



# Department of Justice

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"CRACKING DOWN ON VIOLENT CRIME"

REMARKS

BY

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TO THE

LAW ENFORCEMENT APPRECIATION DAY LUNCHEON

OF THE

CITIZENS CRIME COMMISSION  
OF DELAWARE VALLEY

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I am here today to talk to you about violent crime in America -- a tough subject I will not try to soften for this audience. The grim toll of violent crime last year was six million Americans. A citizen of this country is today more likely to be the victim of a violent crime than of an automobile accident. And that goes doubly, even triply, for our minority populations. Indeed, Black Americans are six times more likely to be homicide victims today than their white counterparts. I could go on with these chilling statistics, but they would only reiterate the tragedy. What I want to do, instead, is offer some real prospects for staying the deadly hand of criminal violence, for lessening the dangers that demean our streets and fill our citizens with fear.

#### I.

Much has been said about the need to treat the root causes of crime in America. That laudable attempt has gone on for decades, and will continue, I assume, into the future. But it is the carnage in our streets -- not its root causes -- that demands attention today. The plain truth is, the American people demand action now to stop violent crime, whatever its causes.

That is the tough job law enforcement has been given -- those of us in the Department of Justice, you who serve our courts, and every policeman who must daily face deadly street odds, the minute he steps out his own front door. We are all

being ordered into battle against criminal violence, aggravated by a flood of illegal firearms, and funded by the drug traffic.

So when I take up with you today the President's anti-crime proposals -- in his Comprehensive Crime Control Bill -- I am urging that we be provided with the legal tools we still need to do that hard job. I am setting forth what Congress must do to replenish our legal arsenal -- to help us, in this fight against violent crime, to return the fire of the violent criminal.

In this very vein, President Bush has challenged Congress to respond quickly to his proposals to help bring a halt to criminal violence. "If our forces could win the ground war in 100 hours," he said on March 6, in the aftermath of our Gulf victory, "surely the Congress can pass this legislation in 100 days."

This is Day 56. Committee debate in both houses has been protracted. And I must tell you, regretfully, that it has become an all too familiar talkfest over panaceas and legalities that avoids the sense of endangerment felt by the American people -- a sense of endangerment that threatens what I have always called the first civil right of every American: the right to be free from fear in our homes, on our streets, and in our communities.

That right is what some 650 law enforcement officials and concerned citizens took up at our recent Violent Crime Summit in

Washington. They came together from all over the country, and joined in recognizing a fundamental principle that underlies all the new laws we are proposing. That principle reaches right down to street level: the most effective way to reduce violent crime is to get violent criminals off the streets and into prison.

And the statistics produced at our Crime Summit prove it. Over the past three decades, statisticians and criminal justice researchers have consistently found that rising crime rates are associated with falling rates of imprisonment, and falling crime rates are associated with rising imprisonment rates. The key is thus turning the key in the lock, but that key must also be turned with dispatch.

That is the whole thrust of the President's Crime Bill. I am aware that some critics complain that we're acting too swiftly, that we're locking away too many of these violent offenders. Well, before they finalize any such conclusion, they should go visit those housing projects ravaged by drugs and crime, or speak to the mother who fears to send her child to school, waiting in apprehension for that child's safe and drug-free return, or ask those six million victims of criminal violence last year: Are we being too tough on violent criminals?

You know what you'd hear back. Crack down on all who pose

threats to life and limb and property, crack down hard, and in force.

Now I know that fully ninety-five percent of all felonies are non-federal cases, handled by state and local law enforcement. But we -- the Feds -- can and must help by sustaining strong anti-crime partnerships that are working so well through our joint drug enforcement task forces across the country. We must help through grant programs and asset forfeiture sharing, which pump further federal funds into state and local police budgets. But most of all, we must help by leading the way -- with the new laws we are asking from Congress, laws which would:

- \* Activate an enforceable federal death penalty for the most serious offenses.

- \* End delays in carrying out criminal sentences, especially the abuse of the writ of habeas corpus in capital cases.

- \* Reform the judge-made exclusionary rule to allow all evidence obtained in good faith to be received at trial.

- \* Crack down on gun offenders with tough sentences and common-sense evidence rules.

II.

One of the first obstructions we run into -- in law enforcement today -- is delay. Let me illustrate this by addressing the obstructive delays over imposition of the death penalty. I realize the death penalty is not an easy, or pleasant, subject to discuss, and many remain opposed as a matter of principle. But legally, that debate is over. Since the Supreme Court upheld its constitutionality, 37 states along with the federal government have legalized the death penalty.

Federal law allows capital punishment for only the most serious crimes -- among them, presidential assassination, airplane hijacking resulting in death, and fatal acts of terrorism. The President's Crime Bill would extend these capital offenses to include further modern-day savageries -- for example, heinous drug crimes, such as the murder of witnesses or trial judges ordered by drug lords, or the reckless homicide randomly incident to armed drug warfare.

Save for a few, however, federal death penalty statutes are presently inoperative. They languish for lack of Congressional action to provide constitutional procedures to implement them. Clearly, Congress should take steps to end this charade of laws on the books that cannot be enforced.

But there is more. The death penalty is also tied up by endless court appeals. The other day, Texas Attorney General Dan Morales came by to tell me how the two most recent executions in his state had been delayed by ten and fifteen years, respectively, by repetitive resort, for manifestly inadequate cause, to the writ of habeas corpus.

Only two weeks ago, the Supreme Court ruled, six to three, against continued "abuse of the writ." In McCleskey v. Zant, the Court held second and subsequent submissions to far tighter restrictions, Justice Kennedy aptly noting, "Perpetual disrespect for the finality of convictions disparages the entire criminal justice system."

But the President's Crime Bill incorporates further recommendations made by the commission chaired by former Justice Lewis F. Powell Jr. that would end this abuse altogether. If Congress acts, the condemned will be limited to one timely appeal to the Supreme Court, all his rights fully represented by competent, court-appointed counsel, and protected by safeguards against any racial bias. The condemned man would, to be sure, have his day in court, but so would justice itself -- either way -- be sooner, and finally, done.

III.

But there is a larger fault in the criminal law -- not one of delay, but of deliberate omission. I am speaking of the Exclusionary Rule, which requires that evidence be omitted altogether from the prosecutor's case when such evidence has been obtained by law enforcement in ways challengeable under the Fourth Amendment.

We have long believed the Exclusionary Rule is not the best means -- nor even the constitutionally required means -- to protect our citizens against illegal search and seizure under the Fourth Amendment. So, again, we are asking Congress to enact a general exception to the Rule that would preserve such evidence for trial if the law enforcement officer acted in "good faith."

Back in 1926, Judge Benjamin Cardozo famously ruled for the State of New York: "The criminal is not to go free because the constable has blundered." In the early 1960's, a bare majority of Justices appeared, instead, to hold the blunder a greater evil than the crime. But in United States v. Leon, the Court made a "good faith" exception for searches requiring a warrant, asking, sensibly, how the constable would be deterred from wrongful search if he were entirely unconscious of his blunder?

The President's Crime Bill extends the Court's Leon ruling to cover all searches and seizures challengeable under the Fourth Amendment, so long as the policeman acts in good faith.



Remember, our police are often suddenly at the dangerous scene of the crime -- particularly in drug and firearms cases -- forced to make split-second decisions to survive themselves, and make the arrest, and haul in the evidence. How in fairness can judges, over months of reflection, equitably second-guess a law officer's on-the-spot decision, made at a moment of peril?

But beyond that, not only can the constable's blunder let the criminal go free. Sometimes, even when the constable ponders, the criminal goes free. Let me cite Sergeant J.J. Brennan's experience, as a member of a Washington, D.C. drug squad. At the Greyhound Bus Station, Sergeant Brennan and his men had seized a bag that they believed was likely to contain cocaine. They consulted together, and decided the circumstances probably required a warrant to search the bag. They called the local prosecutor's office, and an experienced, seasoned lawyer told them they didn't need a warrant. They opened the bag, and sure enough, found a large supply of cocaine.

Only, guess what? The federal judge ruled the evidence inadmissible. Sergeant Brennan had acted in good faith -- even in contradiction of his own better instincts. That kind of thoughtful, law-abiding police work should be rewarded, not punished, and the President's Crime Bill would assure that such evidence always survives in court.

IV.

Beyond these statutory reforms, there are other, more far-reaching aspects to our right to be free from fear. Too often we hear critics say that America is a violent society. We have always resorted to violence, runs their argument, which once moved lawlessly westward, and now surges back into our urban canyons with the vicious venturism of the drug wars. While understanding some of this criticism, I cannot accept that regressive view of our communities. Like the President, I see us as a law-abiding society, undeservedly plagued by violence. And I believe that violence -- far from being part of our nature -- is a criminal force that denatures our very freedoms.

I do not believe we need live today by yesterday's Law of the Six Gun. Our problems may include too many guns, but rising violence is caused by too many criminals, armed and dangerous and pursuing their own lawless ends. That is why the President's approach aims at all dangerous criminals and the life-threatening ways they use guns, whatever their source.

Some of these felons -- a small number -- may be deterred by the so-called Brady Bill and other point-of-purchase proposals. But there are serious drawbacks to efforts to regulate the over-the-counter sale of handguns. Today the records needed to make

the match-up of a potential firearms purchaser with his possible criminal past do not adequately exist. To put it bluntly, we couldn't come up with the needed facts, on a consistent basis -- even within a mandated seven-day waiting period.

And I very much want that changed. In fact, we've already begun to do so -- at a cost of some \$40 million dollars. As a result, the FBI's files and your home state criminal files will soon be in sync, ensuring we can track down all these felons who pose the greatest threat to our society.

But let me warn you of something we cannot change. We cannot change the disturbing, but undeniable fact, that today only one out of six felons actually purchases his weapon at a sporting goods store. We cannot change where five out of six murder weapons actually come from -- the rampant, illegal, underground market in deadly arms.

We can, however, take more effective action to deal with this rogue's gallery of armed felons who would be little deterred by any gun control measure. Such criminals should be physically rounded up, along with their illegal arms. Taking these desperados and their firearms off the streets is exactly what we are doing, right this moment, through Operation Triggerlock.

We launched Triggerlock last month, on my orders that every U.S. Attorney assign a designated prosecutor to work with local authorities to target criminals in their district who can be charged under the Armed Career Criminal Act. Those with three prior state felony convictions for violent or drug offenses will be charged whenever they are found in possession of a firearm. These may be hard men, but they make easy marks. Under federal law, they can be swiftly sentenced to 15 years -- no probation, no parole, no plea bargaining, and no more problem to society.

And if Congress will pass new provisions of the President's Crime Bill, these cases will be even easier. One "prior" plus possession of a gun will send a felon away for five years. The Crime Bill includes stricter stipulations that can bring down the same penalties on armed felons for lying to obtain a license for a gun or even bringing a weapon onto a schoolyard.

But whatever the stipulation, the most important item to be brought into court -- and off the street -- is the gun. Therefore, we are also proposing a specific exception to the Exclusionary Rule for firearms. The seized weapon -- no matter how it was obtained by law enforcement -- will stand as evidence. The constable may be disciplined, but the firearm still goes to court and to the jury.

Because the time has come -- in this grim and unequal struggle for control over criminal violence -- for what I have called an Inclusionary Rule. This will assure that the gun-toting criminal will not go free because the court has blundered by failing to allow his gun in evidence. And that is how we can best assure the key really turns in Triggerlock.

That is also how to overcome the law's worst delay -- law enforcement's failure, nationwide, to disarm these armed felons, to confiscate their black-market arsenals and restore peace to fearful neighborhoods. And our failure to clear our mean streets of danger in any timely fashion goes back to the delay of Congress, over the past two years, to pass any Crime Bill.

In terms of days, in light of the President's challenge, we are even now past the halfway mark. So we must not let another day pass without letting our Congressmen know how far along they should be -- and have yet to come -- in this urgent battle against violent crime.

In terms of Good & Evil, this is, of course, not a new terror. It was the Old Testament prophet Ezekiel who first intoned: "The land is full of bloody crimes. And the city is full of violence."

But the resolve to shield our communities from bloody crimes and violence in these 1990s is very new, and very firm. We saw it at the Crime Summit. I sense it at this gathering today, and, in truth, I feel the Congress is at long last poised to take truly effective action against violent crime.

Let us, together, seize this moment so that even the most vulnerable among us may walk abroad in the warmth of day, or the comfort of the night, living free from fear -- and safe from the armed and violent predator who today stalks too many of our communities.

What will this mean to those communities? Let me cite an example from a recent Philadelphia Inquirer story:

When federal agents arrested Ruben Floyd Wednesday night at his North Philadelphia home for allegedly supplying an arsenal of weapons to drug dealers, neighbors showed exactly how they felt about it.

They applauded.

And so do we. For this is what it's all about.