

NATIONAL PRESS CLUB LUNCHEON WITH ATTORNEY GENERAL ERIC HOLDER

SUBJECT: CRIMINAL JUSTICE AND SENTENCING REFORM

MODERATOR: JOHN HUGHES, PRESIDENT OF THE NATIONAL PRESS CLUB

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JOHN HUGHES: (Sounds gavel.) Good afternoon, and welcome. My name is John Hughes. I'm an editor for Bloomberg First Word, the breaking news desk here in Washington for Bloomberg, and I'm the President of the National Press Club. The Club is the world's leading organization for journalists. We are committed to our profession's future through programs such as this, and we work for a free press worldwide. For more information about the Club, visit our website press.org. To donate to programs offered through our Club's Journalism Institute, visit press.org/institute.

On behalf of members worldwide, I'd like to welcome our speaker and those of you attending today's event. Our head table includes guests of the speaker as well as working journalists who are Club members. Members of the public attend our lunches, applause you hear is not necessarily evidence that journalistic objectivity is lacking.

I'd also like to welcome C-SPAN and our Public Radio audiences. You can follow the action on Twitter using the hashtag NPCLunch. After our guest's speech, we'll have a question and answer period. I will ask as many questions as time permits.

Now it's time to introduce our head table guests. I'd ask each of you on the head table to stand briefly as your name is announced. From your right, Chuck Raasch, Washington correspondent for the *St. Louis Post Dispatch*; Evan McMorris-Santoro, bureau chief for BuzzFeed and a member of the National Press Club Board of Governors; Jeff Ballou, news editor at Al Jazeera, and Vice Chairman of the National Press Club Board of Governors; David Callaway, editor in chief of *USA Today*; Martin Baron, executive editor of *The Washington Post* and a board member of the National Press

Club's Journalism Institute; Donna Leinwand Leger, Vice Chairman of the Press Club Speakers Committee, a past Club president, and breaking news reporter and editor at *USA Today*.

Skipping over our speaker for a moment, Jonathan Allen. Jonathan is the Washington bureau chief for Bloomberg News; Sally Quillian Yates, Acting Deputy Attorney General and a guest of the speaker; Marilyn Thomson, deputy editor at Politico; Kelly-- I'm sorry, Kelly is not there, so Mark Schoeff, a reporter at Investment News. Let's give them a round of applause. (Applause)

Eric Holder, the 82nd Attorney General of the United States, is one of three original members of President Obama's cabinet still in office. He is among the longest-serving Attorneys General in history. When Holder took office in 2009 as the nation's first African American Attorney General, it was a tough time to begin. The nation was debating how to collect intelligence and prevent terrorist attacks without infringing upon civil liberties. States were fighting the federal government over voting rights, marijuana legalization, immigration and same sex marriage. Under Holder, the Justice Department aggressively fought new voter identification laws that he characterized as both overt and subtle forms of discrimination.

The Justice Department under Holder also stopped defending Defense of Marriage Act cases. Holder addressed the intersection of new technology and U.S. law such as the use of drones in targeted killings. When the U.S. killed terrorist suspect Anwar al-Awlaki, an American citizen and top recruiter for al-Qaeda, critics accused the United States of sanctioning assassinations. Holder has said he sought to strike a balance between a nation at war and a nation of laws.

In his final year as Attorney General, the deaths of two unarmed black men, Michael Brown and Eric Garner, caused many to question whether all citizens can trust police to protect them. In meetings and speeches, Holder has sought to confront these issues, convening a series of discussions around the country. Holder announced his departure from the office he holds late last year pending confirmation of his successor. He has begun to reflect on his six years in office. He might have summed it up best with something he said back in 2010. Holder put it this way, I quote, "One of the things I've learned over the last year is that it simply is not possible as Attorney General to make everyone happy."

Well, as we'd say here at the National Press Club, that was spoken like a true journalist. Ladies and gentlemen, please join me in welcoming the Attorney General of the United States, Mr. Eric Holder. (Applause)

ATTORNEY GENERAL HOLDER: Well, thank you, President Hughes, for that kind introduction and for your leadership and stewardship of this really venerable institution. I'd also like to thank past President Donna Leinwand Leger of *USA Today* for inviting me to be here this afternoon, the National Press Club's officers, and really your entire Board of Governors for their really critical work, and all of the journalists both in

and beyond this crowd who contribute so much to our national discourse. We don't always agree, but we have a good conversation, I think is ultimately good for our democracy. It's a pleasure to stand among so many distinguished members of the Fourth Estate, and I'm humbled to follow in the footsteps of the really remarkable men and women who have addressed this organization since its founding over a century ago.

Now, before we open the floor for questions this afternoon, I have to give you a commercial. I'd like to take a few minutes to discuss the latest developments in the Justice Department's ongoing efforts in the field of criminal justice reform, as well as the significant and I think extremely promising results that we're beginning to see just 18 months after the launch of our Smart on Crime initiative.

Now, when I took office as Attorney General a little over six years ago, I'm the third longest serving Attorney General in the history and you should all go out and try to figure out who number one is. It's a very interesting story. I came to this job having seen America's justice system really from a number of angles. Primarily as a prosecutor, but also as a judge and as an attorney in private practice. I'd had the great honor of serving alongside, and learning from, countless dedicated lawyers, brave men and women in law enforcement and leading criminal justice experts of all stripes.

I've served under administrations led by presidents of both political parties. I knew that despite the laudable progress that we'd brought about over the past two decades in lowering the overall crime rate, real and daunting challenges remained before us. I understood that few of these challenges were more pressing than the need to strengthen the federal criminal justice system and to reduce, reduce, America's over reliance on incarceration. After all, the United States comprises just 5 percent, 5 percent, of the world's population. We incarcerate almost a quarter of its prisoners, 25 percent of all the world's prisoners are in American prisons.

While the entire U.S. population has increased by about a third since 1980, the federal prison population has grown by 800 percent over the same period. And on the day that I took office as a result of well intentioned policies designed to be tough on drugs, nearly half of all federal inmates were serving time for drug-related offenses. Now, as many of you have really, I think, thoroughly reported this state of affairs, not only had a serious financial ramification for our country occupying roughly a third of the Justice Department's budget in recent years, it exacted also a human and moral toll that's impossible to calculate.

Studies show that the policies that impose these costs had not had a significant impact in making our communities measurably safer. And the persistence of this status quo demanded that national criminal justice leaders really closely examine our institutions and reorient our practices to create the more perfect union that our founders imagined and the most just society that all Americans, wherever they live, whatever their color, that all Americans deserve.

Now, with these aims in mind, and under President Obama's leadership, we began to push for serious change. In 2010, as a result of our efforts, and really the close partnership of leaders from both parties, both parties on Captain Hunt, the President was able to sign the Fair Sentencing Act, which reduced the inappropriate, and I think unjust, 100 to 1 sentencing disparity between crack and powder cocaine. Over the years, we've also worked to strengthen reentry policies aimed at reducing recidivism and to advance a host of other targeted improvements like drug courts.

In early 2013, I took these efforts to a new level by initiating an unprecedented, exhaustive and targeted Justice Department review of the federal criminal justice system as a whole to identify obstacles, inefficiencies and inequities and to address ineffective policies.

Now, this review culminated about 18 months ago with the launch of our groundbreaking criminal justice reform initiative that is known as Smart on Crime. Now, Smart on Crime was a catch all term for a range of reforms that we implemented simultaneously in the summer of 2013, each one of which was significant in its own right. Now, among other steps, we made major changes to the department's charging policies related to nonviolent drug offenses. We put sensible limits on when it was appropriate to seek stiffer sentences based on a defendant's prior criminal record.

And we took steps to improve reentry processes in order to reduce the chances that incarcerated individuals re-offend after they exit prison. Now, taken together, these reforms reflect the department's age old commitment to a criminal justice system that is fair, that deters serious criminal conduct, that holds people accountable, accountable for their crimes, and that utilizes incarceration wisely; to punish, to deter and to rehabilitate, not merely to confine and to forget.

Over the last year and a half, as my colleagues and I have implemented new crime prevention efforts, more effective community policing policies and promising diversion and reentry strategies, I've really spoken extensively about the changes we've made and the vision that is driving us forward. I've pointed to the favorable results that we've seen on the state level in places like Kentucky, Texas, Ohio and Pennsylvania where governors and legislators of both parties have provided a model for others to emulate by directing funding away from prison construction and toward programs designed to reduce recidivism.

And I have placed particular emphasis on two of the most vital reforms at the heart of our Smart on Crime initiative. The prioritization of cases when each U.S. Attorney's Office and a critical change of the Justice Department's charging policies. Now, late last year we began compiling data to help us measure the impact of our criminal justice reforms. This data's preliminary, but it shows that the Smart on Crime initiative is working exactly, exactly, as it was intended. It is having a real, a real and measurable impact on the decisions made by federal prosecutors from coast to coast. The changes that we have implemented are firmly taking hold and our key reforms appear to be successful by every measure that we have taken and that we have seen so far.

Now, the numbers are particularly encouraging in three areas that I'd like to discuss with you today. First, among the central components of Smart on Crime is an effort to reduce unnecessary, unnecessary incarceration by asking federal prosecutors to exercise their discretion and to make smart and targeted decisions about which cases warrant federal prosecution. As I said in a speech to the American Bar Association in August of 2013, not every drug case should be brought in a federal court. Accordingly, I directed our United States Attorneys to develop specific, locally tailored guidelines consistent with national priorities for determining when federal charges should be filed and when cases should be handled at the state or local level.

Today, I'm pleased to report that our federal prosecutors are heeding that call. And they are being more selective in bringing certain drug prosecutions. Between 2013 and 2014, the number of defendants charged with drug trafficking events has declined by nearly 1,400 individuals, and this is a reduction of more than 6 percent. Second, I instructed our prosecutors that in the course of weighing which type of drug cases merit federal prosecutions, they should focus on the worst offenders and the worst offenses. The data from last year proves that as a result of this shift, today, our prosecutors are focusing their attention and their resources on the most serious cases.

In 2013, before Smart on Crime was implemented, the average guideline minimum for federal drug prosecutions, in other words the average suggested minimum prison term for an individual being charged for a drug crime, was 96 months. A year later, while the number of drug trafficking prosecutions has dropped, the average guideline minimum has actually risen to 98 months. Now, this demonstrates that the most serious drug crimes are now attracting the highest scrutiny. And that our limited resources are being used in ways that provide the greatest possible benefit to public safety.

Third, in August 2013, I also ordered a modification of the Justice Department's charging policies to insure that people accused of certain low level, nonviolent federal drug crimes, will face sentences that are appropriate to their individual conduct rather than excessive, excessive mandatory minimum sentences that may be better suited to violent criminals or drug kingpins. Now, this change was founded on the belief that by reserving mandatory minimums for cases where they are warranted, we could better promote public safety, deterrence and rehabilitation while making our expenditures smarter and more productive.

Today, it's clear that we are making significant progress towards this goal. In the year before our Smart on Crime charging policy took effect, roughly 64 percent of federally charged drug trafficking offenses carried a mandatory minimum sentence. Last year, the new policy brought that number down to approximately 51 percent, a reduction of 20 percent relative to the prior year.

Put another way, we have gone from seeking a mandatory minimum penalty in two out of every three drug trafficking cases to doing so in one out of two. That's a major

reduction. In fact, it is historic. The sentencing commission confirms that these numbers show that federal prosecutors sought mandatory minimum penalties at a lower rate in 2014 than at any other year on record. Now, this figure, perhaps more than any other, shows the significant impact that our policy reforms are having. While other factors may play a role in the drop that we are seeing in the overall number of drug cases, a decline this pronounced and the rate at which our prosecutors pursue mandatory minimum sentences, can only be attributed to the changes that were announced in 2013.

Now, these are extremely encouraging results and they demonstrate that since we launched the Smart on Crime initiative, the federal criminal justice system has begun to operate more efficiently by reducing its involvement in low level criminal activity more effectively, by targeting the most serious crimes and more fairly by insuring that those who are convicted of crimes receive sentences that are commensurate with their conduct.

Now, some have suggested since I announced these important reforms that reducing our reliance on mandatory minimums might negatively impact the ability of our prosecutors to elicit cooperation from federal defendants. They asserted that without the threat of a mandatory minimum sentence, a defendant in a drug case would have substantially less incentive to provide information or testimony about others who might be engaged in criminal enterprise. Some critics even worried that prosecutors would be less able to obtain guilty pleas and that court dockets would overflow with defendants who might previously have pleaded guilty to avoid a mandatory minimum sentence, but suddenly had less incentive to shorten the process.

I never considered these concerns persuasive. Like anyone who's hold enough to have served as a prosecutor in the days before sentencing guidelines existed and mandatory minimums took effect, I knew from experience that defendant cooperation depends on the certainty of swift and fair punishment and not on the disproportionate length of a mandatory minimum sentence. With or without the threat of a mandatory minimum, it will always be in the interest of defendants to cooperate with the government.

And I'm gratified, but by no means surprised, to announce today that our Smart on Crime approach has been vindicated by the data that we have gathered. Now, even though mandatory minimums have been charged significantly less frequently under our new policies, the percentage of cases in which we receive substantial cooperation from defendants has remained exactly the same.

This also holds true of the ability of our prosecutors to secure guilty pleas in these cases. In the year before Smart on Crime took effect, our prosecutors won guilty pleas in approximately 97 percent of drug trafficking cases. A year later, again despite significant reductions in our uses of mandatory minimums, this percentage stands at 97.5. So the notion that the Smart on Crime initiative has somehow robbed us of an essential tool is contradicted not only by our history, but by clear and objective and empirical facts.

This newly unveiled data shows that we can confront over-incarceration at the same time, at the same time, that we continue to promote public safety. Already in fiscal year 2014, we saw the first reduction in the federal prison population in 32 years. Meanwhile, since President Obama took office, we've presided over a continued decline in the overall crime rate. This marks the first time that any administration has achieved side by side reductions in both crime and incarceration in more than 40 years.

Now, all this progress is remarkable and all of it is noteworthy. These concrete results illustrate the tremendous, and I think very real, promise of the work that Smart on Crime is making possible. They signal a potential paradigm shift in the way our nation approaches vital questions of fairness and justice. And in the preliminary data that we have seen and the growing bipartisan consensus surrounding the work that's under way, they prove unequivocally that criminal justice reform is an idea whose time has finally come.

Now, you have to remember that for years prior to this administration, federal prosecutors were not only encouraged, they were required, required, to always seek the most severe prison sentence possible for all drug cases, no matter the relative risk they posed to public safety. Now, I have made a break from that philosophy. While old habits are hard to break, these numbers show that a dramatic shift is under way in the mindset of prosecutors handling nonviolent drug offenses. I believe that we have taken steps to institutionalize this fairer, more practical approach such that it will endure for years to come.

I think we can all be proud of these efforts and encouraged by the steps that we're taking every day to strengthen America's justice system, really across the board. Thanks to the work of my dedicated colleagues, the valor of our brave men and women in law enforcement, the thoughtful leadership of bodies like the Judicial Conference of the United States and the United States Sentencing Commission, and the partnership of Republicans and Democrats in Congress and in so many state governments, the goals and the values of this Smart on Crime initiative have been codified and put into practice at every stage of the criminal justice process from prosecution to sentencing to rehabilitation and ultimately to reentry.

The work we have done is nothing short of groundbreaking. But, this is no time to rest on our laurels. Significant challenges remain before us and a great deal of work remains to be done. Our prisons are still overcrowded. Across the country, far too many people remain trapped in cycles of poverty, of criminality and incarceration. Unwarranted disparities are far too common. Law enforcement is distrusted in far too many places, and cops are not appreciated for the tough job that they do so well.

And if we hope to build on the record that we've established so far, and to make the Smart on Crime initiative not only successful but permanent, it will be incumbent upon all Americans and most especially our Congress, to work together to insure that all of this is just the beginning. From critical improvements to the juvenile justice system, to a range of back end criminal justice reforms, we must continue to advance promising

bipartisan legislation to make our communities safer and treat individuals more justly and allow more efficient use of law enforcement resources.

Our efforts over the last six years have laid a strong foundation for a new era of American justice. Congress can help us build on this foundation by passing important bipartisan legislation like the Smarter Sentencing Act, which would give judges more discretion in determining sentences for people convicted of certain federal drug crimes. And going forward, with measures like this one and with the tireless work of our United States attorneys and their colleagues, the strong leadership of our outstanding new Attorney General and new Deputy Attorney General and the robust engagement of the American people, I believe that there's really good reason for confidence in where this work will lead us.

In the coming weeks, as you know my time in the Obama Administration and my formal career in public service will draw to a close. But even now as I prepare to open a new chapter in my life with pride in all that my colleagues and I have accomplished, and deep, deep gratitude for the opportunities I've been afforded, I know that for me this effort will continue. Whatever I do next and wherever my own journey may take me, I will keep seeking new ways to contribute, to remain engaged in the effort to improve our institutions and to build trust in those who serve them.

And though I will soon leave the Justice Department that I love, I will never leave the work that has become the mission and the single greatest honor of my professional life, advancing the cause of justice and building a brighter future for the country that I love. So I want to thank you all once again for the opportunity to speak with you this afternoon and for the work that you do every day to strengthen our democracy and to inform our national dialogue. I look forward to handling your very easy questions.
(Applause)

MR. HUGHES: Thank you, Mr. Attorney General. We have some questions on the breaking news of the day on the Texas judge issuing an injunction to block President Obama's executive orders. This questioner wants to know if you will go to the fifth circuit court of appeals to try to stop this injunction. And also, what is the practical effect of this ruling on the President's immigration order. How much of a setback is it?

ATTORNEY GENERAL HOLDER: Well, we are still in the process of looking at the opinion and trying to decide what steps we might take next. The Solicitor General will ultimately make that decision in consultation with me. I think that we have to look at this decision for what it is. It is a decision by one federal district court judge. I expect, I've always expected, that this is a matter that will ultimately be decided by a higher court, if not the Supreme Court, than a federal court of appeals. And so I think it has to be seen in that context. This, I would view, as an interim step in a process that has more to play out.

MR. HUGHES: You talked about the sentencing guidelines that have been reformed and a few of the things going forward. What would you prioritize as the next biggest thing that's needed in sentencing reform?

ATTORNEY GENERAL HOLDER: Well, as I said in my prepared remarks, I think that we have set kind of the-- we understand in terms of the numbers that we have seen, the proposals that we have made, the work that has been done in the states, I think that Congress needs to work together in a way that they have shown an ability to before to make federal law that is consistent with the steps that we have done. And I would encourage the states as well, other states, to look at what their state counterparts have done, the results that we have seen in the Smart on Crime initiative, to spread more widely.

More sensible approaches to dealing with the criminal justice system, an over-reliance on incarceration has proved not to be effective. You know, I think in some ways, I was U.S. Attorney here in Washington, D. C. back in the early '90s when Washington, D. C. was considered the murder capital of the country. And the tactics that we used then are not necessarily the ones that we need to use now in the 21st century. With these declining crime rates that we have seen, and they're at historically low levels, I think in some ways we've earned a peace dividend and we ought to base our policies, our procedures in the 21st century on the reality that we confront and not have it tied to a past that no longer exists.

MR. HUGHES: There's several questions about marijuana and under the Controlled Substances Act, the administration has the power to reclassify marijuana with no further congressional action needed. Do you think that is something that the President should consider in the next couple years?

ATTORNEY GENERAL HOLDER: I'm not sure that that question is-- the underlying premise is necessarily true. I think that Congress ultimately has to do that. This is a topic that ultimately I think ought to be engaged in by our nation, informed by the experiences that we see in Colorado, in Washington. There is, I think, a legitimate debate to be had on both sides of that question, where marijuana ought to be in terms of its scheduling. And take into account all the empirical evidence that we can garner to see if it is as serious a drug that would warrant class one categorization, or should it be some other place? But I think this is something that would be well informed by having congressional hearings and congressional action informed by a policy determination that I think the administration would ultimately be glad to share.

MR. HUGHES: Last year, President Obama directed the Justice Department to review problems with the death penalties application. What have you found in that review so far?

ATTORNEY GENERAL HOLDER: All I can say, I guess at this point, is that review is still under way. We have looked at the federal death penalty to think about what processes we have in place, how it is administered, ask questions about whether or not

there are inequities, inequalities, in who receives the penalty. That is a process that is still under way and I don't think, unfortunately, will be completed during my time as Attorney General.

MR. HUGHES: Specifically about the Oklahoma system, the Supreme Court's agreed to review that system of lethal injection. Should there be a national moratorium on lethal injections until this case is reviewed?

ATTORNEY GENERAL HOLDER: Well, you know, now I'm speaking personally, not as a member of the administration, so somehow separate yourself here. You know, I think there are fundamental questions that we need to ask about the death penalty. I've not been shy in saying that I'm a person who's opposed to the use of the death penalty. Our system of justice is the best in the world. It is comprised of men and women who do the best they can, get it right more often than not, substantially more right than wrong.

But there's always the possibility that mistakes will be made. Mistakes in determinations made by juries, mistakes in terms of the kind of representation somebody facing a capital offense receives. And it is for that reason that I am opposed to the death penalty. It is one thing to put somebody in jail for an extended period of time, have some new test that you can do and determine that person was, in fact, innocent. There is no ability to correct a mistake where somebody has, in fact, been executed. And that is from my perspective the ultimate nightmare. And I disagree with Justice Scalia that that has never happened in our history.

I think it's inevitable. It's inevitable that we will find an instance where, in fact, that has occurred. So I think fundamental questions about the death penalty need to be asked. And among them, the Supreme Court's determination as to whether or not lethal injection is consistent with our constitution is one that ought to occur. From my perspective, I think a moratorium until the Supreme Court makes that determination would be appropriate.

MR. HUGHES: Last month, you barred local and state police from using federal law to seize private assets such as cash and cars without warrants or criminal charges. What impact have you seen since the end of the so-called equitable sharing program and how have police departments who have often depended on that money reacted to this, and what do you hope to achieve by barring this program?

ATTORNEY GENERAL HOLDER: I think it's probably a little too early to see what the impact has been. I think we need more time to gather data and see how that has affected both the way in which police departments conduct themselves and then also to look at what the monetary impacts are. The hope would be that we would use that tool in only ways that were appropriate. I was concerned about some of the abuses that I certainly had heard about. But I have to say that then *The Washington Post* in its really, I thought, very good series, really kind of brought to the fore in addition to the other things that we were looking at, and I thought it was an appropriate time given the limited

amount of time that I had left to try to make a policy determination about federal adoption.

We've also introduced some new rules with regard to how one can consider-- whether one can consider a task force to be a joint one, a federal one or not. So I think all of these steps, plus the ongoing review that Sally and Loretta will continue to conduct, will ultimately put us in a better place when it comes to what is a very powerful tool. But that ultimately can result in injustices where-- and injustices that people don't fundamentally understand where there's no finding of guilt and yet you lose property for some reason. The potential for abuse there is too great not for it to be examined and I think ultimately reformed.

MR. HUGHES: This questioner says that it's been reported that you hope to announce a decision on the civil rights investigation of Michael Brown's death before you leave office. Could you update us on the progress of the Ferguson civil rights investigation?

ATTORNEY GENERAL HOLDER: Yeah, it is my intention to announce our determination, the decision that we made both with regard to the individual officer's conduct in the shooting of Michael Brown, as well as the pattern of practice investigation that we've done into the Ferguson police department. My hope is, as I said, that we will do this before I leave office. And I'm confident that we will do that, though I guess it's ultimately up to Congress as to when I actually leave office. You would think in some ways, Loretta's process would be sped up given their desire to see me out of office. But be that as it may, I've never-- logic's never been necessarily a guide up there.

But in any case, my hope would be, as I said, to make these determinations before I go. The reviews are under way. I was briefed on both of them just last week. I'm satisfied with the progress that we have made, and also comfortable in saying that I think I'm going to be able to make those calls before I leave office.

MR. HUGHES: Critics including some former law enforcement people in St. Louis say you have unduly influenced the Justice Department patterns and practices investigation of the Ferguson police department, in particular with an October 29th statement in which you noted the need for wholesale change in the department. Was it proper for you to declare a need for this before the DOJ actually concluded its probe?

ATTORNEY GENERAL HOLDER: Well, I have to thank *Washington Post* reporter Jonathan Capehart for asking me that question that elicited that response. But I don't think that that response was inappropriate. I mean, the reality is I've been briefed all along on this matter. Nothing I say in response to a reporter is going to have an impact on the career people who are looking at whether or not-- what action we ought to take, if any, with regard to the Ferguson police department.

I think everybody will see when we announce our results that the process that we have engaged in is, as I said, at the time back when I went to Ferguson, independent,

thorough and based only on the facts and the law. And I'm confident that people will be satisfied with the results that we announce.

MR. HUGHES: You have called for better tracking of police use of force incidents. Why is that, and what do you think the Justice Department and local police could do with that information?

ATTORNEY GENERAL HOLDER: Yeah, this is something I called for, I guess, a few weeks ago and that Director Comey also raised in his remarks just a couple of days ago. And what I think was really a gutsy, important speech by a law enforcement official who I've had a great deal of respect for for a good number of years. I knew him when he was an assistant U.S. attorney in the eastern district of Virginia and have been able to follow his career. And I think our nation should watch and read and really have a conversation around the issues that Jim raised, Director Comey raised in that speech.

He talked about the need for gathering data, as I talked about, as I said, a few weeks ago. You know, we have this sense based on these incidents that get a huge amount of attention, stir the nation. We have a sense that things are amiss. But we don't have a real good sense of what the nature of the problem is, both with regard to the force that police are using and the kinds of violence that is directed at the police. And so I think that gathering that information in both ways, how are police using force, what kind of force are police having to deal with, what is being directed against them, that kind of data should be gathered. And I think we can find ways by encouraging our state and local counterparts to share that data with us and by coupling grants, federal grants that we make with a requirement that this data be shared with the federal government. We can have a much better sense of what the problem looks like in our country and then base policy based on the empirical evidence that we're able to gather.

MR. HUGHES: You've publicly questioned the use of militarized tactics by local law enforcement in many situations including the protests in Ferguson. Yet, Philadelphia Police Commissioner Charles Ramsey, head of the administration's 21st century policing taskforce, defends the practice of giving surplus military hardware to local law enforcement. What is your take on this? Should local law enforcement have access to combat medical equipment that was originally designated for the battlefield?

ATTORNEY GENERAL HOLDER: Yeah. I mean, it depends on the kinds of equipment you're talking about. Certain military equipment, I think, can be shared with state and local counterparts. Then the question is what kind of training do they have, what kind of training do they have with regard to how it should be deployed. When should it be deployed? I think, again without getting into the underlying investigation, that the deployment of at least some of that military hardware in Ferguson exacerbated what was a pretty difficult situation.

On the other hand, if you're in New York City and you have to deal with a terrorist incident, I think that some of the military equipment that has been made available to state and local authorities, in fact, can be useful.

Now again, it depends on the kind of equipment. You know, Abrams tanks, I don't think should be shared with our state and local counterparts. It's hard for me to imagine a situation in which that would be useful. But armored carriers and things of that nature I think can be useful if deployed in appropriate ways.

And I think there are even some fundamental things about how do these things get painted, what do they look like? If it looks like the military is, in fact, occupying American streets during civil disturbances, that I think is not a good thing for the American people or of the world necessarily to see. So there are a number of questions that I think have to be worked through. So I wouldn't really disagree with Chuck Ramsey from Philadelphia. I think there is the need for it, but we just need to use and deploy this equipment in a way better than we have in the past.

MR. HUGHES: What concerns do you have about ISIS linked foreign fighters who return to the United States and the Justice Department's ability to find and prosecute these people?

ATTORNEY GENERAL HOLDER: Yeah, that is the thing as I leave office that I've often said keeps me up at night. The notion of worrying about people who have left the United States to join the fight and then who try to come back. I think we do a good job of monitoring those people, stopping them where we can through the use of a variety of techniques, including undercover techniques to stop them from getting there and then monitoring them with the use of our allies once they're there and trying to stop them once they come back.

The ultimate concern is about those people who remain here in the United States and who through a variety of means become radicalized. Either they are in prison and become radicalized as we perhaps have seen in Denmark, or they are in their basements and online and listening, watching ISIL related propaganda. That's totally inconsistent with the reality that people who go to join the fight face. We have to do a better job of getting that message out about people who go there and who want to leave because they have been mistreated, they're horrified by the things that they had been called upon to do.

But I think this is a real serious problem. We have an encountering violent extremism summit next week at the White House where we'll have experts from around the world. It's held at the ministerial level where we'll be discussing these issues. But this whole question of self radicalization, radicalization of people who never leave the country, is something that we have to focus on. I'm really confident about the abilities of the FBI, DHS, working with our joint terrorism taskforces to do a good job.

But we also have to understand that the ultimate solution to this is to make sure that the young men who might be attracted to that siren's song have to be dealt with. They have to be made to feel a part of our communities. I think we do a better job, perhaps, than other nations at integrating those people who might be attracted to the ISIL

call. But we have to redouble our efforts given the notoriety and the publicity that these heinous, barbaric acts that ISIL has taken.

MR. HUGHES: This questioner notes that the Muslim community has expressed deep concern about how they are being characterized as the administration ends its summit on violent extremism. And I know that on the other side, the administration's been criticized for not calling it religious extremism in some of these cases. So it's sort of come on both sides. Could you tell us your thought process and when you talk about this issue of religious extremism, how do you-- do you try to nail that right down the middle so that you're not going too far, but also you want to call it what it is, I imagine?

ATTORNEY GENERAL HOLDER: Well, whenever you're getting criticized by both sides, it probably means you're probably getting it right. You know, we spend more time, more time, talking about what do you call it as opposed to what do you do about it, you know? I mean, really. You know, if FOX didn't talk about this, they'd have nothing else to talk about, it would seem to me. Radical Islam, Islamic extremism, I'm not sure an awful lot is gained by saying that. It doesn't have any impact on our military posture, it doesn't have any impact on what we call it, on the policies that we put in place. What we have to do is define not by the terms that we use, but by the facts on the ground.

And so I don't worry an awful lot about what the appropriate terminology ought to be and I think people need to actually think about that and think about really, we're having this conversation about words as opposed to what our actions ought to be? This is a difficult problem. This is going to be an ongoing issue. This is something that requires us to think as a nation, how are we going to deal with the domestic issues that I was describing in my previous response and how are we going to deal with the foreign policy consequences of some very, very serious problems that our allies face and that we face in a particular part of the world. But the terminology has, seems to me, little or no impact on what ultimately we have to do.

MR. HUGHES: The Obama Administration has prosecuted eight alleged whistleblowers under the Espionage Act, more than all previous presidential administrations combined. What justifies this more aggressive posture toward leakers?

ATTORNEY GENERAL HOLDER: For the record here, the Justice Department prosecuted seven, okay? So eight is right, but seven by the Justice Department. And we inherited, I think, two of those. What I would say is that we have not-- there's been a great concern by members of the press about these prosecutions. And I understand that sensitivity. We had a series of meetings at the Justice Department over the course of the summer where we talked about changing the way in which the Justice Department would view these cases, the policies that underline how we would interact with members of the media. And I think we've come up with some new policies, new procedures, that I think have been generally well received.

What I've said is that we have to continue to look at these policies to make sure that they are kept up to date and make sure that we are meeting the needs that we have in

the Justice Department while being sensitive to the real role, the important role, that members of the press play.

You know, I think that more-- I guess that number's correct more than other administrations, but that leaves us with a total of, I guess, five or six that this administration has brought over the course of six years. I don't think as you look at those cases individually that there was anything inappropriate about the cases that were brought. And I think if you look at the case, the last case, involving Mr. Risen, the way in which that case was handled, after the new policies were put in place, is an example of how the Justice Department can proceed.

When you have people who are disclosing, for instance, the identities of people who work in our intelligence agencies, that's the kind of case that I think we have to bring. But I also think there's a question for you all, for members of the press, as we have asked ourselves when it comes to national surveillance, simply because we have the ability to do certain things, should we? And I think members of the press have to ask that same question. Simply because you have the ability to, because of a leaker or a source of information that you have, you have the ability to expose that to the public, should you?

It is for you to decide. It is not for the government to decide, but it is for you to decide. I'll use an extreme example, perhaps unfair, in World War II if a reporter had found out about the existence of the Manhattan Project, is that something that should have been disclosed? Now, we're not in a time of war, I understand that, and I said an extreme example. But I think there is a question that members of the press should ask about whether or not the disclosure of the information has a negative impact on the national security of the nation? We have tried to be appropriately sensitive in bringing those cases that warranted prosecution. We've turned away, I mean turned away, substantially greater number of cases that were presented to us where prosecution was sought.

MR. HUGHES: Is there a realistic chance that President Obama will be able to close Guantanamo before the end of his term? And if so, how can we expect this to play out over the coming months?

ATTORNEY GENERAL HOLDER: Yeah, I think there is a realistic possibility that could happen. It would require, I think, the cooperation of Congress to lift some of the restrictions that they have placed on the administration. There's no question that the closing of Guantanamo would be a good thing. It is something that costs us an excessive amount of money. If you look at the amount of money that we spend to house one person in Guantanamo for one year as opposed to what it would take to house that same person in a super max in the United States, the costs are just dwarfed. We pay a foreign policy price, it is something that is used as a recruiting tool for those who we are currently engaged with.

There are a whole host of reasons why Guantanamo should be closed. I think it's possible we've made a substantial amount of progress over, I think, the last year or so.

But I think ultimately, it will require the cooperation of Congress to reduce the level to zero.

MR. HUGHES: Has the administration entered into any discussions at any time with legal representatives of Edward Snowden about the possibility of a plea deal in his case?

ATTORNEY GENERAL HOLDER: I'll simply say no comment.

MR. HUGHES: So several questions about the Wall Street aftermath and prosecuting banks, both large and small. One questioner compared it to the S&L and so many more prosecutions came out of that than they're seeing in the wake of the last one. Has the Justice Department done enough to go after both large and small banks?

ATTORNEY GENERAL HOLDER: Yeah, I mean if you look at the institutions that played a part in the financial debacle of 2008-2009, you're looking at a relatively small universe as opposed to the S&L crisis where you're dealing with thousands of banks. So I think in terms of scale, they're not quite the same.

We have exacted or extracted record penalties from banks who we found to have engaged in inappropriate practices as a result of the residential mortgage-backed security taskforce that the President announced in his State of the Union a couple of years ago. I've said, and I don't know if I'm making news now or not, I've asked the U.S. attorneys who've made those cases and who are still involved in these RMBS cases, over the next 90 days to look at their cases and to try to develop cases against individuals and to report back in 90 days with regard to whether or not they think they're going to be able to successfully bring criminal or civil cases against those individuals. That'll be a report that ultimately will be given to Loretta to make determinations about whether further action is appropriate.

So I think that what we have done has been appropriate. As I say, we have this ongoing examination of whether individual cases ought to be brought. But to the extent that individuals have not been prosecuted, people should understand it is not for lack of trying. These are the kinds of cases that people come to the Justice Department to make. Young people who want to be assistant U.S. attorneys in the southern district of New York and eastern district of Virginia, San Francisco, live for these big cases. The inability to make them, at least to this point, has not been as a result of a lack of effort.

MR. HUGHES: Before I ask the final question, I just wanted to give a couple of important reminders. First, I want to remind you about upcoming speakers. We have FDA Commissioner Margaret Hamburg here on March 27th and Vint Cerf, Chief Internet Evangelist, for Google, will be here on May 4th. Second, I would like to present our guest with the traditional National Press Club mug. And let me say, of all of the remembrances you'll have had from all of your time as Attorney General, I doubt there's a better one than this.

ATTORNEY GENERAL HOLDER: All right, thank you. (Applause)

MR. HUGHES: Okay, question. A recent video shows you shooting a perfect jump shot at the Willie Mays Boys and Girls Club in San Francisco. Now that you are leaving, please evaluate your basketball skills as compared with President Obama's.

ATTORNEY GENERAL HOLDER: (Laughter) Well, I would first ask everyone, and certainly all those who are within camera range, to go online, go to YouTube and put in Eric Holder basketball and really examine that sweet jumper. Viewed in isolation, it is clear that I still have it. I mean, I had on a tie, I had on these shoes. You know, it was sweet. It was sweet. And with every telling of the jump shot, it goes back. It was probably like 24 feet, but by tomorrow it'll be a three-pointer.

I was asked that same question during my confirmation hearing. I'm not sure by which senator, but I think I'll kind of paraphrase that answer. I'm from New York City, the home of basketball players like Nate "Tiny" Archibald, Kareem Abdul-Jabbar, Julius "The Doctor" Irving, Connie Hawkins, you know, Chris Mullen. The President's from Hawaii. (Laughter) Now, I'm just saying that as background. He's a good ball player. He's got a real good left hand, he has the ability to drive, he's ten years younger than I am, he's in better shape, he's still my boss. When I become a civilian, he will still have access to all things about me that you all worry about, I suppose, and that I will now be worried about.

So I'm just simply going to say that he's a great ball player, a great friend and I'll leave it at that. (Applause)

MR. HUGHES: Thank you, Mr. Attorney General, for coming here, particularly on a snow day when the federal government is shut down, still here at the National Press Club and that's wonderful. So thank you all for coming today. And I have a request that you stay in your seats until the Attorney General has left the room. So please stay in your seats after I bring down the gavel. And I'd also like to thank the National Press Club staff, including its Journalism Institute and Broadcast Center for organizing today's event. And if you would like a copy of today's program, or to learn more about the National Press Club, go to our website, that's press.org. Thank you, and we are adjourned. (Sounds gavel.) (Applause)

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