

which the death penalty was sought has the Department overridden the judgment of local federal prosecutors and rejected a plea or cooperation agreement that requires withdrawal of the notice of intention to seek the death penalty?

In addition, I request that you provide responses to the following questions:

(a) (A) Since you became Attorney General in February 2001, in how many cases and in which federal districts have you directed the federal prosecutor to seek the death penalty, even though both the U.S. Attorney and the Capital Case Review Committee made recommendations to decline seeking the death penalty? (B) In how many cases and in which federal districts have you directed the U.S. Attorney to seek the death penalty, where the U.S. Attorney recommended against seeking the death penalty and the Capital Case Review Committee recommended in favor of seeking the death penalty? (C) In how many cases and in which federal districts have you directed the U.S. Attorney to seek the death penalty, where the U.S. Attorney recommended in favor of seeking the death penalty and the Capital Case Review Committee recommended against seeking the death penalty? I note that the Department provided similar information as part of its 2000 survey of the federal death penalty system, and I request that the Department compile this information again and provide it to me. See the Federal Death Penalty System: A Statistical Survey (1988-2000), U.S. Dept. of Justice (Sept. 12, 2000).

(4) "The Attorney General will, of course, retain legal authority as head of the Justice Department to determine in an exceptional case that the death penalty is an appropriate punishment, notwithstanding the United States Attorney's view that it should not be pursued." The Federal Death Penalty System: Supplementary Data, Analysis and Revised Protocols for Capital Case Review, U.S. Dept. of Justice (June 6, 2001), p. 27 (emphasis added). I understand that, as of March 11, 2003, 30 of your 67 death penalty approvals have apparently been such "exceptional cases." (A) How do you account for this amazingly high proportion of cases in which you have forged ahead to seek death despite your own prosecutors' recommendations to the contrary? (B) In how many cases, in which federal districts, and under what circumstances, have you concluded that the case was "exceptional" and exercised your authority to direct U.S. Attorneys to seek the death penalty?

(5) In June 2001, you revised the "death penalty protocols," U.S. Attorneys Manual §9-10.000, et seq., by changing the definition of "substantial federal interest" so as to remove an earlier provision that forbade the Department from relying on the fact that a state has chosen through democratic means not to impose capital punishment. U.S.A.M. §9-10.070. (A) In how many cases and in which federal districts, have you directed U.S. Attorneys to seek the death penalty where the death penalty would be unavailable in a state prosecution? (B) For each of these cases, please state whether the U.S. Attorneys, the Capital Case Review Committee, or you accorded any weight to the unavailability of the death penalty under state law as a reason favoring federal prosecution, or federal pursuit of the death penalty.

(6) The June 2001 revisions to the "death penalty protocols" included adding a provision under which proposed plea bargains in death-eligible cases must be approved by you rather than by the U.S. Attorney. U.S.A.M. §9-10.100. You enacted this modification in an attempt to address the concern that white defendants fare better in the plea bargaining process and are almost twice as like-

ly as African American defendants to enter into plea bargains, thus saving them from a death sentence. (A) In how many cases and in which federal districts, have you denied requests to approve plea bargains, after you have authorized the U.S. Attorney to seek the death penalty? (B) In how many cases and in which federal districts, have you granted requests for such approval? (C) With respect to each of these cases, please provide data on the race and ethnicity of the defendants. (D) With respect to each of the above cases, how many of the proposed plea bargains included a provision requiring the defendant to provide cooperation to the government?

(7) Concern that racial and geographic disparities exist continue to plague the federal death penalty systems. See, e.g., "Death Penalty Cases Raise Race Questions," New York Times, Feb. 13, 2003. In releasing the 2000 survey, then-Attorney General Reno directed the National Institute of Justice to fund research about the use of the federal death penalty. At your confirmation hearing in January 2001, and again in testimony by Deputy Attorney General Larry Thompson before the Senate Judiciary Subcommittee on the Constitution in June 2001, you and the Department expressed your commitment to pursuing such research. (A) Please provide an update as to the status of that research project, including a description of who is conducting the research and when it is expected to be completed.

(B) In your letter to me dated July 25, 2001, and the Department's responses to my written questions following the June 2001 Constitution Subcommittee hearing, you agreed to support researchers in gaining access to the data they will need to conduct this study and expressed your intention to issue guidance to all U.S. Attorneys to cooperate with the researchers, consistent with privacy and sensitive law enforcement issues and grand jury secrecy rules. What instructions have you provided to U.S. Attorneys or Department employees about granting the researchers access to information regarding the investigation and prosecution of potential capital cases? Please provide me with copies of all instructions or guidance you have issued to U.S. Attorneys and Department employees about this issue.

(8) "U.S. Attorneys will be required to submit information, including racial and ethnic data, about potential capital cases, as well as those in which a capital offense is actually being charged." The Federal Death Penalty System: Supplementary Data, Analysis and Revised protocols for Capital Case Review, U.S. Dept. of Justice (June 6, 2001), p. 4. Specifically, the Department has stated that "more complete racial and ethnic data" should be made "available for both actual and potential federal capital cases on a continuing bases." Id. I am pleased that the Department recognizes that there is a need for public disclosure of information about the use of the federal death penalty on a regular basis. I therefore request that the Department publish data on the federal death penalty system that updates the data contained in the survey published by the Department in September 2000, The Federal Death Penalty System: A Statistical Survey (1988-2000), in as complete a form as the 2000 survey. Please let me know the time frame for when this updated survey will be made available.

I look forward to your response.

Sincerely,

RUSSELL D. FEINGOLD,
United States Senator.

PASSING OF PRIVATE FIRST CLASS STRYDER STOUTENBURG

Mr. BAUCUS. Mr. President, I rise today to honor a young man from Missoula, MT, who was killed when the Army helicopter he was riding in crashed in the remote woods of New York State during a training exercise. PFC Stoutenburg was among the 11 people in his 13-person unit killed in the Black Hawk crash. PFC Stoutenburg was only 18 years old.

Like his fellow men and women in uniform, PFC Stoutenburg dedicated his life to defending our country and upholding the principles it was founded upon. As a member of the 10th Mountain Division based at Fort Drum, NY, he trained not only to defend the United States against aggressors but also to uphold our country's greatest values—freedom, liberty, equality, and democracy.

PFC Stoutenburg's sacrifices for his State and country make all of us proud to be Montanans and Americans. He truly did his part to hold the bright torch during the dark night that will guide the way to a brighter day of democracy and stability around the world. His tragic death is a reminder that our freedom is the result of the courageous men and women who everyday face great risk while defending our country.

PFC Stryder Stoutenburg is survived by his mother Jane; maternal grandmother, Joyce Sleep of Dade City, FL; two sisters, Laurel Miller of Middletown, NY, and Joyce Rodriguez of Harrisonburg, VA; and two nieces and two nephews.

ADDITIONAL STATEMENTS

ROY ROWE

• Mrs. LINCOLN. Mr. President, I rise to pay tribute to a true American hero from my State—Mr. Roy Rowe of Mena, AR. In the coming weeks, Mr. Rowe will be awarded a Presidential Unit Citation for his service in the U.S. Army during the Second World War, an honor that is richly deserved.

Roy Rowe was inducted into the U.S. Army in October 1942. Serving in the Pacific theater, Mr. Rowe was assigned to the 96th Infantry Division. Over the course of three months beginning in April 1945, the 96th Division landed on the beaches of Okinawa as part of the greatest concentration of land, sea, and air power ever assembled in the Pacific. The battle for Okinawa was the costliest single battle of the Pacific war for both sides. In terms of U.S. casualties, Okinawa was second only to the Battle of the Bulge. Of U.S. Army personnel, 4,436 were killed in action, and 17,343 were wounded. Of U.S. Marines, 2,793 were killed and 13,434 were wounded. Japanese casualties numbered 107,539 killed in action and 10,755 captured. It was a terrible price to pay for both sides, but the result brought the Allied forces to Japan's doorstep