

The original documents are located in Box 9, folder “Crime - Message to Congress (2)” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

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It is disheartening that circumstances compel yet another Presidential message on crime in America. For years strenuous efforts have been undertaken to reduce the incidence of crime in the United States. Yet crime has increased. It touches the lives of all Americans. Recent statistics show no signs that the magnitude of the crime problem will soon decline.

Indeed, the Federal Bureau of Investigation's latest figures indicate that the rate of serious crime -- murder, forcible rape, robbery, aggravated assault, burglary, larceny, and auto theft -- was 17 percent higher in 1974 than in 1973. That is the largest increase in the 42 years the Bureau has been collecting statistics. Since 1960, the rate has increased about 200 percent. Moreover, these figures reflect only the reported crimes. A study sponsored by the Law Enforcement Assistance Administration indicates that the level of reported crime understates the level of actual crime in some cities by as much as 300 to 500 percent.

It is not only the absolute increase in crime which merits national concern; the change in the types of crimes committed is equally significant. The number of crimes involving threats of violence or actual violence has increased. The percentage of violent crime in which the perpetrator and



the victim are strangers is alarming. A recent study indicated that approximately 65 per cent of all violent crime is committed against strangers.

The personal and social toll which crime exacts from our citizens is enormous. In addition to the direct damage done to the victims of crime, the social cost of crime must also include the pervasive fear it creates.

In many areas of the country, fear has caused people to rearrange their daily lives. They plan shopping and recreation ^{during} around hours when the chances of violent attacks are low. They avoid commercial areas. Frightened shopowners arm themselves and view customers with suspicion.

Fear of crime threatens our political and social liberty. Fearful citizens may support attacks on fundamental constitutional principles designed to protect individuals from oppression. The prevalence of crime creates unwarranted suspicion among our people, turning what once were friendly and social business transactions into cold and wary exchanges. Fear of crime has drawn a limit around people's mobility. It restrains citizens like a prison.

I have spoken before of the need to restore domestic tranquility. The individual, political and social costs of crime cannot be ignored. All levels of government -- Federal, State and local -- with the firm support of the American people, must commit themselves to the goal of reducing crime.



In order to turn this commitment into practical success, we must try to understand the nature of the crime. Although crime has plagued all civilized societies, we still do not understand all the forces and conditions which cause it. We do know, however, some of the important contributing factors.

One factor is certainly economic deprivation. As inflation is brought under control and unemployment declines, we should experience material gains in the fight against crime. But the problem of crime is more than a matter of economics.

A second factor is dissatisfaction with the quality of life and the deterioration of social institutions which promote respect for the law. These factors fundamentally affect the attitudes of our people toward the law.

A third factor, often unrecognized, is the increasing crime rate itself. Law enforcement in a democratic society depends largely upon public respect for the laws and voluntary compliance with them. This respect and compliance is undermined if individuals conclude that law enforcement efforts are ineffective and that crimes may be committed with impunity -- conclusions which are buttressed by rapidly rising crime rates and statistics showing only 19 arrests for every 100 serious crimes committed.



A decline in respect for the law leads to the commission of more crimes. Investigating these additional crimes, prosecuting those accused, and punishing the convicted strain the already overburdened capacities of police and prosecutors' offices, courts, penal institutions, and correctional authorities. As a consequence, the percentage of offenders apprehended, prosecuted, and appropriately sentenced is further reduced. This reduction leads to a further decline in respect for the law leading to the commission of even more crimes. To succeed in the fight against crime we must break this spiral.

There are two direct ways to attack the spiral of crime. One is through improvements in the law itself. The other is through reform of the criminal justice system so that it functions swiftly, surely and justly.

Part of the problem of crime has been a problem of the federal criminal laws. They have developed haphazardly over decades. They have been revised here and there in response to changing judicial interpretation. The federal laws are complicated, sometimes conflicting, leaving gaps through which criminal activity can slip unpunished. Because of their complexity, they invite technical argument that wastes court time without ever going to the heart of the question of guilt or innocence. The federal criminal law must be revised into a uniform, coherent code.



For several years, the federal government has engaged in a massive effort to reform the federal criminal laws. The product of this effort was recently introduced in Congress with wide bipartisan support as S. 1, the Criminal Justice Reform Act of 1975.

Of course, in legislation of this scope, covering every aspect of the criminal laws, not everyone will agree with every provision. Some aspects of the proposed Act are highly controversial and will undoubtedly precipitate a great debate. Already there has been great concern expressed that the provisions of the proposed bill designed to protect classified information could impair the ability of the free press to function. While we must make sure that national security secrets are adequately protected by the law, I share the concern that the law ought not unnecessarily limit the free flow of information necessary in our form of government.

The debate over this and other provisions of S. 1 will be very useful. Issues can be clarified and differing interests accommodated. I think everyone can agree that comprehensive reform of the federal criminal code is needed. Accordingly, as a legislative priority in the federal fight on crime, I urge the 94th Congress to pass the type of comprehensive code reform embodied in the Criminal Justice Reform Act.



Let me suggest some specific reforms I believe are essential.

To begin with, we must realize what sort of conduct violates federal law. Violent street crime does not violate federal law. Except in limited circumstances, street crime is a state and local law enforcement problem. Federal law strikes at those who have made crime a business. It attacks organized crime, consumer frauds, official corruption, economic crimes such as price-fixing. The federal law concerns itself primarily with so-called "white collar crime," or "crime in the suites."

The leaders of organized crime can be prosecuted under current law only when they can be shown to have participated in a specific offense such as gambling, loansharking or narcotics. A reformed criminal code should strike directly at organized criminal activity by making it a federal crime to operate or control a racketeering syndicate. This would make the criminal law apply to organized crime leaders who are sophisticated enough to try to cover up their part in the syndicate's dirty work.

Current federal laws restrict the government's ability to attack consumer frauds. In order to make the federal effort more effective, the statutes punishing fraud and theft should



be revised to facilitate prosecution of blatant frauds. Pyramid sales schemes -- clever confidence games -- should be specifically prohibited. Jurisdiction over these frauds should be extended so that the federal government can act against them in all their national aspects.

The protection of constitutionally guaranteed civil rights is a primary duty of the federal government. Yet, a private citizen can only be punished for violating constitutional rights if he acted in concert with others. Under current law, even if a state official intentionally commits acts that violate an individual's constitutional rights, proof of these acts may be insufficient to secure a conviction. We should eliminate restrictions which prevent our laws from protecting the constitutional rights of Americans.

Elimination of antiquated provisions in the criminal code is another needed reform. Under current law, for example, the capture of carrier pigeons is made the subject of federal criminal jurisdiction. We should abolish such unnecessary laws.

Sentencing provisions are another and very important problem area of the current ^{law} code. ^{These} The sentencing provisions of current federal law are often erratic and inconsistent. Defendants who committed similar offenses often face widely varying sentences and this lack of uniformity breeds disrespect for the law.

The revision of the criminal code should restore a sense of consistency in sentencing, so that the fine or term of imprisonment imposed by the law relates directly to the gravity of the offense. For example, criminal fines are woefully inadequate and provide little deterrence to offenders whose business is crime, a business profitable enough to support current levels of criminal fines as an ordinary business expense. Other than under the antitrust laws, serious violators generally can now be fined a maximum of \$10,000. That amount is often not commensurate with the crime. We should raise the maximum level to \$100,000 if the defendant is an individual and \$500,000 if the defendant is an organization.

Perhaps the most disturbing deficiency in the sentencing provisions is their failure to give judges any standards by which to sentence defendants. Imprisonment too seldom follows conviction for a serious offense. I believe that persons convicted of predatory violent crime ought to be sent to prison. There should be a message broadcast by our law and our enforcement of it that those who commit violent crimes -- especially crimes involving a gun -- will suffer loss of liberty. I propose that incarceration be made mandatory for: (1) Federal offenders who commit violent predatory offenses using a dangerous weapon; (2) persons committing such extraordinarily serious crimes as aircraft hijacking, kidnapping, and trafficking in hard drugs; and (3) repeat offenders who commit crimes -- with or



without a weapon -- that threaten personal injury. I urge Congress to pass a law making incarceration mandatory for persons convicted of these crimes unless the judge specifically finds that the defendant was under 18 when the offense was committed, or was mentally impaired, or was acting under substantial duress, or was only implicated in a crime actually committed by others and participated in the actual crime in a very minor way. I have asked the Attorney General to assist the Congress in drafting such a law. Finally, I call upon the States to set up similar mandatory sentencing systems, because it is in the State and local criminal courts that most violent offenders are tried.

I would emphasize that the aim of this program of mandatory imprisonment is not vindictive punishment of the criminal, but protection of the innocent victim. These victims -- the old, the poor, the disadvantaged -- have a valid claim on the rest of society for the protection and the personal safety that they cannot provide for themselves.

Mandatory minimum sentences can restore the sense of certainty of imprisonment upon which the deterrent impact of the criminal law is based. But wide disparities in discretionary sentences for essentially equivalent offenders can give a look of unfairness to the law. To help eliminate that appearance, Federal appeals courts should be given some authority to review sentences given by Federal trial court judges -- to increase or



reduce them so the punishment will be more nearly uniform throughout the Federal system. I am also asking the Attorney General to review this problem to ensure that the Federal sentencing structure, which is based on the indeterminate sentence, is both fair and appropriate.

Another area in which the Federal law must be strengthened concerns the regulation of handguns. It is simply indisputable that handguns play a key role in crime in America. They are involved in one-fourth of aggravated assaults and one-third of robberies. Hundreds of policemen have been killed through the criminal use of handguns in the past decade. These cold, undeniable statistics unmistakably portray the handgun as an important cause in the rise of violent crime.

I propose a four-part approach *to this problem:*

First, the current Federal gun laws should be revised to eliminate certain deficiencies that now impede their effectiveness. Standards should be imposed so that only bona fide gun dealers are permitted to obtain Federal licenses. Dealers' licenses should be withheld from persons who are not legitimate gun dealers or who are barred by State law from dealing in weapons. A system of administrative fines and compromise authority should be established to augment existing penalties for violations of law or regulation. It should be made clear that possession of a handgun by a convicted felon is a Federal offense.



Second, the domestic manufacture, assembly or sale -- as well as the importation -- of cheap, highly concealable handguns should be prohibited. These so-called "Saturday Night Specials" are involved in an extraordinarily large number of street crimes. Most have no legitimate sporting purpose. They are such a threat to domestic tranquility that we should eliminate their manufacture and sale entirely.

Third, I propose an addition to the Federal gun laws to strike at the illegal commerce in handguns. Many States have already taken drastic steps against possession of handguns; but the States cannot deal with this problem by themselves. There is a large illegal commerce that provides a continuous flow of handguns across State borders into major urban centers where handgun violence is most serious. Federal help is necessary to strike at this illegal commerce in handguns. Currently, Federal law^s makes the sale of handguns to certain individuals illegal, but they do not require those in the handgun-selling business to take adequate precaution to ensure that illegal sales are not made. My proposal would require dealers in handguns to verify the identity and place of residence of purchasers and to take steps to ensure that they do not sell handguns to persons whose possession of handguns would be illegal under Federal or State law. It would also provide additional and easily provable criminal sanctions ~~on~~ for gunrunners, those who purchase weapons in one State for illegal shipment and sale in another.

Fourth, I will establish Federal handgun strike forces in the nation's ten largest cities to assist local law enforcement authorities in

their efforts to attack the ^{illegal commerce} ~~black market~~ in weapons. Current Federal enforcement efforts have been simply inadequate to promote compliance with our gun laws. Without a strong Federal commitment to enforcement, real progress in this area cannot be achieved. I have, therefore, directed the Bureau of Alcohol, Tobacco and Firearms, in the Department of the Treasury, the primary mission of which is enforcement of Federal gun laws, to employ and train an additional _____ agents and investigators for this priority effort.

This four-point approach goes, I believe, to the very center of the problem of the criminal use of handguns. It promises to contribute significantly to the effort of State and local governments to control handgun abuse.

In addition to ^{these enforcement} this general effort, the law should be specifically revised to take into greater account the needs of victims of crime, their tragic personal and economic injuries. They, as well as the general public, must be shown that the government will not neglect the law-abiding citizens whose efforts are crucial to the effectiveness of law enforcement. For too long law has centered its attention on the criminal defendant. It is time for law to concern itself more with the people it exists to protect. I urge Congress to pass legislation to meet the uncompensated economic losses of needy victims of Federal crimes who suffer personal injury. In

order to promote the concept of restitution within the criminal law, this proposal should not require additional Federal appropriations. The monetary benefits could come from a fund consisting solely of fines paid by convicted offenders.

I am confident that if Congress reforms the criminal law in the ways I have mentioned, the seeds of an effective attack on crime will have been planted.

The second way to combat crime is through increasing the deterrent effect of the criminal law by reforming the criminal justice system. Effective deterrence currently is lacking because defects in the criminal justice system prevent it from bringing speedy and appropriate punishment to all offenders. These defects, at both the Federal and State levels, run throughout the continuum of the law enforcement process.

The reporting of crime to law enforcement officials



is discouraged by the widespread public impression that often no effective action can or will be taken. Moreover, there is a disturbingly prevalent tendency of otherwise responsible citizens to refuse to "get involved" in law enforcement matters.

Pretrial proceedings, which could serve to make the system operate more efficiently, frequently permit protracted delays for the purpose of contesting a myriad of procedural issues -- issues having little or nothing to do with the guilt or innocence of the defendant. Congested court calendars, inadequate judicial resources, and numerous opportunities for employment of dilatory tactics cause further delays. The repeated postponements of trials caused by such delays discourage the citizen cooperation essential to the criminal justice system. Witnesses and jurors, exasperated by long waits, often arrive at the court room only to learn that the case in which they are involved has once again been postponed. Their memories inevitably fade with the passage of still more time, and they become increasingly subject to intimidation by defendants and their associates. Trial delays thus decrease likelihood that justice will in fact be done. Delays also increase pressure upon prosecutors to drop prosecution of some of the charged offenses, or to substitute charges of lesser offenses, in return for pleas of guilty. While the Speedy Trial Act holds promise for cutting the length of time between indictment and trial at the Federal level, the sluggishness of the system persists.

After trial and sentencing, the routine and protracted process of appellate litigation usually results in further delay so that whatever deterrent effect the imposition of sentence might have carried is largely lost through the passage of time.

When a defendant is convicted, judges are often unwilling to sentence defendants to incarceration, in part because prison conditions are sometimes inhumane. This is one reason why our prisons must be improved. Moreover, a cruel and dehumanizing penal institution can actually be a breeding ground for criminality. In any case, a civilized society cannot condone prisons where murder, vicious assault and homosexual rapes are common occurrences.

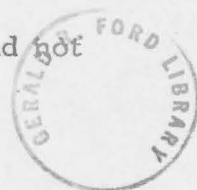
The Federal Bureau of Prisons has embarked on a program to replace old, overcrowded prisons with smaller, more modern ones. The Bureau has seven new corrections institutions of this sort under construction. All are designed to be civilized places where the forces of brutality and inhumanity will not grow. In addition, the Bureau is opening new institutions in three major cities where federal prisoners used to be housed in crowded, antiquated local jails while they awaited trial. This ongoing program to upgrade Federal prisons must be paralleled by state efforts because the problem of decrepit jails that are hothouses of crime is worst on the state and local level. Unless prisons are upgraded,



judges will continue to hesitate to send offenders to them.

I know that there have been grave questions raised about the ability of the corrections system to rehabilitate offenders so that they may re-enter society as useful, law-abiding individuals. The questions about rehabilitation are serious. They go to the very heart of the corrections system. While the problem of rehabilitation is difficult, we should not give up our efforts to find ways it can be accomplished. This is especially true in dealing with youthful offenders. Crime by youth represents a large part of crime in general. The 1973 FBI crime statistics indicate that 45 per cent of persons arrested for violent crime are under 18 years of age. Whatever the difficulty we have in our efforts, we must commit ourselves to trying to rehabilitate offenders, especially youthful offenders. To do less would be to write off great numbers of young people as unsalvageable before they have even come of age. So many of them, after all, could be saved. I have directed the Attorney General to work in close cooperation with the Secretary of Labor and the Secretary of Health, Education, and Welfare to insure that the Federal government is making the best possible use of its resources in this crucial area.

Whatever the corrections system accomplishes in rehabilitating offenders is lost if the individual leaves jail and cannot find a job because he has been convicted of a crime. Nothing makes it more likely that an ex-convict will go to jail again than his inability to find a way to make an honest living. I want to encourage employers to open their minds and not to discriminate in the job market



against every person who has been convicted of a crime. I am directing the Civil Service Commission to draw up an Executive Order that would prevent the federal government from discriminating against ex-offenders as a class rather than in terms of their individual merits. And I am calling on the United States Governors' Conference to consider what steps states might take to eliminate discriminatory practices. Giving the ex-offenders a fair shake in the job market is one important means of reducing crime and repairing our criminal justice system.

Several other measures can be taken to cure or overcome the deficiencies in the criminal justice system.

One important improvement relates to the prosecutor's office. It is there that important decisions are made as to which offenders should be prosecuted, what cases should be brought to trial, when plea bargains should be struck, and how scarce judicial resources should be allocated. Many prosecutors' offices currently lack the manpower or management devices to make those decisions well. Prosecutors often are unaware of a defendant's criminal history and thus cannot identify career criminals who should be tried by experienced prosecutors and incarcerated. They lack efficient systems to monitor the status of the numerous cases they handle. If prosecutors could efficiently manage their resources, the likelihood that punishment for crime will be swift and sure would be substantially increased.



The Law Enforcement Assistance Administration has a program to achieve this goal. It assists prosecutors' offices in the development of data retrieval systems so that at the touch of a finger a defendant's true identity and criminal history and the status of any case will be provided. These systems make possible intelligent decisions concerning the management of a prosecutor's office so that its efforts will have the maximum deterrent effect. With the assistance of LEAA, data retrieval systems are currently operational in the United States Attorney's Office in Washington, D.C., and in local prosecutors' offices in Marietta, Georgia, Los Angeles County and Union City, New Jersey. LEAA expects a number of other offices shortly to commence the use of such systems. I am encouraging the expansion of this LEAA program so that in all prosecutors' offices it will be possible to obtain quickly all the information necessary for efficient management.

As I noted earlier, one of the significant benefits of a data retrieval system is that a prosecutor can focus his efforts on the career criminal. That focus holds the promise of substantially reducing crime because repeat offenders account for a substantial amount of all criminal activity. In 1973, for example, 56 percent of inmates in federal institutions had previously been sentenced to prison.

The research institute within LEAA will soon begin collecting data about the efficiency of the federal criminal justice system in judicial districts across the country.



This information can help us spot places where the system works best identifying those prosecutors' offices that process the important cases quickly. We can then determine what new techniques show the most promise and apply them to those offices that are bogged down.

At the federal level, I have directed the Department of Justice to develop and implement a Career Criminal Program with the objectives of (1) providing quick identification of career criminals, (2) according priority to their prosecution by experienced prosecutors, and (3) assuring that they receive appropriate sentences and are not quickly released to victimize the community.

Career criminal programs will be encouraged at the state and local levels through the use of Law Enforcement Assistance Administration model programs and discretionary grants.

The results of a career criminal project recently launched in the Bronx County District Attorney's Office are hopeful. The first year's experience showed a 97 percent felony conviction rate and a reduction of time in case disposition from an average of 24 months to an average of three months. In addition, jail sentences were secured in 95 percent of the career criminal cases prosecuted.

A second improvement in the criminal justice system may be obtained by diverting certain first offenders into rehabilitation programs before proceeding to trial. The Department of Justice has begun a pilot program of this kind which will achieve two important goals. First, it will reduce the caseloads of federal courts and prosecutors

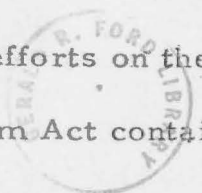


through expeditious treatment of offenders who are good prospects for rehabilitation. Second, it will enable the offenders who successfully satisfy the requirements of the diversion programs to avoid a criminal record and thus increase the likelihood that they will return to productive lives.

Experimentation with pretrial diversion programs should continue and expand. However, careful efforts must be taken to prevent them from either treating serious offenders too leniently or, on the other hand, violating defendants' constitutional rights. By coupling this pre-trial diversion program with a mandatory term of imprisonment for violent offenders, we will ensure that offenders who deserve to go to jail will go to jail, while those who need not be imprisoned will be dealt with quickly in a way that minimizes the burden on the criminal justice system.

The criminal and civil caseloads in trial and in appellate courts have grown over the years while the number of judges assigned to handle those cases has not grown proportionately. In order to help the Federal courts meet their responsibility of doing justice swiftly and efficiently, Congress should act quickly to increase the number of Federal judgeships, pursuant to the 1973 request of the Judicial Conference of the United States. In addition, seemingly technical but important reform in the Federal criminal justice system can be achieved by expanding the criminal jurisdiction of United States Magistrates. This reform would enable the relatively small number of Federal judges to focus their efforts on the most significant criminal cases. The Criminal Justice Reform Act contains

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a provision which would achieve that result, and I am giving it my specific support.

No message on crime would be complete without addressing the problems created by illegal trafficking in narcotics and dangerous drugs. These crimes victimize the entire nation, bringing personal tragedy and family destruction to hundreds of thousands. Even conservative estimates of the social costs of drug abuse top \$10 billion a year, with property crimes committed in order to finance addicts' drug habits accounting for some \$6 - \$7 billion.

The Federal and State governments must continue their vigorous law enforcement efforts aimed at major traffickers in narcotics and dangerous drugs. This Administration is committed to maintaining a strong Federal drug enforcement agency to provide leadership in this fight. At the same time, I continue to recognize our responsibility to provide compassionate treatment and rehabilitation for the hapless victims of narcotics traffickers.

Recent evidence points to a resurging drug problem in spite of the high priority in massive funding increases by the Federal government during the past six years. I am deeply concerned over these developments and have, therefore, directed the Domestic Council to undertake a comprehensive review of the overall Federal drug abuse program.



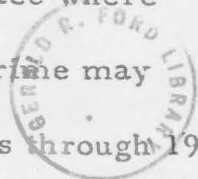
An interagency task force, comprised of high-level representatives of the eleven concerned Federal departments and agencies, will review the domestic and international aspects of the drug program. They will assess the effectiveness of our current drug programs and policies and determine if our drug strategy and priorities are appropriate to meet the current threat.

I have asked this drug review task force to prepare a comprehensive White Paper on drug abuse for my consideration by early September.

I believe that the proposals I have made for improving the criminal laws and the criminal justice system will substantially reduce crime. I am also optimistic that new approaches to fighting crime which focus upon crime prevention through planning and citizen action may assist those efforts.

In conclusion, I wish to emphasize that the problem of crime is largely a State and local responsibility. Only a small proportion of crimes committed involve violations of Federal statutes.

But the Federal government can help State and local law enforcement agencies shoulder this responsibility. I have sent to Congress a bill that will continue the work of the Law Enforcement Assistance Administration through 1981. This agency provides millions of dollars of support to State and local law enforcement officials, as well as serving as a place where new ideas about how to help the State and municipalities fight crime may be developed. The bill authorizes \$6.5 billion for LEAA efforts through 1981.

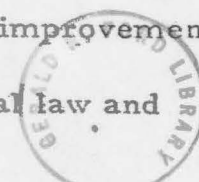


As part of the reauthorization bill, I propose to increase the funding authorization for LEAA from \$1.25 billion to \$1.3 billion annually. The additional \$50 million would be earmarked for use in heavily populated urban areas where the problem of street crime has reached critical proportions.

The Federal government cannot, by itself, bring an end to crime in the streets. Experience over the past two decades has shown us that States, localities and the citizens must join in the effort to restore domestic tranquility if the grim crime rate is to be reduced.

The crime problem has vast social implications and its very importance may lead us to hope for sweeping solutions. This, however, would be a false hope. The crime problem results from both social and economic conditions and a myriad of often small and technical difficulties within the laws themselves and within the criminal justice system. The cumulative effect of persistent Federal and State efforts to eliminate the difficulties that encumber the nation's criminal justice system offers the best hope of achieving a permanent reduction in crime and restoring security ^{16m} in our law-abiding citizens.

I am optimistic that improvements which increase the deterrence of the criminal law will have a multiplier effect in reducing crime. We must work to make every improvement in our criminal justice system we know how to, no matter how seemingly minor, because every improvement builds upon itself. Everything we do to strengthen the criminal law and



the criminal justice system will help to restore a domestic environment in which citizens may be secure and unafraid. Everything I have recommended aims at preventing crime and reducing its harm to victims. Our serious efforts, I am confident, will bring us closer to the day when we can rest free from the fear and anxieties which accompany crime.



Crime

Monday 6/9/75

12:10 Jim Cavanaugh said you raised a question at the 8 o'clock meeting this morning about the plans for the Crime Message.

He said it looks like it would be Thursday.



THE WHITE HOUSE
WASHINGTON

Date 5/23/75

TO: Phil Buchen

FROM: KEN LAZARUS

ACTION:

- Approval/Signature
- Comments/Recommendations
- Prepare Response
- Please Handle
- For Your Information
- File

REMARKS:

For the meeting tentatively set with the
President on Monday at 2 p. m.

For 5:00 mtg. with President
on Monday.



Friday 5/23/75

*First
draft*

10:10 Ken Lazarus has a copy of the crime message
and had two points to make when you get a copy:

1. There are some minor errors in the thing that
he's cleaning up with Dick Parsons (essentially
the Domestic Council, Attorney General and
Counsel's office agrees on the whole thing).
2. There is tentatively a meeting scheduled with the
President at 2 p.m. on Monday 5/26 -- Buchen,
Cannon, Hartmann, Marsh, Goldwin, Parsons and
Lazarus.

There's not all that much involved, but Mr. Lazarus
would be free to come over today some time or Monday
to discuss it with you.

I have asked him to send you a copy of the paper.

Attached
GENERAL LIBRARY

THE WHITE HOUSE
WASHINGTON

First Draft

May 22, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: Jim Cannon

SUBJECT: Crime Message

This memorandum seeks your guidance with respect to several matters to be addressed in your special message to Congress on crime.

OVERVIEW

The Attorney General recently submitted a draft Crime Message for your consideration. A working outline of the Message (at Tab A) identifies as the major themes (1) an emphasis on the plight of the innocent victim of crime, and (2) the need to insure that punishment of criminal offenders is certain, swift and just. The Message builds upon your remarks at Yale Law School and outlines specific proposals to meet the stated goals.

The Message recognizes that the principal vehicle for any timely reform of criminal law on the Federal level is S. 1, a bill to revise, reform and recodify the totality of Federal criminal law. Thus, your efforts in this regard are designed to shape the development of this measure as it is considered by the 94th Congress (see Tab B for general background of S. 1).

Finally, while recognizing that law enforcement is primarily the responsibility of State and local governments, the Message points out that the Federal government can and must provide leadership in this area through the use of LEAA funds and through enactment of model penal statutes.

OPEN ISSUES

The draft Message raises several key issues with respect to which your guidance is required. These include: *

1. Gun control -- What, if any, additional steps should the Administration recommend to further enhance our capacity to prevent and control handgun misuse?
2. Mandatory sentences -- What type of mandatory sentencing structure should the Administration advocate, and for whom?
3. Restriction on employment of ex-offenders -- Should the Administration encourage the removal of Federal- and State-enacted restrictions on the employment of ex-offenders and, if so, by what means?
4. Corrections reform -- What steps should the Administration recommend to help alleviate the problem of decrepit, over-crowded and unsafe correctional facilities?
5. Victims' compensation -- Should the Administration endorse the provisions of S. 1 providing compensation for victims of Federal crimes?
6. National defense sanctions -- Should the Administration indicate its dissatisfaction with the provisions of S. 1 dealing with offenses involving national security?

Attached, at Tabs C through H, are a series of memoranda which address each of these open issues in more detail and set forth options, where appropriate. Resolution of these issues will allow us to proceed toward our target date of June 5 for transmittal of the Message to Congress.

You may wish to meet with the Attorney General and staff to discuss these items prior to final determination.

*

In addition to those listed, the question of what should the Administration recommend with respect to extension of the LEAA program and the Juvenile Justice and Delinquency Prevention Act must be decided. Jim Lynn is preparing a memo on this point for consideration.



OUTLINE: DRAFT CRIME MESSAGE

I. Themes of the Message

- A. Emphasis on Victims -- It is time we direct our attention to the victims of crime. For too long we have dwelled on the plight of the defendant, often losing sight of the plight of the victim.
- B. Swift and just punishment -- The criminal justice system needs to be improved to ensure that it functions in a swift and just manner. The effectiveness of our system is often diminished because of the long delay between apprehension and sentencing.

II. Costs of Crime

- A. Rate of serious crime reported -- Murder, forcible rape, robbery, aggravated assault, burglary, larceny and auto theft -- 17 per cent higher in 1974 than in 1973. (Largest increase in 42 years.)
- B. Level of actual crime -- 300 to 500 per cent higher than reported crime level.
- C. Violent crime increase -- 11 per cent in 1974.
- D. Crime committed against strangers -- 65 per cent of all violent crime.
- E. Social toll is inestimable -- pervasive fear that causes people to rearrange their lives to be suspicious of their fellows.

III. Factors Contributing to Crime

- A. Economic deprivation.
- B. Deterioration of social institutions which promote respect for law.
- C. Increasing crime rate itself. Respect for the law declines as the people believe that lawbreakers are not being punished. A decline in respect for the law, in turn, leads to the commission of more crimes.



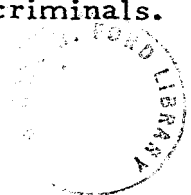
IV. Proposals to Attack Crime

A. Improvements in the law itself.

1. Reform of the Federal Criminal Code -- necessary to revise current laws to make them more effective and to create new offenses to deal with such matters as organized crime, white collar crime, consumer fraud.
2. Principles of sentencing -- "just punishment" and "incapacitation", as well as "deterrence" and "rehabilitation" should guide sentencing judges.
3. Require mandatory incarceration for offenders who commit violent offenses or use a dangerous weapon. Cures current deficiency since offenders often not sent to jail.
4. Appellate review of sentences -- provide for two-way review.
5. Focus on victims also includes victim's compensation -- no federal appropriations necessary; funds derived from fines (levels of which are increased) and profits from prison industry sales.
6. National security -- balance public's right to know with legitimate interests of intelligence community.
7. Hangun control.

B. Reforming the Federal Criminal Justice System.

1. Improve the management of prosecutors' offices -- urge the use of data retrieval systems so that prosecutors can make informed judgments as to which offenders deserve trial and incarceration.
2. Career criminal program -- 56 percent of inmates are recidivists. Objectives of program:
 - a. Provide quick identification of career criminals.
 - b. Accord priority to their prosecution.



- c. Assure that they receive appropriate sentences so that they are not quickly released to victimize the community.
3. Pretrial diversion -- objective is to divert certain first offenders who do not deserve incarceration from the criminal justice system at the outset.
 - a. Reduce caseloads.
 - b. Enable offenders to avoid criminal record and thus increase likelihood for productive lives.
 - c. Insure maximization of prison resources to house the more dangerous offenders.
 4. Expand criminal jurisdiction of U. S. Magistrates
 5. Corrections reform -- prisons must be secure and provide humane conditions.

C. State Assistance

1. Law Enforcement Assistance Administration -- while crime is largely a state and local responsibility, the Federal government can help shoulder this responsibility through work of LEAA. Emphasis on high crime areas.
2. Other assistance programs -- prevention and vocational rehabilitation efforts of HEW and Labor.
3. Juvenile delinquency -- categorical grant program under the auspices of LEAA. Contrary to trend toward revenue-sharing and block grants.



S. 1: GENERAL BACKGROUND

Although there have been several consolidations and technical revisions of federal criminal law (Title 18, United States Code) over the years, the United States, unlike many of the states and most of the other countries in the world, has never enacted a true "criminal code."

The failure to codify a rational formulation of our federal criminal laws has posed a number of acute problems.

First, there is uncertainty in the law -- courts of appeal are often divided and impose a different "federal" law depending on the circuit.

Second, inconsistencies, loopholes and unnecessary technicalities result from the present hodge-podge of laws. For example, we now have about 80 federal statutes dealing with theft -- the definition of the offense depends upon the jurisdictional basis, whether it is theft of government property, theft of the mails or theft of interstate commerce.

Third, problems arise due to the fact that our laws define an offense in terms of the jurisdiction. For example, under some interpretations a person does not commit theft of property moving in interstate commerce under present federal statutes unless he knew it was traveling interstate.

Fourth, never-used statutes clutter up our law, e.g., operating a pirate ship on behalf of a foreign prince; detaining a United States carrier pigeon, and seducing a female steamship passenger, all statutes still on the books.

Finally, the sentencing scheme of current law is erratic. Robbery of a bank carries a 20-year sentence while robbery of a post office carries 10 years.

In 1966, then Congressman Richard Poff spearheaded the enactment of a law creating a National Commission on Reform of Federal Criminal Laws, which was charged with the duty of reviewing current statutes and case law of the United States and recommending to the President and Congress legislation to improve the federal system of criminal justice.



In 1971, the Commission submitted its recommendations to the Congress and the President in the form of a Final Report. This was intended to serve as a "work basis" to facilitate Congressional choices. In February 1971, the Senate Subcommittee on Criminal Laws and Procedures (McClellan - Chairman; Hruska - Ranking) began hearings on the recommendations of the Commission.

After extensive hearings during the remainder of the 92nd Congress, Senators McClellan and Hruska introduced S. 1 early in the 93rd session. This bill was largely the work-product of Congressional staffers. Later in the same session, Senators Hruska and McClellan also introduced S. 1400, the Administration's draft on the same subject.

In the current session of Congress, Senators McClellan and Hruska (joined by Senators Mansfield, Scott, Bayh, Moss, Thurmond, and others) introduced a compromise version bill, hopefully embodying some worthwhile new provisions and the best features of both S. 1 and S. 1400 as introduced in the 93rd Congress. This bill (approximately 800 pages in length -- the longest in history) and Committee Report (approximately 2,000 pages in three volumes) will serve as the basis for anticipated Senate action sometime later this year.

The Judiciary Subcommittee on Criminal Justice (Hungate - Chairman; Wiggins - Ranking) has committed itself to begin its hearings on S. 1 in June with a view toward final House floor action on the measure next year.

During Congressional consideration of S. 1, you will have the opportunity to shape its development in many areas. Although it raises many highly controversial political issues, the measure is generally supported by conservatives and liberals alike. Strong Presidential support for enactment with any reservations you may care to make, is essential to passage of this important legislation in the 94th Congress.



What, if any, additional steps should the Administration recommend to further enhance our capacity to prevent and control handgun misuse?

BACKGROUND

A. The Problem

Violent crime is on the rise. The Federal Bureau of Investigation's latest figures show that the rate of serious crime increased faster in 1974 than in any year since the FBI started keeping statistics. More than half the murders, one-third of the robberies and one-fourth of the aggravated assaults are committed by persons using handguns.

The stock of handguns in the United States has been estimated at more than 40 million, and that number increases each year by about 2.5 million. The most virulent handguns are the cheap, small, low-quality handguns that have been given the name "Saturday Night Specials." A study of 4,537 handguns used in crimes in four major cities recently found that 70 per cent of them were "Saturday Night Specials."

The problem of handgun violence is at its worst in crowded metropolitan areas. In 1973, the FBI's violent crime rate for cities with populations of 250,000 or more was 762.9 crimes per 100,000 population, while in rural areas the rate is 134 crimes per 100,000 population. The contrast between the simple numbers of violent crimes in urban and rural areas is even more stark. In 1973, 537,432 violent crimes were reported in the nation's cities of 250,000 or more population, while in rural areas 27,019 violent crimes were reported.

B. The Current Law and Its Limitations

Current Federal gun control laws ban importation of so-called "Saturday Night Specials" under a set of defining standards. Manufacturers must place a serial number on each weapon. Manufacturers, wholesalers and dealers must keep a journal of the identities of buyers of their weapons. Retailers are prohibited from knowingly selling firearms to youths, non-residents of the dealer's State and



other proscribed categories of purchasers -- convicted felons, persons under indictment, mental defectives, drug users, certain aliens, and persons who have renounced their citizenship. It is illegal for any dealer or private individual knowingly to sell a handgun to someone who resides in another State. A person who uses a firearm to commit any Federal felony is guilty of a separate offense carrying an additional 1- to 10-year sentence. A second conviction under this provision carries a mandatory minimum sentence of 2 years and prohibits the judge from suspending sentence or placing the defendant on probation.

Current Federal laws have a number of loopholes. First, Federal dealer licenses can be obtained by persons who are not bona-fide dealers in weapons. Second, it is difficult to prove that a dealer knowingly sold a weapon to a member of one of the prohibited classes of persons. The dealer need only ask for some identification from the buyer and have the buyer sign a form stating that he is not a member of the prohibited classes. He need not go behind the buyer's statements to check their accuracy. Third, there is little control on sales of weapons after the first sale by a dealer. Because no record of subsequent sales is required, persons bent on illegal interstate transactions simply make the first purchase through a "straw man" -- one who either is a legal purchaser or who uses false identification. Fourth, while current law prohibits the importation of assembled "Saturday Night Specials," it does not prohibit the importation of their parts for assembly domestically.

DISCUSSION

A number of approaches to the problem of more effective handgun control are available. Set forth below are a range of approaches which warrant your consideration. Although set forth as alternatives, a preferable approach would be to employ two or more in combination.

A. Endorse no new handgun laws.

The argument is made that no new handgun laws are needed because current law would suffice if only it were enforced. While enforcement efforts are less than adequate, this fails to take into account the fact that current law does not facilitate proof of its violation. It also assumes that the criminal justice system is operating efficiently so that proven violators face swift and certain punishment.



B. Improve current law.

Some modest changes in current law would prompt little opposition even from those who generally oppose new laws in this area. Amendments would increase the effectiveness of the enforcement effort. Standards could be imposed so that only bona fide dealers could obtain Federal dealers' licenses. Special license categories could be created for dealers who specialize in selling ammunition or long guns or who are gunsmiths. Dealers' licenses could be withheld from persons who are barred by State law from dealing in weapons. A system of administrative fines and compromise authority could be set up to augment the penalties now in effect for violations of dealers' regulations -- license revocation and criminal punishment. A waiting period of three to five days between purchase of a handgun and its receipt could be imposed. The dealer could be required during that period to obtain an FBI name-check of the buyer from local police to determine whether he is a convicted felon. The language of the prohibition on possession by convicted felons could be amended to overcome a court decision that construed the current statute to require that possession of the weapon in interstate commerce be proven as an element of the offense.

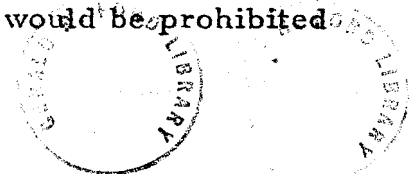
C. "Saturday Night Special" ban.

Cheap, low-quality, highly concealable handguns currently cannot be imported legally. But their parts can be imported, and they can be assembled or manufactured and sold within the United States. Domestic manufacture, assembly and sale of these weapons could be stopped in one of two ways: (1) by simply prohibiting manufacture, assembly and sale of weapons fitting a definition similar to the one currently used by the Treasury Department in prohibiting import; or (2) by imposing a tax on a sliding scale so that no handgun would be sold at less than a specific amount -- \$100, for example. The first approach has the virtue of taking into account concealability of a weapon as well as its price. The second approach falls prey to the claim that it discriminates against poor people.

D. Illegal Transportation Approach.

Many big cities have tough gun control laws, but police officials complain that, without some control of the supply of weapons coming into the cities, local controls have been ineffective.

Current law prohibits the knowing sale of a handgun by a dealer or private individual to someone residing in another State. It also prohibits sale of a weapon where possession would be prohibited at the point of sale or delivery.



A Federal gun control approach could be fashioned that would essentially tighten the provisions of the 1968 Act to strike at this commerce in handguns.

- (1) Require the seller of a handgun to take reasonable steps to ensure that the buyer is not a resident of, nor intends to transport the handgun to, another state. This would require both licensed dealers and private sellers of handguns to take reasonable steps to determine the identity and residency of the buyer. In this regard, it merely changes the standard of care under the current law. In the case of a private seller, this would be accomplished by receipt of a written statement or affidavit from the buyer; in certain cases, personal knowledge would suffice. Alternatively, a private seller could discharge this burden by consummating the sale at a dealer's place of business where the dealer would take reasonable steps to identify and determine the residency of the buyer. In the case of dealer sales, particularly multiple sales, the standard of care required would be higher. Both civil and criminal penalties would be available as sanctions, depending on the culpability and status of the offender.
- (2) Require the seller of a handgun to take reasonable steps to ensure that the buyer is not a resident of, nor intends to transport the handgun to, a locality where the buyer's possession of a handgun would be illegal. This would revise current law to strike at intrastate as well as interstate sales, where the purchaser resides in a locality which makes his possession of a handgun illegal. The standard of care, method of discharging such standard and sanctions for failure to do so would be the same as in (1) above.
- (3) Assign to ATF Strike Forces the job of investigating violations of the Federal gun laws in certain selected areas, such as the ten largest cities in the United States. If commerce in handguns prevents local laws from being effective, and if that commerce were made clearly a violation of Federal law, a concentrated effort by the Bureau of Alcohol, Tobacco and Firearms, together with specifically assigned Federal prosecutors could help cities fight gun violence. ATF's project ID, pursuant to which it attempts to trace all handguns apprehended in connection with criminal use, could also be undertaken in such cities.



E. Metropolitan Area Approach.

Rather than keying the Federal law to State and local gun control provisions, a Federal regulatory scheme could go into effect in Standard Metropolitan Statistical Areas with a population of more than one million. The controls could include:

- (1) Prohibition of transfer or sale within the metropolitan area and prohibition of transportation of a handgun into a metropolitan area. This approach strikes most directly at commerce in handguns. It should be coupled with a presumption that possession of more than five handguns is possession with intent to sell.
- (2) Prohibition on possession of handguns outside the individual's home or place of business. This approach would provide an easily provable Federal charge against persons who deal in guns illegally. It would also augment local law enforcement efforts against carrying concealed weapons. It is vulnerable to two arguments: that it would be unenforceable because violations would be rife and that it would make virtually all street crime a Federal offense.

F. Federal Safety Certification Card.

A handgun purchaser could be required to obtain either from the Treasury Department or from certified private organizations such as the National Rifle Association a handgun safety certification card bearing his correct address and his photograph. The issuing organization could be required to determine whether the applicant lives at the address he has given and whether he has been convicted of a felony. The applicant could also be required to pass a simple handgun safety course before purchasing a handgun. This certification system would make enforcing a regional ban on sale or possession much easier and would help to prevent convicted criminals from purchasing handguns.

G. Transfer Notice

Handgun owners who wish to transfer possession of a handgun to another could be required to consummate the transaction at a dealer's office. The dealer could be required to keep a record of the transaction in the same manner he keeps records of initial sales. This provision would facilitate the tracing of handguns used in crime or found in metropolitan areas subject to Federal controls. Any failure to record the transfer of -- or to report theft or loss of -- a handgun could be punished if the handgun later turned up in the illegal possession of another.

ASSESSMENT OF ALTERNATIVES

A handgun control bill incorporating features of all the alternatives described above would be the most effective in minimizing handgun violence in the United States. However, some of the alternatives would likely meet with strong opposition from gun enthusiasts.

The transfer notice provision in Alternative G, pursuant to which all handgun sales must be made through a licensed dealer, would be seen as a nationwide handgun registration system in disguise. The Federal safety certification card system would be seen as a nationwide licensing system. Federal licensing does not meet with nearly as much opposition as other approaches, but if it were coupled with a regional ban on possession or sale, gun enthusiasts would probably be outraged.

The metropolitan area approach has political strengths, since it would apply in areas where acceptance of the need for Federal controls is the greatest and would not apply where opposition to Federal controls is the greatest. It would suffer from enforcement problems if it were not coupled with some sort of licensing or registration system. Moreover, many view this as simply a scheme to disarm "inner city" areas.

Amending the current law in the ways described above in Alternative B, and attacking the "Saturday Night Special" problem as suggested by Alternative C(1) would meet with little opposition. Placing a higher standard of care on handgun sellers and beefing up enforcement efforts to protect state borders, as suggested in Alternative D(1) and (3), could also have great utility and would not be tremendously controversial.

Doing nothing in the way of new Federal gun control legislation could itself have serious political liabilities in a time of rising violent crime and rising sentiment against handguns.

OPTIONS

A. No new Federal law.

Agree _____

Disagree _____

B. Improve current law.

[The Attorney General, the Counsel to the President, the Domestic Counsel and Bob Goldwin favor this.]

Agree _____

Disagree _____



C. "Saturday Night Special" ban:

- 1) By quality and concealability definition.

[AG, Domestic Council and Counsel to President]

Agree _____ Disagree _____

- 2) By Federal tax on sliding scale.

Agree _____ Disagree _____

D. Illegal transportation approach:

- 1) Prohibit sale to resident of area covered by state law.

[AG, Domestic Council, Counsel to President]

Agree _____ Disagree _____

- 2) Prohibit transportation into an area covered by local law.

[AG]

Agree _____ Disagree _____



- 3) Assign ATF to investigate gun commerce in key cities.

[The Attorney General, the Counsel to the President, the Domestic Counsel and Bob Goldwin favor this.]

Agree _____ Disagree _____

E. Metropolitan approach.

- 1) Ban on sale and transfer.

Agree _____ Disagree _____

- 2) Ban on possession outside home or business.

Agree _____ Disagree _____

F. Federal safety certification card.

Agree _____ Disagree _____

G. Transfer notice system.

Agree _____ Disagree _____



What type of mandatory sentencing structure should the Administration advocate, and for whom?

BACKGROUND

Mandatory minimum sentences under current Federal law are imposed only upon those who carry or use a firearm during the commission of a Federal felony. A minimum 1-year sentence is imposed for the first such offense. But the judge may suspend the sentence or grant probation. A minimum 2-year sentence is required for any additional offense, and the judge is precluded from suspending sentence or granting probation.

Mandatory minimum sentences could be applied to other offenses and could be tightened in various ways so that a convicted offender would with certainty be placed in prison for a given amount of time without parole.

DISCUSSION

In your speech at Yale Law School, you indicated your intention to seek modification of the Federal Code to impose mandatory prison sentences for those convicted of violent crimes.

A. Mandatory Sentencing Structure

The initial question is what type of mandatory sentencing is most appropriate. Several approaches suggest themselves:

1. Require mandatory minimum sentences with no possibility of parole.

This approach assures that the convicted offender for whom a mandatory minimum sentence is imposable will, in fact, be incarcerated for a period of time. The advantages of this approach may be illusory, however. Because prosecutors would be less likely to be able to exact a guilty plea from defendants because they have no leeway as to the recommended sentence, the prosecutors would probably not often prosecute on charges carrying a mandatory minimum. Judges, deprived of discretion, could, in some cases, simply acquit defendants rather than impose the mandatory term. Finally, this sort of mandatory sentence would fail to take into account circumstances that should reasonably affect the sentencing decision -- such as the age of the offender and his prior criminal history. They would treat one who commits a one-time crime of passion the same way they would treat a cold-blooded, willful offender.



2. Require mandatory sentence with immediate possibility of parole.

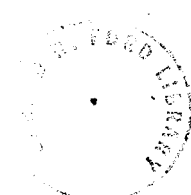
This approach assures that the convicted offender will either be incarcerated or subject to Federal supervision for a period of time. For this reason, it has sometimes been referred to as a "fake" mandatory sentencing scheme. By including the possibility of parole, some of the inflexible aspects of a "true" mandatory sentencing scheme would be avoided; however, prosecutors and judges could still be expected to attempt to avoid proceeding under laws imposing the "fake" minimum. (This is the approach taken by S. 1 with respect to crimes committed with a firearm and certain drug-trafficking offenses.)

3. Require mandatory minimum sentences with no possibility of parole, but authorize judges to avoid imposition of the minimum sentence if certain statutorily defined mitigating circumstances are present.

This approach is similar to Alternative 1, but allows a bit more flexibility in application. The mitigating circumstances under this approach could be very narrowly drawn to give judges some discretion, but not enough to destroy the value of a mandatory minimum. For example, they could include: 1) that the offender has never been convicted of a violent offense, 2) that he was younger than 18 at the time of the offense, 3) that he was mentally impaired, 4) that he was acting under substantial duress, and 5) that he was only implicated in a crime actually committed by others and participated in the actual crime in a very limited way. Such an approach would deter the career criminal, who would find it impossible to fit himself into one of the categories. But it would not force judges to acquit defendants whom they believe to be guilty but who ought not be incarcerated. The discretion of prosecutors would still be diminished, but, since the range of offenders to whom the mandatory minimum would apply would be narrowed, the burden on prosecutors of not being able to plea bargain would not lead them as often to fail to charge the offense carrying the mandatory minimum.

4. Fail to expand the application of mandatory minimums at all.

This approach would please some people who believe mandatory minimums are too inflexible and harsh no matter how they are drawn. Also, prosecutors prefer to have as much discretion as possible in processing their cases.



B. Included Offenses

Once the type of mandatory sentencing structure is selected, the question becomes: to what class or category of offender will mandatory minimum apply? Again, several alternatives deserve consideration.

1. Apply mandatory minimum sentences to all offenses.

The advantage of this approach is that it recognizes that there are many serious offenses warranting certainty of punishment that do not involve physical violence directed against the victim. War-time treason, serious drug crimes, and crimes involving political corruption may warrant a fixed sentence fully as much as crimes of violence. To impose mandatory minimum sentences for all such offenses, however, would entail a radical restructuring of the whole Federal sentencing system. Such a restructuring would have to be preceded by considerable analysis and care in order to avoid criticism based upon harshness, inflexibility and overbreadth.

2. Apply mandatory minimum sentences for all offenses involving the potential of physical injury to the victim.

This approach would have the advantage of concentrating on the kinds of crimes that are of most immediate concern to American citizens. Such offenses would include those in which the victim is actually injured and those within certain categories of offenses that are commonly apt to result in physical injury to the victim. The former kinds of offenses would include homicide offenses, assault offenses, and nonconsensual sex offenses; the latter kinds of offenses would include kidnapping and aircraft hijacking offenses, arson and other property destruction offenses, burglary offenses, and robbery offenses. While applying mandatory sentences to such broad categories of offenses would be contrary to recommendations by such groups as the American Bar Association, it would, particularly if applied in the form suggested under Alternative A 3 above, accord with recommendations recently made by some respected sociologists and economists.



3. Apply mandatory minimum sentences for all offenses involving actual physical injury to the victim.

This approach would be similar to that suggested immediately above, but would apply only to those offenders who did, in fact, cause injury to their victims. This would remove from the application of such sentences those offenders who were willing to threaten a victim with injury but who may not actually have intended to cause the threatened injury. It should be noted that this approach, as well as the one immediately above, would apply to the most common crimes of passion, for which no form of penalty is apt to provide effective deterrence.

4. Apply mandatory minimum sentences for all offenses involving use of a dangerous weapon, aircraft hijacking and trafficking in opiates.

This approach would subject to mandatory penalties only those offenders who committed a crime with a dangerous weapon or who committed such other serious offenses as aircraft hijacking and trafficking in opiates. A dangerous weapon could be defined to include not only the commonly known destructive device, such as firearms or explosive devices, but also any other instrument that, as used or as intended to be used, is capable of producing death or serious bodily injury. This approach would reach the most serious forms of street crime, but would not reach those kinds of physical assaults that may not warrant being singled out as deserving of a mandatory penalty. A prime practical advantage of this approach is that it has the potential for receiving support from both conservatives and liberals. It has been advocated by the National Rifle Association; the Criminal Justice Section of the American Bar Association has recommended that the ABA Standards be modified to permit such an approach; and Senator Mansfield has been a principal supporter of such a provision. It could be effected simply by a minor modification of section 924 (c) of the existing title 18. This is the approach that is included in S. 1.

5. Alternatives 1, 2, 3 or 4 for repeat offenders only.

This approach would limit the applicability of mandatory minimum sentences to repeat offenders. It could be tailored to cover all repeat offenders or a more narrowly defined class of repeat offenders (e. g., those convicted of violent crimes). This would be the least objectionable alternative to judges and prosecutors, since it is aimed only at the recidivist -- the so-called hardened criminal.



In assessing these alternatives, two factors should be noted: (1) the mandatory minimum sentence need not be long to be effective, and (2) the alternative structures and categories of offenses can be "mixed and matched" (e. g., providing "true" mandatorics for all weapons offenders and "fake" mandatorics for other violent offenders not using a weapon).

OPTIONS

A. Optional forms of mandatory minimum sentences:

1. Require mandatory minimum sentences with no possibility of parole.

Agree _____ Disagree _____

2. Require mandatory minimum sentences with the possibility of immediate parole.

Agree _____ Disagree _____

3. Require mandatory minimum sentences without parole but allow judges to fail to incarcerate offenders who fall into narrowly drawn categories.

[The Attorney General, the President's Counsel, the Domestic Counsel, and Bob Goldwin favor this approach.]

Agree _____ Disagree _____

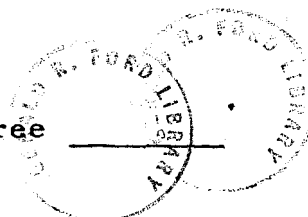
4. Do not extend the application of mandatory minimums at all.

Agree _____ Disagree _____

B. Optional categories of offenses to which mandatory minimum sentences would apply:

1. Apply to all offenses.

Agree _____ Disagree _____



2. Apply to all offenses involving the potential of physical injury to the victim.

[Bob Goldwin favors this approach.]

Agree _____ Disagree _____

3. Apply to all offenses involving actual physical injury to the victim,

[Counsel to President and Domestic Council support mandatorics with possibility of parole here]

Agree _____ Disagree _____

4. Apply to all offenses in which a dangerous weapon is used, or which involve such serious offenses as hijacking or trafficking in opiates.

[The Attorney General, the President's Counsel and the Domestic Counsel favor this approach.]

Agree _____ Disagree _____

5. Apply to repeat offenders only.

Agree _____ Disagree _____



Should the Crime Message emphasize the removal of
Federal and State restrictions on the employment of
ex-offenders?

BACKGROUND

Substantial evidence supports the proposition that an ex-offender who obtains employment is less likely to commit another crime than an unemployed ex-offender.

Notwithstanding that evidence, convicted ex-offenders are severely discriminated against in the job market. Repeated surveys show that a heavy majority of employers will not hire anyone with an arrest record, much less a conviction record. In 13 States, offenders are legally deemed civilly dead, prohibiting them from entering into contracts, from suing and from being sued. Various States disqualify offenders from the ability to marry and to exercise the authority of a parent over their children.

An American Bar Association survey has found that State legislative codes contain nearly 2,000 separate statutory prohibitions which inhibit the licensing of persons having arrest or conviction records. About 350 different occupations are completely closed or severely restricted to ex-offenders. They cannot become accountants, architects, barbers, beauticians, butchers, bartenders, taxi drivers, dental hygienists, electricians, junk dealers, nurses, pharmacists, social workers, teachers, or watchmakers. If the job requires a State license, it is generally closed to ex-offenders.

DISCUSSION

Clearly, legitimate work opportunities ought to be available for ex-offenders who want to "go straight." Job market discrimination against ex-offenders seems to be counterproductive with respect to your goal of reducing violent crime. Some of the discrimination is private and may be regulated by Federal statute; some is Federal and may be regulated by Executive Order; and probably the most significant discrimination is sanctioned by State statutes and can be changed only by amendments to those statutes.

Steps the Administration could recommend include:

- (1) Appealing to all employers, public and private, not to discriminate against ex-offenders, except as commission of a particular offense is related to performance in a specific job.



- (2) Directing the Justice Department to draw up ex-offender civil rights legislation which would make it illegal for an employer or a union to deny a job or membership based upon an applicant's criminal record. Denial of a job or of union membership based upon an arrest, police detention (without charge), investigation, or conviction record should be barred.
- (3) Directing the Civil Service Commission to submit to you an Executive Order to prohibit Federal discrimination against ex-offenders as a class.
- (4) Directing LEAA, the Department of Labor, and the Department of Health, Education, and Welfare to encourage States to eliminate licensing and other statutory restrictions against the employment of ex-offenders as a class, and to cut off Federal manpower training funds (including LEAA and HEW vocational education and rehabilitation monies) after FY 1977 from all States which at that point retain statutory discrimination against ex-offenders as a class.

OPTIONS

1. Take the opportunity of your special message to encourage all employers not to discriminate against ex-offenders as a class.

[The Attorney General, the Counsel to the President, the Domestic Counsel and Bob Goldwin favor this.]

Agree _____ Disagree _____



2. Direct the Justice Department to draw up ex-offender civil rights legislation.

Agree _____ Disagree _____

3. Direct the Civil Service Commission to submit to you an Executive Order to prohibit Federal employment discrimination against ex-offenders as a class.

Agree _____ Disagree _____

4. a) Direct LEAA, the Department of Labor, and the Department of Health, Education, and Welfare to encourage States to eliminate statutory restrictions against employment of ex-offenders as a class.

[The Counsel to the President and the Domestic Counsel favor this.]

Agree _____ Disagree _____

- b) Direct a cut-off of Federal manpower training funds after FY 1977 from all States which at that point retain such statutory discrimination.

Agree _____ Disagree _____



What steps should the Crime Message recommend
in the area of corrections reform?

BACKGROUND

The problem of decrepit prisons is at its worst at the State and local levels. Many State prisons were built before the turn of the century. They are run down, overcrowded in many places, and unsafe. Not only are they unsafe in that prisoners can find ways to break out of them, they are also unsafe for the prisoners themselves. The run-down conditions make it difficult for prison personnel to protect prisoners against violent attack and homosexual rape by other prisoners.

The Federal government subsidizes many of these State and local adult and juvenile facilities by billions of dollars of grants and contracts. Grants come from a plethora of programs, including Elementary and Secondary Education Act Title I funds for juvenile institutions, vocational education and vocational rehabilitation funds for prisons and jails, adult education funds, manpower training funds under a variety of legislative authorizations, and LEAA monies. The Bureau of Prisons and the Department of Defense, moreover, contract with State and local facilities to temporarily detain Federal prisoners and, in some cases, to incarcerate them for long sentences.

The Federal corrections system has an ongoing program to upgrade its facilities. Currently, it is building or planning to build new detention centers in several cities where Federal prisoners have been housed in substandard and overcrowded local jails while awaiting trial.

DISCUSSION

The effort to get judges to send more convicted violent offenders to jail will fail so long as judges believe the conditions in jails are inhumane and that incarceration breeds criminality rather than nurturing rehabilitation.

On the State level, the Law Enforcement Assistance Administration could play an important role in a program to modernize prisons. Its FY 1976 budget earmarks more than \$97 million for corrections programs, and half of that can be spent by LEAA at its discretion. LEAA could be directed to place special emphasis on encouraging States to upgrade their prison facilities so that they are decent and secure. LEAA's effort in this regard could be most helpful if it encouraged States and localities to experiment with smaller, community-based institutions and move away from huge, unmanageable penitentiaries.



Additionally, because various Federal grant programs heavily subsidize State and local correctional systems, and because the Bureau of Prisons and (less so) the Defense Department fund State and local systems through contracts, the Federal government has financial leverage over State and local prisons.

The Department of Justice has taken the position that the Federal government has the constitutional obligation to ensure that prisoners in State and local prisons and juvenile institutions are not being subjected to cruel and unusual punishment. As a consequence, the Department has filed suit in Texas to require that State's juvenile institutions to meet Federal standards, in Louisiana to require the State prison to meet Federal standards, and in Alabama to require State and local jails (for pretrial detention) to meet Federal standards. After consultation with correctional experts within and outside of the Federal government, the Civil Rights Division of Justice has drafted standards which State prisons must meet (Williams case in Louisiana) and which State juvenile institutions must meet (Morales case in Texas). Those standards have been submitted to Federal courts.

In order to alleviate unnecessary cruelty to which prisoners and detainees are subjected to no useful purpose, you may want to direct all Federal agencies that Federal standards must be met by any prison, juvenile institution, jail, or other detention facility as a prerequisite to the receipt of any Federal money under grant or contract. You may want to adopt the standards which the Justice Department has submitted to the Judiciary, or you may want to direct Justice and HEW to draft new standards by a date certain.

OPTIONS

1. Direct LEAA to encourage States to upgrade existing prison facilities so that they are decent and secure and to move in the direction of smaller, community-based institutions which are cheaper and more manageable.

Agree _____

Disagree _____



2. Direct the Departments of Justice and Health, Education, and Welfare to draft new standards for submission to you by September 1, 1975.

[The Counsel to the President, the Domestic Counsel and Bob Goldwin favor this.]

Agree _____

Disagree _____

3. Direct all Federal agencies that no Federal funding is to go, under grant or contract, to any State or local prison, juvenile institution, jail, or other detention facility which is not in compliance with Federal standards after July 1, 1976.

Agree _____

Disagree _____



Should the Crime Message endorse the concept of
compensation to victims of crime?

As a result of careful compromise among Senators Mansfield, McClellan, and Hruska, provisions have been included in S. 1 to provide a program for the compensation of certain needy victims of Federal offenses which result in personal injury.

S. 1 provides for compensation of up to \$50,000 for uncompensated (by insurance, tort, etc.) out-of-pocket loss resulting from a Federal personal injury crime plus lost earnings or support resulting from injury or death of the victim in instances where there is a finding of "financial stress." The standard is cast so as to include the so-called economic middle-class.

Compensation would be paid from a Criminal Victim Compensation Fund consisting of all criminal fines paid for Federal offenses, funds derived from suits by the Attorney General against the perpetrators of personal injury crimes, and dividends from Federal Prison Industries.

Preliminary studies by the Department of Justice indicate that the Fund would be self-supporting. Indeed, there is no appropriation authorization in the bill. This is not to say, of course, that the program lacks a budgetary impact. Approximately \$10-\$15 million per year would be lost from general Treasury funds.

S. 1 would cover all Federal offenses against the person. It would leave to separate legislation for the District of Columbia compensation for those offenses applicable exclusively in the District of Columbia. A Federal offense resulting in personal injury would be covered even if no person was charged with the offense or if the person charged was turned over to a State or local government for prosecution.

The Crime Message would specifically endorse this concept.

[The Attorney General and the Counsel to the President recommend that you agree.

The Domestic Counsel and Bob Goldwin recommend that you be silent]

Agree _____

Disagree _____



Should the Crime Message indicate some dissatisfaction with the national defense provisions of S. 1?

During the development of S. 1, most adverse commentary focused upon the provisions contained in Chapter 11 (Offenses Involving National Defense) of the bill. Basically, Chapter 11 recodifies current law save the new provisions contained in Section 1124.

Section 1124 makes it an offense for a person in authorized possession of classified information knowingly to communicate such information to a person not authorized to receive it. As originally drafted, it was not a defense to the crime that the information was improperly classified.

As a result of the hearings on S. 1, three changes have been incorporated in the current draft. First, a complete bar to prosecution would become operative if there were not in existence at the time of the offense an agency and procedures to provide for the review of the classification. Second, an appropriate government official would have to certify prior to prosecution that the classification which was violated was correct. Third, an affirmative defense is created which would have applicability in circumstances where the defendant has exhausted his remedies under administrative review provisions and has not communicated the classified information to a foreign agent or for anything of value. If these requirements are met, the defendant would be allowed to litigate the propriety of the classification. Although it should be noted that a recipient of the classified information, such as a newsman, is not subject to prosecution under Section 1124, the press generally perceives this particular section of the bill to be violative of basic free press concepts.

In light of recent enactments, e. g., the Freedom of Information Act, it is likely that further changes will be made to Section 1124. Although it is impossible to identify these changes with any degree of precision at the current time, there would be some utility in having your Crime Message indicate that you do intend to review options in this area and other controversial aspects of the subject bill. This should preclude any adverse commentary on the Crime Message which would deal only with this one section and disregard the balance of the statement.

[The Attorney General, the Counsel to the President and the Domestic Counsel recommend that you agree.]

Bob Goldwin makes no recommendation.]

Agree _____

Disagree _____



6/12/75
ey went to
Ken
DEPARTMENT OF JUSTICE

UNITED STATES GOVERNMENT

Memorandum

TO : Philip W. Buchen
Counsellor to the
President

DATE: June 12, 1975

FROM : Jack Fuller
Special Assistant to the
Attorney General

SUBJECT:

Here are a couple of paragraphs for the memorandum to the President for his decision on gun control in the Crime Message.



The gun control act of 1968 makes it illegal for a gun dealer knowingly to sell a gun when the sale would be illegal under local or state law applicable at the point of "sale, delivery or other disposition." It is the Attorney General's opinion that this provision should be strengthened as to handguns so that a dealer would be required to take reasonable steps to determine that the purchaser's possession of the handgun would be legal under state or local law applicable at the point of "sale, delivery or other disposition."

This would, in effect, prevent handgun dealers who operate on the fringes of cities where handgun possession is strictly limited from selling handguns to city residents who could not legally possess the handguns in their residence. This provision of Federal law would not keep anyone from purchasing a handgun which would be legal under their local laws. This prohibition is in the present law but the change would make the application of the law more effective by requiring sellers to make a greater effort to comply with it.



Wednesday 6/18/75

8:30 I checked with Ken Lazarus. He has seen the attached draft of remarks for the President and there's no problem. They've just lifted the language from the message.

He said as a matter of fact, the President is going over it right now.

8:50 This office called; advised the draft was O.K. They will send someone to pick it up.



THE WHITE HOUSE
WASHINGTON

June 18, 1975

TO: Phil Buchen

FROM: PAUL THEIS *PT*

Attached are proposed remarks for the President to use in opening the press briefing on the crime message Thursday noon. Can you let me have any suggested changes first thing Thursday morning?

Thanks.

CLEARANCE FORM FOR PRESIDENTIAL SPEECH MATERIAL

TO: THE PRESIDENT
VIA: ROBERT HARTMANN
FROM: PAUL A. THEIS
SUBJECT: Press Remarks for the President on Crime
Message

TIME, DATE AND PLACE OF PRESIDENTIAL USE: _____
White House Press Briefing, Thursday noon, June 19, 1975

SPEECHWRITER: Bakshian

EDITED BY: Theis

BASIC RESEARCH/SPEECH MATERIAL SUPPLIED BY:
Crime Message, Domestic Council

CLEARED BY (Please initial):

- OPERATIONS (Rumsfeld) _____
- CONGRESSIONAL/PUBLIC LIAISON (Marsh) _____
- PRESS (Nessen) _____
- LEGAL (Buchen) P. W. B. _____
- ECONOMIC POLICY BOARD (Seidman) _____
- OFFICE OF MANAGEMENT AND BUDGET (Lynn) _____
- DOMESTIC COUNCIL (Cannon) _____
- NATIONAL SECURITY COUNCIL (Scowcroft) _____
- RESEARCH (Waldron) _____
- JERRY WARREN (FYI) _____
- ENERGY RESOURCES COUNCIL (Zarb) _____
- _____
- _____



PRESIDENTIAL REMARKS FOR CRIME MESSAGE BRIEFING, THURSDAY,
JUNE 19, 1975

Two months ago, at Yale University's Law School, I spoke about a subject that touches the lives of all Americans -- crime. Today, I am in sending the Congress a special message which spells out concrete terms the crime-fighting ideas I advocated in that speech.

For too long, law has centered its attention more on the rights of the criminal than on the victim of the crime. It is high time we reversed this trend.

Even though the role of the Federal Government in combatting crime is a limited one, it can provide leadership. It can improve the quality of existing Federal laws and the Federal justice system. It can enact and vigorously enforce new laws governing criminal conduct at the Federal level. And it can provide financial and technical assistance to State and local governments in their own battle against lawlessness.

For example, I propose that the Congress enact mandatory prison sentences for Federal offenses committed with firearms or other dangerous

weapons -- and for hijackers, kidnappers, traffickers in hard drugs and repeated Federal offenders. This measure alone will take many dangerous criminals off the streets.

We can and must make our legal system what it was always meant to be -- a means of insuring "domestic tranquility" and making America safe for decent, law-abiding citizens.

This is not a partisan issue. It is a matter of deep personal concern to all Americans. So I urge the Congress to consider and act on this message in a prompt, positive, non-partisan spirit.

To fill you in on the details of the crime message, I will now turn you over to the Nation's senior law enforcement official -- Attorney General Levi.

#

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT
ON HIS
MESSAGE ON CRIME

THE BRIEFING ROOM

3:32 P.M. EDT

Mr. Attorney General, two months ago, at Yale University Law School, I spoke about a subject that touches the lives of all Americans -- crime.

Today, I am sending to the Congress a special message spelling out in concrete terms the program for curbing crime and insuring domestic tranquility, which I advocated in that speech.

First, and foremost, our effort should be directed toward the protection of law-abiding citizens. For too long, the law has centered its attention more on the rights of the criminal than on the victim of crime.

It is high time that we reverse this trend and put the highest priority on the victims and potential victims.

Even though the chief responsibility in combating crime lies with State and local officials, the Federal Government can provide leadership. It can improve the quality of existing Federal laws and the Federal judicial system.

It can enact and vigorously enforce new laws governing criminal conduct at the Federal level, and it can provide financial and technical assistance to State and local governments in their efforts to stem lawlessness.

For example, I propose that the Congress enact mandatory prison sentences for Federal offenses committed with firearms or other dangerous weapons, and for hijackers, kidnappers, traffickers in hard drugs and repeated Federal offenders who commit crimes of violence.

I urge State and local authorities to take similar steps.

MORE

Page 2

I am unalterably opposed to Federal registration of guns or gun owners. I do propose that the Congress enact legislation to deal with those who use handguns for criminal purposes.

I also propose further Federal restrictions on so-called Saturday night specials.

We can and must make our legal system what it was always intended, a means of insuring domestic tranquility in making America safe for decent and law-abiding citizens.

This is a matter of deep personal concern to all Americans. So, I urge the Congress to reflect this concern for the victims of crime by acting on this message in a prompt, positive and nonpartisan spirit.

To provide more details concerning the message and the program that we have put together, I will now ask the Attorney General, Mr. Edward Levi, to fill you in on the details.

Thank you very, very much.

END (AT 3:35 P.M. EDT)



Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

CRIME MESSAGE

The President is today transmitting to the Congress a special message on crime in which he advocates enactment of mandatory minimum sentences for offenders who commit violent Federal crimes. In addition, he asks the Congress to improve Federal fire arms laws and their enforcement. The President also recommends the extension of the Law Enforcement Assistance Administration through 1981.

BACKGROUND

The Federal Bureau of Investigation has estimated that the rate of serious crime was 17 percent higher in 1974 than in 1973. This is the largest annual increase in the 44 years the Bureau has been collecting statistics. Moreover, these figures reflect only the reported crimes. A study of unreported crime sponsored by the Law Enforcement Assistance Administration indicates that the actual level of crime in some cities is three to five times greater than that reported. Significantly, and tragically, the number of crimes involving threats of violence or actual violence has also increased.

Two months ago, at the celebration of the 150th anniversary of the Yale Law School, the President delivered a speech on the problem of crime in America. In that address, the President stressed his concern for the innocent victims of crime and the impact which crime -- particularly violent crime -- has had on domestic tranquility in America. The message which the President is sending to Congress today spells out his program for combatting crime.

HIGHLIGHTS OF MESSAGE

While acknowledging that the Federal role in the fight against crime is a limited one, the President sets forth three important responsibilities of the Federal government in this vital area:

- Providing leadership to State and local governments by ~~improving~~ improving the quality of Federal laws and the criminal justice system.
- Enacting and vigorously enforcing laws covering criminal conduct that cannot be adequately regulated at the State or local level.
- Providing financial and technical assistance to State and local governments and law enforcement agencies, and thereby enhancing their ability to enforce the law.

I. PROVIDING FEDERAL LEADERSHIP

A. Improving the Quality of Federal Laws

Noting that Federal criminal laws should be a model upon which State and local governments can pattern

more



their own laws, the President recommends to the Congress the enactment of a comprehensive criminal code.

In codifying the Federal criminal law, the President recommends that criminal fines be increased from a maximum of \$10,000 to a maximum of \$100,000 if the defendant is an individual, and \$500,000 if the defendant is an organization.

The President also recommends the enactment of mandatory minimum sentences for persons who:

- (1) commit Federal offenses involving the use of a dangerous weapon,
- (2) commit such extraordinarily serious offenses as aircraft hijacking, kidnapping and trafficking in hard drugs, and
- (3) are repeat offenders who commit Federal crimes that cause or have the potential to cause personal injury to others. Limited exceptions to the imposition of mandatory minimum sentences would be set forth in the statute.

The President recommends that Federal appeals courts be given limited authority to review sentences imposed by Federal trial court judges.

B. Improving the Federal Criminal Justice System

In addition to reform of the criminal law, the President believes that we must improve the manner in which our criminal justice system operates. In the message, he makes numerous suggestions and recommendations designed to improve the quality of the Federal criminal justice system. These include:

1. Establishment of "career criminal" programs designed to assure quick identification and prosecution of persons who repeatedly commit serious offenses.
2. Continuation and expansion of programs designed to divert certain first offenders into rehabilitation prior to trial.
3. Creation by the Congress of additional Federal District Court judgeships and expansion of the criminal jurisdiction of United States Magistrates.
4. Up-grading of prison facilities, including the replacement of large, outdated prisons with smaller, more modern ones.
5. Directing that the Attorney General, as Chairman of the Cabinet Committee on Crime Prevention and Rehabilitation, ensure that the Federal government is making the best possible use of its resources in the area of offender rehabilitation.
6. Enactment by the Congress of legislation to provide limited compensation to victims of Federal crimes who suffer personal injury.

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Additionally, the President calls upon employers, including Federal agencies, to keep open minds on the hiring of persons formerly convicted of crimes.

II. BETTER LAWS AND ENFORCEMENT

- A. The President is unalterably opposed to Federal registration of guns or gun owners. He has directed the Attorney General to prepare legislation prohibiting the manufacture, assembly or sale of "Saturday Night Specials." The President also proposes to strengthen current law so as to strike at the illegal commerce in handguns and to emphasize the responsibility of dealers to adhere to the law. He has also ordered the Treasury Department's Bureau of Alcohol, Tobacco and Firearms to double its investigative efforts in the nation's ten largest metropolitan areas and to immediately employ and train an additional 500 firearms investigators for this priority effort.
- B. The President believes there are several other areas in which Federal law and enforcement can be improved to strike at those who have made crime a business. Laws relating to organized crime, consumer fraud, white-collar crimes and protection of civil rights can and should be improved.
- C. The President also has directed the Domestic Council to conduct a comprehensive, priority review of the Federal effort in the treatment and prevention of drug abuse, to ensure that Federal programs and policies are appropriate to meet the current and mounting threat.

III. PROVIDING FINANCIAL AND TECHNICAL ASSISTANCE

The Federal government must continue to help State and local governments in carrying out their law enforcement responsibilities. Therefore, the President will submit to the Congress a bill that will continue the Law Enforcement Assistance Administration through 1981.

The Bill will authorize \$6.8 billion for the Law Enforcement Assistance Administration to continue its work through 1981. Further, the bill will increase LEAA's annual funding authorization of \$1.25 billion to \$1.3 billion so that additional funds may be made available to urban areas with high crime rates. Finally, the bill will place additional emphasis on improving State and local court systems.

#

MEMORANDUM
THE WHITE HOUSE
WASHINGTON

Crime

July 8, 1975

TO: DONALD RUMSFELD
JAMES CONNOR
JERRY JONES
RICHARD PARSONS
JAMES CANNON
JAMES LYNN
ALAN GREENSPAN
RICHARD CHENEY
JAMES CAVANAUGH
PHILIP BUCHEN ✓

FROM: ROBERT GOLDWIN *RG*

Attached are two more items on the Crime Message. The one from the Economist is a mixed review, but the one by Max Lerner is of exceptional importance, in my opinion, because of his strong liberal leanings and influence among liberals.

I draw two lessons:

1. We can influence liberals as well as conservatives with soundly argued middle-of-the-road programs.
2. We must follow-up on the Crime Message by urging state and local authorities to take the actions advocated in the Yale Law School speech and the Crime Message.

Attachments



THE WORLD

American Survey

Ford plays the crime buster

Washington, DC.

The conventional wisdom is that any American politician who aspires to the presidency must be a credible statesman who can handle the country's foreign affairs with skill and confidence. Or that he must have a rational and vigorous economic programme

Nixon—in order not to offend the blacks and liberals who have come to consider it as a code for repressive measures against the underdog. Instead the president invoked a clause from the preamble to the Constitution to assert that his purpose, like that of the



Some items in this folder were not digitized because it contains copyrighted materials. Please contact the Gerald R. Ford Presidential Library for access to these materials.

MIL

FORD AIMS AT CRIME

Max Lerner

Some items in this folder were not digitized because it contains copyrighted materials. Please contact the Gerald R. Ford Presidential Library for access to these materials.

Date: August 5, 1975

Time:

FOR ACTION:

cc (for information):

Phil Buchen ✓

Jack Marsh

Bob Hartmann

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, August 5, 1975Time: COB

SUBJECT:

Proposed Presidential Letter to be sent to all Governors enclosing a copy of message to Congress on the Federal Aid Highway Act of 1975 and the Crime Message.

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

Please give this a quick turn around to day -- thank you.

*Approved
J.W.B.*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President



THE WHITE HOUSE

WASHINGTON

August 5, 1975

Dear George:

In recent weeks, I have transmitted to the Congress two major legislative messages -- the Federal Aid Highway Act of 1975 and the Crime Message.

Enclosed for your information are 'fact sheets on both of these messages. I hope they will be helpful in highlighting the key elements and objectives of these two vital pieces of legislation.

In particular, I hope you will closely read the crime message to determine whether changes in your State's laws may be needed to make them more effective in our common efforts to reduce crime. Only the complete cooperation of Federal, State and local officials in these efforts will assure domestic tranquility throughout the country.

Sincerely,

The Honorable George C. Wallace
Governor of Alabama
Montgomery, Alabama 36104



Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

CRIME MESSAGE

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BACKGROUND

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HIGHLIGHTS OF MESSAGE

While acknowledging that the Federal role in the fight against crime is a limited one, the President sets forth three important responsibilities of the Federal government in this vital area:

- Providing leadership to State and local governments by improving the quality of Federal laws and the criminal justice system.
- Enacting and vigorously enforcing laws covering criminal conduct that cannot be adequately regulated at the State or local level.
- Providing financial and technical assistance to State and local governments and law enforcement agencies, and thereby enhancing their ability to enforce the law.

I. PROVIDING FEDERAL LEADERSHIP

A. Improving the Quality of Federal Laws

Noting that Federal criminal laws should be a model upon which State and local governments can pattern

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(OVER)

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In addition to reform of the criminal law, the President believes that we must improve the manner in which our criminal justice system operates. In the message, he makes numerous suggestions and recommendations designed to improve the quality of the Federal criminal justice system. These include:

1. Establishment of 'career criminal' programs designed to assure quick identification and prosecution of persons who repeatedly commit serious offenses.
2. Continuation and expansion of programs designed to divert certain first offenders into rehabilitation prior to trial.
3. Creation by the Congress of additional Federal District Court judgeships and expansion of the criminal jurisdiction of United States Magistrates.
4. Up-grading of prison facilities, including the replacement of large, outdated prisons with smaller, more modern ones.
5. Directing that the Attorney General, as Chairman of the Cabinet Committee on Crime Prevention and Rehabilitation, ensure that the Federal government is making the best possible use of its resources in the area of offender rehabilitation.
6. Enactment by the Congress of legislation to provide limited compensation to victims of Federal crimes who suffer personal injury.

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Additionally, the President calls upon employers, including Federal agencies, to keep open minds on the hiring of persons formerly convicted of crimes.

II. BETTER LAWS AND ENFORCEMENT

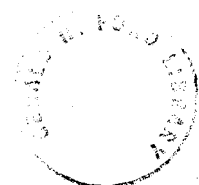
- A. The President is unalterably opposed to Federal registration of guns or gun owners. He has directed the Attorney General to prepare legislation prohibiting the manufacture, assembly or sale of "Saturday Night Specials". The President also proposes to strengthen current law so as to strike at the illegal commerce in handguns and to emphasize the responsibility of dealers to adhere to the law. He has also ordered the Treasury Department's Bureau of Alcohol, Tobacco and Firearms to double its investigative efforts in the nation's ten largest metropolitan areas and to immediately employ and train an additional 500 firearms investigators for this priority effort.
- B. The President believes there are several other areas in which Federal law and enforcement can be improved to strike at those who have made crime a business. Laws relating to organized crime, consumer fraud, white-collar crimes and protection of civil rights can and should be improved.
- C. The President also has directed the Domestic Council to conduct a comprehensive, priority review of the Federal effort in the treatment and prevention of drug abuse, to ensure that Federal programs and policies are appropriate to meet the current and mounting threat.

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The Federal government must continue to help State and local governments in carrying out their law enforcement responsibilities. Therefore, the President will submit to the Congress a bill that will continue the Law Enforcement Assistance Administration through 1981.

The Bill will authorize \$6.8 billion for the Law Enforcement Assistance Administration to continue its work through 1981. Further, the bill will increase LEAA's annual funding authorization of \$1.25 billion to \$1.3 billion so that additional funds may be made available to urban areas with high crime rates. Finally, the bill will place additional emphasis on improving State and local court systems.

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July 7, 1975

Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

FEDERAL-AID HIGHWAY ACT OF 1975

The President is transmitting today to the Congress, the Federal-Aid Highway Act of 1975. Covering the fiscal years 1977-1980, the Act has the following key objectives:

- Emphasize the Federal interest in completing and maintaining an effective national Interstate highway system.
- Permit new flexibility to State and local officials in utilizing non-Interstate Federal highway assistance.
- Provide responsible funding authorizations for the highway program, consistent with other transportation and national priorities.

BACKGROUND

The twenty-year-old Highway Trust Fund expires on October 1, 1977. The current Federal-aid highway program consists of approximately thirty categorical programs. Interstate system projects are funded with 90% Federal funds and 10% matching from the States. Other projects are funded on a 70/30 basis.

The 42,500-mile Interstate system is nearly completed with 85% open to traffic.

KEY PROVISIONS OF THE PROPOSAL

-- Program Structure

1. To expedite completion of an inter-city Interstate system, Interstate funding will be gradually increased from the current annual level and the apportionment formula and operating procedures will be revised to place highest priority on expediting the completion of Interstate routes of national significance. Lower priority will be placed on completion of routes primarily serving local needs.

2. To enhance State and local flexibility in using Federal transportation assistance, approximately thirty highway categorical grant programs will be consolidated into four broad programs: Interstate system, urban and suburban transportation assistance program (areas over 50,000 population), rural transportation assistance program (any area not covered under the urban program), and the highway safety improvement program. Furthermore, urban, rural, and safety funds will be available for use on highways not on the Federal-aid systems and for projects to improve public transportation.

-- Financing Structure

1. The Highway Trust Fund's October 1, 1977, termination date would be eliminated and the Trust Fund would be extended indefinitely. It would be maintained exclusively for the construction and improvement of the Interstate system.

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2. Beginning October 1, 1976, revenues from the Federal gasoline tax going into the Highway Trust Fund would be reduced from four cents to one cent. In addition, the Trust Fund would continue to receive revenues from other user taxes (tires, auto and truck parts, etc.) and the diesel fuel tax.

3. In view of their close relationship to general community improvement and local transportation needs, all non-Interstate Federal highway programs -- including rural, urban and safety improvement -- would be financed out of the General Fund. Two of the three cents no longer going into the Highway Trust Fund would be returned to the General Fund of the U.S. Treasury.

4. The remaining one cent of the three cents would be repealed in any State which correspondingly raises its State gasoline tax by at least one cent after September 30, 1976. If a State determines not to increase its own gasoline tax, the excess Federal revenues would go into the General Fund. It would not be mandatory that States use this one cent from the Federal gasoline tax for transportation purposes, though this would be encouraged to meet State needs for matching Federal transportation programs, for State/local highway maintenance, and for public transportation investments.

FEDERAL HIGHWAY TAXES

<u>Current</u>	<u>President's Proposal</u>
A) 4¢/gal. gas tax goes to Trust Fund (approximately \$4 billion per year)	1¢/gal. - Highway Trust Fund 2¢/gal. - Transferred to General Fund 1¢/gal. - This 1¢ federal gas tax will be repealed if and when the respective State increases its gas tax by one or more cents
B) All other highway-related excise taxes - Trust Fund (approximately \$2 billion per year)	No change

REVENUE-FUNDING ESTIMATES

The revised fiscal structure would result in the following estimated revenues for each fiscal year:

<u>REVENUES (\$ in billions)</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>
Highway Trust Fund	3.3	3.4	3.5	3.7
General Fund	2.0	2.1	2.1	2.2

more



<u>FUNDING LEVELS</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>
Interstate System Program (Highway Trust Fund)	3.25	3.4	3.55	3.7
Other Non-Interstate Programs <u>1/</u> (General Fund)	2.2	2.2	2.2	2.2
State Tax Preemption (Uses at State discretion)	1.0	1.0	1.1	1.1
TOTAL	6.45	6.6	6.85	7.0

1/ In addition to the programs authorized in this bill, programs authorized in companion legislation -- such as the State and Community Grant program for highway safety -- would be shifted to the General Fund.

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