES STAFF WRITER

Dateline: WASHINGTON

Body

<EC MO <DE NA

The five-year-old, globe-rattling scandal of the Bank of Credit & Commerce International may be winding down quietly behind closed doors in the Justice Department.

Sometime in coming weeks, Atty. Gen. Janet Reno must decide whether to renew federal charges against former Defense Secretary Clark M. Clifford and his former law partner, Robert A. Altman, for their roles in the BCCI scandal.

While Reno could seek a new indictment, people on both sides of the case expect that Altman's acquittal of all charges in a New York state court Saturday was the last chapter in the criminal prosecution of major figures in the scandal, at least in the United States.

"The New York prosecution was in a very real sense a joint federal-state prosecution," said Carl S. Rauh, a Washington lawyer for Clifford and Altman. "They had a Justice Department attorney co-prosecuting the case and the FBI and Federal Reserve Board assisted in pursuing it. The federal government has had its bite at the apple."

A senior Justice Department lawyer acknowledged Thursday that chances appear slim Reno will approve indicting Clifford and Altman. The charges were dropped last year to allow Manhattan District Atty. Robert M. Morgenthau's office to proceed with its broader case against the two men.

When the state and federal indictments were returned simultaneously in July, 1992, they charged Clifford and Altman with misleading banking regulators about BCCI's secret control of First American Bankshares here, a bank in Atlanta and the defunct Independence Bank in Encino, Calif. But the federal charges stopped short of Morgenthau's allegation that $40 million in legal fees and stock profits collected by Clifford and Altman from BCCI constituted bribes.

Clifford and Altman see total vindication in the New York jury's resounding rejection of the state's case. After the verdict, which came without the defense presenting any evidence, jurors disparaged the prosecution case.

Although Clifford was deemed too ill to stand trial, he was very much on trial alongside Altman. The evidence dealt with his role as BCCI's lawyer and chairman of First American, too. So the influential lawyer and former adviser to four Democratic presidents said in an interview Thursday that he feels justified in seeking the return of his good name.

"I've been a practicing lawyer for 65 years and this is the first cloud ever against my name, and that made it particularly hard to bear," said Clifford, who is 86 and had heart bypass surgery in March.

"This is vindication," he said. "But when you have been subjected to this kind of publicity over a long period of time, then I believe you don't ever get back what you had before. I will continue working at it, doing the best I can to get back as much of my good name as I had before. But some of it has been taken away from me, I believe, irrevocably, and I regret it very much."

It is not out of the question that Clifford and Altman will face federal charges. A federal source close to the case said that Reno gained enormous respect for Morgenthau during her years as a state prosecutor in Florida and she may consult the New York district attorney before making a decision.

As happened in the Rodney G. King beating case, Reno could decide that the two lawyers should be tried on similar federal charges despite Altman's acquittal.

Former Atty. Gen. William P. Barr, who oversaw the federal investigation that led to the indictment of Clifford and Altman in 1992, said that Reno "will have to weigh the extent to which the federal interests were adequately presented in the state forum and she will have to make a practical evaluation of whether the federal case is still as strong as it was thought to be in the wake of the Morgenthau office's defeat."

If Clifford sees vindication in the New York verdict, so does Barr. The Justice Department was criticized sharply in Congress and the press for going slow in the BCCI inquiry and bringing a narrow case. In New York, the trial judge threw out the broadest charges against Altman without letting the jury decide on them.

"Some of the criticism of the Justice Department may be put in a better light now," said Barr.

Morgenthau is still pursuing other aspects of his BCCI investigation and criminal charges are outstanding against senior foreign officials of the defunct bank. But there seems little likelihood that Agha Hasan Abedi, the bank's charismatic founder, or the others will be returned to the United States from Pakistan and Abu Dhabi.

This is not to say that the reverberations are over elsewhere. Ten former BCCI officials are scheduled to go on trial in October in Abu Dhabi, where the government lost $7 billion in the bank's collapse.

In Britain and Abu Dhabi, efforts are under way to repay 250,000 customers in 40 countries who lost their savings when BCCI was shut down by regulators around the world in July, 1991. In Britain, the most depositors expect is the equivalent of 30 to 40 cents on the dollar, while customers in Third World countries without bank insurance are likely to get no money back, according to the bank's liquidators.

Document: House to question prosecutors on Bush-era environment ca...

House to question prosecutors on Bush-era environment cases ; No-politics policy at Justice broken

The Washington Times

August 19, 1993, Thursday, Final Edition

Section: Part A; Pg. A1

Length: 1117 words

Byline: Jerry Seper; THE WASHINGTON TIMES

Body

Fourteen Justice Department lawyers have been ordered in an unprecedented move to submit to questioning by House investigators looking into allegations that they "undermined" environmental prosecutions during the Bush administration.

To the dismay of many department employees, the order - approved by Associate Attorney General Webster L. Hubbell - breaks a long-standing department policy of protecting line prosecutors from outside political pressures.

It was not clear yesterday if any of the prosecutors face criminal charges or what those charges might be. Mr. Hubbell, in authorizing the interviews, said it was his understanding that investigators had no evidence "at this time" of any criminal wrongdoing on the part of department officials.

The interview order is outlined in a July 16 letter from acting Assistant Attorney General Myles E. Flint to 14 of the 31 prosecutors in the department's environmental crimes section. He said, without explanation, that the department agreed to the interviews "because of exceptional circumstances."

"You are encouraged to answer fully and candidly all questions concerning matters within your personal knowledge," said Mr. Flint, head of the environmental and natural resources division. "You should be aware at all times of your obligation to be truthful and fair in responding to questions posed to you during the interview."

Former Attorney General **William P. Barr**, who rejected efforts to question the prosecutors, has called the new policy "political hogwash." He said the prosecutors have been protected from "the bullying and political pressures of Congress for as long as I can remember."

"It is horrifying to see this happen," Mr. Barr said. "It will have a chilling effect on their ability to perform their responsibilities."

Department sources said congressional inquiries have always been directed at senior department officials or political appointees, such as Mr. Flint or Mr. Hubbell, and line prosecutors were protected from congressional second-guessing.

"Some prosecutors already have begun to think differently about their cases, wondering whether to proceed or not to proceed based on if it will land them in the hot seat," said a source.

"Will they be threatened with congressional scrutiny or possible charges?" asked the source. "Allowing the bullies on Capitol Hill to call the shots is the rawest kind of politicalization."

Former Deputy Attorney General George J. Terwilliger III said the order shows a "complete lack of understanding" of the duties and responsibilities of line prosecutors. He feared it may be expanded to include others, including investigators.

"What's to keep Congress from calling an FBI agent in for questioning on a particular case and asking what he or she thought should have been done?" asked Mr. Terwilliger, a veteran prosecutor. "Just how do you draw the line once the door is opened?"

The interviews, by investigators from the House Energy and Commerce Committee, have not yet been scheduled but are expected after Congress' summer recess. They are part of "a legislative oversight inquiry" sought by committee Chairman John D. Dingell.

Mr. Dingell, in a September 1992 memo, singled out several department prosecutions for scrutiny, including cases against PureGro Company Inc., Weyerhaeuser Forest Products, Chemical Waste Management Inc., Thermex Inc. and Hawaiian Western Steel.

He described them as "indicative of the serious management and performance problems plaguing the federal criminal environmental enforcement program," suggesting that prosecutions were not as vigorous or complete as possible.

According to department sources, the prosecutors have been ordered to submit to the interviews voluntarily or under subpoena, have been told to turn over documents in 20 environmental cases begun during the Bush administration, and have been advised that while Justice Department lawyers have been assigned to represent them, they had the option to seek outside counsel.

Mr. Dingell, Michigan Democrat, charged - without elaboration - that the department gave "preferential treatment" to some environmental crime suspects and declined to prosecute others under "highly questionable circumstances." He accused the prosecutors of being ready to "trivialize financial penalties."

Some of the prosecutors said they felt "sold out" by the department. They said the committee is politically motivated and noted that the environmental crimes section was a frequent target of criticism during the 1992 presidential campaign.

"The Justice Department hung these prosecutors out to dry," said one department source. "The department said to Mr. Dingell, 'Here, go after these people and not us.' It was strictly quid pro quo. They were willing to give up the lawyers to get something in return. We just don't know what - yet."

The prosecutors also were told the interviews would not be transcribed or tape-recorded. Some said they feared the tactic could be used to alter a final committee report and give the prosecutors no way to challenge statements or information wrongly attributed to them.

Mr. Flint, in his letter, also said the department did not object to "interview questions and answers about department deliberations," although he did not elaborate.

"You may not speak officially for the department," Mr. Flint admonished the prosecutors. "You are directed to make plain both at the beginning of your interview and when questions of opinion arise that your opinions are personal and do not constitute an official position of the department."

A former Justice Department official, who investigated Mr. Dingell's concerns last year, called them unfounded. Roger Clegg, former deputy assistant attorney general, said Mr. Dingell's allegations that cases had not been pursued properly were "an insult."

Mr. Clegg said his investigation found the allegations began with "disgruntled, second-rate bureaucrats at the Environmental Protection Agency trying to even personal scores with Justice Department prosecutors and make points with congressional staff."

Attorney General Janet Reno ▾ has issued no public statement on the new policy, although Justice Department spokesman Joe Krovisky has confirmed that the department "agreed in principal" to the interviews.

Prosecutors in the Environmental Crimes Section were told in June that department efforts to shield them from House investigators had failed and they had to be interviewed.

Classification

Language: ENGLISH

Subject: ATTORNEYS GENERAL (91%); INTERVIEWS (90%); LAWYERS (90%); PUBLIC PROSECUTORS (90%); CRIMINAL OFFENSES (90%); INVESTIGATIONS (90%); LAW ENFORCEMENT (89%); NATURAL RESOURCES (78%); CRIMINAL INVESTIGATIONS (78%); INTERROGATION OF SUSPECTS (78%); US CONGRESS (78%); JUSTICE DEPARTMENTS (78%); US FEDERAL GOVERNMENT (77%); APPROVALS (73%); SPECIAL INVESTIGATIVE FORCES (73%); APPOINTMENTS (70%)

Industry: LAWYERS (90%)

Geographic: UNITED STATES (79%)

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 05:40:33 p.m. EST

Robert Altman Found Not Guilty in BCCI Scandal

CNN NEWS

August 16, 1993

Section: News; Domestic; Package

Length: 372 words

Highlight: Robert Altman has been found not guilty on all remaining charges in the New York State case against him, but there is still a possibility that federal charges will be brought against him in the BCCI case.

Body

DEBORAH MARCHINI, Anchor: All along Washington attorney Robert Altman said he was scapegoat in the Bank of Credit and Commerce International scandal. Over the weekend, a jury agreed, acquitting him of all remaining counts in the BCCI case. Jed Duvall has our story from Washington.

JED DUVALL, Correspondent: From the beginning, at the indictments more than a year ago, to the dramatic conclusion Saturday night, it was enormous case. The trial ground on for five months, involved 45 witnesses, more than 300 prosecution exhibits, as the government accused the 46-year-old Altman of lying to regulators and submitting false records. All part of a plan to have the Bank of Credit and Commerce International, BCCI, secretly take over a bank in the U.S. on behalf of Middle Eastern investors. Altman and his lawyers rose to hear the verdict, listening as the forewoman of the jury spoke the words 'not guilty' through her tears.

What next? Another New York case against Altman? A federal case? What happens to the charges against his partner, Clark Clifford, one of the most durable if not distinguished lawyers in Washington, determined to be too sick to stand trial so far. William Barr was the Bush Administration Attorney General last year when the Justice Department stepped aside in the BCCI case, in favor of the New York prosecution.

DUVALL: [interviewing] It's not accurate to say this chapter is closed?

WILLIAM BARR, Former Attorney General: No, I don't think it would be closed, no. I think probably one of the main plots of the story has- may come to a close, depending on what the federal government does.

DUVALL: The Altmans today claimed that the U.S. Justice Department and the New York State prosecution team worked closely on the case and were not separate entities.

LYNDA CARTER: Justice was there, actually. For five months, Justice was sitting there.

ROBERT ALTMAN: The theory that this was merely a state prosecution is belied I think by all the facts.

Ms. CARTER: Anthony Leffords [sp?] from Justice was sitting there.

DUVALL: The new Attorney General, Janet Reno, gets to decide how and whether to proceed against Altman and Clifford. Jed Duvall, for CNN, Washington.

Load-Date: August 17, 1993

NEW YORK CITY POLICE COMMISSIONER RAY KELLY AND FORMER ATTORNEY GENERAL WILLIAM BARR DISCUSS PRESIDENT CLINTON'S CRIME BILL

CBS News Transcripts FACE THE NATION (10:30 AM ET)

August 15, 1993, Sunday

Section: Interview

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Body

BOB SCHIEFFER, host:

And we're back now talking with Raymond Kelly, the police commissioner in New York. Glad to have you in Washington today, Mr. Commissioner. And William Barr, the former attorney general under George Bush.

Commissioner Kelly, what do you think is the most important thing that the president put into this plan?

Mr. RAYMOND KELLY (New York City Police Commissioner): Probably three things. I certainly like the 50,000 additional police officers on the streets of this country. Hopefully, New York will get its fair share. I like the Brady bill in--initiative. I think it's long overdue. I think it's a modest proposal. And I like the tightening of the federal firearms licensing provisions. That's been abused to for years and it's caused thousands of guns to come to New York City.

SCHIEFFER: That's one thing we didn't--talk just a little bit about what that means.

Mr. KELLY: There are now 287,000 federal licensee dealers in--in the United States to deal in firearms. and you can actually--I think you can pay $ 30 and send in a form and get a license in 45 days, and that means guns can be sent to you from all over the country--at a discount, no less. So that's been the cause of guns coming into New York, and we have to get a handle on that.

SCHIEFFER: Mr. Barr, what do you think is the best part to the president's plan or--or do you--or is there a good part to it…

Mr. WILLIAM BARR (Former Attorney General): Well…

SCHIEFFER: ...in your opinion?

Mr. BARR: ...I'm very unhappy with the plan because I don't think it comes to grips with the real problem that we face on the streets. Putting aside the gun issue, which I think is a sideshow--and I generally sup--am supportive of the law-enforcement community's position on that, but I don't think it's really going to have that much of an effect on violent crime. The problem is we have most of our predatory violence committed by chronic offenders who are being cycled in and out of the revolving door at the state system, and we have to do two things. We have to strengthen the state systems, make them tight up--tighten up their laws and we have to give them resources that are balanced. Yes, more police. But they also need prosecutors and prisons. If you put police on the street with no prison space behind them, all you're going to do is spin that--that revolving door faster.

The other thing that concerns me…

NEW YORK CITY POLICE COMMISSIONER RAY KELLY AND FORMER ATTORNEY GENERAL WILLIAM BARR DISCUSS PRESIDENT CLINTON'S CRIME BILL

SCHIEFFER: So what--you're saying you need more prisons, put the people in jail and keep them there?

Mr. BARR: Well, the--the Republican bill would--would first require the states, as a condition of getting these resources, of tightening up their laws and then would build large regional prisons, it would provide more police, community policing, more prosecutors. It's a balanced approach that really comes to grips with chronic offenders and gets them off the street.

The other problem I have with the proposal is they're robbing Peter to pay Paul. As Senator Hatch said, the Clinton administration has been dramatically cutting federal law enforcement, both last year and now in the '94 budget, and the amount they're taking out of federal prosecutors, federal agents, joint task forces with state and local place, anti-drug strike forces--the amount that they're putting them down is going to be more than they're giving to the state and local systems.

SCHIEFFER: Let me just ask you about one thing. Senator Biden seemed to suggest that this money is--is sort of in the budget, that somehow or another it's in there. Is that how you read this budget?

Mr. BARR: Not at all. They--this is pie in the sky. It's funny money. It says they authorized $ 3.4 billion. Now, they've been saying that for ages. In fact, right now, the Justice Department has authorized $ 2 billion to give to state and local and we've gotten more than half a million, so…

SCHIEFFER: So, in other words, they authorize it, but never get around to appropriating it.

Mr. BARR: Right.

SCHIEFFER: That's basically what happens.

Mr. BARR: And--and it's a political gimmick, whereas the Republican proposal actually identifies $ 7.1 billion that will go to the state and local governments. But it--also, it says you got to fix your system. You can send as many people you want to bail out a ship, but if they're bailing with sieves, the ship is going to go down.

SCHIEFFER: Let's talk to Commissioner Kelly a little bit. Mr. Barr says that the Brady bill part of it is kind of a sideshow--the gun control part of it. You're a policeman. Is that your view?

Mr. KELLY: I think it's a necessary first step. I think we need a whole legislative package to address the issue of guns in this country. Last year, we had 2,000 homicides in New York City, 75 percent were committed by guns. That contrasts to 1960, when we had 300 homicides, 19 percent by guns. It is a major problem, I think a national embarrassment. It's time to do something about it. Is this a panacea? No, but it's an important first step.

SCHIEFFER: Well, you know the argument that the other side always makes is, 'Well, wait a minute. Criminals--it's--it's only the good citizen who'll be penalized for buying a gun, that the criminal is going to get them illegally.' What--how do you respond to that?

Mr. KELLY: I--I think it's--it's--I can't get understand the logic of anyone arguing against a five-day waiting period. We're not--we're not even addressing that issue. If you need a gun, fine. Wait five days and then--and have a legitimate check done on your history, whether or not you have mental disorders. That sort of thing, to me, seems eminently reasonable. I can't see why anybody would be against it.

SCHIEFFER: Well, did--did you--you sort of supported the Brady bill at one point if it was part of a comprehensive crime bill, if I recall. Would you support the Brady bill if--if you were in office right now, Mr. Barr? Do you think, a--as--as the commissioner says--I mean, what's it going to hurt? It's like chicken soup--maybe it's not the--the answer, but does it hurt any?

Mr. BARR: Well, when I was in office, I said I could support a version of the Brady bill, but I wanted to see it as part of a tough law-enforcement package. Now, as a practical matter, if they sever it, I think there are a lot of liberals who want to vote for the Brady bill, but will vote against tough crime-enforcement measures, including some of the

good things that Senator Biden is proposing. And so the only way to get those people to go along with the other things we have to do--the tough crime provisions--is to--is to hold it together in a package.

But, again, the--the states that have the highest crime rates have the toughest gun laws. That's not to say we shouldn't take reasonable measures to make sure felons don't get guns, but I don't think it's going to have much of an impact on crime. The real problem, and I think Ray would agree, are the criminal-history records in this country. We have to get them to the point where we can check, and once we get them to the point that we can check and get accurate information, you can do that check in seven minutes. You don't need seven days.

SCHIEFFER: Gentlemen, I'm sorry. Because of the news of Michael Jordan's father in that late announcement we had to cut this segment a little short. I want to thank both of you.

We'll be back in a minute with our round table to sum up all of this.

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BARR CRITIQUES CLINTON ON CRIME; FORMER ATTORNEY GENERAL HITS ADMINISTRATION FOR ROOT-CAUSES RHETORIC, GOING AWOL ON DRUG WAR; Special Report: The Changing Landscape of Criminal Justice; Criminal Justice at the Crossroads

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Special Report: The Changing Landscape of Criminal Justice

Criminal Justice at the Crossroads

FORMER ATTORNEY GENERAL HITS ADMINISTRATION FOR ROOT-CAUSES RHETORIC, GOING AWOL ON DRUG WAR

Since leaving office last January, former Attorney General *William Barr* has said little publicly about his successor, Janet Reno, and the course she and the Clinton administration are charting on criminal-justice policy.

That course, while still in its infant stages, appears to veer sharply from the hard-line, anti-crime stance of the last 12 years. Reno frequently peppers her speeches with talk of the need for alternatives to incarceration, at least for first-time, non-violent offenders; a greater emphasis on treatment for drug offenders; and early intervention to prevent at-risk children from growing up to become criminals. Such notions would have been all but unthinkable coming from Barr and his top lieutenants.

In an interview with Legal Times **Managing Editor Tom Watson, Barr, now a partner in D.C.'s Shaw, Pittman, Potts & Trowbridge, breaks his silence, critiquing the Clinton approach and offering his own views about the direction in which the federal government's anti-crime efforts ought to be heading--views he hopes to encourage via the First Freedom Coalition, a non-profit group that he's co-founded to help trumpet the interests of state and local law enforcement**.

Q: The Clinton administration's rhetoric on crime is a significant departure from the Bush and Reagan rhetoric. How different do you expect this administration's approach to crime to be from your own?

A: I haven't seen any tangible law-enforcement, anti-crime action by the administration, so it's a little hard to judge exactly where they're coming from. But it's certainly clear that their rhetoric is different from the Bush administration.

There's a lot of talk about grappling with the root causes of crime--people espousing the view that crime is primarily caused by social ills, and that the best way to reduce crime is to cure these ills through social spending programs. From what I can tell, the Clinton budget involves shifting law-enforcement resources to other departments' social programs.

Our view was that, No. 1, law-enforcement agencies should give priority to creating a safe environment and rigorously enforcing the law, and that unless that occurs, there's little chance for any root-cause programs to work. And second, we've been following a root-causes policy for the past 25 years in our social spending, and it hasn't been very successful. So I'm very skeptical of a root-cause strategy for dealing with violent crime.

We think the best approach is reflected in a program we developed called the weed and seed program, a neighborhood-based effort that involves federal cooperation with state and local law enforcement and integrating enforcement actions with social programs. In the 20 cities where the program was started two years ago, it's already had dramatic results. It appears the Clinton administration is continuing this program, at least at a maintenance level.

Q: So you think that when there's been more action to back up the rhetoric, the Clinton administration may not be as dramatically different as it seems?

A: I think there's already proved to be a tangible difference. The Justice Department's budget increased for 12 straight years under [Presidents Ronald] Reagan and [George] Bush, and under [President Bill] Clinton, it's going to go down. I think it will go down significantly.

What that really means is money's being taken away from law enforcement and put into HHS [Department of Health and Human Services] programs. That will have a tangible impact. That will mean hundreds fewer prosecutors and FBI [Federal Bureau of Investigation] and DEA [Drug Enforcement Administration] agents.

From what I can tell, the Clinton administration really hasn't decided what it's going to do about violent crime. When they do talk about it, it's usually vague generalities about the need to cooperate with state and local officials, and the need to integrate law-enforcement actions with social programs.

Well, those ideas have been around the Justice Department for a long time and are reflected in the LECC [Law Enforcement Coordinating Committees] in every community and the weed-and-seed program. So I'm not sure how these general ideas about cooperation are really going to be carried out.

Q: Are you skeptical of the notion that the cutbacks in the Justice Department's budget for the first time in 12 years are a genuine, good-faith effort to deal with a federal deficit exacerbated, if not created, by Republican administrations?

A: I think the deficit problem is something created by congressional spending. And Congress has been under Democratic control.

But putting that aside, I think one of the problems of tax-and-spend policies is that they crowd out the truly essential or priority areas. Entitlement programs are not scaled back, but essential services such as law enforcement are. That's what we see happening. We basically are seeing the fundamental functions of government--here, law enforcement--sacrificed in order to keep the entitlement machine spewing out benefits.

There's a disconnect. Is this administration going to follow through on the program of taking violent criminals off the street, as we were trying to with the Triggerlock and weed-and-seed programs? [Triggerlock involved the use of strict federal firearms laws to impose stiff prison terms on chronic firearms offenders.] If so, that requires resources--specifically, prison space. And they've stopped prison construction spending and are cutting back on marshals, FBI, DEA, and other kinds of resources that are needed to carry out that program.

Q: There's been a lot of talk from the Clinton Justice Department about the need to keep first-time, non-violent offenders out of prison and find alternative ways to deal with them. Based on your tenure, would you say first-time non-violent offenders represent a significant portion of the overall crime problem?

A: It's nice rhetoric that bears no relationship to reality. Both the federal and state prison systems are comprised overwhelmingly of either violent criminals or recidivists--people with prior criminal-history records.

Certainly, in the federal prison system, if you looked for first-time, non-violent offenders, you would find a group of mostly white-collar offenders. Here, we would run into the Clinton rhetoric that the main problem with the criminal-justice system--as expressed in campaign documents--is that white-collar offenders were not serving long enough prison sentences.

Q: Regardless of what percentage of the overall prison population they make up, what's wrong with trying to divert first-time, non-violent offenders into a different mechanism--be it rehabilitation, some kind of treatment, or some other kind of alternative to incarceration? Is that not a good way to at least free up the resources you have to concentrate on violent criminals?

A: In the federal system, unless they're serving a mandatory-minimum penalty, first-time, non-violent offenders are being imprisoned for a very short period of time, if they're being imprisoned at all. They're not burning up a lot of prison space. That's simply a myth.

The real problem we face as a society is that we are already diverting the vast majority of offenders--not only non-violent offenders, but even violent ones. And not only first-time offenders, but even people with criminal-history records. More than three-fourths of all offenders, federal and state, are out on the street at any one time. Only a quarter, or less, of the convicted individuals who are under supervision are actually incarcerated.

The fact is that the word **alternatives** is a modern buzzword for a system that the American people already know well, and that's parole. It's nothing more than a fancy term for putting convicted criminals out on parole and trying to look at them a little more carefully. Certainly, there's no objection to doing that to anyone who does not pose a significant risk. We should be doing that for non-violent, first-time offenders generally.

But that's not the problem we face. The problem we face is that too many recidivists and violent people are being released too early. The average time served for rape is three years; for murder, it's 51/2 years.

Q: If there are all these dangerous people walking around, doesn't that suggest that the Reagan-Bush approach was unsuccessful?

A: On the contrary. The highest rate of increase in crime took place during the 1960s and the 1970s, when there were even more of these people on the street. In the 1980s, we started putting these people behind bars where they belong, and the rate of increase dropped.

The issue is whether we're going to be led back into the cave of the '60s and '70s, into policies that are generally lenient with violent offenders. And whether we're going to be guided by the failed philosophy that the best way to deal with crime is to deal with root causes.

Q: One of the first things that Attorney General Janet Reno did in acting on the budget was to scale back funding for new prison construction. You were, and remain, an advocate of moving in the other direction. How crucial an indicator is prison funding of what this administration is going to do, and how important is it in the overall crime fight?

A: I think it's a long-term indicator of the direction that an administration is going.

The criminal-justice system is a pipeline. And you have to have capacity throughout the pipeline. At the end of the pipeline should be prison space. Otherwise, it doesn't make any sense to arrest anybody.

By constructing new prison space, we were providing sufficient capacity for the projected volume of arrests and convictions that we anticipated from an aggressive assault on violent crime and gangs, as well as the continuation of the effort against narcotics trafficking.

By taking away prison space downstream, it appears that they intend to pull back some on the enforcement aspects of the drug war and dealing with violent criminals.

Q: Let's talk about the drug war for a minute. Early on, Clinton scaled back the number of staffers in the Office of National Drug Control Policy, the drug czar's office. What signal does that send?

A: I think clearly the Clinton administration is pulling back from the drug war.

There has been very little vocal support from the administration, either on the unacceptability of drug use or on the need for tough enforcement. This remarkable silence has been matched by a slashing of drug resources in the budget process.

While I thought highly of the drug czars I worked with, I have never thought the office itself was a good idea. But certainly, the cutback of that office is part and parcel of the administration's lack of enthusiasm for the drug war, it seems to me.

Overall, the cutbacks they're making are taking things in exactly the wrong direction. They're de-emphasizing the international effort against drugs--for example, the DEA's role overseas. That is where we can have the greatest impact on the supply side.

The Clinton administration talks about more of a local effort. Strangely, this seems to be retreating to a street-corner strategy for dealing with supply. Such a strategy, by itself, would be bankrupt.

Q: I assume you didn't like the notion of the office of the drug czar because it interfered with the existing bureaucracies, and how many more bureaucracies do you need. Correct?

A: I disagreed with the drug czar partly because it adds to the bureaucratic maze, but mainly because what the drug war needs is a commander, a general. The commander should be someone who has operational responsibility and divisions to deploy, and not a staff person who can only produce paper.

Q: Is it impossible in your view for Lee Brown [President Clinton's choice as drug czar] to be that commander? And shouldn't you be pleased at the cutbacks, because they mean less bureaucracy?

A: No, because we need an aggressive drug-war effort both in supply and demand. On the supply side, you need someone who is capable of directing the resources and the strategy of the United States. The drug czar, sitting in an office with 25 people, isn't in that position. The attorney general is.

The Clinton administration seems to be acting as if the drug war is all a matter of drug treatment. I think this is a misplaced strategy. Treatment as part of an overall approach has its place. But putting the kinds of resources they are putting into treatment at the expense of enforcement is going to be counterproductive. I think ultimately you're going to see a resumption of demand for drugs.

Q: The asset-forfeiture program has been widely hailed by prosecutors as one of the more important components of the Reagan-Bush crime policy. It was wildly popular among both federal and state law-enforcement officials as a good way to share resources in a budget-strapped time. But a lot of people felt as though the program went too far and encouraged prosecutors to become cowboys--allowing them to seize whole plots of land when a tiny amount of marijuana was found on a farm, for example.

Now, there is a reform movement under way. Conservative Representative Henry Hyde [(R-Ill.)] has helped give it a big boost [by introducing a bill to curtail abuses in the program]. The move seems to be gaining momentum. Do you think reform is warranted? Have there been excesses that need to be better policed?

A: I think that some fine-tuning was needed, but this was being accomplished by the Justice Department's Office of Asset Forfeiture itself, which has been giving guidance to the field and setting standards for seizure. There's no need for further legislative tinkering. The program is under attack, but I think that those attacks should largely be rebuffed, and that the program should be embraced and continued vigorously.

Q: Does it seem at this point that there's sufficient political support to enact some reform?

A: What disturbs me is the relative silence from the administration in supporting asset forfeiture. Ultimately, I think that asset forfeiture will be defended largely on the Hill by people who are directly familiar with the benefits of the program and the support that it has among state and local law enforcement.

Q: Turning to mandatory minimum sentencing, it seems as though every few weeks or months, there's another voice calling for giving judges more discretion. The criticism is steadily mounting. You have federal judges, you always had defense lawyers, but now you even have some prosecutors--most notably, Attorney General Reno--who have given some push to the momentum here. You were up on the Hill last month testifying on this issue. Is it your feeling that it's likely mandatory minimums will be relaxed at all any time soon?

A: I'm not sure exactly what Attorney General Reno has meant by some of the comments that have been quoted, so I can't address her views. But certainly on the Hill, there doesn't seem to be much appetite for backing away from mandatory minimums.

The notion that there are sympathetic people out there who become hapless victims of the criminal-justice system and are locked away in federal prison beyond the time they deserve is simply a myth. The people who have been given mandatory minimums generally deserve them--richly.

This country has spent a decade trying to get across two essential messages: First, that we have a tough federal criminal-justice system--if you do the crime, you'll do the time. Second, that participating in drug trafficking is morally reprehensible. Backpedaling on mandatory minimums subverts these messages at just the wrong time.

One argument that's being made is that mandatory minimums for drug offenders are pushing violent criminals out on the street. That's completely false in the federal system and, as far as I can tell, is untrue at the state level.

Drug trafficking is a heinous offense. Mandatory minimums are punishments that fit the crime. Moreover, mandatory minimums are an indispensable tool that enables prosecutors to induce lower-level people to flip and provide evidence against other people in the organization. Thus, it is an essential to unraveling very complicated and secret conspiratorial organizations.

Q: There've been publicized cases where people who are really nothing more than mules get caught up and are subject to sentences that seem exceedingly harsh compared with their crimes. Is that fair?

A: The punishment for drug trafficking that's meted out to even the lowest-level person--whether it be a five-year or a 10-year penalty--is a just sentence. The fact that somebody else might be able to get a reduced sentence because they provided essential information that leads to other more important people being prosecuted doesn't make the original sentence unjust. That kind of thing happens all the time in every context in law enforcement.

Q: What do you say to those who suggest that judges are a vital part of the criminal-justice system and that their discretion has been severely diminished by Congress? Have we arrived at a serious imbalance, where actors that should have more power and discretion--because they are chosen to be above political winds--have their role scaled back? Can that be a good thing?

A: Congress did the right thing. A judge's function is to impose the sentence prescribed by law after a verdict. In some cases, historically, Congress has provided judges some latitude and discretion in setting the precise penalty within a scale. But in other cases, since 1790, Congress has exercised its prerogative to define a precise sentence below which a judge cannot depart, i.e., a mandatory minimum. That is the proper function of the legislature--to set

the penalty. There's no inherent right or prerogative in a judge to exercise discretion. Rather, they have only the discretion provided by Congress.

What has happened is that in the '60s and '70s, while the doctrine of rehabilitating criminals held sway, we backed away from mandatory minimums and provided judges very substantial sentencing discretion. The result was widely disparate treatment of individuals and, frequently, overly lenient sentences for very serious offenses.

In the early '80s, Congress reacted against this, recognizing that, to be effective, a criminal-justice system must have more predictability, severity, and uniformity. Consequently, for the past decade, Congress has been reducing judicial discretion and moved much more into determinant sentencing and into mandatory minimums. These have in fact worked, by making the federal system the strongest criminal-justice system in the country.

Q: As you're aware, there've been a couple of very well-publicized cases of something extraordinary: federal judges effectively laying down their gavels and exercising civil disobedience against this system. Isn't that a troubling sign?

A: It's very troubling when civil servants do not do their job.

There's a vocal but relatively small group of federal judges who not only want to be judges, but also want to be mini-attorney generals and mini-prosecutors, and they also want to be the drug czar and set drug-enforcement policy in the United States. They want to second-guess the opinion of the people who actually exercise those responsibilities. I think that judges should stick to doing what judges are supposed to do, which is to ensure that there's a fair trial and a verdict is handed down in line with the evidence and proper jury instructions, and then impose the sentence prescribed by law.

There are federal judges who frankly don't like their courtrooms sullied by the grime of the streets. People who are involved in drug trafficking are unsavory. Judges don't like the notion of these offensive people coming into their courtroom and having to hear cases about these unedifying subjects. They would rather be musing over a fine issue of antitrust law or perhaps considering, for the umpteenth time, a **pro se** motion complaining about prison conditions by a prison inmate.

I think that judges should recognize that we as a society face no greater challenge than the drug war, that it is taking up a great deal of time for all federal officials, and that they, like everyone else, have to do their part.

Q: Is the crime bill that the Bush administration supported likely to re-emerge basically intact? Do you trust that Chairman Biden [Sen. Joseph Biden Jr. (D-Del.), chairman of the Senate Judiciary Committee] will look after the interests that you had impressed upon him? What's likely to happen with habeas corpus reform?

A: I think the Democratic version of the crime bill will survive relatively intact. I'm not sure where they'll come out on habeas corpus. They certainly won't go as far as we wanted them to go. But the issue is whether they really have built in loopholes to make it easier for death-row inmates to abuse the system.

I think the crime bill likely will embody the centerpiece of the administration's crime agenda, which is the Brady bill. [Named for former Reagan press secretary James Brady, the bill would impose a waiting period on those wishing to purchase handguns.] My own view is that if we really want to get serious about violent crime in this country, we have to go beyond where the crime debate has to this point--that is, haggling about habeas corpus, the exclusionary rule, and the Brady bill--and be willing to move to a comprehensive plan of attack against violent crime.

Such a plan would have to involve wholesale reform of state criminal-justice systems to make them more like the federal system. It would have to include substantial resources for the states, including resources for prison construction. It would also have to involve reversing the budget cuts of the Clinton administration in federal law enforcement--instead of cutting back DEA, FBI, and prosecutorial resources, increasing them.

Q: What do you make of the Clinton administration's nominee to head the FBI and of Clinton's decision to fire William Sessions [then director of the FBI]?

A: I think that Attorney General Reno gave good advice to the president, and I think that Louis Freeh is a superb selection who will be a great director of the FBI.

Q: The Justice Department has just sent out again for comment the so-called Thornburgh memo, which would allow prosecutors to go behind the backs of counsel [to talk to their clients] in certain pre-indictment situations and investigations. There's some nervousness among members of the defense bar that Clinton, Reno, and company may be planning to go ahead with the memo. It's unclear whether that's going to happen.

Do you think that, generally speaking, prosecutors should worry that this administration is going to shift the balance of power back to the defense bar and erode some of the gains prosecutors have made in the last decade? Or will that balance of power remain about the same?

A: People will generally understand [the Thornburgh memorandum] to be the memorandum that requires people to bring the most readily provable charge--no charge-bargaining under the sentencing guidelines. What you're talking about is a separate memo that would change the code of federal regulations [to allow prosecutors to go around defense counsel in certain situations].

I don't think it will change the balance. My view is that it provides protection beyond what's required by both law and the Constitution.

It remains to be seen whether prosecutors will lose power. [The Clinton administration] pulled back the proposed change to the regulations on this issue. There was a lot of concern among prosecutors that they were not going to be supported. Now, the fact that [the administration has] decided to put it out for comment may mean that they've decided to go forward.

Letting Hill investigators interview line prosecutors is a very disturbing sign and, in my view, raises the prospect of politicization of the Department of Justice by [bowing] to congressional pressure. [Barr is referring to Reno's decision this spring to allow staffers for Rep. John Dingell (D-Mich.) to interview lawyers in the Justice Department's Environmental Crimes Section about their handling of environmental-crimes prosecutions.]

Q: When you're looking at criminal-justice policy as it's going to be made by the Clinton administration and the current Congress, the interest groups, and other key actors, who do you watch as bell-wethers of where we're going?

A: I think that the Hill, particularly people like Senator Biden and Chuck Schumer [(D-N. Y.), chairman of the House Judiciary Subcommittee on Criminal Justice] and some elements of the White House, particularly [White House counselor David] Gergen, are going to be much more important players in the criminal-justice area.

My view is that Gergen wants to moderate the Clinton administration's image and will look to areas such as immigration and crime. We've already seen it with this immigration package, as limp as it was. We'll also see pressures from that group, as well as people on the Hill who want to cast themselves as hawks on violent crime. They will be pushing hardest probably for law-enforcement policies that can be presented to the American people as forceful.

To help safeguard the Reagan-Bush legacy, I'd look to groups like the prose-cutors--the NDAA [National District Attorneys Association], those state attorneys general who are responsible for prosecuting, and the police and sheriffs organizations.

Q: What's your sense: Are those groups in the loop in the Clinton administration? Are they a voice at the table, or are they grumbling that they're being shut out?

A: I think that they are a voice at the table in the framing of the crime bill. Senator Biden in particular has been negotiating with them.

Q: If Bush had beaten Clinton, and you'd stayed on for four more years as attorney general, what kind of initiatives would you have wanted to launch?

A: First, I would have proposed substantial incentives for states to reform their criminal-justice systems, along the lines of the department's violent-crime report in July 1992. Second, we would have launched a major expansion of the highly successful weed-and-seed program, both vastly expanding the number of cities participating and the scale of the programs in each city.

Operationally, I had been talking to the president and was confident that we would have had a number of initiatives, including the construction of regional prisons, allowing for the incarceration of state prisoners who were either chronic violent offenders or sex offenders. We would have been increasing the FBI by close to 4,000 agents over a relatively short period of time, coupled with subsidies for about 15,000 additional local police, who would work with those FBI agents in task forces. We were contemplating increasing DEA agents by approximately 2,500, again with about 10,000 additional subsidized local police to work in task forces. We would have increased border patrol agents to 6,000, from their current strength of about 3,500. And we would have put in place barriers, fences, and lighting along the border at strategic points to help secure the border.

Q: And you're confident that you could have afforded all those things?

A: I was confident, first, that the costs of these initiatives would be relatively modest; second, that the Bush administration understood that the first duty of government was to protect people from predators and, therefore, we could not afford **not** to spend the money.

And third, much of the weed-and-seed resources were being channeled from existing social spending programs.

And finally, we had identified certain moneys in the defense budget for these initiatives which, prior to the expiration of the 1990 budget deal, were off-limits to us. That was before the Clinton administration so unwisely hacked away at the defense budget.

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- Page: B2

Allen touts anti-crime plan

Republican gubernatorial candidate George F. Allen yesterday urged the elimination of parole for all criminals as part of an anti-crime plan he said would cost the state roughly $600 million.

"There's no reason to have parole for some and not others," Mr. Allen said at a Capitol news conference.

He was flanked by former U.S. Attorney General William Barr, who served in the Bush administration, and Richard Cullen, former U.S. attorney for eastern Virginia.

Mr. Allen cited statistics that pointed to a dramatic rise in crime during the time his Democratic opponent, Mary Sue Terry, served as Virginia's attorney general.

Both candidates have spent recent weeks focusing attention on ways to combat crime in Virginia.

Miss Terry also has proposed parole reform and tougher sentencing guidelines. Her plan would allow judges to lengthen sentences beyond those imposed by juries when a defendant has a criminal record.

Inmate's death ruled a suicide

Death row inmate Wayne Kenneth DeLong committed suicide last month by strangling himself with a cord, the state Department of Corrections said yesterday.

DeLong was on death row at Mecklenburg Correctional Center for killing a Richmond police detective seven years ago. He was to have been executed July 15.

But the 37-year-old inmate was found dead in his cell June 13.

Corrections officials found a syringe sticking in the inmate's arm. Toxicology tests showed DeLong had cocaine and alcohol in his blood when he died. The amount of cocaine in his system was .52 milligrams per liter. His blood-alcohol content was .14.

Corrections officials have not determined how the substances got into DeLong's cell.

A standard review of prison security was launched because of DeLong's suicide. State police were assisting in the probe.

- *Record: N00425720054*

Document: A Discussion of Judge Louis Freeh's Qualifications

A Discussion of Judge Louis Freeh's Qualifications

CNN NEWS

July 20, 1993

Section: News; Domestic; Interview

Length: 1143 words

Byline: FRANK SESNO

Highlight: Former Attorney General Barr discusses the qualifications that Presideent Clinton's nomination to head the FBI, Judge Louis Freeh, would bring to the agency. Also discussed are the challenges facing the FBI.

Body

FRANK SESNO, Anchor: As President Clinton announced his nominee to head the FBI, he said Louis Freeh, working with Attorney General Janet Reno, and drug policy director, Lee Brown, would form a street-smart front line against crime.

We continue our expanded coverage now, talking to someone who has experience on such a front line - Former Attorney General **William Barr**. Thanks very much for coming in.

Louis Freeh at the FBI - new challenges for a new man. First of all, tell us a little bit about what Louis Freeh is like. You worked with him; you met with him; you supervised some of his work, principally in the case of the mail-bombings that targeted Judge Vance [sp?] and others. What has- what kind of crime fighter is he?

WILLIAM BARR, Fmr. U.S. Attorney General: Well, before I even met- met him, his reputation proceeded him. He was legendary in the department as one of the outstanding prosecutors and professionals in the department - the kind of prosecutor the department would look to in a sensitive and difficult case, which is exactly what we did in the Vance bombing case while I was deputy attorney general.

He's a very substantive, hands-on individual; he's good with people; he doesn't let petty distractions interfere in getting the job done.

SESNO: So, he's a good administrator, and a good law man?

Mr. BARR: Yes. Both.

SESNO: He's got an interesting background. He's got experience as an FBI agent, federal prosecutor, and a judge. What does that enable him to do in terms of law- crime fighting as the head of FBI.

Mr. BARR: Well, I think it really uniquely qualifies him right now. It's just what's needed right now, in several respects. First, he is a true professional, and I think that should neutralize any suggestion that there's any politics involved in his appointment, or that there's any effort to politicize the FBI. That's clearly not the case. This is a law man's law man.

Also, I think that he is a substantive person - he understands the bureau; he's been a street agent; he understands their work; he respects their work; he will be engaged; and, I think that will be well received in the Bureau, and help lift morale in the Bureau. And, finally, I think he can hit the deck running - he knows the people; he respects the people who are in the Bureau now; they respect him; he understand the issues, so I don't think there's going to be a learning curve with this man.

SESNO: I want to get to the issues, and how the issues have changed for the FBI director. But, I think it's important to point out that you were attorney general when Mr. Sessions came under such scrutiny, criticism, a report indicating that he had misused the privileges and perks of his office.

Senator Dole, earlier today, said that he was concerned that Mr. Clinton, by removing Mr. Sessions - Judge Sessions, injected politics into this. It's a subject you just touched upon in your response a moment ago. Do you have any concern in that way?

Mr. BARR: I think that, as I think a lot of people have recognized, it's an unfortunate precedent to shift a director with a change in party, and we don't want to establish that precedent. The FBI should be above politics. But, I know Louie Freeh well enough to know that this is not a political individual, and therefore, I'm satisfied that there's not going to be a politicization of the FBI.-

SESNO: -Let's talk about-

Mr. BARR: -I think that Senator Dole was also coming from the background of the Travelgate matter, and his inability to get that looked into, and I think that was a serious problem. I think Attorney General Reno

has recognized that that was a serious transgression. So, I can understand his concerns.

SESNO: I do want to shift to the issues, now, confronting Judge Freeh as he takes over. Both he and President Clinton made the point today in their comments that the nature of crime-fighting has changed. And, they both talked about a variety of issues - among them, international terrorism. How has the job confronting the FBI director changed in your estimation?

Mr. BARR: The sheer magnitude of the threats. Not only is there increasing threat in the domestic terrorism area, or the international terrorism area. Paradoxically, the end of the Cold War has uncorked a lot of these nationalistic, and other groups that may engage in terrorism.

But, beyond that, I think as Louis Freeh indicated in the Rose Garden ceremony, organized crime threat is spreading. The FBI's done a very effective job against La Cosa Nostra, but now we're faced with a whole new group of Italian- Sicilian Mafia groups - the Endravid [sp?], and the Camorro [sp?], the Sicilian Mafia - Asian organized crime groups. So, that thread is proliferating.

We also are faced with increased violence in the United States - street gangs - organized street gangs that are also involved in drug dealing. The FBI is now committed to getting into that fight, as well.

SESNO: Let me stop you here, and take one of these at a time. Terrorism - what more can the FBI be doing? Or, what more should it be doing, must it be doing to combat terrorism?

Mr. BARR: I think it has to have a good intelligence system. That requires people in the field gathering information. It requires liaison with foreign governments - people overseas working on this problem.

I think the greatest threat to the FBI right now is that they have a lot of responsibilities, and we have to make sure that they get the resources to do the job. And, I'm very concerned that they are getting cut back now when they should actually be getting more resources.

SESNO: And, street gangs?

Mr. BARR: Street gangs, as you see, throughout the nation - cities that once had no violent crime problem now have street gangs-

SESNO: -What's the FBI's role in controlling that? Isn't that a local jurisdictional matter?

Mr. BARR: Not when they're organized groups that are subject to the racketeering laws in the United States, and also not when they're involved in drug trafficking. And, so, the FBI while under the Bush administration set up task forces around the country to work with state and local governments to help

counteract that threat. And, I think Louie Freeh will be particularly- will be a good leader in that respect because he's already demonstrated his ability to work with state and local law enforcement.

SESNO: A moment ago, you mentioned the question of budget and cutback. What budgetary challenge will Louie Freeh confront?

Mr. BARR: The FBI has- is now- it appears will be going through two years of cutbacks after 12 years of relatively good budgets. And, they're cutting back dramatically on agents, and I-

SESNO: -With what implications?

Mr. BARR: Well, I think they're not going to be able to cover all the bases unless they get those resources. And, not only resources in manpower, but in technology - the information revolution, and in the communications revolution has strengthened the hand of organized crime and drug groups, and resources have to be put into law enforcement to counteract that threat.

SESNO: **William Barr**, thanks very much. I appreciate your time.

Classification

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Transcript: 473 - 1

Subject: SPECIAL INVESTIGATIVE FORCES (89%); PUBLIC PROSECUTORS (89%); ATTORNEYS GENERAL (87%); JUDGES (87%); LAW ENFORCEMENT (87%); PUBLIC POLICY (70%); LAWYERS (70%); DRUG POLICY (65%); BOMBINGS (61%)

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1993 WLNR 178590

Washington Times (DC)

June 25, 1993

Section: NATION

Reno opens door to probe Ends insulation of Justice Dept. career lawyers

Jerry Seper - THE WASHINGTON TIMES

Attorney General Janet Reno has broken a long Justice Department tradition of protecting career department lawyers from outside political pressure by giving the green light to their interrogation by congressional investigators.

To the dismay of many department employees, Miss Reno has authorized House Energy and Commerce Committee investigators to cross-examine department lawyers they suspect of "undermining" prosecutions in environmental cases during the Bush administration.

At least 14 assistant U.S. attorneys assigned to the department's environmental crimes section have been targeted by the committee, chaired by Rep. John D. Dingell, as part of "a legislative oversight inquiry."

According to sources, the prosecutors have been ordered to submit to the interviews voluntarily or under subpoena. They also have been told to turn over documents, reports and memos in 20 environmental cases begun during the Bush administration.

The targeted group represents about half the career lawyers assigned to the section.

Mr. Dingell, Michigan Democrat, has said the department gave "preferential treatment" to some suspects and declined to prosecute others under "highly questionable circumstances." He also accused the prosecutors of being ready to "trivialize financial penalties."

Former Attorney General William P. Barr, who last year rejected Mr. Dingell's requests to make department lawyers available, called the new policy "political hogwash."

"As long as I can remember, there has been a policy to protect [career] prosecutors from the bullying and political pressures of Congress," Mr. Barr said yesterday. "It is horrifying to see this happen. . . . It will have a chilling effect on their ability to perform their responsibilities."

Some department officials questioned the decision, saying existing policy prohibits staff lawyers from testifying or giving up documents to outside investigators. They said congressional inquiries have always been directed at political appointees.

"Congress wants to run the Justice Department, wants to manipulate the process and intimidate prosecutors, so it's pulling the strings on investigations," said one senior official. "Allowing the bullies on Capitol Hill to call the shots is the rawest kind of politicalization."

One former official, who investigated the Dingell allegations when they surfaced last July, called them unfounded and "an insult to the years of selfless, dedicated service given by the career line attorneys and managers of the environmental crimes section."

Roger Clegg, former deputy assistant attorney general, said the charges began with "disgruntled, second-rate bureaucrats at the Environmental Protection Agency trying to even personal scores with Justice Department prosecutors and make points with congressional staff."

Miss Reno, who has made the prosecution of environmental crimes a top priority, has issued no statement on the new policy. Justice spokesman Joe Krovisky yesterday confirmed that department officials had "agreed in principal" to permit the interviews but said "details are still being worked out."

Dennis Fitzgibbons, spokesman for Mr. Dingell, said interviews have not begun, but talks are under way to determine when committee investigators would proceed. He referred questions on any impropriety of the interviews to "those who have concerns," saying investigators were "only trying to establish the facts" of what happened in the environmental investigations.

In addition to the section lawyers, investigators also are looking to interrogate a U.S. attorney in Washington state, one in Wyoming and seven other federal prosecutors involved in environmental cases in Maryland, Texas, Washington, Missouri, Wyoming, Alabama and Arkansas.

Also scheduled for interviews is section chief Neil Cartusciello, a career prosecutor. Mr. Cartusciello declined comment yesterday, referring inquiries to the department's public affairs office.

Several current and former department officials, including Mr. Clegg, noted that Mr. Cartusciello had offered on several occasions to talk to Mr. Dingell or committee staffers about the questioned cases.

"He repeatedly asked to be interviewed, both informally and in writing," Mr. Clegg said. "Starting more than a year ago, he offered to testify at hearings or meet informally with Mr. Dingell.

Some officials believe the committee's concerns are politically based. They said the section, a part of the department's Environment and Natural Resources Division, was a frequent target of criticism during the 1992 presidential campaign.

G0042974-062593

Photo, Attorney General Janet Reno attends a meeting with President Clinton yesterday at the White House., By Ross D. Franklin/The Washington Times

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Legislation (1LE97); Government (1GO80); Government Litigation (1GO18))

Industry: (Construction (1CO11); Insulation (1IN66); Building Materials (1BU25))

Region: (Wyoming (1WY84); USA (1US73); Americas (1AM92); North America (1NO39); Nevada (1NE81))

Language: EN

Other Indexing: (ATTORNEY; CONGRESS; ENVIRONMENTAL PROTECTION AGENCY; HOUSE ENERGY AND COMMERCE COMMITTEE; JUSTICE; JUSTICE DEPARTMENT; JUSTICE DEPT; PHOTO; RENO; WHITE HOUSE) (Arkansas; Barr; Bush; Cartusciello; Clegg; Clinton; Dennis Fitzgibbons; Dingell; Janet Reno; Joe Krovisky; John D. Dingell; Michigan Democrat; Miss Reno; Neil Cartusciello; Roger Clegg; Ross D. Franklin; William P. Barr)

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6/23/93 Portland Oregonian C08
1993 WLNR 4494747

Oregonian, The (Portland, OR)

June 23, 1993

Section: EDITORIAL

A YEAR LATER, HOUSE BANK INTEREST GONE

DAVID SARASOHN - Associate Editor, The Oregonian

So far, there's been a quiet response to the most important political news of last week -- that Bob Davis won't face criminal charges.

Probably, in fact, the only person excited about it was Bob Davis.

This is surprising, when you consider that just one year ago, Davis's problem was widely considered the hottest news out of Washington, a compelling example of everything that was wrong with American government. Hundreds of prominent politicians could not make a speech without being asked about it -- and the rest couldn't make a speech without pointing to it.

Just about 15 months ago, it was revealed that Davis -- then Rep. Bob Davis, R-Mich. -- had overdrawn his account at the House Bank 878 times. Several hundred of his House colleagues had also overdrawn theirs, either a few times or several hundred. There was no public money at risk -- it was one of the few House activities where there wasn't -- and no House member had even made off with any of the bank's money.

Nevertheless, the republic tottered. Ross Perot, whose own checks are more likely to bounce the bank, said indignantly that this kind of thing was just what he was talking about. House Republicans expressed shock at such Democratic fiscal immorality, then watched as several of their own leaders went sprawling in deposit slips. Reporters, whose own financial records are often the fiscal equivalent of a Studebaker up on blocks, pronounced themselves astounded at the very idea of checking overdrafts.

I think there was one part where the angry villagers streamed up to Capitol Hill with torches.

Attorney General William Barr, while failing to collect virtually any of the billions of dollars that disappeared from savings and loans, leaped to name a special prosecutor to deal with all the crimes committed at the House Bank -- a Republican retired judge named Malcolm Wilkey. ``Given the unique circumstances and sensitivities to this matter,'' explained Barr, ``I have concluded that the public interest will be served by appointing an individual like Judge Wilkey.''

Cue theme from ``The Untouchables.''

Wilkey was clearly the right choice, because only a month after his appointment, he declared that his investigation ``has already unearthed evidence that a classic check-kiting scheme may have occurred."

To crack that criminal conspiracy, Wilkey obtained a subpoena for all records of the bank for the previous 39 months. This included not only all checks -- overdrawn or not -- for the 355 current and past House members who had ever overdrawn their accounts, but also all checks written by 170 House members who never had.

This created certain obvious questions about rights and privacy, but Rep. Thomas J. Bliley, R-Va., declared, ``The House cannot at this time hide behind a technicality."

So Wilkey received all the information he wanted, began his investigation -- and started sending out letters to House members clearing them individually. By the end of the year, he had sent out several hundred such letters -- and indicted nobody.

Undiscouraged, Wilkey in December expressed confidence that President-elect Clinton would not cut off his investigation. ``In those instances where my preliminary report has uncovered evidence of possible criminal conduct," he warned, ``only a full investigation can determine whether indictment and prosecution is appropriate."

Apparently, Wilkey was persuasive -- possessing 400 House members' checking records gives your argument that extra something -- and he's still around. He continued sending out his good-conduct letters, most recently to Davis. And a year after the House bank became the symbol of perks and peculation, he has still indicted nobody.

As of now, in fact, all current House members except one have received their letters of transit. The letter for the one exception, Rep. Harold Ford, D-Tenn., has been reportedly delayed mostly because Ford was distracted by his trial on other charges in Memphis.

This leaves approximately half a dozen former members -- and a serious chance of indictment for maybe two of them.

Welcome to the House bank scandal one year later. No congressional indictments so far, and after a year of pawing through the financial records of 500 House members, maybe Wilkey will produce two.

A year spent with the personal financial records of 500 Washington reporters might produce that much.

This might be why Davis's letter wasn't the biggest story of last week, although a year ago it might have been. Or more likely, we've just swept on to other vital issues -- such as Bill Clinton's haircut.

In American politics, we hardly ever go back and look at what obsessed us a year ago. Doing that might be more embarrassing than having an overdrawn checking account.

In this case, it might suggest that those House bank accounts weren't the only things that were overdrawn.
BAD CHECK

---- Index References ----

Region: (USA (1US73); Americas (1AM92); Tennessee (1TE37); North America (1NO39))

Language: EN

Other Indexing: (HOUSE; HOUSE BANK; HOUSE REPUBLICANS) (Attorney; Barr; Bob Davis; Clinton; Cue; Davis; Harold Ford; Malcolm Wilkey; Rep; Ross Perot; Thomas J. Bliley; Wilkey; William Barr)

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Return to sender -- please

U.S. News & World Report

June 21, 1993

Section: U.S. NEWS; COVER STORY; Vol. 114, No. 24; Pg. 32

Length: 723 words

Byline: By James Popkin; Dorian Friedman

Series: Huddled masses
Highlight: Illegal aliens easily scam the nation's lame deportation system;

Body

When Mir Aimal Kansi wrote the Immigration and Naturalization Service on Feb. 2, 1992, claiming that he had illegally entered the United States from Pakistan a year earlier, the response was hardly draconian. Not until Kansi allegedly murdered two CIA employees with an assault rifle outside the agency's headquarters last January did federal officials show any interest in the illegal alien, now on the lam.

The irony is that even if the INS had decided to deport Kansi the moment he mailed his mea culpa, he very likely would have been free on that tragic January day. The nation's detention and deportation system is in disastrous condition and may only be getting worse. Staff shortages, overrun detention centers and time-consuming administrative procedures have conspired to make Kansi's story all too typical. Some of the nation's most notorious recent crimes, from the bombing of the World Trade Center to last week's bungled attempt to smuggle nearly 300 Chinese into New York, have involved aliens in the midst of deportation proceedings.
An estimated 3 million illegal aliens live in the United States, and some 300,000 slip by border agents annually. Once inside, few are deported. Last year, the INS deported about 38,000 -- and that was a record high. The problems:

Strapped facilities. Between 1988 and 1990, 489,000 aliens scheduled to be deported could have been locked up, but the INS had only 6,600 beds, forcing it to release more and more suspects. In 1982, the General Accounting Office reports, 24 percent of those apprehended were detained; in 1990 only 9 percent were held. Some 1,900 additional beds should be ready by 1996, but massive shortages will remain. "We have 62,000 people under [deportation] proceedings in our district, and we deport about 750 a year," says Edward McElroy of the INS's New York District. "At that rate it would take 80 years to clear the system out."

Criminal aliens. While only a small minority of illegals are criminals, they are a major cause of Americans' anger at immigrants. Deportable illegals comprise 26 percent of all inmates in federal prisons. In California alone, up to 15 percent of the inmates in state prisons are thought to be deportable aliens, and the state wants the feds to pick up the $ 250 million annual confinement tab.

Deporting an illegal immigrant -- even one with a long criminal record -- hardly guarantees he'll stay away. INS agents deported felon Guo Liang Chi to China in August 1988; Guo, linked to last week's smuggling of Chinese boat people, sneaked back through Mexico in 1989, reportedly using false papers -- a common practice.

Abundant loopholes. A liberal appeals process, created to protect the rights of legitimate aliens and political-asylum seekers, adds to the overload. Immigrants who simply fail to show up for hearings suffer few consequences and may even help themselves; judges rarely recommend deportation for illegals who have been in the country for seven years. Studies suggest that perhaps as many as half to 80 percent of all illegal aliens are no-shows. "They can play the legal system for over a decade," says former Attorney General William Barr. "And while litigating, they form attachments here, so it becomes a Catch-22." Meanwhile, thousands of legitimate asylum applicants often languish for years, trapped in the same maddening process.

Other prospective illegals have learned how to benefit from the confusion. When all the New York beds are full, detainees call and tell those back home: If you come to New York now, chances are you'll be set free. "The intelligence is so good that someone in, say, Northern India knows exactly when the New York-area detention centers are full," says a former INS official. In Los Angeles, as many as 1,000 illegal immigrants arrived each month in 1990, but when a huge new center housing 800 detainees opened a year later, the monthly influx plummeted to 250.

For now, the botched Chinese landing outside New York has highlighted shortcomings in the nation's deportation policies. But when immigration once again slips off the evening news, prospective immigrants will still be calling their relatives in America, finding new ways to beat the system.

DEPORTABLE ILLEGALS ARE 26 PCT. OF THE INMATES IN FEDERAL PRISONS.

Graphic

Picture, Huddled masses (Hiroyuki Matsumoto -- Black Star); Picture, Sheik Omar Abdel Rahman. One alien who figures in the Trade Center bombing case (Ron Haviv-Saba)

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5/31/93 L.A. Times 5
1993 WLNR 3991317

Los Angeles Times

May 31, 1993

Section: MN-Main News

WASHINGTON INSIGHT

L HOUSTON

PRIME POTOMAC PLAYER: A buttoned-up Brit he's not. Thoughtful, charming and wide-ranging in contacts he is, as Washington's most visible foreign diplomat and social lion. Sir Robin Renwick, British ambassador to the United States, has been in the middle of U.S.-European strategy talks on Bosnia. In part, that's because he is close friends with the likes of President Clinton's foreign policy adviser, Anthony Lake, Defense Secretary Les Aspin and CIA Director R. James Woolsey, not to mention all their counterparts in previous Republican administrations. He also has strong personal links to some of America's top black leaders--largely because he was instrumental, as ambassador to South Africa, in getting that country's president, Frederik W. de Klerk, to release black revolutionary Nelson Mandela from prison as a start toward peace. . . . Renwick said his government hasn't bought Clinton's proposed air strikes against Bosnian Serbs because Britain, although "quite a warlike country," is fearful of "a quagmire" in the region. But "we are not excluding the use of air power. It may come to that," he said in his embassy office, amid 10 books he plans to read while on speaking trips around the United States. . . . Renwick gives famously fabulous parties, enlivened by blue-grass bands and an orchestra of electronic robots. His favorite team: the Washington Redskins. "Pro football," he avers, "is much more spectacular than soccer."

*

TURNABOUT: George Bush's last attorney general, William P. Barr, is open-mouthed over the Clinton White House leaning on the FBI for help in the travel office fiasco. "Let's just say, if this happened on my watch, I wouldn't be let up for air," said Barr, who could be excused if he's luxuriating in the Democrats' discomfort: He was accused by some Democrats during the presidential campaign of, ahem, politicizing the Justice Department.

*

PROBE PLANNED: Intrepid House investigator John D. Dingell (D-Mich.) is organizing broad hearings into "a morass of waste and mismanagement" from government contracting. High on Dingell's target list: an Energy Department contract with the University of California under which he says $500 million in "excess taxpayer dollars" has been overpaid to a UC pension fund--and needs to be recovered.

*

PEROT GLOW: Republican House freshmen were aglow after 1992 presidential also-ran Ross Perot endorsed some of their reform ideas (line-item veto, etc.) in meetings at the Capitol. "He wanted to be helpful in any way he could," said freshman class president Howard P. (Buck) McKeon (R-Santa Clarita). McKeon added that it's "way too early" to say whether he could support Perot for President in 1996 if he ran as a Republican. For one thing, GOP presidential hopeful Jack Kemp is the star attraction at a McKeon fund-raiser in Studio City next month.

*

SHORT TAKES: The First Lady, a native of Park Ridge, Ill., has joined a Washington-based Chicago Cubs fan club, noting that in 35 years of rooting for the perennially hapless team, she has "developed a set of expectations that will probably never be met. However," added the wife of the man from Hope, Ark., "hope springs eternal." . . . Dorothy (Doro) Koch, daughter of former President Bush, has a new baby and a new bumper sticker on her van: "Don't Blame Me--I Voted for Bush."

---- Index References ----

Industry: (Defense Policy (1DE81); Aerospace & Defense (1AE96); Defense (1DE43))

Region: (Bosnia & Herzegovina (1BO46); Europe (1EU83); USA (1US73); Americas (1AM92); Eastern Europe (1EA48); North America (1NO39))

Language: EN

Other Indexing: (BRIT HE; CIA; CLINTON WHITE HOUSE; DE KLERK; DEFENSE; DEMOCRATS; ENERGY DEPARTMENT; FBI; INTREPID HOUSE; JUSTICE DEPARTMENT; PRIME; REPUBLICAN; REPUBLICAN HOUSE; TURNABOUT; UC; UNIVERSITY OF CALIFORNIA) (Anthony Lake; Barr; Buck; Bush; Clinton; Dingell; George Bush; High; Howard P.; Jack Kemp; John D. Dingell; Les Aspin; McKeon; Pro; R. James Woolsey; Renwick; Robin Renwick; Thoughtful; William P. Barr)

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Tough Enough?

The National Journal

May 15, 1993

Section: JUSTICE; Vol. 25, No. 20; Pg. 1154

Length: 3816 words

Byline: W. JOHN MOORE

Highlight: Attorney General Janet Reno has emerged as the shiniest star in the Clinton Cabinet. But she has yet to prove herself in the job that will occupy most of her time: running the Justice Department. Will she have the skill and the clout to steer the Justice Department in a new direction?

Body

In a sea of corporate gray, a splash of exuberant yellow appears. Attorney General Janet Reno has arrived at the U.S. Chamber of Commerce. Reno wades through the crowd, a buzz of anticipation trailing in her wake. It is less than 48 hours after the disaster at the Branch Davidian compound in Waco, Texas.

Until now, Reno has enjoyed a perfect six-week Washington honeymoon. Liberal public-interest groups have cheered her appointment. The press corps has been charmed, the pundits have swooned. Best of all, Congress is enthralled. Her confirmation hearings proved a love-fest, and her nomination zipped through the Senate with nary a vote cast against her.

Reno has been going places no Attorney General has gone in a decade. At a conference of criminal defense lawyers, she hailed attorneys for death row inmates as "heroes." She visited a northwest Washington neighborhood terrorized by a shotgun stalker. In a move with obvious symbolism, she convened a major conference on civil rights inside the department's Great Hall of Justice.

As she works the crowd at the Chamber of Commerce, it is already clear that Waco has only enhanced Reno's stature. She went eyeball-to-eyeball with *Nightline*'s Ted Koppel, and the ABC television anchor flinched. "Guts," exclaimed a headline in New York City's *Daily News* over Reno's front-page picture. Even *Vanity Fair*, that arbiter of chic, plans a Reno profile.

The 54-year-old former Dade County (Fla.) state attorney is a Clinton Administration star, a tough crime fighter with heart. To a legion of fans, the first woman Attorney General seems as unflappable as *Dragnet*'s Sgt. Joe Friday, as incorruptible as Eliot Ness, as vigilant as McGruff the Crime Dog.

Administration officials needing a boost after a rocky start know a savior when they see one. "We have struck gold with Janet Reno," White House counsel Bernard W. Nussbaum crowed in a recent interview.

But Reno has yet to prove herself in the job that will occupy most of her time: running the Justice Department, with its 98,000 employees and $ 11 billion annual budget. Much is expected of her -- from a dramatic shift in legal policies to wholesale changes in the government's antitrust, civil rights and environmental enforcement priorities. (*See box, p. 1158, for more details on changes in Justice policy*.)

Criminal justice, a priority that the Reagan and Bush Administrations shared, is likely to be at the top of her agenda. As a prosecutor for almost 20 years, Reno knows street crime. But harsher punishment won't be her solution. In

fact, the Justice Department's fiscal 1994 budget augurs a major policy shift by calling for a sharp contraction in prison construction funds. So do Reno's speeches questioning mandatory sentences for minor crimes.

Reno's toughest job -- one that has bedeviled prior Administrations -- will be to implement the President's policies without making Justice a partisan arm of the White House. She must restore prestige to a department whose credibility has been undermined by a decade's worth of prosecutorial bungling, ideological trench warfare and the whiff of scandal, critics of the agency say.

"If you look back at the history of the Justice Department, there has never been a period when it has been subject to so much legitimate criticism," said former District of Columbia Bar president Charles R. Work, a Justice Department official in the Nixon and Ford Administrations who is now a Washington lawyer with the Chicago-based law firm of McDermott, Will & Emery. "What needs to be restored to the Department of Justice is a sense that the partisanship is over and that ideology does not matter anymore."

"There must be a sense that the law is being enforced without fear or favor," said former Attorney General Elliot L. Richardson, now a Washington lawyer with the New York City-based law firm of Milbank, Tweed, Hadley & McCloy.

A legion of critics has pilloried Justice as the most mismanaged, morally bankrupt and overly politicized agency in Washington. The congressional General Accounting Office (GAO) has blistered the department's fight against savings and loan fraud, pointing out that it has collected less than 5 per cent of the $ 850 million in court-ordered fines. S&L crooks serve too little time in jail, the GAO added.

Justice also dawdled in its investigation of the Bank of Credit and Commerce International (BCCI) fiasco, the biggest bank scandal ever, while the heavy lifting was done by the local prosecutor in Manhattan. Despite a report by outside counsel that mostly exonerated the agency, Capitol Hill Democrats remain troubled by Justice's investigation of an Italian megabank, Banca Nazionale del Lavoro (BNL), whose Atlanta branch loaned billions of dollars to Iraq, apparently with the knowledge of the CIA.

The House Judiciary Committee has excoriated the department for stonewalling an investigation into allegations that a computer program was stolen from its inventor by ex-Justice officials. Black politicians have complained that they were singled out for investigation or prosecution by hostile Republicans in the agency. Justice Department attorneys also stand accused of leaking confidential information in last year's Rodney G. King case to the police officers' defense attorneys in Los Angeles. And Justice's meddling in a Richmond (Va.) grand jury proceeding may have helped Sen. Charles S. Robb, D-Va., avoid indictment.

Several U.S. Attorneys' offices have embarrassed the department, too. In Chicago, the U.S. Attorney may have withheld evidence while prosecuting a notorious South Side gang. In Denver, a grand jury mutinied after the U.S. Attorney refused to prosecute the people allegedly responsible for environmental crimes at the Rocky Flats nuclear weapons plant.

Criminal defense lawyers contend that Justice has unfairly used new forfeiture and money-laundering laws to pummel their clients. The department has also enraged the legal community by maintaining that its lawyers aren't bound by state bar association ethics rules.

TURF FIGHTING

Republican Justice Department veterans scoff at such complaints. "I would not even dignify those charges with a response," former Attorney General ***William P. Barr*** said in an interview.

Others dismiss the accusations as partisan Democratic rhetoric wrapped in liberal media bias. At least since the days of Robert F. Kennedy, Attorneys General from both political parties have implemented their Presidents' agendas, said Terry Eastland, a resident fellow at the Ethics and Public Policy Center who was the Justice Department's chief spokesman during the Reagan Administration. "When conservatives implement their views, it's all partisan politics," Eastland said. "When liberals do, it is principled policy advocacy."

Moreover, Republicans jeer that President Clinton had been in office only a few weeks when his Justice Department tried to meddle in the criminal trial of Rep. Harold E. Ford, D-Tenn., at the request of the Congressional Black Caucus. "If that had happened on the Republican watch, there would have been a nuclear explosion on Capitol Hill and in the press," a senior Justice Department official in the Bush Administration complained. (The Clinton Justice Department withdrew its request to have a new jury selected in the Ford case, and Ford subsequently was acquitted.)

Reno was not yet Attorney General when the flap over the Ford case erupted. At her nomination hearings, she noted that Acting Attorney General Stuart Gerson, a Republican holdover, had approved the request for a new jury. But her decision to ask for the resignation of all U.S. Attorneys was interpreted by some critics as an attempt to derail a pending investigation of House Ways and Means Committee chairman Dan Rostenkowski, D-Ill. "This might suggest that the Clinton Administration will have a more political Justice Department than the Reagan Administration Justice Department, which allowed a number of Democratic appointees to remain for a year or longer," said Richard K. Willard, an assistant attorney general under President Reagan who is now with the Washington law firm of Steptoe & Johnson.

In an interview with wire service reporters last month, Reno flatly denied that her request was motivated by politics. Several Republicans have also said the charges were unwarranted.

But some Democratic loyalists are worried. "She is off to a questionable start. Every sign is that the decisions are coming from the White House, and it clearly has an agenda of its own," said Ronald L. Goldfarb, a lawyer with the Washington firm of Goldfarb & Associates who worked in the Justice Department under President Kennedy and is finishing a book on Justice's crusade against organized crime. "Any Attorney General who accepts that atmosphere is on slippery rocks already because the decisions made are not necessarily her own."

Clinton's appointments to top Justice posts have earned good reviews. But sources said that the delay in finding an Attorney General, as well as keen White House interest in Justice appointments, suggests that Reno played a minimal role in choosing her top three assistants: Harvard Law School's Philip B. Heyman as deputy attorney general, Hillary Rodham Clinton's former law partner Webster L. Hubbell as associate attorney general and Yale Law School professor Drew S. Days III as Solicitor General.

Others question Reno's clout in an Administration crowded with prominent lawyers and experienced turf warriors. White House lawyers came aboard at Justice weeks before Reno arrived and made key policy decisions on issues ranging from the legal status of Haitian refugees to the constitutionality of private meetings of Hillary Clinton's health care task force. White House lawyers are expected to make the decisions on judicial nominations.

In an Administration where titles matter little in determining the locus of power, some experts predict that Reno, at a minimum, will have to compete with White House counsel Nussbaum and with Heyman and Hubbell. Nussbaum has already gained a reputation as a skilled infighter with everyday access to the President. Heyman, a former assistant attorney general in the Criminal Division, has more experience with the federal bureaucracy than does Reno. And Hubbell is a Clinton crony from way back. During the Waco crisis, hours passed before Reno talked to the President. Meanwhile, Hubbell talked to Clinton three times, according to an NBC News report.

"You have an Attorney General who comes to the job without a constituency in the White House or a constituency in Justice and without much experience in Washington," former department spokesman Eastland said.

Reno's defenders play down the talk of turf fighting. "The people who are saying that have not been around Janet Reno. No one tells Janet Reno what to do," said Mark H. Gitenstein, a Washington lawyer with the Chicago-based firm of Mayer, Brown & Platt and a former chief counsel to the Senate Judiciary Committee.

Reno has deflected some of the questions about her authority with humor, joking with reporters that she is not worried about Nussbaum. "I'm taller than him," kidded the six-foot-two Reno, who towers over the five-foot-seven White House counsel. But she has said virtually nothing about what role she plays in the selection of her subordinates.

Her deputies are expected to play major roles in formulating policy. During her confirmation hearings, Reno acknowledged that given her years spent as a prosecutor, she has not focused on antitrust law and changes in the civil justice system. Nor is she a litigator.

"She's an ingenue when it comes to the major legal and constitutional issues of the day," scoffed conservative legal expert Bruce E. Fein, who was a Justice official in the Reagan Administration.

But Reno views herself as a leader, not as a scholar. "I've looked back over Attorneys General and nobody comes in having had experience as a prosecutor, an antitrust litigator, a great civil lawyer and as a generalist," Reno said at the March 10 hearing. "If I have an ability, it's an ability to build a strong, vigorous team and to command its loyalty."

TAKING CONTROL

Even as some Justice-watchers fret about politicization of the department, others are urging Reno to move aggressively to implement the President's policy agenda. "I never thought White House involvement in Justice Department decision making was a bad thing. Ultimately the President is responsible for what the Justice Department does," said Charles J. Cooper, who headed Justice's Office of Legal Counsel from 1985-88 and is now with the Washington law firm of Shaw, Pittman, Potts & Trowbridge.

The Attorney General takes positions on everything from antitrust merger guidelines to affirmative action, said Washington lawyer Theodore B. Olson, who was the Office of Legal Counsel chief from 1981-84 and now is a Washington lawyer with the Los Angeles-based firm of Gibson, Dunn & Crutcher. "Those decisions will be characterized as political, but it is unjustified criticism."

Justice can't do much until the department gets more people on board, though. Reno was named to her post only after the first two favorites were forced to withdraw; in early May, she was still the only Clinton Justice appointee who had been confirmed by the Senate. At a time when legal policy is being made and turf is being staked out, it is important that the the Justice Department not fall behind in getting organized, Olson warned.

After 12 years of Republican control of the agency, some Democrats worry that gaining control of Justice will take time.

"There is a real need to take control of the Justice Department machinery" because many decisions are still being made by Republican holdovers, some of whom have switched to career positions, warned Elliot M. Mincberg, legal director of People for the American Way, a liberal public-interest group in Washington. Delays have allowed the Justice Department to file at least one appeals court brief -- in a 1st Amendment case involving the National Endowment for the Arts -- endorsing a Bush Administration policy that the Clinton Administration is considered likely to change.

Some Democrats fear that Republican lawyers are entrenched in the two Justice hot spots -- the Office of Legal Policy, the power cell of the Reagan-Bush Justice Departments, and the Solicitor General's office. At the legal policy shop, the Republicans repeatedly hired ex-assistant U.S. Attorneys from around the country and turned them into career agency lawyers, sources said.

Ex-Reagan Administration lawyers call it ironic that the Democrats now complain about any Republicans ensconced at the Justice Department given the huge number of career lawyers who are either nonpartisan or Democrats.

Reno's relationship with the nation's U.S. Attorneys is also likely to command her attention. Many ex-Justice Department officials say that complaints about her firing the holdover U.S. Attorneys were unwarranted. Nor do many experts take seriously the charge that Reno requested the resignations as a way to eliminate U.S. Attorney Jay Stephens of Washington, whose office has been investigating Rostenkowski.

"I'm somewhat surprised by his [Stephens's] reaction," said Stephens's predecessor, Joseph E. diGenova, now a Washington lawyer with the Los Angeles-based firm of Manatt, Phelps & Phillips. "If anybody should understand the political process, it is Jay."

In fact, there is a growing effort to have the Justice Department exert greater control over the U.S. Attorneys' offices. According to some criminal law experts, more control from Washington might have spared the department some of the bigger embarrassments that it suffered during the Reagan and Bush years, including the BCCI disaster and the BNL flop.

"Too little central direction can stymie implementation of national initiatives as well as lead to inconsistency and inefficiency," the GAO said in a transition report released in December.

"There are cowboys out there," said Victoria Toensing, a former deputy assistant attorney general in the Criminal Division who is also with Manatt, Phelps in Washington. "It does not matter if there is a Democratic or Republican Attorney General, the U.S. Attorneys should be told that there is someone in Washington who can overrule them."

On complex cases, the Justice headquarters staff has more experience and better resources than the U.S. Attorneys have, Toensing said. Moreover, during the past decade, federal prosecutors have been given an arsenal of tough new laws on forfeiture, money laundering and racketeering. Justice needs to ensure that these weapons are properly used, she added.

And, given stringent new sentencing guidelines and mandatory minimums for many crimes, the Justice Department needs to be more consistent in charging people with crimes, said Whitney Adams, a Washington lawyer with the New York City-based law firm of Rogers & Wells. If different U.S. Attorneys have different standards, jurisdiction determines justice, which is extremely unfair, Adams said.

At the nomination hearings, Reno suggested she would establish closer relations with the U.S. Attorneys. "What I would try to do as Attorney General is to spell out general guidelines where the U.S. Attorneys knew what they could do and could not do," Reno said.

CRIME WATCH

Reno is widely expected to emphasize crime fighting, which made her one of the nation's most highly regarded local prosecutors -- respected enough on the streets to have a rap song dedicated to her: *You walked in the courtroom cool and slow And called Janet Reno a no-good dirty ho' She locked your ass up, and now you don't know what to do The boys on the Ave. are sure dissing you*. (from "Janet Reno," by the female hip-hop group, Anquette; sung to the tune of "Charlie Brown" by the Coasters and used by permission of Luke Records, Miami)

But Reno's track record in Dade County was not one of unqualified success. (*For details, see box, p. 1156*.)

Reno has said in her speeches and congressional testimony that the department's top criminal justice priorities include public corruption, major drug trafficking and white-collar crime. She will almost certainly push hard for a major crime bill that for the first time in several years is unlikely to face the threat of a presidential veto.

Crime legislation introduced on Capitol Hill would impose a waiting limit on the purchase of handguns, the so-called Brady bill, and would expand use of the death penalty for federal crimes and restrict death penalty appeals. The Administration will try to add its own favorites to the mix, providing money to put another 100,000 police officers on the streets.

Law and order is not Reno's only agenda. In Miami, she played a major role in establishing special courts that offered alternatives to prison for some drug users.

The department's proposed fiscal 1994 budget suggests that Reno's approach to crime will not focus solely on putting people in jail. Although the budget reflects few changes in programs inherited from the Bush Administration, one number sticks out. In 1994, the department expects to spend $ 37 million less for the construction of prisons than the $ 192 million Congress appropriated in 1993. By 1998, the Clinton Administration expects spending on prison construction and maintenance to drop to $ 112 million annually.

Dan Dunne, a spokesman for the department's Bureau of Prisons, said that the decline in spending on construction does not anticipate a drop in the number of federal prisoners. By 2000, the number of prisoners could reach 130,000, up from 24,000 in 1980 and approximately 85,000 this year, Dunne said.

But some former Bush Justice Department officials say that the budget proposal heralds a dramatic shift from the agency's previously hard-nosed approach to crime. Paul J. McNulty, a former director of Justice's Office of Policy and Communications who is now a Washington lawyer with Shaw, Pittman, said that the change should not be viewed only as a cost-saving measure. Members of Clinton's transition team at Justice have said that the budget cuts must be combined with changes in the criminal sentencing laws, McNulty said.

Indeed, in recent interviews, Reno has questioned whether the mandatory minimum sentences being meted out in drug cases have put too many nonviolent criminals into prison.

But these tough laws were mandated by a Democratic-controlled Congress, Steptoe & Johnson's Willard said. If Reno wants changes in sentencing of criminals, the Attorney General should go to Congress and announce those policy preferences, Willard added, rather than hinting at changes through budget cuts.

A spate of new laws such as a recent one that makes carjacking a federal crime will also add people to the federal prison population, McNulty warned. If the Clinton Administration wants to fight violent crime, he said, more federal money is needed to back up that approach by building more prison cells. "This is an issue that involves a clear distinction between Bush Administration policies and Clinton Administration policies."

Groups such as the Washington-based National Association of Criminal Defense Lawyers also predict a major change in attitude at Reno's Justice Department. Reno's appearance at an association meeting on Capitol Hill sent an important signal that she will meet with all groups, the association's executive director, R. Keith Stroup, said. The past two Republican Justice Departments used forfeiture laws to seize lawyers' fees and permitted contact between government attorneys and defendants without defense counsel being present. The previous Attorneys General "crossed the line from seeing the criminal defense bar as adversaries into viewing the criminal defense bar as the enemy," said association president Nancy Hollander, an Albuquerque (N.M.) attorney.

Leaders of the criminal defense lawyers' group predict that such battles will end under Reno, despite Justice's continued war on crime. "I don't think you'll see the extremist positions we had to contend with over the past 12 years," Stroup said.

Liberals also say they sense the beginning of a new era at Justice. "Janet Reno has been a breath of fresh air," said Barbara R. Arnwine, executive director of the Lawyers' Committee for Civil Rights Under Law.

Rep. Don Edwards, D-Calif., the liberal chairman of the Judiciary Subcommittee on Civil and Constitutional Rights who often clashed with the Reagan and Bush Justice Departments, also predicted major changes. "How will things be under Janet Reno?" he asked. "I can answer that in two words: much better."

Graphic

Cover Photo, no caption; Picture 1, Much is expected of Janet Reno -- from shifts in legal policy to wholesale changes in the government's enforcement priorities; Picture 2, Former Attorney General Elliot L. Richardson. Laws must be enforced "without fear or favor.", Pictures 1 and 2, Richard A. Bloom; Picture 3, Victoria Toensing, a former deputy in Justice's Criminal Division. Some U.S. Attroneys are "cowboys," armed with new racketeering and forfeiture laws; Picture 4, House Judiciary panel's Don Edwards, D-Calif. From a liberal vantage, Reno is "much better.", Pictures 3 and 4, John Eisele

Classification

Subject: CONFERENCES & CONVENTIONS (90%); BUSINESS & PROFESSIONAL ASSOCIATIONS (90%); ATTORNEYS GENERAL (90%); LAW ENFORCEMENT (89%); LAWYERS (89%); CIVIL RIGHTS (88%); JUSTICE DEPARTMENTS (78%); PUBLIC PROSECUTORS (78%); CHAMBERS OF COMMERCE (77%); US STATE GOVERNMENT (76%); LEGISLATIVE BODIES (75%); CORRECTIONS (73%); CAPITAL PUNISHMENT (73%); PRISONERS (73%); INTERVIEWS (70%); PRISONS (68%); DOGS (67%); ENVIRONMENTAL ENFORCEMENT (60%)

Company: AMERICAN BROADCASTING COS INC (67%); AMERICAN BROADCASTING COS INC (67%)

Organization: US DEPARTMENT OF JUSTICE (84%); UNITED STATES CHAMBER OF COMMERCE (84%); UNITED STATES CHAMBER OF COMMERCE (84%); US DEPARTMENT OF JUSTICE (84%)

Industry: LAWYERS (89%); LATE NIGHT TELEVISION (70%); BUDGETS (64%)

Person: RONALD REAGAN (66%)

Geographic: NEW YORK, NY, USA (79%); NEW YORK, USA (79%); TEXAS, USA (79%); FLORIDA, USA (79%); UNITED STATES (93%)

End of Document

Reno Reportedly Delays Action on FBI Chief Sessions's Future

The Washington Post

May 14, 1993, Friday, Final Edition

Section: FIRST SECTION; PAGE A26; NATIONAL NEWS

Length: 681 words

Byline: Michael Isikoff, Washington Post Staff Writer

Series: Occasional

Body

Attorney General Janet Reno has delayed action on the future of embattled FBI Director William S. Sessions, putting off a decision about his tenure for what could be another two to three months, knowledgeable sources said yesterday.

The decision to postpone a resolution of Sessions's fate follows an internal review by Reno's aides that has tentatively concluded that accusations of ethical abuses by the FBI director are not serious enough to warrant his immediate dismissal, the sources said. The charges were leveled last January in a stinging report by the Justice Department's Office of Professional Responsibility.

A number of other factors also have combined to delay a decision, including the lack of a strong candidate to replace him. The sources said there is still a good chance that Sessions, halfway through his 10-year term, eventually will be asked to step down, but largely because of questions about his ability to command respect within the bureau and lead the agency after the long-simmering controversy about his actions.

Speculation about Sessions's departure has been rampant within the FBI and Justice Department for months and increased yesterday after a scheduled meeting between Reno and Sessions at the Justice Department.

But knowledgeable sources said the meeting dealt with sensitive intelligence matters, including a status report on the bureau's investigation into reports that the government of Iraqi President Saddam Hussein sought to assassinate former president George Bush during his recent trip to Kuwait.

Another later meeting with Reno that had been on Sessions's schedule for yesterday afternoon was canceled. Two sources yesterday described the original scheduling of the meeting as a result of "confusion" with one saying there appeared to have been a "misunderstanding among secretaries."

The report by OPR, the department's internal watchdog, found that Sessions knowingly had claimed an improper tax exemption on his use of a FBI limousine to commute, improperly billed the FBI nearly $ 10,000 for a fence around his home and misused bureau aircraft, cars, personnel and funds.

On his last day in office, Attorney General ***William P. Barr*** accepted the findings, calling the evidence "overwhelming." But Sessions launched a public counteroffensive to save his job, calling some of the charges "picayunish" and suggested that Barr and other Bush administration officials were motivated by "animus" against him.

Shortly after she took office in March, Reno said that she would immediately review the allegations and described them as a high priority. In her first substantive remarks on the issue in some time, she told the Los Angeles Times in an interview this week that she wanted to wait until the Senate confirmed deputy attorney general-designate

Philip B. Heymann, a Harvard law professor and former chief of the Justice Department's criminal division, before resolving Sessions's fate.

"I want Phil involved, because he's worked closely with the FBI," Reno was quoted by the newspaper as saying. "That will be within his area. As soon as we get past his confirmation, we should resolve that matter."

Heymann is scheduled for hearings before the Senate Judiciary Committee next Tuesday and his confirmation is likely to come the following week. But sources said the process could take considerably longer, especially if it is linked, as expected, to lining up a successor for Sessions.

Another apparent factor is a reluctance on the part of Justice Department officials to move against Sessions so soon after the controversy over the FBI's handling of the April 19 tear gas assault on the Branch Davidian compound in Waco, Tex.

Some FBI officials in recent weeks have privately expressed annoyance over Reno's delay, suggesting that ordinary FBI agnets would have been disciplined immediately for conduct similar to Sessions's. Other sources have said they believe the White House essentially lacked the political will to move quickly on Sessions especially after black civil rights leaders came to his defense.

Classification

Language: ENGLISH

Subject: LAW ENFORCEMENT (91%); JUSTICE DEPARTMENTS (90%); INVESTIGATIONS (90%); SPECIAL INVESTIGATIVE FORCES (90%); TALKS & MEETINGS (89%); ATTORNEYS GENERAL (89%); CRIMINAL INVESTIGATIONS (79%); DELAYS & POSTPONEMENTS (78%); INTERVIEWS (78%); ETHICS (78%); INTERNAL INVESTIGATIONS (77%); COLLEGE & UNIVERSITY PROFESSORS (73%); US PRESIDENTS (70%); TAX LAW (61%)

Company: LOS ANGELES TIMES (61%); AL MUDON INTERNATIONAL REAL ESTATE CO KSCC (54%); OFFICE OF PROFESSIONAL REPONSIBILITY; JUSTICE DEPARTMENT; FBI FEDERAL BUREAU OF INVESTIGATION (95%); JUSTICE DEPARTMENT; FBI FEDERAL BUREAU OF INVESTIGATION (95%); FBI FEDERAL BUREAU OF INVESTIGATION (95%); JUSTICE DEPARTMENT (73%)

Organization: FEDERAL BUREAU OF INVESTIGATION (94%); FEDERAL BUREAU OF INVESTIGATION (94%); OFFICE OF PROFESSIONAL REPONSIBILITY; JUSTICE DEPARTMENT; FBI FEDERAL BUREAU OF INVESTIGATION (95%); JUSTICE DEPARTMENT; FBI FEDERAL BUREAU OF INVESTIGATION (95%); FBI FEDERAL BUREAU OF INVESTIGATION (95%); JUSTICE DEPARTMENT (73%)

Ticker: ALMUDON (KUW) (54%)

Industry: COLLEGE & UNIVERSITY PROFESSORS (73%)

Person: GEORGE W BUSH (54%); SADDAM HUSSEIN (50%)

Geographic: UNITED STATES (92%); IRAQ (79%); KUWAIT (79%)

Load-Date: October 14, 1993

End of Document

President asks Reno to advise on FBI chief

The Washington Times

May 7, 1993, Friday, Final Edition

Section: Part A; NATION; POLITICS, POLICY AND ANALYSIS; Pg. A4

Length: 641 words

Byline: Jerry Seper; THE WASHINGTON TIMES

Body

Attorney General Janet Reno is expected to make a recommendation to President Clinton in the "next several days" on whether embattled FBI Director William S. Sessions should keep his job, Justice Department sources said yesterday.

The recommendation, according to the sources, will be based on her review of a 161-page Justice Department report alleging that Mr. Sessions misused his office for financial gain, a follow-up FBI inquiry into the allegation and rebuttal documents submitted by the director.

"She has very diligently looked through the material, talked with a lot of people and asked a lot of questions," said one Justice Department official familiar with the review. "I expect her to be ready to make a recommendation in the next several days."

Miss Reno and White House Counsel Bernard Nussbaum were asked by Mr. Clinton to review the information and make recommendations to him on whether Mr. Sessions should complete the five remaining years of his 10-year term or be asked to resign. The president can fire the director for cause.

The White House has said Mr. Clinton wants the attorney general to take the primary responsibility for the review, and that the president would take no action in the matter until she makes a recommendation. Administration officials have been careful to ensure that Mr. Sessions got every opportunity to rebut the Justice Department allegations.

Clinton administration officials, however, have quietly talked with several potential replacements, including William Lee Colwell, an FBI veteran who teaches criminal justice at the University of Arkansas at Little Rock; Massachusetts Judge Richard A. Stearns, a former Oxford University classmate of Mr. Clinton's; and James R. Thompson, Republican ex-governor of Illinois.

There also has been White House interest, according to the sources, in Willie Williams, Los Angeles' new police chief. Administration officials have praised him for his handling of the Rodney King case.

Some FBI officials, many of whom described the Justice Department report as an "embarrassment," have said it may be impossible for Mr. Sessions to remain in office. They said he has lost the confidence of many of his field agents and also of several top deputies.

They said much of the department's current activities, including the World Trade Center bombing investigation in New York and the siege at the Branch Davidian compound in Texas, have been overseen by Deputy Director Floyd I. Clarke.

DOUGLAS RATHBUN

Mr. Sessions, appointed in 1987 by President Reagan, has denied any wrongdoing. He accused former Attorney General ***William P. Barr***, who issued the damaging Justice Department report on his last day in office, of a personal vendetta against him.

Mr. Barr has denied there was any personal motive in the investigation, saying the report was "fair and complete." He said the probe was prompted by allegations from within the FBI and that Justice Department and FBI "career professionals" looked into the matter.

The controversy erupted publicly in January when the department report challenged Mr. Sessions' use of government vehicles, aircraft and funds. The report said Mr. Sessions failed to pay taxes on a government limousine, took personal trips at FBI expense, arranged a "sweetheart" mortgage and improperly purchased a security fence for his home.

Miss Reno has been reviewing the allegations and the director's rebuttal information since her confirmation March 12.

In Texas, Mr. Sessions Wednesday viewed the Branch Davidian compound and defended the FBI's handling of the 51-day siege, which ended in the death of more than 70 men, women and children.

"People expected us to work a miracle," he said. "I wish we had."

Graphic

Photo, William S. Sessions' future was placed in Attorney General Janet Reno's hands., By Kevin T. Gilbert/The Washington Times

Classification

Language: ENGLISH

Subject: LAW ENFORCEMENT (90%); JUSTICE DEPARTMENTS (90%); INVESTIGATIONS (90%); ATTORNEYS GENERAL (90%); CRIMINAL INVESTIGATIONS (79%); JUDGES (79%); LAWYERS (79%); RESIGNATIONS (78%); APPOINTMENTS (78%); FEDERAL INVESTIGATIONS (78%); US REPUBLICAN PARTY (73%); POLICE FORCES (69%)

Company: OXFORD UNIVERSITY PRESS (54%); OXFORD UNIVERSITY PRESS (54%); FEDERAL BUREAU OF INVESTIGATION (94%); FEDERAL BUREAU OF INVESTIGATION (94%); US DEPARTMENT OF JUSTICE (84%); US DEPARTMENT OF JUSTICE (84%)

Organization: FEDERAL BUREAU OF INVESTIGATION (94%); FEDERAL BUREAU OF INVESTIGATION (94%); US DEPARTMENT OF JUSTICE (84%); US DEPARTMENT OF JUSTICE (84%)

Industry: LAWYERS (79%)

Person: RONALD REAGAN (79%); BILL CLINTON (79%); GLENN THOMPSON (53%)

Geographic: LITTLE ROCK, AR, USA (74%); NEW YORK, USA (79%); ARKANSAS, USA (79%); ILLINOIS, USA (79%)

End of Document

G-men of the Nineties

U.S. News & World Report

May 3, 1993

Section: U.S. NEWS; Vol. 114, No. 17; Pg. 36

Length: 2284 words

Byline: By Gordon Witkin; Ted Gest

Highlight: After Waco, the FBI faces one of its most daunting challenges ever

Body

After the Bureau of Alcohol, Tobacco and Firearms' tragic February 28 raid on the Branch Davidian compound outside Waco, Texas, it didn't take long for FBI agents to start the second-guessing. The ATF's performance was amateur night, some FBI agents groused. If Washington really wanted to get the job done right, one ranking FBI official said, it should have sent for "the A-Team," the Federal Bureau of Investigation.

Of course, it has not been a really great year for the A-Team, even before the hellfire that transfixed the nation last week near Waco. A bruising ethics investigation of Director William Sessions had exposed a load of dirty laundry, led to a virtual mutiny among some FBI brass and left the proud bureau almost rudderless while the Clinton administration allowed Sessions to twist in the wind. A New York-based FBI agent spoke for many last Monday as he watched television on the 26th floor of the Jacob Javits Federal Building on lower Broadway in Manhattan. "Damn," he exclaimed, as the Cable News Network broadcast the first licks of flames from the compound near Waco. "Just what we needed."

For the men and women of the FBI, these are hardly the best of times. Indeed, the Waco disaster seemed to sucker punch the FBI while it was already down, serving, at least in the eyes of some, as an unhappy metaphor for the bureau's fragile situation. Faced with a changing world, a new administration, a sea change in its leadership and a shrinking pool of experienced personnel, the FBI finds itself at one of the most critical junctures in its long and storied history.

To be sure, there are many who still agree with former Attorney General ***William Barr***, who calls the FBI "the finest law-enforcement organization in the world." The bureau has deftly handled the investigation of the World Trade Center bombing, and it can still scramble the jets to solve dramatic crimes, like last year's kidnapping of Exxon executive Sidney Reso. For the most intense, complex and demanding investigations of criminal activity, U.S. and foreign law-enforcement experts say, no agency even comes close to the FBI.

But often these days something seems missing at the bureau. "I don't see the spirit that was once there," says former FBI executive Francis "Bud" Mullen. "They've lost that edge somehow." Even before a January Justice Department report showed what Barr called a "clear pattern of your taking advantage of the government," Sessions's disengaged leadership had been eroding morale like a steady leak in a tire. Now, says one Justice Department official who works closely with the bureau, "an incredible number of things are being contaminated by the issue of the director. There's political infighting, decisions are not being made and people are hedging their bets. The agency has been caught up in an environment of cover-your-rear and paper shuffling, instead of going out and doing the job."

Wider role. The job, meanwhile, has grown more than a tad unwieldy. In the past decade, the bureau has taken on a dizzying array of new assignments. Gangs, drugs, street crimes, hate crimes, savings-and-loan scams and

carjackings -- these merely top the list. In fact, the FBI is now responsible for investigating 281 criminal violations -- up from 229 in 1982. In return, the agency got some generous budget increases. Today, it has 10,366 agents and a budget of $ 2 billion. That's up from 7,857 agents and a $ 622 million budget in 1980.

The days of big increases in money and manpower are over, though. The FBI's overall budget is slated for just a slight increase in 1994, and the number of special agents is scheduled to decline slowly, the result of retirements and a hiring freeze. Yet the new assignments from the White House and Capitol Hill just keep coming. As the result of a law passed last year, for instance, the FBI anticipates becoming involved in chasing down deadbeat parents for child-support payments. And Attorney General Janet Reno is looking into the possibility of the bureau's protecting access to abortion clinics; in a U.S. News poll* conducted last week, 52 percent of the respondents opposed the idea.

Adding to the number of criminal violations of federal laws has become a quick and dirty way for politicians to appear tough on crime. "Lots of members of Congress want to turn FBI agents into street cops and family counselors," says California Democrat Don Edwards, who chairs a House subcommittee that oversees the FBI. "This federalization of state laws is a very dangerous concept."

The result, many believe, is that the FBI has lost its focus. "We're overtaxing them," says a former federal prosecutor. "They're getting into too many things." Adds Oliver Revell, a veteran bureau official now in charge of the FBI's Dallas field office: "What we need is to be in a position to say, 'No mas.' "

There are two critical questions: What kind of law-enforcement organization is the FBI, and what jobs is it best equipped for? Many law-enforcement professionals believe that the bureau, with its far-flung network of college-degreed agents, accountants, scientists and lawyers, is best suited to complex, long-term investigations of mafia networks, terrorism, espionage and complicated white-collar frauds. In recent years, however, the FBI has devoted increasing resources to attacking street crime. Director Sessions declared violent crime a national priority for the FBI in the summer of 1989. Now the bureau is participating with local police in some 71 task forces nationwide that target fugitives and violent gangs. While 69 percent of those questioned in the U.S. News poll believe the FBI should expand its role in helping local police combat street crime, many law-enforcement experts believe the time has finally come to re-evaluate that strategy.

Similar questions arise about the FBI's role in the war against drugs. In 1982, the bureau received jurisdiction to join the Drug Enforcement Administration in investigating drug cases. Since then, the number of FBI agents assigned to tackle narcotics investigations has grown to more than 1,500. The FBI says its drug strategy is to attack the most sophisticated organizations, just as it did with organized-crime families. But many outsiders say the bureau culture doesn't fit well with the dirty undercover work of drugs. The results, these critics say, speak for themselves: In the past couple of years, the blockbuster cases have come from DEA, not the bureau. Indeed, some say it may be time to revisit the much-debated question of whether the FBI and the Drug Enforcement Administration should both be involved in the drug war.

Grand merger? One memo percolating up through the Clinton transition team last year recommended simply folding the FBI's drug agents into DEA; other experts have suggested the opposite tack, merging the DEA into the FBI. Cooperation between the two agencies has improved, but rivalries still cause flare-ups, like a current tussle over who will take the lead in cases overseas. Former Attorney General Barr says a merger would be too disruptive, but new Attorney General Reno is said to be studying the issue.

The soul-searching isn't limited to drugs or street crime. With the demise of the Soviet threat, the FBI's counterintelligence role is in a confusing state of flux. Last year, the FBI adopted a counterintelligence concept known as the National Security Threat List, designed to counter economic and industrial espionage from a variety of countries, including some traditional allies.

But up on Capitol Hill, says one close observer, "a lot of people don't think it's a coherent concept." Over the past year, more than 350 agents previously assigned to counterintelligence have been moved to tasks like violent crime and health care fraud. Yet in New York, the locus of the FBI's most intense counterintelligence efforts, agents say they still see plenty of espionage. "It's still going," says James Fox, director of the FBI's New York field office.

"They're out there, and they're active." Earlier this month, a foreign national working as a double agent for the bureau's New York office was paid thousands of dollars in exchange for classified U.S. government information. Further reductions in counterintelligence agents may be possible, says the FBI's Oliver Revell, "but it's got to be done carefully, particularly in light of the terrorist threat." The recent World Trade Center bombing makes that all too clear.

The bureau's organized-crime program is also facing a moving target. After years of hard work, many believe, the bureau now has the Cosa Nostra on the run; since 1981, 28 mob bosses and 14 underbosses have been convicted. But dealing with the Italian crime families, warns Barr, "was just a warm-up for a much more difficult effort against much more effective organized crime groups." Chief among the emerging threats are Asian organizations, which are increasingly targeting the United States. Ethnic Chinese now dominate the U.S. heroin trade; mobile Vietnamese street gangs are conducting a rash of home-invasion robberies, and Japanese mobsters are thought to be laundering money and buying real estate on American shores.

Infiltrating the secretive, tightknit Asian groups presents daunting language and cultural problems for the FBI. Only 1.5 percent of the bureau's agents are Asian. There are only seven agents with sufficient fluency in Japanese to monitor a wiretap, and fewer than 35 with similar fluency in any Chinese dialect, according to the Senate Permanent Subcommittee on Investigations. "We're hurting," admits veteran Bill Doran, the bureau's chief of criminal investigations in New York.

Bruising process. Recruiting Asian agents has proved to be an uphill battle. And it is hardly the bureau's only personnel challenge. Trying to make the FBI look like America has been a bruising process. In 1988, Hispanic agents won a suit charging that the FBI had discriminated against them in awarding promotions and setting working conditions. Last January, the bureau agreed to settle race-discrimination claims raised by several hundred black agents.

Most bureau watchers give the agency, and Sessions in particular, credit for improving the FBI's promotion and hiring practices. Clearly, however, there is still a way to go. Today, only 5 percent of the FBI's special agents are black. Just 6 percent are Hispanic. Furthermore, the effort to recruit more women and minorities has caused tension among the mostly white, male ranks. "Many on board believe the bureau has been turned into a social, rather than a law-enforcement agency, to right the wrongs of affirmative action and race relations," says a former FBI executive.

The agency also is struggling to cope with the challenge of widespread retirements. Improved pay has slowed the parade of departures over the past couple of years, but the spike is coming; more than 2,700 agents and supervisory personnel are eligible to retire between now and 1997, and they represent an invaluable reservoir of talent and expertise for the agency. "So a lot of younger people aren't getting the training they need to get," says a former federal prosecutor.

Finally, there is the 800-pound gorilla of white-collar crime, which is eating an ever growing amount of bureau resources. Today, investigations of financial crimes like savings-and-loan fraud and health care scams comprise the FBI's biggest investigative program. In 38 of the FBI's 56 field offices, white-collar crime is the top criminal investigative priority, occupying the time of 2,100 agents nationwide. While financial-institution fraud may have faded from the headlines, the bureau is still investigating some 5,000 cases. Investigations into alleged health-care fraud have grown from 418 to 673 in just the past 12 months. Bureau officials are also increasingly alarmed about environmental crime, computer fraud, bankruptcy fraud, insurance-insolvency fraud, securities fraud and telemarketing fraud. With budgets now static, something may have to give. "It is extremely difficult," admits white-collar-crime chief Thomas Kubic, "to keep this many balls up in the air."

Is any help on the way? Perhaps. Clinton administration officials may be close to removing Sessions and naming their own director. In a recent speech, Attorney General Reno called for a "more principled approach" to deciding what crimes should be handled by federal agents, a study that could result in shifting responsibility for many violent-crime probes back to local authorities.

Senior Clinton aides have been alarmed at what one calls "disarray" among federal law-enforcement agencies. They promise a comprehensive look at the problem, with an eye toward eliminating duplication, especially between the Justice Department and Treasury Department units like ATF and the Customs Service. Such a process might yield clearer choices and priorities for the FBI. Absent that, the bureau's efforts to do good by doing everything may leave it doing well at less and less.

Bean counters' ball

The FBI received big budget and personnel increases in the 1980s, but it was given tough new investigative tasks.

Money. The FBI's budget grew from $ 622 million in 1980 to $ 2 billion now.

Bodies.The number of FBI special agents grew from 7,857 in 1980 to 10,366 today.

Assignments. The types of crime in its jurisdiction grew from 229 in 1982 to 281 today. Some new jobs: carjackings; deadbeat dads, hate crimes and health care fraud

* U.S. News poll of 1,000 registered voters conducted by Celinda Lake and Ed Goeas April 20. Margin of error: plus or minus 3.1 percent.

Graphic

Picture, Day of reckoning. Near David Koresh's Branch Davidian compound, agents move forward into position during the fatal siege. (Rick Bowmer -- AP); Picture, New missions? Janet Reno (Win McNamee -- Reuter); Picture, Training. Members of the FBI Hostage Rescue Team detailed to Waco (Patrick Aventurier -- Gamma/Liaison); Pictures: Mixed bag. Already, the FBI handles investigations of drugs (above) and gangs. Soon, the White House may ask the bureau to protect abortion clinics as well. (Gary Stewart -- AP; J. Scott Applewhite -- AP; Patrick Frilet -- SIPA)

Classification

Language: ENGLISH

Subject: SPECIAL INVESTIGATIVE FORCES (95%); FIREARMS (91%); LAW ENFORCEMENT (90%); INVESTIGATIONS (90%); CRIMINAL INVESTIGATIONS (89%); JUSTICE DEPARTMENTS (89%); FEDERAL INVESTIGATIONS (78%); ETHICS (76%); ATTORNEYS GENERAL (75%); INTERNATIONAL LAW (66%); LAWYERS (63%); KIDNAPPING & ABDUCTION (60%)

Company: CABLE NEWS NETWORK INC (68%); CABLE NEWS NETWORK INC (68%); FEDERAL BUREAU OF INVESTIGATION (97%); FEDERAL BUREAU OF INVESTIGATION (97%)

Organization: FEDERAL BUREAU OF INVESTIGATION (97%); FEDERAL BUREAU OF INVESTIGATION (97%)

Industry: TELEVISION INDUSTRY (72%); TELEVISION PROGRAMMING (67%); CABLE TELEVISION (67%); LAWYERS (63%)

Geographic: NEW YORK, NY, USA (79%); NEW YORK, USA (79%); TEXAS, USA (79%); UNITED STATES (79%)

End of Document

Knowing the fax: Out crowd networking

The Washington Times

April 23, 1993, Friday, Final Edition

Section: Part E; LIFE; ABOUT TOWN; Pg. E2

Length: 500 words

Byline: Merrie Morris; THE WASHINGTON TIMES

Body

Just because the GOP is out of power in the executive branch doesn't mean Republicans have to be out of the loop. The fallout from George Bush's defeat - all that divisiveness and recrimination - makes for juicy gossip.

And with their Republican Faxwire, publisher John Podhoretz, editor Daniel Casse and political editor Elisabeth Hickey are here to keep the GOP up

on the latest. (Mr. Casse was a key Bush insider, Mr. Podhoretz lately held senior editing slots at The Washington Times and Insight magazine and Miss Hickey is a former feature writer for The Times.)

Of course, everything was nicey-nice at the Faxwire's debut party Wednesday night at the Occidental Grill.

The party was like a family reunion for the Bush White House staff, with lots of "formers" on hand: Secretary of Defense Dick Cheney with wife Lynne, who was head of the National Endowment for the Humanities, counsel Boyden Gray, Chief of Staff John Sununu.

"I know this party's a success," Mr. Podhoretz said with a grin as the reception started to thin out. "John Sununu insulted my tie [a rosy-hued, floral offering that wasn't that bad]. He said, 'They let you out with that thing?' "

That was the only snide remark heard about Republicans, but there were plenty at the expense of the current administration, cracks such as, "I predict 40 percent by Memorial Day," referring to President Clinton's approval rating, or "Time flies when you're having fun."

Former Attorney General ***William Barr***, however, took the high road, turning down the opportunity to pass judgment on Janet Reno's performance in his old office. "But I have complete faith in the FBI," he added, his tone implying he didn't think everyone had such faith.

Bill Kristol was typical of the crowd in feeling vindicated by the Clinton administration's first 92 days.

"[President Clinton] has made me more proud than ever to have worked for Dan Quayle, who correctly predicted his action and personality," the former vice president's chief of staff said.

The Faxwire, however, has plenty to cover without veering off into liberal territory. An eight-page newsletter, it goes out over the telephone lines in the middle of the night every Sunday so eager busybodies get their fix of info first thing Monday morning - for a mere $495 a year.

Looking at "The GOP response - or lack thereof - to the gay march on Washington" this weekend, the Faxwire reveals the march's governing committee insisted on a 50 percent black and female quota system, but Montana had trouble finding enough blacks.

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Under the headline, "The Woman to Beat," it talks about GOP Texas senatorial candidate Kay Bailey Hutchinson, accused of repeatedly hitting an employee with a notebook. Apparently the candidate is also famous for her "death grip," administered occasionally to the arms of her employees.

With women like that in the GOP, who needs Hillary jokes?

Graphic

Photos, A) Lynne and Dick Cheney congratulate John Podhoretz and Elisabeth Hickey on the Republican Faxwire.; B) The old days: former White House Counsel Boyden Gray with former Assistant Secretary of State Elliott Abrams; C) Bill Kristol with Phyllis Schlafly, All By Vivian Ronay/The Washington Times

Classification

Language: ENGLISH

Subject: POLITICAL PARTIES (90%); US REPUBLICAN PARTY (89%); WRITERS (77%); POLITICAL PROTESTS (76%); US FEDERAL GOVERNMENT (73%); POLITICAL CANDIDATES (73%); CULTURE DEPARTMENTS (53%); HUMANITIES & SOCIAL SCIENCE (53%); ATTORNEYS GENERAL (50%)

Company: NATIONAL ENDOWMENT FOR THE HUMANITIES (56%)

Organization: NATIONAL ENDOWMENT FOR THE HUMANITIES (56%)

Industry: WRITERS (77%); PUBLISHING (72%)

Person: BILL CLINTON (88%); GEORGE W BUSH (77%); DICK CHENEY (58%); JOHN SUNUNU (58%)

Geographic: TEXAS, USA (79%); UNITED STATES (79%)

End of Document

Reno Gets Support on Waco Decision

Newsday (New York)

April 21, 1993, Wednesday, NASSAU AND SUFFOLK EDITION

Section: NEWS; Pg. 16 Other Edition: City Pg. 22, Home Pg. 16

Length: 621 words

Byline: By Martin Kasindorf. WASHINGTON BUREAU

Dateline: Washington

Body

Attorney General Janet Reno, after stoically taking responsibility for the Waco catastrophe and voicing readiness to resign, yesterday received belated support from President Bill Clinton and encouragement from lawmakers.

But two former attorneys general said they would have handled the president's advance briefing differently - by not asking for his approval as Reno did.

On "Larry King Live" on CNN Monday, Reno said, "We made the best decision I think that we could, based on everything that we knew. Based on what we know now, it was obviously wrong." And later, on ABC's "Nightline," Reno said she would resign if the president asked her to leave office.

Referring to Reno at a news conference yesterday, Clinton said: "She is not ultimately responsible to the American people. I am. But I think she has conducted her duties in an appropriate fashion, and she has dealt with this situation, I think, as well as she could have." And he dismissed any notion of either seeking or accepting her resignation.

Earlier, in a CBS interview, Senate Judiciary Committee Chairman Joseph R. Biden Jr. (D-Del.) was appalled by the departure talk. "She's a classy person, I'll tell you," he said. " . . . I hope somebody like her sticks around a long time in government."

Biden held off scheduling hearings on the Waco incident despite requests by two Republican senators. The House Judiciary Committee will hold a hearing next Wednesday, chairman Jack Brooks (D-Texas) announced.

Reno's sorrowful but self-assured public comments, which reflected her 15 years as state attorney in Florida's Dade County through crises that included racial rioting in Miami in 1980 and 1989, won her backing on Capitol Hill and in legal circles.

"She's handled herself extremely well," said Rep. Charles Schumer (D-Brooklyn), a Judiciary Committee member.

John Dunne, a former state senator from Nassau County who headed the Justice Department's civil rights division in the Bush administration, said his Washington post required "some very tough calls, but I would often say, 'This is nothing compared to what the attorney general has to go through.' The pressure is enormous. It requires someone of the good judgment and wisdom that the present incumbent has."

Griffin Bell, attorney general during the Carter administration, forecast a bright future for Reno despite a rocky start in a tough job. "It's just a place where you make hard calls often," he said in an interview. "Too bad this happened so early in her career, but in a way it might be a great learning experience. She'll weather it."

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Bell, who questioned the use of tanks and tear gas because they put children at risk, excused decision-making flaws as a result of White House slowness to appoint high-level Reno subordinates. "I'm sure she hasn't got enough staff," he said.

William Barr, attorney general during Bush's last two years, recalled having to make two "decisions involving life and death" similar to Waco. They were the 1991 suppression of a hostage-taking at The Talladega, Ala., federal prison by Cuban inmates, and the August, 1992, Idaho standoff and shoot-out with a white supremacist.

Both former Justice chiefs intimated that Reno may have erred in detailing the planned assault to Clinton and appearing to seek a presidential green light.

"I didn't seek White House guidance," Barr said. " . . . I felt I should take responsibility for it. I just informed them immediately before it happened."

Bell said, "I would not have asked President Carter for his guidance or direction. I would have said, 'This will cause a lot of publicity, and it could go wrong, but in my judgment it won't.' I'd give him notice, but I wouldn't get permission."

Classification

Language: ENGLISH

Subject: INTERVIEWS (90%); LEGISLATIVE BODIES (90%); RESIGNATIONS (90%); US STATE GOVERNMENT (89%); ATTORNEYS GENERAL (89%); US DEMOCRATIC PARTY (89%); LAWYERS (79%); US CONGRESS (78%); US REPUBLICAN PARTY (77%); JUSTICE DEPARTMENTS (74%); US FEDERAL GOVERNMENT (69%); PRESS CONFERENCES (69%); RIOTS (65%); CIVIL RIGHTS (62%); CHILDREN (50%)

Industry: LAWYERS (79%); TELEVISION NEWS SHOWS (76%)

Person: BILL CLINTON (73%); JOE BIDEN (57%); CHARLES SCHUMER (51%)

Geographic: MIAMI, FL, USA (71%); TEXAS, USA (79%); FLORIDA, USA (79%); UNITED STATES (92%)

End of Document

CLINTON PRAISES JUDGMENT OF JURY, URGES HEALING, HARMONY ACROSS U.S.; ADMINISTRATION: PRESIDENT SPEAKS BEFORE GIVING ADDRESS ON ECONOMY. HIS NEW ATTORNEY GENERAL, JANET RENO, SAYS, 'JUSTICE WAS DONE.'

Los Angeles Times

April 18, 1993, Sunday, Home Edition

Section: Part A; Page 21; Column 1; Metro Desk

Length: 750 words

Byline: RJM

By SAM FULWOOD III, TIMES STAFF WRITER

Dateline: WASHINGTON

Body

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President Clinton, urging the nation to begin healing from the divisions of the Los Angeles riots, said Saturday the convictions of two L.A. police officers established "what a lot of people have felt for two years, that the civil rights of Rodney King were violated."

With the trial now over, the nation should strive to build a society where differences are respected and similarities are celebrated, Clinton told a cheering crowd in Pittsburgh, Pa., before delivering a speech about his economic package.

"Unless we really do believe that underneath the differences of race and religion and ethnicity, underneath the differences of political party and political opinion, there is a core in each one of us given us by God and which we share in common which obliges us to respect one another and to wish to live together in harmony and peace, none of the other things I came to talk to you today can come to pass," Clinton said.

Speaking shortly after the federal verdicts were announced, Clinton also said the jury's findings serve as "a reminder that our courts are the proper forum for the resolution of even our deepest legal disputes. This verdict was a tribute to the work and the judgment of the jury and the efforts of the federal government in putting the case together."

In Washington, former Atty. Gen. ***William P. Barr***, the Bush Administration official who initiated the federal case against the police officers, echoed Clinton's comments. He said the verdicts affirmed his decision to order Justice Department officials to continue prosecution efforts even after a state court found the four officers not guilty on all but one count last year, a move that triggered rioting and looting in Los Angeles.

"It vindicates the judgment we made to proceed with the case and the confidence we had in the team we put together," Barr said in a telephone interview from his home in suburban Washington. "The prosecutors did an excellent job and I thought all along we could present a strong case" against the officers.

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Barr said he would not quarrel with the decision to acquit two of the officers. "I believe in the jury system," he said. "I'm not going to second-guess the jury. I think justice was done."

Atty. Gen. Janet Reno also welcomed the jury's decision. "Justice was done," she said at a news conference. "The Department of Justice is going to do everything it can to continue to bring prosecutions to assure that the civil rights of all citizens throughout America are protected."

Reno planned to talk with community leaders in Los Angeles by telephone over the weekend, a Justice Department official said, but had no immediate plans to visit the city, despite a suggestion by the Rev. Jesse Jackson that she do so. Reno was aware of Jackson's suggestion, but had not talked to him, said Carl Stern, director of public affairs for the Justice Department.

Reno is concerned that flying to Los Angeles uninvited could be interpreted as an attempt to upstage federal prosecutors there, Stern said.

"If she is asked by community leaders who want her to come out to Los Angeles, I am sure she will clear her calendar to go out there," he said. "But she is busy here and has not made any plans yet to rush off, uninvited, to Los Angeles."

As of late Saturday, Clinton had no plans to go to Los Angeles, a White House press office official said.

The verdicts also drew praise from Commerce Secretary Ronald H. Brown, who was appointed by Clinton to serve as the Administration's point person for Los Angeles in the wake of the riots.

"This trial should be viewed as a great step in a long march to justice, as another brick torn from the walls of inequity that still separate too many Americans from their neighbors," Brown said.

The Administration was committed to "working with community groups, local officials and businesses in a comprehensive effort to rebuild and revitalize all the neighborhoods of Los Angeles," he said.

Rep. John Conyers (D-Mich.), senior member of the Congressional Black Caucus, applauded the jury's decision, but called on Congress and the Clinton Administration to support legislation he has introduced that would make it a federal crime for police to use excessive force regardless of their intent.

Conyers, who chairs a House panel investigating charges of abuse by law enforcement officers, said in a statement that "police brutality is a national epidemic, and I am convinced that a disproportionately high percent are racially based."

Classification

Language: ENGLISH

Subject: JURY TRIALS (90%); VERDICTS (90%); CIVIL RIGHTS (89%); LAW ENFORCEMENT (89%); JUSTICE DEPARTMENTS (89%); ATTORNEYS GENERAL (89%); US FEDERAL GOVERNMENT (87%); RIOTS (78%); PUBLIC PROSECUTORS (78%); ACQUITTAL (77%); POLITICAL ORGANIZATIONS (76%); RACE & ETHNICITY (76%); US STATE GOVERNMENT (76%); US POLITICAL PARTIES (75%); INTERVIEWS (74%); DECISIONS & RULINGS (73%); LAW COURTS & TRIBUNALS (72%); RELIGION (70%); EDITORIALS & OPINIONS (67%); PRESS CONFERENCES (67%)

Company: CLINTON ADMINISTRATION (94%); BUSH ADMINISTRATION (75%); DEPARTMENT OF JUSTICE (67%)

CLINTON PRAISES JUDGMENT OF JURY, URGES HEALING, HARMONY ACROSS U.S.;ADMINISTRATION: PRESIDENT SPEAKS BEFORE GIVING ADDRESS ON ECONOMY. HIS NEW ATTORNEY GENERAL....

Organization: CLINTON ADMINISTRATION (94%); BUSH ADMINISTRATION (75%); DEPARTMENT OF JUSTICE (67%)

Person: BILL CLINTON (79%); JESSE JACKSON (57%)

Geographic: LOS ANGELES, CA, USA (93%); PITTSBURGH, PA, USA (79%); CALIFORNIA, USA (92%); PENNSYLVANIA, USA (79%); UNITED STATES (94%)

End of Document

FBI officials anxious for Sessions decision

The Washington Times

March 30, 1993, Tuesday, Final Edition

Section: Part A; NATION; POLITICS, POLICY AND ANALYSIS; Pg. A4

Length: 705 words

Byline: Jerry Seper; THE WASHINGTON TIMES

Body

The Clinton administration's inability to make a decision on the status of embattled FBI Director William S. Sessions has spawned growing concern inside the bureau from top officials who say both the director and the FBI have been left "spinning in the wind" too long.

"It's time to get this thing over, one way or another," said a key FBI official who asked not to be named. "It's not fair to the director or to the FBI to leave everyone here spinning in the wind. It's literally tearing our guts out."

Mr. Sessions was accused in a Jan. 15 Justice Department report of misusing his office for personal financial gain. He has five years left on a 10-year term but can be removed by President Clinton for cause.

Several high-ranking Justice Department and FBI officials have privately urged the White House to fire Mr. Sessions, saying he no longer enjoys the confidence of a majority of the bureau's 9,500 agents.

A decision by Mr. Clinton, based on recommendations from Attorney General Janet Reno and White House Counsel Bernard Nussbaum, has been expected in the past several days.

"The attorney general is looking at the matter and will make a recommendation when she is ready to do so," Justice Department spokeswoman Caroline Aronovitz said yesterday. "She's only been here for two weeks."

Mr. Sessions, appointed in 1987 by President Reagan, has denied any wrongdoing and accused former Attorney General ***William P. Barr***, who issued the damaging Justice Department report on his last day in office, of having a personal vendetta against him.

Mr. Barr denied there was any personal motive in the Justice Department investigation, adding that the report was "fair and complete." He noted that the Sessions probe was prompted by allegations from within the FBI and that both Justice Department and FBI "career professionals" had looked into the matter.

"Obviously, there was no personal vendetta involved here," Mr. Barr said. "The issue is whether anybody, including the director, is above the law." He said the evidence against Mr. Sessions was "overwhelming" and described his explanations as "wholly unpersuasive."

The controversy erupted publicly Jan. 15, when the department issued a 161-page report challenging Mr. Sessions' use of government vehicles, aircraft and funds. The report said Mr. Sessions failed to pay taxes on a government limousine, took personal trips at FBI expense, arranged a "sweetheart" mortgage and improperly purchased a security fence for his home.

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FBI officials, many of whom described the report as an "embarrassment," said it may be impossible for Mr. Sessions to remain in office. They said he has not only lost the confidence of many of his field agents, but also of several top deputies in Washington.

Miss Reno is reviewing the Justice Department report and a follow-up FBI investigation. She also has been given rebuttal material submitted by Mr. Sessions.

The White House said that Mr. Clinton wants the attorney general to take the primary responsibility for the review, and that the president would take no action in the matter until Miss Reno makes a recommendation.

Clinton administration officials, however, have talked quietly with several potential replacements, including William Lee Colwell, a 25-year FBI veteran who teaches criminal justice at the University of Arkansas at Little Rock; Massachusetts Judge Richard A. Stearns, a former Oxford University classmate of Mr. Clinton's; and former New York City Police Commissioner Lee P. Brown, who teaches criminal justice at Texas Southern University.

Administration officials have declined comment on any possible change. Privately, however, they have been shopping for a replacement since November. Law enforcement sources said the White House believes the Justice Department report can be used to justify the director's firing.

Mr. Colwell, who served as the No. 2 man at the FBI for nine years, is the favorite among FBI officials and agents. A native of Hot Springs, Ark., he was a senior criminal justice policy adviser during the Clinton campaign.

Graphic

Photo, FBI Director William S. Sessions says charges against him are a vendetta.

Classification

Language: ENGLISH

Subject: LAW ENFORCEMENT (91%); JUSTICE DEPARTMENTS (90%); INVESTIGATIONS (89%); ATTORNEYS GENERAL (89%); SPECIAL INVESTIGATIVE FORCES (89%); APPOINTMENTS (78%); LAWYERS (74%); TAXES & TAXATION (62%)

Company: FEDERAL BUREAU OF INVESTIGATION (94%); FEDERAL BUREAU OF INVESTIGATION (94%)

Organization: FEDERAL BUREAU OF INVESTIGATION (94%); FEDERAL BUREAU OF INVESTIGATION (94%)

Industry: LAWYERS (74%); PERSONAL FINANCE (74%)

Person: RONALD REAGAN (78%); BILL CLINTON (78%)

Geographic: UNITED STATES (79%)

End of Document

A dreadful mess at the INS

U.S. News & World Report

March 22, 1993

Section: U.S. NEWS; ON POLITICS; Vol. 114, No. 11; Pg. 36

Length: 814 words

Byline: By David Gergen

Body

As Al Gore sets out on his assigned mission to "reinvent government," Bill Clinton should call him with a hot tip: Check out the INS. The Immigration and Naturalization Service is a tiny agency within the Justice Department -- its budget represents 0.1 percent of federal spending -- but its failures are now causing massive ripples across the national landscape. Consider:

Mir Aimal Kansi is a Pakistani who legally came to the United States on a business visa in 1991. When his visa expired, he pulled the same trick as a growing number of other foreigners, applying for "political asylum." As the son of a rich family, he had no ostensible case -- but the INS is so swamped that he knew it would take years to process him. Meanwhile, using his asylum request, he was able to buy an AK-47-type assault rifle. Two Americans are now dead, shot outside the CIA, and Kansi is on the lam back in Pakistan, charged in their murder.
Mohammed A. Salameh is a Jordanian who legally entered the United States on a six-month tourist visa in 1988. When his visa expired, he used another ruse growing in popularity: He simply disappeared into the mist. The INS is so understaffed that it can't keep up with people like Salameh and even tears up visa applications after a year. The next time the INS even knew about Salameh came during his arrest for the bombing at the World Trade Center. At least five Americans died there.

Sheik Omar Abdel Rahman represents the most infuriating tale of all. He is a blind Egyptian cleric who was charged -- and beat the rap -- in three terrorist cases back home, including the assassination of Anwar Sadat. Despite the fact that the U.S. State Department placed him on an official "watchlist," making him ineligible to come here, he persuaded the U.S. Embassy in Sudan to give him a visa. He then set up operations in the New York area, preaching violence from a "mosque." Waking up, the State Department revoked his visa, and the sheik left. But within a month, he slipped back in, evading INS inspectors at Kennedy Airport.

Preaching violence. That's not the worst of it: His visa revoked, the sheik applied for permanent U.S. residence -- a green card -- and the INS gave it to him! Last year, discovering its terrible series of blunders, the INS began deportation proceedings against him, but -- no surprise -- he now has lawyers, has applied for asylum, and his case could be pending for years. So far, authorities haven't pinned anything on him in the World Trade Center case, but they note that Salameh often came to hear him preach violence against America and they have informally linked his Islamic cell to the New York murder of the militant Rabbi Meir Kahane.

Ready for more? Last week, the Los Angeles Times disclosed that in 1990, the L.A. office of the INS, prompted by the Australian government, began investigating David Koresh. He was said to be visiting Australian shores and recruiting young women there to join his L.A. cult -- for sex as well as religion. Picking up the scent, the INS found evidence that Koresh was indeed helping Australian women flout U.S. immigration laws. Before INS agents could

swoop in, Koresh and as many as two dozen women fled to Waco, Texas. Time to call in the Texas posse, right? That's not the INS way. Understaffed, agents in Los Angeles reportedly told the Australians that if they really cared, they should take up the matter with the INS in San Antonio. End of case -- until two weeks ago, when four federal officers were gunned down trying to bring in Koresh.

Is the INS a bad joke? Not really. For years, it has cried out that despite the best efforts of its agents, and there are some very good ones on the Border Patrol, it has been overwhelmed. First came the millions of Hispanics pouring over the U.S.-Mexican border, a flood that continues unabated. More recently have come the terrorists and malcontents arriving by air, arguably legal but finding new ways to beat the system. Last year, about 15,000 landed at Kennedy Airport with no documents or fraudulent ones. They immediately asked for asylum and, because detention facilities are so small, most were given a hearing date far in the future and turned loose. Don't count on seeing them again.

William Barr, the outgoing attorney general, tried hard to fix the INS but was mostly blocked by Democrats in Congress and Republicans sleeping at the White House. "The agency is still in very bad shape," he says. But Barr has some excellent ideas for repair: INS agents posted at key airports overseas to check documents, summary deportation proceedings to weed out patently phony claims for asylum, better information systems, a beefed-up force. What's needed won't turn the United States into a police state but will make it a little safer for its citizens. Mr. President, please call the veep -- fast.

Graphic

Picture, Sheik Rahman. Beating all the raps (Mike Segar -- Reuter/Bettmann)

Classification

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Subject: US FEDERAL GOVERNMENT (90%); PASSPORTS & VISAS (89%); MURDER (89%); POLITICAL ASYLUM (89%); CITIZENSHIP (78%); PUBLIC FINANCE (78%); IMMIGRATION (77%); DEPORTATION (77%); LAW ENFORCEMENT (77%); EMBASSIES & CONSULATES (75%); ASSASSINATION (73%); JUSTICE DEPARTMENTS (73%); ARRESTS (72%); STATE DEPARTMENTS & FOREIGN SERVICES (66%); TERRORISM (63%); BOMBINGS (63%)

Company: US DEPARTMENT OF JUSTICE (58%); US DEPARTMENT OF JUSTICE (58%); UP WITH PEOPLE (54%); UP WITH PEOPLE (54%)

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Industry: BUDGETS (76%)

Person: AL GORE (58%); BILL CLINTON (58%)

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End of Document

Document: RENO CALLS FOR U.S. RESPONSE TO ANTI-ABORTION A...

RENO CALLS FOR U.S. RESPONSE TO ANTI-ABORTION ATTACKS; POLICY: NEW ATTORNEY GENERAL IS SWORN IN AND VOWS TO SEEK FEDERAL REMEDY WHEN FORCE IS USED AGAINST WOMEN AT CLINICS.

Los Angeles Times

March 13, 1993, Saturday, Home Edition

Section: Part A; Page 18; Column 1; National Desk; Appointment

Length: 856 words

Byline: JA

By RONALD J. OSTROW, TIMES STAFF WRITER

Dateline: WASHINGTON

Body

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Atty. Gen. Janet Reno, sworn in during a White House ceremony Friday, said the federal government has an obligation to respond to physical attempts to prevent a woman from carrying out her right to abortion.

She said she would study the law to determine how the Justice Department might appropriately react to the slaying of Dr. David Gunn, a Pensacola, Fla., physician who was shot to death by an anti-abortion protester outside a clinic where Gunn performed abortions. The suspect in the case is being held on a state murder charge.

"Just as there should be a federal remedy for racial . . . and gender discrimination, somehow or other there has got to be a federal response to interference through physical conduct" with a woman seeking a

legal abortion, Reno said in an interview with reporters a few hours after taking office.

"I want to look at the laws on the books now to see if there is any remedy that we might undertake in response," she said.

Reno emphasized, however, that she was speaking only about a response to physical interference at abortion clinics, not about curbing abortion foes' free-speech rights.

At the White House, where she was sworn in by Supreme Court Justice Byron R. White, Reno said her confirmation hearing and swift Senate approval revealed "a new spirit in America" in which people will take up public service to fight crime and drugs and give children an opportunity to flourish.

In the interview, Reno signaled that she will chart a sharply altered course than her predecessor, focusing on such questions as whether blacks and other minorities are treated unfairly by the nation's criminal justice system.

"The criminal justice system in America at every level is going to have to address the issue of disparate treatment," Reno said.

Reno's predecessor, Atty. Gen. **William P. Barr**, last June called the system "fair" and cited studies that he said showed people were treated equally.

At the same time, he acknowledged that some laws -- such as those imposing mandatory minimum sentences for possession of small amounts of crack cocaine -- may fall heavily on blacks. "But it's not because of discriminatory intent. It has a disparate impact," he said.

Reno noted with pride that a statewide review in Florida, where she served as state attorney in Dade County for 15 years, found that her office was among two out of 20 that were able to enforce so-called career criminal statutes without disproportionately hurting minorities.

At the White House, President Clinton said Reno "made her own swift confirmation possible."

"You showed us that your career in public service, working on the front lines in your community, fighting crime, understanding the impact on victims . . . mending the gritty social fabric of a vibrant but troubled urban area is excellent preparation for carrying forward the banner of justice for all the American people," Clinton said.

In her interview later, the nation's first female attorney general revealed that she is struggling with the transition from veteran metropolitan area prosecutor to the nation's top law enforcement officer.

She described with obvious delight how she had walked the mile from her rented downtown Washington apartment to her temporary office at the Executive Office Building next to the White House.

She said that "people would stop and talk to me," in a way reminiscent of her experiences in Miami, where she maintained a listed home telephone number. "There's something about having to take a (phone) call and working through it," she said.

But now the avid outdoorswoman is being told by her FBI security detail that while she may hike the Appalachian Trail, she must fly on the FBI jet rather than on a commercial airliner.

As a prosecutor, Reno prided herself on being easily available to the 200 lawyers on her staff. At the Justice Department, she said: "I'd like to have an open-door policy, but I don't know if it's possible."

Shortly after meeting with reporters, Reno headed for the Justice Department and marked her first day in office by walking through the basement cafeteria, shaking hands and chatting with surprised employees.

Reno discounted reports that the White House already had picked her key subordinates, saying she is conducting interviews and believes that she has veto rights over presidential appointees to her department.

As for Webster Hubbell, a golfing partner of Clinton's who has been serving as the White House liaison at the Justice Department, Reno said it has not been determined what office he will hold.

"My understanding is that he is assistant to the attorney general at this point," she said.

She noted that he was introduced to her as "Hillary (Rodham) Clinton's law partner, the former mayor of Little Rock and a former justice on the Arkansas Supreme Court."

Reno also brushed aside the suggestion that White House counsel Bernard Nussbaum had taken over Justice Department functions in the absence of a confirmed attorney general and could represent a rival to her authority.

"No, I'm taller than he is," said Reno, who is 6-foot-2, "a lot taller than he is."

Graphic

Photo, President Clinton watches as Janet Reno takes her oath of office. Associated Press

Classification

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Organization: US DEPARTMENT OF JUSTICE (58%); US DEPARTMENT OF JUSTICE (58%)

Industry: REPRODUCTIVE HEALTH CLINICS (77%); PHYSICIANS & SURGEONS (77%); ABORTION LAWS (77%); LAWYERS (73%)

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EARLY RELEASE OF PRISONERS FUELS ANGER, FRUSTRATION

The Commercial Appeal (Memphis)

March 7, 1993, Sunday,, FINAL EDITION

Section: NEWS,

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Byline: Marc Perrusquia; The Commercial Appeal

Body

Nellie Ayers was stunned to see her boyfriend's killer walk through her neighborhood last year.

Fifteen months earlier, convicted drug offender Carlton O. Johnson killed Benjamin Marshall with a pool cue while on parole from prison. Now he's free on parole again.

"It was surprising to see he was back on the street in no time," said Ayers, 31, who had five children with Marshall before his January 1991 death outside a Jackson Avenue bar. "I felt at least they could have given him a year for each child."

Like Johnson, more than two-thirds of the 48,000 convicted felons under state supervision in Tennessee aren't serving their sentences behind bars - they live among us. Statewide, probation and parole have grown nearly 50 percent since 1986, as the state puts more burglars, car thieves, check forgers and - less often - murderers and robbers into community supervision programs.

That growth, fueled nationwide by rising crime and crowded prisons, has led to claims of a system growing dangerously lax. Supervision of felons has posed particular problems in Shelby County.

Statewide, more than nine of every 10 criminal defendants negotiate deals to plead guilty to reduced charges. Once convicted, criminals serve about a third of their sentences behind bars, records show. Among those released on parole, about four of every 10 will violate their release conditions, commit new crimes and return to prison.

The state is making efforts to keep violent criminals and sex offenders behind bars longer, but, as with Johnson, decisions to set them free sometimes meet tragic results.

"I'm a very irate mother against the criminal justice system," said Jackie Beard, a member of the Memphis chapter of Parents of Murdered Children, a group that has lobbied to abolish parole. Beard, 55, whose son, Chris Hollowell, was killed last year in Mississippi by a drifter who revolved in and out of jail, said more needs to be done to protect the public.

"The pain you feel when you lose a child, it's an unbearable pain," she said. "It never goes away."

At the same time, Tennessee is putting more criminals behind bars than ever. Wrapping up a $ 277 million prison expansion program this year, the state is incarcerating a record 14,234 felons, up 45 percent from 1986.

Prison expansion, launched after a 1985 federal court order to relieve crowding, has pushed state spending to more than $ 300 million annually to supervise about 48,500 felons in prisons, jails and community programs. Yet in January, the Tennessee Department of Correction projected more troubles ahead: a shortfall of another 1,800 prison beds by 1996.

DOUGLAS RATHBUN

Nationwide, there are more than 820,000 inmates in state and federal prisons, up 150 percent since 1980 as the public has demanded more jail time for criminals. But pressures continue: In answer to prison crowding, officials in Florida last year mistakenly released scores of convicted murderers, attempted murderers and child abusers who had served only fractions of their sentences.

While Tennessee has avoided those types of problems, difficulties persist.

Interviews and inspections of state and local records by The Commercial Appeal show:

-- A typical felon convicted in Tennessee receives a sentence of seven years and a month, but serves just two years and five months behind bars.

-- Those guilty of homicide, on average, receive a sentence of nearly 20 years and are released from prison in less than five.

-- Nearly 20 percent of felons get out of prison in advance of standard parole eligibility dates because of the state ''safety valve,'' the emergency mechanism adopted in 1985 to relieve prison crowding.

For example, inmates sentenced to 15 years for serious crimes such as large-quantity drug offenses or second-degree murder can become eligible for release in less than two years.

-- Violent criminals and sex offenders appear to be serving longer prison terms in recent years because of sentencing reform and a concentrated effort by the Tennessee Board of Paroles to deny release to criminals guilty of severe offenses.

While prosecutors contend prison time for many criminals has decreased over the past 10 to 20 years, the state's controversial 1989 Sentencing Reform Act appears to be helping keep violent offenders behind bars longer while allowing property offenders and less serious offenders to serve less time.

Public attention often focuses on criminal justice when tragedy strikes, like it did last year when two Memphis parolees killed a 60-year-old man.

Irving Manis was killed while closing a shop in South Memphis last April. His assailants were Darrell D. Wallace, then 23, who had been paroled in July 1991 after serving four years of a 20-year sentence for robbery, and fellow parolee Bradley B. Green, 26, arrested at least six times while out on parole.

Both were released early to relieve prison crowding.

Prosecutors had opposed the parole board's decision to release Wallace. Wallace and Green now are serving life sentences for Manis's murder. Prosecutors now want the parole board to make Wallace serve the full sentence for his previous robbery conviction as well.

''It was negligent to release Darrell Wallace,'' said prosecutor Jerry Harris, director of the major violators division for the District Attorney General's Office in Shelby County. ''I mean it's stupid.''

Taking chances

Pressures since 1985 to relieve prison crowding have redefined the role of the Tennessee Board of Paroles, the state agency that decides which felons are released on parole before their sentences expire.

''We're having to take chances and release people a lot earlier than we normally would if we were not mandated by that (prison crowding) statute,'' said Charles Traughber, chairman of the seven-member parole board, who said most inmates are eligible for parole more quickly than they were 20 years ago.

The parole board conducts risk assessment evaluations before determining in annual parole hearings if inmates are fit for release before their sentence expires. But that job has become complicated since 1985 by prison crowding and a recent parole board effort to hold sex offenders and murderers longer, Traughber said.

Parole officials say they do a good job overall protecting the public. About 70 percent of the inmates paroled are property offenders who pose fewer risks, said Debbie Miller, executive director of the parole board.

The board paroles about 5,000 to 6,000 felons a year, releasing about 49 percent of those eligible while denying release for the rest, Traughber said.

Once released, parolees are supervised by the state to monitor conditions such as keeping a job and staying out of trouble until their sentences expire.

However, prison crowding poses some tough calls, often involving the release of a repeat offender or drug offender the board hopes "will steal before they kill," Traughber said.

Building pressures

Across the state, prosecutors complain of difficulties in keeping serious criminals behind bars.

"The difficulty a lot of the time is that (sentencing and release are) driven not by the heinousness of the offense or the moral depravity of the actions, but by the number of people we can incarcerate in the state," said Franklin, Tenn., prosecutor Joe Baugh.

"The prison space tail is wagging the criminal justice dog."

One source of frustration is the safety valve, created in 1985 to relieve prison crowding. It can help shave years off release by speeding up parole eligibility.

For example, an inmate serving a 15-year sentence is generally eligible for release after serving 4 1/2 years behind bars. But the safety valve, which allows most inmates to qualify for another 40 percent reduction in time, lowers release eligibility to 2.7 years for these inmates. Good behavior and work credits can lower that to less than two years.

The safety valve accounted for the release of 18.4 percent of the 8,177 felons released during the 1990-91 fiscal year that ended June 30, 1991, records show.

Sex offenders, inmates convicted of escape and those convicted of assault or murder while incarcerated are not eligible for safety valve release.

But criminals guilty of homicide are eligible for parole and early release.

Officials estimate the average inmate sentenced to life for murder spends about 20 years behind bars before obtaining parole. Among 353 homicide offenders released in the 1991-92 fiscal year, 257 were paroled before their sentences expired. They included eight inmates guilty of first-degree murder, 138 guilty of second-degree murder and 111 guilty of other forms of homicide, records show.

Felons sentenced to two years or less for less serious crimes receive automatic release on probation after serving 30 percent of their sentence, avoiding a parole hearing.

Records show the pressure to speed many felons through the system is great:

-- Under a prison expansion program that's added 4,977 beds, Tennessee has 14,234 imprisoned felons at the end of 1992, up from 9,785 in 1986. To keep prison populations from exceeding capacity, felons must be released to incarcerate new convicts.

-- More than 95 percent of the felony convictions in criminal courts statewide in 1992 were the result of plea negotiations with prosecutors, according to Tennessee Sentencing Commission records. In a plea bargain, defendants generally plead guilty to reduced charges carrying lighter sentences. That saves time while ensuring conviction in clogged courts.

-- Overall, Tennessee is spending $ 310.8 million this year to operate the correction department, which includes about $ 25 million for probation supervision and community corrections. The state is spending another $ 12 million for parole supervision.

"The whole corrections system was and still is a growth industry," said Carey Rogers, assistant corrections commissioner. Growth has been rapid both in incarceration and community supervision, and officials aren't just "shoving people off" into probation and parole, Rogers said.

Sen. Jim Kyle (D-Memphis), chairman of the General Assembly's Oversight Committee on Corrections, said prison crowding poses difficult choices.

"We're housing about as many as we can afford," Kyle said. "And that's real hard to say to people. Because when somebody's lost their car, somebody's been (a victim of) armed robbery, somebody's been killed, to be quantitative about that, is a very tough public policy decision."

Sentencing Reform

The state's 1989 Sentencing Reform Act has created more controversy. Prosectors statewide generally contend criminals are serving less time, but state records suggest violent offenders are serving more time behind bars and property offenders less.

A convicted burglar released in 1989 had served an average of more than three years behind bars, but the average now is about two years and five months, records show. Meanwhile, first-degree murderers released in 1989 served an average of 11 years and four months, but those released last year served an average 17 years and two months behind bars.

Quicker releases for car thieves, check forgers, burglars and other property offenders appear to be freeing up prison space to hold more serious offenders longer, said Sue Cain, who recently stepped down as executive director of the Tennessee Sentencing Commission.

However, the sentencing commission also reported that a sharp increase in drug-related convictions statewide has "more than compensated" for any reductions in prison populations caused by the new law.

Kyle said it's too early to precisely measure sentencing reform's impact, but said he doesn't think some criticisms by prosecutors have been accurate.

The reform act was designed to make punishments more uniform and limit the number of felons in prisons to 95 percent of capacity. Judges' discretion generally was limited in favor of narrow ranges of punishment fitting a given crime and history of the offender.

Nationwide, Tennessee is one of about 15 states to adopt some form of sentencing guidelines to make punishment more uniform. Congress also overhauled the federal court system in the mid-1980s, fixing uniform sentences and requiring more jail time for federal drug and violent offenders.

Prosecutors contend Tennessee's law has several shortcomings.

Baugh recalls a 1985 case when he obtained life sentences for two men who kidnapped, raped and beat a woman, then dumped her out on a road. Neither had previous convictions.

"If we'd have tried that same case today, say they got the maximum sentence, 25 years . . . they'd be eligible for release in five years," said Baugh, District Attorney General in Tennessee's 21st District, including Williamson, Hickman, Lewis and Perry counties.

Prosecutors also complain about the loss of the habitual offender statute in 1989, which allowed lengthy sentences ranging up to life for convicts with lengthy records.

Violent crime in the United States is largely caused by a small number of repeat offenders who commit a "staggering" amount of crime, former U.S. Attorney General ***William Barr*** said last year. He stressed the need "to identify and incarcerate this hard core group of violent offenders." But Tennessee prosecutors say recent changes in the law have made that difficult.

"We lost all of our hammers," Harris said.

Local problems

Harris said last year he prosecuted nearly 1,000 defendants considered major offenders because of lengthy records or traits making them safety threats. "We can't even handle all the people on parole that are committing crimes," he said.

Among 13,788 felony convictions in the state last year, 4,102, or 29.7 percent, came out of Shelby County, according to the state sentencing commission. Officials blame an acute drug problem for the high proportion of convictions in Shelby County, which has 16.9 percent of the state's 4.9 million residents.

"Growth in these cocaine-related convictions occurred throughout the state, but was much more drastic in Shelby County than anywhere else," the sentencing commission said in its 1992 annual report.

Armed robbery also has become a serious crime here, said Don Strother, executive assistant of the District Attorney General's Office in Shelby County. There were more than 8,000 felony indictments in the county last year, and, following state averages, about 95 percent involved plea bargains, Strother said.

A plea bargain outraged several Memphians last year when two teenagers served 90 days behind bars for fatally shooting a 16-year-old girl outside a Whitehaven pizza parlor.

Kevin Oliver, 19, of 1464 Ethlyn and Andreas Pashun Williams, 19, of 3665 Summer Shade pleaded guilty to one count each of criminally negligent homicide when a stray bullet fired during an argument struck and killed Jacqueline Bishop.

In an agreement between prosecutors and defense attorneys, they were sentenced to four years with all but 90 days suspended.

Victim activism

Jean Goble, whose son was murdered by his wife in 1987, heads a Memphis group trying to abolish parole. "My son isn't eligible for any kind of parole," said Goble, 57, president of the Memphis chapter of Parents of Murdered Children. "He doesn't have any rights left, why should she?"

Nationwide, Parents of Murdered Children has spread petitions to block release of 187 convicted murderers at parole hearings. Goble said the Memphis chapter has blocked releases of five murderers.

The group convinced Rep. David Shirley (R-Memphis) to introduce a bill to abolish parole. But with no funding to incarcerate more inmates, the bill is expected to go nowhere.

But activists say they will continue to fight.

"We don't have to worry about wars in other countries," said Nancy Ruhe, national executive director. "We have an undeclared war right here in our own streets."

CHARTS: By Doris Lee

DOING TIME

The average felon in Tennessee receives a sentence of seven years and one month, but felons on average serve just two years and five months behind bars. Officials estimate that average time served for murderers, sex offenders and some other serious offenders overall is higher than the figures below. Many serious offenders now in prison are being held longer, while averages below are based only on inmates released from prison.

… Average Length Average Time Served

Primary Offense Group of Sentence* Behind Bars+

Homicide 19 years 7 months 4 years 11 months

First-degree murder 44 years 4 months 17 years 2 months

Second-degree murder 23 years 8 months 7 years

Other homicide 7 years 11 months 2 years 5 months

Kidnapping 17 years 1 month 4 years 6 months

Sex Offenses 11 years 11 months 4 years 6 months

Rape 9 years 5 months 6 years 2 months

Aggravated rape 28 years 9 years 1 month

Aggravated sexual battery 9 years 5 months 4 years 7 months

Other sex offenses 3 years 6 months 1 year 8 months

Robbery 11 years 7 months 4 years 2 months

Aggravated robbery 15 years 7 months 5 years 7 months

Robbery 6 years 7 months 2 years 7 months

Other robbery 8 years 11 months 1 year 4 months

Burglary 5 years 11 months 2 years 5 months

Aggravated burglary 7 years 2 months 2 years 11 months

Burglary

..other than habitation 5 years 2 years 2 months

Other burglary 2 years 4 months 11 months

Theft and stolen property 4 years 1 year 11 months

Theft of property

..$ 10,000 to $ 60,000 NA 1 year

Theft of property

..$ 1,000 to $ 10,000 4 years 10 months 2 years 5 months

Theft of property

..$ 500 to $ 1,000 2 years 4 months 1 year 2 months

Other theft and

..stolen property 4 years 2 months 1 year

Forgery, fraud and

embezzlement 3 years 10 months 1 year 7 months

Assault 4 years 11 months 2 years 5 months

Aggravated assault 5 years 6 months 2 years 10 months

Other assault 2 years 4 months 8 months

Arson 6 years 5 months 2 years 2 months

Drug offenses 5 years 11 months 1 year 6 months

Cocaine offenses 7 years 1 year 8 months

Other drug offenses 3 years 10 months 1 year 4 months

Escape 4 years 5 months 2 years 4 months

All others 2 years 4 months 1 year 1 month

Total 7 years 1 month 2 years 5 months

Source: Tennessee Department of Correction.

* Based on the sentences of 9,199 inmates admitted to the prison system in the 1990-91 fiscal year ending June 30, 1991.

+ Based on 9,051 inmates released from the prison system in fiscal year 1991-92 ending June 30, 1992. These numbers do not include about 75 inmates who escaped by walking away from minimum security, failing to return from furlough or other means. The figures include 53 inmates sentenced primarily for escape.

RELEASING FELONS

Each year Tennessee releases more than 8,000 convicted felons from prisons and jails through parole, probation, expired sentences and other forms of release. During the 1991-92 fiscal year ending June 30, 1992, the state released more than 9,000 murderers, rapists, sex offenders, robbers, drug offenders, kidnappers, thieves, burglars, arsonists and other felons.

Primary Number of Offenders Percent of total

Offense Group Released Released

Homicide 353 3.9%

First-degree murder 14 0.2%

Second-degree murder 158 1.7%

Other homicide 181 2.0%

Kidnapping 43 0.5%

Sex Offenses 328 3.6%

Rape 128 1.4%

Aggravated rape 23 0.3%

Aggravated sexual battery 52 0.6%

Other sex offenses 125 1.4%

Robbery 1,173 12.9%

Aggravated robbery 670 7.3%

Robbery 431 4.7%

Other robbery 72 0.8%

Burglary 2,081 22.8%

Aggravated burglary 1,089 11.9%

Burglary

.. other than habitation 807 8.8%

Other burglary 185 2.0%

Theft and stolen property 1,038 11.4%

Theft of property

.. $ 10,000 to $ 60,000 122 1.4%

Theft of property

.. $ 1,000 to $ 10,000 623 6.8%

Theft of property

.. $ 500 to $ 1,000 256 2.8%

Other theft and

.. stolen property 37 0.4%

Forgery, fraud and

.. embezzlement 346 3.8%

Assault 777 8.5%

Aggravated assault 628 6.9%

Other assault 149 1.6%

Arson 86 0.9%

Drug offenses 2,546 27.9%

Cocaine offenses 1,550 17.0%

Other drug offenses 996 10.9%

Escape 54 0.6%

Habitual offender+ 4 0.0%

All others 297 3.3%

Total 9,126 100.0%

Source: Tennessee Department of Correction.

+ Prior to the 1989 sentencing reform, offenders with at least three convictions could be classified a habitual offender and possibly receive a life sentence. The new law did away with the habitual offender offense, but the prison system continues to hold and release inmates sentenced under the old law.

Notes

Revolving Door?, first of 2 in a series

Graphic

By Thomas Busler

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THEFT (78%); COUNTERFEITING & FORGERY (78%); SUPERVISED RELEASE (78%); BURGLARY (78%); GUILTY PLEAS (78%); PROBATION (78%); PRISONERS (78%); LITIGATION (78%); CRIMINAL OFFENSES (78%); SEX OFFENSES (78%); ROBBERY (73%); VEHICLE THEFT (73%); CONTROLLED SUBSTANCES CRIME (73%); LAW COURTS & TRIBUNALS (63%)

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Shift on Congressman's Trial Stirs Fury at Justice

The New York Times

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Byline: By DAVID JOHNSTON,

By DAVID JOHNSTON, Special to The New York Times

Dateline: WASHINGTON, Feb. 25

Body

While awaiting the confirmation of a new Attorney General, the Clinton Administration has run the Justice Department through a hybrid management team led by a conservative Republican holdover from the Bush Administration and a former Arkansas law partner of Hillary Rodham Clinton.

The lashed-together arrangement, intended to be jettisoned as quickly as possible, has jelled into semi-permanency over the weeks as Stuart M. Gerson, Mr. Bush's former head of the civil division, has settled in as Acting Attorney General.

But the trouble-free transition ended when Mr. Gerson and Webster Hubbell, his Clinton Administration associate, provoked a blast of protest from Western Tennessee after they abruptly changed the department's position on racially tinged jury-selection issue in the case of Representative Harold E. Ford, a Tennessee Democrat facing a retrial on Federal bank fraud and conspiracy charges.

Deadlock in 1990

Mr. Ford's first trial, in 1990 in Memphis, ended in a deadlock, with eight black jurors favoring acquittal and four whites voting to convict.

For the second trial, the jury was drawn not from Memphis, where Mr. Ford is well known, but from a mainly white, rural community 100 miles northeast of Memphis. Last week, the selection produced a panel of 11 whites and one black. The trial itself is to be held in Memphis, with the jurors transported to the city.

Mr. Ford's lawyers and others, like the Congressional Black Caucus, complained bitterly that the second jury would be stacked against Mr. Ford. Last Friday night, one day after meeting with 26 members of the black lawmakers' group, Mr. Gerson announced that the department, which had previously supported the out-of-town jury, would join with Mr. Ford in an effort to dismiss the nearly all-white jury.

In joining with Mr. Ford to seek a jury from Memphis, which has a black majority, Mr. Gerson displayed independence in breaking with the Bush Administration's position. But the fundamental fairness of his decision was less in dispute than the timing and whether the way Mr. Gerson went about intervening created an appearance that he was influenced by outside political pressure.

Met With the Defense

Mr. Hubbell had previously met with William E. McDaniels, one of Mr. Ford's lawyers, to discuss the case. Such contacts are not uncommon in high-profile cases, but they nonetheless raise the specter of influential people going outside the system to obtain favors not available to most defendants.

On Monday, at a Federal court hearing in Memphis at which the department's shift was announced, Federal District Judge Jerome Turner angrily rejected the change that he said was ordered by Mr. Gerson and Mr. Hubbell. "It is a sad day, in my view, when the Acting Attorney General and a representative of the White House give in to a demand that a jury of the United States must be selected by race, that their concept of fairness means percentages, that equality depends on one's race," he said.

With the issue still reverberating, George Stephanopoulos, Mr. Clinton's spokesman, tried to erase the impression that the Justice Department may have caved into pressure from supporters of Mr. Ford, who was one of Mr. Clinton's important black supporters.

"We did receive inquiries about the Ford case," said Mr. Stephanopoulos, "and the White House counsel simply turned that over to the Justice Department and said that these were to be handled in the appropriate normal manner, and that was that." He said Mr. Gerson made the decision on his own, without consulting the White House in advance.

Working Without a Title

Mr. Hubbell, who was hired with a temporary 120-day appointment, has no title or any formal role at the department but he is widely regarded as a candidate for a senior job, possibly Associate Attorney General, the No. 3 position.

Formerly mayor of Little Rock and an Arkansas State Supreme Court justice, Mr. Hubbell has stuck to the background. His defenders say he has wanted to avoid the spotlight, aware that he carries the political clout of the White House, but has no legal authority to run the department. That rests in Mr. Gerson's hands.

But Mr. Hubbell's presence has led to widespread speculation within the department about his actual role and whether he wields influence in issues like the selection of jurors in the case of Mr. Ford, who is from the home state of Vice President Al Gore.

Last week, after the second jury was seated, the black caucus said the selection of the panel "establishes in the minds of many a double standard of justice which is blind to the impact of racial prejudice and blatantly unfair in its application."

Other lawmakers supported Mr. Gerson's decision. Representative Don Edwards, a Democrat of California who is chairman of the House Judiciary Committee, said, "The real political decision was the one a year ago to go 100 miles from outside of Memphis to pick a nearly all-white jury."

Free to Walk Away

Announcing the shift, Mr. Gerson said in a statement that he saw nothing unusual in meeting with partisans in a pending criminal case and dismissed the significance of the lobbying effort.

He has said that, as a Republican temporarily drafted for a Democratic Administration, he is free to walk out at any time and therefore may be freer than his predecessors to keep politics from interfering with his interpretation of the law.

Still, some of Mr. Gerson's old colleagues in the Bush Administration have expressed irritation at his willingness to help out the Clinton forces, and a few have expressed the suspicion that Mr. Gerson may have succumbed to his desire to continue in his acting-cabinet-member status in taking a step that -- no matter what motives prompted it -- was highly unusual at such a late date in a criminal proceeding. The action provoked Edward Bryant, the United States Attorney in Memphis, into resigning on Saturday.

William P. Barr, the former Attorney General, suggested in an interview that the decision was an ominous signal from the Clinton Administration. "The most important thing is making sure that politics don't play a role in the consideration of criminal cases," he said.

But Mr. Gerson said in his statement that he had tried to "achieve a principle of fairness and uniformity."

Graphic

Photos: While President Clinton has struggled to find an Attorney General, the Justice Department has seen a hybrid management of Webster Hubbell, top, pictured golfing with the President-elect in December, and Stuart M. Gerson, bottom, a Bush Administration holdover. The arrangement has been in the spotlight over a jury-selection issue. (Paul Hosefros/The New York Times)

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Was acting AG courting a job? ; Clinton pressure cited in Ford case

The Washington Times

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Byline: Jerry Seper; THE WASHINGTON TIMES

Body

To win a top Justice Department job, acting Attorney General Stuart M. Gerson caved in to Clinton administration pressure to seek the ouster of a predominantly white jury in the trial of a black congressman, department officials said yesterday.

Mr. Gerson, a Bush administration holdover whose temporary assignment to head the department was approved by President Clinton, asked for the jury dismissal late Friday in a last-minute motion in the trial of Rep. Harold E. Ford, Tennessee Democrat, who is accused of accepting $1.5 million in payoffs.

A former assistant attorney general, Mr. Gerson has told friends and associates he hopes to stay at the department in a similar capacity.

"He has made it clear that he would like to stay on as an assistant attorney general," said a former Justice Department official who asked not to be identified. "He likes being in charge and has said his appointment by the Clinton administration as acting attorney general was the greatest honor of his career.

"Coupled with what happened in the Ford case, you certainly can smell a rat."

Mr. Gerson, through a spokeswoman, denied yesterday that the Ford motion had anything to do with a job or that he was pressured by Clinton operatives to seek a new jury.

"Stuart Gerson is completely his own person," spokeswoman Caroline Aronovitz said. "Any suggestions he was pressured by anyone in this matter are simply not true."

Ms. Aronovitz said Mr. Gerson has made no plans for his future other than to "take some time off and consider his options." She did not rule out the possibility of his return to the department.

"It's a very bad omen if Congress can pressure the department to respond to political concerns," said former Attorney General **William P. Barr**. "That's something the Justice Department must resist with all its will."

Several former and current department officials said yesterday that Mr. Gerson's decision in the Ford case will enhance his chances to be a power in the Clinton Justice Department despite having worked for the Bush administration.

"Stuart Gerson is a bright man and a good lawyer, and there certainly was something going on here for him to make such a stupid decision," a department prosecutor said.

Other Justice officials said the motion caused widespread embarrassment. They described it as ill-advised and ill-conceived.

"Gerson even had a wake-up call on this one, from the U.S. attorney who was handling the case, who said it was wrong and he would quit if it came down," said another former department official. "But he did it anyway.

"The final blow came when the judge turned the request down, saying it had no legal foundation. This was a real no-brainer, and you have to believe he was pressured into doing it."

U.S. District Judge Jerome Turner rejected the motion Monday. "It is unlawful to exclude jurors because of their race, and that is what this court is being asked to do," he said. "A white man is not entitled to a white jury or a given number of white jurors. Likewise, a black man is not entitled to a given number of black jurors."

Yesterday, the Justice Department backtracked from its support of Mr. Ford's effort to get a new jury.

Mr. Ford's attorneys petitioned the 6th U.S. Circuit Court of Appeals in Cincinnati for help, renewing a request to halt the trial and order a new jury with more black members.

But Justice told the appeals court it accepts Judge Turner's ruling.

"Although the United States joined in the defendant's motion in the District Court to strike the presently empaneled jury and to select a new jury panel, we believe that the District Court acted well within its discretion," the Justice Department said in a statement.

The appeals court earlier this month rejected Mr. Ford's appeal for a new jury, and the U.S. Supreme Court has refused to hear the appeal.

U.S. Attorney Edward Bryant, a Republican who has overseen the Ford case for the past two years, resigned Saturday. "My only option is to step aside," Mr. Bryant said. "I did what I had to do."

Two assistant U.S. attorneys who handled the trial asked to be reassigned. Taken off the case Friday, they were ordered back to court by the department Monday.

Mr. Ford said he cannot get a fair trial with 11 white jurors. That concern was echoed by 26 members of the Congressional Black Caucus who petitioned the department last week.

Caucus members met with Mr. Gerson to discuss the trial. At the meeting was Webster L. Hubbell, a former Little Rock, Ark., law partner of first lady Hillary Rodham Clinton. He has been at the Justice Department since Jan. 21 as White House liaison.

"There's no one here who doesn't know who's in charge, despite Mr. Gerson's frequent reminders that he runs the place," a longtime prosecutor said. "Hubbell wasn't sent here to observe, but to make sure that the policy is in line with the thinking at the White House."

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Judge Denies U.S. Request to Dismiss Ford Jury

The Washington Post

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Length: 926 words

Byline: Michael Isikoff, Washington Post Staff Writer

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Body

In a blistering attack on the Justice Department and acting Attorney General Stuart M. Gerson, a federal judge yesterday rejected as "repugnant to this court's sense of justice" a last-minute department request to dismiss a nearly all-white jury in the retrial of Rep. Harold E. Ford (D-Tenn.).

U.S. District Judge Jerome Turner ordered Ford's new trial on bank fraud and conspiracy charges to move ahead, calling it "a sad day in my opinion when an acting attorney general of the United States gives in to a demand that a jury must be selected by race."

Moments later, as opening statements were about to begin, William E. McDaniels, chief lawyer for the veteran black congressman, said his client was experiencing chest pains and could not proceed. Walking out of the courtroom of his own accord, Ford, 47, was admitted to a nearby hospital for tests, prompting the judge to reluctantly grant a two-day recess.

The developments yesterday were the latest in a series of extraordinary twists that have thrown his case into turmoil and raised questions about the Justice Department's policy in selecting juries for racially charged cases.

After the mostly black Memphis jury in Ford's first trial split 8-4 for acquittal along racial lines, resulting in a mistrial, jury selection in the case was moved to Jackson, a predominantly white rural community 80 miles to the northeast.

But last week, after a new jury of 11 whites and one black was selected, the Congressional Black Caucus launched an intensive lobbying effort on Ford's behalf, complaining that the new panel was "racially prejudicial" and would result in a "travesty of justice."

On Thursday, a 26-member black caucus delegation met with Gerson and Webb Hubbell, Hillary Rodham Clinton's former law partner who is now serving as White House liasion to the Justice Department. The following day, Gerson abruptly overruled prosecutors in charge of the case and threw the department's support behind a defense motion asking that the jury be dismissed and a new panel be selected in Memphis, a city about 60 percent black.

Gerson's decision prompted the U.S. attorney in Memphis to immediately resign in protest and forced the department to fly in a lawyer from Washington yesterday to present its new position.

But moments after the lawyer, Ellen Meltzer, made her appearance yesterday, Turner, who had spent more than two weeks choosing the jury, tore into her.

The notion of selecting a jury by race, Turner said, "is a concept I thought was dead and buried in the eyes of the law. . . [The department's position] is repugnant to this court's sense of justice."

Turner, a Reagan administration appointee, also criticized the political activity of local black ministers, who have demonstrated against the jury selection, as well as what he called Ford's "scurrilous, defamatory" attacks on local prosecutors.

In addition, the judge questioned Meltzer closely about the role of Hubbell, who has declined to make any public statements or answer questions from the news media since he moved into the attorney general's suite more than a month ago.

After Meltzer told the judge that the Ford matter had been brought to Gerson's attention by Hubbell, Turner asked on whose authority Hubbell was acting and what his status was at the department. "I just don't know," replied Meltzer.

A Justice Department spokesman said that Hubbell, a former mayor of Little Rock and chief judge of the Arkansas Supreme Court, is serving under a temporary 120-day political appointment that does not require Senate confirmation. Hubbell did not return a phone call. The spokesman said there would be no department comment on Turner's statements.

The questioning illustrated the widespread confusion about who is running the Justice Department in the wake of Clinton's difficulties finding an attorney general. Since his first choice, Zoe E. Baird, withdrew her name from consideration on Jan. 21, Gerson -- a Bush administration holdover who formerly served as assistant attorney general for the civil division -- has said that he was "in charge" and has been aggressively making decisions on a broad range of matters.

Former attorney general William P. Barr yesterday called the department's handling of the Ford matter a "debacle" and "political."

"You can either have the rule of law or the rule of congressional committee," said Barr, referring to the black caucus. "My supposition is he [Gerson] was pressured. I don't think Gerson would have done it all by himself."

But Gerson yesterday insisted that he received no outside interference from the White House. "I wasn't influenced by anything other than what I thought was the appropriate thing to do."

Ford has been under indictment since 1987 on charges he accepted more than $ 1.5 million in political payoffs disguised as bogus bank loans from former bankers Jake and C.H. Butcher.

Gerson last week called the department's case against Ford "factually overwhelming." But he said he was looking beyond the merits of the case to the department's broader question of having verdicts in racially divisive cases be "accepted and respected."

"You can't avoid the race question and the riot question," said Paul Rothstein, professor of criminal law at Georgetown University, adding that he concurred in Gerson's decision. "You can't have a verdict against a black politician by a jury that seems to have been gerrymandered to make it all-white."

Special correspondent John Branston in Memphis contributed to this report.

Graphic

PHOTO, REP. HAROLD E. FORD

Load-Date: October 14, 1993

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Barr Gave $ 108,000 in Parting Bonuses; Recipients Included 2 Top Political Appointees, Security Detail

The Washington Post

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Body

In his last weeks in office, former attorney general William P. Barr awarded more than $ 108,000 in cash bonuses to 37 Justice Department employees, including members of his security detail, his secretary and two top political appointees who were among his closest aides.

The awards, given for either "sustained performance" or a "special act" worthy of commendation, included $ 7,500 each to political appointees Paul J. McNulty and Ira H. Raphaelson, both of whom have since joined Barr at the same Washington law firm.

They were recommended for bonuses by Barr in mid-December, just a few weeks before he left the Justice Department and two months after President George Bush vowed to cut salaries of high-ranking federal employees earning $ 75,000 a year or more by 5 percent. "Taxpayers have tightened their belts," Bush said then. "The better paid federal workers should do the same."

At the time of the awards, McNulty, director of the Office of Policy and Communications and Barr's chief spokesman, earned a salary of $ 94,000. Raphaelson, a special counselor to Barr whose duties included oversight of the department's controversial investigations into the Bank of Commerce and Credit International and Banca Nazionale del Lavoro, was earning $ 104,000.

The bonuses, which also included $ 2,500 to Barr's personal secretary and $ 8,800 to 11 members of his security detail, were first reported in yesterday's editions of Legal Times. The weekly newspaper also quoted unnamed former department officials as criticizing Barr's judgment in awarding the late bonuses, especially to political appointees.

But Barr yesterday ardently defended his awards, saying they were reviewed by department personnel officials at the Justice Management Division and were similar to those awarded by his predecessors. "I have no regrets about it," Barr said. "Bonuses are a good management tool and people deserve recognition for what they've done. I think you have to be cautious about giving them to political appointees and I was cautious."

In the case of McNulty and Raphaelson, he said, "they clearly were among the top performers in the department."

John C. Vail, director of the personnel staff at the Justice Management Division, said the bonuses were part of a program that gives managers discretion to reward superior performance at any time of the year with awards of up to $ 10,000 apiece. Although at least one agency, the Treasury Department, has specifically prohibited awards to political appointees, Vail said no such policy is in place at the Justice Department and that it was his "recollection"

that the last two attorneys general, Edwin Meese III and Dick Thornburgh, also gave bonuses to political appointees.

Asked about his award yesterday, McNulty noted that he had not received a raise since he joined the department two years earlier and, as chief of his policy and communications office, "I had eight to 10 people [working for me] who made more money than I did."

"As one who is the father of four small children, I saw this as an expression of appreciation for the time I sacrificed," McNulty said. "As head of communications, I had no break from the work. I had a four-day vacation at one point in which I got called every day. I missed dinner with my little kids every night."

"I never really perceived myself as a political appointee," added Raphaelson, who previously served as chief deputy in the U.S. attorney's office in Chicago. "I worked my tail off the last two years and I'm grateful that Barr recognized it. . . . Do I think I earned it? I think I earned it as much as anyone can earn anything."

Graphic

PHOTO, WILLIAM P. BARR.

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CASH FLOWED BEFORE AG FLEW; ON HIS WAY OUT, BARR REWARDED TOP AIDES, OTHERS

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Body

ON HIS WAY OUT, BARR REWARDED TOP AIDES, OTHERS

Every Christmas season, with great pomp and fanfare, the Justice Department holds an awards ceremony in its Great Hall. Career civil servants are honored for exceptional achievements in the line of duty with such prestigious prizes as the John Marshall and Edmund Randolph awards.

But this year, there also was a secret Santa. While no public ceremonies were held and no press releases were issued, just weeks before leaving office in mid-January, outgoing Attorney General ***William Barr*** quietly doled out more than $100,000 in cash awards to 37 favored Justice Department employees-- including $17,500 to three political appointees who were among his closest associates.

Barr granted $7,500 each to his spokesman, Paul McNulty, and to his counselor, Ira Raphaelson. The awards were the highest given to any single employee and were at least $2,500 more than all but one career employee received. Additionally, Barr gave $2,500 to Mary Stevens, his confidential secretary.

All three followed Barr to his law firm, D.C.'s Shaw, Pittman, Potts & Trow-bridge, after exiting the Justice Department last month.

In making the payments, Barr was using a little-known discretionary power available to agency heads to reward employees with cash for distinguished service.

Barr's parting gifts were all legal, and no one suggests that the trio of political appointees awarded are not hard-working, competent professionals. Still, the decision to include his close aides among the career honorees selected for the awards has prompted complaints that Barr dipped into the public till to benefit his hand-picked coterie.

There's no way you can condone that kind of conduct, says Rep. George Sangmeister (D-Ill.), a member of the House Judiciary Committee.

Obviously, you don't do that when you're leaving office. If it can be proven that these were awards for political service or just a Goodbye, nice to know you, and here's a little extra money, I think that's entirely wrong, and I think maybe that's something the Judiciary Committee ought to look into, says Sangmeister.

Poor Judgment

Even some of Barr's Republican colleagues in the Bush Justice Department say privately they are disturbed by his decision to hand out cash awards to his closest political aides.

I think it is extremely poor judgment, says a former high-ranking Bush Justice official, voicing a sentiment echoed by two other presidential appointees who served with Barr at the department.

The whole idea of cash awards is to reward career employees for past accomplishments, but also to provide incentives for future accomplishments. I think it's awful for the career civil servant to see this money going into the pockets of political people. It looks exploitative, observes the former official.

Indeed, career Justice employees are grumbling, arguing the money would be better spent on careerists.

For his part, Barr says he was sensitive to the appearance of handing out cash awards to top political appointees, because he wanted to avoid the possibility of cronyism. But he says he made an exception in the cases of McNulty and Raphaelson because of their extraordinary efforts, arguing that they logged unusually long hours for less than the top government pay scale.

They both performed exceptionally well, they took on extra responsibilities and, given the nature and scope of their responsibilities, they were not particularly well-paid, says Barr, now a partner at Shaw, Pittman.

McNulty, now counsel at Shaw, Pittman, earned $94,000 as head of the department's Office of Policy and Communications and Barr's chief spokesman. Raphaelson, who spearheaded Justice's prosecution of financial institutions fraud in addition to serving as Barr's personal counselor, earned $104,000. Raphaelson is now a Shaw, Pittman partner. (Senate-confirmed presidential appointees, such as division heads, earn between $108,200 and $148,400, according to a department spokesman.)

The issue is obviously a sensitive one for the officials involved. When first asked whether Barr had given him or any other political appointee cash awards, McNulty flatly denied it. But last week, after the Justice Department released the bonus list, McNulty said he did not mean to be misleading.

Both McNulty and Raphaelson defend their accepting of the awards.

Political appointees are not some lower form of human life, says McNulty. They deserve appropriate recognition and to not provide them with that kind of recognition does in a sense penalize them for their service.

McNulty points out that when he took over the Office of Policy and Communications in 1991, giving him broad responsibility for press relations, outreach to interest groups, and policy development, he earned $10,000 less than two of his deputies. Furthermore, as a political appointee in the senior executive service, McNulty says he was not eligible for other bonuses that career civil servants can receive.

McNulty argues that it is unfair to call into question Barr's largess toward his close aides, noting that the former attorney general won kudos for his fair treatment of the Justice Department's civil servants.

I doubt there has ever been an attorney general who expressed and demonstrated more appreciation for career employees than did Bill Barr, says McNulty. In that sense, he was a great manager.

Two Jobs, One Salary

Raphaelson says he feels comfortable with the award because as Barr's counselor and the country's top S&L prosecutor, he had to hold down two jobs on one salary.

Frankly, I'm not going to feel bad because my hard work was recognized, he says. Raphaelson says he is not impressed with career Justice employees who are complaining about the bonuses.

When I went home at 10 o'clock at night, I saw very few of those career employees who are raising questions about my getting a cash award, he says. I'd put that in the petty jealousy category and frankly, their complaining is of small moment to me. As to those career professionals who were there as late as I was and then some, there were other ways in which they were rewarded, and I can't believe that they would resent my being recognized.

Both McNulty and Raphaelson reject any suggestion that they are Barr cronies; both say they met Barr only shortly before he hired them.

For Raphaelson, this latest cash award was not the first he received from Barr. Last year, Raphaelson was given $5,000 for his role in hammering out a $600 million dollar settlement in the Justice Department's case against the Bank of Credit and Commerce International.

While Barr says he has no regrets about making the payments, he notes that he took pains to make sure the action was above board. He says that he sought the assurance of officials in the Justice Management Division that the practice was legal and that there was ample precedent for attorneys general giving cash awards to political appointees.

Barr's authority to mete out cash awards for both civil servants and political appointees is grounded in the Incentives Awards Act of 1954. The law was intended to provide incentives for government workers to stay in public service.

Officials at the Office of Personnel and Management say there are no government-wide prohibitions against giving monetary awards to political appointees.

Still, some agencies have interpreted the intent of the law to limit these kinds of cash incentives to career employees. While many departments permit cash awards to political picks, at least one, the Treasury Department, has banned the practice outright.

Our policy is that political appointees, regardless of their level, do not qualify for cash bonuses, says Treasury spokesman Scott Dykema. A Treasury official, speaking on the condition of anonymity, says that the policy was in effect during most of the Reagan-Bush years and continues today. The official says Bush Treasury Secretary Nicholas Brady was very firm about enforcing the ban because he thought giving cash prizes to political people looked very bad.

It is difficult to determine how often past attorneys general have dished out cash awards.

Justice Department officials say Barr is not breaking precedent by giving the cash awards to political appointees. John Vail, director of personnel at Justice, says that previous attorneys general, including Richard Thornburgh, Edwin Meese III, and William French Smith, all rewarded both career and political employees with money prizes.

Late last week, Vail provided a partial list of political and career employees who received cash awards, dating back to 1984. The document suggests that, other than Barr, Meese each year handed out money prizes to close aides, including his chief of staff and personal secretary. An aide to then Attorney General Thornburgh says that Thornburgh thought it inappropriate to reward political appointees with cash bonuses. It was not in Dick Thornburgh's nature to give cash awards to close associates, says the aide, who asks not to be identified. Others contend that Thornburgh did not like to hand out cash bonuses to career or political appointees because he was a stickler on budget matters.

Performance Perks

Benjamin Civiletti, attorney general during the last year of the Jimmy Carter administration, says he recalls giving out about six to 10 cash awards, but does not remember if he gave any to political appointees. Still, Civiletti, now a partner in D.C.'s Venable, Baetjer, Howard & Civiletti, says he sees nothing wrong with handing out cash awards to political appointees so long as they are rewarded for performance.

Other Justice veterans say they remember the practice of giving the awards to non-career appointees being strongly discouraged. Kevin Rooney, who was assistant attorney general for the Justice Management Division from 1977 to 1984 and who had to sign off on the awards, says he does not believe political appointees received the money prizes during his tenure.

Whatever the practices have been concerning political appointees at Justice, there has been a long tradition of attorneys general giving cash awards to loyal career employees. Barr reserved the vast amount of his discretionary money for such long-time civil servants as his chauffeurs and the 11 members of his security detail from the Federal Bureau of Investigation. **(See chart on Page 24.)**

BARR'S CASH AWARDS

Name	Title/Division1	Contribution	**Award**
Federal Bureau of Investigation Detail (11 employees)	FBI	For carrying out their protective duties effectively and efficiently.	$8,800
Geoffrey Greiveldinger	Associate deputy attorney general	For significant improvements in the department's national security programs.	$7,500
Paul McNulty2	Director of the Office of Policy and Communications	For planning and establishing the Office of Policy and Communications	$7,500
Ira Raphaelson2	Counselor to the attorney general; special counsel for financial institution fraud	For carrying out the role of counselor to the attorney general, in addition to his job as special counsel for financial institution fraud	$7,500
Stephen Colgate	Deputy assistant attorney general for personnel and administration	For spearheading the department's administrative response to the devastation of Hurricane Andrew.	$5,000
Adrian Curtis	Director of the budget staff in the Office of the Deputy Assistant Attorney General; controller of the Justice Management Division	For leadership in the management of the department's budget, particularly a shortfall in FY 1993 in legal-activities funding.	$5,000
Russell Hayman	Executive assistant in the Drug Enforcement Administration	For leadership and prosecutorial expertise, which facilitated several international drug investigations.	$5,000
Frederick Kramer	Director of the Organized Crime and Drug Enforcement Task Force	For an array of significant accomplishments in managing the task force.	$5,000
Kristine Marcy	Associate deputy attorney general	For effective oversight of the U.S. Marshals Service's seized-asset and prisoner-custody programs.	$5,000
David Margolis	Deputy assistant attorney general	For extraordinary handling of the Rocky Flats	$5,000

and senior counsel for litigation in the Criminal Division	inquiry.		
Anthony Moscato for administration in the Justice Management Division	Deputy assistant attorney general Office of U.S. Attorneys at a critical period.	For assuming the role of acting director of the Executive	$5,000
Tony Perez U.S. Marshals Service's Office of the Deputy Director for Operations	Enforcement Division chief in the and Operation Gunsmoke, two significant fugitive-apprehension programs.	For successful execution of Operation Sunrise	$5,000
Michael Roper and controller in the Justice Management Division	Deputy assistant attorney general leadership in the budget process.	For extraordinary effort in guiding departmental	$5,000
Chris Sale for management in the Immigration and Naturalization Service	Executive associate commissioner programs of the INS.	For improving the financial and administrative	$5,000
Julie Samuels in the Criminal Division	Program management officer Criminal Division to the attorney general's office.	For exceptional work while on detail from the	$4,000
Douglas Frazier Office of U.S. Attorneys the deputy attorney general's office.	Deputy director of the Executive and the Criminal Division while detailed to	For effective oversight of the FBI, the DEA,	$2,500
Amy LeCocq Programs, the U.S. Trustee Program, and attorney personnel while detailed to the deputy attorney general's office.	Associate deputy attorney general	For effective oversight of the Office of Justice	$2,500
Tim Murphy on critical policy issues.	Deputy associate attorney general	For representing the associate attorney general	$2,500
Patricia Patterson specialist in the Justice Management Division	Legal recruitment program of the Attorney General.	For exceptional work as a scheduler in the Office	$2,500
Mary Stevens2 attorney general	Confidential assistant to the as he prepared to leave the department.	For organizing the attorney general's records	$2,500
Michael Williams	Chief of the U.S. Border Patrol	For actions that increased control of illegal entry	$2,500

and enhanced public safety.			
Surell Brady	Deputy associate attorney general	For helping to re-establish the Office of the	$2,000
Associate Attorney General.			
Michael Kendall	Assistant U.S. attorney	For helping to re-establish the Office of the	$2,000
Associate Attorney General.			
James Kramarsic	Supervisory special agent in	For extraordinary efficiency and competence in	$1,200
the Federal Bureau of Investigation	supervising the attorney general's protective detail.		
John Alexander	Motor vehicle operator in the	For capable, careful discharge of duties as a driver	$1,000
Justice Management Division	for the attorney general.		
Neal Hunt	Motor vehicle operator in the	For capable, careful discharge of duties as a driver	$1,000
Justice Management Division	for the attorney general.		
Frank Shults	Executive assistant in the Drug	For effectively communicating the department's	$1,000
Enforcement Administration	mission while detailed to the Office		
of Public Affairs.			
1.	**Positions listed were those held at the time of the award**	.	
2.	**Individual was a political appointee**	.	

Source: Justice Department Office of Public Affairs

Other awards Barr doled out provide insight into the services he valued while at the helm of the Justice Department. Chris Sale of the Immigration and Naturalization Service won a $5,000 award for improving the financial and administrative programs of the INS. Barr made overhauling the INS, long one of Justice's most beleaguered components, a top priority during his tenure.

Barr bestowed $5,000 on Anthony Moscato for assuming the role of acting director of the Executive Office of U.S. Attorneys at a critical time. Moscato replaced Laurence McWhorter, who became the subject of an internal Justice Department probe after pleading guilty to assaulting his wife. McWhorter has since been transferred to the Executive Office for United States Trustees.

McNulty and Raphaelson got their $7,500 awards for taking on projects and responsibilities that were of direct consequence to Barr.

McNulty won his for planning and establishing the Office of Policy and Communication, while Raphaelson was rewarded for carrying out the role of counselor to the attorney general, in addition to his job as special counsel for financial institution fraud.

Barr's confidential assistant, Mary Stevens, was honored with $2,500 for organizing the attorney general's records as he prepared to leave the department.

But ultimately, the cash awards pale by comparison to the bigger reward the trio received because of their affiliation with Barr: good jobs at a powerful law firm. And the fact that Barr was able to help them land at one of Washington's most prestigious law firms, points up precisely why some feel the hefty awards should be restricted to career employees.

Political jobs are their own reward, says a former Reagan Justice Department official. They pay well, they give you cachet and marketability to get good jobs in the private sector. Should you really get a fat tip on the way out as well?

Senior Reporter Greg Rushford contributed to this report.

Classification

Language: ENGLISH

Publication-Type: Newspaper

Subject: LAW ENFORCEMENT (90%); JUSTICE DEPARTMENTS (90%); EMPLOYEE INCENTIVES (78%); LAWYERS (78%); HOLIDAYS & OBSERVANCES (78%); CHRISTMAS (78%); LEGAL SERVICES (75%); ATTORNEYS GENERAL (73%)

Company: PILLSBURY WINTHROP SHAW PITTMAN LLP (57%)

Industry: LAWYERS (78%); LEGAL SERVICES (75%)

Load-Date: April 27, 2011

Document: BURDEN OF PROOF ;Fear, not law, drives King case

BURDEN OF PROOF ;
Fear, not law, drives King case

The Washington Times

January 31, 1993, Sunday, Final Edition

Section: Part A; Pg. A1

Length: 1941 words

Byline: Jerry Seper; THE WASHINGTON TIMES

Body

****PROSECUTORS, WITH WHAT MANY CALL A WEAK CASE, MAY RELY ON THE LIKELIHOOD OF RIOTS TO WIN CONVICTIONS OF FOUR OFFICERS****

If the government can't win the case that begins Wednesday against four policemen in the beating of Rodney King, many believe that Los Angeles - torched to its knees nine months ago - will erupt in renewed violence.

And that's what Justice Department prosecutors, saddled with what some say is a weak case, hope the 12 jurors will believe, say law enforcement and other sources.

"Potential jurors in this case already have seen the rioting, the deaths, the criticism and the verbal abuse that occurred when another jury decided not to convict these men," said William Roemer, former head of the FBI's organized crime strike force in Chicago.

"It will be tough to find 12 men and women in Los Angeles who have not been inundated and intimidated by all the publicity," said Mr. Roemer, a 30-year veteran and the most-decorated agent in FBI history.

Sgt. Stacey Koon and Officers Timothy Wind, Theodore Briseno and Laurence Powell were acquitted April 29 after a lengthy trial in Simi Valley, Calif., a Los Angeles suburb, on state charges of assault and using excessive force.

The acquittals set off three days of rioting during which 52 persons were killed and damage exceeded $1 billion. More than 10,000 businesses were destroyed.

Four months later, a federal grand jury in Los Angeles indicted the four white officers on charges of acting under color of law to deprive King, who is black, of his federally protected civil rights.

The indictment said Officers Powell, Wind and Briseno "willfully and intentionally used unreasonable force" during the March 3, 1991, incident. Sgt. Koon, the shift sergeant at the time, is charged with "permitting and failing to take action to stop the unlawful assault."

All four pleaded not guilty and were ordered released on $5,000 bond each. If convicted, they face prison terms of up to 10 years each and fines totaling $250,000.

Frank McGee, general counsel of the Boston Police Patrolmen's Association, said they will not get a fair trial. He said the jurors will know that acquittal "will trigger another burning of Los Angeles."

Dewey Stokes, president of the National Fraternal Order of Police, said that while the federal indictment was expected, it was a "tragedy" for those involved and police around the country.

"Some potential jurors certainly will have been intimidated by what happened during the riots," Mr. Stokes said. "They will not want to be responsible for someone else's death by coming in with the 'wrong' verdict again."

Last week lawyer Ira Salzman, who represents Sgt. Koon, cited in court a CBS News poll aired Thursday that found 75 percent of those polled believe acquittals would cause another riot.

Sgt. Koon has said federal indictments were brought solely because of post-acquittal political concerns. He fears that jurors will vote to convict despite the evidence of the defendants' "justifiable concern" for their safety.

"There's going to be another riot if they find us innocent, and everyone knows that, including the would-be jurors," he said. "The lynch mob is still screaming for so-called justice in this case, and that justice has clearly been defined as guilty verdicts."

Despite the defendants' fears of an unfair trial, there is major anxiety in Los Angeles that the federal jury will acquit them and trigger new rioting.

Los Angeles police have $1 million worth of new riot gear, including rubber bullets and tear-gas bombs. An emergency plan has been prepared, and all officers were required to take 16 hours of riot training.

And community leaders predict that those preparations will be needed if the four officers are acquitted.

John Mack, president of the Los Angeles Urban League, said blacks in his city have "serious doubts as to whether they can find justice anymore." He said the criminal justice system is on trial in the federal case.

"I can only hope federal prosecutors make the case of their lives, pull out all the stops to make sure the evidence is effectively presented," he said. "If that happens, these jurors will not see the same mirage the other jurors saw."

But if the officers are acquitted, Mr. Mack said, "all hell will break loose."

"The situation here is very tense, and we could well have a replay of the April 29 violence," he said. "I don't want to be a prophet of doom and I am not advocating violence, but if these officers are freed, we could well have another explosion."

Complicating the situation is the trial of Reginald Denny, a white man pulled from his truck by four black men and severely beaten during the riots. That trial is to begin March 15 and may overlap the officers' trial.

Convictions in that case and acquittals in the King case would increase the chance of a major confrontation.

U.S. District Judge John G. Davies, who will hear the federal case, denied a motion last week asking for a postponement until after the Denny trial. He said a possible overlap does not present a serious safety threat.

Defense lawyer Harland W. Braun, who represents Officer Briseno, had said the city could be hit with rioting if the King trial proceeded as scheduled. He compared the two trials to "runaway trains, in a sense, coming at each other."

Mr. Mack, the Urban League leader, said he hopes the Denny trial will not overlap and that decisions in that case come after guilty verdicts in the federal trial.

"In reality, however, if these four officers go free again and the book is thrown at the four young men accused in the Denny case, all bets are off," Mr. Mack said.

Law enforcement authorities said gangs in Los Angeles, particularly the Bloods and the Crips, may use such a development as a reason to riot. The rival gangs united in the April riots to direct much of the killing, looting and arson. Police said 30 percent of the rioters were gang members.

Former Attorney General **William P. Barr**, who ordered the effort that led to the federal indictments, said an investigation found that gang leaders had planned to use the Simi Valley verdict as an excuse to break into gun stores.

"I think a lot of the violence and the looting did not have much to do with Rodney King," Mr. Barr said. "I think a lot of that kind of activity was the criminal element taking advantage of the situation."

Los Angeles police confirmed this week that gang members have circulated fliers in several neighborhoods urging retaliation. The fliers declared an "open season" on police.

"To all Crips and Bloods: Let's unite and don't gangbang. An eye for an eye, a tooth for a tooth," the fliers said. "If LAPD hurts a black, we will kill too: pow, pow, pow."

Of the 235,000 gang members nationwide, 26,000 Crips and 15,000 Bloods are considered among the most deadly. Although based in Los Angeles, the gangs have spread to more than 50 cities.

Mr. Mack said Urban League leaders and others have worked with gang members to defuse the situation, but he said the city's best bet in the event of trouble will be an adequate response by Los Angeles police.

The key to the government's case, say lawyers familiar with it, will be the prosecution's ability to prove intent. Federal prosecutors must show that the four officers intentionally deprived King of his constitutional rights.

Prosecutors are expected to say the officers, under Sgt. Koon's direction, punished King for a high-speed chase that preceded the beating and for his refusal to comply with their orders.

The defense is expected to say the officers followed department guidelines and that King instigated the beating by evading arrest and refusing to comply with the legal orders of officers.

A confidential analysis of the government's case said the prosecutors may be hard-pressed in court.

Law enforcement officials and others who have seen the analysis said prosecutors have little evidence and few compelling witnesses to substantiate allegations that King's civil rights were violated "willfully and intentionally" by the officers.

"They have no force or policy experts who can testify that what happened the night Rodney King was arrested was unreasonable, illegal or outside Los Angeles Police Department policy," said an official who saw the analysis. "It was a very bleak overview of what government prosecutors thought of their own case."

The analysis, known as an "order of proof," was given anonymously to a defense lawyer in the case. It said prosecutors are concerned about King's credibility as a witness and have no hard evidence or compelling witnesses to show that the officers did not follow department policy.

The case will not be about race. Judge Davies has ruled that prosecutors can win without proving that racial bias was a factor in the beating.

And he has refused to admit as evidence a number of statements by the officers that federal authorities have described as "racial," including Officer Powell's reference to "gorillas in the mist."

King, who was not called to testify during the state trial, is expected to testify in the federal case. What he will say is not clear.

Before the state trial, King told reporters the beating was racially motivated and denied attempting to flee from police. He said he tried to comply with their orders and denied he was drunk.

During a July 23 appearance before a federal grand jury, however, he said he was drunk and tried to run away after being ordered from his car and onto the ground.

He also backed away from claims that the officers had used racial epithets. He told the grand jury they had referred to him as "killer."

Much of the trial is expected to involve the videotape of the beating, made by George Holliday, who lived near the scene. An 82-second version, edited from a 12-minute tape of the incident, has been shown nationwide.

Mr. Holliday tried to give the tape to Los Angeles police the morning after the incident but was rebuffed by a desk sergeant. A local TV station bought the tape for $500.

The tape shows King being struck numerous times before and after he was shot with a stun gun. The tape shows that King received several blows from police while he struggled to stand.

Sgt. Koon said the tape, while brutal, proves that the officers were acting within department guidelines to bring King under control.

"It is the tape that will prove that Rodney King was in control of the situation at all times," he said. "If the jury chooses to believe what is obvious, it will be the evidence we need to clear us."

****BOX

FOUR FACE FEDERAL CHARGES

Four police officers face trial Wednesday in U.S. District Court in Los Angeles for their involvement in the beating of motorist Rodney King.

Charge: Willfully and intentionally used unreasonable force during their arrest of Rodney King, depriving him of his federally protected civil rights while acting under color of law:

Officer Lawrence M. Powell, 29

Officer Timothy E. Wind, 32

Officer Theodore J. Briseno, 39

Charge: Depriving King of a constitutionally protected right by willfully permitting and failing to take action to stop the unlawful assault by the other defendants.

Sgt. Stacey C. Koon, 41

Graphic

Photos (A-E, color), A-D) Community leaders and Los Angeles police predict a repeat of last spring's riots if a federal jury acquits (from left) Sgt. Stacey Koon and Officers Theodore Briseno, Timothy Wind and Laurence Powell in the beating of Rodney King.; E) NO CAPTION; F) A looter carries his booty through the rubble of Los Angeles on April 30, the second day of rioting., A-D) NO CREDIT; E & F) By AP ; Box, FOUR FACE FEDERAL CHARGES, By The Washington Times

Classification

Language: ENGLISH

Subject: LAW ENFORCEMENT (91%); RIOTS (90%); JURY TRIALS (90%); CRIMINAL CONVICTIONS (90%); SPECIAL INVESTIGATIVE FORCES (90%); INDICTMENTS (89%); CRIMINAL ASSAULT & BATTERY (89%); VERDICTS (89%); PUBLIC PROSECUTORS (89%); ACQUITTAL (89%); LAW COURTS & TRIBUNALS (79%); GRAND JURY (79%); LAWYERS (78%); JUSTICE DEPARTMENTS (78%); POLICE MISCONDUCT (78%); POLICE BRUTALITY (77%); POLLS & SURVEYS (77%); JURY DUTY (75%); BAIL (74%); ORGANIZED CRIME (73%); POLICE FORCES (73%); CIVIL RIGHTS (71%); CORPORATE COUNSEL (70%)

Company: CBS NEWS DIVISION (50%); CBS NEWS DIVISION (50%); FEDERAL BUREAU OF INVESTIGATION (83%); FEDERAL BUREAU OF INVESTIGATION (83%)

Organization: FEDERAL BUREAU OF INVESTIGATION (83%); FEDERAL BUREAU OF INVESTIGATION (83%)

Industry: LAWYERS (78%); CORPORATE COUNSEL (70%)

Geographic: LOS ANGELES, CA, USA (94%); CALIFORNIA, USA (93%)

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

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Sessions wants Clinton to hear his explanation

The Washington Times

January 26, 1993, Tuesday, Final Edition

Section: Part A; NATION; Pg. A3

Length: 557 words

Byline: Jerry Seper; THE WASHINGTON TIMES

Body

FBI Director William Sessions, looking to clear his name and save his job, said yesterday he wants to meet with President Clinton to discuss Justice Department allegations that he misused his office for personal financial gain.

Mr. Sessions, at the halfway point of a 10-year term, said the allegations - outlined last week in a 161-page Justice Department report - were the result of a "careless" investigation and accused former Attorney General William P. Barr of a personal vendetta.

White House spokesman George Stephanopoulos said yesterday that the White House counsel is reviewing the matter, including the Justice Department report and a detailed rebuttal submitted by Mr. Sessions.

Mr. Stephanopoulos said no meeting has been scheduled, but Mr. Clinton wanted the director to have "a full chance" to rebut the allegations. He said a decision on the matter probably would not come before a new attorney general is named.

Mr. Barr, denying there was any personal motive in the Justice Department investigation, said yesterday the report was "fair and complete" and Mr. Sessions had "every opportunity" to respond during the course of the probe.

The former attorney general said the Sessions investigation was prompted by allegations from within the FBI, and he noted that both Justice Department and FBI "career professionals" looked into the matter.

"Obviously, there was no personal vendetta involved here. This was a joint investigation, by the FBI and the Justice Department," Mr. Barr said. "The issue is whether anybody, including the director, is above the law."

Mr. Barr described the evidence against Mr. Sessions as "overwhelming" and said his explanations were "wholly unpersuasive."

Mr. Sessions, a former federal judge who was appointed in 1987 by President Reagan, was accused of failing to pay taxes on a chauffeured government limousine, taking unauthorized trips, arranging a questionable bank loan for a mortgage on his home and the improper purchase of a personal privacy fence.

In a bitter denouncement of the allegations, Mr. Sessions denied he used government funds for his personal gain. He said that he did not pay taxes on the limousine on the advice of legal counsel and that while he did visit family members on some business trips, he also went to FBI field offices.

Mr. Sessions said he and his wife, Alice, argued against the $10,000 fence, saying it was excessive. He denied any misconduct in the loan.

In a weekend media blitz, Mr. Sessions said the report was the result of efforts by Mr. Barr to remove him from office. He said it was released minutes before Mr. Barr's Jan. 15 resignation in a "planned" effort to discredit him.

"Director Sessions certainly is looking to clear his name, but also to continue the good work he has done at the FBI for the past five years," said Washington lawyer James R. Phelps, who represents the director. "He is entitled to his day in court."

Law enforcement officials said yesterday that it may be impossible for Mr. Sessions to remain in office and that the Clinton administration already has talked with William Lee Colwell, a former FBI associate director and 25-year veteran of the bureau, as a possible replacement.

Graphic

Photo, Sessions

New Justice Chief Faces Legacy Of Politicization

Christian Science Monitor (Boston, MA)

January 26, 1993, Tuesday

Section: THE U.S.; Pg. 1

Length: 799 words

Byline: Amy Kaslow, Staff writer of The Christian Science Monitor

Series: RECASTING GOVERNMENT. This article is the first in a series on challenges facing the Clinton administration in key government agencies.

Dateline: WASHINGTON
Highlight: Critics say department has been mismanaged; some call for a strong leader to take charge

Body

FOR many observers, the recent uproar over the failed nomination of Zoe Baird for attorney general only highlights the plight of a beleaguered United States Justice Department and the need to find a strong leader to revitalize the agency.

Designed to be the bastion of law and order, the department has been marred in recent years by scandal, battles with other government agencies, and what many critics charge has been intense politicization of the criminal justice process.

Justice Department officials interviewed in Washington and in field offices say that they are intent on doing their work, but they have been battered by a poor public image.

Outside critics are even more scathing. "The Justice Department is in shambles," says consumer advocate Ralph Nader. Mr. Nader, who is a lawyer, says the department "is demoralized and led by poor-quality leadership."

Critics charge that, although the Justice Department has expanded during the past decade - it now numbers 85,000 employees and has a budget of $ 11 billion - it has been relatively ineffective.

Nader and others criticize the department for focusing on drug-related and violent crimes, while ignoring tax fraud, environmental cases, and a soaring corporate- crime rate. Sheriffs and local prosecutors say that even the department's emphasis on violent crimes has been problematic - as evidenced by prison overcrowding and the high number of repeat offenders.

This week, the department's troubles have been highlighted by two scandals:

* William Sessions, director of the Federal Bureau of Investigation, has been accused of misusing FBI resources and claiming a phony tax exemption. Mr. Sessions has vigorously defended himself, assailing Justice Department investigators and former Attorney General William Barr for trumping up charges against him.

* Justice is fighting with the Manhattan district attorney's office over the prosecution of Democratic lawyer Clark Clifford and his prot Robert Altman, both charged with receiving bribes and lying about their secret relationship with the notorious Bank of Credit and Commerce International (BCCI). The case is now before a New York judge.

Federal, state, and congressional investigators who have looked into BCCI's vast criminal network have publicly blasted Justice as the major impediment to uncovering the biggest bank scam in history. Many investigators also have accused the department of dragging its feet in the probe of the Banco Nazionale de Lavora (BNL), the Italian bank that has been charged with helping to finance Iraq's pre-Gulf-war arms acquisitions.

Former Attorney General Barr, who has just left his post, defended his department's record in investigating both BCCI and BNL. But critics inside and outside the department have said Justice has been unwilling to expose the Bush administration's possible role in helping to build Iraq's war machine.

"It's quite a mess over there," says Charles Lewis, executive director of the Center for Public Integrity, a nonpartisan public research group. The department's first charge, Mr. Lewis says, is "to dispose of leftover scandals," such as BCCI and BNL.

President Clinton has vowed to reopen both cases.

The fallout from BNL, BCCI, and the Sessions affair raises a broader question: To what extent are those scandals indicative of underling problems at Justice?

Barr holds that the problem lies with Congress, not Justice.

When lawmakers disagree with Justice findings, Barr says, they call in the department's attorneys, dig into their files, and demand the appointment of independent prosecutors.

But Jack Blum, a former special investigator for a Senate Foreign Relations subcommittee that looked into the BCCI affair, describes Barr's old shop as something of a black hole. "Major cases have evaporated. Justice has simply swept them under the rug," Mr. Blum says, citing cases ranging from health-care fraud to money laundering to tax evasion. "If it's not scandalous, then it's due to the department's gross incompetence."

Blum says the Justice Department is "the most troubled part of government."

To correct those problems, Lewis calls for the appointment of a leader "who is above reproach." It is important, Lewis adds, that the attorney general, "who has historically been one of the closest advisers to the president," be independent enough to go after corporate or other white-collar criminals who might have White House connections.

"The [attorney general] shouldn't be someone who has a career in front of him," says John Moscow, the chief prosecutor of white-collar crimes for the Manhattan district attorney's office.

Rather than calculating risks to personal and political interests, Mr. Moscow says, the attorney general "should be ready to stomp on them."

Load-Date: January 26, 1993

Sessions Attacks Justice Report Charging FBI Director With Ethics Violations

The Wall Street Journal

January 25, 1993 Monday

Section: Pg. A5A

Length: 683 words

Byline: By Joe Davidson, Staff Reporter of The Wall Street Journal

Body

WASHINGTON -- William Sessions, the Federal Bureau of Investigation director who is accused of ethics violations, is counterattacking in a determined bid to keep his job.

In a memorandum prepared by his lawyers and given to the White House, Congress and news organizations, Mr. Sessions claims that the Justice Department report detailing the allegations is inaccurate, incomplete, biased, misleading and "should not be confused with an objective inquiry."

Mr. Sessions has met with White House officials and plans to consult members of Congress in an attempt to undercut the accusations that could lead to his dismissal midway through his 10-year term.

This weekend, Mr. Sessions said former Attorney General William Barr and the department's office of professional responsibility "should hang their heads in shame" for issuing the report. Mr. Sessions, nonetheless, agreed to most of what Mr. Barr ordered him to do, including paying taxes on the government-provided benefit of door-to-door transportation and allowing investigators to review his mortgage records to determine if he received a "sweetheart" deal.

Mr. Sessions said he planned trips so that he could do personal and official business on the same visit and acknowledged he may have foisted responsibilities on his staff for keeping certain records that he should have done himself.

Shortly before leaving office, Mr. Barr sent the White House a harshly-worded department report that accused Mr. Sessions, a former federal district judge in Texas, with a range of transgressions: from evading income taxes to giving Soviet dancers a ride in his official limousine, from disregarding security procedures to losing track of frequent-flyer miles, from redecorating his office at nearly eight times the maximum allowable cost to allowing his wife to interfere with bureau business.

The department's office of professional responsibility said its findings "raise serious issues that only the president can resolve regarding whether Director Sessions should continue to enjoy the president's full faith and confidence in his ability to properly conduct his office."

The report was completed just days before the Bush administration left office. In an appearance yesterday on ABC-TV's "This Week With David Brinkley," President Clinton's director of communications, George Stephanopoulos, said the "disturbing" allegations will be reviewed by White House counsel Bernard Nussbaum.

Mr. Sessions and his lawyers believe the Clinton administration will consider the charges with an open mind, unfettered by allegations adopted by Mr. Barr, whom Mr. Sessions said is "in league with others who were determined to scuttle the director."

Mr. Barr, in a telephone interview, said he felt no personal animus toward the director and noted that FBI personnel conducted the investigation. "The report came out of the FBI," he said. "It was reviewed by career professionals within the FBI and the department."

Top Justice Department officials under President Bush privately complained that Mr. Sessions's leadership is weak. They said he frequently didn't grasp the issues confronting the department and appeared distracted. They didn't complain, however, that the department was poorly run.

Commenting to reporters, Mr. Sessions took issue with many of the details of the allegations. He said the report's charge that he had an FBI plane "loaded with firewood" amounted to four sticks of aspen.

Mr. Barr ordered Mr. Sessions to reimburse the government $9,890 for a wooden fence around Mr. Sessions' house that the report said hampers security rather than increases it. Mr. Sessions pointed to a footnote in the report that said about two-thirds of that cost was for the iron gate and electric opener, which met security specifications.

Mr. Sessions also released a statement from FBI pilots who rebutted a charge that Mr. Sessions ordered his plane to refuel in Ft. Smith, Ark. so he could visit his father. "It was only after the pilots had planned the flight that the director learned that Ft. Smith, Ark., was going to be a refueling stop," said the statement.

Notes

PUBLISHER: Dow Jones & Company

Load-Date: December 5, 2004

SESSIONS DOUBTS TOP FBI AIDE'S LOYALTY TO HIM

Los Angeles Times

January 25, 1993, Monday, Home Edition

Section: Part A; Page 1; Column 5; National Desk

Length: 734 words

Byline: RJM

By RONALD J. OSTROW, TIMES STAFF WRITER

Dateline: WASHINGTON

Body

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Escalating his battle to save his job, FBI Director William S. Sessions on Sunday questioned the loyalty of the bureau's No. 2 official, Floyd I. Clarke, for failing to warn him about Justice Department findings that he abused his office.

Senior FBI officials were stunned by Sessions' comments on ABC-TV's "This Week With David Brinkley," contending that Clarke, the deputy director who runs the bureau's day-to-day operations, has never wavered in his loyalty to Sessions.

Sessions noted that Clarke had worked "very closely" with former Atty. Gen. William P. Barr, who approved the highly critical report on the FBI director, "but never gave me any indication of this at all."

Sessions, who has blamed the report on Barr's "animus" toward him, said Clarke also failed to indicate "that there was actually some animus between Mr. Barr and myself."

Sessions' criticism of Clarke, who is one of the most respected officials by those inside the agency, seemed certain to intensify turmoil in the bureau. The FBI has not been shaken by such conflict at its upper management level since 1973, when former Acting Director L. Patrick Gray III resigned in disgrace after disclosing that he had burned evidence related to the Watergate scandal in his fireplace.

"This will cause him (Sessions) severe problems internally," one source said.

Sessions' criticism of the report as being riddled with errors and distortions has already caused strain in the bureau because agents from the its Office of Professional Responsibility conducted the scores of interviews under oath that led to the conclusions in the report by its counterpart agency in the Justice Department.

The report by the Office of Professional Responsibility, the Justice Department's internal watchdog unit, found that Sessions had taken part in a "sham" arrangement to avoid taxes on his use of a limousine, had taken personal trips on FBI aircraft that he sought to present as official travel, had refused to cooperate in an investigation of his home mortgage and had misused funds for a fence at his home that could not be justified on security grounds.

One source saw "irony" in Sessions' questioning Clarke's loyalty, saying Sessions had directed bureau officials to establish strong working relationships with their counterparts at the Justice Department and that Barr and Clarke came to know each other well while serving as deputies of their organizations.

Clarke could not be reached for comment. An FBI source said Clarke would not comment because "he doesn't want to become a participant, prejudice the director or create a split between the director and top management."

Barr said he did not want to be drawn into Sessions' efforts to "personalize" the report's findings, but he did say that Clarke played no part in the investigation and had been "completely loyal to the bureau."

Sessions said Sunday that he had provided his "preliminary" response attacking the report's findings to Bernard Nussbaum, counsel to President Clinton, on Saturday.

George Stephanopoulos, the White House communications director, appeared on the ABC program after Sessions and said that a decision on whether or not to remove the FBI director would be based on whether he did anything "improper" or "illegal."

"As I said the other day, the allegations that appeared in the newspaper were disturbing," Stephanopoulos said.

Sen. Daniel Patrick Moynihan (D-N.Y.) advised caution in the Sessions matter when he was asked about it on NBC-TV's "Meet the Press."

"Let's be careful," he said. "Let's give him his day before an attorney general who is neutral. That's fair to Judge Sessions. He left the federal judgeship to take this not very rewarding, 10-year job. He's halfway through."

Although Sessions has served only five years of his term, he can be removed by the President.

He said Sunday that he wants to keep his job to maintain the FBI's independence and so "that we do not have a politically influenced FBI," which he said is critical.

Asked if anyone had ever tried to influence him, Sessions said: "Nobody has ever tried to bribe me. Nobody has ever threatened me directly.

"It's very clear from what I see written in the paper that people believe that the independence of the FBI is threatened and that they talk about that and . . . around the country (it's) given space. They have not threatened me directly. No."

Graphic

Photo, Surprise Move: FBI Director William S. Sessions, left, questioned the loyalty of the bureau's No. 2 official. Escalating his fight to save his job, Sessions said Floyd I. Clarke failed to warn him about Justice Department findings that he abused his office. Senior FBI officials said they were stunned by Sessions' comments on ABC-TV's "This Week With David Brinkley." Associated Press

FBI Chief Links Criticism of Him to Assault on Agency

The Associated Press

January 24, 1993, Sunday, AM cycle

Section: Washington Dateline

Length: 385 words

Dateline: WASHINGTON

Body

Embattled FBI Director William Sessions said Sunday he wants to keep his job, and he implied that attempts to discredit him threaten his agency's independence.

Sessions continued his media blitz to counter charges outlined in a Justice Department report that he improperly billed the government for private travel and other questionable practices.

He said he feels betrayed by former Attorney General William Barr, who approved the report only hours before leaving office Jan. 15 and then released it "in an unprecedented fashion" where he said he could not properly defend himself.

"Done the way it's done, shows me that there is a contrivance," Sessions said on ABC-TV's "This Week With David Brinkley." He branded the report by Justice's ethics office as misleading and biased.

In a statement, Barr characterized Sessions' comments as an attempt at "diversion and obfuscation."

"I was not even involved in the investigation. The report was done by career FBI professionals and the evidence is overwhelming and unrefuted," said Barr.

Sessions, a former federal judge who is halfway through his 10-year term as head of the FBI, again defended his activities. He said that trips cited by the report were made primarily as part of his effort to visit all FBI offices around the country. He acknowledged he also visited family members during some of the trips.

Asked whether someone is out to get him, Sessions replied, "I would think that's probably true."

He suggested at one point that the criticism may stem from investigations under way by the FBI or "because of my asserted independence." But when pressed on the matter he declined to elaborate, saying only that such motives have been speculated in the press.

Sessions said he wants to keep his job. Asked why, he said it said because "it is important that (the FBI) maintain its independence, that we do not have a politically influenced FBI. … This is an FBI issue."

Sessions said that while he had not personally been threatened directly, "it's very clear from what I see written in the paper that people believe that the independence of the FBI is threatened."

President Clinton has given no indication on whether he will fire Sessions. A spokesman has said the new administration is waiting to hear Sessions' side of the story.

Victim of 'Personal Animus:' Sessions

The Associated Press

January 23, 1993, Saturday, AM cycle

Section: Washington Dateline

Length: 941 words

Byline: By JAMES ROWLEY, Associated Press Writer

Dateline: WASHINGTON

Body

FBI Director William S. Sessions on Saturday dismissed a Justice Department report accusing him of ethical abuses as a "crassly calculated attack" by former Attorney General William P. Barr.

In a 90-minute meeting with reporters, Sessions began a public counteroffensive against the Justice Department report that found he had abused his office for petty financial gain.

The report was the product of "an animus, and an anger and a disaffection by Mr. Barr for Mr. Sessions," the FBI director said. He said Barr "was in league with others who were determined to scuttle the director."

In a telephone interview afterward, Barr dismissed the comments from Sessions. "My assumption is that if he could rebut the facts, he wouldn't have to resort to personal attacks on me," Barr said.

Asked about Sessions at a photo opportunity in the Oval Office, President Clinton said only, "I don't want to talk about it."

Meanwhile, Sen. Arlen Specter, R-Pa., suggested it may be time for Sessions to step down.

"While he has a term of office, which is significantly unexpired, I think that there is a sufficient basis to remove him for cause, unless he can come out and exonerate himself," Specter said on CNN's "Newsmaker Saturday."

The 161-page Justice Department report issued Tuesday found, among other things, that Sessions misused his office by taking personal trips aboard FBI planes and billing the government nearly $ 10,000 for a fence around his home.

The findings, the report said, "raise issues that only the president can resolve" about whether Sessions can continue to serve as FBI director.

Sessions vowed to continue in office but acknowledged that "whether I survive as director of the FBI, the president will decide."

Sessions accused the Justice Department's ethics office of carelessness in the way it conducted the investigation that "was in itself a breach of professional responsibility."

But the director declined to say how the report reflected on the work of FBI agents who conducted much of the investigative work, saying he had seen only a copy of the final report, not the agents' interview notes. The FBI's ethics office also approved the report.

A 25-page reply that Sessions distributed called the report a "crassly calculated attack upon the reputation of a man who has had a long and distinguished career of public service."

"It is they who should hang their heads in shame for their conduct," Sessions said of Barr and the Justice Department ethics officials whom he accused of leaking details of the investigation over the last few months.

"I am not ashamed, my conduct was proper," Sessions told reporters. "My conduct was not unethical."

Sessions disputed a number of findings in the report, including the conclusion that putting an unloaded weapon in a locked briefcase in the trunk of his limousine was a "sham arrangement" contrived to evade taxes on the limousine as a fringe benefit.

But Sessions admitted under questioning that he did not follow the advice of FBI lawyers who said he would have to carry the gun to qualify for the tax exemption for law enforcement officers.

FBI general counsel Joseph R. Davis advised that Sessions should regularly practice firing the gun at a pistol range but the director never did, the report said.

Sessions, however, said he would pay the back taxes as ordered by Barr before he left the attorney general's office Jan. 15.

Sessions also conceded that any FBI agent who used his government car to conduct personal business - even driving a child to school - would be disciplined.

But the director said that because he must be accompanied by a security detail at all times, it is difficult to separate personal matters from official business as he travels about.

On the fence, Sessions said it only cost $ 3,750 while the balance was spent constructing an electronic iron gate recommended by FBI security experts. The report said the wooden fence was built against the advice of security experts, who recommended one made of iron.

Sessions speculated that Barr may have been motivated by the FBI director's insistence that his agency was politically independent in the way it investigated crime.

But Sessions could provide no examples of any attempts by Barr to try to interfere with investigations. The director did charge that he had been told by many people that Barr was hostile to his efforts to recruit more minorities and women to the ranks of agents, who are overwhelmingly white and male.

"The allegations of misconduct came out of the FBI, they were handled entirely by the career professional staff" in the ethics office. "Anyone who knows anything about the department knows that the attorney general has no control over that office," Barr said.

Sessions received the backing from Coretta Scott King, widow of civil rights leader Martin Luther King Jr., and Andrew Young, former U.S. ambassador to the United Nations and mayor of Atlanta.

Sessions "has helped bridge the barriers which previously existed between the bureau and both minority and female leaders of our nation's human rights movement," King and Young said in a joint statement.

The White House repeated its statement that the president's lawyers will review both the report and Sessions' response before Clinton makes a decision on whether the director should stay.

"Some of the allegations in the report are disturbing, but Sessions needs to have a chance to respond," said spokeswoman Dee Dee Myers.

Sessions is midway through a 10-year term that is set by law in an effort to protect the FBI chief from political maneuvering. Only the president can fire him.

End of Document

Current Quotations

The Associated Press

January 19, 1993, Tuesday, BC cycle

Section: Domestic News

Length: 146 words

Byline: By THe Associated Press

Body

"The notion that you could convert an executive chauffeur-driven limousine into a tactical police vehicle by keeping an unloaded gun in the trunk does not even pass the 'red face test.'"- Former Attorney General **William P. Barr** on FBI Director William S. Sessions' effort to avoid paying taxes on the use of a government-supplied limousine.

"On the one hand, the international community is rattling its sabers. On the other hand, it has made possible a political solution of the crisis." - Bosnian Serb leader Radovan Karadzic on plan by mediators in Geneva to divide the former Yugoslav republic into 10 autonomous provinces.

"It was a violation of the law. Our decision to hire the couple was wrong, and I deeply regret it." - Cabinet nominee Zoe Baird apologizing to the Senate Judiciary Committee for having hired two illegal aliens to work in her home.

Classification

Language: ENGLISH

Subject: LAW ENFORCEMENT (78%); POLITICS (70%); ATTORNEYS GENERAL (57%); INTERNATIONAL RELATIONS (56%); ILLEGAL IMMIGRANTS (53%)

Company: FEDERAL BUREAU OF INVESTIGATION (57%); FEDERAL BUREAU OF INVESTIGATION (57%)

Organization: FEDERAL BUREAU OF INVESTIGATION (57%); FEDERAL BUREAU OF INVESTIGATION (57%)

Industry: EMERGENCY VEHICLES (73%)

Geographic: BOSNIA & HERZEGOVINA (79%); SWITZERLAND (57%)

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 12, 2018 04:47:10 p.m. EST

NewsRoom

1/15/93 Wash. Times (D.C.) A2
1993 WLNR 205147

Washington Times (DC)

January 15, 1993

Section: TOP OF THE NEWS NATION

JUSTICE OFFICIAL ANNOUNCES RETIREMENT

FROM WIRE DISPATCHES AND STAFF REPORTS

Assistant Attorney General Harry M. Flickinger, who heads the Justice Department's Justice Management Division, retired yesterday after 34 years of government service.

The retirement was announced by Attorney General William P. Barr, who said in a statement that Mr. Flickinger's "dedication to federal government service has been exemplary."

Mr. Flickinger's successor is Stephen R. Colgate, who has served as deputy assistant attorney general for personnel and administration in the Justice Management Division since 1987. Prior to that, he was director of the department's finance staff.

J0032941-011593

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33))

Language: EN

Other Indexing: (JUSTICE DEPARTMENT; JUSTICE MANAGEMENT DIVISION) (Flickinger; Harry M. Flickinger; JUSTICE OFFICIAL ANNOUNCES; Prior; Stephen R. Colgate; William P. Barr)

Edition: Final

Word Count: 123

NewsRoom

Document: U.S. ATTORNEY MICHAEL BAYLSON TO REJOIN DUANE, ...

U.S. ATTORNEY MICHAEL BAYLSON TO REJOIN DUANE, MORRIS & HECKSCHER

PR Newswire

January 13, 1993, Wednesday - 16:03 Eastern Time

Section: State and Regional News

Length: 1042 words

Dateline: PHILADELPHIA, Jan. 13

Body

Michael M. Baylson today announced his plans to step down as U.S. attorney for the Eastern District of Pennsylvania on Jan. 15, 1993, so as to rejoin the Center City Philadelphia law firm of Duane, Morris & Heckscher.

Baylson said, "I'm tremendously satisfied to have fulfilled my four- year commitment to the office of U.S. attorney, and I intend to stay involved in public service in one form or another. At the same time, I am looking forward to returning to this outstanding firm and to the private practice of law."

He rejoins the firm he left when named U.S. attorney in October 1988. Duane, Morris Chairman Jack May said, "We're delighted to welcome Mike back as a partner in Duane, Morris & Heckscher's Trial Department. Mike will be a great asset in advising clients on complex commercial and securities litigation, governmental affairs relating to environmental and health law issues, insurance fraud matters and corporate compliance programs."

According to **William P. Barr**, U.S. attorney general, "Mike Baylson is one of the best U.S. attorneys in the nation. His tremendous contributions in fighting violent crime and gang warfare were the basis for the president's 'Weed and Seed' national initiative. The people of Pennsylvania are very fortunate to have had a professional like Mike out on the front lines every day."

During his four-year stewardship, the U.S. attorney's office worked closely with state and local law enforcement agencies to investigate, prosecute and convict organized crime and drug gangs. This relentless attack has reduced drug traffic and spurred urban redevelopment in Philadelphia neighborhoods like Spring Garden and Norris Square.

U.S. Sen. Arlen Specter (R-Pa.), who worked closely with Baylson to secure federal funding for several of these initiatives, said, "The success of Michael Baylson's tenure will be a standard by which future U.S. attorneys will be measured."

According to Baylson's law enforcement colleague Philadelphia District Attorney Lynne Abraham, "I think Mike will be best remembered for establishing an unprecedented level of cooperation between his office and state and local law enforcement officials." While police commissioner in Philadelphia, Los Angeles Police Chief Willie Williams said, "I found the working relationship between the United States Attorney's Office and the Philadelphia Police Department one that eventually served as a model for the rest of the country."

The Eastern District U.S. attorney's office has engineered successful prosecutions of fraud against savings and loans, health care institutions and insurers. Baylson and his staff aggressively pursued "retribution and restitution," using legal remedies to recover the proceeds of illegal activities and to collect penalties and debts owed to the government. Their efforts garnered nearly $46 million in fiscal 1992 from criminal, civil, forfeiture and bankruptcy cases (including the largest civil penalty ever in a savings and loan fraud case), a figure nearly triple the office's annual budget. Over his four-year tenure, Baylson's office collected more than $150 million in monies due the government.

Baylson also served the public for three years as an assistant district attorney in Philadelphia, where he became chief of the Narcotics Division in 1968 and of the Homicide Division in 1969. He joined Duane, Morris & Heckscher in 1970 and became a partner in 1974.

With 210 attorneys, Duane, Morris & Heckscher is Philadelphia's sixth largest law firm. More than 50 of these attorneys practice in the Trial Department, representing clients in commercial and securities litigation, professional and products liability, insurance-related litigation, white collar criminal defense and other matters. The firm provides legal services in other areas including bankruptcy, corporate and securities law, real estate, tax, administrative law, environmental and health care law, employment law and labor relations, and trusts and estates. The firm has offices in Harrisburg, Wayne, Allentown and Bethlehem, Pa.; Marlton, N.J., and Wilmington, Del.

Baylson received a B.S. degree in economics from The Wharton School of Finance and Commerce in 1961 and graduated from the University of Pennsylvania Law School in 1964. He lives with his wife, Frances Ruth Batzer, M.D., and their three children in the East Falls section of Philadelphia.

Highlights of the Tenure of Michael M. Baylson
as U.S. Attorney for the Eastern District of Pennsylvania

-- Aggressively prosecuted drug dealers resulting in a 98.5 percent conviction rate, cooperation between federal and local law enforcement agencies led to eradication of several major drug rings. This prosecution and neighborhood revitalization was the model for federal Weed and Seed program.

-- Established fraud initiative, coordinating criminal, civil and asset forfeiture efforts to deliver maximum law enforcement punch.

-- Created Financial Litigation Division, which handles asset forfeiture, bankruptcy and collections from criminal and civil offenders. This "profit center" took in $150 million in four years for the government.

-- Filed first U.S. cases for student loan defaults.

-- Achieved first asset forfeiture in a health care fraud case by bringing charges of money laundering.

-- Prosecuted first case to freeze assets in Medicare fraud scheme.

-- Pioneered systematic, large-scale transfer of drug and firearm cases pending in state court to federal court. This was direct precursor of nationwide Project Triggerlock targeting armed career criminals for federal prosecution.

-- Recovered $12 million as first U.S. attorney to take over a case from private counsel and represent the Resolution Trust Company.

-- Handled prosecutions arising from the murder of grand jury witness, securing three convictions, including life imprisonment for gunman.

//

/Editors: Photo available of Baylson; call Chris Reynolds at 215-622-4670/

CONTACT: Reynolds Ink, 215-622-4670, for Duane, Morris & Heckscher

Classification

Language: ENGLISH

Subject: LAWYERS (91%); MAJOR US LAW FIRMS (90%); POLICE FORCES (89%); LAW ENFORCEMENT (89%); ASSET FORFEITURE (89%); PROFESSIONAL WORKERS (89%); US FEDERAL GOVERNMENT (78%); CRIMINAL INVESTIGATIONS (78%); LEGAL SERVICES (78%); LITIGATION (78%); PUBLIC PROSECUTORS (78%); CITY GOVERNMENT (77%); ORGANIZED CRIME (77%); HEALTH CARE POLICY (77%); HEALTH CARE LAW (77%); PRIVATE HEALTH CARE (76%); BANKING & FINANCE REGULATORY COMPLIANCE (73%); CRIMINAL CONVICTIONS (73%); US CONGRESS (73%); URBAN DEVELOPMENT (73%); CRIMINAL OFFENSES (73%); RESIGNATIONS (73%); INSURANCE FRAUD (72%); HEALTH CARE REGULATORY COMPLIANCE (72%); INSURANCE REGULATORY COMPLIANCE (72%); INVESTIGATIONS (72%); GANGS (71%); CONTROLLED SUBSTANCES CRIME (71%); ATTORNEYS GENERAL (68%); INSOLVENCY & BANKRUPTCY (60%)

Company: DUANE MORRIS LLP (96%); Duane, Morris & Heckscher DUANE MORRIS LLP (96%); PHILADELPHIA POLICE DEPARTMENT (90%)

Organization: PHILADELPHIA POLICE DEPARTMENT (90%); Duane, Morris & Heckscher PHILADELPHIA POLICE DEPARTMENT (90%)

Industry: LAWYERS (91%); MAJOR US LAW FIRMS (90%); LEGAL SERVICES (78%); HEALTH CARE POLICY (77%); HEALTH CARE LAW (77%); PRIVATE HEALTH CARE (76%); BANKING & FINANCE REGULATORY COMPLIANCE (73%); (72%); HEALTH CARE REGULATORY COMPLIANCE (72%); INSURANCE (72%); INSURANCE REGULATORY COMPLIANCE (72%); SAVINGS & LOANS (68%)

Person: ARLEN SPECTER (58%)

Geographic: PHILADELPHIA, PA, USA (94%); PENNSYLVANIA, USA (94%); CALIFORNIA, USA (79%); UNITED STATES (94%)

Content Type: News

Terms: "william p. barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 09:33:53 p.m. EST

Document: Barr says Texas crime rate is "out of control'

Barr says Texas crime rate is "out of control'

The Houston Chronicle

January 12, 1993, Tuesday, 2 STAR Edition

Section: A; Pg. 16

Length: 301 words

Byline: RICHARD STEWART; Staff

Dateline: BEAUMONT

Body

BEAUMONT -- Texas is reaping a criminal whirlwind in the 1990s because in the 1980s the state didn't build enough prisons to keep criminals off the street, **William Barr** said Monday in his last scheduled speech as U.S. attorney general.

""In the 1980s Texas didn't increase its prison room,'' he said.

""Right now, the crime rate in Texas is out of control. ''

Barr's strong anti-crime, pro-law enforcement remarks reached appreciative ears. He spoke at the 100 Club of Jefferson County's annual law enforcement officer of the year banquet.

Barr traced the rapid rise of crime -- particularly violent crime -- in the United States back to 1965. ""Prior to 1965 we had an extremely low and steady crime rate,'' he said. ""Since 1965, the crime rate has quadrupled. ''

He said the decline of family values, the decline of public morals and increased use of drugs has caused the crime rate to skyrocket.

""In some urban areas up to 70 percent of the children are illegitimate,'' he said, adding that many children aren't getting the kind of upbringing they need to stay away from crime.

Some anti-crime programs are beginning to show progress, Barr said. ""Just say no'' campaigns in schools and drug education programs in schools are decreasing the use of drugs by students, he said.

Tough law enforcement programs, such as federal sentencing guidelines that prohibit early release on parole, are also keeping criminals off the street, he said.

Texas has created a ""revolving door justice system,'' Barr said, in which criminals serve only a few months in prison for every year they are sentenced. As a result, he said, the same criminals commit more crimes.

Barr, 42, plans to rejoin a Washington law firm he left to become attorney general in November 1991.

Classification

Language: ENGLISH

Subject: CRIME RATES (93%); LAW ENFORCEMENT (90%); CORRECTIONS (90%); SENTENCING (89%); LAWYERS (78%); CRIMINAL OFFENSES (78%); JAIL SENTENCING (78%); PAROLE (78%); DRUG POLICY (75%); CRIME PREVENTION (73%); SUBSTANCE ABUSE PREVENTION (72%); CHILDREN (71%); STUDENTS & STUDENT LIFE (71%); FAMILY (67%)

Company: WASHINGTON LAW FIRM LLC (52%); WASHINGTON LAW FIRM LLC (52%)

Industry: LAWYERS (78%)

Geographic: TEXAS, USA (94%); UNITED STATES (93%)

Load-Date: February 3, 1993

Content Type: News

Terms: "william barr"

Narrow By: Timeline: Jan 01, 1993 to Dec 31, 2000

Date and Time: Dec 16, 2018 10:31:29 p.m. EST

NewsRoom

1/8/93 L.A. Times 5
1993 WLNR 4031885

Los Angeles Times

January 8, 1993

Section: Business

The Robbed Rejoice at Fraud Conviction
Banking: Charles Keating's victims voice vindication, but say there were other officials, public and private, at fault.

LOS ANGELES

Charles H. Keating Jr.'s federal conviction seals his name in history as the symbol of greed and excess in the savings and loan industry during the high-flying 1980s, lawyers and investors in his company said.

"It's a wonderful day," said Joseph W. Cotchett Jr. of Burlingame, the chief trial lawyer for small investors in Keating's financial empire. "Charlie Keating over the years has been able to buy and sell a lot of people. He now came up against a court system where he couldn't buy 12 jurors."

One of the most vocal investors, Irvine resident Shirley Lampel, 62, said that the conviction of the one-time operator of Irvine's Lincoln Savings & Loan should send a message "that you can no longer get away with white-collar crime in the United States."

"We were robbed inside the bank by the bank owner, rather than by someone with a gun hiding in the bushes outside," said Lampel, who lost $30,000 in bonds when the thrift and its parent company, American Continental Corp. in Phoenix, collapsed nearly four years ago. She has recovered $13,000 of her investment from settlements reached with a host of defendants in various class-action lawsuits.

A jury Wednesday convicted Keating and his son, Charles H. Keating III, on all counts in two federal indictments charging that they looted the S&L. Both face maximum penalties of hundreds of years in prison, as well as fines, restitution and forfeiture orders in the hundreds of millions of dollars.

The failure of Lincoln is the nation's costliest, leaving taxpayers with a $2.6-billion clean-up bill. American Continental's bankruptcy cost small investors more than $285 million, but they are expected to get much of it back from settlements and a $1.9-billion judgment last July against Keating and three other defendants. Keating and two of the others are broke; the fourth defendant is an offshore company that cannot pay the total judgment.

"The sad part about the Keating story is not that Keating has gone but that those people who have been his facilitators have not been similarly prosecuted," said G. Robert Blakey, a law professor at the University of Notre Dame.

"Keating didn't do this by himself. He had lawyers and accountants and real estate brokers and executives who helped him," said Blakey, who co-authored the federal racketeering law that was used to convict Keating. "Without the facilitators, there never would have been a Charles Keating."

Blakey includes the five U.S. senators who received more than $1.5 million in political donations from Keating while at the same time acting on Keating's behalf to try to bring an end to a long regulatory audit of Lincoln. The Senate Ethics Committee reprimanded Sen. Alan Cranston, helping him decide to retire at the end of December, and chastised the four other senators.

The law professor called it an "injustice" that Keating faces up to 525 years in prison while the five senators got slaps on the hands.

"Conviction of a Charles Keating gives society and government a feeling that justice was done, but the facilitators have got off scot-free," Blakey said. "The system that created him, sustained him and profited off him is not materially different now than it was before."

Bondholders and their lawyers have often complained that regulators should have closed Lincoln two years earlier than they did, and that they dragged their feet through more than three years of investigation after Keating's financial empire fell apart.

"While we're glad the federal government finally got around to prosecuting him, the real question is, what took so long?" said Ronald Rus of Orange, who also represented bondholders.

Tom Shelley, a bondholder from West Hills in California's San Fernando Valley, said his "great satisfaction" in the verdict was tempered by the "misery and torment that Mr. Keating has caused for so many I've known."

"The age of excess and overreach is over," Shelley said. "There really can never be a Keating again because this was the classic example of bank fraud."

Juror Gege Martinez of Riverside said the defendants were businessmen, and "it just totally got away from them."

"I don't think they were vicious or it was an intent," she said. "But there were so many problems, and they had to get it out, and it didn't work."

Charlie J. Parsons, special agent in charge of the FBI office in Los Angeles, called the convictions "gratifying." The Lincoln loss, he said, "eclipses the annual losses from all U.S. bank robberies."

In Washington, U.S. Atty. Gen. William P. Barr said: "This conviction stands as concrete proof of this department's longstanding commitment . . . to convict those who looted our financial institutions."

But Stephen Neal, Keating's attorney, said he still thinks the evidence never showed that Keating and his son should have been convicted. Both plan to appeal.

Neal said the continued pursuit of Keating by three federal regulatory agencies is a waste of taxpayers' money.

Times staff writers Jim Granelli and Susan Christian contributed to this report.

---- Index References ----

Company: AMERICAN CONTINENTAL CORP

News Subject: (Crime (1CR87); Fraud Report (1FR30); Social Issues (1SO05); Economics & Trade (1EC26))

Industry: (Banking (1BA20); U.S. Thrift Industry (1US02); Financial Services (1FI37); Financial Services Regulatory (1FI03); Real Estate Regulatory (1RE53); Real Estate (1RE57); Savings (1SA62))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); California (1CA98))

Language: EN

Other Indexing: (AMERICAN CONTINENTAL; AMERICAN CONTINENTAL CORP; FBI; IRVINE; LINCOLN; LINCOLN SAVINGS LOAN; ROBBED REJOICE; SENATE ETHICS COMMITTEE; UNIVERSITY OF NOTRE) (Alan Cranston; Blakey; Charles H. Keating; Charles H. Keating Jr.; Charles Keating; Charlie J. Parsons; Charlie Keating; G. Robert Blakey; Gege Martinez; Irvine; Jim Granelli; Joseph W. Cotchett Jr.; Keating; Lampel; Neal; Ronald Rus; Shelley; Shirley Lampel; Stephen Neal; Susan Christian; Tom Shelley; William P. Barr)

Keywords: KEATING, CHARLES H JR; SAVINGS AND LOANS; SECURITIES FRAUD; CRIME VICTIMS; PUBLIC OPINION; LINCOLN SAVINGS & LOAN ASSOCIATION; BANK FAILURES

Edition: ORA Orange County Edition

Word Count: 1010

End of Document

Document: KEATING, SON GUILTY OF FEDERAL CHARGES;S&LS: VE…

KEATING, SON GUILTY OF FEDERAL CHARGES; S&LS: VERDICT IN THE GOVERNMENT'S BIGGEST THRIFT FRAUD CASE COMES WHILE FORMER LINCOLN CHIEF IS ALREADY SERVING STATE PRISON SENTENCE.

Los Angeles Times

January 7, 1993, Thursday, Home Edition

Section: Business; Part D; Page 1; Column 4; Financial Desk

Length: 1152 words

Byline: DMH

By JAMES S. GRANELLI, TIMES STAFF WRITER

Body

<EC MO <DE FI <PC FI

Charles H. Keating Jr., who came to personify greed and arrogance in the nation's savings and loan industry, was convicted Wednesday in federal court in Los Angeles on 73 counts of racketeering, conspiracy and fraud stemming from the collapse of Lincoln Savings & Loan.

The jury, which deliberated more than five days in the government's biggest thrift fraud case, also convicted Keating's son, Charles H. Keating III, on 64 counts covering most of the same crimes.

The conviction comes while Keating is already serving a prison sentence for state securities fraud and wraps up criminal prosecution efforts against the Keating family that began shortly after Irvine-based Lincoln Savings failed nearly four years ago.

The jury agreed with prosecutors that the elder Keating, an Arizona land developer who bought Lincoln Savings in 1984, looted the institution's federally insured deposits by booking phony profits on sham land and securities transactions and fooled auditors and investors about the failing health of Lincoln and its parent company.

Keating, gaunt and grim-faced as the verdict was read, faces a maximum of 525 years in prison. He is serving a 10-year term in a California prison for his conviction on state charges 13 months ago.

Jurors said they simply did not believe Keating's testimony that the complex deals he concocted with various buyers were legitimate.

"I don't want to hurt his feelings, but we all felt we would have liked to have one of those fake expanding noses that grows longer and longer," juror David Webb, a retired machinist from Los Angeles, told reporters after the court session. "We just didn't think any of it was valid."

The senior Keating, 69, made no statement. He was whisked away by U.S. marshals after talking briefly with his lawyer and giving his son a hug. Lawyers for both defendants said they will appeal the convictions.

"I think the whole story of Charlie Keating and his family continues to be the story of extreme litigation excess," said Keating's attorney, Stephen C. Neal, who contends that the verdicts are not supported by the evidence.

Neal insisted that his client is the innocent victim of vindictive regulators who didn't understand Keating's operation and didn't like his outspokenness.

Keating's son, who sat with his back to a courtroom packed mainly with lawyers, investigators and journalists, faces up to 475 years in prison. He was allowed to remain free on bail until he and his father are sentenced March 15.

"Surprisingly, I feel pretty good," the 37-year-old son said afterward as he managed a weak smile. His lawyers quickly stopped him from saying more.

Federal officials, as well as small investors in Lincoln Savings' parent company, American Continental Corp. in Phoenix, were happy with the verdicts. The investors, mostly elderly Lincoln customers who bought American Continental bonds, lost more than $285 million when the company went bankrupt.

"We are gratified that . . . we were able to decipher a very complicated scheme and bring the perpetrators to justice," U.S. Atty. Terree Bowers ▾ said in Los Angeles.

"I say, thank God. Keating should be put away for the rest of his life," said Costa Mesa resident Michael Wolpert, 80, who initially lost $35,000 but has retrieved $12,000 in the class-action lawsuit. "I would like to see all of my money back, but at least this (conviction) gives me some sense of relief."

Blanche Goldin of Sherman Oaks, who lost $35,000 she invested in American Continental bonds, was ecstatic. "That's great. I'm so excited," she said after learning of the convictions. "The thing is now, where do we find his money?"

Keating has maintained that he is broke, his assets gone or encumbered by the government and creditors.

Nevertheless, Assistant U.S. Atty. Alice C. Hill said the government will seek to invoke provisions in the federal racketeering law to confiscate whatever assets are deemed to be the result of Keating's illegal activities.

The government is seeking $265 million in assets and $18.3 million in fines from Keating, and $231 million in assets and $16 million in fines from his son, who has filed for bankruptcy.

The federal trial was somewhat anticlimactic, mainly because Keating had already been convicted. American Continental investors had also won $251 million in settlements and a jury award that a federal judge in Tucson reduced to $1.9 billion.

But the federal convictions represent the U.S. Justice Department's most important victory in combatting the fraud that contributed greatly to the S&L industry debacle of the 1980s. The Keating case caps more than 4,000 bank fraud prosecutions nationwide, the department said.

"Charles Keating, as much as any man, has come to symbolize the excesses which led to the collapse of the thrift industry," U.S. Atty. Gen. **William P. Barr** said in a prepared statement.

Keating also came to symbolize the corruption of the political process after giving five U.S. senators more than $1.3 million in campaign donations and political contributions while at the same time asking them to persuade thrift regulators to halt their yearlong audit of Lincoln.

The Senate Ethics Committee later reprimanded Sen. Alan Cranston (D-Calif.), who retired at the end of December, and chastised the other four, providing a measure of vindication for Edwin J. Gray, the nation's top regulator at the time.

"I could have never, in 1986 and 1987 when Keating was doing so much to try to undermine our efforts as regulators, imagined that this would ultimately befall him," Gray said Wednesday. "But there's no question in my mind that the man deserves everything that's happened. I have not seen him show any repentance for what he did, and he never seemed to learn the lesson that crime doesn't pay."

The estimated taxpayer cost for covering insured deposits at failed thrifts over the last decade is $187 billion. The Lincoln failure is the industry's costliest, requiring $2.6 billion in taxpayer funds.

The federal investigation was criticized by some as too long and complicated. But U.S. Atty. Bowers called the probe "the most comprehensive and difficult savings and loan fraud investigation ever undertaken."

Charlie J. Parsons, special agent in charge of the FBI office in Los Angeles, said a task force of 24 investigators working full time on the case for 3 1/2 years interviewed more than 900 witnesses.

The task force consisted of the FBI, the Orange County district attorney's office, the Internal Revenue Service and the Resolution Trust Corp., the federal agency that is liquidating Lincoln.

"It's wonderful that the guy is probably going to spend the rest of his life in prison," said Ronald Rus of Orange, an attorney who represented the bondholders in a class action suit, "but that doesn't return the dignity to several thousand elderly Southern Californians whose lives were ruined."

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Keating Convicted on Criminal Charges Stemming From Lincoln S&L Scandal

The Wall Street Journal

January 7, 1993 Thursday

Section: Pg. A3

Length: 880 words

Byline: By Amy Stevens, Staff Reporter of The Wall Street Journal

Body

LOS ANGELES -- A federal court jury found Charles H. Keating Jr. guilty of multiple racketeering and fraud charges, culminating the criminal proceedings against the most notorious figure of the thrift crisis.

Mr. Keating, former chairman of the parent company of California's failed Lincoln Savings & Loan Association, was convicted on all 73 counts in a wide-ranging federal indictment. Also found guilty was his son, Charles Keating III, a former executive vice president of the parent company.

The elder Mr. Keating, who is 69 years old, was previously convicted on state securities-fraud charges and is currently serving a 10-year sentence at the California Men's Colony in San Luis Obispo. He appeared gaunt in a dark business suit yesterday.

As he heard the verdicts against his 37-year-old son read one by one, Mr. Keating pressed his palms together as if in prayer. When the verdicts against him were recited soon after, he turned to his son and quietly asked, "Are you okay?" The younger Mr. Keating nodded.

In the two-month federal criminal trial, prosecutors proved that Mr. Keating used a series of unlawful schemes to siphon money out of Lincoln for his own benefit. "This conviction stands as concrete proof of the Justice Department's long-standing commitment . . . to convict those who looted our financial institutions," Attorney General William P. Barr said in a statement.

Yesterday's verdict carries a possible sentence of more than 500 years for the elder Mr. Keating and more than 450 years for his son, who was convicted of all 64 counts that applied to him. Additionally, both men face forfeiture and restitution orders of more than $250 million.

A sentencing hearing is scheduled for March. U.S. District Judge Mariana Pfaelzer is expected to determine whether the federal and state sentences will run concurrently.

Stephen C. Neal, the elder Mr. Keating's lawyer, said he plans to appeal the verdicts on grounds that they weren't supported by the evidence. He questioned the federal government's decision to prosecute his client after Mr. Keating already been found guilty in state court. "I think the whole story of Charlie Keating and his family continues to be one of extraordinary litigation excess," he said.

The state convictions stemmed from a September 1990 indictment that focused narrowly on false statements made during the sale of high-risk bonds of the parent company, American Continental Corp., at Lincoln offices. American Continental was based in Phoenix.

The federal conviction was on broader allegations that Mr. Keating used "straw" buyers to purchase assets of Lincoln subsidiaries at inflated prices. Later, the buyers were secretly reimbursed for their down payments with Lincoln funds.

As a result of the transactions, American Continental booked phony income of at least $150 million. Its inflated balance sheet gave the appearance of stability that the company needed to market the bonds to Lincoln depositors. The apparent profits also triggered payments from Lincoln to its parent under a tax-sharing agreement between the two entities.

American Continental's junk bonds became worthless in April 1989 when the company filed for federal bankruptcy-law protection from creditors and Lincoln was seized by federal regulators. The cost to taxpayers of Lincoln's failure was estimated to be $2.6 billion.

Among the prosecution's star witnesses was Mr. Keating's former top aide and former American Continental president, Judy Wischer. She testified that she and Mr. Keating didn't tell independent auditors about secret inducements and buyback promises underlying 14 transactions that generated millions of dollars in profit for Lincoln and its parent.

The government's case was aided by seven other former American Continental and Lincoln insiders who pleaded guilty and agreed to cooperate with prosecutors. Several of them testified that Mr. Keating used Lincoln's federally insured funds to purchase opulent real estate and personal items for his family's use. Profligate spending continued up to the eve of insolvency, witnesses said.

In civil litigation related to Lincoln's collapse, federal Judge Richard Bilby last October reduced to about $1 billion from more than $3 billion a jury's award of damages against Mr. Keating and three co-defendants. Mr. Keating didn't present a defense in that case, claiming he was insolvent. He is appealing the California conviction. A civil action by the Securities and Exchange Commission is pending.

In the federal criminal trial, Mr. Keating took the stand and in sober, even tones contended that the land deals were all legitimate. Mr. Neal had argued that the government was trying to "retroactively criminalize" business decisions that his client made during a boom time in the real estate market.

The attorney also claimed Mr. Keating was the target of federal officials provoked by his anti-regulatory statements, although Judge Pfaelzer ruled at the opening of the trial that Mr. Neal couldn't make any broad claims against regulators unless prosecutors raised specific contentions on that subject.

The prosecutors avoided the issue of Mr. Keating's tangles with regulators, such as the financier's lobbying of the "Keating Five" senators to intercede on his behalf with regulators in April 1987.

Notes

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Newsletter of the Association of Former Intelligence Officers

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Former Attorney General Comments On Intelligence And Law Enforcement

William P. Barr, the last Attorney General in the Bush Administration and a CIA employee from 1973 to 1977, was the guest speaker at the AFIO luncheon at Fort Myers Officers' Club on 7 June 1993. Candid and forthright, including frequent use of wry humor, his remarks and observations were obviously well received by the audience. There were several interruptions for spontaneous applause.

Mr. Barr centered his talk around the controversial but growing relationship between Intelligence and Law Enforcement, where there is need for more intelligence input and why there remains resistance to direct involvement of intelligence agencies in enforcement. Describing the relationship between the Department of Justice and the Intelligence Community, he explained that one of the roles of the former is to make sure the latter operates within the law.

Mr. Barr asserted that the Intelligence Community has become too gun-shy, particularly in conducting clandestine operations, fearing legal problems. Increasing instability throughout the world means that the United States must deploy a strong post-Cold War intelligence capability. A recurring question is whether certain intelligence activities, such as use of false passports and the establishment of proprietary firms, involve violations of U.S. law.

Mr. Barr argued that Congress has taken on too many oversight powers which has had a negative effect on the Intelligence Act. As illustration he cited the coup attempt in Panama and US involvement. A major source of legal contention was the definition of assassination; would our involvement in a violent coup where Noriega could be killed be called assassination? While the outcome of that coup attempt is now a matter of history, in Mr. Barr's legal opinion, US involvement, had Noriega been killed, would not have been legally considered assassination.

Mr. Barr discussed areas where the Intelligence Community and the Department of Justice overlap -- most notably in law enforcement internationally: cases involving Mafia-type groups, drug trafficking, and banking problems. It is in these areas that Intelligence must support Law Enforcement.

He asserted the need for a solid "end game" as a nation. He cited the squeamishness of the US to embrace the use of covert action as a solution, stating that, in some cases, the US has relied too heavily on the use of law enforcement to deal with problems that lie largely outside the scope of traditional law enforcement, refering to the Pan American flight 103 bombing as a case in point. After establishing the standard of proof for terrorism and identifying the guilty party, he expressed frustration in the lack of any meaningful response. He said that the alleged Iraqi Bush assassination attempt should be handled as a national security problem, not as a law enforcement problem.

Some of the difficulties that arise in the Intelligence Community's cooperation with the Department of Justice result from different mission requirements: the Intelligence Community needs to protect sources and methods while Law Enforcement needs to identify sources in order to prosecute. Much of intelligence operates on less than concrete evidence -- sources must be evaluated and often gray areas exist in the final analysis. Law enforcement relies on "real" evidence that can be presented in a court of law. There are two very different mind sets involved in these two areas of our Executive Branch.

In Mr. Barr's analysis, if Intelligence is to support Law Enforcement, American intelligence agencies will have to organize to improve dissemination. Assuming that Intelligence does move in this direction, there will be an increasing number of rules and restrictions on the Intelligence Community. AFIO Intern **Greg Zapp**

Counterintelligence and Terrorism

In the aborted bombing of U.N. Headquarters, New York City's Federal Building, and its Lincoln and Holland Tunnels, Hollywood could not have scripted a more perfect scenario to illustrate the importance to our lives and economy of counterintelligence operations.

Last winter as snow drifted down at the World Trade Center, spellbound we watched the televised scene. Thousands of workers at the Center evacuated the building. More than a thousand were injured and six died. Rescue workers sought access to a 60-foot-deep subterranean crater to locate the dead or dying. This summer we were spared several such grisly scenes thanks to excellent counterintelligence work conducted by the FBI/NYC Police Department Terrorist Task Force.

One June 23rd a complaint was filed by the FBI charging one Siddig Ibrahim Siddig Ali and his Muslim fundamentalist cohorts with conspiring to "damage and destroy, by means of fire and an explosive, buildings used in interstate and foreign commerce and in activities affecting" such commerce. Siddig acknowledged to an informant under FBI control that he and some of his co-conspirators were involved in the preparations for the bombing at the World Trade Center. He bragged of having connections that would allow him to drive a car carrying a bomb into a parking lot in the UN Building. To bomb the Federal Building, he suggested that killing the security personnel stationed outside would be a means of gaining access. There were other plans: assassinate several political figures and bomb New York's diamond district.

Shortly before being arrested June 24th, five of the conspirators met at a safe house to mix the explosive material, so-called "witches' brew," to be used in the bombings. They repeatedly discussed potential bombing targets, military and governmental, other than the ones already described. Sidding had previously told the FBI informant that three bombs would be detonated in three different locations at different times of the same day. The schedule of bombings was first, the UN Building, next, the Lincoln and Holland Tunnels, and finally, the Federal Building. Siddig went to a remote Connecticut area for the purpose of testing the "witches' brew" and drove through one of the tunnels to decide where a bomb would best be placed and where a fire should be set as a diversionary action.

The intentions of these mad bombers, who had connections to a terrorist group already successful in the World Trade Center caper, were frustrated by outstanding counterintelligence work. We dread even to contemplate the horrendous scene of death and destruction at a bombed tunnel under a river, of the killing and maiming at the UN and Federal Buildings, had the group been successful. The daily commuters between Northern New Jersey and New York City must be petrified at the thought of what could have happened. Untold hundreds, perhaps thousands, owe a debt of gratitude to the FBI/Police Terrorist Task Force.

Such counterintelligence operations are supported in large part by the federal intelligence budget allocated by Congress. In early 1992 the reduction in that budget caused the cutback of 25% of the FBI's counterintelligence agents. The fact that the Bureau was still able to develop an informant within Siddig's terrorist ring and operate him so effectively is remarkable -- perhaps fortuitous would be a better description. The lives and well being of our people and the security and economy of our country should not, however, be dependent upon fortuity. Intelligence and counterintelligence operations should be adequately funded and manned. Any relaxation of FBI efforts to counter terrorist activities could be detected by terrorists and result in an escalation of their efforts. Saddam Hussein seeks revenge for our recent raids against his intelligence installations and has suicide bombers he can dispatch to the U.S.

There was criticism of the Bureau following the Waco, Texas, tragedy. May those critics be as quick with commendation for a job well done. Siddig remarked that the World Trade Center bombing was a message that "we can get you anytime." How fortunate that his message was so effectively reciprocated by ours.

W. Raymond Wannall
Former Assistant Director of the FBI

Appeal from the Executive Director

As you know from AFIO president **Linc Faurer's** letter to you all, we need more money to continue our programs and activities which implement AFIO's purpose-for-being. The annual convention has and can be again a real money earner. By now you should have received this year's convention flyer and schedule of events and speakers. We expect to have an exceptionally topical and comprehensive coverage of what is turning out to be a surprisingly controversial issue.

We are anxious to be able to welcome an unusually large turnout. Members of several "outsider" organizations, appropriate for the convention subject matter, are being invited to register and join us this year. **Linc Faurer**, the other officers and Board members, and I urge all you "formers" and "Associates" to give positive consideration to attending to help make this year's event a real substantive and financial success. Please do come if you can!

Dave Whipple

What Else Is New?

Life member **Duval Edwards** is doing a book on the CIC against Japan in WW II. Seeks information from CIC agents or intelligence officers on counterintelligence cases in the Pacific involving Japanese espionage or sabotage. 1524 NE 140th Street, Seattle WA 98125-3226, Telephone 206-368-0209. Winter phone/fax: 602-722-1560. ■ ■ Former *Time-Life International*, CBS Radio Berlin correspondent Paul Moor is doing a history of Berlin -- focused intelligence activities 1951-1981. Would appreciate contributions. 78 Parnassus Avenue, San Francisco CA 94117-4343. Phone/Fax: 415-566-5045. ■ ■ An updated paperback version of **Dino Brugioni's** *Eyeball to Eyeball, the Inside Story of the Cuban Missile Crisis*, with new information from the 1992 Havana Conference, is now available for $16 at bookstores.

The Periscope is published by:
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A LIMITED LEGACY; OUTGOING AG WILLIAM BARR WILL BE REMEMBERED BEST FOR HIS CONFLICTS WITH CONGRESS OVER INDEPENDENT COUNSEL

The Recorder (California)

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THE RECORDER

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Body

OUTGOING AG *WILLIAM BARR* WILL BE REMEMBERED BEST FOR HIS CONFLICTS WITH CONGRESS OVER INDEPENDENT COUNSEL

WASHINGTON -- As Attorney General ***William Barr*** prepares to leave office, he's hoping to be remembered for his hard line on violent crime, for a slew of creative policy initiatives and for fostering cooperation among law-enforcement officers at all levels of government.

But wishes don't always come true. A combination of factors conspired to leave a lasting impression of Barr as a man engaged in a seemingly endless battle with Democrats in Congress over how best to investigate allegations of wrongdoing at his department.

The Democrats clamored constantly for independent counsel to probe such alleged scandals as those concerning Banca Nazionale del Lavoro and Inslaw Inc. But Barr, a zealous defender of executive power, stubbornly resisted, picking his own investigators and opening himself to criticism that he was politically manipulating the probes.

Barr spent so much time fending off such complaints that he had little opportunity to implement the agenda he envisioned. Further hamstrung by a president who downplayed domestic affairs and the complications of election-year politics, Barr leaves behind only a faint imprint on legal policy. It is his separation-of-powers clashes that best define the 42-year-old Barr's 1 1////2-year tenure at Justice's helm.

That's all you know about him, offers Griffin Bell, a former federal judge who served as President Jimmy Carter's attorney general from 1977 to 1980. Every few days, there was some kind of call for a special prosecutor of some sort. . . . Under the circumstances, I'd say he's done about as well as anybody can do.

That was the big story, echoes Clint Bolick, vice president and director of litigation for the Institute for Justice, a libertarian public-interest group. The fact that one would think of refusals to name independent counsel underscores how quiet, in terms of policy initiatives, Barr's tenure was.

Still, Barr can list some significant accomplishments.

WEED AND SEED

He pushed hard for the implementation of the weed and seed program, a policy of weeding out violent criminals and providing social seed money to help restore their strife-torn neighborhoods. The program drew favorable reviews across the country.

The attorney general also won kudos for Project Triggerlock, a nationwide crackdown on illegal gun-trafficking -- complete with harsh federal sentences -- that resulted in more than 10,000 arrests nationwide over the 18 months.

And although the Bush administration's crime bill fizzled, even some Democrats on Capitol Hill do not blame its death on Barr, who went the extra mile by flying up to the Delaware home of Sen. Joseph Biden Jr., the Democratic chairman of the Judiciary Committee, in the hopes of keeping the legislation alive.

Barr even salvaged some good notices from the riots that plagued Los Angeles in the aftermath of the police beating of Rodney King. While the local police were roundly criticized for their conduct, Barr helped coordinate a mission of FBI and other federal agents who played a major role in helping to restore order.

STEADY HELMSMAN'

Even as Barr was waging war with congressional critics over executive prerogatives, he was acting as a calming influence within his own department.

Justice had been buffeted by years of turbulence, as Attorney General Edwin Meese III struggled to fend off allegations of ethical lapses and Richard Thornburgh wallowed in management problems largely of his own making. Barr, who served as chief of the Office of Legal Counsel and deputy attorney general under Thornburgh, wins credit even from critics for helping to quell the storms.

Things were really in a shambles when Thornburgh left, says Sheldon Krantz, a partner in the Washington office of Baltimore's Piper & Marbury and an adjunct professor at American University's Washington College of Law.

There was a period of time when Barr first got there when he stabilized the department, even made things look encouraging, says Krantz, who adds that overall, however, Barr's tenure was one of missed opportunities and mean-spiritedness.

Says the Institute of Justice's Bolick: I think Barr was a steady helmsman, the calming influence that was needed after a fairly unsettled time. He was the Gerald Ford of the Justice Department.

FAST START

Barr may be going out like Gerald Ford, but he came in like the cavalry. He was still a largely unknown bureaucrat when, as acting attorney general in 1991, he ordered a daring pre-dawn strike to rescue nine hostages taken by Cuban inmates at the Talladega Federal Correctional Institution in Talladega, Ala. The strike, which resolved the crisis without bloodshed, catapulted Barr into serious contention for the job Thornburgh was vacating for a Senate campaign.

Buoyed by the rescue, and Barr's own smooth political skills, the department enjoyed a period of relative good will on Capitol Hill and in the press. Barr wasted little time in trying to capitalize on the honeymoon.

We knew we had to move fast because the election year would throw things off, and it would be hard to get things done, Barr said last week in a telephone interview from his suburban Virginia home.

Within weeks of his confirmation in November 1991, Barr announced a series of high-profile initiatives, including the transfer of 300 agents of the Federal Bureau of Investigation from counterintelligence operations to the fight against urban gangs.

Barr also moved quickly to repair the mismanaged Immigration and Naturalization Service and found funding to increase the number of INS agents to counter the entry of illegal immigrants. He set up a testing program to help

enforce fair housing laws, and, in the antitrust arena, extended the application of the Sherman Act to foreign-owned cartels.

Despite having no background as a prosecutor, Barr quickly won the support and confidence of state and local law enforcement.

He blended in very well with the prosecution field, says Newman Flanagan, executive director of the National District Attorneys Association. He gave us a lot of time and assistance and learned our problems very quickly.

EXECUTIVE POWER PLAY

But from the very beginning, there were signs that Barr would be on the defensive on the issue of executive power. At his confirmation hearing, members of Senate Judiciary grilled him on a 1989 opinion, written while he was chief of the department's Office of Legal Counsel, affirming the authority of the FBI to seize fugitives on foreign soil without the permission of the host country. The power, known as snatch authority, enraged some Democrats concerned that it was a radical contravention of international law; they were further angered by Barr's steadfast refusal to make the opinion public, which they saw as an end run on congressional oversight authority.

At the hearings, Barr also temporarily headed off his first controversy involving the independent counsel. Congressional Democrats had begun to make calls for an independent investigation of the Inslaw affair, in which senior Justice Department officials allegedly stole software from a small, Washington-based computer company and then conspired to drive it out of business. During the hearing, Barr announced that he had appointed former federal Judge Nicholas Bua to launch a probe.

The move placated critics for a while, but it wasn't long before Democrats reiterated their call for an independent counsel and accused Barr of appointing Bua as a way to retain a measure of control over the probe.

Barr's next staging ground for an executive-powers showdown was the House Bank scandal. Barr appointed another special counsel -- this time former D.C. Circuit U.S. Court of Appeals Judge Malcolm Wilkey, for whom Barr once clerked -- to probe allegations that House members committed systematic abuse in their use of House Bank check-drafting privileges. Wilkey sent out letters informing members about their fate once they had been cleared of any wrongdoing -- a tactic that drew angry denunciations from legislators who felt that Barr, via his counsel, had tainted the entire institution.

But the biggest hue and cry came over Barr's decision to tap yet another special counsel, this time to probe the Banca Nazionale del Lavoro scandal. Frederick Lacey, a retired federal district judge from New Jersey, was picked by Barr to look into allegations that Justice Department officials squelched criminal probes of loans made to the Iraqi government by the Atlanta branch of BNL, a bank owned by the Italian government.

Lacey's report categorically exonerated Justice prosecutors, calling their handling of the matter virtually perfect. But that didn't stop the protests from congressional Democrats, who dubbed the Lacey investigation a whitewash and argued that only a truly independent counsel could get to the bottom of the matter.

It was that episode that earned Barr the most stinging criticism.

Iraqgate will not be squelched by Barr's cover-up or his dependent counsel's non-feasance, wrote **New York Times** columnist William Safire, who regularly blasted Barr as the Cover-Up General during Lacey's probe.

Rep. Jack Brooks, D-Texas, chairman of the House Judiciary Committee, also deplores Barr's conduct in the BNL affair, arguing that it signaled the attorney general's downward slide after a promising start. Over the past several months, the department has once again fallen victim to the politicization and ideological pressure that has plagued it so frequently since 1991, Brooks says.

The tide of criticism took its toll on the attorney general, who nonetheless steadfastly defended his conduct and that of his employees -- and blasted back.

I feel sad at the depth to which the level of discourse sunk, says Barr. There's nobody at the department who would say that politics played any role whatsoever in any kind of decision. A lot of the cacophony over the last few months was from people who were fundamentally ignorant about the department.

Barr may have been conscientiously sticking to a principled opposition to the independent-counsel statute; he may also have been playing politics and controlling all three probes. Whatever the case, he was forced to spend most of the year on the defensive, while precious opportunities for progress on his policies slipped away. During the final months of the 1992 campaign, the department did little beyond routine business. Barr himself seemed to hole up and cease his fire with the Democrats, pending the outcome of the election.

THE CLOSING PUSH

In the weeks since President Bush's defeat, though, Barr -- who will return to his old firm, Washington's Shaw, Pittman, Potts & Trowbridge -- has come to life again, seizing his last chance to put his stamp on the department. Not surprisingly, most of his efforts have been aimed at fortifying the executive edifice.

He moved to strip the department's inspector general -- a largely independent creation of Congress -- of most meaningful power to probe allegations of wrongdoing by Justice officials, transferring that power to the Office of Professional Responsibility, which answers to the attorney general.

And Barr is also pressing ahead with proposed rules that would clarify and expand the power of prosecutors to go behind the backs of defense lawyers in criminal investigations. The rules have drawn fire from the American Bar Association and from criminal-defense lawyers, who say they represent a head-on assault on a time-honored canon of legal ethics.

Ironically, Barr did appoint an independent counsel during his waning days in office. Following allegations that White House officials directed State Department employees to tamper with President-elect Bill Clinton's passport files, Barr quietly requested an independent probe only a day before the statute authorizing it expired.

According to Paul McNulty, Barr's spokesman, Barr made that decision in compliance with his reading of the law -- just as he had with all other requests for independent counsel.

I recognize that people are going to talk about the independent counsel, McNulty says. But I hope history judges Barr for calling the shots as he saw them with regard to the law.

THE FINAL IRONY

There is another irony underlying Barr's tenure at Justice. He was arguably the most conservative member of the Bush Cabinet and the one perhaps most often accused of political decision-making. And yet the legacy Barr leaves will probably do much to bolster the Clinton Justice Department. As a result of his stubborn efforts, prosecutors will have more authority -- and the Justice Department more precedent to lean on in staving off congressional incursions.

For his part, Barr is only too happy to claim a non-partisan creed.

I'm more interested in preserving the basic principles and integrity of the institution over the long run, he says. The fact that it's going to benefit Republican as Democratic presidents is fine with me.

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Company: INSLAW INC (70%); BANCA NAZIONALE DEL LAVORO INVERSIONES ARGENTINAS SA (56%); BANCA NAZIONALE DEL LAVORO SPA (56%)

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BUSH AIDE ACCUSED OF LYING IN INQUIRY ON CLINTON SEARCH

The New York Times

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Byline: Janet G. Mullins

By ROBERT PEAR,

By ROBERT PEAR, Special to The New York Times

Dateline: WASHINGTON, Dec. 21

Body

The Justice Department says that the White House political director, Janet G. Mullins, "may have made false statements" to Federal investigators and may have helped direct the search of Bill Clinton's passport files during the Presidential election campaign.

The accusations against Ms. Mullins, who is among the inner circle of aides to James A. Baker 3d, mark the first time Federal officials have suggested that the White House may have helped orchestrate the effort to find damaging information about the Democratic candidate at the height of the campaign.

An aide to Ms. Mullins said today that she was unavailable for comment.

Ms. Mullins worked for Mr. Baker when he was chairman of George Bush's Presidential campaign in 1988 and when he was Secretary of State, from 1989 to August of this year. She went with Mr. Baker when he was named chief of staff at the White House, where they have been working together since Aug. 23.

Responding to Petition

The accusations were made in the Justice Department's request for appointment of an independent prosecutor to investigate possible crimes. The text of the request was disclosed today by the United States Court of Appeals for the District of Columbia Circuit, in response to a petition by CBS, The New York Times and The Washington Post.

The court appointed Joseph E. diGenova, a former United States Attorney in the District of Columbia, who is a Republican, as independent prosecutor on Dec. 14, a day before the law authorizing such appointments expired.

Attorney General William P. Barr summarized the evidence against Ms. Mullins in his application to the court.

"Mullins was interviewed twice by agents" of the State Department inspector general, Mr. Barr said. "During those interviews, she made statements denying her knowledge of, or participation in, the search of Clinton's files. Other evidence directly contradicts Mullins's statements."

BUSH AIDE ACCUSED OF LYING IN INQUIRY ON CLINTON SEARCH

Two Findings May Differ

Moreover, the Attorney General said, "There is also evidence that Mullins was aware of the interest in Clinton's files before the search occurred, and that Mullins helped encourage and direct the search."

This finding appears to differ from the conclusion of the inspector general, Sherman M. Funk. In his report, issued Nov. 18, Mr. Funk wrote, "We found no evidence that the White House -- or any other external source -- orchestrated an 'attack' on the Clinton files."

In the request for an independent prosecutor, Mr. Barr did not name Mr. Baker or Margaret D. Tutwiler, the White House director of communications, as targets of the investigation. The inspector general concluded that both of them were apparently aware of the search at about the time it occurred, on Sept. 30 and Oct. 1, at the height of the campaign.

Liaison to Campaign

But the court's charter authorizes the independent prosecutor to investigate and prosecute "all matters and individuals whose acts may be related" to the search of Mr. Clinton's passport files.

While at the White House, Ms. Mullins was political director and liaison to the Bush campaign. At the State Department under Mr. Baker, she was Assistant Secretary for Legislative Affairs. In Mr. Bush's 1988 campaign, which Mr. Baker ran, she was in charge of advertising.

Ms. Mullins, 43, is also experienced on Capitol Hill, having served as an aide to Senators Mitch McConnell of Kentucky and Bob Packwood of Oregon, both Republicans. A Kentucky native, she majored in political science at the University of Louisville and studied international economics at American University in Washington.

What the Court Ordered

A special three-judge panel of the appeals court ordered Mr. diGenova to investigate whether Ms. Mullins committed a crime by making false statements, by obstructing the inspector general's investigation, by conspiring to violate Federal law, by stealing confidential information from Mr. Clinton's file for the benefit of the Bush campaign or by using her official authority to interfere with the 1992 election.

The independent prosecutor may also turn up evidence that shows whether Mr. Baker or President Bush authorized or approved the search of Mr. Clinton's files. The inspector general's report quotes Mr. Baker as saying that he learned of the search from Ms. Mullins on Sept. 30 or Oct. 1.

Mr. Baker insisted that no one at the State Department was "feeding a 'blow by blow' account of the progress of the file search to the White House," Mr. Funk reported.

'From Credible Sources'

Attorney General Barr said on Nov. 16 the Justice Department became aware of suspicions that Ms. Mullins had been involved in the search of Mr. Clinton's passport files.

"Information was also received suggesting that Mullins may have made false statements to agents of the State Department Office of the Inspector General who were investigating the circumstances surrounding the search," Mr. Barr said. He concluded that "the allegations against Mullins were specific and from credible sources." The sources, he said, included Elizabeth M. Tamposi, an Assistant Secretary of State who was dismissed from her job on Nov. 10.

In the campaign, President Bush raised many questions about Mr. Clinton's character. He suggested that Mr. Clinton had been unpatriotic in demonstrating against the Vietnam War when Mr. Clinton was a student in Britain in 1969 and 1970. The Bush campaign also raised questions about Mr. Clinton's travel to Moscow in 1969.

Citizenship Issue Raised

Republicans encouraged journalists to file requests under the Freedom of Information Act, to see if Mr. Clinton had ever tried to renounce his United States citizenship to avoid military service in Vietnam.

In his report, Mr. Funk said, "Ms. Mullins related that she had no idea how the rumors concerning Governor Clinton's citizenship and foreign travel got started, and all she knew about the department's handling of the Clinton F.O.I.A. requests was what she had read in the newspaper."

Mr. Funk said Ms. Mullins was in Ms. Tutwiler's office on the night of Sept. 30 when Ms. Tamposi tried to call Ms. Tutwiler to discuss the search.

Ms. Tutwiler "raised her eyebrows," refused to take the call and "told Ms. Mullins that she did not think it would be appropriate for her to become involved in the Clinton files matter," the inspector general said in his report.

This account suggests that Ms. Tutwiler knew enough about the search to avoid Ms. Tamposi's phone call. But Mr. Funk never explained how Ms. Tutwiler might have gained such knowledge, and Ms. Tutwiler has refused to discuss it.

The independent prosecutor was appointed under a section of the Ethics in Government Act of 1978. The special panel of three Federal judges exists exclusively for the purpose of appointing such prosecutors. The judges who named Mr. diGenova are David B. Sentelle, John D. Butzner and Joseph T. Sneed. Judge Sentelle was appointed to the Federal bench by President Ronald Reagan, Judge Butzner by President John F. Kennedy and Judge Sneed by President Richard M. Nixon.

Graphic

Photo: The Justice Department said that Janet G. Mullins, left, the White House political director, "may have made false statements" to Federal investigators about the search of Bill Clinton's passport files during the campaign. She attended a Senate subcommittee hearing in 1990. (Associated Press) (pg. B8)

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LEGAL NEWS FROM ACROSS THE COUNTRY; National Wire

The Legal Intelligencer

December 11, 1992 Friday

The Legal Intelligencer

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Body

National Wire

DEFENSE RESTS IN MONEY LAUNDERING TRIAL

PROVIDENCE, R.I. -- Defense lawyers have rested their case in the U.S. District Court trial of eight people accused of laundering more than $200 million in drug money for a Colombian cocaine cartel.

Final arguments are scheduled for Monday. The jury is expected to begin deliberations Tuesday.

Eight people, including Donna Saccoccia of Cranston, are on trial. Her co-defendants worked for her husband, Stephen A. Saccoccia, at Trend Precious Metals or Saccoccia Coin Co., both in Cranston. Stephen Saccoccia will be tried separately.

In closing their case Wednesday, defense lawyers tried to show that large sums of money routinely moved in and out of Stephen Saccoccia's precious-metals companies because the purchase and sale of gold is generally a cash business.

TEXAS EXECUTES 12TH PRISONER THIS YEAR

HUNTSVILLE, Texas -- A former laborer convicted in the strangulation of a Brenham teacher was killed by injection early yesterday after the Supreme Court refused to hear his request for a stay of execution.

Kavin Lincecum, 29, was pronounced dead at 12:18 a.m., local time. He was sentenced to death for the Aug. 11, 1985, abduction and slaying of Kathy Coppedge, 35, a first-grade teacher.

Lincecum became the 12th Texas prisoner put to death this year. The Supreme Court at 11:10 p.m. EST Wednesday, denied his application for a stay of execution, leaving Lincecum without any more options.

Defense attorneys claimed the 10th-grade dropout had a bad childhood because he was abandoned by his mother and raised by his grandmother. Defense attorneys also told the nation's high court that they were not provided with proper notice of the execution date.

The Texas Court of Criminal Appeals in Austin had denied a request for a stay earlier Wednesday.

TEAM OWNERS PROMISE INDEPENDENT COMMISH

WASHINGTON -- Major league baseball team owners, under fire on several fronts, sought to assure a skeptical Senate committee yesterday they will hire a strong and independent commissioner to replace the fired Fay Vincent.

Several senators warned that baseball risks losing its exemption from federal antitrust laws if they fail to do so.

If you don't want to have an independent commissioner, if you want to draft up a pile of language that doesn't give him any authority, and makes him removable for any whim, then I don't think you need the exemption. It's that simple, said Sen. Alan Simpson, R-Wyo.

Vincent, who resigned earlier this year rather than fight the vote of 18 team owners to fire him, said Congress should consider ending the antitrust immunity if the owners continue on their stated course.

Only a strong commissioner acting in the interests of baseball, and therefore the public, can protect the institution from the selfish and myopic attitudes of owners, Vincent told the Senate Judiciary Committee.

The 70-year exemption from antitrust laws allows baseball team owners to decide on their own how many teams there will be and in which cities, as well allowing them to place restrictions on baseball players that Sen. Howard Metzenbaum, D-Ohio, described as indentured servitude.

ATTORNEY GENERAL SAYS BMW LEASE ADS DECEPTIVE

NEW YORK -- State Attorney General Robert Abrams said yesterday his office had reached a settlement with BMW of North America requiring the automobile distributor to change its auto lease advertising, which he claimed was deceptive and misleading.

Abrams said BMW had, in newspaper and wall ads, trumpeted low monthly lease payments while hiding in small print the fact that consumers would have to put up thousands of dollars in an initial down payment.

He said his office was continuing an investigation into what appears to be an industry-wide pattern of similar auto-lease advertising, and noted that in 1991, almost 20 percent of all new cars delivered around the country were leased.

BMW of North American is headquartered in Woodcliff Lake, N.J., and has 25 franchise dealerships in New York State. The company signed the agreement without admitting to any violation of law.

INVESTIGATOR FINDS NO WRONGDOING IN BNL PROBE

WASHINGTON -- Attorney General *William Barr* will not seek appointment of an independent counsel to probe the handling of an investigation into $4 billion in unauthorized loans allegedly funneled by an Italian-owned Atlanta bank to Iraq to build its arsenal before the Persian Gulf War.

Rep. Jack Brooks, D-Texas, chairman of the House Judiciary Committee, criticized Barr's action and said Wednesday the administration of President-elect Bill Clinton should investigate the matter.

Barr's decision came after release of a report from former federal judge Frederick Lacey, who was asked by the attorney general to decide if a special prosecutor was needed in the case.

Lacey, who said he was given total access to FBI reports and Justice Department personnel during his two-month investigation, said he found no warrant at all for the appointment... of an independent counsel to look for possible criminal wrongdoing.

Barr later announced, I have accepted Judge Lacey's recommendation and will not apply to the court for appointment of an independent counsel.

While there are certain matters involving non-covered persons unrelated to the Department of Justice that warrant further investigation, there is no reason that those matters cannot be handled by the Department of Justice in the normal course, Barr said, adding, Indeed, with one exception those matters were already under investigation by the department.

LAWYERS SAY PUBLICITY TAINT JURY POOL

FORT LAUDERDALE, Fla. -- The publicity and stem sentence given the first man tried in the mob beating death of a Vietnamese student will make it difficult for the other six defendants to get a fair trial, their lawyers say.

Bradley Mills, 19, of Tamarac, was convicted of second-degree murder in October for participating in the Aug. 15 attack that killed University of Miami pre-med honor student Luyen Phan Nguyen.

Mills was sentenced Tuesday to 50 years in prison, more than double what the Florida sentencing guidelines recommend.

On Wednesday, Mills' father Jerry called it excessive.

We obviously feel confident with an appeal the truth will come out. We feel he's innocent, Jerry Mills said.

ACTOR'S SON SENTENCED TO DRUG PROGRAM

SANTA MONICA, Calif. -- Griffin O'Neal, the son of actor Ryan O'Neal, was sentenced yesterday to one year in a drug and alcohol treatment program for his no-contest plea to shooting at his ex- girlfriend's empty car.

O'Neal, 27, was accused of terrorizing his former girlfriend after their breakup in August. The actor pleaded no-contest Nov. 19 to one felony count of shooting into an unoccupied car.

Deputy District Attorney Lauren Weis said before the plea agreement, O'Neal also was charged with one count each of making terrorist threats, a felony, and misdemeanor battery. If he had gone to trial and been convicted of all charges, he could have been sent to prison for up to three years, eight months.

Weis said she was satisfied with the sentence because, this way he won't be a danger to himself or to society.

RELIABLE DRUGS FILES CHAPTER 11

INDIANAPOLIS -- The Reliable Drug Stores chain has filed for Chapter 11 reorganization bankruptcy as it seeks to cope with $148 million in debts.

The Carmel-based company filed in U.S. Bankruptcy Court Wednesday. The chain operates 256 retail stores in seven states and employs 2,700 people, including 1,300 in Indiana. It listed assets of about $140 million and debts of $148 million.

All locations will be doing business as usual, said Steven H. Ancel, an attorney handling the bankruptcy.

He said the company has millions in cash reserves and will continue to be solvent while negotiating with banks. Ancel said the bankruptcy became necessary after the company was unable to refinance long-term debt.

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Facing His Term's End, Barr Defends His Record

The New York Times

November 23, 1992, Monday, Late Edition - Final

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Length: 1237 words

Byline: William P. Barr

By DAVID JOHNSTON,

By DAVID JOHNSTON, Special to The New York Times

Dateline: WASHINGTON, Nov. 22

Body

The melancholy that pervades the Bush Administration these days runs particularly deep at the Justice Department, where Attorney General William P. Barr has taken a pounding from Congressional critics in recent months and is preparing to relinquish to Democrats an agency that drove the Republicans' conservative legal agenda for a dozen years.

"I'm still breathing," said Mr. Barr, smiling guardedly from his office at the Justice Department's headquarters, an Art Deco fortress on Pennsylvania Avenue where he talked at length about the department and his 12-month tenure. "I recognized from the beginning that this job consisted of walking through mine fields and I'd be happy just to survive. I think most people would say I've done more than that."

In the interview last Thursday, Mr. Barr seemed to be opening up again, agreeing to speak publicly after a low-profile period in which he appeared hesitant to defend himself against Democratic lawmakers who accused him of allowing political factors to shape his prosecutorial decisions.

Conservative Agenda Doomed

Still, associates say the 42-year-old lawyer is giving up his Cabinet post with a familiar politician's complaint: that he has been treated unfairly by the press and political opponents.

The impression of gloom among the Attorney General and his senior aides is underscored by their belief that the new Administration will soon unravel the conservative policies on abortion, judicial appointments, civil rights and criminal justice that formed a core domestic agenda for the last 12 years.

"I think there's potential for many setbacks for what was accomplished during the Reagan and Bush Administrations," Mr. Barr said. "The big difference is going to be in the philosophy of approaching crime, and generally speaking we say that part of the solution of dealing with crime has to be holding individuals accountable. I am talking about violent crime and making violent criminals pay by sending them to prison for a long period of time. I am doubtful the approach will be same."

Election-Year Tenure

But the Justice Department, with 85,000 employees and an annual budget of $11 billion, has twice the employees and five times the budget it had when President Jimmy Carter left office in January 1981. Much of the growth is earmarked for law enforcement and prisons.

Mr. Barr has concentrated primarily on the Attorney General's managerial role as the head of a burgeoning agency. In a tenure shaped by the political dynamics of an election year, he ran into conflict by asserting the department's primacy in law-enforcement matters against the counterweight of an increasingly hostile Congress.

In recent months, lawmakers have accused Mr. Barr of shielding the Bush Administration from criminal inquiry, but he said it is the lawmakers themselves who were engaging in political interference, trying to turn policy debates into criminal investigations.

"There's an increased willingness on the Hill to intervene in criminal proceedings, to haul prosecutors up if they don't take the action that the Congressmen want them to take, rifle through all their files and really sort of become a kibitzer in the criminal process," Mr. Barr said. "And that's where I think the danger to the department lies. That is the danger of politics becoming insinuated into the process."

At War With Congress

Representative Jack Brooks of Texas, the chairman of the House Judiciary Committee, which oversees the department, said Mr. Barr had "jeopardized the American people's trust in the even-handed nonpolitical administration of justice."

The flash-point issue has been Mr. Barr's unwillingness to seek the appointment of independent counsels under the Ethics in Government Act, a post-Watergate statute that gives Congress the power to force an Attorney General to consider whether such prosecutors are needed but allows the Attorney General to reject the lawmakers' request if it there is insufficient evidence of criminal wrongdoing.

"Frankly, I don't think prosecutors should be independent," he said. "That's the basic difficulty of the statute." Mr. Barr has rejected Democratic requests for a special prosecutor in two major cases. Democratic lawmakers, in response, have have been especially critical of his unwillingness to seek such a counsel to examine possible Government wrongdoing in a bank-fraud case involving Iraq.

"I'm going to enforce the law as it is, including the independent counsel statute, and I'm going to apply those criteria faithfully," said Mr. Barr, who would not comment on the case involving the Atlanta branch of the Banca Nazionale del Lavoro. "But I'm not going to be buffaloed into appointing independent counsels by political clamor and by the views of editorial writers."

Politics Versus Law

Mr. Barr's critics cite his resistance to seeking outside prosecutors to investigate Administration officials as evidence of how he has permitted politics to shape prosecutorial decisions.

Mr. Barr said he saw the harsh debate over politics and law that has engulfed him in recent months as an outgrowth of the Presidential election.

"I think the campaign season is a silly season," he said. "I recognized from the beginning that we had to move quickly because the second half of the year would be dominated by the election and a lot of people would be trying to derail us from our agenda and put us on the defensive."

Mr. Barr managed to avoid a serious clash with Congress in his first months in office. With a flexibility uncharacteristic of his predecessors, he found room to maneuver on almost any issue, until last spring when he appointed a retired Federal appeals court judge to examine the check-writing practices of hundreds of lawmakers who overdrew their accounts at the House bank.

Democrats on the House Judiciary Committee accused Mr. Barr of seeking to keep open a political wound. Last summer they struck back, formally asking Mr. Barr to appoint independent counsels to investigate two cases in which former or current department employees were potentially at risk. One complaint involved Inslaw, a bankrupt computer company whose owners had accused Justice Department officials of stealing its software.

Uproar Over Bank Case

More hotly debated was Mr. Barr's decision in the bank case. At a sentencing hearing in Atlanta for a bank official charged with making fraudulent loans, Government lawyers acknowledged that the Central Intelligence Agency had failed to alert prosecutors it had information contradicting the Government's central theory: that the bank's headquarters in Rome was the unwitting victim of the fraud.

Coming as the election campaign shifted into full gear, the renewed questions about the case created an uproar. Democratic lawmakers in the House and Senate sought an independent counsel, and this time, Mr. Barr backtracked, appointing Frederick B. Lacey, a retired Federal judge, to investigate whether to seek the appointment of an independent counsel.

Mr. Barr has said he will seek Judge Lacey's recommendation in early December. His decision whether to seek such a counsel is likely to be one of his last official acts as Attorney General. "I've called every decision as I've seen it and tried to do the right things for the right reasons," he said. "There's not one thing I would have done differently knowing what I know today."

Graphic

Photo: "I think there's potential for many setbacks for what was accomplished during the Reagan and Bush Administrations," said Attorney General William P. Barr. (Michael Geissinger for The New York Times)

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U.S. Agency Cleared Gear Used in Iraq's Most Feared Weapons, Panel to Be Told

The Wall Street Journal

October 27, 1992 Tuesday

Section: POLITICS & POLICY; Pg. A18

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Byline: By John J. Fialka, Staff Reporter of The Wall Street Journal

Body

WASHINGTON -- The Commerce Department approved licenses for computers, software and hardware that were used in Saddam Hussein's most feared weapons projects, according to testimony prepared for hearings today by the Senate Banking Committee.

According to the statements, the exports ended up supporting Iraq's nuclear-weapons research and its infamous "supergun," which was being built to hit targets as far as 2,500 miles away. Rep. Henry P. Gonzalez, chairman of the House Banking Committee, said he believes the "most symbolic" case of the Commerce Department's open-handed export program was the sale of computers and missile-design software that Iraq used to design a projectile for the supergun.

It has been known for months that as part of the Bush administration's pro-Iraq policies, the Commerce Department approved the sale of U.S. hardware and technology. But the testimony scheduled for delivery today provides new details about the exports and suggests that at the time they were approved, there were ample grounds to assume they would be used to build up Iraq's military.

The software, Rep. Gonzalez noted, had been sent from a Pennsylvania company that stated on its export-license application that it could be used to analyze designs for military vehicles, satellites and missiles.

In March 1989, Swanson Analysis Systems Inc. of Houston, Pa., thought it was shipping the software to a Belgian company owned by Gerald Bull, inventor of the supergun. Six months later, however, Mr. Bull's company received a second license from the Commerce Department authorizing it to send the software to Iraq's "State Enterprise for Automotive Industries."

At the time, Rep. Gonzalez asserted, the State Department had information indicating that Mr. Bull's company was involved in "numerous military projects in Iraq."

A second witness, Gary Milhollin, was prepared to assert that the Commerce Department issued another license to a Connecticut branch of a German company, Leybold Vacuum Systems, that said an electron beam welder would be used to repair "rocket cases." The machine was found by United Nations inspectors in Iraq where it was being used to redesign Scud rockets for longer range and to make high-speed centrifuges that would be used in making nuclear weapons material.

"Saddam Hussein is the first monster with imported fangs," said Mr. Milhollin, director of the Washington-based Wisconsin Project on Nuclear Arms Control, which has been studying Iraq's military imports for three years.

The Senate Banking Committee is exploring U.S. export-control policy toward Iraq in the wake of President Bush's statement during presidential election campaign debates this month that "there hasn't been one single scintilla of evidence" that U.S. technology was involved in Iraq's nuclear program, or for battlefield weapons. Neither the nuclear capability nor the supergun was operable during the 1991 Persian Gulf War.

Meanwhile, the Justice Department announced yesterday that J. William Roberts, a federal prosecutor from Springfield, Ill., will be the director of a task force that will continue the federal investigation into what is being called "Iraqgate." The case involves allegations of illegal exports to Iraq and unauthorized financing by the Atlanta branch of Banca Nazionale del Lavoro, an Italian government-owned bank.

Mr. Roberts, 50 years old and currently U.S. attorney in Springfield, has been a prosecutor for 25 years. "He will make certain that every facet of this complex case will be vigorously pursued," said Attorney General William P. Barr. Mr. Roberts will report to retired federal Judge Frederick B. Lacy; he has been designated an "independent counsel" but will report to the attorney general.

One of Mr. Roberts's assignments, according to Mr. Barr, will be to press an investigation of allegations of wrongdoing by officials of BNL's Rome headquarters.

So far, federal prosecutors haven't connected officials in the BNL headquarters with $2.1 billion of unsecured Iraqi loans authorized by BNL's Atlanta branch. Unlike other U.S. attorneys, Mr. Roberts has worked closely with Attorney General Barr and has an office in Washington because he is the chairman of the attorney general's advisory committee of U.S. attorneys.

Notes

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Barr Appoints Special Counsel In BNL Inquiry --- Judge Is Asked to Investigate Department of Justice, But Democrats Cry Foul

The Wall Street Journal

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Byline: By Peter Truell, Staff Reporter of The Wall Street Journal

Body

WASHINGTON -- The Iraqi loan scandal entered a new phase Friday when the U.S. attorney general tried to calm a growing storm of criticism by appointing a special counsel to investigate the Justice Department's handling of the affair.

But Attorney General William Barr's appointment of retired federal Judge Frederick B. Lacey, a former U.S. attorney in New Jersey, provoked an outcry from many powerful congressional Democrats, who have attacked the Justice Department's handling of the case up until now and want a fully independent counsel appointed by a panel of federal judges to look into the affair.

At a news conference Friday to announce the appointment, Mr. Barr said he wanted Judge Lacey "to review the Justice Department's entire handling of the BNL matter," and to prepare reports for Congress and the public on what he learns. "The steps I am announcing today are intended to ensure a full and complete investigation of all aspects of this matter," Mr. Barr said, adding "we are prepared to let the chips fall where they may."

The worst outcome for the Bush administration would be hard evidence that senior officials in the government narrowed the scope of the investigation of the Iraqi loan scandal to prevent embarrassing disclosures about the extent of the administration's support for Saddam Hussein right up to Iraq's August 1990 invasion of Kuwait. So far, it has emerged that the Central Intelligence Agency provided incomplete, and therefore misleading, information to prosecutors, and that administration officials blocked investigators' plans to travel to Rome and Istanbul, Turkey, to follow up on various leads.

Judge Lacey, 72 years old, a partner at the law firm of LeBoeuf, Lamb, Leiby & MacRae, was appointed under Department of Justice regulations rather than the independent counsel statute. He therefore has his mandate set by Mr. Barr and can be fired by him. In contrast, a court-appointed counsel would have more independence.

Senior congressional Democrats were critical of the move. Sen. David Boren (D., Okla.), chairman of the Senate Intelligence Committee, said in a statement that while he is "pleased that Judge Lacey will be looking into the

matter," the move "isn't a satisfactory substitute for the appointment of an independent special counsel." The Justice Department, he added, is "in the position of appointing its own investigator." For this reason, he said, he will continue his committee's probe into the handling of CIA intelligence related to the loan scandal.

The Bush administration's new approach to the Iraqi loan scandal may be short-lived in any case. If, as current polls suggest, Gov. Bill Clinton wins next month's presidential election, he would likely adopt a new strategy for the whole affair. He and his aides have indicated that he would favor a court-appointed special counsel to look into the matter.

That probability did little to contain criticism in Congress, where Democrats have helped ensure that the scandal became an election issue. The chairmen of the Senate Agriculture and Judiciary committees, and the House Banking, Government Operations and Judiciary committees, all immediately assailed Mr. Barr's decision. Rep. Jack Brooks, who heads the House Judiciary Committee, termed the appointment "unfortunate in the extreme," charging that Mr. Barr is covering up his responsibility to appoint a truly independent counsel "with the fig leaf of an investigator reporting to him personally, and not to the American public."

Some were even more strident. "This counsel may be called an independent counsel, but it is still a convenient counsel," said Charles Schumer, chairman of the House Judiciary subcommittee on crime and criminal justice. "This is the biggest crisis to hit the department since the Saturday Night Massacre almost 20 years ago and it requires a full and independent review."

The Iraqi loan scandal involves the Atlanta branch of Italy's government-controlled Banca Nazionale del Lavoro, which made billions of dollars of unsecured and illicit loans to Iraq before the offices were raided by the FBI in August 1989. The Justice Department, in an indictment brought in February 1991, charged the branch manager, Christopher Drogoul, with defrauding his employer, the Italian bank. The department case, which also led to indictments of Iraqi officials, essentially argued that BNL's head office was unaware of Mr. Drogoul's lending. Recent information -- including some provided by the Central Intelligence Agency -- has strongly suggested that wasn't true, and that the bank's head office was at least informed about the Atlanta branch's loans to Iraq.

But on Aug. 10, this year, Mr. Barr rejected a formal request from the House Judiciary Committee to appoint a statutory independent counsel to look into the Iraq loan affair. He still hasn't said such a statutory independent counsel is necessary. But his announcement Friday went some way toward acknowledging the need for a review of the handling of the BNL matter.

Justifying this limited change of heart, Mr. Barr cited a succession of events since early August, including Mr. Drogoul's sentencing hearing in Atlanta and allegations of impropriety in connection with the CIA's and Justice Department's handling of CIA information during the sentencing hearing. Some of that information, which wasn't made available to the judge, indicated BNL's head office knew about the Atlanta branch loans to Iraq. Mr. Barr stressed that he has "no reason to believe that any officials at the Department of Justice have acted improperly or unprofessionally."

Federal Bureau of Investigation Director William Sessions, who is himself the subject of a Justice Department inquiry into possible ethics violations related to use of FBI airplanes and facilities, met Friday with Judge Lacey concerning the new BNL inquiry. He later released a statement pledging full cooperation with -- and confidence in -- Judge Lacey.

John J. Fialka contributed to this article.

Notes

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FBI CHIEF RECEIVES VOTE OF CONFIDENCE

ASSOCIATED PRESS

WASHINGTON

Attorney General William P. Barr said yesterday his confidence in FBI Director William S. Sessions has not been undermined by charges of improprieties against Sessions.

"Cooperation (between the FBI and the department) has never been better," Barr said. Barr told a news conference he continues to have a normal working relationship with the FBI director.

Asked if Sessions continues to have Barr's confidence, the attorney general replied, "Yes."

Sessions is being investigated by the Justice Department on charges he abused official perquisites and tried to avoid paying local income taxes.

The FBI director has denied any wrongdoing, and his allies said he is the victim of a smear campaign led by enemies at the FBI who dislike his leadership of the law enforcement agency.

Barr's remarks were made at a news conference called to announce the appointment of retired federal judge Frederick Lacey as a special prosecutor to investigate the case of an Italian bank's loans to Iraq.

Lacey said he also plans to investigate news leaks this week that revealed the probe of Sessions. The leaks came two days after the announcement that the FBI would investigate the Justice Department's handling of the illegal Iraq loan scandal.

Lacey said Sessions "is as straight as an arrow. Impeccable reputation." Lacey said he met with Sessions yesterday and was assured the FBI will cooperate fully in Lacey's probe.

Sessions, meanwhile, has placed a top personal aide, Sarah Munford, on paid administrative leave after the department's Office of Professional Responsibility recommended that she be dismissed from her job. She allegedly flashed her FBI credentials to try to persuade a Texas state trooper not to ticket her son for speeding.

Sessions is scheduled to meet later this month with Justice Department lawyers to answer the charges against him.

The allegations include that Sessions and his wife Alice used government airplanes and cars for private travel, that Sessions used government telephones for personal long-distance calls, and that he tried to avoid paying District of Columbia income taxes by claiming an exemption.

When he took office in 1987, Sessions wrote D.C. officials to request the exemption, and listed his membership in a San Antonio country club as evidence of Texas residency, said sources familiar with the inquiry.

But a District of Columbia tax official said Sessions appears to be exempt from the tax.

---- Index References ----

News Subject: (Legal (1LE33); Judicial (1JU36))

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October 16, 1992

Section: Washington

Attorney General Names Investigator in Iraq Bank Loan Case

WASHINGTON

Attorney General William Barr, under heavy fire from congressional Democrats, today named his own special investigator to probe the administration's handling of a case involving questionable loans to Iraq.

But Barr refused to bow to pressure from his critics and call for the appointment of an independent prosecutor.

Barr named retired U.S. District Judge Frederick B. Lacey of New Jersey to head the probe.

"I have no reason to believe that any officials at the Department of Justice have acted improperly or unprofessionally," Barr said.

"Nevertheless, in the current politically charged environment, nothing could be worse than to have this matter tried in the press based on allegation, rumor and leaks," he told a news conference.

Barr said Lacey will have a free hand to pursue a thorough investigation.

Barr's planned announcement fell short of demands by Democrats in recent days that he appoint an independent counsel to investigate the politically charged case.

An independent counsel, as the name implies, is appointed by a special court and acts independently of the attorney general. A special investigator would report to Barr.

Lacey, 72, was appointed to the federal bench in 1971 and retired in January 1986. He served as U.S. attorney in Newark from 1969 to 1971 and previously served as assistant U.S. attorney.

A registered Republican, Lacey most recently redrew congressional districts in New York.

Democrats accuse the administration of botching the prosecution in the $5.5 billion loan scheme by an Italian government bank in order to protect its diplomatic relationship with Italy and shield its flawed policy of support for Iraq.

Barr also announced creation of a special task force to keep an eye on likely developments in the case.

"This task force will add a group of prosecutors drawn from around the country and will allow the ... investigation to move forward quickly and thoroughly," he said.

Barr said his announcement today does not preclude the appointment of a court-appointed independent counsel.

"If Judge Lacey finds evidence of wrongdoing, so be it," he said. "If not, I trust that the attacks on the integrity of the department will end."

Senate Judiciary Committee Chairman Joe Biden, D-Del., and House Judiciary Committee Chairman Jack Brooks, D-Texas, led the calls Thursday for an independent probe into possible criminal wrongdoing by the CIA, the FBI and the Justice Department in the bank loan case.

Brooks was joined by 17 other members of the House panel in formally requesting that Barr appoint an independent counsel. The House Judiciary Democrats also had made the formal request that Barr rejected in August, but he invited them then to renew their appeal if new evidence emerged.

Under the special prosecutor law, whenever a majority of either party on the House or Senate Judiciary committees formally requests a special prosecutor appointment, the attorney general must respond in writing in 30 days. That would be well after next month's presidential election.

The 18 House Democrats wrote Barr: "It is now evident that misleading and incorrect information was provided to a federal judge and local prosecutors.

"CIA officials have asserted that this was done with the knowledge, and at the urging, of high-ranking Justice Department officials," they said.

In August, Barr wrote the House Judiciary Democrats that there

was "not a shred of evidence that any department employee acted improperly."

The chairman of the Government Operations Committee, Rep. John Conyers of Michigan, also urged the appointment of an independent counsel to probe what he called "a last ditch pre-election conspiracy to keep the lid" on the administration's flawed support for Iraq in the 1980s.

The new information since August includes an admission by the CIA that, under Justice Department prodding, it provided misleading information to the court in the case of the Atlanta bank manager accused of making $5.5 billion in unauthorized loans to Iraq.

"It is beyond dispute that these allegations are extremely serious and demand a thorough and unbiased investigation," said the letter signed by 18 members of the House Judiciary Committee.

The Democratic chairmen of the House Banking Committee and the Senate Intelligence Committee asked Barr earlier this week to appoint an independent investigator.

Prosecutors contend that Atlanta bank manager Christopher Drogoul acted alone in lending Iraq the money, used in part to buy weapons and guaranteed partly by the U.S. government.

But Drogoul's lawyers have argued that he had full authority from the Italian headquarters of Banca Nazionale del Lavoro (BNL). They say the Justice Department shielded the bank because an indictment would have severely strained relations with Italy and possibly toppled the divided Italian government.

---- Index References ----

Company: BNL BANCA NAZIONALE DEL LAVORO SPA

News Subject: (Legal (1LE33); Legislation (1LE97); Government Litigation (1GO18); Government (1GO80); Judicial (1JU36))

Industry: (Banking (1BA20); Financial Services (1FI37))

Region: (Southern Europe (1SO59); Americas (1AM92); North America (1NO39); Western Europe (1WE41); Italy (1IT70); Middle East (1MI23); Europe (1EU83); USA (1US73); Iraq (1IR87); Arab States (1AR46))

Language: EN

Other Indexing: (BANCA NAZIONALE DEL LAVORO; CIA; DEMOCRATIC; DEPARTMENT OF JUSTICE; FBI; GOVERNMENT OPERATIONS COMMITTEE; HOUSE; HOUSE BANKING COMMITTEE; HOUSE DEMOCRATS; HOUSE JUDICIARY COMMITTEE; HOUSE JUDICIARY DEMOCRATS; IRAQ; IRAQ BANK LOAN; JUSTICE DEPARTMENT; SENATE INTELLIGENCE COMMITTEE; SENATE JUDICIARY; SENATE

JUDICIARY COMMITTEE) (Barr; Brooks; Christopher Drogoul; Democrats; Drogoul; Frederick B. Lacey; Jack Brooks; Joe Biden; John Conyers; Lacey; Rep; William Barr)

Word Count: 965

End of Document

10/16/92 S.F. Chron. A9
1992 WLNR 2474878

San Francisco Chronicle (CA)

October 16, 1992

Section: NEWS

LAWMAKERS STEP UP PRESSURE FOR IRAQ-LOANS PROSECUTOR

Washington

Responding to new evidence in a sensitive Iraqi loan scandal, Democrats on the House Judiciary Committee yesterday formally sought an independent counsel to investigate whether Bush administration officials broke the law in trying to conceal prewar relations with Baghdad.

In the Senate, Judiciary Committee chairman Joseph Biden, D-Del., said he expected Democrats on his panel to vote for a similar request by Monday. The twin demands sharply expand the controversy over the administration's secret ties to Iraq, which began emerging months ago.

Attorney General William Barr responded to a similar congressional request in August with a resounding and detailed rejection. But, confronted by new questions about the roles of the Department of Justice and the CIA in withholding intelligence files from a federal judge, Barr said yesterday that he had not ruled out any options.

"Obviously, the independent counsel statute is something we will consider to make sure this is actively investigated," Barr said.

The CIA admitted last week that it withheld classified cables last month from U.S. District Judge Marvin H. Shoob in the case of an Atlanta bank manager accused of making $5 billion in illegal loans to Iraq. The cables contradicted the prosecution assertion that the manager acted without the knowledge of superiors at the Rome headquarters of the Banca Nazionale del Lavoro.

---- Index References ----

Company: BNL BANCA NAZIONALE DEL LAVORO SPA

News Subject: (Judicial (1JU36); Legal (1LE33))

Region: (Middle East (1MI23); USA (1US73); Americas (1AM92); North America (1NO39); Iraq (1IR87); Arab States (1AR46))

Language: EN

Other Indexing: (BANCA NAZIONALE DEL LAVORO; CIA; DEPARTMENT OF JUSTICE; HOUSE JUDICIARY COMMITTEE; JUDICIARY COMMITTEE; PROSECUTOR; SENATE) (Attorney; Barr; Bush; Democrats; Joseph Biden; LAWMAKERS STEP; Marvin H. Shoob; William Barr)

Edition: FINAL

Word Count: 280

End of Document

NewsRoom

10/16/92 AP Online 00:00:00

AP Online

October 16, 1992

Section: Washington

Embattled FBI Chief Fighting Back

WASHINGTON

FBI Director William S. Sessions, accused of improper conduct and under investigation by the Justice Department, got a vote of confidence today from Attorney General William P. Barr.

Barr told a news conference he continues to have a normal working relationship with the FBI director.

"Cooperation (between the FBI and the department) has never been better," said Barr.

Asked if Sessions continues to have Barr's confidence, the attorney general replied, "Yes."

The news conference was called to announce Barr's appointment of retired federal judge Frederick Lacey as a special prosecutor to investigate the case of an Italian bank's loans to Iraq.

Lacey said he also plans to investigate news leaks this week that Sessions is under investigation for alleged criminal and unethical conduct. The leaks came two days after the announcement that the FBI would investigate the Justice Department's handling of the illegal Iraq loan scandal.

Lacey said Sessions "is as straight as an arrow. Impeccable reputation." Lacey said he met with Sessions today and was assured the FBI will cooperate fully in Lacey's probe.

Meanwhile, Sessions is fighting the allegations against him that his allies call a smear campaign.

At the urging of his lawyer, Sessions on Thursday called off a scheduled meeting with department attorneys probing assertions that he abused official perquisites and tried to avoid paying local

income taxes.

Sessions also placed on paid administrative leave a top personal aide, Sarah Munford, whose dismissal has been recommended by the department's Office of Professional Responsibility for allegedly misusing her credentials, said sources who spoke on condition of anonymity.

Sessions' lawyer, James R. Phelps, said he obtained a 10-day postponement of the meeting to prepare a defense to what the attorney said are anonymous charges being leaked by unnamed government officials.

"It is the director's wish to impart the facts within his knowledge as soon as possible," Phelps said in a statement.

"The delay is at my insistence" because the Justice Department "has not provided the specifics of the allegations, which come from an anonymous source," he said. "These allegations cover many topics, are broadly stated and are not even identified as to when they might have occurred."

Phelps also denounced news leaks of the confidential inquiries by the Office of Professional Responsibility and the public integrity section.

"It is troubling that Department of Justice personnel seem to be violating their own rules," he said.

The department is reviewing allegations that Sessions and his wife Alice used government airplanes and cars for private travel.

The internal disciplinary unit recommended that the Justice Department dismiss Munford, who flashed her FBI credentials to try to persuade a Texas state trooper not to ticket her son for speeding.

Munford and Alice Sessions denounced the investigation in an interview published in Thursday's editions of the San Antonio Light.

Mrs. Sessions said her husband "is waking up out of a stupor realizing he's been had. We hope he gets mad enough that he will fight."

The newspaper also quoted Munford as saying her boss' enemies were "manufacturing evidence."

"It's ridiculous. It's very political. The politics here are

brutal," she said.

Additionally, the public integrity section is conducting a 90-day inquiry preliminary to a criminal investigation of allegations that Sessions used government telephones for personal long-distance calls and tried to avoid paying District of Columbia income taxes by claiming an exemption.

When he took office in 1987, Sessions wrote D.C. officials to request the exemption, and listed his membership in a San Antonio country club as evidence of Texas residency, said sources familiar with the inquiry.

But a District of Columbia tax official said Sessions appears to be exempt from the tax. She said local law states federal government officers appointed by the president generally are not considered residents of the nation's capital and therefore are not required to pay the tax.

Because a "presidential appointee is not required to file a District of Columbia income tax return, applying for an exemption is not required," said Linda P. Holman, acting head of the city Department of Finance and Revenue's audit and compliance branch.

The letter requesting exemption was prepared with the help of the FBI's general counsel and was kept in bureau files. Sessions later learned that the honorary club membership given him as a federal judge lapsed when he left Texas, the sources said.

In 1990, Sessions gave that explanation when questioned during an Office of Professional Responsibility inquiry into acceptance by Justice Department employees of honorary club memberships. The department was trying to determine if such memberships amounted to an illegal gratuity, sources said.

The director was not questioned about the apparent contradiction between his statement and the 1987 letter, the sources said.

But more recently, Justice Department investigators obtained the letter and began an inquiry under the independent counsel law to determine if a special prosecutor should be appointed.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Taxation (1TA10); Tax Law (1TA64))

Industry: (Accounting, Consulting & Legal Services (1AC73))

Region: (Middle East (1MI23); District Of Columbia (1DI60); USA (1US73); Americas (1AM92); North America (1NO39); Iraq (1IR87); Arab States (1AR46); Texas (1TE14))

Language: EN

Other Indexing: (DEPARTMENT OF FINANCE; DEPARTMENT OF JUSTICE; FBI; JUSTICE DEPARTMENT; OFFICE OF PROFESSIONAL RESPONSIBILITY) (Additionally; Alice Sessions; Barr; Embattled; Frederick Lacey; Impeccable; James R. Phelps; Lacey; Linda P. Holman; Munford; Phelps; Revenue; Sarah Munford; Sessions; William P. Barr; William S. Sessions)

Word Count: 1040

End of Document

AS YOU ARE AWARE, IN JULY 1989, THE ATLANTA U.S. ATTORNEY'S OFFICE BEGAN ITS INVESTIGATION OF BNL. BNL, AS YOU KNOW, IS AN ITALIAN BANK WITH A BRANCH IN ATLANTA. THE ATLANTA BRANCH MANAGER WAS AN INDIVIDUAL NAMED CHRISTOPHER DROGOUL.

ON FEBRUARY 28, 1991, AN INDICTMENT WAS RETURNED BY A GRAND JURY IN ATLANTA NAMING DROGOUL AND OTHERS AS DEFENDANTS.

DROGOUL AND THE OTHERS WERE ESSENTIALLY CHARGED WITH MAKING EXCESSIVE OFF-BOOK LOANS TO IRAQIS THEREBY DEFRAUDING BNL AND U.S. BANKING REGULATORS.

IN THE SPRING AND EARLY SUMMER OF 1992, ALLEGATIONS WERE MADE CONCERNING THE DEPARTMENT'S HANDLING OF THE BNL MATTER.

THE THRUST OF THE ALLEGATIONS WAS THAT DEPARTMENT LAWYERS IN WASHINGTON SOUGHT TO OBSTRUCT THE INVESTIGATION AND DELAY THE INDICTMENT.

THESE ALLEGATIONS WERE REVIEWED BY THE DEPARTMENT'S PUBLIC INTEGRITY SECTION AND FOUND TO BE BASELESS.

THIS INVESTIGATION FOUND NO IMPROPRIETY IN THE HANDLING OF THE CASE BY THE DEPARTMENT. SPECIFICALLY, IT FOUND THAT THERE WAS NO POLITICAL INFLUENCE BROUGHT TO BEAR ON THE CAREER PROFESSIONALS HANDLING THE MATTER, AND THE DECISIONS REGARDING

THE PROSECUTION WERE MADE BY CAREER PROSECUTORS FOR PROFESSIONAL REASONS.

IN FACT, THE ALLEGED "DELAY" WAS FOUND TO HAVE BEEN CAUSED LARGELY BY THE EFFORTS OF PROSECUTORS IN WASHINGTON TO FOCUS THE ATLANTA INVESTIGATION ON ALLEGATIONS CONCERNING IRAQ AND BNL-ROME -- EFFORTS WHICH HELPED PRODUCE THE CHARGES AGAINST IRAQI NATIONALS INVOLVED IN THE SCHEME.

ON AUGUST 10, 1992, BASED ON THESE FINDINGS, I REJECTED A REQUEST BY THE DEMOCRATIC MEMBERS OF THE HOUSE JUDICIARY COMMITTEE THAT I SEEK APPOINTMENT OF A STATUTORY INDEPENDENT COUNSEL TO INVESTIGATE VARIOUS ALLEGATIONS RELATING TO THE HANDLING OF THE BNL PROSECUTION.

SINCE I REJECTED THE HOUSE REQUEST, A NUMBER OF EVENTS HAVE TRANSPIRED.

IN MID-SEPTEMBER, THE DROGOUL SENTENCING HEARING TOOK PLACE IN ATLANTA.

LAST FRIDAY, ALLEGATIONS OF IMPROPRIETY WERE MADE IN CONNECTION WITH THE C.I.A.'S AND THE DEPARTMENT'S HANDLING OF CERTAIN CIA DOCUMENTS DURING THE SENTENCING HEARING OF CHRISTOPHER DROGOUL. IN ADDITION, FURTHER C.I.A. DOCUMENTS WERE IDENTIFIED BY THE AGENCY.

AS SOON AS I LEARNED OF THESE DEVELOPMENTS LAST FRIDAY, I ORDERED AN INVESTIGATION, WHICH BEGAN THAT SAME EVENING.

I HAVE NO REASON TO BELIEVE THAT ANY OFFICIALS AT THE DEPARTMENT OF JUSTICE HAVE ACTED IMPROPERLY OR UNPROFESSIONALLY.

INDEED, I HAVE GREAT CONFIDENCE IN THE INTEGRITY OF OUR DEDICATED PROFESSIONALS.

NEVERTHELESS, IN THE CURRENT POLITICALLY CHARGED ENVIRONMENT, NOTHING COULD BE WORSE THAN TO HAVE THIS MATTER TRIED IN THE PRESS BASED ON ALLEGATION, RUMOR AND LEAKS. NO ONE'S INTERESTS ARE SERVED BY CONDUCTING BUSINESS IN THAT WAY -- PARTICULARLY THOSE OF THE AMERICAN PEOPLE, WHOSE CONFIDENCE IN THE DEPARTMENT AND ITS INVESTIGATIVE PROCESSES IS ESSENTIAL. ACCORDINGLY, I BELIEVE THAT IT IS APPROPRIATE TO ASK SOMEONE FROM OUTSIDE THE DEPARTMENT TO INDEPENDENTLY EXAMINE THIS ENTIRE MATTER.

THEREFORE, TODAY, I AM APPOINTING JUDGE FREDERICK B. LACEY AS AN INDEPENDENT COUNSEL.

THIS APPOINTMENT IS BEING MADE PURSUANT TO EXISTING DEPARTMENT OF JUSTICE REGULATIONS WHICH PROVIDE FOR AN OFFICE OF INDEPENDENT COUNSEL.

JUDGE LACEY HAS HAD A DISTINGUISHED CAREER, AND HAS AN OUTSTANDING AND WELL-EARNED REPUTATION FOR INTEGRITY, PROFESSIONALISM AND FAIRNESS.

MOST RECENTLY, HE HAS WON NATIONAL ACCLAIM FOR HIS WORK IN CLEANING UP THE TEAMSTER'S UNION AS A COURT-APPOINTED INDEPENDENT ADMINISTRATOR.

HE STARTED HIS PUBLIC SERVICE AS A LINE FEDERAL PROSECUTOR FROM 1953 TO 1955.

LATER HE SERVED AS U.S. ATTORNEY IN NEW JERSEY WHERE HE WON A NATIONAL REPUTATION FOR FIGHTING PUBLIC CORRUPTION.

HE SERVED WITH DISTINCTION AS U.S. DISTRICT COURT JUDGE FOR THE DISTRICT OF NEW JERSEY FOR 15 YEARS.

HE ALSO SERVED AS A JUDGE ON THE FOREIGN INTELLIGENCE SURVEILLANCE COURT, AND THUS HAS FAMILIARITY WITH INTELLIGENCE MATTERS.

HE ALSO SERVED CONCURRENTLY AS A JUDGE ON THE TEMPORARY EMERGENCY COURT OF APPEALS AND THUS MAY BE THE ONLY JURIST TO SERVE ON THREE COURTS AT THE SAME TIME.

DURING HIS LAST FOUR YEARS ON THE BENCH, FROM 1982 TO 1986, JUDGE LACEY WAS A MEMBER OF THE JUDICIAL ETHICS COMMITTEE OF THE JUDICIAL CONFERENCE OF THE UNITED STATES.

YOU HAVE A COPY OF MY LETTER TO JUDGE LACEY, DATED TODAY.

AS YOU CAN SEE, JUDGE LACEY WILL PERFORM THE FOLLOWING TASKS:

1. INVESTIGATE ALL ASPECTS OF THE PRODUCTION OF CIA DOCUMENTS AND INFORMATION CONCERNING BNL LOANS TO OR ON BEHALF OF IRAQ.

2. REVIEW THE DEPARTMENT'S ENTIRE HANDLING OF THE BNL MATTER.

3. ADVISE ME ON AN ONGOING BASIS CONCERNING THE CONDUCT OF THE DEPARTMENT'S CONTINUING INVESTIGATION AND PROSECUTION OF ALL ASPECTS OF THE BNL CASE.

4. ADVISE ME OF ANY OTHER AREAS WHICH HE FEELS SHOULD BE REVIEWED BASED ON ANY INFORMATION THAT HE LEARNS.

5. SUPERVISE ANY APPLICABLE PRELIMINARY INQUIRIES OR PRELIMINARY INVESTIGATIONS UNDER THE INDEPENDENT COUNSEL STATUTE.

6. AND, ULTIMATELY, PREPARE REPORTS FOR CONGRESS AND THE PUBLIC ON WHAT HE LEARNS IN THE COURSE OF HIS REVIEW.

THE REGULATION UNDER WHICH JUDGE LACEY IS APPOINTED CONFERS ON HIM FULL POWER AND INDEPENDENT AUTHORITY TO EXERCISE ALL INVESTIGATIVE AND PROSECUTORIAL FUNCTIONS AND POWERS OF THE DEPARTMENT OF JUSTICE.

AS MY LETTER TO JUDGE LACEY INDICATES, I AM ALSO ESTABLISHING A TASK FORCE TO CONTINUE TO PURSUE THE PROSPECTIVE ASPECTS OF THE B.N.L. CASE -- INCLUDING, THE PROSECUTION OF CHRISTOPHER DROGOUL, THE CONTINUING INVESTIGATION INTO THE POSSIBLE COMPLICITY OF PERSONS IN BNL-ROME, AND THE POSSIBLE DIVERSION OF BNL LOANS.

THAT TASK FORCE WILL BE SUPERVISED BY A UNITED STATES ATTORNEY WHO WILL REPORT TO THE DEPUTY ATTORNEY GENERAL.

JUDGE LACEY WILL HAVE COMPLETE ACCESS TO ALL THE ACTIVITY OF THAT TASK FORCE AND WILL BE ADVISING ME ON THE CONDUCT OF THAT INVESTIGATION.

I BELIEVE THIS TASK FORCE IS THE BEST WAY TO PROCEED. THE CREATION OF THIS TASK FORCE WILL ADD A GROUP OF PROSECUTORS DRAWN FROM AROUND THE COUNTRY, AND WILL ALLOW THE PROSPECTIVE BNL

INVESTIGATION TO MOVE FORWARD QUICKLY AND THOROUGHLY, AND WITHOUT THE DISTRACTION OF DEFENDING AGAINST CRITICISM OVER PAST PROSECUTIVE DECISIONS.

MOREOVER, WITH THE RECENT WITHDRAWAL OF THE DROGOUL PLEA, WE NOW NEED THE RESOURCES TO CARRY OUT THAT PROSECUTION, AND, AT THE SAME TIME, PURSUE ANY LEADS THAT MAY BE DEVELOPED AS A RESULT OF THE CIA DOCUMENTS THAT THE AGENCY HAS RECENTLY IDENTIFIED.

I WANT TO NOTE THAT THE APPOINTMENT OF JUDGE LACEY DOES NOT PRECLUDE A SUBSEQUENT APPOINTMENT OF A STATUTORY INDEPENDENT COUNSEL IF THAT PROVES WARRANTED.

THE STATUTE CONTEMPLATES A PRELIMINARY INVESTIGATION AS A PRECURSOR TO SEEKING APPOINTMENT OF AN INDEPENDENT COUNSEL.

ONE OF JUDGE LACEY'S RESPONSIBILITIES IS TO SUPERVISE ANY PRELIMINARY INVESTIGATION THAT IS TRIGGERED UNDER THE STATUTE.

THE STEPS I AM ANNOUNCING TODAY ARE INTENDED TO ENSURE A FULL AND COMPLETE INVESTIGATION OF ALL ASPECTS OF THIS MATTER. WE ARE PREPARED TO LET THE CHIPS FALL WHERE THEY MAY.

A NUMBER OF ALLEGATIONS HAVE BEEN LEVELED RECENTLY AT A NUMBER OF THE PROSECUTORS IN THE DEPARTMENT. IF, AS I BELIEVE, THEY HAVE DONE NOTHING WRONG, THEY DESERVE TO BE EXONERATED. IN

THE CURRENT POLITICAL CLIMATE, I HAVE REGRETTABLY CONCLUDED THAT IF I DETERMINE THEY HAVE DONE NOTHING WRONG THEY WILL NOT RECEIVE THAT EXONERATION.

IF JUDGE LACEY FINDS EVIDENCE OF WRONGDOING, SO BE IT. IF NOT, I TRUST THAT THE ATTACKS ON THE INTEGRITY OF THE DEPARTMENT WILL END.

10/14/92 Rocky Mtn. News 2
1992 WLNR 477715

Denver Rocky Mountain News (CO)

October 14, 1992

Section: NEWS/NATIONAL/INTERNATIONAL

WISCONSIN A HOMECOMING SCANDAL

ASSOCIATED PRESS

An Eau Claire, Wis., school principal has resigned amid charges he tampered with a homecoming queen election and the pregnant girl who was denied the crown is being courted by television talk shows. April Schuldt, 17, who is five months' pregnant, received the most votes in the Eau Claire Memorial High School homecoming election. The principal resigned and three assistant principals and a teacher were disciplined by the school board Monday night after an investigation found the ballots had been burned in a coverup.

WASHINGTON, D.C.

Barr rebuffs inquiry

Attorney General William Barr on Tuesday refused to authorize a special independent prosecutor to investigate charges that high-level Justice Department officials stole software from a computer company and conspired to drive it into bankruptcy. Barr rejected a call for the independent counsel made on Sept. 10 by House Democrats. In a statement, Barr said there was not enough specific information against high-level department officials to warrant an independent investigation.

NORTH CAROLINA

Shootout ends standoff

A 15-hour standoff at an Oak City, N.C., bank where a gunman killed a sheriff ended early Tuesday in a shootout with state police in which one of two hostages was fatally wounded, authorities said. The gunman and a husband-wife cleaning team he took captive were all hit by bullets in the 1 a.m. gunfight inside the bank, said Charles Dunn, director of the State Bureau of Investigation. The woman died of her wounds Tuesday morning.

Also . . .

A federal judge in Washington Tuesday dropped two of the nine criminal counts against Clair E. George, the former chief of CIA covert operations who faces a retrial next week in an Iran-contra case. . . . The Navy said Tuesday it will open a toll-free "advice and counseling" hotline for alleged victims of sexual harassment.

LIB8 LIB8

NATION WATCH

---- Index References ----

Region: (District Of Columbia (1DI60); USA (1US73); Americas (1AM92); North America (1NO39); Wisconsin (1WI54))

Language: EN

Other Indexing: (CIA; EAU CLAIRE; EAU CLAIRE MEMORIAL; JUSTICE DEPARTMENT; NAVY; STATE BUREAU OF INVESTIGATION) (April Schuldt; Attorney; Barr; Charles Dunn; Clair E. George; William Barr)

Edition: FINAL

Word Count: 372

End of Document

10/14/92 Com. Appeal (Mem. TN) A2
1992 WLNR 2710681

Memphis Commercial Appeal (TN)

October 14, 1992

Section: News

BARR DENIES 2ND REQUEST FOR SPECIAL COUNSEL

From press services

Atty. Gen. William Barr Tuesday refused to authorize a special independent prosecutor to investigate charges that high-level Justice Department officials stole software from a computer company and conspired to drive it into bankruptcy.

Barr rejected a call for the independent counsel made on Sept. 10 by House Democrats. Barr said there was not enough specific information to warrant an independent investigation.

The attorney general's decision marks the second time in a little over two months he has turned down requests from congressional Democrats for independent counsels in highly sensitive cases. On Aug. 10, Barr refused to call for an independent counsel to look into charges the Bush administration illegally assisted Iraq prior to its invasion of Kuwait and then tried to cover up that aid.

NATIONAL & WORLD NEWS

---- Index References ----

Language: EN

Other Indexing: (JUSTICE DEPARTMENT; NATIONAL WORLD) (Barr; BARR DENIES; William Barr)

Edition: Final

Word Count: 166

NewsRoom

10/14/92 St. Louis Post-Dispatch 12A
1992 WLNR 531230

St. Louis Post-Dispatch (MO)

October 14, 1992

Section: NEWS

SPECIAL PROSECUTOR ON INSLAW REJECTED

Charlotte Grimes

Post-Dispatch Washington Bureau

WASHINGTON

In another setback for a former St. Louis couple, Attorney General William P. Barr refused Tuesday to authorize a special prosecutor to investigate allegations that Justice Department officials were involved in the theft of the computer software of Inslaw Inc.

Nancy Hamilton, who with her husband, William, owns the company, called Barr's decision "unbelievable."

The Hamiltons have been fighting for more than five years to show that their software, PROMIS, had been pirated in a conspiracy and cover-up by Justice Department officials, including former Attorney General Ed Meese.

"I don't know how many times Inslaw has been back to the department with additional evidence," said Nancy Hamilton.

The Hamiltons maintain that the Justice Department has a conflict of interest in trying to investigate its own officials' actions. She added: "All we can do is hope that the pressure is put on Attorney General Barr, because we think it cries out for an independent investigation."

Democrats on the House Judiciary Committee, after their own three-year examination, asked Barr last month to appoint a special prosecutor. On Tuesday, committee chairman Jack Brooks, D-Texas, called Barr's decision "distressing" and sure to undermine the credibility of the Justice Department.

Brooks accused the Justice Department of a "stark conflict of interest" in its dealings with Inslaw.

In rejecting the Judiciary Committee's request, Barr expressed confidence in an investigation by his own appointee, former U.S. District Judge Nicholas Bua. Bua has not turned up enough evidence in his preliminary investigation to warrant appointment of an outside prosecutor, Barr said.

"Judge Bua has full authority to conduct a thorough and complete investigation of Inslaw allegations - including the power to issue subpoenas and to convene grand juries," Barr said in a two-page statement.

In 1980, the Hamiltons won a $10 million contract from the Justice Department to install the PROMIS software to help the department track its cases. In a dispute over the contract, the department withheld payments, and in 1987 the company went into bankruptcy.

The Hamiltons have sued, won and had the decision overturned as they allege that the Justice Department stole their software and then covered the action up.

---- Index References ----

Company: INSLAW INC; JUSTICE DEPARTMENT

News Subject: (Legal (1LE33); Technology Law (1TE30); Government Litigation (1GO18); Judicial (1JU36))

Region: (North America (1NO39); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (HOUSE JUDICIARY COMMITTEE; INSLAW; INSLAW INC; JUDICIARY COMMITTEE; JUSTICE DEPARTMENT; PROMIS) (Barr; Brooks; Bua; Democrats; Ed Meese; Hamiltons; Jack Brooks; Nancy Hamilton; Nicholas Bua; SPECIAL PROSECUTOR; William; William P. Barr)

Edition: FIVE STAR

Word Count: 471

End of Document

10/11/92 Fresno Bee A6
1992 WLNR 1389367

Fresno Bee

October 11, 1992

Section: TELEGRAPH

OLDEST NUCLEAR REACTOR AT SAN ONOFRE CLOSING

Bee news services

SAN ONOFRE -- California's oldest commercial nuclear reactor will shut down for good Nov. 30 because of declining efficiency and its owners' reluctance to invest in improvements.

The shutdown will end 25 years of service by Unit 1 at the coastal power plant owned by Southern California Edison and San Diego Gas & Electric Co.

The state Public Utilities Commission approved the shutdown in August.

Texas fugitive found

EL CERRITO -- A fugitive wanted for murder in El Paso, Texas, was arrested after a grocery store clerk recognized him from "America's Most Wanted" television show, police said Saturday.

Roger Lloyd Hummel, wanted for a 1987 slaying in the Texas city, used the alias James Forman.

Positive identification was made by taking a full set of fingerprints, officers said.

Grant for crackdown

LOS ANGELES -- The federal government announced a $3 million grant for a police crackdown on area gangs, but an activist said the government should focus instead on jobs and education for potential gang members.

U.S. Attorney General William P. Barr said Friday that $2 million would go to the Metropolitan Task Force on Violent Crimes. The rest will go to the Police Department to pay officers' overtime.

Child dies in elevator

SAN FRANCISCO -- A 10-year-old girl was crushed to death Saturday when she became caught between the door and the floor of an apartment house elevator, fire officials said.

Battalion Chief Jim Cavellini said the elevator shaft had a door on each floor and the elevator had a flexible grill door.

"She somehow became half in and half out" of the elevator when someone on a higher floor called for it, he said.

Sperm ruling on hold

LOS ANGELES -- A proposed settlement that would have given a woman rights to frozen sperm left behind by her dead boyfriend was put on hold after a creditor filed a surprise objection.

Deborah Ellen Hecht, 37, of Santa Monica must wait until a trial next summer before learning whether she can take custody of the sperm and conceive.

Plane hits 3 cars

BUENA PARK -- A small airplane lost power and landed on southbound Interstate 4 Saturday, hitting three cars but hurting no one, officials said.

A single-engine Cessna had just taken off from Fullerton Airport when it lost power and landed on the southbound Interstate 5, said FAA duty officer Art Morriston in Los Angeles.

"The cars saw him and tried to get out of the way, but he still hit three of them," said a police dispatcher.

1 Photo
Roger Lloyd Hummel

CALIFORNIA DIGEST

---- Index References ----

Company: CESSNA AIRCRAFT CO (THE); STHN CAL EDIS CO

News Subject: (Violent Crime (1VI27); Crime (1CR87); Social Issues (1SO05))

Industry: (Utilities (1UT12); Electric Utilities (1EL82); Nuclear Electric Power (1NU69))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); California (1CA98); Texas (1TE14))

Language: EN

Other Indexing: (BUENA; CESSNA; EL; EL PASO; FAA; METROPOLITAN TASK FORCE; POLICE DEPARTMENT; SOUTHERN CALIFORNIA EDISON; STATE PUBLIC UTILITIES COMMISSION) (Art Morriston; Battalion Chief; Child; Deborah Ellen Hecht; James Forman; Jim Cavellini; Lloyd Hummel; OLDEST NUCLEAR REACTOR; Roger Lloyd Hummel; William P. Barr)

Edition: HOME

Word Count: 507

NewsRoom

10/10/92 L.A. Times 1
1992 WLNR 4023181

Los Angeles Times

October 10, 1992

Section: ME-Metro

Santa Ana 'Weed, Seed' Plan Called Best in Country

Crime: U.S. Atty. Gen. Barr says local program has had more success than those of 20 other cities. Residents of targeted area give it mixed results, however.

C YOUNGTIMES STAFF WRITER

TIMES STAFF WRITER

SANTA ANA

U.S. Atty. Gen. William P. Barr said Friday that the federal program "Operation Weed and Seed" has shown more dramatic results here than in any of the other 20 cities where it is being tried.

"We're not declaring victory, but the initial indications are extremely encouraging," the nation's top lawyer said of the two-pronged program to weed out crime and seed neighborhood support programs in its place.

Since the federally funded program began in June, Santa Ana police have made 129 drug-related arrests in the densely populated neighborhood bounded by McFadden Avenue and Sullivan, 1st and Rait streets. Robberies and auto thefts decreased by half from June through August this year compared to last, police numbers show.

However, the crackdown in the neighborhood has not meant that crime has moved to just outside the target area. In the larger neighborhood surrounding and including the target area, burglaries dropped 36%, for example, and assaults dropped 44%.

But some residents said they were skeptical about the long-term effectiveness of the program, on which $1 million has been spent in Santa Ana alone.

"There is some concern that the seed portion is simply not there," said Jim Walker, chairman of the Communication Linkage Committee, which brings together the leaders of the city's neighborhood associations.

"All of their effort, excellent as it has been, will be to no avail if they don't have something for communities to take hold of and grow," Walker warned.

Barr said Congress has yet to approve millions of dollars intended to fund neighborhood support programs such as job training, the "seed" aspect.

"Hopefully, after (Congress reconvenes) in January, money will be available," he said during a morning press conference in Santa Ana.

Orange County Dist. Atty. Michael R. Capizzi said his office filed charges on 68 felony cases and 78 misdemeanor cases based on arrests from the weed-and-seed neighborhood program. Of those, a grand jury has indicted 31 people, he said. The office did not have comparative figures from last year.

Some residents of the targeted area said they supported the program's goals and noted they saw a noticeable improvement over last summer.

"I feel safer because there aren't as many people on the street" selling drugs, said Mali Ortiz, 29. Last summer, she said, the streets near her home were lined with drug buyers.

"So far so good," said another resident, who declined to give her name. The 57-year-old grandmother said she no longer has to worry about seeing people injecting drugs outside her house.

But some residents said the program came too late.

"It's a joke. You are outnumbered," Ansell Bostick said of law-enforcement officials. "You got too many people in the ballgame," he said.

Oliver Haddix, who has lived on Willits Street for about 30 years, said that "at night you still hear a lot of shooting."

Last week, a bullet ripped into a wall of his home, fired by an unknown gunman. Haffix stood in his yard, pointing to the hole about a foot from his bathroom window. "Maybe it's calmed down, but I don't know it," he said.

Weed-and-Seed Blossoms

Santa Ana Police say their increased efforts this summer in the weed-and-seed neighborhood have resulted in more arrests and less crime. Officials also claim the crackdown in the densely populated area has not shifted crime to bordering areas of the city. Here are the number of crimes reported in five categories from June through July in the past two years.

Santa Ana's Central District

1991 1992 % Change Auto theft 228 227 -- Auto burglary 128 93 -27 Burglary 166 106 -36 Robbery 139 125 -10 Assault with a deadly weapon 102 57 -44 Total 763 608 -20

Source: Santa Ana Police Department

---- Index References ----

News Subject: (Crime (1CR87); Property Crime (1PR85); Social Issues (1SO05); Automobile Crime (1AU99))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (COMMUNICATION LINKAGE COMMITTEE; CONGRESS; RAIT; SANTA ANA POLICE DEPARTMENT; SULLIVAN) (Ansell Bostick; Barr; Haffix; Jim Walker; McFadden Avenue; Michael R. Capizzi; Oliver Haddix; Orange County; Robberies; Santa Ana; Santa Ana Police; Walker; William P. Barr)

Keywords: OPERATION WEED AND SEED; SANTA ANA (CA); CRIME PREVENTION

Edition: ORA-Orange County Edition

Word Count: 750

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1992 WLNR 4023763

Los Angeles Times

October 10, 1992

Section: ME-Metro

$3-Million Grant to Help Authorities in Gang Crackdown

Crime: Funds will go to multi-agency task force and LAPD. Critics say government should emphasize education and jobs instead of law enforcement.

INI SENGUPTATIMES STAFF WRITER

TIMES STAFF WRITER

A $3-million federal grant that will finance a law enforcement crackdown on Los Angeles gangs was announced Friday by U.S. Atty. Gen. William P. Barr, and it immediately came under fire from some community leaders as a wrongheaded solution to the problem of street crime.

Barr said that $2 million of the grant will be directed to the Los Angeles Metropolitan Task Force on Violent Crimes, a 5-month-old, multi-agency law enforcement unit whose initial purpose was to concentrate on riot-related crimes and gang involvement in the Los Angeles riots. The remaining $1 million will go to the Los Angeles Police Department to pay officers' overtime, LAPD Cmdr. Robert Gil said.

"This is a coordinated, comprehensive effort to look at overall violent crimes being perpetuated by hard-core gang members," U.S. Atty. Terree Bowers said. "We hope to develop a much more surgical approach to these types of prosecutions so law enforcement officials are focusing on the violent offenders responsible for the killings and muggings."

The 100-member task force includes the Federal Bureau of Investigation, the U.S. Bureau of Alcohol, Tobacco and Firearms, the state attorney general's office, the Los Angeles Police Department, the Los Angeles County Sheriff's Department, and Compton and Long Beach police.

Charlie Parsons, special agent in charge of the FBI's Los Angeles regional office, said the task force has refocused its efforts on gangs.

"Although gangs are primarily a local problem, I feel like the FBI and the federal government can't sit on the sidelines and watch," he said.

"We are looking at determining the leadership of the gangs. We will try to apply federal (anti-racketeering) statutes, take them on as an enterprise, rather than just as individuals."

Under those federal statutes, Parsons said, "there is no parole, no probation. There are some very strong federal laws that can be used."

But some community leaders warned that too heavy an emphasis on law enforcement, without adequate funding for programs that prevent youths from joining gangs, will backfire.

"You don't fight fire with fire," said Chilton Alphonse, executive director of the Community Youth Sports and Arts Foundation, a gang prevention agency. "You fight fire with water.

"You can't just suppress the gangs," he said. "You have to change the conditions that cause the problem." He said the government should emphasize education and job programs instead.

Federal officials said the task force will be funded through assets seized from criminals.

Bowers noted that the grant announced Friday is independent of the Bush Administration's Weed and Seed program, which is expected to allocate $1 million to Los Angeles law enforcement and $18 million to social services in riot-affected areas.

Community activists last month criticized Weed and Seed, saying that it would lead to more police brutality and civil rights violations, and undermine efforts to improve police-community relations. Concerned members of the Los Angeles City Council have called for public hearings before the program is implemented.

Eric Mann, director of the Labor/Community Strategy Center and co-author of a critical report on Weed and Seed, called the new $3-million grant "an effort to circumvent open public discussion established around Weed and Seed."

"This is just an effort to bolster the repressive nature of Weed and Seed (and) take it out of public scrutiny on a technicality by saying that it is not part of Weed and Seed."

---- Index References ----

News Subject: (Legal (1LE33); Judicial (1JU36); Government (1GO80); Police (1PO98))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); California (1CA98))

Language: EN

Other Indexing: (ANGELES COUNTY SHERIFFS DEPARTMENT; ARTS FOUNDATION; COMMUNITY STRATEGY CENTER; COMMUNITY YOUTH SPORTS; FBI; FEDERAL BUREAU OF INVESTIGATION; LABOR; LAPD; TOBACCO; US BUREAU OF ALCOHOL) (Barr; Bowers; Bush; Charlie Parsons; Chilton Alphonse; Concerned; Eric Mann; Firearms; Parsons; Robert Gil; Seed; Terree Bowers; Weed; William P. Barr)

Keywords: LOS ANGELES METROPOLITAN TASK FORCE ON VIOLENT CRIMES; LOS ANGELES POLICE DEPARTMENT; LOS ANGELES -- FEDERAL AID; GANGS -- LOS ANGELES; CRIME PREVENTION; GRANTS

Edition: MO-Home Edition

Word Count: 702

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10/6/92 AP Online 00:00:00

AP Online

October 6, 1992

Section: Washington

Attorney General Says Country in Moral Crisis

JAMES H. RUBIN

WASHINGTON

Attorney General William P. Barr said Tuesday the nation is in a moral crisis caused by a secularist "binge" that began in the 1960s.

The widespread permissiveness is perfectly exemplified by Woody Allen's reaction to criticism of the actor-director's affair with the young stepdaughter of Mia Farrow, Barr said.

"Genuinely puzzled over all the fuss, Mr. Allen explained to Time magazine that he was in love with the girl," the attorney general said. "Having fallen in love, Mr. Allen implied it must follow as night follows the day the two of them would consummate their love. After all, he said, the heart wants what the heart wants."

Added Barr, "Try that as an instruction for your children when they ask you if a particular course of conduct is good or bad."

Barr made the remarks in a speech to the conservative Catholic League for Religious and Civil Rights and the Fellowship of Catholic Scholars.

While the attorney general did not mention partisan politics or the current presidential campaign, some of his comments seemed to echo themes in the Republican platform and championed by President Bush and Vice President Dan Quayle.

For example, Barr said legalized abortion and the deterioration of the traditional family are among the most obvious signs of pervasive moral collapse.

"Let's look at the fruits" of what he called at least 25 years of "fanatic secularism."

"Soaring juvenile crime, widespread drug addiction, skyrocketing rates of venereal disease, 1.5 million children aborted each year," he said.

"Today I fear the power and pervasiveness of our high-tech popular culture not only fuels the collapse of traditional morality but drowns out the scattered voices that are raised against secularization."

Barr, who attended a Roman Catholic elementary school, said one way to "regain our moral compass" is to "do all we can to promote Catholic education at all levels."

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33))

Language: EN

Other Indexing: (CATHOLIC LEAGUE FOR RELIGIOUS AND CIVIL RIGHTS; CATHOLIC SCHOLARS; MIA FARROW; ROMAN CATHOLIC) (Added Barr; Allen; Barr; Bush; Dan Quayle; Genuinely; Soaring; William P. Barr; Woody Allen)

Word Count: 382

End of Document

9/25/92 Allentown Morning Call A01
1992 WLNR 1817352

Morning Call (Allentown, PA)

September 25, 1992

Section: NATIONAL

FORMER HILL CHIEF CHARGED EX-HILL PRESIDENT CHARGED LUTZ CITED FOR S&L'S BAD LOANS

MICHAEL HERNAN, The Morning Call

PHILADELPHIA

Alfred J. Lutz Jr., who guided the transformation of Hill Financial Savings Association from a small home-mortgage lender into one of the nation's biggest savings-and-loan failures, yesterday was charged with intentionally misapplying more than $220 million in loans during the late 1980s.

Lutz, 57, was charged on three counts of advancing millions of dollars to developers he knew were unable to repay the loans. The government also charged that Lutz failed to require borrowers to put up some of their own money, approved loans without proper appraisals and heaped more money on top of bad loans to try to prevent defaults and to conceal the thrift's problems.

At the same time, prosecutors said, Lutz withheld information from the company's board of directors and hid bad loans from federal regulators.

Yesterday's filing makes Lutz, Hill's president and chief executive officer from 1983 to 1988, the highest-ranking Hill official so far to face criminal charges in connection with Hill's October 1989 collapse, which is expected to cost taxpayers more than $1.4 billion. A Hill vice president in July pleaded guilty to bank embezzlement in the loss of $42 million loan.

"He lied to his board of directors, he lied to regulators and he committed a federal crime," U.S. Attorney Michael M. Baylson said yesterday in announcing the charges.

Lutz, of Bala Cynwyd, Montgomery County, will be arraigned in about 10 days, Baylson said.

If convicted on all charges, he could face 15 years in prison and a fine of $750,000.

Left unresolved is the question of why Lutz led Hill Financial through a series of risky, speculative real estate loans that catapulted the thrift from a small home-mortgage company into one of the nation's most aggressive commercial real estate lenders.

Investigators said they found no evidence that either Lutz or any other Hill officials benefitted financially from making the loans.

"That's what makes this investigation different," said Bob C. Reutter, special agent in charge of the Federal Bureau of Investigation's Philadelphia office. "Unlike other S&L cases, we've found no officers at Hill Financial who have received kickbacks or payments for loans."

Baylson said lack of a clear motive hampered the three-year investigation, which spanned five states and included federal attorneys, the FBI, the Secret Service and the U.S. Postal Inspector.

"It's made the investigation a lot harder because we can't show that he got a plane or money in return for making the loans," Baylson said.

"It's obvious from the course of conduct that Lutz, and perhaps others at Hill, wanted Hill Financial to expand and become a major player in commercial real estate."

Baylson said yesterday's charges do not preclude the government from filing additional criminal charges against Lutz or any other Hill officials or borrowers.

"We're anticipating many more charges to come," he said.

Hill's failure was caused by tens of millions of dollars in loans made to disreputable developers or companies with questionable finances. The money was for shopping malls, office buildings and theme parks in Colorado, California, Florida, Georgia and Texas. In most cases, the projects were never built and the money was never recovered.

Though Lutz and other Hill officials have been sued in civil cases over Hill's failure, no criminal charges had been filed against Hill insiders until late July when one of the thrift's vice presidents, David W. Foulke of Collegeville, pleaded guilty to bank embezzlement in the loss of $42 million in loans. He paid a $15,000 fine and agreed to cooperate with the government.

Lutz and seven other Hill officers and directors, including chairman Robert B. Walker, in March were sued by the Resolution Trust Corp., the government agency charged with disposing of the assets of failed thrifts. The RTC has also filed suit against Hill's attorney, Ronald Psaris and its accountant, KPMG Peat Marwick of New York. Those cases are still pending.

Also yesterday, a Hill borrower, Houston real estate developer Patrick A. Harrison, was charged with falsifying financial statements in a loan application to Hill.

Baylson also announced that the government has recoved $12 million from another Hill borrower, Residential Developers Fund Partners of San Diego. In that case, the U.S. Attorney's office had represented the Resolution Trust Corp. in a civil suit against the developer.

"The prosecution of those who looted our financial institutions is the highest priority of the Justice Department's white-collar crime program," U.S. Attorney William P. Barr said in a prepared statement. He said federal prosecutors have charged 3,500 people in financial institution fraud cases since October 1988.

Yesterday's charges against Lutz, who resigned from the thrift in the summer of 1988 under pressure from regulators, revolve around loans made to three borrowers.

In the first count, Lutz was charged with illegally misapplying $100 million to companies controlled by Denver developer Richard Rossmiller, Hill's biggest borrower. The projects ranged from business parks, to housing developments to an

auto mall. Hill lost money on virtually every loan to Rossmiller -- who is now bankrupt -- and most of the projects were never completed, the government said.

The second count charges Lutz with misapplying $80 million in loans to Allan Reiver, who proposed to develop a project known as Broadway Plaza in Denver. The government charges that Lutz knew Reiver lacked the resources to develop the project or to repay the loan and that Lutz used inflated appraisals. Lutz also allowed Hill to transfer the property to another developer without the board of directors' knowledge and then refinanced the $80 million for the new group.

In the third count, Lutz was charged with making loans to W.R. Nelson and Bruce Nelson, brothers who ran a Houston development firm, in order to conceal Hill's portfolio of non-performing loans from federal regulators. By making the loan, Lutz was attempting to falsely create the appearance that Hill's bad loans in Texas were turning a profit, investigators said.

"There's not a thing to show for most of these projects," Baylson said. "This is really a sad story for the taxpayers.

Lutz was not charged with wrongdoing in the $82 million Emerald Coast loan -- a deal that resulted in the bank fraud convictions of several people who put together a plan to develop a huge theme park and resort on the Florida Panhandle.

"At this point, we regard Hill to be the victim in that case," Baylson said.

PHOTO by UNKNOWN.
Alfred J. Lutz Jr....Hill president, CEO 1983-88

TYPE: NATIONAL STATE LOCAL

---- Index References ----

Company: BEARINGPOINT INC; RESOLUTION TRUST CORP

News Subject: (Legal (1LE33); Social Issues (1SO05); Fraud Report (1FR30); Government Litigation (1GO18); Crime (1CR87); Criminal Law (1CR79); Economics & Trade (1EC26))

Industry: (Mortgage Banking (1MO85); Retail Banking Services (1RE38); Banking (1BA20); Financial Services (1FI37); Financial Services Regulatory (1FI03); Commercial Real Estate (1CO51); U.S. Thrift Industry (1US02); Shopping Malls (1SH59); Real Estate Regulatory (1RE53); Consumer Finance (1CO55); Real Estate (1RE57))

Region: (Pennsylvania (1PE71); Colorado (1CO26); North America (1NO39); Texas (1TE14); Americas (1AM92); USA (1US73); Florida (1FL79))

Language: EN

Other Indexing: (BROADWAY PLAZA; FBI; FEDERAL BUREAU OF INVESTIGATION; HILL; HILL FINANCIAL; HILL FINANCIAL SAVINGS ASSOCIATION; JUSTICE DEPARTMENT; KPMG; PHOTO; RESOLUTION TRUST CORP; RTC; SECRET SERVICE; US POSTAL INSPECTOR) (Alfred J. Lutz; Alfred J. Lutz Jr.; Allan Reiver; Baylson; Bob C. Reutter; Bruce Nelson; David W. Foulke; HILL CHIEF; Jr.; Left; Lutz; Michael M. Baylson; Patrick A. Harrison; Reiver; Residential Developers; Richard Rossmiller; Robert B. Walker; Ronald Psaris; Rossmiller; W.R. Nelson; William P. Barr)

Edition: FIFTH

Word Count: 1347

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NewsRoom

9/20/92 L.A. Times 4
1992 WLNR 4040146

Los Angeles Times

September 20, 1992

Section: MN-Main News

Efficiency, Ethics of 1978 Independent Counsel Law Questioned

Congress: Critics who want to kill the measure cite the $33-million Iran-Contra case as example of excess.

ERT L. JACKSONTIMES STAFF WRITERS

TIMES STAFF WRITERS

WASHINGTON

In the aftermath of the Watergate scandal, a formal process for investigating executive branch abuses was enacted by Congress to ensure that no President would come as close as Richard M. Nixon had in placing official wrongdoing above the law.

But now, 14 years after the special prosecutor provisions were adopted as part of the Ethics in Government Act of 1978, critics are fighting to kill the law. Unless Congress votes to reauthorize the act, it will expire in December.

The critics contend that special prosecutors, known today as independent counsels, represent a noble experiment that did not work. They say the process has proved too costly, has achieved paltry results and has made criminal cases out of political judgment calls. They argue that seemingly interminable investigations have damaged innocent individuals and have permitted--even encouraged--independent counsels to operate free of the restraints that apply to other federal prosecutors.

"The problem with the (independent counsel) statute now is that there's no accountability," Atty. Gen. William P. Barr said. "Individuals are set up as a power unto themselves. There have to be some constraints."

Advocates of the law insist that such a mechanism remains the only hope for impartial justice when the conduct of high government officials is called into question.

The independent counsel law "serves an essential role in helping maintain public confidence in the administration of justice," said Samuel Dash, a Georgetown University law professor who served as chief counsel of the Senate Watergate committee.

Perhaps the most celebrated--and criticized--case is the Iran-Contra investigation headed by independent counsel Lawrence E. Walsh. While the Iran-Contra probe produced more indictments and convictions than any other, it also consumed the most time and money--nearly six years and $33 million. Walsh called a halt to the inquiry Thursday.

Walsh's probe was stymied in part by the inability of prosecutors to crack the shield of "national security" that prevented them from presenting key evidence about the Ronald Reagan Administration's arms sales to Iran and the diversion of profits to Nicaraguan Contras.

Critics also cite other, lesser-known investigations as examples of independent counsel excesses.

One involved Theodore B. Olson, a senior Justice Department official in the Reagan Administration who was accused of misleading Congress in 1983 about the handling of documents involved in an Environmental Protection Agency scandal over alleged mishandling of the federal Superfund program to clean up toxic waste.

The investigation lasted nearly three years. During that time Olson took to jogging by flashlight in the middle of the night to prevent the process from "consuming me emotionally." Eventually, he was exonerated.

Some of the law's defenders concede that the present system needs new safeguards. But they say the years since Watergate have been replete with instances, topped by the Iran-Contra affair, of high government officials violating federal laws or using their power to protect individuals whose conduct has been called into question.

Defenders of the law argue that only a prosecutor independent of the Justice Department has the credibility to investigate such politically sensitive allegations and to decide whether or not to bring charges. Indeed, veteran prosecutors say that deciding not to prosecute is often tougher than electing to file charges.

The very difficulties that Walsh and other independent counsel have sometimes encountered in building cases is in itself proof of the need for the current system or something like it, defenders say. Without the law, they argue, high officials could abuse their offices with little fear of being called to account.

"The independent counsel statute is essential to having a fair and publicly credible system for ensuring that the highest-level officials in the executive branch are held accountable for criminal wrongdoing and are subject to the rule of law," declared Common Cause, the citizens lobby, in a recent fund-raising letter.

The concept of calling in a prosecutor from outside the system to probe major Administration figures predates the 1978 ethics law. Indeed, the two greatest White House scandals of this century--Teapot Dome and Watergate--were investigated by special prosecutors appointed by presidents under public pressure.

Teapot Dome, which came to characterize the cronyism and corruption of the Warren G. Harding Administration, involved the secret leasing of Naval petroleum reserve lands by Interior Secretary Albert B. Fall to private companies. The scandal was uncovered by a Senate committee after Harding's death in 1923.

Fall tried to defend his actions, but the public was outraged by disclosures that he had accepted $400,000 from oilmen to whom he had awarded the leases. Harding's successor, Calvin Coolidge, was forced to appoint special prosecutors to examine the affair.

Fall ultimately went to prison for accepting bribes. Wealthy oilman Harry Sinclair, who refused to cooperate with investigators, was sentenced for criminal contempt.

The Watergate investigation focused on efforts by top Nixon Administration officials to cover up the 1972 bugging of Democratic Party headquarters by Republican operatives. An embattled Nixon finally ordered the firing of Deputy Atty. Gen. William D. Ruckelhaus and special prosecutor Archibald Cox, who persisted in subpoenaing Oval Office tape recordings that revealed Nixon's involvement in the cover-up.

In addition, Atty. Gen. Elliot L. Richardson resigned rather than obey Nixon's order, rounding out what became known as the Saturday Night Massacre. But Solicitor General Robert H. Bork agreed to carry out Nixon's directive. He later defended his action by saying he was not bound by the promises of independence for Cox that Richardson and Ruckelshaus had made to the Senate. Bork argued that the upheaval in the Justice Department would have been even greater if he, too, had balked.

"It was this chaos, this blow to the system of justice and the resulting loss of public confidence in federal criminal investigations of persons close to the President that gave rise to the independent counsel law," Sen. Carl Levin (D-Mich.) said recently. "This law authorized the first truly independent federal prosecutors our country has had to handle criminal cases involving top government officials."

Levin, chairman of the Senate Governmental Affairs subcommittee that oversees independent counsel operations, has introduced legislation that would extend the law for another five years. Only a few weeks ago, the law seemed likely to expire in December without much of a fight. It now appears to have a solid prospect of renewal.

The 1978 law created a standard procedure for appointing special prosecutors.

First, if the attorney general receives specific information from a credible source concerning criminal misconduct by the President, vice president, Cabinet officers or top election campaign officials, he must conduct a preliminary investigation--without benefit of a grand jury, subpoena or other full-scale investigative tools.

If the facts gathered convince the attorney general that further investigation is warranted, he applies to a special three-member court for appointment of an independent counsel. The court picks the prosecutor and outlines his mandate, based on facts provided by the attorney general.

In the 14 years the law has been on the books, attorneys general have conducted 32 preliminary investigations, leading to the appointment of 11 independent counsels. But the law got off to a slow start, with no indictments being sought until Reagan's second term.

The Iran-Contra investigation and a continuing probe of high-level corruption within the Department of Housing and Urban Development during the Reagan Administration have led to the bulk of the 27 indictments and 11 convictions obtained by independent counsels under the 1978 law. Both Walsh and Arlin Adams, who heads the HUD probe, are former federal judges.

Walsh's Iran-Contra investigation has resulted in 14 indictments. Adams' investigation, which is still very much under way, has led to the indictment of nine former HUD aides and private businessmen who benefited from their actions.

Much of the opposition to extending the independent counsel law focused on the Iran-Contra probe, particularly its cost, length and Walsh's refusal to close the investigation long after most Americans seemed to have lost interest in the misdeeds of a prior Administration.

The costs reported by the 11 independent counsels range from a low of $3,300 in one short-lived investigation to $6.9 million for the HUD probe and $32.5 million for Iran-Contra. The Adams and Walsh inquiries are likely to incur substantial additional bills, with trials and appeals yet to be conducted.

Walsh offers no apologies for the costs he has incurred. More than 40% of his expenses were administrative in nature as he set up a new investigative and prosecutorial agency, largely independent of existing government machinery. Unlike

most independent counsels, Walsh did not just investigate a single individual, but the White House and three major departments.

In the course of prosecuting former White House aide Oliver L. North, whose convictions were eventually overturned, Walsh said defense lawyers filed 108 pretrial motions--a "fantastic" number by Walsh's reckoning. All of the motions had to be confronted, adding to the cost, he said.

"It's always a question of judgment whether an investigation is too extensive," Walsh said. "I made the decision that we were going to do a comprehensive investigation--not grab a small, runaway conspiracy."

Walsh's GOP critics have not been deterred by his impeccable Republican credentials: Walsh cut his investigative teeth under former New York Dist. Atty. and Gov. Thomas E. Dewey, was appointed to the federal bench by President Dwight D. Eisenhower and served in the Eisenhower Administration as deputy attorney general.

Senate Republican leader Bob Dole of Kansas, citing $5.6 million in office space costs as an example of what he characterizes as excessive expenditures, contends an independent counsel should be named to investigate Walsh.

But there is a genuine split over the wisdom of keeping the independent counsel law on the books that has nothing to do with partisan politics. That division is illustrated by the contrasting positions of two men at the center of the Watergate probe: Archibald Cox, the special prosecutor who was fired by Nixon, and Henry S. Ruth Jr., a Cox deputy who later became the third of the Watergate special prosecutors.

"I strongly believe it (the law) should be reauthorized," said Cox, who teaches constitutional law at Boston University and maintains an office at Harvard Law School.

Cox said it troubles him deeply that Reagan "was such a popular President" that Americans did not react to the Iran-Contra disclosures of deceit by high officials with the same sense of outrage that greeted the earlier Watergate disclosures.

Ruth, on the other hand, contends that the nearly six years spent on the Iran-Contra probe was simply too much.

"Special means special, and six years is too regular to be special," said Ruth, now in private practice. "I'm not sure that the prosecutive process has a critical role in controlling foreign policy abuses."

---- Index References ----

News Subject: (Corporate Financial Data (1XO59); Legal (1LE33); Government (1GO80); Government Litigation (1GO18); Judicial (1JU36))

Industry: (I.T. (1IT96); Housing (1HO38); Environmental Solutions (1EN90); Software (1SO30); Application Software (1AP32); Legal Services Software (1LE01); Urban Housing Policy (1UR02); I.T. in Government (1IT22); Software Products (1SO56); Real Estate (1RE57))

Region: (Iran (1IR40); Americas (1AM92); North America (1NO39); Asia (1AS61); USA (1US73); Gulf States (1GU47); Western Asia (1WE54))

Language: EN

Other Indexing: (BOSTON UNIVERSITY; CONGRESS; DEPARTMENT OF HOUSING; EFFICIENCY; ENVIRONMENTAL PROTECTION AGENCY; ETHICS; FEDERAL SUPERFUND; GEORGETOWN UNIVERSITY; GOP; HARVARD LAW SCHOOL; HUD; INTERIOR; JUSTICE DEPARTMENT; NICARAGUAN CONTRAS; OVAL OFFICE; REAGAN; REAGAN ADMINISTRATION; RONALD REAGAN ADMINISTRATION; SENATE; SENATE GOVERNMENTAL AFFAIRS; SENATE WATERGATE COMMITTEE; WARREN G; WATERGATE; WHITE HOUSE) (Adams; Albert B. Fall; Archibald Cox; Arlin Adams; Bob Dole; Bork; Calvin Coolidge; Carl Levin; Cox; Dwight D. Eisenhower; Elliot L. Richardson; Fall; Harry Sinclair; Henry S. Ruth Jr.; Individuals; Lawrence E. Walsh; Levin; Nixon; Oliver L. North; Olson; Richard M. Nixon; Richardson; Robert H. Bork; Ruckelshaus; Ruth; Samuel Dash; Solicitor; Teapot Dome; Theodore B. Olson; Thomas E. Dewey; Walsh; Wealthy; William D. Ruckelhaus; William P. Barr)

Keywords: ETHICS IN GOVERNMENT ACT; GOVERNMENT MISCONDUCT; INDEPENDENT COUNSELS; INVESTIGATIONS; LEGAL COSTS; LAW REFORM; POLITICAL CORRUPTION; GOVERNMENT OFFICIALS

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Washington Times (DC)

September 19, 1992

Section: NATION

COMPUTER CRIMINALS DRAW FEDERAL FOCUS

Bill Gertz THE WASHINGTON TIMES

Computer crime by hackers and thieves who gain remote access to data banks is on the rise and becoming a top priority at the Justice Department, agency officials say.

"We set up a computer-crime unit in the criminal division, and we set a similar one up in the FBI and gave the FBI positions to bring in specialists - a sort of SWAT team here in Washington," Attorney General William P. Barr said this week during a luncheon with editors and reporters of The Washington Times.

He said the Justice Department is working with other agencies, such as the Secret Service, that have roles in stopping computer crime.

The attorney general said computer crime is growing "across the board, from high-tech larceny to sabotage of computer systems. . . . I would say it is one of the top three of our white-collar priorities."

Scott Charney, chief of the Justice Department's computer-crimes unit, said the unit "has been focusing on cases where government computers and federal-interest computers are targeted, especially cases that in any way involve public data networks and switch networks - phone and data carriers."

A federal-interest computer is a system used by government or financial institutions or a commercial network spanning several states.

In the past most computer crime, by some estimates as much as 90 percent, was carried out by insiders with some authorized access, Mr. Charney said.

Now more crimes are being committed by hackers operating outside authorized access channels.

As more people operate home computers, the risk of criminal activity increases, Mr. Charney said.

Mr. Charney has directed the special computer-crimes unit for 2 1/2 years. He oversees a team of 12 specially trained lawyers who direct investigations and prosecutions of three types of computer crime.

The first type involves computers that are targets of a crime, such as telephone-switching networks that provide long-distance service.

"The hacker's goal is to get information from, or do damage to, a computer," Mr. Charney said.

The second type is the use of a computer to commit a crime, such as creating a computer program that will siphon money from a bank system.

The third type is the use of a computer as part of other criminal activity, such as a computer containing information used by narcotics traffickers to deal drugs.

* Michael Hedges contributed to this report.

R0037537-091992

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Cybercrime & Viruses (1CY34))

Industry: (Internet Regulatory (1IN49); Security Software (1SE53); Internet Security (1IN07); Internet (1IN27))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (FBI; JUSTICE DEPARTMENT; SECRET SERVICE) (Charney; COMPUTER CRIMINALS DRAW FEDERAL; Michael Hedges; Scott Charney; William P. Barr)

Edition: Final

Word Count: 483

End of Document

NewsRoom

9/17/92 AP Online 00:00:00

AP Online

September 17, 1992

Section: Washington

Government Cites, Settles With Atlanta S&L in Race Discrimination Case

WASHINGTON

The government today for the first time formally accused a mortgage lender of racial bias, saying an Atlanta savings and loan systematically favored whites over blacks in home loans.

At the same time, federal officials said they had settled the case and that the agreement could be a model for a nationwide attack on so-called "redlining," or race discrimination by home mortgage lenders.

The announcement of the settlement coincided with a campaign visit to Georgia by President Bush.

Attorney General William Barr also was in Atlanta today to announce a $1.3 million grant to help pay for security at the 1996 Summer Olympic Games there.

But Justice Department spokesman Paul McNulty said the attorney general's appearance and the settlement in the mortgage lending case were unrelated to Bush's campaign.

"Everthing going on in Atlanta today is a complete, total coincidence," McNulty said.

In the mortgage lending case, the Justice Department said Decatur Federal Savings and Loan Association systematically favored whites over blacks.

Since 1988, Decatur Federal rejected black applicants for mortgage loans at almost three times the rate it rejected white applicants, said a complaint filed in federal court in Atlanta.

The S&L, founded in 1927, put 42 of its 43 loan offices in predominantly white neighborhoods and, for example, since 1988 made 95 percent of its loans in those neighborhoods.

The complaint also accused the lender of excluding large parts of the black community in Fulton County when in 1979 Decatur Federal defined its lending market.

Accused of violating the federal Fair Housing and Equal Credit Opportunity Acts, Decatur Federal agreed to a wide range of remedial measures including providing $1 million for 48 blacks whose home mortgage applications were rejected between January 1988 and May 20, 1992.

Attorney General William P. Barr said the case breaks new ground.

"We are extremely pleased that we were able to achieve an amicable resolution without resorting to expensive, time-consuming litigation," he said.

Assistant Attorney General John R. Dunne, head of the civil rights division, said, "We now have a model for investigating the mortgage lending practices of other institutions. We will be able to conduct future investigations much more quickly and efficiently. All mortgage lenders should be on notice of our resolve to ensure non-discrimination."

Commenting that Decatur Federal has been under investigation for more than three years, Dunne praised the S&L for cooperating in the settlement.

Decatur Federal agreed to take the following measures:

Expand its lending territory to include all of Fulton County.

Advertise extensively in newspapers and on radio stations with large black audiences.

Target sales calls to real estate agents and builders active in black neighborhoods and give pay incentives to executives who sign up lenders in those neighborhoods.

Take into account the need of blacks in setting up future branch offices, and within a year set up an office in predominantly black south Fulton County.

Retrain lending personnel to assure they treat black applicants fairly.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Government (1GO80))

Industry: (Banking (1BA20); U.S. Thrift Industry (1US02); Mortgage Banking (1MO85); Financial Services (1FI37); Retail Banking Services (1RE38); Consumer Finance (1CO55); Real Estate (1RE57))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (EQUAL CREDIT OPPORTUNITY ACTS; FEDERAL FAIR HOUSING; JUSTICE DEPARTMENT; LOAN ASSOCIATION; TARGET) (Advertise; Assistant Attorney; Bush; Cites; Decatur; Decatur Federal; Decatur Federal Savings; Dunne; Everthing; Expand; Federal; John R. Dunne; McNulty; Paul McNulty; Retrain; William Barr; William P. Barr)

Word Count: 626

End of Document

NewsRoom

9/17/92 AP Online 00:00:00

AP Online

September 17, 1992

Section: Sports,Sports Scores

Olympics Sponsor

ROBERT ANTHONY WATTS

ATLANTA

U.S. Olympic officials and IBM executives announced Thursday that the company will be a major sponsor for the 1996 Olympic Games.

IBM officials said the company will deploy millions of dollars of technology and several hundred workers for the Games to be held in Atlanta. IBM will essentially share responsibility for day-to-day operations to ensure the Games proceed smoothly. The company has provided similar help for the 1992 Olympics in Barcelona and previous Games.

Although no figures were announced, executives estimated the value of IBM's contributions in technology and services will exceed $40 million.

"There's a tremendous amount of work that needs to be done," said Tom Smith, vice president and southern general manager for IBM. "We're providing the services and talent."

Billy Payne, the president and chief executive officer of the Atlanta Committee for the Olympic Games, praised IBM for being one of the early supporters of the effort to bring the Olympics to Atlanta.

IBM joins NationsBank, Sara Lee Corp. and The Home Depot as leading sponsors of the Atlanta Games.

Meanwhile, in Washington, the National Institute of Justice, an arm of the Department of Justice, said it will provide more than $1 million in federal money for a security and public safety plan for the 1996 Games.

"It is a pleasure for the Department of Justice to join in

partnership with those state and local agencies responsible for security at the 1996 Summer Olympics," Attorney General William P. Barr said. "I have directed NIJ and the FBI to make Olympic security a top priority to ensure the safety of all those participating in and attending the games in Atlanta."

---- Index References ----

Company: SARA LEE CORP; GAMES INC; HOME DEPOT INC; INTERNATIONAL BUSINESS MACHINES CORP

News Subject: (Sales (1SA20); Business Management (1BU42); Major Corporations (1MA93))

Industry: (I.T. (1IT96); Advertising & Public Relations (1AD83); Sponsorship (1SP44); Advertising Campaigns (1AD39))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (ATLANTA COMMITTEE; ATLANTA GAMES; DEPARTMENT OF JUSTICE; FBI; GAMES; HOME DEPOT; IBM; NATIONAL INSTITUTE OF JUSTICE; SARA LEE CORP) (Billy Payne; Olympics Sponsor; Tom Smith; William P. Barr)

Word Count: 334

End of Document

9/17/92 Wash. Times (D.C.) A1
1992 WLNR 133002

Washington Times (DC)

September 17, 1992

Section: A

JUDGING OF JUDGES MAY ENDBARR SAYS ABA IS TOO POLITICAL

Nancy E. Roman THE WASHINGTON TIMES

Clarence Thomas may be the last Supreme Court nominee the American Bar Association evaluates for the Senate.

Attorney General William P. Barr said yesterday he is seriously considering downgrading or eliminating the ABA's role in evaluating federal judicial candidates, a job it has performed for 40 years.

In a luncheon with reporters and editors at The Washington Times, Mr. Barr described the association as "a mouthpiece" for criminal defense lawyers and the American Civil Liberties Union and as "almost an adjunct of the Democratic Party."

"It's becoming more and more apparent that the rest of the bar doesn't have confidence in the ABA as the sole representative of the legal profession," he said.

Mr. Barr also leveled his harshest criticism to date at independent counsels such as Iran-Contra prosecutor Lawrence Walsh, saying abuses have resulted because they answer to no one.

"I've seen a number of independent counsels who have abused the process and have done things that would never be countenanced in the Department of Justice - even to the point where some of the investigative agents were up in arms about how unfair some of the activities were," he said.

Mr. Barr stopped short of criticizing any of the independent counsels by name or citing specific abuses.

The attorney general has been a frequent critic of the independent-counsel law, saying it is a political tool that at a minimum should be expanded to include investigations of Congress. He repeated yesterday, though, that he sees no need for the law, which expires in mid-December but is likely to be extended by congressional Democrats.

Mr. Barr said yesterday that the ABA's reduced or eliminated role in evaluating judges is chief among the proposed reforms on his desk.

Since 1952, the ABA has rated judicial appointees before nomination to the lower federal courts and after nomination to the Supreme Court. A negative rating kills a lower-court nomination. While it is only one of several factors considered in a Supreme Court nominee, the ABA's recommendation is highly publicized during the confirmation process.

In addition to the association's partisan stance on abortion, gun control and capital punishment over the past decade, Mr. Barr said he has noticed a bias against prosecutors in judicial evaluations.

"That reflects a bias and a reliance on sort of an old-boy network that I'm not satisfied with at all," he said.

Because of a widespread perception of ABA unfairness, Mr. Barr said, the Justice Department has received requests from "all sorts of other bar associations to get into the process."

"Obviously we can't have dozens of associations involved in the process," he said. "It has to be some sort of process that is representative of the bar. I'm looking at different ways that we might change the process now."

Last month Mr. Barr received a letter from 23 conservative organizations demanding that the ABA be stripped of its role in appointing federal judges.

"By its recent endorsement of the abortion agenda and other actions, the American Bar Association has chosen to be a political interest group rather than a non-political professional association," the letter said. "As such, the ABA has no claim, if it ever did, to the unique and formal role it now plays in the judicial selection process."

ABA President Talbot "Sandy" D'Alemberte has said that the ABA strives to be politically diverse and will remain neutral when evaluating judges. But he strongly defends the organization's right to take a stand on abortion, saying the issue transcends politics.

Despite his reservations about the independent-counsel law, Mr. Barr said, he appointed a special prosecutor to investigate the scandal-plagued House bank because it involved most of the members of the Democratic-run House and could be perceived by some as a Republican administration prosecuting House Democrats.

But he still argued against an extension of the law.

"Prosecutorial power is the most awesome that the government has," Mr. Barr said. "Part of ensuring that it is not abused is to keep it in the executive branch, within an institution that is responsible for all other prosecution.

"Once you try to fool that system, you have some of the abuses and consequences that we've seen," he said.

Mr. Barr acknowledged, however: "I'm not sure in the current environment how you can persuade people that the Department of Justice is doing a professional job and is applying the law even-handedly. . . .

"Since Watergate there has been a sustained attack on the system of justice and the attempt to politicize it by - I would say, people on the Hill, particularly liberal Democrats."

To assuage fears of lopsided administration of the law by the Justice Department, Mr. Barr suggested that the court appoint someone to monitor federal investigations and to "be part of the team, and could blow the whistle if at any time they saw decisions being made for political purposes."

"You can guard against abuse without shifting that responsibility to some individual who can go off half-cocked and really engage in an abuse of law," he said.

And how does Mr. Barr intend to put his congressional critics at ease?

"I'm not trying to dissuade critics on the Hill," he said. "I don't care what they say."

G0034105-091792

PHOTO

Photo (color), 'A mouthpiece': Attorney General William P. Barr is critical of the ABA., By Bert V. Goulait/The Washington Times

---- Index References ----

Company: AMERICAN BAR ASSOCIATION

News Subject: (Judicial (1JU36); Legal (1LE33); Legislation (1LE97); Government (1GO80))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (ABA; AMERICAN BAR ASSOCIATION; AMERICAN CIVIL LIBERTIES UNION; DEMOCRATIC; DEMOCRATIC PARTY; DEMOCRATS; DEPARTMENT OF JUSTICE; HOUSE DEMOCRATS; JUDGES; JUSTICE DEPARTMENT; PHOTO; SENATE; SUPREME COURT) (Barr; Bert V. Goulait; Clarence Thomas; Lawrence Walsh; Photo; Prosecutorial; Talbot "Sandy" D'Alemberte; William P. Barr)

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9/17/92 Wash. Times (D.C.) A8
1992 WLNR 136578

Washington Times (DC)

September 17, 1992

Section: A

BARR CHARGES STATES TO 'TOUGHEN UP' LAWS

Nancy E. Roman THE WASHINGTON TIMES

Although violent crime is on the rise - up 500 percent in the last 30 years - the vast majority of predatory crimes are committed by a small group of repeat offenders, Attorney General William P. Barr said yesterday.

"The real story shouldn't surprise us: Out of this very brutal carjacking in Maryland is the fact - and I knew it as soon as I heard there was a carjacking - I said this guy obviously has a prior record, which he does," Mr. Barr said. "Sure enough, this guy was out on bail. That's a preventable crime that should never have happened."

Mr. Barr told editors and reporters of The Washington Times that states need to "toughen up" their legal systems so that jail terms get served. He pointed to states like Florida and Texas, where violent crimes are soaring and only 15 to 18 percent of each jail sentence is served.

But Mr. Barr said the ultimate solution will have to be a more fundamental one, and added that Vice President Dan Quayle has been "right on the money," in attributing social ills to the breakdown of the family.

"Kids who grow up in families that are dysfunctional, without fathers or moral guidance, are disproportionately likely to become involved in crime," he said. "That's the No. 1 corollary - much more so of a correlate to violence than poverty."

"Unfortunately, the cultural elite - large segments of the media - are attempting to convince people that this is outside the bounds of politics, and they are not the proper things to be discussing, we should be focusing on other things," he said.

But Mr. Barr doggedly maintained that nearly all our problems - including economic ones - "come down to so-called values - that are the moral standards of society."

He said President Bush has increased justice department funding by 70 percent, doubled federal prison capacity and tripled federal crime assistance to the states.

But the problems are more fundamental.

"The great experiment in our nation was precisely whether or not the people could maintain the self-discipline and virtue necessary to have a free republic," he said.

G0034108-091792

---- Index References ----

News Subject: (Crime (1CR87); Social Issues (1SO05); Automobile Crime (1AU99))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (Barr; BARR CHARGES STATES; Bush; Dan Quayle; William P. Barr)

Edition: Final

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End of Document

THE PRESIDENT'S POLICE PROBLEM; IN 1988, GEORGE BUSH BASKED IN SUPPORT FROM POLICE GROUPS LIKE THE BOSTON POLICE PATROLMEN'S ASSOCIATION, PICTURED BELOW. BUT NOW, BUSH IS SCRAMBLING TO STEM THE FLOW OF POLICE DEFECTIONS INTO THE DEMOCRATIC CAMP; The 92 Campaign

Legal Times

September 14, 1992 Monday

Section: Pg. 38; Vol. 15

Length: 2179 words

Byline: Daniel Klaidman

Body

The 92 Campaign

IN 1988, GEORGE BUSH BASKED IN SUPPORT FROM POLICE GROUPS LIKE THE BOSTON POLICE PATROLMEN'S ASSOCIATION, PICTURED BELOW. BUT NOW, BUSH IS SCRAMBLING TO STEM THE FLOW OF POLICE DEFECTIONS INTO THE DEMOCRATIC CAMP

F our years ago, presidential candidate George Bush ventured into his opponent's backyard and scored a major political coup with the help of a small Boston police union.

Standing before a phalanx of Boston's finest, Vice President Bush tore into Gov. Michael Dukakis' record on crime and basked in the endorsement of the Boston Police Patrolmen's Association.

The made-for-TV event was a political consultant's dream come true, cementing Bush's image as the law-and-order candidate and embarrassing Dukakis on his home turf.

But four years later, the picture is very different. Bush today is held in lower regard by the country's premier police groups than any other Republican president in recent memory. The biggest area of contention is gun control, which the police groups strongly back, but other substantive and personal disagreements loom.

It's been a very frustrating four years for law enforcement, says Robert Scully, president of the National Association of Police Organizations (NAPO), which represents 135,000 rank-and-file police officers across the country and which focuses on labor and legislative matters.

Bush has been great at getting good photo ops with police, but we've not been able to get any of our legislative issues through since he's been in office. There's been a real failure of leadership, adds Scully, a 25-year veteran of the Detroit police force.

Scully's group endorsed Ronald Reagan in 1980 and 1984, and sat out the 1988 election. Last month, despite heavy courting from the Bush campaign--and even some apparent lobbying by the Justice Department--NAPO endorsed Arkansas Gov. Bill Clinton, in a carefully orchestrated event that garnered the Democratic candidate prized network air time.

And that is not the only sign that Bush is in trouble with law enforcement. Instead of being able simply to rely on the backing of police groups--a bedrock GOP constituency for decades--Bush operatives have been forced into the political trenches to stem the flow of police defections to the Democratic camp.

Their biggest worry at the moment is the ominous signs coming out of the 250,000-member National Fraternal Order of Police, the biggest and most powerful law-enforcement group in the country.

The FOP rallied law enforcement behind Bush in 1988, and its leader, Dewey Stokes, endorsed him. But since then, Stokes has been highly critical of the Bush administration.

On Sept. 4, President Bush even made a personal plea to Stokes for the group's endorsement, according to administration and FOP sources. Bush, according to FOP officials, was unable to convince Stokes to make a commitment.

The president's plea was viewed by some in the law-enforcement community as a response to an angry letter that Stokes wrote to a senior Bush campaign official assailing the administration's law-enforcement record and accusing the White House of snubbing his organization after FOP leaders campaigned for Bush in 1988.

In the four years that have passed . . . we have been disappointed with the response of the administration to our concerns, wrote Stokes in the Aug. 24 letter, obtained by **Legal Times**.

In the letter, Stokes also complained that the senior campaign official had solicited a wish list from him last month--a claim denied by the Bush campaign.

One FOP source says that Bush's position in the polls--not his stance on law-enforcement issues--could be the key factor in deciding the FOP's endorsement.

We're going to be taking a look at the different polling numbers, and if the race doesn't tighten up, that's going to be an important factor for us, says the source, who asks not to be named. Right now, the endorsement is completely up for grabs.

Meanwhile, back in Boston, the president can't even count on the support of the Police Patrolmen's Association, the group that in 1988 helped crystallize his image as a friend of law enforcement. Donald Murray, president of the 1,500-member union, gives Bush even odds to win his group's endorsement this year, adding that the union may end up staying neutral.

Privately, officials in the Boston police group say some members are bitter that not long after the president settled in comfortably at the White House, their efforts seemed to be forgotten by officials in Washington.

Losing the endorsement of a relatively small police union is hardly going to cost George Bush the election. But to some, it serves as a stark reminder that the president is losing his grip on a key element of the disparate coalition, built by Ronald Reagan, that has helped keep Republicans in the White House for 12 years.

Bush's problems with police groups--coupled with Clinton's support for the death penalty and some other get-tough measures--have damaged the president's ability to make crime a cutting issue in this year's campaign. Political analyst Kevin Phillips says that crime is a crucial component of GOP campaigns; the absence of that issue, adds Phillips, makes Bush's task of mobilizing his base that much more difficult.

If they lose the crime issue on top of the economic issue and the Cold War issue, they're like a card player used to having a lot of aces up his sleeve and suddenly not having any more, says Phillips.

THE PRESIDENT'S POLICE PROBLEM; IN 1988, GEORGE BUSH BASKED IN SUPPORT FROM POLICE GROUPS LIKE THE BOSTON POLICE PATROLMEN'S ASSOCIATION, PICTURED BELOW. BUT NO....

President Bush has been endorsed by only one police group so far--the 40,000-member National Troopers Coalition--while Clinton has won the backing of NAPO, the International Union of Police Associations, and the Combined Law Enforcement Associations of Texas.

Bush campaign officials deny that there has been any serious erosion of support for the president within the law-enforcement community, and they have sought to downplay NAPO's decision to endorse Clinton.

I don't think NAPO is a mainstream law-enforcement group, Attorney General ***William Barr*** said in a recent interview with **Legal Times**. I think NAPO is essentially a collection of relatively small police labor unions . . . on the left-wing side of law enforcement.

Scully, NAPO's president, hotly contests Barr's characterization of his group as left-of-center among police groups. Shame on us for looking after the interests of rank-and-file law-enforcement officers in this country, Scully says sarcastically.

Despite such flair-ups, Bush campaign official Robert Heckman, who serves as the campaign's liaison to law-enforcement and other groups, describes any differences between the administration and police groups as merely small problems within a family and says they are tactical rather than substantive in nature.

Life-and-Death Fight

But that's not the way most of the major police organizations view their differences with the Bush administration.

The FOP's Dewey Stokes says the biggest point of contention between his group and the administration is a life-and-death issue--the so-called Brady bill, which would impose a waiting period on the purchase of handguns to allow police time to conduct background checks on gun buyers.

The administration has made its support of the Brady bill's language contingent upon Democratic support for some of Bush's biggest legislative priorities on crime--habeas reform to restrict death-row inmates' ability to challenge their sentences in federal court and tightening of the exclusionary rule to limit restrictions on admissible evidence. These controversial proposals were watered down in a crime package passed by both houses of Congress; the package, which includes the Brady bill, then went to conference. The administration has withdrawn its earlier support for the legislation, vowing to sign on again only if Congress accepts its language on habeas reform and the exclusionary rule.

The FOP, along with most other major law-enforcement groups and Gov. Clinton, supports the conference report's compromise on the crime bill and has voiced dismay at the administration's hard-line stance. That report was narrowly passed by the House, but has remained in limbo because the Senate has been unable to invoke cloture and proceed to the bill.

People in the law-enforcement community really want to see the Brady bill pass and assault weapons banned, and none of that has happened in the last four years, says Darrel Stephens, executive director of the Police Executive Research Forum, a non-partisan think tank.

We thought we could persuade the president to see the law-enforcement position, but we haven't been able to, and that's been a cause of a lot of the strain, adds Stephens.

The FOP's Stokes, NAPO's Scully, and others in the law-enforcement community suggest that the White House has been too deferential to the National Rifle Association on gun-control issues--and argue that the administration has put politics above policy on crime.

Law-enforcement leaders are also eager for the passage of the crime package because of the $1 billion it would authorize for local and state law-enforcement programs. They hope to get a piece of that money in the form of grants and assistance to their members.

THE PRESIDENT'S POLICE PROBLEM; IN 1988, GEORGE BUSH BASKED IN SUPPORT FROM POLICE GROUPS LIKE THE BOSTON POLICE PATROLMEN'S ASSOCIATION, PICTURED BELOW. BUT NO....

Police groups and the Bush administration have parted ways on other legislative proposals as well.

Both NAPO and the FOP have pushed for a police officer's bill of rights, which is designed to grant administrative due-process rights to officers charged with wrongdoing. Both groups also favor the continued application of the Fair Labor Standards Act to public employees, which provides middle management time-and-a-half pay for overtime. The administration has been cool to both ideas. Clinton, on the other hand, supports continued application of the labor law; while he has yet to take a position on federal legislation establishing a police officer's bill of rights, he signed a similar measure into law in Arkansas.

Ruffled Feathers

Beyond their policy differences, the administration and police groups have been divided by breaches of etiquette and political faux pas on both sides.

White House officials, for example, felt that Stokes and the FOP were too slow to back Clarence Thomas' 1991 nomination to the Supreme Court. And Stokes had to battle White House officials in order to secure a promised presidential visit to the FOP's annual convention in Pittsburgh last year.

Bush's attendance helped Stokes in a tight re-election bid for the FOP presidency. Although Stokes no doubt appreciated Bush's gesture, he has since complained that the administration has taken his group for granted.

In Stokes' August letter to the campaign, he blasted the administration for passing over the FOP for the traditional patronage appointments that he expected after making a significant contribution to a presidential campaign.

It is now four years later and, if asked, I am simply unable to tell my membership that the Administration has sought the involvement or participation of the NFOP or its leadership in those matters about which we have substantial expertise, Stokes wrote. This is a matter of substantial embarrassment to the NFOP and to me personally given my out front role in the election campaign four years ago.

Administration sources say that Stokes was particularly upset that he was not included among the group of law-enforcement leaders solicited by Attorney General Barr to review and make comments on a much-ballyhooed report on violent crime released by the Justice Department this summer.

A Justice Department official says Barr did not intend to slight Stokes and maintains that the department has a friendly relationship with the FOP. Privately, some administration officials admit they may have stumbled by not being more attentive to Stokes.

The campaign did make an apparent overture to Stokes in August, at the Republican National Convention. Stokes claims that Heckman, the campaign liaison, approached him at the convention and asked him to provide a wish list for the administration's consideration.

Stokes expressed his disappointment with that gesture in his Aug. 24 letter to Heckman.

We are not the National Rifle Association and we would not presuppose to submit the kind of wish list that you have asked for, Stokes wrote. Our support for the president and his administration has not been given on a quid pro quo basis.

Heckman denies having asked for a wish list from either the NRA or Stokes.

Dewey and I talked several times during the Houston convention, but he must have misinterpreted something I said, says Heckman.

Whatever the precise overture that Heckman made to Stokes, there is little doubt that the administration is engaged in an 11th-hour attempt to woo law enforcement, particularly the FOP, back into its camp. This involves courting

both Stokes, who will make a personal endorsement, and the FOP's rank-and-file membership, which will make its endorsement decision independent of Stokes.

Stokes, meanwhile, is scheduled to meet this week with Gov. Clinton, who is avidly seeking another police stamp of approval. Such an endorsement could go a long way toward evening the score for Bush's 1988 raid on the Boston police.

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Organization: NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS (55%); NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS INC (55%)

Industry: TELEVISION PROGRAMMING (55%)

Person: GEORGE W BUSH (91%); RONALD REAGAN (79%); BILL CLINTON (78%)

Geographic: UNITED STATES (79%)

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BARR STRADDLES THE LINE BETWEEN POLICY, POLITICS

New Jersey Law Journal

September 14, 1992 Monday

New Jersey Law Journal

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Byline: Daniel Klaidman

Body

In the days leading up to the Republican National Convention, Attorney General ***William Barr***'s aides were busily preparing to send their boss to Houston. They had the hotel reservations. They arranged for Barr to attend President Bush's acceptance speech. The only real question left was whether to fly a commercial airline or use the more costly government jet. A spokesman told reporters that Barr was looking forward to making the trip.

But the weekend before the GOP festivities kicked off, Barr suddenly scrapped his plans.

Worried that attending would leave the attorney general vulnerable to charges of playing politics in an election year, Barr decided not to take any chances. So he canceled his reservations and wound up watching his party's convention on television with his family in his suburban Virginia home.

I would have liked to have gone, Barr said last week in an interview. But I think the attorney general should not get caught up in electioneering. His responsibility is to administer the law. That's how he should spend his time.

Barr's on-again, off-again posture toward attending the convention is a prime example of the kind of high-wire acts attorneys general have to perform during a presidential campaign. They must walk a narrow line between forcefully championing their administration's policies and accomplishments and stumping for votes and endorsements for the president's re-election bid.

Experts say the line is not always clearly marked, and point out that the standard of acceptable behavior has shifted over the years.

For attorneys general, the line between the legitimate and necessary advocacy of government policies and politicking is often shadowy and gray, says Daniel Meador, a professor at the University of Virginia School of Law.

Meador, who has studied the history of the attorney general's office, says that in calling off his trip to Houston, Barr did the right thing. Although Barr says he would have eschewed all partisan activities there, such as giving speeches or attending fund-raisers, Meador points out that the attorney general's mere presence at the convention would have been problematic.

A campaign is a purely political event, says Meador. Just being seen there sends the wrong message. Justice, the old adage says, must satisfy the appearance of justice.

Thus far, Barr has ably performed the Justice Department's election-year dance. But the temptations of campaign politics are so strong, and the stakes so high, that even the most cautious attorney general must be constantly vigilant.

Damage Control

Last week, top Justice Department officials were scrambling to contain the damage arising from an allegation that a department employee engaged in just the sort of electioneering that Barr says he would not tolerate.

Robert Scully, president of the National Association of Police Organizations, charged that a political appointee in the department's Office of Liaison Services lobbied delegates at NAPO's annual convention in hopes of influencing the group to endorse Bush. Scully says the official, Howard Hay, a senior liaison officer, doled out Bush-Quayle pins and threatened that an endorsement for Clinton would close off the group's access to Justice and the White House should Bush be re-elected. (NAPO wound up endorsing Clinton.)

Hay denies having lobbied NAPO, the nation's second-largest law-enforcement group, acknowledging only that he may have inadvertently swapped a button with convention delegates and made remarks that could have been misinterpreted.

I remember being in the hospitality suite with a bunch of the guys sitting around drinking beers and talking politics, says Hay, who is himself a former police officer. I was asked, What would happen if we endorse Clinton? and I said, Let's face it, there's not going to be a red carpet rolled out in January for Bob Scully. We're not going to be real happy. But it wasn't a threat. It is common for Justice Department liaison officers to attend meetings of law-enforcement groups.

Hay reports to Rider Scott, deputy for liaison at the department's Office of Policy and Communications. While it was difficult to determine whether Hay was acting on his own or on orders from above, Paul McNulty, a department spokesman, says Scott played no role in lobbying NAPO officials or distributing campaign materials. McNulty also defends Hay: To the best of my knowledge, Howard Hay acted appropriately and did not engage in campaign activities.

Officials at the Office of Special Counsel, an independent federal agency charged with investigating violations of the Hatch Act, declined to comment on whether Hay did anything illegal. But Ralph Eddy, chief of the office's Complaints Examining Unit, says that the Hatch Act prohibits any federal employee under its aegis from distributing campaign materials or doing any election-related lobbying.

Meador, the University of Virginia professor, says it is Barr's responsibility to make sure his subordinates stay well clear of such activities.

I think he's got to stop that sort of thing, he says. He's in charge of the department; he can control activity of that kind.

Even if Barr himself were handing out Bush buttons, he wouldn't rank among the most politically active attorneys general in history. Many of his predecessors engaged in brazen campaign acts, benefiting from less stringent standards of government conduct and a more-tolerant press.

A. Mitchell Palmer, who served as Woodrow Wilson's attorney general, provides one of the most egregious examples. During Wilson's second term, Palmer secretly planned his own bid for the White House, launching a program of high-profile mass arrests of suspected Communists and other radicals -- known as the Palmer Raids -- that were widely viewed as an effort to bolster his budding campaign. He made it as far as the Democratic convention, then returned to Justice to serve out the remaining seven months of Wilson's term.

Homer Cummings, Franklin Delano Roosevelt's first attorney general, gave a major address at the 1936 Democratic National Convention; he had already served as chairman of the DNC for many years.

Other, more recent, attorneys general have made rather transparent attempts to avoid the appearance of impropriety. John Mitchell, Richard Nixon's attorney general, resigned in March 1972 to run the president's campaign. But later, during the Watergate hearings, it was revealed that Mitchell, while still attorney general, had worked with the Committee to Re-elect the President -- and even listened in on plans for sabotage and blackmail detailed by Nixon campaign operatives.

Since Watergate, most attorneys general have bent over backward to avoid campaign politics. Griffin Bell, who served President Jimmy Carter, resigned in 1980 at the outset of the election year because of concerns that his close relationship with the president would, in the minds of voters, compromise his independence as the country's top law officer.

I was sufficiently mindful of the public perception of my ties to President Carter to know that in taking the job, I could not serve during a presidential election year, wrote Bell in his 1982 book, **Taking Care of the Law**.

No Intimate

Barr does not bear the weight of such public perceptions. Bell and Carter were boyhood friends. Edwin Meese III had worked closely with Ronald Reagan for years before signing on as Reagan's attorney general. Robert Kennedy, of course, was the president's brother. In fact, most attorneys general throughout history have enjoyed long personal relationships with the presidents they have served.

By contrast, Barr is not a Bush intimate. The two knew each other slightly in the 1970s when Bush was director of the Central Intelligence Agency and Barr was a legislative counsel there. They crossed paths again when Barr worked at the Reagan-Bush White House as a domestic-policy specialist, and Barr later did damage control -- at the 1988 Republican National Convention -- after Bush tapped Quayle to be vice president. As a result, Barr's support for his president has not been viewed as suspiciously as that of many of his predecessors.

And he has assiduously sought to keep it that way, even as he has gone about aggressively promoting Bush's policies throughout the campaign year -- rarely missing an opportunity to remind his audience, albeit subtly, why they should support Bush.

While touting the administration's tough law-and-order policies, Barr casually refers to President Bush's unfinished agenda on crime and the need to stay the course on selecting federal judges who are supportive of the legitimate needs of law enforcement.

At virtually every stop, Barr delivers a charged message about family values, skewering Democratic social policies of the recent past. Prevention of violent crime, he argues, begins with sexual responsibility, love of country, and the importance of church.

Barr rejects charges that he has conveniently incorporated campaign rhetoric into the more conventional fare of attorneys general, who typically stick to talk about civil rights, keeping the streets free of crime, and the like.

The more you think about crime, and I have thought a lot about it, the more you come down to [the belief that] part of the ultimate solution has to be the moral formation of children, he says.

Barr drove home that theme in a speech to a Chicago audience last March.

In the '60s and '70s, there were plenty of social experts around saying that we should throw off the outmoded restraints of the past that had been inculcated by parents and churches since this country began, Barr exclaimed. The prophets of the sexual revolution and the drug culture proclaimed the dawn of a new era of maturity and freedom, of peace and love. ... Today, we can see the grim harvest of the age of Aquarius: broken families, venereal diseases, teen-age pregnancy, crack babies.

A Matter of Timing

Sometimes, it is Barr's timing, as much as his rhetoric, that raises eyebrows. In April, for example, he traveled to Pennsylvania to announce two high-profile Justice Department initiatives in Pittsburgh and Philadelphia -- the week before that state's Republican presidential primary. Nevertheless, Barr operatives denied it was a political trip, and nobody challenged their interpretation.

A few weeks ago, Barr did take a little heat for announcing a new violent crime program with much fanfare at a press conference packed with Justice employees in the department's Great Hall. **The Wall Street Journal** tweaked Barr in a front-page item that suggested the attorney general had staged the event in response to a Democratic assault on the president's record on crime. Barr called the **Journal**'s suggestion totally false, arguing that the event had been scheduled well in advance of the Democratic attack.

According to the University of Virginia's Meador, none of those incidents represent inappropriate behavior on Barr's part.

The attorney general is charged with carrying out and lobbying for the president's policies, he says. I see nothing wrong with this behavior by an attorney general.

Nancy Baker, an assistant professor of government at New Mexico State University who has studied attorneys general, concurs with Meador. Although she views Barr as an activist with a conservative agenda, she says he has been skilled at making his case for a new Bush term without engaging in blatant partisanship.

Baker, the author of **Conflicting Loyalties: Law and Politics in the Attorney General's Office, 1789-1990**, also argues that while attorneys general must stay committed to the rule of law and remain above the partisan fray, being too neutral can be dangerous as well.

You don't want a wholly independent attorney general who views himself as unaccountable to an elected leader. That would be a terrifying prospect, says Baker.

Both Baker and Meador say that if Barr were to attend fund-raisers or other political events for Bush's reelection, he would cross the line.

For his part, Barr says that he has often turned down invitations from candidates and state Republican Party chairmen to speak at political events. He adds that despite being a member, he postponed a longstanding invitation to speak at a recent Knights of Columbus meeting because the president was speaking the same day.

Since it took a more political tone, I felt it was appropriate not to attend the event, Barr says.

The Justice Department does maintain a liaison to the Bush-Quayle campaign: Jeffrey Howard, who works for George Terwilliger III, the deputy attorney general. But Justice officials say Howard's role is merely to help the campaign find public information about Justice Department issues. Howard did not return telephone calls.

Barr says emphatically that he personally has no contact with the campaign about his activities or schedule.

I have never discussed any speech or anything I would say in a speech with anyone in the White House or the campaign or anyone outside of the Department of Justice, period, says Barr. No one's ever asked, no one's ever suggested, and I've never asked for any guidance. With or without their instructions, Barr seems to have a natural instinct for pushing the buttons Bush campaign staffers would want him to push.

Last month, addressing the conservative Heritage Foundation, Barr put that talent on display, offering soothing words to the group's members, many of whom have lost faith in Bush.

Barr derided **Lee v. Weisman**, a recent Supreme Court decision upholding decades of precedent enabling government to restrict school prayer, calling the ruling extremist. He defended himself against criticism from Sen. Daniel Patrick Moynihan, D-N.Y., who had termed Barr's complaints about the Great Society one of the most depraved statements I have ever heard from an American official.

And Barr even made a rare reference to Clinton, rebutting a comment that the Democratic contender had made about President. Bush's commitment to law-enforcement budgets.

But when a questioner asked Barr if the Democratic Party under Clinton was trying to repackage itself as the party of family values, the attorney general put on the brakes.

I don't engage in partisan politics, Barr responded, a slightly mischievous grin appearing on his face as the crowd dissolved in knowing laughter.

The author is a senior reporter with Legal Times of Washington, D.C., an affiliate of American Lawyer Media L.P.

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IT'S A WAR OUT THERE - WORST TO COMEINCREASING VIOLENCE OVERWHELMS JUSTICE

Jerry Seper THE WASHINGTON TIMES

From the the countryside to the inner cities, violence in America is at the highest level ever - and it's going to get worse.

That's the view from the front, where law-enforcement officials and criminologists agree that the forces of light are overwhelmed.

"I'd say we're in the 11th round of a 15-round heavyweight-championship fight, and it doesn't look good for any of us," says William F. Roemer, retired chief of an FBI organized-crime strike force.

"It's going to get much worse before the American public fully realizes that the problem is here to stay," says Mr. Roemer, now an author and criminal-justice consultant in Tucson, Ariz. "We have allowed it to become a part of our lives."

Mr. Roemer's comments were echoed by others, who say violent crime, such as the heinous killing this week of Howard County resident Pamela Basu, will continue and become more brazen. Mrs. Basu, 34, was dragged to her death by carjackers who threw her baby from the car.

"We are a society fueled by psychopaths who place no value on their own lives and, as a result, have no value for others," says Alan Block, a criminal-justice professor at Penn State University. "We have a huge (lawless) population with no stake in society and no conscience.

"They feel they have nothing to lose. They kill people because they just don't care, and it's going to get worse."

Mr. Block says many people involved in violent crime come from bad communities from which they believe they have no escape. As a result, he says, murder and violence is "just business, a normal course of their lives."

"You could describe it as a rootless, urban mass, unconnected and with no conscience," he says. "Their families haven't failed them because they have none. Their schools haven't failed them because they don't go.

"And if someone becomes an authority figure in their lives, as many have suggested is lacking, they would just shoot them."

Donald Murray, president of the Boston Police Patrolmen's Association, says "officers on the beat" believe violence has increased nationwide because criminals do not fear going to prison.

"The criminal-justice system has gone soft," says Mr. Murray, a veteran police officer. "Nobody has the guts to pull the lever on the electric chair. Instead, they tolerate increased violence, and every year the murder rate goes up."

Mr. Murray says local, state and federal judges and politicians will begin to do something about increased violence "when it moves into their neighborhoods."

"In the meantime, things are going to get much worse for the rest of us," he says.

Placing blame for the increased violence is difficult. Experts disagree, with explanations ranging from a lack of parental control and school authority figures to drug dealing and music glorifying murder, mayhem and the killing of police.

Others blame criminal-justice officials who do not aggressively enforce the law because they fear criticism or prosecution; criminals who feel they have nothing to lose if they get caught; lenient judges and liberal politicians; and a feeling among some people that they have no roots in society.

"It's very easy to place blame, but the issue is really very complicated," Mr. Block says. "Simplistic notions and popular phrases, however, are not the answer."

Mr. Roemer argues that "all of the above" could correctly be viewed as the causes of the problem, but he says the "major obstacle" facing society is its unwillingness or inability to deal with any of the suspected causes.

"We need to sit down soon and figure out where we go from here," he says. "And we better do it before it's too late."

Whatever the causes, experts say, the problem will not go away soon.

"I think it would be a fair statement to say that right now, it is almost impossible to police America," Mr. Murray says. "We don't respect the system. If we don't like it, we burn it down. If we want it, we take it. And if we're mad, we just blow somebody's brains out.

"This violence has the potential of destroying much of what we have built. I just hope everyone shares in that concern."

The FBI reported last month that violent crime nationwide last year increased by 4 percent to a record high, with nearly 2 million murders, rapes, robberies and aggravated assaults.

There were 24,703 murders; a sixth of the killers were between the ages of 15 and 19. The District led the big cities with 80.6 murders per 100,000 people. The national violent-crime rate last year was 24 percent higher than in 1987 and 33 percent worse than in 1982.

Much of the increase was blamed by federal, state and local law enforcement authorities on gangs, many of which have moved from inner-city areas to rural communities across the country. Fighting those gangs has been a priority of the Justice Department.

The department this year assigned 300 FBI agents to help local law enforcement agencies combat increased street violence and created a federal anti-gang task force to work with those agencies.

Attorney General William P. Barr describes the reassignment as a "substantial escalation" in the federal effort to combat violent crime.

"While violent crime is primarily a state and local responsibility, the federal government can play a leadership role and have a real impact on street crime by assisting state and local law enforcement," Mr. Barr says.

FBI Director William S. Sessions says the impact of violent crime nationwide is unacceptable. "The rising disregard for human life and civilized behavior has taxed our endurance," he says.

In the past decade, agents in the Bureau of Alcohol, Tobacco and Firearms have targeted gang members responsible for rising murder rates and other serious crimes. There are 2,000 ATF agents nationwide investigating firearms and explosives cases. Of these, 425 are assigned to gang task forces.

"There are no quick fixes or bandages to cover over the violence that our citizens are facing every day on our streets," ATF Director Stephen E. Higgins says. "The intimidation, fear and shootings must and will stop."

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OVERWHELMED BANKRUPTCY JUDGES GET SOME RELIEF FROM CONGRESS; Federal Court Watch

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Byline: Eva M. Rodriguez

Body

Federal Court Watch

After years of struggling under the weight of burgeoning caseloads, the nation's bankruptcy judges may finally be close to getting some needed relief-- more judges.

But lack of money, the same malady that's brought so many companies and individuals to these courts for protection, may stall the efforts to beef up the staffing of the courts.

On Aug. 26, President George Bush signed into law the Bankruptcy Judgeship Act of 1992, which adds 35 judges to the national bankruptcy bench, including one new judge each for the Bankruptcy Courts in the Eastern District of Virginia and the District of Maryland.

But, according to David Sellers, spokesman for the Administrative Office of the U.S. Courts, almost $20 million a year will be needed to fund the $119,140 annual judicial salaries and other needs such as law clerks, staff, and furniture. And nailing down those funds may prove elusive at a time when it's been hard to find money to pay lawyers who represent indigent criminal defendants.

There's no money in the 1992 [appropriations] bill, no money in the supplemental bill, no money in the 1993 bill, Sellers says. And it's a serious concern because bankruptcy judges are desperately needed.

Although the judiciary is not responsible for raising the money itself, Frank Szczebak, chief of the Administrative Office's Bankruptcy Division, says the courts may consider new fees, in addition to the existing filing fee, to absorb at least a fraction of the cost.

Even if funding for the new judgeships could be attached to pending appropriations bills, funds for the new positions would not be available until spring 1993 at best, according to Szczebak.

Nevertheless, Szczebak says the Administrative Office this week will tell the circuits to publicize the new positions and begin background checks for selected candidates, which usually take about six months to complete.

Meanwhile, bankruptcy filings, which last year came close to the one-million mark, will probably continue to increase, as companies that scaled the dizzying financial heights of the 1980s continue to crash. The size and

complexity of those cases will continue to pose demands on bankruptcy judges, who must sort through labyrinthine legal and business issues. At the same time, they still have to deal with the garden-variety cases, the slew of ordinary down-on-their-luck people who are using the Bankruptcy Courts to make a fresh start.

I don't know how much longer some of these judges can survive, says Chief Judge Martin Bostetter Jr. of the Eastern District of Virginia. It's not a good situation.

The most heavily burdened district in the country is the Middle District of Florida, where judges handle more than three times the average workload, according to Judicial Conference statistics. The district, which includes the Tampa and Orlando areas, was allotted four new judges. Among the districts getting two new slots each are three of the most overloaded: the Eastern District of Pennsylvania, the District of Arizona, and the Southern District of Florida. Judges in those districts now have annual workloads exceeding 3,000 hours, compared to the 1,500 hours considered feasible by the Judicial Conference.

Bostetter, who is based in Alexandria, says Bankruptcy Courts in his district and in Maryland have been so inundated that frequent late night and weekend sessions have been held.

In Rockville, Md., Chief Judge Paul Mannes says he and his staff have nicknamed the Bankruptcy Court Fort Rockville, a tongue-in-cheek reference to their daily duty of bracing themselves against the almost constant onslaught of incoming cases. Maryland, which now has three judges, will be getting an additional jurist to ease the workload.

In Alexandria, it has not been unusual for Chief Judge Bostetter to handle up to 170 motions in a day. And Bostetter doesn't see the pace letting up any time soon. He predicts that filings will continue to increase over the next several years, even if the economy rebounds, because of several non-economic factors. Among those he cites are the dissipation of the stigma attached to filing for bankruptcy, heightened awareness of Bankruptcy Courts as a result of lawyer advertising, and a trend toward viewing bankruptcy as a business strategy, rather than as the court of last resort.

For now, Judge S. Martin Teel Jr. of the District of Columbia will remain that Bankruptcy Court's lone jurist. His 1,443-hour workload, although nuzzling up against the 1,500-hour threshold set by Congress, did not qualify for a new appointment.

Time Running Out For D.C. Circuit Nomination

The slot at the U.S. Court of Appeals for the D.C. Circuit vacated last year by now Justice Clarence Thomas seems destined to stay empty for several months longer.

Deputy Solicitor General John Roberts Jr. was nominated last January, but with little more than a month left before Congress is scheduled to adjourn, the routine background check on Roberts still has not been completed and hearings before the full Judiciary Committee have yet to be scheduled, according to a Judiciary Committee aide.

Although Roberts' boss, Attorney General ***William Barr***, has said he considers the nomination a top priority, it appears to be languishing. Roberts, a conservative Republican resident of Bethesda, Md., may have two strikes against him: the two Democratic senators from his home state. Neither the office of Sen. Paul Sarbanes nor that of Sen. Barbara Mikulski responded to queries, but it seems unlikely, with a Democratic White House a realistic possibility, that either senator is pushing for Roberts. And that's what it takes, in these last few weeks, for a judicial nominee to emerge from the pack of pending nominations. According to the Administrative Office of the U.S. Courts, Congress has under consideration nominations for 57 of the 108 federal court vacancies. Of those, 12 are nominees for 19 circuit court positions.

Although Roberts' confirmation process has already exceeded the average 137 days usually required, he is by no means the longest-suffering nominee. One candidate has been waiting since July 1991 to ascend to a seat on the 3rd Circuit.

Gotti Gambit: Remove Defense Lawyers

It's called the Gotti Gambit--named after the government's successful tactic in removing John Gotti's long-time attorney from his most recent trial because of a conflict of interest. And, according to a handful of local defense lawyers, U.S. Attorney Richard Cullen's crew of Virginia lawyers has used the strategy to derail local defense efforts in high-profile cases.

Within the last two weeks, Cullen's prosecutors in the Eastern District of Virginia have successfully petitioned local courts for the removal of at least two sets of defense teams involved in drug-related cases, claiming the defense lawyers faced conflicts of interest.

Lawyers say it's an attempt at sabotage; Cullen rejects that notion out of hand.

There's no grand design or conspiracy, he says. There were two separate cases with two separate judges in two separate districts that applied the applicable law. Period.

But defense lawyers involved in the cases see things differently.

I'm beginning to see a pattern, says Gary Kohlman of D.C.'s Kohlman & Rochon, one of two defense lawyers dismissed by U.S. District Judge Stanley Sporkin Sept. 3 from the P Street crew case, a case originally brought by Virginia prosecutors, but now being tried in the District.

Although the case has been transferred, Virginia Assistant U.S. Attorneys Mark Hulkhower, Christine Wright, and Nash Schott continue to act as lead prosecutors. William Blier, an assistant U.S. attorney in the District, is acting as local counsel.

I firmly believe at this point that it's a form of retaliation for the transfer, says Kohlman, who sought the transfer to the District.

According to Kohlman, the transfer of venue is not incidental to the outcome of the case. For one thing, Kohlman claims Virginia is a forum more hospitable to the government and much speedier.

This is going to be a drain on their resources, Kohlman says. They fought very hard against this. You teach a lawyer a lesson for things like this.

Cullen's team of prosecutors argued that Kohlman and his partner, Mark Rochon, must be dismissed because one of them could potentially be a witness in the case. Another witness testified he saw Rochon get a bag of money from his client, James Ruffin, last year. That exchange is likely to come up during the trial, Sporkin found, thus requiring testimony from Rochon.

Two weeks ago, prior to the P Street crew case, attorney John Zwerling faced a similar fate in the Eastern District of Virginia. Zwerling, of Alexandria's Moffitt, Zwerling & Kemler, lost a long-running fight with Cullen's office, which wanted Zwerling to disclose the source of his fees for handling a drug case. The government lawyers claimed that he was not properly reporting the source of his fees. That dispute then spilled into the drug case, and last month, after seven hearings on the allegations about Zwerling, Judge T.S. Ellis III removed Zwerling from the drug case.

They got tired of getting their brains kicked in, Zwerling says. So, what did they do? They got rid of the lawyer.

HALLWAY TALK . . . Three D.C. attorneys have just returned from a month-long trial advocacy workshop for black lawyers in South Africa sponsored by the United States-South Africa Leader Exchange Program. The 34-year-old non-profit organization, jointly based in the District and in Johannesburg, selected **Richard Roberts,** an assistant U.S. attorney in the Economic Crimes Section of the U.S. attorney's office; **Peter Krauthamer,** training director at the D.C. Public Defender Service; and **Michele Roberts** of D.C.'s Roberts & Moore. The three lawyers were part of a six-member group chosen from around the United States to participate in the workshop, which ended Sept. 6.

Federal Court Watch

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BARR DECLINES TO EMBRACE BUSH NOMINEE; Inside Justice

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Inside Justice

In an unusual move, Attorney General ***William Barr*** has distanced himself from a controversial presidential nominee for a senior Justice Department post.

Last November, President George Bush nominated Debra Bowland to head up the Justice Department's Office for Victims of Crime. Bowland, currently a political appointee at the Department of Labor, has drawn fire from victims-rights advocates and members of Congress as an unqualified patronage pick.

Now Barr, apparently having taken stock of the concerns raised by victims-rights activists, is sending out signals that his support for Bowland is lukewarm at best.

In a speech last month to the National Organization for Victim Assistance, Barr gave a strong vote of confidence to the office's acting director, Brenda Meister, while making no reference to Bowland.

As long as I'm attorney general, [Meister is] going to be my strong right arm on victims' issues, Barr told the group, which was assembled in Kansas City, Mo., for its annual convention.

And in an interview on Aug. 24, the attorney general reiterated his support for Meister. He also seemed intent on repairing any damage to the administration's relations with victims groups, a constituency President Bush has carefully cultivated.

I think they have taken it as a bad signal, and that greatly concerns me, Barr said of Bowland's nomination, arguing that the administration remains staunchly committed to victims' issues.

The Office for Victims of Crime, one of five outposts within the Office of Justice Programs, was established in 1984. The office awards grants to states to provide greater compensation to victims of crime; it also provides other forms of assistance, such as training for criminal-justice officials.

If confirmed, Bowland would play the key role in the federal government's efforts to advance the cause of victims of crime.

Meister, a lawyer, is deputy director of the office; she took over as acting director in August 1991, following the departure of Jane Burnley. She has widespread support for the Justice job among members of the victims-rights community.

Meister declines comment. Bowland did not return phone calls.

In the Aug. 24 interview, Barr did not explicitly say that he opposes Bowland's nomination. But when asked whether he viewed her as the most qualified candidate for the job, the attorney general would say only that her supporters think so.

I think the people who know her and put her forward feel she would be [qualified,] based on personal qualities rather than her track record in the area, Barr said.

That constitutes an unusually weak statement of support, given that attorneys general typically offer enthusiastic endorsements of White House nominees for Justice Department jobs.

Bowland, 48, has never worked in law enforcement or in any other area involving the rights of crime victims. But she has held a wide variety of political jobs in the departments of Labor and Education under Bush and Ronald Reagan.

The supporters of Bowland, who is well-connected in Republican circles, say that she more than makes up for her lack of experience in the victims-rights field by bringing strong leadership qualities and political influence to the table.

What this position needs is exactly what Bowland represents--an individual who has enough clout to bring attention and budget to the office and is well-regarded by colleagues, adversaries, elected officials, and others, says Betty Southard Murphy, a partner in the D.C. office of Cleveland's Baker & Hostetler.

But victims-rights groups apparently don't find such arguments persuasive and are stepping up their lobbying against Bowland. Leaders of the National Organization for Victim Assistance have written members of the Senate Judiciary Committee--including Sen. Joseph Biden Jr. (D-Del.), the panel's chairman--to voice their concerns about the nomination.

Their efforts may be paying off. Opponents of Bowland's nomination on Capitol Hill are becoming increasingly vocal. Rep. Charles Schumer (D-N.Y.), who chairs the House Judiciary Subcommittee on Crime and Criminal Justice, has assailed her nomination, saying it shows that the administration is neglecting the Office for Victims of Crime.

It appears that this nominee has never even worked in the law-enforcement area, let alone with victims of crime, says Schumer, who has written President Bush expressing concern about the nomination. This post is just too important to use as a dumping ground for the administration's dead wood.

One factor helping those who oppose Bowland is the rapidly approaching congressional recess. The Senate Judiciary Committee has yet to schedule a hearing on Bowland; a Republican source with the committee says the Bowland nomination will probably die when Congress adjourns, likely in October, for the election.

In the meantime, Attorney General Barr seems perfectly content with the team he has in place.

Right now, I think Brenda's doing a great job, and Bowland's nomination is in limbo, so we're moving ahead, Barr said on Aug. 24.

Victims of Weather

The Justice Department has joined the federal relief effort aimed at victims of Hurricane Andrew, offering assistance on two fronts.

Last week Attorney General Barr announced two emergency law-enforcement grants--totaling $1.6 million--for Florida and Louisiana, the two states slammed by the powerful storm. The money is intended to bolster police and other public-safety officials in the area.

Department officials have also established a Hurricane Andrew relief fund so that employees can contribute money to assist Justice personnel affected by the storm.

According to Anthony Moscato, deputy assistant attorney general for administration, about 300 Justice Department employees were made homeless by the hurricane. Ironically, many of them are being temporarily housed at a federal prison in Miami.

Space at the prison became available when the storm knocked out electricity there, causing security-conscious prison officials to arrange for inmates to be transferred to other-facilities in the region.

The area was badly rocked, and many lives have been wrecked, says Moscato. We've done what we could, and it's beginning to have an impact, but there's a lot more work to be done.

Barr has dispatched Stephen Colgate, deputy assistant attorney general in the Justice Management Division, to coordinate the department's relief effort.

The federal credit union at Justice is also pitching in. It has sent down a loan officer, who's offering low-interest--and in some cases, interest-free-- loans to needy department employees.

Main Justice lawyers are also putting in extra hours to relieve some of the burden on colleagues in the U.S. attorney's office for the Southern District of Florida.

According to Stuart Gerson, assistant attorney general for the Civil Division, lawyers in his shop have helped pick up the caseload in the U.S. attorney's office [in South Florida], which has been so severely dislocated because of the storm.

One case taken over by Main Justice is directly related to the hurricane. Fort Lauderdale solo practitioner Marc Gordon has filed a class action against President Bush on behalf of the citizens of South Dade County, Fla., seeking to put the federal relief effort under court supervision.

The case was originally assigned to Assistant U.S. Attorney Maureen Donlan in Miami. But since Donlan's home was badly damaged and the U.S. attorney's office there was not open for the first few days after the hurricane, she was unable to handle the case. Civil Division lawyers in Washington are now defending the U.S. government in the matter.

Gerson says that the Civil Division has also provided legal advice in the setting up of a trust fund to assist victims.

Somalian Relief

Hurricane Andrew isn't the only disaster that has pricked the conscience of Justice Department employees.

Scott Dahl, a staff attorney in the Civil Division, is trying to raise money among lawyers both inside and outside the department to provide relief for the massive famine in Somalia.

Dahl has organized a 10-mile run and 40-mile bike ride along the C&O Canal to benefit the cause. The Oct. 3 event begins at 8 a.m. along the canal towpath in Great Falls, Md.

I decided to do it after watching the horrible scenes one night on **The MacNeill Lehrer Newshour**. I just felt I had to contribute somehow, says the 29-year-old lawyer.

Dahl, a former associate at D.C.'s Arnold & Porter, has posted notices around Main Justice in hopes of raising awareness and funds. He has also enlisted friends from private practice in the District to help.

Dahl admits that his efforts may have been aided by recent attacks on the profession.

I think I've been able to tap into some of the guilt feelings among lawyers, says Dahl. They want to assuage those feelings by doing the right thing.

Tax-Post Contenders

Two candidates have emerged as the leading contenders to head the department's Tax Division, according to a senior Justice official. They are James Bruton, currently the No. 2 official in that office, and Gil Thurm, of counsel at D.C.'s Arent Fox Kintner Plotkin & Kahn.

Bruton, now serving as acting assistant attorney general for tax, is the popular favorite among career lawyers and some top brass at Justice. But Thurm, a tax lawyer with no government experience, is weighing in with strong support from Republicans on Capitol Hill.

Since joining Justice in 1989, Bruton has been largely responsible for criminal tax matters. He became acting assistant attorney general in February, shortly after then-division chief Shirley Peterson left Justice to become commissioner of the Internal Revenue Service. Bruton, 43, was a partner at D.C.'s Williams & Connolly and, before that, at D.C.'s Steptoe & Johnson.

Thurm, 44, served as a tax lawyer in the early 1970s at the accounting firm of Arthur Andersen & Co. He also did a stint as an in-house lawyer for the National Association of Realtors, where he specialized in tax issues. At Arent Fox, Thurm has developed a legislative practice that has helped him cement relationships on Capitol Hill.

Both Bruton and Thurm decline to comment.

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Dallas Morning News

September 5, 1992

Section: NEWS

Bush's Cabinet taking aim at Clinton: Some members' attacks miss mark

THE

WASHINGTON

WASHINGTON -- Secretary of Labor Lynn Martin looked into the Arkansas economy and did not like what she saw: "a right-to-work state (with) low wages.'

Louis Sullivan, secretary of health and human services, inspected Arkansas's health care system and declared that it was in woeful shape.

Michael Deland, chairman of the President's Council on Environmental Quality, said that Arkansas was "at the bottom of the heap' in environmental programs. Attorney General William Barr, when pressed, had some bad news about the Razorback State: a rising crime rate and "very low investment in law enforcement.'

For several weeks, members of President Bush's Cabinet have been appearing at news conferences arranged by the Bush-Quayle campaign, attacking Democratic candidate Bill Clinton's record as governor of Arkansas.

Mr. Clinton has contested the charges, arguing that his record compares favorably to many governors in other states. And some of the attacks have missed their target. Ms. Martin, for example, found herself admitting that Arkansas under Mr. Clinton had enjoyed rapid job growth and rising family income.

"Arkansas's growth is enormous . . . It's true,' she said. But she added: "It is starting from an extraordinarily low base.'

The anti-Arkansas campaign is unusual for two reasons. First, federal Cabinet members do not normally criticize individual states, even in election years. And although Cabinet members usually campaign when their chief is up for re-election, the Bush effort appears greater than usual.

White House Chief of Staff James Baker has asked Mr. Bush's Cabinet members to set aside at least one or two days a week until the election to campaign, an aide said. "With a few exceptions, that means every person, every week,' a White House official said.

"Since the Nixon years, the Cabinet has increasingly become an appurtenance of the White House media machine . . . but this may be exceptional,' says Samuel Kernell, a scholar of the presidency at the University of California, San Diego.

Bush campaign spokeswoman Torie Clarke said that Cabinet secretaries would be doing more campaigning in the weeks to come. Several are in line to deliver new attacks on Mr. Clinton's tenure in Arkansas, including Secretary of Education Lamar Alexander and Secretary of Housing and Urban Development Jack Kemp.

"We're very pleased that Governor Clinton has chosen to make his Arkansas record the center of this campaign, and we will go through every bit of that record -- every bit,' Ms. Clarke said. "We will never run out of things to say about Arkansas.'

The strategy reflects an attempt to duplicate Mr. Bush's success in attacking his opponent in 1988, Massachusetts Gov. Michael Dukakis, for the Bay State's economic and environmental problems. Mr. Dukakis had made the "Massachusetts Miracle' a centerpiece of his campaign -- to a greater extent than Mr. Clinton has relied on his success in Arkansas.

But the use of federal officials and agencies to focus on one state makes some Cabinet officers uncomfortable. "The people of Arkansas and the state of Arkansas are terrific places,' Ms. Martin said, even as she described the state as a grim place of dead-end jobs and low living standards.

Mr. Barr has said that he does not want to look too partisan because he has to work with Democratic state governments, sheriffs and police chiefs in his job -- an argument that applies to most other Cabinet secretaries.

And William Reilly, chief of the Environmental Protection Agency, who has frequently clashed with the White House on policy issues, has reportedly told Bush advisers that he does not believe that the head of a regulatory agency should criticize the Democrats. He has even applauded some of Mr. Clinton's environmental positions, saying that they were borrowed from the Bush agenda.

There are no hard and fast rules about how much time Cabinet members can spend campaigning, as long as they are careful not to spend government money doing it. Tradition dictates that the secretary of state, secretary of defense and attorney general stay out of the campaign, and they have.

Mr. Baker gave up his job as secretary of state to run the campaign as chief of staff; Secretary of Defense Dick Cheney, once a GOP congressman, now turns political questions away.

Mr. Barr talked about Mr. Clinton's record in Arkansas only when a reporter pressed him and did not attend the Republican Convention last month to avoid any appearance of impropriety.

But others have taken vigorously to the campaign trail -- especially Mr. Alexander, Ms. Martin and Mr. Kemp, all of whom are said to have higher political ambitions, plus Secretary of the Interior Manuel Lujan.

Mr. Lujan, a former New Mexico congressman, has been stumping the Southwest praising Mr. Bush in English and Spanish, and last week announced the formation of "Hispanics for Bush-Quayle.'

On the other hand, Secretary of the Treasury Nicholas F. Brady, whose off-the-cuff remarks on the economy have sometimes misfired, has not been asked by the campaign to do much at all, one official said.

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---- Index References ----

News Subject: (Government (1GO80); Political Parties (1PO73); Economics & Trade (1EC26); Public Affairs (1PU31))

Region: (Massachusetts (1MA15); USA (1US73); Americas (1AM92); New England (1NE37); North America (1NO39); Arkansas (1AR83); California (1CA98))

Language: EN

Other Indexing: (CABINET; ENVIRONMENTAL PROTECTION AGENCY; GOP; INTERIOR MANUEL LUJAN; MR LUJAN; REPUBLICAN CONVENTION; SOUTHWEST; UNIVERSITY OF CALIFORNIA; URBAN DEVELOPMENT JACK; WHITE HOUSE) (Alexander; Baker; Barr; Bill Clinton; Bush; Clarke; Clinton; Dick Cheney; Dukakis; Environmental Quality; James Baker; Kemp; Lamar Alexander; Louis Sullivan; Lynn Martin; Martin; Michael Deland; Michael Dukakis; Nicholas F. Brady; Samuel Kernell; Torie Clarke; Tradition; William Barr; William Reilly)

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September 5, 1992

Section: Washington

Bush Department Heads Keeping High Profile in Disaster Area

LAWRENCE L. KNUTSON

WASHINGTON

South Florida may have temporarily lost its attraction for tourists because of Hurricane Andrew, but members of President Bush's Cabinet are helping make up for the shortage of visitors.

If there's a helicopter overhead, it might be giving the secretary of commerce a view of the wreckage left by the Aug. 24 storm.

A cluster of television cameras near a smashed school? That's the secretary of education watching the Army make repairs.

The same thing near a jail? That's the attorney general checking in.

A medical team stacking drugs on the vacated shelves in a school library. That's the secretary of health and human services walking by to make sure they do a good job.

Did someone call a news conference?

There could be as many as three Cabinet members ready to field questions about what they and their departments are doing to help.

And it's not just the Bush Cabinet.

Marilyn Quayle, wife of Vice President Dan Quayle, has been bustling around the disaster area for days, helping coordinate the movement of food and supplies among private relief agencies.

Is there a rustling of crisp new government checks?

Pat Saiki, head of the Small Business Administration, handed out $155,000 on Friday to the first five hurricane victims approved for SBA loans. Thousands more will soon be in the mail.

Presiding over the federal relief effort is Transportation Secretary Andrew Card, the administration's new "master of disaster."

Touring the flattened Homestead area Thursday, Card watched approvingly as homeowners draped plastic sheets across the roofs of those houses that still had them and cleared debris from their yards.

In this season of disaster and presidential politics, Florida is not being ignored by the administration's official family. Far from it.

Following criticism that the federal relief effort was sluggish and ineffective, Bush sent in the armed forces, then made his second trip to the region this week.

He brought his wife and Defense Secretary Dick Cheney with him. Then he sent in most of the rest of the Cabinet.

Attorney General William Barr toured local jails, met with Justice Department staff members assigned to the region and promised migrants that the Immigration and Naturalization Service "will not exploit this tragedy as an opportunity to enforce immigration laws."

Barr also denounced price gouging and said federal authorities will not tolerate discriminatory practices by people who control housing.

Commerce Secretary Barbara Franklin went to the Weather Service's National Hurricane Center in Coral Gables to congratulate staffers who continued to track Andrew even as it tore the radar off their roof.

Jack Kemp, the secretary of housing and urban development, toured damaged public housing and housing for the elderly but had no luck in persuading occupants that they would be better off moving to shelters.

Kemp held a news conference with Card and Health and Human Services Secretary Louis Sullivan, who had been touring clinics and Social Security facilities.

Sullivan also visited the tent in the parking lot of the Social

Security office in Perrine, which is helping the elderly obtain their benefits. The office building itself had been destroyed.

Education Secretary Lamar Alexander took a helicopter tour of the devastated area Friday. Later, he joined Mrs. Quayle in visiting a damaged school that Army troops were cleaning up and repairing. They also inspected a high school that had been destroyed, its roof peeled away, its equipment stolen by looters.

Amid the ebb and flow of all the visiting Republican officials was one Democrat.

Presidential nominee Bill Clinton toured the wreckage Thursday and refused to criticize how Bush has handled the crisis.

And he promised to keep the promises Bush has made including 100 percent federal financing of some parts of the recovery effort if he is elected president.

---- Index References ----

News Subject: (Natural Disasters (1NA67); Judicial (1JU36); Legal (1LE33))

Region: (USA (1US73); Americas (1AM92); Florida (1FL79); North America (1NO39))

Language: EN

Other Indexing: (ARMY; BUSH DEPARTMENT; COMMERCE; DEFENSE; HUMAN SERVICES; IMMIGRATION AND NATURALIZATION SERVICE; JUSTICE DEPARTMENT; NATIONAL HURRICANE CENTER; SBA; SMALL BUSINESS ADMINISTRATION; TRANSPORTATION; WEATHER SERVICE) (Andrew; Andrew Card; Barbara Franklin; Barr; Bush; Card; Clinton; Dan Quayle; Dick Cheney; Health; Jack Kemp; Kemp; Lamar Alexander; Louis Sullivan; Marilyn Quayle; Pat Saiki; Quayle; Sullivan; Thousands; William Barr)

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Los Angeles Times

September 5, 1992

Section: MN-Main News

Back at the White House, Most Eyes Are on Arkansas

Politics: Cabinet members, aides attack Clinton's record. But some are uncomfortable with focus on state.

LE McMANUSTIMES STAFF WRITER

TIMES STAFF WRITER

WASHINGTON

Labor Secretary Lynn Martin has looked into the Arkansas economy and doesn't like what she saw: a grim backwater of dead-end jobs and low living standards.

Health and Human Services Secretary Louis W. Sullivan has inspected Arkansas' health care system and declares that it's in woeful shape.

And Michael Deland, chairman of the President's Council on Environmental Quality, says Arkansas is "at the bottom of the heap" in environmental programs.

Why have President Bush's Cabinet members and other top Administration figures suddenly focused their attention on Arkansas? The President's reelection campaign, of course.

For several weeks, high-level Administration officials have been turning up at news conferences arranged by the Bush-Quayle campaign, taking shots at Democratic candidate Bill Clinton's record as governor of Arkansas.

Clinton has contested the charges, arguing that his accomplishments during the gubernatorial Administration that began in 1982 compares favorably to the records of most other governors. And some of the attacks have missed their target. Martin, for example, found herself admitting last week that under Clinton, Arkansas has enjoyed both rapid job growth and rising family income.

"Arkansas' growth is enormous. . . . It's true," she conceded. But she added: "It is starting from an extraordinarily low base."

The anti-Arkansas campaign is unusual for two reasons. First, Cabinet members don't normally single out individual states for criticism, even in election years.

And while Cabinet members and other top officials usually campaign on behalf of their boss, the Bush effort appears to have taken the practice to a new level. White House Chief of Staff James A. Baker III has asked Bush's Cabinet members to set aside at least one or two days a week between now and Election Day to campaign on the President's behalf, an aide says. "With a few exceptions, that means every person, every week," a White House official said.

"Since the Nixon years, the Cabinet has increasingly become an appurtenance of the White House media machine . . . but this may be exceptional," says Samuel Kernell, a scholar of the presidency at UC San Diego.

Bush campaign spokeswoman Torie Clarke said several Cabinet secretaries are in line to deliver new attacks on Clinton's tenure in Arkansas, including Education Secretary Lamar Alexander and Housing and Urban Development Secretary Jack Kemp.

"We will go through every bit of (Clinton's) record--every bit," Clarke says. "We will never run out of things to say about Arkansas."

The strategy reflects an attempt to duplicate Bush's success in attacking his 1988 opponent, Gov. Michael S. Dukakis, for Massachusetts' economic and environmental problems.

Dukakis had made the "Massachusetts Miracle" the centerpiece of his campaign. Clinton's record has not been as central to his campaign, but he frequently has pointed to it with pride, especially in the areas of economic development and education.

The use of federal officials and agencies to grill one state makes some Cabinet officers uncomfortable. "The people of Arkansas and the state of Arkansas are terrific places," Martin proclaimed, even as she aired her attack on the state's economic condition.

Atty. Gen. William P. Barr has said he does not want to look too partisan because he has to work with Democratic state governments, sheriffs and police chiefs in his job--an argument that applies to most other Cabinet secretaries and some top Administration officials.

Environmental Protection Agency Administrator William K. Reilly, who has frequently clashed with the White House on policy issues, has reportedly told Bush advisers that he does not think the head of a regulatory agency should criticize the Democratic ticket. Indeed, Reilly has even applauded some of Clinton's environmental positions, saying they were borrowed from the Bush agenda.

There are no hard and fast standards about how much time Cabinet members can spend campaigning, as long as they are careful not to spend government money doing it.

"As a moral issue, I think there's an argument for saying it's OK to have Cabinet officers take part in campaigns," said Kernell, the UC San Diego scholar. "It's healthy for government to think of itself as a team, and it gives us a better sense of what the team looks like. Who is Lynn Martin or Lamar Alexander? What kind of leaders are they? This is a way to find out."

Still, tradition dictates that the secretary of state, defense secretary and attorney general stay out of the campaign, and they have.

Baker gave up his job as secretary of state to run the campaign as chief of staff; Defense Secretary Dick Cheney, once a fiercely partisan GOP congressman, now turns political questions away with a wry smile.

Barr recently described Arkansas as having a rising crime rate and "very low investment in law enforcement." But he raised those issues only when a reporter repeatedly pressed, and he did not attend the Republican National Convention last month in order to avoid any appearance of impropriety.

Asked how much political activity was proper for a Cabinet officer, Barr said: "It's not always an easy line to draw. Things like direct participation in fund raising . . . you don't do that. (But) I think it's appropriate to speak out on the Administration's record on policies and to respond to attacks."

But others have taken to the campaign trail with a vengeance, especially secretaries Alexander, Martin and Kemp--all of whom have higher political ambitions, and Interior Secretary Manuel Lujan Jr., an oft-criticized figure who many observers believe could be in danger of losing his post in a second term.

Lujan, a former New Mexico congressman, has been stumping the Southwest praising Bush in both English and Spanish. Last week, he announced the formation of "Hispanics for Bush-Quayle."

Some Cabinet secretaries apparently are not in demand. Treasury Secretary Nicholas F. Brady, whose off-the-cuff remarks on the economy have sometimes misfired, has not been asked by the campaign to do much, and that is unlikely to change, one official said.

Times staff writers Douglas Jehl and Ronald J. Ostrow contributed to this story.

---- Index References ----

News Subject: (Government (1GO80); Political Parties (1PO73); Economics & Trade (1EC26); Public Affairs (1PU31))

Industry: (Environmental Regulatory (1EN91))

Region: (Massachusetts (1MA15); USA (1US73); Americas (1AM92); New England (1NE37); North America (1NO39); Arkansas (1AR83))

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Keywords: PRESIDENTIAL ELECTIONS -- 1992; CLINTON, BILL; BUSH, GEORGE; ARKANSAS -- GOVERNMENT; POLITICAL CAMPAIGNS; UNITED STATES -- GOVERNMENT OFFICIALS

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NewsRoom

NewsRoom

9/5/92 Miami Herald 23A
1992 WLNR 2303604

Miami Herald (FL)

September 5, 1992

Section: FRONT

MIGRANTS TOLD NOT TO FEAR ROUNDUP

DAVID LYONS Herald Staff Writer

Illegal immigrants who live in the migrant farm camps of South Dade will not be arrested by federal agents for as long as the relief effort in the wake of Hurricane Andrew is under way, Attorney General William Barr said Friday.

Barr, in South Florida to tour the storm-devastated areas and visit federal law enforcement agencies, said Border Patrol and Immigration and Naturalization Service agents had been heavily involved in aiding those affected by the storm.

Since the storm, migrants illegally in the country have balked at seeking federal services for fear that they would be detained.

"I can assure all the community that we will not exploit this tragedy as an opportunity to enforce immigration laws," Barr said in a statement. "Those who are seeking emergency relief should do so without concern for their immigration status."

Barr made the remarks after touring the Metropolitan Correctional Center and the Krome Avenue Detention Center. Both were heavily damaged by the storm.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Police (1PO98))

Language: EN

Other Indexing: (IMMIGRATION AND NATURALIZATION SERVICE; KROME AVENUE DETENTION CENTER; METROPOLITAN CORRECTIONAL CENTER; MIGRANTS; ROUNDUP) (Barr; Border Patrol; William Barr)

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NewsRoom

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1992 WLNR 4940077

San Antonio Express-News

September 3, 1992

war, border issues

John MacCormack

interview Wednesday, U.S. Attorney General William Barr spoke freely on a variety of law enforcement and border topics, but on the issue of keenest local interest, he fell mute.

Barr declined to respond to the question of when the 3-year-old federal criminal investigation of U.S. Rep. Albert Bustamante, D-San Antonio, might be concluded. Can't discuss Bustamante probe "I don't even confirm or deny a particular individual is under investigation. I really can't discuss it. I never do," he said.

Bustamante, reached in Del Rio, declined comment, too.

Barr was interviewed by the San Antonio Express-News several hours after delivering a rousing address to about 850 federal agents at the annual Organized Crime Drug Enforcement Task Force conference here.

The 10-year-old task force consists of representatives of nine federal agencies.

In his morning speech, Barr praised the agents as being the "leaders and warriors in our nation's greatest struggle, the war on drugs."

The attorney general rolled out statistics indicating drops in domestic cocaine usage and said these were proof of concrete progress.

But he also chided the permissiveness of past generations, and warned the "critics on the sidelines with stopwatches" that the drug was is far from over.

"The critics of the drug war want instant gratification now just as they wanted instant gratification in the 1960s and '70s," he said. 'Long, hard fight' "It's going to be a long, hard fight," he added.

"We didn't reach this sad state of affairs overnight. It took us at least 25 years, since the mid-60s, to dig ourselves into this hole," Barr said.

Hours later he examined the more problematic aspects of a federal anti-drug effort that depends in large part upon close cooperation with Mexican government officials.

And Barr, who is scheduled to meet here Wednesday night with his Mexican counterpart, Ignacio Morales Lechuga, as part of their regular series of get-togethers, acknowledged recent events have complicated a delicate relationship.

The low point came earlier this year when the U.S. Supreme Court ruled a U.S. Drug Enforcement Administration-financed abduction of Mexican Dr. Humberto Alvarez Machain from Guadalajara in 1990 was not illegal.

Alvarez, still jailed in Los Angeles, was sought as a suspect in the 1985 kidnapping and torture-murder of DEA agent Enrique Camarena Salazar, a crime that enraged U.S. drug enforcement agents.

But the Supreme Court decision infuriated Mexico, confirming a pervasive national conviction about U.S. disregard for its southern neighbor's sovereignty.

Mexico, at the time, asked that the binational extradition treaty be rewritten, but Barr said Wednesday he does not know of any developments in that matter.

"I think that request went to the State Department. I'm not aware of any decision to change the extradition treaty," he said. U.S. aid rejected The Alvarez crisis has resulted in a Mexican rejection of $20 million from the United States to maintain a helicopter fleet used to eradicate marijuana and poppy fields.

In addition, Mexico continues to refuse to permit U.S. agents in Mexico to carry weapons.

Further adding friction, Jorge Carrillo Olea, the deputy attorney general in charge of drugs, has proved far more difficult to work with for U.S. drug officials than his longtime predecessor, Javier Cuello Trejo, who left almost two years ago.

But Barr, who said relations between him and Morales are smooth, interpreted the events as a move in the direction of independence.

"I think the Mexicans are clearly seeking to take fuller responsibility for drug enforcement in Mexico, to 'Mexicanize' a lot of the activities down there," Barr said.

And, he said, it would be incorrect to assume this will mean a breakdown in the binational drug war or to interpret it as "anti-U.S."

"I don't think that (move toward independence) is inconsistent necessarily with effective law enforcement and good cooperation with the United States," Barr continued.

"It remains to be seen if we are able to accomplish the kind of enforcement we want to in Mexico under those circumstances," he said.

On border issues, Barr said, federal authorities have been so pleased with improvements in fencing and other obstacles to illegal entry in Southern California, that they may try them in Texas. San Diego fencing "In San Diego we've been fairly successful. We put up fencing you can't cut through. We have some evidence that the Mexicans think that is now a very difficult place to come across," he said.

But, beyond mention of possibilities in Laredo and El Paso, the attorney general was vague about where hardware such as solid steel fences and barriers for cars might be installed in Texas.

On immigration issues, Barr said he is pressing for legislation that would reduce the number of non-citizens serving time in U.S. jails and prisons, and would expedite the deportation of undocumented aliens who commit crimes or attempt to pursue "frivolous" claims to political asylum.

One specific proposal calls for the speedy deportation of criminal illegal aliens who have finished serving time for violent felonies, regardless of extenuating circumstances.

"Under current law, a criminal alien can argue against deportation because of certain equities, such as having a family here, and that process can be drawn out," he said.

"We want to say: If a guy is a rapist and has a grandmother here, tough," the attorney general said.

Under Barr's plan, the expedited deportation hearing could even be held before the person is released from prison, saving immigration officials the task of tracking down those who have been released.

Touching upon another hot binational issue, Barr said Mexican complaints about abuses by the U.S. Border Patrol, a regular gripe in the Mexican national news media, are not sustained by the facts.

"I've been to the border. I have talked to the Border Patrol. I have looked at the reports. They do a terrific job under adverse circumstances," Barr said.

"The charges against them are unjustified," he said.

Also Wednesday, Barr praised U.S. Western District of Texas prosecutors for a superb job in convicting armed career criminals.

Barr presented U.S. Attorney Ron Ederer a plaque for heading the U.S. attorney's office with the most prosecutions during the first year of "Project Triggerloc "

The program, designed to remove and imprison armed career criminals, resulted in 271 prosecutions from May 1991 to April in the 68-county district. Triggerlock combines efforts of federal, state and local law enforcement agencies and prosecutors. Staff Writer Jim Price and the Associated Press contributed to this story.

---- Index References ----

Company: STATE DEPARTMENT

News Subject: (Violent Crime (1VI27); Legal (1LE33); Social Issues (1SO05); Government (1GO80); Police (1PO98); Government Litigation (1GO18); International Law (1IN60); Crime (1CR87); Judicial (1JU36); Criminal Law (1CR79); Economics & Trade (1EC26))

Region: (Americas (1AM92); North America (1NO39); Texas (1TE14); Latin America (1LA15); Mexico (1ME48); USA (1US73); California (1CA98))

Language: EN

Other Indexing: (BORDER PATROL; DEA; EL PASO; ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE; STATE DEPARTMENT; SUPREME COURT; US BORDER PATROL; US DRUG ENFORCEMENT ADMINISTRATION; US SUPREME COURT; WAR) (Albert Bustamante; Alvarez; Barr; Bustamante; Enrique

Camarena Salazar; Humberto Alvarez Machain; Ignacio Morales Lechuga; Javier Cuello Trejo; Jorge Carrillo Olea; Ron Ederer; Staff Writer Jim; Triggerlock; William Barr)

Keywords: -KEYS-

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Houston Chronicle

September 2, 1992

Section: A

Prison crowding deal frustrates AG/Settlement goes against federal effort

JO ANN ZUNIGA

The U.S. Attorney General told local law enforcement officials Tuesday that he was disappointed about a state prison lawsuit that appears headed for a settlement "too much in favor of inmates."

William P. Barr referred to Texas Attorney General Dan Morales's decision to settle Ruiz vs. Collins, a 20-year-old prison federal lawsuit on overcrowded conditions.

The U.S. Justice Department last month filed a brief asking U.S. District Judge William Wayne Justice to end federal court control of state prisons. Texas decided to negotiate a settlement that could include fixed population caps on all existing prison units, which contain nearly 51,000 beds, and continued federal jurisdiction.

"Last month . . . we called for the end of the Ruiz case," Barr said, "to get the judge out of the job of regulating prisons."

Some state legislators claim the convicts' case would have lost on appeal because the Supreme Court now is conservative. The Ruiz lawsuit is named after inmate David Ruiz, who filed the suit in 1972 to protest prison conditions.

In his Tuesday visit to Houston, Barr also toured the 1-year-old extension of the Harris County Jail with a 4,500-bed capacity that has made it the nation's largest county jail. He presented a plaque to local federal prosecutor Ronald Woods and District Attorney John B. Holmes Jr. for ranking among the highest for prosecutions under Project Triggerlock.

The federal program does not allow parole for repeat offenders possessing illegal weapons.

"This program started in April '91 as a way of catching chronic offenders and keeping them off the streets," Barr said during the presentation outside the Harris County Jail at 701 San Jacinto.

Among federal judicial districts in Texas, San Antonio led the nation with 271 prosecutions, Dallas was third with 211 and Houston fifth with 194.

Woods responded, "Next year, we hope to be first."

Barr, scheduled to present plaques to prosecutors in other top cities , said 6,400 people have been prosecuted under Project Triggerlock.

But in an earlier luncheon speech before the Houston Club, Barr said the state must deal with 95 percent of the violent crimes committed.

In 1989, the federal court system handled 43,500 criminal cases. State courts dealt with more than 10 million.

---- Index References ----

News Subject: (Legal (1LE33); Judicial (1JU36); Prisons (1PR87); Government Litigation (1GO18); Economics & Trade (1EC26))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Texas (1TE14))

Language: EN

Other Indexing: (HOUSTON CLUB; SUPREME COURT; US JUSTICE DEPARTMENT) (Barr; Dan Morales; David Ruiz; John B. Holmes Jr.; Justice; Ronald Woods; Ruiz; Texas; William P. Barr; William Wayne; Woods)

Edition: 2 STAR

Word Count: 461

End of Document

8/30/92 L.A. Times 12
1992 WLNR 4036428

Los Angeles Times

August 30, 1992

Section: MN-Main News

Nation's Violent Crime Rate Climbs 3.6%, FBI Reports

Law: The 1-year increase in California is 4.3%. Cities are worst hit, and a wave of juvenile offenses continues to grow.

ERT L. JACKSONTIMES STAFF WRITER

TIMES STAFF WRITER

WASHINGTON

The nation's violent crime rate rose 3.6% last year, to a total of 1.9 million reported offenses, the FBI said Saturday in an annual report.

In California, 331,122 violent crimes were reported in 1991, the report said, for an increase of 4.3% from the previous year.

The FBI also reported a continuing crime wave among juveniles. Over the decade ending in 1990, violent crime arrests of youths aged 10 to 17 grew by 27%.

The figures, based on records from 16,000 local law enforcement agencies, promptly stimulated a debate over the Bush Administration's response to the problem.

U.S. Atty. Gen. William P. Barr noted that over the last 10 years the violent crime rate, which is based on the number of reported crimes per 100,000 population, has not risen as sharply as it did during the previous two decades. He attributed the slower rate of increase to tougher treatment of repeat offenders.

But Democratic Rep. Charles E. Schumer of New York, chairman of the subcommittee on crime of the House Judiciary Committee, said the new figures illustrate the Administration's "total inability to deal with the crime problem." Schumer accused the White House of opposing gun-control legislation because of pressure from the National Rifle Assn.

The FBI reported that for all age groups, the rate of violent crimes--murders, rapes, robberies and aggravated assaults--increased by 24% from 1987 to 1991.

The rate of violent crime was highest in the nation's cities, which registered 1,015 offenses for every 100,000 population. The rate in suburban counties was 470 per 100,000, while in rural counties, 214 violent crimes were reported per 100,000.

Barr called the 1991 figures "unacceptably high," but said he found comfort that the increases over the last 10 years "are significantly lower than in the previous two decades."

He noted that "the violent crime rate increased by 126% between 1960 and 1970 and by 64% between 1970 and 1980, but only 22.7% between 1980 and 1990."

This, he said, "makes clear that the imprisonment of chronic violent offenders has a dramatic positive effect on the amount of violent crime," drawing the parallel that "in the 1960s and early 1970s incarceration rates fell and crime rates skyrocketed."

By contrast, said Barr, "when incarceration rates increased substantially in the 1980s, the rate of increase of crime was substantially reduced."

However, Schumer said the new figures "clearly illustrate the Administration's total inability to deal with the crime problem."

"People are scared," said Schumer, "and these tragic numbers show that they have every right to be. This report proves that the carnage in the streets continues to get worse despite all the tough talk from the Administration."

He said FBI figures showing that seven out of 10 murders are committed with firearms demonstrates the need for the Administration to support the so-called Brady bill, passed by the House last year, to impose controls over handgun purchases.

Barr and Schumer also drew different conclusions from the violent crime rate among juveniles.

Barr said the trend "clearly shows that we must enact wholesale reform of the juvenile justice system so that for the vast majority of juvenile offenders, their first brush with the law is their last, and that the small group of chronic, hardened, youthful offenders are incapacitated for extended periods."

But the long-term solution, he said, "falls largely outside of the law enforcement system. It requires strengthening those basic institutions--the family, schools, religious institutions and community groups--that are responsible for instilling values and creating law-abiding citizens."

Schumer said the sharp rise in violent crimes committed by juveniles "clearly illustrates another area where the Administration's efforts have been totally lacking."

He said Administration officials have proposed "radical cuts in funding for juvenile justice programs, and they do not support a provision in the crime bill that would guarantee early intervention and certainty of punishment for juvenile and youthful offenders."

The FBI report gave statistics for juvenile crimes over the decade 1980 to 1990, but did not provide figures for individual years.

The juvenile crime rate overall--including violent acts as well as nonviolent burglary, larceny-theft and auto theft offenses--was higher for white youth than for minorities. The rate for white youths rose 44% during the decade, compared to a 19% increase among black youths and a decline of 53% in other racial groups. However, in the category of violent crimes, the rate for black youths was five times that of whites.

The number of youths of all races who committed murder using guns was up 79% in the decade.

Other items from the report:

--Firearms were the weapons used in 31% of all murders, robberies and assaults, an increase from 1987 when firearms figured in 26% of all cases.

--A total of 718,890 people were arrested for violent crimes last year, of which 54% were white.

--A total of 14.2 million arrests were made for non-traffic offenses in 1991, down 1% from 1990. Of those arrested, 46% were under 25, 81% were male and 69% were white.

--Murders totaled 24,703 in 1991, or one for every 10,000 Americans.

Of the victims, 78% were male, 89% were 18 or older, 50% were black and 47% were white. Nearly half knew their assailants; 28% of female victims were killed by husbands or boyfriends.

Of the 24,578 people charged with murder, 90% were male and 87% were over 18. Fifty-five percent were black and 43% white.

--Eighty-three of every 100,000 females were reported to be rape victims last year, up 3% from 1990 and 13% from 1987.

--Property crimes numbered 13 million in 1991, up 1% from the previous year. Losses totaled $16.1 billion.

---- Index References ----

News Subject: (Violent Crime (1VI27); Parents & Parenting (1PA25); Crime (1CR87); Property Crime (1PR85); Legal (1LE33); Judicial (1JU36); Social Issues (1SO05); Criminal Law (1CR79); Health & Family (1HE30); Police (1PO98); Teenagers (1TE59))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); California (1CA98))

Language: EN

Other Indexing: (ADMINISTRATION; FBI; HOUSE; HOUSE JUDICIARY COMMITTEE; NATIONAL RIFLE ASSN; VIOLENT CRIME RATE; WHITE HOUSE) (Barr; Bush; Charles E. Schumer; Democratic Rep; Fifty; Losses; Schumer; William P. Barr)

Keywords: CRIME -- UNITED STATES; CRIME STATISTICS

Edition: MO-Home Edition

Word Count: 1157

NewsRoom

NewsRoom

8/29/92 Reuters News 00:00:00

Reuters

August 29, 1992

VIOLENT CRIME HITS NEW RECORD IN UNITED STATES.

WASHINGTON, Aug 30, Reuter - Violent crime in the United States reached a record high last year and teenagers committed one-sixth of all homicides, according to government crime statistics.

The rate of violent crime, which includes murder, assault, robbery and rape, increased 3.6 per cent according to the 1991 Uniform Crime Reports being released Sunday.

The study is a compilation of records from 16,000 local law enforcement agencies across the country.

The statistics showed 24,703 murders in 1991, up 4.3 per cent to a rate of almost 10 per 100,000 people, and Washington had the highest murder rate of any large city.

Overall, crime rose at a rate of only one per cent in 1991, according to the statistics released by the Federal Bureau of Investigation.

Firearms were used to commit 14,265 homicides, a jump of 9.4 per cent from the previous year and representing six of every 10 murders. The number of murders committed with handguns rose 13 per cent.

Nearly one-sixth of murders were committed by youths aged 15 to 19, who made up a larger proportion of killers than any other age group. The report noted a surge in youth arrests for murder during the 1980s.

Responding to the trend, U.S. Attorney General William Barr called for an overhaul of the criminal justice system.

"We must enact wholesale reform of the juvenile justice system so that for the vast majority of juvenile offenders, their first brush with the law will be their last," Barr said in a statement.

Democrats in Congress said the report showed more than ever the need for stricter, nationwide controls on handguns.

Among cities of more than 100,000 with high murder rates in 1991, Washington topped the list with 80.6 murders per 100,000 people, followed by New Orleans with 68.9.

---- Index References ----

News Subject: (Social Issues (1SO05); Violent Crime (1VI27); Criminal Law (1CR79); Legal (1LE33); Crime (1CR87); Assault & Battery (1AS33); Regulatory Affairs (1RE51); Judicial (1JU36); Murder & Manslaughter (1MU48))

Region: (North America (1NO39); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (CONGRESS; FEDERAL BUREAU OF INVESTIGATION) (Barr; VIOLENT CRIME HITS; William Barr)

Word Count: 283

End of Document

8/26/92 Wash. Times (D.C.) A1
1992 WLNR 122271

Washington Times (DC)

August 26, 1992

Section: A

L.A. POLICE SAY GANGS' 'TRUCE' IS A SHAM

Jerry Seper THE WASHINGTON TIMES

A truce between the Bloods and Crips, two deadly Los Angeles gangs, was nothing more than a public relations gimmick and has had little or no impact on continuing violence in that city, police said.

"There never was any gang truce, never at all," said Officer Bill Frio, a Los Angeles Police Department spokesman. "The violence continues and might even have increased since the riots."

Officer Frio's comments came this week after Los Angeles' deadliest weekend since the riots in April that followed the acquittal of four Los Angeles police officers in the beating of Rodney King.

The tally of 23 weekend homicides - nine of them gang-related - was nearly double that of an average August weekend in Los Angeles, police said. Another 24 persons were wounded in shootings or stabbings from Friday through Sunday.

The gang slayings included the death of a 14-year-old girl caught in a shootout, the killing of two men at a party during which two others were wounded, a drive-by shooting in which a 17-year-old boy was killed and three other persons were wounded, and the killings of two men found shot to death in a car.

"If you have 15 warring factions in the city and two of them come to some kind of accommodation, that's not a truce," said Officer Frio. "It's a limited cease-fire. Nothing more and nothing less."

David Puglia, spokesman for California Attorney General Daniel E. Lungren, declined to comment on the Bloods-Crips truce but said gang violence is continuing in the city and state law enforcement officials are "very concerned."

Mr. Puglia said that a joint agency task force has been "heavily involved" in identifying gang leaders and members for the past several months and that the situation in Los Angeles is being "closely watched."

"It's a very tenuous situation, and we're monitoring it day by day," said Joe Hicks, executive director of the Southern Christian Leadership Conference in Los Angeles. "But the truce is holding amazingly well. That's not to say there won't be killings and that gang members won't be involved in crime."

Mr. Hicks, who helped negotiate the truce, conceded that the Bloods and Crips continue in drug sales, burglaries and robberies but said they have stopped killing each other and "innocent bystanders are not getting caught in their cross fire."

Officer Frio acknowledged there has been a drop in the number of deaths among Bloods and Crips since April but noted that there has been no respite from the gang violence and killings that continue to plague the city. The two gangs, which control three major public housing areas of south-central Los Angeles, continue to be involved in street crime, drug sales, robberies, burglaries and killings, he said.

Efforts to contact members of the Bloods and Crips were unsuccessful. Sources said gang leaders were willing to talk to the media, but not on the telephone.

It was a public truce announced in May that brought the Bloods and Crips nationwide attention. The two gangs shook hands after the city's devastating riot and agreed there would be no more gang-on-gang violence. It was a waste, they said, and the time had come to put an end to the mayhem.

The pact was applauded by city officials, community and religious leaders, politicians and the media. Gang bosses became celebrities - featured in newspaper stories and on television shows, where they were described as "articulate" and "eloquent."

"Little Monster" of the Crips was featured on ABC-TV's "Nightline," where anchor Ted Koppel said he liked the gang leader and other gang bosses "very much and was extremely impressed with a great deal of what they had to say and the passion with which they said it."

Monster's real name is Kershaun Scott. He served 5 1/2 years at a juvenile detention center for killing a rival gang member at the age of 15. His gang has been tied to hundreds of crimes, including killings, burglaries and robberies, and is a suspected leading supplier of cocaine throughout the United States.

Of the 235,000 known gang members nationwide, the 26,000 Crips and 15,000 Bloods are considered among the most deadly. Although headquartered in Los Angeles, the gangs have spread their operations to more than 50 cities nationwide.

Many law enforcement officials believe the public truce was simply an opportunity by gang members to capitalize on the riot. They said the impetus was a common desire to cash in on a frenzy of looting that erupted after the jury acquittals.

Later, according to Justice Department officials, gang leaders planned joint raids against Hispanic and Korean businesses, a number of which were looted and burned, and used the riot to steal and stockpile weapons.

Attorney General William P. Barr said a federal investigation has found that the involvement of gang members in the riot was significant. Investigators are looking into allegations that gang leaders made plans in advance to use the verdict as an excuse to break into gun stores, he said.

"I think a lot of the violence and the looting did not have much to do with Rodney King," Mr. Barr said. "I think a lot of that kind of activity was the criminal element taking advantage of the situation."

Officials at Community Youth Gang Services, a private community help organization in Los Angeles, estimates that up to 30 percent of the rioters, looters and arsonists were gang members. More than 13,000 people were arrested.

Shortly after truce was announced, fliers began circulating in several Los Angeles neighorhoods, urging retaliation against Los Angeles police. They declared an "open season" on the officers.

"To all Crips and Bloods: Let's unite and don't gangbang. An eye for an eye, a tooth for a tooth," the fliers said. "If LAPD hurts a black, we will kill too: pow, pow, pow."

G0033580-082692

---- Index References ----

Company: ABC INCO

News Subject: (Violent Crime (1VI27); Crime (1CR87); Property Crime (1PR85); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Criminal Law (1CR79))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); California (1CA98))

Language: EN

Other Indexing: (ABC; ATTORNEY; BLOODS; CALIFORNIA ATTORNEY; COMMUNITY YOUTH GANG SERVICES; JUSTICE DEPARTMENT; LAPD; RODNEY; SHAM; SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE; TRUCE) (Barr; Bill Frio; Crips; Daniel E. Lungren; David Puglia; Frio; Hicks; Joe Hicks; Kershaun Scott; L.A. POLICE; Monster; Puglia; Ted Koppel; TV; William P. Barr)

Edition: Final

Word Count: 1167

End of Document

Iraq probe

The National Journal

August 15, 1992

Section: AT A GLANCE; A Weekly Checklist of Major Issues; Legal Affairs; Vol. 24, No. 33; Pg. 1908

Length: 268 words

Body

Attorney General ***William P. Barr*** has refused a congressional request for an independent counsel to investigate possible illegal activities undertaken by the Bush Administration to avoid revelations about its pre-Persian Gulf war policy toward Iraq. Barr's decision marks the first time that an Attorney General has turned down a congressional request for a special prosecutor.

Sources said that the decision could signify the Bush Administration's growing hostility to the statute, which could be amended next year. Barr, in a statement, said that he was confident the Justice Department could conduct its own investigation. Congress's request for an investigation contains only "vague and general allegations," his statement said. Members of Congress immediately criticized Barr's decision. "It's stonewalling, plain and simple," Jack Brooks, D-Texas, the chairman of the House Judiciary Committee, said. According to Brooks, the Attorney General misconstrued what is required under the law that establishes procedures for an investigation by a special counsel. "The statute does not require Congress to present a signed and sealed indictment of criminal wrongdoing for the prosecutor to simply execute the next day," Brooks said. Other lawmakers suggested there was ample evidence that the Bush Administration has covered up the most unsavory and politically embarrassing aspects of its policy toward Iraq. "I think there are more smoking guns lying around Washington and around the country in this matter than there ever were at the battle of Bull Run," Rep. Charles Rose, D-N.C., said.

Classification

Subject: INVESTIGATIONS (91%); ATTORNEYS GENERAL (91%); US FEDERAL GOVERNMENT (90%); JUSTICE DEPARTMENTS (79%); LAW ENFORCEMENT (78%); LEGISLATIVE BODIES (78%); INDICTMENTS (76%); US DEMOCRATIC PARTY (73%); DESERT STORM (72%)

Company: US DEPARTMENT OF JUSTICE (57%); US DEPARTMENT OF JUSTICE (57%)

Organization: US DEPARTMENT OF JUSTICE (57%); US DEPARTMENT OF JUSTICE (57%)

Geographic: TEXAS, USA (79%); UNITED STATES (93%); IRAQ (92%); GULF STATES (58%)

8/9/92 WashingtonPost.com (Pg. Unavail. Online)
1992 WLNR 5559741

WashingtonPost.com

August 9, 1992

ADMINISTRATION CRITICIZED FOR FOCUS OF CRIME FIGHT; ABA PRESIDENT SENDS LETTER TO WHITE HOUSE

Saundra Torry

The president of the American Bar Association has sharply criticized the Bush administration for focusing on "get-tough edicts" to deal with violent crime while ignoring gun control and drug treatment. In a letter to President Bush last week, Miami lawyer Talbot "Sandy" D'Alemberte, head of the 370,000-member ABA, waded into the election-year crime debate by blasting a recent Justice Department report. Released last month by Attorney General William P. Barr, the report calls on states to combat violent crime with tougher bail, sentencing and parole policies, as well as stiffer treatment of youthful offenders. The report said that states need to jail more defendants before trial, adopt mandatory minimum sentences for violent crimes committed with a weapon and limit parole, but it did not make recommendations on how states could pay for such changes.

D'Alemberte disagreed vehemently with the report's focus and recommendations, charging that it was filled with "quick fixes" and that it ignores the "broad societal" causes for crime. He criticized the "emphasis on building prisons" as a solution to the nation's corrections crisis and the administration's failure to endorse gun control. Barr quickly fired back, saying he was "extremely disappointed, although not surprised" at D'Alemberte's criticism. "Last year, {D'Alemberte} defended the broken system of civil justice in America; now he defends a revolving door system of criminal justice," Barr said in a statement. "I am concerned that these criticisms are further evidence that the ABA, rather than seeking to strengthen the criminal justice system, has merely become the mouthpiece for the criminal defense bar in order to promote its tactical advantage," Barr added. The ABA, which opens its annual meeting Monday in San Francisco, has been feuding with the Bush administration since its convention last year. Vice President Quayle spoke at the meeting, criticizing lawyers and laying out the administration's plan to reduce the nation's legal bills. As its 1992 meeting was about to open, the ABA also released two justice system reports that echoed some of the themes of D'Alemberte's letter. One, done in the wake of the Los Angeles riots that erupted after the verdicts in the Rodney G. King police beating trial, found that the justice system intentionally or unintentionally treats minorities inequitably and that efforts at reform have been "relatively ineffectual." The report asserted that the disproportionately high number of minorities in prisons is "linked to poverty and lack of family structure and education that plague the lives of the urban poor." In a separate report, the ABA said "the justice system in many parts of the United States is on the verge of collapse due to inadequate . . . and unbalanced funding." Incoming ABA president Michael McWilliams, a Baltimore lawyer, said this "justice deficit" has "real victims," people who are unable to get access to the system. An ABA-commissioned survey of the justice system in the District and 50 states found what the report called "alarming" examples of the crisis, including: * In New Jersey, more than 500 police were laid off in 1991. * Georgia and Michigan undertook massive reductions in their corrections forces. * Five states reported that, because of lack of funds, public defenders were turning away poor people. * Twenty-four states reported increased prison crowding or the use of early release programs to ease overcrowding. Florida was

forced to release 3,000 inmates after a midyear budget cut of $45 million in the 1991-92 fiscal year. * Ten states reported "undue delay" in the wait for a civil trial, and in Philadelphia the delay was up to five years. More than 15 states and the District raised fees charged to file civil cases.

---- Index References ----

News Subject: (Legal (1LE33); Prisons (1PR87); Government Litigation (1GO18); Social Issues (1SO05); Gun Rights & Regulations (1GU97); Judicial Cases & Rulings (1JU36))

Region: (Florida (1FL79); USA (1US73); Americas (1AM92); U.S. Southeast Region (1SO88); North America (1NO39))

Language: EN

Other Indexing: (Michael McWilliams; Quayle; George Bush; William Barr; Talbot D'Alemberte)

Word Count: 596

End of Document

8/8/92 San Jose Mercury News 3B
1992 WLNR 1302643

San Jose Mercury News (CA)

August 8, 1992

Section: California News

LEADER ASKS BAR ASSOCIATION TO BACK ABORTION \RIGHTS\TOP LAWYER ATTACKS BUSH CRIME PROPOSALS

Associated Press

San Francisco

The president of the American Bar Association called Friday for the lawyers' group to reinstate its support of abortion rights, and he criticized the Bush administration's proposals on crime and civil law.

The ABA's current policy of neutrality on abortion "betrays our tradition of being involved where justice issues are concerned," Talbot D'Alemberte said at a news conference at the start of the association's annual convention, where abortion will be a prime issue.

He also recalled that the association was silent during the civil rights struggles of the 1950s.

The 370,000-member ABA, which represents about half of the nation's lawyers, adopted an abortion-rights stance in January 1990, six months after a U.S. Supreme Court ruling increasing states' power to restrict abortions. After protests by abortion opponents and other lawyers who wanted the association kept out of the issue, delegates returned to a neutral stance later that year.

The current convention, attended by more than 13,000 lawyers, comes a month after the high court's latest ruling, which upheld additional restrictions but did not allow states to ban all abortions.

The group's Board of Governors voted 15-11 Thursday to take no position on a resolution that would oppose state and federal restrictions on abortion. But the resolution will be presented Monday for an advisory vote in the Business Assembly, which any member can attend.

On Tuesday, D'Alemberte, a Miami lawyer completing his one-year term as ABA president, is to present the measure to the policy-making House of Delegates. If the two bodies disagree, all of the association's members will have to be polled.

D'Alemberte laughed when asked why the public should care what stance the organization takes. But, he said, "when the ABA takes a position, it seems to me that Congress and state legislators frequently will listen to us."

He noted that neutrality prevents the association from testifying, lobbying or taking part in court cases on abortion issues. Though some lawyers quit the group after the pro-choice resolution passed, D'Alemberte said the neutrality stance has probably discouraged new membership among the steadily growing ranks of female lawyers.

Past President John Curtin of Boston, who led the fight for neutrality in 1990, said Friday the association should maintain that position to keep its credibility among lawyers with diverse views. Unless the legal profession can do something to bring opposing sides together, it should stay out of the debate, Curtin said in an interview.

D'Alemberte also released a letter he sent Thursday to President Bush criticizing Attorney General William Barr's newly released crime proposals. The proposals include longer sentences, more prisons, restricted appeals and more prosecution of juveniles as adults.

Some of the recommendations threaten individual rights, others will do little about crime, and all focus simplistically on law enforcement while ignoring the causes of crime, D'Alemberte wrote. He said Barr also failed to mention gun control or funding shortages in the justice system.

Barr issued a statement in response, accusing D'Alemberte of "defending the revolving-door system of criminal justice that allows violent criminals to roam free."

---- Index References ----

Company: AMERICAN BAR ASSOCIATION

News Subject: (Legal (1LE33); Judicial (1JU36))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (ABA; AMERICAN BAR ASSOCIATION; CONGRESS; HOUSE OF DELEGATES; US SUPREME COURT) (Alemberte; Barr; Bush; Curtin; D'Alemberte; John Curtin; LAWYER ATTACKS BUSH CRIME; Past President; Talbot D'Alemberte; William Barr)

Edition: Morning Final

Word Count: 657

NewsRoom

8/4/92 Tulsa World 7A
1992 WLNR 4886160

Tulsa World

August 4, 1992

Section: NEWS

State law officers asked to back reform

OKLAHOMA CITY (AP) - U.S. Attorney General William Barr asked support of Oklahoma law officers for his plan to reform the justice system, saying the nation needs to change the way it handles its violent criminals.

Barr said Oklahoma City police efforts to control drug trafficking and violence are "exactly what's needed."

Tough law enforcement and community-based prevention programs are two of state and local law enforcements' best weapons against violence, Barr said.

Other points in his 24-point plan include pretrial detention of dangerous defendants, tougher parole conditions, mandatory minimum penalties for crimes with guns, more prisons and more death penalties.

---- Index References ----

Region: (USA (1US73); Americas (1AM92); Oklahoma (1OK58); North America (1NO39))

Language: EN

Other Indexing: (Barr; William Barr)

Edition: FINAL HOME

Word Count: 136

End of Document

NewsRoom

NewsRoom

7/31/92 WashingtonPost.com (Pg. Unavail. Online)
1992 WLNR 5547965

WashingtonPost.com

July 31, 1992

FOR THE RECORD

From remarks by Attorney General William Barr at a briefing in the White House July 29: Barr: This morning I presented to the president our first-year report on Operation Triggerlock, which is one of the department's anti-crime initiatives. ... Traditionally, the federal government's role in dealing with violent crime has been quite limited because 95 percent of violent crime is committed and handled at the state and local level. Nevertheless this administration believes that the federal government, working in close partnership with state and local law enforcement, can have a positive and substantial impact on violent crime. ... Triggerlock ... is a high-impact operation where we use very tough federal firearm statutes to prosecute chronic offenders.

... Over the past year, we have doubled federal prosecutions of firearms offenders in the federal system. We have charged over 6,400 individuals nationally. We are convicting them at a rate of over 90 percent. The average sentence for that whole group so far has been seven years without parole, and the average sentence for the armed career criminals -- that is, three-time losers -- has been 18 years without parole. ... Q: You're saying that this program is in place of any need for gun control ... ? Barr: No, I didn't say it was in place of, but it's certainly an important part of getting to the problem. ... Most serious felons will get firearms regardless of what the gun control laws are. ... Our position is that part of any attack on firearm violence has to be targeting these felons who repeatedly commit acts of violence and getting them off the street.

---- Index References ----

News Subject: (Property Crime (1PR85); Legal (1LE33); Criminal Law (1CR79); Prisons (1PR87); Social Issues (1SO05); Crime (1CR87); Gun Rights & Regulations (1GU97))

Language: EN

Other Indexing: (William Barr)

Word Count: 262

End of Document

NewsRoom

7/30/92 AP Online 00:00:00

AP Online

July 30, 1992

Section: Washington

Senate Investigators Fault West Virginia Blue Cross Managers

WASHINGTON

Senate investigators say the managers of a West Virginia Blue Cross-Blue Shield plan drained its treasury with questionable spending.

"In the face of mismanagement and increasing health-care costs, the system failed to protect the Blue Cross-Blue Shield plan's policyholders and providers," the staff of the Senate Permanent Subcommittee on Investigations testified at a hearing Wednesday.

The staff said its three-month investigation was unable to pinpoint a cause for the 1990 collapse of the West Virginia plan. More than 51,000 West Virginians are still waiting for claims to be paid.

"The ultimate question," said John F. Sopko, deputy chief counsel for the panel, "is whether this is also happening in other states and in other plans, a question which we will continue to address."

Sen. Sam Nunn, D-Ga., chairman of the subcommittee, emphasized the panel will broaden the investigation to the extent necessary to determine the health of the 72 other Blue Cross-Blue Shield plans, which cover medical costs for 100 million Americans.

The Blue Cross and Blue Shield Association, coordinating agency for the 73 plans, issued a written assurance that the system is "strong, stable and financially sound."

"The West Virginia situation was unique," said association President Bernard T. Tresnowski.

Administration Says Federal Arms Charges Have Doubled

WASHINGTON (AP) The Bush administration says federal firearms prosecutions more than doubled in the first year of its "Triggerlock" anti-crime program.

Attorney General William P. Barr said Wednesday there was a 90 percent conviction rate and that the average sentence imposed on firearms violators was seven years without parole.

He delivered the report on Project Triggerlock to President Bush, who has criticized Congress for not passing the anti-crime bill he has submitted. The White House, trying to emphasize Bush's domestic record, then had Barr talk to reporters in the White House briefing room.

The project, started in April 1991, has as a goal the prosecution of armed criminals under federal firearms statutes instead of under state or local laws. Federal firearms laws provide stiffer penalties for gun violations.

Bush Tells POW Family Group: No Hard Feelings Over Heckling

WASHINGTON (AP) President Bush telephoned an official of the National League of Families to say there were no hard feelings about the heckling he got from dissident members of POW-MIA families at the league's annual meeting.

A statement issued by the league said Bush indicated to Ann Mills Griffith, director of the organization, that he "fully understood" that it was a planned demonstration by a minority of the group.

The White House confirmed that Bush made the telephone call Wednesday, but did not have a transcript of what was said.

The league apologized to the president in a letter released Tuesday, saying that "the rude and disrespectful behavior of a small but organized minority was both undeserved and outrageous."

The letter appeared as a paid advertisement by the league in Wednesday's editions of The Washington Post.

Bush left the platform at the league's annual meeting last Friday after some in the audience shouted "No more lies" and similar reproaches.

When he returned, one man stood up to shouted a question at him and the president said, "Would you please shut up and sit down?"

Griffiths said in her letter to the president that the majority

of the group felt his response was justified.

Most of the demonstrators were members of the National Alliance of Families, a splinter group that is highly critical of administration policies regarding prisoners of war and missing in action from past wars.

Black Leaders Urge Mitchell To Block Carnes Nomination

WASHINGTON (AP) Several black political leaders want Senate Majority Leader George Mitchell to block the nomination of an Alabama prosecutor to a federal appeals court because of his civil-rights record.

But Mitchell on Wednesday refused to back off the pledge he made Tuesday to schedule a vote before the Senate's summer recess begins Aug. 12 on the nomination of Edward Carnes to the 11th U.S. Circuit Court of Appeals.

"We got absolutely no assurances from Mitchell" that he would keep the Carnes nomination from coming to the Senate floor, said Rep. John Conyers, D-Mich., who along with Rep. Ronald Dellums, D-Calif., asked for the meeting.

Mitchell said in a statement after the meeting that he expects the Senate to have "a thorough debate" on the Carnes nomination.

Civil-rights groups contend Carnes, an assistant Alabama attorney general, has been overzealous in defending the practices of Alabama prosecutors in death penalty cases, particularly the practice of routinely removing all blacks from juries.

The Senate Judiciary Committee voted 10-4 in May to approve the nomination, but opponents have delayed floor action by threatening prolonged debate during a period when the Senate is facing a heavy work schedule.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Government (1GO80))

Industry: (Health Insurance (1HE18); Financial Services (1FI37); Insurance (1IN97); Insurance Industry Legal Issues (1IN64))

Region: (District Of Columbia (1DI60); West Virginia (1WE81); USA (1US73); Americas (1AM92); Alabama (1AL90); North America (1NO39))

Language: EN

Other Indexing: (ALABAMA; ANN MILLS GRIFFITH; BLUE CROSS; BLUE CROSS BLUE SHIELD; BLUE SHIELD; BLUE SHIELD ASSOCIATION; CONGRESS; FEDERAL ARMS CHARGES; INVESTIGATIONS; NATIONAL ALLIANCE OF FAMILIES; NATIONAL LEAGUE OF FAMILIES; POW; POW FAMILY GROUP; SENATE; SENATE INVESTIGATORS FAULT WEST; SENATE JUDICIARY COMMITTEE; SENATE PERMANENT SUBCOMMITTEE; US CIRCUIT COURT OF APPEALS; VIRGINIA BLUE CROSS; WEST; WEST VIRGINIA; WEST VIRGINIA BLUE CROSS; WHITE HOUSE) (Barr; Bernard T. Tresnowski; Bush; Griffiths; John Conyers; John F. Sopko; Leader George; Mitchell; Ronald Dellums; Sam Nunn; Urge Mitchell; William P. Barr)

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NewsRoom

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1992 WLNR 5336977

Washington Post, The (Washington, D.C.)

July 30, 1992

Section: A Section

CLIFFORD, ALTMAN INDICTED FOR ROLES WITH BCCI; LYING, COVERUP ARE ALLEGED IN FIRST AMERICAN TAKEOVER

Sharon Walsh

Mark Potts

Legendary Washington lawyer and presidential adviser Clark M. Clifford and his law partner, Robert A. Altman, were charged in criminal indictments yesterday with lying to banking regulators, accepting bribes and falsifying records to help the Bank of Credit and Commerce International illegally acquire U.S. banks, including Washington's First American Bankshares Inc.

Indictments against the two men by separate state and federal grand juries were announced by New York District Attorney Robert M. Morgenthau in Manhattan and U.S. Assistant Attorney General Robert S. Mueller III in Washington. The Federal Reserve Board also brought civil charges against Clifford and Altman for lying to the Fed when they said BCCI would have nothing to do with First American.

Shortly after the indictments were announced, the 85-year-old Clifford, tall but stooped, walked slowly down the aisle into the courtroom in New York's criminal justice building, holding his trademark fedora, and said: "I plead not guilty" in a clear, strong voice. A somber Altman, 45, preceded Clifford into the state Supreme Court courtroom of Justice John A.K. Bradley and also pleaded not guilty.

"The bringing of these indictments is a cruel and unjust abuse of the prosecutorial function," Clifford and Altman said in a joint statement. "We totally and categorically deny all charges. ... They are the result of mean-spirited suspicion and unfounded speculation. ... We shall fight to establish our innocence."

"We are confident that our clients will be vindicated in the end," Robert S. Bennett and Carl S. Rauh, attorneys for Clifford and Altman, said in a statement. "On the level playing field of a courtroom ... the outrageousness of the government's action today will be abundantly clear."

Clifford and Altman resigned from First American last August. The bank's stock is now held by a court-appointed trustee who is seeking a buyer for the company, and prosecutors noted yesterday that the indictments have no effect on the bank's operations.

For more than a decade, Clifford and Altman had been at the center of a triangle of relationships involving BCCI, First American and their own law firm, Clifford & Warnke: They were BCCI's lawyers, the top executives and attorneys for First American, and representatives of the Middle Eastern shareholders who took over the bank in 1982.

They had assured banking regulators that the walls between First American and BCCI -- a shadowy, virtually unregulated international bank -- would not be breached.

But the charges announced yesterday allege that those walls never really existed and that the millions of dollars that Clifford and Altman received as lawyers and bankers were actually bribes from BCCI in return for their efforts to maintain the facade.

Clifford and Altman have repeatedly declared that they did not mislead regulators, but in fact were duped themselves by foreign investors whom they trusted. "They were men of reputation, wealth and stature," Clifford said of First American's Middle Eastern investors in congressional testimony last year. He and Altman did not know that the investors were really front men for BCCI, he testified.

The indictments go far beyond what Clifford and Altman should have known about the investors and charge that the two conspired with the leaders of BCCI to mislead American officials.

According to the federal indictment, beginning in 1978, Clifford and Altman "directed the efforts by their clients to acquire {First American}," despite being "put on notice" by the Federal Reserve that regulators were concerned about any potential direct relationship between BCCI and First American.

The investigation will be aided by an important new witness. Earlier this week, Morgenthau's office worked out a plea agreement with Sheik Kamal Adham, former head of Saudi intelligence and a key figure in the 1982 takeover of First American. Adham admitted to violating the New York bank holding company act and agreed to cooperate with prosecutors by providing testimony and documents. He also agreed to pay $105 million in fines and restitution.

Some defense attorneys have said the government's case will be hard to prove without direct evidence. Prosecutors decline to discuss how they will make their case, but yesterday Morgenthau said one of the problems of the investigation has been "documents without witnesses and witnesses without documents."

If found guilty, Clifford could face a prison sentence of up to eight years and Altman perhaps more if convicted on the additional New York charges, prosecutors said. There is no mandatory jail term for any of the charges. The civil charges in New York could lead to fines and restitution of $80 million for the two men. Federal Reserve officials said they were withholding penalties against the two men until the criminal cases are resolved, but may later impose fines and ban them from the banking business for their roles in the BCCI affair.

Morgenthau, Mueller and other officials said investigations into the BCCI scandal were continuing.

According to the indictments and civil charges announced yesterday, Clifford and Altman accepted more than $40 million from BCCI over 10 years in the form of legal fees, sham loans and rigged stock deals.

"Clifford and Altman ... enriched themselves through secret financial arrangements with BCCI, which resulted in millions of dollars of profits to them, and then conspired to keep those arrangements from the federal regulators," U.S. Attorney General William Barr said in a statement.

In return, the two men misled regulators, helped BCCI acquire First American and National Bank of Georgia through front men, and ran First American at the direction of Agha Hasan Abedi, BCCI's founder and former chairman, and Swaleh Naqvi, his chief lieutenant, the indictments said.

In the separate New York indictment, the grand jury charged four foreign investors -- Abedi, Naqvi, Ghaith R. Pharaon and Faisal Saud al Fulaij -- with racketeering. It described them as the core "BCC Group" that set up BCCI as a worldwide criminal enterprise that bribed central bankers, government officials and others around the world to gain power and money.

While Clifford and Altman are not accused of being members of the BCC Group, they are charged with accepting bribes from the group and allowing it to influence the affairs of First American.

The BCC Group conducted "a massive fraud," said Morgenthau. He said that the bank's worldwide activities included bribery of foreign leaders to obtain deposits from central banks in Third World countries, the defrauding of the World Bank, the International Monetary Fund and other international financial organizations, and the falsification of accounts and documents to make the chronically insolvent BCCI appear healthy. Losses to investors and depositors worldwide following the collapse of BCCI last summer are estimated to be in excess of $5 billion.

Although BCCI's activities had virtually no direct cost to citizens of the United States, the bank regularly flouted American laws in its secret takeovers of First American and other U.S. institutions. "People have a right to know who owns their banks," Morgenthau said.

It was that concern over ownership that led state and federal banking regulators to question the motives of the Middle Eastern investors who wanted to take over First American's predecessor, Financial General Bankshares Inc., in the late 1970s. They wanted to be sure that the investors were not representing BCCI. Clifford and Altman repeatedly assured them BCCI would not own or influence the operations of the bank.

Regulators were not the only ones deceived, prosecutors contended. The two men also concealed BCCI's role with First American from their own law partners at Clifford & Warnke, other outside counsel to the bank and the boards of directors of First American and its parent company, Credit and Commerce American Holdings (CCAH), according to the indictments.

The new charges came exactly one year after a New York grand jury indicted BCCI, Abedi and Naqvi on charges of fraud, money laundering, bribery and theft, which Morganthau called "the largest bank fraud in world history." At the same time, the Fed sought a $200 million fine from BCCI for secretly owning First American.

London-based BCCI pleaded guilty in December to illegally purchasing First American and three other U.S. banks. It forfeited $550 million in U.S. assets that will be equally divided between two funds: one to shore up banks it owned illegally in this country and the other for worldwide investors who lost billions in deposits when the bank closed.

Among the central allegations in both the federal and state indictments is that Abedi, Naqvi and other BCCI officials engineered the purchase of National Bank of Georgia through Clifford and Altman. In return for being part of that conspiracy, Clifford and Altman allegedly received millions of dollars in secret loans from BCCI on favorable terms, which they did not report to federal regulators.

The key element in the bribery charges involves Clifford and Altman's purchase of stock in CCAH, which they have told congressional investigators was a commonplace reward for their services to the bank, whose size had grown more than fivefold under their direction and which they had run for many years with little pay.

Both men are believed to be among the wealthiest lawyers in Washington. Altman and his wife, television actress Lynda Carter -- best known for her role as "Wonder Woman" -- are one of Washington's most socially prominent couples.

The $15 million Clifford and Altman borrowed from BCCI at favorable interest rates to purchase the stock in 1986 was actually money that did not have to be repaid, according to the indictments.

Nineteen months later, the two men sold most of the stock for more than three times what they paid, a price they said was determined by previous transactions in the shares and the relatively robust market for bank stocks in general. Their profit was $9.8 million.

But the indictments say Clifford and Altman set the sale price themselves in an effort to boost the profit. In early 1988, according to the indictment, Altman telephoned an assistant to Naqvi and told him to calculate a price for the sale of the shares that would give Clifford and Altman after-tax profits of $3 million and $1.5 million, respectively.

In addition, Altman dictated a letter to the assistant to be sent to Clifford as if it had been written by the assistant, saying that BCCI had found a buyer for the stock at $6,800 a share -- exactly the price needed to give the men the profits they wanted.

Morgenthau alleged the stock deal was a reward to the two lawyers for their parts in helping BCCI purchase National Bank of Georgia in 1987. BCCI had purchased NBG in the early 1980s using Pharaon as a front man, according to federal officials, but when Pharaon ran into financial trouble, BCCI became concerned that the secret ownership would be discovered.

BCCI turned to Clifford and Altman, who arranged for First American to purchase the Georgia bank with money borrowed from BCCI, according to the indictments. In effect, BCCI was transferring National Bank of Georgia from its front man -- Pharaon -- to its secret subsidiary, First American.

On several occasions, according to the indictments, Clifford and especially Altman raised concerns that First American's purchase of the Georgia bank would reveal BCCI's connection to the two banks. One staff memo, included in a letter from Clifford to Abedi, said, "The proposed structure may focus unwelcome attention on the relationship between {First American} and BCCI."

"Altman, knowing of BCCI's role in the transaction ... took affirmative steps to conceal BCCI's involvement in the sale of NBG to {First American} from the board of governors" of the Fed, the Fed complaint alleges.

It is as yet unclear whether New York or federal prosecutors will take the lead on the case. Morgenthau said that New York would seek as speedy a trial as possible, but noted that it took 16 months for the grand jury to sort out the complicated case, which produced about 10,000 pages of testimony.

Staff writer Robert J. McCartney contributed to this report from New York.

1977

September: Clark Clifford and Robert Altman defend former Carter administration official Bert Lance in congressional hearings into Lance's financial dealings. Lance then goes to work as a consultant to BCCI and introduces Clifford and Altman to BCCI founder and Chairman Agha Hasan Abedi.

1978

January: BCCI hires Clifford and Altman to be its American lawyers. Acting on the advice of Lance, BCCI begins purchasing stock in the Washington bank Financial General Bankshares (the precursor of First American) through a group of its banking clients. Acting through a front man, Saudi investor Ghaith Pharaon, BCCI also purchases Lance's former bank, the National Bank of Georgia.

February: Financial General management files suit against BCCI, charging that its clients are investing as an organized group and attempting a takeover of the bank. The Securities and Exchange Commission soon files a similar suit. The investors agree to disclose their relationships with one another and make a public offer for the bank. Clifford and Altman act as the group's defense attorneys in the actions.

July: BCCI secretly forms two holding companies, Credit and Commerce American Holdings (CCAH) and Credit and Commerce American Investment (CCAI), to purchase stock in Financial General.

October: CCAH and CCAI, representing BCCI's clients, make a $70 million bid for the Washington bank.

1979

February: The Fed rejects the CCAH/CCAI bid, citing objections by Maryland regulators about the hostile nature of the takeover.

1980

April: CCAH and CCAI bring their attempt to buy Financial General to a vote of the company's shareholders, but it is narrowly defeated.

July: Financial General management finally agrees to a takeover by CCAH and CCAI for the much higher sum of $180 million.

1981

April: The Federal Reserve Board holds an unusual hearing into the takeover attempt by BCCI-backed investors. Clifford and Altman pledge that BCCI itself will have nothing to do with the financing or control of Financial General.

August: The Fed approves the takeover.

1982

April: CCAH and CCAI take over Financial General. The bank's name is changed to First American Bankshares and Clifford and Altman are installed as its top executives.

1986

June: A report on BCCI circulated by the CIA to law enforcement agencies suggests that the CIA knew that BCCI illegally owns First American.

July: Clifford and Altman buy stock in CCAH, which is now First American's parent company, using $15 million borrowed from BCCI. The Fed later alleges that the purchases and the loans were not properly disclosed to regulators.

December: BCCI arranges for First American to purchase the National Bank of Georgia. Altman and Clifford say they decided on their own to purchase the Georgia bank. The deal is completed in 1987.

1988

March: Clifford and Altman sell a portion of their CCAH shares to another BCCI client for a net profit of $9.8 million. The deal allegedly was arranged by BCCI.

September: A BCCI executive tells an undercover federal officer that BCCI owns First American and that Clifford is one of the bank's "heavyweight" attorneys.

1989

Senate investigator Jack Blum, unable to interest federal prosecutors in BCCI's possible ownership of First American, goes to New York District Attorney Robert Morgenthau, who begins an investigation of BCCI.

1990

May: Regardie's magazine publishes a detailed story raising questions about the overlaps between BCCI and First American shareholders.

November: The Fed begins a formal investigation into the ownership of First American.

1991

February: The Washington Post reports that BCCI appears to secretly own First American. The Fed orders First American to stop doing business with BCCI.

March: The Fed orders BCCI to sell its secret holding in First American.

July 5: The Bank of England and other regulators around the world shut down BCCI, citing massive fraud throughout the bank's management.

July 29: The Fed charges BCCI, its top executives and several First American shareholders with the illegal takeover of First American and other U.S. banks. Simultaneously, a New York grand jury indicts BCCI and its top executives on fraud, larceny and money-laundering charges. Clifford and Altman say they were unaware of any wrongdoing by BCCI and that they did not believe that BCCI owned First American.

August: Clifford and Altman resign from First American. Nicholas Katzenbach, former U.S. attorney general, takes over as chairman.

December: Federal and state authorities settle charges against BCCI, which pleads guilty to racketeering charges involving money-laundering and the illegal takeover of First American and other U.S. banks. The bank agrees to forfeit more than $550 million in U.S. assets.

1992

July 29:

Clifford and Altman are indicted on federal and state charges of fraud, conspiracy, bad banking practices and accepting bribes.

---- Index References ----

Company: AMERICAN LITHOGRAPHERS INC; AMERICAN LIMOUSINE SERVICE INC; NATIONAL BANK FINANCIAL AND CO INC; AMERICAN CELLULAR CORP; NATIONAL BANK OF ETHIOPIA; AMERICAN NATIONAL BANK OF SIDNEY (THE); AMERICAN PROPERTY EXCHANGE INC; AMERICAN INTERNATIONAL VENTURES INC; NATIONAL BANK TRUST INC; AMERICAN COMMERCIAL BARGE LINE LLC; AMERICAN AMMUNITION INC; AMERICAN MIDSTREAM (LOUISIANA INTRASTATE) LLC; AMERICAN TRANSMISSION COMPANY LLC; AMERICAN EXPERIMENT FOUNDATION (THE); NATIONAL BANK OF EARLVILLE; AMERICAN VANGUARD CORPORATION OF IMPERIAL VALLEY; INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (IBRD); AMERICAN BANKSHARES INC; NATIONAL BANK; AMERICAN SECURITIES MANAGEMENT LP; AMERICAN CONSOLIDATED MINERALS CORP; AMERICAN ATLANTIC CO; BCC; AMERICAN INSULOCK INC; BCC BUSINESS COMMUNICATION; NATIONAL BANK OF PAKISTAN; NATIONAL BANK OF GEORGIA; AMERICAN UNIVERSITY; IMMOBILIARE AZIONARIA SPA; WORLD BANK; NATIONAL BANK OF CALIFORNIA; AMERICAN PHYSICIANS SERVICE GROUP INC; AMERICAN ROADPRINTING LLC; AMERICAN ANALYTICAL CHEMISTRY LABORATORIES CORP; NATIONAL BANK OF MALAWI; NATIONAL BANK OF BLACKSBURG THE; AMERICAN BUILDINGS CO; AMERICAN TECHNICAL CERAMICS CORP; AMPO INC; NATIONAL BANK AG; AMERICAN TOBACCO SCP LP; AMERICAN REPROGRAPHICS CO; WORLD BANK (THE); AMERICAN SANITATION INC; NATIONAL BANK OF GATESVILLE; INFORMATICA APLICATA SA; NATIONAL BANK OF CANADA FINANCIAL INC; AMERICAN STRATEGIC INCOME PORTFOLIO INC; GOVERNOR AND COMPANY OF THE BANK OF ENGLAND (THE); AMERICAN SOUTHWEST INSURANCE MANAGERS INC; BANK OF ENGLAND; DE RADIOCOMUNICACIONES MOVILES SA; BINH CHANH CONSTRUCTION INVESTMENT SHAREHOLDING CO; AMERICAN STATES WATER CO; AMERICAN TELECONFERENCING SERVICES LTD; AMERICAN SOUTHWEST HOLDINGS INC; AMERICAN STANDARD AMERICAS; AMERICAN GOLDFIELDS INC; AMERICAN VANGUARD CORP; AMERICAN RE INSURANCE CO; AMERICAN NATIONAL BANKSHARES INC; NATIONAL BANK OF ARIZONA; AMERICAN STRATEGIC INCOME PORTFOLIO INC III; AMERICAN WHOLESALE INSURANCE HOLDING COMPANY LLC; AMERICAN HOME VIDEO CORP; AMERICAN INVESTMENT SERVICES INC; AMERICAN INTERNATIONAL GROUP INC; SECURITIES AND EXCHANGE COMMISSION; AMERICAN COMMUNITY BANCORP INC; LANSON BCC SA; AMERICAN INDEPENDENCE CORP; AMERICAN INDEPENDENCE CAPITAL MANAGEMENT LLC; AMERICAN ACHIEVEMENT CORP; AMERICAN GREETINGS CORP; AMERICAN CYANAMID CO; ASSOCIATED BANC CORP; AMERICAN WHOLESALE INSURANCE HOLDING CO LLC; AMERICAN RESIDENTIAL SERVICES LLC; AMERICAN FINANCIAL ASSOCIATES INC; BANQUE CENTRALE DE COMPENSATION SA; AMERICAN BANCORP; AMERICAN AGRICULTURIST SERVICES INC; AMERICAN COMMUNITY PROPERTIES TRUST; NATIONAL BANK OF SOUTH CAROLINA THE; AMERICAN INTERNATIONAL ASSURANCE COMPANY (BERMUDA) LTD; NATIONAL BANK OF GREECE SA; US SECURITIES AND EXCHANGE COMMISSION; AMERICAN ELECTRIC TECHNOLOGIES INC; NATIONAL BANK AND TRUST COMPANY THE; AMERICAN NATIONAL BANK OF BEAVER DAM THE; AMERICAN ARCHITECTURAL PRODUCTS CORP; AMERICAN ENTERPRISE DEVELOPMENT CORP; AMERICAN TELEVISION AND COMMUNICATIONS CORP; AMERICAN SECURITY RESOURCES CORP; NATIONAL BANK LTD; NATIONAL BANK OF CANADA; AMERICAN BANKNOTE CORP; AMERICAN REPUBLIC INVESTMENT CO; AMERICAN RESTAURANT GROUP INC; AMERICAN TECHNOLOGIES GROUP INC; AMERICAN COMMERCIAL LINES INC; AMERICAN DIABETES ASSOCIATION; AMERICAN MEGATRENDS INC; NATIONAL BANK FINANCIAL INC; AMERICAN COMMUNICATIONS LLC; NATIONAL BANK AND TRUST CO

OF SYCAMORE ILL; AMERICAN DIVERSIFIED HOLDINGS CORP; NATIONAL BANK OF RASAL KHAIMAH; AMERICAN FINANCIAL GROUP INC; AMERICAN ELECTRIC POWER CO INC; AMERICAN SHORELINE INC; AMERICAN PARAMOUNT GOLD CORP; NATIONAL BANK AND TRUST; AMERICAN CARESOURCE HOLDINGS INC; AMERICAN EXCHANGE BANK LINDSAY OKLAHOMA; AMERICAN PORTFOLIOS HOLDINGS INC; AMERICAN SECURITIES CAPITAL PARTNERS LLC; AMERICAN SPORTING GOODS CORP; AMERICAN PHYSICAL SECURITY GROUP LLC; AMERICAN RENAL HOLDINGS INC; AMERICAN TRIUMVIRATE INSURANCE CO; AMERICAN MIDSTREAM (MIDLA) LLC; AMERICAN HOMESTAR CORP; ASBC CAPITAL CORP; AMERICAN INDEPENDENCE FINANCIAL COUNSELORS LLC; AMERICAN COMMUNITY DEVELOPMENT INC; AMERICAN SHIPPING COMPANY ASA; RIVERSIDE BANCSHARES INC; AMERICAN RETIREMENT CORP; AMERICAN UNITED GOLD CORP; AMERICAN INSTITUTE FOR FOREIGN STUDY (U K) LTD; BCC VITA S P A COMPAGNIA DI ASSICURAZIONI VITA; AMERICAN PORTFOLIOS FINANCIAL SERVICES INC

News Subject: (Social Issues (1SO05); Legal (1LE33); Financial Fraud (1FI18); Monetary Policy (1MO18); Fraud (1FR30); Legislation (1LE97); Judicial (1JU36); Mergers & Acquisitions (1ME39); World Organizations (1IN77); Government (1GO80); Economic Development (1EC65); World Bank (1WO61); Criminal Law (1CR79); Economic Policy & Policymakers (1EC69); Economics & Trade (1EC26); Corporate Groups & Ownership (1XO09); Corporate Events (1CR05); Crime (1CR87); Corruption, Bribery & Embezzlement (1EM51); Government Litigation (1GO18); Regulatory Affairs (1RE51); Business Management (1BU42))

Industry: (Retail Banking Services (1RE38); Banking (1BA20); Financial Services Regulatory (1FI03); Loans (1LO12); Federal Reserve (1FE99); Major Central Banks (1MA01); Financial Services (1FI37))

Region: (New York (1NE72); Americas (1AM92); USA (1US73); U.S. Mid-Atlantic Region (1MI18); North America (1NO39))

Language: EN

Other Indexing: (ABEDI; AGHA HASAN ABEDI; AMERICAN; AMERICAN BANKSHARES; AMERICAN BANKSHARES INC; BANK OF CREDIT; BANK OF ENGLAND; BCC; BCC GROUP; BCCI; CCAH; CIA; CLIFFORD; COMMERCE AMERICAN; COMMERCE AMERICAN HLDGS; COMMERCE AMERICAN HOLDINGS (CCAH; COMMERCE INTL; COVERUP; FED; FEDERAL RESERVE; FEDERAL RESERVE BOARD; MARYLAND; NATIONAL BANK; NBG; REGARDIE; SECURITIES AND EXCHANGE COMMISSION; SUPREME COURT; US ASSISTANT ATTORNEY; WORLD BANK) (Adham; al Fulaij; Altman; Bankshares; Bankshares Inc.; Carl S. Rauh; Carter; Clark Clifford; Clark M. Clifford; Clifford; Clifford Warnke; Ghaith Pharaon; Ghaith R. Pharaon; Jack Blum; John A.K. Bradley; Kamal Adham; Lance; Losses; Lynda Carter; Morganthau; Morgenthau; Naqvi; Nicholas Katzenbach; Nineteen; Pharaon; Robert A. Altman; Robert Altman; Robert J. McCartney; Robert M. Morgenthau; Robert Morgenthau; Robert S. Bennett; Robert S. Mueller; Saudi; Senate; Simultaneously; Swaleh Naqvi; William Barr)

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1992 WLNR 3160135

St. Paul Pioneer Press (MN)

July 29, 1992

Section: Main

'REVOLVING DOOR' JUSTICE DECRIED

WASHINGTON

The Bush administration on Tuesday urged states to fight violent street crime and stop "revolving door justice" by adopting proposals including new prisons and tougher sentences for repeat offenders. "We must stop the revolving door justice," said Attorney General William Barr.

COLUMN NAME: NATIONAL BRIEFING

---- Index References ----

Language: EN

Other Indexing: (Bush; William Barr)

Edition: WISCONSIN

Word Count: 64

End of Document

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NewsRoom

7/29/92 Reuters News 00:00:00

Reuters

July 29, 1992

BUSH TAKES AIM AT ARMED THUGS, WOOS PEROT SUPPORTERS.

Steve Holland

WASHINGTON, July 29, Reuter - President George Bush on Wednesday promoted his efforts to jail America's most violent criminals a week after Democrat Bill Clinton accused the administration of not doing enough to get guns off the streets.

As the White House defended Bush's anti-crime record, his re-election campaign kicked off what is expected to be a two-week, multi-million-dollar campaign advertising blitz with a new appeal to former backers of Ross Perot.

In full-page ads in five major daily newspapers headlined, "An open letter to every Perot supporter in America," Bush asks for "the chance to earn" their votes.

The ads appeared in Wednesday's USA Today, Dallas Morning News, Orange County, California, Register, Denver Post and Orlando, Florida, Sentinel.

Bush and Clinton wasted little time in soliciting Perot's supporters after the Texas billionaire announced on July 16 that he would not run for president as an independent. But, so far, Clinton's seems to have had more success.

Recent polls have shown Bush trailing the Democratic nominee by as much as 2-to-1. A new survey of voters in California -- the country's largest state -- showed Clinton ahead 52 per cent to 26 per cent with 21 per cent undecided.

Law enforcement is one of Bush's three priorities for a second term, along with fostering economic growth and traditional family values.

At the White House on Wednesday, Attorney General William Barr and a host of senior officials gave a news briefing on the merits of "Project Triggerlock," a 15-month-old programme aimed at giving long prison terms to chronic repeat criminals.

"The rationale for our programme is that to have the biggest impact on violent crime, target these chronic repeat offenders and take them off the street, incapacitating them by incarcerating them," Barr said.

Bush, a life member of the National Rifle Association (NRA) pro-gun lobby, has been cool to any proposed laws that could impede law-abiding citizens' access to firearm purchases.

Campaigning last week in Bush's adopted home town of Houston, Clinton said he backed federal legislation calling for a seven-day waiting period and background checks before gun purchases, and demanded controls on assault weapons.

"We ought to take the AK-47s and the Uzis off the streets in America," Clinton said then.

Barr said the Bush programme was not intended as a replacement for gun-control legislation. But in defending current policy, he used a variation of the old NRA slogan that if guns are outlawed, only outlaws will have guns.

"Five out of six firearms used in crime are not obtained over the counter. Most serious felons will get firearms regardless of what the gun control laws are," Barr said.

---- Index References ----

Company: WHITEHOUSE; TEXAS TELECOMMUNICATIONS LP; NATIONAL REVENUE AGENCY

Region: (Texas (1TE14); North America (1NO39); U.S. Southwest Region (1SO89); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (BUSH; DEMOCRATIC; NATIONAL RIFLE ASSOCIATION; NRA; PEROT; ROSS PEROT; TEXAS; WHITE HOUSE) (Barr; Bush; Clinton; Democrat Bill Clinton; George Bush; William Barr)

Word Count: 448

Asian-Americans Surge Into Legal Ranks

The Wall Street Journal

July 29, 1992 Wednesday

Section: LAW; Pg. B1; Legal Beat

Length: 1277 words

Byline: By Grace Kang Staff Reporter of the Wall Street Journal

Body

Asian-Americans are becoming lawyers in record numbers, embracing a profession that was less highly regarded in their parents' native countries.

This push into law, reflected on all levels from law-school enrollment to partnership elections at law firms, reflects a remarkable shift from a previous generation's more traditional career choices of medicine or engineering.

According to the 1990 census, the number of Asian-American lawyers has nearly tripled since 1980, to 10,513 -- increasing at a faster rate than black and Hispanic lawyers, whose ranks have roughly doubled during the same period. Asians also were the fastest growing minority group both in the associate and partnership ranks of major law firms between 1989 and 1991, according to the National Law Journal.

The proportion of lawyers of Asian descent, 1.4%, still trails the percentage of Asian-Americans in the U.S. population, which stands at about 3%. But Asian-Americans are catching up with blacks and Hispanics, who make up 3.5% and 2.5% of the bar, respectively, while accounting for much larger portions of the general population.

The reasons for the influx reflect, in part, the demographics of Asian immigration into the U.S. Most Korean immigrants, for example, have been here 10 to 20 years, which means many of their children are now college students or graduate students facing career choices, said William Hou, president-elect of the National Asian Pacific American Bar Association in Washington, D.C.

For many Asian families, the favored career choices have traditionally been medical or scientific white-collar professions. Asian immigrants have steered their children into such fields in part because the sciences are more respected than the legal profession in their native countries.

"Lawyers weren't highly regarded in China," Mr. Hou said. "When I was growing up in the U.S., my mother would say, `You have to be a doctor.'" Although his parents disapproved of his decision to be a lawyer, they now see that "being a lawyer is not a negative in this country," said Mr. Hou, who until recently was a partner in the Washington office of Chicago-based Hopkins & Sutter.

Lawyering also attracts those in search of a high-salary career that doesn't require a scientific background. "Not everyone wants to be a doctor or engineer. Your other choice is business school, but that's lost some of its luster," Mr. Hou said. So Asians have flocked to law school, tripling their enrollment in the 1980s, according to the Law School Admission Council, while enrollment in general rose 7.2%.

Asian-American lawyers also have benefited from big law firms' efforts to hire more minorities. Deborah F. Stiles, partner in charge of recruiting at Debevoise & Plimpton in New York, said her firm has begun recruiting more minorities in response to an initiative by the City Bar Association of New York to encourage such hiring. Among Debevoise & Plimpton's 256 current associates, 22 are Asian, 11 are black and five are Hispanic.

Other Asian-Americans turning to law say their interest has been spurred by a surge in racial hate crimes and the plight of poor Asians who belie the "model minority" stereotype. Kathryn K. Imahara, who specializes in civil-rights cases at the Asian Pacific American Legal Center in Los Angeles, said she dropped her plans for international-business work after she visited the center during her first year of law school in 1985.

"After three hours, all my aspirations for money went out the window," said Ms. Imahara. She became enamored with the experience the center offered, such as preventing an eviction or fighting job discrimination based on a person's foreign accent.

Many Asian attorneys who have practiced in big law firms say that while race has been a factor in the development of their careers, it hasn't always hindered them. Paul Lee, who is a partner at Goodwin, Procter & Hoar in Boston, said that when he started at another big firm 16 years ago, "things weren't comfortable."

"It took time for them to get used to me and for me to get used to the atmosphere," Mr. Lee said. He remembers one incident in particular from 1981: A lawyer at a closing told him, "No tickee, no laundry," when Mr. Lee didn't have some documents. "Everyone was shocked," Mr. Lee said. Later he confronted the lawyer, who immediately apologized.

Mr. Hou, of the National Asian Pacific bar group, said Asians have the same problems of any minority in a large law firm. "It's no secret, law firms are run by white-male-dominated management committees. It's no different than Fortune 500 companies," Mr. Hou said. He added that many minority lawyers find that racial biases become more of a problem as lawyers move up in their firms. "People start bumping up against the glass ceiling," he said.

Mr. Hou noted that a disproportionate number of Asian partners in large law firms are specialists in Pacific Rim work, dealing with clients in Asia -- and promoting a stereotype that Asian-Americans are still foreigners with business contacts abroad. But, Mr. Hou added, "you can play that stereotype to your advantage" because specializing can improve one's chances for partnership.

Linda Mar, president of the Asian Pacific Bar Association in Washington, D.C., and an associate at Sidley & Austin since 1984, said she has had to make more adjustments because she's a woman than because she's Asian. Indeed, she said, many clients have become more sensitive to minority issues and are seeking out law firms with more racially diverse staffs. "There can be opportunities that being visible gives you," she added. ---

ATTORNEY GENERAL calls for detaining more suspects without bail.

Attorney General William Barr made the recommendation as part of a 59-page "blueprint to fight violent crime at the state and local level." The Justice Department report places a heavy emphasis on keeping criminals and those considered dangerous in jail but makes no mention of gun control.

"The primary goal of the criminal justice system must be to identify and incarcerate the hardened, chronic offenders who are responsible for a staggering number of crimes in the country," Mr. Barr said.

The report also urged states to use the death penalty, because it "serves to permanently incapacitate extremely violent offenders" and promotes "the important societal goal of just retribution."

The first recommendation in the report, which was sent to President Bush, calls on states to change their constitutions if they provide for an absolute right to bail, as many do. Mr. Barr said pretrial detention would prevent those "who are a proven danger" from committing crimes while awaiting trial.

"States should provide trial judges with authority to detain potentially dangerous defendants before trial and should make detention pending appeal the norm, with only narrow exceptions for extraordinary cases," said the report.

Civil libertarians and defense lawyers reject these proposals as contrary to the principle that a person is considered innocent until proved guilty. "The whole concept of preventive detention tramples on one of our most fundamental rights," said Nkechi Taifa, of the American Civil Liberties Union.

"I'm sure if you just lock up everyone, there would be less crime today," said Nancy Hollander, incoming president of the National Association of Criminal Defense Lawyers.

If a prosecutor could demonstrate a suspect was dangerous, pretrial detention would be constitutional, Mr. Barr told reporters.

The defendant also would have the right to demonstrate that he or she isn't dangerous before a judge made a pretrial detention decision, Mr. Barr added.

Joe Davidson contributed to this article.

Notes

PUBLISHER: Dow Jones & Company

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NewsRoom

7/28/92 AP Online 00:00:00

AP Online

July 28, 1992

Section: Washington

Administration Urges States To Do More To Fight Crime

WASHINGTON

The Bush administration on Tuesday urged states to fight violent street crime and stop "revolving door justice" by adopting proposals including new prisons and tougher sentences for repeat offenders.

"The sad truth is that most convicted violent criminals are returning to the streets after alarmingly short periods of time in prison," Attorney General William Barr said in announcing a 24-point proposal.

"We must stop the revolving door justice that is undermining the good work of the men and women on the front lines of the war on crime and drugs," he said.

Barr said the ideas have bipartisan support and are not intended as an election-year Republican campaign platform.

"This is not a political document," Barr told a news conference following his announcement of the plan in the Justice Department's ceremonial Great Hall.

He also declined to compare the administration's plan to crime-fighting proposals urged last week by Democratic nominee Bill Clinton.

"I don't want to contrast or compare it with that of a political candidate," Barr said.

Many of the administration's proposals already are enforced at the federal level, and some states have followed the example, the attorney general said. He declined to name the states he considers to be doing the best and worst jobs at combatting street crime.

Accompanying Barr were local and state law enforcement officials and John Walsh, host of the television show "America's Most

Wanted."

"We may have to raise taxes" to pay for some of the ideas, particularly building new prisons, Walsh said. "Citizens are ready to do it. Criminals are laughing" at how easy it is to beat the system.

Barr said it would be "immoral and not economically sound" for states to reject prison-building programs. He said more prison space is needed to house inmates routinely back on the streets after serving a fraction of their sentences.

Barr singled out defense lawyers as among the major culprits blocking state crime-fighting drives.

"Frankly, in many states legislative judiciary committees are in the grip of the organized criminal defense bar," he said.

Absent from Barr's plan was a call for tougher gun control. But he told reporters the administration package includes a proposed nationwide computer network for police that could be a beginning toward gun control.

The necessary first step is to identify felons before imposing waiting periods for gun buyers, he said. "What's missing is an accurate data base."

Robert Macy, president of the National District Attorneys Association, endorsed the plan with a blast at rapper Ice-T for his song "Cop Killer."

"If an officer is killed by someone influenced by 'Cop Killer,' the fires of hell will not be hot enough" for the distributors of the song, Macy said to a big round of applause from those invited to attend the announcement.

Here are some of the proposals urged by Barr:

Mandatory minimum penalties for gun offenders, armed career criminals and habitual violent offenders.

Enough prison space to assure that the worst offenders serve at least 85 percent of their terms.

Drug testing for all inmates and testing for the AIDS-causing HIV virus for anyone accused of a sex offense.

Tougher penalties for first-time juvenile offenders designed to stop them from becoming chronic criminals.

Elimination of bail for some offenders who can be shown to be dangerous to society.

A bill of rights for victims of crimes, including a provision to make it a crime to "stalk" and harass people.

---- Index References ----

News Subject: (Crime (1CR87); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Criminal Law (1CR79))

Language: EN

Other Indexing: (ADMINISTRATION URGES STATES; HIV; JUSTICE DEPARTMENT; NATIONAL DISTRICT ATTORNEYS ASSOCIATION) (Absent; Accompanying Barr; Barr; Bill Clinton; Bush; Elimination; Fight Crime; Great Hall; John Walsh; Macy; Robert Macy; Walsh; William Barr)

Word Count: 700

End of Document

NewsRoom

7/27/92 Chain Drug Rev. 40
1992 WLNR 5115139

Chain Drug Review

July 27, 1992

Volume v14; Issue n20

NACDS lauds FBI in uncovering health care fraud.

WASHINGTON--Recently, more than 1,000 FBI agents and 120 other law enforcement personnel participated in the FBI's "Operation GoldPill" which culminated in the arrests of 82 pharmacists, 30 businessmen, 25 drug diverters, and one physician, as well as the closure of 56 pharmacies.

The arrests, searches and seizures occurred in over 50 cities across the country in what the FBI deems the most widespread criminal fraud investigation of the health care industry ever carried out. However, according to the National Association of Chain Drug Stores, there were no drug chains involved.

FBI Director William Sessions explains that the June 30 sting climaxed a two-year operation using undercover agents and electronic surveillance to investigate people suspected of defrauding the health care system.

"Health care fraud is a serious crime that cheats the government and private industry, taking vast numbers of dollars from the pockets of Americans who pay taxes and insurance premiums," says Attorney General William Barr. "This type of fraud hurts all who use the health care system, particularly those least capable of protecting themselves--the aged and the infirm."

The operation was executed on two fronts. The first targeted illegal diverting, repackaging and distribution of medications. The second focused on intentionally excessive or false billing by independent pharmacies to defraud private insurance firms as well as programs funded by the government.

According to the FBI, doctors would write prescriptions for patients following improper examinations. The patients then had pharmacists fill the prescriptions and bill Medicaid. Afterward, the patients resell the drug to other entities.

Pharmacists were accused of schemes including dispensing generic drugs while billing for name brand pharmaceuticals, billing for unfilled prescriptions and billing multiple payers.

Commenting on the sting, NACDS commends the FBI for fighting waste and abuse in any government program, including the health care system. NACDS states that almost half of all community drug stores across the country are chain drug stores--and that these outlets employ some 65,000 pharmacists.

"Based on the information provided, the fact that drug chains have not been implicated in the investigation reflects favorably upon the internal controls and operating procedures in the chain drug industry," says NACDS director of public affairs Phillip Schneider.

The American Pharmaceutical Association condemns illegal activity by pharmacists and pledges continued commitment to stopping conduct that could undermine the public's confidence in the profession.

"Patients rightly place great trust in pharmacists and in the medicines and information they provide," explains executive vice president John Gans. "It is absolutely essential to good patient care that this relationship remain solid."

Participating in the sting were FBI field offices in 16 cities: Columbia, S.C.; Atlanta; Chicago; Cleveland; Jacksonville, Fla.; Detroit; Indianapolis; Miami; Portland, Ore.; New Orleans; New York; San Francisco; Albany, N.Y.; Pittsburgh; San Juan; and Washington, D.C.

---- Index References ----

Company: NATIONAL ASSOCIATION OF CHAIN DRUG STORES INC; PRESCOLITE INC

Industry: (Pharmacy (1PH23); Pharmaceuticals & Biotechnology (1PH13); Healthcare Services (1HE13); Pharmaceuticals Cost-Benefits (1PH30); Healthcare (1HE06); Security Agencies (1SE35); Security (1SE29); Drugstores (1DR73))

Region: (North America (1NO39); New York (1NE72); USA (1US73); Americas (1AM92); Florida (1FL79))

Language: EN

Other Indexing: (AMERICAN PHARMACEUTICAL ASSOCIATION; COLUMBIA; FBI; NACDS; NATIONAL ASSOCIATION OF CHAIN DRUG STORES) (Attorney; Commenting; John Gans; Patients; Phillip Schneider; William Barr; William Sessions)

Keywords: (Business); (Pharmaceuticals and cosmetics industries); (Retail industry); (National Association of Chain Drug Stores); (National Association of Chain Drug Stores - Beliefs, opinions and attitudes); (United States. Federal Bureau of Investigation); (United States. Federal Bureau of Investigation - Investigations); (Health care industry); (Crime)

Product: Health & Allied Services, NEC

Sic: 8099

Word Count: 626

End of Document

7/23/92 Atlanta J. - Const. E2
1992 WLNR 2335088

Atlanta Journal and Constitution (GA)

July 23, 1992

Section: LOCAL NEWS

BARR VISITS SCLC IN ATLANTA TO PUSH ANTI-DRUG PROGRAM

Cynthia Durcanin STAFF WRITER

U.S. Attorney General William Barr, the nation's top law enforcement officer, came to Atlanta on Wednesday to tell grass-roots activists how to cut through bureaucratic red tape in the war on drugs.

Over fast-food take-out in a church office, Mr. Barr met with a dozen members of the Southern Christian Leadership Conference to discuss the Bush administration's new "Weed and Seed" project for reclaiming drug infested neighborhoods.

"The most important thing is that this not be a Washington, bureaucratic project," Mr. Barr told the Rev. Joseph E. Lowery, SCLC's president. "It must be a project where the solutions are found in the community itself."

He acknowledged that in the past decade the federal government's anti-crime efforts have relied too heavily on prison construction and not enough on crime prevention.

Mr. Barr said the federal government has entered into a "new marriage" with local activists to see that social services addressing the underlying causes of drug abuse actually reach their communities.

The Rev. Vernon Clay, national assistant director of the SCLC's "Wings of Hope" anti-drug program, said he welcomed the help but frankly told Mr. Barr that in the past "the marriage somehow gets divorced by the time the plane lands in Washington."

Mr. Barr said the House has appropriated $2.5 billion for the "Weed and Seed" program over five years. The SCLC has been selected to participate in the pilot program but is still awaiting funding.

After the meeting, Mr. Barr toured the Herndon Homes housing project, part of the "Wings of Hope" program, which works with communities and churches for drug prevention in 12 cities nationwide.

Photo

Photo: Attorney General William Barr (left) tours Herndon Homes housing project with Richard C. Dalton, national project director of the SCLC's "Wings of Hope" anti-drug program / NICK ARROYO / Staff

U.S. Attorney General William Barr, the nation's top law enforcement officer, came to Atlanta on Wednesday to tell grass-roots activists how to cut through bureaucratic red tape in the war on drugs.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Georgia (1GE15))

Language: EN

Other Indexing: (HERNDON HOMES; REV; SOUTHERN CHRISTIAN LEADERSHIP) (Barr; BARR VISITS SCLC; Bush; Joseph E. Lowery; Richard C. Dalton; SCLC; Vernon Clay; William Barr)

Word Count: 414

End of Document

NewsRoom

7/20/92 Gov't Computer News 82
1992 WLNR 5047980

Government Computer News

July 20, 1992

Volume v11; Issue n15

Attorney general says Inslaw probe will end this fall.

The investigation by special counsel into theft claims made by InslawInc against the US Department of Justice concerning Inslaw's Promiscase management software should be completed by fall 1992, according toUS Attorney General William P. Bay. Bay appointed retired federal judgeNicholas J. Bua to investigate charges made by Inslaw owners William A.and Nancy R. Hamilton that the Justice department stole enhancedversions of Promis. The Hamiltons contend the department's actionsforced their company into bankruptcy proceedings. They believe thecurrent investigation represents a conflict of interest because thespecial counsel works for the agency being investigated. They claim tohave talked to current and former department employees who say the FBIis currently using a version of Promis and want Bua to compare theprogram the FBI is using to Inslaw's Promis to determine if theyare the same.

Attorney General William P. Barr said he expects special counsel Nicholas J. Bua to finish his probe into Inslaw Inc.'s allegations against the Justice Department this fall.

Once he has Bua's report in hand, Barr said he would release it publicly. Barr's comments came last month during a lengthy day of testimony at a general department oversight hearing of the Senate Judiciary Committee.

Bua is investigating Inslaw's claims that Justice officials stole enhanced copies of Inslaw's Promis case management software and forced the Washington company into bankruptcy proceedings.

Barr said that Bua is conducting a thorough probe, checking out all the "diffuse allegations" surrounding the Inslaw case. "From what I can tell, he has been working hard at it, diligently at it," he said.

Barr appointed the retired federal judge as special counsel and assistant U.S. attorney last November. Bua is a partner in the Chicago law firm of Burke, Bosselman and Weaver.

Inslaw owners William A. and Nancy B. Hamilton have said the investigation is a conflict of interest both for Bua and FBI agents helping him with the probe. Current and former Justice officials have told the owners that the FBI allegedly is using copies of their Promis software, Nancy Hamilton said. As for Bua, "he obviously works for the attorney general," she said.

When the Hamiltons met with Bua in May, they suggested that he get a copy of the FBI's case management software to determine if it is some version of Inslaw's Promis, Nancy Hamilton said.

Meanwhile, the Hamiltons are preparing for an October hearing at the Transportation Department's Board of Contract Appeals. The Transportation board has been handling Inslaw's contract claims against Justice, stemming from the original 1982 $10 million contract with Inslaw for case management software, because Justice has no contract appeals board of its own.

The Hamiltons have been in a legal tug-of-war with Justice for nearly a decade now. They have enlisted the aid of former Justice attorney general Elliot L. Richardson, who must battle his old employer.

The company's most recent legal disappointment came in January when the Supreme Court refused to reinstate a 1987 bankruptcy court judgment that ruled in favor of the Hamiltons. The following year, the U.S. District Court for D.C. affirmed that ruling and awarded Inslaw $6 million.

But last year the U.S. Appeals Court for D.C. overturned those rulings, saying the bankruptcy court did not have the authority to preside over the matter.

---- Index References ----

Company: US DEPARTMENT OF JUSTICE; JUSTICE; INSLAW INC; JUSTICE DEPARTMENT

News Subject: (Legal (1LE33); Government Litigation (1GO18); Economics & Trade (1EC26); Business Management (1BU42); Judicial (1JU36); Bankruptcies (1BA08))

Industry: (Security Agencies (1SE35); Security (1SE29))

Region: (North America (1NO39); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (DEPARTMENT; FBI; INSLAW INC; JUSTICE; JUSTICE DEPARTMENT; SENATE JUDICIARY COMMITTEE; SUPREME COURT; TRANSPORTATION BOARD; TRANSPORTATION DEPARTMENT; US APPEALS COURT; US DISTRICT COURT; US DEPARTMENT OF JUSTICE) (Barr; Bay; Bua; Elliot L. Richardson; Hamilton; Hamiltons; Inslaw; Nancy B. Hamilton; Nancy Hamilton; Nancy R. Hamilton; Nicholas J. Bua; Weaver; William; William P. Barr; William P. Bay)

Keywords: (Computers); (Computers and office automation industries); (Government); (Cases); (United States. Department of Justice); (United States. Department of Justice - Cases); (Software piracy); (Software piracy - Cases); (Software industry); (Software industry - Cases); (National government); (National government - Cases); (Investigations); (Bankruptcy); (Computer software industry); (Computer software industry - Cases); (Federal government); (Federal government - Cases)

Company Terms: INSLAW INC

Product: Custom Computer Programming Services; Prepackaged Software; Legal Counsel and Prosecution

Sic: 7371; 7372; 9222

Word Count: 681

NewsRoom

7/9/92 AP Online 00:00:00

AP Online

July 9, 1992

Section: Washington

Attorney General Authorizes FBI To Collect Juvenile Criminal Records

MICHAEL J. SNIFFEN

WASHINGTON

Attorney General William Barr has authorized the FBI to begin collecting and distributing the state criminal histories of juvenile offenders.

Previously, the FBI could only collect records of juveniles tried as adults.

Barr's decision, announced Thursday, drew protests from some state and local probation and juvenile officials and praise from some law enforcement officers concerned over the rise in juvenile crime.

Under the new rules, the bureau can accept, from state law enforcement agencies, fingerprint cards and arrest and conviction records of juveniles charged with "serious and-or significant offenses," Barr said.

Barr emphasized that no state would be compelled to give any juvenile record to the FBI and states will decide which if any will be provided.

Like adult rap sheets, these will be maintained in paper and computer records, the FBI's Steve Markardt said.

The computer records can be distributed instantaneously upon request from any of 62,000 law enforcement agencies. Some police cars are equipped to draw records from the FBI's computerized National Crime Information Center.

Paper criminal records can be distributed by the FBI to law enforcement and to state regulatory and licensing agencies for use

by employers doing background checks on prospective employees. Each state has its own licensing rules, but records can be obtained before hiring teachers, bus drivers, nuclear plant workers, day-care employees, bank security officers and others.

The FBI now has 24 million criminal histories on paper and 16 million in its computerized files, Markardt said.

"Fifteen to 20 years ago, this couldn't have happened," said Robert Belair, general counsel to SEARCH, a consortium of 50 state criminal records agencies. "Then we believed kids didn't have a volitional quality in crime and were good candidates for rehabilitation.

"The sad truth is we know too much today. Research has established there is an association between early and serious crime and continued crime in adulthood."

SEARCH did not take a formal position on Barr's proposal because its members include both supporters and critics.

"Every state in the nation has adopted limits on the access to juvenile criminal records," Belair said. "But increasingly they are relaxing the confidentiality of juvenile records," particularly involving serious crime.

Barr noted the Bureau of Justice Statistics has found that 55 percent of armed robbers in state prisons in 1986 were sentenced previously to probation or prison as a juvenile. The FBI's Uniform Crime Reports found 1.6 million arrests of youths under age 18 during 1988.

Barr's new rule would continue to exclude records of drunkenness, vagrancy, disturbing the peace, loitering and curfew and traffic violations.

Congressional critics of the FBI records system have noted that it includes arrests but may not indicate that charged were dropped or that a defendant was acquitted.

Robert J. Schack, chairman of a New York State Bar Association subcommittee on juvenile justice legislation, opposed the move. He said New York's experience showed such records do not improve the rate of crime solution or conviction.

Schack added that inclusion of juvenile records in a national system could do permanent damage to their ability to enter the armed forces and to obtain jobs and credit and thus could force some into lives of crime.

But Cois Byrd, sheriff of Riverside County, Calif., was "heartily in favor" because some youths have long histories of vicious crimes.

Barr's rule will become effective with its publication in the Federal Register soon.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Technology Law (1TE30); Police (1PO98); Economics & Trade (1EC26))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); New York (1NE72))

Language: EN

Other Indexing: (BARR; BUREAU OF JUSTICE; COLLECT JUVENILE CRIMINAL; FBI; FEDERAL REGISTER; NATIONAL CRIME INFORMATION CENTER; NEW YORK STATE BAR ASSOCIATION; SEARCH; UNIFORM CRIME) (Attorney; Authorizes FBI; Barr; Belair; Cois Byrd; Congressional; Fifteen; Markardt; Research; Robert Belair; Robert J. Schack; Schack; Steve Markardt; William Barr)

Word Count: 719

End of Document

7/8/92 Wash. Times (D.C.) A2
1992 WLNR 120298

Washington Times (DC)

July 8, 1992

Section: TOP OF THE NEWS NATION

ATTORNEY GENERAL SIDES WITH TEXAS ON PRISONS

FROM WIRE DISPATCHES AND STAFF REPORTS

The Justice Department yesterday filed a brief joining the state of Texas in calling for the immediate termination of a 20-year-old prison litigation case.

"I believe the time is well overdue for the Ruiz case to be brought to an end," said Attorney General William P. Barr in announcing the government's support for Texas.

Mr. Barr said full control of Texas prisons must be returned to the duly appointed representatives of the people of Texas.

"Based on the record in this case we are asking the court to terminate this litigation without any court-imposed or court-approved limitations on Texas," he added.

He said that in 1974, when conditions in Texas prisons were unconstitutional, the department defended the rights of prisoners.

Today, he said, "We are here to defend the rights of the people of Texas. If necessary, we will take this case to the Supreme Court."

J0026628-070892

PHOTO

Photo, Barr

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Texas (1TE14))

Language: EN

Other Indexing: (JUSTICE DEPARTMENT; PHOTO; RUIZ; SUPREME COURT) (ATTORNEY GENERAL SIDES; Barr; William P. Barr)

Edition: Final

Word Count: 183

End of Document

7/5/92 Wash. Times (D.C.) A3
1992 WLNR 130750

Washington Times (DC)

July 5, 1992

Section: NATION

SPECIAL COUNSEL ASSAILED JUSTICE'S BARR SAYS STATUTE IS MISUSED

Joyce Price THE WASHINGTON TIMES

Attorney General William Barr said yesterday that the independent counsel law is being used as a political weapon and should not be renewed when it expires Dec. 15 unless there are major changes.

"There are elements in this town who are attempting to use the criminal process for political purposes," Mr. Barr said on CNN's "Evans and Novak" when asked about the statute that set up the Office of Independent Counsel.

"It's a mechanism that's being manipulated in this town for political purposes," he said.

When Congress passed the law in 1978, it was designed to prevent a repetition of the 1973 "Saturday Night Massacre" in which President Richard Nixon fired the Watergate special prosecutor, Archibald Cox. It protects the executive branch from inherent conflicts of interest during investigations of its own high-level officials.

Under the law, the attorney general is authorized to ask a three-judge panel to appoint an independent counsel, or special prosecutor. But the attorney general is prohibited from supervising the counsel and can fire him only for "good cause."

In his television appearance yesterday, Mr. Barr did not cite any evidence that Iran-Contra Independent Counsel Lawrence Walsh has been politically manipulated.

But Mr. Barr said that if it became clear that politics was driving an investigation by an independent counsel, it would be grounds to fire him.

Mr. Barr is not the first attorney general to have serious concerns about the law that established the Office of Independent Counsel. In April 1987, then-Attorney General Edwin Meese III charged that the law was unconstitutional and said the administration should have broad authority over independent counsels, including the power to control and, if necessary, halt investigations.

In April 1988, the Reagan administration urged the Supreme Court to strike down the independent counsel law. The administration argued that the independent counsel was an unconstitutional intrusion on the power of the president. But the court, in a 7-1 ruling two months later, upheld the law.

Before leaving office in August 1988, Mr. Meese issued an order extending provisions of the independent counsel statute to members of Congress. But his successor, Dick Thornburgh, suspended that order in April 1989.

"The problem with the statute is that it creates a prosecutor with no accountability," Mr. Barr said. "Unless it's changed, I'll recommend that the president veto it" when it comes up for renewal.

One change that would be necessary, he said, would be to authorize the independent counsel to investigate Congress as well as the executive branch.

"I'm not sure you need a statute (creating an independent counsel)," Mr. Barr said. "The independent counsel in the Nixon case was appointed by the attorney general.

"But if there is a statute," he added, "it must apply to Congress and it (office of the independent counsel) must have accountability."

Mr. Barr also suggested there needs to be greater professionalism in the Office of Independent Counsel and that those selected to the post have a better understanding of the prosecutor's role and of Justice Department standards.

"I'm very concerned about a statute that leads to people being treated differently - people being singled out - and people being prosecuted who would not be prosecuted by the Justice Department," the attorney general said yesterday.

The best-known, longest and costliest independent counsel investigation involves the Iran-Contra scandal. Mr. Walsh was appointed in December 1986 and has won convictions of four Reagan administration officials - two of which were later overturned on appeal.

The inquiry so far has taken 5 1/2 years and cost $30 million, according to published reports.

The most recent indictment came last month when Caspar W. Weinberger, defense secretary in the Reagan administration, was charged with obstruction, perjury and making false statements.

A0034555-070592

PHOTO

Photo, William Barr

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Government (1GO80); Government Litigation (1GO18))

Language: EN

Other Indexing: (BARR; CNN; CONGRESS; CONTRA; CONTRA INDEPENDENT COUNSEL LAWRENCE; JUSTICE DEPARTMENT; OFFICE OF INDEPENDENT; PHOTO; SUPREME COURT) (Archibald Cox; Barr; Caspar W. Weinberger; Dick Thornburgh; Edwin Meese; Meese; Reagan; Richard Nixon; SPECIAL COUNSEL ASSAILED JUSTICE; Walsh; William Barr)

Edition: Final

Word Count: 804

End of Document

No Headline In Original

CNN Evans & Novak

July 4, 1992

Section: News; Show; Analysis

Length: 3732 words

Body

ROWLAND EVANS, Host: I'm Rowland Evans. Robert Novak and I will look at the Supreme Court's decision on abortion by questioning President Bush's chief legal officer.

ROBERT NOVAK, Host: He is the Attorney General of the United States, William Barr.

[voice-over] The Court's long-awaited ruling on abortion upheld most of Pennsylvania's restrictions, but also upheld on a five-to-four vote the 20-year-old Roe v. Wade decision asserting a woman's constitutional right to an abortion. President Bush declared himself pleased, but that one-vote margin worries the Democratic presidential candidate. Gov. BILL CLINTON, Democratic Presidential Candidate: You have four judges plainly committed to repeal Roe v. Wade, three others nibbling around the edges, and a brave Justice Blackmun saying he doesn't know how much longer he can hang on.

NOVAK: [voice-over] But anti-abortion activists were outraged by the breakdown of the Court.

RANDALL TERRY, Operation Rescue: Today three Reagan-Bush appointees stabbed the pro-life movement in the back and affirmed the bloodshed.

NOVAK: Mr. Attorney General, do you also feel some sense of betrayal that the Reagan-Bush judges voted to affirm the constitutionality of Roe v. Wade?

WILLIAM BARR, U.S. Attorney General: No. I don't feel a sense of betrayal. We don't select judges to decide one specific case. We select judges because of their overall philosophy, and generally I am pleased with the direction of the Supreme Court over the last 12 years. I was disappointed in this decision, the abortion decision. I felt it was a mixed bag. It's a step in the right direction because it does allow the states greater latitude in placing reasonable restrictions on abortion. But it doesn't go far enough in my view. I think Roe v. Wade should be overturned.

NOVAK: On this program in 1989, your predecessor as attorney general, Dick Thornburgh, did something that kind of surprised us. He made a flat prediction that the Supreme Court would overturn Roe v. Wade sooner or later. Can you make a prediction now that it's very unlikely in the foreseeable future that that's going to happen?

Atty. Gen. BARR: On the contrary, I think that Roe v. Wade will ultimately be overturned. I think it'll fall of its own weight. It does not have any constitutional underpinnings. And I think it's significant that the three so-called moderate justices who were responsible for keeping it intact for now-

NOVAK: Justice Kennedy, Justice Souter, and Justice O'Connor?

Atty. Gen. BARR: Right. They did not so much defend the earlier opinion, Roe v. Wade, on the merits, on its constitutionality, but on the doctrine of stare decisis, and that is a reluctance to overturn prior precedent. They're-

NOVAK: And you think that's a bogus way to decide a case?

Atty. Gen. BARR: Well, I think they were wrong to do it. Yes, I think they should have stuck with the Constitution. But only two justices on the Supreme Court are willing to defend the logic of Roe v. Wade.

NOVAK: And you were surprised at the decision of these justices on stare decisis?

Atty. Gen. BARR: I was disappointed in that decision.

NOVAK: Not surprised?

Atty. Gen. BARR: Not particularly.

EVANS: General, you just said to my partner that a man isn't appointed- a lawyer or a judge is not put on the Supreme Court because of his stand on one decision, but Governor Clinton has said flatly he would not appoint to the Supreme Court anybody who was ant-abortion rights. What do you think of that?

Atty. Gen. BARR: Well, I think that's wrong to have a particular litmus test for Supreme Court appointments. These people are on the Court for 20 or 30 years, maybe more, and who knows what decisions will come up? But I also want to say that, from the reaction of the so-called pro- certain elements of the pro-choice movement, that they seem to be defending a very extreme position, which is abortion on demand, abortion as a method of birth control, no reasonable restrictions on it, no parental notice, no parental consent. That's a very extreme position, and I think we're headed in the right direction to allow the state legislatures to place reasonable restrictions on abortion.

EVANS: Justice Scalia, of course who voted in the minority in this case, said after the- in his dissent- he said, 'The imperial judiciary lives,' meaning that the Supreme Court really has no business being in this area because it's not a constitutional matter. You agree with that, don't you?

Atty. Gen. BARR: I agree with the sentiment that the Supreme Court should not be the referee in this area. This is a decision that should be left to the state-

EVANS: Let me ask you to take a flier on this. If we didn't have Roe- hadn't had Roe versus Wade, if Roe-Wade were not the law of the land today, do you have any doubt in your mind that state legislatures would be adequate to handle this very difficult problem in a legislative-political way?

Atty. Gen. BARR: Yes, I do. I think they could.

EVANS: So, how do you prevail that sentiment that you just expressed- how do you make that prevail on the Supreme Court?

Atty. Gen. BARR: Well, I think eventually states will continue to pass reasonable restrictions, and some will be upheld and some may be struck down. But over time, I think, and with further appointments to the Supreme Court, I think that the Roe v. Wade opinion will fall.

EVANS: Would you agree with that way it's been handled now in this latest decision, that the whole question of abortion is going to become a litigator's heaven, that they talk about undue burden - 24 hours notice, why not 36, why not 48, that a woman has to give notice before she has an abortion? Do you think this is going to be the direction as a result of this case?

Atty. Gen. BARR: I think for a while the Court may tinker in this area, and it will become a litigator's nightmare, and there will be no certain-

EVANS: Heaven.

Atty. Gen. BARR: Heaven. And there'll be no certain guidelines.

NOVAK: Mr. Attorney General, let me try to figure out what- where we're going now. We have a lot of- several state laws that are being challenged, anti-abortion laws - Louisiana, Utah, territory of Guam. There's no point in you going to the Court on this right now, the government going to the Court, and saying, 'Yes, we want Roe v. Wade to be overturned.' There's just not the votes on this Court, is there?

Atty. Gen. BARR: I think this department will continue to do what it's done for the past 10 years and call for the overturning of Roe v. Wade in future litigation.

NOVAK: Really? You would keep going back into that five-to-four vote for its constitutionality?

Atty. Gen. BARR: Well, the vote was worse than five to four several years ago, and we continued to go back to the Court. And I think the defects of the current decision will become more and more evident over time.

NOVAK: So, these state laws are not dead on arrival in the Supreme Court as far as you're concerned?

Atty. Gen. BARR: Well, it obviously depends on the law, but-

NOVAK: Say the Louisiana law. I mean-

Atty. Gen. BARR: But I think that the department will continue to take the position to defend the rights of states to regulate this area.

NOVAK: Now, sir, you really surprised me when you said you weren't surprised that these three justices had taken a position that the precedent should prevail. You expected them to do that, you say? If you're not surprised, that means you expected them to do that.

Atty. Gen. BARR: No, it doesn't. It means that there was some question as to what they would do. It was not clear to me where this decision would end up.

NOVAK: Now, when you have a Kennedy- I'm sorry, when you have Justice Kennedy voting against school prayer- legalization of school prayer, when you have a Reagan-Bush Court voting to uphold Roe v. Wade for school prayer, it's pretty hard for Republicans to go out to conservatives and say, 'Let's elect George Bush to get judges in there' when the judges are absolutely unpredictable.

Atty. Gen. BARR: Well, I flatly disagree with that. I think you have to look at the big picture. In the '60s and '70s we had a radical, extreme judiciary in this country from the Supreme Court on down. And through a- through 12 years of appointments, the law in virtually every area has moved more into the common-sense realm. In criminal law particularly we've had numerous victories, and now the criminal is starting to deal- protect the rights of society against the predator. And across the board, decisions are becoming more reasonable, and I believe that, as we continue to pick judges who exercise judicial restraint, ultimately we will see the demise of Roe v. Wade and other vestiges of the Warren Court years.

EVANS: General, I want to abort abortion for a minute and go to Iraq-gate. The administration that you're a part of, the President, has been under heavy criticism on the Hill for apparently making it possible for Saddam Hussein to build up a large arms capacity, including some nuclear and chemical weapons through agencies of the U.S. government - loans and credits and so forth. Now, why is it there has been no indictment yet by the Department of Justice of a single company involved in such exports during the buildup before the Gulf War to Iraq, not a single indictment?

Atty. Gen. BARR: Well, first, I think the premise of your question is wrong. I don't think that anyone has stepped forward at this point with evidence to show that the Bush administration supported the military buildup. There have been allegations that some monies were diverted from agricultural loans and so forth for arms. But I don't think that's been established yet. And the fact of the matter is the Department of Justice has brought charges against BNL.

EVANS: Yeah, but no indictment yet.

Atty. Gen. BARR: That's an indictment.

EVANS: Well, not a company exporting war material, is what I said. Not the bank of the-

Atty. Gen. BARR: I'm not sure that that's true. I-

EVANS: Well, how about- let me ask you about one specific company - Matrix Churchill [sp?].

Atty. Gen. BARR: Well, we don't discuss specific investigations.

EVANS: Well, let me- you won't discuss it at all?

Atty. Gen. BARR: No. I won't discuss a specific investigation. I'm not permitted to.

EVANS: Well, put it in the future tense. Do you see the possibility of any indictments against any company which is clearly- was clearly involved in the shipping of war materiel to Iraq on the horizon?

Atty. Gen. BARR: Yes. We are investigating instances where there have been allegations of companies circumventing the embargo with military equipment and other prohibited articles, and I expect indictments in those cases.

EVANS: Do you expect the House Democrats on the House Judiciary Committee that's investigating this to go for a- to ask you to appoint a special prosecutor? And, if they do, as I expect they will, will you comply with that request, General?

Atty. Gen. BARR: I'm not sure what they're going to do. I know some of them are saying that they are going to request one, and I'm going to comply with that statute. And a request is simply that - a request. They still have to meet the statutory criteria.

EVANS: Do you agree with Bill Safire, the columnist for The New York Time who wrote the other day that, if a request was made and you did not meet it, you would be, quote, 'impeached for misfeasance,' unquote?

Atty. Gen. BARR: No.

EVANS: Yes or no?

Atty. Gen. BARR: No.

EVANS: You don't? You don't agree with Bill Safire-

Atty. Gen. BARR: I do not agree with Bill Safire.

NOVAK: But you have a- you're saying, General, that there is an- you have an option on that, and you can look them in the eye and say, 'No, you don't need a special prosecutor.' Is that- isn't that what you're saying?

Atty. Gen. BARR: They have to have evidence of criminality by a covered person for me to appoint an independent counsel.

NOVAK: And you determine whether the-

Atty. Gen. BARR: Yes.

NOVAK: -whether the evidence is-

Atty. Gen. BARR: Yes.

NOVAK: Mr. Barr, back in April, you were interviewed in the aftermath of the Los Angeles riots. You said that you were still looking at the question of what role the gangs of Los Angeles had in pre-planning the riots. What's your considered opinion now that you've had a chance to look at it? Was this something less than spontaneous? Were they prepared to move into the situation and exploit it?

Atty. Gen. BARR: I believe they were prepared to move into the situation to exploit it. I still haven't reached a conclusion about the extent of pre-planning. But there's no question that the inception of the violence was largely caused by the gangs.

NOVAK: Now, the gang members have had a lot of attention since the riots, a lot of- appeared on a lot of programs. They have been hired by some of the stores that were burned out. They've done pretty well on this, haven't they?

Atty. Gen. BARR: I'm not sure what you mean by 'well.'

EVANS: They've behaved themselves.

NOVAK: No, no, I don't mean that. I mean they've come out as the winners.

Atty. Gen. BARR: Well, apparently in Los Angeles a number of them are being hired.

NOVAK: What do you think of that? Is that- is that the old protection game they used to have in New York when they say, 'I'll mind your store for you if you give me some money'?

Atty. Gen. BARR: I don't know enough about the circumstances to characterize it that way.

NOVAK: And you're not looking into it?

Atty. Gen. BARR: We are looking into the activities of the gangs.

NOVAK: Give me your overall impression of where you stand now in Los Angeles. Are the gangs more powerful? Have they cleaned up their act? What's- people are really interested in knowing that.

Atty. Gen. BARR: There are about 300,000 gang members in the United States, and about a third of them are in the Los Angeles area. They are powerful. They are, by and large, heavily involved in drug trafficking, particularly crack cocaine, which is so devastating the inner-city communities of our country. They are heavily involved in violent crime, extortion as you say. And we are stepping up the federal pressure on these organizations, which is something new. Traditionally it's been a state and local responsibility, and now we're using the organized crime statute, the RICO statute, to try to take these gangs down.

NOVAK: When did you start doing that?

Atty. Gen. BARR: We had a pilot project in Philadelphia over the past three years where have taken down 38 gangs.

NOVAK: I mean in L.A.

Atty. Gen. BARR: In L.A. we started doing it in January when I reassigned foreign counterintelligence agents.

EVANS: General- excuse me. General, the- law and order was a big issue in Republican campaigns 1980 and '84 with Mr. Reagan, '88 with Mr. Bush. Law and order seems to be getting worse in this country, but it's still a major issue. Do you expect the President to put great emphasis on law and order as a political issue in this fall campaign?

Atty. Gen. BARR: Well, I think that he has a excellent record in this area, so that I think he will. Because-

EVANS: Point one in the excellent record.

Atty. Gen. BARR: Well, first let me get back to the point you made about law and order being- getting worse. You have to look at it in perspective. It was in the '60s and '70s when we had lenient policies in this country where violent crime virtually quadrupled. In 1980 and '81 it started going down, and now it's going back up again, because of the tougher policies we followed in the 1980s. George Bush has put a tremendous amount of resources in law enforcement, new agents, new prosecutors. He has doubled federal prison capacity in just three years, obtaining funding to do that.

EVANS: Still not enough prisons are there?

Atty. Gen. BARR: At the state level there are not enough prisons. But-

EVANS: General, I-

Atty. Gen. BARR: -at the federal level there are.

EVANS: Attorney General Barr, I'm going to have to break you off for a second. We'll take a break, and my partner and I will be back with the big question after these messages.

[Commercial break]

EVANS: Attorney General Barr, the big question - has the independent prosecutor law outlived its usefulness?

Atty. Gen. BARR: I think it shouldn't have been passed originally, and I don't think it should be reauthorized in its present form.

EVANS: You don't think that there should be an agent of justice beyond the reach and the grasp and the direction of the Department of Justice to assure that the law is obeyed in this country by key people in the Executive Branch of government? You don't think that's a proper use?

Atty. Gen. BARR: Well, I think there are mechanisms for doing that without doing away with accountability. The problem with the statute is that it creates a prosecutor that has no accountability. And I think it's a- in its present form, it's a threat to civil liberties.

EVANS: It expires December 15th. What are you going to do?

Atty. Gen. BARR: Well, as I've said, unless it is changed substantially, I'm going to recommend the President veto it if it is passed.

NOVAK: Mr. Attorney General, there is one element of accountability if I'm not mistaken, and that is that the special prosecutor, or the independent counsel in the case we're talking about, Judge Walsh of the Iran-Contra, can be terminated by cause.

Atty. Gen. BARR: For cause.

NOVAK: For cause by the Attorney General. Why don't you just do it?

Atty. Gen. BARR: Well, if cause existed, that might be an option.

NOVAK: Well, you say they're not doing-

Atty. Gen. BARR: But the cause is usually interpreted as requiring some kind of malfeasance.

NOVAK: Do you think they've done a good job?

Atty. Gen. BARR: I'm not going to comment on a- on the investigation while it's going on, but I am very concerned about the statute, because I think it leads to people getting treated differently, people being singled out and hounded and undue resources being put into the case, and ultimately to people being prosecuted who would not be prosecuted if it were a Department of Justice case.

NOVAK: Do you think they have criminalized political differences?

Atty. Gen. BARR: I think that there is an element in this town that is attempting to use the criminal process for political purposes.

EVANS: If you get that statute- new statute, you say you would advise a veto for it. What would be the principal difference in a law that you would approve - you personally, speaking for the President and the Justice Department - in the line of a special prosecutor law? Give us the main difference.

Atty. Gen. BARR: Well, first, I don't think you necessarily need a statute. After all, the independent counsel in the Nixon years was appointed by the attorney general and operated independently. And so I'm not sure you need a statute. But if you do have a statute, I think it has to apply to Congress, and I think that it has to have accountability, and I think you have to have pros doing the job who understand something about the prosecution function.

NOVAK: We just have a few seconds. Mr. Attorney General, if - if, this is hypothetical - it could be seen that the special prosecutor, the independent counsel, was criminalizing political decisions, would that be good enough for dismissal for cause?

Atty. Gen. BARR: If an individual was. What I was saying is that the mechanism is being manipulated in this town for political purposes. There are elements in this town that try to get some kind of allegation against a person just so they can get an independent counsel.

NOVAK: Well, you didn't quite answer my question. If that system is being used for that purpose, would that be cause for dismissal?

Atty. Gen. BARR: Yes.

NOVAK: All right. Thank you very much, Attorney General Barr.

My partner and I will be back with some comments after these messages.

[Commercial break]

EVANS: Bob, Attorney General Barr did not quite close the door on the possibility that a special prosecutor could be fired if he were discovered, and the system he was operating seemed, to be politicizing- I mean, criminalizing political decision-making in the Executive Branch. He made it absolutely clear he does not want the law that's in effect today to go on beyond December 15th.

NOVAK: He also made it clear that he's not all that happy with the Supreme Court's decision on affirming Roe v. Wade, that he was disappointed in the justices. What surprised me, however, Rowlie, was that he said he's going to keep going back to the Court on abortion even though it seems to be a stacked deck, five to four. And he says some day he'll prevail. That's more optimistic than a lot of people are on the pro-life said.

EVANS: Bill Barr is totally innocent on the Iraq-gate scandal that's rocking the House of Representatives against President Bush these days, but there will be indictments coming down the pike, he said, on companies that have made weapons available to Iraq. But this is going the same speed as molasses. It won't get there until November 4th, the day after the election.

NOVAK: Bill Barr is one of the most conservative members of this administration, but he's also a lawyer, and he really didn't say what a lot of people want to hear about the Los Angeles riots - what was the role of the gangs? Was it prearranged? I think people deserve to hear that some day.

I'm Robert Novak.

EVANS: I'm Rowland Evans.

Be with us next week at the Democratic convention in New York when our guest will be James Carville, chief campaign strategist for Governor Bill Clinton.

The preceding text has been professionally transcribed. However, although the text has been checked against an audio track, in order to meet rigid distribution and transmission deadlines, it has not yet been proofread against videotape.

No Headline In Original

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U.S. to Make Decision Soon on Whether To Press Charges in King Beating Case

The Wall Street Journal

July 2, 1992 Thursday

Section: POLITICS & POLICY; Pg. A10

Length: 556 words

Byline: By Joe Davidson, Staff Reporter of The Wall Street Journal

Body

WASHINGTON -- Attorney General William Barr said prosecutors will soon decide whether to press federal criminal civil-rights charges against Los Angeles police officers in the Rodney King beating case.

"I expect in the near future we are going to come to a conclusion," he said in an interview. Mr. Barr wouldn't be more specific, except to say that no announcement is expected within a week.

The attorney general indicated that previous predictions by officials that a decision on the federal indictment could be made in about a month were premature. A Federal Bureau of Investigation investigation official had said in early May that the bureau's inquiry, which began at the time of the beating, was nearly finished when the bureau reopened the case.

Justice Department officials reopened their investigation of the videotaped incident following the April 29 state court acquittal of four officers charged with beating Mr. King. Mr. Barr, who said the state's trial produced more evidence to be investigated, recently returned from a trip to Los Angeles where he met with prosecutors and investigators working on the King case.

"We are dealing here with a case that has previously been lost by the state," he said. "I think it is important that if it's decided to go forward with charges that we have prepared a case that is going to win. Any time that is taken now is essential to the adequate preparation of a case should one be brought.

"It is the professional career prosecutors who are really calling the shots on the timing, and they are being given full latitude," he continued. "We are not pushing them."

The federal investigation may not be limited to the four acquitted policemen. About 20 officers were on the scene. Stanley Greenberg, lawyer for Tim Singer, a California highway patrolman who wasn't charged in the state's proceedings, said the FBI recently questioned his client about the beating.

Mr. Greenberg said Mr. Singer may be indicted because "it's a political year, not because he did anything wrong." Mr. Barr insisted politics plays no part in the King case or any other.

Another person in Los Angeles familiar with the case said that "all the bystander officers have been called" to testify before the grand jury investigating the case.

If prosecutors decide to take action against the bystander policemen, one issue of concern is the "Garrity Rule," which says a witness's compelled testimony, as well as information that flows from it, may not be used against the witness.

The Garrity Rule could pose "a severe complicating factor legally in deciding how to proceed," said Joseph diGenova, a former U.S. attorney now in private practice here.

If federal prosecutors can't use the testimony of a bystander officer, "then they have to figure out who they will immunize in order to get some testimony," he added. "It's always tough, especially when you have a conspiracy of silence."

In Special Order No. 3, issued Jan. 31, former Police Chief Daryl Gates instructed Los Angeles officers to cooperate if called to testify, even if they would be incriminated by their testimony.

"Under California and federal law," according to the policy statement, "any testimony or statement made by an officer under administrative compulsion of this policy cannot be used against that officer in any pending or future criminal prosecution."

Notes

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NewsRoom

7/1/92 Seattle Times A11
1992 WLNR 1072109

Seattle Times (WA)

July 1, 1992

Section: NEWS

HEALTH-CARE FRAUD INVESTIGATION NETS 108 ARRESTS ACROSS NATION

BOSTON GLOBE

WASHINGTON

FBI agents arrested 108 persons, including 82 pharmacists and a physician, and seized tens of millions of dollars in assets yesterday in a nationwide crackdown that Justice Department officials called the largest criminal-fraud investigation of the health-care industry ever carried out.

The arrests were announced jointly by Attorney General William Barr and FBI Director William S. Sessions. The probe targeted an "epidemic of fraud and abuse" that included filling and selling false prescriptions and fraudulent billing by pharmacies.

"We're looking at a large percentage of health-care money being drained away from the government because of this kind of fraud," said Sessions, who declined to specify how many millions of dollars in drugs and assets were involved.

The 21-month investigation also focused on the resale of prescription drugs and other schemes in which insurance companies were charged far more than the value of the drugs patients received.

In one case, an FBI official said, investigators were tipped off to a case of fraud by studying Medicaid records suggesting that every person in a certain city was taking 10 tablets a day of a particular drug.

Officials said that, under the scheme, a person eligible to receive Medicaid would obtain prescriptions for expensive drugs. The physician would bill Medicaid for the visit. The patient would get the prescription filled at Medicaid's expense and sell the medicine to another conspirator. It would later be sold to the public.

---- Index References ----

News Subject: (Crime (1CR87); Fraud Report (1FR30); Social Issues (1SO05))

Industry: (Pharmaceuticals Cost-Benefits (1PH30); Pharmaceuticals & Biotechnology (1PH13); Prescription Drugs (1PR52))

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1992 WLNR 164744

Washington Times (DC)

July 1, 1992

Section: NATION

DRUGSTORES RAIDED IN PRESCRIPTION STING SCORES HELD IN 'GOLDPILL'

Jerry Seper THE WASHINGTON TIMES

More than 1,000 federal agents swept through 50 cities yesterday, arresting more than 100 people - including 82 pharmacists and a doctor - in a multimillion-dollar prescription scandal.

The arrests culminated a massive two-year investigation into criminal fraud in the health care industry. The FBI undercover probe was known as "Operation Goldpill."

"While only a tiny fraction of the medical community might be involved, for me 'Operation Goldpill' is a bitter pill," said Dr. Louis W. Sullivan, secretary of the Department of Health and Human Services.

"As a physician, I find it unconscionable that any health care professional would sacrifice a patient's welfare for economic gain," he said at a news conference at FBI headquarters. "I am outraged by such immorality."

Attorney General William P. Barr said the raids were "only a part of our ongoing efforts in this important area." Dr. David Kessler, commissioner of the U.S. Food and Drug Administration, described the probe as "not a medical problem, but a criminal problem," saying the health risk to consumers was "small."

FBI Director William S. Sessions said Operation Goldpill was the most widespread criminal fraud investigation of the health care industry ever carried out.

He said agents in 16 FBI field offices from Washington and Miami to San Francisco and San Juan, Puerto Rico, were involved, along with more than 100 state and local law enforcement authorities.

Included in the raids were four pharmacies in Northern Virginia, although there were no local arrests. FBI officials said search warrants were served on Miller's Pharmacy on Annadale Road, Lee Graham Pharmacy on Graham Road, and Eden Pharmacy and Levan Pharmacy on Wilson Boulevard.

Much of the operation was centered in the New York City area, FBI officials said.

Noting no major pharmaceutical companies were implicated in any wrongdoing, Mr. Sessions said federal, state and local investigators discovered two major prescription schemes.

The first involves illegal diversion of non-controlled, non-narcotic pharmaceutical medications; the second, fraudulent billing by pharmacies of Medicaid and insurance companies, which were charged more than the actual value of the medication the patients received.

He said the pharmacies netted "many millions of dollars" in profits, although he said a final figure had not yet been determined. The director said the raids yesterday uncovered several money stashes, including $300,000 in one safe-deposit box. He said several weapons also were confiscated.

"These schemes have brought in so much cash that some of those involved allegedly have hundreds of thousands of dollars piled in stacks around their homes," Mr. Sessions said.

None of those arrested yesterday was identified. The FBI said those charged face counts of conspiracy, fraud, false statements, theft, illegal sale and distribution of a controlled substance and money laundering, with prison sentences of five to 15 years. Fines could range as high as $250,000.

Many of those involved in the diversion scheme, Mr. Sessions said, obtained prescriptions for expensive medications through "unscrupulous physicians." He said the doctors then billed Medicaid for extensive office visits that never occurred and "patients" filled the prescriptions at friendly pharmacies.

The patients, he said, then sold the prescriptions to others, known as "diverters," who resold them again. Mr. Sessions said the resold drugs often were repackaged to disguise their origin, making them - in some cases - potential health risks.

The fraudulent billings, he said, usually consisted of prescriptions being filled with generic drugs - and Medicaid and insurance companies being billed for more expensive brand-name products.

Mr. Sessions said the investigation involved a number of undercover agents posing as patients who obtained prescriptions from doctors, which were later filled by pharmacists.

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PHOTO

Photo, FBI Director William Sessions explains the investigation of prescription drugs and the health care industry., By Sharon Natoli/The Washington Times

---- Index References ----

News Subject: (Crime (1CR87); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Criminal Law (1CR79); Police (1PO98))

Industry: (Healthcare (1HE06); Healthcare Cost-Benefits (1HE10); Pharmaceuticals & Biotechnology (1PH13); Prescription Drugs (1PR52))

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Seattle Times (WA)

June 28, 1992

Section: ISSUES

LEGAL WAVES BARR: THE LAWMAN'S AGENDA THE ORIGINATOR OF WEED AND SEED TALKS ABOUT CRIME

RONALD J. OSTROW LOS ANGELES TIMES

WASHINGTON

In seven months as U.S. attorney general, William P. Barr has converted the Department of Justice into an agenda-setting agency from a reactive institution, focusing on cutting-edge issues high on many Americans' minds.

These include violent crime, gangs, health-care fraud, tighter immigration controls and competition-stifling foreign cartels. He had a running start, serving as deputy to Attorney General Dick Thornburgh for 1 1/2 years and quieting the bitterness that marked Thornburgh's management style.

Expectations were that Barr would be a caretaker during an election year, making few waves. Instead, one of his programs -weeding out criminal elements in a community and then seeding with social reform - has been elevated to a leading domestic policy.

He does not avoid controversy, most noteworthy being the opinion he wrote, in 1989, saying there was nothing illegal about U.S. agents seizing fugitives overseas without the host country's permission. When the Supreme Court recently upheld this, Barr gave the Department of State and the White House fits in hailing the ruling, while Mexico writhed.

Barr was 41 when he took over the nation's top law job. During the modern era, only a president's brother and the son of a Supreme Court justice managed to assume the nation's top law post when that young. Barr, a bookish-looking son of educators who speaks with a muted New York accent, brought no special credentials. He earned bachelor's and master's degrees in Chinese studies and picked up his law degree at night school while working at the CIA.

He landed this powerful job through a combination of genuine smarts, his effectiveness as an idea-generating conservative and his winning way with people, especially those on the other side of policy arguments. But Barr also happened to be in the right place at the right time.

Here are excerpts from an interview.

Q: More than any attorney general since Elliot Richardson nearly 20 years ago, you came into office with a specific agenda. Have the developments in Los Angeles and the possibility of urban unrest across the country changed your priorities?

A: Not at all. In fact, I think the riot in Los Angeles underscored the importance of those priorities.

Q: You don't find yourself making any shifts?

A: No. Violent crime is a high priority, the role of gangs, the problem we have in the juvenile justice system. These are things that obviously were related to the riots in Los Angeles and the whole problem we have in the inner cities. The importance of prosecuting the war on drugs, similarly, I think, is responsive to one of the real problems we have in our cities in the United States.

Even in the civil-rights area, where one of my chief priorities has been in fair housing and in lending practices and mortgage practices, that's very important to rehabilitate in the inner cities. The problem of immigration enforcement - making sure we have a fair set of rules and then enforce them - I think that's certainly relevant. . . .

Q: Is the civil unrest in Los Angeles an aberration - one city with its particular pressures, perhaps police department style and a chief immune from the normal political process? Or is it symptomatic of urban unrest throughout the nation?

A: I wouldn't want to predict similar incidents of urban unrest throughout the nation. I think the problems in the inner cities are nationwide.

There is, in fact, frustration and, in some segments of our population, a certain hopelessness over circumstances.

I think there was anger and frustration over the verdict in the Rodney King incident that certainly wasn't limited to Los Angeles, but I do think that there were a lot of unique circumstances in Los Angeles that came together in a way that added to the combustibility of the post-verdict hours and contributed to the intensity and the scale of the violence in Los Angeles.

Q: I wanted to ask you about fairness and justice as they're perceived in the minority communities. You testified recently that you did not see the nation's criminal-justice system as purposely discriminatory or biased.

How do you account for the large number of blacks in prison?

A: . . . My view is that, overall, I think our system is fair and does not treat people differently. Obviously, our national criminal-justice system is a diverse broad one, and incorporates state systems and county systems.

I'm not suggesting that somewhere in the system there are not people who are biased. But I'm saying, taken in its totality, the system seems to operate fairly. We should be vigilant and look for potential discrimination, and you can always make improvements in the system. But the empirical studies I see suggest that people are treated equally in the system.

That is, if a black and a white are charged with the same offense, generally they will get the same treatment in the system, and ultimately the same penalty. There are some laws that may have a disparate impact on minorities- laws that are not intentionally discriminatory, but as a practical matter, impact minority populations more than others.

Let me give you two examples. One would be the mandatory minimum for crack cocaine, which is a very low threshold. Five grams of crack cocaine gets you a five-year mandatory minimum sentence. Because of the use patterns and

distribution patterns of crack cocaine, that penalty falls heavily on minority populations. But it's not because of discriminatory intent. It has a disparate impact.

Another example are the differences in the laws among different geographic regions or states. Many of the large cities, with a high proportion of minorities, are in states that have heavier penalties or tougher criminal-justice systems and are less apt to grant probation, more apt to impose stiffer prison sentences. The application of those laws in those states may have a disparate impact on minorities because there are more minorities. . . .

Q: Along with every other attorney general since the Ethics in Government Act was passed in '78, you're no fan of appointing outside prosecutors. Yet you have named two special counsels of your own in particularly sensitive matters. Does this appointment by you of people who report to you, but nevertheless are outside the mechanism of the department, does that undercut your argument?

A: No, in fact I think it highlights the weaknesses of the independent counsel statute as it presently is structured. I think the problem with the statute now is that there's no accountability. An individual is set up as a power unto themselves. . . . I think there have to be some constraints.

Part of the constraints that exist in the Department of Justice are a set of policies, an institutional ethos about the proper role of a prosecutor, and the fact that we have here experienced prosecutors who see many cases and well understand the proper functioning of a prosecutor.

What the statute does is set someone outside that milieu, not necessarily controlled by policies, not controlled or influenced by the ethos of the department, and with no accountability. No supervisor or anyone to make sure there's no abuse of power going on. And unlimited resources. I think that any person concerned about civil liberties should be concerned about that kind of a structure.

I think what we've done here in the department, by appointing outsiders to come in and conduct independent investigations, is that on the one hand we've gotten a degree of independence to provide some additional assurance that an investigation is not going to be a whitewash or a cover-up, but at the same time, we've at least provided some degree of accountability by assuring that the attorney general still retains ultimate power to remove an individual who's engaged in abuse, and also the individual has the ability of drawing resources from existing prosecutors who are familiar with the policies and the standards of the department.

So you're more likely to get professionally run investigations that are the same as what other citizens are subject to.

Q: When the act comes up for re-authorization later this year, will you oppose it?

A: No, I've already said I'm concerned about its current structure and we would be seeking changes to it, both to the trigger mechanism and also to the issue of accountability, also the selection methods, to be sure that people selected are familiar with the role of a prosecutor.

Q: The minute you try to solve the problem of accountability, aren't you then on the edge of political control? Control by the attorney general, control by an appointee of the president committed to establish that accountability, and doesn't that then defeat the purpose of the independent counsel in the first place?

A: I think it's a question of striking the right balance. Also allowing, to some extent, political checks and balances.

Q: In the wake of the Machain decision, does the Supreme Court's decision regarding the authorization of U.S. agents to seize fugitives overseas make these operations now more likely?

A: No, there's been no change in policy. The Supreme Court opinion does not reflect any change in policy. As we've said all along, our policy generally is to cooperate with foreign governments.

PHOTO

ERNIE COX JR. / CHICAGO TRIBUNE: WILLIAM P. BARR HAS TAKEN AN ACTIVIST ROLE SINCE BECOMING U.S. ATTORNEY GENERAL.

---- Index References ----

News Subject: (Crime (1CR87); Judicial (1JU36); Legal (1LE33); Civil Unrest (1CI11); Social Issues (1SO05); Criminal Law (1CR79); Minority & Ethnic Groups (1MI43); Global Politics (1GL73); World Conflicts (1WO07))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); California (1CA98))

Language: EN

Other Indexing: (CIA; DEPARTMENT OF JUSTICE; DEPARTMENT OF STATE; ERNIE; JR; LAWMAN; MACHAIN; PHOTO; RODNEY KING INCIDENT; SUPREME COURT; THORNBURGH; WHITE HOUSE) (Barr; Dick Thornburgh; Expectations; LEGAL WAVES; SEED TALKS; William P. Barr)

Edition: FINAL

Word Count: 1879

End of Document

NewsRoom

6/24/92 AP Online 00:00:00

AP Online

June 24, 1992

Section: Domestic

ACLU Sues Over Alleged Riot Abuses

DEBORAH HASTINGS

LOS ANGELES

The dusk-to-dawn curfews imposed during the riots that followed the Rodney King verdict were a violation of homeless people's civil rights, the American Civil Liberties Union contends in a lawsuit.

The lawsuit, filed Tuesday, names the city and Police Chief Daryl Gates as defendants and seeks to bar the city from similar acts in future emergencies. It was filed on behalf of the Los Angeles Countywide Coalition for the Homeless, a nonprofit group.

The Superior Court lawsuit alleges homeless people were improperly detained under the four-day curfew that began April 30. Mayor Tom Bradley, who imposed the curfew, gave confusing information that led to needless arrests, it said.

"If you're going to impose an emergency curfew, you ought to have a plan for dealing with the 70,000 homeless in this city," ACLU attorney Paul Hoffman said Tuesday.

The ACLU, in a report released Tuesday, also criticized Bradley's office for failing to publish curfew notices in Spanish-language newspapers or to provide bilingual television broadcasts.

The mayor's spokesman, Bill Chandler, said "the mayor fulfilled his responsibility of describing the curfew and its terms to the largest possible audience through the media."

And, he said, the curfew succeeded in restoring calm to the city.

The Police Department had no comment Tuesday, said spokesman

Officer Arthur Holmes.

The ACLU's 48-page report alleges that law enforcement officers acted illegally during the riots by rounding up undocumented aliens, some of whom weren't rioting or looting, and filling jails past legal limits. It said the effort continued even after the riots ended.

U.S. Attorney General William Barr, in Los Angeles to give a speech, said in an interview that no special effort was made to deport illegal aliens during the riots.

"Perhaps part of that increase was just due to a general increase in enforcement that has been occurring," Barr said. "But we did not take any action in response to the riots."

The riots began April 29 after four white officers were acquitted of most charges in the beating of King, who is black. One officer faces a new trial.

---- Index References ----

News Subject: (Civil Rights Law (1CI34); Legal (1LE33))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); California (1CA98))

Language: EN

Other Indexing: (ACLU; AMERICAN CIVIL LIBERTIES; HOMELESS; KING; POLICE DEPARTMENT; RODNEY KING; SUPERIOR COURT) (Arthur Holmes; Barr; Bill Chandler; Bradley; Daryl Gates; Paul Hoffman; Tom Bradley; William Barr)

Word Count: 426

End of Document

6/24/92 Dallas Morning News 3A
1992 WLNR 4774298

Dallas Morning News

June 24, 1992

Section: NEWS

Mobster John Gotti given life sentence: 800 of his backers storm courthouse

THE

NEW YORK

NEW YORK -- John Gotti, the swaggering, tough-talking leader of the nation's most powerful Mafia family, was sentenced to life in prison without parole Tuesday. Moments later, hundreds of his supporters stormed the federal courthouse in Brooklyn, overturning one car and smashing others before being forced back by police reinforcements.

Mr. Gotti, known as the "Dapper Don' because of his colorful behavior and dress, arrived in court Tuesday with his usual sartorial splendor -- dark suit with bright yellow silk tie and matching handkerchief. But he had nothing to say as he was sent away.

Mr. Gotti had decided beforehand not to make a statement, and the words that would put him behind bars for life were brief.

"The guidelines in your case require me to commit you to the attorney general for the rest of your life,' U.S. District Judge I. Leo Glasser said.

Mr. Gotti smiled.

In the end, long years of government investigations were reduced to a court proceeding of less than 15 minutes. Mr. Gotti and his co-defendant, former Gambino Family underboss Frank Locascio, were quietly taken out a side door, in stark contrast to the greeting they received when they entered the courtroom Tuesday and 14 organized-crime associates stood in courtesy.

Mr. Gotti also has been known as the "Teflon Don,' because prosecutors had failed to win convictions at three previous trials. This time, a jury took less than two days to find Mr. Gotti guilty.

The April 2 convictions of Mr. Gotti and Mr. Locascio covered a broad range of charges, including murders, murder conspiracies, racketeering, extortion, obstruction of justice, gambling, loan sharking and tax fraud.

At the heart of the government's case was the accusation that Mr. Gotti masterminded the assassination of his predecessor Paul Castellano, head of the Gambino organized crime family. Mr. Castellano and his bodyguard were gunned down in front of a Manhattan steak house Dec. 16, 1985.

America's best-known organized-crime boss may have remained silent in court, but more than 800 demonstrators outside had plenty to say.

"Free John Gotti,' they chanted, suddenly breaking out of a park across the street from the courthouse and converging on the building.

Marshals rushed to the front entrance and locked the big glass doors, trapping scores of people in the lobby. Other officials grabbed wooden clubs and hurried outside to defend the court. In the melee that followed, seven people were arrested, eight police officers injured and six government cars smashed. The protesters broke front and rear car windows, turned one of the vehicles upside down on the sidewalk and hurled wooden police barricades into the air.

When order was finally restored, the demonstrators departed in chartered buses, and Mr. Gotti and Mr. Locascio went back to prison, where they have been held since their arrest in 1990.

Attorney General William Barr called the sentencing another sign of the government's "accelerating success' against the Cosa Nostra and said "25 years of pressure' against organized crime was paying off.

Distributed by Los Angeles Times-Washington Post News Service

---- Index References ----

News Subject: (Violent Crime (1VI27); Crime (1CR87); Social Issues (1SO05))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); New York (1NE72))

Language: EN

Other Indexing: (GAMBINO) (Castellano; Frank Locascio; Free; Gotti; I. Leo Glasser; John Gotti; Locascio; Marshals; Mobster John Gotti; Paul Castellano; William Barr)

Edition: HOME FINAL

Word Count: 637

NewsRoom

6/24/92 L.A. Times 3
1992 WLNR 3949542

Los Angeles Times

June 24, 1992

Section: MN-Main News

Faster Deportation of Criminals Sought

Immigrants: They will be a priority for the Justice Department once they have served their sentences, Atty. Gen. William Barr says.

ALD J. OSTROWTIMES STAFF WRITER

TIMES STAFF WRITER

Atty. Gen. William P. Barr, decrying crimes committed by immigrants in the United States, announced steps Tuesday to assure the swift deportation of convicted foreigners after they finish serving prison sentences.

"In our stepped-up efforts to deport those who crash our borders, criminal aliens will be the first to go," Barr told a California Town Hall lunch in Los Angeles. "And even those who enter legally and then commit crime will forfeit their privilege to stay.

"We will not tolerate aliens who come here to prey on the American people," Barr said in announcing that he is making criminal immigrants a priority target of the Justice Department.

About 11% of those held in Los Angeles County Jail are immigrants and one-quarter of federal prisoners across the nation are criminal immigrants, Barr said. The greater portion of those in federal prisons reflects the large number of immigrants convicted of drug crimes in the accelerating war on drugs, an aide to Barr said.

Immigration rights advocates attacked Barr's comments as "more election-year politicking, feeding off the same old immigration hysteria."

Niels Frenzen, staff attorney for Public Counsel in Los Angeles, said criminal immigrants have been routinely deported for decades. Barr's proposals to expedite the process will save a minimal amount of time while inviting abuse of individual rights, Frenzen said.

Frenzen agreed that many criminal immigrants should be deported. But he added that there also are many cases in which immigrants convicted of minor crimes, such as writing a bad check, could be forced to return to dangerous situations in their native countries.

Madeline Janis, director of the Central American Refugee Center in Los Angeles, said speeding up the process only increases the risk of immigrants being coerced into returning because they do not understand the American legal system.

"They're trying to speed things up so quickly that no one will know what happened to them," she said. "It's putting pressure on people to sign away their rights."

In addition to announcing the crackdown on immigrant lawbreakers, Barr said 50 more FBI agents are being assigned to California to work on gang investigations--26 of them to the Los Angeles FBI office. This raises the number of new federal agents assigned to gang work in California since January to 183, including 110 in Los Angeles.

Later in an interview with Times reporters and editors, Barr said that William Hogan, an assistant U.S. attorney who prosecuted El Rukn gang members in Chicago, is being reassigned to Los Angeles to handle the stepped-up effort against gangs. Barr described Hogan as a "hard charger," noting that more than 70 El Rukn members were indicted under tough federal statutes and that the vast majority of them were convicted under Hogan's leadership.

Barr said he decided on the latest expansion after talking with Gov. Pete Wilson, who urged that federal anti-gang forces be increased. In addition to the 26 for Los Angeles, the new FBI agents include 19 for Oakland, three for San Diego and two in Sacramento.

Charlie Parsons, the special agent in charge of the FBI's Los Angeles division, said he was gratified by the deployment of new agents, which raises the number of FBI agents in Los Angeles to 598. He added that some of the new agents already were being put into place Tuesday afternoon.

"We're going to use them to build on the effort that is under way with the task force," Parsons said, referring to a federal-local task force established to investigate crimes committed during the Los Angeles riots. Parsons said the new agents will work special operations with the Los Angeles Police Department, the Long Beach Police Department and possibly the Compton Police Department.

In ordering the crackdown on criminal immigrants, Barr said that an Immigration and Naturalization Service judge and INS investigators will be assigned to the Los Angeles County Jail to obtain deportation orders against convicted immigrants being held there.

After completing sentences, the immigrants can be deported without being released first, according to Barr. In the past, some deportable felon immigrants have committed additional crimes after being freed from prison.

Similar procedures have been established at state facilities in Florida, California, Illinois, Texas and New York. But this marks the first time that an INS judge and investigators are being assigned to a county jail.

As an indication of the scope of the problem of releasing criminal immigrants from custody before ordering them deported, Justice Department officials said that there are 10,875 immigrants at large in the United States who have been convicted of crimes and can be deported.

Barr said that the names of these fugitives are being placed in the FBI's National Crime Information Center, a computer index that state and local police consult to determine if a suspect they have arrested is wanted on other charges.

Since December, the names of 853 deportable immigrants have been placed in an index in a pilot project. There have been 92 "hits" as fugitives were stopped by law enforcement officers for other offenses and 54 were deported. This, Barr said, led to the decision to place the names of all deportable criminal immigrants into the computer system.

In a related action, Barr said he will order all U.S. attorneys to require criminal immigrants to agree to deportation in negotiating plea agreements with prosecutors. Immigrants will be given a reduction in time served as an inducement, he said.

"This would mean that, after the alien serves his sentence, he can be summarily deported without the need to go through costly, protracted proceedings," Barr said.

Times staff writers Jim Newton and Ashley Dunn contributed to this story.

---- Index References ----

News Subject: (Legal (1LE33); Judicial (1JU36); Prisons (1PR87); Government (1GO80))

Region: (USA (1US73); Americas (1AM92); Illinois (1IL01); North America (1NO39); California (1CA98))

Language: EN

Other Indexing: (CENTRAL AMERICAN REFUGEE CENTER; COMPTON POLICE DEPARTMENT; EL RUKN; FBI; IMMIGRATION AND NATURALIZATION SERVICE; JUSTICE DEPARTMENT; LOS ANGELES POLICE DEPARTMENT; NATIONAL CRIME INFORMATION CENTER; SIMILAR) (Ashley Dunn; Barr; Charlie Parsons; Faster Deportation; Frenzen; Hogan; Jim Newton; Madeline Janis; Niels Frenzen; Parsons; Pete Wilson; William Barr; William Hogan; William P. Barr)

Keywords: DEPORTATION -- UNITED STATES; IMMIGRANTS; CRIME; BARR, WILLIAM P

Edition: MO-Home Edition

Word Count: 1161

6/18/92 South Florida Sun-Sentinel 6A
1992 WLNR 4266533

South Florida Sun-Sentinel

June 18, 1992

Section: NATIONAL

ATTORNEY GENERAL CONFIDENT OF NAZI HUNTERS` ABILITIES

The Associated Press

WASHINGTON -- Attorney General William P. Barr delivered a strong vote of confidence on Wednesday in the Justice Department`s Nazi hunters, only days after they admitted misplacing evidence that might have helped John Demjanjuk avoid conviction as concentration camp guard ``Ivan the Terrible.``

Barr deliberately separated himself from a rising tide of criticism and questions directed at the 38 lawyers, historians, investigators and support workers who staff the Office of Special Investigations, which tracks down Nazi war criminals in this country.

``They have an important task to do and it has to be continued,`` Barr said.

In a 90-minute, off-the-record exchange about a dozen topics, that was the only point at which Barr asked to be quoted by name.

He was aware not only of the turmoil surrounding the office but also of a report in the Los Angeles Times on Friday in which an unnamed department source was quoted as saying Barr was concerned the Nazi hunters may have used ``cowboy`` tactics in pursuing suspects.

Despite his general remarks, Barr declined to discuss the Demjanjuk case itself because it is under review not only by the Justice Department`s internal watchdog unit, but also by the 6th U.S. Circuit Court of Appeals and by the Supreme Court of Israel, where Demjanjuk is challenging his death sentence.

In 1988, using evidence gathered by the Office of Special Investigations and eyewitness identifications by five survivors, an Israeli court convicted the Ukrainian native of being the guard who ran the gas chamber at the Treblinka death camp, where 900,000 Jews died in `42 and `43.

Barr also did not address details of the case of Andrija Artukovic, who died of natural causes in a Yugoslav prison in 1988. Artukovic was extradited there on the basis of evidence gathered by Justice`s Nazi hunters that he committed war crimes while minister of the interior in a Nazi puppet government in Croatia during World War II.

Most attention, however, has focused on the case of Demjanjuk, 72, a retired Cleveland autoworker. He was stripped of his citizenship in 1981 for lying about his wartime activities when he entered the United States.

The court ordered Justice to turn over by July 15 any evidence in its files that might help clear Demjanjuk and explain how and when it was obtained.

---- Index References ----

News Subject: (Legal (1LE33); Judicial (1JU36))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (JUSTICE; JUSTICE DEPARTMENT; NAZI; OFFICE OF SPECIAL INVESTIGATIONS; SUPREME COURT; US CIRCUIT COURT OF APPEALS) (Andrija Artukovic; Artukovic; ATTORNEY; Barr; Demjanjuk; John Demjanjuk; William P. Barr)

Keywords: CRIME WAR; AGE

Edition: SPORTS FINAL

Word Count: 461

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The Washington Post

BAKER OFFERS REASSURANCES AFTER COURT KIDNAP RULING

By Sharon LaFraniere
June 17, 1992

Secretary of State James A. Baker III yesterday offered reassurances that the United States respects the sovereignty of foreign governments, despite a Supreme Court ruling Monday allowing U.S. kidnappings of criminal suspects in foreign countries, even those with whom it has an extradition treaty.

Baker's promises that the United States would carefully weigh foreign policy considerations before abducting anyone from foreign soil came as foreign governments around the world harshly denounced the court's ruling.

The Associated Press quoted a spokesman for the Canadian government as saying: "Any attempt by a foreign official to abduct someone from Canadian territory is a criminal act." Juerg Kistler, the Swiss Justice Ministry spokesman, told the news service: "Imagine where it would lead if every country would do that. You would have anarchy."

The Supreme Court's decision came in the case of Humberto Alvarez-Machain, a Mexican doctor accused of participating in the 1985 kidnapping and murder of a U.S. drug enforcement agent. After failing to gain custody of the suspect through informal negotiations with Mexico, the U.S. Drug Enforcement Agency paid intermediaries $20,000 to kidnap Alvarez-Machain and transport him to Texas.

In a 6 to 3 decision, the court upheld the legality of such kidnappings, despite the objection of a foreign government, as long as kidnappings are not specifically banned in an extradition treaty. U.S. officials have said that none of the 103 extradition treaties, many of which were recently renegotiated, appear to ban kidnapping.

Within hours of the opinion's release, Mexico announced that it was essentially severing all cooperation between the two countries on drug investigations. But yesterday, after receving assurances from the Bush administration, Mexico temporarily agreed to continue cooperation in the war on drugs, Associated Press reported.

During a photo session yesterday, Baker said he believes that despite Mexico's protests it will continue its "excellent" cooperation in drug cases. Attorney General William P. Barr referred reporters to an earlier statement in which he said the United States would use its "snatch" authority "only in the most compelling circumstances."

Robert S. Ross Jr., former head of the Justice Department's Office of International Affairs, said he expects such occasions will be very rare. "This sort of thing has got to be a tool of official law enforcement when you have

officially sanctioned terrorism or drug trafficking," he said, but added: "It's not in the foreign policy interest of the U.S. to go willy-nilly around the world grabbing people."

But numerous international law experts in the United States said the decision opens the door to "snatch-and-grab" operations certain to infuriate foreign governments. Barry E. Carter, an international law professor at Georgetown University, said: "The principle that the court accepted in this decision essentially lets the law of the jungle apply. Is the Supreme Court saying it's okay for the Iranians to come into the U.S. and seize citizens off the streets?"

Ruth G. Wedgwood, an associate professor of international law at Yale University, said: "It's hard to have your cake and eat it too. If you are going to ask people to cooperate with you in enforcing criminal law, and at the same time stick your finger in their eye by intruding on their territory, that's not going to last.

"The question the attorney general needs to answer is, 'What's he going to do to keep this from getting out of hand?' "

Staff writer John Wagner contributed to this report.

Top Court Rules U.S. May Prosecute Kidnapped Foreigner Despite Treaty

The Wall Street Journal

June 16, 1992 Tuesday

Section: LAW; Pg. B18

Length: 788 words

Byline: By Paul M. Barrett, Staff Reporter of The Wall Street Journal

Body

WASHINGTON -- The Supreme Court said the U.S. may prosecute a foreign national who has been captured and brought here from another country, even when there is an extradition treaty in place and the foreign government protests the kidnapping.

The 6-3 ruling could encourage the Justice Department to attempt more risky unilateral arrests of foreign terrorists and drug-traffickers. But such adventures have been unusual in the past and aren't likely to become much more common.

Attorney General William Barr applauded the ruling, calling it "an important victory in our ongoing efforts against terrorists and narco-traffickers who operate against the U.S. from overseas."

Victoria Toensing, a former Justice Department official who supervised international operations, said the forcible snatching of foreign suspects "should very rarely be done" because it angers other countries and hurts diplomatic relations. "But it is a valid tool that should not be taken away" by the courts, she added.

In the dissenting opinion, Justice John Stevens called the ruling "monstrous" and warned that it would damage international respect for "the rule of law."

The case decided yesterday concerned Humberto Alvarez-Machain, one of 19 people charged by U.S. prosecutors in connection with the 1985 torture and murder of Enrique Camarena, a U.S. Drug Enforcement Administration agent stationed in Mexico. Dr. Alvarez-Machain, a physician, was accused of prolonging the agent's life so that drug-traffickers could continue to question and torture him. Dr. Alvarez-Machain has said he is innocent.

Rather than seeking the defendant's formal extradition, DEA agents tried to persuade their Mexican counterparts to arrest and turn over the defendant. When those talks failed, the DEA in 1990 hired five or six armed men who kidnapped Dr. Alvarez-Machain in Guadalajara and brought him to El Paso, Texas. The DEA then arrested him and took him to Los Angeles for trial.

A federal judge ordered that the defendant be returned to Mexico because his abduction violated a U.S.-Mexico treaty on the extradition of criminal suspects. A federal appeals court in San Francisco affirmed that decision. Although the treaty doesn't expressly prohibit such abductions, the appellate court said, its "purpose" had been violated. The appellate court stressed that Mexico had formally protested the kidnapping, demanding Dr. Alvarez-Machain's return.

The Supreme Court reversed the lower court decision and cleared the way for a trial of Dr. Alvarez-Machain.

Generally, the high court has interpreted the Constitution as permitting the prosecution of a defendant who has been kidnapped. At issue in the Alvarez-Machain case was whether the U.S.-Mexico extradition treaty had been violated and whether such an infraction would bar prosecution.

Chief Justice William Rehnquist, writing for the majority, said there had been no treaty violation. Despite the treaty's elaborate provisions for cooperative extradition, the majority emphasized that the agreement doesn't specifically bar unilateral abductions. General principles of international law, the majority added, don't impose an obligation to rely only on extraditions under the treaty.

The majority said that the U.S. actions may have been "shocking" -- as claimed by lawyers for Dr. Alvarez-Machain -- but that the decision of whether to return the defendant to his homeland is a matter for the U.S. executive branch to decide.

In the dissent, Justice Stevens mocked the majority's reasoning. He suggested that if U.S.-hired operatives had simply executed Dr. Alvarez-Machain, that, too, would be permissible because it was "not explicitly prohibited by the treaty." Justices Harry Blackmun and Sandra O'Connor joined the dissent.

Justices Byron White, Antonin Scalia, Anthony Kennedy, David Souter and Clarence Thomas joined the majority. (U.S. vs. Alvarez-Machain).

In a separate case, the Supreme Court ruled 6-3 that at a defendant's request, a trial judge must ask potential jurors whether they would automatically vote to impose the death penalty if they decide the accused is guilty of murder.

The constitutional protection of due process requires that jurors be impartial. In states where the same jury rules on both the verdict and the sentence, defendants may challenge any prospective juror who will automatically vote for the death penalty, the high court said. Yesterday's decision provided something of a counter-balance to a 1968 ruling in which the high court said that prosecutors must be allowed to ask whether a potential juror would, in all instances, refuse to impose capital punishment.

The Supreme Court reversed the death sentence of a Chicago man convicted of a contract killing. (Morgan vs. Illinois).

Notes

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AP Online

June 15, 1992

Section: Washington

Justices Give U.S. OK to Kidnap Foreigners Wanted Here

WASHINGTON

The U.S. government may kidnap people from a foreign country and prosecute them over that nation's objection, the Supreme Court said Monday in a ruling called "monstrous" by three dissenting justices.

The 6-3 decision said an extradition treaty between the United States and Mexico does not specifically bar such abductions.

U.S. officials thus are free to prosecute a Mexican doctor in the highly publicized torture killings of a U.S. drug agent and the agent's pilot, the court said.

The court refused to order Dr. Humberto Alvarez-Machain returned to Mexico, despite that nation's repeated protests over his kidnapping.

Alvarez-Machain was charged with using his medical skills to keep Enrique Camarena alive while the Drug Enforcement Administration agent was tortured and interrogated in Mexico in 1985. Also killed was DEA pilot Alfredo Zavala Avelar.

The White House said Monday night that "U.S. policy is to cooperate with foreign states in achieving law-enforcement objectives."

"Neither the arrest of Alvarez-Machain nor the ... Supreme Court decision reflects any change in this policy," said Judy Smith, deputy White House press secretary.

She said the United States has told Mexico that it has taken unspecified steps to ensure "U.S. law-enforcement activities overseas fully take into account foreign relations and international law."

Robert Bonner, head of the DEA, praised the ruling and said it will ensure that "justice is done."

Attorney General William P. Barr said the decision was "an important victory in our ongoing efforts against terrorists and narcotraffickers" and added that "our general policy remains cooperation where possible with foreign governments."

But an attorney for Alvarez-Machain said his client was "extremely saddened and disappointed" by the decision.

American Civil Liberties Union attorney Robin Toma said Alvarez-Machain referred to President Bush's comments after the Rodney King verdict about the president's commitment to civil rights and asked, 'Where's his commitment to my civil rights?'"

In other action Monday, the court:

Rejected, without comment, a pair of challenges to Idaho's capital punishment law, which gives convicted murderers sentenced to death only 42 days to appeal.

Ruled that states generally may not tax out-of-state businesses on the income they make from selling stock in other companies. The court struck down a New Jersey tax, 5-4.

Ruled unanimously that federal courts may decide some lawsuits stemming from family disputes when the opposing sides are from different states. The decision revived a suit by a Missouri woman who accused her former husband, from Louisiana, of abusing their two daughters.

Ruled 6-3 in an Illinois case that murder defendants in capital punishment cases must be allowed to ask potential jurors whether they automatically would vote for death if the defendants are convicted.

In the kidnap case, Chief Justice William H. Rehnquist wrote for the court that the abduction may have been "shocking ... and in violation of general international law principles."

But he said the U.S.-Mexico treaty only spells out ways in which the two nations may extradite people wanted by the other government. The treaty does not make extradition "the only way in which one country may gain custody of a national of the other country," he said.

It is up to the Bush administration and not federal judges to

decide whether Alvarez-Machain should be returned to Mexico, Rehnquist said.

He was joined by Justices Byron R. White, Antonin Scalia, Anthony M. Kennedy, David H. Souter and Clarence Thomas.

Justices John Paul Stevens, Harry A. Blackmun and Sandra Day O'Connor dissented.

Writing for the three, Stevens said, "I suspect most courts throughout the civilized world will be deeply disturbed by the monstrous decision the court announces today."

Frank Rubino, a lawyer for deposed Panamanian ruler Manuel Noriega, said the decision is shocking. "We're disregarding foreign governments now. This is like the renewal of the Crusades, or the Roman Empire conquering the world," he said.

Noriega is the most prominent U.S. prisoner captured overseas. But, unlike Mexico's response to the kidnapping of Alvarez-Machain, Panama did not protest the 1989 U.S. invasion that led to Noriega's capture.

Alvarez-Machain was abducted from his office in Guadalajara, Mexico, in 1990 and forced aboard a plane bound for El Paso, Texas, where he was arrested by U.S. officials and taken to California.

Nineteen persons, including Alvarez-Machain, were charged with taking part in the killings. The physician has remained behind bars throughout appeals in the case. He says he is innocent.

The United States and Mexico entered into an extradition treaty in 1980, but the U.S. government never asked Mexico's government to extradite Alvarez-Machain.

Under the treaty, Mexico would have been obliged to prosecute the physician if it denied an extradition request.

The 9th U.S. Circuit Court of Appeals last year ruled the United States violated the treaty, sparking the Bush administration's appeal to the high court.

A Supreme Court doctrine first announced in 1886 permits the prosecution of kidnapped suspects. Until Monday, however, the court never had said how the doctrine applies to government-sponsored abductions from foreign nations.

Monday's ruling also presumably applies to the government's prosecution of Rene Verdugo-Urquidez, convicted of murder in the

Camarena-Avelar killings.

Verdugo-Urquidez is serving a sentence of 240 years plus life for his role in the murders and will not be eligible for parole until he is 96.

He was captured by Mexican police near San Felipe in 1986 and taken to the U.S. border, where he was handed through a hole in the fence to U.S. agents.

---- Index References ----

News Subject: (International Law (1IN60); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05))

Region: (Mexico (1ME48); Panama (1PA92); District Of Columbia (1DI60); USA (1US73); Americas (1AM92); North America (1NO39); Central America (1CE62); Latin America (1LA15))

Language: EN

Other Indexing: (AMERICAN CIVIL LIBERTIES UNION; DEA; DRUG ENFORCEMENT ADMINISTRATION; EL PASO; JUSTICES; RENE VERDUGO; RODNEY KING VERDICT; ROMAN EMPIRE; SUPREME COURT; US CIRCUIT COURT OF APPEALS; VERDUGO URQUIDEZ; WHITE HOUSE) (Alfredo Zavala Avelar; Anthony M. Kennedy; Antonin Scalia; Avelar; Bush; Byron R. White; Clarence Thomas; David H. Souter; Frank Rubino; Harry A. Blackmun; Humberto Alvarez-Machain; Idaho; Judy Smith; Kidnap Foreigners; Machain; Manuel Noriega; Monday; Nineteen; Noriega; Paul Stevens; Rehnquist; Rejected; Robert Bonner; Robin Toma; Sandra Day O'Connor; Stevens; William H. Rehnquist; William P. Barr)

Word Count: 1153

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6/12/92 South Florida Sun-Sentinel 5E
1992 WLNR 4259722

South Florida Sun-Sentinel

June 12, 1992

Section: FEATURES LIFESTYLE

ATTORNEY GENERAL: VALUES MAY BE LINK TO NATION`S HATE CRIMES

Sun-Sentinel wire reports

NEW YORK -- U.S. Attorney General William P. Barr suggests the rise of anti- Semitism and other hate crimes in the country is linked to ``the crumbling of traditional values.``

At a dinner of Agudath Israel, an Orthodox Jewish movement, he said ``religious persecution has deep roots,`` but ``current anti-religious activity`` may be ``fueled by increasing secularization.``

``I wonder whether the denigration of religion in popular culture -- the portrayal of those with devoutly held religious beliefs as somehow `strange` -- may not contribute to the atmosphere of intolerance and hate.``

He added, ``I believe that these problems are related, and that the solution requires reinvigorating the strong religious and moral traditions of this country.``

CONSERVATIVE RABBIS ELECT NEW PRESIDENT

KIAMESHA LAKE, N.Y. -- Rabbi Gerald L. Zelizer of Neve Shalom congregation in Metuchen, N.J., has been elected as the new president of the Rabbinical Assembly at its convention here. It represents 1,400 Conservative rabbis serving 1.5 million members.

---- Index References ----

News Subject: (Religion (1RE60); Crime (1CR87); Legal (1LE33); Hate Crimes (1HA65); Judicial (1JU36); Social Issues (1SO05); Criminal Law (1CR79); Judaism (1JU93))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (AGUDATH ISRAEL; CONSERVATIVE; NEVE SHALOM; RABBINICAL ASSEMBLY) (Gerald L. Zelizer; Semitism; William P. Barr)

Edition: SPORTS FINAL

Word Count: 209

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GW'S BARR ASSOCIATION

By Robert Guldin

From the start, the headlines told you that the man was doing something right. *The L.A. Times*: "Barr: Conservative with 'Political Savvy' is on Fast Track." *The Washington Post*: "Barr Takes Center Stage at Justice With New Script." *The Washington Times*: "Justice Department Shapes Up Under Barr." And in fact, since his appointment as U.S. attorney general last October, William P. Barr, JD '77, has been handling the job in a way that has drawn widespread plaudits from the press and his associates in the Justice Department.

Coming into a post which has often been occupied by close presidential associates such as Ed Meese or Bobby Kennedy, Barr instead won the position through his capable handling of difficult assignments. For example, as acting attorney general last year, Barr ordered the FBI to storm a federal prison in Talladega, Ala., where Cuban inmates had seized hostages. The cell block was retaken without loss of life, and President Bush praised Barr's leadership in the situation.

Barr's first love was international affairs and intelligence, rather than the law. A native of New York City, Barr earned an MA in Chinese studies and then joined the Central Intelligence Agency as a China analyst. He decided to expand his skills, however, by enrolling in the National Law Center as an evening student. Barr received his JD in 1977, graduating second in his class, just as the Carter administration began to reorganize the CIA in ways which Barr found hard to accept.

Barr left the CIA to serve as a law clerk to Judge Malcolm Wilkey of the U.S. Court of Appeals for the District of Columbia. He then joined the Washington law firm of Shaw, Pittman, Potts & Trowbridge. Barr left the firm temporarily to work on the domestic policy staff at the White House during the first Reagan administration, later rejoining Shaw, Pittman and making partner.

After working part-time on the Bush campaign in 1988, Barr was named head of the Justice Department's Office of Legal Counsel. In 1990 he was elevated to deputy attorney general, under Attorney General Richard Thornburgh, who was widely seen as having alienated both Justice Department staff and members of Congress. By all accounts, Barr acquitted himself admirably, restoring department morale and smoothing relations with Congress and the press.

It was little wonder, then, that Barr's nomination as attorney general won widespread, bipartisan support. He was confirmed by the Senate last November on a voice vote after 21 minutes of floor debate.

The following interview was conducted April 3 by *GW Magazine* editor Robert Guldin and Professor of Law Gerald M. Caplan. Caplan is currently on leave as deputy director of the Bureau of Consumer Protection of the Federal Trade Commission, and has had extensive experience within the Department of Justice.

Robert Guldin: To start at the logical beginning, what was the experience of the National Law Center like for you?

William Barr: I have very fond memories of GW. I felt at the time, and I've said repeatedly since, that I received an excellent legal education at GW. I thought the faculty was stimulating — and when you are in the night program as I was, you have to be stimulated after working all day. And one thing I particularly liked about the evening classes was the diversity of the students. Many of them had interesting jobs, they were highly motivated, and I made some good friendships. It was a very good experience.

Guldin: That brings up an issue which has surfaced from time to time at the law school, namely the question of night law. Some have asked whether a first-class law school should have a strong emphasis on a night program. You, of course, are someone who benefited from that program.

Barr: I believe strongly that good law schools like GW should maintain a strong evening program. It does provide opportunities for people who might otherwise not be able to go, but who are nevertheless highly motivated to become lawyers. And frankly, people who do well in evening law school, I think, are usually not only motivated but highly disciplined, and can be very successful lawyers.

Guldin: You made an interesting career move in the '70s from the CIA to the legal profession. Can you tell us why you made that move and how it came about?

Barr: Going back to my early years in New York, I had always been interested in foreign affairs. So for quite a while I was thinking of a career in international relations and intelligence. That is one of the reasons I went to Columbia and earned a master's degree in Chinese studies. I went into the CIA, but I was also interested in law and I thought that I should see what the law was like. I wanted that extra dimension, and I enjoyed the work at law school. And when the change occurred at the CIA after Jimmy Carter became president, Stansfield Turner came in as director and George Bush left, I was not that happy at the agency. I was completing my law school work. I took a shot at a clerkship, which I got, and after that I went into private practice at Shaw, Pittman, Potts & Trowbridge here in Washington. It was almost through a fluke that I made the transition from the private to the public sector. I had a friend on the Domestic Policy Council at the Reagan White House who asked me to come over and work with him, and I started getting into issues relating to the Justice Department while I was at the White House. And then when Bush became president, I was offered the position as head of the Office of Legal Counsel. That reflected my interest at that stage in legal issues, constitutional issues and separation of powers.

Guldin: The Office of Legal Council, that's the body that gives legal advice to the executive branch and the White House?

Barr: Yes, the OLC assists the attorney general in his capacity as the legal adviser to the president and the Cabinet, so the job of an attorney in OLC involves writing legal opinions for the White House or for Cabinet agencies. OLC also serves as the general counsel for the Department of Justice.

Guldin: Now you were at the CIA when President Bush was the director of central intelligence. Did you have any contact with him or get to know him?

Barr: I had a little contact with him, but not much. I was a junior legislative aide at the time he came in. My first two years there were spent in the Intelligence Directorate, and then when the investigations of the CIA started, I was moved to the legislative office because I was going to law school, and the agency was caught somewhat short-handed. During those years I wrote some testimony for the director, so I had a little bit of contact with him. When I applied for a clerkship,

"I RECEIVED AN EXCELLENT LEGAL EDUCATION AT GW. I THOUGHT THE FACULTY WAS STIMULATING. AND ONE THING I PARTICULARLY LIKED ABOUT THE EVENING CLASSES WAS THE DIVERSITY AND MOTIVATION OF THE STUDENTS."

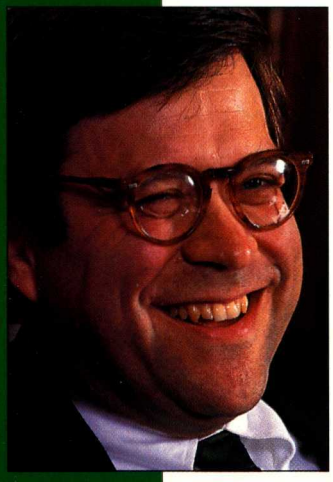
PHOTOGRAPHS BY RICK REINHARD

"I AM A TYPE A PERSONALITY IN A TYPE B BODY."

he recommended me to Judge Malcolm Wilkey, who was a friend of his.

Guldin: The press has commented that you have a refreshing managerial style, which some say is in marked contrast to your predecessor, Attorney General Richard Thornburgh. Do you have a particular approach to management that seems to work for you?

Barr: I do not want to compare myself with my predecessor, who I thought was an excellent attorney general. With regard to my management style, I think I am very accessible. People around here would say I am very "hands on." I have a lot of contact with all the component heads, and with the career people who are involved in a particular area. I am very quick to bring people in at meetings, to have some direct contact with people who know the most about a subject. So people usually know that they will be able to have input, and a real free give and take. And then afterwards, I set out very clear directions on where I want to go, so people will know exactly where we are headed. I think people would say I am fairly active. People have a sense that there is a lot going on because I try to keep things moving across a broad front.



Guldin: Are you a workaholic?

Barr: A lot of people call me that, but I say that I am a Type A personality in a Type B body. [laughter] My wife thinks it is an apt description. I do work hard and try to get a lot done.

"HEALTH CARE FRAUD IS ONE OF THOSE EMERGING AREAS THAT, UNLESS WE REALLY ATTACK THEM NOW, WILL BECOME MUCH WORSE."

Gerald Caplan: I want to ask a couple of campaign-related questions. Some Cabinet officers think it is appropriate to campaign — how do you come out on that issue?

Barr: I am adhering to the tradition — I'm not sure how long a tradition it is, but it is now called tradition — that the secretary of state, the secretary of defense, the attorney general do not campaign. So I do not campaign, and in fact, although I am not technically covered by the Hatch Act, I try to follow the standards of the Hatch Act.

Caplan: Have you found it more difficult to launch your initiatives during a campaign year?

Barr: Yes, I think it is. I have a fairly clear agenda of what I want to accomplish, and I wanted to move quickly to do that, to gain the initiative within the department and to set a clear course. In an election year some of the things I am trying to do trigger some criticism of being politically motivated, but that's inevitable, I think. If I did nothing during my first year, I would be criticized for that too. I was sworn in in November of the year before the election, so I'm damned if I do and damned if I don't.

Caplan: In terms of these initiatives, you have taken some tough positions with respect to street gangs and violent crime, but these matters are ordinarily thought of as within the local purview. What is the rationale for involving the Department of Justice?

Barr: There are limited areas where the federal government has been involved. Our most important role has been attacking drug organizations, and drug trafficking is a problem that really does require a federal role. We can't ignore the fact that drugs do spawn a lot of the violence that we see. And then there has traditionally been a federal role in firearms offenses, and in dealing with organized criminal activity. Traditionally that has been thought of as La Cosa Nostra, but nowadays we have the emergence of groups that are in the same place La Cosa Nostra was 30, 40 or more years ago. Many of these gangs are very substantial criminal organizations. So in those three areas, I think there is a legitimate federal interest, and what I am trying to do is bring all our resources to bear on the problems as aggressively as we can, working with the state and local law enforcement. But you are right that 95 percent of violent crime really falls within the purview of state and local government. I think there the federal role is essentially to use the bully pulpit to identify problems and opportunities in the criminal justice system and to encourage reform where it is appropriate. One of the major problems with violent crime right now is that state systems have not kept up with the federal system. In the '80s we accomplished a lot of reforms in the federal system, and in the '90s I would like the states to do a lot of what we have done at the federal level.

Caplan: Why have you have identified health care fraud as another area of special interest to you?

Barr: Law enforcement resources are always scarce compared to the broad front that we have to cover with them. So we try to establish priorities in line with what we think the severe problems are. In the white collar area, we have been dealing for the last few years with the problem of financial institution fraud. I think by and large we have the resources now to deal with it, and I think we are doing a good job on it.

But I see some emerging areas that, unless we really attack them now, will become much worse. One of those areas is health care fraud. According to the General Accounting Office, we spent $738 billion

dollars in this country on health care last year, and the federal government spent over $200 billion, which is the government's second largest area in procurement. The GAO estimates that about $50 billion is lost in fraud; it may be as high as 10 percent, $70-odd billion. The FBI thinks fraud is prevalent, so I want to move aggressively into that area.

Guldin: You have what could be considered the pleasure of being the attorney general as the Cold War comes to an end. One of the main responsibilities of the FBI, one of your component agencies, has been counter-espionage — keeping track of the Soviets and other enemies. Are you finding now that you are able to transfer a lot of resources to other missions?

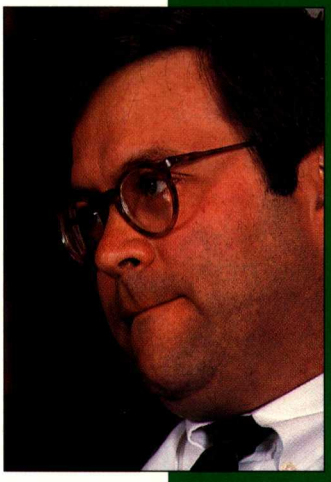
Barr: The problem of counter-intelligence — of counter-espionage — remains, and in many ways has become more complicated with the end of the Cold War. Countries still engage in spying against the United States, even if they are more friendly toward us. We still have a responsibility for counteracting their efforts. Also, the kinds of targets we have to protect have now become more diversified. We are looking more closely at issues of controlling technology flow, and protecting our industrial secrets. But, at the same time, the end of the Cold War has provided some limited opportunities for shifting resources. For example, some of the intelligence services that we were operating against, like the Stasi of East Germany, no longer exist. Nevertheless, counter-intelligence still remains a big part of the FBI mission, and one that we have to keep a careful eye on, because those things can change overnight.

Guldin: It seems that some of the major tasks of the Justice Department involve massive social problems, like illegal immigration and drugs. Do you ever feel frustrated about the limitations of the law enforcement approach in solving these immense problems?

Barr: I don't become frustrated for two reasons. One, I recognize that most of these problems are long-term problems, and therefore you have to take the long view. And second, they are all problems in which law enforcement has to be part of the solution, but is not the only solution. So, for example, in the drug area, we've always recognized that demand reduction is the way we are going to win the war on drugs. But enforcement plays an important part because it contributes to demand reduction, also because it can disrupt drug operations. Ultimately, education and other steps to reduce demand are still very important.

We recognize that immigration also is a long-term problem, and it is one that is going to require a number of different approaches, not just enforcement. For example, part of the problem will be alleviated as there is economic development south of the border. And the North America Free Trade Agreement, we think, holds some prospect for spurring economic development. And reforming the welfare laws in the United States, and enforcing the employer sanctions are part of the solution in our country. Enforcement on the border by itself won't do it, but it's part of the picture.

The same is true of violent crime in the inner cities: social programs need a strong law enforcement foundation on which to build, otherwise crime strangles any of the constructive things we are trying to do. I get satisfaction from knowing that we are doing something, and that we generally are on the right track, and that over time we can make the situation better.



Caplan: Now, on another area of your expertise, are you optimistic about the future of the bagpipe?

Barr: [laughter] Actually, I am very optimistic about it. I think it is catching on like wildfire. In fact, a few months ago, one of the major news magazines had an article about bagpiping as an up and coming hobby. And the only thing that disturbed me about it was that I wasn't mentioned. [laughter]

Caplan: My last question would be, are you enjoying yourself as attorney general?

Barr: I tell people I enjoy myself every other day. [laughter] Sometimes it's fun, and sometimes you wonder why you're doing it, but all in all it's a very rewarding experience and I think I'm very fortunate to have it. You know the Justice Department has been the fastest growing domestic agency, but a lot of people on the outside don't realize the wide span of responsibilities the Justice Department has — immigration, national security, drugs, anti-trust, civil rights. My wife once said "Do you realize that half the stories in the newspaper today are Justice Department stories?" It is a very broad portfolio. GW

Robert Guldin is editor of GW Magazine.

"THE PROBLEM OF COUNTER-INTELLIGENCE IN MANY WAYS HAS BECOME MORE COMPLICATED WITH THE END OF THE COLD WAR."

"A LOT OF PEOPLE DON'T REALIZE THE WIDE SPAN OF RESPONSIBILITIES THE JUSTICE DEPARTMENT HAS — IMMIGRATION, NATIONAL SECURITY, DRUGS, ANTI-TRUST, CIVIL RIGHTS."

The George Washington University

NATIONAL LAW CENTER

MAGAZINE

JUNE 1992

LAW ALUMNI CRISSCROSS THE GLOBE. PAGE 12.

Bush's 'Weed and Seed': Cultivating the Cities

Newsweek

May 25, 1992 , UNITED STATES EDITION

Section: NATIONAL AFFAIRS; Pg. 28

Length: 876 words

Byline: BILL TURQUE in Trenton with BOB COHN in Washington and ROXIE HAMMILL in Kansas City
Highlight: Law-and-order plus social concern: will it work?

Body

Weed and Seed" sounds like a little-known Agriculture Department program for struggling farmers. Until three weeks ago, it was actually something even more obscure: a Bush administration initiative for rebuilding blighted cities. The idea is simple enough: use federal muscle to help state and local authorities weed drug dealers and violent felons from crime-ridden neighborhoods. Then seed those areas with desperately needed social programs. Justice Department officials who pitched the program last year liked its marriage of law-and-order conservatism to traditional liberal concern for crime's root causes. But there was little interest at the White House. Weed and Seed was soon shipped off to the domestic-policy backwaters, becoming little more than lightly funded pilot projects in selected cities.

Then came Los Angeles -- and now Weed and Seed is hot. In visits to troubled cities last week, President Bush touted it as the centerpiece of his renewed urban program, a package that also includes tenant ownership of public housing and "enterprise zones" with tax incentives for firms that locate in the inner city. Last month Weed and Seed was extended to 16 other cities, and Bush is asking Congress for $ 500 million to fund and expand the program next year. "It's going to be the wave of the future because it makes so much common sense," says Attorney General William Barr, who helped develop the idea.

Barr may be right, but it's too early to tell. Some pilot programs still exist only on paper. Barr's predecessor, Richard Thornburgh, came to Kansas City's (Mo.) Ivanhoe neighborhood last September to award a $ 200,000 Weed and See grant that police planned to use for clearing out crack houses. Since the photo op, the city has seen only $ 25,000 from Washington. There have been no arrests and no crack houses razed under the plan. The Justice Department says the rest of the money is on its way.

Dealers out: One place where Weed and Seed does seem to be making a difference is Trenton, N.J., a city of 90,000 suffering the full spectrum of urban problems: crime, drugs, joblessness. Over the last 10 months federal, state and local law-enforcement agencies have had some success in cleaning up drug trafficking in four targeted neighborhoods. A $ 750,000 grant went to a small new community-policing unit designed to get cops out of their cars and into closer collaboration with residents. Florist Ina Ford says the sidewalk in front of her shop on Martin Luther King Boulevard used to be swarming with dealers. Stepped-up police attention has driven off some drug merchants and restored a sense of cohesion to the area. "We're coming together as a neighborhood," says Ford.

The seeds are three "safe haven" schools kept open on weekdays until 9 p.m. For hundreds of kids, they've become a hedge against the trouble outside. At Holland Middle School in the city's West Ward, there is swimming, basketball and a homework clinic. Without it, "I'd probably be hanging out on corners and in the street," says 16-year-old Shawn Lester. Overall, the victories are small, and the program's modest scale precludes sweeping conclusions. Still, it has been enough to sway some skeptics. Mayor Douglas Palmer feared Weed and See would

be "just another way to lock up black folks." Now, he is a believer. "I'm here to tell you that Weed and Seed does work and can work," he told a congressional committee last week.

Trenton's experience also points up serious weaknesses in Weed and Seed. The Justice Department promised to deploy federal crime-fighting weaponry generally beyond the reach of state and local governments: pretrial detention, witness protection, speedy trial provisions, no parole. Yet many of the criminals plaguing Trenton's targeted neighborhoods simply don't meet the criteria for federal drug or firearm cases. Of the 170 arrests made under the program to date, only 15 defendants have ended up in federal court, resulting in six convictions. Other cases revert to the state's swollen court dockets and overcrowded jails. Residents find familiar faces back on the street soon after their arrest. Limited funding also means that community cops are only around on weekdays. On nights and weekends the dealers return.

The safe-haven schools, well attended during the winter, are having trouble keeping kids interested as the weather turns warm. Administrators say they are short of volunteers, particularly African-American men who can connect with adolescent boys. "It's like the old African proverb 'It takes a whole village to raise a child'," says Trenton Weed and Seed director John Bailey. Others complain that law enforcement has come before drug treatment and job training. "There's a lot of weed, but no seed," says Councilman Bill Young. Next year's proposed $ 500 million budget is a major increase, but still a relative pittance: It's about a fourth of the cost of one B-2 bomber. The question being asked in Kansas City and Trenton -- and by the tens of thousands who marched in Washington last Saturday on behalf of America's troubled cities -- is whether the Bush administration wants to cultivate real change, or just do some election-year landscaping.

Graphic

Picture, Demanding real change: Jesse Jackson and mayors lead last week's Washington march, JENNIFER LAW -- AFP

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NewsRoom

5/20/92 AP Online 00:00:00

AP Online

May 20, 1992

Section: Washington

Barr Says Justice System Not Biased Against Blacks

JAMES ROWLEY

WASHINGTON

Attorney General William P. Barr on Wednesday defended the nation's criminal justice system against charges it was biased against blacks but vowed to determine if police brutality was racially motivated.

"Our criminal justice is designed to be fair and in fact is the fairest known to man," Barr said in congressional testimony that drew expressions of surprise from two black House members who disagreed with his assessment.

"It has built into it numerous safeguards to prevent racial discrimination," said Barr."There may well be people who have racial bias in the criminal justice system," but, overall, the system operates fairly.

"The empirical studies to me do not show that people are treated differently because of race," Barr said.

"You don't believe judges don't give more time to blacks and that prosecutors don't encourage more plea bargaining and that the white population has more access to counsel?" asked Rep. Charles Rangel, D-N.Y., the panel's chairman and a leading black lawmaker.

"The economic point is one that bears some scrutiny," Barr said.

Rangel cited studies showing high imprisonment rates for black males.

"If you are saying you don't see racism involved in that I would like to really take that up at another hearing," Rangel told Barr.

"I am really surprised at your response," he said.

"I am a little stunned also," said Rep. Donald Payne, D-N.J., who asked Barr to assess the criticism of many black Americans that the criminal justice system is not colorblind.

Rangel said that in the black community "adults as well as youth are targeted ... you find more roundup of black youth" and black defendants do not get adequate legal representation.

"Racism in the United States does not cut off when you enter the criminal justice system," Rangel told Barr.

"I am not saying there is no racial bias among people in the system or in particular cases," Barr said.

But the attorney general cited studies that concluded there was no significant disparity between sentences given to blacks and to whites.

Steven Schlesinger, director of the Justice Department's Office of Policy Development, said 1990 data collected from a survey of prisoners shows that 93 percent of white inmates and 93 percent of black inmates are repeat offenders.

A study of 1988 state prison data by the Justice Department's Bureau of Justice Statistics showed that the median sentence for both black and white defendants convicted of violent crimes was 72 months, Schlesinger said.

He also cited a 1990 Rand Corp. study of 11,500 California offenders that concluded that race was not related to the prison term imposed by sentencing judges.

The attorney general's testimony came a day after another congressional committee released a copy of a draft Justice Department study on police brutality undertaken after the Rodney King beating.

The department's review of 15,000 complaints of brutality it had received over six years showed that certain police departments have a disproportionate number of brutality complaints for their size.

The study was criticized by Rep. John Conyers, D-Mich., for not determining whether race was a factor in the use of excessive force.

Barr told reporters that he was concerned that race might motivate police brutality. He said that follow-up studies being

conducted by the National Institute of Justice will attempt to determine to what extent race is a factor in police brutality.

---- Index References ----

Company: RAND CORP

News Subject: (Crime (1CR87); Judicial (1JU36); Legal (1LE33); Race Relations (1RA49); Social Issues (1SO05); Legislation (1LE97); Criminal Law (1CR79); Technology Law (1TE30); Prisons (1PR87); Government (1GO80); Police (1PO98); Minority & Ethnic Groups (1MI43))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (BIASED AGAINST BLACKS; BUREAU OF JUSTICE; JUSTICE DEPARTMENT; NATIONAL INSTITUTE OF JUSTICE; RACISM; RAND CORP; RODNEY KING) (Barr; Charles Rangel; Donald Payne; John Conyers; Rangel; Schlesinger; Steven Schlesinger; William P. Barr)

Word Count: 686

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NewsRoom

5/19/92 L.A. Times 1
1992 WLNR 3979997

Los Angeles Times

May 19, 1992

Section: ME-Metro

L.A. Police Force Too Small to Do Job Needed, Barr Says

ALD J. OSTROWTIMES STAFF WRITER

TIMES STAFF WRITER

WASHINGTON

Los Angeles political leaders must recognize they have to spend more money building a larger police force if they are to have the kind of "community policing" needed to cope with urban violence, Atty. Gen. William P. Barr said Monday.

The small size of the Los Angeles Police Department combined with the influence of street gangs over community life "added to the combustibility" that exploded in the Los Angeles riots in the hours after the verdicts in the Rodney G. King beating case, Barr said in an interview.

In his first detailed public comments analyzing the riots, Barr also said preliminary indications are that gang members were heavily involved in "the initial incidents of violence and the spreading of the violence." But he added that he is "not suggesting at this point that that means it was planned in advance."

Barr, the nation's chief law enforcement officer, said Los Angeles' tradition of "response policing" is no longer adequate because it focuses on responding to complaints or crimes without enough attention to building a close relationship with communities.

Instead, he said, Los Angeles needs to follow the approach of such cities as New York, Philadelphia and Richmond, Va., where response policing is combined with an effort to reach out to build bridges of trust within minority communities and high-crime areas.

"We believe law enforcement has to have a close relationship with the community to provide adequate protection and effective law enforcement," Barr said. "That requires having sufficient manpower on the force to provide that kind of intensive community policing that we're talking about.

"I think that the political leaders of the community are going to have to recognize that this kind of policing does require greater investment."

Los Angeles has "a very small police force, given the size of the city," he added. "It may have been difficult for that force to respond adequately in the initial hours of the riots."

The Los Angeles Police Department began a preliminary community policing effort last year, but concerns have been raised by those who believe that the LAPD does not have enough officers to respond to crime and develop meaningful community policing. Los Angeles has one officer for every 416 residents, compared to New York's 273, Philadelphia's 238, and Richmond's 314.

On the subject of gang involvement in the riots, Barr said it will take many months before investigators determine "whether there were conspiracies or orchestration going on. . . . And I'm not suggesting orchestration of the whole riot--just parts of what was happening. Whether, for example, there were campaigns to engage in arson, planning of what the targets would be."

Barr declined to say how much time will be needed to complete the federal civil rights investigation into the police beating of King, but said he expects it will be completed faster than the riot inquiry.

"If we decide to go forward with indictments, then we want to be sure we have built a strong case that will prevail in court," he said. "Any time we're taking now would be necessary to developing such a case. The timetable shifts as we learn more about the case, so I don't want to speculate about how long it will take."

Although "unique circumstances" combined to erupt into the Los Angeles riots, Barr said he views problems in the inner cities as nationwide.

"There is in fact frustration and in some segments of our population a certain hopelessness over circumstances. I think there was anger and frustration over the verdict in the Rodney King incident that certainly wasn't limited to Los Angeles."

He is not, however, predicting similar incidents of urban unrest throughout the nation.

"I think a lot of people were angry and frustrated by the verdict," Barr said, "but they found peaceful ways of expressing it. I think the violence was largely the product of the criminal element that was taking advantage of the situation."

On the role of illegal immigrants in the rioting, Barr noted that they accounted for one-third of those initially arrested, but that the rate dropped substantially as arrests proceeded.

"It could be that once it became clear that people who were looting were being arrested, that people who were not lawfully in the United States made themselves scarce.

"I think there is a significant problem of illegal aliens in the Los Angeles area, and I think this was a manifestation of the scope of the problem."

---- Index References ----

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US ATTORNEY GENERAL WILLIAM BARR COMMENTS ON FEDERAL CHARGES AGAINST LAPD OFFICERS

CBS News Transcripts FACE THE NATION (10:30 AM ET)

May 17, 1992, Sunday

Section: Interview

Length: 2485 words

Body

ANNOUNCER: FACE THE NATION, with chief Washington correspondent Bob Schieffer. And now from CBS News in Washington, Bob Schieffer.

SCHIEFFER: It has been nearly three weeks now since the Rodney King verdict, and we're pleased this morning to have the first interview since then with the attorney general of the United States, William Barr.

Mr. Barr, thank you for coming. How close are you to deciding whether or not you are going to bring federal charges or at least seek federal charges against the officers who were acquitted by the state jury?

Mr. WILLIAM BARR (Attorney General): Well, Bob, as you know, we have a pending grand jury investigation of that case, and under the law I'm limited as to what I can say about it. Obviously anything I could say could jeopardize and undercut any potential future action we take.

We have a crackerjack team of prosecutors working on the case; they're going full bore. We know there's a strong public interest in--in moving quickly. At the same time, it's important that we fully develop the facts of this case and fully build a case. I think the last thing the American people would want is for us to precipitously rush to indictments and then not be able to win that case in court. And so we have to use the grand jury process to build a case.

SCHIEFFER: Well--well, can I just--I understand what you're saying, but can you give me some sort of a timetable? I mean, surely your prosecutors know--or your investigators know how close they are to saying, 'Mr. Attorney General, we're ready to go with this thing,' or, 'We're not ready to go with it.'

Mr. BARR: I really can't give you a specific timetable. In fact, the timetable is constantly being revised as we find out more about the case, more about potential witnesses and areas that we want to pin down. I did get a rough estimate last week, but it's subject to change. I'm talking to the prosecutors next week to get a revised assessment. We're moving quickly, but we have to do the job professionally. We have to do it right.

SCHIEFFER: This week, the state judge did decide to go ahead and retry Lawrence Powell whose case was the one that ended in a hung jury.

Now when the state began its process on all four of the officers, you suspended the federal investigation because you said that was proper, while the state moved in. Does this this now mean that you will suspend the investigation again or will this have any effect on the timetable or of the process of your own investigators now?

Mr. BARR: No. The--the--the state--the new state trial of Officer Powell will not affect our investigation or our timetable for making a determination as to whether there'll be indictments.

SCHIEFFER: Is there a possibility that you might seek any charges against any other officers other than those four?

US ATTORNEY GENERAL WILLIAM BARR COMMENTS ON FEDERAL CHARGES AGAINST LAPD OFFICERS

Mr. BARR: All I would say about that, Bob, is that we're looking at the whole incident from ground zero forward. We--we are not limiting ourselves to any particular set of people.

SCHIEFFER: So there is a possibility there could be more indictments that would include others than the four people who were originally charged in this case?

Mr. BARR: We're looking at the whole incident. I don't want to speculate as to who might be the subject of an indictment.

SCHIEFFER: If you do bring federal charges against the officers, do you think it's possible making it a fair trial?

Mr. BARR: That--that obviously has to be an area of concern. It certainly concerns me. I think that it is possible that they could get a fair trial. We--we're certainly going to take every step we can to see that they do, if we decide to go forward with charges. Obviously, I think the defense will raise this issue and a court will have to make the decision.

SCHIEFFER: Would you, in the federal--if a federal case does come, would--would you seek a change of venue after what happened in the state cases? Would that bear on your case any?

Mr. BARR: I think it's likely the defense would seek a change in venue.

SCHIEFFER: You--you would try to--to--to try them in Los Angeles, if that's where you did…

Mr. BARR: I don't want to speculate about potential tactics in a potential case, but I think that it's likely we would see the defense seek a change in venue.

SCHIEFFER: All right. Let's take a break right there. We'll come back in a minute after these words.

(Theme music)

ANNOUNCER: This portion of FACE THE NATION is sponsored by…

(Announcements)

SCHIEFFER: And we're back with Attorney General William Barr.

Mr. Barr, I know your investigators have launched an investigation into what connection the gangs in Los Angeles might have had with this--with this riot. What have you found out so far?

Mr. BARR: Well, we are investigating all of the violence, the arson that was involved in the riots. Our preliminary information is that there was significant involvement of gang members at the inception of the in--the violence, also involvement in the spreading of the violence and the arson.

SCHIEFFER: So this would be something that did not necessarily have to do with Rodney King; It was not a reaction, but--but was a criminal activity. Is--is that what you're saying to me?

Mr. BARR: Yes. I think a lot of the violence and the looting did not have much to do with Rodney King. I think a lot of that kind of activity were the criminal element taking advantage of the situation.

SCHIEFFER: W--well, there was a lot of--all kinds of stories were going around. One heard things that some of these gangs may have actually had contingency plans. That if--if these police officers were found not guilty that they would use that as an excuse to--to break into gun stores, for example. Have you found any--can you tell us anything about that?

Mr. BARR: We've heard that information and we're obviously looking into it, but I couldn't substantiate that right now.

US ATTORNEY GENERAL WILLIAM BARR COMMENTS ON FEDERAL CHARGES AGAINST LAPD OFFICERS

SCHIEFFER: What about the guns? There were--what--3,000 stolen during the riot. Have you recovered any of those yet?

Mr. BARR: There--there were 1,200 confirmed stolen, pos--possibly quite a few more. We have started recovering some of those firearms, but, obviously, most of them are still on the street.

SCHIEFFER: Let me ask you, there's a--there is the widely held perception among many people in South Los Angeles that--that there's kind of a double standard that the government and that the state has employed in all of this. And one of the things they point to is that you suspended your federal investigation of the police officers that--that beat Rodney King while the state took over that case, and yet when the people were arrested who beat the truck driver in that--that notorious incident that was seen, that that didn't--you didn't lay back on that. And--and the charge they make, of course, is that--that you--you want to go as hard as you can against black people, but you're not nearly so interested in--in seeing justice is done in a case when the black man is the victim. How do you respond to those kind of charges?

Mr. BARR: We stand for equal justice and equal application of the law. No one's above the law and we take each case on its merits. The fact is, there are some differences and similarities between those two cases, but, in fact, it's going to be handled in generally the same way that we handled the Rodney King case. We do intend to let the state charges go forward first. So the state charges against the individuals accused of beating Denny will proceed. We are going to hold our case in abeyance just as we did with Rodney King.

SCHIEFFER: And you'll hold the investigation also? I mean, you…

Mr. BARR: Well, what's different here is that we have a joint task force doing the investigation. So there are state and federal investigators mixed up on a joint task force and they're all working on the same investigation. That's one of the differences here and that's just because of the way the investigation was structured. But again, the federal government is going to hold its case in abeyance and let the state proceed, just as we did in Rodney King.

SCHIEFFER: Every administration official--Vice President Quayle last week on this broadcast, other officials in--in other venues--always mention law and order. It's the first word that is talked about when you--when you talk about Los Angeles. What do you think that the lessons of Los Angeles are? And what are the problems that Los Angeles has exposed to the country? Is it a law and order problem? Is it something that goes beyond that?

Mr. BARR: It's partly and--and largely a law and order problem, but it does go beyond that, too. And I think from a--at least from a law enforcement standpoint, Los Angeles underscores, I think, the message that this administration has been trying to get across on law enforcement. First, that we do have to uphold the r--the rule of law. Violent crime is a serious problem in our country. And the rule of law is essential to holding our country together. We're a diverse country. The glue that holds us together is the rule of law, and it's the foundation upon which we hope to build a better society.

Second, that law enforcement alone can't handle the problem of crime, and we do have to work with the community. Law enforcement and the community have to work together in partnership. And where that happens, you see less of the suspicion between the police and the community, and that's the model we've been pushing. Part of that is community policing, which we've been supporting.

And--and third, that tough law enforcement and social programs to ameliorate the conditions that contribute to crime have to go hand in hand; you can't have one without the other. We can't expect social programs to succeed in the city unless there's some tough law enforcement there because crime is causing poverty these days. It's discouraging investment, discouraging jobs in the inner city. So we--we have to marry these two approaches and that's what the president's Weed and Seed program is about.

SCHIEFFER: Well, mentioning Weed and Seed--it's very interesting to me, because that program does seem to work where you have tried it out in pilot programs. But one part of that program is that local police have to be able to put enough officers into those areas so they can walk the beat and talk to community leaders. Many

departments say they can't participate because they just don't have enough officers, that--that they're going to have to have some help to keep the other officers on the beat if they're going to be able to participate in those programs. Can you see a way that the federal government can help them do that beyond what you're already doing? Because without it, many of them say Weed and Seed just won't be enough.

Mr. BARR: Right. We are helping them now. And, in fact, even apart from Weed and Seed over the past two years, we've supported community policing with grants of $ 25 million in the 16 Weed and Seed cities we have now; most of the money that we're putting in is for community policing. And, of course, we'll do all we can to continue to support that. But state and local governments should not be scrimping on law enforcement. I think to the extent they undercut law enforcement, they're frustrating all their other programs. And so now's not the time for cutbacks.

SCHIEFFER: What--what did you say? I'm sorry. That…

Mr. BARR: To the extent they scrimp on law enforcement, they're going to undercut their other programs. If you build housing projects only to see them taken over by drug addicts and drug traffickers, you really haven't advanced the ball. So to the extent you want your general efforts at social rehabilitation and urban renewal to take hold, you're going to have to invest in law enforcement. I think that's one of the problems in Los Angeles, and I'm not criticizing the leadership at this point. But there are only 8,000 policemen in the Los Angeles Police Department. That's the smallest police department per capita for any large city, and given the great area they have, stretched very thin. So they--they don't have the capacity to build that kind of relationship with the community. It has to be established.

SCHIEFFER: One of the things that we find in polling that--that you hear over and over is that the frustration in the country these days that the government simply seems unable to get anything done. I was thinking about that--I was going back through the clips this week and I--I was reminded that the Attorney General Thornburgh, before you came to the office, immediately after the King incident was reported and people saw the videotape for the first time ordered this gargantuan study of police brutality and yet that--that study--it's a year later and the study's never been released. Why is that?

Mr. BARR: Well, the study is still under way and--and the initial data from the Civil Rights Division was so spotty and incomplete that we couldn't draw any conclusions from it. And so that was fed over to the National Institute of Justice which now has two studies that are contracted out. And we expect them in the fall. But I'd like to make a broader point to the point you…

SCHIEFFER: But--but--let me just--before you make your broader point, let me--doesn't that kind of embarrass you that the government--it takes the government a year to find out if there's police brutality? I mean, and you still haven't gotten it done? I mean, isn't that what frustrates people? They say every time something happens, 'Well, we're going to have a big study.' And it goes on for a year and nothing ever happens.

Mr. BARR: Well, the study isn't to find out whether there's police brutality; we know there is police brutality. It's reprehensible. It's still the exception, not the rule. The--the--what the study is trying to do is get at the root causes of--of police brutality and look as to what kinds of factors in a police department--the training, the operations of internal affairs, the screening of police officers--how we can change these things to cut down on--on police brutality. And it doesn't embarrass me that that takes some time to do.

SCHIEFFER: It would seem to be you ought to be able to get something of a handle on it in a year.

Mr. BARR: Well, the data that we have here at the federal level is very incomplete. I mean, it's very hard for us to sort out, for example, which are the valid complaints and which are--it doesn't tell you very much to say there are so many complaints per 1,000 arrests.

SCHIEFFER: I think that's one thing you and I will just have to disagree on.

Mr. Attorney General, thank you very much for coming today. A pleasure to have you.

US ATTORNEY GENERAL WILLIAM BARR COMMENTS ON FEDERAL CHARGES AGAINST LAPD OFFICERS

We'll be back in a minute with our roundtable.

(Theme music)

Load-Date: April 28, 1998

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NewsRoom

5/17/92 AP Online 00:00:00

AP Online

May 17, 1992

Section: Domestic

More Violence Threatens LA Gang Truce

LOS ANGELES

Members of rival gangs hugged and shook hands at a picnic Sunday following a night of violence that killed four people and threatened to shatter a truce forged after last month's deadly riots.

But at the same time as the picnic, a gang brawl at the county fairgrounds about 40 miles east of downtown left at least one person dead and several others shot or stabbed, said Pomona police Lt. Bela Laszlo. He didn't immediately have details.

Police in Las Vegas, meanwhile, used tear gas and foam pellets early Sunday to battle a crowd of nearly 1,000 after suspected gang members beat a white motorist.

In South Central Los Angeles, more than 300 members of the Crips and Bloods gathered Sunday in a city park for a picnic to promote the fragile truce. A few blocks away, officers in more than a dozen squad cars stood by.

Young men wearing Crips blue shook hands and hugged others wearing Bloods red.

"It's a miracle that I would not have believed in, but it's true," said Charles Rachal, 28, a former Crip who helped organize the picnic. "The Lord's going to let it work out. There can't nothing bad come out of something good."

Nearby, another former gang member identifying himself only as De'andra knotted a blue Crips neckerchief with the red bandana of a Blood.

"This is real, you know what I'm saying," he said.

The picnic was one of a series of gatherings gang members have held to encourage harmony.

Gang members declared a truce after deadly riots set off by the acquittals last month of four police offficers in the videotaped beating of motorist Rodney King. But police said the violence Saturday demonstrated that little has changed.

"Things haven't cooled off at all. They're trying to make things look like it's cooled off, but you can still cut the tension with a knife out there," said Sgt. Don Keith.

Four people died and three were wounded in gang-related shootings Saturday in South Central, police said. Police initially believed gang members were responsible for a fifth death north of downtown but later said it wasn't gang-related.

Neither Charles Norman, a coordinator for Community Youth Gang Services in South Central, nor police could say for sure if members of factions involved in the truce were responsible for the slayings.

Norman was optimistic the truce would survive, but said setbacks such as Saturday night's bloodshed were inevitable. Rival gangs have battled for control of South Central neighborhoods for more than a decade. Police estimate there are more than 100,000 gang members throughout Los Angeles County.

"Every gang hasn't joined in. We're working with a core group ... but others are slowly, surely coming in," he said. "They classify themselves like a tree. They know they have some leaves and branches that will fall off. But the truce should hold."

Some police worry that the truce will lead to a united gang front against law enforcement.

Meanwhile, Attorney General William Barr said Sunday on CBS' "Face the Nation" that 1,200 firearms were confirmed stolen during the riots and "possibly quite a few more."

In Las Vegas, 30 to 40 people were arrested, mostly for weapons violations, and two stores were looted after the motorist was attacked late Saturday as he drove near a community center where a picnic was breaking up, police said.

Several people suffered minor injuries, police said. The attackers were black and appeared to target the man because he was white, Sgt. Mike Dailey said. The man was treated at a hospital for minor injuries.

The crowd, which included many gang members, initially was

estimated at nearly 1,000, said Lt. Mike Ault. SWAT teams went to the scene in armored vehicles and were pelted with rocks and bottles. Shots were fired from the crowd and police responded with tear gas, Ault said.

The crowd steadily shrunk but later regrouped in nearby North Las Vegas and shots were fired at officers again.

Riots also broke out in Las Vegas a day after the King verdict.

---- Index References ----

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Nevada (1NE81); California (1CA98))

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USA Today (USA)

May 13, 1992

Section: NEWS

MANY BLACKS THINK JUSTICE NOT PART OF SYSTEM KING CASE REAFFIRMS SENTIMENT

Sam Vincent Meddis

For many blacks, particularly the young, the word justice is pronounced just us: More likely than whites to be arrested for drugs, or pulled over by a patrol car, or frisked on the street, or denied bail, or thrown into prison. More likely, in short, to be targets.
And so it was that many blacks, after the initial shock, viewed the police acquittals in the Rodney King brutality case as a blatant, bitter confirmation of longstanding racism in the justice system.

"In the black community, police are an occupying force," says Cassandra Johnson of the National Organization of Black Law Enforcement Executives.

Attorney General William Barr, in an interview, acknowledges the black community's frustrations, especially with police, and the need to address the deeply rooted social ills that feed street crime.

But even as he endorses a battle against inner-city joblessness and family instability, Barr insists that the war on crime must continue: "I don't see how keeping violent criminals on the street is going to ... improve life in the city."

To some justice experts this war has a ghastly resemblance to an image of the Vietnam War: the destruction of a community in order to save it. The statistics have a body-count grimness:

- About one in four black males in their 20s is in prison or jail, on probation or parole, says a study by the Sentencing Project, a research group advocating prison reforms.

- While blacks make up only 12% of the general population, nearly half of the nation's prisoners are black.

- While the level of drug use among blacks is about the same as whites, more than 40% of those arrested on drug charges are black, according to a 1990 USA TODAY study.

The U.S. principle of equal justice is enshrined in law books, engraved on courthouse walls. But for many blacks, the anthems ring untrue.

While the motives for the Los Angeles rioting are still debated, the Rodney King acquittals were clearly a slap in the face for blacks, "the last straw on the camel's back," says Rep. John Conyers, D-Mich., Government Operations Committee chairman and Congressional Black Caucus member.

In a USA TODAY survey following the April 29 verdict in the King case, 81% of blacks said that the justice system is racially biased; only 36% of whites felt that way.

"The black community perceives that the get-tough strategies do not protect the community," says Barry Krisberg of the National Council on Crime and Delinquency, one of the nation's pre-eminent justice research organizations.

Just as in the rest of society, racists can be found in the criminal justice system, says Darrel Stephens of the Police Executive Research Forum, an association of police leaders.

But economics - not racism - is the reason for the arrest and prison disparities, he says. Many poor whites and Hispanics face similar treatment.

A vicious cycle begins with a host of inner-city problems - from chronic unemployment and poor education to drug addiction and broken homes - that often lead to crime.

A beefed-up police presence in the inner city, to deal with that crime, produces closer scrutiny of local residents, which in turn results in even higher arrest rates.

Adding to the problem is an increasingly dangerous street scene - where high-powered weapons and lucrative drug dealings make law enforcement work fraught with tension, the kind that fosters police misconduct.

Not only do blacks distrust law enforcement, but police tend to look upon blacks as "enemies," not citizens whom they are sworn to serve and protect, Johnson says.

For many young blacks, incarceration "is now a badge of honor," says Rep. Charles Rangel, D-N.Y., chairman of a House narcotics committee. "It is a bestial system, it's a treadmill, it's hopeless."

It is also very expensive. Total spending on state and federal prisons in 1990 was $11.5 billion, an average $15,603 per inmate. To pay for prison construction and operations, states spent twice as much per citizen in 1990 than in 1984.

But there's growing evidence that prisons make matters worse. "That's the finest institution for getting a Ph.D. in criminology," says Hubert Williams of the Police Foundation.

Prison populations hit a record 804,000 inmates by mid-1991, more than double 1980. Yet crime rose for the seventh consecutive year in 1991.

"The U.S. has the highest crime rate of any industrialized nation in the world, and the highest incarceration rate," says Joseph Lehman, Pennsylvania's corrections chief.

Yet Attorney General Barr says the crime scene cries out for more prisons, not fewer. He compares the current situation with that in which a firefighter is attempting to stop a house fire and someone taps him on the shoulder to suggest that homes be fireproofed better.

"Sure we should build houses in the future that are less susceptible to fire, but in the meantime we also have to put out this fire," he says. "We have to move on both fronts."

New jobs, training and education should be encouraged, Barr says. "But you can't bring any of that to the inner city if you sit back and allow the criminal class to rove at will."

Barr says blacks are far from soft on crime. They have front-row seats to the carnage: 49% of the 20,045 murder victims last year were black.

"In most of these communities that I've visited, the people say that they want the drug dealers and the gang members off the streets," Barr says. "They want physical security."

The way to help restore black confidence in police is to take officers out of roaming patrol cars and station them in troubled neighborhoods, "to break down the walls between the police and the community," says Barr.

The Justice Department is sponsoring programs that return police to the beat, Barr says. These "weed and seed" projects, while stepping up the arrest of wrongdoers, also provide social programs to help reduce the causes of crime; $480 million is earmarked for the social programs, while only $30 million is for policing.

But it will take far more funding than that to provide the kind of fireproofing that Barr alludes to, says Princess Whitfield, the principal at Lemon G. Hine Junior High in Washington, D.C.

Whitfield, named one of America's 10 outstanding educators by Reader's Digest this year, stressed hard work and personal responsibility among students to create a model school out of one that had been nicknamed "Horrible Hine," plagued with discipline problems and poor attendance.

Compared with the size of the inner-city problem, government programs to help young people avoid a life of crime have been "a lot of talking and mouthing - not even a drop of sand," Whitfield says

Time is short, warns Sam Saxton, who heads the Prince George's County, Md., jail.

A black 30-year Marine veteran who fought at Iwo Jima and ran a brig in Vietnam, Saxton says little frightens him. But the violent reaction to the King verdict "scares me to death," he says.

"I think we're looking at revolution," Saxton says. "I think we're looking at a bloodbath."

Blacks in the justice system

The percentages of whites and blacks in the USA and in various roles in the criminal justice system in 1990: L

White Black

Of the U.S. population 80.3% 12.1%

Of those in full-time police work 83.0% 10.5%

As a percent of total arrests 69.2% 28.9%

Of those serving sentences in

state prison 37.9% 48.0%

CUTLINE: WORRIED: Sam Saxton, who heads the Prince George's County, Md., jail, says the violent reaction to the King verdict frightens him. 'I think we're looking at revolution,' he says.

GRAPHIC
b/w,Sam Ward,USA TODAY,Source: U.S. Census Bureau
Bureau of Justice Statistics(Bar graph)
PHOTO
b/w,H. Darr Beiser,USA TODAY
PHOTO
b/w,AP

NOTES: CRIMINAL JUSTICE

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Race Relations (1RA49); Social Issues (1SO05); Prisons (1PR87); Police (1PO98); Minority & Ethnic Groups (1MI43))

Region: (Indo China (1IN61); USA (1US73); Americas (1AM92); Vietnam (1VI02); North America (1NO39); Far East (1FA27); Asia (1AS61))

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NewsRoom

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Washington Times (DC)

May 13, 1992

U.S. DEPORTS ALIENS SEIZED IN L.A. RIOTS

Frank J. Murray THE WASHINGTON TIMES

President Bush's personal demand for tough enforcement led to a federal crackdown on illegal aliens who took part in the Los Angeles rioting.

Mr. Bush confirmed yesterday that he raised the question of deportation proceedings during closed meetings on his visit to the city last week.

He also said federal investigators may probe the Crips and Bloods gangs the same way they have targeted Mafia figures.

"Two mayors at the meeting disagreed over that," Mr. Bush said. "One wanted to run them out of his city and the other wasn't for that at all."

A senior White House aide told The Washington Times the question of mass deportations had been ducked because it was so sensitive in Los Angeles, until Mr. Bush asked at the meeting, "Why not?"

Attorney General William Barr, who said last week there was no particular effort to deport aliens who rioted, said yesterday all illegal aliens who are not sent to prison for serious felonies will be deported.

"I think of the first 6,000 arrested for rioting or looting, about a third of them were illegal aliens," he said at a White House news conference. "The two choices are prosecute them and incarcerate them - that is, punish them here and make them serve a sentence before deportation - or deport them immediately."

Immigration Department spokesman Verne Jervis said 605 of 779 identified undocumented aliens had been bused to the Mexican border by Monday after they waived hearings.

Mr. Barr said 20 FBI agents and 20 Drug Enforcement Administration agents were added to the gang probe in Los Angeles "and I expect that to be expanded in the next few weeks." Another 200 investigators are active across the country pursuing illegal aliens involved in gang activity elsewhere.

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---- Index References ----

Region: (District Of Columbia (1DI60); USA (1US73); Americas (1AM92); North America (1NO39); California (1CA98))

Language: EN

Other Indexing: (DRUG ENFORCEMENT ADMINISTRATION; FBI; IMMIGRATION DEPARTMENT; MAFIA; RIOTS; WHITE HOUSE) (Attorney; Barr; Bloods; Bush; Verne Jervis; William Barr)

Edition: Final

Word Count: 352

End of Document

NewsRoom

5/9/92 Dallas Morning News 34A
1992 WLNR 4760266

Dallas Morning News

May 9, 1992

Section: NEWS

Eight cities in Texas to share crime grant: $480,000 earmarked for prevention plans

THE

Frank TrejoStaff Writer of The Dallas Morning News

Staff Writer of The Dallas Morning News

The mayors of Texas' eight largest cities said Friday's announcement of a $480,000 federal grant to develop crime prevention plans is "a clear endorsement' of their anti-crime alliance.

The announcement was made by U.S. Attorney General William Barr, who was in Dallas to speak at the spring luncheon of the Greater Dallas Crime Commission and to meet with members of Mayors United on Safety, Crime and Law Enforcement, or MUSCLE.

The grant is being awarded to the National Crime Prevention Council but will be used to address problems faced by the eight cities in the mayors' group.

"We're very pleased with the strong support from the attorney general on what we're trying to do,' said Arlington Mayor Richard Greene, chairman of the group organized late in 1991 to fight urban crime.

Mr. Greene said the group's effort is a two-pronged approach -- crime prevention and development of statewide legislative initiatives.

On Friday, the group unveiled its legislative agenda after meeting with the attorney general. The agenda will be used to develop bills to address urban crime, Mr. Greene said. Those bills should be ready to submit to the Legislature in January.

Much of the agenda deals with increasing penalties for crimes involving guns, drugs and alcohol. It also addresses juvenile crime.

Fort Worth Mayor Kay Granger emphasized that the agenda categories had been developed in consultation with police chiefs and district attorneys throughout the state. In her city, more than 85 percent of crime is related to drug or alcohol use, she said.

Mr. Greene noted that the $480,000 federal grant is an important step in dealing with the second phase of the group's efforts.

"Each city will designate a staff member to coordinate with the National Crime Prevention Council, and each city will be working with officials and community leaders to develop a specific plan,' Mr. Greene said.

In addition to Mr. Greene and Ms. Granger, the mayors involved in MUSCLE include Steve Bartlett of Dallas, Bruce Todd of Austin, Mary Rhodes of Corpus Christi, Nelson Wolff of San Antonio, Bob Lanier of Houston and William Tilney of El Paso.

---- Index References ----

News Subject: (Local Government (1LO75); Government (1GO80))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Texas (1TE14))

Language: EN

Other Indexing: (EL PASO; GREATER DALLAS CRIME COMMISSION; MUSCLE; NATIONAL CRIME PREVENTION COUNCIL; US ATTORNEY) (Bob Lanier; Bruce Todd; Granger; Greene; Kay Granger; Mary Rhodes; Nelson Wolff; Richard Greene; Steve Bartlett; William Barr; William Tilney)

Edition: HOME FINAL

Word Count: 436

Bush Is Scrambling to Put Together Urban Package Before Los Angeles Trip

The Wall Street Journal

May 6, 1992 Wednesday

Section: Pg. A2

Length: 1019 words

Byline: By John Harwood, Staff Reporter of The Wall Street Journal

Body

WASHINGTON -- White House officials, worried that the Los Angeles riots have further eroded President Bush's popularity, scrambled to defend the administration's current urban policies and come up with new ones.

A day before Mr. Bush was scheduled to fly to Los Angeles to meet with elected officials and community groups, administration officials worked toward assembling a package of proposals consisting mainly of education, housing and health initiatives that the president has unsuccessfully offered before. In addition, White House domestic adviser Roger Porter has been charged with surveying federal agencies for new ideas that could be included.

At the same time, the White House abruptly shifted its public stance on social policy in response to criticism. On Monday, Press Secretary Marlin Fitzwater blamed liberal social welfare programs enacted in the 1960s and 1970s for contributing to the inner-city deterioration that led to the Los Angeles riots. Yesterday, reporters were called to a briefing at which a senior administration official asserted that social welfare spending has increased during Mr. Bush's presidency.

The senior official also defended the philosophical underpinnings of current administration proposals, saying they would "give poor people more direct power" to choose their own schools, housing, child care and medical care, and to find jobs created through tax incentives in "enterprise zones."

While maintaining that money alone isn't the answer to social problems, the official said that "it so happens" that federal outlays have increased "substantially" for programs for the poor including Medicaid, food stamps, Aid for Families with Dependent Children, the Head Start preschool program, and the earned income tax credit. The official acknowledged, however, that much of the increased spending came automatically through so-called entitlement programs and not as the result of administration proposals.

For Medicaid, the largest of these areas, spending is rising to an estimated $84.5 billion in 1993 from $34.6 billion in 1989.

An administration official said the White House arranged the briefing after the president was disturbed by network news coverage of the administration's track record. Moreover, the new tone followed the release of a poll in the Los Angeles Times showing that Mr. Bush had fallen into a virtual three-way tie with his probable Democratic rival, Bill Clinton, and possible independent challenger, businessman Ross Perot. A White House official said Mr. Bush's aides had expected his standing to rise as voters rallied around the president, but now were wondering "whether any focus on any domestic issue hurts us."

Robert Greenstein, an analyst at the liberal Center for Budget and Policy Priorities, later dismissed the administration briefing as "highly deceptive" because the spending increases on the poor are mainly attributable to the recession, which made more people eligible for assistance, rather than increases in benefit levels.

For his part, Mr. Clinton, who toured Los Angeles Monday, embraced a new proposal to increase the number of police on the street. Speaking to the American Newspaper Publishers Association in New York, the Arkansas governor endorsed a plan developed by Sen. Sam Nunn (D., Ga.) to permit career members of the military services to leave after 15 years rather than the usual 20 years and still receive full pensions if they spend the last five years as police officers.

It's unclear what new proposals Mr. Bush may come up with. His former domestic policy aide James Pinkerton, who now works for the Bush-Quayle campaign, is promoting a revival of the New Deal-era Civilian Conservation Corps, run by the Pentagon, to employ inner-city residents to plant trees, repair roads and the like. But several White House officials dismissed the idea because such a program on a large scale would cost billions at a time of record budget deficits.

On arrival in Los Angeles tonight, Mr. Bush first plans to meet with the team of administration officials led by Deputy Education Secretary David Kearns that he dispatched to the riot-torn area this week. The president then is expected to inspect the damage and conduct a series of meetings with Los Angeles Mayor Tom Bradley and California Gov. Pete Wilson; with representatives of the Korean-American, black and Hispanic communities; and with some of the people who became heroes of the riots by rescuing beating victims from further harm.

Mr. Bush, who will be accompanied on the trip by Housing Secretary Jack Kemp and Health and Human Services Secretary Louis Sullivan, plans to deliver a speech before leaving Los Angeles on Friday. Vice President Dan Quayle's chief of staff, William Kristol, an advocate of Mr. Kemp's agenda to "empower" inner city residents through such means as expanding home ownership, has been given a prominent role in drafting Mr. Bush's remarks, a White House official said.

The administration also is assigning 50 federal agents to work with state and local officials in the investigation and prosecution of riot-related crimes in Los Angeles.

Although the type of crimes 20 additional agents from both the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco and Firearms will probe are generally handled by local officials, Attorney General William Barr said a "civilized society" cannot tolerate "those criminals who terrorized communities throughout the area by acts of violence and wanton destruction."

Ten agents from the Drug Enforcement Administration, who recently were assigned to Los Angeles, also will work with the task force, which will include state and local officials as well.

The task force will investigate "the most aggravated crimes of violence committed during the riot, including murders, assaults, arsons and any organized gang activity," a Justice Department statement said.

Five federal prosecutors have been assigned to handle violations of U.S. law identified by the task force. The Los Angeles County district attorney's office will handle violators of state law.

Joe Davidson contributed to this article.

Notes

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Load-Date: December 5, 2004

End of Document

NewsRoom

5/5/92 Reuters News 00:00:00

Reuters

May 5, 1992

ATTY GENERAL ANNOUNCES TASK FORCE ON RIOT VIOLENCE.

WASHINGTON, May 5, Reuter - Attorney General William Barr announced that a joint federal and state task force has been formed to investigate and prosecute criminal activity stemming from the riots in Los Angeles.

Barr said the task force will investigate such crimes as murders, assaults, arson and any organized gang activity that occurred during the rioting that swept the city after the acquittal of four white police officers in the videotaped beating of black motorist Rodney King.

"The task force will investigate instances where the civil rights of innocent victims were violated," Barr, the nation's top law enforcement official, said in a statement issued hours after a White House meeting with President Bush.

Barr said he had directed that federal law enforcement investigators and prosecutors join with state and local authorities to quickly "bring to justice those criminals who terrorized communities throughout the area by acts of violence and wanton destruction."

---- Index References ----

Company: WHITEHOUSE

News Subject: (Social Issues (1SO05); Violent Crime (1VI27); Criminal Law (1CR79); Legal (1LE33); Top World News (1WO62); Crime (1CR87); Regulatory Affairs (1RE51))

Language: EN

Other Indexing: (ATTY; WHITE HOUSE) (ANNOUNCES TASK; Barr; William Barr)

Word Count: 152

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NewsRoom

JUSTICE DEPARTMENT FORMS TASK FORCE TO INVESTIGATE, PROSECUTE RIOT-RELATED VIOLENCE

U.S. Newswire

May 5, 1992

Section: NATIONAL DESK

Length: 787 words

Dateline: WASHINGTON, May 5

Body

Attorney General William P. Barr announced today that a joint federal/state task force has been formed to investigate and prosecute riot-related criminal activity in the Los Angeles area.

Barr said, "The violence and breakdown in law and order we recently witnessed in portions of Los Angeles cannot be countenanced in a civilized society. I have directed that federal law enforcement join with state and local authorities to expeditiously identify and bring to justice those criminals who terrorized communities throughout the area by acts of violence and wanton destruction."

At the federal level, the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco and Firearms are providing personnel to the task force. The FBI is providing 20 agents and ATF is providing 20 agents, both in addition to their current complements in Los Angeles. Also coordinating with the task force will be 10 new Drug Enforcement Administration agents who were recently added to the Los Angeles area as a special task force to work on drug related violence.

At the state and local level, the task force will have investigators from the Los Angeles Police Department, the Los Angeles County Sheriff's Department, the Compton Police Department, the Inglewood Police Department, the Long Beach Police Department, and other area municipalities which experienced riot-related criminal acts such as arson and looting. The California Attorney General's office will also participate in the task force, and, as an initial step, has committed 10 Bureau of Investigations Special Agents.

Task force personnel will be dedicated exclusively to investigating the most aggravated crimes of violence committed during the riot, including murders, assaults, arsons, and any organized gang activity. There are a broad range of federal statutes which could be utilized, including firearms violations, arson, inciting riot, interference with police and fire officials during a civil disturbance, damaging energy facilities and instrumentalities of commerce, and civil rights violations. The task force will investigate instances where the civil rights of innocent victims were violated.

Five federal prosecutors from the U.S. Attorney's office and the Criminal Division of the Department of Justice will be dedicated to handling the prosecution of federal criminal violations identified by the Task Force. More will be added if necessary.

Potential violations of state law that are developed will be referred to the Los Angeles County District Attorney's Office.

JUSTICE DEPARTMENT FORMS TASK FORCE TO INVESTIGATE, PROSECUTE RIOT-RELATED VIOLENCE

Barr said that part of Assistant Attorney General Robert Mueller's assignment when he was sent to Los Angeles last Friday was to work with U.S. Attorney Lourdes Baird to set up the task force and that the operation had begun last Sunday with the collection of videotapes and other evidence of riot-related crimes.

The federal officials will work closely with state and local officials to coordinate prosecutions.
U.S. Justice Department Public Affairs, 202-514-2007

End of Document

The prison boom bust

U.S. News & World Report

May 4, 1992

Section: U.S. NEWS; Vol. 112, No. 17; Pg. 28

Length: 1907 words

Byline: By Ted Gest

Series: Campaign '92
Highlight: A big building drive has doubled the number behind bars but has hardly cut crime at all

Body

For a generation, crime and politics have been inseparable. Last week, the nation's attention was riveted on the last-minute maneuvering that surrounded California's first execution in 25 years. This week, there is more alarming news: the relentless rise in violent crime. The latest FBI data show that reports of violence increased 5 percent last year. But the true extent of the problem could be much worse. One crime-victim group estimates the actual rape total at 683,000, nearly seven times the FBI count. Most disturbing, crime rates are growing despite the mammoth expansion of prisons in the past 10 years. And that is prompting a fresh debate about the incarceration strategy that has been the core of the war on crime.

"The choice is clear: more prison space or more crime," argues Attorney General William Barr, who has summoned crime fighters from across the country to the nation's capital this week for a "summit" on punishment policy. He and George Bush are hoping to score political points and further anew building boom that would expand the already unprecedented rise in imprisonment. The number of inmates in U.S. prisons has doubled over the past decade; on any given day, 1.2 million Americans are behind bars -- leading to the highest incarceration rate in the world.

But do more prisons -- and more prisoners -- really mean less crime? If so, it is not obvious from the statistics. California criminologists James Austin and John Irwin compared crime and imprisonment rates in each state during the 1980s and found no firm correlation. South Dakota's incarceration rate was twice that of neighboring North Dakota, for example, but crime in both states rose and fell at roughly the same rates. And while, nationally, property crime seems to have stabilized over the past decade, violent crime began rising again in 1990 after reaching a plateau for several years.

The shortcomings of the lock-'em-up strategy in crime busting are particularly evident in California, one of the most aggressive states pursuing this policy. A buildup that began when Ronald Reagan was governor will put 111,000 criminals behind bars next year. When rising crime rates fueled public dissatisfaction, legislators stripped from prison officials the power to release inmates. The word rehabilitation was removed from the penal code and a scheme of fixed sentences began, quadrupling the number of prisoners and requiring $ 4.5 billion for new lockups.

Yet as new convicts kept pouring in, crime totals fluctuated wildly. The most visible violent acts -- homicides -- fell from 3,405 in 1980 to 2,640 in 1983, then jumped to 3,562 in 1990. Burglaries declined by 26 percent over the same period, paralleling a national trend, but the drop was completely offset by a 74 percent rise in vehicle thefts. Robberies, the bellwether street crime, fell 7 percent in the early 1980s and then shot up to a 1990 level about 25 percent higher than that of a decade earlier. "There is no evidence of imprisonment's deterrent effect," declares Malcolm Feeley, a criminal-justice expert at the University of California at Berkeley.

New crops of criminals. The seeming logic of the lock-'em-up campaign is defeated by a combination of demography and justice-system inefficiency. Each year, a new crop of youths in their upper teens constitute the majority of those arrested for serious crimes. "When major-league criminals are removed from the field, a new group of minor leaguers is elevated to the top," says criminologist Irwin, who teaches at San Francisco State University. And even California's aggressive law enforcement -- 40,000 felons enter state prisons each year -- deals with only a small fraction of those who commit 1 million serious crimes annually in the state.

Large-scale imprisonment obviously works at a certain level. It keeps truly violent felons behind bars longer and prevents them from committing more crimes. One estimate suggests that the most predatory street criminals commit an average of 15 or more crimes each per year. But the benefit-to-cost ratio declines when it comes to short-term lockups, which cost taxpayers large sums without preventing much serious crime. California slaps long terms on heinous criminals -- the proportion behind bars five years or more doubled to 10 percent in the past decade -- but it also sweeps up throngs of lesser lawbreakers.

It is the imprisonment of this vast new class of criminals that is creating the greatest need for more prison space. The percentage of incoming prisoners convicted of violent crimes has dropped from 56 to 41 in the past six years. A policy of tightening the screws on inmates after release, mainly by stepping up drug testing, makes parole violators by far the largest category of entries each year, almost half the total. "The justice system is eating its young," charges Dale Sechrest of California State University, a former corrections official. "It imprisons them, paroles them and rearrests them with no rehabilitation in between."

This change in the composition of the inmate population is evident at San Quentin, the most infamous of the state's 23 prisons and the place where Robert Alton Harris was executed last week. As recently as the mid-1980s, it housed many of the state's most violent men; now, with the exception of about 300 on death row, the iron gates serve mostly as rapidly revolving doors. Half of the 5,575 inmates serve less than two years; others wait up to 10 weeks for assignment elsewhere.

No help. One of the main reasons the revolving door keeps turning is that few criminals are rehabilitated in prison. Despite the pressure to incarcerate them, most drug abusers get no significant treatment behind bars. At least two thirds enter California prisons with a drug problem, but budget constraints mean that fewer than 10 percent get intensive help.

Moreover, few prisoners get training in job skills that would help them after release. Most can land routine maintenance jobs, but only 1 in 10 can obtain the industrial work that is most useful to job seekers after release. At the huge Vacaville prison complex south of Sacramento, for example, only 910 of the 4,121 inmates who are not being treated in a large medical facility do tasks such as bookbinding and manufacturing weight-lifting equipment. State corrections Director James Gomez wants to expand work opportunities, but he argues that many would not volunteer even if more slots were available: "It's not fair to expect us to turn around people of low self-esteem who have spent their lives selling drugs and cheating their friends."

This year could prove a watershed in the great incarceration debate. Gov. Pete Wilson, who wants to add 14 institutions in the 1990s, will ask voters this fall to approve a $ 650 million bond issue to help pay for them. Wilson also wants to stop giving violent offenders "good time," erasing a day from their terms for every day served with good behavior. That change alone could double the $ 2.5 billion corrections budget, one of the fastest-growing items in state spending.

However, Wilson confronts a serious voter backlash against new prison construction. According to the Center on Juvenile and Criminal Justice, a private San Francisco agency that studies justice issues, it costs taxpayers $ 43,000 to house and monitor a typical California convict -- who serves a 14-month term, then is paroled, rearrested and returned to prison for six months. Yet even with those high outlays, California runs one of the nation's most crowded prison systems, 75 percent over capacity. One harbinger of the sales problem Wilson faces: In 1990, 60 percent of California voters rejected a $ 450 million prison bond issue, partly because they didn't think it was a cost-effective way to solve the crime problem.

Many voters prefer smarter, cheaper approaches to punishment. In that 1990 referendum, Californians approved a measure requiring the state to try luring businesses inside prison walls -- an idea that is getting a slow but promising start. A dozen San Quentin prisoners recently started earning prevailing wages entering data into computer terminals and assembling medical devices. Working in such programs will allow inmates to save $ 2,000 or more, giving them a big edge over most prisoners, who get a mere $ 200 on release.

Other states, though, have been bolder than California in experimenting with alternatives to prison. Democratic presidential hopeful Bill Clinton is trying to buttress his anticrime credentials by backing some of these innovations. Arkansas, like more than half the states, now runs military-style boot camps. In addition, many states are letting convicts out into the community -- and monitoring them electronically. Florida may start tracking released convicts' whereabouts by satellite. Such programs do save money: An alternative-punishment plan in Mobile, Ala., costs taxpayers less than $ 1,000 each year per convict, compared with the $ 14,000 needed to house a state prisoner. But most alternative programs aren't making appreciable dents in the rate of crime.

Looking ahead, the essential choice seems clear. As the teenage population hits a growth spurt in the 1990s, the crime rate will grow. The question is whether politicians will seek to attack the problem at its roots or will continue to argue that the nation can build its way out of the plague of violence.

Punishment and crime

Despite the vast increase in the number of those incarcerated in recent years in America, the toll of violent crime remained stable and then began to rise.

Total prison population

1975	240,593
1976	262,833
1977	278,141
1978	294,396
1979	301,470
1980	315,974
1981	358,167
1982	394,374
1983	419,820
1984	443,398
1985	480,568
1986	522,084
1987	560,812
1988	603,732
1989	680,809
1990	774,375
1991	804,524

Violent-crime victims

1975	5,573
1976	5,999

1977	5,902
1978	5,941
1979	6,159
1980	6,130
1981	6,582
1982	6,459
1983	5,903
1984	6,021
1985	5,823
1986	5,515
1987	5,796
1988	5,910
1989	5,861
1990	6,008
1991	6,427

USN&WR--Basic data: Bureau of Justice Statistics

This year's campaign clash over crime

Republicans have scored electoral points in the past by accusing Democrats of being "soft on crime." Bill Clinton says he is well equipped to handle that charge from George Bush.

George Bush:

Guns. Opposes wait for handgun buys; stresses jailing gun-using convicts.

Federal aid. "Weed and seed" plan would attack drug gangs, provide social aid; but most funds go to federal units.

Overall impact. Favors expanding death penalty and curbing appeals, which would speed executions but cover few cases. Get-tough laws pack prisons; effect on crime rate is dubious.

Bill Clinton:

Guns. Supports five-day wait before handgun purchases.

Federal aid. Calls for more aid to cities, especially those reforming police departments and adding drug programs.

Overall impact. Backs capital punishment as limited anticrime tool. Emphasizes state and local spending; nonprison penalties might have marginal effect in cutting street crime.

Graphic

Chart, Punishment and crime (Bureau of Justice Statistics); Picture, Packing them in. Many of California's 103,000 prisoners serve short terms, only to be rearrested and imprisoned for drug infractions (Ed Kashi); Picture, George

Bush opens a California jail-1990 (Darryl Heikes-USN&WR); Picture, Bill Clinton with Philadelphia cops-last week (Charlie Archambault-USN&WR)

End of Document

5/3/92 Rocky Mtn. News 59
1992 WLNR 462890

Denver Rocky Mountain News (CO)

May 3, 1992

Section: LOCAL

'OPERATION GUNSMOKE' ROUNDS UP 53 FUGITIVES

ASSOCIATED PRESS ROCKY MOUNTAIN NEWS STAFF
WRITER DAN LUZADDER CONTRIBUTED TO THIS REPORT.

Fifty-three fugitives facing a range of charges for violent crimes were rounded up in the Denver area during a 10-week federal operation, including 20 parole violators wanted by the Colorado Department of Corrections.

The fugitives were among 3,313 arrested in 40 cities as part of a nationwide campaign dubbed "Operation Gunsmoke" and conducted by the U.S. Marshal's Service with the help of local law enforcement agencies.

U.S. Attorney General William Barr said Thursday the nationwide roundup led to the arrest of accused criminals who had either jumped bail or evaded apprehension.

Authorities also seized guns, and drugs valued at $4.1 million plus $1.9 million in cash and other property.

Dick Weatherby, spokesman for the U.S. Attorney's office in Denver, said the program is part of a periodic effort by the U.S. Marshal's Service to focus efforts on apprehending fugitives throughout the country.

Most of the 53 arrested were wanted for violent crimes.

He said only six of those arrested were released on bond. The rest are still in federal custody awaiting disposition of their cases.

The campaign was designed to complement the Justice Department's "Project Triggerlock," which uses federal laws pertaining to firearm violence to target the most dangerous violent criminals.

"The apprehension and incapacitation of violent criminals such as the thousands of fugitives arrested through Operation Gunsmoke is the most effective way in the short term for preventing violent crime," Barr said in a prepared statement released in Washington, D.C.,

"This effort represents another way federal law enforcement can have a substantial impact on violent crime," Barr said.

LIB3 LIB

---- Index References ----

News Subject: (Crime (1CR87); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Criminal Law (1CR79); Police (1PO98))

Region: (USA (1US73); Americas (1AM92); Colorado (1CO26); North America (1NO39))

Language: EN

Other Indexing: (COLORADO DEPARTMENT OF CORRECTIONS; JUSTICE DEPARTMENTS "PROJECT TRIGGERLOCK; US ATTORNEY) (Barr; Dick Weatherby; Fifty; William Barr)

Edition: BULLDOG

Word Count: 340

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5/2/92 St. Petersburg Times 8A
1992 WLNR 2056792

St Petersburg Times

May 2, 1992

Section: NATIONAL

DAHMER PLEADS GUILTY TO 16TH

AKRON, Ohio

WASHINGTON

CHICAGO

FORT LAUDERDALE

MIAMI

Serial killer Jeffrey Dahmer pleaded guilty Friday to a 16th charge of murder, bringing him another life prison term, then sat quietly while the mother of his first victim called him a monster. "I will not be able to pull the switch on the electric chair, but if I could, I would on this animal," said Martha Hicks, mother of 18-year-old Steven Hicks. Dahmer pleaded guilty to a charge of aggravated murder in the beating death and dismemberment of Hicks on June 18, 1978. A second count of aggravated murder stemming from the same slaying and a count of aggravated kidnapping were dismissed under a plea agreement. Asked his plea to the first count, Dahmer responded: "Guilty as charged, your honor." Dahmer, 31, who grew up in nearby Bath Township, had said he picked up Hicks while hitchhiking. He said Hicks was the first of 17 young males he killed, cut up and, in some cases, cannibalized after sex. Dahmer was sentenced to life terms Feb. 17 in Milwaukee for 15 murders there; he was not charged in a 16th Wisconsin slaying to which he had also confessed.

Investigation clears Martinez

WASHINGTON - The Justice Department has concluded that national drug policy director Bob Martinez didn't intend to violate federal campaign law by donating $63,000 to Florida Republicans to help re-elect President Bush. The donation, which exceeded federal campaign donation limits, was made with money Martinez received from television stations that overcharged his unsuccessful 1990 campaign for a second term as Florida's governor. Martinez told state party officials he hoped the money would be used to help re-elect Bush this year. In January, Martinez acknowledged that he improperly used government stationery to write letters to request refunds from television stations that overcharged his campaign. But Attorney General William P. Barr said that a preliminary inquiry by the Justice Department didn't find "even hints that director Martinez was aware of, much less wished" to disobey the contribution limits set by federal law.

Police: Driver hit gas, not brake

CHICAGO - An 87-year-old man whose car careened into a crowd of children at O'Hare International Airport - killing a girl - hit the accelerator instead of the brakes, police said Friday. Martin Horvath's car jumped a curb Thursday and plowed into two busloads of children lined up along a sidewalk for a tour of the world's busiest airport. Nine-year-old Rebecca Westlake was killed, and 78 people, including 65 children, were injured. Horvath was ticketed for negligent driving and driving an unsafe vehicle.

Judge cautions Yahweh jury

FORT LAUDERDALE - The judge in the murder-racketeering trial of a black sect leader cautioned jurors Friday to ignore outside influences during deliberations, an apparent reference to the Los Angeles riots. The defense had sought special instruction to jurors because of the outpouring of violence that followed acquittals of police in the Rodney King videotaped beating case. "This is a touchy, sensitive area," U.S. District Judge Norman Roettger said Thursday after the defense rested in the emotionally charged case. He told them to "put aside" all other issues. Yahweh, born Hulon Mitchell Jr., is the leader of a largely black religious sect based in Miami. He and 15 followers are accused of involvement in arson and 14 murders.

Drug cartel 'manager' released

MIAMI - A man drug agents had called a top U.S. manager for the Cali cocaine cartel was back home in Colombia on Friday after federal prosecutors decided not to file any charges. In a high-profile news conference Tuesday, Luis Fernando Murcillo Posada was called the cartel "overseer" of a 7-ton cocaine shipment seized in Fort Lauderdale last month. The U.S. Customs Service and Drug Enforcement Administration also said he was connected to 15 tons of cocaine discovered in Miami. Acting U.S. Attorney James McAdams praised the arrest. But prosecutors reversed their position Wednesday, and Murcillo immediately flew back to Colombia. "The evidence, or lack thereof, presented to me was insufficient to justify further prosecution of the case against Murcillo," McAdams said Friday.

BLACK AND WHITE PHOTO

Jeffrey Dahmer

SERIES: NATIONAL DIGEST

TYPE: DIGEST

---- Index References ----

News Subject: (Violent Crime (1VI27); Crime (1CR87); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Criminal Law (1CR79))

Region: (Colombia (1CO48); USA (1US73); Americas (1AM92); Ohio (1OH35); Illinois (1IL01); Florida (1FL79); North America (1NO39); Wisconsin (1WI54); South America (1SO03); Latin America (1LA15))

Language: EN

Other Indexing: (DIGEST; DRUG ENFORCEMENT ADMINISTRATION; JUSTICE DEPARTMENT; TYPE; US CUSTOMS SERVICE; YAHWEH) (Bath Township; Bob Martinez; Dahmer; DAHMER PLEADS GUILTY; Fernando Murcillo Posada; Guilty; Hicks; Horvath; Hulon Mitchell Jr.; Investigation; James McAdams; Jeffrey

Dahmer; Martha Hicks; Martin Horvath; Martinez; McAdams; Norman Roettger; Rebecca Westlake; Serial; Steven Hicks; WHITE PHOTO; William P. Barr)

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5/1/92 Wichita Eagle (Kan.) 1A
1992 WLNR 1125598

Wichita Eagle (KS)

May 1, 1992

Section: MAIN NEWS

PAINED LOS ANGELES UNDER SIEGE MUCH OF CITY SHUTS DOWN; RIOT-RELATED DEATHS AT 24

Jeff Wilson, Associated Press

LOS ANGELES Riots, arson and looting raged in the Los Angeles area Thursday and the death toll rose to 24 as National Guard troops moved into neighborhoods torn by outrage over the Rodney King verdict.

Gunfire erupted after two dozen Guard soldiers arrived at a video arcade threatened by looters. The machine-gun-toting soldiers did not return fire.

Bands of people roamed the streets after a dusk-to-dawn curfew took effect. Police said there were no immediate arrests.

About 700 people had been injured and 378 arrested in the outburst of destruction that terrorized vast parts of the city for a second day, from downtown to the suburban San Fernando Valley.

At nightfall Thursday, violence had spread into San Bernardino, 60 miles to the east, where one person died in a gun battle between a security guard and a motorist that police said was riot-related.

A gang in Long Beach, a city south of Los Angeles, pulled two motorcyclists from their bikes Thursday night and robbed, beat and shot them. One died, and the other was critically injured.

Police departments confirmed 22 deaths in Los Angeles, one in San Bernardino and one in Long Beach.

Vandals descended upon historic Hollywood Boulevard west of downtown, setting fire to at least one business.

As many as 40 fires were burning at dusk. At least six new major blazes ringed downtown, enveloping the city's skyscrapers in thick smoke.

Arizona Gov. Fife Symington said California Gov. Pete Wilson had asked him for National Guard equipment and told him, "It's out of control." Wilson declared a state of emergency and was flying to Los Angeles from the capital, Sacramento.

Much of the city shut down. Bus service was halted, professional sporting events were postponed, thousands of businesses and schools were closed, and some flights were rerouted around columns of smoke. Santa Monica, to the west, closed its beaches.

Shoppers stocked up on batteries and candles, fearing power outages as night approached.

"Why tear down something you own? We all have to make a living here. I just don't understand it," said Miles Taylor, 49, a black man who has lived in south central Los Angeles since 1965, when the Watts ghetto exploded in riots.

Most of the rioters were black, but whites, Asians and Hispanics took part in some of the violence.

In 18 hours ending at 2 p.m. Pacific time, firefighters responded to 1,281 structure fires. Officials said they were too busy to compile damage estimates.

Two firefighters were wounded by gunfire.

Near downtown, a security guard was fatally shot in a gun battle with looters outside a store.

More than 100 Korean-owned stores were burned, looted or robbed. Racial tensions between blacks and Koreans have seethed for several years.

Two thousand National Guard soldiers armed with M-16 rifles and pistols headed to troubled areas as night fell, to patrol and protect firefighters, said Lt. Stanley Zezotarski, a Guard spokesman.

Wilson ordered the deployment of 2,000 more, and hundreds of Highway Patrol officers were flown in from Northern California.

In Phoenix, Symington said Wilson had asked the Arizona National Guard to lend California 2,000 pieces of body armor and riot gear, and airplanes to help transport troops.

Demonstrations in cities across the country protested the acquittal of the four police officers whose beating of King was captured on videotape by an amateur photographer.

In San Francisco, about 1,000 protesters angered by the acquittals smashed store windows and looted shops Thursday night, prompting Mayor Frank Jordan to declare a state of emergency and impose a curfew until 6 a.m. today. Close to 600 people were arrested by nightfall.

The protests also turned violent in Atlanta, where black youths smashed windows and attacked a few whites.

Fighting between blacks and whites was reported at high schools in Maryland, Tennessee, Texas and New York City. In Warrensburg, Mo., a group of about 100 students took to the streets, breaking windows and overturning some cars.

President Bush condemned the "murder and destruction" by Los Angeles rioters Thursday but at the same time said the Justice Department would intensify its investigation of police conduct in the taped-beating case that ignited the violence.

U.S. Attorney General William Barr raised the possibility that four officers acquitted of brutality charges in state court may face federal charges if his investigation shows they violated the civil rights of the motorist they beat. Violating federal civil rights laws carries a maximum sentence of 10 years in prison.

Barr said the federal government would move "as expeditiously as possible" to determine whether there are grounds to charge the four white policemen with violating the civil rights of King, who is black.

Justice Department officials made it clear that the investigation was not limited to the four officers.

Los Angeles Mayor Tom Bradley announced restrictions on the sale of ammunition and gasoline. "We cannot and we will not tolerate any violence as a means to express anger," Bradley said.

The adjoining city of Inglewood also declared an emergency and asked for National Guardsmen.

Ten miles from downtown Los Angeles, helmeted police converged to disperse hundreds of people outside a blazing south central Los Angeles shopping center pillaged by looters.

Thieves packed cars with food from markets, then waved in glee at news helicopters hovering overhead. They also stole everything from food to shoes, car parts and a washing machine.

Fire Chief Donald Manning and police Chief Daryl Gates grimly conceded that their forces were overwhelmed.

"We had numerous occasions when there were attempts to kill firefighters. They tried to kill them with axes. They tried to kill them with gunshots," Manning said.

Critics complained that police and firefighters waited two hours to respond after the rioting began.

MAP: Areas of heavy rioting Bill Castello, Victor Kotowitz, Don Clemente, Karl Gude/AP, Los Angeles Times PHOTO: A Korean shopping mall burns in central Los Angeles on Thursday amid rioting on the day after the verdict in the Rodney King trial. (LOS ANGELES) Associated Press

RAGE IN LA PCM

---- Index References ----

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NewsRoom

Rodney King Verdict: The Aftermath --- Urban Fire: Fury at Police Verdict Turns Los Angeles Into Scene of Mayhem --- Watts Riots Are Replayed In an Inner City Still Economically Battered --- Looting, Burning, Shooting

The Wall Street Journal

May 1, 1992 Friday

THE WALL STREET JOURNAL.
U.S. EDITION

Section: Pg. A1

Length: 2331 words

Byline: By Frederick Rose and Sonia L. Nazario, Staff Reporters of The Wall Street Journal

Body

LOS ANGELES -- Once again, this city has awakened to a nightmare:

From a helicopter, a layer of concrete-gray smoke can be seen dominating the horizon. The acrid smell of burning buildings fills the air. At one intersection, a string of shops are in flames, while nearby, a Thrifty drug and discount store still smolders, broken glass and ruined merchandise littering the sidewalk.

Just as more than a quarter-century ago social and economic forces tore apart an urban ghetto and made "Watts" a household name, the race riots now gripping Los Angeles are a seismic reaction to long-festering anger.

By late yesterday, the violence had spread beyond the poverty-stricken black and Hispanic South Central district of Los Angeles to other neighborhoods, the downtown business district, and suburbs as far away as Pasadena, as roving gangs in cars moved freely through the city, shooting indiscriminately. The toll as of late last night: 21 dead, about 500 injured, 378 arrested, and scores of buildings and businesses destroyed. The long-term effects, particularly on how the nation's races co-exist, may be far greater.

The spark this time was a trial verdict: Four white policemen acquitted of virtually all charges in the videotaped beating of motorist Rodney King. Though Mr. King had led the police on a high-speed chase and was said to have resisted arrest, the police reaction -- repeated kicks and blows with nightsticks to a prostrate Mr. King -- electrified the public and thrust the question of police brutality to the fore. Was this police power utterly out of control, or was it necessary force wielded against an intransigent lawbreaker? The jury decided it was the latter. Much of the public thought otherwise.

Riots exploded in South Central Los Angeles immediately after the verdict, and the television images that viewers around the world saw threatened to drive a wedge deeper into the racial divide. In the bloodletting that followed, drivers were dragged from their vehicles, kicked in the head, pelted with rocks and left sprawled unconscious or

dying in the middle of intersections. Shops were torched. Firefighters were shot at. Looters, laughing and waving defiantly into the television cameras, held up armfuls of sporting goods, shoes and groceries taken from neighborhood stores. The social violence, as in the past, had taken an opportunistic twist.

The scenes of ruin were widespread. A burned-out hulk of a Jaguar car sat yesterday by the front steps of Los Angeles City Hall, the gray granite spire that for many years symbolized the city. Across the way, first-floor windows at the Los Angeles Times were boarded and a string of looted stores stretched south down major shopping streets.

In particular, many Korean-owned businesses seemed to be targets of the looters and arsonists, in attacks fed by a long-held antagonism between black residents and the Korean merchants who serve them. City officials said perhaps half of the hundreds of Korean-owned stores in the main riot area had been looted or burned.

A dusk-to-dawn curfew was imposed in the city and the National Guard was deployed to help an overwhelmed police force. By early afternoon yesterday, much of Los Angeles was a ghost town as office towers and studio back-lots emptied, and panicked workers clogged intersections and ran red lights in a frenzied dash home. Postal deliveries were curtailed and the city's mass transit system was shut down. Public schools and many large businesses will be closed today.

Mayor Tom Bradley, like others, was astonished at the sight of the upheaval, and of the cross-section of the city's inhabitants -- blacks, whites, Hispanics -- it swept up. "Most of the people who were engaged in the violence in the center of the city were young whites; blacks were involved in the south part of the city, and everybody seems to be using this as a means of 'celebrating' for themselves," Mr. Bradley lamented.

In other parts of the country, youths in Atlanta launched a sympathetic march in that city, and some broke away from the group to smash windows. There were injuries in the subsequent melee. In Washington, Attorney General William Barr said the Justice Department will investigate the King beating to determine if federal civil rights laws were violated. He promised to pursue the investigation "vigorously," but wouldn't indicate when it may be completed. He said he sent a task force of lawyers to Los Angeles.

Veterans here called this violence worse than the Watts riots, which erupted one August night when a policeman arrested a driver he suspected of being drunk, thus precipitating one of the most noted cases of urban unrest in U.S. history. "This went much faster and was much broader in scope," said police chief Daryl Gates.

As the current rioting spread to the city's main business districts, many office buildings were evacuated and companies dismissed their employees early for an uncertain trip home. Companies such as Unocal Corp. and Atlantic Richfield Co. reported widespread looting and destruction at many retail outlets, especially in the South Central area.

"It's just like a war," said Naomi Bradley, who watched as black youths raced down a block of South Central, peering into cars. "If you're white, they pulled you out and beat on you," she said. A group of about 100 young people went from store to store in a nearby mini-mall. She said one shouted, "That's a Korean store. Go for it! Get them out of our community. And if they try to come back, we'll kill them."

Many South Central residents were disturbed by the damage done by local residents. "Why couldn't they go somewhere else and put stuff on fire?" asked Rasheen Williams, 11 years old, as she rummaged through the burnt-out hulk of a furniture store. "Now we don't have anywhere to shop or go for food. Why can't we just live?"

Analysts said anger over the trial verdict was fueled by economic conditions that have worsened rather than improved in the decades since the Watts riots. Faced with its harshest recession since World War II, Los Angeles has seen jobs evaporate, nearly 200,000 in the past year alone. Even before the recession, unionized blue-collar work that offered hope of a secure living for semi-skilled workers was disappearing.

It was the community of South Central that has suffered especially, said Goetz Wolf, an economist who specializes in Los Angeles issues. While a group of well-educated blacks has emerged, a better quality of life hasn't spread uniformly through the community. "You have a whole segment of the black population left behind," Mr. Wolf said.

In Baldwin Hills, high above the torched blocks of South Central, well-to-do, predominantly black residents looked out yesterday on the flattened remains of stores in the Baldwin Hills shopping center. Flames still licked the roof of a Wherehouse record store. Looters idled, searching for leftovers. Neither police nor firemen were anywhere to be seen.

People familiar with the plight of South Central's residents didn't mince words. "Money is what's behind this; it's economics, just as it was back in 1965," said Bee Hall, director of Youth for Positive Alternatives, a nonprofit group that tries to help young blacks create their own companies.

The anger here was plain among some residents of South Central Los Angeles, where unemployment among the young is estimated at more than 50%. "Sometimes, a revolution is a necessity," said 24-year-old John Moncrief, who lives in South Central. Violence "tells government that people are angry with the system." Many of Mr. Moncrief's friends have been searching in vain for jobs, he said, a sign that "things ain't changing."

Some say the Watts riots were a blow from which the region never fully recovered. Small businesses deserted the area. So too did larger industrial concerns as Los Angeles' traditional manufacturing base evaporated. When the dust settled, 70,000 jobs had been lost in the immediate South Central area, says Melvin Oliver, associate director at UCLA's urban-poverty center. A few black business owners replaced the exodus, but they generally weren't very successful.

"There was a complete economic disinvestment," says Dr. Oliver. Poverty became increasingly concentrated through the 1980s as an emerging middle class of blacks moved out. Now, he says, 40% of those in Watts live under the poverty line, and in some areas it is up to 90%.

Into that mix came swaggering street gangs pushing drugs and armed with a powerful arsenal of weapons. A generation ago, the Los Angeles Police Department, respected and feared, kept such violence in check. Today, after years of increasingly bitter confrontations with minority communities, the police not only aren't much respected, they aren't much feared either, despite the paramilitary demeanor a succession of police chiefs has insisted upon.

Compounding the problems have been large influxes of Hispanics as well as Asians into the area, increasing the competition for many kinds of jobs.

Mayor Bradley already had to call on blacks to remain calm earlier this year when a Korean grocer, who was videotaped shooting to death a black teen-age girl in an altercation at the store, was given straight probation as a sentence. Then came this week's police-officer verdict, which only added to conspiracy theories that the justice system, as well as other government institutions, were bent on trying to undermine blacks.

After the riots erupted Wednesday, in what proved to be false hope, Mayor Bradley appeared on television at around 11 p.m. "We believe that the situation is now simmering down and pretty much under control," he said. But as he spoke, one television station cut in a scene of huge new fires erupting around a shopping center.

Through Wednesday night, more than 150 fires burned. Looting spread as local residents raided stores with impunity. Police were little in evidence. Veteran television news anchor Paul Moyers of KABC marveled, "On a normal night, any one of these fires would be a major news event."

Heavily-armed gangs roved parts of the city, contributing to the looting and the violence. "Thugs," District Attorney Ira Reiner called them.

At dawn Thursday, many of the night's fires were dying. But others were growing. The riots had assumed a life of their own.

In a panoramic view of downtown and South Central Los Angeles from 700 feet up in a helicopter, the scene is surreal -- like some urban army campsite with hundreds of bivouac fires burning unguarded. East and west of the Harbor Freeway that runs through the city, columns of yellow, gray, white and black smoke sweep upward to blot out the sunshine. Up this high, the observer can still hear the omnipresent wail of sirens.

"We have major looting damage to a number of gasoline stations, including one station that has burned totally to the ground," an Atlantic Richfield spokeswoman said. "Another is on fire right now." She said most of the looting was done at the company's AM/PM convenience stores built at the site of its Arco gas stations.

Ironically, Thrifty Corp., a Pacific Enterprises unit that had been one of the first to return to Watts after the riots, said late yesterday that two of its drug stores had burned completely and that another was on fire. Four others were being looted.

"During Watts, we lost three stores," said Christian Bement, executive vice president at Thrifty. "We were the first retailer to go back into the South Central LA area. All businesses will have to re-evaluate whether or not it's prudent to take on the kinds of risks you do by operating there."

Dennis Westbrook, director of the dispute resolution program in Los Angeles for the Southern Christian Leadership Conference, says that as he drove to his office on Western Avenue Thursday morning he saw "at least a dozen" looted or burned businesses that he knew to be Asianowned.

Mr. Westbrook, who has been active in a community effort to improve relations between blacks and Koreans, says some black-owned businesses have also been hit, as well as stores owned by retail chains.

Mr. Westbrook says he fears many of the burned-out businesses either won't be able to afford to reopen or will fear for their safety and try to relocate out of the area. David D. Kim, vice president of the Korean Chamber of Commerce of Los Angeles, says that such an exodus could hurt local banks that have helped finance many of the small firms.

Just last week, community leaders unveiled a plan under which Korean merchants and black shoppers would pledge to "be more respectful to each other," says Mr. Westbrook. Numerous Korean merchants had signed on and agreed to display a poster about the program in their stores, he says. The posters hadn't yet been distributed and many of the stores are now in ruins.

Some financial help will almost certainly be available to small businesses from the federal government. And private insurance should help some in the rebuilding efforts. But many observers fear that large numbers of small businesses in the riot area aren't insured. "A lot of business people were wiped out," says Mr. Kim of the Korean Chamber of Commerce.

Authority seemed another target of the rioters. The district office of Mark Ridley-Thomas, a liberal black city councilman, was burned to the ground. Small fires cropped up from time to time in City Hall. And worried city officials said word on "the street" was to keep violence moving westinto the wealthy coastal communities of Southern California.

After Watts, Perry A. Hasani, 54, was hopeful life would change. "I prayed that the powers that be and the leaders here could see the problems," says the part-time teacher, who lives in one of the most ravaged areas and has abandoned her home because of gunfire from rioters. "Now, I don't know who will do the rebuilding. This is coming from deep frustrations. I'm so saddened, but I'm not surprised."

Staff reporters Pauline Yoshihashi, John R. Emshwiller, and David J. Jefferson contributed to this article.

Notes

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Washington Times (DC)

May 1, 1992

Section: METROPOLITAN

JUSTICE EYES TRIAL OF FOUR LA COPS ON RIGHTS CHARGES

Nancy E. Roman THE WASHINGTON TIMES

Justice Department officials announced yesterday they have made a federal case of the Los Angeles police beating of a black motorist, raising questions about who gets federal retrials and why.

"Its a very common thing," said Paul Rothstein, professor of law at Georgetown University, explaining that police brutality cases and sexual harassment cases are among those that can be retried in federal court.

Amy Casner, Justice Department spokeswoman, said each year about 2,500 people appeal to the department claiming that their civil rights have been violated.

"Many of those are frivolous, like 'A police officer was rude to me,' " she said, adding that about half the cases are reviewed and 2 percent of them end up being retried in federal courts - about 50 each year.

Attorney General William P. Barr said the department intervenes to ask whether the federal interest was adequately asserted by the state proceedings.

"If not, we feel free to proceed on a federal track," he said.

Mr. Rothstein said the federal government may step in and retry a case whenever a state investigation appears to have been inadequate or when federal laws not considered in the state proceedings are believed to have been broken.

In this case, Mr. Barr said the department will conduct a criminal review to see whether the Los Angeles police officers violated provisions of federal civil rights statutes that forbid depriving a victim of his constitutional rights - including the Fourth Amendment right to be secure in one's person.

If Justice Department officials decide that black motorist Rodney King's civil rights were violated when he was repeatedly kicked and beaten by white policemen wielding batons, they could seek an indictment against one or all of the 19 officers on the scene.

Miss Casner said that at the end of the review, a team of lawyers will decide whether to retry the case. She said she is not sure who will be involved in making the decision.

Mr. Barr said yesterday that since October 1988 the department has reconsidered 123 police brutality cases - getting convictions in 75 percent of them. Most of the cases involved violations of civil rights.

Mr. Rothstein described retrials in federal court as "a safeguard - a double-check on the court system."

Some have suggested that a retrial would violate the double-jeopardy clause of the Fifth Amendment, which prohibits retrying someone for a crime for which he has already been tried and found not guilty.

Mr. Barr said in this case double jeopardy is irrelevant because the defendants would be tried for different crimes.

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---- Index References ----

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NewsRoom

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Reuters

May 1, 1992

BUSH SENDS U.S. TROOPS TO RIOT-TORN LOS ANGELES.

Matt Spetalnick

LOS ANGELES, May 1, Reuter - President George Bush sent 5,000 federal troops and law officers to Los Angeles on Friday to help put down race riots that left 37 dead, burned entire city streets and touched off violence in other U.S. cities.

The death toll topped the 34 killed in the 1965 riot in the Watts section of Los Angeles, making it the second worst race riot in 20th century America behind the 47 killed in Detroit in 1967.

In two days of Los Angeles rioting sparked by the acquittal of four white policemen in the beating of black motorist Rodney King, more than 1,200 people have been injured, 3,000 arrested and 1,500 buildings torched, authorities said.

On Friday afternoon, Rodney King briefly addressed the media from Los Angeles, appealing for an end to the racial violence.

In Washington, U.S. Attorney-General William Barr announced that a federal grand jury in Los Angeles had begun reviewing the King beating incident.

Racial disturbances and protest marches were reported in Las Vegas, Atlanta, San Francisco, Oakland, Seattle, Philadelphia, New York, Denver, Tampa, Fla., and several smaller cities. Two people died in a riot in Las Vegas.

From the palm-lined streets of exclusive Beverly Hills to the graffiti-covered walls of inner-city slums, Los Angeles was a city under siege.

Acrid black smoke from hundreds of fires blotted out the mid-day sun, 6,000 California National Guard troops with fixed bayonets fanned out across troubled black neighbourhoods, and scattered looting and gunfire continued.

But Los Angeles Mayor Tom Bradley, the long-serving black mayor, vowed in a televised address: "We are going to take back the streets from these thugs and hoodlums who have used this unrest as an excuse to loot and kill."

"Welcome to Beirut west," said one National Guardsman as he took up position with his M-16 assault rifle near a looted shopping centre.

The National Guard was also called out in Nevada, where a wave of rioting swept to the very edge of Las Vegas' casino district late on Thursday night.

In other cities across the nation, a mood of near hysteria prevailed among merchants terrified by TV footage of unchecked looting and arson in Los Angeles.

In Denver and Miami, shopping malls closed for fear of looting. In New York's garment centre hundreds of workers were sent home early by nervous manufacturers who feared their fashion houses were in danger.

The mayor of Chicago praised his citizens for their calm and the mayor of Washington supported a proposal that its citizens stay home from work on Monday in a day of protest of the verdict.

Estimates of property damage in Los Angeles -- the second largest U.S. city -- varied wildly. An insurance group putting it at more than $100 million, the Los Angeles Times cited $200 million and some unconfirmed reports reached as high as $1 billion.

Bradley said a curfew affecting 9 million residents would be imposed again on Friday night and would continue until order is restored.

Police arrested suspects by the busload on Friday -- 300 were taken into custody from midnight to noon -- and city jails were filled to capacity.

In south-central Los Angeles, where the riots started on Wednesday, a gunbattle erupted shortly after a dusk-to-dawn curfew was lifted on Friday morning.

Police and a black robbery suspect armed with an AK-47 assault rifle exchanged shots and two officers and the suspect were wounded before the man was captured.

In Long Beach, 30 miles from downtown Los Angeles, a Department of Motor Vehicles building went up in flames.

The rioting also spread on Thursday night to Hollywood's "Walk of Fame," where the names of movie stars are written in concrete, and to the trendy shops of Beverly Hills. A fire raged in a building on Hollywood Boulevard and Paramount Studios closed its doors, sending actors and workers home.

Disneyland, the area's most popular tourist attraction, was unaffected by the rioting 30 miles away (45 km).

Bush sent 1,000 federal law officers onto the streets of Los Angeles and ordered 2,500 Army troops and 1,500 Marines to to a staging area in the city to be deployed if needed. Bush said he would address the nation Friday night.

The troops, sent in after requests from California Governor Pete Wilson and Bradley, were from the 7th Infantry Division at Fort Ord and from a Marine battalion at Camp Pendleton.

The curfew appeared to have stopped the worst of the rioting early on Friday and normally congested downtown streets and freeways were virtually deserted.

"The fact is we have a show of force out there and things are quieting down," said Los Angeles police chief Daryl Gates.

But as the curfew was lifted, there were reports of people back on the streets looting and setting new fires.

---- Index References ----

News Subject: (Social Issues (1SO05); Violent Crime (1VI27); Accidents & Injuries (1AC02); Burglary & Theft (1BU41); Fires (1FI90); Health & Family (1HE30); Crime (1CR87); Government (1GO80))

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SACRAMENTO BEE, THE (CA)

May 1, 1992

Section: MAIN NEWS

BUSH BLASTS RIOTING; U.S. PROBES BEATING

By Leo Rennert Bee Washington Bureau Chief

WASHINGTON

The Bush administration offered its full cooperation Thursday to halt riots in Los Angeles and moved into high gear with a federal criminal investigation of four white police officers acquitted by a state court in the videotaped beating of a black motorist.

President Bush condemned mob brutality and urged all Americans to stand up against lawlessness and racism. He called the riots tragic for our country.

After issuing a public appeal for calm, the president went ahead with a campaign trip to Ohio. He avoided direct comment on whether the jury was justified in bringing in the acquittal verdict that set off a chain reaction of violence in Los Angeles and protests throughout the country.

Instead, he counseled old-fashioned respect for property values and peaceful change to deal with despair and poverty.

In his first public comments, Bush put equal emphasis on the anguish he said he felt over the verdict and the need to adhere to the rule of law. Later on, as TV pictures showed no letup in violence and looting, he switched to a stronger law-and-order theme.

Bush drew strong criticism from civil rights groups and black elected leaders, who charged that the administration has ignored problems of urban blight and social injustice. They urged Bush to demonstrate leadership with a quick, personal visit to Los Angeles.

Before the riots erupted, Bush had already scheduled a California visit next week. In the meantime, he asked a black member of his Cabinet, Health and Human Services Secretary Louis Sullivan, to arrange a meeting of national community leaders at the White House today.

Attorney General William Barr said a quick and vigorous Justice Department probe will determine whether the police officers should be tried for depriving Rodney King of his constitutional rights under two provisions of federal civil rights laws.

Under each one, conviction could carry a maximum sentence of 10 years' imprisonment and a $250,000 fine.

This is not the end of the process, said Barr, who announced that the federal investigation will be conducted by the FBI, the Justice Department's Civil Rights Division and the U.S. attorney in Los Angeles.

We take with gravest concern any allegation of police brutality, the attorney general said. All resources necessary will be devoted to the investigation. At the same time, we cannot tolerate public violence and lawlessness, and it is imperative that this violence come to an end immediately.

Barr said that since late 1988, his department has brought charges against 123 law enforcement officers for police brutality and the conviction rate is running at about 75 percent.

These are cases usually that did not result in convictions at the state level or where we were dissatisfied with the resolution that was reached at the state level, he said.

The federal probe will plow over much the same ground covered by local prosecutors, but it will also look at the change of venue to a non-black area and the trial's conduct, officials said.

The federal civil rights provisions that will govern the investigation prohibit a conspiracy to deprive citizens of their constitutional rights and bar deprivation of constitutional rights under color of state law.

What we are looking at is whether there was intentional infliction of excessive force, said Barr.

Legal experts said similar federal civil rights provisions were used in the 1960s to convict seven white men in Mississippi for the 1964 murder of three civil rights workers after the Justice Department concluded that successful state prosecution was unlikely.

In recent decades, the department has often prosecuted cases involving attacks on minorities following acquittals by local juries.

Barr refused to set a deadline for completion of the Los Angeles probe. But he made it clear that under White House pressure, it will be conducted swiftly. He said federal proceedings are entirely separate from state prosecution and accordingly, there is no issue of double jeopardy here.

The Justice Department opened its own investigation immediately after the widely shown videotape of the King beating created a national furor last year. But Barr said it is federal policy to defer action until state authorities complete their proceedings.

During the preliminary investigation, the FBI reportedly cautioned department officials that it might be difficult to build a strong federal case.

In deciding whether to indict the officers, Barr said, the government will be guided by whether federal civil rights interests were adequately vindicated in the state proceedings.

Barr sent a top deputy, Associate Attorney General Wayne Budd, to take charge of the federal investigation.

To launch a federal prosecution, it's not necessary to show racial animus, physical injury or any new evidence, said Barr. But in this instance, he added, it's quite clear King was injured and there may also be some additional evidence for a federal prosecution.

Last year, after the videotape of the King beating came to light, Bush suggested that a federal indictment may be warranted. What we're going to do is look into violations of the law and prosecute any of the people that have violated the federal law and speak out against police brutality because what I saw made me sick, he said on March 21, 1991, as he conferred with Barr's predecessor, Dick Thornburgh.

It was sickening to see the beating that was rendered and there's no way, in my view, to explain that away. It was outrageous, the president said.

After the verdict, Bush was more circumspect. After getting briefings Wednesday night and Thursday morning, Bush issued a statement expressing a deep sense of personal frustration and anguish over the verdict. He deplored a terrible night of violence and called for calm and tolerance to supplant this rage.

At midday, Bush went before cameras in the White House briefing room to denounce the wanton destruction of property and killings in the riots.

We are concerned about any question of excessive police violence, and we are equally concerned about excessive public violence, he said.

A CITY UNDER SIEGE

---- Index References ----

Company: WHITEHOUSE; FBI SA; FRANCHISE BANCORP INC; JUSTICE DEPARTMENT

News Subject: (Social Issues (1SO05); Violent Crime (1VI27); Criminal Law (1CR79); Legal (1LE33); Crime (1CR87); Police (1PO98); Judicial (1JU36))

Region: (California (1CA98); North America (1NO39); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (BUSH; CIVIL RIGHTS DIVISION; FBI; HUMAN SERVICES; JUSTICE DEPARTMENT; OHIO; PRESIDENT BUSH; TV; WHITE HOUSE) (Barr; BUSH BLASTS RIOTING; Dick Thornburgh; Legal; Louis Sullivan; Wayne Budd; William Barr)

Keywords: BUSH LOS ANGELES POLICE ASSAULT KING VERDICT DEMONSTRATION

Edition: METRO FINAL

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1992 WLNR 5564936

WashingtonPost.com

May 1, 1992

BARR PLEDGES TO PUSH CIVIL RIGHTS INQUIRY; VERDICTS 'ARE NOT THE END OF THE PROCESS'

Sharon LaFraniere

Attorney General William P. Barr yesterday vowed the Justice Department will aggressively pursue a civil rights investigation of the four Los Angeles police officers acquitted by a jury Wednesday, saying the verdicts "are not the end of the process." Barr said he has dispatched Wayne A. Budd, a black prosecutor recently appointed as the department's third-highest official, to "personally oversee" the Los Angeles inquiry and "ensure the investigation is being pursued as expeditiously as possible." Under a Reconstruction-era statute, federal prosecutors could seek criminal charges against the officers for using their authority to violate the civil rights of Rodney G. King, the motorist who was beaten.

The Supreme Court has held that because they are separate sovereign authorities, federal and state governments can both prosecute a defendant for the same conduct without violating the protection against double jeopardy. Federal prosecutors would not have to prove racial bias to make a civil rights case against the Los Angeles officers, Barr said. The department has only rarely charged law enforcement officers with civil rights violations if the officers were acquitted of state charges stemming from the same conduct. But the number of such "successive prosecutions" has grown in the last decade: Since October 1983, the department has prosecuted 25 such cases, or an average of about three a year, according to federal law enforcement officials. Federal prosecutors are typically cautious about retrying a failed state case in federal court as a civil rights prosecution, unless they have good reason to think they can build a stronger case. While Barr said the department has a 75 percent success rate since October 1988 in civil rights cases against law enforcement officers, even a videotape of a beating does not guarantee success. In 1982, for example, jurors acquitted three former Texas policemen of federal civil rights charges, despite a videotape that showed the officers punching and kicking a screaming, handcuffed prisoner in a police booking room. Federal prosecutors had no better luck with a civil rights case stemming from the death of a black insurance executive in Miami, allegedly beaten to death by police. A state jury acquitted four of the officers in May 1980, triggering a riot that killed 18 people. Federal prosecutors decided to try a fifth officer who had been granted immunity by state prosecutors, failed to convict him, then dropped their investigation of the others. "The judgment was, it was not appropriate to run the state's case through again, using the same witnesses and the same evidence," said Brian McDonald, who prosecuted the case. McDonald, former deputy chief of the department's civil rights division, said federal prosecutors face the same basic problem as state prosecutors. "People have an inherent bias toward the testimony of a police officer. We're taught from an early age that a police officer is our friend," he said. Once an officer has been tried in state court, McDonald said, a federal prosecutor's job can be even harder. For example, if testimony varies even a fraction, a witness's credibility may be suddenly in doubt. On the other hand, federal prosecutors may gain an advantage because federal courts typically draw from a bigger and more diverse jury pool. Several legal experts said yesterday the Justice Department could probably count on a more racially mixed jury if the Los Angeles police officers are indicted on federal charges -- even if the trial was moved from the Los Angeles district. In the King case, Drew Days, who headed the civil rights division under President Jimmy Carter, said the Justice Department would be well advised

to resist any public pressure for a fast decision. "If I were doing it, I would do a complete review from beginning to end," he said. A 1986 Rhode Island case was one of the department's successes. Federal prosecutors were effectively able to reverse a state court's acquittal of a state prison guard who killed an inmate in a game of "Russian roulette" modeled after a scene in the movie "The Deerhunter." The guard, who claimed he pulled the trigger by accident, was convicted of federal civil rights charges and sentenced to 12 years in prison. While most of the civil rights division's "successive prosecutions" have been directed at law enforcement officials, prosecutors have also gone after private citizens. When a state judge sentenced a Detroit man to probation for beating a Chinese-American man to death with a baseball bat, the department filed federal civil rights charges, but lost the case in 1987. After Arizona prosecutors failed to convict two brothers accused of torturing and robbing three Mexicans in 1977, federal prosecutors won a civil rights conviction against one of the men. The civil rights laws used in such cases have existed since the 1870s, although the penalties have stiffened. If the victim dies, the maximum penalty now is life in prison. If the victim is only injured, the maximum penalty is 10 years in prison and a $250,000 fine. Staff writer Malcolm Gladwell contributed to this report.

---- Index References ----

News Subject: (Government Litigation (1GO18); Police (1PO98); Judicial Cases & Rulings (1JU36); Prisons (1PR87); Legal (1LE33))

Region: (California (1CA98); North America (1NO39); U.S. West Region (1WE46); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (William Barr; Brian McDonald; Rodney King; Jimmy Carter; Malcolm Gladwell; Wayne Budd)

Word Count: 823

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The Washington Post

24 DEAD, 900 INJURED IN L.A. RIOTING

By Lou Cannon and
Leef Smith
May 1, 1992

LOS ANGELES, APRIL 30 -- The nation's second largest city became a war zone tonight, with thousands of National Guard troops and police deployed in riot gear to stop the spread of looting and destruction. The casualty toll rose to 24 people dead and at least 900 injured.

A pall of acrid smoke from hundreds of fires hung over the Los Angeles basin, closing all but one runway at Los Angeles International Airport. Freeways came to a standstill as thousands of frightened residents fled their vast and burning city.

More than 1,700 firefighters battled the stubborn blazes. As night fell, at least 35 fires sent towering plumes of smoke into the air in a scene reminiscent of Kuwait's burning oil fields after the Iraqi invasion.

Authorities said the first 13 fatalities identified include 11 men, a woman and a boy, 15. Of these, at least nine are black, two Hispanic and two white, they said.

Mayor Tom Bradley declared a dusk-to-dawn curfew for the entire city and said lawbreakers would be arrested and punished. Groceries, drug stores and other businesses were looted and burned. Factories, civic buildings, schools and libraries were closed. Sports events were canceled or postponed. Sale of ammunition was banned, and gasoline sales were restricted. Postal service was canceled from 10 post offices in 14 Zip codes.

"We cannot and will not tolerate any violence as a means to express anger," Bradley said. "We are going to enforce the law, we are going to have adequate law enforcement to deal with that matter."

But law enforcement was not adequate in many parts of south-central Los Angeles, a sprawling 7-by-15-mile area south and west of downtown that is larger than the District. About 13,000 houses there were without power.

Late tonight, with the curfew in effect, arson and looting slowly spread into older residential sections, reaching Westwood, home of UCLA, and the middle-class San Fernando Valley. As fires spread to homes, people organized impromptu bucket brigades, using pails and pans.

Traffic was light. Police stopped cars but arrested few looters. Some weary officers and Los Angeles County Sheriff Sherman Block complained that the National Guard troops were being deployed too slowly.

A tired policemen at one corner said his detachment would stay until the Guard arrived. Asked whether this would happen soon, he said, "We hope so because we've lost it. As soon as we leave, they {the looters} move

in."

The violence began Wednesday, with youthful attackers dragging motorists from their cars and beating them soon after jurors in suburban Simi Valley virtually exonerated four white Los Angeles police officers accused of feloniously assaulting black motorist Rodney G. King when he was stopped for traffic violations March 3, 1991.

Los Angeles Police Chief Daryl F. Gates had said before the verdicts that his department was prepared for any eventuality, but he acknowledged today that police should have responded more quickly to the initial violence.

Deployment of the National Guard also was slowed today because many of the troops had no ammunition for their rifles. "This problem should not have occurred and will not again," Gov. Pete Wilson (R) said.

In Washington, Attorney General William P. **Barr** said the Justice Department will pursue aggressively a civil rights investigation of the four officers, saying "it's important for people to understand that the verdicts yesterday on state charges are not the end of the process."

Only rarely has the department charged law enforcement officers with civil rights violations after state courts have rendered verdicts on the conduct. But the number of cases has grown in the last decade.

President Bush, speaking at the White House and in Columbus, Ohio, where he attended a fund-raiser, vowed, "I will do what I can to heal the wounds . . . and to bring people together."

An overwhelming majority of Americans, black and white, believe the four officers should have been convicted, and an equally large majority say the Justice Department should file criminal civil rights charges against them, according to a Washington Post-ABC News poll conducted today.

In many U.S. cities, reaction to the verdict spawned protests and demonstrations, most of them peaceful. In Atlanta, San Francisco and Las Vegas, however, curfews were declared.

Young blacks attacked whites in downtown Atlanta after a City Hall rally. Some store and office windows were smashed. At least 26 injuries and more than 100 arrests were reported. The six-hour curfew began at 11 p.m. EDT.

San Francisco Mayor Frank Jordan declared a state of emergency and set a nine-hour curfew starting at 9 p.m. PDT in response to looting, his spokesman said. More than 500 arrests were reported. Earlier, protesters had blocked a main highway into the city and temporarily shut down the Oakland Bay Bridge.

In Las Vegas, where casinos and many restaurants normally are open around the clock, a 10:30 p.m.-to-dawn PDT curfew was established after looting and gunfire, police said.

While Los Angeles police arrested about 400 people for looting and violence, most of them in the south-central area, hundreds of others walked into burned-out stores and carried out goods with impunity.

At two supermarkets in the heart of south-central Los Angeles, hundreds of men, women and children in a festive mood loaded goods into shopping carts, cardboard boxes and large plastic bags and left with them. Police made no move to stop them, saying the owner had told them to take what they wanted as long as they did not burn the place down.

The violence was the worst in this vast metropolis since the 1965 riots in the Watts neighborhood when 34 people died and a 150-square-block area was burned out during six days of disturbances. Bradley, who flew over the burning city by helicopter today, and City Council member Mark Ridley-Thomas compared the present crisis to the Watts riots, from which they said the city still suffers.

"We have yet to fully recover in economic terms from the crisis in 1965 . . . and here we are confronted with a situation that may be more disastrous," Ridley-Thomas said.

Authorities said most of the looters roaming the streets were black, but whites, Hispanics and Asian Americans also were involved.

"They're destroying our neighborhoods," said Omar Murillo, 15, as he watched teenagers loot a pizza store in a small shopping center in central Los Angeles. "They do it because they want to send out a message, but what they're doing is burning down our community."

Korean-American stores, or those that rioters apparently believed were owned or operated by Koreans, were principal targets for the rioters. Some were burned to the ground while black-owned businesses alongside were untouched.

Korean Americans, many of whom moved to the area in the 1980s to take over businesses operated by blacks before the Watts riots, own a majority of the grocery stores in south-central Los Angeles. Blacks often complained that the stores' prices are too high.

Relations between the two groups have been especially strained since March 16, 1991, when a black student, 15, was shot to death by a Korean merchant in a dispute over a container of orange juice. The incident was filmed on a store security camera. Members of the black community expressed outrage when the merchant received only probation.

After touring the riot-torn area today, State Sen. Diane Watson (D) said, "The mood is highly charged, highly emotional. People are venting so much rage, it's hard to talk to them. They don't want talk. They want action. They're starting the action."

Watson said the disturbances have been much worse than at a similar point in the Watts riots, which began during a heat wave when a white California Highway Patrol officer arrested a black man for drunk driving.

Disturbances spilled today into Beverly Hills, where windows were broken, and into Hollywood, where stores were sacked. They also spread throughout the state in a pattern similar to the one that occurred after the Watts riots.

In San Jose, shop windows were broken, and a few stores were looted. At the University of California in San Diego about 500 students gathered for a day-long protest and burned three effigies of police officers. In Ventura, 55 miles west of Los Angeles, malls were closed because of concern that violence might spread.

The 2,000 National Guard troops ordered out by Wilson at Bradley's request were deployed in armored personnel carriers to help police in the heart of the riot area. Asked if 2,000 troops would be sufficient, Bradley replied, "If we need more, more will come." Soon afterward, Wilson ordered deployment of another 2,000.

At a news conference televised statewide, Wilson said that he had been "stunned" by the King beating verdict and that it was not an excuse for lawlessness. He condemned "racism" and quoted the Rev. Martin Luther King Jr. as saying that "violence is not a solution to anything."

District Attorney Ira Reiner, saying he was profoundly dissatisfied with the verdict, denounced the rioters as "hoodlums" and "thugs" who had tried to murder people by dragging them out of their cars and beating them. He said those arrested would be prosecuted fully.

Gates, under withering political attack since the King beating, acknowledged that the police response to the violence was slow.

"I asked the same question: Where were the police?" Gates said at a news conference this morning. "Let me assure you, we have looked at that very, very carefully. Quite frankly, we were overwhelmed. I wish we had responded more quickly, but we could not."

Gates, a tactical police commander during the Watts riots, said he learned then that police must respond in force if they respond at all. In 1965, two-man patrols of police were forced to shoot their way out of the riot area after being surrounded.

Gates said that he had not wanted to be "provocative" in his use of police force and that it was necessary Wednesday for the police to protect firefighters, who were targets of gunfire and rock-throwing, before sending police squads into south-central Los Angeles.

The First African Methodist Episcopal Church, the city's oldest black church, was a safe haven in the war zone. Its pastor, the Rev. Cecil Murray, had tried to head off the violence with an impassioned sermon Sunday urging residents to "cool it" if the officers were acquitted.

Today, as apartment houses smoldered on one side and looters roamed on the other, the sprawling, modern church building was, by unspoken agreement, off-limits to rioters.

"This is where people know they can go to be safe," said Norman Houston, a church member and former head of the Los Angeles chapter of the NAACP.

Overnight, the church became a makeshift center for local activists trying to control the disturbances. A Red Cross center was established in the basement to aid those injured in the violence and provide temporary shelter

for the homeless.

Here and in Sacramento, officials said they were mindful of mistakes made in the Watts riots, when Gov. Edmund G. "Pat" Brown Sr. was out of state and Lt. Gov. Glenn Anderson took four days to deploy the National Guard.

But officials acknowledged that all had not been in readiness this time, either. Wilson said the Guard had not been deployed immediately in Los Angeles streets because of insufficient ammunition. "This problem should not have occurred and will not again," he said.

Hollywood Park, on the edge of the riot area, canceled horse racing today and Friday. A National Basketball Association playoff game between the Los Angeles Clippers and the Utah Jazz at the Forum adjacent to Hollywood Park was postponed. Both facilities are in the city of Inglewood, which also imposed a curfew. The Los Angeles Dodgers baseball game was postponed.

A gigantic celebration of Mexico's "Cinco de Mayo" {May 5} holiday, scheduled Sunday at Los Angeles Memorial Coliseum, was postponed until May 24.

Late into the night, fires continued to burn.

Staff writers Ruben Castaneda, Al Kamen, Gary Lee, Carlos Sanchez and Avis Thomas-Lester and special correspondent Kevin E. Cullinane in Los Angeles and staff writer Don Phillips in Atlanta contributed to this report.

5/1/92 Balt. Sun 2E
1992 WLNR 734785

Baltimore Sun (MD)

May 1, 1992

Section: News (Local)

AUTHORITIES SEIZE 126 IN SEARCH FOR VIOLENT CRIMINALS

Norris P. West Staff Writer

Twenty-seven murder suspects were among the 126 people arrested by federal and local authorities in a 10-week search for violent criminals, the U.S. marshal for Maryland announced yesterday.

U.S. Marshal Scott A. Sewell said the manhunt, dubbed "Operation Gunsmoke," landed more than half the fugitives lawmen were looking for at the outset of the searches. Another fourth either were already in jail on other charges or dead.

Operation Gunsmoke was part of a nationwide hunt for violent offenders that landed 3,313 criminal suspects in 40 cities, including 224 people wanted for murder.

Mr. Sewell said the local operation was a success and that the arrests were carried out without a glitch.

"We arrested 126 people, violent criminals, and not so much as a punch had to be thrown," he said.

The Baltimore area task force included the Baltimore Police Department, the Baltimore Sheriff's Department, the U.S. Bureau of Alcohol, Tobacco and Firearms and the U.S. Marshal Service.

Among those arrested in the roundup here was Anthony Graves, 40, who had been sought for 17 years in a 1975 slaying until he was arrested in Severn on April 18.

Nationwide, lawmen arrested 3,313 fugitives and seized $1.95 million in cash and property, according to U.S. Attorney General William P. Barr.

Mr. Barr said in a statement yesterday that the operation also yielded more than $4 million worth of guns, drugs and other contraband. Some 730 weapons -- including revolvers, semiautomatic handguns, sawed-off shotguns and assault rifles -- were seized.

---- Index References ----

Company: SEIZE; TOBACCO; NATIONWIDE; NATIONWIDE CORP

News Subject: (Social Issues (1SO05); Violent Crime (1VI27); Crime (1CR87))

Region: (North America (1NO39); Maryland (1MA47); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (BALTIMORE POLICE DEPARTMENT; BALTIMORE SHERIFFS DEPARTMENT; NATIONWIDE; SEIZE; TOBACCO; US BUREAU OF ALCOHOL) (Anthony Graves; Barr; Firearms; Gunsmoke; Operation Gunsmoke; Scott A. Sewell; Service.; Sewell; Twenty; William P. Barr)

Edition: Final

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End of Document

4/30/92 Pitt. Post-Gazette A19
1992 WLNR 2144197

Pittsburgh Post-Gazette (PA)

April 30, 1992

Section: NATIONAL

3,300 ARRESTED IN FUGITIVE ROUNDUP

PRESS NEWS SERVICES

WASHINGTON

More than 3,300 fugitives -- including 224 people convicted of or now charged with murder -- were arrested during a 10-week roundup in 40 cities, the Justice Department said.

The campaign dubbed "Operation Gunsmoke" to arrest people suspected of violent crimes was waged by the U.S. Marshals Service and state and local police.

"The apprehension and incapacitation of violent criminals such as the thousands of fugitives arrested through Operation Gunsmoke is the most effective way in the short term for preventing violent crime," Attorney General William P. Barr said in a prepared statement.

He said the nationwide roundup led to the arrest of 3,313 accused criminals who had either jumped bail or had evaded apprehension.

NATIONAL ROUNDUP

---- Index References ----

News Subject: (Violent Crime (1VI27); Crime (1CR87); Social Issues (1SO05))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (JUSTICE DEPARTMENT; NATIONAL; US MARSHALS SERVICE) (William P. Barr)

Edition: STOCKS

Word Count: 151

End of Document

4/30/92 Seattle Times A6
1992 WLNR 1090254

Seattle Times (WA)

April 30, 1992

Section: NEWS

WHAT'S NEXT U.S. JUSTICE DEPARTMENT SAYS IT WILL REVIEW KING CASE; SUIT PENDING

REUTERS: AP

WASHINGTON

The U.S. Justice Department said it will review the Rodney King case to determine if it should take further action under civil-rights laws.

Attorney General William Barr said today, following hours of White House consultations, that the FBI was conducting the federal investigation and that Associate Attorney General Wayne Budd, who is black, would fly to Los Angeles to head the federal probe.

The Justice Department and U.S. attorney's office in central California have been pressed by a variety of officials for federal intervention following the acquittal of four white police officers on all but one charge in the case in the beating of King.

Here's what is next in the case:

-- A May 15 hearing in Superior Court on whether prosecutors will retry Officer Laurence Powell on an excessive-force charge. The jury failed to reach a verdict on that count, and a mistrial was declared.

-- A federal civil-rights lawsuit filed by King is pending.

-- An $83 million claim against the city of Los Angeles filed by King is also pending.

-- Police Department hearings for Sgt. Stacey Koon and Officers Powell and Theodore Briseno to determine whether disciplinary action, including firing, should be taken. Officer Timothy Wind, a rookie, already received a hearing and was fired. He is seeking another hearing.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Government Litigation (1GO18))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); California (1CA98))

Language: EN

Other Indexing: (FBI; JUSTICE DEPARTMENT; KING; PENDING; POLICE DEPARTMENT; RODNEY KING CASE; SUPERIOR COURT; US JUSTICE DEPARTMENT; WHITE HOUSE) (Laurence Powell; Officers Powell; Stacey Koon; Theodore Briseno; Timothy Wind; Wayne Budd; William Barr)

Edition: FINAL

Word Count: 268

End of Document

NewsRoom

4/27/92 USA TODAY 04A
1992 WLNR 2237278

USA Today (USA)

April 27, 1992

Section: NEWS

BANK PROBE

House leaders have no constitutional right to deny the special counsel investigating the House bank scandal access to complete records of the now- closed institution, Attorney General William Barr said Sunday.
"When there are widespread abuses in any financial institution the normal course in a criminal investigation is to gain access to that institution's transactional records," Barr said on ABC's This Week With David Brinkley. "When it comes to these kinds of transactions they're no different than anybody else."

Retired Judge Malcolm Wilkey last week subpoenaed the records of the 325 current and former lawmakers who wrote penalty-free overdrafts at the bank. He also asked for the records of some 170 members who didn't have any overdrafts at the bank.

But Wilkey now says he would eliminate from his review the records of the 170, according to House Speaker Thomas Foley, D-Wash. House GOP leader Bob Michel, R-Ill., said Friday that he backed Foley's insistance that the House provide only records "relevant to the investigation."

ISRAEL SUPPORT: Vice President Quayle, speaking at a Holocaust remembrance in New York, pledged his personal support for Israel: "Speaking as a non-Jew, let me say this: As long as I am in public life, the case for Israel will not become an exclusive preserve of American Jews." The commemoration marked the 49th anniversary of the uprising of Jews against the Nazis in the Warsaw Ghetto.

CATEGORY: Capital Line

NOTES: WASHINGTON AND THE WORLD

---- Index References ----

Company: ABC INCO

Region: (Middle East (1MI23); USA (1US73); Americas (1AM92); North America (1NO39); Israel (1IS16))

Language: EN

Other Indexing: (ABC; AMERICAN JEWS; BANK; HOLOCAUST; HOUSE; JEWS) (Barr; Bob Michel; David Brinkley; Foley; Malcolm Wilkey; Retired; Thomas Foley; Wilkey; William Barr)

Edition: FINAL

Word Count: 298

End of Document

NewsRoom

4/27/92 Wash. Times (D.C.) A1
1992 WLNR 163316

Washington Times (DC)

April 27, 1992

BARR TIES CRIME RISE TO COLLAPSE OF FAMILY

Jerry Seper and Carol Innerst THE WASHINGTON TIMES

Dysfunctional families breed violent career criminals, Attorney General William Barr said yesterday after an FBI report showed violent crime nationwide rose by 5 percent last year.

"What we are seeing in the inner city (is) essentially the grim harvest of the Great Society . . . because we are seeing the breakdown of the family structure, largely contributed to by welfare policies," Mr. Barr said.

"We now have a situation in the inner cities where 64 percent of the children are illegitimate, and there's a very small wonder that we have trouble instilling values in educating children when they have their home life so disrupted," he said on ABC's "This Week."

"The real problem of violent crime today is the chronic violent offender, the repeat offender," he said. "This person usually embarks on a career of crime as a juvenile and just keeps on committing crimes."

The FBI's preliminary Uniform Crime Reporting statistics for 1991, released yesterday, showed a 3 percent jump in serious crime, including murder, rape, robbery, assault, burglary, larceny, auto theft and arson. Robbery and murder showed the greatest increases.

"Thirty percent of all murders are committed by people who are on probation, parole or bail," Mr. Barr said. "We could save 6,500 to 8,500 lives a year just by keeping those people in prison the length of time they should be."

This is the seventh consecutive year the FBI crime index has shown an increase. The United States has the worst crime statistics of any developed country.

In releasing the report, FBI Director William Sessions said property crime in 1991 increased overall by 2 percent over 1990, with burglary showing a 3 percent jump, larceny growing by 2 percent and auto theft increasing by 2 percent.

Three of the four regions recorded increases in overall crime - the Midwest, 4 percent, and the South and West, 3 percent each. The Northeast showed no change over 1990.

Rural counties reported a 5 percent jump in crime, while suburbs showed a 4 percent jump.

Serious crimes increased in the nation's 20 largest cities. For example, murders - New York led with 2,154 - increased from 8,288 in 1990 to 8,359 last year.

Washington reported 482 murders during 1991, compared with 472 a year ago.

Robberies in the District increased from 7,385 to 7,507, burglaries from 12,035 to 12,381, auto thefts from 8,109 to 8,370, and arsons from 250 to 260.

Rapes in the District dropped from 303 to 217, and assaults from 8,779 to 8,239.

Willie L. Williams, Los Angeles police chief-designate, and former U.S. Attorney General Joseph diGenova, who also appeared on "This Week," attributed the national increase in crime to dysfunctional families and children weaned on media violence.

"We've got to find the substitute parents or substitute mothers or substitute fathers for these young children while they are 6, 7, 8 and 9 years old, get them away from television," Mr. Williams said.

"We are communicating a system of values and beliefs that has nothing to do with discipline and obeying rules," Mr. diGenova said. "We . . . recognize defiance as a legitimate goal among young people because it's supposed to tell them that they're independent and they're thinkers," Mr. diGenova said. "We are not communicating a system of values that rewards discipline, that rewards achievement, that rewards excellence."

He recommended "trying to fix the family structure . . . putting discipline back in the schools and perhaps reinstituting the evening dinner, where families can sit together and discuss their common problems."

g0030939-042792

CHART

Chart, HOMICIDE ON THE RISE, By The Washington Times

---- Index References ----

Company: ABC INCO

News Subject: (Violent Crime (1VI27); Crime (1CR87); Property Crime (1PR85); Social Issues (1SO05); Automobile Crime (1AU99))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (ABC; CHART; FBI; GREAT SOCIETY; HOMICIDE) (Barr; BARR TIES; Joseph; Rural; Thirty; William Barr; William Sessions; Williams; Willie L. Williams)

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Word Count: 736

End of Document

NewsRoom

Noriega: How the Feds Got Their Man

Newsweek

April 20, 1992 , UNITED STATES EDITION

Section: NATIONAL AFFAIRS; Pg. 37

Length: 914 words

Byline: BOB COHN with SPENCER REISS in Miami
Highlight: The price that is paid for a guilty verdict

Body

It may have been the costliest criminal conviction in history. To catch Manuel Antonio Noriega, the U.S. government had to invade Panama with 27,000 troops, resulting in the deaths of 23 U.S. soldiers and several hundred Panamanians. Operation Just Cause was expensive, too: it cost American taxpayers $ 164 million. And to convict the former dictator, prosecutors made deals with more than a dozen drug traffickers, dropping charges, offering reduced sentences and allowing some to keep their fortunes from selling cocaine.

In the end, it worked. Last week a Miami jury convicted Panama's former "Maximum Leader" of helping the world's most notorious drug cartel smuggle cocaine into the United States from 1981 to 1986. Noriega was found guilty on eight of 10 counts, including racketeering, conspiracy, distribution and money laundering. The first foreign leader to be convicted of violating U.S. law, Noriega now faces up to 120 years in prison. Yet the seven-month trial focused attention on the questionable tactics prosecutors sometimes use to nail high-profile defendants like Noriega. His conviction came the same week that the Supreme Court limited the ability of government agencies to conduct so-called sting operations, reversing the conviction of a Nebraska farmer who purchased child pornography from Postal Service agents. Together, the two cases raise a basic question for law enforcement: how far is too far?

The government's legal case against Noriega was not strong. There was little eyewitness testimony linking the general to the charges. Prosecutors had to rely on the testimony of unsavory characters like Carlos Lehder, cofounder of the Medellin cartel, who said his associates paid Noriega millions to permit drug pilots to stop in Panama en route to the United States. In exchange, the government moved Lehder to a new prison under the witness-protection program, flew his family to safety in the United States and has agreed to inform the court of his cooperation (chart). "He's probable playing tennis somewhere with Ivan Boesky," sniped one Democratic congressional aide.

In his closing argument, Noriega lawyer Frank Rubino joked that the prosecution arranged so many deals that the trial "is going to relieve prison crowding." Even Judge William Hoeveler expressed concern, saying "the plea bargain may be on trial in this case." New York Democratic Rep. Charles Schumer, who prepared a critical report on the deals given to the "Felonious 15," says that prosecutors, "in their understandable desire to make sure he was convicted, went into a frenzy and gave away too much."

Striking a deal with convicted felons is nothing new for prosecutors. Some violent crimes, like rape or murder, often have eyewitnesses. Drug trafficking and white-collar fraud can be more difficult to investigate because potential informants are involved in the crimes. The government has no choice but to join the criminals to beat them. "There are no swans in sewers," says Attorney General William Barr.

Big enemy: But usually prosecutors negotiate with the little fish in an effort to reel in the big ones. In the Noriega case, critics say the food chain was reversed because of political pressure applied in Washington. "Lehder was the

biggest drug enemy we had," says Democratic Sen. Dennis DeConcini, who believes it's a "disgrace" that Lehder's lifetime sentence was sacrificed for Noriega. DeConcini has introduced a bill restricting the ability of prosecutors to enter into plea agreements. The Justice Department denies that Lehder or any other witness got a "sweetheart deal." "We did not give him a get-out-of-jail-free card," says one official.

There were questions, too, about the value of the information that Lehder and other drug dealers provided. "Who is in a better position than Carlos Lehder to know what is going on inside the Medellin cartel?" said Noriega prosecutor Myles Malman. Yet, as defense attorneys noted, Lehder and other witnesses had never met Noriega, only "heard" he had been bought off. The Justice Department said the former leader wasa "midwife" for the birth of the Medellin cartel. But prosecution witnesses testified that by the mid-1980s, when Noriega took full control of Panama, he was trying to distance himself from drugrunners.

The government is not likely to give up using plea bargains. In fact, prosecutors don't rule out making a deal with Noriega himself. After all, he has valuable information about drug trafficking, and he may be willing to cooperate in exchange for a reduced sentence. The general, now 58, still has a shot at a Florida retirement.

'Sweetheart' Deals

Key witnesses against Noriega exchanged testimony for leniency:

Carlos Lehder

Sentenced in 1988 to life plus 135 years on drug, racketeering charges. The Deal: Moved to witness-protection program (WPP); family in WPP; cooperation to be noted by court.

Luis del Cid

Noriega's "errand boy" could have received 70 years on drug, racketeering charges. The Deal: Prosecutors suggest: 10-year maximum sentence; release of $ 94,000 pension; no deportation.

Max Mermelstein

"Transportation arm" faced life plus 90. The Deal: Served 2 years, 21 days; given $ 700,000 in reward, WPP money.

Floyd Carlton

Ex-pilot's charges included smuggling 880 pounds of cocaine. The Deal: Admitted guilt on 1 count; 9-year sentence suspended in 1990; free on 3-year probation.

Graphic

Picture 1, A costly criminal conviction: In 1989, JASON BLEIBTRAU -- SYGMA; Picture 2, Big fish: Lehder, SYGMA

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USA Today (USA)

April 13, 1992

Section: NEWS

CRITICS SEEK LIMITS ON DEALS WITH WITNESSES PROSECUTORS INSIST THAT IT'S ESSENTIAL

Sam Vincent Meddis

The conviction of Gen. Manuel Noriega, built largely on the testimony of drug runners and other felons, could encourage controversial witness deals between prosecutors and criminals in other cases.
"It certainly means that federal prosecutors have a green light to virtually do anything," says Jeffrey Weiner, president of the National Association of Criminal Defense Lawyers, a vocal critic of the government's Noriega prosecution.

The prosecution strategy so far has been a big success:

- In Miami on Thursday, Noriega was convicted on the testimony of dozens of drug traffickers and money launderers who cooperated in exchange for sentence leniency, permission to keep drug profits and other favors.

- In New York on April 2, Mafia boss John Gotti was convicted through the testimony of Salvatore "Sammy the Bull" Gravano, an admitted killer facing life who agreed to testify against Gotti and others in return for a reduced sentence.

But critics insist there should be a limit to such dealmaking.

Rep. Charles Schumer, D-N.Y., chairman of a House justice subcommittee, says he wrote to the Justice Department on Friday for a list of sentencing deals and perks granted witnesses in Noriega's trial.

A report by the staff of Schumer's panel says the Justice Department courted up to 80 crime figures in Noriega's case. Most of the 60 prosecution witnesses who appeared in Noriega's trial are believed to have received some enticement, but the precise number has not been revealed.

"Cutting deals with low-level criminals to obtain evidence against kingpins is routine in major racketeering cases," says the Schumer report. "But clearly something has gone awry when defense lawyers are boasting about getting their clients a 'deal of a lifetime.' "

The Gravano plea bargain appeared justified because he was Gotti's underboss, Schumer says. But, he says, Noriega's prosecutors "went overboard," making deals with some witnesses who committed worse crimes than Noriega.

The use of drug kingpins also raises questions about the Noriega trial's fairness, says the University of Florida's Terry McCoy, director of the Center for Latin American Studies.

"Many of the witnesses were of questionable integrity ... and seemed to be testifying to save their skins," says McCoy.

But unsavory characters were the only ones who could blow the whistle on Noriega, says Charles Intriago, a former Miami federal prosecutor and publisher of the newsletter Money Laundering Alert.

"Anybody like Noriega is not going to hang around altar boys," says Intriago.

Says Attorney General William Barr, defending leniency-for-testimony deals: "There are no swans in the sewer."

Witness deals struck in Noriega trial

The government's case against Manuel Noriega was built upon the testimony of scores of admitted drug smugglers and cartel insiders. Many potentially cut their sentences with their testimony. Six examples:

Estimated Maximum sentence Likely

Name Role drug profits before testifying sentence

after

testimony

Jose Cabrera Importer $40 million- Life plus Less than 15

$50 million 200 years years

Concessions made by government

No action on profits, single-count plea agreement; 9 family members put in witness protection program

Floyd Carlton- Pilot $6 million Life plus 9 years

Caceres 154 years

Concessions made by government

Panama properties shielded from seizure, no tax penalties, $211,000 expenses paid; family, baby sitter in witness protection

Cesar Cura Importer $10 million Life plus Up to 20 years

145 years

Concessions made by government

No forfeiture; plea covers 5 separate indictments; immunity from prosecution

Steven Kalish Smuggler $20 million Life plus

285 years Up to 10 years

Concessions made by government

Allowed to keep $700,000 in drug profits; immune from other prosecution; he and wife in witness protection

Carlos Lehder Drug cartel $40 million Life plus Up to 135 years;

co-founder 510 years likely parole

Concessions made by government

May keep up to $8 million of profits; no taxes; witness protection program candidate; family in witness protection

Max Mermelstein Shipping $2.5 million Life plus

90 years 2 years

Concessions made by government

$700,000 expenses paid; excused from tax penalties; 17 friends or family members in witness protection

Source: House Subcommittee on Crime and Criminal Justice

CUTLINE: CABRERA

CUTLINE: KALISH

CUTLINE: LEHDER

GRAPHIC
b/w,Source: House Subcommittee on Crime and Criminal
Justice(Chart)PHOTO
b/w,AP
PHOTO
b/w,UPI
PHOTO
b/w,Reuters

NOTES: NORIEGA TRIAL: THE AFTERMATH See info box at end of text

---- Index References ----

News Subject: (Crime (1CR87); Judicial (1JU36); Legal (1LE33); Fraud Report (1FR30); Social Issues (1SO05); Criminal Law (1CR79))

Industry: (Aerospace & Defense (1AE96); Defense (1DE43); Defense Spending (1DE35))

Region: (USA (1US73); Americas (1AM92); Florida (1FL79); North America (1NO39))

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Washington Times (DC)

April 10, 1992

NORIEGA FOUND GUILTY, COULD GET LIFE IN PRISON

Michael Hedges THE WASHINGTON TIMES

Deposed Panamanian dictator Manuel Noriega, the only foreign leader ever brought to trial in the United States, faces life in prison following his conviction yesterday in Miami on drug charges.

The verdict came in the fifth day of deliberations by a previously deadlocked jury, sealing Noriega's fate more than three years after he was snatched from Panama by invading U.S. troops during Operation Just Cause.

The jury found the 54-year-old Noriega guilty of eight racketeering, conspiracy and drug trafficking charges after deliberating more than 35 hours.

Noriega faces 120 years in prison and $635,000 in fines when he is sentenced July 10. He was found not guilty of two minor counts.

Neither Noriega, wearing his military uniform, nor his wife, Felicidad, showed any emotion as U.S. District Judge William Hoeveler entered the verdict. In the row behind the defense, two of Noriega's three daughters wept.

"The jury was emphatic in saying guilty when they were polled," said Myles Malman, one of the assistant U.S. attorneys who prosecuted the case. "Noriega didn't look too happy. We are elated."

In the end, Mr. Malman said, the jury believed what the prosecutors had said on the first and last days of the trial: "That he was a rotten, dirty, crooked cop. That's what he was and what he is."

Lead defense attorney Frank Rubino angrily promised to fight the conviction "probably all the way to the Supreme Court."

Mr. Rubino maintained from beginning to end - from the February 1988 indictment to yesterday's verdict - that Noriega was a dupe for the CIA, the Bush administration and other U.S. agencies.

"The U.S. government in its role as world police . . . sent a message to the rest of the world leaders, that you, too, may soon be in our courthouse," he said.

But President Bush - who would have faced heavy criticism for the the 1989 Panama invasion if Noriega had been acquitted - said the verdict was "a major victory against the drug lords."

"I hope it sends a lesson to drug lords here and around the world they will pay a price if they continue to poison the lives of our kids in this country or anywhere else," Mr. Bush said at a Washington meeting with Nicaraguan President Violetta Chamorro.

The Panama invasion fighting killed 23 U.S. servicemen, at least 200 Panamanian civilians and an estimated 300 Panamanian soldiers.

In Panama City yesterday, Panamanians who fought for Noriega's ouster and an end to his harsh rule cheered yesterday's verdict, saying it would serve as example for future generations, the Associated Press reported.

President Guillermo Endara, the democratically-elected leader who replaced Noriega, said the verdict "closes out a shameful chapter" in Panama's history

"I really had no doubt that Noriega would be found guilty, because he is guilty," Mr. Endara told CNN.

The trial ended nearly seven months after it began on September 16, with Assistant U.S. Attorney Pat Sullivan saying of Noriega: "He looks small in his uniform, but he was a giant in Panama."

Prosecutors called 46 witnesses - former Noriega aides and Medellin cocaine cartel officials, convicted drug pilots and bankers.

They testified that Noriega worked with the Medellin cartel to set up and facilitate its operations in Panama. Witnesses described the Panamanian leader as paving the way for the cartel to move huge shipments of cocaine and marijuana through Panama.

In return, according to witnesses, Noriega received a number of six-figure payoffs amounting to at least several million dollars.

Defense attorney Jon May opened Noriega's defense by saying, "the evidence will show that General Noriega was a friend to the United States."

The defense relied heavily on the testimony of former U.S. Drug Enforcement Administration officials who had written letters praising the general for helping them in the U.S. war on drugs.

Throughout the proceedings, the case against Noriega attracted criticism as being too expensive and as relying too heavily on compromised witnesses.

The government offered sentence reductions and lenient plea agreements to many of the convicted drug dealers who constituted the bulk of the witnesses in the case.

It is not clear how much the 27-month case cost taxpayers for both the prosecution and most of the defense. Estimates range from $10 million to $20 million.

It became a political matter as well, with Democrats seizing an opportunity to question the Bush administration's decision for its Dec. 20, 1989, invasion of Panama to apprehend Noriega.

Noriega still faces marijuana trafficking charges in Tampa federal court and charges of corruption and murder in Panama.

Panamanian officials said yesterday they would not seek to extradite him to face those charges as long as he received a lengthy sentence in the United States which withstood appeals.

"When General Noriega was indicted nearly four years ago, few observers believed that this day would ever come," Attorney General William P. Barr said said.

"This is an important message to the drug lords," he said. "There are no safe havens; their wealth and their firepower cannot protect them forever."

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PHOTO

Photo (color), Manuel Noriega Photo, Manuel Noriega (right) sits facing the jury and listens to a guilty verdict., By AP

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33))

Region: (Colombia (1CO48); Panama (1PA92); USA (1US73); Americas (1AM92); Florida (1FL79); North America (1NO39); Central America (1CE62); South America (1SO03); Latin America (1LA15))

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Gen. Noriega Is Found Guilty Of Drug Dealing --- Deposed Head of Panama Is Convicted on 8 of 10 Counts; Appeal Is Set

The Wall Street Journal

April 10, 1992 Friday

THE WALL STREET JOURNAL.
U.S. EDITION

Section: Pg. A3

Length: 1202 words

Byline: By Jose de Cordoba, Staff Reporter of The Wall Street Journal

Body

MIAMI -- Almost two and a half years after U.S. troops deposed Gen. Manuel A. Noriega, a jury has found the former Panamanian strongman guilty of turning his country into the preserve of Colombian drug lords.

Ending what was once billed as the "Trial of the Century," and which threatened to last about as long, jurors found Gen. Noriega guilty of eight of 10 counts of racketeering, money laundering and drug dealing. Gen. Noriega was acquitted of two charges of importing and distributing cocaine.

Gen. Noriega stood stony-faced while two of his three daughters sitting in the packed courtroom wept as the jury read its verdict after a seven-month trial. Sentencing for Gen. Noriega, who could face a maximum term of as much as 120 years in prison, was set for July 10.

At a brief news conference, Frank Rubino, Gen. Noriega's lead counsel, said the verdict was a "victory" for U.S. foreign policy and said the case would be appealed to the U.S. Supreme Court if necessary. Mr. Rubino said Gen. Noriega had no comment on the verdict.

Mr. Rubino said grounds for appeal would include the invasion of Panama in December 1989 by 23,000 U.S. troops, the general's prisoner-of-war status, his position as head of state and other issues. "This was not a drug case. It was a political case. It always was, it always will be," said Mr. Rubino. "We only wish we had been allowed to present the evidence to address the case."

At a news conference in Washington, Attorney General William Barr called Gen. Noriega's conviction "an historic accomplishment and a great victory for the rule of law and for the American people." He added, "This is an important message to the drug lords. There are no safe havens; their wealth and their firepower cannot protect them forever."

Ricardo Laso, a legal adviser to the government of Panama, which has requested Gen. Noriega's extradition to face a variety of charges, said most Panamanians were happy with the verdict. "The trial closes a very dark period in our

history," Mr. Laso said. While he couldn't comment on whether Panama would withdraw its extradition request, Mr. Laso said that Panama would have to be reasonable since the general, who faces a lengthy sentence, is 59.

A federal prosecutor said today that Gen. Noriega also will be prosecuted on drug charges in Tampa.

The verdict brought an end to perhaps the most contentious and convoluted legal process of recent years, one which threatened at various times to be derailed by a series of controversies. These ranged from the freezing and unfreezing of Gen. Noriega's bank accounts to pay for his lawyers, (who ultimately accepted government pay for representing an indigent client) to the broadcasting, by Cable News Network of Gen. Noriega's prison conversations, including a conversation with his defense team.

The cumulative weight of these events would be "very significant" in Gen. Noriega's appeal, said Jeffrey Weiner, president of the National Association of Criminal Lawyers, which monitored the trial. Mr. Weiner described the incidents as evidence of government misconduct.

At an unusual news conference prior to the verdict, Judge William Hoeveler said that the CNN incident led to the trial's one legally historic moment: his order prohibiting CNN from broadcasting the Noriega tapes until he had reviewed them to ensure they wouldn't prejudice the trial. Judge Hoeveler's decision was upheld on appeal.

During the trial, the jurors, most of them middle-aged women, listened to more than 17,000 pages of testimony from 79 defense and prosecution witnesses. Seventeen of the prosecution witnesses were convicted drug dealers, a contrast to most of the defense's witnesses, most of whom were Drug Enforcement Administration heads and agents who reluctantly testified to Gen. Noriega's cooperation in the U.S. drug interdiction efforts.

At its outset, many thought the trial could drop some bombshells about the seamier side of U.S. policy in Central America, with devastating or at least embarrassing consequences for the Bush administration. Prior to the trial, Gen. Noriega had claimed that his troubles with Washington began after he declined to use Panamanian troops in a proposed attack of Nicaragua.

At one point, defense lawyers talked about subpoenaing Col. Oliver North and even President Bush. Certainly Gen. Noriega, who was paid $320,000 by U.S. intelligence agencies during the course of a 30-year career as an informant, was in a good position to spill whatever beans there were to spill on U.S. ties to arms and drug smugglers in the region. But Gen. Noriega's lawyers were largely frustrated in bringing out a political dimension to the trial by Judge Hoeveler's rulings. And perhaps at the end, Gen. Noriega didn't have many beans to spill.

At his news conference before the verdict, Judge Hoeveler staunchly defended the fairness of the trial. He said he hadn't been pressured in the least by the administration. "Largely we've kept politics out," he said, adding "I think the general has been afforded every benefit that the criminal system affords to the accused."

The government was successful in depicting the case as a humdrum drug and corruption prosecution trial. Assistant U.S. Attorney Myles Malman made that point during closing arguments by characterizing Gen. Noriega as a "corrupt, crooked and rotten cop" who had sold "his uniform, his army and his protection to a murderous criminal gang." The motive, said Mr. Malman, was pure greed.

The Noriega trial focused critical attention on the use of plea bargains by prosecutors in getting criminal convictions. In a sense, said Judge Hoeveler at the news conference, the plea bargains were on trial along with Gen. Noriega.

To make its case, the government paraded 21 convicted drug dealers and money launderers who gave sometimes contradictory testimony on Gen. Noriega's relations with the Medellin drug cartel. All these witnesses, including Carlos Lehder, the notorious Colombian drug lord now serving a life sentence, received sentence reductions or other benefits for their testimony.

Mr. Lehder's testimony had the most international repercussions. His tales of meetings with top Cuban, Nicaraguan, Bahamian, and Colombian leaders were heatedly denied. Mr. Lehder also asserted that U.S. officials offered to let

him smuggle drugs into the U.S. in exchange for the use of his Bahamian island to ship guns to the Contras, the Nicaraguan guerrillas backed by Washington who were fighting the Sandinista government.

A report issued by a House subcommittee said that the Bush administration gave drug dealers "unprecedented" deals in exchange for their testimony at Gen. Noriega's trial.

"The Justice Department paid some informants hundreds of thousands of dollars in direct payments or compensation and shielded millions in drug profits and drugfinanced property from forfeiture," said the report prepared by the Democratic staff of the subcommittee on crime and criminal justice.

Though negotiating plea agreements with criminals to convict others is routine, the report said, the magnitude of the deals in the case of the former Panamanian leader indicates "something has gone awry."

Joe Davidson in Washington contributed to this article.

Notes

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Section: A Section

BARR URGES 'FUNDAMENTAL CHANGES' IN INDEPENDENT COUNSEL STATUTE

Sharon LaFraniere

Attorney General William P. Barr said yesterday he will recommend that President Bush veto the post-Watergate law establishing independent counsels when it comes up for renewal this year, unless Congress agrees to substantially modify it.

The 1978 provision of the Ethics in Government Act provides for the appointment of independent counsels to investigate alleged crimes by administration officials. The best-known independent counsel inquiry stemmed from the Iran-contra scandal and resulted in the convictions of four government officials, although two of those convictions were set aside by appellate courts.

At a luncheon with Washington Post editors and reporters, Barr said he sees "real problems" in how independent counsels are chosen, the degree of their power and the limits on the Justice Department's authority to investigate alleged wrongdoing before calling for an independent counsel.

"I think there have to be some fundamental changes to the independent counsel statute," Barr said. "I don't think it adequately provides . . . {for} a selection process that appoints individuals who understand the prosecution function and the standards and policies used by the Department of Justice. I don't think the statute provides any accountability or adequate supervision of independent counsel."

Barr also said the act should be broadened to cover members of Congress. Asked if he thought the statute had led to "injustices," Barr replied "Yes," but would not elaborate.

Rep. Barney Frank (D-Mass.), who chairs a Judiciary subcommittee with jurisdiction over the independent counsel act, said he agrees with Barr that the provision could use "a second look."

Unlike Barr, Frank said he is pleased with how the independent counsels are chosen, but is willing to consider increasing supervision of independent counsel probes and giving the attorney general more power to conduct preliminary investigations.

Under the act, the attorney general is authorized to request that a three-judge panel appoint an independent counsel, but does not supervise the counsel and can fire the investigator only for "good cause."

Congress passed the statute in reaction to the Watergate scandal and President Richard M. Nixon's decision to fire special prosecutor Archibald Cox after Cox sought incriminating tape-recorded conversations. Although President Ronald Reagan said he doubted the act was constitutional, he signed a five-year renewal in 1987 after Congress raised the threshold of evidence for initiating an independent counsel inquiry. The Supreme Court upheld the independent counsel provision in June 1988.

At least eight independent counsels have been named since the law's passage; six found insufficient evidence to seek an indictment. The government officials convicted were former White House deputy staff chief Michael K. Deaver for perjury, former national security adviser Robert C. McFarlane for four misdemeanor offenses, and former assistant secretary of state Elliott Abrams for covering up the Reagan administration's secret support of the contras.

Appellate courts have set aside the convictions of former National Security Council staff aide Oliver L. North and former White House national security adviser John M. Poindexter, both in Iran-contra; and former White House aide Lyn Nofziger.

Staff researcher Ralph Gaillard Jr. contributed to this report.

rom the Los Angeles Times.

The awards, administered by Columbia University, also included:

National reporting: Jeff Taylor and Mike McGraw of the Kansas City Star for a series on the Agriculture Department.

Explanatory journalism: Robert S. Capers and Eric Lipton of the Hartford Courant for a series about the flawed Hubble space telescope.

Editorial writing: Maria Henson of the Lexington (Ky.) Herald-Leader for editorials about battered women in Kentucky.

Editorial cartooning: Signe Wilkinson of the Philadelphia Daily News.

Spot news photography: The Associated Press for pictures on strife in the former Soviet Union.

Feature photography: John Kaplan of Block Newspapers of Toledo, Ohio.

Drama: Robert Schenkkan for his play "The Kentucky Cycle."

History: Mark E. Neely Jr. for "The Fate of Liberty: Abraham Lincoln and Civil Liberties."

General non-fiction: Daniel Yergin for "The Prize: The Epic Quest for Oil, Money & Power."

Poetry: James Tate for "Selected Poems."

Music: Wayne Peterson for "The Face of the Night, The Heart of the Dark."

A special Pulitzer went to Art Spiegelman for his book "Maus," a cartoon depiction of the Holocaust.

Following are non-winning finalists:

Public service -- Dayton (Ohio) Daily News, reporting by Mike Casey and Russell Carollo on neglect of worker safety; The Washington Post, articles about gun violence.

Spot news reporting -- Philadelphia Inquirer staff, coverage of the airplane crash in which Sen. John Heinz was killed; staff of the weekly Vineyard Gazette, Edgartown, Mass., hurricane coverage.

Investigative reporting -- Greenville (S.C.) News, investigation of abuses at a University of South Carolina foundation; Jennifer Hyman, Democrat and Chronicle, Rochester, N.Y., stories of secret CIA-Rochester Institute of Technology links.

Explanatory journalism -- James O'Byrne, Mark Schleifstein and G. Andrew Boyd, Times-Picayune, New Orleans, articles on toxic waste and pollution; Rob Carson, Geff Hinds and Suki Dardarian, Morning News Tribune, Tacoma, Wash., coverage of the campaign to let the terminally ill choose death.

Beat reporting -- Russ Conway, Eagle-Tribune, Lawrence, Mass., articles about questionable business practices in professional hockey; Gregg Jones, defunct Arkansas Gazette, Little Rock, stories about faltering rural health care.

National reporting -- Donald L. Barlett and James B. Steele, Philadelphia Inquirer, series on public-policy failures that have diminished the middle class; Maureen Dowd, New York Times, political coverage.

International reporting -- Dudley Althaus, Houston Chronicle, cholera epidemic in Peru and Mexico; Los Angeles Times staff, coverage of Soviet Union's collapse.

Feature writing -- Frank Bruni, Detroit Free Press, profile of a child molester; Sheryl James, St. Petersburg Times, on effort to transplant a dead boy's organs.

Commentary -- Liz Balmaseda, Miami Herald, columns on Cuban-American issues; Robert Lipsyte, New York Times, sports commentary.

Criticism -- Michael Feingold, Village Voice, theater reviews; Itabari Njeri, Los Angeles Times, essay on race and black nationalism; Leslie Savan, Village Voice, advertising and media columns.

Editorial writing -- Henry Bryan, Philadelphia Inquirer, urging state support of transit system; Robert J. Gaydos, Times Herald-Record, Middletown, N.Y., local and national issues.

Editorial cartooning -- Steve Benson of the Morning News Tribune, Tacoma, Wash., and Arizona Republic; Ralph Dunagin, Orlando Sentinel.

Spot news photography -- Associated Press staff, photos of Albanian refugees stranded in Italy; David C. Turnley, Detroit Free Press, gulf war photo of grieving soldier.

Feature photography -- Paul Kuroda, Orange County Register, Santa Ana, Calif., journey of illegal immigrants; Bill Snead, The Washington Post, Kurdish refugee camps.

Fiction -- "Mao II" by Don DeLillo; "Jernigan" by David Gates; "Lila: An Inquiry into Morals" by Robert M. Pirsig.

Drama -- "Miss Evers' Boys" by David Feldshuh; "Conversations With My Father" by Herb Gardner; "Sight Unseen" by Donald Margulies; "Two Trains Running" by August Wilson.

History -- "Nature's Metropolis: Chicago and the Great West" by William Cronon; "A Very Thin Line: The Iran-Contra Affairs" by Theodore Draper; "Profits in the Wilderness: Entrepreneurship and the Founding of New England Towns in the Seventeenth Century" by John Frederick Martin; "The Middle Ground: Indians, Empires and Republics in the Great Lakes Region, 1650-1815" by Richard White.

Biography -- "Frederick Douglass" by William S. McFeely; "Orwell: The Authorized Biography" by Michael Shelden.

Poetry -- "Selected Poems" by Robert Creeley; "An Atlas of the Difficult World, Poems 1988-1991" by Adrienne Rich.

General non-fiction -- "Broken Vessels" by Andre Dubus; "Chain Reaction: The Impact of Race, Rights and Taxes on American Politics" by Thomas Byrne Edsall and Mary D. Edsall.

Music -- "Concerto Fantastique" by Ralph Shapey.

had some presidential qualities, the survey found that Clinton did strikingly well among those who said they were seeking a candidate who can handle a crisis, who is a strong leader, and who can win in November.

Yesterday's voting ended a particularly dramatic stretch in what has been a topsy-turvey primary season.

Only three weeks ago, Clinton was being anointed as the presumptive Democratic nominee. With his strong victories in the March 17 primaries in Michigan and Illinois, Clinton drove Tsongas from the contest and in the eyes of most Democratic leaders seemed unlikely to face a strong challenge from Brown, his last remaining foe.

All this changed abruptly on March 24, when Brown defeated Clinton in the Connecticut primary and forced the Clinton camp to drop planning for the fall campaign and train its sights again on Brown.

Clinton seemed to right his campaign by challenging Brown to a series of debates. But on the weekend before the primary, the campaign was roiled again by new reports on Clinton's Vietnam draft status and by Tsongas's announcement.

Polling director Richard Morin and senior polling analyst Sharon Warden contributed to this report.

UNOFFICIAL RESULTS IN NEW YORK, KANSAS, MINNESOTA, WISCONSIN

DEMOCRATS

.....Votes....%...Delg.

Candidate: BROWN

NEW YORK: 99% of precincts

.....252,391...26....67

KANSAS; 100% of precincts

.....21,029...13..... 2

MINNESOTA; 93% of precincts*

.....55,656.. 32.....

WISCONSIN; 84% of precincts

.....228,486...35.....29

Candidate: CLINTON

NEW YORK: 99% of precincts

.....393,890...41....101

KANSAS; 100% of precincts

.....81,588...51.....27

MINNESOTA; 93% of precincts*

.....57,120...33.....

WISCONSIN; 84% of precincts

.....248,954..38.....35

Candidate: TSONGAS

NEW YORK: 99% of precincts

.....279,649...29.....76

KANSAS; 100% of precincts

.....24,275...15..... 6

MINNESOTA; 93% of precincts*

.....39,932...23.....

WISCONSIN; 84% of precincts

.....143,884...22.....18

Uncommitted

NEW YORK: 99% of precincts

.....***.....

KANSAS; 100% of precincts

.....22,037...14..... 1

MINNESOTA; 93% of precincts*

.....9,917... 6.....

WISCONSIN; 84% of precincts

.....13,485... 2.....0

REPUBLICANS

Candidate: Buchanan

NEW YORK:**

.....-....-.....0

KANSAS: 100% of precincts

.....31,599...15..... 0

MINNESOTA: 93% of the precincts

.....29,901...25..... 8

WISCONSIN: 84% of precincts

.....67,349...17..... 0

Candidate: BUSH

NEW YORK: **

.....-....-....100

KANSAS: 100% of precincts

.....131,901...62.....30

MINNESOTA: 93% of the precincts

.....79,551...68.....22

WISCONSIN: 84% of precincts

.....310,000...77.....35

Candidate: DAVID DUKE

NEW YORK: **

.....-.....-.....0

KANSAS: 100% of precincts

..... 3,832.... 2.....0

MINNESOTA: 93% of the precincts

..... ***.....

WISCONSIN: 84% of precincts

.....11,008.... 3.....0

Uncommitted

NEW YORK: **

.....***.....

KANSAS: 100% of precincts

.....35,115...16.....0

MINNESOTA: 93% of the precincts

..... 3,857....3.....1

WISCONSIN: 84% of precincts

..... 7,745....2.....0

* Minnesota Democrats expressed their preference for president in primary, but delegates are pledged in earlier caucuses.

** New York Republicans selected individual delegates yesterday in their primary, but there is no presidential preference vote on their ballot. All 100 delegates have been awarded to President Bush because he is the only Republican candidate to qualify in New York.

*** Not on ballot.

SOURCE: Associated Press

---- Index References ----

Company: TRIBUNE PUBLISHING CO; LEXINGTON BOCA LLC; LEXINGTON PARTNERS INC; MIDDLE EAST COLLECTION; LEXINGTON TENNESSEE HOLDINGS LP; TAYLOR PROPERTIES INC; EAGLE EXPLORATION CO; JUSTICE DEPARTMENT; TRIBUNE; LEXINGTON RESOURCES INC; TIMES HERALD; LEXINGTON DILLON LLC; LEXINGTON OLIVE BRANCH MANAGER LLC; EAGLE COMMERCIAL VENTURES LLC; TRIBUNE CO; TRIBUNE BROADCASTING CO; COLUMBIA UNIVERSITY; LEXINGTON PRECISION CORP; LEXINGTON COLUMBIA MANAGER INC; TAYLOR NGL LP; LEXINGTON STRATEGIC ASSET CORP; TRIBUNE NEWSPRINT CO; EAGLE TELEPHONICS INC; EAGLE REALISATIONS PLC; LEXINGTON BCBS LLC; LEXINGTON OLIVE BRANCH LLC; LEXINGTON TRAILS HOLDINGS LP; DAILY NEWS; INSTITUTE OF TECHNOLOGY; EAGLE MAINTENANCE SUPPLY INC; LEXINGTON HOSPITAL CORP; LEXINGTON INSURANCE CO; LEXINGTON BATON ROUGE LLC; EAGLE HOSPITALITY PROPERTIES TRUST INC

News Subject: (Legal (1LE33); Judicial (1JU36); Government (1GO80); Regulatory Affairs (1RE51))

Region: (Wisconsin (1WI54); Western Asia (1WE54); U.S. Midwest Region (1MI19); New York (1NE72); USA (1US73); Americas (1AM92); U.S. West Region (1WE46); California (1CA98); Gulf States (1GU47); Ohio (1OH35); Iran (1IR40); Washington (1WA44); South Carolina (1SO63); Illinois (1IL01); Arkansas (1AR83); Minnesota (1MI53); U.S. Mid-Atlantic Region (1MI18); Kansas (1KA13); North America (1NO39); Asia (1AS61); Kentucky (1KE38); Middle East (1MI23); U.S. Southeast Region (1SO88))

Language: EN

Other Indexing: (AGRICULTURE DEPARTMENT; BARR; CIVIL LIBERTIES; COLUMBIA UNIVERSITY; CONGRESS; DAILY NEWS; DEMOCRATS; DEPARTMENT OF JUSTICE; EAGLE; INSTITUTE OF TECHNOLOGY; JEFF; JUSTICE DEPARTMENT; LEXINGTON; MORNING NEWS TRIBUNE; NATIONAL SECURITY COUNCIL; REPUBLICANS; SUPREME COURT; TAYLOR; TIMES HERALD; TRIBUNE; URGES; WHITE HOUSE) (Adrienne Rich; Andre Dubus; Archibald Cox; Arkansas Gazette; Art Spiegelman; Barney Frank; Barr; Beat; Bill Snead; Biography; Brown; Bush; Clinton; David C. Turnley; David Feldshuh; David Gates; Donald L. Barlett; Donald Margulies; Drama; Elliott Abrams; Eric Lipton; Explanatory; Feature; Frank; Frank Bruni; G. Andrew Boyd; Geff Hinds; Gregg Jones; Herb Gardner; Illinois, Clinton drove; International; James B. Steele; James O'Byrne; Jennifer Hyman; John Frederick Martin; John Heinz; John Kaplan; John M. Poindexter; Leslie Savan; Lyn Nofziger; Mark E. Neely Jr.; Mark Schleifstein; Mary D. Edsall; Maureen Dowd; Maus; Michael Feingold; Michael K. Deaver; Michael Shelden; Mike Casey; Mike McGraw; Minnesota Democrats; Music; Oliver L. North; Paul Kuroda; Poetry; Ralph Dunagin; Ralph Gaillard Jr.; Ralph Shapey; Reagan; Richard M. Nixon; Richard Morin; Richard White; Rob Carson; Robert C. McFarlane; Robert Creeley; Robert J. Gaydos; Robert Lipsyte; Robert M. Pirsig; Robert S. Capers; Robert Schenkkan; Ronald Reagan; Russ Conway; Russell Carollo; Sharon Warden; Sheryl James; Signe Wilkinson; Spot; Steve Benson; Suki Dardarian; Theodore Draper; Thomas Byrne; Tsongas; Uncommitted; UNOFFICIAL RESULTS; Vineyard Gazette; William Cronon; William P. Barr; William S. McFeely)

Product: DAILY

Word Count: 1604

End of Document

4/7/92 Phila. Inquirer B03
1992 WLNR 2021939

Philadelphia Inquirer (PA)

April 7, 1992

Section: LOCAL

MORE MONEY PLEDGED FOR BATTLING DRUGS

Emilie Lounsberry, INQUIRER STAFF WRITER

They were a bit of an oddity out there, the well-dressed law-enforcement officials who descended yesterday morning on the North Philadelphia street that had once been an open-air supermarket for heroin.

There were shiny white police cars aplenty and more than a few politicians and lawyers on hand as U.S. Attorney General William P. Barr announced that Philadelphia was going to get more money for the war against drugs.

Residents stood on the fringes of the news conference in the 2200 block of North Palethorp Street, watching in silence. And, nearly two years since some 50 drug dealers were hauled away in a federal roundup, many in the neighborhood seemed divided on exactly how much the drug problem had diminished.

"It's still here. They're pushing it out slowly but surely. But it's still here," said Alvida Burnett, who lives in the 2300 block of Palethorp. "Before, you could go to every corner (to buy drugs); now, you may have to walk."

Tony Markeas, who lives in the 2200 block of Palethorp, said things had clearly gotten better. "Two years ago, you couldn't even go by here. It was like a supermarket, people waiting in line," he said. "It got better."

Markeas said, however, that he did not mean to suggest that drug dealing had been eradicated in the neighborhood.

"They chase them from here, they go somewhere else," he said, a note of resignation in his voice.

Over and over, the residents expressed the same uncertainty as the news conference unfolded along a street that still has boarded-up houses and graffiti, but also gardening plots that seem ready for some cultivating.

Standing in one of those gardens, Barr announced that the city had been designated by the Justice Department as a demonstration for "Operation Weed and Seed," an initiative designed to link law-enforcement activities with social service and urban revitalization programs to combat drugs.

The city will get about $1 million over the next two years, and U.S. Attorney Michael M. Baylson said that an additional $14 million from other sources had been committed to the effort.

Among the neighbors who turned out in the crisp morning chill, the consensus seemed to be that although the 2200 block of Palethorp Street is in better shape than a few years ago, drug dealing is still bad in the immediate vicinity - especially on nearby Hancock Street.

"At nighttime, it's worse," said Elsie Gomez, who lives in the 2100 block of North Palethorp. "It gets bad. At night time, you hear gunshots."

Baylson agreed that drug dealing remained a problem in the neighborhood.

"Within a couple of blocks, there's still major drug dealing going on, and that has been disappointing," he said.

In addition to Barr, other key figures in the law-enforcement community - from District Attorney Lynne Abraham to Police Commissioner Willie Williams - turned out for the news conference.

And among the onlookers were about a dozen or so preschoolers from Comprehensive Day Care at Susquehanna and Hancock Streets who were lined up behind a chain-link fence, looking curiously at the cameras and the reporters and the officials.

Connie Grimes, a teacher at the school, said the street had gotten better.

"Now it's a pleasure to come and sit outside with the children," she said.

---- Index References ----

News Subject: (Legal (1LE33); Judicial (1JU36); Police (1PO98))

Region: (Pennsylvania (1PE71); USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (COMPREHENSIVE DAY CARE; JUSTICE DEPARTMENT; SEED; SUSQUEHANNA) (Alvida Burnett; Barr; Baylson; Connie Grimes; Elsie Gomez; Hancock Street; Hancock Streets; Lynne Abraham; Markeas; Michael M. Baylson; Standing; Tony Markeas; William P. Barr; Willie Williams)

Edition: FINAL

Word Count: 656

End of Document

4/7/92 Richmond Times-Dispatch C1
1992 WLNR 866348

Richmond Times Dispatch (VA)

April 7, 1992

Section: Area/State

BARR SEES A DIFFERENT GILPIN COURT COMBINE FORCES, HE SAYS

Frank Green Staff writer

The U.S. attorney general strolled the neat and quiet streets of Gilpin Court yesterday enjoying the warm sunshine, a chat with nervous police patrolmen, and the focus of television and newspaper cameras.

It was a different Gilpin Court than the gritty, murderous place depicted in a graphic video made by the U.S. attorney's office -- a video replete with bloodied, shot-up bodies -- that helped draw Attorney General William P. Barr and his money here.

Barr was in town to announce that Richmond was one of 16 cities selected to receive federal funds for a program called Weed and Seed. Its goal is to "weed" out crime and "seed" targeted areas with revitalization programs to keep the crime from returning.

Whether it works or not -- and those on hand yesterday insisted it would -- remains to be seen, but there was little doubt the two Richmond communities selected for the $1 million program, Gilpin Court and Blackwell, need help.

Among other things, the program will beef up the Bureau of Police's "community policing" program by assigning an additional 12 patrolmen to the two areas so there will be a police presence there 24 hours a day. The program now only provides the extra police protection during daylight hours.

Police programs will include everything from conducting door-to-door surveys and cleaning up the appearance of the area, to drug education and truancy prevention.

"This is a shot that we can't afford to pass up," said U.S. Attorney Richard Cullen yesterday. His efforts to get the demonstration program to Richmond included the hard-hitting video sent with the application.

According to police statistics, Gilpin Court and Blackwell accounted for 47 percent of all serious crimes reported in the city's public housing areas last year.

Richmond's record 116 homicides last year is being threatened by an even more rapidly growing toll this year. There were 10 homicides in Gilpin Court last year and there have been 33 there since 1987.

Gilpin Court consists of approximately 20 square blocks located between Jackson Ward and Barton Heights. It has become the most murderous part of a city whose per-capita murder rate ranked sixth nationally last year.

The U.S. attorney's office said Gilpin Court "has been an open-air market which has attracted drug distributors from all over the East Coast" for years.

"Drug dealers flock to the area on a daily basis to distribute crack cocaine and heroin. A high level of violence accompanies the drug distributors," the office said.

Blackwell is bounded by Commerce Road, Hull Street, Jefferson Davis Highway, and Dinwiddie and Chicago avenues. The Richmond Redevelopment and Housing Authority operates a scattered public housing project there, but much of the property is privately owned.

The area was host to the so-called Johnson-Brown gang, an organization involved in drug wars leading to 30 drug-related deaths. Many of the loosely knit organization's leaders were convicted in federal court last year and given life terms without parole.

"The challenge for the 1990s is to deploy and focus both our law enforcement assets and our social resources at the same time, at the same place and in the same mutually reinforcing way," said Barr at a news conference at the Calhoun Community Center.

"There is no question in my mind: this program is going to work. It will be successful," said City Manager Robert C. Bobb. "We're going to see immediate results," agreed Cullen.

Authorities hope the areas will become drug- and violence-free zones by identifying habitual criminals there and targeting them for prosecution.

This "weed" part of the program also calls for coordinating activities of police, FBI, Bureau of Alcohol, Tobacco and Firearms, Drug Enforcement Administration, state police, and city and federal prosecutors.

The "seed" part calls for social service and private groups to join forces and introduce a wide range of programs in the neighborhoods. The programs will focus on crime and drug prevention, educational opportunities, drug treatment, family services and recreation.

The Metro Richmond Coalition Against Drugs, a non-profit agency that includes professionals from the private sector, will coordinate the various service agencies' efforts.

Barr said yesterday that Richmond will receive about $500,000 from the Department of Justice for the rest of this fiscal year and the remainder in fiscal year 1993, assuming congressional approval.

"This isn't a one-shot deal," said Barr yesterday.

PHOTO

(ljc)

---- Index References ----

News Subject: (Violent Crime (1VI27); Crime (1CR87); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Criminal Law (1CR79); Police (1PO98))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (BARR; BLACKWELL; BUREAU OF ALCOHOL; BUREAU OF POLICE; CALHOUN COMMUNITY CENTER; DEPARTMENT OF JUSTICE; DRUG ENFORCEMENT ADMINISTRATION; FBI; FIREARMS; FORCES; GILPIN COURT; HOUSING AUTHORITY; JACKSON WARD; METRO RICHMOND COALITION AGAINST DRUGS; PHOTO; RICHMOND; TOBACCO) (Barr; Barton Heights; Cullen; Hull Street; Richard Cullen; Robert C. Bobb; William P. Barr)

Edition: City

Word Count: 895

End of Document

NewsRoom

4/6/92 Am. Metal Market 2
1992 WLNR 4992201

American Metal Market

April 6, 1992

Volume v100; Issue n66

New merger guidelines unveiled.

WASHINGTON -- The U.S. Department of Justice and the Federal Trade Commission last week issued new guidelines to evaluate corporate mergers, unifying for the first time the two agencies' approaches to federal antitrust merger enforcement.

"As a principle of good government, joint guidelines are a major step forward," Attorney General William P. Barr said in a statement. "Where two agencies have concurrent enforcement responsibilities, the standards to be applied should not depend on which agency is analyzing a particular merger."

The new guidelines do not change antitrust law, officials said; rather, they clarify areas of the law where lawyers and businesses have been confused about what standards will apply in merger reviews.

James F. Rill, the agency's top antitrust official, said the guidelines should minimize the uncertainty businesses now face when structuring merger transactions.

The guidelines describe a five-step process the government will employ in determining whether to challenge a merger, including whether the merger would significantly increase market concentration; whether the merger raises concern about potential adverse competitive effects; and whether either party to the merger would be likely to fail without it.

The agencies also will look more closely into competition from foreign companies under the new guidelines. Market shares will be assigned to foreign competitors in the same way they are assigned to domestic competitors, the guidelines say. But if exchange rates fluctuate significantly, so that comparable dollar calculations on an annual basis might not be representative, the government might measure market shares over a period of more than a year.

---- Index References ----

Company: US DEPARTMENT OF JUSTICE

News Subject: (Legal (1LE33); Monopolies (1MO68); Market Share (1MA91); Sales & Marketing (1MA51); Economics & Trade (1EC26); Antitrust Regulatory (1AN52); Corporate Groups & Ownership (1XO09); Mergers & Acquisitions (1ME39); Government (1GO80); Business Management (1BU42))

Region: (North America (1NO39); USA (1US73); Americas (1AM92))

Language: EN

Other Indexing: (FEDERAL TRADE COMMISSION; US DEPARTMENT OF JUSTICE) (James F. Rill; William P. Barr)

Keywords: (Business); (Metals, metalworking and machinery industries); (United States. Department of Justice); (United States. Department of Justice - Laws, regulations and rules); (United States. Federal Trade Commission); (United States. Federal Trade Commission - Laws, regulations and rules); (Acquisitions and mergers); (Acquisitions and mergers - Laws, regulations and rules)

Product: Legal Counsel and Prosecution; Administration Of General Economic Programs

Sic: 9222; 9611

Word Count: 340

End of Document

NewsRoom

4/3/92 Japan Econ. Newswire Plus 00:00:00

Japan Economic Newswire Plus

April 3, 1992

U.S. Extends Antitrust Law to Overseas Business Conduct

Antonio Kamiya

Washington

The United States, in a new antitrust enforcement policy primarily targeted at Japan, announced Friday that it will apply U.S. antitrust laws to foreign business practices harmful to American exports.

U.S. Attorney General William Barr said the Justice Department will challenge anticompetitive conduct such as boycotts and other activities that hinder the export of American goods or services.

The Justice Department has been barred from taking action on overseas cartels under a 1988 departmental guideline that restricts the application of antitrust laws to cases that have a direct impact on U.S. consumers.

Critics in the U.S. administration and Congress have maintained that American products such as automobiles and auto parts are kept out of the Japanese market by collusive business practices that discriminate against imports.

Justice officials said the new antitrust enforcement policy stems from a review of antitrust laws aimed at securing a "level playing field" for U.S. goods and services in overseas markets.

"Our review of this issue confirms that Congress did not intend the antitrust laws to be limited to cases based on direct harm to consumers," said James Rill, assistant attorney general in charge of antitrust affairs.

The new antitrust policy immediately drew a sharp protest from Japan that the U.S. is claiming "extraterritoriality" for its antitrust laws.

Enforcing U.S. antitrust laws on overseas business conduct "represents a case of extraterritoriality in the application of U.S. domestic laws, which is prohibited under international law," Japanese Foreign Ministry spokesman Masamichi Hanabusa said.

Hanabusa, in a statement released immediately after the U.S. Justice Department made public the new policy, said "it is regrettable" that Washington widened its antitrust enforcement despite repeated objection from the Japanese government.

Although the Justice Department made a point of denying that the move is aimed at any particular country, the anticompetitive measures listed in the new policy mirror antitrust issues taken up in bilateral trade talks between Japan and the United States.

The new policy, the Justice Department said, will be targeted at "group boycotts, collusive pricing, and other exclusionary activities" which violate U.S. antitrust laws.

The Justice Department said the U.S. would consult foreign governments before taking antitrust actions that "significantly affect their interests."

While threatening to bring action on overseas antitrust practices, the Justice Department indicated that the U.S. is prepared to let law enforcement authorities in the targeted countries to bring their own antitrust action.

"In most cases, conduct that harms our exporters also harms foreign consumers and may be actionable under the other country's antitrust laws. If the importing country is better situated to remedy the conduct and is prepared to act, we are prepared to work with them," Rill said.

---- Index References ----

News Subject: (Monopolies (1MO68); HR & Labor Management (1HR87); Workplace Discrimination & Equal Opportunity (1WO73); Judicial (1JU36); Legal (1LE33); Business Management (1BU42); Antitrust Regulatory (1AN52); Occupational Safety (1WO89); Government (1GO80); Economics & Trade (1EC26))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Japan (1JA96); Asia (1AS61); Eastern Asia (1EA61))

Language: EN

Other Indexing: (CONGRESS; FOREIGN MINISTRY; JUSTICE; JUSTICE DEPARTMENT; US EXTENDS ANTITRUST LAW; US JUSTICE DEPARTMENT) (Critics; Hanabusa; James Rill; Masamichi Hanabusa; Rill; William Barr)

Word Count: 600

End of Document

4/2/92 AP Online 00:00:00

AP Online

April 2, 1992

Section: Domestic

Teflon No More Gotti Convicted on Murder, Racketeering

RONALD POWERS

NEW YORK

John Gotti, the brash Mafia boss who blasted his way to the top of the nation's most powerful crime family, was convicted Thursday of racketeering and murder charges. He faces a life sentence.

"I'll be OK," Gotti told supporters after listening to the jury forewoman announce "guilty" on all 13 counts. His top lieutenant also was convicted.

The federal district court jury decided the mob boss had murdered five of his associates in the Gambino crime family.

The stunning verdict, after just 13 hours of deliberations, crowned the government's six-year crusade to put the "Teflon Don" behind bars. Three times since 1986, Gotti had beaten charges against him.

This time, Gotti, 51, was done in by his own voice and the testimony of once-trusted underboss Salvatore "Sammy Bull" Gravano. Gotti was heard on hours of secretly recorded tapes, openly discussing murder and other Mafia business.

"The Teflon is gone. The don is covered with Velcro, and all the charges stuck," said James Fox, special agent in charge of the FBI's New York office.

Attorney General William P. Barr called Gotti's conviction "a major victory in the department's continuing assault on organized crime."

"Although more remains to be done, we are making substantial progress in dismantling these organizations," Barr said in a

statement in Washington.

Gravano, who admitted to 19 murders on the stand, said he committed 10 at Gotti's direction and provided a chilling narrative of the killings that boosted Gotti from capo to mob boss.

Just before the jury forewoman read the verdict, Gotti was smiling confidently. He showed no reaction as she began announcing, "Guilty."

At one point, Gotti impeccable as usual in a charcoal double-breasted suit, white-on-white shirt and floral tie motioned to his lawyer to remain cool despite the result.

His attorney, Albert Krieger, sat dejectedly at the defense table as the word "guilty" echoed through the courtroom. "I anticipated the jury would spend more time evaluating some of the issues," said Krieger.

Asked how Gotti handled the verdict, Krieger replied, "He is a realist, a person of enormous mental and emotional strength." The verdict will be appealed, he said.

"Our country is sick to the core if it is willing to pay for testimony by literally absolving a person of 19 confessed murders," Krieger said of Gravano's appearance.

Gotti and co-defendant Frank Locascio, who have been jailed without bond since the indictment was unsealed in December 1990, could be sentenced to life in prison. Sentencing was scheduled for June 23.

"Today's verdict by a courageous jury is the end of a very long road. Justice has been served, and it feels awfully good," said U.S. Attorney Andrew Maloney.

Locascio, 59, also was convicted of murder and racketeering, and faces the same sentence. He was acquitted of a single count of illegal gambling.

"Where's the proof? Where's the proof?" muttered Locascio's son Salvatore, seated in the courtroom as the verdict came in. Reputed Gambino capo Jack D'Amico said, "It's total insanity."

The jurors remained anonymous and sequestered at an undisclosed hotel throughout the 10-week trial because of allegations of jury tampering in other Gotti trials.

Gotti was convicted of ordering the murder of his predecessor as

head of the Gambino crime family, "Big Paul" Castellano, to assume control.

The Dec. 16, 1985, assassination of Castellano and his lieutenant, Thomas Bilotti, was the cornerstone of the indictment.

They were gunned down at the height of rush hour outside a popular Manhattan steakhouse.

Gotti "became boss immediately after the murder. That's why he murdered him," Assistant U.S. Attorney John Gleeson told the jury.

Gotti reveled in the role of crime boss. He dressed in $1,800 designer suits with hand-painted silk ties, was host of an annual Fourth of July blast with illegal fireworks, and walked away three times after the government brought him to trial.

He appeared on the Sept. 29, 1986, cover of Time magazine as well as in the Ravenite Social Club, his favored hangout in Little Italy. The media dubbed him "The Dapper Don."

But prosecutors presented a different picture of Gotti: a cold-blooded killer who murdered with words instead of weapons.

"Murder plays a central role in the business of this enterprise. It is the way in which discipline was maintained. ... It's the way in which power was obtained," Gleeson said in his summation. "Murder is the heart and soul of this enterprise."

Gotti and Locascio were charged with murder, murder conspiracy, illegal gambling, loansharking, obstruction of justice, bribery of a public official and tax fraud.

Much of the trial drama in the Brooklyn courthouse focused on the showdown between Gotti and Gravano, his once-trusted confidante.

Gravano, Gotti's closest aide, turned against the Mafia and cut a deal to testify. He spent nine days on the stand, detailing a lifetime of murder and mayhem much of it ordered by Gotti, he said.

FBI bugs planted in Gotti's hangouts "opened a window" into the Gambino family; Gravano "opened the door," Gleeson said.

The defense presented two different villains: Gravano, a psychotic killer who admits to 19 murders, and an ambitious prosecutorial team that would stop at nothing to convict Gotti.

Gravano "knows and believes that he has this valuable product to sell ... John Gotti's head on a silver platter," said Krieger.

Gravano, a stocky man with slicked back hair and a broad flat face, testified as Gotti shot him a withering glare.

In a soft, slightly hoarse voice, the 47-year-old Gravano told of taking the Mafia's solemn oath of silence, or "omerta." He went on to break it, providing a spellbinding narrative of how Gotti's henchmen shot Castellano and Bilotti.

Gravano said he and Gotti watched from a car parked a block away: "Tommy (Bilotti) squatted down to look through the window. ... He was actually watching Paul get shot."

A few moments later, he and Gotti drove by to see Bilotti's body sprawled across East 46th Street. "We pulled up. ... I told John he was gone," Gravano said.

The trial was the fourth for Gotti in the six years. A 1986 assault case was dismissed when the complaining witness declined to identify Gotti.

The following year, he was acquitted in a federal racketeering case. Gotti was again found innocent in 1990 of conspiracy and assault in the shooting of a union official.

---- Index References ----

News Subject: (Violent Crime (1VI27); Crime (1CR87); Social Issues (1SO05))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); New York (1NE72))

Language: EN

Other Indexing: (BROOKLYN; CASTELLANO; FBI; MAFIA; MURDER; RAVENITE SOCIAL CLUB) (Albert Krieger; Andrew Maloney; Barr; Big Paul; Bilotti; Frank Locascio; Gambino; Gleeson; Gotti; Gravano; Guilty; Jack D'Amico; James Fox; John; John Gleeson; John Gotti; Krieger; Locascio; Paul; Reputed Gambino; Teflon; Thomas Bilotti; William P. Barr)

Word Count: 1282

End of Document

3/27/92 S.F. Chron. A10
1992 WLNR 2523840

San Francisco Chronicle (CA)

March 27, 1992

Section: NEWS

ROCKWELL'S TOXIC VIOLATIONS IT PLEADS GUILTY BUT SAYS ENERGY DEPT. TO BLAME

Chronicle Wire Services

Washington

Pleading guilty to 10 criminal counts of environmental law violations at the Rocky Flats nuclear weapons plant, Rockwell International Corp. accused the U.S. Department of Energy yesterday of severely inhibiting its ability to comply with federal regulations.

The huge government contractor told a federal judge in Denver that the department had restricted funds for environmental protection at the plant and had advised it that the facility was exempt from crucial environmental laws.

The Seal Beach, Calif.-based company agreed to pay $18.5 million in fines for illegal management of wastes generated in the production of triggers for nuclear weapons at Rocky Flats.

It said it was guilty of four criminal counts of knowingly storing mixed chemical and radioactive wastes without a permit in violation of the Resources Conservation and Recovery Act, and of failing to contain those wastes when they began to leak into the environment.

It also pleaded guilty to six criminal violations of the Clean Water Act for disposing of toxic and hazardous wastes illegally.

The settlement, negotiated by lawyers for Rockwell and the Department of Justice, was taken under advisement by U.S. District Judge Sherman Finesilver.

FBI RAID

Rockwell, for 14 years the prime contractor at the Rocky Flats laboratory on the outskirts of Denver was replaced after a hail of sensational charges and a raid on the complex by FBI agents.

Closed since 1989 because of its environmental pollution problems, Rocky Flats has no weapons projects on the horizon. But officials believe it will be years before the plant can be sufficiently decontaminated for retirement.

Rockwell still faces damage suits filed by employees, but the agreement presented to the court in Denver is designed to close the books on one of the most contentious disputes in a major weapons- complex pollution scandal.

$16.5 MILLION IN FINES

It calls for Rockwell to pay $16.5 million in fines to the federal government, plus $2 million to the state of Colorado.

Altogether, the fines are the second-largest penalty assessed against a private company for environmental law violations. The largest was Exxon's $125 million fine for the 1989 Exxon Valdez oil spill.

The charges against Rockwell include illegal storage and handling of solidified toxic and low- level radioactive waste, called "pondcrete," in leaky boxes.

The company is also accused of discharging wastes through its sewage treatment plant, potentially contaminating drinking water in nearby reservoirs.

U.S. Attorney Mike Norton, called the agreement "fair, equitable and just." Attorney General William Barr cited it as evidence that "the Department of Justice is making it quite clear that environmental crimes do not pay."

ENFORCED STORAGE

In agreeing to the fines, Rockwell said the Department of Justice had until June 1989 supported a Department of Energy position that Rockwell was exempt from environmental laws covering vital processes in the Rocky Flats operation.

The company said it had, in fact, continued to make "pondcrete" sludge and store it at the complex at the insistence of the Department of Energy and the Colorado Health Department, "even though all parties knew there was no long-term storage available."

---- Index References ----

Company: EXXONMOBIL CORP; CONEXANT SYSTEMS INC

Industry: (Environmental Solutions (1EN90); Hazardous Waste (1HA81))

Region: (USA (1US73); Americas (1AM92); Colorado (1CO26); North America (1NO39))

Language: EN

Other Indexing: (COLORADO HEALTH DEPARTMENT; DEPARTMENT OF ENERGY; DEPARTMENT OF JUSTICE; ENERGY DEPT; EXXON; FBI; FINES; RESOURCES CONSERVATION; ROCKWELL; ROCKWELL INTERNATIONAL CORP; ROCKY FLATS; US DEPARTMENT OF ENERGY) (Altogether; Attorney; Mike Norton; PLEADS GUILTY; Sherman Finesilver; William Barr)

Edition: FINAL

Word Count: 657

End of Document

NewsRoom

Judge to Conduct Inquiry Into House Bank Scandal

The Wall Street Journal

March 23, 1992 Monday

Section: Pg. A12

Length: 162 words

Body

WASHINGTON -- Attorney General William Barr appointed a retired federal judge to conduct a preliminary inquiry into the House Bank scandal.

At the completion of his inquiry, Judge Malcolm Wilkey will recommend whether further investigation into the numerous overdrafts by members of Congress is warranted.

Judge Wilkey will be taking over an inquiry announced last week by the U.S. attorney here. Mr. Barr said he was assigning the work instead to a special counsel because of "the unique circumstances and sensitivities of this matter." In a statement issued by his office, Mr. Barr added that the switch "does not reflect any escalation of the Justice Department effort or any change in the nature of the inquiry."

Judge Wilkey served on the U.S. Court of Appeals in Washington for 15 years, until he retired in 1984. From 1985 to 1990 he was ambassador to Uruguay and during that time he also served as chairman of the President's Commission on Reform of Federal Ethics Laws.

Notes

PUBLISHER: Dow Jones & Company

Load-Date: December 5, 2004

3/20/92 Platt's Oilgram News 1
1992 WLNR 1673002

Platts Oilgram News

March 20, 1992

Volume 70; Issue 56

GRAND JURY CHARGES EX-AROCHEM CFO CONSPIRACY, BANK FRAUD ALLEGED

A federal Grand Jury here charged Vincent J. Dispenza, the former chief financial officer and treasurer of oil trader/ refiner Arochem, with four counts of conspiracy and bank fraud, the Justice Dept. announced (ON 1/10).

The charges are contained in a so-called information, which differs from an indictment only in that the defense waives its right to present its case to the Grand Jury.

The government alleges in its information that Dispenza defrauded a five-bank consortium led by Chase Manhattan Bank of more than $100-million out of the $200-million in loans the banks had extended to the Arochem companies--Arochem Corp. and Arochem International Inc.--in 1990 and 1991.

The information charges that since April 1990 Dispenza "conspired with others to deceive the lending banks and independent auditors about the true financial picture of the Arochem companies," according to Otto G. Obermaier, the U.S.

Attorney for the Southern District of New York. The federal information charges that reports prepared and submitted by Dispenza and unnamed other individuals at Arochem to the lending banks misrepresented that the Arochem companies had combined available collateral of more than $200-million, when at the time liabilities exceeded the companies' assets by more than $100- million.

The U.S. Attorney handling the case, Howard M. Shapiro, said that Dispenza and other unnamed individuals at Arochem allegedly supported those fraudulent representations by creating false and fictitious contracts, invoices, receipts, wire transfers and other documentation.

The information cites one such occasion, when allegedly fabricated documents purported to show some $60-million of crude in storage in Malaysia. Another incident described was what were allegedly three fictitious contracts created that purport to show purchases of condensate valued at about $48-million.

Dispenza, who voluntarily appeared in U.S. court, where he waived indictment and was arraigned on the charges, was released on a $250,000 personal recognizance bond. If convicted, he faces stiff penalties, including a maximum penalty of five years' imprisonment and $250,000 fine on the conspiracy count and 30 years' imprisonment and a $1-million fine on each of three bank fraud counts. He also faces the possibility of being ordered to make restitution.

A spokeswoman for the U.S. Attorney's Office in New York said that the investigation into the matter was continuing, but she would give no indication of when, or if, other charges are likely to be brought in the case. She also indicated that the probe is looking into more than one other individual, but declined to be more specific.

In a reaction to the action taken by the Justice Dept., Arochem chief counsel Gregory Classon said the company "has and will continue to cooperate with the investigation. It is its hope that it will not face any charges as a result of such cooperation." Classon said that Arochem officials "have been interviewed at great length over the past several months" by federal investigators.

Dispenza's attorney, Richard D. Weinberg, had no comment as of presstime on the charges.

The announcment of the information, however, was given a high profile by the U.S. government. It was released out of Washington rather than, as usual, the local U.S. Attorney's office, and U.S. Attorney General William P. Barr commented on the action, saying that it was "another significant step" by the Justice Dept. in its "relentless pursuit of allegations of large- scale fraud against banking institutions throughout the country."

New York

---- Index References ----

Company: CHASE MANHATTAN BANK USA

News Subject: (Crime (1CR87); Fraud Report (1FR30); Social Issues (1SO05))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); New York (1NE72))

Language: EN

Other Indexing: (AROCHEM; AROCHEM CORP; AROCHEM INTERNATIONAL INC; ATTORNEY; CHASE MANHATTAN BANK; FEDERAL GRAND JURY; GRAND JURY; JUSTICE DEPT; JUSTICE DEPT AROCHEM; US ATTORNEY; US ATTORNEYS OFFICE) (Classon; Dispenza; GRAND JURY; Gregory Classon; Howard M. Shapiro; Otto G. Obermaier; Richard D. Weinberg; Vincent J. Dispenza; William P. Barr)

Word Count: 724

End of Document

NewsRoom

3/20/92 Reuters News 00:00:00

Reuters

March 20, 1992

FORMER JUDGE NAMED TO INVESTIGATE U.S. HOUSE BANK.

WASHINGTON, March 20, Reuter - The Justice Department has appointed retired federal judge Malcolm Wilkey to investigate whether any banking laws were broken by the now-closed House of Representatives bank, Attorney General William Barr said.

The House Ethics Committee concluded no laws were broken by the House bank, although it agreed to release the names of hundreds of representatives -- more than two-thirds of the current membership -- who wrote checks without the funds to cover them.

Wilkey is to conduct a preliminary review and report back to Barr on whether there appears to have been any individual wrongdoing which requires further, more formal investigation by the Justice Department, Barr said.

The House Ethics Committee investigation of the bank said no checks were "bounced" or returned because of insufficient funds. All checks were covered without the loss of any money -- because the bank offered free overdraft protection.

The committee is due to release next week the names of 24 past and present members of the House deemed to be the worst offenders in the checking scandal. Ten days later, it is to make public the names of the rest of the 355 members or ex-members -- but most now in Congress -- who were overdrawn at least once.

---- Index References ----

Company: BANK; BANK DER OESTERREICHISCHEN POSTSPARKASSE AG; AB BANK LIMITED; BANK OF WALTERBORO; AEGEAN BALTIC BANK SA; JUSTICE DEPARTMENT

News Subject: (Legal (1LE33); Government Litigation (1GO18); Regulatory Affairs (1RE51))

Industry: (Financial Services (1FI37); Banking (1BA20); Financial Services Regulatory (1FI03))

Language: EN

Other Indexing: (BANK; CONGRESS; HOUSE; HOUSE BANK; HOUSE ETHICS COMMITTEE; JUSTICE DEPARTMENT; US HOUSE BANK) (Barr; Malcolm Wilkey; Ten; Wilkey; William Barr)

Word Count: 205

End of Document

NewsRoom

Arochem Corp. Official Charged In Major Fraud --- Federal Prosecutors Charge DiSpenza in Connection With Firm's Credit Line

The Wall Street Journal

March 20, 1992 Friday

Section: Pg. A9B

Length: 512 words

Byline: By Jonathan M. Moses, Staff Reporter of The Wall Street Journal

Body

NEW YORK -- Federal prosecutors charged a top official of Arochem Corp., an oil trading and refining concern, with bank fraud in connection with a $245 million revolving credit line syndicated by Chase Manhattan Bank.

Vincent J. DiSpenza, who was suspended in December as chief financial officer and treasurer of Arochem, waived a formal indictment on the fraud charges. Instead, he pleaded not guilty to a criminal information, typically used when the two sides plan to work out a plea bargain.

Individuals familiar with the case said that more than $100 million of the money lent to Arochem Corp., Stamford, Conn., and its sister company, Arochem International Inc., Ponce, Puerto Rico, is missing. They said the case is one of the largest involving criminal bank fraud currently pending in the country. U.S. Attorney General William P. Barr, in a statement, called the case an example of "large-scale fraud."

Mark L. Weyman, an attorney for the two closely held companies, said they had been unable to account for all the money lent to the companies. Mr. Weyman, who is currently negotiating with the Chase syndicate about the banks' involuntary bankruptcy petition filed against Arochem last month, said Arochem's biggest assets are two refineries in Puerto Rico. He said the refineries are not currently operating, and Arochem is seeking someone to either buy or lease the refineries.

Mr. DiSpenza and his lawyer had no comment as they left the federal courtroom. He was released on $250,000 personal bond and ordered to surrender his passport.

The federal government alleges that Mr. DiSpenza filed false reports to the bank about Arochem's business operations, inflating its worth by more than $100 million. Among other things, Mr. DiSpenza and other Arochem officials allegedly provided the banks with false oil contracts, receipts and invoices.

The charges only deepen the disarray at closely held Arochem, which has also been subject to lengthy litigation concerning its ownership. A criminal investigation is also expected to continue into Arochem's suspended president,

William R. Harris. An attorney for Mr. Harris had no comment on the investigation or on the charges filed against Mr. DiSpenza.

Individuals familiar with the Arochem case said the investigation is expected to continue and that it will focus on locating the money. One focus of concern is likely to be Arochem International Ltd., an offshore company alleged to have been set up by Mr. Harris, a former oil trader for Salomon Inc.'s Phibro Energy unit, on the Grand Cayman Islands.

According to the banks' filing in bankruptcy court, they had lent out $196 million of the credit line, with the Chase Manhattan Corp. unit and Bank Brussels Lambert S.A. of Belgium each owed $71.7 million in principal. Swiss Bank Corp. is owed $23.9 million, Banque Indosuez of France is owed $19.1 million and Skopbank of Finland is owed $9.5 million.

A Chase spokesman said the bank group is cooperating with the criminal investigation and is "supportive of the companies' efforts to sell or lease the two refineries."

Notes

PUBLISHER: Dow Jones & Company

Load-Date: December 5, 2004

NewsRoom

3/19/92 Reuters News 00:00:00

Reuters

March 19, 1992

U.S. TO EXPAND ANTI-FRAUD ACTIVITIES.

WASHINGTON, March 19, Reuter - The Justice Department will use more of its resources to fight fraud and other white-collar crimes, Attorney General William Barr said.

"We must investigate and vigorously prosecute instances of fraud involving health care, insurance and pension plans to guard against another debacle on a scale similar to the savings and loan crisis," Barr said at a Senate hearing.

He said the FBI would spend more time investigating computer crimes, the siphoning off of funds before and after bankruptcies are filed, and fraud in telemarketing, insurance and commodities.

---- Index References ----

Company: FBI SA; FRANCHISE BANCORP INC; JUSTICE DEPARTMENT

News Subject: (Social Issues (1SO05); Criminal Law (1CR79); Legal (1LE33); Crime (1CR87); Cybercrime & Viruses (1CY34); Fraud (1FR30))

Industry: (Internet Security (1IN07); Internet (1IN27); Security Software (1SE53); Internet Regulatory (1IN49))

Language: EN

Other Indexing: (ACTIVITIES; FBI; JUSTICE DEPARTMENT; SENATE) (Barr; William Barr)

Word Count: 93

End of Document

NewsRoom

NewsRoom

3/17/92 Wash. Times (D.C.) A2
1992 WLNR 130258

Washington Times (DC)

March 17, 1992

Section: TOP OF THE NEWS NATION

JUSTICE SPOKESMAN TO HEAD NEW OFFICE

FROM WIRE DISPATCHES AND STAFF REPORTS

Attorney General William P. Barr named his chief spokesman, Paul J. McNulty, to head a new Office of Policy and Communications.

Spokesman since last August, Mr. McNulty now also will supervise what previously had been the separate offices of policy development, public affairs and liaison services with law enforcement.

Mary Kate Grant, previously a speechwriter for President Bush, was named Mr. McNulty's deputy director for communications.

Mr. Barr also announced that Doug Tillett, who had been deputy director of the office of public affairs, will become director, reporting to Mr. McNulty. Kristen Gear, a former White House associate director of media affairs, was named Mr. Tillett's deputy.

Q0051096-031792

---- Index References ----

Language: EN

Other Indexing: (JUSTICE; OFFICE OF POLICY; WHITE HOUSE) (Attorney; Barr; Bush; Doug Tillett; Kristen Gear; Mary Kate Grant; McNulty; Paul J. McNulty; Tillett; William P. Barr)

Edition: Final

Word Count: 145

End of Document

NewsRoom

NewsRoom

3/5/92 Reuters News 00:00:00

Reuters

March 5, 1992

FBI OPENS ESPIONAGE CASES BASED ON EAST BLOC SPIES.

WASHINGTON, March 5, Reuter - The Federal Bureau of Investigation (FBI) said on Thursday that it has opened a number of espionage investigations based on leads provided by one-time spies in the former East bloc of communist nations.

A spokesman for the agency, which investigates espionage in the United States, confirmed remarks by its top spy hunter that the scores of cases stemmed from documents and questioning of former East bloc spies.

Wayne Gilbert, chief of the FBI's Intelligence Division, said in an interview in Thursday's USA Today newspaper the subjects range from U.S. military employees and defence contractors to officials in other U.S. government agencies.

But the spokesman emphasised that the investigations were in the early stages, that it was unlikely that any charges will be brought before the end of the year and that it was unclear how many cases there ultimately would be.

Intelligence officials have long predicted that the collapse of the Soviet empire would bring a wealth of information about the espionage activities that had been directed against the United States during the Cold War.

While the FBI conducts a number of investigations, the cases with enough envidence to stand up in court tend to be relatively few. For instance, charges never were brought against fired State Department official Felix Bloch, who was suspected of spying for the Soviet Union.

The FBI brought a spate of highly publicised spy cases in the mid-1980s, including one involving the U.S. Navy spy ring led by John Walker that passed secrets to Moscow for nearly two decades and another involving Jonathan Pollard, a former U.S. Navy counter-terrorism expert who spied for Israel.

But since then, the number of spy cases has fallen dramatically, and the Justice Department recently announced that 300 FBI agents would be shifted from chasing spies to fighting domestic street gang violence.

Attorney General William Barr, in announcing the shift, cited the reduced threat to the United States from the break-up of the Soviet Union and its satellite nations in Eastern Europe.

---- Index References ----

Company: FBI SA; FRANCHISE BANCORP INC; JUSTICE DEPARTMENT; STATE DEPARTMENT

News Subject: (Government (1GO80))

Industry: (Seaborne Forces (1SE14); Military Forces (1MI37); Aerospace & Defense (1AE96); Security Agencies (1SE35); Defense (1DE43); Security (1SE29); Defense Intelligence (1DE90))

Region: (North America (1NO39); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (FBI; FEDERAL BUREAU OF INVESTIGATION; JUSTICE DEPARTMENT; STATE DEPARTMENT; US NAVY) (Attorney; FBI OPENS ESPIONAGE CASES BASED; Felix Bloch; John Walker; Jonathan Pollard; Wayne Gilbert; William Barr)

Word Count: 344

End of Document

Barr Takes Center Stage at Justice Department With New Script

The Washington Post

March 5, 1992, Thursday, Final Edition

Section: FIRST SECTION; PAGE A19; THE FEDERAL PAGE; NATIONAL NEWS, BIOGRAPHY

Length: 1439 words

Byline: WILLIAM P. BARR

Sharon LaFraniere, Washington Post Staff Writer

Series: Occasional

Body

The rap on William P. Barr before he became attorney general was that he had too low a profile. Certainly no one would accuse him of that now.

Barr has moved from working behind the scenes to setting the scenes in three months since he took office. Now the question is not if he can handle the spotlight, but what motivates him.

Some former and current Justice Department officials interpret Barr's recent string of "initiatives" on violent crime and illegal immigration as the acts of a good political soldier trying to help his boss. Others are delighted to discover the department with a clearer agenda after years of stupor and friction.

The debate has sharpened since Barr's announcement late last month that the department would broaden its antitrust power in order to gain what he called "a useful tool" against foreign companies that restrict U.S. exports. Antitrust chiefs from two previous administrations said Barr overstated how useful the new policy will be, while attorneys with an American Bar Association antitrust task force said Barr rightly reclaimed a tool the Reagan administration tossed aside.

"[Are his actions] politically motivated? [Or] self-serving? I'm asking myself those same questions," said one key Justice Department official who likes Barr. "I think it's just too early to decide."

Barr, 41, began his tenure in late November with one big advantage and one big disadvantage. The advantage was Dick Thornburgh, who had appointed Barr deputy attorney general in May 1990. "Such a bad act, Barr can't help but look good," said one department official.

Thornburgh, who ran the Justice Department for three years ending last August, was the type of official who looked unnatural without his suit jacket. Barr, boyish and slightly pudgy, looks uncomfortable in a suit, as if someone had dressed him up against his will.

Thornburgh seemed forced and tight-lipped even when he wanted to appear relaxed; Barr is comfortable sharing insights sharpened by a keen sense of the absurd.

Thornburgh liked memos to correct with his red pen; Barr likes head-on discussions with a big circle of advisers. Thornburgh seemed wary of change; Barr is willing to break with the past.

Barr's big disadvantage is President Bush's campaign. With Bush seemingly unnerved by Patrick J. Buchanan's challenge, anything Barr does is instantly suspect as a political gesture at a time when he needs to act to establish himself.

"If I were doing nothing, people would say I was a do-nothing caretaker," Barr said in an interview last week. "If you do something, people will cast aspersions on it and say it's political. I think it's probably to be expected, taking over at the beginning of an election year, but frankly, I think it's unfair."

Much of what Barr has done since his confirmation seems to benefit the administration politically. He pleased conservatives by reversing policy and offering Justice Department help to states that want to get out from under court-ordered prison population caps. His decision to allow the department to pursue antitrust investigations of arrangements that restrict U.S. exports without harming American consumers made the administration look tough against Japan.

His transfer of 300 FBI agents from espionage to violent crime investigations, use of FBI agents to investigate health care fraud and increase in enforcement against illegal immigrants also played well on the political stage.

But some experts question whether tangible results will follow Barr's announcements on violent crime, antitrust and immigration. While many law enforcement officials argue that the FBI cannot ignore the staggering problem of violent crime, Notre Dame law professor G. Robert Blakey said, "To add 300 FBI agents to street crime is of no significance in dealing with the problem."

Blakey, who fashioned the organized crime and criminal enterprise statutes on which the FBI will rely, said he expects "good cases" but basically, "it's a headline."

Wayne Cornelius, director of the Center for U.S.-Mexican Studies at the University of California, said adding agents at the U.S.-Mexican border "is just a political game." He said it only "forces migrants and smugglers to change tactics" and causes "the revolving door to spin faster."

Both John Shenefield, the department's antitrust chief under President Jimmy Carter, and Charles F. Rule, antitrust chief under President Ronald Reagan, predicted few significant antitrust suits as a result of Barr's decision to revert to a pre-1988 guideline that allowed antitrust enforcement against foreign cartels that did not directly harm U.S. consumers.

Shenefield said, "I would be very surprised if we see much in the way of concrete results from this exercise," while Rule predicted "a lot of futile investigations." In an interview after he announced the policy shift, Barr said he was only addressing "the potential reach of the law" and acknowledged there are "a lot of practical difficulties" to such enforcement actions.

Barr said the media tend to truncate his announcements, leaving out his caveats and attempts to limit expectations.

"I don't go out and say 300 FBI agents are going to solve violent crime. . . . I don't say I'm going to shut off illegal immigration. . . . The steps are not overly played as solutions unto themselves, but as a step in the right direction."

"I haven't heard anyone really take issue with the priorities," he said. "I think what I'm doing, it's not empty, it has substance."

A favorite of conservative groups, Barr has twice taken on conservatives within the administration on legal grounds. Barr opposes suggestions by Housing and Urban Development Secretary Jack Kemp and others that Bush issue an executive order giving himself the power to veto line items in appropriations bills. Barr has said only Congress can give the president line-item veto power.

He also opposed a proposal last year by White House counsel C. Boyden Gray, often described as Barr's mentor, to eliminate federal affirmative action and set-aside programs as violations of the new Civil Rights Act. Barr argued that Gray's proposal went beyond the language of the statute, sources said.

His stance encouraged some observers who feared Gray's influence over the Justice Department would grow with Barr's appointment. As an early Bush supporter, Barr is in some ways in a stronger position to assert himself than Thornburgh was as a holdover from the Reagan administration.

In the past two months, he set an intense pace, initially telling his staff he needed "an all-out effort to get our goals established . . . because when Congress comes back our ability to maintain momentum on our program will be reduced" and "the charge that whatever we do is political will become more and more pronounced."

Barr lost little time making up his mind on the issue of consent decrees capping state prison populations. He said he became convinced many of the court orders were overly restrictive last fall after he began discussing prison space shortages with state officials.

"It wasn't business as usual in this building," he said in an interview. "If people came to me and said, I'll set up a meeting next week to coordinate this, I said, 'No. You set up a meeting today to coordinate this.' If some people thought the process was driven, so be it. I don't think there is a head of any component who doesn't feel they can walk in my office."

W. Lee Rawls, assistant attorney general in charge of legislative affairs, said Barr has stepped up the tempo by just thinking harder and longer than anybody else in the department. "You come back after the weekend, and pick up where you left off," said Rawls. "He comes back a step or two ahead of you. He thinks about this all the time."

But another key Justice Department official expressed concerns about "short-string decisions that aren't as fully thought out as they might be." And a third official said, while Barr appears to have been "thinking about these things for long time. . . . He's moving very fast. He's put a lot of pressures and demands on people, and there are people around who say, 'Hey, let's take it a little slower. Let's work out all the kinks."

The next phase of Barr's tenure may be even more interesting, as the department works to carry out his initiatives to break up violent gangs, investigate health care fraud, create more prison space, fight illegal immigration and push states to toughen their criminal justice systems. "When you take on all these issues, you create expectations," said one official. "Now comes the hard stuff."

Graphic

ILLUSTRATION, WILLIAM P. BARR, PETER ALSBERG

3/4/92 Orlando Sentinel D1
1992 WLNR 4343774

Orlando Sentinel

March 4, 1992

Section: LOCAL & STATE

GET SERIOUS ABOUT VIOLENT CRIME, ATTORNEY GENERAL WARNS

Jim Leusner Of The Sentinel Staff

U.S. Attorney General William P. Barr said Tuesday he is encouraging Florida and other states to build more prisons and adopt tough federal gun and drug laws to crack down on violent criminals.

"The long-term solution to violent crime is to strengthen state criminal justice systems," Barr said Tuesday in Orlando. "Frankly, we are going to have to incapacitate more people, especially habitual offenders."

Barr, attending the U.S. Attorneys' National Conference at Walt Disney World this week, met with 150 of the nation's top federal law enforcement officers and prosecutors. The group discussed everything from legislation to programs for fighting drugs, gangs and fraud, said U.S. Attorney Robert Genzman of Orlando, who hosted the private conference.

Barr said states spend an average of 2.2 percent of their budgets on corrections.

Although he did not say if federal money would be made available to states experiencing budget shortfalls during the recession, Barr said some states like Texas have learned a hard lesson that crime pays when prisons are crowded.

The Texas prison system is "wholly dysfunctional," he said, and inmates serve an average of 22 days for each year they are sentenced behind bars. As a result, he said, state officials have embarked on an ambitious prison-building program.

Frustrated state prosecutors in Florida say inmates here can serve as little as 20 percent of their sentences because prisons are crowded.

The state recently completed building prisons in North Florida but has not had the money to open them.

"The way I view it, public safety is the first duty of government," Barr said. "There is no other solution to take care of crime now. We're only talking about less than 1 percent of the population."

The U.S. Bureau of Prisons, currently operating about 50 institutions, also is on a building spree. Barr said by 1995, the number of federal prisons will have tripled under President Bush. Bush announced this year that he will allocate $5.6 billion to build 3,400 more federal prison beds.

In 1990, there were about 775,000 inmates in federal and state prisons in the United States, Barr said.

Until state prison and criminal justice systems can fill the gap, federal police agencies and prosecutors will step in and charge violent criminals under federal laws that include lengthy, mandatory terms for drug dealers and armed criminals.

Following Bush's lead to clean up inner cities, Barr said the Justice Department is working on Operation Weed and Seed, a program of taking back neighborhoods from gangs and crack cocaine dealers. Under the program, local and federal police agencies plan to dismantle the criminal organizations, improve relations between police and residents, and develop closer coordination between the needy and social service agencies.

Barr, 41, is a former CIA official and veteran White House and Justice Department attorney. He served as acting attorney general since last August and was sworn in as head of the Justice Department in November, replacing Richard Thornburgh.

He vowed to step up investigations of fraud in the nation's health care system and recently has assigned 50 more FBI agents who previously worked on espionage cases to investigate medical fraud. Next year, he said, more FBI agents and prosecutors will be added to the fight.

On the drug front, Barr said Colombia's powerful Cali cartel will be "hit hard" in the coming months by the United States and its South American allies, but he said there also will be no quick fix to the drug problem.

"It's taken 30 years to get into this drug problem, and it won't go away overnight," he said.

---- Index References ----

Company: DISNEY (WALT) CO

News Subject: (Crime (1CR87); Legal (1LE33); Judicial (1JU36); Social Issues (1SO05); Criminal Law (1CR79); Prisons (1PR87))

Region: (USA (1US73); Americas (1AM92); Florida (1FL79); North America (1NO39); Latin America (1LA15); Texas (1TE14))

Language: EN

Other Indexing: (CIA; FBI; JUSTICE DEPARTMENT; US ATTORNEYS; US BUREAU OF PRISONS; WALT DISNEY WORLD; WARNS; WHITE HOUSE) (Barr; Bush; Frankly; Richard Thornburgh; Robert Genzman; William P. Barr)

Keywords: WILLIAM BARR TRIP OC; FEDERAL GOVERNMENT; CRIME OFFICIAL

Edition: 3 STAR

Word Count: 737

NewsRoom

The Washington Post

BARR ATTACKS ABORTION-RIGHTS BILL

By Sharon LaFraniere
March 4, 1992

Attorney General William P. **Barr** said a bill that would forbid states to impose restrictions on most abortions goes far beyond the standard set in Roe v. Wade and he questioned Congress's authority to enact such a change.

Barr's attack on the Freedom of Choice Act in a letter released yesterday reflects the increased attention to the bill this year from both foes and supporters. President Bush, who has repeatedly promised to veto any measure that expands access to abortion, yesterday told a religious group in Chicago that the bill "is not right" and "will not become law as long as I am president."

Abortion-rights groups and legislators are increasingly turning to the Freedom of Choice Act because the Supreme Court is widely expected to soon cut back or overturn the constitutional protections for abortions in the 1973 Roe v. Wade case.

House Speaker Thomas S. Foley (D-Wash.) has predicted that if Roe is overturned, Congress will pass the abortion-rights bill this session, after avoiding it for the past two years. But Senate Majority Leader George J. Mitchell (D-Maine), a supporter of abortion rights, has expressed reservations about the bill, suggesting a constitutional amendment as a better route.

The bill, which has 131 co-sponsors in the House and 31 in the Senate, prohibits states from restricting the right of a woman to terminate a pregnancy before the fetus is viable or "at any time necessary to protect the life or health of the woman."

In a letter to Rep. Henry J. Hyde (R-Ill.), a staunch opponent of abortion, **Barr** said, "This legislation would impose on all 50 states an unprecedented regime of abortion on demand going well beyond the requirements of Roe v. Wade."

The exact scope of the bill is a matter of debate. Both **Barr** and the American Civil Liberties Union, which opposes abortion restrictions, agree that the Freedom of Choice Act would probably prohibit state laws requiring parental notification or consent before minors obtain abortions. A number of states have adopted such restrictions.

In addition, **Barr** said that while Roe allows states to protect fetuses after the second trimester, the Freedom of Choice Act appears to prevent states from regulating abortions even after the fetus becomes viable. It "probably" would prohibit states from banning abortions "for reasons of sex-selection or birth control," **Barr** wrote.

The Congressional Research Service in 1990 characterized the bill more narrowly, suggesting it could easily be interpreted as status-quo legislation.

Kate Michelman, president of the National Abortion Rights Action League, said yesterday that Bush's vow to veto the bill "demonstrates that this president is much more interested in kowtowing to the anti-choice minority than in safeguarding the health and lives of American women."

New Attorney General Shifts Department's Focus

The New York Times

March 3, 1992, Tuesday, Late Edition - Final

Distribution: National Desk

Section: Section A;; Section A; Page 17; Column 1; National Desk; Column 1;; Biography

Length: 1277 words

Byline: William P. Barr

By DAVID JOHNSTON,

By DAVID JOHNSTON, Special to The New York Times

Dateline: WASHINGTON, March 2

Body

Almost everybody heard of Edwin Meese 3d. He was President Ronald Reagan's longtime political sidekick. A lot of people knew something about Dick Thornburgh. He was the former Governor of Pennsylvania. But William P. Barr?

As the new Attorney General, the conservative 41-year-old from Manhattan is the youngest and one of the least-known members of the Bush Cabinet, a Beltway lawyer who lacks close personal ties to the President and was named to office last year lacking a high-profile reputation in legal or political circles.

He has taken over a department that has ceded some of its power over legal policy to the White House. Mr. Thornburgh, Mr. Barr's immediate predecessor and former boss, never reclaimed the Attorney General's influence and prestige, which eroded in Mr. Meese's fractious tenure in the 1980's.

Skill and Flexibility

In the broadest sense, the issue confronting Mr. Barr is whether he can restore the traditional primacy of his office as the center of legal authority in the Government or will instead merely manage the department's increasing, if unglamorous, law-enforcement duties: policing, prosecuting and imprisoning drug dealers, gang members and other street criminals.

If Mr. Barr's prospects seem uncertain, his supporters say he has some advantages. As a former deputy to Mr. Thornburgh, he is a department insider, and since he joined the Government in 1973, he is a popular figure in the career ranks. He has a long association with staff members in the White House, and allies inside and outside the Administration say he blends legal skill with a usually flexible bureaucratic touch.

"The test of him will be whether he can stand up for the Justice Department or compromises its position," said Griffin B. Bell, Attorney General under President Jimmy Carter, who expressed optimism about Mr. Barr's chances but warned that the new Attorney General must quickly assert his control over the department and his authority within the Administration or will risk losing both.

Mr. Barr has begun his tenure with a series of anti-crime measures, mainly redeploying existing manpower on his violent-crime priorities: gangs, drugs and guns. Each step appears modest, but together his proposals suggest that Mr. Barr is trying to shift the department to a more aggressive stance.

"I believe deeply that the first duty of government is providing for the personal security of its citizens," Mr. Barr said. "Therefore I would naturally place the highest priority on strengthening law enforcement."

His early steps reflect the department's repositioning after a decade in which it was the fastest-growing Cabinet department. According to statistics by the Office of Personnel Management, its 85,000 employees are nearly double the number in 1981, while its $11 billion budget represents a nearly five-fold increase, almost all of it dedicated to building more prisons and combatting drugs, violent criminals and financial fraud.

Two Decades in Washington

The second of four brothers, Mr. Barr is a Roman Catholic, and his father, Donald Barr, was once headmaster at the Dalton School in New York. He is a bagpipe player and a China scholar with a master's degree from Columbia University and a law degree from George Washington University.

Mr. Barr joined the Central Intelligence Agency in 1973 and has spent his professional career inside the Beltway, working for either the Government or a law firm. He injects moralistic messages into his speeches, decrying the permissiveness of the 1960's and dismissing what he calls "half-baked solutions" to social problems like dispensing "needles to addicts and condoms to kids."

Aides say Mr. Barr still calls Congressmen by their titles instead of their first names, gets up at 5 A.M. to buff a speech and turns down more dinner invitations than he accepts. His wife, Christine, is a librarian at a private elementary school.

In a series of conversations in Washington and on a recent trip to California, New Mexico and Texas, Mr. Barr discussed his approach to managing the department, emphasizing action and purpose.

"There are limitations to what you can do as deputy," he said, referring to his most recent job as Deputy Attorney General, where, as the department's day-to-day manager, he was credited with helping Mr. Thornburgh regain his balance after a rocky start. Now, he said, he does not have to sell his ideas to anybody.

Except, of course, to the White House. Mr. Barr said he consults frequently with Samuel K. Skinner, the President's chief of staff, who as a former United States Attorney in Chicago, is an emerging ally on Justice Department issues, and with C. Boyden Gray, the White House counsel.

As a result of shifting power alignments, Mr. Gray sometimes pushed Mr. Thornburgh aside on civil rights, judicial selection and departmental appointments.

Mr. Barr has counted Mr. Gray among his most influential friends in the Administration. Now in title, Mr. Barr outranks his benefactor and the Attorney General's aides say he is less willing to yield to White House intrusions than Mr. Thornburgh was, although Mr. Gray, with his immediate access to the Oval Office, remains a powerful Presidential adviser on legal matters. How Mr. Barr handles his relationship with Mr. Gray and the White House may ultimately determine his success.

Stylistically, Mr. Barr represents a sharp break from the past. Where Mr. Thornburgh was formal, enigmatic, often prickly, Mr. Barr is affable, animated and loose. The Attorney General and his aides engage in a running banter and, in the privacy of his plane, even members of the Attorney General's F.B.I. security detail address him as "Bill."

"I never managed anything before I became deputy," said Mr. Barr, who has compensated with seven-day work weeks, deep immersion in criminal justice issues and free-wheeling meetings beginning late last year when he called in top managers to review the operations of the department agencies like the Federal Bureau of Investigation and the Immigration and Naturalization Service.

The results became evident when Mr. Barr reassigned 300 F.B.I. agents from counterintelligence work to investigations of gang violence in the largest single manpower shift in the bureau's history. Later, he doubled the number of agents investigating health care fraud to 100, set up a prosecution unit in the department's criminal division and organized task forces in a dozen cities to prosecute health care crimes.

In February, he juggled the budget of the immigration service, finding money to hire 300 more agents to staunch the flow of hundreds of thousands of illegal immigrants a year across the border with Mexico.

He has also reversed a longstanding Justice Department policy and promised to help states fight court-ordered limits on prison overcrowding. The shift highlighted a central theme of Mr. Barr's tenure so far: his contention that violent crime can be reduced only by expanding Federal and state prisons to jail habitual, violent offenders.

In other areas, Mr. Barr seems less adroit. In a television interview last weekend, the Attorney General affirmed that he was likely to abandon guidelines adopted in 1988 that made it harder for the department to apply antitrust laws against foreign cartels that restrict American exports.

Other Administration officials seemed caught off-guard, and the remarks drew condemnation from the Japanese Foreign Ministry. Later, Mr. Barr seemed to back off slightly, promising a Congressional panel that if he loosened the guidelines he would consult trade and diplomatic officials before applying them.

Graphic

Photo: William P. Barr, the new Attorney General, is, at age 41, the youngest and one of the least well-known members of the Bush Cabinet. (Michael Geissinger for The New York Times)

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February 29, 1992

WESTERN EMPIRE

DENVER POST

MOUNTAINS

VAIL

PASS CLOSED - Westbound traffic on Interstate 70 at Vail Pass was closed last night for about two hours starting at 8:30 p.m. when melting snow froze and caused several minor accidents on the highway.

The icy pass was closed to traffic near the Copper Mountain ski resort until state road crews finished sanding the highway. The melting snow from warm temperatures began to ice up shortly after sunset. Eastbound lanes stayed open.

MONTANA

MISSOULA

BEARS FEASTING ON MOTHS - Army cutworm moths are drawing dozens of grizzly bears to group feeding areas in concentrations not seen since garbage dumps were outlawed 20 years ago in Yellowstone National Park, a researcher says.

Steve French, an independent bear researcher and Cody, Wyo., physician, says at least 95 grizzlies feed in late summer on the moths in 10 alpine sites of Shoshone National Forest, east of the park.

French spent this week at the International Bear Conference, which has brought more than 500 bear researchers together from around the world. He said the newly discovered feeding behavior is important to the bears because they get a concentrated, high-energy food during a season when other sources are scarce.

WYOMING

GREEN RIVER

THUMB'S A KEEPER - Robert Lindsey plans to put his thumb in a jar for keeps.

The Green River man lost his thumb last July in a boating accident. Officials were stumped after a fisherman discovered the digit inside a six-pound lake trout Feb. 13, more than six months after the accident.

"I'll probably just put it on a shelf to show people," Lindsey said yesterday. "I'll probably keep it in a jar."

Lindsey said he was boating on the Flaming Gorge Reservoir south of Green River on July 27 when he dove in front of his boat to help his friend's daughter, who had fallen in the water. His hand then got caught in the propeller.

CHEYENNE

MONEY FOR DRUG WAR - Wyoming is slated to receive $1.7 million in federal funds to be used in helping the state fight crime and drugs.

U.S. Attorney General William Barr said the money represented a 251 percent increase over the amount Wyoming received in 1989, the first year the funds were available under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program.

UTAH

SALT LAKE CITY

SUSPECT KILLS SELF - A man wanted for the robbery of an eastside Salt Lake bank shot and killed himself yesterday as law officers closed in on him. Police Lt. Jim Jensen identified the dead man as Timothy Reardon, 40, of Salt Lake City.

Jensen said Reardon is believed to have robbed the First Federal Bank on Tuesday, escaping with an undisclosed amount of money. A Denny's Restaurant waitress, Tanya Wilson, recognized Reardon - whom she described as a regular customer - from the flier and called authorities.

Police officers and FBI agents converged near the restaurant and chased Reardon into an alley at about noon. Reardon, trapped against a brick wall, put a .25-caliber handgun to his head and pulled the trigger.

NEPHI

MAJOR COKE BUST - The Utah Highway Patrol says a routine traffic stop led to the seizure of 58 kilos of cocaine worth an estimated $11.6 million on the street.

Highway patrol spokesman Gary Whitney said Alvaro Garcia, 28, a Colombian national from Mount Vernon, N.Y., was arrested Thursday after the drugs allegedly were found hidden under the floorboard of the van he was driving.

NEW MEXICO

LAS CRUCES

EX-OFFICIAL ARRESTED - A former Las Cruces city official and a local businessman were arrested on drug charges last week, authorities said late this week.

Kevin Camunez, 33, a former contract administrator with the city's engineering and program division, and Al Guerrero, owner of Mac's Meats, are charged with conspiracy to possess and distribute marijuana, said Fred Ortega of the U.S. Drug Enforcement Agency on Wednesday.

Ortega said 147 pounds of marijuana and about $15,000 in cash were seized.

CARLSBAD

HEARING ON ESCAPE ATTEMPT - Three men accused of trying to escape from the Eddy County Jail by sawing through a cell wall face a preliminary hearing in Magistrate Court next week. Robert Craig Sandman, 31; Leonard Coulter Jr., 29; and Charles Bryant, 18, were arraigned this week on charges of escape and conspiracy. The preliminary hearing is set for Thursday.

---- Index References ----

Company: COPPER MOUNTAIN MINING CORP; FIRST FEDERAL BANK

News Subject: (Crime (1CR87); Criminal Law (1CR79); Legal (1LE33); Police (1PO98); Prisons (1PR87); Property Crime (1PR85); Smuggling & Illegal Trade (1SM35); Social Issues (1SO05))

Region: (Americas (1AM92); Montana (1MO88); New Mexico (1NE26); North America (1NO39); U.S. Southwest Region (1SO89); U.S. West Region (1WE46); USA (1US73); Utah (1UT90); Wyoming (1WY84))

Language: EN

Other Indexing: (Robert Craig Sandman; Leonard Coulter Jr.; Kevin Camunez; Robert Lindsey; Gary Whitney; Alvaro Garcia; Timothy Reardon; Edgar Alan Parducho Guerrero; Edgar Alan Guerrero; Tanya Wilson; Charles Bryant; Fred Ortega; Steve French; Jim Jensen; William Barr)

Word Count: 701

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1992 WLNR 5550099

WashingtonPost.com

February 29, 1992

EX-CENTRUST BANK CHIEF INDICTED IN SECURITIES SHAM; REGULATORS ALLEGE HE HID S&L'S DECLINE

Sharon LaFraniere

David L. Paul, the politically well-connected former head of CenTrust Savings Bank, was indicted yesterday on charges that he arranged a sham purchase of $25 million in securities to hide his institution's financial decline from regulators. The long-expected federal indictment, filed in Miami, alleges Paul set up the fake purchase with Saudi investor Ghaith Pharaon, an alleged front man for the Bank of Credit and Commerce International. The link between CenTrust and BCCI, convicted in December of a wide-ranging criminal scheme, was disclosed in earlier indictments of BCCI officials and in a civil suit by the Federal Reserve Board. Yesterday's indictment also alleges that Paul and another top CenTrust official, William Berry, misled regulators with false claims that the institution's purchases of junk bonds from Drexel Burnham Lambert Inc.

and others were justified by extensive, independent credit analysis. Paul, one of the Justice Department's top savings and loan targets, allegedly took at least $20 million out of CenTrust between 1984 and 1989 in salary, bonuses, stock dividends and loan proceeds. His scheme was designed to keep the $8.2 billion institution in his own hands, according to the indictment. CenTrust's failure in February 1990 was one of the nation's largest S&L collapses. Federal regulators have estimated that CenTrust's losses will cost taxpayers $1.7 billion. Federal prosecutors continue to investigate Paul, whose lavish ways included covering the ceilings and toilet pipes of the savings and loan's offices with gold and using $29 million in CenTrust money to buy art. He was jailed Monday for contempt of court for refusing to turn over documents to a grand jury. The indictment alleges that to hold off the regulators, Paul and Pharaon falsely led them to believe that investors were eager to buy $200 million in securities from CenTrust in 1988. Pharaon then arranged for BCCI to purchase $25 million of the securites, which BCCI resold to CenTrust for a $331,500 profit. Pharaon kept the profit, according the indictment. The indictment also charges that Paul, CenTrust's chairman, and Berry, a senior vice president at CenTrust, arranged for a stock swap with Lincoln Savings and Loan of Irvine, Calif. The S&Ls sold the stock to each other at far above the purchase price, generating the appearance that each institution had profitted handsomely. Regulators were led to believe the stock exchanges were arms-length transactions, the indictment charges. Paul, Pharaon and Berry are each charged with conspiracy, and Paul and Pharaon are charged with misapplication of bank funds. In addition, Paul and Berry are charged wih making false entries. Paul faces up to 100 years in prison and $5 million in fines if convicted on 20 counts. Berry faces 90 years and $4.5 million if convicted, and conviction of Pharaon could result in 10 years and a $500,000 fine. Attorney General William P. Barr said the indictment showed progress in the BCCI investigation and the S&L fraud probe. In Miami, U.S Attorney James G. McAdams said the indictment is a significant step, but an intensive investigation of Paul continues. The Office of Thrift Supervision is trying to recover $30.8 million from Paul and to bar him permanently from the banking business. OTS Director Timothy Ryan said in October 1990 that Paul's "insatiable vanity and greed" had driven CenTrust into the ground.

---- Index References ----

Company: INTERNATIONAL BANK OF COMMERCE; CENTRUST SAVINGS BANK; DREXEL BURNHAM LAMBERT INC

News Subject: (Criminal Law (1CR79); Legal (1LE33); Social Issues (1SO05); Corruption, Bribery & Embezzlement (1EM51); Financial Fraud (1FI18); Government Litigation (1GO18); Crime (1CR87); Fraud (1FR30))

Region: (Americas (1AM92); USA (1US73); U.S. Southeast Region (1SO88); North America (1NO39); Florida (1FL79))

Language: EN

Other Indexing: (BANK OF CREDIT) (Ghaith Pharaon; Lincoln Savings; James McAdams; David Paul; Tim Ryan; William Berry; William Barr)

Word Count: 544

End of Document

NewsRoom

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New Orleans Times Picayune

February 24, 1992

Section: METRO

FBI JOINS LOCAL CRIME FIGHT

Many of the New Orleans area leaders invited to a symposium on violent crime sponsored by the Federal Bureau of Investigation welcomed the occasion to focus on the alienation of inner-city youths as the overarching cause of the problem.

Richard Swenson, chief FBI agent in New Orleans, said the agency called the meeting to see if it could identify the causes of violent crime. From all indications, the bureau achieved its purpose.

Although FBI spokesmen didn't say what the follow-up might be, the meeting apparently was part of a growing effort by the agency to get more involved in the battle against urban crime, particularly crime perpetrated by organized street gangs.

New Orleans hasn't been plagued by the kind of gang violence that threatens to overwhelm law-enforcement authorities in some other urban areas. But the city, wracked by a flourishing drug trade and a soaring murder rate, could certainly benefit from a greater FBI presence.

In 1989, FBI Director William Sessions made attacking violent crime a nationwide priority for the agency. Recently, the FBI has met with some success in turning some of its resources from foreign counterintelligence to battling urban street criminals. It is the bureau's version of a "peace dividend" for the nation's crime-ridden cities.

Under federal law, the FBI is authorized to go after urban law-breakers involved in such activities as racketeering, drug trafficking, firearms violations and auto theft.

U.S. Attorney General William Barr said federal prosecution of four street gangs in Philadelphia might already have contributed to the decline in the number of murders in that city. There were 525 homicides in Philadelphia in 1990; there were 468 in 1991.

In his remarks to the community leaders, Gov. Edwards addressed the problem of alienated youths, saying it is society's obligation to change the situation.

"It is difficult to tell a 14-year-old black or white kid, living in a housing authority project, that if he stays clean, goes to school, works hard and behaves himself properly, he can look forward to a lifetime of flipping hamburgers at $4.35 an hour," the governor said.

The governor promised to support the group's efforts, saying he is working for a better educational system in the state.

Leslie S. Tremaine, executive director for the Jefferson Parish Human Services Authority, said she came away from Tuesday's conference encouraged by what she heard. She had gone expecting that her views as a social services professional would be in the minority. But she declared herself pleasantly surprised to find that the program identified alienation among young people as a top priority in the fight against crime.

The symposium struck a responsive chord with community representatives in emphasizing treatment of the causes of urban violence as well as the symptoms. Hopefully, the FBI's strong interest in the problem will lead to more local initiatives.

---- Index References ----

News Subject: (Violent Crime (1VI27); Crime (1CR87); Social Issues (1SO05); Conventions, Conferences & Trade Shows (1CO42))

Region: (Pennsylvania (1PE71); USA (1US73); Americas (1AM92); Louisiana (1LO72); North America (1NO39))

Language: EN

Other Indexing: (FBI; FEDERAL BUREAU OF INVESTIGATION; JEFFERSON PARISH HUMAN SERVICES AUTHORITY) (Edwards; FBI; FBI JOINS LOCAL CRIME; Leslie S. Tremaine; Recently; Richard Swenson; William Barr; William Sessions)

Edition: THIRD

Word Count: 590

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Bumpy Road;
Newsmaker;
Pressure Point

The MacNeil/Lehrer NewsHour

February 24, 1992, Monday

Length: 9032 words

Byline: In New York: ROBERT MacNeil; In Washington: JAMES LEHRER; GUESTS: DON GONYEA, National Public Radio; NEWSMAKER: WILLIAM BARR, Attorney General; MICHAEL SHILO, Deputy Chief of Mission, Israeli Embassy; RITA HAUSER, Attorney; CORRESPONDENTS: BETTY ANN BOWSER; ROGER MUDD

Body

MR. LEHRER: Good evening. I'm Jim Lehrer in Washington.

MR. MacNeil: And I'm Robert MacNeil in New York. After our summary of the news tonight, we look at the General Motors plant closing, why some plants were spared and others not. Next, the Bush administration stand-off with Israel over settlements and loan guarantees. We have congressional testimony and a debate. Finally, we have a NewsMaker interview with the new attorney general, William Barr.

NEWS SUMMARY

MR. LEHRER: General Motors announced record losses and closings or cutbacks at 12 plants today. GM Chairman Robert Stempel's statement said the loss was $4.5 billion for all of 1991 and 2.5 billion of it in the September to December fourth quarter. The company's Ypsilanti, Michigan assembly plant was among those on the list to close in the summer of 1993. It employs more than 4,000 people. Workers there had these reactions to the announcement.

WORKER: It's like somebody knocked the hell right out of you. That's how I feel.

WORKER: It was very depressing. Everybody in there was really surprised because all indications pointed that we would stay open. All the parts came from this area.

WORKER: Work force laid off in America. How can we buy our own products? See, Stempel say he's going to send everything, send the stuff to Mexico, you know, send the stuff to Canada. What about us?

MR. LEHRER: The company's Arlington, Texas assembly plant was spared in today's announcement. That plant has agreed to work three shifts to the Michigan plants too. The company has yet to identify several more of the 21 plants it said it will close. Reporters at a Detroit news conference asked Chairman Stempel if GM was trying to engage remaining plants in a competition of givebacks.

JENNIFER MOORE, WDIV-TV, Detroit: You still have four assembly plants to announce closings of. When do you anticipate that will happen, and what about the rest of the General Motors workers who are still sitting out there with an ax, if you will, hanging over their heads?

ROBERT STEMPEL, Chairman, General Motors: Well, Jennifer, you keep saying ax over their heads. I don't think that's quite right. People know that we have to consolidate and rationalize. The key thing is not to rush those

decisions, not to just sit down and two or three of us sit in a room and make those decisions. We want the total input in plant.

JENNIFER MOORE: When you're saying you're waiting for total input from a plant, that would indicate that you are waiting on a plant by plant basis to see what they will do with their local contract, and I hate to go back over this, but for hourly workers, for the union, they call that whipsawing, that what you're doing is waiting for Arlington to have a three shift which Willow Run did not. And they're going to assume that that's what, that was a deciding factor.

ROBERT STEMPEL: Well, I obviously disagree with your viewpoint on that because what we did was go back into the plant and say, can you improve the productivity of your operation, can you improve the cost, can you improve the quality. Now, why would we ask our employees to do that? Because it's clear in this country you can only satisfy a customer with a high quality, high value product. Guys, how are we going to do that?

JENNIFER MOORE: They say they did that. They say they did work with their own management to try to --

ROBERT STEMPEL: And we had to assess both of those and we decided that the outcome was for higher productivity and everything was in the plant we finally decided on.

MR. LEHRER: We'll have more on this story right after the News Summary. Robin.

MR. MacNeil: A fourth round of Middle East peace talks began today in Washington. Three Israeli negotiating teams are meeting separately with representatives from Syria, Lebanon, and a joint Palestinian-Jordanian delegation. At the same time, tensions have grown between the U.S. and Israel over $10 billion in loan guarantees. Israel wants the guarantees to help settle an influx of refugees from the former Soviet Union. On Capitol Hill today, Sec. of State James Baker told a House Committee that the Bush administration was willing to provide $2 billion in loan backing in each of the next five years but only if Israel stops all settlement activity in the occupied lands.

JAMES BAKER, Secretary of State: We understand that the current government of Israel has a problem with that and we understand they have their principles and their positions on policy just as we have our principles and our position on policy. So we've said that we would support the provision of loan guarantees of some lesser amount, if there was a halt or an end to new construction activity.

MR. MacNeil: In Jerusalem, Israeli Prime Minister Shamir accused the Bush administration of adopting Arab positions and said his government would not stop Jewish settlement in the occupied territories. We'll have more on this story later in the program.

MR. LEHRER: The U.S. Supreme Court today upheld returning refugees to Haiti. The ruling was eight to one. About 15,000 Haitians fled to the United States after a military coup last September. About one-third of them have been returned by the U.S. Coast Guard. The Bush administration argued the Haitians were trying to escape poverty rather than political persecution and thus, were not eligible for asylum. Last night in Washington, Haitian politicians reached an agreement to set up a consensus government. It would allow exiled President Aristide to eventually return to power. The deal was reached after three days of talks between Aristide and his rivals. Haiti's military government indicated today it will go along with the settlement.

MR. MacNeil: In Dublin, Ireland, today, parents of a 14 year old rape victim asked the Irish Supreme Court to permit her to leave the country to have an abortion. The girl was raped by a friend's father. Last week, a lower court barred her from obtaining an abortion in Britain. Ireland has a blanket ban on abortions after voters amended the Constitution in 1983 to protect the rights of the unborn. The case has rekindled that bitter debate and some political parties have called for a new referendum. The Court is expected to issue its ruling later this week.

MR. LEHRER: South African President DeKlerk set a date of March 17th for a "whites only" referendum on apartheid. DeKlerk announced the vote after his ruling party lost a key parliamentary election to pro-apartheid conservatives. They have attacked DeKlerk for holding power sharing talks with black political groups. Those talks are known by the acronym CODESA. We have a report narrated by David Simmons of Worldwide Television News.

MR. SIMMONS: President DeKlerk has warned South Africa faces a huge crisis if he loses the referendum on ending apartheid. On March the 17th, white voters will have to answer a simple question, do they support his reforms or not. This man will be hoping they don't. Conservative opposition leader Andres Churnig wants to end talks underway with black liberation movements. Ultimately, his party would be happy to see a return to full apartheid in South Africa. ANC spokesman Cyril Ramaposa said those taking part in the CODESA negotiations are close to agreement on forming an interim government later this year. He said a win for the Conservative Party would not be welcome.

MR. RAMAPOSA: The Conservative Party and, indeed, the right wing seem to have put themselves unopposed, which intends to frustrate the aspiration of our people as a whole.

MR. LEHRER: President DeKlerk has said he will resign if white South Africans vote down his reforms in the March referendum.

MR. MacNeil: It was announced today that Supreme Court Justice John Paul Stevens has been diagnosed with prostate cancer. The Court spokeswoman said Stevens, who is 71, is being treated with radiation therapy and was expected to make a full recovery. Justice Steven was on the bench today and plans to participate in all court cases during his treatment period. He was appointed to the Court by President Ford in 1975. That's it for the News Summary. Still ahead on the NewsHour, an update on General Motors, Israeli loan guarantees, and Attorney General William Barr.

UPDATE - BUMPY ROAD

MR. LEHRER: Another shoe dropping by General Motors is our lead story tonight. Two months ago, GM Chairman Robert Stempel painted a broad picture of losses and layoffs that would total 74,00 jobs. Today he filled in more details. Twelve plants in the United States and Canada will be closed or experience cutbacks within the next few years. And the company's losses for 1991 came to a record $4.5 billion. The most closely watched decision which pitted community versus community, plant versus plant, ended with Ypsilanti, Michigan, in a state of gloom, Arlington, Texas, very much relieved. Betty Ann Bowser of public station KUHT-Houston was in Arlington today when the decision came down.

MS. BOWSER: As Brenda and M.C. Sims headed for work this morning before dawn, they were in a somewhat somber mood. This is the day they had been waiting for since December, when General Motors announced a massive reorganization that would include plant closings. Today Detroit would tell Brenda, M.C., and nearly 4,000 other auto assembly plant workers here in Arlington, Texas, whether their factory would stay open or be closed. Over at United Auto Workers Local 276, the word from Detroit came shortly before 9 o'clock.

SPOKESPERSON: I don't know what they did to the other one. Mike Howard just called and said that this one's staying open.

MS. BOWSER: And after a weekend ripe with rumors that the Arlington plant would be shut down, the news from General Motors headquarters was surprisingly good. GM President and CEO Robert Stempel made the final announcement.

ROBERT STEMPEL: The Willow Run assembly plant in Ypsilanti, Michigan, with 4,014 employees, this plant produces a Chevrolet caprice, sedan and wagon, the Oldsmobile custom cruiser, and the Buick roadmaster estate wagon, the production of these vehicles will be consolidated with the production at the plant in Arlington, Texas. Consolidation will be completed by the summer of '93 and Willow Run will be idled.

MS. BOWSER: No television cameras were allowed inside the Arlington assembly plant during Stempel's announcement, but the mood of the thousands of workers was described as one of relief. GM worker A.L. Vickery was there.

A.L. VICKERY, GM Autoworker: It was great.

REPORTER: Describe the reaction inside.

MR. VICKERY: Jubilant, couldn't ask for anything any better.

REPORTER: Were you worried at all?

MR. VICKERY: I imagine, slightly.

MS. BOWSER: Although local political and business leaders had offered GM millions of dollars in tax abatements and other incentives, GM plant manager Art Hester said that was not why the company decided to stay in Arlington.

ART HESTER, GM Plant Manager: We didn't win. It wasn't a game. This decision was made on the basis of business factors. There were no concessions asked or received. We recognize that in order to be competitive in today's environment, and I mean competitive around the world, we need to have the input and effort of all of our employees. Management and union being at loggerheads with each other can only guarantee that this place will be non-competitive, and, therefore, at some point in time not continue to operate.

MS. BOWSER: Local UAW President Dave Perdue agreed his union made no concessions, but said rank and file had agreed to work a new three shift work week to produce more GM cars.

DAVE PERDUE, President, UAW Local 276: I think UAW's out in the forefront in this.

MS. BOWSER: Is this going to mean jobs surviving in the 1990s with companies downsizing?

MR. PERDUE: I think it's going to help. As I say, we're faced with a situation that we don't have any bargaining power so much, with the marketshare of American cars being like it is, so, you know, we can't go up there and just threaten a big, long strike, so we're going to have to use new ideas to achieve our goals.

MS. BOWSER: Although local political leaders claim some of the victory for offering GM millions of dollars in potential tax incentives, Arlington Mayor Richard Greene gave most of the credit to the workers.

MAYOR RICHARD GREENE, Arlington, Texas: You know, I think this bumper sticker clearly illustrates that. We've got the corporate logo and we've got the union logo and they're working together and they're accomplishing things that they otherwise would not be able to do. We are in a global economy. We're hoping for worldwide capitalism, because that's where Americans are the best is in the field of competition and with labor and management working together to achieve those objectives, then we will emerge as the worldwide winner.

MS. BOWSER: Keeping the big GM assembly plant in Arlington means the area will hang onto at least 4,000 current jobs. And if GM completes its expansion plans here, another 1,000 new jobs could be created.

MR. LEHRER: Roger Mudd has more on this story. Roger.

MR. MUDD: Jim, we're joined now by reporter Don Gonyea, who covers the automobile industry for National Public Radio, and he joins us from public station WTVS in Detroit. Good evening, Don.

MR. GONYEA: Good evening.

MR. MUDD: Obviously, there was great relief in Arlington. Did the decision come as a surprise in Ypsilanti?

MR. GONYEA: That would be a major understatement. These workers started to get word last week that, from newspaper articles and the like, that their plant was the one that was going to survive, and you know, they're close to Detroit, they're close to supplier plants. The Michigan Congressional Delegation, a pro-auto industry delegation, carries a great deal of clout, so they thought they had everything they need to win. Plus, it's a very productive plant. They went in there probably a bit nervous, but still ready to hear a positive announcement in that closed-circuit address this morning. And, frankly, they were shocked when they heard that the Arlington plant would be the one staying open and that their plant is closing come next summer.

MR. MUDD: What did they think of the management's explanation of why Willow Run was being shut down?

MR. GONYEA: Well, they have a problem with GM's statement that there were no external things which, you know, determined which plant would ultimately stay open or stay closed. But ultimately, the most common comment focuses on another issue, the proposed free trade pact between the U.S. and Mexico. They say that is going to make it much easier for GM to put supplier plants and the like down South of the border and the Arlington plant is in a perfect position to take advantage of plants down there.

MR. MUDD: I noticed one of the plant closings is at Morane, Ohio, and that one is being moved to Mexico. How does that go over in Michigan?

MR. GONYEA: Yeah. And that, again, gets directly to that question. I mean, they say that GM can't compete, that the company has been laying off thousands of U.S. automakers off the last several years, but the company is more than willing to set up shop down there and use those lower waged employees. So, as you can imagine, they are quite upset to hear that that one small plant is going to be shifted down there. And their larger concern though is that more plants will be going down there, especially if the U.S.-Mexico Free Trade Agreement goes through.

MR. MUDD: Well, what do you judge to be, Don, that is so special about the Arlington plant? Did you hear me?

MR. GONYEA: Yeah. I'm losing you there.

MR. MUDD: Okay.

MR. GONYEA: I think you said what's so special about the Arlington plant?

MR. MUDD: What's so special about Arlington that General Motors would shift to Texas?

MR. GONYEA: Well, you ask the company and they say these are two fine plants. The problem was that, you know, they had, they're selling enough of these big rear-wheel drive cars, the caprice and the like, to fill one plant, and they had two plants. So there was a redundancy there. One of them had to go. They also refused to say this was even a competition between the two plants. Robert Stempel this morning at that news conference said, you know, Willow Run didn't lose and Arlington didn't win. It was just a decision we had to make based on the realities of the business. But there are -- analysts will speculate as to what they liked about the Arlington plant, and one of the things they say is that the work force down there has been perhaps more agreeable, more willing to work with General Motors. As was mentioned in that report just a few moments ago, workers down there voted around Christmas time, before Christmas I guess it was, to add a third shift, which would save the company a great deal of money, it would eliminate overtime, it would keep the plant functioning. Ultimately, that has yet to be negotiated, but the workers made the offer and analysts see that as kind of a symbol of the kind of thing workers down there were trying to do. Workers up here resisted offering any such concessions because it gets to that whole question of whipsawing. They didn't want to get involved in any kind of bidding match, one plant against the other.

MR. MUDD: Does that mean that the UAW in Michigan bears the responsibility for losing the Willow Run plant?

MR. GONYEA: I don't think so, though I think some people, you could look at it that way. But, you know, the UAW International has to approve any local agreements, and they haven't approved any agreement down in Arlington that would have them work these extra shifts and the like. That question was put to General Motors Chairman Robert Stempel today and he said there were many things taken into consideration. And he wouldn't get into the whole question of which plant's work force was more willing to work for them or had a better productivity record or whatever. But he, you know, he did not put the blame on either work force or either local union leadership.

MR. MUDD: What about the effect on the Michigan economy? It's not really ready for another blow like this, I guess, is it?

MR. GONYEA: I don't know if our unemployment is the highest of the industrial states right now, but it's up there. It's double figures and this is 10,000 jobs, 10,000 jobs because not only are we losing the Willow Run plant, the plant near Ypsilanti, but there's also a Flint engine plant which employs 4,000 people that will be closed down.

There's another plant in Saginaw, Michigan. It's going to hurt and the state is already struggling and making serious cuts. You know, there's much talk about welfare reform in Michigan and everything else. The state is simply already kind of overburdened, and it doesn't need to hear this and the spinoff, of course, sure won't help.

MR. MUDD: Is Robert Stempel's career on the line?

MR. GONYEA: No. Nobody is saying that. There has been talk the last couple of months about a possible shake-up within the top ranks of the company. In fact, a lot of people expected something in that big December 18th announcement. Nothing happened. In fact, today he kind of gave another vote of confidence to his staff, his vice presidents, if you will. But, no, nobody is really saying that his job is on the line, but he's not a very popular man, you know, in a lot of cities around the country right now.

MR. MUDD: My final question, Don, is: Is this the start of a genuine General Motors turnaround, or is it the beginning of General Motors' death rattle?

MR. GONYEA: Boy, that's the question, isn't it? Analysts are optimistic that the company has gotten ahold of the problem. It needs to cut costs drastically. It needs to become more efficient, improve its productivity. And they say these kind of tough decisions need to be made, and they are making these decisions. But it's a tough business out there. There are competitors from all over the world selling products here and just being biggest isn't going to make you the best anymore. So I guess the jury's still out then on how well this big restructuring program will turn out for the giant automaker.

MR. MUDD: Thank you. Thank you, Don Gonyea in Michigan.

MR. GONYEA: Thank you.

NEWSMAKER

MR. LEHRER: Now a Newsmaker interview with Attorney General William Barr. He took over the Justice Department three months ago after serving as deputy to Richard Thornburgh. He's made headlines since for a violent street crime initiative, moving against illegal immigration, and announcing plans to use U.S. anti- trust laws against some Japanese companies, among other things. Mr. Attorney General, welcome.

ATTORNEY GENERAL BARR: Thank you, Jim.

MR. LEHRER: First, on the subject of leaks to reporters, the investigation at the Senate over the Anita Hill memo growing out of the Clarence Thomas confirmation thing, that Senate investigation went on today. More witnesses were heard. Do you support that investigation?

ATTORNEY GENERAL BARR: Yes, I do.

MR. LEHRER: Do you think that people who leak that kind of thing should be prosecuted under criminal laws?

ATTORNEY GENERAL BARR: Well, without commenting on that particular case, I think it depends upon the circumstances of the leak and what laws were violated. These leak cases are very difficult cases. In a serious case involving national security information or other protected information, I could conceive of a case where prosecution would be warranted.

MR. LEHRER: Where do you draw the line on that? There's a very - - you know, the public's right to know versus whether it's a victimless crime, or whether somebody gets hurt, national security, or whatever -- what is your perspective on what -- and then you've got reporters refusing to disclose their sources, as has happened in this case -- should they do that?

ATTORNEY GENERAL BARR: They certainly can interpose some kind of privilege claim but I think it's a delicate balance in any given case, the nature of the information released, the obligations of the employee who did it, what

harm may have been caused by it, and I think at the Department of Justice we're very careful to look at all the circumstances, particularly before we subpoena a reporter. But I can't give you a categorical rule that can be easily applied in every case. It's really a case by case assessment.

MR. LEHRER: Has there ever been a successful prosecution in a leak case?

ATTORNEY GENERAL BARR: That I really couldn't tell you.

MR. LEHRER: I couldn't find one today. I was thinking, my goodness, there must be, but I couldn't find one and you don't know of one either.

ATTORNEY GENERAL BARR: Not off the top of my head.

MR. LEHRER: But there's a big, there's always a huge debate when a reporter, as these reporters are, are saying, no, I am not going to tell the Senate of the United States who leaked me this memo, and then there's always a debate about the public's right to know versus the public's right to protect its secrets. You're saying there are no rules.

ATTORNEY GENERAL BARR: I'm saying it's a delicate balance in each case.

MR. LEHRER: Okay. All right. I think we'll leave that one and go on to another one.

ATTORNEY GENERAL BARR: Okay.

MR. LEHRER: Go on to another form of crime, and that's violent street crime. You have made some very public moves in this area recently, one of them reassigning 300 FBI agents and 25 DEA agents. What is that supposed to do?

ATTORNEY GENERAL BARR: Generally, Jim, what we're trying to do is help state and local government deal with the violent crime problem. As you know, 95 percent or more of violent crime is really state and local in nature. But I think the federal government can play a critical role in assisting state and local government by bringing our very strong laws to bear in three areas in particular, gangs, felons who use firearms in their offenses, and then drug organizations. And so what we're doing, we're going after gangs and using our organized crime statutes to try to take out these organizations. With our project "Trigger Lock" we're using the federal firearms statutes, that has very strict penalties against people, particularly repeat offenders, who use firearms, we're using those laws to target the chronic firearms offender, the felon, and trying to put them away in federal penitentiary for a long time, and then we're going after the drug organizations obviously. So in those three areas we think we can make a difference with our state and local colleagues.

MR. LEHRER: Some of your critics have pointed out things like, hey, wait a minute, there are 25,000 cops on the street in New York City alone; 300 FBI agents, and 25 DEA agents for the whole country isn't going to have much effect.

ATTORNEY GENERAL BARR: That's not true. First, we're talking about augmentation of forces that are already in place in the federal system, but the federal government, we can target our resources better than our state and local colleagues can and working with them in task forces. Remember, our state and local law enforcement, they have a broad front that they have to cover. They have to cover traffic, everything from drug trafficking to traffic violations. We can target our resources. Moreover, the key is not so much the manpower, it's the laws. The federal system was reformed during the 1980s and is now a very tough law enforcement system. We have prison space. We have tough laws, RICO laws.

MR. LEHRER: That's organized crime.

ATTORNEY GENERAL BARR: Organized crime laws.

MR. LEHRER: Racketeering.

ATTORNEY GENERAL BARR: Racketeering, and very stiff penalties, and when we put someone away they stay away. Moreover, we've almost tripled federal prison capacity. In fact, President Bush in the first three years of his administration has increased prison capacity by 118 percent in the federal system, which is a key determinative of keeping these people off the streets. So that is where we can make a difference. I think we're really at a critical juncture in the violent crime problem in the United States. I think we know how to avoid a lot of the violent crime that has occurred and the critical issue is whether we have the will to deal with it.

MR. LEHRER: What do you mean?

ATTORNEY GENERAL BARR: The violent crime problem in the United States is really the problem of the repeat, chronic offender. This is an individual who started a criminal career as a juvenile and has kept right on going. They generally commit three, four, five crimes a week while they're out on the streets. They're not rehabilitatible. They commit crimes when they're on parole.

MR. LEHRER: You're really talking about this kind of crime, you're talking about the use of violence of some kind in a robbery or something like that.

ATTORNEY GENERAL BARR: Robbery, rape, murder, burglary. I think the average American citizen knows when he picks up the paper and reads the paper about who are committing these crimes, they see that most of them have already had several encounters with the law enforcement system. Most of them have been on probation, parole. Some of them are awaiting trial, on bail for some other offense. The, it seems to me that the way to deal with violent crime, and I think most law enforcement officials would say this, is to incapacitate these individuals the first time, get them into custody and keep them in custody for a long time and make them serve their whole prison sentence.

MR. LEHRER: Forget rehabilitation and all of that.

ATTORNEY GENERAL BARR: For some, rehabilitation is possible, but once they embark on a career of crime, that becomes problematic, moreover, we're now in many states have a revolving door system of justice which doesn't keep them in prison long enough either to deter them or to rehabilitate them, and certainly not to incapacitate them. The problem is the prison space. During the '80s we've built prisons, we reformed many of our systems, including the federal system, and in fact, the violent crime rate, and this is one of the best kept secrets in the country, the violent crime rate skyrocketed during the '60s and '70s, almost quadrupled. In the '80s when we started getting tough, it leveled off. It's no longer the spiral it was in those first two decades. Now, it's still increasing, but at a much lower rate and basically I think in the '80s we did about half the job we had to do. And I think in the '90s we have to do the other half of the job and that's going to require states to build prisons, and it's going to require states to adopt many of the reforms, which we did adopt in the federal system during the '80s, no parole, pre-trial detention for violent criminals, stiff penalties from chronic offenders.

MR. LEHRER: What do you say to those who say that Attorney Generals of the United States and Presidents of the United States only talk about violent crime at election time, because there's very little they can do about it, as you pointed out, in order to really solve the violent crime problem in this country it's going to take state and local governments and state and local prisons and all that sort of thing, and that all of this has come up again because it's election time?

ATTORNEY GENERAL BARR: I'd say that those people who said that haven't been paying attention for the past three years. George Bush has increased, as I said, our prison capacity by 118 percent in three years. The Department of Justice's budget has gone up 70 percent in three years. It's one of the fastest growing agencies in government. So this administration has been investing in law enforcement. We've been seeking stronger legal tools from Congress. We haven't gotten them. But we are --

MR. LEHRER: But none of those things are really -- the crime bill that's now pending before Congress that the administration and the Congress had all these problems with is not going to do anything about violent street crime, is it?

ATTORNEY GENERAL BARR: Oh, sure, there are penalties in there for violent street crime, for sexual offenses, for repeat firearms offenders. There are a lot of tough penalties in that proposal which are now languishing on Capitol Hill. But we're not just waiting for Congress to act because for the past three years we have been targeting violent crime as Project Trigger Lock I mentioned. We are now prosecuting, 10 percent of the federal case load are firearms offenders. That's double what it was previously. So we have stepped up the effort against the chronic offender, but in the long run, the answer's not to federalize street crime. We simply don't have the resources to handle it the same way the state and locals do. The answer is to make the state and local systems as tough as the federal system. The police and the prosecutors nationwide are doing a great job. They're apprehending the individuals, they're convicting them. The problem is, they're not being sent to prison for long enough terms. It's revolving door justice. They're back out on the street, committing crimes.

MR. LEHRER: So in the Wall Street Journal, for instance, there's a 10 days ago quote, your actions on street crime and some of these other things have more to do with Presidential election year politicking than with fighting crime on the streets, end quote. You plead not guilty, is that right?

ATTORNEY GENERAL BARR: I plead not guilty and I point out, look, I was made attorney general in November, the beginning of an election year, and if people think I'm going to sit around and twiddle my thumbs in my office because it's an election year, they're dead wrong. What I have to do, what every attorney general should do, is to strengthen the law enforcement system. And that's what I'm doing. I'm trying to strengthen the law enforcement system, and I haven't heard any of these people in peanut galleries suggesting that the steps that I have taken are anything but good. Shouldn't we be putting more FBI agents on violent crime? Shouldn't we be putting more INS agents out there going after alien gang members? Shouldn't we be strengthening our border patrol? Shouldn't we be stepping up the attack on health care fraud? No one has attacked the substance of those, so I have very little patience for the tittering in the peanut gallery, frankly.

MR. LEHRER: Speaking of the peanut gallery, Pat Buchanan is running, of course, for the Republican nomination against President Bush. He wants to put a fence across the border with Mexico to stop illegal immigration. What do you think of that idea, I mean a big fence?

ATTORNEY GENERAL BARR: I thought it was a ditch.

MR. LEHRER: A ditch. Well, it's a fence and -- it's a combination ditch and fence.

ATTORNEY GENERAL BARR: I don't think it's necessary. I think that's overkill to put a barrier from one side of the border to the other. In fact, the problem with illegal immigration across the border is really confined to major metropolitan areas. Illegal immigrants do not cross in the middle of the desert and walk hundreds of miles to the nearest city. They generally try to go up through certain specified routes and, in fact, we're only talking about a 200 mile area where there's appreciable crossings, illegal crossings, and in fact, 40 to 50 percent of the illegal crossings in the United States occur on a 14 mile stretch south of San Diego.

MR. LEHRER: Why can't you stop it then?

ATTORNEY GENERAL BARR: Well, we're taking steps to control it, and, in fact, there are some barriers there that have reduced violence and made it easier to interdict the aliens crossing.

MR. LEHRER: What do you think of Mr. Buchanan's challenge to Mr. Bush? You're a conservative. You weren't born Attorney General of the United States. You've come out of conservative political roots and all of that. What do you think of this?

ATTORNEY GENERAL BARR: Well, I'm very proud of my service in this administration, because I think it has an excellent record, and as a conservative I think it is above reproach as an administration. But my job is to carry on the work of the government. You know, business has to be conducted even in election years, and when the President made me Attorney General, he said he was selecting me because he wanted the Department of Justice run effectively and he wanted the laws administered efficiently and fairly. And that's my job and Attorneys General generally stay out of partisan politics. I don't want to get drawn into the campaign, frankly.

MR. LEHRER: As a practical matter though, most of your predecessors have come from, have been close political allies of the Presidents who chose them. John F. Kennedy chose his brother. Griffin Bell was Jimmy Carter's. He was his campaign manager. Richard Thornburgh came out of the political world. In other words, you are different than all other Attorney Generals in that way?

ATTORNEY GENERAL BARR: Well, I can't say. I'm not different in what I just said, which is Attorneys General don't go out and campaign.

MR. LEHRER: Sure. I understand. Sure. You're not going to go out and campaign.

ATTORNEY GENERAL BARR: No. But there is I think a tradition that the Secretary of Defense, the Secretary of State, and the Attorney General generally try to stay out of the campaign but it is probably true that my background is different than many Attorneys General.

MR. LEHRER: And you see yourself differently as other Attorney Generals have seen themselves, do you think?

ATTORNEY GENERAL BARR: I don't know how they saw themselves.

MR. LEHRER: Is it, is it a job that's all it's cracked up to be? You've been doing it now for three months. You're one of the youngest. I tried to check this, whether you were at 41 the youngest ever to be the Attorney General. That's not quite true because of Bobby Kennedy, obviously.

ATTORNEY GENERAL BARR: That's right. It's a challenging job. But it's a very gratifying job, administering the law, trying to do justice in a particular case, going after the bad guys.

MR. LEHRER: But how are you, as Attorney General, I mean, you're very loyal to your President, he's up for reelection, very difficult election campaign coming, how are you going to separate that when it comes to making decisions? Because you've got a lot of discretionary power as the Attorney General of the United States, do you not? I don't mean making blatant political decisions, but doing things that would help the President get reelected. Is that going to be a problem for you?

ATTORNEY GENERAL BARR: I don't think so, and as I've said, the President, the President's program has been an excellent one in law enforcement. And I'm particularly proud, and I said this at my swearing in, I'm particularly proud to serve this President because he has such a superb record of backing law enforcement, and I think most law enforcement people in the country feel that he's been second to none in the support he's given law enforcement, so I think just by doing my job and keeping the course that he's set from day one to increase the resources and the activity of the Department of Justice, I think that will help the administration.

MR. LEHRER: And if good things happen as a result of that politically, so be it.

ATTORNEY GENERAL BARR: Right.

MR. LEHRER: Well, thank you, sir, for being with us.

ATTORNEY GENERAL BARR: Thank you.

FOCUS - PRESSURE POINT

MR. MacNeil: The Mideast is our next focus. In Washington, another round of peace talks has resumed at the State Department. But even more attention was centered on a dispute between the Bush administration and the Israeli government. Israel wants $10 billion in loan guarantees for housing Jewish immigrants from the old Soviet Union. But President Bush has linked the guarantees to a halt in Israeli settlements in the occupied West Bank and Gaza Strip. Our coverage begins on Capitol Hill, where a House subcommittee asked Sec. of State Baker if the administration was seeking the freeze on all Israeli settlements in the occupied territories.

REP. SIDNEY YATES, [D] Illinois: If you are asking for a freeze, what are you asking for? And secondly, if you are indulging in a freeze or seeking a freeze of all settlements on the West Bank, how long do you expect that freeze to go on?

JAMES BAKER, Secretary of State: First of all, I have not used the term "freeze," because I think it has sort of a buzzword connotation. However, let me, let me answer your question as best I can. I'd like to begin by saying that we're still in discussions with the government of Israel and I don't plan to negotiate this issue right here this morning with the Committee. What we've said is that we will support loan guarantees of up to $2 billion for five years if there is a halt or an end to, to settlement activity. We understand that the current government of Israel has a problem with that and we understand they have their principles and their positions on policy, just as we have our principles and our position on policy. So we have said that we would support the provision of loan guarantees of some lesser amount if there was a halt or an end to new construction activity, which is the way we've said it, new construction activity.

REP. YATES: New construction activity.

SEC. BAKER: Yes.

REP. YATES: And does that mean they can finish up the old construction?

SEC. BAKER: What we've said is that we would be willing to, to support loan guarantees without requiring a halt or end to settlement activity with respect to those units perhaps that were under, again, and we're still in the process of negotiating a lot of this, units that were under construction let's say on January 1, 1992. The choice, Mr. Chairman, from our standpoint is Israel's. The choice is Israel's. She can determine whether she wants to adopt, whether she wants to take action, which would permit the strong support of both the legislative and executive branches for these loan guarantees or not. We have a total, absolute, and unwavering commitment to the security of Israel. And we're not going to do anything that at least in our good faith judgment would endanger that security. So if you ask me can there be a construction of a defense facility, I would have to say that's not what we're talking about when we say halt or end settlement activity. But if you ask me, can there be leveling and clearing of a whole lot of new land and putting in infrastructure, my view is that's settlement activity.

REP. LARRY SMITH, [D] Florida: Why must you insist on a loan guarantee that is coupled with a freeze of settlements when you, in fact, are not putting any conditions on anyone else on the Arab side at all? Aren't you presupposing and putting yourself in the position of negotiating for one side, putting the other side at a significant disadvantage?

SEC. BAKER: Absolutely not, Mr. Smith. As I mentioned in an answer to a prior question, our opposition to settlements has been there since 1967 through every administration that has been in office since that time.

REP. SMITH: I don't disagree --

SEC. BAKER: Nobody else -- let me just finish -- nobody else is asking us for $10 billion in additional assistance over and above the 3 to 4 billion dollars that we give every year with no strings attached.

REP. SMITH: They're not asking for a dime --

SEC. BAKER: Well, you want me to answer your question?

REP. SMITH: Yes. You know, they're not asking for any assistance.

SPOKESMAN: Very shortly, Mr. Secretary, because I want to make sure that every member of the committee gets a chance to question and some others are coming.

SEC. BAKER: Well, I think I've probably finished the answer anyway.

REP. SMITH: Mr. Secretary -- Mr. Chairman, a point of personal privilege. You know, you've done that before, Mr. Secretary, and I find it extremely offensive. I didn't ask you anything confrontational personally. This is all on policy. And for you not to finish the answer is another attempt to try to reject any kind of significant --

SEC. BAKER: No, Larry, I think I finished the answer.

REP. SMITH: Well, sir, you did not finish the answer.

SEC. BAKER: I finished it.

REP. SMITH: And it's basically the same way you want to deal with this subject.

SEC. BAKER: I finished it as far as I was concerned, and I will determine when I finish my answers, not you.

REP. SMITH: I hope someday the American public is going to determine whether you've finished the answers or not. It's disgraceful.

MR. MacNeil: Joining us now are Michael Shilo, deputy chief of mission at the Israeli embassy in Washington, and Rita Hauser, a New York lawyer who heads the International Center for Peace in the Middle East. Mr. Shilo, do you believe the United States has toughened its position recently on this issue?

MR. SHILO: Well, there may be a toughening of position. There is a very strong linkage which is developing lately. We said all the time that we should treat a humanitarian question on its humanitarian merits and we should treat everything else, political questions like the peace process that's going on today in Washington and like the question of settlements on the merits of settlements and peace talks. And here, here we have a linkage that is creating an impossibility for Israel. In fact, what you are asking or what the Secretary is asking Israel is to set its priorities, but the priorities would be to choose between eating and breathing. And it's very difficult to choose if these are the choices put to you.

MR. MacNeil: Do you see it that way, that's the choice for Israel, Ms. Hauser?

MS. HAUSER: I don't see it at all that way. I see it as a choice which Israel and Israelis are asking their government to make. Every poll now shows the vast majority of Israelis are in favor of freezing settlements in order to get guarantee money, in order to get assistance, to bring in the Soviet Jews, whom they want desperately. They understand that the United States is not going to provide money for settlements which we have opposed, as the Secretary says, since 1967, but which clearly goes to the heart of the peace process. If the settlements continue, the peace process, which we have brokered and supported and pushed along to the talks this week will simply collapse, because there will be no way in which the Palestinians or the Arab world will continue to participate in the talks if there is no end to the settlement.

MR. MacNeil: Do you believe, Mr. Minister, with the Congressman who was just questioning Mr. Baker that by insisting on this linkage that the Bush administration is taking the Arab side in the peace talks?

MR. SHILO: I wouldn't say that the administration is taking the Arab side, however, this is a very, very difficult demand on Israel. One has to remember that this is a very unique opportunity for the state of Israel, a very unique opportunity for Soviet Jews to rebuild their lives. These are people who left the Soviet Union through efforts of this administration and the previous administration of Vice President Bush and President Bush and the Secretary of State, and they left the Soviet Union with their life savings and two suitcases. It is a chronological coincidence that this happened at the same time as a peace process happens. It could have happened two years ago. It could have happened two years from now, and there the use of the chronological coincidence is something which we wish to change in a way that would enable us to do both, to take the people from the Soviet Union, from the ex- Soviet Union, and proceed with the peace talks with the Arabs.

MR. MacNeil: You heard Mr. Baker indicate what the U.S. position is in some, as he described, some efforts to negotiate this, in other words, compromise a little. How far is Israel prepared to go in limiting settlements? If you

won't end or halt new construction, what is Israel prepared to do to meet the United States and try and negotiate this?

MR. SHILO: I think the Secretary said in his testimony today that the talks with Israel are still going on and he said he does not wish to negotiate with the committee instead of negotiating with the government of Israel, he couldn't do it on the Hill today, and I surely cannot do it on television.

MR. MacNeil: No, but some positions of your government are public already, are they not, that you used the word in public, I believe your government has, that you would be prepared to limit settlements.

MR. SHILO: Well, I do not know to tell you if and to what extent Israel would be able to limit the settlements. This caught us not only on the crossroads of immigration and peace process, but also on the crossroads of elections happening in Israel and in the United States. So this further complicates the issue, and it would be very difficult, Ms. Hauser thinks she can speak for the Israeli electorate. I'm not so very sure that I'm able to do this, but I know that the elected government in Israel, which is in power, thinks that the continuation of settlement activity is very important not just for political and ideological reasons but also for very tangible, I should say, security reasons.

MR. MacNeil: Do you sense, from your knowledge of the negotiations, Ms. Hauser, that a compromise on this is possible, that there's some way they can meet?

MS. HAUSER: I doubt that a compromise will be worked out in the context of an Israeli election which is coming up in June, June 23rd. I don't see that happening. I think that Mr. Shamir has made his course of action very clear. I don't think it's a course of action that the Labor Party would pursue. I don't think it's a course of action that the vast majority of Israelis would pursue, and I think that a large majority of American Jews are not supportive of the settlement policy, and there is a grave danger of a complete collision with the strongest support that Israel gets, which is from the United States, not to speak of the condemnation of the rest of the world. Israel has to choose, just as all countries have to choose, between policies. And the policy Israel ought to be choosing is to do everything possible to welcome into Israel these Jews from the Soviet Union, as you have indicated, Mr. Ambassador, but not at the cost of continuing a policy of settlements that ran last year over $2 billion, which the rest of Israel needs desperately. It's a policy that belongs to a small number of ideologically committed people in Israel. It does not reflect the broad consensus of interest. And I suspect it'll be a big, hot issue in the Israeli election, as well it should be.

MR. MacNeil: Do you agree with that, Mr. Minister, that Ms. Hauser thinks it cannot be compromised, it cannot be negotiated with this government?

MR. SHILO: I know that negotiations are still going on, and I know that Amb. Shoval, who is negotiating for Israel, is under instruction of his government, of our government, to continue the talks with the representative of the administration, who is the Secretary of State. So these talks are continuing, will continue in the next few weeks, and we still hope that we would be able to use this vehicle that just is coming our way, which is the foreign aid bill, to legislate in Congress loan guarantees for Israel.

MR. MacNeil: Does Israel have enough friends in Congress to do that, do you think?

MS. HAUSER: On this issue, surprisingly enough, I think the overwhelming support is with the President of the United States and not with the position of the government of Israel. That was shown in the last confrontation last year when the President asked for a delay. I think the President will win on this issue, will win strongly. It's not just because of his position on this question, but as I'm sure the Israeli government understands, there is a mood in the United States today that is strongly in opposition to more foreign aid. It reflects the difficult times within our own country. It reflects the demise of the Soviet Union as a threat. The world has changed. The global situation has changed. But, alas, this current Israeli government has not changed its posture.

MR. MacNeil: Mr. Minister, the current Israeli government is exactly the phrase that we just heard Mr. Baker use in the hearings today. The New York Times suggests that the election of Mr. Rabin to head the Labor Party because he would in the eyes of Washington give Prime Minister a closer run in an election, that that somehow strengthens

the administration's position here. Do you feel that, do you feel that the election of Mr. Rabin or the approaching election gives the U.S., gives the -- I'm not putting this very well -- makes it easier for the Bush administration to insist on its point and harder for you to hold to yours?

MR. SHILO: I would very strongly hope and believe that the United States administration is so very busy with elections happening in the United States of America that they would not try, and I'm sure they would not try and interfere with elections happening in another country. And we should, we should go on with Israeli politics and solve our own problems in Israeli politics in creating our own government and in this I don't think we need advice.

MR. MacNeil: Does the election of Mr. Rabin influence this situation from the way you see it?

MS. HAUSER: I think so. I think that the administration in Washington was very pleased that Yitzhak Rabin became the leader because he has the prospect of giving the Lekud Party the strongest battle for the election. My own guess, and it's problematic, is that there will probably be a very close election in Israel. The role of the Soviet Jews, over 300,000, will vote for the first time. How they will vote in light of their difficulties in Israel today is an open question. No one knows the answer to it. But this issue, how Israel spends its resources, whether it spends it on Soviet Jews and on building its own economy or continuing to build these little settlements across the West Bank in opposition to the view of the world, and to the obvious needs and views for the peace process, contrary to the interests of the people who live there, that's going to be a central issue in the election, and I would guess and it's a guess, but I would guess that the majority of Israelis will not vote to support Mr. Shamir on this question. And I certainly think that's the view of the majority of Americans.

MR. MacNeil: In answering that, Mr. Minister, is the need, how great is the need for these loan guarantees? What happens if you don't get the loan guarantees? Presumably, Israel can still borrow money somewhere. I mean, the guarantees are to make it easier for you to borrow in the world markets at beneficial rates, I presume, but without the guarantees, you can still borrow money, can't you?

MR. SHILO: We could still borrow money, but this is a huge amount and we wish to borrow it for an extended period of time. And what is available in the markets is shorter terms and was borrowing conditions. So all we need, and Ms. Hauser said, well the Americans are not in the mood at the moment to extend foreign aid, but this is not really, I mean, it is coupled technically with the legislation on foreign aid, but it is not a foreign aid item, as you do know. It is a question of co-signing a loan which Israel wishes to take in banks and financial institutions, and thus, it is not really a burden for the American taxpayer in this year of economic constraint.

MR. MacNeil: Well, I'm sorry, we have to leave. That's our time. Minister Shilo and Ms. Hauser, thank you both for joining us.

RECAP

MR. LEHRER: Again, the major story of this Monday, General Motors announced record losses for 1991 and identified 12 plants it will close or cut back. It was the first step on a downsizing plan that will shut 21 plants and eliminate 74,000 jobs in the next four years. Good night, Robin.

MR. MacNeil: Good night, Jim. That's the NewsHour tonight and we'll see you tomorrow night. I'm Robert MacNeil. Good night.

HONORABLE JUSTICE.; Washington Brief

The National Law Journal

February 24, 1992 Monday

THE NATIONAL LAW JOURNAL

Section: Pg. 6 (col. 1); Vol. 14

Length: 261 words

Body

Washington Brief

This column was written by National Law Journal Staff Reporter Marianne Lavelle and Washington, D.C., Bureau Chief Fred Strasser.

There's nothing like a recession to plug the government's brain drain. Take the Justice Department's honors program, for instance, the entry-level on-ramp for the brightest law grads into what attorneys general like to call the nation's largest law firm.

During the Roaring '80s, law school graduates saddled with loans and bedazzled by blue-sky starting salaries, lost interest in what had been a prestige post-graduate perch at the Department of Justice. The numbers of applicants fell and no one was happy that fewer and fewer of the honorees came from top-tier schools.

Come the Nervous '90s and things changed - and fast. Applications to the program for 1991-'92 have soared 92 percent from the number received two years ago, and jumped 47 percent above the 2,908 applications received last year. This year, 4,300 new graduates and former judicial clerks sought admission. The number of acceptances hasn't changed though: it's still about 200 - only now that means just one in 22 gets in.

While Attorney General ***William P. Barr*** attributed the upsurge to renewed interest in public service as well as the state of the economy, the applicants are aiming for what's hot. The largest increases were for the Immigration and Naturalization Service, 131 percent; the Executive Office for U.S. Trustees, 114 percent; the Bureau of Prisons, 86 percent; the Tax Division, 65 percent; and the Antitrust Division, 51 percent.

Classification

Language: ENGLISH

Publication-Type: Newspaper

Subject: LAW SCHOOLS (90%); LAWYERS (90%); LAW ENFORCEMENT (78%); RECESSION (77%); JUSTICE DEPARTMENTS (77%); ANTITRUST & TRADE LAW (77%); ATTORNEYS GENERAL (77%); GRADUATE &

PROFESSIONAL SCHOOLS (76%); WAGES & SALARIES (73%); TAX AUTHORITIES (73%); CORRECTIONS (72%); ECONOMIC CONDITIONS (72%); IMMIGRATION (64%); PRISONS (50%)

Organization: US DEPARTMENT OF JUSTICE (84%)

Industry: LAW SCHOOLS (90%); LAWYERS (90%); GRADUATE & PROFESSIONAL SCHOOLS (76%); TAX AUTHORITIES (73%)

Geographic: DISTRICT OF COLUMBIA, USA (79%); UNITED STATES (93%)

Load-Date: April 16, 2011

End of Document

NewsRoom

2/22/92 South Florida Sun-Sentinel 8B
1992 WLNR 4221645

South Florida Sun-Sentinel

February 22, 1992

Section: LOCAL

FEDERAL CASH TO AID IN CRIME, DRUG FIGHT

The U.S. Justice Department on Friday awarded Florida $19.7 million to finance state and local programs to fight crime and drugs.

The money, from the government`s State and Local Law Enforcement Assistance Program, is intended to allow states and local units of government to carry out innovative law enforcement programs to improve the criminal justice system and enhance drug control efforts.

Florida will use some of the money to finance programs in such areas as multijurisdictional task forces, said U.S. Attorney General William P. Barr. The grant will also go to urban enforcement, improving drug control technology, financial investigations, the improvement of criminal records, programs in domestic and family violence and community crime prevention.

How much money will go where has not yet been decided.

---- Index References ----

News Subject: (Crime (1CR87); Legal (1LE33); Judicial (1JU36); Social Issues (1SO05); Criminal Law (1CR79))

Industry: (Healthcare (1HE06))

Region: (USA (1US73); Americas (1AM92); Florida (1FL79); North America (1NO39))

Language: EN

Other Indexing: (US JUSTICE DEPARTMENT) (FEDERAL CASH; William P. Barr)

Keywords: FEDERAL GRANT; PREVENTION; CRIME DRUG

Edition: SUN-SENTINEL

Word Count: 163

NewsRoom

NewsRoom

2/21/92 Reuters News 00:00:00

Reuters

February 21, 1992

U.S. TO EXTEND ANTITRUST LAWS TO JAPANESE CARTELS.

James Vicini

WASHINGTON, Feb 21, Reuter - Attorney General William Barr said the Justice Dept will soon extend the reach of the American antitrust laws to Japanese cartels that restrict U.S. exports.

Barr, in a televised interview on John McLaughlin's "One on One" show to be aired Sunday, denied the major policy change was politically motivated in an election year. A transcript of the interview was released Friday.

As the presidential election campaign heats up, President Bush has come under increasing pressure to take tougher action to cut America's stubbornly high trade deficit with Japan.

Bush last month visited Japan to try to convince Tokyo to buy more American goods so as to increase U.S. jobs. But the trip was widely viewed as an economic and political disaster.

Barr, who was named to the Cabinet-level post by Bush last October, maintained that politics played no role in his consideration of the issue.

He said it simply was a matter of interpreting how the U.S. antitrust laws, designed to foster business competition and protect consumers, should be applied.

"I would just say that I think the antitrust laws will be a useful tool against cartels that are excluding U.S. exports," Barr said when asked if the United States would stop the unfair practices by the Japanese cartels.

Under the current policy that has long been in effect, the Justice Dept in enforcing the antitrust laws must prove that any alleged violation directly harms American consumers.

But Barr, the nation's top legal official, said, "I expect that policy to be changed very shortly," he said, adding "Within a matter of weeks."

Pressed further about getting rid of the requirement that American consumers be harmed and how it has inhibited use of the antitrust laws against Japan, Barr again replied, "I expect that to be changed."

He brushed aside questions on whether the move will hurt U.S.-Japanese relations or might lead to retaliatory action by Japan.

"That's not my bailiwick. I have to enforce the law as written," Barr said, adding that he was consulting with the State Department and the U.S. Trade Representative.

Assistant Attorney General James Rill has long advocated expanding the reach of the American antitrust laws to cover overseas activities that hurt U.S. exporters and producers, but not consumers.

But even if the change were adopted, it was not clear whether it would have any impact on the huge U.S. trade deficit with Japan.

---- Index References ----

Company: STATE DEPARTMENT

News Subject: (Monopolies (1MO68); Legal (1LE33); Global Econopolitics (1GL97); Economics & Trade (1EC26); World Trade (1WO85); Antitrust Regulatory (1AN52); Exports (1EX39); Balance of Payments (1BA70); Regulatory Affairs (1RE51))

Region: (North America (1NO39); Far East (1FA27); Eastern Asia (1EA61); USA (1US73); Americas (1AM92); Asia (1AS61); Japan (1JA96))

Language: EN

Other Indexing: (JOHN; JUSTICE DEPT; STATE DEPARTMENT; US TRADE REPRESENTATIVE) (Assistant Attorney; Barr; Bush; James Rill; Pressed; Tokyo; William Barr)

Word Count: 413

End of Document

2/17/92 L.A. Times 5
1992 WLNR 3972069

Los Angeles Times

February 17, 1992

Section: MN-Main News

Washington Insight

THE PIPER STAYS HOME: Atty. Gen. William P. Barr, who joined the Cabinet last year vowing he would take time off this summer to compete in the world bagpipe championship, has quietly shelved the plans. . . . After 2 1/2 months on the job, Barr is convinced he doesn't have the time needed to play with the Denny & Dunipace Band, a group that plans to compete for the world title. One main reason: Practice time comes to six hours a week. Barr, who plays tapes of pipe music in his office, regards playing as his favorite form of relaxation. . . . Another factor in dropping out of the world competition: The championships may be held in terrorist-prone Northern Ireland, and Barr would be a potential target.

---- Index References ----

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (DENNY DUNIPACE BAND; PIPER) (Barr; William P. Barr)

Keywords: BARR, WILLIAM P; UNITED STATES -- GOVERNMENT OFFICIALS; MUSICIANS

Edition: MO-Home Edition

Word Count: 148

NewsRoom

2/16/92 Dallas Morning News 35A
1992 WLNR 4763292

Dallas Morning News

February 16, 1992

Section: NEWS

U.S. suit says town tried to exclude Orthodox Jews: Government action charges violation of Fair Housing Act

THE

Andrew MaykuthPhiladelphia Inquirer

Philadelphia Inquirer

AIRMONT, N.Y.

AIRMONT, N.Y. -- Three years ago, Rabbi Chaim Friedman moved from New York City to this wooded, hilly community in Ramapo, 35 miles northwest of Manhattan. He came to establish a synagogue for Orthodox Jews.

But the rabbi's plan was met immediately with protests from residents. He got no further than putting a foundation in the ground before construction was blocked by lawsuits.

"I came here for peaceful surroundings and to get away from the dense city,' the rabbi said. "It's pretty ironic.'

Around the same time, other new Orthodox Jewish residents were reporting hostile incidents. They said that cars veered dangerously close to their families as they walked to Sabbath services along the neighborhood's twisting, two-lane roads and that some drivers hurled garbage and insults as they passed.

"I've been acquainted with almost every part of the United States,' said Rabbi Friedman, who has lived in Brooklyn, Baltimore and Seattle. "But I've never seen anything like this.'

Nor has the federal government, which in December sued Airmont, charging that the village of 8,000 violated the Fair Housing Act by trying to exclude Orthodox Jews.

It was the first time the government had sued a municipality to protect housing rights for a religious, rather than a racial, minority.

At the heart of the dispute is Airmont, a 5-square-mile community of tract homes and cul-de-sacs that split from surrounding Ramapo Township in April. That same month, five Orthodox Jewish families sued, charging that the village had incorporated for the primary purpose of erecting barriers to Orthodox immigration.

The lawsuits by residents and the U.S. Justice Department charge that the village founders, in promising to enact zoning laws that would ban small home synagogues, intended to block Orthodox Jews from moving into the area. The Orthodox need synagogues within walking distance of their homes because their religious law forbids them to drive cars on the Sabbath.

"This kind of conduct -- creating a new community with the intent to exclude groups because of their religious beliefs and practices -- is wholly antithetical to basic freedoms upon which this nation was founded,' U.S. Attorney General William P. Barr said in a statement.

The suits seek to fine the village and force it to disband.

Airmont officials deny that they were at fault. They said residents voted to form their own village for many reasons but not because they dislike Orthodox Jews. In fact, about 25 percent of the town's population is Jewish, although few of them observe the strict Orthodox practices.

"We were not concerned about the people moving in,' said John Layne, the village's deputy mayor and one of the officials named in the lawsuits. "We were concerned about the appearance of the village.'

The government's decision to intervene in the case has heartened Airmont's 40 Orthodox Jewish families, some of whom said in interviews that they continued to worship in their homes even though they felt intimidated.

"This is not what my schoolbooks told me it was supposed to be like to live in America,' said Susan Schonfeld, who said she recently found a silver cross and a discarded Christmas tree on her lawn after she held a religious service in her home.

Some experts in religious liberties say Airmont's actions are a glaring example of exclusionary practices that occur in subtler forms in other areas of the country.

"It happens all the time, and it happens with increasing frequency,' said Marc D. Stern, a religious-liberties lawyer at the American Jewish Congress in New York.

"Churches, synagogues and mosques are not considered very good neighbors anymore,' Mr. Stern said. "People think of the suburbs as purely residential, and anything that doesn't fit is just excluded.'

In fact, several other villages cut the cord with Ramapo Township in recent years in what was widely viewed as a reaction to the rapid growth of the Orthodox Jewish population in the central part of the township, an area known as Monsey.

Orthodox Jews account for about 23,000 of Ramapo Township's population of 94,000. They include many ultra-Orthodox Hasidic Jews, whose men wear beards and distinctive black coats and hats. The Hasidim tend to live in enclaves, including clusters of apartment buildings that are growing more dense as the traditionally large families multiply.

"They made ghettos out of formerly nice neighborhoods,' an Airmont resident said.

So, four years ago, when the first Orthodox Jews crossed the highway that forms a cultural boundary between Monsey and Airmont, rumors spread rapidly that the newcomers would bring down property values.

The new residents, however, were not poor Hasidics; they were young professionals who bought expensive homes in a subdivision called Park Avenue Estates.

"We were accused of being ignorant and uneducated,' said Fred Walfish, one of the first Orthodox residents. "Complaints were made about the number of children we had.'

Lawyers said Airmont's leaders distinguished themselves from officials of other villages suspected of harboring anti-Orthodox sentiment by announcing in no uncertain terms that the Orthodox were unwelcome.

"You people don't belong here,' Maureen Kendrick, who is now the village mayor, was quoted in the lawsuit as saying in a conversation. In a court paper, she denied making the comment.

Confrontations increasingly occurred over attempts by Rabbi Friedman and another rabbi to establish home synagogues. Meanwhile, the organization leading the campaign to incorporate the village -- the Airmont Civic Association -- increasingly became a one-issue group, according to dissident members who left.

"The group changed radically,' said Gay Carroll, whose family has lived in the area for several generations. "The leaders of the organization became obsessed with religious issues.'

The lawsuit quotes Robert J. Fletcher, president of the Airmont Civic Association, as bluntly stating the organization's goal at a public meeting: "We all know that the purpose is to keep those Orthodox from Brooklyn out of here.' (Brooklyn is home to several ultra-Orthodox Hasidic groups.)

Mr. Fletcher, who is now a village trustee, denies that he made the statement or that he was anti-Semitic.

"The reason they make up these stories is to fuel their own fire,' said Mr. Fletcher, who referred to the Orthodox as "a so-called religious community.'

"The anti-Semitism charges are something they erect over themselves as a shield to prevent legitimate criticism of their activities,' he said.

Airmont officials expressed a desire to get on with the business of governing their polarized village. But the lawsuits have become the sole issue on the village's agenda.

Village board meetings are marked by bickering and occasional fistfights. Property values have fallen as potential buyers shun a village that has acquired a sour national reputation. Neighbors do not speak to one another.

"There's no social communication,' said Lewis Kamman, an Orthodox Jew and bank vice president who moved to Airmont two years ago from the Crown Heights section of Brooklyn.

"It's as if there's an iron wall between the two sides,' he said. "That's no way to live.'

---- Index References ----

News Subject: (Religion (1RE60); Legal (1LE33); Race Relations (1RA49); Social Issues (1SO05); Government (1GO80); Government Litigation (1GO18); Judaism (1JU93); Minority & Ethnic Groups (1MI43); Economics & Trade (1EC26))

Industry: (Construction (1CO11); Housing (1HO38); Construction Regulatory (1CO33); Residential Construction (1RE61); Real Estate Regulatory (1RE53); Urban Housing Policy (1UR02); Real Estate (1RE57))

Region: (Americas (1AM92); North America (1NO39); USA (1US73); New York (1NE72))

Language: EN

Other Indexing: (AIRMONT; AIRMONT CIVIC ASSOCIATION; AMERICAN JEWISH; COMPLAINTS; CROWN HEIGHTS; HASIDIM; MONSEY; PARK AVENUE ESTATES; US JUSTICE DEPARTMENT) (Chaim Friedman; Churches; Fletcher; Fred Walfish; Friedman; Gay Carroll; Hasidic; Hasidic Jews; Jewish; John Layne; Lewis Kamman; Marc D. Stern; Maureen Kendrick; Orthodox; Orthodox Jew; Orthodox Jewish; Orthodox Jews; Robert J. Fletcher; Semitic; Stern; Susan Schonfeld; Village; William P. Barr)

Edition: BULLDOG

Word Count: 1450

End of Document

2/11/92 L.A. Times 1
1992 WLNR 3954232

Los Angeles Times

February 11, 1992

Section: ME-Metro

Added Agents to Bolster S.D. Border Patrols

ASTIAN ROTELLATIMES STAFF WRITER

TIMES STAFF WRITER

U.S. Atty. Gen. William P. Barr wrapped up a visit Monday to the most highly politicized, highly traversed 15 miles of border territory in the country, drawing praise and criticism for his plan to strengthen the Border Patrol.

At least half of the 300 new Border Patrol agents to be hired in a new expansion of the Immigration and Naturalization Service will probably be assigned to the San Diego area, Border Patrol officials said.

The plan, announced Sunday, provides the largest staff increase since 1986 for the Border Patrol in the San Diego sector of the U.S.-Mexico border, where manpower levels have remained at or near 800 agents. The sector accounts for nearly half of all arrests of illegal immigrants nationwide.

Barr told a gathering of law enforcement officials in Coronado that he wants to help immigrants who enter the U.S. by the "front door" of the legal immigration process and get tough on illegal immigrants who are "crashing in the back door."

"Many of these people simply want better lives, and our hearts go out to them," said Barr, who on Sunday night toured the crowded river banks and canyons where thousands of people try to cross the border illegally each day. Agents apprehended 3,300 people Sunday.

"But we must protect the integrity of our immigration process," Barr said. "We have a special commitment to preserving the integrity of our borders and of our immigration process."

Barr's plan was assailed Monday by immigration experts and human rights advocates on both sides of the border. They charged that the initiative is an election-year gambit spurred by the economic recession and increasing anti-immigrant rhetoric on the campaign trail.

"They are continuing to look at the border as a war zone," said Roberto Martinez of the American Friends Service Committee in San Diego. "Immigration is a human rights issue and an economic issue, but that doesn't sell. What sells is crime and drugs. It's easier to lump the issue together, that way they can justify this kind of buildup."

Barr spokesman Paul McNulty disputed the charge that the announcement was politically motivated.

"That's flat out wrong," he said. McNulty also said the timing was not affected by widely broadcast video images of illegal immigrants running across the border into freeway traffic, a practice that Mexican authorities halted last week under pressure from the Border Patrol.

Wayne Cornelius, director of the Center for U.S.-Mexican Studies at UC San Diego, said he does not believe the measures will significantly decrease illegal immigration from Mexico.

"Of course they will be catching more people," he said. "(But) the deterrent effect of all this is likely to be as limited as similar measures have been in the past."

Additional agents will probably make illegal crossings more difficult for women and children, who already appear to have been impeded by an 8-mile fence at the border, Cornelius said. And smugglers of illegal immigrants will probably hike their fees, he said.

"It is a price (illegal immigrants) are still willing to pay," Cornelius said. He said the proposed North American Free Trade Pact currently under negotiation with Mexico is "the only approach likely to make a significant dent in this problem in the long run."

The Mexican government has yet to comment officially on the INS expansion, according to the Mexican Consulate in San Diego.

But the state human rights prosecutor for the state of Baja California, immigration expert Jose Luis Perez Canchola, said the border buildup could lead to increased tension and confrontation.

"For the Mexican, it is more risky to stay in his hometown where there is no future than to confront the Border Patrol," he said. "I think it could lead to more violence, more desperation. I hope the Mexican government is going to call for respect of Mexicans whether they have papers or not."

In addition to adding about 700 new employees to speed processing of legal immigrants, Barr's plan provides surplus military vehicles and equipment for border enforcement and more resources against illegal immigrants who commit crimes, including 200 investigators and a national tracking center targeting street gang members and other "criminal aliens."

Another 200 Border Patrol agents have been requested in next year's proposed federal budget, which calls for a 13% increase for the INS, Barr said.

The new agents could be in place as soon as four months, allowing the Border Patrol to step up operations at the border and expand its presence in inland areas such as North County, according to San Diego sector Chief Agent Gustavo de la Vina.

"We need 'em as soon as we can get 'em," De la Vina said.

---- Index References ----

News Subject: (Crime (1CR87); Legal (1LE33); Judicial (1JU36); Social Issues (1SO05); Criminal Law (1CR79))

Industry: (Smuggling & Illegal Trade (1SM35))

Region: (Mexico (1ME48); USA (1US73); Americas (1AM92); North America (1NO39); Central America (1CE62); California (1CA98); Latin America (1LA15))

Language: EN

Other Indexing: (AMERICAN FREE TRADE PACT; AMERICAN FRIENDS SERVICE COMMITTEE; BORDER; IMMIGRATION; IMMIGRATION AND NATURALIZATION SERVICE; MEXICAN; MEXICAN CONSULATE; MEXICO; US MEXICO BORDER) (Barr; Bolster S.D.; Border Patrol; Border Patrols; Cornelius; McNulty; Patrol; Paul McNulty; Perez Canchola; Roberto Martinez; Vina; Wayne Cornelius; William P. Barr)

Edition: SD-San Diego County Edition

Word Count: 937

End of Document

NewsRoom

2/11/92 L.A. Times 24
1992 WLNR 3952371

Los Angeles Times

February 11, 1992

Section: MN-Main News

Barr Vows to Defend Border Integrity

CORONADO

U.S. Atty. Gen. William Barr, ending his visit to the most highly politicized section of border in the nation, Monday fended off criticism of a plan to bring more Border Patrol agents here as part of a major buildup to preserve "the integrity of our borders."

At least half of the 300 new agents nationwide are expected to be assigned here, the largest staff increase since 1986 for this sector of the border, which accounts for nearly half of all apprehensions of illegal immigrants nationwide.

Barr told law enforcement officials that he wants to help immigrants who enter the United States by the "front door"--legally--and to get tough on illegal immigrants who are "crashing in the back door."

---- Index References ----

News Subject: (Crime (1CR87); Social Issues (1SO05))

Industry: (Smuggling & Illegal Trade (1SM35))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (BORDER PATROL; CORONADO) (Barr; Barr Vows; William Barr)

Keywords: BORDER PATROL (U.S.); LAW ENFORCEMENT OFFICERS; MEXICO -- BORDERS -- SAN DIEGO COUNTY; ILLEGAL ALIENS -- SAN DIEGO COUNTY; LAW ENFORCEMENT; BARR, WILLIAM P

Edition: MO-Home Edition

Word Count: 148

End of Document

NewsRoom

Attorney General Barr, Targeting Violent Crime, Comes on Like Gangbusters in a Campaign Year

The Wall Street Journal

February 11, 1992 Tuesday

Section: POLITICS & POLICY; Pg. A18

Length: 1342 words

Byline: By Paul M. Barrett, Staff Reporter of The Wall Street Journal

Body

WASHINGTON -- When President Bush chose William Barr to be attorney general last October, the nomination was hailed as a choice of competence over political stature or ideology.

Unlike Dick Thornburgh, the man he succeeded, Mr. Barr was said to harbor no ambitions for the White House. The conservative 41-year-old lawyer had rocketed up through the ranks on the strength of performance, not cronyism, and was expected to be the most apolitical attorney general since Edward Levi in the Ford administration.

"In a department that has been highly politicized, the appointment of someone who has never run for office nor is expected to is most welcome," liberal Democratic Rep. Charles Schumer of New York said at the time of Mr. Barr's appointment. "I hope he will be able to reverse the trend of politics at the Department of Justice."

But now that he has the country's top law-enforcement job, Mr. Barr has put a heavy emphasis on attention-grabbing events and pronouncements that may have more to do with presidential election-year politicking than with fighting crime on the streets. In recent days he has:

-- Personally announced the breakup of two Washington-area drug rings at an unusual press conference attended by an army of the most senior federal law-enforcement officials.

-- Called press conferences to advertise the transfer of agents of the Federal Bureau of Investigation and Drug Enforcement Administration to "violent crime" duty from other assignments.

-- Promised to add new immigration agents to "combat illegal immigration and violent crime by criminal aliens."

-- And reversed Justice Department policy and promised federal help for states fighting court supervision of overcrowded prisons.

Under Mr. Barr, urban gang violence -- ordinarily considered a state or local police concern -- has suddenly become the Justice Department's top priority. "Removing the deadly presence of . . . gangs is the first step in reclaiming neighborhoods," Mr. Barr said at one recent press event.

A more immediate goal, according to another administration official who speaks on the condition of anonymity, is to "focus {public attention} on the big violent-crime stuff -- death penalty, prisons, gangs," as a way to underscore the administration's concern about domestic problems.

Ira Raphaelson, counselor to the attorney general and one of Mr. Barr's closest aides, insists that presidential politics aren't behind the flurry of press releases about violent crime. Instead, he asserts that Mr. Barr is sending a message that the federal government will "help pay the price" to clean up besieged communities.

Mr. Barr believes that federal leadership, even if limited in scope, will galvanize broader state and local action against violent crime, Mr. Raphaelson explains. Within the Justice Department, Mr. Barr, who has been traveling for the past few days and couldn't be reached for comment, has markedly improved staff morale, which had suffered under Mr. Thornburgh, and has promoted highly regarded career prosecutors such as Mr. Raphaelson.

But a close examination of Mr. Barr's publicity offensive shows a healthy measure of hype and some noteworthy discrepancies.

Consider the Jan. 31 announcement on the Washington-area gangs -- unusual in that the attorney general of the U.S. typically doesn't summon the national media to announce the arrest of street dealers. Mr. Barr boasted to reporters and television cameras that two deadly drug organizations had been "taken out" as a result of newly improved cooperation between federal and local officials.

Once the attorney general had left the Justice Department briefing room, however, Richard Cullen, U.S. attorney in Alexandria, Va., conceded that, in fact, one of the two busts was old news. Convictions that had taken place months earlier, and in some instances more than a year earlier, had been repackaged for dramatic effect.

More theatrics: Mr. Barr reported that about 450 federal and local officers had participated in the local sweep, resulting in 18 arrests. "If that's true," comments American University criminologist James Fyfe, "that's more cops to arrest 18 street dealers than ever before in history. . . . It's for show." Federal agents concur, with some embarrassment, that it was a case of "extreme overkill," as one put it.

More troubling, asserts Mr. Fyfe, a former New York City police officer, is the use of "body counts" and other symbols of toughness that may distract public attention more than they address real problems. William Bennett, the White House drug czar early in the Bush administration, excoriated federal agencies for tallying such statistics; he contended that trends in illicit drug use, price and availability are more meaningful measures of success.

Mr. Barr recently has also announced that 300 FBI agents and 25 DEA agents will be transferred to violent-crime squads in big cities from other assignments. But New York alone has more than 25,000 cops, observes Mr. Fyfe. Putting "a few more specially trained agents on the street," he argues, "won't make much of a difference."

The attorney general's promised crackdown on violent crime by illegal aliens was highlighted by his announcement last weekend of a 7% increase in the staff of the Immigration and Naturalization Service, an arm of the Justice Departmenteven though the administration last month had already asked Congress for an 11% increase in the Justice Department's overall budget.

Thirteen months ago, when he was still deputy attorney general, Mr. Barr made a similar-sounding vow to "put more teeth on the {Mexican} border" by redeploying large numbers of Border Patrol agents and other INS personnel. INS spokesman Duke Austin acknowledges that the previous Barr intitiative "never really got off the ground." Mr. Austin says the newly announced plan would expand the staff, rather than rearrange it, but concedes that "the intent of the {current} effort is the same" as the earlier one that was never executed.

Another inconsistency emerges from scrutiny of the administration's anti-crime budget for fiscal 1993, which begins Oct. 1. Mr. Barr and his deputies, in conjunction with the president's State of the Union speech, have repeatedly

trumpeted increased funding requests for the FBI, DEA and regional task forces focusing on organized crime and money laundering.

But Office of Management and Budget documents show that the administration is actually asking Congress to cut spending for "criminal investigative" activities. The president's combined fiscal 1993 request is $2.93 billion, down from $2.95 billion in estimated spending for fiscal 1992, according to the OMB. George Terwilliger, the acting deputy attorney general and overseer of the department's budget, says he can't explain the discrepancy except to suggest that the department figures may reflect the spending ceiling the administration wants Congress to authorize for fiscal 1993, while the OMB is estimating the number of dollars that actually would be spent on federal criminal investigations.

On the topic of prisons, some of Mr. Barr's pronouncements appear to be at odds with the views of the Supreme Court, a tribunal dominated by conservatives and not generally seen sympathetic to inmates. Mr. Barr, in a reversal of Justice Department policy, last month urged states with overcrowded prisons to seek release from court orders placing caps on inmate populations. He accused federal judges of abusing their authority in approving settlements of prison litigation that impose anything beyond the rock-bottom constitutional requirement that prisoners not suffer "cruel and unusual" punishment.

In an apparent coincidence, the Supreme Court issued a decision on prisons on Jan. 15, the day after Mr. Barr's speech. The high court ruled, 6-2, that state prison officials indeed should have wide latitude in seeking to modify restrictive court orders. But the majority went out of its way to stress that federal judges may impose requirements beyond minimum constitutional standards-contrary to Mr. Barr's declaration.

Notes

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ATTORNEY GENERAL ANNOUNCES ENHANCED BORDER SECURITY, CRIMINAL ALIEN LAW ENFORCEMENT AND IMMIGRATION SERVICE

WASHINGTON, D.C. -- Attorney General William P. Barr today announced a series of steps to increase border security, deal with criminal aliens, and improve service to legal immigrants and travellers. The enhancements include 300 new Border Patrol Officers and 200 additional criminal investigators to combat illegal immigration and violent crime by criminal aliens, the creation of a National Criminal Alien Tracking Center, and the hiring of over 700 additional INS workers to improve services to legal immigrants and travellers. The initiatives will be achieved this year through the use of asset forfeiture proceeds, reprogramming of existing funds, and use of funds from fees and fines.

Attorney General Barr said, "This initiative intensifies our current efforts to enforce and implement U.S. immigration laws. This will be accomplished by strengthening enforcement against illegal immigration and violent crime by illegal aliens, and by enhancing our service in the area of lawful immigration."

The new resources and initiatives for border related and criminal alien law enforcement will include:

- 300 new Border Patrol officers to interdict illegal aliens and drugs at the border;
- 200 additional Immigration and Naturalization Service (INS) investigators, 150 of whom will be assigned to locate and deport criminal aliens and to work on special anti-violent crime and street gang task forces in target cities including New York; Los Angeles; Miami; Newark, N.J.; and Chicago, and 50 of whom will bolster employer sanctions enforcement cases to help deter illegal immigrants by enforcing the laws against hiring illegal aliens;
- As a further step to deter illegal immigrants, the establishment of a National Criminal Alien Tracking Center, funding in the first year with $1.5 million of fines collected by INS, to permit law enforcement agencies to contact INS 24 hours a day to identify, locate and track criminal aliens;
- $5 million from the Department's Asset Forfeiture Fund to purchase new lighting, sensors, vehicles and other interdiction equipment (The Department of Defense has been providing valuable surplus equipment to INS and efforts will be made to maximize use of these resources to free up as much money as possible for other enforcement purposes.);
- $3.6 million for detention space to house exclusion cases interdicted in New York's Kennedy Airport; and

- an initiative to combat document fraud by reissuing counterfeit resistant green cards and improving the counterfeit resistance of the Employment Authorization Document.

With regard to the service of legal immigrants and travellers, Barr announced that the enhancements include:

- 250 additional temporary workers to relieve the backlog of applications;
- a $27 million (23%) increase in funding for INS adjudications;
- 100 new Immigration Information Officers to reduce lines at INS officers;
- improvements of information systems and other support to more fully automate the application process;
- 100 new positions in refugee and asylum adjudications to reach more persons fleeing persecution;
- 240 new airport inspectors to reduce lines at airports; and
- a pilot program to extend the hours for public service of INS offices.

A large part of the initiative announced by the Attorney General, including personnel increases, will be funded by reallocating existing resources and by reducing the current subsidization of the costs for adjudicating applications. This reduction will free-up funds for law enforcement purposes.

# # #

92-045

BORDER CROSSINGS NEAR OLD RECORD; U.S. TO CRACK DOWN

The New York Times

February 9, 1992, Sunday, Late Edition - Final

Distribution: National Desk

Section: Section 1;; Section 1; Part 1; Page 1; Column 6; National Desk; Part 1;; Column 6;

Length: 1109 words

Byline: By DAVID JOHNSTON,

By DAVID JOHNSTON, Special to The New York Times

Dateline: LOS ANGELES, Feb. 8

Body

Six years after the passage of a law intended to halt the flow of illegal aliens from Mexico, immigration officials expect that the number of people apprehended at the border this year may reach or exceed the peak levels recorded before the law was signed.

In response, the Bush Administration plans to announce a series of stepped-up enforcement measures to handle what may be more than a million apprehensions this year. The measures include hiring hundreds of new border patrol agents, issuing counterfeit-resistant work permits and using military vehicles left over from the Persian Gulf war to patrol border areas.

Attorney General William P. Barr, who is scheduled to discuss the proposals in a speech in San Diego on Monday as part of a three-day tour of the southern border, said in an interview today, "We believe that the combination of lighting, repairing fences and increased numbers of personnel, all targeted at the most used routes, will have the promise of significantly reducing the flow."

'Revolving Door'

But immigration experts said that the law-enforcement actions were unlikely to succeed without moves dealing with the economic disparities between the United States and Mexico and other countries.

"What this does is speed up the revolving door," said Wayne A. Cornelius, director of the Center for U.S.-Mexican studies at University of California at San Diego. "It's a Band-Aid attuned to election-year politics.

"The border patrol will increase the catch rate," he added. "But the deterrent effect is exceedingly limited. The overriding reality is that the economic attraction of U.S. employment is still too powerful."

Continuing to Increase

According to the records of the Immigration and Naturalization Service, illegal immigration continues to increase despite countermeasures like the extension of a heavy metal fence that immigration officials say will eventually close off nearly 12 miles along the border south of San Diego, where more than 40 percent of all apprehensions

occur. In a new tactic, some aliens are avoiding the fence by rushing in groups along the highway through the Mexican-controlled border crossing used by people exiting the United States.

The immigration records show that after a peak of nearly 1.76 million apprehensions in the 1986 fiscal year, the number of people caught crossing the border declined to 954,000 in 1989. But since then apprehensions climbed to 1.13 million last year, and immigration officials say the number this year may surpass the record in 1986, when Congress passed the Immigration Reform and Control Act, which requires employers to verify that that workers may legally work in the United States.

The number of apprehensions represents only a portion of the people actually entering the United States, although border patrol officials say that some of the increase in the rate is a result of stepped-up security measures.

The increase has overwhelmed Federal immigration authorities and officials in some border states say illegal immigration represents a huge financial burden that they can ill afford in an economic downturn. In California, a crucial state for Republicans in the November Presidential election, Gov. Pete Wilson, a Republican, has sought additional measures to curb illegal immigration, saying it is straining the state's budget for health care, welfare and immigration.

Adding Agents

The immigration service plans this year to add 300 agents to the 2,300-member force assigned to interdict aliens and drug traffickers along the 1,900-mile border separating the United States and Mexico. In next year's budget, the Justice Department is seeking 200 more border patrol agents.

The proposals would provide the agents with new equipment, including communications gear, sensors, lighting and military vehicles supplied by the Defense Department to help patrol areas along the border.

The immigration service would also hire 200 more investigation officers, including 150 to find and deport aliens who have committed crimes in the United States. The other 50 agents will be assigned to stiffen enforcement of the Federal sanctions in the 1986 law against employers who knowingly hire illegal aliens.

In an effort to encourage legal entry, the immigration service will hire 250 temporary workers to reduce the backlog of applications from people seeking legal residency in the United States. Without additional workers, immigration officials expect that by the end of the year there will be 1.2 million applications from people seeking citizenship under the amnesty provisions of the 1990 Immigration Act.

Justice Department officials say they will finance the new package in large part by shifting money within the existing budget of the immigration service.

President Bush and President Carlos Salinas de Gortari of Mexico have expressed hope that the free trade agreement they are negotiating would be a step toward a long-term solution of the problem. But a number of experts believe that even with the agreement, Mexican wages and employment rates will take years to rise enough to compete with American salaries.

In the interim, the Bush Administration appears to be relying mainly on intensifed law enforcement to discourage illegal entries.

Immigration experts say the 1986 law affecting employment has been undercut by weak enforcement and by widespread use of forged documents used by workers to establish their eligibility for jobs.

In response, the immigration service will recall 1.5 million alien registration documents, or green cards, issued before 1970. Those older green cards, used to prove employment eligibility, are the easiest to counterfeit, immigration officials say. In their place, the immigration service will issue counterfeit-resistant documents, charging $70 to reissue the card.

Another measure is intended for those who commit crimes in the United States. Justice Department officials say of the nearly 65,000 inmates in Federal institutions, one-quarter -- the majority of them from Mexico -- are non-citizens. In some court systems, like Orange County in Southern California, nearly 35 percent of the suspects arraigned are aliens, the officials say.

The Justice Department plans to establish a National Criminal Alien Tracking Center that would permit law enforcement agencies to contact the immigration service anytime to identify and track aliens who commit crimes.

The system would be used to more quickly deport aliens upon completion of prison terms and to allow immigration officials to begin deportation proceedings against aliens while they are in prison.

Graphic

Graph: "Arrested At the Border," tracks people apprehended at the border, 1986-1991 (Source: Immigration and Naturalization Service) (pg. 34)

Load-Date: February 9, 1992

NewsRoom

2/9/92 Dallas Morning News 23A
1992 WLNR 4782451

Dallas Morning News

February 9, 1992

Section: NEWS

U.S. to step up immigration enforcement: Undocumented influx from Mexico expected to reach record level, experts say

THE

WASHINGTON

WASHINGTON -- Six years after passage of a law intended to halt the flow of undocumented aliens from Mexico, officials say the number of people apprehended at the border this year may exceed the peak levels recorded before the law was signed.

In response, the Bush administration announced proposals Saturday to increase enforcement measures, including the hiring of 300 Border Patrol officers and 200 immigration agents.

Other steps call for issuing counterfeit-resistant work permits and using military vehicles left over from the Persian Gulf war to patrol border areas.

The new, uniformed Border Patrol agents will be deployed along the border in Texas and California to help stop undocumented aliens and drug smuggling, the Justice Department said.

The new Immigration and Naturalization Service investigators will be assigned to find and deport aliens and work with police in cities that have a large amount of violent crime attributed to drug trafficking gangs.

Fifty of the new INS criminal investigators will investigate employers who hire undocumented aliens in violation of the 1986 immigration law.

"We believe that the combination of lighting, repairing fences and increased numbers of personnel, all targeted at the most used routes, will have the promise of significantly reducing the flow,' Attorney General William Barr said Saturday.

Critics say the law-enforcement actions are unlikely to succeed without other moves dealing with the economic disparities among the United States, Mexico and other countries.

"What this does is speed up the revolving door,' said Wayne Cornelius, director of the Center for U.S.-Mexican studies at University of California at San Diego. "It's a Band-Aid attuned to election-year politics.'

INS records show that undocumented immigration continues to increase despite countermeasures, such as the extension of a heavy metal fence that immigration officials say will eventually close off nearly 12 miles along the border south of San Diego. That's where more than 40 percent of all aliens are stopped.

The new initiative includes the creation of a National Criminal Alien Tracking Center to keep tabs on aliens arrested for crimes in the United States.

There are 3,788 Border Patrol agents and 1,480 INS criminal agents involved in undocumented-alien cases. All but about 300 of the Border Patrol agents are assigned to the Southwest United States.

The new employees will increase the number of uniformed Border Patrol officers by 7.9 percent and INS agents by 13.5 percent.

Mr. Barr also announced that the INS will hire additional employees to deal with legal aliens and travelers. The extra personnel is expected to reduce lines at border checkpoints and in district offices, officials said.

The Justice Department will finance the new employees with a combination of money collected from immigration fees, fines and funds forfeited to the government by convicted criminals.

Of the $22 million to be spent during the current fiscal year, $9 million will come from fees and $13 million from either criminal fines or the asset forfeiture fund.

The $36 million in the 1993 fiscal year will be financed from fees collected by the INS.

Immigration records show that after a peak of nearly 1.76 million apprehended aliens in the 1986 fiscal year, the number of people caught crossing the border declined to 954,000 in 1989.

That number climbed to 1.13 million last year, and immigration officials say the number this year may surpass the 1986 record.

---- Index References ----

News Subject: (Crime (1CR87); Social Issues (1SO05); Economics & Trade (1EC26))

Industry: (Smuggling & Illegal Trade (1SM35))

Region: (Mexico (1ME48); USA (1US73); Americas (1AM92); North America (1NO39); California (1CA98); Latin America (1LA15))

Language: EN

Other Indexing: (BUSH ADMINISTRATION; JUSTICE DEPARTMENT; NATIONAL CRIMINAL ALIEN TRACKING CENTER) (Barr; Border Patrol; Critics; Fifty; Wayne Cornelius; William Barr)

Edition: HOME FINAL

Word Count: 711

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NewsRoom

2/9/92 Wash. Times (D.C.) A8
1992 WLNR 136053

Washington Times (DC)

February 9, 1992

Section: NATION

500 NEW AGENTS TO BOLSTER BORDER PATROL

Jerry Seper THE WASHINGTON TIMES

Attorney General William P. Barr said yesterday the Justice Department will hire 500 new Border Patrol and Immigration and Naturalization Service agents to help tighten security and combat crime along the U.S.-Mexico border.

Mr. Barr, in San Diego to tour the largest border crossing along the 1,933-mile U.S-Mexico border, said 300 Border Patrol agents will be hired and assigned to Texas and California. Their main task, he said, will be to stop illegal immigration and prevent drug smuggling.

In addition, he said, 200 INS investigators will be posted along the border to work with federal, state and local law enforcement officials in locating and deporting illegal aliens.

Mr. Barr said 50 of the INS officers would be used to identify and prosecute U.S. employers who knowingly hire illegal aliens in violation of the Immigration Control and Reform Act of 1986. The act imposes civil and criminal sanctions on U.S. employers for knowingly hiring illegal aliens.

The increased manpower will be accompanied by the creation of a National Criminal Alien Tracking Center, designed to keep tabs on illegal aliens who have been arrested for crimes in the United States. Congress recently passed legislation making it easier to deport illegal aliens convicted of crimes.

The Border Patrol hirings, Mr. Barr said, will increase the force to about 4,200 - a jump of about 8 percent. All but about 300 Border Patrol officers are assigned along the U.S.-Mexico border.

The INS increase is a manpower jump of about 13 percent, raising that agency's total to about 1,700 officers assigned to identify and prosecute illegal aliens.

Mr. Barr said INS officials also will hire another 690 employees - mainly office workers - to help process paperwork at border checkpoints. He said they should help reduce existing lines at the checkpoints.

The salaries for the new employees will be covered by $9 million in immigration fees already collected, and $13 million in various fines and funds forfeited to the government by convicted criminals.

The INS, which includes the Border Patrol, apprehended nearly 1.1 million illegal aliens crossing the U.S.-Mexico border in fiscal 1990, an increase of more than 200,000 over the previous year.

The figures reversed a downward trend registered since passage of the Immigration Reform and Control Act. It was the first time since fiscal 1987 that annual apprehensions along the southern border had passed the 1 million mark.

INS records show that the number of illegal aliens caught along the southern border had dropped from an all-time high of 1.7 million in fiscal 1986 to 1.5 million in fiscal 1987, 959,500 in fiscal 1988 and 878,280 in fiscal 1989.

Apprehensions in fiscal 1990 totaled 1,087,786.

Incidents of violence directed at U.S. Border Patrol agents also were up - more than 650 in fiscal 1990, compared with fewer than 290 in fiscal 1989. The incidents included assaults on agents and damaged vehicles and facilities.

INS officials attributed the increased violence to urbanization of the Mexican border, economically more desperate aliens and meaner "coyotes" smuggling them across the border.

The increased violence also is due to a sharp rise in drug smuggling, federal agents said. The Border Patrol during fiscal 1990 seized $1.6 billion worth of drugs, up from $1.2 billion during fiscal 1989.

In Mexico, unemployment totals are high and inflation rates continue to soar. The value of the peso was 600 to the dollar when Congress passed immigration legislation in 1986; now it's 2,700 to the dollar.

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PHOTO

Photo, Attorney General William P. Barr

---- Index References ----

News Subject: (Crime (1CR87); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Criminal Law (1CR79); Technology Law (1TE30))

Industry: (Smuggling & Illegal Trade (1SM35))

Region: (Mexico (1ME48); USA (1US73); Americas (1AM92); North America (1NO39); Central America (1CE62); Latin America (1LA15))

Language: EN

Other Indexing: (BORDER PATROL; CONGRESS; IMMIGRATION AND NATURALIZATION SERVICE; IMMIGRATION CONTROL; IMMIGRATION REFORM; JUSTICE DEPARTMENT; MEXICO; NATIONAL CRIMINAL ALIEN TRACKING CENTER; PHOTO; TEXAS; US MEXICO; US BORDER PATROL) (Attorney; Barr; Photo; William P. Barr)

Edition: Final

Word Count: 730

End of Document

2/5/92 Chi. Trib. 1
1992 WLNR 4102544

CHICAGO TRIBUNE

February 5, 1992

Section: CHICAGOLAND \

GANG SUSPECT`S FATHER KILLED IN INDIANA RAID

Ronald Koziol.

A police sweep for illegal weapons used and sold by street gang members in northwest Indiana resulted in the killing Tuesday morning of a suspect`s father and a car chase Monday night that ended in a crash in Illinois.

The arrests of nine gang suspects and seizure of 48 weapons, including machine guns and shotguns, were part of a seven-month federal investigation dubbed Operation Commitment. Federal officials judged the operation important enough to warrant an appearance by U.S. Atty. Gen. William Barr at a news conference later in the day in Dyer.

Federal agents said the activities of gang members who were arrested were confined to northwest Indiana, with no apparent Chicago connections.

Also part of the cache were 20 pipe bombs, bought by undercover agents a week ago. Officials said they did not believe those bombs were related to the recent series of bombings in Hammond, one of which killed a woman.

A 10th gang member, already in prison on drug charges, was also implicated in the gun-selling scheme. A Gary gun dealer, who is accused of selling weapons to gang members, was still being sought.

Killed in a pre-dawn raid at his East Chicago home was Melicio Miravelli, 48, the father of a gang member who was charged with selling a sawed-off shotgun to an undercover agent on Sept. 25.

Ten agents of the U.S. Bureau of Alcohol, Tobacco and Firearms and police from East Chicago went to Miravelli`s house with an arrest warrant naming Jesus Miravelli, 17.

The elder Miravelli began shooting through a window at the officers, according to Joseph Vince, chief of the Chicago ATF office. Police returned

the fire, Vince said, killing Miravelli. Vince said a total of five shots were fired, but would not say how many by each side.

Jesus Miravelli was arrested at the home, at 4104 Tod St.

``We anticipated there might be trouble at that location because he (Melicio Miravelli) had threatened police in the past,`` Vince said. He would not disclose who fired the fatal shot, saying that a bureau shooting team was investigating the incident. Lake County Coroner Daniel Thomas said his office was also investigating.

At a news conference after the sweep, Barr was asked if he was ``bothered`` by the shooting.

``Anyone would be bothered by the loss of a life, but if someone shoots at a law enforcement officer, the officer must return the fire,`` Barr said. ``But four semi-automatic and fully loaded weapons were found in the house, and the raid was carried out properly and professionally.``

Barr said the raids signaled a successful conclusion to a seven-month investigation aimed at street gang leadership in East Chicago. He called it ``the latest example of what the federal government is doing to combat violent street gangs.``

In announcing the arrests and charges of selling weapons and pipe bombs, John Hoehner, U.S. attorney for northern Indiana, said a grand jury will be convened to hear additional evidence against those arrested.

Most of the charges filed Tuesday involved maximum prison sentences of 5 years and $250,000 fines.

Hoehner refused to disclose if the gang members had made pipe bombs that had been detonated or how they planned to use the bombs that were seized.

The car chase took place Monday evening after an undercover weapons and drug purchase in the parking lot of a restaurant at 175th Street and Indianpolis Boulevard in Hammond.

Jesse Cadena, 34, of Munster, who was charged with selling cocaine, jumped in a car with a woman companion and fled with federal agents and police from Hammond, East Chicago and Lansing in pursuit.

As the chase moved south through Munster, then west into Lansing, about 10 police cars were involved at speeds estimated at up to 60 m.p.h.

At Ridge Road and Wentworth Avenue in Lansing, Cadena rammed two cars moving through the intersection, police said. Damage from the collision forced his car to a stop a short distance away, police said, and he was taken into custody. The occupants of the other cars were not hurt, authorities said.

---- Index References ----

News Subject: (Crime (1CR87); Social Issues (1SO05))

Industry: (Smuggling & Illegal Trade (1SM35))

Region: (USA (1US73); Americas (1AM92); Michigan (1MI45); Illinois (1IL01); Indiana (1IN12); North America (1NO39))

Language: EN

Other Indexing: (GANG; GARY; LAKE COUNTY CORONER DANIEL THOMAS; RAID; STREET ANDINDIANPOLIS BOULEVARD; SUSPECT; TOBACCO; US BUREAU OF ALCOHOL) (Barr; Cadena; Damage; Firearms; Hewould; Hoehner; Jesse Cadena; Jesus Miravelli; John Hoehner; Joseph Vince; Melicio Miravelli; Miravelli; Ten; Vince; Wentworth Avenue; William Barr)

Keywords: INDIANA; CITY; FEDERAL; PROBE; ARREST; MULTIPLE; WEAPON; SHOOTING; DEATH; POLICE; GANG

Edition: SOUTH SPORTS FINAL \

Word Count: 798

End of Document

NewsRoom

2/3/92 Reuters News 00:00:00

Reuters

February 3, 1992

JUSTICE DEPARTMENT ADDS FBI AGENTS FOR HEALTH CARE.

WASHINGTON, Feb 3, Reuter - The Justice Department said it was transfering 50 Federal Bureau of Investigation agents to units investigating health care fraud from counterintelligence work.

The 50 agents will join 46 others and 100 assistant U.S. attorneys already working on health care cases in 12 cities, including New York, Los Angeles, Chicago and Detroit, Attorney General William Barr said.

---- Index References ----

Company: JUSTICE DEPARTMENT

News Subject: (Legal (1LE33); Judicial (1JU36))

Industry: (Healthcare (1HE06))

Region: (North America (1NO39); Americas (1AM92); USA (1US73))

Language: EN

Other Indexing: (FEDERAL BUREAU OF INVESTIGATION; JUSTICE DEPARTMENT) (William Barr)

Word Count: 56

End of Document

NewsRoom

2/3/92 S.F. Chron. D6
1992 WLNR 2482232

San Francisco Chronicle (CA)

February 3, 1992

Section: NEWS

JUDGE IRVING KAUFMAN -- GAINED ATTENTION IN ROSENBERGS' TRIAL

New York Times

New York

Irving R. Kaufman, who gained national attention in 1951 as the judge who sentenced Julius and Ethel Rosenberg to the electric chair and who wrote landmark decisions in First Amendment, antitrust and civil rights cases for more than 30 years on the federal bench, died Saturday night in the Mount Sinai Medical Center.

The New York native was 81 and lived in Manhattan. He died of pancreatic cancer, his family said.

Judge Kaufman was appointed to the federal bench by President Harry Truman in 1949 and to the U.S. Court of Appeals by President John Kennedy in 1961. He was chief judge of the appellate court for seven years. He formally retired from his judicial seat in 1987 but was designated a senior judge and remained active on the court until his recent illness.

It was Judge Kaufman's hope that he would be remembered for his role not in the Rosenberg case, the espionage trial of the century, but as the judge whose order was the first to desegregate a public school in the North; who was instrumental in streamlining court procedures, who rendered innovative decisions in antitrust law and, most of all, whose decisions expanded the freedom of the press.

Attorney General William P. Barr said: "Judge Kaufman was a courageous servant of justice and a friend of law enforcement. His intellect and leadership will be greatly missed."

Despite his many well-crafted opinions, it was with the Rosenberg case that his name was inextricably linked. The Rosenbergs were convicted of conspiring to deliver secrets of the atomic bomb to the Soviet Union in World War II.

In their trial, which began two years after the Soviet Union had exploded its first atomic bomb, the Rosenbergs and their co-defendant, Morton Sobell, were accused of accelerating by five to 10 years the end of the American nuclear monopoly, by providing critical secrets to Moscow.

The trial became a cause celebre for the left, which still contends that the Rosenbergs and their co-defendant were framed in a paroxysm of anti-Communism hysteria.

But even some who were less politically committed and who accepted the guilt of the Rosenbergs attacked Judge Kaufman's decision to impose the death sentences, sentences that were allowed to stand by the Court of Appeals, the Supreme Court and the president but that remain the sole death sentences ever carried out in the United States for espionage by American civilians.

The death sentences haunted the national conscience. Two decades later, the controversy was rekindled when FBI documents, released under the Freedom of Information Act in the 1970s, disclosed that Judge Kaufman had private discussions about the sentence with the prosecution and that he had repeatedly called the FBI in an attempt to expedite the executions.

"I'm sure the (sentencing) decision plagued him to his last days," said Professor Yale Kamisar of the University of Michigan Law School.

---- Index References ----

Company: MOUNT SINAI MEDICAL CENTRE

News Subject: (Judicial (1JU36); Legal (1LE33))

Region: (Europe (1EU83); USA (1US73); Americas (1AM92); Eastern Europe (1EA48); Russia (1RU33); North America (1NO39); New York (1NE72); Asia (1AS61))

Language: EN

Other Indexing: (ATTENTION; COURT OF APPEALS; FBI; JUDGE; JUDGE IRVING; MOUNT SINAI MEDICAL CENTER; ROSENBERGS; SUPREME COURT; US COURT OF APPEALS; UNIVERSITY OF MICHIGAN LAW SCHOOL) (Attorney; Communism; Ethel Rosenberg; Harry Truman; Irving R. Kaufman; John Kennedy; Julius; Kaufman; Morton Sobell; Rosenberg; Rosenbergs; William P. Barr; Yale Kamisar)

Edition: FINAL

Word Count: 585

End of Document

Judge Exempts a Single Mother From U.S. Sentencing Guidelines

The Wall Street Journal

February 3, 1992 Monday

Section: LAW; Pg. B3; Legal Beat

Length: 1602 words

Byline: By Wade Lambert and Arthur S. Hayes, Staff Reporters of The Wall Street Journal

Body

Carving out a controversial exception to the federal sentencing guidelines, a judge said the rules don't necessarily apply if a defendant is a single parent and a family's sole breadwinner.

The decision -- in the case of Bonnie Gerard, a businesswoman who pleaded guilty to defrauding her clients out of $1.6 million -- is bound to stir concern among prosecutors. Many judges say the guidelines, which took effect in November 1987, leave them with little discretion to sentence defendants as they see fit.

Judge Robert Sweet's decision last week in the Gerard case, in federal court in Manhattan, is one of the few in which a court has found that family circumstances allow a departure from the guidelines. The guidelines, largely based on victims' losses and the defendant's criminal past, called for a sentence of 33 months to 41 months for Ms. Gerard. But Judge Sweet instead placed the divorced 49 year old, who lives with her children on Manhattan's Upper East Side, on five years' probation and ordered her to make restitution.

The guidelines, the judge said, failed adequately to address the situation of a defendant who is "the sole care provider of her two teen-age children." The guidelines were designed to create more uniformity among sentences for equivalent crimes.

Defense attorneys praised the decision. Stanley Arkin, a lawyer in New York, said the ruling "demonstrates how intelligent and sensitive courts are dealing with the unjust rigidity in the guidelines."

The U.S. attorney's office in Manhattan asked Judge Sweet to reconsider his ruling, however, arguing that there are no legal grounds for departing from the guidelines because of family duties. At a hearing Friday, Assistant U.S. Attorney Paul Engelmayer said that many defendants who also are single parents could take advantage of the ruling.

"The facts {of Ms. Gerard's case} don't distinguish her from many other defendants who are single mothers," Mr. Engelmayer said in court. He said that only in extraordinary circumstances are family relationships grounds for departing from the guidelines.

Judge Sweet said he won't reconsider his decision. A spokesman for the U.S. attorney's office said it hasn't decided whether to appeal.

"The government apparently wants a general rule that would always preclude a judge from looking at family circumstances," said Stephen Feingold, Ms. Gerard's attorney at the New York law firm Spengler Carlson Gubar Brodsky & Frischling.

Mr. Feingold said Ms. Gerard is unemployed. He said Ms. Gerard has received "intermittent" child-support and divorce payments from her ex-husband, Bertram Cohen. Under a divorce order that has been appealed by both sides, Mr. Cohen was ordered to pay child support of $500 a week, plus $70,000 a year, to Ms. Gerard. Stuart Gartner, an attorney for Mr. Cohen, said his client can't afford the payments.

The government said it didn't oppose probation for Ms. Gerard, only the judge's reasoning regarding Ms. Gerard's family duties. The judge also cited Ms. Gerard's cooperation with prosecutors and her agreement to make restitution as reasons for departing from the guidelines.

Meanwhile, in Washington, Attorney General William Barr continued the administration's election-year focus on anti-crime measures by pushing for more aggressive use of the federal sentencing guidelines. Mr. Barr said Friday that he had instructed federal prosecutors across the country to seek stiffer punishments by urging judges to employ an option in the guidelines allowing for "upward departures" in particularly egregious cases.

Mr. Barr, stressing the administration's determination to assist state and local police in the fight against violent crime, told a press conference that the new policy would apply to defendants charged with using semiautomatic weapons and engaging in drug gang activities.

The attorney general also said that he had asked the U.S. Sentencing Commission, the federal agency that oversees the guidelines, to increase the punishments available to judges in cases involving semiautomatic weapons, such as AK-47 "assault" rifle, and drug gangs.

PLAN TO MARKET HOMES to whites in mostly black area survives challenge.

The U.S. Supreme Court last week declined to hear a challenge to the "affirmative marketing plan," which aims to guarantee a racially mixed community in Park Forest, Ill., and to check the drop of property values that often results from "white flight." Many suburban towns near Chicago and Cleveland have adopted such plans.

But the National Association of Realtors, which opposes affirmative marketing, is still advising its 800,000 members that the law doesn't require that they cooperate with towns promoting affirmative marketing.

Nine years ago, the realtors' association challenged a plan promoted by Park Forest in which a local real estate agent agreed to find whites to buy homes in the Chicago suburb. The realtors' association contended that the contract forced brokers to steer based on race in violation of the federal Fair Housing Act and the 14th Amendment of the Constitution, which requires that all races be treated equally.

Last year, the Seventh U.S. Circuit Court of Appeals in Chicago upheld the plan. The ruling was the first by a federal appeals court to address the validity of the affirmative marketing programs.

Alexander Polikoff, the lawyer representing Park Forest, said the Supreme Court's denial of the realtors' petition to hear the case "pretty nearly completely lifts the cloud" that has been hanging over affirmative marketing for 10 years. He anticipates that "you're going to find interest perking up all over the country" from communities that are facing white flight.

Robert Butters, a lawyer with the realtors' association, said the decision by the Supreme Court not to hear the case is disappointing because the Seventh Circuit failed to provide "a clear understanding of how far can a real estate broker can go in participating in these programs before" it crosses the line and sells a home based on someone's

race, which is illegal. Mr. Butters said that the association will probably press Congress to draft laws that will clarify the issue.

"We're telling our members that if they participate, you do it at your peril," Mr. Butters said.

SOLDIERS WHO OPPOSED Persian Gulf War continue court battles.

Almost a year after the war's end, at least one Marine claiming to be a conscientious objector still faces a court-martial hearing next month, and 23 others who opposed the war remain in prison for desertion or missing a troop movement. Lawyers said that some soldiers and reservists who sought conscientious-objector status as early as October 1990, three months before war was declared, still are waiting for the military to decide on their requests.

Although soldiers can't be jailed for claiming to be conscientious objectors, they can be imprisoned for desertion or refusing to follow orders, even if they claim it was because they are morally opposed to war. The War Resisters League in New York said 75 U.S. soldiers and reservists claiming to be conscientious objectors were jailed on such charges during the Persian Gulf War. Amnesty International has declared that 32 of the soldiers were "prisoners of conscience."

The military doesn't keep count of the number of soldiers claiming to be conscientious objectors who are jailed on other charges. A spokesman for the Pentagon said that a soldier can't apply for conscientious-objector status after being accused of desertion or missing a troop assignment. In 1991, the military approved slightly more than half of the approximately 440 conscientious-objector applications it received, the spokesman said.

Lawyers for the soldiers maintain that their clients received harsher sentences than other soldiers charged with the same violations but who didn't claim to be conscientious objectors. The military spokesman said that seeking to be a conscientious objector doesn't affect a sentencing.

Hillary Richard, an attorney with Rabinowitz, Boudin, Standard, Krinsky & Leiberman in New York, who represented several soldiers, said the military has sought to ban some conscientious objectors from speaking out even after they served their prison sentences.

Eric Hayes, court-martialed and jailed for six months for refusing to fight in the Gulf, was ordered by his former Marine division not to speak to the press or the public until his discharge was finalized, Ms. Richard said. A military spokesman declined to comment.

CITY MUST PAY restorer of WPA mural $527,000, federal judge rules.

The decision by U.S. District Judge Louis L. Stanton in Manhattan brings to a close a three-year dispute over the mural, which a Stamford, Conn., school threw out in 1971. The nearly 50-year-old mural of school scenes was painted by James Daugherty under the auspices of the New Deal-era Works Progress Administration.

In an earlier ruling, Judge Stanton found that the six-panel mural, each panel measuring about eight-by-11 feet, still belonged to Stamford even though art restorer Hiram H. Hoelzer repaired and stored it for 15 years after it was found in the trash outside the school. Last week, Judge Stanton ruled that the city owed Mr. Hoelzer $1,600 for every day he worked on restoring the mural.

James V. Minor, assistant corporation counsel for Stamford, said the city would appeal the ruling. He said the mural is currently in storage.

Mr. Hoelzer, who has a studio in Armonk, N.Y., said he was "gratified" by the ruling. "I feel justice was served," he said, adding that the mural was rescued from the trash heap "at a time when WPA murals were in disrepute."

Notes

PUBLISHER: Dow Jones & Company

Load-Date: December 5, 2004

End of Document

2/3/92 AP Online 00:00:00

AP Online

February 3, 1992

Section: Washington

FBI Doubles Force Fighting $50 Billion in Cheating

JAMES ROWLEY

WASHINGTON

The FBI will double the number of agents investigating medical-care fraud, which the government estimates at $50 billion a year, officials said Monday.

At the same time, prosecutors charged officers of a defunct Denver insurance company with defrauding customers in 14 states. The Justice Department said that Cabot Day Insurance Co. had become "an engine of fraud" for its executives, siphoning off $3.75 million.

The Justice Department's announcement appeared calculated to help President Bush get out the message that his administration is concerned about the rising costs of health care.

An internal Justice Department report on medical-care fraud said its release Monday would be timed with the unsealing of charges against Cabot Day.

Bush, reacting to Democratic charges that he has done little to help Americans meet rising medical bills, is expected this week to unveil plans to curb spiraling health-care costs and to extend insurance to millions of Americans.

The FBI said it was creating a health-care fraud unit to consolidate longstanding efforts to prosecute doctors, clinics, medical supply companies and druggists who bilk the government with phony claims.

The General Accounting Office estimates that health-care fraud is a $50 billion-a-year industry.

In addition to the new FBI unit, which will add 50 agents to the

current 46, the Justice Department's criminal division was setting up a health-care fraud unit to coordinate prosecutions nationwide.

"Civil and criminal fraud in the health-care industry costs government, private insurers and American citizens billions of dollars each year and poses a threat to the qualify of the nation's health-care system by unscrupulous health-care providers," Attorney General William P. Barr said in a statement.

In Philadelphia, prosecutors said officials of Cabot Day had collected $5.72 million in premiums from businesses but paid only $895,000 in claims, leaving a net illicit gain of $3.75 million.

U.S. Attorney Michael Baylson said federal officials began investigating after Pennsylvania consumers complained to the state's Insurance Department.

Insurance regulators then discovered, officials said, that the company and its subsidiaries were not licensed by any state or by the federal government.

In all, 568 employer groups and 11,820 employees and their dependents were affected. The scheme left 3,500 workers facing unpaid health care bills totalling more than $5.94 million when the company closed its doors in 1990, officials said.

In Denver, federal officials arrested Frank O'Bryan, the head of Cabot Day; J. William Vanderveer, and Robert E. Munroe. Officials arrested attorney Fred M. Dellorfano near Boston. Baylson said Neil E. Smith was scheduled to turn himself in to authorities in Denver later Monday.

Baylson said a federal grand jury last week returned a five-count racketeering indictment against the officers and escrow agent of Cabot Day.

The five-count indictment, returned in Philadelphia, charged four officers and an escrow agent of Cabot Day.

Health-care fraud has been a top priority of the Justice Department since 1986 and 100 prosecutors have been working in the field. More than $24 million worth of civil fraud judgments was recovered by Justice Department lawyers in the last two years.

Twenty-five agents will be drawn from the FBI's counterterrorism unit, officials said.

The rest will come from the FBI's foreign counterintelligence division, which is being reduced now that the Cold War has been

declared officially over by President Bush. The FBI recently assigned 300 agents who used to chase spies to the fight against violent crime.

The added agents probing medical-care fraud will be assigned to 12 cities: New York; Los Angeles; Chicago; Philadelphia; Newark, N.J.; Dallas; Detroit; Charlotte, N.C.; New Orleans; Las Vegas, Nev.; Miami, and Baltimore.

---- Index References ----

News Subject: (Crime (1CR87); Judicial (1JU36); Legal (1LE33); Fraud Report (1FR30); Social Issues (1SO05); Criminal Law (1CR79); Government Litigation (1GO18))

Region: (Pennsylvania (1PE71); USA (1US73); Americas (1AM92); Colorado (1CO26); North America (1NO39))

Language: EN

Other Indexing: (CABOT DAY; CABOT DAY; J; DAY INSURANCE CO; FBI; FBI DOUBLES FORCE; GENERAL ACCOUNTING OFFICE; INSURANCE DEPARTMENT; JUSTICE DEPARTMENT) (Baylson; Bush; Civil; Frank O'Bryan; Fred M. Dellorfano; Michael Baylson; Neil E. Smith; Robert E. Munroe; Twenty; William P. Barr; William Vanderveer)

Word Count: 772

End of Document

2/1/92 Newsday 13
1992 WLNR 305256

Newsday (USA)

February 1, 1992

Section: NEWS

CRACKDOWN ON GANGS

Patricia Hurtado

U.S. Attorney General William Barr announced yesterday that two violent street drug gangs - including the Brooklyn gang that introduced crack into the Washington, D.C., area - have been vanquished as part of a four-year effort by a federal and state drug task force.

At a news conference yesterday, Barr charged that two gangs - the Bush-Davis gang of Brooklyn and the Rodriguez-Polanco gang of Alexandria, Va. - were the crucial cocaine pipeline that existed between New York City and the capital area. Barr said 22 people with ties to the gangs were arrested yesterday by federal authorities as part of the investigation.

Law enforcement sources said that in 1987 Kevin Davis and Richard Bush, both 27, set up drug crews in Brooklyn's Bedford Stuyvesant, Bushwick and Brownsville sections. Davis, who sources said was the equivalent of the gang's chief executive officer, had connections with the notorious Crips gang of south central Los Angeles, which supplied his gang with crack.

Sources said that in 1988, when New York became too saturated with crack and the price dropped, Davis and Bush moved to the Washington area, where they supplied the Rodriguez-Polanco gang. During a four-year period between 1987 and 1990, the Brooklyn gang is estimated to have distributed more than 400 kilograms of crack worth about $80 million.

Authorities said that between April, 1987 and April 1991 the Bush-Davis gang was responsible for 15 murders, including the murder of a Alexandria police officer and the serious wounding of another.

---- Index References ----

Region: (District Of Columbia (1DI60); USA (1US73); Americas (1AM92); North America (1NO39); New York (1NE72))

Language: EN

Other Indexing: (BROOKLYN; CRACKDOWN; RODRIGUEZ POLANCO) (Barr; Brownsville; Bush; Bushwick; Davis; Law; Richard Bush; William Barr)

Edition: CITY

Word Count: 309

End of Document

NewsRoom

2/1/92 Reuters News 00:00:00

Reuters

February 1, 1992

U.S. REASSERTS PLANS TO SEND BACK HAITIANS.

WASHINGTON, Jan 31, Reuter - The United States reasserted its plans on Friday to forcibly return thousands of Haitian boat people after a federal appeals court cleared the way for the controversial repatriations.

But officials at the State and Justice Departments said the repatriations could be delayed by another appeal in the long legal battle. They were unable to say when the United States would actually begin returning the Haitians, who have been held on the U.S. naval base at Guantanamo Bay, Cuba.

A federal appeals court in Atlanta, Georgia, cleared the way for the Bush administration to send back the Haitians, who had been seeking entry in the United States.

Without commenting, a panel of the 11th U.S. Circuit Court of Appeals voted 2-1 to grant the government's motion and lift a Miami judge's order barring the repatriations. The court acted after the administration said the mass migration of Haitians across the Caribbean had created an emergency.

"It looks as though there may be another appeal," State Department spokesman Joe Snyder told reporters, adding: "It's just too early for me to comment on what's going to happen operationally" as a result of the court decision.

In Miami, attorneys representing the Haitian Refugee Centre said they were seeking an immediate hearing with the U.S. Supreme Court, calling the Atlanta court's decision a "travesty of justice".

There are 9,300 Haitians held at the Guantanamo base and an additional 2,000 aboard Coast Guard cutters, according to Lieutenant Commander Stephen Pietropaoli, a spokesman for the U.S. Atlantic Command in Norfolk, Virginia.

"Our mission right now is to house and feed them and that is what we are doing," Pietropaoli said in a telephone interview with Reuters in Miami.

Attorney General William Barr told reporters the ruling gives the government power to send back the Haitians, but he could not say when the repatriations would start.

District Judge C. Clyde Atkins in Miami has twice barred the government from refusing to admit the Haitian refugees until their cases could be reviewed individually.

The administration has argued that the Haitians are fleeing the impoverished island on economic rather than political grounds and thus not entitled to political asylum.

A State Department official told the Atlanta court the government had information tens of thousands of Haitians were preparing for a new attempted mass migration at the behest of Haiti's military-backed government which ousted elected President Jean-Bertrand Aristide in a September 30 coup.

---- Index References ----

Company: STATE DEPARTMENT

News Subject: (Legal (1LE33); Judicial (1JU36); Government (1GO80))

Region: (Cuba (1CU43); Haiti (1HA10); Caribbean (1CA06); North America (1NO39); USA (1US73); Americas (1AM92); Georgia (1GE15); Florida (1FL79); Latin America (1LA15); U.S. Southeast Region (1SO88))

Language: EN

Other Indexing: (COAST GUARD; HAITIAN; HAITIAN REFUGEE CENTRE; STATE; STATE DEPARTMENT; US ATLANTIC COMMAND; US CIRCUIT COURT OF APPEALS; US SUPREME COURT) (Jean-Bertrand Aristide; Joe Snyder; Justice Departments; Pietropaoli; Stephen Pietropaoli; William Barr)

Word Count: 408

End of Document

2/1/92 Wash. Times (D.C.) A2
1992 WLNR 137169

Washington Times (DC)

February 1, 1992

Section: TOP OF THE NEWS NATION

BARR URGES ADDED TIME FOR SEMIAUTOMATICS

FROM WIRE DISPATCHES AND STAFF REPORTS

Attorney General William P. Barr told federal prosecutors yesterday to ask federal judges to impose longer sentences for crimes involving the use of a semiautomatic weapon.

The attorney general cited "mounting evidence that, in many American communities, semiautomatic and automatic weapons are the weapons of choice for gangs, drug dealers and other violent offenders."

J0026817-020192

---- Index References ----

Language: EN

Other Indexing: (BARR URGES; William P. Barr)

Edition: Final

Word Count: 78

2/1/92 WashingtonPost.com (Pg. Unavail. Online)
1992 WLNR 5576579

WashingtonPost.com

February 1, 1992

POLICE CHARGE 18 IN DRUG SWEEP; ARRESTS SAID TO FOCUS ON P STREET NE GROUP

Michael York

More than 450 state, federal and local law enforcement officers arrested 18 people on conspiracy charges yesterday and searched more than 30 buildings in a probe of an alleged drug gang in Northeast Washington. Attorney General William P. Barr announced the arrests at an unusual Justice Department news conference crowded with high-ranking law enforcement officials, state and local police and prosecutors from as far away as Brooklyn, N.Y. By comparison, when a 115-count indictment was returned last fall against 24 members of an alleged drug gang in Washington that was linked to three slayings, the case was outlined in a press statement issued by U.S.

Attorney Jay B. Stephens's office. U.S. Attorney Richard Cullen, Stephens, FBI Director William S. Sessions and Drug Enforcement Administration chief Robert C. Bonner heaped praise on the various law enforcement agencies involved in the arrests and search warrant executions. They said the raid is an illustration of a new emphasis on charging drug organizations in federal court, where leaders of drug gangs can face sentences of life without parole. The news conference came less than a month after Barr announced that FBI agents in major cities would be assigned to investigate violent street crimes, offenses usually in the jurisdiction of local and state agencies. Although those arrested yesterday are allegedly members of a drug gang in the District, the primary investigation was conducted by officers from the Arlington County Police Department, the Virginia State Police and U.S. Park Police, officials said. The target of yesterday's arrests and search warrants was an alleged drug organization known as the P Street Crew, named for its headquarters in the unit block of P Street NE. Cullen said that officers found a pipe bomb during a search of 12 P St. NE, and he said other searches turned up numerous firearms, including a fully automatic machine gun and a semiautomatic "streetsweeper" shotgun. "This shows the type of violent organizations we are dealing with," Cullen said. "We're just thankful that we were able to do this today without a shot being fired." Officials said the investigation of the P Street Crew started in Virginia as an offshoot of a probe of alleged cocaine dealers based in Arlington and New York. In a statement, Barr said that it was that organization, which he said supplied cocaine to the P Street Crew, that was responsible for the 1990 execution-style slaying of Maryland State Trooper Theodore Wolf. The D.C. police department's Rapid Deployment Unit executed a search in the P Street block five weeks ago and seized 50 grams of crack cocaine. Authorities yesterday were seeking a total of 22 people named in the affidavit supporting the arrests. Among those arrested on drug conspiracy charges was former Washington Redskins wide receiver Eric Yarber, who played for the team in the Super Bowl in 1988. Yarber is part owner of the Doug Williams Sports Store, according to his lawyer, Jonathan Seamon. Williams, a former Redskin who is not an owner of the store, was not involved or implicated in the investigation, Stephens said. "When the dust settles, it will be determined that neither Mr. Yarber nor the Doug Williams Sports Store are involved with drugs or money laundering or any other kind of illegal activity whatsoever," Seamon said. Yarber normally carries a pistol because the store has been robbed, Seamon said. Cullen said agents seized nine buildings on P Street that he said were worth at least $2 million. The buildings, prosecutors said, were the sites of drug activity. Also seized, he said, were

jewelry, expensive watches, "very expensive automobiles and the worst kinds of guns imaginable." Cullen said evidence in the case will be presented to a federal grand jury in Virginia "almost immediately." Under federal law, a criminal case can be brought in any district where one of the alleged violations to be entered in evidence is said to have occurred. In addition, Barr said at the news conference that Cullen's office had completed the dismantling of a separate drug organization that operated in Brooklyn and the District, obtaining guilty pleas from 23 defendants. That investigation, which started with the 1989 killing of Alexandria police Cpl. Charles Hill, has resulted in five defendants being sentenced to life without parole.

---- Index References ----

News Subject: (Drug Addiction (1DR84); Crime (1CR87); Criminal Law (1CR79); Health & Family (1HE30); Legal (1LE33); Government Litigation (1GO18); Smuggling & Illegal Trade (1SM35); Social Issues (1SO05); Police (1PO98))

Region: (New York (1NE72); USA (1US73); Americas (1AM92); U.S. Mid-Atlantic Region (1MI18); North America (1NO39))

Language: EN

Other Indexing: (Charles Hill; Robert Bonner; Jonathan Seamon; William Barr; Jay Stephens; Richard Cullen; Eric Yarber)

Word Count: 705

End of Document

NewsRoom

1/31/92 AP Online 00:00:00

AP Online

January 31, 1992

Section: Domestic

11th Circuit Issues Hold on Rulings in Haitian Case

LAURAN NEERGAARD

ATLANTA

A federal appeals court today stayed the rulings by a Florida district court that blocked U.S. government plans to deport thousands of Haitians, and federal officials indicated they could be repatriated soon.

A three-judge panel of the 11th U.S. Circuit Court of Appeals agreed to put all of the Miami judge's injunctions on hold until the appeals court can decide the individual cases of the Haitians being held at the U.S. naval base in Guantanamo Bay, Cuba.

But repatriation could begin "in the very near future," said a government official speaking in Washington on condition of anonymity.

U.S Attorney General William P. Barr said the decision gave the federal government clear legal authority to return the Haitians to their homeland.

"I am not prepared to say we are going to do that right now," he said, but added: "You'll see very shortly."

Ira Kurzban, the lawyer for the Haitian Refugee Center in Miami, sees the Atlanta-based court's ruling as meaning that the 9,000 Haitians living in tent cities on the base can be sent to their homeland immediately.

Consequently, he planned to file an appeal today with the U.S. Supreme Court, seeking an emergency ruling staying the 11th Circuit decision.

Kurzban said the decision "only applies to the people on Guantanamo who have gone through the screening process. It doesn't

apply to the 2,700 or so who are still on Coast Guard cutters."

The 11th Circuit panel, including Judges Gerald B. Tjoflag and Emmett R. Cox, did not immediately issue an opinion explaining today's ruling. Judge Joseph W. Hatchett dissented.

The 11th Circuit had been considering a U.S. government appeal of the orders by Miami's U.S. District Court Judge C. Clyde Atkins for a week. Each the time the government attempted to send the Haitians back, Atkins issued a restraining order. The 11th Circuit has twice previously overruled his orders.

Last month, the 11th Circuit ruled against the Haitians on another issue in the case, momentarily clearing the way for their deportation. Atkins issued a restraining order on that, too.

The judge also has ruled that the Haitians' lawyers have a right to speak to their clients before they are shipped home.

Lawyers for the Haitians contend their clients are political refugees who would be endangered if sent back. The government says most seek to escape Haiti's poverty, not political violence, and so are ineligible for asylum.

More than 14,000 Haitians have been stopped at sea since a Sept. 30 military coup forced Haitian President Jean-Bertrand Aristide from office.

The U.S. government is worried that soon more Haitians will be in its custody than it can handle.

On Wednesday, Assistant Secretary of State for Inter-American Affairs Bernard Aronson filed an affidavit with the court saying as many as 20,000 more Haitians are preparing to sail for the United States.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33))

Region: (Cuba (1CU43); USA (1US73); Americas (1AM92); Florida (1FL79); Haiti (1HA10); North America (1NO39); Caribbean (1CA06); Latin America (1LA15))

Language: EN

Other Indexing: (11TH CIRCUIT; 11TH CIRCUIT ISSUES; 11TH U S CIRCUIT COURT; AFFAIRS BERNARD ARONSON; COAST GUARD; HAITIAN REFUGEE CENTER; US DISTRICT COURT; US SUPREME COURT)

(Atkins; C. Clyde Atkins; Emmett R. Cox; Gerald B. Tjoflag; Ira Kurzban; Jean-Bertrand Aristide; Joseph W. Hatchett; Kurzban; William P. Barr)

Word Count: 570

End of Document

NewsRoom

1/31/92 Reuters News 00:00:00

Reuters

January 31, 1992

ATTORNEY GENERAL ORDERS TOUGHER CRIMINAL SENTENCES.

WASHINGTON, Jan 31, Reuter - Attorney General William Barr, reacting to a nationwide crime wave that has become a major election-year issue, said he wants tougher sentences for gang members and criminals who use semi-automatic weapons.

Barr told a Justice Department news conference that he was directing federal prosecutors across the country to seek enhanced penalties under existing sentencing guidelines.

"The rationale behind this enhanced sentencing is the mounting evidence that, in many American communities, semi-automatic and automatic weapons are the weapons of choice for gangs, drug dealers and other violent offenders," he said.

---- Index References ----

Company: JUSTICE DEPARTMENT

News Subject: (Legal (1LE33); Judicial (1JU36))

Language: EN

Other Indexing: (JUSTICE DEPARTMENT) (ATTORNEY GENERAL ORDERS TOUGHER CRIMINAL; Barr; William Barr)

Word Count: 97

End of Document

NewsRoom

NewsRoom

1/29/92 Richmond Times-Dispatch A2
1992 WLNR 884065

Richmond Times Dispatch (VA)

January 29, 1992

Section: General (wire)

ANTI-CRIME PLAN TARGETS 30 CITIES WEED AND SEED FOCUSES ON GANGS

Steve Goldberg Media General News Service

President Bush is proposing a new crime-fighting plan called Weed and Seed for inner-city neighborhoods in more than 30 cities, including Richmond. But criminal justice experts fear the program, at best, will push crime out of some neighborhoods and into others.

Bush said federal authorities will join with state and local governments "to weed out the gang leaders, the violent criminals, the drug dealers who plague our neighborhoods." Then it will follow with "expanded educational opportunities, job training, health care and other social services."

Sixteen cities, including Richmond, have applied for the program. The Justice Department by the end of March will designate eight to 10 of those cities for Weed and Seed.

The cities will share $9 million in federal money this fiscal year, said Justice Department spokesman Doug Tillett.

For the following fiscal year, which begins Oct. 1, $500 million will be spent in some 30 cities, assuming Congress approves the program.

Even if Richmond isn't selected this year, it will probably get money in fiscal 1993. The Richmond program will target Gilpin Court and Blackwell.

Criminal justice experts lauded the idea of an integrated attack on inner-city problems, combining tough law enforcement with social programs such as drug treatment, after-school help for students, neighborhood health clinics and job programs.

Flooding high-crime areas with large numbers of police has been tried before and has failed. Massive police crackdowns on open-air drug markets in Washington and New York merely prompted dealers to shift activities to other areas, the police chiefs in the two cities later acknowledged.

Similarly, a law enforcement crackdown on drug smuggling into South Florida sent drug traffickers up the coasts of Florida and to Texas, but had little long-term effect on the flow of narcotics.

"It's like driving prostitutes out of a neighborhood," said Alfred Blumstein, a criminologist at Carnegie-Mellon University in Pittsburgh. They simply relocate.

Only $30 million of the $500 million in federal money will come from the Justice Department. That money will be used mostly to pay overtime for police and local prosecutors, said Attorney General William Barr.

The remainder of the money will come from an array of federal agencies, including the Department of Housing and Urban Development, the Education Department and the Department of Health and Human Services.

But criminologists said $30 million is a pittance to divide among 30 cities. Bush has held up congressional passage of a crime bill that would spend $150 million to get more policemen walking neighborhood beats, a key element in the Weed and Seed program.

WASHINGTON

(ljc)

---- Index References ----

News Subject: (Crime (1CR87); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Criminal Law (1CR79))

Industry: (Agriculture (1AG63); Agriculture, Food & Beverage (1AG53))

Region: (USA (1US73); Americas (1AM92); Florida (1FL79); North America (1NO39))

Language: EN

Other Indexing: (BLACKWELL; CARNEGIE MELLON UNIVERSITY; DEPARTMENT OF HEALTH; DEPARTMENT OF HOUSING; EDUCATION DEPARTMENT; GILPIN COURT; HUMAN SERVICES; JUSTICE DEPARTMENT; WEED) (Alfred Blumstein; Bush; Doug Tillett; Flooding; Massive; Seed; SEED FOCUSES; Similarly; Sixteen; Urban Development; William Barr)

Edition: City

Word Count: 537

End of Document

NewsRoom

1/28/92 Richmond Times-Dispatch 9
1992 WLNR 877601

Richmond Times Dispatch (VA)

January 28, 1992

Section: General

CITY MAY RECEIVE ANTI-CRIME FUNDS

Steve Goldberg Media General News Service

The Bush administration has unveiled a $500 million anti-crime initiative called "Weed and Seed," designed to reduce violent crime in selected neighborhoods and to keep it from coming back.

Richmond may be one of the first cities to get money from it, local sources said today.

"I think we are a strong candidate to be one of the pilot cities," said Joyce Wilson, an assistant city manager.

Local officials could not confirm that the city would be chosen, but a news conference has been scheduled by the U.S. Attorney's Office for 2 p.m. tomorrow in Gilpin Court.

President Bush said yesterday that federal authorities will join with state and local governments "to weed out the gang leaders, the violent criminals, the drug dealers who plague our neighborhoods."

Then the program will follow with "expanded educational opportunities, job training, health care and other social services," Bush said.

"The key to the seed concept will be the jobs-generating initiatives such as enterprise zones to give people who call these neighborhoods home something to hope for," the president told a convention of National Religious Broadcasters.

Attorney General William Barr told a news conference yesterday that "Weed and Seed" is designed to be a coordinated attack on crime and social problems. It will involve government agencies and the private sector.

Richmond is one of 16 cities competing to be among the eight cities that will divide $9 million to $10 million in federal money in the current fiscal year, said Justice Department spokesman Doug Tillett. The amount for each city is not known.

Even if Richmond is not one of the eight cities to get money this year, it will probably be among the 30 to receive money in fiscal year 1993.

He said the Justice Department will announce at the end of March which cities get the first money.

For fiscal year 1993, which begins Oct. 1, Barr said that $500 million will be spent on the program in a total of 30 cities. The first eight cities that win awards this year will be at the top of the list for that money, Tillett said.

Only $30 million of the $500 million will come from the Justice Department, however, and that money will be used mostly to pay police overtime, Barr said.

The remainder of the money will come from federal agencies, including the Department of Housing and Urban Development, the Education Department and the Department of Health and Human Services.

The program is aimed at removing criminals from the streets "providing visual proof to the community that law enforcement is effective," Barr said.

It will include stiff mandatory sentences for offenders prosecuted in federal court, preventing further criminal acts and allowing communities to rebuild their neighborhoods.

A key element of the program will be to keep schools open for most of the day, allowing children to seek a "safe haven" there.

The program will include after-hours tutoring, job training and counseling. There will also be expanded drug treatment and health care in the communities targeted.

Pilot "Weed and Seed" programs have been under way since fall in Philadelphia and Trenton, N.J.

Democrats criticized the program as inadequate to address the problems of inner cities.

Americans "want more than news conferences and rhetoric from President Bush," said Rep. Charles Schumer, D-N.Y., chairman of the House subcommittee on crime. "They want action."

WASHINGTON

(ldb)

---- Index References ----

News Subject: (Crime (1CR87); Local Government (1LO75); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Criminal Law (1CR79); Government (1GO80))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (DEPARTMENT OF HEALTH; DEPARTMENT OF HOUSING; EDUCATION DEPARTMENT; FUNDS; GILPIN COURT; HUMAN SERVICES; JUSTICE DEPARTMENT; NATIONAL RELIGIOUS BROADCASTERS; PILOT) (Attorney; Barr; Bush; Charles Schumer; CITY MAY; Democrats; Doug Tillett; Joyce Wilson; Seed; Tillett; Urban Development; Weed; William Barr)

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1/28/92 Wash. Times (D.C.) A3
1992 WLNR 154573

Washington Times (DC)

January 28, 1992

Section: NATION

BUSH TARGETS $12.7 BILLION FOR DRUG WAR

Carleton R. Bryant THE WASHINGTON TIMES

President Bush yesterday announced plans to step up the government's war on drugs by earmarking $12.7 billion of his new budget to combatting drug trafficking and usage.

"We haven't won this war yet, but I am determined that we will," Mr. Bush said at the unveiling of the 1992 drug control strategy at the Old Executive Office Building.

Speaking before a group that included top administration officials and ambassadors from Central and South America, Mr. Bush called for local, national and international cooperation in fighting illicit drug use and drug-related crime.

"It is imperative that we put more resources into our fight," the president said. "Accordingly, I am asking the Congress for fiscal '93 to provide $12.7 billion to wage this war on drugs. If Congress approves my request, funding for the war against drugs will have increased by 93 percent to nearly double the level of just three years ago when I took office."

Mr. Bush's new budget, which will be released tomorrow, contains provisions for beefing up several of the Justice Department's anti-drug operations, including a $500 million outlay for a program that targets violent criminals and gangs.

Called "weed and seed," the program combines federal, state and local resources in specially identified neighborhoods to "weeding out" drug dealers and "seeding in" community improvement projects.

But Democratic members of Congress were busy yesterday chipping away at the foundation of Mr. Bush's anti-drug plan.

"Regardless of what the administration is proposing here this time around, it does not amount to a hill of beans unless it gets priority on the federal agenda," said Rep. Charles Rangel, chairman of the House Select Committee on Narcotics.

In announcing his drug control strategy, Mr. Bush noted the results of a recent survey that show illicit drug use decreasing among the nation's high school seniors.

The survey showed current use down for cocaine and alcohol and annual use for those drugs and marijuana down in 1991. Compared with 1990, current cocaine use dropped from 1.9 percent to 1.4 percent and alcohol from 57 percent to 54 percent. Annual use of marijauna fell from 27 percent to 24; alcohol from 81 to 78; and cocaine from 5.3 to 3.5.

However, Sen. Joseph R. Biden Jr., Delaware Democrat and chairman of the Senate Judiciary Committee, said the president's "rosy" assessment ignores some basic facts. He cited the dramatic increases in the number of "hard-core" cocaine addicts since 1988 and emergency room admissions for cocaine overdoses as examples.

"(The president's) strategy contains the same flaws, the same failure to make the tough decisions, that have brought us to the current stalemate in the 'war on drugs,' " Mr. Biden said in a statement. "Unless there are some changes in direction, our nation's drug epidemic is going to continue to grow in the years ahead."

In a separate news conference, Attorney General William Barr outlined the Justice Department's proposed projects to fight drugs and violent crime. The department's budget calls for:

* Moving 85 FBI agents from counterintelligence activities to policing violent street gangs.

* Hiring 161 new prosecutors to indict armed criminals and gangs.

* Providing $411 million for fighting drug trafficking, an 8 percent increase over last year's budget. The funds will be used to hire 140 new Drug Enforcement Administration agents, 66 new FBI agents, 200 new Border Patrol officers and 134 new drug prosecutors.

* Allotting $114 million for the Bureau of Prisons to activate more than 4,600 new beds and earmarking $239 million for building new prisons to house an additional 3,482 convicts.

The new budget is a "major step forward for the 'weed-and-seed' program," Mr. Barr said.

The program is operating in Kansas City, Mo., Trenton, N.J., and Philadelphia. The budget calls for expansion to as many as 16 cities competing for $9 million this year and $20 million in 1993, Mr. Barr said.

* This article is based in part on wire service reports.

C0059087-012892

CHART

Chart, DIPPING DRUG USE, By The Washington Times

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Government (1GO80))

Industry: (Construction (1CO11); Healthcare (1HE06); Commercial Construction (1CO15); Commercial Offices (1CO24))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (BUREAU OF PRISONS; BUSH; CHART; CONGRESS; DRUG; DRUG ENFORCEMENT ADMINISTRATION; FBI; HOUSE SELECT COMMITTEE; JUSTICE DEPARTMENT; SENATE JUDICIARY

COMMITTEE) (Barr; Biden; Bush; Charles Rangel; Chart; Compared; Delaware Democrat; Joseph R. Biden Jr.; Sen; William Barr)

Edition: Final

Word Count: 827

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1/26/92 Wash. Times (D.C.) A3
1992 WLNR 132468

Washington Times (DC)

January 26, 1992

Section: NATION

JUSTICE DEPARTMENT SHAPES UP UNDER BARR NEW BOSS TOOK OVER IN ADVANCE

Jerry Seper THE WASHINGTON TIMES

Attorney General William P. Barr's reign at the Justice Department formally began in October 1991, but there are those who believe the former CIA staffer and White House adviser really took over more than a year ago.

It was Mr. Barr - in his 100th day today as the nation's chief prosecutor - who was dispatched to save former Attorney General Dick Thornburgh from self-destruction.

"There's no doubt that Thornburgh's days were numbered," said a Bush administration official. "He had lost control of the department, and it didn't appear he could regain it.

Mr. Thornburgh resigned in August 1991 to run - unsuccessfully - for a U.S. Senate seat in Pennsylvania.

The new head of Justice is becoming legendary for pushing tough criminal prosecutions, while targeting drugs and violent crime as the department's top concerns.

Mr. Barr, who joined the Justice Department in 1989 as an assistant attorney general, was named deputy attorney general in May 1990 - after Donald B. Ayer quit amid allegations that Mr. Thornburgh never allowed him to do the job.

Almost immediately, Mr. Barr broke the lock that an inner circle of Thornburgh cronies held on policy, department officials said.

A conservative with strong political ties to the Reagan and Bush administrations, Mr. Barr moved quickly as deputy attorney general to streamline the department. He reassigned key officials, smoothed relations with Congress, undertook major law enforcement decisions and opened up a press office that had been all but shut down by his predecessor.

"He quickly proved himself to be up for the job," said a Justice Department official. "Within a very short period of time, it became clear to many that he had the power and wasn't afraid to use it. By the end of 1990, he was the force in the office."

Mr. Barr's efforts as deputy attorney general impressed both the White House and Congress. Federal officials said his move to improve relations with Capitol Hill received high marks. Mr. Thornburgh had angered many in Congress with refusals to answer committee questions and subpoenas, and for what was perceived as an imperious attitude.

Administration sources said President Bush was particularly pleased with Mr. Barr's handling of an inmate uprising at the Talladega Federal Correctional Institute in Alabama last August, during which 121 Cuban detainees held nine hostages for 10 days.

Mr. Barr, then serving as acting attorney general, ordered a raid on the facility by the FBI after prison officials said they feared for the lives of the hostages. The raid, which lasted four minutes, caught the inmates by surprise and resulted in the safe release of the hostages.

"It was Barr's decisive action in the Talladega matter that convinced the president he had a winner," said one administration official.

Mr. Barr, a skilled bagpipe player known within the department for his quick wit, dry humor and raucous laugh, is relunctant to accept praise. During an interview last week, he said leadership was a matter of "knowing what the job is and finding the right people to do it."

"As attorney general, you have to have control, and I do," said the 41-year-old New York native. "But it doesn't have to be heavy-handed. We set out to define the assignment and build a sense of teamwork to get it done."

That sense of teamwork, officials said, showed itself in a tough plea agreement with the scandal-plagued Bank of Credit and Commerce International. BCCI agreed in November to plead guilty to racketeering and fraud charges, forfeit $550 million in assets and "cooperate fully" in ongoing investigations involving the bank and its officers.

Officials said it was Mr. Barr who put together a team of 37 prosecutors and investigators, headed by acting Deputy Attorney General George Terwilliger, to negotiate the complex deal. They said Mr. Barr gave the team "specific marching orders" to get the agreement signed.

Mr. Barr also has moved quickly to resolve a long-running departmental controversy. The dispute involves a $10 million contract awarded by Justice in March 1982 to Inslaw Inc. to provide software to U.S. attorneys' offices nationwide. Company officials alleged - and two lower courts agreed - that Justice officials "took, converted and stole" the software through "trickery, fraud and deceit."

Less than a month after his Oct. 16 nomination, Mr. Barr appointed former U.S. District Judge Nicholas J. Bua as special counsel to examine allegations of wrongdoing. Mr. Bua, a Carter administration appointee, said Mr. Barr assured him he would have access to all documents and other evidence in the case.

Mr. Thornburgh had refused to make more than 450 Inslaw documents public. He also boycotted a July 1991 House committee hearing in the matter.

Mr. Barr has designated drugs and street violence as the department's two major priority areas and recently reassigned 300 FBI agents from foreign counterintelligence to help combat street gangs and violent crimes in 39 cities.

In November, Mr. Barr also announced the indictment of two Libyan intelligence agents in the 1988 terrorist bombing of Pan Am Flight 103, in which 270 persons were killed.

Mr. Barr is credited by federal officials as having been instrumental in ensuring that the "exhaustive and complex" investigation remained a top priority.

Another top priority for Mr. Barr is ensuring that those sentenced to prison terms actually serve them. He believes prison population caps have "wrought havoc with the state's efforts to get criminals off the streets." He has offered the department's legal services to states to help overturn court-imposed population limits.

During the confirmation process, the New York City native surprised many Senate Judiciary Committee members with candid responses to questions, including his belief that the Supreme Court's 1973 decision legalizing abortion was "wrongly decided" and should be overturned.

"You've given the first candid answer anyone has given on Roe vs. Wade that I can remember in God knows how many years," said Committee Chairman Joseph R. Biden Jr., Delaware Democrat.

****BOX

PROFILE OF THE ATTORNEY GENERAL

Born: Attorney General William P. Barr was born May 23, 1950, in New York City.

Family: Wife, Christine, and three children: Mary, Patricia and Margaret.

Education: Bachelor's degree, Columbia University, 1971. Master's degree, Columbia University, 1973. Law degree, George Washington University, 1977.

Career highlights: Staff officer, CIA, 1973-77; associate, law firm of Shaw, Pittman, Potts and Trowbridge, 1978-82 and 1983-84; partner, 1985-89; deputy assistant director of the White House domestic policy staff, 1982-83; assistant attorney general, Office of Legal Counsel, Justice Department, 1989; deputy attorney general, 1990-91.

Hobbies: Bagpipe player, member of the Denny & Dunipace Band (which will compete in August in Scotland for the world championship).

Source: Who's Who in America, 1991

G0028907-012692

PHOTO, TABLE

Photos, A & B) William Barr (right), who was appointed as attorney general after Dick Thornburgh (left) resigned, is credited with making noticeable improvements in the Justice Department. Box, PROFILE OF THE ATTORNEY GENERAL, By The Washington Times

---- Index References ----

Company: INSLAW INC

News Subject: (Judicial (1JU36); Legal (1LE33); Government (1GO80))

Industry: (Sports (1SP75))

Region: (District Of Columbia (1DI60); USA (1US73); Americas (1AM92); North America (1NO39); New York (1NE72))

Language: EN

Other Indexing: (BANK OF CREDIT; BCCI; BOX; BOX PROFILE; CARTER; CIA; COLUMBIA UNIVERSITY; COMMERCE INTL; COMMITTEE; CONGRESS; DENNY DUNIPACE BAND; FBI; GEORGE WASHINGTON UNIVERSITY; HOUSE; INSLAW; INSLAW INC; JUSTICE; JUSTICE DEPARTMENT; PAN AM; PHOTO; PROFILE; REAGAN; SENATE JUDICIARY COMMITTEE; SUPREME COURT; TALLADEGA; TALLADEGA FEDERAL CORRECTIONAL INSTITUTE; US SENATE; WASHINGTON TIMES; WHITE HOUSE) (Barr; Bua; Bush; Career; Christine; Delaware Democrat; Dick Thornburgh; Donald B. Ayer; George Terwilliger; Hobbies; Joseph R. Biden; Margaret; Master; Nicholas J. Bua; Thornburgh; Trowbridge; Wade; William Barr; William P. Barr)

Edition: Final

Word Count: 1463

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1/26/92 Wash. Times (D.C.) A3
1992 WLNR 132523

Washington Times (DC)

January 26, 1992

Section: NATION

JUSTICE DEPARTMENT SHAPES UP UNDER BARR WORKAHOLIC WINS RESPECT

Jerry Seper THE WASHINGTON TIMES

The new head of the Justice Department is considered a brilliant workaholic and lawyer's lawyer.

With new "team players," restored decision-making power for assistant attorneys general and a push for tough criminal prosecutions, the department is humming under Attorney General William P. Barr, officials say.

"Barr has the ability to reach out to all levels, from the top to the bottom," said Acting Deputy Attorney General George Terwilliger, a career Justice Department prosecutor. "He's able to produce and the people know it."

That leadership, Mr. Terwilliger said, has produced several key programs, a renewed commitment by career prosecutors, redefined missions within the department and early successes in several complicated criminal cases - including indictments in the 1988 bombing of Pan Am Flight 103 and a $550 million plea agreement by the Bank of Commerce and Credit International.

"What Barr brings to the job is an understanding of how the department works," said Mr. Terwilliger. "He's won a lot of respect, from top agency officials in very formal settings to street agents over a beer."

He described the new attorney general as a "problem-solver."

U.S. Attorney Michael Baylson in Philadelphia agreed. "Barr is very pro-law enforcement and keenly interested in reaching out to deliver effective programs and effective enforcement," he said. "He has tremendous energy and is very pragmatic.

"They say he comes into work every day like a bolt of electricity, with new programs and new ideas," he said. "He wants the job done and done right."

Mr. Barr is the third-youngest attorney general in the nation's history, but his knowledge of the department's inner workings is second to none, according to career prosecutors.

"I have taken the time to learn what I can about the department, particularly the budget," said Mr. Barr, who started at Justice in 1989 as head of the office of legal counsel.

"The department is working, effective and receptive," he said. "It's important for state and local officials to know that, especially if we ever hope to be successful against drugs and violent crime.

G0028937-012692

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (BANK OF COMMERCE; JUSTICE; JUSTICE DEPARTMENT; PAN AM) (Acting Deputy; Barr; Credit International; George Terwilliger; Michael Baylson; Terwilliger; William P. Barr)

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End of Document

1/16/92 Hous. Chron. A1
1992 WLNR 4717856

Houston Chronicle

January 16, 1992

Section: A

Policy reverses: Feds to mess less with Texas jails

RUTH PILLER, KATHY FAIR, JIM ZOOK

Chronicle reporter Jim Zook and The Associated Press contributed to this story.

Texas' long-running prison crisis may be near a turning point under a new federal policy that says states should be allowed to run their penitentiaries without court interference.

U.S. Attorney General William Barr, in Houston to tour the Harris County Boot Camp and a state prison unit Wednesday, said federal judges had gone too far in trying to correct unconstitutional conditions.

"Generally, I think the people of Texas should be able to run their own prison system and make their own decisions," he said. "I don't think the court should be running the prison system.

"The Department of Justice supports the people of Texas and the leaders of Texas in trying to get the prison system back."

In a policy change announced Tuesday, Barr said the Justice Department would help states such as Texas remove court-imposed caps on prison populations not required by the Constitution or federal law.

"The business of running prisons belongs to the appropriate state officials, not to federal judges and special masters," Barr said. "The fact that a court finds a constitutional violation does not justify court supervision of prisons."

Under a prisoner lawsuit brought in 1972, U.S. District Judge William Wayne Justice of Tyler found unconstitutional prison conditions amounting to cruel and unusual punishment, and has since overseen massive reforms.

Among other steps, the state agreed to cap its prison population at 95 percent of capacity. That limitation has resulted in the early release of thousands of criminals, the backlog of thousands of others in county jails and one of the most ambitious and expensive prison construction programs in the nation.

Some criminal justice experts said the new Justice Department policy will give Texas more clout when it goes back to the bargaining table seeking an end to the restrictions.

But William Bennett Turner, a San Francisco attorney who represents inmates in the Texas case, said he believes the government's new posture will have no impact on the case.

"The population caps in this case were not imposed by a court on an unwilling state -- they were agreed to by the state," Turner said.

"Also, the Justice Department has been almost completely absent from this case for five or six years. If they came in now and tried to tell the judge to lift the caps, I don't think it would be very well received."

However, Texas Attorney General Dan Morales heralded Barr's announcement and predicted that "the state is on the fast track toward ending two decades of litigation."

Parties in the long-standing prison lawsuit are scheduled to meet Feb. 6 in San Francisco to seek a final agreement to phasing out federal court intervention in the operation of Texas prisons.

Justice has scheduled a hearing July 6 to consider the state's motion to terminate the lawsuit.

Prison capacity is one of the sticking points in the negotiations; one source said both sides have already agreed to raising the population cap to about 98 percent of capacity, or immediately adding 2,300 beds not now in use.

Morales said a complete removal of the population cap would free 3,000 beds for use.

The state also is about to embark on a $1.2 billion construction program that will add 25,000 beds during the next five years.

"States should not be asked to operate under judicial decrees that in many instances were based on discredited legal theories and that impose unduly burdensome restrictions," Barr said in announcing the government's new stance Tuesday. "We must allow state officials to exercise their lawful discretion."

Barr said that courts, in remedying violations of the Constitution, are not free to order conditions improved beyond the basic constitutional necessities.

But Selden Hale, chairman of the Texas Board of Criminal Justice, predicted that the Justice Department's about-face could send the state back into a long, expensive court battle if federal officials and plaintiffs' lawyers lock horns over the final settlement.

"The lawsuit, for all practical purposes, is already over," said Hale, who is part of the state's negotiating team. "And from my experience, Texas does not have a good record at winning lawsuits."

He said id would be "un-Texan" for the prison system to go back on its promise to limit population in the system.

Meanwhile, the U.S. Supreme Court took a step in the same direction, which could enable prison officials to revise court settlements regarding inmates' living conditions.

The justices, by a 6-2 vote, told a federal judge to restudy an effort by Suffolk County Jail officials in Massachusetts to modify a 1979 court consent decree in which they agreed not to put two inmates in one cell.

After a new jail was built, officials contended there was no longer a need to enforce the old agreement. Double-celling was needed because of a rapidly rising population, they said.

A federal judge ruled the decree could not be modified unless "new and unforeseen conditions" exist and the change would not jeopardize the constitutional rights the consent decree was intended to protect.

But, writing for the high court, Justice Byron White said that standard was too stringent to use in "institutional reform litigation."

A modification may be warranted, the court said, when changed factual conditions make compliance with the decree substantially more onerous or unworkable.

Barr said the decision tells courts "to be more flexible in modifying consent decrees." Prisoners' treatment and conditions would still have to be constitutional, however.

Other lawmakers and law-enforcement officials, some of whom toured the county boot camp with Barr, also praised the new federal policy and the Supreme Court decision. "I think the Supreme Court is simply echoing what we've been saying," Harris County Sheriff Johnny Klevenhagen said. "It's a great decision, something we have got to have."

He said the policy could enable thousands of felons in the county jail to be moved to a state prison, freeing more jail space locally.

---- Index References ----

News Subject: (Legal (1LE33); Judicial (1JU36); Prisons (1PR87); Police (1PO98); Government Litigation (1GO18); Economics & Trade (1EC26))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Texas (1TE14))

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Other Indexing: (CRIMINAL JUSTICE; DEPARTMENT OF JUSTICE; JUSTICE BYRON WHITE; JUSTICE DEPARTMENT; SUPREME COURT; TEXAS; TEXAS BOARD; US SUPREME COURT; WILLIAM WAYNE JUSTICE OF TYLER) (Barr; Bennett Turner; Chronicle; Dan Morales; Double; Generally; Hale; Jim Zook; Johnny Klevenhagen; Morales; Selden Hale; Turner; William; William Barr)

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NewsRoom

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1992 WLNR 2224915

USA Today (USA)

January 10, 1992

Section: NEWS

REDUCED SPY THREAT LETS FBI SHIFT FOCUS

Sam Vincent Meddis

In what's billed as a post-Cold War "peace dividend," 300 FBI agents will switch from tracking foreign spies to fighting domestic street gangs.
The agents will be assigned to 39 cities reporting gang-related violence, like drive-by shootings and drug-turf battles.

"This is the largest single reallocation of resources in FBI history," Attorney General William Barr said Thursday.

The reassignment follows collapse of the Soviet Union and its East bloc allies, along with breakup of the once-formidable KGB spy apparatus.

"Some of the intelligence services that used to operate against (us) are no longer in existence," Barr said.

The number of FBI counterintelligence agents is classified, but they're believed to be a large part of the bureau's more than 10,000 agents.

Already, 1,600 FBI agents are assigned to violent-crime investigations nationwide.

As long as the espionage threat continues to decline, more FBI spycatchers may be reassigned, said FBI Director William Sessions.

The FBI will start creating task forces with the federal Bureau of Alcohol, Tobacco and Firearms to target street gangs, beginning in Baltimore, Dallas, Atlanta and Washington.

"Our message to gang members is: Find a different line of work or be prepared to spend a long time in prison," said BATF Director Stephen Higgins.

The heightened federal focus on violent crime follows an 11% increase in criminal violence reported by local police to the FBI in 1990, up 5% in the first six months of last year.

Street violence is also conspicuously growing as an election-year issue. Last month, Sen. Joseph Biden Jr., D-Del., chairman of the Senate Judiciary Committee, reported that a record 24,020 murders were committed in 1991, a 2.5% increase over the previous year.

Reaction from local police in target cities was positive.

"We need all the help we can get, as all the cities will probably tell you," said Denver police Detective David Metzler.

Street gangs have multiplied in many cities. Houston police spokesman Robert Hurst said there were 103 gangs in the city last year; 23 in 1988.

But the federal effort will be mostly symbolic, says Darrel Stephens of the Police Executive Research Forum, a law enforcement research group.

There are 500,000 local police nationwide. Adding federal agents will be "helpful," said Stephens. "But as far as a real dramatic impact, I just don't think that will happen."

Still, federal authorities have an advantage, said Barr: Tougher federal laws for drug and firearm offenses, including mandatory sentences and pretrial detention.

"When we do convict one of these defendants ... they will be incapacitated through long prison terms," said Barr.

CUTLINE: BARR: Attorney general gives FBI agents new target

PHOTO
b/w,AP

NOTES: THE NATION

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (ADDING FEDERAL; AP; BATF; FBI; FEDERAL BUREAU OF ALCOHOL; KGB; POLICE EXECUTIVE RESEARCH FORUM; SENATE JUDICIARY COMMITTEE; TOBACCO) (Barr; Darrel Stephens; David Metzler; Firearms; Joseph Biden Jr.; PHOTOb; Reaction; REDUCED SPY THREAT; Robert Hurst; Stephen Higgins; Stephens; William Barr; William Sessions)

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1992 WLNR 5332735

Washington Post, The (Washington, D.C.)

January 10, 1992

Section: A Section

FBI TO SEEK MORE FUNDS TO FIGHT GANG VIOLENCE

Sharon LaFraniere

The Justice Department plans to ask Congress next month to approve further reductions in the number of FBI agents in counterintelligence and more funds to battle violent crime, Attorney General William P. Barr said yesterday.

Barr forecast his upcoming budget request at a news conference in which he announced the reassignment of 300 FBI counterintelligence agents to pursue street gangs in 39 cities. Barr said that transfer represents an 18 percent increase in the number of FBI agents assigned to violent crime and "the largest single reallocation of resources in FBI history."

New York and Los Angeles, both with serious gang problems, will gain the most agents. Sixteen agents will be added to the 38 who were assigned this fall to pursue gangs in the District, FBI officials said.

While not specific about the upcoming budget request, Barr said the budget plan envisions "additional drawdowns of foreign counterintelligence resources" and "additional resources in the violent crime area."

While state and local authorities bear primary responsibility for violent crime, federal crimefighters have jurisdiction over gangs, firearm offenses and drug crimes. Barr said he had no estimates of the degree to which criminal gangs contribute to violence in U.S. cities, but estimated the number of gang members at 300,000.

Barr cited Philadelphia as a city where prosecution of gang members appeared to cut the number of drug-related homicides, although criminologists differ over why its murder toll has fallen in the past two years.

In the District, local authorities have long insisted there is no serious gang problem. But D.C. Police Chief Isaac Fulwood Jr. said in September that heavily-armed, home-grown gangs were driving the drug trade and the source of much of the city's seemingly random violence.

The number of agents assigned to investigate suspected spies in the United States is classified, but Rep. Don Edwards (D-Calif.), whose House Judiciary subcommittee on civil and constitutional rights oversees the FBI, said the most common estimate is 25 percent of the bureau's 10,350 agents, or about 2,500 agents. The loss of 300 agents would represent about a 12-percent decrease for the FBI's foreign counterintelligence forces.

Only last year, the FBI sought an increase in the number of foreign counterintelligence agents, according to Edwards. Congress denied the request, figuring "they were just slow, like the CIA was, in recognizing what was happening in the Soviet Union," Edwards said.

nese maker of supercomputers, complained to U.S. representatives yesterday about the lack of reciprocity in the agreement, according to Japanese press reports. The accounts quoted Shigeo Muraoka, a Fujitsu managing director, as saying: "It's only natural that the U.S. side apply the same rules agreed upon."

Referring to the concessions gained by the United States, Torie Clark, spokeswoman for the U.S. trade representative, said the pact has specific provisions, which are "very good, solid commitments." They include statements that the Japanese government will grant Americans access to contract specifications before bidding on computer products and services opens and that it will uphold a policy of nondiscrimination.

y a third of the cars now sold in the United States are Japanese brands.

A U.S. antitrust law that forbade any Detroit company from insisting that a dealer carry only its make of car worked in the newcomers' favor. "Japan's cars were able to very quickly obtain rapid, full access to the U.S. distribution network," said Steve Collins, director of international affairs at the Motor Vehicle Manufacturers Association.

In the 1970s, as its industry emerged as world-class, Japan removed its formal barriers to auto imports. But many U.S. companies feel the damage to their sales was already done. "Did we have full, unfettered access to that market when the American auto industry was dominant in the world," asked Alisa Maher, a trade specialist at Chrysler Corp. "No."

U.S. automakers also complain that Japan's dealership system has been a major barrier. A Japanese dealer who puts an American car on display risks being cut off from the Japanese models that form the bread and butter of the dealer's business. Ford has dealt with this problem through a close alliance with Mazda Motor Corp., which produces Ford-brand cars for sale on the Japanese market through a joint dealership network.

Recently, Japanese automakers have agreed to renounce the exclusivity system. One of Honda's dealers, for instance, is now selling Chrysler Jeeps.

The Big Three contend that quality improvements they have made would give their cars major appeal in Japan, if consumers could ever see them. In addition, each of the Big Three has made a commitment to export right-hand drive cars to Japan.

Not everyone is sure that that will make a difference, however. Left-hand drive cars are a status symbol for some in Japan. Owners of luxury cars sometimes prefer the chauffeur to sit on the curb side, so that he can jump out quickly and open the passenger door.

acitly acknowledged that that approach marks a more interventionist policy than the Bush White House normally cares to adopt.

Japanese auto company executives said at a press conference that they attach high priority to meeting the goals. Some even said that to meet the targets, they might make some small sacrifices in profitability by paying a little more for an American-made part, although U.S. parts makers assert that they clearly enjoy a price advantage anyway.

The Japanese auto companies can -- and probably will -- meet their targets in some substantial way by buying from Japanese-owned parts factories based in the United States. The administration stoutly contends that a company whose work force is American should be regarded as American, regardless of its ownership.

GM's Stempel and Ford's Poling expressed pleasure over one set of Japanese concessions aimed at making it easier for Detroit to sell cars here. Tokyo agreed to allow U.S. automakers to have cars tested for emissions controls in the United States, rather than in Japan, for example.

American automakers have complained that Japanese testing requirements -- which apply to all new cars sold here, not just imports -- impose long and costly delays in getting their products onto the market.

Administration officials also touted the Japanese agreement to increase government purchases of American-made computers. Bush, in a press conference today, said the computer agreement "will open up additional opportunities" for American companies "in a large, leading-edge industry."

Industry data show that U.S. manufacturers hold 40 percent of the private-sector computer market in Japan, but government organizations buy only 6 percent of their computers from American companies, a senior administration official said. The U.S. share in Japan's central government is even less, about 1 percent, the official said.

"There's clearly an access problem here, and we're very pleased that we have been able to reach agreement with the Japanese government on a series of measures that we feel will significantly open this market," he added.

The steps the Japanese will take on government computer sales involve making sure foreign companies know when a government agency is in the market for computers, limiting the ability of individual agencies to buy computers without opening the purchase to bids and without allowing "fair and open competition" between Japanese companies and their American rivals.

Also highlighted in the 48 pages of "fact sheets" on the trade measures are moves by Japan to break the virtual monopoly that a small number of companies have on sales of glass and paper products here. While these are not glamorous trade issues, administration officials said that allowing American companies to compete for business in Japan could mean billions of dollars in sales for them.

The administration also boasted of achieving gains for American companies having trouble battling Japanese standards and testing procedures.

These include such seemingly mundane matters as reducing the time it takes to process quality marks on foreign badminton equipment and making sure that American manufacturers know what the regulations are to sell slot machines in Japan -- measures of vital importance to individual American businesses that say they have been blocked from selling here by arcane regulations.

Japanese automakers both in Japan and the U.S. will buy $19 billion a year in U.S. auto parts by 1994, up $10 billion from 1990.

RESEARCH AND DEVELOPMENT

Japanese automakers will expand U.S. research and development staffs to 2,200 employees from 1,400.

AUTO SALES

The Japanese will sell about 20,000 more U.S.-made cars a year in their dealerships, for a total of about 55,000 annually.

PARTS, COMPONENTS AND SUPPLIES

Japanese auto, electronics and machine industries will import $10 billion more in 1993 than in 1990.

COMPUTERS

Japan will start a plan aimed at expanding government purchases of foreign computers, a potential market of $6 billion annually, and will make efforts to increase market access for semiconductor business.

PAPER AND GLASS

Japan will come up with measures by April to "substantially increase" market access for foreign firms exporting paper products to Japan and will work to increase market access for imports of flat glass, a potential market of $4 billion annually.

SOURCE: Reuter; Washington Post News Research.

schedule and substantive decisions being considered. Maintaining Appearances

In no role is Marilyn Quayle more dedicated than as the keeper of Dan Quayle's image. His former congressional staff members tell of trying to get a formal photograph of him back in 1977 when he was first in Congress. They kept sending proofs to her and she kept rejecting them. "She was very attuned to pictures of him and his image, and retained approval right," said one former staff member who dealt directly with her.

By 1986, when Quayle was reelected to the Senate, Roger Ailes, the Bush media consultant, was his official image-maker.

Ailes wanted a freeze-frame of Quayle to end the commercials he was making. "Dan had absolutely no concern" about which picture was used, recalled Ailes. "But Marilyn did." After she rejected at least 15 possibilities he had sent her, an exasperated Ailes allowed her to come to his editing studio in New York, something he said he never has permitted another noncandidate to do. Finally, they agreed on one of Quayle in an open shirt standing informally in front of some trees. But that was not the end of it.

"She thought {a} branch was coming out of his head," Ailes said, and she said it looked like antlers. "Why . . . I still don't know. . . . I never quite understood that, but she was very interested in it." Finally, Ailes's staff air-brushed out the branch.

The final product, Marilyn Quayle recalled, was "great. . . . I'm a perfectionist and {Ailes} was putting out a product and I expected it to be perfect. I was there to make sure it was done perfectly."

"I swear to God, my whole staff and I still joke about it," said Ailes. "When I see Marilyn I say, 'I saw a shot of Dan, he really looked ugly. You'd better get to work.' I still don't know what the hell she's talking about."

Her concern about her husband's image was more dramatically displayed one morning last year, when she visited the small suite of offices her husband maintains in the Dirksen Senate Office Building. On the wall was a large photograph of him finishing a golf swing. His shirt had gathered and filled at his stomach, suggesting a paunch.

"You can't have that up there," Marilyn Quayle said she remembers saying. "It's terrible. . . . Take it down. . . . Look at that stomach!"

Loretta Coupland, a five-year veteran of Quayle's staff, removed the 18-by-24-inch photo, pasted on thick cardboard in a wooden frame without glass, from the wall.

"That's just awful," Marilyn Quayle told Coupland and two other staff members in the office that day. She picked up a pen and began scribbling out her husband's image with deep, heavy strokes, first the midsection and then the rest of him. "I made it so you couldn't see who it was," she recalled.

At first, said one of the women who witnessed the incident, "We took it pretty much as a joke . . . but it got very intense. . . . It did flash through my mind: She's taking a lot out on that picture."

Once she had finished the scribbling, Marilyn Quayle said, it crossed her mind that she had compounded the problem. "I realized somebody could take that and . . . say, 'Oh . . . what's she been doing?'. . . . And I realized that would be bad, you know: 'The vice president's wife did that.' "

"Loretta," she said she told Coupland, "you still will hang it back up and you'll say: 'Look at what Mrs. Quayle did to that.' "

An eyewitness said that Marilyn Quayle then placed the picture on the floor and, "She kicked it."

"I do not recall kicking it," said Marilyn Quayle, "but if I did, it was to get it out of the frame, no other reason." Once the picture was dislodged from its frame, "I just peeled it off the cardboard and told Loretta to send the frame and the cardboard back here . . . so they could use it again," she said. "And I just tore it up into pieces and threw it in the wastebasket."

Her final words, all agreed, were, "I don't want to ever see this again."

In contemporaneous accounts of the incident, the three women described it to others as bizarre and troubling. In an interview, one of the eyewitnesses said, "To do it in front of all of us. I've seen some pretty goofy things, but nothing like this. . . . Human behavior is a strange thing."

Coupland said, "I don't feel at liberty to talk about that."

At least one account reached the vice president, himself. Quayle said he asked his wife if she had kicked the picture. "I forget exactly what her response was," he said, "and she sort of laughed."

But the symbolic import of her actions, and the reactions of others, apparently weigh on Marilyn Quayle. In a final half-hour interview for these articles in which she spoke about the picture incident and other matters, she described it as a "lark," and a joke that had been misinterpreted.

But during the interview, she became alternately distraught and indignant over the prospect of the incident becoming public. At several points, her voice quavered and she became tearful.

"I don't lose my temper very often," she said. "I am not violent." 'Putting the Fear Into People'

Greg Zoeller, a former member of Quayle's Senate staff, said he had "always gotten along with Mrs. Quayle, and I . . . think I'll kind of burst the bubble of her kind of being the witch of the office.

"Around the Senate she was very clever about saying a few things at certain times that would become legend. And she does have a way of kind of putting the fear into people. It's up front. Even in the vice president's office, she's dropped a couple of things . . . the word of mouth makes them into legend that she's just crucified some poor junior staff member."

According to Zoeller, she deliberately has created a myth around herself that "she can be cruel and just cutthroat."

"It's kind of a lesson that everybody can understand. You do something that looks like it hurts the vice president, you're going to get in trouble with Mrs. Quayle," Zoeller said. "Because Dan will never get mad at anybody. He'll be disappointed, but he never gets mad."

Marilyn Quayle has, on occasion, fired members of her husband's staff, including Diane Weinstein, Quayle's first legal counsel as vice president. "She was in a position where I had good expertise and had to deal with it," Marilyn Quayle said. "And I must say the decision was treated by the rest of the staff with relief."

Dan Quayle said that his staff should not worry about his wife. "They shouldn't be intimidated. I've heard that, but they shouldn't be."

But several close associates of the vice president's, projecting his wife as a potential First Lady, made a perhaps inevitable comparison.

"I think she'd be another Nancy Reagan," said Richard Fishering, an assistant county Republican chairman in Indiana who worked closely with Marilyn Quayle on her husband's first congressional race in 1976.

"I wouldn't want her to get the idea she was president of the United States," said Orvas Beers, who has been the GOP chairman of Allen County, Ind., for 30 years and gave Quayle his start in Indiana politics.

Said one current close Quayle associate, "If she got to be First Lady, the public would soon forget about Nancy Reagan. Nancy would soon be considered a woman of the people."

Asked directly about the comparison to Nancy Reagan, Marilyn Quayle said, "I'm definitely not a manipulator. I look at our relationship more as a collegial relationship than mommy taking care of her little boy, which is the way the press portrayed" Nancy Reagan.

The difference between the Quayles and most married couples, Dan Quayle said, is not that his wife is deeply involved in his career, but that they are willing "to acknowledge {it} up front." Asked if Bess Truman, for example, was as involved when her husband was vice president in the 1940s, Quayle said, "I imagine she had a lot to say about it. Oh I bet, you'd better bet your bottom dollar she did."

Marilyn Quayle says she agrees the difference is her husband's willingness to speak publicly about her substantive role. "He's not embarrassed to say -- before, you know, your little wifey, you never admit your wife helps you. Even Barbara Bush has been in on just about everything her husband's done. Oh, yes, you're dreaming if you think she hasn't."

"I'm not going to comment on that," Dan Quayle said. Homework and High Praise

"She's not a scientist, but she is a brilliant woman," Sam Broder, director of the National Cancer Institute, said of Marilyn Quayle. " I very rarely use the word 'brilliant,' but she learns, she retains, she grasps in the way a few, very brilliant people can, even in a field that is not theirs."

After the 1988 election, when she contemplated life as the nation's Second Lady, "I thought, man, it's going to be tea and crumpets and I would just go nuts," Marilyn Quayle said. She decided to apply herself to cancer detection and disaster relief, and she has become a public advocate for both. She wins exceptionally high praise from government professionals, who marvel at her seriousness and technical comprehension of the subjects.

As a promoter of early detection and prompt treatment of breast cancer -- which claimed her mother's life in 1975 -- Marilyn Quayle "brings a great air of moral authority, credibility and clarity," Broder said. He said he has never encountered an official in Washington with a greater appetite for briefing materials, or greater skill in asking probing questions.

When Broder's comments were relayed to her, Marilyn Quayle responded with pride and relief. Her fear, she said, was that she would be regarded by such professionals as "just window dressing. . . . {I thought that} if I knew as much as I could possibly know, then I would be accepted and I could actually make a difference. And if you don't do your homework, you can't."

Similar praise came from Andrew S. Natsios, the U.S. Agency for International Development's director of foreign disaster assistance who traveled with her to Mexico and to Bangladesh. "She has never made a mistake," Natsios said. "She always says the right thing. . . . She could do my job."

Not only does she have a technician's understanding of the legal and logistical aspects of disaster preparedness, said Wallace E. Stickney, director of the Federal Emergency Management Agency that handles domestic disasters, "I've never seen anyone who relates better to those people" who have suffered losses.

Marilyn Quayle keeps an active daily schedule but said she agrees to speak in public only at political events, or about cancer prevention and disaster relief. "I usually speak without any notes," she said, adding that "I pretty well speak my mind." When she reads a speech, she said, "I can pick up any text you give me and can pretty well get it right the first time with the right inflection."

The same thoroughness and energy are devoted to home and family. She invested countless hours in the restoration of the vice presidential residence on Massachusetts Avenue NW, lobbying successfully with the House and Senate Appropriations subcommittees for funds to supplement private donations to pay for the renovation, and inviting some of the members to tour the home with her.

"Took them top to bottom around the house," she recalled during an interview, "and I said, 'Guys, this is wrong. You got to help me on this.' . . . We don't have handicapped bathrooms, we don't have a ramp, we don't have a lift to get them up, because the house is all stairs. . . . It's a disgrace to the country."

Today, in addition to full accessibility for the disabled, the house has new wiring, a new pool house, flagstone decking and landscaping. "It's a charming, charming home," Marilyn Quayle said. "It's really an oasis. . . . It's one of the best-kept secrets in Washington. The grounds are fabulous. You really are private here. . . . We spend most of our time out on the veranda or out by the pool."

Marilyn Quayle also has spent the last 2 1/2 years writing a political thriller, centered on Cuba after the death of Fidel Castro, with her sister Nancy T. Northcott. Scheduled for publication this spring, the 320-page book is entitled "Embrace the Serpent."

By numerous accounts, Marilyn Quayle is a loving and attentive mother, taking time to coach a school soccer team and involving herself in the details of the lives of her three children -- Tucker, 17, Benjamin, 15, and Corinne, 12. The two boys attend Gonzaga College High School; Corinne is a student at the National Cathedral School for Girls.

Friends recall images of her, during Quayle's House and Senate years, in her van on the Beltway with kids packed in the back, heading to a soccer game. She made a point of being there for every school open house and play. When her children balked at eating vegetables, she got them interested by helping them start a garden in the back yard.

To the extent possible, the Quayles have tried to maintain a normal home atmosphere. William R. Neale, an old friend from Indianapolis, said that the Quayles "make a real effort to be sure that one of them, whenever possible, is there for breakfast with the kids -- and hopefully both of them. They will travel late at night to get home to be there, so they can talk about what's going to go on that day, what they're doing in school, in athletics, whatever it may be. . . . They strive hard to have a typical family life. It's hard . . . but they do a pretty darn good job of it."

Marilyn Quayle has a close group of professional women friends who share her interest in sports and provide a safe haven. Once a year, they escape to what they call "camp" at a remote location for several days without their husbands. "Marilyn's core group," as one called it, includes Rae Evans, a vice president of Hallmark Cards Inc.; Eva Kasten, a senior vice president and director of the Washington office of the Advertising Council and wife of Sen. Robert W. Kasten Jr. (R-Wis.); Mary Howell, a vice president of Textron Inc.; Carol Adelman, a senior official at the Agency for International Development; Deborah Dingell, a senior official at General Motors Inc. and wife of Rep. John D. Dingell (D-Mich.); and Sheila Tate, president of Powell Tate, a Washington-based public relations firm and press secretary to Nancy Reagan when she was First Lady.

The friendships transcend party affiliation, Marilyn Quayle said. "Among political wives there is a basic understanding . . . that we're all going through the same thing." Adjusting After 1988 Election

Nineteen eighty-eight, when Dan Quayle was in the second year of his second Senate term, was supposed to be Marilyn Quayle's opportunity finally to commence her long-postponed legal career. Instead, she spent the year helping her husband catch George Bush's eye for the vice presidential nomination, then watching him be trashed on the campaign trail.

When the campaign was over, and Dan Quayle was elected vice president, she wanted to join a law firm or find a professional position for herself. Several firms were interested, she said, but financial disclosure rules requiring her to list law clients, and other political, legal and practical considerations -- including a round-the-clock Secret Service presence -- conspired to make it virtually impossible for her to take an outside job as Second Lady. Job offers from within federal departments and agencies also had to be declined.

Robert D. Orr, then governor of Indiana, confirmed that the Senate seat her husband vacated was hers for the asking. "It was mine if I wanted it," she said. "It was mine." But, she said, she could see that if she ever voted against the administration, she would create a "big story" that would be "hard on the president." So she said no.

She was inhibited, she recalled, not only by fear of political and legal conflicts, but by uncertainty about the time demands of being Second Lady. "The one thing I was afraid of is I would get in a position and . . . and then realize I really didn't have the time to do it. And I didn't want to be a failure. . . . That would be a bad precedent to set for anyone coming after me."

There were other adjustments as well, most notably the transformation in Dan Quayle's status. "The children and I had come to this {realization}," Marilyn Quayle said. "The vice president never can be just Dan Quayle, Dad." At sports events or traveling, "the family does have to, in public, pull aside."

The harshness of the 1988 campaign and the barriers to her own career she encountered as Second Lady came as a surprise, close friends said. "It was a roadblock that was not anticipated," said Eva Kasten. "It was not a little roadblock. It was cement."

Marilyn Quayle said she preferred to call them "yield signs here and there . . . you do keep hitting those yield signs, hitting the bends in the road." She repeatedly plays down the emotions.

Another friend said, "After the 1988 campaign, she kept it all in. I worried a little that an igloo was being erected around her and the last piece of ice would go in and she would freeze over permanently." Still another longtime friend said, "It has been a long dark journey, very, very painful."

Asked directly about these characterizations, Marilyn Quayle said, "They're not very close friends. That is definitely not my personality. I don't ever brood about anything." But the friends who are quoted were exclusively from a list provided by Marilyn Quayle herself. Pressed on the question, she said that she was "probably angry, pain not so much."

"I don't know how you resolve all these conflicts 100 percent," said Eva Kasten. "It's always there. One-hundred percent is not achievable. I would put her in the 90 percent category in terms of satisfaction and self-esteem. She's not bitter. . . . Bitterness is too strong a word. It implies a hardened woman with an emotional scar. She has strength. She can get through anything that life dishes out.

"She is very black and white. She makes judgments clearly, quickly and firmly and very vocally. She is very opinionated. She has a clear vision of what she wants," Kasten said. "I wish I had more of her qualities . . . directness, commitment and passion. I've never known Dan without Marilyn because Marilyn has been so participating. It has been a political career for the family as opposed to one just for Dan Quayle."

Added Rae Evans, "Truly the worst is over. The passage out of the worst in fact has been made. I don't think there is an incident that they would find impossible to manage."

"I look at the bright side of everything," Marilyn Quayle said, "I try to find the silver lining in everything." Political wives "do have to look over {their} shoulder at everything. . . . You really do have to make opportunities for yourself and you have to go the extra mile always. Or you sit back and you're not a part of your husband's life. You have a separate life."

She added, "What has ended up is I have the best of all worlds."

Researcher David Greenberg contributed to this report.

NEXT: in Sunday's editions: The man who could be president

---- Index References ----

Company: HONDA BANK GMBH; INTERNATIONAL DEVELOPMENT RESEARCH CENTRE; FUJAIRAH BUILDING INDUSTRIES P S C; FBI SA; RESEARCH RECRUITERS LLC; HONDA DEL PERU SA; FUJITSU; HONDA; NATIONAL CANCER INSTITUTE; RESEARCH INC; JUSTICE DEPARTMENT; RESEARCH IN MOTION UK LTD; RESEARCH RECOMMENDATIONS AND ELECTRONIC VOTING LTD; FUJITSU NEW ZEALAND LTD; US AGENCY FOR INTERNATIONAL DEVELOPMENT; RESEARCH EUROPE LTD; FLEXALLOY(TEXTRON INC); EDWARDS LIFESCIENCES ITALIA SPA; EDWARDS AND KELCEY INC; FUJITSU DO BRASIL LDA; INFORMATICA APLICATA SA; MAZDA MOTOR CORP; POWELL TATE; EDWARDS PUBLICATIONS INC; DE RADIOCOMUNICACIONES MOVILES SA; BUSH BETEILIGUNGSGESELLSCHAFT MBH; INTERNATIONAL DEVELOPMENT; GREEN MEDICINE AB; EDWARDS; TEXTRON INC; FUJITSU TECHNOLOGY SOLUTIONS LTD; CHRYSLER LLC; FUJITSU AUSTRALIA LTD; DAIMLER AG; FUJITSU AS; CABINET GINESTIE MAGELLAN PALEY VINCENT; EDWARDS LIFESCIENCES CORP; IMMOBILIARE AZIONARIA SPA; HALLMARK CARDS INC; MOTORS LIQUIDATION CO

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FBI May Shift Resources to Domestic Crime

ALD J. OSTROWTIMES STAFF WRITER

TIMES STAFF WRITER

WASHINGTON

The FBI, in the wake of the disintegration of the Soviet Union, is studying a major reordering of its resources, Atty. Gen. William P. Barr said in an interview Friday.

Although Barr declined to discuss details of the study, which he had requested, it presumably will raise the possibility of shifting some of the large number of agents now doing foreign counterintelligence work to fighting domestic crime.

Some such shifts would be necessary to carry out Barr's pledge to step up the federal government's fight against violent crime without weakening efforts in such other key areas as white-collar crime.

In the interview with The Times, Barr called such an accelerated attack on violent crime, particularly murders, "one of my highest priorities."

The portion of the FBI's 10,350 agents who have been assigned to the labor-intensive tasks of following and otherwise monitoring Soviets suspected of spying under diplomatic cover from diplomatic posts in the United States or at the United Nations has never been discussed publicly. But it is known to be a substantial number.

While recognizing that battling violent crime is "principally a state and local responsibility" because more than 95% of the violations fall within those jurisdictions, Barr said that the federal government "can play a leadership role and have a real impact."

He listed these ways of countering violent criminals with federal action:

--Attacking gangs through drug and firearms laws and the Racketeer Influenced and Corrupt Organizations (RICO) statute, which gives prosecutors expanded powers and carries stiff sentences. Barr said that the FBI's gang squad in its Washington field office, which works with local police in pursuing violent gangs under drug and firearms laws, will be expanded in other cities where gangs and related violence have become a major problem.

--Focusing resources on career criminals, because a very high proportion of violent crime is committed by a small, hardened segment of violators. More than 2,600 suspected violent lawbreakers have been charged since April under Operation Triggerlock, in which U.S. attorneys prosecute repeat felons with federal gun laws that carry mandatory minimum sentences of 15 years in prison.

--Prodding states to follow the federal lead in "reform of the criminal justice system" by adopting such measures as pretrial detention of violence-prone suspects, stiffer sentences and expanding prison space. "While some states have followed (the federal) suit, a lot haven't," Barr said.

--Prosecuting the war on drugs effectively because of the "obvious correlation between the drug trade and violent crime."

Barr said that he does not think budget pressures on state and local governments will deter them from adding to their prison space. "I think people will demand it," he said.

Even though cities such as Washington this year are breaking homicide records--the nation's capital has set a new high of 485 murders, two of them on Christmas Eve--Barr said that violent crime peaked nationally in 1980 and has plateaued at a high level ever since.

Violent crime shot up dramatically in the 1960s and 1970s, a period that Barr characterized as "an era of permissiveness in criminal justice." From a rate of 286 per 100,000 persons in 1960, it spiraled to 597 per 100,000 in 1980, more than doubling in two decades.

The rapid increase has been arrested, holding relatively steady during the 1980s, Barr said, although he acknowledged that there had been some smaller increases in individual years. FBI figures show, for example, that in 1990 the violent crime rate stood at 732 per 100,000 and at 664 per 100,000 in 1989.

In 1980, the rates of imprisonment headed up sharply. "The decade of the 1980s was when we got tough and went back to the basics," Barr said. Incarceration climbed from 134 per 100,000 in 1980 to 292 per 100,000 in 1990.

Stopping the rise in violent crime "during the decade when drugs reached epidemic proportions is really an accomplishment," Barr contended, although violent crime is at "an unacceptably high level."

Barr dismissed as "a false dichotomy" the argument over whether crime should be attacked by seeking to eliminate the so-called root causes through social programs or toughened law enforcement.

"Both law enforcement and social renewal are essential and they must work together, mutually reinforcing one another," he said.

Barr said that there has been "a disconnect between law enforcement efforts and social programs" in spending over the last 25 years.

While the Justice Department's former grant-giving agency, the Law Enforcement Assistance Administration, was "shoveling out" millions on police equipment and related assistance, the Department of Health and Human Services was independently carrying on its equally expensive projects, "and never the twain shall meet," Barr said.

As a remedy, he cited the Justice Department's current "weed and seed" approach, which calls for coordinating federal, state and local law enforcement on a community by community basis and then integrating those efforts with social rehabilitation. Crime and disorder must be "weeded out" before social reform can be "seeded" under the department strategy.

The "weed and seed" approach is likely to receive government-wide emphasis in President Bush's State of the Union or budget messages, a White House source said.

---- Index References ----

News Subject: (Violent Crime (1VI27); Crime (1CR87); World Organizations (1IN77); Legal (1LE33); Judicial (1JU36); Social Issues (1SO05); Criminal Law (1CR79); United Nations (1UN54))

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Liquidators Forfeit BCCI Assets in U.S. --- Accord, Part of Guilty Plea To All Pending Charges, Valued at $550 Million

The Wall Street Journal

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Body

WASHINGTON -- Liquidators for Bank of Credit & Commerce International agreed to forfeit all the rogue bank's U.S. assets, valued at more than $550 million, as part of a guilty plea to all pending federal and state charges against it.

Those charges included a new federal indictment, alleging that BCCI secretly acquired control and influence over First American Bankshares Inc., Washington, D.C.; Independence Bank of Encino, Encino, Calif.; and National Bank of Georgia, Atlanta.

The plea agreement, Attorney General William Barr said at a news conference here, "is the result of an intense and unprecedented cooperative effort involving federal, state and international law enforcement and regulatory agencies." At a news conference in New York, Manhattan District Attorney Robert Morgenthau whose office indicted BCCI in July, said improved access to BCCI documents "will expedite the balance of the investigation."

The agreement means that no additional federal or state charges will be filed against the bank, but it allows continued investigation of individuals associated with either the bank or its parent, BCCI Holdings (Luxembourg) S.A. The liquidators needed the accord with U.S. authorities before proceeding with an orderly liquidation of the bank and its assets.

Under the settlement, the U.S. assets of BCCI Holdings, which mostly consist of cash and other liquid investments on deposit in New York, will be roughly divided into two. Half, or about $275 million, will be put into a fund to provide additional capital to First American and Independence Bank.

As much as $5 million would be made available to Independence Bank immediately, and $10 million will be used to pay a fine imposed by a New York court and to compensate law enforcement agencies' costs. The Federal Deposit Insurance Corp. and the Federal Reserve will decide whether money from the fund is needed, and will apply for it to the attorney general.

The other half of the U.S. assets will be put into a fund and distributed to depositors in other countries who lost money when the bank was seized by this past July 5 by regulators from several Western countries. There also will be a screening process to try to ensure that compensation isn't paid to people involved in criminal activity.

As part of the settlement, however, BCCI won't have to pay a $200 million civil penalty assessed earlier this year by the Fed for BCCI's alleged breaches of banking regulations.

The U.S. government thinks it has considerable leverage to ensure that it gets the documents and cooperation it is seeking from the liquidators. The liquidators and foreign depositors "don't get a dime out of this plea agreement unless we're satisfied that we're getting the cooperation we want," said Ira Raphaelson, the Justice Department's special counsel for financial institutions fraud.

The Bush administration had been eager to reach a settlement. It has been driven by fears for the well-being of First American and Independence Bank, and wanted to ensure that neither falters before next year's elections.

"Without this agreement, it's clear that at least one of these banks, Independence, could have failed at any time," said Sen. John Kerry (D., Mass.). That, he added, would have required "an immediate taxpayer bailout."

But Rep. Charles Schumer (D., N.Y.), who heads the House subcommittee on crime, criticized the pact for not including Abu Dhabi, whose rulers own a majority of BCCI and First American. He added that "nothing in the agreement clearly addresses missing, if not destroyed, documents."

Fred Davis, a lawyer at the New York law firm Shearman & Sterling and a negotiator for BCCI's liquidators, said the liquidators faced a dilemma, in that providing further evidence to U.S. investigators before this agreement might have provided grounds for bringing further charges against the bank.

Despite yesterday's settlement, civil cases against the seized bank and its liquidators continue in various U.S. jurisdictions. Those litigants didn't seem to like the new settlement. "This is once again a monumental loss to the taxpayers and citizens of the United States," said James Dougherty, counsel for Lloyd's of London, the insurance exchange, which is involved in civil proceedings against BCCI in Miami. "The true amount of damage to the taxpayers we would estimate would exceed $10 billion," he said.

The settlement, which was negotiated jointly by officials from the Justice Department and the Manhattan district attorney's office, also seemed to confirm the recent improvement in cooperation between federal and state investigators working on the case. Asked about his previous criticism of the Justice Department, the 72-year-old Mr. Morgenthau joked with reporters "I have a very short memory. It may be a sign of my age. We've had excellent cooperation in the past month -- I can't remember beyond that."

Wade Lambert in New York contributed to this article.

Notes

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BCCI Pleading Guilty to Racketeering, Will Forfeit $550 Million

JAMES ROWLEY

WASHINGTON

The failed Bank of Credit and Commerce International agreed Thursday to settle federal racketeering charges by forfeiting all its U.S. assets to pay depositors and shore up troubled U.S. banks it owned.

BCCI, a defunct worldwide banking operation now run by court-appointed receivers, will forfeit about $550 million in U.S. assets, Justice Department officials said.

Attorney General William P. Barr said the agreement resolves all federal charges against the bank as an institution but that the government would press on with "the pursuit and prosecution of the individuals involved in the bank's wrongdoing around the world."

Indictments already are pending against the bank's founder, Agha Hasan Abedi, and others.

Barr called the settlement "the largest single criminal forfeiture" in the history of U.S. law enforcement.

BCCI agreed to plead guilty to racketeering charges, admitting that it engaged in conspiracies to deceive bank regulators in the secret takeovers of Independence Bank of Encino, Calif., First American Bank of Washington and National Bank of Georgia.

It will also admit participating in money laundering, tax fraud and a stock manipulation scheme involving a failed Miami thrift, CenTrust Savings Bank.

BCCI's liquidators, appointed by courts in Luxembourg, Britain and the Cayman Islands, agreed to provide federal and state prosecutors with documents and witnesses for the continuing

criminal investigation.

"This could take years off the time it would otherwise take to investigate and prosecute individual wrongdoers," Barr said. He said the targets are those responsible for the bank's crimes "as well as those who were using BCCI to further their own illegal activities, including drug and arms traffickers and money launderers."

Almost half the forfeited money will be placed in a contingency fund for federal bank regulators who may need to prop up the two financially troubled banks BCCI now admits it illegally controlled, according to the plea agreement between prosecutors and BCCI's liquidators.

The liquidators also agreed to immediately put $5 million into Independence Bank, suggesting that ailing bank was in need of an immediate infusion of cash.

The rest of the forfeited money will be placed in a worldwide fund to compensate depositors, mostly in Britain, and other investors caught in the demise of BCCI. The bank does not have enough assets to pay all claims, which total nearly $20 billion worldwide against estimated assets of $1 billion to $2 billion.

Trustees will be appointed to operate both First American and Independence. The $265 million contingency fund will be used to either recapitalize the institutions or offset any losses to federal deposit insurance funds if they should fail, officials said.

The fund is more than adequate to cover any cost to U.S. taxpayers from financial losses attributable to BCCI's criminal conduct, said a senior Justice Department official who spoke on condition of anonymity.

However, Rep. Charles E. Schumer, chairman of the House crime subcommittee, said he was concerned that the bank insurance fund's liability for the possible failure of First American Bank, Independence Bank or both would go beyond the amount BCCI agreed to set aside.

Schumer also objected that "Abu Dhabi, at the center of the bank's fate, is not a party to the agreement, and nothing in the agreement clearly addresses missing, if not destroyed documents."

On the other hand, Sen. John Kerry, D-Mass., who has in the past been harshly critical of the Justice Department's handling of the BCCI case, praised the plea agreement. "This agreement will

definitely buy time for the regulators in their effort to keep these banks alive," Kerry said.

In addition to the federal plea agreement, BCCI will plead guilty in New York to state charges of fraud and theft and pay a $10 million fine.

The agreement does not affect pending criminal charges against individual defendants, including BCCI founder Abedi, BCCI Group's acting president Swaleh Naqvi or Saudi businessman Ghaith Pharaon.

The three were charged last month with racketeering in connection with their alleged roles in BCCI's secret takeover of Independence Bank in 1985 and in manipulation of CenTrust stock.

Abedi and Naqvi also face fraud and theft charges brought by Manhattan District Attorney Robert Morgenthau. Abedi is in Pakistan and Naqvi is being held by authorities in Abu Dhabi. Pharaon is being sought.

Justice Department officials said efforts are being made to extradite these defendants.

Meanwhile, fresh charges against three former BCCI officials were unsealed Thursday in Miami. Federal prosecutor Marcella Cohen announced a money-laundering indictment against BCCI and three Florida-based officers who ran its Boca Raton and Latin American operations in the 1980s. The bank concealed clients' wealth from the Internal Revenue Service, gave certain customers loans designed to hide the origin of the money and falsified collateral, the indictment said.

In Washington, the senior Justice Department official said BCCI's liquidators control or have access to "the lion's share" of the failed bank's remaining assets.

The agreement doesn't cover any remaining BCCI assets or documents in Abu Dhabi. But the official said efforts were under way to get access to information or assets there or in any of the other 69 countries where BCCI operated.

Officials from the Justice Department and Morgenthau's office, who had publicly feuded in the past, stressed they had worked closely together to reach the agreement.

Asked about the change in his description of the relationship, Morgenthau told reporters in New York: "I have a very short memory. We have had excellent cooperation here in the last month."

---- Index References ----

Company: INDEPENDENCE BANK; CENTRUST BANK; NATIONAL BANK

News Subject: (Legal (1LE33); Social Issues (1SO05); Government Litigation (1GO18); Crime (1CR87); Judicial (1JU36); Fraud Report (1FR30); Criminal Law (1CR79); Economics & Trade (1EC26))

Region: (Americas (1AM92); United Arab Emirates (1UA66); North America (1NO39); Western Europe (1WE41); Middle East (1MI23); Abu Dhabi (1AB95); Europe (1EU83); USA (1US73); Florida (1FL79); New York (1NE72); Arab States (1AR46))

Language: EN

Other Indexing: (AMERICAN BANK; BANK OF CREDIT; BCCI; BCCI GROUP; BCCI PLEADING GUILTY; CENTRUST; CENTRUST SAVINGS BANK; COMMERCE INTL; HOUSE CRIME; INDEPENDENCE BANK; INDEPENDENCE BANK OF ENCINO; INTERNAL REVENUE SERVICE; JUSTICE DEPARTMENT; NATIONAL BANK; SAUDI) (Abedi; Agha Hasan Abedi; Attorney; Barr; Charles E. Schumer; Ghaith Pharaon; John Kerry; Kerry; Marcella Cohen; Morgenthau; Naqvi; Pharaon; Rep; Robert Morgenthau; Schumer; Swaleh Naqvi; Trustees; William P. Barr)

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NewsRoom

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Reuters

December 19, 1991

BCCI AGREES TO PLEAD GUILTY IN U.S., FORFEIT ASSETS, PAY FINES.

James Vicini

WASHINGTON, Reuter - The Bank of Credit and Commerce International has agreed to plead guilty to a host of criminal charges in the United States and forfeit a record $550 million in seized American assets, the Justice Department said on Thursday.

Under the plea bargain announced by Attorney General William Barr, BCCI -- said to be at the centre of the biggest bank fraud in history -- will also pay a $10 million fine.

Barr told a news conference the deal was worked out in secret, delicate negotiations in Washington, New York and London among court-appointed liquidators in Britain and elsewhere, U.S. government regulators and prosecutors.

As part of the deal, BCCI has agreed to cooperate with the continuing Justice Department criminal investigations underway in a number of cities around the United States, Barr said.

He said the settlement does not affect the pending criminal charges -- or future charges -- against a number of former top BCCI executives.

Justice Department officials brushed aside questions about why it took so long to go after BCCI and defended the amount of money obtained as the largest single criminal forfeiture ever.

"We will not allow a dime of this money to go to wrongdoers overseas," Acting Deputy Attorney General George Terwilliger said. "This agreement banishes BCCI from ever doing business in the United States, should some phoenix arise from its ashes," he told the news conference.

Under the deal, department officials said BCCI agreed to plead guilty Friday to charges brought in July by Manhattan District Attorney Robert Morgenthau alleging that it was involved in the biggest bank fraud in history.

"BCCI was set up to evade state, federal and international banking laws," Morgenthau said in a statement. "The bank was corrupt in all its operations and was designed to loot and defraud around the globe."

It was Morgenthau's office that jumped on the BCCI case last summer, bringing charges soon after regulators around the world shut down BCCI's far-flung operations on July 5. Some critics charged federal prosecutors lagged and looked disorganized.

In addition to settling the case brought by Morgenthau, BCCI also agreed to plead guilty next month to new federal charges, including violations of racketeering laws for secretly acquiring and influencing banks in the Washington region, California and Georgia.

The federal charges also cover international money laundering, tax conspiracy violations and fraud in the sale of securities of Centrust Savings Bank of Miami, a failed bank that will cost the government more than $2 billion.

BCCI, which at one time had more than $20 billion in assets and branches in 69 nations, had specialized in serving Third World customers. It now is controlled by Abu Dhabi.

Since the summer, BCCI has been at the centre of a widening scandal involving alleged fraud totalling billions of dollars, laundering of drug money and possible payoffs to prominent political figures worldwide.

Barr said about half of the $550 million in assets would be placed in a special fund to be used in the United States to cover losses by the U.S. goverment from any failures of American banks that had been controlled by BCCI.

The fund also will be used to help prop up two of the troubled banks that had been secretly controlled by BCCI -- First American Bankshares Inc., the largest bank holding company in Washington D.C., and the Independence Bank of Encino, Calif.

"I am very encouraged," Independence chairman Fulvio Dobrich said by telephone, noting the bank will receive a substantial cash infusion from the government because of the settlement.

Dobrich said he would like to use the funds to rebuild the reputation and market share of the bank, but noted its fate and that of its directors ultimately rests with a court-appointed trustee.

"We don't need to be defensive any longer (regarding ties to BCCI)," he added.

In addition, part of the money will be used to repay legitimate New York depositors of BCCI, Morgenthau said at a Manhattan news conference. "New York depositors in BCCI will get 100 cents on the dollar," he said.

The rest of the money will be put in a second fund to be used in other countries to pay victims who lost their money when BCCI collapsed and was seized, Barr said.

BCCI's court-appointed liquidators in Luxembourg, Britain and the Cayman Islands are trying to sell off its assets to pay depositors and creditors part of what they are owed.

Justice Department officials said the plea bargain will provide them with much-needed documents and witnesses.

Individuals who were previously charged in the United States in the scandal are Agha Hassan Abedi, the 68-year-old ailing Pakistani who founded the bank in 1972; Swaleh Naqvi, 57, of Abu Dhabi, the bank's chief operating officer until October 1990; and Saudi Arabian investor Gaith Pharaon, an accused BCCI front man.

The U.S. government has requested that they be turned over to stand trial. "We will pursue the individuals relentlessly," Barr said.

---- Index References ----

Company: AMERICAN BANKSHARES INC; INDEPENDENCE STATE BANK; INDEPENDENCE MATERIAL HANDLING LLC; CENTRUST BANK; INDEPENDENCE; RIVERSIDE BANCSHARES INC; ASSOCIATED BANC CORP; ASBC CAPITAL CORP; BINH CHANH CONSTRUCTION INVESTMENT SHAREHOLDING CO; JUSTICE DEPARTMENT

News Subject: (Social Issues (1SO05); Legal (1LE33); Financial Fraud (1FI18); Fraud (1FR30); Judicial (1JU36); Government (1GO80); Criminal Law (1CR79); Crime (1CR87); Government Litigation (1GO18); Regulatory Affairs (1RE51))

Industry: (Banking (1BA20); Financial Services Regulatory (1FI03); Financial Services (1FI37))

Region: (New York (1NE72); Americas (1AM92); USA (1US73); Europe (1EU83); United Arab Emirates (1UA66); Gulf States (1GU47); U.S. Mid-Atlantic Region (1MI18); North America (1NO39); Abu Dhabi (1AB95); Southern Europe (1SO59); Bulgaria (1BU65); Arab States (1AR46); Middle East (1MI23); Eastern Europe (1EA48))

Language: EN

Other Indexing: (AGHA HASSAN ABEDI; AMERICAN BANKSHARES INC; BANK OF CREDIT; BCCI; CENTRUST SAVINGS BANK; COMMERCE INTL; GUILTY; INDEPENDENCE; INDEPENDENCE BANK OF ENCINO; JUSTICE DEPARTMENT) (Barr; California; Dobrich; Fulvio Dobrich; Gaith Pharaon; George Terwilliger; Morgenthau; Naqvi; Robert Morgenthau; William Barr)

Word Count: 826

End of Document

NEWS CONFERENCE WITH ATTORNEY GENERAL WILLIAM BARR

RE: SETTLEMENT IN BCCI DEPARTMENT OF JUSTICE

Federal News Service

DECEMBER 19, 1991, THURSDAY

Section: MAJOR LEADER SPECIAL TRANSCRIPT

Length: 6943 words

Body

ATTY GEN. BARR: Today we are announcing the filing of major racketeering charges against BCCI. We are also announcing BCCI's agreement to plead guilty to those charges and to all other pending federal and state charges. This action successfully resolves all United States charges against BCCI as an institution, forfeits all of BCCI's assets in the United States, and by requiring full BCCI cooperation in ongoing investigations allows us to expedite the pursuit and prosecution of the individuals involved in the bank's wrongdoing around the world. This agreement is the result of an intense and unprecedented cooperative effort involving federal, state and international law enforcement and regulatory agencies.

There are four key elements to this plea agreement. First, BCCI pleads guilty to newly filed federal criminal charges in the United States District Court for the District of Columbia. These charges accuse BCCI of violating the RICO statute through conspiring to commit racketeering acts involving fraud, money-laundering, tax evasion and conspiracy. Specifically BCCI is charged with secretly acquiring control and influence over First American Bank of Washington, DC, the Independence Bank of Encino, California and the National Bank of Georgia. The racketeering conspiracy also includes allegations of fraud in the sale of securities of CenTrust Savings Bank of Miami. These charges subsume the earlier federal charges filed in the District Court for the District of Columbia on November 15th.BCCI further pleads guilty to charges filed by District Attorney Robert Morganthau in the Supreme Court of New York County, including grand larceny in the first degree and a scheme to defraud in the first degree. As part of this,

BCCI agrees to pay a $10 million fine to the State of New York.

Third, the plea agreement requires BCCI to forfeit all of its assets in the United States to the federal government. These assets are currently valued at $550 million. This represents the largest single criminal forfeiture in history. Any other BCCI assets in the United States that might be found in the future also will be forfeited to the federal government. About half of the forfeited assets will be placed in a special federal fund. The money in this fund is to be used as a contingency fund that will minimize the risk to US taxpayers by serving as a source for additional capital to US financial institutions secretly acquired by BCCI, or to offset losses to the US Deposit Insurance Fund. The other half of the $550 million will be put in a second fund to be used in other countries as part of the international, court-supervised liquidation of BCCI to compensate innocent victims who lost money when the bank collapsed. A significant provision which we require as part of this plea agreement, mandates establishment of a screening mechanism to ensure that these funds will only be distributed to innocent depositors, creditors and other victims of BCCI whose claims were not derived in any way from illegal activity.

The fourth element of this plea agreement relates to cooperation by the bank in our ongoing investigations. A significant obstacle to federal and state investigative efforts has been the difficulty in obtaining evidence, documents and witnesses from around the world. BCCI was operated to evade review, and much overseas information is

shielded by bank secrecy laws, privileges and other hurdles inherent in obtaining evidence located in other countries.

The plea agreement requires BCCI liquidators to provide full cooperation to American enforcement agencies in our continuing efforts to bring to justice the individuals responsible for BCCI's wrongdoing, as well as those who were using BCCI to further their own illegal activities including drug and arms traffickers and money launderers. This cooperation specifically includes access to documents and witnesses and the waiving of applicable privileges. This could take years off the time that it would otherwise take to investigate and prosecute individual wrongdoers. We also believe it may well permit us to make cases we otherwise might not be able to make in the absence of cooperation.

I want to take a moment to describe how this agreement came about. In August, I asked Assistant Attorney General Bob Mueller, in charge of our Criminal Division at the Department of Justice, to establish a task force to coordinate the investigative work being done in various US Attorneys' offices around the country. I asked that the task force pursue the possibility of broad RICO charges against BCCI. Such charges might allow the use of federal forfeiture against BCCI assets in the United States. This required consolidation of certain aspects of the investigation within the task force. The task force, comprised of attorneys from the Criminal Division and from Jay Stephen's office here in Washington, DC, worked around the clock and around the world in developing the RICO and forfeiture charges to which BCCI is pleading guilty today.

This agreement would not have been possible without development of these charges, and I would like to commend Bob Mueller for the work that he and his team accomplished. I want to note particularly the superb work down by Ira Raifeilson (sp), special counsel for financial institution fraud, by Larry Urgenson and Allan Carver (sp) of the fraud section, by Jay Stephens and his lawyers, particularly Mark Debester (sp), Merrick Garland (sp), and David Eisenberg (sp), by the FBI investigators, particularly Special Agents John Richardson and Dennis Lormell (sp). I also want to commend the US Attorneys who are here today for the excellent work done in their offices that also contributed to the development of this case.

As the task force's work proceeded, a month ago, I asked the Acting Deputy Attorney General, George Terwilliger, to spearhead an effort to coordinate and reconcile what we were doing with other parallel criminal investigations and regulatory activities underway in the United States and also with the international enforcement and regulatory actions underway worldwide. It was apparent that we all shared the same goal, orderly and complete dismantling of BCCI's operations, effective prosecution of the individuals involved in BCCI's wrongdoing, and doing justice for the victims of BCCI's crimes.

All our efforts were complicated by the fact that BCCI as a corporate entity was essentially defunct. Its liabilities far exceeded its assets, and courts in three countries had appointed provisional liquidators to wind down its affairs and safeguard the interests of innocent depositors and creditors. From our standpoint, the key things of value still held by BCCI were its assets in the United States and potential evidence of wrongdoing by individuals.

In our efforts to forge a coordinated approach, we found a willing ally in the District Attorney of New York, Robert Morgenthau. He and his staff were an integral and invaluable part of the negotiation team that has brought this agreement about. The cooperation and teamwork between the Department of Justice and Bob Morgenthau's office has been superb.

I want to pay tribute to George Terwilliger and the team that successfully negotiated this international agreement, particularly Ira Raifeilson (sp) and Larry Urgenson, Beth Kazwan (sp) of the southern district of New York, and from Bob Morgenthau's office, John Moscow, Mark Scholl (sp) and Mike Cherkasky, who is here today with us.

Beginning about four weeks ago, this group has been engaged in intensive and sometimes around-the-clock negotiations in Washington, New York and London. These negotiations included discussions with five US banking regulatory agencies, the SEC, state regulators in California and New York, and enforcement, regulatory and liquidating authorities in the United Kingdom, the Cayman Islands, Luxembourg. The agreement also required court approval in those three countries. These efforts have produced an historic example of domestic and international cooperation in dealing with a vexing enforcement and regulatory problem. In my view, this is how law enforcement should work together.

In sum, this is an extremely important step forward in the BCCI investigation. We will continue to pursue this investigation against individual wrongdoers as aggressively as possible and with the same outstanding cooperation that has made today's announcement possible.

I will now ask George Terwilliger, with the help of Bob Mueller and Mike Cherkasky of New York, to provide you further details and to respond to any questions that you might have. Thank you for your attention.

MR. TERWILLIGER: Thank you, General.

What I would like to do is just emphasize a couple of points before we go to your questions.

First of all, this is not the end of this matter by any means. We are not declaring victory in regard to the BCCI matter and going home. But rather, it is a significant step in the process of bringing wrongdoers to justice. This agreement, as the Attorney General has outlined, is the result of a two-step process. The first step was an intensive effort to develop the factual basis for the federal charges which were filed today in the US District Court in Washington. The second step, as the Attorney General described, was an intensive negotiation effort to reach an agreement that accommodates a multitude of interests represented by the parties that are the signatories to the agreement.

My role as the acting deputy in this, what is normally not something that a Deputy Attorney General would do, is due to the cross-cutting civil and criminal nature of the matters that are subsumed in this agreement and the interagency and international aspects of this case. I think the most significant aspect of this whole thing in terms of the process is the great degree of cooperation and coordination that took place, both among the domestic agencies involved and on an international basis as well.

What we would like to do is ask Mr. Mueller to discuss the criminal charges that were filed, with you here today, to outline those. I'd like to ask Mr. Jackowski to say a few words about the proceedings in New York, and then I'll be happy to answer any questions that you have.

Bob?

MR. MUELLER: As many of you may have seen, since I believe you have copies of the superseding information, we filed today a superseding information that names four defendants: BCCI Holdings, BCCI SA, BCCI Overseas, and ICIC Overseas. The last two are Cayman entities; the first two are Luxembourgian entities.

The indictment is a one count indictment which charges a violation of the racketeering conspiracy statute 1962 (d). And the conspiracy charges a number of manner and means by these particular defendants in carrying out their illicit activities. Amongst those manner of means are the following:

Charges that these defendants sought deposits of drug proceeds and thereafter laundered those drug proceeds;

It alleges that these defendants sought deposits from persons attempting to evade US income taxes and then proceeded to assist those individuals in evading US income taxes;

It charges, again in a manner of means, that these defendants used straws and nominees to acquire control of United States financial institutions, including Independence Bank, National Bank of Georgia, and CCAH, the entity holding the shares of First American Banks;

If further charges that these defendants made false statements and material omissions to regulators in connection with the purchase of United States financial institutions;

And, finally, it alleges that these defendants created false bank records and engineered sham transactions to deceive United States regulators about the soundness of these financial institutions under their control and so as to obtain regulatory approval for these financial institutions.

It charges a number of racketeering acts, a total of 22, and let me just briefly review with you the racketeering acts in the superseding information.

Racketeering act one relates to the wire fraud in connection with obtaining control of Independence Bank in California.

Racketeering acts two to four relate to the mail and wire fraud with regard to the subscription of shares in CenTrust Bank. Those two were -- were -- or those two categories of allegations are already in record on the November 15th of this year indictment in the District of Columbia.

Racketeering act five charges mail fraud with regard to BCCI groups obtaining a 50 percent ownership in the National Bank of Georgia

And racketeering six charges mail fraud with regard to the purchase of CCAH stock. That is stock that in that particular corporation, again, that entity held the stock for First American Banks.

Racketeering acts seven through 18 relate to money laundering, money laundering principally out of the Tampa BCCI office.

And the final racketeering act relates to wire fraud in connection with tax fraud. This particular -- these particular allegations in racketeering act 22 are encompassed in an indictment that has been unsealed today in Miami which charges BCCI, as well as a number of individuals, with tax fraud.

That is basically an overview of the racketeering acts. It's followed by a number of overt acts relating to each of the particular categories of allegations that I've discussed.

MR. TERWILLIGER: Thank you, Bob. I'd like to ask Mike Cherkasky, who is one of Mr. Morgenthau's top assistants in his office to come up and say a few words. Before he does, I think that it is important to recognize that we have had a good, solid cooperative effort with Mr. Morgenthau's office. We have pursued that aggressively, specifically at Attorney General Barr's direction. There has been much personal contact between our offices, and the New York District Attorney's team was an integral part of the negotiation process as this unfolded, including coming with us to London at a critical point in the negotiations.

Mike?

MR. CHERKOWSKY: Thank you, Mr. Barr, Mr. Terwilliger. My name is Mike Cherkasky. I'm the Chief of the Investigation Division of the New York County District Attorney's office. And we are real pleased with this agreement. In July of 1991, we charged that BCCI was used to launder millions and steal billions. Our goal at the time was to successfully conclude the prosecution of that indictment, to make the victims whole, to limit the damage of the scheme to defraud so that others would not fall into that hole and to enhance our ability to prosecute other culpable figures. This agreement does that and it's already been discussed in some brief detail. But additionally, and of real importance to us, the negotiation process has forged an excellent working relationship between the Department of Justice, under Mr. Barr's leadership, and the New York County District Attorney's Office. We believe that this bodes well for this case and local federal cooperation in general.

As I said before, we are real pleased with this agreement. It basically gives us what we want to go forward in the future, to protect the citizens of the state of New York and we think the United States. It ensures that those who have been victimized are given redress to the best of our ability. So we're real pleased with this, we're real pleased with the cooperation we got from the Department of Justice and we look forward to working with them to get further cases made. Thank you.

MR. TERWILLIGER: I would just like to take a moment and introduce the representatives of many of the parties to this agreement and the people whose work made it possible to reach this stage today. First, let me start with -- I'm sure you know many of these people -- but Jay Stephens, the United States Attorney here in the District of Columbia; Dexter Lehtinen, the US Attorney in the Southern District of Florida; Bob Genzman, the US Attorney in the Middle District of Florida; Judge Sessions, the Director of the FBI; and Ira Raphaelson, the Special Counsel for Financial Institution Fraud who, along with Larry Urgenson and the team, put much of the effort into making our agreement in principle actually work on a piece of paper here. Rob Bonner, the administrator of the Drug Enforcement Administration; John Hensley, the Assistant Commissioner of the United States Customs Service; Mike Murphy, the Deputy Commissioner of the Internal Revenue Service. Over on this side, we've got Al Bern (sp), who is the General Counsel of the Federal Deposit Insurance Corporation; Bill Bolden (sp), who is the General Counsel of the Office of Comptroller of the Currency -- Bill -- and of course, Richard Breeden, who is the Chairman of the Securities and Exchange Commission. We also have Virgil Mattingly who is the General Counsel to the

Federal Reserve System. And who have I left out? Harris Weinstein who is the General Counsel to the Office of Thrift Supervision.

Who did I leave out?

VOICE: Jerry Jacobs.

MR. TERWILLIGER: Oh, I'm sorry, Jerry. Jerry Jacobs, the General Counsel at the Resolution Trust Corporation. Bill has explained to you the key aspects of this agreement and I don't want to belabor that. But from our point of view, in sum and substance, what we have done here is gotten a plea of guilty to the maximum charges that the evidence would allow us to bring against BCCI, an incredibly valuable forfeiture, valuable to US taxpayers, and as is the goal of any criminal prosecution, valuable to the overseas victims of BCCI's illegal activities and as Mike mentioned, the very important aspect of this to our future endeavors, the cooperation of the liquidators of BCCI's various entities and our ongoing law enforcement effort.

With that I would be happy to entertain your questions.

Q Mr. Terwilliger?

MR. TERWILLIGER: Yes, sir.

Q In September of 1988 -- (off mike) -- in that conversation said that we, meaning BCCI, own a bank in Washington, DC, First American. It's our understanding that a criminal case involving -- (off mike) -- First American was not opened until February of this year. Can you explain that?

MR. TERWILLIGER: Well, I am not here today to talk about where we have been or where we were at certain points in time. I think the important thing to focus on is where we are going from here and where we will get the information that will allow us to proceed with this case (of pace ?).

Q Certainly you are aware of criticism that the Department of Justice has been dragging its feet on this case. (Certainly ?) you have some enlightenment why there is no case for two and a half years after Awan said they own First American?

MR. TERWILLIGER: Well again, we could stand here for hours and sort of go through a retrospective of who knew what, when, and what was referred where and how that got put together. I think the important thing here is that when Bill Barr took the reins in August, as he indicated, he instructed Bob Mueller to begin the process of intense coordination of the various investigatory activities that went on, and that's what's in fact taking place -- excuse me -- and that's what's brought us here today and I don't think that there is a great deal of efficacy at this point in time into going through a retrospective as to what took place before. We are moving -- excuse me -- we are moving forward on this matter in order to bring wrongdoers to justice. That's our job and that's the role we are going to perform.

Rita?

Q When the plea agreement was accepted from BCCI in Tampa, the Justice Department made a big deal of saying, "Okay, now we get cooperation from BCCI in other endeavors." Today you are saying, "Well, we weren't able to get cooperation before. Now this agreement will give us cooperation. What went wrong here?

MR. TERWILLIGER: Well, there were many intervening events that took place, the most significant of which of course was the July 5th shutdown of BCCI worldwide. That put BCCI's documentary records and so forth, into the hands of the persons responsible for the liquidation process. And by responsible, I mean responsible to courts around the world which are supervising this liquidation process.

So the people that we are now dealing with, who are in control of those records and so forth, are not the wrongdoers or the alleged wrongdoers who were running BCCI before, but are persons who have responsibilities to the innocent victims of BCCI around the world and who, by the process of this agreement, have recognized their obligation to assist the law enforcement authorities worldwide to bring those wrongdoers to justice.

Q I'm still not clear on this. You made an agreement with people on the first case and they didn't honor the agreement?

MR. TERWILLIGER: Well, again, I don't want to get into a retrospective, Rita, about whether people honored the agreement or didn't honor the agreement. We pursued the cooperation aspects of that agreement to the maximum extent that we were able.

There are -- in addition to what occurred on July 5th, there are other factors that were present there, not the least of which were bank secrecy laws, various privileges that attach to documents and what-not. As you'll see from the plea agreement here, the liquidators have waived various privileges, including the attorney-client privilege, the accountant-client privilege and the work-product privilege, so that we can have access to documents that they may have wanted to make available to us before but that there were legal impediments to our gaining access.

Yes, ma'am?

Q How much do you figure the -- (inaudible) -- loss that will neither be absorbed by US taxpayers in the form of -- (inaudible) -- assurance that BCCI caused to the American depositors?

MR. TERWILLIGER: Well, I think, to answer the latter premise of your question first, you need to be careful about saying "BCCI caused." That's something that remains to be seen in terms of the process. The big thing that remains to be seen is if there is any loss at all. And what this does is provide a capital account which can provide for an infusion into cash into institutions that may have been directly or collaterally affected by the secret acquisition of those institutions by BCCI or its agents and help those institutions to remain viable and in fact perhaps become assets in and of themselves.

You'll note in the plea agreement that if the stock formerly held by BCCI and First American and Independence Bank is later sold at a profit, that profit will in fact become part of this forfeiture. It is not included in the $550 million figure that we noted. So the idea here is to prevent loss to the taxpayers by keeping these institutions solvent and viable.

Q Well, my question is, do you expect the $275,000 million to cover -- cover the loss of -- (inaudible) --

MR. TERWILLIGER: Well, it's impossible to anticipate that, since that loss isn't on the books yet. And what we're trying to do here, and what the regulators are trying to do,and through this agreement we're trying to help them with is, to prevent that loss from even occurring.

Yes, sir?

Q Yes, is the ruler of Abu Dhabi or any of the other Abu Dhabi entities involved in this deal in any way?

MR. TERWILLIGER: No.

Q No. Is there any foreseen future involvement with Abu Dhabi? And to what extent is, let's say, their cooperation important in the final resolution of this?

MR. TERWILLIGER: Well, in the final resolution of this particular agreement, it's not an element. In the final resolution of the matter as a whole and cooperation as to documents and whatnot, that is an aspect of this entire thing that US law enforcement authorities will be pursuing. That is, the Justice Department and Mr. Morgenthau's office.

Q How are you going to ensure that funds will only be distributed to innocent depositors -- (inaudible)?

MR. TERWILLIGER: That is a good question and a central concern of both ours and Mr. Morgenthau's office in this regard. And, in fact, it is that very concern which led to the initial contact with Mr. Smouha.

Just to give you a little bit of background on this, as you probably know, BCCI's US assets were tied up in a proceeding under the US bankruptcy code in the bankruptcy court of the southern district of New York. As has been reported before in the press, there were ongoing discussions through the course of the summer, August, September, and October about settling that matter and trying to accomodate the interests of the overseas victims as well as some legitimate interests of the US banking regulating community.

We were insisting, we at the Justice Department and the US government, insisting upon the kind of screening mechanism you are talking about. And as a result of that, Mr. Smouha asked to meet with me to discuss that

screening mechanism in November, and he, in fact, came over and raised with me that this was a problem as to how to put this into effect. And that's how the negotiations commenced with Mr. Smouha.

In the course of our negotiations here, the conclusion that we came to was that we would not allow any of this money that is to go to what in the agreement is called the "worldwide fund" unless we are satisfied that there is a screening mechanism in place which is going to prevent this money from going to wrongdoers or other criminals who may have utilized BCCI and had assets in the bank, such as a drug trafficker, for example.

We have had extensive discussions with various and sundry international law enforcement authorities, including the Serious Frauds Office in Great Britain. The precise details of how that screening mechanism will work is, in part, dependent upon further court proceedings overseas.

So, what we have built into this agreement is a provision that we will not release any of the money until we are satisfied that that screening provision is in place and is workable. And there is a dispute resolution provision in the agreement to address any problems that develop with that. But we are very adamant about that, that not -- we will not allow a dime of this money to go to wrongdoers overseas.

Yes, sir?

Q You've said that this is not the last chapter, this agreement -- (inaudible) -- all their assets in the US result in all charges against BCCI as an institution. (Inaudible)?

MR. TERWILLIGER: Well, our investigation from here, without getting specific, goes to the individual wrongdoers who either utilized BCCI, fronted for BCCI, or were otherwise involved in criminal activity in their individual capacity. As the Attorney General mentioned, BCCI, as a corporate entity, is a dead horse. It is a corporate shell whose only existence left are its assets, including those here in the United States.

Q Do you know if targets of the investigation include --(inaudible)?

MR. TERWILLIGER: I'm not going to discuss any targets.

Rita?

Q (Off mike) -- in past indictments, indicted a lot of people who are not in the United States you couldn't get. (Inaudible) -- there were a lot of questions about -- (inaudible) -- to try to get some of these people here in terms of asking for extradition. And we were told we can't talk about that now. Can you talk about it now? What have you done to try to get some of these people?

MR. TERWILLIGER: We have done some things, but, no, we can't talk about it now.

Yes, sir?

Q This agreement is what you might call a maximum/minimum agreement. You got everything you wanted and BCCI basically got nothing. What was the incentive for BCCI to make this agreement? Why did they come forward and agree to this financial agreement and to the plea? Why?

MR. TERWILLIGER: Jerry, I think we need to be very careful, in all fairness to the people who are on the other side of this agreement, to recognize that these liquidators and these court-appointed fiduciaries are not BCCI. They are people who have an obligation to the courts that appointed them and to the innocent victims and lawful creditors of BCCI to try to gather the assets of BCCI worldwide and make people as whole as can possibly be done again.

So, their incentive, these people, which is not the incentive of BCCI as we commonly think of that entity -- their incentive was because they needed to resolve the issue of BCCI's assets in the United States and the outstanding criminal charges and potential criminal charges that could be brought here. That's why they came to the table, in my view.

Q The required cooperation, has that begun yet -- before the grand juries, or will it begin shortly? And how much time are we expecting that's going to take off?

MR. TERWILLIGER: It will begin immediately. It has not begun yet, because this agreement was only finalized when the court in Luxembourg approved it yesterday. And again, we have built into plea agreement a cooperation

enforcement mechanism which allows us to withhold the outflow of dollars to the worldwide fund from our forfeiture fund if the cooperation is not forthcoming and totally up to both the letter and the spirit of the agreement.

Yes, sir?

Q Can you provide any insight in the investigation into any relationship that Utah Senator Orin Hatch may have had with principals of BCCI?

MR. TERWILLIGER: No.

Q What statement about the CenTrust charges were missed in the November 15th --

MR. TERWILLIGER: Bob, I'll --

MR. MUELLER: It's essentially -- it assumes -- or subsumes, I should say -- those charges.

Q What do you --

Q What's the difference?

MR. MUELLER: Well, it incorporates the charges that were returned on November 15th and then add substantially additional charges relating to other institutions.

Q Does that person have international -- (inaudible) -- which you're required to do?

MR. TERWILLIGER: Yes.

Q Who was mentioned in the indictments in Miami for tax evasion? Can you give more details of that -- (inaudible)?

MR. TERWILLIGER: It's an indictment that was unsealed today, it was returned in November, and has been kept sealed since then for a variety of reasons. It charges BCCI Holdings and several individuals with tax fraud.

Q Can you tell us, which individuals were they?

MR. MUELLER: Yes, I can. Sheik Mohammad Shafi, Sayed Nadim Hassan, and Tariq Nasim Jon (sp), three of BCCI's international officers, and they are charged with conspiring to obstruct and defeat the functions of the Internal Revenue Service in collecting taxes.

Q Are any of the -- (inaudible)?

MR. TERWILLIGER: No, we're not in a shutdown mode, we are in a press forward mode.

Q So are any of those -- (inaudible)?

MR. TERWILLIGER: Well, I -- I do not want to talk about specific investigations in specific cities because I don't want to talk about specific investigations, period. But suffice it to say we will press forward on every front to bring the individuals who are responsible for this to justice.

Jim?

Q On --

Q I have a followup question.

MR. TERWILLIGER: Go ahead.

Q The Attorney General, he told the -- (inaudible) -- committee that he was already internally -- (inaudible). Can you give us -- (inaudible) -- what he says?

MR. TERWILLIGER: No, I'll defer to him on that.

Jim?

Q Maybe this is a question for the finance regulators, but to what extent will money be used to shore up or recapitalize First American?

MR. TERWILLIGER: Well, if, after this briefing session is over, you want to talk to the regulators and they want to talk to you, you're free to approach them and speak with them. But in essence, that question can't be answered yet. This fund is being set aside as a contingency if certain events occur, if certain needs arise, and it will be their judgment as to whether or not that contingency comes about and action is necessary, at which point they will apply to the Attorney General for disbursement of the funds.

Q Technically, if the US only has $250 million to play with, you can say you want to keep banks solvent, but if they collapse, what then will be the -- (inaudible) -- US action?

MR. TERWILLIGER: It's impossible to say based on what the current state of affairs are. What we see this as is taking BCCI's money and putting it together with perhaps other sources of funds to try to avert a loss to US taxpayers or, if such a loss occurs, to offset that loss to the maximum extent we can without taxpayer money.

Yes, ma'am?

Q Does this mean that the Federal Reserve will not be pressing the $200 million suit?

MR. TERWILLIGER: Yes. The Federal Reserve has agreed as part of this agreement to forego the $200 million civil penalty in lieu of the substantial forfeiture which is being occasioned by this agreement.

Yes, sir?

Q When did the United States government become aware that First American Bank was secretly owned by BCCI or BCCI (affiliates ?)?

MR. TERWILLIGER: Well, again, I'm not -- I don't want to discuss the particular whys or wherefores of what went on before, but suffice it to say that the full scope of this matter did not become apparent or at least was not referred to us in the criminal context -- and I'm talking about BCCI overall -- until the Price Waterhouse report came over here at the beginning of this year. We -- basically, in January 1991.

Q If you did not know in 1988 -- (inaudible) -- made the statements that --

MR. TERWILLIGER: Well, again -- we've sort of gone around on this.

Go ahead, Jim.

Q Can you compare the access to documents of BCCI that the Justice Department (gained ?) in the Tampa agreement with the scope of this agreement?

MR. MUELLER: Well, if you're talking about in terms of cooperation from the Tampa agreement, we did receive cooperation from BCCI as a result of the Tampa agreement, and I can't get into the details. With regard to continuing investigations, however, both the New York District Attorney's office and ourselves have felt it absolutely necessary to pursue it to attempt to gain access to documents in the Cayman Islands and Great Britain and Abu Dhabi and this agreement will be exceptionally helpful and hopefully open the doors to allow us access to those particular documents, and this agreement is helpful both because it gives us access to the liquidators to the documents, but it also removes an impediment to cooperation, and that is foreign enforcement jurisdictions have some concerns providing evidence to us as prosecutors in the United States, where that evidence would be used to take money out of the pockets of their depositors in the United Kingdom or elsewhere who were defrauded by BCCI.

So it removes an impediment to our continued and increased cooperation with the special frauds office and with prosecutors and investigators in a number of countries overseas.

Q (Off mike) -- didn't have under the earlier agreement?

MR. TERWILLIGER: Yes.

Q Does it give you access to documents that you couldn't get?

MR. TERWILLIGER: Before you mean? Yes.

Jerry, I wanted to follow up too, on the question you asked before, and maybe I should have said this in terms of the background that we brought to the negotiations.

Once we developed the evidence that allowed us to bring these charges, then we had to look down the road to the nature of the litigation that we would have faced in pursuing that case. The first problem being getting someone into court to answer the charges. As you know that has been a problem for Mr. Morgenthau's office in the indictment they brought there.

But more importantly, we would have faced a substantial amount of litigation once we had seized the money over the forfeiture and eventual distribution of it. So I don't want leave the impression that we could have done this absent the agreement. What the agreement does for us in addition to the other things that I have mentioned, is allows us to achieve very quickly a fair and equitable distribution of BCCI's US assets so that the liquidators can get on with their business of getting money to the innocent victims and we can get on with the business of collecting our penalties and going after individual wrongdoers.

Q (Off mike).

MR. TERWILLIGER: I believe it was an actual forfeiture. I don't know the answer to that, Sharon. I think that the next largest amount of money was probably in connection with the Drexel Burnham matter, but that was more in the nature of a penalty than it was in a forfeiture. But there is nothing that has come close, to my knowledge, in terms of a forfeiture.

Yes, sir.

Q (Off mike) -- include future prosecution of BCCI?

MR. TERWILLIGER: Of BCCI's corporate entities, as they exist, yes, but that really doesn't present a problem to us because, as I mentioned before, BCCI is a shell. I mean, it doesn't exist anymore. This agreement banishes BCCI from ever doing business in the United States, should some phoenix arise from the ashes and come back. The only thing that's left of BCCI, since the July 5th worldwide shutdown, are in essence, its assets and its records.

Q (Off mike.)

MR. TERWILLIGER: Okay. I am told, Sharon, that it's double the prior record forfeiture from before.

Q (Off mike) -- belong to people Abu Dhabi. Who's losing money by the United States -- (off mike) -- and are you punishing anyone?

MR. TERWILLIGER: Well, we're punishing BCCI as a corporation who is the defendant here. Well, I mean, it exists in a liquidation process. It is an estate, in essence. Presumably, those who were shareholders in BCCI, had it remained viable and prospered, and so forth, this would have been their money.

Q This is all cash?

MR. TERWILLIGER: It is liquid assets. It's not all cash, but it is liquid assets. There may be -- the agreement has a contingency provision in it that, if there are other assets of BCCI identified in the United States through the course of investigation, and so forth, those are also subject to forfeiture under this agreement. Jim?

Q If either of these institutions should fail, would that reduce the amount of assets in forfeiture substantially that you talked about?

MR. TERWILLIGER: Well, that depends on what the judgment of the regulators would be as the need to drawdown the capital that it's in these funds and those are just future events as to which your crystal ball is probably as good as mine.

Yes, sir?

Q Will you guys be able to get your hands on the perpetrators? I'm assuming there are hundreds of them out there, many of whom are not in the United States, many of whom perhaps are not in the UK either or Europe. To what extent, even if we see indictments, do you expect to be able to put people in jail?

MR. TERWILLIGER: We expect to aggressively pursue obtaining jurisdiction over persons who are charged with a crime. I can't predict what the success rate on that will be, but we're going after them.

Q Abedi is a good example, I think of someone -- I don't know whether he's extraditable or not, but at the moment, it seems very difficult. Do you expect to run into trouble with Pakistan in particular?

MR. TERWILLIGER: Well, I don't want to discuss specific people nor specific nations. Are there obstacles? Yes, there are obstacles. There were great obstacles to this agreement and we overcame them and we're going to press ahead with the same resolve on that issue.

Yes, ma'am?

Q Are any members of Congress being investigated in connection --

MR. TERWILLIGER: I'm not going to talk about specific targets. Two more questions, I'm told. David?

Q Just to clarify. No individual suspected of wrongdoing in BCCI is -- (off mike) -- this agreement?

MR. TERWILLIGER : That's correct.

Q In what sense, and this may be more directed to New York, there were individuals named in New York -- (off mike). How are those affected by today's agreement? None of them pleading guilty to anything.

MR. TERWILLIGER: Mike?

MR. CHERKASKY: That's right. The pleas here are to six counts of the 12-count New York indictment which was focused on BCCI and other entities. Mr. Abedi and Mr. Naqvi are obviously not subject to the jurisdiction of our court and have not entered pleas.

Q Just to follow up.

MR. TERWILLIGER: That's three.

Q There is no bearing -- (off mike) -- in prosecuting any of these people?

MR. TERWILLIGER: Absolutely not.

Yes, sir?

Q Has anyone within the BCCI heirarchy --

MR. TERWILLIGER: I'm sorry. I couldn't hear the first part of your question.

Q Has anybody within the BCCI heirarchy, other than those federally appointed (regulators ?) and liquidators, agreed to cooperate with this investigation -- (inaudible)?

MR. TERWILLIGER: Well, the only parties to this agreement are not people in the BCCI heirarchy, but, in fact, the court-appointed fiduciaries and/or the liquidators of BCCI's assets around the world. And they're not federally appointed. They are, in fact, appointed by courts of competent jurisdiction in the liquidation process, both here and overseas.

Q Can you give us some idea of where this $550 million came from, where you found it? And does it include BCCI's assets in First American?

MR. TERWILLIGER: It does not include BCCI's stock that is involved in First American. As I said, if that stock is subsequently sold at a profit, then the profit from that transaction will become part of the forfeiture. The money that is at issue and subject to the agreement are, in essence, BCCI deposits of various BCCI entities that were here in the United States and other liquid assets.

Thank you.

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NewsRoom

12/18/91 WashingtonPost.com (Pg. Unavail. Online)
1991 WLNR 5119110

WashingtonPost.com

December 18, 1991

N.Y. VILLAGE ACCUSED OF ANTISEMITISM; JUSTICE DEPT. SUIT ALLEGES ZONING BIASED AGAINST ORTHODOX JEWS

Sharon LaFraniere

The Justice Department sued a tiny village outside New York City yesterday, alleging that it was formed expressly to keep out Orthodox Jews. The suit accuses the Village of Airmont and its elected officials of violating the Fair Housing Act by imposing zoning restrictions that make it impossible for Orthodox Jews to worship in their homes. The complaint is unusual because the department most often brings housing-discrimination suits to protect rights of racial, not religious, minorities. Robert Fletcher, a business executive and trustee of the village of 8,000 residents, said he is confident that Airmont will prevail. "I'm sure this case won't go anywhere," he said.

The suit alleges that a group of residents of Ramapo, a town about 30 miles northwest of Manhattan, started a drive to form the village five years ago with the express goal of excluding Orthodox Jews by adopting zoning laws against home synagogues. Such restrictions effectively would exclude Orthodox Jews because their faith prohibits them from traveling by car on the Sabbath, the suit alleged. Filed in U.S. District Court court in Manhattan, the suit alleges that Orthodox Jewish residents of Airmont, incorporated last March, have been harassed in an attempt to prevent them from conducting religious services. A similar suit was filed earlier in federal court by a group of Orthodox Jews seeking to have the village disbanded. "This kind of conduct, creating a new community with the intent to exclude groups because of their religious beliefs and practices, is wholly antithetical to basic freedoms on which this nation was founded," Attorney General William P. Barr said in a statement. Ramapo has seen a massive influx of Orthodox and Hasidic Jews over the last 40 years, but tension escalated in recent years when some Orthodox families moved to the other side of a commercial strip that had served virtually as a dividing line. Fletcher defended formation of Airmont, saying residents were attempting to preserve the character of their neighborhoods, not engage in antisemitism. He said Ramapo gave Orthodox Jews zoning variances so they could establish synagogues in their homes, while Airmont requires a two-acre lot. "One of the private homes they converted to a synagogue is authorized for use by 171 people," Fletcher said. "That's a dramatic departure from the former residential characteristics." He described as "outrageous lies" allegations in the suit brought by the Orthodox Jews. In organizing the drive for the village, that suit claimed, Fletcher once said: "We all know that the purpose is to keep those Orthodox from Brooklyn out of here." In fiscal 1991, the Justice Department filed 93 housing-discrimination suits, some of which alleged bias against the disabled, the elderly and families with children, a department spokesman said.

---- Index References ----

News Subject: (Minority & Ethnic Groups (1MI43); Social Issues (1SO05); Religion (1RE60); Judaism (1JU93); Legal (1LE33); Race Relations (1RA49); Government Litigation (1GO18))

Industry: (Real Estate (1RE57); Zoning (1ZO58))

Region: (USA (1US73); U.S. Mid-Atlantic Region (1MI18); New York (1NE72); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (William Barr; Robert Fletcher)

Word Count: 451

End of Document

NewsRoom

12/17/91 AP Online 00:00:00

AP Online

December 17, 1991

Section: Domestic

Appeals Court Says U.S. Can Send Detained Haitians Home

TOM SALADINO

ATLANTA

The government can send back thousands of Haitians picked up at sea while trying to flee their homeland, a federal appeals court ruled Tuesday.

The Haitians aren't protected by an international agreement on refugees because they didn't reach the United States, an 11th U.S. Circuit Court of Appeals panel held in a 2-1 ruling.

The court dismissed a preliminary injunction by a federal judge in Miami that had blocked deportation of the Haitians held at the U.S. naval base at Guantanamo Bay, Cuba. Base spokesman Maj. Don Kappel said all was quiet there after the ruling.

The Haitians fled their country after a military coup toppled President Jean-Bertrand Aristide in September. Since Oct. 29, the Coast Guard has intercepted more than 7,700 of the refugees at sea.

Their advocates say the refugees deserve political asylum and would face danger if forced back to Haiti because they supported Aristide. The U.S. government argues that most of the Haitians are economic refugees who, if allowed to stay, could inspire a mass exodus from the Caribbean nation that the United States couldn't handle.

No action against the immigrants would be taken before Wednesday, State Department spokesman Joseph Snyder said in Washington.

Cheryl Little, an attorney for the Haitian Refugee Center of Miami, which brought the lawsuit, called the appeals court ruling devastating.

"There's no question in our minds that many of the Haitians, if returned, will face life-threatening situations," she said.

Little promised to appeal Tuesday's ruling to the full 11th Circuit Court and to the U.S. Supreme Court if necessary.

In a statement, Attorney General William P. Barr said the ruling "gives proper deference to the decisions of the president and the Congress in dealing with difficult matters of foreign affairs and immigration."

The refugee center alleges that the government decided to send the Haitians back on the basis of brief shipboard interviews.

The U.S. Solicitor General, Kenneth Starr, personally defended the government's handling of the refugees in arguments before the appeals court last week.

A federal judge in Miami last week for the third time blocked the government from returning the refugees to Haiti until procedures for interviewing them are improved.

The refugee center argued to the appeals court that the Haitians are protected by 1967 United Nations protocol on refugees.

But Chief Judge Gerald Bard Tjoflat and Judge Emmett R. Cox said the protocol "provides no enforceable rights" to the refugees because they haven't reached the United States yet. They called the lower court injunction too broad.

Judge Joseph W. Hatchett dissented, saying the injunction should stand at least until the lower court decides the refugee center's lawsuit. He said the Haitians should get the same protections given those who reach the U.S. mainland.

"Having promised the international community of nations that it would not turn back refugees at the border, the government yet contends that it may go out into international waters and actively prevent Haitian refugees from reaching the border," Hackett said.

The government has said that 757 of the refugees qualify to apply for political asylum. The refugees' advocates say all the Haitians should be allowed into the United States and granted temporary protected status.

The exodus picked up strength after a hemisphere-wide economic embargo was imposed against Haiti to press for Aristide's return. The United States and most other countries in the hemisphere do not

recognize the current Haitian government.

Just before Thanksgiving, the U.S. military began setting up tents for the Haitians at Guantanamo Bay. The Pentagon said Coast Guard cutters that had been picking up the refugees at sea had become intolerably overcrowded.

Haiti is about 600 miles southeast of Florida. Guantanamo Bay is in the southeastern corner of Cuba.

Many earlier Haitian immigrants settled in Miami in a community now known as Little Haiti, site of large demonstrations earlier this year to greet Aristide on a visit there and, days later, to protest his ouster. But there were no gatherings in Little Haiti on Tuesday night after the deportation ban was lifted, said Miami police spokesman Officer David Banks.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); United Nations (1UN54); Government (1GO80))

Region: (Cuba (1CU43); USA (1US73); Americas (1AM92); Florida (1FL79); Haiti (1HA10); North America (1NO39); Caribbean (1CA06); Latin America (1LA15))

Language: EN

Other Indexing: (APPEALS COURT; ATTORNEY; CIRCUIT COURT; COAST GUARD; CONGRESS; HAITIAN; HAITIAN REFUGEE CENTER; HAITIANS; PENTAGON; STATE DEPARTMENT; US CIRCUIT COURT OF APPEALS; US SUPREME COURT; UNITED NATIONS) (Base; Cheryl; David Banks; Emmett R. Cox; Gerald Bard Tjoflat; Hackett; Joseph Snyder; Joseph W. Hatchett; Kappel; Kenneth Starr; William P. Barr)

Word Count: 849

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Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, DECEMBER 17, 1991
5:45 P.M. (EST)

AG
202-514-2007
(TDD) 202-514-1888

The following is a statement from Attorney General William P. Barr:

"I was gratified to learn that, earlier this afternoon, the United States Court of Appeals for the Eleventh Circuit vacated an injunction issued last week by the federal district court in Miami that has prevented the United States from returning to Haiti economic migrants now detained at Guantanamo Naval Base in Cuba.

"We believe the Court of Appeals' opinion gives proper deference to the decisions of the President and the Congress in dealing with difficult matters of foreign affairs and immigration.

"I would like to take this opportunity to extend my appreciation to Solicitor General Ken Starr, who argued this case for the United States, as well as to Assistant Attorney General Stuart Gerson, who has handled this matter from its inception."

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91-478

12/13/91 San Jose Mercury News 1A
1991 WLNR 1172062

San Jose Mercury News (CA)

December 13, 1991

Section: Front

KEATING INDICTED ON NEW CHARGES\COULD FACE 510 YEARS ON S&L FRAUD COUNTS

Mercury News Wire Services

Los Angeles

Charles Keating Jr. and four associates were indicted Thursday on 77 counts of racketeering, bank fraud and other charges, marking the culmination of an intense, 2 1/2-year federal investigation into the failure of Lincoln Savings & Loan.

U.S. Magistrate Rupert J. Groh Jr. set Keating's bail at $2 million, saying he represented a "serious risk of flight." Unable to post the bond, Keating was taken into custody and is being held in the federal Metropolitan Detention Center in downtown Los Angeles.

In a separate action Thursday in Washington, the Securities and Exchange Commission filed securities fraud and insider-trading charges against Keating and eight others, including David Paul, former chairman of Centrust Savings Bank, a failed Miami financial institution.

The federal grand jury indictment was unsealed eight days after Keating, who has become a national symbol of excess and arrogance in the savings and loan industry, was convicted in state court of defrauding investors in Lincoln's parent company, American Continental Corp.

The 64-page indictment alleges that Keating and his associates used five criminal schemes to siphon money out of Lincoln for their own benefit. The schemes purportedly provide a pattern of criminal conduct needed to show a violation of the U.S. Racketeer Influenced and Corrupt Organizations law.

The federal indictment describes these alleged schemes:

(check) Fraudulent sales of land and other assets to create sham profits for Lincoln and American Continental.

(check) Selling American Continental bonds through Lincoln's branch network based in part on the sham profits.

(check) Transferring money illegally from Lincoln to American Continental through a "tax-sharing" agreement.

(check) Using Lincoln money and property to bail American Continental out of a costly contractual obligation.

(check) Transferring $975,000 from American Continental to the defendants and members of their families through fraudulent loans in the early months of 1989 as American Continental headed for collapse.

The 68-year-old former American Continental chairman, who had been free on $100,000 bond while awaiting sentencing in state court Feb. 7, had been expecting the federal indictment since he was notified more than a year ago that he was a target of the federal investigation.

"He's obviously going to plead not guilty to everything" at his arraignment, scheduled for Monday, said his lawyer, Stephen C. Neal. He also said he would seek a lower bail.

Keating would face a maximum sentence of 510 years in prison and a fine of $17 million in fines if convicted on all the charges, which consist of racketeering, conspiracy, bank fraud, securities fraud, misapplication of funds and interstate transportation of stolen money. The other defendants face prison terms ranging from 475 years to 525 years and fines of $15 million to $17 million.

The indictment also seeks recovery of at least $265 million in assets allegedly siphoned away by the racketeering from Irvine-based Lincoln. However, Keating and the other defendants say they are destitute.

The indictment represents "a frontal assault" on the "deception and trickery" that led to Lincoln's collapse, U.S. Attorney Lourdes Baird in Los Angeles said at a news conference announcing the indictment.

"Fraudulent business practices were really the order of the day at Lincoln Savings and American Continental," she said.

U.S. Attorney General William Barr called the indictment a "graphic example" of the Department of Justice's "aggressive pursuit" of those responsible for fraud in the S&L industry. Lincoln's losses, he said in prepared remarks, "made it one of the most significant financial institution failures in the country." The failure is expected to cost taxpayers $2.6 billion.

The April 1989 collapse of Lincoln Savings was the largest of a series of industry failures that have forced massive federal intervention and led to charges of ethics violations against five U.S. senators who intervened on Keating's behalf with federal regulators. One of them, Sen. Alan Cranston, D-Calif., was reprimanded by the Senate.

Neal said that neither he nor his client are surprised by the charges, which he said they would fight aggressively.

"They're trying retroactively to criminalize a whole host of business activities that complied with the applicable laws, regulations and accounting standards when they were made," Neal said.

Indicted with Keating are his son, Charles Keating III, 36; one of his sons-in-law, Robert M. Wurzelbacher Jr., 37; former American Continental President Judy J. Wischer, 43; and Andrew F. Ligget, 34, the company's chief financial officer. All live in the Phoenix area.

Photo
PHOTO: Charles Keating was unable to post bail and is being held in a federal jail in Los Angeles.

---- Index References ----

Company: CENTRUST BANK; AMERICAN CONTINENTAL CORP

News Subject: (Crime (1CR87); Legal (1LE33); Fraud Report (1FR30); Social Issues (1SO05); Criminal Law (1CR79); Government Litigation (1GO18))

Industry: (Banking (1BA20); U.S. Thrift Industry (1US02); Financial Services (1FI37); Savings (1SA62))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); California (1CA98))

Language: EN

Other Indexing: (AMERICAN CONTINENTAL; AMERICAN CONTINENTAL CORP; CENTRUST SAVINGS BANK; DEPARTMENT OF JUSTICE; FEDERAL METROPOLITAN DETENTION CENTER; INDICTED; KEATING; LINCOLN; LINCOLN SAVINGS; LINCOLN SAVINGS LOAN; PHOTOPHOTO: CHARLES KEATING; SECURITIES AND EXCHANGE COMMISSION; SENATE; US RACKETEER INFLUENCED) (Alan Cranston; Andrew F. Ligget; Charles; Charles Keating Jr.; Corrupt Organizations; David Paul; Fraudulent; Judy J. Wischer; Lourdes Baird; Neal; Robert M. Wurzelbacher Jr.; Rupert J. Groh Jr.; Stephen C. Neal; William Barr)

Edition: Morning Final

Word Count: 966

End of Document

NewsRoom

12/12/91 South Florida Sun-Sentinel 24A
1991 WLNR 4021429

South Florida Sun-Sentinel

December 12, 1991

Section: LOCAL

STATE`S ARSON TASK FORCE GETS $200,000 IN FEDERAL FINANCING

Sun-Sentinel wire services

WASHINGTON -- Attorney General William Barr on Wednesday announced the award of $200,000 to the task force investigating a rash of 50 church fires apparently started by acts of arson.

``The senseless destruction of these churches has struck a heavy blow to the lives of those who have sacrificed for years to build these houses of worship,`` Barr said.

``These funds will ensure that state and local law enforcement and fire personnel have adequate resources to investigate and find the perpetrator or perpetrators of these vicious acts of violence.``

The money will help pay the expenses of state and local personnel assigned to the task force, formed in January. It is is comprised of representatives of more than 60 federal, state, and local law enforcement officials.

``The church-arson task force has been working tirelessly, putting in countless hours of overtime,`` said U.S. Rep. Cliff Stearns, an Ocala Republican who sought the grant. Damages from the fires have been estimated at more than $8 million.

The award will be administered by the city of Gainesville through its police department. Eight of the suspicious fires broke out in Gainesville.

---- Index References ----

News Subject: (Crime (1CR87); Property Crime (1PR85); Social Issues (1SO05))

Industry: (Financial Services (1FI37); Insurance Liability (1IN26); Insurance Losses (1IN47); Insurance (1IN97))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (OCALA REPUBLICAN) (ARSON TASK; Cliff Stearns; Damages; STATE; William Barr)

Keywords: CRIME ARSON; FINANCIAL AID

Edition: SUN-SENTINEL

Word Count: 230

End of Document

Florida Awarded $200,000 in Aid to Investigate Church Fires

Business Wire

December 11, 1991, Wednesday - 13:11 Eastern Time

Length: 393 words

Dateline: WASHINGTON

Body

Attorney General William P. Barr Wednesday announced the award of $200,000 to the Florida Church Arson Task Force, which is investigating a rash of 50 fires apparently started by acts of arson at churches in central Florida in the last 19 months.

' The grant is in the full amount requested by the task force.

"The senseless destruction of these churches has struck a heavy blow to the lives of those who have sacrificed for years to build these houses of worship," Barr said. "These funds will ensure that state and local law enforcement and fire personnel have adequate resources to investigate and find the perpetrator or perpetrators of these vicious acts of violence."

These funds come from a special Emergency Federal Law Enforcement Assistance Fund administered by the Department of Justice's Bureau of Justice Assistance in the Office of Justice Programs (OJP).

The money will help pay the expenses of state and local personnel assigned to the task force, which is comprised of representatives of more than 60 federal, state, and local law enforcement officials, including the Florida Fire Marshal's Office, the Florida Department of Law Enforcement, the U.S. Bureau of Alcohol, Tobacco and Firearms, the Gainesville, Ocala, and Winter Haven police and fire departments.

The award will be administered by the City of Gainesville, through its police department. Eight of the suspicious fires occurred in Gainesville.

"The Office of Justice Programs is pleased to be able to provide this assistance under the Emergency Federal Law Enforcement Assistance program," said Jimmy Gurule, assistant attorney general for OJP. "Hopefully, as a result of this assistance and the tireless efforts of the task force and others, this violence of arson will soon be brought to an end."

In 1990, funds from the Emergency Federal Law Enforcement Assistance program were awarded to Florida to assist a special task force investigating the murders of five college students in the Gainesville area. The task force investigation led to the identification of a suspect, who was recently indicted.

Florida requested federal assistance for the task force on Dec. 5. Funds will be available immediately.

CONTACT: U.S. Department of Justice, Washington
Stu Smith, 202/307-0703

End of Document

11/28/91 Rocky Mtn. News 56
1991 WLNR 428845

Denver Rocky Mountain News (CO)

November 28, 1991

Section: NEWS/NATIONAL/INTERNATIONAL

SENATE TORPEDOES TOUGH CRIME BILL

JOAN BISKUPIC CONGRESSIONAL QUARTERLY SCRIPPS HOWARD NEWS SERVICE

WASHINGTON

For the second year in a row, Congress tripped at the finish line and left stringent anti-crime legislation in the dust of partisan recriminations.

Although the House on Wednesday narrowly approved the measure, 205-203, Republicans blocked it in the Senate, where a move to shut off debate garnered only 49 of the 60 votes needed.

In the House, Colorado Democrats Pat Schroeder and David Skaggs voted for the bill, while Democrat Ben Nighthorse Campbell and Republicans Wayne Allard, Joel Hefley and Dan Schaefer voted against it. Neither Democrat Tim Wirth nor Republican Hank Brown cast ballots on the Senate debate cutoff.

The crime bill would have extended the death penalty to 53 federal crimes, restricted habeas corpus petitions by convicted criminals and imposed a five-day waiting period for the purchase of handguns. The final version did not contain a ban on semiautomatic assault weapons approved earlier by the Senate.

"Republicans killed the bill," said Senate Judiciary chairman Joseph Biden Jr., D-Del. "What amazes me is how willing the Republicans are to throw themselves on the track for the president."

But Sen. Strom Thurmond, R-S.C., ranking member of the Judiciary Committee, retorted: "What blame is there? This is a terrible bill. This bill extends the rights of criminals."

The bill technically remains alive and could be resurrected when Congress reconvenes in January. But its prospects appear dim.

President Bush has threatened to veto the legislation, claiming it did not go far enough in limiting the appeal rights of prisoners, especially those on death row, or in allowing use at trial of illegally sezied evidence.

"The American people know that our criminal justice system is failing because convicted criminals are able to escape just punishment through endless delays and repetitive technical maneuvering," said Attorney General William Barr.

LIB3 LIB3

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Government (1GO80))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (CONGRESS; DEMOCRAT TIM WIRTH; HOUSE COLORADO DEMOCRATS PAT SCHROEDER; JUDICIARY COMMITTEE; SENATE; SENATE JUDICIARY) (Bush; Dan Schaefer; David Skaggs; Hank Brown; Joel Hefley; Joseph Biden Jr.; Nighthorse Campbell; Republicans; Republicans Wayne Allard; SENATE TORPEDOES TOUGH CRIME; Strom Thurmond; William Barr)

Edition: FINAL

Word Count: 382

End of Document

Justice Department Brings Charges

Facts on File World News Digest

November 28, 1991

Section: UNITED STATES; BCCI Scandal

Length: 370 words

Body

The Justice Department November 15 unveiled a criminal indictment of Bank of Credit and Commerce International and three businessmen associated with it. The federal indictment came three and a half months after an indictment by the Manhattan district attorney in New York City and a disciplinary order by the Federal Reserve Board. [See p. 567E2]

The department had been criticized in Congress for foot-dragging in the BCCI investigation. Acting Attorney General William Barr said, however, that the department was "pursuing all aspects of the case relentlessly."

BCCI was charged with crimes including bank fraud, wire fraud and mail fraud.

Also indicted November 15 were two of the bank's top officers: Agha Hasan Abedi, a Pakistani who had founded the institution in 1972 and was its chairman until 1989, and his protege, Swaleh Naqvi, the bank's chief executive until 1990, who was currently under arrest in Abu Dhabi, part of the United Arab Emirates.

Ghaith Pharaon, a Saudi businessman who allegedly had acted as a U.S. front man for BCCI, was also indicted. All three men were out of the country, and it was uncertain whether they would be extradited to the U.S. Pakistan previously had refused to extradite Abedi, and it was widely believed that Abu Dhabi would try Naqvi in its own court system. [See p. 687E2]

The whereabouts of Pharaon, who had previously been fined $37 million by the Federal Reserve Board for his role in BCCI's covert acquisition of a California bank, were unknown. Pharaon's lawyer, Richard Lawler, November 15 accused the Justice Department of indicting an innocent man to relieve political pressure for scapegoats in the BCCI affair.

BCCI, Abedi, Naqvi and Pharaon were accused of perpetrating fraud involving Independence Bank of Encino, California, and CenTrust Savings Bank of Miami. The charges in the indictment did not address the allegation that BCCI had illegally acquired First American Bankshares Inc. of Washington, D.C. Robert Mueller, head of the Justice Department's criminal division, said an indictment on that charge might be issued "when we have the evidence in hand that would support charges that would lead to an indictment." [See p. 816A2]

11/27/91 Akron Beacon J. (Ohio) A1
1991 WLNR 1075090

Akron Beacon Journal (Ohio) (KRT)

November 27, 1991

Section: NATION

NO LONG HOLIDAY FOR CONGRESS FEDERAL CRIME BILL FACES ATTACKS FROM ALL SIDES, THREAT OF VETO; UNLIKELY TO SEE VOTE THIS YEAR.

DAVID HESS, Knight-Ridder Newspapers

WASHINGTON

Stalemated by a bitter partisan dispute in the House, threatened by a presidential veto and buckling under a $3.1 billion price tag, Congress' crime bill appeared headed for oblivion Tuesday night.

While there was no conclusive vote scheduled on the legislation, congressional sources said they believed the bill was not likely to be passed this year in any form.

In the end, the bill 'ended up carrying just too much baggage,' in the words of a disappointed House Democratic leadership aide.

Senate Majority Leader George Mitchell, D-Maine, accused Republican senators of deliberately delaying final action on the bill until shortly before adjournment in the hope of salvaging a potent political issue for 1992.

Mitchell attacked Bush's characterization of the bill as 'pro-crime.' 'It's ludicrous,' said the Democratic leader. 'Why would every major police organization in the country endorse it if it was weak on crime?'

A key Republican, Rep. James Sensenbrenner of Wisconsin, labeled such charges 'ridiculous' and said Democrats were to blame for the deadlock because they wouldn't agree to strict limits on death-row appeals and free police to press warrantless searches.

Beyond the political finger-pointing, an odd coalition of liberals and conservatives was finding much to dislike in the bill.

'This is a step backward,' fumed Rep. Henry Hyde, R-Ill. 'It adds further delay in carrying out death sentences, it adds further confusion in the criminal justice system and it compounds an already dangerously absurd situation.'

Liberals contended that the bill trampled on constitutional protections against wrongful imprisonment and police-state searches. And they contended that extending the death penalty to 53 federal offenses -- including ones in which no killing occurred -- verged on barbarism and, in any case, would not deter would-be killers.

Sen. Joseph R. Biden Jr., D-Del., chairman of the Judiciary Committee, said the bill's death penalty provisions would cover only a tiny fraction, 'maybe 4 or 5 percent at most,' of capital offenses in America.

'Everybody knows that the vast, vast majority of crimes committed in this country fall under the authority of state and local law enforcement agencies,' he said. 'These proposals of the president would have very little bearing on stopping violent crime in the streets.'

Even newly appointed Attorney General William Barr weighed in with a complaint that the $3.1 billion in the bill to help local law enforcement was 'a mirage.'

'Authorization of this funding when there is no appropriation is essentially meaningless,' he said. 'Dangling the empty promise of more grant programs before the eyes of state law enforcement cannot camouflage a weak crime bill.' dl

---- Index References ----

News Subject: (Legal (1LE33); Judicial (1JU36); Government (1GO80); Police (1PO98))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (BUSH; DEMOCRATIC; HOUSE DEMOCRATIC; JUDICIARY COMMITTEE; SENATE) (George Mitchell; Henry Hyde; James Sensenbrenner; Joseph R. Biden Jr.; Mitchell; William Barr)

Edition: 1 STAR

Word Count: 552

End of Document

U.S. Renews Its Prosecution Of BCCI With Indictments

The Wall Street Journal Europe

November 18, 1991 Monday

THE WALL STREET JOURNAL.
EUROPE EDITION

Section: Pg. 24

Length: 671 words

Byline: By Peter Truell, Staff Reporter

Body

WASHINGTON -- A federal grand jury indicted Bank of Credit & Commerce International and three people connected with it, marking the renewal of U.S. prosecution in history's greatest bank scandal.

The indictments were the first substantial federal criminal charges brought against BCCI since 1988, when the bank, then little-known in the U.S., was charged with money-laundering in federal court in Tampa, Florida.

Critics in the U.S. Congress and elsewhere have questioned why it took the U.S. so long to bring additional charges of financial fraud in the matter, particularly when a county grand jury in Manhattan and the Federal Reserve Board had respectively issued indictments and disciplinary orders in the scandal as early as July.

But federal officials suggested that Friday's indictments were only the beginning of a new round of federal prosecution in the scandal. Robert Mueller, head of the U.S. Justice Department's criminal division, referred to the agency's "continuing and expanding investigation of BCCI and its officials." He added that the BCCI investigation is being "carried out by scores of prosecutors and investigators."

Acting Attorney General William Barr added that the indictment represented "one more important step in the aggressive federal prosecution of BCCI." The department, he added, "is pursuing all aspects of the cases relentlessly."

The indictment, alleging several violations of securities and banking laws, named three men who are already well-known as principal figures in the scandal:

-- Agha Hasan Abedi, the mercurial founder of BCCI Holdings (Luxembourg) SA, who -- according to the indictment -- engaged with his two co-collaborators in a racketeering conspiracy to commit bank fraud, wire fraud and mail fraud, in connection with a number of financial transactions involving Independence Bank of Encino, California, and CenTrust Savings Bank of Miami. Mr. Abedi is in frail health and living in Karachi, Pakistan, where officials have vowed he would never be extradited to the U.S.

-- Swaleh Naqvi, the former president of BCCI -- who is already under house arrest in Abu Dhabi -- was indicted for his part in the alleged wrongdoings. The ruler of Abu Dhabi controls BCCI, and it is unclear whether the Gulf emirate would ever permit Mr. Naqvi to stand trial in the U.S. or whether it will bring a case against him in the United Arab Emirates.

-- Ghaith Pharaon, BCCI's globe-trotting front man, accused of hiding BCCI's ownership of Independence Bank and of involvement in a scheme to park $25 million of securities issued by scandal-plagued CenTrust Savings Bank in Miami. Mr. Pharaon, who owned about 25% of CenTrust, was also an integral part of the scheme to park securities to "deceive regulators and investors as to the true market for CenTrust subordinated debentures," according to the indictment.

"We will make every effort to have (the three men) brought to the United States to stand trial," said Mr. Mueller. But the Justice Department recognizes that it won't be easy. "We have no extradition with Pakistan at this time," said Jay Stephens, U.S. attorney for the District of Columbia. "With Abu Dhabi, with regard to Naqvi, we have made a request for Mr. Naqvi." Mr. Mueller said the department would cooperate with the Manhattan district attorney who indicted BCCI and Messrs. Abedi and Naqvi on July 29.

While many have accused the Justice Department of foot-dragging, a New York lawyer for Mr. Pharaon charged exactly the opposite. Richard Lawler called the indictment "a precipitous step motivated by the political frenzy surrounding BCCI, rather than any action by Ghaith Pharaon."

Mr. Pharaon "believes he hasn't violated any U.S. laws and has acted properly in his ownership of Independence Bank and in all of his dealings here in the U.S.," said Mr. Lawler. He added that he had no idea of his client's whereabouts.

R. Kenly Webster, a Washington lawyer who represents Mr. Naqvi, didn't return telephone calls seeking comment. Mr. Abedi has been unavailable for comment.

Load-Date: December 5, 2004

2 indicted in Pan Am deaths

Suspects are spies for Libya

By Jerry Seper and Paul Bedard
THE WASHINGTON TIMES

The United States and Britain yesterday charged two Libyan intelligence agents with murder and conspiracy in the deaths of 270 persons in the 1988 bombing of Pan Am Flight 103 over Lockerbie, Scotland.

Abdel Basset Ali Megrahi and Lamen Khalifa Fhimah, described as "officers and operatives" of the Libyan intelligence agency, are accused of planting the bomb on the Boeing 747 jumbo jet and murdering the 259 persons on board and 11 on the ground.

The two men, both of whom are believed to be in Libya, are considered fugitives.

"This investigation is by no means over," Attorney General-designate William P. Barr, who was deputy attorney general when nominated for the top Justice Department job, said in announcing the indictment in Washington.

"We will not rest until all those responsible are brought to justice, and we have no higher priority."

The indictment was returned by a federal grand jury. A similar indictment against the two Libyans was announced simultaneously in Britain by Scotland's Lord Advocate, Lord Fraser of Carmyllie, who said Libyan government officials would be pressed to turn the men over for trial.

Meanwhile, the White House strongly indicated that Libyan leader Col. Moammar Gadhafi was involved in the bombing and suggested that state-sponsored terrorism would be met with diplomatic and then military retaliation.

In an unusually blunt statement, White House press secretary Marlin Fitzwater said, "We are talking about the full range of matters that are available to countries in terms of their authorities — the diplomatic, civilian, military, across the whole gamut."

Senior administration officials said President Bush already has discussed retaliation plans with the leaders of several NATO allies, including British Prime Minister John Major and French President Francois Mitterrand. The discussions have taken place over the past several days.

Military options include seizing the alleged terrorists and senior Libyan authorities, according to Bush administration sources. Most likely, they said, the administration would team with other nations to press Libya through diplomatic channels to turn over the alleged conspirators.

Mr. Fitzwater and other officials made the case for military action by characterizing the bombing as state-sponsored terrorism rather than a terrorist act by an independent group. But administration officials pressed the peaceful, diplomatic avenue to bring the suspects to justice.

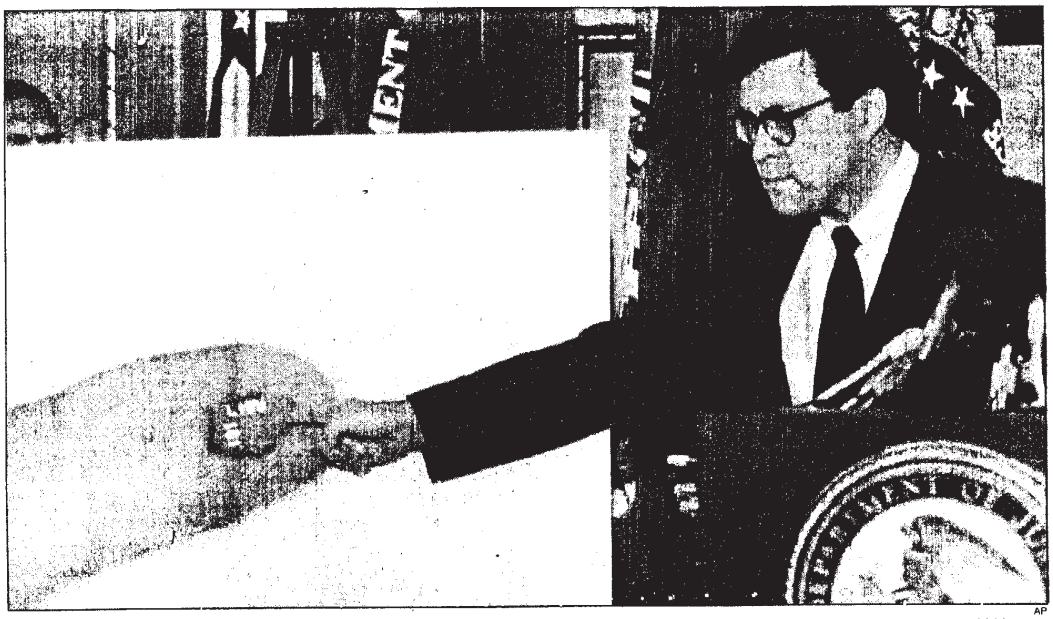
"We are considering action, and I'll leave it at that," he said.

As the indictment was announced, the State Department issued a report saying Libya continues to play a major role in sponsoring and promoting international terrorism.

Security has been stepped up around U.S. installations and air bases out of concern that Libya might react to the indictment with another wave of terrorist action.

Mr. Barr, in his first major criminal indictment since being nom-

see LIBYANS, page A8



AP

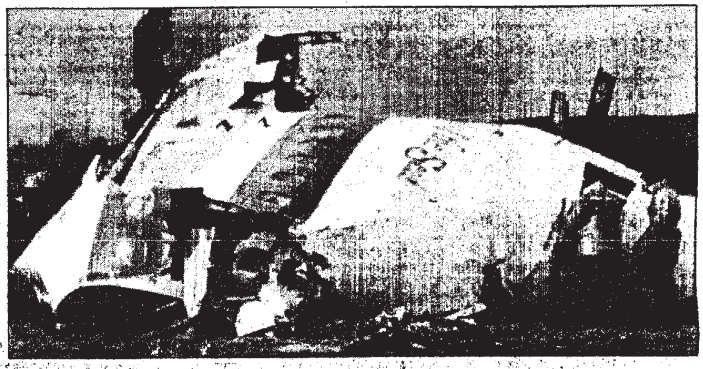
The evidence: Attorney General-designate William Barr displays a photo of a fragment of the radio-cassette player where the Pan Am bomb was hidden.

A

B

The suspects: Abdel Basset Ali Megrahi (left) and Lamen Khalifa Fhimah are charged in the 1988 bombing of Flight 103, which killed 270.

Reuters



Soviet unity gains support

By Gerald Nadler
THE WASHINGTON TIMES

MOSCOW — Soviet President Mikhail Gorbachev reached agreement with the leaders of seven republics yesterday to preserve a union government in a new, confederated state.

The accord reached after all-day talks at Mr. Gorbachev's dacha outside Moscow marked the most significant progress since the failed August coup at maintaining a central government, which is preferred by international financial organizations and foreign states in dealing with Moscow.

But five republics — the Ukraine, Moldavia, Georgia, Armenia and Uzbekistan — did not attend the State Council meeting at Novo-Ogarevo with Mr. Gorbachev; the agreement is also only the first step in a long process.

The political union pact must be finalized, then approved by the parliaments of the republics and sent back to the State Council.

Foreign governments are concerned that the lack of a central government structure could lead to a dangerous dispersal of Soviet nuclear weapons among the republics and that there would be no central authority to pay the foreign debt of $70 billion.

Mr. Gorbachev, who has threatened twice in the last three months to resign if a union treaty is not signed, held his hands together in front of him in a pose of relief and thankfulness at the televised news conference where the progress toward a pact with the republics was announced.

"The [new] Union of Sovereign States will be a confederated, democratic government," Mr. Gorbachev said. He added that a military union agreement was one of the next steps toward reforging the Soviet state.

Boris Yeltsin and Nursultan Nazarbayev, presidents of the two largest republics, Russia and Kazakhstan, then stepped forward to announce their approval of the accord as a smile engulfed Mr. Gorbachev's face.

"It is hard to say what will be the

see SOVIETS, page A8

LIBYANS

From page A1

inated last month, described the investigation as "one of the most exhaustive and complex" in history.

"We charge that two Libyan officials, acting as operatives of the Libyan intelligence service along with other co-conspirators, planted and detonated the bomb that destroyed Pan Am Flight 103," he said.

"I have just telephoned some of the families of those murdered in Pan Am Flight 103 to inform them and the organizations of survivors that this indictment has been returned," he said. "Their loss has been ever-present in our minds."

The 193-count indictment, returned by a federal grand jury in Washington, alleges that the two Libyan intelligence officials constructed a bomb of plastic explosive and a sophisticated timing device and put it into a portable radio-cassette player in a suitcase.

On Dec. 20, 1988, according to the indictment, they flew from Libya to Malta, where one of them had worked for Libyan Arab Airlines and had access to baggage tags of another airline, Air Malta.

"By using stolen Air Malta baggage tags, the defendants and their co-conspirators were able to route the bomb-rigged suitcase as unaccompanied luggage," Mr. Barr said. "The suitcase was put aboard an Air Malta flight that went to Frankfurt, Germany."

At Frankfurt, the indictment said, the suitcase was transferred to a connecting Pan Am flight — 103-A — bound for Heathrow Airport in London. At Heathrow, it was placed aboard Pan Am 103 and exploded about 38 minutes after the aircraft had left for New York City on Dec. 21, 1988.

The two Libyans are charged with conspiracy to murder those on board the plane and placing a bomb on the jet. The United States has no extradition treaty — or diplomatic relations — with Libya to bring them to this country for trial. Justice Department authorities said they hoped to get the men back to the United States but did not elaborate.

Mr. Barr said U.S. and Scottish authorities, after an "exhaustive" analysis of tons of debris, determined that the bomb had been in the suitcase in a large, aluminum baggage container in the aircraft's forward cargo hold. He said the bomb consisted of 10 to 14 ounces of plastic explosive.

"The methodical crime scene investigation yielded a tiny, small fragment — smaller than a fingernail — that had been driven by the blast into the large cargo container," he said. "Forensic experts determined that this was part of the circuit board of the Toshiba radio."

He said a fragment of green circuit board, also smaller than a fingernail, was found in a piece of shirt that had been in the suitcase containing the bomb.

"Scientists determined that it was part of the bomb's timing device and traced it to its manufacturer, a Swiss company that had sold it to a high-level Libyan intelligence official," Mr. Barr said.

Mr. Megrahi, 39, was described by U.S. authorities as a senior officer of the Libyan intelligence agency, known as the Jamahirya Security Organization. They said he has held various positions with Libyan Arab Airlines and served as director of the Center for Strategic Studies in Tripoli at the time of the bombing.

Mr. Fhimah, 35, also was described as a covert agent of the Libyan intelligence agency and worked as station officer with Libyan Arab Airlines in Malta.

The indictment represents the first charges to be filed in the nearly 3-year-old case. Of those who died in the terrorist explosion, 189 were Americans. The victims were from 21 countries and included eight families of four. Sixteen infants sitting on the laps of their parents also were killed.

Thirty-five of the victims were Syracuse University students returning to the United States after a pre-Christmas trip to Europe.

The investigation initially centered on allegations that the Syria-backed Popular Front for the Liberation of Palestine-General Command (PFLP-GC), led by suspected terrorist Ahmed Jibril, had been responsible for the Pan Am bombing.

CIA intelligence officials originally said the organization conspired with Iranian officials to attack a U.S. airliner in retaliation for the 1988 accidental downing of an Iranian jetliner by a U.S. warship, the USS Vincennes, in the Persian Gulf.

But Assistant Attorney General Robert Mueller III, who heads the Justice Department's criminal division, said yesterday there was no evidence to link the Pan Am bombing to Iran, Syria or the PFLP-GC.

Yesterday's State Department report on Libya's terrorism role said:

- Libya provides training facilities and several million dollars a year to the Palestine Liberation Front, which has been connected to 280 deaths in more than 100 terrorist attacks.
- Col. Gadhafi last year gave more than $1 million to the PFLP-GC, a terrorist group responsible for the bombings of two U.S. military buses in Germany in 1987 and 1988.
- Elements of the Palestine Liberation Front, which has a long history of terrorist attacks, remain based in Libya, receiving broad government support.
- Libya's terrorist support and bombings of two U.S. military buses in Germany in 1987 and 1988.
- Libya's terrorist support and bombings of two U.S. military buses in Germany in 1987 and 1988.

WHO DID IT?

Initially, the Pan Am bombing investigation centered on the Syria-backed terrorist group Popular Front for the Liberation of Palestine-General Command. Yesterday's indictment against two Libyan intelligence officers said they acted with "other co-conspirators," but officials said there was no evidence to link the bombing to Iran, Syria or the PFLP-GC. Various officials and press reports pointed to this list of characters as possible suspects during the probe.

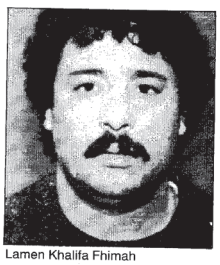
Jibril

Rafsanjani

- **Ahmed Jibril:** Leader of the Popular Front for the Liberation of Palestine — General Command. A terrorist cell of the PFLP-GC in West Germany was believed to have carried out bombing. Bomb parts found in debris around Lockerbie were reportedly traced to his group.
- **Mohammed Abu Talb:** Identified by a Swedish court as a suspect in bombing and a member of the Palestine Popular Struggle Front. Suspected of purchasing some of the clothing found in the suitcase on Pam Am Flight 103 in which the bomb was hiden.
- **Khalid Jaafar:** Lebanese American student from Detroit who was killed in the bombing, was suspected of unknowingly carried the bomb aboard the plane in a suitcase. Officials yesterday denied his involvement.
- **Hafez Dalkomoni:** PFLP-GC member and key aide to Jibril, was arrested in West Germany with 13 other suspected terrorists two months before the Pan Am incident. U.S. intelligence officials identified him as being involved in bombing attempts.
- **Abdullah Senoussi:** Brother-in-law of Libyan leader Col. Moammar Gadhafi and de facto chief of the Libyan intelligence service, the Jamahirya Security Organization, which has been tied to the Pan Am bombing.
- **Moussa Koussa:** Vice minister of Libyan foreign affairs. Identified by U.S. intelligence officials as a suspect in prior bombing attempts.
- **Mohammed Naydi:** Senior Libyan intelligence official, suspected because equipment he used in other bombings matched equipment used in the Pan Am bombing. He was arrested and later released.
- **Mansour Omran Saber:** Libyan intelligence agent and longtime colleague of Mohammed Naydi. Arrested with Mr. Naydi, and also released.
- **Ali Akbar Hashemi Rafsanjani:** President of Iran who was identified in early CIA reports as knowing about the Pam Am bombing. He was commander in chief of the military in the summer of 1988 when the operation was reportedly commissioned through the Iranian Revolutionary Guard.

The Washington Times

Abdel Basset Ali Megrahi



Lamen Khalifa Fhimah

TRACKING TERRORIST BOMBERS

Chronology of events surrounding bombing of Pan Am Flight 103 on Dec. 21, 1988.

Nov. 14, 1991 — Two Libyan intelligence officials indicted for planting bomb that destroyed Flight 103.

Dec. 4, 1990 — Justice Department says a month-long inquiry produced no evidence that terrorists who blew up Pan Am Flight 103 two years earlier were unwittingly aided by an undercover U.S. drug investigation.

Nov. 16, 1990 — President Bush signs a bill tightening airport security.

Sept. 11, 1990 — A British government report into the disaster urges aircraft firms to make aircraft safer. Families of the victims say they are dissatisfied with the report because it failed to consider airport security.

June 11, 1990 — Justice Department reports "significant progress" in the investigation but says evidence to bring charges was still "not in hand."

May 15, 1990 — A presidential commission investigating the bombing recommends the United States should take military action against "terrorists' and nations that harbor them.

May 10, 1990 — Pan Am reaches an out-of-court settlement with 250 Scottish families whose relatives were killed or injured in the disaster.

Dec. 15, 1989 — Scotland's chief law officer announces the first public inquiry into the bombing, but says criminal prosecution is not imminent.

Nov. 17, 1989 — A presidential commission opens hearings in Washington.

Nov. 4, 1989 — CIA Director William Webster says the United States hopes to seize the bombers and bring them to trial in the United States.

Oct. 30, 1989 — West German officials say investigators found a trail leading to Malta as the likely source of the bomb and say a Libyan man may have played a role.

Sept. 11, 1989 — FBI says it believes it identified group responsible for the bombing.

Aug. 4, 1989 — President Bush announces formation of a seven-member commission to investigate air terrorism, with particular emphasis on the Pan Am bombing.

April 12, 1989 — Investigators say a U.S. citizen was tricked into taking the bomb on board.

April 3, 1989 — The United States announces new measures to combat sky terrorism.

March 22, 1989 — A State Department official testifies before Congress that the United States believes the bombing required aid from a foreign government because of the complex preparations that had to have been involved.

Jan. 10, 1989 — British investigators say the bomb was planted in the aircraft's forward baggage hold.

Dec. 31, 1988 — Libyan leader Moammar Gadhafi says he believes sabotage caused the crash, but denies Libya, Iran or Syria were responsible. The father of one victim files the first lawsuit against Pan Am.

Dec. 28, 1988 — Britain's Air Accidents Investigations Branch says the jet was blown up by a powerful bomb made of plastic explosives. Lawyers representing families of the victims say they will sue the U.S. government and Pan Am.

Dec. 23, 1988 — A British official says the government issued no public warnings about the threat because the information was considered confidential.

Dec. 22, 1988 — British investigators say sabotage was the most likely cause of the crash. U.S. officials say a threat to blow up a Pan Am flight to New York originating in Frankfurt, Germany, as Flight 103 had, was made to U.S. embassies in Europe and major airlines earlier in the month.

Dec. 21, 1988 — Flight 103 is destroyed over Lockerbie, Scotland, killing all 259 people aboard and 11 on the ground.

Source: Associated Press, Reuters

The Washington Times

Barr Says BCCI Inquiry Is Expanded to Six Cities

The Wall Street Journal Europe

November 15, 1991 Friday

THE WALL STREET JOURNAL.
EUROPE EDITION

Section: Pg. 22

Length: 177 words

Body

WASHINGTON -- Acting Attorney General William Barr said the U.S. Justice Department is now investigating alleged wrongdoing by the Bank of Credit and Commerce International in six cities -- two more than had previously been confirmed.

Aides to Mr.

Barr said that federal grand juries looking into BCCI have been convened in Los Angeles and one additional city, which the officials declined to identify. It previously was known that investigations into alleged money laundering, fraud and political bribery involving BCCI are under way in Washington, D.C.; Tampa, Florida; Miami, and Atlanta.

In his second and final day of confirmation hearings before the Senate Judiciary Committee, Mr. Barr continued to defend the Justice Department's overall performance on BCCI. Some Democrats charge that the agency has moved lethargically.

Mr. Barr, an aggressive, 41-year-old conservative, is likely to be confirmed by a comfortable margin. The Judiciary Committee may vote on his nomination as early as tomorrow, with the goal of a floor vote next week, committee aides said.

Load-Date: December 5, 2004

11/14/91 Reuters News 00:00:00

Reuters

November 14, 1991

TEXT OF JUSTICE DEPARTMENT STATEMENT ON LOCKERBIE INDICTMENTS.

WASHINGTON, Nov 14, Reuter - Following is the text of a statement made by acting U.S. Attorney General William Barr on Thursday regarding indictments issued in the fatal bombing of Pan Am Flight 103 in December 1988 (about 910 words)

Good morning. On December 21st, 1988, a terrorist bomb destroyed Pan Am Flight 103 over Lockerbie, Scotland, murdering 259 persons abroad the flight and 11 persons on the ground.

For three years the United States and Scotland have been conducting one of the most exhaustive and complex investigations in history.

Today we are announcing an indictment in the case. We charge that two Libyan officials, acting as operatives of the Libyan intelligence service, along with other co-conspirators, planted and detonated the bomb that destroyed Pan Am Flight 103.

At this moment, Lord Fraser, chief prosecutor of Scotland, is announcing parallel charges. I have just telephoned some of the families of those murdered in Pan Am Flight 103 to inform them, and the organisations of survivors, that this indictment has been returned. Their loss has been ever-present in our minds.

The task force created by the United States and Scotland to solve the bombing performed magnificently. The FBI and Scottish police conducted a brilliant and unrelenting investigation.

U.S. and Scottish prosecutors guided the investigation with superb skill. Forensic scientists from the United Kingdom and the United States made contributions of the highest order.

I cannot say enough to praise the work of all involved. For their leadership and hard work, I want to pay special tribute this morning to the Assistant Attorney General Bob Mueller and the staff of the Criminal Division of the Justice Department.

And U.S. Attorney for the District of Columbia, and his staff. And assistant director of the FBI, Bill Baker, and the skilled agents and staff of Judge Sessions' FBI.

And in Scotland, to Lord Fraser, and the Scottish police, particularly Scottish police officials John Boyd, George Esson and Stuart Henderson.

This investigation is by no means over. It continues unabated. We will not rest until all those responsible are brought to justice, and we have no higher priority.

The defendants we indict today are Abdel Basset Ali Al-Megrahi and Lamem Khalifa Fhimah, officers and operatives of the Libyan intelligence agency. These defendants are fugitives from justice.

Here is what the indictment charges. The defendants and co-conspirators made a bomb of plastic explosive and a sophisticated timing device and placed it in a Toshiba portable radio cassette player. The radio was put into a Samsonite suitcase.

On December 20, 1988, the defendants flew from Libya to Malta, where one of them had recently worked for Libyan Arab Airlines and had access to the baggage tags of another airline, Air Malta. By using stolen Air Malta baggage tags, the defendants and their co-conspirators were able to route the bomb-rigged suitcase as unaccompanied luggage.

The suitcase was put aboard an Air Malta flight that went to Frankfurt, Germany. At Frankfurt, the suitcase was transferred to Pan Am Flight 103-A to Heathrow Airport in London. At Heathrow the suitcase containing the bomb was placed aborad Pan Am 103. It exploded approximately 38 minutes after Flight 103 departed for New York.

Pan Am Flight 103 was at an altitude of six miles when the bomb detonated. Pieces of the jetliner were scattered over an area of 845 square miles. Scottish authorities immediately started conducting the most extensive crime scene investigation ever carried out. They searched the entire 845-square-mile area inch by inch, month by month -- fields, forest, lakes and towns. And they found bits of evidence that proved to be critical to the investigators and forensic scientists in solving the case.

After laborious analysis and reconstruction, it was determined that the bomb had been in the suitcase in a large aluminum baggage container in the aircraft forward cargo hold. It was found that the bomb was composed of 10 to 14 ounces of plastic explosive.

The methodical crime investigation yielded a tiny small fragment, smaller than a fingernail, that had been driven by the blast into the large cargo container. Forensic experts determined that this was part of the circuitboard of the Toshiba radio. A fragment of green circuitboard, also smaller than a fingernail, was found in a piece of shirt that had been in the suitcase containing the bomb. Scientists determined that it was part of the bomb's timing device and traced it to its manufacturer, a Swiss company that had sold it to a high level Libyan intelligence official.

The path of the deadly suitcase was reconstructed. With the help of many countries investigators were then able to develop the remainder of the evidence leading to today's indictment.

This has been a case of incredible complexity and, as you can see, it required a painstaking, long-term investigation of the utmost diligence and attention to the smallest detail.

Although this investigation is continuing and will be pursued unrelentingly until all responsible are brought to justice, today's indictment is a landmark and sends a powerful message. We have the resolve and we have the ability to track down, no matter how long it takes, those responsible for terrorist acts against Americans.

---- Index References ----

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End of Document

JUSTICE DEPARTMENT PRESS CONFERENCE
US ACTING ATTORNEY GENERAL WILLIAM BARR

US ASSISTANT ATTORNEY GENERAL ROBERT MUELLER
US ATTORNEY FOR THE DISTRICT OF COLUMBIA JAY STEPHENS
SUBJECT: PAN AM 103 INDICTMENT

Federal News Service

NOVEMBER 14, 1991, THURSDAY

Section: SPECIAL CONFERENCE OR SPEECH ABOUT THE MIDDLE-EAST

Length: 8211 words

Body

MR. BARR: Good morning.

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This investigation is by no means over. It continues unabated. We will not rest until all those responsible are brought to justice and we have no higher priority. The defendants we indict today are Abdul Basat Ali al-Magrahi (ph) and Laman Khalifi Fema (sp), officers and operatives of the Libyan Intelligence Agency. These defendants are fugitives from justice.

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Now I ask -- Judge Sessions will say a few remarks.

JUDGE SESSIONS: Thank you, General. On the late evening of December 21st, 1988, when details began to be received at FBI headquarters in the United States that Pan Am Flight 103 had disappeared over Lockerbie, the FBI immediately initiated a plan of action. The FBI legal attache in London was dispatched immediately to Lockerbie to offer assistance and to begin working with the local investigators. Immediate arrangements were made for an FBI agent to be assigned to Lockerbie to provide on-site assistance and coordination fully and completely with the Scottish police. The FBI provided the Scottish police with explosives experts and specialists in the Identification Division Disaster Team area.

This early, close-working relationship was the framework from which this massive international investigation was to be built. For almost three years, the FBI and the Scottish police would conduct investigations throughout the world, often under very difficult circumstances. In addition to the Scottish police, investigators from West Germany, from Sweden, from Switzerland, from Malta and a number of other countries, provided assistance, forming the largest international terrorism investigation ever conducted. Most important is the commitment and the perseverance of the investigators themselves, which is what has brought us here today.

Consider for a moment that in early 1989 numerous theories abounded regarding the responsible -- and the responsibility for this particularly horrendous crime. Included among those theories was speculation that somehow a passenger could have been involved unwittingly in facilitating the introduction of the explosive device into the airplane. Each and every one of those theories was meticulously and carefully investigated by the FBI and the Scottish police in pursuit of the truth. After exhaustive investigation, it can be stated with utmost certainty that no passenger or airline employee on Pan Am 103 was involved either wittingly or unwittingly in this crime. The unrelenting persistance of the investigators to develop the facts has successfully resulted in the indictments that are announced here today.

Over the past three years I've had several meetings with the families of the Pan Am 103 victims. While I could not and did not discuss the details of the case, I tried to emphasize repeatedly the painstaking and long-term demands

of complex terrorism investigations such as this. I ask the family members to continue to understand the tedious nature of the case. Clearly all of us, the families and the FBI share a fervent desire to bring the perpetrators of this horrible act to justice.

Although today's indictments are a major breakthrough, as the Attorney General has announced, they do not signal the end of the investigation. The FBI will remain committed to the investigation and will pursue the resolution completely of this heinous crime.

Thank you very much.

MR. BARR: Now let me introduce Bob Mueller, the Assistant Attorney General in charge of the Criminal Division of the Justice Department, and who will make brief remarks.

MR. MUELLER: Thank you, Bill. After living with this case for a number of years, it is somewhat of a poignant moment for those of us involved to be able to stand here today and bring before you an announcement relating to charges.

There are aspects of this international investigation of the bombing of Pan Am 103 that are indeed unique in law enforcement history. The Justice Department went around the world to follow this investigation. And as my predecessors at the podium have said, the indictment that is returned and announced today could never have been developed without the unstinting work of a number of authorities from a number of nations.

This investigation is unique because it required coordination that, in my experience and the experience of a number of prosecutors, that it was unique in coordinating with a number of prosecuting authorities as well as investigative agencies. But the coordination was intensive. We worked together no matter what the obstacles were that we encountered.

And as the Attorney General has said, and Director Sessions, the greatest credit must go to the police of Scotland. Faced with nearly impossible tasks, they never faltered. Scottish police searched an area of 845 square miles where the wreckage of Pan Am 103 fell, and with the greatest of diligence they, along with the FBI, found the key evidence.

We indeed have no words to adequately express our gratitude to Lord Fraser of Carmeli (sp), the chief prosecutor of Scotland, whose leadership always was magnificent. And the fact that charges are brought today in the United States and Scotland is a tribute to the great determination of the Scottish police and Lord Fraser to ensure that justice be done.

We worked with the Scottish authorities throughout in an atmosphere of mutual trust and cooperation. We solved our problems together. And all along we both had high hopes for the outcome of the investigation into the tragedy of Pan Am 103.

All along, we also received substantial excellent assistance from a number of other nations, including, as was mentioned by the Director, Switzerland, Malta, Germany, Sweden and France, and we are truly grateful to them for enlisting with us in an investigation to determine who were the perpetrators of this tragedy.

And also, our task force within the Justice Department was a model of cooperation. United States Attorney Jay Stephens of the District of Columbia and his staff, the Federal Bureau of Investigation, and the prosecutors in the Terrorism and Violent Crime Section and the Criminal Division worked together throughout. As this investigation continues, we have the same hopes that we had previously that we would receive and continue to have the same high level of cooperation that we have had in the past. We are sure that this high level of cooperation will continue in the future as we proceed in the investigation.

Thank you.

MR. BARR: Now, I'd like to introduce United States Attorney Jay Stephens.

MR. STEPHENS: At the outset, I'd like to commend and give my special thanks to the Attorney General, to Director Sessions, and to Bob Mueller for their superb leadership and support during the course of this investigation. I'd

also like to offer a very special thanks to the -- some of the people who did the day in and day out work on this investigation.

There were a number of FBI agents, but in particular case agent Ed Marshman (sp), Supervisory Special Agent Larry Nizely (ph), and Unit Chief Dick Marqies (ph), and the prosecutors, two assistants in my office, Assistant United States Attorney Brian Murgaugh (sp), Assistant United States Attorney Dan Sikeley (sp), Chief of our Transnational Section, and two attorneys from the Justice Department Criminal Division, Dana Beal (sp), Deputy Chief of the Terrorism and Violent Crimes Section and and Jim Reynolds (sp), Chief of the Terrorism and Violent Crimes Section.

Today's indictment really demonstrates an unparalleled commitment of law enforcement to bring to justice the perpetrators of one of the most cowardly and cold-blooded crimes of this century. Even for those of us who are no strangers to the violence that all too often we see on our streets, they drive-by shootings, the executions, the retaliatory killings, this crime is unsurpassed.

On December 21, 1988, death rained from the skies as 270 innocent men, women and children were murdered at Lockerbie, Scotland. But these were not the only victims of this deadly act of international terrorism. All Americans and indeed all civilized people around the world were victims.

A videotape of the radar beacon tracking Pan Am 103 reveals the first clues of the magnitude of the crime that had been committed. The radar return at 7:01 and again at 7:02 tracked the flight path of Pan Am 103 as she headed toward the Atlantic to bring her passengers home to America for the holidays. And then, at 7:03, shortly before she turned out over the Irish Sea, instead of one object traced in the sky there were four, and then 10, and then 100, and then 1,000 as Pan Am 103 broke up at 31,000 feet.

For the next hour the radar tape tracks 1,000 pieces of debris falling across the north of Scotland, all the way to the North Sea, more than 70 miles away. The difficulty of the investigative task that lay ahead was apparent. What the radar beacon had witnessed at 31,000 feet, minutes later brought a rain of death and terror to the little village of Lockerbie, Scotland.

On the outskirts of Lockerbie, in the green rolling hills, on a foggy morning, the old church at Tundergarth (sp), really stands watch over the tranquil hills where the flight deck landed. And a few miles away in the village, at Rosebank Crescent, the peaceful manicured gardens now stand in stark contrast to the horror of the cold December night when its pathways and trellises and stone walls were strewn with bodies and the debris of life: a still-wrapped Christmas present; a doll to give security to a very young traveller; and photos of loved ones left behind.

And at the edge of Lockerbie, just inside of the motorway, where houses once stood and where people once lived, now a memorial garden grows to heal the scars that were caused by the falling aircraft wings, which created the gigantic crater and a hellish fireball fueled by nearly 200,000 pounds of aviation fuel.

When you walk down the street of Lockerbie to the Lockerbie Incident Center -- it's an old, nineteenth-century stone schoolhouse where the investigators have set up headquarters -- and you climb the stairs to the office of the chief Scottish investigator, Stuart Henderson (sp), you are overwhelmed with the enormity of this crime. For all around the walls of this very stark, simple office is a chart, a posterboard, made with a magic marker listing the victims of Pan Am 103. Kaneesha Wheadon (ph), Sally Scott (ph), Daniel O'Connor (sp), Jonathan White (sp) are but some of the names on that wall. And the Williams family -- Stephanie, George, Brittany, Bonnie, and Eric -- their names are there also.

And listed beside each of the names of the passengers is the seat number they were in, who found them, how they were identified and their country of origin. In all, 21 countries are represented, eight families of four and 16 infants who were sitting on the laps of their parents.

At the other end of the village is the old cemetery that has taken the village dead for centuries and now there a memorial garden in a granite wall serve to remind us not only of those who died so tragically but of the importance of justice in this case. You can run your fingers over the names carved so indelibly in that stone and you can

tangibly feel the call for justice in this case. This is why hundreds of men and women searched nearly 850 square miles for clues that might solve this crime, why they crawled on their hands and knees through the cold, wet earth and searched lakes and ponds and combed forests for clues to this unconscionable act. Piece by piece, law enforcement officers, emergency rescue personnel, military personnel and residents of the area that gathered the fragments. Countless shreds of clothing and shards of metal combed from the path of destruction, provided the critical clues that led to today's indictment.

And while the terrorists that committed this brutal massacre may have planned it well, they misjudged our determination to seek justice for the victims of Pan Am 103 and they made the fatal mistake of underestimating the commitment, the capability and the cooperation of international law enforcement which unrelentingly has brought us to today's indictment. Surely this has been one of law enforcement's finest hours. Investigators tracked evidence across North Africa, the Mediterranean, Western Europe, the United Kingdom, Asia and Africa. An alliance of law enforcement agents from a number of countries -- the United States, Sweden, Switzerland, France, Germany, United Kingdom, Scotland, and Malta -- all cooperated to fix responsibility for this crime, and through the tedious collection and meticulous analysis of the evidence -- scraps of cloth, a piece of circuit board no larger than your fingernail, baggage records, telephone and travel records, forensic analysis, and a reconstruction of the aircraft itself from a thousand scattered pieces -- the investigators solved the puzzle of what happened to Pan Am 103. When the scattered bits of evidence that were gathered, sifted and pieced together, a mosaic emerged, and at the center of that mosaic are the initials J-S-O -- the Jawahira (sp) Security Organization.

Today's indictment charges two members of this Libyan intelligence organization -- Abdul Basat Ali al-Magrahi (ph) and Laman Fema (ph) -- with bombing Pan Am Flight 103 and murdering 270 innocent people. This indictment stands and demands that these cowardly acts against innocent citizens and against civilized people around the world not go unpunished, and that those responsible be held accountable for their crimes.

MR. BARR: We're now going to take a brief break, and then I've asked Bob Mueller and Jay Stephens, accompanied by Bill Baker of the FBI, to give a full and more detailed briefing on the indictment and the evidence, and to answer any questions that you have.

Thank you very much.

(Break.)

MR. MUELLER: Okay. Are we ready to go? Is everybody ready? It sounds like the stands of a football game. Okay, is Bill Baker -- where's Bill? Bill, why don't you come over for a second? Good. Okay. You know Jay Stephens, the US Attorney for the District of Massachusetts. To my left is --

MR. : Massachusetts?

Q Could you speak louder?

MR. MUELLER: District of Columbia. My apologies. Okay, are we all set?

Okay. You know already -- have been introduced to Jay Stephens, who is United States Attorney for the District of Columbia, and also with me is Bill Baker, who is the head of the Criminal Investigative Division at the FBI. All three of us have been equally involved in this investigation over the last several years. What I would propose to do this morning is spend a few moments reviewing certain of the allegations in the indictment, and hopefully putting it in some perspective. And then, I and Jay and Bill Baker would be happy to entertain questions.

The indictment in front of you charges two defendants, Abdul Basat (ph) and Laman Fema (ph), with conspiracy resulting in the destruction of Pan Am 103 and the deaths of 270 persons. The indictment charges that the defendants committed their crimes as officers and operatives of the Jawahira (sp) Security Organization, which I will call JSO, a Libyan intelligence service. The indictment charges 193 violations of United States law, including conspiracy, causing a destructive device to be placed aboard Pan Am 103, and the killing of 189 nationals of the United States who were passengers and crew on Pan Am Flight 103.

As you all know, on December 21st, 1988 at 7:03 p.m. Greenwich Mean Time, the bomb detonated on Pan Am Flight 103. The airplane was destroyed approximately six miles above the small town of Locherbie, Scotland.

The bomb exploded when the plane was at six miles in winds of approximately 140 miles per hour. And as Jay Stephens has pointed out, parts of the airplane and cargo -- thousands, if not hundreds of thousands of bits and pieces -- were blown across Scotland from Locherbie to the East Coast, a number of miles away. And as has been pointed out by several of us today, the first step was the reconstruction of the airplane, the attempt by the authorities to reconstruct what indeed had happened in this tragedy. And that is where the Scottish police deserve unbelievable praise from any law enforcement agency in the world.

In the days, the weeks, and the months after this disaster, the Scottish police organized and carried out a search of 845 square miles, searched every blade of grass to pick up every conceivable fragment that could be found. The magnitude of that task is and must be unique in the annals of criminal investigation. So the first step, quite obviously, was the attempt to reconstruct the aircraft. And indeed, the aircraft was reconstructed by the Scottish authorities.

I'll show you, to the right, a picture of a partial of that reconstruction in a hanger in the United Kingdom. And you can see that -- you can see to the bottom part of the screen that portion of the airplane that was blown out on the explosion of the bomb. You can see where the skin of the airplane has been forced back by the high winds. And the front of the airplane was to your left, the aft to the right on this picture.

Scottish authorities, along with the British authorities and with the help of the FBI, reconstructed the airplane. They also were able at the same time to reconstruct that particular container in which the bomb had been placed. And to my right is a picture of that reconstruction of container, baggage container AVE-4041, which had been placed in the forward cargo hold of Pan Am 103.

The investigators were able to determine and the indictment charges that upon review of the baggage records in London, Germany and elsewhere, that among the bags that had been put into this particular container were a number of bags off flight Pan Am 103-A -- alpha -- a feeder flight from Frankfurt to Heathrow Airport, earlier on the day of December 21, 1988.

The authorities were able to determine that a number of bags in container ABE-4041 had come off that feeder flight. Likewise, the German authorities were able to determine that an unaccompanied bag had been placed on flight Pan Am 103-Alpha -- an unaccompanied bag from an Air Malta flight from Malta to Frankfurt earlier that day, Air Malta Flight KM-180.

Now leaving the flight of the luggage -- or the route of the luggage for a moment, let me turn to what the forensic experts were able to determine in the course of the investigation.

The investigators and forensics experts examined literally every fragment, every piece that had been recovered in those 845 square miles. In the course of doing so, as the Attorney General has previously pointed out, they came across one small fragment from a circuit board. They were able to determine that this particular small fragment came from a circuit board of a particular Toshiba radio. As you can see from the next chart, you can see where that particular small fragment, which we saw on the previous chart, fits into the circuit board on this particular type of Toshiba radio.

So from a fragment smaller than your fingernail, the forensic experts were able to determine that this particular fragment came from this circuit board, which came from this model of Toshiba radio. And this -- this is a sample, or a comparable Toshiba radio containing the circuit board, the same type of circuit board that has that -- or is similar to that fragment.

Now, the Attorney General mentioned one other fragment that was of importance to this investigation. This is a fragment that related to what we call MST-13, which is a timer. But before I get to that, let me just show you, if I could, the suitcase or the sample of the suitcase in which this Toshiba radio had been placed. Through picking up pieces of suitcases and determining the blast damage on those pieces of suitcases, the investigators and the

forensic specialists were able to determine that a Samsomite suitcase similar to this was the one in which the Toshiba radio containing the bomb had been placed.

Now, going on to the piece of the timer. The experts, the specialists were able to go through the pieces of clothing that were recovered around Lockerbie, and again, determine from blast damage which pieces of clothing had been in the Samsomite suitcase containing the explosive device. In one of those pieces of clothing, they found another fragment from a circuit board, on this occasion a fragment from a green circuit board. And with the cooperation of the Scottish authorities and the FBI, one was able to determine that this small fragment of circuit board came from a circuit board that was used in a particular type of timer, an MST-13.

And we had in inventory a timer, an MST-13, and we were able to determine -- by we, I mean the United Kingdom authorities, their forensic specialists, and the FBI -- that this particular fragment that you see over to the right, which again is smaller than your fingernail, was similiar to the fragment on this particular circuit board. And you can see the same type of circuitry on both of those samples. And this is -- to the right on this photograph -- is a piece of the known timer circuit board.

Next, show you a copy of -- or a picture of the MST-13 timer, which contained that circuit board. Having found a known timer, they then determined the manufacturer of that partiuclar timer by looking at the circuit board, and utilizing their processes, uncovering the manufactuerer's initials, which had been attempted to be scratched out, and they found that the company that manufactured that particular circuit board was a Swiss company by the name of Mibo (ph). Further investigation disclosed that this particular timer was one of 20 that had been sold in 1985 by Mibo (ph) to intelligence officers from the JSO. Again, there were 20 timers manufactured to specifications of the Libyan JSO in 1985 by this company. All 20 timers were sold to the Libyan intelligence service.

Let me turn to one further aspect of the investigation that relates to the charges in the indictment, and that is I indicated previously that the experts, forensics experts were able to tell which clothing was in the suitcase by way of looking at the blast damage on certain articles of clothing. They determined that from those articles of clothing that they knew to be -- had been in that particular suitcase, a number of them had been manufactured exclusively on the island of Malta.

And then through follow-up investigation, they were able to determine where particular items of clothes similar to those that were found in the blast suitcase had been distributed on the island of Malta and were able to determine that on a particular day in December, an individual believed to be a Libyan puchased at one of those retail outlets items of clothing similar to those contained in the suitcase in which the Toshiba radio had been placed. You'll see those particular charges in the latter part of the indictment in front of you.

In sum, through the excellent work of the forensic specialists, the investigation of the Scottish police, the FBI, Maltese police and others, the grand jury returning the indictment today was able to determine the following: That the bag containing the Toshiba radio and containing the explosive device entered into the system in Malta on the 21st, on flight Air Malta AM180, departing at 9:52 a.m., arriving at Frankfurt 12:41 p.m. And the bag, unaccompanied, was placed on Pan Am 103A departing at 4:19 a.m., ended up in container 40-41 on flight Pan Am 103 resulting in the explosion of Pan Am 103 at 7:03 p.m. on the evening of the 21st.

You also see on this two notations relating to the defendants' travels to and from Malta on the day before and on the day of the placement of this bag on the Air Malta flight. Abdul Basat (ph), along with Fema (ph), on the 20th, flew to -- from Tripoli to Malta. And you'll see also from this notation and from the indictment, shortly after the Air Malta flight left Malta for Frankfurt, Abdul Basat (ph) returned to Libya on another Libyan Airlines flight.

In sum, after a thorough investigation, a time-consuming investigation, a tedious investigation, a worldwide investigation, the investigators and the forensics specialists were able to put together the puzzle which paints a picture of the involvement of these two individuals at the behest and in cooperation with the Libyan Intelligence Service.

Now, I'd be happy to entertain questions, as would Jay and Bill.

Q Have you determined that the reason for this was retaliation for the US bombing of Libya in '86?

MR. MUELLER: I'd have to refer you to the indictment on that. And there is no allegation with regard to motivation or events triggering this in the indictment.

Yes, sir?

Q One piece of the puzzle still out is why the bomb went off at that particular moment. Do you believe it was solely the timer and it was set for a given time, or did this have something to do with the altitude --

MR. MUELLER (?): It was a digital timer, not a barometric timer.

Q So it would only have to be set to go off at a particular time?

MR. MUELLER (?): It was a digital timer.

(Cross talk.)

MR. MUELLER (?): Yes, ma'am?

Q What do you know about the whereabouts of these two agents?

MR. MUELLER: We believe that they are currently in Libya.

Q Do you hold out any hope of having them arrested or extradited? And why did you go after these agents as opposed to the higher ups who ordered it?

MR. MUELLER: Well, let me answer the first question. We have no extradition treaty with Libya, but we hold out hopes of obtaining the individuals.

With regard to your question relating to higher ups, as you are aware, it's our responsibility to take the evidence that we have, determine whether that evidence supports the bringing of charges, and bringing those charges where the evidence supports it.

(Crosstalk.)

Q (Off mike) -- expeditiously?

Q You talked about going after these people. You've got pictures of them in your file. What are you doing to -- (inaudible due to background noise) --

MR. MUELLER: It is always our policy to, in circumstances like this, to keep every option open. That includes the possibility of extraditing one or both of these individuals should they go to a country with whom or with which we have an extradition treaty.

Q Will you be passing these pictures (to Interpol ?), around the airports around the world?

MR. MUELLER: We are taking every step that we take in ordinary investigations to alert people to the fact that these individuals are fugitives with the hopes that they will be apprehended and face justice either here or in Scotland.

(Crosstalk.)

Q Would you rule out the possibility of kidnapping?

MR. MUELLER: I'm not going to discuss any options that we might have.

Q Without going into -- which you say you don't want to -- motivation, can we assume or would you state explicitly that these are government agents, that they were operating under the orders of their government -- (inaudible) --

MR. MUELLER: Well, I'd refer you to a section of the indictment, and let me just read that to you. It's paragraph 38A, where it says --

Q What page?

MR. MUELLER: It's paragraph 38A, where it states -- where the grand jury states that the defendants and co-conspirators, as officers and operatives of the JSO, utilized the resources and facilities of the nation of Libya, including the JSO, to carry out their scheme to destroy an American aircraft by means of an explosive device and to kill passengers on board the aircraft.

Q Well, let me follow up. That could imply that they misused their office. Are you saying that they were operating under higher instruction or that they simply had the advantage of government --

MR. MUELLER: I refer you to the charges in the indictment.

Yes, sir?

Q Do you have any evidence in the net to link Iran or Syria to this bombing?

MR. MUELLER: We have no evidence linking Syria to this bombing. We have no evidence linking Iran to this bombing.

Q What about the PFL or PGC --

MR. MUELLER: We have no evidence at this juncture. We have no evidence linking the PFL-PGC to this bombing, and I know you were referring to the -- presumably the Autumn Leaves exercise in Germany in October of 1988, and I can tell you that those leads that might have been related to that circumstance, those series of events in October of 1988 in Germany were exhaustively pursued, and I repeat what I have said. There is no evidence, we have no evidence the PFL-PGC was involved in this bombing.

Q (Cross talk) -- conspiracy?

MR. MUELLER: Well, as I am sure you are aware, individuals presumed to be related to the PFL-PGC were arrested by German authorities in October of 1988 and were prosecuted.

Q (Off mike)

MR. MUELLER: I think the indictment speaks for itself.

Q (Off mike)

MR. MUELLER: I am not going to discuss or speculate in that regard. Yes, maam?

Q (Off mike)

MR. MUELLER: Well, all I can tell you and I would reiterate what the Attorney General said, is we will pursue the investigation wherever it takes us.

Q (Off mike)

MR. MUELLER: I can refer you to the indictment for a description. The grand jury described the conspiracy in the indictment and that would be the best description I could give you.

Q (Off mike)

MR. MUELLER: I can't discuss the number of co-conspirators.

Q (Off mike)

MR. MUELLER: Under our system and I believe also the Scottish system and I am not certain on that, we do not have -- unless we have jurisdiction of the person we do not have the ability to try somebody in absentia.

Q (Off mike)

MR. MUELLER: No.

Q (Off mike)

MR. MUELLER: It came to us from -- well, let me have Bill respond to that.

MR. BAKER: The device that was located was found to be similar to one found in Togo, which was related to one found in Senegal. In the incident in Senegal, Libyan intelligence agents were detained by the Senegal government. Subsequently, photographs were retained of that particular circuitry. However, we believe the circuitry itself was destroyed. So, if you follow that chain, we have the one in Togo intact. It compares with the one in Senegal where we have a photograph, and also with the device, the portion that we found at the crash site.

Q (Off mike) -- that they photographed.

MR. BAKER: Before they destroyed it.

Q So, all three were (on the plane ?)?

MR. BAKER: Correct. Correct.

Q So, that's the way you know that these agents used this type of bomb, or does that (support your claim that ?) --

MR. BAKER: That's a key.

Q -- know that they've used --

MR. BAKER: Yes, Steve.

Q I think a lot of people who travel have some trouble understanding how this bag could have gotten into -- (inaudible) -- through airport security in Malta and then been loaded onto two different Pan Am flights without anybody ever looking at it. Could you give us a little sense of how that could have happened?

MR. MUELLER: No, I prefer not to get further into the evidence of the case.

Yes, ma'am?

Q (What have the ?) Scots done today? Have they --

MR. MUELLER: The Scots have returned parallel charges against the two individuals. Our systems --

Q Same individuals?

MR. MUELLER: Same individuals, that's correct. Our systems are different. The mechanisms for returning charges are different. The charging papers are different. But, as I have said throughout, we have worked cooperatively with the Scottish authorities from the inception of this investigation.

Q Do you have any information about the -- (inaudible) --

MR. MUELLER: I am not going to discuss that at this juncture.

Q Is there any information in the parallel charges that is not in this --

MR. MUELLER: I think you will find that the charges brought by the Scots will be somewhat similar to the charges that you will find in the indictment that's been given to you.

Q No information here that -- in there that is not in here?

MR. MUELLER: I think I can tell you this, that we and the Scottish authorities, whether it be the police authorities or the prosecutors, view the evidence in the same way. And I think the papers that provide the charges against these two individuals, you will see are not only similar but (contain ?) basically the same information.

(Crosstalk.)

Q Did your investigation uncover any evidence of contact between the Libyan -- (inaudible) -- and Syrians or -- (inaudible)?

MR. MUELLER: As I told you before, we have no evidence indicating --

Q I'm talking about --

MR. MUELLER: We have no evidence indicating that Syria was involved in the Pan Am 103 disaster.

Q There isn't any?

MR. MUELLER: No evidence. No evidence.

Q Well, what did they -- getting back to that question, of the allegation that you concentrated on the Libyan connection and not on the Syrian connection -- (inaudible) -- that such a relationship might --

MR. MUELLER: Well -- okay, I understand the question.

Q There's a difference between pursuing and --

MR. MUELLER: And I'd ask you to look at what we have been through in terms of the briefing and in terms of the results of the forensics evidence and those charges which are set forth in the indictment, in response to that particular question. We took the evidence where the evidence led us. And I'll also add that at no time were we in any way influenced to direct the investigation in one way or another.

Every one of us standing up here, Jay, Bill, and myself, have been on this case for -- and the prosecutors who are standing in the room -- have been on this case for a substantial period of time. Each one of us have been to Locherbie. Each one of us have lived every day with this in our minds. We have met periodically with the victims' families. And we take and took and still take our duties very seriously.

And not only was there no effort to influence this investigation in any way by outside agencies, we would certainly not countenence it, and what you see here and what we have

described today and what the grand jury returned are the fruits, the results, of that investigation.

Q To follow up on that, then, what kind of -- when you talk about airport security, how do you even know that all of this work that you've done, but this kind of thing could happen again -- (inadible) -- terror attacks in place of another suitcase on an airplane that could blow up -- (inaudible)?

MR. MUELLER: I'd refer you to the result -- or the work of the Commission that -- Ann Mclaughlin's Commission -- which addressed this question in particular, and to others who are more directed to that particular issue of airline security.

Somebody who has not asked a question yet.

Q What is the -- what do you think are the future directions to take when you're talking about -- (inaudible)? What direction -- (inaudible).

MR. MUELLER: Well, one finds that when charges are brought and become public, quite often you obtain new leads, new evidence; persons who were previously unwilling to talk who are then willing to talk. You never know where you're going to get your witnesses. And we will pursue any lead that comes to us, and we still have some work to do.

Let me just turn it over to Bill.

MR. BAKER: I just might also add, if you look at the investigation into the bombing death of Orlando Letelier in 1976, these same types of observations were provided to the investigators and the prosecutors. Yet in April of 1991, we arrested one of the bombers in Florida, and in September of this year two more were arrested by the Chilean government -- a government that in 1976 was not cooperating, but is now. So we're going to keep all those avenues open so that we will be persistent and continue our investigation of 103.

Q The finding of the two key pieces of forensic evidence, the location of the Toshiba radio and the pieces of the timing device -- can you provide some more detail about, was it found near the village, or a long way from the village? Were they found near each other? And were they found somewhat at the same time, or at vastly different times?

MR. BAKER (?): No, I really can't get into more detail on those particular items.

Yes, sir?

Q A question for Bill. Can we ask about warnings? There were, without -- and I must confess, I can't recall exactly what the origin was of each of the warnings and so on, but it eventuated in a State Department warning to stay off Pan Am airlines. Has your investigation revealed that there was any legitimacy to those warnings, other than the coincidence in time?

MR. BAKER: Steve, again, as Bob referred a question in that area back to the McLaughlin Commission report, it thoroughly addressed those type of questions, and I'd have to refer you back to that. For questions raised by Rita and others concerning security, those will be ongoing and examined to see how this whole system can be improved, and how we can learn from what we have detected which led to our announcement today.

Q Can I follow with a more specific question, because people will want to know about warnings; then you go and frankly -- (inaudible) -- that report. It may not be possible to find -- (inaudible). Let me just make a simple (question ?). Did any news, did any information from this conspiracy group leak out and result in, in one instance resulted in the State Department being warned?

MR. BAKER: No, no.

Q Can you put that in your own words, please, that this is --

MR. BAKER: No.

MR. MUELLER: No. (Laughter.)

MR. BAKER: Especially if it's simple and I can do that, and it's no.

MR. MUELLER: A question for Jay.

Q Mr. Stephens -- (inaudible) -- theory or recommendation on whether these two men were loose cannons, Lone Rangers, something like this, or does not the massiveness of the conspiracy suggest that it would be something ordered by the highest levels of the Libyan government, using resources --

MR. STEPHENS: So the question is were these -- was this a rogue operation by the two defendants who were indicted or was this part of a more orchestrated effort by the Libyan government?

If you look carefully at the indictment, I think you will see a number of allegations in that indictment that speaks to the operation of the JSO, how it was set up, what its purpose was; where some of its front organizations were, including the Libyan Arab Airlines, including (ABH ?) in Zurich, Switzerland; that Abdul Baset was allegedly associated with the ABH office in Zurich, Switzerland; that they operated through Libyan Arab Airlines using that as a cover; that they had other alleged cover operations, that these two individuals were officers and employees of the JSO. And if you look also at the indictment, you will see activities delineated in the indictment of additional Libyan governmental officials who the indictment alleges were also part of the JSO.

And beyond that I don't want to speculate, but I think will give you some sense of whether or not the indictment suggests or the evidence suggests that these two individuals were acting alone or whether they were acting as part of an orchestrated conspiracy out of the JSO.

Q (Inaudible) -- from your knowledge of the Libyan structure, would you rule out the possibility that it was a totally rogue operation?

MR. STEPHENS: We have no evidence to suggest that this was a rogue operation.

Q When was this indictment returned?

MR. STEPHENS: The indictment was returned yesterday.

Q Bob, on the issue of the airline -- or baggage transfers from one aircraft to another, is there any evidence that -- (inaudible) -- by any workers transferred (at any ?) airports?

MR. MUELLER: No evidence of that.

Q Mr. Stephens, realistically what do you think your chances are of (grabbing these guys ?) -- (inaudible) --

Q Zero to 10.

MR. STEPHENS: We're exploring all options. As both Bob and Bill have indicated, law enforcement has been very persistent on a number of international investigations. Recently we have prosecuted two individuals charged in the Letelier case; they've both been convicted after 12 years. On a number of other cases, particularly in the international area, defendants are apprehended and brought to trial frequently a number of years after the indictment. I'm sure that the United States government, as reflected in my comments earlier, is committed to bringing to justice the individuals that were charged in yesterday's indictment made public today, and that the government will explore all options to determine whether and how those individuals may be brought to stand trial either here or in Scotland.

(Cross talk.)

Q But if I could follow up -- if I could follow up, are you actively preparing a court case right now? If they kidnap these men tomorrow, would you be prepared to go to court -- (inaudible) --

MR. STEPHENS: If you look at the haggard look on the prosecutors faces, you'll understand that we have been working very hard to ensure that in the event we need to try this case, we are prepared to try it; and that working together with the Scottish authorities, we have cooperated and we will continue to cooperate to ensure that all the evidence is there and ready to be presented in court when and if a trial occurs.

Q (Inaudible.)

Q What (facts ?) went into the decision to make this indictment public now as opposed to -- (inaudible) -- to get people out?

MR. MUELLER: The presumption is that indictments will be publicized unless there is a countervailing reason to keep it sealed. And at this point in time, there was no articulable reason to keep it sealed.

Let me just make a follow up on the comment that Jay made about the indictment and what the indictment says with regard to Libyan government complicity. And he articulated to you those instances in the indictment where it shows that the JSO was intimately involved in this operation.

It is a fair statement, I think, on the indictment, to say that this Libyan intelligence organization, as an integral part of the Libyan government, was in part -- substantial part responsible for Pan Am 103 as -- and operating as an integral part of the Libyan government.

Now, yes, sir?

Q How do you categorize -- (inaudible) -- your investigation from the Syrian government or from the Palestinian government -- (inaudible) --

MR. MUELLER: I'm not going to comment on that.

MR. STEPHENS: One last question. One more question.

Q Yeah, tell us about -- (inaudible) --

MR. MUELLER: It quite obviously would be inappropriate for me to discuss with you how we came on evidence which may be discussed in the indictment.

Q Are you chasing after any of the French suspects? This names a number of higher-ups --

MR. MUELLER: We have an on-going investigation and we've had contacts both at the agents level and otherwise with regard -- with the French as to UTA 772.

Q Can you name all the people?

MR. MUELLER: All I can tell you is the investigation is continuing and we have contacts and consultations with the French with regard to UTA 772.

Q -- what the progress has been made since the bombing. You talked about -- (inaudible) -- and controls --

MR. MUELLER: Again, I'm going to have refer you to the McLaughlin Report and other --

Q (Inaudible.)

MR. MUELLER: If I might, we today are talking about the return of the indictment and the Justice Department's role along with Scottish prosecutors. Now I would refer you to other areas of the government and the McLaughlin Report which addressed that question in particular. Also you have the inquiry that was undertaken in Scotland, I believe it was a public inquiry -- it took several months -- that addressed that issue in particular. And I think that would be the more appropriate forum to which to turn for an answer to that question.

MR. BAKER: Let me just say that if you need statements, copies of any of the statements, we have plenty in the back as you go out. If any problems with them, just see me, I'll be standing here. And also if you have more needs this afternoon in terms of followup-type information, call Public Affairs, ask for Doug Tillet. He's going to be the lead person to take your calls. Okay?

Justice Will Study Loan Discrimination

National Mortgage News

November 11, 1991

Section: Pg. 22

Length: 336 words

Dateline: WASHINGTON

Body

The Department of Justice is going to study the issue of mortgage discrimination and is considering using a "tester" program to find out if lenders are giving minorities the cold shoulder.

The announcement comes two weeks after the Federal Reserve Board issued data showing that minorities are two to four times more likely to be turned down for loans then whites.

DOJ is now discussing the issue with bank and thrift regulators to come up with a way to accurately study discrimination in lending.

Before the $ 1.4 million effort can get off the ground, however, Congress must reallocate funds from other DOJ programs.

Recently the Federal Reserve Board rejected the use of testers to uncover mortgage discrimination, citing ethical, legal and cost concerns.

Moreover, Congress last month voted down an amendment to the banking bill which would have funded a program to test for mortgage discrimination.

Still, a spokeswoman for the Department of Justice said. "We don't think we'll have a problem with Congress."

In a statement acting attorney general William Barr said, "Testing is the most effective method of identifying housing discriminators and bringing them to justice."

He added that, "Credit is the cornerstone of housing and while this data must be carefully analyzed, if credit decisions are based on race or national origin all of our other efforts to make fair housing a reality will be in vain."

Last week the Comptroller of the Currency said it would use the Fed's Home Mortgage Disclosure Act data to initiate targeted examinations of selected banks that show "pronounced racial disparities" in residential lending.

OCC said it plans to review specific loan files from individuals who may have been the victims of discrimination.

The agency also is asking its member banks to assess disparities in their rejection rates for home mortgage applications.

"National banks will be put on notice that those assessments will be reviewed by the OCC," the agency said in a statement.

11/8/91 Wash. Times (D.C.) A5
1991 WLNR 133447

Washington Times (DC)

November 8, 1991

Section: NATION

AGENCY BOASTS CONVICTIONS FOR FINANCIAL FRAUD

THE WASHINGTON TIMES

The Justice Department said yesterday that 855 persons were convicted in major cases involving fraud in financial institutions during fiscal 1991.

The department said 1,085 persons were charged with financial fraud during the period, which ended Sept. 30.

The totals, announced by acting Attorney General William P. Barr, compares with a fiscal 1990 figure of 791 charged defendants and 649 convictions. The figures are included in a report to Congress titled "Attacking Financial Institution Fraud."

"I am proud of the record of our accomplishment outlined in this report and the dedicated efforts of the many professionals within this department, as well as those in the Treasury Department and the law enforcement and regulatory agencies who helped bring this record about," Mr. Barr said.

Since Oct. 1, 1988, the Justice Department has charged 2,295 persons in financial fraud cases involving nearly $10 billion in losses to federally insured institutions. A total of 1,770 persons have been convicted.

G0027357-110891

---- Index References ----

News Subject: (Crime (1CR87); Judicial (1JU36); Legal (1LE33); Fraud Report (1FR30); Social Issues (1SO05); Criminal Law (1CR79); Economics & Trade (1EC26))

Language: EN

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Edition: Final

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Justice Department To Probe Discrepancy In Bad-Debt Records

The Wall Street Journal

November 5, 1991 Tuesday

Section: Pg. CITATION

Length: 250 words

Body

WASHINGTON -- The White House budget office and the Justice Department formed a team to figure out why government lenders say they have referred many more bad debts to the Justice Department than the department's records show.

Between Oct. 1, 1990, and June 30, 1991, for instance, records at the five major government lenders -- the Small Business Administration and the departments of Housing and Urban Development, Veterans Affairs, Education and Agriculture -- show they referred $520 million in bad debts to the Justice Department for collection.

But that department's records show referrals totaling only $235 million.

"To be unable accurately to state the amount of delinquent debt because of inadequate processes and practices is unacceptable," Budget Director Richard Darman said. For more than a year, Rep. Tom Campbell (R., Calif.) and other members of Congress have been criticizing the Justice Department's handling of its debt-collection duties.

Attorney General-designate William Barr said his department is making progress in collecting debts. Last year, it collected about $766 million in cash, substantially more than in any of the previous nine fiscal years. But congressional critics point out that the department has been assigned responsibility for collecting more than $5 billion in bad debts.

Most of the bad debt involves loans to students, home-buyers, small businesses and farmers. The newly formed team, which includes representatives of several agencies, will report by Feb. 15.

Notes

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San Francisco Chronicle (CA)

November 5, 1991

Section: NEWS

JUSTICE DEPT. PROGRAM TO PROBE HOUSING BIAS

Los Angeles Times

Washington

Department of Justice civil rights enforcers, stepping up their attack on housing discrimination, yesterday announced plans to establish their own "tester" program to uncover unlawful bias in selling and renting housing.

But the new force will not attempt to uncover possible discrimination in mortgage lending -- a form of potential housing bias documented two weeks ago in a sweeping study of mortgage loan rejections by a combination of federal regulatory agencies.

That study found that blacks and Latinos are turned down for home mortgages at much higher rates than whites.

Reacting to that study, Assistant Attorney General John R. Dunne said the department will call together federal agencies with regulatory authority over mortgage lending to develop a joint investigative and enforcement program.

He said that mortgage lending is an area of great complexity involving complicated statistical analysis and other investigation to establish that rejection of mortgage applicants constitutes a pattern or practice of illegal discrimination rather than legitimate underwriting standards.

Both moves are being made at the direction of Acting Attorney General William Barr. An aide said that Barr had decided to make the attack on housing discrimination one of his priority programs. His nomination for the top Department of Justice job is scheduled to be considered by the Senate Judiciary Committee on November 12.

In announcing the decision to use department testers, Barr labeled housing discrimination "a pernicious evil that strikes at the essence of the American dream -- the right to live in the home of one's choice."

The department will shift funds from other activities for the $1.4 million that will be spent on the testing initiative in the next two years, Dunne said. In the past, the department has relied on "testing" evidence provided by advocacy groups and other private parties. In a typical testing effort, a black testing couple seeks housing at an apartment rental office, followed a short time later by white testers seeking similar housing.

The testers each claim to have the same demographic profile, most notably income, with the only difference being race. If the rental office tells the black testers that no housing is available, then tells the whites that there is housing, the department has the makings of a violation of the Fair Housing Act.

---- Index References ----

News Subject: (HR & Labor Management (1HR87); Workplace Discrimination & Equal Opportunity (1WO73); Judicial (1JU36); Legal (1LE33); Business Management (1BU42); Occupational Safety (1WO89); Economics & Trade (1EC26))

Industry: (Housing (1HO38); Real Estate Regulatory (1RE53); Real Estate (1RE57))

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Between Oct. 1, 1990, and June 30, 1991, for instance, records at the five major government lenders -- the Small Business Administration and the departments of Housing and Urban Development, Veterans Affairs, Education and Agriculture -- show they referred $520 million in bad debts to the Justice Department for collection.

But that department's records show referrals totaling only $235 million.

"To be unable accurately to state the amount of delinquent debt because of inadequate processes and practices is unacceptable," Budget Director Richard Darman said. For more than a year, Rep. Tom Campbell (R., Calif.) and other members of Congress have been criticizing the Justice Department's handling of its debt-collection duties.

Attorney General-designate William Barr said his department is making progress in collecting debts. Last year, it collected about $766 million in cash, substantially more than in any of the previous nine fiscal years. But congressional critics point out that the department has been assigned responsibility for collecting more than $5 billion in bad debts.

Most of the bad debt involves loans to students, home-buyers, small businesses and farmers. The newly formed team, which includes representatives of several agencies, will report by Feb. 15.

Notes

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South Florida Sun-Sentinel

October 31, 1991

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STATE, U.S. SETTLE SEX-BIAS LAWSUIT

ELLEN FORMAN, Business Writer

In the largest settlement so far of a sex discrimination lawsuit filed by the government, the U.S. Attorney General and the Florida Department of Corrections have agreed to settle a 1986 case for $3.7 million.

The suit alleged the department discriminated in the hiring, promotion and assignment of female corrections officers at prisons and other operations housing male inmates.

The settlement must be approved by a federal district court judge in Tallahassee, where it was filed in 1986. A public hearing also will be held.

The Florida investigation is one of a handful the U.S. Department of Justice initiated, challenging prohibitions against women officers guarding male inmates. It adds to recent federal decisions that open more non-traditional jobs to women.

The settlement comes as more attention is being focused on the issue of sex discrimination.

It is one of the first official announcements made by acting Attorney General William P. Barr, whom President Bush nominated as Attorney General earlier this month.

Hearings on Barr`s permanent appointment are expected before Thanksgiving.

The role the Justice Department may have played in providing research on Anita Hill to Clarence Thomas` supporters is among the topics expected to be explored.

The $3.7 million Florida settlement will be financed over three years out of a state self-insurance pool designed to pay settlements on workers` compensation, employment discrimination, and other civil cases, corrections general counsel Lou Vargas said.

In the meantime, the state will search for an undetermined number of present and former female corrections officers who might be eligible for back pay.

An additional $1 million will be paid to the Florida Retirement Fund to cover increased pensions.

The settlement prohibits the department from denying women promotional opportunities or otherwise discriminating on the basis of sex. It also prohibits corrections from retaliating against any person who opposed the policies that the Justice Department deemed illegal.

The proposed decree also requires the Department of Corrections to reduce the number of positions closed to women corrections officers from 50 percent to 25 percent over the course of three years.

The department said it would offer affirmative action.

``The department for several years now has been making great strides in this area,`` Vargas said.

Women security officers will be phased into areas such as male housing and work squads where male inmates have traditionally been supervised by male officers, he said.

Currently, 21 percent of the state`s corrections officers are female, which puts the department within the top five states in percentage of female officers employed, Vargas said.

The state employs 12,000 security officers at 100 sites. It is the fourth- largest state corrections department in the United States.

The Department of Corrections also must submit semi-annual compliance reports to the Department of Justice for monitoring purposes.

The U.S. Attorney General`s Office, which does not have jurisdiction over private employers, has filed similar actions against other state and city corrections institutions, including Massachusetts, Indiana and Philadelphia.

Settlement discussions on the Florida case began last April, long before attention to sex discrimination was raised by the Clarence Thomas confirmation hearings and the recent compromise on the Civil Rights Act, a Justice Department spokeswoman said.

While there were some sex harassment charges filed as part of the case, they were not a major part of the lawsuit, she said.

In a prepared statement, Barr said, ``Protecting the rights of women in the workplace is a critical function of the Civil Rights Division at the Department of Justice.``

---- Index References ----

News Subject: (Legal (1LE33); Judicial (1JU36); Social Issues (1SO05); Prisons (1PR87))

Industry: (Financial Services (1FI37); Insurance Liability (1IN26); Insurance Losses (1IN47); Insurance (1IN97); Insurance Industry Legal Issues (1IN64))

Region: (USA (1US73); Americas (1AM92); Florida (1FL79); North America (1NO39))

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BCCI Trail Leads to Egypt as Signs Point To Questioning of Sheik by Investigators

The Wall Street Journal

October 25, 1991 Friday

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Byline: By Peter Truell, Staff Reporter of The Wall Street Journal

Body

WASHINGTON -- A group of lawyers in the BCCI case have flocked to Egypt, inviting speculation that the U.S. may be conducting talks with a Saudi sheik involved in the scandal.

Some people close to the case suggested that the sudden flurry of legal activity in the country where Sheik Kamal Adham currently resides raised the possibility that a plea arrangement might be in the works. Sheik Adham, a former Saudi intelligence chief identified as a principal owner of Bank of Credit & Commerce International, could be a useful asset to prosecutors investigating BCCI's secret and allegedly unlawful activities in the U.S.

The office of David Eisenberg, an assistant U.S. attorney in the BCCI case, confirmed that he has been in Cairo this week. Likewise, Ed Rogers, who was retained as an attorney for Sheik Adham after resigning as a top aide to White House Chief of Staff John Sununu, is in Egypt, according to an aide.

Sheik Adham's principal lawyer here, Plato Cacheris, is "out of the country," an assistant in his office said.

A Justice Department spokesman, while not commenting on any meetings with Mr. Adham, said late yesterday that "teams of prosecutors and FBI agents are interviewing any persons believed to have information relevant to the ongoing BCCI investigations." That, he added, includes "individuals located outside the U.S. Clearly when witnesses are willing to provide information relevant to our inquiries the department has the obligation to pursue that information."

Sheik Adham has for years been a key front man for BCCI Holdings (Luxembourg) S.A., the Federal Reserve alleged in July. In particular, the Fed alleged that BCCI paid $2 million for him to serve, in BCCI's behalf, as a shareholder in the parent of First American Bankshares Inc., Washington's biggest bank-holding company. BCCI also provided him as much as $61 million, the Fed said, to allow him to acquire as much as 17% of First American's parent company on behalf of BCCI.

Sheik Adham's lawyer, Mr. Cacheris, has said in recent months that his client would like to meet with U.S. officials, although only at a location beyond the subpoena reach of U.S. authorities.

The news that Sheik Adham has retained Mr. Rogers, the former White House aide, to represent him in U.S. business matters for a two-year retainer totaling $600,000 already is causing a stir in Washington. Mr. Rogers's close relationship with Mr. Sununu caused the White House to issue a statement saying Mr. Sununu "has never discussed BCCI or Sheik Kamal Adham with Ed Rogers," and that he "has no interest in monitoring the BCCI investigation in any way." The entire matter, the White House said, was being handled by the Justice Department.

Assistant Attorney General Robert Mueller issued a statement saying he has "responsibility for overseeing and conducting the various investigations into BCCI," and that "at no time has anyone in the White House sought in any way to influence these ongoing investigations." His boss, acting Attorney General William Barr, said in a statement that "the notion that anyone at the White House has attempted to influence the BCCI investigations is utter nonsense."

One area on which Sheik Adham might be able to shed light is what role Clark Clifford and Robert Altman may have played in BCCI's links with First American.

A Senate panel yesterday questioned Messrs. Clifford and Altman, who, respectively, resigned in August as the chairman of First American Bankshares Inc. and president of one of its main units. The Fed alleges that BCCI for years secretly held a controlling stake in First American. Until October 1990 the two lawyers also served as U.S. counsel to BCCI. Yesterday, the two men reiterated in strong terms that they were unaware their legal client also had a secret interest in the bank they ran.

Papers released by the Senate panel yesterday showed that loans made by BCCI to Messrs. Clifford and Altman to buy stock in First American's parent were non-recourse loans, meaning that BCCI could not go after any of their other assets if they defaulted on the loans.

The committee also released a power of attorney signed by Mohammed Hammoud, a Lebanese shareholder in BCCI who bought much of the stock held by Messrs. Clifford and Altman at a high price in 1988. The power of attorney appeared to give the men the right to sell their shares to the BCCI investor on terms of their choosing. Mr. Altman told the committee that he has no recollection of seeing the document before.

"It's very clear they were nominee owners for BCCI," Sen. Hank Brown (R., Colo.) said of the two men's BCCI-financed ownership of First American stock.

Sen. Brown, a certified public accountant, also pointed out that Messrs. Clifford and Altman had borrowed their millions from BCCI to finance their stock purchase at an interest rate that was between 1.25 and 1.75 percentage points below the U.S. prime rate. That, he said, implied a tax liability to the Internal Revenue Service, which taxes below-market financing received by U.S. citizens. Mr. Altman said that he and Mr. Clifford disagreed with that conclusion.

Notes

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EX-WHITE HOUSE OFFICIAL HIRED BY BCCI FIGURE; ROGERS NEGOTIATES $600,000 CONTRACT TO ADVISE SHEIK

Ann Devroy and Sharon Walsh

Edward Rogers Jr., a top political aide at the White House who left there in August for his first job practicing law, has been hired by the Saudi Arabian sheik who is under federal investigation for his role in the BCCI scandal. According to foreign agent registration forms filed with the Justice Department, Rogers, 33, negotiated a $600,000 two-year contract to provide legal advice to Sheik Kamal Adham, a former chief of the Saudi Arabian intelligence services. Adham is being investigated by the Federal Reserve Board and the Justice Department for his role in helping the Bank of Credit and Commerce International (BCCI) acquire illegal control of First American Bankshares.

Rogers's association with Adham was first reported in the Newark (N.J.) Star-Ledger after Rogers filed foreign-agent forms last month outlining his agreement with Adham. According to the filing, Rogers, who was chief personal deputy to White House Chief of Staff John H. Sununu, traveled to Saudi Arabia three weeks after leaving the White House to sign the contract. A September letter signed by Rogers outlining the agreement between him and his partner, GOP consultant and lawyer Haley Barbour, and Adham states they will be part of Adham's legal team. The agreement notes that Rogers and Barbour will work with Adham's other lawyers, headed by the firm of Cacheris and Towey, and will not do "public relations, political or lobbying representation." But Rogers, in his filing with the Justice Department, notes that because of the "nature" of the congressional and federal probes of Adham's dealings "it may be necessary for me to perform duties that could border on political." White House press secretary Marlin Fitzwater said yesterday the Bush administration "would have no comment" on Rogers's clients because "he's a private citizen." Rep. Charles E. Schumer (D-N.Y.), whose subcommittee investigated some aspects of the BCCI scandal, yesterday asked the White House to investigate whether Rogers violated the Ethics Reform Act, which restricts contacts administration officials can have before and after leaving their posts. Schumer said he was "concerned that Rogers . . . may have been privy to information about the government's investigation of BCCI" as well as the confidential information regarding the subcommittee's investigation. "Clearly, the representation of a foreign national with past ties to the Middle East intelligence community and who is now at the center of a wide-ranging federal grand jury investigation by the former principal deputy to the White House chief of staff raises more than an eyebrow," Schumer wrote. In his letter to the White House, Schumer said it had been reported that Sununu was heading a White House group monitoring the BCCI investigation and that Robert Sar, another Sununu aide who had been "detailed" to the Justice Department, had, at the department's request, sat in on interviews conducted by Schumer aides with Justice Department officials. Schumer said his staff was told Sar was assigned by the White House to "watch" the BCCI investigation. But Sununu last night denied he oversaw any group monitoring BCCI probes, and acting Attorney General William P. Barr denied Sununu or anyone at the White House tried to influence their probes. "The notion that anyone at the White House has attempted to influence BCCI investigations is utter nonsense," Barr said. Robert S. Mueller, the assistant attorney general who oversees the BCCI probes, also issued a statement last

night denying Sununu tried to exert influence. He said Sununu has had "no communications" with anyone at the Justice Department on BCCI matters. A third Justice Department official, spokesman Doug Tillett, said inferences that Sununu tried to influence BCCI investigations at Rogers's behest were totally erroneous and that Sar was not a Sununu aide but a Justice Department employee in its congressional relations operation. Sar's role, Tillett said, was to accompany Justice officials involved in one BCCI case to the congressional questioning sessions and that he did not have access to sensitive material and did not work with Sununu. Asked whether Rogers had had contacts with Sununu about BCCI or Adham, Fitzwater said ethics laws make such contacts illegal for one year. "You'd have to ask Ed" if any such contacts were attempted, Fitzwater said. In a statement issued last night on Sununu's behalf, the White House said Sununu "never discussed" BCCI or Adham with Rogers and that Sununu "had no role in monitoring" any of the BCCI investigations. The statement said the White House had not attempted in any way to influence those probes. Sources said Rogers was traveling in the Mideast in connection with his work with Adham. An aide said Rogers was unavailable for comment. Rogers has kept close contact with Sununu since he left the White House, advising him on media strategy and on political strategy, Rogers associates said yesterday. Rogers's partner, Barbour, also retains strong contacts with the White House and with Sununu and has attended political meetings there and at least one at Camp David. Rogers had not practiced law before joining Barbour this summer, associates said, and there is no indication in law directories he had any experience in law until August. He obtained his law degree from the University of Alabama in 1985 and then served in the Reagan White House as associate director of political affairs. In 1987, he became Lee Atwater's top aide in the Bush presidential campaign, and in 1989, Rogers entered the White House as Sununu's top deputy. He held the title of White House political director when he left. Adham, a Middle Eastern businessman with ties to the Saudi royal family, is one of six shareholders of First American Bank's parent company who federal regulators say acted as fronts for BCCI. Adham, through Washington lawyer Plato Cacheris, has denied that and has said he owns about 13 percent of the shares of First American. In July, the Fed sought a record $200 million fine against BCCI after finding that it secretly owned First American Bankshares. It also sought at that time to permanently bar Adham and other First American shareholders from any U.S. banking activity. Adham also is said to be one of BCCI's biggest debtors, with hundreds of millions of dollars in delinquent loans from the bank.

---- Index References ----

Company: SAR SAS; FIRST AMERICAN BANK; STAR LEDGER; ROGERS CORPORATON; INTERNATIONAL BANK OF COMMERCE

News Subject: (U.S. Congressional Campaigns (1US07); Government Litigation (1GO18); Civil Rights Law (1CI34); Campaigns & Elections (1CA25); Legal (1LE33); Judicial Cases & Rulings (1JU36))

Region: (Arab States (1AR46); Saudi Arabia (1SA38); Middle East (1MI23); Gulf States (1GU47))

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Other Indexing: (BANK OF CREDIT) (Kamal Adham; Marlin Fitzwater; Doug Tillett; John Sununu; Plato Cacheris; Robert Mueller; Edward Rogers Jr.; Charles Schumer; William Barr; Robert Sar; Lee Atwater; Haley Barbour)

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The Washington Post

BARR TO BE NAMED ATTORNEY GENERAL TO SUCCEED THORNBURGH

By John E. Yang and
Sharon LaFraniere
October 17, 1991

President Bush said yesterday he would nominate acting Attorney General William P. Barr, who has been running the Justice Department since Dick Thornburgh returned to Pennsylvania two months ago to run for the Senate, to take the job permanently.

While the timing of the announcement was a surprise -- a Rose Garden ceremony honoring federal law enforcement officials -- the selection was not. Barr, described as a pragmatic conservative with good political instincts, was "the leading candidate all along" for the job, White House press secretary Marlin Fitzwater said.

He is "Bush's kind of guy. He's smart, political, aggressive without being obnoxious and does not grandstand," another administration official said. Barr, 41, would be the youngest attorney general since Ramsey Clark in 1967.

Bush called Barr "a thorough professional, a defender of individual rights and a person absolutely committed to this fight against crime." The president, impressed by Barr's handling of a prisoner uprising at the Talladega Federal Correctional Institution in Alabama in August, added: "He's been tested by fire."

"I'm honored that you have selected me," responded Barr, who was told he had been chosen 45 minutes before the announcement. "What makes it a particular honor is the opportunity to serve a president who is such a strong supporter of law enforcement."

Administration officials, described as "exhausted" by the battle over the nomination of Clarence Thomas to the Supreme Court, wanted to wait until that was over before sending another nominee to the Senate.

As it is, the administration still faces a fight over the nomination of Robert M. Gates, Bush's deputy national security adviser, to run the Central Intelligence Agency. The Senate Select Committee on Intelligence is to vote on Gates Friday.

Senate Judiciary Committee Chairman Joseph R. Biden Jr. (D-Del.) pledged "fair and thorough hearings" for Barr. Committee Democrats, embittered by committee Republicans' treatment of Anita F. Hill, who alleged Thomas sexually harassed her, could question Barr about the Justice Department's role in digging up information that Sen. Orrin G. Hatch (R-Utah) used at the hearing to suggest that Hill fabricated her testimony.

Justice Department attorneys used a computer search to find a federal court decision that mentioned "Long Dong Silver" and recalled a reference to pubic hair in a drink in the novel, "The Exorcist," according to congressional aides.

In addition, Barr could face questions about the legal opinions he wrote that sanctioned the assignment of U.S. military forces to law enforcement operations overseas, used by the administration in planning the December 1989 invasion of Panama that led to the arrest of Panamanian dictator Manuel Antonio Noriega. Barr also wrote a controversial opinion saying that the president has the authority to order the FBI to arrest fugitives in foreign countries without the consent of those governments.

Barr was selected over candidates with more political backgrounds, including Missouri Gov. John Ashcroft (R) and former California governor George Deukmejian (R). In the end, it came down to a choice between Barr and Transportation Secretary Samuel K. Skinner, according to administration officials.

His nomination was welcomed by conservative legal groups. "He has been a consistent conservative voice within the administration," said Clint Bolick of the Institute for Justice. "He's not a crusader . . . but give him a legal issue and he will generally come down on the conservative side."

Justice Department officials and Barr's former colleagues praised him yesterday as personable and conciliatory. He became deputy attorney general last year when Thornburgh was being criticized on Capitol Hill and in the Justice Department as isolated and unresponsive. Barr took over the day-to-day operations and began repairing Thornburgh's political damage.

"People feel comfortable around him," said William Bradford Reynolds, former head of the department's Civil Rights Division who worked with Barr at Shaw, Pittman, Potts & Trowbridge and when Barr was on the Reagan White House domestic policy staff. "He's got a way of listening well, he's sensitive. . . . I think he's extraordinarily effective in dealing with people."

Barr helped screen vice presidential possibilities in Bush's 1988 campaign, served on the transition team and is said to have a strong endorsement from Robert M. Teeter, a senior Bush political adviser. During his tenure in the Reagan White House, Barr also got to know C. Boyden Gray, Bush's counsel as vice president and as president.

Barr, who plays a bagpipe as a hobby, received bachelor's and master's degrees in Chinese studies from Columbia University and worked at the Central Intelligence Agency monitoring Chinese radio broadcasts. He attended night classes at George Washington University Law School, graduating second in his class.

Staff writer Ann Devroy contributed to this report.

REMARKS BY PRESIDENT BUSH
AND ACTING ATTORNEY GENERAL WILLIAM BARR

TO DEPARTMENT OF JUSTICE PERSONNEL
SUBJECT:
VANPAC TASK FORCE AND PRESIDENT BUSH'S NOMINATION OF BILL BARR TO BE UNITED STATES ATTORNEY GENERAL
THE ROSE GARDEN OF THE WHITE HOUSE
WASHINGTON, DC

Federal News Service

OCTOBER 16, 1991, WEDNESDAY

Section: WHITE HOUSE BRIEFING

Length: 1798 words

Body

PRESIDENT BUSH: Everyone welcome to the Rose Garden -- devoid of roses -- (laughter) -- but we are very pleased to see all of you here. A special hello, of course, to the man standing at my left, a man so well known to those interested in law enforcement, Bill Barr. We're honored to have Bill Sessions with us, the FBI Director; Steve Higgins, the Director of ATF; Clyde Moore, Director of the Marshal Service; and I want to welcome Judge Joflat (ph) who came all the way from Alabama. Where is the Judge? I might get him to just stand, since we're going to be talking about Alabama here in a minute. (Applause.) Welcome, sir.

It is an honor to have with us today the true experts on crime and justice in this country, our state and local law enforcement officials. Each of you is here today because you've made a solemn pledge and have made great personal sacrifices to protect and defend society against the threat of violent crime and drugs.

Every American agrees that we have a crime problem in this country. That is the understatement of the year. And every American deserves a tough crime bill that strengthens our criminal justice system.Let me just share a story with you. Most of you know it. Two years ago, a series of gruesome crimes shocked America. The terror began one peaceful morning when, along with the rest of the day's mail a parcel arrived at the home of Federal Appeals Court Judge Robert Vance in Mountain Brook, Alabama. And when Judge Vance sat down to open the package a pipe bomb inside blasted him across the room. Judge Vance was killed and his wife severely injured.

The nightmare didn't stop there. Two days later, Alderman Robert Robinson, a prominant official of the NAACP, returned to his law office in Savannah after spending the day in court. Along with other papers, a package awaited him in his office. The pipe bomb inside exploded and Robert Robertson died, too. A senseless and violent tragedy brought about by anonymous terrorist.

That same day, packages containing bombs also arrived at a federal courthouse in Atlanta and an NAACP office in Jacksonville. Thank God, those bombs were found before more innocent persons were murdered. In fact, one investigator, a real pro, said it was nothing short of a miracle.

A torrent of threatening letters followed targeting federal judges, prominent blacks, civil rights leaders. With the first bombings, federal authorities began a massive investigation spearheaded by a task force named VANPAC, named after its first victim, Judge Vance, and VANPAC was directed by Department of Justice officials including the FBI

and the US Marshal Service. But other agencies all pitched in: ATF, the Bureau of Alcohol, Tobacco, and Firearms, the Postal Inspection Service, the Internal Revenue Service.

Because of the hard work of the task force, they soon zeroed in on a suspect, got an indictment, and a conviction in the bombings and related crimes and brought a sentence of seven life terms without parole and 400 years of imprisonment. The VANPAC case was a great success in the annals of law enforcement and a very important achievement in defense of civil rights.

My congratulations to the two selfless public servants who led the task force to its amazing achievements: Lewis Free (sp), the chief prosecutor and assistant US attorney, now a federal district judge in Washington, and Larry Potts (sp), the chief investigator and a deputy assistant director of the FBI. To both of them and their VANPAC colleagues, we owe a debt of gratitude for a job so well done.

Each murder in this country is a tragedy, but the Murders of Judge Vance (sp) and Robert Robinson (sp) took on added meaning. They were part of one man's terrorist war against our courts, our rule of law, our civil rights and upon our very system of government. We will not tolerate assaults on these ideals. No American should live in fear of random senseless violence. No one will be allowed to terrorize our people.

And we are constantly struggling to fight crime of all types. The VANPAC investigation is an excellent example of law enforcement's swift, professional response to violent crime in this country.

Despite the many obstacles they faced in the criminal justice system, the VANPAC Task Force leapt into action from the moment of that very first bombing. And yet, when it comes to removing those obstacles before prosecutors and investigators on this and many other cases, time and again, Congress slumps into inaction.

I firmly believe that lawmakers must do everything in their power to support our law enforcement officials on the front lines. This means sufficient resources, particularly for prisons, tough penalties and reforms to the criminal justice system. It means being on the cutting edge of law enforcement, creating a 21st Century law enforcement system to deal with 21st Century criminals. Most importantly, it means holding the rights of victims higher than the rights of criminals.

Our crime bill, and only the crime bill that we have up on the Hill, supports our men and women on the front line.

I'll diverse a minute to mention yesterday's lovely ceremony at the new memorial in honor of the fallen law enforcement officers. I'm sure some of you were there. But I can tell you on a very personal basis that Barbara and I were deeply moved at that memorial, at the service itself, particularly when we met the two surviving young children of a fallen officer.

And I wish every single American involved in this concept of legislation to do something about crime could have been there at that moving memorial. I believe it would have made a tremendous difference. We must support those who are on the front lines of law enforcement.

The VANPAC case illustrates well where federal law is lacking. Under current federal law, no death penalty exists for the mail bombing murder of innocent Americans. We've proposed it. And we've also proposed the death penalty for murdering federal judges and for killing someone in the course of a civil rights crime.

Perpetrators of these heinous crimes should be prepared to pay with their lives, and we need a workable federal death penalty, and we need it now. We need a crime bill that will stop the endless abuse of habeas corpus. We need a bill that guarantees that criminals who use serious weapons face serious charges, and do serious time. And we need a bill that prevents evidence gathered in good faith from being thrown out on a technicality that then opens the cell door and lets bad people just walk out of there scot-free.

Each of you knows the difference between a tough crime bill that gives you what you need to win this fight, and the anti-law enforcement proposals that some in the House, of the House Democrats call a crime bill. They call what they've got a crime bill, and it goes just the wrong way in many categories.

This week, the House votes on a bill that marks a retreat from current law -- a retreat. And it's time we tipped -- tipped the scales of justice back toward the side of dedicated men and women involved in law enforcement on one way or another, people like yourselves. So I need your help in turning the House crime bill around.

Your presence here today sends a powerful warning to the Congress that the American people will not accept a crime bill that is tougher on law enforcement than it is on criminals. And the time really has come. After two years of foot-dragging, the House is finally considering the crime bill.

And if you agree with what I've said, please act today. Let your representatives know that that House bill, the House Democrats' bill as it stands now is simply unacceptable. Tell them to support the Gekas death penalty amendment. Tell them to vote for the Hyde habeas corpus reform, and the Sensenbrenner amendment on the exclusionary rule that I mentioned. And finally, tell them we need the McCollum equal justice act so that we can have a death penalty that works. And tell them our police, prosecutors, and people stand behind these key provisions. They stand behind a strong Crime Bill.

I really believe that this issue transcends party politics. It gets right to the heart of what the American people want and I think it's about time that we in the White House working with the Congress delivered and to tell them also that it's time for a criminal system that allows to see the truth come out, the guilty punished, the law upheld and justice done. And that's what I believe our Crime Bill stands for and that's what I'd like to see these representatives stand for when the final vote is taken this week.

And again, my sincere congratulations, my thanks to the VANPAC team for this inspirational work, a job so well done. As our men and women on the front lines, you have shown what we can what we can achieve when we stand united against criminals. And we're lucky to have men and women like you defending us on the streets and now we just need your powerful message to reach the halls of Congress.

And speaking of messages, I have another message now that I want to reach the halls of Congress, and indeed I will see that it does reach the United States Senate very, very soon. It's an important message about a man that I respect enormously. And today I am announcing my choice for the Attorney General to lead our Department of Justice and I have chosen an individual who is a thorough professional, a defender of individual rights and a person absolutely committed to this fight against crime and he's also been tested by fire, working with several of you, as evidenced in the recent events at the Talladega Prison. And I was proud of him then and I am proud today to send Bill Barr's name to the Senate -- (applause) -- as the next Attorney General of the United States. (Applause.)

MR. BARR: Thank you. Thank you, Mr. President. It's been a privilege to serve you these past three years at the Department of Justice and I'm honored that you have selected me to serve in the position of Attorney General. What makes it a particular honor is the opportunity to serve a president who is such a strong supporter of law enforcement. (Applause.)

And it's also a great honor to be nominated to succeed a great attorney general like Dick Thornburgh. (Applause.) And now as this ceremony clearly shows today we have thousands of dedicated men and women at the Department of Justice who do an exceptional job day-in and day-out upholding the law, enforcing the law in an even-handed way and with integrity and I'm proud to be associated with each and every one of them and, if confirmed, proud to lead them. Thanks again, Mr. President.

PRESIDENT BUSH: Congratulations once again.

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1991 WLNR 164293

Washington Times (DC)

October 6, 1991

Section: NATION

BARR GETS KUDOS IN TOP JUSTICE JOB

Jerry Seper THE WASHINGTON TIMES

Acting Attorney General William P. Barr is gaining support among his colleagues for permanent appointment by President Bush as attorney general.

Mr. Barr, 41, a six-year Justice Department veteran, took over as the nation's top law enforcement officer in August after Attorney General Dick Thornburgh resigned to seek a U.S. Senate seat in Pennsylvania.

The New York City native, who received his law degree at George Washington University, since has streamlined the agency, reassigned key officials, smoothed relations with Congress, undertaken major law enforcement decisions and opened up a press office that had been all but shut down by his predecessor.

"He has proven himself to be up for the job, no doubt about that," said one high-ranking Justice official. "The department would be well-served by his permanent appointment."

Mr. Bush has not said who he might nominate as attorney general. It is known, however, that the president has been impressed by Mr. Barr's performance so far and is seriously considering him for the permanent post.

Administration sources said Mr. Bush was particularly pleased with Mr. Barr's handling of an inmate uprising at the Talladega Federal Correctional Institute in Alabama in August, during which 121 Cuban detainees held nine hostages for 10 days.

Mr. Barr personally ordered a raid on the facility by federal agents after prison officials said they feared for the lives of the hostages. The predawn raid, which lasted just four minutes, caught the inmates by surprise and resulted in the release of the hostages.

Mr. Barr said last week he had no idea if the nomination would be offered and had little time to think about it.

"We've got a lot of new programs under way, and we're looking to ensure that the department operates as effectively as possible," he said. "That is my goal at the moment."

While there appears to be no question that Mr. Barr is professionally and personally qualified, debate has centered on whether he has the necessary political clout to win the nomination.

Sources said top administration aides, concerned about the upcoming 1992 election, question whether Mr. Barr would be the "political heavyweight" needed to lure voters to the Bush ticket.

In that regard, several prominent Republicans have surfaced as top political contenders, including Transportation Secretary Samuel K. Skinner, U.S. Trade Representative Carla Hills, former California Gov. George Deukmejian, Missouri Gov. John Ashcroft and Edith H. Jones, a federal appeals court judge in Houston who has been a short-list choice by Mr. Bush for the Supreme Court.

Mr. Deukmejian has been a favorite of many White House insiders because of his California connection and the votes that might guarantee for the president. He reportedly has told top administration officials he does not want the job, however.

It was Mr. Barr who last year turned around a troubled Thornburgh administration at Justice. His appointment as deputy attorney general came amid growing White House concern over Mr. Thornburgh's leadership, his strained relationship with Congress and the media, and a series of blunders that included an erroneous press leak about an alleged investigation of then-Rep. William H. Gray III of Pennsylvania.

G0026508-100691

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Police (1PO98))

Region: (Pennsylvania (1PE71); District Of Columbia (1DI60); USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (BARR; CONGRESS; GEORGE WASHINGTON UNIVERSITY; JUSTICE; JUSTICE DEPARTMENT; KUDOS; SUPREME COURT; TALLADEGA FEDERAL CORRECTIONAL INSTITUTE; TRANSPORTATION; US SENATE; US TRADE REPRESENTATIVE CARLA HILLS; WHITE HOUSE) (Acting Attorney; Barr; Bush; California Gov; Deukmejian; Dick Thornburgh; Edith H. Jones; George Deukmejian; John Ashcroft; Missouri Gov; Samuel K. Skinner; Thornburgh; William H. Gray; William P. Barr)

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10/4/91 Phila. Inquirer A01
1991 WLNR 1897558

Philadelphia Inquirer (PA)

October 4, 1991

Section: LOCAL

17 ACCUSED OF FRAUD IN FLA. DEAL\MONTCO S&L DOOMED BY LOAN

Pam Belluck, Inquirer Staff Writer

Seventeen people were indicted yesterday on federal bank fraud charges in a $100 million fantasy land deal in Florida financed largely by a defunct Montgomery County savings and loan.

Federal officials called it one of the most important criminal prosecutions to date in the nation's savings and loan crisis.

The charges were filed against borrowers and other participants in a grandiose deal for a Disney-type theme park and minicity on 21,000 pristine acres near Destin in the Florida Panhandle. The development was never built.

The 1986 project, known as Emerald Coast, received $82 million in loans from Hill Financial Savings Association in Red Hill, which collapsed two years ago at a cost to taxpayers of $1.4 billion. An additional $20 million was put up by VisionBanc, a failed S&L in Kingsville, Texas.

"Today's indictments outline a major financial-institution fraud scheme involving two failed savings and loans and thousands of acres of beach-front property in Florida, with alleged fraudulent acts affecting the citizens of numerous states," said acting U.S. Attorney General William P. Barr in a statement from Washington.

Justice Department spokesman G. Douglas Tillett said: "The Hill Financial case is significant because it involves so many defendants and so much money in one loan."

The indictments, announced yesterday by U.S. Attorney for Eastern District of Pennsylvania, Michael M. Baylson, were returned by grand juries in the Northern District of Florida, where the land is, and the Southern District of Texas, the location of VisionBanc.

No charges were filed by Baylson's office, which is continuing to investigate Hill's involvement in Emerald Coast and a number of other bad multimillion-dollar loans made by Hill all across the country.

"We still do not know why Hill got involved in this deal," Baylson said.

"There was not enough evidence to bring criminal charges against anyone associated with Hill in this particular case," he said. "At the moment, Hill is viewed as a victim in this case. That's not to say Hill doesn't have tremendous civil liability

or any other kind of responsibility. Our criminal investigation is continuing, and we are looking at the role of directors and officers in the other loans."

The Inquirer reported in a series in January that Hill failed because of tens of millions of dollars in loans to people with questionable financial backgrounds, for ambitious projects that often never materialized. The loans were made all over the country - in Colorado, Texas, California, Georgia and Florida - and most of the money was never repaid, making Hill one of the country's 10 biggest S&L failures.

Emerald Coast was the largest of those loans. With interest and other costs, Hill's investment in the Florida deal has cost taxpayers $95 million. That money has still not been recovered by the federal government, and the property itself is considered to be worth only a fraction of that amount.

The indictments returned yesterday essentially say that Hill and VisionBanc were duped when the money the S&Ls lent in June 1986 was used for an intricate and complicated fraud scheme by a group of borrowers led by William Michael Adkinson, a Houston developer.

Through a string of dummy corporations, the indictment charges, millions of dollars were siphoned off to Adkinson and his associates, 13 of whom are charged along with Adkinson in the Florida indictment. Some of the money went offshore to companies run by British businessman Keith Alan Cox, who was also indicted. Also charged was former Florida state representative and real estate broker Robert Alligood.

Money also was allegedly pocketed by Robert Louis Corson, the chief executive officer of VisionBanc; Corson's mother, who was also a VisionBanc director; and one of Corson's business associates. All three are charged in the Texas indictment.

Several of the defendants also ended up with valuable pieces of the beach-front property, which, the indictment charges, they later attempted to sell to the state of Florida at inflated prices. The sale fell through in the spring when the Justice Department informed Florida officials of its investigation.

Besides bank fraud, the charges include money laundering, conspiracy, mail fraud, wire fraud and IRS violations.

The indictments say the money was used for a variety of purposes, including $293,000 to buy Adkinson a gun collection and $525,000 as a down payment on a Florida condominium for Adkinson and others.

Adkinson, Cox, Alligood and two others face the most serious charges, which could result in maximum prison sentences of 335 years and fines of $10.9 million for each.

According to the indictments, this is how the scam went:

Adkinson convinced Hill, the primary lender, that the cost of 780 acres of the land, the part fringing the Gulf of Mexico, was nearly twice as much as it actually was.

Adkinson had promised the owner of the property, St. Joe Paper Co. in Jacksonville, Fla., an initial cash payment of only $50 million for the beach-front acres. But Adkinson and his associates told Hill that $40 million more was needed for closing costs and brokerage fees.

Hill agreed to finance $45 million of what it thought was a $90 million pricetag and asked that Adkinson prove he had funding for the rest.

Using forged documents and false assertions, Adkinson told Hill there were four companies willing to buy pieces of the land. Those companies would borrow the $20 million they needed from VisionBanc.

The four companies turned out to be dummy corporations controlled by Adkinson. The closing costs turned out to be fictitious. And the brokerage fees turned out to be grossly exaggerated.

Questions remain about Hill's role and how much Hill officials knew about their borrowers, Baylson said.

Hill was not only the main lender on the project - it also became half-owner, entering into a joint venture with Adkinson.

The 110-page Florida indictment says that Hill president Alfred J. Lutz Jr. of Bala Cynwyd negotiated the Emerald Coast loan "against the advice of outside accountants. He further structured Hill's role in the joint venture known as Emerald Coast. At the time of the loan closing, he allowed funds to be disbursed without adequately assuring that loan terms had been complied with."

Baylson said his office was giving top priority to investigating Hill's other loans because they were so large and so clearly caused the S&L's collapse.

"Hill is on our top 10 list," Tillett said.

---- Index References ----

News Subject: (Crime (1CR87); Legal (1LE33); Fraud Report (1FR30); Social Issues (1SO05); Criminal Law (1CR79); Government Litigation (1GO18))

Industry: (Banking (1BA20); U.S. Thrift Industry (1US02); Financial Services (1FI37); Real Estate (1RE57); Savings (1SA62))

Region: (USA (1US73); Americas (1AM92); Florida (1FL79); North America (1NO39); Texas (1TE14))

Language: EN

Other Indexing: (BALA CYNWYD; CORSON; DEAL; HILL; HILL FINANCIAL; HILL FINANCIAL SAVINGS ASSOCIATION; INQUIRER; JOE PAPER CO; JUSTICE DEPARTMENT; LOAN; US ATTORNEY; VISIONBANC) (Adkinson; Alfred J. Lutz Jr.; Alligood; Baylson; G. Douglas Tillett; Keith Alan Cox; Michael M. Baylson; Robert Alligood; Robert Louis Corson; Seventeen; Tillett; William Michael Adkinson; William P. Barr)

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Texas and Florida

United Press International

October 3, 1991, Thursday, BC cycle

Section: Domestic News

Length: 623 words

Dateline: HOUSTON

Body

Prosecutors Thursday announced grand juries in Texas and Florida returned indictments against 17 people for a fraud scheme involving two failed thrifts and beachfront property in Florida.

"Today's indictments outline a major financial institution fraud scheme … with alleged fraudulent acts affecting citizens of numerous states," Acting Attorney General William P. Barr said from his Washington office.

"The three-year multi-agency investigation that produced these indictments is another demonstration of this administration's commitment to the fight against white collar crime."

The indictments charge bank fraud, conspiracy, money laundering, illegal loan participation, misapplication of loan proceeds, wire fraud, mail fraud, interstate transportation of property taken by fraud and other crimes.

The thrifts involved were Vision Banc Savings Association of Kingsville, Texas, and Hill Financial Savings of Red Hill, Pa. Both institutions failed in the late 1980s.

A 23-count indictment unsealed in Houston named Robert Louis Corson, former chief executive officer and board chairman of Vision Banc; Billie Jean Garman, former director of Vision Banc and Billy Wayne Chester, a former officer of Corson and Garman Development Co. of Houston.

The indictment charged Corson, Garman and Chester with conspiracy, bank fraud, illegal loan participation, misapplication of loan proceeds and money laudering.

Acting as a majority of the loan committee of Vision Banc, Corson and Garman were aided by Chester to approve $29 million in loans. They received more $8 million through various schemes between May 1986 and March 1987, the Houston indictment said.

One scheme involved a $5.9 million loan Vision Banc made to Southfield Joint Venture to acquire real estate in Fort Worth. The indictment charges Corson, Garman and Chester fraudulently obtained more than $700,000 of the $5.9 million loan proceeds through B.C. Mortgage Corp. of America, an entity that Chester formed.

The second scheme concerned a Vision Banc loan that Garman obtained with Corson's help to allegedly buy a town house in Houston. Garman actually used more than $250,000 of the loan to pay off personal debts, including gambling debts, the indictment said.

A third scheme concerned four loans worth $20.4 million that Vision Banc made for the land purchases in Walton County, Fla. The indictment charges Corson and Garman, assisted by Chester, used $5.4 million of that for personal real estate deals.

Texas and Florida

Fraud related to the Walton County property was also the subject of a 15-count indictment issued by a federal grand jury sitting in Pensacola, Fla.

The Florida indictment named William M. Adkinson, former of Houston, and Powell Minks, principal in the Houston-based Imperial Title Co., Robert B. Ferguson, Mary Catherine Fawcett, Ronald D. Peek, Gilbert G. Dufilho, Keith Cox, Robert Alligood, Benjamin Koshkin, James Morgan and Houston attorneys Robert L. Collins, Richard A. Tinsley, Robert Brockman and Daniel D. Kistler.

Loan funds from Hill Financial and Vision Banc were used for the 1986 purchase of 21,000 acres of land along Florida's coast.

The defendants are charged with conspiracy to defraud by violating federal income tax laws, bank fraud, wire fraud, mail fraud, money laundering, interstate transportation of stolen property and interstate transportation of property taken by fraud.

The indictment outlined a scheme in which defendants used false information to obtained loans and title to Florida Panhandle property, free and clear of liens, and resold the property to the state of Florida and others at inflated prices.

Those loans from Vision Banc and Hill Financial amounted to $102 million.

NewsRoom

9/28/91 L.A. Times 1
1991 WLNR 3942715

Los Angeles Times

September 28, 1991

Section: MN-Main News

Economic Espionage Poses Major Peril to U.S. Interests

Spying: But officials are reluctant to use intelligence resources to help American firms compete globally.

L RICHTERTIMES STAFF WRITERS

TIMES STAFF WRITERS

WASHINGTON

The emerging nation, cash-rich but technologically poor, is shopping for a national telecommunications system and an American company is in the thick of the bidding. Not only is the contract worth several billion dollars, but the winner will have a leg up on future work for that country--and for its equally affluent neighbors.

But the U.S. firm is narrowly underbid by an overseas rival. Another case of American business failing the test of international competitiveness? Not this time. The winner undercuts the U.S. bid because it has confidential information from the intelligence service of its own government, a longtime American ally.

That, according to a former high-ranking U.S. intelligence official, is a thinly disguised account of an episode that actually happened and remains shrouded in secrecy. "If I gave you the specifics," the former official said, "I could go to Leavenworth."

And such episodes represent what some American intelligence specialists think will become one of the most difficult problems facing the United States as the Cold War focus on military security subsides: the rising importance of economic intelligence.

Carried on with all the sophisticated techniques spawned by half a century of East-West conflict--electronic eavesdropping, satellite photography, undercover moles and paid informants, as well as computerized reviews of data gleaned from the public record--economic intelligence could become a major and highly controversial element in global competitiveness.

"Aggressive acts of espionage pursued by foreign governments--at times in collaboration with their intelligence services--to steal private American commercial secrets to serve their own national interests are a clear indication of this threat," said Sen. David L. Boren (D-Okla.), chairman of the Senate Intelligence Committee.

Boren has begun a series of closed discussions of the problem with Sen. Sam Nunn (D-Ga.), chairman of the Senate Armed Services Committee, and other members of that panel. And both the CIA and the FBI have taken the first tentative steps toward formulating new strategies for protecting American firms against foreign espionage.

Beyond defensive measures, however, lies the more difficult question of how far this country should go in carrying out economic intelligence operations of its own. Most experts say that having spies steal specific secrets from foreign companies and hand them to American firms is out of the question. But a host of more general possibilities remains.

U.S. satellites, for example, now routinely gather data on crop production, weather and other factors affecting economic strength. Should mechanisms be developed to funnel such data to American business strategists engaged in global trade? Should the nation's vast electronic intelligence apparatus also monitor business communications, looking for evidence of collusion among foreign competitors and other unfair trade practices? Should the government track the flow of money--as it now does in the war on drugs--or keep watch on overseas construction projects and other elements of economic activity?

Behind such questions is the growing conviction among economists and some foreign policy experts alike that economic strength may become more critical to national security than more advanced missiles and other artifacts of the superpower arms race.

The time has come for "a thorough discussion" of whether U.S. intelligence agencies should become more active in helping the United States compete in the world economy, said Victoria Toensing, onetime chief counsel of the Senate Intelligence Committee and former deputy assistant attorney general in the Justice Department's criminal division.

"The problem is, we're not ready for this," said Toensing, who now is a defense lawyer specializing in white-collar crime. "We still have a hard time resolving what appears to be a conflict between an open democracy and a secret intelligence-gathering operation."

For the moment, the focus is on defensive measures, in part because the United States has not adopted the pattern of direct partnership between business and government in international competition that prevails in Japan and much of Western Europe.

Although U.S. officials are reluctant to discuss specific instances in which supposedly friendly foreign intelligence agencies have spied on U.S. businesses, examples are beginning to come to light.

The most recent disclosure occurred earlier this month when Pierre Marion, former head of France's intelligence agency, told of creating a unit to gather information about secret technology and marketing plans of private companies around the world.

U.S. officials confirmed reports that the French had tried to recruit sources of information inside overseas offices of Texas Instruments and International Business Machines Corp. to help Compagnie des Machines Bull. The partly government-owned French computer firm said it was not involved in any industrial spying.

The official French spying, U.S. officials contend, has extended to Air France flights, on which, they maintain, hidden listening devices have been planted and other steps taken to pick up useful economic information from business travelers. Air France denies that it has any knowledge of such activities.

Leigh Weber, a former U.S. intelligence official, said that most economic intelligence gathered by foreign governments comes from electronic eavesdropping that picks up telephone calls, fax transmissions and even open-air conversations. Because of U.S. law and customs, American intelligence agencies do not pass on information they inadvertently come

across to domestic companies that might stand to gain or lose from it. Foreign intelligence agencies feel no such inhibitions.

"So many big American companies feel they've gotten burned this way," Weber said. These days, American companies operating overseas "feel it's foolhardy not to have somebody sweeping their conference rooms for bugs."

While U.S. companies keep such counterintelligence efforts secret, the threat of electronic monitoring has produced a huge surge in the use of electronic security companies, Weber said.

Further, unlike the situation in the United States, intelligence gathered by operatives for Japanese multinationals "is shared with the trading companies' executives, business partners and the government," said Herbert E. Meyer, former special assistant to the late CIA Director William J. Casey. "The information moves around."

Meyer, in his book "Real World Intelligence," said that every branch office of every Japanese trading company "operates like an information vacuum cleaner, sucking in information . . . and even gossip."

Sen. John W. Warner (R-Va.), a senior member of the Senate Intelligence Committee, sees the United States "being encircled by economic competition." Unlike the situation in security and military matters, "we have no friends and no sharing in this area," he said.

Warner has called for a reorganization of the CIA to shift personnel and equipment once devoted to military and political intelligence operations against the Soviet Union "to quickly pick up--and I emphasize quickly--the capabilities needed to defend this country in economic security."

And Robert M. Gates, President Bush's choice as director of central intelligence, said at his Senate confirmation hearings that the CIA and the FBI should mount "a very aggressive program" to prevent foreign intelligence services from planting "moles" in American high-tech companies and rifling "briefcases of our businessmen who travel in their countries." Steps in that direction are under way.

"There is evolving a more flexible approach (at the FBI) designed to protect national secrets, including technological and economic information, from any country that would target it--not just former Communist bloc countries," said Acting Atty. Gen. William P. Barr.

R. Patrick Watson, deputy assistant director of the FBI's intelligence division, which has the primary mission for counterintelligence in the United States, notes that this calls for developing a different intelligence base than that mustered against the Soviets.

He said that, although the FBI does not necessarily view itself as "the police department for corporate America," it will seek to block intelligence efforts directed against U.S. interests by foreign governments.

This job can be tricky when the agency is up against a longtime friendly nation, the FBI counterintelligence official said. "That's a different problem for us" from the "fairly simple one" of countering a country identified as an enemy. That kind of investigation "has to be coordinated with other interests of the U.S. government," he said.

There is widespread resistance, however, to taking the next step and asking U.S. intelligence agencies to engage in activity that might help American companies compete abroad.

"The CIA does not and will not engage in industrial espionage," said Mark Mansfield, a CIA spokesman, echoing comments by Gates and recently retired CIA Director William H. Webster.

Gen. William Odom, former director of the National Security Agency, the super-secret arm of U.S. intelligence that monitors worldwide telephone, radio and other electronic communications, said that handing out corporate secrets is completely impractical.

"It would be impossible to get the intelligence-collection guidance that could make it effective," Odom said. The only way to know what to collect for a firm would be to sit "in the proprietary chambers of the firm you're trying to help."

Aside from that problem, how would U.S. intelligence decide which firm to give an electronics secret? Odom asked. "Would you have an auction?"

Giving it to several firms makes it unlikely that the intelligence collector's sources and methods could be protected.

"As it leaks, our ability to collect it dries up," Odom said.

But stealing from a foreign firm to strengthen a U.S. company could be sketching the issue in an extreme way.

Odom notes that the intelligence community "has a legitimate role in supporting all aspects of U.S. government policy-making--military, foreign policy, economic policy, environmental policy or any other kinds of policy. That's completely legitimate."

Odom distinguishes that activity from "trying to use intelligence-collection efforts to save the semiconductor industry in this country, or to turn the automobile industry around."

Yet, although veterans of the intelligence community reject any role in industrial espionage, there is no doubt that the CIA is redirecting its collection and analysis of economic information.

A planning task force set up by Webster two years ago turned its attention first to international economics and recommended "some adjustments in the subjects that we emphasize and some improvements in the information management systems that we use to facilitate our analysis," an agency spokesman says.

After interviewing economic policy-makers and consultants on the likely trends in international economics, the agency called for greater focus on three principal areas--resources, trade and technology.

"These appear to be the areas where CIA can make the greatest contribution in the 1990s," an agency spokesman said.

Beyond that, the spokesman refused to comment.

Herbert Meyer, who in addition to assisting Casey served as vice chairman of the National Intelligence Council during the Ronald Reagan Administration, argues that "a fundamental change in our legal structure and culture" would be required before the U.S. government could start helping American industry with foreign economic intelligence.

While the United States for 45 years has focused its intelligence effort on external military threats, many U.S. trade rivals have divided their spy efforts between military threats and economic competitors.

"They've made it an explicit policy to help local companies, often companies that are partly government-owned," Meyer says.

Japan is often cited as the leading example of a country where it is difficult to discern the line between government and private activity.

Pat Choate, whose book "Agents of Influence," criticizes the competitive tactics of Japanese lobbyists in the United States, said Japanese industrial companies work hand-in-glove with their government in collecting and analyzing data on U.S. competitors.

Representatives of Japanese companies in the United States absorb information on all aspects of American business, sending it back to their home office, and, in turn, to the trade ministry, MITI, Choate said. The ministry then analyzes the data and channels it to other concerns.

"It's virtually impossible to tell the difference between government information and private information," Choate said. "Their interests are one."

Toensing likens the reluctance to let U.S. intelligence assist U.S. business to the Foreign Corrupt Practices Act's criminal prohibition against Americans paying money to foreign officials to "make things go more speedily," even when that is established custom in a particular country. "It's not unsound policy, but the problem comes because only American companies have to comply," she says.

Former CIA Director Webster and Gates see some kinds of economic intelligence as helpful in illuminating the "playing field" on which the United States must compete.

"One of the problems that we've wrestled with for at least a dozen years is how to take some of this information that we gather, that in essence practically falls into our hands, and make it useful to people," Gates said at his confirmation hearing.

"And the honest answer to you, sir, is that we can't find a way. We've tried for 10 years or more to find a way to get it into the hands of U.S. business, and we can't find a way to (do) that (so it) does not somehow get all tangled up in the law, in advantaging one company over another," said Gates, now Bush's deputy national security adviser and former No. 2 official at the CIA.

"I've concluded that we ought to content ourselves with supporting the government and trying to inform government policy about the practices of foreign governments, rather than trying to get into economic espionage or industrial espionage and that sort of thing."

Choate, on the other hand, argues that U.S. reluctance to engage in economic spying makes it unusual among the industrial powers.

"We're the last ones to think this kind of thing is unusual," he saids. "We'd be very naive not to focus on it."

Staff writer Robin Wright in Washington contributed to this story.

---- Index References ----

Company: TEXAS INSTRUMENTS INC; INTERNATIONAL BUSINESS MACHINES CORP; AIR FRANCE KLM

News Subject: (Infrastructure (1IN78); Business Management (1BU42); Government (1GO80); Economic Policy & Policymakers (1EC69); Corporate Globalization (1XO29); Economics & Trade (1EC26))

Industry: (Security (1SE29); Defense Intelligence (1DE90); Aerospace & Defense (1AE96); Telecom (1TE27); Defense (1DE43); Defense Spending (1DE35))

Region: (Americas (1AM92); Japan (1JA96); North America (1NO39); Asia (1AS61); Far East (1FA27); Western Europe (1WE41); Eastern Asia (1EA61); Mediterranean (1ME20); Europe (1EU83); USA (1US73); France (1FR23))

Language: EN

Other Indexing: (AIR FRANCE; CIA; COMMUNIST; ECONOMIC ESPIONAGE POSES MAJOR PERIL; FBI; INTERNATIONAL BUSINESS MACHINES CORP; JUSTICE DEPARTMENT; MITI; NATIONAL INTELLIGENCE COUNCIL; NATIONAL SECURITY AGENCY; REAL WORLD INTELLIGENCE; RONALD REAGAN ADMINISTRATION; SENATE; SENATE ARMED SERVICES COMMITTEE; SENATE INTELLIGENCE COMMITTEE; TEXAS INSTRUMENTS) (Acting Atty.; Aggressive; Boren; Bush; Casey; Choate; David L. Boren; Gates; Herbert E. Meyer; Herbert Meyer; John W. Warner; Leigh Weber; Mark Mansfield; Meyer; Odom; Pat Choate; Pierre Marion; R. Patrick Watson; Robert M. Gates; Robin Wright; Sam Nunn; Staff; Toensing; Victoria Toensing; Warner; Weber; Webster; William H. Webster; William J. Casey; William Odom; William P. Barr)

Keywords: INDUSTRIAL ESPIONAGE; ECONOMIC ESPIONAGE; UNITED STATES -- INDUSTRY; UNITED STATES -- FOREIGN POLICY; BUSINESS -- UNITED STATES; INTELLIGENCE SERVICES; CENTRAL INTELLIGENCE AGENCY

Edition: MO-Home Edition

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NewsRoom

9/27/91 Reuters News 00:00:00

Reuters

September 27, 1991

ASIAN IMMIGRANTS CHARGED AS VIOLENT GANGSTERS.

Edward Frost

NEW YORK, Sept 26, Reuter - Ten Asian immigrants accused of running a gang called "Born to Kill" were charged on Thursday with shaking down businesses across the U.S. east coast and enforcing their protection racket with murder.

The reputed gang leader, David Thai, 35, an immigrant from Vietnam, was indicted with nine others on federal racketeering charges.

Federal Prosecutor Andrew Maloney said the 10 were charged with committing two murders, one attempted murder, 12 robberies and extortions from eight businesses from Connecticut to Georgia.

Six of the defendants were indicted earlier on federal conspiracy charges, but the new indictment accused Thai of participating in 10 separate crimes.

The victims were almost exclusively Asian immigrants, many of whom were initially afraid to contact police, he said.

When Thai and his chief lieutenant, Lan Ngoc Tran, 29, were arrested in August, authorities discovered a machine gun, two pistols, silencers, explosives and nearly 200 rounds of ammunition in their house.

Acting U.S. Attorney General William Barr, in a statement, said the indictment was part of the Justice Department's increased effort to fight Asian organised crime.

The indictment said one victim was killed on March 10 to keep him from testifying about a robbery the gang allegedly committed two months earlier. Another victim survived a bullet in the head in Doraville, Georgia. last November.

Thai, gang founder, recruited up to 100 Asian immigrants, mostly Vietnamese, who began preying on businesses in New York's Chinatown. The gang reportedly extorted from 100 to 600 dollars a month from the shopkeepers and restaurant owners.

According to Maloney, the gang chose its name from the slogan many U.S. soldiers wrote on their helmets during the Vietnam War.

---- Index References ----

Company: JUSTICE DEPARTMENT

News Subject: (Social Issues (1SO05); Violent Crime (1VI27); Racketeer Influenced & Corrupt Organizations (RICO) (1RI18); Immigration & Naturalization (1IM88); Crime (1CR87); Emerging Market Countries (1EM65); Murder & Manslaughter (1MU48))

Region: (Indo China (1IN61); U.S. Mid-Atlantic Region (1MI18); North America (1NO39); Far East (1FA27); New York (1NE72); Eastern Asia (1EA61); USA (1US73); Americas (1AM92); Asia (1AS61); Vietnam (1VI02); Thailand (1TH74); Southeast Asia (1SO64))

Language: EN

Other Indexing: (FEDERAL PROSECUTOR ANDREW MALONEY; GANGSTERS; JUSTICE DEPARTMENT; MALONEY) (ASIAN IMMIGRANTS; Lan Ngoc Tran; William Barr)

Word Count: 273

End of Document

Supreme Court of Canada orders extradition of two U.S. fugitives wanted for murder

Business Wire

September 26, 1991, Thursday - 18:10 Eastern Time

Length: 303 words

Dateline: WASHINGTON

Body

The Department of Justice announced Thursday that the Supreme Court of Canada has ordered the extradition to the United States of Charles Chitat Ng, accused of mass murders in California and Joseph John Kindler, who has been sentenced to death for murder in Pennsylvania.

Both were being transported by authorities from Canada this afternoon and were expected to arrive in the United States late in the day -- Ng in California and Kindler in Pennsylvania.

Acting Attorney General William P. Barr said, "The United States is grateful to the government of Canada for its devotion to the cause of justice."

California requested the extradition of Ng in 1986 on charges of murder, kidnapping and burglary. He allegedly participated in the torture and murder of approximately 12 men, women and children in the San Francisco area. Under California law, Ng could be sentenced to death if convicted.

Pennsylvania asked that Kindler be extradited in 1985 following his escape from a Philadelphia prison after being sentenced to death for the murder of David Bernstein, who was scheduled to testify against him in a burglary case. Kindler was convicted of beating Bernstein to death with a baseball bat, tying a weight around his neck and throwing his body into the Delaware River.

Ng and Kindler challenged extradition orders issued by the Canadian Minister of Justice, saying that the orders, by failing to request assurances that the death penalty would not be imposed, violated the Canadian Charter of Rights and Freedoms.

The Supreme Court of Canada dismissed both of their appeals.

Ng and Kindler were in the custody of Canadian officials while their cases were on appeal.

CONTACT: U.S. Department of Justice,
Doug Tillett, 202/514-2007

9/24/91 Wash. Times (D.C.) C10
1991 WLNR 152213

Washington Times (DC)

September 24, 1991

Section: MONEY

U.S., EC SIGN ACCORD CURBING LARGE FIRMS

Karen Riley THE WASHINGTON TIMES

The United States and the European Commission yesterday responded to the growth of multinational corporations by signing an accord to prevent companies from seizing a dominant share of either market.

"The increasing integration of our economies and the emergence of an international business environment make cooperation between our governments in the area of antitrust enforcement absolutely essential," Acting Attorney General William P. Barr said before the formal signing ceremony in an ornate wood-paneled conference room at the Justice Department.

Participating in the signing were Sir Leo Brittan, the EC commissioner for competition policy who proposed the joint antitrust enforcement agreement a year and a half ago, and Janet Steiger, chairman of the Federal Trade Commission, which, with the Justice Department, regulates merger activity involving U.S. companies.

The U.S. government was asked to rule on 1,500 merger requests last year, Mrs. Steiger told reporters afterward. Of the total, 340 involved foreign companies, including 160 located in the EC, a sign that such international mergers are a "growing area of economic interest," she said.

U.S. and EC antitrust laws virtually mirror each other. The new accord makes no changes in existing law, but instead lays a framework for future enforcement cooperation, said James Rill, assistant attorney general in charge of the antitrust division.

Under the accord, "we might ask the EC to take action against a cartel in the EC and vice versa," he said.

"This will be an important step toward minimizing disputes over the extraterritorial application of the antitrust laws," he said.

Mr. Rill cited a case last year in which the United States asked the EC to reconsider a joint venture between a Swedish company and a firm in The Netherlands, which was owned in large part by an American company. The Justice Department was concerned because the American firm held a substantial share of the U.S. and Canadian market.

While the EC agreed to look into the case, the Justice Department was hamstrung in providing certain information in the absence of a cooperative agreement.

As part of the accord, the EC and the United States have agreed to notify each other when their enforcement activities may affect important interests of the other.

J0024621-092491

---- Index References ----

News Subject: (Monopolies (1MO68); Judicial (1JU36); Legal (1LE33); Joint Ventures (1JO05); Antitrust Regulatory (1AN52); Economics & Trade (1EC26); Corporate Groups & Ownership (1XO09))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (EC; EUROPEAN COMMISSION; FEDERAL TRADE COMMISSION; JUSTICE DEPARTMENT) (James Rill; Janet Steiger; Leo Brittan; Rill; Steiger; William P. Barr)

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NewsRoom

9/23/91 Agence Fr.-Presse 00:00:00

Agence France Presse English Wire

September 23, 1991

Section: Finance

EC and U.S. sign important anti-trust accord

BRUSSELS

The anti-trust agreement obliges each side to take the other's interests into account when applying or making regulations against excessive concentrations, mergers and acquisitions or other anti-competitive actions.

The EC's commissioner for competition policy, Sir Leon Brittan, said it would provide for early exchanges of information on anti-trust issues concerning both sides, and "provide a means of avoiding conflict."

U.S. acting Attorney-General William Barr said: "The agreement grows out of a shared commitment to anti-trust enforcement as a cornerstone of our market economies."

The accord, which provides for at least two meetings a year between the two sides, formalises existing procedures, and involves no changes in law.

But a commission spokesman said it could create an important precedent in other areas by stressing "positive comity" -- the principle allowing one country to get another to act on its behalf.

He said this meant that the EC, for example, could ask U.S. authorities to act against American companies if they were trying to shut European firms out of free competition in the United States.

In answer to a question, the spokesman said the EC would consider signing a similar accord with Japan when the Japanese are ready to do so.

He added that Japan was nowhere near the EC and the United States in application of anti-trust laws, and that the agreement "could be seen by Tokyo as an indication of what they should be doing".

The anti-trust agreement was signed by Brittan, Barr and Janet Steiger, chairwoman of the U.S. Federal Trade Commission.

It came into immediate effect, and will be reviewed within two years. The United States has already signed anti-trust agreements with Australia, Canada and Germany.

A commission spokesman said the agreement did not affect trade conflicts between Europe and the United States over state subsidies, farm tariffs or other actions by governments.

---- Index References ----

News Subject: (Monopolies (1MO68); Antitrust Regulatory (1AN52); Economics & Trade (1EC26))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Japan (1JA96); Asia (1AS61); Eastern Asia (1EA61))

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Word Count: 384

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NewsRoom

9/23/91 AP Online 00:00:00

AP Online

September 23, 1991

Section: Washington

U.S., European Officials Sign Antitrust-Enforcement Agreement

CAROLYN SKORNECK

WASHINGTON

U.S. and European officials signed an agreement Monday that provides for closer cooperation on international antitrust actions but still allows individual countries to pursue cases if they feel their consumers are at risk.

"The increasing integration of our economies and the emergence of an international business environment make cooperation between our governments in the area of antitrust enforcement absolutely essential," Acting Attorney General William P. Barr said during the signing ceremony in his office.

In addition to Barr, the agreement was signed by Federal Trade Commission Chairman Janet D. Steiger and Sir Leon Brittan, vice president of the Commission of the European Communities.

The commission is responsible for much of the antitrust enforcement in Europe involving major mergers or joint ventures, said Charles Stark, chief of the foreign commerce section of the Justice Department's antitrust division.

In large measure, Stark said, the agreement simply formalizes what has gone on informally.

The agreement, among other things, calls for participants to inform the other parties of antitrust enforcement actions that might affect their important interests.

In addition, it enables one party to ask another to pursue antitrust cases, the Justice Department said. For example, the United States could ask the commission to bring a case against businesses in Europe that are engaging in anticompetitive conduct that hurts U.S. interests.

Barr called the agreement "a very effective mechanism for cooperation," while Brittan noted that it "seeks to prevent trouble rather than to deal with trouble."

"We are confident consumers in the U.S. and in the E.C. will benefit" from the agreement, said Steiger. She said the agreement the product of 1 year's work recognizes that economies change; therefore, the agreement will be reviewed in two years.

Assistant Attorney General James F. Rill, who heads the antitrust division, said the agreement contains several innovations, including its provision allowing coordinated enforcement by U.S. and E.C. Commission antitrust officials. Privacy rights of the companies involved would be respected, he said.

Another innovation is that the agreement calls for antitrust enforcers to take into account the economic interests of the foreign countries involved as well as their own, Rill said.

However, each country will retain the right to pursue an antitrust action on its own if it feels its consumers are at risk, whether or not that hurts the other country's economic interests, he said.

"This agreement does not call on us to surrender our legal authority under any circumstances...," Rill said in an interview. "If we find a merger, for example, that adversely affects consumers in the United States, we're obligated to take action."

The United States already has antitrust cooperative agreements with Australia, Canada and the Federal Republic of Germany.

---- Index References ----

News Subject: (Monopolies (1MO68); Judicial (1JU36); Legal (1LE33); Joint Ventures (1JO05); Antitrust Regulatory (1AN52); Economics & Trade (1EC26); Corporate Groups & Ownership (1XO09))

Region: (Europe (1EU83); USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (EUROPEAN COMMUNITIES; FEDERAL TRADE COMMISSION; JUSTICE DEPARTMENT) (Acting; Assistant Attorney; Barr; Brittan; Charles Stark; E.C. Commission; James F. Rill; Janet D. Steiger; Leon Brittan; Privacy; Rill; Stark; Steiger; William P. Barr)

Word Count: 586

End of Document

NewsRoom

SIGNING CEREMONY FOR FIRST US-EC ANTITRUST AGREEMENT
PARTICIPANTS:
WILLIAM P. BARR, ACTING US ATTORNEY GENERAL
JANET D. STEIGER, CHAIRMAN, FEDERAL TRADE COMMISSION
JAMES F. RILL, ASSISTANT ATTORNEY GENERAL, ANTITRUST DIVISION
US DEPARTMENT OF JUSTICE
AND SIR LEON BRITTAN, VICE PRESIDENT, EUROPEAN COMMUNITY COMMISSION
US DEPARTMENT OF JUSTICE
WASHINGTON, DC

Federal News Service

SEPTEMBER 23, 1991, MONDAY

Section: COMMERCE AND TRADE SPEECHES OR CONFERENCES

Length: 2572 words

Body

MR. BARR: Good morning, Vice President Brittan, Ambassdor Van Agt and members of the European Community delegation, colleagues and friends. It is an honor for me to represent the United States and the Department of Justice in the signing of this document today. It is an agreement that both confirms and extends the close ties between the United States and the European Community in the area of international antitrust enforcement.

In our joint declaration of the US-EC relations last autumn, the United States and the European Community reaffirmed their determination to strengthen their partnership to pursue a broad range of common political and economic objectives. Among the important objectives set out in the declaration were the promotion of market principles, the rejection of protectionism, and the furthering of our ongoing dialogue on competition policy.

The increasing integration of our economies and the emergence of an international business environment makes cooperation between our governments in the area of antitrust enforcement absolutely essential. The agreement we are signing today rose out of a shared commitment to antitrust enforcement as a cornerstone of our market economies.Antitrust law has been part of the American experience for over a century and it has become fundamental to our nation's legal and economic framework. The visionary founders of the European Community, recognizing the inextricable ties between competition law, market principles, and the values of individual freedom and democracy, rooted EC competition law firmly in the Community's constitution, the Treaty of Rome. So it is especially fitting that we who share this commitment should strengthen our relationship in this area with the agreement we will sign today.

The constructive dialogue established among our chief negotiators, Assistant Attorney Jim Rill and FTC Chairman Janet Steiger for the United States, and Director General Claus Ehlermann for the European Community, bodes well for our future cooperation. We have reached a balanced agreement reflecting our genuine desire to cooperate in antitrust enforcement. The agreement was drafted in recognition that in our global economy effective anti-trust enforcement will often focus on transnational conduct and that our consumers and our industries will be best served by our close cooperation and coordination.

The agreement also recognizes there may be situations where differences arise, and in those cases, we will seek to take account of the other's important interest through the sound application of comity principles. I believe we

have before us what will be a very effective mechanism for cooperation. And for our part, we will do everything to make it work.

(Pause.)

SIR LEON: Mr. Acting Attorney General, Madam Chairman, ladies and gentlemen. I am delighted and honored to be here to sign this important agreement.

You have been good enough to refer to our common history of regarding competition policy as something that is not an optional extra but is fundamental to the proper workings of free market economies, and each side of the Atlantic has seen the development of rightly ambitious jurisprudence in this area. It was with that thought in mind that it seemed to me in the early spring of last year that the potential for conflict was something that existed and should be avoided and could be avoided by an agreement of the kind that we now, comparatively quickly, are signing.

And I would like to add my words of thanks and tribute to the negotiators on both sides whom you have mentioned, who have really put in a lot of work over a comparatively short period to bring about an agreement which I think is an important milestone in the development of cooperation in the antitrust area but, also, an important milestone in the development of cooperation between the United States and the European Community more generally. It is an agreement that seeks to prevent trouble rather than to deal with trouble. It is an agreement that seeks to avoid conflict rather than to resolve conflict. It is an agreement that has some important innovations in it which I very much welcome. The concept of what might be called positive comity, whereby each side takes into account the interests of the other side in considering whether or whether not to engage in antitrust interventions, is something which is innovative.

But I believe that perhaps the most innovative part of all is the provision in the agreement under which the possibility of mutual coordination of effort to deal with a problem that both sides are agreed exists is provided for, I think, for the first time.

So I believe that this agreement reflects the substance of the relationship between the United States and the European Community. I think it marks the importance that we both attach to antitrust matters and the desire to avoid conflict and to engage in cooperation. And from the point of view of law and diplomacy, it marks a number of important firsts. It is only a beginning on which we will have to build. I think as such, though, it represents a very welcome step, and I am delighted to be here in Washington with you both in order to sign the agreement.

MS. STEIGER: It has indeed been little more than a year and a half since Sir Leon first proposed an EC-US antitrust agreement, and less than a year has been spent on formal negotiations that culminate in our presence here today. I think the dispatch with which his undertaking has been accomplished is testimony to the importance of the issues and the urgency which all parties have resolved to find a solution.

Everyone here today recognizes that as companies and markets become increasingly multinational, competition can only be preserved and protected if antitrust authorities correspondingly increase their level of cooperation, and today the US and the European Community have taken an important step forward, one that will increase our ability to maintain freely competitive markets across the Atlantic as well as on either side of it.

We look forward to a period of intensified cooperation with Sir Leon Brittan, with Claus Ehlermann, and the staff of the EC Commission in Brussels, and we are confident that consumers in the US and the EC will benefit from the new regime established by the agreement we've signed today.

As Sir Leon says, we must realize, however, that much remains to be done even though we have made significant progress. In the short term, our task is to translate the theoretical promise of this agreement into a daily functioning reality. I pledge that the FTC and our staff will devote every effort to the realization of the goals that have been made possible by the agreement, and I have complete faith that DOJ and DG4 (?) will be doing the same.

We must also remember that our markets, domestic and international, are not static, and we are therefore pledged to review this agreement in two years. While forecasting is always risky, I feel confident in predicting that by that time, there will have been a number of changes in the economies and the trade relationships of many countries,

incuding the EC-EFTA relationship, the emerging free market economies in Central and Eastern Europe, and, yes, the trading relationships on this North American continent.

For all of these countries and for the increasingly complex markets in which they participate, competition will be the essential guarantor of economic prosperity. And it will be our responsibility through this agreement and any subsequent refinements to guarantee that competition is indeed free.

MR. BARR: I'm going to ask the Assistant Attorney General from the Antitrust Division, Jim Rill, who participated in the negotiations, to come up here and join the panel. I'm going to absent myself, Sir Leon, but --

SIR LEON: Thank you very much.

MR. BARR: -- Chairman Steiger, but perhaps the three of you could answer any questions that anyone maybe has. Okay, thank you.

MR. RILL: We are open for questions.

MS. STEIGER: One in the back.

MR. RILL: There's one in the back.

Q Could you elaborate on the innovations in this agreement?

MR. RILL: Well, let me -- let me have a start at it. It is the first agreement. And, as you know, we have several bilateral agreements. So far as we can determine, this is the first one which brings into play, as Sir Leon suggested, the coordinated enforcement activity, where coordinated enforcement is appropriate and advantageous to both sides and can be done consistent with the laws of the EC and of the United States.

It's also the first agreement under which there is a specific provision under which one jurisdiction can call upon the assistance of another jurisdiction to prevent a trade restraint occurring within the jurisdiction of the requested party that inhibits the open market availability to the requesting party's firms.

It's also, so far as we know, the first agreement under which there's an exchange of notification, not only for enforcement activities, but also for regulatory and judicial activities, where appropriate.

And finally, as Sir Leon indicated, it's the first agreement in which there has been such a specific positive elaboration -- or rather enumeration of comity principles, under which both sides will take into account the interest of the economies of the other side.

SIR LEON: I've nothing to add to that and to what I've said in my earlier remarks. I think those are the -- the innovations; and very important they are.

Q Yes, Sir Leon, you said in your opening remarks that you were trying to head off a potential conflict. I take it then that they're haven't been any problems, because -- (inaudible) --

SIR LEON: No, I think frankly we've been very lucky, because I think that the potential of conflict has existed. And in my own internal reflections, as it were, I came to that conclusion and thought that we shouldn't rely on luck any more. The agreement was not in any way prompted by my foreseeing any particular conflict that might arise. There was no case looming which I thought, "Well, we'd better do something about that."

That's the general concept; that both sides have ambitious views about competition -- law on policy, made it seem to me that it was important that we should get together in the way that we have done, particularly in view of the political declarations that we have been making about enhanced cooperation. This seemed to me to be prime example where we should give reality to that, an important area of mutual interest.

MS. STEIGER: If I may give you some idea of scope; last -- in this past year, we have received notifications of some 1,500 transactions under our Hartscot-Rodino (sp) provisions regarding mergers. Of that, some 340 transactions involved foreign countries. And of that number, 160 involved EC member countries. So, this is a growing area of economic interaction. And I think, as Sir Leon wisely cautions, we maybe have been lucky in the past up to now.

Q Is there an intention to finalize -- (inaudible) --

SIR LEON: Well, perhaps I should say -- I mean, it's important to note the limitations of the agreement, as well as the innovations. We have not changed and couldn't by means of an agreement of this kind, either the laws of the United States or the laws of the European Community. And therefore, the actual legal provisions under which each authority is bound to act are not affected by this agreement. The agreement is within the bounds of the legal limits that exist for both authorities.

MR. RILL: As I'm sure that you know from the implications of your question, there are concerns voiced in both jurisdictions that the procedures applicable for filing and notification of mergers differ somewhat between the EC and the United States. This is an area that I'm sure we will look to in the examination of the agreement over the next two years. But, Sir Leon is quite right. The agreement does not in any way affect the laws of either jurisdiction.

Q Does it indicate at all which jurisdiction would handle antitrust prosecutions or oversight if it involved US and European companies?

SIR LEON: Well, I think you may be referring to the coordination arrangements. That is really a matter for practical determination. Where -- I think what you were referring to is where it's been identified that there is a common interest that a matter should be pursued and investigated. Then, there is provision for coordination. And the extent of that is not specifically limited. It may even go so far, but it would be entirely a matter for future agreements in relation to a particular case, that one side should go first or take the lead, or the others -- if that were appropriate and desired. It may fall short of that and merely mean that each side brings to bear its resources in an appropriate way, but in a coordinated fashion. So, the scope is quite wide, and in accordance with the requirements of the case and the perception of what is appropriate, will determine its application.

Q Can you give us a specific example of the type of matters -- (off mike)?

MR. RILL: Let me give you an example of a situation which actually occurred where there was notification on an informal basis and which provided some background for the details of the agreement. Sometime in 1990, there was a joint venture undertaken involving a Swedish company with a joint venture headquartered in the Netherlands with a substantial investment by a United States company affecting the sale of product throughout the EC, in the United States and Canada, and in various parts of the rest of the world. We were able informally to make contact, within the limits of our confidentiality restrictions, and share information that could legally be shared, as well as share overall enforcement policy objectives.

The agreement would contemplate, for notification, in that particular circumstance where the interests of both the EC and the United States are implicated, would provide for information exchange to the extent that both jurisdictions can do it within the limitations of confidentiality and similar statutes, would provide for discussions of overall objectives which could be accomplished without violation of confidentiality restrictions, and discussions downstream as to potential coordinated activities where they might be advantageous, such that that kind of multi-market transaction, which is becoming increasingly frequent, would be something that would fall within the core of the agreement.

Q What happened in that case? That case you were just talking about with the Netherlands, did anything happen? Were there any --

MR. RILL: We had a -- we issued a complaint. The matter was solved to our satisfaction by consent. It's my understanding that various jurisdictions within the EC also took appropriate action. I'm not sure that the EC itself became involved -- Claus Ehlermann is shaking his head in the negative -- but several jurisdictions within the EC did take action which satisfied their concerns regarding the transactions.

SIR LEON: And I understand that that's still going on.

MR. RILL: Are there any further questions? If not, on behalf of the Department, let me thank and express my appreciation to Sir Leon and Chairman Steiger for this event.

NewsRoom

9/11/91 Wash. Times (D.C.) B4
1991 WLNR 160681

Washington Times (DC)

September 11, 1991

Section: METROPOLITAN OBITUARIES

THOMAS DUHADWAY, FBI INTELLIGENCE CHIEF

Bill Gertz THE WASHINGTON TIMES

Thomas E. DuHadway, 49, the FBI's intelligence chief and until recently the director of the agency's Washington Metropolitan Field Office, died Sept. 10 of an apparent heart attack.

Mr. DuHadway, a 25-year veteran of the agency, collapsed during a golf outing in Northern Virginia and was taken to Fairfax Hospital, FBI spokesman Tom Jones said.

"Tom's death will be deeply felt throughout the intelligence community here in the U.S. and around the world," FBI Director William Sessions said in a statement.

"His great competence and expertise in the intelligence field will not be easily replaced. He will be dearly missed by all his friends and associates in the FBI."

In June, Mr. Sessions named Mr. DuHadway assistant director of the intelligence division, which runs all intelligence and counterintelligence operations in the United States.

Mr. DuHadway had been in charge of the Washington Metropolitan Field Office, one of the bureau's largest field offices.

He was deputy intelligence division chief from 1983 to 1985, during a period when numerous espionage cases surfaced. Mr. DuHadway was admired and respected among U.S. intelligence professionals.

"We at the agency deeply regret the sudden passing of this gifted and dedicated officer who was both an extraordinarily capable professional colleague as well as a treasured resource of the intelligence community," CIA spokesman Peter Earnest said.

At the Justice Department, Acting Attorney General William Barr said: "We are deeply saddened by the untimely death of Tom. He was a dedicated professional who served his country and this department with distinction. His leadership will be missed, and we extend our condolences to his families."

During his career, he also was assigned to FBI offices in Norfolk, New Orleans, Boston and Chicago.

Born in East St. Louis, Ill., Mr. DuHadway received his early education in Collinsville, Ill. He later attended George Washington University and graduated from Southern Illinois University in 1966 with a bachelor's degree in business.

He became an FBI special agent in 1966. In 1973, he was assigned to the headquarters division in Washington and also served in the Criminal Investigative Division and the Planning and Inspection Division.

He is survived by his wife, Donna Lyn, an FBI special agent; and two sons, David, an Air Force pilot, and Jay, a Navy ensign.

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---- Index References ----

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Other Indexing: (AIR FORCE; CIA; CRIMINAL INVESTIGATIVE DIVISION; FAIRFAX HOSPITAL; FBI; GEORGE WASHINGTON UNIVERSITY; JUSTICE DEPARTMENT; NAVY; PLANNING; SOUTHERN ILLINOIS UNIVERSITY; WASHINGTON METROPOLITAN FIELD OFFICE) (Acting Attorney; Born; David; Donna Lyn; DuHadway; Inspection Division; Peter Earnest; Sessions; THOMAS; Thomas E. DuHadway; Tom; Tom Jones; William Barr; William Sessions)

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BARR'S STAR RISES AFTER HOSTAGE RESCUE; Inside Justice

Legal Times

September 9, 1991 Monday

Section: Pg. 3; Vol. 14

Length: 1530 words

Byline: Daniel Klaidman

Body

Inside Justice

Two years ago, few would have predicted William Barr's meteoric rise to power. As head of the Justice Department's Office of Legal Counsel, he was a key adviser to the attorney general, an important bureaucrat, but nonetheless virtually unknown outside the department.

Even after serving as deputy to then Attorney General Richard Thornburgh, where Barr helped put the beleaguered agency back on track, his prospects of ever ascending to the country's top law-enforcement position were considered hopeful at best.

But that was before Barr, the acting attorney general, found himself at the helm of U.S. law enforcement late last month, staring down a group of Cuban inmates holding and threatening to kill nine hostages in an Alabama federal prison.

Barr ordered a daring, pre-dawn strike that secured the safe release of the hostages. In doing so, the 41-year-old rumpled conservative thrust himself into serious contention for the post of attorney general--attracting widespread attention among Republicans around town, some of whom now regard him as the man to beat for the job.

Barr made a great call and executed it superbly, says one Senate Judiciary Committee staffer. I'd have to think he's gone a long way in satisfying everyone's criteria.

Barr, clearly basking in the afterglow of his deft handling of the crisis, sought to downplay his role. I can't say enough about the professionalism of everyone who worked on this operation, Barr said in an interview last week.

For Barr, the drama began to unfold only five days after he took hold of the reins at the Justice Department, following Thornburgh's departure to mount a Senate campaign.

The harrowing standoff with the Cubans, desperate to avoid deportation to their homeland, began on Aug. 21, when the inmates took over a maximum security wing of the Talladega Federal Correctional Institution in Talladega, Ala.

Barr recalls that from early on in the prison takeover, he and his aides had to consider seriously a paramilitary option.

We understood from early on that the negotiation path was not likely to be fruitful, Barr says.

He moved swiftly to put together a team of aides and top law-enforcement officials to monitor the situation from Washington.

From Main Justice, George Terwilliger, the acting deputy attorney general, and Dan Levin, Barr's executive assistant, stepped in. Providing most of the technical advice were Floyd Clarke, deputy director of the Federal Bureau of Investigation; William Baker, assistant director of the FBI; and J. Michael Quinlan, director of the Bureau of Prisons.

The group met on a daily basis in Barr's spacious fourth-floor office until the final fateful meeting, in which Barr gave the order for the assault. At 2 a.m. Aug. 30, the group convened in the FBI's command center, a secure facility in the main FBI building.

On the scene in Talladega were FBI agents and other federal officials feeding intelligence to Washington.

Barr delegated authority for the operation quickly to ensure that the mission didn't become paralyzed by turf disputes.

Although Barr ultimately gave the order himself, he had authorized FBI officials on the scene to send the commandos in if there were an immediate threat to the hostages' lives.

He was very much in control, recalls the FBI's Clarke. But he also created an environment where everyone could speak very freely. He was not domineering.

Clarke points out that Barr was in an awkward position, having to take charge of such a volatile situation.

He would like to be attorney general, but he hasn't been picked by the president yet, says Clarke. He could have acted in very status quo manner. But he didn't. He was decisive, adds Clarke, who says Barr is now his candidate to be the next attorney general.

The decision to storm the prison was made by Barr on Thursday, after the inmates indicated they were getting ready to kill hostages. But to buy some time and lull the Cubans into a false sense of security, he authorized officials in Talladega to send in meals for the hostage-takers.

Early Friday morning, in the FBI's command center, the team that had been meeting all week arrived at what one member simply termed countdown.

Barr immediately set up communication with the FBI special agents in charge (SACs) in Talladega. He polled his aides around the table and the agents in Talladega about the planned raid. All agreed it was time to move.

But Barr hesitated. He wanted all 12 of the hostage negotiators on the scene to weigh in. Barr says he recalled a scene from the movie A Bridge Too Far, where battle commanders pay little heed to a low-level intelligence officer who warns them against launching a planned assault.

In these settings, there is a momentum to the events that creates a kind of group psychology, says Barr. I wanted to make sure we didn't get caught up in that kind of situation.

Barr dispatched an FBI agent to take the pulses of the negotiators. Within minutes, word came back to Washington to strike.

At 3:43 a.m., Barr gave the order. In the command center, silence fell over the room as Barr and his aides listened to Wayne Gilbert, an FBI SAC, describe the drama as it unfolded, Barr recounted Gilbert's transmission:

It's a warm night. There go the suburban vans with the hostage-rescue team [an elite FBI unit specially trained for hostage and terrorist situations]. The SWAT team is falling in behind them.

Then Barr and the others say they heard two tremendous explosions. All of a sudden, recalls Barr, I heard the crackle of the radio and a little voice say, We have the hostages.

The ordeal was over. After Barr made sure that all the hostages were safe and that no serious injuries had been suffered, he called Kennebunkport to inform the president.

Later that morning, Barr flew to Talladega to visit with families that suffered through the crisis and to congratulate law-enforcement officers.

It was one of the best days of my life, he says, breaking into a broad grin.

Barr declines comment when asked if he expects the Talladega operation to improve his chances of becoming attorney general.

Jungle Environment

The first salvos are being fired at New York securities lawyer James Benkard, whom President George Bush is expected to tap as the next chief of the Justice Department's Environment and Natural Resources Division.

Conservatives are worried that Benkard's close ties to the Environmental Defense Fund, where he has served as a trustee since 1982, suggest liberal leanings. As chairman of the EDF's Litigation Review Committee, Benkard, a partner with New York's Davis Polk & Wardwell, oversees suits brought by the group.

I want to know if he's going to be an environmental activist, says Alan Slobodin of the conservative Washington Legal Foundation. We don't like this nomination.

Last week, **The Washington Times** editorialized against Benkard, whose expected nomination was first reported in **Legal Times** late last month. Benkard declines comment.

The EDF has good ties to the White House through White House Counsel C. Boyden Gray, with whom Benkard is friendly, according to an administration source. EDF lawyers helped draft portions of the administration's Clean Air Act.

Benkard, 54, would be the second EDF trustee in a row to head the Natural Resources Division. Richard Stewart, who left Justice in July to accept a teaching position at the Georgetown University Law Center, was an EDF trustee from 1977 until 1989.

Stewart says he's mystified that Benkard is drawing fire from conservatives.

He's a top-flight litigator who gets right to the heart of the matter in a case, and he's got solid environmental experience, Stewart says.

Quick-Change Artist

William Barr has moved swiftly to make his presence felt at the department in ways less dramatic than the Talladega affair. Within two weeks of Thornburgh's departure, Barr made a number of high-level personnel moves--prompting some at the department to speculate that Barr was planning to settle in for a long stay.

George Terwilliger is apparently betting that Barr will get tapped for the top job. Terwilliger announced his resignation as U.S. attorney in Vermont to accept duties as Barr's acting deputy. Michael Carey, U.S. Attorney for the Southern District of West Virginia, is on a 60- to 90-day detail at Justice to assist Terwilliger.

John Smietanka, who along with Terwilliger has been part of Barr's team since Barr took over as deputy in the spring of 1990, may be heading for the exits; on loan from his job as U.S. attorney for the Eastern District of Michigan, Smietanka is under consideration for a federal judgeship in his home state.

Barr has also moved to replace several key department officials who joined Thornburgh's Senate campaign in Pennsylvania. Murray Dickman, Thornburgh's personnel chief, will be replaced by Catherine Keller, a State Department liaison to the White House who will serve as Justice Department liaison to the White House for

personnel matters. Barbara Drake of the department's Civil Rights Division, who assisted Dickman with judicial selection, will take over that responsibility. Filling in for Thornburgh spokesman Dan Eramian is Paul McNulty of the Office of Policy Development.

Inside Justice

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9/6/91 Seattle Times C10
1991 WLNR 1033529

Seattle Times (WA)

September 6, 1991

Section: BUSINESS

UNISYS CORP. PLEADS GUILTY TO FRAUD

AP

ALEXANDRIA, Va.

Unisys Corp. pleaded guilty today to criminal charges in the massive Pentagon procurement scandal and agreed to pay the United States up to $190 million to settle claims arising from the Operation Ill Wind investigation.

"This $190 million settlement, the largest ever of its type, should carry a simple but necessary message: Where individuals or corporations systematically defraud a procurement program, we'll use the full extent of the law to punish them," said Acting Attorney General William Barr. "The integrity of these programs demands it and the taxpayers deserve no less."

Unisys Chairman James Unruh said in a statement his company "must accept responsibility for the past action of a few people" associated with Sperry Corp., which was taken over by Burroughs Corp. in 1986 to form Unisys.

"All of us at Unisys have been angered and frustrated that the actions of a few have cast a cloud over a dedicated, ethical work force," Unruh said. "This unfortunate chapter is behind us."

Unisys attorney Charles Ruff entered the guilty plea before U.S. District Judge Claude Hilton in the Washington suburb of Alexandria.

Unisys pleaded guilty to eight counts, including conspiring to defraud the United States, bribery, conversion of government property and filing false statements.

It pleaded guilty to bribing former Assistant Secretary of the Navy Melvyn Paisley, former Deputy Assistant Secretary of the Air Force Victor Cohen and another Navy official, all of whom were previously convicted on related charges.

Barr said Unisys is the sixth corporation to plead guilty to charges stemming from the four-year-old Operation Ill Wind investigation, with total settlements in fines and penalties reaching $225 million.

---- Index References ----

Company: SPERRY CORP; UNISYS CORP; BURROUGHS CORP

News Subject: (Crime (1CR87); Fraud Report (1FR30); Social Issues (1SO05); Major Corporations (1MA93))

Industry: (I.T. (1IT96); I.T. Consulting & Services (1IT92))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (AIR FORCE; BURROUGHS CORP; NAVY; NAVY MELVYN PAISLEY; OPERATION ILL WIND; PLEADS; SPERRY CORP; UNISYS; UNISYS CORP) (Acting Attorney; Barr; Charles Ruff; Claude Hilton; James Unruh; Unruh; William Barr)

Edition: FINAL

Word Count: 352

End of Document

8/31/91 Atlanta J. - Const. A3
1991 WLNR 2244074

Atlanta Journal and Constitution (GA)

August 31, 1991

Section: NATIONAL NEWS

WHEN SMOKED CLEARED, ALA. SIEGE WAS OVER FEAR FOR HOSTAGES LED TO LIGHTNING RAID

Scott Bronstein Staff writer

TALLADEGA, Ala.

TALLADEGA, Ala. - The thickening silence of a sticky August night in Alabama was cut by a crackling voice at 3:40 a.m. Friday.

"Get ready, we're goin' in," the voice squawked on two-way radio, heard by reporters parked outside the Talladega Federal Correctional Institution.

Before many could even stand up to look around, a huge boom, loud enough to wake sleepers in a hotel three miles away, rolled through the loblolly pine knolls of this rural town.

Dick Rogers, head of the FBI rescue team, gave the "Go!" order to his crouching men.

Looking through cameras with telephoto lenses, reporters saw troops dressed in black SWAT uniforms with full riot gear clambering onto the roof of the federal prison. Only the day before, Cuban detainees holding hostages had waved their national flag and banners from that roof.

Suddenly a second boom shook the ground, and as smoke cleared over the isolated Alpha unit, more SWAT teams could be seen swarming over the roof.

One trooper tore down the makeshift Cuban flag before disappearing inside.

Like shock troops from some sci-fi hell, more than 200 men blasted into Alpha, where the hostage siege was just entering its 10th day.

Blowing open the front and side entrances of the unit, the SWAT teams poured into the cavernous hall, leaving behind a smoking, charred doorway.

Encountering the dazed, sleepy and largely hungry Cubans, the SWAT teams quic kly grabbed the detainees, binding their wrists with plastic restraints.

They were then hustled over to small wooden stalls, where they were immediately strip-searched, handcuffed again, and moved to the adjacent Beta unit, officials said.

In less than 30 minutes, a long line of cars snaked its way out of the prison and up to a separate compound where the hostages' families had kept a round-the-clock vigil, some of them since the ordeal began.

As dawn broke into a crimson sky, the SWAT teams began driving out of the prison. Passing by reporters along the road, they shouted from their car windows.

Other SWAT team members, standing amid riot rubble, lined up to put their signatures on a confiscated banner that the detainees had hung from the prison roof with the message, "Warden Don't Lie Anymore."

The decision to storm the federal prison early Friday was made when officials believed the hostages were in severe and imminent danger.

During a "sick call" Thursday night, "the hostages sent out messages indicating they believed this might be their final opportunity to communicate with their loved ones; the situation in the unit was deteriorating," Warden Roger Scott said.

"Specific plans were discussed by detainees during the siege to throw a hostage from the roof and to stab one or more hostages," Mr. Scott told reporters at a briefing Friday morning.

"At one point, hostages were required to place their identification cards in a pillowcase, from which the card of one hostage was drawn," the warden said. "That person was informed that he would be killed." Authorities would not identify the chosen hostage.

Flown in from Washington by helicopter to attend the news briefing were acting Attorney General William Barr and FBI Director William Sessions.

Mr. Barr characterized the Cubans as "terrorists."

The takeover was spawned by the Cubans' frustrations and fear of deportations. Many of the detainees have been held for years with no formal charges brought against them, trapped in a legal limbo of incarceration because the U.S. courts have classified them as "excludable aliens," not subject to due process of law.

Mr. Barr thanked FBI SWAT teams from Atlanta, Birmingham and Knoxville, who had helped lead the raid.

"We stood by our principles," Mr. Barr said. "We reunited the hostages with their families, and we upheld the cause of justice."

Mr. Barr said he sat up all night with Mr. Sessions at the special FBI operations center in Washington before approving the raid.

He called it a "difficult decision" because of the lives at stake. But he said the resulting success of the operation "vindicated our judgments."

Asked afterward what would happen to the detainees, Mr. Barr said those who had been originally scheduled to be deported would be - "very soon."

The hostages, reunited with their families, were kept away from reporters; most had eaten only small amounts of food throughout the ordeal.

Near the end of the briefing, Mr. Rogers, of the rescue team, held aloft a silver lock and golden key. Lifting it toward the warden, Mr. Rogers said, "On behalf of the members of the SWAT team, I would like to return to you the key taken by the Cubans off the front door of Alpha unit."

Photo

Photo: A SWAT team member takes a rest Friday at the Talladega Federal Correctional Institution after joining others in a raid against Cuban detainees.

The Associated Press

The thickening silence of a sticky August night in Alabama was cut by a crackling voice at 3:40 a.m. Friday.

---- Index References ----

Region: (Cuba (1CU43); USA (1US73); Americas (1AM92); Alabama (1AL90); North America (1NO39); Caribbean (1CA06); Latin America (1LA15))

Language: EN

Other Indexing: (CUBANS; FBI; FBI SWAT; SIEGE; SMOKED; SWAT; TALLADEGA FEDERAL CORRECTIONAL INSTITUTION) (Barr; Blowing; Dick Rogers; Flown; Lie Anymore; Lifting; Photo; Roger Scott; Rogers; Scott; Sessions; Warden; William Barr; William Sessions)

Word Count: 988

End of Document

NewsRoom

8/31/91 Tulsa World A16
1991 WLNR 4579572

Tulsa World

August 31, 1991

Section: NEWS

SWAT Team Storms Federal Prison, Frees Hostages Held by Cubans

TALLADEGA, Ala. (AP) - A SWAT team of more than 700 federal officers staged a pre-dawn lightning strike on a prison Friday and safely rescued nine hostages held 10 days by heavily armed Cuban inmates fighting deportation.

The decision to storm the Talladega Federal Correctional Institution's maximum-security "Alpha" unit came after inmates threatened to kill three of the hostages, Warden Roger F. Scott said.

It took only three minutes for the assault force to lob two explosives to blow open the unit's doors, seize 121 Cuban inmates and free the seven men and two women held hostage since Aug. 21, Scott said.

None of the hostages was hurt, and only one inmate suffered a minor injury, federal officials said.

Thirty-two Cuban inmates who had faced deportation the day after the uprising started would be deported Saturday, a federal official said later Friday.

The inmates and 10 hostages had endured more than a week without food from outside the occupied building. Cuban inmate signs said the hostages were starving. Inmates released one hostage Wednesday, and a meal was provided early Thursday.

Ecstatic federal officers gave thumbs-up signs as they left. Cheers erupted at the site where hostage families stayed throughout the ordeal.

"We did it, buddy! I knew we would!" R.H. Edenfield, associate warden, said to a SWAT team member. "It was a piece of cake!"

President Bush congratulated the special tactical response teams from the FBI and federal Bureau of Prisons "for a job well done," said Acting Attorney General William Barr, who flew from Washington to the central Alabama prison. Prison officials said the squad comprised more than 700 officers.

"We could not make concessions to terrorists holding hostages," Barr said. "To do so would put the thousands of dedicated professionals working in our prisons at constant risk."

Prison officials said the hostages, who apparently weren't kept apart from each other, were able to barricade themselves in a room with chairs and tables after the first explosion blew apart a door shortly before 4 a.m.

Some SWAT team members took the building's roof and tore down a Cuban flag and other banners put up by inmates.

Three minutes later, an attempt by inmates to reach the hostages was thwarted and authorities regained control of the unit, officials said.

Hostages were taken to the infirmary for medical assessments.

The Cubans and 18 non-Cuban inmates in the unit were laid out on the ground, put in handcuffs and leg irons, and later strip-searched. Prison officials said they would sort out later which inmates took part in the revolt and which were held against their will.

The Cubans, who fled their homeland along with 125,000 others in the 1980 boatlift from Mariel harbor, are under deportation orders for committing crimes in the United States. Some have said they would rather die than return to President Fidel Castro's regime in Cuba. Thirty-two of the 121 in the unit were to be deported the day after the uprising began.

Duke Austin, a spokesman for the U.S Immigration and Naturalization Service, said the 32 would be flown to Cuba on Saturday.

Groups supporting Cuban detainees say perhaps 2,400 are imprisoned in this country, 400 of them under deportation orders.

Similar sieges occurred in 1987 at federal prisons in Atlanta and Oakdale, La., after a new round of deportations was announced. Those uprisings also ended without any hostage deaths.

Talladega's warden said the SWAT strike was ordered because hostages' lives appeared threatened.

On Thursday, Scott said, some inmates had put hostages' name tags in a pillow case, then drew out three who were to be killed. One would be thrown off the roof of the prison building and the others would be stabbed, he said without citing the sources of his information.

Also, Scott said, leaders of the revolt had fallen into knife fights with each other, raising doubts if inmates safeguarding hostages could continue to.

Scott said the inmates had "fabricated an extensive armory of knives, spears, swords and even bow and arrows."

After the siege ended, Barr toured the unit, where two doors were blackened and windows of nearby federal government cars were shattered by the explosions.

"A mess, a real mess," Barr said. "There is debris, rubble and weapons strewn across the floor."

The hostage released Wednesday night, prison secretary Kitty Suddeth, said Friday she was fine.

"I'm glad everyone is fine - glad to be alive, really," she said from her parents' home in Talladega. She said she didn't want to talk about the hostages' experience.

Gerald Walsh, one of the nine hostages freed Friday, said from his Anniston home that he couldn't talk about the incident without permission from the INS district director, who wasn't immediately available.

---- Index References ----

News Subject: (Legal (1LE33); Judicial (1JU36); Civil Unrest (1CI11); Prisons (1PR87); Global Politics (1GL73); World Conflicts (1WO07))

Region: (Cuba (1CU43); USA (1US73); Americas (1AM92); North America (1NO39); Caribbean (1CA06); Latin America (1LA15))

Language: EN

Other Indexing: (CUBANS; FBI; FEDERAL BUREAU OF PRISONS; NATURALIZATION SERVICE; SWAT; SWAT TEAM STORMS; TALLADEGA; TALLADEGA FEDERAL CORRECTIONAL INSTITUTION) (Acting Attorney; Barr; Bush; Cheers; Ecstatic; Fidel Castro; Gerald Walsh; Groups; Kitty Suddeth; R.H. Edenfield; Roger F. Scott; Scott; Thirty; William Barr)

Edition: FINAL HOME EDITION

Word Count: 964

End of Document

8/31/91 WashingtonPost.com (Pg. Unavail. Online)
1991 WLNR 5108316

WashingtonPost.com

August 31, 1991

SURPRISE PREDAWN ATTACK FREES ALL 9 HOSTAGES AT ALABAMA PRISON

Don Phillips

Hundreds of FBI and Bureau of Prisons agents, in a coordinated predawn attack that caught inmates by surprise, stormed a federal prison in Alabama early yesterday and freed nine hostages held by 121 Cuban detainees trying to avoid deportation to their island homeland. Acting Attorney General William Barr ordered the predawn strike at the Talladega Federal Correction Institution after officials told him they feared the inmates were about to begin killing the hostages they had held for nearly 10 days. "The situation in the unit was deteriorating," Warden Roger F. Scott said. "The detainees had intentions to kill one or more hostages." The swift three-minute strike, led by the FBI's hostage rescue team, resulted in only one minor injury to one inmate, Barr said.

Officials said all seven men and two women held hostage were rescued safely. Some waved and gave thumbs-up signs as they were driven in a convoy of seven white sedans to meet their families about an hour after the federal teams fired explosives to blow open doors to the high-security prison unit where the hostages had been held since Aug. 21. Justice Department officials earlier had attempted to negotiate an end to the uprising under a policy of what they had described as "endless patience." But Scott said that Barr decided to act early yesterday after learning that inmates had threatened to kill a hostage whose identification card they had pulled from a pillowcase. Scott said the hostages, as they were getting medical treatment Thursday, indicated "they believed this might be their final opportunity to communicate with their loved ones," the Los Angeles Times reported. Scott did not explain how this was conveyed, but one official speculated that sign language was used, the Times said. "We could not make concessions to terrorists holding hostages," said Barr, who had flown to Alabama to take charge of the situation. "To do so would put the thousands of dedicated professionals working in our prisons at constant risk." The inmates, armed with knives, swords, bows and arrows they apparently had made, had begun to fight among themselves yesterday, alarming officials and heightening tension at the prison, about 40 miles east of Birmingham. The Cubans had seized 11 hostages on the eve of a flight that was to take 32 of the Cubans back to Cuba. The 32 are to be flown to Cuba today, Immigration and Naturalization Service (INS) officials said. The Cubans were among 125,000 people who had fled to the United States in the 1980 boatlift from the Cuban port of Mariel. All the detainees had been convicted of crimes in this country and were being ordered back to the island under a 1984 agreement with Fidel Castro's government. Shortly after the takeover began, the inmates released one hostage. A second hostage was released Wednesday in exchange for a conversation between the inmates and a reporter. But officials said the mood had changed dramatically as the inmates put each hostage's identification card in the pillowcase, drew one out and told its owner he would be killed. Officials held a brief news conference after the takeover but provided few details of the federal effort to storm the prison and free the hostages, other than to say it began at 3:43 a.m. The Associated Press quoted Tom Fisher, a district director of the INS as saying the hostages had dashed away from the inmates when the assault began. The prison workers barricaded themselves behind a door with "chairs, tables and whatever trash they could get," Fisher said. The Cubans chased them but were cut off by a SWAT team. The 121 Cubans and 18 American

inmates in the unit were ordered to lie on the ground, placed in handcuffs and leg irons and strip-searched, AP said. Prison officials said they would determine later what roles indivdual inmates played in the incident. The end to the standoff came suddenly. Reporters on the scene said they had noticed three cars move from a parking lot toward the prison training facility where hostage families were staying at about 3:30 a.m. A loud explosion echoed across the rolling hills around the prison, followed quickly by three more explosions. As smoke began rising from the prison unit, reporter David Mundee of the Talladega Daily Home said he saw about 15 SWAT team members on the roof of the unit and others on the ground. The AP said the team tore down a Cuban flag and banners hoisted by the inmates. At 4:55 a.m., a convoy of cars drove from the prison to the main road, some turning up to the hilltop training facility and some continuing in the direction of Talladega. "We did it, buddy. I knew we would. It was a piece of cake," R.H. Edenfield, the prison's associate warden, told a SWAT team member. Barr, who appeared briefly with the warden and FBI Director William S. Sessions to read statements, said he authorized the strike after he had been assured "that the rescue could be effected with a high probability of success and that further delay would increase the risk to the hostages and others. . . . This was a terrorist incident where the lives of innocent persons were put at risk in an attempt to force actions by the government." There were similar uprisings by Cuban inmates in 1987 at federal prisons in Atlanta and Oakdale, La. Those ended after Attorney General Edwin Meese III promised a case-by-case review for all Cubans facing deportation. The inmates at Talladega had exhausted all appeals under that review process and were being assembled for flights to Havana. The former hostages apparently went to their homes, and family members said they did not wish to talk to reporters. Hostage Herman Cruise dashed to his apartment to pay his rent, according to his landlady, saying he was afraid he might have been evicted. Staff writer Bill McAllister in Washington and special correspondent Orbie Medders in Talladega contributed to this report.

---- Index References ----

News Subject: (Global Politics (1GL73); World Conflicts (1WO07); Social Issues (1SO05); Legal (1LE33); Crime (1CR87); International Terrorism (1IN37); Criminal Law (1CR79); Prisons (1PR87); Kidnapping (1KI55); Top World News (1WO62))

Region: (Americas (1AM92); U.S. Southeast Region (1SO88); Caribbean (1CA06); Cuba (1CU43); USA (1US73); Latin America (1LA15); Alabama (1AL90); North America (1NO39))

Language: EN

Other Indexing: (Tom Fisher; Herman Cruise; Bill Barr; Orbie Medders; Edwin Meese III; David Mundee; Bill McAllister; R.H. Edenfield; Roger Scott)

Word Count: 986

End of Document

8/30/91 AP Online 00:00:00

AP Online

August 30, 1991

Section: Domestic

Authorities Storm Prison; Hostages Safe

CARLOS A. CAMPOS

TALLADEGA, Ala.

A SWAT team today stormed the prison unit where Cuban inmates held nine hostages. All were rescued safely, the FBI said.

"The hostage situation at Talladega is over," Acting Attorney General William Barr said in Washington at FBI headquarters.

"All of the hostages were rescued safely and they are now receiving medical treatment," Barr said. "None were injured. We believe that one inmate received a minor injury."

The action began at about 3:40 a.m. CDT with one explosion, followed by another five minutes later, that sent smoke drifting through the air. About 20 officers in riot gear spread across the roof of the unit at the Talledega Federal Correctional Institute.

Soon after, about 10 officers were seen patrolling the roof, but there was no sign of inmates or hostages. The authorities tore down the Cuban flag and banners that had been raised by the inmates during the 10-day siege.

FBI agents leaving the prison about an hour later gave the thumbs up sign and a huge cheer was heard from a building housing the hostages' families. The building is near the main prison complex.

"I took this step based on the recommendations of the director of the FBI and the director of the Bureau of Prisons that the rescue could be effected with a high probability of success and that further delay would increase the risk to the hostages and

others," Barr said.

"We could not make concessions to terrorists holding hostages to do so would put the thousands of dedicated professionals working in our prisons at constant risk," he said.

The standoff began Aug. 21, when the Cuban inmates took 10 prison workers hostage. The high-security cellblock houses 121 Cuban prisoners who have been convicted of crimes since coming to the United States in the Mariel boatlift of 1980 and now face deportation to Cuba. Several have said they would rather die than return to their homeland.

The rescue operation was headed by the FBI's hostage rescue team supported by FBI SWAT teams and the Bureau of Prisons' special operations response teams, Barr said.

On Thursday, the prisoners and hostages received their first meal from prison officials since the takeover began. The inmates had released one inmate, prison secretary Kitty B. Suddeth, the day before.

Prison officials said then that several hostages and detainees needed medical treatment.

On Tuesday, prison officials used non-lethal smoke bombs to drive several inmates off the roof, but they shot the tear gas canisters from the ground. The inmates had climbed on the roof to display signs saying they were being denied food and that the hostages were starving.

Earlier anti-deportation uprisings erupted in November 1987 first in Oakdale, La., then Atlanta two days later after the State Department said that Cuba had agreed to take back more than 2,500 of the 3,800 Mariel refugees imprisoned nationwide. At the height of that crisis, more than 100 prison workers weere held hostage.

The takeovers lasted eight days at Oakdale, 11 at Atlanta, and ended only after the government agreed to halt deportations until it reviewed each case. Deportations resumed in late 1988.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Prisons (1PR87))

Region: (Cuba (1CU43); USA (1US73); Americas (1AM92); North America (1NO39); Caribbean (1CA06); Latin America (1LA15))

Language: EN

Other Indexing: (AUTHORITIES STORM PRISON; BUREAU OF PRISONS; CDT; FBI; FBI SWAT; STATE DEPARTMENT; SWAT; TALLADEGA; TALLEDEGA FEDERAL CORRECTIONAL INSTITUTE) (Acting; Barr; Hostages Safe; Kitty B. Suddeth; William Barr)

Word Count: 626

End of Document

FBI WASHINGTON NEWS CONFERENCE ON RELEASE OF TALLADEGA, AL PRISON INMATES 6:55 EDT

Federal News Service

AUGUST 30, 1991, FRIDAY

Section: MAJOR LEADER SPECIAL TRANSCRIPT

Length: 862 words

Body

UNIDENTIFIED: Ladies and gentlemen. Good morning. We appreciate you arriving at the FBI headquarters so early in the morning. I'd like to introduce at this point the acting United States Attorney General, William Barr, who will make a short statement for you. We will not entertain any questions at this point in time.

However at approximately 9:00 a.m. in Talladega, AL, there will be a full briefing. And that time is at 10 a.m. EDT as well.At this point the Acting Attorney General of the United States, William Barr.

WILLIAM BARR: Good morning. It's been a long night for many men and women at the Department of Justice. I'd like to ask Bill Sessions and Mike Quinlan, Floyd Clark (ph) and Bill Baker (ph) to come up here as well please.

I have a short statement. The hostage situation at Talladega is over. At 4:40 a.m. Eastern time I authorized the FBI's Hostage Rescue Team supported by FBI SWAT teams and the Federal Bureau of Prisons Special Operations Response Teams to affect a hostage rescue.

I took this step based on the recommendation of the director of the FBI and the director of the Federal Bureau of Prisons. That the rescue could be affected with a high probability of success and that further delay would increase the risk to the hostages and others.

All of the hostages were rescued safely. And they are now receiving medical treatment. None were injured in the rescue effort. And no members of the rescue teams were injured. Our preliminary report is that one inmate received a minor injury during the operation.

This was a terrorist incident where the lives of innocent persons were put at risk in an attempt to distort actions by this government. As in any such incident our concern was minimizing the risk of harm to the hostages and others. We took action at this time because in our best professional judgment, it was necessary to achieve that goal.

We could not make concessions to terrorists holding hostages. To do so would put the thousands of dedicated professionals working in our prisons at constant risk. Moreover there was considerable risk that the situation inside the prison would deteriorate requiring an emergency response. Such an emergency response could increase the risk of harm to the hostages, rescue teams and inmates.

I would like to thank Mike Quinlan, director of the Federal Bureau of Prisons, Bill Sessions, director of the FBI, Floyd Clark (ph), deputy director of the FBI, and Bill Baker (ph), assistant director of criminal investigations at the FBI. And all of the people who worked with them for their superb work throughout this crisis. But above all I would like express my appreciation to the dedicated law enforcement personnel who took part in this operation.

We are grateful beyond words and proud beyond measure of their professionalism, dedication to duty and willingness to put their lives on the line to save the hostages. We truly have the best law enforcement personnel in the world.

I also want to recognize the tremendous resolve of the hostages and their families. They have been put through the most difficult situation imaginable, and conducted themselves with courage, honor and professionalism.

I'd like to ask Bill Sessions if he'd like to make a brief comment.

WILLIAM SESSIONS: Thank you general. The fact that we have been able to come through this very very difficult time is a mark to the expertise and extremely cooperative effort between the Bureau of Prisons, the Department of Justice and the FBI.

The fact that we were able to come out of this hostage circumstance with no injuries to the hostages, no injuries at all to the hostage rescue team and only minor injuries to any inmate who was in the prison speaks highly, general, to the professionalism of the law enforcement effort that was made in this connection. And we're very proud to be able to have this kind of successful outcome from the effort that was made. Thank you very much.

WILLIAM BARR: I'd like to ask Mike Quinlan, the director of the Federal Bureau of Prisons, if he'd like to make a brief comment.

MIKE QUINLAN: Thank you general. First of all I would like to thank Acting Attorney General Barr for his tremendous support for this particular initiative to rescue these nine staff members of the Bureau of Prisons and the Immigration and Naturalization Service. And I would also like to thank the Federal Bureau of Investigations, Director Sessions, Deputy Director Clark, and Assistant Director Bill Baker who have been tremendously supportive here in Washington and their people down in Talladega and the staff of the Bureau of Prisons and the other law enforcement agencies that have worked together so beautifully to have this wonderful result this morning.

I'd also like to express my appreciation to the hostages who have conducted themselves in such a professional way and for their families who have stayed with us and been supportive during this very difficult time. Thank you.

UNIDENTIFIED: Ladies and gentlemen that concludes the conferences. We do have statements to hand out to you if you care to take them. Thank you very much.

End of Document

8/30/91 Atlanta J. - Const. A1
1991 WLNR 3582604

Atlanta Journal and Constitution (GA)

August 30, 1991

Section: NATIONAL NEWS

FEDS FREE ALABAMA HOSTAGES, SAY THEIR LIVES WERE IN DANGER PRISONERS AIMED TO 'KILL ONE OR MORE'

Scott Bronstein Staff writer

TALLADEGA, Ala.

TALLADEGA, Ala. - The decision to storm the federal prison where Cubans were holding hostages came when authorities believed the hostages were in imminent danger, officials said today.

The Cuban detainees were intending "to kill one or more hostages," Warden Roger Scott said at a news conference at the prison attended by acting Attorney General William Barr, FBI Director William Sessions and other officials.

All nine hostages were rescued safely in the early morning operation.

"Specific plans were discussed by detainees during the siege to throw a hostage from the roof and to stab one or more hostages. At one point, hostages were required to place their identification cards in a pillowcase, from which the card of one hostage was drawn; that person was informed that he would be killed," Mr. Scott said.

Federal authorities did not immediately describe the rescue in detail.

The warden said the Cubans did not negotiate in good faith because they continued to threaten hostages and also attacked staff near the housing unit on occasion. They also created an extensive armory of weapons, he said.

The warden also said that concern had grown about the "instability of leadership" within the group, as a result of a seriously deteriorating situation.

The decision to conduct the assault on the Alpha unit of the prison at 4:40 a.m. (EDT) today "became necessary" when "there was a dramatically increased risk of harm to the hostages," Mr. Scott said.

During the evening sick call, "the hostages sent out messages indicating they believed this might be their final opportunity to communicate with their loved ones; the situation in the unit was deteriorating," Mr. Scott said.

The rescue began with an explosion, followed by another five minutes later, that sent smoke drifting through the air. About 20 officers in riot gear spread across the roof of the unit at the Talladega Federal Correctional Institute.

Soon after, about 10 officers were seen patrolling the roof, but there was no sign of inmates or hostages. The authorities tore down the Cuban flag and banners that had been raised by the inmates during the siege.

FBI agents leaving the prison about an hour later gave the thumbs up sign and a huge cheer was heard from a building housing the hostages' families. The building is near the main prison complex.

At the news conference, Mr. Barr called the Cuban detainees "terrorists" for the first time.

He thanked the FBI SWAT teams from Atlanta, Birmingham and Knoxville, and the entire Bureau of Prisons staff.

"We reunited the hostages with their families and we upheld the cause of justice," he said.

Mr. Barr said he sat up all night with Mr. Sessions at the special FBI operations center in Washington. He called the storming of the prison a "difficult decision" because of the lives at stake. But he said the resulting success of the operation "vindicated our judgments."

Asked afterward what would happen to the detainees, Mr. Barr said that those who had been scheduled to be deported would be. Asked how soon, he said: "Very soon."

The standoff began Aug. 21, when the Cuban inmates took 10 people hostage. One was later released. The high-security cellblock houses 121 Cuban prisoners who have been convicted of crimes since coming to the United States in the Mariel boatlift of 1980 and now face deportation to Cuba. Several have said they would rather die than return to their homeland.

The hostages rescued today - seven men and two women - all worked at the pris on, three under the U.S. Immigration and Naturalization Service, prison officials said.

The hostages were taken to an undisclosed site for medical assessments.

Photo

Photo: Cuban detainees at the federal prison in Talladega, Ala., raise a Cuba flag and a sign asking for prayers Thursday on the roof of the unit they held since taking 10 people hostage last week.

The Associated Press

The decision to storm the federal prison where Cubans were holding hostages came when authorities believed the hostages were in imminent danger, officials said today. The standoff began Aug. 21, when the Cuban inmates took 10 people hostage. One was later released.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Prisons (1PR87))

Region: (Cuba (1CU43); USA (1US73); Americas (1AM92); Alabama (1AL90); North America (1NO39); Caribbean (1CA06); Latin America (1LA15))

Language: EN

Other Indexing: (EDT; ENTIRE BUREAU OF PRISONS; FBI; HOSTAGES; TALLADEGA FEDERAL CORRECTIONAL INSTITUTE; US IMMIGRATION AND NATURALIZATION SERVICE) (Barr; FEDS FREE; Roger Scott; Scott; Sessions; William Barr; William Sessions)

Word Count: 834

End of Document

8/30/91 Vancouver Sun (Canada) E7
1991 WLNR 2576370

Vancouver Sun (Canada)

August 30, 1991

Riot police storm prison, end Cuban detainees' siege: Families cheer as 9 hostages rescued safely

Talladega, Ala.

TALLADEGA, Ala. - Authorities early today stormed the Talladega federal prison, where Cuban detainees held nine hostages, ending a tense nine-day siege.

"All of the hostages were rescued safely and they are now receiving medical treatment," acting U.S. attorney-general William Barr said at FBI headquarters in Washington. "None was injured. We believe that one inmate received a minor injury."

About 20 prison officers in riot gear had spread across the roof of the cellblock shortly after two explosions that sent smoke drifting through the air. The first explosion came at about 1:40 a.m. PDT, followed by a second five minutes later. Two ambulances went through the gates of the prison.

Later, about 10 officers were seen patrolling the roof. There was no sign of detainees or hostages.

After FBI agents gave the thumbs-up sign, a huge cheer came from the area where the hostages' families were staying near the prison.

The road leading to the prison was blocked to all but official traffic for at least three kilometres in each direction.

On Tuesday, prison officials used smoke bombs to drive several detainees off the roof. The detainees had climbed on the roof to display signs saying they were being denied food and hostages were starving.

On Thursday, the prisoners and hostages received their first meal

from prison officials since the takeover began - hamburgers, beans, rice and coffee.

The food was delivered after one hostage, Kitty Suddeth, a 34-year-old prison secretary, had been released Wednesday for medical reasons.

The issue that led to the uprisings in the first place remained unresolved: deportation of Cubans who have committed crimes in the United States.

A group of human-rights activists was to hold a news conference today in Miami to release a report that documents cruel and inhumane conditions in Cuban jails - where some of the detainees here could be sent.

Rafael Penalver, a Miami lawyer, who, along with Bishop Augustin Roman of Miami, helped negotiate the settlement of Cuban inmates' 1987 siege of federal facilities in Atlanta and Oakdale, La., said the new report will show the unfairness of deporting people "to the very same jails that the (U.S.) government condemns."

Atlanta lawyer Gary Leshaw, another negotiator in the 1987 uprisings, said unless a permanent solution is found to the deportation conflict, more uprisings will occur.

Some 2,500 Cubans who were convicted of crimes in the United States are being held in more than 60 institutions while awaiting deportation and deportation hearings.

The takeover here began Aug. 21, the day before 32 of the 121 Cuban inmates were scheduled to be returned to their homeland. The Cubans took 10 prison workers hostage.

The cellblock houses 121 Cuban prisoners who have been convicted of crimes since coming to the United States in the Mariel boatlift of 1980 and now face deportation to Cuba.

AP/ TEARS OF HOPE: hostage Linda Calhoun (left) cries as she talks to reporter Wednesday at prison in Talladega, Ala.

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Company: FBI; PHOENIX DICHTUNGSTECHNIK GMBH; FUJAIRAH BUILDING INDUSTRIES P S C; FBI SA; FRIESLAND BANK INVESTMENTS BV

News Subject: (Social Issues (1SO05); Criminal Law (1CR79); Legal (1LE33); Civil Unrest (1CI11); Kidnapping (1KI55); Judicial (1JU36); Top World News (1WO62); Prisons (1PR87); Crime (1CR87); World Conflicts (1WO07); Global Politics (1GL73))

Region: (Cuba (1CU43); Caribbean (1CA06); North America (1NO39); USA (1US73); Americas (1AM92); Florida (1FL79); Latin America (1LA15); U.S. Southeast Region (1SO88))

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Other Indexing: (FBI; PDT; TALLADEGA; TALLADEGAFEDERAL; UNITED STATESARE) (Ala; Bishop AugustinRoman; Gary Leshaw; Kitty Suddeth; Rafael Penalver; TheCubans; William Barr)

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Former Air Force Official Victor Cohen Pleads Guilty to Felonies in Ill Wind Scandal.

Federal Contracts Report

August 26, 1991

Cite: 56 Fed. Cont. Rep. (BNA) 9;

Section: NEWS.

Length: 823 words

Topic: Fraud,

Body

Victor Cohen, a former deputy to the Air Force's Assistant Secretary for Acquisition, Aug. 22 pleaded guilty to conspiracy and bribery charges in connection with the Operation Ill Wind defense procurement fraud scandal, U.S. Attorney for the Eastern District of Virginia Kenneth Melson announced.

The guilty plea marks the 50th conviction resulting from Ill Wind, Acting Attorney General William Barr noted. In addition, it represents the second major Ill Wind plea agreement in the past three months. Former Assistant Secretary of the Navy Melvyn Paisley June 14 pleaded guilty to felony charges of conspiracy, receiving a bribe, and conveying government property without authorization in connection with Ill Wind, and is awaiting sentencing *(55 FCR 855).*

Cohen, who formerly served as a deputy for tactical warfare systems in the Office of the Assistant Secretary, misused his government position to benefit corporate clients of former defense consultant William Galvin, Melson said. Specifically, Cohen helped Loral Corp. continue producing a particular radar warning receiver on a sole source basis, and provided the contractor with valuable procurement-sensitive information for another contract, the U.S. attorney noted. Galvin last year pleaded guilty to conspiracy, bribery and tax evasion *(53 FCR 458).* Loral likewise pleaded guilty to conspiracy in connection with its efforts to obtain the radar warning receiver contracts, and paid a $ 1.5 million fine *(52 FCR 1058).* The contractor also paid the government $ 3 million to settle potential civil claims, and reimbursed the government $ 1.3 million in investigation costs.

Further, Cohen illegally provided assistance to Sperry Corp.--and to corporate successor Unisys Corp., Melson said. According to the U.S. attorney, Cohen joined with Paisley to cause the Navy to select Unisys as contractor for part of a traffic landing and control system. In addition, Cohen helped Unisys obtain other contracts in return for compensation. In furtherance of this scheme, former Sperry/Unisys executive Charles Gardner and Galvin invited Cohen to Switzerland, and saw to it that a Swiss bank account was opened for him, Melson observed. Gardner pleaded guilty in 1989 to conspiracy charges *(51 FCR 463),* and agreed to cooperate in the Ill Wind investigation.

Cohen faces a maximum sentence of 20 years in prison and a $ 500,000 fine. His sentencing is scheduled for Dec. 6.

Conspiracy Charges

According to a criminal information released by Melson, Cohen was charged with conspiracy to defraud the government, commit bribery of a public official, and convey without authorization valuable government property. By virtue of his position as deputy for tactical warfare systems, Cohen had the ability to influence--and did influence--the award of certain major contracts, the information said.

As part of the conspiracy, Cohen agreed to use his position to assist Galvin's clients influence DOD procurement decisions and obtain confidential source selection data, the information noted. This data was subsequently relayed by Galvin to his client contractors. Both Loral and Sperry/Unisys agreed, as part of the conspiracy, to pay extra money to Galvin, a portion of which was ultimately forwarded to Cohen, according to the information.

The information further indicated that Galvin represented both Loral and competitor Litton Industries. In connection with one radar warning receiver contract, Cohen evaluated both contractors' facilities, and reported the results to Galvin (see *51 FCR 3).* Galvin, in turn, reported the results of the Litton evaluation--as well as details concerning design of the Litton prototype. Moreover, the U.S. attorney indicated that Cohen had aided Sperry/Unisys in obtaining a contract for a marine air traffic control and landing system. According to the information, Gardner and Galvin met with Cohen and requested his assistance. They paid for his meals and lodging on several occasions, and arranged to purchase one of his cars at a grossly inflated price. Specifically, the car was purchased for more than $ 17,000 by a company controlled by Gardner and funded by Unisys; the auto was sold a year later for less than $ 4,500.

In addition, the information stated that Cohen had accompanied Gardner and Galvin to Geneva, where a Swiss bank account was opened for him. The account was to be a depository for the money which Cohen was to receive for his assistance to Sperry/Unisys on the marine air traffic control system and other procurements.

Paisley was alleged to have participated in the conspiracy by blocking contract award to a Sperry/Unisys competitor, according to the information. Further, it was alleged that he met with Gardner and Galvin regarding a strategy to require a second round of best and final offers, thus giving Sperry/Unisys another opportunity to win the contract.

Cohen agreed to cooperate with the government in the continuing Ill Wind investigation. His cooperation includes answering questions and interrogatories, providing documents to investigators, testifying before grand juries and giving sworn testimony in future court trials.

The plea agreement emphasizes that any sentence imposed is within the judge's discretion. The U.S. attorney's office indicated that it would advise the judge of the nature and extent of Cohen's cooperation with prosecutors. The agreement also stated that the government would not object to Cohen serving any jail term at a minimum security federal prison.

End of Document

8/23/91 L.A. Times 40
1991 WLNR 3880361

Los Angeles Times

August 23, 1991

Section: MN-Main News

Ex-Official Enters 'Ill Wind' Guilty Plea

Defense: It marks the 50th conviction obtained under the probe of Pentagon procurement fraud. He faces 20 years in jail at sentencing Dec. 6.

ERT L. JACKSONTIMES STAFF WRITER

TIMES STAFF WRITER

WASHINGTON

A former high-ranking Air Force official pleaded guilty Thursday to accepting bribes and conspiring to defraud the government in the Operation Ill Wind investigation of Pentagon procurement fraud.

Acting Atty. Gen. William P. Barr said the guilty plea by Victor D. Cohen was the 50th conviction obtained under the Ill Wind probe, which has been handled by the Naval Investigative Service, the FBI and the U.S. attorney's office in Alexandria, Va.

Cohen, who was deputy assistant Air Force secretary, faces a maximum penalty of up to 20 years in prison and fines of up to $500,000. He will be sentenced on Dec. 6 by U.S. District Judge Claude M. Hilton. His plea agreement with the government requires Cohen to "cooperate fully" with authorities in prosecuting others.

Cohen, 55, is the second-highest former Pentagon official to plead guilty in the scandal. He was outranked only by Melvin R. Paisley, a former assistant secretary of the Navy, who pleaded guilty to similar charges in June.

Court papers stated that Cohen, in return for favors, payments and the promise of additional funds, "improperly influenced procurement decisions" and provided "sensitive information" to selected companies to help them obtain Pentagon contracts.

Assistant U.S. Atty. Joseph Aronica said he could not estimate the dollar value of Cohen's bribe-taking because it included all-expense-paid overseas trips financed by defense contractors and the promise of additional funds that never were received. At one point, Cohen opened a Swiss bank account to receive illicit payments, but no funds ever reached it, Aronica said.

Documents filed by Aronica showed that Cohen dealt mainly with William M. Galvin, a private consultant who pleaded guilty to bribery and corruption charges last year. Working on behalf of Loral Electronics Corp. of Yonkers, N.Y.,

one of Galvin's clients, the two men "agreed that Galvin would make a financial arrangement with Loral for Cohen's assistance from which they would both benefit," court papers said.

Loral has paid $5.7 million in fines and civil penalties for its role in the scandal.

Cohen also received bribes from Charles F. Gardner, an employee of Sperry and its successor, Unisys Corp., the papers said. Unisys is expected to enter a guilty plea in the next few weeks and pay heavy fines, according to sources familiar with the case.

Describing one episode, court papers said, Gardner had called Galvin in May, 1987, and reported that Cohen "told him that Unisys had been awarded a $482,000 contract."

"Gardner joked that it had cost the company one and a half million dollars to win a half-million dollar contract, but he then stated that it was the start of $9 million," the papers said.

Among the favors received by Cohen were London theater tickets, payment of a $1,166 Paris hotel bill and the purchase of his 1979 Mercedes Benz for $17,800, a car that a Unisys executive later repaired and resold for only $4,225.

So far, 45 individuals and five corporations have been convicted in Ill Wind, an investigation that became public in June, 1988, when federal agents served four dozen search warrants at homes and offices across the nation. Officials said the probe actually had begun secretly in 1986 with a tip from a former Marine Corps official.

---- Index References ----

Company: UNISYS CORP

News Subject: (Crime (1CR87); Fraud Report (1FR30); Social Issues (1SO05); Major Corporations (1MA93))

Industry: (I.T. (1IT96))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (AIR FORCE; ASSISTANT U S ATTY; EX OFFICIAL ENTERS; FBI; LORAL; LORAL ELECTRONICS CORP; MARINE CORPS; NAVAL INVESTIGATIVE SERVICE; NAVY; PENTAGON; SPERRY; UNISYS; UNISYS CORP) (Acting Atty.; Aronica; Claude M. Hilton; Cohen; Documents; Galvin; Joseph Aronica; Melvin R. Paisley; Victor D. Cohen; William M. Galvin; William P. Barr; Working)

Keywords: DEPARTMENT OF DEFENSE (U.S.) -- CONTRACTS; FRAUD; OVERCHARGING; BRIBERY; POLITICAL CORRUPTION; MILITARY EQUIPMENT AND SUPPLIES; AIR FORCE (U.S.); COHEN, VICTOR D

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NewsRoom

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August 20, 1991

Section: Domestic

Moody Sentenced To Seven Life Sentences in Mail-bomb Deaths

MARY R. SANDOK

ST. PAUL, Minn.

Walter Leroy Moody Jr., convicted in the mail-bomb deaths of a federal judge and a civil rights lawyer, was sentenced today to life in prison without possibility of parole.

"The punishment imposed is the most severe authorized by law," U.S. District Judge Edward Devitt said, adding that Moody's "egregious conduct calls for the maximum penalty."

The sentences on various counts comprised seven life sentences without possibility of parole and other sentences totaling 400 years, to be served concurrently.

Defense attorney Edward Tolley said a notice of appeal was filed immediately after sentencing.

Moody, 58, of Rex, Ga., said nothing during the hearing. He was convicted in June of all charges contained in a 71-count federal indictment, in a trial that was moved to Minnesota partly because of pretrial publicity in the Southeast.

Acting U.S. Attorney General William P. Barr praised the sentences as "a just, successful conclusion to the investigation and prosecution of heinous crimes that shocked the nation."

Moody was accused of mailing pipe bombs in December 1989 that killed 11th U.S. Circuit Judge Robert S. Vance at his home in Mountain Brook, Ala., and civil rights lawyer Robert E. Robinson at his office in Savannah, Ga.

Moody also was accused of mailing a bomb intercepted at the federal court in Atlanta; mailing a bomb intercepted at the NAACP

office in Jacksonville, Fla.; and mailing a tear-gas bomb that went off in the Atlanta office of the National Association for the Advancement of Colored People. No fatal injuries occurred in that blast.

Prosecutors said Moody had a vendetta against the court system because of a 1972 conviction on charges of possessing pipe bombs, a conviction that was upheld on appeal by the 11th Circuit Court of Appeals, and because he thought blacks got preferential treatment in the courts.

The pipe bombs involved in the 1972 case was made in the same unusual design used in the 1989 bombings, prosecutors said.

Moody was the sole witness in his defense. In several days of testimony, which was given against the advice of his lawyer, Moody blamed the bombings on the Ku Klux Klan and said he was unwittingly used by a former attorney to get parts of the bombs.

---- Index References ----

News Subject: (Civil Rights Law (1CI34); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05))

Region: (USA (1US73); Americas (1AM92); Minnesota (1MI53); North America (1NO39); Georgia (1GE15))

Language: EN

Other Indexing: (11TH CIRCUIT COURT OF APPEALS; KU KLUX KLAN; NAACP; NATIONAL ASSOCIATION; ST; US CIRCUIT) (Edward Devitt; Edward Tolley; Moody; Moody Sentenced; Robert E. Robinson; Robert S. Vance; Walter Leroy Moody Jr.; William P. Barr)

Word Count: 446

End of Document

8/14/91 Wash. Post (Wash., D.C.) A14
1991 WLNR 4903003

Washington Post, The (Washington, D.C.)

August 14, 1991

Section: A Section

U.S. 'POWER' ON ABDUCTIONS DETAILED; CONTROVERSIAL JUSTICE DEPT. MEMO ASSERTS AUTHORITY TO ACT OVERSEAS

Michael Isikoff

A 1989 Justice Department opinion concluded that "serious threats" to U.S. domestic security from "international terrorist groups and narcotics traffickers" would justify the president to violate international law by ordering abduction of fugitives overseas, according to a copy of the opinion obtained by The Washington Post.

Although the general findings of the memorandum have been known for nearly two years, the 29-page opinion outlining the department's Office of Legal Counsel's reasoning has never been disclosed.

It asserts that the president and attorney general have "inherent constitutional power" to order a wide range of law enforcement actions in foreign countries without the consent of foreign governments, even if they violate international treaties.

It also argues that "as a matter of domestic law, the executive has the power to authorize actions inconsistent" with U.N. charter provisions barring use of force against member nations.

Such decisions are "are fundamentally political questions," the opinion states, and therefore do not constrain the chief executive in fulfilling his law enforcement responsibilities.

The Office of Legal Counsel opinion, written by then-assistant and soon-to-be acting attorney general William P. Barr, has been at the center of controversy for nearly two years.

Along with a later opinion concluding that the U.S. military could make arrests overseas, it was relied on by Bush administration officials in launching the December 1989 invasion of Panama.

But critics have charged that it amounts to a dangerous extension of Justice Department authority overseas in violation of international law.

Justice Department officials have consistently refused to release the June 21, 1989, opinion, contending that its public dissemination would inhibit department lawyers writing internal opinions.

They said it also had the potential to harm the government's position in pending cases, including the upcoming trial of ex-Panamanian dictator Gen. Manuel Antonio Noriega, by giving defense lawyers ideas about possible weaknesses in the government's arguments.

Last month, the House Judiciary Committee voted to subpoena a copy of the document, setting up an angry confrontation between the panel and Attorney General Dick Thornburgh.

While department officials first said that President Bush "was prepared to assert executive privilege" in defiance of the subpoena, they later sought to negotiate a compromise that would include permitting some members of the panel to review the opinion without publicly releasing a copy.

A committee lawyer said yesterday that the subpoena has been "suspended but not dissolved" as a result of the department's offer to negotiate a compromise. Barr, who is slated to take over the department Thursday because of Thornburgh's resignation to run for the U.S. Senate from Pennsylvania, said yesterday that he was "disappointed" a reporter had obtained a copy of the opinion, but declined further comment.

As Barr has previously testified to Congress, the opinion, written as a memo to Thornburgh, discusses only the issue of legal authority for overseas abductions, and not "the serious policy considerations that may weigh against carrying out such operations."

But the opinion also suggests that there may be some legal constraints on such actions.

It concludes that the attorney general as well as the president have inherent "executive power" to authorize overseas operations without foreign government consent.

But it recommends that such authority not be designated to lower-ranking officials because such operations are "political decisions affecting our international relations" and the legal basis for them may, therefore, be weaker if exercised by subordinates.

The opinion vigorously challenges a 1980 opinion written by then-Assistant Attorney General John M. Harmon concluding that the FBI has no authority to forcibly apprehend fugitives overseas without the consent of foreign governments.

That opinion was "erroneous," the Barr memorandum states, and could limit even "routine" investigations overseas and thereby hamper efforts to combat terrorists and drug-trafficking organizations that are increasingly "targeting" U.S. citizens.

"Unfortunately, some foreign governments have failed to take effective steps to protect the United States from these predations, and some foreign governments actually act in complicity with these groups," the Barr opinion states.

"Accordingly, the extraterritorial enforcement of United States laws is becoming increasingly important to the nation's ability to protect its own vital national interests," the document said.

Another section of the opinion extends the scope of the 1980 opinion by concluding that the arrest by FBI agents of suspects overseas in violation of foreign laws would not violate the Fourth Amendment of the U.S. Constitution.

The Justice Department opinion is considered especially sensitive in light of a ruling by the U.S. Court of Appeals in San Francisco last month that concluded that the U.S. government cannot kidnap people from foreign countries and prosecute them over the other country's objections.

or even contempt of 'values.' Far from being an alternative to leftist activism, it readily compliments {sic} it, as long as a majority approves."

Instead, Thomas suggests, those interpreting the Constitution should look to the "higher law" principles of equality expounded in the Declaration of Independence.

By refusing to do so, he said, "the right leaves us with an amoral Constitution. On the other hand, the left gives us a Constitution into which morality and decency must be injected (by liberal activist judges, among other worthies). Like an AIDS victim, the American Constitution is susceptible of acquiring whatever moral or political disease currently rages. It has no moral or political immune system."

The antidote, Thomas said, is "a true jurisprudence of original intent" that takes the Declaration into account, offering "both moral backbone and the strongest defense of individual rights against collectivist schemes, whether by race or over the economy."

states are exerting pressure to slow the negotiations over a hostage exchange because they want to make sure Palestinian prisoners in Israel are included, Washington Post correspondent Nora Boustany reported. "The deal is going on nonstop, but our brothers are counseling patience," the source said, in reference to an unnamed Arab government. He added: "Every day is a step forward, not a step backward." 'Hidden Knots' Remain

Meanwhile, Mohammed Hussein Fadlallah, a senior Shiite religious authority in Lebanon, told Boustany in a telephone interview that there are still "hidden knots to be untied" in the negotiations. "The key is in the hands of the {U.N.} secretary general and in the ability of the United States to goad Israel in the right direction," he said.

Perez de Cuellar said he discussed the hostage issue for two hours Monday with Iran's U.N. ambassador, Kamal Kharrazi. U.N. sources said Kharrazi, who is based in New York, flew to Tehran today carrying Perez de Cuellar's response to a letter given him Sunday from the Islamic Jihad organization, which holds some of the Western hostages. The letter offered an across-the-board release of Western hostages in exchange for Arab prisoners held in Israel and Europe.

Perez de Cuellar said that in meeting with Kharrazi, "I explained to him what I have already done, and I asked them to continue helping me in my efforts." He added: "Iran has been very, very useful to me in all this process."

Asked about Islamic Jihad's reference to Arab prisoners held in Europe, Nadia Yunes, Perez de Cuellar's spokeswoman, said she understood the fate of Arabs held in various European countries "is a juridical rather than a diplomatic problem." Although she gave no further explanation, her remark could suggest that the hostage release on all sides would not include persons sentenced by European courts.

In Jerusalem, Yohanan Bein, one of the Israeli officials negotiating with Perez de Cuellar, told army radio that "various questions were put to us" by the U.N. chief and that the government was formulating responses.

Bein and another Israeli official, Uri Lubrani, met with Perez de Cuellar Sunday night, then returned here for consultations. Lubrani, a veteran Israeli clandestine operative, is the coordinator for Lebanese affairs in the Defense Ministry; Bein is in charge of U.N. affairs at the Foreign Ministry.

Israeli officials said tonight that Lubrani will also be accompanied in talks with Perez de Cuellar Wednesday by Ori Slonim, a lawyer who has worked with the Defense Ministry on the hostage issue and has served as a liaison with the families of the missing Israelis.

Interviewed today by Israeli radio, Bein sounded a positive note. "The grounds for optimism," he said, "is that, contrary to the past, this time the initiative {for a hostage exchange} came from organizations and states, states that were involved in terrorism in the past. And it seems they are interested to get over with the problem of hostages, all over."

Asked if Perez de Cuellar sympathized with Israel's insistence that its servicemen be included in any swap, Bein replied: "I think the secretary general not only understands, but agrees. . . . He understands that if Israel is asked to pay the price for whatever deal will be done regarding Western hostages it must be very clear that Israel must be included in the negotiations."

Lubrani and other senior officials have said repeatedly that Israel would be willing to release all of the Shiite prisoners held by the South Lebanese Army, a militia it controls in southern Lebanon. In addition, the government says it will swap Sheik Abdul Karim Obeid, a militant Shiite cleric seized by Israel in a commando raid on his home in Lebanon two years ago.

Sources said Israel has drawn up a list of the Lebanese prisoners it controls, most of them held in a jail in Khiam, in the "security zone" Israel occupies in southern Lebanon. The list would be passed to the United Nations if negotiations on an exchange move forward, sources said.

Reports by Israeli radio and several Israeli newspapers quoted official sources as saying that if the Lebanese groups are prepared to cooperate, a two-step process could be arranged for the release of hostages. In the first stage, the newspapers Maariv and Haaretz said, Israel would agree in principle to release its Shiite prisoners in exchange for information on its servicemen. Israeli radio said some of the prisoners would be freed right away.

According to the reports, Israel would be prepared to accept information on its soldiers through the International Red Cross, or even by videotape.

In the second stage, the papers said, surviving Israeli servicemen and the remains of those who died, along with the Western hostages, would be released in exchange for the remaining Lebanese Shiites in Israel's possession, including Obeid.

Defense Ministry spokesman Danny Naveh refused to comment on the reports. But he said that if Israel receives news about its servicemen, "we will be able to move the process forward."

Palestinian leader Jibril, in his interview with CNN, also outlined what he said was a two-stage swap that Hezbollah would like to implement. Jibril said that the Arab prisoners held by Israel fall into two categories: some are kidnapped civilians, others are fighters who were caught trying to penetrate Israel.

Having made that distinction, Jibril outlined the phased deal that he said Hezbollah would like to make. In the first stage, the Arab civilians would be exchanged for the Western hostages. In the second stage, Palestinian and Lebanese fighters held by Israel would be exchanged for the three Israeli soldiers who are alive. Tehran Radio Accusation

Tehran radio today accused Israel of blocking the hostage negotiations by insisting on the return of its servicemen. It also said Obeid could be released on Saturday. But Israeli spokesman Naveh denied the report.

Washington Post correspondent John M. Goshko reported from the United Nations:

Diplomatic sources at the United Nations said that over the last few months, Israel and Iran had been discussing through third parties the same kind of exchange that Perez de Cuellar now is trying to work out.

The sources said that the earlier contacts between Jerusalem and Tehran were carried out through intermediaries at the United Nations and in various European capitals.

But, the sources added, these contacts failed to make headway because of the same problem that now looms as the principal obstacle confronting Perez de Cuellar: Iran's unwillingness or inability to satisfy Israel's insistence on information about the fate of its missing servicemen in Lebanon.

In fact, the sources said, some U.N. officials believe that the Islamic Jihad's release of its letter proposing a broad-scale exchange of prisoners resulted from an Iranian decision to abandon quiet diplomacy and try instead to stir world opinion into putting pressure on Israel.

The sources said that throughout the latest effort to end the hostage affair, the United States has chosen to take a passive, low-key role. That, they said, was due to the fact that the lingering repercussions of the Iran-contra scandal have, as one source said, "made the Bush administration holier than holy about following its vow not to negotiate with terrorists."

U.S. sources added that the United States, while clearly hopeful of a resolution, feels its best strategy is to leave negotiations to Perez de Cuellar.

---- Index References ----

Company: FUJAIRAH BUILDING INDUSTRIES P S C; FBI SA; JUSTICE; UNITED NATIONS JOINT STAFF PENSION FUND; UNITED NATIONS; US SENATE; AL JUMHURIYYAH AL LUBNANIYYAH; JUSTICE DEPARTMENT; US COURT OF APPEALS

News Subject: (Social Issues (1SO05); Legal (1LE33); Judicial (1JU36); International Issues (1IN59); World Organizations (1IN77); Government (1GO80); Criminal Law (1CR79); International Terrorism (1IN37); Kidnapping (1KI55); United Nations (1UN54); Top World News (1WO62); Crime (1CR87); International Law (1IN60); Regulatory Affairs (1RE51))

Region: (Lebanon (1LE68); Western Asia (1WE54); Central America (1CE62); Americas (1AM92); USA (1US73); Panama (1PA92); Gulf States (1GU47); Iran (1IR40); Palestine (1PA37); Israel (1IS16); Mediterranean (1ME20); North America (1NO39); Asia (1AS61); Arab States (1AR46); Middle East (1MI23); Latin America (1LA15))

Language: EN

Other Indexing: (AIDS; AMERICAN CONSTITUTION; ARAB; CNN; CONGRESS; DEFENSE MINISTRY; FBI; FOREIGN MINISTRY; HEZBOLLAH; HOUSE JUDICIARY COMMITTEE; INTERNATIONAL RED CROSS; ISLAMIC JIHAD; JIBRIL; JUSTICE; JUSTICE DEPARTMENT; KAMAL KHARRAZI; LEBANESE; LEBANESE ARMY; OBEID; OFFICE OF LEGAL COUNSEL; PALESTINIAN; PEREZ; SHEIK ABDUL KARIM OBEID; SHIITE; UN; US COURT OF APPEALS; US SENATE; UNITED NATIONS) (Barr; Bush; Cuellar; Danny Naveh; Dick Thornburgh; Haaretz; John M. Goshko; John M. Harmon; Kharrazi; Lubrani; Manuel Antonio Noriega; Mohammed Hussein Fadlallah; Nadia Yunes; Naveh; Ori Slonim; Perez; Perez de Cuellar; Thomas; Thornburgh; Uri Lubrani; William P. Barr; Yohanan)

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NewsRoom

Acting Attorney General Known for Political Savvy, Legal Mind

The Associated Press

August 8, 1991, Thursday, PM cycle

Section: Washington Dateline

Length: 646 words

Byline: By JAMES ROWLEY, Associated Press Writer

Dateline: WASHINGTON

Body

The day President Bush gave the secret order for the U.S. invasion of Panama, William P. Barr was wearing a highland kilt and playing the bagpipes at Attorney General Dick Thornburgh's Christmas party.

Barr, now the deputy attorney general and in line to be the acting attorney general when Thornburgh resigns to run for the Senate, interrupted the performance of his top-ranked pipe band for a quick briefing from his boss.

"I was playing my bagpipes and the A.G. had just come back from the White House," Barr recalled Wednesday in an interview. "He whispered in my ear: 'You are going to have a long night tonight.'"

"I said 'South of the Border?'"

"He winked, so I knew what was happening at that point," Barr said.

After the party, "I had to go home to change and go to the Situation Room" at the White House where top administration officials monitored the Dec. 20, 1989, invasion.

Barr, who was an assistant attorney general in charge of the department's Office of Legal Counsel, wrote legal opinions justifying the arrest of deposed Panamanian dictator Manuel Noriega by U.S. military forces.

He also wrote a still-secret legal opinion that authorizes FBI agents to kidnap fugitives overseas without getting permission of foreign governments.

Barr's performance as head of OLC helped catapult him last year to the No. 2 job in the Justice Department at the relatively young age of 40.

Barr is generally credited with helping end a period of rough political sledding for Thornburgh, who feuded with Congress and the press.

Now, as Thornburgh prepares to leave the Justice Department to run for the Senate in Pennsylvania, Barr has been tapped to be the acting attorney general and is in the running to be his boss' permanent replacement.

On Wednesday, White House spokesman Marlin Fitzwater told reporters traveling with Bush in Kennebunkport, Maine, that Barr would be acting attorney general after Thornburgh's resignation, expected next week.

Other candidates mentioned as possible successors to Thornburgh include Missouri Gov. John Ashcroft, U.S. Trade Representative Carla Hills and Transportation Secretary Sam Skinner.

But Barr's close ties to top White House officials could work in his favor if Bush is looking for continuity at the Justice Department.

A member of the legal staff to the Domestic Policy Council in the Reagan White House, Barr worked for Bush's 1988 presidential campaign and left private law practice to join the transition team.

As head of Office of Legal Counsel and later as deputy attorney general, Barr has worked closely with White House Counsel C. Boyden Gray and other top officials close to the president.

Washington attorney Michael M. Uhlmann, for whom Barr worked in the Reagan administration, attributed his friend's success at the Justice Department to "the consistently good quality of his judgment."

"He is first and foremost a very good lawyer," Uhlmann said.

Although a conservative who staunchly defends presidential prerogatives, Uhlmann says Barr is no ideologue. "He doesn't read from a text to decide what he is to do."

Known to friends and colleagues for his self-deprecating humor, "there is no starch in his shirt," Uhlmann said. "He takes serious things seriously, but not himself."

A native of New York City, Barr came to Washington to work at the CIA in 1973 armed with bachelors and masters degrees from Columbia University in Chinese studies.

Barr worked as a junior staff member in the legislative affairs office when Congress was investigating CIA misconduct and George Bush headed the agency.

Barr attended George Washington law school at night while working at the CIA. He won a coveted federal appellate court clerkship with then-Circuit Judge Malcolm Wilkey, a conservative jurist who headed the Office of Legal Counsel at the Justice Department in the Eisenhower administration.

End of Document

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Seattle Times (WA)

August 8, 1991

Section: NEWS

TOP DEPUTY HIGH IN LINE TO SUCCEED THORNBURGH

JAMES ROWLEY AP

WASHINGTON

The day President Bush gave the secret order for the U.S. invasion of Panama, William Barr was wearing a highland kilt and playing the bagpipes at Attorney General Dick Thornburgh's Christmas party.

Barr, now the deputy attorney general and in line to be the acting attorney general when Thornburgh resigns to run for the Senate, interrupted the performance of his top-ranked pipe band for a quick briefing from his boss.

"I was playing my bagpipes and the A.G. had just come back from the White House," Barr recalled yesterday. "He whispered in my ear: 'You are going to have a long night tonight.'

"I said 'South of the Border?'

"He winked, so I knew what was happening at that point."

After the party, "I had to go home to change and go to the Situation Room" at the White House where top administration officials monitored the Dec. 20, 1989, invasion.

Barr, who was an assistant attorney general in charge of the department's Office of Legal Counsel, wrote legal opinions justifying the arrest of deposed Panamanian dictator Manuel Noriega.

He also wrote a legal opinion authorizing agents to kidnap fugitives overseas without getting permission of foreign governments.

Barr's performance as head of the Office of Legal Counsel helped catapult him last year to the No. 2 job in the Justice Department at the relatively young age of 40.

Barr is generally credited with helping end a period of rough political sledding for Thornburgh, who feuded with Congress and the press.

Now, as Thornburgh prepares to leave the Justice Department to run for the Senate in Pennsylvania, Barr has been tapped to be the acting attorney general and is in the running to be his boss' permanent replacement.

White House spokesman Marlin Fitzwater told reporters traveling with Bush in Kennebunkport, Maine, yesterday that Barr would be acting attorney general after Thornburgh's resignation, which is expected next week.

A member of the legal staff to the Domestic Policy Council in the Reagan White House, Barr worked for Bush's 1988 presidential campaign and left private law practice to join the transition team.

As head of the Office of Legal Counsel and later as deputy attorney general, Barr has worked closely with White House Counsel C. Boyden Gray and other top officials close to the president.

Other possible candidates include Gray, Missouri Gov. John Ashcroft, U.S. Trade Representative Carla Hills, federal appeals court Judge Edith Jones, Solicitor General Kenneth Starr, Transportation Secretary Samuel Skinner and former California Gov. George Deukmejian.

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Government (1GO80))

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Other Indexing: (COUNSEL C BOYDEN GRAY; DOMESTIC POLICY COUNCIL; GRAY; JUSTICE DEPARTMENT; OFFICE OF LEGAL; OFFICE OF LEGAL COUNSEL; REAGAN WHITE HOUSE; SENATE; TRANSPORTATION; US TRADE REPRESENTATIVE CARLA HILLS; WHITE HOUSE) (Barr; Bush; California Gov; Dick Thornburgh; Edith Jones; George Deukmejian; Kenneth Starr; Manuel Noriega; Marlin Fitzwater; Missouri Gov; Samuel Skinner; Thornburgh; TOP DEPUTY HIGH; William Barr)

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Justice Dept. Denies Charges It Moved Sluggishly in Bank Case

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Byline: By DAVID JOHNSTON,

By DAVID JOHNSTON, Special to The New York Times

Dateline: WASHINGTON, July 28

Body

On Sept. 9, 1988, in a surreptitiously recorded conversation at the Grand Bay Hotel in Miami's the Coconut Grove section of Miami, Amjad Awan, an executive of the<biBank of Credit and Commerce International<ei, confided to an undercover Federal agent: "We own a bank based in Washington., It's called First American Bank."

Nearly three years later, Mr. Awan's admission of the financial relationship -- one long concealed from banking regulators -- is emerging as a fragment of evidence that critics of the Justice Department say should have resulted in criminal prosecutions long ago.

Federal prosecutors at the department have been assailed by accusations in Congress and elsewhere that they possessed evidence of possible crimes for years but moved sluggishly and failed to follow up solid leads. And Senator John F. Kerry, Democrat of Massachusetts, who led a Congressional investigation of the bank, said that until recently the Justice Department displayed "a continuing lack of appetite" for the bank case.

Examination by Morgenthau

Some law enforcement officials said the department seemed to display what they viewed as a stony streak of prosecutorial hubris in refusing to cooperate with Mr. Kerry and Robert M. Morgenthau, the Manhattan District Attorney. Mr. Morgenthau is examining whether the bank lied to New York State banking authorities when it applied to operate in New York.

Lawyers who have followed the investigation closely speculated that Federal prosecutors may have been quietly waved away from the case by the Central Intelligence Agency, which, according to published accounts, used the bank to pay for covert operations. The C.I.A. says there was no illegal use of agency funds at the bank and William H. Webster, the Director of Central Intelligence, has ordered the agency's inspector general to review the extent of C.I.A. dealings with the bank.

Other people said the Justice Department moved slowly because it was baffled by the magnitude and complexity of the fraud unfolding at a $23 billion banking institution with offices in nearly 70 countries.

Both Assertions Denied

Justice Department officials denied both assertions, and Attorney General Dick Thornburgh and other senior officials started an unusually public campaign to defend their investigation, insisting that they reacted promptly and aggressively to accusations of serious crimes at the bank.

Mr. Thornburgh and his aides have noted that Federal prosecutors in Tampa convicted Mr. Awan on money-laundering charges last year. Other law enforcement officials said Mr. Awan's tape-recorded comments, made public at his trial, were passed on to the Federal Reserve Board were intensively investigated.

Five people were convicted in the Tampa case, and the bank itself pleaded guilty and was fined $14.8 million. Justice Department officials said the investigation had widened to Atlanta, Miami and Washington.

In response to news accounts asserting that the bank had engaged in a blaze of lawlessness worldwide, Mr. Thornburgh sounded a little skeptical. "We will thoroughly examine all credible allegations, but the Justice Department prosecutes cases only on the basis of legally admissiable evidence sufficient to convince a judge and jury beyond a reasonable doubt that specific crimes have been committed," he said. "It does not take action merely upon rumors and hearsay."

Some Thornburgh supporters suggested that the criticism of the department was at least slightly tinted by politics, noting that Mr. Morgenthau and Mr. Kerry are Democrats while Mr. Thornburgh is a Republican who may soon resign from the Cabinet to run as the party's candidate for the Senate from Pennsylavania.

Others said the department was a big and easy target, unable to open its investigative files to refute critics looking for a scapegoat. The bank's accusers say it operated for years as a criminal enterprise without running afoul of prosecutors.

"Our investigatory efforts are necessarily confidential," said William P. Barr, the Deputy Attorney General. "As a result we are often unable to respond to unfounded criticism while they are ongoing. When our efforts produce results, the critics rarely admit they were wrong."

Questions on Intensity and Scope

Nevertheless, the complaints about the department's handling of the case raise questions about the intensity and scope of its investigation.

Jack A. Blum, an investigator on Mr. Kerry's staff who is now a lawyer in Washington, said Federal prosecutors took no action when he turned over to them in March 1989 a taped conversation he conducted with another senior B.C.C.I. official in Miami who made explicit accusations about a broad array of crimes at the bank that went far beyond the money-laundering charges then being pursued. Mr. Blum declined to identify the bank official but said in an interview that he had, among other things, clearly outlined the relationship between B.C.C.I. and First American Bankshares, the Washington-based bank holding company in which B.C.C.I. owned a secret controlling interest.

Robert S. Mueller 3d, who heads the Justice Department's criminal division, which is supervising the Federal investigation, disputed Mr. Blum's assertion. "I can assure you the assertions of the witness were and are being pursued," he said.

Mr. Blum said he took his findings to Mr. Morgenthau, who began his own investigation of the bank's operations in New York.

Motivation From Fed

Findings from Mr. Morgenthau's inquiry, along with private audits of the bank and a separate investigation by the Federal Reserve Board prompted the Federal Reserve to refer complaints of criminal misconduct to the Justice Department in January. Some officials said it was the Fed's action that finally motivated the department to put its full weight behind a broad investigation of the bank.

In testimony to a Senate banking subcommittee two months ago, Mr. Morgenthau said the Justice Department had been unresponsive to his requests for cooperation, denying him documents and sometimes failing to return his phone calls about the case.

More recently, lawyers familiar with Mr. Morgenthau's investigation said, Justice Department officials had advised witnesses and banking authorities in England to be wary of the New York investigation, asserting that Mr. Morgenthau lacked jurisdiction to conduct a wide-ranging inquiry.

"At no time were we telling people in England not to cooperate with Bob Morgenthau," Mr. Mueller said. "We are pursuing our investigation. Bob is pursuing his." He acknowledged, however, that there had been friction with the New York prosecutor. He is scheduled to meet this week with Mr. Morgenthau, who has moderated his complaints with the prospect of a coordinated Federal-state inquiry. "I am hopeful," Mr. Morgenthau said, "that we can work out cooperation."

Under Fire for Letter

The Justice Department has also come under fire for a letter written by a senior agency official in February 1990 to Florida bank regulators asking that they permit "certain accounts" to be maintained at B.C.C.I. after the bank pleaded guilty in the Tampa money-laundering case.

On Feb. 13, 1990, Charles Saphos, who headed the department's narcotic and dangerous drug section in the criminal division, wrote to Florida bank regulators who were considering whether to allow the bank to retain its operating license. Mr. Saphos wrote that the department was "requesting that B.C.C.I. be permitted to operate in your jurisdiction with the understanding that certain accounts may be maintained by the bank at the request of the Department of Justice which otherwise would be closed to avoid legal and regulatory violations."

On Feb. 16, Mr. Saphos wrote another letter to Florida bank regulators in which he apologized for any "ambiguity" in his previous letter and said that the department "is not requesting that you permit B.C.C.I. to be licensed."

Department officials insist that the letters were not an effort to influence Florida banking officials on behalf of the bank, which was later denied a license. But some lawmakers have criticized the department, saying that it improperly put pressure on state regulators.

Representative Henry B. Gonzalez, Democrat of Texas and chairman of the House Banking Committee, said on Friday that the letter raised "new and serious questions about the Justice Department's handling of the B.C.C.I. scandal."

$3.4 Billion Trade Snarl

LONDON, July 28 (AP) -- About $3.4 billion in world trade has been snarled by the collapse of the Bank of Credit and Commerce International, with as many as 100 ships unable to hand over their cargoes, a shipping newspaper, Lloyd's List, has reported.

Lloyd's said on Friday that the delays had resulted because documents that determine ownership of the cargoes were trapped at the bank. An official of Touche Ross, the accounting firm that is the bank's provisional liquidator, said that up to 40 specialists were working to resolve the issue. Britain's major commercial banks had sent their own experts over to help out with the hundreds of documents, the Touche Ross official said.

Graphic

Photos: Attorney General Dick Thornburgh, whose Justice Department has been accused of moving slowly in investigating the Bank of Credit and Commerce International. Robert M. Morgenthau, the Manhattan District Attorney, is examining whether the bank lied to New York State banking authorities when it applied to operate in New York. (Photographs by Associated Press)

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1991 WLNR 2108308

USA Today (USA)

June 25, 1991

Section: NEWS

JUSTICE DEPARTMENT RUNNING WELL, OFFICIALS SAY

Sam Vincent Meddis

The Justice Department is operating normally, despite Attorney General Dick Thornburgh's plans to run for the Senate, top officials say.
"The attorney general's plans have had no impact - not a ripple - on the day-to-day operations of the department," says its No. 2 official, Deputy Attorney General William Barr. "It's strictly business as usual."

Some current and former staffers even say the prospect of Thornburgh leaving to run for the Senate seat of the late Pennsylvania Republican John Heinz has had a positive effect.

"If anything, Thornburgh's announcement boosted morale," claims Bruce Fein, a former department official and Thornburgh critic.

A longstanding gripe among some in the department's bureaucracy has been that Thornburgh surrounded himself with overprotective aides, "and that has created a sense that Thornburgh is aloof," says Fein.

But Fein and others in Washington legal circles say they've observed no turmoil.

"I haven't sensed anything bad," says former U.S. attorney in Washington, Joseph diGenova. "There's the normal wondering about who may be the next attorney general."

Some legal experts say Thornburgh should step down immediately to avoid what they see as an appearance of a conflict of interest - a perception that legal judgments might be swayed by political considerations.

But Thornburgh, rejecting such claims, has refused calls from congressional Democrats to resign.

"I am unaware of anything that we are currently handling that would give rise to even the appearance of a conflict," says Assistant Attorney General Robert Mueller, criminal division chief.

Department officials say Thornburgh will refrain from campaigning, including fund-raising. And Barr will handle any business involving Pennsylvania that would have come to Thornburgh.

Meanwhile, Thornburgh shows no signs of being distracted by his potential Senate run, says Assistant Attorney General Stuart Gerson, civil division chief.

In recent weeks, Thornburgh has maintained a high profile - for example, acting as a visible player in the Bush administration's wrangling with Congress over new crime legislation, gun control and civil rights.

"I see him as engaged and I see people here moving forward," Gerson says. "I see him whenever I want to see him and find him attentive to what I'm doing."

CUTLINE: THORNBURGH: Plans reportedly have 'no impact'

PHOTO
b/w,Barry Thumma,AP

NOTES: WASHINGTON AND THE WORLD

---- Index References ----

News Subject: (Judicial (1JU36); Legal (1LE33); Government (1GO80))

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Language: EN

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AGENTS SAY FBI HAS ADOPTED HIRING, PROMOTION QUOTAS

Sharon LaFraniere

In his 3 1/2 years as FBI director, William S. Sessions has picked his way through a minefield of racial resentments in hopes of erasing his agency's legacy of discrimination.

Over the objections of many white FBI officials, he decided not to appeal a federal judge's ruling that the bureau discriminated against Hispanic agents. He settled another suit brought by a black agent who suffered racial threats. This spring, he began investigating whether black agents are routinely denied promotions.

But in the past two weeks, Sessions has come face to face with what may be the most trying aspect of his whole ordeal: the need to reconcile his efforts to hire and promote more minorities with the Bush administration's policies.

Emboldened by President Bush's campaign against "unfair job preferences," some white agents are challenging what they see as special treatment of minority and female job applicants. While Bush threatens to veto the Democrats' civil rights bill on the basis that it would lead to quotas, the agents claim the FBI is applying quotas itself -- reserving one-quarter of the spots in each new class of agents for minorities and another quarter for women.

While Bush insists legislation must leave employers free to hire the most qualified applicant, these agents claim the FBI lowers the minimum test and interview scores for minority and female applicants in order to fill its goals or quotas.

At two FBI field offices last week, agents gathered to discuss the growing controversy. Roughly 200 agents cast ballots on resolutions against racial and sexual quotas and goals in hiring or promotion at a lunch-hour meeting of the Washington chapter of the agents' professional association. The results are not yet available. Agents in Miami held a similar meeting.

On Friday, the FBI announced it is reviewing its hiring policies, with the help of the Justice Department's civil rights division. Deputy Attorney General William P. Barr said the department wants "to ensure that the bureau's hiring policy is consistent with both the law and the department's policy."

At the same time, the bureau took steps to remove the issue from the public spotlight. Requests for information about hiring and promotion policies were turned down. FBI officials first prepared, then scrapped, a 1 1/2-page statement saying Sessions is concerned about "an unacceptable lack of diversity among agents" but is committed to hire "only exceptionally qualified" applicants.

For Sessions, a quiet-mannered former federal judge, the growing outcry from white agents infinitely complicates the racial conundrum before him. The white agents are complaining about the hiring system mainly because they fear he will build racial preferences into the promotion system, making it harder for them to advance.

But if he doesn't alter promotion policies, Sessions risks a class-action suit from the black agents and another legal determination that the bureau systematically discriminates against racial minorities. "These are very ticklish situations," said one administration official. "Bill, to his credit, is trying to solve the problems, but it's not a good situation."

The White House is of little help because while Bush has seized every opportunity to decry quotas and unfair preferences, he has never spelled out what he considers acceptable measures to increase hiring and promotion of minorities.

Both black and white agents claim promotions depend too much on subjective assessments and personal loyalties of superiors, who "hook" their favorites up the career ladder. "The hook is alive and well in the FBI," one white agent said.

A highly critical study conducted for the bureau earlier this year by Psychological Services Inc. said the criteria for winning a promotion vary greatly, depending on who is making the decision, what the job is and who applies.

"The single most important selection criterion is the candidate's reputation . . . which is based on unstandardized and informal evaluations and which is undocumented," the study found.

The bureau's black agents contend the old-boy network hurts them more, because there is only a handful of minorities in supervisory or management positions. Only one of the FBI's more than 55 field offices is headed by a black agent. Another is headed by a Hispanic agent who won a discrimination suit.

"If we were all treated fairly and objectively, we wouldn't have to do all this," said one senior FBI official who believes black agents' complaints are justified. "But white people don't see a problem."

In an initial list given to Sessions, a group of the bureau's 468 black agents cited 19 concerns about promotions and assignments. Among them: Jobs are filled before the openings are announced; job descriptions are tailored for a specific individual; black agents receive disproportionately lower performance reviews and assessments of their potential for management; black agents are routinely left out of "blue chip" or high-profile investigations, and black agents are routed to urban areas.

David Shaffer, an attorney from Arnold & Porter who represents the black agents on a pro-bono basis, and Joe Sellers, of the Washington Lawyers Committee for Civil Rights Under Law, are analyzing bureau records for statistical support for the black agents' allegations.

While they don't know what remedies they might seek, Shaffer said, "These black agents don't want any special favors. They want to make their own way just like everyone else."

But some white agents fear special favors are exactly what Sessions has in mind. "Previously it was only hiring, and people didn't care because it was going on below them," said one white agent. "But under Sessions it's going to involve promotions. . . . Now it's time to make things even, so they're going to take my job and give it to the son of someone that they discriminated against 20 years ago."

"We're just talking basic fairness," said Larry Langberg, a foreign counterintelligence agent in Los Angeles who heads the FBI Agents Association. The nongovernmental group, which includes about 5,800 of the bureau's 9,890 agents, is expected to address the issue of hiring and promotion policies at a national meeting later this month.

"If the facts show there is discrimination, then that has to be changed. We want that straightened out. But we don't want anyone receiving special treatment based on race or gender," Langberg said.

Some agents are already calling on the bureau to revise its hiring policies, saying they fly in the face of Bush's philosophy.

According to James Perez, the bureau's equal opportunity officer, the minimum passing score on a written test is three points lower for minority and female applicants than it is for white males with no special qualifications, like a law or accounting degree.

Other agents claim female and minority applicants get a two-point boost on interviews, allowing them a total advantage of five points out of 100 over white males with no special qualifications. With about 8,000 applicants this year for 600 openings, "for every quarter-point you are talking large numbers of people," Langberg said.

Some agents also claim the bureau decides how many female and minority agents it wants to hire and adjusts the minimum scores to achieve it. "It's a quota system," said Hugo A. Rodriguez, a former agent who served as an applicant recruiter for the FBI for five years between 1978 and 1987.

"Somehow they would decide they want so many blacks, or so many Hispanics. Then they would go down the list until they got that number," said Rodriguez, who helped represent the Hispanic agents in their discrimination suit and now serves as a federal public defender.

For Sessions, the bureau's success in hiring minority and female agents has been a point of pride; although the bureau is still overwhelmingly composed of white males, 10 percent of agents are female, 4.7 percent are black and 5.3 percent are Hispanic.

In Sessions's second year as director, 21 percent of agents hired were female, and 22 percent were minorities. Last year, 19 percent of agents hired were minority and 20 percent were female, a slight drop Sessions attributed to the need to hire more accountants to investigate savings and loan fraud.

In some ways, the competing forces Sessions faces are reflected in the views of the candidates to head the Washington chapter of the agents' professional group.

In a statement to his colleagues, one candidate stressed the "extreme importance" that the FBI be free of discriminatory acts. A second, a woman, said "the FBI must hire only the best qualified, regardless of race or sex." A third issued a plea to agents "to find and hold onto the common ground."

d by what they see as a new upsurge in organized criminal activity in smuggling Chinese and the spread of that activity outside New York. "I have a very serious concern about what's going to happen in the next few years," Nicholl said.

---- Index References ----

Company: PSYCHOLOGICAL SERVICES INC; FUJAIRAH BUILDING INDUSTRIES P S C; FBI SA; ARNOLD AND PORTER LLP; JUSTICE DEPARTMENT

News Subject: (Social Issues (1SO05); Legal (1LE33); Minority & Ethnic Groups (1MI43))

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June 8, 1991

STOP COMPLAINING, STEPHENS TELLS JUDGES; FEDERAL JURISTS BRISTLE WHEN U.S. ATTORNEY SUGGESTS THEY DON'T WORK VERY HARD

Tracy Thompson

WILLIAMSBURG, JUNE 7 -- A long-running feud between U.S. Attorney Jay B. Stephens and some federal judges in Washington flared anew at a judicial conference here today when Stephens suggested the judges don't work that hard and shouldn't complain that he is loading dockets with small drug cases. Stephens presented an eight-page statement saying federal judges in the District do not spend most of their time on drug trials. He said figures taken from the court's 1990 annual report show that judges spend an average of 13 hours a week in the courtroom, only five or six of them in criminal trials.

He said their complaints are an effort to ignore Americans' decision to be tough on drug crime. "I think the American public has expressed itself very clearly," Stephens told the judges during a panel discussion at the annual conference of the D.C. Judicial Circuit. "While the court may be willing to substitute its judgment, that's not the way the system works." Stephens's remarks angered several judges. U.S. District Judges Harold Greene and Stanley Harris, who were on a panel with Stephens and joined him in a 90-minute debate, criticized him for not cooperating more with judges. Outside the conference room, the reaction was more angry. "From January until now I've been {in criminal trials} virtually all the time," said U.S. District Judge Stanley Sporkin. "To tell me I'm spending five hours a week is ridiculous." The exchange was the latest in a two-year-old debate about Stephens's policy of channeling hundreds of drug cases from D.C. Superior Court to federal court to take advantage of stiffer federal penalties. The debate also has also flared nationally. Stephens's policy reflects Justice Department strategy. Across the country, judges say, the emphasis on federal prosecution of drug cases -- small and large -- is swamping them with petty criminal trials and preventing them from deciding complex civil and constitutional lawsuits. "I hate to sound elitist, but that's what federal courts are supposed to be -- elitist," said one federal judge from Washington. Stephens said courts in the District are not so congested as other big-city federal courts. He said the judges' complaints were not so much about congestion but about sentencing policies they have no control over. "They're blaming congestion, but in fact they don't like the kinds of cases they're getting and the kinds of penalties they are having to impose," he said. The panel discussion, moderated by Washington lawyer Vincent H. Cohen, centered on a fictitious youngster named Tony, whom Cohen sketched as a first offender from New York caught in Union Station carrying six grams of crack cocaine to the District for his neighborhood drug dealer in exchange for $300. The panel was debating whether he should be tried in federal court and, if so, whether the mandatory minimum sentence of five years is too harsh. Those issues have reverberated across the country as federal courts have struggled to deal with the influx of drug cases, tougher federal sentences and defendants who have nothing to lose by going to trial. Since 1980, according to the U.S. Administrative Office of the Courts, the number of drug prosecutions in federal courts nationally has jumped 300 percent. But the problem of crowded criminal dockets is especially acute in the District, where federal courts also serve as a national forum for many types of civil cases, such as Freedom of Information Act lawsuits, environmental

groups' challenges to Interior Department regulations, lawsuits stemming from failed savings and loans institutions and federal prisoner lawsuits asserting violations of civil rights. There is no independent way to measure judges' schedules, but the conference's annual report noted a 42 percent increase in time spent on criminal trials in the past year. The press of criminal cases also is beginning to be felt at the D.C. Circuit Court of Appeals, long known as the nation's premier court for interpreting federal administrative law -- and second only to the U.S. Supreme Court in constitutional issues such as those presented in the Iran-contra case against Oliver L. North. The portion of the court's docket taken up by criminal cases has gone from 13 percent to 18 percent from 1989 to 1990, according to court statistics, and many of those criminal cases are not the stuff of legal legend. "These are the kinds of drug cases which are not challenging to your intellect," said Chief Judge Abner Mikva, who was appointed by President Carter. He, like many other judges at the Williamsburg conference, including several Reagan appointees, questioned the Justice Department's strategy in the war on drugs. "If this is such a major assault on drug traffickers, why haven't we seen more drug kingpin cases?" he asked. Handling a succession of cases against small-fry couriers busted at Union Station, he said, "hardly suggests a successful assault on the drug trade." "I think {Stephens} is trying to push a noodle uphill," said another Reagan appointee to the court, who requested anonymity. But Stephens said that of the nation's 94 federal courts, the District's ranks 79th in the number of criminal cases handled by each judge. In both criminal and civil cases, he said, the caseload is the lowest it has been here in five years. He said that federal judges in Alexandria handle about twice the number of criminal cases that federal judges in Washington do, but the federal judiciary in Alexandria is famed for its "rocket docket," so called because of the speed with which those judges move cases along. In an interview, Stephens suggested that the federal court in the District may need more judges. Deputy Attorney General William P. Barr, a top aide to Attorney General Dick Thornburgh, defended Justice's get-tough policy. "Sometimes the prosecution of the {drug courier} in Charles Town, West Virginia, helps us target the organization in Columbus, Ohio," he said, referring to the department's policy of leniency for low-level offenders who turn in leaders of drug organizations. He said sending 19-year-old Tony to jail for five years is proper "retributive justice." "I don't consider it an unjust sentence to put a courier like that in jail for five years," Barr said. "The punishment fits the crime."

---- Index References ----

Company: STEPHENS INVESTMENT MANAGEMENT LLC

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Region: (Americas (1AM92); USA (1US73); U.S. Midwest Region (1MI19); North America (1NO39); Ohio (1OH35))

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Department of Justice

APRIL 9, 1992

ATTORNEY GENERAL BARR'S STATEMENT AT NORIEGA PRESS CONFERENCE

GOOD AFTERNOON. DEA ADMINISTRATOR ROB BONNER AND I HAVE BRIEF STATEMENTS AND THEN TWO OF US, ALONG WITH BOB MUELLER, ASSISTANT ATTORNEY GENERAL FOR THE CRIMINAL DIVISION, WILL ATTEMPT TO ANSWER SOME OF YOUR QUESTIONS.

THE CONVICTION OF FORMER PANAMANIAN DICTATOR MANUEL NORIEGA ON 8 COUNTS OF RACKETEERING, DRUG TRAFFICKING AND CONSPIRACY IS AN HISTORIC ACCOMPLISHMENT AND A GREAT VICTORY FOR THE RULE OF LAW AND FOR THE AMERICAN PEOPLE.

THIS DAY WAS MADE POSSIBLE BY PRESIDENT BUSH'S COURAGEOUS DECISION TO BRING TO AN END THE CORRUPT AND LAWLESS REGIME OF THE DICTATOR NORIEGA.

I WANT TO COMMEND THE INVESTIGATIVE AND PROSECUTORIAL TEAM HEADED BY ASSISTANT UNITED STATES ATTORNEY PAT SULLIVAN FOR THEIR SUPERB PROFESSIONALISM AND SKILL IN BRINGING THIS CASE TO A SUCCESSFUL CONCLUSION.

JUDGE HOEVELER OBSERVED THAT IT WAS THE BEST PREPARED CASE HE HAD SEEN. WE ARE VERY PROUD OF OUR TEAM.

I ALSO WANT TO COMMEND THE JURY FOR THEIR SACRIFICE AND HARD WORK, AND THEIR FAITHFUL DELIBERATIONS.

I ALSO WANT TO EXPRESS APPRECIATION TO FEDERAL DISTRICT COURT JUDGE HOEVELER FOR HIS STEADY AND FAIR OVERSIGHT OF THIS TRIAL.

WHEN GENERAL NORIEGA WAS INDICTED NEARLY FOUR YEARS AGO, FEW OBSERVERS BELIEVED THAT THIS DAY WOULD EVER COME. MANY REGARDED THE INDICTMENTS AS BEING FUTILE. MANUEL NORIEGA, TODAY STANDS CONVICTED IN A UNITED STATES DISTRICT COURT.

THIS IS AN IMPORTANT MESSAGE TO THE DRUG LORDS: THERE ARE NO SAFE HAVENS; THEIR WEALTH AND THEIR FIREPOWER CANNOT PROTECT THEM FOREVER.

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NewsRoom

4/7/91 Hous. Chron. A22
1991 WLNR 4423389

Houston Chronicle

April 7, 1991

Section: A

Trouble at INS/INS foul-ups point to borderline management/ Head of agency loses power, relegated to caretaker's role

DAN FREEDMAN

WASHINGTON

WASHINGTON - The Immigration and Naturalization Service was the furthest thing from Gene McNary's mind in 1989 when he set his sights on getting a top-level job in the Bush administration, according to two of his colleagues.

McNary, the St. Louis County chief executive who had run George Bush's local campaign in 1988, thought his friendship with the president's brother, William T. "Bucky" Bush, and cousin, George Herbert Walker, would land him something higher than a midlevel bureaucracy, said sources, who spoke on condition of anonymity.

But when McNary was asked to head the long-troubled INS, he and his aides in St. Louis put their disappointment aside and looked for a silver lining.

They knew the INS had serious problems with regional offices mired in political intrigue and subject to little control from Washington.

And, although he had no experience with the intricacies of U.S. immigration law, McNary believed he could "make his name by centralizing and restructuring a federal agency, stopping the cowboys in the regions," said one of the sources. McNary arrived at the INS at just about the worst possible time. The agency was suffering from "chaotic" budget-making, "deplorable" financial controls and a management style that created "fragmentation" bordering on anarchy, as the U.S. General Accounting Office would later find.

Now, 17 months after he arrived, the INS is quietly being overhauled. But the commissioner is not leading the charge, according to sources familiar with the agency's inner workings. Rather, McNary is little more than a caretaker, with the hard decisions being made by his overseers at the Justice Department.

From the outset, these sources say, McNary's White House connections did him little good with his boss, Attorney General Dick Thornburgh.

Relations between McNary and the Justice Department hit bottom last November when memos by INS General Counsel William Cook were leaked. The memos to Deputy Attorney General William P. Barr characterized McNary as a "press-release politician" who uses the technique of "ready, fire, aim" in announcing initiatives to the press without clearing them first with the Justice Department.

McNary, who declined to be interviewed, fired Cook as a result of the memos.

In attacking problems at the INS, McNary shunned the advice of experienced INS officials and alienated some of his overseers at Justice, especially with his practice of announcing new policies without prior approval, INS and Justice sources said.

McNary is said to resent Justice's takeover of the restructuring of INS, arguing that his own efforts were not fully appreciated.

Barr, Justice's No. 2 official who is in charge of reordering the INS, defended the department's move.

"McNary had taken some positive steps, but all concerned agreed that more had to be done because these problems were longstanding," he said.

From the time McNary took office in October 1989, he saw centralization as the key element of reorganization.

His aides developed a plan that stripped the once-powerful regional commissioners' offices of much of their role in day-to-day operations. No longer would there be baronial local commissioners calling the shots in defiance of Washington, aides reasoned.

But INS officials in the field protested that McNary was using past excesses to institute a system in which local INS decisions would be made from Washington.

Thornburgh also feared that the plan would overcentralize the INS. Last November, he appointed Norman Carlson, former director of the U.S. prison system, to head a team in creating a new plan for the INS.

One administration official, who spoke on condition of anonymity, said a balance had to be struck between INS officials micromanaging everything from Washington and field officers operating completely on their own.

Another area not adequately addressed by McNary was control of the agency's finances, the official said.

At the end of 1989, there was a $94 million gap between what the INS accounting system said it had and what INS reported as its balance to the U.S. Treasury.

A Justice Department audit issued in August 1990 found repeated instances in which the INS paid twice for the same goods or services.

Two audits earlier this year by the GAO, the main investigative arm of Congress, documented "weak" controls over revenues and expenses, and computer systems so outmoded that information often could not be exchanged among the regions or between the regions and Washington.

Under the Carlson plan, the Justice Department is going outside the INS to bring in six experienced managers of federal programs to revamp the service's bookkeeping, computers and budget, the administration official said.

Three INS career officials responsible for these areas already have been told they will be replaced.

Justice officials also are stepping up the rotation of INS officers in and out of headquarters as a way of broadening their experience and combating parochialism.

These changes have raised the usual high level of grousing within INS headquarters to a rancorous pitch, with some INS officials predicting privately that McNary will be forced out.

However, higher-ranking officials say that for now, the commissioner and his departmental overseers are working together in an atmosphere of chilly detente and that McNary's job is safe.

---- Index References ----

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In Justice Dept. of the 90's, Focus Shifts From Rights

The New York Times

March 26, 1991, Tuesday, Late Edition - Final

Distribution: National Desk

Section: Section A;; Section A; Page 1; Column 1; National Desk; Column 1;

Length: 1994 words

Byline: By DAVID JOHNSTON, Special to The New York Times

By DAVID JOHNSTON, Special to The New York Times

Dateline: WASHINGTON, March 25

Body

After a decade of Republican stewardship, the Justice Department has grown in manpower and budget but has lost its pre-eminence as the driving force for social change and the center of legal thinking in the Government.

Legal experts credit Attorney General Dick Thornburgh with trying to reverse a legacy of turmoil, distrust and diminished influence left by his immediate predecessor, Edwin Meese 3d.

But Mr. Thornburgh has not reclaimed for the Justice Department the power and influence that have steadily shifted to White House legal counsels since 1981. And in the view of legal observers like Warren Christopher, a Deputy Attorney General in the Administration of President Lyndon B. Johnson, "the office awaits full restoration" to the central role it played in both Democratic and Republican administrations in the 1960's and 70's.

Civil rights leaders in particular are critical of the greatest single change from the Justice Department of the 1960's and 70's -- the shift to what they see as an upside-down policy of using laws that were originally passed to expand the rights of blacks and are now being used to limit their ability to get special consideration in employment and education.

A Fundamental Change

But Justice Department veterans from both parties say Mr. Thornburgh has backed away from what they call the zealous attack on civil rights laws that took place under President Ronald Reagan and his first two Attorneys General, William French Smith and Mr. Meese.

And in muting the stormy ideological crusades of the 1980's and decreasing the emphasis on civil rights law, he has overseen a fundamental shift in the department's agenda. Driven by national concern about crime and drugs and, more recently, fraud in the savings and loan industry, the Justice Department now tilts heavily toward criminal law-en- forcement activities. Justice Department officials and outside experts cite these developments as significant areas of change at the department:

*The department's budget has grown, from $2.3 billion in 1981 to more than $10 billion this year, largely as the result of spending increases since the mid-1980's to build prisons, hire more law-enforcement personnel and increase the number of Federal prosecutors to 4,000, from 2,500, by the end of 1991.

*The increasing emphasis on drugs and crime has affected the nature of the Attorney General's job itself. While many of his predecessors served as Presidential confidants, Mr. Thornburgh has devoted more time to managing the department's budget and its 80,000 employees. And because of the increasingly international nature of drug trafficking and crime, he has spent more effort working with the legal authorities in other countries. Mr. Thornburgh says he spends 40 percent of his time on such issues.

*Some branches like the antitrust division and the environment division, which atrophied in the Reagan years, have grown more aggressive since Mr. Bush took office. One recent example of the change is the department's case against the Exxon Corporation over the Exxon Valdez oil spill in southeastern Alaska in 1989, which recently culminated in a settlement in which the company agreed to pay a $100 million criminal fine and spend $900 million on cleanup efforts.

*The Reagan Administration's efforts to reshape the Federal judiciary by appointing conservative judges have continued under Mr. Bush. Like other areas of legal policy, the critical job of selecting Federal judges is often split between the department and the White House, but the White House exerts firm control over the most important appointments, like the selection of David H. Souter as an Associate Justice of the Supreme Court.

*The civil rights division, which focused on discrimination against minorities under Presidents John F. Kennedy, Johnson, Richard M. Nixon and Jimmy Carter, changed course dramatically under Mr. Reagan. Instead of launching broadly gauged anti-discrimination suits, it began challenging affirmative action plans and other race-conscious remedies to discrimination that fostered what was called "reverse discrimination" against whites.

In practice, the division has recently toned down its approach, focusing on disability rights and more narrowly drawn voting rights and housing discrimination cases, although Mr. Thornburgh has done little to alter the philosophical thrust of his predecessors.

Last year the department used the reverse discrimination argument to urge the Supreme Court to strike down a Federal Communications Commission program granting minorities preferential treatment in the ownership of broadcasting stations.

An Attorney General Seeking His Niche

At the center is the Attorney General himself. Mr. Thornburgh remains an enigmatic personality whose roller coaster political fortunes have left the onetime Rockefeller Republican shifting to the right on legal policy matters as he seeks a place in the Administration heirarchy.

Powerful aides to President Bush, including John H. Sununu, the White House chief of staff, and C. Boyden Gray, counsel to the President, have sometimes overshadowed Mr. Thornburgh in policy making that affects the Justice Department, as well as other domestic agencies like the Department of Health and Human Services and the Environmental Protection Agency.

Over all, the department's visibility has declined under Mr. Thornburgh. His personal influence within the Administration remains hazily defined, and his standing as a political figure in the nation's capital has yet to recover from a disappointing start.

When Mr. Thornburgh was appointed Attorney General in 1988, career attorneys at the department, worn down by the strain of the Meese era, welcomed his arrival. But his decision to manage the department through a handful of longtime personal aides, who often short-circuited conventional lines of authority, antagonized senior officials in the department.

Mr. Thornburgh also suffered setbacks in important personnel appointments, highlighted by the departure of Donald B. Ayer, his first deputy, who left with a blast of criticism about his superior's performance. More recently, the conviction last month of Henry G. Barr, a close personal aide, for cocaine use, embarrassed the Attorney General, who has made drug enforcement a high priority.

His early stumbles, an imperious style and an unwillingness to court Democrats who control the Senate and House Judiciary committees, which oversee the department, all seemed to undercut a Cabinet member whose aides came to Washington with plans to position him as a possible Presidential contender. But Mr. Thornburgh's supporters say he has finally assembled a team of assistants chosen for competence rather than loyalty and is reclaiming a role in the Administration.

Reasserting Primacy On Legal Judgments

Mr. Thornburgh maintains he has reasserted the department's traditional primacy in providing legal advice to the White House. "We don't get second-guessed on legal judgments," he said in an interview.

In response to critics who say that the Attorneys General of the Reagan and Bush Administrations no longer fulfill their role as anchors of the Government's legal policy, Mr. Thornburgh described policy making in the Bush White House as a collegial process.

"We are all here to serve the President," he said. "If the President wants advice on how best to combat an element of crime, say the savings and loan problem, he looks to us. We make recommendations, and I don't think we've ever been turned down.

"On civil rights we work closely with the people who are calling the policy shots at the White House, but the legal work is done here," he continued. "Supreme Court appointments are probably a little different. That's the President's appointment, and everybody circles the wagons to serve him."

But other Justice Department veterans say there has been a slippage in the role of the Attorney General, a governmental official and a department that from the 1950's to the 80's often dominated social, legal and political discussions at the White House.

The change is partly a consequence of Mr. Bush's priorities. In an Administration like Mr. Bush's, whose central focus has been foreign affairs, the Attorney General is often relegated to a secondary role, some experts say.

Other Factors Seen In Loss of Influence

William P. Rogers, Attorney General under President Dwight D. Eisenhower and Secretary of State under Mr. Nixon, said a series of events like Watergate also damaged the standing of the department.

"Part of the problem has been that the Department of Justice has had its ups and downs to the point where for a long time it didn't command the same respect that it did before. After all, you had one Attorney General sent to jail." He was referring to John N. Mitchell, who in 1975 was convicted of conspiracy, lying under oath and obstruction of justice in his role in the Watergate affair.

Harold R. Tyler Jr., a Deputy Attorney General in the Ford Administration when Mr. Thornburgh headed the department's criminal division, said one reason that the department seems to emphasize law enforcement is that Mr. Thornburgh seems at home with such issues.

"Most of his thinking process is on law enforcement," Mr. Tyler said, "and in many ways he's no different that when he was running the criminal division."

Terrence B. Adamson, an aide to Griffin B. Bell, Mr. Carter's first Attorney General, said that as a general principle the changes at the Justice Department in the last decade "are the product of Presidential elections," and added: "They represent the policy choices of the campaign and the President. Clearly, the de-emphasis of civil rights was a product of Presidential politics."

Nicholas deB. Katzenbach, who was Attorney General under Mr. Johnson from 1964 to 1967, said independence of the office has eroded. "It seems to me that the Attorney General ought to be somebody in whom the President has a great deal of confidence," he said, "and that has been undermined."

Shifting the Focus Of Criminal Law

The shift toward law enforcement has been accompanied by an underlying effort in the Bush Administration to alter the fundamental balance of criminal law away from the rights of criminal defendants, which expanded when Earl Warren was Chief Justice of the United States.

"Republicans have sought to reverse two decades of liberal activism and bring the law more into the mainstream," said William P. Barr, the Deputy Attorney General. "While this effort is largely succeeding, perhaps the main unfinished business is the criminal law, where society's ability to protect itself from crimes still suffers from the excesses of the Warren Court."

The Administration's recently introduced crime bill, which was written by Justice Department officials, incorporates several of the flashpoint criminal justice themes. Among them are an expansion of the number of Federal crimes punishable by death, limitations on appeals by death row inmates and an easing of restrictions on the admissability of improperly obtained evidence in court.

Mr. Thornburgh and other Administration officials have linked the President's anticrime legislation to civil rights, seemingly in response to criticism that Mr. Bush has yet to clearly set forth his policies on minority rights after his threat to veto, as he did last year, a civil rights bill designed to cushion the impact of six Supreme Court rulings that limit the ability of employees to prove job discrimination.

In a recent speech, Mr. Thornburgh borrowed from the language of the civil rights movement to express what many current and former officials regard as the department's main goal: "to meet the legitimate expectations of the American people to protect their first civil right, the right to be free of fear, in their homes, on their streets and in their communities."

Graphic

Photo: Dick Thornburgh (The New York Times) (pg. A1)

Graph: "Paying for Justice" shows the Justice Department's budget for fiscal years, and the corresponding increase in the Consumer Price Index, from '75-'90. (Source: Justice Department) (pg. A20)

Load-Date: March 26, 1991

U.S. ATTORNEY TO DISTRIBUTE $947,044 IN EQUITABLE SHARING CHECKS TO 26 LAW ENFORCEMENT AGENCIES

PR Newswire

March 20, 1991, Wednesday - 09:57 Eastern Time

Section: State and Regional News

Length: 810 words

Dateline: BOSTON, March 20

Body

United States Deputy Attorney General William P. Barr, United States Attorney for the District of MassachusettsWayne A. Budd, Drug Enforcement Administration Boston Field Division Special Agent-in-Charge Kevin Gallagher, and United States Marshal Thomas B. Nixon announced today that they will present $947,044.17 in equitable sharing checks to 26 law enforcement agencies. The $947,044.17 is comprised of 52 disbursements resulting from 30 separate seizure matters. This amount represents the largest aggregate distribution of forfeited assets ever made in the District of Massachusetts.

These checks represent the state and local agencies' equitable share of the net proceeds from forfeitures in numerous drug-related cases. The forfeitures were the direct result of joint investigations conducted by federal, state, and local law enforcement agencies. The recipients and the total amount of money to be distributed to each agency are listed below:

Recipient	Amount
Massachusetts State Police	$351,233.78
Freetown Police Department	$184,182.30
Quincy Police Department	$89,168.08
Suffolk County D.A. Office	$68,875.90
Norwood Police Department	$56,136.00
Metropolitan District Police	$54,468.59
Newburyport Police Department	$34,620.00
Westfield Police Department	$11,048.24
Watertown Police Department	$10,120.82
Burlington (VT) Police Department	$9,518.00
Hartford (VT) Police Department	$9,518.00
Barre (VT) Police Department	$9,518.00
Rutland (VT) Police Department	$9,518.00
Vermont State Police	$9,418.00
Stowe (VT) Police Department	$9,418.00
Rowley Police Department	$7,922.00
Virginia Beach (VA) Police Department	$6,792.82

U.S. ATTORNEY TO DISTRIBUTE $947,044 IN EQUITABLE SHARING CHECKS TO 26 LAW ENFORCEMENT AGENCIES

Hudson (NH) Police Department	$4,532.39
Brookline Police Department	$3,692.86
Lowell Police Department	$3,021.59
Wilmington Police Department	$1,510.80
Leominster Police Department	$1,282.50
Boston Police Department	$1,227.50
Colchester (VT) Police Department	$100.00
Newport (VT) Police Department	$100.00
So. Burlington (VT) Police Department	$100.00

Total: $ 947,044.17

Many of these forfeiture cases were investigated under the direction of several joint task forces spanning the New England region. The Logan Airport Drug Courier Interdiction Program, which brings together members of the DEA and the Massachusetts State Police, is an example of how the combined strength of various law enforcement agencies is utilized to combat drug trafficking. Of the money disbursed today, $195,175.70, or 21.6 percent of the total amount, is the result of this highly successful program. Other cooperative efforts among the various law enforcement entities include the Boston Drug Enforcement Task Force, the Lynn Drug Task Force, and the Vermont State Police Drug Task Force.

The significance of these checks is the enormous impact they will have in supplementing the efforts of the various law enforcement agencies. At a time when budget constraints are forcing police departments to curtail expenditures, these equitable shares will brighten what otherwise could be a bleak picture for many police departments across New England.

Reflecting on the importance of these forfeiture cases, U.S. Attorney Wayne A. Budd stated, "These cases exemplify how cooperation among various law enforcement agencies enables the federal government to divest major drug traffickers of their illegally acquired assets and return a large portion of those assets to local law enforcement agencies so they may continue and expand their efforts".

All of the judicial forfeiture cases were prosecuted by the United States Attorney's Office Asset Forfeiture Division.

CONTACT: Susan Hicks Spurlock of the U.S. Attorney's Office, 617-223-9445

DOWN THE HALL; Inadmissible

Legal Times

March 11, 1991 Monday

Section: Pg. 30; Vol. 13

Length: 173 words

Body

Inadmissible

Thomas Boyd is relinquishing the reins of the Justice Department's Office of Policy Development for a spot on the staff of Deputy Attorney General **William Barr.** Boyd, a four-year Justice veteran, leaves his post as director of OPD to become an associate deputy under Barr effective March 10. Boyd sees his new job as a step up. I view this as a promotion. he says. But on the bureaucratic ladder, it's essentially a lateral move, and he remains below the rank of assistant attorney general for the Office of Legislative Affairs, a post he held before coming to the policy office. Boyd's latest tenure was marked by some grumbling that he encroached on the Office of Legislative Affairs' turf, but he insists that he enjoyed the best of relations with his legislative counterparts. Barr says the move is part of a plan to change the mission of the policy office. Tom has done an outstanding job. says Barr. But there's been a feeling that OPD should become more of a think tank. We wanted to use Tom in a more operational role.

Load-Date: April 17, 2011

Justice Department Budget Includes More Funds to Fight Contract Fraud.

Federal Contracts Report

February 11, 1991

Cite: 55 Fed. Cont. Rep. (BNA) 172

Section: NEWS: Fraud.

Length: 352 words

Body

The Justice Department's fiscal 1992 budget request includes $633 million to combat procurement fraud and other white collar crimes, Deputy Attorney General William Barr announced Feb. 4. This amount represents an 18 percent increase over the $534 million budgeted by DOJ to investigate and prosecute white collar crimes in FY 1991, he said.

The FY 1992 budget increase will fund 419 additional staff positions, thus augmenting DOJ's resources to prosecute procurement fraud, as well as savings and loan fraud, public integrity cases, tax fraud, and securities law violations, Barr noted. The FBI will experience the greatest increase in manpower, gaining 347 new positions, including 171 field agents, he said. The FBI in recent years has undertaken more investigations in the procurement fraud area, including the Operation Ill Wind probe in conjunction with the Naval Investigative Service.

DOJ will devote increasingly greater resources to prosecuting S&L cases in FY 1992, Barr reported. He stated that 208 of the 419 new positions, including 72 more attorneys, will be working in this area at the FBI, the U.S. attorneys' offices, and DOJ's criminal and tax divisions.

Nevertheless, a number of new staff positions will be specifically allocated to combatting procurement fraud, Barr said. For example, 15 new prosecutors at the U.S. attorneys' offices will be focusing on procurement fraud and other white collar crimes, he noted. In addition, DOJ's Civil Division will be gaining 18 prosecutors for affirmative civil litigation, which includes intervention in qui tam cases brought under the 1986 False Claims Act Amendments.

Further, Justice's Criminal Division will allocate eight new staff positions -- including five attorneys -- to the prosecution of procurement fraud cases, Assistant Attorney General Robert Mueller stated.

Overall, the DOJ budget request of $10.6 billion represents a 14 percent increase from FY 1991, Barr observed. "If this request is enacted, the Department of Justice's budget will have grown by 58 percent during the first three years of the Bush Administration."

JUSTICE DEPTARTMENT DROPS PROBE INTO POLICE BRUTALITY, REPORTS CATHOLIC LEAGUE FOR RELIGIOUS AND CIVIL RIGHTS

PR Newswire

February 6, 1991, Wednesday - 14:49 Eastern Time

Section: Washington Dateline

Length: 770 words

Dateline: WASHINGTON, Feb. 6

Body

The Catholic League for Religious and Civil Rights issued the following:

The Justice Department has decided not to bring criminal charges against police accused of using unnecessary force in arresting anti-abortion demonstrators in Pittsburgh, San Diego, Los Angeles, and West Hartford, Conn., a Justice Department official has told the Catholic League for Religious and Civil Rights.

The department's investigation into charges of brutal treatment during arrests in front of abortion centers failed to uncover enough evidence for convictions, Deputy Attorney General William Barr said.

Injuries to anti-abortion demonstrators had been reported in all four cities, and also in others such as Atlanta and San Jose, Calif. Videotape footage in the possession of the Justice Department shows policemen inflicting intolerable pain and even injuries, such as breaking the arm of an anti-abortion demonstrator as he walked with them.

Barr told Patrick Riley, director of governmental affairs for the Catholic League, that federal civil rights laws demand proof of specific intent to use excessive force. He said that in many jurisdictions, recourse to pain-compliance techniques is standard when police encounter a lack of cooperation from people under arrest.

"Even to the point of breaking bones?" asked Dr. Riley.

Maurice Ross, an aide to Barr, responded that the hold in the arm-breaking case was "an attempt to use a legitimate technique." He said that the critical question was whether intent to injure the demonstrator could be proven before a court of law.

("This staggers the imagination," said Dan Donehey of American Portrait Films, which like the Catholic League has produced a videocassette showing police subjecting pro-life demonstrators to anguishing pain. He pointed out that two Los Angeles policemen held Michael Houseman's arms with nunchakus. "You can watch one of them twisting the arm to the point where it broke. You can hear it snap."

(Father Daniel Berrigan, S.J., told the Catholic League in the summer of 1989, shortly after the arrests under investigation, "In over 20 years of non-violent protest, I've never encountered such brutalizing of non-violent people."

(William B. Allen, a member of the U.S. Commission on Civil Rights, who as chairman of the commission had asked the Justice Department to undertake the investigation, told the Catholic League he was "outraged at the rationalizations.")

Barr said the investigators -- two Justice Department attorneys, a legal specialist and several FBI agents -- had tracked down witnesses but had often found the testimony at variance.

Ross cited the charge that jailhouse police in Pittsburgh had refused to get prompt medical help for a demonstrator who was suffering an asthmatic attack. He said nurses testified that the police allowed them to administer oxygen as soon as the demonstrator complained of the attack.

In Pittsburgh, however, lawyers for the former prisoner and other women and men who claim mistreatment by law enforcement officers, asserted that Department of Justice investigators had failed to contact the asthmatic prisoner.

"None of the women who were put in jail were talked to," said attorney Rosanna Weissert. "So far as I know, they only talked to the local police."

Another attorney for the pro-life demonstrators, A. Lawrence Washburn, said there were five witnesses to the refusal of the corrections officer to allow medical help for the young woman. He alleged that sworn statements from eyewitnesses attest that the two nurses were present when the officer refused the young woman's plea for oxygen, and blew smoke in her face.

Washburn said that the name of the young woman was confidential, and

will remain confidential even when the lawsuit is brought, since she is embarrassed over sexual harassment in Allegheny County Prison.

He said a federal civil suit is being brought against police officers and city and county officials on behalf of those subjected to excessive force and of those also subjected to sexual harassment. One of the plaintiffs is Amnesty America, a proprietary public interest group headquartered in Piermont, N.Y.

Washburn said he expected eventually to file a second suit "seeking redress against those who attempted to cover this up."

CONTACT: Patrick Riley of the Catholic League for Religious and Civil Rights, 202-737-4496 or, after hours, 202-526-2626

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No headline in original

United States Law Week Supreme Court Today

U.S. LAW WEEK -- DAILY EDITION

Feb. 6, 1991

Length: 1023 words

Highlight

NEWS & ANALYSIS

Justice Department
BUSH TARGETS DRUG CRIME IN $10.6 BILLION
JUSTICE DEPARTMENT 1992 BUDGET REQUEST

WASHINGTON (Daily Report for Executives) -- President Bush continued his emphasis on the …

Body

NEWS & ANALYSIS

Justice Department
BUSH TARGETS DRUG CRIME IN $10.6 BILLION
JUSTICE DEPARTMENT 1992 BUDGET REQUEST

WASHINGTON (Daily Report for Executives) -- President Bush continued his emphasis on the federal war on drugs and crime with requests for Justice Department budget increases for the FBI, the Drug Enforcement Administration, and the Organized Crime Drug Enforcement Task Forces in fiscal 1992.

As part of his proposed $10.6 billion budget for the department, Bush included more than $4.4 billion in total budget authority for drug-related activities, for an increase of 16 percent from last year. The overall budget request seeks $1.3 billion, or 14 percent, more than the budget authority anticipated for fiscal 1991.

"Much progress has been achieved in the war on drugs," Attorney General Richard Thornburgh said in a statement, "due in large measure to our successful strategy of utilizing federal resources to attack major international, national and regional drug trafficking organizations through

combined agency efforts."

If the Bush administration persuades Congress to grant the funding it seeks, the Justice Department budget will have grown by 58 percent during the first three years of the Bush administration, the government noted in a statement.

Civilian employment at the Justice Department is expected to show the largest increase from 1991 to 1992 among the executive branch agencies, with a jump of 7,393 full-time equivalent employees to an estimated 96,236 in 1992, according to the president's budget.

Among the increases Bush proposed Feb. 4 are:

o $505 million, or 25 percent more, for the federal judiciary to support 85 new judgeships authorized by the 101st Congress to handle the burgeoning criminal caseload;

o $467 million, or a 27 percent increase, for the Bureau of Prisons to help finance five new prison facilities and expansions at 10 facilities;

o $328 million for the Federal Bureau of Investigation, or a 19 percent increase to fund 1,516 new positions, including 409 additional agents;

o $121 million, or a 14 percent increase, for the Immigration and Naturalization Service to help relocate border patrol agents from the interior to the Southwest border and to place new agents in interior locations;

o $104 million, or a 15 percent increase, to hire new prosecutors in the U.S. Attorneys Division;

o $67 million, or an increase of 20 percent, for Organized Crime Drug Enforcement to hire 331 additional agents and 76 attorneys to focus on the most complicated internationally based and multi-jurisdictional drug trafficking organizations;

o $57 million, or a 20 percent increase, for the U.S. Marshals to help protect new judges, expand witness protection efforts and guard federal prisoners; and

o $54 million for the Drug Enforcement Agency to add 282 positions.

Among budget cuts the administration is seeking is a familiar proposal to eliminate funding for the formula grant program for juvenile justice, while leaving $7.5 million to address problems of high risk youth and gangs. The program elimination proposed by the president would reduce current levels of funding by 90 percent. "The goals of the formula grant program have for the most part been achieved and states have appropriate state-funded delinquency prevention programs in place," the budget stated.

No headline in original

Bush also proposed reducing by $14 million the federal funding for the Regional Information Sharing System, with a proposal to phase out federal support over a three-year period by requiring a larger state-matching effort. "This matching would be increased each year until the full burden rests on agencies receiving the principal benefits of the system," according to the budget.

The president also seeks to eliminate $5 million from the Justice budget by terminating grants to states for the Mariel Cuban program, which offsets state costs of incarcerating Mariel Cubans who have been convicted of state and local crimes following their entrance into the United States a decade ago. "The administration believes this is an inappropriate use of scarce federal resources," the budget stated.

White collar crime is expected to get increased emphasis within the Justice Department in 1992, according to the president's budget. The administration is requesting an 18 percent increase to $633 million in 1992 to provide for 419 positions to pursue housing fraud, public integrity, defense contractor fraud, tax fraud, securities and commodities cases, and banking and thrift cases. The FBI request for the white-collar crime program includes 347 positions, including 171 agents, the majority of which would be focused on financial institution fraud.

"There is always the wrong-headed charge that going after white-collar crime is anti-business," Thornburgh said in California Feb. 4, according to the text of his speech. "Clearly it is not. In fact, I have always looked upon our actions against white-collar crime as pro-business--designed to forestall actions that could well subvert our free enterprise system."

The administration is seeking a $6.1 million increase to $57 million for the Justice Department Tax Division in 1992, with a goal to expand prosecution of motor fuel excise tax schemes that the government estimated have cost the Treasury about $1 billion a year. The division also will continue to deal with its bankruptcy and debt collection caseloads and new litigation resulting from the Taxpayer Bill of Rights and changes to the Internal Revenue Code.

In the Environment and Natural Resources Divison, the administration is seeking an increase of $11 million, or 25 percent, to $55 million for 1992 to "send out a strong message that criminal violations of environmental laws will not be tolerated," according to Deputy Attorney General William Barr.

1992 BUDGET BRIEFING
WITH:
WILLIAM P. BARR, DEPUTY ATTORNEY GENERAL
AND SENIOR STAFF
US DEPARTMENT OF JUSTICE

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Section: COMMERCE AND TRADE SPEECHES OR CONFERENCES

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Body

MR. BARR: Good afternoon. Thank you for coming to the Department's 1992 budget briefing. The Department of Justice is seeking a 1992 budget of $10.6 billion. Our actual funding in 1991 is $9.3 billion, so our 1992 request will be an increase of $1.3 billion, or a 14-percent increase.

The Bush administration has been carrying out a substantial buildup of law enforcemnt resources. This 1992 request ensures that this buildup will continue at a steady pace. If this request is enacted, the Department of Justice's budget will have grown by 58 percent during the first three years of the Bush Administration. The first three charts of your handout illustrate this growth.

This sustained infusion of resources, during a period of fiscal austerity --

Q We don't have charts.MR. BARR: Excuse me?

Q We don't have any charts.

MR. BARR: I think the chart should be attached to the back of the statement.

Q We don't have anything. We didn't get anything.

MR. BARR: Terrific. Thank you, Nina. In addition to this material that's being passed out now, which is a press release, and at the back there are some charts, we are reproducing now some additional material -- substantial detail of each account. And hopefully by the end of this session, you'll have in the back that additional material. Thank you for calling that to my attention.

Okay. If you look at the first three charts, as I was saying, we are seeking $10.6 billion. That represents a 14-percent increase. If this request is enacted for fiscal year 1992, it would represent a 58-percent increase for the Department of Justice's budget for the first three years of the Bush administration.

This sustained infusion of resources, during a period of fiscal austerity, demonstrates this administration's firm resolve to combat crime. We also view this proposed increase for 1992 a vote of confidence in the superb work being done by the men and women at the Department of Justice. The Attorney General and all of us at the Department are extremely pleased with this proposed budget increase.

Now, one noteworthy point about this year's budget is that our gains are being realized without erosion of our base operating program. Some of you may remember that last year some of the initiatives were funded by underfunding of certain base adjustments. Fortunately, that is not the case this year. We have done very well on our base adjustments, so that the increase you see here represents real advances across the board. Chart 4 highlights the major initiatives embodied in this budget request, and Chart 5 highlights the major staffing increases. The 1992 budget request represents a balanced approach to advancing the war on drugs, with continued emphasis on

investigations, prosecution, and incarceration. The primary mission of federal drug enforcement is to identify and investigate large-scale drug trafficking organizations, disrupt and dismantle their operations, and bring the leaders and their accomplices to justice, and to seize and forfeit their illegally-gained wealth.

Our 1992 request is consistent with the policies contained in the National Drug Strategy. Our budget includes increased funding directed at HIDTA areas identified in the strategy, as well as additional resources for border patrol activities, and to expand efforts against international drug organizations. The national -- the Office of National Drug Control Policy will be providing us with additional resources not reflected here for these HIDTA areas. Also, funding for state and local Anti-Drug Abuse grants is continued at 1991 levels. That's $490 million.

Overall, the 1992 request provides drug-related resources of over $4.4 billion in total budget authority, representing an increase of $605 million above the 1991 level, an increase of 16 percent in our drug program. Illustrative of this growth are substantial increases in the drug enforcement efforts of our major law enforcement components.

Turning first to the Organized Crime Drug Enforcement Task Forces (OCDETF), the budget grows from $335 million in 1991 to $402 million for 1992, a 20-percent increase. Just to put some flesh on that, that would provide for 586 new positions, 407 new agents or attorneys. For the FBI's drug program, we are requesting an 18-percent increase. That provides 87 additional positions. For the Drug Enforcement Administration, an almost 8-percent increase. That provides 282 positions, including 134 agents. This does not include the OCDETF resources that are going to the FBI and the DEA. For the Immigration and Naturalization Service's drug enforcement efforts, a 17-percent increase. That's 171 new positions. And for the drug efforts in the Offices of the US Attorneys, an 11-percent increase, or 21 positions. Again, these latter categories do not include the OCDETF resources, which were the first item that I referenced.

Charts 6 and 7 highlight this growth in the Department's drug enforcement efforts. You will see that on Chart 7, we have a gain of approximately 4,200 work years with this increase.

A significant aspect of our OCDETF program for 1992 is the expansion of resources into smaller cities and rural areas. In the past, US Attorneys and others have advised that there are not enough federal investigative resources outside our major metropolitan areas to deal with the national drug problem. We recognize that drug organizations have moved out of our major cities into the smaller communities. Thus, we will be placing more FBI agents out in these areas. By attacking these organizations wherever they operate, we can have a comprehensive program utilizing information obtained in the smaller cities to reach back into the heart of these operations in major metropolitan areas.

Let me say that these heartland resources will be coming from the FBI and will be funded through OCDETF. Of the new agent positions given to the FBI through the OCDETF program, 51 of those agents will be targeted at the heartland area.

Our program on violent crime has several aspects. One key element is to utilize the Armed Career Criminal Act to identify violent felons in possession of firearms and jail them under the Act's mandatory minimum 15-year prison sentence. Other important aspects involve use of OCDETF resources to attack the most violent drug gangs in our cities. Priority has been placed on attacking the problem not only through the prosecution of individuals, but also by taking apart the very organizational structures that give rise to this violence. The proposed budget also includes funding to create violent crime task forces in selected cities, which will be targeted at particularly violent individuals and groups.

In additon to OCDETF, the Department's 1991 Organized Crime National Strategy focuses resources on new and emerging organized crime elements that threaten the very fabric of our society. Building on a record of success, the Attorney General's Organized Crime Council has devised a blueprint for the 1990s, focusing on the "eneterprise theory" of investigation, in which the leadership and chain of command of organized criminal groups are penetrated and destroyed. The strategy is designed to prevent emerging organized criminal organizations, such as the Sicilian mafia, Japanese Yakuza (sp?) groups, Jamaican posses and Chinese triads, from achieving levels of power comparable to that of La Casa Nostra.

Now a key part of the administration's anti-crime program is incarceration. We are committed to incapacitating felons by putting them in prison. As the President has said, "If you do the crime, you will do the time." Our prison

population in 1991 (sic?) -- that is the federal prison population -- was about 25,000. Today, it is about 60,000. By 1995, it will be approximately 100,000.

During the Bush administration, the federal prison population is growing at a rate of over 6500 per year. Right now, our federal prisons are operating at 160,000 percent of designed capacity. So our objective is not only to accommodate the growing prison population, but also to reduce overcrowding to only 30 percent, a level the Bureau of Prisons believes is manageable.

Both the increase in prison population and in our bed space capacity are illustrated on Charts 8 and 9. You will see that our projected -- on Chart 9 -- that our projected building program seeks to reduce prison overcrowding to 130 percent by 1995 -- actually 132.4 percent. Again, we'll be talking about a prison population of approximately 100,000 by 1995.

We're pleased that our 1992 request will allow us to maintain the pace of this substantial prison expansion program. We have almost 595 million [dollars] in program increases for the federal prison system. This will provide for activation of five new facilities that have been constructed and ten expanasion projects, totaling 5,900 beds.

Further, the 1992 budget provides for the construction of a major new prison complex in California consisting of four prisons, ranging from minimum to maximum security. That -- that prison complex will total 2,350 beds.

Other increases for the federal prison system include 43 million [dollars] to accommodate a growth in prison population from 62.5 [million dollars] to 71.6 [million dollars] for fiscal year 1992; over 12 million [dollars] to implement the Bureau of Prison's comprehensive drug abuse treatment initiative; and almost 9 million [dollars] to cover medical costs such as AIDS treatment and kidney dialysis. Those are all net increases in the program. Chart 10 shows the growth in the Bureau of Prison's operating budget, necessary to accommodate the growing inmate population.

While we will continue our vigorous prison construction program for sentenced prisoners, an important aspect of this year's budget is a stepped-up, parallel effort to provide more space for pretrial detention. During the past year, a significant effort by the US Marshals, the Bureau of Prisons and INS has resulted in a comprehensive five-year federal detention plan.

To meet this plan, we will be adding two -- this year, or in the request -- we will be adding two major federal detention centers in Philadelphia, Pennsylvania, and Houston, Texas, both large federal court cities. These will provide an additional 1250 beds for detention.

Also under the Marshals' Services support of prisoners account, we will be getting an additional 32 million [dollars] for almost 700,000 additional contract jail days in state and local jails, and an additional 11 million [dollars] for a planned public-private detention facility in Leavenworth, Kansas, that will provide another 150,000 jail days.

The cooperative agreement program will continue to obtain guaranteed beds in state and local jails that would otherwise not be available. Furthermore, INS will also increase its bed space by 655 beds for the detention of criminal aliens, including 500 beds at a joint INS-BOP contract facility, and 155 beds at the INS service processing at Florence, Arizona.

In 1992, we will be investigating and prosecuting more white-collar crime than ever before. In 1992, we are requesting an 18 percent increase in our white-collar crime program, from 534 million [dollars] in 1991 to 663 million [dollars]. This increase provides 419 positions to pursue housing fraud, public integrity, defense contractor fraud, tax fraud, securities and commodities cases, and the prosecution of thrift and commercial bank cases.

The most significant increase is for the FBI, whose white-collar crime program is increasing by 347 positions, including 171 agents. Of these, 208 positions, including 63 agents, are targeted at bank fraud cases. Attorney resources of 72 positions are reflected in the criminal, tax, environment, civil and anti-trust divisions, and in the United States Attorneys' offices.

In addition to these white-collar crime resources, we have several initiatives to increase our monetary recoveries, particularly in the area of fraud. The number of staff devoted to affirmative civil litigation in the US Attorneys' offices will increase by 36 positions, including 18 attorneys. The department will continue its vigorous pursuit of those who

have not paid their court judgments or have defaulted on federal loans or loans guaranteed by the federal government by adding 110 new debt collection positions to the US Attorneys' offices.

From 1982 to the end of 1990, the 93 US Attorneys' offices and other justice agencies have collected and returned to the Treasury over $3.9 billion, far exceeding our expenditures on this program. In 1990 alone, the department, acting as the government's collector of last resort, brought some $644 million in cash back to taxpayers. Furthermore, 186 additional positions are requested for the United States Trustees' program in its effort to impose uniform accountability standards on the bankruptcy system.

Let me now give you a brief overview of some of our components in the department. First, let me turn to OCDETF. I call your attention to Chart 11. The requests for the Organized Crime Drug Enforcement Task Force Program includes an increase of $67 million over the 1991 appropriations of $335 million. As I said earlier, that's a 20 percent increase in OCDETF, which is the heart of the department's anti-narcotics effort.

Calling your attention to Chart 12, these resources will be shared among OCDETF's participating agencies, and will provide 331 additional agents and 76 attorneys to focus on the most complex, internationally based and multijurisdictional drug trafficking organizations, and for the first time, as I mentioned before, allow expansion into rural areas through increased staffing of existing FBI field offices in remote locations. As you will see, several of those agencies that are receiving resources under OCDETF are Treasury Department agencies.

Turning to the FBI, I call your attention to Chart 11 -- Chart 13. The FBI's 1992 budget will grow by 19 percent in direct funding over 1991, from 1.7 billion [dollars] to 2 billion [dollars] in 1992. The increment on the chart above the 2 billion [dollars] reflects OCDETF funding, which is reimbursed to the bureau. Focusing on the FBI's direct funding, that is excluding the OCDETF resources, the request will provide for 1,516 new positions, including 409 new agents. Chart 14 shows that there will be 10,818 agents on board by September 30th, 1992.

This growth will be reflected across the board in the bureau's crime priority enforcement programs. I've already mentioned the growth in the bureau's drug and white-collar crime programs. In addition, 67 positions are provided for the organized crime program, targeted primarily towards Asian organized crime groups, and the preparation of civil RICO cases.

The budget also provides substantial resources for the foreign counterintelligence program. In addition, there are sizable increases for new equipment, technical resources and R&D assets. The request also includes an increase of 487 positions and 12.5 million [dollars] to automate over 8.8 million fingerprint cards, and 2.8 million court dispositions in order to establish the data base necessary to implement a felon identification system.

As for the Drug Enforcement Agency, I call your attention to Charts 15 and 16. The 7.7 percent increase for DEA in 1992 includes an increase of 282 positions and almost $54 million, again excluding OCIDEF resources. This direct funding will allow DEA to enhance field investigations in domestic divisions, expand foreign offices in South America, fund seven new state and local task forces, and continue implementation of the Chemical Diversion and Trafficking Act. As Chart 15 shows, total resources to DEA have increased by 60% during the Bush administration.

For INS, the request includes additional resources for 733 positions, and 121 million [dollars] in direct funding, an increase of 14 percent over 1991. This does not include either OCIDEF resources or 392 million [dollars] derived from service fees. Chart 17 reflects total INS resources, that is the total figure includes OCIDEF monies and $392 million [dollars] in service fees that will fund INS operations. The request provides resources to increase the presence of the border patrol along the southwest border. This initiative will help secure our borders and limit the influx of drugs and associated violent crime. Additional attorneys will also be added to support the increased case load associated with the new immigration judges in the Executive Office for Immigration Review, for deportation proceedings involving criminal aliens. These judges were authorized in the Immigration Act of 1990 that provided for the swift and effective deportation of aliens who commit violent crimes. Further, the adjudications and naturalization and inspection programs will be expanded as user fee receipts increase in 1992. INS's major enhancements are reflected on Chart 18. One thing particularly noteworthy on this chart is the three items specifically addressing criminal aliens -- Bullet three, which covers a 24-hour enforcment operations center, Bullet four, which covers the tension space, and the last bullet on the second page, which covers new attorneys to support criminal alien deportation.

We are especially pleased in the growth in US attorney resources. We are seeking an increase of 104 million [dollars], or 15 percent over 1991. These resources will enable the attorneys to prosecute more violent crimes, white-collar crimes, hate crimes, drug cases, weapons offenses, and permit more aggressive prosecution of fraud, returning more dollars to the Treasury. Charts 19 and 20 reflect these increases in resources.

To give you a little bit more detail, the direct appropriations to the US Attorneys -- that is again excluding OCDETF -- will provide for 341 new positions in the US attorney offices. That translates into 143 AUSAs, 97 paralegals, and 101 support personnel. In addition to this direct funding to US Attorneys offices, OCDETF funding will provide for 76 additional attorneys.

Additionally, the 1992 budget proposes a 20 percent increase for the US Marshal's service, from 290 million [dollars] in 1991, to 347 million [dollars] in 1992. These resources will support additional deputy US Marshals for the protection of new judges provided in the Judicial Improvement Act of 1990, expanded witness protection efforts, and the guarding and movement of federal prisoners.

For the fees and expenses of witness appropriation, additional resources of 13 million [dollars] are requested to fund increases in expert witness expenses, and to provide for safe-site security, construction, and maintenance costs associated with the protection of witnesses.

The Department expects receipts in the Assets Forfeiture Fund to continue at the 1991 level of 500 million [dollars]. 1992 Equitable Sharing payments made to states and localities to assist in their law enforcment efforts are expected to reach 205 million [dollars] compared to 177 million [dollars] for this past fiscal year.

Let me turn briefly to the Department's litigating divisions. Overall we are asking a 13 percent increase above our anticipated 1991 budget. For the Civil Rights division, we are requesting an 18 percent increase. This translates into 42 new positions, 36 of which are to address responsibilities under the Americans with Disabilities Act.

The administration's commitment to enforcing our environmental laws is reflected in our request of an $11 million increase over the 1991 appropriation for the Environment and Natural Resources division. This represents a net increase of 25 percent for that division. This increase will allow the Department to pursue the administration's goal of sending out a strong message that criminal violations of environmental laws will not be tolerated. That 25 percent increase in the Environment and Natural Resources division translates into 49 new positions. Thirty of those positions are attorney positions, and 25 of those 30 new attorney positions are for environmental protection activity. For the Civil division, we will be requesting an increase of 9.5 million [dollars], about a 9 percent increase, which will assist us in bolstering the division's fraud efforts.

The Tax division will continue to address bankruptcy and debt collection caseloads, as well as new litigation arising from the Taxpayer Bill of Rights and changes to the Internal Revenue Code, with its 1992 proposed increase of 6.1 million [dollars] for that division. Perhaps the most important initiative in the division is to expand its prosecution of motor fuel excise tax schemes that are costing the US Treasury approximately 1 billion [dollars] a year in lost revenue.

The Criminal division will receive a $8 million increase, which is over a 10 percent increase for the Criminal division, which will translate into 41 additional positions. Resources are also included in this budget for automated litigation support in document-intensive cases, thereby allowing the Department to compete with the private sector and the substantial legal research tools at its disposal. The budget proposal is 35.2 million [dollars], or 108 percent over the 1991 budget of 17 million [dollars] for legal activities office automation.

To meet critical audit requirements, the Department is requesting an increase of 10.9 million [dollars] for its Office of Inspector General. This represents an increase of 44 percent for that office over 1991. The budget also includes increases to support the administration's initiative for audited financial statements, migration of the Department's payroll system to the US Department of Agriculture's National Finance Center, improvements to the Department's financial system, permanent establishment of the Executive Office for Asset Forfeiture, establishment of a department case management system, and a multi-year program to consolidate department components located in the Washington-District of Columbia metropolitan area.

Well, there are a few minor reductions in grants to states -- we are asking to terminate the Mariel Cuban grant program and to reduce the Juvenile Justice program to 7.5 million [dollars]. These reductions will not have a severe detrimental effect on the Department's major programs.

So, with that overview, I'd like to open it up to questions, and we have asked the component heads -- of each of the components -- to be available today to answer any specific questions you have about the budget as it relates to those components.

Are there any questions? (Pause.) Fine. Yes?

Q (Off mike.)

MR. BARR: Let me see if I can answer the first -- the second part of that question, which was the location of the prisons? Okay, the locations of the prisons that are being activated in 1992 -- a 1000-bed facility in Allenwood, Pennsylvania -- Allenwood. These include both new facilities and expansion facilities.

Activation of two federal detention centers, one in Puerto Rico and one in Brooklyn, New York. Activation of one camp in Big Springs, Texas; expansion of two camps, one in Seymour Johnson, North Carolina, another in Tyndall, Florida. Activation of three detention units, one in Oakdale, Louisiana, one in Memphis, Tennessee and one in Seagoville, Texas. And expansion of a unit in Indiana -- Terre Haute.

Q Terre Haute. (Corrects pronunciation.)

MR. BARR: Terre Haute.

The -- let me ask Mike Quinlan -- Mike, is that accurate?

MR. QUINLAN: Yes, it is. I think in addition we'll be activating the new federal prison in Estill, South Carolina. I don't know if you mentioned that.

MR. BARR: Okay, now the facilities I just reviewed, that includes both expansions and new construction.

MR. QUINLAN: That's correct, yeah. Five of the 15 expansions are brand new facilities, and ten of them are add-ons to existing facilities, either camps, detention units, or other housing units.

Q Mr. Quinlan, can you go through either afterwards or now?

MR. QUINLAN: Sure. I can do it afterwards --

MR. BARR: Okay. As to the first part of your question, we have not yet decided where the new violent crime task forces will be located. But they'll be located in major metropolitan areas.

Yeah, Ron?

Q On foreign counterintelligence, I realize you aren't (going to have ?) hard data, but is the increase this year greater than the increase last year? And do the funds requested this year reflect the happenings of August 2nd and January 16th?

MR. BARR: Let me turn that over to Floyd. I think before -- before Floyd gives you his response the FCI budget does not reflect events after August 2nd.

Floyd, how would you characterize this in relation to the year before?

MR. CLARKE: I would say that -- I would say that they're similar, but I wouldn't -- I wouldn't characterize them as one being more than another. But they are similar in terms of the increases this year and last year.

MR. BARR: Yeah?

Q To follow up on the FCI. It seems that much of the increase in the number of agents devoted to -- (inaudible). Does this mean that the Justice Department is shifting some of the FBI's focus to the international -- (inaudible)?

MR. BARR: Floyd, why don't you?

MR. CLARKE: No, I think that that's kind of misleading. If you track the national drug strategy of the FBI, it has historically been a program that is designed to address the major trafficking organizations, and by their very nature are international. And this is a -- an enhancement of that program. In the OCDETF program, there is a specific enhancement on the domestic side where we're looking at the heartland of America where we have an increase of 51 additional agents. But that is also designed to tie in and support and augment the overall national strategy. So I don't see -- I don't think that there is any change at all in what our strategy is.

MR. BARR: Yes, ma'am?

Q Can you enumerate where the seven new state and local -- inaudible) -- task forces will be?

MR. BARR: Rob?

MR. BONNER: I don't think we've actually decided exactly where they're going to be placed. Again, this will add to some 20 or more DEA state and local task forces around the country. And so we have some provisional-type task forces that are in operation. We're going to be looking at those and determining which ones -- are most effective and which ones would be best suited for a DEA and local state task force. There are -- excuse me -- I guess there are 52 actually -- I stand corrected, there are a total of 52 DEA state and local task forces that are currently funded and there are 19 provisional task forces in existence.

MR. BARR: Yes, Sharon?

Q How much are the grants to the states -- (off mike)?

MR. BARR: They are being -- they are being reduced, I believe, by 64 -- 64 million [dollars] down to 7.5 million [dollars].

Cliff, do you want to comment on that reduction?

MR. WHITE: That figure is correct. It's not a commentary on the quality of the programs, but rather reflects the need to carefully allocate resources during a period of budgetary restraint. The juvenile justice program began in 1975 and since that time in excess of $1.2 billion has been expended on the program.

So it would seem reasonable after that period of time that the states are in the best position to determine which programs work best at the state and local level and are therefore worthy of further investment from state and local resources.

Now also and very importantly what this budget provides is a refocusing of the juvenile justice program into the area of high risk youth -- a priority under the National Drug Control Strategy. And $7.5 million is provided for that purpose with a match to help induce states as well to invest in this area.

And above and beyond simply that budget category we expect that under the Anti-Drug Abuse Act grant discretionary program administered by the Bureau of Justice assistance, $15 million will be invested in the area of high risk youth, again with a match. So we think that the budget provides a very substantial investment in the area of juvenile justice with that focus on high risk youth.

MR. BARR: Cliff, is it right that the administration has previously sought to reduce juvenile justice?

MR. WHITE: That's correct, for several years. Last year, the proposal was similar to this year's proposal.

Q Well what else -- (inaudible) -- 65 million [dollars] to 7.5 million [dollars]?

MR. WHITE: 7.5 million [dollars] is the proposed budget for fiscal year '92, and that compares to 72 million [dollars] that was appropriated in fiscal year '91.

Q As you pointed out -- you do this every year, right? I mean every year you're trying to either eliminate the program or reduce it down to this time 7.5 million [dollars] for high risk youth.

MR. WHITE: Well last year was the first year in several years that there was a proposal to fund anything in this budget category. And again it was $7.5 million. We're suggesting this year, which was not suggested last year, that the Bureau of Justice assistance, as a discretionary program, properly should include a substantial investment in the area of high risk youth, which we have estimated to be about $15 million; again which could require a match

which when you add the match in -- the states plus the federal investment, you have a very substantial amount of money flowing into this area.

Q I guess -- I'm not trying to get into an argument over the funding. I'm trying to understand what's your expectation of Congress for this year the first time can go along --

MR. WHITE: I'll leave congressional prognostications to others but we think it's a very -- this is firmly based with a very good rationale.

MR. BARR: Ron, I think you're right. This is I think the tenth year we've sought a reduction in this program, I'm told.

Q Are you still trying to contract out -- (off mike)?

MR. WHITE: Well, a limited number of positions last year had been subject to a review under OMB circular A76, and that's a moot point under the fiscal year '91 appropriation. And in our estimates here for full-time equivalent employment, there's no expectation that any positions are contracted out or not contracted out.

Yes?

Q How does this relate and what are the proposals for the state and local drug enforcement assistance grant program? It was at about 490 million [dollars] in FY '91.

MR. BARR: Correct.

Q Is that being cut similarly? And as a follow up to that how -- what is the strategy? How does that program relate to this increase in the federal crime fighting establishment? Where is the administration going? It appears that you're moving in the direction of tremendous increases in the federal establishment as opposed to assistance to local and state governments.

MR. BARR: Well, the -- the program you refer to is 490 million [dollars], which is the 1991 level, so we are not seeking an increase in that.

Q So it's being held at the same level?

MR. BARR: Of that -- of the -- of the anti-drug abuse grant program.

Q Does that include the discretionary money?

MR. BARR: Yes, that includes discretionary money.

Q Okay.

MR. BARR: The -- but I think it's erroneous to say that this reflects a shift in emphasis toward pure federal law enforcement with no assistance to the states. 490 substantial -- are substantial resources. But in addition to that, you just heard discussion of the Drug Enforcement Administration's task forces. That -- that provides direct benefit to state and local law enforcement. We're expanding from 52 task forces and 19 provisional ones by an additional 7 permanent task forces.

In addition, we are expecting substantial increases in the amount of equitable sharing from asset forfeiture, where we give the money directly to state law enforcement agencies who assist in cases. And also through the OCDETF program we provide resources for overtime pay to state and local law enforcement. So there are substantial resources going to state and local law enforcement. A big part of federal spending in our -- in our base operating program, for example, in the FBI, the NCIC and other programs, are direct benefit to state law enforcement and, you know, state law enforcement's heavily dependent on this kind of -- this kind of program. So we provide a lot of that infrastructure. Yeah? Paul.

Q The Bush administration's been expanding the federal prison system very quickly, and from what you said, plans to continue doing so. Is there any outside limit on how big the federal prison system should be? Or if it's good to double in size, should we double it again in the year 1995? How many prison beds should this country have?

MR. BARR: Well, I think it's directly related to how many people commit felonies and are imprisoned. As the President says, in this administration we're trying to provide a basis for incapacitating -- that is, imprisoning those that are convicted of serious crimes. So we are trying to provide the capacity to do that. I can't project beyond our 1995 plan right now, but I think in addition to prison space, there are -- there are programs to find alternatives to imprisonment for appropriate offenders. Maybe, Mike, you'd like to say a few words on that.

MR. QUINLAN: Sure. In addition to the institutions that we -- that we operate, we also contract out with community-based facilities. And on any one day, there's close to 4,000 people in community-based facilities where the court can send someone directly from -- from the time that they're convicted, or we would use the facility at the end of the person's sentence so that they could have about four months -- three to four months in a reintegration environment. And these kind of programs are being developed. In addition, there's pilot programs in a number of cities, 12 cities to be exact, where we're piloting home detension programs in conjunction with the US Probation Service and the Parole Commission.

Q As a follow-up to that, do you all -- does the Justice Department see itself never getting closer to 100-percent capacity than 130 percent? Are you going to try to get down under 130 or just stay current with that forever and ever? Is that what I gather?

MR. BARR: Well, I don't know if I would speak in terms of "forever and ever," but our goal is to reduce it to 130 percent. And our plan is to reduce it to that level by 1995, and hopefully keep it at that level. Yes, sir?

Q I'd like to follow up on the increased resources being devoted to combatting white collar crime. To what extent are the increased resources going to be used to combat defense procurement fraud?

MR. BARR: Let me ask Bob Mueller to comment on the resources in the Criminal Division. I can tell you that -- let me just go through the US Attorneys' Offices and the resources that are being provided there. In the criminal area, there are 151 positions and 67 new prosecutors. Of those in the -- in the criminal area, 15 of those prosecutors are dedicated to white collar crime, which can be any kind of white collar crime, including defense procurement fraud. In the civil litigation area, we have 76 new prosecutors, or AUSAs, and 40 of these are in the debt collection area, which can relate to fraud cases, 18 in the affirmative civil litigation program, which is a very effective program of trying to maximize our recoveries frequently in -- in areas involving defrauding of the federal government. Bob, do you want to comment on the Criminal Division resources?

MR. MUELLER: We asked for an additional 8 slots and they have been included in the budget. Those slots will be 5 attorneys, 1 paralegal and 2 clerical, which will be dedicated solely to the prosecution of debt and defense procurement fraud prosecutions.

Q What's the status of the pornography unit? Is it going up? Down? Staying the same?

MR. MUELLER: We did not ask for any additional resources for the child exploitation/obscenity unit. It has maintained its current status.

MR. BARR: Did you have a question?

Q Yes. I had two questions about the INS budget. First of all, where are the detention center increases being planned -- the location? And also the two border stations that are being planned.

MR. BARR: It'll -- the detention facility -- the 150-bed facility is in San Diego and the 155-bed facility is in Florence, Arizona. As far as the border stations, Gene, could you identify them?

MR. MCNANY: (Inaudible.)

MR. BARR: Yes, ma'am?

Q You have mentioned how this tracked with the new immigration bill. How does it track with the new crime bill, in terms of the personnel timings and the FBI and DEA?

MR. BARR: I'm not sure what you mean by "how does it track" with the new crime bill.

Q You know, you mentioned that -- whether the numbers that you have are higher or lower than what Congress had last year for new FBI agents and DEA agents. Did you compare at all?

MR. BARR: Compared to the -- are you trying -- the 1991 appropriations?

Q No, no, no. Congress' crime bill last year called for a number of new FBI agents and a number of new DEA agents in personnel timings to build these facilities. I was wondering if they were worked into this budget at all?

MR. BARR: Floyd, do you know what she's referring to on the FBI?

MR. CLARKE: I'm not sure that I fully understand the question. But I think the -- the '91 crime bill was the authorization, and this would be for the appropriation to be consistent with that. But I'm not sure that I understand the full thrust of your question.

Q Last October, Congress passed a crime bill --

MR. CLARKE: Right.

Q -- that had several provisions that would obviously relate to the Justice Department's increasing the number of FBI agents, increasing the amount of funds that they would authorize toward drug enforcement. And I wanted to know whether that tracked at all with what you have in your proposal for FBI agents and Drug Enforcement agents?

MR. CLARKE: From the FBI's perspective, what we have here is consistent with what was in that authorization -- the thrust of that -- that crime package.

Q Similar -- are you saying the numbers are equal, though?

MR. CLARKE: I'm not saying that they're equal. I'm saying that -- that our request is consistent with the emphasis in those programs.

MR. BARR: Yeah? Jim.

Q I've got a technical question about the difference between the FBI's chart on -- the "End of Year On-Board Strength" shows an increase of 622 agents. But Fiscal Year '91 and Fiscal Year '92 added with in the -- (inaudible) -- that propose their increase 409 positions. What -- what's the -- what accounts for the disparity in that?

MR. BARR: It's a good question.

MR. CLARKE: Excuse me. My budget -- stab me in the back if I'm wrong here. But I think that what that reflects is that -- it's kind of apples and oranges -- that you have a hiring program throughout the year and at the end of the year you will have that number of people on board. And that does not necessarily directly relate to the number of positions that are authorized. Some of them will be carry-overs from the prior years.

Q I have a quick question. On the rural FBI agents, do you all envision these as -- as rookie agents who will be set up at little miniature field offices in Eagle Pass, Texas, or --

MR. BARR: By the way, let me just say there also -- another part of that is the 409 are direct funding positions at the FBI. FBI is also getting, I think, 111 OCDETF positions. So Jim, this is to answer your question. It's a part of the disparity there. It also includes the OCDETF positions. I'm sorry to interrupt. Go ahead.

Q How is this part-time thing going to work?

MR. CLARKE: No. We -- we are -- empirically have 56 field offices and about 430 some odd resident agencies that are located throughout the United States. So we don't anticipate this causing us to open additional offices but to enhance the staffs that are already present in those offices. And this plays into the -- also to the assistance to the state and local, that many of these areas have major drug trafficking problems and there is not an adequate number of DEA or FBI agents in these outlying areas.

And many times we find that cases that are part of the international strategy have tentacles that reach into the heartland, and so we will augment the local capability with that federal presence to develop that strategy in those areas, and I don't see us opening additional field offices but enhancing what already exists.

MR. BARR: Yes?

Q Can you explain why the Inspector General needs $10 million, almost $11 million in new money? Are you going to be doing something different, or did you have a substantial shortfall this last year?

MR. BARR: Dick, do you want to address that? MR. HANKINSON: The Inspector General's office is new, and so we're starting from a base, a very low base, and so in order to perfectly carry out the audits of the various programs within the Department of Justice, it is necessary for us to have approximately 70 agents to carry this out. We will be emphasizing more financial audits in the Department of Justice.

MR. BARR: Yes, ma'am? Q The Office of Drug Control Policy released its fourth-year strategy this morning, or third-year, or whatever it is --

MR. BARR: Strategy Three? Yes?

Q -- and I had just enough time to read that and come here to be thoroughly confused. Between -- the high intensity drug-trafficking areas and their drug task forces are apparently not included in your count here?

MR. BARR: That's right. The funding -- HIDTA is another funding mechanism.

Q It's another funding mechanism.

MR. BARR: The money comes to the Drug Czar's office and then is allocated among the Department of Justice -- between the Department of Justice and the Department of Treasury. And our budget figures do not reflect the HIDTA money that we will be getting for 1992, which will be substantial.

Q So theirs is an entirely different set of accounts, basically, of account codes and programs, and -- but some of it comes to you and -- or -- and goes to Treasury --

MR. BARR: Right.

Q -- and goes to various other places?

MR. BARR: Right. There are five HIDTA areas, as you know: the border, and then four major metropolitan areas.

Q Well, it's especially confusing because one of them, the High Intensity Drug Trafficking Areas, is the Southwest border -- MR. BARR: Right.

Q -- but your numbers for INS and the Southwest border will still be augmented by what they're doing?

MR. BARR: Right. For example, INS will be receiving significant HIDTA money for its efforts on the border.

Q So that all goes above? They're not --

MR. BARR: Right. There's no HIDTA money reflected in our budget presentation, but we do expect some appreciable HIDTA money coming in.

Q I have one other question. The white-collar crime that is related to the banks' and the thrifts -- is that related to the bailout, or is related to money laundering?

MR. BARR: Well, it's related to investigating and prosecuting fraud in financial institutions -- savings and loans and banks. It's the same program that was largely beefed up by Congress through the FIRREA statute, where we got substantial additional resources this year, which we're still putting in place. Yes, sir?

Q Why -- (inaudible) --

MR. WHITE: Excuse me, I didn't hear --

MR. BARR: Why are we seeking to eliminate the Mariel, Cuban grants to states?

MR. WHITE: It's a question of having to devote resources first to uniquely federal law enforcement responsibilities. That program has been in existence since 1985, and more than $30 million has been provided during that time. So, consistent with past proposals, we've recommended that it be eliminated.

MR. BARR: This is the money that we reimburse states with who are imprisoning Mariel, Cubans. It's not the Mariel, Cuban processing program itself. Just make sure you understand that distinction.

Way in the back there.

Q Mr. McNary, as you know about 30 percent of the drugs coming into the United States are confiscated by the border patrol, and the Agency has not had a significant increase in manpower for five years. Of the 733 additional positions which you are requesting, how many are border patrolmen, and with the reassignments and transfers that you anticipate, how many of those will be actually placed on the border?

MR. MCNARY: The change that -- the net change would be 150 in this fiscal year, and that's a part of a long-range plan to move border patrolmen who are on the interior to the border and replace them -- backfill with investigators to do the interior enforcement work. So the net gain would be 150 on board. But you are correct that of the --

Q To follow that up, do you feel that the --

MR. MCNARY: Well, let me just finish what I was going to say, which is you're correct that there are no new positions for the border patrol. What is happening is 150 border patrol agents on the interior are being transferred to the border, and there's backfilling by creation of investigative slots. But there's no net gain in border patrol in terms of new positions. And did you have a follow up?

Q No, that's what I was going to say.

MR. MCNARY: Okay. Yes.

Q Back to the -- beefing up the rural FBI presence, you keep talking about the heartland. Do you mean the midwest, do you mean rural America?

MR. BARR: No, we mean smaller cities and the surrounding -- all throughout the United States -- east, west, middle, second-tier cities in terms of size and the surrounding areas which are frequently rural. The 51 agents are not, hopefully, the whole heartland program. It is the beginning of that process by which we are using the FBI's infrastructure throughout the country to supplement the resources in the drug area.

Someone over here had a question? Yes?

Q (Off mike.)

MR. BARR: I believe there is funding for the office in this budget, and I'm not sure whether we have discussed this yet with Senator Hollings, but the President did point out in the State of the Union address -- and it's in the accompanying material that he is seeking to enhance the Department's international activities, which we think translates into a role for the International office.

No further questions? Thank you very much.

NewsRoom

1/17/91 Reuters News 00:00:00

Reuters

January 17, 1991

SECURITY TIGHTENED IN U.S. FOR FEAR OF TERRORIST RETALIATION.

Stella Dawson

WASHINGTON, Jan 17, Reuter - U.S. law-enforcement officials tightened security nationwide on Thursday as fears grew that Middle Eastern terrorists might strike in retaliation for the American-led air attack on Iraq.

The Federal Bureau of Investigation (FBI), responsible for security within the United States, the Central Intelligence Agency (CIA), the Federal Aviation Administration (FAA) and the U.S. Customs Service put agents on their highest state of alert.

A flurry of meetings on the potential guerrilla threat were held on Thursday morning by top-level officials at the White House, the Justice Department and the FBI.

Bombs already have exploded near several U.S. buildings around the world since the Gulf War erupted on Wednesday evening Washington time.

No attacks have been reported in the United States, where law enforcement agents have been on alert since Iraq invaded Kuwait on August 2.

FBI Director William Sessions on Wednesday confirmed for the first time that known guerrillas were in the United States, a country not accustomed to the horror of politically inspired terror attacks.

The FBI said earlier this week that it had foiled at least five potential terrorist incidents since August 2, but refused to give details.

FBI agents despatched around the country to watch such potential targets as utilities, airports and military bases said they feared a bomb attack from a lone zealot more than state-sponsored terrorism. They doubt that extremists would use chemical or biological weapons such as those Iraq reportedly has.

Additional Border Patrol agents were despatched to airports, where they can check for suspicious travelers, said Deputy Attorney General William Barr.

The FBI has said it will check on 3,000 Iraqis in the United States whose visas have expired next week, and will continue interviewing Arab-Americans despite complaints the action is discriminatory.

Police officers ringed the White House on Thursday as groups of anti-war demonstrators kept a 24-hour vigil there. Inside, the number of plain-clothes and uniformed Secret Service officers noticeably increased. Daily tours of the presidential mansion have been suspended.

---- Index References ----

Company: FEDERAL AVIATION ADMINISTRATION; WHITEHOUSE; CENTRAL INTELLIGENCE AGENCY; FBI SA; INFORMATICA APLICATA SA; FRANCHISE BANCORP INC; IMMOBILIARE AZIONARIA SPA; JUSTICE DEPARTMENT; FEDERAL AVIATION

News Subject: (International Terrorism (1IN37); Legal (1LE33); Police (1PO98); Judicial (1JU36); Top World News (1WO62); World Conflicts (1WO07); Global Politics (1GL73); Regulatory Affairs (1RE51))

Industry: (Security Agencies (1SE35); Security (1SE29))

Region: (North America (1NO39); USA (1US73); Americas (1AM92); Middle East (1MI23); Arab States (1AR46); Gulf States (1GU47); Iraq (1IR87))

Language: EN

Other Indexing: (ADDITIONAL BORDER PATROL; CENTRAL INTELLIGENCE AGENCY; CIA; FAA; FBI; FEDERAL AVIATION ADMINISTRATION; FEDERAL BUREAU OF INVESTIGATION; JUSTICE DEPARTMENT; US CUSTOMS SERVICE; WHITE HOUSE) (Daily; Eastern; Inside; SECURITY TIGHTENED; William Barr; William Sessions)

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End of Document

NewsRoom

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1991 WLNR 5080268

WashingtonPost.com

January 16, 1991

SINGLING OUT ARAB AMERICANS

THE GULF crisis has raised the threat of terrorism -- instigated by Saddam Hussein and directed against American targets both abroad and in this country. Hence, the increased security at federal buildings and airports, and the decision of the Immigration and Naturalization Service to photograph and fingerprint visitors holding Iraqi and Kuwaiti passports. These have been telling signs of a nation assuming a wartime footing. Given the pronouncements out of Baghdad, these countermeasures are inconvenient but necessary security precautions against possible terrorist attacks. Yet it is exactly at times such as these that government must take care not to circumscribe the rights and freedoms of its citizens.

Regrettably, that may have happened last week during the course of a special Federal Bureau of Investigation program focused on Arab Americans. FBI agents contacted more than 200 Arab-American business and community leaders across the country, ostensibly to inform them of the bureau's intention to protect them against any backlash from the Persian Gulf crisis. Investigating and prosecuting hate crimes and ethnically motivated violence spawned by Middle East turbulence is a legitimate job of federal law enforcement officials, so that aspect of the bureau's initiative was welcomed by Arab Americans. But FBI agents also used the occasion to gather intelligence about possible terrorist threats. This is where the FBI quickly wore out its welcome. Organizations representing Arab Americans contend that agents asked citizens about their political beliefs, their attitudes toward the Persian Gulf crisis, Saddam Hussein and their knowledge or suspicions about possible terrorism. Deputy Attorney General William P. Barr denies any FBI intention to intimidate Arab Americans, as some community leaders fear. "At the same time," he says, "in the light of the terrorist threats . . . it is only prudent to solicit information about potential terrorist activity and to request the future assistance of these individuals." But why does the government presume that Americans of Arab descent should know about "potential terrorist activity" or that this group of Americans is any more knowledgeable about such activity than any other? FBI spokesman Thomas F. Jones says it's because the bureau is aware of a number of terrorist organizations in the United States that "consist of people of Middle East descent" and that the "possibility exists that {terrorists} are living in Arab-American communities." In that way, he said, Arab Americans "could come into possession of information on potential terrorist acts." It is a perilously flimsy rationale. It leaves the U.S. government wide open to the accusation that it is dividing Americans by ethnic background and singling out one group as a suspect class. If that were true, the government's conduct would clearly be constitutionally offensive and morally repugnant. To imply that Arab Americans -- some of whom are members of families that have been in this country since the turn of the century -- may have a special link to terrorists is both insidious and harmful. The government cannot go around making judgments and presumptions about citizens on the basis of their descent. Like all Americans, Arab Americans have the right to be accepted and treated as individuals, and the government has a constitutional duty to observe and protect that right. Neither should the government invade the privacy or trample the dignity of one class of citizens. What is being seen now recalls the negative stereotyping that served as a basis for the shameful treatment of Americans of Japanese ancestry during World War II. Such stereotyping, with all its ugly and unfair implications, should not be allowed to take hold.

---- Index References ----

News Subject: (International Terrorism (1IN37); Top World News (1WO62); Social Issues (1SO05); Sept 11th Aftermath (1SE05); Immigration & Naturalization (1IM88))

Industry: (Security Agencies (1SE35); Security (1SE29))

Region: (Americas (1AM92))

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Other Indexing: (Saddam Hussein; William Barr; Thomas Jones)

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WashingtonPost.com

January 11, 1991

U.S. SET TO PHOTOGRAPH, FINGERPRINT ALL NEW IRAQI AND KUWAITI VISITORS; UNUSUAL MOVE TAKEN TO TRY TO COUNTER POSSIBLE TERRORIST ATTACKS

Sharon LaFraniere and George Lardner Jr.

The Justice Department yesterday ordered immigration authorities to begin photographing and fingerprinting anyone entering the United States with an Iraqi or Kuwaiti passport as part of an effort to counter what the administration views as a mounting threat of terrorism. A spokesman for the Immigration and Naturalization Service said it was the first time he could remember that the government has adopted such a measure. The Justice Department said the new rule applied to visitors holding Kuwaiti as well as Iraqi passports because Iraqi authorities confiscated credentials of many Kuwaitis and gained control of blank Kuwaiti passports during the August invasion.

"While travelers may incur some inconveniences, this is more than counterbalanced by United States security needs," said Deputy Attorney General William P. Barr. The new procedures, effective immediately, come two days after the FBI began nationwide interviews of 200 Arab-American business and community leaders. The agency said it wanted to collect information about possible terrorist threats and inform the Arab Americans that it wants to protect them from any backlash here. At a meeting in Detroit, home to North America's largest Arab-American community, Arab Americans called the FBI initiative discriminatory and offensive. Some civil rights attorneys were critical as well, saying it appears to violate constitutional and privacy act rights of Arab Americans. "If we were on the verge of going to war with Nigeria, and the FBI started interviewing black Americans, I don't think anybody would stand for it," said David Cole, a constitutional law professor at the Georgetown University Law Center. "This kind of selection violates the principles of the {Constitution's} equal protection clause . . . that you be treated as an individual and not singled out by the government on account of your race or ethnic origin." An administration official, who asked not to be identified, said the initiative was clearly within the FBI's legal authority. "Basic constitutional law is that a law-enforcement officer can direct an inquiry to any person and that person has the option of either speaking to them or not. "It's only logical if you are asking about the activities within a particular ethnic group to ask people who are members of that ethnic group what they know about it," he said. Officials declined to comment on what other measures might be taken to stem the possibility of terrorist attacks in the United States, but both FBI and INS spokesmen denied reports that members of suspected pro-Iraqi cells who have been under surveillance since August will be rounded up if war breaks out. The Wall Street Journal reported earlier this week that such roundups, aimed at harassing and disrupting terrorist groups, would take place here and in countries around the world in the event of hostilities. In Germany yesterday, it was reported that anti-terrorist units in Bonn had conducted raids at the homes of several Arabs, carrying out searches and arresting two Arabs. Asked about the possibility of preemptive arrests, FBI spokesman Thomas F. Jones said, "I can't speak for other countries, but the FBI has no plans along those lines." The Justice Department decided against a proposal that would have required INS to fingerprint and photograph all visitors with Kuwaiti or Iraqi passports who have entered the country since August. INS officials said about 8,500 Iraqis and more than 5,000 Kuwaitis are now visiting the United

States. Civil rights attorneys said the FBI's interviewing of Arab Americans, because it is directed at U.S. citizens, is more open to legal challenge than the policy of fingerprinting visitors. Still, Cole said, "I don't think that a court is going to enjoin the FBI from engaging in this kind of activity. The courts, particularly in times like this, bend over backwards to accommodate the federal government's national security claims." Kate Martin, an attorney with the American Civil Liberties Union, said "the presumption" behind the FBI's activity is "outrageous" and "clearly unconstitutional." "The presumption is that because you are of Arab descent, you might have some connection to terrorism," she said. Civil rights attorneys said the FBI and the INS have harassed and closely watched Arab Americans in the name of national security since the 1979-80 hostage crisis in Iran. Officials of the Arab-American Institute here, already alarmed about the FBI interviews, voiced fears that the government might be thinking of implementing a controversial "contingency plan" drawn up in 1986 by INS investigators for dealing with "Alien Terrorists and Undesirables." The 31-page proposal, drawn up after the retaliatory U.S. air attack on Libyan targets in April 1986, suggested "wholesale" invalidation of the visas of visitors or "non-immigrants" in a particular nationality group so they would have to re-register. It also recommended vigorous pursuit of aliens suspected of terrorism, including jailing without bond, closed-door deportation hearings and a routine use of "fallback" charges in case the main charge could not be established. INS spokesman Duke Austin said yesterday the proposal, including a plan to use a Louisiana detention facility if suspected terrorists numbered between 500 and 1,000, was drawn up by some "low-level staffers" and disavowed when it became public in 1987. "The INS commissioner at the time {Alan Nelson} never even saw the plan," Austin said. "It was summarily discarded." Lawyers for eight Los Angeles-area Palestinians arrested in 1987 on civil charges of subversion said the government's conduct of the case contained many elements of the INS "contingency" plan. The eight Palestinians were accused of affiliation with the Popular Front for the Liberation of Palestine, a group with a terrorist record, and initially held without bond. Despite their denials and key court rulings in their favor, they are still facing the threat of deportation. One initially charged with subversion now faces ouster because he worked at a convenience store without INS permission. "The 1986 {contingency} plan reads like a blueprint for these prosecutions," said Cole, who represents the Palestinians.

---- Index References ----

Company: ROYAL AND SUN ALLIANCE INSURANCE GROUP PLC ADR

News Subject: (International Terrorism (1IN37); Top World News (1WO62); Social Issues (1SO05); Immigration & Naturalization (1IM88); Legal (1LE33); Government Litigation (1GO18))

Industry: (Security Agencies (1SE35); Security (1SE29))

Region: (Middle East (1MI23); Gulf States (1GU47); North America (1NO39); Arab States (1AR46); Iraq (1IR87); Palestine (1PA37); Kuwait (1KU68); Americas (1AM92))

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Other Indexing: (Alan Nelson; Kate Martin; Duke Austin; David Cole; Thomas Jones; William Barr)

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NewsRoom

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AP Online

January 10, 1991

Section: Washington

Security Stepped Up; Nuclear Plants Warned

LAWRENCE L. KNUTSON

WASHINGTON

Heightened concern over terrorism prompted federal officials hursday to order the photographing and fingerprinting of everybody entering the United States on Iraqi and Kuwaiti passports and to warn operators of nuclear plants to be on guard.

The Coast Guard planned added measures to protect U.S. ports and coastal factories.

Airlines said they were prepared to protect travelers but could not discuss details.

And security officers at the Justice Department and other sensitive government offices said they were taking precautions.

As Iraq continued to defy the United Nations' Jan. 15 deadline for a total military withdrawal from Iraq, concern mounted in Washington that a war could result in terrorist attacks in the United States as well as in other parts of the world.

On Monday, deputy State Department spokesman Richard Boucher said there have been "repeated examples" of planning for terrorists activities against American facilities since Iraq invaded Kuwait Aug. 2.

With that potential threat in mind, the Justice Department ordered the Immigration and Naturalization Service to begin precautionary screening procedures immediately at all entry points.

"While travelers may incur some inconvenience, this is more than counterbalanced by United States security needs and our obligation to protect American citizens," Deputy Attorney General

William P. Barr said in a statement.

INS spokesman Duke Austin said travelers carrying Iraqi and Kuwaiti passports would be photographed and fingerprinted. They also must fill out the usual registration card given all foreign visitors.

Kuwaiti passports were included in the order because U.S. officials suspect that many Kuwaiti passports were seized by the Iraqi invaders in August.

The INS estimates there are 60,000 Iraqi immigrants in the United States and another 8,500 Iraqi students and tourists.

Earlier this week the FBI ordered its field offices to contact more than 200 prominent Arab-American leaders as part of a far wider effort to gather intelligence about possible terrorist threats.

The effort was criticized by many in the Arab-American community who said the effort will only increase suspicions that U.S. citizens of Arab descent are disloyal to the United States.

FBI spokesman Thomas Jones said that a majority of Arab-Americans interviewed thus far have been receptive to the contact by agents. In addition, FBI field offices have received a number of follow-up calls from Arab-Americans concerned about possible attacks against their community by persons angered by Iraq's aggression.

The FBI has received "no definite information about any planned terrorist activity," Jones said. But he said a number of those already interviewed told agents they would be willing to pass along any information they might obtain.

Meanwhile, Frank Ingram, a spokesman for the Nuclear Regulatory Commission, said the agency has advised nuclear plant operators "to heighten their security awareness, to take particular note of anything that may be out of the ordinary."

The commission is also "working closely with other agencies of the government to make sure we have available to us any information they may have," Ingram said. The precautions, he said, are "a prudent thing to do in view of the situation in the Middle East."

The Coast Guard also took additional precautions.

"All commands are sensitive to the reports of possible threats against U.S. ports," said Coast Guard spokesman Jack O'Dell. "Our

personnel have been informed to pay close attention to anything that might look suspicious and we've created a heightened awareness of security."

Officials at the Federal Aviation Administration and the Justice Department declined to discuss what additional precautions may or not be put into effect to protect air travelers in an industry often targeted for terrorist attack.

But sources in the aviation industry confirmed that the FAA has plans for increased security, drafted with contributions from major airlines and airports.

At the Justice Department, security director D. Jerry Rubino asked the security officers of all departmental divisions and offices at 2,000 locations around the country to review anti-terrorist measures and upgrade them if necessary.

Rubino said there would be some tightening up at the block-long department headquarters along the Mall at Washington with more intense screening of visitors.

For example, he said the identities of drivers of vehicles entering the courtyard and underground garage will be checked by Justice guards on aprons outside the building, rather than in underpasses beneath six floors of offices, as is the case now.

The aim is to keep the force of any explosion outside the building.

Jack Killorin, spokesman for the Bureau of Alcohol, Tobacco and Firearms, said, "We are involved in some contingency preparations precisely because we recognize the possibility (of terrorist attacks in connection with the Persian Gulf hostilities).

He said there are no specific threats against the agency but rather that it is "just making general planning and contingency planning in case there is a heightened likelihood of that activity."

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News Subject: (Legal (1LE33); Judicial (1JU36); International Terrorism (1IN37); United Nations (1UN54); Government (1GO80); Economics & Trade (1EC26))

Industry: (Transportation (1TR48); Aerospace & Defense (1AE96); Defense (1DE43); Utilities Regulatory (1UT69); Seaborne Forces (1SE14); Airlines (1AI34); Electric Utilities (1EL82); Passenger Transportation (1PA35);

Transportation Regulatory (1TR42); Military Forces (1MI37); Defense Policy (1DE81); Utilities (1UT12); Air Transportation (1AI53); Aerospace & Defense Regulatory (1AE25); Nuclear Electric Power (1NU69))

Region: (North America (1NO39); Iraq (1IR87); Arab States (1AR46); Kuwait (1KU68); Americas (1AM92); Middle East (1MI23); USA (1US73))

Language: EN

Other Indexing: (BUREAU OF ALCOHOL; COAST GUARD; FAA; FBI; FEDERAL AVIATION ADMINISTRATION; IMMIGRATION AND NATURALIZATION SERVICE; JUSTICE; JUSTICE DEPARTMENT; MALL; NUCLEAR REGULATORY COMMISSION; STATE DEPARTMENT; TOBACCO; UNITED NATIONS) (D. Jerry Rubino; Firearms; Frank Ingram; Ingram; Jack Killorin; Jack O'Dell; Jones; Plants Warned; Richard Boucher; Rubino; Thomas Jones; William P. Barr)

Word Count: 1030

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NewsRoom

1/9/91 Wash. Post (Wash., D.C.) A14
1991 WLNR 4888648

Washington Post, The (Washington, D.C.)

January 9, 1991

Section: A Section

FBI STARTS INTERVIEWING ARAB-AMERICAN LEADERS; WATCH ORDERED ON IRAQI EMBASSY, MISSION

Sharon LaFraniere

The FBI began seeking interviews this week with more than 200 Arab-American business and community leaders in an attempt to gather information about possible terrorist activity in the United States, a measure that was described as precautionary and drew protests from Arab-American organizations.

The FBI and the Justice Department said the nationwide interviews have a twofold purpose: to spread word that the FBI wants to protect Arab Americans from any backlash associated with attempts to induce Iraq to leave Kuwait and to gather intelligence about potential terrorist threats.

Law enforcement officials said FBI agents are asking Arab Americans to watch for possible threats and report anything suspicious but are not assuming they are aware of or involved in criminal activity.

Intelligence reports have noted recent "casing" of U.S. facilities and other potential targets overseas by pro-Iraqi terrorist groups, raising concern about terrorist attacks. Officials consider such attacks more likely to occur abroad.

"These interviews are not intended to intimidate," said Deputy Attorney General William P. Barr. "The interviews are an opportunity to keep an open channel of communication with people who may be victimized if hostilities occur. At the same time, in the light of the terrorist threats . . . it is only prudent to solicit information about potential terrorist activity and to request the future assistance of these individuals."

The FBI has ordered a close watch on the Iraqi Embassy here, the Iraqi mission to the United Nations, Iraqi commercial interests, students and groups with suspected ties to terrorist organizations.

Responding to the interviewing effort, congressional committees overseeing the FBI noted the agency is treading sensitive ground and urged caution. "We'll be asking the FBI about this and trying to assure ourselves that they are not in fact engaged in something they should not be doing," said James Currie, a spokesman for the Senate Select Committee on Intelligence. "We just want to make sure that they are not heavy-handed about this."

The FBI is expected to provide information to the House and Senate intelligence committees this week about its response to the Persian Gulf crisis.

Rep. Don Edwards (D-Calif.), chairman of the Judiciary subcommittee on civil and constitutional rights, said in a statement: "We support that FBI's anti-terrorism efforts, and we want them to be vigilant, but they must be careful to avoid overreaction. Inherent in the current crisis is the very real danger of damage to civil liberties."

The American-Arab Anti-Discrimination Committee, the nation's largest Arab organization, said about a dozen people have called to express confusion and feelings of intimidation after calls from FBI agents. "This is shades of the Japanese-American experience of World War II," said Albert Mokhiber, president of the organization. "We find it to be quite offensive. It is, in effect, being dubbed a suspect class."

Nazih Baydia, the organization's regional director interviewed by the FBI Monday, said he objected most strongly to "political questions . . . . They asked if the Palestine community is supportive of {Iraqi President} Saddam Hussein, if the Iraqi community thinks the invasion of Kuwait is right." Baydia is of Lebanese descent.

"It's not acceptable," said James Zogby, director of The Arab American Institute, another national group. "When the long arm of government reaches into your living room, it creates a political chill and silences political debate."

Rep. Nick J. Rahall II (D-W.Va.), whose grandparents were born in Lebanon, said that, "if there is the slightest scintilla of evidence" that someone "has knowledge about terrorism, sure they should be interrogated." But "just to take an ethnic group and start asking questions disturbs me," he added. "The FBI has fallen victim to and is only nurturing the absolutely ludicrous perception that only Arabs and all Arabs are terrorists."

The Justice Department also is studying a proposal to ask the 8,500 Iraqis estimated to be living in the United States to re-register with immigration authorities. But one official said the department is far more likely to support heightened surveillance at U.S. entry points.

ke power, while the Conservatives said they would not attend because the meeting would not safeguard "white rights." But analysts here said that if the ANC and the government agreed on such a session, it would be hard for any major political party to stay away.

The ANC proposal was the most conciliatory section of a generally tough and unyielding "state of the nation" report commemorating the organization's 79th anniversary.

all Soviet Embassy personnel to be escorted more than a mile through the capital's tense streets by forces loyal to Siad Barre and brought into the U.S. compound.

The convoy of armed vehicles was arranged after Soviet officials here disclosed the special radio frequencies used for Soviet diplomatic communications in the Somali capital, allowing direct communication between the U.S. and Soviet staffs after normal telephone and telex service had ceased. Soviet Foreign Minister Eduard Shevardnadze spoke twice with Secretary of State James A. Baker III by telephone about the evacuation on Saturday, U.S. officials said.

Peck said that shortly after arriving, the Marines on the first two helicopters deployed around the embassy's perimeter. "There were ladders seen up around the embassy walls prior to their arrival, so they felt they were in some danger," he said.

Some of the Marines were immediately dispatched to the U.S. Office of Military Cooperation two blocks away, where several U.S. officials and the Kenyan ambassador had been trapped by local gunfire.

The first two helicopters lifted off from the embassy compound on Friday with 62 people. The remainder were flown out Saturday by five helicopters launched from the USS Guam, an amphibious assault ship. The Guam and the Trenton, an amphibious transport dock, are homeported at Norfolk.

In all, 260 citizens from 30 nations were ushered to safety aboard the two ships by late Saturday and are expected to be unloaded later this week at Muscat, Oman.

The Associated Press reported yesterday from Mombasa, Kenya:

Heavy fighting between Somali rebel forces and troops loyal to Siad Barre raged in the streets of Mogadishu, preventing the continued airborne evacuation of foreign nationals and Somalis hoping to escape the bloodshed.

Most Westerners evacuated from Mogadishu and most still in the city are Italians, and officials heading an Italian-led evacuation effort from Nairobi said that flights to the Somalian capital were considered too risky. "We will try again tomorrow," the official said.

An Italian frigate, which had been in the Persian Gulf helping maintain the international economic embargo against Iraq, also was due off Mogadishu for possible use in new evacuations, according to Foreign Ministry officials in Italy, a former colonial power in Somalia.

The French Embassy in Nairobi said helicopters from a French frigate off the Somalian coast picked up 47 people -- including 27 Italians -- from Merca, 40 miles south of Mogadishu and ferried them to safety.

Rebel radio broadcasts claimed that the insurgents -- loosely allied factions of clan-based guerrillas -- had gained control of almost all of Mogadishu.

iotta in Saudi Arabia, and Ann Devroy, Tom Kenworthy, Walter Pincus and John E. Yang in Washington contributed to this report.

ded first and headed directly for the Intercontinental Hotel, where both delegations are staying on different floors.

Correspondent Marc Fisher reported from Bonn:

After talks with German leaders Tuesday, Baker said he was pleased that Germany, which has kept a low profile in the gulf crisis, stands solidly with the United States in the coalition against Iraq.

But despite the public display of unanimity, differences remain between the U.S. and German positions. While Baker spoke strongly of his Wednesday meeting with Aziz as "the last, best chance for a peaceful political solution," a Bonn Foreign Ministry source said that Foreign Minister Hans-Dietrich Genscher believes that "diplomatic efforts will not end with the meeting on the ninth, assuming the outcome is negative."

Asked about reports that he has proposed that the anti-Iraqi coalition be prepared to agree that elections be held in Kuwait if it regains its sovereignty, Genscher referred reporters to a European Community statement issued Friday that affirmed the U.N. resolutions against Iraq and said nothing about the future government of Kuwait.

Genscher "doesn't feel very comfortable with the idea that the West would be fighting for the reinstallation of the {monarchy} in Kuwait," a Foreign Ministry source said. "The world would not be fighting for freedom as long as the people in Kuwait cannot vote directly for their government."

Unlike the United States, Germany is willing to asssure Saddam that Arab-Israeli questions would be taken up by an international conference after the liberation of Kuwait.

Genscher supports holding a conference that would include the Palestine Liberation Organization, a Foreign Ministry source said.

King Hussein of Jordan, who is touring Europe to sound out Western leaders on what sort of Arab initiative would be acceptable to the allies, was also in Bonn today. He met with Genscher, Kohl and President Richard von Weizsaecker, but did not see Baker.

United States says Iraq must:

Withdraw unconditionally from Kuwait.

Comply with 12 U.N. Security Council resolutions. Final resolution calls for withdrawal by Jan. 15. If Iraq does not comply, the United States has said it is prepared to lead multi-national forces into war against Iraq.

Restore the legitimate government of Kuwait.

Assure the safety of Americans in the region.

Provide for stability in the region. Other conditions:

Diplomatic solutions must not reward Saddam Hussein's aggression. Withdrawal can not be linked to concessions, such as Saddam's request for an international conference on the Middle East. Even after a peaceful settlement, the United States says efforts will be made to stop Iraq's military buildup and inspect the country's weapons facilities. If Iraq does withdraw unconditionally, the United States has offered assurances that Iraq will not be attacked. Iraq, in Saddam Hussein's Aug. 12 "initiative," calls for:

Replacement of all U.S. and allied forces in Saudi Arabia with an all-Arab force under U.N. guidance.

An end to boycotts and embargos against Iraq, and a return to normal political and economic dealings between Iraq and the rest of the world.

Linkage of "all issues of occupation," including Israel's control of the West Bank and Gaza, Syria's military presence in Lebanon, and Iraq's annexation of Kuwait. Any withdrawal arrangements implemented must begin "with the oldest occupation," i.e., Israel's. Other conditions:

Iraq has stated repeatedly that it will never relinquish Kuwait and that it now considers Kuwait its 19th province. At the time of the invasion, Iraq was demanding control of the Rumailah oilfields, which straddle the border between the two countries, and Warba and Bubiyan, Kuwaiti islands near Iraq's coast that would give Iraq ports directly on the Persian Gulf.

---- Index References ----

Company: FBI SA; FUJAIRAH BUILDING INDUSTRIES P S C; UNITED NATIONS; ANC GROUP; WEST BANK ENVIRONMENTAL SERVICES INC; JUSTICE DEPARTMENT; WEST BANK; UNITED NATIONS JOINT STAFF PENSION FUND; WEST BANK (WEST DES MOINES IA); FOREIGN AND

COMMONWEALTH OFFICE; WEST DES MOINES STATE BANK; EUROPEAN COMMUNITY; FOREIGN AND COLONIAL INVESTMENT TRUST PLC

News Subject: (Legal (1LE33); Judicial (1JU36); World Organizations (1IN77); Government (1GO80); International Terrorism (1IN37); Public Affairs (1PU31); United Nations (1UN54); Top World News (1WO62); Embassies & Consulates (1EM50); Political Parties (1PO73))

Industry: (Security Agencies (1SE35); Security (1SE29))

Region: (Guam (1GU35); Central Europe (1CE50); Lebanon (1LE68); Oceania (1OC40); Eurozone Countries (1EU86); Somalia (1SO08); Kuwait (1KU68); USA (1US73); Americas (1AM92); Africa (1AF90); Europe (1EU83); Gulf States (1GU47); Iraq (1IR87); Israel (1IS16); Palestine (1PA37); Mediterranean (1ME20); Pacific Islands (1PA78); East Africa (1EA80); North America (1NO39); Kenya (1KE61); Islands (1IS89); Germany (1GE16); Saudi Arabia (1SA38); Middle East (1MI23); Arab States (1AR46); Micronesia (1MI30); Western Europe (1WE41))

Language: EN

Other Indexing: (ANC; ANTI DISCRIMINATION COMMITTEE; ARAB; ARAB AMERICAN INSTITUTE; BONN; BONN FOREIGN MINISTRY; CONSERVATIVES; CORRESPONDENT MARC FISHER; EUROPEAN COMMUNITY; FBI; FOREIGN; FOREIGN MINISTRY; FRENCH EMBASSY; IRAQI; IRAQI EMBASSY; JUSTICE DEPARTMENT; MARINES; N SECURITY COUNCIL; PALESTINE LIBERATION ORGANIZATION; RUMAILAH; SENATE; SENATE SELECT COMMITTEE; SOMALI; SOVIET; SOVIET EMBASSY; TRENTON; UN; US OFFICE OF MILITARY COOPERATION; UNITED NATIONS; WEST BANK) (Albert Mokhiber; Ann Devroy; Baker; Baydia; Bubiyan; Eduard Shevardnadze; FBI STARTS; Final; Genscher; Hans-Dietrich Genscher; Hussein; Inherent; James A. Baker; James Currie; James Zogby; John E. Yang; Law; Linkage; Nazih Baydia; Nick J. Rahall; Peck; Replacement; Richard; Saddam; Saddam Hussein; Somalis; Tom Kenworthy; Walter Pincus; William P. Barr)

Product: DAILY

Word Count: 1787

End of Document

FBI AGENTS TO QUIZ ARABS IN U.S. AS TENSION RAISES TERRORISM FEARS ; SADDAM REPEATS THREAT TO STRIKE FOES 'WHEREVER THEY ARE ON GLOBE'

SEATTLE POST-INTELLIGENCER

January 8, 1991, Tuesday, , FINAL

Section: NEWS LENGTH: MEDIUM: 90 LINES,

Length: 772 words

Body

One week before a deadline for Iraq to withdraw from Kuwait, federal authorities are stepping up intelligence-gathering activities directed at Iraqis and other Arab groups in the United States.

Meanwhile, throngs of foreigners are leaving the Middle East, and some foreign embassies in Baghdad are preparing to close.

The security moves are being taken in response to Iraqi warnings that Arabs would strike out at American, Western and Israeli targets in the event of war.

Iraqi President Saddam Hussein repeated those threats yesterday in a radio address, saying "each and every Arab struggler will stretch his arm to reach all those there to attack Iraq wherever they are on the globe."
P-I News Services

In Washington, State Department spokesman Richard Boucher said there have been "repeated examples" of planning for attacks against American interests since Iraq's invasion of Kuwait.

The FBI yesterday ordered its agents throughout the United States to interview business and community leaders of Arab descent, asking for information about possible guerrilla activities by Iraqis because of the possibility of war in the Persian Gulf.

"The FBI is responsible for protecting domestic security," said Deputy Attorney General William Barr.

"Since August, the bureau has been taking a number of carefully planned precautionary steps to ensure that our domestic security is fully protected during this crisis. These interviews are part of that process and are a prudent measure to gather potentially relevant information."

The FBI, which expected to conduct as many as 200 interviews this week, is also advising the people it is interviewing of the agency's jurisdiction over civil rights violations in the event of violence or criminal acts against Arabs provoked by heightened tensions in the gulf.

"If there is a conflict in the gulf we can expect that terrorism is a weapon that might be employed by the Iraqis," said Bill Baker, the head of the bureau's criminal division. "Therefore, this was a prudent step taken as part of our ratcheting up to make sure we cover our logical bases."

He said the interviews would be "voluntary, non-confrontational" sessions in which FBI agents would be seeking to assure the leaders that the agency would protect the community from any backlash in the event of war as well as to obtain information.

The FBI has been in touch with Arab leaders in the United States as well as the heads of some religious and political groups in an effort to assess the likelihood of guerrilla activity in the event of war with Iraq. One senior law enforcement official told The New York Times that no evidence of any such activity had been uncovered.

Officials said the increased attention on the Arab community in the United States was a necessary precaution, but it seemed likely to increase the risk that Arab-Americans could be unfairly associated with Iraq, whose actions have aroused scant support among Arabs in the United States.

Representatives of Arab groups expressed concern about the FBI tactics.

"We're concerned that the legitimate need for the FBI to investigate violations against Arab-Americans' civil rights will become blurred with overzealous political investigation," said Albert Mokhiber, president of the American-Arab Anti-Discrimination Committee, the largest Arab organization in the United States.

Other government officials said that a threat of attacks by Iraq or groups sympathetic to Saddam was greater overseas than in the United States because of the large number of possible targets, including military installations and diplomatic offices, and the easier accessibility of these sites.

In other developments:

The U.S. Embassy in Baghdad began destroying the last of its files yesterday, and foreign missions warned their citizens to prepare to flee by land routes if Iraq closes its airspace.

Iraqi aviation sources said the country's airspace might be closed to non-military traffic beginning Thursday, if tomorrow's talks between Secretary of State James Baker and Iraqi Foreign Minister Tariq Aziz end in failure.

Finnish diplomats said their embassy was joining the Malaysian mission in closing. There were some reports that the U.S. Embassy was preparing to close over the weekend if necessary.

The United Nations advised all non-essential employees to leave Israel, adding to the throngs of departing foreigners at Ben-Gurion International Airport.

Airport officials reported that all outgoing flights were sold out for several days as foreign students, businessmen, journalists, diplomats and foreign workers left because of fear of war.

cw/ab

Notes

CRISIS IN THE MIDDLE EAST

Graphic

Photo

The Associated Press --- The U.S. commander in the Persian Gulf, Gen. H. Norman Schwarzkopf, meets with troops at a Saudi base.

Load-Date: March 9, 1999

End of Document

12/18/90 AP Online 00:00:00

AP Online

December 18, 1990

Section: Washington

DEA Says Exhaustive Review Found No Evidence of Role in Flight 103 Bombing

MIKE ROBINSON

WASHINGTON

The Drug Enforcement Administration told Congress on Tuesday it reviewed more than 1,600 case files and found nothing that would even remotely support news accounts that a DEA undercover operation was entangled in the terrorist bombing of Pan Am Flight 103 over Scotland.

The agency has consistently denied such reports, and the Justice Department, after a month-long special inquiry, said Dec. 4 there was no evidence to link the DEA and the December 1988 bombing, which killed 270 people.

"I assure you that those allegations are unfounded and that DEA had no part in this terrible tragedy," testified Stephen H. Greene, DEA assistant administrator in charge of operations.

The DEA denied such allegations a year ago, but they resurfaced in October when both NBC and ABC reported that security at the Frankfurt airport, where the New York-bound flight originated, had been relaxed to accommodate DEA investigators who were tracking U.S.-bound drug shipments. The suggestion was that terrorists had taken advantage of the purported "controlled delivery" operation to smuggle a bomb aboard the plane.

Greene told the House Government Operations subcommittee on government information, justice and agriculture that the agency, in the wake of the latest reports, reviewed more than 1,600 case files from 1984 through 1989 for any sign of an operation similar to the one described in the media.

"This file review revealed nothing even remotely resembling the alleged operation," he said.

Greene told the subcommittee that security checks are never

bypassed in controlled delivery operations in which agents allow narcotics shipments to proceed to their ultimate destinations as a way of tracing them to key pushers.

Greene and David Westrate, assistant administrator in charge of planning and inspection, scoffed at the notion that agents may have acted outside of agency policy and allowed a package to bypass security in defiance of rules.

They said controlled deliveries are carefully run operations involving many individuals at both departure points and destinations as well as messages between American embassies and Washington. As a result, such an operation could not be hidden by an agent, they said.

Greene said that in the fiscal years 1984 through 1989 the DEA ran only three such operations through the Frankfurt airport and none of them utilized a Pan Am flight. He said no controlled delivery was in progress at the time of the bombing, which killed 259 aboard flight 103 and 11 persons on the ground in the village of Lockerbie, Scotland.

The news reports suggested that a DEA operation code-named "Corea" or "Courier" allowed the package containing the bomb to bypass security.

"There was no operation code-named 'Corea' or 'Courier' or anything similar to that name," Greene told the panel. "DEA had no operation under any name which facilitated the free movement of drug couriers from the Middle East or Cyprus through Frankfurt an onward to London and the United States."

"On behalf of DEA, I would like to offer our sympathy to the families of the victims of flight 103," Greene said. "These recent allegations against the DEA have just added to their grief."

On Dec. 4, Deputy Attorney General William P. Barr said the Justice Department inquiry, which involved the FBI as well as the internal DEA review, demonstrated that "DEA had no investigative or operational activity in effect on Dec. 21, 1988 that involved the use of pan Am Flight 103 or Frankfurt International Airport."

Greene testified that in 1987 the DEA ran a controlled delivery operation that traced a drug shipment from Lebanon to Cyprus to Frankfurt to New York and finally to Cleveland. He said TWA flights were involved but not Pan Am.

Also in 1987, he said, German authorities in Frankfurt notified

the DEA of a narcotics shipment that originated in the Mideast. It was allowed to proceed to Boston via Lufthansa, he said, where arrests were made.

In 1983, Greene said, Frankfurt authorities notified the DEA of a shipment, which proceeded to Chicago via Lufthansa, then on to Detroit aboard and American flight and finally to Toledo, Ohio, where arrests were made.

---- Index References ----

Company: ABC INCO

News Subject: (Legal (1LE33); International Terrorism (1IN37); Judicial (1JU36))

Industry: (Airports (1AI61); Transportation (1TR48); Air Transportation (1AI53))

Region: (United Kingdom (1UN38); Southern Europe (1SO59); Americas (1AM92); England (1EN10); North America (1NO39); Western Europe (1WE41); Germany (1GE16); Scotland (1SC90); Europe (1EU83); USA (1US73); Central Europe (1CE50); Ohio (1OH35); Cyprus (1CY87); New York (1NE72))

Language: EN

Other Indexing: (ABC; DEA; DRUG ENFORCEMENT ADMINISTRATION; FBI; HOUSE GOVERNMENT OPERATIONS; JUSTICE DEPARTMENT; NBC; PAN AM; TWA) (David Westrate; Greene; Stephen H. Greene; William P. Barr)

Word Count: 834

End of Document

NewsRoom

12/5/90 AP Online 00:00:00

AP Online

December 5, 1990

Section: Washington

DEA Pleased With Dismissal of Allegations in Plane Bombing

CAROLYN SKORNECK

WASHINGTON

The head of the Drug Enforcement Administration says he is pleased that the Justice Department found no support for news reports his agency was involved in the bombing of Pan Am Flight 103.

However, DEA Administrator Robert C. Bonner added Tuesday: "I'm concerned that there may be some subliminal impact" on the agency's reputation. "This would be unfortunate, as it is clear there was no connection between DEA activity of any kind and the Pan Am 103 tragedy."

The Dec. 21, 1988 explosion over Lockerbie, Scotland, killed 259 people aboard the plane and 11 on the ground. The New York-bound flight originated in Frankfurt with a stop in London, where passengers and luggage were transferred to another aircraft.

News reports in late October alleged that terrorists took advantage of an undercover DEA operation to smuggle explosives aboard the plane.

The DEA quickly rebutted the reports, but the parent Justice Department ordered further inquiries by the DEA and especially the FBI, the lead U.S. agency investigating the bombing.

In a statement Tuesday, Deputy Attorney General William P. Barr said: "While the investigation is continuing, the FBI has found no evidence to substantiate recent allegations of a connection between operations of the DEA and the bombing of Pan Am Flight 103."

Bonner said in an interview that he understood the delay.

"I think it was appropriate to have the bureau (FBI) take a look at this," he said. "To totally rule out even a scintilla of

concern has taken several weeks."

NBC and ABC had reported, among other things, that the Frankfurt airport security had been relaxed to accommodate DEA agents tracking U.S.-bound drug shipments from the Middle East.

But Bonner said evasion of airport security measures, even to ensure the success of a sting operation, "is not something we do." The DEA inquiry found specifically that the agency never circumvented security measures at the Frankfurt airport.

The DEA's inquiry also found that it "had no investigative or operational activity in effect on Dec. 21, 1988 that involved the use of Pan Am Flight 103 or Frankfurt International Airport," Barr said.

In addition, the DEA probe rejected contentions that Flight 103 passenger Khalid Nazir Jaafar of Detroit was part of an undercover DEA operation.

Lew Kreindler, a lawyer for U.S. relatives of Flight 103 victims, said last month that the allegation of an undercover drug operation was an "old story" that had surfaced last year in a British newspaper. He contended it was an attempt to distract attention from Pan Am, which is being sued by the relatives.

Pan Am has maintained its security procedures are second only to those of El Al, the Israeli airline.

Investigators believe members of the Popular Front for the Liberation of Palestine conducted the bombing, but the FBI has not produced enough evidence to bring criminal charges, law enforcement sources say. British and German authorities also are investigating the bombing.

---- Index References ----

Company: ABC INCO

News Subject: (Judicial (1JU36); Legal (1LE33))

Region: (Germany (1GE16); Europe (1EU83); Central Europe (1CE50); USA (1US73); Americas (1AM92); North America (1NO39); Western Europe (1WE41))

Language: EN

Other Indexing: (ABC; DEA; DRUG ENFORCEMENT ADMINISTRATION; EL AL; FBI; JUSTICE DEPARTMENT; NBC; PAN AM) (Barr; Bonner; Khalid Nazir Jaafar; Lew Kreindler; Robert C. Bonner; William P. Barr)

Word Count: 596

End of Document

NewsRoom

11/3/90 Orlando Sentinel A8
1990 WLNR 3941424

Orlando Sentinel

November 3, 1990

Section: A SECTION

FBI REVIEWS REPORT LINKING DRUGS TO PLANE BOMBING

The FBI will review reports that terrorists exploited an undercover drug operation to bomb Pan Am Flight 103, but there is nothing thus far to support them, the Justice Department says. Deputy Attorney General William P. Barr said Thursday in a statement that "at this time we know of no evidence giving credence to these allegations," but it was important "to determine their credibility as soon as possible." The department said the FBI will review news reports that terrorists penetrated a Drug Enforcement Administration operation to put explosives aboard the 1988 flight that ended in a bomb explosion over Lockerbie, Scotland. The bombing killed 259 people aboard the U.S.-bound flight and 11 more on the ground. The FBI investigated similar reports a year ago and found no basis for them, said officials who spoke on condition of anonymity.

---- Index References ----

News Subject: (International Terrorism (1IN37))

Language: EN

Other Indexing: (DRUG ENFORCEMENT ADMINISTRATION; FBI; JUSTICE DEPARTMENT; PAN AM) (Deputy Attorney; FBI REVIEWS; William P. Barr)

Keywords: FEDERAL POLICE; TERRORISM; DRUG OPERATION; AIRCRAFT CRASH GEN; PROBE

Edition: VOLUSIA

Word Count: 180

NewsRoom

NewsRoom

11/2/90 WashingtonPost.com (Pg. Unavail. Online)
1990 WLNR 4769804

WashingtonPost.com

November 2, 1990

DEA DENIES CONNECTION TO '88 PAN AM BOMBING

Michael Isikoff and George Lardner Jr.

The Drug Enforcement Administration terminated an undercover drug investigation using the Frankfurt airport at least one year before the 1988 terrorist bombing of a Pan American World Airways flight over Lockerbie, Scotland, law enforcement officials said yesterday. The officials also said that contrary to televised reports earlier this week, there is no record in DEA files that Khalid Jaafar, a 21-year-old Lebanese American who died in the bombing, had been an undercover informant or courier for the agency. Despite the DEA findings, the Justice Department announced that the FBI would pursue reports that there may have been a connection between DEA undercover operations and the bombing that killed 270 people.

Reports that terrorists may have exploited DEA's special access at the Frankfurt airport and somehow tricked Jaafar into getting the bomb onto the flight were broadcast earlier this week by NBC and ABC. The television networks said Jaafar had been recruited by the DEA to ferry heroin to the United States as part of an undercover operation targeting drug traffickers in the Detroit area. "While at this time we know of no evidence giving credence to these allegations, it is important . . . to determine their credibility as soon as possible," Deputy Attorney General William Barr said in a prepared statement. He said the FBI's "current involvement with the Pan Am investigation will speed this process." The statement by Barr rankled DEA officials, who had earlier expressed confidence that their own review would lay the matter to rest. Administration officials said the decision to have the FBI investigate an alleged DEA connection to the bombing was prompted by Attorney General Dick Thornburgh's displeasure with the way the drug agency handled an earlier internal inquiry into the abduction of a Mexican doctor from Guadalajara this year. In that case, Thornburgh, relying on DEA assurances, told the Mexican government that the agency had no role in seizing the doctor, Humberto Alvarez Machain, and bringing him to the United States for trial on charges of taking part in the 1985 torture-murder of DEA agent Enrique "Kiki" Camarena. But at a federal court hearing in Los Angeles last June, federal prosecutors disclosed that top DEA officials had approved payments to Mexican operatives who abducted Alvarez Machain from his Guadalajara office. Administration sources said White House and State Department officials had been "upset" with the DEA's handling of that episode and complained to Thornburgh. One government official said there had been "a loss of confidence" by top Justice Department officials in the DEA's ability to investigate itself. Pan Am Flight 103 originated in Frankfurt on Dec. 21, 1988, with a hop to London, where passengers and luggage were transferred to a Pan Am jumbo jet bound for New York. All 259 people on the plane and 11 on the ground were killed when a bomb in a forward baggage hold detonated. The device had been built into a radio-cassette and packed in a suitcase loaded at Frankfurt. Administration officials expressed widespread skepticism at the alleged DEA connection and said it smacked of a similar report involving the Central Intelligence Agency and the Frankfurt airport, which the FBI has examined and rejected. A presidential commission that investigated the bombing put much of the blame on inept and confused Pan Am security in Frankfurt and London. In a report last May, the commission said there was ample evidence that an "extra" bag was put

on the plane at Frankfurt. Investigators believe it came from an Air Malta flight. As part of ongoing investigations of heroin smuggling through Lebanon, DEA in the mid-1980s made special arrangements with West German authorities to allow its undercover operatives to carry "controlled" shipments of drugs onto U.S.-bound flights from Frankfurt, officials acknowledged yesterday. But they said there is no record that any such shipments were made through Frankfurt after 1987. Officials also said a preliminary check of DEA computers and files turned up no sign that Jaafar had ever worked for the agency. "He's never been documented as working for us, period," said one DEA official. "That doesn't mean he may not have come into our office or talked to some of our people." New York lawyer James B. Weidner, who was executive director of the presidential panel, said yesterday that his group asked U.S. agencies, including the DEA, specifically whether there was any intelligence or law enforcement operation at Frankfurt that might have had a connection to Pan Am Flight 103 and was told there was none. "If it {a special arrangement between DEA and West German authorities} were in existence in December of 1988, I would expect to have heard about it," Weidner said. "I don't want to go beyond that."

---- Index References ----

Company: NBCUNIVERSAL MEDIA LLC; PAN AMERICAN WORLD AIRWAYS INC; AMERICAN BROADCASTING COMPANIES INC; PAN AMERICAN ENERGY LLC SOCIEDAD EXTRANJERA

News Subject: (Crime (1CR87); Government Litigation (1GO18); International Terrorism (1IN37); Emerging Market Countries (1EM65); Smuggling & Illegal Trade (1SM35); Criminal Law (1CR79); Social Issues (1SO05); Top World News (1WO62); Legal (1LE33))

Industry: (Airport Security (1AI57); Air Transportation (1AI53); Transportation (1TR48); Air Safety (1AI68))

Region: (Arab States (1AR46); Europe (1EU83); Mexico (1ME48); Americas (1AM92); Central Europe (1CE50); Lebanon (1LE68); Eurozone Countries (1EU86); North America (1NO39); U.S. Mid-Atlantic Region (1MI18); Middle East (1MI23); Germany (1GE16); New York (1NE72); USA (1US73); Western Europe (1WE41))

Language: EN

Other Indexing: (Dick Thornburgh; William Barr; James Weidner; Enrique Camarena; Humberto Alvarez Machain; Khalid Jaafar; Alvarez Machain)

Word Count: 777

End of Document

NewsRoom

11/1/90 Reuters News 00:00:00

Reuters

November 1, 1990

U.S. TO PROBE LINKS BETWEEN DRUG STING AND LOCKERBIE BOMBING.

James Vicini

WASHINGTON, Nov 1, Reuter - The United States will investigate new charges of a possible link between U.S. undercover drug operations and the 1988 bombing of a Pan Am airliner over Scotland, authorities said on Thursday.

"While at this time we know of no evidence giving credence to these allegations, it is important to examine these allegations and to determine their credibility as soon as possible," Deputy Attorney General William Barr said.

The U.S. television network NBC reported on Tuesday that undercover operations of the U.S. Drug Enforcement Administration (DEA) may have been used to smuggle the bomb aboard Pan Am flight 103.

An explosion in the jumbo jet's forward baggage compartment killed all 259 passengers and crew on board as well as 11 people on the ground in Lockerbie, Scotland on December 21, 1988.

Barr said the fact that the Federal Bureau of Investigation (FBI) already had been investigating the disaster would speed up its review of the new allegations.

"Securing the arrest and conviction of those responsible for this cowardly act is a top priority," he said in a brief statement.

NBC, quoting unidentified law enforcement and intelligence sources, said Pan Am flights from Frankfurt, including flight 103, had been used a number of times by the DEA in top-secret undercover operations to fly informants and suitcases of heroin into Detroit.

The network said Khalid Jafaar, a 21-year-old Lebanese-American student from Detroit, may have been tricked into carrying the bomb onto the plane.

The DEA also has been conducting its own investigation of the allegations, reviewing its case files, its operations and its activities. Its inquiry is expected to be completed this week.

The FBI said it would continue to investigate all information and potential leads relating to the "suspected terrorist bombing" of the Pan Am flight.

"A number of possible motives have, and continue to be, tediously pursued in this case, the largest international terrorist investigation ever conducted," the FBI said.

FBI chief William Sessions has repeatedly said there has been "significant progress" in the investigation and that he expects the perpetrators to be brought to justice.

---- Index References ----

Company: NATIONAL CO FOR PAPER INDUSTRIES; FBI SA; FRANCHISE BANCORP INC; PAN AM CORP; NATIONAL BANK OF CAMBODIA

News Subject: (International Terrorism (1IN37); Top World News (1WO62))

Industry: (Security Agencies (1SE35); Security (1SE29))

Region: (England (1EN10); North America (1NO39); U.S. Midwest Region (1MI19); USA (1US73); Americas (1AM92); United Kingdom (1UN38); Europe (1EU83); Scotland (1SC90); Western Europe (1WE41); Michigan (1MI45))

Language: EN

Other Indexing: (DEA; FBI; FEDERAL BUREAU OF INVESTIGATION; NBC; PAN AM; US DRUG ENFORCEMENT ADMINISTRATION) (Barr; DRUG STING; Khalid Jafaar; LOCKERBIE BOMBING; William Barr; William Sessions)

Word Count: 349

End of Document

Good Ol' Boys of the South Carolina Legislature Squirm Under Harsh Light of Broad FBI Sting

The Wall Street Journal

October 15, 1990 Monday

Section: POLITICS & POLICY; Pg. A18

Length: 1212 words

Byline: By Jill Abramson, Staff Reporter of The Wall Street Journal

Body

COLUMBIA, S.C. -- Not since Gen. William Tecumseh Sherman torched the state capitol here in 1865 has the South Carolina legislature been so under siege.

For the past 16 months, Yankee intruders, this time from the Federal Bureau of Investigation, have been encamped around the domed capitol, over which the rebel flag defiantly flies, secretly making tapes of legislators taking cash bribes.

Already the sting, dubbed Bubbagate by local pols, has netted 10 legislators, five of whom have entered guilty pleas. The first of the group goes on trial today, and more indictments are expected.

"You can't put a pretty face on this," says GOP Gov. Carroll Campbell, worried that the corruption cases will tarnish his state's ability to attract new industry.

The state's good ol' boy political system, with its notoriously lax ethics and campaign-finance laws, is as much on trial as the lawmakers themselves. Three of the stung legislators, including one indicted on cocaine charges, served on the six-member House Ethics Committee.

"It is no longer business as usual," warned GOP State Senator Rick Lee, choking back tears at his arraignment last month. Mr. Lee, who resigned his seat, pleaded guilty to taking a $2,000 cash bribe from a lobbyist turned FBI informant in return for helping to pass parimutuel betting legislation.

At the arraignment, prosecutors played tapes of Sen. Lee taking from a lobbyist an envelope stuffed with $100 bills. "Smells like your fancy cigars," the senator is heard telling the lobbyist as he sniffs the money, "but I'll take it anyway."

The Town House Hotel, where legislators and lobbyists partied and played in $1,000-a-hand poker games, is almost deserted now, except for a convention of the Daughters of the American Revolution. The legislators have all gone home to persuade the voters to send them back to Columbia, but incumbents are in trouble.

"If you want to throw the rascals out, then throw me in," is Henry McMaster's campaign slogan. He is the Republican candidate for lieutenant governor, running against a Democratic incumbent who served in the Legislature for 24 years. Although the sting is so far fairly evenly divided along partisan lines (six Democrats, four Republicans), as the majority party in both legislative chambers, Democrats are feeling more of the heat.

The sting's greatest pain has been felt in the black community. Four of the indicted lawmakers are black, and three more black legislators are known to be under investigation. That's nearly 40% of the legislative black caucus.

State Sen. Theo Mitchell, the Democratic candidate for governor, charges that a "disproportionate number of Afro-American legislators are implicated" in the sting. U.S. Attorney E. Bart Daniel has repeatedly denied that any groups or individuals have been targeted for prosecution. Deputy Attorney General William Barr calls allegations of selective prosecution "absurd."

"The only color involved in this is green," adds Gov. Campbell. "The only race is the race for money."

But the government's tactics in the sting are under scrutiny, particularly in the wake of the trial of District of Columbia Mayor Marion Barry. In a pretrial motion charging prosecutorial misconduct, indicted Democratic state Rep. Luther Taylor alleges that the FBI kept him holed up at a Ramada Inn for 25 hours of questioning in July without indicating that he was a target of the sting, bought him a liter of Scotch whisky, and discouraged him from calling a lawyer.

The government won't comment, since the federal judge hearing the sting cases has imposed a gag order. But at a recent pretrial hearing, prosecutors denied any misconduct.

Bubbagate, officially called Operation Lost Trust, began as a simple drug investigation of a former Democratic state representative and lobbyist, Ron Cobb. In return for immunity from prosecution on drug charges, Mr. Cobb gave the FBI an earful about drug use and corruption inside the Legislature. He also agreed to be the point man in the sting.

The FBI set up a lobbying front called the Alpha Group and hired Mr. Cobb as its lobbyist to push a bill to legalize betting on dog and horse races in South Carolina. They wired Mr. Cobb's office across the street from the capitol and his suite at the Town House.

With his trademark cigars, Jaguar, and partying prowess, Mr. Cobb was the quintessential good ol' boy lobbyist. As a state representative from 1977-84, he was a founding member of the "Fat and Ugly Caucus," a group of legislators famous for inducing lobbyists to foot the bill for expensive meals.

Between October 1989 and June 1990, the government videotaped legislators meeting with and taking cash from Mr. Cobb. Two legislators were offered $10,000 to round up other supporters of the parimutuel bill. One legislator offered to "mortgage" his vote for some suits and a couple of shirts. The FBI docked a confiscated yacht, the Tallyho, at the Heritage Golf Classic in Hilton Head last April, where Mr. Cobb passed some of the bribes.

Corruption is nothing new to South Carolina. In the past two decades, nine state legislators have been convicted on criminal charges ranging from drugs to vote-buying. Democratic State Rep. Ennis Fant, one of the legislators caught in the sting, had been reprimanded this spring for operating an escort service out of his legislative office.

The sting's stain is already spreading beyond the Legislature. The FBI is known to be investigating two deals involving Mr. Cobb's other lobbying clients. One involves a capital-gains tax break that was slipped into the state's 1988 budget; it gave 21 wealthy individuals, including at least one contributor to Gov. Campbell, $8.6 million. Another involves a review of $17 million in state contracts won by another Cobb client, Hitachi Systems Inc.

Some Republicans are fretful that Gov. Campbell may be hurt by sting fallout. Two of the governor's top political lieutenants were close friends of Mr. Cobb. One recently left his job in the governor's office on an extended medical leave.

Gov. Campbell and legislators are all calling for reform. "It's the born-again ethics legislature," jokes Candy Waites, a Democratic House member whose campaign finance reform bill died during the last legislative session; 132 separate reform proposals have been offered in the sting's wake.

But the good ol' boys aren't dead, at least not yet. "There's still a lot of institutional resistance," says Democratic State Rep. Timothy Rogers, a longtime advocate of ethics reform. "My big fear is that we'll pass legislation and have the teeth pulled out of it."

--- Operation Lost Trust: The Victims

Rep. Larry Blanding (D.) -- Pleaded not guilty to bribery charges.

Rep. Robert Brown (D.) -- Pleaded guilty to bribery charge.

Rep. Ennis Fant (D.) -- Pleaded not guilty to bribery charges.

Rep. B.J. Gordon (D.) -- Pleaded not guilty to bribery charges.

Rep. Robert Kohn (R.) -- Pleaded guilty to conspiracy to accept bribe.

Sen. Rick Lee (R.) -- Pleaded guilty to bribery charge.

Rep. Thomas Limehouse (R.) -- Pleaded not guilty to bribery charges.

Rep. Donna Moss (D.) -- Pleaded guilty to cocaine possession.

Rep. Luther Taylor (D.) -- Pleaded not guilty to bribery charges.

Rep. Daniel Winstead (R.) -- Pleaded guilty to bribery and obstruction of justice charges.

Notes

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Houston Chronicle

September 30, 1990

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Chaos will reign if budget agreement not made

NANCY MATHIS, Houston Chronicle Washington Bureau

WASHINGTON

WASHINGTON - Come Monday, they'll hang a "closed" sign on the Washington Monument - a symbolic signal that the government is about to fall to its financial knees.

By afternoon the same message may be on every government office door across the nation.

On the eve of the new budget year without a spending accord between Congress and President Bush the two scenarios are the bad and the worst.

The bad: $85 billion in automatic budget cuts mandated by the Gramm-Rudman deficit-reduction law would furlough 1.1 million workers, create chaos in the airline industry, leave children unvaccinated, declare a cease-fire in the drug war.

The worst: Government simply ceases to exist. All offices, projections, programs and services will stop except for "essential personnel."

"Nothing moves Congress except a crisis or Christmas. We can't change the date of Christmas, (so) we've created our own crisis," said Carol G. Cox, director of the Committee for a Responsible Federal Budget, a bipartisan education group.

Congress scheduled a rare session today to consider a stopgap spending measure that would allow government operations to continue in the new fiscal year and postpone Gramm-Rudman cuts for 20 days.

President Bush has pledged to veto the measure because it would postpone automatic cuts. He wants to use the threat of Gramm-Rudman cuts to force a 1991 budget agreement.

Negotiators have been working for four months on a five-year, $500 billion deficit reduction package that would trim $50 billion of the $1.2 trillion 1991 budget. Intense, private talks among top congressional leaders and administration officials have so far failed to yield an agreement.

If the standoff continues, almost all government offices would close on Monday and remain closed until an emergency spending authorization measure passed. Bush could use emergency powers to keep offices open that are essential to the health and welfare of the public.

"It's a giant game of chicken," Cox said.

Citizens, for the most part, appear unaware of the stakes in the game but may soon find out they are its biggest losers.

Should government shut down, no one expects it to last more than a few hours. Forty million Social Security checks already are in the mail and will be honored, a spokesman said.

If an emergency spending bill is enacted and Gramm-Rudman takes effect, agencies are preparing for hiring and spending freezes as well as massive furloughs.

"It's nearly impossible to exaggerate the breadth and depth of the disruption caused by an $85 billion sequester," said Cox.

The $85 billion figure is based on deficit projections from July. In August, all affected departments were asked to draw up a plan to take effect Monday, based on that figure.

An updated estimate will be done before Bush signs the final sequester order on Oct. 15. It is expected to add at least another $20 billion to the mandatory reductions.

Nearly 72 percent of the federal budget is exempt from Gramm-Rudman cuts.

The military payroll, all pension systems such as Social Security, interest payments on the debt, and programs for the poor such as food stamps and family support payments, are protected.

Thanks to budget trickery used last year, the mail also will be spared. Lawmakers didn't want the Postal Service listed on the budget because of its deficit.

Medicaid and Medicare programs for the poor and elderly will be partially protected, subject to 2 percent reductions in payments to providers. There also could be delays in processing.

Because of the large amount of exemptions, Gramm-Rudman will fall heavy on the remaining programs: 35 percent for defense and 32 percent for domestic programs.

Pentagon spokesman Pete Williams said the agency intends to insulate Operation Desert Shield - the United States military operation in Saudi Arabia - as much as possible.

However, Williams said the readiness of forces not involved in the Persian Gulf will be weakened, thousands of civilian workers will be furloughed, training time will be cut by one-third and only contracts under obligation would be paid.

Should the Gramm-Rudman cuts last all year, the Department of Health and Human Services estimated 1.6 million children would not be vaccinated for measles, mumps, polio and a host of other childhood diseases; 208,400 fewer children would qualify for Head Start; and investigation of infectious diseases would slow.

HHS reported there would be 400 fewer AIDS research grants and 300 new Public Health Service employees would not be hired for the AIDS program. Also cut would be meals for the elderly, adoption and foster care grants to states.

HHS employees also would be furloughed from a half-day to three days every two weeks.

"It's truly unprecedented and we simply don't know what will happen," HHS spokesman Campbell Gardett said.

Although Social Security benefits are exempt, the 63,000 employees who administer the payments from 1,300 offices nationwide go on a reduced workweek starting Monday, closing two hours early four days a week and all day on Fridays.

The nation's 17,255 air traffic controllers would be furloughed one day a week, causing massive flight delays and cancellations across the country.

The Federal Aviation Administration expects the number of daily departures to decrease by 6,000 flights at the nation's 36 largest airports.

The 7,700 meat and poultry inspectors assigned to 6,700 slaughtering and processing plants nationwide initially would be furloughed for four days starting Oct. 9, said Agriculture Department spokesman Jim Greene.

Without the inspections, the plants - 272 of them are in Texas - cannot operate. Four days is not long enough to cause a shortage in fresh meat and poultry, Greene said. However, the agency has planned for the sequester to be in effect for two weeks.

At the Department of Justice, all employees - from attorneys to border patrol agents to prison guards - will be forced to take off without pay one to three days every two weeks.

Assistant Attorney General William P. Barr estimated that probes by the FBI and Drug Enforcement Administration into terrorism and smuggling would be seriously hampered, and delays of up to four hours would occur at ports of entry because of Immigration and Naturalization Service furloughs.

Most of the 400 national parks, historic sites and memorials will remain open with operating hours and services scaled back, said National Park Service spokeswoman Elaine Sevy.

Beginning this week, the Washington Monument and the Statue of Liberty will be closed on slow tourism days, probably Mondays and Tuesdays.

Although most food assistance programs operated by the Department of Agriculture are exempt, about $600 million in commodities for soup kitchens and nutrition programs for the elderly like Meals on Wheels would be cut.

A sequester would need to continue for several weeks before the needy would feel the impact of commodity reductions, a spokesman said.

The Department of Energy, in a recent report detailing the effects of a sequester, said cuts in energy research would lead to a "significant reduction" in construction of the superconducting super collider laboratory and basic ongoing research programs linked with the project.

Lab spokesman Russ Wylie said the immediate impact of the sequester would be slight, but added that "almost from the first day the effects begin to mount."

To avoid furloughs for the first couple of weeks, the Energy Department plans to use "carry over" funds allocated for long-term projects to cover employee salaries.

The department also forecasts a 12-month delay in cleaning sites contaminated with nuclear waste.

The Department of Labor has informed workers that they could be out of work for 37 to 100 days if furloughs last a year, said Thomas Komarek, agency spokesman.

Routine inspections conducted by the Occupational Safety and Health Administration would be reduced while the agency cuts back on enforcing numerous laws protecting child workers and preventing discrimination and wage and hour violations.

The Department of Veterans Affairs, already financially strapped, reports it will furlough only non-medical personnel and continue to provide care to all current patients during the first two weeks of the sequester.

If Gramm-Rudman extends throughout the fiscal year, the department plans to eliminate care for 83,000 of the 1.2 million vets in inpatient care and 1.7 million of the 23.4 million vets in outpatient care.

The agency also will lay off 13,800 of its 194,138 employees.

All new Superfund cleanups would be halted by the Environmental Protection Agency, which also reports it would probably miss the first-year deadlines in new amendments to the Clean Air Act.

---- Index References ----

News Subject: (Legislation (1LE97); Social Issues (1SO05); Government (1GO80); Social Welfare (1SO83); Major Corporations (1MA93))

Industry: (Environmental Solutions (1EN90); Air Safety (1AI68); Passenger Transportation (1PA35); Transportation (1TR48); Healthcare (1HE06); Air Transportation (1AI53); Agriculture (1AG63); Airlines (1AI34); Agriculture, Food & Beverage (1AG53))

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NewsRoom

House to Consider Crime Bill That May Limit Use of Death Penalty

The New York Times

September 25, 1990, Tuesday, Late Edition - Final

Section: Section B; Page 9, Column 1; National Desk

Length: 1124 words

Byline: By NATHANIEL C. NASH, Special to The New York Times

Dateline: WASHINGTON, Sept. 24

Body

Facing the threat of a veto, a bill is scheduled to be taken up Tuesday by the House of Representatives that many law-enforcement agencies say could greatly restrict the use of the death penalty.

The prospects for the anticrime legislation are uncertain. But the debate in the next few days over capital punishment is expected to be one of the most intense in years on an issue that divides lawmakers of both parties.

The debate will range from how many appeals a convicted murderer on death row can have to which crimes deserve the death sentence and to whether charges of racial discrimination should nullify the imposition of the death penalty.

The debate comes amid warnings that President Bush will veto the legislation. Administration aides say Mr. Bush believes that the bill is tougher on law enforcment than on crime and that the measure ties the hands of prosecutors from successfully winning death penalty convictions, let alone carrying them out.

Bill Termed 'Pro-Criminal'

"The House Judiciary Committee's bill is pro-criminal and would be a substantial setback for law enforcement," William Barr, Deputy Attorney General, said in a telephone interview. "Among other things, it would effectively abolish the death penalty in the 36 states that have it."

The Administration contends that the current system creates built-in delays that average seven years in carrying out executions. It has marshaled support from a number of law-enforcement agencies and associations, including the National Association of Attorneys General, the National District Attorneys Association and the Fraternal Order of Police.

Some Democrats maintain that the system for executing convicted murderers in the United States is unfairly skewed toward blacks. They say most inmates on death row have had poor legal representation and are three times more likely to be charged, convicted and executed for killing whites than whites are for killing blacks.

"The point is that if you want to have the death penalty that is fine, but make sure the system is fair," said Ira P. Robbins, a law professor at the American University in Washington.

Chief Sponsors Named

Among the chief sponors of the bill are Representatives Jack Brooks of Texas, William J. Hughes of New Jersey and Robert W. Kastenmeier of Wisconsin, all Democrats.

In addition to the bill, called the Comprehensive Crime Control Act, the House will consider at the same time legislation that would set into law the ban on 43 foreign-made assualt weapons that the President imposed in July 1989, as well as prohibiting American companies from making other types of semiautomatic weapons "not generally recognized as particularly suitable for, or readily adaptable to, sporting purposes."

The legislation also steps up Federal action against those found guilty of fraud in savings and loan institutions. Besides increasing the maximum penalty for fraud of up to $10 million, or twice the gain from any criminal enterprise involving a savings unit, it also makes concealing assets from Federal bank examiners a felony, punishable by up to five years in prison.

But the issue of capital punishment is certain to create the most debate. The controversial aspects of the capital punishment bill fall into four categories.

Highest on the list is the effort to change the nation's habeas corpus statutes, which give defendants a right to petition from a state court, either to another state's jurisdiction or to the Federal courts.

Particularly onerous to the White House and many states is a measure that would establish a test to make sure that defendants receive qualified counsel and would provide a statute of limitations of up to one year from the time an inmate's state appeals process is exhausted to file a habeas corpus petition for his case to be reviewed by the Federal courts.

Defenders of the legislation note that in a number of states lawyers defending accused murders are paid a flat fee, regardless of the length of the trial. In some cases those fees are as low as $1,000. They contend that at those rates defendants are certain to get poor legal advice and short trials, which often lead to repeated petitions of appeals.

''Our argument is that if you get competent counsel from the beginning you will reduce the number of petitions and speed up the process, while at the same time making sure these people get decent representation,'' Professor Robbins said. #2 'Aggravating Factors' Needed A second issue involves provisions that would require prosecutors to prove that there were at least two ''aggravating factors'' surrounding a murder, instead of the one now required.

Opponents of the measure say the provision would mean the state would not only have to prove that a defendant was in a state of mind that he intended to murder another person, but that another aggravating factor, such as torture, was also involved.

''This would mean that if you assassinated the Presdient, you would have to prove that torture was also involved in order to get a successful death penalty sentence,'' said an Administration official who spoke on condition of anonymity.

The White House is also upset that some crimes have been left out of the list of capital offenses, including murder through the use of a letter bomb and the bombing of an airliner.

But Democrats say the list of capital crimes under the bill has been expanded to 10 additional crimes, including espionage, treason and intentional killing in a kidnapping case.

But what appears to cause the most concern is a provision of the bill that would bar execution of prisoners who can demonstrate that the death sentence was imposed because of racial considerations, and would require prosecutors to prove that the defendant's race was not a factor in imposing the death sentence.

Professor Robbins and others say that three times as many blacks than whites are prosecuted, charged and convicted of capital murder, and argue that out of fairness, the Government owes it to defendents to prove that race is not a factor in seeking the death penalty.

Law-enforcement officials say such a move could bring capital punishment to a halt, with black defendants using the charge of discrimination and white defendants saying death penalties will be imposed on them just to fill a quota.

''This is a subtle attempt to make it almost impossible to impose the death penalty,'' said Richard P. Ieyoub, district attorney at Lake Charles, La. ''It creates a bizarre quota system that would stymie prosecutors.''

''I think it is ludicrous,'' said Dewey Stokes, president of the Fraternal Order of Police. ''People have to be held accountable for their deeds, whether they are all black or all white.''

End of Document

Justice Dept. Losses in High-Profile Trials Raising Questions of Fairness

The New York Times

September 18, 1990, Tuesday, Late Edition - Final

Section: Section A; Page 18, Column 2; National Desk

Length: 894 words

Byline: By DAVID JOHNSTON, Special to The New York Times

Dateline: WASHINGTON, Sept. 17

Body

A string of recent courtroom reverses suffered by the Justice Department, like the divided verdict in the trial of Mayor Marion S. Barry Jr. of Washington, has raised basic questions about the Government's fairness to well-known defendants.

Insisting that the losing streak represents no more than a brief spell of bad luck in a handful of celebrated cases, Justice Department officials say they work especially hard to be fair in well-publicized cases. And they say their overall conviction rate remains high, with most victories in the high-priority areas of white-collar crime and drugs going unheralded.

"I reject the premise that a few isolated examples over a six-month period show any trend," said William P. Barr, the Deputy Attorney General. "During any six-month window, one could find cases where the Department of Justice had experienced setbacks, but overall, the department's record continues to be sensational."

For example, he said, in savings and loan cases the department has a record of 316 convictions against 12 acquittals.

But more than just numbers, the debate over several prosecutions of prominent defendants has turned on questions of tactics and motives. These cases stand out:

* After the highly publicized sting arrest of Mayor Barry in Washington, a jury in Federal District Court convicted him of a single drug possession misdemeanor last month. It acquitted him of another charge and was unable to reach a verdict on 12 others.

* A Federal jury in New York in July acquitted Imelda Marcos of charges that she had spent money in the United States that was stolen from the Philippine Government while her husband, Ferdinand Marcos, was President.

* This month, a Federal district judge in Los Angeles dismissed all charges against Joseph Isgro, a record promoter, after saying prosecutors withheld crucial evidence in the case, the biggest music payola prosecution in three decades. Justice Department officials say they will appeal.

* Another Federal district judge in Los Angeles last month ordered the release of Humberto Alvarez Machain on the ground that his capture by bounty hunters operating with the approval of the Drug Enforcement Administration violated the United States' extradition treaty with Mexico. Dr. Alvarez had been charged with involvement in the torture and murder of an American drug agent in 1985. He remains in jail pending the outcome of an appeal.

Mr. Barr insisted that the recent courtroom setbacks stemmed from unique events that hampered the Government's prosecutions in each case. He said each of the defendants had been pursued fairly and added that the cases had

developed solely on the basis of strong evidence of wrongdoing. Celebrities Singled Out? Asked about assertions that the department is overzealous, Mr. Barr replied: "That is patently false. The A.C.L.U. and many academics will always say that the department is overzealous because they generally side with criminal defendants."

Critics in Congress, at law schools and among defense lawyers say they have observed a trend in which Government prosecutors have relentlessly pursued celebrity defendants, sometimes in cases that have faltered largely because judges and juries questioned why and how the Government was pursuing investigations and whether it was observing the constitutional rights of well-known defendants.

Two critics who singled out the Barry case as an example were Representative Don Edwards, a California Democrat, who heads the House Judiciary subcommittee on civil and constitutional rights, and Frank Askin, a law professor at Rutgers University and a general counsel of the American Civil Liberties Union.

"Some of these cases might not be good enough to bring and were only brought because of the heavy media coverage that the department might get," said Representative Edwards. "When the department goes to extreme lengths and spends a lot of money and overreaches, juries don't like it."

Mr. Askin said the cases reflected the prosecution-minded attitudes among the department's top managers. "We have a Justice Department dominated by authoritarians who have a world view that they know best and aren't concerned with defendant's rights," he said. "This view is running into public opposition from within the legal community and outside the legal community, where there is a stronger commitment to individual liberty."

Doubts About Law's Long Reach

Other legal experts said the cases illustrate questions about the evolution of criminal law. For example, the Marcos verdict came after Federal District Judge John F. Keenan asked in the trial why he was trying a case in Manhattan that involved accusations about theft from the Philippines. One juror said later that the trial was conducted "on the wrong side of the ocean."

"We live in a global village, but there's no global cop," said G. Robert Blakey, a professor at Notre Dame law school, adding, "So we are kind of stuck with trying to find solutions on a case by case basis."

A different phenomenon was at work in the Barry trial, where motives of white prosecutors were held suspect in a case against an important black political figure.

Attorney General Dick Thornburgh has rejected criticism from black lawmakers and civil rights leaders about the department's prosecutions of black officials.

SHOWDOWN OVER STANDARDS OF CONDUCT; PROSECUTORS SEE ABA AS

Legal Times

September 17, 1990 Monday

Section: Pg. 54; Vol. 13

Length: 1374 words

Byline: Tom Watson

Body

PROSECUTORS SEE ABA AS ARM OF THE DEFENSE BAR

Arthur Cappy Eads has all but written off the American Bar Association as a lost cause.

The ABA today is nothing more than an arm of the criminal-defense bar, says Eads, a veteran district attorney in Bell County, Texas, and a past president of the National District Attorneys Association. The organization has taken an offensive attitude toward prosecutors nationwide, and we're not going to stand for it anymore.

I'm prepared to tear up my membership today, steams Eads.

Not all prosecutors are ready to follow Eads out the door of the country's largest lawyers group. But increasingly, local, state, and federal law-enforcement officials are echoing his rising anger--and closing ranks to vent their frustrations with a determined unity seldom seen before.

The cause of all the clamor is a new move by the ABA to tighten its guidelines on how prosecutors ought to behave.

The ABA's Criminal Justice Section wants to amend the guidelines, known formally as the Prosecution Function Standards, to prohibit prosecutors from seizing assets that criminal defendants use to pay their lawyers. The section also is pushing a requirement prohibiting prosecutors from subpoenaing defense lawyers without first obtaining a judge's consent.

But prosecutors say such a change could rob them of weapons key to their crackdown on drug trafficking, white-collar financial fraud, and organized crime--weapons already approved by the courts, Congress, and state legislatures.

Defense lawyers are using a professional trade association to try to undo what the courts and state legislatures have done to protect citizens from the criminal element, says Deputy Attorney General William Barr, the No. 2 ranking official in the Justice Department.

It's sabotaging the legislative choices of the people, he charges.

ABA officials acknowledge that the proposed standards reflect an effort to combat what they view as excessive prosecutorial zeal.

It appears as though the Department of Justice has been trying to win the war on drugs by declaring war on criminal-defense lawyers, says Sheldon Krantz, who recently stepped down as chairman of the ABA's Criminal Justice Section. The ABA is concerned about balancing prosecutors' power with individual rights.

But Krantz, who teaches at American University's Washington College of Law, bristles at the suggestion that the changes ignore prosecutors' concerns. We're not a special-interest group, he argues.

To the contrary, Krantz says, he and others made repeated efforts to solicit comments from the Justice Department, the National District Attorneys Association, and the National Association of Attorneys General. All they got for their efforts, he says, was a cold shoulder.

The two sides even disagree over whether the Prosecution Function Standards have teeth. ABA officials argue that they are non-binding ideals, intended to establish goals of fairness and propriety to which all prosecutors ought to aspire.

But Justice officials say those seemingly harmless ideals are sometimes adopted by state bars and courts--subjecting prosecutors to sanctions and, potentially, disbarment.

The debate has sent temperatures soaring, exacerbating the natural antagonisms that exist between prosecutors and their adversaries.

Tensions are as high now as they have ever been, says Neil Sonnett of Miami's Sonnett Sale & Kuehne, a past president of the National Association of Criminal Defense Lawyers who is also active in the ABA.

History of Conflict

This is not the first time prosecutors have threatened to take their ball and go home.

In 1982, a group of prosecutors threatened to quit the ABA, following an emotionally charged election--for a leadership post in the Criminal Justice Section--that divided section members along vocational lines.

The prosecutors' candidate was R. Dale Tooley, a district attorney from Denver. Defense lawyers backed Barry Tarlow, an upstart litigator from Los Angeles who waged an aggressive challenge for a position not normally so hotly contested. Tarlow's efforts paid off; when he won, some prosecutors reacted with disgust, threatening to walk out and form their own professional association.

But the storm blew over. Richard Kuh, a member of the Criminal Justice Section, helped foster negotiations that smoothed key prosecutors' ruffled feathers; Tarlow, meanwhile, lost support among some defense lawyers and eventually left the leadership of the section.

Kuh says that rift between prosecutors and defense lawyers arose over personalities. It was largely precipitated by what Tarlow had done, says Kuh, now a name partner at New York's Warshaw Burstein Cohen Schlesinger & Kuh. The current situation, Kuh adds, has more to do with issues.

Thornburgh in ABA's Side

The issues in question have been simmering since Attorney General Richard Thornburgh took office in August 1988.

The department infuriated the ABA by asserting its right to seize criminal defendants' assets, even if those assets were used pay the defendants' legal fees. The U.S. Supreme Court in 1989 upheld the government's position in **Caplin & Drysdale v. United States**--despite the strong opposition of the ABA.

The issue of attorney subpoenas, too, has sparked division and rancor. Last February, the Justice Department launched a lobbying campaign to prevent the ABA's House of Delegates from changing its Model Rules of Professional Responsibility to help shield lawyers from subpoenas. (**See DOJ Bids to Block ABA Rule Change,** Legal Times, **Feb. 12, 1990, Page 1**).

The department's campaign fell flat; the ABA overwhelmingly adopted an amendment making it unethical for federal prosecutors to subpoena a lawyer without prior judicial review. The language is similar to that in the proposed revisions in the Prosecution Function Standards.

This summer, when those proposed changes were released, prosecutors at all levels of government hit the roof.

At their annual meetings this summer, both the National District Attorneys Association and the National Association of Attorneys General condemned the Criminal Justice Section, arguing that the ABA had failed to represent fairly prosecutors' point of view.

Afterward, the groups approached the Justice Department, enlisting Thornburgh's aid. At a press conference flanked by representatives of both organizations, Thornburgh lashed out at the ABA.

The defense bar, with ABA sponsorship, is attempting to use rules of professional conduct to stymie criminal investigations and prosecutions, Thornburgh said at the Aug. 6 press conference.

Questioning the ABA's Role

The prosecutors' protest worked--at least temporarily. Criminal-defense lawyers in the ABA agreed to postpone action on the proposed changes until the aggrieved groups had a chance to air their complaints.

That chance comes Oct. 9, when representatives from both camps meet in Washington in search of common ground.

While both sides say they are hopeful, that common ground will be hard to find. Coming into the conversation, the prosecutors are clearly in a defiant mood.

The criminal defense bar talks in terms of clearing up the prosecutors' misunderstanding about the procedures by which the ABA drafts its standards and what those standards mean. The prosecutors are talking in terms of drastic structural change.

Barr, the Justice Department's lead actor on the issue, questions whether the ABA has any business setting standards for prosecutorial performance in the first place.

The American Bar Association has no mandate, formal or informal, to make rules for the government's conduct of its law-enforcement business, Barr said in an Aug. 2 letter to Krantz, the former section chairman.

Defense lawyers say it is unclear whether they will be on constructive speaking terms with their counterparts.

A lot depends on whether or not we can begin a good-faith dialogue, says Sonnett. If not, things will quickly come to a head.

Eads, meanwhile, says he will have to struggle to keep his anger in check.

I know there are a lot of people saying, Cool down, we'll work this out through reasoned dialogue. And maybe they're right in the long run. says the Texas prosecutor. But there's an awful lot of stuff we're going to have to get straight before I stop being a stone in their shoe.

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Justice-Agency Meeting and Fund-Raiser Spark Questions Over Roles of Sen. Wilson, Film Studios

The Wall Street Journal

September 11, 1990 Tuesday

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Length: 1467 words

Byline: By Jill Abramson, Staff Reporter of The Wall Street Journal

Body

WASHINGTON -- On Aug. 7, Ira Goldman, a top aide to Sen. Pete Wilson, helped arrange for motion-picture czar Jack Valenti and other Hollywood executives to meet with William Barr, the Justice Department's newly installed deputy attorney general.

The meeting -- which Mr. Goldman not only helped set up but also attended lest the Justice Department lose sight of his boss's extraordinary interest in the matter -- went well for the Hollywood lobby.

It resulted in a re-evaluation of a department legal position that would hurt the movie industry's battle against the television networks to keep sole control of $3 billion a year in television rerun sales.

Thursday evening, the movie chieftains are rewarding Mr. Goldman's boss, Sen. Wilson, handsomely for efforts on their behalf. A Who's Who of Hollywood bigwigs will assemble at the Bel Air home of Paramount Pictures Corp. Chairman Frank Mancuso to raise money for Sen. Wilson's hotly contested campaign for governor of California.

The $1,000-a-couple cocktail reception could fatten the Republican gubernatorial candidate's coffers by $250,000 or more, according to several experienced Hollywood fund-raisers.

Among the 25 co-sponsors listed on the invitation: Walt Disney Co. Chairman Michael Eisner, Warner Bros. Inc. Chairman Robert Daly, MCA Inc. President Sidney Sheinberg, Columbia Pictures Entertainment Inc. Co-Chairman Peter Guber, MGM/UA Communications Co. Chairman Kirk Kerkorian, independent producer Stephen J. Cannell, and Mr. Valenti, president of the powerful Motion Picture Association of America.

Sen. Wilson, who didn't respond to repeated inquiries about the juxtaposition of the department meeting and the fund-raiser, has long had a close relationship with the motion-picture industry. Mr. Goldman says there is "absolutely no connection" between the meeting and the fund-raiser. "It's incredible that anyone would even suggest that," he adds.

But others say the meeting and subsequent fund-raiser are a flagrant example of the way special-interest donors get special favors and access from the lawmakers to whom they contribute. "This is as bold a play for the special interests that support a campaign that could possibly be made," contends Ellen Miller of the Center for Responsive Politics in Washington.

In the wake of the S&L debacle, serious questions have been raised about lawmakers' intervening for special-interest constituents or financial supporters. There is often a thin line between legitimate constituent representation and a quid pro quo.

Hollywood's Messrs. Valenti and Daly, who are among those throwing Sen. Wilson's fund-raising bash, accompanied Mr. Goldman to the meeting at the Justice Department. The meeting came after the Justice Department had already staked out an initial position against Hollywood on an arcane set of regulations known as the Financial Interest and Syndication Rules.

Preservation of the rules, adopted by the Federal Communications Commission two decades ago, is crucial to the movie industry because they bar the television networks from syndicating shows or sharing in the profits of hit television series when reruns are sold to local TV stations. Most of these series are produced by the major motion-picture studios.

In June, the department's antitrust chief, James Rill, concluded in 37 pages of legal comments that the rules should be eliminated, unless the FCC finds they protect the public interest. Next year the FCC is expected to decide the issue, which has pitted an alliance of major Hollywood studios and independent producers against the television networks in a decade-long lobbying war.

Although the Justice Department took a similar stance in 1983, the Rill comments were a blow to Hollywood lobbyists, who say the rules protect the producers and creators of television shows from monopolistic practices of the TV networks. With help from Sen. Wilson and his counsel, Mr. Goldman, the motion-picture industry went over Mr. Rill's head and appealed to the department's newly installed deputy attorney general, Mr. Barr.

Sen. Wilson began his lobbying of Mr. Barr even before he was confirmed as deputy attorney general. "He made the producers' case" during one of the Justice official's courtesy calls on senators during the confirmation process, recalls Mr. Barr. "I told him I would keep an open mind."

Mr. Rill had issued his comments on June 14, before Mr. Barr was confirmed. After the comments were released, Sen. Wilson continued to lobby Mr. Barr by telephone. Then came the Aug. 7 meeting with Mr. Goldman, Mr. Valenti, Mr. Daly and a few other movie-industry representatives.

Responding to the movie studios' entreaties, Mr. Barr agreed to review the massive record in the case before issuing further filings to the FCC. Since Attorney General Richard Thornburgh is recused in the matter (he owns stock in General Electric Co., the parent of the NBC network), Mr. Barr holds the decision-making power.

"There has been no untoward pressure. . . . Everything is quite appropriate," says Mr. Barr, stressing that network lawyers have lobbied him, too. Mr. Rill, too, says it is appropriate for affected parties to ask for a second opinion from a higher official.

For his part, Mr. Goldman defends his and Sen. Wilson's efforts to help the motion-picture industry as perfectly proper. "If Sen. Wilson can't represent an entire industry that employs tens of thousands of people in his state, we might as well just shut the Congress down," he says. "We're talking about an entire industry here, we're not talking about doing a favor for one particular constituent where other senators have run into problems."

Mr. Goldman stresses that Sen. Wilson has been a vigorous advocate for the motion-picture industry in the Financial Interest and Syndication Rules battle since 1983 and has also been Hollywood's advocate on other issues, helping to win key provisions for the movie industry in the 1986 tax and 1988 trade bills.

Since Sen. Wilson has also enjoyed Hollywood's financial backing in previous campaigns, Mr. Goldman says there's nothing unusual about Thursday's fund-raiser. "There's only the coincidence of timing," adds William

Hamilton, Sen. Wilson's campaign press secretary. Invitations to the fund-raiser were sent out Labor Day weekend, nearly four weeks after the Aug. 7 meeting, according to one of the event's organizers.

Although there has been a traditional Democratic tilt to Hollywood's largess (in July, the Hollywood community raised $650,000 for House Democrats in Beverly Hills), the GOP's Sen. Wilson has been an exception. While he received only token support from Hollywood executives during his first senate campaign in 1982, by his 1988 re-election drive Sen. Wilson had become a studio favorite, in large part due to his work on the Financial Interest and Syndication Rules fight.

In 1988, he received $56,500 from the political-action committees of movie studios lobbying to save the rules and another $51,250 from individual studio executives involved in the battle, according to federal Election Commission data.

Sen. Wilson in 1988 received more financial support from Hollywood studio interests than Democratic Senate candidate Leo McCarthy. And this year, he is expected to vastly outdraw Diane Feinstein, the Democratic candidate for governor. Although the former San Francisco mayor is supported by some Hollywood executives such as Fox Chairman Barry Diller and has had Hollywood fund-raising events of her own, a Feinstein campaign aide says she won't come near the level of support Sen. Wilson enjoys.

Several Hollywood fund-raisers said they expected studio interests to pump more than a million dollars into Sen. Wilson's gubernatorial campaign before the November election. "Some will hedge their bets and go with Feinstein, too, but the bulk will go to Wilson," said one well-known Democratic fund-raiser.

Timothy Boggs, a Time Warner Inc. vice president and spokesman for Mr. Daly, says, "Pete Wilson has long been a personal friend of Mr. Daly's and he's enjoyed the political support of the studios for a long time." Mr. Boggs adds: "It wasn't extraordinary in any regard that Sen. Wilson and his staff assisted in the meeting with the Justice Department. Since Mr. Barr was new to the subject, we were anxious for him to understand the priority we place on the maintenance of the rules."

Mr. Valenti, the 69-year-old former adviser to President Johnson whose lobbying skills and fund-raising prowess are legendary in Washington, was traveling in Europe and couldn't be reached. The MPAA's Barbara Dixon says Mr. Valenti isn't even going to the Wilson fund-raiser, although he lent his name to the invitation. "Pete Wilson has always been a sympathetic listener to the industry," she adds.

Paul M. Barrett contributed to this article.

Notes

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Byline: By DAVID JOHNSTON, Special to The New York Times

Dateline: WASHINGTON, Aug. 29

Body

Being second in command at the Justice Department under Dick Thornburgh has proved a high-risk career choice. But William P. Barr, the Attorney General's third appointee to the post, seems to be settling in. His daunting task: to turn around one of the Bush Administration's more troubled departments.

Since his nomination in May as the Attorney General's alter ego, the self-deprecating, bagpipe-playing New Yorker has aggressively applied himself on a variety of flashpoint issues, determinedly shoring up his boss, who has emerged after a roller-coaster ride through his first two years in office as one of the Cabinet's surprise underachievers.

"If after I'm done, people said I did a good job in helping Dick Thornburgh in applying the laws with integrity and fairness then I'd be happy man," Mr. Barr said. "Apart from that my goal is to survive. This is a tough job; there are mine fields every day. And I just hope I can get through the day without stepping on one."

He has the political lifesaving skills to manage - and the connections some say put him high on Mr. Thornburgh's list. He honed his talents in the 1988 Bush Presidential campaign, where he worked on vice presidential selection and later helped in the rescue operation that pulled Dan Quayle out of the squalls of criticism that dogged his candidacy.

Winning Praise on Hill

Perhaps coincidentally, Mr. Thornburgh's performance has improved since Mr. Barr began working behind the scenes. For example, some lawmakers who have been criticized over their own failings in the savings and loan debacle have tried to deflect that criticism by turning on Mr. Thornburgh, saying he has moved too slowly on fraud prosecutions; the Attorney General has so far rebuffed those attacks.

On Capitol Hill, where Mr. Thornburgh's relations have often been strained, Mr. Barr won praise after representing the department in negotiations with the Senate over savings and loan anti-fraud legislation. Not long after the Senate approved the package, Senator Paul Simon, an Illinois Democrat, approached Mr. Thornburgh at a Judiciary Committee hearing. "A good man you got there," Mr. Simon told the Attorney General, who was accompanied by Mr. Barr and an entourage of aides.

Mr. Barr said: "Before, there really wasn't anybody performing that function. There was no one who could go up in that kind of environment, who could sit there and make the calls and make the decisions and know they would have the backing of the Attorney General."

But at times, Mr. Barr's duties twist him into awkward situations. He had to assume supervision of a Federal grand jury investigation into drug use by former state officials in Pennsylvania after Mr. Thornburgh was forced to remove himself from the case because a former aide was under scrutiny.

Former Aide Indicted

The inquiry led to the indictment of the aide, Henry G. Barr, who is not related to the Deputy Attorney General. It also spawned accusations from private citizens, including a charge from a longtime critic of Mr. Thornburgh that one of his sons, William, had used drugs. A department spokesman said the accusation against William Thornburgh had been proved unfounded.

Henry Barr pleaded not guilty and is awaiting trial.

The charges of drug use by people close to Mr. Thornburgh had prompted Senator Arlen Specter, a Pennsylvania Republican, to seek an independent prosecutor. The Deputy Attorney General refused, saying the inquiry had been "thorough, professional and fair."

For Mr. Thornburgh, who has sought a high profile as an Administration spokesman for drug enforcement, the indictment was another embarrassment from a familiar source: the "Pennsylvania mafia" of close advisers who followed him to Washington after his two terms at the Statehouse in Harrisburg.

Earlier this year, Mr. Thornburgh was forced to reassign two of his closest aides, both from Pennsylvania, to lesser jobs. An internal investigation into an unauthorized disclosure to the news media found they had provided deceptive answers in polygraph examinations about their role in the disclosure.

Defending the Boss

Mr. Barr deferentially defends the Attorney General as a man of "ability, integrity and fairness," insisting that his difficulties in managing the department resulted not from his own missteps but from an uncontrollable confluence of circumstances.

"The management problems arose because of an unfortunate sequence of events, which required the Attorney General to rely on his small personal staff to manage the department," Mr. Barr said. "It's not a question of me coming in to help turn around a situation. The problem was the structural one of not having someone perform the deputy's role. Now I'm performing that function."

Mr. Thornburgh's setbacks in filling key posts, like the deputy's post, have been one of his most persistent problems. His first choice for the position, Robert B. Fiske Jr., withdrew after conservative senators complained that he had headed an American Bar Association Committee that screened judicial candidates in a manner that they viewed as unfair to Reagan appointees.

The protracted debate over Mr. Fiske forced Mr. Thornburgh to rely heavily on his imported staff to run the department, a practice that created hostilities among the department's litigating divisions and powerful outside agencies under the Justice Deprtment's nominal control, like the Federal Bureau of Investigation.

A Bitter Departure

The second choice, Donald B. Ayer, a former United States Attorney in Sacramento, Calif., left after a bitter six-month tenure punctuated by disagreements with Mr. Thornburgh and by Mr. Ayer's complaints of being treated as a subordinate by the Attorney General's personal staff.

Mr. Barr had never prosecuted a case in court and lacked the high-profile legal experience traditionally associated with the job. But the 40-year-old lawyer had been Assistant Attorney General for the Office of Legal Counsel since the early days of the Bush Administration.

As the Attorney General's lawyer, he had been in contact with Mr. Thornburgh virtually every day. He had also been dealing closely with officials at the White House, where he gained a reputation as a bright and zealous protector of Presidential prerogatives.

It was Mr. Barr to whom Mr. Thornburgh turned on Dec. 20, the day of the United States invasion of Panama. Mr. Barr, outfitted in his kilt and regalia, had just finished playing his bagpipes at Mr. Thornburgh's Christmas party for senior aides, when the Attorney General whispered conspiratorially in his ear, "You're going to have a late night tonight."

"South of the border?" asked Mr. Barr. Mr. Thornburgh's return look meant only one thing, military action in Panama.

Mr. Barr went home, changed and worked through the night at the White House, providing running legal opinions on the justification for the operation and the authority for arresting Gen. Manuel Antonio Noriega, the Panamanian leader, and others.

Mr. Barr's performance that night, Thornburgh aides say, demonstrated why the Attorney General chose him for the deputy's job.

But some Justice Department officials add that Mr. Barr's selection represented a calculated move by the Attorney General to reassure people about his stewardship by picking a deputy whose roots went deep into the Reagan-Bush circle. And there were hints from Mr. Thornburgh's critics at the department that Mr. Barr was imposed on Mr. Thornburgh - a suggestion denied by Mr. Barr as well as officials in the department and the White House.

Mr. Barr grew up in New York City and now lives in suburban Virginia with his wife, Christine, who is a school librarian, and their three children. He arrived at one of the top legal jobs in the Administration through the same route that was taken by many bright young conservatives whose careers took off in the Reagan era and have soared even higher in the Bush years.

After graduating in 1973 with a master's degree from Columbia University in Chinese studies, Mr. Barr worked at the Central Intelligence Agency and went to the George Washington University Law School at night.

His first big political job came in 1982 when he became a lawyer for the Domestic Policy Council at the White House and learned the high-intensity politics of the top, where personal ambition is often pitted against loyalty to the President. He became acquainted with powerful officials, like C. Boyden Gray, who was then the Vice President's counsel and is now Mr. Bush's White House counsel.

"Bill is absolutely first-rate," said Mr. Gray.

Amid the tug-of-war rivalries around the Oval Office, "he covered his bases," Mr. Gray said. "He always consulted us and never tried to sneak anything through or stack the deck one way or the other."

William Pelham Barr

Born: May 23, 1950

Hometown: New York City

Education: B.A. and M.A., Columbia University; J.D., George Washington University.

Career: 1973-77, Central Intelligence Agency; 1977-78, law clerk to Judge Malcolm Wilkey, United States Court of Appeals for the District of columbia Circuit; 1978-82, private practice; 1982-83, White House domestic policy staff;

1984-89, private practice; 1989, Assistant Attorney General for the Office of Legal Counsel; 1990, Deputy Attorney General.

Interests: Plays with a bagpipe band.

Graphic

Photo: "If after I'm done, people said I did a good job in helping Dick Thornburgh in applying the laws with integrity and fairness then I'd be a happy man," said William P. Barr, the Deputy Attorney General. 9Andrea Mohin/The New York Times)

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NewsRoom

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WashingtonPost.com

July 31, 1990

SEN. SPECTER ASKS INDEPENDENT PROBE OF THORNBURGH AIDE

Sen. Arlen Specter (R-Pa.), a member of the Senate Judiciary Committee, has asked for the appointment of an independent counsel to investigate allegations of cocaine use by a longtime aide to Attorney General Dick Thornburgh, a spokesman for the senator said yesterday. The senator's request underscored the growing political sensitivity of a federal inquiry into cocaine use among present and former public officials in Pennsylvania. Among the principal targets is Henry G. Barr, 47, an ex-federal and state prosecutor who served as Thornburgh's general counsel when he was governor of Pennsylvania and later as his special assistant in the Justice Department charged with overseeing and coordinating criminal investigations, including drug cases.

Thornburgh, four of his top staff aides, and Jim West, the acting U.S. attorney in Harrisburg have all recused themselves from the case because of their longtime associations with Barr, who resigned from the Justice Department in May 1989. But Specter, in a letter last week to Deputy Attorney General William Barr (no relation), said that as a result of recent developments in the case, "it is my conclusion that an independent counsel should be appointed in the matter involving Mr. Henry Barr." William Barr said he had not yet seen the letter. Federal law calls for the department to investigate whether an independent counsel is needed if it receives information from a "credible" source that a criminal act has been committed by a senior administration official or someone who has served in that position in the past three years. Specter's letter follows the recent disclosure of court briefs filed by the lawyer for another key figure in the case, former top Pennsylvania prosecutor Richard L. Guida, stating that Guida and at least four other witnesses have told a federal grand jury that they witnessed Barr use cocaine or accept delivery of it on repeated occasions between 1985 and sometime in 1988.

---- Index References ----

News Subject: (Government Litigation (1GO18); Legal (1LE33); Civil Rights Law (1CI34); Judicial Cases & Rulings (1JU36); Drug Addiction (1DR84); Health & Family (1HE30))

Region: (U.S. Mid-Atlantic Region (1MI18); USA (1US73); North America (1NO39); Americas (1AM92); Pennsylvania (1PE71))

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BUSH NAMES APPELLATE JUDGE TO BRENNAN SEAT; PRESIDENT SELECTS SOUTER, 50, FOR 'INTELLECT' AND 'ABILITY'

Ann Devroy

President Bush announced yesterday that he will nominate appellate court judge David H. Souter of New Hampshire to the Supreme Court vacancy created by the retirement of Justice William J. Brennan Jr. Brushing aside questions about Souter's views on a range of issues from abortion to civil rights, Bush said the jurist, 50, who is considered an advocate of judicial restraint, was selected for his "keen intellect and highest ability." Souter, who was unanimously confirmed by the Senate three months ago for a seat on the 1st U.S. Circuit Court of Appeals, has 12 years of court experience, including five years on the New Hampshire Supreme Court.

The nomination drew a cautious response from liberal and civil rights groups, which began a scramble to examine Souter's record. Although Souter was not their first choice, conservative groups labeled him at least acceptable, but most said they were examining his record. The reaction on Capitol Hill was also cautious as several lawmakers said they would reserve judgment until they learned more. Souter, standing to Bush's side as his nomination was announced, said he would not comment on any judicial issues until his confirmation hearings. The White House quickly brought in Kenneth Duberstein, a White House chief of staff under President Ronald Reagan, to guide the nomination through the Senate. Senate Judiciary Committee Chairman Joseph R. Biden Jr. (D-Del.) said that he did not expect hearings on the Souter nomination to begin until September but that there would be "plenty of time" for the Senate to act on the nomination before the high court returns in October for its next term. Biden said he had "heard a lot of good things" about Souter and that "some very good friends of mine think very highly of him." But in a comment that was typical of the initial reaction to the nomination, Biden added, "I don't know enough about him to make a judgment." It was clear that Souter's views on abortion would be a key focus of the confirmation process. The court is sharply divided on the abortion issue and abortion-rights advocates fear that the addition of one more conservative vote could lead to the overturning of Roe v. Wade, the landmark 1973 decision that legalized abortion. In making the announcement, Bush sometimes testily rejected attempts to draw him out on whether Souter's views on abortion had been sought in advance of his nomination. Denying that he or White House Chief of Staff John H. Sununu had asked for Souter's views on abortion or any other issue, Bush said, "What I am certain of is that he will interpret the Constitution and not legislate from the federal bench." Complaining that media coverage concentrated on abortion, Bush said, "I never heard such coverage . . . you might just think the whole nomination had to do with abortion . . . . I have too much respect for the Supreme Court than to look at one specific issue." Virtually all the candidates on the original list of about 15 potential nominees that Bush considered, including Souter, fit into what one official called the "Trojan horse" category; that is, their writings on the issue of abortion were slim or nonexistent, providing little of a paper trail for abortion-rights advocates and other critics to leap on. One official said that advantage, along with Souter's recent Senate confirmation for the appellate court, made him "a strong choice for a president who wanted at least to minimize a fight" with Congress. Asked what ultimately persuaded

Bush to name Souter over other acceptable candidates on his list, an official familiar with the president's views said: "I think it fits into Bush's philosophy that if you are seen as governing well, that is the best politics. And the White House view was that Souter is a conservative but not an extra-chromosome conservative. They think he will get confirmed with a majority of the Senate and the American public will see a competent candidate named and approved and be pleased the system works." Souter's relative anonymity in Washington produced a call from special interest groups that the Senate go slow on the nomination, and a cautious response from Democrats and even some conservatives unfamiliar with him. Sen. Orrin G. Hatch (Utah), senior Judiciary Committee Republican, said he was reserving judgment because he knew little of Souter. "His credentials appear impeccable to me," the senator said, adding he knew nothing of Souter's views on abortion or other major issues. Sununu's ties to Souter were considered an important credential by some conservative Republicans, even though Bush, Sununu and other aides played down any suggestion that the chief of staff had a key role in Souter's nomination. Bush said Sununu, a Republican former governer of New Hampshire who has retained a strong hand and interest in that state's politics, had all but recused himself from the decision. But Edward J. Rollins, co-chairman of the National Republican Congressional Committee who was pushing for a conservative nominee, said, "As far as I'm concerned, anyone who passes the John Sununu litmus test is good enough for me." Bush and his aides insisted vehemently yesterday there was no "litmus test" of any sort, other than a record of judicial restraint or what Bush called "a keen appreciation for the proper judicial role" of "interpreting, not making the law." The president said it would be "inappropriate" to question Souter on his views on specific issues because such questioning is not "customary." But he refrained from suggesting such questions would be inappropriate in the Senate hearings. The president said he had never met or spoken with Souter before yesterday, when he had a brief interview in which Bush said the candidate impressed him with his intellect. Deputy Attorney General William P. Barr said Souter, who was also considered for the last Supreme Court nomination Reagan made, had been on a list of candidates assembled "early on." "I think the attraction was that invariably his opinions appeared to be very scholarly, ably written and he appeared to be a believer in judicial restraint," Barr said. An administration official said Attorney General Dick Thornburgh spoke at length with Souter over the weekend and also had interviewed him in connection with the appellate court position. While several officials spoke of Souter's intellect, hard work, devotion to the court and educational credentials, it was politics that brought him to the attention of the Reagan White House and then kept his name alive. According to two senior officials in the previous administration, Souter's name appeared on court lists in the Reagan years because Rudman pushed hard for him. "It was a favor to Rudman to put him on the list and to leak his name out," one official said. "He was not the first choice, maybe the 10th choice, because we had better candidates and certainly more experienced ones." Souter's lack of experience in broad federal issues such as civil rights and abortion bothered some conservatives who favored a candidate with more of what they call a "paper trail" of written opinions that set out a judicial philosophy. One conservative activist noted, "They're putting a lot of green on this shot. This is a big, big step for a guy from a New Hampshire state court. You bring in a guy like this, they have a tendency to pull a Harry Blackmun on you," a reference to an appointee of President Richard M. Nixon who has disappointed conservatives by frequently voting with court liberals. Liberal interest groups that mounted the successful 1987 campaign against nominee Robert H. Bork yesterday were cautious about the nomination and urged the Senate not to act precipitously. "The civil rights community knows very little about Judge Souter," said Ralph G. Neas, executive director of the Leadership Conference on Civil Rights. "With so much at stake we will carefully examine his record and his judicial philosophy. . . . There should not be a rush to judgment." Melanne Verveer of the People for the American Way, another group that worked strongly against Bork, said that while Bush "is clearly pressing for quick confirmation, the public interest lies in careful consideration" of the nomination. She said Souter's record "raises more questions than it answers. We hope the Senate will give close scrutiny to several troubling aspects of his record," such as his philosophy on separation of church and state, civil rights and civil liberties. The National Right to Life Committee said it was pleased the president was nominating someone he says will not legislate from the bench, adding that this was a description of a nominee who would overturn Roe v. Wade. "Since Roe v. Wade has no basis in the Constitution, the appointment . . . should continue the erosion of the tragic error" of Roe, the group stated. Abortion-rights advocates called for a detailed questioning of Souter on the issue. "It would be a terrible injustice to confirm a nominee without knowing he is committed to protecting Americans' fundamental constitutional rights, including privacy and the right to choose," said Kate Michelman, head of the National Abortion Rights Action

League. Staff writers Helen Dewar, Ruth Marcus and John E. Yang and special correspondent Christopher B. Daly in Boston contributed to this report.

---- Index References ----

Company: AMERICAN WAY BUSINESS DEVELOPMENT CORP; SOUTER CAPITAL LLP; BUSH INDUSTRIES INC; ROLLINS INC

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Bush Administration Targets 100 S&Ls For Accelerated Probe on Fraud Charges

By PAUL M. BARRETT
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—The Bush administration, in its latest response to Democratic charges that it hasn't prosecuted savings-and-loan fraud vigorously, has chosen 100 thrifts for accelerated investigation.

Thrift regulators and Justice Department officials said last week that newly formed investigative teams drawn from several federal agencies would review fraud allegations involving these 100 S&Ls. The officials declined to identify the targeted institutions. Eventually, enforcers intend to draw up a list of 300 to 400 major thrift-fraud cases to investigate, a total far smaller than previous estimates and one sure to draw criticism from Democratic lawmakers.

"The numbers haven't been perfected yet," said acting Deputy Attorney General William Barr. "But it's a universe of hundreds" of potential major cases. Allegations of substantial fraud in commercial banks could add another "couple hundred" cases to the government's list of targets, he said. Thousands of allegations of fraud involving $25,000 or less are likely to remain unaddressed, officials acknowledged.

The criteria used for selecting the top 100 cases included the amount of losses attributed to illegal actions, the egregiousness of allegedly fraudulent behavior by thrift executives and borrowers, and the size of the institutions involved. No additional resources, beyond those already announced, will be deployed to address the worst cases, officials said. Instead, prosecutors and investigators will be reassigned to problem areas, such as Kansas and Florida, Mr. Barr said.

The purposeful disclosure of the list of high-priority cases is one of a series of actions by the administration to demonstrate its seriousness in addressing the S&L mess. Attorney General Richard Thornburgh previously announced the formation of a variety of regional task forces and the appointment of special officials to coordinate prosecution of thrift fraud. President Bush himself attended a recent campaign-style rally at the Justice Department, where he exhorted federal prosecutors flown in from all over the country to "leave no stone unturned" when investigating S&L improprieties.

Many of these same prosecutors, as well as senior officials of the Federal Bureau of Investigation, say, however, that the Reagan and Bush administrations, as well as Congress, haven't provided sufficient resources to battle a wave of potential criminal cases that began to overwhelm enforcers as early as the mid-eighties.

Separately, a Senate subcommittee chaired by Sen. Howard Metzenbaum (D., Ohio) plans a hearing today on the Federal Home Loan Bank Board's December 1988 sale of 15 Texas S&Ls to an Arizona insurance businessman who had been charged with securities fraud in 1976.

Mr. Metzenbaum plans to question former Bank Board officials and state insurance regulators about the transaction in which James Fail bought the insolvent thrifts using $1,000 of his own, $70 million in borrowings, and another $50 million he pledged to invest over the next two years. The government put up $1.85 billion of assistance in the deal.

Mr. Fail was charged with securities fraud in Alabama, but the charges were dropped and Mr. Fail agreed not to sell insurance in the state. However, one of Mr. Fail's companies pleaded guilty to securities fraud in Alabama, investigators for Mr. Metzenbaum have learned.

Mr. Metzenbaum also intends to investigate the role played by an ex-aide to President Bush, Robert Thompson, who wrote letters to Bank Board officials to help Mr. Fail bid for the Texas thrifts, according to Mr. Metzenbaum's investigation. Mr. Thompson had previously handled congressional contacts for Mr. Bush when Mr. Bush was vice president.

Mr. Fail and Mr. Thompson couldn't be reached for comment. A press spokesman for Sen. Metzenbaum said Mr. Fail, Mr. Thompson, and Danny Wall, who was chairman of the Bank Board when the thrifts were sold, declined invitations to testify today.

—Paul Duke Jr. contributed to this article.

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PANEL CUTS BUDGET IN SHOWDOWN WITH JUSTICE DEPT; Update

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Body

Update

The Justice Department enraged Democratic Rep. Don Edwards last year by refusing to release the legal reasoning behind the department's controversial snatch authority decision. That opinion granted the Federal Bureau of Investigation the power to seize fugitives overseas without first securing the host country's permission. Now Edwards is striking back at Justice, using the budget as a vehicle for revenge.

At Edwards' behest, the House Judiciary Committee last week voted a 10-percent cut in the fiscal 1991 budget for the Office of Legal Counsel, which wrote the snatch-authority ruling.

Edwards says the cut is tied directly to the OLC's refusal to allow the Judiciary Subcommittee on Civil and Constitutional Rights, which he chairs, to review the opinion.

I think it was appropriate for the committee to send a signal of our displeasure with the Justice Department in withholding these opinions, the veteran California congressman says. This is a very important constitutional issue. The executive branch should not be withholding this kind of finished legal opinion.

Justice Department officials expressed dismay over Edwards' move, acknowledging that a 10-percent cut could cause serious problems for the small OLC.

I was disappointed, especially since we'd offered some kind of accommodation, says William Barr, the outgoing OLC chief who has been nominated as the next deputy attorney general.

Barr says he proposed laying out the legal reasoning in a letter to Edwards. But he adds that the department's policy of keeping verbatim versions of OLC opinions confidential has not changed. That fierce defense of executive-branch prerogatives has been a hallmark of Barr's tenure at Justice. **(See Barr's Mission: Salvage AG's Sagging Image,** Legal Times, **May 21, 1990, Page 1.)**

It remains to be seen whether Edwards' efforts will survive the appropriations process. Under House rules, the Appropriations Committee cannot spend more on the OLC than the Judiciary Committee has authorized. But once the appropriations bill goes to conference, the 10 percent cut could be restored.

Load-Date: April 17, 2011

End of Document

ASST. AG TAKES OFFENSE AT FEISTY NEWSLETTER; Inside Justice

Legal Times

June 11, 1990 Monday

Section: Pg. 30; Vol. 13

Length: 1146 words

Byline: Tom Watson

Body

Inside Justice

T he Justice Department is at war with the press again, but this time the volleys are being fired in-house.

Richard Abell, assistant attorney general for the department's Office of Justice Programs, has been charged with an unfair labor practice for threatening an employee who wrote articles critical of management in an internal union newsletter.

The complaint, issued by the Federal Labor Relations Authority, concerns a letter Abell sent to Stu Smith, a veteran public-affairs officer at the OJP. The OJP administers federal grants aimed at helping local law-enforcement agencies cope with drugs, child abuse, and other criminal-justice problems.

Smith, president of the American Federation of State, County and Municipal Employees Local 2830, writes regularly for **The Guardian**, a feisty, monthly AFSCME broadsheet covering several Justice Department divisions.

In the letter, dated Jan. 26, Abell lambasted Smith for making deliberate attempts to discredit management officials and printing confidential information about OJP employees without permission.

Among the items Abell found offensive: an article alleging that the Office of Juvenile Justice and Delinquency Prevention had wasted $500,000 in federal grant money; a published union survey showing low morale among employees in that office; and a report, based on a leaked internal memorandum, that the director of the National Institute of Justice had been reprimanded for failing to note an absence to his superiors.

After laying out his extensive list of grievances, Abell warned Smith that he could be fired.

This notice, Abell wrote, which depicts a culmination of repeated egregious acts of misconduct, could support a penalty of removal from the Federal service.

Smith blasted back, branding Abell's letter one of the most brazen assaults on the Union's statutory responsibilities and its rights under the U.S. Constitution that I have experienced in my more than 30 years of labor activity.

Smith, in his own letter, went on to argue that his activities were protected under the Civil Service Reform Act of 1978 and the First Amendment.

He then filed a complaint with the Federal Labor Relations Authority, the independent agency established to investigate federal labor-management disputes. The FLRA found most of Smith's arguments persuasive and issued a formal complaint.

Unless Abell agrees to withdraw his letter and to post a notice admitting he behaved improperly and affirming employees' rights to engage in protected activities, he will have to go to court. The case is scheduled for a hearing before a FLRA administrative law judge Sept. 11.

Abell declines to discuss the case, saying in a statement that it is inappropriate for all concerned parties to comment on active judicial or quasi-judicial proceedings.

But Smith, once a reporter at **The Baltimore Sun**, is not as reticent. All our newsletter did was to report on a number of bureaucratic misadventures, says Smith, who has criticized OJP leadership in the past for proposing to contract out work to private companies.

Apparently, Mr. Abell feels that commentary about Department of Justice activities is not protected by the First Amendment, Smith adds. It's a strange view to be held by a George Washington University law school graduate.

Whatever the outcome of the case, preparing for it may be one of Abell's last acts as assistant attorney general. President George Bush has nominated Jimmy Gurule, a professor at Notre Dame Law School, as his choice for the post. Abell, appointed by then President Ronald Reagan, has not yet announced his plans.

Special Forces Strike Too

How best to handle the brewing crisis in the savings-and-loan industry could soon become the subject of a power struggle between the Senate and Justice, if legislation introduced last week by Democratic Sen. Bob Graham of Florida picks up steam.

Graham's bill calls for the creation of special S&L strike forces within the department, patterned after the organized-crime strike forces recently abolished by Attorney General Richard Thornburgh. The attorney general's opposition to the organized-crime units--which he felt were an unnecessary bureaucratic layer that slowed law enforcement's response to new criminal elements--may presage opposition to the senator's plan.

We're assuming Justice is going to oppose it, says one Graham aide. But Sen. Graham has seen crime and drug strike forces work well in Florida. . . . We're just trying to help Justice get the money and the people we feel they need to do the job--and telling them to get on the stick and do it.

William Barr, nominated as the next deputy attorney general, says he has not seen Graham's legislation, and therefore has no position on it. But Barr points out that the department is pleased with a S&L fraud task force already at work in Dallas--one that operates out of the U.S. attorney's office and, therefore, is in keeping with Thornburgh's preferred management plans.

The Elusive Mouthpiece

With the still-smoldering embers of controversy over a news leak investigation and his poisoned relationship with the national press corps plaguing Attorney General Thornburgh, it's no wonder he's having trouble finding a press secretary.

It has been almost a month since Thornburgh reassigned press secretary David Runkel in the wake of revelations that Runkel had flunked a lie detector test concerning his involvement in confirming news of a probe of Rep. William Gray III (D-Pa.).

Since then, department officials have had their only offer for the press secretary's slot rejected--by Alixe Glenn, special assistant to President Bush and deputy White House press secretary. Glenn declines comment on her decision.

Sources familiar with the selection process claim there are no other finalists in sight.

Runkel, whose new assignment is nebulously defined as developing long-range communications strategy for the department, is participating in interviewing potential successors. Asked whether Justice was having trouble finding anyone interested in the high-tension job of defending the beleaguered attorney general, Runkel says only that you guys are tough customers. But there are plenty of candidates for this job.

BRIEFLY . . . William Barr has brought in a trio of U.S. attorneys to help him make the transition to the No. 2 job at Justice--which he hopes to hold pending Senate confirmation. Two of Barr's three choices come from the Attorney General's Advisory Committee of U.S. Attorneys: **James Richmond,** who chairs the committee and serves as U.S. attorney for the Northern District of Indiana, and **George Terwilliger III,** U.S. attorney for the District of Vermont. Rounding out the troika is **John Smietanka,** who presides over the Western District of Michigan. Although all three are on temporary assignment through the summer, Barr says at least one may be asked to stay on permanently.

Inside Justice

Load-Date: April 17, 2011

Washington Docket: At Justice Department, New No. 2 Man Brings Humor, Humility to Difficult Job

The Wall Street Journal

June 11, 1990 Monday

Section: LAW; Pg. A9H

Length: 972 words

Byline: By Paul M. Barrett, Staff Reporter of The Wall Street Journal

Body

WASHINGTON -- Listening earnestly to questions about several notoriously disorganized Justice Department subdivisions, William Barr, the agency's new No. 2 man, nods, sighs, and then breaks into a wide grin. "This is a big job!" he declares.

The post of deputy attorney general, traditionally the day-to-day operations chief of the 75,000-person department, now includes an additional task that is even more daunting. He must help repair the damaged political reputation of his boss, Attorney General Dick Thornburgh, the most beleaguered member of the Bush cabinet.

Mr. Barr, an affable Reaganite conservative with strong ties to the Bush White House as well, has taken some sensible preliminary steps. For starters, he reveals a sense of humor and humility about a department that bucked and stalled while a coterie of longtime Thornburgh vassals were at the wheel.

"His personal staff was playing, by default, too much of an operating role," acknowledges Mr. Barr, whose promotion from assistant attorney general is expected to receive quick Senate confirmation. Already moved into the deputy's spacious fourth-floor office suite, the somewhat rumpled lawyer in horn-rimmed glasses explains that he has taken the unusual step of drafting three veteran U.S. attorneys as special assistants. They will help him pick his way through a bureaucratic briar patch that he admits he doesn't know much about yet. The message to disgruntled department employees is clear: We're going back to the drawing board, with respected prosecutors from the field on the way to whip things into shape.

Mr. Barr, a former Central Intelligence Agency legislative aide zealous about protecting executive branch prerogatives, nevertheless promises "a more open department," with greater access afforded to inquisitive lawmakers and reporters. He won't comment on the matter directly, but he is said to believe that the attorney general made a mistake by turning a no-leaks policy into a holy crusade.

Investigators collared no culprits, but Mr. Thornburgh raised suspicions by locking out the department's internal-affairs office. To make matters worse, the attorney general kept quiet when two aides, since pushed aside, registered some deception during lie-detector tests.

Despite Mr. Barr's promises of reform, there are reasons to be skeptical that he will bring lasting changes. Here are three areas to watch:

Public image. Mr. Thornburgh has been badly tarnished by his bedraggled inquiry into a leak about a federal investigation involving Rep. William Gray (D., Pa.). After exonerating Mr. Gray a year ago, the attorney general now refuses to reiterate that the No. 3 House Democrat isn't the target of a grand jury inquiry in Philadelphia. That obfuscation, combined with the issuance of subpoenas to organizations that have paid Mr. Gray speaking fees, creates the impression, once again, of partisan gamesmanship.

Mr. Barr could help clear the air by urging the attorney general to acknowledge that this is an exceptional case and to state what, if anything, federal investigators still want to know about Mr. Gray. But there is little reason to hope this will happen. Asked about the Gray situation, Mr. Barr says, "I don't know anything about any investigation, nor do I want to." He declines to comment further.

Congressional relations. After successfully helping negotiate anti-drug legislation in late 1988, the Thornburgh regime has taken an adversarial stance toward Congress, compared by Democratic Capitol Hill staff members to that of Reagan administration Attorney General Edwin Meese. Lately, there have been positive developments, such as Mr. Thornburgh's agreement to cooperate with a House Judiciary Committee investigation of a longfestering computer software procurement scandal at the department.

But one way Mr. Barr impressed the attorney general, according to some observers, was by refusing to cooperate with congressional efforts to look into legal opinions that expanded the authority of U.S. agents and troops to do police work abroad. Moreover, in most cases the department hasn't played a significant role in shaping legislation viewed as important by the White House. The department isn't deeply involved, for example, in the negotiations over the big anti-crime bill under debate in the Senate.

Running trains on time. Dick Thornburgh enjoys being called governor. He cites his eight years as chief executive of Pennsylvania as a case study of frugal, commonsense management.

At the Justice Department, he has identified waste and inefficiency in a number of areas, including the Immigration and Naturalization Service and the Marshals Service. New directors are in place, and some bureaucratic flow charts have been rearranged. But substantive change has been slow, if evident at all. Drug enforcement officials, for example, worry that regional marshals who act as custodians of forfeited assets frequently allow them to depreciate because of a lack of financial acumen.

Meanwhile, other problems continue unchecked. In the department's money-granting and research arm, the Office of Justice Programs, career employees say that federal money intended to fertilize innovative state and local programs is being channeled elsewhere. A House Government Operations subcommittee investigation disclosed that almost half of one $50 million grant program for states and cities actually stayed in Washington, most of it at the Justice Department.

Mr. Barr says his mission will be "coordinating the department's efforts {which have been} lacking in a number of areas." As to specifics, he understandably pleads ignorance, having just unpacked his boxes and hung his photographs. But if Mr. Thornburgh is to resuscitate his reputation as a savvy manager, it will be Mr. Barr who wades into more than a few messes and begins the cleanup.

Notes

PUBLISHER: Dow Jones & Company

Load-Date: December 6, 2004

End of Document

Are Things Going Sour for a Rising Star

Newsweek

May 28, 1990 , UNITED STATES EDITION

Section: NATIONAL AFFAIRS; Pg. 20

Length: 608 words

Byline: MARK MILLER and ANN MCDANIEL in Washington

Body

No one says Richard Thornburgh's job is on the line, or that he has lost out for good in the great game of personal ambition that sets the underlying tempo in political Washington. But the conventional wisdom says Thornburgh, who attained the pivotal post of attorney general during the latter days of the Reagan administration -- and kept it when George Bush came to power -- is, well, not quite living up to his potential. "The president believes that substantively, Thornburgh is doing fine," a White House insider says, choosing his words carefully. "But he is not doing particularly well politically, and at some point that could hurt Bush. For that reason, Thornburgh is being watched."

Being watched, being graded -- and being referred to, by people who count, as "Thornburgh" instead of as "Dick." For the attorney general, as for anyone in a similar position, these are signs that your mojo is weak, your karma is fading and the boss is not pleased. What makes it so hard to swallow is the fact that hardly anyone ever made it to the great launching pad of national ambitions in better shape. Thornburgh was the man who saved the Justice Department from the embarrassment of Edwin Meese. He's a bright, attractive Republican moderate who had twice been elected governor of a big Eastern state (Pennsylvania) and who arrived in Washington in 1988 as a man of unquestioned integrity and presumptively rising star. He got the nod from both parties -- even Ted Kennedy, liked him -- and he was widely mentioned in 1988 as a possible running mate for Bush.

Today, incredibly enough, there are at least some at Justice who look back on the Meese years with nostalgia -- and the attorney general is hub deep in sticky controversies. The latest broke the week before last, when the A.G.'s number two, Donald Ayer, resigned his job in the wake of a Thornburgh decision to reconsider the department's longstanding support for tougher penalties on corporations involved in white-collar crime. The controversy was civilized -- there were no nasty leaks, as there had been when Meese was under a cloud -- but it gave a hollow ring to Thornburgh's repeated pronouncements that white-collar crime was one of his priorities.

Press corps: Then there was the matter of the palace guard. Thornburgh, who took office determined to establish top-down control, offended both the Beltway press corps and many in his own department by running Justice through a coterie of loyalists from his gubernatorial days. Press leaks in particular were outlawed -- which is why, in recent weeks, Thornburgh's critics rejoiced at the longdelayed finale to the William Gray flap. Gray, a ranking Democratic congressman from Philadelphia, was the target of a singularly vicious news leak to the effect that his affairs were being investigated by the FBI. The report was later denied, and Thornburgh ordered up a $ 224,000 investigation to find the leaker. It turns out that longtime press secretary David Runkel, a potentate in the palace guard, failed a lie-detector test in the Gray investigation -- and last week Runkel was among the victims of a top-level staff shuffle. "The department is now going to operate along traditional lines of authority," said William Barr, who will replace Donald Ayer. "And I think it will be a little more open at the top."

Thornburgh now says he realizes there are "a lot of bumps and bruises that go with being attorney general" and that an A.G. "who is popular isn't doing his job." But there is a trace of disappointment in his voice, and perhaps a hint of bafflement at how quickly things went sour.

Graphic

Picture, Weak mojo and fading karma? Thornburgh at the White House, WALLY McNAMEE -- NEWSWEEK

End of Document

BARR'S MISSION: SALVAGE AG'S SAGGING IMAGE; WHITE HOUSE TIES GIVE NEXT NO. 2 AT JUSTICE ENHANCED CLOUT

Legal Times

May 21, 1990 Monday

Section: Pg. 47; Vol. 12

Length: 1584 words

Byline: Tom Watson

Body

WHITE HOUSE TIES GIVE NEXT NO. 2 AT JUSTICE ENHANCED CLOUT

Deputy attorneys general are not typically high-profile players in Washington. Traditionally, those holding the No. 2 job at the Justice Department have stayed within the shadows, supervising the shuffle of people and paper and making their imprint on policy from behind the scopes.

But circumstances have thrust the job into the limelight in recent weeks, elevating it from a managerial outpost to a position of crucial political concern to Attorney General Richard Thornborgh. William Barr, a hard-core conservative and politically well-connected lawyer nominated as the next deputy, faces a ??(it,ibd,d060629) grander than that of most of his predecessors: polishing the tarnished image of an attorney general.

It is a daunting task. Donald Ayer's abrupt decision to resign the deputy's post May 11 came as the latest in a long line of administrative embarrassments for Thornburgh, who has drawn fire from both inside and outside the department for his insular, aloof management style.

The fact that Barr is Thornburgh's third choice for the deputy's chair in little more than a year is just one index of Thornburgh's status as the most beleaguered. member of President George Bush's cabinet.

But Barr, who remains as chief of the department's Office of Legal Counsel pending Senate confirmation, has some impressive tools in hand. After working for George Bush at the Central Intelligence Agency, along the 1988 presidential campaign trail, and on the transition team, Barr has stronger White House ties than virtually anyone else at Justice. That could prove a vital asset in aiding an attorney general who has often appeared isolated from the administration's centers of power.

Barr's personality is also likely to boost morale. Armed with a ready laugh and a self-deprecating sense of humor, Barr, who turns 40 this week, may be able to smooth some of the feathers ruffled by Thornburgh's distant mien. At the attorney general's Christmas party last year, Barr entertained guests by playing the bagpipes--his private passion, which has garnered him awards--while clad in a kilt.

Not Like the Old Crew

But what is most striking about Barr is that he does not shy from talking openly about the tasks at hand.

There is a need to improve communication within the department, Barr says simply, and open things up.

That admission stands in stark contrast to the song sung by Thornburgh's inner circle. They have dismissed complaints about the tightly clamped department, as insufficiently appreciative of Thornburgh's need to protect the rights of suspects in criminal investigations--and to stanch leaks. Extremely protective of their boss, Thornburgh's aides have been loath even to admit his politically wounded state.

In a move viewed as a recognition of those problems, Thornburgh recently reassigned two crucial members of his inner circle--executive assistant Robert Ross Jr. and press secretary David Runkel. Both have been with Thornburgh since his days as governor of Pennsylvania.

Ross is slated to leave the department in a few months for a job in private practice in Philadelphia--he has not yet announced with whom. Runkel will forgo his day-to-day management of press relations for long-term strategizing and the new title of communications director.

Barr says Thornburgh had long planned to shift power from his longtime aides once his political appointees were in place. But Barr acknowledges that the old regime was broken in ways that may now be fixed.

These changes offer an opportunity to address whatever problems may have arisen with the press, notes Barr. Wherever the merits lie, the handling of the press became an issue which detracted from the attorney general's ability to get the message and the man through.

History of Secrecy

That said, Barr is hardly about to let the department start leaking like a sieve. Dubbed the most conservative lawyer in the building by one former Justice official, Barr regards the protection of executive-branch power as an article of faith--and he has no qualms about defending government secrecy.

In fact, he made secrecy his stock in trade in his first job out of college. After earning a bachelor's and a master's degree in Chinese studies at Columbia University, Barr joined the CIA, where he prepared responses to congressional probes into alleged abuses by U.S. intelligence agencies.

Barr began sowing the seeds of his legal career by night, receiving his J.D. from the George Washington University National Law Center in 1977. He clerked for then Judge Malcolm Wilkey of the U.S. Court of Appeals for the D.C. Circuit--whose clerk alumni, ironically, include Donald Ayer. Barr then headed for private practice, joining D.C.'s Shaw, Pittman, Potts & Trowbridge.

But he was soon lured back into government, this time to the domestic-policy engine room of Ronald Reagan's White House. There he offered up legal advice on issues ranging from tuition tax credits and abortion to Indian affairs.

Barr impressed his superiors as a bright, diligent lawyer unabashed about telling his bosses when he thought their judgment had gone astray. He didn't pull his punches, recalls Michael Uhlmann, Barr's boss in the domestic-policy office and now a partner in the D.C. office of Philadelphia's Pepper, Hamilton & Scheetz. To me, that's the best kind of loyalty.

Returning to Shaw, Pittman in 1984, Barr made partner and tended to his practice of general commercial litigation. But he did not stay out of politics long. Barr tied his fortunes to George Bush, doing issues research for the 1988 campaign. After the president's election, Barr, as a member of the transition team, assembled briefing books--including the one for Justice--and stocked his collection of valuable political allies. Among them: C. Boyden Gray, White House counsel, and Robert Kimmitt, now serving as under-secretary for political affairs at the State Department.

Moving Inside

Barr's connections to President Bush helped him become the first assistant attorney general installed at the new Justice Department, despite his lack of previous ties to Thornburgh. Once entrenched in his 5th-floor office-- just down the hall from the attorney general--Barr gained entree into Thornburgh's inner circle. When Murray Dickman, the attorney general's longtime personnel adviser, sits down to interview prospective judicial nominees, Barr-- along with Solicitor General Kenneth Starr--is often by his side.

As chief of the Office of Legal Counsel, Barr has established himself as a fierce defender of executive-branch prerogatives. He is perhaps best known for his opinion upholding the legality of the Federal Bureau of Investigation's so-called snatch authority--the right to seize fugitives on foreign soil without the host country's permission.

Allies say he helped breathe professionalism back into an office that had grown somewhat complacent. Detractors argue that Barr has continued a trend-- started by former OLC chief Charles Cooper--of stocking the office with bright, but inexperienced, conservative ideologues. They're recommending vetoes on constitutional grounds without really understanding how government works, says one former OLC lawyer.

Barr has also drawn fire for shrouding the legal reasoning that went into the snatch-authority opinion, despite the fact that it reversed a longstanding OLC precedent.

Breaking the Mold

Whatever his track record, Barr knows he will be under heavy scrutiny from the moment he assumes the deputy's job. He faces a significant amount of pressure, even his allies admit, simply because there has not been a successful deputy in some time.

Thornburgh's first choice for the job, celebrated corporate litigator Robert Fiske Jr. of New York's Davis Polk & Ward-well, was forced to withdraw before being formally nominated. Fiske was lambasted by conservatives who felt that, as a past chairman of the American Bar Association's judicial screening committee, he had undermined their efforts to place ideological soulmates on the federal bench. The reasons for the last deputy's departure are open to debate: Thornburgh argues Ayer was not a team player, while Ayer's supporters say he was denied significant duties by the attorney general's palace guard-- despite his willingness to bear the brunt of public complaint about several of Thornburgh's more controversial policies.

Some Barr allies say one has to go back six years to turn up a deputy who worked well with the boss.

There hasn't been a really successful deputy since Ed Schmults, says former OLC head Cooper, now a partner with the D.C. office of Richmond's McGuire, Woods, Battle & Boothe. I see Barr in that mold.

But Justice Department history is not the only hand on Barr's shoulder. He also faces pressure to make the White House look good. His tight connections to the president arguably increase the White House's responsibility for Thornburgh's fortunes. Should the attorney general continue to generate negative publicity, no one in the administration will be able to claim that the White House was out of touch with the attorney general's actions.

Still, even some of Thornburgh's staunchest critics say Barr has a good chance of success in bolstering the attorney general's image. Thornburgh, they argue, has nowhere to go but up.

It has to work, says one former Justice Department lawyer, who requests anonymity. Thornburgh has done so badly up to now. . . . If Barr has a good pipeline into the White House, things can only improve.

Load-Date: April 17, 2011

NewsRoom

5/16/90 USA TODAY 08A
1990 WLNR 1952220

USA Today (USA)

May 16, 1990

Section: NEWS

CAUGHT UP IN CONTROVERSIES

Attorney General Dick Thornburgh is on a hot seat these days, with someone always turning up the heat.
The latest incident: On Monday, President Bush ordered him to find a compromise with Congress on a civil rights bill to toughen protections against job discrimination. Thornburgh had called for its veto last month before changes were made.

Most critics focus on Thornburgh's management style. He's called iron-fisted and aloof, alienating career Justice Department workers, Congress and reporters:

- Last week Deputy Attorney General Donald Ayer resigned after six months on the job. He was reportedly miffed at being frozen out by Thornburgh's inner circle of aides from his days as Pennsylvania's governor.

Thornburgh named William Barr, an ex-Central Intelligence Agency counsel, to replace Ayer. Barr says he'll "open up" things at the top.

- Thornburgh on Monday shook up his inner circle by reassigning two key members, press secretary David Runkel and executive assistant Robert Ross Jr., both veterans from the Pennsylvania administration.

Runkel has been under fire for possible his role in the leak of a politically damaging news story about Rep. William Gray, D-Pa.

Ross served as Thornburgh's closest confidant and chief gatekeeper.

NOTES: Ribbon Label: THE ATTORNEY GENERAL AND POLITICAL HARDBALL: 3

---- Index References ----

News Subject: (HR & Labor Management (1HR87); Workplace Discrimination & Equal Opportunity (1WO73); Judicial (1JU36); Legal (1LE33); Business Management (1BU42); Occupational Safety (1WO89))

Region: (Pennsylvania (1PE71); USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (CAUGHT; CENTRAL INTELLIGENCE AGENCY; CONGRESS; CONTROVERSIES; JUSTICE DEPARTMENT) (Attorney; Ayer; Barr; Bush; David Runkel; Dick Thornburgh; Donald Ayer; Robert Ross Jr.; Ross; Runkel; Thornburgh; William Barr; William Gray)

Edition: FINAL

Word Count: 268

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NewsRoom

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1990 WLNR 4800427

WashingtonPost.com

May 15, 1990

THORNBURGH REASSIGNS 2 TOP AIDES; MOUNTING CRITICISM CITED IN SHAKEUP

Sharon LaFraniere and Michael Isikoff

Attorney General Dick Thornburgh yesterday reassigned two of his top aides in a major personnel shakeup Justice Department officials said was designed to curtail mounting criticism over his management style. Executive assistant Robert S. Ross Jr. and press secretary David R. Runkel, viewed by critics as part of a "palace guard" that sealed off Thornburgh from even high-ranking department officials, will no longer be involved in daily department operations, officials said. William P. Barr, named Friday to replace Donald B. Ayer as deputy attorney general, said he will assume the deputy's traditional role of overseeing the day-to-day management of the department.

"I think you'll see an opening up at the top of the department," said Barr, whose predecessor abruptly announced his resignation Friday after six months on the job. Barr said "matters will be handled with dispatch" and "if {officials} need to talk to the attorney general, they can." Department officials said the changes reflect Thornburgh's recognition that criticism of his management style has cost him political capital outside the department and lowered morale within it. Detractors say the attorney general is too unwilling to delegate authority and has insulated himself from career department employees. Barr said he thought the problem was one of image rather than reality, but "to the extent it exists, it's obviously something that has to be dealt with." The replacement of Runkel comes just a few days before Solicitor General Kenneth W. Starr is scheduled to report to Thornburgh on whether Runkel or any other department official should be punished as a result of an FBI investigation into the leak of a politically damaging news story last year about House Democratic Whip William H. Gray III (Pa.). The matter embarrassed Thornburgh, who repeatedly has vowed to prosecute any department employee who leaks information about sensitive department investigations. Last December, Thornburgh told Congress the Gray leak investigation, in which two federal prosecutors and 11 FBI agents took 109 sworn statements, failed to determine who had leaked the story. But last month, after reports that Runkel had not passed a polygraph given by the FBI, Thornburgh acknowledged that his press secretary may have confirmed the Gray story when he received an inquiry about it from CBS News reporter Rita Braver. Thornburgh said this did not constitute misconduct because Runkel was "acting in an authorized manner . . . following my standing instructions that no one in the department mislead the media." Other aides to Thornburgh said the personnel moves were unrelated to the upcoming Starr report on the Gray investigation. Asked for comment, Runkel said, "You'll just have to speculate. I don't have anything to say." Ross and Runkel served under Thornburgh when he was governor of Pennsylvania and joined him here when he was appointed attorney general in August 1988. Runkel will assume a new job as "communications director." Ross will help set up a new office of international affairs, then return to private law practice, Barr said. Ross functioned as Thornburgh's closest counselor and gatekeeper, controlling access to the attorney general and resolving internal disputes. Thornburgh repeatedly expressed confidence in his aide, saying, "for me to {serve as attorney general} without the aid of someone like a Robin Ross would be literally impossible." Ross said his role was necessary while Thornburgh picked people to fill key posts but now "the institution has grown uncomfortable" with the involvement of Thornburgh's personal

staff in managing the department. Barr said Ross's job would be dissolved. Department officials hoped to announce the reassignment of Ross and Runkel and the resignation of Ayer simultaneously. But to the consternation of Thornburgh aides, Ayer suddenly announced his departure Friday, three days ahead of schedule. Department sources said he and Thornburgh differed over how much power the deputy should wield. Department officials said that Thornburgh felt Ayer failed to keep him sufficiently informed and acted too independently. Reached at home last night, Ayer said, "I am saying absolutely nothing." Sources close to Ayer said he felt he was not given the freedom to do his job. Two weeks before he quit, news reports disclosed that Thornburgh ordered Ayer to revoke a letter expressing the Justice Department's support for stiff mandatory sentences for convicted corporations. Thornburgh's choices for two other top department jobs also turned out badly. William Lucas, Thornburgh's nominee for civil rights division chief, was rejected by the Senate Judiciary Committee in August 1989. Robert B. Fiske Jr., Thornburgh's first choice for a deputy, was forced to withdraw after criticism from conservatives.

---- Index References ----

News Subject: (Legal (1LE33); Judicial Cases & Rulings (1JU36); Civil Rights Law (1CI34); Government Litigation (1GO18))

Industry: (Security Agencies (1SE35); Security (1SE29))

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Word Count: 748

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NewsRoom

5/2/90 Wash. Times (D.C.) A4
1990 WLNR 121173

Washington Times (DC)

May 2, 1990

Section: NATION

BILL TARGETS PAC CONTRIBUTIONS

Chris Harvey THE WASHINGTON TIMES

Senate Republican leaders yesterday introduced a major campaign reform bill that they said would prevent some of the influence-peddling abuses that former thrift head Charles Keating is accused of in his dealings with five senators.

The bill, which has attracted 34 Republican sponsors, would ban all political action committees from making contributions to federal candidates' election coffers. It also would prohibit tax-exempt organizations, such as the Sierra Club, from engaging in any activity that would influence a federal election on behalf of a specific candidate.

The bill restricts out-of-state contributions from individuals, reducing them from from $1,000 to $500 per candidate for each election. It also prohibits members of Congress from supplementing their official office accounts with campaign funds, and bans them from sending taxpayer-financed "franked" mailings to constituents during election years.

Senate Minority Leader Robert Dole of Kansas said, "It may be too bold for some. Too radical for others. Too threatening to incumbents. Too offensive to the special interests. But if we are serious about reforming campaign spending, we can either get serious, or continue to make speeches and protect the status quo on Capitol Hill."

Senate Majority Leader George Mitchell of Maine called the proposal "disappointing" because it did not include an element considered critical to reform by Democrats: a cap on overall spending. "Without limits on spending, it is my view there cannot be genuine reform," he said.

Sen. David Boren, Oklahoma Democrat and chief architect of the Democratic counterproposal, said they would be willing to move from their proposed reduction of PAC contributions to an elimination of PACs. But, he said, Republicans in turn should embrace a "flexible spending cap" that would set limits on out-of-state spending but not on small, individual contributions.

Mr. Boren said Republicans also must place more significant restrictions on "soft money" contributions to state parties to help with such efforts as getting out the vote. "They left a massive loophole on soft money, and we fully intend to do something in a comprehensive way," he said, adding the Democrats' bill should be drafted in a few days.

Both parties agree campaign reforms are necessary this year, particularly after the negative publicity the so-called Keating Five senators have received. The senators received large campaign contributions arranged by Mr. Keating, head of the

subsequently bankrupted Lincoln Savings and Loan, and were later accused of using their influence in his behalf with federal bank regulators.

Senators themselves have complained they spend more time campaigning then legislating. Costs of running a Senate race ballooned from $1.1 million in 1980 to $3.7 million in 1988.

Congressional watchdog groups and Bush administration officials have complained that senators have relied increasingly on special interest groups, such as PACs, in the last 10 years. PAC contributions more than doubled as a percentage of total campaign receipts, from 11 to 23 percent, said Assistant Attorney General William Barr.

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---- Index References ----

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Dogfight Over Government Watchdogs; Inspector General Says Justice Dept. Opinion Is Limiting Probes

The Washington Post

April 26, 1990, Thursday, Final Edition

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Length: 640 words

Byline: Judith Havemann, Washington Post Staff Writer

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Body

A Titanic turf battle between the Justice Department and agency inspectors general is causing the government to "fumble" thousands of waste and fraud investigations, Sen. John Glenn (D-Ohio) charged yesterday.

Richard P. Kusserow, inspector general of the Department of Health and Human Services, said inspectors general have been "compelled to withdraw from ongoing fraud investigations . . . and some cases have been discontinued or delayed" because of a Justice Department opinion curtailing the powers of the government's internal watchdogs.

A year ago, the Justice Department Office of Legal Counsel ruled that inspectors general lack authority to investigate private individuals or groups that do not receive federal funds. Such cases could involve unsafe working conditions, corrupt pension funds or underpayment of wages.

Assistant Attorney General Stuart M. Gerson of the department's Civil Division said that critics are making too much of the alleged turf battle. "All cases are being investigated by one or more investigative agencies," he said. "We don't think any investigation is imperiled."

For example, he testified, Kusserow referred 90 files to the Justice Department after his authority over them was questioned. "The Food and Drug Administration already had been investigating many of these. Many of the remainder were minor allegations received by the inspector general that had apparently not yet been investigated and did not include evidence of serious criminal wrongdoing."

Assistant Attorney General William P. Barr of the Office of Legal Counsel said not turf but "coherent policy" was at stake in the department ruling that restricted the investigatory authority of the inspectors general.

Glenn called it a "strange concidence" that the Justice Department moved to restrict the powers of the inspectors general immediately after Congress imposed an inspector general on the Justice Department itself.

Barr strongly defended the department's actions. "Any suggestion that the Office of Legal Counsel is doing this in a vindictive way because of the creation of an inspector general in Justice is way off the mark," he said.

Barr said that the inspectors general are to be "watchdogs." They are supposed to oversee the administration of regulatory programs, such as the Labor Department's Occupational Safety and Health Administration (OSHA) and the Wage and Hour Division, he said, not conduct OSHA or wage investigations themselves.

Inspectors general complained that on many questions of jurisdiction they are instructed to go to their own departmental general counsels. Some "general counsels never let an investigation get by [their offices]," said James R. Richards, Interior Department inspector general.

Several inspectors general also testified that the Justice Department's opinion had a "chilling effect" on investigators' willingness to take on cases for fear of personal liability.

The Justice Department opinion "defines the conditions under which it will represent federal employees who are sued in their official capacity," said Sherman M. Funk, State Department inspector general. He said that investigators worried that if they were sued after having investigated something the Justice Department later decides was outside the scope of their authority, they would have to hire a private attorney and pay any judgment personally.

"I can guarantee you that this jurisdictional question will have nothing to do with any decision that is made to represent somebody," Gerson testified.

Glenn demanded that the warring executive branch law enforcement officials stop delaying and holding fruitless meetings. "I still hope this can be settled without legislation, but I am fully prepared to introduce legislation to overrule the [Office of Legal Counsel] opinion," he said.

Graphic

PHOTO, SEN. JOHN GLENN.

4/26/90 Wash. Times (D.C.) A4
1990 WLNR 130777

Washington Times (DC)

April 26, 1990

Section: NATION

JUSTICE ACTIONS IRK INSPECTORS GENERAL

J. Jennings Moss THE WASHINGTON TIMES

Federal inspectors general

independent watchdogs who ferret out government fraud - fear the Justice Department is trying to yank their teeth by limiting their investigative powers, officials told a Senate panel yesterday.

Justice officials responded that the inspectors have, in effect, been exceeding their jurisdiction since Congress created their jobs in 1978. The inspectors only can delve into areas directly involving federal money or employees and not the full range of business an agency might have, two Justice lawyers told the Senate Governmental Affairs Committee.

"It's been very frustrating and disconcerting for us to basically go back to the beginning and justify what we've been doing for the last 12 years. Maybe we're victims of our own success," said Interior Department Inspector General James R. Richards.

Last year, the 24 presidentially appointed inspectors general recovered $727 million, conducted 5,639 successful prosecutions, levied 2,851 administrative sanctions and recommended that $4.88 billion could be recovered through various means, said Rep. Silvio O. Conte.

"The IGs have independent and far-reaching powers to criminally investigate fraud and corruption associated with federal agencies," the Massachusetts Republican told the panel. "The IGs are the Matt Dillons of our times. Perhaps they should wear uniforms like the surgeon general."

Mr. Richards was joined by one former and three current inspectors general. They said that the 1989 Justice Department ruling has thrown doubt on whether their investigations are valid.

At the Department of Health and Human Services, for example, top officials halted an inspector general's investigation of generic drug companies suspected of paying off Food and Drug Administration personnel, HHS Inspector General Richard P. Kusserow said. The investigation, which was started in 1988, ended in February because of the Justice Department's position, he said.

"Fraud in an application to market a drug could cost more than money, it could cost lives," Mr. Kusserow said, referring to another finding of the investigation.

The change in Justice's policy dates back to March 1989. The department's Office of Legal Counsel decided in a case involving the Labor Department that the inspector general did not have the authority to investigate alleged violations of the regulatory statutes the department administered.

Congress intended for the inspectors general to delve into federal waste, fraud and abuse - not to determine whether a private company or individual complied with federal regulations, said William P. Barr, an assistant attorney general.

"Virtually any instance of noncompliance (of federal regulations) can be referred to as a species of fraud against an agency," Mr. Barr said. Using that guideline, the Treasury inspector general could investigate any case of a taxpayer who gave himself a deduction he wasn't entitled to, Mr. Barr said as an example.

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News Subject: (Crime (1CR87); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Criminal Law (1CR79); Government (1GO80); Economics & Trade (1EC26))

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Other Indexing: (DEPARTMENT OF HEALTH; HHS; HUMAN SERVICES; IGS; INTERIOR DEPARTMENT; JUSTICE; JUSTICE DEPARTMENT; LABOR DEPARTMENT; MASSACHUSETTS REPUBLICAN; MATT DILLONS; SENATE; SENATE GOVERNMENTAL AFFAIRS COMMITTEE; TREASURY) (Barr; Congress; Fraud; James R. Richards; JUSTICE ACTIONS IRK; Kusserow; Richard P. Kusserow; Richards; Silvio O. Conte; Virtually; William P. Barr)

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Section: NATION

SEVEN DEMOCRATS BLASTED AS FREE-SPEECH HYPOCRITES

Chris Harvey THE WASHINGTON TIMES

Seven Democratic senators who last year opposed a constitutional amendment to ban flag burning on grounds that it would limit free speech are now fighting for an amendment to permit caps on campaign spending.

The Supreme Court ruled in 1976 that mandatory campaign spending limits are an unconstitutional curb on free speech.

Sen. Orrin Hatch, Utah Republican, said yesterday that the conflicting positions of his colleagues underscore their hypocrisy.

"I find it difficult to believe the same Congress which refused, in the name of the First Amendment, to enact a constitutional amendment to protect the flag will enact an amendment to restrict the ability to engage in political speech," Mr. Hatch said.

But supporters of the constitutional amendment on mandatory spending caps said there is nothing hypocritical about their behavior.

"What's involved here is how much free speech very rich people can exercise compared to how very little free speech people who are not rich can exercise," said Senate Majority Whip Alan Cranston, one of the seven Democrats co-sponsoring the campaign amendment who voted against the flag-burning amendment.

"We are not trying to take away freedom of speech. . . . We're trying to restore it," said Sen. Ernest Hollings, South Carolina Democrat, who supports both amendments.

At the crux of the debate is how Congress should attack the prickly issue of campaign reform. Most members agree legislation must be passed - and quickly - to counter the perception that they can be "bought" by special interests.

In the past 10 years, political action committee contributions more than doubled as a percentage of total campaign receipts, from 11 percent to 23 percent, said Assistant Attorney General William Barr.

Many Republicans believe campaign reform could be achieved by limiting or eliminating PAC contributions; requiring television stations to lower their rates for political ads, thereby cutting a major cost of running a campaign; strengthening

the power of political parties; and requiring stricter accountability of "soft money," such as phone-bank help for a candidate.

Most Democrats on Capitol Hill believe true reform cannot come without a limit on total campaign spending. But they can't agree how these limits should be set.

Several Democratic senators - such as David Boren of Oklahoma and Dennis DeConcini of Arizona - have proposed voluntary spending-limit bills that offer partial public financing as an inducement to meet the limits. The Supreme Court's 1976 ruling in Buckley vs. Valeo said spending ceilings are constitutional only if they are voluntary.

But other Democrats, including Mr. Hollings, said the voluntary limits don't go far enough. They want to nullify the Supreme Court decision with a constitutional amendment. Seventeen other senators - all but three of them Democrats - have joined Mr. Hollings in co-sponsoring such an amendment.

Mr. Hollings says the tide is turning in favor of his proposal this year but admits the 66 votes needed for passage in the Senate may not be attainable. In 1988, a similar Hollings proposal received 53 votes.

The seven Democratic senators who co-sponsored the Hollings constitutional amendment but voted against the flag-burning amendment are Mr. Cranston of California, Christopher Dodd of Connecticut, Kent Conrad of North Dakota, Brock Adams of Washington, Thomas Daschle of South Dakota, Daniel Inouye of Hawaii and Terry Sanford of North Carolina.

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Other Indexing: (CONGRESS; HYPOCRITES; PAC; SENATE; SUPREME COURT; VALEO) (Alan Cranston; Brock Adams; Carolina Democrat; Christopher Dodd; Cranston; Daniel Inouye; David Boren; Democratic; Democrats; DEMOCRATS BLASTED; Dennis DeConcini; Ernest Hollings; Hatch; Hollings; Kent Conrad; Orrin Hatch; Republicans; Seventeen; Terry Sanford; Thomas Daschle; Utah Republican; William Barr)

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GOODWILL FOR THORNBURGH ERODES; CRITICS CHARGE ATTORNEY GENERAL HAS YET TO DEFINE PRIORITIES

Ruth Marcus

When Dick Thornburgh, former prosecutor, two-term Pennsylvania governor and moderate Republican, became attorney general in August 1988, he was viewed in many quarters of Congress and the Reagan administration, as well as within the Justice Department, as the savior of a department demoralized and adrift after the departure of Edwin Meese III.

Meese had labored for months under the cloud of an independent counsel investigation, suffering from defections in the top ranks of his own department and exasperating even his staunchest conservative supporters before he finally resigned. Thornburgh arrived in Washington armed with knowledge of the Justice Department gained as chief of the criminal division as well as a reputation as an astute politician.

But in his 17 months as attorney general, much of the goodwill Thornburgh enjoyed with Congress, the news media and within his own department has been eroded.

Thornburgh has expended political capital on relatively minor disputes with Congress, suffering embarrassing defeats when his first choice for deputy attorney general withdrew in the face of opposition from conservatives and his pick for the department's top civil rights job was rejected by the Senate Judiciary Committee.

Thornburgh has tangled publicly with independent counsel Lawrence E. Walsh over the release of classifed documents in the Iran-contra trials, engaged in behind-the-scenes turf struggles with national drug policy director William J. Bennett and drawn criticism from senators in his own party for the way he has handled judicial appointments as more than 50 vacancies remain unfilled.

At Justice, he has surrounded himself with a trio of close aides from his Harrisburg days -- described as the "palace guard" by former Customs commissioner William von Raab -- so that even some high-ranking department officials feel cut off from the flow of information about what is happening in their agency. And he has clamped tight controls on access to information, insisting that the department "speak with one voice" and zealously pursuing leakers in elaborate investigations that have included threatening officials who may have leaked information with criminal prosecution.

"The rap on Thornburgh coming in was that he was a fantastic politician, great governor of Pennsylvania, excellent prospects for the future -- read vice president or better -- and that the attorney generalship was another step in the march toward greatness," said one former Justice Department official. "He has gone in exactly the opposite direction. Even things that could have been handled well politically have not been."

In a recent interview, Thornburgh said he is "proud of what we've accomplished" during his tenure, which he divides into two phases. The first, he said, "was really devoted to stabilizing" the department after the resignation of Meese.

"We accomplished that goal rather early on," Thornburgh said. "We don't get the kind of concerns expressed from the Hill or from the public that handicapped, I think, the department. Through no fault of his own, I think my predecessor was preoccupied with his own personal problems."

Phase two, according to Thornburgh, has been implementing President Bush's agenda. The department's priorities in the Bush administration, Thornburgh said, are clear: illegal drugs, white-collar crime, environmental enforcement, mending fences with the civil rights community and adapting the department to deal with what he views as the growing internationalization of law enforcement.

Much of his attention, Thornburgh said, has been devoted to the drug war, meeting with some two dozen of his counterparts in foreign countries to build cooperative efforts, and helping craft the president's anti-crime package and the national drug strategy. The fiscal 1990 budget provides a 30.6 percent increase for the department, funding some 900 new prosecutors on top of the 440 hired with money from the 1988 drug bill -- a 51.5 percent increase in two years.

But just as Bush has been accused of failing to have a clear vision of what he wants his administration to accomplish, critics both in and outside the Justice Department say the man he reappointed as the nation's chief law enforcement officer has offered only the vaguest definition of what his set of priorities actually amounts to.

Thornburgh's supporters counter that such criticism misses the point about an attorney general who sees his job as getting results and not pursuing any particular ideological agenda.

"If people are looking for an ideological man, they're looking at the wrong attorney general," said David Runkel, Thornburgh's chief spokesman, who has been with the attorney general since his days in Harrisburg. "If people are looking for a kibbitzer over legal issues, that's not Dick Thornburgh. He's a practical, non-ideologically oriented problem-solver. That's how he sees his role as attorney general."

Viewed with suspicion by the right at the time of his appointment, Thornburgh has largely managed to assuage the concerns of conservatives, although there is some grumbling about some of the department's positions on civil rights matters.

Conservatives praise Thornburgh's selection of Kenneth W. Starr as solicitor general and William Barr to head the Office of Legal Counsel, the nomination of Equal Employment Opportunity Commission chairman Clarence Thomas for a seat on the federal appeals court here and the head-on challenge last Supreme Court term and again this term to the 1973 Roe v. Wade abortion ruling.

"It's not Ed Meese where we know he's our guy," said Patrick McGuigan of the Free Congress Foundation. But, he said, "In terms of outcomes, conservatives see a continuation of not the Meese style but the Reagan-era pattern in terms of what this administration stands for."

Civil rights groups -- hopeful that the departure of Meese and the end of the Reagan administation would mean a new detente -- are generally disappointed with Thornburgh, citing in particular the administration's view that last year's

Supreme Court decisions on civil rights do not signify a major retreat and the nomination of William Lucas to head the civil rights division. But they do give Thornburgh credit for critical help in forging a compromise that cleared the way for enactment of the Americans with Disabilities Act, which provides broad new protections to the disabled.

Those who have worked with him praise Thornburgh as a smart, decisive, and hands-on manager, who is a quick, well-informed study legendary for his liberal use of a red felt-tipped pen to mark up documents. Barr recounted a recent episode in which his office sent a 50-page, single-spaced memorandum to Thornburgh for his signature. Thornburgh called one of Barr's deputies, Barr recalled, to question whether a case had been properly cited in one of the numerous footnotes.

But there have been more marks in the negative column than anyone would have predicted when President Ronald Reagan appointed him. The failed candidacies of Lucas and Robert B. Fiske for deputy attorney general offer the two primary examples.

Fiske was forced to withdraw in the wake of fierce opposition from conservatives and Lucas was defeated by the Senate Judiciary Committee after a campaign by civil rights groups. It was not until November that Donald B. Ayer, the second candidate for the deputy's slot, was confirmed. A new civil rights chief, former New York state senator John Dunne, has been chosen but has not yet been nominated for the post vacant since the departure of former assistant attorney general William Bradford Reynolds more than a year ago.

"I don't look back on those," Thornburgh said. "I've got too many other things to occupy my time."

Robert S. Ross Jr., Thornburgh's executive assistant and top aide, acknowledged that "we did not understand" the furor that the selection of Fiske -- a former chairman of the American Bar Association committee that evaluates judicial nominees -- would trigger from conservatives who blame the bar panel for helping defeat conservative judicial candidates.

Similarly, Thornburgh and his aides were taken aback by the opposition to their nomination of Lucas, a black Democrat-turned-Republican whose selection for the civil rights post was initially described by one top Thornburgh aide as a "groovy" appointment.

The Senate Judiciary Committee disagreed. Its rejection of Lucas strained relations between Thornburgh and White House officials who had supported another candidate and who were angered by Thornburgh's premature announcement of the appointment while Bush was in Japan, according to administration sources.

White House Chief of Staff John H. Sununu, however, disputes the notion that there was conflict. "There may have been some staffers at lower levels that might have told you that, but I never expressed that and the president never expressed that," Sununu said. "I understand the difference between getting good results and getting good press," he added. "He may not be getting good press but he's gettting good results."

Thornburgh and his aides have had other political difficulties.

For example, a long-running dispute over the proposal to downgrade the Federal Bureau of Investigation's Butte, Mont., office -- a move opposed by the state's senators -- resulted in a legislative rider that barred Thornburgh from making any management changes in the department before next October. The restriction interfered not only with the Butte plan but with a much more important initiative -- one of Thornburgh's pet projects -- to merge the organized crime strike forces into U.S. attorneys' offices, finally accomplished late last month.

"That probably could have been handled better, but you live and learn," Thornburgh said.

When Rudolph W. Giuliani stepped down as U.S. attorney for Manhattan and was replaced on an interim basis by one of his top aides, Sen. Alfonse M. D'Amato (R-N.Y.) learned of the appointment of Benito Romano from news reports.

An angry D'Amato called the Justice Department to find out what was happening. Instead of having the attorney general telephone the senator to placate him, the call was returned by Ross, further enraging the senator.

In the D'Amato incident, Ross said, the effort was to "have someone return that call immediately." But, he said, "There may have been a mistake with regard to notifying the senator in that particular instance."

Sen. Strom Thurmond (S.C.), the ranking Republican on the Senate Judiciary Committee, said through a spokesman that he considers Thornburgh an "able man . . . serving in a dedicated manner." But Thurmond faulted Thornburgh's handling of judicial nominations, saying "it would be helpful if Mr. Thornburgh consulted more closely with the appropriate senators involved before submitting the nominations."

Unhappiness among Republican senators with the way the administration, at Thornburgh's suggestion, insists that senators submit three names for each district court vacancy erupted just before Congress adjourned last year. Sen. James M. Jeffords (R-Vt.) held up confirmation of two nominees after the Justice Department deemed his choice for a Vermont vacancy unacceptable. And the Senate Republican Conference came to Jeffords's defense, passing a resolution supporting his choice.

"You don't win 'em all," Thornburgh said when asked about his relations with Congress. But, he said, "If I have the choice between accomplishing some minor management changes and getting additional resources, I know what I would choose. We've worked tirelessly on resource needs to get my troops what they need to do the job."

Thornburgh's reference to "his" troops is no accident. He values loyalty, so much so that critics charge that the Meese Justice Department's campaigns for federalism and separation of powers have been replaced by a new dogma, one that seems to elevate loyalty to Thornburgh and fidelity to his principle of no leaks and no surprises -- above all else.

"Meese was philosophical. The pejorative word was ideological," said one former official. But, the official noted, "Ed Meese had no political agenda for himself. Because Dick Thornburgh views himself as seeking higher office and because the people he brought with him helped him seek high office in the state of Pennsylvania, things are viewed through that lens: How will this affect Dick Thornburgh when George Bush is no longer president?"

He and his aides emphasize that they view themselves as loyal team players in the Bush administration. At times, however, they appear preoccupied with the attorney general's image to a degree unusual even in Washington.

When Thornburgh testified before the Senate last fall about his plan to merge the organized crime strike forces into U.S. attorneys' offices, sources said, he refused to appear on the same panel with Transportation Secretary Samuel Skinner, who was also speaking in favor of the plan.

The matter finally had to be refereed by the two senators chairing the hearing, Sens. Joseph R. Biden Jr. (D-Del.) and Sam Nunn (D-Ga.), and Thurmond: Thornburgh was allowed to appear solo, but he had to wait for Skinner to go first.

Likewise, when Bush announced his anti-crime package last summer, Thornburgh agreed to appear on a television interview show -- but not with Bennett. Thornburgh's aides cited White House opposition to having both men on the program, but the producer, after checking with the White House, discovered there was no such edict.

Asked about his reputation as a "control freak," Thornburgh said, "I cannot be accountable to the president of the United States if I don't know what's going on in my own operation. I've made that abundantly clear."

Thornburgh also discounted as "highly unlikely" persistent rumors that he will return to Pennsylvania to run again for governor. "I just moved into a new apartment," he said. "I'm not likely to leave. I'm looking forward to this year, stabilizing and staffing up in a new administration. Now we're ready to roll."

---- Index References ----

Company: TRANSPORTATION RESOURCE GROUP LLC; TRANSPORTATION MANUFACTURING; TRANSPORTATION EQUIPMENT ADVISORS INC; TRANSPORTATION TECHNOLOGIES INDUSTRIES INC; AMERICAN BAR ASSOCIATION; GOODWILL HOSPITAL AND RESEARCH CENTRE LTD; AMERICAN BAR ASSOC MEM ST STREET COLL TR; JUSTICE DEPARTMENT; TRANSPORTATION SECURITY ADMINISTRATION; GOODWILL; JUSTICE; GOODWILL INDUSTRIES; TULLIHALLITUS; TRANSPORTATION

News Subject: (Social Issues (1SO05); Legal (1LE33); Judicial (1JU36); Government Litigation (1GO18); Civil Rights Law (1CI34); Government (1GO80); Regulatory Affairs (1RE51))

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Los Angeles Times

October 14, 1989

Section: Main News

Baker Vows Full Talks Before FBI Uses Foreign Arrest Powers

Law: President Bush says he is 'embarrassed' to learn that he was not aware of the issue.

RONALD J. OSTROWTIMES STAFF WRITER

TIMES STAFF WRITER

WASHINGTON

Secretary of State James A. Baker III vowed Friday that the FBI's new power to seize U.S. fugitives overseas without a foreign government's permission will not be used without "a full interagency discussion" of all foreign policy implications.

Clearly displeased that he had not known about the new legal authority until it was disclosed Friday by The Times, Baker said that "this is a very narrow legal opinion based on consideration only of domestic United States law."

"It did not take into account international law, nor did it weigh the President's constitutional responsibility to carry out the foreign policy of the United States," Baker told reporters at the State Department.

President Bush, at a news conference, said he was "embarrassed" that he did not know about the issue, revealing what appears to be a lack of communication within the Administration on a matter that could vitally affect foreign policy.

Later, the White House said in a statement that "in any given case, the President must weigh his constitutional responsibilities for formulating and implementing both foreign policy and law enforcement policy."

The statement said "there will be no arrests abroad that have not been considered" by an interagency process designed to ensure that Bush considers the full range of foreign policy and international law considerations along with domestic law enforcement issues raised by any specific case.

At the center of the controversy is a June 21 legal opinion given to Atty. Gen. Dick Thornburgh by Assistant Atty. Gen. William P. Barr. The opinion reversed a ruling dating back to the Administration of former President Jimmy Carter denying the FBI the authority to seize fugitives overseas without the foreign state's permission.

The opinion by Barr, who is Thornburgh's chief legal adviser in his capacity as head of the office of legal counsel, has been dubbed "the President's snatch authority" by some Administration officials.

Barr declined to discuss his opinion or the reasoning for overturning the 1980 ruling on grounds that he provides legal advice throughout the Administration on a confidential basis.

Milt Ahlerich, assistant FBI director for public affairs, said that the FBI asked for the ruling "relative to its congressionally mandated investigative responsibilities overseas."

"To date, no action has been taken as a direct result of this advice," said Ahlerich.

It was learned, however, that the FBI first sought the expanded authority some weeks before Barr's opinion in connection with a plan to forcibly abduct a fugitive from the Middle East.

A government source declined to say if the plan, which was not carried out, had been presented to a special National Security Council panel that reviews all proposed overseas operations by the FBI and other intelligence agencies. The source also declined to say if the opportunity to abduct the fugitive had disappeared.

Beginning in 1984, he noted, the bureau "was given additional extraterritorial investigative jurisdiction over certain violations of federal law, primarily in the areas of homicide, hijacking and hostage-taking affecting American citizens. Currently, a number of individuals facing charges in U.S. courts remain at large outside this country."

The fact that top officials in the government were unaware of the new policy seemed to generate as much controversy within the Administration as debate over the merits of the broadened power.

One Administration official, speaking on condition of anonymity, said that on Friday morning Baker called Bush's national security adviser, Brent Scowcroft, and deputy national security adviser, Robert Gates, "to talk about it, like, 'what is this stuff?' and they didn't know about it, either."

At the White House, Bush was questioned about the report of the new FBI authority by a journalist who asked: "Perhaps (Panamanian strongman Manuel A.) Noriega has something to do with that since he's a fugitive. The FBI can go into Panama now?"

Bush: "I'm embarrassed to say I don't (know) what it is you're. . . . I'll have to get back to you with the answer to your question."

At the State Department, chief spokeswoman Margaret Tutwiler said that although Baker did not learn of the new authority until Friday morning, the department's legal counsel, Abraham Sofaer, "has been involved with this, I believe he said, for about the last four weeks. Judge Sofaer is on top of this for the secretary."

A Justice Department source, however, said that Sofaer had been aware of Barr's opinion when it was issued nearly four months ago.

Times staff writers James Gerstenzang and Norman Kempster contributed to this report.

---- Index References ----

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FBI CAN SEIZE FUGITIVES ABROAD, RULING SAYS

1989, Los Angeles Times

WASHINGTON

The Department of Justice has given the FBI the legal authority to arrest fugitives from U.S. law in foreign countries and return them to the United States without first obtaining the consent of the foreign nation.

The ruling could apply to such cases as the U.S. effort to bring Panamanian leader Manuel Antonio Noriega to trial in Florida on federal drug-trafficking charges.

In a legal opinion issued June 21, Assistant Attorney General William P. Barr reversed a ruling that had denied the FBI such authority. That ruling dated to the administration of President Jimmy Carter. The Carter ruling even warned that federal agents could face kidnapping charges abroad if they used such tactics.

The new opinion was requested by Attorney General Dick Thornburgh. Barr is the attorney general's chief legal adviser in his capacity as head of the office of legal counsel.

There are no indications that any fugitives have been arrested so far under the new ruling. But any such actions could be expected to bring protests from nations where suspects are seized, on the ground that the nation's sovereignty was violated.

Department officials refused to discuss the broad new grant of power, the legal grounds they used to justify it or even to acknowledge its existence.

"I just don't discuss the work of the office of legal counsel," Barr said. "The office . . . provides legal advice throughout the administration and does it on a confidential basis."

David Runkel, Thornburgh's chief spokesman, and other department officials also refused to discuss the ruling, which does not carry a security classification. The March 31, 1980, opinion that it reversed had been made public and published.

The 1980 ruling by John M. Harmon, then head of the legal counsel's office, was issued in response to an FBI proposal to abduct fugitive financier Robert L. Vesco, who was in the Bahamas.

House OKs CIA Funds

The House voted, 369-31, Thursday to approve a secret level of funding for intelligence-gathering activities by the CIA and 12 other agencies and departments in the fiscal year that started Oct. 1.

Only legislators were permitted to see classified portions of the bill that specified dollar amounts and personnel levels for each intelligence program.

The bill extends a law barring aid for military operations of the Nicaraguan rebels unless authorized by classified portions of the bill or by other legislation. It provides no funding for covert aid to opposition parties in Nicaragua.

---- Index References ----

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A DELUGE OF OFFERS AWAITS KEY DEPARTEES; Hot Prospects - Correction Appended

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Body

Hot Prospects

At major law firms, the Reagan years may best be remembered as the regulatory chill that never happened. Specialties like environment that were supposed to die in the era of government deregulation have been booming. Even antitrust, considered a buried corpse after President Reagan took office, has witnessed a miraculous resurrection at several firms.

The consensus among managing partners and headhunters is that the Reagan years have been very good years for most firms. In D.C., firms and branch offices registered an unprecedented 15 percent growth last year, according to **Legal Times**' annual survey of firm growth (**see** Legal Times, **July 27, 1987. The D.C. 75. Page 16**). And this is just one sign of boom times. Another sign--**The American Lawyer**'s annual survey of firm revenues and profits--included 20 firms with gross revenues topping $100 million and 10 firms with **average** profits per partner exceeding $500,000.

What all of this means is that 1987-88 will surely be a bumper period for recruiting government lawyers in Washington. Specialists in the hottest areas, like trade and financial services, will invite bidding wars and command top dollar.

And the recruiting season has already begun as top officials and their deputies lay their plans for life after the Reagan administration.

Even a casual reader of **Legal Times**' Inadmissible column will have noticed the steady drumbeat of departures. In the past month, two firms lured prize catches: the D.C. office of Chicago's Sidley & Austin snared Robert Kimmitt, the highly regarded Treasury Department general counsel, while Donovan Leisure Newton & Irvine announced that John Carley, general counsel at the Office of Management and Budget, would split his time between the firm's New York and D.C. offices.

Many of the younger lawyers who have risen to the top of the Reagan administration are expected to stay in Washington after 1988. Michael Horowitz. Carley's predecessor as OMB general counsel and now a partner at

D.C.'s Dickstein, Shapiro & Morin, has served as an informal job conduit for many young conservatives, helping them to land key jobs in the administration and to find other pursuits following their government stints.

Horowitz's proteges are young, ideologically committed, and determined to have an impact on Washington. Most of them willingly pass up the allure of Wall Street, preferring to stay in Washington where they can keep a hand in policy.

Previous Republican administrations have failed to find a core of leaders who would stay in Washington, Horowitz says. But what this administration has done is to find the future Clark Cliffords, the Cy Vances, the Joseph Califanos of the Republican Party, people who know how the government runs. They've been there.

Trying to ferret out the future Clark Cliffords is exactly what headhunters and managing partners across the country are doing right now as they survey the Reagan administration's cadre of officials.

Yet government lawyers are far more specialized than they were when Clifford served as a general adviser in the Truman White House. Firms will actively pursue some government generalists, especially those viewed as having the political acumen needed to generate a healthy lobbying practice. A recent example of one generalist's success is the giant practice built by Stuart Eizenstat in the D.C. office of Atlanta's Powell, Goldstein, Frazer & Murphy. Eizenstat was domestic affairs adviser to President Jimmy Carter.

But the prize catches, according to headhunters and recruiting partners interviewed by **Legal Times** over the past two months, will be specialists in the areas of trade and financial services. Financial institutions is the catch-all, says D.C. headhunter Susan Miller.

Susan Schneider, another D.C. headhunter, is dealing with a cascade of requests for trade specialists. Virtually any capable lawyer coming out of the Office of the U.S. Trade Representative, the Federal Home Loan Bank Board, and the Treasury Department will be guaranteed an array of offers. And rather arcane subspecialties, such as procurement, are also in great demand.

There are still a few areas where demand is flat. Energy has not rebounded since its heyday in the Carter years. Lynn Coleman, general counsel of the Department of Energy under President Carter, commanded a then eye-popping salary of more than $400,000 when he joined the D.C. office of New York's Skadden, Arps, Slate, Meagher & Flom. But there was little fanfare when J. Michael Farrell left the same post last September to join the D.C. office of Los Angeles' Manatt, Phelps, Rothenberg & Evans. Indeed, when listing lateral hire Farrell's probable areas of practice at his new firm, Manatt. Phelps partner Thomas Evans ranked energy last.

One potential threat to the ability of a government lawyer to turn a specialty into private-sector profits never materialized--the much vaunted lobbying reform bill. Various bills have gone nowhere, including one that would have prohibited for 10 years any former high-level government official from representing or advising a foreign client before a government agency. Departing government officials will have to deal with the same, relatively lax, one-year stricture against dealing with their former agencies and with the loosely defined, lifetime ban against involvement in any specific matters they worked on while in government.

Yet despite the loose ethics requirements, there is no hard-and-fast rule for what kind of government lawyer or practice will translate into rainmaking potential. Not every government specialist can ply his expertise profitably from the private sector.

You have to look at the individual lawyer, what his experience is, and how well he's known in his field. D.C. headhunter Charles Garrison maintains. You can't generalize about how law firms will want to hire only in a handful of areas.

For the past two months, **Legal Times** has carefully surveyed the executive branch, as if we were legal headhunters ourselves, to determine who we would want to hire from the various cabinet departments and agencies.

In most cases, we found ourselves avoiding the obvious choices--secretaries and agency heads--and being attracted by younger, lesser known mid-to-top level appointees with expertise in specialized areas of law.

What follows is **Legal Times**' own headhunter's guide to the hottest prospects in the Reagan administration. It is, by nature, arbitrary and highly selective. We believe, however, that the lawyers and government officials profiled herein could prove, as Michael Horowitz predicts, to be the future Clark Cliffords and Joe Califanos of the Reagan administration.

Trading Places

While trade mania continues to cast its spell in Washington, the Office of the U.S. Trade Representative (USTR) has become the most fertile recruiting ground for firms in the increasingly competitive race to hire trade specialists.

Traditionally, people who have been in that office have been highly sought after, observes headhunter Schneider. For one thing, they have had special access to information, and they have tremendous access to government officials from their negotiations with foreign governments. They make bottom-line policy decisions, Schneider explains.

Many firms hope to replicate the success of the D.C. office of New York's Dewey, Ballantine, Bushby, Palmer & Wood, which has built a powerhouse trade practice around Alan Wolff, a 10-year USTR veteran. And any experienced lawyer at the office, which negotiates major trade treaties, can expect to be deluged with job offers.

For example, when former general counsel Donald deKieffer left the USTR in 1983, he had to instruct a local headhunter to place the job offers he received in what he terms a blind trust.

Even non-lawyers at the USTR will be elaborately wooed by D.C.'s top law firms, many of which have recently set up trade consulting subsidiaries or are considering doing so. Last spring. Crowell & Moring acquired former Assistant U.S. Trade Representative Doral Cooper to set up a trade subsidiary, and other firms are hot on its heels.

Inside the USTR, part of the Executive Office of the President, there is intense speculation over whether U.S. Trade Representative Clayton Yeutter, a former partner at Lincoln, Neb.'s Nelson. Harding, Yeutter & Leonard, will attempt to become a rainmaker at a leading firm or become chief executive for a major corporation. But while Yeutter will certainly land a plum job, the competition over his key legal aides is expected to be fierce.

Alan Holmer, recently promoted to deputy U.S. trade representative from general counsel, is likely to be sought by major firms because he played a pivotal role in shaping the 1984 trade bill. He also has proven to be a skillful negotiator with Congress. Holmer worked effectively behind the scenes last term to persuade lawmakers to drop some key protectionist provisions.

Says Robert Lighthizer, a former deputy U.S. trade representative who now has a coveted trade practice as a partner in the D.C. office of New York's Skadden, Arps: At a time when people were expecting a pretty protectionist trade bill, he helped in passing a trade bill that didn't do any damage.

Holmer also gets high marks from Theodore Kassinger, an associate with the Washington office of Houston's Vinson & Elkins and a former Republican staffer specializing in trade matters on the Senate Finance Committee. Holmer made his mark during the 1984 trade act. There were a number of contentious issues on natural resource subsidies and in the anti-dumping and countervailing duty area, Kassinger says. He was extremely well-prepared at markup.

Holmer, 38, a former administrative aide to Sen. Robert Packwood (R-Ore.), says he plans to join a law firm at the end of the Reagan administration. He says he is not entertaining any offers at the moment.

One of my important accomplishments was to assist in the defeat of a thoroughly irresponsible textile bill, he says, referring to a bill sponsored by Rep. Edgar Jenkins (D-Ga.) to protect the domestic textile industry. Holmer's tough, free-trade stance may be an especially attractive lure for foreign clients seeking experienced U.S. trade counsel.

Deputy General Counsel Judith Bello, 38, is often called Yeutter's superwoman because she is a tireless worker and a really first-rate lawyer, according to Vinson & Elkins' Kassinger.

With Holmer's recent promotion, Bello's name has surfaced as a possible successor as general counsel.

Bello is probably the hardest working person in the U.S. government, says trade specialist Gary Horlich, a partner in the D.C. office of Los Angeles' O'Melveny & Myers. Horlich knows Bello from his days at the Commerce Department where he was deputy assistant secretary for import administration from 1981 to 1983.

Recently, Bello has been working on the Canadian free-trade agreement, which would eliminate all of the tariffs and most of the non-tariff barriers between the United States and Canada, as well as on sections of the 1974 trade act.

In addition to this, Bello is an expert on U.S. anti-dumping and countervailing duty laws, and has just published a book with Holmer on the subject.

Bello's associates frequently tell a story about how she dictated a last-minute memo from her hosptal bed, correcting testimony that Yeutter was about to give before a Senate committee last year. At the time, she was recuperating from the birth of her third child by Caesarean section.

Bello acknowledges that the story is true, but does not think it is any big deal. For some reason a lot of people talk about it around here. she says.

In addition to the USTR, the Commerce Department will also yield a bountiful crop of trade lawyers eager to cash in on their government experience.

Gilbert Kaplan, 36, the Commerce Department's deputy assistant secretary for export administration, is widely viewed, along with Holmer, as one of the most experienced trade lawyers coming out of the Reagan administration. Indeed, Kaplan succeeded Holmer in the deputy assistant slot, following Holmer's departure for the USTR.

Kaplan has the dual role of overseeing cases involving trade disputes with foreign companies and in formulating administration policy on dumping and countervailing-duty cases.

He was at the center of last spring's semiconductor agreement between the U.S. and Japanese governments, normally the exclusive turf of the USTR.

Kaplan also gets rave notices from the D.C. trade bar. Dewey, Ballantine's Wolff credits Kaplan with successfully negotiating several big trade disputes. Kaplan has been responsible for settling major disputes with Canada. Europe, and Japan that have been resolved in a way that is compatible with U.S. interests and compatible with maintaining good relationships with our trading partners, he says.

A former associate at Boston's Hill & Barlow, Kaplan joined the department in 1983. He says he has no current plans to return to his former firm and would like to end up in private practice in the District. Staying in government is also an option.

Given that there will probably be another Republican president, I'll probably just stay on, Kaplan quips. Right now, he says, he is keeping all of my options open.

Some of Kaplan's cohorts at Commerce are job hunting more actively. With the bizarre rodeo-related death of Commerce Secretary Malcolm Baldrige in July, top department lieutenants are scrambling for jobs in the private sector, since new Commerce Secretary C. William Verity Jr. is expected to bring in his own team.

General Counsel Douglas Riggs, formerly a special assistant to the president for public liaison, resigned from the department last month and plans to beat a trail to a private corporation. His resignation is effective Nov. 6, but as of now he has no hard offers.

I think Doug's very marketable because of his experience in the international law field, says Victor Schwartz, partner at D.C.'s Crowell & Moring. A number of law firms have been interested in him, but he may not want to return to the practice of law.

Riggs, 43, has been at Commerce for 21/2 years. During his tenure, he worked closely with Baldrige on international trade issues and in efforts to reform product liability laws.

Previously, he was the founding partner of the Anchorage office of Seattle's Bogle & Gates.

He does not want to join a law firm, he says, because I've already done that. He would prefer becoming general counsel to a major corporation.

Deputy General Counsel Robert Brumley, who runs the daily operations of the office, is also expected to be a good catch for a law firm or an aerospace corporation because he is the architect of the administration's commercial space efforts.

In his position as chairman of the president's Commercial Space Working Group, Brumley, 39, has had constant and close relations with Martin Marietta, General Dynamics, and McDonnell Douglas.

Irving Margulies, a partner at D.C.'s Weiner, McCaffrey, Brodsky & Kaplan, was general counsel at Commerce until January 1985 and brought Brumley into the department as his special assistant.

Observes Margulies: He [Brumley] could enter private practice in almost any field. He's a good lawyer, energetic, bright and hard-working.

A former associate at Norfolk, Va.'s Doumar, Pincus, Knight & Harlan, Brumley later launched his own litigation firm, Chenault, Brumley & Chenault, in Aylett, Va. Yet Brumley says he has no plans to return to Prince William County.

He says he hopes to join an existing international trade law practice in D.C.

The Bank Vault

With massive banking overhaul legislation pending in Congress and with a turf war raging between commercial and investment banks over financial deregulation, banking is the second-most-marketable government specialty after trade, according to headhunters.

While the Securities and Exchange Commission and the Treasury Department have long been favorite recruiting grounds for Wall Street, the Federal Home Loan Bank Board, the Federal Reserve, and the Federal Deposit Insurance Corp. will also be combed for talent as the Reagan administration enters its twilight.

The Federal Home Loan Bank Board, the agency that regulates the troubled savings-and-loan industry, already has a track record for producing legal superstars. Almost all of its recent general counsels have landed lucrative positions either in profitable large firms or in S&L boutiques. One of the position's most prominent alumni is 38-year-old Thomas Vartanian. Now a partner in the D.C. office of New York's Fried, Frank, Harris, Shriver & Jacobson, Vartanian, who jumped from an obscure position in the Treasury Department to become the youngest general counsel ever at the Federal Home Loan Bank Board, has now carved out a $10 million practice bailing out ailing thrifts.

Banking experts are predicting that the rainmaker of tomorrow could be the agency's new general counsel, Jordan Luke, 42, who took over bank board's legal reins three months ago.

Although it is too early to dub him the next Vartanian, Luke has the right credentials, many industry observers believe. He is a former assistant general counsel for enforcement and operations at Treasury and most recently served as deputy chief counsel to the Office of the Comptroller of the Currency.

Before his stint in government, Luke was clerk to Justice William Brennan Jr. and was editor-in-chief of the University of Pennsylvania Law Review.

He is known as a real comer, and among the people having his attention, he is considered an extremely personable and effective person, volunteers Harvey Pitt, a former SEC general counsel during the Carter administration, now a top-billing partner in Fried, Frank's D.C. office.

Former Treasury Deputy General Counsel Margery Waxman, now a partner and banking specialist in the D.C. office of Chicago's Sidley & Austin, says Luke has already made himself indispensable at the bank board.

All of his bosses say that he is the most valuable person for them to have, says Waxman.

Since Luke's arrival, Congress approved a $10.8 billion recapitalization bill to help bail out ailing thrifts. The bill infuses new funding into the Federal Savings and Loan Insurance Corp., which the board oversees, to help rescue beleaguered savings and loans.

Luke is now conducting an attorney hiring spree in which he plans to retain 50 additional lawyers. But he declines to brag about the hotshot lawyers he has snagged.

I don't want to talk about the best attorneys here, since I don't want to lose them, he jokes.

One banking expert who will reap a bonanza in the private sector is Michael Bradfield, general counsel of the Federal Reserve Board and the chief legal aide to former board Chairman Paul Volcker.

Bradfield is entertaining offers to return to private practice since his new boss, Alan Greenspan, is expected to bring in his own general counsel. He has talked with his old firm, D.C.'s Cole & Corette, where he had been a partner until Volcker invited him to the Fed. Bradfield declines to comment.

During his six years at the Fed, Brad-field was closely allied with Volcker. The two engaged in a pitched battle against legislation to expand the powers of commercial banks.

This is someone who has financial institution name recognition anywhere on the planet, observes Richard Breeden, a partner with the D.C. office of Houston's Baker & Botts and the former staff director of a presidential task force on the deregulation of financial services.

Another rising star in the banking field is the general counsel of the Federal Deposit Insurance Corp., John Douglas, 37, who arrived at the FDIC this month from a banking practice at Atlanta's Alston & Bird. Douglas replaced John Murphy Jr., 42, who returned to his lucrative partnership in the D.C. office of New York's Cleary, Gottlieb, Steen & Hamilton.

The FDIC has increasingly become a good place to recruit transactional banking specialists. The success of former FDIC Chairman William Isaac, a partner at D.C.'s Arnold & Porter who launched in 1986 the firm's spectacularly successful banking subsidiary, the Secura Group, has added to the regulatory agency's allure.

Deputy General Counsel Douglas Jones, the career lawyer who supervised the massive bail-out of First City Bancorporation of Texas Inc., admits the agency has a hard time holding on to lawyers who specialize in the sale and purchase of failed banks, a torrid area. According to Douglas, the FDIC is itself seeking three transactional attorneys to replace recent departees.

Security Blanket

The SEC continues to be a magnet for Wall Street firms and headhunters who have watched the rise of superstars, like Fried, Frank's Harvey Pitt, former SEC general counsel, with awe.

The SEC generally attracts good lawyers and produces quality lawyers, says headhunter Garrison. Several SEC attorneys are considered desirable prospects for Wall Street.

Gary Lynch, director of the Enforcement Division, is known as a tough enforcer and is credited with initiating the agency's crackdown on insider trading and the massive case against arbitrageur Ivan Boesky.

Fried, Frank's Pitt, who represents Boesky, calls Lynch's enforcement of insider trading laws nothing less than spectacular.

He was the one who made the policy decision to negotiate the deals to get the information that the SEC never had before, Pitt explains.

Lynch is not expected to leave his post at the SEC until he concludes several ongoing insider trading investigations, a job that could take months to complete.

The 37-year-old enforcer came to the commission in 1976, after graduating from Duke University School of Law. Since that time, Lynch has risen through the ranks from staff attorney in the Enforcement Division to his current position.

Lynch declines to be specific about his future plans. I have done securities law the bulk of my professional life. And I think it would be insensitive to what I have done to leave and begin a different kind of law.

But he is quick to add, I'm pretty busy with the matters at hand.

Kathryn McGrath, 43, director of the Investment Management Division, was dubbed the federal government's top mutual fund cop in the July issue of **Money** magazine and is expected to be pursued assiduously by Wall Street.

One reason her stock is on the rise is the current boom in mutual funds. While she has been division director, the number of investment managers who handle these funds has doubled and the amount of money invested in these funds has more than quadrupled.

McGrath has also had six years of private practice experience at the D.C. office of Chicago's Gardner, Carton & Douglas, where she became partner.

And while she complains about her government salary, she vigorously disputes rumors published in the financial press that her departure from the SEC is imminent. I haven't been looking, she claims.

Linda Quinn, 39, director of the Corporation Finance Division, has developed a unique specialty in tender offer regulatory law, which has become of increasing importance to the Wall Street investment banks financing the latest wave of mergers. An eight-year SEC veteran, she has been in her current position 18 months.

Quinn graduated from the Georgetown University Law Center and left her position as an associate in the Wall Street firm of Sullivan & Cromwell to come to the commission.

One of her biggest admirers is former SEC Commissioner James Treadway Jr., now an executive vice president and general counsel of Paine Webber in New York. Treadway calls Quinn one of the few people that you can legitimately put the label of brilliant on.

She has held several key SEC posts, including associate director of the Division of Corporation Finance, staff director of the Advisory Committee on Tender Offers, and executive assistant to the chairman.

Daniel Goelzer, 40, general counsel, is widely rumored to be looking for a niche at a law firm, although he has no private practice experience. After five years in his current post and a total of 13 years at the SEC, Goelzer guardedly admits. If I'm going to try something else, it's about time to do it. I wouldn't be surprised if I was elsewhere in two years, I suppose quite likely in private practice.

D.C. headhunter Schneider says that despite Goelzer's government experience, his lack of a track record in private practice could hurt him. He has no demonstrated ability to bring in clients, she says.

But Goelzer's client-getting ability does not faze Paine Webber's Treadway. He calls Goelzer a superb, organized, clear thinker and a damned good lawyer.

Search for Justice

Under the stewardship of Attorney General Edwin Meese III, the Justice Department is viewed as the hub of conservative ideology and a haven for a new elite of young, ideologically committed GOP lawyers eager to leave their mark.

With the help of his former right-hand man. T. Kenneth Cribb Jr., who moved over to the White House following Howard Baker Jr.'s elevation to chief of staff. Meese has recruited a cadre of young conservative lawyers from top law schools and prestigious clerkships. The Federalist Society, a conservative lawyer's organization with scores of law school chapters, became a direct pipeline to the Meese Justice Department.

Several of Meese's young lieutenants have already moved on to prestigious positions in the administration. Meese's former special assistant. Steven Calabresi, now clerks for Supreme Clerk Justice Antonin Scalia. David McIntosh, who with Calabresi was one of the original founders of the Federalist Society and was also a special assistant to Meese, has moved over to the White House as a special assistant to Cribb for domestic affairs.

In recent months, the department's stature and prestige have been marred by Meese's role in the Iran-Contra scandal and his ties to the Wedtech Corp. Meese's involvement in both matters are under investigation by independent counsel. Yet Meese's legal troubles do not seem to have tarnished the reputations of many of his young foot soldiers.

Among Meese's top aides likely to be wooed by major D.C. firms are Charles Cooper, assistant attorney general for the Office of Legal Counsel, and Charles Rule, assistant attorney general for the Antitrust Division.

As head of the Office of Legal Counsel for nearly two years, Cooper, 35, has been the department's point man on a vast array of controversial legal issues. It was Cooper's shop that drafted the administration's policy on AIDS (acquired immune deficiency syndrome). Cooper also directed Justice's challenge to the constitutionality of the independent counsel law under the Ethics in Government Act.

In addition, he has worked closely with Assistant Attorney General William Bradford Reynolds III throughout his tenure at Justice. Before taking over at the Office of Legal Counsel, Cooper served a three-year stint as a deputy assistant attorney general in the Civil Rights Division under Reynolds.

I can't think of anyone who would be a better prospect for a law firm than Chuck, says former White House aide William Barr, a partner at D.C.'s Shaw, Pittman, Potts & Trowbridge, Reynold's former firm. Barr was the deputy assistant director for legal policy in the Reagan administration. Cooper's a very convincing advocate and would be attractive to any firm who wants a bright, talented lawyer who can work complex legal issues.

Cooper's part in the Justice Department's early and much criticized Iran-Contra investigation might have hurt his prospects on the job market, however. He was on the hot seat earlier this summer while testifying on his role in the department's initial inquiry before the joint congressional panel investigating the Iran-Contra scandal. Meese's decision to use a small group of his most trusted aides to conduct the inquiry, instead of relying on the department's more experienced prosecutors, came under attack by lawmakers at the hearings. In an interview. Cooper offers no apologies for his or Meese's conduct.

The Iran-Contra inquiry is something I will always remember with great pride, says the former clerk to Justice William Rehnquist. I do not feel the criticism [of Meese] was well-taken. On the contrary, it was the intervention of the department and the attorney general which led to the first sense of the problem.

Cooper still maintains that the department called in criminal investigators at the first moment there was a measurable basis for launching a criminal investigation.

But Cooper's previous private practice experience at Atlanta's Long. Aldridge & Norman, where he was an associate, and his Supreme Court clerkship will probably outweigh his connection to the Iran-Contra controversy as firms eye the Justice Department for talent. I'm sure I'll practice law, says Cooper. Constitutional law is my love. To the extent that I could develop a private practice, that would make me very happy. Cooper admits he is already talking to some firms, but will not name them.

Charles Rule. 32, is the youngest person ever nominated to head the Antitrust Division. A graduate of the University of Chicago Law School, Rule previously spent three years in the division, first as a special assistant and then as a deputy assistant attorney general for regulatory affairs. Although studious and soft-spoken. Rule has a reputation for being a formidable advocate.

Rick is definitely somebody you would have to place in the good lawyer category, says Peter Halle, a partner with D.C.'s Morgan. Lewis & Bockius, and a former chief in the trial section of the Antitrust Division. He has good judgment and is personable. I've worked with him on cases where we've been on opposite sides. He knows the antitrust laws whether you agree with him or not. His only drawback may be his youth.

Rule says he plans to enter private practice in the future, although he has no previous experience. He counts as his chief accomplishments his work on revising merger guidelines and supervising the massive litigation arising from the AT&T divestiture, which he admits wasn't entirely successful.

Donald Ayer, 37, a deputy solicitor general, gets rave reviews from his former law firm, Los Angeles' Gibson, Dunn & Crutcher, where he was an associate for three years. He is also praised by his former colleagues now in private practice.

We think highly of him, says Gibson. Dunn partner Robert Warren. He's extremely intelligent. He's able and has demonstrated that in his legal practice and government service. He can actually do things.

Robert Ogren, chief of the Criminal Division's Fraud Section until earlier this year when he jumped ship to become a partner in the D.C. office of San Francisco's Pettit & Martin, sees Ayer as a future rainmaker. I have enormous respect for him. says Ogren. He was a good U.S. attorney [for the Eastern District of California in Sacramento]. I think he'll be a real business-getter.

Ayer, who like Cooper clerked for Rehnquist, says he is keeping his options open, including the possibility of rejoining Gibson. Dunn. I don't know what I'd like to do. says the Harvard Law School graduate, who argued four cases before the Supreme Court last year. I'd consider staying on in government, going to a law firm, teaching. But I'm not taking any steps to pursue any of these.

Robert Willmore, deputy assistant attorney general of the Civil Division's Torts Branch, oversees 130 attorneys who handle nearly 5,000 cases involving more than $100 billion in claims against the government. Willmore, 32, also is executive secretary of the White House Tort Policy Working Group, which last year issued a controversial report proclaiming a crisis in the availability of liability insurance.

In toxic torts and products liability. Willmore shares the responsibility for shaping the administration's tort policy and directing all tort-related litigation. With the explosion of tort litigation in the courts, Willmore is considered an attractive property for firms eager to start or to augment a tort practice. His biggest fan in Washington is Crowell & Moring partner Victor Schwartz, long known as D.C.'s King of Torts.

There's no doubt that Willmore is smart, says Schwartz. I think that Robert would be attactive to any law firm interested in this area. He has a unique policy perspective on torts and has been in charge of the White House litigation involving tort law.

A Yale Law School graduate, Willmore says that his dream job would be to develop a private practice specializing in tort liability, environmental injuries, and insurance. He really likes this stuff. comments Schwartz.

Willmore declines to say whether any firms have made him offers, but admits that his eyes and ears are open.

Budget Shopping

Although the Office of Management and Budget lost much of its luster with the departure for Wall Street of former OMB Director David Stockman. OMB lawyers specializing in the arcane area of federal procurement law will fetch lucrative salaries in the private sector and will be courted by prestigious firms. D.C. headhunter Susan Miller says firms are already vying for top procurement specialists.

The top procurement plum at OMB is Robert Bedell, who became administrator of the Office of Federal Procurement Policy under OMB Director James Miller III. Bedell oversees federal contracts involving more than $200 billion of federal goods and services purchased yearly.

Bedell, 44, an OMB veteran who has held numerous posts, is planning to leave government when President Reagan's term expires.

The odds are likely that I'll practice law and do legislative and regulatory work, he says.

Bedell's procurement expertise and political savvy are well-respected by former colleagues now in private practice in the District.

If you had asked people two years ago who was the top career employee in the federal government, he would have come out in the top one or two, says former OMB General Counsel John Cooney, 37, now a partner at D.C.'s Dickstein, Shapiro & Morin, Cooney adds that Bedell is a masterful legislative strategist.

Another top OMB lawyer, former General Counsel John Carley, 46, resigned last month to become a partner in the D.C. office of New York's Donovan Leisure Newton & Irvine, where he will specialize in corporate securities.

Carley touts Miller's chief budget aide. Timothy Muris, 37, as one of the unknown stars of the administration and an extremely capable lawyer.

Carley cites Muris as a rising star, the kind of lawyer able to differentiate between policy gunslinging and hard legal analysis.

Muris, the OMB's executive associate director for budget and legislation, has been closely allied with Miller, who hired him as director of the the Bureau of Consumer Protection when Miller was chairman of the Federal Trade Commission. Like his boss, Muris is an economist and has already announced plans to become a law professor at George Mason University School of Law.

EPA Bounty

The Environmental Protection Agency was one of those government regulatory arms that was supposed to die in the era of deregulation. Instead, the EPA has been active and innovative during the Reagan years, and its lawyers will be prime bounty for headhunters.

Toxic waste continues to be a huge problem on the agenda of corporate America, and those who know the ins and outs of the EPA's maze of regulations can command top-dollar offers.

Almost any law firm with a big mergers-and-acquisitions practice needs environmental specialists on tap, since raising environmental concerns are now a favorite method of fighting hostile takeovers. Among others, the D.C. office of New York's Skadden, Arps, State, Meagher & Flom, which launched its environmental practice in 1981 with recruits from the Carter administration, has witnessed a boom in environmental work, according to partner Alfred Law.

And EPA lawyers with expertise in the complexities of hazardous waste laws and the multibillion dollar Superfund toxic cleanup program are making soft landings at D.C. law firms who have clients embroiled in costly toxics litigation.

One lawyer destined to score big at a law firm is the EPA's General Counsel Francis Blake, a former partner at D.C.'s Swidler & Berlin.

Blake, 37, who clerked for Justice John Paul Stevens, concedes that environmental lawyers can turn a profit in the private sector. We've had a higher turnover rate than ever before because the demand for environmental lawyers is so. so great, Blake says.

Baker & Botts' Breeden, who worked with Blake when Breeden served as deputy counsel to Vice President George Bush, says Blake knows more environmental law than anybody else in government. and proudly calls Blake his protege.

Blake says that a number of law firms, including Swidler & Berlin, have spoken to him informally about his future plans. I haven't talked to anyone whom I didn't know personally, he says. No one has called me out of the blue. That would be pretty awkward.

Fort Knox

Within the last few months, several of the Treasury Department's top legal guns have defected to take jobs on Wall Street, join big firms, or assume higher positions in the Reagan administration. Perhaps more than any other Cabinet-level agency, Treasury is seen as a gold mine for legal recruits because it spawns attorneys with specialties in banking, international trade, and taxes.

When James Baker III arrived at Treasury in the spring of 1985, he expanded the department's roles in banking and tax matters to include the hottest debate in town--international trade issues.

This month, Robert Kimmitt. Treasury's general counsel, leaves his job to become a partner in the D.C. office of Chicago's Sidley & Austin, where he will specialize in banking enforcement, trade, investment law, and taxes.

Kimmitt, formerly the civilian general counsel at the National Security Counsel, is the first to acknowledge that Treasury is a steppingstone to gainful employment outside government.

In my view, there is no better legal job in government than being general counsel of the Treasury Department. Kimmitt declares. Treasury has a very broad mix of domestic and international responsibilities. he adds.

Kimmitt's colleagues, who he is joining in the private sector, include former Deputy Secretary Richard Darman, who left Treasury last spring to join New York's Shearson Lehman Brothers Inc. as managing director; Richard Fitzgerald, former chief counsel of the comptroller of the currency, who last month joined D.C.'s Muldoon, Murphy & Faucette; and former Assistant Secretary for Tax Policy J. Roger Mentz, who last month became a partner in the D.C. office of New York's Cadwalader, Wickersham & Taft.

With all of the turnover, the new legal team at Treasury is largely untested in the ways of government lawyering. But the department's prestigious reputation has been enough to lure big names from the private bar.

Assistant Secretary for Tax Policy O. Donaldson Chapoton left a 23-year tax practice at Houston's Baker & Botts last year to become deputy to then-Assistant Secretary for Tax Policy Roger Mentz. His brother, John Buck Chapoton, also held the same position during the administration's first term and is now a rainmaking partner in the D.C. office of Houston's Vinson & Elkins.

Donaldson Chapoton, 51, was confirmed to the top tax slot only two weeks ago. William Diefenderfer, former chief of staff to the Senate Finance Committee and now a name partner at D.C.'s Wunder and Diefenderfer, says he is impressed with Chapoton's tax talents.

I've never seen any better tax attorney. says Diefenderfer.

There is speculation that Chapoton, like his brother, will want to maintain his Texas ties, so Baker & Botts may have a chance to reclaim its tax wizard. But other firms are certain to go after Chapoton with attractive offers.

Tax Legislative Counsel Dennis Ross, 36, Treasury's leading tax technocrat, is considered a sharp lawyer with a reputation as a fiesty and tough negotiator.

Whenever the administration had to take a position, Dennis could come up with the arguments, says Walter Eccard, a partner in the D.C. office of New York's Brown & Wood who had been a banking and finance specialist in Treasury's Office of General Counsel from 1984 to 1986.

Ross' knowledge of the tax overhaul bill has spanned the tenure of three different assistant secretaries for tax policy: Ronald Pearlman, J. Roger Mentz, and Donaldson Chapoton. And since passage of the legislation, Ross has been working on implementation regulations.

I think I'm coming to the end of the ride pretty soon, he says. On leave from the University of Michigan Law School. Ross is considering whether to return to academia or to go into private practice.

William Nelson, chief counsel for the Internal Revenue Service, directs 1,400 lawyers nationwide and holds what headhunter Susan Schneider calls always a sought-after position.

More than half his work involves appellate challenges to regulations and IRS rulings before federal circuit courts.

Nelson, 40, left a 14-year tax practice at Atlanta's King & Spaulding to join Treasury. He quips that the move was slightly more expensive than a Porsche for a mid-life crisis.

D.C. tax attorneys assume that Nelson will return to King & Spaulding.

Deputy Secretary M. Peter McPherson took over the position vacated by Richard Darman after having been administrator of the U.S. Agency for International Development since 1981. McPherson had worked as general counsel to the Reagan-Bush transition team early in Reagan's first term.

Says J. Michael Farrell, former general counsel to the Energy Department and currently a partner at Manatt, Phelps' D.C. office: He and Jim Baker go back a long way together. Both Baker and McPherson worked on the 1976 campaign of former President Gerald Ford.

When Dick Darman decided to leave. Peter was the first person that Baker called, Farrell explains.

McPherson, 46, was a partner in the D.C. office of Columbus, Ohio's Vorys, Sater, Seymour and Pease before joining the Baker team. From 1969 to 1975, he served with the IRS as a staff attorney.

McPherson is an excellent attorney who is very organized, according to Farrell. This is the kind of guy who eats, sleeps, and breathes his job, Farrell says.

Paul Allan Schott, chief counsel to the comptroller of the currency, was handpicked for his job by former Treasury General Counsel Robert Kimmitt shortly before he left the department. Schott was a name partner at D.C.'s Barnett Sivon Schott & Shay.

Previously, he had served at Treasury as assistant general counsel for banking and finance under then-General Counsel Peter Wallison, who later became counsel to the president and is now a partner in the D.C. office of Los Angeles' Gibson, Dunn & Crutcher.

Schott caught Kimmitt's attention because he played a key role in drafting several legislative proposals to reduce the regulatory powers of the banking agencies, although the legislation was not approved by Congress.

Says Fitzgerald, a partner at D.C.'s Muldoon, Murphy & Faucette and the outgoing chief counsel to the comptroller of the currency: I feel personally complimented that somebody as good as he is replacing me. He is an excellent lawyer, and an outstanding manager.

White House Whizzes

Within weeks after Howard Baker arrived at the White House last February as the new chief of staff, the office of the counsel to the president was plunged into crisis, having to prepare the legal defense for senior administration officials implicated in the congressional probe of the Iran-Contra scandal.

Without skipping a beat, the counsel's office has moved from the Iran scandal to the fiasco of the Bork nomination.

Under the Baker regime, the White House operation has been widely criticized, on the left and right, as ineffective.

Nevertheless, the White House counsel, the president's top lawyer, has traditionally been a plum recruit. (President Richard Nixon's John Dean excepted.) President Reagan's first counsel, Fred Fielding, joined D.C.'s Wiley, Rein & Fielding as name partner. Fielding's successor, Peter Wallison, joined the D.C. office of Gibson, Dunn, a firm laden with Reagan administration heavyweights.

Arthur B. Culvahouse, 39, the current counsel to the president, has long toiled in Howard Baker's shadow. A former staffer in Baker's Senate office, Culvahouse was reunited with his old boss when Baker joined the D.C. office of Houston's Vinson & Elkins after leaving the Senate. Culvahouse had tried, unsuccessfully, to woo Baker to his own firm, the D.C. office of Los Angeles' O'Melveny & Myers. Yet when Baker opted for V&E, Culvahouse went with him and second-chaired most of Baker's work.

Baker obviously depends heavily on Culvahouse; one of the main conditions Baker placed on accepting the chief of staff's job was that Culvahouse be hired as counsel.

The big question concerning Culvahouse's future is whether he will want to remain hitched to Baker's wagon. Vinson & Elkins expects Baker to return, although Baker has yet to announce what he will be doing after leaving the White House.

At both O'Melveny and V&E, Culvahouse developed his own corporate clients, and his track record in private practice will generate lots of interest.

But Culvahouse says he is considering many options, including the possibility of teaching, which would clear out the cobwebs, he explains.

Although Culvahouse temporarily hired a battery of outside attorneys to assist in the investigation, he decided to keep on many of the lawyers who had served under his predecessor. Wallison.

Jay Stephens, deputy White House counsel, was hired by Wallison. Before his job at the White House. Stephens served six years at the Justice Department, where he rose to become associate deputy attorney general to then-Deputy Attorney General Lowell Jensen, now a federal district judge. Early in his career, Stephens, 40, was a Watergate prosecutor and learned the legal ropes while working for the Office of the U.S. Attorney in the District of Columbia. Prior to his government service, Stephens was an associate at D.C.'s Wilmer, Cutler & Pickering.

Former Counsel Fred Fielding, one of those who recommended Stephens for the White House post, says, The best accolade you can give Jay is When Culvahouse came in, he kept Jay. So, obviously, he was keeping the trains running on time.

Stephens manages the day-to-day operations of the office and boasts that he has been a key defense player in the independent counsel investigations.

In the Deaver and Wedtech investigations, I have represented all the White House witnesses questioned by the independent counsel, the grand jury and defense counsel, he says.

Christopher Cox, senior associate counsel, also arrived at the White House with Peter Wallison. Cox, 35, was a partner in the Newport Beach. Calif., office of Los Angeles' Latham & Watkins. A Harvard Law School graduate, Cox also has an M.B.A. from Harvard Business School.

Culvahouse says that Cox handles all of the financial matters on his staff and praises him for his work earlier this year on the confirmation hearings of new SEC Chairman David Ruder.

One knowledgeable D.C. lawyer says that Cox is under active consideration to succeed John Carley as the new general counsel to the OMB, another indication of his high esteem among administration lawyers.

C. Boyden Gray, counselor to the vice president, had been a partner specializing in commercial transactions at D.C.'s Wilmer. Cutler & Pickering, where he practiced 12 years until leaving in 1981 to join the vice president's staff.

Gray has cultivated a high profile in GOP circles. I just wrote a couple speeches and raised a little money, says Gray with characteristic understatement.

Gray, 44, has been instrumental in reviving the President's Task Force on Regulatory Relief, a compilation of those provisions targeted by the White House for deregulation or reform. And he hopes that some of these proposals will become part of Bush's campaign platform.

William Barr, a partner with D.C.'s Shaw, Pittman, Potts & Trowbridge and a former deputy assistant director for legal policy in the White House Office of Policy Development, describes Gray as a savvy politician. He says Gray's work in preparing Bush for his vice presidential debate with former Rep. Geraldine Ferraro (D-N.Y.) contributed to the best job that any candidate for president or vice president has done in a televised debate.

It is unclear whether Gray will devote most of his time to Bush's election effort or return to practice full time.

John Schmitz, 32, deputy counsel to the vice president, is yet another former Wilmer. Cutler associate. But he holds a Ph.D. in chemistry from the California Institute of Technology in Pasadena. A graduate of Stanford Law School. Schmitz clerked for then-D.C. Federal Circuit Judge Antonin Scalia. When he leaves government. Schmitz says he intends to set up a West Germany-based international consulting firm to establish a liaison between German businesses and the United States.

Peter Keisler, assistant counsel to the president, is a graduate of Yale Law School and a former clerk to U.S. Circuit Judge Robert Bork. After clerking for Bork. Keisler came straight to the White House, where, at just 26 years old, he is considered one of the brightest attorneys on the White House staff.

Keisler, a member of the board of directors of the Federalist Society, has probably committed more time to the nomination of Robert Bork to the Supreme Court than any other White House legal staffer, becoming, in his words, personally involved in this battle.

Upon leaving the White House, Keisler says he would like to try private practice.

David McIntosh, 28, special assistant for domestic affairs, is another young Federalist Society stalwart working at the top of the Reagan administration. At the White House, he works for T. Kenneth Cribb Jr., the former Meese lieutenant who is supposed to guard the right flank of the White House for fellow conservatives. Cribb, assistant to the president for domestic affairs, and McIntosh, his assistant, are more involved in policy-making than legal work.

McIntosh has done the staff work on President Reagan's Economic Bill of Rights. which includes government privatization incentives, a balanced-budget amendment, and a requirement that all spending bills designate revenue sources for their payment.

When tapped by Cribb to join Meese's staff at Justice. McIntosh was an associate practicing real estate in the Los Angeles office of Chicago's Sidley & Austin. McIntosh wants to re-enter private practice either in California or in his home state of Indiana and plans to work for the GOP.

Transporting Talent

The Reagan administration's record on eliminating unnecessary transportation regulations has been less than stellar and has had no real impact on D.C.'s transportation bar. Unsuccessful efforts by so-called regulatory

reformers to kill safety rules, coupled with Reagan's hard-line tactics against striking air traffic controllers, have created a consumers backlash that has translated into more litigation. Against this backdrop, the recent spate of airline crashes and near collisions has led to renewed calls in Congress for more safety rules. So business for D.C. transportation lawyers remains steady.

The recent White House decision to nominate James Burnley, 39, former general counsel and present deputy secretary, to become the new secretary of transportation has raised hackles in Congress because of his confrontational style.

Yet even his critics acknowledge that Burnley is a lawyer who is going places. Days before former Secretary Elizabeth Dole announced her resignation, Burnley had other irons in the fire. He already was negotiating with D.C.'s Patton, Boggs & Blow and, apparently, with other equally prestigious firms, but he abruptly cut off the talks when it looked liked the White House wanted him to head the department.

Burnley has served at the Justice Department as an associate attorney general and was a partner at Greensboro, N.C.'s Turner, Enochs, Foster, Sparrow & Burnley.

Former Transportation General Counsel James Marquez, now a partner with a successful aviation tort defense practice in the D.C. office of New York's Condon & Forsyth, calls Burnley a tough advocate and a lawyer who has a tremendous grasp of the law.

Failure to Communicate

Staff lawyers and recent alumni of the Federal Communications Commission say that the technological revolution in electronics is setting the agenda for legal practice in their field.

Despite the elimination of broadcasting and licensing requirements, certain areas of communications law are expanding to meet new technical demands, they say.

But headhunters report that, with the elimination of such broadcasting regulations as the fairness doctrine, ruled unconstitutional in an August decision signed by FCC General Counsel Diane Killory, communications is not a particularly active area of law. Some boutique firms, like Wiley, Rein, still have booming communications practices, but large firms generally are not actively recruiting communications specialists.

Diane Killory, 33, FCC general counsel since last December, may be better adapted to the new legal landscape than most lawyers in the private bar.

Killory came to the commission after serving as an associate at D.C.'s Steptoe & Johnson, where she caught the attention of then-General Counsel Bruce Fein, who hired her to become his special counsel for legal policy.

Killory's star at the FCC rose quickly. Six months after Fein brought her on board, she became senior assistant for mass media to Dennis Patrick. Earlier this year, Patrick became chairman of the commission.

Deregulation doesn't mean that there isn't communications law to be done, Killory says. The communications law may not mean filling out Ascertainment Forms [previously required for enforcement of the fairness doctrine], but that would be boring anyway, she says.

Stephen Sharp, formerly a general counsel and a commissioner for the FCC and currently a partner in the D.C. office of Skadden, Arps, calls Killory's **magnum opus** on the doctrine the best decision ever to come out of the FCC. He says the reasoning and writing were so good that if he had written it, My buttons would have been popping off.

Sharp says that Killory is establishing a place for herself in the Washington legal community by keeping abreast of the new communications technologies.

Correction

Also in the Oct. 19 issue (Hot Prospects: A Headhunter's Guide to the Most Marketable Lawyers in the Reagan Administration, Page 16), the post formerly held by John Cooney in the Office of Management and Budget was misidentified. Cooney was deputy general counsel.

Correction-Date: October 26, 1987

Load-Date: April 17, 2011

New Business Coalition Wants to Keep the Ball Rolling on Reagan's Tax Reform Plan

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Highlight: But the group supports the plan only to a point. Once serious house trading begins, it doesn't want the Administration to bargain away the corporate tax cut.

Body

In preparing his congressional testimony on President Reagan's tax reform plan, American Business Conference president John M. Albertine chose a well-worn opening theme. The 100 medium-sized, high-growth companies in the conference are "strongly in favor of tax reform," Albertine said.

Nothing new there; even business lobbyists widely suspected of wanting to kill the President's proposal are careful to preface their criticisms with similar disclaimers.

What made Albertine's June 26 testimony before the House Ways and Means Committee something of a novelty was his next statement: "We may not be enamored of every line, every word, every comma, but we are prepared to support the [President's] package as a whole."

In the drone of dissent heard from business lobbyists parading their tax reform views before the Ways and Means panel this summer, Albertine's message sounded refreshingly selfless. The same theme -- putting the goal of reform above the narrower tax interests of individual companies -- is now being used by the Tax Reform Action Coalition (TRAC), a new business umbrella group that Albertine helped found.

But TRAC members, which include the American Business Conference and about 77 other companies and trade associations, haven't abandoned self-interest at all. TRAC's message to the Reagan Administration is this: We're your friends on tax reform, but only up to a point. When the Administration begins serious horse trading, as everyone expects it will this fall, TRAC members want to be remembered for taking an early loyalty oath. Their goal: to keep the Administration from bargaining away its proposed cut in corporate tax rates -- a cut that would make the TRAC members big winners in the tax debate.

TRAC's reasoning may work with the Administration, which can use all the friends it can find to push its beleaguered plan through Congress. But on Capitol Hill, some Members say TRAC's conditional support just sounds like variations on a theme.

"They're sending a message very similar to what we're getting from virtually everyone we're hearing from," said Ways and Means member Willis D. Gradison Jr., R-Ohio. Most business witnesses have endorsed the general concept of tax reform, while listing specific complaints about Reagan's particular brand of reform. TRAC says it will take the Reagan plan as is, but it also is allowing individual coalition members to lobby against provisions they don't like.

"I'm not quite sure what the distinction is between those two positions," Gradison said. "I don't think it makes [TRAC] ineffective. It's an honest reflection of the ambivalence of their members and the business community."

The Reagan plan's corporate tax proposals generally favor labor-intensive industries such as those that provide services or make consumer goods or high-technology products. Those companies are not as likely to be able to use the capital investment tax breaks in current law, which means a higher proportion of their income is paid out in taxes. They would gain much more under Reagan's proposed lowering of corporate tax rates.

Lower rates don't excite capital-intensive industries as much because they are able to reduce their taxable income with the current law's preferences for investments in plant and equipment. The Reagan plan would kill or scale back some important breaks for those firms. Though their tax bills would be calculated at a lower rate, many of the capital-intensive firms still believe they would come out losers.

The split has created a kind of class warfare, with capital-intensive companies contending that the President's plan is unfair to them and service-oriented industries arguing that it gives them more tax equality. The divisions are just as deep on larger questions, such as what the plan will do for the country's over-all economic growth and competitiveness in international markets.

The inter-industry bickering is not new, but the strength and early commitment of the pro-reformers is, say some longtime tax observers.

"It is unusual for us to have business on our side in the numbers and the force that I think are gathering now for the fall offensive," said John L. Sherman, press secretary to the Ways and Means Committee, which will finish its tax reform hearings this month and could begin consideration of a bill in September. Committee chairman Dan Rostenkowski, D-Ill., who has staked his political future as a House leader on moving a tax reform bill, welcomes business supporters such as TRAC, Sherman said, because "they have enormous resources which they are just beginning to gather."

THE SUPPORTERS

TRAC is an outgrowth of an earlier business amalgam, the Coalition to Reduce High Effective Tax Rates. Set up in 1983 to fight proposals for a corporate surtax, the high effective rate coalition drew membership from industries whose tax bills eat up a substantial chunk of their net income.

Those industries -- including computer manufacturers, food processors, retailers, wholesalers and truckers -- pay 25-38 per cent of their net income in taxes, according to studies by the congressional joint Committee on Taxation. The per cent of net income a company pays in taxes is its effective tax rate, and the average effective rate for the 218 companies studied by the committee in 1980-83 was 16.7 per cent. But many industries paid rates well below average; automakers, for example, had 1983 tax bills equal to just 3.5 per cent of net income.

The difference between the automakers and the companies paying high effective rates is generally a result of eligibility for credits and other preferences in the tax code that favor the large capital investments made by heavy industry. Those with high effective rates do use some of the current tax code's preferences and thus would be hurt by changes in the President's plan, such as repeal of the investment tax credit. But many of the high rate payers believe they can lose those preferences and still come out with lower tax bills, thanks to Reagan's proposal to drop the top corporate tax rate from 46 per cent to 33 per cent.

Shortly after Reagan's final tax package was announced, the Coalition To Reduce High Effective Tax Rates sent a letter to all Members of Congress endorsing the rate cuts. The 17-member coalition continues to meet, but it won't be very active in the tax reform debate unless it perceives a threat to the corporate rate proposal.

Instead, most of the coalition members have shifted their attention to TRAC, a larger, more ambitious group that first met on June 11. TRAC's founders include Albertine and Dirk Van Dongen, president of the National Association of Wholesaler-Distributors, both leaders of the earlier coalition. The group's goal is the same, too: protect the promised 33 per cent rate. But TRAC wants to make sure that it gets an opportunity to do that.

"If there's no tax reform bill, there will be no rate reduction" Albertine said. "The purpose of TRAC is to try to move the legislative process forward, to try to build a countervailing constituency on the other side for tax reform, because obviously there are a lot of people who don't want to see [a bill] move forward."

To join TRAC, a business or trade association must say publicly that rather than keep current law, it prefers to see the President's tax proposal enacted -- word for word, as Reagan unveiled it on May 28. "It's the 'My country, right or wrong' coalition," said Paul R. Huard, tax policy vice president for the National Association of Manufacturers, which is not a TRAC member. Individually, though, TRAC members are sending out a flurry of other messages about the President's plan -- messages that indicate less than unqualified support.

General Motors Corp. (GM) chairman Roger B. Smith, for example, is a prominent TRAC member. In testimony before the Ways and Means Committee on June 13, Smith complained that the President's so-called recapture plan, which could cost GM about $1.4 billion in lost depreciation deductions, "lacks the basic elements of fairness and should not be adopted." The Administration has defended the plan as a way to recapture the "windfall" tax benefits resulting from a combination of generous depreciation schedules enacted in 1981 and the new plan's cut in corporate rates.

Recapture also took a beating in testimony from other TRAC members, including Procter & Gamble Manufacturing Co., the American Trucking Associations Inc. and the American Electronics Association: And the largest group in TRAC, the 500,000-member National Federation of Independent Business, has given congressional taxwriting committees a dozen changes or additions it would like to see in the President's plan.

The TRAC approach -- promising final support while allowing members to pursue their self-interests -- is standard practice with many legislative coalitions. But in this debate, the individual messages may be contradicting the coalition's goal of moving forward on tax reform, said several Ways and Means members and congressional aides.

Recalling the GM chairman's strong attack on the recapture provisions, Rep. James R. Jones, D-Okla., said, "He clearly seemed to get off the reservation."

The recapture scheme, which many observers believe will be altered by Congress, is a key part of the revenue balancing act that the President and congressional leaders say is necessary to achieve tax reform. If recapture is eliminated, the $57 billion it was supposed to generate in the next four years would have to be made up somewhere else -- perhaps by repealing another tax preference or by making the plan's cuts in individual or corporate rates less generous.

When the TRAC members argue individually for changes in the President's proposal, "I think that raises questions in the [Ways and Means] members' minds, because the provisions they're questioning are major revenue components of the plan," said an aide to a Democrat on the House committee.

Albertine said that by joining the coalition, members such as GM agree to support the President's plan even if they don't succeed in their individual efforts to change it. But GM and other TRAC members may never have to live up to their pledge. Reagan's tax proposal is certain to be amended as it moves through Congress; if the changes are dramatic enough, the coalition could decide it is no longer obligated to support the bill. In fact, TRAC could disappear from the tax debate.

Albertine described the corporate rate cut as "the glue that holds TRAC together," and several other coalition members agreed that the group's future is tied to the future of that cut.

"If you take that corporate rate and shoot it up to 38 per cent, 36 per cent, even, I think you will see many people take a walk on supporting the package," said Nicholas E. Calio, vice president of goverment relations for the wholesaler-distributors association.

Our statements make it quite clear that our support is contingent on getting a 33 per cent rate," said Kenneth D. Simonson, chief economist and director of tax policy for the trucking associations.

TRAC members think that their early support for tax reform will build good will that ultimately could help fend off tampering with the rate cut. "We would hope that when the discussions take place about various potential changes that the issues that we're worried about will be on top of the agenda of the Administration," Albertine said.

But there are risks in that strategy, warned Gradison. Ways and Means members, inundated by complaints during the panel's two months of hearings, may be more intent on finding compromises to draw in some of the complainers, he said. "Groups that support too early run the risk of being taken for granted. I think that's something [TRAC] has to worry about."

TRAC members are beginning to pay visits to Ways and Means and Senate Finance Committee members, and the group's communications committee is encouraging its company executives to hold press conferences and meet with newspaper editorial boards in their hometowns. Some TRAC members also are working with the Grocery Manufacturers of America (GMA), which had one of the few pro-reform lobbying campaigns already in place when the President announced his plan.

The GMA's members pay high effective tax rates, but the group is new to tax issues, said Jeffery I. Nedelman, vice president for public affairs. In its entire 77-year history, the organization's officials have made just a couple of appearances before the congressional tax-writing committees.

That laissez-faire attitude changed about a year ago, when the GMA began organizing a series of breakfasts for Ways and Means and Finance Committee members in the members' districts or states. Early meetings focused on the threat of a deficit-reducing corporate surtax, which the GMA argued would raise the tax burden disproportionately for companies paying higher effective tax rates.

As the President's plan began to take shape, the breakfast talk turned to the broader issue of tax reform. The group has sponsored a dozen breakfasts so far, including a June 14 meeting with Rostenkowski in Chicago, which was attended by more than 100 local business people. Another half-dozen breakfasts for Ways and Means and Finance members will be scheduled during the August recess, Nedelman said.

GMA also has offered its services to the White House, but "they haven't called." Nedelman said. Others in the business community said a White House effort to encourage a pro-tax reform coalition does not seem to have made much progress.

The White House-backed group, Americans for Tax Reform, was officially announced on June 18, when Reagan met for a "photo opportunity" with the group's three leaders, Dart & Kraft Inc. chairman John Richman, James C. Dobson, an Arcadia (Calif.) psychologist and radio show host who heads a group called Focus on the Family, and Robert L. Woodson of the National Center for Neighborhood Enterprise. The alliance of a business executive and two social conservatives drew little media attention, which a White House ofhcial blamed on timing; the meeting with the President came just four days after the Beirut hostage crisis began.

But three weeks later, officials working with the group were unable to provide *National Journal* with a membership list. "It's in the process of getting put together," said William P. Barr, a former White House aide who is counsel to Americans for Tax Reform.

Another fledgling pro-reform effort is under way at Gray and Co., a Washington public relations and lobbying firm. Niels Holch, chief tax lobbyist for the firm, said the company will meet this summer with chief executive officers of high-tech companies in California, Massachusetts, Texas and the Washington (D.C.) area to propose membership in a coalition that would work in support of lower corporate rates and other features of the Reagan proposal favoring those firms. But Holch said the group is still in the planning stages, and "We don't expect to be operational until Labor Day," if at all.

THE CRITICS

Months before the President announced his final blueprint, it was clear that some of heavy industry's most important tax breaks would be offered up as sacrifices to pay for the plan's individual and corporate rate cuts.

Reagan modified some of the reforms proposed last November by the Treasury Department, but not nearly enough changes were made to satisfy major capital investors such as Inland Steel Co., Ford Motor Co. and Goodyear Tire & Rubber Co.

Those three firms, along with 15 others, agreed to ante up $40,000 each for a new group called the Coalition for Jobs, Growth and International Competitiveness. At its helm is Charls E. Walker, a former Treasury under secretary turned tax lobbyist, whose cigar-smoking style is the embodiment of the back-room wheeler dealer.

Walker represents companies and ideas that have fallen out of favor with many politicians, who would rather associate themselves with non-polluting, highgrowth businesses such as computer manufacturers and service industries.

"Computers are nice," Walker said in a recent debate on corporate tax policy. "But you can't eat computers, you can't sleep in a computer, you can't wear a computer. I really believe a nation can't live by eroding its industrial base and taking in each other's wash."

The pro-manufacturing theme is one that Walker's companies, as well as other critics of the President's tax reform plan, will exploit in the tax debate. Their targets are the President's recapture plan, the proposed repeal of the investment tax credit and a proposed scaling back of accelerated depreciation allowances that were approved in 1981. Walker and other critics argue that those changes will severely damage basic, capital-intensive industries at a time when the economy is already sluggish and international competitors are nipping away at American business. *(See NJ, 7/6/85, p. 1580.)*

While the TRAC group's companies may be politically trendier, Walker's heavy industries still have many allies -- including influential Members of Congress from Rust Belt states. The ease with which Walker raised money for his coalition also indicates the financial power of the capital-intensive sector.

"They may not be trendy. But they do have their resources," said John J. Motley III, director of federal legislation for the independent business federation and a leader of TRAC, whose steering committee dues are $1,000 -- a fraction of charter membership in Walker's group.

The Walker coalition solicited more members in a July 2 mailing, which gave a sliding scale for dues, based on a company's use of the investment tax credit. Small firms can join for $1,000, while associations will be charged $5,000.

Other ad hoc coalitions are expected to band together to fight some of the same proposals opposed by Walker's group. Saving the investment tax credit will be the focus of the new Invest to Compete Alliance, which counts the Air Transport Association, General Electric Co. and about a dozen others as members. An older group of steel, chemical, paper, airline and mining companies, called the Basic Industry Coalition, may try to team up with non-business organizations lobbying for other changes in the tax plan.

And an attempt to tie all those efforts together in a kind of "super group" coalition is being explored by the NAM's Huard. Though the NAM doesn't have an over-all position on the President's tax plan, it has testified against some of the same provisions targeted by Walker and his allies. Huard would like to get Walker's group, the Basic Industry Coalition, the Chamber of Commerce of the United States and other associations and companies under a single umbrella to counteract the TRAC effort.

"It's not going to be a coalition to kill the bill," Huard said. "Hopefully we would be able to put together a consensus as to what a reasonable compromise is.

One of the few prominent tax lobbyist who is not organizing a coalition is Ernest S. Christian Jr., who represents capital-intensive companies. "I think there are probably enough coalitions," Christian said. "I think sometimes people spend far too much time trying to organize themselves" into broad-based coalitions.

THE FENCE SITTERS

Broad tax proposals are always tough policy questions for large, unwieldy membership groups such as the chamber and the NAM, which represent companies of many sizes in many industries. With the exception of 1981, when Congress enacted major tax cuts for business without any offsetting increases, the chamber and the NAM nearly always find their memberships divided on tax bills.

So their equivocal reactions to Reagan's plan were not unexpected. Both endorsed the idea of tax reform, which they said should include corporate rate cuts. But both raised concerns about major parts of the plan, particularly the scaling back of preferences for capital-intensive firms.

The statements adopted by the two groups make it difficult to classify their positions. Indeed, different newspapers have described the chamber position as opposed, supporting and neutral, said Jeffrey H. Joseph, the chamber's vice president for domestic policy.

"They're all right, to some extent," Joseph said. "Do we support every iota of every thing that's in [Reagan's proposal]? No. Are we working to kill the bill? No." What the chamber wants, he said, is a "better bill."

That's a message that is difficult to translate to the group's 180,000 member companies around the country, said Rachelle Bernstein, director of tax policy for the chamber. "Our membership people have been saying, 'Give us something.' It's so much easier to say, 'The chamber is opposing,' or 'The chamber is supporting,' than something nebulous. When you go to the grass roots, you've really got to give it in a simple message."

Their hedged positions don't prevent the two organizations from lobbying; both are working for changes in the President's plan. But neither the chamber nor the NAM is likely to take an over-all position before a bill moves out of the Ways and Means Committee, where the amending process could be extensive. "Why commit yourself to things that may or may not be there later on?" Joseph said.

Graphic

Picture 1, Paul R. Huard of the National Association of Manufacturers; Picture 2, John J. Motley III; Picture 3, Nicholas E. Calio; Picture 4, Rachelle Bernstein, Pictures 1 through 4, Richard A. Bloom