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PART IV: THE OPPORTUNITY WE DESERVE

[Introduction to Part IV]
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3. A CRIMINAL JUSTICE SYSTEM THAT SERVES ALL AMERICANS FULLY AND FAIRLY

INTRODUCTION

I ask every American who lives in a safe community to think of a specific time in your life in which you truly feared for your safety and imagine what it would be like to live in a place where you felt that way every day. What kind of nation have we become if we are willing to accept that there are places in America where law-abiding residents will live in fear and where other law-abiding persons simply will not go? More than anywhere else, our high-crime communities, most of which are communities of color, want, need, and deserve strong law enforcement to restore order, reduce crime, and help build stronger communities. At the same time, we must take action in those communities and across our nation to keep young people out of crime and build trust and confidence in the criminal justice system across racial lines.

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Whenever Americans are asked what issues concern them most, crime is near the top of the list. At the same time, most of us live in communities that are relatively safe and crime free. Most of us are confident that our children won't get mixed up in crime and will have the chance to succeed to their full potential. And most of us believe that the criminal justice system exists "to protect and to serve" us -- to ensure public safety, prevent crime, and promote justice.

However, some Americans live in communities in which crime is pervasive and fear of crime is constant. Some children grow up struggling to avoid being victims of crime, in places where their peers are more likely to go to prison than they are to go to college. Some law-abiding citizens have had experiences with our criminal justice system that lead them to believe that they are more likely to be targets of law enforcement than they are to be served by it. And more often than not, the people and communities facing these conditions are people and communities of color.

Some of our deepest and most complex challenges of race in America arise in the context of criminal justice. Today, crime rates are at their lowest levels in nearly 25 years. In the last

five years, there has been an 18-percent drop in the rate of violent crime nationwide, including a 28-percent drop in the homicide rate, which is at its lowest level in 30 years.¹ Moreover, persons of color have in many cases experienced the sharpest decreases in crime victimization.² These are astonishing achievements. Nonetheless, as the Advisory Board on Race said in its final report, "Racial disparities persist in both the realities and perceptions of crime and the administration of justice."³

Despite recent, substantial decreases in criminal victimization across racial lines, persons of color remain significantly more likely than whites to be victims of crime, especially violent crime. For example, American Indians are more than twice as likely to be victims of homicide than whites or Asian Pacific Islanders; Hispanics are approximately 3 times more likely; and blacks are approximately 8 times more likely.⁴ The homicide rate for black males is 58 per 100,000, compared to 5 per 100,000 for white males,⁵ and homicide remains the leading cause of death for young, black and Hispanic males.⁶ Persons of color are also significantly more likely than whites to fear crime. Black and Hispanic households, for example, are approximately twice as likely as white households to identify crime as a neighborhood problem.⁷

Most crime is intraracial. Nine out of every 10 murders, for example, involve victims and offenders of the same race.⁸ Existing disparities in criminal victimization, therefore, reflect disparities in criminal offending as well. Nonetheless, whites commit a majority of all crime,

¹ *Crime in the United States, 1997*, U.S. Department of Justice, Federal Bureau of Investigation, 5-16 (November 1998).

² [DPC accomplishments document.]

³ Advisory Board, *supra* note __, at 81.

⁴ *See Changing America, supra* note __, at 53, Chart 1.

⁵ Christopher Stone, *Race, Crime and the Administration of Justice: A Summary of Available Facts*, Presentation to the Advisory Board of the President's Initiative on Race, 2 (May 19, 1998).

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⁷ Carol J. DeFrances and Steven K. Smith, *Perceptions of Neighborhood Crime, 1995*, U.S. Department of Justice, Bureau of Justice Statistics Special Report,, 2 (April 1998).

⁸ [BJS data summary, page 9.]

including a majority of all violent crime.⁹

In large part, the fact that a greater proportion of minorities are likely to be victims of crime than whites is due to extremely high crime rates in a small number of poor, largely urban communities of color, with much of the crime being committed by and against young males of color. For example, nearly half of all homicides occur in only 47 of approximately 14,000 police jurisdictions.¹⁰ And crime rates remain high in parts of Indian country as well. The homicide rate, for example, on reservations has risen __ percent in the last 5 years.¹¹

Why do these conditions exist? It is too easy to throw up our hands and blame it all on some culture of lawlessness that most of us have only read about or seen on television. We must look beyond the footage on the 11 o'clock news. Contrary to conventional belief, I believe that crime in our highest crime communities is neither totally random nor incurable. Much of it can be stopped and prevented if we refuse to ignore it and if we are resolute in our approach to raising healthy children and building strong communities.

Studies show that the dramatically high crime rates in these communities are linked to a number of community factors, including extreme and pervasive poverty (especially mass unemployment), widespread family disruption (including the predominance of single-parent households), and frequent residential turnover.¹² Together, these factors result in concentrated disadvantage and the destruction of community order and cohesiveness. Young people who grow up in these communities have limited legitimate opportunities, few role models, and little community supervision. Add to these conditions the proliferation of guns and illegal drug markets, and the result is high rates of crime among youth and young adults. These factors of poverty, family disruption, and residential instability are not excuses for crime; they are explanations for why crime has taken hold in some communities. Absent these factors, rates of criminal offending and victimization do not differ significantly by race, but the communities in

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¹⁰ Lawrence Sherman, *Cooling the Hot Spots of Homicide: A Plan of Action*, in What Can the Federal Government Do To Decrease Crime and Revitalize Communities, U.S. Department of Justice, Executive Office for Weed and Seed Report, 42 (January 1998).

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¹² E.g., Robert Sampson, *The Community, in Crime*, James Q. Wilson and Joan Petersilia, eds., 193-202 (1995); Stone, *supra* note __ at 2.

which these troubling conditions exist together are often communities of color.¹³ [We will likely add language about the role of past governmental policies in contributing to these conditions.]

The costs of crime in these minority communities are dramatic. In addition to the direct costs to crime victims and their families, there are substantial psychological, social, and economic costs for the other law-abiding citizens who live there. We must not forget that in the poorest, highest crime neighborhoods in this country, the vast majority of people get up every day, go to work, obey the law, pay their taxes, and do their best to raise their kids. In these communities, however, fear of crime limits social interactions and destroys the sense of community. Fear of crime restricts economic investment and job opportunities. Fear of crime creates the very conditions of social disorder in which crime itself can flourish. It is these communities in which strong, effective law enforcement is needed most.

However, persons of color often have less trust and confidence in law enforcement than whites, and these perceptions of unfairness limit the effectiveness of law enforcement in communities of color. For example, more than 7 out of 10 blacks believe that blacks are treated more harshly by the criminal justice system than whites, and more than 4 out of 10 whites agree.¹⁴ Furthermore, of those crime victims who did not report the incident to police, approximately twice as many blacks than whites say they did not report the crime because the police would not care or would be inefficient, ineffective, or biased.¹⁵ These perceptions of unfairness in the criminal justice system are likely due to a number of historical and present factors, including the use of so-called racial profiling, incidents of police brutality, racial disparities in incarceration rates and sentencing, and the lack of diversity in the criminal justice system... During a meeting I had last year with a group of black journalists, I asked how many of them had been stopped by the police within the last few years for no reason other than the color of their skin. Every one of them raised his or her hand. Whether this is a matter of reality, perception, or both, it must be addressed.

And while many minority communities want and need strong law enforcement, they are also being harmed by high rates of incarceration, especially for young men of color. Today, one-third of all young, black males are under the supervision of the criminal justice system (on

¹³ Sampson, *supra* note __, at 202; Stone, *supra* note __, at 2; Robert Sampson and Janet Lauritsen, *Violent Victimization and Offending: Individual, Situational, and Community-Level Risk Factors*, in *Understanding and Preventing Violence*, National Academy of Sciences, Albert J. Reiss and Jeffrey Roth, eds., Vol. 3 (1993). [?]

¹⁴ *Changing America*, *supra* note __, at 59, Chart 7.

¹⁵ [BJS data summary, 27.]

probation, in prison, or on parole).¹⁶ In cities such as Baltimore, more than 50 percent of young, black males are under criminal justice supervision...¹⁷ Overall, the chance that a young male will go to prison during his lifetime is approximately 4 percent for whites, 16 percent for Hispanics, and nearly 30 percent for blacks.¹⁸ While persons of color comprise less than one-third of the overall population in the United States, they comprise more than two-thirds of the Federal and state prison populations, with blacks alone comprising nearly 50 percent of the prison population.¹⁹ These rates of imprisonment have substantial social and economic effects on minority communities, contributing to the rise in poor, single-parent, female-headed households, the lack of employable males of color, and the disenfranchisement of 1 million black males alone.²⁰

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These conditions are intolerable. No American should have to live in constant fear of crime. No American should have reason to mistrust the very officers of the state assigned "to protect and to serve" him or her. No American should grow up believing that a stay in prison is a rite of passage. We must take action to eliminate these conditions and to build a criminal justice system that serves Americans of all races fully and fairly. I believe we must do three things:

First and foremost, we must reduce crime and restore order in communities of color where crime and fear of crime are greatest. Every American has the right to live in a safe community, and we should not be able to identify high-crime neighborhoods based on the race of the residents who live there.

Second, we must prevent young people of color from becoming involved in crime and the criminal justice system. The present situation is dramatic. For black males born today, the odds of going to prison are greater than the odds of going to college. And racial disparities -- from arrest through incarceration -- are greater in the juvenile justice system than in the adult system... We must intervene to prevent juvenile delinquency before we lose a whole generation of

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¹⁸ *Lifetime Likelihood of Going to State or Federal Prison*, U.S. Department of Justice, Bureau of Justice Statistics, 2 (1997).

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minority youth to crime, as either victims or offenders. And for the good kids who do get in trouble, we must intervene in their lives to help them become productive and successful members of society.

Third, we must build trust and confidence in the criminal justice system among persons of color. Let me be clear: The vast majority of law enforcement officers in this nation are dedicated public servants of great courage and high moral character who deserve the respect of citizens of all races. Furthermore, though some will disagree, evidence suggests that racial discrimination is not endemic to our criminal justice system. However, evidence also shows that racial stereotypes and biases still exist, incidents of police brutality based on race still occur, and policies that have an unjustified disparate impact on persons of color are still functioning. No person should be the target of law enforcement based on the color of his or her skin. We must eliminate these conditions and increase fairness and trust in the criminal justice system.

In sum, we must develop a comprehensive model of criminal justice that can increase community safety, prevent young people from entering the criminal justice system, and build confidence and trust in law enforcement. Fortunately, I believe we have the foundation for this model, and we have already made important progress toward achieving these goals. The foundation is community justice -- an approach to criminal justice that emphasizes strong partnerships between law enforcement and communities to prevent crime.

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The cornerstone of community justice is community policing. Community policing is a relatively new model of law enforcement that focuses on preventing crime by restoring order in communities, solving community problems, and building partnerships between law enforcement officers and the citizens they serve. Community policing is based on several interrelated principles: First, studies show that reducing disorder in communities can help reduce fear of crime, encourage citizens to interact with one another and their community, and thereby decrease crime itself. Second, preventing crime requires more than making arrests; police must also identify and help solve the underlying community problems that cause crime. Third, both reducing disorder and solving community problems require strong relations between law enforcement officers and the communities they serve. In order to reduce disorder and fear of crime, police must look to law-abiding citizens about their concerns, needs, and values. In order to solve problems that cause crime, police must look to law-abiding citizens for information about those problems. Finally, citizens and community organizations can play a vital role as partners in reducing disorder and solving community problems, and these efforts can directly improve community cohesiveness, which in turn can further reduce crime.

In 1994, I proposed and Congress enacted the Public Safety Partnerships and Community

Policing Act, which provides grants and technical assistance to local communities to increase the number of police in communities and to enhance community policing. Today, we have nearly reached our goal of supporting 100,000 new police officers -- a 20 percent increase in the number of officers -- and promoting community policing efforts in the vast majority of communities across our nation. Program evaluations, as well as the dramatic decrease in crime rates across the country, indicate that these efforts have been successful in reducing crime, reducing fear of crime, and improving relations between citizens and law enforcement...²¹ [A text box will summarize prior administration actions consistent with the above themes and the workplan that follows.]

Our efforts in community policing provide a solid foundation for achieving the goals of enhancing safety in our highest crime communities, keeping young people out of the criminal justice system, and increasing trust and confidence in law enforcement. To fully achieve these goals, we must build on that foundation by continuing support for community policing, expanding community justice into other areas, such as community prosecution, and promoting comprehensive, multi-faceted efforts to strengthen our most troubled communities and prevent crime.

In the balance of this chapter I offer a workplan to guide us all in our efforts. Let me first highlight the centerpiece for renewed federal leadership, which focuses on the severe problems facing our highest crime communities.

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**CENTERPIECE OF THE FEDERAL WORKPLAN:
THE COMMUNITY JUSTICE "HOT SPOTS" INITIATIVE**

In order to reduce and prevent crime in our highest crime communities, I propose a **Community Justice "Hot Spots" Initiative** -- a comprehensive community policing and crime prevention initiative targeted to neighborhoods of concentrated disadvantage, social disorder, and high crime rates. Like multiple fire hoses aimed at the center of a blaze, this Initiative will target proven community safety efforts into a single stream aimed at crime hot spots. For communities willing to tackle conditions in their highest crime neighborhoods:

- The federal government will target funds from a number of key criminal justice programs, including our 21st Century Policing Initiative, which will build upon our community policing initiative and support more police and other resources for

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the areas that need them most.

- To be eligible for this pool of targeted funds, communities will be required to bring together relevant actors (federal, state, and local; public and private; law enforcement and other services; and most important, concerned citizens and community leaders) and develop a coordinated, comprehensive plan aimed at preventing crime in high-crime neighborhoods.
- The community plans will promote accountability by setting concrete goals for reducing crime, reducing fear of crime, increasing confidence and trust in law enforcement, and more. Continued federal support from the targeted pool would be tied to progress.

With this new and revitalized “Hot Spots” support, communities will implement comprehensive plans aimed at high-crime areas and designed to (1) enhance law enforcement and establish community policing, (2) rebuild community infrastructure, and (3) initiate proven prevention programs aimed at young people, such as mentoring and after-school programs. I cannot stress this third element enough. Just as overcoming disparities in educational achievement requires taking action in early childhood and elementary education, preventing crime by teens and young adults requires taking action early in their lives to increase community supervision, provide adult support, and build a sense of opportunity. Finally, these comprehensive public safety plans should go hand-in-hand with other community and economic development programs aimed at our most distressed communities. The “Hot Spots” Initiative will, therefore, give preference to community plans that promote economic development by including business, education, and other sectors as partners.

Many strategies show promise for reducing crime in our highest crime communities. But program evaluations to date have been weak, and no one has all the answers. The “Hot Spots” Initiative, therefore, is designed to be flexible and to support innovative local approaches to reducing crime. All community plans must, however, include comprehensive evaluation mechanisms, and those evaluations must show positive results to receive continued federal support.

By focusing the resources of many programs and many actors on the concentrated problems facing our highest crime neighborhoods, we can vastly improve public safety, and we can do so in a way that helps keep young people out of crime and builds confidence and trust in our criminal justice system as well.

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A WORKPLAN FOR THE NATION

The nation's agenda in criminal justice focuses on both decreasing crime and improving the administration of justice. To Build One America, we must:

- Ensure public safety in our highest crime communities;
- Keep young people out of crime and the criminal justice system; and
- Build fairness and trust in our criminal justice system across racial lines.

As indicated above, these agenda items are greatly interrelated. We cannot, for example, enhance public safety in our highest crime communities without implementing proven crime prevention programs aimed at youth or without improving relations between citizens of color and law enforcement. I believe it is useful, however, to disaggregate these goals to focus more concretely on what we need to do to achieve each of them. [A text box will summarize administration policy downpayments on the elements of this workplan.]

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ENSURING PUBLIC SAFETY IN OUR HIGHEST CRIME COMMUNITIES

Today, crime rates are dropping across the nation and for all racial groups. Nonetheless, crime remains unacceptably high in a small number of deeply poor, socially disorganized communities, the vast majority of which are minority communities. These high-crime areas are concentrated in urban centers, but exist in other areas, such as parts of Indian country, as well... The Community Justice "Hot Spots" Initiative, described above, represents a new commitment to increasing public safety in those high-crime communities. Whether as part of that Initiative or otherwise, there are several important, interrelated actions we must take in our highest crime communities to make them safe communities in which parents can raise their children, businesses can invest with confidence, and all law-abiding citizens can enjoy the simple pleasures of life free from crime and fear of crime. Americans of all races deserve no less.

- ***Enhance targeted law enforcement and address the problems of gangs, guns, and drugs***

Research confirms that increased law enforcement can help prevent crime, and these

returns can be greatest in our highest crime communities.²² According to a recent study, "each additional police officer assigned to a big city prevents six times as many serious crimes each year as an officer assigned nationally by population."²³ But to be most effective, increased law enforcement must be aimed at the right places and factors.

Crime is largely a concentrated phenomenon. Even within our highest crime areas, the vast majority of crime occurs in relatively few places and at relatively few times. For example, studies have shown that as little as 3 percent of all street addresses can account for as much as 50 percent of the crime in a given community.²⁴ This in part reflects a concentration of crime in some places. These "hot spots within hot spots" may include buildings, parks, or street corners that serve as harbors for criminal activity. We must take action to enhance targeted law enforcement within our highest crime communities. Federal, state, and local governments must work together to identify high-crime places through computer mapping and to increase police patrols at those high-crime places at high-crime times... Importantly, research shows that enhancing such targeted law enforcement does not simply displace crime, but actually reduces crime. [We could add something about nuisance abatement and/or other strategies to address the conditions of high-crime places themselves. We should also add language about the lack of police resources in Indian country.]

In addition, whatever unique problems exist in a given high-crime community, two problems that are likely pervasive (and that remain widespread national problems as well) are guns and drugs. Indeed, much of the problem of violent crime in our highest crime communities likely emanates from the overlap of guns and drugs. Alfred Blumstein and other noted criminologists postulate that the rise in violent crime in our highest crime communities during the 1980s was the result of a rise in gun violence among youth caused by the emergence of crack cocaine. According to Professor Blumstein:

[C]rack arrived in the mid-1980s, initially in the larger cities, and spread from there to the

²² Lawrence Sherman, *Policing for Crime Prevention*, in Preventing Crime: What Works, What Doesn't, What's Promising, U.S. Department of Justice, Office of Justice Programs Report prepared by the University of Maryland Department of Criminology and Criminal Justice, 8-9 to 8-10 (1997).

²³ *Id.* at 8-37; Thomas B. Marvell and Carlisle E. Moody, *Specification Problems, Police Levels and Crime Rates*, in *Criminology* 34:609-46 (1996). [?]

²⁴ *E.g.*, Lawrence Sherman, Patrick R. Gartin, and Michael E. Buerger, *Hot Spots of Predatory Crime: Routine Activities and the Criminology of Place*, in *Criminology* 27-55 (Volume 27, 1989). [?]

smaller cities. Because crack required many more sellers to meet the increased demand (composed of many more buyers and with more transactions per buyer) there was major recruitment of young minorities to serve in that role. They were carrying valuable property -- drugs or the proceeds from the sale of those drugs -- and so they had to take steps to protect themselves from robbery. Because they were dealing in an illegal market, they could not call the police if someone tried to steal their valuables. Their self-protection involved carrying handguns. Because young men are tightly networked and highly imitative, their colleagues --- even those not involved in selling drugs -- armed themselves also, at least in part as a matter of self-protection against those who were armed. That led to an arms race in many inner-city neighborhoods.

It is widely recognized that violence has always been part of teenage males' dispute resolution repertoire, but that has typically involved fights, the consequences of which were usually no more serious than a bloody nose. The lethality of the ubiquitous guns contributed in a major way to the doubling of the homicide rate by (and of) those 18 and under.²⁵

One important lesson from this theory is that guns do kill people, especially young people of color in our most disadvantaged communities. In places where community supervision is limited, many young people are armed, and gangs exert great influence, disputes are more likely to be "resolved" through gun violence. Nearly half of all murders committed in the United States each year are committed by persons under 24 years old with guns.²⁶ In the words of criminologists Philip Cook and Mark Moore, "There are very few drive-by knifings, or people killed accidentally by stray fists."²⁷ We must take action to stop gun violence and to keep guns out of the hands of those who should not have them, including convicted felons and juveniles. Promising approaches include increased seizures of illegally carried guns at crime hot spots, "tracing" of guns seized in crime to crackdown on illegal gun sales, and Brady Act background checks to prevent gun purchases by convicted felons and others prohibited from buying guns.

In addition, we must crackdown on gang activity. Today, there are an estimated 23,000 gangs with 665,000 members in 2000 jurisdictions across the country, and there is evidence that

²⁵ Alfred Blumstein, *The Context of Recent Changes in Crime Rates*, in What Can the Federal Government Do To Decrease Crime and Revitalize Communities, U.S. Department of Justice, Executive Office for Weed and Seed report, 15 (January 1998).

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²⁷ Philip J. Cook and Mark H. Moore, *Gun Control*, in Crime, James Q. Wilson and Joan Petersilia, eds., 273 (1995).

these numbers are growing.²⁸ Research shows that gang members account for a high percentage of crime in our highest crime communities and that gang membership itself encourages criminal activity.²⁹ We must prevent and reduce gang membership and

TEXT BOX
The Boston Gun Project

crime. In large part, this means increasing support for proven prevention programs aimed at our young people. [Lawrence Sherman, Malcolm Klein, and other criminologists suggest that we don't know much about how to reduce gang activity. We are continuing to explore this.] Simply put, we must draw the line against gang and gun violence in our highest crime communities. By doing so, we can reduce crime and save lives. For example, in Boston, law enforcement and community leaders came together in 1996 and made clear to gang members that any gun violence by any gang member would be met with a massive, comprehensive crackdown against all members of the gang. The result was an immediate decline in the number of juvenile homicides in Boston to zero for two consecutive years... [We could tell a more complete story about Boston here or in a text box. We are exploring this.]

Finally, while the use of some drugs, including crack cocaine, is decreasing in many places, the percentage of persons who commit crimes under the influence of drugs is increasing, and drug markets continue to threaten order in our highest crime communities.³⁰ We must take action to reduce drug use and illicit drug markets. However, we must also acknowledge that the war on drugs has had a disproportionate, negative impact on persons of color, and we cannot allow the war on drugs to be a war on minority persons or communities. In large part, this means promoting a renewed focus on prevention and treatment and promoting greater fairness in our drug laws. (I will say more on these issues below with regard to both keeping youth out of the criminal justice system and building trust in the criminal justice system.) [Does this work?]

- ***Engage the community and establish community policing***

While increasing law enforcement can help reduce crime in our highest crime communities, it must be the right kind of law enforcement done in the right way. Most importantly, it is essential that the community itself be fully engaged in both the development and implementation of any new public safety effort. Without full community involvement and

²⁸ J.P. Moore, The 1995 Youth Gang Survey, Report to the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Programs (1996). [?]

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support, any targeted law enforcement effort is likely to be perceived not as comprehensive community building but as a full-scale assault in which police and other governmental entities assail select minority neighborhoods. Rather than increasing public safety, such an effort could increase mistrust of law enforcement, which would likely reduce the effectiveness of law enforcement. Research shows that increasing police legitimacy in the eyes of the community not only reduces tensions, but can also help prevent crime.³¹ Building police legitimacy requires training police and citizens on how to interact effectively, with mutual respect, and building lines of communication through community meetings and other mechanisms. (I will say more on these issues below with regard to building confidence and trust in the criminal justice system.)

The community must also be fully engaged because each community's crime problem is, at some level, unique, and the law-abiding citizens of each community are the best resource for understanding how crime and fear of crime manifest themselves in that community. Partnerships between law enforcement and the community are, therefore, essential for solving community problems and, thereby, reducing crime. This is the heart of community policing. As described above, we must take action to establish community policing in our highest crime communities to help restore order, solve community problems, and improve relations between citizens and law enforcement. Since 1993, the number of communities implementing community policing has increased from hundreds to more than 9000. In 1998, we took action at the federal level to target community policing resources to our highest need cities, and (as discussed above) I propose to target future federal community policing resources, including funds to support 50,000 new police officers, to our highest crime areas as well.

Evidence shows that the expansion of community policing has contributed greatly to the decrease in crime across our nation and to better police-community relations. For example, Chicago's Alternative Policing Strategy (CAPS) seeks to identify and resolve problems of crime at the neighborhood level by putting more police on the street, training police and citizens in problem solving and partnership building, and holding hundreds of community meetings each month around the city at which thousands of Chicagoans interact with their community policing officers. Evaluations of CAPS show that the effort has been successful in reducing crime, reducing fear of crime, and improving relations between citizens and law enforcement...³²

TEXT BOX
Chicago's Alternative Policing Strategy (CAPS):
Cleaning Up Gill Park

³¹ See Sherman, *supra* note __, at 8-26; Tom Tyler, *Why People Obey the Law* (1990). [?]

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- ***Build community infrastructure and promote economic development***

While law enforcement is important, crime prevention in most communities is a consequence not only of law enforcement or any government action, but is primarily based on the strength of the community itself. "Each person's bonds to family, community, school and work create what criminologists call 'informal social control,' the pressures to conform to the law that have little to do with the threat of punishment. Informal controls threaten something that may be far more fearsome than simply life in prison: shame and disgrace in the eyes of other people you depend upon."³³ Emerging research shows that crime rates in communities are related to what is called in the literature "collective efficacy," which simply means the degree of social cohesion in a community -- the extent to which neighbors know, trust, and look out for one another. The greater the collective efficacy in a community, the lower the crime rates.³⁴ Thus, it is essential that formal law enforcement efforts be fully aligned with and support community based efforts that seek to promote and leverage informal social controls -- from parent-teacher associations to neighborhood watch programs.

However, the communities with the highest crime rates not surprisingly have the worst social conditions for preventing crime. These conditions include pervasive unemployment, family disruption, and residential instability. For example, despite our booming economy, some communities, most of which are minority communities, face unemployment rates as high as 80 percent,³⁵ and half of all black children today are raised in single-parent households.³⁶ In addition, high-crime neighborhoods suffer from so-called community disorder, which refers to the sense of lawlessness that pervades many high-poverty, minority communities. According to Wesley Skogan:

³³ Lawrence W. Sherman, *Thinking About Crime Prevention in Preventing Crime: What Works, What Doesn't, What's Promising 2-7*, U.S. Department of Justice, Office of Justice Programs Report prepared by the University of Maryland Department of Criminology and Criminal Justice (1997).

³⁴ Robert J. Sampson, Stephen W. Raudenbush, Felton Earls, *Neighborhoods and Violent Crime: A Multilevel Study of Collective Efficacy*, in *Science*, Vol. 277, 918-24 (August 15, 1997).

³⁵ William Julius Wilson, *When Work Disappears: The World of the New Urban Poor* 19 (1996). (?)

³⁶ Joseph P. Tierney, Jean Baldwin Rossman, and Nancy L. Resch, *Making a Difference: An Impact Study of Big Brothers/Big Sisters*, Public/Private Ventures (1995). (?)

Disorder is evident in the widespread appearance of junk and trash in vacant lots; it is evident, too, in decaying homes, boarded-up buildings, the vandalism of public and private property, graffiti, and stripped and abandoned cars in streets and alleys. It is signaled by bands of teenagers congregating on street corners, by the presence of prostitutes and panhandlers, by public drinking, the verbal harassment of women, and open gambling and drug use. What these conditions have in common is that they signal a breakdown of local social order. Communities beset by disorder can no longer expect people to act in a civil fashion in public places. . .

Researchers have found that perceptions of disorder have many ill effects on urban neighborhoods. Disorder not only sparks concern and fear of crime among neighborhood residents; it may actually increase the level of serious crime. Disorder erodes what control neighborhood residents can maintain over local events and conditions. It drives out those for whom stable community life is important, and discourages people with similar values from moving in. It threatens house prices and discourages investment. In short, disorder is an instrument of destabilization and neighborhood decline.³⁷

³⁷ Wesley G. Skogan, *Disorder and Decline: Crime and the Spiral Decay in American Neighborhoods* 2-3 (1990). Several years ago, James Q. Wilson and George Kelling published a revolutionary article explaining how community disorder is likely related to crime:

[I]f a window in a building is broken and is left unrepaired, all the rest of the windows will soon be broken. This is as true in nice neighborhoods as in rundown ones. Window-breaking does not necessarily occur on a large scale because some areas are inhabited by determined window-breakers whereas others are populated by window-lovers; rather, one unrepaired broken window is a signal that no one cares, and so breaking more windows costs nothing. . .

We suggest that "untended" behavior also leads to the breakdown of community controls. A stable neighborhood of families who care for their homes, mind each other's children, and confidently frown on unwanted intruders can change, in a few years or even a few months, to an inhospitable and frightening jungle. A piece of property is abandoned, weeds grow up, a window is smashed. Adults stop scolding rowdy children; the children, emboldened, become more rowdy. Families move out, unattached adults move in. Teenagers gather in front of the corner store. The merchant asks them to move; they refuse. Fights occur. Litter accumulates. People start drinking in front of the grocer; in time, and inebriate slumps to the sidewalk and is allowed to sleep it off. Pedestrians are approached by panhandlers.

In short, concentrated disadvantage and community disorder greatly reduce collective efficacy and, thereby, promote crime in our highest crime communities. We can and must take action to rebuild community infrastructure and increase collective efficacy. One simple key is to get organizations involved. Stable community organizations can and must reach into high-crime neighborhoods, encourage civic participation, and build a foundation of community support...³⁸ [Wesley Skogan and others have presented research that shows limited success for these types of interventions, but Chicago and others have had more recent success. We are following up.] Furthermore, the community can be an essential partner in helping to restore order in high-crime communities by cleaning up areas and promoting positive activities for youth. Indeed, these roles might be more appropriate and successful ones for citizens and organizations than a more traditional law enforcement role... Finally, we must promote economic development to overcome the concentrated disadvantage that plagues many high-crime communities... [We will briefly reference policy and bully pulpit actions in the economic development section of the workplan regarding job training, business investment, etc.]

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KEEPING YOUNG PEOPLE OUT OF CRIME AND THE CRIMINAL JUSTICE SYSTEM

After increasing dramatically for nearly a decade, juvenile crime has been decreasing rapidly for the last few years at rates even greater than adult crime. However, too many children are still falling prey to crime, as either offenders or victims. And kids who commit crime are

James Q. Wilson and George L. Kelling, *Broken Windows: The Police and Neighborhood Safety*, in *Atlantic Monthly* (March 1982).

At this point, it is not inevitable that serious crime will flourish or violent attacks on strangers will occur. But many residents will think that crime, especially violent crime, is on the rise, and they will modify their behavior accordingly. They will use the streets less often, and when on the streets, will stay apart from their fellows, moving with averted eyes, silent lips, and hurried steps. "Don't get involved." . . . Such an area is vulnerable to criminal invasion.

³⁸ Wesley Skogan, *The Community's Role in Community Policing, in Communities: Mobilizing Against Crime, Making Partnerships Work*, U.S. Department of Justice, National Institute of Justice Journal, 34 (August 1996).

significantly more likely to become adults who commit crime.³⁹ There are nearly 3 million juvenile arrests across the nation each year, and children of color are overrepresented in those arrests and at every stage in the juvenile justice process.⁴⁰ For example, minority youth constitute approximately 32 percent of the juvenile population, but they represent 68 percent of the juvenile population in detention.⁴¹ Black youth constitute approximately 15 percent of the juvenile population, but blacks alone account for 26 percent of juvenile arrests, 32 percent of delinquency referrals to juvenile court, 41 percent of juveniles detained in delinquency cases, 46 percent of juveniles in correctional institutions, and 52 percent of juveniles transferred to adult criminal court after judicial proceedings.⁴²

In part, these figures raise serious concerns about the fairness of the juvenile justice system (which I discuss below in the context of building fairness and trust in the criminal justice system). But they also reflect disparities in criminal offending and the need for greater efforts to keep our young people, especially young males of color, out of crime and the criminal justice system. Once again, research suggests that racial disparities in criminal offending among youth are closely tied to factors such as concentrated poverty, family disruption, and residential instability that plague many communities in which children of color are raised.⁴³ Controlling for those factors, juvenile offending rates do not differ significantly by race.⁴⁴ Therefore, supporting efforts in our highest crime communities, described above, to increase law enforcement, enhance community policing, rebuild collective efficacy, and promote economic development will help reduce and prevent youth crime. However, in addition to and as part of those efforts, we must also renew our commitment to prevention and treatment programs aimed directly at youth and young adults to ensure that our children have every chance to succeed in life rather than getting caught up in a life of crime.

³⁹ See Peter W. Greenwood, *Juvenile Crime and Juvenile Justice*, in Crime, James Q. Wilson and Joan Petersilia, eds., 98-99 (1995).

⁴⁰ *Id.* at 17.

⁴¹ *Id.* at 32.

⁴² [OJJDP summary...]

⁴³ Darnell F. Hawkins, John H. Laub, and Janet L. Lauritsen, *Race, Ethnicity, and Serious Juvenile Offending*, in *Serious and Violent Juvenile Offenders: Risk Factors and Successful Interventions*, 39-43, Rolf Loeber and David P. Farrington, eds. (1998).

⁴⁴ *Id.* at 42.

- ***Prevent crime by supporting young people***

Several strategies show evidence of success at keeping young people out of crime and the criminal justice system and would likely have a disproportionately positive effect on young people of color. Implementing those strategies successfully will require the support and participation of families, schools, and communities... At the federal, we launched in 1998 a Values-Based Violence Prevention Initiative to support community-based efforts led by civic and religious organizations and designed to target the problems facing young people, including youth violence, truancy, and gangs. I believe these efforts show great promise, and we must do more at all levels of government and, most importantly, in communities to expand such efforts. [We will add additional information regarding successful youth crime prevention efforts, including more on the experiences in Boston and/or Houston.]

First, as reported in the education section of this chapter, emerging evidence shows that early childhood and family support programs can help reduce criminal activity years and even decades later. The Perry Preschool project in Michigan, for example, provided early childhood education and in-home family support for low-income, black children ages 3-5 and their families. Children who participated in the project were found to be less than one fourth as likely to become involved in crime by age 24 as children who did not participate in the program.⁴⁵ [We will check on the status of this project?] Similar programs have also been found to reduce child abuse, which is a great evil in itself and a risk factor for future child delinquency and adult criminality.⁴⁶ We must increase support for early childhood development, family support, and quality pre-school programs to reduce juvenile delinquency and increase educational achievement.

Second, after-school programs can help reduce delinquent activity. Data show that juvenile crime peaks sharply at 3 p.m., just as school lets out, and remains high until approximately 8 p.m.⁴⁷ It is during these hours of 3 p.m. to 8 p.m. that our kids are often on their own and most likely to fall prey to gangs, drugs, and/or crime. By keeping schools open to serve

⁴⁵ J. Berrueta-Clement et al., *Changed Lives: The Effects of the Perry Preschool Program on Youths through Age 19* (1984); Lawrence Sherman, *Family-Based Crime Prevention, in Preventing Crime: What Works, What Doesn't, What's Promising*, U.S. Department of Justice, Office of Justice Programs Report prepared by the University of Maryland Department of Criminology and Criminal Justice 4-10 to 4-15 (1997); James F. Short, Jr., *Poverty, Ethnicity, and Violent Crime, 1998-99* (1997); Greenwood, *supra* note __, at 115.

⁴⁶ See Sherman, *supra* note __, at 4-1 to 4-15.

⁴⁷ *Juvenile Offenders and Victims*, *supra* note __, 26.

children and their families during these hours, we can provide our children with safe havens from crime, promote constructive activities, and develop educational and other skills...

Third, many young people get into trouble because they lack adult and/or community supervision. Mentoring programs can prevent juvenile crime by providing that supervision and vital support. For example, a recent study of the Big Brothers and Big Sisters of America program, which has existed for more than 90 years, found that children participating in the program, 60 percent of whom were children of color, were significantly less likely to use drugs or alcohol, get into fights, or skip school than kids who did not participate in the program.⁴⁸ If we are going to prevent our young people from getting involved in gangs and crime, more Americans must get involved in the lives of our young people as mentors.

- ***Reduce recidivism by promoting alternative punishments for good kids who get in trouble***

Rates of criminal recidivism among juveniles and adults are astounding. Data show that the majority of adult prisoners released from state prison are rearrested within 3 years, and these recidivism rates are highest for persons of color...⁴⁹ [We will add data on juvenile recidivism rates.] For some violent juvenile and young adult offenders, arrest and incarceration is necessary, justified, and effective... However, in many instances and many ways, we can do more to intervene in the lives of young people who commit crimes or delinquent acts and help them and their families turn their lives around. Once again, several strategies have shown signs of success.

First among these strategies are youth, gun, and drug courts, as well as drug treatment more generally. These courts provide alternative interventions for non-violent youth offenders and offer treatment and other services as long as those offenders stay out of further trouble. Drug courts have become particularly important, both for children and adults. Data show that the majority of all crime is committed under the influence of drugs, including alcohol.⁵⁰ Drug courts and related treatment strategies can help reduce recidivism by offering first-time, non-violent offenders drug treatment, but requiring consistent drug testing and exacting immediate sanctions for failing a drug test.

⁴⁸ Jean Baldwin Grossman and Eileen M. Garry, *Mentoring -- A Proven Delinquency Prevention Strategy*, U.S. Department of Justice Juvenile Justice Bulletin (April 1997); Sherman, *supra* note __, at 3-20 to 3-26.

⁴⁹ [BJS data summary, 22.]

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Too many Americans, and particularly too many Americans of color, are presently incarcerated for drug offenses or for offenses committed under the influence of drugs while not getting the treatment they need to overcome their addictions. In fact, the majority of all state and federal prisoners were under the influence of drugs or alcohol at the time of their arrests, yet only 12 percent have ever received any form of treatment.⁵¹ Drug treatment is humane and cost-effective and must be given a more prominent place in our criminal justice system...

Second, programs that work with parents and families in the home to deal with delinquent youth have shown signs of success at preventing future delinquency, and at much lower costs than out-of-home placements. These programs provide family counseling and other assistance to disengage troubled kids from factors that lead to crime, such as gangs... In one study, 22 percent of youth who participated in such a program were arrested again within 4 years compared to 87 percent of youth who did not participate.⁵² [This is apparently called "Multisystemic Therapy." We are continuing to learn more.]

Third, programs that promote what is called "restorative justice" can help reduce repeat offending. Restorative justice holds youth offenders responsible for their delinquent acts to both their victims and communities. Delinquent youth are required to make restitution and perform community service, but they are also given adult mentoring and employment training. Studies indicate that such programs can reduce recidivism and strengthen community values.⁵³ In addition, both offenders and victims who participate in restorative justice report greater respect for the criminal justice system, which also reduces criminal offending...⁵⁴ [Again, we are still exploring this.]

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BUILDING FAIRNESS AND TRUST IN OUR CRIMINAL JUSTICE SYSTEM ACROSS RACIAL LINES

There is no more fundamental tenet of our governmental system than the entitlement of every person, inscribed in our Constitution, to equal protection under the law. That seemingly simple notion means many things in many contexts. But at its heart, it means that the state shall

⁵¹ Christopher J. Mumola, *Substance Abuse and Treatment, State and Federal Prisoners, 1997*, U.S. Department of Justice, Bureau of Justice Statistics, 1 (December 1998).

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not without compelling reason treat people differently because of such factors as race, color, or national origin. The criminal justice system is the most powerful domestic arm of the state. It has the power to restrict individual freedom and, in extreme cases, even to take human life. With that power comes the great responsibility and obligation to implement our laws fairly and justly.

Today, persons of color continue to have less confidence and trust in our criminal justice system than whites. In a recent poll, for example, a majority of blacks said they believe that the criminal justice system is biased against them.⁵⁵ [Add more examples here, such as the differing reactions to the O.J. Simpson verdict and/or the growing debate over jury nullification.] These perceptions are based on a number of experiences, incidents, and policies that lead some law-abiding persons of color to believe that they are likely to be targeted or threatened by law enforcement for no reason other than the color of their skin.

For white Americans, it is difficult but important to fully understand what this means. Recently, the brother of a young, black member of my staff got his driver's license. But, as my staff member explained to me, before his brother was allowed to drive, his parents would have to have "the talk" with him. I wasn't sure what that meant. "The talk" in this case was that when (not if, but when) the young man is stopped by the police for no reason other than the color of his skin, he is to hide his frustration and anger so that an upsetting situation does not escalate into a dangerous one. Two United States attorneys who are African American talked at a recent Department of Justice conference about having similar conversations with their own children.⁵⁶ That is a talk that most white parents do not have to have with their children. And it is a talk that no American family should have to have.

The lack of trust and confidence in our criminal justice system among persons of color is not only morally disconcerting, it also limits the effectiveness of law enforcement, and may even promote crime. Recent studies show that persons are more likely to obey the law when they believe the law and its officers are legitimate, and when they are treated with respect. One study in Milwaukee, for example, found that persons arrested for domestic violence who believed they were treated fairly by law enforcement officials in their interactions were significantly less likely to commit another act of domestic violence compared to those who believed they were treated unfairly.⁵⁷ A similar study found that persons who perceived that police treated them fairly in

⁵⁵ Gallup Poll Monthly (1995) (*cited in* Randall Kennedy, Overview of Racial Trends in the Administration of Criminal Justice, Draft paper submitted to NAS/NRC conference (1998)).

⁵⁶[Confirm this]

⁵⁷ Raymond Paternoster et al., *Do Fair Procedures Matter? The Effect of Procedural Justice on Spouse Assault*, in _____, 163-204 (199_).

their interactions (such as when they were stopped by the police for traffic offenses) were less likely to commit minor crimes (such as parking violations or petty theft).⁵⁸ While the studies may not put the social science question to rest, these troubling results are in a way unsurprising. The fact is that we are all more likely to obey rules, respect authority, and feel like members of a community when we believe that the rules are legitimate, the authority treats us fairly, and the community respects our concerns.

We must take action to build the same levels of confidence and trust in our criminal justice system among persons of color that other Americans have. In no small part, this means improving relations between law enforcement and minority communities. Community policing can play an important role here by establishing stronger lines of communication -- through community meetings, door-to-door visits, and more -- and by building partnerships between citizens and law enforcement. In addition, we must do a better job of training law enforcement officials in how to interact effectively with citizens of all races. Finally, we must address several important and difficult issues underlying the present racial gap in trust and confidence in our criminal justice system, including such issues as racial profiling, police brutality, disparities in incarceration rates and sentencing, and the lack of diversity in law enforcement. It is to those issues that I now turn.

- ***Restrict racial profiling***

“Racial profiling” refers to the use of race, color, or ethnicity by law enforcement as a factor in identifying criminal suspects. Studies as well as individual cases indicate, for example, that law enforcement officials are often more likely to stop motorists who appear black or Hispanic for traffic violations, to search black motorists for drugs following a stop, and to question Hispanic persons about their immigration status. Let me be clear: This is not about the use of race as the sole factor in identifying criminal suspects, which is quite clearly unlawful. Furthermore, this is not about the use of race as one of several identifying characteristics of a specific criminal suspect; most of us would agree that if a robbery victim provides a good description, including race, police should not be “color blind” in their search. The question here is, “Should police be able to use race as a proxy for an increased risk that people of a given racial background have engaged in or are about to engage in criminal misconduct?”⁵⁹ For example, a police officer sees two young men on a street corner at night engage in a very quick transaction in which cash is exchanged for some small object that the officer thinks may be

⁵⁸ Tyler, *supra* note __, at __. [?]

⁵⁹ Randall Kennedy, Race, Police, and “Reasonable Suspicion,” Speech at the Department of Justice, National Institute of Justice (1998).

drugs. Should the officer be any more or less likely to stop and question the young men if they are black or white or Hispanic or Asian Pacific American or American Indian or all of the above? And what should our policy be?

The Advisory Board on Race summarized this issue well in its final report:

Some in law enforcement may see racial profiling as a necessary, legitimate practice given limited law enforcement resources and evidence of racial disparities in criminal behavior. . . . But racial profiling also imposes costs on innocent persons, perpetuates and reinforces stereotypes, creates situations that can lead to physical confrontations, and contributes to tensions between persons of color and the criminal justice system.⁶⁰

Not only is racial profiling fueled by negative stereotypes and inconsistent with our fundamental belief in equal protection under the law, it is also simply bad policy that hinders effective law enforcement. As Attorney General Janet Reno said at a recent Department of Justice sponsored conference on police stops and searches:

First, I begin with the fact that traffic stops and searches are a vital tool for effective law enforcement. . . . At the same time, we agree that traffic stops must be conducted in a manner that ensures fairness and nondiscrimination. As I have said before, it is wrong to assume that members of one race or ethnic group are more prone to criminal behavior than any other. Reliance on such racial stereotypes is as wrong in law enforcement as it is in other endeavors. And this includes situations where law enforcement officers improperly use race to target individuals for a traffic stop, a pedestrian stop or a request for consent to search, in the absence of information about a specific suspect or other special circumstances. . . .

I don't view these twin goals as inconsistent. They are complementary. Without the trust of the community in which the police operate, our law enforcement efforts simply cannot be effective. And the subject of racial profiling, as I know you are all aware, is one that has galvanized many communities. The perception that law enforcement stops are biased has a corrosive effect on our ability to protect and to serve the very communities where effective law enforcement is

⁶⁰ Advisory Board on Race, *supra* note __, at 82.

often most needed.⁶¹

I believe we must take action at all levels of government to restrict the use of racial profiling. We can start by ensuring that all levels of law enforcement develop and explain clear policies concerning racial profiling. At the federal level, I have instructed the Attorney General to prepare an Executive Order for my signature that will establish policy throughout all of federal law enforcement, and provide an example to state and local jurisdictions that have no policy. That order will prohibit the use of race or ethnicity as a factor for general screening of the population in virtually all contexts, and create safeguards whenever exceptions are warranted. [Insert Text Box on Executive Order on Racial Profiling.] Second, we must promote greater training for law enforcement officers on how to avoid acting based on improper racial stereotypes and how to interact fairly and constructively with citizens of all races in ways that de-escalate situations and build trust. The Department of Justice is working on this at the national level, and many local jurisdictions have already tackled this challenge. [Insert Text Box example of a police department's training efforts.] Third, we must improve data collection so that we know the extent to which persons of color are being inappropriately targeted by law enforcement and can take steps to restrict such actions. Congressman John Conyers has proposed legislation to accomplish this, which I support.⁶² Indeed, the legislation should be broadened to ensure we have adequate data to monitor several aspects of fairness in the administration of justice.

Finally, we must enhance civil rights enforcement to correct situations in which persons of color are being inappropriately targeted by law enforcement. Currently, for example... [Describe a current DOJ Civil Rights Division case on this issue, in human terms.]

- ***Eliminate police brutality***

Of all the issues of race in the administration of justice, none looms larger than the issue of police brutality. We all know many of the most egregious incidents, from Rodney King to Abner Louima. We have all read the headlines: "New York Police Officer Accused of Brutalizing Haitian Immigrant." We have also lived through the community violence and racial unrest that such incidents can spark. But what we must understand is that to many persons of color, incidents of police brutality are more than just discrete, horrific acts, they are seen as harbingers of what could happen to them if they are caught in the wrong place at the wrong time with the wrong kind of "officer." That lack of trust is a reality.

⁶¹ *Attorney General Janet Reno*, Remarks for problem solving group on law enforcement stops and searches (December 8, 1998). [This was the prepared text.][?]

⁶² [Cite to Conyers legislation on data collection on race and administration of justice.]

But there is another reality. Most police officers are, quite simply, heroes who do an extremely difficult job with fairness, honor, and skill. Furthermore, most officers abhor the improper use of force because it hurts their legitimacy, makes their jobs more difficult and, most importantly, is inconsistent with their responsibility to enforce the law. When we take action against police brutality, we are not taking action against our law enforcement officers, we are taking action to support good law enforcement and to protect all citizens from crime. Simply put, police brutality is a violent crime made more vile by the fact that it is committed under the supposed authority of the state, by officers who are sworn "to protect and to serve," and sometimes appears, when it does occur, to be motivated by racial or ethnic prejudice.

Two points here: First, we know too little about police use of excessive force. As of 1994, federal law requires the U.S. Department of Justice to collect and analyze data on excessive use of force. A preliminary report, for example, suggests that police use of force against anyone is infrequent (occurring in approximately 1 percent of police-citizen encounters), but that a disproportionate number of these incidents involve persons of color.⁶³ This preliminary study is very limited, and the Bureau of Justice Statistics is conducting a more comprehensive analysis. What is clear is that all levels of government can do a much better job monitoring police use of force and communicating to police and citizens that excessive use of force is unacceptable and will be punished. That is what both professionalism and fairness require.

But apart from the need for better monitoring and information, we must acknowledge excessive use of force against persons of color still occurs. There are just too many examples, some horrific, to ignore the problem. Later in this book, I will challenge communities across the nation to formulate workplans to help achieve their vision of a healed, "opportunity community" in a just One America. I believe that any such community workplan must include a determined effort to root out police brutality and punish those who commit it.

I pledge whatever advice and assistance the wisdom and resources of the federal government can offer, because police brutality is corrosive to the trust so essential to community law enforcement. We know some of what works. Police leaders have found certain training to be helpful, including how to communicate across racial lines, how to de-escalate situations, and how to use force only in appropriate circumstances and in appropriate ways. It helps to have clear mechanisms for dealing with allegations of excessive use of force that include clear chains of management and independent review. And finally, federal and state prosecutors must be prepared to combat brutality through appropriate enforcement actions, because these are crimes in which the victims include the community and justice itself.

⁶³ U.S. Department of Justice, Bureau of Justice Statistics.

- ***Reduce disparities in incarceration rates and sentencing***

The racial disparities throughout the administration of justice raise legitimate and important questions about the fairness of the criminal justice system. For example, while persons of color make up less than one-third of our nation's population, they make up more than two-thirds of the state and federal prison populations.⁶⁴ Blacks account for 43 percent of arrests, 54 percent of convictions, and 59 percent of prison admissions for violent crime.⁶⁵ Moreover, America has a greater percentage of its citizens behind bars than any other nation in the world, except Russia.⁶⁶ These rates of imprisonment and racial disparities are disconcerting regardless of the cause and, as I have argued, we must take bolder steps to prevent crime and recidivism. However, in terms of fairness in the administration of justice, the key question is to what extent are present disparities caused by discrimination in the administration of justice. Most of us believe that discrimination is a very small factor, but some of our citizens feel otherwise. Still more of us believe that, even if there is not discrimination, there is some subtle role of racial difference and color that has stacked the deck.

The answer to the question of whether there is discrimination in the administration of justice should not be, "We don't *know* there is discrimination." The answer must be, "We know there is *not* discrimination, and we have processes in place to ensure that." Clearly, we're not there yet.

Having said that, the best available evidence indicates that most of the existing disparities in the administration of justice -- from arrest through sentencing -- are not due to discrimination, but are primarily due to underlying disparities in the commission of crimes: once the crime is committed, the rates of arrest, conviction and imprisonment do not seem to differ significantly by race. For example, a recent analysis by the U.S. General Accounting Office (GAO) compared racial differences in arrest rates for several violent crimes to data from a national survey of crime victims concerning the race of their assailants. GAO found no significant difference between the two, suggesting that controlling for criminal offending, arrest rates do not differ significantly by race.⁶⁷ In addition, a study by the U.S. Department of Justice, Bureau of Justice Statistics tracked more than 10,000 adult, felony defendants in the nation's 75 largest cities through all stages of

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⁶⁵ *Changing America*, *supra* note ___, at 57, Chart 5.

⁶⁶ [We are re-checking this.]

⁶⁷ See letter from Laurie E. Ekstrand, Associate Director, Administration of Justice Issues, General Accounting Office to the Honorable John Conyers (January 20, 1984).

the criminal justice process. The study, which focused on black and white defendants, found that the defendants were equally likely to be prosecuted and convicted, and received the same sentence regardless of race.⁶⁸

The fact is that every racial or ethnic group appears to have higher rates of offending than others groups with regard to at least some forms of crime.⁶⁹ But persons of color, especially young black and Hispanic males, appear to have higher rates of offending and repeat offending with regard to the crimes most likely to lead to incarceration, specifically violent crimes. Once again, these disproportionate rates of offending are closely related to the conditions of concentrated disadvantage and community disorder in which a disproportionate amount of minority children are raised

Finally, there are a few key areas in which disparities in the administration of justice raise immediate, greater concerns of discrimination. Racial disparities in drug arrests and sentencing are dramatic. In part, this is an unintended consequence of the war on drugs. Let me be clear: I believe that drugs, drug use, and especially drug trafficking should be unlawful and subject to punishment. Drugs destroy individuals, families, and communities, and threaten the strength of our nation. However, we cannot ignore the disproportionate impact that drug laws and enforcement have had on persons of color in America. While drug use is roughly equal across racial lines, blacks, for example, are approximately five times more likely than whites to be arrested for drug-related offenses. [This is old data, and we are getting newer data here, and trying to reconcile with above-cited GAO and BJS studies on disparities in arrests, etc..]

The war on drugs is a war *for* our communities and children, not a war against them. That is why I have urged increases in support for prevention and treatment. This also means making sure kids get the message on drugs, and we have launched at the federal level a \$200 million anti-drug media campaign to promote that message. However, this also means revising drug policies and practices that have an unjustified negative impact on persons of color. Chief among these is the present gap in sentencing for crack versus powder campaign. Under present federal

⁶⁸ See Patrick A. Langan, *No Racism in the Justice System*, in *The Public Interest* 48 (Fall 1994) (The study did find that blacks were more likely than whites to receive a prison sentence (though prison sentences were of equal length); however, that disparity appears to be explained largely by factors other than race... *Id.* at 50-51.)

⁶⁹ Sampson and Lauritsen, *supra* note __, at 326. For example, whites are overrepresented in sex offenses; Asian Pacific Americans are overrepresented in gambling offenses; American Indians are overrepresented in alcohol-related offenses; and blacks are overrepresented in robbery and other violent offenses.

law, possession of 5 grams of crack cocaine triggers a 5-year mandatory minimum sentence, the same sentence imposed for possessing 500 grams of powder cocaine, a 100:1 ratio. Black defendants comprise 86 percent of those convicted in federal court of crack cocaine offenses, compared with 35 percent of those convicted of powder cocaine offenses.⁷⁰ There are some legitimate justifications for treating crack cocaine offenses more harshly than powder cocaine offenses, but, as the Advisory Board on Race said in its final report, the disparate racial effect of the present policy and the racial division it engenders make the present 100:1 ratio "morally and intellectually indefensible." I believe we should, in effect, lower the sentence for crack cocaine while raising the sentence for powder cocaine to reduce the present sentencing disparity to 10:1 and, thereby, reduce the reality and perception of unfairness.

Second, racial disparities in the juvenile justice system are even greater than in the adult system and less clearly explained by legitimate factors. [There is a major DOJ initiative here under OJJDP requiring states to reduce disproportionate minority confinement of juveniles. But most plans appear to pursue this as a disparity issue, promoting better prevention programs for minority youth. We are still exploring this, but will discuss it either here or as part of the section on keeping youth out of crime and the administration of justice.]

Third, racial disparities in the death penalty have long been a concern... [What should we say about this?]

- ***Increase diversity in law enforcement***

Police and prosecutors, judges and jurors, are officers of our society empowered on behalf of all of us to enforce the laws and serve us all. Quite simply, they are likely to receive greater trust and confidence when all persons in society see themselves reflected in those officers. When it comes to diversity in law enforcement, we are, to some extent, caught in an unfortunate cycle. Increasing minority representation in law enforcement would likely increase trust in law enforcement among citizens of color. But the lack of trust and confidence in law enforcement among persons of color likely makes it more difficult to attract minority law enforcement officers.

We have made some important gains in diversifying law enforcement. In 1993, persons of color comprised 18 percent of all police officers in local police and sheriff's departments across the nation and 30 percent of all officers in larger cities. Since that time, our COPS initiative has helped fund nearly 100,000 additional police officers in communities across the nation. And one goal of that initiative has been to increase diversity in law enforcement.

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Furthermore, I am proud that, as President, I have appointed more persons of color as federal judges than any other President in our nation's history. We must continue this progress at all levels of government and in all segments of the criminal justice system.

CONCLUSION

All that we have talked about -- ensuring public safety, keeping young people out of crime, and guaranteeing fairness in the administration of justice -- is crucial to building One America. We can no longer ignore the crime and fear of crime that threatens some of our American communities and too many of our fellow citizens. Nor can we ignore the frustrations of many Americans of color who too often experience injustices at the hands of our criminal justice system.

But I do not think you can talk about crime in America, especially the proliferation of crime and violence among young people of color in deeply poor communities, without talking about the values and the lessons we teach our young people. A child's world view -- whether positive or negative -- is formed early in life, not only by the love or lack of love we show them, but also by the investments we make or don't make in their futures, the values and images we present them through the media, and the opportunity or lack of opportunity that surrounds them. We cannot be satisfied when some states spend more on prisons than education, or when America, the land of the free, has one of the highest incarceration rates in the world. Is it not more humane and cost effective to invest in our children at the front end of their lives -- in education, in prevention, in strong communities -- than to invest in them at the back end by building more and stronger prisons in which to warehouse them? We cannot talk about race and crime in America without talking about our commitment, as parents and as a nation, to embrace all children as our own and to give them something to say yes to.

PART IV: THE OPPORTUNITY WE DESERVE

[Introduction to Part IV] [Sections 1-3]

...

4. A CRIMINAL JUSTICE SYSTEM THAT SERVES ALL AMERICANS FULLY AND FAIRLY

INTRODUCTION

[Story...]

Some of our deepest and most complex challenges of race in America arise in the context of criminal justice... Today, crime rates are at their lowest levels in nearly 25 years. In the last five years, there has been an 18-percent drop in the rate of violent crime nationwide, including a 28-percent drop in the homicide rate, which is at its lowest level in 30 years.¹ Moreover, persons of color have experienced the sharpest decreases in crime victimization.² These are astonishing achievements. Nonetheless, as the Advisory Board on Race said in its final report, "Racial disparities persist in both the realities and perceptions of crime and the administration of justice."

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Despite recent, substantial decreases in criminal victimization across racial lines, persons of color remain significantly more likely than whites to be victims of crime, especially violent crime. For example, with regard to homicide rates, American Indians are more than twice as likely to be victims of homicide than whites or Asian Pacific Islanders; Hispanics are approximately 3 times more likely; and blacks are approximately 8 times more likely. The homicide rate for black males is 58 per 100,000, compared to 5 per 100,000 for white males, and homicide remains the leading cause of death for young, black and Hispanic males... Because most crime is intraracial, these disparities in victimization reflect disparities in criminal offending as well. Nine out of every 10 murders, for example, involve victims and offenders of

¹ U.S. Department of Justice, Federal Bureau of Investigation, *Crime in the United States* 1997 5-16 (November 1998).

² [DPC accomplishments document.]

this may
seem like
a dumb
suggestion
but
define this.

the same race.³ Nonetheless, whites commit a majority of all crime, including a majority of all violent crime. →

In large part, the fact that a greater proportion of minorities are likely to be victims of crime than whites is due to extremely high crime rates in a small number of poor, largely urban communities of color, with much of the crime being committed by and against young males of color. For example, nearly half of all homicides occur in only 47 of approximately 14,000 police jurisdictions. And crime rates remain high in parts of Indian country as well.

Why do these conditions exist? Studies show that the dramatically high crime rates in these communities are linked to a number of community factors, including extreme and pervasive poverty (including mass unemployment), widespread family disruption (including the predominance of single-parent households), and frequent residential turnover. Together, these factors result in concentrated disadvantage and the destruction of community cohesiveness and order. Young people congregating in these communities have limited legitimate opportunities, few role models, and little community supervision. Add to these conditions the proliferation of guns and illegal drug markets, and the result is high rates of crime among youth and young adults. These factors of poverty, family disruption, and residential instability are not excuses for crime; they are explanations for why crime has taken hold in some communities. Absent these factors, rates of criminal offending and victimization do not differ significantly by race, but all of the communities in which these conditions exist together are communities of color.

The costs of crime in these minority communities are dramatic. In addition to the direct costs to crime victims and their families, the high crime rates in these communities have substantial psychological, social, and economic costs for the other law-abiding citizens who live there. We must not forget that in the poorest, highest crime neighborhoods in this country, the vast majority of people get up every day and obey the law, pay their taxes, and do their best to raise their kids. In these communities, however, fear of crime limits social interactions and destroys the sense of community. Fear of crime restricts economic investment and job opportunities. Fear of crime creates the very conditions of social disorder in which crime itself can flourish. I ask each American who lives in a safe community to think of a specific time in your life in which you feared for your safety and imagine what it would be like to live in a place where you felt that way every day. What kind of nation have we become if we are willing to accept that there are places in America where law-abiding residents will live in fear and where other law-abiding persons simply will not go? More than anywhere else, these communities of color want, need, and deserve strong law enforcement to restore order, reduce crime, and help build stronger, healthier communities.

³ [BJS data summary, page 9.]

However, persons of color often have less trust and confidence in law enforcement than whites, and these perceptions of unfairness limit the effectiveness of law enforcement in communities of color. For example, more than 7 out of 10 blacks believe that blacks are treated more harshly by the criminal justice system than whites, and more than 4 out of 10 whites agree. Furthermore, of those crime victims who did not report the incident to police, approximately twice as many blacks than whites say they did not report the crime because the police would not care or would be inefficient, ineffective, or biased. These perceptions of unfairness in the criminal justice system are likely due to a number of historical and present factors, including the use of so-called racial profiling, incidents of police brutality, racial disparities in incarceration rates and sentencing, and the lack of diversity in the criminal justice system. During a meeting I had last year with a group of black journalists, I asked how many of them had been stopped by the police within the last few years for no reason other than the color of their skin. Everyone of them raised his or her hand. Whether this is a matter of reality, perception, or both, it must be addressed.

Furthermore, law enforcement itself can have dramatic effects on minority communities. Today, one-third of young, black males are under the supervision of the criminal justice system (on probation, in prison, or on parole). In cities such as Baltimore and ..., more than 50 percent of young, black males are under criminal justice supervision. Overall, the chance that a young male will go to prison during his lifetime is approximately 4 percent for whites, 16 percent for Hispanics, and nearly 30 percent for blacks. While persons of color comprise less than one-third of the overall population in the United States, they comprise more than two-thirds of the Federal and state prison populations, with blacks alone comprising nearly 50 percent of the prison population. These rates of imprisonment have substantial social and economic effects on minority communities, contributing to the rise in poor, single-parent, female-headed households, the lack of employable males of color, and the disenfranchisement of 1 million black males alone.

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These conditions are intolerable. No American should have to live in constant fear of crime. No American should have reason to mistrust the very officers of the state assigned "to protect and to serve" him or her. No American should grow up believing that a stay in prison is a right of passage. We must take action to eliminate these conditions and to build a criminal justice system that serves Americans of all races fully and fairly...

First and foremost, we must restore order and build security in communities of color where crime and fear of crime are greatest. Every American has the right to live in a safe community, and we should not be able to identify high-crime neighborhoods based on the race of the residents who live there...

Second, we must prevent young people of color from becoming involved in crime and the criminal justice system. The present situation is dramatic. For black males born today, the odds of going to prison are greater than the odds of going to college. And racial disparities -- from arrest through incarceration -- are greater in the juvenile justice system than in the adult system... We must intervene before we lose a whole generation of young people of color to crime, as either victims or offenders... And for the good kids who do get in trouble, we must intervene in their lives to help them become productive and successful members of society...

Third, we must build trust and confidence in the criminal justice system among persons of color... Let me be clear: The vast majority of law enforcement officers in this nation are dedicated public servants of great courage and high moral character who deserve the respect of citizens of all races. Furthermore, though some will disagree, evidence strongly suggests that racial discrimination is not endemic to our criminal justice system. However, evidence also shows that racial stereotypes and bias still exist, incidents of police brutality based on race still occur, and policies that have an unjustified disparate impact on persons of color are still functioning. No person should be the target of law enforcement because of the color of his or her skin... We must eliminate these conditions and increase fairness and trust in the criminal justice system.

In sum, we must develop a comprehensive model of criminal justice that can increase community safety, prevent young people from entering the criminal justice system, and build confidence and trust in law enforcement. Fortunately, I believe we have the foundation for this model, and we have already made important progress toward achieving these goals. The foundation is community justice -- an approach to criminal justice that emphasizes strong partnerships between law enforcement and communities...

The cornerstone of community justice is community policing. Community policing is a relatively new model of law enforcement that focuses on preventing crime by restoring order in communities, reducing fear of crime, and building partnerships between law enforcement officers and the communities they serve. Community policing is based on several interrelated principles: First, studies show that reducing disorder in communities (such as fixing broken windows in buildings) can help reduce fear of crime, encourage citizens to interact with one another and their community, and thereby decrease crime itself. Second, preventing and reducing crime requires more than making arrests; police must also be concerned with the underlying community problems that cause crime. Third, both reducing disorder and solving community problems require strong relations between law enforcement officers and the communities they serve. In order to reduce disorder and fear of crime, police must look to law-abiding citizens about their concerns, needs, and values. In order to solve problems that cause crime, police must look to law-abiding citizens for information about those problems. Finally, citizens and community organizations can play a vital role as partners in reducing disorder and solving community

problems, and these efforts can directly improve community cohesiveness, which in turn can further reduce crime.

In 1994, I proposed and Congress enacted the Public Safety Partnerships and Community Policing Act, which provides grants and technical assistance to local communities to increase the number of police in communities and to enhance community policing. Today, we have nearly reached our goal of supporting 100,000 new police officers -- a 20 percent increase in the number of officers -- and promoting community policing efforts in the vast majority of communities across our nation. Program evaluations, as well as the dramatic decrease in crime rates across the country, indicate that these efforts have been successful in reducing crime, reducing fear of crime, and improving relations between citizens and law enforcement...

Our efforts in community policing provide a solid foundation for achieving the goals of enhancing safety in our highest crime communities, keeping young people out of the criminal justice system, and increasing trust and confidence in law enforcement. To fully achieve these goals, we must build on that foundation by continuing support for community policing, expanding community justice into other areas, such as community prosecution, and promoting comprehensive, multi-faceted efforts to strengthen communities....

In the balance of this chapter I offer a workplan to guide us all in our efforts... Let me first highlight the centerpiece for renewed federal leadership, which focuses on the severe problems facing our highest crime communities.

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**CENTERPIECE OF THE FEDERAL WORKPLAN:
THE COMMUNITY JUSTICE "HOT SPOTS" INITIATIVE**

In order to reduce crime in our highest crime communities, I propose a **Community Justice "Hot Spots" Initiative** -- a comprehensive community policing and community building initiative targeted to neighborhoods of concentrated disadvantage, social disorder, and high crime rates. Like a fire hose aimed at the center of a blaze, this Initiative will target proven community safety efforts into a single stream aimed at crime "hot spots." For communities willing to tackle conditions in their highest crime neighborhoods:

- The federal government will target funds from a number of key criminal justice programs, including our Community Oriented Policing Services (COPS) efforts.
- To be eligible for this pool of targeted funds, communities will be required to bring together relevant actors (federal, state, and local; public and private; law

enforcement and other services; and most important, concerned citizens and community leaders) and develop a coordinated, comprehensive plan aimed at high-crime neighborhoods.

- The community plans would promote accountability by setting concrete goals for reducing crime, reducing fear of crime, increasing confidence and trust in law enforcement, and more. Continued federal support would be tied to meeting those goals...

With this new and revitalized federal support, communities will implement comprehensive plans aimed at high-crime areas and designed to (1) restore order and establish community policing, (2) build community infrastructure and partnerships between citizens and law enforcement, and (3) initiate proven prevention programs aimed at families and youth (such as family literacy and after-school programs). This Initiative could work in conjunction with other community and economic development programs as well...

* * *

A WORKPLAN FOR THE NATION

The nation's agenda in criminal justice is complex and multi-faceted. To Build One America, we must:

- Enhance public safety in our highest crime communities;
- Keep young people out of crime and the criminal justice system; and
- Build fairness and trust in our criminal justice system across racial lines.

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ENHANCING PUBLIC SAFETY IN OUR HIGHEST CRIME COMMUNITIES

Today, crime rates are dropping across the nation and for all racial groups. Nonetheless, crime remains unacceptably high in a small number of deeply poor, socially disorganized communities, the vast majority of which are minority communities. These high-crime areas are concentrated in urban centers, but exist in other areas, such as parts of Indian country, as well. The Community Justice "Hot Spots" Initiative, described above, represents a vital approach to increasing public safety in our these high-crime communities... Whether as part of that Initiative or otherwise, there are several important things we must do to make all communities safe