

WEEKLY JUSTICE DEPARTMENT BRIEFING WITH ATTORNEY GENERAL JANET RENO  
THE JUSTICE DEPARTMENT, THURSDAY, JANUARY 6, 1994  
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ATTY GEN. RENO: Happy New Year to you all.

First I would like to discuss an issue that I know you will ask  
about, and that is the issue of an independent counsel. I'd like to  
clarify it because I think from what I've read -- nothing that you all  
have reported -- but there is a great deal of confusion with respect  
to what an independent counsel is and whether there is a process now  
available for the appointment of an independent counsel.

In 1978, Congress passed an act that authorized the attorney  
general under certain circumstances to petition a court, to ask the  
court to appoint an independent counsel, not the attorney general  
being the appointing authority, but a court. Under that act, the  
administrative office of the courts, not the Department of Justice,  
reviews expenditures and under that act the prosecutor was truly an  
independent prosecutor. That act was renewed several times, but  
Congress let that act lapse in 1992.

As I have mentioned to you before, I testified last spring before  
the Senate committee urging the reenactment of the independent counsel  
statute to provide a process that was truly independent of the  
attorney general because based on my experience in Dade County for 15  
years, I found it extremely important that a prosecutor in certain  
situations had the opportunity to have an independent authority  
appoint a prosecutor so that there would not be a conflict.

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The Senate passed that bill this past year. The House reported it out of committee in a somewhat different version, and it is expected to be considered at an early date in the House. What is left for me is a regulation permitting me to appoint a counsel. Now that does not make that person independent. I mean, if I appoint somebody, I'm going to get blamed for what that person does or doesn't do.

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If, in this situation, the Department of Justice has to review the expenditures, it is not a truly independent counsel. Thus, in the current state of the law with respect to the Whitewater case, I'm going to be damned if I do and damned if I don't. And if that's what's going to happen, then I want to try to do it in what is the best interest of the case so far as I can determine it.

To that end, career professional prosecutors who are experienced, who know what they're doing, are conducting the investigation. They have served under several administrations. To bring in a special prosecutor -- first of all, to find the prosecutor who's willing to close down his practice, come in, take over the case is simply not in the best interest of the case if I'm not avoiding the issue of the conflict, and it could only produce disruption and delay. Furthermore, the prospect that the statute's going to be passed at an early date and that, depending on the language of the statute and the evidence at the time, there might be the possibility for me to petition the court for the appointment of an independent counsel and the court might appoint even a third lawyer just simply doesn't make sense. I'm going to try to make sure that this investigation is conducted the right way according to the evidence and the law.

Q: Ms. Reno, would it remove you from some potential criticism appointing someone close to you -- for instance, if you appointed someone from a list that perhaps that was drawn up by the chairman and ranking members of the Judiciary Committee?

ATTY GEN. RENO: No, if I appoint, I'm going to get the blame.

Q: Ms. Reno, if Congress passes the independent counsel act as early as expected, will you immediately seek to use it in the Whitewater case, to have it --

ATTY GEN. RENO: I don't know. The Senate and House versions are slightly different, and I don't know what versions will come out or what the state of the evidence will be. But I will review it at the time.

Q: But would you like to have that option, to be able to --

ATTY GEN. RENO: As I've indicated to you, I have testified in support of that bill and hope that I can have that option based on the evidence and the law.

Q: Ms. Reno --

Q: Who is it that you feel will accuse you of not being

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independent? After all, the Republicans, who are leading the cry for the independent counsel, are saying that, if you did choose somebody from the outside, they would stop their criticism about the lack of independence from the Justice Department. So whose criticism do you expect to continue if you do appoint your own prosecutor or --

ATTY GEN. RENO: One of the things that I have discovered about this city is that people are going to criticize you no matter what you do. And I'm going to try to do it the best way I can.

Q: Ms. Reno, have you written Congressman Leach and Senator Dole as of yet?

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ATTY GEN. RENO: No, I haven't?

Q: But, formally, have you rejected their request?

ATTY GEN. RENO: No, I have not.

Q: Do you plan to do so?

ATTY GEN. RENO: I plan to respond to their correspondence as I plan to respond to everybody's correspondence.

Q: But have you, are you formally, today, rejecting their request or are you still considering it?

ATTY GEN. RENO: I will respond to their letter. I am stating my position this morning, as I have stated it to you before.

Q: Ms. Reno --

Q: Ms. Reno --

Q: -- if the independent counsel law would have passed in the form that you support, that you testified for in the Senate, would you then, if you had that law, would you then call for an independent counsel of the Whitewater case?

ATTY GEN. RENO: One of the things I would like to do is not deal in what ifs, because it is a confusing issue and if I answered your question based on a what if and the Congress passed something else, it would only add to the confusion. I think we have to see just what is enacted.

Q: How enveloped are you --

Q: Ms. Reno, clearly, based on your comments this morning, you're raising the possibility that the House would pass it at an early date. Do you believe this is an appropriate case for an independent counsel -- a court appointed --

ATTY GEN. RENO: It will depend on the circumstances as to when the statute is passed. I don't know what's going to be in the statute and what are going to be the triggering mechanisms or what's going to be the evidence at the time.

Q: But it doesn't sound as though you -- it doesn't appear as though you would have raised the possibility if you didn't think this were an appropriate case for that kind of process.

ATTY GEN. RENO: You're so logical. (Laughter.)

Q: Thank you.

Q: Ms. Reno, can you tell us a little bit about the career prosecutor -- who he is and -- (off mike)?

ATTY GEN. RENO: No.

Q: Ms. Reno, are you ruling out the possibility that you will appoint an outside special prosecutor? Are you flatly ruling it out today?

ATTY GEN. RENO: Once I swore, up until 1972, I swore I would never be a prosecutor, and I learned long ago never to rule anything out.

Q: Now, Archibald Cox, of course, was praised for appearing to be very independent, as was Jaworski. I mean, there was no independent counsel law in that case. Are you absolutely convinced that you can't recreate a situation like that in which you could pick somebody of such high reputation that that person's independence wouldn't be questioned?

ATTY GEN. RENO: As I pointed out to you, the whole problem is that we are looking at a situation where I'm going to be responsible, where career prosecutors have been conducting an investigation, where to reach out and try to look for a person who could possibly be conceived as independent is going to take some time. If they are in practice, they are going to have to close down their practice. That further delays the situation, when it should proceed in an orderly manner.

If the Congress passes the act, and the evidence and the law justify my petitioning the court, the court could appoint even a third person. And it simply doesn't make sense, in the orderly conduct of an investigation, to have that happen.

Q: Although, all those terms that you just raised about the person having to close down his or her practice and so forth, producing further delays, would certainly be the case if you waited until the law was passed by Congress, and then a court appointed someone, and then that person had to go through the same procedure. Are you concerned about delays in that case?

ATTY GEN. RENO: I would be concerned about delays, and that would be one of the issues that we considered based on what the nature of the statute was and what the evidence was at the time.

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Q: Ms. Reno, can you --

Q: With the papers being -- with the Foster papers being turned over to the Justice Department today, could you give us sort of a step by step, just the technical, what is going to happen to them, who will have custody of what?

ATTY GEN. RENO: No, as I have indicated, I have tried to discuss with you a process relating to what an independent counsel is, but I do not want to discuss -- and it is my policy not to discuss pending investigations.

Q: What is your role in this investigation right now? How often are you briefed and how involved are you in the day to day managing of this investigation?

ATTY GEN. RENO: I am not involved in the day to day management of it. I am, as the attorney general, responsible for the entire department, and the buck stops with me with that case.

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Q: Did you approve the subpoena that was issued to the White House on December 24th?

ATTY GEN. RENO: I don't discuss pending matters in a pending investigation.

Q: But you are being briefed on some periodic or regular basis on the proceeding with the investigation.

ATTY GEN. RENO: I have instructed the people to do the right thing. I have tried to make sure that I don't interpose myself in an inappropriate way, and yet that I make sure that they have the back-up and the support and the structure needed to make sure we get the job done the right way.

(Cross talk - off mike.)

ATTY GEN. RENO: No.

Q: This morning Senator Dole commented -- (inaudible due to background noise) -- he thought it was inappropriate that the Justice Department told the White House that a subpoena was coming before one was actually issued. Is that true, and do you consider that inappropriate?

ATTY GEN. RENO: I would not discuss any aspect of the pending investigation. I want to try to conduct an investigation in a professional way and not in the headlines and be accountable for it at the conclusion.

Q: But they raise the -- I realize you're -- you can't discuss the specifics of the investigation, but they say that this is unprecedented, that a subpoena would be issued to the White House and that someone would be told when it was coming.

ATTY GEN. RENO: I am not commenting on the accuracy or inaccuracy of Senator Dole's suppositions. All I am trying to say is I am not going to discuss how I conduct an investigation in the press, I'm going to try to do it the best way I can in accordance with how an investigation should be conducted. And no investigation that I've ever seen that's worth its salt in terms of professionalism, effectiveness, and results was conducted in the headlines, it's conducted in a proper way.

Q: Do you think it's possible that just logistically Congress could pass an independent counsel law, the independent counsel could be appointed, and you could still somehow get to these matters before

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the statute of limitations expired on some key matters?

ATTY GEN. RENO: I don't have any concerns about the statute of limitations expiring.

Q: Senator Dole still opposes the independent counsel statute. Would you publicly call on him this morning to support that (statute?)?

ATTY GEN. RENO: I'm trying to stay out of politics with Senator Dole and make sure that I conduct this investigation the right way with regard to his feelings and with respect for him, but I want to at this point concentrate on this investigation.

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Note: This a correction of the previous one.

I, obviously, time and again, based on my testimony before the Senate and innumerable public statements since then, have called on all senators and all representatives to pass the act.

Q: Ms. Reno, to what extent are any political appointees involved in the investigation? For example, is Jo Ann Harris directly involved?

ATTY GEN. RENO: Jo Ann Harris is directly involved as the chief of the Criminal Division. She is not involved in the day-to-day conduct of the investigation, but as she is the person in charge of the division she is involved.

Q: Attorney General Reno, I wanted to ask, the White House reportedly ordered the Justice Department to prepare the recommendation on the Jonathan Pollard case by December 7th, and it's now been about a month since then. What is delaying the recommendation and when can we expect your office to pass that on to the White House?

ATTY GEN. RENO: I have never heard of such an order. I've heard of request and different aspects of timing. What I am trying to do is to make sure that we explore every concern, every issue, and that we do it in a thorough way. And that is my responsibility to the White House and that's my understanding of what they expect from me.

Q: Will the recommendation come directly from you or from Mr. Heymann?

ATTY GEN. RENO: As I indicated previously, Mr. Heymann -- generally the deputy has been the person making clemency or commutation recommendations to the White House. The president had announced that he had asked me to join in and I have indicated that I will.

Q: Ms. Reno, are you considering any further steps, whatever they might be, to lower the exposure of the department to politically-oriented criticism in its conduct of the Whitewater case? And is there anything else you can do?

ATTY GEN. RENO: As I have indicated to you, the best thing that I can do is do everything in my power to see that it is conducted by experienced investigators and experienced prosecutors who will do it the right way.

Q: Attorney General, just to -- I apologize for going over the

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re point again, but why, after two weeks -- two weeks -- (inaudible) -- Congressman Leach makes the request of you to name a special counsel. He keeps on saying special counsel instead of special prosecutor, I don't know what the difference is. But why wouldn't you just formally -- again today you're saying that -- are you formally rejecting his request or are you saying you're not formally rejecting it?

ATTY GEN. RENO: I don't know what your language is. I have not responded to his letter yet. I have not formally responded to his.

Q: But for two weeks or more than two weeks you've been making it clear that you don't see a need or wouldn't think it's appropriate to name an independent or a special counsel.

ATTY GEN. RENO: As I've indicated this morning, I have gone over in detail what my position is. I have not formally responded to Congressman Leach yet.

Q: My question is, why have you delayed just telling Congressman Leach no?

ATTY GEN. RENO: I haven't signed the letter yet.

Q: Do you intend to sign a letter saying no?

ATTY GEN. RENO: As I indicated, I try to respond to all my mail when I get correspondence that -- when I first took office I found that difficult because I came in with an awful lot of mail outstanding. But we do try to respond and we will certainly respond.

Q: Ms. Reno, the Miami Herald reported yesterday that a Hialeah voter has given a sworn affidavit saying that her absentee ballot in the November election for Hialeah mayor was forged, her signature was forged, and that the witness on that ballot was Lula Rodriguez (sp), one of your personal aides. Last month you said that you were having the deputy's office look into Ms. Rodriguez's (sp) actions in that election.

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Are you aware of this latest allegation, and are you having the department review it?

ATTY GEN. RENO: What I indicated previously was that I had asked the DAG, so that it was removed from our office, to make sure that it was pursued appropriately under regular department procedures and so that it was done the right way.

There was then some indication, I believe, in an article that you wrote that DPR wondered why it hadn't been referred to them, and it was my intent that it be done according to established department procedures, and I reiterated to the deputy that I wanted it pursued by the Office of Professional Responsibility and done the right way.

Q: Are you aware of the latest allegation on that? Are you instructing that that be reviewed as well, that the forged signature -- a woman has said that Lulu Rodriguez (sp) witnessed what the woman says is --

ATTY GEN. RENO: My understanding is that everything is being reviewed, and if there is any question about it I will double-check and make sure that absolutely every allegation is reviewed.

Q: Can you tell us how long the internal -- the department's internal inquiry into the Randy (ph) murder case in Idaho will continue, when we might see a finding on that? And is this going to be an in-house -- entirely in-house investigation throughout, or --

ATTY GEN. RENO: The Office of Professional Responsibility is conducting the investigation. I never know when I will get a result because I don't like to press in the event that I cause, by pressing for too early action, an incomplete investigation. But I've asked for a thorough, effective investigation completed as soon as possible.

(Cross talk.)

ATTY GEN. RENO: Excuse me. I got her first sentence and your last sentence, so let's go back to you.

Q: Why is DPR the appropriate body to investigate allegations against Lulu Rodriguez (sp) when she's not an attorney and she is not involved in any Justice investigative matter?

ATTY GEN. RENO: I heard the question raised that DPR wondered why it didn't get it indicating that there might be something wrong with them not getting it, and I instructed the deputy to make sure that if the Office of Professional Responsibility felt that they

should pursue it they should pursue it, and that the deputy's office should pursue it in any other way that was appropriate.

Q: (Off mike) -- to review the findings --

ATTY GEN. RENO: At this time I am waiting for the DPR report, and based on that report, I will take whatever action is appropriate.

Q: General, are you satisfied at the pace of the Ron Brown investigation?

ATTY GEN. RENO: I would not comment on the pace of any investigation.

Q: Ms. Reno, Secretary D'Leary over at Energy on the subject of radiation -- (inaudible) -- has talked about compensation, and apparently the Department of Justice has concerns about that, the legal issues involved. Can you talk a little bit about that?

ATTY GEN. RENO: I told Secretary D'Leary when she called me just after Christmas that we would work with her in every way possible to address legal issues and to provide whatever legal assistance was necessary in appropriately addressing these claims.

Q: And is there an issue of precedent that is a problem here?

ATTY GEN. RENO: I don't know whether there is any problem or not. One of the things that we want to do is assist, through our civil division, in addressing the issue so that we identify any legal issue that might be involved and do whatever is necessary to support and assist in an appropriate resolution of these matters.

Q: Back to the independent counsel question, do you think it is ever possible for an attorney general who is appointed by a president to investigate matters involving that president and appear to be -- and convince the public that that investigation is impartial?

ATTY GEN. RENO: I don't know, but I will tell you a story about what happened to me a long time ago. I had a critic, and at one point I think he may even have called for my resignation. In more recent years, he said he thought that Janet Reno would prosecute her own mother if it were the right thing to do. I wouldn't prosecute my own mother. I would have gotten the governor to appoint a special prosecutor. (Laughter.)

And indeed, I asked a local judge once to appoint a special (peacock?) prosecutor to make sure that there was -- there were no concerns in terms of building and zoning investigations, but at the conclusion of this session, I'm going to give you a Law Review article that I have found fascinating that goes into the issue of appearances.

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There are situations where you have a very difficult situation, there are issues of conflict, and all that you can do in those situations is take the evidence and the law and do what's right.

Q: (Off mike) -- talk to the Justice Department, that they talk to you.

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You're saying that you have not been talking to the White House regarding this Whitewater. Who is the White House talking to over here?

ATTY GEN. RENO: With respect to -- I mean, obviously, this is a different situation, and I can't discuss who's talking to who, but it's a different situation in terms of an ongoing investigation and not any issue of the White House initiating something over here.

Q: Ma'am, will you make public the FBI reports produced in the Crown Heights investigation done by the FBI?

ATTY GEN. RENO: It depends.

Q: Depends on what?

ATTY GEN. RENO: Depends on the evidence and the law and the evidence that is developed after the conclusion of the investigation.

Q: Ma'am?

ATTY GEN. RENO: Sir?

Q: I'm sorry.

ATTY GEN. RENO: When the investigation is concluded, an appropriate decision will be made as to what appropriate action should be taken. And at that time, we will determine what we can make public based on the law.

Q: Ms. Reno, same topic. Senator D'Amato is calling the investigation into Crown Heights a sham and says -- (inaudible). What would your response be, not to the -- not on the status of the investigation, but to Senator D'Amato -- (inaudible) --

ATTY GEN. RENO: Well, I think Senator D'Amato can, you know -- I appreciate his criticisms. What I had explained to Senator D'Amato and others is that I cannot discuss the details of an investigation, and therefore, I can understand why he may not have an understanding of what we're trying to do. As I have consistently said, we're trying to make sure that that investigation is conducted based on the evidence and the law and based on the best interest of the case.

Q: Ms. Reno, could we get your comments on the pending crime bill in Congress? What do you see are the most important aspects -- (inaudible)?

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ATTY GEN. RENO: I think clearly -- and I think everyone feels very strongly that getting additional community police officers to the streets in manner and form and fashion that can truly help local communities and can make a difference is one of the most critical steps. We have begun that process through the implementation of the \$150 million supplement, and it has been really rewarding to see the applications come in, to see the very thoughtful steps that communities are taking in community policing initiatives that are making a difference. And I think that this is clearly one of the most important steps.

I think the boot camp issue is important. I have said for a very long time -- certainly in Miami we saw the beginnings of it, and I warned that the single greatest problem I was faced with in Miami as I left Miami was the problem of youth violence. I think it's important that we develop programs such as boot camps that let youngsters know that there is a certain punishment for hurting other people, that we will not tolerate violence. But at the same time, after the punishment, we've got to develop means of getting those youngsters back to the community with a chance of getting off on the right foot.

Q: Have you selected who the chief -- or have you narrowed the field down for a permanent chief for the Drug Enforcement Administration?

ATTY GEN. RENO: We have not yet selected the person.

Q: Are you considering -- apparently you are considering Mr. -- (inaudible) --

ATTY GEN. RENO: Yes?

Q: Ms. Reno, may I come back to the subpoena question one more time? One of the things that you've tried very hard to do in your time here is to assure the political independence of the Justice Department. Are you satisfied that, in terms of how the subpoena was issued, that the Justice Department's political independence was preserved?

ATTY GEN. RENO: Yes.

Q: Ms. Reno - (inaudible) -- Paul Johnson on the issue of melting and destroying confiscated weapons. I wonder if you would like to see that established as a national policy for police agencies.

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And short of that, I wonder what your thoughts are of the pros and cons of police agencies reselling weapons that they've confiscated from vicious crimes.

ATTY GEN. RENO: Well, I look forward to meeting with the mayor, so I shouldn't really comment on what my thoughts are until after I've met with the mayor.

Q: (Off mike.)

ATTY GEN. RENO: Yes.

Q: Ms. Reno, would you --

ATTY GEN. RENO: Carl, if you please make sure that I follow through on that.

Q: Ms. Reno, would you tell us at what level of political -- (off mike) -- which political appointees have talked with White House officials about the -- (off mike) -- when you talk to the mayor?

ATTY GEN. RENO: I don't know which -- if Mrs. Harris has talked with White House officials or not.

Q: Or attorneys representing -- private attorneys representing -- (off mike).

ATTY GEN. RENO: I don't know who she's talked to.

Q: Do you have any concern about the cost of independent counsel and special counsel investigations, which GAO pointed out run into the tens of millions of dollars?

ATTY GEN. RENO: That concern has been expressed, but I think working with independent counsels we can do a lot towards controlling it and setting up procedures so that we don't control, but that we suggest "Look, this is what happened in prior investigations and these are mechanisms that can be utilized to reduce costs."

Q: Ms. Reno, in the Congress have you taken a position yet or formulated a provision yet on other aspects such as mandatory minimums, the death penalty, the -- (off mike) -- amendment requiring that U.S. attorneys to try -- (off mike)?

ATTY GEN. RENO: I have asked the entire department that might be impacted in any way by the issues raised by the crime bill to review everything. I expect that report shortly in terms of the review, and

then we will make recommendations.

Q: (Off mike) -- crime bill has not been (passed?) yet, but there were several governors recently who are coming out in favor of this "third violent felony and you're in for life" as part of the crime bill. What do you think about that?

ATTY GEN. RENO: Well, it depends on how it's structured, and that's one of the things that we're looking at with respect to the crime bill and to try to determine just how that can be structured to put the bad guys away and keep them away.

Q: Well, but it seems pretty simple. That's the way it was written on the Senate side, basically: "the third violent felony".

ATTY GEN. RENO: Again, I think we have got to look at it and see how it's structured. If you have a person that committed -- got into a fight with somebody at 18 and got into another fight at 24 and then has a third violent felony at age 60, these are the issues that I think we have to look at, and I'm expecting a report on it.

Q: Without commenting directly on the (Florida?) -threatened lawsuit, are you sympathetic to governors who are complaining that the federal government is not paying its fair share to support the cost of taking care of undocumented immigrants?

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ATTY GEN. RENO: I think what we have got to look at, and I have said it from the beginning because I was certainly -- in my experience in Miami -- one of the people who absorbed some of the burdens, is to look and try to determine what those who come to this country illegally may contribute in terms of taxes, and what burdens are placed on the community. I, frankly, saw the burdens placed on my community at home by undocumented aliens who were prosecuted, who were in our jails, and I have said for a long, long time that I thought it was a federal responsibility in terms of the criminal justice system where the person is incarcerated and is making no positive contribution to the community.

Q: Ms. Reno, when will you expect to make your recommendation on the Jonathan Pollard matter to the White House?

ATTY GEN. RENO: I hope to do it shortly.

Q: Next week?

ATTY GEN. RENO: Again, and I'm sorry to be obstinate about that, but the one thing that I've learned is to never promise a time because in my 15 years I would -- I used to start off by saying, I hope to do it in a week, and then mid-week something new would come up that I would have to pursue, and you all thought that I would be fooling. And I don't want to fool you, I want to try to do it as soon as possible.

Q: January 1st has come and gone, which is the deadline --

ATTY GEN. RENO: Television violence.

Q: Television violence -- which is the deadline you gave to the networks --

ATTY GEN. RENO: I have a report on my desk and I'll be in the process of reviewing it in the next few days.

Q: Again, on the Brady Bill -- (inaudible) -- deadline to February 3rd -- (inaudible) -- regulations. I mean, what are the issues that are shaping -- (inaudible) -- regulation?

ATTY GEN. RENO: I have asked the deputy attorney general to pursue that, and he has promised me a report shortly.

Thank you all very much.

Q: Thank you.

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ATTY GEN. RENO: Carl, make sure that I follow up after the  
Phoenix mayor, and would -- anybody who wants this law review article  
on the assue of -- (inaudible) -- they should ask Carl for it. It's  
wonderful.

END