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Luncheon Speaker

Edwin Meese III

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Edwin Meese, III Speech

Edwin Meese III currently holds the Ronald Reagan Chair in Public Policy at The Heritage Foundation, a Washington-based public policy research and education institution. He is also a Distinguished Visiting Fellow at the Hoover Institution, Stanford University, California. In addition, Mr. Meese lectures, writes, and consults throughout the United States on a variety of subjects.

*Mr. Meese is the author of *With Reagan: The Inside Story*, which was released by Regnery Gateway Publishers on June 1, 1992.*

Mr. Meese served as the 75th Attorney General of the United States from February 1985 to August 1988. Prior to that service, he held the position of Counselor to the President from 1981 until 1985. In this capacity, he functioned as the President's chief policy advisor and had management responsibility for the administration of the Cabinet, policy development, and planning and evaluation. During the time that he held both of these positions, Mr. Meese was a member of the President's Cabinet and the National Security Council.

Mr. Meese headed the President-elect's transition effort following the November 1980 election. During the Presidential campaign, he served as Chief of Staff and Senior Issues Advisor for the Reagan-Bush Committee.

Formerly, Mr. Meese served as Governor Reagan's Executive Assistant and Chief of Staff in California from 1969 through 1974 and as Legal Affairs Secretary from 1967 through 1968. Before joining Governor Reagan's staff in 1967, Mr. Meese served as Deputy District Attorney of Alameda County, California.

From 1977 to 1981, Mr. Meese was a professor of law at the University of San Diego, where he also was Director of the Center for Criminal Justice Policy and Management.

In addition to his background as a lawyer, educator, and public official, Mr. Meese has been a business executive in the aerospace and transportation industry. From January 1975 until May 1976, he served as Vice President for Administration of Rohr Industries, Inc. in Chula Vista, California. He left Rohr to enter private law practice in San Diego County.

Mr. Meese is a graduate of Yale University, Class of 1953, and holds a law degree from the University of California at Berkeley. He recently retired as a Colonel in the United States Army Reserve. He is active in numerous civic and educational organizations and was appointed by President Reagan to the Board of Visitors of the United States Military Academy at West Point.

It is a pleasure to be here at Pepperdine again, and I must say that every time I come here, I envy the location, the view, and the good weather. I want to commend Pepperdine and the Law Review for this conference. I think that it certainly got off to an excellent start this morning with the first panel, which was extremely entertaining as well as enlightening.

I am certainly pleased that you are talking about Juvenile Justice Reform, which is a matter that rates among the top topics among those people in the criminal justice system, including police executives, judges, and lawyers. The problem with juveniles and what they are looking forward to in the future is something I will talk a little about in my remarks.

Talking about juvenile justice is, in the words of that eminent philosopher Yogi Berra, like *deja vu* all over again, because it was just thirty-five years ago that I was in Sacramento, California, representing the District Attorney's Peace Officer, as the California Legislature embarked upon a wholesale revision of the juvenile court laws in the state. At that time, they developed a dichotomy between the various categories of people who came before the court: the 600 category, which included the dependent and neglected children; the 601 category, which referred to the delinquent children—those involved in things like truancy, or runaways or incorrigibles who had not committed crimes but were brought before the court in what they called pre-delinquent status; and the third category, 602, which included young people whom, if they were adults, would have been charged with a crime.

There is a good deal of talk around the country, in the writings and among people in the juvenile justice system, about a fourth category that goes beyond the three that I mentioned. Some of that discussion is already being recognized here in California. John DiIulio, one of the leading scholars in criminal justice matters, refers to this category as the coming of the super-predators. He talks about young criminals, between the ages essentially of fourteen and seventeen, who have been the primary group responsible for the lead in increases in crime, particularly increases in homicide in the United States, over the last two or three years. He talks about them in these terms, and quotes the people who have worked with them—police officers, probation officers, school teachers, even people who have been in institutions. DiIulio talks about the ever growing number of hardened, remorseless juveniles who are showing up in the system. And, as he quotes one district attorney, "they kill or maim on impulse without any intelligible motive." Then, DiIulio quotes a person who was in prison, a life term inmate, who said, "I was a bad ass street gladiator, but these kids are stone-cold predators." And then he talks again about their wolf packs, about the fact that they commit about a third of their homicides against strangers, often mur-

dering their victims in groups of two or more.

Well, I mention this because it appears, at least, that some of the things that were talked about this morning, gangs and other things which are tremendous problems, are but a prelude to what may be occurring in the next five to ten years as the number of people in the crime-prone age group expands considerably.

James Q. Wilson, for example, one of the leading thinkers about crime and morality today, has said that it looks like, based upon the statistical data, within the next five years we will have thirty thousand more young predators on the streets throughout the country. That thirty thousand represents, according to the cohort studies, the six percent of each age cohort that commit about fifty percent of the crimes. He then translated that into the number of new crimes we can anticipate.

Well, I would like to share a few ideas, and perhaps provoke some thinking and discussion about this problem and about the other problems in the juvenile justice system, many of which have been identified today. I am not trying to be prescriptive, saying what should happen; I am going to suggest some ideas that have been talked about around the country, but also talk about things that I hope will provoke your thinking and perhaps discussion from you and the rest of the panelists this afternoon.

I would like to talk about four things briefly. First, I will discuss why we are having this increase in juvenile crime and provide perhaps a possible, partial answer. One of the things that always disturbs me in the field of criminal justice generally is people who stand up and try to impress you with the idea or make you believe that they have the answers. One of the things that I can tell you after almost forty years in the criminal justice business is that there are very few people who really have all the answers. The people who say they do not know all the answers are usually the ones that are closest to being right. There is much that we have to learn and not everything is the same every place or even among every group.

I was impressed this morning with Professor Klein's presentation about gangs and some of the comments that he had. While I do not necessarily agree with all of them, I thought it was very instructive to have that point of view and I saw how valuable it would be, for example, for the gang units of the Los Angeles police, some people from the district attorney's office, and some of the juvenile court judges to get together every month for about an hour or so on Friday afternoon, and just rap, if you will, about what is going on. One of the things that has

bothered me is that for too long we have had the academics talking and writing in one area and the practitioners talking and not writing in another area, and never the two seem to meet.

Secondly, I think we have to remember why we have a juvenile court system. I will discuss a few of the strategies that I find being suggested around the country and then talk about the institutions of the juvenile justice system and the role of those institutions in terms of the idea we talked about this morning of communities. And by the way, today "community" is the buzzword for getting all kinds of government money. There is community policing, community probation, community corrections, that word community. But very few people take the time to define just what "community" means or what that community is supposed to do.

I have a couple things I would like to say about community. I would suggest that one of the reasons for the increase in juvenile crime is the cultural decline in our society and, particularly, the moral climate that we have in many of our neighborhoods, many of our cities, particularly the inner cities. Bill Bennett, the Secretary of Education and a colleague of mine at Heritage, examined what has happened in the last thirty years—the increase in divorce; the increase in illegitimacy; the increase in single parent families, families where there is no father in the home; the lack of discipline in schools; the lack of respect for other people and their property among young people, and these sorts of things. He related that during the same period in which these things were happening, we had a three hundred percent increase in crime in the United States and a five hundred percent increase in violent crime. He also said, and this was an important conclusion, that many of these problems are not susceptible to governmental solutions.

That is why I would suggest that if I am right in the idea that juvenile crime is in part a result of the cultural climate in which we live, that all of the people that are represented here, most of whom are government in one way or social agencies closely related to, or funded by, government, we may not be able to do an awful lot about it ourselves. We can do some things. Certainly, you can treat the symptoms, the more tangible manifestations of the problem, but dealing with the root causes, the root conditions that produce the problem, is going to take much more than people who are in those kinds of organizations. Indeed, it will take communities that are willing to put the resources, the effort, the thinking, and particularly the action, in trying to change the cultural climate in which they live.

Pat Fagan, the Heritage Scholar with a fellowship in cultural studies, has done some important work which has shown the correlation between juvenile crime and illegitimacy and the lack of fathers in the home, which is amazingly high. Again, John DiIulio has done a great

deal of studies on this himself, and calls the climate that many of these children are raised in, "moral poverty"—the poverty of being without loving, capable, responsible adults who teach you right from wrong. It is "the poverty of being without parents and other authorities who habituate one to feel joy at other people's joy, and pain at other people's pain, respect for other people's property, remorse when you do wrong, and those things that most of us have had the good fortune to have had instilled in us as we were growing up over a lifetime." He said it is the "poverty of growing up in the virtual absence of people who teach morality by their own everyday example, and who insist that you follow suit."

John DiIulio and Pat Fagan both have come to the conclusion that the crime problem is not essentially a racial problem, contrary to the statistical data that would lead you to believe that there is a racial factor involved. Rather, DiIulio says that it is an economic, a neighborhood, and a social problem because of the climate and the kind of conditions in which this crime flourishes. He states that seventy-five percent of highly violent juvenile criminals have suffered serious abuse by a family member; nearly eighty percent have witnessed extreme violence such as killings or beatings. Over half of the prisoners who are incarcerated in populations come from single-parent families. Over one quarter have parents who have abused drugs or alcohol. Nearly a third have a brother who is in prison or has a jail record. DiIulio says that this is as true in white neighborhoods with these statistical backgrounds as it is in minority neighborhoods. He also indicates that the outward migration of middle class types, divorce, out of wedlock births, and graffiti splattered churches have spawned totally unsocialized young white males who commit violent crimes in youth gangs that prefer murder to mischief. According to DiIulio, there are tens of thousands of severely impoverished juvenile super-predators on the horizon. They fear neither the stigma of arrest nor the pain of imprisonment.

I have heard from criminals and police officers alike about people for whom prison at most is an inconvenience, but certainly is not necessarily a painful experience, because of the color television, the weight lifting equipment and the other things that they have at their disposal. They would rather not do it, they would rather not get caught, but if they have to do it, it is not having the same effect on them as it would on most of the people who are gathered here today.

There is not an awful lot that we can do to change the culture individually, or even in the agencies that you represent, but there are a couple of things that I think we can do. One is that we can learn and

utilize, in our decision making and our policy pronouncements, some of the things that at least seem to have a possibility of working. One of the things that surprised me was to hear from John DiIulio in his writings that he feels that one of the most important factors that society, including government to the extent that it can, should promote, is religion. It should not be too much of a surprise to most people that religion is an important civilizing factor. Even Jesse Jackson was quoted as saying that if you were in a dark neighborhood in the inner city and you saw a gang of black youths coming around the corner at you, wouldn't you be comforted by knowing they had just come from a Bible study session. Now, if Jesse Jackson feels that way I certainly would agree with him. Jesse and I do not agree on an awful lot of things, but that is certainly one that I would.

John DiIulio said, "my one big idea is called religion." First, a growing body of scientific evidence from a variety of academic disciplines indicate that churches can help cure or curtail many of our severe socio-economic ills. He further stated that church attendance, particularly among black urban youth, was a better prediction of who would escape gross crime and poverty than any other single variable. He goes on to say that there is substantial empirical evidence that religion serves as an insulator against crime and delinquency. We have long known that the most effective substance abuse prevention and treatment programs, both in society and behind bars, are either explicitly religious or quasi-religious in their orientation. Secondly, he says, "religion is the one answer offered time and again by the justice system veterans, the prisoners and others with whom I have consulted." DiIulio states that the church is the most potent establishment, particularly in the black communities, as well as in other communities, and has a potential that has been unrealized.

Well, this is where I disagree with DiIulio, who suggests that we should funnel a lot of government money into churches. There is a big debate raging right now as to how effective that would be. One of the things that I have learned from seeing government money go to institutions is corruption—many churches use the money for purposes quite apart from what was originally intended. As a nation we should be careful not to follow some government agencies which make churches second class citizens and withdraw privileges or support from the community at large, to an organization simply because it is religious in its character. I think there are many social service agencies that in the past have successfully helped people, and have received government funds, that could continue to do so in the sense of providing services on a contractual basis, without either running afoul of the First Amendment or being corrupted in the sense that I talked about earlier.

The second thing we could do is to be advocates for public policies

that follow the Hippocratic oath of doctors, which is first, "to do no harm." Today, we have public policies that have unintended consequences, meant for good purposes, but in terms of social pathology have had unintended consequences. I am talking about tax policies that penalize marriage, welfare policies that encourage illegitimacy and discourage either marriage or work, housing policies that promote high school dropouts, education policies that consider teaching of values irrelevant to their mission, and legal policies that make religious organizations second class citizens and often interfere with legitimate religious expression.

Let me turn to the second idea, which is why we have a juvenile system apart from the normal criminal justice process. The reason is that it was felt from the earliest days that something could be done to keep juveniles out of the normal crime chain. The juvenile court was originally intended as a kind of conference-type setting in which the friendly judge talked with the parents of the young person, usually a male, who had transgressed the community standards, and together they worked out a program to get that kid back on the track so that he would not fall into a life of crime. While we are talking about super-predators, dealing with gangs and felons, we must not forget that one of the purposes of the juvenile justice process is to take that first offender, that person who is potentially on the way toward potentially a life that may involve crime, and turn them around as early as possible and keep people out of the system.

In this regard, I am very heartened about some of the things I have learned that are going on in the City of Los Angeles right now, in which the police department is devoting some of its resources to work with other sections of the community in a low-budget program they call "Jeopardy." This program takes high risk kids, kids who were referred to them by teachers, school principals, police officers who see them on the street, and even by their own parents, and provides study hall for them, means of getting their parents into parenting sessions, athletic opportunities all the way from boxing rings to dance classes, as well as many other opportunities. The Department is trying to provide a means for kids to stay out of three things: drugs, crime, and gangs.

The "Jeopardy" program has been remarkably successful. The indicia of the program's success is whether they are able to keep the child in school and continue to progress in school in a satisfactory manner. To me, that is real juvenile justice at work, and it is those kinds of things that we should not forget. And we should also make sure that the juvenile justice system should not be geared to the worst predators or the

worst criminals, but also has a place with time, resources and energies devoted to helping the kids who can be kept out of the crime chain right at the start. When we do that, we are one hundred percent successful in crime prevention because if you take a kid who is on the road to doing wrong things and turn that kid around, that is real success in terms of preventing crime.

There are a lot of suggested strategies that are being talked about all over the country, and I will talk about just a few of them now, many of them probably well-known to you. The thing that I will say about all of the strategies is that we have to understand that crime, including juvenile crime, is a complex problem that defies easy solution. As I am sure most of you understand, there is not going to be any panacea, quick or inexpensive fixes. If you look at how much money is spent on public protection nationally, it is less than three percent of the total tax dollar that goes to the entire justice system—criminal justice, civil justice, courts, corrections, police, the whole works. It is important to recognize the amount of money that we put into those things compared to the amount of money that we put into other preventive activities and we should be prepared to do two things. I am not sure we need more taxes, and I certainly am not in general an advocate of raising our taxes, but I am in favor of evaluating what we are doing and making sure that what we are putting money into is effective. The old syndrome in government—why are we doing that when we've always done it this way—is much too prevalent in agencies that we think ought to be up with the times. Many people do not even realize that they are doing these things because they have always done it that way. The best thing that can often happen, in at least some of our departments and agencies, is that they get a budget cut, because all of sudden they have to look at what they are doing and whether they are doing it in an effective way.

I think it is important that people such as those who are here, who have had the experience, do in fact take the time and the effort to do things such as developing the children's budget and testifying before legislative bodies, so that what appears to be a quick and easy panacea solution is not adopted if in fact it is going to cost money that could be better spent elsewhere. We have to be able to work smarter and we have to have an attachment between the mission, the ultimate objective and what the resources are and how they are going to be used.

One of the things that I think has to be uppermost in the minds of everyone dealing with the juvenile crime problem is making our schools safe. In most parts of the country, or at least in the urban areas of the country, schools are not fortresses. Schools are dens of crime in which criminal activity takes place regularly and in which the number of rapes, robberies, thefts, and even occasional murders, is almost stagger-

ingly unbelievable, and in which the safety of the students, the teachers, and the other people who are working there is something that is on their minds every day as they enter those institutions. Schools are not necessarily the fortresses, but how can you expect the school to be a fortress if it is in the middle of a city where crime is rampant.

The idea that crime will not seep into our schools is obviously one that cannot be defended. The idea of children taking guns to school, for example, is something that anyone who went to school when I did can relate to. I can remember kids being disciplined because they brought a cap gun to school and the teacher didn't like it, so they had to stay after school and the teacher confiscated the gun. Today it is real guns with real ammunition. I believe the statistic was that 235,000 guns were recovered last year in schools around the country, a fantastic number. Schools have got to be made safe. Some schools have talked about experimenting with magnetometers as people come in. I think that we have got to work out a system that fosters cooperation between the police and the school security personnel. For instance, the safe schools program that Justice Nicholson inaugurated, which is here at Pepperdine, has many ideas along this line. But, the first criteria for our education system ought to be a safe and secure place in which children can learn.

The kids who insist on bringing guns to school, or otherwise disrupting the classroom, or threatening the teacher, or doing the other things that are taking place too often, do not belong in the school; they belong in a continuation school, a facility designed especially for them. Maybe give teachers who teach there combat pay, maybe have certain types of physical impediments to mischief and so on, but get disruptive kids out of the school. Maybe it means mental health facilities that have to be provided for those kids. But let's not let that small core of bad kids ruin the educational opportunity for so many others; and let's not let them set the tone of that educational institution for the rest of the kids who are there. I think that must be a criteria.

One part of the problem in schools is the reluctance of many educators to call in or to cooperate with the police. One of the reasons, of course, is they don't like to have cars with red lights and sirens screaming coming up to the school; it gives the school a bad reputation to the place. But that is not nearly as bad as people getting knifed or robbed inside the school. Furthermore, I think the police have to cooperate with school personnel as well. There is a feeling among some, perhaps many, school administrators that to call on the police is an admission of your own failure. Nothing could be farther from the truth.

The cooperation between law enforcement and education is absolutely critical to return those schools to legitimate and very necessary task.

One other major problem is graffiti—the visible and tangible representation of juvenile crime. Reuben Greenberg doesn't allow graffiti in Charleston, South Carolina. And when it occurs, he says “we replace it with police graffiti.” He has people who paint over the graffiti within twenty-four hours of its appearance. Pretty soon the purpose of having graffiti, for people to see it, has been defeated and thus graffiti has gone down considerably. The interesting thing is who he has do the work of replacing the graffiti: the swaggering kids who, at one time, were leading the bands of marauders, and committing the juvenile crimes. He has these same kids back, now in their very ugly orange prison jumpsuits without the chains around their neck and without their fancy clothes, painting out the graffiti under the custody of someone from the incarceration center.

It seems to me that it is well-known in the transportation industry that if you start allowing graffiti on your transit cars, your subway cars, or your buses, pretty soon all the cars have graffiti on them. In Charleston, Chief Greenberg has implemented a policy that as soon as any graffiti or any other lack of repair appears on a train, a broken window or anything else, they take that train right out of service and repair it and get it back in service so that there is not a climate that is conducive to more damage or more graffiti. We need to do that in our cities; we need to have graffiti, which is that tangible representation of juvenile crime that I mentioned, immediately obliterated so that temptation is not continued. Needless to say, once the graffiti artist is found, they need to be handled as a criminal and the vandal they are.

Finally, in terms of the suggested strategies, it is a matter of what I heard Judge Haight talking about earlier today and that is triage. That is, one must separate those kids who are susceptible to a community situation, community treatment, and various other nonpunitive types of dispositions by the court, from the serious habitual offenders who must undergo a comprehensive program to take care of them and to show them that they cannot get away with the serious crimes they are committing. And this is by having a definition of what constitutes these repeat offenders, the people in the six percent category who are committing half the crimes, so that they know that if in fact they are caught, and if they have a string of crimes, that they are going to be seriously dealt with.

As a part of this, I believe that the sealing of records, which was designed to protect the person who had committed minor offenses and then had gone on to live a blameless life so that at age eighteen when they went out for a job they did not have to talk about having been arrested for a juvenile offense, has its purpose. But when that person

uses the sealing of records and the expungement statutes simply to conceal from a court, when they become eighteen and go on with their criminal career, the twenty or thirty or forty previous felonies for which they have been arrested and handled by the juvenile court, that is not the purpose. So, I think that when a person, even though his or her record is sealed, commits a new crime or is accused of a new crime, that information should be made available to the judge as well as the police. While we are on the subject of information, I think there have to be careful ways in which this is handled. At the same time, however, a total sharing of information between law enforcement, courts and school officials is necessary so that there are no artificial barriers between the people who have responsibility for the conduct of young kids and so that these people have access to full information about those juveniles that are under their charge. These are some of the suggested strategies.

Let me turn, with the two or three minutes I have left, to how I think that these strategies should be employed by the institutions of juvenile justice and the rule of the communities. We all know that the resources, even with crime bills, even with new money in Sacramento if it comes, even with additional resources at the local level, are always going to be limited. That is one of the facts of life of government; it is probably one of the facts of life in our private lives as well. Therefore, we have to use those resources wisely. I already mentioned evaluation, and I think it is also important that we recognize what Judge Haight said earlier: That it is not a matter of either treatment or sanctions, it is not matter of either law enforcement or social work, rather it is a matter of using all of those resources wisely and in conjunction with each other to accomplish the mission.

While we are on the subject of missions, it is often very hard for people in government and private social organizations to keep their eyes on what it is we are trying to do. I have used the analogy many times of the juvenile institution and how people regard their work. If you start with the person who is the shift supervisor on a particular day and ask them what is their most important concern, you will find that they are very much interested in getting through the shift without being knifed. That is the shift worker, the person who is taking care of a particular group of inmates. If you go to the shift supervisor, that person is trying to get through the week without any escapes. If you talk to the superintendent in charge of a particular facility, he or she is trying to get through the month without any of his or her officers being arrested for contraband or other corruption. If you talk to the head of the whole

department, he or she is trying to get through the year without going over budget. All of those are interesting bureaucratic objectives, but none of them are involved with what the real purpose is, and that is to protect the public, to take care of the juveniles in a humane way under their custody, and to get them back into society in a more constructive condition than when they were received. Those are the kinds of things that I think we need to constantly keep talking to people who are working in government about so they understand what it is, what their purpose is, and what their role is in carrying out the ultimate objective of the whole juvenile system, which is to provide for the public safety and to provide for the correction of those who have indicated that they are going to transgress the bounds that society has laid on the individuals that compose it.

Moreover, it is important that all of the agencies relate to the community and also relate to each other. What the juvenile agencies found was that the kid acting out in high school probably has a sibling in middle school and another sibling in elementary school also either causing problems or who will cause problems. Based on this finding, the various agencies concerted their efforts and strategies; sometimes it was the welfare worker who had to hammer over the family and threaten to cut off the funds, sometimes it was the building and housing department because what they really needed was a place where the kids could study or even live in peace. But whatever it was, the fact that these agencies worked together produced a product that was greater than what any of them individually could have done and even what all of them collectively could have done except when they got together and actually shared information, cooperated, and developed a system of handling a particular family or particular juvenile. One of the things they found was that, when they did that, not only did they have a better course of action to deal with the problem, but, in addition, the people that were involved suddenly had a new respect because they couldn't play one agency off against the other, and also they knew that they were accountable, that there was somebody watching them as an individual. That is one of the things that I think improves the term accountability earlier today. One of the things that enables young people particularly to think that they could get away with breaking the law is that they can do it anonymously, that there is nobody who knows them as an individual, or knows them as a member of the family. That is why I think this whole idea of the agencies working, not only with the community as they have to do, but also working together first among themselves, is a vital part of improving our juvenile justice system. These are just a few of the ideas, and I have only been able to scratch the surface.

Let me also mention that another ring around there, besides the gov-

ernment agencies, is the absolute essentiality of working with private agencies and adding to the resources so that they too can be brought to bear. One of the things that most police officers feel, and I know many juvenile court judges feel as well, is their frustration at the limited alternatives they have in dealing with a particular individual or a particular family. The more we can get effective private agencies working with the public agencies, the more varieties of opportunities we will have in order to solve these problems.

In closing, let me say that it is important that we discuss the things that are coming up on the various panels today. It is also important that we take these ideas and go out and articulate them to the public. It is the taxpayers who ultimately, whether through charitable contributions or through taxes, are paying the bills. They need to know the problems, they need to have a good basis on which to evaluate the solutions, they need to know what is going on, and they need to be brought into the picture. When we talk about the role of the community, it is not just a passive role to pay the bills; it has to be an active role in which the community feels the involvement gives us the support that we need. As we articulate this problem, the community will learn about, and I believe support, the public policies, which include adequate funding and adequate personnel to serve the needs of dependent delinquent abuse while protecting the public safety against juvenile crime. I believe the proceedings of this conference will go a long way into advancing the objectives that I have talked about today. I commend all of you for being here and I hope that each one of you will have the opportunity to take what you have learned here back into your communities, so that together we can work for a better America that is both just and fair. Thank you.

