

# Withdrawal/Redaction Sheet

## Clinton Library

| DOCUMENT NO.<br>AND TYPE | SUBJECT/TITLE                                                                                                                      | DATE       | RESTRICTION      |
|--------------------------|------------------------------------------------------------------------------------------------------------------------------------|------------|------------------|
| 001. email               | From Reynaldo Valencia to Reynaldo Valencia Re: You don't get it, do you? - Forwarded (9 pages)                                    | 05/01/2000 | Personal Misfile |
| 002. email               | From Reynaldo Valencia to Reynaldo Valencia Re: Language and Images - Forwarded (10 pages)                                         | 05/01/2000 | Personal Misfile |
| 003. email               | From Reynaldo Valencia to Reynaldo Valencia Re: You don't get it, do you? - Forwarded (10 pages)                                   | 05/01/2000 | Personal Misfile |
| 004. email               | From Reynaldo Valencia to Reynaldo Valencia Re: Thought for the Day - Get a Grip, Loving Community! - Forwarded (11 pages)         | 05/02/2000 | Personal Misfile |
| 005. email               | From Reynaldo Valencia to Reynaldo Valencia Re: Thought for the Day - Get a Grip, Loving Community! - Reply - Forwarded (13 pages) | 05/03/2000 | Personal Misfile |

### COLLECTION:

Clinton Presidential Records  
Automated Records Management System [Email]  
WHO ([Randall Kennedy])  
OA/Box Number: 500000

### FOLDER TITLE:

[05/01/2000 - 06/23/2000]

2019-1029-F

in592

### RESTRICTION CODES

#### Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]  
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]  
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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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b(1) National security classified information [(b)(1) of the FOIA]  
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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: "LEXIS /NEXIS Print Delivery" <lexis-nexis@prod.lexis-nexis.com> (R) (R) ( "LEXIS /NEXIS Print Delivery" <lexis-nexis@prod.lexis-nexis.com> (R) (R) [ UNKNOWN ] )

CREATION DATE/TIME: 21-JUN-2000 11:35:00.00

SUBJECT: civil rights

TO: Irene Bueno ( CN=Irene Bueno/OU=WHO/O=EOP [ WHO ] )  
READ: UNKNOWN

TEXT:  
LEXIS-NEXIS Universe Update Report: June 21, 2000 at 11:21

Results from this Update: 18

Next Update: June 21, 2000 at 16:00

Access your results at:  
[http://web.lexis-nexis.com/lm.universe/pnews/emailAlert?\\_pnewsAlert=0x000101a9-0x00004b26%2f0x000101a9%2f20000621%2f11%3a20%3a52](http://web.lexis-nexis.com/lm.universe/pnews/emailAlert?_pnewsAlert=0x000101a9-0x00004b26%2f0x000101a9%2f20000621%2f11%3a20%3a52)

1 of 18 DOCUMENTS

Copyright 2000 Associated Press

AP Online

June 21, 2000; Wednesday 6:34 AM, Eastern Time

SECTION: Domestic, non-Washington, general news item

LENGTH: 264 words

HEADLINE: Suit Filed for Undocumented Workers

DATELINE: PHOENIX

BODY:

The federal government has filed a discrimination lawsuit on behalf of  
27  
undocumented Mexican and Guatemalan women who allege they were  
strip-searched,  
groped and labeled with slurs at a lithography company where they worked.

The Equal Employment Opportunity Commission's lawsuit filed Tuesday  
against  
Quality Art seeks an injunction against the company to halt

discrimination,  
financial penalties and back pay for workers who quit or were fired when  
they  
complained.

"You have a company singling out a group of women because of their  
national  
origin. Not only singling them out, but depriving them of the fundamental  
dignity of being a human being," said Ida Castro, the EEOC's chairwoman  
in  
Washington, D.C.

Castro said undocumented workers are among the most vulnerable victims  
of  
workplace discrimination because many employers don't realize they are  
also  
protected under the Civil Rights Act of 1964.

"It doesn't say only U.S. citizens. It doesn't say only documented  
workers.  
It says everyone," she said.

Quality Art attorney Larry Rosenfeld denied the charges in court papers.

The women complained of being strip-searched, and alleged their  
underwear  
once was examined in a ladies' room to see whether they had stolen \$1,000  
from a  
woman's purse.

They also complained that a supervisor regularly and improperly touched  
them,  
refused to pay them holiday overtime and said they had no rights in the  
United  
States because they aren't citizens.

The workers, who quit or were fired last summer, hired an attorney and  
filed  
discrimination complaints.

LANGUAGE: ENGLISH

LOAD-DATE: June 21, 2000

2 of 18 DOCUMENTS

Copyright 2000 Globe Newspaper Company

The Boston Globe

June 21, 2000, Wednesday ,THIRD EDITION

SECTION: EDITORIAL; Pg. A20

LENGTH: 370 words

HEADLINE: NEW TACTICS FOR BURMA

BODY:

The US Supreme Court's unanimous decision voiding the Massachusetts selective purchasing law for companies doing business with the military junta in Burma was tightly drawn. The justices rejected the law because they found that federal sanctions against Burma, passed by Congress three months after adoption of the Massachusetts law, preempted the earlier state law. The differences between the two laws, the court said, "compromise the very capacity of the president to speak for the nation with one voice in dealing with other governments."

Now that the court has spoken, upholding the Constitution's Supremacy Clause in conflicts between Congress and the states, defenders of human rights in Burma would be wise to pursue their struggle with other tactics and by other means.

After all, the ultimate aim of that struggle is not to punish callous corporations doing business with the junta's narco-thugs but to restore democracy and human and civil rights to the Burmese and to the brutalized ethnic minorities in Burma.

The original idea for the Massachusetts selective purchasing law was suggested to Democratic state Representative Byron Rushing of Boston by Archbishop Desmond Tutu of South Africa and was modeled on antiapartheid laws.

Yesterday, on the occasion of a birthday celebration for Aung Sun Suu Kyi, the nonviolent leader of Burma's democracy movement, Tutu called on people in the world who had "supported our cause for sanctions . . . For goodness sake you can do something, you can impose stringent economic sanctions on the military regime of Burma, and they too can, as the apartheid rulers, bite the dust."

Last week the International Labor Organization, by a vote of 257 to 41, gave the Burmese junta five months to end the horrors of forced labor or face sanctions. Similar multilateral actions against the junta may be pursued at the

upcoming G-8 meeting in Okinawa and at the meeting of the Association of Southeast Asian Nations in Thailand, late in July. More than ever, American citizens and their government should heed Bishop Tutu's call. That call has certainly not been heard by the corporations doing business with the uniformed killers and drug dealers in Rangoon.

LANGUAGE: ENGLISH

LOAD-DATE: June 21, 2000

3 of 18 DOCUMENTS

Copyright 2000 Globe Newspaper Company

The Boston Globe

June 21, 2000, Wednesday ,THIRD EDITION

SECTION: NATIONAL/FOREIGN; Pg. A1

LENGTH: 1442 words

HEADLINE: SENATE OK'S EXPANSION OF HATE LAWS HOPES RISE FOR WIN IN US HOUSE

BYLINE: By Susan Milligan, Globe Staff

BODY:

WASHINGTON - Invoking the memories of those killed out of bigotry, the US Senate yesterday approved a sweeping measure expanding protection under the federal hate-crimes law and extending it for the first time to victims of violence on the basis of gender, sexual orientation, or disability.

The 57-42 vote surprised the proposal's sponsors, who had summoned Vice President Al Gore from the campaign trail in Kentucky to cast a tie-breaking vote, if needed.

The unexpectedly wide margin of the Senate vote is also fueling once-meager hopes by supporters that the House - which rejected the hate-crimes legislation last year - might go along with it in this election year.

"We don't say we have equal protection of the laws only if you're a white male, if you have no disability, [or] if you are straight," Senator Edward M.

Kennedy, author of the bill, said during floor debate. "Equal protection of the laws must apply to all Americans. That's what this is all about."

President Clinton hailed the vote as "historic and long overdue."

"Hate crimes are different from other crimes," the president said. "When Americans are targeted just because of who they are - whether because of race, color, religion, national origin, gender, sexual orientation, or disability - they hurt more."

Senate Democrats were effusive in thanking Gore for his help in passing the bill, although all he did was preside over the vote. Serving as president of the Senate, Gore had a role that was common for those who sit in the elevated chair at the front of the chamber: chiding senators for talking too loudly during the vote.

"He made an enormous difference," Kennedy insisted.

"It is true that every time Al Gore comes to Congress, we win," said Senate Minority Leader Thomas Daschle of South Dakota. He likened the measure in importance to the Civil Rights Act of 1964.

Daschle was referring to the fact that Gore, as a Democrat, would naturally vote with his party and give Senate Democrats a victory in case of a tie.

But Gore's very presence also put pressure on Republicans, who are reluctant to give the presumptive Democratic presidential nominee the opportunity to swoop dramatically into the Senate, break a tie, and take credit for getting landmark legislation passed.

"This morning, we figured that if everything cut our way, we'd have 52 votes," Kennedy said after the measure passed. "With that kind of energy behind it," House approval of the proposal - considered extremely unlikely as late as yesterday afternoon - is within reach, Kennedy said.

The measure was an amendment to a massive defense bill, dubbed a "flypaper" bill because it has attracted more than 100 amendments unrelated to defense.

With the head count still razor-thin at midday, Gore interrupted campaigning in Knoxville and Des Moines to dash to Capitol Hill for the vote. "It's my job," Gore quipped when asked why he was there.

The measure drew 13 Republican votes. All New England senators voted for the amendment except New Hampshire's senators, Republicans Judd Gregg and Bob Smith.

Gore pledged aggressive support from the White House, but he declined to say whether President Clinton would veto the defense bill if it does not include the hate-crimes amendment.

The House already has passed a defense spending authorization bill, and it does not include a provision about hate crimes. That means the Kennedy amendment could be kept when the House and Senate work out a compromise defense bill.

The House could also attach the hate-crimes measure to another bill, Kennedy said.

"This is the United States Senate at its best," Gore told reporters afterward. "This vote is a sign of hope for all Americans."

But asked what the White House would do to pressure House Republicans to approve the hate-crimes measure, Gore said, "I'm not going to engage in a lot of hypotheticals about what's going to happen at the end of the session."

The measure would expand an existing 1968 hate-crimes law to allow greater federal prosecution of bias crimes. Federal law enforcement can intervene only if the victim is being prevented from participating in a federally protected activity, such as voting.

Forty-two states, including Massachusetts, have hate-crimes laws. But some localities are reluctant to prosecute under their own bias-crimes laws, or lack the resources to do it alone, backers of the Kennedy measure argue.

Kennedy's measure would also expand the groups protected from hate crimes, adding gender, sexual orientation, and disability to the existing categories of

race, color, religion, and national origin.

No one spoke on the Senate floor against the general idea of hate-crimes legislation. Only Senator Orrin Hatch, Republican of Utah, openly criticized Kennedy's proposal, saying it was too broad and gave too much power to the federal government.

"These crimes are important to me and to all Americans. They should be stopped," Hatch told the Senate during debate. But "the system is working," Hatch said.

The veteran Utah lawmaker offered his own, weaker amendment to commission a Justice Department study of hate crimes. Echoing the concerns of other opponents of the Kennedy language, Hatch warned that singling out certain groups for special protection is unconstitutional.

Hatch's amendment also passed, 50-49. The full Congress could accept either or both of the senators' amendments.

Some conservative organizations opposed the Hatch and Kennedy amendments, saying hate-crimes laws raise the specter of "thought police" who would punish individuals for motivations and not simply the violence they commit.

"It goes to what a person thinks, instead of what he does," said Heather Cirimo, a spokeswoman for the Family Research Council. "Christians and people of faith" could be unfairly persecuted if they continue with their campaign against homosexuality, she said.

While the Kennedy measure addresses violent acts - not hateful speech - Cirimo said the proposal creates a "slippery slope" that could encourage restriction of speech alone.

But Capitol Hill was far more heavily lobbied by families of bias-crime victims, law enforcement officials, and the White House, who recalled the tragic stories of James Byrd Jr. and Matthew Shepard. Byrd, an African-American man, was dragged to his death in Texas. Shepard, a gay college student in Wyoming, was beaten and tied to a post, where he died.

"We've had a legislative miracle occur here today," said Elizabeth Birth,

president of the Human Rights Campaign, a gay-rights organization. Birch said she had spoken to Shepard's parents, who said Matthew was "smiling down" at the Senate for its action. **SIDEBAR: HOW THE SENATE VOTED**

A breakdown of the 57-42 roll call by which the Senate yesterday approved an amendment to a defense-spending bill that would expand federal hate-crimes law and make it easier for federal prosecutors to try such cases. Democrats voting yes: Akaka (Hawaii), Baucus (Mont.), Bayh (Ind.), Biden (Del.), Bingaman (N.M.), Boxer (Calif.), Breaux (La.), Bryan (Nev.), Cleland (Ga.), Conrad (N.D.), Daschle (S.D.), Edwards (N.C.), Feingold (Wis.), Feinstein (Calif.), Dodd (Conn.), Dorgan (N.D.), Durbin (Ill.), Graham (Fla.), Harkin (Iowa), Hollings (S.C.), Inouye (Hawaii), Johnson (S.D.), Kennedy (Mass.), Kerrey (Neb.), Kerry (Mass.), Kohl (Wis.), Landrieu (La.), Lautenberg (N.J.), Leahy (Vt.), Levin (Mich.), Lieberman (Conn.), Lincoln (Ark), Mikulski (Md.), Moynihan (N.Y.), Murray (Wash.), Reed (R.I.), Reid (Nev.), Rockefeller (W.Va.), Robb (Va.), Sarbanes (Md.), Schumer (N.Y.), Torricelli (N.J.), Wellstone (Minn.) Wyden (Ore. Democrats voting no: Byrd (W.Va. Republicans voting yes: Burns (Mont.), Chafee (R.I.), Collins (Maine), DeWine (Ohio), Jeffords (Vt.), Lugar (Ind.), Mack (Fla.), Roth (Del.), Smith (Ore.), Snowe (Maine), Specter (Pa.), Stevens (Alaska), Voinovich (Ohio) Republicans voting no: Abraham (Mich.), Allard (Colo.), Ashcroft (Mo.), Bennett (Utah), Bond (Mo.), Brownback (Kan.), Bunning (Ken.), Campbell (Colo.), Cochran (Miss.), Craig (Idaho), Crapo (Idaho), Coverdell (Ga.), Domenici (N.M.), Enzi (Wyo.), Fitzgerald (Ill.), Frist (Tenn.), Gorton (Wash.), Gramm (Texas), Grams (Minn.), Grassley (Iowa), Gregg (N.H.), Hagel (Neb.), Hatch (Utah), Helms (N.C.), Hutchinson (Ark.), Hutchison (Texas), Kyl (Ariz.), Lott (Miss.), McCain (Ariz.), McConnell (Ken.), Murkowski (Alaska), Nickles (Okla.), Roberts (Kan.), Santorum (Pa.), Sessions (Ala.), Shelby (Ala.), Smith (N.H.), Thomas (Wyo.), Thompson (Tenn.), Thurmond (S.C.), Warner (Va.

Republicans not voting: Inhofe (Okla.

SOURCE: The Associated Press

GRAPHIC: CHART

LANGUAGE: ENGLISH

LOAD-DATE: June 21, 2000

4 of 18 DOCUMENTS

Copyright 2000 Times Mirror Company

Los Angeles Times

June 21, 2000, Wednesday, Home Edition

SECTION: Part A; Part 1; Page 14; National Desk

LENGTH: 890 words

HEADLINE: BILL TO EXPAND U.S. LIST OF HATE CRIMES PASSES SENATE;

CIVIL RIGHTS: FEDERAL INVESTIGATORS WOULD HAVE A GREATER ROLE IN VIOLENCE  
MOTIVATED BY GENDER, SEXUAL ORIENTATION OR DISABILITY.

BYLINE: RICHARD SIMON, TIMES STAFF WRITER

DATELINE: WASHINGTON

BODY:

A divided Senate on Tuesday approved legislation pushed by President Clinton that would expand the list of federal hate crimes to include violent acts motivated by a victim's sexual orientation, gender or disability.

In a bit of election-year political drama, Vice President Al Gore suspended his presidential campaign and stood by in the Capitol in his role as Senate president to cast the tie-breaking vote, if needed.

He never got the chance: The measure passed, 57 to 42, with 13 Republicans joining 44 Democrats to vote for it.

The provision, included as an amendment to a defense spending bill, still faces an uncertain fate. A similar measure was approved by the Senate last year as part of a spending bill but was stripped out of the legislation's final version by House-Senate negotiators. A similar scenario may occur this year.

Clinton has stepped up the pressure on Congress to keep the amendment in the larger bill. As part of his effort, he traveled earlier this week to Texas, home of presumed GOP presidential nominee George W. Bush, to meet with the family of James Byrd Jr., an African American who was chained to the back of a truck and dragged to death by three white men in 1998.

The Byrd case, along with the killing that year of Matthew Shepard, a gay Wyoming college student who was beaten to death and left tied to a fence, and the attack on a San Fernando Valley Jewish community center by a white supremacist in 1999 were among the incidents that spurred calls for stronger hate-crime legislation.

Current federal law defines hate crimes as those motivated by bias based on religion, race, national origin or color.

Along with expanding the definition, the legislation would give federal authorities greater powers to aid local officials in investigating and prosecuting hate crimes. It also would give federal prosecutors the option of pursuing a hate crime case if the local officials refused to do so.

California has one of the nation's toughest hate crime laws--it already includes attacks motivated by a victim's sexual orientation, gender or disability, said Brian Levin, director of the Center on Hate and Extremism at Cal State San Bernardino.

But he said the state would benefit from the increased federal jurisdiction called for by the Senate measure.

California Democratic Sens. Barbara Boxer and Dianne Feinstein were among those voting for the hate crime measure; Sen. Robert C. Byrd of West Virginia was the lone Democratic to vote against it.

Gore, who left the campaign trail in Kentucky to travel to Washington for the vote, used the occasion to highlight his differences with Bush on the issue.

The presumed Democratic presidential nominee called the Senate's vote a "sign of hope for all Americans." He gave much of the credit for the measure's passage

to lobbying by civil rights groups and victims' families--including the families of the children shot at the Jewish day-care center in Granada Hills, allegedly by an avowed white supremacist.

Bush has been criticized by Democrats in his state for remaining neutral while a proposed hate crime bill died in the Texas Legislature last year. That bill offered protection to individuals targeted for attack based on their sexual orientation.

A Bush campaign spokesman said the Texas governor wanted to see the bill's final wording before taking a position on it. The spokesman could not provide Bush's position on the legislation approved Tuesday.

At the White House, Clinton applauded the Senate vote as "historic and long overdue."

Critics contended the legislation is unnecessary.

"Hate crimes laws are based on the faulty premise that some victims are worthy of more government protection than others victimized by similar crimes," said Janet Parshall, a spokeswoman for the conservative Family Research Council.

Although Gore's appearance on Capitol Hill and Clinton's lobbying gave the measure a partisan tone, Sen. Gordon Smith (R-Ore.) delivered one of the more impassioned pleas for passage of the legislation.

"I never thought I'd be on the Senate floor saying this until I saw the police report of Matthew Shepard's death," he said. "I began to ask myself what I could do.

"I think many in the Senate are reflexively inclined to vote no," he said, referring to "religious conservatives." "I understand that because I shared those feelings for a long, long time"

Later, he added: "You don't have to agree with everything the gay community is asking. I don't, but we ought to agree on protecting them and all Americans."

Nearly 8,000 hate crimes were reported in 1998, the latest year for

which FBI

figures are available. Of those, 56% were motivated by race, 18% by religion and 16% by sexual orientation. But the measure's supporters say the number of hate crimes based on sexual orientation has been increasing.

"Hate crimes are modern-day lynchings," said the provision's chief sponsor, Sen. Edward M. Kennedy (D-Mass.). "They tear at the heart and soul of our country."

Sen. Orrin G. Hatch (R-Utah) was among those questioning the need for the measure. "There is precious little evidence showing that there is a widespread problem with state and local police and prosecutors refusing to enforce the law when the victim is black or a woman or gay or disabled," he said.

LANGUAGE: English

LOAD-DATE: June 21, 2000

5 of 18 DOCUMENTS

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THE ORLANDO SENTINEL

June 21, 2000 Wednesday, METRO

SECTION: EDITORIAL; Pg. A11

LENGTH: 700 words

HEADLINE: MUSICIANS LEAVE LEGACY OF POETRY, SPIRITUALITY

BYLINE: By Wayne Dawkins NEWPORT (VA.) Daily Press

BODY:

Recently I held a kalimba for the first time. That is an African thumb piano made of 10 metal strips or keys attached to a block of wood about the size of a Palm Pilot.

In 1973, Maurice White, leader of the great band Earth, Wind and Fire, introduced me to the kalimba, word and sound.

I've been thinking a lot about White because it is June, and, for at least a decade, advocates have designated this time as Black Music Month -- time

to  
celebrate, honor and evaluate the state of the music and industry.  
Inventory is  
in order.

There have been great losses. In the last days of 1999, Curtis  
Mayfield, the  
soulful songwriter and vocalist, died at 57, succumbing to injuries from  
a freak  
accident that paralyzed him a decade ago. I'll have more about Mayfield  
later.

White, 58, is still alive but ill. After dropping out of sight for a few  
years, he emerged last March when he and Earth Wind and Fire were  
inducted into  
the Rock and Roll Hall of Fame. White said he had been scarce because he  
has had  
Parkinson's disease for eight years.

Although White lowered his profile to cope with his degenerative  
neurological  
disease, music lovers should not forget his mighty, mighty contribution to  
popular music. EW&F is one of the durable American bands. It has been  
around  
three decades.

As founder and leader, White brought a spectrum of musical  
sensibilities to  
listeners. He blended gospel, soul, traces of blues, and jazz with rock  
and an  
African Diaspora beat.

As a reminder this week, I played the 1973 album Keep Your Head to the  
Sky.

The first tune, "Evil", is up-tempo. There is a long kalimba  
introduction  
later supported by electric piano and percussion instruments.

"Evil" sounds like a cleansing ritual. "Evil ... in our life/Evil ...  
causing  
strife," sings Philip Bailey. "Maybe if we learn to pray/Life would lend  
us  
sunshiny days."

The enduring quality of EW&F has been its consistent appeals to  
spirituality.  
Many songs made references to the universal truths of great religions and  
reminded people to have faith and devotion.

These messages were important during the era of integration and  
desegregation  
and transformation of America. People needed faith and devotion to cope  
with

change and upheaval.

In addition to the love ballads and dance tunes, Maurice White and EW&F performed message music. Spirituality was the recurring theme.

Curtis Mayfield performed message music, too. He was blunt. One writer of a Mayfield obituary declared that the artist made soul and rhythm and blues synonymous with the civil-rights struggle.

The evidence: rallying songs such as "Keep on Pushing," "This is My Country" and "People Get Ready." These all were written and recorded in the mid-to late 1960s, years before message music by Motown legends Marvin Gaye ("What's Going On") and Stevie Wonder ("Living for the City") appeared in the early 1970s.

Mayfield began singing in church at age 7. His grandmother was a minister. Mayfield told an interviewer that only the honesty of his gospel upbringing could inspire him to write the words to "People Get Ready."

He wrote, "There's no room for the hopeless sinner/Who hurt all mankind just to save his own/Have pity on those whose chances grow thinner/For there's no hiding place against the Kingdom's throne."

Mayfield's physical decline started in 1990. He was performing at a concert on an athletic field in Brooklyn, N.Y., when a tower collapsed and fell on him. He was paralyzed from the neck down, and doctors later had to amputate a leg because of complications from diabetes. Like Maurice White this year, Mayfield was inducted into the Rock and Roll Hall of Fame in 1994.

Aspiring musicians should borrow liberally from the legacies of Mayfield and White. Study the poetry and spirituality of their lyrics. Incorporate the purity and power of their groups' harmonizing voices.

Musicians now have all sorts of electronic and digital gadgetry to synthesize and simulate sounds. The modern tools, however, are tacky gimmicks compared with Mayfield's voice, backed by his guitar, or Maurice White and his band members' collective voices, guided to stratospheric falsetto heights by a

wood-and-metal  
thumb piano.

GRAPHIC: PHOTO: Curtis Mayfield; PHOTO: Maurice White

LANGUAGE: ENGLISH

LOAD-DATE: June 21, 2000

6 of 18 DOCUMENTS

The Associated Press State & Local Wire

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June 20, 2000, Tuesday, BC cycle

SECTION: State and Regional

LENGTH: 317 words

HEADLINE: Robber's family offers to drop suit if city agrees not to countersue

DATELINE: LOS ANGELES

BODY:

The family of a bank robber killed in the North Hollywood shootout has offered to drop a civil rights lawsuit if the city agrees not to countersue for malicious prosecution, their lawyer said.

"It's time to move on," said attorney Brian Lysaght, who represents the children of Emil Matasareanu. A federal jury deadlocked earlier this year on allegations Matasareanu was denied medical care and allowed to bleed to death.

In a dismissal motion Monday, Lysaght told U.S. District Judge Christina A. Snyder that another trial could result in the same outcome as the first one.

He coupled his motion with a request for a judicial finding that the children had probable cause to sue now-retired Detective James Vojtecky and Officer John Futrell. Such a ruling would prevent the officers from countersuing.

Assistant City Attorney Don Vincent, who represented Vojtecky in the monthlong trial, said his client would waive any right to countersue.

Futrell lawyer Bradley C. Gage said his client, who is eager to see the case dismissed, wouldn't agree to such a deal unless the city paid the retired officer's legal bills. Gage was hired by Futrell.

In a memo filed in court last week, Lysaght said Gage "seems not to recognize at all that it is both inappropriate and unethical to attempt to hold a federal action hostage for payment of his legal fees - fees to which he is clearly not entitled."

Matasareanu, 30, and Larry E. Phillips Jr., 26, were wearing body armor and firing automatic weapons during a 44-minute running gunfight with police after robbing a Bank of America on Feb. 28, 1997.

Eleven police officers and six civilians were wounded. Phillips was also killed.

At Monday's hearing, Snyder directed lawyers in the case to try to settle their differences over terms of the proposed dismissal. She said she would ask veteran federal Judge Matthew Byrne to assist them.

LANGUAGE: ENGLISH

LOAD-DATE: June 21, 2000

7 of 18 DOCUMENTS

The Associated Press State & Local Wire

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June 20, 2000, Tuesday, BC cycle

SECTION: State and Regional

LENGTH: 664 words

HEADLINE: Courthouse named for Edward Brooke, a black pioneer

BYLINE: By JOHN McELHENNY, Associated Press Writer

DATELINE: BOSTON

BODY:

As a young black lawyer in the late 1940s, Edward W. Brooke started his own law firm when the city's all-white firms refused him a job.

The old Boston courts where Brooke practiced are now gone, replaced by a gleaming new \$102 million granite courthouse - a building that as of Tuesday bears Brooke's name.

The same young lawyer who was refused work eventually went on to become the nation's first black state attorney general and the first popularly elected black U.S. senator.

"This nation was never intended to be a bland nation," Brooke said, at the building's official dedication on Tuesday. "It is the magnificent pluralism that has made this country great."

Margaret Marshall, chief justice of the state's Supreme Judicial Court and a South Africa native, recalled how Brooke had grown up in 1920s Washington, D.C., where blacks had to carry notes of permission from a white person in order to pass.

"As someone who grew up in apartheid South Africa, it is a profound honor for me to be here," Marshall said. "Edward Brooke is a true phenomenon of 20th century America."

The dedication of the new courthouse marked a sort of homecoming for Brooke, who has spent little time in Massachusetts since leaving the political scene in 1978.

After fighting in Italy during World War II, Brooke followed two Army pals north to Boston, where he graduated from Boston University Law School. After starting his own firm, Brooke was encouraged by friends to run for state representative and secretary of state.

He lost both times, but was elected attorney general in 1962.

The victory shocked many. Brooke, who had never been elected to anything, defeated Elliot Richardson, a blueblood Yankee, by 260,000 votes - in a state with only 2 percent black voters.

As attorney general, Brooke drew attention for leading the effort to catch the Boston Strangler, who was accused of murdering a dozen women. He also earned accolades for organizing other attorneys general to urge the Supreme Court to uphold the 1965 Voting Rights Act.

In 1966, Brooke achieved another first, when he was elected to the U.S. Senate. Before Reconstruction, two black senators had been elected by state legislatures, but Brooke was the first to be popularly elected.

At the time, the young senator's star seemed to be on the rise. Charismatic and good-looking, Brooke was a popular topic in newspaper social pages.

Time and Newsweek featured his picture on their covers among a group of rising Republican stars, including a man named Ronald Reagan.

In the Senate, Brooke became known for his work on housing issues and on behalf of senior citizens - and for his independence. In 1973, Brooke was the first Senate Republican to ask for President Richard Nixon's resignation.

But a nasty divorce and allegations of financial mispropriety spoiled Brooke's seemingly limitless rise. Brooke eventually admitted lying about his finances in his divorce deposition, and a Senate ethics investigation concluded there was "credible evidence" of wrongdoing, though it did not punish him.

The damage had been done, though, at least in the public's eyes. After 12 years in the Senate, Brooke lost in November 1978 to Paul Tsongas, a congressman from Lowell.

After the defeat, Brooke moved from Massachusetts and never again ran for public office. Only last year did he make plans to return to Massachusetts, after buying a building near Boston Common that is being renovated into luxury condominiums.

Now 80, Brooke's dignified, articulate presence is still easily

apparent. As  
he stood Tuesday under the courthouse that bears his name, Brooke issued  
a call  
that might have been made 35 years ago.

"As we look to the future and the generations to come who will avail  
themselves of this gleaming symbol of civil society," he said, "let us all  
pledge to work for a nation in which barriers of race, religion and ethnic  
origin do not stand in the way of achievement or recognition."

GRAPHIC: AP Photos

LANGUAGE: ENGLISH

LOAD-DATE: June 21, 2000

8 of 18 DOCUMENTS

The Associated Press State & Local Wire

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Associated Press.

June 20, 2000, Tuesday, BC cycle

SECTION: State and Regional

LENGTH: 253 words

HEADLINE: Investigator sides with employee who says he was fired because  
he has  
HIV

DATELINE: LAS VEGAS

BODY:

A former State Bar of Nevada employee has contended the agency fired  
him in  
1998 because he tested positive for HIV.

Now a federal investigator is siding with Paul Ortiz, saying sufficient  
evidence exists to support the allegation.

Gary Peck, executive director of the American Civil Liberties Union of  
Nevada, announced the findings Monday.

Peck said Ortiz, a former lawyer referral and information service  
assistant,  
came to the ACLU for help more than a year ago and recently decided to

make his  
story public.

Ortiz filed a charge of discrimination with the Equal Employment  
Opportunity  
Commission in March 1999. He claimed he was fired in August 1998 because  
of his  
disability.

A May 24 letter from Tulio Diaz, acting director of the EEOC's Los  
Angeles  
district office, states that "the preponderance of the evidence" supports  
Ortiz's claim. Diaz concluded that Ortiz had presented sufficient  
evidence to  
establish a violation of the federal Americans With Disabilities Act.

The State Bar denied the allegations by Ortiz and blamed the  
termination on  
poor job performance.

Bar spokeswoman Patty Blakeman added the EEOC has sent the organization  
its  
recommendations for a settlement and requested a response by the end of  
the  
week. "We're in good-faith negotiations with them," she said, declining  
further  
comment.

Ortiz' lawyer, Richard Segerblom, said he's expecting a settlement of  
about \$  
100,000. He said the bar may pay more than that in attorney fees if it  
takes the  
case to trial.

LANGUAGE: ENGLISH

LOAD-DATE: June 21, 2000

9 of 18 DOCUMENTS

The Associated Press State & Local Wire

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Associated Press.

June 20, 2000, Tuesday, BC cycle

SECTION: State and Regional

LENGTH: 948 words

HEADLINE: Police shootings spark outrage in black community

BYLINE: By CONNIE FARROW, Associated Press Writer

DATELINE: ST. LOUIS

BODY:

It began as a routine drug arrest, but ended with more than 20 police bullets fired into a car occupied by two unarmed men on the parking lot of a fast-food restaurant.

The deaths of the two black men have stirred such anger that the U.S. Department of Justice has sent a mediator to St. Louis and Attorney General Janet Reno has agreed to investigate. Some black civic leaders are calling for acts of civil disobedience.

"The African American community is outraged at the vigilante action by undercover guerrilla cowboys," said Tiahmo Rauf, a local leader of the National Action Network, a civil rights organization founded by the Rev. Al Sharpton. "There was no regard by them for either human life or public safety."

Drug Enforcement Administration agents and local police working undercover had made two drug buys from Earl Murray, by all accounts a small-time drug dealer. Police were set to arrest him June 12 at the Jack In The Box restaurant in the St. Louis suburb of Berkeley when things fell apart.

Murray's red two-door Ford Escort ZX2 had been giving him trouble, so he stopped to ask his mechanic friend, Ronald Beasley, for help, according to relatives' accounts. Beasley asked Murray for a ride to another friend's house. Murray agreed, but said he had to make a stop first.

They ended up at Jack In The Box, where Murray allegedly had arranged a drug sale. He didn't know the deal was with undercover police.

As the deal was taking place, a car driven by federal drug agents pulled behind Murray's car; another police car drove in front as nine officers moved in. In an apparent attempt to escape, Murray backed into the car behind him, locking bumpers.

The Escort's wheels spun furiously, leaving a half-inch rut in the

pavement.

It lurched toward at a Dellwood detective and a DEA agent who had approached on foot.

The officers were caught between the car with spinning tires and a curb, and opened fire in fear for their lives, police said. More than 20 shots hit the Escort before the shooting stopped. Murray and Beasley died at the scene.

St. Louis County Police Lt. Jon Belmar acknowledged Beasley was not a target of the investigation, but said his death was "unintended, not a mistake."

Police likened the car to a "300-pound bullet" that endangered the two officers, leaving them no choice but to defend themselves.

Prosecutor Robert McCulloch pledged a thorough investigation. But he angered Rauf and his followers by refusing to turn over the restaurant surveillance tapes of the parking lot.

"These men were both men that you could meet any day on the street and they would be smiling," friend Anthony McAllister said. "The police knew who they were talking to, they knew where they lived. Things just didn't have to happen the way they did."

Rauf led an emotional meeting Monday night of about 100 people at a community center near the restaurant. He called for McCulloch to turn over the videotapes or prepare for a march on his office. Rauf also threatened a shutdown of busy Interstate 70, a ploy that proved successful last summer in getting minority contractors a greater share of work in metropolitan St. Louis.

"I'm telling you this is only the beginning of civil disobedience," Rauf said. "It's going to be a long, hot summer and we're going to keep rumbling until we get what we want."

Rauf accused officers of "murdering" Murray and Beasley.

"We want nothing less than those cops being indicted because they're criminals," Rauf said, adding, "The police should be mad. I don't want people to believe every police officer in America is bad."

James Buford, head of the Urban League of Metropolitan St. Louis, said, asked Reno to investigate.

"It's happened time and time again where you have white officers shooting black people, not black officers shooting black people or white officers shooting white people," he said.

Tension has been building for years. Last year, alleged burglar Julius Thurman, who was black, died after being arrested on the rooftop of a pawn shop. St. Louis police officer Robert Dodson has been charged with second-degree murder for allegedly fatally striking Thurman on the head.

That case came on the heels of an acquittal for St. Louis police officer Tom Moran, who was accused of attacking Gregory Bell, a mentally retarded black 19-year-old. Bell suffered head cuts and a broken ankle when he struggled with police after accidentally tripping the burglar alarm at his family's apartment in 1997.

Buford said he hoped the FBI would conclude its probe quickly.

"I'm sure there will be other incidents of police action in the community that won't even be related to this but will exacerbate it due to the hostile situation we have here," Buford said.

Some in the community have defended police. They noted that both men had police records.

Murray pleaded guilty in 1995 to three counts of drug possession and was sentenced to 30 months in prison, officials said. He also had been arrested and accused of armed criminal action and resisting arrest. Beasley had pleaded no contest in 1992 in St. Louis County Circuit to felony theft and got five years' probation. He also pleaded guilty in 1985 to stealing a credit card and got five years' probation on that charge.

In a letter to the editor published in the St. Louis Post-Dispatch, Russ Craven of St. Peters said it would be better if Rauf and his followers would instead focus on warning of the dangers of drug dealing and trying to escape arrest.

"There is a lesson in this," he wrote. "If you sell drugs, expect to be arrested. If you try to run over a police officer with your car, expect to be shot at."

GRAPHIC: With AP Photos

LANGUAGE: ENGLISH

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10 of 18 DOCUMENTS

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The Advocate (The national gay & lesbian newsmagazine)

June 20, 2000

SECTION: Pg. 36 ; ISSN: 0001-8996

IAC-ACC-NO: 62741786

LENGTH: 905 words

HEADLINE: GANDHI'S GRANDSON; Arun Gandhi; Brief Article; Abstract

BYLINE: STEFANAKOS, VICTORIA SCANLAN

BODY:

Arun Gandhi extends his grandfather's message of nonviolence to gay people's struggle for equal rights

Like his grandfather Mohandas Gandhi, Arun Gandhi has been a champion of nonviolence his whole life. But before May 10, when he marched before the General Conference of the United Methodist Church held in Cleveland, he had never spoken out about gay issues. The Advocate caught up with the 67-year-old Gandhi, executive director of the Memphis, Tenn.-based M.K. Gandhi Institute for Nonviolence, as he prepared to join other civil rights leaders and hundreds of volunteers in protest of the United Methodist Church doctrine that states "homosexuality is incompatible with Christian teaching." Despite the protest, during which Gandhi and nearly 200 others were arrested, the United Methodist

Church voted to maintain its stand against homosexuality, along with its prohibitions on same-sex union ceremonies and non-celibate gay clergy.

Were you close with your grandfather?

Yes, very. I lived with him for 18 months between the ages of 12 and 14. I have very fond memories of that time.

The mission of your institute is to promote your grandfather's message of nonviolence. Isn't that difficult in a culture that glorifies violence through its media?

Violence is becoming increasingly popular. It is quick, and people want quick fixes. If they use violence, they can suppress those weaker than them and get on with life. That doesn't solve the conflict. It just suppresses the conflict.

Why is violence growing?

I think it's something that we adopted very early in our lives. You can use violence and subdue somebody quickly. When we try to resolve conflict with violence, we do it out of fear. We are so engrossed in our own lives, we look at temporary things. If there's a temporary fix, we try it. Rather than handling a dispute or struggling to understand our differences, we often leave it to somebody else, later on. Violence may be quick, but it's the least courageous way to handle any dispute or misunderstanding.

How did you get involved with Soulforce, the interfaith gay rights group that sponsored the Cleveland protest against the United Methodist Church?

I have become good friends with Rev. Mel White, who organized the event. He came on a tour of India with us, and we bonded. He invited me to participate and talk. So I said yes. I have always opposed any discrimination of any kind, though. Having suffered discrimination of my own while living in South Africa, I know how terrible it can be.

In what way?

I lived in South Africa for 24 years. At the time I was growing up, apartheid was at its worst. I was too black for the whites and too white for the blacks, so I was rejected by everyone. I don't wish that on anyone.

Some opponents of equal rights for gays and lesbians have said "there are no gays in India." What is your reaction to that?

There is a lot of homophobia in India. There are, of course, gay people there. And there always have been. Anyone who thinks otherwise is living in a fool's paradise. In every society we have these madcaps who are self-appointed protectors of the faith. They are alone when they make these threats.

Speaking of faith, what is the Hindu position on homosexuality? I don't know that for sure because I haven't really studied the religious texts. But I feel it is a very liberal faith. It is based on faith; that's why we have about 50,000 different images of God. Hinduism is about pursuing the truth, not possessing the truth. In that pursuit of truth, nobody really knows what the image of God is. It accepts all those different images. I think any religion that is that open and accepting would also accommodate these [controversial] kinds of images.

What do you plan to say to the protesters at the Cleveland gathering, to mobilize them?

As always, I'll talk about nonviolence and why I think we have to find a nonviolent solution to win over their opponents and, eventually, end their discrimination.

But it seems to me the group you're addressing is more likely to include victims of hate-based violence rather than people who resort to violence to effect change. How do you persuade violent people to embrace your grandfather's approach?

Through love and understanding. That's what Grandfather faced. There were people who didn't like what he was doing. They instigated all kinds of force hoping to incite him to react. But he never gave them the opportunity. When they came at him with a baton he just suffered the beatings. He was willing to suffer. He didn't retaliate in any way. Ultimately, the authorities had to pull back. That's the only way to deal with those who want to crush you with violence. Otherwise, whichever party has more force will crush the other.

And  
nobody wins. By self-suffering, the ultimate goal is lasting.

How long will it take? A lifetime?

His struggle, the Indian independence struggle, lasted for 27 years.  
But  
nonviolence was still such a new notion that it took a long time for  
people to  
understand it. Now that we have the model in front of us, it's all of a  
matter  
of how we use it. If we try to win over the opponents through love, if we  
do  
that, we can achieve understanding sooner than you think.

Find more information on Arun Gandhi, the Rev. Mel White, and  
Soulforce at  
[www.advocate.com](http://www.advocate.com)

Scanlan Stefanakos is a reporter for Newsweek.

LANGUAGE: ENGLISH

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11 of 18 DOCUMENTS

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The Seattle Times

June 20, 2000, Tuesday Final Edition

SECTION: NEWS; Pg. A3; CLOSE-UP

LENGTH: 1214 words

HEADLINE: A NEW ORDER IN THE COURT?

Next president may have to replace several justices - and alter its makeup

BYLINE: David Jackson; The Dallas Morning News

DATELINE: WASHINGTON

BODY:

THE COMPOSITION of the Supreme Court is not usually a hot-button campaign  
issue,  
but with three current justices over 70 years old, George W. Bush or Al  
Gore  
could have a substantial say in its long-term direction,

WASHINGTON - The presidency may not be the only powerful institution that George

W. Bush or Al Gore will change.

The Supreme Court could also be reshaped by the winner of the presidential race.

That could alter American lives when it comes to any number of emotional issues

- abortion, affirmative action, gay rights, police authority and the power of the federal government.

With three justices age 70 or older, the next president could wind up appointing

a third of the nine-member court - lifetime appointments that can resonate well

beyond the term of any president.

And there are distinct differences in the types of judges cited as models by

Gore and Bush.

Gore has hailed the late Justice Thurgood Marshall, a stalwart of the more liberal Supreme Court of the 1960s and '70s.

Seeing the court as an engine of social change, Justice Marshall and colleagues

sought to protect defendants' rights and eliminate capital punishment.

They also

expanded civil and individual rights, including affirmative action and abortion.

"His work and his vision changed America and moved us forward to a new understanding and a new commitment to civil rights and equal opportunity," Gore

said upon Marshall's death in 1993.

Bush, meanwhile, has said he prefers the approach of Justice Antonin Scalia, a

key member of today's more conservative court. He and fellow conservatives tend

to look askance at abortion rights and affirmative action, and to be more sympathetic to police power. They often assert the rights of state and local

governments over those of Congress.

"I have great respect for Justice Scalia, for the strength of his mind, the

consistency of his convictions, and the judicial philosophy he defends,"

Bush

told The Weekly Standard last year.

The current high court has struggled with tough issues, deciding many cases on

5-4 votes. Any of those results could have gone the other way with three different Democratic or Republican justices on the bench.

A new Supreme Court could affect a woman's access to an abortion, the rules of

the workplace and the right of police to search suspects and their possessions.

Yet it is far from clear whether prospective changes on the court will play a

major role in the presidential election.

"Very few people say that's an issue that drives their voting, even though it's one of the most consequential things a president does," said CNN political analyst William Schneider.

Voters find it hard to link their votes to the future of the death penalty or changes in the rules for filing lawsuits, analysts say.

"It just seems so removed from day-to-day reality," said Michele Mitchell, a New York-based political analyst.

Still, the prospect of a revamped Supreme Court has stirred considerable interest among certain pockets of the electorate.

At a recent conference of radio-talk-show hosts, conservative commentators said many of their listeners have expressed concern about the future of the Supreme Court. New York Democrats who nominated Hillary Rodham Clinton for the U.S. Senate also stressed impending changes on the high court.

"It seems to be the very ideological people on the left and the right who really care about it," Schneider said.

This is particularly true when it comes to abortion, probably the most discussed political issue.

Groups that support abortion rights, including Planned Parenthood and the National Abortion and Reproductive Rights Action League, have run television commercials assailing Bush.

Like Gore, these groups say the Texas governor would appoint Supreme Court justices willing to overturn Roe vs. Wade, the 1973 decision that asserted the constitutional right to an abortion.

"Clearly the issue of abortion will be joined if George W. Bush is elected," said Nan Aron, president of the Alliance For Justice, a Washington-based civil-rights organization.

Other legal analysts said it would be hard for even a far more conservative Supreme Court to overturn Roe. The justices not only set precedent with the 1973 decision, but also reaffirmed the basic abortion right as recently as 1992.

"I don't think the court is predisposed to overrule Roe now, and even with new appointments by George Bush," said Douglas Kmiec, law professor at California's Pepperdine University.

Bush spokesman Dan Bartlett said the governor will not apply "litmus tests" when it comes to abortion or any other issue.

"Governor Bush has said all along that he will appoint justices who share his conservative philosophy, who are strict constructionists and who will not

legislate from the bench," Bartlett said.

Gore spokesman Douglas Hattaway said the vice president would seek justices who support a woman's "right to choose."

"He would look for people who share his view of the Constitution as a living, breathing document that needs to be viewed within the context of the time we live in," Hattaway said.

Some analysts are already developing lists of potential appointees by the next

president. Many agree that both Bush and Gore will be interested in appointing the court's first Hispanic member.

Whoever is named must win confirmation by the Senate, which will no doubt have

many questions regarding abortion and other controversial issues.

In 1992, the court - on a 6-3 vote - refused to overturn Roe vs. Wade.

Two members of that majority are nearing retirement: 80-year-old John Paul Stevens, appointed by President Ford, and 70-year-old Sandra Day O'Connor, selected by President Reagan.

Chief Justice William Rehnquist, an abortion foe, is 75 years old.

President

Nixon appointed him to the court; Reagan elevated him to the chief judgeship.

Those three jurists could retire soon. Moreover, Justice Ruth Bader Ginsburg, 67, is battling cancer and Justice Scalia, 64, has reportedly discussed retirement.

As it prepares to wrap up the 1999-2000 term, the Supreme Court will soon be

setting new guidelines for the abortion debate. Within the next few weeks, it is

set to decide the fate of Nebraska's effort to ban certain late-term abortions.

If the court upholds the ban, some legal analysts said, abortion foes would be

further encouraged in their efforts to reverse Roe. But their chances will further shrink if the current court strikes down the late-term-abortion ban.

The role of the federal government has also been a contentious topic on the

existing court. Under the leadership of Chief Justice Rehnquist, court conservatives have been particularly active in trying to curb congressional

power in favor of state and local rights.

Just last month, on a 5-4 vote, the court struck down part of a congressional

act that allowed federal lawsuits for sexual assaults. The bare majority said

state courts are the proper forums for those kinds of lawsuits.

The four other court members said Congress should be able to sanction sexual-assault lawsuits. The dissenters all but threatened to reverse the decision when the makeup of the court changes - just one example of how

the  
presidential election could alter the nature of the court.

GRAPHIC: PHOTO; Thurgood Marshall

LANGUAGE: ENGLISH

LOAD-DATE: June 21, 2000

12 of 18 DOCUMENTS

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Japan Policy & Politics

June 19, 2000

SECTION: Pg. NA

IAC-ACC-NO: 62835972

LENGTH: 1002 words

HEADLINE: FOCUS: Foreigners still fighting for a voice in the Diet.

AUTHOR-ABSTRACT:

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BODY:

TOKYO, June 13 Kyodo

(EDS: 7TH IN A SERIES OF NEWS FOCUSES AND FEATURES ON GENERAL ELECTION)

Hearing of the low voter turnout in Japanese elections always  
infuriates Lee  
Yong Hwa. The right to vote he longs for as someone born and raised in  
Japan is  
wasted in his eyes on the Japanese, who are generally indifferent to  
politics.

"Voting rights mean everything. Politicians don't listen to those  
ineligible  
to vote," says Lee, 45, a third-generation Korean resident in Japan. "The  
lack  
of suffrage deprives (permanent) foreign residents in Japan of a chance  
to join  
in the decision-making process, which directly affects their lives."

Angered by the fact that three bills aimed at allowing permanent

foreign residents in Japan to vote in local elections were scrapped in the previous Diet session after being debated for only four hours, Lee attempted to file his candidacy on Tuesday for a single-seat constituency in Tokyo for the June 25 general election.

He was turned away by election officials on the grounds that he lacks Japanese nationality. It was his seventh attempt to register his candidacy in a Japanese election, following bids to enter both national and local elections in his native Osaka, as well as Hokkaido, Okinawa and Kochi prefectures, all without success.

This time, the leader of the Foreign Residents Voting Rights Party (Zainichito), formed in 1992, has launched an alternative campaign in the Tokyo No. 1 district, where the Diet building is located, to press lawmakers to enact the bills.

The number of registered foreign residents in Japan hit a record 1.55 million at the end of 1999, accounting for 1.23% of Japan's population, according to the Justice Ministry. Even though many pay taxes, their views are not reflected in how their money is spent.

Japan has 635,715 permanent foreign residents, of whom about 600,000 are Korean, most of them born in Japan. Although they could apply to become naturalized Japanese, many choose not to, citing Japanese wartime colonialism or the onerous application process which compels applicants to adopt Japanese names.

Being born in Japan does not automatically confer citizenship unless one or both parents are Japanese.

However, some foreigners have gone on to become naturalized citizens and run in elections with the aim of creating a better society. Two such people -- Marutei Tsurunen, 60, from Finland, and a 35-year-old woman from China who goes by the name Meilan -- are vying for seats in the upcoming election.

Tsurunen, running for the main opposition Democratic Party of Japan in Kanagawa Prefecture, and Meilan, a candidate for the Social Democratic Party in Tokyo, aim to become role models for foreigners living in Japan.

"If I get elected, it will be very good for the internationalization of

Japan. My victory would prove former foreign nationals can succeed and that they are able to work in the Japanese Diet. It will open the door," said Tsurunen, a former Yugawara town assemblyman in Kanagawa. He is making his third bid for a Diet seat.

Tsurunen, a former missionary, married a Japanese and then became naturalized in 1979. He said many foreigners are accepted in the fields of education, entertainment and sports, and suggested politics should also be open to more foreign influence with the election of "ex-foreigners."

Meilan, a singer who has performed in China, Taiwan, Japan and the United States, is also trying to encourage foreigners by showing they can be accepted by Japanese society without discrimination if they work hard.

"Foreigners are prone to facing various forms of discrimination in Japan. I'd like to act as a bridge between Japanese and foreigners to promote mutual understanding," said Meilan, a Shanghai native who took the Japanese name Keiko Hira when she was naturalized in 1994.

She predicted that with the falling number of children in a rapidly aging society, Japan will be compelled to bring in a massive foreign labor force, necessitating a new system to deal with problems faced by those immigrants.

Lee agreed. "Japan should grant political rights to foreigners to boost immigration. Giving foreigners voting rights could be the cheapest way to conduct structural reform during recession," he said.

The Zainichito leader said the party, consisting of 13 foreign nationals, aims to secure political privileges for current and future permanent foreign residents of Japan.

Korean permanent residents in Japan are mostly descendants of laborers forcibly brought to Japan during its 1910-1945 rule of the Korean Peninsula. They lost their Japanese citizenship after Japan signed the San Francisco Peace Treaty in 1951, which formally deprived Japan of all its colonial territories.

With the loss of Japanese nationality, Koreans in Japan lost their

right to  
vote and run for public office. Ethnic Koreans, especially those of South  
Korean  
nationality, actively sought suffrage while resisting the naturalization  
process.

South Korea has responded to the expatriates' wish with a move to  
enact a  
law granting suffrage in local elections to foreign residents living and  
paying  
taxes for more than five years in the country, the Korean Residents Union  
in  
Japan said.

In addition, South Korean President Kim Dae Jung, in a meeting with  
Japanese  
Prime Minister Yoshiro Mori in late May in Seoul, urged Japan to settle  
the  
issue by the year-end.

Zainichito's goal of winning rights for foreigners to take part in  
national  
elections is opposed by both Japanese and foreigners, including Tsurunen  
and  
Meilan, who say national politics should only involve a country's  
citizens.

Lee said Japan should abolish its policy of attaching importance to  
blood in  
the naturalization process, and allow foreign residents to retain their  
nationality while becoming Japanese. "Further legislation would ban dual  
nationality holders from exercising their political rights in two  
countries,  
thus avoiding confusion," he said.

LANGUAGE: ENGLISH

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13 of 18 DOCUMENTS

Copyright 2000 The Tribune Co. Publishes The Tampa Tribune

The Tampa Tribune

June 18, 2000, Sunday, FINAL EDITION

SECTION: BAYLIFE, Pg. 10

LENGTH: 1434 words

HEADLINE: Reflections on civil rights;

BYLINE: LELAND HAWES;

BODY:

Now looked upon as a "senior statesman" in the civil rights movement,  
Robert  
W. Saunders Sr. finds it hard to believe his career with the Florida  
NAACP had  
him hobnobbing with nationally known giants in the cause.

He grew up in a hardscrabble neighborhood in West Tampa that was  
surprisingly  
integrated in some respects, but bound by the restrictions of  
segregation in  
others.

Saunders, 79, tells of his early abhorrence of the Jim Crow laws that  
made  
second-class citizens of most blacks who lived in the South.

His book, "Bridging the Gap: Continuing the Florida NAACP Legacy of  
Harry T.  
Moore," has just been published by the University of Tampa Press.  
Historian  
Canter Brown Jr. assisted in its preparation through the cooperation of  
the  
Tampa Bay History Center.

The title is a reminder that Harry T. Moore, Saunders' predecessor as  
NAACP  
field secretary in Florida, was killed in a dynamite explosion along  
with his  
wife, Harriett, in December 1951.

Saunders learned of the tragedy in Detroit, where he was working for  
the Ford  
Motor Co. and volunteering for the NAACP. Little did he realize at the  
time  
that he would be considered to replace Moore.

He recalls in the book how he was often asked whether he feared taking  
such a  
potentially dangerous job. "... At the time I took the position, I did  
not  
think about danger at all.

"I just could not believe that these fine and courageous men (NAACP  
leaders  
Walter White and Thurgood Marshall) had entrusted me with so precious a  
mission."

SAUNDERS HAD SEEN violence close at hand when he was 10 in his cigar-factory neighborhood in West Tampa. A white man who lived across the street was kidnapped, whipped and tarred-and-feathered.

His offenses? "Political and union activities." Saunders thinks the neighbor drew the ire of vigilante types for being a socialist and friendly with blacks.

In the 1930s and '40s, in his section of West Tampa - known as Roberts City - youngsters of varying ethnic backgrounds "played together, ate at each other's homes and fought each other."

But Saunders noted they had to go their separate ways to school and to church. And separate water fountains were required by law.

His family had come to Key West from the Bahamas. By 1893, they were in West Tampa, which was taking shape as a cigar manufacturing community.

Grandmother Marion E. Rogers believed in speaking out. As early as 1913, she and other parents threatened to sue the school board for a suitable school building in their area.

In 1915, Rogers "joined with others to found an NAACP local in West Tampa." Saunders considered her "quite a role model."

Another strong influence on Saunders' life was St. Paul African Methodist Episcopal Church. Saunders recalled hearing black Republican Congressman Oscar DePriest of Illinois speak there in 1932.

In 1928, DePriest became the first black elected to Congress in the 20th century and the first from outside the South. He was the unofficial spokesman for 11 million blacks in the United States during the 1920s and '30s.

CHURCH MEMBER J.A. WHITE, a physician, founded a Boy Scout troop, which Saunders joined. He attended a jamboree on the campus of Florida A&M College in Tallahassee in 1931.

One day when returning from a Scout meeting in uniform, Saunders relates, "Suddenly, some Italian boys jumped me, and I knew I was in for a beating.

Then, one of the Italian boys stopped the rest, saying, "Don't bother him, he's a Boy Scout." "

Saunders' parents separated, then divorced. His mother, Christina Rogers Saunders, moved to New York City, taking young Bob with her. Going to integrated schools was an eye-opener for him.

The mother and son returned to Tampa in 1931. In the Depression years to come, the Works Progress Administration would play a role in both of their lives. His mother found work in a WPA sewing factory.

Young Robert benefited from a WPA music program he joined in 1935. He learned to play the piano and mastered all of the brass instruments.

From a WPA band that played at community functions came the Hard Rockers, a dance orchestra. Saunders played the piano.

"I came to know the area's big bands and musicians - Banjo Boy Hawkins, the Florida Collegians and Red Clinton. At the time, Ray Charles was living on Governor Street, just getting started," he reminisced.

While attending Booker T. Washington Junior High School and Middleton High, Saunders held other jobs. He enjoyed selling The Tampa Bulletin, a respected local black publication.

LATER, HE WORKED for a shoe repairman on Central Avenue, the major business street for Tampa's black community. And in 1938-39 he served as a doorman seven nights a week (for a salary of \$ 4) at the Central Theater.

Saunders said his jobs led him to learn "who was into what - and who ran what."

Playing tackle on the Middleton High School football team opened more doors for Saunders. A scholarship to Bethune-Cookman College in 1940 put him into the orbit of Mary McLeod Bethune, then one of the most influential black women in America.

"She played a key role in the lives of most - if not all - her students," he said. "Almost always she was available to talk with us."

But World War II pulled Saunders away, and he was drafted for military duty.

He wound up at Tuskegee Army Air Field as a sergeant in a maintenance squadron.

Saunders took to heart some advice he received from a captain at Tuskegee:

"Go to a northern school." After his release from service, he set his sights on a college degree in the North.

But a couple of newspaper jobs interrupted his ambition: One, selling advertisements and writing a column for The Florida Sentinel in Tampa; the

other as Cincinnati correspondent for the Cleveland Call and Post.

By late 1947, he was taking sociology and journalism at the Detroit Institute of Technology. And he began working in the machine shop at Ford Motor Company's River Rouge plant.

Saunders said he "actively pursued union affairs," serving as a bargaining committeeman dealing with management for about a year. "This truly was an educational experience," he writes.

Winning a bachelor's degree in January 1951, Saunders enrolled in the University of Detroit Law School. But he had to drop out after a year because of his heavy workload on the side.

In his volunteer capacity with the NAACP in Detroit, Saunders came to know Gloster Current, national director of branches. He hit it off well with Current and teasingly asked, "Are you folks hiring anyone in the NAACP?"

WITHIN A WEEK he was summoned to a meeting at national NAACP headquarters in New York City. It was there that national executive director Walter White offered him the Florida field secretary job for \$ 2,800 a year.

From that beginning in September 1952, Saunders began a 14-year career on the firing line against the entrenched forces of segregation.

In the wake of the deaths of Harry T. Moore and his wife, "Black residents feared for their lives, and NAACP membership had declined significantly," he said.

Saunders found himself dealing with mayors, governors, sheriffs and

federal  
judges. He faced a state senate committee headed by Sen. Charley Johns  
that  
sought to prove that the NAACP was inspired by communism.

Membership and fund drives helped to bolster meager resources. Court  
decisions began to turn the tide. But Saunders found implementation of  
the  
Supreme Court's school desegregation decision slow and frustrating at  
local  
levels.

Throughout the 1950s, almost every legislative session brought laws  
"designed  
solely to deny part of the citizens their democratic and equal rights,"  
Saunders recounts.

Student sit-ins and civil rights marches of the 1960s kept NAACP leaders  
jumping. Even the passage of the Civil Rights Act of 1964 didn't still  
critics  
like Gov. Haydon Burns, who continued to denounce the NAACP.

When Saunders left his job as field secretary in 1966 to take a job  
with the  
Office of Economic Opportunity in Atlanta, he said he looked back "with  
pride  
and disappointment. We had accomplished so much and come so far, but the  
price  
had been very high." "Bridging the Gap: Continuing the Florida NAACP  
Legacy of  
Harry T. Moore" costs \$ 29.95, plus \$ 2.50 postage and \$ 2.19 for state  
sales  
tax. To order, write to: Florida State NAACP, 1107 Beecher St., Leesburg  
FL  
34748. Saunders' career as field secretary for the Florida NAACP will be  
taken  
up in a future article on this page.

GRAPHIC: PHOTO 3; SIGNATURE,

Photo from Robert W. Saunders Sr. Saunders' wife, Helen, worked  
alongside him  
on many an NAACP project. Here she points out a civil rights poster in  
the state  
headquarters in Tampa in the 1950s.

TYPE: LELAND HAWES HISTORY & HERITAGE

LOAD-DATE: June 21, 2000

14 of 18 DOCUMENTS

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America

June 17, 2000

SECTION: No. 21, Vol. 182; Pg. 4 ; ISSN: 0002-7049

IAC-ACC-NO: 62828492

LENGTH: 99 words

HEADLINE: Mexican Cardinal Calls for End to 'Xenophobic Attitudes' in U.S;  
Brief  
Article

BODY:

Cardinal Norberto Rivera Carrera of Mexico City asked an end to "xenophobic attitudes" in the United States that have contributed to recent violence and deaths for Mexicans who have tried to cross the border illegally. Speaking to reporters following a Mass on May 28, the cardinal was especially critical of ranchers in southern Arizona who have organized vigilante groups to capture undocumented workers. "A fundamental human right is the right to work...and I believe that the laws of countries and concrete attitudes must leave behind those xenophobic feelings and attitudes," he said.

LANGUAGE: ENGLISH

IAC-CREATE-DATE: June 20, 2000

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15 of 18 DOCUMENTS

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America

June 17, 2000

SECTION: No. 21, Vol. 182; Pg. 5 ; ISSN: 0002-7049

IAC-ACC-NO: 62828496

LENGTH: 324 words

HEADLINE: Archbishop Backs Greece's Call to Remove Religion from ID's;  
Brief  
Article

BODY:

The head of Greece's Catholic minority has backed government calls to scrap the obligatory listing of religious affiliation on citizens' identity cards. But, he warned that change was vigorously opposed by the Orthodox Church, which nominally accounts for 97 percent of the country's population of 10.2 million. "Having to give one's religion causes discrimination, and we will do everything to ensure the practice stops," said Archbishop Nikolaos Foskolos of Athens.

A call for the removal of religion from ID's was made after the re-election in April of the ruling Socialist Party by Justice Minister Michalis Stathopoulos, who said it violated European Union standards and criticized the Orthodox Church's "exaggerated protection." But the proposal was angrily dismissed in a speech on May 14 to Orthodox family groups by Patriarch Christodoulos as a "crime against the nation" by "neo-intellectuals who are biting the church like wild dogs."

The rights of Catholics, who include 50,000 ethnic Greeks and 150,000 foreign residents, have been sensitive in Greece since a 1994 Supreme Court ruling that the Catholic Church enjoyed religious freedom but not legal status. In four judgments during 1996-97, the European Court of Human Rights condemned Greece for violating the 1950 Convention of Human Rights and demanded legislation to establish the Catholic Church's juridical status. However, Archbishop Foskolos said the government had so far done nothing and added that the bishops planned to appeal again to the European Court. "The issue of religious freedom has grown since Greece joined the EU in 1981. But until now, no government has dared act against the will of the Orthodox Church for fear of losing votes," the archbishop said. "Greeks claim to be religious even when they don't practice any religion. There are atheist government members who swear their ministerial oaths on the Gospel. It's a bizarre situation."

LANGUAGE: ENGLISH

IAC-CREATE-DATE: June 20, 2000

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16 of 18 DOCUMENTS

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The National Journal

June 17, 2000

SECTION: LEGAL AFFAIRS; Vol. 32, No. 25

LENGTH: 1518 words

HEADLINE: Cabbies, Cops, Pizza Deliveries, And Racial Profiling

BYLINE: Stuart Taylor Jr.

HIGHLIGHT:

Racial profiling by police is not worth the costs. Racial profiling by cabbies is another matter

BODY:

Imagine yourself a hard-working, law-abiding, young black man in any big city in America. You hail cabs, and they speed by as though you were invisible, only to pick up a white person down the block. You call to order a pizza, only to have the delivery driver refuse to come to your door or never show up at all. You go out to buy yourself a pizza, only to get pulled over for "driving while black" or stopped and frisked for walking while black. Such outrages are a constant theme of your daily life.

But at whom should you be outraged? At the cabbies-most of whom, in cities such as Washington, are themselves black-for guessing that a white guy or an old black woman is less likely to rob or kill them than a guy who looks like you? At the delivery drivers, for calculating that they are more likely to become crime victims on your street than in some lily-white suburb? At the cops, for wagering that they will find more illegal drugs and guns by stopping young black men than, say, people who look like Rosie O'Donnell or Bill Gates or Bill Cosby?

The cabbies, delivery drivers, and cops are all using racial stereotypes in ways that aggravate our legacy of racial

oppression and inequality. So should all forms of racial profiling be illegal? Should cabbies, delivery drivers, and cops be condemned or penalized for treating white people and African-Americans differently? Should their employers be held liable in discrimination lawsuits, such as the one filed by a civil rights group on June 7 against Diamond Cab Co. of D.C., based on evidence suggesting that Diamond cabs almost always show up when the dispatcher is called from affluent white neighborhoods and almost never show up when the call is from a black neighborhood? These are complex questions, and too often they are answered in simplistic terms.

Consider the approach of New York City Mayor Rudolph W. Giuliani. He presides over a police department that for years has been plausibly accused of using racial profiling to stop and search young black men in ways that often seem close to harassment. Yet last year, he launched a big crackdown on other suspected profilers by immediately seizing the licenses and cabs of drivers who refused to pick up black undercover officers posing as would-be passengers or to go to black neighborhoods. Giuliani's approach seems backwards. So do the laws and court decisions around the country that make it illegal (at least presumptively) for cabbies to consider race when guessing whether a potential passenger might be dangerous, while at the same time allowing cops to do so when deciding whom to stop as a possible drug courier.

Steven A. Holmes of The New York Times wrote last year about his anger at being stopped by a cop in his own mostly white Washington, D.C., neighborhood for no apparent reason except his black skin. Then Holmes posed a thoughtful question: "Hadn't I done the same thing myself?" While driving a cab at night as a college student in New York City, Holmes recalled, he had used "my own form of racial profiling" after being robbed twice by young black men. "My sense of tolerance and racial solidarity was tested every time a casually dressed young black man, especially one in sneakers, tried to hail my cab," wrote Holmes. "Most times, I drove right by. I sometimes wondered about their reaction, but I kept thinking that if I guessed wrong, I could pay for my mistake with my life."

Holmes' experiences as both racial profilee and racial profiler reinforce my sense that cabbies and delivery drivers who resort to race-based (and attire-based) stereotypes to increase their odds of staying alive deserve our sympathy, if not our approval. Law enforcement agencies that do so to increase their odds of finding illegal drugs or guns deserve neither.

The point is not that it's necessarily racist, or even unreasonable, for cops, cabbies, or anyone else to associate young black men and poor black neighborhoods with danger. "Statistics abundantly confirm," as Harvard law professor Randall Kennedy noted in The New Republic last year, "that African-Americans-and particularly young black men-commit a dramatically

disproportionate share of street crime in the United States. This is a sociological fact, not a figment of the media's (or the police's) racist imagination." Nor was it racism that prompted Jesse Jackson (in 1993) to say: "There is nothing more painful to me at this stage in my life than to walk down the street and hear footsteps and start thinking about robbery-then look around and see somebody white and feel relieved."

Nevertheless, racial profiling by police should be held to be unconstitutional, as Kennedy asserts, even when there is a statistically valid basis for believing that it will help catch more drug dealers or illegal immigrants. That kind of racial profiling is rarely justified by any concern for the officers' own safety, and it is often hard to distinguish from plain old racist harassment. The negative impact of such profiling is far-reaching: It involves the discriminatory use of coercive government power against people who already experience discrimination at every stage of the criminal justice process; it subjects thousands of innocent people to the kind of inconvenience and humiliation that most of us associate with police states; and it makes law enforcement more difficult by fomenting fear and distrust among potential witnesses and jurors. These costs far outweigh any law enforcement benefits.

Cabbies, on the other hand, who are hailed by thousands of people every year, have much more at stake than arrest statistics and are almost uniquely vulnerable. They are obliged to take passengers wherever they want to go and are virtually defenseless when passengers sitting behind them pull guns. Cabbies must decide whether would-be passengers look safe enough based on little more than skin color, gender, age, and attire. Theirs is one of the most dangerous jobs in the country-more dangerous in terms of homicide rates than being a police officer.

"Late at night, if I saw young black men dressed in a slovenly way, I wouldn't pick them up, either," Sandra Seegars, a D.C. taxi commissioner and longtime community activist, said earlier this year. This touched off a round of pious denunciations, as though (Washington Post reporter Megan Rosenfeld observed) "the body politic (had) ... stuck its collective finger into a light socket." The Post itself complained in an editorial that Seegars "would approve of discrimination against an entire segment of passengers based solely on race and appearance." But Seegars won praise from cabbies, including many who are (like her) African-American.

It is not racism that motivates most cabbies and delivery drivers when they deny equal service to black customers. Their main motive is self-preservation. One can fault them for giving undue weight to racial stereotypes in their calculus of risk. But how would you feel about having your own calculus of personal risk second-guessed by mayors, bureaucrats, judges, jurors, and editorialists?

This is not to deny that we should make every effort to minimize refusals by cab drivers and others to serve black people (or black neighborhoods) on an equal basis. Our laws should crack down on the use of race alone as a basis for denying equal service to anyone. And we should be willing to bear significant social costs to promote equal service. Retailers, for example, should be barred from having their security guards tail black customers based on the assumption that they are statistically more likely than others to be shoplifters. Even assuming that this practice might cut down on shoplifting, that's not a good enough reason to justify the insult to the vast majority of black customers who are not shoplifters.

The law should also push taxicab companies, pizza chains, other employers, and governments to give drivers and other employees every possible incentive, including better protection, to provide equal service. Much can be done along these lines: The D.C. Taxicab Commission, for example, plans to require that cabs be equipped with bulletproof partitions between front and back seats or with security cameras. And Domino's Pizza agreed, on June 5, with the Justice Department to use methods more precise and reliable than racial stereotyping to identify neighborhoods deemed unsafe for delivery drivers.

But we should also have a decent respect for the intuitions of people with dangerous jobs on how best to protect themselves. Such people, as Kennedy wrote in a 1997 book, "like everyone, are caught up in a large tragedy that will require more than individual good will and bravery to resolve."

LANGUAGE: ENGLISH

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17 of 18 DOCUMENTS

Copyright 2000 Spokane Spokesman-Review

The Spokesman-Review (Spokane, WA)

June 17, 2000, Saturday, IDAHO EDITION

SECTION: THE HANDLE, Pg. B1

LENGTH: 283 words

HEADLINE: Protester to appeal ruling on stick;  
He insists rights violated at Aryan Nations parade in '98

BYLINE: Angie Gaddy Staff writer

DATELINE: COEUR D'ALENE

BODY:

A Coeur d'Alene man who was arrested during an Aryan Nations parade plans to appeal a U.S. District judge's ruling.

Gary Edwards, a protester at the 1998 neo-Nazi parade, filed suit against the city of Coeur d'Alene after he was arrested for not surrendering the sticks carrying his protest sign.

In his lawsuit, Edwards alleged the city violated his First Amendment rights after it instituted a "no weapons" ordinance, which included sticks. He asked for \$ 45,000 in damages and attorneys fees.

Earlier this month, Judge Edward Lodge found in favor of the city.

"The First Amendment does not guarantee the right to communicate one's views in any manner desired," Lodge wrote in his ruling. "The citizens of Coeur d'Alene have not been deprived of the opportunity to express their views in public forums particularly suited to open assembly, discussion, and debate because the City has not enacted a complete ban on picketing or the carrying of signs. In fact, the City recommends using PVC pipe as an alternative to wood product and metals."

Edwards' attorney, Bryan Brown, criticized Lodge's decision.

"This is a threat to one of the dearest symbols of America," Brown said. He said he plans to appeal Lodge's decision to the 9th Circuit Court of Appeals on Monday.

"I have a hard time following his decision myself given his earlier decision," Brown said.

In August, Lodge told the city that granting veterans the right to march in parades with guns, while prohibiting protesters from carrying sticks, was unconstitutional.

While Brown agreed with that earlier decision, he said the final outcome was not what his client wanted. "It's a win-lose for us."

NOTES:

Cut in the Spokane edition.

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18 of 18 DOCUMENTS

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The Clearing House

May 1, 2000

SECTION: No. 5, Vol. 73; Pg. 259 ; ISSN: 0009-8655

IAC-ACC-NO: 62745050

LENGTH: 1956 words

HEADLINE: Confidentiality and Student Records: Ten Ways to Invite Legal Challenges.

BYLINE: ESSEX, NATHAN L.

BODY:

Confidentiality of student educational records is a serious issue. Disclosure of sensitive information in a student's personal file without prior written consent can be legally troublesome, especially when information is transmitted to others who have no legitimate educational interest in the student. Damaging information disclosed to a third party may result in defamation of character charges if false information is intentionally communicated in writing (libel) or orally (slander). Such a violation can result not only in liability charges but also in a loss of federal funds for the school district. Although the remedy under the 1974 Family Educational Rights and Privacy Act (FERPA) does not give rise to a private cause of action resulting in the award of damages, it does create an interest that may be pursued under the Civil Rights Act of 1871, Section 1983, for depriving a student of his or her constitutional rights. School personnel must exercise extreme caution in handling student records by assuring parents, guardians, or eligible students that they are afforded full protection regarding disclosure of educational records without their consent. Failure to do so can prove very costly in

terms  
of litigation.

### Key Provisions of the Family Educational Rights and Privacy Act

The intent of the Family Educational Rights and Privacy Act is to protect the confidentiality of student records by preventing disclosure of personally identifiable information to outsiders without prior consent. The act gives parents or legal guardians the right to inspect their child's confidential files and challenge information found in the files that they believe is inaccurate or misleading. In such an instance, the burden of proof rests with school personnel to demonstrate that information in the files is accurate. Failure to do so will result in deletion of the information in question and possible legal challenges if false or damaging information has been intentionally communicated to a third party. School personnel must be certain that all information recorded in the student's educational files is accurate, necessary, and based on reasonable grounds. Minor disciplinary infractions and information that is subject to change should not be placed in the student's files but maintained in a separate file and destroyed when the student leaves school. Confidential and personal information should never be released to unauthorized persons without the express written consent of the parents or legal guardian. Even then, care should be taken not to release sensitive information that is based on opinion or perceptions. Prudence and sound judgment are essential in handling students' confidential files.

Defamation--both libel and slander--as a form of liability does apply to student records. When school personnel intentionally communicate personal and sensitive information to an unauthorized person that results in injury to the student's reputation or standing in the school, or diminishes the respect and esteem to which the student is held, they may face charges. Defamation is a civil wrong committed against another in which recovery is possible with a showing that the offended party received injury based on the deliberate or malicious actions of others.

## Ten Ways to Invite Legal Challenges

In spite of the specific requirements of FERPA regarding confidentiality and privacy rights of students, school personnel sometimes err in handling student confidential records. There are at least ten errors school personnel may commit in handling student confidentiality records that can prove costly from a legal standpoint. Schools can expect legal challenges in the following circumstances:

1. When they do not inform parents, guardians, or eligible students of their rights under the act. Parents, guardians, or eligible students must be provided, on an annual basis, information regarding the content of the Family Educational Rights and Privacy Act, including their right to file complaints with the Rights and Privacy Act Office of the U. S. Department of Education. The district has the responsibility to notify non-English speaking parents of their rights in their native language. Additionally, information should be provided regarding procedures for viewing educational records as well as procedures and timetables for challenging information found in the student's file.

2. When they do not provide an opportunity for parents, guardians, or eligible students to inspect and challenge the accuracy of information contained in the student's file. Parents, guardians, and eligible students have the right to inspect the contents of a student's file. An appropriate school professional should be present during the inspection. If agreement is reached that the information in the file is inaccurate, inappropriate, or misleading, then appropriate deletions or corrections are made. If agreement is not reached, and the parent, guardian, or eligible student wishes to challenge the accuracy of information in the records, a conference must be scheduled within forty-five days to respond to the challenge. (Although the law specifies forty-five days, every effort should be made to respond as quickly as possible.) In all cases, fundamental fairness should be school officials' primary objective.

3. When confidential student files are viewed even though there is no legitimate educational interest involved. Professionals who view student files

should be clearly persons whose purposes are to assist the child and provide guidance and direction in his or her educational pursuits. Only persons with a legitimate interest in the child should be allowed to have access to educational files. The files are not available for any person to view unless there is cause. Extreme care should be exercised to ensure that only persons authorized to see student files are permitted to do so. Even then, all procedural safeguards should be carefully executed.

4. When confidential information is shared with others who have no need to know. Confidential information should never be shared with others who have no need to know. The law is very clear in this matter. Careless talk or gossip, even among teachers, may result in serious legal problems if evidence shows that there was intent to harm the child. It is difficult to prove that intent was not present when confidential and sensitive information is carelessly communicated with others who do not have a legitimate educational interest in the child or a need to have this information.

5. When categorical statements are made that place a stigma on students. School personnel should be extremely careful about entering information in a student's file. Blanket criticisms or statements that place a stigma on the child are extremely dangerous. When it becomes necessary to enter sensitive material, make certain that information is specific regarding a particular infraction committed by the student, including time, place, date, and the specific behavior the child exhibited. Avoid statements such as "Bobby has a mental problem or "Mary has 'sticky fingers.'" These statements will almost always create the threat of a defamation lawsuit. Any categorical statements that tend to lower the student's self-esteem or affect his or her reputation in the school are very difficult to defend.

6. When confidential files are not properly secured and safeguarded. Because student files contain sensitive and personal information, they must not be readily accessible to unauthorized persons who might wish to see them. The files

should be secured, preferably in a fireproof safe, with a person assigned to coordinate all activities regarding access to them. Failure to provide proper safeguards for the records can be problematic if confidentiality is breached based on negligence in handling records.

7. When confidential information is communicated to authorized persons or agencies based on opinion rather than fact. School personnel should avoid passing on information about a student based strictly on opinion. Efforts should be made to stick to facts that can be substantiated as opposed to comments that are based on speculation. Qualified privilege is only available to school personnel when they act in good faith and report factual information. Responses should only be made to inquiries received from the person who is authorized to seek information on the student. There is no defense for reckless statements based on unsubstantiated statements that may injure a student's reputation.

8. When proper notice is not provided to parents, guardians, or eligible students concerning a court-ordered subpoena before records are released. Parents, guardians, or eligible students should be informed before records are released in response to a court order. This notice provides them with prior knowledge of the impending release and allows them an opportunity to take appropriate steps to address the subpoena, which may include consultation with their attorney. Court orders or subpoenas should never come as a surprise to parents, guardians, or eligible students. Fundamental fairness requires timely notice.

9. When school officials fail to inform third parties of the five-year penalty for disclosure of records without parental consent. Third parties must be informed that personally identifiable information disclosed cannot be released to any other party without proper consent. Further, the information must be destroyed when it is no longer needed for the purpose for which it was disclosed. This restriction typically applies to an organization conducting a study for, or on behalf of, an educational agency. Failure to comply with this standard will result in denying the third party access to personally

identifiable information from educational records for at least a five-year period.

10. When school officials fail to inform faculty/staff of the law of libel and slander involving student records. Well-planned staff development programs should be scheduled periodically for all faculty and staff who are involved with student records. Such programs should include an in-depth discussion of the law of libel and slander in relation to FERPA so that everyone understands the legal ramifications of actions regarding student records. These programs should be repeated as new personnel are employed. It would be helpful to write policy guidelines for faculty and staff so that everyone is knowledgeable about all dimensions of FERPA and the important legal issues surrounding its implementation.

#### Conclusion

Confidentiality of student records should not be taken lightly. Students, parents, and guardians have a right to confidentiality and a degree of privacy regarding personal information involving the student. This right must be recognized and respected. Numerous forms of litigation have emerged since the passage of FERPA, which indicates a need for school personnel to know the law and follow it. Failure to do so can have devastating results. FERPA violations do not create a private cause of action; however, when combined with Section 1983, they may provide a basis for recovery regarding constitutional rights violations. Educators must adhere to all aspects of FERPA or pay for it later.

Nathan L. Essex is the dean of the College of Education and a professor of educational leadership at the University of Memphis, Tennessee.

#### REFERENCES

Alexander K., and D. Alexander. 1988. American public school law. New York: West/Wadsworth.

U.S. Department of Education. 1997. Sharing information: A guide to the Educational Rights and Privacy Act. Washington, DC: U.S. Department of

Education

LANGUAGE: ENGLISH

IAC-CREATE-DATE: June 20, 2000

LOAD-DATE: June 21, 2000

\*\*\*\*\* Email Completed \*\*\*\*\*

Time of Delivery: June 21, 2000 11:21 am EST

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL.)

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CREATION DATE/TIME:23-JUN-2000 15:55:14.00

SUBJECT: civil rights

TO: Irene Bueno ( CN=Irene Bueno/OU=WHO/O=EOP [ WHO ] )  
READ:UNKNOWN

TEXT:  
LEXIS-NEXIS Universe Update Report: June 23, 2000 at 15:20

Results from this Update: 12

Next Update: June 26, 2000 at 08:00

Access your results at:  
[http://web.lexis-nexis.com/lm.universe/pnews/emailAlert?\\_pnewsAlert=0x000101a9-0x00004b26%2f0x000101a9%2f20000623%2f15%3a20%3a59](http://web.lexis-nexis.com/lm.universe/pnews/emailAlert?_pnewsAlert=0x000101a9-0x00004b26%2f0x000101a9%2f20000623%2f15%3a20%3a59)

1 of 12 DOCUMENTS

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AP Online

June 23, 2000; Friday 2:28 PM, Eastern Time

SECTION: Advisory

LENGTH: 880 words

HEADLINE: AP News Calendar

BODY:

Major scheduled events for the week of June 25. Please note that many events, especially court appearances, are subject to change at the last minute.

The following economic reports will be issued (all times EDT):

MONDAY: National Association of Realtors reports on existing home sales

for  
May, 10 a.m.; Treasury bill auction, 2 p.m.

TUESDAY: McCann-Erickson releases its semiannual forecast for advertising  
spending report, 9 a.m. Conference Board reports on consumer confidence, 10 a.m.

WEDNESDAY: Commerce Department reports on durable goods orders for May, 8:30  
a.m.; Treasury note auction, 2 p.m.

THURSDAY: Labor Department reports on weekly jobless claims, 8:30 a.m.;  
Commerce Department reports on gross domestic product, first quarter, final,  
8:30 a.m.; Commerce Department reports on new home sales for May, 10 a.m.;  
Freddie Mac reports on mortgage rates. Conference board releases  
Help-Wanted  
Advertising Index, 10 a.m.

FRIDAY: Commerce Department reports on personal income for May, 8:30  
a.m.

## SUNDAY, June 25

Washington Ceremonies on the National Mall marking the 50th anniversary  
of  
the start of the Korean War.

Los Angeles Dalai Lama gives public address at LA Sports Arena.

## MONDAY, June 26:

Washington Supreme Court issues orders and hands down decisions.

Washington Treasury bill auction.

Waynesville, N.C. Trial for Christopher Wayne Lippard, 20, one of two  
men  
charged with killing five members of a Haywood County family.

Newark Five Orange police officers scheduled to be arraigned on charges  
they  
violated civil rights of a suspect who died in their custody after a

police  
officer was shot and killed.

San Diego Sentencing for Keith Manuel Johnson, former INS inspector  
convicted  
of immigrant smuggling.

TUESDAY, June 27:

Washington National Council on Disability release its report,  
"Promises to  
Keep: A Decade of Federal Enforcement of the Americans with Disabilities  
Act."

Washington Federal Emergency Management Agency releases findings of a  
five-year study of the nation's coastal erosion hazard.

Washington Federal Open Market Committee begins two-day meeting to  
discuss  
interest rate policies.

Trenton, N.J. Preliminary hearing scheduled for two state troopers  
charged  
with attempted murder in 1998 shooting of three minority men on New Jersey  
Turnpike.

New York PC Expo opens.

Washington Hearing on nomination of Army Lt. Gen. William Frank "Buck"  
Kernan, nominated to head the U.S. Joint Forces Command, responsible for  
the  
joint service training of 1.2 million American forces. (Check with WDC to  
confirm.)

Concord, N.H. House Judiciary Committee to release report on its Supreme  
Court impeachment investigation.

Concord, N.H. Legislature to vote on overriding Gov. Jeanne Shaheen's  
veto of  
bill to repeal state death-penalty statute.

San Diego Sentencing for Richard Pineda, INS inspector convicted of  
drug and  
immigrant smuggling.

WEDNESDAY, June 28:

Washington President Clinton scheduled to meet with Puerto Rican leaders to talk about the island's future political status.

Washington Senate Judiciary Committee hearing on American prisoners of war in the Pacific who were forced into labor during World War II.

Washington Treasury note auction.

Potosi, Mo. Execution scheduled for Bert L. Hunter, convicted in 1988 deaths of a woman and her son during a robbery.

Charlotte, N.C. National Basketball Association draft.

Milwaukee Spina Bifida Association of America 2000 National Convention. Through Friday.

Rose Haven, Md. Signing ceremony for new Chesapeake Bay agreement among Virginia, Maryland, Pennsylvania, the District of Columbia and the U.S. Environmental Protection Agency.

Los Angeles SLA case hearing on defense attempt to have Patty Hearst held in contempt.

Potosi, Mo. Execution scheduled at 12:01 a.m. for Bert L. Hunter, convicted in 1988 deaths of a woman and her son during a robbery.

THURSDAY, June 29:

Washington House Government Reform Committee hearing on rising gas prices, with Energy Secretary Bill Richardson, Carol Browner, administrator of the Environmental Protection Agency, and Robert Pitofsky, chairman of the Federal Trade Commission

Miami Beach National Organization for Women holds reception to honor Congresswoman Carrie Meek and state Rep. Kendrick Meek.

Durham, N.C. CCB Financial Corp. shareholders to vote on controversial

merger  
with National Commerce Bancorporation of Memphis.

Arlington, Va. National Right to Life Committee holds 28th annual  
convention,  
Hyatt Regency Crystal City. Through July 1.

Blacksburg, Va. Future Farmers of America meeting at Virginia Tech.

Santa Rosa, Calif. Groundbreaking for the new Charles M. Schulz Museum  
and  
Research Center. The 27,384-square-foot museum will include permanent and  
temporary galleries, a 100-seat auditorium, classroom space and outdoor  
gardens.

FRIDAY, June 30:

Washington Vice President Al Gore scheduled to receive award at the  
League of  
United Latin American Citizens annual national convention.

The AP

(PROFILE

(CO:Freddie Mac; TS:FRE; IG:FIS;)

(CO:CCB Financial; TS:CCB; IG:BNK;)

(CO:National Commerce Bancorp; TS:NCBC; IG:BNK;)

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LANGUAGE: ENGLISH

LOAD-DATE: June 23, 2000

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CNN

SHOW: CNN MORNING NEWS 09:00

June 23, 2000; Friday 10:07 AM Eastern Time

Transcript # 00062307V09

SHOW-TYPE: PACKAGE

SECTION: News; Domestic

LENGTH: 522 words

HEADLINE: Title IX Draws Controversy 28 Years After Passage

BYLINE: Daryn Kagan, Bill Hemmer, Kelly Wallace

HIGHLIGHT: It was 28 years ago today that Congress enacted Title IX  
legislation  
with the purpose of banning gender discrimination in sports and  
education. But  
not everyone is pleased with the results of this landmark civil rights  
law.

BODY:

THIS IS A RUSH TRANSCRIPT. THIS COPY MAY NOT BE IN ITS FINAL FORM AND  
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UPDATED.

DARYN KAGAN, CNN ANCHOR: It was 28 years ago today that Congress enacted  
Title IX legislation, the purpose was to ban gender discrimination in  
sports and  
education.

BILL HEMMER, CNN ANCHOR: Now to mark the anniversary and to highlight  
what  
Title IX has done for women's sports, President Clinton will tour the U.S.  
Olympic training center in Southern California.

KAGAN: But as CNN's Kelly Wallace now reports, not everyone is pleased  
with  
the results of this landmark civil rights law.

(BEGIN VIDEOTAPE)

KELLY WALLACE, CNN CORRESPONDENT (voice-over): The Washington Mystics hammer away at the Detroit Shock. These professional basketball players, enjoying opportunities their idols never had. Mystics coach Nancy Darsch was in college when Title IX was enacted in 1972, she said the WNBA would have been unthinkable without it.

NANCY DARSCH, WASHINGTON MYSTICS HEAD COACH: The only reason, I think, that we can have a WNBA right now and have it be successful, in part, obviously with the NBA behind it, but also because these women have competed at the ultimate high level.

WALLACE: Women now compete professionally in basketball and softball, soccer too, as of next spring. Interest in that sport skyrocketed last summer with the United States women's World Cup team.

Before Title IX, a little more than 30,000 women played college sports. By 1998 that number had jumped to just under 150,000.

(on camera): But participation by men hasn't grown and that has prompted some to argue that the law, which aims to end discrimination against women, may actually be discriminating against men.

WALLACE (voice-over): Groups, such as Iowans Against Quotas, charge that schools are cutting men's programs, including wrestling, in order to meet Title IX's requirement that schools have the same percentage of female athletes as undergraduates.

ERIC LESHER, PRESIDENT, IOWANS AGAINST QUOTAS: The way it's being enforced, right now, by the Department of Education in the last 10 years, basically it's turned into a gender quota which is discrimination against men. WALLACE: But advocates for women's sports say the reason for the cutbacks is because schools don't want to shift resources from popular money-making sports such as football.

DONNA LOPIANO, WOMEN'S SPORTS FOUNDATION: What they are doing is they're

leaving the football budget alone, the men's basketball budget alone,  
they're  
cutting men's minor sports like wrestling and swimming and then blaming  
it on  
the women.

WALLACE: There have been court challenges, but local and federal judges  
have  
largely backed the Education Department's enforcement of Title IX.

Nancy Darsch thinks the law has helped, but says that women still have  
a long  
way to go.

DARSCH: Do not rest, because I think there are also signs that we could  
slip  
backwards very easily.

WALLACE: Kelly Wallace, CNN, San Diego.

(END VIDEOTAPE)

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LANGUAGE: ENGLISH

LOAD-DATE: June 23, 2000

3 of 12 DOCUMENTS

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International Herald Tribune (Neuilly-sur-Seine, France)

June 23, 2000, Friday

SECTION: Finance; Pg. 16

LENGTH: 660 words

HEADLINE: Defending Foreign Workers;  
U.S. Employment Commission Files Anti-Bias Suit

BYLINE: By Kirstin Downey Grimsley; Washington Post Service

DATELINE: WASHINGTON

BODY:

Continuing a crackdown on alleged abuses of immigrant workers, the U.S.

Equal Employment Opportunity Commission has filed a class-action lawsuit against an Arizona art-reproduction company, charging it mistreated its Mexican and Guatemalan employees, many of whom were illegal aliens.

The agency charged that Hispanic workers at the company were paid less than U.S.-born workers, did not receive overtime compensation they had earned and were insulted and harassed, including sexual advances being made to the women by American supervisors.

On one occasion, in an effort to find lost money, the Hispanic woman were strip-searched at work while men were simply asked to empty out their pockets, according to the lawsuit and agency officials.

When some workers began to complain about the alleged mistreatment, the owners of the company called the Immigration and Naturalization Service to have them arrested and deported, according to the commission's lawsuit.

"We need to make sure all employers understand that civil rights laws cover all workers in the United States," Ida Castro, chairwoman of the commission, said Wednesday. She said she was pursuing her agency's mandate to enforce the nation's equal-employment opportunity laws, while it was the immigration service's job to enforce immigration laws.

Ms. Castro said more and more immigrants - legal and illegal - were complaining about mistreatment at the hands of employers. She said allegations to her agency had "exploded" in the past decade. In 1986, for example, the agency received 207 reports of harassment based on national origin. By 1999, the number had climbed to 2,089 - a tenfold increase.

"Some of these companies' workplace practices are so egregious that even the most vulnerable workers, immigrants, are starting to arise and assert their rights," Ms. Castro said. "And I think what we're seeing is only the tip of the iceberg." Executives of Quality Art were not immediately available for comment.

A parallel private lawsuit was filed Wednesday by a Phoenix lawyer,

Stephen

Montoya, on behalf of 27 former employees. It alleges the company engaged in a "pattern and practice of discriminating against its Latino employees."

This month, the commission reached a \$1 million settlement in a sexual harassment case on behalf of 22 Hispanic women who worked at a food-processing plant in Laurel, Maryland.

In January, the agency announced it had reached a \$72,000 settlement in a lawsuit on behalf of nine Mexican workers against Holiday Inn Express Hotels & Suites in Minneapolis, alleging national-origination discrimination and retaliation.

In March 1999, the commission announced a \$2.1 million settlement in a class-action discrimination lawsuit alleging a nursing home in Gladstone, Missouri, had imported nurses from the Philippines but paid them less and gave them worse assignments and working conditions than U.S.-born employees.

The commission had alleged the Filipino nurses were paid \$6 an hour less than their U.S. counterparts

On April 21, 1999, according to Mr. Montoya's suit, the Latino employees were subjected to a strip search after an employee allegedly lost \$1,000 won in an office lottery. The manager separated the men and women and asked men to empty their pockets. The American-born women were asked to open their purses and their pockets. But the suit said the Hispanic women were taken to a restroom, where they were required to remove their bras and expose their breasts. One woman's genital area was examined, according to the filing

The filing said Hispanic workers were called "stupid Mexicans" and "brainless Mexicans" and were told they were not permitted to receive holiday or overtime pay on Memorial Day because they are not U.S. citizens.

In an interview, Mr. Montoya said the company has subsequently moved some of its operations to Nogales, Mexico, just across the Arizona border.

LANGUAGE: ENGLISH

LOAD-DATE: June 23, 2000

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Japan Economic Newswire

June 23, 2000, Friday

LENGTH: 420 words

HEADLINE: G-7 to push for redistribution of voting power in IMF

BYLINE: Takehiko Kajita

DATELINE: TOKYO, June 23 Kyodo

BODY:

from the Group of Seven (G-7) industrial nations are poised to push for a redistribution of voting power within the International Monetary Fund (IMF) when they assemble in Japan next week, an international financial source said Friday.

They will probably make a reference in a report to be submitted to their leaders to a shared eagerness to have voting in the Washington-based IMF better reflect the rising economic power of Asia, the source said.

Senior officials from the G-7, which groups Britain, Canada, France, Germany, Italy, Japan and the United States, are discussing the exact wording of the report that will deal with IMF voting and other reforms of the global financial system, the source said.

The envisaged call for the reassessment of the IMF's quota distribution, voting rights and representation on its board is one of Japan's initiatives as host of this year's Group of Eight (G-8) summit.

The G-8 summit is set for July 21-23 in Okinawa. As part of preparations for the summit, the G-7 finance ministers will meet in Fukuoka on July 8 and G-8 foreign ministers in Miyazaki on July 12-13. The G-8 is the G-7 plus Russia.

Japan is calling for the reallocation as quickly as possible of the IMF's quotas, which are a pool of resources that consists of the capital subscriptions

paid by each member nation. The quota determines representation on the 24-member Executive Board.

The IMF's 183 member countries are grouped into 24 constituencies, with five of them represented by a single nation on the board and the remainder by groups of countries. Europe now has a combined 37% of the votes and the U.S. 17%. Japan holds 6% and other parts of Asia a combined 11%.

Japan has repeatedly said the voting share and board representation of the Asian states are too small and should be expanded to reflect their economic advancement over the past two decades.

'Japan considers that a review of the IMF quota shares and the composition of its Board of Directors is crucial for the improved governance and accountability of the IMF,' Japan's Vice Finance Minister for International Affairs Haruhiko Kuroda said last week.

'For the IMF to continue to perform its central role as a truly global institution in the international financial system, it is essential that the quotas, which determine voting shares, the amount of members' contributions, and limits on access to IMF resources reflect the reality of the world economy,' he said.

The international financial source said t

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LOAD-DATE: June 23, 2000

5 of 12 DOCUMENTS

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Japan Economic Newswire

June 23, 2000, Friday

LENGTH: 604 words

HEADLINE: LEAD: G-7 to push for redistribution of voting power in IMF

BYLINE: Takehiko Kajita

DATELINE: TOKYO, June 23 Kyodo

BODY:

#### INFORMATION ON OTHER G-7 REPORTS IN LAST TWO PARAS)

Finance ministers from the Group of Seven (G-7) industrial countries are poised to push for a redistribution of voting power within the International Monetary Fund (IMF) when they gather in Japan on July 8, an international financial source said Friday.

They will probably make a reference in a report to be submitted to G-7 leaders to a shared eagerness to better reflect the rising economic power of Asia in voting at the Washington-based IMF, the source said.

Senior officials from the G-7, which groups Britain, Canada, France, Germany, Italy, Japan and the United States, are discussing the exact wording of the report that will deal with IMF voting and other reforms of the global financial system, the source said.

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'For the IMF to continue to perform its central role as a truly global institution in the international financial system, it is essential that the quotas, which determine voting shares, the amount of members' contributions, and limits on access to IMF resources reflect the reality of the world economy,' Kuroda said.

The international financial source said the G-7 finance ministers will call for the redistribution of IMF voting power in a carefully worded manner, in consideration of anticipated resistance from small European nations.

The source said one possible expression will be that in connection with the IMF's governance, the G-7 ministers are paying attention to the IMF's ongoing work to review the formulas used to calculate members' quotas.

'It will be difficult to explicitly call for a review of quota allocation' in the report, the source said, adding including a reference to a quota redistribution is vital as a first step toward a major IMF reform.

In addition to the report on reform of the international financial system, the finance ministers are due to submit three other reports to G-7 leaders.

The additional reports concern information technology and its policy implications, possible responses to moneylaundering, tax evasion using tax havens and other abuses in the global financial system, and lightening the debt burden of the world's poorest nations.

LANGUAGE: ENGLISH

LOAD-DATE: June 23, 2000

6 of 12 DOCUMENTS

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The New York Post

June 23, 2000, Friday

SECTION: Sport+Late City Final; Pg. 002

LENGTH: 395 words

HEADLINE: CONTROVERSIAL KILLER EXECUTED IN TEXAS

BYLINE: Deborah Orin

BODY:

Convicted killer Gary Graham was executed by lethal injection last night for a 1981 Texas murder he said he didn't commit.

The case sparked a national debate on the death penalty, and placed presidential hopeful Texas Gov. George W. Bush on the spot. Minutes before Graham's death at 8:49 p.m. Texas time, Bush said he supported the execution.

The 36-year-old Graham's last-minute appeals ended when two courts, including the U.S. Supreme Court, refused his final bids for a stay of execution and a third court tossed out a last-minute civil-rights suit.

Graham, who delivered an angry speech while being strapped onto a gurney, died with key supporters, including the Revs. Al Sharpton and Jesse Jackson, and Amnesty International representative Bianca Jagger, acting as witnesses.

"They are killing me tonight. They are murdering me tonight," Graham said just before he drew his last breath.

"I wept uncontrollably," Jackson said later. "I was witnessing a state-organized murder."

In his defiant last words, Graham extolled black power, said he was being lynched and said the death-penalty targets black Americans.

"I die fighting for what I believed in," he said. "The truth will come out."

Bush said the case had been given fair consideration.

"I am confident justice is being done," Bush said. "May God bless the victims, the families of the victims, and may God bless Mr. Graham."

The case turned into a media circus as death-penalty foes used it to spotlight the issue.

In New York, an estimated 200 people protested the execution in Times Square.

"It makes me angry about what's going on in Texas and the country," said Mostafa Ali, 32, of Manhattan.

Anti-capital punishment protesters and hooded Ku Klux Klansmen held rival protests outside the Huntsville prison as the execution took place.

Graham's advocates say he got lousy legal advice and was convicted based on the testimony of a single eyewitness.

The case was reviewed 20 times by more than 30 judges in Texas courts and the Supreme Court over 18 years. All failed to overturn the sentence.

The Supreme Court voted 5-4 to let the execution proceed.

GRAPHIC: -GARY GRAHAM

-BOTH SIDES NOW: The Ku Klux Klan and New Black Panthers stage opposing marches yesterday outside the Huntsville, Texas, prison where Gary Graham was executed. Reuters (above); AP (inset)

LANGUAGE: ENGLISH

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7 of 12 DOCUMENTS

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The News and Observer (Raleigh, NC)

June 23, 2000 Friday, FINAL EDITION

SECTION: NEWS; Pg. A1

LENGTH: 786 words

HEADLINE: Texas inmate put to death

BYLINE: John Moritz, Knight Ridder Newspapers

BODY:

HUNTSVILLE, Texas -- Defiant and combative, Gary Graham went to his death Thursday night after a flurry of 11th-hour legal maneuvers failed and his attorneys reluctantly gave up their fight to stop the lethal injection.

Doctors pronounced Graham dead at 8:39 p.m. CDT, his sentence carried out 19 years after a Houston killing that punctuated a crime spree including at least 10 robberies, two shootings, an abduction and a rape.

Graham protested that he was innocent and that his execution, which he called a "lynching," was a "murder that must be avenged ... by any means necessary."

He made a long final statement in which he called the death penalty a holocaust for black Americans. He asked to be called Shaka Sankofa to reflect his African heritage.

"I die fighting for what I believed in," Graham said. "The truth will come out."

Michael Graczyk of The Associated Press, who served as a pool reporter and witness, said Graham put up a futile struggle to avoid placement on the gurney.

Prison officials, he said, took the rare step of handcuffing Graham to the bed in addition to using leather and velcro straps.

Graczyk said Graham entered the death chamber with bruises on his arms and other parts of his body.

While the drama and Graham's battle for life played out in the courts, hundreds of supporters, including political leaders, Hollywood celebrities and civil rights activists, protested outside the Texas prison unit housing the death chamber.

Graham's execution came more than 2 1/2 hours after he was scheduled to die. He lost his final appeal before the U.S. Supreme Court shortly before 6 p.m. CDT by a 5-4 vote, but his attorneys then filed suit in a federal court contending that his civil rights had been violated.

With U.S. District Judge James R. Nowlin of Austin rejecting that petition, Graham's attorneys decided that they had exhausted their appeals and that it would be fruitless to take the case to the 5th U.S. Circuit Court of Appeals in New Orleans.

Had Graham's case remained in limbo until midnight, his death warrant would have expired and delayed the execution at least 30 days.

Earlier Thursday, the Texas Board of Pardons and Paroles declined by a 14-3 vote to recommend that Gov. George W. Bush grant Graham a 120-day reprieve, a commutation or a pardon.

The parole board has spared a prisoner only once during Bush's tenure.

Bush supported the board's recommendation, saying that 33 judges had heard Graham's appeals and decided they were "without merit."

"After considering all of the facts I am convinced justice is being done," Bush said after final appeals were denied. "May God bless the victim, the family of the victim, and may God bless Mr. Graham."

Graham, whose age has been reported as 38 by prison officials and 36 by his supporters, had steadfastly maintained that he was not guilty of the killing that sent him to Death Row, the 1981 robbery-shooting death of 53-year-old Bobby Grant Lambert.

Graham's conviction rested in large measure on the testimony of one eyewitness. His lawyer did not call witnesses who later said they could provide him an alibi during his trial. Appellate lawyers have tried in vain to have their testimony heard in a retrial.

Prosecutors, meanwhile, said that the eyewitness testimony was rock-solid and that Graham was in the midst of a violent crime spree when he was arrested.

The case was a mere blip on the criminal justice radar screen until 1993, when Graham's new lawyers gained attention as they began pointing out what they saw as flaws in the case.

They said that others who witnessed the late-night shooting outside a Safeway store did not identify Graham as the gunman and that the gun found on Graham during his arrest was tested and proved not to be the murder weapon.

But the witness who identified him, Bernadine Skillern, has never wavered. Skillern, who was waiting in her car outside the supermarket while her daughter ran inside, saw the holdup from about 30 feet away. She said the lighting in the parking lot was adequate for her to see Graham.

The Rev. Jesse Jackson and the Rev. Al Sharpton, along with U.S. Rep. Sheila Jackson Lee, D-Texas, social activist Bianca Jagger and minister Robert Muhammad witnessed the execution on Graham's behalf. A protective glass separated them from the death

chamber.

Members of the New Black Panthers, the Nation of Islam and Amnesty International were among those who held out hope that an 11th-hour stay might come from the U.S. Supreme Court.

(The Associated Press contributed to this report.)

GRAPHIC: c photo file c graphic Executions in Texas Knight Ridder Tribune  
Gary  
Graham maintained his innocence.

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8 of 12 DOCUMENTS

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The Washington Times

June 23, 2000, Friday, Final Edition

SECTION: PART A; Pg. A1

LENGTH: 1148 words

HEADLINE: Texas executes man after top court rejects appeal;

Graham urges vengeance for 'lynching'

BYLINE: Hugh Aynesworth and Steve Miller; THE WASHINGTON TIMES

BODY:

Gary Graham, a Texas killer who proclaimed his innocence to the end, was executed last night after a flurry of last-minute appeals failed and tense protests brought hundreds outside the prison.

"After considering all of the facts I am convinced justice is being done,"  
Gov. George W. Bush said. "God bless the victims. God bless the victims' families. And God bless Mr. Graham."

Graham's final, racially charged statement - in which he used the words of Malcolm X - claimed he had been brutalized by prison officials. Then he urged blacks to "continue this revolution."

"We will prevail. Keep marching black power, keep marching black power,"

Graham said as he rambled for about six minutes.

Graham promised that his execution, which he called a "lynching," was a "murder that must be avenged . . . by any means necessary."

"I was chosen for this genocide. This is part of the genocide we as black people have endured in America," he added, according to reporters allowed to witness the execution.

Graham, 36, was convicted of killing 53-year-old Bobby Lambert in a Houston supermarket parking lot 19 years ago. He pleaded guilty to 10 robberies around the same time but always said he was innocent of the murder.

Bernadine Skillern, who was waiting in her car outside the supermarket while her daughter ran inside, saw the holdup from about 30 feet away.

"I don't feel joy and I don't feel sadness," she said after the execution.  
"I only feel relief."

Late appeals failed in the Supreme Court on a 5-4 vote and in the Texas Court of Criminal Appeals. Graham's attorneys then tried to win a civil-rights claim against the Texas clemency process; a federal judge ruled he did not have jurisdiction.

Appeals courts had already rejected Graham's arguments that he was convicted on shaky evidence from a single eyewitness and that his trial lawyer did a poor job.

The legal scrambling delayed the execution twice from its scheduled hour of 6 p.m. CDT.

At 8:12 p.m., Mr. Bush spoke briefly, saying he thought Graham had received due process and that he agreed with the State Pardons and Parole Board, which earlier yesterday had turned down Graham's appeals for clemency.

He pointed out that Graham's case had been reviewed more than 20 times by state and federal courts.

At 8:52 p.m., witnesses filed somberly out of the Walls Unit of the prison

and threaded through the crowd, informing them of the result. Prison officials announced the time of death as 8:49 p.m.

Witnesses said they saw bruises and restraints and said Graham claimed he had been beaten by guards. As he had promised, the defendant fought those who were attempting to take him to the death chamber. Officials said he fought again as they were trying to strap him to the gurney. He refused his last two meals.

Graham said officials knew he was innocent, that he had been framed by a racist society.

His last words, according to a Houston Chronicle reporter, were: "They are killing me tonight. They are murdering me tonight."

"And then he went silent," said the reporter.

His execution was watched by civil rights leaders the Revs. Jesse Jackson and Al Sharpton and by a tearful Bianca Jagger, who is an activist with Amnesty International.

The day of legal maneuvers and emotional demonstrations began in Austin, when the 18-member parole board refused to grant clemency to Graham in a vote announced at 2 p.m. in a written statement distributed outside of Attorney General John Cornyn's building.

"I can say, unequivocally, that the board's decision not to recommend clemency was reached after a complete and unbiased review of the petition and evidence submitted," said Gerald Garrett, the chairman of the panel.

The vote was 14-3 against an asked-for 120-day reprieve, 12-5 against a commutation and 17-0 against a pardon.

While the case was being litigated, the debate carried itself into the streets of Austin, the capital, where the parole board met, and Huntsville, where the state's death house was surrounded by protesters.

Demonstrators standing outside the Huntsville jail where Graham was executed chanted "murderers" and vowed that his death would not go unavenged. Some yelled "no justice, no peace."

Six persons were arrested for breaking through police lines. Another

persons protested outside the governor's mansion in Austin.

Some of the Huntsville crowd, in frustration and defiance, burned a U.S. flag. Others tried to attack Ku Klux Klan members backing the execution, only to be thrown to the ground and arrested.

A large pro-execution crowd a block away shouted "Texas should follow the law" and "eradicate the animal."

After the announcement of the execution, the once-agitated crowd seemed to calm and start to disperse.

One militant group, the New Black Panthers, showed up unarmed in military garb early in the day, but as execution time approached nine or 10 of them left and came back with rifles and shotguns.

When the Panthers tried to reach a contingent of cheering Ku Klux Klan members, they were stopped by two dozen state troopers.

Mr. Cornyn defended his state and Mr. Bush in a packed press conference following the parole board's afternoon announcement that more or less cast the die.

"Mr. Graham's claims of innocence have been heard over the last 19 years," said Mr. Cornyn, who was elected in 1998. "I think that the fact that our governor is running for president has something to do with the number of cameras here today."

Later in the day, the state high court and the U.S. Supreme Court rejected Graham's arguments that he was convicted on shaky evidence from one eyewitness and that his trial lawyer did a poor job.

The Supreme Court voted 5-4 to deny his appeal for a stay of execution, although at least one of the four justices who voted for a stay had to have refused to hear Graham's appeal on the merits. Four justices are sufficient to agree to hear a case.

The parole board's announcement met with loud reproach by a dozen death-penalty foes who had gathered outside the building.

"This only angers us more," said Lily Hughes, 27, a member of the

Campaign to  
End the Death Penalty. "We are sad, we are devastated, but we are also  
angry.  
It doesn't end here."

The group has worked feverishly for the past several months to get  
another  
trial for Graham. Posters showing a photo of the convict loudly greet  
pedestrians on Guadalupe Street, a main drag adjacent to the University of  
Texas.

"Don't Let Bush Execute Gary Graham," the posters beseeched, alongside  
others  
for beer bashes and live bands.

"Bush and Cornyn are willing to sacrifice a life to make sure our state  
is  
known for its death penalty," Miss Hughes said. "This is a system that  
can't be  
fixed."

\* Mr. Aynesworth reported from Dallas; Mr. Miller from Austin. This  
article is based in part on wire-service reports.

GRAPHIC: Photo, Anti-death-penalty advocates burn Texas Gov. George W.  
Bush in  
effigy after the execution of Gary Graham., By AP

LANGUAGE: ENGLISH

LOAD-DATE: June 23, 2000

9 of 12 DOCUMENTS

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FOX NEWS NETWORK

SHOW: FOX HANNITY & COLMES (21:00 ET)

June 22, 2000, Thursday

Transcript # 062201cb.253

SECTION: News; Domestic

LENGTH: 16143 words

HEADLINE: Texas Executes Gary Graham

GUESTS: Quanell X, Bret Baier, Eddie Korreia, Andrew Napolitano,  
Carl Cameron,  
Ted Nugent, David Spiers, Mike Emanuel, Roy Innis, David Horowitz, Ellen  
Ratner

BYLINE: Sean Hannity, Alan Colmes

BODY:

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SEAN HANNITY, CO-HOST: Welcome to HANNITY & COLMES. We're glad you're  
with  
us. I'm Sean Hannity.

The execution of Gary Graham has been delayed. Protesters surround the  
prison of Huntsville, Texas, where Gary Graham was scheduled to be put to  
death  
earlier tonight. FOX NEWS reporter Bret Baier -- he spoke with the  
minister of  
information for the New Black Panthers, Quanell X. Listen to this  
chilling  
exchange.

(BEGIN VIDEO CLIP)

BRET BAIER, FOX NEWS: ... with weapons. Are there members here armed?

QUANELL X, NEW BLACK PANTHER PARTY: You know, I saw the Ku Klux Klan.  
They  
were riding in a bus behind us. And they were armed. You're damned  
right we're  
armed.

BAIER: And what happens when this execution does go forward, as it  
looks like  
it's heading that way? What will happen here on the streets?

X: I don't know. Only God knows. But whatever happens here, you can't blame anybody here. You have to blame George Bush. You have to blame a wicked criminal justice system. You have to blame a criminal justice system that is broke in Texas and that is killing innocent men who have proof that they're innocent.

BAIER: You said earlier that perhaps the guns wouldn't be loaded. Are they loaded?

X: Let me say this. No wise general would come before the whole world and divulge all of his strategic plans to the world. But I would have to be a damn fool to allow men to come up here with empty guns.

BAIER: But is this a war, sir?

X: You don't bring a butter knife to a gunfight.

HANNITY: In just a moment, we'll speak with Quanell X about what he said and the developments that are coming out of Huntsville tonight. And of Gary Graham's plea for a stay of execution. He'll join us later to talk all about that. And also coming up, a man who claims that he was robbed and almost killed by Gary Graham. He'll talk about these developments and his story. And rock star-turned-conservative activist Ted Nugent -- he'll weigh in on the politics swirling around Graham's execution.

But first: a delay in the scheduled execution of death row inmate Gary Graham. A federal court denied a last-minute bid to stay the execution of Gary Graham, whose lawyers had filed a Civil Rights complaint just minutes before he was due to be executed in Texas in a case that has drawn public scrutiny of the nation's busiest death row.

But Graham's defense lawyers immediately sent the case to the U.S. 5th circuit court of appeals in New Orleans. A spokeswoman for the Texas attorney general's office said Graham's lawyers filed last-minute appeals with the Supreme Court and the Texas court of criminal appeals, but both turned him down.

That led to another appeal to a federal judge. The state court and the Supreme Court had previously rejected Graham's arguments that he was convicted on

shaky  
evidence from a single eyewitness and that his trial lawyer did a poor  
job. The  
Supreme Court voted 5-4 to deny his latest appeal.

And according to Glen Castlebury, spokesman for the Texas Department of  
Criminal Justice, if all legal matters are not resolved by midnight  
Central time  
-- that's 1:00 AM Eastern time -- the execution will not happen for 30  
days.

In recent weeks, the case gained national attention in part because of  
Texas  
Governor George W. Bush's presidential aspirations.

Joining us with reaction from Huntsville, Texas, Quanell X. He is the  
minister of information for the New Black Panther Party. In Washington,  
Ed  
Korrea. He's a member of Graham's defense team. In Los Angeles, FOX  
NEWS Roy  
Innis, national chairman of the Congress for Racial Equality.

Gentlemen, welcome aboard.

Quanell, you're in Texas. We just showed part of the exchange you had  
earlier tonight with our own Bret Baier. We saw some of them -- some of  
your  
members of the New Black Panther Party -- were they AK-47s, Quanell,  
marching  
through the streets?

X: Sir, the guns that the brothers use to march with were all legal  
firearms,  
according to the Constitution and the Texas laws. No laws were broken.  
So the  
guns that were being carried are common guns that are always carried by  
Texas  
citizens.

HANNITY: But the words you use -- you say "I'm a general. As a  
general, I  
won't give out my information." You asked people to remove their children  
from  
the scene there. It seemed, Quanell, like you were preparing for war,  
like you  
were preparing for violence, like you were anticipating and perhaps would  
precipitate some conflict.

X: No, the reason why I asked the people to remove their children,  
because  
law enforcement had circled all of the protesters and blocked the  
entrance that  
brought us in. There's one way in and one way out. And law enforcement  
officers had blocked that entrance. Now, if they would have murdered

Brother

Shaka Sankofa and some civil unrest would have taken place, I did not want to see innocent children that are here to be trampled and hurt.

HANNITY: You know, Quanell, he's had over 20 appeals now, 22 by our latest count. He has had 39 judges. Now we're at our 40th judge looking at this particular case. He's had 19 years. He's had an eyewitness that has been steadfast from day one, that identified him, pointed out that he is the killer in this case. And you claim that he has not been given his opportunity, his fair day in court. I just -- I don't buy it, Quanell. He's had his day in court.

X: The brother deserves a new trial. It's not about having hearings here and there. He's never, ever been able to present his side, his attorneys present his side in an adequate and thorough hearing. What we're asking for is no more hearings, give the man a new trial and let the evidence be heard, and we will not be here because the evidence will speak for itself.

ALAN COLMES, CO-HOST: Quanell, this is Alan. Before we move on to our other guests, is there anything new that's going on out there right now where you are? Any new information you can give us?

X: All I can say to you is that the spirit of the people are high. The people are here standing with us. The people are not going anywhere. And if our brother dies tonight, only Allah God knows the response of the people. But the people are here, and they want me to say to you we is Baybay's (ph) kids. We don't die. We organize and multiply!

COLMES: All right, Eddie Korreia, the -- one of -- part of Gary Graham's defense team, what can you tell us? This appeal that everybody's waiting on -- do you expect a decision tonight? What can you forecast will happen?

EDDIE KORREIA, GRAHAM DEFENSE TEAM: Well, I don't know how that appeal will be resolved. I would say, frankly, that the chances of federal court intervention now are not high. The tragedy of all this is that although there are a lot of legal arguments, the underlying factual evidence of the two witnesses is not going to be able to be presented. That's what the Texas Board of Pardon and Parole's had an opportunity to do. They didn't do it.

COLMES: So what is it...

KORREIA: And they will...

COLMES: What is it you're hoping -- on what -- on what -- on what are you hinging your case tonight that this could be delayed?

KORREIA: Well, if there is a delay, the logical thing to do is actually take that time to hear these witnesses testify, or at least to consider affidavits by them, and to determine whether that warrants a hearing. The underlying problem in this entire case is that because of an incompetent counsel at the beginning, two witnesses who say he's not the killer have never been allowed to testify.

COLMES: All right, Judge Andrew Napolitano, let me bring you in here. You're visiting from Los Angeles tonight. Is this a valid appeal, and is there any likelihood that this could be listened to by the court that's hearing it?

JUDGE ANDREW NAPOLITANO, FOX NEWS CONTRIBUTOR: I don't think there's much likelihood that the appeal will be listened to by the courts, Alan, because the courts operate on the premise that you have a certain finite amount of time in which to present evidence to an appellate court that could and should have been presented to the trial court. That amount of time has long gone. I'm not personally familiar with the procedures involving the Texas...

HANNITY: Judge...

NAPOLITANO: ... Board of Pardons and Appeals, but typically, a board of pardons and appeals has looser regulations and will take the types of things that courts are now foreclosed from taking. So I agree with Mr. Korreia, it's very unlikely that a judge, state or federal, will interfere with this execution.

HANNITY: All right...

NAPOLITANO: There's more of a likelihood...

HANNITY: Judge...

NAPOLITANO: ... that the Board of Pardons and Appeal will, even though

they...

HANNITY: Hang on...

NAPOLITANO: ... voted yesterday not to.

HANNITY: Judge, stay right there. Also, Quanell X, we'll give you an opportunity to respond. This is just in from the Associated Press. Gary Graham's lawyer says that his appeal was rejected by a federal judge in Austin, and there will be no further appeals.

We will pick this up in just a moment. And when we return: How will all of this affect Governor Bush's bid for the White House come November?

tonight's execution. He'll join us. We'll get his reaction to the delay. And also later on, conservative activist Ted Nugent -- he stops by. And we'll get his perspective as HANNITY & COLMES continues.

Please stay tuned.

(BEGIN VIDEO CLIP)

GARY GRAHAM: (UNINTELLIGIBLE) sick and tired of seeing black people victimized by police brutality and racist (UNINTELLIGIBLE) and the death penalty.

(COMMERCIAL BREAK)

COLMES: Welcome back to HANNITY & COLMES. I'm Alan Colmes.

Huntsville all day. We'll go to him live and get his reaction to the delay in Gary Graham's execution. And G.W. Bush has come under fire by some for his execution record as governor. What does conservative activist Ted Nugent think? We'll ask him.

You're looking right now at a live shot of George W. Bush, and let's hear what he has to say.

GEORGE W. BUSH (R), TEXAS GOVERNOR, PRESIDENTIAL CANDIDATE: This is a responsibility I take very seriously because the final determination of innocence or guilt is among the most profound decisions a governor can make. I recognize there are good people who oppose the death penalty. I've heard their message, and I respect their heartfelt point of view.

On October 28th, 1981, Mr. Gary Graham was found guilty of capital murder and later sentenced to death by a Harris County grand jury which concluded beyond a reasonable doubt that he shot and killed Mr. Bobby Lambert during the course of a robbery. The murder of Mr. Lambert marked the beginning of a week-long crime rampage during which, by his own admission, Mr. Graham committed at least 10 armed robberies involving 13 different victims. Two of his victims were shot. One was kidnapped and raped at gunpoint.

Over the last 19 years, Mr. Graham's case has been reviewed more than 20 times by state and federal courts. Thirty-three judges have heard and found his numerous claims to be without merit. In addition to the extensive due process provided Mr. Graham through the courts, the Board of Pardons and Paroles has thoroughly reviewed the record of this case, as well as all new claims raised by Mr. Graham's lawyers.

Today the Board of Pardons and Paroles voted to allow Mr. Graham's execution to go forward. I support the board's decision. Mr. Graham has had full and fair access to state and federal courts, including the United States Supreme Court. After considering all the facts, I am confident justice is being done. May God bless the victims, the families of the victims, and may God bless Mr. Graham.

COLMES: And now this just in from the Associated Press. Gary Graham's lawyer says his appeal was rejected by a federal judge in Austin. There'll be no further appeals.

So it looks like, Roy Innis, the execution will go through tonight. Where do you stand on this?

caving in to all of this pressure, for not doing -- taking the easy way out. I, and I believe the rest of most of the country, am sick and tired of these guys committing capital murder and they become the center of attraction. All the legal, psychological and physical and other resources are concentrated on

them...

HUME: Right.

INNIS: ... for over a decade or more, and no consideration for the victim.

COLMES: All right, hold on, Roy. Let me -- I want to get legal reaction here from Judge Napolitano about what we just saw George W. Bush say. The appeals process

I didn't know there was an appeal after the Supreme Court. I'm surprised to know that.

NAPOLITANO: Well, there is not an appeal after the Supreme Court, but if there is some new issue that was not brought before the Supreme Court, you start all over again at the trial court. Now, we did not see what was filed by his lawyers tonight before a federal judge in Texas, but it must have been an issue different than the one the Supreme Court of the United States voted on today.

COLMES: And Eddie Korreia, I guess this means the execution's likely to go forward tonight for your client.

KORREIA: Well, I think it will go forward, and I think it shows that the death penalty process is fundamentally flawed in this country. George Bush has set out a very solid test: Are you certain that he's guilty? And have you heard all the evidence? The answer to both of those questions in this case is no.

HANNITY: Eddie, let's look at what -- at what the governor said. By the way, looking very presidential, not backing down, although some have tried to use this politically to back him into a corner and that's what you see happening tonight. We -- first of all, we wouldn't be here if it weren't a presidential year and he not running for president. That's just a point that needs to be made. Secondly, he brutally murdered this guy, Mr. Lambert. We've had an eyewitness who's been steadfast throughout these years. The governor spoke of the 33 judges, the 20 opportunities, today the Supreme Court, have all given him

his day in court, and you guys still claim he hasn't had his day in court! In spite -- it just doesn't wash, sir!

KORREIA: No. People were working on this case long before George Bush was running for president, so that's not the reason this case is controversial. The governor did have a fundamental error in his statement. The 5th circuit court of appeals said there's enough evidence to go back and review it, that this might meet the "likely to be innocent" standard. However, by the time it got back to the 5th circuit, the United States Congress had passed a law that said if you could have raised the evidence earlier, you can't hear it now.

HANNITY: Mr. Korreia...

KORREIA: Because Ronald Mock could have raised it and didn't raise it, we can't listen to it now.

HANNITY: All right, by the way, those are live shots from Huntsville, Texas, and we'll be going back there in just a few moments. But Mr. Korreia, I know you're working on his defense. I know you feel passionately, and I know you're emotionally involved. You can't get around the one fact that the one person who's been steadfast in this entire case is the eyewitness who followed Mr. Graham into that parking lot, where he killed Bobby Lambert. And she has even come out again this week. She is 1,000 percent certain and would testify again. These so-called new witnesses were on record with the police at the time stating clearly that they could not identify who this person was!

KORREIA: Mrs. Skillern, when she was taken to the police department, led the artist to draw a composition photo, which did not look like Gary Graham, she was shown five pictures. She said he had a short afro and no facial hair. She was shown five pictures. Only one person had a short afro and no facial hair. It was Gary Graham. She still couldn't identify him.

HANNITY: All right, let...

KORREIA: It was only the next day, when he was the only person in the line-up that was in the photo array, that she...

HANNITY: All right...

KORREIA: ... finally said that's the guy.

HANNITY: Let me...

KORREIA: She was not certain from the beginning at all.

- is it conceivable, is it possible, the governor outlining the opportunities that -- that Mr. Graham has had to have his day in court -- we've now had 33 judges...

NAPOLITANO: Right.

HANNITY: ... if you add the Supreme Court Justices, we're over 40 -- that have looked at this case.

NAPOLITANO: Right.

HANNITY: We've had 20 appeals in this case. Nineteen years have gone by. Is it possible that with all of that opportunity that they could make a mistake, sir?

NAPOLITANO: Well, it's extremely unlikely, Sean, because one of the things that these appellate judges will do is just what Mr. Korreia suggested, which is take the new evidence, take it at its -- in a light and make a value judgment. Is it still proof beyond a reasonable doubt of guilt? If that's the case, no new trial.

HANNITY: Yeah.

NAPOLITANO: Now, we can only assume that the Texas state appellate courts, that the Texas court of criminal appeals, which is the court of last resort in Texas on criminal matters, and that the 5th circuit court of appeals did this because that's the job that appellate judges are to do. A trial judge makes a mistake, the trial lawyer makes a mistake, the appellate courts look at the

evidence and say, "Is there still enough evidence here, proof of guilt beyond a reasonable doubt?" And that result has been almost uniform, "Yes, there is still enough evidence here of proof beyond a reasonable doubt."

COLMES: Let me bring back Roy Innis into the conversation. Convicted on a single eyewitness. That is rare that someone's convicted to the death chair or to lethal injection by a single eyewitness. A lawyer, Ronald Mock, who claimed -- it's claimed has had more clients go to death than anybody else, who didn't interview witnesses because he said he knew in his gut that his own client was guilty! Is this the way to bring justice to somebody?

INNIS: I have heard this talk of one eyewitness. There was -- there were other points of evidence available.

COLMES: There was no physical evidence.

INNIS: The reason...

COLMES: No physical evidence, Roy!

INNIS: The reason that the -- his attorney did not call any of these other so-called witnesses is because they would have crumbled under cross-examination.

COLMES: You have two witnesses who come forward now, who were there at the Safeway, who say that the person they saw commit this crime was much shorter, much different-looking than Gary Graham. And they're now saying this on the record. You've got jurors now coming forward and saying, knowing what they know now, if they were to vote again...

INNIS: Those jurors...

COLMES: ... they would not vote...

NAPOLITANO: Alan, can I jump in...

(CROSSTALK)

INNIS: ... have not seen those witnesses under cross-examination. You have 33 judges plus five on the Supreme Court. That's 38 judges have examined the

evidence that you were talking about...

COLMES: Right.

INNIS: ... and claiming that it's not sufficient. Are you saying that you have no trust in 38 judges?

COLMES: You know what I'm saying?

(CROSSTALK)

COLMES: ... Napolitano, what's wrong with having a stay for 120 days, which is one of the options of the parole board today? It didn't have to be a permanent...

INNIS: You had 16 years...

COLMES: ... stay. It could have been -- I mean, is there a time element here that we have to put him to death by midnight tonight or the

NAPOLITANO: Well, there's -- all right, there's no time element that he has to be put to death by midnight tonight, but the Congress enacted and President Clinton signed a statute prohibiting the regular, repeated, last-minute appeals to the federal courts when...

HANNITY: By the way, Judge...

NAPOLITANO: ... all the appeals have been...

HANNITY: Judge...

NAPOLITANO: ... exhausted in the state courts, Alan.

HANNITY: We've been told, Judge, that there'll be a minimum of 30 days if he's not put to death by 12:00 Central time, 1:00 Eastern time tonight. So there is a time element as it relates for tonight.

Look, I want to -- by the way, the pictures you are now looking at is outside that Huntsville prison where this will be taking place. And just to let you know, as a matter of course, as a matter of state law in Texas, what is going on right now is George W. Bush is inside his office at the state capitol. He's awaiting a call from the warden.

As soon as the warden makes that call, he will then tell the governor that Gary Graham is strapped down. "Should we go forward?" will be the question that he then asks the governor. The governor will say "Go forward," and then Gary Graham at that moment will be executed, at what hour we do not know, but there is a time constraint inasmuch as it must happen by 12:00 Central. That would be 1:00 p.m. on the East -- on the East Coast.

I want to, if I can, go back to Ed Korreia, who has been working on the appeals process. Ed, this is it? Your team is finished. Nothing left at your disposal.

KORREIA: Well, that may well be. And if that's the case -- I hope it's not, but if that's the case, this should be a lesson to the country to wake up. There's something wrong with the death penalty process. Now, Congress is considering the Innocence Protection Act, which would do something about the biggest problem we see in these cases, incompetent counsel.

HANNITY: You know, I -- I -- go ahead. Go ahead, sir.

KORREIA: We just have to do something about the process.

HANNITY: Yeah.

KORREIA: This -- if it turns out to be a tragic example...

HANNITY: Yeah.

KORREIA: ... of the death penalty gone wrong, it's got to wake us up.

HANNITY: All right, but you know, we are going to hear -- the untold story in most of these cases is that we never hear from the victims. Tonight on HANNITY & COLMES, we will hear from one of the victims. We'll

Roy Innis, I want to turn to you, and I want to throw a political question at you. Here we have, politically, George W. Bush. You keep hearing people blaming him, when in reality, he doesn't have the ability to grant a reprieve here because Ann Richards did it in the past. As a matter of law, that's not possible. There's nothing he can do here today. But politically, you see George Bush's name brought up every five minutes because it's an election year, and people want to say, "Look, if he doesn't allow the execution to go

forward,  
he wimped out." If he does, he's either racist or he's reckless. Isn't  
that the  
political box they're trying to put him in?

INNIS: Well, let's remove the "racist" bit. This fellow committed  
crimes  
against a lot of black people. This is not an angelic cherub we are  
talking  
about.

HANNITY: Right.

INNIS: And what angers me is the great consideration and concern that  
we put  
into these kinds of guy that commit crimes over and over again against  
black  
people!

HANNITY: Well, the one thing we don't hear about -- this one eyewitness,  
steadfast now for 19 years, is an African-American woman who as a matter  
of  
principle, Ed Korreia, is against the death penalty.

KORREIA: Well, I don't think the issue is racism in this particular  
case.

INNIS: Glad to hear that.

KORREIA: I think the issue -- I think the issue is the evidence of  
innocence  
which no court has actually heard. Now, people of color in this country  
I think  
are right to be quite suspicious about how the death penalty process works  
overall. The numbers show a great disparity with how it works. So even  
if  
there's no racism in this case, we have a fundamentally flawed system  
that we  
need to fix.

HANNITY: By the way...

COLMES: Judge Napolitano, look...

HANNITY: That just -- by the way, on our screen, you see there the Texas  
attorney general. This execution will happen tonight.

COLMES: Judge Napolitano, look, you've got a pro-death penalty governor  
in  
Illinois, George Ryan, imposed a moratorium because he fears innocent  
people may  
have been put to death. George W. Bush could be taking that position in  
Texas.  
Other states looking at this. That's a reasonable position to take,

isn't it.

NAPOLITANO: I don't think George W. Bush has the power under the Texas constitution unilaterally to impose the moratorium that Governor Ryan has in Illinois under the Illinois constitution. Now, Mr. Korreia knows Texas law better than I do, but I just don't think that Governor Bush has that power.

COLMES: What about that, Mr. Korreia?

KORREIA: Well, I don't -- I don't think he has the power to do that in Texas. I haven't seen a statute to that effect.

HANNITY: All right, we got to break here.

KORREIA: He certainly -- he certainly has the power to encourage...

COLMES: All right, Mr. Korreia...

KORREIA: ... Texas to look at this...

COLMES: ... we got to take a quick break...

(CROSSTALK)

COLMES: We're going to come back . We've got a special two-hour HANNITY & COLMES tonight. Conservative activist Ted Nugent joins us coming up.

Stay with us on this special edition of HANNITY & COLMES.

(COMMERCIAL BREAK)

COLMES: Welcome back to HANNITY & COLMES. I'm Alan Colmes. We'll be joined in a couple of minutes by rock musician turned conservative activist Ted Nugent.

Joining us now from Houston, David Spiers, who says he was robbed and almost killed by Mr. Graham back in 1981.

Mr. Spiers, thank you for joining us tonight.

DAVID SPIERS, GRAHAM ACCUSER: Thank you.

COLMES: What are your thoughts as we are about probably before midnight tonight to witness the execution of Gary Graham?

SPIERS: It's a sad occasion whenever you take a human being's life. I'm saddened by it.

COLMES: Can you tell us what happened to you?

SPIERS: In May of '81, I was driving down the Cady (ph) freeway, which is Interstate 10, with my fiancée and her mother and father. My car broke down, it was about 10:00, 10:30 on a Saturday evening. And I pulled over to the left lane and it was raining. And I got out of the car and a Cadillac pulled in front, and a black gentleman gets out, conservative looking, very handsome gentleman. And he asks if he could give me a ride.

So I jumped in the back seat of the car, and as we were going down the freeway, we were having a very nice social conversation. And then all of a sudden, he pulled out a sawed off shotgun and put it to my chest.

He told me, "I've already killed people before and I'm going to kill you but let me tell you something. Before I kill you, I'm going to go back and I'm going to rape and murder and kill your fiancée and her parents."

COLMES: How did you get out of that situation?

SPIERS: Well, at that time, he pulled the hammer back, I knocked the shotgun down not knowing where the shotgun was as I was moving behind him. Now you have to understand something. It was raining very hard and we're just -- we're doing 100 miles an hour plus. The shotgun went off, it hit me in the center of my leg and severed my leg. I pulled the shotgun away from him, put it to the back of his head. He ducked, blew the windshield out. Glass from the windshield was in my face, rain was in my face. The cars were spinning around. We're getting hit left and right. Next thing I know I'm hit with a .357. I hit her with the butt of the shotgun. I had the barrel of the shotgun and I'm hitting him with the butt of the shotgun. And then all of a sudden, a car hit us so hard, we spun around. And for some reason, you know how you hear on a scene where you lose a finger or something? Well, for some reason, I grabbed my ankle, grabbed my arm, opened up the car and threw myself out of the car. He took off.

Minutes later, I took my tie and my belt off, tried to stop the bleeding. It was raining. I was full of flesh, full of blood. Next thing you know, a group of people, some landscapers, so they say, took me to one of the little local hospitals.

And, you know, the thing about it is I spent three months in intensive care, and two years after that, I couldn't walk. And today, I have -- you know, my leg isn't like it should be.

HANNITY: Well, sounds like your leg was nearly shot off. David, it sounds like you're a very lucky man to be here. He planned on murdering you that night.

SPIERS: Well, you know, the funny thing about it was I was an eyewitness to my attempted murder. And when I see Gary Graham on death row and I see the photos of him for the last 19 years, I remember that day to day, that night to night, that fight to fight, that violent violence contact.

You know, I have to say something. For any human being to go through what I did, fighting for your life, was the most horrible thing that ever happened. Half of my body was numb, my leg was shot. I'm fighting for my life, the car is spinning, rain spinning. And just thank the lord I'm here today.

HANNITY: Ten armed robberies, 15 victims, two shot, one raped, one kidnapped at gun point, and Bobby Lambert lost his life. It's a chilling story.

SPIERS: It's a sad story.

INNIS: Why are we then so concerned with this individual? Why has he become the poster boy for an important principle?

HANNITY: Well -- Ed Korreia, I mean, this man isn't lying. This is his story. We have another eyewitness to the other murder. What has boggled my mind in all of this is everybody's forgotten the stories of these people.

INNIS: The victims.

HANNITY: Everybody -- and I don't know any other network -- I don't see the

big three networks covering this story.

SPIERS: Well, that's because, you know, Gary Graham -- you have to understand something. That's because movie stars...

(CROSSTALK)

HANNITY: One at a time.

INNIS: Where's the media -- where's the media to show this gentleman and his problems, to show the victims?

HANNITY: All right, Mr. Korreia, let's give him a chance and then we'll let Gary come back -- David come back in here. Go ahead, Mr. Korreia.

KORREIA: Gary Graham was a violent young man. It's horrible the things he did. There's no doubt he did -- he committed a lot of crimes and he pled guilty to them. That is completely irrelevant in the case of this particular charge. We do not execute people in this country because they commit other crimes and we don't like them for it.

HANNITY: We'll let David respond to you when we come back but we've got to take a break. And we'll return with Mr. Spiers in just a moment. And along with Roy Innis and Judge Andrew Napolitano. Eddie Korreia, he's working on Graham's legal team. And later, we'll hear from conservative activist, rock star Ted Nugent. Please stay with us. Also, Carl Cameron at the scene, will set the scene in Washington for us on what is happening. But the attorney general from Texas said this execution will happen tonight. We'll have the very latest.

(COMMERCIAL BREAK)

HANNITY: Welcome back to HANNITY & COLMES. I'm Sean Hannity. The attorney general of the state of Texas, if you are just joining us tonight, said the execution of convicted murderer Gary Graham will be happening this evening, as we continue on tonight.

We now head to Washington, our very own Carl Cameron is standing by.

He's going to set the scene. We heard earlier from George W. Bush tonight who said he supports the decision by the Board of Pardons and Parole in Texas, that this execution will go forward.

Latest, Carl.

CARL CAMERON, FOX NEWS CORRESPONDENT: Well, hi, Sean. What happens now is the governor has to, by Texas law, stay in his gubernatorial office at the state capital awaiting a phone call from the warden at the Huntsville jail where Gary Graham is awaiting that lethal injection.

Under state law, what happens now is the warden will call the governor with a special dedicated phone line, which is why the governor has to stay in that office space, and simply ask, "Shall we go forward?" And the governor says yes or no. It's about a 3 1/2 second phone call. And that is the extent of it.

Were the execution to somehow be delayed until after midnight tonight, by Texas law, the death warrant would expire and that would create a whole new 30-day delay wherein a new death warrant would have to be issued and this process can conceivably go forward.

That is merely the legal ramifications of what's going to happen in the next couple of hours. The political ramifications for George W. Bush are many. He has said that he is merely upholding Texas state law and that Board of Pardons and Paroles.

Al Gore, his Democratic opponent in the presidential race, is a capital punishment supporter, so there isn't likely to be a lot of sparring back and forth on that. But Gore has for the last two days been saying he supports the moratorium in the state of Illinois because of so many questionable convictions in that state and has sort of hinted around at the possibility that perhaps Texas has a similar situation.

that he is there because Governor Bush is running for president, the political implications of this will likely continue to arise throughout

the  
course of the campaign. And if you take a look at the numbers, the  
number of  
people waiting on death row in Texas right now...

HANNITY: Carl, we expect the execution of Mr. Graham -- it is expected  
shortly. And as we've been reporting, the attorney general in the state  
of  
Texas has said that the likelihood of this going past 12:00 Central, 1:00  
Eastern is unlikely so that 30-day window that we were talking about is  
unlikely  
to happen, and that this execution will be taking place in the next two  
hours  
and 19 minutes or so, three hours -- two hours and 19 minutes.

CAMERON: This Graham -- the Graham case has attracted all of this  
attention  
because there have been so many celebrities and politicians involved in it:  
Jesse  
Jackson down in Texas for the last couple of days. But there was another  
inmate  
executed in Texas just last Thursday. And virtually, every seven to ten  
days  
from now until well past election day, there will be executions ongoing.  
So the  
death penalty debate is not going to go away for George W. Bush. But he  
and his  
aides believe that this is not probably a negative for his presidential  
candidacy but there is a possibility, sort of a counter intuitive way of  
showing  
that he is showing some serious leadership and backbone by taking a  
position to  
stand up for the death penalty and face off against so much of this  
political  
opposition. So believe that this is an opportunity for him.

COLMES: Carl, it's Alan. Good to have you with us. You say a phone  
call  
goes in a dedicated line to Governor Bush. He then says yes or no. But,  
really,  
he doesn't have the power to say no, does he?

CAMERON: He has -- well, under Texas law, what he has to do is he can  
only  
create a commutation or some sort of a reprieve with the

CAMERON: That's correct.

COLMES: So and that's pretty much a done deal.

CAMERON: The Board of Parole -- the Board of Pardons and Paroles under  
the  
Bush interpretation of the state law essentially means that this is now a  
foregone conclusion. There are some who believe that the governor could

take it

upon himself to pass some sort of a unilateral moratorium, but the Bush campaign, the governor's office and the governor's legal staff believe that

there is no legal precedent for that, and ultimately, he would be violating the state law that he's sworn to uphold.

HANNITY: All right, we thank you, Carl Cameron in Washington tonight.

Carl, will be checking in a bit later on. We expect within the next two hours and 17 minutes, the execution of Gary Graham, convicted murderer, will be taking place. When we come back, we will continue with David Spiers. He was a victim of Mr. Graham. He'll tell more of the harrowing

(COMMERCIAL BREAK)

COLMES: Welcome back to HANNITY & COLMES. I'm Alan Colmes. Joining us now by phone, rock star and conservative activist Ted Nugent. He's the author of

the book, new book, "God, Guns and Rock and Roll," coming out in the next few

weeks. Also, David Spiers stays with us, a victim of Gary Graham. Judge Andrew

Napolitano. We have Roy Innis here in New York City, and part of the Graham

legal team, Eddie Korreia. But let me go to Ted Nugent.

Ted.

TED NUGENT (ON THE PHONE): Hello, Alan.

COLMES: Good to have you with us, sir.

NUGENT: I'm up here in Montreal at a rock and roll get down right now.

COLMES: I know but you're also very outspoken on lots of issues, including guns, including the death penalty. I feel there's something wrong in this society where we put people to death, that the state should not be killing people.

NUGENT: Well, that's where you and I are going to have to disagree, Alan, because I listened to the horror story of Mr. Spiers, and we know that Mr. Graham is responsible for horror stories of over 40 people just from his arrest record that has been proven.

all born with the right to self-defense. I would like to see the death sentence at the scene of the crime where victims stop the evil and we don't have

to go through all this (UNINTELLIGIBLE).

(CROSSTALK)

COLMES: Ted, are you saying at the scene of a crime without a trial, without due process, where people are taking the law into their own hands?

NUGENT: When a guy's got a shotgun to your face, shoot him.

COLMES: So you're -- what you're doing is you're saying vigilante action, that people should take the law into their own hands and forget the legal process.

David Spiers, let me bring you in to respond to that, as someone who's been victimized. How do you feel about what Ted Nugent just said?

SPIERS: Well, you know, unfortunately, I would have done exactly what Ted did, but I ran out of shells. And if I would have had some more shells, I would have killed him. So Ted is right.

NUGENT: See, Alan, there's a dynamic that you have to embrace in the outrage of the situation. We're not talking vigilantes. We're talking our God-given instinct that burns in the soul of...

SPIERS: Self-defense.

NUGENT: ... parents and conscientious people all across this nation that Mr. Graham should have been stopped 20 years ago.

COLMES: All right, I understand.

Eddie Korreia, part of the Graham defense team, I want to bring you in here.

Look, I understand the pain of David Spiers, and no one can take away that feeling if you've been violated, if you've been victimized, your desire to get back at your attacker.

NUGENT: Not get back, just stop him.

COLMES: But you don't make -- let me bring in Mr. Korreia. But you can't make public policy based on that kind -- that desire for revenge.

NUGENT: I think we should.

KORREIA: Well, if we rely on people's God-given instincts, we're going to degenerate into a nation of violence. We can't do that. We're a nation of laws.

NUGENT: We're talking about stopping a nation of violence.

SPIERS: We have a nation of violence.

KORREIA: The reason...

HANNITY: Mr. Korreia, it was your client that was the violent one. Listen to the story of Mr. Spiers.

SPIERS: You know, it's amazing. Bobby Lambert was killed on a Wednesday, I was shot on a Saturday, and I was the 13th victim.

NUGENT: You know, we're talking about neutralizing evil. Who votes against neutralizing evil?

COLMES: But Ted Nugent...

KORREIA: I'll tell you, I'm very sorry for what happened to Mr. Spiers but we're slipping into a tragic mistake, the same one Ronald Mock did, by the way, to assume that because Gary Graham committed another crime, he committed this murder.

COLMES: Let me bring in Roy Innis of C.O.R.E.

KORREIA: You cannot do that.

COLMES: Let me bring Roy Innis...

SPIERS: What I understand is that Gary Graham is capable of murder.

COLMES: Hold on, guys. We want to give everybody a chance to be heard.

Roy Innis, justice and vengeance are not always the same thing. I understand the desire, the human desire for vengeance, but what about justice? What Ted Nugent's talking about has nothing to do with justice.

INNIS: Let me give you another one. Where is the justice when Mr. Spiers goes through what he went through, when this dead man was murdered and his family is going through what they are going through? And this guy -- it

takes

19 years to bring this guy to final judgment. Isn't that a problem, too? And if you do not start bringing these guys to final judgment quicker, then the Ted Nugent solution is the one that we are going to take. That's the danger.

HANNITY: David Spiers, I want to go back to you, because you had written about your ordeal and you said the following: "He fired a shotgun. I was hit at point blank range in the left thigh. I looked down at my feet. My leg was in two pieces at that particular point and about 16 inches around." And it took every bit of effort you had to fight and get that gun at him and shoot this guy back and get -- I mean, this is madness.

SPIERS: This is, you know, it's funny that one of the Hollywood movie stars said, you know, this is not the movies, this is real life. There is no movie that could portray the scene, the violent scene that I went through. Can you imagine having somebody sit in the front seat with a shotgun in your chest and fighting this way with your leg blown off? And, I mean, we were going at it.

HANNITY: And you were 13 -- you're the 13th victim.

SPIERS: I was the 13th.

HANNITY: And judge...

SPIERS: And, you know, the ironic thing about this is is that when he said, "I'm going to kill you, you white honky," that "I've already killed three or four people already so it doesn't matter to me. And let me tell you, I'm going back for your fiancée and for..."

HANNITY: Yeah, not only did he call you -- he told you to F-up, honky, and that you're going to go honky hell.

SPIERS: But, you know...

HANNITY: Let me go to the judge, David, if I can. We're going to get back to you.

Judge, you know, this notion that he hasn't had his day in court, it's

driving me nuts. If I hear it one more time, I'm going to go crazy.  
Nineteen  
years, over 40 judges now, over 20 appeals and an eyewitness that saw him  
commit  
this crime.

NAPOLITANO: Well, you know, Sean, I agree with you. The premise of the  
appellate system is that the appellate judges will review the so-called  
new  
evidence or the defect in the trial, whether it's admitted by the trial...

HANNITY: By the way, judge, I've got to interrupt you. I got to  
interrupt  
you, judge.

NAPOLITANO: Go ahead, Sean.

HANNITY: What we are now looking at on our screen, you see the this  
execution  
has taken place or not, we don't know. He was scheduled to be an  
eyewitness to  
the execution. We should be finding out momentarily as moments. We  
expect to  
talk with him later.

Judge, go ahead. I didn't mean to interrupt you.

NAPOLITANO: Well, the premise of the system is that the appellate  
judges will  
review the so-called new evidence and will review any defects in the  
trial by  
the trial judge or the trial lawyer close to the time of the trial. To  
expect  
that it be done now 19 years after the prosecution when evidence  
dissipates,  
when witnesses' memories fade is grossly unfair to the victim and grossly  
unfair  
to the state. That's why we have these time requirements that new  
evidence and  
defects in the trial and appeals must be filed close in time to when the  
trial  
took place.

HANNITY: Let me bring everybody up to speed.

NAPOLITANO: Because if we didn't have these time requirements, Alan...

HANNITY: I tell you what, first, we're going to go in Huntsville, Texas.  
Mike Emanuel, FOX NEWS, is standing by. What's up, Mike?

MIKE EMANUEL, FOX NEWS CORRESPONDENT: Hey, Sean, I'm outside the walls  
unit.  
And as we just saw, the witnesses for Gary Graham leaving the prison.  
The way

they are walking, certainly looked like they were Jackson, and a spiritual adviser by the name of Robert Mohammed, were among the people listed as the people to witness the execution, they walked out. We see a stronger police presence coming out of the administration building here going by with riot gear on heading over to where the anti-death penalty protesters were assembled, perhaps with the news, if the execution has been carried out, trying to keep a handle on things down there, trying to make sure that things do not get over head.

As you can tell, there's some helicopters overhead, a very wild scene here in Huntsville after a lot of waiting tonight. From the looks of things here, it appears that the execution of Gary Graham may be over. We will wait for official confirmation and bring that to you as soon as possible, Sean and Alan.

HANNITY: Hey, Mike, let me ask you, earlier, we had on this program and earlier tonight on Shepard Smith, Quanell X was there with the new Black Panther party. And many of the people that are organizing with him had what appeared to be AK-47s. He admitted at one point that they were loaded. Where are those people now? And also rumors that the Klan was nearby.

EMANUEL: Well, Sean, we can tell you that Quanell X and his followers, every time they moved, the police were reacting basically to keep a buffer zone around them, allowing them to come and go but certainly watching where they were going and monitoring them very carefully. The last I saw them a little while ago, I did not see them carrying any weapons. But they sounded very -- well, they sounded very aggressive still when they talked to you a little bit earlier on the air. We're not sure whether they've gone back to their cars to perhaps retrieve weapons, whether they've left the area. I cannot see them from where I'm standing right now but I know there are plenty of police in the area where they were congregated to keep an eye on things.

COLMES: Mike, it's Alan Colmes. Can you tell us about the crowd? How many would you -- what percentage of the crowd is pro-death penalty? The execution of

Gary Graham, how many protesters against tonight's action are there.  
What is  
the general feeling of the crowd?

EMANUEL: Well, Alan, I've got to tell you, the overwhelming crowd is anti-death penalty, pro-Gary Graham, African-American protesters the majority.

There were some Anglo people as well. The Klan was here a little bit earlier.

From where I am, I do not see any Klan presence. I'm not sure whether they have

left or whether they are so few in numbers that they're just not visible from

our vantage point. I'm basically sandwiched between the Graham protesters and

the Klan. So I can see that the larger crowd is still here, a lot of the activists, the African-American activists. They're still here. They are by far

the largest crowd here. And from this point, it looks like there may be some

activity down there. But I am not seeing any trouble from where I'm standing.

COLMES: Is it divided along racial lines? Are you suggesting that those people who are anti-death penalty are for the most part African-American, or is there a mixed crowd racially, or is there some kind of divide along racial lines?

EMANUEL: Definitely a mixed crowd. I would say mostly African-American,

though. I'll tell you, some of the people who broke through the barricades

right around 7:00 p.m. Eastern time tonight were white people. So it's definitely a mixed crowd. And some of those people were screaming as loudly as

the African-Americans. Clearly, they are anti-death penalty and were hoping

Gary Graham would be spared tonight.

COLMES: Has any word gone out yet about what's happened?

EMANUEL: No, there has not been any word just yet. I'm looking to where the

podium is nearby. I do not see any Texas Department of Criminal Justice officials yet. There's a whole pack of reporters and cameras waiting for official word to come out. And I'm trying to take a look to see if I can see if

there's any movement. I can see there are some officials standing on the steps

but I do not see Larry Fitzgerald or Glen Castlebury, the familiar spokesmen,

out just yet. Not sure whether they are formulating what they are going to say

or whether they'll be out momentarily.

COLMES: Earlier today, we saw pictures -- we saw it on Shepard Smith's show with AK-47s, Quanell X's group, the new Black Panther party openly carrying guns. Is there any evidence of that now? And do you know whether the Klan was carrying guns? Do we know anything about that?

EMANUEL: I'll tell you, Alan, most of the day, we saw no evidence of guns. Only around 7:00 p.m. Eastern, 6:00 local time, around execution time did we actually see weapons. Later on in the evening, they seemed to be going away. I did not see any Klan members actively carrying weapons. I will tell you, they were far outnumbered by the people who were pro- Graham, anti-death penalty supporters.

HANNITY: Mike Emanuel. Let's just recap for our audience, if we can. Within the last 40 minutes, the attorney general of the state of Texas assured people that this execution of Gary Graham would be taking place tonight. It was only moments ago where we watched the witnesses -- Bianca Mohammed, a spiritual adviser to Gary Graham -- they left the facility. They seemed dejected. It would appear -- we don't know, we don't have confirmation of this -- it would appear that the execution could possibly have taken place.

Since that time, Mike, you're describing the scene where they are now -- there's movement within the crowd and you see law enforcement officials moving within that crowd. Is that correct at this point?

EMANUEL: That is absolutely correct. We saw basically the witnesses heading for the administration building, which is behind our camera position. We saw law enforcement forces in riot-type gear coming out of the administration building and heading over to the anti-death penalty position, death penalty protester position. We can tell -- I can tell you I can see it looks like some candles flickering, some flash bulbs going, but it looks like overall, the crowd is pretty stationary at this point, although vocal.

HANNITY: We expect that some people will be going to the podium, they

perhaps

Al Sharpton and Bianca Jagger. We expect that. When that does happen, we'll carry it for you live right here on the FOX NEWS CHANNEL. What we have been

waiting for, Texas governor George W. Bush was in his office at the state capitol. He was awaiting a call from the warden. The warden was going to tell

him -- telling him that Gary Graham had been strapped down. He would then ask the question: "Governor, should we go forward?" And, by the way, the AP is reporting that Gary Graham has been executed. And we did see the witnesses

leave the facility moments ago. Now the Associated Press confirming, in fact, that execution has taken place.

Mike Emanuel, that means that, in fact, when the warden did ask that question, "Should we go forward," he was told yes and that happened. Mike...

LARRY FITZGERALD, PRISON SPOKESMAN: The state of Texas has executed Gary Graham. He was pronounced dead at 8:49. He is the 23rd inmate executed by the state of Texas this year.

We have pool reporters who witnessed the execution who'll be able to tell you what happened tonight. Our first reporter will be Mike Graczyk of the Associated Press.

MIKE GRACZYK, ASSOCIATED PRESS: ... going to have Lloyd Gite from Fox 26 come here also. We had a -- we had a long, rambling and very angry statement from Mr. Graham, who said at the conclusion, or near the conclusion, that he wanted to be known as Shaka Sankofa.

UNIDENTIFIED REPORTER: Louder! Louder!

UNIDENTIFIED REPORTER: (UNINTELLIGIBLE) the microphone! We can't hear you!

LLOYD GITE, FOX KRIV HOUSTON: Can you hear us? Can you hear us now?

UNIDENTIFIED REPORTER: No!

GITE: They can't hear us.

UNIDENTIFIED REPORTER: (UNINTELLIGIBLE) closer!

GITE: Get closer to the microphone. Can you hear us now?

UNIDENTIFIED REPORTER: Yes!

GITE: Good.

GRACZYK: Let me repeat that. We had a -- we had a long, rambling and angry final statement from Mr. Graham, who including among his comments that he wanted to be known as Shaka Sankofa. It was very obvious from the way he looked that he had put up a struggle. He was restrained with black velcro restraints on his wrists. He had a very rumpled white prison shirt on. He was covered, for the most part, with a sheet, which is fairly unusual for executions that we see here in Texas.

He had a restraint across the top of his head that was designed to keep his head from moving. During the course of his statement, it slipped off. I believe, although I did not see, some of my colleagues did, that he was handcuffed to the death chamber gurney.

GITE: I did see the handcuffs. I understand that it is not normal for a prisoner to have handcuffs on him. He was handcuffed. We were not able to see his hands. I did see some bruises on his upper arm. He also said when he first started talking to us that he was innocent of the killing of Bobby Lambert. He said he did not, in fact, kill Bobby Lambert, and he said that he, Gary Graham, is being murdered today. He said this was, in fact, a lynching. And he said to Bobby Lambert's family, "I did not kill Bobby Lambert." He says that the officials here know the truth and that the truth, at some point, will come out, but that he did not kill him.

GRACZYK: In the course of his statement, he also invoked the names of Nelson and Winnie Mandela. He repeatedly talked about marching on, black power. If you bear with me, I'll try to go through some of my notes here about the statement. Again, it was quite long. Those of you who have seen Mr. Graham know he talks very quickly.

GITE: He also talked about Malcolm X and Martin Luther King, Jr. He said that they stood up and died for what was just, insinuating that he, too, did stand up and die for what is just. He also said that there will be 100 more

years of this kind of lynching if we do not do something and do something fast.

He said "This murder has to be avenged." He said, "We will go forward by any means necessary." And if you have talked to Gary, like I have just a few days ago, he said that "any means necessary" also means weapons. So he reiterated "by any means necessary" before he died.

GRACZYK: He said, "I die fighting for what I believed in. The truth will come out." He thanked his supporters. He expressed love to the Mohammed, who were in the death chamber with us. He urged that they take his case to an international court. He said that they had been beaten he said, "You must continue to demand a moratorium on executions." He said -- he expressed love to his son and his daughters, and he said -- he urged them to hold their heads up.

GITE: He also said, "You can kill a revolutionary, but you cannot stop the revolution." He also said, as Mike has said, "Take this to international courts." He also said that there are tapes that are available of him being abused by the prison officials, him being pepper-sprayed by the prison officials. He said that the people must get ahold of those tapes and make those tapes public to prove that this nation does not act in a civilized manner.

GRACZYK: He said that, quote, "I was chosen for this genocide. This is part of genocide, where black people" -- or that -- let me -- let me start this over.  
"This -- this is part of the genocide that we, as black

GITE: He also said, "This is a holocaust for black people in America." And Bianca Jagger started crying as he was talking, and the as Robert Muhammad, the spiritual adviser to Gary Graham. He said a prayer, as well.

GRACZYK: He said, "This is nothing more -- this is nothing more simple than murder, state-sanctioned murder in America. They know I'm innocent. They won't acknowledge it."

GITE: He said, "This is genocide in America." He also said, "This is what happens to black men."

Now, as the drugs were going into his body, he looked over at us, and he just

sort of went silent. He died with one of his eyes open and one of fact,  
he did  
die.

GRACZYK: Just before they administered the drugs, he said, "Keep  
marching,  
black people. Black power." And he said that twice. Quite a lot of  
anger in  
his -- in his voice. He said, "They are killing me tonight. They are  
murdering  
me tonight."

GITE: And then the doctor came in and examined him and pronounced him  
dead.

They then placed a white cotton towel over his face, and we exited.

GRACZYK: As Lloyd said, there was little reaction to the drugs. I  
wrote down  
he had a slight groan, almost like an exhale, and his -- one of his eyes  
was  
half-open. The other eye was almost shut.

GITE: Questions? Or do we just...

SALATHEIN BRYANT, "HOUSTON CHRONICLE": Hi. I'm Salathein Bryant,  
reporter  
with the "Houston Chronicle."

We were in with the victim's family at the front. There was Rick  
Sanford in  
the middle. Rick Sanford was a robbery victim of Mr. Graham's in 1981.  
In the  
middle was Bobby Hanners, who is the grandson of Bobby

Rick Sanford never took his eyes off Mr. Graham when he went into the  
room.  
And when we walked into the witness chamber, Mr. Graham turned his eyes  
to our  
side, and that's when he said, "I'd like to say to the victim's family I  
did not  
kill Bobby Lambert."

We timed the statement. The statement was about six minutes long, as we  
timed it. And a quote -- "March on, black people. All y'all leaders,  
march on.  
Push the moratorium for all black people. Push for it. All y'all doing  
it  
right. They know I'm innocent. They got the facts to prove it. We will  
prevail. Keep marching. Black power. Keep marching. Black power." And  
the  
last statement that I recorded before his death -- "They are killing me  
tonight.  
They are murdering me tonight." And he went silent.

And of course, the doctor identified the time of death at 8:49. And from what it appeared, Justice for All president Diane Clement at one point during the execution -- she kept her head down, at one point had tissue in her hand and wiped slight tears from her eyes. She wasn't crying heavily. She just patted her eyes a little bit. But as I said, Rick Sanford kept his eyes directly on Mr. Graham the whole, entire time, and so did Mr. Hanners. He -- as I said, he stood in the front, and he also kept looking at Mr. Graham's direction.

And as Mike and Lloyd have said before, when we arrived in the room, he had sort of like an Ace bandage, I guess, that was wrapped around his forehead and around the bed. But that slipped off in the process of his statements because he was rather lengthy, and he was also very breathy in his talking, very exited, I guess, and very breathy in his statements. He really at all times had a huge vein down the center of his forehead there, so he was really expressing himself in a very strong manner.

UNIDENTIFIED REPORTER: What was the time of death?

UNIDENTIFIED MALE: Eight forty-nine.

BRYANT: Eight forty-nine.

I'm sorry. And also, in with the victims was Roe Wade. She is an appellate specialist in the Harris County...

UNIDENTIFIED MALE: Roe Wilson.

BRYANT: Roe -- Roe Wilson. I'm sorry, Roe Wilson -- it's R-O-E Wilson, Roe Wilson. She is an appellate specialist in the Harris County district attorney's office.

FITZGERALD: In conclusion, I'd like to say that I do have a statement here from Bobby Hanners, who is Bobby Lambert's grandson. This was released just a short while ago. He says, "My heart goes out to the Graham family as they begin the grieving process. I also pray that Gary Graham had made his peace with God.

but I truly feel that justice has been served."

Thank you.

Yes?

UNIDENTIFIED REPORTER: (UNINTELLIGIBLE)

FITZGERALD: I cannot hear you. I'm sorry.

UNIDENTIFIED REPORTER: (UNINTELLIGIBLE)

FITZGERALD: Yes, he was. True to his word, he did -- he did resist.  
That  
resistance started approximately 8:20 this evening. It took about 30  
seconds --  
it took about 30 seconds to remove him from the cell, and maybe an  
additional 60  
seconds to actually strap him to the gurney.

UNIDENTIFIED REPORTER: (UNINTELLIGIBLE)

FITZGERALD: Five people. He was taken from the cell at 8:20,  
approximately.  
Took about 60 seconds -- or rather, about 30 seconds to take him from the  
cell  
and about 60 seconds to actually strap him to the gurney.

UNIDENTIFIED REPORTER: (UNINTELLIGIBLE)

FITZGERALD: I'll tell you what. I have got some copies of it I'll pass  
out  
to you.

UNIDENTIFIED REPORTER: (UNINTELLIGIBLE)

GRACZYK: OK. Need sound, OK. This is from Bobby Hanners. It says, "My  
heart goes out to the Graham family as they begin the grieving process. I  
also  
pray that Gary Graham had made his peace with God, but I truly feel that  
justice  
has been served."

Thank you.

HANNITY: There you have it, Gary Graham, convicted murderer, executed,  
8:49  
Central, 9:49 Eastern time.

We go to David Spiers. David, you were one of Gary's victims. He shot  
you  
with a shotgun. He almost murdered you. He split your leg in two.  
We'll get  
your reaction. David?

DAVID SPIERS, GRAHAM ACCUSER: Yes?

HANNITY: I -- there you have it, executed, 9:49 Eastern. He almost murdered you, shot you with a shotgun, tried to murder you. Your reaction, sir?

SPIERS: You know, justice has prevailed. It's been 19 years. But in my heart, I'm sad that another human life, no matter if it was Gary Graham or not. But it's now closure for me. And right now, that's what I care about is myself and my family and the victims. And I'm just glad this is over.

HANNITY: Let me go to you, Ed Korreia. You were working with the defense for Gary Graham, obviously unsuccessful, last-ditch effort and some flurry of activity going on tonight, clearly unsuccessful. Your reaction, sir.

KORREIA: Well, you can be 100 percent for the death penalty and be horrified at what happened tonight. If there is strong evidence of innocence, it should be heard by some tribunal. There was certainly strong evidence in this case. The original evidence for conviction was very weak. It was a fundamentally flawed system that led us to this place. We've got to do something to fix it.

COLMES: Let me go to Mike Emanuel here with FOX NEWS.

Mike, you're outside there at the scene. What's the reaction now that word has gotten out that Gary Graham was, indeed, executed earlier this evening?

MIKE EMANUEL, FOX NEWS: Well, we hear a lot more chanting in the pro-Graham, anti-death penalty crowd. We cannot see anything really from here in terms of any radical movement or any type of violent activity. We can tell you there have been a whole lot of police officers who have gone down to that area to keep an eye on things. And as you just heard, the media witnesses talking about what they saw and heard inside. We expect it'll take probably a few minutes for some of their comments to make it actually out to the crowd, and we may see a reaction from there.

But we can tell you there are just a ton of police officers out in that immediate area. There are helicopters going overhead, a really bizarre scene

out here.

COLMES: You know, earlier tonight, we saw Quanell X, the New Black Panthers.

He and his group, they had guns. A FOX NEWS producer talked to him just a few minutes ago, after the execution. He said he was too choked up, and he had to get out of town. So that...

EMANUEL: So that -- if his threats of violence or of bearing weapons in public were -- were real, then if he's leaving town, I'm sure the police here may be breathing a sigh...

HANNITY: All right, Mike...

EMANUEL: ... of relief.

HANNITY: Mike, we're going to get back to you in just a few minutes. Sharpton, Bianca Jagger and others -- we expect that they will be speaking. When they do, we'll bring that to you tonight.

Also coming up, we'll continue with our panel of guests, including Ted

If you're just joining us, Gary Graham, convicted murderer, was executed at 9:49 Eastern, 8:49 Central. We'll have the very latest and COLMES continues.

(COMMERCIAL BREAK)

COLMES: Welcome back to HANNITY & COLMES. I'm Alan Colmes.

Eight forty-five tonight Central time, nine forty-five Eastern, Gary Graham was executed. It went back and forth, didn't know if it was going to happen at all tonight.

Judge Andrew Napolitano, was justice done?

NAPOLITANO: You asked earlier, Alan, if justice is revenge. Justice is not necessarily revenge. Justice is giving someone what they deserve, whether it be a punishment or a reward, and...

COLMES: But if there's any doubt -- if there's any doubt in somebody's -- whether somebody should be executed, since that's pretty final, should you err on the side of caution and not go forward?

NAPOLITANO: Well, doubt on the part of whom? There was no doubt on the part of the 12 jurors that found him guilty.

COLMES: There is now.

NAPOLITANO: There was no doubt on the part of the 12 jurors that sentenced him when they found him guilty and when they sentenced him.

COLMES: Some of them changed their minds.

NAPOLITANO: And there was no doubt on the part -- and there was no doubt on the part of 39 or 46 judges who reviewed the appeal.

COLMES: All right, Roy Innis, some of those jurors changed their minds. Other witnesses have come forward, questions about how good a defense he had, whether his initial attorney -- there are five other people original attorney for Gary Graham. There are questions concerning the people Judge Napolitano just mentioned as to whether or not they should have gone forward.

INNIS: Alan, it was necessary to have final judgment in this case. An important message was given to criminals all over this country that you are not going to be able to live a perfidious life and then politicize it later on, try to racialize it, try to bring in the Al Sharptons, the Jesse Jacksons, the Bianca Jagers and all this and get off. That is a lesson. That's the real lesson of tonight.

COLMES: You know, it is racial in some cases, in the respect, Ted Nugent, that there are people on death row, often poor, indigent African-Americans who didn't get proper counsel, who weren't treated properly, who weren't treated the way whites are often treated in the criminal justice system.

NUGENT: Well, I think -- you know, I'm just a guitar player, but having done all the research I did with law enforcement and the justice system for my book, I've discovered, obviously, there's some major, major flaws, if not downright unconscionable clustering going on in our justice system. But I think the lesson to be learned here is that Gary Graham lived too long, to begin with. Again, I have to go back and maintain my focus of compassion with all these

victims of this animal.

And when Mr. Spiers is right there watching Mr. Graham blow his legs off with a shotgun, where is the justice system that would get justice right then and there? Mr. Graham should have been put to death the night terminated the evil!

COLMES: David Spiers, I understand your sense of closure. No one can take away from you what you suffered and your pain. But as a matter of policy, is there something wrong in a system where the state can put someone to death, and there can always be a question as to whether that person is innocent or guilty in the case of which he's accused? David Spiers?

SPIERS: I'm going to answer that in the Gary Graham view. Every case has to go through the system. This has gone through 33 judges, 38 appeal processes. In my own particular case, and I'll speak only for that, I know he was capable of murder. I know he tried to murder me. And I know he could have done acts of murder. He killed Bobby Lambert on Wednesday. He shot me on a Saturday. That's 13 crimes later. And he was very capable of killing me and telling me and threatening me that he was going to kill my wife and her parents.

COLMES: Eddie Korreia, as a defense counsel for Gary Graham, what do you say to David Spiers, who was victimized by Gary Graham?

KORREIA: That Gary Graham should have paid for the crimes against Mr. Spiers. Actually, he did pay for it, and he should have paid for it. But we don't execute Gary Graham for what he did to Mr. Spiers. He was executed tonight for killing Bobby Lambert. There is no doubt that if that jury heard today from those other two witnesses and probably understood how Mrs. Skillern came up with her identification, he'd be acquitted. We have at least two jurors who said they'd acquit now.

HANNITY: We -- we...

KORREIA: Now, on the face -- in the face of that, to go ahead and execute him, it seems like the system is spinning out of control.

witnesses to the execution tonight -- that they will have some comments. When they do, we'll bring them to you.

David Spiers, I want to go back to you, as the victim in this case. You nearly died at the hands of Mr. Graham. He gave a long, angry, rambling speech. He claimed he was innocent, said it was a lynching, said he was the one that was being murdered tonight. He changed his name, Shaka Sankofa. He wanted to be known by that name as he left. Clearly, there had been a struggle. He was restrained. He was handcuffed. He had a restraint around his head as he gave this long, angry, rambling speech tonight.

Any reaction to how he handled all this?

SPIERS: Well, he said he was going to fight all the way, and he did. And therefore, he's got the media's reaction, just like they had the media reaction the whole way through. So he accomplished what he said he was going to do.

INNIS: But we don't need to link that rambling nonsense of Gary Graham to the movement. He tried to link himself at the hip with the Civil Rights movement. He is not a Civil Rights -- he wasn't a Civil Rights advocate. He did not die as a Civil Rights hero. And I will hope the media will not lionize him...

HANNITY: All right...

INNIS: ... and deify him and put him in the pantheons...

HANNITY: All right...

INNIS: ... with the real heroes of Civil Rights.

HANNITY: Well, we go back and -- and these are the people that have come to his support. You have a similar case, Abu Jamal, five eyewitnesses, he shot a cop at point-blank range. That's another case, another high-profile case that...

INNIS: With nothing to do with Civil Rights! See, if we go back to the original intent of the Civil Rights movement, it was not to give platform to common criminals! And what we have now is the Abu Jamals and the Gary Grahams

and all of these aberrant types...

HANNITY: Yeah.

INNIS: ... who are being portrayed by the media as Civil Rights heroes.

HANNITY: Judge Napolitano...

NAPOLITANO: Sean...

HANNITY: ... he urged his supporters to go forward and to seek a moratorium on the death penalty and to bring this to the international Sharpton. Legally speaking, is there much they can do, at this point?

NAPOLITANO: No, there's nothing they can do because he's dead.

HANNITY: Well...

NAPOLITANO: Even if he had -- he had not been executed, there's nothing they can do because there's no international court that has jurisdiction over this matter.

I'd like to follow up on what Roy Innis said. I agree with him 100 percent.

If Jesse Jackson comes on this program in the next half hour, Sean, I want you to ask him, is he opposing the death penalty for this fellow just because he's black? Because this not a case of race. This is not a case of a violation of Civil Rights.

HANNITY: I can answer the question for you. I don't think we would be where we are today if it were not involving George W. Bush, a candidate for the highest office in the land.

NAPOLITANO: Exactly.

NAPOLITANO: Exactly.

HANNITY: Yeah. You agree.

NAPOLITANO: Exactly.

HANNITY: Roy?

INNIS: Let me tell you, I have Governor Bush Monday the 26th in New York at the Hilton Hotel at C.O.R.E.'s annual Harmony Awards ceremony. tough

against all  
of the massive media and celebrity pressures that were brought to bear  
against  
him.

HANNITY: Yeah.

INNIS: I'm so glad he didn't cave.

HANNITY: A lot of -- this is going to be a big point, that he did hold  
strong. There was a lot of pressure brought to bear. He stood his  
ground,  
didn't back down, looked presidential tonight.

INNIS: Stuck with the law!

HANNITY: Stuck with the law.

(CROSSTALK)

COLMES: I'll tell you what. We're just out of time for this segment,  
and  
Judge, I think you're -- you've got to leave us at this point, so -- I  
know we  
can continue. We hope to have you back on the show soon. We thank you  
very  
much.

NAPOLITANO: Thanks, guys.

NUGENT: Thank you very much.

NAPOLITANO: Always a pleasure.

COLMES: David Spiers, thank you for telling us...

SPIERS: Thank you very much.

COLMES: ... your story here tonight.

SPIERS: Thank you.

COLMES: We appreciate your time, sir. Thank you very much.

We'll continue with Roy Innis. We'll continue with the attorney for  
Gary  
Graham. Ted Nugent is with us. And we will continue as we debate this  
issue on  
a special edition of HANNITY & COLMES.

(COMMERCIAL BREAK)

HANNITY: Welcome back to this special edition of HANNITY AND COLMES.  
I'm Sean

Hannity. If you are just joining us, the controversial case of convicted murderer Gary Graham. Well, he's been executed as of 8:49 Central Time tonight.

That's 9:49 Eastern. We expect at some point during Sharpton, Bianca Jagger, some others who were witnesses in this case.

We continue now with our panel of guests. Roy Innis, who's with the group C.O.R.E., the Congress On Racial Equality. Ted Nugent's on the penalty. And Mr. Korreia is with us, Ed Korreia, who is one of the attorneys working on the case of Gary Graham and his multiple frenzied appeals today that were obviously not successful.

At this particular point in time when you listen to this angry ranting and raving, Ed Korreia, of this guy Shaka Sankofa, he wants to be known as now, the -- he's claiming brutality took place, that there are videos here. Will you pursue that?

KORREIA: Oh, I don't know. I don't see much point in pursuing a case involving his particular frames. Now, if there's a problem with the system, that might be well worth pursuing. The issue really is what do we take away from the process that led to this execution? There are some lessons here about how we ought to do death penalty cases and if Gary Graham's death can help us examine that and help the country examine it, then I think there's something to be gained from it.

HANNITY: All right, Ted Nugent, there was a controversy earlier tonight. Quanell X, he's a leader in the New Black Panther Movement, he was interviewed by Bret Baier, Fox News Channel's Brett Baier on the "SHEPARD SMITH FOX REPORT" and I want to show you some of this. And people are saying this is the reason why you don't have right to carry laws in America. And I want to get your response. We'll roll that tape first.

(BEGIN VIDEO CLIP)

UNIDENTIFIED REPORTER: Do you have members here with weapons? Are there members here armed?

QUANELL X: You know, I saw the Ku Klux Klan. They were riding in a bus

behind us and they were armed. You damn right we're armed.

UNIDENTIFIED REPORTER: And what happens when this execution does go forward,  
as it looks like it's heading that way? What will happen here on the streets?

X: I don't know. Only god knows. But whatever happens here, you can't blame anybody here. You have to blame George Bush. You have to blame a wicked criminal justice system. You have to blame a criminal justice system that is broke in Texas and that is killing innocent men who have proof that they're innocent.

UNIDENTIFIED REPORTER: You said earlier that perhaps the guns wouldn't be loaded. Are they loaded?

X: Let me say this, no wise general would come before the whole world and divulge all of his strategic plans to the world. But I would have to be a damn fool to allow men to come up here with empty guns.

UNIDENTIFIED REPORTER: But is this a war, sir?

X: You don't bring a butter knife to a gun fight.

HANNITY: Moments after the execution, a Fox News producer on the scene spoke with Quanell X. He was on the verge of tears, was too emotional, said he had to get out of town and left at that particular moment. Now, Ted Nugent, right after that exchange there was a whole series of video that we were carrying live of members of the New Black Panther Party with AK47s in their hands walking through the streets and it raises the question, I know you're more than anybody in the country a pro- unfolding before the American public?

NUGENT: No, on the contrary it encourages me because I think we can all sit back and look at the results of two factions that are obviously both qualify as total idiots, the Black Panthers and the KKK. And it was the fact that they both knew that they were, either side was, both sides were armed and the law enforcement power was in position and no violence erupted.

So I think my premise held true tonight.

COLMES: You know, if anything, Roy Innis, I see this as the worst moment to have these guns displayed in public. The fact that it's legal in Texas to do that, to walk and carry assault weapons right there out in the open, this is the biggest argument I've seen to control this, to have some gun control, to make sure you can't see scenes like that. That shouldn't happen.

ROY INNIS, C.O.R.E. CHAIRMAN: Well, Alan, you see, here's the thing you must understand that what this guy was doing is what the Black Panthers did in California back in the '60s. They ran around with guns with no defense. They were doing an anti-gun thing and these guys were doing exactly the same thing, trying to turn the American public against guns.

INNIS: Yes.

COLMES: They're really anti-gun? They're purposely doing this to

INNIS: That's right. Exactly.

COLMES: Let me get David Horowitz in here, joining us from Los Angeles. He runs the Center for Popular Culture and wrote a book called "Hating Whitey," a former supporter and advocate of the Black Panthers. You've gone in the other direction, David. What do you think about what Roy Innis just said about the new Black Panthers, Quane X, carrying guns

DAVID HOROWITZ, CENTER FOR POPULAR CULTURE: Well, I agree with Roy Innis on most things. On this I'm going to disagree with him. I think what we've seen here, we saw a moment of truth there in the statement of This is about race war. These Panthers, this Sharpton, these people are stoking the fires of anti-white racism. That's what this is about.

This man was a predator. He was a racist when he committed those crimes, as you can tell from his statements during them, telling David Spiers he was going to honky hell and another victim he said, I don't care about you white, you know, MFer.

The reason for the support, I mean, Bianca Jagger doesn't oppose the death penalty. Fidel Castro is executing people all the time without any due process.

COLMES: You know, let's not get too far off the beaten track here, David.

HOROWITZ: She would never complain about that.

COLMES: Look...

HOROWITZ: This is not off the beaten track.

INNIS: But this is not off the point.

HOROWITZ: This is what this is about.

(CROSSTALK)

HANNITY: All right, let's let Roy Innis, go ahead, Roy.

that this guy has and it has nothing to do with this particular case. It has nothing to do with starting any kind of revolution in the streets of Texas. I mean he was doing something else. He was getting some, his rights and I'm equally convinced that these guys are not serious about

HANNITY: All right, we're going to take a...

HOROWITZ: That's right. They were gangsters.

HANNITY: We're going to take a break. We are going to come back. If you're just joining us, Gary Graham, convicted murderer, he was executed, 8:49 Central, 9:49 Eastern.

In our next hour -- and we will be going till 12 midnight Eastern Time tonight, we will open up our telephone lines. We'll get your reaction to the execution of Gary Graham. 1-888-TELLFOX is our toll-free number. If were witnesses, we'll carry that live as this special edition of HANNITY AND COLMES continues.

(COMMERCIAL BREAK)

COLMES: Welcome back to HANNITY AND COLMES special edition. I'm Allen Colmes.

Earlier tonight, George W. Bush addressed the issue of the execution that

happened at 8:49 P.M. Central. Earlier tonight in Texas, Governor George W.

Bush of Texas had this to say about it.

(BEGIN VIDEO CLIP)

GOV. GEORGE W. BUSH (R-TX), PRESIDENTIAL CANDIDATE: When I was sworn in as

Governor of Texas, I took an oath to uphold the laws of our state, including the death penalty. My job is to ensure our state's laws are enforced fairly. This is a responsibility I take very seriously because the final determination of innocence or guilt is among the most profound decisions a governor can make.

I recognize there are good people who oppose the death penalty. I've heard their message and I respect their heartfelt point of view. On October 28th, 1981, Mr. Gary Graham was found guilty of capital murder and later sentenced to death by a Harris County grand jury, which concluded beyond a reasonable doubt that he shot and killed Mr. Bobby Lambert during the course of a robbery.

The murder of Mr. Lambert marked the beginning of a week long crime rampage during which, by his own admission, Mr. Graham committed at least 10 armed robberies involving 13 different victims. Two of his victims were shot. One was kidnapped and raped at gunpoint.

Over the last 19 years, Mr. Graham's case has been reviewed more than 20 times by state and federal courts. Thirty-three judges have heard and found his numerous claims to be without merit. In addition to the extensive due process provided Mr. Graham through the courts, the Board of Pardons and Paroles has thoroughly reviewed the record of this case, as well as all new claims raised by Mr. Graham's lawyers.

Today, the Board of Pardons and Paroles voted to allow Mr. Graham's execution to go forward. I support the Board's decision. Mr. Graham has had full and fair access to state and federal courts, including the United States Supreme Court. After considering all the facts, I am confident justice is being done. May god bless the victims, the families of the victims and may god bless

Mr.  
Graham.

COLMES: George W. Bush earlier tonight saying, Mr. Korreia, that he supported the pardon board in Texas. You say that this governor did this. I wonder, should he have spoken out otherwise? Do you agree with what he said?

KORREIA: Well, I think he was mistaken on a couple of points. The -- his understanding, perhaps, of what the courts did is incorrect. The courts' hands were tied. The Fifth Circuit said we can't consider this new evidence because it could have been raised before. That's a change Congress made in 1996. It was a mistake. Congress should revisit that. We also should raise, revisit this issue, this fundamental problem of incompetent counsel.

There is legislation in Congress, the Innocence Protection Act under consideration right now. I would say that the contribution that Governor Bush and Vice President Gore can make to this debate is to move beyond Gary Graham and talk about constructive legal changes in the death penalty proceed.

COLMES: All right, Ted Nugent, let me get your response to this. Governor George W. Bush clearly supporting what happened tonight. Many people -- we have about 10 seconds here before we have to break -- the most controversial death in Texas under Bush's governorship.

NUGENT: I stand by Governor George W. Bush and certainly Mr. Roy Innis. I think common sense reigned supreme tonight. I think justice has been served.

COLMES: We are going to take a break here, a quick break. We'll come back and continue our debate on what happened here tonight, a special three hour edition of HANNITY AND COLMES. The next hour we'll take your phone calls and get your reaction, find out what you have to say about all of this. Stay with us on Fox News.

(COMMERCIAL BREAK)

HANNITY: Welcome back to HANNITY AND COLMES. I'm Sean Hannity.

The execution of Gary Graham, convicted murderer, took place at 9:49

Eastern

Time tonight. David Horowitz, I want to go back to you. We've heard so much about hate crime laws in recent weeks, in recent months, specifically we heard

David Spiers, victim of Gary Graham, who nearly shot his leg off, tried to murder him, who pointed out that he kept saying, "Shut the F up, honkey. I'll

take you to a honkey hell if you continue to do what you're doing." Other victims had similar stories about a racial component to this.

and some other people involved, why has that not been an issue in this case?

HOROWITZ: Yeah, this, not only did Gary Graham commit homicides, but what's

going on tonight is a kind of hate crime. You're taking, I mean we have a very,

this defense attorney, I have a lot of respect for. He obviously is -- although

I disagree with him, he's, you know, concerned about the process.

The people outside tonight, they're not concerned about the process.

They're concerned about whipping up hatred against George Bush, against victim, you

know, we have a predator is what we have...

KORREIA: Well, let me...

HOROWITZ: ... who should have been executed 20 years ago.

HANNITY: Ellen Ratner, imagine if it were in reverse and this was, say, a black victim who instead of shut the F up honkey...

ELLEN RATNER, FOX NEWS CONTRIBUTOR: This has nothing to do...

HANNITY: Or honkey hell -- excuse -- let me ask the question, Ellen. You can't anticipate what I'm going to say, trust me. But if it was in reverse and

the "N" word was used instead of the "H" word, I ask you, would people not be

saying that there's a racial component to that and would that have not been an issue?

RATNER: No, I think actually from my point of view the death penalty is not a

racial issue at all and I don't see this as a racial issue except for the fact

that black people are disproportionately killed...

HANNITY: You didn't answer my question. You totally...

RATNER: ... in this country, John.

HANNITY: We keep, all right, we keep hearing about hate crimes. We keep hearing about extra penalties for crimes that are committed when they're motivated by racial hatred or sexual orientation hatred and so on and I'm bringing up a point that was not brought up in this case. The very people that support those laws in reverse are yet the biggest supporters of Gary Graham, who we have eyewitnesses...

RATNER: Well, actually, the very far left is not in favor of the hate crime legislation and thinks that it is an over exaggeration by the state. But that isn't what this case is about. This is about somebody who was 17 years old, not even an adult. We have, there's United Nations...

HANNITY: Oh, here it is.

RATNER: ... regulations against executing somebody like this.

HANNITY: Get me a violin here.

RATNER: OK, Sean, wait a minute. You're a heavy duty Catholic. How do you even live with yourself with your views on it?

HANNITY: Oh, I live very comfortable within my own skin, thanks.

(CROSSTALK)

COLMES: Let me bring in Ted Nugent here. We're losing Ted after this segment. Ted, I'll tell you where the racial element is here. Blacks are disproportionately put to death in this country with the death penalty. They're the ones who suffer because of a criminal justice system that favors richer white people. They're the ones who get poor lawyers who sometimes in Texas, it's been discovered, fall asleep at trials, give poor

Gary Graham's lawyer, five different people on death row in Texas have cases against him right now. It happens all the time in this country.

the Dali Lama with a Glock.

RATNER: Well, I'm sure you're the Dali Lama then.

HOROWITZ: Listen...

COLMES: That doesn't exactly address what I said. Perhaps Roy Innis...

HOROWITZ: Gary Graham's lawyer, Gary Graham's lawyer was black. Does Allen want to bar black attorneys?

COLMES: You're talking about Ronald Mock, yes. And Ronald Mock...

HOROWITZ: It's completely false. There's absolutely no evidence that black people are disproportionately executed...

COLMES: David, the issue...

HOROWITZ: ... that the system is stacked against black people...

RATNER: Oh, yes there is.

HOROWITZ: No there isn't. There's a lot of phony leftist so-called academic studies but if you read Randall Kennedy's book, you know, if you read people who take this issue seriously, there is no serious evidence that black people are disproportionately executed or don't have a fair chance in this system.

COLMES: Well, let's bring in Eddie Korreia. Excuse me, Eddie Korreia is or was one of the lawyers for Gary Graham. Ronald Mock was his original attorney. Let's talk about what's happened to Ronald Mock in Texas and what's gone on with this man who is the person that represents more people on death row than anybody else in America. You want to address that, Eddie?

KORREIA: Well, Ronald Mock is probably a good case study in why the system is flawed. He did a very bad case, a very bad job in this case by not investigating the other witnesses. The reason these witnesses were not called is that Ronald Mock assumed Gary Graham was guilty and never called them. What we've got to do is deal with that problem of incompetent counsel.

But let me say something about the system as a whole. There is no doubt that race plays a role overall. Whether it did in this case is another matter. But overall it plays a role in the way the death sentence is applied.

HANNITY: Let's go...

KORREIA: If you're a black victim, it's less likely that there'll be a

death  
sentence than a white victim.

HANNITY: All right, let's get a reaction from Roy Innis here.

COLMES: Absolutely.

RATNER: Well, can we talk about money, too?

Hold on, Ellen. Hold that, Ellen. Let's get Roy Innis in here.

INNIS: I am prepared to pledge here tonight with Ellen, with the fine attorney here, let us get together and examine flaws in the system, not around a poster boy for bad behavior like this fellow Gary Graham, but around the general question is there flaw in the Texas system or the Michigan system or the...

COLMES: Illinois, where they have put a moratorium on the death penalty.

KORREIA: I couldn't agree with you more.

INNIS: Let us study those things. But let's not do it around poster boys for bad behavior.

HANNITY: All right, Gary...

HOROWITZ: Can I just inject here?

HANNITY: I'll tell you what, David, hang on, David.

HOROWITZ: OK.

HANNITY: We're going to get back to you. We are going to say good- bye to Ted Nugent, joining us, I believe, what, Toronto tonight, Ted?

NUGENT: No, we're in Montreal.

HANNITY: Montreal. Toronto tomorrow night.

NUGENT: But thank you very much Sean and Allen and Roy Innis.

HANNITY: Thank you.

NUGENT: God bless you, sir. What Roy Innis says is what I believe.

HANNITY: Yeah, well I agree with him.

COLMES: Thank you, Ted.

HANNITY: Thank you, Ted. Appreciate your time.

NUGENT: God bless.

HANNITY: In our next hour we will get to our busy telephones. Our toll-free number is 1-888-TELLFOX if you'd like to be on board. We expect happens, we'll bring it to you. We'll get your calls in the next hour.

Gary Graham, executed as of 9:49 Eastern, 8:49 Central, a convicted murderer, and the controversy continues. Please stay with us.

(COMMERCIAL BREAK)

COLMES: Welcome back to HANNITY AND COLMES. I'm Allen Colmes. A special edition tonight, we're on till midnight Eastern. Next hour we'll be taking your phone calls, 1-888-TELLFOX. We want to get your reaction to what happened tonight. Gary Graham executed at 8:49 Central Time. Also Al Sharpton, with Bianca Jagger, with a number of other activists.

And David Horowitz, I know that you were an activist at one time on the other side. You were, in fact, in synch with the Black Panthers. You've gone way over to the other side, the opposite side of the spectrum.

HOROWITZ: Well, it's, I know now who's out there and what you have is a, you know, a bunch of racists, people who would like to commit violence and would like to...

COLMES: That's a pretty broad statement.

HOROWITZ: ... and would like to incite violence and they're just hiding behind this death penalty issue. I just want to say something about these statistics. There is a disparity in the statistics, but it's not racism that explains it. Six percent of the population of black males commit 43 percent of the homicides in America and 48 percent of the armed robberies. And when you, you know, give the death penalty, it's for aggravated assault. Usually, it's usually in connection with a crime like robbery where you commit a murder. If you kill somebody that you know or, you know, family or something like that, which is most of the actual killings, you're less likely to get a death penalty

sentence.

COLMES: All right, let me...

HOROWITZ: If you want to look at this, you have to look at the total,  
the  
total statistics.

COLMES: All right, we only have a moment left.

HOROWITZ: Eighty-five percent...

HOROWITZ: OK.

COLMES: Eddie, look, Stephen B. Bright, director of the Southern Center  
for  
Human Rights in Atlanta put out a report in 1999, "Death In Texas," cited  
lawyers sleeping through death penalty trials, accused the Texas Court of  
Criminal Appeals of ignoring constitutional violations so they can be  
elected to  
office. You find out that they were politically connected lawyers who  
get these  
cases who do incompetent jobs with their clients.

KORREIA: Well, it's a flawed system and if there's any system, if we're  
going  
to have it, we're going to have a system of putting people to death in  
this  
country, it's got to be fair and it's got to be perceived as fair. This  
system  
is fundamentally unfair and flawed and if we're going to continue it,  
we've got  
a moral duty to fix it.

COLMES: And Roy, that's true. The system has to be fixed. Do you  
accept the  
system as it is? Are you happy with the way the system is?

INNIS: No, I am not and I'm prepared to pledge right here and get a  
pledge  
from Ellen and from the lawyer and from others, that we not around Gary  
Graham,  
but around questions of flaws in the system seek reform.

RATNER: The flaws in the system, the flaws in the system are that a  
17-year-old, somebody who was 17-year-old did this and -- or supposedly  
did it,  
which he probably didn't do -- and that we abandoned this child until he  
was 17.

HANNITY: All right, you know...

RATNER: He was probably totally mistreated by the system until he was...

HANNITY: Ellen...

INNIS: Once he started pulling that trigger, he was no longer 17 in my eyes.  
Once he started killing people and maiming people and raping people, he's no longer a child.

RATNER: Well, wait a minute. Take a look at that book "Ghosts In the Nursery" and you will find out that what is, what's happening with people who are sentenced to death is they've been dropped when they're children, they've been put on drugs like Karla Faye Tucker does -- was. We have totally abandoned these people and then we put them to death. It is a system of mistakes from the get go.

INNIS: Let me tell you...

COLMES: The question here is, the question...

INNIS: There are good kids that live in the same communities with these types as Gary Graham. There are good kids that live in the same household.

COLMES: All right, we've got to...

RATNER: Well, you don't know that...

INNIS: ... which do not commit those crimes.

COLMES: Hang on, Ellen. We've got to break. Ed Korreia, we're going to say good-bye to you, who's been working in the Gary Graham defense team. Thank you for the time you spent with us tonight, Ed, and we appreciate it. I know it's not a happy night for you.

When we come back in our next hour, we will be joined live by the your calls.

Our toll-free number is 1-888-TELLFOX. If you're just joining us, Gary Graham, convicted murderer, executed as of 8:49 tonight.

LANGUAGE: ENGLISH

LOAD-DATE: June 23, 2000

10 of 12 DOCUMENTS

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BUSINESSWORLD (PHILIPPINES)

June 21, 2000

LENGTH: 944 words

HEADLINE: AdLib: Transforming RP politics

BODY:

The good news is that the Senate has revived discussions on the voting rights of overseas Filipinos.

Pinoys across the US have been closely following reports from Manila and are glad to hear that Senator Blas Ople has stated that the absentee voting bill is among the electoral reforms that Congress is trying to expedite.

One news item quoted Ople as follows: "We cannot in all conscience deprive them (overseas Filipinos) of the right to vote, given the constitutional provision on absentee voting."

Some time last year, when some Philippine congressmen met with the Fil-Am community and the press at the San Francisco Consulate General, they were asked about this issue. Community leaders informed them that, over the years, visiting politicians had promised to support a bill to give voting rights to Pinoys on whose shoulders the Philippine economy depends.

The solons' response at the conference was a letdown. While they claimed to agree with the principle behind the proposal, they revealed that some of their colleagues in the House were against it. They then left the matter at that, not even suggesting a recourse.

In my disappointment, I observed in this column that the visiting politicians had said nothing wrong but, sadly, had said nothing right, either.

Last Friday, Senator Juan Flavio Velasco was in San Francisco and spoke before a

gathering of members of the Integrated Bar of the Philippines, US chapter. He was also asked about the absentee bill. The senator expressed confidence that, this time, it could pass.

At any rate, Ka Blas put it correctly when he observed that "once absentee voting is passed into law, overseas Filipino workers will be a powerful bloc in deciding the next president of the Philippines."

But that is only part of what we can do.

The bigger picture is that we, as a voting bloc, can transform Philippine politics from its present dirty, rotten, incompetent and opportunistic state to one that is accountable to the citizenry and responsive to their needs - if we choose to.

The electoral process in the Philippines, as we all know, is a Thieves' Market where candidates buy and voters sell votes. In fact, those who complain about poor governance have no right to do so, having sold that right to candidates intent on getting back their "investments."

Small wonder that politicians fight for positions that pay measly salaries. Who cares about honest wages when there are millions to be earned in kickbacks, price padding, influence peddling and racketeering?

We all know that the best and the brightest are hardly ever elected in the Philippines, whether for municipal office or for Congress or the presidency. The only way to win is with money to buy votes and guns. If they can't buy your votes, the guns will make sure you don't make it to the polls and that the tabulation tilts in their favor.

But one doesn't even need to terrorize voters. It is easy to buy votes where poverty is prevalent and grease money means food on the table.

Now, consider, however, that overseas Filipinos - especially those of us who live in America - are not affected by these electoral plagues. At least, we do not have to be affected.

If we choose to, our votes cannot be bought. It's not as if we are

starving  
for five hundred pesos or even a thousand, which translate into loose  
change  
when converted into dollars.

We also cannot be terrorized. No political goons can barge into our  
homes to  
make us an offer we can't refuse, in the manner of the Mafioso.

"The OFWs can be a deciding factor in any national elections given their  
sheer numbers and the influence they have on their immediate relatives and  
friends staying in the Philippines," said Ople.

He is right. We do have that influence if we choose to use it. Together  
with  
our relatives and friends in the Philippines, we can be a voting bloc  
beyond the  
reach of the guns and gold of traditional Philippine politicians.

Best of all, we have an opportunity to pick out and support candidates  
who  
are imbued with the intellect, integrity and patriotism required for true  
public  
service.

Voting rights will give us the opportunity to get rid of the political  
scum  
and replace them with individuals who are both principled and competent.  
It has  
been the sad fate of our beloved country that it has been led by brilliant  
crooks and honest nincompoops.

Indeed, there is so much that we can do for the Philippines if we are  
allowed  
to vote. But that is the reason why the machinery, representing all the  
political parties that have been feasting on the fruits of corruption,  
will  
militate against giving us this right.

It would be naive to think that this will be an easy battle. But it can  
be  
won. If we choose to.

The reason I keep stressing this is because overseas Filipinos will not  
necessarily choose to. Even in America, we still cannot get rid of our  
tendency  
to be blindly loyal to friends and relatives, including politicians from  
hell.

We are also fair game for every sweet-talking official or candidate who  
comes  
around, palm outstretched.

In fact, despite all of the brickbats being routinely hurled by the

Fil-Am

media at President Erap and all the sniping that one hears at community gatherings and watering holes, be assured that every Juan, Pedro and Maria will want to have a picture taken with him when he visits the US in late July.

But, despite all these, the right to vote, if given to overseas Filipinos, has the potential to dramatically change the face of Philippine politics. Of course, as in all past Great Expectations, this can only happen if we choose to.

Remember what happened after EDSA?

LANGUAGE: English

LOAD-DATE: June 21, 2000

11 of 12 DOCUMENTS

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THE HINDU

May 26, 2000

LENGTH: 480 words

HEADLINE: 'Armed groups in Pak. a threat to regional peace'

BODY:

ISLAMABAD, MAY 25. A leading Pakistani civil rights activist, Ms. Hina Jilani, has said that a regional peace initiative in Pakistan is considered a "threat to the national interest".

Addressing an international conference on "Discourses on Human Security" here on Wednesday, the Secretary-General of the Human Rights Commission of Pakistan (HRCP) denounced the "methodology" of Kargil.

Ms. Jilani said Kargil must become the "very reason" for dialogue between India and Pakistan. Whereas in India, Kargil had been used to "turn grief into bitterness," in Pakistan it reflected the agenda of the powers-that-be,

she  
said.

In a hard-hitting speech against the Musharraf Government, she said the military had an agenda, which included supporting militant groups. These armed groups were used by the military to fulfil its own agenda.

According to Ms. Jilani, as long as this nexus existed Pakistan could not play any role in realising the goal of regional or internal security.

Accusing the Pakistani State of promoting "insecurity" down the years, the HRCP official stated that every Government had found itself on the side of forces that had marginalised forces with a modern outlook. This, she said, applied to military and civilian Governments alike.

Ms. Jilani maintained that the present trend of maligning and marginalising political parties was not healthy. By "punishing" the class of politicians, a power vacuum was being created which could only be filled by militant, extremist forces.

Referring to the military Government's retreat on the "non- issue" of the blasphemy law, Ms. Jilani stated that this action revealed which groups would take over in Pakistan. "Many people see this as a tactical retreat (by the military Government). I don't see this...."

In the Zia-ul-Haq era, Pakistan had witnessed a growth of armed groups which today threatened not only internal security, but external security as well, she maintained. In his presentation, the chief of the Institute of Peace and Conflict Studies, Mr. P.R. Chari, stated that the primacy of the United States as a global player would continue in the foreseeable future. Mr. Chari said while the U.S. searched for regional surrogates, China would be the new barrier to its power.

According to him, the sources of regional conflict would become more diverse, pointing to issues of terrorism and migration which were not amenable to solution by military power.

Referring to the growing role of non-State actors, Mr. Chari spoke of the propensity of "religious terrorists" to act with ill-defined objectives.

He said  
the nuclear capability acquired by India and Pakistan had not led to  
greater  
stability but had, in fact, had led to heightened instability. According  
to him,  
the situation in South Asia was per se unstable. He also pointed to the  
dangers  
of the "limited war" thesis.

LANGUAGE: English

LOAD-DATE: May 26, 2000

12 of 12 DOCUMENTS

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THE STATESMAN (INDIA)

May 18, 2000

LENGTH: 1471 words

HEADLINE: DELIMITATION: Lok Sabha's Time Bomb

BODY:

IT is all to the good that the law minister, Ram Jeth-malani, called an  
all-party meeting on 13 May to discuss the issue of delimitation of  
parliamentary constituencies. We have single-member constituencies which  
differ  
considerably in size and the strength of the electorate. This violates the  
principle of "one-man, one vote". For the value of a vote, its effect on  
the  
seats it yields, varies from state to state. The Constitution provides for  
delimitation of constituencies anew after every census. The hated 42nd  
Amendment, enacted in 1976 during the Emer-gency, arbitrarily froze  
delimitation  
of parliamentary and assembly constituencies, based on the census of  
1971, for  
30 years. The inspiration for this came, reportedly, from Sanjay Gandhi.

The next census is less than a year away and the country will be faced  
with  
an acute dilemma: either set up a new delimitation commission for  
realignment of  
the constituencies or push through another constitutional amendment to  
extend  
the term of the freeze. Given the results of the Census of 1981 and 1991,

not to  
forget projections for the one in 2001, a fresh delimitation will  
substantially  
increase the number of MPs which the states in the Hindi belt in the  
north send  
to the Lok Sabha. But, not so those from the south.

## DIFFICULTIES

The heartburning this exercise will cause in that region and its  
political  
implications are not difficult to foresee. Must the south suffer  
politically  
because those who live there are more responsible citizens, alive to the  
necessity for population control?

The other alternative is as fraught with difficulties. A Constitution  
amendment will not only require an all-party but a national consensus;  
specifically the consent of the southern states led by powerful chief  
ministers.  
It is, besides, liable to be challenged in the Supreme Court as being  
violative  
of one of the acknowledged parts of the unamendable "basic structure" of  
the  
Constitution; namely, equality before the law (Article 14).

The relevant provisions of the Constitution are few and clear. Clause 1  
of  
Article 81 lays down the total strength of the Lok Sabha. (It is 543 now;  
530  
from the states and 13 from Union territories). Clause 2 says: "(a) there  
shall  
be allowed to each state a number of seats in the House of the People in  
such  
manner that the ratio between that number and the population of the State  
is, so  
far as practicable, the same for all States; and (b) each State shall be  
divided  
into territorial constituencies in such manner that the ratio between the  
population of each constituency and the number of seats allotted to it  
is, so  
far as practicable, the same throughout the State ... (c) In this  
article, the  
expression "population" means the population as ascertained at the last  
preceding census of which the relevant figures have been published."

The 42nd Constitution Amendment added a proviso: "Provided that the  
reference  
in this Clause to the last preceding census of which the relevant figures  
have  
been published shall, until the relevant figures for the first census  
taken  
after the year 2000 have been published, be construed as a reference to  
the 1971

census." There, matters stand to this day.

Article 82 says, "Upon the completion of each census, the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine ...".

Here, again, the 42nd Amendment added a proviso that "until the relevant figures for the first census taken after the year 2000 have been published, it shall not be necessary to readjust the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies under this article".

Two other provisions must be noted. Article 326 lays down the fundamental principle that the elections to the Lok Sabha and the State legislatures "shall be on the basis of adult suffrage; that is to say, every person" who is eligible to vote and is not disqualified under the Constitution or the law, "shall be entitled to be registered as a Voter". Article 327 empowers Parliament to fill in the details by enacting laws for the conduct of elections, preparation of electoral rolls and all other matters, including "the delimitation of constituencies".

## GERRYMANDERING

No law can violate the Constitution. Nor can any delimitation violate the fundamentals set out in Articles 81 and 82. Parliament enacted the Delimitation Act, 1972 which empowers the Government of India to constitute a three-member delimitation commission, two of whom shall be sitting or retired judges of the Supreme Court or of a high court with the Chief Election Commissioner as an ex-officio member. To endow the Election Commission with powers of delimitation is to pervert the entire scheme which clearly envisages a judicial body, aided by the CEC as an expert on the election process. Its aim is to prevent "gerrymandering" (CED: "manipulate the boundaries of an electoral constituency so as to favour one party or class"). The last DC sat 30 years ago and reported

in 1975.

The commission is charged (Section 4) with the task of readjusting "on the basis of the latest census figures", the allocation of seats in the Lok Sabha to the states the total number of seats in state assemblies "and the division of each State into territorial constituencies for the purpose" of elections to the Lok Sabha and to the assemblies. The electoral roll is common to both. A given number of assembly constituencies are grouped to form a parliamentary constituency.

Section 10(2) says that upon publication of "every such order shall have the force of law". This is valid. Not so what follows: "And shall not be called in question in any Court." No law can oust the powers of judicial review conferred by the Constitution on the Supreme Court and the high courts. Even an amendment to the Constitution cannot do that, for judicial review is incontestably an integral part of the "basic structure" of the Constitution.

It is a different matter if the Constitution itself bars judicial review as Article 329 does: "The validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies... shall not be called in question in any court." This protects only the validity of the Delimitation Act, 1972 and the allotment of seats to constituencies. Ouster clauses are strictly construed by the courts. It does not prevent the courts from reviewing a delimitation order drawing the boundaries of any constituency on the ground inter alia that it is grossly unfair or that the commission did not follow the rules of natural justice by giving a reasonable opportunity for a hearing to the political parties or interested citizens' bodies.

## MOCKERY

We owe to the research of Alistair McMillan details of the grossly unfair delimitation as it obtains now. It fell outside the purview of his excellent article to consider the aspect of judicial review. It is entitled "Delimitation, Democracy, and End of Constitutional Freeze" and was published in a highly respected journal - Economic and Political Weekly (8 April). He points

out, for  
instance, that "a vote in Calcutta North-West, with 698,009 electors, is  
worth  
roughly four times as much as one in Thane in Maharashtra, where there are  
2,771,746 electors". This makes a mockery of the "one-man, one-vote  
principle"  
and Articles 14 and 81(2) of the Constitution.

The freeze imposed by the 42nd Amendment is open to challenge in courts  
and  
so will be any future amendment to the Constitution as also delimitation  
orders,  
old and new. In 1962, the United States Supreme Court carried through a  
political revolution by ordering that long under-represented urban and  
suburban  
areas be given their proper weight in state legislatures. It is not a  
"political  
question" exempt from judicial review, it ruled in Baker vs Carr. Two  
years  
later, in Reynolds vs Sims, Chief Justice Earl Warren carried the process  
further and delivered the famous quotes on the weightage to rural areas:  
"Legislators represent people, not trees, or acres. Legislators are  
elected by  
voters, not farms or cities or economic interests... To the extent that a  
citizen's right to vote is debased, he is that much less a citizen. The  
fact  
that an individual lives here or there is not a legitimate reason for  
overweighting or diluting the efficacy of his vote."

Must we submit our Supreme Court to what Warren had to go through? We  
must  
solve this by a national consensus. Sadly the consensus that emerged on  
13 May  
will help little to solve the problem. It was to continue the freeze on  
delimitation to 2026 by yet another Constitutional amendment.

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