

The Hidden Politics of American Criminology*

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I WISH to speak a word today for political integrity. I wish to suggest to you that politics is at the heart of American criminology. I wish to argue that this fact imposes a special duty upon the American criminologist as a citizen and as a human being, a duty to display a degree of intellectual courage and moral leadership rarely asked of other American professionals. And I want to claim that these special demands our society makes of you are not in conflict with your professionalism, but that, on the contrary, they are required by it.

Its subject matter alone makes American criminology a special profession. You have been charged with the understanding and management of our national nightmare. As our dreams have become more and more terrifying of late, so has your profession grown. Unless I have been misinformed, in 1960 there was only one university in the United States that offered a Ph.D. in criminology. You can supply the current figure better than I. We all know where the money behind that expansion came from, and we all know what motivated it. And in subtle yet thoroughgoing ways, that nightmare inevitably informs the deliberations of this very Conference.

This rapid expansion of the criminological profession in recent years is directly related to the traditional American faith in education and intelligence as the proper approaches to solving social problems. When a problem becomes too grave or too confusing, Americans turn to the professional expert—whether doctor, or lawyer, or criminologist—for an explanation and, hopefully, a cure. When it comes to crime, however, genuine relief is not so easy to provide. As a result, the threat to the criminologist's political and intellectual integrity becomes severe. Although he knows that no easy answers exist, he nevertheless hears a constant demand for answers that is almost hysterical in its intensity. It is as if the public expects this profession to prescribe some magic pill that will make crime go away. The conscientious crim-

inologist living off the public's money is thus placed under enormous pressure to serve up one placebo or another to satisfy the anxious people who pay his bills.

The consequences of this pressure on the criminological professional are only too obvious. It is in the very nature of a placebo, of course, to heal by comforting if at all. And that, I am afraid, is what so much of the recent discussion in criminological circles about sentencing convicted criminals amounts to.¹ To be sure it promises a modest—very modest, I might point out—improvement in actual crime rates.² But its more important function, I am convinced, is to assure anxious people, including the criminologists themselves, that at least something is being done. The rub, of course, is that while the public's anxiety is soothed, its true sources are not confronted.

The true source of the public's anxiety is not, I believe, the problem of crime as such. People are afraid instead about their personal safety. It is not white collar crime which causes us to lock our doors so firmly at night. It is not organized crime, which corrupts our politics and business life, that causes us to lock them either. Locking our doors against crimes of passion is, of course, like locking the fox *inside* the chicken coop. What makes us fear for our safety are the random muggings and burglaries, the assaults on our sense of security and repose committed by people we don't know, for reasons we cannot fathom, let alone understand.

I wish I could quote with assurance here President Roosevelt's observation that the only thing to fear is fear itself. Certainly studies do exist which show that concern with crime as a social problem is highest in those parts of the society where its actual incidence is low.³ But vague reas-

¹ See M. Frankel, *Criminal Sentences* (1972); W. Gaylin, *Partial Justice* (1974); E. Van den Haag, *Punishing Criminals* (1975); J.Q. Wilson, *Thinking About Crime* (1975); A. Von Hirsch, *Doing Justice* (1976); Twentieth Century Fund Task Force on Criminal Sentencing, *Fair and Certain Punishment* (1976). The most concrete result of this academic concern may be found, of course in the new federal criminal code, S.1437, which abolishes the Parole Commission and abandons any pretext of adhering to the rehabilitation model.

² See A. Von Hirsch, *supra* note 1, at 37-44, 136; National Research Council, *Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates* 3-10 (1978) (A. Blumstein, J. Cohen, D. Nagin, eds.).

³ See F. Furstenberg, "Public Reaction to Crime in the Streets," 40 *American Scholar* 601 (1971).

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surances will not do, either practically or morally. The middle class which is concerned cannot be talked out of its fear. Poor people, who are more often victimized, cannot be abandoned to their victimization just because social science studies indicate that they have superficially adapted to it.

As I see you carrying the burden of an entire society's deepest fears, I must confess that yours is not a position that I envy. It is not surprising if you should falter occasionally under such a heavy load. As a judge my job is only to tidy up the human and social wreckage that happens to end up in a courtroom. I am hired to act under the specific instructions of law and precedent. But while I am only a mere sanitationman, you criminologists are social planners, responsible for understanding the entire social system. In your imagination and in your work, you are free to roam everywhere within the boundaries set by your own political and intellectual integrity. Still, even a mere street sweeper like myself has his own particular perspective to contribute, and I am as concerned about my safety as the next man. As a street sweeper and as a private citizen both, I tell you frankly that it scares me to see so many social planners down here in the gutter beside me just pushing brooms.

What I want to know today is: Who is minding the store? Who is maintaining the total social vision necessary for systematic thinking? I know that I am not alone in asking. In fact, practically the only idea I share with James Q. Wilson is a suspicion that all is not well in professional criminology.⁴ And I must say that Wilson's description of the tensions between the active and the academic life—between in Wilson's terminology "policy analysis" and "what is interesting"⁵—strikes me as insightful. His almost casual willingness to sacrifice deep intellectual curiosity to political expediency strikes me of course as counterproductive and shortsighted.⁶ Nonetheless his comments do draw our attention to an important problem. It is a problem which confronts all the American professions, but which faces the criminologists with particular poignancy. That is the problem of the proper relationship between study and action.

As a Judge, my social function is to provide judgments. I can only act when parties come before the court, and I am paid to study only insofar

as it will inform my judgments. My thinking is therefore largely bounded by the specific occasions of my action. As criminologists, however, your social function is to think, to think as broadly and as deeply as you can, unbounded by the specific occasions which hem me in. Or at least such is the theory. In fact, the potential for distortion and distraction is tremendous. Tenure committees breathe down your necks. Funding organizations have their own ideas about what you should study. Scholarly publications can determine what you write about and even what you say.

The essence of the criminologists' dilemma, it seems to me, was recently captured in a poem by the Soviet emigré poet Joseph Brodsky. America, Brodsky said, is "the republic of ends and means that counts each deed."⁷ In other words, in America a person only amounts to what he or she makes happen. There is too narrow a focus on what can immediately be done. And accompanying this in our culture—as the Russian Brodsky implies—is too emphatic a stress on measurement.

For American social scientists generally, this takes the form of a virtual obsession with numbers and other indices of "results" and "effectiveness." It sometimes causes them to miss the forest for the trees. Let me illustrate with an example recently noted by Harvard's Dr. Julius Richmond, Assistant Secretary of Health, Education and Welfare for Health as well as the Surgeon General of the Public Health Service. During the Nixon administration a prominent member of the White House staff working for the President's Domestic Council called several developmental scientists and asked whether there was any absolute proof that under-nutrition caused mental retardation in the developing child. Apparently some measurement-minded scientists were willing to be quoted to the effect that there was no such absolute proof. These handy statements—stamped with the "scientific" seal of approval—then were used to justify reducing funds for the food stamp and school lunch programs. Luckily for the kids, at the last moment a few experts capable of looking beneath the proven "results" to the human reality of the situation were found. They informed the White House of the startling fact that—retardation aside—hunger just isn't really good for children.

For the American criminologist in particular, as the social scientist most obviously working in the public spotlight, the pressure for "results" is especially onerous. Two ways of responding to such pressure are immediately apparent. The first

⁴ See J.Q. Wilson, *supra* note 1 at 47-70.

⁵ *Id.* at 49-64.

⁶ *Id.*

⁷ J. Brodsky, "Elegy: For Robert Lowell," *The New Yorker*, October 31, 1977 at 38.

is to get "results," whatever the cost. The monstrous statistical frauds involved in the Nixon administration's "war on drugs," are vividly described in Edward Jay Epstein's new book *Agency of Fear*.⁸ These frauds are only the most egregious manifestations of a phenomenon which our national bodycount mentality produces constantly, even if less conspicuously. The second response to this pressure is less obvious, but ultimately more significant. There is the disturbing tendency to design research not on the basis of fundamental or socially important questions, but on the basis of the mere fact that it can produce "results," however trivial. Research thus ceases to be an instrument of human understanding, and becomes instead merely an engine for the creation of results about which no one cares, and which illuminate nothing.

Bad as it is, however, the conscious or subconscious manufacture of results may be less grave than the consequences of trying to account for their acknowledged absence. Faced with the statistical indication that "rehabilitation" as it is practiced in our overcrowded and understaffed Bastilles has not worked, or that people inclined to commit crimes can make crime pay no matter how many patrolmen we put on the street, the criminologist develops an understandable feeling of frustration. But less understandable is the tendency to give into public hysteria by adopting fundamentally irrational positions in the name of being "tough-minded." Even scholars like Wilson and Van den Haag acknowledge that their ostentatious advocacy of "tough-mindedness" will do little to eliminate crime.⁹

It seems to me that there is only one defense to being buffeted by Brodsky's "republic of ends and means," and that is always to have clearly in mind the larger social and intellectual purposes underlying one's research. This is something the criminologist owes to himself as a professional in the most disciplined possible sense. It is something he owes to his intelligence.

Now I am sure you are thinking that all of this is a little much to be coming from a self-proclaimed "humble street sweeper." But none of you would ever dream of running—and you would certainly not get funding for—a research project whose overall objective you did not at least outline in advance. You would literally not know what you were doing. And as you went along on any

project that you did manage to get funded, you would make a series of methodological choices depending on what means would best accomplish your research end. Not that you could afford to be inflexible about your research goal, naturally. It might have to be adjusted if it were to turn out to be completely wrong, or beyond the scope of the data base. Indeed, holding means and ends open for such constant reciprocal readjustment is what proper social science methodology is all about.

Now my point is that the research of every criminologist must in some measure partake of the overall social and intellectual purposes of criminology as a discipline. The profession of criminology is the context within which your research acquires significance. It provides, so to speak, the stage on which your research is enacted. Therefore it seems to me that your work as individuals must draw for its meaning upon the social concerns that animate the profession of American criminology as a whole.

What exactly are these concerns that lie at the heart of criminology? As classically defined by Sutherland and Cressey, they are the making of laws, the breaking of laws, and society's reaction to the breaking of laws.¹⁰ Notice the difference between concerns like these and the concerns of, say, a doctor who treats a child for lead-paint poisoning. The doctor's concern is to save the child's life and make it well. It transcends his particular professional competence—though not of course his human obligation—to speak about the social system which permits such paint to peel and flake into the cribs of infants. The criminologist, on the other hand, must direct his professional expertise precisely at the social system which causes the disorder he is hired to heal. It is the social system itself that is his patient.

A criminologist must thus understand crime in its full social context. The difficulty is that he might be tempted to view society the way a scientist views a biochemical reaction, as a series of intrinsically amoral events. This would be a mistake, however. Society is inhabited by human beings, and its problems are therefore human problems. Crime cannot be understood merely as a class of statistical events. This was pointed out recently by someone you might think I'd disagree with. When Mayor Rizzo of Philadelphia was asked whether the streets in his city were safe, he replied that yes, the streets of Philadelphia

⁸ J. Epstein, *Agency of Fear* (1977).

⁹ See note 1 *supra*.

¹⁰ E.H. Sutherland and D.R. Cressey, *Criminology* 3 (8th ed. 1970).

were safe. The problem was that the *people* weren't.

To understand the problem of crime in any but human terms is to hide from it. The temptation and the opportunity for the criminologist to hide are both very great. The research methodology upon which he depends for his needed "results" is designed to "understand" crime in only a limited and special sense. It is designed to produce the kind of knowledge capable of predicting and controlling human action. I don't want to underestimate the importance of this kind of knowledge. We need the power to control crime if we are to survive as a society. But such power is acquired at the price of transforming crime into a measurable phenomenon, bereft of human meaning. The thoughtful criminologist, however, will remember that just as criminology is addressed to human problems so must his individual research speak to human concerns.

I am reminded today of an observation made by Henry David Thoreau. Thoreau was nobody's fool, as you know, and he recognized the truth of the old saw which says that knowledge is power. But hearing that some well-intentioned soul had started a Society for the Diffusion of Useful Knowledge, Thoreau remarked that there was "an equal need for a Society for the Diffusion of Useful Ignorance." Ignorance, he said, is "a knowledge useful in a higher sense."¹¹ He meant a human sense, because he knew that misplaced sophistication can cloud our vision of simple truths. Ignorance, however, can not only restore our perception of the obvious, it can refresh the sources of our feelings as well. In my ignorance this morning I wish to remind you that crime, the kind of crime that accounts for the recent burgeoning of this profession, is a human problem linked to savage deprivation. That kind of crime is connected to a constellation of deprivations so hideous that we can scarcely bear to look it in the face. It is a Medusa that would turn our hearts to stone. Street crime comes out of wretched poverty, broken families, malnutrition, mental and physical illness, mental retardation, racial discrimination, lack of opportunity. Street crime springs from the anger and resentment of those who have been twisted by a culture of grinding oppression. In my ignorance, I want to remind you today that street crime must be understood in this fundamentally moral and political sense.

¹¹ H.D. Thoreau, "Walking," in *The Portable Thoreau* 592, 622 (G. Bode, ed. 1964).

¹² *The Autobiography of Malcolm X* 36 (1964).

¹³ E.J. Hobsbawm, *Primitive Rebels* (1965).

Now I have undoubtedly just gone skating out on some stretch of methodologically thin ice or other. Someone will say that this or that link has not yet been made. Perhaps. But I remember a few years back returning to Washington in September and reading in the papers that there had been an extraordinary number of robberies in August. I was baffled, and asked my friend, the head of the D.C. Police robbery unit, what his speculations were. "I don't have to speculate," he said, "I know. It's very simple. August was a very wet month. When it rains, the trucks which take people to their day-labor jobs just don't come. If you're living hand-to-mouth, it doesn't take more than a few days' worth of waiting on a street-corner for a truck to begin to think about other ways of trying to get some money." I asked him if it was really as simple as all that, and he replied, "They've got to eat, don't they?"

Simple unemployment, of course, is only one of many factors that go into making people feel like breaking the law. Unemployment and poverty have lots of help. And the helpers are even uglier, if that is possible, and even more intractable than poverty itself. It made me deeply sad recently to read the story of one bright young black man in Lansing, Michigan. When his English teacher asked him what he wanted to be, he answered, "An attorney." The teacher told him in no uncertain terms that this might not be the best idea. "You've got to be realistic," the teacher said, "you've got to be realistic about being a nigger." "A lawyer," he said, "that's no realistic goal for a nigger." The lesson was and still is correct, however deplorable the teacher's vocabulary may have been. It is hardly surprising that the student, thus rebuffed in word and fact by white people's racism, should have felt embittered. It is hardly surprising that some years later, finding himself in prison, he decided to exchange the name by which people called him "nigger" for the self-given name of Malcolm X.¹²

While the rest of the people who fill our jails may lack the burning eloquence of a Malcolm X, that is no reason why we should be so deaf to what they are trying to tell us. No one would condone their violent, misdirected expression, but surely no one who has taken the time to listen will deny that the British historian Eric J. Hobsbawm was on the right track some years ago when he identified much of criminal behavior as a kind of primitive social rebellion.¹³

I certainly don't mean to imply that the crimi-

nologist is alone in his deafness. He is surrounded by a public that also does not listen. It is easier to raise a hue and cry for results than to acknowledge the anguish of the potential criminal. It is more comfortable to abstract or reify crime than to stare into its human face. It is easier to live with the existence of something as terrible as crime if one denies that it is committed by people like you and me.

The public has developed many means of distancing itself from the human reality of crime. Most recently, for example, I have noticed the media's discovery of something it likes to call the "American underclass."¹⁴ This new "underclass" notion fundamentally dehumanizes the people who commit crimes in the eyes of those who don't. It paves the way for the triumph of the ideas of Wilson and Van den Haag and Von Hirsch.¹⁵ If wild animals were loose in the city, who could oppose catching them and locking them up? Who, for that matter, would oppose just lining them up and shooting them?

I am sure you know the vision I am talking about when I mention the "underclass." It is a vision which emphasizes with alarm the development of a hopelessly isolated subculture of poverty in the United States. The vision portrayed is of a segment of our society so cut off from the "republic of ends and means"—so destitute of any means at all, whether educational, or spiritual, or financial—that it is virtually a separate society unto itself. The portrait painted is of a truly Hobbesian universe, a constant war of all against all and each against the other. The image we receive, to put it bluntly, is of the American racial melting-pot gone berserk. Instead of creating homogeneity, or of inspiring a pluralistic spirit of tolerance for diversity, the chaotic life-experience of the so-called underclass is said to create a vicious swarm of desensitized beasts who simply appear to be men and women. And the only intersection of the underclass with the middle class is crime. It is no accident at all that *Time* decided to feature the underclass on its cover just a few short weeks after the New York City blackout. New social science studies were not the reason for the underclass' sudden discovery. Looting was.

However suspect the suddenness of its discovery may make it, the idea of an American "underclass" is not all sheer folly, to be sure. Considered

sympathetically, the "underclass" phenomenon represents something like the "other America" we discovered in the sixties.¹⁶ If its discoverers are less benevolently inclined, their updating of our data at least is welcome. Underclass, other America, or whatever—it does not hurt to be reminded that the American dream of equal opportunity—so recently raised by the *Bakke* case in the Supreme Court—just does not work for everyone. Accidents of birth, of class, and of race impede its simple operation at every turn. If the underclass notion provides a scheme for thinking repressively about crime, it provides a basis for more constructive thought as well. It tells us with statistical conclusiveness what our naked eye examination also shows. Our society is daily building class and racial boundaries which are becoming more and more fixed.

Bad crime reporting, the muckracker Lincoln Steffens noted archly at the beginning of this century, is a good way to sell lots of bad newspapers.¹⁷ Unfortunately, that is what the underclass phenomenon represents at this point. You have the very difficult responsibility of making sure it does not produce lots of bad criminologists too.

That may be more difficult than it appears, for criminologists are tied in subtle and not so subtle ways to public opinion. The public sets a hidden agenda for the profession. For example, much of the recent growth of criminology has been the product of government support. The profession depends in large measure on the politicians who control the nation's purse strings. Whatever psychological blinders the public may put on with respect to crime are thus communicated to the profession—that is, to you. If you doubt this for a second, just consider the case of LEAA.

To me the history of LEAA has always been ironic. The conservative pessimists of the Nixon Administration never tired of pointing out that the supposed "failure" of President Johnson's war on poverty demonstrated that you can't solve social problems, as they put it, "just by throwing money at them." But they went and made an exception for crime. Of course it may be said on behalf of their consistency that they were none too quick to fund all the new prisons the success of their efforts would have entailed.

More seriously and lastingly, though, they managed through their control of the National Institute of Law Enforcement and Criminal Justice to

¹⁴ *Time*, August 29, 1977.

¹⁵ See note 1 *supra*.

¹⁶ M. Harrington, *The Other America* (1962).

¹⁷ *The Autobiography of Lincoln Steffens* (1931).

seriously affect the course of criminology.¹⁸ Politically motivated always, they managed to enlist many of our finest criminologists in their hopeless quest for—or, rather, their utterly cynical gesture toward providing—the total cure for crime they had demagogically promised to the public. And the cure they prescribed was, simply, repression.

Happily, many of the most established and respected criminologists in the Nation managed to resist LEAA's corrosive influence for many years. Our hats should come off to them. But many other, less well established criminologists found the lure of all those suddenly available Federal grants somewhat harder to resist. However unfortunate it may be, this is not surprising, nor even particularly ignoble, considered on an individual basis. For the younger academic, starting out, with perhaps a family to support, life is often a case of "any grant in a storm." At the level of the profession as a whole, however, it is an entirely different matter. The lack of a clearly articulated professional social program—or at least a reasonably coherent social outlook—is what made this catastrophic complicity in demagoguery possible. It has left an entire discipline, and with it a profession, disastrously skewed and twisted, looking toward the shifting winds of politics rather than the guideposts of reason to provide its sense of direction.

This is the time, and this meeting quite possibly the occasion, to begin to set things aright. I have already suggested to you that politics influences criminology. Now it appears to me that politics can only be countered by politics. And I would not flinch from stating the obvious implication: that the criminologist's responsibility as a professional is inseparable from his duty as a citizen. As Thomas Jefferson put it 200 years ago, "if we think [the people] not enlightened enough to exercise their control with a wholesome discretion, the remedy . . . is to inform their discretion."¹⁹ In order properly to go about his particular business, the criminologist, more than any other social scientist, *needs* an informed public. It is your responsibility—and in your professional self-interest—to create that public.

There are, certainly, enough public issues with which criminologists are involved. There are ques-

tions of gun control, of victim compensation, and of criminal sentencing. Surely the drastic reorganization of LEAA is long overdue, and maybe there is a need for some sort of comprehensive new bureau of crime statistics as well. Federal crime research and perhaps even the Bureau of Prisons should be removed from the Justice Department. But these issues are not political in the fundamental sense in which I mean to use that term. The public needs to be educated not about "issues," but about the nature of crime itself. In my opinion there is only one genuine way to understand crime, and causation is its name. Everything else is window dressing.

Already there is a hopeful sign that things are about to change, however, and it is something around which this profession might rally. Appropriately entitled "Our Turn to Listen," a new white paper by New York City's Vocational Foundation, Inc. has recently come out to put the "underclass" question in its proper perspective.²⁰ It speaks of the life experience of crime-prone Americans not as though they are alien beasts, but as the simple human beings they really are. It does not falsely romanticize them either. The reason is that it simply lets them explain in their own words the unimaginable horrors and insults that drive them to crime.

The first-hand testimony of these would-be workers devastates both conventional liberal and conventional conservative approaches to crime. "Our Turn to Listen" shows both that irreversible bitterness on the part of some individuals now exists, and that their bitterness was not always so irreversible. By thus raising new possibilities for both action and research, "Our Turn to Listen" provides a methodological as well as a political model. It shows with crystal clarity that the two can never sensibly be divorced.

At the beginning of this talk, I said I would try to speak a word for political integrity. At the heart of that integrity must be a sense of fundamental decency, a recognition that all of us are equal as citizens and as human beings. The final word in criminology—what the self-consciously "tough-minded" like to call the "bottom line"—is therefore the word "justice." Plainly I have here outlined a rather massive plan for professional, not to mention national, reform. But that program, and the political integrity and intellectual courage which must go into making it become real—all of these are only means. Justice—"simple justice" as the former governor of this state likes

¹⁸ National Research Council, *Understanding Crime: An Evaluation of the National Institute of Law Enforcement and Criminal Justice* 3-8 (1977) (S. White and S. Krislov eds.).

¹⁹ Letter from T. Jefferson to W.C. Jarvis (Sept. 28, 1820), reprinted in 7 *The Writings of Thomas Jefferson*, 177, 179 (H.A. Washington ed. 1855).

²⁰ Vocational Foundation, Inc., *Our Turn to Listen* (1977).

to call it—justice itself must be the one and only end.

Politicians may tell us that life is unfair. So it is. But resting on that recognition does not square with the imperative of "simple justice." Life's unfairness should generate action, not fatalism. It is a starting place and not an end. It must not reduce our desire for justice to mere wishful thinking. And it must not permit mere lip service to take the place of serious reform. Our President may complain that reformers are never satisfied: "If they get 95 percent of what they want, they can only remember the other 5 percent." To that I answer with a question. "Why not the best?"

The road to repression is paved with just such resignation. Only 10 years ago repressive measures against crime were being justified as necessary and temporary expedients while the more intractable problems of social justice were slowly being worked through. Now we hear nothing about the issues of social justice: We hear only about the repressive measures necessary to maintain control. These measures are no longer seen as temporary expedients, but as ends in themselves. We are left, that is, with repression alone.

But repression alone will only make things worse. Repression corrupts the repressor. Dehumanizing others, dehumanizes us. And repression applied alone will not even achieve its own very

limited goals. Applying repression without simultaneously working to eliminate the causes of crime begins a vicious circle. Once you begin, you will never be able to stop turning the screw. Far from solving it, repression applied alone will just create more crime. It will transform that primitive rebellion Hobsbawm talks about into something more overt, more self-conscious, more deadly.

The imperative of justice is inseparable from the central project of criminology as a whole: the human understanding of crime. Crime, humanly understood, is the problem of social justice. And it saddens me deeply to see criminologists lose sight of that fact in their scramble for public funding, or obscure it in their rush for publishable research results, or hide from it behind their "value-free" methodology. I put it to you today that the profession of criminology is intrinsically, unavoidably, dramatically political. You have a choice: You can either face that fact responsibly as citizens, or you can become the faceless, technically proficient handmaidens of injustice.

This choice is extraordinarily difficult. I know that your careers and even your livelihoods are at stake. Since I am fortunate enough to have life tenure, I cannot rightfully say what I would do if placed in your dilemma. You have, however, my understanding and my respect.

END