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QUESTION & ANSWER SESSION

OF

THE HONORABLE BENJAMIN R. CIVILETTI  
ATTORNEY GENERAL OF THE UNITED STATES

AT THE

NATIONAL PRESS CLUB

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The Attorney General Discussed the Following Topics:

	Page
ABSCAM	2-8
Open Trials	9
Special Prosecuter for Miller Kextron Case	9-11
Prison Problems	12
Discrimination Against Gays	15
Leaks	16-20

P R O C E E D I N G S

1  
2 SPEAKER: The first one, if the combination of pre-  
3 indictment leaks and massive publicity of Operation ABSCAM has  
4 undeniably damaged the reputations of presumably innocent men  
5 without due process, what can, rather, what will the Justice  
6 Department do to minimize the damage?

7 ATTORNEY GENERAL CIVILETTI: Nothing since I have  
8 been in the Department of Justice has angered and frustrated  
9 me more than the revelations over the last two weeks, which  
10 have damaged and injured the reputation of individuals, of  
11 prominent public individuals and other public officials, who  
12 are entitled to at least the freedom from such damage to due  
13 process, and to their remaining rights of privacy.

14 I have already, as you know, begun an investigation  
15 into the leaks to determine whether or not any Government  
16 employees, be they lawyers or investigators or others, have  
17 been the cause of the leaks. I intend to beef up that investi-  
18 gation; I intend to pursue it with all the vigor within the  
19 Department of Justice, to get to the bottom of the leaks; and  
20 among other things, I have invited  
21 Dick Blumenthal, the United States Attorney from Connecticut,  
22 to take charge of that investigation. He has had no associ-  
23 ation with the investigation of ABSCAM or any papers relating  
24 to it, and he is an outstanding lawyer. He is here with us  
25 today. Dick, could you stand up, please?

1 (Applause.)

2 ATTORNEY GENERAL CIVILETTI: I think in his career,  
3 he also has a short stint as a reporter, so we may have some --

4 (Laughter.)

5 -- extra background in the course of the investigation.  
6 Dick will supervise the investigation out of the Office of Pro-  
7 fessional Responsibility, and I am interested not only in  
8 determining of course, the source of the leaks, but I  
9 am interested in determining the causes or motivations for the  
10 leaks, and to try to develop through that examination, not  
11 only punishment for those sources who have violated departmental  
12 policy, but remedies to prevent such repetitions in the future.

13 In addition to that step, or those steps, I am con-  
14 sidering a number of other alternatives within the Department  
15 with regard to changes in the policy of the Department, with  
16 regard to a survey of our practices concerning the procedures  
17 and process of conducting investigations and maintaining the  
18 secrecy of investigations until the charging, public charging  
19 part, the indictment or presentment part of a case is timely.

20 I am interested in whether or not we are following  
21 the best and most careful need-to-know principles, or compart-  
22 mentalization principles. I am also having examined the question  
23 of the communication, and our direction or policy with regard  
24 to communication, and whether or not, consistent with the  
25 Department's policy of openness with regard to its practices, to

1 its directions, and to the conduct of its affairs, consistent  
2 with those important principles we can somehow make more speci-  
3 fic and more strong the prohibition against the revelation of  
4 any facts relating to the merits of a criminal investigation.  
5 There is no excuse for an official of the Department of Justice,  
6 be he a field agent, or be he a field or line attorney, to be  
7 sacrificing for his own interest, or regardless of the ploys  
8 that are practiced on him by people doing their duties to  
9 obtain information, which are independent and distinct from  
10 the Department's duties, to sacrifice the rights that he is  
11 charged with upholding and protecting.

12 SPEAKER: What is the timetable for the grand jury  
13 investigation of ABSCAM and the various individuals involved?

14 ATTORNEY GENERAL CIVILETTI: I have learned some  
15 things in Washington, and one is not to give deadlines or time-  
16 tables when I don't have absolute control over the meeting of  
17 the timetable or deadline, so I can't give you a timetable or  
18 a deadline, except to say that with whatever energy we command  
19 within the Department, we are moving to develop the grand jury  
20 cases to the point where prosecutorial decisions can be made  
21 soundly on which cases to pursue and which, if any, cases do  
22 not merit pursuit under the compelling legal standards.

23 Phil Heymann estimated, in public statements to both  
24 the House and the Senate, that he hoped that within 90 to 120  
25 days those decisions would be made.

1           SPEAKER: Without discussing the legal merits of  
2 ABSCAM, given the facts related by Senator Pressler, how could  
3 this be anything but entrapment?

4           ATTORNEY GENERAL CIVILETTI:           That question is  
5 difficult to answer, given the qualifying predicate. I think  
6 essentially the question deals with whether or not there was  
7 impropriety or overreaching in the operation of the undercover  
8 operation, because a particular person did not transact busi-  
9 ness with the undercover operation. And the answer to that  
10 in part is           that in any undercover operation dealing in  
11 a milieu of middlemen and con artists and underworld types of  
12 one kind or another in the middle of the undercover operation,  
13 whether it be in narcotics or whether it be in hijackings or  
14 whatever, from time to time misrepresentations will be made  
15 to the persons running the undercover operation: misrepresen-  
16 tations as to the possession of stolen goods, or misrepresenta-  
17 tion as to the availability of stolen trucks or cars, or the  
18 ability to obtain a certain product or service at a price.

19           And of course to that extent, to the extent that  
20 there are persons around, peddlers of stolen goods or influence  
21 or whatever, who are misrepresenting about innocent public  
22 officials, then I think there is a collateral benefit to under-  
23 cover operations to expose those individuals and to protect  
24 innocent public figures against such representations or conduct  
25 by such persons.

1           SPEAKER: F.B.I. Director Webster says the F.B.I. is  
2 probing 1200 cases of public corruption. How many Congressmen  
3 and Senators are involved?

4           (Laughter.)

5           ATTORNEY GENERAL CIVILETTI: I hadn't heard Judge  
6 Webster's statement, and I don't know what it relates to. I  
7 guess public corruption could include, in a broad sense, any-  
8 thing down to a public employee embezzling from public funds.  
9 I can say this, though, with regard to the latter part of the  
10 question, that I think the Department has stated that other  
11 than the unfortunate, regrettable, and inexcusable leaks that  
12 have endangered innocent persons by identifying them specifi-  
13 cally, there are no other Senators or Congressmen, to my know-  
14 ledge, in any way related to the ABSCAM investigation.

15           SPEAKER: On what basis could an F.B.I. agent involved  
16 in the ABSCAM operation refuse to testify in response to a  
17 House Ethics Committee subpoena regarding what the agent saw or  
18 heard?

19           ATTORNEY GENERAL CIVILETTI: On the basis of my  
20 instruction. The Department's regulations and rules provide  
21 that Federal employees in the Department of Justice, prosecutors  
22 and criminal investigators, can testify in proceedings --  
23 involving investigations of the conduct of their business --  
24 only with the authority of the Attorney General, as the head  
25 of the Department of Justice; and the technical answer there-

1 fore is, at my direction, to preserve the integrity of the  
2 Department of Justice business, and particularly the integrity  
3 of its criminal investigations.

4 SPEAKER: One last question right now on ABSCAM:  
5 Can you assure us that there was no entrapment used by the  
6 F.B.I. in their ABSCAM operation?

7 ATTORNEY GENERAL CIVILETTI: I don't know a great  
8 many of the facts and details of the entire ABSCAM investi-  
9 gation. It was conducted by the F.B.I. in conjunction with  
10 prosecuting attorneys and supervised by sections within the  
11 Criminal Division, and reviewed by Deputy Assistant Attorney  
12 General Nathan, and periodically reviewed by Assistant Attorney  
13 General Heymann as to particulars during the 18-month course  
14 of the undercover operation.

15 And I was advised from time to time, generally, that  
16 the investigation was ongoing and of its direction, so I can not  
17 answer from my own knowledge with the kind of guarantee that  
18 I could provide if I was thoroughly familiar with all those  
19 facts. I have been advised by Mr. Heymann and by Director  
20 Webster that the close and careful and difficult questions  
21 that arise during any undercover operation, which involve  
22 principles of entrapment, unfair inducement, were thoroughly  
23 considered by the Bureau and by prosecutors, and measured  
24 decisions were made, and I believe that to be so.

25 On the other hand, issues of entrapment, as issues



1 of unlawful search and seizure, issues of suppression, issues  
2 of confessions, are matters which are regularly battled out  
3 during the course of the criminal proceeding,

4 and the courts, or judges do not agree with the  
5 Government's conduct in every such instance, as we all know.  
6 And in this instance, I can't speculate as to, in one or more  
7 situations, whether or not some court may at some time, after  
8 full discussion of the facts and debate, in the application of  
9 the law, find that the line was crossed, not necessarily by the  
10 F.B.I. or by the prosecutors, by either some of the middlemen  
11 or by an informant who somehow participated with the Government,  
12 and for which in some judge's view, the Government can be found  
13 to be responsible.

14 I do think, from what I know, that those decisions  
15 were made carefully, crimes were not created by the F.B.I. at  
16 all; that the following of leads with regard to ABSCAM, as it  
17 moved from the investigation of stolen property and particularly  
18 Certificates of Deposit and art objects, and then into a casino  
19 franchise or licensing availabilities, and then into repre-  
20 sentations and purveyors of political services or influence,  
21 was followed based on a course of reasonable basis to believe  
22 that criminal acts were occurring, or criminal acts had  
23 occurred, of a nature similar to that which the operation was  
24 investigating.

25 SPEAKER: To change the topic, regarding the open

1 trials, do you have any caveats or views concerning juvenile  
2 justice proceedings, which are usually closed?

3 ATTORNEY GENERAL CIVILETTI: No, I don't. I am not  
4 an expert in juvenile justice proceedings, so I don't have any  
5 special wisdom to provide to you on that. The sensitivity and  
6 the delicacy of the tender ages of juveniles, frequently are  
7 the foundation for non-public-disclosure, but other than that  
8 I do not have any suggestions or advice.

9 SPEAKER: A questioner asks, why did you lend your-  
10 self to partisan political purposes by going to Baltimore with  
11 President Carter shortly after you became Attorney General, on  
12 what was essentially a campaign trip?

13 ATTORNEY GENERAL CIVILETTI: I can't say. I guess  
14 it is in the eye of the beholder. I thought it was essentially  
15 a trip home to Baltimore --

16 (Laughter.)

17 -- and a trip to visit with an Italian-American  
18 organization that had invited me many months before, and the  
19 campaign had not started. I have not campaigned in the cam-  
20 paign. I don't intend to. I have not been asked to. So I  
21 didn't consider it to be political at all. I thought it was  
22 rather natural, in my home town.

23 SPEAKER: Will you reconsider naming a special pro-  
24 secutor for the Miller/Textron case, and also, please answer  
25 Senator Proxmire's charge that you have a conflict of interest

1 in this matter. And also, detail as specifically as you can,  
2 how far the Justice Department investigation has gone in  
3 investigating possible perjury and obstruction of justice.

4 ATTORNEY GENERAL CIVILETTI: Taking them in reverse  
5 order, the investigation that the Justice Department has con-  
6 ducted had been going on , in various stages, before  
7 Secretary Miller's confirmation hearing, and resulted in part  
8 in the prosecution of Bell Helicopter for criminal violations,  
9 and proceeded or continued thereafter | to review and  
10 analyze and investigate any and all allegations relating to  
11 individuals who might have been knowledgeable or involved in  
12 Bell Helicopter's payment activities.

13 Added to that investigation were requests by Senator  
14 Proxmire after the confirmation hearings, which related to, as  
15 I recall, the failure to produce records, the potential des-  
16 truction of records and its relationship to the obstruction of  
17 justice, and misstatements by witnesses at the confirmation  
18 hearing. All of those things have been pursued now, before and  
19 after the confirmation hearing. In response to Senator Wiecker's  
20 question to me at the appropriation hearing, I merely said that  
21 all of that investigation, nothing which I had been alerted to  
22 or seen in either the S.E.C. consent papers or anywhere else  
23 had indicated the predicate for a special inquiry under the  
24 Special Prosecutor Act.

25 There are three essential requirements of a special

1 inquiry under that Act: One, you have to be a covered employee  
2 two, you have to have a specific factual allegation of wrong-  
3 doing; and third, it has to fit within the probability of the  
4 application of a particular criminal statute or violation. And  
5 in this instance, in the Department, I am alerted to the  
6 initiation of a special prosecutor inquiry by the Criminal  
7 Division, its Public Integrity Section, through Assistant  
8 Attorney General Heymann, and I -- had not and have not  
9 received any such alert, nor have I independently seen the  
10 predicate for the consideration, even, of  
11 a Special Prosecutor, or the triggering  
12 of a special prosecutor inquiry.

13 And I simply answered to that effect, which somehow  
14 got translated around to the point of view that I had considered  
15 the matter thoroughly and carefully, and decided not to appoint  
16 a special prosecutor. The matter has never reached that level  
17 at any time. If the conditions or predicates for the triggering  
18 of the Special Prosecutor Act develop in some manner, shape or  
19 form, specifically, I have not shown any hesitancy, nor has the  
20 Department of Justice, to have special prosecutor inquiries or  
21 to meet the standards applied by the Special Prosecutor Act. I  
22 don't have any conflict of interest of any kind or nature. I  
23 don't know exactly what Senator Proxmire means. Conflict of  
24 interest ideas can, I guess, be about as elastic as rubber bands  
25 and can be stretched to fit almost any package.

1 (Laughter.)

2 I think I have answered the three questions.

3 SPEAKER: There are many States currently under  
4 Federal court order to reduce prison populations. In view of  
5 the recent rioting in New Mexico's prisons and the Attica riots  
6 of a few years ago, is there anything the Justice Department  
7 can do to assist States or local governments in this matter?

8 ATTORNEY GENERAL CIVILETTI: Yeah, there are about  
9 four things. The first thing we are doing is immediate  
10 relief, of course, to New Mexico. We have offered and have  
11 taken in about 400, I think, of their prisoners, in order to  
12 provide facilities and to alleviate their emergency situation  
13 that they have.

14 But on a general basis, one, we have about finished  
15 the development of Department of Justice Federal prison stan-  
16 dards, which should serve as a guideline to all institutions,  
17 Federal, State, local, county, and jails, and will provide a  
18 basis for the development of -- particularly for new con-  
19 struction or renovation, -- safe, humane, and secure institu-  
20 tions.

21 Secondly, under our I guess it is  
22 stationing, or prisoner use services of the United States  
23 Marshal, when we house Federal prisoners in State institutions,  
24 local or county, we can provide certain reimbursements or  
25 certain payments under certain strict conditions, for upgrading

1 or improvements over the period of the contract for the pro-  
2 vision of these housing facilities, for the benefit of the  
3 Federal prisoners involved, and of course inuring to the  
4 benefit of all the prisoners in the particular institution.

5 And, thirdly, through LEAA there has been room, and  
6 there have been grants issued for the improvement and study of  
7 prison problems and facility problems, although there is not a  
8 program, and I think it would be inappropriate to have a pro-  
9 gram within LEAA or the Department of Justice, where the  
10 Federal Government was paying for essentially State proprietary  
11 institutions.

12 SPEAKER: Attorney General Bell set up a system  
13 after the Marston affair, to warn the President about Congress-  
14 men under investigation. Is that plan still operative?

15 ATTORNEY GENERAL CIVILETTI: Yes, but the purpose  
16 wasn't as indicated in the question. The purpose was to give  
17 quick notice to the senior people within the Department, of  
18 the first developments of an investigation of public figures,  
19 in order to avoid misstatements by the senior officials in the  
20 Department, or embarrassment by appearances at public functions  
21 or sessions with such individuals, which might occur naturally,  
22 and, thirdly, which is the point of the question, in those  
23 instances where it was either necessary or desirable or there  
24 was a particular purpose to be served, of the Attorney General  
25 notifying the President concerning such an investigation.

1           The follow-up question to that would be, well, why  
2 didn't you, then, according to that system, advise the  
3 President? And the reason was that the triggering mechanism  
4 for such advice and needed advice is ordinarily when the  
5 President is likely to be either meeting or inadvertently on  
6 the road with such persons, and when the investigation has  
7 proceeded to a stage of some ripeness concerning charges  
8 rather than simply allegations. And under these circumstances,  
9 although the disclosures occurred over the weekend, at that  
10 point I saw no purpose to be served, on Friday or Thursday  
11 when we learned that they were likely -- or when I learned that  
12 there were likely to be disclosures, I think it was principally  
13 Friday, no purpose to be served, no function to be fulfilled by,  
14 at that point, advising the President.

15           SPEAKER: What, if anything, does the Justice Depart-  
16 ment intend to do relative to the ripoffs of the American  
17 public on gasoline and heating oil prices?

18           ATTORNEY GENERAL CIVILETTI: I will have to duck  
19 that question. My expert, John Shenefield, is here. We  
20 have, I know, at least a half a dozen investigations within the  
21 Antitrust Division, and at least a half a dozen or more investi-  
22 gations within the Criminal Division and the United States  
23 Attorneys' offices, which relate to potential abuses of, one  
24 form of the antitrust law, or of the criminal law in one way  
25 or the other, dealing with exorbitant or excess prices, distri-

1 bution costs, add-ons, false sales, or whatever, concerning  
2 both gasoline and , fuel oil products. Other than that, I  
3 don't have a detailed answer.

4 SPEAKER: What steps will you take to bring the F.B.I.  
5 in line with the Justice Department policy barring employment  
6 discrimination against gays? Currently even low-level F.B.I.  
7 clerks are fired solely on sexual orientation grounds, while  
8 attorneys at Justice have privacy protection. And, do you  
9 accept Mr. Webster's contention that it will take years to  
10 review the problem..

11 ATTORNEY GENERAL CIVILETTI: Judge Webster has dis-  
12 cussed that with me, and I understand that he is reviewing it.  
13 It is not an easy problem. I think neither Judge Webster nor  
14 I believe that sexual preference ought to be an absolute bar  
15 and automatic bar to Federal employment, but when you are dis-  
16 cussing various kinds of Federal employment, I think you have  
17 to determine the criteria and needs of the particular position,  
18 and evaluate it on a fair, case-by-case basis.

19 SPEAKER: What is your Department's position on the  
20 pending telecommunications bill that threatens to moot the  
21 Department's pending antitrust case against AT&T?

22 ATTORNEY GENERAL CIVILETTI: I support the  
23 Administration position with regard to competition in communi-  
24 cations. We do not think, after  
25 the Antitrust Division's examination of at least the pro-



1 posals which we have seen, that it in any way threatens or  
2 will thwart the AT&T case.

3 SPEAKER: You were critical of the leaks of your  
4 undercover operations. Are you also critical of the news media  
5 for reporting information about the investigations?

6 ATTORNEY GENERAL CIVILETTI: Generally, no. I see  
7 the duties and responsibilities of the Department and its  
8 employees as separate and distinct from the functions and  
9 duties of the press and the media and reporters; and the only  
10 reservation that I have with regard to that subject, is it  
11 does seem to me somewhat bizarre that at the same time as  
12 reporters are using every legitimate device and means to obtain  
13 the news, which is their job -- and even involving endangering,  
14 the threats -- I mean, the risks of and exposure of, and  
15 violation of the rights of privacy of innocent persons, which  
16 arise not from the exposure but from the release of informa-  
17 tion that is being blared on the front page, and  
18 on the back page the editorial writers are criticising this  
19 terrible danger to the -- which it is -- danger to the system  
20 of due process. I think that that is a little difficult to  
21 separate out completely, since I think that there is a certain  
22 responsibility on the part of editors -- which I believe that  
23 they exercise -- to judge what they print, and that responsi-  
24 bility can not be totally transferred to others under the  
25 proper suggestion that it is your ability to -- I mean, it is

1 your duty to retain the information, and our duty to pry it  
2 out of you.

3 SPEAKER: This questioner wants to know what your  
4 views are on whether the C.I.A. should be exempt from the  
5 Freedom of Information Act?

6 ATTORNEY GENERAL CIVILETTI: I don't have a detailed  
7 view. have in the Department a task force report  
8 undergoing analysis in the Associate Attorney General's office,  
9 and the recommendations will be coming to me very shortly, not  
10 only with regard to the C.I.A. but with regard to the F.B.I.  
11 and to other parts of Justice.

12 I think it likely that a total exemption for the C.I.A.  
13 would not seem to me to make common sense. They may have  
14 particular problems which have to be addressed, and there may  
15 be a legitimate need for significant amendments, but without  
16 the basic benefit of that review and close analysis, it does  
17 not seem to me that a total exemption or even a very wide-  
18 reaching exemption would be appropriate to the dangers caused  
19 by the present law.

20 SPEAKER: Thank you.

21 Before asking you a final question, I would like to  
22 present you with the National Press Club's Certificate of  
23 Appreciation, and also a Press Club tie.

24 ATTORNEY GENERAL CIVILETTI: Thank you.

25 SPEAKER: For the final question, speaking of leaks,

1 aren't there good and bad leaks? For example, if there were  
2 no leaks, you might not have uncovered Watergate. Will your  
3 investigation tend to kill off good leaks, too?

4 ATTORNEY GENERAL CIVILETTI: From the Department's  
5 point of view, from my own point of view, and from the point  
6 of view of employees who take an oath of duty, both as lawyers  
7 or investigators independently within the Department, there are  
8 no good leaks which disclose facts on the merits, or relating  
9 to the merits of pending criminal investigation. We have every  
10 opportunity to present those facts to the courts and to have  
11 any difficulties with regard to the facts debated and publicly  
12 available for criticism or not.

13 On the other hand, with regard to conflicts within  
14 the Department, or with regard to allegations of wrongdoing by  
15 Departmental people within the scope of their duties,  
16 then it seems to me that there are compulsions, there are  
17 rationales which would support the disclosure in the appropriate  
18 manner, and I seldom think that the appropriate manner is to  
19 have a disgorging to The Washington Post, or The New York  
20 Times, or The Star, or NBC, or ABC, or CBS, but rather to the  
21 Office of Professional Responsibility, to the superior or one  
22 above the superior involved, in order to see that action is  
23 taken.

24 But I can see rationales and justification, be they  
25 patriotism, or be they idealism, or be they self-promotion --

1 which is less justifiable -- or the resolution of conflict in  
2 your favor, all of which I am sure are common,  
3 motivations for leaks, and many others. I can see  
4 that as to process, as to internal proceedings, as to suspi-  
5 cion of wrongdoing, that that might well be, within the Justice  
6 Department or the Government, a rationali-  
7 zation and not a bad one for some public disclosure in violation  
8 of duty, but the individual has to make his choice, and be  
9 prepared and realize that it is not all one way; that if he  
10 does that, he does violate a very important duty, and should  
11 be willing to admit to the violation and suffer whatever the  
12 consequences are.

13 Where there is a need for such disclosure, I am sure  
14 the consequences would not be severe, nor be allowed to be  
15 severe, but there is no excuse for violating the rights of  
16 innocent persons outside the Department, who are entitled to  
17 due process, who are entitled to their day in court, and who  
18 are entitled to be presumed innocent, and particularly when it  
19 involves public officials whose reputations are their life's  
20 blood. And anyone in public office assumes a certain amount  
21 of criticism and questioning, and rightly so. We ought to be  
22 pursued and questioned and criticized without end; that is what  
23 the American system is all about, and particularly what the  
24 press is all about. But at the same time, for a Department  
25 employee to deliberately and intentionally violate those inno-

1 cent rights of third parties, which are so fragile, in some  
- 2 misguided belief that he is doing a public service, seems to  
3 me to be inexcusable and tragic.

4 Thank you.

5 SPEAKER: Thank you.

6 (Applause.)

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