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More Punishment Doesn't Decrease Crime; The Leo Frank Bill

To the Editor:

In urging Congress to adopt the Administration's crime bill (Op-Ed, Sept. 24), Acting Attorney General William P. Barr offers quick-fix solutions to the country's crime problem. Unfortunately, these simple responses will only exacerbate the problem of court delay while undermining the constitutional rights of all citizens.

It is easy to say that appeals in some death penalty cases take too long and that the process should be simplified and shortened. We agree. But it would be a miscarriage of justice to enact the Administration's proposed remedies.

The central proposal is the "full and fair adjudication" standard. This provision would virtually eliminate the Federal courts' ability to serve their appropriate role as the final arbiters of the Constitution and to correct errors made by state courts.

In 1915 an Atlanta jury sentenced a Jewish man, Leo Frank, to death for raping a Christian woman. At the trial, Frank presented no defense because an anti-Semitic mob chased him from the courtroom. The Supreme Court would not let him relitigate his constitutional claims in Federal habeas proceedings because, in the Court's view, he had received full review from the state courts. Some time after Frank was lynched, a witness to the murder, who had been intimidated by the mob from testifying, came forward and established his innocence.

The bill Mr. Barr is urging support for might as well be termed the Leo Frank bill because the "full and fair adjudication" rule would permit similar miscarriages of justice.

In addition, Mr. Barr's attack on the Fourth Amendment exclusionary rule is based on a faulty premise. A major 1988 study found that the 800 criminal justice professionals surveyed, including police chiefs and prosecutors, do not believe Fourth Amendment rights -- or their protection by the exclusionary rule -- are a significant impediment to crime control. The exclusionary rule is applied only to a relatively small percentage of arrests and searches made by the police. Indeed, police chiefs and others reported, the demands of the exclusionary rule and the resulting police training on Fourth Amendment requirements have improved law-enforcement professionalism.

To blame legal protections that enforce Constitutional rights for the complex crime problem in this country ill serves us all. We hope the Administration will focus on meaningful solutions, not dangerous

quick fixes. TALBOT D'ALEMBERTE President, American Bar Association Washington, Sept. 25, 1991

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