

LEVEL 1 - 3 OF 9 STORIES

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JANUARY 19, 1995, THURSDAY

SECTION: IN THE NEWS

LENGTH: 1467 words

HEADLINE: PREPARED TESTIMONY OF THE HONORABLE VICTOR ASHE  
MAYOR OF KNOXVILLE  
BEFORE THE SUBCOMMITTEE ON CRIME  
COMMITTEE ON THE JUDICIARY  
UNITED STATES HOUSE OF REPRESENTATIVES

BODY:

Chairman McCollum, members of the Subcommittee, I am Victor Ashe, Mayor of Knoxville and President of The U.S. Conference of Mayors. I appear before you this morning both on behalf of both the Conference of Mayors and the National League of Cities. I must first complement you on your approach to providing funds to local governments for both additional police officers and for prevention through the law enforcement block grant included in HR 3, the Taking Back our Streets Act of 1995. You have crafted a reasonable compromise to the debate of prevention versus enforcement, and you have done it in a way that provides local officials with flexibility and the opportunity to design an approach to controlling crime and violence which - reflects their communities' needs. I think this will serve our cities well.

Just over one year ago, the Conference of Mayors brought together mayors and police chiefs to develop a National Action Plan to Combat Violent Crime. That plan, which has been adopted as policy by both the Conference of Mayors and the Major Cities Chiefs Association, calls for a balanced approach to addressing the problems of crime and violence we face in our cities today. It calls for flexible federal assistance to cities to increase the number of police officers engaged in community policing in our cities. It calls for addressing the root causes of crime through a variety of preventive measures. It calls for enhancing the various components of our criminal justice system and it calls for expanding our efforts to control drug abuse and drug trafficking. That plan was the basis for our efforts last year in our work with Confess and the Administration on a crime bill that would make a difference in our cities.

As you are aware, we strongly supported the crime bill which passed the Congress last That is not to say it was a perfect bill. There are provisions in it we would have like to have seen written differently. Like most legislation, it was an amalgam of many different legislative proposals and points of view. We have worked hard since it was signed into law in September to see it implemented. The Department of Justice has done a solid job in getting the COPS program moving quickly and in a way that has been responsive to the needs of local governments. Attorney General Janet Reno and Associate Attorney General John Schmidt have worked hard to get the COPS program off the ground. What was essentially a brand new, complex program is up and running and, more importantly, new police officers are now in training and some even on the streets of our cities as a result of their quick and effective implementation of the COPS program.

The Law Enforcement Block Grant included in HR 3, however, builds upon and improves last year's law. It provides local governments direct funding through a formula-based allocation which they can use to hire and train new police

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officers and support personnel, pay overtime to existing officers and support personnel, procure equipment and technology related to law enforcement, enhance school security and establish crime prevention programs. In Knoxville, Chief Phil Keith and I, working with the community, would be able to design a strategy that builds on our existing efforts and combines increased enforcement and prevention in a manner that responds to the needs of our city. Local officials know best what those needs are, and they are different in every city. Local officials know if they need to hire and train new officers; increase civilization within their police department so that sworn officers can spend more time out on the streets; purchase equipment that can help to link police to the citizens they serve; or provide increased alternatives and hope to young people in particular that will prevent crime from occurring in the first place. We do have a few comments on your bill as it was drafted:

We would suggest that the language relating to crime prevention activities be made more flexible. We suggest that you drop the phrase "substantial participation" so that it is clear that law enforcement officials must be involved in any prevention activities funded, but not as intimately as that phrase suggests. In addition we suggest you either drop the reference to neighborhood watches and citizen patrols or greatly expand the list of examples of the kinds of efforts which could be funded. Dropping the reference in the statute makes the most sense to us. Allocating the funds among the states on the basis of part 1 violent crimes reported to the FBI and then among cities within a state on the basis of part 1 violent crimes and population seems a fair and a targeted approach. We need to make sure that it does not penalize those communities which on their own have made strides in reducing crime in the last few years. We need to also make sure that local governments with a high crime rate which are located in states with an overall low crime rate are not penalized. We know that no formula is ever perfect, that there are always winners and losers. You may wish to ask the appropriate federal agency to do a run of the allocation system proposed in the bill so that you can see how fairly it appears to allocate the funds.

While we greatly appreciate the flexibility that your bill provides to local police departments in determining their own policing strategies, we do not want to see a change in the federal program signal a retreat from community policing. Community policing has worked well in many of our communities. We are not suggesting that you modify the language in the block grant to require that departments engage in community policing, but you may wish to and you may wish to consider language that would encourage them to do so.

Many of the research and demonstration efforts relating to community policing which have been undertaken through the Office of Justice Programs have been important and helpful to our cities. We want to assure that these efforts are not curtailed by any of the proposed legislative changes.

Our final comment may be the most important of all. In Section 507 of the bill which authorizes funds for Truth in Sentencing Grants, there is a restriction that no funds may be used for other purposes authorized by the Act unless the prison grants program is fully funded. This sets a priority for prison grants ahead of law enforcement grants. We cannot agree with this approach. What is most critical is making our cities safer. We believe that accomplishing that goal falls first and foremost to law enforcement. Many cities are making great strides in forming partnerships with communities that prevent crimes. A crime prevented has no victims; it doesn't clog our courts; it doesn't require prison space. That should be our first priority. Of course prison grants are important, but we cannot just fix one end of the criminal justice system. We urge you to drop subsection (b) so that the two main funding streams established for state and local governments established through the bill are treated

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fairly.

While my testimony today is focused on the law enforcement block grant, I feel compelled to make a few comments on other portions of the bill. We are concerned that alternatives to conventional incarceration facilities -- such as community-based facilities cannot be funded through the bill. We suggest that you consider providing the same kind of flexibility in the prison funding as you are in the local law enforcement funding so that states and localities can have the flexibility in determining how to address their prison needs most effectively. We are also concerned that the state is no longer required to consult with local governments as it develops its application for the use of the prison grants, and that there is no encouragement to the states to share those funds with local governments that operate correctional facilities. Because of overcrowding in many state facilities, local jails are sometimes used to house state prisoners. We urge you to assure that local governments be assured an adequate role in the state application process.

Finally, we are concerned that the drug court provisions which are included in the current law are repealed. Drug courts provide an important alternative to drug abusers facing charges for non-violent first offenses. We do not understand the rationale for repealing this provision and urge you to revisit it. We appreciate the thought and the hard work that has gone into drafting HR3, and look forward to working with you as you move forward on it. We greatly appreciate the flexibility which you have written into the Law Enforcement Block Grant. Thank you for the opportunity to testify today and for being so responsive to the needs of our cities.

END

LANGUAGE: ENGLISH

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JANUARY 19, 1995, THURSDAY

SECTION: IN THE NEWS

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HEADLINE: PREPARED TESTIMONY OF DETECTIVE PATRICK BOYLE

BEFORE THE COMMITTEE ON THE JUDICIARY  
SUBCOMMITTEE ON CRIME  
U.S. HOUSE OF REPRESENTATIVES

BODY:

GOOD AFTERNOON,

MY NAME IS PATRICK BOYLE, I AM A DETECTIVE WITH THE PHILADELPHIA POLICE DEPARTMENT. I HAVE SERVED THE POLICE DEPARTMENT AND THE CITY OF PHILADELPHIA FOR OVER 28 YEARS.

IT IS AN HONOR AND A PRIVILEGE TO BE ASKED TO TESTIFY BEFORE THE CONGRESS OF THE UNITED STATES OF AMERICA. I BELIEVE, IT SHOWS THE GREATNESS OF OUR COUNTRY, THAT AN ORDINARY CITIZEN CAN COME BEFORE THIS GREAT BODY AND BE HEARD.

MANY YEARS AGO, I REMEMBER OUR FAMILY JOINING ANOTHER FAMILY FOR WEEKENDS AT MY GRANDFATHER'S HOME IN LANCASTER COUNTY PENNSYLVANIA. CHILDREN BEING CHILDREN, THERE WAS SOMETIMES MORE NOISE AND CARRYING ON THAN OUR PARENTS WOULD TOLERATE.

OUR PARENTS WOULD CORRECT US AND WE WOULD FALL INTO LINE, KNOWING A SWAT ON THE EAR WOULD FOLLOW. THE OTHER PARENTS WOULD YELL "JOHNNY, MARY I'M ONLY GOING TO TELL YOU FIVE MORE TIMES, I'M ONLY GOING TO TELL YOU FOUR MORE TIMES ETC. I NEVER REMEMBER THESE PARENTS GETTING DOWN TO ONE LAST TIME. I THINK THEY STARTED AGAIN AT FIVE MORE TIMES.

WHILE THIS STORY MAY SOUND HUMOROUS, IT IS EXACTLY THE SAME MENTALITY THAT IS NOW BEING USED ON THE CRIMINALS IN PHILADELPHIA BECAUSE OF THE PRISON CAP. WE'RE ONLY GOING TO ARREST YOU FIVE MORE TIMES OR SIX OR SEVEN. THAT IS OF COURSE, IF YOU DON'T KILL, MAME OR RAPE SOMEONE IN THE MEANTIME.

I HAVE TWO BROTHERS. BUD, IS RETIRED ON A DISABILITY PENSION FROM THE POLICE DEPARTMENT AND MIKE IS A LIEUTENANT IN A PATROL DISTRICT. MY BROTHER-IN-LAW, BOB WAS ALSO A POLICE OFFICER. HE WAS SHOT IN THE LINE OF DUTY AND CAME VERY CLOSE TO LOSING HIS LIFE WHEN HE ATTEMPTED TO ARREST TWO MALES WHO HAD JUST ROBBED A BAR AND ITS PATRONS.

MY SON, DANIEL BOYLE, GRADUATED FROM THE POLICE ACADEMY IN JUNE 1990 AND WAS ASSIGNED TO PATROL IN A HIGH CRIME DISTRICT. ON FEBRUARY 4TH 1991 ABOUT 2:40 A.M. DANNY OBSERVED A VEHICLE TRAVELING THE WRONG WAY ON A ONE WAY STREET. DAN STOPPED THE VEHICLE, WHICH HAD BEEN STOLEN EARLIER THAT EVENING. THE DRIVER JUMPED FROM THE AUTO AND IMMEDIATELY BEGAN FIRING A 9MM SEMI-AUTOMATIC HANDGUN AT DANNY. ONE OF THE MANY SHOTS FIRED STRUCK DANNY IN THE RIGHT TEMPLE. DESPITE HIS WOUNDS, HE WAS ABLE TO ASSIST FELLOW OFFICERS BY GIVING A DESCRIPTION OF HIS ASSAILANT AND THE DIRECTION OF ESCAPE. IN SPITE OF ALL THE HEROIC EFFORTS OF FELLOW OFFICERS, DOCTORS AND NURSES, DANNY DIED ON FEBRUARY 6TH 1991. DANNY WAS 21 YEARS OLD AND SERVED PROUDLY FOR ONE YEAR AND ONE DAY.

THE FOLLOWING FEBRUARY 1992, THE TRIAL WAS CONDUCTED FOR DANNY'S KILLER. HE WAS TRIED BY A JURY, CONVICTED OF FIRST DEGREE MURDER AND SENTENCED BY THAT SAME JURY TO THE DEATH PENALTY. AT THE CONCLUSION OF THE TRIAL, THE PRESIDING JUDGE STATED IN OPEN COURT AND FOR THE RECORD, THAT THIS SENSELESS MURDER SHOULD NEVER HAVE HAPPENED. DANNY'S KILLER HAD BEEN ARRESTED AND RELEASED WITHOUT POSTING

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ANY TYPE OF BOND. HE IGNORED TWO BENCH WARRANTS AND WAS FREE TO COMMIT WHATEVER TIME HE CHOSE, INCLUDING THE MURDER OF DAN. DANN'Y DEATH WAS A DIRECT RESULT OF THE PRISON CAP.

EVERY POLICE OFFICER ACCEPTS THE RISKS WHEN THEY PIN ON THE BADGE. WE ARE FORCING OUR POLICE TO PUT THEMSELVES IN DANGER TIME AND TIME AGAIN, BY THE VERY FACT THAT THEY MUST ARREST AND REARREST THE SAME CRIMINALS. THE SAME CRIMINALS ARE JUST RETURNED TO THE STREETS TO COMMIT YET MORE CRIMES AND IGNORE JUDICIAL PROCEEDINGS.

AS A CAREER MEMBER OF THE LAW ENFORCEMENT COMMUNITY, I KNOW FIRST HAND OF THE PROBLEMS WE FACE. IN LATE MARCH OF LAST YEAR I ARRESTED A MALE FOR BURGLARY. HE HAD BEEN ARRESTED IN EARLY MARCH FOR THE SAME CRIME AT THE SAME LOCATION. THIS INDIVIDUAL HAD TEN OUTSTANDING BENCH WARRANTS. HE HAD BEEN RELEASED NINE TIMES WITHOUT POSTING BOND, BECAUSE OF THE PRISON CAP. REMEMBER THE STORY OF THE PARENTS WHO WERE ONLY GOING TO TELL THEIR CHILDREN FIVE MORE TIMES. WHEN WE DO THAT IN THE CRIMINAL JUSTICE SYSTEM THE RESULTS ARE OFTEN DEADLY. YES, THE PRISON CAP WORKS. IT WORKS FOR THE CRIMINALS WHO KNOW THE SYSTEM BETTER THAN THOSE OF US WHO WORK IN THE JUSTICE SYSTEM. IT WORKS FOR THE DRUG DEALERS WHO KNOW THE LIMIT THEY CAN CARRY WITHOUT POSTING BOND OR GOING TO COURT. IT WORKS TO THE BENEFIT OF EVERY CRIMINAL WHO CAN COMMIT ANY CRIME THEY WISH WITHOUT FEAR OF BAIL OR JAIL.

BUT WHAT OF THE HONEST, LAWABIDING CITIZENS OF PHILADELPHIA? THEY HAVE BEEN VICTIMIZED AND HELD HOSTAGE BY THE PRISON CAP LONG ENOUGH. CAN ANYONE EXPLAIN TO THE FAMILIES OF THE OVER 100 MURDER VICTIMS WHY THEIR LOVED ONES HAD TO DIE? CAN ANYONE EXPLAIN TO THE OTHER 6,000 VICTIMS OF RAPE, ROBBERY, BURGLARY, ASSAULT AND OTHER CRIMES THAT THE PRISON CAP IS WORKING? CAN ANYONE EXPLAIN TO ME AND MY FAMILY WHY DANNY HAD TO DIE?

DIES AND GENTLEMEN, I BEG YOU TO HELP US RESTORE SOME SANITY TO THE CRIMINAL JUSTICE SYSTEM IN PHILADELPHIA. HELP US TO PUT A STOP TO THIS MADNESS. THANK YOU.

END

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LEVEL 1 - 5 OF 9 STORIES

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HEADLINE: PREPARED TESTIMONY OF JOHN R. SCHMIDT  
ASSOCIATE ATTORNEY GENERAL  
BEFORE THE SUBCOMMITTEE ON CRIME  
COMMITTEE OF THE JUDICIARY  
U.S. HOUSE OF REPRESENTATIVES

BODY:

THANK YOU, MR. CHAIRMAN, FOR THE OPPORTUNITY TO PRESENT THE VIEWS OF THE DEPARTMENT OF JUSTICE ON H.R. 3, THE "TAKING BACK OUR STREETS ACT OF 1995." FIVE MONTHS AGO THE CONGRESS OVERCAME MORE THAN SIX YEARS OF GRIDLOCK AND PASSED THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994 WITH STRONG BIPARTISAN SUPPORT. THIS LAW, WHICH INCLUDED MUCH OF THE PRESIDENT'S LEGISLATIVE ANTI-CRIME PROGRAM, WAS THE RESULT OF MUCH DEBATE AND HARD WORK OVER MANY YEARS. IN FACT, MANY OF ITS PROVISIONS ORIGINATED IN THIS VERY SUBCOMMITTEE. THE 1994 ACT HAD THE ACTIVE SUPPORT OF EVERY MAJOR LAW ENFORCEMENT ORGANIZATION IN THE COUNTRY, AS WELL AS PROSECUTORS, MAYORS, COUNTY EXECUTIVES AND OTHER LOCAL OFFICIALS OF BOTH PARTIES. AND I KNOW FROM MY OWN DISCUSSIONS AND MEETINGS ABOUT THE IMPLEMENTATION OF THE CRIME BILL ALL OVER THE COUNTRY THAT THE BIPARTISAN SUPPORT FOR THE LAW HAS ONLY INCREASED SINCE THAT TIME. THAT SUPPORT IS BASED ON THE FACT THAT THIS \$30 BILLION, SIX-YEAR VIOLENT CRIME CONTROL ACT IS THE LARGEST, SMARTEST AND TOUGHEST CRIME BILL IN OUR NATION'S HISTORY. IT ESTABLISHED A COMPREHENSIVE CRIME FIGHTING STRATEGY DESIGNED TO TAKE CONCRETE ACTION TO DEAL WITH THE UNACCEPTABLE LEVELS OF CRIMINAL VIOLENCE IN THIS COUNTRY. IT COMBINED STRONGER POLICING AND TOUGH PUNISHMENT WITH SMART, EFFECTIVE PREVENTION -- A PROGRAM THAT LAW ENFORCEMENT OFFICIALS HAD LONG BEEN ADVOCATING. AND IT RECOGNIZED THAT THE BEST ROLE FOR THE FEDERAL GOVERNMENT IN CRIME FIGHTING IS TO DEVELOP AND MAINTAIN AN EFFECTIVE PARTNERSHIP WITH STATE AND LOCAL LAW ENFORCEMENT WHICH IS ON THE FRONT LINE OF THE FIGHT AGAINST CRIME IN OUR COMMUNITIES. THE VIOLENT CRIME CONTROL ACT WILL PUT AN ADDITIONAL 100,000 POLICE OFFICERS -- ALMOST 20% INCREASE -- INTO THE CITIES, TOWNS, AND COUNTIES OF THIS COUNTRY. IT MADE "THREE STRIKES AND YOU'RE OUT" FOR REPEAT VIOLENT OFFENDERS THE LAW OF THE LAND AND ESTABLISHED A TOUGH, ENFORCEABLE FEDERAL DEATH PENALTY. IT PROVIDED ALMOST \$8 BILLION FOR PRISONS TO LOCK AWAY VIOLENT OFFENDERS AND ANOTHER \$1.8 BILLION TO PAY COSTS OF INCARCERATING CRIMINAL ALIENS. AND IT INCLUDED OVER \$6 BILLION FOR PREVENTION MEASURES INCLUDING PROGRAMS TO COMBAT VIOLENCE AGAINST WOMEN, TO ESTABLISH DRUG COURTS TO IMPOSE MANDATORY TREATMENT ON NON-VIOLENT OFFENDERS AND TO GIVE LOCAL JURISDICTIONS FUNDS TO USE FOR THEIR OWN COMMUNITY-BASED CRIME PREVENTION PROGRAMS. BY BANNING THE MANUFACTURE AND SALE OF NEW ASSAULT WEAPONS, THE 1994 ACT WILL HELP RID OUR STREETS OF THESE DANGEROUS WEAPONS. AND, UNLIKE CRIME BILLS OF THE PAST THAT PROMISED MUCH BUT DELIVERED LITTLE, THE 1994 ACT IS PAID FOR. BY ESTABLISHING THE CRIME CONTROL JUST FUND, THE ACT ENSURED THAT SAVINGS ACHIEVED THROUGH REDUCTIONS IN THE SIZE OF THE FEDERAL BUREAUCRACY WOULD BE USED TO FUND THE ANTI-CRIME PROGRAM. THERE IS STILL MUCH WORK TO BE DONE TO MAKE AMERICA'S COMMUNITIES SAFE. BUT

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NOTHING SHOULD BE ALLOWED TO JEOPARDIZE THE IMPORTANT ACHIEVEMENTS OF THE 1994 ACT.

SINCE PRESIDENT CLINTON SIGNED THE CRIME BILL INTO LAW ON SEPTEMBER 13 OF LAST YEAR, AND THE ATTORNEY GENERAL ASKED ME TO TAKE RESPONSIBILITY FOR ITS IMPLEMENTATION, WE HAVE MOVED FORWARD EFFECTIVELY WITH THE SUPPORT OF STATE AND LOCAL OFFICIALS AROUND THE COUNTRY. IMPLEMENTATION OF THE NEW CRIME ACT IS ONE OF THE ADMINISTRATION'S HIGHEST PRIORITIES AND WE HAVE TAKEN STEPS TO, ENSURE THAT THE LAW IS ADMINISTERED AS RAPIDLY AND EFFICIENTLY AS POSSIBLE. WE HAVE TRIED TO MAKE THE PROCESS AS SIMPLE AND NONBUREAUCRATIC AS POSSIBLE -- AND TO MAKE IT TOTALLY NON-POLITICAL.

AS I TRAVEL AROUND THE COUNTRY TO MEET AND TALK WITH LOCAL LAW ENFORCEMENT AND OTHER OFFICIALS, I HAVE FOUND OVERWHELMING ENTHUSIASM FOR THE COMMUNITY POLICING PROGRAM TO PUT MORE POLICE OFFICERS TO WORK OUT IN OUR COMMUNITIES WHERE THEY CAN BE MOST EFFECTIVE.

THE OFFICE OF COMMUNITY ORIENTED POLICING SERVICES (C.O.P.S.) HAS, IN THESE 3 AND A HALF MONTHS, AUTHORIZED FUNDING FOR OVER 1,000 COMMUNITIES TO PUT ALMOST 10,000 ADDITIONAL COPS ON THE STREETS ALL ACROSS THIS COUNTRY IN URBAN, RURAL AND SUBURBAN AREAS ALIKE. THIS IS ON TOP OF THE \$150 MILLION DOLLARS IN GRANTS THAT WILL ADD 2,080 COPS THROUGH LAST YEAR'S POLICE HIRING SUPPLEMENT - THE C.O.P.S. PILOT PROGRAM. LAST MONTH PRESIDENT CLINTON APPOINTED JOE BRANN, FORMER CHIEF OF POLICE OF HAYWARD, CALIFORNIA, TO BE THE DIRECTOR OF THE C.O.P.S. OFFICE AND HE IS WORKING ON FINALIZING THE COPS F.A.S.T. AWARDS THAT WILL WITHIN WEEKS FUND ADDITIONAL THOUSANDS OF COMMUNITY POLICING OFFICERS FOR AMERICA'S SMALL TOWNS.

OVER THE COMING MONTHS THE REMAINDER OF THE \$1.3 BILLION AVAILABLE FOR THE C.O.P.S. PROGRAM IN FY 95 WILL BE AWARDED.

OTHER PROGRAMS ARE ALSO GOING FORWARD. THE STATE CRIMINAL ALIEN ASSISTANCE PROGRAM (SCAAP) HAS AWARDED \$41 MILLION DOLLARS TO HELP OFFSET THE COSTS OF CRIMINAL ALIEN INCARCERATION TO THE SEVEN, STATES HARDEST HIT BY THIS PROBLEM. STATES ARE IN THE PROCESS OF APPLYING FOR FUNDS TO IMPROVE STATE CRIMINAL HISTORY RECORDS. REGULATIONS HAVE BEEN ISSUED TO ADMINISTER THE VIOLENCE AGAINST WOMEN, DRUG COURTS AND CORRECTIONAL PROGRAMS.

I FIND EVERYWHERE THAT WHAT PEOPLE WANT IN DEALING WITH CRIME IS CONCRETE ACTION NOT POLITICAL RHETORIC. THE COMPREHENSIVE APPROACH ADOPTED BY THE 1994 ACT ALLOWED US TO GET BEYOND THE IDEOLOGICALLY-BASED AND OFTEN DIVISIVE DEBATES OF PAST CRIME BILLS AND ATTRACT WIDESPREAD SUPPORT FROM ACROSS THE POLITICAL SPECTRUM AND FROM THE MAJORITY OF THE AMERICAN PEOPLE. WE MUST NOW GO FORWARD TO BUILD ON THIS ACCOMPLISHMENT. NOTHING WOULD BE MORE OFFENSIVE TO LAW ENFORCEMENT PROFESSIONALS, STATE AND LOCAL OFFICIALS AND ORDINARY AMERICANS ALL ACROSS THIS COUNTRY THAN A REVERSION BACK TO PARTISAN AND UNPRODUCTIVE POLITICAL BICKERING ON THE CRIME ISSUE. TO BE SURE, THERE IS MUCH ADDITIONAL WORK THAT NEEDS TO BE DONE. BUT WE SHOULD LOOK AHEAD AND GO FORWARD TOGETHER.

MORE

IN SOME RESPECTS THE "TAKING BACK OUR STREETS ACT" DOES STRIVE TO MOVE FORWARD AND BUILD UPON THIS WORK BY DEALING WITH ISSUES NOT ADDRESSED OR NOT FULLY ADDRESSED IN THE 1994 ACT. THESE AREAS INCLUDE STRENGTHENING FEDERAL DEATH PENALTY PROCEDURES, HABEAS CORPUS AND EXCLUSIONARY RULE REFORM, INCREASED PENALTIES FOR FIREARMS OFFENSES, MANDATORY RESTITUTION FOR VICTIMS OF CRIME, STREAMLINED PROCEDURES FOR DEPORTATION OF CRIMINAL ALIENS LIMITING ABUSIVE PRISONER LITIGATION. WE SUPPORT STRENGTHENING LAW IN ALL OF THESE AREAS. WE HAVE PREVIOUSLY EXPRESSED SUPPORT FOR VERSIONS OF EACH OF THESE MEASURES AND WE WILL

SO AGAIN IN A DETAILED VIEWS LETTER THAT WILL SHORTLY BE SUBMITTED TO THE SUBCOMMITTEE. IN THESE AREAS WE LOOK FORWARD TO WORKING TOGETHER TO IMPROVE AND STRENGTHEN THE 1994 ACT.

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BUT WHILE WE SUPPORT EFFORTS TO ADVANCE OUR ATTACK ON CRIME, WE STRONGLY OPPOSE EFFORTS TO UNDO OR REPEAL THE IMPORTANT GAINS MADE IN LAST YEAR'S LAW. WHILE WE SUPPORT TAKING STEPS TO ADVANCE THE CAUSE OF CRIME CONTROL, WE OPPOSE EFFORTS TO TAKE US BACK OR REVERSE THE PROGRESS THAT HAS ALREADY BEEN MADE. SUCH AN EFFORT TO REVERSE THESE BIPARTISAN ACHIEVEMENTS THREATENS TO UNDERMINE THE ONGOING WORK OF FEDERAL, STATE AND LOCAL LAW ENFORCEMENT TO MAKE OUR HOMES AND NEIGHBORHOODS SAFER.

H.R- 3 WOULD UNDO A NUMBER OF IMPORTANT PROVISIONS OF THE 1994 LAW WHICH ARE VITAL TO LAW ENFORCEMENT IN THIS NATION SUCH AS PUTTING 100,000 MORE COPS ON THE STREET AND PROVIDING OPPORTUNITIES THE PROVISIONS OF THE BILL THAT WOULD DRAMATICALLY ALTER AND WEAKEN THE PUBLIC SAFETY PARTNERSHIP AND COMMUNITY POLICING ACT, THE C.O. RAM AND THE ENACTED PRISON FUNDING PROGRAM, AND THAT WOULD INDISCRIMINATELY REPEAL MOST OF THE CRIME PREVENTION PROGRAMS IN THE 1994 ACT, INCLUDING THE FAMILY AND COMMUNITY ENDEAVOR SCHOOLS PROGRAM. WE BELIEVE THAT IT WOULD BE A TERRIBLE MISTAKE TO REPEAL A PROGRAM TO PUT 100,000 NEW POLICE OFFICERS INTO OUR COMMUNITIES -- A PROGRAM THAT IS IN PLACE AND ALREADY WORKING AND WORKING WELL -- AND REPLACE IT WITH A PLAN TO PASS OUT \$10 BILLION OF TAXPAYER MONEY IN A WAY THAT DOES NOT GUARANTEE EVEN ONE NEW OFFICER ON THE BEAT AND THAT IN FACT WOULD NOT ASSURE ANY SPECIFIC OR CONCRETE GAIN IN PUBLIC SAFETY. MOREOVER, WE OPPOSE REQUIRING FULL FUNDING OF THE PRISON PROGRAM BEFORE ANY FUNDING FOR MORE POLICE MAY BE APPROPRIATED.

IT WOULD BE SIMILARLY ILL-ADVISED TO SLASH VIRTUALLY ALL OF THE BIPARTISAN CRIME PREVENTION PROGRAMS OF THE 1994 ACT. THESE PROGRAMS ACCOUNT FOR LESS THAN 25% OF THE FUNDING UNDER THE ACT. FOR EXAMPLE, THE COMMUNITY SCHOOLS PROGRAM WILL GET CHILDREN OFF THE STREETS AND INTO ACTIVITIES THAT WILL HELP THEM SUCCEED IN SCHOOL AND AS PRODUCTIVE ADULTS. PROGRAMS SIMILAR TO THIS HAVE ENJOYED SUCCESS ALL OVER THE COUNTRY. THESE PROGRAMS ARE STRONGLY SUPPORTED BY POLICE, PROSECUTORS AND PARENTS OF BOTH PARTIES WHO REALIZE THAT MORE POLICE AND PRISONS ARE NOT THE SOLE ANSWER TO THE CRIME PROBLEM FACING THIS COUNTRY. PROGRAMS TO KEEP SCHOOLS OPEN AFTER HOURS AND ON WEEKENDS AS SAFE HAVENS, GETTING DRUG OFFENDERS OFF THE STREETS OR BRINGING LAW ENFORCEMENT OFFICERS INTO SCHOOLS TO TEACH CHILDREN TO STAY AWAY FROM DRUGS ARE IMPORTANT AND NEEDED COMPLEMENTS TO PUNISHMENT AND PRISONS.

WE STRONGLY SUPPORT MEASURES AIMED AT CRACKING DOWN ON FIREARMS AND VIOLENT OFFENDERS. MANY PROVISIONS IN THE 1994 ACT -AS WELL AS THE BRADY LAW THAT WAS ENACTED IN 1993 -- TARGETED SUCH OFFENDERS. PROVISIONS SUCH AS FIVE AND TEN-YEAR PRISON TERMS FOR FIREARMS POSSESSION BY OFFENDERS WITH ONE OR TWO PRIOR CONVICTIONS FOR VIOLENT FELONIES OR SERIOUS DRUG OFFENSES, SUPPLEMENTING THE., 15-YEAR TERM PROVIDED FOR OFFENDERS WITH THREE OR MORE PRIOR CONVICTIONS OF THIS TYPE UNDER THE ARMED CAREER CRIMINAL STATUTE, PROVIDE MEANINGFUL FEDERAL ENFORCEMENT. BY CONTRAST, WE BELIEVE THAT THE PROPOSAL IN H.R. 3 TO FEDERALIZE EVERY CRIME COMMITTED WITH A FIREARM IN THIS COUNTRY IS A FALSE PROMISE THAT WILL DO / LITTLE TO MAKE OUR STREETS SAFER WHILE DOING MUCH TO INCREASE THE ALREADY HIGH LEVEL OF CYNICISM ABOUT THE CRIMINAL JUSTICE

FINALLY, ALTHOUGH NOT INCLUDED IN H.R.3, WE REMAIN CONCERNED ABOUT REPORTS THAT SOME MEMBERS OF CONGRESS ARE INTENT UPON REPEALING THE BAN ON SEMI-AUTOMATIC ASSAULT WEAPONS THAT WAS ENACTED AS PART OF THE VIOLENT CRIME CONTROL ACT LAST YEAR. SUCH A REPEAL WOULD JEOPARDIZE THE LIVES OF COUNTLESS POLICE OFFICERS AND CIVILIANS BY PERMITTING THE CONTINUED MANUFACTURE OF THESE WEAPONS. TO REPEAL THIS COMMON SENSE CRIME FIGHTING LAW WOULD BREAK A SOLEMN CONTRACT WITH AMERICA'S LAW ENFORCEMENT PROFESSIONALS -- AND I BELIEVE THAT LAW ENFORCEMENT PEOPLE AROUND THE COUNTRY WOULD OVERWHELMINGLY VIEW IT AS A BETRAYAL OF THEIR JUST.

IN SUM, THERE ARE MANY PROVISIONS IN H.R. 3 THAT WOULD BE HELPFUL TO LAW ENFORCEMENT AND TO THE NATION'S ANTI-CRIME EFFORTS BUT THERE ARE OTHERS THAT



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WOULD UNDERMINE AND BE COUNTER-PRODUCTIVE TO THE WORK OF OUR POLICE AND OUR COMMUNITIES WHO ARE FIGHTING SO HARD TO FIGHT VIOLENT CRIME. WE SUPPORT THOSE PROPOSALS IN THE BILL THAT WILL STRENGTHEN LAW ENFORCEMENT AND WILL WORK WITH THIS SUBCOMMITTEE AND OTHER MEMBERS OF THE CONGRESS TO CONTINUE THESE,, BIPARTISAN EFFORTS. BUT WE WILL STRONGLY OPPOSE ANY ATTEMPT TO REVERSE THE PROGRESS THAT HAS BEEN MADE TO PUT MORE POLICE ON THE STREETS, TO PUT MORE VIOLENT OFFENDERS BEHIND PRISON BARS AND TO ENHANCE OUR CRIME PREVENTION CAPABILITIES.

THANK YOU. I WILL BE HAPPY TO TAKE ANY QUESTIONS YOU MAY HAVE.

END

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LEVEL 1 - 6 OF 9 STORIES

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HEADLINE: PREPARED TESTIMONY OF SHERIFF CARL R. PEED  
FAIRFAX COUNTY, VIRGINIA  
BEFORE THE HOUSE COMMITTEE ON THE JUDICIARY  
SUBCOMMITTEE ON CRIME  
SUBJECT: H.R. 3

BODY:

Good afternoon Chairman McCollum and members of the subcommittee. It is indeed an honor and a privilege to come before you and speak about HR 3, the "Taking Back Our Streets" Act of 1995. I would like to discuss the provisions of the bill by title.

#### Title I: Effective Death Penalty

I support the streamlining of procedures under which the courts deal with the death penalty. It takes much too long for the death sentence to be carried out. I do believe, however, in being fair, and have no problems with allowing the inmate to have competent counsel in post conviction proceedings. I believe in the appeal process, but not a process whereby the victims are forgotten and the convicted inmates and their attorney's attempt to needlessly prolong the process with endless appeals. This process is pervasive in capital cases and not only occupies the court's valuable time and resources but makes a mockery of our criminal justice system. I agree with Subtitle B, which governs the procedures and circumstances under which juries impose a death sentence. The jury looking at aggravating circumstances as opposed to mitigating circumstances provides a good balance.

#### II. Deterring Gun Crimes

This section is important because it targets one of the primary tools of the criminal and violence in our society- the firearm. The theme here is to incarcerate for long periods of time criminals who carry, use, or discharge firearms in commission of crimes. To some criminals, long periods of incarceration are the only way to incapacitate them. However, the impact of these penalties on prison and jail overcrowding must be continuously examined.

#### Title III: Mandatory Victim Restitution

I support mandatory victim restitution, and restitution to any person who is harmed physically, emotionally, or financially by a crime. I believe that there should be a balance here - the economic status of the offender must be considered when discussing restitution. The victim's losses take priority, but the offender must have the means to pay. Restitution to the victim is a justifiable burden, but the burden should have limits. By giving an offender who is trying to stay crime free an extremely high bill to pay in a short time frame, we may be aggravating a problem that we are trying to solve. I agree that conditions for probation or parole should be contingent upon the offender fully complying with the court ordered restitution.

#### Title IV: Law Enforcement Block Grants

I agree with the establishment of a block grant program. Grant programs are especially effective to local units of government. Sheriffs throughout the

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United States have been given the ability to use grant money, they have put it to good use, for example; Work Release, Neighborhood Watch, D.A.R.E. - have been successful. My only reservation is how much funding will go to the county and how much to the city - we need some kind of formula clarifying what is a local unit of government. Local units of government must be spelled out. Also, we are concerned that if the prisons/jail money is not fully funded, grant money may be in jeopardy. As previously stated, grants are especially effective in the fight against crime.

#### Title V: Truth in Sentencing Grants

I agree with the goals of this title which will make additional financial resources available to states to expand and operate correctional facilities intended to put violent criminals out of circulation for longer periods of time. Persons convicted in a court of law for violent crimes need to be separated from society for the peace of mind of law abiding citizens. Linking funding to a state's progress in making violent criminals more accountable for their actions is, I believe, a good feature of this title. I also support the requirement that states be encouraged to enact laws requiring notification of victims and families upon the intended release of a perpetrator. However, I also believe that all federal mandates to states should be accompanied with funding provisions.

#### Title VI: Exclusionary Rule Reform

I strongly support the provisions of this title to expand the "good faith" exception to the Exclusionary Rule where evidence is gathered without a warrant in instances where officers reasonably believe they acted properly. At the very least, the mechanism needs to be available for law enforcement to challenge the use of the Exclusionary Rule in these instances.

#### Title VII: Stopping Abusive Prisoner Lawsuits

This is an area that has needed reform for some time. The restrictions placed on the Civil Rights of Institutionalized Persons Act, or CRIPA, are reasonable. I support the provisions that inmates are required to exhaust administrative remedies prior to filing suit and that suits may be dismissed if they fail to state a Constitutional violation or if the suit is frivolous or malicious. I support Section 703 where inmates do not contribute to the development of minimum standards, and Section 704 in which the suit or case is dismissed if the inmate's claim of poverty is false. Also, 42 U.S.C. 1988 needs to be examined more closely- to permit prevailing parties to recoup expenses for false or frivolous claims.

#### Title VIII: Further Streamlining Deportation of Criminal

Aliens Dangerous persons, regardless of their citizenship status, need to be isolated from the group to which they present a danger. It appears that the proposed modifications to the Immigration and Naturalization Act, or INA, and other immigration laws which would increase the number of crimes for which an alien could be deported are certainly desirable because it would give this country the legal mechanism to rid itself of more dangerous individuals. I stress also that I firmly believe in the right of due process of all individuals whether they be United States citizens or not.

There are numerous provisions in this title with which I, from a local government perspective, can provide little input. However, in general, it appears to me that the overall intent of this title is to make all criminal aliens fully accountable and subject to deprivation of liberty when they are convicted after a due process hearing. I fully support seizing assets and immediate deportation of aliens convicted of crimes in the United States.

Thank you, once again, for this opportunity to express my views on this important legislation.

END

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HEADLINE: PREPARED TESTIMONY OF THE HONORABLE LYNNE ABRAHAM  
PHILADELPHIA DISTRICT ATTORNEY  
BEFORE THE SUBCOMMITTEE ON CRIME  
HOUSE JUDICIARY COMMITTEE

BODY:

Good Afternoon.

I am Lynne Abraham, the District Attorney of Philadelphia. I am delighted that the Subcommittee on Crime invited me to speak today.

While Congress has before it a number of federal issues that are critically important to prosecutors, I would like to focus on the question of what the federal government can do to help states run their own criminal justice systems in order to ensure justice for both for the victims of crime and those who commit crimes. Unfortunately, the federal government, and, in particular, the federal courts, often with all good intentions, has intruded itself unnecessarily into the state criminal justice systems and completely undermined their integrity and their ability to dispense justice.

Since the day I took office as District Attorney nearly four years ago, I have been trying to get rid of a prison cap that is cutting the heart out of the Philadelphia criminal justice system and that has convinced our residents that crime pays big-time. After inmates in our local prisons complained about the prison conditions, a federal judge who made absolutely no finding of any unconstitutionality began overseeing what has now become an eighty-year-old program of releases to keep the prison population down to what she considers an appropriate level.

In this federal lawsuit there has never been a trial or any finding that the conditions in the Philadelphia prisons were unconstitutional. In fact, just last month, a different federal judge specifically found that the conditions in even Philadelphia's very oldest and most decrepit facility -- Holmesburg -- were still constitutional. But the prior mayoral administration did not even try to fight this prison conditions lawsuit--it simply folded its cards and agreed, under pressure from the federal judge, to enter two consent decrees providing for the ongoing release of huge numbers of inmates.

These two consent decrees mandate federally ordered releases of criminal defendants awaiting trial. Instead of individualized bail review, where Philadelphia judges would consider all of the factors relating to a defendant's dangerousness and risk of flight, we have a "charged-based" system for determining who may enter the prisons. In other words, the only question asked is "what is the defendant charged with today?" If the defendant is charged with what the federal judge calls non-violent crimes, he cannot go to jail no matter how dangerous he is and no matter how obvious it is that he will flee and will not show up for his trial. If he is charged with one of the so-called non-violent crimes of stalking, car jacking, robbery with a baseball bat, burglary, drug dealing, vehicular homicide, manslaughter, terroristic threats, gun charges, he cannot be detained pretrial no matter how many times he fails to appear in court. In this absurd system a drug dealer carrying a loaded Uzi is

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deemed "non-violent". The defendant's prior convictions, his history of failing to appear for court, his mental health history, his ties to the community, and his drug or alcohol dependency are completely deemed irrelevant under these federal decrees.

Unfortunately, criminal defendants know the system and know that Philadelphia judges no longer have any power to compel a defendant to appear for his trial. The federal interference with our state bail system has been catastrophic:

- Before the federal prison cap began, Philadelphia had approximately 18,000 outstanding bench warrants (that is, arrest warrants issued when a defendant fails to show up for trial and becomes a fugitive). Now, we have almost 50,000 bench warrants and virtually no one out on the streets looking for these fugitives. Why bother -- if arrested, they will all be released again to the streets because of the cap.

- In just the last eighteen months, thousands of defendants who were on the street because of the prison cap have been arrested for 9,732 new crimes, including: - 79 murders - 959 robberies - 2,215 drug dealing charges - 701 burglaries - 2,748 thefts - 90 rapes - 1113 assaults.

- In the last eighteen months alone, over 27,000 new bench warrants for misdemeanor and felony charges were issued for defendants released under the prison cap. This represented 63% of all new bench warrants issued in 1993 and 74% of all new bench warrants issued for the first six months of 1994.

- The rate of failure to appear in court is higher for prison cap defendants than for defendants released under our traditional state court bail programs. A 1992 study established the following failure to appear rates: - drug dealing 76% - burglary 74% - theft 69%

By contrast, the failure to appear rate for aggravated assault -- a crime for which defendants cannot be released under the prison cap -- was just 3%. The fugitive rate nationally for defendants charged with drug dealing is 26% in a year. Thus, in Philadelphia, our rate of 76% is three times higher than the national rate.

But these statistics do not reflect the incalculable losses to our community caused by criminals confident in their belief that the criminal justice system is powerless to stop them. The murder of even one citizen is too high a price for these foolish consent decrees. We have seen over 100 persons in Philadelphia murdered by criminals set free by the prison cap, including Officer Danny Boyle whose father testified here today.

Unfortunately, the prison cap has also caused needless financial losses to Philadelphia citizens and businesses. Philadelphia businesses suffer thefts, losses not covered by insurance deductibles, increased security costs, and increased insurance premiums. How can we hope to attract retail businesses to Philadelphia when store owners know that professional thieves and burglars have a "get-out-of-jail-free card?" The prison cap in Philadelphia is not simply a law enforcement issue -- it is inextricably tied to the financial viability of the City. The perception by too many of our residents is that much of Philadelphia law enforcement is ineffective -- not because the police are not trying -- but because the judicial system is broken beyond repair by the prison cap.

Philadelphia is, however, extremely attractive to the drug business. The Philadelphia airport is now a favored location to send out-of-state couriers smuggling just less than 50 pounds of marijuana. Under the prison cap, we cannot hold a drug smuggler in prison unless they are caught with more than 50 pounds of marijuana (enough for over 200,000 joints with a street value of \$224,000).

The drug enterprise need not even bother with the inconvenience of putting up any money to bail out the courier.

I remember one case involving a drug dealer out of jail because of the

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prison cap. Undercover detectives from Montgomery County, which is adjacent to Philadelphia, arranged a drug deal in a parking lot along the road that forms the border between Philadelphia and neighboring Montgomery County. Before the deal took place, the defendant tried repeatedly to move the deal to the Philadelphia side of the street because, the defendant explained to the undercover detectives, he could go to jail in Montgomery County but not in Philadelphia. The defendant nevertheless completed the deal on the Montgomery County side of the street and, yes, he did go to jail out there. He would not if he had completed his drug deal on the Philadelphia side of the street.

While the prison cap has encouraged defendants to commit more crimes and to thumb their noses at our court system, one must keep in mind that individualized bail review -- as opposed to the cap's "charge-based" system -- is essential for reducing the overall costs to the criminal justice system. I would like to provide you with an example that I believe demonstrates the problem. There was a 29 year old trained helicopter mechanic with no prior record who became involved with drugs and started committing burglaries in Philadelphia. If processed under our state bail programs, he probably would have been released without any bail for his first and perhaps his second offense. But certainly by his third offense, he would have been put in jail and then released promptly through a conditional release program which would have required him to participate in drug treatment and to stay out of trouble. If this had happened, he would have been a candidate for probation at sentencing. His total time in jail would have been a few days, and he would still be working and paying taxes.

But this did not happen. This defendant could not be held in jail under the federal prison cap until his tenth burglary. With ten felonies, this defendant was no longer a candidate for probation. Instead, he was convicted and sentenced to a maximum term of ten years in the state prison, at a cost to the taxpayers of approximately \$30,000 per year. He can now get drug treatment in prison-, but it is less likely to be effective since he is receiving it at a much later stage in his drug addiction.

The consent decrees in this case raise extremely disturbing questions about whether a federal court ought to intrude so unnecessarily into one of the most basic functions of state government -- its criminal justice system. In Philadelphia, the prior mayoral administration agreed not only to release huge numbers of pretrial defendants, it also handed over huge portions of state governmental functions to the federal judge. This federal judge now controls 224 million dollars in bond funds for the construction of a new state prison and the new state courthouse. Even though there is not a single prison bed in the courthouse, every single construction change order requires federal court approval. Recently, for example, the Philadelphia court system wanted to expand one room in the courthouse for court interpreters. This change, if done during the construction phase, would have cost \$5,000. But the federal judge did not like the proposal, so she rejected it. This change will now be completed post-construction -- at a cost to Philadelphia taxpayers of \$30,000.

Quite frankly, this federal judge has micro-managed the Philadelphia criminal justice agencies to death -- there have been debates over the placement of flag poles on our prisons, whether the state judges' new chairs should be scotch-guarded, the candle watt power of the light fixtures, and the choice of artwork at the prisons. Even if some of these issues are important, the fundamental question is who should be in charge of the debate -the federal judge or state officials?

This raises a most disturbing aspect of federal consent decrees in prison conditions lawsuits. With a consent decree, one state political administration can arrogate unto itself powers it does not have under state law. It can make

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political decisions, embody them in the federal court order, and then insulate at policy from change by the next duly elected mayor. Indeed, as it stands now, prison caps can -- and have been -- unwillingly forced upon states for as long as twenty years, with no power vested in the state to be relieved of the burdensome weight of the decrees.

In Philadelphia, we are saddled with these incredibly demoralizing and intrusive consent decrees that the present mayor has never agreed to and that he has spent several years trying to undo. Perhaps most egregious is the fact that because the prison cap was part of an agreement between the prior mayor and the lawyers for the inmates, the District Attorney has been held to have no standing to challenge any of these issues.

While I, the current mayor, and other law enforcement officials are committed to getting rid of the prison cap, we cannot take the naive view that this step alone will solve the problem. Elimination of the prison cap is the most immediate action that can be taken to increase the effectiveness of law enforcement. Law enforcement in a large urban area is tough enough; we cannot hope to be successful with such the huge handicap of a federally enforced prison cap undermining our efforts. Individualized bail review, and the power to punish those defendants who willfully refuse to appear for their court hearings, are essential steps in returning to our state court system the ability to dispense justice.

In Philadelphia, we are committed to devoting adequate resources to ensure humane prison conditions for inmates and safety for our correctional officers. A new prison with 2,000 beds will be completed in the next year. The City has committed itself to building another new prison in the next few years. Humane conditions are essential not only because they prevent a federal takeover of our prisons but, more importantly, because we are morally required to treat humanely all members of our society, even those who break the law. But we must also recognize that resources devoted for prisoners come at the expense of other programs essential for our law-abiding citizens. Philadelphians do not have the luxury of housing prisoners in conditions that far exceed the standards of humane treatment at the cost of depriving needy, law-abiding citizens of essential government services.

For these reasons, the National District Attorney's Association, a bi-partisan organization of prosecutors from across the country, has unanimously endorsed a resolution recognizing the severe, adverse effects of federal prison conditions litigation and strongly urging Congress to strengthen the provisions of last year's Crime Bill limiting remedies in prison litigation. I understand that Congressman Canady and Congressman Geren are offering a new bill that would accomplish the major goals endorsed by the National District Attorney's Association. I strongly urge the Judiciary Committee to include provisions of the Canady-Geren Bill as part of the 1995 Crime Bill.

I genuinely appreciate the invitation to speak here today. For additional information on this problem, I have brought with me a detailed history of the Philadelphia prison case, and copies of the consent decrees. I strongly urge you to help all of us in law enforcement with this overwhelming problem. With Congress' help we can finally have the effective criminal justice system in Philadelphia that our citizens have the right to expect but long ago gave up hope of ever seeing.

Thank you.

END

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