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MEMORANDUM

THE WHITE HOUSE

WASHINGTON

October 4, 1982

FOR: FRED FIELDING  
FROM: MICHAEL M. UHLMANN

Attached is a letter to Ed Meese requesting support for a grant application to the National Institute of Justice. To what extent would it be appropriate for Ed Meese to become involved in this and in other requests like it?

**WHITE HOUSE  
COUNSELLOR'S OFFICE TRACKING WORKSHEET**

FA

- O - OUTGOING
  - H - INTERNAL
  - I - INCOMING
- Date Correspondence Received (YY/MM/DD) 827122

Name of Correspondent: Cornelius J. Behan

CN Mail Report      User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: Update on Maryland's Repeat Offender Program Experiment and request for support of National Institute of Justice grant application.

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>CNHAMM</u>	<u>O</u> <u>827127</u>	_____      _____ <u>1 1</u>
<u>CNCRIB</u>	<u>A</u> <sup>W</sup> <u>820727</u>	_____ <u>C 82813</u> <span style="color:red">FILED</span>
<u>CNMEES</u>	<u>I</u> <sup>W</sup> <u>820727</u>	_____ <u>C 820727</u>
<u>PD UHLM</u>	<u>D</u> <u>821813</u>	_____      _____ <u>1 1</u>
	Referral Note: <u>for CE meese's signature</u>	_____      _____ <u>1 1</u>
	Referral Note: _____	_____      _____      _____

**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.

*Ken Ciba*

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FG 017-15 \_\_\_\_\_  
LG - BALTI \_\_\_\_\_

### PRESIDENTIAL REPLY

Code	Date	Comment	Form
C	_____	Time: _____	P- _____
DSP	_____	Time: _____	Media: _____

**SIGNATURE CODES:**

**CPn - Presidential Correspondence**  
 n - 0 - Unknown  
 n - 1 - Ronald Wilson Reagan  
 n - 2 - Ronald Reagan  
 n - 3 - Ron  
 n - 4 - Dutch  
 n - 5 - Ron Reagan  
 n - 6 - Ronald  
 n - 7 - Ronnie

**CLn - First Lady's Correspondence**  
 n - 0 - Unknown  
 n - 1 - Nancy Reagan  
 n - 2 - Nancy  
 n - 3 - Mrs. Ronald Reagan

**CBn - Presidential & First Lady's Correspondence**  
 n - 1 - Ronald Reagan - Nancy Reagan  
 n - 2 - Ron - Nancy

**MEDIA CODES:**

B - Box/package  
 C - Copy  
 D - Official document  
 G - Message  
 H - Handcarried  
 L - Letter  
 M - Mailgram  
 O - Memo  
 P - Photo  
 R - Report  
 S - Sealed  
 T - Telegram  
 V - Telephone  
 X - Miscellaneous  
 Y - Study



# BALTIMORE COUNTY POLICE DEPARTMENT

## HEADQUARTERS

400 KENILWORTH DRIVE  
TOWSON, MARYLAND 21204

(301) 494-2214

090237

CORNELIUS J. BEHAN

*Chief of Police*

July 16, 1982

The Honorable Edwin Meese, III  
Counsellor to the President  
The White House  
Washington, D.C. 20500

Dear Ed:

I want to bring you up to date on Maryland's Repeat Offender Program Experiment (ROPE) and ask your support for our grant application recently submitted to the National Institute of Justice (NIJ), Department of Justice, to evaluate this program.

As I briefly explained to you at the last PERF meeting (and also described in the enclosure), Maryland's ROPE project is a unique crime control program for improving the way juvenile and adult repeat offenders are apprehended, prosecuted, convicted, incarcerated, and treated through a concentrated and coordinated effort by State and local justice agencies. ROPE is an experiment designed to reduce serious delinquency and criminal activity by repeat offenders through the active involvement of all components of the juvenile and criminal justice system. This unique concept has begun to receive national attention. I have discussed the concept before Senator Specter's Subcommittee, and OMB has been given a copy of the paper at their request.

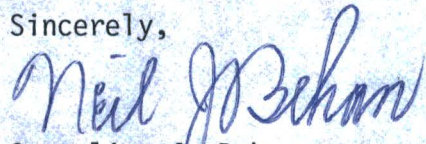
The ROPE concept is now in the planning stage in five of our major urban jurisdictions. We are

excited by the commitment expressed by the Governor and the local chief executives and by the degree of cooperation between the various state and local agencies.

I feel that our ROPE Evaluation application, if funded by NIJ, will benefit Maryland and can be used as a demonstration for other States and localities by providing thorough evaluative information about Maryland's system-wide repeat offender program.

Your support for our ROPE efforts will be greatly appreciated. The federal contact person on this project is: Patrick A. Langan, Ph.D., Manager, Career Criminal Research Program, National Institute of Justice, Washington, D.C. 20531.

Sincerely,



Cornelius J. Behan  
Chief of Police

Enc.



EXECUTIVE DEPARTMENT  
GOVERNOR'S COMMISSION ON LAW ENFORCEMENT  
AND THE ADMINISTRATION OF JUSTICE  
SUITE 700, ONE INVESTMENT PLACE  
TOWSON, MARYLAND 21204

PHONE: 321-3636

TTY FOR THE DEAF 400-0572

HARRY HUGHES  
GOVERNOR

MARYLAND CRIMINAL JUSTICE COORDINATING COUNCIL  
REPEAT OFFENDER PROGRAM EXPERIMENT (ROPE)

NATHANIEL E KOSSACK  
CHAIRMAN

RICHARD W FRIEDMAN  
EXECUTIVE DIRECTOR

The Maryland Criminal Justice Coordinating Council and its Repeat Offender Task Force have designed an experimental program to reduce serious delinquency and criminal activity by repeat offenders. The Repeat Offender Program Experiment (ROPE) will improve the way juvenile and adult repeat offenders are apprehended, prosecuted, convicted, incarcerated, and treated through a concentrated and coordinated effort by State and local justice agencies. This program includes all parts of the juvenile/criminal justice system - law enforcement, prosecution, defense counsel, courts, local jails, Juvenile Services, Parole and Probation, Division of Correction, and the Parole Commission. The ROPE concept is unique to Maryland and it has received national attention. It is experimental and requires the commitment and cooperation of elected and appointed justice system administrators.

The Chief Executives of Baltimore City and Anne Arundel, Baltimore, Howard and Montgomery Counties have agreed to establish local Repeat Offender Steering Councils. These Councils will be composed of State and local justice system administrators who will develop a coordinated approach to handling repeat offenders. These local Councils are asked to plan, implement, monitor, and evaluate a comprehensive repeat offender program consistent with the ROPE concept.

As part of the planning phase, the local Steering Councils will establish target populations as dictated by each jurisdiction's repeat offender problem and will establish objectives consistent with those mandated by the Maryland Criminal Justice Coordinating Council in the ROPE Guidelines and Programmatic Alternatives Report. These objectives fall into four operational areas and one support area and should be adapted to the unique needs of each jurisdiction:

- Identification, apprehension, adjudication;
- Conviction/finding of delinquency;
- Sentencing/disposition;
- Correctional programs;
- Timeliness/availability of information, and legal issues.

The ROPE Report explains these objectives, details a number of model programs that can be used to accomplish the objectives, and provides a bibliography and resource listing for the use of each Repeat Offender Steering Council.

Each jurisdiction interested in planning a ROPE program has been awarded a planning grant in order to assist with the development and management of a repeat offender program.

The Council expects the development of well-coordinated local ROPE programs in each of five urban subdivisions. Each program will require an innovative use of existing resources, which may include such actions as:

- refining and enhancing existing operating procedures and management techniques;
- improving coordination between justice agencies;
- realigning existing resource allocations; and
- recommending procedures for better coordinating State and local justice records and computerized information systems.

MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

October 7, 1982

FOR: T. KENNETH CRIBB

FROM: WILLIAM P. BARR WPB

Attached is a copy of Ed Meese's 15 June speech on judicial reform before the Free Congress Research and Education Foundation. The Foundation would like to use it as a chapter in a new book they are putting together on ("Criminal Justice Reform: A Blueprint.")

If Mr. Meese approves, we can work with Pat McGuigan at the Foundation in footnoting and adapting the speech.



SPEECH OF EDWIN MEESE, III

MEETING OF THE

FREE CONGRESS RESEARCH AND EDUCATION FOUNDATION

Bill - This is the speech  
 we would like adapted/  
 rewritten as a chapter for our  
 next book - Criminal Justice  
Reform: A Blueprint  
 call me.  
 fat

(THIS TRANSCRIPT WAS PREPARED FROM A TAPE RECORDING.)

WASHINGTON, D.C.  
TUESDAY, 15 JUNE 1982

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## P R O C E E D I N G S

1  
2 MR. WEYRICH: Now it's time to introduce our good  
3 friend and the main speaker, who is going to give you some  
4 of the views that I think you've been waiting to hear.

5 I have known Ed Meese now for about 12 years, and  
6 I was just recounting that the very first conversation that  
7 I ever had with him -- in April of 1971 -- was on how bad  
8 the court system was. And nothing has really changed very  
9 much.

10 I think that I should make it clear -- because  
11 some of you follow these things in the media -- from time to  
12 time I hold press conferences urging members of the  
13 White House staff to resign -- and I want to make it clear  
14 that you're not one of those that I've --

15 (Laughter.)

16 -- urged to resign.

17 As a matter of fact, I want to say, here and now,  
18 that I am so dedicated to your long-term tenure at the  
19 White House that I will come out against you any time that  
20 it's helpful.

21 (Laughter.)

22 (Applause.)

23 I think that the -- the best compliment that I can  
24 pay Ed -- and I could go through his whole long list of  
25 credentials, but I think most of you know him and I think

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1 most of you have followed his career, and I think that most  
 2 of you know the great regard the President of the  
 3 United States has for him and the crucial role that he  
 4 played in the Reagan Administration in California, the role  
 5 that he plays here in Washington -- but I think the highest  
 6 compliment that I can pay in this wonderful city of ours is  
 7 that Ed Meese is somebody who has not forgotten his  
 8 friends.

9           And I think that that is really something  
 10 extraordinarily unusual and very important, because I will  
 11 -- I will say -- as much as I have not approved, you know,  
 12 of everything that the Administration has done -- through  
 13 Ed Meese the doors of the White House, for those people who  
 14 have been involved in the original coalition that elected  
 15 the President, has been open. And suggestions have been  
 16 considered and policies have been considered.

17           And we do appreciate that, Ed, and we appreciate  
 18 the -- the efforts that you have been making to -- to fight  
 19 for good policies. And we know that you can't always  
 20 succeed. We just want to learn how to help you more  
 21 effectively.

22           So, ladies and gentlemen, I hope you will join me  
 23 in giving a good welcome to our good friend, Ed Meese.

24           (Applause.)

25

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MR. MEESE: Thank you very much, Paul.

And thank you, ladies and gentlemen, for your warm welcome.

Paul, I am grateful for your generous offer there. Actually, my wife brings me those clippings where you talk about White House resignations and says, "Now, can't we go home to California?"

(Laughter.)

But I -- I want to assure you that we will be there supporting the President for quite some time.

But I'm pleased to be here today and to join in -- in this conference. It's an honor to be on the platform here with Raoul Berger, whose book I used quite extensively in my law classes in criminal law and criminal justice at the University of San Diego, and have encouraged many other law professors to do the same. That might be the start of some of the corrective measures that you're talking about at this conference today.

But also, to be here at the Free Congress Research and Education Foundation meeting because, as you all know by your presence and indicate by your presence here, this is an organization that is on the cutting edge of the important issues that are shaping public policy in the country today and looking ahead at public policy issues which should be attracting our attention for years to come.

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1 I'm proud to bring you the greetings of  
2 President Reagan and his best wishes for success in this  
3 conference and in your endeavors.

4 And I'm also pleased to commend you -- and  
5 particularly Randy here -- on the book that I'm sure most of  
6 you already have, and many of you have probably read --  
7 published by the Free Congress Foundation, "A Blueprint for  
8 Judicial Reform." I'm glad to hear that there's another one  
9 coming out, but I thought this one was excellent and is  
10 probably one of the most important books that is around  
11 today, because it does have a comprehensive view of what's  
12 necessary in order to correct some of the problems that have  
13 developed over the years.

14 There is much that is wrong with current public  
15 policy, with governmental abuse, and with damage to society  
16 in general. And a great deal of this can be traced to what  
17 has gone on in the judiciary over the past quarter century  
18 or more.

19 And this book details, as you've seen, not only  
20 the problems but also suggests some very innovative  
21 solutions. And I think it -- this conference, the attention  
22 that it's getting here will, I'm sure, bring it to the  
23 attention of many more people who deserve to read it,  
24 particularly those are in policymaking positions in our  
25 government at both the state and local level.

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1 As we look over the past quarter century -- and  
2 when you mentioned, when we first met, Paul, I was reminded  
3 that, really, as you look over a quarter century, that's  
4 just about the time that I've been involved in either the  
5 study or the practice of law. And there's a great deal that  
6 has happened. And I think it's worthwhile looking a little  
7 bit at what has occurred, because there have been some  
8 things that have happened during that period of time that  
9 are virutally unprecedented in our history.

10 There's been unprecedented growth in litigation,  
11 in the number of cases that are brought to court and the  
12 subject matters in which people feel it's necessary to  
13 invoke the system of our judicial and legal process in order  
14 to vindicate their rights.

15 When we get to the point now when a child is being  
16 sent to the principal's office and he wants his one phone  
17 call to his lawyer, or where lawyers are appointed by the  
18 court to represent children against parents, we have reached  
19 almost the height of absurdity as far as the legal system is  
20 concerned.

21 We have also had an unprecedented growth in the  
22 number of lawyers. And I don't say this merely as a member  
23 of the profession, that we want to cut down on the number.  
24 But I think that the fact that we have so many people being  
25 graduated from law schools and so many people going into the

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1 field is a fact that has to be appreciated.

2 In all of Great Britain, they tell me that --  
3 they're a country that has, what, some 60 million people --  
4 they have approximately 60 -- I believe it's 60,000 lawyers  
5 or 62,000 lawyers.

6 In California, where we have just over 22 million  
7 people, we have some 75,000 lawyers by latest count, and  
8 we're pumping them out at a tremendous rate every year.

9 And this is a factor that has to be considered,  
10 because it is one of those things that is important, I  
11 think, in looking at the historic development of some of the  
12 problems that you're discussing here today.

13 We have had an unprecedented growth in the number  
14 of laws and the areas in which those laws have moved over  
15 the past quarter century.

16 And obviously, as you've heard from others and  
17 discussed this morning, we have had unprecedented growth in  
18 the area of governmental regulation.

19 Now, there's a relationship between these things  
20 -- I suspect the latter two points. The growth in the laws  
21 and the growth in regulation has had a lot to do with the  
22 growth in litigation and the growth in the number of  
23 lawyers.

24 But two other things have occurred, and this has  
25 been particularly true, really, in the last 20 years. And

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TJ1 1 that is we have had, at the same time, the coincidence of a  
2 large number of judges appointed by presidents and, in some  
3 cases, governors of liberal persuasion who were interested  
4 in expanding the role of the judiciary to what they thought  
5 the law ought to be, rather than what legislators had  
6 determined it should be.

7 And during that same period, there grew up a  
8 series of taxpayer-supported organizations that provided the  
9 cases so that there was a handy vehicle by which judges who  
10 were of that inclination could make radical changes in the  
11 law and in many cases pervert and abuse what had been the  
12 original intent of the Congress and change materially what  
13 had been the kind of statutes and the kinds of regulations  
14 which any reasonable body politic would be able to stomach.

15 And as a result, you had an increase in what was  
16 then described as "judicial activism," aided and abetted too  
17 often by the news media and by the academic community, in  
18 many cases professors who thought they knew best what ought  
19 to be the law and did not want to run for public office in  
20 order to change it and who gave a credence and a  
21 believability and authority to this concept of judicial  
22 activism which has resulted in the chaotic legal structure  
23 that we are the victims of today.

24 You had judges usurping the power and authority on  
25 a regular basis of other branches of government, from

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9  
1 executive and legislature alike. They have attempted to  
2 seize control of many different functions and many different  
3 subject matters, such as school systems, prisons, public  
4 housing projects, and -- in one system, in one instance --  
5 even a local sewer system.

6 This is the kind of thing that has gotten to the  
7 point now where, in time after time, the public has  
8 declared, "We've had enough."

9 It's kind of interesting to go back some 200 or  
10 more years, in the birth of our own republic, where we  
11 proclaimed ourselves a nation of laws and not of men.

12 Even before the patchwork of squabbling colonies  
13 had established themselves and renamed themselves "The  
14 United States," Alexander Hamilton had faced up to this  
15 question of the various powers that were represented in the  
16 government, and he defined the Judiciary as the weakest of  
17 government's three branches.

18 He said the Executive -- and this was writing in  
19 the Federalist Papers -- Hamilton said:

20 "The Executive not only dispenses the honors but  
21 holds the sword of the community. The Legislature not only  
22 commands the purse but prescribes the rules by which the  
23 duties and rights of every citizen are to be regulated."

24 And then, he said, "The Judiciary, on the  
25 contrary, has no influence over either the sword or the

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1     purse, no direction either of the strength or of the wealth  
2     of society, and can take no active resolution whatsoever.  
3     It may truly be said to have neither force nor will, but  
4     merely judgment."

5             Well, this is one of those cases where  
6     Mr. Hamilton was not a very good prophet, although he was an  
7     awfully good and sound discussor of what government ought to  
8     be.

9             If he could see us now, I am sure he would say  
10    that things have changed and not for the better.

11            Now, obviously, things have changed in the  
12    200-plus years. But we have to look at our judicial and  
13    legal system to see where that change has gone awry and what  
14    changes ought to be made in it to get it back to the concept  
15    that was held by Hamilton and others as they established a  
16    balanced system of government in which the checks and  
17    balances that are inherent in the Constitution were to  
18    preserve citizens from government and not to allow  
19    government to become a burden on the citizens themselves.

20            As a matter of fact, Robert Jackson, a Justice of  
21    the Supreme Court, said in 1950:

22            "It is not the function of our courts to keep the  
23    citizen from falling into error. It is the function of the  
24    citizen to keep the government from falling into error."

25            Well, as we can see, it's time for a change. This

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1 is going to require, as you're discussing here, a long-range  
2 effort. It's going to require cooperation. It's going to  
3 require coordination. It's going to require an effort that  
4 includes and has an effect upon policymakers, upon public  
5 opinion and those who influence public opinion, upon the  
6 news media as one of those influencing devices.

7 And it's going to involve a heavy dose of academic  
8 influence and academic concern, because most of things that  
9 have long-term effect don't happen overnight, but rather  
10 they are the result of the Chinese water torture, the water  
11 drop, drop, drop technique of a buildup of writings, of  
12 teachings, and ultimately they come into fruition.

13 I think we can never forget a story that  
14 Milton Friedman tells -- and which I first heard around  
15 1971, Paul, when we were trying to do some things in  
16 California, and Milton Friedman sent a message in which he  
17 said:

18 "You have to remember that everything that Norman  
19 Thomas talked about as the candidate of the Socialist Party  
20 in the 1930s was ultimately adopted as a part of the  
21 platform of both the Republican and the Democratic Parties  
22 by the 1970s."

23 And he said, "The reason was that it was  
24 picked up by the intellectual community, by the news media,  
25 and was continually pounded into the people, until finally

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1 it became the thing to do."

2 Well, we have to do that same sort of thing, but  
3 with different subjects and for different reasons.

4 There are many ways, of course, to effect change.  
5 Obviously, you'll be talking about them today.

6 There's constitutional amendment, a lengthy  
7 process but a possible process and in some cases a necessary  
8 process.

9 There's statutory enactment, which is shorter but  
10 requires the right political climate -- which, at least at  
11 this stage, I'd say we have only partially achieved in the  
12 Congress -- and it requires actions that can be taken by  
13 public officials.

14 In this regard, I might say that this  
15 Administration is particularly interested in making  
16 appointments of judges who do believe in the kind of  
17 restraint that I think is implicit in the writings in your  
18 book and which I am sure has been discussed this morning and  
19 will be further discussed here, because it is this judicial  
20 restraint, the fact that the judiciary does have a great  
21 deal of power -- but where there is power there is a  
22 concomitant need for restraint that has to influence the  
23 kinds of people that this President -- and hopefully future  
24 Presidents -- will appoint to office and where we hope as  
25 many as possible state governors will follow the example.

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1           We take our guidance from something that  
2 Justice Hugo Black said shortly before his death, when he  
3 commented that "Judges take an oath to support the  
4 Constitution as it is, not as they think it should be.

5           "I cannot subscribe," said Jackson, "to the" --  
6 said Black rather -- "to the doctrine that, consistent with  
7 that oath, a judge can arrogate to himself a power to  
8 'adapt' the Constitution to new times."

9           Now, obviously, there has to be some change to  
10 make the Constitution consistent with the needs of the day.  
11 But certainly the concepts, the principles, the restraint  
12 which has been characteristic, through most of the history  
13 of this country, of our courts is a very vital part of the  
14 way in which judges take their responsibilities seriously  
15 and something that is very much a factor as far as this  
16 Administration is concerned in the appointment to people --  
17 of people to judicial vacancies.

18           But to me -- and what I'd like to talk about this  
19 noon, because I think it fits in with the other topics  
20 you're discussing -- the most serious problems of judicial  
21 activism -- and judicial failure, I might add -- are in the  
22 field of criminal law.

23           Will Rogers used to say that "Here in America, we  
24 may not give our criminals much punishment, but we  
25 certainly give them plenty of publicity." And I think he

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1 was certainly correct. And I might add we go beyond that,  
2 we also give them a lot of opportunities for bail, just to  
3 give one indication of judicial failure.

4 I guess the -- the way in which we can best  
5 describe some of the failures is what has happened just in  
6 the course of the last six months, in which a great deal of  
7 attention has been paid by this Administration to the  
8 narcotics traffic, recognizing the responsibility of the  
9 Federal Government to keep the flow of narcotics from  
10 invading the shores of this nation.

11 And we had a situation down in the southeastern  
12 part of the United States where a leading figure in a major  
13 drug smuggling organization was arrested. The government  
14 asked for \$1 million in bail because they felt that was  
15 appropriate based upon the amount of narcotics he was used to  
16 handling and the amount of money that would be available to  
17 him. The judge set bail at \$50,000, and the suspect was  
18 gone as quickly as he could raise -- put up that money in  
19 cash bail and then flee the jurisdiction.

20 Earlier this year, an even more important figure  
21 in this same business was caught trafficking in  
22 marijuana. The government introduced evidence that his  
23 monthly income from smuggling marijuana into the  
24 United States was estimated at \$250,000 to half a million  
25 dollars a month. His bail was initially set at \$21 million.

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1 His lawyer shopped around till they found a soft-hearted  
2 judge --

3 (Laughter.)

4 -- at which time -- at which time his bail was  
5 lowered to only half a million dollars. He immediately  
6 lowered himself over the walls of the jurisdiction and has  
7 never been again.

8 Now, this is a part of the problem, but it  
9 illustrates the fact that there is an unreasonableness  
10 between the conduct of our system and what the people have a  
11 right to expect.

12 In a widely read local newspaper in Washington,  
13 not noted for its conservative proclivities --

14 (Laughter.)

15 -- there is a series going on now about the death  
16 penalty. And I -- I commend it to your attention.

17 But I think one thing that, perhaps more than  
18 anything else, characterizes public attitudes today is this  
19 paragraph that I'll read out of that article. It said:

20 "For the family and friends of" -- and it names  
21 the victim of crime -- it says, "the case of the  
22 Commonwealth of Virginia against Willie Lloyd Turner is a  
23 source of never-ending bitterness. They think the case was  
24 so mishandled that it has shaken their faith in the criminal  
25 justic system and left them wondering if society is capable

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1 anymore of rendering punishment."

2 Well, I would say that that probably sums up the  
3 frustrations and the concerns of a large portion of the  
4 population.

5 Paul and I were talking a minute ago about how the  
6 subject of crime has become one of the number one problems,  
7 as revealed in public opinion polls, as far as people  
8 saying, "What is it that most concerns you and your family  
9 about the problems of everyday living?"

10 The entire criminal justice system has grown so  
11 imbalanced in recent years, as clever attorneys and lenient  
12 judges have established procedures that have very little to  
13 do with justice and a whole lot to do with so-called  
14 protecting the rights of the criminal.

15 In the words of President Reagan's own Task Force  
16 on Violent Crime:

17 "The citizen wants safety and expects justice, but  
18 too often he or she gets neither. Trials and the subsequent  
19 appeals that seem to go on without end have been turned into  
20 a search for error rather than a quest for truth, which was  
21 the original purpose of the trial and the advocacy system in  
22 this country. After a trial in which all kinds of  
23 technicalities are introduced, there are the endless  
24 appeals, in which the conduct of all of the actors  
25 protecting society are examined through a microscope to see

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1 if somehow the appellate court can't find some basis on  
2 which to overturn the conviction and either throw it out  
3 entirely or send it back for more and more trials."

4 And I can tell you, from personal experience as a  
5 prosecutor, trials almost never, I would say, absolutely  
6 never get better when they're done the second and third  
7 time.

8 We have a case out in California now where  
9 \$3 million or more is being spent here in 1982 to try a  
10 person who is alleged to have committed and was convicting  
11 of committing a series of some 20 or more murders back in  
12 1972.

13 And this is the kind of thing where -- this is not  
14 an isolated example, but you can go all over the country and  
15 you can find this repeated again and again -- this is the  
16 kind of thing that leads to the frustration and despair on  
17 the part of our citizens and the very real question in their  
18 minds: Is government capable of carrying out its number one  
19 responsibility, which is to protect the lives and property  
20 of its citizens?

21 Well, we are determined, as an Administration --  
22 just as you are in your deliberations -- to see that the  
23 citizens of this country get both safety and justice.

24 We've all grown familiar --and perhaps a little  
25 jaded -- by public officials and politicians who make a

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17  
1 great point out of declaring themselves enlisted in the war  
2 on crime. As a matter of fact, like wars on poverty, these  
3 have proved to be one-sided engagements at best and often  
4 have been as costly as the kinds of wars we've seen on the  
5 international scene.

6 We have thrown money at -- at crime, and that  
7 didn't work. We have tried all kinds of things, except  
8 getting down to the business of saying, "Look, how do you  
9 return truth to the courtroom? How do you get judges who  
10 will uphold the law and make sense? How do you do the  
11 things that every citizen, uninhibited by a legal education,  
12 could suggest -- "

13 (Laughter.)

14 "-- as the means -- as the means of solving the  
15 crime problem?"

16 I guess the best example of what I'm talking about  
17 is a matter known as the "exclusionary rule." We've heard a  
18 lot about it. I would like to spend a little time talking  
19 about it now, because I think it illustrates the absurdity  
20 of some of things that have been done in the name of  
21 justice.

22 The "exclusionary rule" is a rule of evidence that  
23 says that any search or seizure that is unreasonable  
24 requires that the evidence thereby obtained is inadmissible  
25 in the trial of a criminal case.

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1 Now, that sounds pretty reasonable on its face.  
2 It's interesting to note, however, that when this rule was  
3 first developed in 1914, it was applied only in the federal  
4 courts, and then only as -- not as a constitutional  
5 doctrine, but only as a rule in which the federal courts  
6 said they had a responsibility to supervise the activities  
7 of the federal investigative and police agencies.

8 As a matter of fact, it wasn't even adopted in the  
9 states to any great extent. Many states considered it. But  
10 over the following three decades, from 1914, only 16 of the  
11 states adopted exclusionary rules themselves -- and  
12 sometimes in limited forms. 31 of the states did not. And  
13 needless to say, no other civilized nation in the world has  
14 ever followed our example in adopting the exclusionary  
15 rule.

16 As Justice Frankfurter pointed out in the 1949  
17 case, he said:

18 "Neither Britain or any of the Commonwealth  
19 jurisdictions passing on the question had held evidence  
20 obtained by unreasonable search and seizure to be  
21 inadmissible."

22 Well, you wonder, why didn't these other  
23 jurisdictions do this if it was a matter of constitutional  
24 right, as what later the Court said, in 1961, in the Mapp  
25 (~~phonetic~~) case?

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1 Well, the reason is it just doesn't make sense to  
2 say that because a policeman has made a technical error --  
3 and most of these cases are technical errors, without any  
4 desire on the part of the police officer to violate the  
5 rights of the citizens -- it just doesn't make sense for the  
6 criminal to go free and to have the evidence, which is  
7 usually the most probative and the best evidence and most  
8 reliable evidence, of the guilt or innocence of the accused  
9 to be excluded from the courtroom simply because of some  
10 mistake -- or even where a police officer did what the law  
11 provided at that time, and some two years later the court  
12 said that it was time to change the law and therefore he had  
13 retroactively made a mistake. And this is essentially where  
14 the problem lies.

15 Let me give you an example of that, of what the  
16 exclusionary rule can do.

17 There are two cases that were recently undertaken  
18 by the courts of -- of this country. One case came out of  
19 New York; the other case came out of California -- on both  
20 sides of the continent. They were both cases where police  
21 officers stopped a car, smelled burnt marijuana -- as a  
22 result of that, ordered the people out of the car and, in  
23 searching the car, incident to arrest, discovered a drug in  
24 the Passenger compartment. And as they made a lawful  
25 arrest, they found additional drugs during frisk searches

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1 that were made in the course of the proceedings.  
2 Ultimately, these cases found their way to the  
3 Supreme Court.

4 Now, these were officers who were acting in a  
5 situation where they thought they were doing what the law  
6 required. And as these cases found their way to the  
7 Supreme Court, unfortunately they never found their way out  
8 again, because by the time the Justice were through --  
9 Justices were through, out of the nine Justices, three held  
10 that both searches were legal, three held that both searches  
11 were illegal, and three split the difference, holding that  
12 one search was legal and one search was illegal.

13 Now, this is the kind of thing that a police  
14 officer is supposed to have to figure out in his mind in a  
15 30-second situation as to how the Supreme Court is going to  
16 wind up on a case which, to him, seemed like a pretty clear  
17 case of a violation being committed in his presence.

18 But let me tell you, it's even more complex than  
19 that. This one search that was found illegal by the  
20 Supreme Court had already been found legal by the  
21 Supreme Court of California. The other one that had been  
22 held legal by the U.S. Supreme Court was held illegal by the  
23 courts of New York.

24 By the time it was over, 14 justices in three  
25 jurisdictions had ruled on this case. And interestingly

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1 enough, they came out -- if you counted up all the votes --  
2 seven to seven.

3 Now, this may be good enough for Solomon, but it's  
4 not much help to the police officer at 2:00 o'clock in the  
5 morning on a deserted street in some village.

6 Well, we -- we propose -- and it is a policy of  
7 this Administration to support legislation to end this  
8 paralysis by adopting the so-called "reasonable good faith  
9 rule," so that if the court finds, as the Fifth Circuit in  
10 this country has already adopted -- if a court finds that  
11 the police officer was acting in good faith, based upon his  
12 good faith and well-founded belief in the state of the law  
13 and the situation that confronted him, then the evidence  
14 would not be ruled inadmissible and it could be used in the  
15 trial of the case.

16 That doesn't mean that the police officer would  
17 not be subject to administrative or other means of  
18 discipline if it was found that there was some negligence or  
19 some inattention to -- to duty, but particularly where the  
20 officer is acting in good faith and where he is even  
21 applying the law as it exists at that particular time, the  
22 evidence would be available and could be used to determine  
23 the guilt or innocence of the confused (sic).

24 We feel that this shifts the focus back where it  
25 belongs in these and similar kinds of cases, namely to the

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1 legality or illegality of acts committed by the defendant  
2 rather than by the legal community.

3 In one bold stroke, it would a trend to restore  
4 both common sense and public respect to the criminal justice  
5 system.

6 Well, as your own "Blueprint for Judicial Reform"  
7 makes clear, proposals to curb the federal courts and to get  
8 back to a rule of reason and a rule of common sense can be  
9 expanded to many other areas.

10 I don't have time this noon to go into detail on  
11 other things like the exclusionary rule, but there are  
12 several areas in which we are working and in which a  
13 bipartisan package of legislation is presently on the Hill  
14 which we are supporting very firmly.

15 One is the reform of bail laws, particularly  
16 allowing judges, after a hearing, with full due process  
17 protections, to prevent a dangerous defendant from returning  
18 to the streets.

19 It's, interestingly enough, noted in the articles  
20 on the death penalty now how many of the death penalty  
21 cases, how many of the murders that have been committed have  
22 been committed by persons who were either on bail or on  
23 parole or on probation at the time of the offense.

24 And we feel that -- particularly in the area of  
25 bail -- when a person is out on bail for one offense and

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1 commits another dangerous offense, he shouldn't get a series  
2 of bites at the body politic, but rather should be  
3 incarcerated until he can be brought to trial.

4 An overhaul of our sentencing system is included  
5 in these bills, replacing the discredited and unpredictable  
6 parole structure with a fixed sentence, so that when a  
7 judge sentences a person to five years or seven years for a  
8 robbery or to 20 years for serious narcotics violations or  
9 something else, he can be -- that he and the public can know  
10 that the criminal is going to stay behind bars for that  
11 period of time.

12 The third provision that we are endorsing in this  
13 package, which has been introduced by Senator Thurmond and  
14 many others, including, I believe, Senator Hatch as one of  
15 the co-authors, is that it would strengthen the penalties  
16 for those involved in narcotics offenses, so that we can  
17 have a realistic treatment of people who engage in this most  
18 dispicable crime, particularly in the area where the  
19 Federal Government operates -- and that's to get at the big  
20 operators who are involved in the wholesale importation of  
21 narcotics into this country.

22 And also with that is provisions that would enable  
23 the govern<sup>r</sup>ment not only to go after the person but also to  
24 go after the property of the offender, to confiscate the  
25 boats and other property, the planes, but also to confiscate

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1 other assets which have been acquired as a result of the  
2 trafficking in narcotics. So that it was not enough that  
3 you can get the person, although that's important, but also  
4 that you can take away the incentive for others to work with  
5 him in the particular criminal enterprise.

6 And finally, the proposals that we have before the  
7 -- the Congress at the present time have some specific  
8 protections for people who are victims of crime,  
9 particularly people who are victims and witnesses to  
10 crimes.

11 We feel that the increase in the number of  
12 threats, intimidation, the number of beatings of persons or  
13 other means to coerce them away from testifying against  
14 people who are accused of crime, that this requires  
15 strengthening.

16 And this whole system is included in the  
17 legislative package that we have put forward.

18 Now, these are just a few of the things that we  
19 feel are necessary. But we feel that it is important that  
20 this kind of a package of laws --

21 And others that I suspect we'll get out of your  
22 next volume, Paul.

23 -- be enacted. And we will continue to devote our  
24 efforts as long as it takes to get these things put into  
25 law.

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1 We feel it's our responsibility to those who do  
2 the work of society, who follow society's laws. And it's  
3 our responsibility, if we are going to be able to enshrine  
4 the credo of ordered liberty, for all citizens to enjoy.

5 And we feel that it is important that we do this  
6 so that our system of laws and system of government does not  
7 become something radically different from what the men in  
8 Philadelphia had in mind those 200 summers ago.

9 Now, what you're doing here today and what the  
10 President is doing in these measures that I've talked about  
11 -- and more that will be revealed in the coming weeks -- is  
12 really to preserve the basic principles of the founding  
13 fathers and also to enable government to carry out that  
14 primary responsibility to protect the lives and property of  
15 its citizens.

16 I would hope that in your deliberations here you  
17 would join in seeking these three objectives:

18 First of all, to restore truth to the courtroom.

19 Secondly, to restore restraint in the use of power  
20 to the judiciary.

21 And thirdly, to restore safety to citizens,  
22 whether they be witnesses, whether they be victims, or  
23 whether they be potential victims of crime.

24 If these things are done, we, as a nation, will  
25 have succeeded in restoring to the judicial system the

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1 respect and the confidence which it ultimately deserves.

2 I wish you good luck in today's deliberations.

3 And I want to tell you that I look forward to working with  
4 all of you as, together, we continue these efforts to have a  
5 mor<sup>e</sup> just a definitely safer society in which our citizens  
6 can live.

7 Thank you.

8 (Applause.)

9 MR. WEYRICH: They like your speech, and they're  
10 against crime.

11 MR. MEESE: (Laughter.)

12 MR. WEYRICH: That concludes the luncheon  
13 session. We now have to go back into the other room, where  
14 the afternoon panels will begin.

15 And I think if you look at the schedule, you'll  
16 agree that we have a very exciting program this afternoon.

17 (Whereupon, the luncheon session was concluded.)  
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