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434150  
PU  
PR005  
PR014-08  
PR007

Schedule Proposal

THE WHITE HOUSE  
WASHINGTON  
August 4, 1986

MEMORANDUM FOR: FREDERICK J. RYAN, Director of Presidential Appointments and Scheduling

FROM: PATRICK J. BUCHANAN *PJB*

REQUEST: Photos of the President for the cover of First Monday magazine and to accompany the text of an interview with the President.

BACKGROUND: First Monday, the RNC publication, has requested an interview with the President to be conducted through written questions and answers. The cover photo will appear on the October 6th issue coinciding with the interview, focusing on the November elections and their importance in continuing the "Reagan Revolution."

In addition to the cover photo of the President, photos will be taken depicting the President, First Monday editor Barbara Sido and Terry Wade, RNC's Director of Communications in an interview situation.

DATE AND TIME: Week of September 22.

LOCATION: Oval Office.

PARTICIPANTS: The President  
Barbara Sido, Editor  
Terry Wade, RNC Director of Communications  
First Monday Photographer  
Sue Mathis Richard

OUTLINE OF EVENTS: Ms. Sido and Mr. Wade will enter the Oval Office and exchange greetings with the President. The President will then be seated behind his desk for the cover photo. Next, the group will move to the sitting area, with the President seated in one of the white arm chairs, and talk briefly to simulate an interview situation as more photos are taken.

REMARKS REQUIRED: None.

MEDIA COVERAGE: White House Photographer only.

PROJECT OFFICER: Sue Mathis Richard

RECOMMENDED BY: Mitch Daniels

434150

PU

THE WHITE HOUSE

WASHINGTON

September 9, 1986

PHOTO FOR FIRST MONDAY INTERVIEW

DATE: Thursday, September 11, 1986  
LOCATION: Oval Office  
TIME: 4:30 p.m. (5 minutes)

FROM: PATRICK J. BUCHANAN 

I. PURPOSE

To take photos of the President to accompany a cover story for First Monday magazine.

II. BACKGROUND

The October 6th issue of First Monday magazine, the RNC publication, will focus on the November elections and their importance in continuing the "Reagan Revolution." An interview with the President will be the cover story.

Written questions have been submitted by First Monday. Photos will be taken depicting the President being questioned by magazine editor Barbara Sido and Terry Wade, Director of Communications at the RNC. In addition, a cover photo of the President will be taken. (Answers to the written questions are to be given to First Monday at a later date, handled by Public Affairs.)

III. PARTICIPANTS

The President  
Barbara Sido, Editor  
Terry Wade, RNC Director of Communications  
Sue Mathis Richard  
First Monday photographer

IV. SEQUENCE OF EVENTS

Mr. Sido and Mr. Wade will enter the Oval Office and exchange greetings with the President. The President will then pose for the cover photo in front of the door leading to his study. The President will then be seated in one of the armchairs by the fireplace. Ms. Sido will take the other chair, and Mr. Wade will sit on the sofa. As they chat, photos will be taken of the three of them, simulating an interview.

V. PRESS PLAN

White House photographer only.

VI. REMARKS

None required

VII. PROJECT OFFICER

Sue Mathis Richard

to Ryan 8/5

THE WHITE HOUSE  
WASHINGTON

9/11 - 4:30pm

August 4, 1986

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LOCATION: Oval Office.

PARTICIPANTS: The President  
Barbara Sido, Editor  
Terry Wade, RNC Director of Communications  
First Monday Photographer  
Sue Mathis Richard

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REMARKS REQUIRED: None.

MEDIA COVERAGE: White House Photographer only.

PROJECT OFFICER: Sue Mathis Richard

RECOMMENDED BY: Mitch Daniels

THE WHITE HOUSE

WASHINGTON

August 5, 1986

RESPONSE DUE DATE: August 12, 1986

REQUEST FOR SCHEDULING RECOMMENDATION

MEMORANDUM FOR:        PAT BUCHANAN        MARI MASENG  
       LARRY SPEAKES        KEN BARUN  
       JACK COURTEMANCHE        AL KINGON  
       RODNEY McDANIEL        BOB TUTTLE  
       RICHARD RILEY        PETER WALLISON  
  X   MITCH DANIELS        JACK SVAHN  
       WILL BALL

FROM: FREDERICK J. RYAN, JR. *FJR*  
PRESIDENTIAL APPOINTMENTS AND SCHEDULING

Please provide your recommendation on the following scheduling request:

EVENT: Interview with FIRST MONDAY, the official magazine of the Republican National Committee

DATE: Early September

LOCATION: Oval Office

Additional information concerning this event is attached.

**APPROVED FOR**  
Date 9-11-85  
Time 4:30  
Length 5 min  
Date 8/14/86 FJR

YOUR RECOMMENDATION:

Accept        Regret        Surrogate        Message         
Priority        Video         
Routine        Written       

If your recommendation is to accept, please cite reasons below:

*I already recommended written Q&A followed by  
admin time photo session with interviewers. Still  
think that's the best way.  
Mitch D. 8/5*

PLEASE RETURN TO JEAN A. JACKSON IN OEOB, ROOM 182  
BY THE RESPONSE DUE DATE ABOVE SO THAT YOUR COMMENTS MAY BE  
CONSIDERED AS WE PROCEED WITH THIS REQUEST. THANK YOU.

THE WHITE HOUSE

WASHINGTON

SCHEDULE PROPOSAL

July 30, 1986

TO: FREDERICK J. RYAN, JR., Director of  
Presidential Appointments and Scheduling

FROM: Larry Speakes

REQUEST: Interview with FIRST MONDAY, the  
official magazine of the Republican  
National Committee.

PURPOSE: The interview would allow the President  
to discuss the November elections with  
FIRST MONDAY's more than 1 million  
readers. FIRST MONDAY would give the  
President an opportunity to explain to  
Republicans across the country how the  
results of this Election Day will  
determine the fate of the "Reagan  
Revolution" through 1988 and beyond.

DATE: Early September

DURATION: 30 minutes

LOCATION: Oval Office

PARTICIPANTS: The President  
Larry Speakes  
Correspondents, yet to be determined

OUTLINE OF EVENTS: After an exchange of pleasantries, the  
interview will begin

REMARKS REQUIRED: Not Applicable

MEDIA COVERAGE: White House Photographer only

RECOMMENDED BY: Larry Speakes



THE WHITE HOUSE  
WASHINGTON

August 5, 1986

FOR: MITCH DANIELS

FROM: KAREN FULLER

FYI - we've submitted the  
attached Schedule Proposal.

*I agree with this  
one.*

*MD 8/5*

THE WHITE HOUSE

WASHINGTON

August 4, 1986

MEMORANDUM FOR: FREDERICK J. RYAN, Director of Presidential Appointments and Scheduling

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REMARKS REQUIRED: None.

MEDIA COVERAGE: White House Photographer only.

PROJECT OFFICER: Sue Mathis Richard

RECOMMENDED BY: Mitch Daniels

5/10/18 to  
Mitch Daniels

THE WHITE HOUSE

WASHINGTON

August 4, 1986

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REMARKS REQUIRED: None.

MEDIA COVERAGE: White House Photographer only.

PROJECT OFFICER: Sue Mathis Richard

RECOMMENDED BY: Mitch Daniels

RECEIVED

AUG 5 1986

SCHEDULING  
OFFICE



THE WHITE HOUSE

WASHINGTON

August 4, 1986

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interview situation as more photos are taken.

REMARKS REQUIRED: None.

MEDIA COVERAGE: White House Photographer only.

PROJECT OFFICER: Sue Mathis Richard

RECOMMENDED BY: Mitch Daniels

RECEIVED

AUG 11 1986

SCHEDULING  
OFFICE

434267

ID #

CU

WHITE HOUSE  
CORRESPONDENCE TRACKING WORKSHEET

*PK*

O - OUTGOING

H - INTERNAL

I - INCOMING

Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Peter J. Wallison

MI Mail Report

User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: Bohemian Club News articles

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>cuhol</u>	ORIGINATOR	<u>86107112</u>		<u>C</u>	<u>86107112</u> <b>PT</b>
	Referral Note:				
<u>cwall</u>	<u>I</u>	<u>86107112</u>		<u>C</u>	<u>86107112</u> <b>PT</b>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				

ACTION CODES:

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet to be used as Enclosure

- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

DISPOSITION CODES:

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

FOR OUTGOING CORRESPONDENCE:

- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: \_\_\_\_\_

Keep this worksheet attached to the original incoming letter.  
 Send all routing updates to Central Reference (Room 75, OEOB).  
 Always return completed correspondence record to Central Files.  
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

## RECORDS MANAGEMENT ONLY

### CLASSIFICATION SECTION

No. of Additional Correspondents: \_\_\_\_\_ Media: X Individual Codes: 4000 \_\_\_\_\_

Prime Subject Code: PLU \_\_\_\_\_ Secondary Subject Codes: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

### PRESIDENTIAL REPLY

Code	Date	Comment	Form
C	_____	Time: _____	P- _____
DSP	_____	Time: _____	Media: _____

**SIGNATURE CODES:**

- CPn - Presidential Correspondence
- n - 0 - Unknown
- n - 1 - Ronald Wilson Reagan
- n - 2 - Ronald Reagan
- n - 3 - Ron
- n - 4 - Dutch
- n - 5 - Ron Reagan
- n - 6 - Ronald
- n - 7 - Ronnie

- CLn - First Lady's Correspondence
- n - 0 - Unknown
- n - 1 - Nancy Reagan
- n - 2 - Nancy
- n - 3 - Mrs. Ronald Reagan

- CBn - Presidential & First Lady's Correspondence
- n - 1 - Ronald Reagan - Nancy Reagan
- n - 2 - Ron - Nancy

**MEDIA CODES:**

- B - Box/package
- C - Copy
- D - Official document
- G - Message
- H - Handcarried
- L - Letter
- M - Mailgram
- O - Memo
- P - Photo
- R - Report
- S - Sealed
- T - Telegram
- V - Telephone
- X - Miscellaneous
- Y - Study

1ST STORY of Level 1 printed in FULL format.

Proprietary to the United Press International 1986

July 12, 1986, Saturday, PM cycle

SECTION: Domestic News

LENGTH: 412 words

HEADLINE: Bohemian Club gathers for annual summer camp

434267 *cu*

BYLINE: By ROBERT STRAND

DATELINE: SAN FRANCISCO

KEYWORD: Bohemian

BODY:

Politicians, statesmen, businessmen and professionals gathered in the California redwoods 75 miles north of San Francisco this weekend for the Bohemian Club's annual outing, where some of the nation's most influential men can forget the cares of the day and act like young men again.

Pickets from the Bohemian Grove Action Network planned to turn out for 'a line of shame' outside the Bohemian Grove entrance in protest of various political policies blamed on the kind of men who are members of the club.

The Bohemian Club, founded in 1872, has only one stipulation for membership application. It charges \$15 to \$90 a month dues. There are 2,300 members and 3,000 on the waiting list.

Female guests are admitted to some functions but not the two-week encampment at the 2,700-acre grove on the bank of the Russian River.

In recent years the encampment has drawn protesters, including the prostitutes' union, environmentalists and anti-war activists. This year the 'Action Network' says it wants to call attention to the American Indian relocation program in Arizona.

'Many Bohemians are paying their club dues out of revenues realized from the sacred ground of Big Mountain,' a protest flier says.

The two-week camp has been attended in the past by Ronald Reagan, George Bush, Henry Kissinger, Richard Nixon, Gerald Ford, Caspar Weinberger and George Shultz.

Members are mainly top executives of large corporations, presidents of universities and leaders in the professions -- as a group certainly among the most influential people in the nation.

That was not how the club was composed at its birth 113 years ago. It was founded by five newspapermen, aided by a few people devoted to the arts, who banned their publishers from membership.

When writers Mark Twain, Bret Harte and Joaquin Miller were members, club activities were mostly Sunday discussions in private homes.

Proprietary to the United Press International, July 12, 1986

But in time the writers and artists found they could not maintain their activities on whiskey alone and opened their membership to people with fat wallets who soon dominated the organization.

Some famed entertainers are included. In recent years Bing Crosby, Rudolph Friml, Jose Ferrer, Lauritz Melchior, Merv Griffin and Art Linkletter have participated.

For the Bohemians, the encampment is an occasion for male camaraderie, a time to visit from camp to camp and catch up on old friends.

Former President Hoover once called the encampment "the greatest men's party on earth."

GRAPHIC: PICTURE

*g*

ID # 434374 **CU**

*PK*

### WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
- H - INTERNAL
- I - INCOMING  
Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Dr. William Wilbanks

MI Mail Report User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: Notifying the White House of Publication of his book "The Myth of a Racist Criminal Justice System"

ROUTE TO:	ACTION	DISPOSITION
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD
<u>CU/ROLL</u>	<u>ORIGINATOR</u>	<u>NRN e 8/10/07</u>
	Referral Note:	
	Referral Note:	
	Referral Note:	
	Referral Note:	

- ACTION CODES:**
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  - D - Draft Response
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  - S - Suspended

**FOR OUTGOING CORRESPONDENCE:**  
 Type of Response = Initials of Signer  
 Code = "A"  
 Completion Date = Date of Outgoing

Comments: Enclosures filed in Oversize Attachments # 14331

Keep this worksheet attached to the original incoming letter.  
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Prime Subject Code: PU \_\_\_\_\_ Secondary Subject Codes: JU 003 \_\_\_\_\_  
PR 011 \_\_\_\_\_  
FG 006-01 \_\_\_\_\_

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- P - Photo
- R - Report
- S - Sealed
- T - Telegram
- V - Telephone
- X - Miscellaneous
- Y - Study

CORRESPONDENCE BACKING SHEET  
WHITE HORSE

434374 *ck*



**FLORIDA INTERNATIONAL UNIVERSITY**

BAY VISTA CAMPUS AT NORTH MIAMI • NORTH MIAMI, FLORIDA 33181 • (305) 940-5850

SCHOOL OF PUBLIC AFFAIRS & SERVICES  
CRIMINAL JUSTICE DEPARTMENT

Aug. 5, 1986

Peter Wallison  
Counsel to the President  
The White House  
Washington, D.C. 20500

Dear Mr. Wallison:

I called the White House today and was given your name as the chief advisor to the President on matters relating to criminal justice. I am taking this opportunity to notify the White House of the publication of my forthcoming book, The Myth of a Racist Criminal Justice System, in mid-October. As the enclosed announcement indicates the book is a survey/critique of over 700 sources dealing with racial discrimination and the criminal justice system. The book concludes that racial discrimination is neither pervasive nor systematic. I think you will also be interested in Chapter Two which examines definitional problems with such terms as racism, discrimination and prejudice.

I enclose page proofs from the first four chapters to give you an idea of the format/content of the book. I will be happy to send you a copy around Oct. 15 if you so request.

Sincerely,

*Wm Wilbanks*

Dr. William Wilbanks, Professor  
Dept. of Criminal Justice  
Florida International University

Mailing Address:  
6639 S.W. 116 Pl. #H  
Miami, FL 33173

Phone: 305-595-6102

YOU MAY WANT TO SHARE ONE OF THESE CARDS WITH SOMEONE WHO MIGHT BE INTERESTED IN THIS BOOK.

THE MYTH OF A RACIST CRIMINAL JUSTICE SYSTEM

PUB. BY BROOKS/COLE, DIV. OF WADSWORTH, 224 PAGES BY  
WM. WILBANKS, Ph.D., FLORIDA INTERNATIONAL U.

THIS BOOK IS A CRITIQUE OF RESEARCH THAT EXAMINES THE POSSIBLE EXISTENCE OF RACIAL DISCRIMINATION IN THE CRIMINAL JUSTICE SYSTEM FROM ARREST TO PAROLE. IT IS INTENDED FOR UNDERGRADUATES, CRIMINAL JUSTICE PRACTITIONERS AND LAYPERSONS AND AVOIDS TECHNICAL JARGON.

AVAILABLE FROM MOST BOOKSTORES BY MID-OCT, 1986  
OR ORDER FROM BROOKS/COLE: 1-800-354-9706 (APPROX \$16)

100 070 -1 11 1: 30

1986 AUG -7 PM 1: 29



WILLIAM WILBANKS, Ph.D.  
ASSOCIATE PROFESSOR  
School of Public Affairs and Services  
Criminal Justice Department

FLORIDA INTERNATIONAL UNIVERSITY  
BAY VISTA CAMPUS, AC-1, 281-A  
N. MIAMI, FLORIDA 33181  
TELEPHONE (305) 552-2501  
(305) 940-5850  
HOME (305) 595-6102

WILLIAM L. WILBANKS

Abridged Resume

August 1, 1986

Mailing Address: Dr. Wm. Wilbanks, 6639 S.W. 110 St., Miami,  
Miami, FL 33173 or Dept. of Criminal Justice, Florida  
International University, AC-1-284, Bay Vista Campus, N.  
Miami, FL 33181

Phone: 305-595-6102 (home) 305-940-5851 (work)

Personal Data: Birthdate--May 30, 1940; Marital Status--single

Education:

Ph.D. School of Criminal Justice, State University of New  
York at Albany, 1975 (in Criminal Justice)  
M.A. School of Criminal Justice, SUNY, Albany, 1972  
M.A. Sam Houston State U., 1972 (in criminal justice)  
M.A. Abilene Christian College, 1966  
B.A. Abilene Christian College, 1963  
H.S. Belton, Texas, High School, graduated 1958

Academic Record and Honors:

Graduated as valedictorian of high school class with average  
of 98.5  
Graduated summa cum laude with B.A. with G.P.A. of 3.83  
(4th in class of 350)  
Completed three M.A. degrees and Ph.D. (all graduate work)  
with grade point average of 4.0 (i.e., all A's)  
Maintained a perfect 4.0 G.P.A. for a total of 200 semester  
hours (last 2 years as undergraduate and all grad. work)

Professional Honors:

In 1984 chosen as one of four recipients of an award from  
Florida International U. for outstanding scholarship and  
research (from over 600 eligible faculty). The award was  
based on the 1983-84 academic year and was based on a  
publication record in that year that included two  
books, two journal articles, three book chapters, two  
newspaper editorials and five books reviews.  
In 1971 chosen by the N.Y. state judiciary as one of nine  
persons to comprise a citizen's group empowered by the  
state to investigate the 1971 riot at Attica state  
prison.

Employment Record:

Taught at Florida International U. since 1973. Also  
taught in graduate programs at Sam Houston State U. and  
State U. of N.Y., Albany  
Promoted to Professor at F.I.U. in 1986.

Teaching Areas:

Nature and causes of crime, homicide, victimology, homicide,  
race and crime, women and crime, elderly and crime

Published Materials:

Published 5 books including Attica, Murder in Miami, Elderly  
Criminals, and The Myth of Racist Criminal Justice  
System.  
Published 16 articles in refereed journals  
Published 9 chapters in edited books  
Published 10 articles in newspapers  
Published 32 book reviews in journals  
Presented 26 papers at regional/national conferences  
Presented 7 papers at international conferences

Areas of Expertise for Speeches/Presentations

The Myth of a Racist Criminal Justice System; the elderly  
criminal; homicide in Dade (Miami) County, 1917-1983; women  
who kill; the Attica prison riot of 1971; guns and crime;  
alcohol and crime, the female offender; Is violent crime  
intra-racial?

THE MYTH OF A RACIST CRIMINAL JUSTICE SYSTEM

By William Wilbanks, Ph.D.

To be published by Brooks/Cole  
in Winter of 1986

The Myth of a Racist Criminal Justice System is a guide to and critique of the research literature on the extent of racial discrimination in the Criminal Justice System from arrest to parole. The book concludes that there is no evidence of pervasive or systematic discrimination from arrest to parole. It is written in non-technical language for students, those who work in the criminal justice system, and the public. Each of these three groups often hear the charge of racism against the criminal justice system but have no guide to the research which addresses this question. Police officers and administrators, prosecutors, judges, and prison officials will find the book to be useful since it provides a guide to a defense of the criminal justice system in language that is non-technical. The book should also be of particular interest to blacks (whether students, practitioners in criminal justice, or laypersons) since it provides another perspective on the issue of racism from that to which they have been exposed.

The Myth of a Racist Criminal Justice System would serve as an excellent supplementary text for courses such as "Introduction to Criminal Justice" and as a primary text for courses such as "Race, Crime and Criminal Justice" or "Criminal Justice and Minorities". The book is a comprehensive review of the published literature on the treatment of blacks by the criminal justice system (by the police, prosecutors, judges, and prison and parole officials). The book includes an indexed bibliography of over 700 articles and books and over 450 reference citations/footnotes to guide the student wishing to do further research on one of the many topics covered in the book. The multitude of references cited also provides the instructor with a list of articles/books that can be assigned to students for reading so that the literature on a particular topic can be independently assessed by the class and compared to the conclusions presented by the author. Thus the book can be utilized in graduate seminars on criminal justice and/or research methods.

The book explores reasons why blacks and whites differ in their views of the extent of racism in the system and critiques several definitions of racism and racial discrimination before proposing a new definition based on attribution theory. One chapter ("Difficulties of Proving Discrimination") explains in layman's terms why there is so much research on racial discrimination without any consensus as to the impact of discrimination. Separate chapters on the police, prosecutors, judges and prison present claims found in the literature as to the decisions that are impacted by racism. These chapters then proceed to critique the literature addressing each claim by listing several arguments/studies that tend to refute the claim of racial discrimination. For example, the chapter on the police presents and refutes claims that the police are guilty of racial discrimination in deploying manpower; that police arrest statistics as a whole are the product of racial bias; that arrest decisions by individual police officers are impacted by racial bias; that police "brutality" disproportionately occurs against blacks; and that the police have a "different trigger finger" for blacks in the use of deadly force.

Claims presented and refuted against the prosecutor/courts are that blacks are more likely to be denied bail and thus detained in jail before trial; that blacks are more likely to be given a severe charge; that blacks are less likely to receive an attractive plea bargain; that blacks are less likely to have effective counsel; that blacks are systematically excluded from juries due to racism; and that blacks are more likely to be convicted. Claims presented and refuted against judges are that blacks are more likely to be given a jail or prison sentence rather than probation and that jail/prison sentences given to blacks are longer than those given to whites. Attention is also given to the claim that blacks are discriminated against in the imposition of the death penalty in that those who kill white victims are more likely to be given death. Claims presented and refuted against prison and parole officials are that the fact of gross disproportionality of blacks vs. whites in prison is indicative of racism; that blacks are segregated in prison due to racism; that treatment and work programs in prisons are assigned in a racially discriminatory manner; that the prison discipline process is characterized by racial discrimination; that racial hostility is encouraged by staff; and that blacks are less likely to be paroled.

YOU MAY WANT TO SHARE ONE OF THESE CARDS WITH SOMEONE WHO MIGHT BE INTERESTED IN THIS BOOK.

THE MYTH OF A RACIST CRIMINAL JUSTICE SYSTEM

PUB. BY BROOKS/COLE, DIV. OF WADSWORTH, 224 PAGES BY WM. WILBANKS, Ph.D., FLORIDA INTERNATIONAL U.

THIS BOOK IS A CRITIQUE OF RESEARCH THAT EXAMINES THE POSSIBLE EXISTENCE OF RACIAL DISCRIMINATION IN THE CRIMINAL JUSTICE SYSTEM FROM ARREST TO PAROLE. IT IS INTENDED FOR UNDERGRADUATES, CRIMINAL JUSTICE PRACTITIONERS AND LAYPEHSONS AND AVOIDS TECHNICAL JARGON.

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C H A P T E R

1

## The Myth Examined

White and black Americans differ sharply over whether their criminal justice system is racist. The vast majority of blacks appear to believe that the police and courts do discriminate against blacks, whereas a majority of whites reject this charge. In Dade County (Miami), Florida, for example, a poll by a television station found that 97 percent of blacks believed the justice system to be racist and that 58 percent of whites rejected this charge.<sup>1</sup> This disparity in views between blacks and whites also appears to exist among those who work in the criminal justice system. A supplemental study for the National Advisory Commission on Civil Disorders in 1968 found that 57 percent of black police officers but only 5 percent of white officers believed that the system discriminated against blacks.<sup>2</sup>

Some black critics have suggested that the criminal justice system is so characterized by racism that blacks are outside the protection of the law.<sup>3</sup> Furthermore, many blacks believe that when whites speak of wanting justice, they really mean "just us" (blacks).<sup>4</sup> Another critic finds the criminal justice system to be more criminal than just.<sup>5</sup>

A sizable minority of whites, in contrast, believe that the justice system actually discriminates *for* blacks in "leaning over backward" for them in reaction to charges of racism from the black community, liberal white politicians, and liberal elements of the news media.<sup>6</sup> White police officers have reported often ignoring criminal activity by blacks out of a fear of criticism from the department, the black community, or the media. Since officers are rarely criticized for inaction, they find themselves tempted to overlook a situation that might lead to physical conflict and subsequent criticism.<sup>7</sup>

There is also evidence that some whites who work in the system may favor blacks because of the psychological tendency to fight off their fear that they might be prejudiced.<sup>8</sup> It is as if white practitioners were attempting to prove that they are not prejudiced against blacks by giving them the benefit of the doubt in marginal cases or actually

2

CHAPTER 1

being more lenient. Though there has been no research on the question, one might speculate that introspective whites (who question their own behavior) and white liberals (who presumably are sensitive to the criticisms of racial prejudice) would be more subject to this psychological phenomenon of reverse discrimination.

These contrasting perceptions by whites and blacks of the fairness of the criminal justice system have at least four important consequences. *First*, research indicates that blacks may turn to criminality or engage in more crime because of a perception that the criminal law and its enforcement are unfair and even racist. Davis suggested in 1974 that the belief by black men that the criminal justice system is racist or unfair produces a "justification for no obligation" to the law.<sup>9</sup> It is as if some blacks were saying, "I don't respect a system that is racist, and so I don't feel obliged to respect it."

The connection between a belief that the system is unjust and a denial of personal responsibility for breaking the law is sometimes made specifically by black authors. One black lawyer, for example, in suggesting that justice is a "skin game," wrote that "people steal because they have to; there are no other palatable choices."<sup>10</sup> Thus the suggestion is made that since the economic and justice systems are unfair and racist, blacks are justified in breaking the law. Another illustration of this view is the assertion by another black author that "racism is the single most damaging reality of the criminal justice system—a reality that is responsible for the disrespect, distrust, and fear that black people hold for the law."<sup>11</sup> Thus some blacks receive the message that they are not actually offenders when they commit a crime but victims of an unjust system. Certainly such a belief, whether true or false, is criminogenic.

*Second*, it is well known that many "civil disturbances" (or "riots" or "rebellions," depending on one's political views) are caused by a perception that the system is unfair and unjust.<sup>12</sup> A riot in Miami in 1980 grew out of a protest over a verdict of acquittal for white police officers who had beaten a black motorcyclist to death.<sup>13</sup> The Kerner commission, which investigated the civil disturbances in American cities in the 1960s, found a widespread belief among blacks that the criminal justice system was racist and concluded that this perception was one of the major causes of the violence.<sup>14</sup> If such perceptions exist, surely there is a need to critically examine their validity.

A black psychologist contends that the Miami riot, which resulted in the death of 17 people, was based on an incorrect view of the acquittal verdict.<sup>15</sup> The psychologist, Marvin Dunn, says that newspaper and television coverage left the impression with the public that the prosecution was certain to win and that the verdict came as a shock to both blacks and whites. Blacks then took to the streets to protest what they perceived as an obvious whitewash by an all-

white jury in Tampa, where the trial was held. Dunn maintains, however, that most lawyers who observed the trial believed that because of inconsistent testimony the state had failed to prove its case. He says it is unlikely that the presence of blacks on the jury would have made a difference, since there was clearly a reasonable doubt about the guilt of the officers. As he also notes, however, the presence of black jurors would have reduced the perception of an unjust verdict.

A black leader may even suggest to blacks on occasion that they have no control over their actions because the "fact" that the economic and criminal justice systems are unjust and racially discriminatory will inevitably lead to rioting. The head of the Urban League in Miami was quoted in the *Miami Herald* as suggesting that the "white power structure" had created an atmosphere of violence in the black community and that expecting riots not to occur was "too much to ask of any human being."<sup>16</sup>

Third, there is some evidence that the black view of the criminal justice system as racist and of the police as brutal and prejudiced has created hostility toward police officers, which has led in turn to reactive hostility by them. One author suggests that the reciprocal images of the two parties ("niggers" and "pigs") often cause simple encounters to become violent.<sup>17</sup> It is as if two gunslingers were approaching each other in a Western town, each expecting the other to be ready to shoot and therefore keeping his finger on the trigger.

This mutual expectation of violence does not always result in violence. But as Chapter Five indicates, demeanor is an important predictor of whether someone is arrested for a minor offense. The demeanor of many young black males is hostile (and, one might argue, for good reason) and thus subjects them to a greater likelihood of formal action by the police. The point is that the view of the criminal justice system (especially the police) as racist has produced hostility, which has in many cases resulted in police behavior that then justifies the racist label. In other words, the police behavior that blacks fear and expect is produced in part by that expectation.

Fourth, the recent white backlash to civil rights programs such as affirmative action and racial quotas may be due in part to a white perception that blacks complain about racism in a society that actually practices reverse discrimination (that is, favors blacks through affirmative action and quotas). The view of many whites that the criminal justice system actually treats blacks more favorably needs to be critically examined. Later chapters will mention several studies that appear to document instances of more favorable treatment of blacks.

In view of these important consequences of the sharp contrast in perceptions between whites and blacks, it is amazing that so little research has been done to examine (1) the origins of and reasons for the contrasting views, (2) the validity of the views, and (3) their conse-

quences. Though volumes have been written on the topics of racism and crime, the literature examining the connection between the two is sparse. Of the three topics listed above (origins, validity, and consequences), only validity has been addressed by a large body of research. Unfortunately, the research reporting on tests of possible racial discrimination in decisions by the police, the courts, and the prisons is found only in academic journals and remains unknown to the general public. Those who wish to become informed on the validity issue will find the studies reported in the literature to be difficult to understand, given their statistical content and given the lack of consensus among the researchers.

The public often views academics as irrelevant because of their tendency to write about topics of interest only to other academics. The public has little interest in reading, for example, about tests of sub-cultural theory or a validity check for self-report surveys. Rather, it is interested in data that would confirm or deny the charge that police activities and court decisions are racist. But for some reason academics have been reluctant to address topics that deal directly with the racial aspects of crime.

Academics often chastise the white public for example, for fearing an unfamiliar black person, since "everyone knows" that crime is intraracial and thus whites have more to fear from fellow whites than from blacks. Though the "fact" of intraracial crime has been assumed, little research has been conducted to test this assumption. A recent article, however, found that black offenders were more likely to select whites than blacks as victims in violent crimes.<sup>18</sup> The author expressed surprise that this finding had not been reported since the data were readily available (though "hidden" by the format of tables in the annual crime-victimization survey by the U. S. Department of Justice). It would appear that academics have little interest in exploring the racial aspects of crime. The public view that black areas are more dangerous for whites (or blacks) is viewed as prejudice by many criminologists, and yet research on the validity of such perceptions is almost nonexistent.

Perhaps criminologists are more out of touch with their lay audience than anyone realizes.<sup>19</sup> The theories that are the focus of most criminological texts—that is, conflict theory, labeling theory—are precisely those that students find unimportant or invalid. Many students leave criminology classes with their original views unaltered, since the views about cause that they are likely to espouse (permissiveness, poverty, mental illness, lack of faith in God) are not critiqued in class or in texts. They may come out of these classes knowing about anomic, differential opportunity, and so on, but their views of the causes of crime are unaffected by listening to and parroting back the theories that interest academics.

The research agenda of criminologists would be very different if the issues in the mind of the public were given priority. Surely the first priority in a "consumer-based" criminology would be to find out what issues were of greatest concern to the public. Though the public might not see any need to do research into "facts" that are known through common sense (for example, blacks might argue that any fool could see that racism permeates our society, including the criminal justice system, and whites might argue that any fool could see that affirmative action proves reverse discrimination), the public does appear to be vitally interested in certain issues whether or not it sees those issues as needing validation through research. Some of those issues would probably impinge on the connection between race and crime. For example, the following might appear near the top of the public's research agenda:

1. Are decisions by those in police, judicial, and corrections agencies racist? If so, would the infusion of more black police officers, prosecutors, judges, and wardens affect decision making? Do black police officers make racist decisions? Do black judges?
2. Is the white fear of black neighborhoods unfounded? Are whites more likely to be attacked in black neighborhoods than in white ones? Are blacks more likely to be attacked in white areas or in black areas?
3. Is an individual white more likely to be victimized by an individual white or by an individual black? Is an individual black more likely to be victimized by an individual black or by an individual white?

This book is written in the belief that many aspects of the question "Is the criminal justice system racist?" have not been addressed by criminologists and that the issue as a whole has not been addressed in a manner designed for consumers. Both laypersons and those who work in the criminal justice system can find nothing in the current literature to guide them in determining whether the system is racist. This book is intended to fill that void.

### Thesis of the Book

I take the position that the perception of the criminal justice system as racist is a myth. Since this assertion can be interpreted in many ways, it is necessary to specify what it means and does not mean.

First, I believe that there is racial prejudice and discrimination within the criminal justice system, in that there are individuals, both white and black, who make decisions, at least in part, on the basis of race. I do not believe that *the system* is characterized by racial

prejudice or discrimination against blacks; that is, prejudice and discrimination are not "systematic". Individual cases appear to reflect racial prejudice and discrimination by the offender, the victim, the police, the prosecutor, the judge, or prison and parole officials. But conceding individual cases of bias is far different from conceding pervasive racial discrimination.

Chapter Four ("Difficulties of Proving Discrimination") and subsequent chapters argue that the evidence at most decision points fails to show any overall racial effect, in that the percentage outcomes for blacks and whites are not very different. There is evidence, however, that some individual decision makers (for example, police officers, judges) are more likely to give "breaks" to whites than to blacks. It appears, however, that there is an *equal* tendency for other individual decision makers to favor blacks over whites.<sup>20</sup> This "canceling-out effect" results in studies that find no *overall* racial effect. It is important to note that though racial discrimination has occurred in numerous individual cases against blacks and whites, there is no *systematic bias against blacks*.

Second, the question of whether the criminal justice system is "racist" cannot be discussed until the term *racist* is defined. As Chapter Two ("Defining Racism") points out, some appear to see any black/white disparities as *prima facie* evidence of racism. Thus if blacks outnumber whites in prison at a ratio of 8:1 (this is the rate ratio, controlling for the fact that blacks make up only 12 percent of the U.S. population), that disparity is viewed as racism. By that definition the criminal justice system is racist, since that 8:1 disparity does in fact exist.

If one defines racism as a conscious attitude or conscious behavior by individuals that discriminates against blacks, however, there is little or no evidence that most individuals in the system make decisions on the basis of race. In short, the definition of racism often predetermines the answer to the question "Is the criminal justice system racist?"

Furthermore, it should be noted that the research discussed in this volume is concerned primarily with formal *decisions* (for example, arrest, conviction, sentencing) made by those in the criminal justice system. To argue that there is no systematic bias against blacks in formal decisions does not speak to the issue of whether the police are more likely to "talk down" to black citizens or to show them less respect. The fact that a police officer may call a 40-year-old black man a "boy" does not necessarily mean that the officer will be more likely to arrest that man (or, if he does, that his decision is based primarily on the racist stereotype). As two authors state, "Harassment of minorities by system personnel, less desirable work assignments, and indifference to important cultural needs could exist, but not be systematically reflected in formal processing decisions."<sup>21</sup>

The focus in this book on formal decisions by the criminal justice system that affect blacks should not be construed to mean that informal decisions (as suggested above) are not important. But the charge of racism is generally directed at the formal decisions that can result in the deprivation of liberty, and thus I will focus on those decisions. Also, researching the informal decisions (harassment, talking down) is much harder and is subject to personal biases by observers.

*Third*, the assertion that the criminal justice system is not racist does not address the reasons why blacks appear to offend at higher rates than whites even before coming into contact with the criminal justice system. It may be that racial discrimination in American society has been responsible for conditions that lead to higher rates of offending by blacks, but that possibility does not bear on the question of whether the criminal justice system discriminates against blacks.

An excellent illustration of how racial discrimination may have led to a greater likelihood of blacks' being involved in criminal activity can be found in the book *Brothers and Keepers*, an account of how two black brothers chose different directions. The author obtained a Ph.D. in English; his brother, Robby, received a life sentence for murder.<sup>23</sup>

No way Ima be like the rest of them niggers scuffling and kissing ass to get by. Scuffling and licking ass till the day they die and the shame is they ain't even getting by. They crawling. They stepped on. Mize well be roaches or some goddamn waterbugs. White man got em backed up in Homewood and he's sprinkling roach powder on em. He's steady shaking and they steady dying. You know I ain't making nothing up. You know I ain't trying to be funny. Cause you seen it. You run from it just like I did. You know the shit's still coming down and it's falling on everybody in Homewood. You know what I'm talking about. Don't tell me you don't, cause we both running. I'm in here but it's still falling on me. It's falling on Daddy and Mommy and Dave and Gene and Tish and all the kids. Falls till it knocks you down [p. 152].

He blew it. Not alone, of course. Society cooperated. Robby's chance for a normal life was as illusory as most citizens' chances to be elected to office or run a corporation. If "normal" implies a decent job, an opportunity to receive at least minimal pay-off for years of drudgery, delayed gratification, then for Robby and 75 percent of young black males growing up in the 1960's, "normal" was the exception rather than the rule. Robby was smart enough to see there was no light at the end of the long tunnel of hard work (if and when you could get it) and responsibility. He was stubborn, aggressive, and prickly enough not to allow anyone to bully him into the tunnel. He chose the bright lights winking right in front of his face, just beyond his fingertips. For him and most of his buddies "normal" was poverty, drugs, street crime, Vietnam, or prison [p. 220].

Thus the question of whether the criminal justice system is racist must not be confused with that of whether blacks commit crimes at a higher rate than whites because of discrimination in employment, hous-

ing, education, and so forth. It may be that racial discrimination produces a gap in offending between blacks and whites but that this gap is not increased as black and white offenders move through the criminal justice system. (That will be the position set forth in later chapters.) If the gap does not increase after the point at which offenses occur, the system cannot be held responsible for the gap that results at the end of the system (prison).

Universities in the United States are sometimes accused of being racist because their student enrollment or faculty does not have the numbers of blacks one would expect given the proportion of blacks in the population. Those universities so accused often respond that they are not responsible for the failure of prospective black students or faculty members to meet admission criteria. Though one can argue that society as a whole is responsible for inferior schooling for blacks that has resulted in their being "less qualified" for admission as students or faculty, surely it would be unfair to blame the universities for this problem. In my view the university is responsible, assuming good faith and effort in student and faculty recruitment, only for the treatment of minorities once they enroll or join the faculty. Likewise, the criminal justice system is not responsible, with respect to the charge of racism, for differing levels of offending blacks and whites. It is responsible for differential treatment once offending occurs.

*Fourth*, the assertion that the criminal justice system is not racist does not deny that racial prejudice and discrimination have existed in or even been the dominant force in the design and operation of the criminal justice system in the past. There is evidence suggesting that racism did permeate the criminal justice system in earlier periods of American history, especially in the South.<sup>24</sup> The evidence regarding northern cities, however, does not support the discrimination thesis. Roger Lane, perhaps the most prominent historian of U. S. criminal justice, found no evidence of systemic racial discrimination in the criminal courts of nineteenth-century Philadelphia "or indeed for those in any northern city in the same period."<sup>25</sup> But the question today concerns whether the operation of the system *at this time* is characterized by racial prejudice and discrimination. I believe that there is insufficient evidence to support the charge that the system is racist today.

*Fifth*, I am not suggesting that the nondiscrimination thesis has been proven by the existing literature. But surely the burden of proof rests on those who hold that the system is racist. Though I do believe that the weight of the existing evidence supports the nondiscrimination thesis (NDT) rather than the discrimination thesis (DT), I do not believe that the case for the NDT has been proven. The belief that the criminal justice system is racist is a myth in the sense that there is insufficient evidence to support this position.

## Organization of the Book

The following chapters address whether the criminal justice system is racist. Chapter Two explores the varying definitions of *racism* and how that term overlaps with *prejudice* and *discrimination*. The chapter also examines the extent to which blacks can be considered to be as racist as (or even more racist than) whites. It argues that the term *racist* is used and interpreted in so many different ways that a better approach is to abandon it and replace it with *racial prejudice* (an attitude) and *racial discrimination* (a behavior).

Chapter Three explores the origins of the contrasting perceptions by blacks and whites regarding racism in the criminal justice system. Both views—that the system is racist and that it is not—are “ignorant” in that both are based on nonscientific samples of cases and on cultural traditions that are part of the ideology of blacks and whites.

Chapter Four examines the difficulties that arise in trying to “prove” either the DT or the NDT. The public is generally not aware that social scientists have great difficulty in “proving” either thesis. The discussion of problems inherent in proving either position serves as an introduction to the chapters that follow, on the alleged practice of racial discrimination by the police, prosecutors, and so on.

Chapter Five explores whether the police practice racial discrimination in deployment patterns, in arrest statistics, in individual officers’ bias, in police brutality, and in the use of deadly force. For each of these five areas of concern involving possible racial discrimination by the police, the claims will be stated along with the supporting rationale and evidence supporting each charge. Each claim is followed by a number of arguments against it that suggest that the DT is more problematic than the NDT.

Chapter Six examines the extent to which the system of prosecution displays racial discrimination in the bail decision, the charging process, plea bargaining, the providing of legal counsel, the selection of jurors, and convictions. Again, for each of these processes the DT claim is stated, along with supporting rationale and evidence, and critiqued.

Chapter Seven focuses on the sentencing decision of the judge. It presents arguments suggesting that the claim of racial discrimination in sentencing is a myth. The evidence presented in this chapter involves the decision whether to incarcerate, the length of sentences, and the death penalty.

Chapter Eight examines the claims that prison and parole officials are guilty of racial discrimination in classification, treatment, discipline, and parole. This chapter also explores the extent to which racism (both white against black and black against white) exists among prison inmates.

Chapter Nine draws conclusions from the previous chapters, poses challenges to the DT, and attempts to suggest “where we go from here” with respect to research.

An appendix studies the processing of all felony defendants in two states, California and Pennsylvania, from arrest to final disposition. This rather technical study, which is referenced at several points earlier in the book, is included to demonstrate the lack of cumulative discrimination across decision points of the criminal justice system.

Next is a lengthy bibliography on race, crime, and criminal justice. Most of the books and articles are cited in the text. The bibliography is indexed by topic (for example, all citations labeled “J” refer to race and jail/prison) to make it easy to locate all the sources that relate to that topic.

## Summary

There is a sharp disagreement between blacks and whites over whether the criminal justice system is racist. The nearly unanimous perception of blacks that the system is racist is important in view of the evidence that this perception has (1) generated more criminality, (2) caused civil disorders, (3) led to hostility by blacks against the police and reactive hostility by the police against blacks, and (4) led to a white backlash that perceives blacks as claiming racism in the face of facts that indicate favoritism for blacks.

The thesis of this book is that the criminal justice system is not racist. First, there is no doubt that there is racial prejudice and discrimination in the criminal justice system, in that there are individuals, both white and black, who make decisions partly on the basis of race. But the system is not characterized by racial discrimination against blacks. Second, the view that the criminal justice system is racist is problematic in view of the myriad definitions of the term *racist* and is valid only if one accepts the view that racism is proven simply by blacks’ being disproportionately represented at arrest through prison.

Third, the assertion that the *criminal justice system* is not racist should not be confused with the issue of whether blacks commit more crimes at a greater rate than whites because of discrimination by the *sociopolitical system*. Fourth, the denial of a racist justice system at the present time does not deny the existence of systematic racial prejudice and discrimination in the past in designing and operating the system. Fifth, the assertion that the belief in a racist system is a myth does not suggest that the opposite thesis (the NDT) has been proven. This book suggests that neither thesis has been proven. The DT is a myth in the sense that evidence for this thesis is lacking and that the DT is more problematic than the NDT given the existing evidence.

## Notes

1. Reported by WPLG-TV in Miami on April 29, 1981.
2. The study was by Rossi et al., "Between White and Black: The Faces of American Institutions in the Ghetto," and is quoted in Jacobs and Cohen (1978, p. 172).
3. T. Jones, 1978, p. 387.
4. The quotation "just us" is from Richard Friar as cited in a speech by Sterling Johnson at an Urban League symposium. See Johnson, 1977, p. 161. In a similar vein, a black police officer is quoted by Johnson (1977, p. 164) as having said that "justice is a statue in Foley Square that the pigeons shit on."
5. Wright, 1977, p. 205.
6. Porter and Dunn, 1984, p. 176.
7. Porter and Dunn, 1984, pp. 177, 184.
8. Dutton and Lake, 1973, p. 95. They hypothesize "that if a white man thinks racial equality is desirable and racial discrimination is not, he probably wants to think of himself as a person whose behavior is consistent with these values. When such a person finds himself in an interpersonal situation with a member of a minority group whom he perceives as having been discriminated against, then any failure on his part to comply with the requests of this minority group member may carry with it cues of an underlying prejudice which will prove threatening to the values or self-image of this person. . . . The white's desire to avoid these threatening cues from his behavior may result in his treating the minority group member more favorably than another white in the same situation" (p. 95).  
Dutton and Lake (1973) concluded in a study of giving to white and black panhandlers that the white subjects who were threatened with the possibility that they might be prejudiced behaved more altruistically toward black than white panhandlers. "Reverse discrimination, then, is viewed as an attempt by whites who think racial prejudice is undesirable and who are threatened by the possibility that they themselves might be prejudiced to prove to themselves through their behavior toward a black that they are not prejudiced" (p. 99).  
Kluegel and Smith (1982) found that belief in widespread reverse discrimination is related to people's perception of their own opportunity, to their ideology of stratification, and to feelings of relative deprivation.  
Lewis, Balla, and Shanak (1979) found some evidence of white clinicians' "leaning over backward" to give preferential treatment to black juveniles.  
Owens (1980), a black author, agrees that some whites may lean over backward "to convince themselves or others that they are not prejudiced" (p. 74).
9. Davis, 1974.
10. Moore, 1973, p. 11. Though there appears to be no literature attempting to replicate or expand on Davis's thesis ("justification for no obligation") there is considerable literature on internal versus external locus of control for blacks and whites. Some have suggested that because of discrimination blacks may believe that they "don't have a chance," that they are thus "pawns" of the socioeconomic system, and that they are simply the product of their environment. However, Farley and Sewell (1975), found that black delinquents were not more external in perceived locus of control than black nondelinquents. But there appears to be some support for a class link to internal versus external locus of control; that is, those who are poor are less likely to believe that they control their environment. See Farley and Sewell, 1975, pp. 391-392; and Langer, 1983.
11. The quotation is from D. Georges-Abeyle in an introduction to comments by a black judge. See Crockett, 1984, p. 195.

12. Justice, 1969.
13. Porter and Dunn, 1984.
14. National Advisory Commission on Civil Disorders, 1968.
15. Porter and Dunn, 1984, pp. 198-199. Dunn made more explicit observations as a guest lecturer in my class at Florida International University in May 1985. He said that if all the members of the jury had been black and devoted members of the NAACP who judged the case on its merits, they would have returned a verdict of not guilty, since it was clear to anyone involved with the trial that there was reasonable doubt.
16. Wilbanks, 1984b.
17. The quotation is from Stark, 1972, p. 98. On the danger of mutual stereotypes, reciprocal images, and the self-fulfilling prophecy see Toch, 1969, 1975; Foster, 1974; and Shaver, 1983, pp. 134-137.
18. Wilbanks, 1985a.
19. One criminologist suggests that the consumer has fared poorly from the services of the criminal justice system and that criminologists and the system need to be more sensitive to their needs. See Wilkins, 1984.
20. See Gibson, 1978, and the discussion and notes on the canceling-out effect, in Chapter Four of this text.
21. The quotation is from Zimmerman and Frederick, 1984, p. 327. On this point see also Reiss, 1980, p. 277.
22. A survey of explanations for this apparent gap is given by Wolfgang (1971) and Wolfgang and Cohen (1970).
23. Wideman, 1984.
24. There are numerous discussions of the design and operation of the criminal justice systems in the South after the Civil War to subjugate blacks under a new type of servitude (that is, the prisons). See Adamson, 1983; Hindus, 1976; Brown and Steiner, 1969; Carper, 1964; Cahalan, 1979; Mancini, 1978; Rafter, 1985; and Sellin, 1976. A fuller discussion of leasing in southern prisons is given in Chapter Eight of this text.
25. Lane, 1986. In Chapter Three, "On the Uses of Criminal Statistics: Philadelphia Justice, Black and White," Lane also says that the criminal courts in Philadelphia, New York and Boston actually gave shorter sentences to blacks than they did to whites toward the end of the nineteenth century. Lane also found that in Philadelphia blacks were less likely than whites to be convicted of interracial homicides and that, until the very end of the century, blacks were far less likely than whites to be hanged for murder. The studies he cites are all Ph.D. dissertations: Steinberg, 1983 (a study of Philadelphia); Epstein, 1981 (a study of Philadelphia); Kuntz, 1978 (a study of New York, Boston, and Philadelphia); and Naylor, 1979 (a study of Philadelphia). Chapter Nine of this text suggests that the failure to find evidence of the DT in the criminal justice systems of nineteenth-century northern cities when there was evidence of racial discrimination in society is problematic for those who maintain today that there must be racial discrimination in the criminal justice system since there is discrimination in society.

## Defining Racism

Though it is quite common to see charges of racism in the media and in the academic literature, it is rare to see the term defined.<sup>1</sup> Those who make such a charge assume (and often state) that demands to define the term are simply a diversion from the issue, because "everyone knows what racism means." Those who deny the charge of racism generally do so without even having attempted to determine just what the accuser meant by the use of the term *racism* in the charge. It is as if those denying the charge were saying, "Whatever it means, I don't do 'it.' I'm a fair-minded person." Those who deny being racists may think of racists as members of the Ku Klux Klan, and they know they are not "that kind of person."

Discussion of this issue can never be "educated" until both those who make the charge of racism and those who deny it recognize each other's definition of that term. The confusion begins with the failure to differentiate among three words: *racism*, *prejudice*, and *discrimination*. The dictionary definitions of these are:<sup>2</sup>

*prejudice*—"an adverse judgment or opinion formed beforehand or without knowledge or examination of the facts," or "irrational suspicion or hatred of a particular group"

*discrimination*—"an act based on prejudice"

*racism*—"the notion that one's own ethnic stock is superior"

Thus, according to the dictionary, prejudice is a bias against a particular group. That bias may or may not arise out of a racist belief that one's own group is superior. Racism is a type of prejudice and, at least by definition, has no necessary relationship to any act of discrimination. Racism is (according to the dictionary) a belief and not an act.

The dictionary does not necessarily contain a correct or official definition of a word, however. It represents only what the editors view as a consensus definition. The usages of the terms *racism* and *racist* range widely and often differ markedly from the dictionary definition given above. Such usages are not necessarily wrong; they simply have

not achieved consensus. Some people appear to equate the term *racism* with racial prejudice or bias and thus suggest that any prejudgment or bias against another ethnic group constitutes racism.<sup>3</sup> Others suggest that racism occurs only when the racial bias is accompanied by an act, and thus they appear to equate racism with racial discrimination.

Still others suggest that racism can occur without a conscious decision to discriminate against an ethnic group.<sup>4</sup> If the effect of a decision is that blacks are placed at a disadvantage, for example, then the decision may be racist regardless of the intent. If blacks are more likely to fail a literacy test given to high school students as a requirement for graduation, the use of the test may be viewed as racist, not because the intent was racist but because the effect was racist. This is an example of institutional racism, which suggests that procedures of institutions reflect racism if their effect is that blacks are overrepresented in negative outcomes.<sup>5</sup> It also appears that some even use the term *racism* to apply to decisions treating blacks *less* harshly than whites, since this leniency is viewed as being the result of paternalistic racism. (See the section in Chapter Four entitled "Is Leniency Discrimination?" for a discussion on this topic.)

One writer goes beyond the concept of institutional racism to suggest an even broader concept, "cultural racism."<sup>6</sup> Cultural racism involves the dominance of the white culture in the economic and social spheres, with the result that blacks must sacrifice elements of their own culture to be successful financially and socially. The dominance of the Protestant Ethic in American society represents cultural racism, since "black people in this country as a group show less preference for delayed reinforcement than do whites. This fact alone accounts for some portion of the disadvantage experienced by blacks in America."<sup>7</sup>

Thus definitions of racism range from a conscious attitude by an individual to an unconscious act by an institution or even to the domination of society by white culture. The usages vary so widely that it should be clear that no effective communication can take place between two persons or groups without specifying the definition of the term that each is using.

It appears at times that the term *racism* is used more as a political strategy than as a word intended to describe a state of mind of the "accused." Though it is incorrect to assert that the charge of racism is used only as a ploy to put someone on the defensive, this would often appear to be the case. The ABC television program "Nightline" conducted a debate in January 1984 over the wisdom of building more prisons. An advocate of community alternatives suggested that the backers of building prisons were motivated by "subtle racism." It is difficult to argue with anyone who accuses you of subtle (or unconscious) racism, since that term is never defined. And if one argues that there was no intent to place blacks at a disadvantage, the "accuser" might argue that the intent was unconscious or subtle.

Thus the term *racism* is sometimes used to accomplish some political goal (for example, defeat of a prison construction bill). The use of the term as a strategy is similar to the use of anger to place someone on the defensive and thus to gain compliance with one's wishes. In a recent book Tavis has argued that aggression is a strategy, not an instinct, and that people learn to use anger to control others.<sup>8</sup> This is not to say that everyone who lodges a charge of racism is simply using a ploy to gain a political advantage. But it is clear that this charge is sometimes used as a strategy. One test to determine the sincerity of such a charge is to ask the accuser to define the term *racist* and to explain how that term is applicable to the issue at hand. If the accuser will not or cannot define the term and refuses to explain its applicability to the issue, it is probably being used as a political ploy.

Since the term *racism* is generally introduced by those who claim that the system is racist (the "accusers"), that "side" has defined the term in a manner that best suits its position. The defining of terms by only one side in the debate has been unfortunate, because the more problematic aspects of the definition have not been addressed. Two questionable aspects of the term *racism* as it appears to be defined by accusers are its limitation to whites (the double standard) and its equating of racial effects with racism.

### The Double Standard

The use of the term *racism* by accusers implicitly suggests that the term applies only to whites (that is, that blacks are not generally or cannot be racists). In short, there appears to be a double standard. Let us note some examples of this double standard of racism:

1. A killing by a white police officer of a black youth is often termed racist, whereas the killing of a white police officer by a black is rarely so designated. It is often pointed out that approximately 50 percent of the victims of police killings are black and that this fact alone presents a prima facie case of racism. But it is seldom pointed out that more than 50 percent of the police officers who are killed are victims of blacks.<sup>9</sup> Why does this fact not represent a prima facie case for black racism against police officers? Defenders (those who deny that the killings of police officers by blacks are racist) would argue that blacks may kill officers out of fear for their lives and not because of racism.<sup>10</sup> But the police would argue that they kill a disproportionate number of blacks out of fear for their lives, since blacks are more likely to threaten them. Why don't the police who shoot blacks receive the same benefit of the doubt as the blacks who shoot police officers?

Black police officers have been shown to use deadly force against other blacks more often than white officers do.<sup>11</sup> Does this finding prove that black officers are more biased against blacks than are white

officers? The explanation, instead, lies in the tendency to assign black officers to "high-crime" (that is, black) areas, where they are more likely to encounter blacks who threaten them. But that explanation is similar to the one the police make in trying to defend the disproportionate shooting of black victims by white officers (that is, that blacks are more likely than whites to threaten white officers). There appears to be a double standard of racism in that whites are seen as guilty when blacks are disproportionately shot by officers, whereas blacks are not guilty (of racism) when officers are shot by blacks.

2. When police officers (mostly white) close ranks and refuse to "fink" on their fellows in cases of police misconduct, the closing of ranks is considered racist if the victim of the misconduct is black. If the black community closes ranks and refuses to fink on another black who has committed a crime against a white, however, that action is not considered to be racist. After the 1980 Miami riot mentioned in the previous chapter, an elderly black woman stepped forward to testify at two trials against several black youths who had beaten whites to death. As a result of her testimony she received threats on her life, was constantly accused by blacks of being a "traitor," and eventually had to move out of the community. To my knowledge no one has called the behavior of her black neighbors racist. But why not? Is this not a double standard? One might ask whether a white citizen would be harassed and threatened for testifying against a white mob that had victimized a black.

3. In my criminal justice class on the nature and causes of crime I show a film in which several sex offenders in a state program explain the reasons for their offenses. In the discussion that follows I always ask the students if they have seen any suggestion of racism in the film. Rarely does anyone suggest that the film is racist, because all of the approximately twenty sex offenders are white. I then ask the students what their answer would have been if all the sex offenders (or even the majority) had been black? Some students respond that they would have argued that the film was racist, since the suggestion would have been that sex offenders are largely black. But arrest figures in the FBI's *Uniform Crime Reports* of 1984 indicate that approximately 50 percent of those arrested for sex offenses are black. Is not the suggestion of a film that all or most sex offenders are white then incorrect and even racist, in that it presents a distortion of the character of sex offenders with respect to race? In this case it appears that white students, who make up approximately 80 percent of my classes, have been so socialized to see racism in terms of blacks as victims that they fail to see that whites can be viewed as victims of racist imagery as well.

In a similar vein, a study of the characteristics of criminals on television dramas found that blacks were underrepresented with respect to their numbers in the general population and among arrest figures.

Although blacks were found to have been written into television programs roughly in proportion to their distribution in the actual population (that is, 10 to 12 percent of all characters), they made up only 10 percent of the perpetrators of violent crime (though in "real life" blacks account for 46 percent of all arrests for such crimes) and only 3 percent of TV killers.<sup>13</sup> Does this "distorted" view of real black (and white) criminality represent racism, in that whites are unfairly represented as being more likely to kill than are blacks? And since such decisions may be conscious or unconscious and involve individuals (writers, producers) and institutions, perhaps such a distortion represents institutional racism against whites.

4. A recent book on rape-prevention strategies by Bart and O'Brien<sup>13</sup> utilizes a double standard of racism. The authors are apologetic in their presentation of black-on-black rape and remind the reader that many feminists believe it is racist to report black rapists to the racist police. They even had a black female psychiatrist review the section of their book dealing with black-on-black rape to see if their discussion of this topic was racist. And yet the authors completely ignore the problem of black-on-white rape. Though no direct figures are given, it appears that more than 50 percent of the white women were raped by blacks. The authors evidently do not consider this fact relevant to the issue of racism even though the pattern is interracial. One wonders how the authors would characterize rapes of black women if more than half were by white offenders. It would appear that simply *talking about* black criminality is, in their view, racist, whereas *actual offending* by blacks across racial lines is not racist. Surely this represents a double standard of racism.

5. The term *racist* is often used when discussing the manner in which the death penalty is imposed in the United States. The *Dallas Times Herald* conducted a study of the imposition of the death penalty from 1977 to 1984 in the United States, but especially in Dallas County and the state of Texas.<sup>14</sup> The reporters concluded that their data indicated the presence of a "subtle racism" in the use of the death penalty in Texas and most other states.

They noted racial disparities in probabilities of receiving the death penalty. The study found that 11.1 percent of the killers of whites in the country were sentenced to death, compared with 4.5 percent of the killers of blacks. The authors concluded that this pattern was racist in that it demonstrated that white life was viewed as more valuable than black life. They did not mention the fact (though the data are found in their tables) that white killers were actually more likely than black killers (11.1 percent to 7.3 percent) to receive the death penalty. Obviously, the racial disparity that favored black offenders was ignored, and the disparity that disfavored black victims was made the focus of the article.

Furthermore, the newspaper did not point out (though the data could have been obtained from its tables) that whites who had killed whites were more likely than blacks who had killed whites (11.5 percent to 10.4 percent) to be on death row. Their tables also indicate, though they fail to mention, that whites who killed blacks were more likely to reach death row than blacks who killed whites. The double standard of racism is clear: disparity that disfavors blacks is indicative of racism, and disparity that disfavors whites is not.

6. Pekkanen chronicles the case of a white woman who reported having been raped by a black man in Washington, D. C.<sup>15</sup> The jury comprised ten blacks and two whites, and the defense attorney reminded the predominantly black jury of many incidents in the past involving the "railroading" of black men accused of having raped white women. After the jury had acquitted the defendant, one black juror told the prosecutor that pressure had been put on two black jurors who were holding out for a guilty verdict. Two other black jurors were said to have shouted "traitor" at these two, and eventually the holdouts switched to acquittal.

If the above case had involved a white defendant, a white jury, and a black defendant, many would have accused the defense attorney of a "racist" appeal to the prejudices of the jury and would have characterized the verdict as racist. But I doubt if many would call the verdict in this case racist. Doesn't this failure constitute a double standard of racism? Wasn't this verdict based on race? Then why wasn't the verdict "racist"?

7. In December 1984 Bernhard Goetz shot four black youths on a New York City subway car and became known nationwide as the "subway vigilante." The defense attorneys for one of the wounded youths have suggested that Goetz was racist, in that he shot the four because they represented some type of "black peril" and perceived all black youths as menacing and threatening, even though these youths were only asking for money. This stereotype of young black males as likely robbers is said to have led to Goetz's belief that his life was in danger; thus his perceived need for self-defense was based on a racist stereotype. This may be true, but no one—including Goetz, since his stereotype may be unconscious—will ever know if race played a part in his actions.

It is interesting, however, that no one has asked similar questions about the reasons for the actions of the four youths. Why did they choose Goetz as their target for harassment and possible robbery? Out of the many people on that subway car they chose Goetz. Maybe this was because he was physically isolated from the rest of the passengers or because he looked like the kind of person (that is, a wimp—and his TV appearances do suggest this) who would submit to them. But it is also possible that they enjoyed harassing whites, since by ganging up on

a white they could reverse the traditional dominant position of whites over blacks and make this particular white "squirm." In short, it may be that they enjoyed playing this "intimidation game" on whites. If this is the case, were their actions racist? (One should keep in mind that the four black youths chose Goetz, he did not choose them. He did react to them.) It would appear that many people are more interested in exploring the conscious and unconscious motivations of Goetz than those of the four youths who chose him. Does this represent a double standard of racism?

8. A recently published article indicates that in the violent crimes of assault, rape, and robbery black offenders in the United States select white rather than black victims more than 50 percent of the time.<sup>16</sup> By contrast, white offenders choose white rather than black victims in more than 96 percent of their criminal attacks. Before the publication of this research criminological texts had stated that violent crime was primarily intraracial. It appears that this is not the case from the perspective of choice of victim by black offenders. And yet it is doubtful that anyone will suggest that black offenders are racist in selecting white victims. But if the research had indicated the opposite (that is, if white offenders had been found to select black rather than white victims) there would have been a multitude of public statements suggesting that white criminals were racist. Why is such an outcry not heard now with respect to black offenders? The answer is that the public (both black and white) has been socialized to see racism as a one-way street (the double standard).

It is not surprising that black offenders choose white victims in robberies, since whites are more likely to have money. But it is difficult to understand why black offenders are more likely to choose white victims in assault and, especially, rape. The literature of rape suggests that rapists violate women sexually to humiliate and degrade them rather than for sex.<sup>17</sup> If this is true, the motivations of black rapists need to be reexamined since for some reason these men are more likely to humiliate and degrade white women than black women. Could this be because they are striking out at both women and white society when they choose white victims? And is there any doubt that white rapists would be termed racist if they were more likely to select black women as victims? Then why are not black rapists viewed as racists? The answer seems to be that in our society the term *racist* is reserved for white actors—thus the double standard.

The data showing black offenders to be more likely to choose white victims have been "hidden" for ten years by the format of tables in the reports from the National Crime Survey. If the data had indicated a tendency for whites to victimize blacks, is there any doubt that this fact would have been discovered and published ten years ago? I think not. I am not suggesting that the Department of Justice intentionally

hid these data, but I am suggesting that the "mind set" with respect to interracial crime is limited to acts committed by whites against blacks.

9. Press coverage and academic studies of riots are often characterized by a double standard of racism. In the 1980 Miami riot, eight whites were attacked by black mobs. The whites were beaten, mutilated, burned, run over by cars, and killed.<sup>18</sup> Five blacks were killed by the police or private security guards in the same disorders, and three blacks were killed by white citizens firing from a pickup truck. The shootings by the whites have often been termed racist, since the occupants appear to have been driving around shooting into crowds of blacks. Likewise, it is not uncommon to hear the killings of the blacks by officers characterized as racist.

Seldom if ever, however, have I heard the attacks by the black mobs termed racist. And yet it would appear that these whites, innocently driving through a black area, were simply at the wrong place at the wrong time. They did nothing to provoke the mobs. They were killed because they were white and because blacks were attacking whites. How can such killings be termed anything but racist? And yet many would resist calling those killings racist because, we are told, the mob was simply reacting to racism (that is, an unjust verdict in the trial for the killing of a black by police officers). Surely the term *racism* is more appropriate to describe those killings of the whites than the killings of the blacks (by whites), but the term was more often heard to describe the killings by the whites in the pickup than those by the black mobs. This represents a double standard of racism.

Killings of whites by blacks in riots are probably not what the California legislature had in mind when it enacted a 1978 law creating a special category of murder for "racist" killings.<sup>19</sup> And yet since anyone who killed someone because of his or her race would be committing this new capital offense, the law would surely apply to interracial killings during riots. The law was intended to cover Ku Klux Klan types who kill blacks out of racial hatred, but were not the riot deaths in Miami caused by black mobs just as reprehensible? The fact that the California legislators did not have such killings in mind is evidence of the extent to which the double standard of racism permeates our society.

A similar bill was introduced in the U.S. House of Representatives in 1985.<sup>20</sup> It would require the federal government to collect data on crimes of violence that were "committed to manifestly express racial, ethnic, or religious prejudice." The bill was written to deal with such crimes as church and synagogue desecrations and cross burnings. It does not seem to have occurred to the authors that "hate crimes" might include the considerable number of black-on-white crimes discussed earlier.

10. In September 1983 a white woman was attacked by a crowd of black males after her car stalled in a black area of Miami. A white man

saw the attack and attempted to intervene. Although his jaw was broken, he succeeded in rescuing the woman. The rescuer was widely hailed as a hero for having braved the hostile crowd to save a stranger.

Two weeks later, however, a white Unitarian minister suggested in an article in the *Miami Herald* that the incident was racist, not because a black mob had attacked a white woman but because the rescuer had somehow been racist in trying to protect white womanhood. She also contended that the newspapers and television stations were racist in focusing on a black-on-white incident and that the president of the United States was racist in that he had telephoned congratulations to the white racist rescuer.<sup>21</sup> The author did not suggest that the black mob was racist for having attacked a white woman and her rescuer. One can only speculate whether the author would have suggested a racial motive if a black had been attacked by a mob of whites. In the view of the minister, racism is something whites do to blacks. Certainly this represents a double standard.

11. A final illustration of the double standard of racism involves the tendency of members of one group, whether ethnic, political, or religious, to assign deterministic causes to the failures of its own members ("us") and nondeterministic causes to the failures of groups and individuals who are viewed as adversaries ("them"). Patterson cautions against the suggestion that black problems such as crime are really a "white problem," in that white action and inaction are responsible.<sup>22</sup> Such deterministic explanations (that behavior is determined by others rather than chosen) may have immediate political gains but serve as a two-edged sword.

If the high crime rate among Blacks and all the other problems of the group can be explained away in deterministic terms, then equally, the pronounced crimes of Whites against Blacks, both past and present, can and must be explained in deterministic terms. Sauce for the goose is sauce for the gander. . . . To excuse one's actions on deterministic grounds while condemning similar actions on the part of one's oppressor on morally autonomous grounds is both ethically unacceptable and, of itself, morally contemptible. It is unacceptable in the categorical sense that to accept a standard of judgment for oneself which is not applicable to others is morally irrational, since it is so patently unfair. . . .

Determinism, then, leads its black supporters into a trap from which there is no escape. To be consistent one must accept the fact that whites too are products of their environment and, as such, their exploitation of you and their racism can be explained away and excused in much the same way that black criminality and failure can be explained away and excused. In rejecting consistency and opting for the cheap righteousness of retributive condemnation, one accepts one's moral inferiority.<sup>23</sup>

The above illustration of a double standard in the assigning of causes for group and individual behavior serves as an introduction to a later section in this chapter, "A New Definition of Prejudice."

## Equating Racism with Disparity in Outcome

As mentioned earlier, some people use the term *racism* to describe situations in which there is a disparity in outcome by race though there may be no evidence of an intent to produce that effect. This usage of the term is generally called institutional racism. When blacks fail a high school competency test in disproportionate numbers, for example, the result is often attributed to institutional racism. The term *institutional racism* is problematic for several reasons. First, use of the term involves a double standard. No one suggests that a disproportionate number of blacks on a high school basketball team would represent institutional racism against whites (though one Texas judge did mandate that whites be added to an all-black high school team at an integrated school).<sup>24</sup> Moreover, the majority of rapes in prison are black on white,<sup>25</sup> and yet no one has suggested that the prison system is guilty of institutional racism against whites in that they are disproportionately victimized by blacks. Why is it that the term *institutional racism* is applied only when the negative outcomes affect blacks? One answer to this question is that a charge of racism or discrimination is an "ethical judgment made about disproportionality: discrimination is disproportionality that is not considered justifiable."<sup>26</sup>

Racial effects can be produced by a multitude of causes. Granted, racial discrimination is one of those possible causes; but it is not the only one. Disproportionate representation of blacks on basketball teams and failure lists could also be due to differential ability, differential interest in the activity, differential experience, differential cultural attitudes toward the activity, and so on. To claim that black over representation on failure lists rather than basketball teams is due to racial discrimination is to beg the question. The use of the term *institutional racism* assumes what one should be attempting to prove (that is, that racism has produced the racial disparity in outcome).

The use of the one term *racism* to apply to attitudes, actions, and results is confusing. It is like using the term *love* for friendly affection between friends, devotion to family, physical desire for the opposite sex, and devotion to God. Languages other than English have different words for each type of love. We should discontinue using the term *racism* for any attitude or action that might be viewed by anyone as being disadvantageous to blacks regardless of intent. What is needed is a new definition of prejudice that does not involve a double standard.

The term *institutional racism* has led to public policies that are problematic in that they are based on the assumption that racism created the problem and thus that government should intervene to protect the rights of minorities. Quotas and affirmative action goals in hiring and promotion became commonplace in the late 1960s<sup>27</sup> but are less common today. The shift away from quotas cannot be attri-

buted just to the conservative trend in the political climate and to the policies of the administration of President Ronald Reagan. The shift has come in part because of the problematic nature of quotas. Quotas assume that disparity in outcome is the product of institutional racism and can thus be overcome only by government intervention. But quotas create a new kind of racial discrimination (that is, against white males), and it is difficult to determine when they are an appropriate remedy (that is, when institutional racism is so ingrained that no other remedy will work). Furthermore it is argued that most blacks do not support quotas<sup>28</sup> and that lower-class blacks may be more harmed than helped by them.<sup>29</sup>

The difficulty in knowing when to impose quotas to remedy institutional racism can be seen when they are applied to the criminal justice system. Many support the idea of quotas in the hiring (and perhaps even the promotion) of minorities to work in the justice system but would certainly balk at the idea of the imposition of racial quotas for the clients of the system. A black Yale sociologist has suggested that institutional racism (and sexism and ageism) is responsible for creating social conditions that produce different levels of criminality for blacks and whites, the two sexes, and different age groups and for the differential treatment of these groups by the criminal justice system.<sup>30</sup> Thus he proposes that "admission" quotas be established so that the prison population would reflect the same race, sex, and age distribution as the general population.

This proposal obviously begs the question, in that it assumes what should be proven (that institutional racism has produced the racial distribution of the prison population). But if one believes that the criminal justice system is characterized by institutional racism, surely one should advocate quotas to overcome that racism. And if the proposal of the Yale sociologist is too radical, why not establish quotas for prison on the basis of the percentage of blacks who are arrested? This proposal makes sense only if you believe that institutional racism is pervasive in the criminal justice system. It makes the error of all quota systems: it assumes that disparity in outcome is caused only by discrimination and ignores the causal importance of differential values, interests, abilities, cultural preferences, and other factors.

### A New Definition of Prejudice

A more balanced view defines racial prejudice as the attribution of negative traits and motives to other ethnic or racial groups. Attribution theory is a branch of social psychology that studies the process by which people assign positive traits and motives to themselves and their groups (their family, ethnic group, sex, country, and so

on) and negative traits and motives to "them" (the other sex, ethnic group, country).<sup>31</sup> People see their own (and their group's) good behavior as being the product of positive traits and motives but view their own (and their group's) bad behavior as being the product of external pressures or circumstances.

By contrast, when "they" (those we view negatively or are biased against) do something good, we are reluctant to attribute good traits to them. But when "they" do something bad, we attribute that act to a basic character flaw. Thus if we or our group does something bad, we tend to excuse that behavior as the product not of evil motives or traits but of pressures that made us act in an uncharacteristic fashion. On the other hand, if "they" do something bad, we attribute evil motives or traits to them, since we have prejudged their character as bad.

Let us take this view of prejudice in the context of attribution theory and apply it to the views of blacks and whites with respect to the alleged racist character of the criminal justice system. Blacks see killings of blacks by the (largely) white police force as being indicative of racism (an evil motive or trait attributed to the out-group). Though many reasons for the killing of a disproportionate number of blacks could be given (for example, blacks are more likely to attack the police; to be involved in violent confrontations with the police; or to provoke the police), the negative motive (racism) is chosen because it illustrates or confirms the negative view held of the out-group (the police are racist). Unfortunately, this reasoning is circular, since racism is inferred from the acts to be explained (why so many blacks are killed by the police).

On the other hand, the disproportionate killing of police officers by blacks is viewed as being the result not of a negative motive (racism or hatred of the police) but of a more positive one (blacks are simply reacting to provocation by the police or to pent-up hostility against the police generated by a racist society or police force). Why do we give the benefit of the doubt to "our group" and attribute evil to "them"? That is the nature of the human attribution process. We extend our projection of beneficent motives to "others like me" but project negative motives to "them." Thus a particular racial group is racially prejudiced to the extent to which other ethnic groups are viewed as "them." Because blacks have been discriminated against for hundreds of years, they have developed a strong view of other groups as "them," and thus the attribution process by blacks is characterized by attributing negative motives and traits to those in out-groups (for example, whites).

Another way of looking at the attribution of causes for the good and bad behavior of the in-group and the out-group is to compare two schools of criminological theory. The "Classical" school has

traditionally argued that people *choose* to be criminals and that such choices are made by weighing the costs and benefits of crime against those of legitimate activities. The "Positive" school has argued that the behavior of criminals is "determined" by psychic or environmental factors and that freedom to choose is illusory. Thus in-groups take a Classical view of their own good behavior ("we" chose to be good and have the trait of "goodness") and of the bad behavior of the out-group ("they" chose to be bad and have the trait of "badness"). On the other hand, in-groups take a Positive view of their bad behavior ("we" did wrong only because of external pressures, and such behavior does not indicate bad traits) and of the good behavior of the out-group ("they" may do good, but such is not indicative of "goodness"). Racial prejudice is nothing more than the tendency of a racial group to take a Positive explanation for its bad behavior and a Classical explanation for the bad behavior of the opposite race.

In my view the tendency to see other ethnic groups as having negative motives and traits is more pronounced among blacks than whites, and thus blacks are more (racially) prejudiced against whites than whites are against blacks. Though research on the relative extent of racial prejudice among blacks and whites is rather limited, there is some evidence that blacks are more likely to assign negative traits to whites than whites are to blacks.<sup>32</sup> The black tendency to see racism as the motive for acts of whites is so pronounced that one author has characterized this bias as a type of social paranoia (they are out to discriminate against me) or "hypersensitivity".<sup>33</sup>

One of the best explanations for racial prejudice by blacks is by Porter and Dunn in their book on the 1980 Miami riot.<sup>34</sup> Though they do not term the black actions racist or prejudiced, their description below fits the definition of racial prejudice I have given with respect to one ethnic group looking on another as "them" and being anxious to believe the worst of that group.

It is the willingness, even eagerness, with which blacks generally believe the worst of the police that provides the emotional thrust behind the violence. Deep down, the crowds do not react to what the police are doing in the current situation as much as they react to what the police have done in the past—to what they "always" do in a given set of circumstances. . . . It often matters little whether the police act responsibly in a particular situation or not; the crowd has already condemned them because of their actual or alleged misconduct that has occurred before. In this sense, riots are caused not so much by the precipitating events as they are by a general pattern of perceived oppression. The precipitating spark merely provides an occasion for blacks to try to "get even" [pp. 181-182].

Surely the prejudice described above is "racist" in that it is racial in origin. One might argue that the prejudice of blacks toward the police is actually "blue racism," in that the bias is more against the

white officers because they are policemen than because they are white (black officers sometimes face this "blue racism" by other blacks). Furthermore, one might argue that the police also are biased against blacks and are anxious to believe the worst about them; that is, "blue racism" is two-sided. And yet the fact remains that the black community has a racial prejudice against the police. The tendency for blacks and whites to be anxious to believe the worst about the "other group" is what racial prejudice is all about.

Furthermore, it would appear that over time white prejudice has been declining,<sup>35</sup> whereas black prejudice has been on the increase. Several writers, in attempting to explain the riots in the cities in the 1960s and 1970s, have commented on the "generation gap" among blacks in general and among the black leadership.<sup>36</sup> Younger blacks, and especially better educated blacks, are simply less willing than their parents to accept manifestations of racial prejudice. There is a definite trend toward more antiwhite (that is, racially prejudiced) attitudes among young blacks.

At one time there were certain "bounds" that were not crossed, in that blacks might have antiwhite attitudes but not act on those attitudes. It has even been suggested that the killings of whites by blacks in the 1980 Miami riot was indicative of a "turning point in race relations in the United States,"<sup>37</sup> since once that "boundary" has been crossed, it is more likely to be crossed again. The abandonment of the historical social prohibition by the black community of attacks on whites is also indicated by the rise in recent years of black-on-white crime. Thus it would appear that black rage and prejudice against whites have intensified and "come out of the closet." Charles Silberman in his classic 1978 book, *Criminal Violence, Criminal Justice*,<sup>38</sup> called attention to the growing tendency for blacks to directly express rage against whites:

After 350 years of fearing whites, black Americans have discovered that the fear runs the other way, that whites are intimidated by their very presence; it would be hard to overestimate what an extraordinarily liberating force this discovery is. The taboo against expression of anti-white anger is breaking down, and 350 years of festering hatred has come spilling out.

The expression of anger is turning out to be cumulative rather than cathartic. Instead of being dissipated, the anger appears to be feeding on itself: the more anger is expressed, the more there is to be expressed [p. 153].

The view that the expression of anger is not "cathartic" but "cumulative" (that is, that the expression of anger does not reduce anger but simply makes a similar response more likely in the future) is the consensus view today.<sup>39</sup> Thus it would be difficult to find scientific support for the view that the expression of rage (as in a "race riot")

somehow relieves the pressure and reduces the sense of rage. It appears to do just the opposite.

Critics of the view that blacks are more racially prejudiced (or "racist") than whites contend, however, that such research is misleading, for two reasons. First, blacks may have a negative view of whites, but such a view is based on a history of discrimination and thus is not paranoia. But isn't that position like that of the white bigot, who says his dislike of blacks is based on "facts" and thus is not prejudiced? It may be that many whites have a "good reason" to dislike blacks (perhaps a relative was murdered by a black), but we do not justify anti-black views on this basis. Second, it can be argued that blacks may have a negative view of whites but that they are not generally in a position of power to act on those prejudices. In short, blacks may be racially prejudiced but cannot be racist, since they are powerless to act on those prejudices.

But there are many situations in which blacks do have power over whites. In many prisons blacks are the majority and often select less powerful whites as victims of rape and assault. In fact, some authors suggest that black-on-white rape predominates in prison because blacks see sexual assault as a way to get back at white society in a situation where the power relationship between the races is reversed.<sup>40</sup> And perhaps the black offender in assault, rape, and robbery chooses white victims more often because he is the person with power and can now act out antiwhite views previously held in check.

### Summary

The definitions of the term *racism* vary so widely that it should be abandoned in favor of the terms *prejudice* (the attitude or belief) and *discrimination* (the behavior). Furthermore, the terms *racism*, *prejudice*, and *discrimination* have generally been used only to refer to the attitudes and behavior of whites. Because this double standard of racism is so common, a new definition of prejudice is needed to eliminate it.

Racial prejudice is defined as the attribution of negative traits and motives to other ethnic or racial groups. Thus a particular racial group is racially prejudiced to the extent that other ethnic groups are viewed as "them" and assigned negative traits and motives and "we" are assigned positive traits and motives. By this definition blacks are more racially prejudiced than whites. In recent years the negative attribution process (prejudice) has decreased among whites but increased among blacks. Finally, the tendency for blacks to assign negative traits and motives to whites (but not to blacks) is largely responsible for the black perception of the criminal justice system as racist.

### Notes

1. It is significant that Gordon Allport in his classic book *Prejudice* did not even mention the term *racism*. The confusion over the term is due to the refusal of some authors to distinguish it from the terms *prejudice* and *discrimination*. For example, Sedlacek and Brooks in *Racism in American Education* refuse to define the term, since their purpose "is to define a process operationally, without worrying much about the semantics of the terms. Understanding the process is more important than the particular label" (1976, p. 39).
2. *American Heritage Dictionary of the English Language*. Boston: Houghton Mifflin Co., 1970. Lewis Carroll in *Through the Looking Glass* eloquently expressed the "slippery" nature of definitions and how one might use a term such as racism to one's own advantage: "When I use a word," Humpty Dumpty said in a rather scornful tone, "it means just what I choose it to mean—neither more nor less." "The question is," said Alice, "whether you can make words mean many different things." "The question is," said Humpty Dumpty, "which is to be master—them or all."
3. Nettler (1984, pp. 269-270) argues that a stereotype of an ethnic group does not constitute racism, since it is impossible to think of persons and groups without categorizing. He also argues that stereotypes are not necessarily inaccurate, because they sometimes lead to more accurate information about others than does detailed information about each individual. On the accuracy of stereotypes see also Mackie, 1972/1973. Likewise, J. M. Jones (1972, pp. 60ff) argues that an opinion or stereotype about a group or person is not a prejudice unless it is held in disregard of the facts. For writers who seem to equate stereotypes and prejudice see Feldman, 1972; Guichard, 1977; Duncan, 1976; and Gaertner & McLaughlin, 1983.
4. The term *institutional racism* is most commonly used when accusers charge that racism can exist without conscious intent.
5. Jones (1972, p. 131) says that racism exists when "racist consequences accrue to institutional laws, customs, or practices, . . . whether or not the individuals maintaining those practices have racist intentions." Sedlacek and Brooks (1976, p. 44) argue that when they use the term *racism*, they are focusing on "results, not intentions. . . . Because racism continues to have adverse effects, we are not especially concerned about the reasons why." For a criticism of the use of the term *institutional racism* see Kleck, 1981, pp. 784-785. Kleck also gives six different definitions of racism that have been part of the "charge" against the sentencing process and points out the difficulties in attempting to validate them. A variation on "unconscious" racism is the term *subtle racism*, which suggests that the racist motive may be only partially recognized. See Henderson and Taylor, 1985, for the use of this term.
6. J. M. Jones, 1972, pp. 155-167.
7. J. M. Jones, 1972, p. 165.
8. Tavis, 1982, pp. 155, 191ff.
9. Matulia, 1982, pp. 42, 64.
10. Banks, 1975, p. 26.
11. Matulia, 1982, p. 59.
12. Lichter and Lichter, 1983, pp. 22-24.
13. Bart and O'Brien, 1985.
14. Henderson and Taylor, 1985.
15. Pekkanen, 1977, pp. 177, 197, 270.

Short

Short

16. Wilbanks, 1988a. One might argue that the fact that black offenders choose whites as victims more than 50 percent of the time is not surprising given that more than 80 percent of the potential victims in the United States are white. However, the same logic could not explain why only 14 percent of black victimizations are by whites (who constitute over 80 percent of potential offenders). Note that the most recent victimization report (Bureau of Justice Statistics, 1988) includes two tables on intraracial versus interracial violent crime. Table 44 presents the percentages from the perspective of the victim, and Table 45 from the perspective of the offender.
17. Brownmiller, 1971. She argues that rapists are not motivated by mental conflicts and illness but are part of the subculture of violence and are simply venting their aggression on women as sexual objects.
18. Wilbanks, 1984c. Information on the participants and circumstances involved in all of the 17 deaths that occurred during the riot are given in the appendix of this book. Descriptions of the killings can also be found in Porter and Dunn (1984, 71-72). It is interesting to note that Porter and Dunn call the killings of whites "antiwhite" (pp. 173, 178) but do not term these killings "racist." But the term *racist* is used often to describe white-on-black events (that is, police brutality) preceding the riot.
19. *Newsweek*, Feb. 23, 1981, p. 80. (This is the story of a white who killed a black child and was charged with a racist murder.)
20. House Bill 1171, Feb. 20, 1985.
21. Wilbanks, 1983.
22. Patterson, 1973, pp. 53-54. For other examples of "reverse racism" in the impugning of motives for "them" versus "us" see the speeches of two black judges (Crockett, 1984, pp. 195-204, and Wright, 1977, pp. 205-218) and Hines (1984).
23. Patterson, 1973, p. 54.
24. In a syndicated column by James J. Kilpatrick, *Miami Herald*, Jan. 6, 1981, p. 7A.
25. Carroll, 1977; Lockwood, 1980; Scacco, 1975; Davis, 1968; Duffy, 1985.
26. Zimmerman and Frederick, 1984, p. 316. On the difference between discrimination and disparity see Parisi, 1982.
27. For a history of the ideas that led from equality of opportunity to equality of results (that is, numerical quotas) see Eastland and Bennett, 1979; Glazer, 1983; and Sowell, 1984.
28. Glazer, 1983, p. 177.
29. Sowell, 1984; Sowell, 1978.
30. Bell, 1983.
31. For a description of attribution theory see E. E. Jones and Nisbett, 1971, and Lillyquist, 1980, pp. 48-67 (in a chapter entitled "Attribution of Responsibility for Crime"). On the role of in-group and out-group differences in the causal attribution of behavior see Stephan, 1977.
32. Research supporting the view that blacks are at least as racially prejudiced as whites includes Foley and Krantz, 1981; J. M. Jones, 1972, pp. 77-80; L. Wilson and Rogers, 1975; Stephan, 1977; Moe, Nacoste, and Insko, 1981; Carroll, 1982; Patchen, 1983; and Ugwuegbu, 1979.
33. Helmreich, 1982, p. 60. Many might argue that the belief that racism is pervasive is not paranoia but reality. One black actor said, "Any black man in America who is not paranoid must be sick" (Wright, 1984, p. 206).
34. Porter and Dunn, 1984.
35. Condran, 1979; Banks, 1970.

36. Porter and Dunn, 1984, p. 191.
37. Porter and Dunn, 1984, p. xiv.
38. Silberman, 1978, p. 153.
39. Tavis, 1982.
40. Lockwood, 1980, p. 37. (He reviews several explanations for the predominance of black-on-white rape.)

## Why Do Blacks and Whites Disagree?

There is little doubt that the correlation between race and belief in the DT is strong. This is not to say that all blacks believe the criminal justice system to be racist or that all whites do not, but it is clear that most blacks assert that the system is racist and most whites deny it. Why this disagreement?

One might even argue that it is highly unlikely that so many blacks could be wrong about discrimination in criminal justice, so there must be a "kernel of truth" to the belief. The fact that many people believe in something, however, is certainly not evidence of the validity of that belief. Most Americans strongly believe in the deterrent effect of the death penalty and in the effectiveness of rehabilitation, though research has failed to confirm these "common-sense" views. In a similar vein most police officers and an even greater majority of psychiatric nurses believe that the full moon "brings out the weirdos" and that there are more acts of violence during the full moon than at any other time. But the best scientific evidence finds absolutely no validity in such beliefs.<sup>1</sup>

To understand the divergence of opinion between blacks and whites over whether the criminal justice system is racist we need to address four questions:

1. Why do blacks believe that the system is racist?
2. Why, according to blacks, do whites deny that the system is racist?
3. Why do whites deny the black charge that the system is racist?
4. Why, according to whites, do blacks charge racism?

### Why Do Blacks Believe That the System is Racist?

First, blacks are aware of the discrimination and oppression to which they have been subjected for hundreds of years in this country. Though they believe that overt discrimination has decreased, they are also likely

to believe that discrimination exists in all aspects of American society (including the criminal justice system), though perhaps in a more subtle way than in the past. Much of the literature by blacks on this issue focuses on what is seen as a shift from individual to institutional racism, which is "less overt and more subtle than individual racism."<sup>2</sup> Thus the long history of racial discrimination against blacks is not viewed as "history" but as "current events." In short, racial discrimination is often viewed as having changed only in form (from individual to institutional), not in intent or effect.

Second, in response to this history of discrimination blacks have developed a negative view of whites that attributes evil motives and traits to them. Black culture is characterized by an attribution process (see Chapter Two) that sees whites as an out-group intent on denying blacks equal rights and opportunities. This cultural bias has led to a tendency to look for "facts" to confirm this negative view of whites. When an incident occurs that is subject to several causal views (for example, a white police officer strikes a black suspect), the black is likely to choose the xxxxxx cause that confirms this negative view of whites (for example, all white officers are racist). Alternative explanations for the officer's having struck the black citizen (for example, the officer was attacked first or provoked) are rejected, since such explanations do not conform to the negative view of whites, especially white officers, that blacks generally have.

Third, the negative view of whites that blacks have developed over centuries of racial discrimination is supplemented by a liberal ideological bias, which sees human conduct as being more the result of external (social, economic, and political) forces than individual effort (or lack of effort). This liberal belief is in part an inevitable result of centuries of racial discrimination, since it has always been abundantly clear to blacks that just "trying harder" will not improve their economic or social position in society. Those who have historically been more successful (such as whites) tend to be more conservative, in that they generally impute their success to skill and effort rather than to luck or social, economic, and political advantage.<sup>3</sup>

The liberal ideological bias of black culture is also seen in explanations given for the disproportionate numbers of blacks in the criminal justice system. Whereas conservatives attribute criminality to individual moral failure, liberals see it in terms of social influence. Samuel Walker describes the liberal outlook this way: "People do wrong because of bad influences in the family, the peer group, or the neighborhood or because of broader social factors such as discrimination and the lack of economic opportunity."<sup>4</sup> Furthermore, liberal ideology tends to see the criminal justice system as being characterized by a "pattern of irrational decision making. The entire system treats the 'respectable'

offender with kid gloves but reserves the harshest treatment for the poor, especially the young, black poor. . . . Class and race bias pervade the entire administration of justice."<sup>8</sup>

Fourth, the black leadership and black media are almost unanimous in asserting that the criminal justice system is racist, and blacks hear few voices of dissent to make them question the DT. Furthermore, blacks hear many (liberal) white leaders express a belief in the DT and thus are led to believe that "honest" white leaders see the obvious truth in the view that the system is racist. Since black leaders are generally liberal, it is rare to hear one express a view other than the DT. There was a time when white society would not let a black leader emerge who expressed liberal (or "radical," in the white view) opinions.<sup>6</sup> Today, however, the situation has been reversed, in that most black leaders attempt to stifle any dissenter to their liberal views.<sup>7</sup> A conservative black, Clarence Pendleton of the U. S. Civil Rights Commission, is denounced by the traditional black leadership as an "Uncle Tom" and is accused of selling out to the Reagan administration for personal advancement.<sup>8</sup> Conservative black writers such as Thomas Sowell, W. J. Wilson, and W. E. Williams are alternately ignored or denounced by black leaders. Thus black voices questioning the DT are seldom heard, and the black community is left with the impression that its leaders unanimously endorse the DT.

Some blacks who work in the criminal justice system reject the view that the system is racist. But these practitioners are reluctant to express views that are likely to lead to charges that they have been co-opted or are Uncle Toms. And even the expression of such dissenting views is not likely to have much impact on the black leadership or the black community, since these dissenters are viewed as being deluded by a desire to see their actions and those of the system in which they work in a positive light. In short, these dissenters are believed to have a vested interest in denying the racist nature of the system, since to admit it would mean that they worked for and were a part of such a system.

Fifth, many blacks see the criminal justice system as racist because of personal experience. Many blacks have been stopped by the police and "hassled" simply because (in their view) they were black.<sup>9</sup> One study reports that one in every four adult blacks in Detroit claimed to have been stopped and questioned by the police without good reason. One in five claimed to have been searched unnecessarily.<sup>10</sup> Such personal experiences tend to confirm what people commonly hear in the black community (for example, that the police are racists). Thus blacks often express the view that they do not need (statistical) "proof" of racial discrimination, since they have experienced it. Many blacks have been "radicalized" by personal encounters with the police. Before the negative encounter they might not have believed all they had heard about

the police and might have been willing to give the police the benefit of the doubt. But a negative experience radicalized them.

Radicalization may occur when a family member encounters the system rather than through a direct experience. John Wideman in *Brothers and Keepers* tells of how his mother was radicalized after another son's arrest and incarceration for robbery and murder.

In spite of all her temperamental and philosophic resistance to extremes, my mother would be radicalized. What the demonstrations, protest marches, and slogans of the sixties had not effected would be accomplished by Garth's death and my brother's troubles. She would become an aggressive, acid critic of the status quo in all its forms: from the President . . . on down to bank tellers. . . . A son she loved would be pursued, captured, tried, and imprisoned by the forces of law and order. Throughout the ordeal her love for him wouldn't change, couldn't change. His crime tested her love and also tested the nature, the intent of the forces arranged against her son. She had to make a choice. On one side were the stark facts of his crime: robbery, murder, flight; her son an outlaw, a fugitive; then a prisoner. On the other side the guardians of society, the laws, courts, police, judges, and keepers who were responsible for punishing her son's transgression.<sup>11</sup>

Sixth, blacks know that whites have racist stereotypes of blacks and thus assume that whites in the criminal justice system must act on those stereotypes in making discretionary decisions. It is assumed that if you don't like blacks, you are bound to discriminate against them. Though this might seem like a common-sense view, there is considerable evidence that prejudiced persons do not necessarily discriminate against the persons whom they view negatively. A conservative white male, for example, might admit that he has stereotypes of liberals, blacks, and women but maintain that he does not necessarily discriminate against them. He may consciously guard against the tendency to discriminate or may "lean over backward" and actually favor the stereotyped group. Blacks certainly have stereotypes of whites (and Hispanics, women, and others), but few would admit to acting on those stereotypes so as to discriminate. Furthermore, some research maintains that we do not even know when our judgments are prejudiced (that is, based on stereotypes),<sup>12</sup> and thus we would have to admit (if prejudice inevitably results in discrimination) that we often discriminate even when we are unaware of our prejudices.

Seventh, blacks overestimate the extent of overt racial prejudice in the white population and appear to assume that the Archie Bunker character is widespread among whites.<sup>13</sup> Thus the reasoning by many blacks seems to be that most whites are bigots, most of those who work in the criminal justice system are whites, most bigots discriminate in their actions, and thus the criminal justice system is racist.

Short

Short

### Why, According to Blacks, Do Whites Deny Racism?

First, whites have always denied the existence of racism in this country. Though whites generally believe that racial prejudice and discrimination have been a part of our history, they are reluctant to admit that racism exists today. This reluctance is due, in the black view, to a refusal to face up to current discrimination, since to admit that it existed would require that an effort be made to eradicate it.<sup>14</sup> By denying discrimination whites can maintain a system that discriminates against blacks while protecting the vested interest of whites and yet not feel guilty for doing so. In short, the denial by whites of a racist criminal justice system is a defense mechanism to maintain a self-image of fairness while at the same time benefiting from the unjust system. The United States is an "unequal society that would like to think of itself as egalitarian."<sup>15</sup>

Second, since whites predominate among those who work in the criminal justice system and blacks predominate among defendants in that system, it is only natural (according to attribution theory) that whites are more likely to identify with the white practitioners than the black defendants. Blacks believe that the white citizenry identifies with whites who work in the system, since whites are prejudiced for whites and against blacks. Thus when asked to "choose sides," whites naturally choose the white view over the black view.

Whites are viewed by blacks as being reluctant to interpret negative behavior by whites toward blacks as reflecting racial prejudice. Whites are seen as tending to identify with those whites who work in the system and thus to attribute to them (as an in-group) motives other than racism. Thus in the situation of a white officer's striking a black citizen, whites are more likely to attribute some rational or positive reason for this behavior, since the officer is "one of them." In other words, whites are prone to explain away or excuse negative behavior (brutality, verbal abuse) against blacks because of white racial prejudice for whites and against blacks.

### Why Do Whites Deny the Black Charge of Racism?

First, many whites see blacks as being prone to interpret all behavior by whites as the result of racism. A joke that is sure to receive nods of approval and boisterous laughter among many whites is the story of the black who is stopped by a white officer after an armed robbery and a 100-mile-per-hour chase in which several cars are damaged. On his way

to jail the black protests to the officer that he is being arrested only because he is black. In short, many whites see blacks as attributing their ill fortune to racial discrimination instead of to their own behavior. Therefore whites see the claim of discrimination as an attempt by blacks to deny responsibility for their actions ("you are treating me this way because of who I am—a black—not because of what I did"). It is not an exaggeration to suggest that these whites view the black claim of racism as paranoia.

Second, many whites see the black claim of a racist system as a political ploy to place white society and the criminal justice system on the defensive and to divert attention from the behavior of the black defendant. Though it may be thought that many black defendants do sincerely believe the system to be racist and to be "stacked against them," it is also thought that many use that charge to win preferential treatment from those in the system who do not want to be seen as racist.

Third, whites generally identify with those whites who work in the criminal justice system, and since they believe themselves to be non-discriminatory, they tend to project that egalitarian motive onto the whites who work in the system. The white citizen thus seems to reason that the practitioner is someone like himself who wants to be fair and attempts to be fair.

Fourth, whites perceive the level of criminality by blacks to be far higher than that for whites (as evidenced by the term *high-crime area* to refer to black areas) and thus believe that the accumulation of black defendants in the criminal justice system is simply the result of the greater tendency of blacks to commit serious crimes.

Fifth, though most whites have had no opportunity to directly observe the contact of blacks with white police officers and court personnel, they tend to form their view of the character of this contact from what they have observed of white/black contacts in other areas. Many whites have worked in settings where job discrimination has been claimed by blacks and are likely to believe that such claims are spurious. In fact, most whites see blacks as being discriminated for through affirmative action programs and quotas.<sup>16</sup> Thus, many whites carry over their perceptions from the workplace to the criminal justice system, where they have little opportunity for direct observation, and disbelieve the charge of racism there.

### Why, According to Whites, Do Blacks Charge Racism?

First, whites are often heard to say that blacks are being misled by their leaders' constant focus on racial discrimination as being responsible for black ills. They argue that black authors and leaders have "brainwashed"

the black citizenry with assertions that black lack of progress in housing, employment, education, and the criminal justice system is due to discrimination, not to any individual or cultural trait of blacks. This white view is even expressed by some black authors, such as Thomas Sowell.<sup>17</sup> Sowell suggests that black culture, which was created in response to past discrimination, has deficiencies that make it difficult for blacks to take advantage of opportunities. Other authors contend that deficiencies in educational skills are retarding black progress more than race.<sup>18</sup>

Whites suggest that blacks are living in the past because they are still responding as if racism permeated American society, when in actuality race has little significance today. But black leaders will not give up the focus on racial discrimination as the cause of black ills and thus (many whites believe) have convinced the black citizenry that things have not really changed (that is, discrimination is just as real and pervasive today but is more "subtle"). The push for quotas is seen by blacks as being necessary to redress subtle racism, but it is viewed by whites as being unnecessary, since what is needed (in the white view) is improvement in "qualifications" (better educational and job skills).

Second, many whites see the black claim of a racist criminal justice system as the product of reverse racism. They believe that blacks find discrimination in the actions of whites within the criminal justice system because that is what they are looking for. Thus they view blacks as being prone to attribute evil motives to white practitioners and good motives to black citizens who come into conflict with the system. This racial bias is seen as fed by black leaders who repeatedly suggest to blacks that such attributions of evil motives to whites represent reality.

Third, single cases involving obviously unjustified behavior by whites against blacks are viewed by black citizens as being typical, whereas whites view those cases as being atypical. For example, the 1980 riot in Miami was sparked by an acquittal verdict in the fatal beating of a black motorcyclist by white policemen. Blacks saw this case as being representative of the way white officers treat black citizens. Most whites viewed the case as not being representative of the way that officers routinely deal with blacks. Most police officers (and probably most white citizens) saw race as incidental rather than as *the* cause of the fatal beating. They traced the beating to the victim's defiance of authority (he fled and then allegedly resisted arrest by striking the arresting officers) and to "rotten-apple" policemen who were unrepresentative of the police. Though white officers and citizens might admit that race played a role, the racial factor is not viewed as being a primary cause of the police reaction. Thus blacks tend to see individual cases such as this fatal beating as typical of a racist system, and whites are likely to see it as an aberration or the result of a few bad (and unrepresentative)

officers. Again, the perception on the part of both blacks and whites predetermines the view of "the facts."

### Are Beliefs about a Racist System 'Ignorant'?

It is interesting that both blacks and whites see the view of the "other side" as being based on prejudice and a distortion of "the facts." But it would appear that neither blacks nor whites have based their views on "the facts." Both sides are quite ignorant of facts that would tend to confirm or deny their opposite views. The research on alleged discrimination is almost totally unknown to the average black or white person. Views formed in this "information vacuum" are thus "ignorant" (lacking in knowledge of the facts). It is unlikely that either side would suddenly change its view if presented with incontrovertible facts contradicting that view.

The purpose of this book is to present certain "facts" with regard to the presence or absence of racial discrimination in the criminal justice system. Specifically I will suggest that when one examines studies of decision making by the criminal justice system in the United States, it is difficult to argue that racial discrimination is pervasive. I will suggest that the facts that can be gleaned from research into this issue are inconsistent with the DT.

### Summary

Discovering why blacks and whites disagree involves learning the reasons (1) why blacks believe that the system is racist; (2) why, according to blacks, whites deny that the system is racist; (3) why whites deny the black claim that the system is racist; and (4) why, according to whites, blacks believe that the system is racist. The literature addressing these four questions is almost nonexistent. It is clear, however, that both "sides" see the view of the other side as being based on prejudice and a distortion of the facts. It appears that neither blacks nor whites have based their views on "the facts," in that both are ignorant of the research evidence that does exist on this issue. Thus both black and white views are formed in an information vacuum and are based largely on personal and cultural ideology.

### Notes

1. Rotton and Kelly, 1985.
2. Peirson, 1977, p. 107. Tunteng (1976) argues that the focus of American black

culture on individual and institutional racism is not found in all black cultures. He maintains that Africans focus on economic discrimination under colonialism.

3. Jencks, 1972, p. 227.
4. Walker, 1985, p. 10.
5. Walker, 1985, p. 13.
6. Akbar, 1984, pp. 16-20.
7. Loury, 1984, 1985.
8. "Official: Blacks," 1984.
9. See, for example, Watts, 1983. Also, since Alpert and Hicks (1977) found that prisoners' attitudes toward the legal system were markedly negative, the black community's view of the legal system may be affected by significant numbers of former inmates. However, Berman (1976) argues that though black parolees reported more negative views of the justice system than did white parolees, there was no racial difference when the black and white parolees were asked about their personal experiences with the system. He goes on to suggest that the more negative black view of the system may be due to "pluralistic ignorance," not personal experiences with the system.
10. Reiss, 1980, p. 278.
11. Wideman, 1984, pp. 70-71.
12. Hepburn and Lockaley, 1983.
13. Brigham and Giesbrecht, 1976, p. 70. It is interesting to note that though blacks in rural areas are less likely to view the criminal justice system as racist, empirical evidence indicates that discrimination is more often found in rural and suburban areas than in urban areas. See Zimmerman and Frederick, 1977. On the other hand, blacks in urban areas are more likely to believe that the system is racist, though little evidence of this belief has been found in studies of urban systems. In short, there appears to be little correlation between strength of belief in racism in the system (between rural, suburban and urban areas) and empirical evidence on actual discrimination by area of a state.
14. See, for example, Peirson, 1977, p. 107.
15. Gans, 1973, p. xi. See also Ryan, 1981, pp. 37-40. Ryan's description of the Marxist concept of "false consciousness" could easily be applied to the white belief about opportunities for blacks. False consciousness "is a belief system that reflects, not reality as it actually is, but the illusions that provide a justification for the interests of a particular class that has gained a dominant position in society. . . . The assumptions of such a belief system, it must be emphasized, are held at a very deep, almost unconscious level. If thought about at all, they are considered to be obvious realities rather than hypotheses or premises. Although usually unverifiable, if not demonstrably erroneous, they are not regarded as subject to verification or requiring proof" (pp. 38-39).
16. On whites' beliefs about blacks' opportunities and reverse discrimination see Kluegel and Smith, 1982, and Smith and Kluegel, 1984.
17. Sowell, 1981, 1984.
18. See W. J. Wilson, 1978, 1981; W. E. Williams, 1982; and Akbar, 1984.

## Difficulties of Proving Discrimination

The public may be surprised to learn that despite a considerable amount of research, no consensus has developed on whether discrimination has been "proven" to exist either at individual points in the criminal justice system or for the system as a whole. If so much research has been done, why hasn't the issue been resolved? Why can't we prove to fair-minded people of both races that discrimination either exists or does not exist? Several problems that partly explain the failure of past research to resolve this issue are discussed in this chapter. There are problems with (1) researcher bias, (2) the nature of direct proof, (3) determining whether leniency is discrimination, (4) spurious relationships that are often described as causes, (5) the interpretation of the residual variation, (6) reliance on statistical significance as a measure of importance, and (7) the canceling-out effect. The chapter closes with a summary of problems associated with direct proof and proposes that the DT be tested via indirect proof.

### Problems Associated with Researcher Bias

The public biases with respect to the question of discrimination in the criminal justice system were described in Chapter 3. Researchers are not immune from bias either, and that bias may influence them in the choice of the topic for study, the methods used, and the interpretation of the results. Any suggestion that social science is value free and that its researchers are not influenced by ideology or emotion is as naive as the belief that Supreme Court judges simply interpret the law and are not influenced by political ideology.

Perhaps a couple of examples will help clarify this point. Sometimes the ideology and public stance of an organization may influence the type of research done and the interpretation of results. A literature survey of the police use of deadly force was recently completed for the International Association of Chiefs of Police (IACP).<sup>1</sup> Not surprisingly

that study concluded that racial bias was not a significant factor in the police use of deadly force. On the other hand, the National Urban League also recently completed a survey of the same literature and concluded that racial discrimination was a major factor in the decision of the police to use deadly force.<sup>2</sup>

How can two studies that surveyed the same literature come up with such contradictory conclusions? Perhaps both were looking for evidence to confirm what the sponsors already "knew" to be the "truth." It is obvious that the ideologies and public stances of the IACP and the Urban League are contradictory. Either the two organizations chose researchers who shared their bias, or the researchers consciously or unconsciously interpreted the literature in a manner that was consistent with their funding agency's views. Would you expect the National Association for the Advancement of Colored People to publish research indicating that blacks were not discriminated against by the application of the death penalty? Would you expect the National Association of District Attorneys to publish results suggesting that there was racial discrimination in the prosecution of death penalty cases?

The problem of bias is not limited to those who fund or publish research. On the one hand, radical criminologists tend to study and write about "crime in the suites" (white collar crime) rather than "crime in the streets" (robbery, burglary, and so on) and are concerned with abuses of government power (such as police brutality). On the other hand, conservative criminologists are prone to focus on violent crime by the poor rather than on abuses of power by corporate or government officials. Radical criminologists are also critical of their colleagues who stress quantitative methods (the manipulation of numbers and statistics) at the expense of the qualitative methods (observations, examination of single cases in more depth) needed to delve into white collar and governmental crime.<sup>3</sup>

Researchers' interpretations are often biased by the thesis they are attempting to prove. Kleck<sup>4</sup> points out that though several comprehensive reviews<sup>5</sup> of the impact of race on sentencing have found *at best* a "modest" relationship between race of defendant and sentence when some controls are applied, the rather cursory reviews of this literature in textbooks often state the opposite—that racial disparity is great and widespread. He suggests that this erroneous conclusion is due to the "cumulative effects of a number of pernicious but common practices found in short summaries of research and evidence."<sup>6</sup> In his view those who are biased toward the discrimination thesis often engage in selective citations (that is, cite only studies that agree with their position); present figures indicating racial disparity with the suggestion that "the evidence speaks for itself" (that is, fail to suggest explanations other than discrimination for the disparity); and maintain a "magnanimous neutrality," writing that the literature is "ambiguous" or "inconclu-

sive" when the weight of evidence is largely against the discrimination thesis.

It should be noted that both "sides" in this debate engage in these "pernicious and common practices." For example, some texts maintaining that discrimination is not pervasive tend to "overselect" and discuss studies that have found no discrimination and to slight those that have found evidence of discrimination.<sup>7</sup>

### Problems Associated with Direct 'Proof'

The research process whereby any issue in criminal justice is "proven" in a scientific sense is much more difficult than the public would imagine. The public is likely to think that we can simply research the issue and prove one side or the other. But many pitfalls are encountered in any attempt to prove whether discrimination exists at a particular point in the criminal justice system. Let us go through the process by which information on such a question is gathered and interpreted to see why so little "proof" seems to be obtainable.

If we decide to study a particular decision point such as sentencing, we must first decide what research methods to use. The layperson might suggest that researchers simply go into the courts, observe the sentencing process, and talk with judges, prosecutors, defense attorneys, and defendants. Unfortunately, observational research is highly prone to researcher bias, because the investigators tend to select "facts" that confirm their thesis. If one is convinced that racism is pervasive in sentencing, for example, one may fix upon participants' statements that affirm this thesis, as when the defendant or his attorney assures the researcher that racial prejudice was the basis of the sentence. Or the researchers may observe that a white judge refers to a 40-year-old black defendant as "boy" and then sentences him to ten years in prison. The observers, especially if they believe in the DT, may assume that the sentence was given *because* the defendant was black. It may be, however, that such a sentence either was less than one would expect for the crime or was "average" and that the comment was only incidental to the sentence. There is no way to determine by simple observation what the "going rate," or sentence, is for a given defendant type (exclusive of race) and crime or the "cause" for the sentence. In short, observation does not allow for the control of relevant variables in the decision process.

After reading a paper (the one included in the Appendix of this book) at an academic conference in 1985 I was told by a black criminologist who critiqued the paper that such quantitative research was invalid in that more-qualitative research was needed to detect racial discrimination in the criminal justice system. The critic went on to explain

that one had only to observe the sentencing process to find examples of racial discrimination. The example of a white judge giving a black defendant a long prison term after calling him "boy" was given as the type of proof one could glean from such qualitative or observational research. Since this criminologist was convinced that racism was pervasive in the system, would you consider valid the results of such observational research? I might add that neither would I credit the proof of no discrimination obtained by the observations of a white conservative judge with twenty years' experience on the bench. As discussed in Chapter Two, the attribution process is such that one "observes" what one is looking for.

In short, good social science does not attempt to prove the existence or nonexistence of racial discrimination in the criminal justice system by the "anecdotal" method, that is, by citing a case that "proves" the thesis. Social science approaches research into the DT by statistically analyzing large numbers of cases involving blacks and whites decided at a particular point in the criminal justice system.

Since I have studied the disposition of all murder cases in Dade County, Florida, for 1980,<sup>8</sup> let us take this study as an example and look at the problems involved in studying racial discrimination at the sentencing stage. To determine if judges discriminate on the basis of race in sentencing, we must first gather information on a large number of cases in which sentences have been handed down. There were 269 arrests made in the 569 homicides that occurred in Dade County in 1980. One hundred forty-nine people were convicted of murder or manslaughter, with 83 of this total being black and 66 being white (including Hispanics). But any attempt to determine if the resulting sentences were based on racial discrimination faces several problems. Those problems will be listed and discussed in turn.

#### Is Leniency Discrimination?

First, as I mentioned earlier in defining discrimination, lenient as well as harsh sentences may represent racial discrimination. If a judge considers murders of blacks to be less important than murders of whites, he or she may sentence the killers of blacks to lesser terms than the killers of whites. Since murders are predominantly intraracial (black on black and white on white) the more permissive attitude toward the killing of blacks would result in more lenient sentences for black killers. Thus it is not clear what would constitute racial discrimination, in that in some cases a lenient sentence might be based on racial discrimination. To make the matter more complex it is asserted by some that leniency for black-on-black crime may actually contribute to more black victimization, since the message from the judiciary would appear to be that one will not be punished as severely for killing other blacks

as for killing whites. Blacks are encouraged by a lenient sentencing policy to take out their aggression on other blacks.<sup>9</sup>

Discrimination might also involve leniency if the killer (because of racial prejudice) is viewed as being less rational, more impulsive, and thus less "responsible."<sup>10</sup> Juveniles and woman are often given lesser sentences when judges view them as being less able to control their impulses and emotions. Surely racial prejudice can result in more-lenient sentences when judges through racial prejudice see black defendants as less rational and in control and thus less responsible.

One author critiques six different explanations for a pattern of lenient treatment that he found was given to black murder defendants in the United States.<sup>11</sup> These explanations included the devaluing of black murder victims by whites, so that the black offender is considered less of a threat to society; white paternalism (for example, the view that blacks are childlike and thus not as responsible); and white compensation for unconscious prejudice. Thus one might assert that evidence of discrimination has been found even when more lenient treatment is given to blacks. One study of racial discrimination at the point of arrest proceeded to "prove" this point by demonstrating that arrests of blacks were less likely to result in convictions (thus indicating that the black arrests were more likely to be based on flimsy evidence).<sup>12</sup> Thus leniency at one point in the system was proof to this researcher that discrimination had occurred at an earlier stage. Since both higher and lower conviction rates for blacks have been interpreted as evidence of racial discrimination, it is difficult to determine what type of evidence would refute the discrimination thesis.

#### Spurious Relationships

Second, difference in outcome is not equivalent to racial discrimination unless that difference cannot be accounted for by "legal" factors related to the offender or the offense. For example, suppose we found that the 83 blacks sentenced for 1980 Dade County homicides had received an average term two years longer than the 66 whites but that this difference could be accounted for by the greater prevalence among the black offenders of a prior record and by their greater involvement in robbery-related, as opposed to domestic, killings. In other words, when we controlled for prior record and type of homicide, the racial disparity in sentences would disappear and the original relationship between race and length of sentence would be found to be spurious.

In simpler words, although it might initially appear (before controls were introduced) that the two-year difference in average sentence between blacks and whites was caused by race, it would become obvious when controls were introduced that the difference in sentences was actually the result of prior record and type of homicide. That is, blacks

were more likely than whites to have had a prior record and to have been involved in robbery-related killings and thus to have received a longer average sentence.

The process of controlling for other possible "causes" of longer sentences for blacks involves both identifying possible factors that may influence the sentence (that is, control factors) and using various statistical techniques to separate the effects of race from the effects of the numerous control factors. Several control factors that immediately come to mind are prior record, type of murder, type of attorney (whether public defender or private), relationship of victim to offender, race of offender and victim, socioeconomic status of offender, characteristics of judge (whether conservative or liberal, black or white, male or female), and characteristics of the jurisdiction (for example, urban or rural).

Perhaps a couple of examples will illustrate how an initial relationship between race of offender and disposition disappears when a control variable is introduced. A recent study in a Georgia city found that blacks who drove after drinking were more likely than white drunken drivers to be arrested in lightly patrolled areas.<sup>13</sup> What appeared to be racial bias disappeared, however, when the socioeconomic status of the drivers was considered. In other words, black drinking drivers who were blue collar workers were no more likely to be arrested than white drinking drivers of the same class. The real "cause" of higher arrest probabilities was socioeconomic status and not race. The fact that more blacks were blue collar workers (the status with the highest probability of arrest) made the "average" probability for blacks higher than that for whites, who were largely white collar workers.

Another study found that black police officers were more likely to shoot and kill citizens than were white police officers.<sup>14</sup> But when the researcher controlled for type of precinct patrolled (high-crime or low-crime) and for whether killings were off duty or on duty, there was no indication that black officers were more likely to kill.

It should be noted that the addition of control variables does not always reduce the initial race effect. It is quite possible that the introduction of controls can increase the race effect. For example, one study of the decision to prosecute found no race effect until strength of evidence was introduced as a control variable.<sup>15</sup> Once strength of evidence was constant, there was a statistically significant race effect, in that race of the victim, but not the defendant, had an impact on whether prosecution was pursued. In other words, if the evidence was equal, cases with white victims were more likely to be prosecuted. Thus strength of evidence suppressed the race effect.

Another methodological difficulty arises when one argues that the original race effect disappears after controlling for other variables. Several researchers have argued that in a real sense one cannot separate

the race effect from control variables.<sup>14</sup> Some studies find a race effect on outcome, for example, but then find that when one controls for demeanor and type of attorney, the relationship disappears. But since one's demeanor is partly a function of race and since blacks are less able to afford a private attorney, is it fair to suggest that one can separate race from these variables? One might argue that to be black in the United States is to be poor and angry and thus that it is rather silly to suggest that one can (statistically) separate race from these variables. Thus it is argued that race affects outcome *indirectly* through demeanor and type of attorney but that this still represents a race effect. One scholar demonstrated the indirect effect of race on sentence through type of attorney and failure to make bail.<sup>17</sup>

#### Interpreting the Black/White Variation after Controls

Third, one of the most common errors made by researchers who examine racial disparities in outcome involves the interpretation made after the introduction of control factors. Let us go back to the 1980 Dade County homicide cases and the longer sentences handed down to blacks. Suppose that one control led only for type of murder and found that the average sentence difference between blacks and whites was reduced from two years to eighteen months. The eighteen months would represent the difference in sentences for blacks versus whites that was unaccounted for by type of homicide. But one could not assume that the eighteen-month difference was due to race, since several other control factors could be introduced that might account for all or part of the remaining variation in outcome. Thus this remaining difference is *unexplained* variation or variation yet to be accounted for. It may be due to race, or it may be due to other factors not controlled for.

The error of attributing the remaining variation after controls to a race effect is quite common in the literature. One study of 600 indictments in twenty Florida counties in 1976-1977 found that when one controlled for type of homicide ("primary," or domestic, versus "non-primary," or those involving strangers) there was a tendency for the killers of whites to receive more severe sentences than the killers of blacks.<sup>18</sup> The author concludes that the racial differences (the unexplained variance) in the processing of those indicted for homicides indicates that the system "appears to place a lower value on the lives of blacks than on the lives of whites."<sup>19</sup> In short, the unexplained variance is attributed to race, though the racial differences might have been further reduced with additional controls. Numerous examples of this error of interpretation can be found in the literature.<sup>20</sup>

Unfortunately, the nature of the research process is such that we cannot attribute the remaining unexplained variation to race unless all the

most important potential control variables have been introduced. There is always the possibility that the introduction of one or more additional (and theoretically important) controls might have reduced the remaining variation to zero. And often the most appropriate controls cannot be utilized since data is not available. For example, few studies of sentencing control for prior record,<sup>21</sup> though this is the most obvious factor one would want to control for in studies of sentencing.

One way to illustrate the dangers of interpreting unexplained variation, after a limited number of controls, as a race effect is to look at a hypothetical study of grades in a college classroom. Suppose that black students made significantly lower grades than white students even after one controlled for the overall grade point average of students in the class. The classroom teacher would certainly not agree that this remaining variation in performance by black and white students was due to a race effect (that is, racial discrimination by the instructor). He or she would maintain that there might be many other variables explaining the gap in grades. The instructor would suggest that such variables as class attendance, type of notes taken, attentiveness, motivation and interest, and writing skills should be controlled before one concluded that there was racial discrimination in the classroom. Those academics who are quick to interpret unexplained variation as a race effect would probably not be as quick to make such an interpretation if their own decisions were the subject of the study. In fact, many academics might suggest that statistical analysis is invalid since it does not accurately model their decision-making process (see the section "Model No. 7: Rejecting Variable Analysis," in Chapter Seven).

#### Reliance on Statistical Significance

Fourth, many studies of possible discrimination focus on the extent to which the results are statistically significant. However, statistical significance may be confused in the minds of the public (or the researchers) with practical significance. Statistical significance tells us only whether the results found in the sample are likely to have occurred by chance if the relationship in the "population" (from which the sample was drawn) was zero. Statistical significance is a function of two factors, the strength of the relationship and the sample size. If the sample size is great enough, even a very small relationship is statistically significant. Let us look at some examples of the misinterpretation or misuse of statistical significance as a measure of the "causal" importance of an independent variable with a dependent variable.

One often cited book, *The Lunar Effect*,<sup>22</sup> reported a statistically significant relationship between the phases of the moon and the murder rate in two metropolitan areas. And yet only 2 percent of the variation in murder rates could be explained by the phases of the moon (and this

was without any controls for differences in visibility, beliefs of the offender about self-control during the full moon, and so on). Thus though the results were statistically significant, the practical results were not significant, in that little aid in predicting homicides could be gained by knowing the phase of the moon. And yet this study is widely reported as having "proven" that the moon affects homicide. One scholar who reviewed the literature purporting to show a relationship between "lunacy" and violence found that advocates of the thesis focused on the reporting of statistical significance while ignoring the fact that less than 1 percent of the variance could be accounted for by the phases of the moon.<sup>23</sup> Numerous studies of race and disposition rely on tests of statistical significance to "prove" a race effect while failing to report any measure of association that would indicate the predictive power of race for disposition.<sup>24</sup>

The Appendix illustrates how the reporting of *both* the test of significance and a measure of association can demonstrate the inadequacy of a reliance only on tests of significance to draw inferences about the importance of race as a predictor of disposition. Table 10 of that study indicates that though race of defendant was statistically significant (at the .0000 level) at five decision points of the California criminal justice system, it did not account for even 1 percent of the variance at any of these decision points (and this was before the introduction of controls). In a similar vein race was statistically significant (at the .0000 level) at eight decision points of the Pennsylvania criminal justice system (Table 11) but accounted for less than 1 percent of the variance at five of those eight points (it did account for 11 percent of the variance in whether the defendant received five or more years in prison). And again the unexplained variance was before the introduction of controls.

The seemingly contradictory measures (statistical significance and measure of association) in the studies of California and Pennsylvania resulted from the large "sample"<sup>25</sup> sizes utilized—over 180,000 cases in California and almost 60,000 in Pennsylvania. Any difference between blacks and whites will be statistically significant in a large sample. For the 100,000 felons convicted in California, for example, there was only a four-percentage-point difference in conviction probabilities between whites (76 percent) and blacks (72 percent), and yet this difference was statistically significant at the .0000 level. At the same time race of defendant accounted for less than 1 percent of the variation in whether defendants were convicted. It would obviously be misleading to report the significance level as a measure of the importance of race in determining conviction probability.

Many studies of discrimination focus on the existence or nonexistence of a statistically significant relationship between race and disposition but do not report on the strength of the relationship. But since large sample sizes produce statistically significant results even when the

strength of relationship (the proportion of variance explained) is minimal, the practical significance of the racial difference in outcome is best indicated by the strength of the relationship (that is, a measure of association).

Aside from measure of strength of relationship, another useful measure of "importance" was used by a sentencing study that statistically estimated the length of sentences imposed on black and white defendants after various control variables had been introduced.<sup>26</sup> Thus the authors were able to estimate the practical difference in months that the race of the defendant made once various control variables were made constant.

#### The Canceling-Out Effect

Fifth, the search for possible discrimination is confounded by the possibility that racial discrimination may be masked by the "canceling-out effect." Most studies examine the decisions of numerous police officers and judges collectively rather than individually. But it may be that some judges are lenient toward poor and black defendants and that other judges discriminate against them on the basis of race. Thus it is possible that the combined effect of the decisions of all judges as a whole would indicate no racial difference in outcome (that is, the average sentence might be identical for black and white defendants). In fact it would be incorrect to assume that no discriminatory decisions had been made by any of the judges in a jurisdiction where no overall difference in sentence length was found for black and white defendants. It may be that some judges were more lenient toward whites, that others were more lenient toward blacks, and that some treated the two races equally. Thus the overall pattern of no discrimination masks considerable variation among individual judges.

The failure to consider variation among judges or police officers may provide a hint as to why large overall racial differences are seldom found, and yet many continue to believe that discrimination (either for or against black defendants) is widespread. It may be that discrimination against or for black defendants is widespread among individual judges but that the different tendencies of judges cancel one another out. Thus even when a study finds no overall difference in outcome by race, one cannot assume that no decisions by individuals were based on racial bias. A study that finds no overall racial difference does not exclude the possibility that some judges discriminated against black defendants. On the other hand, it also does not exclude the possibility that some judges were more lenient toward black defendants.

It is interesting to note that studies of individual decision makers are rare. Four such studies, however, have demonstrated the importance of considering possible variation among decision makers at a particular

point. Gibson examined 1,219 felony sentences handed down from 1968 to 1970 by eleven judges in Fulton County (Atlanta), Georgia.<sup>27</sup> Though he found no evidence of racial discrimination by "the court" (with all eleven judges considered as a whole), he did find considerable variation in sentences for blacks and whites among the different judges. For example, the percentages of blacks receiving severe sentences ranged from 11 percent to 56 percent among the judges. He also calculated a "discrimination index" consisting of the difference in percentages of blacks and whites receiving severe sentences. This index ranged from +55.6 for one judge (who gave 66.7 percent of whites a severe sentence but only 11.1 percent of blacks) to -32.1 for another judge (who gave 56.1 percent of blacks a severe sentence but only 24 percent of whites). It would appear that the first judge discriminated against whites and that the second discriminated against blacks. And yet the overall result was that "the court" did not discriminate. But many individuals (both black and white) appear to have suffered from the biases and discrimination of individual judges.

Thus Gibson found that blacks were the "victims of discrimination by some judges but the beneficiaries of discrimination by others."<sup>28</sup> He concludes that "anti-black judges are balanced by pro-black judges,"<sup>29</sup> illustrating the canceling-out effect. It is also important to note that his study illustrates the importance of choice of research methods in determining results. He says:

The findings also suggest that methodological issues must be a central concern for judicial researchers. Without proper controls we would have concluded that discrimination exists; with controls we would have reached the opposite conclusion had the analysis remained at the aggregate level. The latter conclusion would have been incorrect, and the former correct but for the wrong reasons.<sup>30</sup>

A researcher can often find average differences in outcome for black and white defendants at a particular point in the criminal justice system. When controls are introduced, however, the black/white differences are usually diminished or disappear altogether. And yet if one looks at individual decision makers, one is almost certain to find considerable variation between black and white dispositions. The difficulty in Gibson's method would come in deciding how to interpret the variation that would inevitably be found among individual judges but that did not reach the magnitude he found.

In a second study of individual decision makers, Uhlman focused on the race of judges.<sup>31</sup> (Gibson did not identify the race of his eleven judges.) Uhlman found considerable variation across ninety-one judges, but the "cause" of the variation in sentencing was not race of judge, because sentences by black judges differed little from those of white judges. Eleven of the sixteen black judges convicted black defendants

more frequently than white defendants,<sup>32</sup> and all sixteen handed down harsher sentences to blacks than whites.<sup>33</sup> Thus in this study the canceling-out effect was less pronounced, since both black and white judges tended to treat blacks more harshly. Uhlman found this harsher treatment to be largely a function of two factors, a greater likelihood of a prior record by blacks and of their socioeconomic status, which precluded private counsel and resulted more often in pretrial detention.<sup>34</sup>

A third study actually looked at decisions of individual judges in cooperation with their "workgroup" (prosecutor, defense attorney, and probation officer). Eisenstein and Jacob examined the bail, conviction, and sentencing decisions of individual court workgroups in Baltimore, Chicago, and Detroit for 1972.<sup>35</sup> They found that the variable *identity of courtroom* (that is, of the workgroup including judge) accounted for 29.8 percent of the variance in prison/probation decisions in Baltimore, 27.4 percent in Chicago, and 21.1 percent in Detroit. Likewise, identity of courtroom accounted for 26.8 percent of the variance in the length of prison term imposed in Baltimore, 13.6 percent in Chicago, and 12.7 percent in Detroit. Eisenstein and Jacob found that race had little effect in all three cities. Unfortunately, they do not indicate the extent to which this overall negative race effect masked considerable positive and negative race effects for individual judicial workgroups.

In a fourth and final study of individual decision making, Zalman and his colleagues examined sentences in Michigan to create a set of sentencing guidelines for that state.<sup>36</sup> Their report indicates that the substantial amount of unexplained variance in sentences at the aggregate level was not the result of an "aggregation bias." Unfortunately, they provide no data on the pattern of sentencing of blacks and whites by individual judges.

Studies of other individual decision makers (the police, prosecutors, probation officers) are almost nonexistent, and thus it is difficult to determine the extent to which "collective" decisions by groups of decision makers mask discrimination by the canceling-out effect. Certainly future research should utilize the methods pioneered by Gibson and Uhlman. It may be that those who maintain that there is no "systematic" discrimination (in the sense that in general blacks are not treated worse than whites "other things being equal") are correct; but it may also be that those who maintain that discrimination often occurs in individual cases are correct, since these cases of discrimination are canceled out by cases where blacks receive more-favorable treatment. Thus those who contend that racial discrimination *against* blacks often occurs but doubt that racial discrimination *for* blacks occurs as frequently will have to explain where the cases come from that cancel out the cases of discrimination against blacks.

The canceling-out effect may also occur when studies include data from several jurisdictions. The studies of felony processing in California

and Pennsylvania that are reported in the Appendix, for example, found little variation in the processing of blacks and whites. It may be, however, that racial discrimination is masked by the grouping together of all black defendants from across the state. Harsher treatment of blacks by rural and suburban police and courts may be canceled out in statewide figures by relatively lenient treatment of blacks (and whites) by urban police and courts. Thus state averages may mask racial discrimination from rural and suburban areas. One study, of New York sentences, did not find an overall race effect but did find a race effect for rural and suburban areas that was masked by considering all areas of the state as a whole.<sup>37</sup>

The canceling-out effect may also result when several offenses are examined in the aggregate. Some studies have found a race effect disfavoring blacks for some offenses and favoring blacks for other offenses, with no overall race effect.<sup>38</sup>

Another example of the canceling-out effect involves the time periods studied. It may be that a race effect occurs during some periods but not at others. Thus an overall finding of no race effect may mask one period showing discrimination against a particular group and another period showing discrimination for the same group. One sentencing study found that race had an effect on sentences in Milwaukee in 1967-1968 but not in 1971-1972 or 1976-1977.<sup>39</sup> If the researcher had combined all three periods, he might have found no overall race effect for 1967-1977.

A more complicated example of the canceling-out effect involves studies in which there is considerable interaction among variables, so that race and other variables do not have a consistent impact on decisions. One study, for example, found that race had a different effect on sentences for different types of crimes, so that for some types black defendants received longer sentences and for others they received shorter ones. Studies using methods that do not detect interaction effects may overlook a race effect because of the inconsistent way in which race can influence cases.

#### Summary of Difficulties of Direct Proof

Given the five difficulties in obtaining direct proof of racial discrimination that are cited above, it should not be surprising to learn that:

1. Social scientists studying aggregate decision making who find a substantial difference in outcome between blacks and whites should not interpret that difference as the race effect, since controls might eliminate the difference.

2. Even if a study of aggregate decision making finds a racial difference in outcome after one or more control variables are introduced, it

is not appropriate to label this remaining variation as the race effect, since other (and more important) variables might reduce this difference to near zero. Thus one can never prove racial discrimination unless one can be reasonably certain that the most important control variables have been isolated, measured, and controlled by a suitable statistical technique.

3. And even if an aggregate study finds no racial discrimination in average outcomes for blacks and whites, it may be that cases of discrimination and reverse discrimination have canceled each other out.

Thus when racial disparity occurs we cannot safely say (even if controls are introduced) that the disparity is due to race, and when there is no disparity we cannot safely say that the result indicates that no discrimination exists (since the absence of disparity in aggregate outcomes may mask disparity in individual cases). It is accurate to say that we cannot "prove" either discrimination or nondiscrimination given the methods used to date. The greatest hope for a more definitive answer would seem to lie in the type of study (like those of Gibson and Uhlman) that examines decision making among individuals. If a substantial disparity in outcomes for blacks and whites occurs across individuals, there is certainly discrimination in decisions regardless of the equality of outcome that may result when aggregate outcomes are examined.

#### Indirect Proof

Beyond the direct means of looking for differential outcome by race at various decision points, there are other ways to determine if racial discrimination is pervasive in the criminal justice system. If discrimination were widespread, one would expect several patterns to emerge as a result of the correlation between racial prejudice and discrimination and dispositions of blacks. The following list of patterns would be expected if racial discrimination were pervasive in the system and if that discrimination were a direct result of racial prejudice:

1. In studies of the decisions of individuals we would expect to find that those who were the most prejudiced (as determined by objective measures) should be the most likely to treat blacks harshly.
2. In studies of the decisions of individuals we would expect black decision makers to be less harsh toward black offenders and white decision makers to be less harsh toward white offenders, since it would be assumed that each race is less prejudiced toward "its own."
3. If we agree that racial prejudice has declined over time, we would expect the greatest disparity in outcomes to have existed in periods when prejudice was greater.

4. In studies across jurisdictions we would expect greater gaps in outcome probabilities between blacks and whites in those jurisdictions that were presumed to be more prejudiced. For example, racial disparities should be greater in southern states than in other states.
5. Racial disparities in outcome at various stages of the criminal justice system should be greatest in jurisdictions (and at the decision-points of a particular jurisdiction) where there is the greatest disparity between the racial makeup of the decision makers and that of the "clients" of the system. Those cities with a largely white police force but a largely black offender population, for example, should have greater racial disparity in outcomes than those cities with a more racially balanced police force and offender population.
6. Since it is assumed that racial discrimination is pervasive and cumulative across the decision points of the system, the black/white disparity in outcome should increase from arrest to sentence and time served.

All of the above represent hypotheses that would appear to grow directly out of the DT. If the thesis of pervasive racial discrimination in criminal justice is true, one would expect the "facts" to be consistent with these hypotheses. As will be noted in the final chapter, however, the facts appear to be largely inconsistent with the above hypotheses.

### Summary

Several difficulties are encountered in studies that have attempted to "prove" the existence or nonexistence of racial discrimination at a particular decision point of the criminal justice system. These difficulties include the failure to control for legal variables that might indicate a spurious relationship between race and outcome, different interpretations of the residual black/white variation after controls, the reliance on tests of statistical significance rather than measures of association, and the canceling-out effect.

Because of the inadequate methods used, we cannot conclude that the racial differences found in outcomes stem from racial discrimination or that the failure to find differences indicates an absence of discrimination. In short, the literature available on this issue does not allow us to draw any firm conclusion. In the absence of direct proof it is suggested that six factual patterns, if they exist, should provide indirect proof of the DT, since such patterns should be present if racial discrimination is pervasive in the system.

### Notes

1. Matulia, 1982.
2. National Urban League, *Police Use of Deadly Force: A Minority Perspective*, 1983 (draft version).
3. See Swartz, 1975, and Del Olmo, 1975.
4. Kleck, 1985.
5. He cites his own review (Kleck, 1981) and that of Hagan (1975).
6. Kleck, 1985, p. 272.
7. See, for example, the reviews found in Nettler, 1984, pp. 43-47, and Akers, 1985, pp. 17-18. Both authors overselect studies that find no evidence of discrimination in their discussion of the impact of race on dispositions.
8. Wilbanks, 1984c.
9. For example, see "Black on Black," 1979, for a lengthy discussion on the impact of leniency on black-on-black crime for the black community.
10. Swigert and Farrell (1976) argue that blacks are viewed as "normal primitives" and that this stereotype involves a less rational and more impulsive actor. They also argue, however, that this stereotype results in more severe sentences. There is considerable research indicating that juveniles and women are considered less "in control" and thus less responsible for their acts. For a review of the literature on reasons for leniency toward female defendants see Parisi, 1982, pp. 207-208.
11. Kleck, 1981, p. 800.
12. Hepburn, 1978.
13. Hollinger, 1974.
14. Fyfe, 1981.
15. Myers and Hagan, 1979, p. 447.
16. See Austin, 1984, pp. 182-183; Pepinsky and Jeslow, 1984, p. 86; and Reiman, 1984, p. 79.
17. Lizotte, 1978.
18. Radelet, 1981.
19. Radelet, 1981, p. 926.
20. See, for example, Peterilia, 1983, pp. 240-241; Chiricos, Jackson, and Waldo, 1972, p. 557; Bullock 1961, p. 415; and Rhodes, 1977, p. 350.
21. Kleck (1981) and Hagan (1974) list the various controls used for each of the studies they review. Kleck lists fifty-seven studies and includes studies completed after Hagan's review. For a discussion of the importance of controls for prior record and strength of evidence before equating the remaining variation with a race effect, see Hardy, 1983, p. 193.
22. Lieber, 1978.
23. Rotton and Kelly, 1985.
24. Hagan (1974) lists several studies that fail to report a measure of association and report only a test of significance. Uhman (1978, p. 888) differentiates between "substantive" and statistical significance and urges the use of measures of association rather than tests of statistical significance.
25. One might even argue that the Offender Based Transaction System data from California and Pennsylvania are populations rather than samples and thus that a test of significance is inappropriate.
26. Tiffany, Avichai, and Peters, 1975.
27. Gibson, 1978.
28. Gibson, 1978, p. 470.
29. Gibson, 1978, p. 475. J. Q. Wilson, in *Thinking About Crime* (1985, p. 168), suggests that the canceling-out effect may occur in studies of the effectiveness

of rehabilitation. Thus some clients may be rehabilitated and some may actually get worse, with the net result being no overall effect.

30. Gibson, 1978, p. 475.
31. Uhlman, 1978, 1979a.
32. Uhlman, 1979a, p. 69.
33. Uhlman, 1979a, pp. 94-95.
34. Uhlman, 1979a, pp. 94-95.
35. Eisenstein and Jacob, 1977, p. 278.
36. Zalman, Ostrom, Guilliams, and Peasles, 1979, pp. 276, 282-283.
37. Zimmerman and Frederick, 1984. For a discussion of several types of canceling-out effects see Hardy, 1983, p. 195.
38. Blumstein, Cohen, Martin, and Tonry, 1983, p. 92; Zalman et al., 1979, pp. 230-269. Miethe and Moore (1984) suggest that the canceling-out effect with respect to types of offender and offense may be responsible for the frequent finding of no race effect. They maintain that their data show no overall race effect but that various subgroups of offenders (for example, high-risk black offenders) were treated more severely at several points and that other subgroups (for example, low-risk black offenders) were treated more leniently. They suggest that "interactive" models be utilized rather than "additive" models, so that interaction effects can be discovered. They further suggest that both models be used in the same data set, so that the impact on conclusions about an alleged race effect can be examined under different models of analysis. They write that conclusions about the "declining significance of race" are premature. "While it may be true that race no longer operates in a fashion similar to 'caste-like' distinctions (a fundamental statistical and theoretical assumption underlying the additive model), its impact on criminal justice decision-making in this study appears far from being eradicated" (p. 20). Several researchers (Zatz, 1984; Farnworth and Horan, 1980; Miethe and Moore, 1984) examined the impact on outcome of different types of offenders. In addition, log-linear analysis is able to detect interactions between race and other variables (see Miethe and Moore, 1984, p. 5).
39. Pruitt and Wilson, 1983.
40. Tiffany et al., 1975.

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THE WHITE HOUSE

Hand 16/1986  
435145

Dear Rich:

That Post piece certainly got <sup>PU</sup> their attention. <sup>FL000601</sup>  
Thank for the  
note.

Best  
Pat

THE WHITE HOUSE  
WASHINGTON

Mr. Richard Sybert  
White House Fellow  
Room 3E880  
United States Department  
of Defense  
Washington, D.C. 20301

TO BE HAND DELIVERED



OFFICE OF THE SECRETARY OF DEFENSE  
WASHINGTON, D. C. 20301

March 31, 1986

Dear Karen,

I enjoyed talking with you on the telephone last week. As we discussed, here are a resume and some of the material I've written. Pat may remember me from the White House Fellows interviews last year; I was the one who wanted to bust up the television networks. Anyway, if anything does come up, please let me know. I do appreciate your time.

I still think the much-maligned Nicaragua piece was one of the best things I've read in a long time. It elicited such howls of response, I am sure, because it touched a raw, but truthful, nerve: sometimes you have to face up to the facts and your own responsibilities at the same time.

Regards,

A handwritten signature in dark ink, appearing to read "Rich Sybert", is written over the typed name.

Rich Sybert

RICHARD P. SYBERT

Richard Sybert, 34, is a lawyer from Los Angeles. He was raised in Northern California, and attended the University of California, Berkeley, where he received an A.B. in history in 1973, and Harvard Law School, where he received a J.D. cum laude in 1976.

Following law school, Mr. Sybert clerked for Chief U.S. Judge Martin Pence of the District of Hawaii. He then joined the law firm of Sheppard, Mullin, Richter & Hampton in Los Angeles as an associate in 1978. In 1983 he was elected the youngest full partner in the firm's history. He is currently admitted to practice in four Western states and the District of Columbia.

Mr. Sybert's law practice has consisted of complex antitrust and commercial litigation. His cases have included defense of the Mobil Oil Corp. from charges of monopolizing the distribution of petroleum products in the Pacific Northwest; representation of Security Pacific Bank and Federated Department Stores in various class action proceedings; and litigation between Northrop and McDonnell Douglas over rights to the F-18 jet fighter.

Since 1982 Mr. Sybert has also taught commercial law and antitrust at Loyola Law School in Los Angeles. He has written numerous law review articles, and is one of the reviewing editors of the American Bar Association standard reference text on anti-trust law. He has been cited as a legal authority by the California and Alaska Supreme Courts. He is active in the ABA as well as state and local bar associations.

Mr. Sybert is also active in California Republican politics. He worked on both the 1980 and 1984 Reagan-Bush campaigns, and was one of six coordinators for the 1984 campaign in Los Angeles County. His articles and letters to the editor on various topics of domestic and foreign policy have appeared frequently in the Los Angeles Times, as well as other publications including the New York Times and Time magazine. He has also been a regular delegate and floor speaker at the annual California Bar Convention, where his remarks on current political issues have been reported in the media.

Mr. Sybert is involved in various community groups in Southern California including Legal Aid, the new Museum of Contemporary Art, and the Harvard alumni association. He has travelled extensively and written travel articles for various newspapers. He has also lived and worked abroad, and speaks a number of languages.

Mr. Sybert is single and resides in Pasadena, California. He was appointed by the President as a White House Fellow for 1985-86, and is presently on leave of absence from his law firm serving as Special Assistant to the Secretary of Defense in Washington, D.C.

Monday, January 27, 1986/Part II

# SDI Makes Arms-Control Effort Work

By RICHARD SYBERT

President Reagan's Strategic Defense Initiative is the best thing that ever happened to arms control.

It has brought the Soviets back to the bargaining table in Geneva and moved them at last to show flexibility in their proposals. It has prompted the first, long-overdue Soviet proposal for a real cut in offensive missiles. In the face of a long-term, continuous buildup of Soviet strategic weapons, SDI offers the best prospect of maintaining deterrence in an ethical way that slows the arms race.

The history of arms control has not been encouraging. We have always viewed the process as a genuine chance to reduce the risk of nuclear war and enhance mutual security. This view has not been shared by the Soviets. We have negotiated each agreement in the hope and expectation that Soviet moderation would follow. In each case this hope has been dashed.

Instead, each major agreement—SALT I, the unratified SALT II and the anti-ballistic-missile treaty—has actually resulted in the expansion of both Soviet nuclear and conventional capability. As former Secretary of Defense Harold Brown said, "When we build, they build; when we stop building, they build." The conclusion is unavoidable that the Soviets have used the arms-control process as a cover for a huge offensive buildup and modernization while stalling a Western response.

Much of the Soviet expansion has taken place within the letter, if not the spirit, of the treaties. But any benefit of the doubt as to the Soviets' intentions disappears when their record of non-compliance with the treaty provisions is examined. This record, set forth at length in presidential reports to Congress, shows that there is not a single major agreement that the Soviets have not materially violated.

It appears overall that the Soviet Union has rejected the notion of deterrence. It is creating a mobile, deceptively based, super-hardened offensive capability while working feverishly on the same defensive technologies in SDI that are now denounced with such fervor. It apparently has the clear aim of gaining—or may now have—a first-strike capacity against our land-based missiles.

These are the alarming circumstances that motivated SDI. The risk of nuclear war was becoming all too real. The failure of the ABM and other treaties to moderate the Soviet offensive buildup, coupled with the failure in the West to respond adequately, raised a growing threat to American lives. The nuclear equilibrium was equilibrium no longer.

We could have tried to match the Soviet buildup, and indeed some of our own offensive missile systems are at long last being modernized. But aggression and offensive threat are not the American way. In SDI, Reagan found the necessary response that is both ethical—defensive measures kill no one—and, it increasingly appears, technically feasible. He found a way to harness a free society's moral and technological skills.

The Soviet leadership has reacted vehemently to SDI. It has done so because SDI threatens the massive Soviet investment in offensive missiles. Up to now that has been a good investment for them because it has not been countered by any defense. That is why Soviet leader Mikhail S. Gorbachev launched his "charm offensive" and why his countrymen have been moving propaganda heaven and earth to stop SDI. Moreover, that is why the Soviets returned to Geneva and, for the first time, have made affirmative proposals for cuts in offensive missiles.

The various new Soviet proposals are still transparently one-sided. What is important, however, is that at last we are seeing some movement—of any kind. Arms negotiations are based not on good will but on mutual self-interest. Without SDI we were in danger of going to the table (if and when the Soviets returned) to face an adversary who had a massive offensive capability and an accelerating defense effort while we had neither. SDI changes this equation. It is not a "bargaining chip," but greatly enhances the chance of real negotiations because it devalues the Soviet investment in offensive weapons and denies them a monopoly in defense.

Beyond that, SDI is *pro*-arms control in and of itself. This Administration is committed to real arms control that results in a diminution of the mutual threat, not just endorsement of more bomb-building. SDI offers both us and the Soviets the chance for transition to a defensive balance of power that threatens no one. At long last we may have the means at hand to remove the nuclear sword of Damocles that hangs over an uneasy world's brow. Gorbachev's proposals to cut offensive missiles are useful and welcome, as were our own earlier proposals, but they should be analyzed on their own merits and not made dependent on any "reward." SDI is not going to be bargained away. Its promise means too much.

*Richard Sybert is a White House Fellow and special assistant to the secretary of defense.*

October 24, 1984

## Responses to Blast at Reagan

I was almost as amazed by Adrian Kuepper's vicious letter attacking President Reagan (Oct. 5, "Voters Doomed to Repeat the Past?") as I was by your decision to print it. It is beyond me why you would devote a full column to such an assortment of lies, half-truths and partisan fantasies.

Not a single substantive statement in Kuepper's letter can withstand even superficial scrutiny. Specifically:

- "Reagan's tax policies have widened drastically the gap between lower- and higher-income brackets." Kuepper ignores the fact that higher-bracket taxpayers were paying substantially more in taxes in the first place. Therefore, of course any equitable tax relief equally applied would give them back more of what is, after all, their money. The Reagan Administration is to be credited for turning back the tide of confiscatory tax rates engineered by generations of fiscally irresponsible Democrats spending other people's money.

- "Deregulation of banking has resulted in an enormous transfer of resources from the less to the more affluent of the population." This amazing statement is totally without foundation and is in fact completely false. First of all, banking deregulation received its initial impetus under the Carter Administration, and the St Germain bills. Secondly, the result has been to make available to the average working men and women of this country the same market rates of return on savings and deposits that previously were available only to the rich. President Reagan is to be commended for continuing the pace of deregulation.

- "Dismantling big government bureaucracy." Kuepper states, without support, that the number of permanent federal employees has increased during the Reagan Administration by more than 20,000. Perhaps he would care to speculate how much more it would have increased under a Democratic administration.

- "Public resources for private exploitation." Speaking as a long-time conservationist, I can say without hesitation that President Reagan's record on environmental issues has been totally distorted. In fact, he has created more wilderness than any other President in history. In addition, his Administration has restored maintenance of existing recreation areas, which had been allowed to deteriorate sadly under Democratic administrations. Republicans simply run government in a more efficient, businesslike fashion.

- Kuepper alleges that there have been more business failures under this Administration than ever before, that utility costs and rental expenses are at an all-time high, and that it is the oil glut and the Federal Reserve, not Reagan, that are responsible for lowered inflation and lower interest rates, respectively." These assertions are nothing short of incredible. Under President Reagan, the United States is leading the world single-handedly out of recession, and experiencing the greatest period of sustained growth since the 1950s. Stabilization of oil prices does not account for a reduction in inflation of almost 20% to less than 5%. Federal Reserve controls do not account for lowering of interest rates from more than 20% during our last round of Democrats, to barely 12% today; keep in mind that Paul A. Volcker headed the Federal Reserve under both the Carter and Reagan Administrations. Finally, it simply won't wash to look at the economy through gloom-colored glasses when unemployment is down, along with inflation and interest rates, and productivity and GNP are up. You can't argue with success.

- "The deficit." No one would deny that the present federal deficits are a problem that must be addressed. But they are the heritage of decades of Democratic mismanagement of congressional spending. The problem would be quickly solved if Congress gave President Reagan the same "line-item" veto that Gov. George Deukmejian enjoys in California and that enabled him to reverse, in the course of less than two years, the budgetary disaster that was bequeathed this state by its previous governor—a Democrat.

- "Arms buildup and social programs." There has been an arms buildup, and it is long overdue. Under hand-wringing Democrats, this nation acquiesced in the largest peacetime shift in the worldwide balance of power that history has ever seen. No more. We are the leaders of the Western world, and we have a duty to defend the human freedoms which I suspect Mr. Kuepper holds very dear. We have had enough of the apologist, blame-America-first crowd. As for "outrageous overcharges" by defense contractors, it is interesting that these have come to light under a Republican Administration; if anything, this is further evidence of the more businesslike attitude that Republicans bring to government. As for social programs being cut, can anyone seriously doubt that they had gone out of control under the Democrats? It is high time that some of the more ridiculous Democratic spending programs (e.g. funding studies of the mating habits of insects) were terminated. Real social programs like Medicare and Social Security have not been cut, and efforts to address their costs have been bipartisan undertakings.

What is most striking about Mr. Kuepper's letter is that it is plainly electoral propaganda. Your decision to print it was, in my opinion, journalistically irresponsible and evidence of a rather alarming trend of an anti-Reagan bias in your recent editorial pages.

RICHARD P. SYBERT  
Los Angeles

# Reagan's Foreign Policy Record

Part II/Thursday, January 17, 1985

## Los Angeles Times

I am deeply disturbed at the political sniping at the present Administration's record in foreign policy. We should look at the facts, not political rhetoric, in examining that record.

The Reagan foreign policy has in fact been prudent and cautious. There has been no intervention in the Persian Gulf and only an indirect one in Central America, even though America's vital interests are at stake in both areas.

The President has also been ideologically undogmatic: witness the continued improving relations with Communist China.

Where policies have gone wrong, as in Lebanon, the Administration has been capable of recognizing a mistake and correcting it.

The reality of this cautious foreign policy has been obscured by the Administration's sharper anti-Soviet rhetoric. This rhetoric has also served a purpose, however. It was necessary to mark a break from the false "detente" of the 1970s, which Russia used as a cover for a vast militarization and shift in the worldwide balance of power as it gobbled up country after country—Angola, Mozambique, Ethiopia, Afghanistan, Nicaragua—while the West stood idly by.

Ronald Reagan has well served the entire Free World in reminding us that the Soviet government, by its own dogma, is dedicated to the ultimate destruction of freedom and the Western way of life. Russia is an "evil empire," and the President was right to remind us of it.

Marked by prudence, the Reagan foreign policy record has also been successful. Democracy is re-emerging throughout Latin America. The Sandinista military machine in Nicaragua has been blunted. Representative government has been restored in El Salvador, where the military and political situations are finally beginning to improve. Negotiations have begun. Meanwhile, the Cubans have been turned back throughout the entire Caribbean Basin, which was reassured by the American operation on Grenada.

In Europe more realistic, moderate governments have been swept into power everywhere. NATO has successfully weathered the Soviet-assisted "peace" protests in Western Europe and has begun to install the cruise missiles, which are only a partial counter to the Russian SS-20s already there. The Western Alliance is more solid than before, while there are new cracks in Russia's empire.

Nor has China been tempted away from its new friendship with the United States, while Japan moves ever closer to a more active role in the Far East.

The Reagan rearmament has repaired some of the damage done under earlier administrations, and for the first time since John Kennedy, the Soviet Union knows that it faces a strong United States determined to maintain a just peace.

It is in fact the Soviet Union that has met with foreign policy failures as a result of America's change of direction under Reagan. Despite the military coup in Poland, the Eastern European satellites are showing greater and greater independence. Despite intensive Soviet propaganda efforts, cruise missiles are being installed and NATO defenses being upgraded in Europe. Russia remains bogged down in Afghanistan, with no end in sight.

Why, then, is the public perception that there have been no notable foreign policy successes under Ronald Reagan? I don't know. Certainly the Democratic Party, which in a single administration managed to lose Iran, Afghanistan and Nicaragua, is in no position to give anyone lessons in foreign policy. Although they may say now that they are in favor of a strong defense, they cannot wash their hands of bankrupt policies of weak defense and isolationism in the past.

President Reagan has done a sound job in rebuilding American defenses and in projecting an assurance of steady, strong leadership of the Western Alliance. America is back, and it's about time. The beneficial results are plain for those who would see.

RICHARD P. SYBERT  
Los Angeles

## LETTERS

## Reagan's Strategic Defense Initiative

The three-part series by staff reporter Robert Scheer on the President's Strategic Defense Initiative (Sept. 22, 23, and 24) "Star Wars: a Program in Disarray," was a masterpiece of disinformation. It asserted the familiar half-truths and tired old clichés of the anti-defense lobby, that SDI won't work and is harmful to arms control.

In the flood of pre-summit disinformation on the President's Strategic Defense Initiative (SDI), certain charges have been made repeatedly. Each of these assertions is completely false. The charge that SDI is ill thought-out or some wild impulse is simply not borne out by any facts. The program is not in a "shambles" or in "disarray," nor has it ever been.

Since its very inception SDI has proceeded carefully and deliberately. It was the product of two clear phenomena: the emergence of radical new scientific technologies, and the failure of the ABM and other arms agreements to moderate the Soviet offensive buildup.

President Reagan could not ignore the growing disequilibrium in the nuclear balance. On March 23, 1983, he delivered his now-famous speech proposing SDI. It called for a research study, not a crash program. One month later the President signed a national securi-

ty directive establishing two study groups, one for policy, one for technology, to develop a plan of research. The research itself was not even to be implemented until fiscal year 1985.

The technology group, called the Defensive Technology Study Team (DTST), consisted of more than 50 distinguished scientists and experts under the chairmanship of former NASA administrator Dr. James Fletcher. Its members were drawn from a broad spectrum of disciplines in academia, industry, and government.

The study group assembled in Washington on June 2, 1983, and worked steadily for several months. In October the seven-volume Fletcher Report was submitted to the Department of Defense and through it to the President. After a further three months of executive review, the study was delivered to the Congress in January, 1984.

In April, 1984, the President appointed Air Force Lt. Gen. James Abrahamson to be SDI director on the recommendation of Secretary of Defense Caspar W. Weinberger.

In August, almost a year and a half after the President's speech, Dr. Gerold Yonas was appointed chief scientist; he proceeded deliberately to assemble a staff of carefully chosen personnel.

This is not the record of a hastily thrown-together organization, or of a mission decided on "impulse." Neither the need nor the effort came out of the blue. It is true, of course, that the President's speech galvanized that effort. That is precisely what a President is supposed to do: provide leadership.

It is also a fabrication that there is a scientific consensus that SDI will not "work." No one knows enough at this stage to make such a determination. For example, in its recently released study of SDI the Congressional Office of Technology Assessment concluded, "It is impossible to say at this time how effective an affordable [defense] system could be."

The Fletcher study group was extremely thorough and broad-based. It concluded that these new defensive technologies were worth exploring. The research since then has in fact resulted in many scientific breakthroughs.

Certainly the Soviets think that these technologies are not totally hopeless. They are working assiduously in the same area. On Oct. 4 of this year the State Department and Defense Department jointly issued a report entitled "Soviet Strategic Defense Program." It revealed that for the last 20 years "the Soviets have invested approximately as much money in strategic defense as they have in the massive and far better-known expansion and modernization of their offensive forces." The Soviet laser weapons program alone has cost more than a billion dollars a year, and employs more than 10,000 scientists and engineers.

It is also a myth that SDI has to be perfect in order to "work." No one has ever said such a system could or would be 100% effective. The Fletcher study never even considered the possibility of a leak-proof defense, and said so in its report. Some protection, however, is certainly better than none; at present the nation is naked. Even a partial defensive system can be effective, so long as it results in the possible survival of enough retali-

tory capacity to deter a first strike. We need create only a measure of uncertainty in the mind of a would-be attacker to help keep the peace.

If indeed it is so clear that SDI "won't work," why are the Soviets so concerned about it? The reason is that SDI threatens their massive offensive buildup, which up to now has been a good investment because it has not been met by an equivalent American response. Offense and aggression are not the American way. In SDI the President has found the necessary response, which is both moral and sensible. Defensive measures kill no one.

The most pernicious charge is that SDI is simply a covert tool being used by "hawks" to sabotage any arms control agreement at all. To the contrary, your readers should know that no one feels more strongly the need to lessen and ultimately remove the nuclear threat than those who work directly on trying to defend this nation, and who have direct knowledge of what faces us on the other side.

Far from being an attack on arms

control, SDI is an attempt to reintroduce meaningful deterrence. Arms negotiations are based not on good will, but on mutual self interest. And we are in danger of going to the table facing an opponent with a massive offensive capability and an accelerating defense effort, while we have neither. SDI is *pro-arms control*, because it offers both us and the Soviets the chance to transition to a defensive balance of power which threatens no one and thus to a more stable and secure world. SDI is what has brought the Soviets back to the bargaining table, and what has moved them to show any flexibility at all in their proposals. Not because it is a "bargaining chip" but because it changes the nuclear equation on both sides.

We are now on the threshold of a dream. SDI perhaps represents the last, best hope for mankind. Secretary Weinberger said it best in a speech before the World Affairs Council in Philadelphia Oct. 3: "The survival of civilization must be based on a firmer base than the prospect of mutual terror." SDI offers us a way out. The issue is not the "militarization" of space. The issue is peace on Earth.

RICHARD SYBERT  
Washington, D.C.

*Sybert is a special assistant to the secretary of defense.*



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"THE DEFENSE PARTNERSHIP AND THE OBLIGATIONS OF LEADERSHIP:  
SHARED RESPONSIBILITY IN A FREE SOCIETY"

THANK YOU AND GOOD EVENING, LADIES AND GENTLEMEN. I AM GLAD OF THE OPPORTUNITY TO SPEAK TO AN AUDIENCE THAT, BY ITS NATURE, KNOWS THE RESPONSIBILITIES AND BURDENS OF LEADERSHIP. THE DEPARTMENT OF DEFENSE HAS THIS IN COMMON WITH YOU: WE TOO MUST WEIGH DAILY A FLOOD OF INFORMATION AND A WEALTH OF OPINIONS IN MAKING DECISIONS THAT, IN MANY CASES, HAVE REAL IMPACT ON BUSINESS AND ON THOSE WHO DEPEND ON IT. IN OUR CASE, THE BUSINESS IS THE DEFENSE OF THE NATION AND THE FREE WORLD. THOSE WHO DEPEND ON US INCLUDE EVERY AMERICAN, AND ULTIMATELY EVERY MAN, WOMAN, AND CHILD IN THE WORLD WHO CHERISHES FREEDOM, OR WHO DREAMS OF IT.

BUT THIS RESPONSIBILITY IS NOT OURS ALONE. RESPONSIBLE LEADERSHIP IS NEEDED FROM EVERY PART OF AMERICAN SOCIETY TO PROVIDE FOR THE NATIONAL SECURITY. DEFENSE IS, AND HAS TO BE, A SHARED RESPONSIBILITY. IT HAS TO BE A PARTNERSHIP.

WE ARE A DIVERSE AND CONTENTIOUS PEOPLE. WE HAVE MANY OPINIONS ON MANY QUESTIONS, AND WE ARE NOT SLOW TO AIR THEM. THIS IS A SOURCE OF STRENGTH, NOT WEAKNESS. THIS IS THE ESSENCE OF A FREE PEOPLE. AND IT IS THE GENIUS OF THE AMERICAN SYSTEM THAT WE HAVE A STRUCTURE THAT ACCOMODATES OUR DIVERSITY AND OUR MANY DIFFERENT VOICES. HERE IS THE NUB OF THE DIFFERENCE BETWEEN THE TWO IDEOLOGIES NOW COMPETING GLOBALLY: WE ARE A VOLUNTARY SOCIETY, NOT A COERCIVE ONE; WE ARE RESPONSIVE, NOT REPRESSIVE.

MANY STRAINS GO INTO THE DETERMINATION OF NATIONAL POLICY: CONGRESS, THE PRESIDENT, BUSINESS, THE MEDIA AND OTHER OPINION-MAKERS. ALL CONTRIBUTE TO THE COLLECTIVE JUDGMENT OF WHAT IS BEST, WHAT IS RIGHT FOR US TO DO. OF COURSE THE ULTIMATE RESPONSIBILITY BELONGS TO THE AMERICAN PEOPLE THEMSELVES. FOR THOSE CHARGED WITH LEADERSHIP, THE GREATEST NEED IS THE ABILITY TO LISTEN.

INDEED, WHAT SETS THE UNITED STATES APART FROM OTHER POLITICAL AND SOCIAL SYSTEMS ARE THE SHARP LIMITS ON GOVERNMENT POWER, AND THE CHECKS AND BALANCES WITHIN THE GOVERNMENT ITSELF. WE RELY ON PRIVATE SECTOR MECHANISMS AND INDIVIDUAL INITIATIVE FOR FUNCTIONS THAT PEOPLE IN OTHER COUNTRIES SIMPLY ASSUME ARE UP TO GOVERNMENT TO DECIDE.

MORE

WE KNOW THAT THE ORIGINAL CAUSE FOR THE DESIGN OF OUR SYSTEM WAS THE ABIDING MISTRUST OF THE FOUNDING FATHERS FOR ANY CONCENTRATION OF POWER, LEST IT BE ABUSED. THAT DISTRUST HAS NEVER LEFT US. NOR IS IT UNJUSTIFIED, GIVEN THE TENUOUS HOLD THAT FREE SOCIETIES HAVE IN THE HISTORY BOOKS.

WITH DIFFUSED POWER, HOWEVER, COMES SHARED RESPONSIBILITY. IN A FREE SOCIETY, WE ALL BEAR SOME OF THE BURDEN OF KEEPING OUR FREEDOM. JOHN KENNEDY PUT IT IN TERMS OF WHAT YOU CAN DO FOR YOUR COUNTRY. OTHERS SPEAK OF TRADITIONAL AMERICAN VALUES OF CIVIC DUTY AND SELF-RELIANCE. BUT THE MESSAGE IS THE SAME: WE ALL MUST CONTRIBUTE.

I WANT TO TALK TO YOU THIS EVENING ABOUT THREE INSTITUTIONS THAT, BY VIRTUE OF THEIR IMPORTANCE AND POWER, HAVE A SPECIAL RESPONSIBILITY TO RISE ABOVE THEMSELVES AND HAVE THE MORAL COURAGE TO LEAD. EACH OF THEM IS A KEY ELEMENT OF THE AMERICAN DEFENSE PARTNERSHIP. THE FIRST IS THE MEDIA. THE SECOND IS CONGRESS. THE THIRD IS BUSINESS.

FIRST, I RECOGNIZE AND APPLAUD THE VITAL FUNCTION THAT A FREE PRESS SERVES IN A FREE SOCIETY. THERE ARE SOME WHO ARE UNCOMFORTABLE WITH AN INQUIRING, CRITICAL PRESS. I AM NOT ONE OF THEM. I WELCOME IT. OF COURSE I LIKE IT TO BE ACCURATE AND FAIR, BUT THERE IS NO REQUIREMENT THAT IT BE EITHER.

THERE IS NO FREE PRESS IN THE SOVIET UNION, AND THE SOVIET PEOPLE ARE MUCH THE WORSE FOR IT. WE IN THIS COUNTRY BENEFIT FROM THE INDEPENDENT VIEW, THE CRITICAL EXAMINATION, THE QUESTIONS RAISED. AT THE DEPARTMENT OF DEFENSE WE IN PARTICULAR HAVE IN RECENT YEARS RECEIVED WHAT ON SOME MORNINGS (USUALLY FRIDAYS) I WONDER IS PERHAPS MORE THAN OUR FAIR SHARE OF THIS ATTENTION. BUT ON THE WHOLE I THINK WE HAVE BENEFITTED. IF WE THINK AN ARTICLE IS UNFAIR OR INACCURATE, WE CAN AND DO RESPOND, AND ULTIMATELY THE PEOPLE DECIDE. IT IS A MEASURE OF OUR STRENGTH AND MATURITY THAT WE ARE NOT AFRAID OF OPEN INQUIRY AND DISCUSSION. THE EXISTENCE AND ACTIVITY OF A FREE PRESS AID OUR EFFORT OF CONSTANT SELF-EXAMINATION AND IMPROVEMENT. WE WANT TO GIVE THE AMERICAN PEOPLE THE BEST, MOST RESPONSIVE, MOST COST-EFFECTIVE DEFENSE DEPARTMENT WE CAN. THE MEDIA CAN AND DO PLAY A MOST USEFUL PART IN THIS EFFORT.

BECAUSE THEY HAVE POWER, HOWEVER, POWER FAR GREATER THAN THAT ENVISIONED BY THE FOUNDING FATHERS WHEN THEY DRAFTED THE FIRST AMENDMENT, THE MEDIA HAVE RESPONSIBILITY. UNFORTUNATELY, SOMETIMES THEIR ONLY CONCERN SEEMS TO BE WITH GETTING THE STORY. SOMETIMES THERE SEEMS TO BE LITTLE OR NO THOUGHT GIVEN TO WHETHER PUBLICATION OF FACTS WILL HARM THE NATIONAL SECURITY; WHETHER IT WILL GIVE AID AND COMFORT TO OUR ENEMIES; WHETHER IT WILL COMPLICATE THE CONDUCT OF OUR FOREIGN POLICY; OR, MOST IMPORTANT, WHETHER IT WILL ENDANGER AMERICAN LIVES. THERE IS AN AFFIRMATIVE OBLIGATION TO CONSIDER THESE LARGER, NATIONAL CONCERNS; AND I AM CONFIDENT THAT RESPONSIBLE REPORTERS WILL DO SO.

IF THE MEDIA ARE TO FULFILL THEIR ROLES AS RESPONSIBLE PARTNERS IN THE DECISION-MAKING PROCESS, THEY MUST EXERCISE FAIRNESS AND BALANCE. THEY DO NOT ALWAYS DO SO. WE SEE RECYCLED ARTICLES (ONE WRONG COLUMN OR ARTICLE USUALLY PUTS THE ERROR INDELIBLY INTO PRINT FOR THE FUTURE), ALLEGING, FOR EXAMPLE, OVERCHARGES IN PENTAGON PROCUREMENT, BUT WITHOUT A FULL STATEMENT OF THE FACTS. OUR REFUSALS TO PAY, OR THE REFUNDS OF OVERCHARGES WE OBTAIN, ARE RARELY MENTIONED, EXCEPT BY US.

FURTHER, I SEE ALMOST NO NEWS REPORTS ABOUT THE BILLIONS OF DOLLARS OF SAVINGS WE HAVE SECURED ON MAJOR WEAPON SYSTEMS THROUGH MORE EFFICIENT MANAGEMENT, SAVINGS WHICH DWARF UNJUSTIFIABLE CHARGES FOR COFFEE URNS AND TOILET SEATS THAT WE OURSELVES

MORE

FOUND; OR THE REDUCTION IN ANNUAL COST GROWTH RATES ON MAJOR WEAPONS SYSTEMS FROM 14% IN 1981 TO LESS THAN 1% EACH OF THE LAST TWO YEARS. I MENTION THESE ACHIEVEMENTS FREQUENTLY, AND EVERY ONCE IN A WHILE IT IS REPORTED, BUT THE PUBLIC NEEDS TO KNOW MORE FULLY THIS SIDE OF THE STORY, THE RESULT OF HARD WORK AND A SUCCESSFUL PARTNERSHIP WITH AMERICAN INDUSTRY.

FRANKLY, REPORTERS DO NOT ALWAYS GET IT RIGHT. SOMETIMES THEY GET IT QUITE WRONG. I SAW A PARTICULARLY AMUSING AND EGREGIOUS ERROR JUST LAST SUNDAY IN WHICH A LONG LEARNED COLUMN WAS STATING THAT WITH GRAMM-RUDMAN, AT LAST THE DEFENSE DEPARTMENT WOULD HAVE TO ACTUALLY CANCEL MAJOR WEAPONS SYSTEMS, AND NOT JUST REDUCE THEIR RATE OF ACQUISITION. THE ONLY TROUBLE WITH THIS IS THAT GRAMM-RUDMAN SPECIFICALLY FORBIDS US TO CANCEL WHOLE SYSTEMS. WE MUST REDUCE EVERY SINGLE PROGRAM--ALL OF THE 3200 ACCOUNTS IN OUR BUDGET.

THE MEDIA ALSO SHOULD NOT FALL INTO THE TRAP OF IGNORING THE VAST MORAL DIFFERENCE BETWEEN THE AMERICAN AND SOVIET SYSTEMS. WE ARE A FREE SOCIETY BASED ON LIBERTY FOR EACH INDIVIDUAL. OUR ADVERSARY IS A TOTALITARIAN EMPIRE WHICH BELIEVES IN NO FREEDOMS OF ANY KIND, AND PERMITS FEW IF ANY. I LIKE TO THINK WE ALL HAVE A DUTY TO RAISE THESE CRITICAL DIFFERENCES. THEN LET THE PUBLIC MAKE THEIR OWN DECISIONS ABOUT THE TWO SYSTEMS. I WORRY WHEN SEGMENTS OF OUR PRESS ASSUME A COLLECTIVE STANCE AS SOME KIND OF NEUTRAL, THIRD-PARTY OBSERVER; OBJECTIVITY THAT TREATS DISPASSIONATELY AS EQUALS THE FIREMAN AND THE ARSONIST DOES NOT SERVE THE TRUTH.

ANOTHER OF OUR DEFENSE PARTNERS IS THE CONGRESS. CONGRESSIONAL OVERSIGHT IS A NECESSARY PART OF THE NATIONAL SECURITY PROCESS. AGAIN, WE WELCOME IT. IT IS CONGRESS THAT APPROPRIATES DEFENSE MONEY, AND THEN ANSWERS TO ITS CONSTITUENTS. MEMBERS OF CONGRESS ARE PROPERLY CONCERNED, AS ARE WE, THAT WE GET VALUE FOR OUR MONEY. THEY ARE PROPERLY CONCERNED WITH SUCH MATTERS AS PROCUREMENT REFORM AND REORGANIZATION OF THE JOINT CHIEFS. WE OFTEN DO NOT AGREE WITH CONGRESS, IN FACT WE OFTEN STRONGLY DISAGREE. BUT THEIRS IS A LEGITIMATE VOICE IN THE DEBATE--SOMETIMES MANY VOICES--AND WE ARE STRONGER FOR IT.

AGAIN, HOWEVER, AMERICANS HAVE A RIGHT TO EXPECT RESPONSIBLE LEADERSHIP. THERE ARE SOME IN CONGRESS WHO APPARENTLY CANNOT RESIST THE TEMPTATION TO ENGAGE IN POLITICAL DEMAGOGUERY AGAINST THE DEFENSE DEPARTMENT, BECAUSE IT IS FASHIONABLE IN CERTAIN CIRCLES TO DO SO. THEY DECRY SO-CALLED PROCUREMENT "HORROR STORIES" EVEN THOUGH THESE ARE THE RARE EXCEPTIONS IN THE 52,000 CONTRACTS WE SIGN EVERY SINGLE DAY. THEY ARE NOT THE GENERAL RULE. MORE TO THE POINT, SOME CRITICS NEVER RECOGNIZE THAT IT IS OUR OWN EFFORTS THAT UNCOVER MOST DISCREPANCIES. IT IS IRONIC THAT GREATER MANAGEMENT EFFICIENCY IN THE DEPARTMENT OF DEFENSE TO UNCOVER ISOLATED INCIDENCES OF FRAUD AND WASTE, EARN US NOT PRAISE FOR A JOB WELL DONE, BUT FURTHER ATTACKS.

THIS IS PRECISELY WHAT I MEAN BY EXERCISING RESPONSIBILITY. IT MAY NOT MAKE GOOD PRESS OR ENTERTAIN VOTERS, BUT RESPONSIBLE LEADERS HAVE A DUTY NOT TO MISLEAD THE PUBLIC AND PRESENT ISSUES IN BLACK AND WHITE TERMS WHEN THEY ARE ALL SHADES OF GRAY. CONSTRUCTIVE CRITICISM, YES, AND THERE IS NO SHORTAGE OF THAT; BUT JOURNALISTS AND CONGRESSMEN SHOULD NOT AUTOMATICALLY SET THEMSELVES INTO AN ADVERSARY POSITION VIS-A-VIS THE DEPARTMENT OF DEFENSE. WE ARE NOT THEIR ADVERSARY. WE ARE THEIR DEFENSE DEPARTMENT. WE PROVIDE FOR THE NATIONAL SECURITY FOR ALL OF US.

THE FACT IS THAT PROVIDING FOR THAT NATIONAL SECURITY, AND FULFILLING OUR GLOBAL RESPONSIBILITIES TO DEFEND FREEDOM, IS A MASSIVE, HIGHLY COMPLEX MISSION. YOUR DEPARTMENT OF DEFENSE EMPLOYS OVER TWO MILLION MEN AND WOMEN IN UNIFORM, NEARLY TWO MILLION CIVILIANS, AND A FURTHER MILLION EMPLOYEES THROUGH CONTRACTORS.

MORE

WE HAVE AN ANNUAL BUDGET THIS YEAR OF JUST UNDER \$300 BILLION--AND BELIEVE ME, IT IS NOT ADEQUATE TO DO THE JOB THAT WE MUST DO. IN TERMS OF LABOR, CAPITAL, STRUCTURE AND SIZE, NO ORGANIZATION IN THE WORLD, INDUSTRIAL OR OTHERWISE, IS CLOSE TO IT, WITH THE POSSIBLE EXCEPTION OF THE SOVIET ARMED FORCES. UNFORTUNATELY, MANY WHO CLAIM RHETORICALLY TO SUPPORT A "STRONG DEFENSE" SIMPLY ARE NOT WILLING TO VOTE FOR THE STRONG DEFENSE BUDGETS THAT A STRONG DEFENSE REQUIRES.

I DO NOT THINK THERE IS SUFFICIENT RECOGNITION OF JUST HOW ABLE A JOB WE ARE DOING IN MANAGING SO NECESSARILY VAST AND COMPLEX AN UNDERTAKING. FOR EXAMPLE, AS I SAID, WE ENTER 52,000 CONTRACTS EVERY DAY, MORE THAN 15 MILLION A YEAR. IF WE MAKE A MISTAKE ON ONLY ONE TENTH OF ONE PERCENT OF THESE CONTRACTS--AND I KNOW OF VERY FEW BUSINESSES WHICH APPROACH SUCH A LEVEL OF EFFICIENCY--THERE WOULD BE OVER 15 THOUSAND CONTRACTING ERRORS ON WHICH TO FOCUS ATTENTION.

AS ONE WRITER HAS NOTED, HOWEVER, THE GOOD NEWS IS THAT THE BAD NEWS IS WRONG. AS WE BEGIN THE NEW YEAR, I WOULD LIKE TO RECAPITULATE SOME OF THE POSITIVE DEVELOPMENTS AT THE DEPARTMENT OF DEFENSE:

- LONG-DELAYED MODERNIZATION OF AMERICA'S STRATEGIC NUCLEAR DETERRENT TO COUNTER THE SOVIETS' RELENTLESS DRIVE FOR MILITARY SUPERIORITY.
- REBUILDING OUR CONVENTIONAL DETERRENT FORCES, WITH RENEWED FOCUS ON READINESS, SUSTAINABILITY, AND RAPID DEPLOYMENT.
- IMPORTANT PROCUREMENT REFORMS, INCLUDING GREATER EMPHASIS ON COMPETITION, FIXED-PRICE CONTRACTS, AND AUDIT REVIEWS.
- GREATER COOPERATION WITH OUR MAJOR EUROPEAN AND ASIAN ALLIES, IN SUCH FIELDS OF MUTUAL DEFENSE AND ARMAMENTS COORDINATION.
- PERHAPS MOST IMPORTANT OF ALL, A RESTORATION OF MORALE, AND RECRUITMENT AND RETENTION OF TOP-FLIGHT PEOPLE IN OUR ARMED FORCES. PEOPLE ARE THE HEART OF OUR DEFENSE, AND I AM PROUD OF THE QUALITY OF BOTH OUR MILITARY AND CIVILIAN PERSONNEL.

NONE OF THESE STEPS IS OR WILL BE INEXPENSIVE. THEY REQUIRE A STEADY, PATIENT, AND LONG-TERM COMMITMENT FROM THE AMERICAN PEOPLE AND FROM CONGRESS. BUT THEY ARE A NECESSARY INVESTMENT IN OUR CHILDREN'S SECURITY. WE ARE WINNING THE WAR OF IDEAS. IN THE MEANTIME, HOWEVER, WE MUST HAVE THE MEANS TO CHANNEL THE COMPETITION BETWEEN EAST AND WEST INTO PEACEFUL ARENAS.

OUR THIRD DEFENSE PARTNER, AND PERHAPS THE MOST DISTINCTIVELY AMERICAN, IS BUSINESS. THERE ARE NO STATE DEFENSE INDUSTRIES IN OUR COUNTRY. WE RELY ON THE PRIVATE SECTOR TO PROVIDE THE NECESSARY WHEREWITHAL FOR THE NATIONAL DEFENSE, AND BY AND LARGE THE PROCESS WORKS WELL, ALTHOUGH WE ARE CERTAINLY ALWAYS TRYING TO IMPROVE IT. BY AND LARGE, WE GET BETTER WEAPONS SYSTEMS FOR LESS THAN ANYONE ELSE. FURTHER, IT IS RIGHT AND FITTING THAT FREE ENTERPRISE ITSELF FURNISH THE MEANS FOR ITS OWN DEFENSE.

THERE IS A CORRESPONDING RESPONSIBILITY INCUMBENT UPON BUSINESS TO CONSIDER MORE THAN JUST PROFIT. I AM NOT TALKING ONLY OF DEFENSE CONTRACTORS NOW. TAKE THE AREA OF FOREIGN TRADE, FOR EXAMPLE. WE KNOW THAT THE SOVIETS AND THEIR SATELLITES OPERATE AN EXTENSIVE AND WELL-FINANCED NETWORK OF ESPIONAGE AND TRADE DIVERSION TO ACQUIRE OR STEAL WESTERN TECHNOLOGY FOR MILITARY USE. THIS IS EXTREMELY DISQUIETING

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BECAUSE WE IN THE WEST RELY ON WHAT, UNFORTUNATELY, IS A DECREASING TECHNOLOGICAL LEAD TO COUNTER MUCH GREATER SOVIET NUMBERS AND WEAPONS.

WE ARE DOING WHAT WE CAN TO STEM THIS TIDE: COCOM--THE COORDINATING COUNCIL OF WESTERN EUROPE, THE UNITED STATES, AND JAPAN--HAS STRENGTHENED ITS PROCEDURES FOR EXPORT CONTROLS, AND WITHIN THE U.S., THE DEPARTMENTS OF DEFENSE AND COMMERCE HAVE COOPERATED CLOSELY TO REVIEW EXPORT LICENSES AND TO TRY TO ENSURE THAT APPARENTLY HARMLESS TECHNOLOGY DOES NOT GO TO THE USSR TO HELP THE SOVIETS MILITARILY AND FORCE OUR OWN DEFENSE BUDGETS HIGHER. ALL SECTORS OF OUR SOCIETY MUST SHARE RESPONSIBILITY FOR SAFEGUARDING OUR DEFENSE ASSETS, HOWEVER. PRIVATE INDUSTRY MUST POLICE ITSELF; MUST PROVIDE ADEQUATE INDUSTRIAL SECURITY; MUST ASK ITSELF, "DOES MY SHORT-TERM GAIN IN THIS TRANSACTION OUTWEIGH THE LONG-TERM HARM TO THE NATIONAL SECURITY?"

LET ME NOW TALK ABOUT DEFENSE CONTRACTORS IN PARTICULAR. AS I HAVE INDICATED, THE SCOPE OF DOD OPERATIONS IS SO EXTENSIVE THAT THE EXPENSE AND BUREAUCRACY OF SETTING UP AN INSPECTION AND MONITORING SERVICE TO REVIEW EVERYTHING ON AN ONGOING BASIS WOULD EASILY DWARF ANY RESULTANT SAVINGS OR OTHER BENEFITS. IN FACT, SUCH AN EFFORT WOULD NOT EVEN PERMIT US THE TIME TO DEFEND THE COUNTRY. IN THE FINAL ANALYSIS, WE MUST DEPEND, AS DOES THE INTERNAL REVENUE SERVICE, WHICH AUDITS ONLY A SMALL PERCENTAGE OF TOTAL TAX RETURNS, ON THE INTEGRITY AND ETHICS OF THOSE WITH WHOM WE DO BUSINESS. WE ARE CONTENT TO DO THIS, BECAUSE IT IS CONSISTENT WITH A SOCIETY THAT BELIEVES IN PRIVATE INITIATIVE RATHER THAN STATE CONTROL. WE ALSO KNOW THAT MOST AMERICANS BELIEVE IN DEALING SQUARELY WITH THEIR OWN GOVERNMENT AND THEIR OWN NATIONAL SECURITY.

PRIVATE INDUSTRY MUST NOT DISAPPOINT US IN THIS REGARD. CONTRACTORS ARE ENTITLED TO A FAIR PROFIT, AND TO CONSISTENT PROCUREMENT POLICIES. BUT BY THE SAME TOKEN THEY MUST DELIVER A PRODUCT THAT WORKS, AND WORKS WELL; THAT IS FAIRLY PRICED; AND THAT CARRIES WITH IT ADEQUATE INDUSTRIAL SECURITY, QUALITY ASSURANCE, AND PRODUCT SUPPORT.

I THINK THESE MATTERS ARE SELF-EVIDENT, AND SHOULD APPLY IN ANY BUSINESS TRANSACTION. THEY WERE THE POLICIES I FOLLOWED WHEN I WAS CHAIRMAN OF THE FTC, AND WHEN I WAS IN PRIVATE BUSINESS. HOW MUCH MORE SO IN THIS TIME WHEN THE CUSTOMER IS YOUR OWN GOVERNMENT, CHARGED WITH THE PROTECTION OF YOUR OWN FAMILIES AND YOUR OWN COMMUNITIES.

WE ARE NOT GOING TO JOIN IN A WITCH-HUNT AGAINST DEFENSE CONTRACTORS, OR TRY TO DEFLECT A WITCH-HUNT DIRECTED AGAINST US BY POINTING THE FINGER AT SOMEONE ELSE. WE REFUSE TO ASSUME, BECAUSE WE BELIEVE IT IS EMPHATICALLY NOT THE CASE, THAT THE GREAT MAJORITY OF THE AMERICAN BUSINESS COMMUNITY IS ANYTHING OTHER THAN UPRIGHT AND ETHICAL, DELIVERING A GOOD PRODUCT FOR A FAIR PRICE. I WILL NOT CONDEMN OUT OF HAND MANAGEMENT AND WORKERS WHO ARE PROUD OF THEIR CONTRIBUTION TO THE NATIONAL DEFENSE.

WE ARE ALL MEMBERS OF THE SAME TEAM. IF WE GO TO WAR, IT WILL NOT BE WITH DEFENSE CONTRACTORS; IT WILL NOT BE WITH CONGRESS, THE MEDIA, OR WITH THE DEPARTMENT OF DEFENSE; IT WILL NOT BE WITH DEMOCRATS OR REPUBLICANS. IT WILL BE WITH A SYSTEM THAT DOES NOT ALLOW FREEDOM, A SYSTEM THAT IN FACT HAS PLEDGED ITSELF FOR MORE THAN SIXTY YEARS TO STAMP FREEDOM OUT.

A FREE DEMOCRACY IS UNQUESTIONABLY THE BEST OF ALL POSSIBLE SYSTEMS, BUT IT IS NOT NECESSARILY THE STRONGEST MILITARILY. TOTALITARIAN SOCIETIES ARE INHERENTLY STRUCTURED FOR COMBAT, BECAUSE THEY BRING TO BEAR THE FULL COERCIVE POWER OF THE STATE. THEY STIFLE DISSENT. THEY PLACE WHAT BURDENS THEY LIKE ON THEIR PEOPLE AND THEIR ECONOMY, SECURE IN THE KNOWLEDGE THAT THE SECRET POLICE WILL MUFFLE ANY  
MORE

PROTEST. I WOULD NOT LIVE IN SUCH A SOCIETY, NOR I SUSPECT WOULD ANYONE IN THIS AUDIENCE. BUT THE COMPARATIVE MILITARY DISADVANTAGES WE SUFFER WHEN FACED WITH SUCH AN ADVERSARY ARE OBVIOUS.

BY THE SAME TOKEN, WE AS A FREE PEOPLE ALSO HAVE GREAT INHERENT STRENGTH WHEN WE PULL TOGETHER. "WE MUST ALL HANG TOGETHER, OR WE MOST ASSUREDLY WILL HANG SEPARATELY," BENJAMIN FRANKLIN SAID TWO CENTURIES AGO, AND IT IS EQUALLY TRUE TODAY. I HAVE NO DOUBT THAT A PARTICIPATORY DEMOCRACY CAN HOLD ITS OWN AGAINST A TOTALITARIAN SYSTEM--BUT ONLY IF ITS PEOPLE IN FACT PARTICIPATE.

EACH ONE OF US HAS A PERSONAL RESPONSIBILITY TO DEFEND FREEDOM. EACH ONE OF US IS A PARTNER IN THAT EFFORT. IF WE ABDICATE OUR RESPONSIBILITY TO THE GOVERNMENT, WE WILL EVENTUALLY FIND THAT WE HAVE ABDICATED OUR FREEDOMS AS WELL. IN A SOCIETY WHICH RESTS ON THE CONSENT OF THE GOVERNED, THE GOVERNED MUST TAKE A ROLE. ROUSSEAU SAID THAT THERE IS A SOCIAL CONTRACT BETWEEN THE PEOPLE AND THEIR GOVERNMENT. YOUR MILITARY NEEDS ALL SECTORS OF AMERICAN SOCIETY TO FULFILL THEIR PART OF THE BARGAIN. WE AT DEFENSE CANNOT DO IT ALONE.

ONE OF THE RALLYING CRIES IN BRITAIN IN DEFENSE OF THE WESTERN DEMOCRACIES IN TWO WORLD WARS WAS THAT "ENGLAND EXPECTS EVERY MAN TO DO HIS DUTY." THOSE WERE TERRIBLE CONFLICTS, IN WHICH THERE WAS GREAT AND UNNECESSARY LOSS OF LIFE. WE PRAY THAT SUCH CONFLICTS WILL NEVER RECUR. THAT IS OUR GOAL. TO MAKE SURE THEY DO NOT, WE NEED A STRONG DEFENSE. IN THAT ENDEAVOR, AMERICA, TOO, EXPECTS EVERY MAN, AND WOMAN, TO DO HIS DUTY.

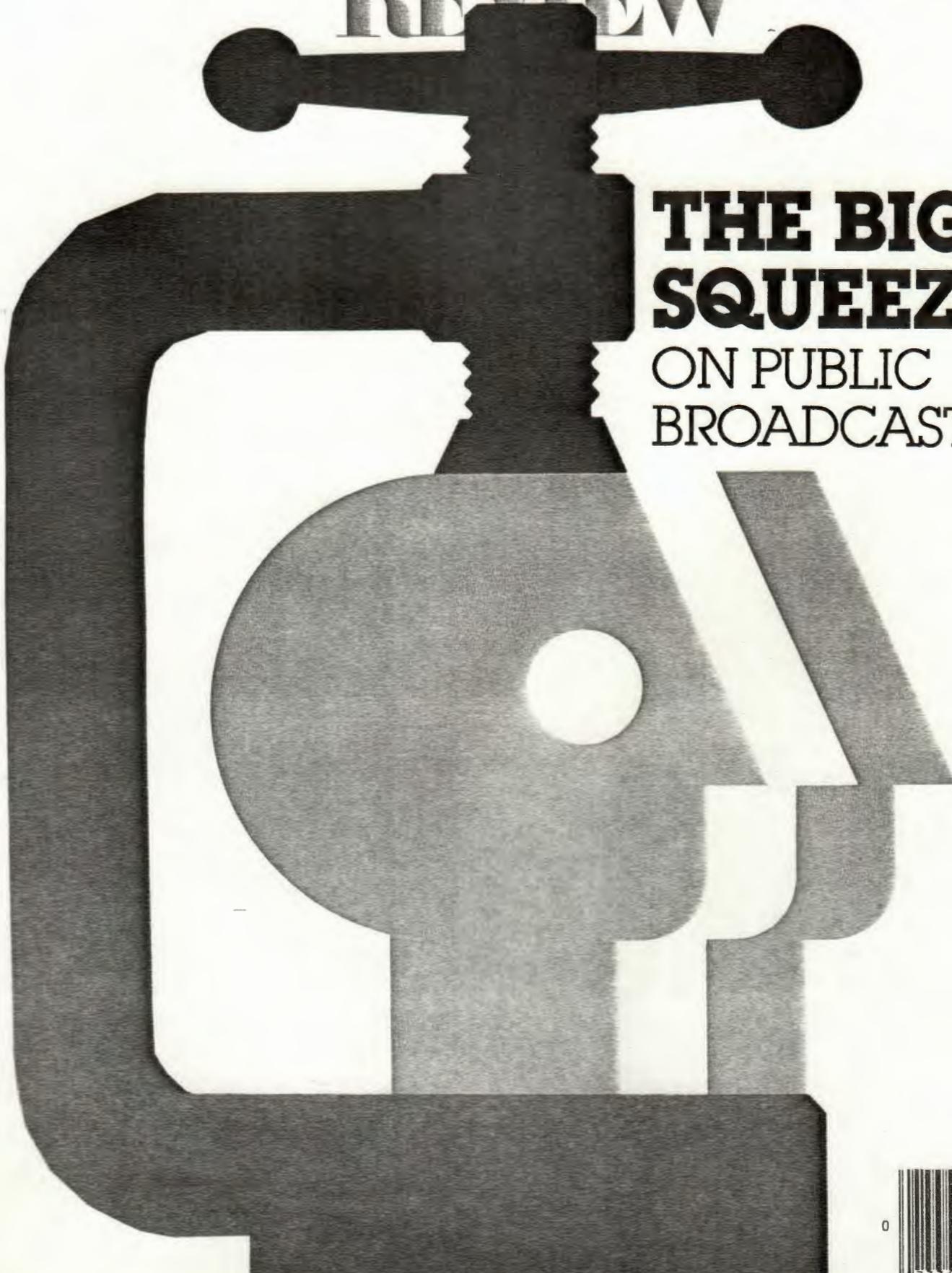
WHERE THERE IS NO VISION, THE PEOPLE PERISH. THE AMERICAN PEOPLE WILL NOT PERISH, BUT THE VISION WE NEED IS FROM ALL OF YOU. LADIES AND GENTLEMEN, THANK YOU VERY MUCH FOR YOUR TIME AND YOUR CONSIDERATION.

END

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# JOURNALISM REVIEW

- Dispatches from the libel front
- Inside CNN



**THE BIG  
SQUEEZE**  
ON PUBLIC  
BROADCASTING



# COMMENT

## Un-American activities

As if the press didn't already have enough credibility problems, it is now being depicted as a conduit for the KGB. Central Intelligence director William J. Casey sounded the alarm in September when he devoted one of his relatively rare public speeches to a description of the "active measures" being employed by the KGB to subvert public opinion. Casey warned especially about "disinformation" — the planting by the Soviets of "half-truths, lies, and rumors to discredit free-world policies or individuals." Disinformation campaigns, Casey added, "are projected and reinforced by media manipulation. The Soviets conduct a massive worldwide effort to manipulate foreign media, thus transforming portions of the press into an unwitting propaganda machine."

The main point of Casey's remarks was that Americans should brace themselves for an all-out disinformation assault on the president's Strategic Defense Initiative, popularly known as Star Wars. Casey predicted "a propaganda campaign likely to assume unprecedented proportions" as the Soviets give "high priority" to mobilizing opposition to SDI "among our allies and in our country."

While Casey stopped short of suggesting that the KGB had recruited American journalists for its disinformation efforts, a Voice of America employee, Lisa Jameson, articulated just this suspicion in an October talk at Stanford University. Citing as her source two Soviet defectors who had posed as journalists while working for the KGB, Jameson said the KGB may have hundreds of recruited agents among foreign journalists, including some in the United States, who are "ready at any time to place prepared stories in their national media." *Editor & Publisher* was so perturbed by this possibility that in a November 2 editorial it suggested it might be time "we went back to attaching labels to stories that might be suspect as to their origins and facts."

At the same time, readers of the *Los Angeles Times* were given reason to suspect that they had been the victims of "active measures" by the KGB. Richard Sybert, a special assistant to the secretary of defense, wrote in a letter to the *Times*, published on November 2, that a basically critical series on the Strategic Defense Initiative by *Times* reporter Robert Scheer "was a masterpiece of disinformation." Complaining about a "flood of pre-summit disinformation" on the SDI, Sybert attacked Scheer and others for "completely false" statements, "myth," and "fabrication."

In a recent interview, Sybert said that he had not intended to accuse Scheer of disinformation in the sense of the term as used within the intelligence community. Rather, he had used "disinformation" to mean the use of factually wrong

information, "some of which does come from the Soviets," by "people who either know it's wrong or who haven't done their homework." Scheer, said Sybert, had used straw men and red herrings to "very skillfully present a bunch of alleged facts and disinform people." Sybert went on to say that he "in no way intended to suggest that Scheer was an agent of Soviet propaganda, although this sort of thing lends itself to this purpose."

Certainly, the Soviets are out to undermine the president's missile-defense initiative; just as certainly, many Americans — including scores of reputable scientists — are alarmed by the president's plan. The press has an obligation to do its own digging on the issue and to report all sides of the debate, including what critics — both foreign and domestic — have to say.

U.S. officials have obligations, too. If they are going to allege a massive anti-SDI disinformation campaign aimed at the press by the KGB, they should take care not to make indiscriminate allegations of disinformation when that term has become virtually synonymous with intelligence activity. And they should not regard agreement with Soviet views as a Soviet propaganda triumph. Such simplistic thinking can lead to bizarre conclusions.

**T**ake, for instance, Casey's assertion that a prime Soviet disinformation objective is to "encourage European and American antinuclear groups to view the SDI program as threatening an increase in the nuclear arms race when, in fact, it promises the opposite." If the notion that SDI might spur the arms race is to be equated with Soviet propaganda, what is one to conclude about a passage in Defense Secretary Caspar Weinberger's pre-summit report to the president? In that report, a copy of which was leaked to the press, Weinberger warned that "even a *probable* territorial [Soviet missile] defense would require us to increase the number of our offensive forces and their ability to penetrate Soviet defenses to assure that our operational plans could be executed." Surely the same logic applies in the case of a U.S. missile-defense system.

Disinformation, evidently, can lurk in the unlikeliest places. Meanwhile, in-depth coverage of the debate over SDI would seem to be the best antidote to whatever disinformation Soviet intelligence agents might be trying to sneak into the U.S. press.

GILBERT CRANBERG

*Gilbert Cranberg was editorial page editor of The Des Moines Register from 1975 to 1982; he now teaches journalism at the University of Iowa.*

# To Amend SALT II for Equality With U.S.S.R.

To the Editor:

The SALT II treaty in its present form is not in America's interests nor, more importantly, does it serve the goal of world peace. The treaty should be either amended or rejected.

The treaty now permits an exception from the laudable principle of numerical equality in missiles in allowing the Soviet Union to keep the 308 giant SS-18 missiles it has built, while permitting the U.S. none. Each SS-18 can carry up to 10 nuclear warheads, and each warhead is more powerful than any existing American one.

Meanwhile, the cruise missile, our one potentially effective counter to Russian nuclear superiority, has been severely restricted by the protocol (sub-treaty) attached to SALT II, in terms of both range and deployment. This denies cruise missile technology to the people who need it most, our Western European allies. The Russian Backfire bomber, on the other hand, which can be refueled in the air and thus reach the U.S., has been limited in no way at all other than to reveal its production numbers.

SALT II is in short not an equal treaty. It is a good treaty for the Russians, which is precisely why they like it and why they will probably accept amendments, a good deal of bad grace notwithstanding. As it stands, SALT II will create a false sense of security just like SALT I, which resulted in a massive Soviet buildup more or less completely uncountered by the West. Plainly, it will not limit the arms race, because both sides are already diligently developing new weapons systems.

The proper question to be asked, then, in evaluating SALT II is whether it helps preserve the balance of power (or terror) between Russia and U.S., and therefore maintain world peace. The answer, unfortunately, is that it does not.

Because of the spectacular Soviet buildup during the past decade, unmatched by America, and because SALT II not only does nothing to correct this imbalance but actually endorses it, it is certain that by 1982 when Russia will have fully armed all of its missiles, it will be able to destroy all of

our land-based missiles in one fell swoop.

Even if the Russians were to resist that temptation — and they have resisted none to date — their evident nuclear superiority, coupled with their growing strength in conventional weapons, will clearly lead them as it has already to harassing and pressuring the West throughout the world, to intolerable levels.

The Senate must therefore act accordingly to amend SALT II to make it an equal agreement. In addition, the Russians must somehow be impressed with the notion that, implicit in SALT II and the entire context of détente, they cannot continue to act unreasonably in other areas. For our part, it is essential that America and the West act swiftly to match their resolve for peace with the means to insure it.

Unfortunately, we live in a cold, brutal world where force is the measure of survival. The cost of maintaining peace and our own freedom in an increasingly unfree world is high but necessary.

RICHARD SYBERT

Los Angeles, July 26, 1979

Clipping from  
The New York Times

Date July 31, 1979

TIME, JANUARY 5, 1981

**Hear This, Zamyatin**

I have some answers for Soviet Spokesman Leonid Zamyatin and his critique of American-Soviet relations [Dec. 8]. If he wants peace, then stop butchering Afghans. If he wants self-determination, then leave Poland alone. If he wants human dignity, then allow freedom of speech. If he wants détente, then act responsibly and cease helping terrorists. Talk is cheap. Actions show that the Soviet government is a brutal, repressive warmonger.

*Richard Sybert  
Los Angeles*

## LETTERS TO THE EDITOR

### WHEN INDEPENDENCE BECOMES IRRESPONSIBILITY

Editor:

With the greatest of respect I must take issue with Los Angeles County Bar Association President Patricia Phillips's essay regarding the coming battle over the state supreme court ("Retention Elections," President's Page, *LAL*, June 1985). I do so after much hesitation, for no practicing lawyer can be eager to criticize publicly the judges before whom he or she may appear. However, I agree with Phillips that the bar has a special responsibility to the public to speak out on certain matters. And the public needs to be aware that there are different views on this important issue.

In the essay, Phillips urges that judges should follow the Constitution, not the popular will. Quite properly she stresses the importance of judicial independence. The implicit message is that California Supreme Court Justice Rose Bird is meeting these tests, and therefore ought not to be removed in the retention elections coming up in 1986. However, I believe that this view misapprehends the meaning and intent of an independent judiciary in California.

The requirement that state supreme court justices be subject to confirmation by a vote of the people every 12 years was one of the various populist measures enacted in California earlier this century under the leadership of Senator Hiram Johnson and the Progressives, in a successful attempt to break the grip of the Southern Pacific Railroad on this state. The rights of popular initiative and recall also date from this period.

All of these measures are intended to reserve to the people of California some small measure of their own sovereignty, which in the case of the judiciary would otherwise pass entirely into the hands of unelected representatives. There is no question that an independent judiciary is a desirable thing, but so too is the minimal check on the excesses of judicial power which the reconfirmation process provides.

Although the California Constitution gives the voters the right to remove sitting supreme court justices for any reason whatever, or even for no reason at all, like Phillips, I personally would not support such an extraordinary step absent extraordinary circumstances. In

this case, however, I believe such circumstances exist because of what one is reluctantly forced to conclude is a misconception by our chief justice of the proper role of a judge, particularly a justice of this state's highest court.

What is that proper role? I submit that it is to be fair and impartial. It is to interpret and enforce the laws as intended and set forth by the state legislature, or in the case of popular initiatives, by the voters themselves. Judges are not supposed to inject their personal beliefs or political philosophies into this process.

Unfortunately, the latter is what I believe Justice Bird has done since former Governor Jerry Brown elevated her to the supreme court from a position of relative obscurity and, frankly, a lack of judicial experience. Justice Bird seems to have perceived her position as essentially political. She has consistently made decisions which in my opinion run plainly counter to the law. She makes no secret of what seems to be a partisan, political philosophy which favors income redistribution and which is sympathetic to criminal defendants to the effective exclusion of concern for victims.

Time and again, Justice Bird and the other Brown appointees on the state supreme court have refused to impose the death penalty, usually on the basis of frivolous technicalities and even though the people of this state overwhelmingly support it. Time and again, the present court has taken the lead in restricting legitimate law enforcement activity because of an irrational liberal fear which materially disservices the right to public safety; and time and again Justice Bird has rendered blatantly political decisions seemingly designed to protect only the interests of California's Democratic Party which promoted her, rather than the interests of all citizens of this state. The most notable example of this was the court's refusal to let the voters be heard on the 1982 Democrat gerrymander which disenfranchised hundreds of thousands of Californians.

In the months ahead we will often hear the cry "independent judiciary" in defense of Justice Bird. At some point, however, independence becomes irresponsibility. At some point, a jurist's own unique interpretation of constitutional rights can become plainly unrea-

sonable. At some point, legal arguments simply become a smokescreen for partisan political beliefs. I reluctantly submit we have reached that point.

Richard P. Sybert

### IN SUPPORT OF RETENTION ELECTIONS

Editor:

Patricia Phillips's position in regard to the coming retention election in November 1986 involving five supreme court justices is dangerous to the public welfare ("Retention Elections," President's Page, *LAL*, June 1985). She opines that "[n]othing could be more damaging to our judicial system than to have our judges looking over their shoulders each time they render an opinion" and further: "[b]ut what we as lawyers cannot allow is that the election process be used to put pressure on judges to make decisions in a particular manner at the risk of losing his or her seat at the next election."

I could not disagree more. Power wielded without responsibility is tyranny. We the citizens hire our appellate judges to apply the law to the facts of each case. We require neither more nor less. We employ a considerable number of other people at great expense to decide what the law will be. The election process is our only protection in both cases, and each judge should be looking over his or her shoulder when tempted to apply what he or she thinks the law ought to be or what his or her social conscience dictates. The pressure of seat loss is vital to good work on the bench as much as it is to sound legislation.

We lawyers have a duty to speak out to the public on these matters and not be intimidated by those who loudly proclaim every disagreement as an attempt to politicize the judiciary, most of whom were appointed by politicians with their politics well in mind.

Gilbert M. W. Smith

### MAKING A DIFFERENCE

Editor:

I have just read Patricia Phillips's President's Page ("Retention Elections," *LAL*, June 1985) in one of my favorite legal periodicals, *Los Angeles Lawyer*. She is due kudos for selecting the topic

## THE INSTITUTIONALIZATION OF REVENGE

Editor:

The article by Jonathan Steiner and Donald Kerson on the death penalty in California ("California's Death Penalty: The Unresolved Issues," *LAL*, March 1982) is symptomatic of much of the discussion that has been waged unremittingly by the minority opponents of this societal remedy. The authors mount a variety of technical legal arguments against the death penalty, without ever addressing the fundamental questions, is it right, is it just? I submit that it is both.

The constitutional argument that the death penalty constitutes "cruel and unusual punishment" is absurd, as the death penalty was well known and well accepted at the time when those words

were written.

Arguments about deterrent effect are, to my mind, entirely beside the point. The fact is that in certain circumstances the death penalty is *justice*. No argument yet has derogated from the fundamental principle of an eye for an eye, a tooth for a tooth. Indeed, a primary purpose of the justice system is the institutionalization of revenge, which is a basic, human motivation and which deserves recognition. Nor is there anything particularly ignoble in this.

More important, it is simply *right* that the death penalty be suffered swiftly by individuals who have violated norms of human behavior in the most direct and total way imaginable. A civilized society removes from its midst, and at minimum expense, those who demonstrate unmistakably that they will not coexist with their fellow citi-

zens. For opponents of the death penalty to liken these two acts — murder and a state execution — under the common term "killing" is ridiculous. One is justified, the other is not. Obviously, not all killing is wrong (who, for instance, would not have feted an assassin of Hitler?) so, as with almost everything else, it is a question of reasonable people drawing reasonable lines.

By refusing to impose the death penalty on guilty people, we effectively impose it on innocent ones, and in so doing help to violate that most fundamental right, people's right to freedom from fear for personal safety in their own community. I would remind the authors that, unlike the death row inmates they so eloquently quoted, murder victims no longer "hear the sparrow chirping."

Richard P. Sybert

## LOS ANGELES Lawyer

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# Letters to The Times

## Exclusionary Rule Hostility

This is in response to the article (Editorial Pages, Feb. 15), "The Sources of Hostility to the Exclusionary Rule," by Prof. Yale Kamisar of the University of Michigan Law School.

As a lawyer with long experience in the vineyards of ivory tower liberalism, I could not agree less with Kamisar's defense of the so-called exclusionary rule. That rule, fashioned in the early '60s by the Warren Court to exclude evidence resulting from technically "invalid" police searches, has created more injustice and done more to undermine public confidence in the legal system than any other single item that comes to mind.

The whole point of the criminal justice system is to arrive at the truth. There is no excuse, no possible justification, for the exclusion of relevant evidence that leads to the truth.

Some people protest that the exclusionary rule is the only way to prevent unconstitutional searches. They fail to note, however, that the rule is of relatively recent origin, and somehow the foundations of the republic did not shatter previously. Moreover, the burden of providing such prevention is not on those who favor the introduction of relevant evidence; it is on those who oppose it. If they cannot devise a method that still leaves the truth intact, then so be it.

The exclusionary rule is pernicious. What is lacking in those who support it is any sense of perspective or balance, any notion that the paramount concern of any legal system is the truth, right and wrong, and justice. The most alarming aspect of this lack of balance is the failure to consider the right of the public to be free from crime and fear for personal safety. It is this most fundamental human right that is persistently being violated, apparently on the premise that two wrongs make a right.

RICHARD P. SYBERT  
Los Angeles

Sunday  
Final

# Los Angeles Times

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★★ Sunday, September 11, 1983/Part 1 3

## State Bar Members Decline Rebuke of Deukmejian Action

By JAMES S. GRANELLI, Times Staff Writer

Only two years ago, lawyers at the California State Bar Convention adopted a radical proposition that asked the Legislature to exclude the attorney general from passing on nominees to the state's two highest courts.

But Saturday, delegates to the Bar's annual convention in Anaheim declined to rebuke Gov. George Deukmejian, the man who as attorney general had been the object of such fury at the 1981 meeting.

Debate on a resolution criticizing Deukmejian for rejecting two court nominees in the waning days of Gov. Edmund G. Brown Jr.'s administration had barely heated up among the more than 400 lawyers in the often-activist Conference of Delegates when the group voted 217-215 that any action they could take would be unnecessary.

### Far Enough

"The politicalization of this group, particularly in recent years... this allegedly nonpartisan professional group, has gone quite far enough, and it's precisely because of the introduction of politically motivated resolutions like this one," Los Angeles lawyer Richard P. Sybert said.

The resolution, which had been submitted by 10 lawyers, sought to criticize Deukmejian for his actions as one of the three members on the Commission on Judicial Appointments, which must approve the governor's nominees for the Supreme Court and the Court of Appeal.

As attorney general, Deukmejian had long criticized Brown for his appointments to the bench, claiming many of them were soft on crime. But many lawyers criticized Deukmejian for using his commission post to try to block the appointments of qualified lawyers whose politics and philosophies he disagreed with.

In the closing days of Brown's administration last December, the commission, headed by Chief Justice Rose Elizabeth Bird, met to review the qualifications and pass on nine appellate court nominees. Deukmejian blocked four of the nine appointments, marking the first time in the commission's 48-year history that it had denied a governor's nominees to the Court of Appeal.

### Two Appointments

The lawyers seeking the reprimand Saturday claimed that Deukmejian's actions on two nominees—Court of Appeal Justice Sidney Feinberg and private attorney Jerome Cohen—were particularly reprehensible.

They said that Deukmejian had attacked Feinberg for "unspecified" criminal case rulings "adverse to the people" and called Cohen "rude, foul-mouthed, dishonest, devious and unethical," without supplying any support for his objections.

Feinberg, in being named presiding judge of a new Sixth District Court of Appeal, would have joined the commission to rule on other nominations for judges in that district.

But his appointment required the approval of both Deukmejian and Bird, the only two who could vote for that particular judgeship. By the split vote, Feinberg was rejected and the then-governor-elect saved the appointments for that district for himself.

The resolution Saturday attempted to reach beyond the politics of last December's vote. But many lawyers said they could not separate the politics from the resolution.

"Inherent in this resolution are the seeds of political dispute," Beverly Hills lawyer George Juarez told the group, which hasn't shied away

Please see BAR, Page 35

## BAR: No Rebuke

Continued from Third Page

often from the political arena.

Just a year ago, for instance, the lawyers censured Sen. Pete Wilson (R-Calif.), then San Diego mayor, for saying he'd seek a recall of Bird if she voted against Proposition 8, the so-called Victims' Bill of Rights.

In an attempt to defend the resolution, San Francisco lawyer Edward Kallgren claimed the issue before the delegates "wasn't concerned with" politics.

"We're, rather, concerned with procedures and processes that were followed," he said.

"There's no way to reconcile the conduct of the attorney general with the (commission's own) guidelines or even with common principles of decency and due process," he added.

MONDAY, JANUARY 27, 1986

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# The Washington Post

## LETTERS TO THE EDITOR

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### *On Judicial Restraint*

I disagree with my classmate Lincoln Caplan's article on judicial restraint ["Judicial Restraint Means Activism on the Right," *Outlook*, Jan. 19]. The contention that true judicial restraint calls for the new, moderate judges to do nothing is a thinly disguised plea for maintenance of the status quo. It would effectively acquiesce in the damage that has already been done by judicial activities, particularly in the criminal area.

Obviously there can be no effective return to the proper judicial role—non-intervention in what are essentially political and social questions—unless the excesses of past activism are first undone. In the face of determined opposition, the administration and the Justice Department are right to hold firm in a proper vision of the judicial function.

RICHARD F. STEELT

Sunday, October 7, 1984

## Arguments for Prop. 39

As a lawyer and fellow law professor, I take sharp issue with Gerald Uelmen's article, "Don't Plunge Judges Into Political Thick-et" (Editorial Pages, Sept. 19). Uelmen criticizes Proposition 39 on the November ballot because the reapportionment commission it would create would allegedly politicize the judiciary, from whose ranks commission members would be drawn.

Uelmen both misses the point and misstates the real debate. First of all, the commission would consist of *retired* appellate judges, not active judges. Thus in no way would it "politicize" the judiciary. Moreover, the politicization of the judiciary in the reapportionment area is a process that in any event is the legacy of the Brown Administration and its partisan judicial appointments. Surely we have not forgotten the California Supreme Court's 6-1 decision (all six being Brown appointees) refusing to allow the people of California even to vote on the Sebastiani reapportionment plan.

Secondly, the argument is misplaced that retired judges, unlike elected representatives, are not accountable to the voters. The problem is that our legislators in Sacramento aren't accountable either, precisely because the gerrymandered reapportionment plan they devised protected incumbents, and effectively disenfranchised hundreds of thousands of Californians. As a result, the State Legislature no longer represents anyone but itself. At least the retired judges, having left the public arena and put their careers behind them, will provide a far more impartial overview than legislators concerned only with the safety of their own seats. Also, unlike the legislators with their partisan concerns, the retired judges will bring to the panel years of training and experience in listening to both sides and rendering a fair decision.

Finally, Uelmen criticizes the pool of retired judges because it is largely old, white, and male, and does not represent minorities. I find this a wholly irrelevant and indeed a discriminatory comment. Does he mean to say that these people therefore cannot render a fair result? The whole point of reapportionment is that it should be a technical process to accurately reflect the voters of California (including minorities), not a political process. The present gerrymander fails miserably (and deliberately) in this regard, for example producing a congressional split of 28 to 17 in favor of the Democrats even though almost half the votes cast in 1982 were for Republicans.

The real issue here, and the reason we have all been brought to this point, is the Legislature's arrogance of power in devising a blatant, almost vicious gerrymander with no thought for the people of California other than purely partisan politics. Had legislative leaders made even the slightest effort to provide a semblance of fairness, Proposition 39 and the efforts which preceded it would not have been necessary.

Prof. Uelmen's article is a thinly disguised partisan plea to retain the present unfair lines. No one should be fooled into thinking it represents dispassionate legal analysis. It does not. Proposition 39 must be approved. As matters now stand, representative government in California has been destroyed. Until it is restored, there can be no political peace in this state. What is at stake is no less than the restoration of democracy in California.

RICHARD P. SYBERT  
Adjunct Professor  
Loyola Law School

Wednesday, October 23, 1985

Los Angeles Times

William Schneider's essay in Opinion on reapportionment is refreshing in its candid admission that the Democrats have gerrymandered California to death. He is quite wrong, however, in his conclusion that the cure (court intervention) would be worse than the disease.

It is not necessary for the courts to involve themselves affirmatively in the reapportionment process in order to be able to recognize a clear abuse. In California, for example, the evidence is overwhelming and uncontested that the state's Democrats set out deliberately to disenfranchise Republican votes. You need only one look at the crazy lines on the California reapportionment maps, whose author the late Rep. Phillip Burton (D-San Francisco) boasted of them as "my contribution to modern art," to reach that conclusion.

Just as in *Baker vs. Carr*, the courts can set out simple, quantitative guidelines—e.g., districts not to cross county lines, whole cities to be included where possible, statewide representation to approximate average party voter turnout in recent elections—which are easily applied. Or the courts don't have to issue any guidelines at all. They can simply recognize a clear abuse and say to the Legislature, "do better." You need not draw a precise line to know that, wherever it is drawn, certain cases fall outside it.

Courts often do have to make difficult decisions, but that is their job. In this case, a large part of this state's citizenry has been intentionally deprived of the most basic civil rights, the right to vote and the right to representation. It is simply an unacceptable conclusion that we can do nothing about this deliberate political abuse. Californians deserve better.

RICHARD P. SYBERT  
Los Angeles

# Letters to The Times

Los Angeles Times Sunday, January 9, 1983

## Deukmejian's Judicial Rejections

You criticize Deukmejian for disapproving last-minute appointments by Brown to the state's appellate courts. I think you miss some important points.

Deukmejian was elected governor by the voters of California two months ago. At the same time, Brown was rejected in his race for

the U.S. Senate by approximately half a million votes. One of the most prominent issues in both campaigns was certainly Brown's judicial appointments over the past eight years.

The incumbent has the technical right to make appointments until his successor actually takes office. But would it not have been more seemly for Brown to heed the call of the voters and refrain from imposing last-minute nominations on an electorate that had just repudiated him? More than anything else, I think this bespeaks a disregard for the democratic process that cannot be justified.

Deukmejian might reasonably have opposed these appointments if for no other reason than that they ought to be made by the new administration. The real issue is the outgoing governor's arrogance of power in ignoring the will of the voters. To me, the spectacle of the state Supreme Court falling over itself in haste to speed up the confirmation process before Brown left office is ample testimony that the politicization of our judiciary has gone far enough.

RICHARD SYBERT  
Los Angeles

THE WHITE HOUSE  
WASHINGTON

July 28, 1986

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To the Editor:

Having perused your Anderson column ("White House Fumbles in Courting Jews") I wonder if perhaps, together, we can't mop up a little of that mess left on Monday's comic page next to Garfield and Shoe.

To write that Marshall Breger, our Jewish liaison, "was kicked upstairs and out of the White House," suggests that Jack's column is being edited by interns unfamiliar with the federal "Plum Book." When Marshall went "upstairs" -- from a staff position at the White House to the Level II, sub-Cabinet post of Chairman of the Administrative Conference of the United States -- he was not "kicked" and he went smiling all the way. (Among his predecessors in the new job is Justice-designate Antonin Scalia.)

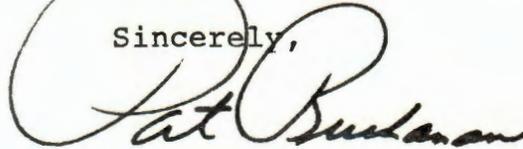
Second, to assert that "Buchanan has publicly denounced the prosecution of alleged Nazi war criminals as 'Orwellian and Kafkaesque'" is to grossly distort a quotation, given to your own reporter, Jay Mathews:

"Emphasizing that it was his personal view, Buchanan said, 'I think it is Orwellian and Kafkaesque to deport an American citizen to the Soviet Union to stand trial for collaboration with Adolph Hitler when the principal collaborator with Hitler in starting World War II was that self same Soviet Government.'" (W. Post, 7/13/86)

To say that Americans should not be shipped to the Soviet Union for prosecution for war crimes is worlds apart from saying they should not be prosecuted. If the Nazi Klaus Barbie is tried by the French and convicted and sentenced to be hanged, you will hear no squeals for clemency from this quarter.

What Americans of East European descent are asking -- for those among them accused of war crimes -- is something to which Americans are entitled: A fair trial in an open court in a free country. Mark me down as one who agrees.

Sincerely,

A handwritten signature in black ink, appearing to read "Pat Buchanan". The signature is written in a cursive style with a large, looping initial "P".

Patrick J. Buchanan  
Assistant to the President

Meg Greenfield  
Editorial Page Editor  
The Washington Post  
1150 15th Street, N.W.  
Washington, D.C. 20071

JACK ANDERSON and DALE VAN ATTA

# White House Fumbles in Courting Jews

No administration has tried harder to court the Jewish community than Ronald Reagan's—with less success. Every time the White House tries to patch things up it seems to do the wrong thing, with the result that relations between the administration and American Jewish leaders are now at rock bottom.

The latest affront to Jewish sensitivity is that the White House office of liaison with Jewish groups has been downgraded. What's worse, in the eyes of some Jews, is that the White House "Jewish affairs" chief, Max Green, is subordinate to Linas Kojelis, a Lithuanian American who has offended Jewish leaders.

Kojelis is a strong advocate of Eastern European ethnic groups that have urged the dissolution of the Justice Department's Nazi-hunting Office of Special Investigations. They charge that the office is a dupe of the Soviet KGB.

It didn't used to be this way. Green's predecessor as Jewish liaison, Marshall Breger, held the title of special assistant to the president. Kojelis was then at a lower level in the White House as associate director of the Public Liaison Office.

Then last year, the liaison office chief, Linda Chavez, reorganized to eliminate ethnic representatives, including Breger. He and Kojelis were named cochairmen of the new Foreign Affairs/Defense Division. In practice, each continued to handle liaison duties as they had previously, Breger for Jews, Kojelis for other ethnics.

But Breger's aggressive tactics were not appreciated by those on the White House staff who

resented the special status accorded Jewish leaders and their advice. Chief among them was communications director Patrick J. Buchanan.

Buchanan and chief of staff Donald T. Regan decided to eliminate the Jewish affairs office. To their surprise, they got support from several Jewish leaders and the Israeli Embassy. No less than Gerald Kraft, president of B'nai B'rith International, sent Reagan a letter urging that the Jewish liaison office "be abolished and not filled."

But other Jewish leaders objected when Breger was kicked upstairs and out of the White House. Vice President Bush insisted on keeping the Jewish office, and Regan and Buchanan backed down.

But sources told our associate Lucette Lagnado that Buchanan, who has publicly denounced the prosecution of alleged Nazi war criminals as "Orwellian and Kafkaesque," was determined to downgrade the Jewish liaison office and enhance the liaison with the other ethnic groups.

Kojelis was made director of the Foreign Affairs/Defense Division last fall. When Chavez left to run for the Senate, Kojelis became acting director of the Public Liaison Office. He was given the title once held by the Jewish liaison officer: special assistant to the president. Green is his subordinate.

Faced with the growing influence of Kojelis at the White House, Jewish leaders—even those who welcomed abolishing the Jewish liaison office—are dismayed. There is no evidence that Kojelis himself is anti-Semitic, but he has provided entree to the highest circles of the administration for Eastern European refugee groups tainted by anti-Semitism.

BROOM HILDA RUSSELL MYERS



MOTHER GOOSE & GRIMM MIKE PETERS



I WERE OF LESS HEART!

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# U.S. Nazi Hunters Brace for Criticism

## *Doubts About Soviet Evidence Surround Move to Deport Linnas*

By Jay Mathews  
Washington Post Staff Writer

LOS ANGELES—Justice Department draft documents indicate that U.S. Nazi hunters are preparing for an onslaught of criticism from conservatives and liberals as they move to deport an accused Nazi collaborator to the Soviet Union.

According to documents provided by sources in the Eastern European immigrant community, Justice Department officials have become particularly sensitive to suggestions that they are using fraudulent Soviet evidence to identify Nazi war criminals in the United States.

The documents indicate that U.S. officials fear the Soviets will stop assisting in the search for Nazis if the United States fails to deport Estonian immigrant Karl Linnas, 66. Several U.S. courts have ruled that Linnas may be deported because he told immigration officials that he was a student when, in truth, he was helping detain and murder Jews and anti-Nazis.

Linnas' family has denied the charges and argued that he has had no opportunity to confront his accusers or receive an American jury trial. In 1962, he was sentenced to death in absentia by a Soviet court whose verdict reportedly was announced three weeks before the trial.

"The Soviets want Linnas," according to what appears to be a draft memo from Assistant Attorney General Stephen S. Trott to Attorney General Edwin Meese III. "If we attempt to send Linnas somewhere else, after we have publicly designated the U.S.S.R. as the country of deportation . . . , there is a serious possibility that they may decrease their level of cooperation with OSI," the Office of Special Investigations, in charge of finding war criminals

In a brief telephone interview, Trott said the undated memo "sounds like something stolen from our offices" and "not anything that was forwarded to the attorney general." He would not discuss it further.

With some exceptions, U.S. courts have usually accepted Soviet depositions and documents as valid evidence in denaturalization and

deportation cases. OSI Director Neil M. Sher has said that in West German war crimes trials, "not once to my knowledge" has a court "found that the Soviets supplied forged documents or suborned perjury."

Linnas' family and anti-communist Eastern European community groups, led by the California-based Coalition for Constitutional Justice and Security, have begun to lobby Congress and the White House to block Linnas' deportation. Former U.S. attorney general Ramsey Clark has agreed to handle Linnas' appeal of the deportation order to the U.S. Supreme Court.

John G. Healey, executive director of Amnesty International USA, has written Meese to protest the planned deportation. Healey said his organization "has grave doubts about the fairness of the trials" that sentenced Linnas and others in absentia and opposes the death penalty in all cases.

Linnas' supporters have noted that presidential assistant Patrick J. Buchanan wrote three newspaper columns harshly critical of OSI use of Soviet evidence before taking his White House post. In an interview, Buchanan said he had met with Linnas' daughter, Anu, and thought President Reagan would seek Meese's advice on whether to permit the deportation if Linnas exhausts his court appeals.

Emphasizing that it was his personal view, Buchanan said, "I think it is Orwellian and Kafkaesque to deport an American citizen to the Soviet Union to stand trial for collaboration with Adolf Hitler when the principal collaborator with Hitler in starting World War II was that self-same Soviet government."

Mari-Ann Rikken, Washington director of the Coalition for Constitutional Justice and Security, said the Linnas case "is a litmus test for both liberals and conservatives. If you're a conservative, are you as much of an anti-communist as you think you are? If you're a liberal, are you as much of a civil libertarian as you think you are?"

In his 1981 decision revoking Linnas' U.S. citizenship, U.S. District Court Judge Jacob Mishler ruled that evidence presented by federal attorneys "overwhelmingly supported" the allegation that Lin-

nas had helped detain and kill Jews. Mishler noted that Linnas had declined to testify or appear at the denaturalization trial after he was told he could not invoke the privilege against self-incrimination in refusing to answer questions.

A May 8 decision by the 2nd U.S. Circuit Court of Appeals noted Soviet testimony that Linnas had fired into a ditch full of death camp victims and said his duties "were such as to offend the decency of any civilized society."

New York attorney Lawrence Schilling, who is now defending Linnas along with Clark and another New York attorney, Weldon Brewer, said there could have been several valid reasons for Linnas' refusal to try to contradict the Soviet evidence. He indicated Linnas will argue that the normal standards for deportation—such as lying on his immigration application—should not apply when he is threatened with a death sentence in a country that does not follow Western-style rules of due process.

Linnas, a retired land surveyor and former Boy Scout leader, is in a New York City jail. Justice Department officials arrested him without warning in April when he appeared at a meeting to discuss his custody status.

Anthony B. Mazeika, president of the coalition challenging the Soviet evidence and an active member of the Baltic-American Freedom League, said he thought the Soviets had singled Linnas out because of his outspoken opposition to the Soviet takeover of Estonia. In their appeal to U.S. senators, Linnas' family called him "a very young and patriotic Estonian" who served in the Estonian military, then under Nazi control, "to protect his family and homeland." "He did NOT kill Jews nor commit any Nazi atrocities," the appeal said.

The appeal expressed doubt Linnas would have been made a concentration camp chief "at the youthful age of 22" and alleged that the real commandant was a German officer, Fritz Giessen.

Anu Linnas, in an interview, said her father's legal bills had reached \$300,000 before Clark recently agreed to take his case. "His whole life is ruined, everything is gone," she said.

THE WHITE HOUSE

WASHINGTON

July 28, 1986

To the Editor:

Having perused your Anderson column ("White House Fumbles in Courting Jews") I wonder if perhaps, together, we can't mop up a little of that mess left on Monday's comic page next to Garfield and Shoe.

To write that Marshall Breger, our Jewish liaison, "was kicked upstairs and out of the White House," suggests that Jack's column is being edited by interns unfamiliar with the Plum Book. When Marshall went "upstairs" -- from a staff position at the White House to the Level II, sub-Cabinet post of Chairman of the Administrative Conference of the United States -- he was not "kicked" and he ~~smiled~~ <sup>smiling</sup> all the way. (Among his predecessors in the new job is Judge Antonin Scalia.)

Second, to assert that "Buchanan has publicly denounced the prosecution of alleged Nazi war criminals as 'Orwellian and Kafkaesque'" is to grossly distort a quotation, given to your own reporter, Jay Mathews:

"Emphasizing that it was his personal view, Buchanan said, 'I think it is Orwellian and Kafkaesque to deport an American citizen to the Soviet Union to stand trial for collaboration with Adolph Hitler when the principal collaborator with Hitler in starting World War II was that self same Soviet Government.'" (W. Post, 7/13/86)

To say that Americans should not be sent to the Soviet Union for prosecution of war crimes is worlds apart from saying they should not be prosecuted. If the Nazi Klaus Barbie is tried by the French and convicted and sentenced to be hanged, you will hear no squeals for clemency from this quarter.

*Justice-designate*

*went smiling*

*Federal*

*FOY*

*shipped*

What Americans of East European descent are asking -- for those among them accused of war crimes -- is something to which Americans are entitled: A fair trial in an open court in a free country. Mark me down as one who agrees.

Sincerely,

Patrick J. Buchanan  
Assistant to the President

Meg Greenfield  
Editorial Page Editor  
The Washington Post  
1150 15th Street, N.W.  
Washington, D.C. 20071

THE WHITE HOUSE

WASHINGTON

July 28, 1986

*(Among his predecessors in the New Job is Judge Antonin Scalia.)*

To the Editor:

Having perused your Anderson column ("White House Fumbles <sup>W</sup> Courting Jews") I wonder if perhaps, together, we can't mop up a little of that mess left on Monday's comic page next to Garfield and Shoe.

To write that Marshall Breger, our Jewish liaison, <sup>WENT</sup> "was kicked upstairs and out of the White House," suggest that Jack's column is being edited by interns unfamiliar with the "Plum Book." When Marshall moved "upstairs" -- from a staff position at the White House to the Level II, sub-Cabinet post of Chairman of the Administrative Conference of the United States, -- he was not "kicked" and he ~~was~~ smiling all the way.

<sup>WENT</sup> <sup>Alleged</sup> Second, to assert that "Buchanan has publicly denounced the prosecution of Nazi war criminals as 'Orwellian and Kafkaesque'" is to grossly distort a quotation, given to your own reporter, Jay Mathews:

<sup>that</sup> "Emphasizing that it was his personal view, Buchanan said, 'I think it is Orwellian and Kafkaesque to deport an American citizen to the Soviet Union to stand trial for collaboration with Adolph Hitler when the principal collaborator with Hitler in starting World War II was the self same Soviet Government'." (W. Post, ~~July 28~~ 7/13/86)

To say that Americans should not be sent to <sup>the Soviet Union</sup> ~~Moscow~~ for prosecution for war crimes is worlds apart from saying they should not be prosecuted. If the Nazi Klaus Barbie is tried by the French and convicted and sentenced to be hanged, you will ~~read of no clemency appeal~~ from this quarter.

What Americans of East European descent are asking -- for those among them accused of war crimes -- is something to which ~~we~~ Americans are entitled: A fair trial in an open court in a free country. Mark me down as one who agrees.

Sincerely,

*hear no squeals fr*

Patrick J. Buchanan  
Assistant to the President

THE WHITE HOUSE  
WASHINGTON

*(Annoy the President's Secretary)  
Produce session in his new  
Post in Federal  
Judge Antonin Scalia.)*

To the Editor:

Having perused your Anderson column ("White House Fumbles on Courting Jews") I wonder if perhaps together, we can't mop up a little of that embarrassing mess Jack left on Monday's comic page next to Garfield and Shoe. *Edited*

To write that Marshall Breger, our Jewish liaison, until last November, was "kicked upstairs and out of the White House," suggest that Jack's column is being worked on by interns unfamiliar with the "Plum Book." When Marshall went "upstairs" -- from a staff position here at the White House to the Level II, sub-Cabinet post of Chairman of the Administrative Conference of the United States, -- he moved of his own volition and he was smiling all the way. *MOVE*  
*WAS NOT "KICKED"*

Second, to assert that "Buchanan has publicly denounced the prosecution of Nazi war criminals as 'Orwellian and Kafkaesque' is to grossly distort a ~~simple~~ quotation, given to your own reporter, Jay Matthews: ~~three weeks ago;~~



Surely, ~~Mr. Anderson knows that~~ to say that Americans should not be sent to Mocow for prosecution <sup>FOR WAR CRIMES</sup> is worlds apart from saying they should not be prosecuted. If the Nazi Klaus Barbie is <sup>TRIED BY THE FRENCH</sup> ~~tried~~, <sup>SENTENCE & TO GO TO EUROPE</sup> convicted and hanged, you will read of no clemency <sup>appeal</sup> ~~pleas~~ from this quarter.

What Americans of East European descent are asking ~~for those~~ <sup>AMONG THEM</sup> ~~among them~~ accused of war crimes---is something to which all Americans <sup>ARE</sup> ~~should be~~ entitled: A fair trial in an open court in a free country. Mark me down as one who agrees ~~with them~~.

~~Wrote~~

Patrick J. Bodana  
Director of Communications  
White House.

THE WHITE HOUSE

WASHINGTON

*Two Federal Appellate Judges*

*Chairman*

To the Editor:

Having perused your Anderson column ("White House Fumbles on Courting Jews") I wonder if perhaps, together, we can't mop up a little of that embarrassing mess Jack left on Monday's comic page next to Garfield and Shoe.

*To write that*

~~The statement that Marshall Breger, our Jewish liaison officer until last November, was "kicked upstairs and out of the White House," suggest that Jack's column is being worked on by interns unfamiliar with the federal "Plum Book." When Marshall walked ~~upstairs~~ "upstairs" -- from a ~~third-level~~ staff position here at the White House to the Level II, sub-Cabinet post of Chief of the Administrative Conference of the United States, -- he ~~was~~ of his own volition and he was smiling all the way.~~

*NOV 22*

~~Change to secret procedure in the future~~

To the Editor:

**A** Having perused your Anderson column ("White Houwe Fumbles on Courting Jews") I wonder if perhaps, together, we can't mop up a little of that embarrassing mess Jack left on Monday's comic page next to Garfield and ~~Shoe~~.<sup>S</sup>

~~First~~, <sup>(statement)</sup> the suggestion that Marshall Breger, <sup>our</sup> the Jewish liason officer, <sup>with last November</sup> was "kicked upstairs and out of the White House," suggests that Jack's column was <sup>is being worked on by interns</sup> the work of an intern unfamiliar with the federal "Plum Book." When Marshall ~~was~~ <sup>walked "upstairs"</sup> ~~from~~ <sup>Third-level</sup> a staff <sup>position here at White House</sup> office in ~~NY~~ <sup>our OPL shop</sup>, to the Level II sub-Cabinet post of ~~Chief~~ <sup>--- he went of</sup> of the Administrative Conference of the United States, he was his own volition and he was smiling all the way. ~~not "kicked" he was smiling all the way.~~

"White House Fumbles in Counting Jews"

White House Fumbles in Counting Jews

To the Editor:

You have neither the space, nor I the energy, to unravel the threads of intrigue in our Office of Public Liason, as discovered by your columnists, <sup>Jack</sup> Anderson and <sup>Bale</sup> Van Atta. But ~~part~~ of that mess JACK LEFT ON THE COMIC page Monday should be mopped up.

*hilarious*

First, it is <sup>ridiculous</sup> to say that Marshall Breger, our Jewish liason, was "kicked up <sup>stairs</sup> and out of the White House." Marshall left for one of the best jobs in government: Chief of the Administrative Conference, a Level II position, with sub-Cabinet status.

Second, leaders of the Jewish community have the <sup>same level of</sup> ~~excellent~~ access to the White House <sup>the</sup> in <sup>Mr. Reagan's</sup> this second term that they enjoyed in the first: ~~Excellent~~

Third, to assert that Buchanan "has publicly denounced the prosecution of Nazi war criminals as 'Orwellian and ~~Kafkaesque~~ Kafkaesque" is ~~a~~ gross distortion.

What Buchanan described as "Orwellian and Kafkaesque" (Washington Post, Sunday, July 19) was the ~~deportation~~ <sup>U.S.</sup> deportation of American citizens to the Soviet Union to stand trial there for collaborating <sup>during</sup> during World War II, with Adolph Hitler, when Hitler's ~~being~~ <sup>open</sup> indispensable collaborator in launching World War II <sup>was</sup> was the ~~Soviet~~ Soviet Government.

Cannot Mr. Anderson's minions see ~~the~~ <sup>proceeding</sup> absurdity of the Soviet Union trying Americans of Estonian and ~~Latvian~~ Latvian descent for collaborating in Hitler's crime, when the Soviet Union only controls Estonia and Lativa ~~because~~ because they were ceded to Moscow by Hitler ~~in~~ in meeting the terms of the Hitler-Stalin Pact?

We have forgotten the truth: <sup>The truth is</sup> That Hitler was the Soviet Union's ally of choice; we were the Soviet's allies of necessity, <sup>that</sup> that when ~~France~~ France fell and the Battle of Britain was underway the

*a clear answer*

*Reagan's authority*

THE WHITE HOUSE

WASHINGTON  
July 29, 1986

Letters to the Editor  
The Washington Post  
1150 15th Street N.W.  
Washington, D.C., 20071

To the Editor:

The purpose of this letter is to correct the three most glaring falsehoods -- concerning me -- in Jack Anderson's article of July 28.

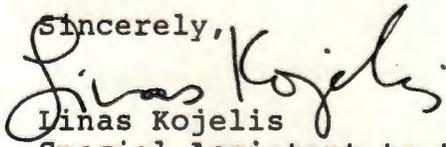
First, as regards the Office of Special Investigation (OSI): This Administration's policy is to hunt down Nazi war criminals and bring them to justice. I fully support this policy. East European American and other organizations with which I have discussed OSI do not ask for the abolition of OSI; they have been arguing only that the accused should receive due process under criminal procedures and be tried in a country which respects civil and legal rights.

In addition I never have, and never will knowingly maintain any contact, let alone provide any kind of entree to the White House, to any racist or anti-Semitic organization.

Finally, the article concludes with an unfounded and back-handed slur: "There is no evidence that Kojelis himself is anti-Semitic." I am outraged and deeply hurt by this insinuation. During World War II my family fought in the anti-Nazi resistance during the occupation of Lithuania. For his anti-Nazi activities, my father was imprisoned and tortured by the Gestapo for seven months.

The Kojelis family tradition of actively opposing extremist persecution of innocent peoples continues in America. In 1978, before the planned neo-Nazi march on Skokie, Illinois, my sister and I organized a demonstration against the Nazi headquarters, an event which is on public record. In 1980, I was arrested for chaining myself to the Soviet Embassy, in part to protest the Soviet persecution of Jews (as reported in the Washington Post).

My own and my family's record in fighting intolerance and totalitarian oppression, whether of the right or left, is clear. I stand on that record.

Sincerely,  
  
Linas Kojelis  
Special Assistant to the President  
456-6573, 232-6799



ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

2120 L STREET, N.W., SUITE 500

WASHINGTON, D.C. 20037

(202) 254-7020

July 28, 1986

OFFICE OF  
THE CHAIRMAN

Editor  
Washington Post  
1150 15th Street, NW  
Washington, DC 20071

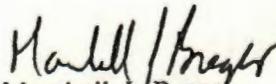
**TO THE EDITOR:**

While there are many inaccuracies in Jack Anderson's article "WHITE HOUSE FUMBLES IN COURTING JEWS" (*Washington Post*, Monday July 28), as it relates to events in which I was involved while at the White House, I write to correct one which I feel is especially important.

The suggestion that Pat Buchanan and Donald Regan ever resented advice and suggestions on Jewish affairs is totally without foundation. Indeed the solicitude shown by both to the Jewish community, in both private and public contexts, always impressed me. The notion that either sought to downgrade or impair access by the Jewish community to the Administration, is inherently unbelievable.

Both Pat Buchanan and Donald Regan were extremely helpful to me while I was at the White House, and it pains me that their consistent strong support of Jewish communal interests should be so radically misrepresented.

Sincerely,

  
Marshall J. Breger  
Chairman

MJB:sb

Conference of Presidents  
Of Major American Jewish Organizations

(212) 752-1616 • 515 Park Avenue, New York, New York 10022 • Cable Address: COJOGRA

July 29, 1986

Editor  
THE WASHINGTON POST  
1150 15th Street, N.W.  
Washington, D.C. 20071

To the Editor:

I am astonished and outraged by Jack Anderson's column (July 28 1986) alleging that "relations between the Administration and American Jewish leaders are at rock bottom." Anderson asserts that Jewish leaders are "dismayed" particularly with the White House liaison with the Jewish Community. This is simply not true.

I returned from a visit to Israel last week where I met with top Israeli officials including the President, Prime Minister and Foreign Minister. Two days later I was invited to the White House where I met with the President, the Vice President, Chief of Staff Donald Regan, and Communications Director Patrick Buchanan.

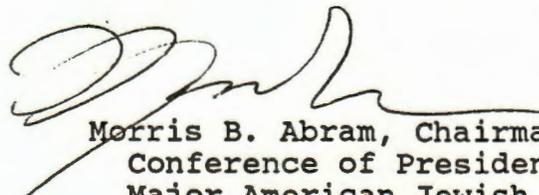
Mr. Regan volunteered that he would contact me when he saw things "festering" between the White House and the Jewish Community, and he invited me to do the same. In other words, we have, as did my predecessor in this office, an on going working relationship.

As Chairman of the National Conference on Soviet Jewry for the past several years, I can attest personally to the unremitting efforts of the President and Secretary of State Shultz to free Soviet Jews.

During my trip to Israel this month every leader expressed views shared by American Jewish leaders that no U.S. Administration has been more devoted than that of President Reagan to the safety and security of Israel, placing this dedication in the context of vital American national interests.

Finally, I note that contrary to Jack Anderson's insinuations, Max Green of the White House Office of Public Liaison, as his predecessor Marshall Breger, has been of enormous help in facilitating the already close communication between the Administration and Jewish Community life.

Sincerely,



Morris B. Abram, Chairman  
Conference of Presidents of  
Major American Jewish  
Organizations

bcc: Mr. Donald T. Regan  
Mr. Patrick Buchanan ✓  
Mr. Max Green



# NATIONAL JEWISH COALITION

Max M. Fisher  
Honorary Chairman

Richard J. Fox  
National Chairman

George Klein  
Gordon Zacks  
Co-chairmen

Ivan Boesky  
Finance Chairman

July 29, 1986

Meg Greenfield  
Editorial Page Editor  
The Washington Post  
1150 15th Street, NW  
Washington, D.C. 20071

Dear Ms. Greenfield:

In their column, "White House Fumbles in Courting Jews," (July 28, 1986), Jack Anderson and Dale Van Atta present an analysis of the Reagan administration's relationship with the Jewish community that is based on a combination of incorrect facts and erroneous conclusions.

Even the article's first sentence, which claims that the administration has had little success in its efforts to court American Jews, is mistaken. In fact, relations between the White House and the Jewish community are perhaps as good today as they have ever been under any administration. Jewish leaders meet with senior members of the administration--from the President down--on a regular basis, while many Jewish groups, such as the National Jewish Coalition, are in daily contact with White House and administration officials.

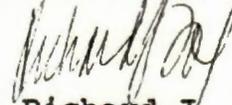
But it is in their specific allegations that Anderson and Van Atta risk doing the most damage. The article wrongly suggests that Patrick Buchanan, White House Director of Communications, has actively opposed Jewish interests. In fact, Buchanan maintains close and friendly relations with many Jewish leaders, and has been a consistent and effective voice in favor of strengthening U.S.-Israel relations.

The article's criticism of two other White House aides is similarly ill-founded. The recent increased influence of Linas Kojelis, special assistant to the President, far from being the result of supposed anti-Jewish machinations by Buchanan and Donald Regan, has been due to his long and effective service in the Office of Public Liaison. Furthermore, the article implies that Kojelis is guilty-by-association of anti-Semitism since he works with Eastern European ethnic groups, some of whose members are anti-Semitic and some of whom have been identified and deported as former Nazis. Rather than being an anti-Semite,

Kojelis has worked closely with the Jewish community ever since he first joined the White House staff under Faith Whittlesey.

Finally, the efforts of Max Green, who is the White House's point of contact for the Jewish community, have ensured that Jewish concerns continue to be heard and heeded by the White House. That he is nominally subordinate to Kojelis detracts neither from his considerable effectiveness nor from the continuing good relations between the Oval Office and the American Jewish community that he has helped foster.

Sincerely,



Richard J. Fox  
National Chairman

THE WHITE HOUSE  
WASHINGTON

435267

4620

PU  
FG052

FG006-01

Mr. William Murchison  
The Dallas Morning News  
Communications Center  
Dallas, Texas 75265

THE WHITE HOUSE

August 14,  
1966

Dear Bill:

Excellent columns - especially the  
one on sanctions. Keep up the fire.  
We can still win this one.

All the Best,

Pat

# The Dallas Morning News

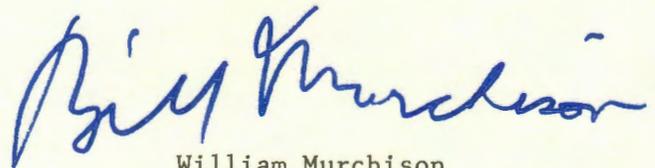
7 August 1986

Mr. Patrick J. Buchanan  
Director of Communications  
The White House  
Washington, D. C.

Dear Mr. Buchanan:

Thought you might like to see the enclosed -- from the heartland.

Sincerely,

A handwritten signature in blue ink that reads "Bill Murchison". The signature is written in a cursive, slightly slanted style.

William Murchison

# The sound and the fury



**WILLIAM MURCHISON**

Twenty-five or 30 years ago, American radio stations were spinning the Andy Griffith record in which a country bumpkin is introduced to the game of football. Griffith's monologue was called, *What It Was, Was Football*.

Should someone some day cut a record about the Senate Judiciary Committee's hearings last week on the Rehnquist nomination, a similar title may suggest itself: *What It Was, Was Politics*.

The hearings, which concern Justice William H. Rehnquist's fitness for the chief justiceship of the United States, took on the character of an archeological dig. Early on, there were allegations about events that took place — if they took place — a quarter of a century ago. As the hearings wound up, various senators were talking excitedly of confrontation with the Reagan administration over their wish to examine documents 18 to 20 years old.

I have an explanation to venture. It is that Senate liberals know nothing that impeaches the judicial qualifications of a man who has sat on the high court 16 years already; who has received from the American Bar Association the highest of three possible ratings, "well qualified"; yet who, as the *New York Times* puts it, "would be the most consistent conservative to head the court in more than 50 years."

How can such a man be permitted to sit down peacefully in the chair formerly warmed by the hallowed rump of Chief Justice Earl Warren? The answer: He can't be.

Under Rehnquist (so Senate liberals of both parties reason), the court will start stamping on all the lovely little precedents of the Warren court. The states may find it easier to jail and/or execute criminals. The power of state governments, mostly run by lowbrows, yahoos and other non-Washington types, may be magnified, as in the moth-eaten days before the New Deal. School prayer — God forbid! — may return to the classroom.

For admirers of a lusty federal judiciary, one contemptuous of elected lawmakers, not to mention abstractions like the separation of powers — prospects for the high court seem as flat and dry as the desert of Rehnquist's home state, Arizona.

Well, along come the Rehnquist hearings, and out roll the ghost stories: In the early 1960s, Rehnquist, policing Phoenix polling places in behalf of the Republicans, "challenged" the qualifications of prospective black and Hispanic voters; 34 years ago, as a law clerk for Justice Robert Jackson, Rehnquist argued against overturning school segregation; prior to joining the court, and while serving in the Nixon White House, he may have urged policies prejudicial to civil

liberties, anyway as understood by the Warren Court.

Pardon me while I yawn. The voter "challenges"? Rehnquist says they never happened, and anyway, come on — nobody recalls with precision the contours of 25-year-old events. The Jackson memo? A dusty historical document, whether it expressed now-Justice R.'s own views or not. (He says it didn't.) The Nixon-era documents? Rehnquist says, sure, have a look; the White House fears that releasing the documents would create a bad precedent. As it might.

Lumbering down the road together, the charges raise a dust cloud, but like your average dust cloud, this one should shortly disperse. Rehnquist is going to be confirmed. The Republicans control the Senate, and the Democrats have developed nothing for Ted Koppel to sink his teeth into.

Not that this makes the Judiciary Committee spectacle the more edifying. Spectacles of nitpicking and hypocrisy are seldom edifying.

It is no doubt true, as Sen. Edward Kennedy argues, that the Judiciary Committee should not "rubber stamp" presidential nominations. It is also ironic that Kennedy should say so, by way of disputing Rehnquist's recollections of the early '60s. I believe that, to this day, Kennedy finds it hard to recollect all the details of a nocturnal excursion in the late '60s. People in glass houses should not throw stones, Teddy.

Even if the charges against Rehnquist were true, a good case could be made for ignoring the remote past and concentrating on the present. Justice Hugo Black, as a young man, belonged to the Ku Klux Klan. So, in 1946, did the man who leads Kennedy's party in the Senate, Robert Byrd of West Virginia. I would imagine KKK service a heavier encumbrance than a legal memorandum. Or maybe it depends on what party you belong to.

No, put the anti-Rehnquist testimony out of mind for now. What Rehnquist did or didn't do at the Phoenix polls isn't the point. What he has done on the Supreme Court is the point. And that thing is to argue with vigor and erudition for interpreting the Constitution according to the views of those who wrote it, rather than sallying forth to update it, as if the country's supreme law were a dilapidated small-town dwelling and the federal judiciary a team of big-city interior decorators.

The Sen. Ted Kennedys, the Sen. Joe Bidens and so on and so forth know Rehnquist is going to be confirmed; they know what kind of chief justice he will be, meaning not — eminently not — their kind of chief justice. And so they scrounge around in the political junk pile, delaying the inevitable as long as they can. Come on, guys, let's get on with the Reagan Revolution, judicial style.

---

*William Murchison is a columnist for The Dallas Morning News. His column is distributed by Heritage Features Syndicate.*

CB  
**VIEWPOINTS**

# S. Africa debate has gone beyond logic into emotionalism



**WILLIAM MURCHISON**

It is fascinating — I mean, in the sense a chain-saw murder is fascinating — to read the vilification heaped on President Reagan's speech rejecting the idea of sanctions against South Africa. It tells you a lot about the temper of the times — and a lot more about the magnetic power of ideological bosh.

The Most Rev. Desmond Tutu, bishop in the Church of God, anathematized the Reagan speech as "nauseating" and "utterly racist." Anthony Lewis of *The New York Times*, whose speciality is despair over anything Reagan says, wrote that the speech almost extinguishes "the hope for a negotiated transition to democracy in South Africa."

Congressman William Gray of Pennsylvania, delivering the Democratic response, opined that Reagan had sent "to the racist majority regime of Pretoria" the message, "We are your friends." And on and on.

You would never suspect from all this that Reagan, in his speech, had said, "Apartheid is morally wrong and politically

unacceptable . . . (it) must be dismantled." And: "By its tactics, the (South African) government is only accelerating the descent into bloodletting." And: "All political prisoners should be released." And: "Black political movements should be unbanned."

Without a black to designate as U.S. ambassador to South Africa — Robert Brown having withdrawn his name at the last moment — Reagan's speech lacked dramatic content. But it summed up, soberly and sensibly, the case for the balanced approach to dealing with South Africa — such an approach as draws blacks and whites into political communion without wrecking the country and its economy. I know in all the world of no more delicate, no more complex enterprise than this.

Alas, sober and sensible talk was seemingly the last thing Reagan's critics wanted. What they really wanted was for the president to grab an ax handle and accord Mr. Botha a running start of, oh, about five seconds.

They wanted all-out economic sanctions against South Africa, in order, as Gray put it, "to raise the cost of apartheid."

The cost to whom? is a question the president tried to answer, without signal success. "The primary victims of an eco-

nomic boycott of South Africa would be the very people we seek to help," Reagan explained. "Most of the workers who would lose jobs because of sanctions would be black workers."

Gray shot back, in high-toned scorn: "How can sanctions hurt black South Africans when apartheid is killing them?"

What a very fine, comfortable thing for a Pennsylvania congressman to say. Throw black South Africans out of work, and Gray will not miss any meals. Sitting in the House's subsidized restaurant, he can wipe the hollandaise sauce from his chin while watching television films of hungry children far across the world.

Gray's reference to "killing" is equally provocative. Who is executing black people by igniting tires tied round their necks? Not Pieter Botha; rather, his radical black opponents.

I am compelled to ask a crude question. How do American politicians know what is good for a faraway people divided into four major racial groups, not to mention a dozen tribal subgroups?

It is astounding enough to see South Africa taken on as A Problem that the outside world must solve. Even more astounding is

to find the outside world issuing detailed prescriptions — do this, do that, do the other.

Among the more startling prescriptions is one-man, one-vote. The United States of America didn't have one-man, one-vote until a quarter of a century ago. What gives Americans the right to put on pious airs and settle the future of a country few Americans ever have laid eyes on?

Bishop Tutu's appeal for sanctions is not without support in South Africa. Nor does it go unopposed, even by South African liberals. Reagan, in his speech, quoted the South African novelist Alan Paton, a hard hater of apartheid, as declaring that "those who will pay most grievously for disinvestment will be the black workers of South Africa."

Chief Gatsha Buthelezi of the Zulus says of disinvestment, "I don't support it, because black people in South Africa don't support it." Lucy Mvubelo, general secretary of the clothing workers' union, the country's largest, says, "The vitality of South Africa's economy offers more hope to South African blacks than destructive forms of pressure from abroad." I wonder if Tutu considers Buthelezi and Mvubelo to be racists.

South Africa's moderate government — by South African standards, it is highly moderate — is moving methodically to dismantle apartheid. The hated pass laws have been abolished, and a National Council, charged with negotiating a new constitutional structure, is in the works. There are ups and downs, the present state of emergency being a decided down, but the course is set.

The logical thing for an American administration to do is just to press South Africa's government to stay on course. But the South African debate has passed beyond logic into emotionalism. The Tutu tantrum is case in point. Positions have hardened. So have heads.

For reasons ideological (whites have no right to govern blacks), for reasons political (with elections coming on, Reagan needs taking down a few pegs), the clamor intensifies for solving the South African "problem" with a blunt instrument. The fanatics are loose among us; the sight is anything but pretty.

*William Murchison is a columnist for The Dallas Morning News. His column is distributed by Heritage Features Syndicate.*

THE WHITE HOUSE

August 10/  
1986

Dear Frank:

Thanks for the book; started into  
it this weekend.

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FL0006-01

All the Best,

Pat

THE WHITE HOUSE  
WASHINGTON

The Honorable Frank Wolf  
U.S. House of Representatives  
Washington, D.C. 20515