

PRESENTATION BY JANET RENO,  
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CONFERENCE OF CHIEF JUSTICES

SEA ISLAND, GEORGIA

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1 >> MS RENO: IT IS A SPECIAL PRIVILEGE FOR ME TO BE  
2 HERE WITH YOU FOR I AM A CHILD OF THE STATE COURT  
3 SYSTEM. I WAS RAISED IN IT, MY GRANDFATHER WAS A  
4 LAWYER WITH AN OFFICE ACROSS THE STREET FROM THE  
5 COURTHOUSE IN MIAMI, MY FATHER WAS A COURT REPORTER FOR  
6 THE "MIAMI HERALD" FOR 43 YEARS. AND ABOUT FIVE OR SIX  
7 I BEGAN TO GO TO WORK WITH HIM AND GO WATCH THE COURTS  
8 IN ACTION.

9 IT WAS TO THE CHIEF JUDGE OF OUR CIRCUIT THAT MY  
10 FATHER TOOK ME WHEN I EVEN DARED TO SUGGEST THAT I  
11 MIGHT WANT TO GO TO LAW SCHOOL, AND IT WAS THE CHIEF  
12 JUDGE OF OUR CIRCUIT WHO TURNED TO HIM AND SAID, "RENO,  
13 THIS TOWN HAS TOO MANY LAWYERS."

14 MY HEART SANK. WHEN HE SAID, "WHAT IT DESPERATELY  
15 NEEDS IS GOOD LAWYERS. GO TRY TO MAKE HER A GOOD  
16 LAWYER."

17 I PRACTICED IN STATE COURT AS I BEGAN MY LEGAL  
18 CAREER. I HAD THE WONDERFUL OPPORTUNITY AND PRIVILEGE  
19 TO PARTICIPATE IN THE REVISION OF THE JUDICIAL ARTICLES  
20 OF THE FLORIDA CONSTITUTION. IN 1971 AND 1972 AS I  
21 SERVED AS STAFF DIRECTOR OF THE HOUSE JUDICIARY  
22 COMMITTEE, JUSTICES OF THE FLORIDA SUPREME COURT AND  
23 JUDGES THROUGHOUT FLORIDA WORKED WITH ME AND WERE SO  
24 THOUGHTFUL AND SO CONSIDERATE AND BEGAN TO DEVELOP WITH  
25 ME THE NOTION THAT IF PEOPLE WORKED TOGETHER, WE MIGHT

1 DISAGREE ON SOME OCCASION, IF WE WORKED TOGETHER AND  
2 TALKED TOGETHER, WE CAN COME OUT WITH A PRODUCT  
3 EVERYBODY CAN BE PROUD OF.

4 FOLLOWING THE ADOPTION OF THAT PROPOSED REVISION  
5 BY THE PEOPLE OF THE STATE OF FLORIDA, A JUSTICE OF THE  
6 FLORIDA STATE COURT, BEN OVERTON, TOOK ME BY THE HAND  
7 AND TOLD ME ABOUT IMPLEMENTATION.

8 THAT FURTHER CONFIRMED MY BELIEF, IF PEOPLE WORK  
9 TOGETHER AND TALK TOGETHER AND NOT THINK THEY ARE A  
10 YOUNG STAFF DIRECTOR AT THE HOUSE JUDICIARY COMMITTEE  
11 AND THAT THEY KNOW EVERYTHING, IF THEY LISTEN TO OTHER  
12 PEOPLE, PARTICULARLY TO SOME JUDGES AND JUSTICES WHO  
13 HAVE BEEN ON THE FIRING LINES WHEN NOBODY IS LISTENING,  
14 YOU CAN LEARN A LOT AND DO A LOT BETTER JOB OF  
15 IMPLEMENTING.

16 THEN I SERVED AS A PROSECUTOR FROM 1978 TO 1983  
17 I WATCHED A STATE COURT SYSTEM JUST ABSORB THE DREGS  
18 FROM CASTRO'S MENTAL HOSPITALS AND PRISONS INTO OUR  
19 MIDST AS WE ABSORBED A HUNDRED THOUSAND PEOPLE IN LESS  
20 THAN SIX MONTHS.

21 I WATCHED THE JUDGES IN OUR COURTS REACT TO THE  
22 CRACK EPIDEMIC AND WATCHED THE CASES SKYROCKET. I  
23 WATCHED THEM CONTINUE TO DO THEIR JOB DAY IN AND DAY  
24 OUT. I WATCHED THE CRIME RATE SOAR.

25 MY PROFESSIONAL HEART AND SOUL WILL ALWAYS BE IN

1 THE STATE COURT SYSTEM, FOR YOU FACE CHALLENGES -- I  
2 WISH A FEDERAL JUDGE WAS HERE SO THEY DIDN'T THINK I  
3 WAS TALKING BEHIND THEIR BACK -- BUT YOU FACE  
4 CHALLENGES THAT THE FEDERAL SYSTEM DOES NOT BEGIN TO  
5 FACE. 95% OF ALL LITIGATION IS IN YOUR COURTS, YOU ARE  
6 ON THE FRONT LINE OF CRIME, DRUGS AND THE  
7 DISINTEGRATION OF THE AMERICAN FAMILY.

8 YOU ARE AT THE FOREFRONT OF PROTECTING INDIVIDUAL  
9 RIGHTS IN CASE AFTER CASE AFTER CASE, DAY IN AND DAY  
10 OUT. I HAVE SUCH PROFOUND REGARD FOR THE FEDERAL  
11 JUDGES OF THIS COUNTRY WHO LED THE WAY IN THE CIVIL  
12 RIGHTS MOVEMENTS OF THE 1950 AND 1960S. BUT WHAT THE  
13 AMERICAN PEOPLE DON'T UNDERSTAND IS THAT THERE ARE  
14 JUDGES AT EVERY LEVEL OF THE STATE COURT SYSTEM MAKING  
15 COURAGEOUS DECISIONS. THEY DON'T HAVE A LIFE TENURE  
16 MOST HAVE TO RUN FOR OFFICE OR BE RETAINED IN OFFICE  
17 THEY ARE THE UNSUNG HEROS OF THE CIVIL RIGHTS AND THE  
18 CONSTITUTIONAL SYSTEM IN WHICH WE LIVE AND HAVE LIVED.

19 I THINK IT IS IMPERATIVE WE DO THAT DURING TIMES  
20 OF EXTRAORDINARILY LIMITED BUDGETS, WHEN LEGISLATURES  
21 FIGURE WHERE TO CUT AND THAT THE JUDGE DOESN'T HAVE A  
22 CONSTITUENCY SO CUT THERE AS OPPOSED TO SOMETHING  
23 THAT'S MORE POPULAR.

24 I THINK YOU HAVE DONE AN EXTRAORDINARY JOB IN  
25 PRESERVING THE CONSTITUTION AS WE KNOW IT DURING MOST

1 DIFFICULT TIMES. I WANT TO WORK WITH YOU. I WANT TO  
2 DO EVERYTHING I CAN TO PROVIDE A DIALOGUE, TO LET YOU  
3 UNDERSTAND THAT I AM A PHONE CALL AWAY FOR PROBLEMS,  
4 SUGGESTIONS AND CONCERNS.

5 I HAD A WONDERFUL WORKING RELATIONSHIP AS A  
6 PROSECUTOR WITH THE JUDGE, THE CHIEF JUDGE, THE  
7 JUDICIARY, THE SUPREME COURT, THE PUBLIC DEFENDER,  
8 CORRECTIONS AND THE POLICE, WE WORKED TOGETHER IN THE  
9 COURT'S COORDINATING COMMITTEE. THAT WAS EXTREMELY  
10 IMPORTANT TO ME. I RETURNED ALL MY TELEPHONE CALLS IN  
11 MIAMI AND I HAD MY HOME TELEPHONE NUMBER LISTED.  
12 I MET WITH ANYBODY EXCEPT REPRESENTED -- UNREPRESENTED  
13 PARTIES, AND I CAN'T DO THAT ANYMORE.

14 BUT I CAN CERTAINLY RETURN EVERY ONE OF YOUR  
15 CALLS. I ASK YOU IF YOU HAVE QUESTIONS OR CONCERNS OR  
16 PUZZLEMENTS, IT IS IMPORTANT I HEAR FROM YOU.  
17 FOR TOO LONG I SAT IN DADE COUNTY AS FEDERAL OFFICIALS  
18 INCLUDING SOME ATTORNEYS GENERAL CAME TO TOWN AND TOLD  
19 ME WHAT I SHOULD DO OR HOW IT WAS BEST TO DO THINGS  
20 I LOOKED AT THEM AND SAID TO THEM, "WHAT DO YOU KNOW  
21 ABOUT MIAMI? WHAT DO YOU KNOW ABOUT OUR COURT SYSTEM?  
22 WHAT DO YOU KNOW ABOUT THE PRESSURES ON OUR COURT  
23 SYSTEM?" AND I RESOLVED IF I CAME TO WASHINGTON I  
24 WOULD NOT FORGET WHERE I CAME FROM AND I WOULD  
25 UNDERSTAND THAT PEOPLE IN THE STATES AND IN COMMUNITIES

1 KNOW FAR BETTER THE NEEDS AND RESOURCES OF THEIR COURT  
2 SYSTEMS, OF THEIR CRIME PROBLEM, OF ALL THE ISSUES THAT  
3 CONFRONT US IN AMERICA TODAY.

4 SO IF YOU THINK I STRAY FROM THE RESERVATION,  
5 BRING ME UP TIGHT. BUT IN THE MEANTIME, WHAT I AM  
6 TRYING TO DO IS REACH OUT THROUGH OUR OFFICE OF JUSTICE  
7 PROGRAMS TO MAKE SURE THAT THE STATE COURT SYSTEMS ARE  
8 INCLUDED IN PLANNING, THAT WE ADDRESS THE CRIME PROBLEM  
9 TOGETHER, THAT WE ADDRESS THE ALLOCATION OF FUNDS  
10 TOGETHER, AND THAT WE NOT FORGET THE STATE COURT  
11 SYSTEM.

12 IN EVERYTHING WE DO I AM TRYING TO ASK ONE  
13 OVERRIDING QUESTION: WHAT IS THE RIGHT THING TO DO?  
14 HARRY TRUMAN SAID, "DOING RIGHT IS EASY. KNOWING WHAT  
15 THE RIGHT THING TO DO IS OFTEN DIFFICULT."

16 I WILL DISCUSS WITH YOU TODAY SOME ISSUES THAT WE  
17 WILL PROBABLY DISAGREE ON. IF WE TALK THEM OUT AND  
18 WORK THEM OUT, WE MAY NOT BE TOTALLY SATISFIED BUT WE  
19 WILL KNOW WE TRIED TO WORK OUT APPROPRIATE RESOLUTIONS  
20 OF THE ISSUES THAT CONFRONT US ALL.

21 WHAT HAS IMPRESSED ME SO MUCH ABOUT THE STATE  
22 COURT SYSTEM OVER TIME IS THAT THE STATE COURTS AND THE  
23 STATE JUDGES HAVE NOT FORGOTTEN THAT THEY SERVE THE  
24 PEOPLE. SERVE THE PEOPLE AND REAL PEOPLE.

25 I'M OFTEN IMPRESSED WITH THAT COUNTY COURT JUDGE

1 IN MIAMI, WHICH IS OUR MISDEMEANOR COURT, WHO WOULD  
2 THERE YEAR IN AND YEAR OUT RESOLVING MINOR CASES BUT  
3 MINOR CASES THAT HAD A PROFOUND EFFECT ON THE HUMAN  
4 BEINGS INVOLVED.

5 I WAS IMPRESSED WITH JUDGES WHO TOOK THE TIME TO  
6 FOLLOW UP ON A CASE.

7 I WAS IMPRESSED WITH SUPREME COURT JUSTICES WHO  
8 WENT OUT TO THE COMMUNITY AND TRIED CASES IN THE  
9 COMMUNITY BECAUSE THEY WERE NOT GOING TO FORGET THE  
10 PEOPLE AND WHAT IT WAS LIKE TO HAVE REAL LITIGANTS  
11 BEFORE THEM WITH REAL FLESH AND BLOOD ISSUES.

12 I THINK WE'VE COME TOO FAR IN THE AMERICAN JUSTICE  
13 SYSTEM FROM THOSE GREEN HILLS IN ENGLAND ABOUT 1200  
14 WHEN PEOPLE GOT TOGETHER AND SAID, "OKAY, YOU SIX, YOU  
15 DECIDE WHOSE COW IT IS." WE CAN DO FAR MORE IF WE  
16 REMEMBER THE PEOPLE.

17 I WOULD LIKE TO WORK TOGETHER WITH YOU BECAUSE  
18 YOUR SYSTEMS HAVE EXTRAORDINARY CASELOADS AT THIS  
19 POINT. EVERYTHING WE DO TO PRESERVE THE CONSTITUTIONAL  
20 SYSTEM AS WE KNOW IT IS GOING TO REQUIRE THOUGHTFUL  
21 INNOVATION. INNOVATION, HOWEVER, NEVER FORGETS THE  
22 CONSTITUTION.

23 I HAVE SEEN SOME EXAMPLES IN MY OWN EXPERIENCE IN  
24 THE STATE COURT SYSTEM, EXAMPLES OF THE STATE COURT  
25 DOING IT SMART, DOING IT WISE, BUT DOING IT CONSISTENT

1 WITH DUE PROCESS AND THE PRINCIPLES OF THE  
2 CONSTITUTION.

3 THE DRUG COURT IN DADE COUNTY IS AN EXAMPLE THAT  
4 PROLIFERATED TO OTHER JURISDICTIONS. THERE WE BROUGHT  
5 TOGETHER THE PUBLIC DEFENDER AND STATE ATTORNEY.  
6 WE OPERATED ON THIS PRINCIPLE: WE WEREN'T INTERESTED  
7 IN NUMBERS, WE WERE INTERESTED IN RESULTS BECAUSE WE  
8 HAD SEEN A CRIMINAL COURT SYSTEM OVERWHELMED BY CASES  
9 WE HAD TWO OR THREE MURDER CASES ON A COURT'S CALENDAR.  
10 THE JUDGE COULD START TRYING THE MURDER CASE, THE OTHER  
11 50 CASES ON HIS CALENDAR WOULD BE CONTINUED, HE WOULD  
12 FINALLY NEGOTIATE OUT SOME OF THE CASES AND THEN HE  
13 WOULD BE LEFT WITH SALE OR POSSESSION OF A SMALL AMOUNT  
14 OF COCAINE; ALL HE COULD GET WAS CREDIT TIME SERVED OR  
15 THE CASE WOULD RUN ON THE SPEEDY TRIAL RULE.

16 WE SAID WHY NOT GIVE THE COURTS ALTERNATIVES AND  
17 TRY TO OPERATE ON A CARROT-AND-STICK APPROACH. IT IS  
18 NOT PROCESSING NUMBERS. IT IS LOOKING AT PEOPLE.  
19 TO MAKE THAT DRUG COURT WORK, WE NEEDED A JUDGE WHO WAS  
20 INTERESTED IN THE PERSON BEFORE THEM AND NOT JUST THE  
21 CASE AND NOT JUST THE NUMBER AND NOT JUST WHAT HIS  
22 CASELOAD WAS OR NOT JUST WHAT HER NUMBER OF  
23 DISPOSITIONS WERE IN A MONTH OR HOW MANY PEOPLE SHE  
24 SENTENCED TO PRISON OR HOW MANY PEOPLE SHE PUT ON  
25 PROBATION.

1           THIS WAS A JUDGE WHO WAS INTERESTED IN GETTING  
2           PEOPLE OFF DRUGS SO THEY NEVER CAME BACK TO THE SYSTEM  
3           THIS WAS A JUDGE WHO KNEW WHEN TO PAT SOMEBODY ON THE  
4           BACK OR GIVE THEM A KICK. THIS WAS A JUDGE WHO HAD  
5           PEOPLE COME UP TO HIM AFTER THEY HAD GRADUATED FROM THE  
6           DRUG COURT PROGRAM AFTER A YEAR JUST HUGGING HIM AND  
7           THANKING HIM. THIS WAS A GRUFF FORMER NEW YORK CITY  
8           COP.

9           EACH OF US CAN MAKE A DIFFERENCE IF WE DON'T  
10          FORGET THE PEOPLE INVOLVED. NOW WHEN YOUR  
11          REPRESENTATIVES CAME TO SEE ME EARLY ON SHORTLY AFTER I  
12          BECAME ATTORNEY GENERAL, THEY SAID, WE WANT YOU TO TALK  
13          TO THE CHIEF JUSTICES BECAUSE SOME OF THEM DON'T THINK  
14          TREATMENT WORKS. I'M HERE TO TELL YOU THAT BASED ON MY  
15          EXPERIENCE IN MIAMI, IT WORKED. BASED ON WHAT I HAVE  
16          HEARD AROUND THE NATION, IT WORKS. WHEN IT WORKS MOST  
17          EFFECTIVELY IS WHEN IT HAS AN APPROPRIATE JUDICIAL  
18          LEVERAGE BEHIND IT.

19          I HAVE BEEN TO TOO MANY ADDICTION TREATMENT  
20          PROGRAMS, TO THEIR GRADUATIONS, WHERE PEOPLE THANKED ME  
21          FOR ARRESTING THEM OR PROSECUTING THEM OR FOR GETTING  
22          THEM INTO TREATMENT AND HAVE THE LEVERAGE OF THE  
23          JUDICIAL PROCESS BEHIND THEM THAT KEPT THEM THERE.  
24          IT CAN WORK IF WE ALL WORK TOGETHER AND EXPLORE WHAT  
25          EACH OF US CAN DO IN A COORDINATED FASHION.

1           BUT IT WILL NOT WORK IF WE SAY TO A PERSON, OKAY,  
2 WE'RE GOING TO PUT YOU IN THE DRUG COURT. WHAT THAT  
3 JUDGE DID WAS KEEP A SPECIAL MONITOR ON THE TREATMENT  
4 TO MAKE SURE IT NEVER GOT SPREAD TOO THIN. THERE WAS  
5 ALWAYS AFTER-CARE AND FOLLOW-UP. THERE WAS JOB  
6 TRAINING AND PLACEMENT AND THAT THE SYSTEM AS A WHOLE  
7 WAS TRULY A SYSTEM, NOT A FRAGMENTED SEGMENT WITH  
8 POLICE OPERATING HERE, THE PROSECUTORS HERE,  
9 THE COURTS HERE, AND CORRECTIONS HERE. WE HAVE TO LOOK  
10 AT THE WHOLE PICTURE.

11           WHEN I TOOK OFFICE AS A PROSECUTOR IN DADE COUNTY  
12 IN 1978 I WAS APPALLED TO FIND, BASED ON RESEARCH WE  
13 DID OVER THE LAST 25 YEARS BEFORE THEM, 40% OF THE  
14 CASES OF HOMICIDE IN DADE COUNTY WERE RELATED TO  
15 DOMESTIC VIOLENCE. WE HAVE A DOMESTIC INTERVENTION  
16 PROGRAM WHICH IS NOW A DOMESTIC VIOLENCE COURT AND  
17 CENTER. WHEN I UNDERTOOK THAT EFFORT, THE JUDGES  
18 LOOKED AT ME LIKE I WAS CRAZY.

19           I WILL SAY TO SOME OF MY COLLEAGUES, I'VE BEEN  
20 HELPED EXTRAORDINARILY BY THE ADDITION OF A LARGE  
21 NUMBER OF WOMEN TO THE BENCH IN THE 11TH JUDICIAL  
22 CIRCUIT. MOST OF THEIR COLLEAGUES AGREE THAT WE CAN DO  
23 SOMETHING ABOUT VIOLENCE IN AMERICA IF WE BEGIN IN ONE  
24 SMALL PLACE; THAT'S IN THE HOME. COMING TO RECOGNIZE  
25 THAT THE CHILD WHO SEES HIS FATHER BEAT HIS MOTHER

1 COMES TO ACCEPT VIOLENCE AS A WAY OF LIFE. HIS FURTHER  
2 MOTIVATION IS FOR ALL OF US TO BE INVOLVED IN FOLLOW-UP  
3 AND UNDERSTANDING THE PROCESS.

4 BUT WHAT IS SO IMPORTANT, I TRIED TO DEVELOP A  
5 DIVERSION PROGRAM THAT WOULD SHORT CIRCUIT THE COURTS  
6 TO KEEP THE PROBLEM OUT OF THE COURTS.

7 WHAT MAKES THE DIFFERENCE IS A JUDGE WHO  
8 UNDERSTANDS THE DIMENSION OF THE PROBLEM, THE CHARACTER  
9 OF THE PROBLEM. LOOK AT THE PEOPLE AS PEOPLE AND NOT  
10 AS NUMBERS, NOT AS NAMELESS FACES, NOT AS JUST CASES  
11 EVERY STATE COURT SYSTEM INNOVATION THAT I HAVE SEEN  
12 THAT REALLY WORKS IS ONE THAT NEVER FORGETS PEOPLE

13 THE AUTOMATION THAT I SEE INCLUDES CHARACTERISTIC  
14 THAT MAKE THE JUDGE ABLE TO SPEND JUST A LITTLE BIT OF  
15 TIME LOOKING AT THE CASE IF THAT CASE IS A PERSON AND  
16 NOT JUST A NAMELESS FACE.

17 I UNDERSTAND THAT SOME JUDGES ARE UPSET BECAUSE OF  
18 UNFUNDED MANDATES. I CERTAINLY SHARED MY SHARE OF  
19 UNFUNDED MANDATES FROM THE FEDERAL GOVERNMENT. ONE  
20 THING I DID SHARE FROM THE FEDERAL GOVERNMENT WAS A  
21 DIRECTION FOR STATES TO START DOING SOMETHING ABOUT  
22 CHILD SUPPORT.

23 I BECAME THE PROSECUTOR RESPONSIBLE FOR CHILD  
24 SUPPORT ENFORCEMENT IN OUR CIRCUIT BY CONTRACT WITH THE  
25 STATE. WE DEVELOPED, BECAUSE THE COURT CARED, A

1 FULL-SERVICE, ONE-STOP COURT SYSTEM WHERE EVERYTHING  
2 WAS IN ONE BUILDING INCLUDING THE BLOOD TESTING, AND  
3 WHERE WE HAD JUDGES WHO WERE WILLING TO MAKE THE  
4 COMMITMENT. WE WENT THROUGH A STRING OF JUDGES WHO  
5 DIDN'T GIVE A DARN. IT DIDN'T WORK. WE ROTATED IN  
6 JUDGES WHO CARED, WHO WERE FIRM BUT FAIR AND CARED  
7 BECAUSE THEY UNDERSTOOD THERE WAS A PERSON IN FRONT OF  
8 THEM, THERE WERE CHILDREN IN FRONT OF THEM, AND THERE  
9 WAS ALSO A MAN WHO MIGHT NOT HAVE A JOB IN FRONT OF  
10 THEM. THEY UNDERSTOOD AND CARED ABOUT THE HUMAN  
11 DIMENSION OF THE PROBLEMS.

12 WHAT YOU HAVE DONE THROUGH THE STATE JUSTICE  
13 INSTITUTE IN TERMS OF SANCTIONS IS A CLASSIC EXAMPLE.  
14 YOU UNDERSTAND FAR BETTER THAN ANYBODY ELSE MOST PEOPLE  
15 ARE COMING OUT OF PRISONS SOONER RATHER THAN LATER.  
16 ALTERNATIVE SANCTIONS USING A CARROT-AND-STICK APPROACH  
17 IS MORE EFFECTIVE THAN WAREHOUSING PEOPLE FIVE, 10, 15  
18 YEARS FOR MANDATORY SENTENCE WHEN VIOLENCE IS NOT  
19 INVOLVED AND THERE IS USUALLY A DRUG PROBLEM OR  
20 SOMETHING ELSE. WE CAN MAKE THOSE ALTERNATIVE SANCTION  
21 PROGRAMS WORK, BUT WE HAVE GOT TO UNDERSTAND THAT THEY  
22 WON'T WORK IF THE PERSON COMES OUT OF THE PROGRAM AND  
23 RETURNS TO THE COMMUNITY FROM WHERE THE PROBLEM STARTED  
24 IN THE FIRST PLACE WITHOUT AFTER-CARE AND FOLLOW-UP,  
25 WHERE PROGRAMS ARE WORKING THAT THE JUDICIARY HAS

1 INSTITUTED. IT IS WHEN THE JUDICIARY KEEPS A LOOKOUT  
2 AND SAYS, WAIT A MINUTE, I'M NOT GOING TO WASTE THE  
3 TAXPAYERS' DOLLARS AND THAT PERSON'S LIFE BY RETURNING  
4 THEM TO THE COMMUNITY WITHOUT A SUPPORT MECHANISM THAT  
5 PREVENTS THEM FROM GETTING BACK HERE.

6 WHERE WE ALL HAVE AN EXTRAORDINARY CHALLENGE, AND  
7 I THINK THIS IS ONE OF THE GREATEST CHALLENGES THAT  
8 FACES THE JUDICIARY TODAY, IS WHAT DO WE DO WITH THE  
9 JUVENILE JUSTICE SYSTEM. I THINK ANY OF YOU WHO HAVE  
10 LABORED IN THAT REMARKABLY CHALLENGING VINEYARD  
11 UNDERSTAND HOW THAT PROBLEM'S CHANGED OVER THE LAST 15  
12 YEARS.

13 THE JUVENILE COURT JUDGES OF THIS NATION WHO  
14 LABORED IN THE STATE COURT SYSTEM ARE THE HEROS AND  
15 HEROINES OF AMERICA TODAY. THEY HAVE BEEN GIVEN AN  
16 EXTRAORDINARILY DIFFICULT JOB TODAY AFTER AMERICA HAS  
17 FAILED TO INVEST FOR THE LAST 30 YEARS IN ITS CHILDREN  
18 THEY HAVE BEEN GIVEN TOTALLY INADEQUATE RESOURCES.  
19 NOW SOME PEOPLE WANT TO THROW THE BABY OUT WITH THE  
20 BATH WATER AND EITHER CHANGE THE JUVENILE COURT SYSTEM  
21 OR TOTALLY ELIMINATE IT. WE HAVE GOT TO STAND TOGETHER  
22 TO MAKE SURE THAT THE SYSTEM PROVIDES FIRM, FAIR  
23 PUNISHMENT THAT FITS THE CRIME.

24 A 13-YEAR-OLD WHO PUTS A GUN UP BESIDE SOMEBODY'S  
25 HEAD AND HURTS THEM HAS GOT TO KNOW THERE IS

1 PUNISHMENT. UNFORTUNATELY TOO MANY YOUNGSTERS DON'T  
2 THINK THAT HAPPENS. AT THE SAME TIME, AFTER  
3 PUNISHMENT, WE HAVE TO MAKE SURE WE PROVIDE AFTER-CARE  
4 PROGRAMS AND FOLLOW UP WITH JOB TRAINING AND PLACEMENT,  
5 WITH LITERACY PROGRAMS, WITH G.E.D. PROGRAMS TO GIVE  
6 THAT CHILD AN OPPORTUNITY TO COME BACK TO THE COMMUNITY  
7 WITH A CHANCE FOR SUCCESS.

8 TOO LONG IN THE 30 YEARS THAT HAVE ELAPSED SINCE I  
9 GRADUATED FROM LAW SCHOOL, JUDGES HAVE SAID TO ME  
10 "BUT, JANET, THAT'S NOT MY PROBLEM. THAT'S THE  
11 EXECUTIVE'S PROBLEM, THAT'S THE GOVERNOR'S PROBLEMS.  
12 THAT'S THE COUNTY COMMISSION PROBLEM. THAT'S  
13 SOMEBODY'S PROBLEM, BUT IT'S NOT MY PROBLEM." I WOULD  
14 SUGGEST TO YOU THAT THE TIME HAS COME FOR AMERICA TO  
15 STOP SAYING THAT THAT'S NOT MY PROBLEM.

16 I HAVE FOUND THAT WHERE PROGRAMS WORK IT'S THE  
17 JUDGE WHO SAID NOW MY PRINCIPAL ROLE IS TRYING TO  
18 FIGURE OUT THE CONSTITUTION AND TRYING TO MAKE SURE  
19 THAT THIS DEFENDANT'S RIGHTS HAVE BEEN PROTECTED, BUT  
20 THE JUDGE WHO WILL LOOK A LITTLE BEYOND AND LINK WITH  
21 CORRECTIONAL AUTHORITIES, WHO WILL TESTIFY BEFORE THE  
22 LEGISLATURE AND COUNTY COMMISSION TO THE FACT THE  
23 SYSTEM ISN'T WORKING. JUDGES ARE BEING ASKED TO DO  
24 IMPOSSIBLE TASKS WITHOUT BEING GIVEN THE RESOURCES TO  
25 DO THE JOB. I THINK IT BECOMES IMPERATIVE THAT THE

1 CRIMINAL JUSTICE SYSTEM AND JUVENILE JUSTICE SYSTEM  
2 LINK TOGETHER.

3 WE HAD COURT COORDINATING COMMITTEES IN MIAMI  
4 THE PUBLIC DEFENDER, THE STATE ATTORNEY, JUDGES,  
5 POLICE, PROBATION, CORRECTIONAL OFFICIALS AND COUNTY  
6 OFFICIALS MET TOGETHER TO TRY TO MAKE THE SYSTEM WORK.  
7 THE MORE WE CAN DO THAT, THE BETTER I THINK THE SYSTEM  
8 CAN FUNCTION.

9 I WANT TO DO EVERYTHING I CAN TO WORK WITH YOU IN  
10 THESE AREAS OF INNOVATION, TO WORK WITH YOU AS YOU TRY  
11 NOT TO FORGET THE PEOPLE, AS YOU TRY TO PUT A FACE ON  
12 THE CASES IN FRONT OF YOU SO THAT YOU HAVE A CHANCE OF  
13 SUCCESS. I'VE ASKED OUR OFFICE OF JUSTICE PROGRAMS TO  
14 MAKE SURE THAT THE COURTS ARE INCLUDED IN ALL OUR  
15 PLANNING EFFORTS AND IF YOU EVER, EITHER THE PRESIDENT  
16 OR THE INCOMING PRESIDENT, THINK I'M ABOUT TO FAIL YOU  
17 IN TERMS OF INCLUDING YOU, I WANT YOU TO CALL ME  
18 INSTANTLY, BECAUSE WE WANT TO DEVELOP A TRUE LINE OF  
19 COMMUNICATION THAT CAN INVOLVE YOU EVERY STEP OF THE  
20 WAY.

21 A SECOND CONCERN THAT I HAVE IS WITH CIVIL  
22 JUSTICE. I STILL GO BACK TO THE IMAGE I HAVE OF HOW  
23 THE JURY SYSTEM GOT STARTED, OF PEOPLE ARGUING OVER  
24 WHOSE COW IT WAS ON A HILL IN ENGLAND. THEY DIDN'T  
25 HAVE DEPOSITIONS AND DISCOVERY, THEY DIDN'T HAVE FILING

1 FEES AND ALL THE PROBLEMS WE SEE THAT PRODUCE COST AND  
2 DELAY. THEY HAD ACCESS.

3 IF WE CAN SEND A MAN TO THE MOON, IF WE CAN DO THESE  
4 REMARKABLE THINGS WE HAVE SEEN DONE IN MODERN MEDICINE,  
5 SURELY WE CAN MAKE A COURT SYSTEM ACCESSIBLE TO ALL ITS  
6 PEOPLE.

7 YET THE AMERICAN BAR ASSOCIATION AT ITS MID-WINTER  
8 MEETING WAS TELLING ME THIS PAST SATURDAY IN KANSAS  
9 CITY, 70% OF THE WORKING POOR DON'T HAVE ACCESS TO  
10 COURTS MUCH LESS TO LEGAL SERVICES. WHAT GOOD ARE ALL  
11 THE RIGHTS IN THE WORLD GOING TO BE IF WE DON'T HAVE  
12 ACCESS TO OUR COURTS? I THINK THERE IS A TENDENCY TOO  
13 OFTEN FOR THE LEGISLATURE TO SAY, WELL, THE COURTS DID  
14 IT; THE COURTS TO SAY, YOU'VE GOT TO DO IT, AND  
15 NOBODY TO WORK TOGETHER TO FIGURE OUT THE FINANCING AND  
16 MECHANISMS OF HOW WE DO IT.

17 WE HAVE INITIATED A CIVIL JUSTICE REFORM EFFORT IN  
18 THE DEPARTMENT OF JUSTICE THAT DOESN'T HAVE ALL THE  
19 ANSWERS. WE'RE TRYING TO DO OUTREACH WITHOUT A LOT OF  
20 BASHING. WE'RE TRYING TO ADDRESS THE ISSUES WITHOUT  
21 CONDEMNING LAWYERS, BUSINESSMEN, OR DOCTORS BUT DO IT  
22 IN A COMMON SENSE WAY SUGGESTING THAT NOBODY THINKS THE  
23 PRESENT SYSTEM IS WORKING THAT WELL FOR POOR PEOPLE AND  
24 FOR THE WORKING POOR.

25 WE WANT TO INCLUDE YOU AGAIN, MR. CHIEF JUSTICE,

1 AT EVERY STEP OF THE WAY IN THIS EFFORT AND WE DO NOT  
2 WANT TO COME TO YOU SAYING HERE'S OUR FINISHED PRODUCT  
3 WE WANT TO GET FROM YOU YOUR IDEAS AND SUGGESTIONS SO  
4 THAT YOU ARE A TRUE PARTNER IN THIS EFFORT.

5 SOME INITIAL STEPS THAT I HAVE TAKEN -- THOUGH I  
6 AM APPALLED AT WHAT LITTLE LAWYERS KNOW ABOUT  
7 NEGOTIATIONS, AS I RECALL MY LAW SCHOOL EXPERIENCE I  
8 HAD TO LEARN ABOUT LITIGATION, I HAD TO LEARN ABOUT  
9 CASES AND HOW CASES RESOLVED ISSUES AND THERE WAS NO  
10 NEGOTIATION AS ANY PART OF THE PROCESS. I AM SO  
11 IMPRESSED ABOUT THE DEVELOPMENTS IN THESE LAST 30 YEARS  
12 THAT CAN TEACH PEOPLE HOW TO NEGOTIATE. IF 90% OF THE  
13 CASES IN OUR SYSTEM AT HOME WERE NEGOTIATED -- IT  
14 ALWAYS OCCURRED TO ME THAT THE LAW SCHOOLS SHOULD TEACH  
15 AS MUCH NEGOTIATION BOTH IN FORM AND IN SUBSTANCE OF  
16 THE SUBJECT MATTER AS THEY DO LITIGATION. AND WE WANT  
17 TO TRY TO DO EVERYTHING WE CAN IN THE DEPARTMENT OF  
18 JUSTICE TO PROVIDE MODELS AND TO ENCOURAGE OUR OWN  
19 LAWYERS TO LEARN THE ARTS AND SKILLS OF NEGOTIATION.

20 HOWEVER IN TERMS OF ACCESS, I WOULD ALSO LIKE TO  
21 PROPOSE TO YOU SOMETHING; I AM NOT SUGGESTING THAT IT  
22 IS THE WAY TO GO. I AM ONLY ASKING THAT YOU THINK  
23 ABOUT IT BECAUSE IT COMES TO THE VERY HEART OF WHAT  
24 YOU'RE DOING AND TO HOW LAWYERS ARE HANDLED AND  
25 LICENSED IN EACH OF THE STATES.

1 I SAT AT TOO MANY TABLES IN MIAMI WHERE PEOPLE DID  
2 NOT HAVE ACCESS TO LAWYERS WHERE THERE WAS A  
3 COMPLICATED SOCIAL SECURITY PROBLEM OR A CAR INSURANCE  
4 PROBLEM OR A MEDICAID PROBLEM OR MEDICARE PROBLEM OR  
5 WELFARE PROBLEM OR AFDC PROBLEM OR FOOD STAMP PROBLEM  
6 OR LANDLORD-TENANT PROBLEM. LEGAL SERVICES COULDN'T  
7 HANDLE IT. THEY DIDN'T HAVE ENOUGH STAFF, NOBODY KNEW  
8 WHERE TO TURN, AND THE PEOPLE FELT HELPLESS AND  
9 DISENFRANCHISED FROM THEIR GOVERNMENT.

10 IT OCCURRED TO ME AS I WATCHED THESE PEOPLE, IT  
11 MIGHT BE WELL TO CONSIDER A NEW CONCEPT IN AMERICA  
12 CALLED A COMMUNITY ADVOCATE WITH THE UNIVERSITIES OF  
13 AMERICA PROVIDING A DEGREE IN COMMUNITY ADVOCACY. WHAT  
14 LAWYER DO YOU KNOW THAT GRADUATED FROM RECENT LAW  
15 SCHOOL THAT KNOWS ABOUT THE COMPLICATED ASPECTS OF  
16 SOCIAL SECURITY OR THE ISSUES THAT I NAMED? NOBODY CAN  
17 TELL ANYBODY REALLY TILL YOU WORK THROUGH AFDC OR FOOD  
18 STAMP PROBLEMS OR LESSER IMMIGRATION PROBLEMS.  
19 IF WE HAD COMMUNITY ADVOCATES WHO TOOK COURSEWORK IN  
20 THESE COURSES AND TRAINED IN INTERNSHIPS, THE PEOPLE  
21 WHO ARE NOT BEING SERVED BY AMERICA'S LEGAL SYSTEM  
22 TODAY WOULD GET FAR BETTER ADVICE AT FAR LESS COST  
23 THESE WOULD BE PEOPLE WHO DIDN'T HAVE TO MAKE  
24 \$70-100-150,000 A YEAR. THESE ARE PEOPLE THAT MAKE  
25 45-AND-50 AND THINK THEMSELVES QUITE RICH BECAUSE THEY

1 REACHED OUT TO HELP OTHERS.

2 I DON'T PROPOSE THAT AS A SOLUTION. I PROPOSE IT  
3 FOR THE PURPOSES OF DISCUSSION AND WOULD LIKE TO  
4 CONTINUE THAT DIALOGUE WITH YOU AS WE GO ALONG. BUT I  
5 SUGGEST TO YOU, THAT THE TIME HAS COME FOR COURTS TO  
6 START SPEAKING OUT ON WHAT I PERCEIVE TO BE THE MOST  
7 SERIOUS PROBLEM IN AMERICA, THE STATE COURTS OF AMERICA  
8 HAVE BEEN BESIEGED BY THE NEGLECT OF INSTITUTIONS ALONG  
9 THE WAY TO THE COURT. THE COURTS HAVE BEEN THE END OF  
10 THE LINE. THEY TOO OFTEN HAVE BEEN BLAMED FOR THE  
11 FAILURE OF OUR INSTITUTIONS, THE FAMILY, SCHOOLS,  
12 NEIGHBORHOODS, THE MEDICAL PROFESSION, THE TIME HAS  
13 COME FOR US ALL TO LOOK BEYOND OUR NARROW ARENA, OUR  
14 NARROW COURTROOM AND FORUM AND START SPEAKING OUT ABOUT  
15 WHAT WE'RE SEEING.

16 THERE ARE TOO MANY JUDGES IN AMERICA WHO DAY AFTER  
17 DAY AFTER DAY HAVE PICKED UP PRE-SENTENCE  
18 INVESTIGATIONS SHOWING NEGLECT AT EVERY STEP OF THE  
19 WAY. JUDGES CAN BE FAR MORE ELOQUENT THAN ANYBODY ELSE  
20 ABOUT THE 13-YEAR-OLD BEFORE THEM CHARGED WITH A  
21 HOMICIDE, THE FACT HIS MOTHER WAS A CRACK ABUSING  
22 MOTHER, HE TRIED TO RAISE HIS FOUR SIBLINGS, HE HAD NO  
23 HELP ALONG THE WAY, HE DROPPED OUT WHEN HE WAS 11, THE  
24 SYSTEM FAILED HIM EVERY STEP OF THE WAY.

25 THE TIME HAS COME FOR JUDGES TO SPEAK OUT AND TO

1 SAY IT IS EVERYBODY'S PROBLEM AND WE ARE NEVER EVER  
2 GOING TO BE ABLE TO SOLVE THE PROBLEM IN THE JUDICIAL  
3 SYSTEM AND THE COURT SYSTEM UNLESS WE START MAKING AN  
4 INVESTMENT IN CHILDREN AND FAMILIES. I RECENTLY HAD A  
5 MEETING OF SOME FEDERAL JUDGES WHO POINTED OUT TO ME --  
6 MOST OF THEM ARE BUSH-REAGAN APPOINTEES. MOST OF THEM  
7 WERE ON MY SIDE, I BETTER KEEP ON TALKING ABOUT THE  
8 CHILDREN AND FAMILIES AND DOING SOMETHING ABOUT IT UP  
9 FRONT. THEN A CONGRESSMAN ASKED, "WHAT WILL I SAY TO  
10 MY CONSTITUENTS." I SAY KEEP ON SAYING WHAT IS RIGHT.  
11 JUDGES CAN SAY IT BETTER THAN ANYBODY ELSE BECAUSE YOU  
12 HAVE SEEN THE PRE-SENTENCE INVESTIGATIONS, YOU HAVE  
13 SEEN THE RESULTS AT THE END OF THE LINE.

14 ANOTHER ONE OF MY GOALS, I NOW APPROACH SOMETHING  
15 THAT I KNOW IS OF A VERY SENSITIVE NATURE TO YOU, BUT  
16 FIRST, ONE OF MY GOALS IS TO DO EVERYTHING I CAN TO  
17 MAKE SURE THAT THE ETHICS PROCESS IN THE JUSTICE  
18 DEPARTMENT PROMOTES THE HIGHEST ETHICAL STANDARD I CAN  
19 POSSIBLY HELP TO ACHIEVE.

20 THE SYSTEM IS CONFUSED NOW, IT IS SOMEWHAT CLOSED.  
21 PEOPLE DON'T KNOW THE END RESULTS OF COMPLAINTS THEY  
22 MAKE, JUDGES DON'T GET THEIR QUESTIONS ANSWERED, AND  
23 WHAT I'M TRYING TO DO IS TO PROVIDE A PROCESS THAT  
24 EVERYBODY UNDERSTANDS, THAT IT IS AS OPEN AS POSSIBLE,  
25 MORE CONSISTENT WITH THE FEDERAL PRIVACY ACT AND GIVES

1 PEOPLE CONFIDENCE IN GOVERNMENT LAWYERS.

2 NOW I GOT TO WASHINGTON AND I STARTED HEARING IN  
3 THE DAYS BEFORE MY CONFIRMATION ABOUT CONTACT WITH  
4 REPRESENTED PARTIES, CONTACT WITH REPRESENTED PARTIES,  
5 THORNBURGH MEMO, THORNBURGH MEMO, THAT JUSTICE  
6 DEPARTMENT, THAT JUSTICE DEPARTMENT, IT THOUGHT IT WAS  
7 ABOVE THE STATE BARS AND STATE SUPREME COURTS I SAID  
8 THIS IS OUTRAGEOUS. HOW COULD SOMEBODY THINK THIS? I  
9 STARTED LOOKING INTO IT. FRANKLY, I HADN'T REALLY  
10 FOCUSED ON THE SYSTEM.

11 I SAID, I AM A MEMBER OF THE FLORIDA BAR.  
12 I WILL ALWAYS BE A MEMBER OF THE FLORIDA BAR. I'VE  
13 BEEN A MEMBER OF THE FLORIDA BAR AS A PROSECUTOR 15  
14 YEARS. I WORKED OUT MY PROBLEMS WITH THE FLORIDA BAR.  
15 FORTUNATELY I NEVER GOT ANY COMPLAINTS ON ALL THESE  
16 ISSUES I WORKED THROUGH. OF COURSE I'M A MEMBER OF THE  
17 FLORIDA BAR, SUBJECT TO THEM, NOT BECAUSE I BECAME  
18 ATTORNEY GENERAL SHOULD I THINK ANYTHING DIFFERENTLY  
19 I STILL FEEL VERY STRONGLY THAT WAY.

20 AT THE SAME TIME I OPENED UP THE PROCESS, I TRIED  
21 TO INVOLVE EVERYBODY WHO WANTED TO BE HEARD.  
22 I'VE TRIED TO LISTEN TO THE DEFENSE BAR, I'VE TRIED TO  
23 INVOLVE EVERYONE, AND AS IMPORTANTLY I TRIED TO INVOLVE  
24 ASSISTANT UNITED STATES ATTORNEYS IN TRYING TO COME UP  
25 WITH A RESOLUTION AS TO ONE OF THE MOST DIFFICULT

1 PROBLEMS THAT WE FACE. I WANT YOU TO UNDERSTAND THAT  
2 THINK ALL FEDERAL EMPLOYEES WHO ARE MEMBERS OF THE BAR  
3 ARE SUBJECT TO YOUR STATE BARS.

4 I WANT YOU TO UNDERSTAND THAT WHAT WE HAVE  
5 PROPOSED, AND I UNDERSTAND THAT PEOPLE WORKED WITH  
6 JUSTICE RIVERA AND OTHERS YESTERDAY TO ADDRESS THIS  
7 ISSUE, THAT WHAT WE PROPOSE IS TO DEAL WITH A  
8 PARTICULAR PROBLEM. AS WE CONTINUE THIS DIALOGUE, I  
9 WILL ALWAYS WELCOME A BETTER WAY TO DEAL WITH IT. BUT  
10 IT IS NOT OUR PROPOSAL WITH RESPECT TO HOW WE CONTACT  
11 WITH REPRESENTED PARTIES IS A PRECURSOR TO DRAW  
12 EXCEPTIONS TO STATE ETHICAL RULES.  
13 EVEN IN THIS AREA WE INTEND TO RESPECT THE ROLE OF  
14 STATE COURTS AND TO LEAVE YOU WITH THE FINAL  
15 DETERMINATIONS CONCERNING THE DISCIPLINE OF FEDERAL  
16 PROSECUTORS WHO WILLFULLY VIOLATE THE REGULATIONS WE  
17 PROPOSE.

18 AS I HAVE SAID, I HAVE SPENT A CONSIDERABLE AMOUNT  
19 OF TIME STUDYING THIS ISSUE. I HAVE READ ALL THE CASES  
20 LAST FALL. I HAVE GONE THROUGH "THE LAW REVIEW"  
21 ARTICLES, I HAVE TALKED WITH INTERESTED PARTIES, I HAVE  
22 TALKED WITH THE PROSECUTORS. OUR PROSECUTORS WANT TO  
23 BE SURE THEIR ACTIONS IN CONNECTION WITH INTERVIEWING  
24 SUSPECTS, DEVELOPING INFORMANTS AND SUPERVISING  
25 UNDERCOVER OPERATIONS DO NOT RUN AFOUL OF THE RULES

1 AGAINST CONTACTS IN STATE WHERE WE ARE LICENSEES.

2 I APPROACHED IT WITH WHAT IS THE RIGHT THING TO  
3 DO. THE PEOPLE SAID U. S. ATTORNEYS WILL BE OUTRAGED  
4 IF YOU DO ANYTHING ELSE. I SAID FORGET THAT  
5 IF WE DO THE RIGHT THING, THAT'S WHAT I WANT TO TRY TO  
6 DO. WE SPENT A LOT OF TIME ON IT. WE REVIEWED  
7 CAREFULLY THE OPINIONS OF THE STATE COURTS, FEDERAL  
8 OPINIONS, ABA'S INTERPRETATION OF RULE 4.2 AND ITS  
9 PREDECESSOR AS WELL AS MANY OF THE ARTICLES.

10 CHIEF JUSTICE VASSEY MET WITH ATTORNEY GENERAL  
11 WEBB HUBBLE, A FORMER CHIEF JUSTICE OF ARKANSAS.  
12 I CAN TELL YOU WE HAVE A STRONG VOICE FOR JUSTICE IN  
13 WEBB HUBBLE. WE GREATLY APPRECIATE THIS OPPORTUNITY  
14 AS A RESULT OF THE PROCESS, I AM CONVINCED THAT THE  
15 DEPARTMENT MUST HAVE A REGULATION BASED ON THE  
16 PRINCIPLES UNDERLYING 4.2 TO PROVIDE CLEAR AND UNIFORM  
17 GUIDANCE TO 5,000 PROSECUTORS AND CIVIL ENFORCEMENT  
18 LAWYERS WHO ARE PRACTICING IN MORE THAN 50 DIFFERENT  
19 JURISDICTIONS THROUGHOUT THE COUNTRY. THE NEED FOR A  
20 RULE STEMS FROM DEVELOPMENTS IN LAW ENFORCEMENT IN THE  
21 LAST 30 YEARS.

22 PROSECUTORS ARE WORKING CLOSELY WITH INVESTIGATIVE  
23 AGENCIES AT THE EARLY STAGES OF COMPLEX INVESTIGATIONS  
24 SUCH AS THOSE INVOLVING INTERNATIONAL TRAFFICKING  
25 CRIMES AND PUBLIC CORRUPTION. THE LEGAL AND ETHICAL

1 TRAINING WHICH THE LAWYERS BRING TO THESE TASKS RESULT  
2 IN GREATER SENSITIVITY TO LEGAL RIGHTS OF CITIZENS AND  
3 LAWFULLY OBTAINED EVIDENCE TO SUSTAIN VALID CONVICTIONS.  
4 THUS -- WHERE ONLY THE AGENTS WERE HANDLING THE  
5 INVESTIGATION, THE STATE ETHICAL RULES AGAINST CONTACT  
6 HAD NO APPLICABILITY.

7 AS LAWYERS BECAME MORE INVOLVED, QUESTIONS EMERGED  
8 TO THE EXTENT OF APPLICABILITY OF THE RULES.  
9 CONSIDER A SINGLE UNITED STATES ATTORNEY OFFICE THAT  
10 SENDS OUT TWO ASSISTANTS TO INTERVIEW A SUSPECT  
11 IF THE SUSPECT IS WILLING TO BE INTERVIEWED WITHOUT  
12 COUNSEL, WHICH IS PERFECTLY LAWFUL UNDER FEDERAL LAW,  
13 THE PERSON LICENSED IN THE DISTRICT OF COLUMBIA IS  
14 ACTING ETHICALLY IN HIS HOME JURISDICTION; THE OTHER  
15 ASSISTANT LICENSED IN CALIFORNIA, FOR EXAMPLE, MAY BE  
16 SUBJECTING HERSELF TO DISCIPLINARY ACTIONS INCLUDING  
17 THE POSSIBILITY OF MORE RIGOROUS DISCIPLINE. I DON'T  
18 BELIEVE THAT THAT'S FAIR TO THE PEOPLE SERVING THE  
19 UNITED STATES GOVERNMENT.

20 I HAVE CONCLUDED WE MUST HAVE A UNIFORM RULE AND  
21 ONE WHICH WILL NOT DISCOURAGE THE VERY BENEFICIAL TREND  
22 OF PROSECUTORS WORKING WITH AGENTS AT THE INVESTIGATING  
23 STAGE.

24 FORTUNATELY RULE 4.2 IN VIRTUALLY ALL OF THE  
25 STATES, WITH THE PRINCIPAL EXCEPTION OF FLORIDA, HAS

1 EXPRESSED EXCEPTION FOR CONTACTS AUTHORIZED BY LAW  
2 IT IS ONE OF THE FEW ETHICS RULES THAT HAS SUCH AN  
3 EXPRESSED EXCEPTION.

4 BASED ON A 1980 OPINION BY THE OFFICE OF LEGAL  
5 COUNSEL, A LETTER FROM PROFESSOR JEFFREY HAZARD,  
6 REPORTER FOR MODEL CODE AND OTHER LEGAL SOURCES, I'M  
7 CONVINCED A DULY PROMULGATED REGULATION ENACTED AFTER  
8 NOTICE AND COMMENT CONSTITUTES A LAW WHICH MAY  
9 AUTHORIZE A PRESCRIPTION AGAINST CONTACTS. WHERE THERE  
10 IS NO EXCEPTIONS FOR AUTHORIZED BY LAW, I BELIEVE THE  
11 REGULATION WILL BE EFFECTIVE BY INCORPORATION OF THE  
12 SUPREMACY CLAUSE. THE REGULATION TAKES INTO ACCOUNT  
13 THE UNDERLYING PURPOSE OF 4.2. IT MAKES SURE  
14 PROSECUTORS WITH LEGAL TRAINING AND SKILLS WILL NOT  
15 ENGAGE IN NEGOTIATIONS WITH CLIENTS WITHOUT LAWYERS AND  
16 WILL NOT DO ANYTHING TO INTERFERE UNDULY WITH THE  
17 ATTORNEY-CLIENT RELATIONSHIP.

18 AT THE SAME TIME, IT WILL ALLOW FEDERAL  
19 INVESTIGATORS TO DEVELOP THE FACTS TREATING ALIKE ALL  
20 PEOPLE REGARDLESS OF THEIR RESOURCES OR LEVEL OF  
21 SOPHISTICATION.

22 WE BELIEVE EFFECTIVE LAW ENFORCEMENT AND GOOD  
23 PUBLIC POLICY PRECLUDE GIVING ADDITIONAL SHIELD FROM  
24 UNLAWFUL POLICE INVESTIGATIONS TO THOSE WEALTHY AND  
25 SAVVY ENOUGH TO HAVE AN ATTORNEY DURING THE

1 INVESTIGATION STAGE BEFORE THE 6TH AMENDMENT RIGHT  
2 ATTACHES. WE BELIEVE THE PROPOSED REGULATION IS FAIR  
3 AND REASONABLE.

4 WE CERTAINLY WELCOME THE COMMENTS ONCE IT IS  
5 PUBLISHED AND WHEN ALL OF THE DETAILS ARE AVAILABLE FOR  
6 YOU TO REVIEW. YOU WILL SEE, UNLIKE PREVIOUS  
7 PROPOSALS, THE REGULATION PROVIDES THE STATE BARS WILL  
8 BE RESPONSIBLE FOR PROVIDING DISCIPLINE FOR ANY  
9 GOVERNMENT ATTORNEY FOUND BY MY OFFICE TO HAVE VIOLATED  
10 WILLFULLY THE REGULATION. WE IN THE DEPARTMENT WILL  
11 DEAL WITH THOSE ACCUSED OF VIOLATION, EITHER  
12 TRANSGRESSED OR DONE SO INADVERTENTLY. THE STATE  
13 COURTS WILL MONITOR AND DISCIPLINE ATTORNEYS INCLUDING  
14 FEDERAL PROSECUTORS LICENSED BY THEM.

15 WHILE I'M ALSO TAKING A NUMBER OF ADDITIONAL STEPS  
16 TO IMPROVE THE OFFICE OF PROFESSIONAL RESPONSIBILITY  
17 NOTHING WE DO IN THIS AREA IS INTENDED TO INTERFERE OR  
18 ALTER OUR TRADITIONAL ROLE. I SEE US WORKING TOGETHER  
19 AND I WOULD WELCOME YOUR COMMENTS AND SUGGESTIONS. I  
20 KNOW HOW STRONGLY YOU FEEL ABOUT IT. IT HAS BEEN ONE  
21 OF THE MOST DIFFICULT ISSUES I HAVE HAD TO DEAL WITH.

22 ANOTHER ISSUE THAT YOU FEEL VERY STRONGLY ABOUT IS  
23 THE WHOLE ISSUE OF FEDERALIZATION. I WANT TO DO  
24 EVERYTHING I CAN. MY POWER IS LIMITED WHEN THE UNITED  
25 STATES CONGRESS ACTS ON TRYING TO PROVIDE A PRINCIPLED

THE CAPTION COMPANY

1 ANALYSIS OF WHAT SHOULD BE HANDLED IN STATE COURT AND  
2 WHAT IS AN APPROPRIATE FEDERAL MATTER.  
3 IF I CAN'T SUCCEED IN CONGRESS, I WANT TO DO EVERYTHING  
4 I CAN BY CHARGING GUIDELINES THAT ARE APPROPRIATE TO  
5 MAKE SURE THE DISTINCTION BETWEEN THE COURTS CONTINUE  
6 I WANT TO TRY TO DO EVERYTHING I CAN TO WORK WITH STATE  
7 PRISON OFFICIALS TO MAKE SURE THAT THE CHOICE OF FORUM  
8 IS NOT DICTATED BASED ON JAIL AVAILABILITY BUT IS  
9 INSTEAD DICTATED BY WHAT IS THE APPROPRIATE FORUM BASED  
10 ON PRINCIPLED FEDERALISM.

11 I WANT TO EMPHASIZE SOMETHING, I TRIED TO SAY IT  
12 IN WASHINGTON, I GET ANGRY WHEN SOMEBODY SUGGESTS  
13 JUDGES IN STATE COURT ARE LESS PREPARED OR LESS CAPABLE  
14 OR LESS WISE THAN JUDGES IN FEDERAL COURT. I LITIGATED  
15 DAY IN, DAY OUT IN STATE COURT. I WANT TO DO  
16 EVERYTHING I CAN TO LET PEOPLE KNOW BOTH SYSTEMS HAVE  
17 REMARKABLE JUDGES WHO ARE DEDICATED AND CARING, THAT  
18 THE ISSUES SHOULD BE DECIDED BASED ON PRINCIPLES OF  
19 FEDERALISM.

20 ONE OF THE MOST IMPORTANT AREAS IS THE WHOLE ISSUE  
21 OF VIOLENCE. I WOULD LIKE TO SHARE A SENSE WITH YOU ON  
22 THE WHOLE ANALYSIS OF VIOLENCE TO SHOW YOU THAT GENERAL  
23 DIRECTION THAT I'M TRYING TO TAKE AS WE APPROACH THIS  
24 ISSUE.

25 DESPITE THE HUB AND CRY THROUGHOUT THIS COUNTRY,

1 VIOLENCE IS DOWN IN MANY AMERICAN CITIES AND IN MANY  
2 STATES. WHAT IS UP IS YOUTH VIOLENCE. I WANT TO MAKE  
3 SURE THAT WE HAVE APPROPRIATE DATA AT OUR COMMAND, THUS  
4 I HAVE ASKED THE OFFICE OF JUSTICE PROGRAMS TO WORK  
5 WITH THE CENTERS FOR DISEASE CONTROL TO COME UP WITH  
6 INFORMATION ON TRENDS AND PATTERNS IN VIOLENCE.

7 I ASKED THE U. S. ATTORNEYS IN EACH DISTRICT TO  
8 WORK WITH LOCAL PROSECUTORS, IF THERE ARE COURTS  
9 COORDINATING COMMITTEES, WITH SUCH COMMITTEES TO MAKE  
10 SURE IN EACH JURISDICTION WE LOOK AT VIOLENCE, WHAT IS  
11 FEDERAL, WHAT IS STATE. WE DO IT THE RIGHT WAY. I  
12 DON'T WANT A U. S. ATTORNEY GOING IN TO TAKE A  
13 CARJACKING CASE WITH NO POSSIBLE FEDERAL NEXUS BECAUSE  
14 IT'S THE POLITICAL THING TO DO. I WANT TO DO IT BASED  
15 ON WHAT'S RIGHT TO AVOID THE MISUNDERSTANDINGS AND  
16 UNFULFILLED EXPECTATIONS. HERE'S WHAT I EXPECT WE'LL  
17 SEE AS WE ANALYZE EACH JURISDICTION. YOU WILL FIND A  
18 SIGNIFICANT NUMBER OF CAREER CRIMINALS.

19 I WORKED IT OUT, I THINK, GENERALLY TO THE  
20 SATISFACTION OF ALL CONCERNED, WE WOULD HANDLE SOME  
21 VERY SERIOUS CAREER CRIMINALS IN FEDERAL COURT WHERE WE  
22 COULD GET A LONGER PRISON SENTENCE, THREE-TIME ARMED  
23 ROBBERS CONVICTED OF ARMED ROBBERY; NOT EVEN THE  
24 FEDERAL JUDGES GOT ANGRY AT US. WE GOT THE PRISON  
25 SPACE. IF I COULD GET THE SAME THING IN THE STATE

1 COURT SYSTEM AND IT'S APPROPRIATE TO HANDLE IT THERE,  
2 WANT TO WORK OUT SYSTEMS SO FEDERAL PRISONS ARE  
3 AVAILABLE. I DON'T KNOW IF I WILL BE ABLE TO DO THAT.

4 ANOTHER SOURCE OF VIOLENCE IS VIOLENT TRAFFICKERS  
5 I HAVE SEEN PROGRAMS WHERE STATE AND FEDERAL  
6 PROSECUTORS, POLICE AND LAW ENFORCEMENT AGENCIES,  
7 FOCUSED ON VIOLENT TRAFFICKERS WHO CROSS STATE LINES  
8 AND HAVE A FEDERAL IMPLICATION. THEY HAVE BEEN  
9 EFFECTIVE ON ORGANIZED GANGS IN THE SAME WAY. THIS IS  
10 WHAT IS IMPORTANT FOR US TO UNDERSTAND AND WHY WE MUST  
11 DO EVERYTHING WE CAN TO BACK YOU UP IN TERMS OF THE  
12 STATE COURT SYSTEM.

13 PROBABLY THE MOST PREVALENT VIOLENT CRIME INVOLVE  
14 DOMESTIC VIOLENCE, THAT'S BASICALLY A STATE COURT  
15 RESPONSIBILITY. RATHER THAN HOGGING EVERYTHING IN  
16 FEDERAL COURT, I WANT TO TRY TO USE THE RESOURCES, THE  
17 LIMITED RESOURCES AT OUR COMMAND, TO SUPPORT YOUR  
18 EFFORTS IN THE STATE COURT SYSTEM.

19 THE SAME INVOLVES THE MENTALLY ILL AND HOMELESS  
20 WHICH CONTRIBUTES SIGNIFICANTLY TO SOME OF THE ACTS OF  
21 VIOLENCE.

22 BUT I WOULD LIKE TO SHARE WITH YOU SOMETHING THAT  
23 COMES BACK TO A POINT I MADE EARLIER. AT THE UNITED  
24 STATES ATTORNEYS CONFERENCE WE PRESENTED A STUDY DONE  
25 BY THE CENTERS FOR DISEASE CONTROL WHICH HAS COME TO

1 ACCEPT YOUTH VIOLENCE AS AN EPIDEMIC AND PUBLIC HEALTH  
2 PROBLEM OF STAGGERING DIMENSIONS. BETWEEN 1988 AND '91  
3 THEY STUDIED ALL YOUNG MALES IN AMERICA 15-TO-24 WHO  
4 HAD BEEN VICTIMS OF HOMICIDE. IN 1988 THERE WERE 22  
5 PER HUNDRED THOUSAND, BY 1991 THERE WERE 37 PER HUNDRED  
6 THOUSAND. OF THOSE, 37 PER HUNDRED THOUSAND, THERE  
7 WERE 17 PER HUNDRED THOUSAND WHO WERE YOUNG WHITE MALES  
8 BETWEEN THE AGES OF 15 AND 24. THERE WERE 59 PER  
9 HUNDRED THOUSAND FOR YOUNG BLACK MALES. THAT'S A  
10 TRAGEDY. EQUALLY IT WAS IMPORTANT TO SEE WHAT THE  
11 CENTERS FOR DISEASE CONTROL HAD DONE.

12 THE SIX INDICATORS OF THIS CATEGORY WERE THAT THEY  
13 KNEW EACH OTHER; SAME RACE, SAME SEX FOR PERPETRATOR  
14 AND VICTIM; IT STARTED FROM AN ARGUMENT; ALCOHOL WAS  
15 USUALLY INVOLVED; IT WAS NOT FELONY-RELATED, AND A  
16 FIREARM WAS INVOLVED.

17 THAT TELLS YOU AN AWFUL LOT ABOUT WHAT WE SHOULD  
18 BE DOING IN THE JUSTICE SYSTEM IN TERMS OF SPEAKING OUT  
19 AND SAYING THAT THESE YOUNG MEN COULD LIVE IF WE  
20 DEVELOPED PROGRAMS UP FRONT IN TERMS OF PREVENTION.  
21 THAT'S THE WAY I WANT TO TRY TO APPROACH THE WHOLE  
22 ISSUE OF VIOLENCE, TRYING TO IDENTIFY THE CAREER  
23 CRIMINALS AND GETTING THEM PUT AWAY AND KEPT AWAY AS  
24 LONG AS I CAN DO IT WHETHER IT BE IN THE STATE OR  
25 FEDERAL SYSTEMS, BUT FOCUSING ON PROGRAMS THAT CAN

1 PREVENT AND PUNISH WISELY IN THE AREA OF DOMESTIC AND  
2 YOUTH VIOLENCE.

3 OF CONCERN TO MANY OF YOU, WHAT IS THE BURDEN OF  
4 THE CRIME BILL GOING TO PLACE ON THE STATE COURT SYSTEM  
5 IN THIS CONNECTION? THE PRESIDENT HAS PROPOSED 100,000  
6 COPS, 100,000 POLICE OFFICERS ON THE STREETS OF THIS  
7 NATION IN THE NEXT FIVE YEARS.

8 THE FIRST QUESTION AFTER I CAME TO WASHINGTON THAT  
9 I ASKED, WHAT ABOUT THE PROSECUTORS, WHAT ABOUT THE  
10 PUBLIC DEFENDERS, WHAT ABOUT THE JUDGES, WHAT ABOUT THE  
11 JAILS? THEN I WAS REMINDED OF MY OWN EXPERIENCE IN  
12 MIAMI WITH COMMUNITY POLICING, IN WHICH COMMUNITY  
13 POLICE GO TO NEIGHBORHOODS AND INVOLVE THE  
14 NEIGHBORHOODS IT WORKED IN DADE COUNTY. IT SO  
15 SIGNIFICANTLY REDUCED CRIME, THE ACTUAL COMMISSION OF  
16 CRIME IN NEIGHBORHOODS WHERE IT WORKED, THE POLICE WERE  
17 TRYING TO EXTEND IT TO OTHER JURISDICTIONS. NOW I HAVE  
18 SEEN IT THROUGHOUT THE COUNTRY.

19 ONE THING I'M COMMITTED TO DOING IS TO MONITORING  
20 THIS WHOLE EFFORT IN EVERY WAY POSSIBLE TO MAKE SURE  
21 THAT THAT INFUSION OF POLICE DEVELOP THE PROGRAM THAT  
22 CAN PREVENT RATHER THAN WEIGHING DOWN OUR COURT SYSTEMS  
23 AND IN TRYING TO PRESERVE THE BALANCE AT EVERY STEP OF  
24 THE WAY.

25 WE WILL BE HAVING A CONFERENCE ON MARCH THE 7TH

1 A FEDERAL-STATE CONFERENCE, NOT JUST A CONFERENCE OF  
2 THE FEDERAL JUDICIARY, BUT AN EXECUTIVE LEGISLATIVE AND  
3 JUDICIAL CONFERENCE, UNDER THE WHOLE THEORY THAT WE  
4 CAN'T DO IT BY OURSELVES, THERE ARE LIMITED RESOURCES  
5 IN AMERICA NOW AND WE ALL MUST WORK TOGETHER TO USE THE  
6 LIMITED RESOURCES OF THE STATE AND FEDERAL SYSTEM AS  
7 WISELY AS POSSIBLE.

8 I DO IT, AND I WANT TO CONTINUE TO WORK WITH YOU  
9 IN EVERY WAY POSSIBLE BECAUSE I BELIEVE THAT THE  
10 ANSWERS IN AMERICA TODAY ARE BEING FORMULATED IN  
11 COMMUNITIES, NOT IN WASHINGTON, IN STATE CAPITALS,  
12 THERE IS A GREAT NEW SPIRIT AFOOT WHERE COMMUNITIES ARE  
13 COMING TOGETHER AND USING RESOURCES TO ADDRESS PROBLEMS  
14 IN THE RIGHT WAY. STATE COURTS KNOW YOUR NEEDS AND  
15 RESOURCES FAR BETTER THAN WE DO. WE WANT TO WORK WITH  
16 YOU IN TERMS OF STRENGTHENING THE STATE COURT SYSTEM IN  
17 EVERY WAY POSSIBLE AND SUPPORTING YOU EVERY STEP OF THE  
18 WAY.

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