

STATEMENT OF SENATOR JOSEPH LIEBERMAN

GOVERNMENTAL AFFAIRS COMMITTEE HEARING ON FEDERALISM AND CRIME CONTROL MAY 6, 1999

Thank you Mr. Chairman. Let me start by thanking you for holding this hearing today. The issue of the appropriateness of making federal crimes out of conduct that is traditionally regulated by the States' criminal justice systems is an extraordinarily important one. And, although you didn't know it when you scheduled this hearing, the topic is also a particularly timely one, in light of the events in Littleton, Colorado and with the Majority Leader having announced his intention to take up juvenile crime legislation on the floor next week.

As you have well explained, we in Congress are often far too quick to respond to every high profile crime with a proposed law, and we often don't stop to think about whether federal action is either necessary or wise. I've reviewed the ABA Task Force's excellent report on this topic, and both it and today's witnesses make a compelling case for those of us in Congress to make sure that we take better account of the differing roles of the federal and state criminal justice systems -- and of the resource limitations on federal law enforcement and the federal judiciary -- when we consider crime legislation.

With that said, I think we also need to be careful not to overstate the case here. I read with interest the often repeated finding that, of all federal crimes enacted since 1865, over 40 percent were created since 1970. Although it certainly is an interesting fact, it does not necessarily say to me that we in Congress are doing anything wrong. After all, we probably would find that a far greater percentage of our federal environmental laws or perhaps even our federal workplace safety laws have been enacted since 1970, but I would argue that neither those facts, nor the increasing rate at which we have been regulating crime at the federal level, in and of themselves suggest that Congress is wrongly intruding in matters that don't concern it.

After all, as we all know, violent crime has become a much greater problem in America in the latter half of this century, and so it is only natural Congress would begin to legislate on it more than it did in the past. Just as importantly, and as we discussed yesterday, it shouldn't surprise any of us that the federal government is regulating more conduct today than it did fifty or sixty years ago and that conduct that once may have been the exclusive province of the States -- because it once had almost exclusively local consequences -- now is, and should be, regulated on a national scale. We live in an increasingly interconnected nation, where our transportation and telecommunication systems have allowed seemingly local activities to have increasingly interstate effects, and that is surely so for crime.

I'll give just one example. The Bureau of Alcohol, Tobacco and Firearms recently issued a report on the source of guns used in crimes committed in 27 cities across the country. Although the ATF

found that the State in which the crime was committed generally provided the largest single source of traced crime guns, a significant portion of guns used in crimes originated outside of the State in which the crime took place. In Bridgeport, Connecticut for example, the ATF found that over 35 percent of the crime guns it traced were originally purchased outside of Connecticut.

By raising this issue, I don't mean to suggest that any criminal activity, no matter how essentially local in nature is an appropriate subject of federal criminal jurisdiction -- in fact, I find the ABA's report quite persuasive in many respects. I do mean to suggest that it is enough to say that because the States have traditionally regulated things like drugs and guns, they should continue to do so to the exclusion of the Federal government, regardless of the changing -- and increasingly interstate -- nature of drug crimes and gun crimes.

I expect today's hearing to be quite interesting, and I look forward to hearing from and discussing these issues with our witnesses.