

The CHAIRMAN. Thank you very much.

Mr. Vaughn.

Mr. VAUGHN. Thank you very much, Senator, for the opportunity to be here and testify on this matter that is of utmost importance to the police in this country, since clearly the majority of cases reviewed by the Supreme Court deal with criminal issues.

We're living in a very difficult period in this country, and the predictions with respect to crime and what will happen in this country if it continues to escalate at its current rate are—quite frankly—frightening, as we have analyzed this issue. We are here prepared to strongly support the nomination of Judge Kennedy for the Supreme Court.

We think his credentials speak for themselves. I came here authorized by our executive committee, which is the governing body of the association, which consists of 52 of the top law enforcement officials in the United States, to offer our unqualified support and endorsement of this nomination.

We have reviewed Judge Kennedy's record extensively and we're satisfied that he will fairly and evenly adjudicate criminal matters coming before him, and he will fairly and consistently interpret the law and that he will, as much as humanly possible, balance the rights of victims, the rights of the accused, and the rights of the citizens of our great nation to live a crime-free life.

We support Judge Kennedy's nomination for a number of reasons. First, Judge Kennedy's philosophy of judicial restraint, as clearly demonstrated in the more than 400 opinions he has authored on the U.S. Court of Appeals for the Ninth Circuit.

Second, Judge Kennedy's decisions reflect due regard for the role of States in our federal system. Third, Judge Kennedy has fairly interpreted the exclusionary rule. He has argued that whatever the merits of the exclusionary rule, its rigidities become compounded unacceptably when courts presume innocent conduct, when the only common sense explanation for it is ongoing criminal activity. This speaks directly to one of law enforcement's greatest concerns with the exclusionary rule; that is, when common sense is left out of the interpretive process.

Fourth, Judge Kennedy has also supported the use of the death penalty, which we endorse as an appropriate measure of punishment for certain criminal acts.

Fifth, Judge Kennedy has upheld maximum sentences against drug dealers, and has upheld the constitutional validity of the actions of foreign governments cooperating with the United States in antidrug ventures. Perhaps one of the most difficult issues for law enforcement officers is to understand the unjustified and unrealistic suspicion of some judges towards all law enforcement officials. I can't tell you the toll this takes on our morale. Judge Kennedy does not share this view of law enforcement. As a matter of fact, he stated in the *Darvon v. Norse* case:

Were a juror to announce that most law enforcement officers by reason of their profession and their oath are trustworthy and honest, but that similar respect cannot be accorded prisoners, I should be gratified, not shocked. Those principles are consistent with the responsible citizenship and are not a ground to challenge the juror for cause.

Judge Kennedy is an experienced and impartial jurist. His 12 years of service on the U.S. Court of Appeals for the Ninth Circuit, together with his experience in private practice, make him an outstanding nominee to the U.S. Supreme Court.

The American Bar Association gave him their highest rating. The International Association of Chiefs of Police supports his nomination without qualification, and we do urge you to confirm him as an Associate Justice to the highest court in our land.

Again, I deal with police chiefs every day. There is a growing concern, particularly given the fact that we've experienced the highest rate of crime in two decades, a 12 percent increase in violent crime. Our nation can ill-afford a Supreme Court Justice that cannot apply common sense and balance the rights of the majority with the rights of the accused and give us the opportunity to live a life free of unnecessary crime.

Thank you very much for the opportunity to make our presentation.

[The statement of Jerald R. Vaughn follows:]