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U.S. Department of Justice
Office of the Deputy Attorney General

February 26, 1985

TO: John Roberts
FROM: Roger Clegg

Per our conversation.

FOR IMMEDIATE RELEASE

William H. Webster, Director of the Federal Bureau of investigation, announced today the indictment of nine individuals, charged with violations of the Racketeer Influenced and Corrupt Organizations Statute, with predicate offenses of Hobbs Act, Extortion, Murder and Labor Racketeering. The indictment charges the following individuals to comprise a group associated in fact and also known as the "Commission" of La Cosa Nostra, and that they operate in New York and other areas of the United States and in other countries:

1. Anthony Salerno, Boss, Genovese Family
2. Paul Castellano, Boss Gambino Family
3. Aniello Dellacroce, Underboss, Gambino
4. Gennaro Langella, Acting Boss, Colombo
5. Anthony Corallo, Boss, Luchese Family
6. Salvatore Santoro, Underboss, Luchese
7. Christopher Furnari, Consigliere, Luchese
8. Philip Rastelli, Boss, Bonnano Family
9. Ralph Scopo, Soldier, Colombo Family

Director Webster noted that the guiding principle of the FBI's Organized Crime Program is to reach beyond the streets to those who exercise real power and control. He said, "for the first time, the existence of LCN's national structure and far reaching influence is revealed through the defendants' own words and actions."

In announcing the indictments and arrests, Mr. Webster acknowledged that this represented the culmination of many years of intensive investigation by the FBI into the activities and organizational structure of the LCN and its "Commission." He said, "The indictments of the heads of all five New York LCN families which comprise the "Commission" firmly demonstrated the existence of a national organized criminal structure with extensive control emanating from New York." He added that the success was only possible through years of FBI effort, manpower, sophisticated techniques, cooperating witnesses, many Title III intercepts, the development of witnesses now willing to testify and the retrieval capabilities of the FBI's Organized Crime Information System.

Mr. Webster also attributed the success of this complex case to much of the law enforcement community, from high-level informants, to the full use of the RICO Statute to indict enterprises and family structures, to the totally coordinated effort with the New York Police Department's Organized Crime Task Force.

Director Webster stated that the mere existence of the "Commission was known as early as the 1930's, but in 1979, with expanded use of undercover Special Agents, highly placed informants and electronic intercepts, the FBI was able to infiltrate the Bonanno family and obtain concrete information on the "Commission's" function. During 1980-1982, through additional wire intercepts and informants, sufficient information was developed to indict the Columbo family as an enterprise in October, 1984.

Law enforcement efforts between 1981 and 1985, according to Mr. Webster, resulted in the recent indictments of the Gambino and Genovese families.

Mr. Webster specifically expressed appreciation to the following agencies who assisted Special Agents of the FBI and contributed significantly:

United States Attorney's Office and Strike Force,
Southern District of New York.

United States Attorney's Office and Strike Force,
Eastern District of New York.

New York City Police Department

New York State Organized Crime Task Force.

District Attorney's Office, Brooklyn, New York.

OUTLINE OF TALKING POINTS

FEBRUARY 26, 1985

LCN COMMISSION

PRESS CONFERENCE

I. SCOPE OF TODAY'S INDICTMENTS AND ARRESTS

A. CULMINATION OF MANY YEARS OF INTENSIVE INVESTIGATION
BY THE FBI INTO THE LCN'S.

1. ACTIVITIES

2. ORGANIZATIONAL STRUCTURE

3. "COMMISSION" OR RULING BODY

B. INVESTIGATIVE RESOURCES INCLUDED

1. 175 FBI SAs DURING LAST FOUR YEARS

2. 25 NYPD DETECTIVES DURING LAST TWO YEARS

II. SIGNIFICANCE OF THIS INVESTIGATION

- A. INDICTMENTS INCLUDE THE HEADS OF ALL FIVE NY LCN FAMILIES WHO COMPRISE THE COMMISSION.

- B. INVESTIGATION CONFIRMS THE EXISTENCE OF A NATIONAL ORGANIZED CRIME STRUCTURE WITH SUBSTANTIAL CONTROL EMANATING FROM NEW YORK.

**III. A VARIETY OF INVESTIGATIVE TECHNIQUES AND TOOLS USED
GATHER EVIDENCE OF THE COMMISSION INCLUDING**

A. EXTENSIVE PHYSICAL AND ELECTRONIC SURVEILLANCE

B. COOPERATIVE WITNESSES

C. UNDERCOVER SPECIAL AGENTS

D. OCIS

E. COMPLETE APPLICATION OF RICO STATUTES

IV. WE CAN NOW SAY THE FOLLOWING ABOUT THE COMMISSION:

- A. IT IS A GOVERNING BODY SEPARATE AND DISTINCT FROM INDIVIDUAL LCN FAMILIES
- B. IT INCLUDES HIGH RANKING MEMBERS OF ALL FIVE NY LCN FAMILIES
- C. LCN FAMILIES THROUGHOUT THE U. S. COMMUNICATE WITH EACH OTHER THROUGH THE COMMISSION
- D. ILLEGAL ACTIVITIES THAT CROSS FAMILY LINES MUST HAVE THE COMMISSION'S APPROVAL
- E. IT SETTLES LEADERSHIP DISPUTES

V. INVESTIGATION SENDS A MESSAGE TO BOTH THE AMERICAN PEOPLE
AND THE LCN

A. WE WILL NOT BE STOPPED IN OUR EFFORTS TO SEVERE THE
TENACLES OF ORGANIZED CRIME

B. WE ARE DEDICATED TO THE ELIMINATION OF THE LCN AND OTHER
ORGANIZED, ILLEGAL ENTERPRISES

C. THE LCN CODE OF SILENCE HAS BEEN BROKEN--WE ARE GETTING
MORE COOPERATION THAN EVER BEFORE

D. THOSE WHO PARTICIPATE IN ORGANIZED CRIMINAL ACTIVITIES,
DO SO AT GREAT RISK OF DETECTION AND PROSECUTION

update
II

PREDICATION OF CASE

Information developed as a result of prior and ongoing investigations of individual LCN families which indicated the existence of a "Commission of La Cosa Nostra", i.e. FBI New York's Colombo, Genovese, Gambino, and Bonanno family investigations, and New York State Organized Crime Task Force investigation of Luchese family. Not only have these investigations demonstrated the existence of a "Commission", but also the LCN's significant control over industries and unions. This was recently demonstrated in the Colombo family indictment of October 23, 1984 wherein it is alleged that the Colombo family controlled the pouring of concrete on New York construction sites through its member Ralph Scopo. Scopo accomplished this as a result of his position as an official of the Concrete Workers District Counsel of New York. Additionally, on February 21, 1985 Luchese family members were indicted in the KENRAC matter relating to their control of unions involved in the freight industry at JFK Airport.

SUBJECTS INDICTED

1. Anthony Salerno, Boss, Genovese Family
2. Paul Castellano, Boss, Gambino Family
3. Aniello Dellacroce, Underboss, Gambino
4. Gennaro Langella, Acting Boss, Colombo
5. Anthony Corallo, Boss, Luchese Family
6. Salvatore Santoro, Underboss, Luchese
7. Christopher Furnari, Consigliere, Luchese
8. Philip Rastelli, Boss, Bonnano Family
9. Ralph Scopo, Soldier, Colombo Family

CHARGES

RICO with predicates of Hobbs Act - Extortion, Murder, and Labor Racketeering. The indictment charges that the defendants comprise a group associated in fact and are known as the "Commission" of La Cosa Nostra and that they operate in New York, other areas of the United States, and other countries.

PURPOSE OF COMMISSION

1. To regulate and facilitate relationships between and among LCN families.
2. To promote and carry out joint ventures between and among LCN families, i.e., extortion of building contractors, murder, and labor racketeering.
3. To resolve actual and potential disputes among LCN families regarding ECT victims, gambling turf, control of businesses, etc.
4. To give recognition to the new Boss of LCN families and resolve disputes regarding leadership within families.
5. To take action to keep peace between families, i.e., authorize murders of high ranking members.
6. To approve initiation of new members.
7. To establish rules, regulations, and policies for overall LCN membership, i.e., narcotics trafficking.

"THE CLUB"

The Club was formed by the Commission in the Spring of 1981 and consists of approximately eight concrete companies which are usually the only companies "permitted" to be awarded concrete pouring contracts whose value exceed \$2 million. Seven of these companies are listed as victims in the indictment. The Commission controls the construction industry in New York through this club by:

1. Controlling the pouring of concrete on all construction sites exceeding \$2 million. (Contracts valued at less than \$2 million may be allocated by individual LCN families).
2. Authorizing which construction companies get the right to bid on construction jobs.
3. Resolving disputes between families over control of contractors and/or specific construction sites.
4. Enforcing decisions as to who gets construction bids by:
 - (a) Cutting off concrete supplies to contractors.
 - (b) Creating labor problems for contractors through control of unions.
 - (c) Through extortion of money and property from concrete contractors who seek contracts.
 - (d) By authorizing payment of bribes to officials of the Concrete Workers District Counsel of New York.

SPECIFICS OF INDICTMENT

The defendants, as members of the Commission, committed the following acts:

1. The extortion of DeGaetano and Vozzi Construction Company. (Commission settled dispute between four families as to how much this company was to pay for receiving contract).
2. Extortion of legitimate business. (Commission settled dispute between Gambino and Luchese LCN families regarding placing of video gaming devices in Jane's Pizzeria on Staten Island).
3. Authorized the murders of:
 - (a) Carmine Galante, former Boss, Bonanno family.
 - (b) Leonard Copolla, Galante associate.
 - (c) Alphonse Indelicato, capo, Bonanno family.
 - (d) Dominick Tricheira, capo, Bonanno family.
 - (e) Philip Giaccone, capo, Bonanno family.
 - (f) Anthony Indelicato, solidier, Bonanno family.

PROOFS USED IN CASE

1. Physical Surveillances
2. Court approved electronic intercepts conducted by FBI and New York State Organized Crime Task Force.
3. Testimony of LCN member James Fratiano.
- *4. Immunized testimony of LCN Boss Joseph Bonanno.
5. Testimony of other cooperating witnesses developed during New York organized Crime investigations.
6. Testimony of UCAs (Pistone).

*This information should not be made public.

AGENCIES INVOLVED IN INVESTIGATION

1. FBI (In excess of 175 SAs utilized over four-year period).
2. Southern District of New York United States Attorney's Office and Strike Force (Supported overall strategy and preparation of indictment).
3. Eastern District of New York, United States Attorney's Office and Strike Force (Provided information obtained from LCN investigations which corroborated the existence of "Commission, i.e., CASTAWAYS).
4. New York City Police Department (Provided 25 detectives to work on a daily basis with the New York Office as well as providing intelligence information and other investigative information which was used in proving the existence of the "Commission.")
5. New York State Organized Crime Task Force (Made available information developed during the Luchese family electronic intercepts which demonstrated the existence of the "Commission.")
6. Brooklyn District Attorney's Office (Provided information relating to the Galante murder which is one of the predicate offenses of the Commission indictment).

CAUSES OF CURRENT SUCCESSES

1. OCIS - Historical intelligence information and results of past investigative efforts are now readily retrievable. This information can now be used in building probable cause in requests for court approved electronic intercepts and for presentation to the Federal grand jury.
2. RICO STATUTE - Although available since 1970, it has taken time for both investigators and prosecutors to realize the full benefit of this statute. Rather than indicting individual LCN members for specific overt acts, this statute is currently being used to charge organizations such as the LCN as criminal enterprises.
3. TITLE III - Improved equipment and the placing of this equipment in locations used by high-ranking members of the LCN to discuss their criminal activity has significantly improved the types of cases being developed through the use of this technique. In excess of 80 Title IIIs were used by the NYO during the course of the Gambino, Genovese, Colombo, and Bonanno family investigations.
4. COOPERATING WITNESSES - As a result of the successes against organized crime by the FBI, during the past five years more and more individuals are willing to come forward, cooperate, and testify. During FY 83, 1,331 convictions and 2,405 indictments were obtained in the Organized Crime Program as compared to 2,194 convictions and 3,118 indictments in FY 84.
5. UNDERCOVER OPERATIONS - The use of this technique has been greatly expanded during the past five years and has resulted in the development of information and testimony which previously was not available.
6. PHYSICAL SURVEILLANCES - Previously, this was limited to Agents surveilling individuals in cars. During the past ten years, this technique has been expanded to include the use of closed circuit video taping, fixed surveillance plants, planes, and the use of computers identifying individuals with whom subjects are meeting.
7. INFORMANTS - Continued development and maintenance of high quality informants.



Department of Justice

ADVANCE FOR RELEASE AT 6 P.M., EST
SUNDAY, MARCH 3, 1985

BJJS
(202) 724-7782

About 61 percent of the offenders who entered a state prison during 1979 had been previously incarcerated as an adult, a juvenile or both, the Bureau of Justice Statistics announced today. Of these repeat offenders or recidivists, nearly half (46 percent) would still have been incarcerated for earlier crimes if they had served the maximum term of their prior sentences to confinement.

"The recidivists who would still have been serving time constituted about 28 percent of all offenders who entered prison, and most of them were still on parole for their earlier crimes," commented Steven R. Schlesinger, Director of the Bureau, which is a U.S. Department of Justice agency. "They were responsible for 20 percent of the violent crimes, 28 percent of the burglaries and auto thefts and 31 percent of the stolen property offenses attributable to all admissions," Schlesinger said.

The Bureau also reported that almost 60 percent of those who entered prison without a prior incarceration had at least one previous conviction for a criminal offense.

"In other words," said Schlesinger, "almost 84 percent of the people entering a state prison during 1979 were repeat offenders."

(MORE)

The special report, "Examining Recidivism," also announced that 40 percent of all persons admitted to prison during 1979 were either on parole or probation at the time.

"These findings raise serious questions about the impact of probation and parole decisions on public safety and create a challenge for those who set sentences and shape sentencing policy," Schlesinger commented.

(A recently released study funded by the National Institute of Justice found that 65 percent of convicted felons on probation in selected California counties were subsequently rearrested for new crimes, and more than half were convicted. Their new crimes were usually serious offenses, such as robbery, burglary or theft.)

"Few issues in criminal justice in recent years have drawn as much scholarly and public attention as the impact of recidivism on public safety and its implications for sentencing policy," Schlesinger remarked.

"However," he added, "we are not able to determine from this study how much crime would have been avoided under different sentencing and release policies or how much different policies would cost."

(MORE)

The report is based on data gathered from interviews with 5,357 inmates conducted during October and November 1979. These inmates were a nationwide sample representing 153,000 male admissions to state prison that year. The bureau plans another such survey later this year.

The study estimates that about half of those who are released from state prisons will return within 20 years, and 60 percent of these repeaters will be back by the end of the third year. Most of the recidivists return to prison within two years.

Those recidivists who were committing new robberies, burglaries or auto thefts were returning more rapidly than were those committing other crimes, the report said.

About one-half of the recidivists had four or more prior sentences to probation, jail or prison, and about one in nine of them had more than 10 prior convictions, it said.

The report said, too, that the younger the former prisoners were at release, the higher was the first-year return rate, that is:

Age 18 to 24 years	21.8 percent back in one year.
Age 25 to 34 years	12.1 percent.
Age 35 to 44 years	7.1 percent.
Age 45 or more	2.1 percent.

(MORE)

Single copies of the special report (NCJ-96501) may be obtained by writing the National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850, telephone (301) 251-5500. The toll-free number is (800) 732-3277.

85-17

After hours contact: Stu Smith (301) 654-1185



Department of Justice

ADVANCE FOR RELEASE AT 6 P. M., EST
SUNDAY, MARCH 3, 1985

AG
(202) 633-2028

Assistant Attorney General Stephen S. Trott, head of the Criminal Division of the Department of Justice, issued the following comment today on a report by the Bureau of Justice Statistics concerning recidivism:

"These findings graphically illustrate the enormous impact repeat offenders have on public safety and the criminal justice system.

"Almost 84 percent of the people entering state prisons during the period studied were repeat offenders. Three-quarters of these prisoners had already served time. Almost half of the recidivists had four or more earlier criminal convictions.

"The statistics also give us some sense of how much additional crime could be reduced if criminals actually served the increased sentences which could be imposed under present law. It is particularly disturbing to see that about one-fourth of all the crimes committed by the prisoners studied were committed while they would have been in prison if they had served the maximum sentence for their crimes.

"I know of no more dramatic evidence of the need to continue this administration's efforts to lead and assist state and local

(MORE)

law enforcement in the apprehension and vigorous prosecution of those who continue to victimize the innocent."

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(Editors: These remarks are for use with a press release, also moved in advance for 6 p.m., March 3, about the Bureau of Justice Statistics report on recidivism. Copies of that release and report may be obtained from the Office of Congressional and Public Affairs, Office of Justice Programs, Room 1242, 633 Indiana Avenue N. W., Washington, D. C. Contact: Stuart Smith, 724-7782; after hours, (301) 654-1184.)



Bureau of Justice Statistics Special Report

Examining Recidivism

By Lawrence A. Greenfeld
BJS Statistician

February 1985

The effectiveness of criminal justice policies and practices is often gauged by the extent to which offenders, after the imposition of punishment, continue to engage in crime. This study examines recidivism through an analysis of a nationwide survey of inmates of State prisons conducted in October and November of 1979 and sponsored by the Bureau of Justice Statistics. The following are the key findings of this survey:

- An estimated 61% of those admitted to prison in 1979 were recidivists (i.e., they had previously served a sentence to incarceration as a juvenile, adult, or both). Of those entering prison without a history of incarceration (an estimated 39% of all admissions), nearly 60% had prior convictions that resulted in probation and an estimated 27% were on probation at the time of their prison admission.
- An estimated 46% of the recidivists entering prison in 1979 would still have been in prison at the time of their admission if they had fully served the maximum term¹ of their last sentence to confinement. This group, referred to as "avertable recidivists," constituted approximately 28% of all those who entered prison in 1979.
- Recidivists were estimated to account for approximately two-thirds

Few issues in criminal justice have drawn as much scholarly and public attention as the impact of recidivism on public safety and the implications of this issue for sentencing policy. Career criminal programs and mandatory or enhanced sentences for repeat offenders are examples of policies designed to reduce the threat recidivists pose to society. This special report presents important new findings relevant to the contemporary debate on recidivism, public safety, and sentencing policy.

Perhaps the most striking finding of this report is that approximately 28% of those who entered prison in 1979 would still have been in prison at the time of their admission if they had served their maximum prior confinement sentence. Most of these "avertable recidivists" were still on parole for a prior crime when they reentered prison. The study also found that about two-fifths of all offenders admitted to prison were on probation or parole (nearly equally divided) at the time of their admission.

This study is based upon the 1979 Survey of State Prison Inmates, the most recent of two major national inmate surveys sponsored by the Bureau of Justice Statistics. Through personal interviews with 9,040

inmates in 1974 and 11,397 inmates in 1979, these surveys collected detailed information on the Nation's prisoners, including accounts of prior convictions and incarcerations. Currently, the BJS inmate surveys are the only source of criminal history information for a representative sample of inmates in the Nation's State prisons. The wealth of data contained in these surveys is available to researchers in automated form through the BJS Criminal Justice Archive. A third survey is scheduled for later in 1985.

The findings presented in this special report, combined with the results of other research, raise serious questions about the impact of probation and parole decisions on public safety and create a challenge for those who shape sentencing policy.

Studies of this type are only possible with the generous cooperation of the departments of corrections of the 50 States and the District of Columbia. The Bureau of Justice Statistics wishes to express its continued gratitude to those who have assisted its efforts to collect accurate and timely data on corrections in the United States.

Steven R. Schlesinger
Director

or more of the burglaries, auto thefts, and forgery/fraud/embezzlement offenses attributable to all the admissions. When their past criminal histories were examined, however, recidivists were found to be as likely as first-time admissions to have a current or prior violent offense.

- Of the estimated 200,000 offenses reported by the 1979 prison admissions,

the "avertable recidivists" accounted for approximately 20% of the violent crimes, 28% of the burglaries and auto thefts, 30% of the forgery/fraud/embezzlement offenses, and 31% of the stolen property offenses.

- Based on recidivist self-reports of how long it took them to reenter prison by 1979, it is estimated that nearly half (48.7%) of all those who exit prison will

¹The maximum term of confinement is defined in the Inmate Survey as the maximum sentence to incarceration imposed upon an offender by a sentencing court. Frequently, courts impose a minimum and maximum sentence so that the sentence reflects a range of duration (e.g., 1 to 3 years). For purposes of this study, the maximum of the range imposed is considered to be the maximum sentence. Note that the maximum imposed sentence is not necessarily the same as the maximum sentence allowed by the statutes of a State.

return within 20 years of release. Most of the recidivism, however, was found to occur within the first 3 years after release: an estimated 60% of those who will return to prison within 20 years do so by the end of the third year.

● Among the recidivists entering prison in 1979, those committing new offenses of robbery, burglary, and auto theft were found to return more rapidly than those committing other crimes.

● An estimated half of the recidivists had four or more prior sentences to probation, jail, or prison. About 1 in 9 of the recidivists had more than 10 prior convictions.

● An estimated 42% of those entering prison in 1979 were on probation or parole for prior offenses at the time of their admission.

Current interest in recidivism

In recent years many State legislatures have demonstrated popular concern for the impact of recidivism on public safety by instituting mandatory prison terms or sentence enhancements for repeat offenders. Other reforms—such as determinate sentencing, sentencing guidelines, and parole guidelines—have been introduced to limit discretion and make punishment policies explicit.

Available national data indicate that the certainty of imprisonment is increasing. Table 1 shows how the certainty of imprisonment has increased for arrested robbers. The estimated probability that an arrested robber would go to prison has increased from about 24% of those arrested in 1973 to nearly 35% in 1983. In addition, rates of prison commitment from courts evidence a similar pattern of increase from 1973 to 1983. In 1978, there were 7.2 court commitments to prison for every 10,000 adults in the general population. The equivalent rates were 7.4 in 1979, 8.0 in 1980, 9.0 in 1981, 9.8 in 1982, and 10.1 in 1983.

The increased reliance on imprisonment is not simply a reflection of hardening public attitudes toward crime and criminals. It is also based upon the growing body of knowledge about criminal careers and the likelihood that many offenders will continue to commit crimes after they are released from prison.

For example, the Bureau of Justice Statistics recently published prison return rates based upon official records in 14 States (Returning to Prison, November 1984, NCJ-95700) collected over a 3-year period after release. According to this study, 14-15% of in-

Table 1. Estimated probability of imprisonment given arrest for robbery, 1978-83

Year	(A) Number entering prison with new offense	(B) Estimated percent robbers	(C) Estimated number robbers entering prison	(D) Number UCR robbery arrests	(E) Percent of robbery arrests who are adults	(F) Number adult robbers arrested	(G) Probability of imprisonment given arrest (C/F)
1978	123,083	x 18.9 =	23,263	148,903	x 66.0 =	98,276	.237
1979	129,614	x 18.9 =	24,497	140,640	x 68.5 =	96,338	.254
1980	144,209	x 18.9 =	27,256	146,270	x 69.9 =	102,243	.267
1981	164,857	x 18.9 =	31,158	153,890	x 71.9 =	110,647	.282
1982	183,440	x 18.9 =	34,670	157,630	x 73.6 =	116,016	.299
1983	197,006	x 18.9 =	37,234	146,170	x 73.7 =	107,727	.346

Notes:
 (A) Admissions received from courts plus conditional release violators with new sentences obtained from National Prisoner Statistics.
 (B) Estimated from Prison Admissions and Releases, 1981, Table 3. The proportion was assumed to be stable over the 6-year period because table 4 of that report indicated a stable 39% violent admissions for 4 of the 6 years for which data are currently available.
 (D) Obtained from FBI Uniform Crime Reports tables on total estimated arrests.
 (E) Obtained from FBI Uniform Crime Reports tables on the age distribution of robbery arrestees.

mates return to prison within the first year after release, another 10% during the second year, and another 5% during the third year; about 30% of all releases were found to return to prison within 3 years. As will be shown in this report, the self-reported rates of prison return are nearly identical (29.4% as shown in table 3) to those gathered from official records.

Analyzing the inmate survey

The Bureau of Justice Statistics has

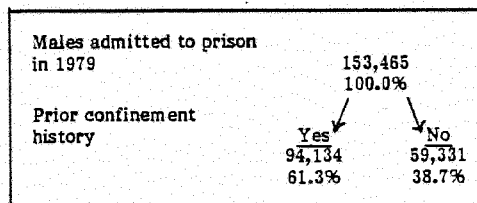


Figure 1

sponsored two nationwide surveys of inmates of State prisons. The first was conducted in January 1974 and the second in October and November 1979. Both surveys involved face-to-face interviews with large representative samples of inmates of State prisons.²

The findings presented in this report are based upon an admissions sample derived from the 1979 survey. An admissions sample was used to estimate how many recidivists entered prison and how much time had passed since their last release from incarceration. Because the survey was conducted during October and November 1979, a reference date of October 31, 1979, was chosen. Male inmates who reported entering State prison between

²The number of cases for the 1979 Survey of State Prison Inmates was 11,397.

Table 2. Location and year of last release from confinement for recidivists entering State prisons in 1979 (males only)

Year of last release	Location of last release				Total
	State prison	Jail	Juvenile facility	Other*	
1979	18,067	8,842	2,662	740	30,311
1978	11,212	5,326	2,167	673	19,378
1977	6,923	3,706	1,139	506	12,274
1976	4,466	2,448	606	316	7,836
1975	3,869	1,589	667	86	6,211
1974	2,602	878	382	122	3,984
1973	1,735	618	414	138	2,905
1972	1,135	571	237	18	1,961
1971	967	509	116	45	1,637
1970	653	463	138	27	1,281
1969	654	235	90	26	1,005
1968	585	205	0	61	851
1967	489	248	144	0	881
1966	114	120	541	0	288
1965	326	241	38	88	693
1964	184	203	0	55	442
1963	307	143	0	60	510
1962	206	29	59	57	351
1961	170	91	0	32	293
1960	90	62	0	39	191
1959 and earlier	490	182	60	119	851
Total	55,244	26,709	8,973	3,208	94,134
Percent of recidivists	58.7%	28.4%	9.5%	3.4%	100.0%
Median time to prison entry since last confinement	22.4 mos.	22.3 mos.	22.3 mos.	29.2 mos.	22.5 mos.

*Includes federal and military facilities.

November 1, 1978, and October 31, 1979, were selected to represent a 1-year sample of male admissions. A total of 5,357 inmates were included in the sample, representing 153,465 admissions. (For more detail on the construction and analysis of the sample, see the Methodological Note at the end of this report.)

One assumption underlying the research is that those who return most rapidly after release from confinement are the most criminally active offenders. Because the survey was conducted only among those in prison, it is not possible to describe persons who do not reenter confinement. Future studies must examine the level of criminal activity among those who continue in crime but manage to evade reimprisonment and those who disengage entirely from crime.

Estimating recidivism

Figure 1 illustrates the estimated distribution of recidivists (those with any prior adult or juvenile sentences to incarceration in a prison, jail, or juvenile facility) and first-time admissions based on the admissions sample derived from the inmate survey. An estimated 61.3% of male State prison admittees in 1979 had a history of incarceration as either a juvenile or an adult or both.

Table 2 shows where the recidivists were last confined (preceding the 1979 admission) and the year of their last release. An estimated 59% of the recidivists who entered State prison in 1979 were last incarcerated in a State prison facility (or about 36% of all 153,465 admissions that year). Substantial numbers also enter State prisons after serving time in a local jail (28.4% of recidivists and 17.4% of all admissions) or in a juvenile facility (9.5% of recidivists and 5.8% of all admissions). The median time to prison entry was about the same regardless of where the recidivists were last confined—about 22 months after release.

Assuming that those recidivists who entered prison in 1979 represent a typical admission cohort, it is possible to estimate how many releasees would be back in prison after a specified number of years. Table 3 presents a 20-year estimate of returns to prison (derived from table 2). It shows the number of inmates who reported a last release from a State prison in a particular year and reentered a State prison in 1979 (columns A and B). The total number of prison inmates released in each year (column C), is used to estimate how long (until admission in 1979) it took recidivists to reenter prison (column D). These yearly estimates are then cumulated (column E) to

Table 3. Constructing a 20-year estimate for returning to State prison

(A) Year of last release	(B) Number entering prison in 1979	(C) Total number released from State prisons in that year	(D) Percent returning to prison by 1979 (B/C)	(E) Cumulative return rate through year 20	(F) Percent of total returns occurring in each year ^a
1979	18,067	128,980	14.01%	14.01% (1)	28.7%
1978	11,212	118,920	9.43	23.44 (2)	19.3
1977	6,923	116,162	5.96	29.40 (3)	12.2
1976	4,466	108,442	4.12	33.52 (4)	8.5
1975	3,869	109,035	3.55	37.07 (5)	7.5
1974	2,602	91,183	2.85	39.92 (6)	5.8
1973	1,735	95,324	1.82	41.74 (7)	3.7
1972	1,135	96,373	1.18	42.92 (8)	2.4
1971	967	96,701	1.00	43.92 (9)	2.1
1970	653	76,649	0.85	44.77 (10)	1.7
1969	654	74,109	0.88	45.65 (11)	1.8
1968	585	70,250	0.83	46.48 (12)	1.7
1967	489	79,835	0.61	47.09 (13)	1.3
1966	114	83,237	0.14	47.23 (14)	0.3
1965	326	86,876	0.38	47.61 (15)	0.8
1964	184	87,030	0.21	47.82 (16)	0.4
1963	307	85,101	0.36	48.18 (17)	0.7
1962	206	86,589	0.24	48.42 (18)	0.5
1961	170	81,599	0.21	48.63 (19)	0.4
1960	90	77,870	0.12	48.75 (20)	0.2

Note: Column B derived from table 2. Column C derived from National Prisoner Statistics.
^a Total returns over the 20-year period.

Does not include those released from prison prior to 1960. Column F was calculated by dividing column D by 48.75 from column E.

provide the estimated proportion returning by year 20. Column F shows the proportion of all returns (over the 20-year period) estimated to occur in each year. This approach, though relying on retrospective, cross-sectional data, attempts to provide a prospective, longitudinal estimate of prison return rates. The method assumes that future releasee behavior will be similar to that of offenders released in earlier years.

These calculations show that nearly 49% of State prisoners return to prison within a 20-year period after release. Most of the recidivism, however, occurs within the first few years after release. An estimated 28.7% of those who will recidivate over 20 years return to prison within 1 year of release; 48.1% within 2 years; and 60.3% within 3 years. Clearly, the greatest risk for public safety is within the first few years after release from prison.

These cumulative return rates estimated from self-report data are consistent with the return rates obtained from official records noted earlier (see *Returning to Prison*, November 1984, NCJ-95700). The correspondence between these two data sources suggests that offenders reliably report information on their recent confinement histories (by the third year official-record estimates are that 30% of those released will have returned to prison compared to 29.4% derived from the inmate survey). The reliability of the self-report data is indicated even for prior releases occurring many years earlier. In their study of 1956 Federal releasees, Kitchener, Schmidt, and Glaser found that 47.4% of those exiting prison received confinement sentences

of a year or more within 15 years of prison release, nearly identical to the 47.6% estimated here (see table 4).

Age and time to prison return

Table 5 shows the rates of prison return by age at last release. The younger the releasee, the higher is the rate of prison return within the first year. While an estimated 21.8% of those 18 to 24 years old at release return to prison within the first year, 12.1% of those aged 25 to 34 at release, 7.1% of those aged 35 to 44, and 2.1% of those aged 45 and over do so within the first year. Similarly, through 7 years after release nearly half (49.9%) of those aged 18 to 24 at release will have returned to prison, compared to 12.4% of those 45 and over at release. Interestingly, offenders released from

Table 4. Comparison of prison return rates through year 15: Inmate survey and Kitchener, Schmidt, Glaser followup

Number of years after release	Cumulative return rate	
	Inmate survey estimate	Kitchener, Schmidt, Glaser
1	14.01%	8.56%
2	23.44	26.89
3	29.40	34.22
5	37.06	41.22
10	44.77	46.87
15	47.61	47.44

Note: The Kitchener, Schmidt, Glaser followup was conducted with 927 inmates released from Federal prisons in 1956 and tracked through FBI rap sheets and contact with local arresting authorities to obtain dispositional information. The return definition used for comparison (parole violation or new sentences to confinement of more than 1 year) was used to approximate closely the return-to-prison definition used for the inmate survey. Data were supplied by Annesley Schmidt (see Kitchener, et al., 1977).

prison at age 45 and older demonstrate a relatively stable pattern over time, with between 1% and 2% returning to prison each year. These data indicate that the most rapid failures after release occur among the youngest releases. Consequently, the estimate that 14% of those released from prison will return within 1 year masks considerable variation across the different age groups.

Offense and time to prison return

Table 6 shows, by offense, the median time to prison return for recidivists who received sentences for new crimes (excluding those returned as parole violators only). Estimated median return times for those committing new offenses of burglary (19.7 months), auto theft (20.3 months), and robbery (21.1 months) were the most rapid rates of prison reentry. By contrast, median prison return times for those committing murder (38.9 months), drug offenses (37.0 months), and assault (32.1 months) were the longest.

Table 6 also shows the proportion of those returning to prison within 20 years who do so in the first year after release for each offense type. Those committing new offenses of burglary, auto theft, and robbery have the highest proportions of first-year failures.

Prison entry and prior sentence

Another way to examine recidivism is to distinguish recidivists who entered prison in 1979 who would still have been incarcerated at the time of their admission had they fully served the maximum term of their last confinement sentence (whether in a prison, jail, or juvenile facility). Those whose prior sentence would have extended beyond their 1979 admission date are referred to as "avertable recidivists." By contrast, those whose 1979 admission to prison would not have been affected by their prior confinement sentence are called "nonavertable recidivists." Those who had never received a prior confinement sentence are defined as "first-timers."

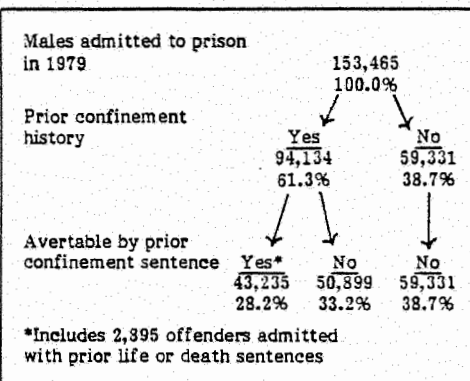


Figure 2

Number of years after prison release	Age at last release from State prison					Median age of those returning
	18-24	25-34	35-44	45+	All ages	
1 year	21.8%	12.1%	7.1%	2.1%	14.0%	23.5 years
2	34.2	21.3	14.0	3.7	23.4	25.5
3	41.1	27.9	18.3	5.7	29.4	26.3
4	44.8	32.7	22.4	7.9	33.5	27.2
5	47.8	37.0	26.3	9.7	37.1	27.8
6	49.4	40.8	30.2	10.8	40.0	28.6
7	49.9	42.8	34.0	12.4	41.7	32.4

Table 6. Median time (in months) to prison return and percent returning in first year after release by new admission offense (in 1979)

New admission offense	Median months to prison return	Percent returning in first year after release ^a
Violent	27.9	24.2%
Murder	38.9	17.2
Rape/sexual assault	28.6	15.1
Robbery	21.1	29.4
Assault	32.1	22.3
Property	21.9	26.4
Burglary	19.7	30.1
Auto theft	20.3	29.8
Forgery/fraud/embezzlement	27.6	21.7
Larceny	24.9	23.3
Stolen property	27.7	24.9
Drugs	37.0	21.5
Public order/other	27.6	23.5
All crimes	26.0 ^b	25.1 ^b

Note: Excludes those admitted as conditional release violators without new sentences.
^a Percent of all those returning over 20 years who return in first year after release.
^b The median time to prison return and the proportion returning in the first year after release are different from tables 3, 4, and 6 because conditional release violators without new offenses have been excluded. Conditional release violators had a median time to prison return of 12.6 months; the effect of this group would be to decrease the median (to 22.4 months) and increase the percent returning in the first year (to 28.7%).

Figure 2 illustrates the estimated distribution of avertable recidivists, nonavertable recidivists, and first-time admissions of males entering State prisons in 1979. First-timers constituted an estimated 38.7% of those entering prison in 1979; nonavertable recidivists were an additional 33.2%; and avertable recidivists were 28.2% of admissions. Thus, about 46% (28.2%/ 61.3%) of the recidivists entering prison in 1979 would not have been free to commit their most recent offense if they had served their entire prior sentence to confinement. Some of the recidivists returned to prison not with a new sen-

tence but for violating the conditions of a prior release. Among those admitted to prison in 1979 with new sentences, first-timers were estimated to be 40.6% of the total; nonavertable recidivists were 34.5%; and avertable recidivists were 24.9% (table 7).

Table 8 provides the admission offense distribution for those entering prison in 1979 with new crimes only (excluding conditional release violators) by the three admission types. (Because some inmates were convicted of more than one crime, there are more admission offenses—200,189—than persons admitted with new offenses—145,993.) As the table illustrates, an estimated 24.4% of the admission offenses were committed by avertable recidivists, including 20.3% of the violent offenses and 27.9% of the property offenses. The proportion of violent crimes committed by avertable recidivists was highest for assault (23.2%) and robbery (22.2%). With respect to property crimes, the avertable recidivists were estimated to account for 28.3% of the burglaries, 28.2% of the auto thefts, 30.3% of the forgery/fraud/embezzlement offenses, 27.1% of the larcenies, and 30.8% of the stolen property offenses.

Table 8 also shows that first-timers are overrepresented (i.e., they represent a larger proportion of a particular offense category than of all admissions) for violent crimes such as murder, rape, and robbery. By contrast, the two recidivist groups are overrepresented for property offenses. The recidivists represent an estimated 59.4% of the admissions with new offenses but account for 67.3% of the burglaries, 67.4% of the auto thefts, and 70.8% of the forgery/fraud/embezzlements.

These data suggest the importance of both the seriousness of the current offense and the prior criminal record in the imprisonment decisions of courts.

Table 7. Distribution of 1979 admission types with and without new sentences

New sentence status	Admission types			Total
	Non-avertable recidivists	Avvertable recidivists	First-timers	
Number entering in 1979	50,899	43,235	59,331	153,465
Without sentences for new crimes	549	6,923	0	7,472
With sentences for new crimes	50,350	36,312	59,331	145,993
Percent of total with new sentences	34.5%	24.9%	40.6%	100.0%

For those with no prior record, it is generally the most serious offenses that result in imprisonment. Conversely, for those with extensive criminal histories, a less serious offense may be adjudged imprisonable. Thus the likelihood of going to prison is related to both the seriousness of the current offense and prior record and is consistent with the theory of retributive social debt justice (see Boland and Wilson, 1978).³

The prevalence of violence among those entering prison

The above data might suggest that recidivists mainly commit property offenses. Indeed, as table 9 shows, 55.9% of the nonavertable recidivists and 59.5% of the avertable recidivists entered prison in 1979 for a nonviolent crime. If, however, offenses associated with prior incarcerations are also considered, then the prevalence of violence among the two recidivist groups rises to more than a majority. As table 9 shows, an estimated 56.8% of the nonavertable recidivists and 53.7% of the avertable recidivists have been incarcerated for a violent offense at some time over their criminal careers. These proportions are not significantly different from the estimated 54.5% of the first-timers incarcerated for a violent offense. These data suggest that recidivists are as likely as first-time prison admissions to have committed violent crimes. In addition, these data indicate that violent offenders are more numerous in the current prison population than is often reported by studies that fail to consider prior criminal history.

Comparing recidivists and first-timers

Table 10 compares the two recidivist groups and first-timers across nine variables. There are no significant differences between the recidivists and the first-timers with respect to race, educational attainment, marital status, and alcohol use at the time of the offense. More substantial differences exist for age at prison admission, military service, employment record, family member incarceration history, and drug use.

The recidivists tend to be older than those entering prison for the first time in 1979. They are also more likely to have been unemployed at the time of their arrest, to have a family member who had been incarcerated, and to have used illegal drugs. Prior use of heroin was significantly more prevalent among the two recidivist groups: 24.2% of the

³This has been referred to as the theory of retributive social debt justice. The theory predicts that those in prison with the least criminal history will have the most serious offenses and those with the most criminal history will have the least serious offenses.

Table 8. Offense distribution of 1979 admissions with new sentences by admission type^a

Offense	Admission types			Total	Number of offenses
	Non-avertable recidivists	Avertable recidivists	First-timers		
Percent of conviction offenses accounted for by each admission type					
All crimes	34.8%	24.4%	40.8%	100%	200,189 ^c
Violent	32.4	20.3	47.4*	100	79,391
Murder/manslaughter	27.1	15.7	57.2*	100	7,469
Rape/sexual assault	24.9	18.7	56.4*	100	10,300
Robbery	32.5	22.2	45.3*	100	35,331
Assault ^b	40.3*	23.2	36.5	100	17,020
Other violent	29.9	12.9	57.2*	100	9,271
Property	38.4*	27.9*	33.7	100	84,169
Burglary	39.0*	28.3*	32.7	100	40,381
Auto theft	39.2*	28.2*	32.6	100	6,740
Forgery/fraud/embezzlement	40.5*	30.3*	29.2	100	10,691
Larceny	34.9*	27.1*	38.0	100	17,095
Stolen property	35.9*	30.8*	33.2	100	5,002
Other property	42.5*	18.0	39.5	100	4,260
Drugs	30.4	24.3	45.2*	100	17,634
Public order/other	32.9	26.3*	40.8	100	18,995

NOTE: As shown in table 7, nonavertable offenders are 34.5% of the admissions with new crimes, avertable offenders are 24.9%, and first-time offenders are 40.6%. Items marked with an asterisk on this table indicate where an admission type is overrepresented for a particular offense relative to their distribution among all admissions.

^a Excludes 7,472 revoked conditional release violators.

^b Includes attempted murder.

^c The number of offenses exceeds the number of offenders because some offenders have more than one conviction offense. The number of offenders with new crimes was 145,993.

nonavertable recidivists and 28.0% of the avertable recidivists reported regular use of heroin at some time in the past.

Prior military service also presents an interesting contrast between the two recidivist groups and the first-timers. The three groups are equally likely to have served in the military, but of those who did serve, recidivists are more likely than first-timers to have received an unacceptable discharge or a sentence to confinement. In fact, about a quarter of the recidivists who served in the military spent some time in military confinement.

Although significant differences can be seen between recidivists and first-timers with respect to age, military service record, employment, family involvement in crime, and drug use, there seems to be little difference be-

tween the avertable and nonavertable recidivists for the nine variables considered here. One minor exception is age. Although the median ages for the two recidivist groups are nearly the same, a significantly larger fraction of nonavertables are under 22 years old. The fact that the two recidivist groups are generally similar suggests that it would be quite difficult to discriminate between them for the purposes of prospective prediction.

Entry to prison from probation and parole

As indicated in table 11, an estimated 41.6% of all those entering State prison in 1979 were on either probation or parole for prior offenses at the time of their admission. The two categories were almost equally divided: 21.1% of those entering were on probation and 20.5% were on parole or some other

Table 9. Prevalence of violence among those entering prison in 1979

1979 admissions	Admission types						Total number
	Nonavertable recidivists		Avertable recidivists		First-timers		
	Number	Percent of this type	Number	Percent of this type	Number	Percent of this type	
Total admitted in 1979	50,899	100.0%	43,235	100.0%	59,331	100.0%	153,465
Admitted in 1979 for a violent offense	22,429	44.1	17,512	40.5	32,339	54.5	72,280
Admitted in 1979 for a nonviolent offense, but previously incarcerated for a violent offense	6,489	12.7	5,698	13.2	—	—	12,187
Total incarcerated at some time for a violent offense	28,918	56.8	23,210	53.7	32,339	54.5	84,467

Note: These data include conditional release violators whose current offense(s) is considered

to be the offense(s) for which they were last confined preceding their conditional release.

form of conditional release. This suggests that improved selection for probation (versus prison) could possibly avert as much crime through incapacitation as proper selection for parole or other conditional release. Further research on the crime rates of probationers and parolees is necessary to establish this point.

Table 11 also indicates that an estimated 27.1% of those who entered prison for the first time in 1979 were on probation for a prior conviction at the time of their admission. Thus, "first-timers" (in terms of admission to prison) are not necessarily "first offenders." This is shown in greater detail in table 12. An estimated 59.4% of the first-timers have at least one prior conviction resulting in a sentence to probation; 29.1% have two or more such prior convictions. In fact, 38.7% of the admissions are serving their first confinement sentence, but only 16.1% of admissions (about 1 in 6 inmates) have no prior convictions.

The recidivists generally have more than three times as many prior convictions as the first-timers. Nonavertable recidivists were estimated to have a median of 4.3 prior convictions compared to a median of 4.6 for the avertable recidivists entering prison in 1979. By contrast, first-time admissions were estimated to have a median of 1.3 prior convictions. In fact, nearly 1 in 10 (9.5%) of the nonavertable recidivists and 1 in 8 (13.8%) of the avertable recidivists were estimated to have more than 10 prior convictions.

Conclusion

The results presented in this study add to the growing body of knowledge of the impact of recidivists on crime and corrections. An estimated three-fifths of those admitted to prison in 1979 had previously served a sentence of incarceration as a juvenile, adult, or both. Although the recidivists were more likely than the first-timers to enter prison for a nonviolent offense, the prevalence of violence was found to be the same for both groups when criminal histories were taken into consideration. Many of these recidivists had long criminal records: about half had 4 or more prior sentences to probation, jail, or prison, and 1 in 9 had more than 10 prior sentences.

Even more striking than these results is the finding that nearly half of the recidivists who entered prison in 1979 would still have been in prison at the time of their admission if they had fully served the maximum term of their last confinement sentence. These "avertable recidivists" were estimated to account for a quarter of all the of-

Table 10. Profile of State prison admissions, 1979, by type of admission

Characteristics	Admission types			Total
	Non-avertable recidivists	Avertable recidivists	First-timers	
Number of admissions	50,899	43,235	59,331	153,465
Age at admission (cumulative)				
18 years old or less	4.0%	1.2%	5.1%	3.6%
20 or less	16.6	10.4	22.2	17.0
22 or less	29.1	21.5	41.6	31.8
24 or less	40.5	37.0	55.1	45.2
26 or less	52.4	49.0	65.3	56.6
29 or less	65.1	66.1	75.6	69.5
32 or less	74.9	76.4	82.4	78.2
36 or less	83.4	87.0	88.3	86.3
40 or less	90.0	91.8	91.5	91.1
50 or less	96.4	97.7	96.9	96.9
51+	100.0	100.0	100.0	100.0
Median age	25.6 years	26.2 years	23.2 years	24.9 years
Race				
White	50.7%	55.9%	54.7%	53.7%
Black	46.5	41.2	42.6	43.5
Other	2.8	2.9	2.7	2.8
Education				
0-6 years	6.0%	4.3%	5.3%	5.2%
7-8 years	12.8	12.6	8.3	11.0
9-11 years	51.6	48.0	49.4	49.7
12 years	20.8	23.2	25.0	23.1
More than 12 years	8.7	12.0	12.0	10.9
Median	10.2 years	10.4 years	10.5 years	10.4 years
Marital status				
Married	26.2%	26.1%	25.2%	25.8%
Widowed/divorced/separated	23.3	24.2	18.5	21.7
Never married	50.5	49.7	56.3	52.5
Military service				
Percent with military service	22.9%	21.3%	26.8%	24.0%
Percent of those serving with undesirable/bad conduct/dishonorable discharges	29.5	23.5	11.6	20.4
Percent of those serving who were sentenced to confinement in the military	25.9	23.7	10.8	18.8
Employed prior to arrest				
No	28.0%	28.8%	22.5%	26.1%
Full-time	60.0	61.9	66.8	63.2
Part-time	12.0	9.3	10.7	10.7
Family member ever incarcerated	40.7%	39.8%	27.3%	35.3%
Drug user				
Ever use heroin regularly	24.2%	28.0%	11.4%	20.3%
Use heroin month before arrest	10.9	13.8	5.5	9.5
Under influence any drug at time of offense	35.7	37.8	29.1	33.7
Under influence heroin at time of offense	7.9	10.4	3.5	6.9
Alcohol use				
Drinking at time of offense	52.2%	48.8%	49.2%	50.1%
Very drunk at time of offense (percent of those drinking)	39.3	36.1	33.4	36.1

Table 11. Criminal justice status at time of entry to State prison in 1979

Status at admission	Admission types			Total
	Non-avertable recidivists	Avertable recidivists	First-timers	
Number of admissions	50,899	43,235	59,331	153,465
Percent of admissions on each type of supervision	100.0%	100.0%	100.0%	100.0%
No supervision	66.7	28.8	72.9	58.4
Probation	25.5	7.8	27.1	21.1
Parole/other conditional release ^a	7.3	63.4	—	20.5

^a Includes persons admitted as escapees.

fenses for which the 1979 inmates were convicted—including 22% of the robberies, 23% of the assaults, and 28% of the burglaries.

parole decisions, and the incapacitative effects of imprisonment.

Findings of this type are directly relevant to issues of sentencing policy,

Table 12. Prior conviction history at time of entry to State prison in 1979

Number of prior convictions	Admission types			
	Non- avertable recidivists	Avertable recidivists	First-timers	Total
Number of admissions	50,899	43,235	59,331	153,465
Percent of each admission type with prior convictions	100.0%	100.0%	100.0%	100.0%
No prior convictions	0.0	0.0	40.6	16.1
1 prior conviction	10.1	14.2	30.3	19.2
2	19.1	16.0	15.3	16.8
3	17.0	13.1	5.3	11.3
4	13.6	10.9	2.7	8.6
5	8.5	8.6	2.1	6.0
6-10	22.2	23.4	2.6	14.7
11-20	7.7	11.1	0.8	5.9
21+	1.8	2.7	0.3	1.4
Median number of convictions per offender	4.3	4.6	1.3	2.9

NOTE: Prior conviction history is defined as the sum of all prior juvenile or adult

sentences to probation, jail, prison, or juvenile facilities.

Methodological note

The weighted estimate for the study sample of 5,357 was 153,465. Census data place the number of males admitted to State prisons during 1979 with sentences longer than 1 year at 147,957. Because the inmate survey estimate included all males admitted (regardless of sentence length), some of the difference between the two numbers could be accounted for by offenders who were admitted with sentences of less than 1 year. Analysis of the survey sample yielded an estimated 149,628 inmates admitted to prison in 1979 with sentences longer than 1 year. This difference of 1,671 between the two measures of prison admissions could be

attributed to the fact that this study design equates the 12 months prior to October 31, 1979, with the 12 months of calendar 1979.

To assess the representative validity of the study sample, the self-reported race, age, and offense data of the sample were compared to the same data for admissions to prison in 1981 derived from official records in 33 jurisdictions (1981 is the only year for which published data are available; see *Prison Admissions and Releases, 1981, Sept. 1984, NCJ-95043*). Appendix A shows that the two groups are quite similar in terms of the distributions of age and race (official records often classify Native Americans and Asian/Pacific Islanders as white). Offense distributions, however, are significantly different for the two data sources; the inmate survey reflects a higher proportion of violent offenders. The reasons for such differences may relate to the representativeness of the 33 States for which data were available, the years being compared, or the rules under which offenses may have been recoded.

All differences reported as significant in the text were tested at the 90% confidence level (1.6 standard errors).

Appendix A. Comparison of 1979 sample survey admissions to 1981 State prison admissions^a

Characteristic	Sample survey 1979	Official records 1981 ^a
Number of cases	5,357	109,223
Weighted estimate	153,465	
Race, total	100.0%	100.0%
White	53.7	55.5
Black	43.5	43.5
Other	2.8	1.0
Age, total	100.0%	100.0%
17 or less	1.4	1.3
18-24	44.0	43.2
25-34	37.3	38.9
35-44	11.3	11.5
45-54	4.2	3.8
55+	1.8	1.4
Median age	25	25
Offense distribution total	100.0%	100.0%
Violent, total	46.4	38.5
Murder/mauslaughter/ attempted murder	9.3	7.1
Rape/sexual assault	5.5	4.3
Robbery	22.3	18.9
Assault	8.2	6.9
Other	1.1	1.2
Property, total	39.9	48.0
Burglary	23.2	27.2
Larceny	5.8	9.0
Auto theft	2.8	1.5
Forgery/fraud/ embezzlement	5.0	5.9
Other	3.1	4.4
Drugs, total	8.1	7.7
Public order/other, total	5.6	5.8

^a From official 1981 records from 33 States.

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U.S. Department of Justice
Office of the Deputy Attorney General

Associate Deputy Attorney General

Washington, D.C. 20530

March 18, 1985

MEMORANDUM FOR: Honorable Richard A. Hauser
Deputy Counsel to the President
The White House

FROM: Roger Clegg *RC*
Associate Deputy Attorney General

Here are some background materials on Vanguards of
Cleveland v. City of Cleveland and Local No. 93. I have
talked with John Roberts about this.

Attachment

cc: John Roberts

Background on

Vanguards of Cleveland v. City of Cleveland and Local No. 93

Event: On Friday, March 15, 1985, the Department of Justice filed an amicus brief in support of rehearing en banc in the Sixth Circuit Court of Appeals. We are challenging the Sixth Circuit's panel decision upholding a district court's entry of a consent decree between minority plaintiffs and a municipal employer, which requires the promotion of one minority officer for every white officer in supervisory ranks, as violative of Title VII of the Civil Rights Act of 1964. Civil rights groups may criticize us for this action.

- I. FACTS: The Vanguards of Cleveland ("Vanguards"), an association of black and Hispanic firefighters employed by the City of Cleveland, brought an action on October 23, 1980, challenging the City fire department's promotion policy as discriminatory. Shortly thereafter, the parties submitted to the court a proposed consent decree which contained a one-to-one quota for the promotion of black and Hispanic firefighters to the ranks of lieutenant, captain, battalion chief, and assistant chief. Despite the objection of nonminority employees, represented by their Union, to this provision, the district court adopted the decree as a reasonable remedy in light of the history of past discrimination. The Union now has submitted a petition for rehearing en banc by the Sixth Circuit Court of Appeals.
- II. POSITION OF THE UNITED STATES: The United States objects to the panel majority opinion as contrary to the Supreme Court's recent decision in Memphis Firefighters v. Stotts. Stotts precludes the entry of a judicial decree, whether entered by consent of the parties or after a full trial, which contains a promotion quota.
- III. RELATIONSHIP TO ADMINISTRATION PHILOSOPHY: The Administration has consistently stated that all governmental entities must behave in a "colorblind" manner and must not prefer any person who is not a victim of discrimination over another on the basis of race, sex, or national origin. Courts therefore cannot discriminate against any person of whatever racial or ethnic group by means of settlement decrees.

IV. ANTICIPATED CRITICISM AND PLANNED DEPARTMENT OF JUSTICE RESPONSE:

Criticism: Numerical devices such as goals and quotas are necessary to correct the effects of past discrimination. The Justice Department is interfering and trying to disrupt a voluntary settlement agreement that was recognized by a federal district court and the majority panel of the Sixth Circuit Court of Appeals as a reasonable remedy in light of the previous discrimination.

Response: Court-ordered quotas and other preferential devices are illegal and cannot be justified as a remedy for past discrimination. The Supreme Court made this clear in the Stotts decision and their rulings must be followed by the lower federal courts. The United States will vigorously oppose any consent decree which results in the violation of the civil rights of any person.

V. TALKING POINTS:

- ° The Justice Department will continue to strive to enforce the rights of all persons and to seek relief for those actually victimized by discrimination.
- ° Our intervention in this dispute supports the actual victims of the discriminatory provision in the proposed consent decree -- the white firefighters who stand to be denied jobs or promotions solely on the basis of their skin color.
- ° This action is fully consistent with our enforcement responsibilities under Title VII of the Civil Rights Act which guarantees equal treatment to all employees regardless of their race.
- ° This action is fully consistent with our position that courts should be required to order settlement agreements on a "colorblind" basis.
- ° The Court of Appeals' decision is directly contrary to the Supreme Court's unambiguous directive that courts are not permitted to order quota relief.



U.S. Department of Justice
Office of the Deputy Attorney General

March 1, 1985

TO: John Roberts
FROM: Roger Clegg

This should get some press.

(6) use the mails in the same manner as any other department or agency of the executive branch.

(d) Notwithstanding the authority granted in this section, the Board and the Chairman shall not interfere with routine law enforcement or intelligence decisions of any agency and shall undertake no activity inconsistent with the authorities and responsibilities of the Director of Central Intelligence under the provisions of the National Security Act of 1947, as amended, or Executive Order 12333.

(e) The Administrator of the General Services Administration shall provide to the Board on a reimbursable basis such administrative support services as the Chairman may request.

SEC. 1305. The Chairman shall submit to the Congress, within nine months after enactment of this Act, and biannually thereafter, a full and complete report reflecting United States policy with respect to illegal drug law enforcement, plans proposed for the implementation of such policy, and, commencing with the submission of the second report, a full and complete report reflecting accomplishments with respect to the United States policy and plans theretofore submitted to the Congress.

SEC. 1306. Title II of the Drug Abuse Prevention, Treatment and Rehabilitation Act (21 U.S.C. 1112) is amended by adding at the end of section 201 (21 U.S.C. 1111) a new subsection (d) as follows:

“(d) SUPPORT TO NATIONAL DRUG ENFORCEMENT POLICY BOARD.—One of the duties of the White House Office of Drug Abuse Policy shall be to insure coordination between the National Drug Enforcement Policy Board and the health issues associated with drug abuse.”

SEC. 1307. This chapter and the amendments made by this chapter shall take effect January 20, 1985.

CHAPTER XIV—VICTIM COMPENSATION AND ASSISTANCE

SEC. 1401. This chapter may be cited as the “Victims of Crime Act of 1984”.

CRIME VICTIMS FUND

SEC. 1402. (a) There is created in the Treasury a separate account to be known as the Crime Victims Fund (hereinafter in this chapter referred to as the “Fund”).

(b) Except as limited by subsection (c), there shall be deposited in the Fund—

(1) all fines that are collected from persons convicted of offenses against the United States except—

(A) fines available for use by the Secretary of the Treasury pursuant to—

(i) section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)); and

(ii) section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)); and

(B) fines to be paid into—

(i) the railroad unemployment insurance account pursuant to the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.);

(ii) the Postal Service Fund pursuant to sections 2601(a)(2) and 2003 of title 39 of the United States Code

and for the purposes set forth in section 404(a)(8) of such title 39;

(iii) the navigable waters revolving fund pursuant to section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321); and

(iv) county public school funds pursuant to section 3613 of title 18 of the United States Code;

(2) penalty assessments collected under section 3013 of title 18 of the United States Code;

(3) the proceeds of forfeited appearance bonds, bail bonds, and collateral collected under section 3146 of title 18 of the United States Code; and

(4) any money ordered to be paid into the Fund under section 3671(c)(2) of title 18 of the United States Code.

(c)(1) If the total deposited in the Fund during a particular fiscal year reaches the sum of \$100 million, the excess over that sum shall be deposited in the general fund of the Treasury and shall not be a part of the Fund.

(2) No deposits shall be made in the Fund after September 30, 1988.

(d)(1) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this title without fiscal year limitation.

(2) Fifty percent of the total deposited in the Fund during a particular fiscal year shall be available for grants under section 1403 and fifty percent shall be available for grants under section 1404.

(e) Any sums awarded as part of a grant under this chapter that remain unspent at the end of a fiscal year in which such grant is made may be expended for the purpose for which such grant is made at any time during the next succeeding fiscal year, at the end of which year any remaining unobligated sums shall be returned to the general fund of the Treasury.

(f) As used in this section, the term "offenses against the United States" does not include—

(1) a criminal violation of the Uniform Code of Military Justice (10 U.S.C. 801 et seq.);

(2) an offense against the laws of the District of Columbia; and

(3) an offense triable by an Indian tribal court or Court of Indian Offenses.

CRIME VICTIM COMPENSATION

SEC. 1403. (a)(1) Except as provided in paragraph (2), the Attorney General shall make an annual grant from the Fund to an eligible crime victim compensation program of 35 percent of the amounts awarded during the preceding fiscal year, other than amounts awarded for property damage. A grant under this section shall be used by such program only for awards of compensation.

(2) If the sums available in the Fund for grants under this section are insufficient to provide grants of 35 percent as provided in paragraph (1), the Attorney General shall make, from the sums available, a grant to each eligible crime victim compensation program so that all such programs receive the same percentage of the amounts awarded by such program during the preceding fiscal year other than amounts awarded for property damage.

(b) A crime victim compensation program is an eligible crime victim compensation program for the purposes of this section if—

(1) such program is operated by a State and offers compensation to victims of crime and survivors of victims of crime for—

(A) medical expenses attributable to a physical injury resulting from compensable crime, including expenses for mental health counseling and care;

(B) loss of wages attributable to a physical injury resulting from a compensable crime; and

(C) funeral expenses attributable to a death resulting from a compensable crime;

(2) such program promotes victim cooperation with the reasonable requests of law enforcement authorities;

(3) such State certifies that grants received under this section will not be used to supplant State funds otherwise available to provide crime victim compensation;

(4) such program, as to compensable crimes occurring within the State, makes compensation awards to victims who are nonresidents of the State on the basis of the same criteria used to make awards to victims who are residents of such State;

(5) such program provides compensation to victims of crimes occurring within such State that would be compensable crimes, but for the fact that such crimes are subject to Federal jurisdiction, on the same basis that such program provides compensation to victims of compensable crimes; and

(6) such program provides such other information and assurances related to the purposes of this section as the Attorney General may reasonably require.

(c) A State crime victim compensation program in effect on the date grants may first be made under this section shall be deemed an eligible crime victim compensation program for the purposes of this section until the day after the close of the first regular session of the legislature of that State that begins after such date.

(d) As used in this section—

(1) the term “property damage” does not include damage to prosthetic devices or dental devices;

(2) the term “medical expenses” includes, to the extent provided under the eligible crime victim compensation program, expenses for dental services and devices and prosthetic devices and for services rendered in accordance with a method of healing recognized by the law of the State;

(3) the term “compensable crime” means a crime the victims of which are eligible for compensation under the eligible crime victim compensation program; and

(4) the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States.

CRIME VICTIM ASSISTANCE

SEC. 1404. (a)(1) Subject to the availability of money in the Fund, the Attorney General shall make an annual grant from any portion of the Fund not used for grants under section 1403 with respect to a particular fiscal year, and after any deduction under subsection (c), to the chief executive of each State for the financial support of eligible crime victim assistance programs.

(2) Such chief executive shall—

(A) certify that priority shall be given to eligible crime victim assistance programs providing assistance to victims of sexual assault, spousal abuse, or child abuse;

(B) certify that funds awarded to eligible crime victim assistance programs will not be used to supplant State and local funds otherwise available for crime victim assistance; and

(C) provide such other information and assurances related to the purposes of this section as the Attorney General may reasonably require.

(3) The amounts of grants under paragraph (1) shall be—

(A) \$100,000 to each State; and

(B) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

(4) If the amount available for grants under paragraph (1) is insufficient to provide \$100,000 to each State, the funds available shall be distributed equally among the States.

(b)(1) A victim assistance program is an eligible crime victim assistance program for the purposes of this section if such program—

(A) is operated by a public agency or a nonprofit organization, or a combination of such agencies or organizations or of both such agencies and organizations, and provides services to victims of crime;

(B) demonstrates—

(i) a record of providing effective services to victims of crime and financial support from sources other than the Fund; or

(ii) substantial financial support from sources other than the Fund;

(C) utilizes volunteers in providing such services, unless and to the extent the chief executive determines that compelling reasons exist to waive this requirement;

(D) promotes within the community served coordinated public and private efforts to aid crime victims; and

(E) assists potential recipients in seeking crime victim compensation benefits.

(2) An eligible crime victim assistance program shall expend sums received under subsection (a) only for providing services to victims of crime.

(c)(1) The Attorney General may in any fiscal year deduct from amounts available under section 1404 an amount not to exceed 5 percent of the amount in the Fund, and may expend the amount so deducted to provide services to victims of Federal crimes by the Department of Justice, or reimburse other instrumentalities of the Federal Government otherwise authorized to provide such services.

(2) The Attorney General shall appoint or designate an official of the Department of Justice to be the Federal Crime Victim Assistance Administrator (hereinafter in this chapter referred to as the "Federal Administrator") to exercise the responsibilities of the Attorney General under this subsection.

(3) The Federal Administrator shall—

(A) be responsible for monitoring compliance with guidelines for fair treatment of crime victims and witnesses issued under section 6 of the Victim and Witness Protection Act of 1982 (Public Law 97-291);

(B) consult with the heads of Federal law enforcement agencies that have responsibilities affecting victims of Federal crimes;

(C) coordinate victim services provided by the Federal Government with victim services offered by other public agencies and nonprofit organizations; and

(D) perform such other functions related to the purposes of this title as the Attorney General may assign.

(4) The Attorney General may reimburse other instrumentalities of the Federal Government and contract for the performance of functions authorized under this subsection.

(d) As used in this section—

(1) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and, except for the purposes of paragraphs (3)(A) and (4) of subsection (a) of this section, any other territory or possession of the United States; and

(2) the term "services to victims of crime" includes—

(A) crises intervention services;

(B) providing, in an emergency, transportation to court, short-term child care services, and temporary housing and security measures;

(C) assistance in participating in criminal justice proceedings; and

(D) payment of all reasonable costs for a forensic medical examination of a crime victim, to the extent that such costs are otherwise not reimbursed or paid;

(3) the term "services to victims of Federal crime" means services to victims of crime with respect to Federal crime, and includes—

(A) training of law enforcement personnel in the delivery of services to victims of Federal crime;

(B) preparation, publication, and distribution of informational materials—

(i) setting forth services offered to victims of crime; and

(ii) concerning services to victims of Federal crime for use by Federal law enforcement personnel; and

(C) salaries of personnel who provide services to victims of crime, to the extent that such personnel provide such services;

(4) the term "crises intervention services" means counseling to provide emotional support in crises arising from the occurrence of crime; and

(5) the term "chief executive" includes a person designated by a chief executive to perform the functions of the chief executive under this section.

PENALTY ASSESSMENT

SEC. 1405. (a) Chapter 201 of title 18 of the United States Code is amended by adding at the end the following:

"§ 3013. Special assessment on convicted persons

"(a) The court shall assess on any person convicted of an offense against the United States—

"(1) in the case of a misdemeanor—

“(A) the amount of \$25 if the defendant is an individual;
and

“(B) the amount of \$100 if the defendant is a person other
than an individual; and

“(2) in the case of a felony—

“(A) the amount of \$50 if the defendant is an individual;
and

“(B) the amount of \$200 if the defendant is a person other
than an individual.

“(b) Such amount so assessed shall be collected in the manner that
fines are collected in criminal cases.”

(b) The table of sections for chapter 201 of title 18 of the United
States Code is amended by adding at the end the following:

“3013. Special assessment on convicted persons.”

SPECIAL FORFEITURE OF COLLATERAL PROFITS OF CRIME

SEC. 1406. (a) Title 18 of the United States Code is amended by
adding after chapter 231 the following:

**“CHAPTER 232—SPECIAL FORFEITURE OF
COLLATERAL PROFITS OF CRIME**

“Sec.

“3671. Order of special forfeiture.

“3672. Notice to victims of order of special forfeiture.

“§ 3671. Order of special forfeiture

“(a) Upon the motion of the United States attorney made at any
time after conviction of a defendant for an offense against the
United States resulting in physical harm to an individual, and after
notice to any interested party, the court shall, if the court deter-
mines that the interest of justice or an order of restitution under
chapter 227 or 231 of this title so requires, order such defendant to
forfeit all or any part of proceeds received or to be received by that
defendant, or a transferee of that defendant, from a contract relat-
ing to a depiction of such crime in a movie, book, newspaper,
magazine, radio or television production, or live entertainment of
any kind, or an expression of that defendant’s thoughts, opinions, or
emotions regarding such crime.

“(b) An order issued under subsection (a) of this section shall
require that the person with whom the defendant contracts pay to
the Attorney General any proceeds due the defendant under such
contract.

“(c)(1) Proceeds paid to the Attorney General under this section
shall be retained in escrow in the Crime Victims Fund in the
Treasury by the Attorney General for five years after the date of an
order under this section, but during that five year period may—

“(A) be levied upon to satisfy—

“(i) a money judgment rendered by a United States dis-
trict court in favor of a victim of an offense for which such
defendant has been convicted, or a legal representative of
such victim; and

“(ii) a fine imposed by a court of the United States; and

“(B) if ordered by the court in the interest of justice, be used
to—

“(i) satisfy a money judgment rendered in any court in favor of a victim of any offense for which such defendant has been convicted, or a legal representative of such victim; and

“(ii) pay for legal representation of the defendant in matters arising from the offense for which such defendant has been convicted, but no more than 20 percent of the total proceeds may be so used.

“(2) The court shall direct the disposition of all such proceeds in the possession of the Attorney General at the end of such five years and may require that all or any part of such proceeds be released from escrow and paid into the Crime Victims Fund in the Treasury.

“(d) As used in this section, the term ‘interested party’ includes the defendant and any transferee of proceeds due the defendant under the contract, the person with whom the defendant has contracted, and any person physically harmed as a result of the offense for which the defendant has been convicted.

“§ 3672. Notice to victims of order of special forfeiture

“The United States attorney shall, within thirty days after the imposition of an order under this chapter and at such other times as the Attorney General may require, publish in a newspaper of general circulation in the district in which the offense for which a defendant was convicted occurred, a notice that states—

“(1) the name of, and other identifying information about, the defendant;

“(2) the offense for which the defendant was convicted; and

“(3) that the court has ordered a special forfeiture of certain proceeds that may be used to satisfy a judgment obtained against the defendant by a victim of an offense for which the defendant has been convicted.”

(b) The table of chapters for part II of title 18 of the United States Code is amended by adding after the item for chapter 231 the following:

“232. Special forfeiture of collateral profits of crime.”

ADMINISTRATIVE PROVISIONS

SEC. 1407. (a) The Attorney General may establish such rules, regulations, guidelines, and procedures as are necessary to carry out any function of the Attorney General under this chapter and may delegate to any officer or employee of the Department of Justice any such function as the Attorney General deems appropriate.

(b) Each recipient of sums under this chapter shall keep such records as the Attorney General shall prescribe, including records that fully disclose the amount and disposition by such recipient of such sums, the total cost of the undertaking for which such sums are used, and that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(c) The Attorney General or any duly authorized representative of the Attorney General shall have access, for purpose of audit and examination, to any books, documents, papers, and records of the recipient of sums under this chapter that, in the opinion of the Attorney General or any duly authorized representative of

the Attorney General, may be related to the expenditure of funds received under this chapter.

(d) Except as otherwise provided by Federal law, no officer or employee of the Federal Government, and no recipient of sums under this chapter, shall use or reveal any research or statistical information furnished under this chapter by any person and identifiable to any specific private person for any purpose other than the purpose for which such information was obtained in accordance with this chapter. Such information, and any copy of such information, shall be immune from legal process and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceeding.

(e) No person shall on the ground of race, color, religion, national origin, handicap, or sex be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with sums made available under this chapter.

(f) If, after reasonable notice and opportunity for a hearing on the record, the Attorney General finds that a State has failed to comply substantially with any provision of this chapter or a rule, regulation, guideline, or procedure issued under this chapter, or an application submitted in accordance with this chapter or the provisions of any other applicable law, the Attorney General shall—

- (1) terminate payments to such State;
- (2) suspend payments to such State until the Attorney General is satisfied that such noncompliance has ended; or
- (3) take such other action as the Attorney General deems appropriate.

(h) The Attorney General shall, no later than December 31, 1987, report to the President and to the Congress on the revenue derived from each source described in section 1302 and on the effectiveness of the activities supported under this chapter. The Attorney General may include in such report recommendations for legislation to improve this chapter.

PAROLE PROCEEDING AMENDMENTS

SEC. 1408. (a) Section 4207 of title 18 of the United States Code is amended—

- (1) by striking out “and” at the end of paragraph (4); and
- (2) by inserting after paragraph (4) the following new paragraph:

“(5) a statement, which may be presented orally or otherwise, by any victim of the offense for which the prisoner is imprisoned about the financial, social, psychological, and emotional harm done to, or loss suffered by such victim; and”.

(b) Section 6(a) of the Victim and Witness Protection Act of 1982 is amended—

- (1) in the catchline of paragraph (4), by striking out “Major”;
- (2) in paragraph (4), by striking out “if possible, of judicial proceedings relating to their case, including—” and inserting in lieu thereof “if possible, of—”; and
- (3) in subparagraph (D) of paragraph (4)—
 - (A) by inserting “and punishment” after “prosecution”;

- (B) by inserting "a hearing to determine a parole release date and" after "imposed,"
- (c) Section 4215 of title 18 of the United States Code is amended—
- (1) so that the heading of such section reads as follows:

"§ 4215. Appeal";

- (2) in subsection (a)—

(A) in the first sentence—

- (i) by striking out "have the decision reconsidered" and inserting in lieu thereof "appeal such decision"; and

- (ii) by striking out "regional commissioner" and inserting in lieu thereof "National Appeal Board"; and

(B) by striking out the second sentence; and

- (3) in subsection (b), by striking out the first sentence.

- (d) The table of sections at the beginning of chapter 311 of title 18 of the United States Code is amended so that the item relating to section 4215 reads as follows:

"4215. Appeal."

EFFECTIVE DATES

SEC. 1409. (a) Except as provided in subsection (b), this chapter and the amendments made by this chapter shall take effect thirty days after the date of enactment of this joint resolution.

(b) Sections 1402, 1403, 1404, and 1407 of this chapter shall take effect on October 1, 1984.

CONFORMING AMENDMENT

SEC. 1410. Section 3150(a) of title 18 U.S.C. is amended by striking out "the general fund of".

CHAPTER XV—TRADEMARK COUNTERFEITING

SEC. 1501. This chapter may be cited as the "Trademark Counterfeiting Act of 1984".

TITLE 18 AMENDMENT

SEC. 1502. (a) Chapter 113 of title 18 of the United States Code is amended by adding at the end the following:

"§ 2320. Trafficking in counterfeit goods or services

"(a) Whoever intentionally traffics or attempts to traffic in goods or services and knowingly uses a counterfeit mark on or in connection with such goods or services shall, if an individual, be fined not more than \$250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than \$1,000,000. In the case of an offense by a person under this section that occurs after that person is convicted of another offense under this section, the person convicted, if an individual, shall be fined not more than \$1,000,000 or imprisoned not more than fifteen years, or both, and if other than an individual, shall be fined not more than \$5,000,000.

"(b) Upon a determination by a preponderance of the evidence that any articles in the possession of a defendant in a prosecution under this section bear counterfeit marks, the United States may obtain an order for the destruction of such articles.

"(c) All dies that shall be ap tion unde proof, by defense.

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U.S. Department of Justice
Office of the Deputy Attorney General

March 5, 1985

TO: John Roberts
FROM: Roger Clegg

Per our conversation.

Attachment



Department of Justice

RC - this is public info of
3pm - tpd

FOR IMMEDIATE RELEASE
TUESDAY, MARCH 5, 1985

AAG
202-633-2010

Associate Attorney General D. Lowell Jensen today announced the arrest of Francesco Pazienza, an Italian businessman considered by the Italian government as its number one criminal fugitive.

Pazienza, 38, was arrested by U.S. Customs agents in New York City yesterday.

Jensen said the defendant, who is wanted on fraud and corruption charges in Italy, would be taken before a U.S. magistrate today for arraignment and then would await extradition to Italy.

The charges against Pazienza are in connection with the banking fraud scandal at Banco Ambrosian. He has been a fugitive since April 18, 1983.

"The arrest of Pazienza demonstrates the importance of the working relationship of the Italian-American Working Group on Organized Crime and Narcotics Trafficking," said Jensen, who is Deputy Chairman of the Working Group.

Jensen said that during the meetings of the Working Group in January, Italian officials emphasized the importance of the Pazienza case, and Italian and American officials discussed the appropriate documentation needed to effect speedy extraditions between the two countries under the new extradition treaty signed last September.

"This arrest illustrates the intensity of commitment and the spirit of cooperation expressed by members of the Working Group, as well as the concrete law enforcement results which can flow from international cooperative law enforcement arrangements such as the Italian-American Working Group," Jensen said.

#



U.S. Department of Justice
Office of the Deputy Attorney General

Associate Deputy Attorney General

Washington, D.C. 20530

March 11, 1985

MEMORANDUM FOR: Honorable Richard A. Hauser
Deputy Counsel to the President
The White House

FROM: Roger Clegg ^{RC}
Associate Deputy Attorney General

Here are some background materials on our filing in
United States v. District of Columbia Fire Department.
I talked with John Roberts about this case.

cc: John Roberts ✓

Attachment

Background on United States v.
District of Columbia Fire Department

Event: On Monday, March 11, the Department of Justice filed suit against the District of Columbia Fire Department in the United States District Court for the District of Columbia challenging the Department's use of racially preferential hiring and promotion quotas as violative of Title VII of the Civil Rights Act of 1964. Civil rights groups and the D.C. government may criticize us for this action.

I. Facts: The quotas were adopted as a result of litigation brought by minority firefighters challenging the entry level and promotional selection procedures. The plaintiffs in that case [Hammon v. Barry] argue that the quotas does not go far enough to ensure that minorities and women receive employment opportunities in the Department. We expect to participate in a hearing in the Hammon case scheduled for Tuesday, March 12. The collective bargaining agent for the firefighters is also filing a suit challenging the quotas and the promotion of five black firefighters over white firefighters solely on the basis of race.

II. Position of the United States: The United States objected to the quotas because they grant racial and gender-based preferences in hiring and promotion to blacks and women who are not victims of discrimination, in violation of Title VII. The United States requests that the Fire Department be enjoined from using such preferences. Instead, the Department should be required to develop and implement valid and nondiscriminatory selection procedures, and to use those procedures so as not to prefer one person over another because of race, sex, or national origin.

III. Relationship to Administration Philosophy: The Administration has consistently stated that all governmental entities must behave in a "colorblind" and "genderblind" manner, and must not prefer any person, who is not a victim of discrimination, over another on the basis of race, sex, or national origin. Governments therefore cannot discriminate against any person, of whatever racial or ethnic group, by means of quotas.

IV. Anticipated Criticism and Planned Department of Justice Response

Criticism: Numerical devices such as "goals" and quotas are necessary to correct the effects of past discrimination. The Justice Department is interfering in, and trying to disrupt, a voluntary effort by the D.C. Fire Department to atone for such past discrimination.

Response: Past discrimination is not cured by visiting precisely the same discrimination against innocent third parties in the form of quotas and other preferential devices. The United States will vigorously oppose any plan requiring a government to violate the civil rights of any person, regardless of whether the government in question has agreed to take such action. More discrimination is not the way to end discrimination. We will work with the District to develop an effective nondiscriminatory plan which does not grant preferences on the basis of race or sex.

V. Talking Points

° The Justice Department will continue to strive to enforce the rights of all Americans, regardless of race, sex, or national origin.

° Our intervention in this dispute is on the side of victims of discrimination, the white firefighters who are being denied jobs and promotions solely on the basis of their skin color.

° This action is fully consistent with our enforcement responsibilities under the Civil Rights Acts, which guarantee equal treatment to all individuals.