

The CHAIRMAN. Our next panel testifying in support of Judge Thomas' nomination includes the following: Sheriff Carl Peed, of Fairfax County, VA; Johnny Hughes is no stranger to this committee and has testified here on a number of occasions, a captain in the Maryland State Police who is testifying on behalf of the National Troopers Coalition; Bob Suthard, former superintendent of the Virginia State Police, who is testifying on behalf of the International Chiefs of Police; James Doyle III, former assistant attorney general of the State of Maryland; Donald Baldwin on behalf of the National Law Enforcement Council and a frequent person before this committee whom we rely on a great deal; and John Collins on behalf of Citizens for Law and Order. Welcome back, Mr. Collins.

Let me say to all the panelists it is a delight to have you here. We have spent a lot of time together. Usually it is on matters relating to law enforcement issues, but it is nonetheless a pleasure to have you here to testify on behalf of Judge Thomas.

Sheriff Peed, would you—unless the panel has—

Mr. BALDWIN. Mr. Chairman, I have got a very brief statement, and I would prefer—and I have discussed it with these gentlemen. If I could just put this in, make this brief statement, and then defer to them. My point is that this is a small segment of the law enforcement community, but I want to state that this represents what I consider the broader aspect and the overwhelming majority. So I will just make this brief statement and then defer, if I might, with your permission.

The CHAIRMAN. Surely. However the panel would like to proceed.

PANEL CONSISTING OF DONALD BALDWIN, NATIONAL LAW ENFORCEMENT COUNCIL; CARL R. PEED, SHERIFF, FAIRFAX COUNTY, VA; JOHNNY HUGHES, NATIONAL TROOPERS COALITION; JAMES DOYLE III, FORMER ASSISTANT ATTORNEY GENERAL, STATE OF MARYLAND; BOB SUTHARD, INTERNATIONAL CHIEFS OF POLICE; AND JOHN COLLINS, CITIZENS FOR LAW AND ORDER

Mr. BALDWIN. Mr. Chairman and members of the Senate Judiciary Committee, I am Donald Baldwin, the executive director of the National Law Enforcement Council. The NLEC is an umbrella group for 14 member organizations. Through these organizations we reach some 500,000 law enforcement officers throughout the country and certainly the overwhelming majority of our law enforcement community.

Now, these gentlemen here will represent the views of their organizations, and I can state that they will represent the views of our member organizations as well.

We have endorsed Judge Thomas for the U.S. Supreme Court because we feel that Judge Thomas will assure that justice will be carried out through the right interpretation of our laws as they have been enacted by our legislative bodies. Judge Thomas in our view will interpret the Constitution as written. Legal scholars have determined that the nominee believes that a Supreme Court Justice, or any other judge, should not use his position as a judge to legislate new laws not already on the books. This is most important

because the law enforcement personnel must put their lives on the line every day and have to trust the laws. Our members want to know that if they arrest a person for breaking a law that he will be judged on the basis of that particular law, not by a new law that might be legislated on the spot by a judge. The law is the law. The Constitution is the Constitution.

Judge Thomas should certainly be confirmed for a seat on the U.S. Supreme Court. He has our wholehearted support.

We thank you for the opportunity to express our views.

As I have said, I am sure that these gentlemen here will speak not only for themselves, but they will speak for the entire law enforcement community, I believe.

The CHAIRMAN. Thank you very much, Mr. Baldwin.

[The prepared statement of Donald Baldwin follows:]

NATIONAL LAW ENFORCEMENT COUNCIL

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Ordway P. Barden
Chairman

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STATEMENT

of

Donald Baldwin
Executive Director
National Law Enforcement Council

Before the Senate Judiciary Committee
on behalf of
Judge Clarence Thomas
to serve as Associate Justice of the United States
Supreme Court

September 20, 1991

01090-1

REPRESENTING FIFTEEN NATIONAL LAW ENFORCEMENT ASSOCIATIONS WITH A
COMBINED MEMBERSHIP OF OVER 48,000 LAW ENFORCEMENT OFFICERS

Mr. Chairman and members of the Senate Judiciary Committee, I am Donald Baldwin, Executive Director of the National Law Enforcement Council. The NLEC is an umbrella group for fourteen member organizations. Through the fourteen member organizations we reach some 500,000 law enforcement officers throughout the country, and certainly the overwhelming majority of our law enforcement community.

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We have endorsed Judge Thomas for the United States Supreme Court because we feel that Judge Thomas will assure that justice will be carried out through the right interpretation of our laws as they have been enacted by our legislative bodies. Judge Thomas, in our view, will interpret the Constitution as written. Legal scholars have determined that the nominee believes that a Supreme Court Justice, or any other judge, should not use his position as a judge to legislate new laws not already on the books. This is most important to law enforcement personnel who must put their lives on the line every day. Our members want to know that if they arrest a person for breaking a law that he will be judged on the basis of that law, not by a new law that might be legislated on the spot by a judge. The law is the law. The Constitution is the Constitution.

Judge Thomas should be confirmed for the seat on the U.S. Supreme Court. He has our wholehearted support.

We thank you for this opportunity to express our views.

The CHAIRMAN. Gentlemen, have you decided who should go next? Otherwise, we will go in seniority before this committee. Johnny, you go ahead. You have testified before this committee more than anybody. Or do you want—you all figure out how the devil you want to go; otherwise, I am just going to pick somebody and you are going to go.

Mr. PEED. I will go first.

The CHAIRMAN. All right.

I have been informed by my senior colleague to get you to watch the light. You all are very familiar with green and amber and red lights. When the red light comes on, as he has informed me to tell you, please stop.

STATEMENT OF CARL R. PEED

Mr. PEED. Mr. Chairman and members, good morning. It is a distinct honor and privilege to come before you this morning to share with you the reasons why the National Sheriffs' Association wholeheartedly supports the nomination of Judge Clarence Thomas for the U.S. Supreme Court.

I am Carl Peed, sheriff of Fairfax County, VA, and I am speaking on behalf of Sheriff Marshall Honaker of Bristol, VA, who is president of the National Sheriffs' Association. I am a long-time National Sheriffs' associate with membership on the law and legislative committee, the detention and corrections committee, and the accreditation committee. I am a career law enforcement professional with over 17 years' experience with the Fairfax County sheriff's office. I have the honor of coming from a family of law enforcement officers. My father was a deputy sheriff in North Carolina who was shot in the line of duty, and my brother was a police officer in Virginia.

The National Sheriffs' Association was established in 1940, representing the Nation's sheriffs, deputy sheriffs, police executives, corrections professionals, and other criminal justice officials. The National Sheriffs' Association has over 25,000 members and represented 3,096 sheriffs in this country. Because of my background in law enforcement and because of the concerns of the association's members, I am especially grateful for the opportunity to address you today.

As the drug war rages on and law enforcement officers continue to struggle with the rising tide of violent crime nationwide, we need an experienced Associate Justice with the qualifications of Judge Thomas.

Throughout his career, Judge Thomas has preserved his personal integrity, honesty, and principles, maintaining these qualities in the face of discrimination, bigotry, and political rivalry. His appointment to the Supreme Court will provide an experienced, just voice on the fundamental issues plaguing this Nation today. President Bush has thoughtfully chosen a demonstrated leader who will make a difference.

The National Sheriffs' Association surveyed its membership regarding Judge Thomas' nomination. Sheriff Robert C. Rufo, an active member from Massachusetts, a member of the National Sheriffs' Association, said, "Judge Thomas brings an exemplary

educational background and diverse legal experience to the bench. Additionally, he appears to possess the humanistic qualities critical to the issues before the Nation's highest Court." Along with Sheriff Rufo's comments, NSA headquarters received comment after comment filled with praise from sheriffs across this country regarding Judge Thomas. They spoke of Judge Thomas as a "person of the highest caliber," "an anti-crime person," "a judge who recognizes the tough job facing law enforcement professionals today." Those who know him and those who read of his credentials are equally enthusiastic about his appointment. Our Nation's sheriffs shoulder their position of responsibility in the criminal justice system with pride. They fully recognize Judge Thomas' acknowledged talents and qualifications. Frankly, we need and we want Judge Thomas and what he has to offer our entire criminal justice system.

It is our definite belief that he will approach the cases that come before the Court with a commitment to deciding them fairly, as the facts, the law, and his oath dictate.

Never in our Nation's history have we needed more desperately to add to our highest judicial body a totally fair, impartial, brilliant Associate Justice. Unquestionably, now is the hour for this man. He has our admiration and our respect.

On behalf of your Nation's sheriffs and the National Sheriffs' Association, let me urge you to proceed with all due haste to see that Judge Thomas is seated on that Bench.

Mr. Chairman and members of the committee, thank you very much.

[The prepared statement of Mr. Peed follows:]

TESTIMONY OF

SHERIFF CARL R. PEED, FAIRFAX COUNTY, VIRGINIA

ON BEHALF OF

SHERIFF MARSHALL E. HONAKER

PRESIDENT OF THE NATIONAL SHERIFFS' ASSOCIATION

BEFORE THE U.S. JUDICIARY COMMITTEE OF THE U.S. SENATE

ON THE NOMINATION OF

JUDGE CLARENCE THOMAS

FOR

THE U.S. SUPREME COURT

September 20, 1991

MR. CHAIRMAN AND MEMBERS: IT IS A DISTINCT HONOR AND PRIVILEGE TO COME BEFORE YOU AND THE MEMBERS OF THIS COMMITTEE TO SHARE WITH YOU THE REASONS WHY THE NATIONAL SHERIFFS' ASSOCIATION WHOLEHEARTEDLY SUPPORTS THE NOMINATION OF JUDGE CLARENCE THOMAS FOR THE UNITED STATES SUPREME COURT.

I AM CARL R. PEED, SHERIFF OF FAIRFAX COUNTY, VIRGINIA SPEAKING ON BEHALF OF SHERIFF MARSHALL HONAKER OF BRISTOL, VIRGINIA WHO IS PRESIDENT OF THE NATIONAL SHERIFFS' ASSOCIATION. I AM A LONG-TIME NATIONAL SHERIFFS' ASSOCIATE WITH MEMBERSHIP ON THE LAW & LEGISLATIVE COMMITTEE, THE DETENTION & CORRECTIONS COMMITTEE AND THE ACCREDITATION COMMITTEE. I AM A CAREER LAW ENFORCEMENT PROFESSIONAL WITH 17 YEARS EXPERIENCE WITH THE FAIRFAX COUNTY SHERIFF'S OFFICE. I HAVE THE HONOR OF COMING FROM A FAMILY OF LAW ENFORCEMENT. MY FATHER WAS A DEPUTY SHERIFF AND MY BROTHER WAS A POLICE OFFICER.

THE NATIONAL SHERIFFS' ASSOCIATION WAS ESTABLISHED IN 1940, REPRESENTING THE NATION'S SHERIFFS, DEPUTY SHERIFFS, POLICE EXECUTIVES, CORRECTIONS PERSONNEL, AND OTHER CRIMINAL JUSTICE OFFICIALS. THE NATIONAL SHERIFFS' ASSOCIATION, WITH ITS 25,000 MEMBERS, REPRESENTS THE 3,096 SHERIFFS OF THIS COUNTRY. BECAUSE OF MY BACKGROUND IN LAW ENFORCEMENT AND BECAUSE OF THE CONCERNS OF THE ASSOCIATION'S MEMBERS, I AM ESPECIALLY GRATEFUL FOR THE OPPORTUNITY TO ADDRESS YOU TODAY.

AS THE DRUG WAR RAGES ON AND LAW ENFORCEMENT OFFICERS CONTINUE TO STRUGGLE WITH A RISING TIDE OF VIOLENT CRIMES NATIONWIDE, WE NEED AN ANTI-CRIME ASSOCIATE JUSTICE WITH THE QUALIFICATIONS OF JUDGE THOMAS.

THROUGHOUT HIS CAREER, JUDGE THOMAS HAS PRESERVED HIS PERSONAL INTEGRITY, HONESTY, AND PRINCIPLES, MAINTAINING THESE QUALITIES IN THE FACE OF DISCRIMINATION, BIGOTRY, AND POLITICAL RIVALRY. HIS APPOINTMENT TO THE SUPREME COURT WILL PROVIDE AN EXPERIENCED, JUST VOICE ON THE FUNDAMENTAL ISSUES PLAGUING THIS NATION TODAY. PRESIDENT BUSH HAS THOUGHTFULLY CHOSEN A MAN, A DEMONSTRATED LEADER, WHO WILL MAKE A DIFFERENCE.

THE NATIONAL SHERIFFS' ASSOCIATION SURVEYED OUR MEMBERSHIP REGARDING JUDGE THOMAS' NOMINATION. SHERIFF ROBERT C. RUFO, MEMBER OF THE NATIONAL SHERIFFS' ASSOCIATION, SAID, "JUDGE THOMAS BRINGS AN EXEMPLARY EDUCATIONAL BACKGROUND AND DIVERSE LEGAL EXPERIENCE TO THE BENCH. ADDITIONALLY, HE APPEARS TO POSSESS THE HUMANISTIC QUALITIES CRITICAL TO THE ISSUES BEFORE THE NATION'S HIGHEST COURT." ALONG WITH SHERIFF RUFO'S COMMENTS, NSA HEADQUARTERS RECEIVED COMMENT AFTER COMMENT FILLED WITH PRAISE FROM SHERIFFS ACROSS THE COUNTRY REGARDING JUDGE THOMAS. THEY SPOKE OF JUDGE THOMAS AS A "PERSON OF THE HIGHEST CALIBRE," "AN ANTI-CRIME PERSON," "A JUDGE WHO RECOGNIZES THE TOUGH JOB FACING LAW ENFORCEMENT PROFESSIONALS TODAY." THOSE WHO KNOW HIM, AND THOSE WHO READ OF HIS CREDENTIALS, ARE EQUALLY ENTHUSIASTIC. OUR NATION'S SHERIFFS SHOULDER THEIR POSITION OF RESPONSIBILITY IN THE

CRIMINAL JUSTICE SYSTEM WITH PRIDE. THEY FULLY RECOGNIZE JUDGE THOMAS' ACKNOWLEDGED TALENTS AND QUALIFICATIONS. FRANKLY, WE NEED, AND WE WANT JUDGE THOMAS AND WHAT HE HAS TO OFFER THE ENTIRE CRIMINAL JUSTICE SYSTEM.

IT IS OUR DEFINITE BELIEF THAT HE WILL APPROACH THE CASES THAT COME BEFORE THE COURT WITH A COMMITMENT TO DECIDING THEM FAIRLY, AS THE FACTS AND THE LAW REQUIRES.

NEVER IN OUR NATION'S HISTORY HAVE WE NEEDED MORE DESPERATELY TO ADD TO OUR HIGHEST JUDICIAL BODY A TOTALLY FAIR, IMPARTIAL, BRILLIANT ASSOCIATE JUSTICE. UNQUESTIONABLY, NOW IS THE HOUR FOR THIS MAN. HE HAS OUR ADMIRATION - AND OUR RESPECT. ON BEHALF OF YOUR NATIONS' SHERIFFS, AND THE NATIONAL SHERIFFS' ASSOCIATION, LET ME URGE YOU TO PROCEED WITH ALL DUE HASTE TO SEE THAT JUDGE THOMAS IS SEATED ON THAT BENCH.

THANK YOU.

<p style="text-align: center;">CARL R. FRED SHERIFF FAIRFAX COUNTY, VIRGINIA</p>

PROFESSIONAL EXPERIENCE

• Sheriff	Fairfax County Sheriff's Office	1990 - Present
• Chief Deputy Sheriff	Fairfax County Sheriff's Office	1980 - 1990
• Captain	Diagnostic & Treatment Division	1977 - 1979
• Lieutenant	Classification Section	1976 - 1977
• Coordinator	Work Release Program	1974 - 1976
• Instructor/Coach	Pembroke State University	1972 - 1974
• United States Army	Presidential Honor Guard Fort Meyer, Virginia	1970 - 1972

EDUCATION

•	B.S. Pembroke State University North Carolina	1970
•	National Institute of Corrections	1978
•	National Sheriffs Institute	1983
•	FBI National Academy	1984
•	Certificate of Criminal Justice Administration University of Virginia	1984

PROFESSIONAL CONSULTANT EXPERIENCE

•	Certified auditor for American Correctional Association
•	Auditor for the National Sheriffs Association
•	Consultant for the National Institute of Corrections and the National Sheriffs Association
•	One of six people selected nationally to review the seven volume National Institute of Corrections <u>Classification Training Manual</u>
•	One of seventeen people selected nationally to field test the National Sheriffs Association's <u>Supervisor Training Manual</u>

ADDITIONAL GRADUATE CREDIT

•	Communication for Justice Administrators University of Virginia
•	Correctional Institutions Design & Development Virginia Commonwealth University
•	Group Counseling in Corrections American University
•	Graduate Survey Administration of Justice American University
•	Innovative Corrections Practice & Theory American University
•	Introduction to Social Research American University
•	Community Relations George Mason University

PROFESSIONAL MEMBERSHIPS

•	National Sheriffs Association
•	Virginia State Sheriffs Association
•	American Jail Association
•	FBI National Academy Association
•	American Correctional Association
•	Virginia Correctional Association
•	Fairfax County Sheriffs Association
•	NO. VA Mental Health Alliance



NATIONAL SHERIFFS' ASSOCIATION

1450 DUKE STREET • ALEXANDRIA, VIRGINIA 22314 • 703-836-7827

CHARLES BUD' MEEKS
EXECUTIVE DIRECTOR

TESTIMONY OF
SHERIFF MARSHALL E. HONAKER
PRESIDENT OF THE NATIONAL SHERIFFS' ASSOCIATION
BEFORE THE U.S. JUDICIARY COMMITTEE OF THE U.S. SENATE
ON THE NOMINATION OF
JUDGE CLARENCE THOMAS
FOR
THE U.S. SUPREME COURT

September 20, 1991

Mr. Chairman: It is a distinct honor and privilege to come before you and members of this committee to share with you the reasons why the National Sheriffs' Association wholeheartedly supports the nomination of Judge Clarence Thomas for the United States Supreme Court.

I am Marshall Honaker, Sheriff of Bristol, Virginia. For the last 18 years I have held the office of Sheriff. I am a career law enforcement professional, with a background in The Office of Sheriff dating back to 1957. I have been president of the Virginia State Sheriffs' Association and it is my pleasure this year to serve as president of the National Sheriffs' Association. The National Sheriffs' Association was established in 1940, representing the nation's sheriffs, deputy sheriffs, police executives, corrections personnel, and other criminal justice officials. The National Sheriffs' Association, with its 25,000 members, represents the 3,096 sheriffs of this country. Because of my background in law enforcement, and because of the concerns of the Association's members, I am especially grateful for the chance to address you today.

As the drug war rages on and law enforcement officers continue to struggle with a rising tide of violent crimes nationwide, we need an anti-crime Associate Justice with the qualifications of Judge Thomas.

Throughout his career, Judge Thomas has preserved his personal integrity, honesty, and principles, maintaining these qualities in the face of discrimination, bigotry, and political rivalry. His appointment to the Supreme Court will provide an experienced, just voice on the fundamental issues plaguing this nation today. President Bush has thoughtfully chosen a man, a demonstrated leader, who will make a difference.

The National Sheriffs' Association surveyed our sheriff members about Judge Thomas' nomination. Sheriff Robert C. Rufo, member of the National Sheriffs' Association and president of the Massachusetts Sheriffs' Association, said, "Judge Thomas brings an exemplary educational background and diverse legal experience to the bench. Additionally, he appears to possess the humanistic qualities critical to the issues before the nation's highest court." Along with Sheriff Rufo's comments, NSA headquarters heard words of praise from sheriffs across the country about Judge Thomas. They spoke of Thomas as a person of the highest calibre, an anti-crime person, a judge who recognizes the tough job facing law enforcement professionals today. Those who know him, and those who read of his credentials are equally enthusiastic. Our nation's sheriffs shoulder their position of responsibility in the criminal justice system with pride. They fully recognize and hope for the invaluable assistance of Judge Thomas' acknowledged talents and qualifications. Frankly, we need, and we want Judge Thomas and what he has to offer the entire criminal justice system.

It is our definite belief that he will approach the cases that come before the Court with a commitment to deciding them fairly, as the facts and the law require.

Never in our nation's history have we needed more desperately to add to our highest judicial body a totally fair, impartial, brilliant new Associate Justice. Unquestionably, now is the hour for this man. He has our admiration - and our respect. On behalf of your nation's sheriffs, and the National Sheriffs' Association, let me urge you to proceed with all due haste to see that Judge Thomas is seated on that bench.

Thank you.

The CHAIRMAN. Thank you very much, sheriff.
Mr. Hughes.

STATEMENT OF JOHNNY HUGHES

Mr. HUGHES. Mr. Chairman, good morning.

The CHAIRMAN. Good morning.

Mr. HUGHES. Larry Tally and the Delaware troopers send their regards.

The CHAIRMAN. Thank you very much.

Mr. HUGHES. Honorable members of this committee, I would like to thank the committee for once again giving me the opportunity to appear before you and speak on this matter of great public interest, the nomination of an individual for Associate Justice of the U.S. Supreme Court.

The National Troopers Coalition, an organization representing State troopers in 44 States, strongly endorses the nomination of Judge Clarence Thomas to Justice of the U.S. Supreme Court. Judge Thomas has a diverse background.

As assistant attorney general for the State of Missouri, where he practiced in the areas of criminal and tax law, Assistant Secretary of Civil Rights in the Department of Education, Chairman of the Equal Employment Opportunity Commission, and a Federal appellate judge, a member of the Circuit Court of Appeals for the District of Columbia, his experience qualifies him to be appointed to our Nation's highest court.

More importantly, the National Troopers Coalition has reviewed Judge Thomas' criminal law opinions while on the court of appeals and believes him to be a tough law enforcement judge who at the same time will protect the constitutional rights of the accused. He has participated in over 140 decisions, many of them criminal cases.

Like a vast majority of citizens throughout this country, law enforcement officers are particularly interested in a nominee's qualifications in the area of criminal law. The criminal courts and the decisions they render vitally affect the lives of all Americans.

The National Troopers Coalition believes that in criminal cases, which occupy a large percentage of cases that ultimately reach the Supreme Court, Judge Thomas has demonstrated, while sitting on the appellate court, a clear understanding of the challenges facing police officers. He has been supportive of law enforcement, yet fair to the accused.

Judge Thomas, we believe, has struck the appropriate balance between protecting the rights of society and enforcing its laws on the one hand, and upholding the constitutional rights of the accused on the other.

As we have repeatedly stated in past confirmation hearings, we could not support a nominee who would sacrifice either of these interests for the sake of the other.

More than others in society, police officers know of the evil and tragic side of life—crackhouses, senseless and brutal killings, the carnage caused by the drunk driver. Law enforcement officers know how people are intimidated by drug dealers and muggers on our streets. Millions of Americans are deeply concerned about the

effectiveness of our criminal justice system, which needs to be able to deal effectively with these vicious and violent criminals. We believe that Judge Thomas has the resolve and the conviction to do just that.

We view the nomination of Judge Thomas as evidence of the President's strong commitment to effective law enforcement. It is still unfortunately true that our legal system too often breaks down after an arrest is made. Legal rulings sometimes impede prosecution and turn a trial away from the search for the truth, into an exercise into legal technicalities.

The exclusionary rule, for example, may turn a criminal proceeding into a trial more of the police officer than the defendant. Officers who act in good faith in conducting a search or interrogating a suspect may find highly relevant evidence inadmissible, because a court, sitting with 20/20 hindsight, finds a technical violation of a legal right.

As an organization, the National Troopers Coalition is committed to backing the nomination of individuals to the Court who have shown a strong commitment to law enforcement. As an appellate judge, Judge Thomas has fairly, yet effectively, dealt with criminal defendants. We have the necessary confidence in him to believe that he will fairly judge and decide the many and important criminal law issues that will come before him on the Supreme Court. We strongly endorse Judge Clarence Thomas and urge confirmation by the Senate.

I passed out a copy of our resolution which was passed at a national troopers conference.

The CHAIRMAN. It will be made a part of the record.

Mr. HUGHES. Thank you, Mr. Chairman.

[The resolution referred to follows:]



NATIONAL TROOPERS COALITION

112 STATE STREET, SUITE 1212, ALBANY, N.Y. 12207 518-463-7448

RESOLUTION TO ENDORSE CLARENCE THOMAS AS ASSOCIATE JUSTICE OF THE UNITED STATES SUPREME COURT

WHEREAS, President George Bush has chosen to nominate Judge Clarence Thomas for Associate Justice of the United States Supreme Court, it is the sense of this assembled body to extend our most stringent support of that nomination; and

WHEREAS, the National Troopers Coalition recognizes that the office of Associate Justice demands integrity, intellectual skills, and dedication to the principles of equal justice; and

WHEREAS, the office also requires unbending dedication to principle, basic fairness, human decency, and justice under law; and

WHEREAS, the record of Judge Thomas impressively demonstrates that these qualities from his days as Assistant Attorney General in the State of Missouri to his term as Chairman of the Equal Employment Opportunity Commission, to his latest office as a member of the United States Court of Appeals for the District of Columbia; and

WHEREAS, the National Troopers Coalition firmly believes there must be a fair and equitable balancing of protecting the right of society to enforce its laws on the one hand; and the constitutional rights of the accused on the other;

THEREFORE, BE IT RESOLVED that this assembly, which represents over 40,000 Troopers and protects more than 200 million Americans, seize upon this great opportunity to most stringently support the nomination of Judge Clarence Thomas to Associate Justice of the United States Supreme Court.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the honorable members of the United States Senate.

Adopted this 6th day of September, 1991 at the National Troopers Coalition Conference, Portland, Maine.

Richard J. Darling
Richard J. Darling
Chairman, NTC

The CHAIRMAN. Thank you very much.
Now, our next witness is Mr. James Doyle.

STATEMENT OF JAMES DOYLE III

Mr. DOYLE. Mr. Chairman, my name is James Doyle. I am an attorney from Baltimore. I am also here on behalf of the National Troopers Coalition.

I have previously prepared and I believe have had distributed to the committee my written testimony, and I would simply request that it be placed in the record, in lieu of my reading it.

The CHAIRMAN. It will be placed in the record.

Mr. DOYLE. However, I would like to make a couple of points, while I have the opportunity, and that is that, first, as the committee knows, the Supreme Court in this country deals with criminal law issues that are of extreme importance.

For example, last term, the Court decided major decisions concerning auto searches, interrogation of suspects, use of victim impact statements in sentencing, the use of confessions and whether a confession can ever amount to harmless error. So, there are very important criminal law questions that come before the Supreme Court. I think, for that reason, the nominee's qualifications to decide fairly criminal law issues should also be of great importance to this committee.

Now, I have reviewed Judge Thomas' criminal law decisions, the decisions that he has authored while a member of the Federal appellate court, and I think that those decisions consistently show a judge who has performed a well-reasoned type of analysis of the criminal cases that have come before him. In fact, I believe that the American Bar Association, in its testimony before this committee, has similarly indicated that his opinions are well crafted, analytical, and well reasoned.

In addition to that, however, I have looked at those opinions from the viewpoint of law enforcement and I think that, as Captain Hughes has testified, those decisions have been extremely supportive of law enforcement. Yet, at the same time, his decisions have also been fair to the accused, and my written testimony goes into a number of the decisions that he has written, but I will just mention two here in my testimony today.

United States v. Halliman, for example, was a search and seizure case involving an investigation of a drug operation. The particular drug dealers in this case were using a hotel in Washington and switching rooms and renting a number of rooms and constantly switching rooms on a day-to-day basis.

In upholding the search of one of those hotel rooms where drugs were found, I think Judge Thomas showed a keen understanding of the difficulties that police officers face in today's society, particularly when they are investigating crimes involving drugs and drug operations, which tend to be of an evasive and clandestine nature, and his opinion in that case I think is particularly well reasoned and particularly shows his understanding of the kinds of difficulties that police officers face today.

On the other hand, Judge Thomas has also shown a keen desire to be fair to the criminal accused. For example, in the case of

United States v. Long, Judge Thomas reversed a firearm conviction of an individual in a drug case. Even though a jury had found that there was sufficient evidence for the conviction, Judge Thomas, in rather strong language, indicated that his role as an appellate judge would not allow him to simply sit by when there was clearly insufficient evidence to sustain the conviction, so in that particular case he reversed.

The point that I think needs to be made to the committee is that Judge Thomas has shown through his criminal decisions that he is supportive of law enforcement, yet he has struck the appropriate balance and has also shown that he intends to be fair to the accused. I think that is all we can ask of a judge. I think that his qualifications in this area are clear and, on behalf of the National Troopers Coalition, I would urge this committee's endorsement.

Thank you.

The CHAIRMAN. Thank you very much.

Mr. Suthard.

STATEMENT OF BOB SUTHARD

Mr. SUTHARD. Chairman Biden, members of the Judiciary Committee, I am Robert L. Suthard. I am the Secretary of Public Safety in the Commonwealth of Virginia.

I want to express my sincere appreciation for the honor of being able to appear before you and add the endorsement of the International Association of Chiefs of Police for Judge Thomas. I am the second vice president of IACP, and there are presently in excess of 8,000 police chiefs across America who are members of IACP.

The governing body of our organization carefully reviewed the background and experience of Judge Thomas before voting to support his confirmation as an Associate Justice of the Supreme Court.

Suffice it to say that we are really impressed with his personal background, with his legal training, his diverse legal experience, and his record as a jurist, especially in the area of crime and criminal justice issues. We believe him to be extremely well qualified to serve on the highest court in the United States.

Our governing body determined that Judge Thomas is a tough anticrime judge who has recognized the problems that law enforcement officers face in combating crime. As an example, he has resisted efforts to impose unreasonably burdensome requirements on the police and prosecutors or to overturn criminal convictions on technicalities that are not required by the Constitution, and at the same time he has guarded against infringement on the fundamental rights of the criminal defendants.

His decision in *United States v. Long*, *United States v. Rogers*, and *United States v. Wooly* all highlight his commitment to the tough law enforcement of our criminal laws and a common sense and reality based on a reasonable approach of judging in this society, both of which are consonant with the stated policy of the International Association of Chiefs of Police.

We believe that Judge Thomas was nominated by President Bush to be a Supreme Court Justice because of his fidelity to the Constitution and the rule of law. We believe that he will interpret the

Constitution fairly and apply the laws equally. These qualities, coupled with his education and experience, make him highly qualified for the position of Associate Justice on the U.S. Supreme Court.

For these reasons, the governing body of IACP, meeting on August 10, in New York City, voted to endorse his nomination. I am pleased to add IACP's endorsement of Judge Thomas to his long list of endorsements. We give him our unqualified support during these confirmation hearings. We urge you gentlemen and Members of the Senate to speedily confirm his nomination.

I want to say personally, as I conclude, that I have been a policeman since 1954. I started as a trooper in the Virginia State Police. I worked up through the ranks and I was appointed as superintendent of the State police, and now serve in the cabinet as the secretary of public safety.

I sincerely believe that the Supreme Court Justices, each of them, are as important to us being able to do a proper job to protect the people as anything else. I have followed the system, I have read a lot about Judge Thomas, and I just feel that he is a very qualified person to serve on the Supreme Court.

Thank you very much.

The CHAIRMAN. Thank you very much.

Mr. Collins.

STATEMENT OF JOHN COLLINS

Mr. COLLINS. Mr. Chairman and members of the committee, it is very nice to be back here and see you all again. My name is Jack Collins, and I am the eastern regional representative and director of Citizens for Law and Order, CLO.

Our grass roots organization of citizen activists was founded more than 21 years ago in Oakland, CA, by four concerned citizens who felt very deeply about the growth of violent crime in their city and in their Nation. For the past two decades, our organization has successfully encouraged ordinary citizens to become more directly involved in the criminal justice system and to support law enforcement agencies and other organs of justice.

We are committed, gentlemen, to the reduction of violent crime in America and to ensuring a balanced and fair criminal justice system, and we want to root out inequities in the judicial process. We also hold a very special concern for victims and survivors of violent crime and we try to ensure for them a position of centrality in the criminal justice system.

I speak from experience; I am a victim; I am a survivor. Our 19-year-old lovely daughter Susanne was viciously and brutally murdered 6 years ago, in July 1985, and since that date I and my wife, Trudy, and our son, Steven, have become all too familiar with the criminal justice system.

It is against this backdrop of concern and commitment that we look at the U.S. Supreme Court as a very, very telling instrument in bringing about a healthy, fair, and just criminal justice system. Its decisions on criminal law impact not only on individual litigants, but also they resonate forcefully throughout the Federal court system and the State court system.

Given this key role of the Court, CLO and our members wanted to know more about Judge Thomas and his views and his philosophy. Given that face, we commissioned Barbara Bracher, a litigation attorney with one of the major D.C. law firms, to prepare a report on the judicial philosophy of Judge Thomas, particularly as it is reflected in his criminal law decisions on the D.C. circuit court.

Our own reflection, gentleman, combined with our reading of Ms. Bracher's report, leads us to the conviction that Judge Thomas will bring to the Court a voice of reason, fairness, and equity in the area of criminal justice. He is a thoughtful jurist. He possesses a keen intellect and a restrained judicial temperament. With these qualities, he will very likely help to bring much needed certainty and predictability in this area of the law to the Court.

Judge Thomas has demonstrated a commonsense approach to questions of criminal law, and he is very sensitive to the needs of those law enforcement officials actually out on the beat, on the street. He has shown throughout all of his opinions a firm commitment to established rules of law. He is scrupulous in his observance of controlling precedent and the proper jurisdiction of the court. He complies with accepted principles of statutory construction.

Throughout all his opinions, it is evident that he sees his charter as one of construing and interpreting the law, and not shaping the law to suit his own predilections or any private agenda. But even beyond his legal opinions, it is evident that Judge Thomas has thought deeply and carefully about the scourge of violent crime in this country.

In 1985, at one symposium, he was asked about ways to help the inner cities. He responded, "The first priority is to control the crime."

Another element which argues for Judge Thomas' sensitivity towards victims of crime is his own history of victimization in a segregated society, where the pain and hurt of discrimination was a daily feature of life. Judge Thomas knows what it is like to be a victim. We are convinced that he will carry these memories with him to the Supreme Court, along with the sense of injustice they engendered.

It is our expectation that Judge Thomas, for him, victims will no longer be forgotten and invisible players relegated to the margins of the criminal justice system, but, rather, figures central to the process, whose legitimate rights, needs, and concerns must be heeded and honored.

Noticing all of these attributes and facts, Citizens for Law and Order is proud to endorse Judge Thomas' nomination to the U.S. Supreme Court. Joining us in this endorsement are four victim groups who have joined us for this purpose: Justice for Murder Victims, San Francisco; Survivor on Call, Inc., Saltillo, MS; Memory of Victims Everywhere, Irvine, CA; and Citizens Against Violent Crime, Charleston, SC. CLO, together with these 4 organizations, represent more than 40,000 citizens committed to the cause of good criminal justice.

Thank you, Mr. Chairman. Thank you, members of the committee.

[The prepared statement follows:]

CITIZENS FOR LAW AND ORDER, INC.*"dedicated to law and order with justice for all"***TESTIMONY OF****JOHN A. COLLINS****EASTERN REGIONAL DIRECTOR****CITIZENS FOR LAW AND ORDER****BEFORE THE JUDICIARY COMMITTEE OF THE UNITED STATES SENATE****ON THE NOMINATION OF JUDGE CLARENCE THOMAS****AS****ASSOCIATE JUSTICE OF THE SUPREME COURT****SEPTEMBER 19, 1991****OFFICERS**

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Mr. Chairman and Members of the Committee:

My name is Jack Collins and I am the Eastern Regional Director of Citizens for Law and Order (CLO). Our organization was founded twenty-one years ago in Oakland, California, by four concerned citizens who were deeply troubled by the steady growth of violent crime in both their city and nation. For the past two decades, CLO has successfully encouraged ordinary citizens to actively involve themselves in the support of law enforcement agencies. We are committed to reducing violent crime, bringing about a fair and balanced criminal justice system, and rooting out inequities from our judicial processes. We also hold a very special concern for victims and survivors of violent crime and strive constantly to insure for them a central position within the justice system. I, myself, am a victim/survivor -- our nineteen year old daughter, Suzanne, was brutally murdered six years ago.

Against this backdrop of concern and commitment, it is clear to us that the United States Supreme Court plays a telling role in insuring a healthy, fair, and balanced criminal justice system. Its decisions on criminal law impact not only on individual litigants, but they resonate forcefully throughout the Federal and State court systems for years to come. Given this key role of the Court and its individual Justices, CLO was naturally interested in learning as much as possible about the character, views, and legal approach of Judge Clarence Thomas.

Accordingly, we commissioned Barbara K. Bracher, a Litigation Attorney for a major Washington, D.C. law firm, to prepare a report for us on the judicial philosophy of Judge Thomas, as it is reflected in his opinions on criminal law and procedure during his tenure on the United States Court of Appeals for the D.C. Circuit.

Our own research, combined with our reading of Ms. Bracher's report, lead us to the conviction that Judge Thomas will bring to the Supreme Court a voice of reason, fairness, and balance in the area of criminal justice. He is a thoughtful jurist who possesses both a keen intellect and a restrained judicial temperament. With these qualities, he will very likely help to bring much needed certainty and predictability to this area of the law.

Judge Thomas has demonstrated a common sense approach to questions of criminal law and procedure, consistently recognizing the practical problems faced by law enforcement officials on the streets. He has shown throughout all his opinions his firm commitment to established rules of law. He is scrupulous in his observance of controlling precedent and in his careful observation of the proper jurisdiction of the court. He complies with accepted principles of statutory construction using confirmed and traditional tools in construing applicable statutes. Throughout all his opinions, it is evident that he sees his charter as construing and interpreting the law and not shaping it to fit his own predilections or private agenda. While

he has repeatedly expressed concern for protecting the rights of criminal defendants, his open-mindedness and innate sense of fairness and balance promise that he will be as equally forthright in protecting the rights and concerns of victims and the community at large.

But even beyond his legal opinions, it is evident that Judge Thomas has thought deeply and carefully about the scourge of violent crime and its victimization of law abiding citizens. In a 1985 symposium, Judge Thomas was asked about ways to help the inner cities. He responded, "The first priority is to control the crime. The sections where the poorest people live aren't really livable. If people can't go to school, or rear their families, or go to church without being mugged, how much progress can you expect in a community? Would you do business in a community that looks like an armed camp, where the only people who inhabit the streets after dark are the criminals?" Similarly, in a 1987 speech, Judge Thomas returned to this broad theme and noted, "We should be at least as incensed about the totalitarianism of drug traffickers and criminals in poor neighborhoods as we are about totalitarianism in Eastern bloc countries."

Another element which argues for Judge Thomas' sensitivity towards victims of crime is his own history of victimization in a segregated society, where the pain and hurt of discrimination was a daily feature of life. Judge Thomas knows what it is like to be a victim. We are convinced that he will carry these memories

with him to the Supreme Court, along with the sense of injustice they engendered. It is our expectation that with Judge Thomas victims will not be forgotten and invisible players relegated to the margins of the criminal justice system, but rather figures central to the process whose legitimate rights, needs and concerns must be heeded and honored.

Noting these positive judicial attributes of Judge Thomas, along with the fine qualities of character reflected in his background, personal history, and career to date, Citizens for Law and Order, is proud to endorse Judge Thomas' nomination to the United States Supreme Court. Joining us in this endorsement are four Victim organizations from around the country who have come under our "umbrella" configuration for this purpose. Those organizations include: Justice for Murder Victims, San Francisco, California, Survival, Inc., Sault Ste. Marie, Michigan, Memory of Victims Everywhere, Irvine, California, and Citizens Against Violent Crime, Charleston, South Carolina. These organizations, together with CIO, represent more than forty thousand individuals who are actively concerned with criminal justice issues.

Thank you Mr. Chairman and Committee Members for your courtesy and attention.

The CHAIRMAN. Thank you very much, Mr. Collins.

Gentlemen, I have one question. I am not going to ask all of you to answer it, but anyone who wishes to answer, please do. Does it disturb you that Judge Thomas in these hearings endorsed the *Miranda* decisions and the need for *Miranda* warnings? Since you have testified on the crime bill that you would like to see the administration's position, where they would like to see the *Miranda* warnings changed, is that of any concern to any one of you?

Mr. SUTHARD. Mr. Chairman, it doesn't concern me. We have been working with the *Miranda* warnings for many years now, and I think that at the time that came about, it brought about a more reasonable justice system insofar as law enforcement was concerned. It was a real struggle for a while and we have to get adjusted to it, but I think, in the balance, that to be able to inform certain people of what the situation actually is, I think that Judge Thomas brings a good balance to the system.

The CHAIRMAN. I appreciate the answer. I really, quite frankly, had an ulterior motive for asking the question, because all the talk about how police agencies are clamoring for a change in the *Miranda* warning, the answer that I got from you is the answer that I almost always get from every person who has ever been out there in the street, and I just wanted to make sure that was on the record and that you didn't have a problem with Judge Thomas because of that.

Mr. BALDWIN. Mr. Chairman, I would prefer that Johnny Hughes, Sheriff Peed, and Jack Collins expound on this, but—

The CHAIRMAN. I just assume Mr. Collins has no expertise on this, so I would rather—

Mr. BALDWIN. Right.

The CHAIRMAN. I do not mean that as a criticism, I mean he is not a law enforcement officer. But anybody else who wants to expound on it, please do.

Mr. BALDWIN. My observation, from talking with the members of the Law Enforcement Council, as I say, which represents the vast majority of the law enforcement community, is that we believe that some look at it and some modification would be helpful. I don't believe that Mr. Suthard would disagree with that. I think that they have learned to live with it, and I believe they recognize that some modifications and some changes might be helpful.

The CHAIRMAN. What I have heard, quite frankly, Mr. Baldwin—I have great respect for you, you and I have worked together on a lot of these issues, you keep saying that and everybody I speak to in the law enforcement community says it has made them better, the comment made by Mr. Suthard, and I don't hear anybody talking about modification. But that is not really the issue here.

You and I are going to get to debate that a lot in the crime bill, but my point is does it bother you that Judge Thomas wants no modification? Does it bother you, Mr. Suthard and Mr. Baldwin?

Mr. BALDWIN. I didn't read it that he said that he didn't believe there shouldn't be any kind of modification. I think he endorsed the concept of it.

The CHAIRMAN. No, I think he endorsed explicitly. I will go get the record and make sure. Because if you have a problem, we are going to vote on this guy in a little bit, and this is the time to make

sure that we know you have a problem about it, because it is a big deal issue, it is a big ticket item, and I just want to make sure everybody knows what he said. I take him at his word, and I know you do, too. But I heard an explicit endorsement of *Miranda*, nothing about modification.

Mr. BALDWIN. On balance, I find his position a strong one that law enforcement can support. Now, we can single out an issue and might have a little difference, but on balance I would say—

The CHAIRMAN. I am not suggesting, by the way, that if you had a difference that would change the reason to be for him. It is a matter of balance. When 1 of maybe 5 or 6 or 10 most vocally expressed issues, not by law enforcement necessarily, but relative to law enforcement—that is why I wanted to know your stand. I yield to my colleague—

Mr. SUTHARD. Could I expand 1 second?

The CHAIRMAN. Sure you can.

Mr. SUTHARD. It has always bothered me, whether I was a trooper or sergeant, anywhere in law enforcement, that one technical problem could cause a serious offender to be set free because some police officer didn't follow something to the very last point of law. And I have seen on occasions a person who should have been convicted of serious crimes be freed when a police officer made the mistake. And it seemed to me like the police officer perhaps needed to be penalized, and the guy still needed to serve the penalty. To that extent, of course, I would like to see some possibility somewhere of all of the evidence being considered before a case would be thrown out of court based on one technical—whether it is *Miranda* or anything else.

The CHAIRMAN. I thank you for your further explanation. I yield to my friend from South Carolina.

Senator THURMOND. Thank you very much, Mr. Chairman.

I want to welcome you men here today. I want to compliment you for having the courage to come and testify in support of a man that you think will serve well on the Supreme Court of the United States; one who will stand for law and order and protect the citizens of this country. I appreciate your appearing here.

Now, as I understand it, Sheriff Peed, the National Sheriffs' Association has endorsed the nominee here. Is that correct?

Mr. PEED. Yes, sir; wholeheartedly.

Senator THURMOND. Wholeheartedly.

Mr. Hughes, I understand that your organization, the National Troopers Coalition, has endorsed the nominee here. Is that correct?

Mr. HUGHES. Yes, Senator Thurmond; at a meeting earlier this month up in Portland, ME. We certainly did.

Senator THURMOND. Mr. Doyle, you are working with the Troopers Association, too, as I understand it.

Mr. DOYLE. Yes, Senator. That is correct.

Senator THURMOND. You endorse him, too, as I understand.

Mr. DOYLE. That is correct.

Senator THURMOND. Now, Chief Suthard, you represent the International Chiefs of Police, do you?

Mr. SUTHARD. Yes, sir.

Senator THURMOND. I understand that organization has endorsed him.

Mr. SUTHARD. Very strongly, sir.

Senator THURMOND. Very strongly.

Mr. SUTHARD. Yes, sir.

Senator THURMOND. Mr. Baldwin, I believe you represent the National Law Enforcement Council and that is an umbrella group for 14 member organizations, involving 500,000 law enforcement officers in this country. Is that correct?

Mr. BALDWIN. Yes, sir; that is correct. And these organizations—

Senator THURMOND. And this organization has endorsed the nominee.

Mr. BALDWIN. It has, very enthusiastically, and it includes these organizations and a number of others, as you point out.

Senator THURMOND. Mr. Collins, I believe you represent the Citizens for Law and Order.

Mr. COLLINS. That is right, Senator.

Senator THURMOND. And I notice in your statement it says, "We are committed to reducing violent crime, bringing about a fair and balanced criminal justice system, and ruling out inequities for our judicial processes. We also hold a very special concern for victims of violent crime."

I understand your organization has endorsed the nominee.

Mr. COLLINS. That is very true, Senator.

Senator THURMOND. Is that correct?

Mr. COLLINS. Yes, sir.

Senator THURMOND. So it appears that the law enforcement agencies of this Nation, not just States but nationwide, although, for instance, the Alabama Sheriffs' Association here specifically has endorsed him. But nationwide the law enforcement organizations have endorsed this man, Clarence Thomas. Is that true?

Mr. BALDWIN. Yes, sir.

Mr. PEED. Yes, sir.

Senator THURMOND. Now, are you doing this through personal knowledge or through his reputation and the record you have studied and are convinced that he is the right man? Sheriff, we will take you.

Mr. PEED. Yes, sir. We certainly are, Senator.

Senator THURMOND. How is that?

Mr. PEED. We like his rulings, his anticrime and prolaw enforcement positions.

Senator THURMOND. I just want to know why your organization endorsed him. Is it a personal acquaintance, you know him well, or his reputation and the service he has rendered heretofore and you are satisfied with that or what?

Mr. PEED. His reputation.

Senator THURMOND. I see.

Mr. HUGHES. Reputation and service from the troopers.

Mr. DOYLE. Reputation and record, Senator.

Senator THURMOND. Chief Suthard.

Mr. SUTHARD. His reputation, his decisions in court cases, and some of the chiefs across the Nation are familiar personally with Judge Thomas, but I represent more than 8,000 police chiefs across the Nation.

Senator THURMOND. Mr. Baldwin.

Mr. BALDWIN. From my personal knowledge of him and from my observation and respect for his decisions that he has made.

Senator THURMOND. Mr. Collins.

Mr. COLLINS. Sir, his character, his professional reputation, and a special study we commissioned on his criminal law decisions.

Senator THURMOND. I have two questions. You can answer them very briefly. In your opinion, does this nominee have the integrity, the professional qualifications, and the judicial temperament to be a Supreme Court Justice of the United States? Sheriff Peed.

Mr. PEED. From the National Sheriffs' Association, yes, sir.

Senator THURMOND. Johnny Hughes.

Mr. HUGHES. From the troopers, yes, Senator.

Senator THURMOND. Mr. Doyle.

Mr. DOYLE. I have studied all of his criminal law decisions, Senator, and I believe that he does.

Senator THURMOND. Mr. Suthard.

Mr. SUTHARD. On behalf of the International Association of Chiefs of Police, yes, sir.

Senator THURMOND. Mr. Baldwin.

Mr. BALDWIN. The National Law Enforcement Council certainly believes that.

Senator THURMOND. Mr. Collins.

Mr. COLLINS. Yes, sir. On behalf of Citizens for Law and Order, we certainly do.

Senator THURMOND. So you all answer yes to that, as I understand.

Now, the next question is: Do you know of any reason why this committee and the Senate should not approve this man for the Supreme Court of the United States?

Mr. PEED. No, sir.

Mr. HUGHES. I know of none, Senator Thurmond.

Mr. DOYLE. No, I do not.

Mr. SUTHARD. No, sir, I do not.

Mr. BALDWIN. No, sir.

Mr. COLLINS. No, sir.

Senator THURMOND. The answer is no by all of you.

That is all the questions I have. I think those are the most important aspects. The two questions I have asked go right to the guts of our decision. Thank you very much for your appearance and keep up your good work.

Thank you, Mr. Chairman.

Senator KENNEDY [presiding]. I too want to join in welcoming all of you. Thank you very much for expressing your views and opinions about the nominee.

Senator SPECTER.

Senator SPECTER. Thank you very much.

The analysis of the cases is very helpful, especially the testimony by Mr. Doyle on analyzing the cases. I am interested in your response that he did not think the Warren Court was an activist court in bringing down the *Miranda* decision, which candidly I found a little surprising.

I remember the day *Miranda* came down. It was on a Monday. It was June 13, 1966. I had been DA of Philadelphia for about 6

months. And all hell broke loose when that decision came down, especially when, the week following, it was decided—I think it was a New Jersey case—that it would be applied to any case where the trial had started on June 13 or after. So that I had cases where we had gotten confessions and found evidence, conclusive evidence on people, where the police practices were exactly correct when they were undertaken, for example, in May of 1966. You couldn't bring a case to trial before June 13, but when you brought the trial up in July or August, you couldn't use the evidence which had been obtained because it was applied to cases where the investigation was done consistent with the *Escobedo* rules.

So the *Miranda* cases that applied before we had a chance to put out information on the warnings and waivers was really extremely, extremely problemsome. And that gave me a lot of pause at that time, and I thought—the law enforcement agencies have learned to live with *Miranda*. But to apply it in a context where it affected investigations which were proper when done seemed to me very difficult.

Do any of you gentlemen feel that Judge Thomas himself might be an activist judge in bringing up another case like *Miranda*?

Mr. BALDWIN. I don't feel so, Senator, and I think what I am basing my thought on this is—I was listening to you. The National District Attorneys Association—and you were very active as a district attorney—has endorsed Judge Thomas enthusiastically, and they have filed a statement with this committee backing his confirmation. So I think that I would rely on their analysis.

Senator SPECTER. Don, what did you think about the *Lopez* case, the case I questioned him about where he sat on a panel, did not write the opinion but sat on a panel which disregarded the limitation on socioeconomic factors in sentencing? As you know, we now have Federal guidelines, and one of the guidelines is that you may not consider socioeconomic factors. And Mr. Lopez complained about the sentence and brought up his background and his childhood and his family circumstances, and the panel, where Judge Thomas said that notwithstanding the prohibition against bringing up socioeconomic factors, you could bring up these matters in Mr. Lopez' background, over the objection of the prosecuting attorney that that would open the door wide to all sorts of considerations in violation of the sentencing guidelines. What do you think about that kind of a case?

Mr. BALDWIN. Well, it would bother me a little bit if it were opened up broadly. I think that is a concern that the law enforcement community has. I think we just had a recent concern, and I discussed it with the Attorney General of the United States and his staff, the decision by the Ninth Circuit Court of California where they ruled that personnel records of a Federal investigator could be opened up and brought into court by a defense attorney if he wanted to go back. And I think that they have ruled, in further looking into it to decide whether or not to appeal, that it did not say that; that, in fact, there was a limitation. You could not bring it into court unless it was for some specific fact that was in his record that was needed to support a charge, a criminal charge against him, but not the whole record.

So I think there is a—we have problems with the broadening of the use of evidence.

Mr. SUTHARD. Senator Specter, could I comment?

Senator SPECTER. It is up to the chairman.

Senator KENNEDY. Briefly. Regrettably, having to follow these clocks, we would welcome a brief comment, if you would, please.

Mr. SUTHARD. In regard to the *Miranda* decision, no one was any more disappointed than I was as a young police officer when that decision came down. But in looking back on that decision, even though many guilty people have been released as a result of it, I am convinced that a few people that were innocent have not been convicted as a result of it. And so the good that came out of the *Miranda* decision in the training of police to me outweighs the problems that it caused in the years that passed, although I still continue to say that anything that is so rigid where the evidence is overwhelming that the case is thrown out on one technicality, including the *Miranda* decision, is bad for the overall criminal justice system.

Senator SPECTER. Well, I don't quarrel with the *Miranda* case today, but I did quarrel very much with its retroactive application. I still quarrel with that today as a principle. But there is no way to define that except as an activist court coming into that area as they did.

Thank you very much.

Senator KENNEDY. Thank you very much.

Senator DeConcini.

Senator DeCONCINI. Mr. Chairman, I only want to make a comment regarding this panel and all the panels here because it goes more to the chairman and the ranking member of the wide dispersion of the different interests that we have had. I am glad to see law enforcement take a position, just like I am glad to hear from the NAACP and the American Association of University Women and many, many other groups that have appeared here. I think that is part of the process, and I am pleased that these gentlemen—I know most of them—will take the time to review in their area of concern Judge Thomas' decisions. And I thank them very much for being here.

Senator KENNEDY. Thank you very much.

Senator Heflin.

Senator HEFLIN. Mr. Doyle, I assume you have read a good deal about Judge Thomas and his criminal law philosophy. I believe there are three opinions that he has written in the field of criminal law since he has been on the court of appeals. They are not particularly significant in giving you some idea—at least, they weren't particularly significant in giving me an idea as to whether he would be, in the field of criminal law, a liberal judge or a law-and-order judge. What indications do you have in the field of criminal law, other than his opinions, that persuade you that he would be a law-and-order judge?

Mr. DOYLE. I think if I recall, he has written approximately seven criminal law opinions. I reviewed each of those, and that is what I base my opinion on. I think that those opinions, if you look at each one of them, are very well reasoned, well documented, well supported legally.

For example, in the search-and-seizure case that I mentioned in my direct testimony, there were issues involved regarding the search of the particular hotel room. And the judge upheld the search on the basis of exigent circumstances, meaning that he felt that under the particular circumstances the police officers did not need a warrant to go into the hotel room.

I think in that case—and in other cases—he has shown an understanding of the difficulties that a police officer in that particular situation, in that hotel on that evening, has in making determinations about whether or not, for example, a warrant is necessary. And I think he has shown a willingness in the case of a doubt, in the case of a tie, to rule in favor of law and order, to rule in favor of the police officer. I think he understands the difficulties that the officer faces when he is investigating that kind of a drug operation with its ever-changing circumstances.

I can only base my opinion on the six or seven or eight criminal law decisions that he has written. But having reviewed all of them, I think they are very well reasoned and have been extremely supportive of law enforcement.

Senator HEFLIN. I have no other questions.

Senator KENNEDY. Senator Simon.

Senator SIMON. I just want to thank the panel for your coming here and your testimony. Let me add my appreciation for what at least most of your organizations have done in the field of gun control, which I hope we will listen to a little more gradually. We want to make sure responsible citizens have the opportunity to have guns, but we do need restraint in this field obviously for the criminal element.

Let me just add, Mr. Collins, I don't know as much about your organization as I should. If you can send me some information, I would appreciate it. I have always believed that if we get more people involved, more citizens involved—not just the troopers and the others, but more citizens involved in this area of law enforcement, we could do a heck of a lot better job in our country.

Mr. COLLINS. I will be happy to do that, Senator. Our organization has made quite an impact in 21 years in California, and it is only this past year, Senator, that we have, in effect, opened up an office on the east coast. And I am the director here, so you will be hearing a lot more about the organization.

Senator SIMON. You send me some literature.

Mr. COLLINS. I certainly will, sir.

Could I add a footnote on what Senator Heflin asked before? He asked a question about what made us think that Judge Thomas might be a law-and-order judge. In the good sense of the word, I was heartened, Senator, by Judge Thomas' response to the question as to whether he was philosophically opposed to the death penalty. And my recollection is he said he is not philosophically opposed in appropriate cases, which I think is a fine answer. And I am heartened in this sense: Obviously I have a personal concern because our daughter was viciously murdered, and we are involved in capital litigation right now.

But I was doubly heartened by Judge Thomas' later comment. I think he said when he looked out the window of his district courthouse and he sees these vans pulling up with young black defend-

ants in them. It seems to me that here is a man who is going to bring a balanced approach to the Court. This to me is true law and order. I think the true advocates of law and order don't want their judges to be on one side of the spectrum. We want our judges to really look at both cases, to be sensitive to victims, criminal defendants, but as well be sensitive to victims and survivors. And this is what we have lacked, in my opinion, over the last 15 or 20 years, a lack of balance.

And I am very heartened by Judge Thomas because, first of all, philosophically he feels there is a place for capital punishment, but he has also indicated that he is going to be open minded and fair in judging these types of cases. And I am very, very heartened by that.

The CHAIRMAN. Are there any further questions of the panel?

[No response.]

There being none, gentlemen, again, thank you for your service. We appreciate your always being willing to come and give us your views.

I want to personally thank you on a matter totally unrelated to this nomination, for your work on the crime bill and for your help. Quite frankly, it would not have been passed, without us being able to work together. Thanks for your help, and thank you again. We appreciate it.

Mr. HUGHES. Thank you, Chairman Biden.

The CHAIRMAN. Now, our next panel is an extremely distinguished panel testifying in opposition to Judge Thomas' nomination, and the panel includes:

Ms. Harriet Woods, former lieutenant governor of the State of Missouri, on behalf of the National Women's Political Caucus, an extremely articulate spokesperson in whatever she chooses to be involved in. It is good to see you again, Harriet, and welcome.

Ms. Molly Yard, on behalf of the National Organization for Women. It is a pleasure to have Ms. Yard back again.

Eleanor Smeal, on behalf of the Fund for the Feminist Majority. Ms. Smeal has testified on a number of occasions before this committee on nominees, as well as other issues, and it is a pleasure to have her back, as well.

Ms. Helen Neuborne, on behalf of the NOW Legal Defense and Education Fund, who probably spent more time up here on the Hill working on behalf of issues that affect Americans, I suspect—and I might add, I am going to be very presumptuous—knows the process and is extremely bright, is a resource that I personally rely on a great deal, as well as the rest of the committee, and it is good to have you here, Ms. Neuborne.

Ms. Anne Bryant, on behalf of the American Association of University Women, an organization that has a wide and long involvement in issues of the day and is always listened to up here on the Hill.

And Ms. Bylye Avery, on behalf of the National Black Women's Health Project. Welcome, Ms. Avery.

Now, let me ask the panel, has the panel concluded how they would like to proceed, or, if not, then I would suggest we begin in the order in which you were called by the Chair, unless there is

another way you would wish to proceed. Why don't we start, then, with Harriet Woods.

STATEMENT OF A PANEL CONSISTING OF HARRIET WOODS, PRESIDENT, NATIONAL WOMEN'S POLITICAL CAUCUS; MOLLY YARD, PRESIDENT, NATIONAL ORGANIZATION FOR WOMEN; ELEANOR SMEAL, FUND FOR THE FEMINIST MAJORITY; HELEN NEUBORNE, NOW LEGAL DEFENSE AND EDUCATION FUND; ANNE BRYANT, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN; AND BYLLYE AVERY, NATIONAL BLACK WOMEN'S HEALTH PROJECT

Ms. Woods. Mr. Chairman and other Senators, I am really pleased to be here.

I am Harriet Woods, former lieutenant governor of Missouri, and now president of the National Women's Political Caucus, which is a national bipartisan membership organization that works hard to get women into elected and appointive office. I guess you could call us the bootstrap organization, an electoral organization for women, and we do it the hard way, one-by-one-by-one-by-one, sort of the way Clarence Thomas wants to provide relief for discrimination for women in the economic and civil areas.

Someone has estimated that, looking at the U.S. Senate and some of our other electoral bodies, that if we keep up this way, it could take 400 years to get gender equity in our electoral bodies, and, as someone else has remarked, justice delayed is justice denied.

So, I am here for justice and I am also, with due respect to the Senators, here to remind you that advice and consent is more than a prerogative of the Senate, it is a protection for the people.

Now, I have heard some talk about special interest groups, and I have to say right off to this panel that women are not a special interest group, we are the majority, a majority of the population, a majority of the registered voters, and a majority of those who do vote. Yet we continue to receive less pay for our work, we suffer indignities in the workplace, we have fewer opportunities for career advancement, we are the teachers, rather than the superintendents, we are often ignored at medical research, and paternalistically told that we can't even make our own reproductive decisions.

But when we do turn to legislative relief, as I have said, what do we find? We find 29 out of 435 Members of Congress. It is not for want of trying. Since the 20 years since the caucus was founded, we have quadrupled the number of women in legislatures, all the way to 18 percent. In Louisiana, when they passed what they probably boasted was the most punitive law on abortion, out of 144 members of that legislature, 3 were women.

So, it is important that when we come here, we come because we can't make those decisions ourselves, we have to petition for our rights. We need to look to the courts, and so Judge Thomas is important.

I thank those Senators who asked questions on our behalf and the behalf of women for us, but, I have to tell you, we weren't very happy with the responses. They seemed to be based on the notion