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White House Office of Policy Information

MEMORANDUM

Document No. _____ PI

Date 10/25/82

Time 10:19 am

Due By	<u>10/25/82</u>
Time	<u>3:00 pm</u>

Staffing Memorandum

Clearance Memorandum

Please respond whether or not you have comments and/or corrections

Subject Crime Op-Ed piece for Ed Meese

ACTION		FYI	ACTION		FYI
OFFICE OF POLICY INFORMATION			OFFICE OF POLICY DEVELOPMENT		
HOPKINS	<input type="checkbox"/>	<input type="checkbox"/>	HARPER	<input type="checkbox"/>	<input type="checkbox"/>
COBB	<input type="checkbox"/>	<input type="checkbox"/>	PORTER	<input type="checkbox"/>	<input type="checkbox"/>
DUFF	<input type="checkbox"/>	<input type="checkbox"/>	BARR	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LAMBERTON	<input type="checkbox"/>	<input type="checkbox"/>	BOGGS	<input type="checkbox"/>	<input type="checkbox"/>
SCHUETTINGER	<input type="checkbox"/>	<input type="checkbox"/>	BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>
SMITH	<input type="checkbox"/>	<input type="checkbox"/>	CARLESON	<input type="checkbox"/>	<input type="checkbox"/>
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JENKINS	<input type="checkbox"/>	<input type="checkbox"/>	FAIRBANKS	<input type="checkbox"/>	<input type="checkbox"/>
KEYWORTH	<input type="checkbox"/>	<input type="checkbox"/>	FERRARA	<input type="checkbox"/>	<input type="checkbox"/>
ROLLINS	<input type="checkbox"/>	<input type="checkbox"/>	GALEBACH	<input type="checkbox"/>	<input type="checkbox"/>
MUSS (PRB)	<input type="checkbox"/>	<input type="checkbox"/>	GARFINKEL	<input type="checkbox"/>	<input type="checkbox"/>
CRIBB	<input type="checkbox"/>	<input type="checkbox"/>	GUNN	<input type="checkbox"/>	<input type="checkbox"/>
BLACKWELL	<input type="checkbox"/>	<input type="checkbox"/>	LEONARD, B.	<input type="checkbox"/>	<input type="checkbox"/>
DUNLOP	<input type="checkbox"/>	<input type="checkbox"/>	LEONARD, D.	<input type="checkbox"/>	<input type="checkbox"/>
GERSON	<input type="checkbox"/>	<input type="checkbox"/>	MONTOYA	<input type="checkbox"/>	<input type="checkbox"/>
HEMEL	<input type="checkbox"/>	<input type="checkbox"/>	ROCK	<input type="checkbox"/>	<input type="checkbox"/>
THOMPSON	<input type="checkbox"/>	<input type="checkbox"/>	TURNER	<input type="checkbox"/>	<input type="checkbox"/>
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REMARKS:

Please review and comment on the above, and return to me by 3:00 pm today. Thanks.

Please return this tracking sheet with your response

Kevin R. Hopkins
Director, Office of Policy Information
Special Assistant to the President
(x6556)

The American criminal justice system is unique in the level of protection it affords persons accused of crimes. Yet expansion of these protections beyond reason, actually undermines the criminal justice process, and can threaten the lives and well-being of those who one day might become victims of crime.

To help correct this problem, President Reagan has proposed to revise three judicial rules that have been seriously abused in recent years, and have thus become impediments to justice.

The insanity defense is perhaps the most obvious example of a rule gone awry. When originally conceived, it was designed to protect mentally disturbed persons who, in committing a crime, did not understand what they were doing. Today, the accepted definition of insanity has become so broad that the mere "irrationality" of an individual's actions can free him from conviction.

Unfortunate consequences of this defense abound. In one Alaska case, for example, a man who murdered a retarded Indian because of the victim's "irritating voice" was found "not guilty by reason of insanity," and was sent to a mental hospital. A few years later, he was declared no longer "insane," and was released. Subsequently he shot four

teenagers to death -- again pleading insanity.

The President's proposal would limit this defense to its intended purpose by applying it to only those defendants who did not know what they were doing -- such as a person so deluded that he did not know he was holding a gun or pointing it at a human being.

But a defendant, who knew what he was doing could be convicted, even if he were acting irrationally. His mental state would be relevant solely in determining the nature of punishment and treatment.

The President has also proposed to revise the exclusionary rule, a judicially-created edict that bans courtroom use of criminal evidence deemed improperly obtained.

Devised to deter police misconduct, the rule has now become a common defense tool to exclude evidence in situations where the police officer had no reason to believe his actions were improper.

In such instances, the rule can have no deterrent impact. Its only effect is to free defendants who are clearly guilty, no matter how abominable their crimes, because a judge decides, in retrospect, that the police officer made a mistake -- perhaps a minor one -- in securing the evidence.

In fact, the exclusionary rule is applied even in the grayest areas of the law, thereby creating severe judgement problems for the arresting officer. In one California case, for example, fourteen judges ruled at various times on the propriety of a policeman's search.

Seven approved it; seven disapproved it.

If fourteen legal experts, sitting in quiet deliberation, cannot negotiate the law's intricacies, then a police officer, lacking such judicial training and acting possibly in a life-or-death situation, cannot be expected to do so either when the law is unclear.

Recognizing this, President Reagan has proposed to restrict application of the exclusionary rule to instances of conscious police misconduct, where a deterrent effect is possible. In other cases, in which the police obtained evidence in the reasonable, good faith belief that their actions were lawful, the rule could not be invoked.

Finally, the President has proposed to curb overuse of the writ of habeas corpus, an order that permits federal courts to review the constitutional soundness of state criminal proceedings.

Designed as an extraordinary remedy, the writ has today become an almost automatic means for delaying justice, with defendants seeking continual review of state convictions, often on frivolous grounds. So used, the writ needlessly duplicates the many other layers of state and federal review, while seriously compromising the ultimate finality of criminal verdicts.

The President's proposal would return habeas corpus review to its original purpose by limiting its use to cases in which legitimate appellate questions were present.

The three reforms described above acknowledge that the paramount purpose of the criminal justice system is to protect Americans from crime. The changes are a threat to

no one except the criminal who preys on innocent victims.

But the President's reforms would be of immense benefit to society. They would help protect the lives and livelihood of millions of Americans by restoring to criminal verdicts the deterrent effect so essential to discouraging crime.

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THE WHITE HOUSE

WASHINGTON

January 21, 1983

MEMORANDUM FOR ROGER PORTER

FROM: CARLTON TURNER

SUBJECT: Drug Abuse Fact Sheet - State of the Union

Per a brief conversation with Bill Barr (at approximately 4:45pm this afternoon) I have prepared the attached fact sheet which broadly covers the drug abuse issues. Since I was given no guidelines, I am not sure this is what is wanted.

It is my understanding that this fact sheet may be released with the State of the Union, therefore we have included all the principal areas of the President's campaign against drug abuse.

I believe law enforcement has reached its' peak. The time is right to focus on the upcoming education and prevention activities which the President has repeatedly stressed as the long term solution to the problems created by drug abuse.

cc: Ed Harper
Bob Carleson
Mike Uhlmann
Bill Barr

DRUG ABUSE FACT SHEET

- The success of the South Florida Task Force led to the establishment of twelve Joint Investigative Task Forces, announced on October 14, 1982, to combat organized crime and related drug trafficking. These task forces will accelerate the investigation, prosecution, and incarceration of those involved in drug trafficking and organized crime.
- The joint efforts between the Federal Bureau of Investigation and Drug Enforcement Administration have resulted in more than 1,100 new drug investigations. The current drug investigations by the Bureau of Alcohol, Tobacco and Firearms and the Internal Revenue Service are now in the hundreds.
- Internationally, we are pursuing diplomatic initiatives with the source countries to eradicate the plants which produce drugs such as marijuana, cocaine, and heroin.
- The United States Information Agency has expanded their program to communicate to foreign countries the Administration's commitment to reducing drug abuse worldwide.
- Recommendations from the President's Commission on Drunk Driving, established in March 1981, are being used by states to raise the legal drinking age and to seek community involvement in reducing alcohol consumption by young people.
- In cooperation with the Commission on Drunk Driving and Members of Congress, we have established a National Drunk and Drugged Driving Awareness Week. The purpose of the week is heighten the awareness of the inherent dangers and remove the impaired driver from the road.
- Federal agencies, state and local governments, corporations, and individuals from all segments of society are supporting the Administration's efforts to combat drug abuse.
- The professional sports organizations, in conjunction with the "Nancy Reagan Speakers Bureau" newly established by the National Federation of Parents for Drug Free Youth, will undertake a far reaching program to alert young people to the problems associated with drug and alcohol use.
- The International Association of Lions Clubs, the American Academy of Pediatrics, the Junior Leagues and other professional and service organizations are beginning national drug education and awareness programs.
- Passage of the Orphan Drug Act has created a climate whereby pharmaceutical manufacturers can accelerate the development of therapeutics for use in treatment of drug addiction.
- The positive leadership by the President and First Lady in calling for public support and individual involvement has created a positive change across the country and created a concerted grass-roots effort against drug abuse.

File - Come

Mrs. Strom Thurmond

February 2, 1983

Mrs. Dee Jepsen
Special Assistant to the President
Room 197
Old Executive Office Building
Washington, D.C. 20500

Dear Dee,

I am enclosing a copy of Strom's news release for your perusal concerning anti-crime legislation on the Senate floor.

Strom joins me in sending you and Roger our warmest regards.

Affectionately,

Nancy
Nancy Thurmond

NT/s
Enclosure

Stew -

*please review -
is this anything if and/or POTUS
would be interested in?*

Dee

Strom THURMOND

United States Senator South Carolina

Contact: Mark Goodin

(202) 224-7730

FOR IMMEDIATE RELEASE

WASHINGTON, January 27 -- Underscoring his commitment to "get tough" with career criminals, Senate Judiciary Committee Chairman Strom Thurmond today introduced seven different anti-crime bills, including legislation establishing a Federal death penalty, reform of habeas corpus laws and new insanity defense provisions.

Thurmond (R-S.C.) said his decision to introduce the measures separately and not in an omnibus package is "based on my belief that the House of Representatives, which has been the major stumbling block in our path toward reform of our Federal criminal laws, will look more favorably on individual bills, instead of one, lump-sum package."

Many of the provisions introduced Thursday are items that Thurmond proposed during the 97th Congress in a comprehensive anti-crime package known as the Violent Crime and Drug Enforcement Improvement Act. The Senate approved the measure by a 98-1 vote, but the House refused to act on the bill last year.

"I realize that some of the bills I have introduced are extremely controversial," the South Carolina lawmaker said. "However, I also realize that the public is clamoring for tough action by the Congress to combat crime. In this issue, the Congress can and should take the lead in setting an example for the States to pass more stringent crime legislation."

Legislation introduced by Thurmond today includes:

**A new Federal capital punishment statute to establish constitutional procedures to meet the U.S. Supreme Court's requirements for imposing the death penalty in certain Federal cases. This measure was approved decisively by the Judiciary Committee in the last Congress.

**Reform of Federal bail procedures. Specifically, Federal Judges, for the first time, would be allowed to take a criminal defendant's "danger to the community" into consideration when deciding whether bail will be granted. Under current law, a Federal Judge cannot deny a defendant bail, and can only set bond in the amount that will guarantee a person's appearance at trial. The Thurmond bill would affect bail procedures in pre-trial and post-convictions proceedings.

**A substantial modification of the current Federal insanity defense. The bill would establish a more stringent test for insanity and place the burden on the defendant to prove that he is insane if that issue is raised during trial.

**New penalties for product tampering. Thurmond's bill, the language of which is identical to a measure the Senator introduced last year, would make product tampering in interstate commerce a Federal felony, with sentences up to life in prison for persons convicted of the offense should it result in personal injury or death. The current Federal penalty for product tampering is one-year prison term on the first offense and a \$1,000 fine.

**Habeas Corpus Reform. This bill modifies current Federal habeas corpus procedures to better ensure the finality of criminal convictions and to eliminate present abuses by criminals who use the law as a way to escape legitimate convictions for crimes they committed. In general, Thurmond's bill establishes a ten-year deadline for persons convicted of a Federal crime to appeal their case on the basis of habeas corpus proceedings.

** A bill requiring court orders to expressly include authority to make a surreptitious entry in instances where such an entry is necessary to conduct an authorized electronic surveillance by the FBI and allow emergency surveillance in the event of an imminent threat to human life.

**A measure strengthening current Federal penalties for arson committed for profit, a crime increasingly associated with organized criminal activity.

"Many of our existing Federal criminal statutes are a laughingstock in criminal circles," Thurmond said. "Until we make a firm decision to crack down on criminals through tougher laws, we will continue to witness a dramatic increase in lawlessness, particularly those offenses that involve violence."

The Senator added, "Congress must address the public's concern that many of our current Federal laws must be reformed if we are to adequately combat crime and protect law-abiding citizens."

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U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

March 3, 1983

MEMORANDUM

TO: Michael M. Uhlmann
Special Assistant to the President
for Policy Development

FROM: Robert A. ~~McConnell~~
Assistant Attorney General

RE: Comprehensive Crime Control Act

Pursuant to discussions, please find attached a draft Fact Sheet for use in the announcement of the President's crime bill. Obviously, if we can provide additional assistance, we are anxious to help.

cc: Craig L. Fuller
Assistant to the President
for Cabinet Affairs

Kenneth M. Duberstein
Assistant to the President
for Legislative Affairs

T. Kenneth Cribb, Jr.
Assistant Counsellor to the President

FOR IMMEDIATE RELEASE
MONDAY, MARCH , 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 processed 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.

-- 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 him.

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;

-- limit the time within which State adjudications may be challenged in federal court; and

-- make 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 modest 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:

- debarment of corrupt officials from union and trust fund positions;
- bribery aimed at manipulation of union hiring policies or trust funds; and
- violent crimes associated with collective bargaining disputes.

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;
- 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;

-- extraterritorial jurisdiction over certain violent crimes; and

-- comprehensive amendments to the procedures governing extradition of foreign criminals found in the United States.

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;

-- possession of contraband in prison; and

-- gambling on Indian reservations.

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 unsuccessfully 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 Department 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.

DRAFT

PROPOSED STATEMENT BY THE PRESIDENT
ABOUT CRIME LEGISLATION TO BE
INTRODUCED BY SENATOR THURMOND AND OTHERS
ON MAY 26, 1982

Last fall, I spoke to the nation's chiefs of police about crime and what the Federal Government can do to help them fight it. Today, I return to that subject to urge Congress to pass a comprehensive package of anti-crime proposals introduced by Senator Thurmond, Chairman of the Senate Judiciary Committee, and others.

We realize that the Federal Government cannot, by itself, end violent, organized or drug-related crime. Our first line of defense against the human predators in our midst will continue to be the law enforcement officers who risk their lives each day in communities across our country. As a result, the primary responsibility for prosecuting and punishing criminals lies with the States, whose courts handle 97% of all criminal cases. However, the Federal Government can set an example for the States by establishing a modern, effective criminal justice system, including laws that will correct the imbalance that has arisen in favor of the forces of lawlessness over those law-abiding members of our society.

The legislation introduced today contains several statutory reforms that are long overdue. It includes bail reform that would permit a judge, after a hearing with full due process protections, to prevent a dangerous defendant from returning to the streets to once again prey on innocent life. It would permit a judge to set reasonable conditions for pre-trial release, and to lock up any defendant who is rearrested while out on bail.

This bill provides for comprehensive sentencing reform, by replacing our unpredictable and discredited parole system with determinate sentences. A judge would be required to sentence an offender within fixed guidelines, or explain in writing his reasons for failing to do so. Moreover, in contrast to the current situation, once a sentence is given, it would actually be served.

This legislation would strengthen penalties for trafficking in dangerous drugs. It also provides that all property used in drug trafficking or racketeering activities, along with all proceeds received from such illicit enterprises, would be subject to forfeiture to the Federal Government upon the criminal convictions of the ringleaders. Drug trafficking is a \$79 billion a year industry in this country, and the penalties now on the books are viewed by drug dealers as an insignificant cost of doing business. The forfeiture provisions and increased fines provided by this bill are necessary if we are to take the profit out of their destructive activities.

I am pleased to note that the legislation introduced today would help the forgotten people of the criminal justice system -- the victims and witnesses whose assistance is necessary to every criminal prosecution. This bill provides for use of criminal sanctions and civil injunctions to protect victims and witnesses from harassment and retaliation. I hope that this is only the first in a series of measures to help victims. The Task Force on Victims of Crime, which I recently established, will conduct research into a number of victim issues and will report to me later this year. However, I am sure that the members of the task force agree that the need to protect victims and witnesses from harassment and retaliation is so basic and urgent that immediate action is required.

While the proposed legislation would go far toward achieving a proper balance between the rights of the accused and their innocent victims, it fails to provide certain reforms that I feel are extremely important. First, I believe we must restore a constitutionally supportable death penalty. It is important to send a message to the courts that we as a nation consider the death penalty to be an appropriate punishment for the most heinous crimes against society.

Second, we need new legislation to assure the finality of convictions. Our courts are burdened with an endless stream of petitions from prisoners who refuse to accept just punishment for their crimes. Thus, I believe reforms in the procedures governing habeas corpus are needed.

Finally, we need legislation to reform the exclusionary rule. This rule has the noble purpose of protecting citizens from illegal searches and seizures. But it is based on the misconceived proposition that a law enforcement error, no matter how technical or unintentional, can justify dismissing an entire case, no matter how guilty the criminal. The result is that the guilty criminal is set free to victimize society again.

Therefore, I urge Congress to amend the bill to restore the death penalty, assure finality of convictions and require courts to admit evidence in criminal trials despite any good faith violation by police of the search and seizure rules. Congress should take advantage of this opportunity to enact the most sweeping anti-crime legislation possible. Our people expect and deserve no less from their representatives.

* * *

On a related matter, the Justice Department will soon forward to Congress the Administration's proposal respecting criminal justice research, statistics, and state and local assistance programs. I urge Congress to streamline the organizational

structure of these programs as provided in the Administration proposal. While current budgetary constraints do not allow any funds for state and local assistance programs to be authorized for 1984, the structural improvements contained in this proposal will permit the most efficient use of such funds if and when they become available.

Although a grant program is not possible at this time, we are proposing that Congress establish a Peace Officers' Training Fund to finance the training of state and local law enforcement professionals. This fund would be financed by a five percent surcharge on federal criminal fines, so it will not burden the federal treasury. This is an idea that has worked in California, and which will help improve the quality of law enforcement personnel across the country.