DOJ bankrolls 'victims' rights' movement with your tax dollars

by Leo F. Scanlon

The Department of Justice has been spending millions of dollars to promote a grassroots movement to overturn the U.S. Constitution, and create the equivalent of lynch mobs all across the United States.

Through the Office of Justice Programs (OJP), a little-known funding agency, the vast permanent bureaucracy of the Justice Department has created hundreds of community-based groups, bonded together by the idea of "victims' rights," a euphemism for tearing down some of the most precious liberties, spelled out in the Sixth Amendment to the Constitution. Ostensibly innocuous groups such as Mothers Against Drunk Driving and the DARE program, are, it turns out, DOJ-funded creations.

The setting up of such a political lobbying apparatus was the handiwork of a commission chaired by Vice President George Bush, during the Reagan-Bush administration: the President's Blue Ribbon Commission on Victim Assistance. Much of the implemention of the plan was carried out, later, by President Bush's Attorney General, Richard Thornburgh. To date, unfortunately, the Clinton administration has not moved to shut down this unconstitutional menace. Attorney General Janet Reno herself has been associated with the "victims' rights" effort, dating back to her days as States Attorney in Dade County, Florida.

'Grassroots movements' controlled from the top

In each of the last three years, FBI figures have shown a drop in the national rate of violent crime. Urban areas which have followed New York City in the return to classical methods of "cop on the beat" policing of the streets, are reporting spectacular drops in the crime rate as well. Nonetheless, the legislatures are flooded with ever more draconian criminal statutes which are pushing the Constitution to its limits. And during every session of Congress, there are new extensions of the concept of "victims' rights," which has culminated in a proposed constitutional amendment that is backed by the Clinton administration as well as the "conservative revolutionaries" in the Congress.

How did this come about? Beginning in the 1970s, a network of think-tanks and political operatives began building a political apparatus that would attack the Bill of Rights, by mobilizing sympathy for the victims of violent crime. With Federal money and backing, this "victims' movement" would become a covert type of political lobby tailored to suit the agenda of the career apparatchiks who control the Department of Justice. The fact that the distraught individuals who compose the movement have no idea what is behind the effort, is no defense against the charges levelled here.

The findings of Bush's blue ribbon task force codified the agenda of the organizations financed by the OJP, and are the template for the proposed constitutional amendment which the Clinton administration is supporting. The OJP is the only aspect of the Justice Department which dispenses grant money directly to the public; it constitutes a hidden political force, every bit as powerful as any of the better known federally funded "constituency movements."

The network created by OJP grants involves thousands of supposedly grassroots organizations, which constitute the "anti-crime lobby" that is driving the unconstitutional measures embodied in the successive "crime bills" proposed by Congress in recent years. The agenda of this apparatus is set by the Office of Legal Policy, and is outlined in a document called "Truth in Justice," which was published by the Thornburgh Justice Department. Although this is the blueprint for the proposed constitutional amendment now before Congress, virtually every element of the judicial machinery described by the report is in full operation already.

The crime lobby at work

The means by which the Office of Legal Policy agenda gets transmitted to the "grassroots" movement are varied, but involve the use of Federal monies dispensed directly by the DOJ to local and national organizations, as well as block grants built into the authorization bills which implement the omnibus crime legislation. The block grant machinery mandates states to set up programs with certain specifications, in order to receive specific large sums of money allocated for various law enforcement purposes.

The states then mandate local prosecutors and police departments to create clones of the Federal program, as a precondition for receiving their local share of the "pass-through"

money trickling down from the Feds. The program established by the local police or prosecutor's office is tailored to interface with the "grassroots" organization being funded at the national level by the Office of Justice Programs and the Bureau of Justice Assistance—i.e., by the DOJ itself.

Take the case of the ubiquitous single-issue "citizens organizations," such as Mothers Against Drunk Driving (MADD), which are always presented in the media as the "brainchild of one outraged (mother, sister, brother, father, victim) who decided to make a difference." The real story is usually quite simple: The DOJ designs a program aimed at increasing its prosecutorial powers; the OJP, artfully utilizing the principle that "hard cases make bad law," finds a "perfect case" and recruits the victim, who then becomes the "average citizen" who leads the DOJ-inspired "grassroots movement."

Media coverage, organizing training, networking through similar organizations—all set up under law enforcement auspices nationwide—create an instant "national movement" which then lobbies for the legislative reforms embodied in the latest version of the crime bill being presented to Congress.

The amounts of money involved in the apparatus are sometimes quite astounding; indeed, the OJP "crime lobby," in its extended form, is one of the best-organized and best-funded lobbies, and one of the most powerful political and electoral forces, in the country today.

One of hundreds of such organizations, Citizens Against Crime, has 48 national franchises for marketing its program of crime prevention and selling such items as books and chemical sprays. Company sales exceeded $10 million in 1992.

The case of "McGruff the Crime Dog" has brought to national attention the lavish funding available to the "crime lobby." McGruff is a cartoon character developed by advertising executives to "market" the DOJ agenda to schoolchildren and community organizations. The character, the logo, and all manner of paraphernalia (T-shirts, coloring books, dolls) are "franchised" to local "citizens' organizations" which market the material to school districts and so on, as part of the local "anti-crime program" associated with the police or prosecutor's office. The head of this marketing apparatus maintains an office in Washington, D.C. and draws a six-figure salary, employs a highly compensated "director of franchising," and hires a lobbyist who also is paid a six-figure salary. The lobbyists' function is to see to it that the McGruff budget is renewed annually (it is a "line item," i.e., it is automatically renewed, unless it is specifically cut by an act of Congress).

The Justice Department conducted a $300,000 study which found *no evidence that McGruff has had any impact on crime*. John Calhoun, executive director of the National Crime Prevention Council, nonetheless earns $100,000 annually by promoting the franchise operation. Of the approximately $3 million that the NCPC receives from the Justice Department, $620,000 goes directly into the McGruff media campaign. The organization boasts an unbroken string of earmarked appropriations of $2-3 million annually since 1988.

The McGruff case may seem to be a benign fraud on the part of a group of sharpies who have found a good way to milk the Federal cash-cow. In fact, it is part of the machinery which is orchestrating the international disgrace that is the death penalty apparatus of the American judicial system.

This point was emphasized by former Attorney General Thornburgh, in a speech to a conference of law enforcement officers being trained to implement the victims' rights laws then first appearing. He explained that "the President's proposed Comprehensive Violent Crime Bill will do even more for crime victims: First, it will restore the death penalty. . . . Victims and survivors of victims have an irrefutable right to some certainty that justice will be appropriately served, and that the punishment imposed will be commensurate with the injury inflicted."

There has been no improvement in these rotten notions of law and justice from the time they were first proposed by the Bush administration and its antecedents. This vast machinery is being deployed against the republican system of criminal justice. It is orchestrating a lynch mob environment aimed at destroying the search for truth in the courts, and is supplanting, in the hearts of the victims themselves, the hope for redemption and rehabilitation, with the dead end of revenge.

'Lex talionis': How victims breed tyranny

The Department of Justice is fully committed to changing the Constitution in order to make legal that which is rejected as a principle of law in America—*lex talionis,* the law of revenge. The only honest argument for the death penalty, is that it is the ultimate form of revenge. Former Attorney General William Barr has stated that he believes revenge to be the only value the death penalty has, and added that that is a sufficient justification for it. Few prosecutors would differ with him.

The most aggressive support for radical prosecutorial innovations, and the death penalty in particular, is centered in organizations under the umbrella of a DOJ program called the National Organization for Victim Assistance. In testimony to Congress several years ago, a NOVA official described the agency's agenda: "We have learned to look beyond the obvious victims, such as hostages and their families or the grieving relatives of anyone killed; others at risk of becoming emotional victims of the disaster include rescuers, eyewitnesses to the carnage, loved ones who are not relatives, and whole communities who identify with the direct victims.

"In a sense, what we propose is like the Federal Emergency Management Administration, . . . an agency focused not on the physical manifestations of disaster but its pervasive psychic effects. . . . First, as a consulting agency, it would help to nurture other agencies' efforts to establish in-house

The McVeigh case

Timothy McVeigh, the alleged mastermind of the plot to bomb the Alfred P. Murrah building in Oklahoma City, was tried, convicted, and sentenced to death by a jury, in a trial which was designed, not to get at the truth behind the terrorist assault which took the lives of 168 men, women, and children, but to assuage the emotions of the "victims' rights movement."

In the courtroom in Denver, the government made no effort to probe the terrorist apparatus that carried out the bombing, and in fact suppressed a real investigation of the attack. By bringing a sentence of death to McVeigh, the trial achieved its purpose—to serve as a national spectacle which would provide the "victims" with the only thing the corrupt corps of prosecutors have to offer, the dead end of revenge.

Prior to the trial, Federal Judge Richard Matsch ruled that the victims could not both attend the trial and testify in the sentencing phase, for the obvious reason that their testimony would be influenced by the other testimony they had heard. Congress then rushed through a law, the Victims' Rights Clarification Act, in record time, specifically to override Matsch. McVeigh's lawyers have asked Matsch to declare the new law unconstitutional. It will certainly be a major issue in McVeigh's appeal.

Irrelevant testimony about the bombing itself, and testimony about the victims, dominated the prosecution's case. There was no judicial need for more than one witness to establish that the bombing occurred and killed 168 people, since it was not a contested issue. Yet Matsch allowed the prosecution to put on witness after witness, describing the deaths of the victims in gory detail. With the emergence of this new force on the judicial scene, the methodology of the political "show trial" which was exemplified in the frameup of Lyndon LaRouche and his collaborators, is now the standard for all prosecutions.

crisis teams . . . so that every type of 'Employee Assistance Program,' for example, would have the ability to counsel individuals or groups of employees who have experienced a private or work-related trauma. . . . Second, in preparing for wider-scale traumas, the agency could recruit and train volunteer professionals already skilled in one-on-one crisis intervention. . . . Third, we see as part of the specialized training given to the volunteers not only the techniques of how to administer 'emotional first aid' to large groups of people—the main focus of NOVA's training in this area—but also an overview of the special kinds of crises that affect the national government, to better prepare them for their assignments. . . . Fourth . . . we think that Congress might also tap into America's 'insurance system of last resort' in paying for professional therapy in needed cases—that is, the string of crime victim compensation programs now in place in 48 states plus the District of Columbia. . . . These programs are already subsidized by the Federal Victims of Crime Act. . . . Fifth . . . the agency be housed in the Justice Department, perhaps as a part of its Office for Victims of Crime. . . ."

Victims groups are built on the therapy techniques which have become the "secular religion" of America. Participants are encouraged to re-live the trauma of their experience, so that they may be effective witnesses for the prosecution, and, when appropriate, champions of the death penalty as a device of revenge.

Always, the leaders of these groups, which are typically organized directly out of the prosecutor's office, present themselves to local legislative bodies and press outlets as "individuals" with no other connections—a ruse which is enhanced by the often gruesome crimes they were victimized by, and the "sincere emotions" (cultivated in group therapy sessions) which motivate their calls for vengeance.

It would be a mistake to put the genuine agony experienced by individuals who are the victims of heinous crimes in the category of a fraud—because it isn't. *What is fraudulent, is the government's effort to utilize these cases in support of an effort to weaken the Constitution*. The victims are then manipulated, as a travelling freak show, displayed to the public whenever a prosecutor needs to railroad a conviction or a death sentence.

The Bush panel's recommendations

The essence of the work of the Bush panel is contained in its proposed one-line addition to the Sixth Amendment, printed in italic type below:

"We propose that the Amendment be modified to read as follows:

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor and to have the Assistance of Counsel for his defense. *Likewise, the victim, in every criminal prosecution shall have the right to be present and to be heard at all critical stages of judicial proceedings*."

The fact is, that the victim *already* has the right to be

present at every critical stage of judicial proceeding, and is only excluded from the plea-bargaining process. This process, which usurps the function of a trial, is a corrupt practice which the victims' movement never addresses. The wording of the amendment implies what it doesn't state openly, that the victim has some special relationship to the prosecution which goes beyond the lawful process of objective discovery of the facts pertinent to the crime charged.

Dissenting opinions to the majority ruling in the Supreme Court case *Payne v. Tennessee* (the case which allowed victim-impact testimony at sentencing hearings) pointed out the mischievous effects of this practice. Among others, it encourages vengeance to be brought into a proceeding which should be free from such an emotion, and it creates different classes of victims, because the very premise is that circumstances of the victim's life—not the nature of the crime—should influence the punishment. The amendment proposed would extend those evils, and worse, throughout the judicial process.

Examples of how this would work are found in the Executive and Legislative Recommendations of the commission.

Recommendation 1: "Legislation should be proposed and enacted to ensure that addresses of victims and witneses are not made public or available to the defense, absent a clear need as determined by the court. . . .

"Likewise, home addresses should not be given to the defense in the absence of judicial determination of a need that overrides the victims' need for security. This issue first arises when defense counsel demands pre-trial discovery of the victims' and witnesses' home addresses in order to interview them. . . ."

This proposal purports to address the problems caused by the threat of retaliation against witnesses cooperating with police—increasingly common in drug-related shootings, and also in domestic disputes. What does it actually do? It creates a category of secret witnesses, and undermines the pretrial investigation process by the defense. This is particularly dangerous, given the newly enacted restrictions on the post-trial introduction of new evidence which might prove innocence.

The recommendations then propose further secreting of potential witnesses from the defense, by creating a shield around the "counseling" process which the DOJ has created, through its victim-witness protection programs:

Recommendation 2: "Legislation should be proposed and enacted to ensure that designated victim counseling is legally privileged and not subject to defense discovery or subpoena."

This counseling was first introduced in a systematic manner through the creation of "rape crisis centers," and is now being applied to all categories of crime victims. The commission notes that the treatment they seek to protect is not medically prescribed therapy, which is covered by existing protection of doctor-patient confidentiality, but rather "the vast majority of the work . . . done by social workers, nurses, or by people who have been victims themselves."

Unlike licensed medical practitioners or clerics, who have a presumption of neutrality, these victim counseling networks are primarily funded and organized by the Justice Department and the local prosecutor's office. It is astounding that the practice has not already been outlawed as a form of witness tampering. Page 35 of the commission report states baldly that the purpose of this counseling is to allow the victim to "recover from the crime and *contribute to a successful prosecution*."

The next recommendation then strikes a hammer-blow at what is left of the pre-trial investigative process:

Recommendation 3: "Legislation should be proposed and enacted to ensure that hearsay is admissible and sufficient in preliminary hearings so that victims need not testify in person."

At this point, the full regime proposed in these recommendations has created a situation for the defense, where a witness *who cannot be interviewed or investigated* is undergoing group therapy brainwashing at the hands of a virtual cult controlled by the prosecutor, *nothing of which can be subpoenaed,* and the *hearsay testimony* of the secret witness is allowed to shape the critical pre-trial process. As any observer (or "victim") of a modern prosecution knows, the pre-trial shaping of the charge and indictment can predetermine the outcome of a trial and the sentence as well. Fabrication of evidence and suppression of exculpatory material are already normal practices of police and prosecutors nationwide; this additional power would significantly protect those illegal practices.

The recommendations continue, each drawn from the "Truth in Justice" blueprint for the evisceration of the Bill of Rights: Eliminate the exclusionary rule, make available arrest records (i.e., *allegations,* not actual convictions) for the crimes which involve the greatest psychological trauma, such as rape, domestic violence, and sexual abuse.

Finally, the commission calls for a pilot program which mandates the Federal government to provide assistance to victims and the therapy groups which cultivate the victim mentality. The commission advises that Congress should provide Federal funding, to be matched by local revenues, to support the non-profit organizations which make up the victim-witness network.

There is no more appropriate indictment of the work of this commission, than its own articulation of the Benthamite calculus which justifies this monstrous work: "It is expensive to arrest someone and prosecute him in court. . . . Victim/witness assistance units . . . can produce substantial savings in witness fees and police overtime pay."

In conclusion, once one legitimizes the notion of a class of "victims," with a special relationship to the state, the Constitutional basis for existing American law is swiftly undermined. The best defense that victims of crime could get today, would be a Congressional investigation of the corruption and abuse which radiates out of the Federal law enforcement apparatus, into every court in the land.