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ADDRESS TO THE AMERICAN BAR ASSOCIATION  
CRIMINAL JUSTICE SECTION  
U. S. ATTORNEY GENERAL JANET RENO

Fairmont Hotel  
Grand Ballroom  
Saturday, August 2, 1997  
1:22 p.m.

2

1 MS. RENO: Mr. Chief Justice, Bill,  
2 Ron, thank you so much for the invitation to be  
3 here today. Bob, thank you for being here  
4 today, for that introduction and for your  
5 friendship over the years.  
6 I look at this room as I looked about  
7 when I spoke to you four years ago, and I see  
8 so many people from my past. If Neal Sonnett  
9 had ran against me in 1978, I wouldn't be here

10 because he would have been elected. But Neal  
11 Sonnett didn't run against me. And he has been  
12 a fierce and gallant adversary and a wonderful  
13 friend.

14 I see so many other people in this  
15 room who have been part of my life. Barbara  
16 and I worked together. And it makes you  
17 realize how small this world is. And now to  
18 see the new friends that I have made at the  
19 Department of Justice.

20 I will tell you that I have a special  
21 mission while I'm Attorney General and when I  
22 leave this office. And that is to let the  
23 people of the United States know how many  
24 dedicated men and women work with them and for  
25 them in the Department of Justice.

3

1 When you see people there at eleven  
2 o'clock at night, or when you come in early in  
3 the morning and find that they've been there  
4 until two o'clock in the morning to have  
5 something ready for you at the Command Center,  
6 and when you watch them go up to testify before  
7 Congressional committees, they do it year-in  
8 and they do it year-out. And they do it with  
9 such extraordinary excellence. And so I feel  
10 like I'm much enlarged and enhanced after this  
11 time four years ago.

12 I see especially Laurie Robinson.  
13 We've worked together in different lives. And,  
14 if you had told us that we would be in the  
15 situation we're in now, I think we would have  
16 laughed.

17 But I used to come to ABA committee  
18 meetings with wild ideas. And Laurie would  
19 very quietly sit me down and explain the rules  
20 of the ABA, and suggest a little adjustment to  
21 my plan, and that perhaps it would work.

22 And in the Dash Committee or in the  
23 other committees, when I wanted to do  
24 something, I always found that Laurie somehow  
25 or another got me calmed down, and we went in

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1 the right direction, and it got done. And now  
2 she's doing a wonderful job as head of the  
3 Office of Justice Programs. And she's still  
4 calming me down and showing me the right way to  
5 go.

6 And so I look out over 34 years of  
7 people who have been colleagues and friends and  
8 adversaries and look at people who, for the  
9 last four years, both from Miami and in the  
10 Department of Justice have been so supportive.  
11 And all I can say is the practice of law with  
12 lawyers is great.

13 And it's great because, although we  
14 have differed at times and will continue to  
15 differ, and we advocate sometimes on different  
16 sides, we are united in one common goal: To  
17 build the best criminal justice system we  
18 possibly can; to enforce the law, but to  
19 enforce the law according to principles of due  
20 process and fair play; and to secure justice,  
21 not for some Americans, but for all Americans.

22 This past week I went to St.  
23 Matthew's Cathedral in Washington, as did many  
24 people, and I sat there and thought about  
25 Justice Brennan. I listened as Justice Souter

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1 recalled him. I only had the privilege of  
2 meeting him about three times after I came to  
3 Washington. But he had such a remarkable  
4 quality of making you feel so very, very  
5 special. He had a quality of making you feel,  
6 after you had left his presence, that you  
7 should go out and do more and try harder.

8 And with his passing there seemed a  
9 vacuum. But quickly his presence filled that  
10 vacuum, and you walked out of St. Matthew's  
11 Cathedral resolved to do more and to try  
12 harder.

13 And I thought about it a long time in  
14 terms of what I need to do in the Department of  
15 Justice, to kind of wade through the Beltway  
16 fracas and look at the large issues that  
17 confront us in America and in the criminal  
18 justice system.

19 I'd look to talk to you about some of  
20 those issues now. The first is the issue of  
21 indigent defense. Lee Cooper and Judy Clarke  
22 of the National Association of Criminal Defense  
23 Lawyers, Bill Taylor and others have written  
24 urging the Department to do more in this  
25 regard.

6

1 For 15 years as a prosecutor I became  
2 convinced that to achieve justice for  
3 defendants, if we were going to do that, we had  
4 to have adequate funding, adequate training and  
5 adequate resources for indigent defendants. To  
6 give people confidence in the justice system,  
7 we had to have adequate funding, adequate  
8 training and adequate resources for indigent  
9 defenses.

10 If we did not, people would say,  
11 "Look, in this country you know you can only  
12 get justice if you're rich, or if you can pay  
13 for a lawyer." And that's not justice, and  
14 that does not give people confidence in the  
15 system.

16 And to ensure effective law  
17 enforcement, we need to have an indigence  
18 defendant system that functions properly to  
19 prevent continuances, to prevent delay and the  
20 frustration of reversals on appeal.

21 Now I was spoiled by Bennett Brummer.  
22 I think I've gotten madder at Bennett Brummer  
23 than almost anybody I know. He has made me  
24 frustrated and angry, but I have been blessed  
25 and spoiled by the excellence and the vigor of

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1 the public defenders in his office.

2 I have, at the same time, seen him  
3 battling for sorely needed resources, and I  
4 have understood the frustrations that he faced.  
5 But my first exposure outside the Eleventh  
6 Judicial Circuit in Florida was during my time  
7 on the DASH Committee. And the public hearings  
8 that we held across the country illuminated my  
9 understanding of what the systems were like

10 around the country. And I suddenly realized we  
11 had it real good in Miami.

12 There were jurisdictions where little  
13 thought was given to indigent defense, where  
14 little thought was given to funding issues.

15 And in these last four years, in my  
16 opportunities to visit around the country, I  
17 have seen an even greater problem in terms of  
18 the quality and the strength of resources for  
19 indigent defense.

20 And, thus, I would like to work with  
21 you to address how we can, together, begin to  
22 ensure that all Americans have appropriate  
23 defenses. I think we can begin by looking at  
24 the language.

25 And, frankly, it's at this point

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1 confused, but there is language providing for  
2 caps in the appropriation bill. And we need to  
3 look at that and work through those issues in  
4 this month before Congress comes back, to  
5 educate all as to the provisions, and to their  
6 impact, and to do everything we can to ensure  
7 that, particularly in federal capital cases,  
8 there be appropriate and vigorous defense.

9 Early this fall, the Department,  
10 through the Office of Justice Programs, will  
11 convene a small group, which will include  
12 members of the defense bar and other  
13 knowledgeable persons so that we can discuss  
14 what steps we can take to help improve the  
15 quality and the availability of indigent legal  
16 defense services.

17 We also need hard data about indigent  
18 defense. For that reason our Bureau of  
19 Justice Statistics and Justice Assistance are  
20 launching this year the first national level  
21 data collection since the early 1980s to  
22 document the provision of indigent defense  
23 services at the state and local level.

24 In these discussions, I think it is  
25 important for us to consider first how we

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1 educate state legislators and Congress in  
2 understanding the critical need for appropriate  
3 indigent defense services, how we explain not  
4 only the cause of justice, but the impact that  
5 inadequate services have on the whole criminal  
6 justice system and law enforcement.

7 Just remind them of the victim that's  
8 hollering and screaming at me, because they  
9 can't get the case to trial, my prosecutors  
10 can't get the case to trial, because the public  
11 defender doesn't have enough time because the  
12 public defender has a totally unreasonable  
13 caseload.

14 But we've got to do more than that.  
15 We have got to discuss what staffing standards  
16 should exist. I have been before too many  
17 legislative committees that have said, "Okay,  
18 we want to help you, but what is the  
19 appropriate standard?"

20 Too often we seem to use pie-in-the-  
21 sky standards. We've got to develop balanced  
22 standards that can give some indication to the  
23 appropriators as to what is a realistic level  
24 that can be achieved.

25 We've got to develop some

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1 understanding as to the balance between  
2 prosecutors and defenders. Too often the  
3 prosecutors and defenders are involved in an  
4 attack, a financial attack, on the same pot of  
5 money, and there doesn't seem to be any rhyme  
6 or reason that governs their attack, because  
7 they are both in such desperate need.

8 If we can develop an appropriate  
9 balance in understanding the functions of the  
10 office, we can make a difference, I think, in  
11 our efforts.

12 I think we've got to explore the  
13 whole issue of training, how we train all  
14 involved. And we must consider the issue of  
15 joint training. I've found from my prosecutors  
16 in Miami that some of their best training  
17 experiences were at the University of Florida,  
18 were public defenders and prosecutors trained

19 together. And I think we can learn so much  
20 from that initiative.

21 I look at the many, many wonderful  
22 lawyers in private practice, some of them civil  
23 lawyers, who have never walked into a criminal  
24 justice courtroom, some of them like my friend  
25 Sandy D'Alembert who, when he decided he might

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1 learn what the criminal justice system was all  
2 about, in his first jury trial asked a  
3 prospective juror what would happen if the  
4 defendant took the Fifth. He then went off to  
5 be president of the ABA and I hope it helped  
6 him.

7 But if we develop appropriate  
8 training programs and support programs, we can  
9 provide so much more resources for the system  
10 through lawyers who are more than willing to  
11 give of their time but are afraid to give it  
12 because they are afraid they are going to make  
13 some dumb mistake.

14 I think one of the great issues that  
15 we have got to talk about when we talk about  
16 indigent defense is resources. When I look at  
17 the developing technology and the developing  
18 science, whether it be with respect to the use  
19 of DNA, whether it be new forensic  
20 developments, we have got to include in the  
21 equation of adequate indigent defense funding a  
22 provision for resources and expertise and  
23 knowledge that defense lawyers throughout this  
24 country can draw upon. (Applause.)

25 Let's translate it, though. Let's

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1 not only point it out, but point out that when  
2 they don't have it, and then it gets reversed  
3 or justice is not done and somebody gets  
4 convicted when they are innocent, what the  
5 difference can mean with a defense lawyer who  
6 has appropriate knowledge at his hand and what  
7 they can do to make a difference in securing  
8 justice.

9 In short we shouldn't be playing the

10 "Gotcha" game when we talk about liberty and  
11 life. We should be talking about how we work  
12 together as respectful, as civil adversaries to  
13 ensure justice for all.

14 And I think that requires that we be  
15 a bit candid. Prosecutors are in this with  
16 you. And sometimes we have seen, from our  
17 perspective, a great public defender and then a  
18 court-appointed lawyer who is just opening his  
19 office or her office and who is depending on  
20 court appointments, but is busy getting the  
21 office staffed and pleads the client and turns  
22 and goes on to another case.

23 Somehow or another we have got to  
24 work together to ensure the best in criminal  
25 defense and to ensure that conflict standards

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1 are understood and accepted as part of the  
2 whole appropriations process and that people  
3 use the criminal justice system the right way:  
4 Not to cause a police officer to come in three  
5 times when one time would be sufficient for a  
6 deposition; not to cause the system harassment  
7 by unnecessary questions; but that we seek  
8 justice in the most vigorous, professional way  
9 possible, in the shortest amount of time  
10 possible with the least inconvenience to all  
11 concerned possible.

12 The legitimacy of our justice system  
13 depends on our efforts to ensure the fairness  
14 of the system for everyone, regardless of  
15 wealth.

16 I know that so many of you have  
17 worked tirelessly over the years to fulfill the  
18 promise of Gideon and the guaranties of the  
19 Sixth Amendment. And I salute you and I thank  
20 you. And I look forward to working with you.

21 I also know that members of the  
22 defense bar have concerns beyond the provision  
23 of indigent defense. That's why I have tried  
24 to open lines of communication between the  
25 Department and members of the defense

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1 community.

2 I know, for example, that the  
3 Department has been well represented in the ABA  
4 Criminal Justice Section by people such as  
5 Merrick Garland, Bob Litt and Mary Harkenrider.

6 I know, too, that representatives of  
7 the Criminal Justice Section, the NACDL, the  
8 federal defenders and others meet regularly  
9 with members of the Department's Criminal  
10 Division and the Deputy Attorney General's  
11 Office.

12 We have also had dialogue at the  
13 local level hosted by U. S. Attorney's Offices.  
14 These meetings are so very important, for they  
15 help us to address issues of concern to the  
16 defense community, not just on a national  
17 level, but where there is a local problem.

18 I think it is essential that these  
19 and other dialogues continue and expand, and to  
20 help ensure that they do, I want to invite the  
21 leaders of the defense bar, the Criminal  
22 Justice Section, the NACDL, the federal  
23 defenders, the National Legal Aid and  
24 Defenders' Association and others to meet with  
25 me on a regular basis to discuss issues of

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1 concern to the defense community. And I say,  
2 "Let's begin this fall."

3 I know that if we can sit down and  
4 air concerns and discuss problems, we will be  
5 able to work together to find solutions and to  
6 achieve our common goal of a criminal justice  
7 system that provides fair, firm, effective law  
8 enforcement while, at the same time, ensuring  
9 justice for all.

10 Another common concern we share has  
11 occurred most recently over the last year or so  
12 as we have seen an increase in the criticism of  
13 the federal judiciary for so-called "activism,"  
14 accompanied by calls to curtail judicial  
15 independence, to eliminate life tenure and to  
16 impeach individual judges who have made  
17 decisions some disagree with.

18 I want to discuss this briefly now,

19 because I will be addressing it again in more  
20 detail with the House of Delegates on Tuesday.

21 But as the nation's chief law  
22 enforcement officer, I am deeply disturbed by  
23 this increasingly heated rhetoric. Much of the  
24 current debate about so-called "judicial  
25 activism" ignores the fundamental role that an

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1 independent judiciary plays in our  
2 constitutional system of government and it  
3 risks undermining respect for and compliance  
4 with the law.

5 Judicial independence is particularly  
6 important for the criminal justice system. And  
7 I say this, as one who has had my full share of  
8 judicial decisions that I violently disagreed  
9 with, but we must remember, as Justice Brennan  
10 once noted, that "Those whom we should banish  
11 from society often speak in too faint a voice  
12 to be heard above society's demand for  
13 punishment. It is the particular role of  
14 courts to hear these words, to hear these  
15 voices, for the Constitution declares that the  
16 majoritarian chorus may not alone dictate the  
17 conditions of social life."

18 There are two other issues in which  
19 we share, among others, common cause that I  
20 would like to discuss with you today.

21 The next is the whole issue of drug  
22 testing, treatment and after-care programs.  
23 Twenty years ago when I became a prosecutor I  
24 thought that you could treat drug abuse, but I  
25 was one of very few. I can't tell you how many

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1 people would laugh at me and say, "Janet, you  
2 know you can't treat drug abuse."

3 Nobody laughs at me anymore.  
4 Everyone, even Congressmen, legislators, has  
5 had somebody, a family member, a friend, a  
6 neighbor, somebody in the workplace, who has  
7 benefitted from drug treatment. It does work  
8 and all America has seen it work. And now  
9 we've got to do something about that knowledge.

10 One of the expensive parts of drug  
11 treatment is having a place to treat people.  
12 Well, the latest figures indicate anywhere from  
13 50 to 75 percent of the people booked into the  
14 jails of this country have a drug abuse  
15 problem. And we've got a place to treat them  
16 in many instances. Let's start to use it.

17 But we have seen examples of how  
18 people are beginning to do it on a more  
19 systematic basis. In October of 1988 the Drug  
20 Court got started in Miami. It got started  
21 because of a public defender that cared, a  
22 prosecutor that wanted to develop the program,  
23 a court that was willing to take a sabbatical  
24 and come spend time to make the program work  
25 and a county commission that was willing to

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1 back it up.

2 It made me feel like things can  
3 change when Laurie mentioned that at a recent  
4 Drug Court conference there were hundreds of  
5 people there. We have come a long way.

6 And we have found that the early  
7 research on drug courts is very promising,  
8 Judge. according to an evaluation of the Dade  
9 County program, Drug Court defendants had far  
10 lower rates of offending than a comparison  
11 group and had longer periods between arrest.

12 And I think we have got to look.  
13 When we are looking for indicia of success,  
14 sometimes we say, "Well, he repeated himself."  
15 But the longer the time lapse between the  
16 repetition, that's one step of success. And  
17 what we are seeing, in many instances, is  
18 suddenly they don't come back anymore.

19 A more rigorous evaluation in the  
20 District of Columbia, which has also set up a  
21 Drug Court, is finding that the declining drug  
22 use among defendants participating in the Drug  
23 Treatment Court has paralleled, and in a  
24 parallel graduated sanctions court, is  
25 revealing again success of the program.

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1           But the findings with the greatest  
2 policy significance come from the correction  
3 setting, that place to treat somebody, the  
4 place we have to pay money for on the outside,  
5 but we've got a place to treat them.

6           Rigorous evaluations of a number of  
7 prison-based therapeutic communities around the  
8 country have shown that these programs can  
9 reduce both drug use and criminal behavior  
10 after the offender is released from prison.

11           Moreover, when prison-based  
12 therapeutic community-style treatment is  
13 combined with post-release after care and  
14 supervision, the reductions in drug use and  
15 criminal behavior are even greater.

16           But, ladies and gentlemen, we are  
17 missing a great bet. We've got prison systems  
18 around the country that understand this. And  
19 they are begging and pleading for programs and  
20 systems and funding that can make it work.

21           With funding from the Office of the  
22 National Drug Control Policy, the Justice  
23 Department's National Institute of Justice is  
24 implementing a research demonstration project  
25 in Birmingham, Alabama called "Breaking the

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1 Cycle."

2           Under this project everyone arrested  
3 in Birmingham will be tested for drug use. And  
4 every component of the criminal justice system,  
5 including the jails and prisons, the pretrial  
6 and probation departments, the judges,  
7 prosecutors and defense counsel, with  
8 leadership provided by the Birmingham Task  
9 Program, with work together to reduce the level  
10 of drug use in the population that moves from  
11 arrest to final disposition.

12           Based on this model, I and General  
13 McCaffrey and others are working to develop a  
14 program that will help support interested  
15 jurisdictions in developing a comprehensive  
16 system-wide strategy that will break the cycle  
17 of drug and alcohol abuse across this nation.

18           And I think we have to take it in

19 ordered pieces: Testing beginning at arrest;  
20 treatment interventions that are sufficiently  
21 well-funded and not spread so thin that they  
22 become useless; graduated sanctions for  
23 noncompliance; addressing the need that  
24 sometimes caused the problem in the first  
25 place: Educational deficiencies, life skills,

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1 housing problems; and addressing the issue of  
2 job training and placement. And, most of all,  
3 after care.

4           So many of the programs we see work,  
5 but then the person is returned to the  
6 apartment over the open-air drug market where  
7 they got into trouble in the first place. And  
8 guess what happens? They're back in trouble  
9 again.

10           I ask you to join with me in this  
11 effort. We can make such an extraordinary  
12 difference. The time is right now to do it.  
13 Crime is down in this country. We have seen so  
14 many initiatives in support of law enforcement.

15           The President's effort to put a  
16 hundred thousand police officers on the streets  
17 of this nation, prevention programs that are  
18 working, other initiatives, the passage of the  
19 Brady Act.

20           We are seeing an impact.  
21 Unemployment is at one of its lowest levels in  
22 many recent years. And yet we have a  
23 challenge. The challenge is that we will see  
24 more young people in this nation in the next  
25 ten years than in many years.

22

1           But let's take what we have already  
2 done. The American Bar Association and the  
3 American Medical Association, working with the  
4 Department of Justice and others, has helped to  
5 reverse this nation's whole direction with  
6 respect to domestic violence.

7           It is a remarkable thing to sit in a  
8 meeting and see the President of the ABA there  
9 with the President or the President-Elect of

10 the AMA all talking about what we can do to  
11 address the problem of domestic violence in  
12 this country, and to see lawyers and doctors  
13 working together in communities to address the  
14 problem in the community through increase in  
15 battered spouse shelters, through intervention  
16 programs that can made a difference.

17 Let us come together and let us reach  
18 out to the AMA and let us make sure that every  
19 state has a comprehensive program that will  
20 have an impact on drug and alcohol abuse for  
21 every defendant who suffers from it in this  
22 country. (Applause.)

23 For the person who says, "It won't  
24 work," talk to the professionals, talk to the  
25 police officer who sees the kid back on the

23

1 street with the same drug problem that he had  
2 when he went into prison. Talk to the  
3 corrections official who sees the person. Let  
4 us work together with common sense to use this  
5 time of prosperity and relative peace to give  
6 the children who are coming a future.

7 But four years ago in New York I  
8 urged the lawyers of this nation to join in  
9 building communities that gave our children a  
10 chance to grow in a strong and positive way, to  
11 join together to develop programs that kept  
12 children away from crime and guns and drugs.

13 I asked the Department of Justice to  
14 do the same. Some people were puzzled and  
15 asked why an Attorney General was focusing on  
16 children. Was she more a social worker than a  
17 prosecutor?

18 But I'm proud because most lawyers,  
19 the ABA, many local bar associations, police  
20 chiefs, mayors, public defenders and thousands  
21 of others across the nation have responded.  
22 And they have said, "Yes, that is the way to  
23 go."

24 We will never jail our way out of  
25 this problem. We've got to develop a balanced

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1 effort that punishes the young and violent  
2 offenders with punishments that are fair and  
3 firm and fit the crime while, at the same time,  
4 doing everything we can to prevent the problem  
5 in the first place. And we are seeing results.

6 In Boston, which had a terrible  
7 problem with children being killed by children,  
8 there has not been a child killed in a homicide  
9 in two years, because they came together in a  
10 balanced effort, the state attorney and federal  
11 U. S. Attorney, in enforcement actions that  
12 were balanced and thoughtful, and with  
13 prevention programs that have made such an  
14 extraordinary difference.

15 Last year for the first time in seven  
16 years the national juvenile violent crime  
17 arrest rate and the juvenile murder arrest rate  
18 went down.

19 In addition, the most recent Crime  
20 Victimization Survey shows that in 1995  
21 juvenile violent crime in the United States  
22 declined by 25 percent, by far the largest  
23 decline in a single year in the history of the  
24 Crime Victimization Survey.

25 These statistics are encouraging, but

25

1 they are not a signal for us to give up. The  
2 number of young people is increasing. We must  
3 renew our efforts in our communities, in our  
4 nation.

5 And I will be working with Congress  
6 when they return in September to make sure that  
7 the Anti-Gang and Youth Violence Act introduced  
8 by the President has the moneys for prevention  
9 that can provide hope for other children across  
10 America through truancy prevention programs and  
11 afternoon programs that make a difference.

12 Maybe we can come back next year and  
13 we will have a new challenge that can be  
14 feasibly obtained to make sure that every child  
15 in America is properly supervised after school  
16 and in the evenings with activities and support  
17 that give them a chance for the future.

18 Four years ago in New York I told you

19 that I loved lawyers and I loved the law. I  
20 mean it now more than ever, because for four  
21 years I have had a chance to watch and to meet  
22 the nation's lawyers. You make me very proud  
23 to be a lawyer. (Standing ovation.)  
24 (Proceedings concluded at 1:55 p.m.)  
25