

Could This Tough-on-Crime Guy Be Our Next Governor?



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**BY NEIL SWIDEY**

**PLUS Actor Chris Cooper's Naked Truth ■ Kindergarten for Puppies ■ Reefer Madness**

# contents



36

US ATTORNEY MICHAEL J. SULLIVAN seems poised to follow the path of another once-prominent Massachusetts Republican, William F. Weld.

## features

### 28 Would You Pay a Million Dollars for This House?

The harsh realities of our housing market are that a million-dollar home could be a small Cape and job offers are being rejected because nobody can afford to live here.

BY NEIL SWIDEY

COVER PHOTOGRAPH BY SAM GRAY

### 34 NASCAR Dad

How George Pyne, a Yankee with a football pedigree, became the chief operating officer of the Dixie-leaning auto-racing organization.

BY MARK POTHIER

### 36 Our Next Governor?

US Attorney Michael J. Sullivan is tough on criminals, especially when it comes to seeking the death penalty. He's also a nice guy. Could he be the next governor? BY ELAINE MCARDLE

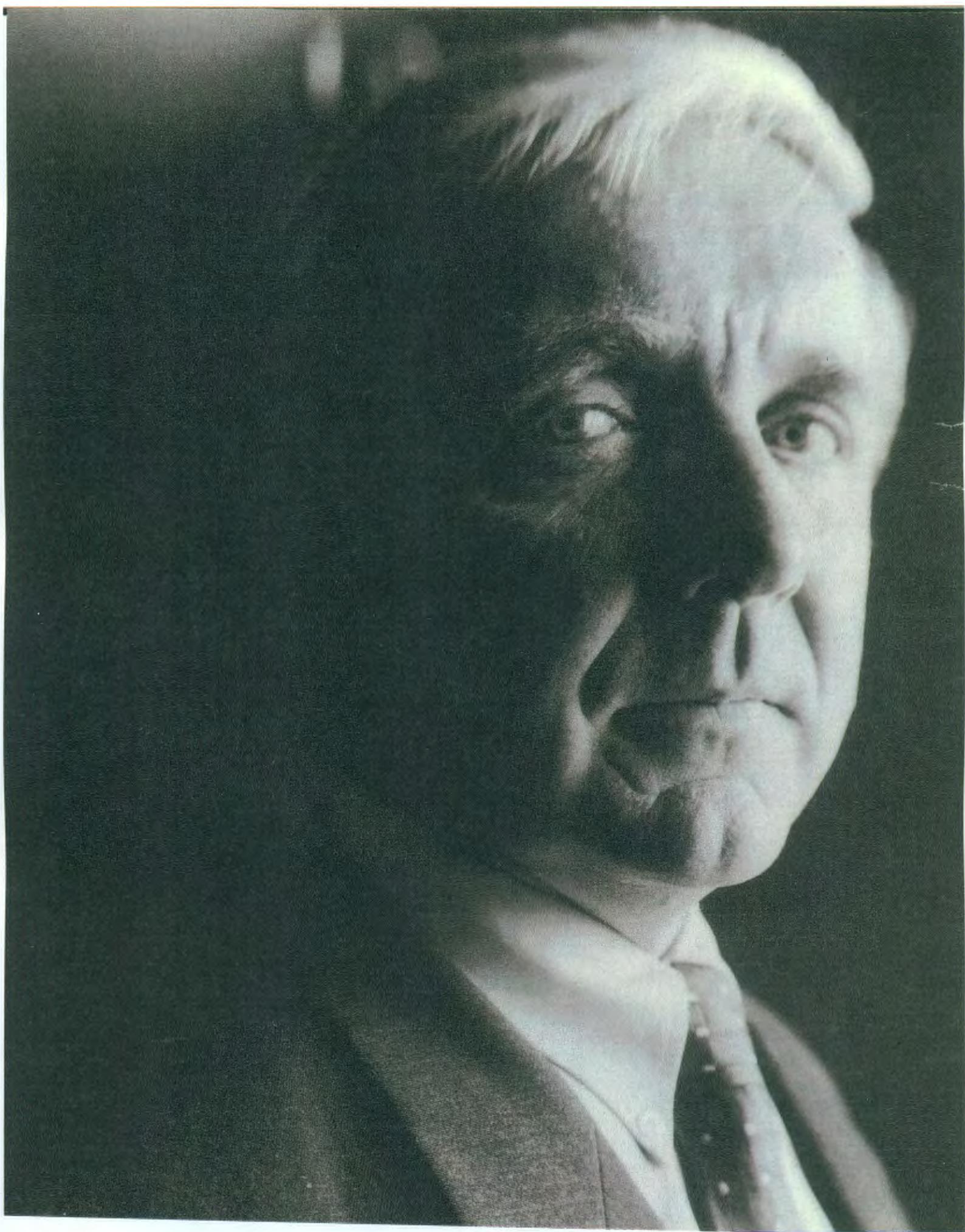
## 6 Letters

## boston in common

- 9 SCENE Where Bookworms Dig
- 10 THE GETAWAY Annapolis, Maryland
- 10 THE CLOTHES WE WEAR The White Stuff
- 12 JUST A TASTE Food and Drink Matchups
- 13 MISS CONDUCT Reforming Boors
- 14 TALES FROM THE CITY Divine Intersection
- 15 5 THINGS YOU DON'T KNOW ABOUT Chris Cooper
- 16 IN THE CLASSROOM Puppy Kindergarten
- 17 THERE'S AN IDEA We Need a Carousel
- 18 TWO VOICES Reefer Madness

## inspirations

- 61 The Find A Maine Event
- 62 Design Pool-House Rock
- 66 Cooking Child's Play
- 68 The Globe Puzzle /// 69 Dave Barry
- 70 Cityscapes Houdini on the Charles



# No Mercy From Mr. Nice Guy

US Attorney **Michael J. Sullivan** is unapologetically tough on criminals, especially when it comes to sentencing, which has his critics wondering why he seems worried more about the small fry than the kingpins. But even his political enemies agree he is disarmingly nice. Could this Mr. Nice Guy, who wants to slam as many prison doors shut as he can and throw away the key, be the state's next Republican governor?

By Elaine McArdle /// Photograph by Mark Ostow

# Before dawn

on a February day in 2002, a young woman eight months into a high-risk pregnancy was startled from sleep by a loud rush of federal officers bursting into her Somerville apartment. Hands cuffed and legs shackled, a steel chain wrapped around her swollen belly, she was led into the dark air for a ride to jail, where she was locked up for eight days, missing prenatal medical appointments to monitor her baby's low weight.

A native of Honduras, in the United States legally on protected status, Heidi Fortin had been dismissed five months earlier from her job cleaning airplane cabins at Logan Airport when it was discovered that she had used a fake Social Security number on her job application. Now she stood charged with three federal felonies that before the terrorist attacks of 9/11 were typically punished by a fine. Eighteen other Logan workers were arrested in the campaign, including a 23-year-old Tanzanian man, studying at a community college in Houston, who'd left Massachusetts more than a year earlier – well before 9/11 – and had worked at the airport for just four weeks.

All of the “Logan 19” held menial jobs, and many, like Fortin, were immigrants who had permission to work in the United States and were here legally from places such as Honduras, El Salvador, and Haiti. None had prior criminal records. All used phony Social Security numbers or alien registration cards, but none had the slightest connection to terrorism, the government was quick to note. Still, they'd broken the law and would be punished – part of Operation Tarmac, a national effort by US Attorney General John Ashcroft to tighten airport security.

In Boston, outraged civil libertarians and immigrants' advocates accused the Bush administration of scapegoating the poor and powerless. If the government truly was committed to airport safety, they asked, why didn't it target the cleaning companies and security firms that hired the workers without properly vetting their credentials or purposely ignored the gaps to fill their workforce at \$8 an hour? (The job applications were in English; most of the defendants don't speak the language.) So controversial was Operation Tarmac that in other parts of the country, some US attorneys dropped or reduced the charges.

The Logan 19 weren't so lucky. Although some of the charges were reduced, Michael J. Sullivan, the US attorney for Massachusetts who'd been appointed by President George W. Bush, vigorously prosecuted every case, and 18 of the workers have been convicted (the final case is pending). While their sentences weren't severe – probation or “time served” in prison awaiting arraignment – the consequences of their criminal records are dramatic. Five have been ordered deported, 12 others face deportation, and one left the country voluntarily. Only Fortin, whose son was born here and who pleaded guilty to a misdemeanor, was allowed to remain.

“They weren't innocent people,” says Sullivan, the former Plymouth County district attorney who in 2000 briefly considered a race against US Senator Edward M. Kennedy and whose longtime allies include White House chief of staff Andrew H. Card Jr. “Lying on applications for employment, especially in access to the most secure areas of an airport, is something in which the federal government should have a significant interest. They violated a federal statute. There should be consequences.”

For those accustomed to the more lenient styles of Sullivan's predecessors, the Logan prosecutions served as the opening salvo in how the post-9/11 ideological wars would be fought on the criminal justice front. It's a front marked by other politically charged battles: federalization of the death penalty and street crime; a strict policy against plea bargaining; rigid enforcement of the controversial federal sentencing guidelines; reliance on the USA PATRIOT Act. At the center of the battlefield stands Sullivan, whose policies are such a break from tradition that he's drawn an unusually hostile reaction from defense lawyers and even federal judges.

“I like Michael Sullivan very much, but he's no prosecutor. He's a purist,” says a seasoned defense lawyer who, like others, declined to speak on the record for fear of consequences to his clients. “He believes in taking every case and essentially getting the highest reasonable sentence, with no attempt to plea-bargain. And if he loses the case, that's fine. No other prosecutor except his boss, Ashcroft, works that way.”

Sullivan, despite being well liked by his peers and adversaries, has quietly entrenched himself as the most extreme US attorney in Massachusetts in recent memory, an ideological soul mate to hard-liners Ashcroft and Bush.

And as a Republican in the state's top law enforcement role, Sullivan stands in prime position to run someday for attorney general or even governor, like William F. Weld before him. But unlike Weld, he's kept such a low profile – he sees press conferences as “self-serving” – that few outside the court system know his name. Asked whether he might consider running for governor, Sullivan says he's too busy to think about his next job, and he expects to stay where he is because he believes Bush will be reelected. But, he admits, he would like to seek elective office again, and his wife says he'd make a great governor. His prospects look promising, insiders say, because, so far, the worst dig against him can be reduced to a sound bite – “Too tough on crime!” – that many voters would embrace.

**W**hen Sullivan took office just one week after 9/11, before the smoke had even cleared from the Manhattan skyline, the nation was reeling, and those at the US attorney's office had no idea what to expect from their new boss with the law-and-order reputation. A few weeks later, the FBI called a meeting

with families of local victims of the terrorist attacks, and emotions ran high. People began shouting, and a fight nearly broke out — until Sullivan stepped in. He calmed the families and let them vent; he was soft-spoken and empathetic. His staff was surprised — and impressed.

Here is what grates Sullivan's critics: While they dislike his politics, they admit he's just about the nicest guy you'll ever meet.

No angry moralist or religious zealot (he's Catholic and attends weekly Mass), Sullivan belies the stereotype of a self-righteous conservative. Those expecting a snarling Rush Limbaugh with a federal badge instead find themselves face to face with Beaver Cleaver's dad.

At 49, Sullivan seems a lot less like a baby boomer than a Reaganite optimist imbued with a 1950s-era sensibility. Ever smoke pot? He laughs. No, just not interested. His first beer? Not until he was in college. "He was always on the straight and narrow," says John J. Fleming, a close friend since their days at Boston College High School.

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As down-to-earth as his blue-collar roots in Holbrook, where he became a lifelong ally of Card, Sullivan grew up in a family of seven children and was married by age 20. He dropped out of college to work as a stock clerk at the Gillette Co., then worked his way up the executive ladder while earning his degrees with honors from Boston College and

Sullivan "believes in taking every case and essentially getting the highest reasonable sentence, with no attempt to plea-bargain," says one defense lawyer. "If he loses, that's fine."

Suffolk Law School, where he scored the highest grade in his class on criminal law. His hero is his father, a telephone company employee; he spends his spare time with his wife and four kids; he races home at night to play ball with his youngest. His favorite book is *Huckleberry Finn* and favorite song, "American Pie," although not really, he says, because the lyrics are "a little depressing, and I remain the eternal optimist."

A popular three-term state representative from Abington, Sullivan first took office in 1990 in a wave of young Republicans touting an antitax platform. Five years later, Weld

appointed him as Plymouth County district attorney after the unexpected death of long-time district attorney William C. O'Malley. Sullivan was such a success that O'Malley's widow crossed party lines to endorse his election a year later.

"He's what you call a regular guy," says Paul Cellucci, former governor of Massachusetts,

who, along with Card, urged President Bush to appoint Sullivan to the federal post. "You like to sit down and have a beer with him, talk about politics, talk about the Red Sox. He's just an all-around good person."

A decade ago, Kevin Reddington, a criminal defense attorney in Brockton, represented a police officer charged in a truck-hijacking ring. Sullivan, then a state representative, agreed to testify as a character witness. A few months later, Sullivan was appointed as district attorney, and Reddington offered to take him off the witness list. Sullivan stopped him.

"He said, 'Kevin, I told you I think he's a



**MICHAEL SULLIVAN** has been criticized for seeking the harshest penalties in virtually every case, and he vigorously prosecuted Logan Airport worker Heidi Fortin (left). Above: Alleged gang member Brima Wurie, who could face the death penalty.

## US Attorney Sullivan

CONTINUED FROM PAGE 39

good man and I'd testify. The fact it might not be a politically good move on my part isn't going to change that," Reddington recalls. "The fact he was willing to do that, I thought, was great. His attitude was, 'I said I'd do it, and I'm not going to change because I'm the DA.'"

Reddington smiles wryly. "On the other side, when he became US attorney, I thought, 'This is great, because I know him.' Put it this way – he has not been more lenient."

No one has fought harder against Sullivan's office than Owen S. Walker, federal public defender for Massachusetts, who represented terrorist Richard Reid, the "shoe bomber," who in December 2001 tried to blow up a trans-Atlantic airliner with 197 passengers aboard. The world saw Reid as evil, and defending him was a thankless task. So when Walker opened his mail a few days after Reid's January 2003 sentencing – he will serve life in prison, no parole – he was stunned to find a handwritten note, commending him for a job well done, from the person he least expected: Michael Sullivan.

"I was very surprised," says Walker, who in all his years as a public defender had never gotten a thank-you note from a prosecutor. "For Michael

to write a note to me, who could help him in no way whatsoever, was what was so moving about it. It was more than just a friendly gesture. It was Old World gentlemanly."

He sighs and picks his next words with care. "Under other circumstances," Walker says, in a sad tone, "I would love the man."

**AS THE TOP FEDERAL PROSECUTOR** for the district of Massachusetts, charged with enforcing laws against everything from terrorism to organized crime, Sullivan has a potent arsenal at his disposal, including the FBI, the Drug Enforcement Administration, and the USA PATRIOT Act. He leads a highly respected group of 100 lawyers in three offices – Boston, Worcester, and Springfield – including five in a terrorism unit created after 9/11. With wide overlap between federal and state laws, he must choose which crimes to target and which to leave to local law enforcement. With its vast resources, the federal government traditionally has focused on major drug dealers, international criminals, and powerful corporations. That's why Sullivan's attention to street-level crime is frustrating to his critics.

US District Judge Mark L. Wolf, a former federal prosecutor, has loudly condemned Sullivan for federalizing drug and gun cases that state prosecutors can easily handle. Sullivan's prede-

cessor in the 1990s, Donald K. Stern, also targeted street crime, but over the past two years, the number of gun cases in the office has leapt from 33 a year to almost 70. "I don't know if Judge Wolf thinks we're doing 70 too many or 30 too many or one too many," Sullivan says, "but I know 70 is not too many."

This federalization of street crime, like the Logan 19 prosecutions, marks a yawning political divide. On one side stands Sullivan, who sees the world through a stark Manichean framework of right and wrong. His job is simple: to enforce the federal laws as enacted by Congress. Not to interpret them, not to waffle. The sentencing guidelines couldn't be clearer, and they shouldn't be muddled by cries of leniency or unfairness.

On the other side stand the defense bar and some federal judges, who say Sullivan's approach – in line with Bush's conservative agenda – means 2.1 million Americans in prison today with no real impact on the scourges of drugs and violent crime.

"The US attorney's policies are misguided and are not improving security or reducing crime," says Catherine K. Byrne, a federal public defender who represented several of the Logan 19. "You take one 20-year-old off the street, another 17-year-old will take their place. . . . If the US attorney's real goal was to reduce crime, he should

be prosecuting big distributors and importers of drugs, not these young men selling small quantities and being sentenced to 20 to 30 years in prison."

"So far, I haven't heard from the attorney general or the president telling me that I'm bringing the wrong cases federally, and I certainly haven't heard an outcry from the public," Sullivan says. "In fact, most of the feedback I get from the public is very positive in terms of the decisions we're making."

It's a good thing to use the powerful federal tools against street crime, he adds. "It's the whole theory of the broken window, that if you ignore a broken window, the neighborhood deteriorates over time," he says. "So if you ignore a street-level dealer, crime gets a foothold, and the quality of life is eroded. We saw great results through strict enforcement in communities like Brockton."

Brockton's mayor, John T. Yunis Jr., says federal intervention has made his city safer. "What Michael understands is that when you get low-level criminals off the streets, it really makes a difference," says Yunis. "He's done the community a huge service by allowing my police to get refocused."

**THERE'S ANOTHER ISSUE** that roils Sullivan's critics. They say federal laws are much harsher in practice than either Congress or the American public really intends, and that's the reason why prosecutors exercise

discretion when warranted. For example, the federal sentencing guidelines provide a strict "grid" of sentences based on the type of crime and other factors. (The

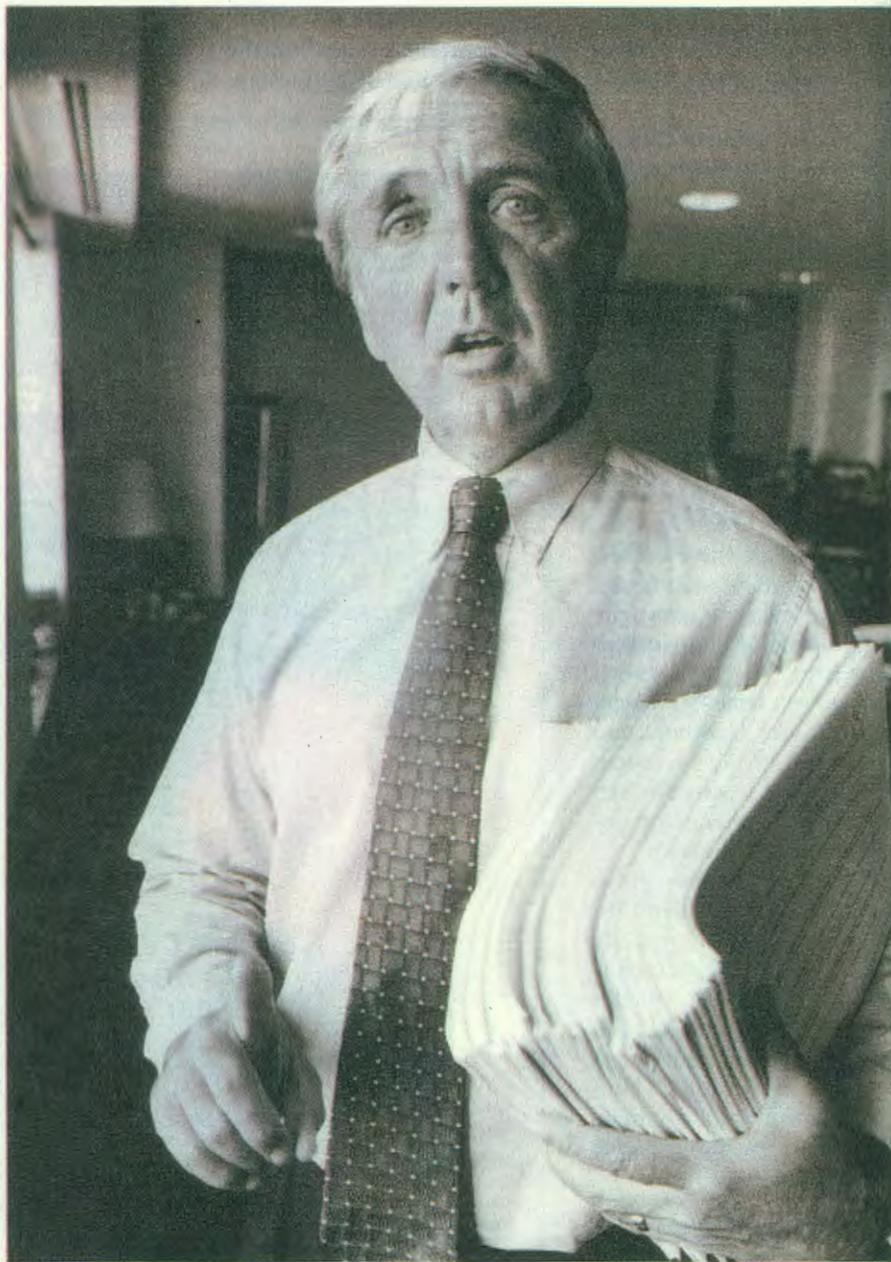
US Supreme Court will soon decide whether the 17-year-old guidelines are unconstitutional.) When the guidelines would result in a sentence too extreme for the

circumstances, prosecutors often reduced the charges.

Sullivan, by contrast, has ordered his assistants to charge all defendants with the most seri-

## US Attorney Sullivan

CONTINUED FROM PAGE 41



**"I agree there should be a component of mercy, but it should be sparing," says Sullivan, who recalls lowering a charge once as DA. "I can't say we did it regularly."**

ous crimes possible and seek the longest sentences as well as certain "enhancements" that can add up to 30 years for drug and gun convictions. It's unfair, he says, to distinguish among cases instead of going strictly by the laws as written.

"Most people will applaud that," says Reddington. "They'll say, 'That's what we want!' Yes, it's what you want — until it's your kid or your father. And then you'll want justice tempered with mercy."

"I agree there should be a component of mercy, but it should be sparing," responds Sullivan, who provides a single example when as DA he reduced a

charge. "I can't say we did it regularly."

Many say the justice system should not be reduced to formulas and that prosecutors must exercise occasional discretion. "Every defendant is an individual, and their lives, their cases, are not black and white," says Byrne.

But Sullivan's opponents aren't being candid, says J. W. Carney Jr., a prominent Boston defense attorney. "If we are really going to be honest, we would admit that we prefer the US attorney not enforce the laws as passed by Congress, including the federal sentencing guidelines," he says. "We want to go back to

the old days when an emotional argument to a sympathetic judge could lead to extraordinary leniency toward our clients. That is no longer the law, and Michael Sullivan cannot be faulted for what the Congress has done."

Sullivan has put a lid on rewarding witnesses for cooperating with the government (the deal with James "Whitey" Bulger hit man John Martorano, who murdered 20 people but may be released from prison by 2006, was cut by the previous US attorney). He opposes labeling defendants as "minor participants," so a low-level drug courier faces the same penalties as the head of a trafficking ring – and has no incentive to rat out his supplier. Sullivan says his predecessors gave deals too freely. If a case against a high-level criminal can be built with information from one defendant, why give immunity to more? "Part of my responsibility," he says, "is building public confidence in the system itself."

Sullivan's refusal to plea-bargain was a policy he carried with him from Plymouth County to the federal office, before Ashcroft issued a national mandate. Plymouth County took an extraordinary 50 percent of cases to trial compared with about 20 percent in other counties. The local federal courts are now seeing a similar explosion – so far in 2004, Sullivan's office has taken about 60 cases to trial compared with 17 in 2001, while nationally, trials have fallen. Obviously, Sullivan is taking the policy seriously. In the past year, defense lawyers scrambling to kill cases before trial have filed more motions to suppress evidence than in the previous 20 years combined, according to a federal judge in Boston.

"Plea bargaining erodes public confidence in the criminal justice system," Sullivan says. "I start from that position. Because the public sees people not being appropriately punished for their crimes. It's traditionally, although not exclusively, been used for purposes of expediency or leniency. There's a role for plea bargaining, but a very limited role." He notes, with some sympathy, that the defense bar must find that frustrating.

But Sullivan's office has lost at least six major trials in the past six months alone, including the expensive three-month trial against workers at TAP Pharmaceutical Products Inc. for allegedly bribing doctors. "At the end of the day, it's not about winning and losing," Sullivan says. "I don't keep a score card." His job, he says, is to get the case before a jury and let it decide.

And then there's the controversy over the federalization of the death penalty. Bush opponents say his administration is misusing federal law to force the death penalty on states that don't want it. According to the Federal Death Penalty Resource Counsel, Ashcroft authorized the death penalty for 93 defendants in his first 19 months in office, including 37 cases in which local US attorneys recommended against it. Seven cases were in states, like Massachusetts, with no death penalty.

In his eight years as US attorney, Stern pursued the death penalty only once. Sullivan has brought three death-penalty cases in less than three years, including two against young alleged gang members from Boston. It's a move that's caused friction with Suffolk County DA Daniel F. Conley, a death-penalty opponent who says it hampers law enforcement, especially in minority communities. Conley recently petitioned Ashcroft not to seek the death penalty against another alleged gang member, 25-year-old Brima Wurie of Dorchester.

**SULLIVAN'S OFFICE** on the ninth floor of the John Joseph Moakley Courthouse in South Boston offers a sweeping

## US Attorney Sullivan

CONTINUED FROM PAGE 43

view of Boston Harbor that he's often too busy to notice. Sullivan offers a visitor a seat and relaxes into an overstuffed chair. Like his wife, Terry, whom he calls his "great influence," Sullivan is so unassuming that he quickly puts people at ease. ("We're just regular people," says Terry, "who are trying to stay grounded, whose priority is our kids.") Sullivan is a people-person who loves talking at schools and community groups, personalizing an office that once seemed distant and intimidating. It's a paradox: a friendlier, more accessible federal government that won't blink at locking you away forever.

The first thing you notice about Sullivan are his eyes, a bright blue that contrasts sharply with his ruddy skin. He's tall, trim, with just a hint of a paunch. His hair is graying, with a patch of white in the front. It's longish, curling over his ears and the nape of his neck, the look of a busy dad who doesn't have time for a trim. (He can't remember the last time he read a book or went to a movie.)

He's easy to talk with, but the spotlight makes him uncomfortable. And so he lapses into a peculiar speech pattern: He talks in the second person. About his childhood and sharing a one-bathroom house with six siblings, he says, "You didn't realize you didn't have everything, because everything you needed, you had." It's a subconscious defense mechanism to deflect attention, because in a working-class Irish family, the cardinal sin is thinking too highly of yourself. "He's always remembered his roots," says Reddington. "He's not a haughty guy."

In one three-hour period, Sullivan gives credit eight times to his assistant prosecutors and others. Regarding his career, he shrugs and smiles. "I think it was luck. It was a matter of coincidence it all worked out the way it did."

He manages to let slide the criticism from lawyers and judges. He's too easygoing to take things personally, his friends say. Last spring, when two federal judges raised the street-crime issue and queried why Sullivan wasn't investigating cases of public corruption, he refused to take the bait and quietly took the hit. And then, on July 12, Sullivan's office announced indictments against a Springfield state representative and members of his family in a racketeering scheme to bilk the city's housing authority out of more than \$1 million.

"That's one of the disadvantages I may have in terms of being able to respond to some of the criticism or con-

cerns raised by people," Sullivan says now. "I can't necessarily talk about the work we're doing except trying to reassure the public we pay close attention to these issues. Public corruption is a tremendous priority for me and this administration, but I can't stand up and say, 'Let me identify the five or eight or 10 investigations we're involved in now.' It would be irresponsible."

As for the Logan 19 prosecutions, the defense bar remains outraged. And Sullivan continues to stand by his decision. These crimes are not victimless, he says, because all of society suffers when people break the law but are allowed to get away with it. It's an issue of fairness.

"There's no evidence they committed crimes beyond those crimes," says Sullivan. "I'm not saying I'm completely unmoved by that, but you have people in foreign countries, with family here, who are obeying the [immigration and work] rules."

He recalls sitting in juvenile court in Brockton when he first became district attorney and seeing the anguish of a hard-working mother whose teenage son was arrested for carrying an automatic gun. It shocked and saddened Sullivan. It was so alien to the way he grew up.

"As challenging as it is, I remain the eternal optimist," he adds. "I think there rarely is a set of circumstances where someone is a complete failure and there really is no hope but punishment and punishment alone."

It seems an odd comment from someone who supports lengthy prison sentences, never mind the death penalty. "I don't see any inconsistency with regard to that," he says. Sullivan pauses. "I can't say this is an easy thing to say, from where I come from," he adds. "I've been around people my whole life who've shown a great deal of compassion to others. It may come across as very cold-natured. I'm not saying I have no compassion for some defendants we see in the criminal justice system. But I also have a great deal of compassion for the victim community and the suffering they've gone through and that the criminal justice system puts them through."

He sighs as he recalls the slaying of a 15-year-old boy in Brockton that remains unsolved, and the three men murdered by Gary Lee Sampson, who was sentenced to death last year.

"That's something that will always be with me, the realization that there are families out there, long after the case is over and the media has finished, that will go on with their day-to-day lives. But every day is an effort for them because of the horrible things another human being has done." **EG**