



Department of Justice

"CRIME VICTIMS AND THE PRESIDENT'S CRIME BILL"

REMARKS BY

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BEFORE THE

ANNUAL CONFERENCE OF THE
FLORIDA NETWORK OF VICTIM WITNESS SERVICES

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DAYTONA BEACH SHORES, FLORIDA

I am honored to be with you here this morning -- to be in the company of so many who have worked so tirelessly on an issue which has been a personal priority of mine throughout my professional career.

This is an important week for those of us interested in more effective law enforcement. At long last, debate will begin on President Bush's Comprehensive Violent Crime Control Act of 1991 -- and its overdue provisions which call for a more victim-oriented response to crime. Because of this promising development, I cancelled a long-scheduled trip to meet with my law enforcement counterparts in Europe so that I could stay in Washington to lead the Administration's effort on this front and that gave me the opportunity as well to talk to you this morning as you open this important Conference.

This morning, I would like to talk to you about what the Bush Administration and our Department of Justice are doing to advance and defend the cause of the victims of violent crime in America.

We are all aware that in the past the criminal justice system all too often invested more effort in attending to the rights of offenders than in assisting the innocent victims of their crimes. It was not uncommon for the criminal justice system to, in effect, blame the victim -- often sending the

message that the victimization was the result of their own negligence. Not long ago, however, a grassroots movement of people from all over the country sought to change the laws so that crime victims would be treated with dignity, compassion, and respect by the criminal justice system. Then with the establishment of the President's Task Force on Violent Crime, the enactment of landmark federal laws such as the Victim and Witness Protection Act of 1982, and the Victims of Crime Act in 1984, the slow process of change was begun.

I know here in Florida you have passed a State Constitutional Amendment which guarantees certain rights to victims -- actually only Florida and six other states have such constitutional guarantees for victims -- so you are to be highly commended for being in the lead in this important area. Last year, the federal government also passed legislation in the Crime Control Act of 1990 which brings us close on the heels of leaders like Florida and parallels legislative activity which is going on in nearly all of the 50 states.

This is not a new priority for me. In fact, it has long been my firm conviction -- which I know you share -- that it is not the rights of violent criminal defendants which need strengthening -- but the rights of the victims of their crimes.

From my days as a U.S. Attorney and as head of the Criminal Division at the Department of Justice through my tenure as Governor of Pennsylvania, and now as the Attorney General, I have worked with those such as you here today to see a proper balance restored -- so that those once victimized by a violent crime are not victimized a second time by our criminal justice process.

While Governor, I initiated and saw the passage of Pennsylvania's first Victims' Bill of Rights and we were nationally recognized for our efforts at establishing rape crisis and domestic violence centers.

The fair treatment of victims has always been a priority of President Bush and remains one of the top priorities throughout all of the components of his Department of Justice, priorities vividly demonstrated with the President's signing into law last year of the first federal Crime Victims' Bill of Rights which was passed with bipartisan support in the Congress as part of the Victims Rights and Restitution Act of 1990.

That Act provides that "Responsible officials of the Department of Justice shall make their best efforts to ensure victims are accorded the following rights:

- * The right to be treated with fairness and with respect for the victim's dignity and privacy.

- * The right to be reasonably protected from the accused offender.
- * The right to be notified of court proceedings.
- * The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.
- * The right to confer with the attorney for the Government in the case.
- * The right to restitution.
- * The right to information about the conviction, sentencing, imprisonment, and release of the offender."

While many states have had such a Bill of Rights for years, the federal government is now responding with greater strength to the burgeoning demand from citizens everywhere who merely want restored that balance of which I spoke -- who want the criminal justice system to treat them at least as well as it treats the offenders. The Department of Justice and our Office for Victims of Crime have worked for years, with many of you, supporting this type of legislation and now that it is in place, the work of making it a reality must be the task of every top official in the Department of Justice. To ensure full implementation of the new statutes, I am in the process of issuing new Guidelines on Victim

and Witness Assistance and they will soon be in effect in every U.S. Attorney's office and FBI investigative office throughout the nation.

I also recently authorized the creation of a separate position of victim-witness coordinator in each of our 94 United States Attorneys' offices -- I want individuals in these positions who can show compassion and concern in the always tragic aftermath of a violent crime.

I am pleased to see this morning some of you who joined us earlier this year in Washington for our historic Summit on Violent Crime. It was truly historic for the attention focused on victims' concerns and rights -- more than at any other previous such Department of Justice gathering. Dr. Jane Burnley, of our Office of Victims of Crime, was called on to moderate a panel on "The Victim and the Criminal Justice System," which consisted of a dedicated group of people with many years of distinguished service working for victim's rights, including John Tanner, State Attorney from the Seventh Judicial Circuit of Florida. Because of our commitment to focus on victims with the same attention as we do on drugs, gangs, and guns -- we have sent a clear message to all components of the federal criminal justice system that, in carrying out their duties, whether at the investigatory, trial or post-trial level, concern for a victim's

rights must be on an equal footing with concern for an offender's rights.

President Bush, in his luncheon address to the 650 law enforcement officials and concerned citizens at the Crime Summit, singled out one of our panelists by name, Dean Kilpatrick, and publicly commended him for his work for victims. Also, I selected another panelist, Jack Collins, the parent of a murdered child and citizen victim advocate, whom you will hear from later this week, to speak at the conclusion of the Crime Summit. Jack spoke very eloquently on the need for victims to feel that they are an important part of the criminal justice process and not meddlers or nuisances to be ignored or pushed aside.

In addition to the Crime Victims' Bill of Rights, there is a wealth of new legislation that was passed in the 1990 Crime Control Act relating to child victim's rights, which I believe is the most far-reaching, most important milestone in instituting protections for children which our Office for Victims of Crime, together with many of you, have been striving to achieve for years.

But the job is nowhere near yet finished. Sadly, our concerns are all the more important as the grim toll of six million American victims of violent crime last year reminds us. A citizen of this country is today more likely to be the victim

of a violent crime than of injury from an automobile accident. And the passage of the President's Comprehensive Violent Crime Bill of 1991 is crucial to establishing a more victim-oriented response to crime.

While debate on the President's bill begins this week in the Senate, it continues to languish in the House Judiciary Committee. Few brief days are left to meet the President's challenge, in the aftermath of the Gulf War, to a joint session of Congress to pass his bill within a hundred days. Today is Day ninety-seven, and we are counting!

The President's Comprehensive Violent Crime Control Act of 1991 by its terms:

- * First, restores the death penalty as a meaningful and constitutionally sound sanction. Victims and survivors of victims have a significant interest in knowing that justice will be appropriately served; that the punishment imposed will be commensurate with the injury inflicted. The death penalty, as reflected in the proposed legislation, is a sanction which must be made available for particularly horrible crimes.

- * Second, addresses the abuses of delay, particularly involving the writ of habeas corpus. The bill offers

reforms which protect the victim's right to finality, sparing victims the torture of repeated judicial replays of the crime and allowing the families of murder victims to know that federal and state death penalties will be carried out.

- * Third, provides for exclusionary rule reform. The proposed legislation injects a reasonableness standard into the assessment of a law enforcement officer's search and seizure activities. Victims have an interest in knowing that courts will consider all relevant evidence when determining the guilt or innocence of an offender. To date, such evidence has been held inadmissible in instances where law enforcement has erred, regardless of whether the search and seizure was carried out in circumstances justifying a reasonable belief that it conformed with the Fourth Amendment.

- * Fourth, provides new proposed federal rules of evidence to permit admission of evidence of other similar crimes by the defendant in child molestation and sexual assault cases. Since such offenders often commit multiple crimes, the availability of such evidence to show proclivity or predisposition is invaluable for successful prosecution. It would also require HIV

testing of sex offenders and the sharing of that information with the victim.

- * Fifth, provides protection for witnesses and other participants in the criminal justice system from violence and intimidation.

- * And, finally, provides victims with expanded rights to restitution, suspends eligibility for federal benefits for persons delinquent in their restitution payments, and ensures a victim's right to address the court at sentencing.

In this last regard, I'd like to close by telling you about a case which I argued this Spring during Crime Victims' Week before the United States Supreme Court. The case itself will allow you to see how far adrift this country has gone in protecting a defendant's rights to the neglect of victims' rights. The fact that I argued the case personally shows the high priority we give to victims' issues in the Department of Justice today.

The name of the case is Payne v. Tennessee and it involved a man who was convicted of brutally raping and killing a young mother and her two-year-old daughter, and nearly killing her three-year-old son, Nicholas, who miraculously survived his many

stab wounds. The man broke into the woman's home, and in her very own kitchen, in front of her two babies, stabbed the woman over 40 times; she sustained another 40 defensive stab wounds to her arms and hands showing the valiant struggle she put up to save herself and her children from this murderer. The defendant was convicted and sentenced to death. Justice done? Sadly -- no, at least not yet.

At the sentencing hearing, testimony was heard from the defendant's family about what a good son he was, and testimony from his psychiatrist was offered as to how polite and cooperative he had been. This was allowed as a matter of right -- but then three-year-old Nicholas' grandmother made a simple statement of the impact the deaths have had on this little boy. She said Nicholas kept asking when his mother was coming home and said "I miss my Lacie. I'm worried about my Lacie." His baby sister. That was it -- testimony that, under Supreme Court holdings in Booth v. Maryland and Gathers v. South Carolina, it was argued, should not be heard by the jury deciding whether or not to impose the death penalty. I argued before the Supreme Court that the jury needed to have the "full picture" to hold the defendant fully accountable for his acts -- that, especially in a capital case, information about the impact of the crime on the victim and survivors is vital in deciding whether the ultimate sentence of death should be imposed. How else can the jury know the true nature of a crime if they must consider

only the defendant as a unique human being with family and friends who loved him or her and are left to view the victim as a corpse or a diagram, a "faceless stranger" in the words of Justice Sandra Day O'Connor, with no one to personalize the victim as an equally unique human being with a family and friends who loved them.

Watch for that ruling to come down from the Supreme Court -- Payne v. Tennessee. A favorable decision will be a truly great victory for victims.

You have scored a great victory already by your efforts this week in bringing together this group of concerned activists. I wish you well in your deliberations here this week and Godspeed in your further efforts to balance the scales of justice on behalf of crime victims.

I will now depart for our nation's capital to join those urging the passage of President Bush's Comprehensive Violent Crime Bill with its important new protections for crime victims, too often the forgotten participants in our criminal justice process.

We shall not forget you. Thank you.