

Ronald Reagan Presidential Library Digital Library Collections

This is a PDF of a folder from our textual collections.

Collection: Roberts, John G.: Files
Folder Title: JGR/Crime Package (2 of 5)
Box: 15

To see more digitized collections visit:

<https://reaganlibrary.gov/archives/digital-library>

To see all Ronald Reagan Presidential Library inventories visit:

<https://reaganlibrary.gov/document-collection>

Contact a reference archivist at: reagan.library@nara.gov

Citation Guidelines: <https://reaganlibrary.gov/citing>

National Archives Catalogue: <https://catalog.archives.gov/>

Crime Pkg

THE WHITE HOUSE

WASHINGTON

March 15, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*
SUBJECT: Draft Presidential Message
Re: Crime Legislation

Richard Darman has submitted the draft Presidential Message on Crime for final clearance, requesting comments by 6:00 p.m. tonight. The draft is not substantially changed from the version circulated on March 1. The three changes suggested in your memorandum of March 3 (attached) have been adopted, but a line was inadvertently dropped in making the second suggested change. In light of the short deadline, I have called Darman's office and alerted them to this problem. The attached proposed memorandum will confirm that conversation.

Attachment

THE WHITE HOUSE

WASHINGTON

March 15, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Presidential Message
Re: Crime Legislation

Counsel's Office has reviewed the new draft of the above-referenced Presidential Message. In making a change suggested in my memorandum of March 3 on an earlier draft, a line was apparently inadvertently dropped. The last sentence of the third paragraph on page two should read: "It is unfortunate that S. 2572 was not enacted during the last Congress, but I look forward to working with the 98th Congress to secure, at long last, passage of critically needed substantive criminal law reform."

FFF:JGR:aw 3/15/83

cc: FFFielding
✓JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

March 15, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Presidential Message
Re: Crime Legislation

Counsel's Office has reviewed the new draft of the above-referenced Presidential Message. In making a change suggested in my memorandum of March 3 on an earlier draft, a line was apparently inadvertently dropped. The last sentence of the third paragraph on page two should read: "It is unfortunate that S. 2572 was not enacted during the last Congress, but I look forward to working with the 98th Congress to secure, at long last, passage of critically needed substantive criminal law reform."

FFF:JGR:aw 3/15/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

March 3, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Presidential Statement for Trans-
mittal of Omnibus Department of Justice
Criminal Reform Legislative Proposal

Counsel's Office has reviewed the OMB draft Presidential statement for transmittal of the Comprehensive Crime Control Act of 1983, and we offer the following suggested revisions:

1. Page 1, second paragraph, line 5: The President's direction was focused on violent crime at least as much as on drug-related crime. Many of the Administration's initiatives, for example, derived from the work of the Attorney General's Task Force on Violent Crime. We suggest changing "with special emphasis on drug-related crime" to "with special emphasis on violent and drug-related crime."
2. Page 2, last paragraph: We suggest deleting the negative reference to H.R. 3963 as unnecessarily confrontational. Suggested substitute for the last three sentences of this paragraph: "It is unfortunate that S. 2572 was not enacted during the last Congress, but I look forward to working with the 98th Congress to secure, at long last, passage of critically needed substantive criminal law reform."
3. Page 3, bullet on exclusionary rule: Our proposal is incorrectly stated. The concluding words "acted in good faith" should be changed to "acted in reasonable good faith." The proposal is often criticized as rewarding police ignorance, which it would not in fact do because of the reasonableness requirement. It is therefore important to include that requirement in even short-hand descriptions of the proposal.

FFF:JGR:aw 3/3/83

cc: FFFielding
JGRoberts
Subj.
Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
- H - INTERNAL
- I - INCOMING
Date Correspondence Received (YY/MM/DD) _____

Name of Correspondent: Richard G. Durman

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Draft Presidential Message re Crime Legislation

ROUTE TO:	ACTION	DISPOSITION	
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response Code Completion Date YY/MM/DD
<u>CW Holland</u>	ORIGINATOR	<u>83,03,15</u>	_ _ <u> 1 1</u>
<u>CW AT 18</u>	Referral Note: <u>D</u>	<u>83,03,15</u>	<u>S</u> <u>83,03,15</u>
_____	Referral Note: _____	_ _ _	_ _ <u> 1 1</u>
_____	Referral Note: _____	_ _ _	_ _ <u> 1 1</u>
_____	Referral Note: _____	_ _ _	_ _ <u> 1 1</u>

- | | |
|---|---|
| <p>ACTION CODES:</p> <ul style="list-style-type: none"> A - Appropriate Action C - Comment/Recommendation D - Draft Response F - Furnish Fact Sheet to be used as Enclosure I - Info Copy Only/No Action Necessary R - Direct Reply w/Copy S - For Signature X - Interim Reply | <p>DISPOSITION CODES:</p> <ul style="list-style-type: none"> A - Answered B - Non-Special Referral C - Completed S - Suspended |
|---|---|
- FOR OUTGOING CORRESPONDENCE:**
 Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 3/15/83 ACTION/CONCURRENCE/COMMENT DUE BY: 6:00 P.M. TONIGHT

SUBJECT: DRAFT PRESIDENTIAL MESSAGE RE CRIME LEGISLATION

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	GERGEN	<input type="checkbox"/>	<input type="checkbox"/>
MEESE	<input type="checkbox"/>	<input type="checkbox"/>	HARPER	<input type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input type="checkbox"/>	JENKINS	<input type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	ROLLINS	<input type="checkbox"/>	<input type="checkbox"/>
CLARK	<input type="checkbox"/>	<input type="checkbox"/>	WHITTLESEY	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/> P	<input checked="" type="checkbox"/> SS	WILLIAMSON	<input type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	VON DAMM	<input type="checkbox"/>	<input type="checkbox"/>
FELDSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	BRADY/SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
FIELDING →	<input checked="" type="checkbox"/>	<input type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
FULLER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

Attached for final clearance is the draft Presidential Message on Crime. If we have not heard from you by 6:00 P.M. tonight, we will assume you have no further edits/comments. Thank you.

Richard G. Darman
Assistant to the President
(x2702)

Response:

TO THE CONGRESS OF THE UNITED STATES:

I am transmitting to the Congress today a legislative proposal entitled, the "Comprehensive Crime Control Act of 1983."

As you know, my Administration has made major efforts to fight crime in America. Soon after taking office, I directed the Attorney General and other Federal law enforcement officials to improve the efficiency and coordination of Federal law enforcement, with special emphasis on violent and drug-related crime. This has been accomplished largely through the work of the Cabinet Council on Legal Policy, chaired by the Attorney General, as well as through leadership provided by the White House Office on Drug Abuse Policy. As a result of these efforts, Federal law enforcement is better coordinated than ever before.

Of even greater importance, this Administration is attacking crime at its source by providing increased resources to Federal law enforcement agencies for apprehension, conviction, and incarceration. Last October, for example, I announced a national strategy to cripple organized crime and put drug traffickers out of business. We established twelve interagency task forces in key areas of the country -- modeled in part on the Task Force that has been operating very successfully in South Florida -- to work with State and local law enforcement officials to shut down organized criminal enterprises. We established a National Center for State and Local Law Enforcement Training to assist and train State and local officials in combatting syndicated crime. We also have taken many other actions, including use of the FBI in drug cases, to bring the full resources of the United States Government to bear on the critical problem of crime.

Our efforts are beginning to bear fruit. During 1982, for example, Federal cocaine seizures totalled nearly 12,500 pounds -- nearly three times the amount seized in 1981. Heroin seizures almost doubled, and seizures of marijuana increased by 50 percent. I have every reason to believe that these and other administrative actions will continue to increase arrests and convictions of persons who violate Federal law.

But administrative action, however successful, is not enough. If the forces of law are to regain the upper hand over the forces of crime, ensuring that criminals are convicted and put and kept behind bars, basic legislative changes are needed.

During the 97th Congress, the Senate passed S. 2572, the Violent Crime and Drug Enforcement Improvements Act. Among its principal provisions, this legislation would have made major and urgently needed changes in our laws concerning bail, criminal forfeiture, and sentencing. It is unfortunate that S. 2572 was not enacted during the last Congress to secure, at long last, passage of critically needed substantive criminal law reform.

The legislative proposal that I am transmitting today provides a thorough and comprehensive reform of those aspects of Federal criminal law that have proven to be the largest obstacles in our fight against crime. Many of our proposals were considered by the 97th Congress. Others are new. Each is important in rolling back the tide of criminal activity that threatens our Nation, our families and our way of life.

Our proposal is summarized in some detail in the materials accompanying this message. I do, however, want to highlight six especially critical reforms:

- o Bail. Our bill would make it much more difficult for a defendant likely to be a threat to his community to be released on bail pending trial.
- o Sentencing. The bill would change the sentencing system to ensure that sentences would be determinate and consistent throughout the Federal system, with no parole possible.
- o Exclusionary rule. Under our proposal, evidence in a criminal case that may have been improperly seized, which is now excluded from evidence, would be admissible upon a showing that the officer making the seizure acted in reasonable good faith.
- o Criminal forfeitures. Our bill would strengthen the ability of Federal prosecutors to confiscate the assets and profits of criminal enterprises.
- o Insanity defense. The bill would replace the current Federal insanity defense with a narrower defense applicable only to a person who is unable to appreciate the nature or wrongfulness of his acts.
- o Narcotics enforcement. Our proposal would substantially increase the penalties for trafficking in drugs and would strengthen the regulatory authority of the Drug Enforcement Administration with respect to the diversion of legitimate drugs into illegal channels.

The bill contains many other important provisions, as well, concerning labor racketeering, capital punishment, consumer product tampering, and extradition, to name only a few. These proposals, taken together, will provide Federal law enforcement officials with important new tools with which to combat crime and will help once again to make our streets safe for all our citizens.

We must not allow further delay in protecting the rights, safety, and quality of life of all Americans. We must act now. Accordingly, I urge prompt consideration and passage of these legislative proposals.

THE WHITE HOUSE,

Crime Pkg.

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

March 16, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*
SUBJECT: Draft Presidential Statement:
Crime Control Legislation

Richard Darman has requested comments to be sent directly to Aram Bakshian by 11:00 this morning on a proposed Presidential statement on the Comprehensive Crime Control Act of 1983. The statement cites previous Administration efforts -- such as the task force initiative -- notes increasing successes in the war on crime, and reviews some of the highlights of the crime package. I see no legal objections to the statement. The sentence on the exclusionary rule is awkward, however, since it is phrased in terms of the rule being "barred," when that phrasing is usually used with respect to the evidence. I also think it more forceful to state the proposal affirmatively, as letting the evidence in, rather than "barring" the rule. I suggest substituting the following for the sentence beginning on page 2, line 14: "Evidence of a crime would be admissible when the officer seizing it acted in a reasonable, good faith belief that his action was lawful."

Attachment

THE WHITE HOUSE

WASHINGTON

March 16, 1983

MEMORANDUM FOR ARAM BAKSHIAN
DEPUTY ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Presidential Statement:
Crime Control Legislation

Counsel's Office has reviewed the above-referenced draft Presidential statement. In our view the exclusionary rule proposal should be stated more affirmatively. We suggest that the following be substituted for the sentence beginning on page 2, line 14: "Evidence of a crime would be admissible when the officer seizing it acted in a reasonable, good faith belief that his action was lawful." We also assume that "socking" on page 1 is meant to be "locking."

cc: Richard G. Darman

FFF:JGR:aw 3/16/83

cc: FFFielding
✓JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

March 16, 1983

MEMORANDUM FOR ARAM BAKSHIAN
DEPUTY ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Presidential Statement:
Crime Control Legislation

Counsel's Office has reviewed the above-referenced draft Presidential statement. In our view the exclusionary rule proposal should be stated more affirmatively. We suggest that the following be substituted for the sentence beginning on page 2, line 14: "Evidence of a crime would be admissible when the officer seizing it acted in a reasonable, good faith belief that his action was lawful." We also assume that "socking" on page 1 is meant to be "locking."

cc: Richard G. Darman

FFF:JGR:aw 3/16/83

cc: FFFielding
JGRoberts
Subj.
Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
 - H - INTERNAL
 - I - INCOMING
- Date Correspondence Received (YY/MM/DD) 1 / 1 /

Name of Correspondent: Richard G. Darnon

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Draft Presidential Statement:
Crime Control Legislation

ROUTE TO:	ACTION	DISPOSITION
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD
<u>W Holland</u>	ORIGINATOR	<u>8310316</u>
<u>WAT18</u>	Referral Note: <u>D</u>	<u>8310316</u>
	Referral Note:	<u> 1 / 1 / </u>
	Referral Note:	<u> 1 / 1 / </u>
	Referral Note:	<u> 1 / 1 / </u>
	Referral Note:	<u> 1 / 1 / </u>

- ACTION CODES:**
- A - Appropriate Action
 - C - Comment/Recommendation
 - D - Draft Response
 - F - Furnish Fact Sheet to be used as Enclosure
 - I - Info Copy Only/No Action Necessary
 - R - Direct Reply w/Copy
 - S - For Signature
 - X - Interim Reply

- DISPOSITION CODES:**
- A - Answered
 - B - Non-Special Referral
 - C - Completed
 - S - Suspended

FOR OUTGOING CORRESPONDENCE:
 Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUM

11:00 a.m. WEDNESDAY
March 16, 1983

DATE: 3/15/83 ACTION/CONCURRENCE/COMMENT DUE BY: _____

SUBJECT: DRAFT PRESIDENTIAL STATEMENT: CRIME CONTROL LEGISLATION

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	GERGEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MEESE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HARPER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JENKINS	<input type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	ROLLINS	<input type="checkbox"/>	<input type="checkbox"/>
CLARK	<input type="checkbox"/>	<input type="checkbox"/>	WHITTLESEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/> P	<input checked="" type="checkbox"/> SS	WILLIAMSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	VON DAMM	<input type="checkbox"/>	<input type="checkbox"/>
FELDSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	BRADY/SPEAKES	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FIELDING →	<input checked="" type="checkbox"/>	<input type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
FULLER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>BAKSHIAN</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Remarks:

Please forward comments/edits directly to Aram Bakshian, with a copy to my office, by 11:00 tomorrow morning, March 16.

Thank you.

Richard G. Darman
Assistant to the President
(x2702)

Response:

(Parvin/AB)
March 15, 1983
6:30 p.m.

PRESIDENTIAL STATEMENT: CRIME CONTROL LEGISLATION

Last week I stirred up quite a ruckus by stating the obvious when I called a certain totalitarian society "evil." I hope I can generate as much concern today by citing another evil -- crime. There's no question about it; crime is a cancer that threatens the lives and security of Americans from all walks of life.

Last October, we proposed to do something to meet the menace of crime. We announced a national strategy to cripple organized crime and drug trafficking, and we established twelve interagency task forces in key areas of the country -- modeled in part on the very successful South Florida Task Force -- to work with State and local officials to shut down organized criminal activities. The FBI was also assigned to drug cases, thereby increasing our resources against drug crimes -- it's surprising to me that this hadn't been done previously.

Overall, we sought to coordinate and improve Federal law enforcement efforts, and we're beginning to see results.

During 1982, for example, Federal cocaine seizures nearly tripled from the amount seized in 1981. Heroin seizures about doubled, and marijuana seizures increased by half. As a result of these efforts we're socking more criminals away where they belong -- in prison.

But administrative action is not enough. There is more we can do, and so today I am sending to the Congress the Comprehensive Crime Control Act of 1983. It's a fancy title but

the substance is really common sense. What we're saying with this legislation is that we may have a crime problem, but we don't have to let the criminals play us for suckers. The law is meant to -- and should -- protect the rights of honest citizens as much as it protects the criminal's rights.

Our bill would make it much more difficult for a defendant who represents a likely threat to his community to be let loose on bail pending trial. We would also change the sentencing system to ensure that sentences would be determinate and consistent throughout the Federal system. Hardened criminals would no longer be unleashed on parole after serving a fraction of their sentence. Under our proposal, the exclusionary rule, which can force a judge to throw out a case because of the most minor technicality, would be modified. The exclusionary rule would be barred when an officer has acted in good faith, reasonably believing his action to have been legal. Our bill would also strengthen the ability of Federal prosecutors to confiscate assets and profits of criminal enterprises, narrow the insanity defense, and increase the penalties for drug trafficking. All in all, it will give our law enforcement officials the tools they need to better combat crime.

I believe the American people are rightly frustrated by a criminal justice system that seems to reward the criminal and penalize the honest citizen. This legislation gives the Congress an opportunity to right this grievous wrong and strike a blow for all law-abiding Americans. I hope it will be given prompt consideration and passage.

112

file -
Crime package

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

March 16, 1983

PRESS BRIEFING BY
ATTORNEY GENERAL WILLIAM FRENCH SMITH
ON THE PRESIDENT'S
COMPREHENSIVE CRIME CONTROL LEGISLATION
FOR 1983

The Briefing Room

1:51 P.M. EST

MR. ROUSSEL: Okay. The ground rules for this briefing are it's on the record for sound and camera. Subject is the President's comprehensive crime control legislation for 1983.

Q Are you nervous?

MR. ROUSSEL: The Attorney General will conduct this briefing -- No, are you?

Q No, I'm not Dan Rather.

MR. ROUSSEL: All these materials that we're handing out are embargoed until the conclusion of the briefing. The Attorney General will have an opening statement and then we'll be glad to answer your questions.

ATTORNEY GENERAL SMITH: I've just left the President with -- where we had a discussion on the subject of crime legislation and he is very anxious that we do something in this area during this session of Congress. And as I will indicate in my statement, we think that the opportunity, the chances of that happening are very good.

I have a very brief statement and then I'll be glad to answer questions.

Nearly half a century ago, the great jurist, Benjamin Cardozo, wrote, "Justice, though due the accused is due the accuser also. The concept of fairness must not be strained 'til it is narrowed to a filament. We are to keep the balance true."

In the years since Cardozo wrote those lines, the balance has tipped against society and in favor of the forces of lawlessness.

As you know, last October, the President announced a major new initiative involving 12 new regional task forces and substantial increases in resources for a comprehensive attack on the leaders of organized crime and drug trafficking, which spawned so much of the crime that afflicts our nation.

Although those task forces are already becoming operational, at least one significant element of our new strategy will require further congressional action. Congress needs to rewrite many sections of the federal criminal law to ensure that the criminal leaders we are not pursuing so vigorously go to jail, stay in jail and lose the profits of their criminal enterprises.

To that end, the President is today sending to Congress the Comprehensive Crime Control Act of 1983, which will serve that end as well as making other needed improvements in federal criminal law.

MORE

Briefly summarizing some of the more than 40 components of that legislation, or prior thereto, I would like to emphasize one other point. The American people want improvements made to strengthen our criminal laws. They want the balance restored to protect society as a whole. That desire of the American people is increasingly shared by members of Congress. In my meetings with legislators, including my meeting this week with the President and leaders of the Senate and House and my appearance before the House Judiciary Committee yesterday, the widespread desire for criminal law reform was readily apparent.

The changes we propose are as broad as this growing consensus for strengthening our laws. They include: reform of our bail system to keep dangerous persons off the street, the abolition of parole and creation of a comprehensive system of determinate sentencing, modification of the exclusionary rule to prevent the rejection of probative evidence whenever law enforcement officials acted upon a reasonable good faith belief that their conduct was legally proper, strengthening the laws of forfeiture to get at more of the profits of crime, a common sense amendment to the insanity defense, new limitations upon federal intervention in state court proceedings through federal habeas corpus, stronger drug laws, a modest program of financial assistance for state and local law enforcement programs of proven effectiveness and the re-institution of federal capital punishment.

These are less than one fourth of the changes we are proposing in the Comprehensive Crime Control Act of 1983. The other changes, like those I have just mentioned, truly do comprise a comprehensive attempt to restore the balance between the forces of law and the forces of lawlessness.

I have with me here today Rudy Giuliani, who is the Associate Attorney General, and Lowell Jensen, who is the Assistant Attorney General in charge of the Criminal Division. And we will be glad to answer any questions that you may have.

Q Mr. Attorney General, on so many of these items, the bail reform, the parole laws, the exclusionary rule and the insanity defense, can they be

MORE

imposed upon state court systems or will these changes only affect federal courts?

MR. SMITH: No. These changes would have to do with the federal legal system. They would not, except incidentally, affect state or local laws dealing with --

Q General, why did you change your formulation of the proposal for changing the insanity defense?

MR. SMITH: As you know, we have supported two approaches to the insanity defense. One is the so-called mens rea, and we've also now -- supporting the defense which -- this is an oversimplification but -- the one that, in effect, removes the second prong of the ALI test for insanity and also shifts the burden of proof.

We support either one of those two approaches. We think the latter probably has more support in the Senate Judiciary Committee and perhaps elsewhere on the Hill.

Q Is that why you switched from supporting the mens rea?

MR. SMITH: We haven't really switched. We are supporting either one, although the emphasis now is on the latter because that is where the support seems to be.

Q Mr. Attorney General --

MR. SMITH: Yes.

Q -- you spoke earlier about your determination to get the people who are behind drug pushing. And, yet, your Justice Department, the U.S. Attorney's Office, here has been occupied for a long time investigating Congressional drug use, possible use by Congressmen. I wondered if maybe you could state the philosophy of the Department where possible drug use by members of Congress is concerned.

MR. SMITH: Actually, it isn't so much a matter of policy as it is a matter of resources. We would go after any violations of the drug laws, wherever they occurred, if we had the resources to do so. We are not establishing or effectuating policy which says that we will not go after users. There are circumstances where we may go after users.

We do what we can do with what we have. In that respect, our new task forces, directed towards not only drug trafficking but organized crime in connection therewith, has as its central focus to get at the organized crime network, the organization, the enterprises that constitute the network that distributes drugs because we think that is the most valuable place to spend a dollar. This is based upon our experience with the South Florida Task Force and so on, so that what we're talking about really here is essentially the allocation of resources and where can we best spend that money.

That does not mean, in any way, that we are not going to go after the people in the street, as it were. But we're going to, and we will continue to do that to the extent that we can and under appropriate circumstances. But we're going to try to spend the dollars as best we can.

Yes?

Q But what about Congressional use?

MR. ROUSSEL: At 2:00 p.m., the President is going to go riding at Rock Creek Park, so we need to get the travel pool to assemble immediately here in the lower office.

Q Indoors, is it?

MR. ROUSSEL: Rock Creek Park.

Q He just made that decision, did he? Because we asked this morning what he was going to do --

Q Is he riding --

MR. ROUSSEL: The briefing will now continue.

Q Pete, is he riding indoors?

Q All apologies and respects, sir.

Q I'm sorry. What's the location?

MR. SMITH: You prefer horseback riding to crime, do you, Sam?

Q They may be one and the same, who knows?

By the way, how's your investigation of EPA going?

MR. SMITH: I beg your pardon.

Q EPA -- how's your investigation there going?

MR. SMITH: Whenever we're asked to investigate, we investigate.

Q You are investigating. We know that.

MR. SMITH: We are investigating.

Q When will you wind it up, sir?

MR. SMITH: As soon as we can.

Q I'm sorry. I didn't get your answer about use by Congressmen and whether or not there's a different standard there or you feel you have to be more careful with public officials than perhaps with other users?

MR. SMITH: I can't give you any statement of practice or procedure in that respect. These situations all have to be handled on the basis of their own individual facts. And there will be circumstances where we will follow one course and in other circumstances perhaps a different course. But we do not have any policy that we will not go after users period. And to the extent that there ever was such a policy, if there was, it certainly would be based upon the fact that we can't go after everybody. We have to draw a line somewhere.

Yes?

Q General, back to the insanity defense -- If I understand it, the administration's position is to move closer to the ABA position, generally, with the major difference that your bill will put the burden on the defendant to prove that he didn't appreciate the wrongfulness of the act, while the ABA will leave the burden where it is in the current law. Is this difference negotiable or is the administration standing firm on it?

MR. SMITH: We definitely think that, if that approach is followed, the burden should be on the defendant.

Q General, the 40 components of your bill -- is this going to be submitted in one piece of legislation, 40 pieces of legislation or, in short, how are you going to avoid the situation you ran into last year with the drug czar veto?

MR. SMITH: It will go up as a single package. But we do not anticipate that it will stay in that form. We would anticipate that there will be parts that will be separated out. Now for example, there are a significant number of items in that package which were passed by the Senate the last session by 95 to 1. There are, also, elements in this package that never got out of the Committee. And so, we anticipate that there will be a certain amount of separation, if not in the Senate, certainly in the House.

Yes?

Q On the modification of the exclusionary rule, what would satisfy the notion that a police officer acted in good faith? What would be needed?

MR. SMITH: You see, this is often misunderstood. It is not a good faith test. It is a reasonable good faith test.

Q What would satisfy that?

MR. SMITH: A reasonable good faith establishes, in effect, an objective standard. It is not what the officer, himself, may have thought was proper or not proper. It is a reasonable good faith test. And that is an objective test that would have to be applied under the facts of any given situation.

Q General, on the question of the Justice Department, or at least the U.S. Attorney in New York, looking into Tom Reed who is still working on the MX Commission on detail to the White House, is there any kind of Justice Department action that should be involved in this regard? And do you have anything to say about the FBI investigation last year and the criticism of it and its thoroughness?

MR. SMITH: I really am not in a position to comment at all on that case.

Q Do you have a conclusion about the -- do you stand by the FBI background investigation last year?

MR. SMITH: No; I really have no comment at all on that case.

Q Could you tell us what a reasonable good faith test is or would be?

MR. SMITH: I cannot do that in a vacuum. It all turns on what the particular facts were in a given situation. And, of course, the argument in favor of the exclusionary rule has always been its deterrence value. It has never been established really that it has had any deterrence value. But even assuming that it does, if you have a reasonable good faith test that is to be applied in a situation, there is no way that I can see and a good many other people can see that there is any possible deterrence value with that test. But whether a particular situation would come within the reasonable good faith exception would have to be decided in a specific fact context.

Yes?

Q Attorney General, I think the question is: What safeguards are there that this will not be abused if there is a change made in the exclusionary? I mean, it leaves the impression that, now, officers will go in. And they will grab everything they can. And hope that it meets the good faith test.

MR. SMITH: I do not think that the record supports any such broad conclusion as that. If an officer has to make a decision. And it has to be made not on the basis, alone, of what he thinks is proper to be done, but on the basis of what society, in effect, thinks is a reasonable standard, then the evidence that is obtained that way -- there is no basis really to exclude it, because there is no value to society to exclude it, in effect.

Q What you are saying is when the officer goes in now, he not only in thinking about what he thinks is good evidence; but he has to worry about what society thinks --

MR. SMITH: What somebody else thinks; exactly -- whatever the appropriate standard is.

Q Will the standard be written into law? Will it be for each court to determine as the case presents itself? And on what basis does a police officer go in there and determine what is reasonable good faith and what is it, on what basis?

MR. SMITH: I might say that, although that has to be a general standard, it is certainly an improvement over what we have now. We now have a situation where even the Supreme Court, itself, has not been specific as to what is required and what is not required.

Q Would the standard be written into -- would the revision of the standard be written into the statute?

MR. SMITH: The standard would be reasonable good faith exception. It has to be a general test. There is no other way you can effectively --

Q But I mean is there any way you attempt to spell that out?

MR. SMITH: Yes.

Rudy, go ahead.

MR. GIULIANI: Do you want me to?

MR. SMITH: Sure. Why don't you comment on that?

MR. GIULIANI: It would be far more specific than the present situation. There is no present standard. There is no rule written anywhere. The Supreme Court sometimes splits five to four in determining whether there is probable cause to make an arrest. Appellate courts split two to one.

What this standard would say is, in those situations where a police officer has a reasonable good faith belief -- and as the Attorney General emphasized, that means that he not only sincerely believes it, but that a reasonable police officer under such circumstances would be warranted in believing it -- believes that he has probably cause, then the evidence in that case would not be suppressed.

Or maybe a clearer example, when a police officer goes and gets a warrant from a Magistrate, which is what we want police officers to do, and it turns out that there was some misassessment of the quality of probable cause, in those cases

the evidence would not be suppressed. The exclusionary rule, in the first instance, was not intended to deter -- there was no evidence that magistrates or United States judges were acting improperly. So it's ridiculous to suppress evidence if a technical mistake is made.

One very good example was a case in which a drug enforcement agent went to a magistrate, set forth probable cause for an arrest. The magistrate authorized an arrest. The agent went ahead and made that arrest and brought the defendant in in possession of a fair amount of cocaine the next day. And that evidence was suppressed because the magistrate had forgotten to get the agent to swear to the facts in the affidavit. And the law requires that an affidavit proceed, or that a warrant proceed only upon a sworn affidavit. The evidence was suppressed. That particular drug dealer went free because of a highly technical application of the law.

Under the new test, that police officer would have acted in reasonable good faith, in having gone to get the warrant. It's a safety valve to exclude what I think everyone agrees are ridiculous applications of the exclusionary rule that don't deter misconduct because there isn't deliberate misconduct in the first place.

Q Rudy, the summary sheet we have here doesn't give details; but it appears most of these, if not all of these proposals are identical to what was proposed last year, with the exception of the insanity defense. Is there anything else that's new here compared to what was proposed last year?

MR. GIULIANI: Yes, for example, the sentencing provisions. The sentences have been increased by -- in each category, the sentences have been increased by approximately two years, I believe. They are more stringent than they were last year. Some of the --

Q Just for drug offenses or for all --

MR. GIULIANI: The drug offenses have been increased by even more than that; but the general range of offenses, the sentences have been increased by two years. Most of the other proposals are similar to -- Maybe, Lowell, do you --

MR. JENSEN: -- essentially correct.

MR. GIULIANI: Or Bob.

MR. SMITH: Justice assistance.

MR. JENSEN: Justice assistance --

Q And what's the funding for that justice assistance?

MR. GIULIANI: \$90 million.

Q Could I ask the Attorney General, overall is there anyway of quantifying how many cases in a year where you are handicapped by the lack of these changes that would go the other way? In other words, what difference would this make? Are we talking about you'd get 10 more people, 10 more criminals a year would go to jail? Are you talking about 1,000? What are talking of?

MR. SMITH: The National Institute of Justice just recently completed a study of the situation in California, which is certainly a very representative state, and it's conclusion, among others, was that almost a third of the drug cases were either not brought or were adversely effected by the application of exclusionary rule. There have been other studies, which show that the effect

was much less significant; but those studies were very severely circumscribed. And there was no effort, for example, to break out the kinds of cases where the exclusionary rule is most likely to apply. And certainly that is true with respect to drug cases. So the idea that this only effects a few cases is just not so. And it certainly effects a large number of cases in an area that we are very much concerned with right now.

Q Are there any comparable statistics for violent crime, which is what I think most average citizens are most concerned about? Rape, murder, robberies, any things of that nature?

MR. SMITH: You mean for the application of the exclusionary rule?

Q Well, you said that about one-third of drug cases were adversely effected by the exclusionary rule. But are there any comparable --

MR. SMITH: Well, the reason I mentioned drug cases in particular is because the seizure of evidence there is -- it's far more likely than it would be if somebody just pulls out a gun and fires. But I -- do you know of any specific statistics dealing with violent --

MR. GIULIANI: I don't know of particular statistics but our U.S. Attorneys were polled, I guess about six or seven months ago about this legislative program and they were asked, "What are the most important changes that could be made in the law that would help you in accomplishing your mission of going after major criminals." And the thing they listed as the major

MORE

improvement that could be made in the system above and beyond all else was a change in the exclusionary rule that's hampering their ability to prosecute the most dangerous and difficult cases that they have to deal with. And other things came after that -- bail, sentencing. But the exclusionary rule was listed by the United States attorneys as the number one improvement that could be made in the system.

Q What is the purpose of trying to codify the exclusionary rule change in the same year when the Supreme Court proposes to do the same thing? If they find a reasonable good faith test unconstitutional, then your brand new law won't work coming out of the gate. And, if they find it constitutional, do you need the law?

MR. SMITH: There's one thing that is fairly certain and that is both what Congress does and what the Supreme Court does is quite unpredictable. And we don't think that it makes any particularly sound political or other kind of judgment to hold up on this on the supposition that another branch may do something or may not do something. We think that this is substantively a very good change, a needed change. And, true, the Supreme Court is considering that case, but we don't see that that is a reason for us not to proceed with respect to changing legislation.

Q Can you explain the capital punishment provisions you referred to?

MR. SMITH: This is really designed to put into law constitutionally permissible procedures for for the application of the death penalty. This would be designed to establish the law so as to meet the appropriate constitutional tests.

Q Sir, I had one other general question which is, does this mean that that longstanding idea of a total criminal code reform act is just pretty well dead and it's better to do it piecemeal?

MR. SMITH: We hope that's not the case. We were sorry that the reform of the criminal code did not get through last year. That is an effort which has been going on for 15 years. Unfortunately, any comprehensive change of that kind creates opposition from so many different sources that it's very difficult to get through.

By following this approach, we are certainly not in any way abandoning that effort. But this seems to be the most appropriate approach and one which we think can be productive.

Q General, with 26 more Democrats in the House and an tilt to the liberal side in the Judiciary Committee, why are you hopeful, any more hopeful this year than last year?

MR. SMITH: Because we don't think that the subject of crime is a political issue. Now, I know that there are obviously different philosophies that come to bear on this subject, but, when you consider the fact that significant portions of this bill passed the Senate by a vote of 95 to 1, you can certainly see that, at least with respect to significant elements of this program, it is not a partisan consideration, nor a political consideration. Crime affects everybody, and nobody has to make the case that the concern of the public in this area is perhaps paramount. Perhaps there are some polls that show that it even rises above the economy as a matter of concern. So we certainly think the way to go at this is on a completely nonpartisan or bipartisan basis. And, as I mentioned in my statement, we had a meeting with the President and leaders of Congress just this week. And, certainly, the sentiments that were expressed there indicate that this is an across-the-spectrum concern.

Q Did you run into any conversions on the exclusionary rule?

MR. SMITH: Some we might construe that way, but it's a little early to tell.

MR. ROUSSEL: Let's take a last question.

Q Mr. Attorney General, who are you going after? What's your number one priority --violent crime, drug pushers -- with the changes? Is it white collar?

MR. SMITH: We have a number of priorities. But there's no question that the number one concern which has come to us from our law enforcement coordinating committees around the country -- It used to be that they were all unanimous except for one. Now it's unanimous totally -- that drugs and the crime that is related to drugs and flows from it, particularly in combination with organized crime, certainly has to be at the very top of the list of priorities. That does not mean that we are diminishing our efforts elsewhere, such as white collar crime, but that is certainly an area of particular concern and attention.

Q Is that the number one reason why these changes are being asked for in the criminal --

MR. SMITH: No. It certainly is a reason, but it is not the only reason, by any means. These changes are, by and large, substantive changes that should be made in the federal criminal law, regardless of what else happens.

THE PRESS: Thank you.

END

2:10 P.M. EST

Crime package

THE WHITE HOUSE

Office of the Press Secretary

FOR RELEASE AT THE CONCLUSION
OF THE BRIEFING

March 16, 1983

FACT SHEET

PRESIDENT REAGAN'S COMPREHENSIVE CRIME CONTROL
ACT OF 1983

I. Introduction

This fact sheet summarizes the new omnibus crime bill submitted to the Congress by President Reagan. This 44-point bill is not necessarily intended to be considered as a single bill but rather to serve as a reference document to set out, in a comprehensive fashion, all of the various criminal justice legislative reforms needed to restore a proper balance between the forces of law and the forces of lawlessness. Taken together, these various reforms would dramatically strengthen the ability of Federal law enforcement officials to roll back the rising tide of crime in the United States, particularly in the areas of narcotics trafficking and organized crime.

By comparison with previous crime proposals, this measure does not attempt a total overhaul of title 18 of the United States Code as did the Criminal Code Reform Act long promoted by the Department of Justice. This bill is more analogous to S. 2572 of the 97th Congress which was approved by the Senate last September by an overwhelming vote of 95 to 1. This proposal, however, is much broader in scope than S. 2572.

II. Major Provisions of the Bill

Title I - Bail Reform would amend the Bail Reform Act of 1966 to:

- permit courts to consider danger to the community in making bail determinations;
- tighten the criteria for post-conviction release pending sentencing and appeal;
- provide for revocation of release and increased penalties for crimes committed while on release; and
- increase penalties for bail jumping.

Title II - Sentencing Reform would overhaul the sentencing system to:

- establish a determinate sentencing system with no parole and limited "good time" credits;
- promote more uniform sentencing by establishing a commission to set a narrow sentencing range for each Federal criminal offense;

more

(OVER)

-- require courts to explain in writing any departure from sentencing guidelines; and

-- authorize defendants to appeal sentences harsher and the Government to appeal sentences more lenient than the sentencing commission guidelines.

Title III - Exclusionary Rule Reform would create an exception to the application of the Exclusionary Rule to prevent suppression of evidence where it can be shown that officers were proceeding in a good faith and objectively reasonable belief that they were acting in compliance with the law.

Title IV - Forfeiture Reform would strengthen criminal and civil forfeiture laws by providing for:

-- forfeiture of profits and proceeds of organized crime enterprises;

-- criminal forfeiture in all narcotics trafficking cases;

-- expanded procedures for "freezing" forfeitable property pending judicial proceedings;

-- forfeiture of substitute assets where other assets have been removed from the reach of the Government;

-- a broader scope of property subject to criminal forfeiture; and

-- expanded use of administrative forfeiture in noncontested cases.

Title V - Insanity Defense Reform would narrow the insanity defense currently available in the Federal system to:

-- limit the defense to those who are unable to appreciate the nature or wrongfulness of their acts;

-- place the burden on the defendant to establish the defense by clear and convincing evidence;

-- prevent expert testimony on the ultimate issue of whether the defendant had a particular mental state or condition; and

-- establish procedures for Federal civil commitment of persons found not guilty by reason of insanity if no State will commit them.

Title VI - Reform of Federal Intervention in State Proceedings would reduce Federal court interference in State adjudication by:

-- requiring Federal deference to "full and fair" State court proceedings;

more

-- limiting the time within which State adjudications may be challenged in Federal court; and

-- making other improvements in Federal habeas corpus laws.

Title VII - Narcotics Enforcement Amendments would:

-- strengthen Federal penalties applicable to narcotics offenses;

-- reduce the regulatory burden on law-abiding manufacturers and distributors of legitimate controlled substances; and

-- strengthen the ability of the Drug Enforcement Administration to prevent diversion of legitimate controlled substances to illegal uses.

Title VIII - Justice Assistance Act would:

-- authorize a program of financial assistance to State and local law enforcement to help finance anti-crime programs of proven effectiveness; and

-- streamline the components of the Department of Justice responsible for statistical, research and other assistance to State and local law enforcement.

Title IX - Surplus Property Amendments would facilitate donation of surplus Federal property to State and local governments for urgently needed prison space.

Title X - Reinstitution of Capital Punishment would establish constitutional procedures for imposition of the death penalty in certain homicide, treason and espionage cases.

Title XI - Labor Racketeering, Bribery and Extortion Amendments would strengthen Federal laws with respect to labor-related racketeering activity by:

-- raising from five to ten years the period of time that a corrupt official can be debarred from union or trust fund positions; and

-- making debarment effective upon the date of conviction rather than the date all appeals are exhausted.

Title XII - Foreign Currency Transaction Amendments would improve Federal laws designed to prevent international "money laundering" by:

-- adding an "attempt" provision to existing laws prohibiting transportation of currency out of the United States in violation of reporting requirements;

more

(OVER)

- strengthening penalties for currency violations and authorizing payment of rewards for information leading to the conviction of money launderers; and
- clarifying the authority of U. S. Customs agents to conduct border searches related to currency offenses.

Title XIII - Federal Tort Claims Act Amendments would make the United States, rather than individual Federal law enforcement agents, civilly liable for common law and constitutional torts involving injury to property or persons.

Title IV - Violent Crime Amendments is a miscellaneous title consisting of 14 improvements in Federal laws related to violent crimes including:

- Federal jurisdiction over murder-for-hire and crimes in aid of racketeering activity;
- solicitation to commit a crime of violence;
- strengthening of the Federal felony-murder rule;
- minimum mandatory sentences for use of firearms in the course of Federal crimes;
- additional minimum mandatory sentences for use of armor-piercing bullets in the course of Federal crimes;
- criminal penalties for kidnaping of Federal officials;
- criminal penalties for crimes directed at family members of Federal officials;
- addition of the crimes of maiming and sodomy to the Major Crimes Act;
- strengthening of penalties for violence directed at interstate truckers;
- improvements in Federal laws to protect energy facilities;
- expansion of the list of officials protected by the Federal assault statute;
- criminal penalties for escape from civil commitment; and
- comprehensive amendments to the procedures governing extradition of foreign criminals found in the United States.

more

Title XV - Serious Non-Violent Offenses is a compilation of 10 miscellaneous amendments to strengthen Federal laws governing serious but non-violent crimes including:

- product tampering;
- child pornography;
- obstruction of justice by giving warning of the impending execution of a search warrant;
- fraud and bribery related to Federal programs;
- counterfeiting of State and corporate securities and forged endorsements of Federal securities;
- receipt of stolen bank property;
- bribery related to Federally regulated banks;
- bank fraud; and
- possession of contraband in prison.

Title XVI - Procedural Amendments is a series of 7 procedural amendments to Federal criminal justice laws as follows:

- prosecution of certain juveniles as adults;
- wiretap amendments;
- expansion of venue for threat offenses;
- injunctions against fraud;
- Government appeal of post-conviction new trial orders;
- witness security program improvements; and
- clarification of venue for certain criminal tax prosecutions.

III. Conclusion

The need for these various criminal justice reforms is clear and urgent. During the almost 10 years that the Congress has struggled with Criminal Code Reform, little truly significant crime legislation has been enacted. Action on most of the reforms in this draft bill is, therefore, long overdue. Moreover, the increased emphasis which the Reagan Administration has placed on law enforcement -- with the addition of 1,400 to 1,600 Federal prosecutors and investigators to staff the regional drug task forces -- makes reform of our substantive criminal laws essential if the national crime control program is to be truly effective. The President has urged all Members of Congress to give this wide-ranging proposal careful attention and work for enactment of the various proposals in the bill during the 98th Congress.

#####

crime package

THE WHITE HOUSE

Office of the Press Secretary

FOR RELEASE AT THE CONCLUSION
OF THE BRIEFING

March 16, 1983

TO THE CONGRESS OF THE UNITED STATES:

I am transmitting to the Congress today a legislative proposal entitled, the "Comprehensive Crime Control Act of 1983."

As you know, my Administration has made major efforts to fight crime in America. Soon after taking office, I directed the Attorney General and other Federal law enforcement officials to improve the efficiency and coordination of Federal law enforcement, with special emphasis on violent and drug-related crime. This has been accomplished largely through the work of the Cabinet Council on Legal Policy, chaired by the Attorney General, as well as through leadership provided by the White House Office on Drug Abuse Policy. As a result of these efforts, Federal law enforcement is better coordinated than ever before.

Of even greater importance, this Administration is attacking crime at its source by providing increased resources to Federal law enforcement agencies for apprehension, conviction, and incarceration. Last October, for example, I announced a national strategy to cripple organized crime and put drug traffickers out of business. We established twelve interagency task forces in key areas of the country -- modeled in part on the Task Force that has been operating very successfully in South Florida -- to work with State and local law enforcement officials to shut down organized criminal enterprises. We established a National Center for State and Local Law Enforcement Training to assist and train State and local officials in combatting syndicated crime. We also have taken many other actions, including use of the FBI in drug cases, to bring the full resources of the United States Government to bear on the critical problem of crime.

Our efforts are beginning to bear fruit. During 1982, for example, Federal cocaine seizures totalled nearly 12,500 pounds -- nearly three times the amount seized in 1981. Heroin seizures almost doubled, and seizures of marijuana increased by 50 percent. I have every reason to believe that these and other administrative actions will continue to increase arrests and convictions of persons who violate Federal law.

But administrative action, however successful, is not enough. If the forces of law are to regain the upper hand over the forces of crime, ensuring that criminals are convicted and put and kept behind bars, basic legislative changes are needed.

During the 97th Congress, the Senate passed S. 2572, the Violent Crime and Drug Enforcement Improvements Act. Among its principal provisions, this legislation would have made major and urgently needed changes in our laws concerning bail, criminal forfeiture, and sentencing. It is unfortunate that S. 2572 was not enacted during the last Congress, but I look forward to working with the 98th Congress to secure, at long last, passage of critically needed substantive criminal law reform.

more

(OVER)

The legislative proposal that I am transmitting today provides a thorough and comprehensive reform of those aspects of Federal criminal law that have proven to be the largest obstacles in our fight against crime. Many of our proposals were considered by the 97th Congress. Others are new. Each is important in rolling back the tide of criminal activity that threatens our Nation, our families and our way of life.

Our proposal is summarized in some detail in the materials accompanying this message. I do, however, want to highlight six especially critical reforms:

- o Bail. Our bill would make it much more difficult for a defendant likely to be a threat to his community to be released on bail pending trial.
- o Sentencing. The bill would change the sentencing system to ensure that sentences would be determinate and consistent throughout the Federal system, with no parole possible.
- o Exclusionary rule. Under our proposal, evidence in a criminal case that may have been improperly seized, which is now excluded from evidence, would be admissible upon a showing that the officer making the seizure acted in reasonable good faith.
- o Criminal forfeitures. Our bill would strengthen the ability of Federal prosecutors to confiscate the assets and profits of criminal enterprises.
- o Insanity defense. The bill would replace the current Federal insanity defense with a narrower defense applicable only to a person who is unable to appreciate the nature or wrongfulness of his acts.
- o Narcotics enforcement. Our proposal would substantially increase the penalties for trafficking in drugs and would strengthen the regulatory authority of the Drug Enforcement Administration with respect to the diversion of legitimate drugs into illegal channels.

The bill contains many other important provisions, as well, concerning labor racketeering, capital punishment, consumer product tampering, and extradition, to name only a few. These proposals, taken together, will provide Federal law enforcement officials with important new tools with which to combat crime and will help once again to make our streets safe for all our citizens.

We must not allow further delay in protecting the rights, safety, and quality of life of all Americans. We must act now. Accordingly, I urge prompt consideration and passage of these legislative proposals.

RONALD REAGAN

THE WHITE HOUSE,

March 16, 1983.

#

crime package



H. P. Goldfield
112 OEGB

ISSUE UPDATE

Washington, DC

Number 11

May 19, 1983

This paper, prepared for Reagan Administration officials by the White House Office of Policy Information, outlines the Administration's comprehensive program for crime control.

CRIME CONTROL

On March 16, 1983, President Reagan sent to Congress the Comprehensive Crime Control Act of 1983, legislation that offers a series of long-needed changes in U.S. criminal statutes.

Fighting crime has consistently been one of the Administration's major objectives and President Reagan has repeatedly brought to public attention the seriousness of the threat of crime to American society. In his first State of the Union Address the President emphasized that the problem of crime is "one as real and as deadly serious as any in America today. It demands that we seek transformation of our legal system, which overly protects the rights of criminals while it leaves society and the innocent victims of crime without justice."

The public has ratified the President's call for a new assault on crime. As the President has noted, the American people are now "reasserting certain enduring truths -- the belief that right and wrong do matter, that individuals are responsible for their actions, that evil is frequently a conscious choice, and that retribution must be swift and sure for those who make a career of preying on the innocent."

Crime is out of control

The American people's response is understandable. The crime rate has grown dramatically in recent years, leading to widespread fears among all citizens. People no longer feel secure in their own homes, on their streets, or in their communities.

The dramatic jump in violent crime over the last decade is especially alarming. Reported violent crimes in 1980 were 60% greater than in 1971 and 33% greater than in 1976. According to 1981 statistics, there were 71 rapes for every 100,000 American women, as well as 250 robberies and 280 assaults for every 100,000 persons. Put another way, there is a murder every 23 minutes, a rape every six minutes, a robbery every 58 seconds, and a burglary every eight seconds. The frightening truth is that 25 million households, or about 30% of the nation's total, are touched by crimes of violence or theft every year.

The criminal justice system itself is in grave disrepair. When it does work, it works slowly; months, even years, can pass before a case is brought to trial, and then there are more months and years on appeal. And when criminals are actually found guilty, they often receive light sentences that are not commensurate with the severity of their crimes.

At other times, the system does not work at all. For example, only 40% of murder cases end in imprisonment, and in New York City, less than 17% of all reported felonies end in a prison term for the offender.

Public fears *

Given this startling increase in criminal activity, it is not surprising that the public feels threatened and unprotected. Surveys show that 85% of the people are more concerned about crime now than they were five years ago and 50% feel more uneasy on the streets than just a year ago.

The surveys tell the story over and over -- 68% of the people feel that crime is increasing in their area, 45% are afraid to walk alone at night, and 16% feel unsafe even in their own homes. Fears are highest among the most common targets of criminals -- the elderly, minorities, the poor and the young.

The crime wave has eroded public confidence in the criminal justice system as well. More than 42% say they don't think the police can protect them from violent crime and 79% say the system does not work to discourage crime. Because of this, more private citizens than ever are trying to protect themselves by buying guns, putting extra locks on their doors, carrying mace, or installing burglar alarms. And in a sad commentary on how little confidence some in Congress have in the nation's law enforcement system, legislation has been introduced to give homeowners tax breaks for the installation of security devices.

But the public is also fighting back in more traditional ways. States, for example, are enacting tougher anti-crime laws. California voters last year approved the "Victims Bill of Rights," which, among other things, limited the exclusionary rule and the insanity defense, and imposed tough determinate sentences on repeat offenders and criminals who use guns in the commission of a crime. In addition, citizens are taking a more active role in preventing crime in their own neighborhoods. It is estimated that 5 million Americans in 20,000 communities are involved in one crime watch program or another.

Coupled with President Reagan's efforts, these state and local initiatives helped produce the first drop in violent crime in half a decade. But, while encouraging, this one-year decline does not mark the end of the crime problem; much of the drop in the crime rate occurred because of a slight aging of the population, and therefore, a slight shrinkage of the higher-crime tendency age group of 15-24. Moreover, even if crime continued to drop at last year's rates, it would still take 30 years for it to return to the levels of the mid-1970s.

Real, permanent, and significant reductions in the crime rate will come about only when policies are put in place that recognize and act upon the root causes of crime.

Why crime persists

Concern about the previous decade's increases in the crime rate sparked heated public debate about the causes of crime and the reasons it is so difficult to stamp out. Some social theorists blame society itself -- unemployment, poverty, or any number of social ills -- neglecting almost completely the responsibility of the actual criminal.

This kind of analysis fails to take into account the fact that the vast majority of the poor and unemployed obey the law just as readily as do the rest of the population. Indigence itself is not a cause of crime.

Rather, an individual's decision to commit a crime results from a constellation of factors. Most prominent among these reasons is a pure cost-benefit analysis. Potential criminals credibly believe the chances are very good they can commit a crime and escape unpunished. Backed up by the increasing social, legal, and political toleration of crime over the two decades -- as manifested in the "environmental" theories of crime -- those with no natural respect for society, its institutions, and other people's rights and possessions found crime an increasingly attractive option for bettering themselves.

These two perceptions need to be changed -- that crime is society's fault and that it will go unpunished -- before lawlessness can be controlled. The President has taken important steps to change perceptions on both counts, and his proposed Comprehensive Crime Control Act of 1983 will solidify these gains.

What has been done

President Reagan has established crime control as a national priority. He has made it plain that the federal government has a very important role to play in prosecuting and punishing federal criminals, in helping to train law enforcement officials, in coordinating national law enforcement efforts, and in setting standards in crime fighting that will guide state and local crime control programs.

Also, the President has shifted the emphasis in federal crime control efforts to make sure they are effective. Whereas many previous administrations devoted their greatest attention to dubious penal theories such as rehabilitation and to important but basically superficial changes such as increasing the number of federal judges, the Reagan Administration has targeted the legal impediments themselves for reform.

A prime example is the President's program to reduce trafficking in dangerous drugs. Soon after taking office, the President directed the Attorney General and other federal law enforcement agencies to work together, to share information, and to use federal resources more efficiently. Now, through the work of the Law Enforcement Coordinating Committees, the Cabinet Council on Legal Policy and the White House Office on Drug Abuse Policy, federal drug enforcement efforts are better coordinated than ever before. For instance, the FBI has for the first time been brought in to complement the work of the Drug Enforcement Administration. Before 1982, the FBI had no drug investigations underway; this year it has 1,115. Also for the first time, the military has been directed to aid drug enforcement efforts, particularly in Florida.

In addition, the President has created twelve interagency task forces to work with state and local officials to stop drug trafficking at its source. Under the coordinating guidance of the Justice Department, the task forces are using modern FBI and DEA financial investigatory methods to attack large-scale smuggling and distribution of drugs. Unlike prior federal drug efforts that focused solely on the street level, these task forces will concentrate on destroying the large-scale drug organizations themselves. Importantly, the President has backed up his commitment with adequate manpower: the government will hire 1,600 new law enforcement personnel by the end of the summer.

This approach is working. During 1982, the federal government seized nearly 12,500 pounds of cocaine -- almost three times the amount captured in 1981. Seizures of heroin nearly doubled and marijuana confiscation increased by 50%. In South Florida alone, the government seized more than \$3 billion worth of drugs.

The President's main efforts now are directed toward securing tough crime-fighting legislation. During the previous Congress, he proposed a comprehensive crime control package designed to improve federal enforcement abilities. A watered-down version of the bill containing some provisions of dubious constitutionality was passed, but vetoed by the President. His latest anti-crime bill expands upon last year's proposal. Its passage is vital if America is ever to overcome the threat of lawlessness.

What the President has proposed

The Comprehensive Crime Control Act of 1983, as sent to Congress by President Reagan, is a 42-point omnibus bill. It is designed to be a reference point for reforms in all the criminal justice areas that need improvement. Taken together, its various proposed changes would strengthen the ability of federal law enforcement officials to roll back the high tide of crime in the United States, especially in drug trafficking and organized crime. Among the major aspects of the bill are provisions dealing with bail reform, sentencing, the exclusionary rule, the insanity defense, federal intervention in state proceedings, narcotics enforcement, criminal forfeiture, and justice assistance.

Bail reform

Under current law, a judge may hold a defendant or release him at a high bail only if the judge believes the defendant will fail to show up for the trial. The judge may not consider the danger the defendant will pose to the citizens of the community or the likelihood he will commit another crime while out on bail.

Thus, it is relatively easy for defendants to be released pending trial -- 85% return to the streets before their trials, 61% of them without having to post any bail money at all. One out of six defendants will then proceed to commit one or more additional crimes before his trial. This often has tragic results. For example, last November a bank robber was released on \$25,000 bail despite evidence that he had pistol-whipped a guard, threatened to murder a teller and stolen a car. Four days after posting bail, the defendant robbed another bank, assaulted a teller, and very nearly killed a police officer.

The President's bill would give judges more leeway to protect the public against criminals such as that bank robber. It would amend the Bail Reform Act of 1966 so that courts could consider danger to the community while making bail determinations. It would also make it more difficult for criminals to be released after they have been convicted of a crime but before they have been sentenced.

The same tighter criteria would apply for release pending appeal. Furthermore, criminals who committed crimes while on bail would be subject to increased penalties and their releases could be revoked. There would also be greater penalties for bail jumping.

Another provision of the bill would act against drug tycoons who post bail with cash from their drug profits and then skip the country to avoid trial. It is not unusual for drug smugglers to post bail as high as \$1 million and then drop out of sight. For the ringleaders of drug organizations, million-dollar losses amount to little more than an annoying "tax" on their profits. The President's bill would authorize pretrial detention where bail alone would not ensure future court appearances and it would permit courts to inquire into the source of the money used to put up bail.

Sentencing reform

There is little nationwide consistency in sentencing convicted criminals or granting parole and other early releases. Two criminals, with the same record, convicted of the same offense, could easily receive greatly varying sentences depending upon the judge who tried each case.

In addition, prisoners have been able to use the overly lenient parole system to win early release, only to return to the streets and begin plying their trade again. A recent study by the Federal Parole Board shows that 30% of those released from federal prisons are in trouble with the law again within two years, often with devastating effect. As just one example, and in what is unfortunately not an isolated incident, one robber, who had served only 23 months of an eight year sentence for committing a violent crime, broke into the home of a Houston family and terrorized them. He threatened to "blow the heads off" their little children but was satisfied with ransacking and robbing the home. The family was very fortunate to escape with their lives; hundreds of other Americans have not been so lucky.

The President's bill would restore the effectiveness of the criminal justice system by establishing a "determinate" sentencing procedure with no parole (limited "good time" credits would be available instead). The bill would create a commission to set a narrow range of sentences for each

federal criminal offense. Criminals would then have a very clear idea of what penalties they would face for their crimes.

Under some circumstances, judges could deviate from the commission's guidelines but only after explaining why in writing. Defendants would be able to appeal sentences harsher than the guidelines and the government would be able to appeal sentences that were more lenient.

With this approach, judges would regain the primary responsibility for sentencing since they would no longer be able to defer to a probation officer's recommendations.

The bill also outlines and updates the courts' sentencing options for probation and fines. Probation would become a penalty in itself instead of a deferred penalty, and as a condition of probation, a judge would be required to compel the defendant to pay a fine, make restitution to the victim, or perform community service. In addition, the maximum limits on fines would be increased for felonies to a quarter million dollars for an individual defendant and up to half a million dollars for an organizational defendant. The court could attach liens to ensure that fines were collected.

The exclusionary rule

The exclusionary rule is a judicially-created regulation designed to enforce the Fourth Amendment, which guarantees public freedom from unwarranted search and seizure by the police. But instead of protecting innocent citizens from police misconduct, the exclusionary rule has become a common defense tool to exclude evidence even if a police officer reasonably believed his actions to be proper. Thus, defendants facing otherwise airtight prosecution often go free because of a trivial error in police procedure or an honest mistake by the officer.

Police now have little confidence that their searches for evidence will not be declared unconstitutional. The vagaries of court decisions leave officers unsure of what procedures to follow. In two recent cases, for example, police officers stopped a car, smelled burnt marijuana and searched the car, finding 30 pounds of the drug. At the trial and in subsequent appeals, 14 judges ruled at various times on the propriety of the search. Seven approved it; seven disapproved. If 14 legal experts, sitting in quiet deliberation, cannot negotiate the law's intricacies, then a police officer acting in a possibly life-or-death situation should not be expected to do so either.

Yet the police every day are forced to divine the courts' intent, frequently without any real guide as to how the courts would rule. When the police err, dangerous criminals can go free. In one recent murder case, for example, a man convicted of slitting a woman's throat was freed after the court ruled there was a technical flaw in the search warrant used by the police to find the murder weapon in the suspect's car. In another case, an appellate court overturned the conviction of a bank robber because the magistrate issuing the search warrant obtained an oath from the investigating officer at the end of their conversation instead of the beginning.

In these cases, the exclusionary rule does nothing to protect the public from the police because the officers honestly thought they were acting within the boundaries of the law's guidelines. Instead, the rule endangers the public by freeing violent criminals and undermining confidence in the judicial system. According to one state study, almost one out of twenty felony cases are dropped because of the exclusionary rule. In fact, according to statistics compiled by the National Institute for Justice, two-thirds of those whose cases were dropped because of the exclusionary rule had prior or subsequent arrests and half were rearrested within two years.

The President's bill would preserve the exclusionary rule but would restore it to its original objective of deterring police misconduct. Under the President's proposal, a search conducted in "reasonable good faith" would be allowed into court. This "reasonable good faith" could be shown if the officer relied upon a statute later found to be unconstitutional or if he were carrying out the search with a duly-authorized search warrant. The new rule would not apply, however, if the search warrant had been obtained through misrepresentation, or if the police officer merely claimed that he did not know the law when a well-trained officer should have been expected to know it.

In this way, the criminal justice system would focus on the guilt or innocence of the defendant rather than the second-guessing of a police officer's split-second interpretation of the search and seizure law.

The insanity defense

The insanity defense was originally devised to protect mentally ill persons who did not understand what they were doing when they committed a crime. But that original purpose has been so badly twisted out of context that it has now become a commonly-abused defense strategy. Many defendants who were merely irrational or excessively emotional at the time of their crime have claimed the defense, and have succeeded in winning a verdict of "not guilty by reason of insanity" (NGRI).

Tragically, many criminals declared NGRI have been released following a few years of psychiatric treatment only to commit more murders and rapes. In one case, an Alaskan man kicked to death a retarded Indian in 1973 because of the Indian's "aggravating voice," but avoided prison with an insanity defense. When the psychiatrists decided he was no longer mentally ill, the man was allowed to participate in a work-furlough program. He is now charged with killing four teenagers at an Anchorage state park. In another case, an Idaho man raped two women but was found NGRI. After a year of treatment he was released. He was later arrested and convicted of shooting a nurse.

The President's reform bill would change the insanity defense so that a defendant could be found not guilty only if a jury determines that "as a result of a mental disease or defect, (he) was unable to appreciate the nature and quality or the wrongfulness of his act." For example, a defendant could be acquitted by reason of insanity if he were so deluded by reason of mental disease or defect that he did not know he was holding a gun or thought he was pointing it at a tree rather than a human being. But if a defendant knew what he was doing, even if he were acting irrationally, he could be convicted. His mental state would be relevant solely in determining the nature of punishment and treatment.

The President's bill would also place the burden on the defendant to prove insanity with clear and convincing evidence. No longer would the prosecution have to demonstrate sanity, an exceedingly difficult proposition to prove. Furthermore, the bill would prevent an expert witness from stating an opinion or inference as to whether the defendant was innocent or guilty as a result of his mental state or condition; that judgement, as it should be, would be left for the jury to make.

Reform of federal intervention in state proceedings

The federal government has the authority to intervene in state proceedings through the writ of habeas corpus. Although this doctrine was intended to be used rarely and only in those cases where the state courts had clearly overstepped constitutional boundaries, delaying justice through continual federal review of state convictions has become another familiar and frequently abused defense technique. By playing one court system off against another, defendants and their lawyers can clog court dockets and almost endlessly postpone final resolution of many criminal cases.

The President's reform bill would restore federal intervention to its original purpose, and limit its use to cases in which legitimate appellate questions were raised. By requiring deference to "full and fair" state court proceedings, the bill would no longer allow federal courts to reverse state convictions years after they had occurred unless the federal court found a significant error or deficiency in state proceedings.

The bill would make other improvements in the federal habeas corpus laws, including the establishment of a one-year time limit on applications following the end of state proceedings.

Narcotics enforcement amendments

Because drug trafficking is one of the most serious crime problems in the country, the President has proposed to update and standardize penalties and enforcement procedures. He has offered a number of amendments to the U.S. Criminal Code that strengthen federal drug enforcement operations.

A major reform would bring common sense to penalties for drug trafficking. Under the current system, the penalty for selling ten grams of heroin is the same as that for selling 500 grams. Also, sentencing is not compatible for trafficking in narcotic and non-narcotic drugs; the penalties are significantly less for non-narcotic drugs such as PCP, LSD, methamphetamines, and methaqualone even though they are as dangerous as actual narcotics.

The President's proposed reforms would increase the penalties for selling large amounts of drugs to a maximum of 20 years in prison and a fine of \$250,000. This would be a particularly large increase in fines; despite the high profitability of drug sales, the maximum fine for dealing in all drugs except marijuana is now \$25,000.

The bill would also change the Controlled Substances Act to clarify the definitions of various drugs. The Drug Enforcement Administration would be given the ability to deal with newly developed drugs by putting them under temporary controls. In this way, the DEA would be able to simplify regulations for law-abiding drug manufacturers and the doctors who distribute legitimate drugs. At the same time, the DEA would be given a bigger role to play in helping state and local officials prevent the diversion of legitimate drugs to illegal uses.

Forfeiture reform

Current law recognizes that criminals should not be able to profit from their crimes, and it gives the government power to seize the illegally obtained assets of a convicted felon. However, because of the limitations and ambiguities in existing forfeiture laws, the government has been unable to use this approach as an effective law enforcement technique. For example, the government often has to file a separate civil suit to seize property even though a criminal proceeding has already proven that it was illegally obtained.

The President's bill would strengthen the criminal and civil forfeiture laws, clearing up ambiguities and making plain that property derived from racketeering and drug activities were subject to confiscation by the government.

The bill is also designed to address the problem of defendants removing, concealing, or transferring forfeitable assets before a conviction. Courts would be able to issue restraining orders freezing assets when an indictment was expected (but before it was actually handed down) in order to prevent criminals from hiding their profits when they learned a criminal investigation was underway. Moreover, the bill contains a provision permitting the courts to order a defendant to forfeit substitute assets when criminally acquired property can no longer be identified.

The bill also would expand the use of administrative forfeiture in non-contested cases. And it would establish a Drug Assets Forfeiture Fund into which forfeited property from drug trafficking would be deposited to help defray drug enforcement costs, replacing the current practice of turning forfeited property directly over to the U.S. Treasury.

The Justice Assistance Act

The President's proposed Justice Assistance Act recognizes that the federal government can assist state and local law enforcement agencies, which investigate and prosecute 95% of all crime. The Act would establish an Office of Justice Assistance to provide financial and technical assistance as well as training to state and local officials. The existing National Institute of Justice and the Bureau of Justice Statistics would be placed in this office, where they would continue researching criminal justice and collecting statistical information on crime so that it would be available to state and local agencies.

The Act would also create a Bureau of Justice Programs to award grants to projects and programs that have made progress in fighting crime, such as projects relating to special prosecution of "career criminals," juvenile violent

crime prosecution, the combating of arson, victims assistance, increased citizen participation in crime control, and disruption of stolen goods operations.

The Act would also continue the Public Safety Officers Benefits Program, which provides for payments of \$50,000 to survivors of public safety officers who are killed in the line of duty.

Other provisions

Among the other reforms proposed by President Reagan are:

- o Extended prison space would be made available by amendments to the federal surplus property law allowing the donation of such property to state and local governments for that purpose.

- o The reinstatement of capital punishment that would impose a death penalty for certain federal crimes, including murder, treason, and espionage, while meeting the Constitutional requirements promulgated by the U.S. Supreme Court.

- o Violent crime amendments that would strengthen federal laws concerning violent crime, and provide mandatory sentences for using firearms in the course of a federal crime.

- o Serious non-violent offense amendments that would impose stiffer penalties on such crimes as product tampering, child pornography, and fraud and bribery related to federal programs.

- o Procedural amendments that would make improvements in federal criminal justice laws, such as permitting the prosecution of certain juveniles as adults and the increased protection of participants in the witness security program.

Conclusion

Despite the modest drop in the crime rate last year, crime remains an extremely serious problem. President Reagan was speaking for the vast majority of Americans on February 26, 1982, when he called crime "a problem whose gravity cannot be underestimated."

The President has taken the lead in this battle. He has frequently made the moral case for a stronger anti-crime program, and has used his existing authority to develop tough anti-crime solutions such as the anti-drug task forces.

However, existing laws also need to be updated and improved to meet the challenge of the modern criminal. During the previous decade, when Congress did little to revise federal criminal statutes, criminals became more aggressive, more sophisticated and more dangerous.

The Comprehensive Crime Control Act of 1983 would strengthen the hands of law enforcement agencies throughout the nation. Its enactment would have two immediate results: it would give the police and courts the tools they need to put criminals in prison, and it would send a message to every would-be lawbreaker that public attitudes have changed and that individuals would have to answer for their crimes.

As President Reagan noted in his call for a crackdown on crime:

"It comes down in the end to a simple question we must ask ourselves: what kind of people are we if we continue to tolerate in our midst an invisible lawless empire? Can we honestly say that America is a land with justice for all if we do not now exert every effort to eliminate this confederation of professional criminals, this dark, evil enemy within? ... I ask your support of our people in this effort to fight the drug menace, to eradicate the cancers of organized crime and public corruption, to make our streets and houses safe again, and to return America to the days of respect for the law and the rights of the innocent.

#

THE WHITE HOUSE

WASHINGTON

April 10, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Proposed Crime Victims Week Proclamation

Richard Darman has asked for comments by 6:00 p.m. today on the above-referenced proposed proclamation. The proclamation was not requested by joint resolution of Congress, nor is it traditional in the sense that the Thanksgiving Day Proclamation is. President Reagan has, however, issued crime victims proclamations in each of the three preceding years, so the issuance of this proclamation can be viewed as at least an incipient tradition and accordingly arguably consistent with established policy. In any event, in light of the 1981, 1982, and 1983 crime victims proclamations, I do not think we should object to the issuance of this one. We should, however, insist that the proclamation go through the normal OMB proclamation clearance process. This package lacks an OMB clearance memorandum.

The proclamation was drafted by Assistant Attorney General Lois Herrington. It is very poorly written and thought out, and the tone is far too disparaging of our justice system. The attached proposed memorandum for Darman contains several suggestions to moderate the tone and make it more suitable for a Presidential statement.

Attachment

THE WHITE HOUSE

WASHINGTON

April 10, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING *FFF/RAA*
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Crime Victims Week Proclamation

Counsel's Office has reviewed the above-referenced proposed proclamation. Although this proclamation has not been requested by Congress, the President has issued similar proclamations in each of the preceding three years, and accordingly we have no objection to the issuance of another crime victims proclamation this year. The package sent to us, however, contains no indication that the proclamation has been reviewed and approved by OMB. The proclamation should go through the normal OMB clearance process for proclamations.

With respect to the substance of the proclamation, the tone strikes us as too disparaging of our criminal justice system. The suggested changes that follow would moderate that tone, making it more suitable for a Presidential proclamation.

We suggest replacing the second and third sentences with the following: "Yet our justice system has too often been insensitive to the equally compelling need to provide justice and fair treatment for the innocent victims of crime."

We suggest changing the last sentence of the first paragraph to read: "Our criminal justice system suffers when it ignores the legitimate needs of victims, because the cooperation of victims is necessary to bring criminals to justice."

The second and third sentences of the second paragraph strike us as too self-congratulatory. We suggest replacing them with the following: "The President's Task Force on Victims of Crime has set an agenda for improving the plight of victims, and this Administration is working to implement the necessary changes throughout the criminal justice system and society as a whole."

The first full paragraph on page 2 is based on an erroneous legal supposition. The constitutional guarantee of equal protection has nothing whatsoever to do with the questions surrounding the treatment of victims. We recommend changing the paragraph to read: "The national movement seeking more compassionate treatment for the victims of crime is led in large part by the victims themselves. In the true spirit of democracy, they have plotted a course for reform based on their own experiences and are moving forward with courage and perseverance. Our government is obligated to assure they do not bear the burden alone."

Finally, we recommend deleting the fifth sentence of the second full paragraph on page 2. It is awkward and redundant.

FFF:JGR:aea 4/10/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 10, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Crime Victims Week Proclamation

Counsel's Office has reviewed the above-referenced proposed proclamation. Although this proclamation has not been requested by Congress, the President has issued similar proclamations in each of the preceding three years, and accordingly we have no objection to the issuance of another crime victims proclamation this year. The package sent to us, however, contains no indication that the proclamation has been reviewed and approved by OMB. The proclamation should go through the normal OMB clearance process for proclamations.

With respect to the substance of the proclamation, the tone strikes us as too disparaging of our criminal justice system. The suggested changes that follow would moderate that tone, making it more suitable for a Presidential proclamation.

We suggest replacing the second and third sentences with the following: "Yet our justice system has too often been insensitive to the equally compelling need to provide justice and fair treatment for the innocent victims of crime."

We suggest changing the last sentence of the first paragraph to read: "Our criminal justice system suffers when it ignores the legitimate needs of victims, because the cooperation of victims is necessary to bring criminals to justice."

The second and third sentences of the second paragraph strike us as too self-congratulatory. We suggest replacing them with the following: "The President's Task Force on Victims of Crime has set an agenda for improving the plight of victims, and this Administration is working to implement the necessary changes throughout the criminal justice system and society as a whole."

The first full paragraph on page 2 is based on an erroneous legal supposition. The constitutional guarantee of equal protection has nothing whatsoever to do with the questions surrounding the treatment of victims. We recommend changing the paragraph to read: "The national movement seeking more compassionate treatment for the victims of crime is led in large part by the victims themselves. In the true spirit of democracy, they have plotted a course for reform based on their own experiences and are moving forward with courage and perseverance. Our government is obligated to assure they do not bear the burden alone."

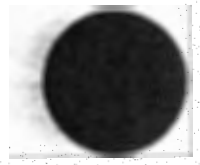
Finally, we recommend deleting the fifth sentence of the second full paragraph on page 2. It is awkward and redundant.

FFF:JGR:aea 4/10/84

cc: FFFielding/JGRoberts/Subj/Chron

**WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET**

- O - OUTGOING
 - H - INTERNAL
 - I - INCOMING
- Date Correspondence Received (YY/MM/DD) 1/1



Name of Correspondent: Richard Dorman

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Proposed Crime Victims Week Proclamation

ROUTE TO: Office/Agency (Staff Name)	ACTION Action Code	Tracking Date YY/MM/DD	DISPOSITION	
			Type of Response	Completion Date YY/MM/DD
<u>CUHOLL</u>	ORIGINATOR	<u>84, 10409</u>		<u>1/1</u>
<u>CUAT 18</u>	<u>D</u>	<u>84, 10409</u>	<u>S</u>	<u>8410410</u> <u>6:00pm</u>
		<u>1/1</u>		<u>1/1</u>
		<u>1/1</u>		<u>1/1</u>
		<u>1/1</u>		<u>1/1</u>

- ACTION CODES:**
- A - Appropriate Action
 - C - Comment/Recommendation
 - D - Draft Response
 - F - Furnish Fact Sheet to be used as Enclosure
 - I - Info Copy Only/No Action Necessary
 - R - Direct Reply w/Copy
 - S - For Signature
 - X - Interim Reply

- DISPOSITION CODES:**
- A - Answered
 - B - Non-Special Referral
 - C - Completed
 - S - Suspended

FOR OUTGOING CORRESPONDENCE:
 Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 4/9/84 ACTION/CONCURRENCE/COMMENT DUE BY: 6:00 p.m. TUESDAY, 4/10

SUBJECT: PROPOSED CRIME VICTIMS WEEK PROCLAMATION

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	McFARLANE	<input type="checkbox"/>	<input type="checkbox"/>
MEESE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	McMANUS	<input type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	OGLESBY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input type="checkbox"/>	<input type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
FELDSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	SVAHN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	VERSTANDIG	<input type="checkbox"/>	<input type="checkbox"/>
FULLER	<input type="checkbox"/>	<input type="checkbox"/>	WHITTLESEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HERRINGTON	<input type="checkbox"/>	<input type="checkbox"/>	<u>LIVINGSTON</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HICKEY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
JENKINS	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

The attached draft proclamation was prepared by the Department of Justice. In addition to reviewing the language, we should make an initial determination with regard to whether we will recommend submitting the proclamation to the President in the absence of a Joint Resolution.

Thank you.

RESPONSE:

1984 APR -9 PM 4: 10

Richard G. Darman
Assistant to the President
Ext. 2702

Office of the Assistant Attorney General

Washington, D.C. 20531

DRAFT PROCLAMATION

By the President of the United States of America

CRIME VICTIMS WEEK, 1984

Submitted by

Lois Haight Herrington

Assistant Attorney General

As citizens of this free nation, we support a system of justice which protects the rights of the accused by assuring them due process of law, a just and fair guarantee inscribed into our Constitution. Yet when the innocent victim of crime seeks similar considerations, the courtroom door slams shut. Tarnished by ignorance and insensitivity, the scales of justice have failed to deliver to victims of crime the just treatment they deserve. These citizens are forced to endure alone the pain that crime inflicts upon their minds, their bodies and their financial well-being. Our criminal justice system has so ignored the needs of victims, many have vowed never to cooperate again.

As a country founded with the noble purpose to protect and defend its people, our society cannot ignore the victims' pleas. The President's Task Force on Victims of Crime answered this cry for help and found that neither have the innocent been protected nor the guilty been punished. The Task Force thus set an agenda for reform, and this Administration is working to

effect the much-needed changes throughout society, from the law enforcer to the judge, from the physician to the businessman.

Our rich national heritage and Constitution demand that all citizens be treated equally under law. It is this shining ideal which guides the national movement seeking more compassionate treatment for the victims of crime, a movement led in large part by the victims themselves. In the true spirit of democracy, they have plotted a course for reform and are moving forward with courage and perseverance. Our government is obligated to assure they do not bear the burden alone.

NOW, THEREFORE, I RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning April 15, 1984 as Crime Victims Week. I urge officials at all levels of government to offer services within their jurisdictions to ease the burdens crime victims face. I ask that all Americans listen and respond to the needs of crime victims who desperately require our support. I commend the courageous victims who overcome their pain and despair to strive for the greater good of easing the trauma of other victims. They are bravely polishing the principles of justice on which our free society depends. As citizens of this country, as human beings who have been or could be victims of crime, we are compelled to follow their example.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of April, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.



Crime Victims Week, 1983

By the President of the United States of America

A Proclamation

For too many years, the scales of justice—the very hallmark of our free society—have been out of balance. Too often innocent victims of crime turn to their government for protection and support only to find that the criminal justice system seems unable to achieve two of its fundamental purposes—protecting those who obey the law and punishing those who break it. Victims and their families must bear the physical, financial, and emotional impact of the crime. It is unjust and inexcusable when they are ignored or mistreated by this system. Victims called for help, and they needed our assistance. Frequently, their pleas have been unheard and their needs have gone unattended.

These were the conclusions of the President's Task Force on Victims of Crime that I established last year. The Task Force conducted hearings around the country, taking testimony from professionals within and outside the system and, most importantly, from victims themselves. The Task Force concluded that the neglect and mistreatment of crime victims are a national disgrace.

I asked the Task Force for recommendations to restore balance to our system. It submitted 68 specific recommendations directed to the Executive Branch and the Congress, State and local legislative bodies, law enforcement officers, the judiciary, prosecutors, defense attorneys, parole boards, bar associations, the religious community, schools, hospitals, the mental health professionals, and the private sector.

No segment of our society should refuse to recognize its responsibility to help. This Administration has already begun implementation of the Task Force's recommendations.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning April 17, 1983, as Crime Victims Week. I urge officials at all levels of government to take immediate and decisive action to meet the needs of crime victims in their jurisdictions. I urge every American to take action to ease the burdens faced by innocent victims. I urge the victims themselves not to despair. You have made us aware of the inequities you have faced, and we are moving forward to correct them. For too long the justice system has failed to address adequately the rights of victims. The time has come to restore the balance. If our system is to survive, it must truly bring justice to all who seek it.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of April, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan



Crime Victims Week, 1982

By the President of the United States of America

A Proclamation

The innocent victims of crime have frequently been overlooked by our criminal justice system. Too often their pleas for justice have gone unheeded and their wounds—personal, emotional and financial—have gone unattended.

The rule of law is fundamental to the preservation of the democratic principles and ideals that law-abiding Americans cherish. Our commitment to criminal justice goes far deeper than our desire to punish the guilty or to deter those considering a lawless course. We must never forget that our laws represent the collective moral voice of a free society—a voice that articulates our shared beliefs about the rules of civilized behavior, and reflects our basic precept that men and women should be treated as free individuals, responsible for the consequences of their actions. When we countenance the suffering of innocent victims of crime, we thus threaten to undermine the faith of our citizens in a legal system that lies at the heart of much that is unique and precious about our Nation itself.

We cannot afford for law-abiding Americans to lose that faith. At a time when crime remains a serious national problem, we must be ever more zealous in our pursuit of law and justice. In that pursuit, we must never forget that the victims of crimes are not merely statistics on a police blotter; they are our friends, relatives, neighbors, and fellow citizens. They are entitled to better treatment, and it is time to do something about it.

The plight of innocent citizens victimized by lawlessness deserves immediate national attention. I have, therefore, decided to establish a Presidential Task Force on Victims of Crime, to be composed of members of the public with particular knowledge and expertise in the area of victims' rights, that will evaluate current national, state and local policies and programs concerning this important issue and recommend executive and legislative action to improve our efforts to assist and protect victims of crime.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning April 19, 1982, as Crime Victims Week. I urge all Federal, state and local officials involved in the criminal justice system to devote special attention to the needs of victims of crime, and to redouble their efforts to make our system responsive to those needs. I urge all other elected and appointed officials to join in this effort to make our justice systems more helpful to those for whom it was designed to protect. And I urge all citizens, from all walks of life, to remember that the personal tragedy of the victim is their own tragedy as well.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of April, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan



Victims Rights Week, 1981

By the President of the United States of America

A Proclamation

For too long, the victims of crime have been the forgotten persons of our criminal justice system. Rarely do we give victims the help they need or the attention they deserve. Yet the protection of our citizens—to guard them from becoming victims—is the primary purpose of our penal laws. Thus, each new victim personally represents an instance in which our system has failed to prevent crime. Lack of concern for victims compounds that failure.

Statistics reported by the Federal Bureau of Investigation and other law enforcement agencies indicate that crime continues to be a very serious national problem. But statistics cannot express the human tragedy of crime felt by those who are its victims. Only victims truly know the trauma crime can produce. They have lived it and will not soon forget it. At times, whole families are entirely disrupted—physically, financially and emotionally. Lengthy and complex judicial processes add to the victim's burden. Such experiences foster disillusionment and, ultimately, the belief that our system cannot protect us. As a Nation, we can ill afford this loss of faith on the part of innocent citizens who have been victimized by crimes.

We need a renewed emphasis on, and an enhanced sensitivity to, the rights of victims. These rights should be a central concern of those who participate in the criminal justice system, and it is time all of us paid greater heed to the plight of victims.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning April 19, 1981, as Victims Rights Week. I urge all Federal, state and local officials involved in the criminal justice system to devote special attention to the needs of victims of crime, and to redouble their efforts to make our system responsive to those needs. I urge all other elected and appointed officials to join in this effort to make our justice system more helpful to those whom it was designed to protect. And I urge all citizens, from all walks of life, to remember that the personal tragedy of the victim is their own tragedy as well.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of April, in the year of our Lord nineteen hundred and eighty-one, and of the Independence of the United States of America the two-hundred and fifth.

Ronald Reagan