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REPUBLICAN NATIONAL COMMITTEE

1625 EYE STREET, NORTHWEST, WASHINGTON, D. C. 20006

NATIONAL 8-6800

NEWS

 FOR RELEASE
IMMEDIATE RELEASE
October 3, 1966

Statement Approved by the Republican Coordinating Committee at its Meeting of October 3, 1966.

CRIME AND LAW ENFORCEMENT

The American people are profoundly concerned with the widespread disrespect for law and order in our country today.

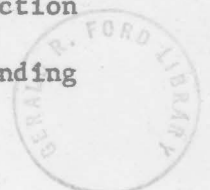
They have witnessed increasing disregard for the rights of others, creeping cynicism toward corruption, and mounting outbreaks of crime, violence and mob madness.

The facts of the rising waves of crime and violence sweeping America are also beyond dispute. Since the close of the Eisenhower Administration, the population of the United States has increased eight percent but the number of crimes, as recorded in F.B.I. reports, has gone up 40 per cent.

A forceable rape occurs every 26 minutes; a robbery every five minutes; an aggravated assault every three minutes; a car theft every minute; a burglary every 28 seconds. The cost of crime is estimated at almost 2.5 billion per month.

Unfortunately, the Johnson/Humphrey Administration has accomplished nothing of substance to date to promote public safety. Indeed, high officials of this Administration have condoned and encouraged disregard for law and order.

The overwhelming majority of Americans are honest, hard-working, law-abiding citizens. They are dismayed when ghastly crimes go unsolved and calloused criminals go unpunished. They are concerned by the growing conviction that influence can be purchased, that elections can be swayed by public spending leading to betrayal of public trust.



In this moral crisis, Americans are looking for leadership, inspiration and example. Example is more than exhortation. Inspiration is more than another law enforcement conference. Leadership must stand above the slightest suspicion.

The position of the Republican Party is clear: The record demonstrates we have stood always for vigorous and impartial law enforcement and for fair but adequate criminal laws at all levels of government. We accept the challenge and will provide the leadership necessary to bring genuine protection to the individual as well as to society in general.



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NEWS



FOR RELEASE

FRIDAY AM'S
October 7, 1966

THE FOLLOWING STATEMENT WAS APPROVED OCTOBER 3, 1966
BY THE REPUBLICAN COORDINATING COMMITTEE AND WAS RELEASED
TODAY BY REPUBLICAN NATIONAL COMMITTEE CHAIRMAN RAY C. BLISS

THE AMERICAN PEOPLE WANT THE ADMINISTRATION TO TELL THE TRUTH

Americans are becoming increasingly frustrated by the refusal of the Johnson-Humphrey Administration to tell the full truth to the people. Whether it be called "news management" or the "credibility gap," the fact remains that in many areas of public policy, the Democratic Administration fails to tell the whole truth.

In Vietnam the Administration has issued a multitude of conflicting statements about the extent of U.S. involvement, the degree to which American troops are participating, the goals of the war, the reasons for American presence and, most importantly, the prospects for success. On October 1, 1963, for example, Secretary McNamara claimed that "the major part of the U.S. military task can be completed by the end of 1965, although there may be continuing requirement for a limited number of U.S. training personnel." When the Secretary painted that rosy picture, there were about 15,000 U.S. military personnel in Vietnam; by the end of 1965 that number had grown to 180,000; and today our presence is in the magnitude of 300,000.

-more-

One of Secretary McNamara's chief deputies has stated:

"Look, if you think any American official is going to tell you the truth, then you're stupid. Did you hear that? ---Stupid."

On the domestic front, too, a credibility gap has been growing steadily--and rapidly--ever since the Eisenhower Administration left office.

The Secretary of Agriculture has said to Democratic candidates:

"Slip, slide, and duck any question of higher consumer prices if you possibly can."

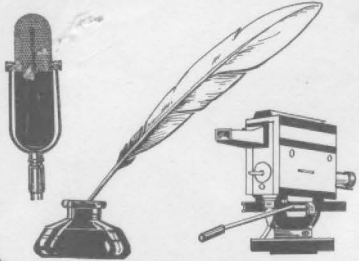
There needs to be enacted "truth in budgeting" legislation, so that the American people can see for themselves how much of the people's money the Democratic Administration is spending. Suppression of the names of summer postal employees affords another example.

As a leading news commentator has noted, "the political lie has become a way of bureaucratic life."

In an era in which the United States seeks, and needs, friends, how can we expect the peoples of other lands to trust our Administration's statements when our own people are becoming increasingly suspicious of its motives and actions?

The Republican Coordinating Committee respectfully urges the Administration to be frank with the American people. The people need the whole truth.

Since the Democratic Party cannot be frank with the American people, the Republicans will tell them the truth.



CONGRESSMAN
GERALD R. FORD
HOUSE REPUBLICAN LEADER

**NEWS
RELEASE**

FOR IMMEDIATE RELEASE
FEB. 6, 1967

STATEMENT BY REP. GERALD R. FORD, R-MICH.

Many actions can be taken to reduce the crime rate in this country and again make our streets safe for our citizens. The most basic and most urgent action is to expand our local police departments and to improve the quality as well as the quantity of local law enforcement.

President Johnson's crime message focuses on a number of important problem areas but neglects some key points. While law enforcement is primarily a local problem, the federal government can help by making law enforcement a more professional and a more attractive career for capable young people.

The basic ingredients for a concerted nationwide attack on crime at the state and local levels of government are money and desire. I believe all of our citizens have the desire to launch a war against crime.

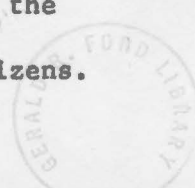
Money is the other ingredient in a nationwide crime war, and the best way to provide funds for that attack would be through federal tax-sharing. A portion of federal revenue rebated to the states could be used in combination with state and local funds to greatly expand and improve local law enforcement and sharply reduce crime rates across the Nation.

At the federal level, we should establish a national law enforcement institute to carry out research work, training and the development and dissemination of the latest police science techniques. There should be state participation in the operation of such an institute if it is to be effective.

Within the federal correctional system, we must expand the work release program and other enlightened prisoner rehabilitation projects to reduce as much as possible the number of second-time offenders, "criminal repeaters."

We should heavily circumscribe but not entirely outlaw the use of electronic eavesdropping and wiretapping. Such devices are an essential tool in law enforcement. They are especially useful in attacking organized crime and could be safely used in such cases when authorized by a federal judge by court order and for probable cause. To restrict the use of such devices to national security cases would be to throw away an important weapon against organized crime. We must legislate against the indiscriminate use of these devices. We must protect the privacy of our citizens. But we must not throw out the baby with the bath water.

(MORE)



We need state and federal action to tighten up on the sale of firearms. But we must find a legislative solution which does not violate the constitutional rights of responsible citizens. We must seek to produce legislation which will deter violence but will not interfere unduly with the rights of those who use guns for sport or pleasure.

We now are faced with a situation in which legitimate social protest sometimes is marked by flagrant violation of laws designed to protect persons and property. To deal with such violations of the law, we propose a Citizens Rights Act of 1967. This Act would punish those who travel from one state to another with intent to incite riots. It also would provide protection for individuals exercising their constitutional rights.

We agree with the President that efforts should be made to reduce crime by attacking some of its basic causes, poverty among others. But we must remember that crime rates are high even in welfare states like England. The ultimate answer, therefore, lies in the spiritual life of a Nation and in the family, the bulwark of all sound societies.

As I noted in my State of the Union Address, fear of punishment remains an important deterrent to crime.

I urge therefore that the courts uphold the rights of the law-abiding citizen with the same fervor as it upholds the rights of the accused. In that connection, it might be well to adopt a sense-of-Congress resolution indicating to the present and all future U.S. Presidents that U.S. Supreme Court appointees should be selected from among federal or state judges who have evidenced by their decisions a balanced viewpoint in the area of public protection and individual rights.

We can and must preserve individual rights and civil liberties. But we should not impose so many restrictions on law enforcement agencies that they are made ineffectual in their attempts to prevent crime or remove criminals from society. To turn obviously guilty persons free is to damage law enforcement both in terms of public and police attitudes.

We need a new spirit in this country--a marked change in public attitude toward the police officer. We must realize and respect the great responsibility he bears and seek to help him in carrying out that responsibility. He, in turn, must constantly strive to do a better job.

We can reduce crime rates in this country. But we must all work together to do it.

Crime File

FOR RELEASE
Monday AM's

JOINT STATEMENT BY
HOUSE MINORITY LEADER GERALD R. FORD and
REPRESENTATIVE CHARLES E. GOODELL, CHAIRMAN,
HOUSE REPUBLICAN RESEARCH AND PLANNING COMMITTEE
March 27, 1967

REPRESENTATIVE RICHARD H. POFF TO CHAIR REPUBLICAN TASK FORCE ON CRIME

We announce the formation by the House Republican Conference Research and Planning Committee of a Task Force on Crime, and the appointment of Representative Richard H. Poff of Virginia as its Chairman. The full membership of the Task Force will be announced at a later date.

Republican Task Forces are created in the House of Representatives to offer information and analysis and recommendations for action on questions of substantial national importance. Because of present concern with the increase of crime, this Task Force has a vital function to perform.

Representative Poff, who will direct its activities, is particularly well qualified to chair this most important Task Force. He has been named to the Commission on Revision and Reform of Federal Criminal Statutes, an agency created as a direct result of legislation which he sponsored in the 89th Congress. In addition, Mr. Poff is second-ranking Republican member of the House Judiciary Committee and secretary of the House Republican Conference.

A thoughtful analysis of recommendations of the President and the recent report of the Presidential Commission in this field, prepared by Mr. Poff, is attached. It deserves the attention of the Task Force which he will head and of the general public.

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FOR RELEASE
MONDAY AM's
March 27, 1967

Representative Richard H. Poff (R-Va.) today released a detailed critical appraisal of the report of the President's Crime Commission and the legislative proposals on the subject which President Johnson has made to the Congress.

Mr. Poff took issue with President Johnson and sided with the majority of the Commission by advocating that the use of wiretapping and eavesdropping devices be permitted under court order in the fight against organized crime. The President favors limiting the use of such devices to national security cases. Mr. Poff favors outlawing all wiretapping and eavesdropping by unauthorized citizens.

He urged that priorities be set among proposed actions by the federal government with major emphasis on training of law enforcement and criminal justice personnel and on research. He underlined the need for more effective rehabilitation and better trained and paid probation officers.

Mr. Poff noted nine important recommendations of the President's Crime Commission which President Johnson did not see fit to urge upon the Congress, including changes in trial procedure which the Congressman said unreasonably hamper prosecution in criminal cases.

Mr. Poff suggested that Congress might ease the effect of the 5-4 Supreme Court decisions in the Miranda and Escobedo cases, widely criticized as obstacles to criminal investigation. To this end he proposed that Congress make a statutory distinction between the investigatory and the accusatory stages of the pre-trial process.

Among other proposals which were not included in either the President's message or the report of his Crime Commission, Mr. Poff advocated amendment of the Bail Reform Act, new legislation to prevent obstruction of criminal investigations, compensation to law enforcement officers killed or disabled in apprehending those who violate federal criminal law, passage of the Cramer anti-riot bill, and revision of the federal criminal penalty structure.

Paper prepared by Rep. Richard Poff (R-Va.)

Approved Feb. 10, 67

Immediately following release of the report of the President's Crime Commission, I spoke on the Floor of the House to pay tribute to the Commission, its staff, its advisers and consultants. I want to reaffirm that tribute and to renew the compliment I paid the contribution the report made to the cause of law enforcement. It illuminated many dark corners in our system of criminal justice and laid the predicate for wholesome, productive dialogue.

However, the Commission members themselves did not always agree. Criminologists, like legislators, often agree on ultimate goals but disagree on methodology. The President, who named the Commissioners, agreed with them in part and disagreed with them in part. I must assume the same posture. Yet, when I disagree, I am concerned not with goals but with methodology.

For purposes of this discussion, I am dividing the subject matter into three categories. The first includes those proposals made by the Commission and adopted by the President which I feel should be modified. The second includes those proposals made by the Commission which the President has not yet adopted. The third includes proposals which neither the Commission nor the President advanced but which I think should be considered by the Congress.

CATEGORY I: COMMISSION PROPOSALS ADOPTED BY THE PRESIDENT WHICH SHOULD BE MODIFIED

A. Wiretapping and Eavesdropping

The Commission's proposals on wiretapping and eavesdropping were not unanimous. All members agreed that all surreptitious electronic surveillance by private citizens should be outlawed. The President adopted this proposal.

I concur.

A majority of the members of the Commission supported wiretapping by law enforcement officers acting under court order and supervision, both in national security cases and in criminal investigations. The President rejected the proposal so far as criminal investigations are concerned. I disagree with the President. Said differently, I agree with a majority of the Commission on this issue.

In order fully to appreciate this issue, it is necessary to know something about its history. Since the telephone is of relatively recent origin, the his-

tory is brief. In 1928, the Supreme Court was first confronted with the question: "Is evidence obtained by law enforcement authorities by tapping the telephone of the accused from a point outside his premises admissible in a federal criminal prosecution?" The accused contended that it was inadmissible and his argument was that the wiretap constituted an "unlawful search and seizure" as that clause is defined in the 4th Amendment. The Court decided against the accused.

Six years later in 1934, the Congress adopted section 605 of the Federal Communications Act. That section outlaws interception and disclosure of wire communications. In the years that followed, the Department of Justice interpreted the language of section 605 in such a manner as to permit wiretapping by law enforcement officers so long as the information acquired thereby was not disclosed outside the law enforcement agency.

Pursuing the same interpretation of section 605 language, individual states have enacted laws legalizing wiretapping by law enforcement authorities under orders of state courts. However, federal authorities have not had access to evidence accumulated under these state laws; state authorities are afraid to disclose that evidence for fear of polluting it in their own investigation.

I applaud and share the President's concern for the cause of personal privacy. So far as possible, private citizens must be free from fear that their conversations, intended to be private, might be monitored by unknown, unauthorized strangers. This right of personal privacy surely incorporates the right of free speech. So long as the fear is plausible, a person's willingness to voice candid, critical or constructive ideas is inhibited. Whatever discourages dissent from the popular view slows the intellectual dialogue from which new ideas and new concepts spring. Accordingly, and counting personal privacy among the dearest ingredients of personal liberty, I enthusiastically support the President's recommendation to outlaw wiretapping by unauthorized personnel.

Yes, society should protect the individual citizen against an invasion of his personal privacy. However, when the citizen engages in anti-social behavior, that is, conduct forbidden by the laws of society, then the citizen should be treated as if he has surrendered his right of privacy. Otherwise, he can hide forever behind the veil of privacy, and if society is not permitted to look behind the curtain, then society is forever at his mercy.

For this reason, I believe that police officers, acting under court orders, should

be permitted to protect society by use of wiretap and eavesdropping devices in investigations of major crimes. To accomplish that purpose, I am preparing legislation. In the case of People vs. Berger, however, the Supreme Court is currently considering the constitutional questions involved. How those questions are resolved will affect the bill I am writing and I shall defer its introduction pending a final decision, which I understand is imminent.

B. Federal Grants-in-Aid

The Commission proposed a variety of federal grants-in-aid to State, local and regional law enforcement agencies. Many of these the President incorporated in the draft bill he calls "The Safe Streets and Crime Control Act of 1967." By way of shorthand terminology, it might also be called "The 90-60-100 Aid Bill."

Title I of the President's proposal would authorize the Attorney General to make grants to state and local governments for the preparation of plans for the improvement and coordination of law enforcement and criminal justice. For planning purposes, the federal grant could be up to 90% of the total cost. Said differently, the grantee would have a 10% investment in the plans.

Title II authorizes federal grants of up to 60% to finance the development of new methods of crime fighting, the development and acquisition of equipment, the promotion of better community relations (including public education relating to crime prevention), facilities for the processing and rehabilitation of offenders, and more and more effective manpower, including recruitment, education and training of law enforcement and criminal justice personnel. The latter embraces the payment of regular salaries, with the limitation that no more than one-third of the federal grant can be used for that purpose. There is no such limitation with regard to salaries of personnel undergoing training and education.

Title II also envisions construction grants to finance physical facilities for local police forces, provided that no more than half the federal grant shall be used for such purposes.

Title III authorizes grants up to 100% of the cost of functions similar to those presently authorized under the Law Enforcement Assistance Act of 1965.

The President's Safe Streets and Crime Control proposal, like most grant-in-aid programs currently administered by the federal government, undertakes to write a distribution formula. Like most such formulae, this one is too broad and too

flexible; it is imprecise and inexact. Indeed, except for limitations heretofore noted and a stipulation that not more than 15% of the total appropriation shall be used in any one state, there is little in the President's draft fixing the share the several states may receive. Indeed, section 411 largely shuns the question by giving the Attorney General authority to "establish criteria to achieve an equitable distribution among the states of assistance under this Act."

This imprecision would not perhaps be quite so consequential but for the fact that Section 407 empowers the Attorney General to withhold grants previously authorized and allocated when he determines that the grantee has somehow failed to comply with some provision of the Act or regulations promulgated by the Attorney General. Since nothing requires that any regulation once promulgated remain constant, the Attorney General is free to make and unmake, change and rechange regulations as the mood might strike him. Even if he makes no changes, the very threat to make a change is sufficient to compel the very closest compliance. I am not sure that what we seek is utter and abject compliance on the part of local law enforcement officers with regulations written by central law enforcement officials.

I do not criticize the Commission's catalogue of needs. I do not fault its goals. I find it difficult to quarrel with some of the methods it proposed. I think the federal government does have a proper role to play in assisting local law enforcement agencies. In the last Congress, I supported, and I am glad that I did, enactment of the Law Enforcement Assistance Act.

However, I have two fears. The first, I think, is shared by every thoughtful person. That is the fear of a mammoth policy pyramid with its apex centered in Washington and its base spread into every precinct and hamlet in America. I do not for one moment contend that the apparatus the President proposes resembles such a pyramid. Rather, he intends that law enforcement remain a local responsibility. In his crime message, he said, "Our system of law enforcement is essentially local; based on local initiative, generated by local energies and controlled by local officials."

Yet, what is intended today can sometimes become tomorrow the foundation for what never was intended. Federal grants made today with an irreducible minimum of administrative stipulations tomorrow can be hedged about by all manner of conditions precedent and subsequent. For that reason, it is incumbent upon us as lawmakers to give the most careful scrutiny to every new pocketbook adventure the federal govern-

ment takes into the realm of state and local government.

My second fear is that the Safe Streets and Crime Control Act undertakes too much, with too little, too soon. There is not enough money in the federal treasury to do immediately all that needs to be done eventually. Our enthusiasm for the whole cause must be tempered with emphasis upon its most important parts first. Among all the desirable goals we must forge a chain of priorities.

The first link in that chain, it seems to me, is education and training of law enforcement officials and criminal justice personnel. Ask any police chief and he will tell you that what he needs most is better trained men. The Commission agrees. The President agrees. The Justice Department, acting under the Law Enforcement Assistance Act, already has basic statutory authority to proceed. Rather than launch a new experiment with some untried program, we should invest whatever education and training money we can afford in prudent expansions of the Law Enforcement Assistance Act.

Another link in the chain of top priorities is the urgent need for more scientific and technological research. As the Crime Commission reports, "...in terms of economy of effort and of feasibility, there are important needs that individual jurisdictions cannot or should not meet alone. Research is a most important instance."

The President recognizes this need. His draft legislation proposes a most ambitious attack on the problem. The difficulty is that it may be too ambitious, too fragmented. His proposal, I am afraid, splinters the effort and scatters the resources. A far more realistic and effective approach would be that suggested by the distinguished Minority Leader. The gentleman from Michigan suggests the establishment of a National Institute of Law Enforcement and Crime. Patterned after the National Institutes of Health, this new institute would assemble the nation's best talent to conduct the research and test the techniques our local law enforcement and criminal justice personnel must have to improve the total system of justice. The gentleman from Florida (Mr. Cramer), one of the most knowledgeable Members of this body in this field, has already drafted and introduced appropriate legislation. It deserves the preferred attention of the Committee on the Judiciary.

C. United States Corrections Service

Although there would seem to be no specific predicate in the report of the President's Crime Commission, the President proposes the establishment of a "United

States Corrections Service" within the Department of Justice. The President's proposal serves to underscore the importance of criminal rehabilitation. No area of the American system of Justice is more vital. In the last Congress, I enthusiastically supported the legislation which became Public Law 89-176. That law authorizes the Attorney General to employ three prisoner rehabilitation techniques with which some of our states have had a most rewarding experience. First, it establishes the system of residential community treatment centers. Second, it permits prisoners to take emergency leave under appropriate safeguards. Third, it permits selected prisoners to work for pay in the community or participate in community training programs during regulated hours and under strict supervision.

These techniques help to cushion the shock of sudden transition from institutional life to free civilian life. The risk to the community is carefully circumscribed and minimal. Every dollar spent in these and other prisoner rehabilitation programs saves money and reduces the likelihood of recidivism by the convicted criminal.

For these reasons, I applaud that part of the President's proposal which enlarges the stature and expands the function of the Advisory Corrections Council. However, the rest of the proposal is likely to provoke intense resistance by the judges of the Federal district courts and members of the Probation Service.

In 1940, the Probation Service was transferred from the Department of Justice to the Judiciary. Last year, the Department of Justice urged legislation to return the Service to its own jurisdiction. The legislation never progressed further than the committee hearing state. Now the Department offers a new bill which it hopes will be regarded as a compromise. It would preserve the identity of the Probation Service but little more than identity. It would transfer its functions to the Department of Justice, leaving only the privilege of preparing pre-sentence reports for the judge.

Today, the Probation Officer, appointed by the District Judge, is the functional right arm of the judge. He prepares pre-sentence reports on which the judge makes his decision as to the advisability of granting the convicted defendant probation. He supervises the probationer during his probation. He has similar responsibilities with respect to prisoners on parole. He guides the course of rehabilitation in the work-release program. From the beginning of every case which falls within his jurisdiction, he intimately involves himself with the accused. He knows his person-

ality, his talents, his frailties, his environment, his family. Perhaps better than any other person, he is equipped to guide the delicate course of human rehabilitation.

I seriously question the wisdom of stripping the Probation Officer of all prisoner rehabilitation functions except that of preparing pre-sentence reports. Among other things, I am afraid that the judge may be reluctant to use the rehabilitation technique of probation if he knows that supervision during the probationary period will be transferred from his court to a "community correctional officer" who will be an employee of the Executive branch of the government. A community correctional officer would not be responsible to him but to the Department of Justice. Whatever discourages the use of probation harms the cause of rehabilitation.

I also doubt the validity of the Justice Department's claim that once an accused is convicted he belongs under the exclusive jurisdiction of the Executive Branch of government. Indeed, I support the converse of that proposition. It is the Executive Branch which investigates the citizen. It is the Executive Branch which arrests and arraigns the citizen. It is the Executive Branch which indicts and prosecutes the accused. It is the Executive Branch which incarcerates the convict. It would seem only fair that the Executive Branch, having assumed such an adversary posture against the citizen for so long, should gracefully yield the role of probational rehabilitation to the Judicial Branch of government.

This criticism of the President's proposal is not intended to deny the need for reform and improvement. I simply suggest that there is a better solution. What is needed is more probation officers, better trained probation officers and better paid probation officers.

CATEGORY II: COMMISSION PROPOSALS WHICH THE PRESIDENT HAS NOT ADOPTED

The President's Commission chaired by former Attorney General Katzenbach was truly a Presidential Commission. It was constituted by Presidential order; its members were appointed by the President; it served under the President, at the pleasure of the President; and it reported its findings to the President. Yet, the President has not so far seen fit to adopt many of the proposals made by the President's Commission. Without attempting to make a complete inventory, here are a few of the more important:

(1) The FCC should develop plans for allocating portions of the TV spectrum for police use.

(2) To improve instant communication techniques, enhance crime prevention and hasten the investigatory process, the federal government should assume leadership in initiating portable two-way radio development programs, perhaps by underwriting the sale of first production lots.

(3) A technical assistance program should be launched under which local jurisdictions can request the help of experienced federal prosecutors in the prosecution of organized crime, and the Department of Justice should conduct organized crime training sessions in those states and localities where the syndicate functions.

(4) The staff of the Organized Crime Section of the Department of Justice should be enlarged and its decision-making authority broadened when working with local U.S. Attorneys in the prosecution of organized crime.

(5) A permanent Joint Congressional Committee on Organized Crime should be created. For that purpose, the gentleman from Florida, Mr. Cramer, is offering legislation.

(6) U. S. Attorneys should be authorized to appeal court orders granting pretrial motions to suppress evidence or confessions. Frequently, as the Commission report documents, the most careful investigations and the most elaborate prosecutions have been frustrated at the last moment before trial by court orders suppressing the very evidence without which conviction is impossible.

(7) While maintaining the requirement of proving an intentional false statement, the two-witness requirement and the direct evidence rules in perjury prosecutions should be abolished. If uniform state statutes can be coordinated with a federal statute, there should be a general federal witness immunity statute replacing the host of conflicting, awkward, almost inoperable specific witness immunity laws on the federal statute books. The immunity granted should be broad enough to insure compulsion of testimony but should be restricted to those cases approved by the chief prosecuting officer of the jurisdiction. Statutes at both Federal and state levels should be careful to leave no opportunity for interference with concurrent investigations in other jurisdictions. The President's recommendation on immunity is inadequate.

(8) Federal judges should be authorized to lengthen the prison sentence for a felony when it appears that it was committed as a part of a continuing illegal business in which the defendant occupied a supervisory or other management position. The Commission feels that extended sentences are vital as a deterrent in the fight against organized crime.

(9) While most Commission recommendations concerning juvenile delinquency were addressed essentially to the states and localities, the Federal government has the responsibility, similar to that of States, to attack the juvenile delinquency problem in the District of Columbia. The President's February 27 Message on the Nation's Capital proposed the establishment of a District Youth Services Office and discussed enlargement of a variety of existing District youth programs. However, the President did not embrace a number of the more specific recommendations the Crime Commission made. Adequate and appropriate separate detention facilities for juveniles should be provided. Juveniles should enjoy the right to notice, right to counsel and other constitutional rights vouchsafed to the adult offender. Juvenile courts should increase the number of preliminary conferences to dispose of cases short of adjudication. Wherever possible, in order to avoid the stigma and enhance the prospects of rehabilitation, consent decrees should be employed in lieu of adjudication. There should be more and better trained probation officers specializing in juvenile rehabilitation.

CATEGORY III: PROPOSALS WHICH NEITHER THE COMMISSION NOR THE PRESIDENT ADVANCED

A. Miranda and Escobedo Decisions

The most conspicuous omission of the Commission's report was its failure to come to grips with the problems of law enforcement raised by recent Supreme Court decisions. I have reference to those decisions which affect interrogation, confessions, right to counsel and Fifth Amendment protection against self-incrimination.

There is a respectable body of legal opinion which holds that these decisions have retarded if not defeated the process of law enforcement. The nucleus of that body of opinion is to be found in the dissenting views of four Justices of the Supreme Court. Seven of the 19 members of the President's Commission buttress that nucleus and, indeed, somewhat enlarge upon it. Even now, special Subcommittees in the other body, chaired by the Senator from Indiana, the Honorable Birch Bayh, and the Senator from Arkansas, the Honorable John McClellan, are conducting a study of the pragmatic effects of these decisions. Perhaps it would be wise to defer legislative action until those Subcommittees have made their reports. However, it is not too early to begin to formulate possible alternative solutions.

There are those who feel that the problems first raised by Mallory and McNabb have now been rendered largely moot by the five-to-four Supreme Court decisions in

Miranda and Escobedo. Assuming, but not conceding, that this is true, action must first be addressed to the latter decisions.

Miranda and Escobedo, based upon the Fifth and Sixth Amendments, require that the accused be advised of his right to counsel, either private or appointed, his right to remain silent and the fact that anything he says may be used against him. I do not condemn the substance of the Court's decisions. When a man is accused of a criminal act, he cannot be compelled to be a witness against himself and he is entitled to have the assistance of counsel for his defense. The Constitution says so.

The problem these decisions have caused law enforcement officials has not been rooted so much in substance as in procedure. And lower court interpretations and applications of the substance of the Supreme Court's decisions have compounded the procedural problem. As a result, the state of the law is such today that police officers do not know precisely at what point in the pre-trial phase of prosecution and to what degree the substance of the Miranda-Escobedo mandate must be applied.

Some legal scholars believe that only a constitutional amendment can clarify the confusion. I am inclined to feel that a statute might suffice to bring some order out of the chaos. The self-incrimination clause of the Fifth Amendment confines its reach to "any criminal case." The Counsel clause in the Sixth Amendment applies "in all criminal prosecutions." It would seem that the constitutional intent was that these guarantees be the property of one charged with a crime.

I am fully familiar with the view that they were intended to apply as well to the suspect as to the accused. Yet, I submit that in the present state of conflicting and contradictory views, both lay and judicial, it would be only fitting that the Congress at least explore and test the possibility of drawing a statutory line between the investigatory and accusatory stages of the pre-trial process. It would be a difficult, but not insurmountable, undertaking. Reasonable men should be able to agree at what point the suspect becomes an accused and is placed in jeopardy of life or liberty.

The Congress has the power to legislate on the subject and bring some precision and uniformity and stability and constancy to bear. If, after careful study, the Congress fixes such a point in the pre-trial process and the courts later disagree, then at least the present uncertainty will have been resolved and law enforcement officers will have been given some precise guidance.

B. McNabb and Mallory Decisions

If Congress should take this first vital step, then Congress should address itself to the problem raised by McNabb and Mallory. These decisions nullified confessions, otherwise voluntary and free from coercion or promise of reward, because of delay in bringing the citizen before a magistrate. The rationale adopted by the Court was that the delay was "unnecessary" under Federal Rules of Criminal Procedure 5(a) and provided police officers with too much opportunity for the extraction of a confession." Apparently, the delay and the environment of the police station was regarded as an insipid form of coercion. However, it must be understood that in McNabb, Mr. Justice Frankfurter did not bottom his decision on a constitutional question but upon the power of the Supreme Court to supervise the conduct of lower federal courts and to establish and maintain "civilized standards of procedure and evidence." The Mallory decision was pitched on the same foundation.

Accordingly, if Congress should first draw the line between investigation and accusation, Congress could then write appropriate guidelines and define in precise terms what delay preceding arraignment will be counted reasonable.

C: MISCELLANEOUS PROPOSALS TO STRENGTHEN CRIMINAL STATUTES

Aside from the Miranda and Mallory questions, I suggest Congress consider several other proposals which, while not within the framework of the Commission's report or advanced by the President, could do much to immediately strengthen and improve our system of criminal justice.

(1) In the last Congress, the House adopted as an amendment to the Civil Rights bill the legislation authored by the gentleman from Florida, Mr. Cramer. The Cramer amendment made it a federal crime to travel or use any facility in interstate or foreign commerce with intent to incite a riot or other violent civil disturbance. That legislation failed of passage in the other body. It has been introduced in this Congress, and as an amendment to Title 18 of the Code, it is pending before the Committee on the Judiciary. Patterned after the language of the Fugitive Felon Statute, it falls clearly within the Constitutional domain of the Congress. It should be enacted. It would do something positive to make our streets safer and control interstate crime.

(2) The Bail Reform Act passed by the Congress last year has enhanced the cause of justice in our criminal justice system. It helps to remove discrimination between

the affluent suspect and the penurious suspect. However, experience under the Act establishes the validity of the amendment which was urged unsuccessfully in the House last year. The amendment was intended to grant the court more discretion and flexibility in applying the several alternatives to money bail. Judges have publicly complained that the rigidity of the statute leaves little or no opportunity to consider danger to the community as an element of release. Our streets would be safer if this amendment is adopted this year.

(3) The cause of enforcement would be greatly facilitated by enactment of a fair and effective law against obstruction of criminal investigations. The present Obstruction of Justice statute, Chapter 73 of the Code, outlaws resistance to and interference with process servers, extradition agents, officers of the court, jurors and witnesses before the court, executive agencies and the Congress. It does not go far enough. It fails utterly to protect the citizen informer in his efforts to communicate information about violations of federal criminal statutes to criminal investigators. It is at the citizen-informer level that the most effective crime control begins. The same is true of crime prevention.

(4) Mental incompetence as a defense against charges of criminal conduct is basic to our concept of justice. The subject is treated in Chapter 313 of Title 18 of the Code. Many learned physicians and criminologists feel that the present statute is obsolete in part, imprecise in general and inadequate to protect fully the constitutional rights of the accused to notice, confrontation, counsel and protection against self-incrimination. Corrective legislation has been offered by the gentleman from Missouri, Dr. Hall, It deserves the prompt attention of the Congress.

(5) The President and the Commission recommended a variety of federal grants-in-aid to State and local police forces. I was disappointed that neither the President nor the Commission commented upon a bill which I offered in the last Congress and reintroduced in this Congress. My bill is not accurately called a "grant-in-aid program." Rather, it is a compensation program. It would authorize the Attorney General to pay specified compensation to the survivors and dependents of local law enforcement officers killed or disabled while attempting to apprehend persons committing federal crimes. I suggest that here is an opportunity for the Federal government to contribute substantial, tangible assistance to the cause of local law enforcement in an area where the federal government has both an indisputable jurisdiction and a clear responsibility.

(6) Congress simply must give its preferred attention to the federal criminal penalty structure. It is a hodge-podge, make-shift mess of conflict and contradiction. It mystifies the layman, confounds the lawyer, intimidates the prosecutor, frustrates the judge and confuses the juror. Mandatory penalties and split-sentence statutes sometimes defeat their own purpose, leading to acquittal as the only alternative to excessive punishment. Too often, there is no reasonable or constant equation between penalty and offense. Two examples will serve to illustrate. The maiming offense is a felony. It draws a penalty of up to seven years in prison or a fine of up to \$1000 or both. On the other hand, an assault with intent to maim draws a penalty of up to 10 years or a fine up to \$3000. The lesser offense draws the greater penalty. Again, the penalty for armed bank robbery is imprisonment from one day up to 25 years; the penalty for armed robbery of a postage stamp is 25 years and the only alternatives are probation or acquittal.

D: NATIONAL COMMISSION ON REFORM OF THE FEDERAL CRIMINAL LAW

Reform and revision of the penalty structure is one of the specific missions assigned to the National Commission on Reform of the Federal Criminal Law, signed into law by the President on November 8, 1966. The National Commission on Reform was conceived as a follow-on to the President's Crime Commission. The function of this second commission is a logical progression of the function of the first. That function is to review all federal criminal law, both case and statutory, and recommend legislative proposals, including revisions and recodifications, to improve the federal system of criminal justice.

The new Commission is to be composed of 12 members, three each to be appointed by the House, the Senate, the Judicial Branch of government and the Executive Branch of government. Nine of the 12 have been appointed. Although some four months of the Commission's three-year life have expired, the President has not yet made the three appointments available to him. I know that the President is anxious to select the best possible talent in the field, and I realize that the choice is difficult and delicate. Yet, in light of the urgency of the problem and the complexity of its solution, I earnestly hope that he can make his appointments in the near future and expedite the supplemental appropriation necessary to organize and staff the Commission. As the author of the legislation and one of the members of the Commission, I am anxious to cooperate in every possible way to see that the investment pays the nation proper dividends.



3 May 1967



U. S. HOUSE
OF REPRESENTATIVES

REPUBLICAN POLICY COMMITTEE

REP. JOHN J. RHODES, (R.-ARIZ.) CHAIRMAN • 140 CANNON HOUSE OFFICE BUILDING • TELEPHONE 225-6168

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HOUSE POLICY COMMITTEE URGES LEGISLATION TO PROHIBIT THE DESECRATION OF THE FLAG

The House Republican Policy Committee urges the prompt enactment of legislation that would prohibit the deliberate and defiant desecration of the American Flag.

It is strange indeed to see on the same day in the same newspapers, pictures of American young men facing danger and death in Vietnam and pictures of other American young men burning their nation's flag in the safety of an American park. Certainly, the Bill of Rights never was intended to protect those who would contemptuously set fire to the American Flag.

One of the greatest strengths of this nation is the right of dissent. This right was established by our Founding Fathers and must remain inviolate. However, the right of dissent from particular policies or with particular individuals never was intended to sanction the desecration of the American Flag which is the symbol of our national heritage and unites all Americans in their allegiance "to the Republic for which it stands."



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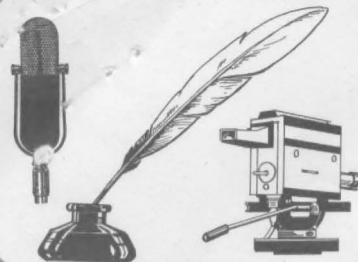
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CONGRESSMAN
GERALD R. FORD
HOUSE REPUBLICAN LEADER

**NEWS
RELEASE**

FOR IMMEDIATE RELEASE

May 16, 1967

House Republicans today introduced a comprehensive bill to protect law-abiding citizens from improper wiretapping and electronic eavesdropping by strictly defining permissible surveillance under court orders, House Minority Leader Gerald R. Ford (R. Mich.) announced.

The proposed legislation was introduced by Congressman William M. McCulloch (R. Ohio), senior Republican Member of the House Judiciary Committee and co-sponsored by Minority Leader Ford, Congressman Richard H. Poff (R. Va.), Chairman of the House Republican Task Force on Crime, and 20 other Republican Members of the House of Representatives.

The Republican bill would implement the recommendations of the majority of the President's Crime Commission and the Commission's Task Force on Organized Crime.

Contrary to the recommendations of this distinguished panel, President Johnson recently asked Congress to enact legislation prohibiting virtually all electronic evidence-gathering by law enforcement officers which is primarily used against organized crime.

Commenting on the bill, Minority Leader Ford stated:

"This important legislative initiative carries out the constructive Republican commitment in our State of the Union appraisal of last January 19.

"On that occasion I warned that 'wiretapping and electronic eavesdropping worry all Americans who prize their privacy,' but also noted that within well-defined limits with proper safeguards, 'these are essential weapons to those who guard our nation's security and wage ceaseless war against organized crime.'"

Congressman McCulloch pointed out that the President's proposal does not ban all electronic surveillance. Rather it would permit the President to make unilateral, unchecked and unreviewable determinations of when it should be used in "national security" cases. Congressman McCulloch stated that if wiretapping is effective against subversives, its effectiveness should not be denied to law enforcement in dealing with the equally subversive activities of organized crime. Congressman McCulloch added: "I am certain that this proposed legislation

(more)

minimizes actual or potential threats to individual privacy and strikes a true balance between the needs of society and the rights of individuals."

Congressman Poff emphasized that the Republican measure provides extra protection against wiretapping or electronic surveillance of conversations between husband and wife, lawyers and clients, doctors and patients, clergy and communicants and users of public telephones. Poff said:

"This bill for the first time gives the citizen protection and legal recourse against unauthorized or improper invasions of private communications. It advances both the traditional American concept of individual liberty and the equally important rule of law and order."

Joining with Minority Leader Ford, Congressman McCulloch and Congressman Poff, were the following Republican co-sponsors: Arch A. Moore of W. Va., William T. Cahill of N.J., Clark MacGregor of Minn., Edward Hutchinson of Mich., Robert McClory of Ill., Henry P. Smith of N.Y., William V. Roth of Dela., Thomas J. Meskill of Conn., Tom Railsback of Ill., Edward Biester of Penna., Charles E. Wiggins of Calif., Carleton King of N.Y., Jack Betts of Ohio, Barber Conable of N.Y., William Cramer of Fla., Robert Price of Texas, Garner Shriver of Kansas, Louis Wyman of N.H., and Chalmers Wylie of Ohio.

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REPUBLICAN TASK FORCE ON CRIME

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PRESS RELEASE

For Release: May 22, 1967

Contact: Agnes Waldron
225-5107

Congressman Richard H. Poff, Chairman of the House

Republican Task Force on Crime, deplored the attempt to create a conflict between the FBI and the President's Crime Commission on the proper treatment of criminals.

Congressman Poff told the House of Representatives today, "Those trying to conjure up a conflict between the FBI and the President's Crime Commission ill serve the cause of law and order. The FBI says that the right way to fight crime is to strengthen deterrence. The Commission says that the right way to fight crime is to strengthen rehabilitation. Neither disputes the other. Both are right."

"Recidivism statistics reported by the FBI illuminates a tragic truth. Most of the crime in this country is committed by repeaters. Some 57% of those released from Federal custody in 1963 had been arrested again before June 1966. For those paroled, the figure was 82%."

"These statistics do not prove that rehabilitation is unworkable. Nor do they prove that deterrence is obsolete. All they prove is that both are inadequate in their present form."

"While we must not 'coddle criminals,' we must not be afraid to experiment with new techniques of criminal rehabilitation. While we must not impose cruel or unusual punishment, we must not be timid in fixing penalties commensurate with the offense. Successful rehabilitation saves society the burden of a second offense and serves a humane function as well. Proper punishment not only attacks the problem of recidivism; if it is swift and certain, it helps to spare society the burden of the first offense by others."

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PRESS RELEASE

For Release: May 31, 1967

Contact: Agnes Waldron
225-5107

Congressman Richard H. Poff, Chairman of the House Republican Task Force on Crime, took issue today with Attorney General Clark's effort to minimize the national crime problem.

"The Attorney General says 'there is no wave of crime in the country,'" Mr. Poff reported. He went on to say, "That he should say so is part of the crime problem in this country. The Attorney General of the United States is the chief law enforcement officer of the nation. If he thinks, as he is quoted as saying, that 'the level of crime has risen a little bit', then he is either misinformed about the statistics or badly mistaken about the size of a 'bit.'"

Mr. Poff pointed out, "Webster says that a 'bit' is a 'mite' or a 'whit.' Those who contend that the level of crime has risen only a mite are more than a little bit wrong. In the decade of the sixties, the growth rate of crime has outpaced the growth rate of the population by more than 6 times. To me, that sounds more like a wave than a whit."

Congressman Poff said, "The Attorney General was also quoted as saying that organized crime is only a 'tiny part' of the picture. President Johnson last year, following a meeting with former Attorney General Katzenbach, said that organized crime 'constitutes nothing less than a guerrilla war against society.' The Katzenbach Crime Commission said that the estimates of illegal gambling profits alone, not counting profits from narcotics, prostitution and racketeering, run as high as \$50 billion a year. They may sound tiny to some; it sounds titanic to me."

Congressman Poff concluded: "The crime problem in America will never be solved by miniaturizing it with timid little words. The chief law enforcement officer must acknowledge it in its full dimensions and thereby set the atmosphere of urgency essential to its solution."



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PRESS RELEASE

For Release: AM's Monday
June 5, 1967
Contact: 225-5107

TASK FORCE URGES JOINT COMMITTEE ON ORGANIZED CRIME

The House Republican Task Force on Crime today called on Congress to establish a Joint Committee on Organized Crime as outlined in a bill introduced by Congressman William C. Cramer (R.-Fla.).

Task Force Chairman Richard H. Poff (R.-Va.) noted that "The effects of organized criminal activity are well known, but the structure of organized crime is barely understood. The President's Crime Commission stated that 'In many ways organized crime is the most sinister kind of crime in America. . . . In a very real sense it is dedicated to subverting not only American institutions, but the very decency and integrity that are the most cherished attributes of a free society.'"

In calling for establishment of a Joint Committee on Organized Crime, the Task Force cited the "enormous economic power of organized crime" which is used "in manipulating many levels of government through the corruption of police and elected officials. While there are no firm figures on the money available to organized crime, the President's Special Commission Report estimates the annual income from gambling alone ranges from \$7 billion to \$50 billion."

"It is time Congress recognized that organized crime is a national problem demanding the highest priority of attention from a Committee devoting full time to the development of information and legislative proposals to control organized crime, its effects and impact. A Joint Committee of the Congress on Organized Crime would alert the American people to the dangers to our institutions and political traditions presented by the vile infection of organized crime in America," concluded Poff.

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PRESS RELEASE

For Release: PM's Wed.
June 7, '67

Contact: 225-5107

TASK FORCE CALLS FOR APPEALS AUTHORITY

The House Republican Task on Crime today called for early passage of a bill granting Government prosecutors general authority to appeal a court ruling to suppress evidence.

Task Force Chairman Richard H. Poff (R-Va.) urged positive action on the bill introduced by Rep. Tom Railsback (R-Ill.) which would permit Federal prosecutors to appeal an adverse ruling on a defendant's motion to suppress evidence collected by law enforcement officials. "When some traditional methods of police work are restricted by court decisions, new tools must be developed to ensure that violations of the law are met with swift and sure punishment," commented Poff. "But, to remain consistent with the Supreme Court's interpretation of the Constitution, and to assure fairness to all defendants, any action to provide additional grounds for appeal by the Government in criminal trials must be carefully drawn."

The Task Force notes that "while no one condones unreasonable and illegal searches, there is confusion as to what is unreasonable and illegal. Recent court rulings emphasize the right of the accused to raise this issue but the prosecution has no such privilege. The President's Crime Commission called for legislation in this area. Its Committee on Organized Crime argued that the right of the prosecution to appeal is particularly important. The Department of Justice and the Judicial Conference of the United States had recommended legislation of this nature.

"Assistant Attorney General Fred M. Vinson, Jr., sums up the argument for this legislation by stating that it 'would be most helpful to the Government since an adverse ruling at the preliminary stage of the proceedings may effectively halt the Government's ability to go forward with the prosecution when materials suppressed are a substantial portion of the Government's case," concluded Representative Poff.

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PRESS RELEASE

For Release: Sunday
June 11, 1967
Contact: 225-5107

SOME COURT AUTHORIZED 'BUGGING' NEEDED SAYS TASK FORCE

The House Republican Task Force on Crime today urged passage of legislation to prohibit wiretapping and electronic bugging except by court authorized Federal, State and local law enforcement officers engaged in the investigation and prevention of organized and certain specified crimes.

The proposal is contained in a bill introduced by Rep. William McCulloch (R.-Ohio), House Minority Leader Gerald R. Ford (R.-Mich.), Task Force Chairman Richard Poff (R.-Va.) and some 20 other Republicans.

"A free society must have powers to identify, arrest, search, indict, prosecute, and punish the criminal," stated Rep. Poff. "When these powers are properly and wisely exercised, they serve in themselves to maintain and to protect the freedoms we cherish. The measure represents a realistic balancing of the protection of individual privacy with the needs of law enforcement to combat organized crime.

"The President's Crime Commission noted that law enforcement officials consider electronic surveillance 'necessary' in attacking the nation's spiraling crime rate," Poff continued. "The Task Force finds the Administration's proposal, which bans all wiretapping and electronic bugging except in an undefined area of 'national security', a dangerous threat to individual privacy, and an unwise limitation on law enforcement. It is illogical to claim that electronic bugging equipment is effective for national security cases but ineffective in cases involving serious and organized crimes, which threaten our local, State and Federal Governments."

Today's Task Force Report follows Monday's call for a Joint Congressional Committee on Organized Crime and Wednesday's Crime Task Force statement supporting early passage of legislation granting Government prosecutors general authority to appeal a court ruling to suppress evidence.

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PRESS RELEASE

For Release: Sunday
June 11, 1967
Contact: 225-5107

REPORT OF THE HOUSE REPUBLICAN TASK FORCE ON CRIME ON H.R. 10037 THE ELECTRONIC SURVEILLANCE CONTROL ACT OF 1967

The House Republican Task Force on Crime endorses and urges enactment of H.R. 10037, a bill introduced by Mr. William McCulloch, Mr. Gerald R. Ford, Mr. Richard Poff, and 20 other Republicans.^{1/} This proposed legislation would prohibit all wiretapping and electronic bugging except by court authorized Federal, State and local law enforcement officers engaged in the investigation and prevention of organized and certain other specified crimes. The Task Force finds the Administration's proposal (H.R. 5386), which bans all wiretapping and electronic bugging except in an undefined and unreviewable area of "national security" cases, to be both a dangerous threat to individual privacy and an unwise limitation on law enforcement officials who need such equipment to combat the growing problem of crime in the nation.

The Task Force believes that the Congress must act -- and act quickly -- to preserve the privacy of all Americans. New and sophisticated electronic bugging devices are used today with few restrictions and little restraint. The Federal statutory law is silent on electronic bugging. All who have examined the existing law on wiretapping agree that it is inadequate, confused and often self-defeating. The Federal wiretapping statute -- enacted in 1934 -- neither protects privacy nor promotes effective law enforcement.

Privacy, appropriately described by Justice Brandeis as "the most comprehensive of the rights and the right most valued by civilized men", is nothing less than the foundation of freedom. Freedom is less than complete, however, when society is victimized by the criminal.

^{1/} The co-sponsors of H.R. 10037 are Mr. McCulloch, Mr. Gerald R. Ford, Mr. Poff, Mr. Moore, Mr. Cahill, Mr. MacGregor, Mr. Hutchinson, Mr. McClory, Mr. Smith of New York, Mr. Roth, Mr. Meskill, Mr. Railsback, Mr. Biester, Mr. Wiggins, Mr. Betts, Mr. Cramer, Mr. Conable, Mr. King of New York, Mr. Price of Texas, Mr. Wyman, Mr. Shriver, Mr. Wylie, and Mr. Mathias of California.

A free society must protect its freedom. It must have powers to identify, arrest, search, indict, prosecute and punish the criminal, and when these powers are properly and wisely exercised they serve in themselves to maintain freedom. As Judge Learned Hand once reminded us:

The protection of the individual from oppression and abuse by the police and other enforcing officers is indeed a major interest in a free society; but so is the effective prosecution of crime, an interest which at times seems to be forgotten.... 2/

The Attorney General, when presenting his formal testimony to the House Judiciary Committee on March 16, 1967, in support of the Administration's proposal to ban all electronic surveillance except in cases of "national security" declared, as the predicate for his position, that --

The legitimate needs of law enforcement can be met without the use of such abhorrent devices (i.e., electronic surveillance devices), 3/

and concluded:

All of my experience indicates that it (electronic surveillance) is not necessary for the public safety. It is not a desirable (or effective police investigative technique, and that it should only be used in the national security field, where there is a direct threat to the welfare of the country. 4/

The President's Crime Commission, after an intensive study of the existing uses of electronic surveillance equipment by law enforcement in combating organized crime reported:

The great majority of law enforcement officials believe that the evidence necessary to bring criminal sanctions to bear consistently on the higher echelons of organized crime will not be obtained without the aid of electronic surveillance techniques. They maintain these techniques are indispensable to develop adequate strategic intelligence concerning organized crime, to set up specific investigations, to develop witnesses, to corroborate their testimony, and to serve as substitutes for them -- each a necessary step in the evidence-gathering process in organized crime investigations and prosecutions. 5/

The Task Force believes that the Attorney General's position is untenable and inconsistent. It is untenable to contend that electronic surveillance equipment would be effective for national security cases but ineffective in cases involving serious and organized crimes. It is inconsistent to hold that the use of these extraordinary devices is justified in national security cases but not justified

2/ In re Fried, 161 F. 2d 453 at 465 (1947).

3/ Hearing before Subcommittee No. 5 of the House Judiciary on H.R. 5386, 90th Congress, 1st Session. (1967) at 209.

4/ Ibid. at 319.

5/ The Challenge of Crime in a Free Society, a Report by the President's Commission on Law Enforcement and Administration of Justice (1967) at 201.

when used in major criminal cases. Surely, the Attorney General does not believe our nation is endangered only by enemies whose crimes undermine the Federal government by sabotage, espionage, treason, or the like, when -- in fact -- our local, State and national governments are seriously threatened by the ravages of organized criminal activity. The President's Crime Commission has thoroughly and irrefutably documented the dangers to our society, government and economy from the activities of organized crime. A few examples from the Commission's report are illustrative of this documentation:

Organized crime affects the lives of millions of Americans, but because it desperately preserves its invisibility many, perhaps most, Americans are not aware how they are affected, or even that they are affected at all. The price of a loaf of bread may go up one cent as the result of an organized crime conspiracy, but a housewife has no way of knowing why she is paying more. If organized criminals paid income tax on every cent of their vast earnings everybody's tax bill would go down, but no one knows how much. 6/

The purpose of organized crime is not competition with visible, legal government but nullification of it. When organized crime places an official in public office, it nullifies the political process. When it bribes a police official, it nullifies law enforcement. 7/

It is organized crime's accumulation of money, not the individual transactions by which the money is accumulated, that has a great and threatening impact on America.... The millions of dollars it can throw into the legitimate economic system give it power to manipulate the price of shares on the stock market, to raise or lower the price of retail merchandise, to determine whether entire industries are union or nonunion, to make it easier or harder for businessmen to continue in business. 8/

The Task Force concurs with the majority of the President's Crime Commission in urging that "legislation should be enacted granting carefully circumscribed authority for electronic surveillance to law enforcement officers." H.R. 10037 would implement this recommendation and is patterned after the statutory scheme suggested by the Commission and discussed in detail in the Report of the Commission's Organized Crime Task Force. 9/

Those who have studied or experienced the needs of law enforcement in combating organized criminal activity are convinced of the necessity of electronic surveillance. The Chairman of the Michigan Commission on Crime, Delinquency and Criminal Administration -- Mr. John B. Martin -- reports that the Michigan Crime

6/ Ibid. at 187.

7/ Ibid. at 188.

8/ Ibid. at 187.

9/ Task Force Report: Organized Crime, Task Force on Organized Crime, The President's Commission on Law Enforcement and Administration of Justice at 80-113.

Commission has concluded "that organized crime presents such overriding public consideration, the use of electronic surveillance should be permitted..."^{10/}

The Attorney General of the State of Massachusetts -- Mr. Elliot Richardson -- told the House Judiciary Committee that "... it seems clear to me, as it has to virtually every law enforcement authority concerned with the problem, that electronic surveillance is a key weapon if we really are effectively to be able to do anything about this very far-reaching and very serious problem (of organized crime).^{11/} Mr. Elliot Lumbard -- Special Counsel to Governor Rockefeller and former counsel to the Special Commission on Crime in New York -- has said that "wiretaps strike right at the heart of the relationship between organized crime and political corruption."^{12/}

Professor G. Robert Blakey of Notre Dame Law School, Special Consultant to the President's Crime Commission, who is responsible for developing the statutory scheme contained in the appendix of the Commission's Report on Organized Crime and the statutory scheme adopted by H.R. 10037, presents a compelling case for the propriety and wisdom of this proposal.^{13/}

The principal sponsor of H.R. 10037 -- William McCulloch -- has received a strong letter of endorsement for this proposal from one of the country's foremost authorities on organized crime -- Mr. Frank Hogan, District Attorney of New York County. Mr. Hogan's letter notes that:

The bill, introduced by you, the Minority Leader and 21 other Congressman, provides for most stringent restrictions on the use of wiretapping and oral communication. But that fact should be no barrier to its passage! Law enforcement knows that telephonic interception is the most valuable weapon in its fight against organized crime. It appreciates that, where it is legally authorized, it must be used fairly, sparingly and with highly selective discrimination. It asks for and welcomes judicial examination of the need for wiretapping in every proposed investigation, and judicial authorization, supervision and review of its use. These factors and considerations are faithfully reflected in your bill. I endorse and support it enthusiastically.

Mr. William Cahn, District Attorney of Nassau County of New York State, similarly endorses such legislation. Mr. Cahn strongly urges "that the Congress enact legislation banning wiretapping by private persons and permitting wiretapping by officials pursuant to court approval and control."^{14/}

^{10/} Hearings, op. cit, note 3, at 916.

^{11/} Ibid. at 930.

^{12/} Ibid. at 940.

^{13/} Ibid. at 1023-1393.

^{14/} Ibid.

The Task Force believes that H.R. 10037 represents a realistic balancing of the protection of individual privacy with the needs of law enforcement to combat organized crime. The Electronic Surveillance Control Act of 1967 as proposed in H.R. 10037 contains the following important features:

-- Private use of wiretapping and electronic eavesdropping devices would be absolutely prohibited.

The Task Force believes that wiretapping and electronic bugging by private citizens is repugnant to a free society. Private uses of these techniques cannot be justified. H.R. 10037 would prohibit all such uses and impose meaningful criminal sanctions.

-- Federal law enforcement authorities would be permitted to seek court authority to use electronic surveillance devices in the investigation of crimes involving national security, criminal offenses involving organized crime, and certain other specified crimes (e.g., murder and kidnapping).

The Task Force believes that the use of this extraordinary tool is justified by the extraordinary activities of the underworld and the dangers that exist to our national security from would-be conquerors. H.R. 10037 minimizes potential intrusion of privacy by employing case by case judicial judgment as to whether such investigative devices should be used at all, even for investigation of the offenses specified under the statute. H.R. 10037 adopts the well tested approach of the search warrant which, like electronic surveillance, represents a potential threat to individual privacy but under proper judicial controls has served society in protecting its freedom by bringing the criminal offender to justice.

-- State law enforcement authorities could similarly seek court authority to use electronic surveillance devices, but only if the State has enacted legislation specifically establishing such procedures.

The Task Force believes that each State should make an independent determination regarding its needs for electronic surveillance techniques. H.R. 10037 reposes the determination of the need for these investigative techniques with each State, and would prevent any State from abusing this option by setting forth the categories of crimes and general procedures that are to be included in a statutory scheme.

The Task Force notes that the Administration's proposal would repeal the laws of all States which authorize court approved electronic surveillance by law enforcement (e.g., New York, Massachusetts, Maryland, Nevada and Oregon).

-- A comprehensive system of checks and safeguards would be established to minimize threats to the privacy of innocent citizens, prevent abuses of such investigative techniques and assure that the rights and liberties of the suspects are not infringed. For example -- under H.R. 10037 --

Information obtained from an authorized surveillance could be disclosed and used only by law enforcement and criminal justice officials in discharging official duties when investigating or prosecuting a crime. Any other use must be authorized by the court.

No information obtained from an authorized surveillance could be used in any Federal or State criminal court proceeding unless the defendant had been furnished a copy of the authorization not less than 10 days before the trial.

Information disclosed in violation of the statute could not be used as evidence in any Federal, State or local court, grand jury or other proceeding.

No court authorization for the use of such devices could exceed 45 days. Renewals could not exceed 20 days and would be issued only if the requirement for the original authorization remains. Thus the court must continually review the need and wisdom of the electronic surveillance.

All information obtained by electronic surveillance would have to be recorded by the law enforcement officer and then sealed by the authorizing judge. This would serve to verify the continuing accuracy of the information so obtained.

All persons subject to electronic surveillance would have to be notified of that fact within a year of the termination of the authorization.

Any aggrieved person who had been the direct or indirect object of an authorized surveillance could make a "motion to suppress" the use of such information in any proceeding on the ground that it was unlawful or obtained contrary to the court authorization.

Any person whose communications were intercepted, disclosed or used in violation of the statute could bring a civil suit and recover actual damages (minimum of \$1000), punitive damages, attorney's fees and court costs.

-- Additional safeguards would be erected to protect the privacy of privileged communications between husband and wife, doctor and patient and clergyman and confidant and communications employing public telephones, even when interceptions are attempted by law enforcement authorities.

The Task Force believes that electronic surveillance authority, even when granted by court order to law enforcement personnel, should not be used to violate unnecessarily the sanctity of those relationships to which the law has always given special privilege. H.R. 10037 imposes additional limitations in such cases. The same is true in cases involving public telephones.

-- Congress would receive complete statistics from different sources regarding all authorized uses of electronic surveillance equipment by Federal and State officials.

The Task Force believes that the mandatory reporting requirements are essential for continued review of the operation of this statute. The reporting requirement would not only prevent abuses but would also indicate the usefulness of the statute itself in that the reports must include the number of arrests, trials and convictions resulting from the authorized interception.

The Task Force also believes that the provisions of the statute providing for independent study of its effectiveness by a "Council of Advisers" appointed by the Attorney General are very commendable. Such information today is unavailable.

-- The statute would be self-terminating eight years after its enactment into law.

The Task Force believes that this would allow an opportunity to test in the crucible of time and application the wisdom and efficacy of the statute.

The Task Force has concluded that this comprehensive -- and necessarily complex -- proposal merits serious and immediate consideration. H.R. 10037 in balancing the rights of privacy with the needs of law enforcement would increase the protection of privacy and enhance the effectiveness of law enforcement.

(Attached to this report is a detailed analysis of this important legislative proposal.)

ANALYSIS

of

THE ELECTRONIC SURVEILLANCE CONTROL ACT OF 1967

(H.R. 10037)

SECTION 1 Title.

SECTION 2 Findings.

SECTION 3 Contains the following amendments to Title 18 of the United States Code:

PROHIBITIONS

Sec. 2511 Interception and disclosure of wire or oral communications prohibited.

(a) Prohibits all interceptions (wiretapping and bugging) and uses or disclosures of information so obtained, unless specifically permitted by the provisions of this bill. Penalty for violation \$10,000 or 5 years, or both.

(b)(1) Exempts telephone company employees when servicing or protecting lines.

(2) Exempts Federal Communications Commission employees when monitoring pursuant to their regulatory duties.

(c) Exempts the powers of the President to obtain necessary information in protecting the United States from international threats. Such information may be used as evidence.

(Note: Internal security threats from espionage, sabotage, treason and other similar offenses specified in Federal criminal statutes are treated under Sec. 2516 of the bill.)

Sec. 2512 Distribution, manufacture, and advertising of wire or oral communication intercepting devices prohibited.

(a) Prohibits the --

(1) mailing or sending through interstate commerce of electronic surveillance equipment,

(2) manufacture of the electronic surveillance equipment, or

(3) advertising of electronic surveillance equipment. Penalty for violation \$10,000 or 5 years, or both.

(b) Exempted from the above prohibitions (with the exception of advertising) are --

(1) common carriers in the normal course of business or persons under contract to common carriers,

(2) Federal, State and local governments or persons under contract with such units of government.

Sec. 2513 Confiscation of wire or oral communication intercepting devices. Authorizes the Federal government to confiscate any electronic surveillance equipment used, mailed, sent or manufactured in violation of the above provisions.

Sec. 2514 Immunity of witnesses. Provides that United States Attorneys -- with the approval of the Attorney General -- may seek and the Federal Court may authorize the granting of immunity from prosecution to witnesses in cases involving violations of the provisions of this bill.

Sec. 2515 Prohibition of use as evidence of intercepted wire or oral communications. Prohibits the use of information as evidence in any proceeding before any Federal, State or local court grand jury, department, officer, agency, regulatory body, or legislative committee, if the disclosure of that information would be in violation of the provisions of the bill.

AUTHORIZATIONS

Sec. 2516 Authorizations for interception of wire or oral communications.

Federal

(a) The Attorney General of the United States (or his designee) may authorize the making of an application to the Chief Judge of a United States District Court (or his designee), the Chief Judge of a United States Court of Appeals (or his designee) or the Chief Justice of the United States (or his designee), and such judge may under certain circumstances authorize the FBI or the Federal agency having responsibility for the investigation of the offense for which the application was made, to intercept communications when such interception may provide evidence of --

(1) offenses relating to enforcement of the Atomic Energy Act (misuses of restricted data), espionage, sabotage, or treason, where the offense is punishable by death or imprisonment for more than one year;

(2) Federal offenses involving murder, kidnapping, or extortion;

(3) Federal offenses relating to bribery, sports bribery, transmission of gambling information, obstruction of justice, injury to the President, racketeering, or welfare fund bribery;

(4) Federal offenses involving counterfeiting;

(5) Federal offenses involving bankruptcy fraud or the manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in narcotic drugs or marihuana; or

(6) any conspiracy to commit any of the foregoing offenses.

State

(b) When specifically authorized by a State statute to make application to specified State court judges, the attorney general of any State or the principal prosecuting attorney of any political subdivision of a State, may make application and the judge may authorize under certain circumstances the use of electronic surveillance devices for the purpose of gathering evidence of the commission of the State offenses of murder, kidnapping, gambling (if punishable as a felony), bribery, extortion or dealing in narcotic drugs or marihuana, or any conspiracy involving the foregoing offenses.

Sec. 2517 Authorization for disclosure and use of intercepted wire or oral communications.

(a) and (b) Law enforcement officers who obtain information by means of interceptions authorized under the bill may disclose such information to another law enforcement officer or use the information, if necessary and proper in performing and discharging of official duties.

(c) Any person who has obtained information by means of an interception authorized under the bill may disclose such information while testifying under oath in

any Federal or State criminal court proceeding or grand Jury proceeding.

(d) Intercepted information otherwise may be disclosed only upon a showing of good cause before a judge with authority to authorize such an interception.

Sec. 2518 Procedure for interception of wire or oral communications.

Contents of Application

(a) Applications for authorizations to intercept must be in writing, sworn, state the applicant's authority (e.g., State statute) and include --

- (1) Identity of person authorizing the application;
- (2) A full statement of the facts relied upon by the applicant;
- (3) The nature and location of the interception;
- (4) A statement of the facts concerning all previous applications to intercept the same facilities, place or person and the action taken by the judge on each such application; and
- (5) If the application seeks authorization on the grounds set forth in paragraph 1 of subsection (c) below (strategic intelligence gathering) the applicant must state the number of outstanding authorizations based on such grounds.

Additional Support for Application

(b) The judge may require additional material to support the application.

Grounds for Issuance

(c) Ex parte orders authorizing interceptions may be made by a judge in his sole discretion on a showing that --

Strategic intelligence gathering re organized crime

(1) (A) An individual has been convicted of an offense involving moral turpitude which is punishable as a felony; and

(B) There is reliable information to believe that this individual is presently engaged in one of the offenses enumerated in Sec. 2516 (above); and

(C) This individual presently has two or more close associates who meet the requirements of paragraphs (a) and (b) above; and

(D) The facilities or places to be intercepted are being used or about to be used by this individual;

OR

Tactical evidence re specific crimes

(2) (A) One of the offenses enumerated in Sec. 2516 is being, has been, or is about to be committed; and

(B) Facts concerning that offense may be obtained through an interception; and

(C) Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed as tried; and

(D) The facilities or place to be intercepted are being used or about to be used by a person who has committed, is committing or is about to commit such an offense.

Sec. 2518
(Continued)

LIMITATIONS

Number Orders for Strategic Intelligence

(d)(1) Judges issuing orders on the grounds set forth in paragraph (1) above are limited by the following table:

Federal officers --	2 per 1 million national population
State officers --	5 per 1 million State population
Local officers --	10 per 1 million local population

(Note: This limitation as to number of orders applies only to applications filed under paragraph (1) above -- strategic intelligence re organized crime.)

Public Telephone

(2) No public telephone may be intercepted, unless in addition to satisfying all the foregoing requirements the judge also determines that --

(A) The interception will be conducted in a way that minimizes or eliminates intercepting communications of other users of the facility, and

(B) There is a "special need" to authorize such an interception.

Privileged Communications

(3) Conversations between a husband and wife, doctor and patient, lawyer and client or clergyman and confidant may not be intercepted unless in addition to satisfying all the foregoing requirements, the judge also determines that --

(A) The interception will be conducted in a way that minimizes or eliminates intercepting "privileged communications," and

(B) There is a "special need" to authorize such an interception.

Contents of Order

(e) Orders authorizing or approving an interception must specify --

- (1) The nature and location of the authorized interception,
- (2) Offense(s) for which information is being sought,
- (3) The name of the agency authorized to intercept, and
- (4) The period of time during which such interception is authorized.

Time Limit and Extensions of Order

(f) No order may authorize an interception for a period exceeding 45 days. Extensions of the order may be granted for periods of not more than 20 days, but all extensions must satisfy the requirements of Sec. 2518(a) and (c), i.e., a complete application and the same grounds as originally justified the authorization continue to justify the authorization.

Sec. 2518
(Continued)

Emergency Interception

(g) In emergency situations law enforcement officers may temporarily waive the formal requirements for authorization so long as --

- (1) The emergency situation requires such a waiver, and
- (2) Such an authorization would be available absent the waiver.

Formal application must be made within 48 hours after the emergency interception. If the application for approval is denied, no information obtained by the interception may be used or disclosed and the person whose conversation was intercepted must be notified of the interception.

Precautions for Accuracy

(h) Information obtained by interception shall be recorded, sealed by the authorizing judge and be retained for a period of 10 years. Unless under seal (or no satisfactory explanation of its absence) the information contained in such a recording may not be used in any court or other proceeding. Applications for interceptions must also be sealed by the judge and shall be retained for a period of not less than 10 years.

Inventory -- Disclosure

(i) Not later than one year after the termination of an authorized interception, the authorizing judge shall notify the person subject to the interception of --

- (1) the fact of the order authorizing the interception,
- (2) The date and period of the authorization, and
- (3) Whether information was or was not obtained and recorded during the period of the interception. The issuance of this inventory may be postponed by the judge on a showing of good cause to delay or temporarily withhold such notice.

(j) Information obtained by an interception may not be used in any Federal or State criminal court proceeding unless each defendant has been furnished a copy of the court order authorization not less than 10 days before the trial. This 10 day period may be waived only if the judge finds it was not possible to furnish the defendant with the information 10 days before trial and the defendant will not be prejudiced in the delay of receiving such information.

Motion to Suppress

(k)(1) Any "aggrieved person" (a person who is the direct or indirect object of the interception) in a proceeding may move to suppress the contents of the interception, or evidence derived therefrom, on the grounds that --

- (A) The interception was unlawful,
- (B) The order authorizing the interception is insufficient on its face, or
- (C) The interception was not made in conformity with the order of authorization.

If the motion is granted, the contents of the interception or the evidence derived therefrom may not be used.

(2) The United States is given the right to appeal from an unfavorable ruling on a motion to suppress under paragraph (1) above so long as such appeal is not taken for purposes of delay.

Sec. 2519 Reports concerning intercepted wire or oral communications.

(a) Within 30 days after the expiration of an authorization order (or any extensions thereof), the issuing judge must report the following information to the Administrative Office of the United States Courts --

- (1) The fact that the order was applied for,
- (2) The kind of order applied for,
- (3) Whether the order was granted as applied for or as modified,
- (4) The period of time, including the extensions, of the authorization,
- (5) The offense(s) specified in the order, and
- (6) The identity of the applicant and who authorized the application.

(b) Within 30 days after the termination of an investigation or trial using authorized interceptions, the Attorney General of the United States (or his designee) or the attorney general of the State or the principal prosecuting attorney of a political subdivision thereof, as the case may be, shall also report the above information to the Administrative Office of the United States Courts and the number of arrests, trials, and motions to suppress and convictions resulting from authorized interceptions.

(c) In March of each year the Administrative Office shall report the aforementioned information to the Congress.

Sec. 2520 Recovery of civil damages authorized. An individual whose communication is intercepted, disclosed or used in violation of this bill, is given (1) a civil cause of action against the person making the interception, disclosure or use and (2) is entitled to recover --

- (A) Actual damages (but not less than liquidated damages computed at the rate of \$100 a day for each day of violation or \$1,000, whichever is higher;
- (B) Punitive damages, and
- (C) Reasonable attorneys fees and litigation costs.

STUDY AND REVIEW

SECTION 3(a) One year prior to termination of this bill, the Attorney General shall have a study of its operations conducted by competent "social scientists." Upon completion of this study the Attorney General shall appoint a Council of Advisers to be composed of 15 members representing various interests and professions to review the study. Following this review the Attorney General shall report to the President and the Congress the results of the study and review, together with his recommendations and the recommendations of the Council of Advisers.

(b), (c) and (d) contain technical provisions regarding the staff, compensation, and appointments to the Council of Advisers.

SECTION 4 Amendments to Section 605 of the Communications Act of 1934 to bring it in conformance with the provisions of this bill.

EXPIRATION

SECTION 5 This bill shall expire and have no force and effect on the 8th year following its enactment (except some provisions are necessarily extended for a period of 18 months to enable the phasing out of cases affected by the termination).

SECTION 6 Severability clause.

REPUBLICAN TASK FORCE ON CRIME

142 Cannon Bldg., 225-5107 House of Representatives Washington, D. C. 20515

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Deputy Chairman

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PRESS RELEASE

For Release: IMMEDIATE
June 19, 1967
Contact: 225-5107

Congressman Richard H. Poff (R.-Va.) Chairman of the House Republican Task Force on Crime, said in a speech on the floor of the House today that the latest FBI Uniform Crime Report "presents a disgraceful picture. . . and calls for new laws, better laws, stronger laws, laws which make crime unattractive and unprofitable."

Poff also said that those who shrug off the increase in major crime by saying that the crime rate is not higher but crime reporting is better are not facing the facts. "Perhaps crime reporting is better today than it was a generation ago," said Poff, "but surely crime reporting is not measurably better today than it was a year ago. Accordingly, a comparison of crime statistics within that time frame is a reasonably reliable indicator of the growth in crime."

Poff in his floor speech said, "The latest FBI Uniform Crime Reports compare crime in the first three months of 1966 with that in the first three months of 1967. That comparison shows an increase of 20% in the 7 major crimes. These 7 include 4 crimes of violence against the person and 3 property crimes. Personal crimes increased more than property crimes. The largest increase, 42%, was in the crime of robbery as reported in cities with populations ranging between 250,000 and 500,000.

"With respect to all 7 crimes, cities with a population of 100,000 or more registered a total increase of 20%. However, it is a mistake to assume that crime growth is only a city problem. Rural areas reported an increase of only 4 percentage points less, and the crime growth rate of 22% in suburban communities was even higher than that in cities.

"Neither is there any remarkable difference in the reports by geographical region. The Northeast, North Central, Southern and Western regions ranged between 18% and 21%. But the District of Columbia sustained its inglorious record. Crime in the Nation's Capitol jumped nearly 42%, or more than twice the national rate. In the first three months of this year 8,957 major crimes were committed here. That amounts to more than 99 crimes per day, 4 each hour, one every 15 minutes."

Congressman Poff said that these figures and the facts they dramatize "are disgraceful" and that "society needs new laws, better laws, stronger laws, laws which make crime unattractive and unprofitable. Congress must act."

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PRESS RELEASE

For Release: 1:30 p.m.
Fri., 6/23/67

Contact: 225-5107

TASK FORCE WELCOMES "MOVING FORCE" ROLE

The House Republican Task Force on Crime today welcomed bi-partisan support for its June 5, 1967, Task Force Report urging immediate establishment of a Joint Committee on Crime.

Rep. Richard H. Poff (R-Va.), Task Force Chairman, offered support for a Resolution introduced Friday by Senators Frank Moss (D-Utah) and Joseph Tydings (D-Md.). Their proposal calls for establishment of a Joint Committee on Crime to attack the problems of the nation's spiraling crime rate. It is similar to a Resolution introduced in February by Rep. William C. Cramer (R-Fla.).

"We're not concerned with whose name appears on a particular Resolution," Poff stated. "Crime slashes through party lines. It is obviously a bi-partisan problem requiring immediate action. The June 5 Task Force Report called for establishment of a Joint Committee on Organized Crime to devote 'full time to the development of information and legislative proposals to control organized crime, its effects and impact.' If our House Republican Task Force on Crime can serve as the moving force behind Administration proposals, we welcome that role," Rep. Poff concluded.

Office Copy

REPUBLICAN TASK FORCE ON CRIME

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PRESS RELEASE

For Release: Fri. AM's
6/30/67

Contact: Ext. 5107

POFF AND HRUSKA JOIN IN FIGHT ON CRIME

U.S. Representative Richard H. Poff (R-Va.), Chairman of the House Republican Task Force on Crime, and Senator Roman Hruska (R-Neb.)

Wednesday proposed to combat the nation's spiraling crime rate through new anti-trust legislation and an omnibus "Criminal Procedure" Act.

Several House Republicans joined them in introducing a three-bill legislative package.

The two anti-trust measures would prohibit the use of illegally acquired funds or those deliberately unreported for income tax purposes in legitimate concerns. "Trafficking in vice and greed, organized crime has a gigantic earning power," Poff stated. "This earning power has created a reservoir of wealth unmatched by any legitimate financial institution in the nation. Receipts from illegal gambling alone have been estimated at up to \$50 billion a year," Poff noted.

"The Omnibus Bill embraces a number of important criminal procedure improvements," continued Poff. "By defining the limits of police investigative powers, the bill makes it plain that a police officer, while making a lawful arrest, can search both the person and the immediate presence of the suspect for the purpose of preventing escape; protecting the officer from attack; capturing stolen property; or seizing property used in commission of the crime. The omnibus bill contains a new law enforcement tool called the 'obstruction of investigation' law. It would make it a Federal crime for a person to obstruct a Federal criminal investigator engaged in the lawful investigation of a Federal offense. The measure attempts to better define witness immunity laws, perjury laws, and several other procedural areas."

Both Poff and Hruska noted that the "package of bills is intended to give law enforcement authorities new and sharper tools" for their tasks "without sacrificing any of the cherished rights which mark us as free men. The people expect the Congress to act," Poff concluded.

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PRESS RELEASE

For Release: Friday AM's
June 30, 1967
Contact: 225-5107

NEW AND SHARPER TOOLS FOR LAW ENFORCEMENT

(Editors Note: The following is a speech prepared for delivery on the floor of the House by Congressman Richard H. Poff, Chairman of the Republican Task Force on Crime. The same day, Senator Roman Hruska will introduce the legislative package and deliver a Senate speech on the subject.)

Mr. Speaker, the war on crime to be successful must be planned both long-range and short-range. My concern is that action begin now.

To that end, the able Senator from Nebraska and I are introducing today in our respective Houses a package of bills designed to modernize old criminal statutes and adapt them to the new challenge which crime poses. The package will not only sharpen old tools but forge new tools of law enforcement.

My package contains three bills:

(1) A bill prohibiting the investment of funds illegally acquired from specified criminal activities in a legitimate business concern;

(2) A bill prohibiting the investment in such concerns of funds legally acquired but deliberately unreported for Federal income tax purposes; and

(3) An omnibus bill to improve criminal procedures in such areas as searches and seizures, gathering of evidence, no-knock entries for capture of perishable evidence, appeals for suppression orders, witness immunity, perjury definition, and obstruction of investigations.

ORGANIZED CRIME

The first two bills in the package are aimed at organized crime. Organized crime, which crosses state lines and employs the resources, vehicles and paraphernalia of interstate commerce, is a national problem. As such, Federal jurisdiction is unchallenged and Federal responsibility is undisputed.

Organized crime is a threat to the American free enterprise system. Trafficking in vice and greed and all the ignoble human frailties, syndicated crime has a gigantic earning power. Receipts from illegal

gambling alone have been estimated at up to 50 billion dollars a year. This earning power has created a reservoir of wealth unmatched by any legitimate financial institution in the nation. As the President's Crime Commission elaborately documented, organized crime's overlords have tapped this reservoir and invested its funds in wholly legitimate business activity. Because resources are practically unlimited, the crime syndicate has the power not only to acquire and control an individual business establishment, but, by massive purchases and sales on the stock market, to manipulate capital values and influence price structures. By careful, methodical, clandestine infiltration of several segments of a particular industry, organized crime can use its vast concentration of dollars to create monopolies and, by coercive methods, to restrain commerce among the states and with foreign nations.

Clearly, the investment in a legitimate business of funds illegally acquired or funds legally acquired but unreported for tax purposes constitutes an act of unfair competition and an unconscionable trade practice against others engaged in that business.

The first two bills in my package are new. They are intended to activate the antitrust laws in a more vital way and focus their application upon the problem of organized crime.

As indicated earlier, the first bill would outlaw the investment of income derived from specified criminal activities in legitimate business. The activities specified are those typical of syndicate conduct. They include gambling, bribery, extortion, counterfeiting, narcotics traffic, and white-slavery. This bill would bring to bear upon organized crime the criminal penalties and civil sanctions currently defined in the Sherman Act. Equally as important, if not more so, this bill would give Federal investigators broader and more certain jurisdiction to investigate the activities of syndicated crime and identify its illegal revenue sources.

The second bill would outlaw the investment in legitimate business concerns of income derived by organized crime from other legitimate enterprises if such income has not been reported for Federal income tax purposes. This bill would furnish the predicate for investigation of the myriad ramifications of organized crime's infiltration into the many compartments and echelons of American business. Moreover, in addition to requiring payment of the tax on the unreported earnings, the crime syndicate would be subjected to payment of multiple damages authorized under the Sherman Act.

In addition to the other wholesome aspects these two bills would have, jointly they would allow organized criminal activities to be attacked before their anti-competitive impact can destroy legitimate business. They would siphon off

a large part of organized crime's dollar reservoir, and this could do as much to control this problem as sending a few crime chiefs to the penitentiary for a temporary season.

I have said these two bills are new. They are; however, there is some precedent in practice. The existing antitrust laws have been used by law enforcement authorities in the criminal field. The Sherman Act makes every combination or trust and every conspiracy in restraint of interstate commerce an illegal enterprise. The penalty structure permits fines up to \$50,000 and confinement up to one year, or both. The existing antitrust laws also make provision for pretrial discovery and investigation by grand juries for criminal prosecutions. In addition to criminal penalties, the Act permits an injured party to bring a civil suit for injunction or recovery of civil damages and attorney's fees.

In the case of United States v. Bitz, 282 F. 2d 465 (2d Cir. 1960), racketeers had been indicted under the criminal provisions of the antitrust laws for conspiring and threatening to strike against the distributors of newspapers to coerce money from them. The Circuit Court of Appeals upheld the indictment as an appropriate use of the antitrust laws, and convictions were subsequently obtained.

In the case of United States v. Pennsylvania Refuse Removal Ass'n., 357 F.2d 806 (3d Cir. 1966), Cert. Denied, 384 U. S. 96L (1966), the defendant was charged under the antitrust laws with a conspiracy to restrain trade by coercive methods in the garbage collection business. He was convicted and the courts sustained the conviction.

The civil injunction provisions of the antitrust laws were used to enjoin a conspiracy to sell yellow grease by coercive methods, and the use of the law for this purpose was upheld by the Supreme Court in the case of Los Angeles Meat & Provision Driver's Union v. United States, 371 U. S. 94 (1962).

Only last March the Department of Justice filed a civil antitrust action against the National Farmers Organization alleging violence and coercion in attempting to monopolize the interstate sale of milk. Clearly, if the present antitrust statutes can be used for such a purpose, they can be used against criminal combinations by organized crime in restraint of trade.

Indeed, it may be that the present antitrust laws are sufficient without amendment as a tool in the war against organized crime. If so, the two bills I have introduced aren't necessary. If not, they should be refined and passed. In their present form, even if imperfect, they can serve as a vehicle for hearings to enable the Judiciary Committee to make a determination on this point.

CHANGES IN CRIMINAL PROCEDURE

The third bill in my package is an omnibus measure embracing a number of important criminal procedure improvements. Court decisions defining the limits of the powers of investigative officers in the field of searches and seizures need to be clarified and codified. This bill makes it plain that a police officer, while making a lawful arrest, can search both the person and the immediate presence of the suspect for the purpose of preventing the suspect from escaping, protecting the officer from attack, capturing property which is the fruit of the crime or seizing property used in the commission of the crime. It would also translate into statutory law the recent ruling of the Supreme Court in the Hayden case, which held that officers armed with an appropriate search warrant can seize and impound personal property to be used as so-called "mere evidence" in the prosecution's case. Heretofore, the law has permitted seizure only of fruits of the crime and contraband. Mere evidence, no matter how probative, was exempt from seizure.

The omnibus bill contains what has come to be known as the "no-knock" proposal. Under present law the officer with a search warrant is required before entering the premises to knock, request admission, and divulge his authority and purpose under the warrant. The bill would permit forcible entry against the will of the occupant if the magistrate has made a determination -- and has registered that determination in the warrant -- that the property sought is perishable or that danger to the life or limb of the officer might result without such authority. Such an entry may be made even without express authority in the warrant if this is necessary to his protection in executing the warrant or if it is virtually certain that the occupant already knows the officer's authority and purpose.

Another part of the omnibus bill is the language of H. R. 8654 introduced earlier by the Gentleman from Illinois, Mr. Railsback, and recently endorsed by the Republican Task Force on Crime. This language, following the precedent in the Narcotics Control Act of 1956, permits the prosecutor to appeal orders suppressing evidence or granting a motion for return of seized property before the prosecution proceeds to trial. This proposal enjoys the support of the President's Crime Commission, the Judicial Conference of the United States, and the Department of Justice.

The omnibus bill creates a new law enforcement tool which has long been needed. For the sake of brevity, it is called the "Obstruction of Investigation" law. Patterned after the concept of the obstruction of justice statute which has been on the books for many years, the new law would make it a new Federal crime for a person to obstruct a Federal criminal investigator engaged in the lawful

investigation of a Federal offense.

The omnibus bill undertakes to write a better witness immunity law than the nation now has. Indeed, the nation now has some 41 immunity laws. These are too many, too imprecise and too awkward. The language of the new bill represents an improvement without perfection. It is intended principally to be a working paper rather than the final product. Refinements can be made and some effort must be made to work out a system of coordination and liaison with state and local law enforcement personnel. Until those who have special information necessary to convict others can be assured that they will enjoy immunity from prosecution at all levels of government, no federal immunity statute will function properly.

The omnibus bill comes to grips with a problem which has plagued law enforcement people from the beginning. Our perjury laws retain today the old common law requirements of direct evidence and corroborative testimony. The omnibus bill, while preserving the requirement for proving falsity, eliminates the direct evidence rule and the so-called two-witness rule. Such legislation was warmly recommended by the President's Crime Commission, and most legal scholars agree that there is no longer any justification for the cumbersome procedures which the common law required.

In context with this package of bills, I consider it appropriate to identify once again the electronic surveillance bill, H. R. 10037, introduced recently by the ranking Minority Member of the Committee on the Judiciary, the Gentleman from Ohio, Mr. McCulloch; the distinguished Minority Leader, the Gentleman from Michigan, Mr. Gerald Ford; myself and a score of other Republican Members of the House.

The principle thrust of H. R. 10037 is to protect the right of privacy of the individual citizen. For that purpose, it outlaws all wiretapping or bugging by private citizens. At the same time, the individual's right of privacy is carefully balanced against society's right of security. The bill authorizes society to protect itself by discovering the criminal plans and practices of those who have no proper regard for society's security. It authorizes law enforcement authorities to acquire from a judge of competent jurisdiction a warrant (in the nature of a search warrant), authorizing the officer under carefully proscribed conditions to conduct electronic surveillance against named individuals in identified locations.

H. R. 10037 implements the recommendation of and is patterned after the statutory scheme discussed in the Organized Crime Task Force report published by the President's Crime Commission.

The bill contains the following significant features:

Private use of wiretapping and electronic eavesdropping devices would be

absolutely prohibited.

Federal law enforcement officials could obtain court authorized electronic surveillance orders for investigation of certain specified offenses, including national security and organized crime.

State authorities could engage in similar activities pursuant to proper state statutory authorization. (The President's proposal would not only ban all wiretapping and bugging but also repeal existing state laws.)

An elaborate and comprehensive system of checks and safeguards would be established to protect individual privacy, curb abuses by law enforcement officers and assure the rights and liberties of the criminal. Such safeguards include provisions for the suppression of evidence when gathered improperly, advance notice to the defendant of intent to use such evidence prior to trial, notice to persons subject to such electronic surveillance within one year after the authorization, limited periods for such authorization, civil remedies to aggrieved parties, and strict limitation on certain privileged communications such as those between lawyer-client, husband-wife and clergyman-confidant. Public telephones would also be subject to similar stringent restrictions.

All officials, state and Federal, engaged in electronic surveillance would be required to report annually through the Administrative Office of U. S. Courts to the Congress on their activities to allow for continuing Congressional overview, and the legislation itself would be self-terminating in eight years.

It is thus apparent that the most careful thought and consideration has gone into the drafting of this bill in order to protect the privacy of the individual against both trespass by his neighbor and unreasonable intrusion by the policeman. And yet society's interest in investigating and controlling criminal activity is incorporated as an essential element of the equation of law and order.

Mr. Speaker, I am proud to announce that I have been joined in the sponsorship of this package of bills by the following Members of Congress: John Rhodes, Melvin Laird, Bob Wilson, Leslie Arends, Barber Conable, Carleton King, Clark MacGregor, Robert Price, Arch Moore, Edward Hutchinson, Robert McClory, Robert Taft, Henry P. Smith III, and Chalmers Wylie.

I repeat, as I began, this package of bills is intended to give law enforcement authorities new and sharper tools for this task. It is well and good to attack the causes of crime at the environmental level. It is useful to treat with socio-economic conditions which breed crime. We need to improve the methodology of rehabilitation to help control recidivism. It is helpful to modernize and expand physical equipment and facilities used by policemen.

Yet, we must understand that these are gradual, long-range techniques. Something needs to be done now. Our old laws are not adequate to the new need. They must be modernized. This is the province of the Congress. The people expect the Congress to deal with this duty.



Republican National Committee

1625 EYE STREET, NORTHWEST, WASHINGTON, D. C. 20006

NATIONAL 8-6800

NEWS

FOR RELEASE

IMMEDIATE

JULY 24, 1967

The following statement was issued by the Republican Coordinating Committee meeting in Washington, D.C.

RIOTS

The first duty of government is to maintain order.

Widespread rioting and violent civil disorder have grown to a national crisis since the present Administration took office. Today no one is safe on the streets, in his home or in his property.

The principal victims to date have been the Negroes of America whose cause is betrayed by a few false leaders.

Riots have occurred progressively in one city after another in widely separated areas. Factories for the manufacture of Molotov cocktails have been uncovered by the police. Weapons have been placed in the hands of rioters to murder police and firemen in the performance of their duty to protect the community. Simultaneous fires have been started in widely separated areas upon the occasion of the outbreak of rioting.

Leaders of violence are publicly proclaiming and advocating future riots and the total defiance of all Government. Hate mongers are traveling from community to community inciting insurrection. Public and private meetings of riot organizers from many sections of the country have been repeatedly reported in the press.

-more-



While the duty to protect its citizens devolves primarily upon the local community, when city after city across the nation is overwhelmed by riots, looting, arson and murder which mounting evidence indicates may be the result of organized planning and execution on a national scale, the Federal Government must accept its national responsibility.

The nation is in crisis and this Administration has failed even to make a proposal to protect our people on the streets and in their homes from riots and violence. The most basic of civil rights is being denied to the American people.

The Republican Party firmly believes in the cause of civil rights and condemns those who betray it whether they be in high office or on the streets.

The root causes of discontent are of immediate and continuing concern to all of us. The violence of the few must not be allowed to injure the cause of the many. It is time that all government officials make it absolutely clear that under no circumstances will violence and rioting be rewarded. Our nation seeks to help all our people rise above poverty levels and as a nation we have achieved unprecedented success in this regard. We will not by-pass those in need who reject violence to reward those who riot.

We are rapidly approaching a state of anarchy and the President has totally failed to recognize the problem. Worse he has vetoed legislation and opposed other legislation designed to reestablish peace and order within the country.

We have today tragic proof of the national nature of the crisis in the act of the President in sending in federal forces after one of our greatest cities has suffered incredible damage to the entire fabric of the community.

How many millions of people must be made homeless--how many thousands wounded, maimed or killed over the years before the President will support or approve legislation to restore order and protect the people of this country?

We call upon the President to face the reality of the condition which in three years has grown to crisis. Pleasant platitudes and statements of good intentions can no longer conceal the critical state of the nation.

We call upon the President forthwith to announce his support of the proposal of Republican Senator Edward Brooke of Massachusetts calling for a full-scale investigation of civil disorders.

We call upon the President forthwith to withdraw his objection and lend his full support to present pending Republican legislation designed to prevent rioting.

We strongly urge the Leadership of the House and Senate immediately to establish a Joint Committee to investigate on an emergency basis the planning, organization, method of operation and means to bring an end to rioting and civil disorder.

7/24/67



REPUBLICAN NATIONAL COMMITTEE

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