

orientation. He left the party and confronted two men in the parking lot, making derogatory comments about their sexual orientation before attacking them. Witnesses say he began punching and kicking the two victims, one of whom suffered bleeding from the mouth and eyes and was treated at a local hospital. Mr. Courain was arrested and charged with aggravated assault, bias harassment and bias assault in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

WORLD REFUGEE DAY

Mr. KENNEDY. Mr. President, I am honored to join in celebrating World Refugee Day and the many contributions of refugees around the world. The United Nations High Commission on Refugees works tirelessly to provide hope and opportunity to many of the world's most vulnerable people, and I commend High Commissioner Lubbers for his leadership in this area.

The focus of this year's celebration is on the critical situation of refugee women and children, who make up 70 percent of the refugee population. More must be done to address the special needs of these individuals, and World Refugee Day celebrations are an important step in the right direction.

To celebrate this day, United Nations Goodwill Ambassador, Angelina Jolie has commissioned a national poster competition and I am proud to say a fifth-grade student from Newton, MA, Lev Matskevich, is one of the winners. I would like to congratulate all of the winners, Lev, Sarah Rahmani from Edmunds, WA, and Roxann Acuna from San Antonio, TX for their hard work not only on the posters, but in bringing needed attention to the plight of refugees.

The theme of this year's poster contest, as it says proudly on Lev's poster, is tolerance. As a nation of immigrants we must remember that our tolerance toward immigrants has been a principal source of our progress and achievement.

With this year's celebration of World Refugee Day and these wonderful posters, we continue the important tradition of recognizing the contributions of refugees and encouraging the United States' continued commitment to providing a safe-haven to those in need around the world.

SUPREME COURT RULING THE EXECUTION OF THE MENTALLY RETARDED UNCONSTITUTIONAL

Mr. FEINGOLD. Mr. President, earlier today, the United States Supreme Court issued one of the most signifi-

cant decisions curtailing the death penalty since the Court first found capital punishment unconstitutional in 1972, and then reinstated it four years later. In a six to three decision in *Atkins v. Virginia*, the Court ruled that the execution of the mentally retarded is unconstitutional. The Court concluded that such executions are cruel and unusual punishment in violation of the Eighth Amendment.

This decision is a notable turning point for our Nation.

Indeed, a national consensus opposing such executions has been growing for some time. In 1989, when the Supreme Court upheld the execution of mentally retarded persons, only two of the 38 States that authorize the use of the death penalty had banned executions of the mentally retarded. Since then, 16 more States have enacted laws prohibiting the practice. Now, 18 of the 38 States that use the death penalty have banned the practice. And of the 20 States in the country that continue the practice, nearly half have pending legislation to halt executions of the mentally retarded. In addition, the Federal Government, which re-enacted the death penalty in 1988, has banned executions of the mentally retarded.

A recent poll by the National Journal found that only 13 percent of Americans favor the death penalty for the mentally retarded. As this poll indicates, Americans recognize that it is cruel and unusual to apply the death penalty to adults who have the minds of children. In many cases, mentally retarded adults accused of crimes cannot fully understand what they have been accused of, and often do not comprehend the severity of the punishment that awaits them. Accused adults with low mental capacity are often characteristically eager-to-please, and more likely to falsely confess to a crime.

Indeed, as Justice Stevens, writing for the majority, stated, concerning mentally retarded defendants, "Their deficiencies do not warrant an exemption from criminal sanctions, but they do diminish their personal culpability." He wrote: "Mentally retarded defendants may be less able to give meaningful assistance to their counsel and are typically poor witnesses, and their demeanor may create an unwarranted impression of lack of remorse for their crimes." Justice Stevens continued: "Mentally retarded defendants in the aggregate face a special risk of wrongful execution."

The Court also reasoned that the usual justifications for capital punishment, retribution and deterrence, do not apply to mentally retarded defendants. With respect to retribution, Justice Stevens wrote that "the severity of the appropriate punishment necessarily depends on the culpability of the offender." But "[i]f the culpability of the average murderer is insufficient to justify the most extreme sanction available to the State, the lesser culpability of the mentally retarded offender surely does not merit that form of ret-

ribution," Justice Stevens wrote. He concluded: "Thus, pursuant to our narrowing jurisprudence, which seeks to ensure that only the most deserving of execution are put to death, an exclusion for the mentally retarded is appropriate."

With respect to the other justification for capital punishment, deterrence, Justice Stevens wrote that "executing the mentally retarded will not measurably further the goal of deterrence." The Court reasoned:

The theory of deterrence in capital sentencing is predicated upon the notion that the increased severity of the punishment will inhibit criminal actors from carrying out murderous conduct. Yet it is the same cognitive and behavioral impairments that make these defendants less morally culpable . . . that also make it less likely that they can process the information of the possibility of execution as a penalty and, as a result, control their conduct based on that information.

Today the Supreme Court reflected the sentiments of our nation on this important issue. As the majority stated: "The practice [of executing the mentally retarded] . . . has become unusual, and it is fair to say that a national consensus has developed against it." The majority concluded: "Construing and applying the Eighth Amendment in the light of our 'evolving standards of decency,' we therefore conclude that such punishment is excessive and that the Constitution 'places a substantive restriction on the State's power to take the life' of a mentally retarded offender."

The Court's decision confirms that our Nation's standards of decency concerning the ultimate punishment are indeed evolving and maturing. Even before today's decision, we have known that the current death penalty system is broken and plagued by errors, including the risk of executing the innocent and racial and geographic disparities.

As evidence mounts that the administration of capital punishment is plagued by inexcusable flaws, the American people are taking notice, and taking action. Illinois Governor George Ryan took the courageous and extraordinary step of placing a moratorium on executions two years ago. He also created an independent, blue ribbon commission to review the Illinois death penalty system. The commission released its report earlier this year and made 85 recommendations for improving the administration of the death penalty.

More and more Americans are realizing that they can no longer simply look the other way when confronted with glaring injustices. And today, a majority of the justices on our nation's highest court have joined this growing chorus of Americans.

I am proud of our Court today. I am proud of a justice system that recognizes that the execution of the mentally retarded is unconstitutional, inhumane, and simply wrong. Today we can declare an important and historic victory for justice.