

United States Senate

COMMITTEE ON APPROPRIATIONS

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DEPARTMENTS OF
A COMMERCE, JUSTICE, *AND* *THE* STATE, ~~AND~~ JUDICIARY

AND RELATED AGENCIES

APPROPRIATIONS FOR THE FISCAL YEAR 1996

WEDNESDAY, MARCH 15, 1995

~~United States~~ Senate,

Subcommittee of the Committee on Appropriations,

Washington, D/C.

The Subcommittee met, ~~pursuant to notice~~, at 10:20
a.m., in Room S-146, ~~U.S.~~ *THE* Capitol, Hon. Phil Gramm, (Chairman)
~~of the Subcommittee~~, presiding.

Present: Senators Gramm, Domenici, McConnell, Gregg,
Hollings, Lautenberg, and Kerrey.

DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
STATEMENT OF JANET RENO, ATTORNEY GENERAL

ACCOMPANIED BY: STEPHEN R. COLGATE, ASSISTANT ATTORNEY

GENERAL FOR ADMINISTRATION, MICHAEL J. ROPER,
DEPUTY ASSISTANT ATTORNEY GENERAL CONTROLLER, ~~AND~~

ADRIAN A. CURTIS, DIRECTOR, BUDGET STAFF
OPENING REMARKS OF SENATOR GRAMM
Senator Gramm. The committee will come to order.

Madame Attorney General, let me thank you for appearing
before the committee. I want to go ahead and start. I am
sure I have got several colleagues on the way. We have two
votes at 10:30, so what I would like to do is keep the
hearing going. I know you are very busy and what I will try

1 to do is, even if I temporarily leave a Democrat in charge
2 of the committee--

3 Attorney General Reno. We promise not to do anything
4 bad.

5 [Laughter.]

6 Senator Gramm. I do not think there is much harm they
7 can do in my absence. I want to give you an opportunity to
8 make your statement, give people an opportunity to ask
9 questions, but I want to keep the hearing going if I can
10 during those votes.

11 Let me say that I am pleased that the administration
12 has asked for a fairly substantial increase for the Justice
13 Department. As a general principle, I intend to support
14 that increase. There are several areas that I feel very
15 strongly about, the Border Patrol being one of them. I
16 would like to have a program over the next five years that
17 would double the size of the Border Patrol, that would
18 provide funding not only for new agents but for training,
19 for equipment and, as we have discussed before, I intend to
20 try to work with you to try to see that we provide the
21 resources in a form that they can be used efficiently.

22 I think we will have a problem in terms of this ap-
23 propriations bill because the administration has now given
24 up on the idea of a border crossing fee as a Federal fee,
25 but as I read the budget, it implicitly assumes that on a

1 local option that virtually every local area will impose it
2 and that the funds will be rebated back to the Department.
3 And clearly, that is not going to happen.

4 That does not, in any way, change my resolve to fully
5 fund the doubling of the Border Patrol, to fund every
6 element you have in your budget for the purpose of gaining
7 control of America's borders. But it does increase the
8 difficulty of my task in trying to come up with the money to
9 pay for it.

10 Let me also say that I will have a couple of questions
11 as we get into the questioning period about the funding of
12 the relative functions in the Justice Department, especially
13 U.S. Attorneys in terms of their capacity to prosecute the
14 crimes that will end up being under their jurisdiction
15 because of the larger Border Patrol, that will fall within
16 their jurisdiction on the assumption that our community
17 policing effort will mean that people will be apprehended
18 and indicted in the Federal system.

19 I am a little bit concerned about how we are going to
20 fund what clearly we could expect to be an increase in their
21 caseload. Maybe we could work together and figure out what
22 that need might be, and try to provide the funds.

23 As I have said to you in the past, I look forward to
24 working with you. There should be no partisanship in the
25 issue of law enforcement. I think everybody is for it. The

1 question is how much of it do we need, how should we apply
— 2 it, how should we pay for it? And I do not think they are
3 big differences, Madame Attorney General, about how we feel
4 about that.

5 So with that, Senator Hollings, do you want to make an
6 opening statement?

7 Senator Hollings. I just came in when you talked about
8 the partisanship. We had good Republican support for the
9 crime bill last year, but partisanly they are trying to
10 write a whole new crime bill. So I hope that what you are
11 saying indicates a good change. I would welcome it.

12 Senator Gramm. Well Fritz, my recollection was that
13 virtually every Republican voted against the crime bill.

14 Senator Hollings. No, we got Danforth and a lot of
15 others that supported it very strongly.

16 Senator Gramm. Well, Danforth is not back.

17 Senator Hollings. Do you think that is the reason he--

18 Senator Gramm. I do not know. I do not know. I never
19 speculate how things pop into people's minds and hearts.

20 But there were very strong differences on the crime bill
21 last year.

22 Senator Hollings. I remember well, we had the crime
23 bill and, in fact, one time my senior Senator, Senator
24 Thurmond, took the Democratic crime bill and took off the
— 25 first page and put his name on and introduced it. That was

1 worked out in the Judiciary Committee. We had
2 — bipartisan up until election year, and then all hell
3 broke loose. You know that, and I know that, and now they
4 are trying to continue this seriatim.

5 I am delighted to hear what you are saying, bipartisan-
6 ship, because we have got a good crime bill, we have
7 policemen on the beat. But partisanly, they are trying to
8 get rid of the Government. In other words, send it all back
9 to the States and counties and let them have the deficit
10 rather than you and me.

11 Senator Gramm. Well, I am talking about our funding of
12 the effort. I intend to support rewriting the crime bill,
13 because I think we can do better. We have better troops
14 here than we did in the last Congress. Both the American
15 people and the Lord smiled on us and so, as a result, we
16 have an opportunity to make a change.

17 But none of that alters the fact that, in terms of our
18 Federal effort, I think we have very strong bipartisan
19 support for the increases for the FBI, for the DEA, and for
20 the principal undertaking that falls within the jurisdiction
21 of this committee. I would like to take funds that are
22 under the jurisdiction of other committees under the crime
23 bill, reduce their spending, and bring it under our
24 jurisdiction but that may be an area where Senator Hollings
— 25 and I disagree.

1 Instead of us having our little debate here, why don't
— 2 you go ahead?

3 Attorney General Reno. I appreciate the opportunity to
4 be here with you today, and I thank you both for the
5 thoughtfulness that you have shown me over these two years.
6 It is about two years ago today that I had my first official
7 day and it has been an incredible experience.

8 For fiscal year 1996, the Department of Justice seeks a
9 budget totalling \$16.524 billion, including \$3.964 billion
10 available in the Violent Crime Trust Fund. Even as the
11 administration works to cut the deficit for the third
12 straight year, we are escalating our fight against crime.
13 This budget adds \$2.811 billion, or 20 percent, more than
14 the 1995 funding level, expanding on the commitment this
15 committee made last year to imprison more violent offenders,
16 reduce the flow of illegal immigrants to the United States,
17 and join as partners with State and local communities in the
18 fight against crime.

19 Our 1996 budget represents the President's continued
20 efforts to ensure a very strong Federal law enforcement
21 presence, and build on the strides made during the last
22 year. Additional resources have been provided to boost
23 Federal law enforcement efforts to attack gang-related
24 violent crime, drug trafficking, and international organized
— 25 crime, and to meet the critical security needs at our

1 nation's courthouses.

— 2 We are seeking increases of 6 percent, both for the FBI
3 and the DEA. These additional resources will pay for new
4 initiatives, such as hiring 30 additional DEA agents to
5 address heroin trafficking, continue development of the
6 FBI's DNA network to fight sex and violent serial crimes, as
7 well as expansion of the FBI's training courses for State,
8 Indian tribal and local law enforcement agencies.

9 There is also funding in our request for the FBI's
10 DRUGFIRE system, which we have recently agreed to merge with
11 the ATF's Bulletproof Program, thereby providing local
12 police with more efficient means of solving gun cases by
13 providing images of fired ammunition casings as well as the
14 rounds.

15 We have requested \$135 million for the continued
16 development and acquisition of equipment for the advanced
17 digital telephony program. Of this amount, \$35 million will
18 support an advanced program to help our court authorized
19 electronic interception keep up with new technologies. The
20 remaining \$100 million is to reimburse telecommunication
21 carriers for the cost of changing to a digital environment.

22 A program increase of \$5 million is requested to allow
23 the hiring of 40 additional Assistant United States
24 Attorneys who will join the ranks of others to aggressively
— 25 use the full power of Federal law to target and dismantle

1 violent gangs.

— 2 This budget also meets the need of our expanding
3 Federal prison system, which is estimated to reach an inmate
4 population of 98,000 in 1996, by adding \$318 million. This
5 increase will support the activation of two new facilities,
6 five expansion projects at existing facilities, and purchase
7 equipment for a medical facility. Also, five new
8 residential drug treatment programs will be established to
9 ensure that up to 1,200 more inmates return to society
10 addiction-free.

11 Where appropriate, we are proposing further utilization
12 of private companies to manage Federal inmates. This
13 expands the private sector role in Federal corrections by
14 contracting for the operation of several Federal prisons
15 currently under construction, and will contribute to the
16 administration's ability to reduce the number of Executive
17 Branch employees to meet the annual FTE projects required by
18 the Federal Workforce Restructuring Act.

19 For 1996, the budget seeks to contract for the
20 operation of five new facilities: a low and minimum security
21 prison in Taft, California; low security prisons in Forrest
22 City, Arkansas and Yazoo City, Mississippi; and a detention
23 center in Brooklyn, New York.

24 New prisons scheduled to open in 1996 will add 9,197
— 25 beds to the Federal system, an increase of 13 percent over

1 current levels, but unfortunately this is not enough to keep
— 2 pace with the demand for additional prison space. The
3 Department is seeking \$208 million for new construction
4 projects. In addition, \$300 million is requested for grants
5 to reimburse States for the cost of incarcerating aliens.
6 This represents an increase of \$170 million over the level
7 provided last year.

8 When the prison population and the size of the
9 judiciary continued to increase, the impact on the United
10 States Marshals Service is great. To address their
11 increased workload, we have included increases totaling \$44
12 million that will meet their increased security requirements
13 in 1996.

14 Building on the efforts of the past two years to
15 aggressively fight illegal immigration, the President's 1996
16 budget request contains over \$1 billion in new resources for
17 the Department of Justice and four other Executive Branch
18 agencies to help control the border and address the problem
19 of illegal criminal aliens. As part of the administration's
20 initiative to strengthen enforcement of the immigration
21 laws, I have been monitoring an ambitious program to
22 increase Border Patrol staffing to the maximum attainable
23 level.

24 When I took office, the Border Patrol did not have the
— 25 manpower or the resources it needed to control the border.

1 During the 1980's, Border Patrol staffing was, on the
2 average, 15 percent below authorized levels. The causes of
3 this deficit are, first going back to 1981 and prior to that
4 time, there had been insufficient funding to operate a force
5 at its full authorized strength. Second, like other
6 agencies, the Border Patrol had to absorb various costs such
7 as pay increases and locality pay in its base funding. The
8 natural effect of drawing on base funding for these costs is
9 to higher fewer agents.

10 During the current period of growth, if we do not
11 correct for the burden of absorbing cost, we will not
12 achieve the resources we need along the border. Third, the
13 modular cost has not been enough to maintain an agent who
14 has been with the Border Patrol for years or to reflect the
15 cost of attrition.

16 In addition, when I took office, the Border Patrol
17 agents did not have the equipment and support they needed to
18 do their job safely and effectively. Agents were driving
19 patrol cars with 200,000 miles and no radios. Their
20 equipment was obsolete and they did not have adequate
21 protective gear. Poor lighting and fences full of holes
22 made the border impossible to patrol effectively.

23 Moreover, the Border Patrol did not have, and has had
24 to create the means to recruit, hire and train enough agents
— 25 to grow at the rate required to reach the level that

1 Congress and the administration have authorized. It is
2 critical to this administration's immigration initiative
3 that the Patrol operate at full strength. Therefore, I have
4 recently decided to take several steps to ensure that the
5 Border Patrol is operating at its maximum feasible level,
6 consistent with full training, equipment and support
7 requirements.

8 I directed a thorough review of the Border Patrol
9 budget. As a result of this review, I have identified
10 resources that can and should be shifted within the INS
11 budget for the Border Patrol to enable the Patrol to
12 increase its hiring in 1995 above currently planned levels.
13 I will be notifying the committee shortly of this action.

14 Second, to ensure that the Border Patrol can train the
15 increased number of agents being recruited, I have directed
16 that the INS existing training capacity be augmented to
17 allow the training of hundreds of additional agents above
18 and beyond the current levels planned for 1995 and 1996.

19 Finally, we are looking at the funding needed to
20 support the Border Patrol enhancement in 1996. If need be,
21 after this review is completed, the administration will work
22 with Congress to adjust the request if the review determines
23 there are technical problems with the request and
24 adjustments need to be made.

— 25 I welcome your support of the border enforcement plan

1 and trust that you will ensure that the Border Patrol has
2 the funding it needs to hire these additional agents. The
3 Border Patrol is the first line of enforcement of our
4 immigration laws and it is important that it obtain the
5 levels and resources it deserves.

6 With the infusion of new resources in 1994 and 1995,
7 the Border Patrol will complete its implementation of the
8 border control strategy in southern California and west
9 Texas, and begin its transition to Arizona and south Texas.
10 This multi-year plan directs intense enforcement efforts in
11 the areas of greatest illegal activity to gain maximum
12 control of the entire Southwest border.

13 However, the full benefits to the Border Patrol
14 strategy will be realized only if complimentary investments
15 are made to ports of entry operations, work site
16 enforcement, and the detention and removal of criminal and
17 other deportable aliens as well. Our budget request
18 includes an additional \$269 million to further strengthen
19 border enforcement. With this increase in additional funds,
20 I plan to reprogram internally as I discussed earlier. The
21 INS will add at least 700 new Border Patrol agents between
22 the ports of entry, 747 new inspectors at the land ports of
23 entry, 680 to be funded by the proposed border fee, and 78
24 special agents to expand anti-smuggling and fraud deterrence
25 activities, and 30 enforcement officers at key locations

1 overseas. In addition to agent increases, the Department
2 will also continue technological improvements at INS land
3 and air ports of entry.

4 An investment in border management alone will not
5 reduce the magnet of employment that continues to draw
6 illegal immigrants to the United States each year. So in an
7 attempt to apply a balanced approach, our budget includes an
8 increase of \$82 million to strengthen work site enforcement
9 and encourage employer compliance with the law.

10 As a result of the administration's aggressive immigra-
11 tion strategy, the INS expects the number of alien removals
12 to more than double, reaching more than 100,000 in 1996. To
13 address this volume, we are requesting \$178 million to
14 expand the institutional hearing program, deport mala fide
15 claimants for asylum, and increase detention capacity by 48
16 percent.

17 The budget also fulfills many promises made to the
18 American people last year by fulfilling our pledge to
19 provide crime-fighting support and assistance at the State
20 and local levels. Nearly 75 percent of the Department's
21 budget request, some \$4 billion, will pay for grants to help
22 States, communities, law enforcement, and citizens fight
23 crime in their neighborhood, a 67 percent increase over
24 1995.

— 25 The majority of these funds will come from the Crime

1 Reduction Trust Fund. The crime bill grants and other
2 Department funds will provide critically needed resources to
3 lock up violent offenders, crack down on gangs, and assist
4 local crime-fighting initiatives. Specifically, \$1.9
5 billion in grant funding is requested to add 20,000 more
6 police to the nation's total police strength and promote
7 community policing, a 45 percent increase in funding over
8 1995.

9 This funding represents the next installment on the
10 President's commitment to put 100,000 more police on the
11 streets of America. Thanks in large part to this committee,
12 notice of awards to hire nearly 17,000 police officers have
13 been made already and we propose to fund a total of 40,000
14 officers by the end of 1996.

15 We have also included \$500 million in prison
16 construction grants to help states and localities put
17 violent criminals behind bars and keep them there. We have
18 requested a 1996 funding level of \$450 million for the Byrne
19 grant program, thereby enabling states to continue to use
20 these monies for more than 20 law enforcement purposes,
21 including State and local multi-jurisdictional drug task
22 force efforts that some of you on the committee contacted me
23 about last year.

24 For 1996, the Department is requesting \$150 million for
25 the Drug Court Program. This is a get tough, no-nonsense

1 program that holds offenders accountable. Our Drug Court
2 Program will mandate drug testing and require escalating
3 sanctions, including imprisonment for offenders who do not
4 get off drugs and straighten out their lives. This is the
5 kind of common sense approach that the American public wants
6 and we can deliver. Our request also includes \$165 million
7 for grants to develop and strengthen law enforcement and
8 prosecution strategies to reduce violence against women.

9 During the past year, the Department of Justice has
10 taken a fresh look at the functions and programs of our
11 component organizations and headquarters operations,
12 identifying areas where we can restructure activities to
13 better carry out our mission and reduce administrative
14 overhead. Through increased use of office automation, we
15 have enhanced communications and information sharing between
16 the FBI and the DEA. In addition, all Department components
17 and divisions are reviewing the size and mission of their
18 operations with a view to streamlining them wherever
19 possible.

PREPARED STATEMENT TO POINT S.C.

20 Mr. Chairman, I believe the budget before you
21 represents a balanced approach to addressing the critical
22 law enforcement needs of this nation. As a Department, we
23 are taking the necessary steps to scrutinize our methods of
24 operation, to reduce spending and overhead costs. The
25 increases we have requested to strengthen Federal law

1 enforcement, and to assist our State and local communities
— 2 in the fight against violent crime are prudent ones and are
3 what we consider vital to addressing the wave of violence
4 that is engulfing this country.

5 Thank you, Mr. Chairman.

1 6 [The ~~prepared~~ statement of ~~Attorney General Reno~~
7 follows:]

INSERT 16A FOLLOWS

1 Senator Gramm. Thank you, Madame Attorney General.

— 2 Let me run through a couple of quick questions. We
3 have got several of our colleagues here.

4 One of the things that concerns me, as I mentioned in
5 my opening statement, is that with a movement toward
6 increasing the size of the Border Patrol, obviously we are
7 not only in that process going to hopefully deter people
8 from trying to come into the country illegally or to commit
9 criminal acts across the border, but we are going to
10 apprehend people.

11 We are going to prosecute people that we would not
12 apprehend or prosecute if we were not committed, in your
13 case, to a substantial increase in the size of the Border
14 Patrol; in my case to a doubling of the Border Patrol over
15 five years, but either way, greater commitment of people,
16 resources to the task. But success in that task is going to
17 mean more Federal prosecutions.

18 We also, through community policing, will help the
19 communities, at least in the short run, put more police
20 officers on the streets. Presumably, they are going to make
21 more arrests. We are going to end up having some of those
22 arrests fall within the Federal jurisdiction, and we are
23 going to have more people prosecuted in the Federal system,
24 it seems to me.

— 25 Looking at both of those activities as being activities

1 that, at least we would expect, would generate greater
2 activity by the U.S. Attorney's Office, I was a little bit
3 concerned to see that we had frozen--at least your budget
4 had frozen appropriations at \$844.7 million for the U.S.
5 Attorney's Office. Then you have got a slight addition out
6 of the trust fund. Last year we had 6.8, this year we had
7 14.7, but even so we are a long way from maintaining, in
8 real dollars, our current effort for the U.S. Attorney's
9 Office.

10 I was wondering if that is something that you have
11 looked at, and if that is something that this committee
12 should look at, in terms of at least trying to get a
13 notional view of what is likely to happen to demands for
14 prosecution in the U.S. Attorney's Office. And maybe as we
15 put together our appropriation we should try to build in an
16 increase for the U.S. Attorney's Office.

17 Attorney General Reno. Let me identify where I think
18 your concern would be. Candidly, the increases in the
19 direct request, which I will define in a moment to address
20 just the points that you have raised, are offset by the
21 unfunded pay raise of about \$9.653 million, which causes a
22 reduction of 89 positions, direct positions. But in the
23 direct appropriation, we are asking for 26 new positions,
24 including 13 Assistant United States Attorneys, to support
25 the immigration initiative. There are approximately seven

1 states along the border, just those border states, that are
— 2 most heavily impacted and we have tried to work with the
3 U.S. Attorneys to address what their additional work load
4 would be.

5 We have also asked for, from the Violent Crime Trust
6 Fund, a \$5 million increase that will provide 60 new posi-
7 tions, including 40 new Assistant United States Attorneys,
8 to address the issue of violent crime.

9 But let me point out one of the things that we are
10 trying to do, Senator. Having been a local prosecutor, I
11 saw we were on the front line and we could do things far
12 better than the Federal Government in some situations. In
13 other situations, the case should be handled in Federal
14 court.

15 A year ago this month we developed the anti-violence
16 initiative, in which we brought all of the Federal agencies
17 together. It was an extraordinary event where Louis Freeh,
18 Tom Constantine and Marshall Gonzalez all joined together in
19 sending the message out that we were one, that there was no
20 turf battle between Justice Department law enforcement
21 agencies, but that we wanted to work with local law enforce-
22 ment.

23 I had often, in Florida, sat there and thought would it
24 not be nice if the FBI could give us some information rather
— 25 than just a one-way street? We are starting to share that

1 information. We are starting to work together more
— 2 effectively than ever before with local law enforcement, and
3 many of the cases are better prosecuted in State court. And
4 many of the cases that community police officers will bring,
5 or participate in developing, will be State court
6 prosecutions.

7 In western Louisiana, for example, we recently had a
8 prosecution that has been very successful. Some of the
9 cases went to the Federal court, in conversation with local
10 prosecutors, others went to State court. Using the
11 resources we have, forming a partnership with Federal and
12 local Government, I think at this point we are going to be
13 able to meet the needs that are imposed on the United States
14 Attorney, but we continue to monitor this. And as a former
15 prosecutor, I am very sensitive to it.

16 Senator Gramm. If you would have someone from the U.S.
17 Attorney's Office work with us and let us look at it,
18 because if we are going to need more resources, I think
19 there is support on this committee. What I want to be
20 certain of is that with a greater commitment to the Border
21 Patrol, with a greater commitment to community policing, in
22 my state--and I hope that it is going to change under a new
23 Governor, and I am confident that we are going to make
24 progress--my local law enforcement officials love to
— 25 prosecute in the Federal system, because in the Federal

1 system people actually go to prison and they actually stay
2 there. Whereas in my State, until the changes that are now
3 being implemented in this legislature, we literally had a
4 revolving door in the Texas prison system.

5 So any increase in local effort in my State would
6 clearly lead to a greater demand for the U.S. Attorney's
7 Office and I want to be sure that when we are beefing up one
8 part of the effort we do not end up leaving out one key part
9 in the chain.

10 Attorney General Reno. Let me point out to you, in
11 that regard, because I was one of those prosecutors faced
12 with a three-time armed robber, I would send him over under
13 the Armed Career Criminal Statute to Federal court under
14 trigger lock and sometimes send my prosecutors with him so I
15 did not burden the United States Attorney. But the reason I
16 did it was because I was going to get more jail time.

17 That is the reason the prison part of the crime bill
18 effort is important. That is the reason I think it is so
19 important that whatever we do, with respect to that bill, we
20 have got to make money available to States that may only be
21 able to incarcerate a violent offender for 20 to 30 percent
22 of the sentence, to at least help them start moving towards
23 the 85 percent and that we do not close people out in that
24 regard.

— 25 But I would again look forward to working with you in

1 that effort.

2 Senator Gramm. I continue to be concerned about
3 Federal prison space. It is my understanding that we are 26
4 percent over capacity, that that is going to fall somewhat
5 in the next two years, then start to rise again. How
6 confident do you feel about the level of request for prison
7 construction? And if you had had a bigger allocation of
8 money, would you have asked for more prison construction or
9 do you feel pretty confident with what you have?

10 Attorney General Reno. As I believe you know, I have a
11 great respect for Director Hawk and for the Bureau of
12 Prisons. I think they are one of the finest agencies that I
13 know in the Federal Government. I have worked with them
14 quite closely to address this concern, and I feel very
15 comfortable with this.

16 This is something that I have personally looked at,
17 because the concern I have is that I think we are going to
18 see more violent offenders in the Federal prison system,
19 with three strikes, with the anti-violence initiative. It
20 makes it more difficult for the prison officials to respond.

21 So both Director Hawk and I have addressed this issue.
22 I just went out to the opening of the new maximum-maximum
23 Federal penitentiary in Colorado. Just the operation of
24 something like that is extraordinary, but I think both
25 Director Hawk and I feel comfortable with this request.

1 Senator Gramm. I wanted to raise an issue, I do not
2 really need an answer on it today, but Senator McCain is
3 introducing legislation to try to use private debt
4 collection to try to collect some of the judgments against
5 criminals. Apparently we have got 110,000 overdue criminal
6 debt judgments that are valued at \$2.3 billion. Senator
7 McCain thinks if we allowed private debt collectors to have
8 a crack at that money, that we might be able to collect some
9 of it.

10 I would appreciate it if you would get someone to look
11 at that and let us know what you think about it. I am a
12 strong believer in going after the assets of people who
13 commit crimes. It is hard for someone who is not looking at
14 the numbers every day and who is not familiar with
15 individual cases to know how many of these judgments were
16 against people who did not have anything or how real the
17 \$2.3 billion is.

18 If some of it is real, if we could use private debt
19 collection, if we could collect the money for victims of
20 crime, we would be doing two good things. Number one,
21 taking money away from people who have committed crimes; and
22 number two, giving money to people who are victims.

23 Attorney General Reno. I would like very much to work
24 with you and your staff in this area because it is of major
25 concern to me. I am very proud of what the Department has

1 been able to do in terms of collections, but this is
2 something that we have got to work with the administrative
3 office of the courts on. As they have been developing their
4 capacity to address this issue, we have been trying to hold
5 the line for them and to work with all concerned. It is a
6 very difficult issue. I think we can do more and I look
7 forward to working with you in that.

8 Senator Gramm. We will work with you on it. A final
9 point I wanted to raise, investigations concerning contested
10 elections in labor unions have historically come under the
11 jurisdiction of the Labor Department. Obviously, the
12 enforcement jurisdiction is under the Labor Department, that
13 is why when I became chairman I was surprised to see that we
14 had a \$6 million request from our committee in the Ad-
15 minstration's budget for the conducting of elections for the
16 Teamsters.

17 Now it is my understanding that there is also a Labor
18 Department component. We are being asked for \$6 million,
19 the Department of Labor is being asked for \$5.6 million.
20 Looking at the legislation that exists concerning the
21 oversight of union elections, looking at the enforcement
22 jurisdiction, this looks to me to be an activity that is
23 almost exclusively within the Department of Labor and I do
24 not understand why we are being asked to fund it.

— 25 Attorney General Reno. I do not want to misstate

1 anything since I inherited this and I am not sure of all the
2 ins and out, but my concern is that historically the Justice
3 Department understood what had happened to the Teamsters
4 union, understood what we had to guard against. We had been
5 very successful. So I think it has an essential role in
6 trying to identify what we need to do to prevent criminal
7 activity surrounding the election.

8 The Department of Labor, however, has understandings
9 that we do not have and expertise that we do not have with
10 respect to labor elections generally. We would be happy to
11 work with you, your staff to make sure that this is properly
12 addressed and that there is a proper balance and that I have
13 correctly represented it.

14 Senator Gramm. One other issue that has been raised
15 with me concerning this whole issue is a question, as I
16 understand it this union is now under Federal supervision.
17 When it went under Federal supervision you had in their
18 strike fund a substantial amount of money. It is my under-
19 standing that there has been a dramatic reduction in that
20 amount of money that is available.

21 I would like to know if I could get--since this is
22 under the jurisdiction of the Justice Department, I would
23 like to see some accounting in terms of an outline of how
24 much money the union had when it came under Federal
25 supervision, had much it has now, and at least an outline of

1 where the money went. This is not an area that I know
— 2 anything about, but it is an area where I get questions from
3 people who say, you had so much money in these funds when it
4 came under Federal supervision. These funds are now nearly
5 depleted. I never know how to answer those questions.

6 Attorney General Reno. One of the answers I
7 understand--and again, we will work with you to make sure
8 that we have you solid information and that it is accurate.
9 But all our effort is based on a 1989 consent decree.
10 Interestingly enough, I understand that Director Freeh, then
11 an Assistant United States Attorney was the prime mover in
12 negotiating it. But it provided that the union would pay
13 for the supervision of the 1992 election and for the
14 continuing supervision that has been needed since then. So
15 I think one of the clear answers is that the union has had
16 to pay to clean up itself.

17 One of the questions I ask is, why do we pay in 1996?
18 The court decree gave us the authority to do that and to use
19 monies, and the authorization was there. So my
20 understanding from the United States Attorney in the
21 Southern District of New York and indirectly from Director
22 Freeh is that this is really critical in ensuring a lasting
23 impact in terms of a well-run, lawful union.

24 Senator Gramm. What I will do is assign a staff member
— 25 to meet with the Justice Department. This is totally new

1 jurisdiction to me. I personally believe that this \$6
2 million ought to come out of the Labor or HHS appropriation
3 and not ours. But given that--

4 Senator Gregg. The Presidential campaign? Should we
5 take it out of the FEC?

6 Senator Gramm. Maybe. We do not have the FEC under
7 our jurisdiction or we might. But in any case, if you could
8 provide us with this information, I will assign someone to
9 work with you to try to understand exactly what we are doing
10 here because this is, at least in my mind, and maybe Senator
11 Hollings as the former chairman, I do not know whether this
12 was part of our bill last year or whether this has been any
13 kind of ongoing discussion point. But this is an area that
14 I do not know anything about. I would like to--I am asked
15 questions about the fund. If you could provide us that
16 information, we would appreciate it.

17 Attorney General Reno. We will call your office, find
18 out the staff person you assign and designate someone
19 likewise.

20 Senator Gramm. Senator Hollings.

21 Senator Hollings. Thank you. General, we were asked
22 last year in conference for the \$1.6 million. It was not in
23 either the House or Senate bill. It was to ensure a good
24 honest, clean election. That is what it was for, and we
25 said Labor and the Marshals Service would share the costs

1 and responsibilities. I ought to take you--well, I do not
— 2 have to take you. You are down there more than I am in
3 South Carolina. But down there it is an habitual gimmick to
4 intimidate minorities. In certain areas they will always
5 ask for, we want U.S. Marshals. They will ask General Reno,
6 please send in the U.S. Marshals, watch this race and
7 everything else of that kind. That is to deter them from
8 coming out. Here I think the Marshals are being asked for
9 in order to ensure an honest election. If we can get Labor
10 to take care of it, fine. It suits me all right.

11 With respect to the prisons, General Reno, there is \$1
12 billion right this minute in the Bureau of Prisons budget
13 that is not on contract. Now I agree with you absolutely
14 that Kathleen Hawk is an outstanding administrator of our
15 prisons, and doing a good job, and moves along as promptly
16 as she can, because I have worked with her on several
17 prisons myself. So she is not a foot-dragger and the entity
18 is not a foot-dragger.

19 But we have got \$1 billion and you are asking for \$324
20 million more. And with certain movements going on in this
21 Congress for rescissions, we had better watch out that here,
22 can \$1.324 billion be committed in the fiscal year in the
23 next 12 months? A majority would probably vote no, it
24 cannot be, so let us save \$500 million there. You know,
— 25 they are going to be cutting while we think we are building

1 them. So I think that is the case with respect to the
— 2 prisons.

3 On the U.S. Attorneys, I was trying to follow your
4 conversation because we had asked and inserted a \$15 million
5 Violent Crime Task Force with the U.S. Attorneys. We asked
6 for a report. That has not been forthcoming. Have we
7 instituted that task force or not? I was trying to follow
8 your answer with respect to the chairman's question on U.S.
9 Attorneys. You did touch on violent crime and how it was
10 working, but is it working or is that \$15 million program
11 for those violent task forces instituted now with the U.S.
12 Attorneys somewhere?

13 Attorney General Reno. Let me make sure that you have
14 the accurate information as to just where we stand with that
15 initiative, Senator.

16 Senator Hollings. Very good, because we asked for the
17 report and I would like to get that. Moving on very quickly
18 now with respect to the immigration that the chairman
19 touched upon. The biggest growth in the budget, of course,
20 is for immigration. Last year we budgeted some \$547 million
21 increase. That was an increase of \$547 million, or a 33
22 percent increase. This year you are asking for another 21
23 percent, so that the budget goes over \$2.5 billion. So in
24 just two years we have carried it from \$1.5 to \$2.5 billion
— 25 and you have added some 1,160 different Border Patrol

1 agents. Now we are asking for another 840 Border Patrol
2 positions.

3 We check out there, particularly around Tijuana, the
4 San Diego point, and we have got a news article just last
5 month that pretty well states what we were listening to,
6 that the agency, Immigration and Naturalization Services
7 left the agency understaffed, under-equipped, struggling.
8 They are being turned loose, those convicted of murder and
9 drug crimes even though one-third of the agency's 5,654
10 detention beds are empty for lack of staff, and on and on
11 and on.

12 I am saying I thought I was going to get the good
13 Government award for what we had done last year and then you
14 get down there and, what gives?

15 Attorney General Reno. Here is the situation that I
16 inherited. I have talked with my predecessors. I think
17 historically--and I am not being partisan about it. I think
18 it may have gone historically beyond. The agency simply was
19 not given the resources to do the job. In 1990, I think GAO
20 was critical of it. I think during the 1980's it was 15
21 percent below its authorized level. It had, there is no
22 doubt about it, many, many management problems.

23 It was one of the highest priorities. It has been. It
24 has been a very difficult task and I do not minimize it.
25 But I think Commissioner Meissner is doing an extraordinary

1 jobs against overwhelming circumstances as immigration
— 2 becomes one of the critical issues in this country.

3 In addition to the southwest border we have had the
4 situation that INS has had to respond to in Haiti and Cuba
5 and it has put a tremendous burden on the detention
6 facilities as we tried to absorb because we created the safe
7 haven, and now have tried to respond to the issues in Cuba
8 with those detention monies. I think we can address it for
9 the future.

10 In addition, whenever you have an agency that grows so
11 fast you also have some growth problems. I am dedicated to
12 doing everything I can, faced with the growth, faced with
13 the pressures, to develop a balanced approach to
14 immigration. You cannot do it overnight. I would love to
15 wave a magic wand and have it done overnight. But we
16 started with the two places with the greatest number of
17 illegal crossings, El Paso and San Diego. We have seen an
18 impact, dramatic impact in El Paso. Crossings are down by
19 63 percent. And San Diego, the farthestest reach, the field
20 office is in Imperial Beach. Apprehensions are down there
21 41 percent while we are taking better control of the border
22 farther to the east.

23 I, this January, went from the Pacific to the Gulf of
24 Mexico, from San Diego, to El Centro, to Nogales, to El
— 25 Paso, Del Rio, Laredo, and Brownsville. I am beginning to

1 know that border like a lot of other people that have not
— 2 seen it in the whole picture. It is going to be a difficult
3 task.

4 But that is the front door. You also have a front door
5 in Florida that we are trying to address. But then you have
6 got to look at the back door. What we try to do with this
7 1996 budget request is give INS the tools to do the job in
8 terms of getting the criminal aliens out, expanding on the
9 institutional hearing process that they have already put in
10 place, enhancing worksite enforcement, doing it right at the
11 back side and demagnetizing the draw of these illegal
12 worksites that attract illegal immigrants by enhancing
13 worksite enforcement.

14 It is not going to be done overnight. It is a
15 difficult task but I look forward to working with you and
16 the chairman in addressing this issue.

17 Senator Hollings. You remind we we had a sign up, you
18 are crossing the Blue Danube courtesy of the Second Armored
19 Division. You are doing a trip which we followed along
20 similarly, courtesy of the National Guard. In fact, miles
21 and miles of roads and fences and lighting and equipment was
22 all put in there by the National Guard. I am looking at the
23 \$50 million initiative that we put in there to build and
24 modernize facilities for the Border Patrol and the budget
— 25 proposes to terminate that initiative. Why is that? We

1 need more facilities for the Border Patrol.

— 2 Attorney General Reno. We are providing, the 1996
3 budget request provides for significant monies for fence,
4 for technology, for sensors, for lights. That was a one-
5 time expense, but this is a continuing effort because I am
6 convinced that we can make the one agent on the border far
7 more effective with appropriately placed fencing, with
8 appropriately placed lighting and sensors.

9 Senator Hollings. I am thinking of the reputation that
10 our friends down under when we talk of corruption. I said,
11 well, you mean on the other side of the border. They said,
12 no, on my side, on the U.S. side. I said, whereabouts?
13 Customs, INS was the answer. And now I have picked up
14 several stories there, one in the Los Angeles Times, two
15 inspectors charged and everything else. One of the causes
16 could be--and that is my question, with respect to the
17 Office of Personnel Management. They are not paid too much.
18 And you propose to disestablish that Office of Personnel
19 Management that gets into the background investigations. In
20 fact, as a result of this kind of approach I think you have
21 got four in your Attorney General's office off of the
22 Cabinet. I am trying to get just to the Border Patrol.

23 Why do we disestablish the Office of Personnel Manage-
24 ment?

— 25 Attorney General Reno. That is not, as you know, a

1 Justice Department agency and that has been a decision by
2 the Office of Personnel Management to contract out its
3 background investigations. We want to work with them. We
4 have some concerns about the timing, but we are going to do
5 everything we can to ensure that background investigations
6 are as thorough as possible for Border Patrol agents.

7 We have taken other steps because, again, this is
8 something that we inherited. We are very sensitive to any
9 issue with regards to corruption. I have asked Commissioner
10 Meissner and the Office of the Inspector General to work
11 together closely to develop checks and balances that can
12 identify problems. I think it is also important, and I have
13 discussed with Commissioner Meissner the need to take
14 effective, proper personnel action. If you cannot do one
15 thing, at least take a proper action to hold people account-
16 able. I think we are striving to do that, but I think
17 overall, working with the FBI, with the Office of Inspector
18 General, with Commissioner Meissner, great headway has been
19 made.

20 Senator Hollings. You can see the chairman's and my
21 concern over this whole thing, the Border Patrol, its money,
22 its facilities, the proper background checks being made.
23 Now there is another item, of course, it is much smaller but
24 it affects money that we are all interested in here in this
25 subcommittee, and that is the fees. We had a border

1 crossing fee, \$200 million. Now that there fee has been
2 cancelled. I do not know how you are going to make up the
3 shortfall of \$200 million. I know if you go across the
4 Chesapeake Bay Bridge it costs \$2.50. If you go from here
5 up to New York it costs you \$10 in tolls. What is the
6 matter with a fee coming across that border? It seemed like
7 a pretty good initiative.

8 Attorney General Reno. We have proposed a border fee
9 in which the States could identify communities that wanted
10 to participate in a border crossing fee. This chairman has
11 expressed his concerns about it. But it is interesting to
12 me, because having been down the border, having seen the
13 long waiting lines, many communities want to see their port
14 of entry facilities enhanced. They want additional lanes.
15 They want additional inspectors so that they can move legal
16 trade and commerce through.

17 I think working with communities, such as Nogales and
18 other areas, that we can design something that can redound
19 to the benefit of that community by permitting the
20 reinvestment in that port of entry and in the infrastructure
21 of that port of entry to the benefit of that specific
22 community.

23 Some communities say, yes, but people cannot afford to
24 pay. I think we could develop a discount for those that
25 regularly came across the border. I think working together

1 we can carry forward the example that you cite of paying a
2 toll on a bridge. Each morning I went to work in Miami I
3 paid a toll. And developing it so that it suits a
4 particular situation on the border.

5 Senator Hollings. You and I both know that States
6 cannot pay the INS salaries. We are trying to do it, but
7 let us see if we cannot, rather than abandon that fee that
8 was recommended, be reinstituted and they can get plenty of
9 money out there to take care of the community. I have been
10 there.

11 With respect to prevention now. I took over, as
12 Chairman Gramm is doing now, eight years ago and from that
13 time we increased the Justice Department budget from \$4
14 billion to \$13.7 billion. The reason I am making these
15 comments for the record is I have experienced the days of
16 the energy crisis where you could not walk on the floor that
17 somebody would not increase solar energy. We would put in
18 \$50 million; they would say 100. So we would put in 150;
19 they would say \$200 million on the floor. Up, up and away
20 for solar energy.

21 I can guarantee you if you put up--I do not care what
22 we put in this budget, they are going to put \$1 billion more
23 or so. I saw it one morning, it went with that New Jersey
24 election from \$2 billion to \$12 billion in 24 hours.

— 25 Senator Lautenberg. What Jersey election?

1 Senator Hollings. That New Jersey election with our
2 friend Florio. It was crime up there, or whatever it was.
3 And everybody was coming up just like the Katzenjammer Kids
4 just piling on each other. Literally, it went from \$2
5 billion to \$12 billion for crime prevention where we have
6 been doing all of this crime. Just because they find out--
7 they act like the Government just started because they came
8 to town.

9 I am trying to get to the point of really absorbing all
10 of this. It is just looking at it, you have got to get
11 somehow the other, from prevention--we have gone from prison
12 beds, 43,000 to over 100,000. We have gone to \$4 billion in
13 assistance to the State and local law enforcement. We can
14 list out those programs. DEA agents have been increased 50
15 percent. Yet crime goes up, up and away; violent crimes
16 from 1,489 per 100,000 citizens to 1,900 crimes per 100,000.
17 Juvenile arrests of murder, particularly now which interests
18 all of us here, has gone from 1,600 in 1986 to 3,700 last
19 year. And there is an issue with respect to the matter of
20 prevention.

21 What comment would you make on the prevention basis
22 here relative to the cops on the beat, for example?

23 Attorney General Reno. From my experience as a
24 prosecutor in Miami, now after two years as Attorney
25 General, I think it is essential that we have a balanced

1 effort of punishment, punishment for the dangerous offenders
2 that fits the crime; policing, community policing that
3 involves the neighborhood, that involves citizens in
4 identifying problems and priorities; and prevention programs
5 that work.

6 I have seen examples of prevention programs that work
7 and have such a dramatic impact. In your State of Texas,
8 the TCAP program and what local communities have done with
9 Federal dollars in designing plans that work is a great
10 example. I think just from a common sense point of view, if
11 you can spend a few dollars to prevent the crime, I have not
12 met anybody that would rather have had the crime committed
13 than to have prevented it up front. I look forward to
14 working with everybody to see if we cannot come to an
15 understanding of how we use dollars the right way to prevent
16 crime.

17 Senator Hollings. The drug courts, for example, does
18 that work at the local level? We put in \$29 million for the
19 drug courts and you propose another \$150 million for the
20 program but the House Appropriations Committee just the
21 other day here rescinded the authorization for it. Is that
22 a good program or a bad program or what?

23 Attorney General Reno. I think it is an excellent
24 program. It has now spread to approximately 37
25 jurisdictions across the country. Those jurisdictions where

1 it is now in place tell me that it is working. But I do not
— 2 trust anecdotes just as a basis for concluding that
3 something works. There have been evaluations of the program
4 and I think it has proven that it does work and can have an
5 impact.

6 In too many instances we see non-violent first
7 offenders charged with possession of a small amount of
8 drugs. They go into the system; nothing happens to them.
9 They do not get treatment. They get on probation. The
10 probation officer has a huge caseload and they are right
11 back out on the streets using again. This provides a
12 careful supervision at a minimal cost but with a tough
13 attitude that, look, if you mess up, you may go to prison by
14 this judge that is carefully supervising you. It can have
15 and has had an impact.

16 Senator Hollings. Right quickly and then I would
17 yield. With respect to the Lorton prison, various persons
18 of credibility have been recommending that the Federal
19 Government and the Justice Department take it over. I know
20 if a murder is committed in my hometown of Charleston, the
21 culprit is sent to the State prison in Columbia. We do not
22 have a State prison to send them from the District here.

23 With all the financial breakdown of this community, we
24 cannot avoid it. It is our baby; we are going to have to do
— 25 something about it. And it is a good part of the pork, so

1 to speak, and everybody else of every mayor that comes on.
— 2 Maybe we could get a saving of money and an appropriate
3 facility. The Lorton facility is about gone. And get some
4 relief financially if the Federal Government, the Justice
5 Department took that over.

6 Attorney General Reno. The Administration is studying
7 what to do. The Bureau of Prisons has serious reservations
8 about it. The costs are high. Lorton facilities are
9 seriously deteriorated and we would need at least \$150
10 million to upgrade them. In the alternative, new facilities
11 would cost \$629 million. The cost of new personnel would
12 also be high. We need to avoid increased crowding at medium
13 and high security level facilities in the Federal prisons
14 which is already under the pressure that I described of
15 violent offenders.

16 We have worked very carefully with Director Hawk to
17 make sure that she has the resources to meet this demand,
18 and yet we want to be sensitive to the District's needs. We
19 look forward to working with you, but I think if ever a
20 decision is made to take it over, to preserve the Federal
21 prison system and the wonderful job it is doing, we are
22 going to have to be very, very careful to understand the
23 cost involved in it.

24 Senator Hollings. Thank you, Mr. Chairman.

— 25 Senator Gramm. Thank you. Senator Gregg.

1 Senator Gregg. Thank you. I was wondering what bases-
2 -we have gone through this base closure process--what bases
3 have we looked at to take over for Federal prisons?

4 Attorney General Reno. I do not have a list of the
5 bases with me. I know, for example, that there had been
6 specific--and I believe that Director Hawk has made a report
7 as required. Let me check on that, Senator, because I think
8 a report is due to Congress as to what we did. We will get
9 that up to you right away.

10 Senator Gregg. Do you see that as an option or an
11 effective way to address the prison construction issue?

12 Attorney General Reno. We will give you a full report
13 on the details, but the Bureau of Prisons has already
14 identified some bases that are closing or closed that are
15 prime sites, and I believe has already--one indication is
16 Fort Dix. But what I would like to do is to make sure that
17 Director Hawk gives you the specifics of which have been
18 looked at, what steps have been taken with respect to good
19 candidates, and what bases have been rejected as being
20 inappropriate.

21 Senator Gregg. How much does it cost to build a prison
22 bed, do you know?

23 Attorney General Reno. It depends, and she will
24 provide you specific costs so that I do not misstate them.
25 But a prison bed for a low or minimum security facility is

1 going to cost a lot less than the most maximum security
2 facilities. So she should give you a cost breakout based on
3 low, minimum, medium, and maximum.

4 Senator Gregg. Do you presume it will cost less if you
5 use some of these facilities that the military is giving up?

6 Attorney General Reno. I think clearly that if, in
7 appropriate situations--again, I do not want to misstate for
8 her. I want to make sure that I get you the accurate
9 dollars--that an appropriate facility with a good
10 infrastructure, that facility is going to save money in
11 terms of construction.

12 Senator Gregg. I am obviously not familiar with these
13 accounts, thus if I could ask you a couple questions which
14 will, I am sure, be naive, but maybe you could explain them
15 to me anyway. The administrative review and appeals account
16 which appears to be a new account, why has that come on as a
17 new account?

18 Mr. Colgate. Those functions were formerly in the
19 general administration appropriation. We felt that it did
20 not really reflect what was being accomplished in the
21 general administration appropriation. That account has two
22 functions in it: the executive office for immigration review
23 and the pardon attorney, which are adjudicatory type of
24 activities. So we decided to take it out of the general
25 administration overhead account and put it in its own

1 appropriation to better reflect the activities that were
2 actually occurring there. It provides for a better Federal
3 accounting of resources.

4 Senator Gregg. Those are not new dollars then?

5 Mr. Colgate. No, sir. It is a transfer and the
6 estimates for those activities, but there is a program
7 increase related to EIR in 1996. But we did transfer the
8 base resources out of the general administration
9 appropriation into this new appropriation.

10 Senator Gregg. So part of that is immigration appeal?

11 Mr. Colgate. The executive office of immigration
12 review which provides for the immigration judge function,
13 also administrative law judge function related to employment
14 discrimination, and also the board of immigration appeals
15 where somebody has the ability to appeal an immigration
16 judge's finding.

17 Attorney General Reno. This is one of our major
18 initiatives in this year, increasing the number of
19 immigration judges because what we had when I took office
20 were people coming in to places like Kennedy, at airports,
21 with fraudulent documents or seeking asylum and we did not
22 have either the detention capacity nor the immigration
23 judges to properly consider and review these with dispatch.
24 We have added significantly, and I think this reflects--this
25 is both in terms of immigration judges and in the board of

1 immigration appeals that reviews it.

— 2 Senator Gregg. Do you have any problems--I am not
3 representing that there are, but do you have any problems
4 with the diffuse nature of the nuymer of agencies involved
5 in the immigration issue? You have got a number of
6 different enforcement activities going on from different
7 agencies.

8 Attorney General Reno. What we have tried to do, if I
9 understand your question correctly, within Immigration and
10 Naturalization you have the Border Patrol, and then you have
11 INS investigators who address the issue of illegal aliens,
12 smuggling and the like. Those two agencies we have tried to
13 join together within the INS in a structure that focuses on
14 the site and makes sure that we are coordinated in what we
15 do. That our effort is not just between the ports of entry
16 but that we coordinate with inspectors at the port of entry.
17 That we coordinate in terms of detention facilities.

18 One of the most important efforts that we have
19 undertaken to show how agencies can coordinate is, I
20 discovered the Marshals had aircraft for transporting
21 prisoners, Immigration had aircraft for transporting
22 undocumented aliens, and they were not coordinated. We have
23 just briefed members of Congress on the development of a
24 coordinated airline system that can far more effectively
— 25 transport prisoners and illegal aliens. So we are taking

1 steps to provide a coordination both within INS and within
— 2 the Department of Justice's agencies.

3 Along the border I was concerned because if the Border
4 Patrol made an apprehension and identified somebody as
5 having drugs, we needed to coordinate far better with
6 Customs and the Drug Enforcement Administration. The DEA
7 and FBI have undertaken a southwest border initiative that I
8 think is very fine. They have reached out to Customs, they
9 are involving the Border Patrol--

10 Senator Gregg. How about the Coast Guard and the
11 military?

12 Attorney General Reno. There has been excellent
13 cooperation between the military and National Guard have
14 been superb along the border. They have provided us
15 appropriate help consistent with the posse comitatis act.

16 The Coast Guard, frankly, sir, was just magnificent
17 this past summer dealing with the Cuban crisis. They were
18 out there in all sorts of weather, they did a remarkable job
19 with few complaints and they could not have been more
20 cooperative. The Coast Guard has also been splendid in
21 working with us in the identification of alien smuggling and
22 in identifying early on, before the boats reach the United
23 States, such vessels. So the Coast Guard is--

24 Senator Gregg. So you think it is all working pretty
— 25 well.

1 Attorney General Reno. It can always work better. But
— 2 I am dedicated to doing everything I can to end turf
3 battles, and from what people are telling me, both in terms
4 of traditional law enforcement and in terms of the Border
5 Patrol and Immigration efforts to control the border, they
6 are working better than ever before.

7 Senator Gregg. Now did you have any involvement in
8 this fee that the Administration sent up relative to border
9 crossing?

10 Attorney General Reno. Yes.

11 Senator Gregg. That has been changed now to some sort
12 of voluntary approach. Did you expect that revenues from
13 those fees would be applied to support border crossing
14 activities in the regions of the fees or would it be a
15 border crossing fee that was impacted going from New
16 Hampshire to Quebec would be used to support activity in
17 Mexico?

18 Attorney General Reno. The whole purpose of the border
19 fee and the purpose of the Administration's proposal as it
20 exists now is to provide for the return of the dollars to
21 that port of entry. It goes to the port of entry, not to
22 enforcement efforts in other places, but to building the
23 infrastructure at that port of entry, reducing the waiting
24 time, increasing the number of lanes where appropriate, the
— 25 number of inspectors, reducing the backlog in border

1 crossing cards. That is the whole purpose of it, to
— 2 reinvest--

3 Senator Gregg. Of course, we do not have that problem
4 in New England border crossing. There is not a significant
5 backlog. We understand the problem along the Mexican
6 border, we just would rather not pay for it uniquely.

7 Attorney General Reno. Again, as the Administration
8 has proposed it, a State can identify any community that
9 would like to opt into it.

10 Senator Gregg. What do you expect to occur, if
11 anything, in the area of the request by Senator Dole, and I
12 believe there was another senator who wrote you a letter
13 relative to the travel agent issue and the change in the fee
14 structure for travel agents?

15 Attorney General Reno. I have not addressed that
16 issue. I need to give you a report on that, and if I may,
17 we will respond in writing to you.

18 My understanding is that we are conducting a review at
19 this point. If we uncover evidence that the caps were the
20 result of an illegal agreement we would take appropriate
21 enforcement action. The fact that several airlines quickly
22 matched Delta's announcement does not, in and of itself,
23 establish the existence of an unlawful agreement. But we
24 are examining it fully, and other than that I cannot comment
— 25 at this time because it is a matter under review.

1 Senator Gregg. I would also like to say that I think
2 the actions of your antitrust department and Anne Bingaman
3 in the area of Microsoft have been very appropriate. I
4 strongly support the decisions you have been making in that
5 area.

6 Senator Lautenberg.

7 Senator Lautenberg. Thanks very much, Mr. current-
8 Chairman.

9 Senator Gregg. Just passing through.

10 [Laughter.]

11 Senator Lautenberg. General Reno, good to see you. It
12 is nice to sit across the table from someone who seems to
13 have universal approbation and I join in the courts who
14 salute you for a good job done.

15 I have a question that relates to some constitutional
16 rights. We are probably going to take up a crime bill this
17 year again and it is going to include a variety of
18 proposals, I think with serious implications for the
19 protection of constitutional rights, from the exclusionary
20 rule, habeas corpus and a variety of other measures. Too
21 often it seems that unless someone really makes the case to
22 the public, the Congress is willing to step on, maybe even
23 trample on, the most basic constitutional rights.

24 Now you have great credibility as a crime-fighter, a
25 serious lawyer who respects the rule of law and individual

1 rights. I would like to encourage you to be as active as
— 2 possible on some of these issues. We need your input when
3 amendments come up, and we need you to explain to the public
4 why, for instance, we do not want to give police officers
5 unfettered rights to go bursting down front doors and
6 looking into people's lives.

7 It was interesting to me, because very often we think
8 that the public is unaware of some of the garbled language
9 implications that come out of this institution. There was a
10 poll run just a couple weeks ago in which over 60 percent of
11 the American people believed that evidence seized inap-
12 propriately, without warrants, et cetera, should be
13 excluded. Frankly, I was amazed because I can understand
14 how people who are fearful of crime, afraid of violence,
15 constantly on guard, would not want to take any measure
16 possible, regardless of the constitutionality and say,
17 listen, we have got to do it to protect ourselves. But here
18 they were, over 60 percent of the American people. I do not
19 know whether you saw the poll. It was a New York Times
20 published poll.

21 But how do these issues appear to you in terms of, (a)
22 their prospect of diminishment of rights, and (b) the need
23 to speak out of them from your vantage point as well as
24 others?

— 25 Attorney General Reno. I think it is important to

1 speak out, and I have been speaking out on the issue of the
— 2 exclusionary rule. The Administration does not support an
3 attempt to provide for a good faith exception on warrantless
4 searches. I know how easy it is to go get a search warrant
5 and to do it the right way. Law enforcement speaks out in
6 many respects by saying that the exclusionary rule has
7 produced sound standards and that a police officer who is
8 properly trained, and the influence of the exclusionary rule
9 has resulted in far better training of police officers
10 across the country. You do not have to lose a case.

11 I think all of us working together can make people
12 understand how important it is to provide for basic protec-
13 tions while at the same time recognizing that police
14 officers need the proper training and that they are getting
15 it in most instances across the country. The exclusionary
16 rule does not diminish their crime-fighting capability and
17 that it is important to speak out.

18 With respect to the habeas issue, I like so many other
19 people think that they we can do much to reduce the delay,
20 unwarranted delay, without infringing on constitutional
21 protections by looking at the process. But most
22 importantly, by making sure that people have competent
23 counsel to represent them at critical stages of the process.
24 That is the reason the Administration has vigorously
— 25 supported the proposal that was introduced last year by

1 Senator Biden, and we would continue to work with all
— 2 concerned.

3 But you can fiddle with the law all you want, unless
4 people have competent counsel--and these death penalty
5 cases, I know because my office prosecuted them--these death
6 penalty cases are very complicated. We have got to make
7 sure that the lawyers handling those cases are competent at
8 the beginning otherwise we are just spinning our wheels.

9 Senator Lautenberg. Especially when you see the
10 significant number of those that have been overturned even
11 as the person awaits execution. That to me is a stark
12 reminder of how careful one has to be or we have to be.

13 I have introduced legislation that would hold gun
14 dealers personally responsible if they sell a gun to a felon
15 or a juvenile if that individual uses the gun and injures
16 someone. It is designed to keep guns out of the wrong hands
17 and provide compensation for victims. Would you be willing
18 to take a look at that?

19 Attorney General Reno. Yes, sir. I had heard as I was
20 preparing for this hearing--I have not had a chance to look
21 at it, but we would certainly look at it and talk with you
22 about it.

23 Senator Lautenberg. If you agree with it, obviously we
24 would like to get your support.

— 25 You may not know this off the top of your head but I

1 wonder if you could provide me with an update on implementa-
2 tion of the Motor Vehicle Theft Prevention Act which I
3 authored last year as part of the crime bill. It is a law
4 that establishes a national auto theft prevention program
5 and we have had some difficulty finding out its status. It
6 is a fairly simple process. It involves a sticker that
7 says, this car is not to be operated after certain times of
8 the night and that if the police see it that they have a
9 right to stop the individual driving it and ask questions
10 about their use of the car and how they acquired it. Under
11 a similar program in New York City, vehicles without the
12 decals were about 60 times more likely to be stolen than
13 those with this simple decal.

14 So do you know where we stand in terms of its implemen-
15 tation?

16 Attorney General Reno. Sir, when I took office one of
17 the first things that I got was what has been done by the
18 Justice Department to implement this statute, to form the
19 commission. I asked Director Freeh as soon as he took
20 office in September of 1993 to address this issue. The
21 Bureau has--my understanding is there were some initial
22 delays, but the last I checked with him the commission was
23 well underway in its task. What I will do with respect--I
24 do not have information with respect to the implementation
25 of the decal. I will ask that we give you a full report.

1 Senator Lautenberg. If you would. Do you think that
2 the OSI, the Office of Special Investigations still performs
3 an important function and that the United States should
4 continue efforts to remove Nazi war criminals from this
5 country?

6 Attorney General Reno. The unit is performing some
7 important functions. We continue--obviously, by the passage
8 time the caseload is reduced. We are constantly working
9 with the division to make sure that its resources are
10 appropriate for the current situation.

11 Senator Lautenberg. That is one of the reasons that we
12 ought to, in my view, if there are opportunities out there
13 to seize these people, to expose them, that we ought to do
14 it soon because in the not-too-distant future there will be
15 too few left to pursue.

16 I want to ask you a question. You said in your
17 comments that in the years 1993, 1994 and 1995 that you had
18 over 20,000 criminal alien removals, and non-criminal
19 illegals you had removals of over 25,000. You also forecast
20 in your comments that you would hope to double that in the
21 year 1996. I just want to confirm that that is--it is in
22 your statement and I would be happy to show it to you to
23 remind you of it. But that is quite a jump in terms of
24 removals.

— 25 Attorney General Reno. Actually, I think we want to do

1 better. But here is what--when I took office, 26 percent of
2 the people in the Federal prison system were aliens, as I
3 understand it.

4 From my experience in Florida, we prosecuted a sig-
5 nificant number of undocumented aliens. Nothing was more
6 frustrating then to see an undocumented alien get probation,
7 have the prosector come up and say, why don't we get him out
8 of here? Me call INS and they say, sorry, we do not have
9 the resources to come get him. So he would walk back out on
10 probation and probably never be seen again. It was
11 frustrating to me to hear States say, look, I have got an
12 undocumented alien here, he is about to finish serving his
13 term and nobody has come here to process him to get him out
14 of the country.

15 What we are trying to do is to identify the States with
16 the significant illegal immigration problem, with
17 significant number of people in the prison, and develop
18 institutional hearing programs as we have in New York, and
19 we are working with California, and to do it with Florida.
20 So that we have the undocumented aliens focused in a limited
21 number of facilities consistent with appropriate prison
22 management. The immigration judge would go to the prison
23 and hold the hearing there while the person was incarcerated
24 and serving his time. Then he would be ready to go as soon
25 as he was released from prison.

1 In other situations we have States that say, look, if
2 we have a non-violent offender we may want him out if we
3 know that he is being sent back to his country. I would
4 like to see it expanded, after we finish the prison
5 situation, to deal with the problem that I had so that when
6 a local law enforcement calls Immigration and says, we have
7 got somebody that either is not going to get prison time or
8 we do not have sufficient evidence to hold him but we want
9 him out of here and he is an undocumented alien, we can
10 respond.

11 Senator Lautenberg. I would expand my question a
12 little bit because we know that once someone is incarcerated
13 it at least excites the curiosity and perhaps we can trace
14 their citizenship. How--unless it is classified
15 information--how do you identify the illegal, the
16 undocumented alien non-criminal? How do you find these
17 people? Do we conduct house-to-house searches?

18 Attorney General Reno. One of the most important
19 efforts that we want to undertake with the 1996 budget
20 dollars, if appropriated, is to focus on worksites. There
21 is no denying the fact that people come to this country
22 looking for work. We want to focus both in terms of those
23 industries or those occupations that most often attracted
24 undocumented aliens and take effective action at the
25 worksite.

1 It has to become a balance because it does not help me
2 to take effective action at the worksite if I do not have
3 the detention facility to hold them while I am processing
4 them for removal, and if I do not have the transportation
5 system. So we are working together to build a detention
6 capacity, the removal capacity, the worksite enforcement.
7 Our feeling is if we can focus on the criminal aliens and
8 those who are attracted by the magnet of a worksite that
9 will hire an undocumented alien, we can have a significant
10 impact at the back door while at the same time guarding the
11 front door.

12 Senator Lautenberg. I can understand why targeting
13 work places is a good idea. However, that is not where all
14 or a majority of the illegals--people are sick and tired and
15 having illegals penetrate our borders, make their homes here
16 and before too long they escape into the demographic
17 landscape and you cannot find them. If you wanted to
18 conduct a campaign how would you go about finding illegals?
19 Is there something we ought to do differently than we have
20 been doing? Because the work place, there was a story about
21 a shop in New York environs that was hiring Chinese illegals
22 at 65 cents an hour, and obviously not great working
23 conditions beside that. So when you find that, obviously
24 you find a whole bunch of them.

— 25 But how, if you were to conduct a campaign for a mass

1 removal of illegal aliens, is it even possible to do
2 something like that? What do we have to do that is
3 different? Do we do it on an episodic basis as someone--

4 Attorney General Reno. No, what we have to do that is
5 different is what we are trying to do, which is to develop
6 an institutional hearing process and a process in
7 cooperation with local law enforcement that will identify
8 the criminal alien who has obviously had probably the
9 greatest burden on our society, to identify that worksite.
10 People do not come to this country except in most instances
11 to work. And to try to identify those sites which hire--the
12 sweatshop you just described that hired somebody at 65 cents
13 an hour is a perfect place to develop a coordinated effort
14 in the seven major States and then to expand it as we have,
15 for example, recently initiated an effort in Lincoln with
16 the cooperation of the employer to take action there.

17 We can do so much if we focus on where the problem is,
18 and the problem is created by that magnet at the worksite.
19 That is what we are trying to do as we build our capacity
20 both at the front end in terms of border control and then
21 taking interior action. We think the best place to begin is
22 with the criminal alien and with the illegal alien at the
23 worksite.

24 Senator Lautenberg. With the decline in the dollar
25 people may not come here to work, they may come and bring

1 their fortunes using their native currency. Thank you very
— 2 much, Mr. Chairman.

3 Senator Gramm. Senator McConnell.

4 Senator McConnell. Thank you, Mr. Chairman. Madame
5 Attorney General, one kind of parochial question. Kentucky
6 is awaiting receipt of \$3 million from the office of
7 juvenile justice and delinquency prevention. I am aware
8 that that money has been withheld because the State is in
9 noncompliance with the act. What I am interested in though
10 is why some money cannot be released for non-profit agencies
11 in my State that qualify for the money even though the State
12 is not in compliance?

13 Attorney General Reno. My understanding, Senator, is
14 that you have got three different pots of money, 1992-1993
15 money and there was to--Kentucky finally decided that it did
16 not want to attempt to participate in the 1992-1993 monies.
17 That is now free to be released and I will monitor that
18 carefully to make sure that it is done with quick dispatch.
19 Kentucky has expressed an interest in the 1994 monies and we
20 are working with them to see what can be done to measure
21 compliance and to do it with dispatch. I would ask a member
22 of my staff to keep you posted on that effort.

23 Senator McConnell. So some relief is probably on the
24 way on that?

— 25 Attorney General Reno. Yes, sir, and we will try to

1 keep you and your staff posted.

— 2 Senator McConnell. Let me shift to another subject. I
3 noted with interest that you on behalf of the Administration
4 opposed the efforts of tort reform that were being pursued
5 in the House of Representatives last week. But in your
6 letter you stated that the Administration opposed the House
7 bills, but you also stated that "our legal system can and
8 should be improved." I am curious as to what kind of
9 changes you would support at the Federal level.

10 Attorney General Reno. We are working with the Ad-
11 ministration and we look forward to working with you in the
12 Senate in terms of developing something and we will be
13 coming forward with proposals shortly as I understand it.

14 Senator McConnell. You would not like to give me some
15 hints as to what might be in it?

16 Attorney General Reno. Let me make sure that it is
17 carefully coordinated first, sir.

18 Senator McConnell. I hope it will be significant
19 because this is an issue that I think is extremely
20 important. Doing something to revise the American civil
21 justice system it seems to me long overdue and does need to
22 be done at the Federal level. We have had a lot of
23 discussions about federalism up here this year and a rebirth
24 of the Tenth Amendment, but it seems to me that this is an
— 25 area that cries out for some kind of Federal uniformity. Do

1 you know what the timetable is for your--

— 2 Attorney General Reno. Sir, we share your concern. I
3 have long said that we must do far more to reduce the cost
4 and reduce the delay involved in the legal system. So it
5 should be forthcoming, I hope very shortly.

6 Senator McConnell. And the it is likely to be some
7 kind of Federal action; is that right?

8 Attorney General Reno. Sir, I cannot really comment
9 but I am pressing for us to come forward as soon as we can.

10 Senator McConnell. On affirmative action, the
11 President has called for review, as we all know. I am
12 curious as to what role the Justice Department is playing in
13 this review of affirmative action. Could you describe the
14 scope of the review? Are you looking at affirmative action
15 in employment as well as in Government contracting, and when
16 do you expect that review to be completed?

17 Attorney General Reno. We expect it to be completed as
18 soon as possible. The civil rights division in the
19 Department of Justice is very much involved in the process
20 along with the other agencies. We are reviewing all aspects
21 of affirmative action to see what has worked, what has not
22 worked, what problems exist, what does not, what should be
23 addressed. The President has asked for a very early report;
24 I do not know the exact date. It is a very significant
— 25 effort that is now underway.

1 Senator McConnell. I gather it is your view that there
— 2 still is a need for affirmative action programs in this
3 country?

4 Attorney General Reno. I think there is clearly a need
5 for affirmative action programs. I think you can have
6 affirmative action programs that prevent or correct dis-
7 crimination without sacrificing qualifications, and I think
8 it is important for us all to work towards that end.

9 Senator McConnell. Again, I think that is a very
10 important topic and we will look forward to seeing what the
11 President recommends. I think there is going to be a lot of
12 action up here on the Hill this year and next year on the
13 subject. Thank you very much.

14 Thank you, Mr. Chairman.

15 Senator Gramm. Thank you.

16 Senator Kerrey.

17 Senator Kerrey. Thank you very much, Mr. Chairman.

18 Attorney General Reno, I have got one local project
19 that I wanted to bring to your attention and alert you that
20 I would like to talk with somebody at Justice about
21 potentially being a partner. It involves a local effort
22 between a hospital, the Omaha police department, and our
23 third largest school district to deal with a specific
24 instance of the use of the Internet to try to lure children
— 25 into dangerous environments. It is a community concern and

1 I find it to be a very innovative and unusual partnership.
2 They are looking for a Federal partner and I would just
3 alert you that I would like to--

4 Attorney General Reno. Let me follow up with you. We
5 would very much like to explore it.

6 Senator Kerrey. Secondly, let me commend the work of
7 your antitrust division. I, along with many members of the
8 Senate, have a significant interest in the enactment this
9 year of deregulation of telecommunications. We think there
10 is tremendous--at least I believe there is tremendous
11 economic opportunity there. And one of the things that
12 gives me confidence that we are going to be able to have a
13 competitive environment is the presence of your antitrust
14 division.

15 I think the story there over the last couple years,
16 even though it has been dominated by the recent unfortunate
17 roadblock here in Federal court, the story of the last
18 couple of years of that division is a story of expanded
19 American opportunity, increased American jobs, a real
20 success in showing why if you have got a competitive
21 environment, if you allow competition to occur, it will be
22 that you will get tremendous benefits all around. It may be
23 uncomfortable, this idea of competition, and I just want to
24 applaud the work of that antitrust division.

— 25 Thirdly, let me get into the couple of questions that I

1 have from the vantage point of the Senate Select Committee
2 on Intelligence. I am a co-sponsor of the omnibus counter-
3 terrorism act of 1995, and again I appreciate the
4 Administration's leadership in that area. I am concerned
5 though that we may not still be fully prepared, particularly
6 in the international arena.

7 I would like to have you answer the question, do you
8 think you have the resources to prevent threats to U.S.
9 interests either abroad or here at home, first of all? And
10 secondly, do you think that there is any merit in
11 considering changing the definition that we apply to
12 international agents that are attempting to sell illegal
13 drugs, in particular cocaine and heroin, into the United
14 States?

15 We typically call that an anti-drug effort. When it is
16 a Muslim terrorist blowing up the World Trade Center in New
17 York we rally and put a considerable effort to make sure
18 that Yousef is brought back from Islamabad to stand trial
19 because we consider that a terrorist act. Yet, if you go to
20 New York City this evening, the fear that you have is not--
21 fear of potential loss of life is not as a consequence of
22 Muslim extremism, it is as a consequence of the sale of
23 drugs.

24 I am not a lawyer myself but I am struck by the dif-
25 ference in the response that occurs once the label of

1 terrorism is placed upon the behavior. I would be very
2 appreciative and interested in your thoughts on whether or
3 not placing a label of terrorism on those who would kill
4 Americans through the sale of drugs would be either ap-
5 propriate or useful.

6 Senator Domenici. Would the senator yield?

7 Senator Kerrey. Certainly.

8 Senator Domenici. Mr. Chairman, how long will you be
9 here for questions?

10 Senator Gramm. I had been my objective to let the
11 Attorney General go by noon.

12 Attorney General Reno. But I would be happy to accom-
13 modate your schedule.

14 Senator Domenici. I will be back 10 or 15 minutes
15 before that. I have to leave for about 10 minutes, but I
16 just want you to know I do have some--

17 Senator Kerrey. Senator, this is the only question--I
18 have some written questions I was going to submit for the
19 record.

20 Attorney General Reno. Senator, with respect to your
21 first question, this is a question I regularly ask Director
22 Freeh, to make sure that in this budget proposal in what we
23 do we fully support the FBI in terms of its anti-terrorism
24 efforts here and around the world. To tell you that I could
25 prevent everything, I cannot assure you of that. But I can

1 tell you that based on what Director Freeh has told me, we
2 are in a position to do everything that we can to respond
3 where we know that response is needed and that there is
4 appropriate follow-up. This is an item that I continue to
5 check regularly with him about.

6 With respect to the characterization of those that
7 traffic in the human misery of drugs, we are engaged in very
8 significant efforts to make sure that we do everything we
9 can to bring people back to justice, where we can get them
10 extradited, where we can get them released, and we have made
11 some significant strides in that effort.

12 But more importantly, we have also focused not just on
13 the international. We have tried to enhance our efforts
14 internationally. What the DEA has done in the Far East in
15 terms of heroin control is important. We asked for 30
16 additional agents to address the whole issue of heroin. We
17 are trying to establish an office in the Far East to be
18 prepared to respond so that we will have just that capacity
19 that you talk about to go after the drug trafficker, no
20 matter what we call him, and bring him to justice here.

21 But what concerns me is that for too long we have gone
22 after people whom we cannot get extradited from foreign
23 countries despite our best efforts. It is important that we
24 focus on the people here who are trafficking in not just the
25 drugs but the violence. For that initiative, the DEA and

1 the FBI have joined forces in our initiative to link efforts
2 with State and local law enforcement, to share information,
3 to focus on those violent drug dealers, those violent gang
4 people who deal in drugs, and bring them to justice. I feel
5 very, very proud of the efforts undertaken by the DEA and
6 the FBI in this effort.

7 We are going to continue, no matter what we call them,
8 whether we call them terrorists, thugs, or those that
9 literally traffic in human misery, because I think as reduce
10 them, as we take them out of--

11 Senator Kerrey. Say I have an individual in Colombia,
12 or an individual in Karachi or some other place outside of
13 our borders whose business it is to sell cocaine or heroin
14 to the United States, to deliver it and sell it to the
15 United States. What would happen if we call that individual
16 a terrorist? Legally, do we not then take a different
17 approach? Does the law enforcement effort change once we
18 call this individual a terrorist instead of a drug lord?

19 Attorney General Reno. I think in the same situation
20 we are going to look at it in terms of the law and what we
21 can do under the law, and we are going to take all possible
22 steps to do that. I do not think the label we place on that
23 person is going to make a difference because I think
24 Americans are as shocked by what drug dealers have done in
25 terms of the number of people killed.

1 Senator Kerrey. Look at our attitude towards Syria,
— 2 for example. We know that Syria harbors terrorism in the
3 Bekah Valley, and thus we have a State Department
4 classification of them as a terrorist nation. Iran is a
5 terrorist nation; Libya is a terrorist nation. We take a
6 much different attitude towards that country. We trade with
7 them differently. There are sanctions in some cases imposed
8 on them as a consequence of that classification.

9 I just alert you to it because I have been giving it a
10 considerable amount of thought to it myself. These people
11 are killing a lot more people than Muslim extremists are in
12 the United States of America. There is a lot more terror,
13 real terror that occurs amongst Americans as a consequence
14 of the trafficking in drugs than there is in the trafficking
15 of political propaganda.

16 Attorney General Reno. What I would like to do is to
17 work with you, but to just stress that I do not think it is
18 the name we give it as the actions that we take.

19 Senator Kerrey. I think it is. If we called Muslim
20 extremists thugs it would be a much different response that
21 we would have in place than when we call them terrorists.
22 They have as an object the killing of people, and I see
23 people that are trafficking in cocaine and heroin as doing
24 basically the same thing. They are killing more Americans
— 25 than Muslim extremists.

1 Attorney General Reno. Sir, whether the label be the
2 issue or not, what is the most important thing, since I
3 think I agree with your assessment that both categories of
4 people present terrible danger to this country. I think the
5 real issue is what action do we take and are we taking all
6 appropriate action with respect to drug traffickers?

7 Senator Kerrey. One quick question. I am afraid it is
8 probably going to be more of a statement. I do not
9 understand why Justice authorized delivery of \$400 million
10 of taxpayer money to BNL of Italy applying the logic that
11 said that we could prove that BNL knew what was going on in
12 their branch in Atlanta in a court of law and thus we had to
13 pay the money out. Why was the standard so high? What
14 wasn't the standard the lower standard of business judgment
15 as it typically is in these kinds of CCC transactions?

16 Why did we say that we have to pay an Italian bank \$400
17 million because we could not prove in a court of law that
18 they knew about the billions of dollars of loans that were
19 going on in Atlanta even though common business judgment
20 would have you say, how could they possibly not know what
21 was going on in Atlanta?

22 Attorney General Reno. What we did--and I will have
23 the lawyers brief you--is to go over every single defense
24 that we could possibly raise and concluded--business
25 judgment is one thing, but we concluded based on the law

1 that we could not provide a defense to it. But I will have
— 2 somebody brief you if they have not already done so.

3 Senator Kerrey. They have briefed me and I found the
4 briefing to be inadequate. I have been involved in
5 situations before where Americans were denied payment even
6 though there was no ironclad proof in a court of law. The
7 standard has always been in the past, business judgment;
8 should you have known, could you have known, why did you not
9 know? And if you are not able to satisfactorily answer on
10 that level payment typically is denied.

11 I was very surprised that \$400 million of taxpayer
12 money was paid to an Italian bank who claimed not to know
13 about some guy that was making billions of dollars in loans
14 in Atlanta. I do not know how it is possible for them not
15 to know.

16 Attorney General Reno. Sir, if you would like, I would
17 be happy to meet with you and the lawyers and address your
18 problem specifically with the law that we have and consider
19 any law that you have that could--

20 Senator Kerrey. I think the cat in this case is
21 clearly out of the bag. The check has cleared I suspect by
22 now. I assume our accounts had \$400 million in it and they
23 have cashed it already.

24 Attorney General Reno. We have reviewed it with all
— 25 concerned and whatever the case, I am accountable for it and

1 I will be happy to meet with you to consider any issue that
2 you think we should address.

3 Senator Kerrey. Thank you very much. Mr. Chairman, I
4 have some questions I would submit for the record as well.

5 Senator Gramm. We would be glad to have them in the
6 record, and I am sure the Justice Department would answer
7 them.

8 Madame Attorney General, let me raise one issue and
9 then I will recognize Senator Hollings and then when Senator
10 Domenici gets back we will be finished. One part of the
11 President's crime bill that I strongly opposed was a
12 provision that effectively overturned minimum mandatory
13 sentencing. In an effort to try to work together, I worked
14 out in the Senate with Senator Biden a compromise that
15 basically gave more flexibility to the judge but did it, in
16 the case of a person convicted of drug trafficking if,
17 number one, they had no criminal record. If, number two,
18 they were not carrying a gun. If, number three, no one was
19 hurt in the transaction. If, number four, they were not a
20 leader in the drug conspiracy. And if, number five, they
21 did not provide the financing for it.

22 This was a compromise that we worked out in the Senate.
23 I viewed it as a compromise. My view is that people that
24 are selling drugs, especially to minors, are criminals and
25 they are violent criminals. Whether I guess you see them as

1 violent or not depends on whether they are selling drugs to
2 your child. But we worked out this compromise in the
3 Senate. The bill then went to conference and we ended up
4 with a completely different bill that was based on
5 conviction points. And it creates, in my mind, a tremendous
6 loophole that undoes the intent of Congress on minimum
7 mandatory sentencing.

8 Now I know all the arguments that you end up with all
9 these drug violators in prison taking up space. But what I
10 would like to ask you to do, if you would, is we have now
11 had the President's crime bill in effect for more than six
12 months. What I would like to do is to get the Justice
13 Department if they could--and I would not need a very formal
14 report--but to look back and see the number of times that
15 this new leeway has been used by Federal judges, to get me a
16 good ballpark figure on the percentage of total cases that
17 it was used in. Then I may want to come back and say, let
18 us pick out five or six of them at random and get somebody
19 to come over and give me a briefing on what the
20 circumstances were in the cases.

21 I was always a little bit surprised when AP would do a
22 story about this abuse. There were two stories that I
23 remember. One of them was a lady who was making good grades
24 in a junior college. She was selling drugs to students at a
25 junior high school, and she had had no previous conviction.

1 The basic idea was that this was a terrible injustice that
2 she had gone to prison. The other involved a lady whose
3 boyfriend or husband, I forget which, was outside the
4 country avoiding prosecution. She tried to bring drugs
5 across the border and was arrested.

6 But I think if I could get those numbers and then maybe
7 working with your people rather than--the one thing I do not
8 want to do is ask you to spend time and energy doing a whole
9 bunch of reports. But if we could pick out about five cases
10 at random where this new leeway was used, so that I could
11 look at it to get an idea of what the real circumstances of
12 the cases were to try to sort of put the human face on it,
13 so to speak, it would be very helpful for me.

14 Attorney General Reno. We would be happy to work with
15 you.

16 Senator Gramm. One of the things that I think clearly
17 is going to be debated as we go back and rewrite parts of
18 the crime bill is this section. So I felt, when we were
19 working on it last year it was an issue I felt strongly
20 about. I thought hard on it and as it turned out, we lost.
21 But now we have got six months of seeing how the new program
22 works. Before we go back and undertake the debate again I
23 think I owe it to the Administration to try to look at what
24 the experience has been, how often this has been used, what
25 the cases are. To really try to move from the sort of

1 theoretical to the practical. I do not know that it will
— 2 change my mind, but it would be I think an important area to
3 look at.

4 Attorney General Reno. Senator, we would work with you
5 in every way we could. But let me clarify something because
6 I just want to make sure that I am understanding. We really
7 tried on a bipartisan effort with Senator Hatch and others
8 to try to work something. And the exemption that was
9 created said the offender must have only a minor criminal
10 record, must not have been a leader of others in the
11 offense, must not have possessed a firearm or other
12 dangerous weapon, or used violence or threats of violence in
13 the offense, death or serious bodily harm, and the offender
14 must have been truthful. That would take him out from under
15 the minimum mandatories, but that would not take him out
16 from under the sentencing guidelines. So that there were
17 still restrictions on the sentence that would be faced.

18 So we will get as much information as we can and work
19 with whomever you designate on your staff, sir.

20 Senator Gramm. Basically, as you know better than I
21 do, when you get inside the thing about a minor violation,
22 and especially when we are dealing with younger and younger
23 violators where you have got people that have got juvenile
24 records as long as your arm that may or may not produce this
— 25 one point under this point system which is alien to

1 everybody except prosecutors, I am sure. But the whole
2 problem being that somebody could have a fairly extensive
3 juvenile record and yet still not have a conviction point.
4 Basically what I want to try to do is to see how this
5 working in practicality.

6 The other problem, when I have gone back and tried to
7 look at sentencing that is actually being imposed, I have
8 often been distressed that where the judge has leeway that
9 you often get a very, very small addition to the sentence.
10 For example, under the whole guidelines prior to the passage
11 of the new crime bill, when I was looking at Sentencing
12 Commission data what I was finding was that a person who was
13 carrying a gun during a drug violation was I think--do not
14 hold me to it, but the number I remember is that on average
15 they were getting a month more in prison. Now maybe the
16 judge felt that the minimum mandatory sentence was so stiff
17 that there should not be an addition for carrying the gun.

18 But I guess, like a lot of people, I feel that society
19 has such a stake in these things that I am one of the people
20 who believes that we should lessen the discretion of the
21 judge. But I do want to look at your data, see what has
22 happened before we get back into that debate.

23 Senator Hollings, have you got another question or two?

24 Senator Hollings. Yes, two things. General Reno, I
25 would like to be able to meet with you relative to the

1 question asked by our distinguished colleague from Kentucky
2 on tort reform. I have had a mixed experience in the sense
3 of representing corporations, antitrust cases all the way up
4 to the Supreme Court, the local bus company from--everybody
5 around Thanksgiving time fell down in the aisle or got their
6 arms caught in the door. It was called the Christmas club
7 until I took over and tried all the cases. And I have also
8 been a trial lawyer. And I do not say this lightly, I have
9 been through at least a dozen Attorney Generals and you are
10 the best I have seen up here because you have got the hands-
11 on experience with the Attorney General's philosophy and the
12 Attorney General's mission and responsibility. You know
13 policemen, you have been out on the beat, you have been in
14 the court.

15 When it comes to tort reform, we have had 14 years of
16 hearings. It was brought first because they were going to
17 eliminate the cost and delay and get uniformity and all of
18 these things--lawyers everywhere, they could not handle it.
19 Of course, they have handled well for many, many years. And
20 we told them, yes, if it was interstate commerce we could
21 federalize insurance. It is still regulated at the State
22 level. I would like to get perhaps a national insurance
23 commission and appoint my distinguished chairman here as
24 chairman of that one.

— 25 Senator Gramm. I had a better job in mind.

1 [Laughter.]

— 2 Senator Hollings. You would get paid more. You ought
3 to see my former governor.

4 What happens is, then they said they had a litigation
5 explosion. They did not have that. Then they said what you
6 did was you could not get insurance, and we proved that was
7 wrong at the hearings. The next thing was got about the EEC
8 1992 was coming up and they said that the EEC 1992 would
9 dare not have these kind of things in it, and then we proved
10 that EEC was moving and adopted joint and several and
11 various other things.

12 Then they got into competitiveness, and we showed them
13 that we had industries coming out of our ears. Right now
14 BMW, just a little while ago Nucor and everything. I have
15 been in the game of competitiveness, and landing industry in
16 a State and I have never had one of them tell me, we have
17 had too much trouble with product liability.

18 Bosch, I went in there a year or so ago and I said, how
19 about product liability cases? They make all the anti-lock
20 brakes for every car that you have probably got and I got;
21 for all of General Motors, all of Ford, Toyota, Mercedes-
22 Benz, the rest of them. And he said, what is that? I said,
23 product liability. He said, no, Senator, we do not have
24 those kind of cases. I said, you do not have any claims for
— 25 defective--oh, no. He got insulted. Defective? And he

1 went around a showed a serial number on every one of the
2 little brakes. He said, we know immediately. Of course,
3 you have to go in there with a cover for your head, and
4 smock around, and over your shoes like you are making drugs.
5 It is really giving wonderful care to the manufacture of
6 products.

7 What really happens it shows up in the polls. That is
8 why it is a matter of concern to the senator from Kentucky
9 and other senators who are on this bit, for the simple
10 reason that the States in their legislatures will testify
11 against this. This is best administered at the State level.
12 The Association of State Supreme Court Justices, you go
13 right down the Attorneys General in a bipartisan appearance,
14 the American Bar Association will attest against the
15 initiative that they have got over on the House side.

16 So let me talk to you about that for the simple reason
17 that perhaps it is in large measure our former Vice
18 President, kill all the lawyers like in Shakespeare get rid
19 of the lawyers.

20 Senator Gramm. He was one, was he not?

21 Senator Hollings. Yes. But I think he has got the
22 wrong crowd of lawyers. It is not the trial lawyers. You
23 see, I am the best stopgap from frivolous suits. I have got
24 no time for frivolous suits. I have got to pay all the
25 investigative costs, all the deposition costs, all the

1 interrogatory costs, all my time and everything else and I
— 2 do not get a red cent unless I convince 12 by the greater
3 weight of the preponderance of the evidence and go all the
4 way to the Supreme Court and pay for the briefs and the
5 prints and everything else. So I have been in it and left
6 thousands of dollars on the table from poor clients that
7 could not pay anything but this \$1 an hour.

8 Specifically, now how about \$100 an hour? You know,
9 the trouble in this town is they have got 60,000 lawyers in
10 this place. At \$100 an hour do you not think we ought to
11 put on this tort reform the limitation of \$100 an hour on
12 billable hours? That would give them \$208,000. I was just
13 adding it up. That would give them \$208,000 a year. That
14 is just eight hours a day and five days a week. Now you
15 know as good lawyers we work on weekends, Saturday, all
16 night long and everything else. But just a modest book-
17 toting lawyer, to make him look like a lawyer I guess, just
18 give him \$208,000, is that not a gracious plenty rather than
19 these \$450?

20 If he charged me with an ethics or I charge him with an
21 ethics violation, to go through all the records, to get a
22 downtown lawyer here it is \$400 an hour or whatever it is.
23 It has broken--I would not name the senators around here,
24 but they have got outrageous debts for this Washington
— 25 lawyer crowd. \$100 an hour would, I think, clean up a lot

1 of this abuse of tort reform.

— 2 Specifically, the Japanese in the book, Agents of
3 Affluence, Pat Short found that they had over 100 law firms
4 here representing one country. Japan paid \$113 million a
5 year. Now Senator Gramm and my salaries, all the senators
6 and all the House members, 535 is only \$68 million a year.
7 The Japanese are better paid for representation in
8 Washington than the people of America. How about \$100 an
9 hour? Let us talk about that as the Administration
10 considers tort reform.

11 Attorney General Reno. Before I was a prosecutor I was
12 a trial lawyer and the one thing I could not stand--and this
13 is a personal opinion and not speaking for anybody else--I
14 could not stand billable hours.

15 Senator Hollings. Amen.

16 Attorney General Reno. Because what disturbs me was
17 there might be an area of the law that somebody might have
18 done some recent research in that they were up on it, but I
19 needed to do the research. And I did not know why the
20 client should have to pay me for getting up to speed on
21 something. I think maybe that is one reason I like public
22 service, Senator.

23 Senator Hollings. Exactly. That billable hours is the
24 biggest cancer we have got in the law because you stop
— 25 working for your clients, you are working for yourself.

1 Now right to the point, the \$64,000 question that I did
— 2 not get the complete answer I do not believe. We have got
3 on the matter of cops on the beat. The House proposing
4 eliminating the cops on the beat and my record shows that
5 you have got already 16,647 police officers out there and
6 you have funded some 7,776 communities. Now this is all on
7 a matching basis as I understand.

8 You give them block grants, they will not only just pay
9 for the whole thing and pay for their regular salaries,
10 which we found out under the LEAA, President Nixon put it
11 in, but they will buy tanks and put on the Hampton, Virginia
12 courthouse lawn. In Indiana they will buy a plane so the
13 governor's wife can fly to New York to get her spring
14 clothes, those kind of things. That is why we had to get
15 rid of LEAA.

16 What is your comment about cops on the beat and the
17 House initiative to eliminate it?

18 Attorney General Reno. I think it is so important,
19 because I think we get caught sometimes in block grants or
20 not block grants. I think you look at the specific issue
21 involved. The police department in a community is the law
22 enforcement agency for that community. There are not
23 competing interests as there may be for some other type of
24 grant where four or five groups in the community may be
— 25 eligible. That police department is responsible for law

1 enforcement in that jurisdiction.

— 2 I think the monies should go directly to that police
3 department according to the system we have devised under the
4 Crime Act as it was passed. It does not have to go down to
5 the State where there is a bureaucracy to process it around.
6 It does not have to go down to the city or to the county.
7 It goes to the police department for policemen on the beat
8 which I think is important.

9 There is a flexibility in here; 15 percent of the
10 monies can be used for overtime, for equipment that is
11 necessary, for radios for the police officers. Another 20
12 percent can be used for automation to free officers' time to
13 be on the streets. We have worked with the Sheriff's
14 Association, with police organizations around the country to
15 make sure that we have tailored it both for the rural police
16 department, for the country sheriff, for the State highway
17 patrol, for a major city department. Each department can
18 tailor it to what best meets their need.

19 That is the reason I think the way we have worked it
20 out, listening to police agencies across the country, is the
21 best way. It gets the dollars to the police department and
22 they know best how to use it for community policing which is
23 what they tell us they want it for.

24 Senator Hollings. Thank you, Mr. Chairman.

— 25 Senator Gramm. Thank you.

1 Madame Attorney General, I am going to leave and leave
— 2 you in the capable and kind hands of our dear colleague,
3 Pete Domenici. I just want to say again, I enjoy working
4 with you. I do not always agree with you, but I always know
5 you are sincere. I know you are doing a good job in trying
6 to implement what you believe is the right thing to do. As
7 we write our bill, as we have questions, as we have to
8 inevitably make tough decisions in a tough budget, we will
9 always give your department an opportunity to make its case
10 because whatever we decide to do, I think our decisions will
11 be better decisions if we get an opportunity to hear your
12 argument for your proposal for your budget. As always, we
13 enjoy working with you.

14 Senator Domenici.

15 Attorney General Reno. Thank you.

16 [PRESIDING]
16 Senator Domenici. Thank you, Mr. Chairman.

17 I will not keep you long.

18 Attorney General Reno. That is okay, sir.

19 Senator Domenici. First, let me ask if you are
20 familiar with the radiation exposure compensation program?
21 It is a very large program that you run.

22 Attorney General Reno. I am generally familiar with
23 it, Senator, but I am not expert. If you have specifics, we
24 will be happy to try to provide the answers for you.

— 25 Senator Domenici. I will submit about 10 questions

1 with reference to it, and I think the one that is most
— 2 important is the justification for adding some additional
3 money to the trust fund. Actually, this program was a long
4 time coming about and I think in its final product was an
5 excellent compromise. We do not have a lot of litigation.
6 It may serve as a pretty good funding for injuries claimed
7 because this is all administrative. Nobody gets any right
8 to go to court, and you run the program with your lawyers.

9 You asked for about \$16 million to replenish, and I
10 guess what I would like you to submit for the record is, is
11 that sufficient and where did you get the basis for adding
12 that amount? You have 67 left over unobligated.

13 Attorney General Reno. Under the current estimates,
14 the civil division will approve 525 claims in 1996
15 representing \$39.4 million. I am advised that the requested
16 funding represents the difference between what monies will
17 be available at the beginning of 1996 and the amount of
18 payments to be made from the trust fund.

19 Senator Domenici. All right. I have questions that I
20 hope you will answer that will tell us how this actually
21 worked, what it cost, what its successes and failures were,
22 where the cases came from, what kind they are. I think we
23 ought to know that since we will be spending about \$250
24 million. And our Indian people are clearly the principal
— 25 beneficiaries and they too ought to know--we ought to know

1 from them how it is working, but we will get that in another
2 manner.

3 With reference to Border Patrol, I just have a simple
4 request. Once again, we keep working at trying to get poor
5 little New Mexico its share of Border Patrols and you and I
6 keep working it out and we are still not up to the 231 that
7 you said we would get. That may be attrition, it may be--we
8 are nine or 10 short. Could you just look into that for us?

9 Attorney General Reno. Yes, sir. Here is what I am
10 trying to do. I laid it out before but I really look
11 forward to working with you. I inherited a gap between
12 authorized level and the Border Patrol. We have had to
13 absorb pay increases. I am doing everything I can to get
14 that Border Patrol up to full authorized staffing; to
15 provide the training, the recruiting that can do it. I am
16 focus on that El Paso-New Mexico sector. I am dedicated to
17 trying to make sure that we address the attrition problems,
18 that we provide the additional support.

19 Senator, in January I went down the entire border. One
20 of the things that has been pointed out to me and that I am
21 personally monitoring is the fact that apparently a new
22 highway will be opening up from Columbia east that will
23 provide, I think, additional problems for the Border Patrol.
24 When I returned to Washington it is one of the first things
25 I talked to Commissioner Meissner about. I said, we are

1 going to have to be prepared there.

— 2 Senator Domenici. Great. That is, incidentally,
3 Columbus.

4 Attorney General Reno. Columbus. Sorry about that.

5 Senator Domenici. They have a very nice border station
6 there. Did you see it?

7 Attorney General Reno. No, I have not had a chance to
8 see it yet.

9 Senator Domenici. Actually, it broke all records and
10 it proved that you could build them rather quickly. Most of
11 the time it takes so long you give up.

12 Private sector and privatization. Interesting, you
13 have some privatization of minimum security prisons in your-
14 -

15 Attorney General Reno. No, sir. I always thought it
16 was--yes, minimum; low and minimum. What we tried to do is
17 to work out with Director Hawk those types of facilities
18 that could be a good basis for privatizing, that are low or
19 minimum, not medium. We have identified five such sites, as
20 I understand it, where we are going to be engaged in
21 privatization efforts.

22 Senator Domenici. Can you provide for the record what
23 you think you are going to save by virtue of doing this?

24 Attorney General Reno. I do not know how much we are
— 25 going to save, but we will give4 you the best estimates that

1 we can, because let me tell you where one of the things that
2 I am trying to do with all concerned. Somebody says, you
3 can do this at a lot less if you privatize it. What I then
4 discover is that there is nothing really spelled out for
5 what medical care the private sector must provide. And
6 there is a tendency to say, that person has a major medical
7 problem so we are going to dump him back into the regular
8 Federal prison system because they, because of the economy
9 of scale, can treat him far better.

10 We have got to make sure as we measure the cost effec-
11 tiveness of privatization that we are measuring apples and
12 apples and oranges and oranges. So the big factor in this
13 whole equation between the private sector and the public
14 sector is the cost of medical care, and I want to make sure
15 that that is addressed the right way so that I can give you
16 solid figures.

17 Senator Domenici. Would you be able to do that before
18 we get to markup on the bill? I think it would be an
19 interesting thing to find out what your best estimates are.
20 You will not know; no one will know. But you are trying to
21 save some money, I assume, and we ought to know kind of what
22 your targets are.

23 Attorney General Reno. I just do not want to over-
24 represent to you money savings. I mean, there are FTE
25 savings. But I am going to try to do everything I can to

1 make sure there are money savings. But I do not--I am not
— 2 sure that I can quantify it for you now because I do not
3 think that enough research has been done.

4 I think that is the reason it is so important that we
5 have these pilots to really identify what the costs are,
6 carefully pin them down, and develop a means of measuring so
7 that we can, first of all, hold the contractor accountable
8 and have true competition not just respect to dollars but
9 with respect to the quality. The Bureau of Prisons, I think
10 is one of the finest Federal agencies that I have dealt
11 with. It has incurred great growth with tremendous
12 problems. It has done a nice job and I do not want to
13 diminish the quality of it for illusory savings.

14 Senator Domenici. Also blue chip costs a lot of money
15 compared to what States and cities do. So they are the
16 best, there is no question.

17 Let me just tell you, you may think this is just
18 something brand new, and it may be for us. But it is not
19 very brand new when it comes to State Governments. They
20 have got a lot of private sector facilities around. It
21 seems to me there is some relevancy to their contentions
22 that they have saved money. Now maybe they are not, but I
23 think they are or they would not be doing it.

24 Attorney General Reno. What I am trying to do, because
— 25 I had experience in Florida which was one of the first

1 States to start in the privatizing area in the State and
2 local correctional efforts. I just want to make sure before
3 I represent to you--I am being cautious. I am not being
4 negative. I want to try to have for you a framework in
5 which we can compare the cost of a private facility in
6 Florida with the cost of a Federal facility and show what is
7 involved in it.

8 Senator Domenici. I am appreciative of your cautious-
9 ness. I have found you to be very fair. I just would say,
10 it is not unanimous within the bureaucracy, even the
11 hierarchy of the bureaucracy, that we ought to privatize
12 very much. So I do not want you to color your estimates, or
13 let them be colored by people that think we should not even
14 try this.

15 Attorney General Reno. You have to understand, I am
16 the one that pressed for the privatization. But pressed for
17 it so that we could do it the right way, measure it the
18 right way, and come up with the soundest figures possible.
19 I think that privatization can be a wonderful instigator, a
20 wonderful example of doing something better. I have also
21 seen privatization that does not work. What I think we need
22 to do is to develop a system where we can hold the private
23 sector accountable when we contract with them.

24 Senator Domenici. By the way, back to the trust fund
25 on radioactive contamination. I made a note to myself and

1 then I almost forgot it here. It would be good if you asked
— 2 your civil division if they are trying to find out whether
3 the findings are relevant to those who have been studying
4 radiological impact from uranium mining and the like. It
5 would be a shame if we accumulate a lot of good information
6 and we just isolate here and do not give it to the--

7 Attorney General Reno. My understanding is that there
8 has been a close working relationship. I will double-check
9 that and make sure that you are properly advised on that.

10 Senator Domenici. All right. In some of the States
11 where they have changed the penalty, the punishment for
12 criminals to a three strikes and you are in, or some way to
13 say if you are a habitual violent criminal you spend more
14 time, there are rather incredible numbers being thrown out
15 there as to new prison population being added. Some States
16 are saying, New Mexico is contending that they could not
17 handle the three strikes and you are out in its pure sense,
18 nor could they handle the 85 percent of the sentence, the
19 so-called truth in sentencing, because it would cost too
20 much.

21 I assume there is not that much significant addition to
22 the United States prison system because of three strikes and
23 you are out?

24 Attorney General Reno. We have monitored that very
— 25 carefully to make sure that the law was properly applied,

1 because I do not think it should be applied willy-nilly. If
— 2 a guy got into a barroom brawl when he was 18, and then got
3 into trouble when he was 39, and then 50 or something like
4 that. But we are trying to carefully implement it so that
5 we go after the true three-strike person.

6 What we have discovered in querying the U.S. Attorneys
7 across the country is that many States have their own three
8 strike provision now and the local prosecutor wants to
9 proceed with the case in the local courts. So we have not
10 gotten, interestingly enough, that many. But those that we
11 have gotten I feel very comfortable that almost anybody
12 except people who just did not think people should go to
13 prison for some reason, I think everybody would feel
14 comfortable in designating them as three strikes.

15 They will provide a burden for the Federal Bureau of
16 Prisons. I talked to Senator Hollings about the increase in
17 the violent offenders. Traditional the Federal Bureau of
18 Prisons handled the white collar criminal. Then they got
19 the drug trafficker. Now they have got the violent
20 criminal. But we are going to be prepared for it.

21 Senator Domenici. Presumably for the U.S. Marshals you
22 are going to provide sufficient funding. They are having to
23 detain a lot more people than they used to, and I am pleased
24 about that. A lot of them are not getting out on bond as
— 25 easily as they used to, and many are being held for short

1 periods of time in local jails and State jails. But your
— 2 budget is down a little bit.

3 Attorney General Reno. We are providing additional
4 support for the Marshals because I think to some extent what
5 we are trying to do is to focus on the dangerous criminals
6 and make sure that they are pre-trial detained; that they do
7 not get out. We are providing additional support for the
8 Marshals for court security.

9 The other thing that we have done, Senator--and I do
10 not know whether your staff has been briefed or not--we are
11 work with the INS and the Marshals Service and the FBI to
12 coordinate our transportation system so that there is not
13 duplication and fragmentation.

14 Senator Domenici. Could I just talk a little bit and
15 then this will be my last one, Senator Hollings. As I
16 understand it, the Administration says they have a \$1
17 billion immigration initiative. The President proposed \$1
18 billion in initiatives in the budget. It is my
19 understanding that \$336 million of that comes from the
20 Violent Crime Reduction trust fund, and 200 from new border
21 crossing fees, and 148 from immigration programs for which
22 the President requests no funds. These are INS construction
23 expenses, border control, immigration emergency funds. The
24 sources of funds total \$684 million with less than 340 of
— 25 that remaining.

1 So I wonder, could you explain to us the
2 Administration's reordering of priorities for its
3 initiative? I am not at all sanguine about claiming \$1
4 billion for an initiative when 336 of it comes from a crime
5 trust fund that has been previously reserved for other
6 purposes, and 140 comes from other immigration programs.

7 Attorney General Reno. If I understand your question,
8 it is using the Violent Crime control fund in terms of
9 immigration. 29 percent of the people in the Federal prison
10 today, as I understand it, are undocumented aliens. The
11 problem of criminal aliens in our State prison system is
12 overwhelming; New York, California and others have
13 significant populations.

14 I think that this clearly in terms of crime control in
15 this country, it is one of the most effective efforts that
16 we can undertake in terms of preventing illegal immigration,
17 in terms of focusing on the undocumented aliens, in terms of
18 providing \$300 million in reimbursement to State and local
19 Governments for the incarceration of criminal aliens, in
20 terms of improving our institutional hearing process to
21 remove criminal aliens quickly from this country.

22 Senator Domenici. I can go on with another one. I
23 think you have moved funds around and I am not sure that we
24 have had an explanation. I will just give you questions.
25 But let me just give you another one. From what I can find,

1 the long term policy--not next year's but the long term as
— 2 you stated under budget requirements, assumes \$280 million
3 reduction in funding for border enforcement activities in
4 1997, and a total reduction of \$1.7 billion through the year
5 2000. Now does the Administration expect that we are going
6 to have the borders under control by then?

7 Attorney General Reno. I think what we need to do is
8 to work together to make sure that the border is fully
9 staffed, that we bring the Border Patrol up to full
10 authorization. What I would like to do is to work with you.
11 If we could have your questions, we will address them and
12 come back to you.

13 Senator Domenici. All right. Frankly, I do think what
14 OMB or somebody has done, maybe not you, we have kind of
15 moved money around to claim \$1 billion set of actions, but
16 we have taken other things out or cut them substantially and
17 I am not sure that you are going to be able to do that. So
18 can you answer those? I will give it to you in detail.

19 Attorney General Reno. Yes, I would appreciate that
20 opportunity.

21 Senator Domenici. My staff might be wrong on that,
22 although I do not find that they make very many mistakes
23 like this. I have about seven or eight others, but it is
24 late. I will submit them in writing and answer them as soon
— 25 as you can.

1 Attorney General Reno. Thank you. We certainly will,
— 2 sir.

3 Senator Domenici. Thank you.

4 Thank you, Senator Hollings.

5 Senator Hollings. Thank you. We just never have
6 charged that fee. I have the same--I asked that earlier
7 about these fees, \$219 million in fees. We were talking
8 about it costs you \$10 to go from here through all the tolls
9 on the highway up to New York, or over the Chesapeake Bay,
10 \$2.50. What is the matter with a \$3 fee here coming in, and
11 this 219 been cancelled. We just never did institute it.
12 Why?

13 Attorney General Reno. Let us clarify that for you so
14 I can lay it all out.

15 Senator Hollings. Yes, because I have got the same
16 sheet.

17 Senator Domenici. Actually there was a lot of
18 opposition from border senators, Democrat and Republican.
19 Incidentally, the fee is slightly different than a toll road
20 because what actually happens for a substantial portion of
21 the border you have people going across--

22 Senator Hollings. Across back and forth every day.

23 Senator Domenici. So you might have them four or five
24 times a day and it is somewhere between \$1.50 and \$3 each
— 25 time. If you could put it on something--

1 Senator Hollings. That is wonderful.

2 Senator Domenici. We need them going back and forth.
3 That is very expensive for retailers just moving between the
4 two, especially with poverty being rampant in Mexico these
5 days. Anyhow, we will get on with that. Thank you.

6 Senator Hollings. Good. Thank you very much, Janet.

7 [Whereupon, at 12:13 p.m., ~~the committee was~~ ^{WEDNESDAY, MARCH 15, THE}
8 ~~adjourned.~~]

~~HEARING WAS CONCLUDED,~~
*SUBCOMMITTEE WAS RECESSED, TO RECONVENE SUBJECT
TO THE CALL OF THE CHAIR.]*