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(McNally/Simon)
March 8, 1991
Draft Two (B:CRIME)

PRESIDENTIAL REMARKS: ANNOUNCEMENT OF THE NEW CRIME BILL
THE ROSE GARDEN
MONDAY, MAR. 11, 1991, 11:15 A.M.

Thank you. Mr. Attorney General, State Attorneys General, other law enforcement officials and local community leaders: **It is an honor to welcome you to the White House.**

Last week I went before the United States Congress, and the American people, to salute a group of hometown heroes -- the finest combat force this Nation has ever assembled -- **the brave men and women of the United States military!** \\\\

We honored them with our cheers and with our prayers. **And come this summer, we'll honor their homecoming with the biggest Fourth of July since the Liberty Bell first rang.** But as I said last week, the real way to honor them is to welcome them home to an America that is worthy of their sacrifice -- by joining together with Congress to move forward on the domestic front.

Last month we launched an innovative package designed to ensure real opportunity for all Americans. Our veterans deserve to come home to an America of improved schools, better jobs, increased home ownership, and families that are healthy and together. Our veterans deserve to come home to an America without discrimination. **And most of all, our veterans deserve to come home to an America where it's safe to walk the streets.** \\\

Economic opportunity is impossible for citizens who cannot be safe and feel safe in their homes, schools, jobs and churches. This is what I mean when I say our most basic civil right is --

quite simply -- the right to be free from fear. \\\

Some of you may remember that, shortly after I took office, we met with the 50 A.G.'s here in the Roosevelt Room. It was two years ago, almost to the day. And I told you how, a few days earlier, I had gone to New York to meet the family and friends of Everett Hatcher, a brave D.E.A. agent who was gunned down in the street. And they told me that it used to be unthinkable to shoot a cop. But now the culture has changed -- and when the bad guys hear the word "POLICE," they just turn around and start shooting.

Two months later, on that rainy day on Capitol Hill, we launched a Crime Bill designed to help protect our cops by giving them the tools they need to do their job. We proposed stiff new penalties for criminals using semi-automatic weapons; an improved exclusionary rule designed to protect the truth and punish the guilty; and habeas corpus reform that would stop frivolous appeals and ensure that punishment was both swift and certain. Most of all, it would have provided constitutionally sound provisions in federal cases that support a simple rule of justice: **Those who kill a cop must be prepared to pay with their own life.**

And today, two years later, the Congress has still failed to act on these critical core provisions. And today, two years later, another 294 policemen and women are dead -- 294 -- almost three times the number of precious American lives lost during the entire Gulf War. The killing must stop. **And it must stop now.**\\

Today, it's time to stand up and be counted. It's time to stand up for what's right. We stood by America's troops. Today

it's time to stand up for America's police! \\\

Last week, many of you joined together with the Attorney General and me in an unprecedented council of war -- America's first Crime Summit. For three days you freely traded ideas, insights, suggestions and support. When I visited you Tuesday the mood was contagious -- powerful, confident, and most of all -- driven by a sense of urgency. And so when it was over, we wasted no time. I told the A.G. we wanted the Crime Bill ready in final form before another week was out. **And today, five days later, I have it here in my hand.** \\\ Of course, we had a head start -- the truth is, the vast majority of these core proposals are basic, long-overdue reforms that you and I have fought for for the better part of two years. Habeas corpus reform. A good-faith exception to the exclusionary rule. Stiff new penalties for firearms offenders. And a workable death penalty for terrorists, serial killers, cop-killers and other heinous crimes.

These fundamental, badly-needed reforms have been argued over for years. But the American people are not clamoring for more debate. Today they're demanding action -- action to stop violent crime -- action that translates to a straight up-or-down vote on these core, common-sense proposals. As I said Wednesday night: **If our forces could win the ground war in 100 hours -- then surely the Congress can pass this legislation in 100 days.**

Our core proposals have also been strengthened by some potent new additions. We're calling for new laws to protect women and children against violence and exploitation. New safe-

guards to ensure due process in every capital case. And most important of all, tough new laws that will protect our people and our police by helping prosecutors put away America's most violent offenders. One of the most important of these provisions recognizes that reducing firearms violence must mean exclusionary rule reform. I am not a lawyer. But I put great stock in common sense. And it never did make sense that, because a policeman has blundered -- a dangerous criminal can just get off scot-free.

The Supreme Court has invited legislative experimentation with alternative ways to punish the cop who blunders. And so today I am announcing that we are accepting that invitation. Our plan would authorize the A.G. to develop alternative, administrative sanctions for any federal agent who improperly seizes a gun in violation of the 4th Amendment. Once these protections were in place, firearms in serious drug, violent and certain other cases would always be admissible in federal court. Never again would a federal jury be denied the most obvious, common-sense opportunity in their pursuit of the truth in a firearms case -- the opportunity to actually see the weapons in question.

Our message to Congress is simple: The time to act is \\ now. The time to schedule hearings is \\ now. The Attorney General is ready to testify \\ now. And most of the other experts needed are probably here in the Rose Garden \\ now.

Looking out here today, I see a group of principled, all-American heroes whose dedication at home matches that of our brave men and women overseas. Heroes like Mississippi A.G. Mike

Moore, a Democrat, who stood with us here in the Rose Garden last fall and described the terrible ordeal -- due to current habeas rules -- in which victims and their families can never draw the curtains on tragic murders and rapes. Heroes like Louisiana D.A. Richard Ieyoub, also a Democrat, who called the efforts to gut last year's crime bill a "major fraud on ~~the American people~~ this country" -- one that, for all practical purposes, would have shut down the death penalty in the 37 states where it now exists. And heroes like Dan Lungren, California's new A.G., whose miracle "end run" in Congress in 1984 produced the most far-reaching criminal law reforms in our Nation's history.

Mike and Richard -- we're on a hundred-day clock -- and we hope you and your colleagues are ready to roll up your sleeves again today. And Dan -- we're hoping you can lend your magic to the cause once more. Because this week marks the anniversary of the F.B.I.'s "10 Most Wanted" list. And I'm here to tell you that this new crime bill is on America's "most wanted" list of pressing national business. And as I said last fall: **America's prosecutors will not accept a phony crime bill that is tougher on law enforcement than it is on criminals.** \\\\

No more loopholes. No more rolls of the dice. I urge the Congress to heed the voices of our people, our police, and our prosecutors -- and help us take back the streets. \\\ Together, let's act on this crime bill now. \\\

Thank you. Good luck. And God bless the United States.

# # #

(McNally/Simon)
March 8, 1991
Draft Three (B:CRIME)

PRESIDENTIAL REMARKS: ANNOUNCEMENT OF THE NEW CRIME BILL
THE EAST ROOM
MONDAY, MAR. 11, 1991, 11:15 A.M.

Thank you. Mr. Attorney General, State Attorneys General, Members of Congress, other law enforcement officials and community leaders: **It is an honor to welcome you to the White House.**

Last week I went before the United States Congress, and the American people, to salute a group of hometown heroes -- the finest combat force this Nation has ever assembled -- **the brave men and women of the United States military!** \\\\

We honored them with our cheers and with our prayers. **And come this summer, we'll honor them again with the biggest Fourth of July since the Liberty Bell first rang.** But as I said last week, the real way to honor them is to welcome them home to an America that is worthy of their sacrifice -- by joining together with Congress to move forward on the domestic front.

Last month we launched an innovative package designed to ensure real opportunity for all Americans. Our veterans deserve to come home to an America of improved schools, better jobs, stronger laws against discrimination, increased home ownership, and families that are healthy and together. **And most of all, our veterans deserve to come home to an America where it's safe to walk the streets.** \\\

Economic opportunity is impossible for citizens who cannot be safe and feel safe in their homes, schools, jobs and churches. This is what I mean when I say our most basic civil right is --

quite simply -- the right to be free from fear. \\\

Some of you may remember that, shortly after I took office, we met with the 50 A.G.'s at the White House. It was two years ago, almost to the day. And I told you how, a few days earlier, I had gone to New York to meet the family and friends of Everett Hatcher, a brave D.E.A. agent who was gunned down in the street. And they told me that it used to be unthinkable to shoot a cop. But now the culture has changed -- and when the bad guys hear the word "POLICE," they just turn around and start shooting.

Two months later, on that rainy day on Capitol Hill, we launched an effort to pass our crime legislation, legislation designed to help protect our cops by giving them the tools they need to do their job. We proposed stiff new penalties for criminals using semi-automatic weapons; an improved exclusionary rule designed to protect the truth and punish the guilty; and habeas corpus reform that would stop frivolous appeals and ensure that punishment was not only just, but also swift and certain. Most of all, it would have finally given us a Federal law to uphold a simple rule of justice: **Those who kill must be prepared to pay with their own life.** \\\

And today, two years later, the Congress has still failed to act on these critical core provisions. And today, two years later, another 294 policemen and women are dead -- 294 -- almost three times the number of precious American lives lost during the entire Gulf War. The killing must stop. **And it must stop now.**\\

Today, it's time to stand up and be counted. It's time to

stand up for what's right. We stood by America's troops. Today it's time to stand up for America's police! \\\

Last week, many of you joined together with the Attorney General and me in an unprecedented Crime Summit -- America's first. For three days you freely traded ideas, insights, suggestions and support. When I visited you Tuesday the mood was contagious -- powerful, confident, and most of all -- driven by a sense of urgency. And so when it was over, we wasted no time. I told the A.G. we wanted the Crime Bill ready in final form before another week was out. **And today, five days later, I have it here in my hand.** \\\

Of course, we had a head start -- the truth is, the vast majority of these core proposals are identical to those we sent to Congress two years ago. These fundamental, badly-needed reforms have been argued over for years. But the American people are not clamoring for more debate. Today they're demanding action -- action to stop violent crime -- action that translates to a straight up-or-down vote on these core, common-sense proposals. As I said Wednesday night: **If our forces could win the ground war in 100 hours -- then surely the Congress can pass this legislation in 100 days.** \\\

Our core proposals have also been strengthened by some potent new additions. These include new laws to protect women and children against violence and abuse. And most important of all, they include tough new laws that will protect our people and our police by helping prosecutors put away America's most violent

offenders. One of the most important of these provisions recognizes that reducing firearms violence must mean exclusionary rule reform. I am not a lawyer. But I put great stock in common sense. And it never did make sense that, because a policeman has made a mistake -- a dangerous criminal can get off scot-free.

The Supreme Court has invited legislative experimentation with direct action to prevent illegal searches and seizures. **And so today I am announcing that we are accepting that invitation -- in conjunction with a serious gun control initiative.** Our plan would authorize the A.G. to develop alternative, administrative sanctions for any federal agent who improperly seizes a gun in violation of the 4th Amendment. Once these protections were in place, firearms in serious drug, violent and certain other cases would always be admissible in certain federal cases involving armed felons. It is simply intolerable that these armed criminals should go free when good, solid evidence is available.

Our message is simple: The time to act is \\ now. The time to schedule Congressional hearings is \\ now. The Attorney General is ready to testify \\ now. And most of the other experts needed are probably here in the East Room \\ now. \\\

Looking out here today, I see a group of principled, all-American heroes whose dedication at home matches that of our brave men and women overseas. Heroes like Mississippi A.G. Mike Moore, who stood with us in the Rose Garden last fall and described the terrible ordeal -- due to current habeas rules -- in which victims and their families can never draw the curtains

on tragic murders and rapes. Heroes like Louisiana D.A. Richard Ieyoub, who called the efforts to gut last year's crime bill a "major fraud on the American people" -- one that, for all practical purposes, would have shut down the death penalty in the 37 states where it now exists. And heroes like Dan Lungren, California's new A.G., whose miracle "end run" in Congress in 1984 produced some of the most far-reaching criminal law reforms in our Nation's history.

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No more loopholes. No more rolls of the dice. I urge the Congress to heed the voices of our people, our police, and our prosecutors -- and help us take back the streets. \\\ Together, let's act on this crime bill <u>now</u>. \\\

Thank you. Good luck. And God bless the United States.

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Withdrawal/Redaction Sheet
(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
01. Memo	William P. Barr to Dick Thornburgh, re: Proposal to Replace Exclusionary Rule for Firearms in Federal Court. (6 pp.)	02/14/91	P-5	

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February 14, 1991

MEMORANDUM

TO: Dick Thornburgh
Attorney General

FROM: William P. Barr
Deputy Attorney General

SUBJECT: Proposals to Replace the Exclusionary Rule for Firearms in Federal Court

As you know, the nucleus of our omnibus package will be the same as that offered in the last Congress: a federal death penalty, habeas corpus reform and expansion of the good faith exception to the exclusionary rule. The Administration will likely be in the position of again opposing a number of "gun control" measures including the "Brady Bill" and a flat ban on certain semi-automatic weapons. Given the increasing firearm violence in the Nation's urban centers (19 cities set homicide records in 1990) we have attempted to develop options for new legislative responses in the area of firearm violence.

One such option would be to replace the exclusionary rule as a mechanism for punishing Fourth Amendment violations where a firearm has been seized. Under such a regime, firearms would never be excluded from evidence in federal court. Our proposal would authorize the Attorney General to promulgate alternative, administrative sanctions for violation of the Fourth Amendment where a firearm is improperly seized by any federal officer. Once these protections were in place, firearms would always be admissible in federal court, and the alternative sanctions would be employed against federal law enforcement personnel who violated the Fourth Amendment.[1] This memorandum is intended to

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[1] These sanctions could include monetary penalties assessed against the budget of the enforcement component involved. This liquidated sum could be disbursed directly to the victim of the

(continued...)

provide you with the arguments pro and con on the issue so that you may decide whether or not such an initiative should be part of our omnibus violent crime bill.

1) Arguments for Inclusion of the Alternative Sanctions Proposal

First, the proposal will help focus the legislative debate on violent offenders who misuse firearms and away from the regulation of firearms themselves. Empirical data suggest that the exclusionary rule does result in the release of significant numbers of violent offenders whose reintroduction into the community results in additional criminal violence. See National Institute of Justice, The Effects of the Exclusionary Rule: A Study in California, 2 (1982) ("To a substantial degree, individuals released because of search and seizure problems were those with serious criminal records who appeared to continue to be involved in crime after their release."). Practically speaking, those who favor banning certain weapons or having a waiting period for firearm purchases will find it extremely difficult to object to a proposal that targets offenders who have already been apprehended in illegal possession of a firearm.

Second, the proposal would open a new conceptual front on the exclusionary rule issue. Since the good faith exception to the exclusionary rule was recognized in United States v. Leon, 468 U.S. 897 (1984), the Department's efforts have centered on legislative proposals that would extend that exception to warrantless searches. While this effort is worthwhile, there are compelling reasons why the good faith proposal should not be the Department's only exclusionary rule initiative.

Because it is an exception to the underlying rule, the good faith proposal entails acceptance and, in a sense, tacit endorsement of the underlying proposition that the criminal should go free because the constable has blundered. At bottom, the Department's position should be that the exclusionary rule

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[1](...continued)
unconstitutional search or seizure, giving the program both a deterrent and compensatory aspect. The program could be administered by an Attorney General-appointed Review Board within the Department. The alternative sanctions proposal would be limited to firearms and would apply only in federal court. If successful, it could form the basis for future exclusionary rule initiatives.

itself is inherently flawed as a mechanism to enforce the Fourth Amendment. The alternative sanctions proposal allows the Department to raise the numerous flaws in the exclusionary rule in the most favorable context: violent criminals apprehended in possession of firearms.[2]

Third, the prospects for legislation extending the "good faith" exception are very low. At the same time, there is a strong possibility that the Supreme Court will take this step on its own. Although it has passed one or both houses on several occasions, the good faith proposal is strongly opposed by several key Democrats (including Senator Biden) and is thus among the first items dropped in any conference. On the judicial front, two Circuits have already found that the rationale of Leon extends to warrantless searches, and it appears very likely that the Supreme Court will come to this conclusion when the issue is presented to it. Thus, our only public response to the exclusionary rule as an Administration is quite likely to become a fait accompli outside of our legislative efforts.

In contrast, alternative sanctions by definition can only be undertaken by legislation. The Supreme Court has explicitly held that the exclusionary rule is not a personal constitutional right, but rather a prophylactic device whose only purpose is to deter unconstitutional law enforcement activity. See United States v. Calandra, 414 U.S. 338 (1974). As such, judicial creation of the rule was faute de mieux, and the Court has indicated that the rule's vitality rests on "the absence of a more efficacious sanction." See Franks v. Delaware, 438 U.S. 154, 171 (1978). Most significantly, in INS v. Mendoza-Lopez, 468 U.S. 1032 (1984), the Court refused to extend the exclusionary rule to INS deportation proceedings based in large part on the existence within INS of "a comprehensive scheme for deterring Fourth Amendment violations by its officers." Id. at 1044. In sum, the Supreme Court has placed the ball in our court, inviting legislative experimentation with alternative sanctions.

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[2] In addition to the enormous costs that the exclusionary rule imposes on society, it has two very obvious deficiencies in enforcing the privacy values of the Fourth Amendment. First, it does absolutely nothing to compensate those who most deserve compensation -- victims of unconstitutional intrusions who are themselves not guilty of any crime. Second, it does nothing to deter police actions that are not motivated by the prospect of a criminal conviction, such as simple harassment. The proposed system of alternative sanctions is more effective in enforcing the Fourth Amendment in both these cases than is the exclusionary rule.

Finally, a strong argument can be made that the alternative sanctions proposal in the firearms area has a greater chance of legislative success than does the good faith exception. Sarah Brady, the NRA, and the Fraternal Order of Police could all unite behind the idea that guns should not be excluded from evidence in criminal trials. The National District Attorneys Association and the Police Executive Research Form have each endorsed administrative sanctions as an alternative to the exclusionary rule. In addition, Senators Biden and DeConcini both have supported bills providing for alternative sanctions to the exclusionary rule in the past. We also could expect the alternative sanctions proposal to garner strong support from other police groups, a development that may significantly enhance prospects for our entire crime package.

2) Arguments Against Inclusion of an Alternative Sanctions Proposal

Three possible concerns were raised about the alternative sanctions proposal. First, it was feared that the proposal could be demagogued by the media and the liberals in Congress with an "assault on the bill of rights" type theme. They would assert that the Administration was endorsing "bad faith" searches and seizures by police. OPD felt there was some danger that during the 200th anniversary of the bill of rights the Administration would be perceived as "favoring repeal of the Fourth Amendment." OPD was also concerned that because the proposal could be viewed as exposing innocent gun owners to "bad faith" searches it might attract opposition from the NRA. Overall, our credibility on the crime issue could be diminished if this proposal were effectively cast as extreme.

Given the firearms context and public opinion on the exclusionary rule, it seems very unlikely that the proposal could be effectively denounced as a threat to civil liberties. The Supreme Court itself has clearly delineated between the Fourth Amendment and the exclusionary rule. The Court has made it clear that the exclusion of evidence is not a personal constitutional right. Moreover, Justice O'Connor's opinion in INS v. Lopez-Mendoza provides strong judicial support for the alternative sanctions approach. The consensus was that a system of credible alternative sanctions could not be painted as an endorsement of bad faith searches. This is particularly true with an initiative limited to federal law enforcement personnel, who are better trained and have a better track record in the Fourth Amendment area than their state and local counterparts.

Nor is it very likely that the NRA will oppose the alternative sanctions proposal. By definition, those who are "harmed" by the proposal are those who have been apprehended while in illegal possession of a firearm (the firearm will be used against them in court). Alternative sanctions do not encourage police to violate the Fourth Amendment and innocent gun owners can only benefit from provisions that punish officers and compensate innocent victims when a firearm is illegally seized. If certain radical elements of the gun owners community oppose the alternative sanctions proposal, that will only enhance our position by placing the Department shoulder to shoulder with the police and against the gun lobby.

Second, concern was expressed that the proposal would be criticized as too narrow. Since most exclusionary rule cases involve drugs, OPD was concerned that the firearm distinction would be viewed as artificial. For example, under this proposal, if firearms were seized next to drugs, laundered money, or other contraband, only the firearms would be admitted if the search violated the Fourth Amendment. This result would be perceived as absurd, and thus it was argued that the proposal should either extend to all evidence or to none at all.

A short answer to this hypothetical is that all of the listed evidence would be excluded absent our proposal, and a firearms conviction is better than none at all. In addition, firearms have the most direct nexus to the death or serious injury of innocent citizens and thus provide a logical place to begin the alternative sanctions experiment. This criticism was not seen as posing any serious threat to the success of the alternative sanctions proposal.

Finally, OPD expressed concern that liberal elements in the Congress (particularly Don Edwards in the House) might seize upon the sanctions part of the proposal, not as an alternative, but in addition to the exclusionary rule. We would then have no relief from the exclusionary rule with additional burdens. While there is no doubt that some in Congress would favor this outcome, OLA felt that it was very unlikely that liberals in Congress would "take the offensive" against police in this environment of public opinion on violent crime. In addition, our strength on the floor of both Houses on violent crime issues could undo any committee mischief.

My office, the Criminal Division, the Office of Legislative Affairs, and the Office of Liaison Services are persuaded that the benefits far outweigh any possible costs, and thus support inclusion of this proposal in the Administration's omnibus violent crime control package. The Office of Policy Development opposes inclusion of this initiative in the crime bill.

Options for the Attorney General

___ The alternative sanctions proposal should be included in the Administration's crime bill.

___ The alternative sanctions proposal should not be included in the Administration's crime bill.

cc: J. Michael Luttig
Robert S. Mueller, III
W. Lee Rawls
William Lucas
Thomas M. Boyd

audience

- 47 of 50 A.G.'s
- 17 are new
  - Dan Lungren (star of the freshman class) — who championed the cause on Cap. Hill —
  - Mike Moore (Miss. - D)
    stood up in W.H. press room
- D.A.'s Ala., N.J., Penn., Ga.

-7/42

Department of Justice

"AN ANTI-CRIME COALITION
FOR AMERICA'S COMMUNITIES"

KEYNOTE ADDRESS

BY

DICK THORNBURGH
ATTORNEY GENERAL OF THE UNITED STATES

TO THE OPENING ASSEMBLY

OF

THE ATTORNEY GENERAL'S SUMMIT
ON LAW ENFORCEMENT RESPONSES TO VIOLENT CRIME:
PUBLIC SAFETY IN THE NINETIES

WASHINGTON, D.C.
MONDAY, MARCH 4, 1991
9:15 A.M.

Last week, our hearts lifted as joint military operations won a great victory over violence and aggression in the Persian Gulf. That victory -- a textbook example of military might brought implacably to bear upon a ruthless enemy -- is remarkable in two respects. First, it was achieved by a unified coalition of the forces of twenty-seven nations, and second, it brought renewed respect, worldwide -- as the President has said -- "for the rule of law over the rule of the jungle."

I believe there are strong lessons here for us today -- even goals -- as we embark upon this joint effort to respond to violent crime in America. I fully trust that we can, by engaging in this dialogue, fashion a similar coalition of forces -- at all levels of our government -- to combat lawless violence here at home. And I greatly hope that together -- by building this coalition against crime -- we can preserve the rule of law to our threatened neighborhoods and the communal life in this country.

Let it then be understood, we are here in the name of the law and for the furtherance of justice. We are not here to search for the roots of crime, or to discuss sociological theory. The American people demand action to stop criminal violence whatever its causes. The debate over the root causes of crime will go on for decades, but the carnage in our own mean streets must be halted now. Those streets where violent crime last year claimed some 6 millon American citizens as victims, where the

odds of becoming a victim of violent crime are now greater than becoming involved in an automobile accident.

Indeed, unless violent crime is checked -- and checked soon -- we may well jeopardize what I have always called the first civil right of every American -- the right to be free from fear in our homes, on our streets, and in our communities.

President Bush has said that he always remembers this freedom from fear as the last, but often forgotten, of President Franklin D. Roosevelt's original Four Freedoms. And the President rightly reminds us all: "When we ask what kind of society the American people deserve -- what kind of society we hope to pass on to our children -- it's clear that our goal must be a nation in which law-abiding citizens are safe and feel safe."

True enough that all of us here this week would hope for a future that solves all the problems of inadequate housing, substandard health care, marginal education, and a lack of opportunity for meaningful employment -- those familiar causal grounds for potential criminal enterprise. Last week, the President proposed a comprehensive program to enhance opportunity for all Americans, and raise just such chances of crime-free life becoming the order of the day. But unless and until that day comes, we who are involved in the criminal justice system will be

looked to for leadership in protecting our citizens from the ravages of violent crime. Police, prosecutors, judges, correctional officials, involved citizens -- all who are represented here today -- must bend to the task of making our system work better so that our citizens are safer, and know they are safer. Only then will their quality of life match their legitimate expectations in a country so blessed with freedom, so rich in opportunity, and therefore, so dedicated to democracy.

I mentioned that this week's Summit is to be a dialogue. There will be very few speeches. Most of what we can accomplish will come from exchange, from what we learn from each other. And that means police interacting with prosecutors, sheriffs with judges, citizens with correctional officials -- federal, state and local -- so that the whole outcome of our discussions -- our coalition against crime -- will truly exceed the sum of your valued and individual contributions.

I.

In that spirit, since we are here to learn from each other, let me offer some observations. One is a caution, another is a call to cooperative action, and a third, a call for innovation in policing while sticking to the rule of law.

First let me caution you about money. There are some, who, even in these days of tight budgets, see additional federal financing as the only answer to more effective law enforcement.

Now, don't get me wrong. This Administration believes in federal, state, and local law enforcement. Indeed, over the past two years, while our federal crime-fighting budget has gone up 39 per cent, our formula grant program, now called the Edward Byrne Memorial State and Local Law Enforcement Program -- in honor of the New York City policeman slain in the line of drug-fighting duty -- has seen appropriations increase by over 200 per cent. This is President Bush's major initiative, and it has allowed each state's law enforcement cadres the flexibility and discretion needed to confront the local virulence of drug-related violent crime in all fifty states.

This fiscal round, expenditures for your innovative anti-crime and anti-drug programs will rise to nearly a half billion dollars. And additional funding will be forthcoming from our asset forfeiture program which recycles the assets and profits of the drug kingpins back into more effective law enforcement. Many of the police forces here today have participated in the equitable sharing of nearly half a billion dollars seized in joint drug investigations over the past five years. And there will be more to come, thanks to our mutual efforts to preserve this program in Congress last year.

And I know that many cities and states have already responded by reordering their priorities to provide more support for effective law enforcement. It is heartening, for example, that Mayor Dinkins and Police Commissioner Lee Brown are seeking to add 5000 policemen to New York City, even in the face of a fiscal crunch.

Let me move then to my second point, "working together." Increased cooperation among all agencies of law enforcement -- federal, state, and local -- has consistently proven to be the best answer to stopping violent crime.

It has succeeded with our Organized Crime Drug Enforcement Task Forces -- OCDEFT (for want of better acronym). These task forces bring together eleven federal agencies with their state and local counterparts to gather the street intelligence, make the arrests, and then bring the prosecutions that finger the major drug enterprises dominating the streets of thirteen major metropolitan areas.

Working together has succeeded as well in our DEA-funded state and local anti-drug task-forces -- now 52 in number. These joint efforts often produce cases against violent drug traffickers which can be developed at the local level and then tried in the federal courts, where far stiffer penalties are available. And finally, working together succeeds on a day-by-

day basis in a variety of ad hoc cooperative arrangements such as the Philadelphia Violent Traffickers Project, about which you will hear tomorrow, where innovative law enforcement leaders find their own path to more effective and efficient use of existing resources.

That is the call to cooperative crime-fighting I am issuing today. We will look to you for insights, ideas, suggestions, backing, and good faith, so that communal police work -- determined to take back our streets from violent criminals -- will have the full support of the whole justice community.

But we also want you to know that we have designed this Summit to demonstrate some of the innovations in policing which appear to be working around the nation. You will hear about a community policing program in Charleston, South Carolina; another community involvement effort in Kansas City, Missouri; a street-gang program in Los Angeles; anti-organized-crime efforts in New York and New Jersey; new and helpful laboratory technologies at the FBI; and alternative sentencing programs in Wisconsin. These deserve, indeed command, your close attention.

We also have an innovation of our own to offer -- largely based on some of your past efforts -- an initiative by this Department to set up violent crime task forces within several

urban communities, where the local infrastructure has been blighted, and human capital bled dry by drugs and crime.

Phase one: a coordinated attack on drug-dealers, gangs, and criminal predators -- to free the target area of crime -- by combined federal, state, and local law enforcement, led by the U.S. Attorney's Office in the target area. These task forces will employ modern, anti-crime techniques such as clean sweeps, street cameras, and top-gun arrests, all of which you can learn about at this Summit.

Phase two: a coordinated redevelopment program in conjunction with an augmented state and local police presence -- to keep the target area free of crime. The idea is to strip the streets of violent criminal elements so that legitimate enterprise can rehabilitate such barren ground. First, we pull the weeds, then we plant the seeds. And we are allotting $12 million to the model task forces in these blighted urban areas -- along with accompanying federal grants -- in hopes of a real harvest of human dignity. If we succeed, we will weed and seed elsewhere -- anywhere that criminal violence can be plucked out and human decency take root and grow.

II.

On another, perhaps more controversial subject, I realize that any discussion about the armed career criminal is inevitably going to turn to the question of what do we do about his firearms? A panel discussion is scheduled for tomorrow afternoon on "Targeting the Armed Violent Offender." But I have no doubt this subject will come up during other discussions as well.

Various proposals to deal with this problem have been on the agenda of the Congress and various state legislatures and city and county councils. We won't resolve these political differences here this week, to be sure, but let me offer a couple of common sense observations.

I first think back to my days as a governor when we adopted a statute that imposed a minimum mandatory five-year sentence -- no probation, no parole -- whenever a firearm was used to commit a crime. We put out menacing billboards across the state: "You commit a crime with a gun in Pennsylvania and you've shot five years of your life!" That message was very potent, and so was our courts' strict imposition of sentences. We saw the number of firearm offenses go down. People didn't want to shoot five year of their lives, and they knew they would be held accountable.

That is the key to me. Accountability under the rule of law -- I'm sure you believe along with me -- is our only real assurance of public safety. And that is what the President has sought to guarantee by his support of federal firearms statutes to hold violent criminals accountable for use, and even for possession, of a firearm. For example, a first federal offense today for using a firearm in the course of a violent crime or drug-trafficking offense carries a minimum mandatory sentence of five years -- no parole or probation, and, I might add, no plea bargaining under orders I issued in 1989. A second conviction carries a minimum twenty-year sentence.

Over the past two years, more than 2,500 such offenders have been charged under this statute, and the vast majority -- some of America's most dangerous felons -- have been convicted. Another thousand such cases are pending. Some of the more habitual offenders, whose sordid careers fall within sanctions under the Armed Career Criminal Act, presently receive a minimum sentence of fifteen years for merely possessing a firearm after three violent crime or drug trafficking offenses, again no probation, no parole, and no plea bargaining. Through Project Achilles, over three hundred of these violent and armed criminals have already been put very far away.

Under soon to be proposed legislation, accountability would be further enhanced. Possession of a gun after only one such

conviction would bring a five-year mandatory sentence. This is right in line with increased penalties that we are proposing across the board with regard to the use -- or now the possession -- of semi-automatics or other dangerous weaponry, in connection with any crime. And these sanctions extend to smuggling firearms, even to lying to a license bureau when acquiring a firearm.

Some critics have complained that we're becoming too tough, that we're locking up too many of these violent offenders. Not me and, I think, not you.

We sincerely hope these tough federal laws can serve as model statutes for state firearms codes. And we are encouraging that by formula grants, so that the armed and violent criminal will face severe sanctions at all levels of law enforcement.

But I am well aware that this is precisely where the debate begins -- over whether, and at what level, further limits should be set upon the availability of firearms to the general public. How far should such limits go -- if they threaten to curtail legitimate ownership of firearms? And should the states -- or even, as some propose, the federal government -- impose them?

As I have said, we will not resolve those questions here this week. But let me explain something that must be taken into

realistic consideration in this debate. Whatever efforts are taken to deal more effectively with the illegal use of firearms by felons will be severely inhibited by a serious shortcoming in our present system. Today the records needed to make the necessary match-up between a potential firearms purchaser and his possible criminal past do not adequately exist. To put it bluntly -- no matter what point of purchase or 48-hour delay or seven-day waiting period you might establish, you couldn't come up with the needed facts, on a consistent basis.

And that, I will say right here, is something I want corrected. Today only one out of six felons actually purchases his weapon at a sporting goods store instead of on the black market. But turning up even his prior record would be hit-or-miss because we are behind times in keeping modern, up-to-date conviction files at our electronic fingertips. This simply should not be, and we want to cooperate with you in doing something about it. Immediately.

First, we are going to spend over $12 million this year, seeing that the FBI criminal file backlogs are cleared up, so as to include the very latest input from your own state criminal records. And we want to make doubly sure that your records are accurate too, so -- again through federal grants -- we are allotting $27 million to state law enforcement agencies to improve their own criminal records. These represent giant steps

forward in ensuring that we are in a position to track down those who pose the very greatest threat to our communities.

III.

That is the present story on dangerous weapons in the hands of violent criminals. But let me once again turn to the example of Desert Storm, and the great might that was brought to bear upon a threatening and violent enemy. Under brilliantly coordinated "command and control," the Gulf coalition forces made the best use of firepower guided by great ingenuity and relentless certainty. We had the weapons to do the job -- "smart" weapons that worked with deadly effect against an enemy finally reduced to desperate encounter, ineffectual response and abject retreat.

not smart bombs - but smart kids

Here at home, in the fight against violent crime, we should employ, to be sure, the same "command and control," the same ingenuity and certainty. Only here we battle not with the weapon of the military, but with the far stronger weapon of our laws.

We need to make certain that our laws are just as "smart" -- just as efficient and effective against criminals -- as those weapons that turned back the ruthless and violent intrusion by Saddam Hussein's forces.

In that regard, we have work still to do. We need new laws to provide this coalition against crime with the tools to drive crime from our streets with command and certainty.

* We need a workable death penalty for terrorist murderers, serial killers, and other heinous crimes.

* We need reform of habeas corpus proceedings that have fostered seven-to-eight year stays of the ultimate sanction, and all but nullified the death penalty in 36 states.

* We need reform of the exclusionary rule that keeps necessary and probative evidence from juries, often allowing the criminal to go free.

* We need new laws to protect women and children against violence and exploitation.

In a word, we need the legal weapons for the next decade to get the job done. And we are going to go to the Congress again so that they can deliver these weapons and others to all of us.

Let us not be misunderstood in this justified effort at legal reform. This year marks our observance of the 200th anniversary of the Bill of Rights, that bulwark of due process and the rule of law in our society. No one suggests that our law

enforcement efforts should in any way invade or invalidate the Constitutional rights of those charged with crime. But we do suggest that we advocate and utilize every Constitutional weapon to protect the rights of the law-abiding citizen as well.

IV.

In conclusion, let me return to my central message. We are here to fashion a domestic coalition against crime based on the rule of law, so that we will have the full forces needed to confront violent crime in our communities. We have a rare opportunity over the next two days to exchange views on "what works" in the criminal justice process -- the old and the new, the tried and the true, the innovative and the time-tested. Let us not fail to take full advantage of this unique chance to fine-tune our efforts.

I speak as one who has seen how law enforcement operates over the last twenty-two years as a working prosecutor at the local level, as the governor of a major state, and now as Attorney General of the United States. I feel strongly about the need for close cooperation in protecting our citizens. In my visits to many of you around this great nation, I have sensed the special commitment and dedication which you bring to your work -- and the deep gratitude our citizens feel for your professionalism in securing their safety and well-being.

Let us strive to see that each of us leaves this Summit Conference satisfied that we have given and partaken of the very best that this nation has to offer in law enforcement and the administration of justice. For that, our citizens will be eternally grateful, and we ourselves, eternally fulfilled.

Let me expand on this by an example. Last Friday in The Philadelphia Inquirer appeared the following:

> When federal agents arrested Ruben Floyd Wednesday night at his North Philadelphia home for allegedly supplying an arsenal of weapons to drug dealers, neighbors showed exactly how they felt about it.
>
> They applauded.

And so do we. For this is what it's all about.

I wish you Godspeed in our endeavors, now and hereafter.

The Almanac of Dates

1913 Spring wildfowl shooting and the sale of wild game birds outlawed in the U.S.
1915 German cruiser Dresden blown up by its crew
1919 Max Shulman, author, born
1920 Hank Ketcham, creator of "Dennis the Menace," born
1927 Jan Tschakste, first President of Latvia, died
1932 George Eastman, founder of Kodak Camera Company, died
1939 Republic of Czechoslovakia dissolved
Hungarian troops seized Carpatho-Ukraine, USSR
3/14 1950 FBI's "10 most wanted" list begun
1958 Prince Albert Alexander Louis Pierre, heir to Monaco, born
1960 Bakersfield, California, train wreck
1968 Cosmos 206, Russian satellite, launched
1971 End of the Water Drawing Festival at Todaiji, Japan

March 15th

Ides of March
Turkey buzzards return to Hinkley, Ohio
Ancient Romans sacrificed a 6-year-old bull to Cybele
45 BC Pompey camped at Munda, Spain
44 Julius Caesar was assassinated
493 AD Odoacer the Barbarian, King of Italy, slain by Theodoric the Osgoth
933 King Henry V of Germany defeated the Magyars
1147 Alphonso I, King of Portugal, stormed the Moorish fortress of Santarem
1493 Columbus returned to Spain from Hispaniola
1521 Magellan sighted the Philippine Islands
1607 Charles IX crowned King of Sweden
1660 England's "Long Parliament" ended
St. Louise de Marillac, founder of the Sisters of Charity of St. Vincent de Paul, died (Feast Day)
1767 Andrew Jackson, U.S. President, born
1781 British victory at Guilford Courthouse, North Carolina
1798 Oneida County, New York, founded
1820 Maine became a state
St. Clement Hofbauer died (Feast Day)
1832 New York Institute for the Blind, first in the U.S., opened with three pupils
1848 Gold discovery first announced in a California newspaper, San Francisco's Californian
1858 Liberty Hyde Bailey, horticulturalist-author, born
1871 Philadelphia got a paid fire department
1875 Archbishop John McClosky made first American Cardinal
1898 Sir Henry Bessemer, steel-making inventor, died
1909 Edward P. Weston, aged 71, left New York to walk to San Francisco
1915 David Schoenbrun, news correspondent, born
1916 Harry James, bandleader, born
General Pershing entered Mexico
1917 End of a four-day revolt by Russia's armed forces when Czar Nicholas II abdicated
1919 American Legion organized in Paris
1942 Rachel Field, author, died
1943 Empress of Canada torpedoed off Freetown, West Africa
1970 Expo '70 opened at Osaka, Japan

March 16th

Start of a 3-day fair at Preston, Lancashire, England
Feast of St. Julian of Antioch
Feast of St. Paul the Simple
Feast of the Martyrs of North America (Jesuit missionaries killed by the Indians)
45 BC Caesar arrived at Munda, Spain
1021 AD St. Heribert of Cologne died (Feast Day)
1285 King Alexander III of Scotland died after a fall from his horse
1452 Frederick IV, King of Germany, married Leonora of Portugal
1494 Maximilian I, Holy Roman Emperor, married Bianca Sforza
1561 Portuguese Jesuit missionaries in East Africa killed
1713 Asiento Treaty signed, a slave trade agreement among Britain, France, and Spain
1739 George Clymer, signer of the Declaration of Independence, born
1751 James Madison, 4th U.S. President, born
1778 New York State coat of arms adopted
1792 King Gustavus III of Sweden shot at a masquerade
1802 U.S. Military Academy founded at West Point
1833 Parley's Magazine, a children's illustrated, founded
1889 Two U.S. and two German warships wrecked by a typhoon in the Samoan Islands
1898 Aubrey Beardsley, illustrator, died
1903 Senator Mike Mansfield born
1906 Florence, Colorado, train wreck

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September 13, 1990, Thursday, Home Edition

SECTION: Part A; Page 14; Column 1; National Desk

LENGTH: 612 words

HEADLINE: BUSH ATTACKS CRIME BILL, SAYS IT 'HANDCUFFS POLICE'

BYLINE: By ROBERT L. JACKSON, TIMES STAFF WRITER

DATELINE: WASHINGTON

BODY:

President Bush attacked a House-sponsored crime bill Wednesday, telling a group of 110 state and local prosecutors assembled at the White House that it is a "pro-criminal" measure that "handcuffs the police."

In the Rose Garden with Atty. Gen. Dick Thornburgh at his side, Bush was backed by leaders of the National Assn. of Attorneys General and the National District Attorneys Assn., whose members enthusiastically applauded his remarks.

The crime bill, approved by the House Judiciary Committee, is expected to be debated on the House floor later this week.

Bush said the bill would expand the exclusionary rule, under which evidence seized without a court warrant may be barred from a criminal trial. He said the measure would also increase "litigation abuse" by prisoners, delaying the imposition of capital punishment in many instances by allowing Death Row inmates to make repeated habeas corpus appeals.

"We need a crime bill that will stop the endless abuse of habeas corpus . . . and one that ensures that evidence gathered by good cops acting in good faith isn't barred by technicalities that let bad people go free," the President declared.

"And, for the most unspeakable of crimes, we do need a workable death penalty, which is to say a real death penalty."

In threatening to veto the House measure if it reaches his desk, Bush added: "I will not sign a crime bill that handcuffs the police."

Rep. Jack Brooks (D-Tex.), chief sponsor of the House bill, defended the legislation as "a tough and effective package . . . that was the product of 30 days of hearings." He called on the White House to "refrain from political posturing so that we can proceed in a bipartisan manner" to enact anti-crime legislation.

Thornburgh told reporters that the House bill "is largely a specious anti-law enforcement measure" that was approved by "naive and overly idealistic" members of the House Judiciary Committee, headed by Brooks.

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He said the bill omits the death penalty for a number of federal crimes currently subject to capital punishment, including mail bombings and airplane bombings resulting in death.

A separate crime bill approved by the Senate in July would be "acceptable," Thornburgh said, although it contains some features, including its estimated cost, that are not to the Bush Administration's liking. Any House-passed measure must be reconciled with the Senate legislation before it can be sent to Bush for his signature.

Michael Moore, attorney general of Mississippi and chairman of the national association's criminal law committee, joined Bush in criticizing the House measure. "I don't think you're going to find a single prosecutor in this country who is going to support the habeas corpus provisions in the House bill," he said.

Moore said the President was "speaking for every one of us" when he attacked provisions that would allow Death Row inmates in state prisons to initiate a series of habeas corpus proceedings that could delay imposition of punishment for years.

"I suspect the House committee was heavily lobbied by defense attorneys," he said.

Moore, a Democrat, said a more preferable plan that would limit habeas corpus suits was developed by a legal commission headed by retired Supreme Court Justice Lewis F. Powell Jr.

Richard Ieyoub of Lake Charles, La., a Democrat who is president of the district attorneys' group, said the House bill "would perpetrate a major fraud on this country. . . . at a time when people are calling out for stronger criminal sanctions."

"The House bill would effectively prevent imposition of the death penalty in 37 states which now have capital punishment," Ieyoub told reporters.

SUBJECT: BUSH, GEORGE; LEGISLATION -- UNITED STATES; CRIME -- UNITED STATES; EVIDENCE; EXCLUSIONARY RULE; CAPITAL PUNISHMENT -- UNITED STATES; POLICE -- UNITED STATES

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SEPTEMBER 12, 1990, WEDNESDAY

half a mile from here, construction crews are hard at work... (before another name to the wall — law on the books)

SECTION: NEWS MAKERS & POLICY MAKERS

LENGTH: 4624 words

HEADLINE: CB
PRESS BRIEFING
CRIME BILL CURRENTLY IN THE HOUSE OF REPRESENTATIVES
PARTICIPANTS:
RICHARD THORNBURGH, US ATTORNEY GENERAL
MIKE MOORE, ATTORNEY GENERAL FOR THE STATE OF MISSISSIPPI
RICHARD IEYOUB, PRESIDENT, NATIONAL DISTRICT ATTORNEYS ASSOCIATION
THE WHITE HOUSE

KEYWORD:
THORNBURGH ET AL-09/12/90

BODY:
ALIXE GLEN (White House Deputy Press Secretary): I just want to introduce the Attorney General. He is joined by Attorney General Mike Moore of Mississippi, the chairman of the Criminal Law Committee of the National Association of Attorneys General, and Richard Ieyoub of Lake Charles, Louisiana, president of the National District Attorneys Association.
ATTY. GEN. THORNBURGH: Thanks, Alixe.
Today, representatives of nearly 8,000 federal, state, and local prosecutors met in Washington to examine and evaluate the provisions of the Crime Bill reported out of the House Judiciary Committee, and we have heard from the President this afternoon in the Rose Garden with respect to the provisions that he originally proposed over a year ago. And examination of the President's original proposal as compared with the bill now presently working its way toward the floor of the House of Representatives provides a stark contrast between a bill that is pro-law enforcement and a bill that is pro-criminal.
On a bipartisan basis, the assembled prosecutors here today expressed their concern about this legislation, and questions that involve the labeling of a bill as an anti-crime bill when it would make it more difficult to impose a federal death penalty, when it would eliminate from the federal death penalty crimes such as the mail bombings that took the life of the civil rights lawyer in Savannah earlier this year and such as the Pan Am 103 plane bombing, or a bill that would make it more difficult to impose the death penalty in the 37 states that have adopted chemical -- capital punishment -- in effect virtually wipe out the death penalty in those states -- and a bill that would entertain the notion of some kind of bizarre system of racial or ethnic quotas when it comes to applying capital punishment.
Finally, I think we're most concerned, at all levels of government, with the provisions in the House bill that would delay and postpone the finality of sentences imposed on convicted criminals. Last year there were 11,000 cases in the federal courts involving post-conviction relief being sought by convicted state criminal defendants. So in each case, we are concerned that the bill labeled a crime bill that's coming out of the House Judiciary Committee falls way short and in fact is contrary to the proposals that the President originally made over a year ago.

tough on criminals — not law enf.

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We are here to express our support of the President's proposals and to reason with the members in the hope that the amendment process which will ensue in consideration of this bill will restore many of the provisions that the President originally proposed.

I'd like to offer the opportunity my colleagues from the state, Mike Moore of the National Association of Attorneys General, and Richard Ieyoub of the Natinal District Attorneys Association, to extend their comments, and then we'd be pleased to answer any questions you might have.

Mike?

MR. MOORE: Thank you. Thank you, Mr. Attorney General.

It is usual that the federal government comes to your state and says, "We're the federal government, we're here to help you." Well, Mr. Attorney General, as I said earlier, we're the states of the United States of America, and we're here to help you, on this particular occasion.

I don't think you're going to find a single prosecutor that supports the habeas corpus provisions in the House bill as it stands right now. Prosecutors in this country have worked very hard to do a couple of things. One of those things is to make the criminal justice system work for everyone -- for the victims of crime, for the prosecutors, for the law enforcement -- to make it a little faster. We think the intent of the bill before Congress was to do just that. We think it failed. We think it's a bill that is pro-criminal and is not an anti-crime package.

Perpetual relitigation in the federal courts of constitutional issues handled in state criminal trials is in nobody's best interest. Perhaps even more importantly, victims and their families are never able to draw the curtains on the tragic events that occur to them, such as in a death penalty case or in a terrible rape or armed robbery. The legislation would make the perpetrators of violent crime, not the victims or their families, the beneficiaries of an act of Congress.

For the last several years, defense lawyers have been losing ground in the United States Supreme Court in their efforts to delay final judgments. The habeas corpus provision is an effort to regain the ground they have lost by overruling the decisions favorable to the people of the United States. And these efforts, if they're exposed in the light of day, as they are today, the lack of popular support for such efforts would become very obvious. That's why you find the National District Attorneys Association, the attorneys general of this country, coming together with the federal government against this legislation. That's why we're here today.

Thank you.

ATTY GEN. THORNBURGH: Richard.

MR. IEYOUB: Mr. Attorney General, the National District Attorneys Association, which represents over 7,000 elected and appointed prosecutors across the country strongly support the President and the Attorney General in their efforts to defeat this legislation and to foster legislation which is, in fact, anti-crime. If certain provisions of this bill are passed, provisions which were mentioned by the Attorney General, I believe it would be tantamount to creating or perpetrating a major fraud on the American people. At a time when this country is plagued with drug-related crime and gang warfare and the people of America are crying out for stronger criminal sanctions, these provisions, which at best can be characterized as pro-criminal, will dramatically increase the opportunity for delay, abuse, and repetitive litigation in both capital cases and cases that are not capital. And for all practical purposes, it would prevent the imposition of the death penalty in the 37 states which now have death penalty statutes.

This is anything but an anti-crime piece of legislation. It is pro-criminal.

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And for the Congress, under the guise of reform, to try to pass this legislation is a sham.

The district attorneys around this country realize that if this type of legislation is passed, it's going to be very difficult for us to do the jobs that we're supposed to do to protect the public and to see that the law is enforced and protected. So, we are in strong opposition to this legislation, and we hope the American people will be informed that it is not in fact, as it has been billed, an anti-crime bill, an anti-crime piece of legislation, but in fact, it can be termed a pro-criminal piece of legislation.

Thank you very much.

ATTY GEN. THORNBURGH: Mr. Teyoub promises not to beat about the bush the next time he's here. (Laughter.)

We'll be glad, I think -- any of us -- to take questions. Yes?

Q Could I ask you a question, not relating to the substance -- (inaudible) -- but a political question. I know you'd like for Congress to always deal with the substance, but it's a political world out there.

Given the President's current high popularity standing, particularly in the wake of the Gulf crisis, does this give you more hope, and do you believe that this can translate into some support for his stand on this? I'd ask you, General Thornburgh, and the out of town guests, as well.

ATTY GEN. THORNBURGH: I think this legislation's appeal in the form that it was originally proposed by the President stands on its own. But I think there is a connection between dealing with international lawlessness and dealing with lawlessness here at home. The same kind of resolve and determination and commitment that the President has evidenced in dealing with naked aggression in the Persian Gulf I think characterizes his determination to "take back the streets" as he said earlier today. And my expectation is that that will give an extra boost to this legislation in the form that he originally proposed it.

Q Could I ask your colleagues?

MR. MOORE: I think you're -- you're talking to two Democrats. I'm a Democrat from Mississippi and Richard is a Democrat from Louisiana, and I think the Attorney General is a Republican. I'm not sure about that -- (laughter) -- but they tell me that.

I think what's happening now is you're seeing the state and local folks come together with the federal folks to fight this crime package, because it's not good for the people of Mississippi. I don't think it can be characterized political in any manner whatsoever. When I said earlier that you can go across this country and talk to the city prosecutors, county prosecutors, DAs, attorneys general all the way across the board, and ask them if they are in support of this piece of legislation, they're going to tell you a resounding "no". The chiefs of police association and the police officers all over this country are against this piece of legislation because what it does, it wears the people of Mississippi and America out financially, and waiting on these cases to be over with. There's no finality whatsoever. We have death penalty cases now that last 10, 12 years. If this litigation passes I think we'll add another five or six years on that. We can't afford to do it, and I don't think it's the right thing to do. People in America are fed up.

Q But even (as?) a Democrat, would you hope that on this time the Republican President's popularity could win debate on this issue with Congress?

MR. MOORE: I commend the President -- Republican, Democrat, whatever he is. He stood in the Rose Garden and said some things to the law enforcement community of this country. And if you were there you heard the applause. We stand solid behind the President of the United States, and we also commend this Attorney General, who has done in the last year and a half a lot of things to bring the nation's prosecutors and attorneys general together on behalf of the people of

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this country and I think it's great.

MR. IEYOUB: I think that partisanship has nothing to do with this at this point. The President of the United States has proven that he is a strong law enforcement President. And as such, we, as district attorneys, certainly support him and support the Attorney General. They have been very receptive to us. They have invited us to certain meetings regarding legislation to be passed. They have accepted our input and want to hear from us.

We feel like we have real friends in the White House, with the President's administration and with the Attorney General at Justice. We have worked very closely with them, and obviously we support them because we think that they have us in mind, that what's best for us is what they want.

And the President was brilliant today in his speech in the Rose Garden. He covered every issue that is really concerning prosecutors -- the ability to overcome these technicalities which allow good people to suffer and allow bad people to go free -- the exclusionary rule, for instance. The President has tried to propose legislation which would expand the good faith exception to warrantless searches. That's the type of thing that we, as prosecutors and law enforcement officers, want to see. And we think that we can gain that if we support the President and the administration. And we're here in force to talk to our congressmen to try to get this legislation defeated and get better legislation passed.

Q Some have complained that the President has spent so much time on foreign affairs issues, relations with the Soviets, the Persian Gulf crisis, that he has ignored domestic items, such as the crime package, and that it's taken him too long to bring it to its finality, to a resolution. From all three of you, do you think it's taken too long to get this package in its final shape?

ATTY GEN. THORNBURGH: Let me speak for my client, first of all, I think today's interest expressed by the President is not an isolated event. He was in on the formulation of the original package, which he presented in the rain (?) over a year ago. He was involved in the passage of an acceptable bill from the Senate, just as he has now taken arms to oppose an acceptable bill that's on its way to the House floor.

And I don't think, from my point of view, as a pointman on these kinds of efforts, that there's been any diminution of effort or any neglect of this particular domestic need, which he has consistently identified as the number one problem on the domestic agenda.

Q Why has it taken so long to -- to bring it to this point?

ATTY GEN. THORNBURGH: I think you'd have to ask those people who control the Senate and the House. If the President had his way, it would have been passed long ago. But, it has taken a good deal of time to bring it to the floor, and now, unfortunately, it comes to the floor of the House in an unacceptable form.

Q Could you let the gentlemen answer the question? Do you think that the President has ignored domestic items like this? Do you have any complaints about the speed with which he has pursued this?

MR. IEYOUB: On the contrary, I think the President has been great in his efforts to see that a crime package which is reasonable would be passed. He sent his package to Congress and they hacked it up and have produced this aberration that we see right now that's obviously pro-crime.

We think that the President is doing everything he can to help the prosecutors and law enforcement agents across the nation. And we know he's sensitive after what he said in the Rose Garden and as a result of what we have seen. He is extremely sensitive to our needs and desires and he certainly wants to have a crime bill passed which will help us, as he stated, "take the streets back."

MR. MOORE: In Mississippi we say "the proof's in the pudding."

Q No complaints?

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MR. MOORE: (Laughs.) Really don't have many complaints. I would like to maybe see some things move along a little faster, but the people who are actually out doing the day-to-day work, William Bennett, Dick Thornburgh, and others, Bill Sessions, they have -- in may opinion, in the last year and a half -- done an excellent job. I think we're doing better now than we are -- than we were a year ago on the drug problem in America, and that is the cause of, as you know, of about 80 percent of the crime in this country, so I give him an A+.
Yes?
Q To the two prosecutors, does the National District Attorneys Association agree with most police associations in this country that there's a need for tougher gun control? And have you brought this topic up to the President, specifically such as the Brady plan?
MR. IEYOUB: The National District Attorneys Association, at one of its national conferences, did pass a resolution in support of certain types of gun control, especially in controlling automatic weapons, certain part -- certain types of automatic weapons.
Q (Off mike.)
MR. IEYOUB: Well, just generally in some sort of control. I can't -- I'm not -- we didn't get specific about it, but we have that resolution and can supply you with the resolution. But, especially as to automatic weapons, we did come out in opposition to not controlling automatic weapons at all, and that we were in favor of some sort of control of automatic weapons.
Q Well do you think the President's done enough on this, or are you among those who believe he hasn't done enough?
MR. IEYOUB: Well as I said, I think that the President is very sensitive to our needs and is pro law enforcement, so I'm in support of him.
Q But I'm saying that a lot of police groups have been calling on the President to be tougher on gun control, and Bush hasn't. Are you asking the President to do so, or are you not asking him about it at all?
MR. IEYOUB: Well I'm not asking him right now. I am asking him to go along with the NDAA relative to our resolution as to automatic weapon --
Q (Inaudible) -- gun control?
MR. IEYOUB: Not at this point, I do not.
Q Wait, you just said that your organization passed a resolution in support of restrictions on assault weapons which is in the House bill and which is opposed by the President, so how do your --
MR. IEYOUB: Well, certain types of assault weapons we have passed a resolution for some control of that.
Q Right, and that is in the House bill and it is opposed by the President. Do you -- have you made that point to the President, and do you want to see that provision in the House bill retained, and the President reverse his position in opposition to it?
MR. IEYOUB: We have not made that point to the President. We think that there are other features of this particular bill that are a lot more important, and that are much more significant than that particular piece of, or that provision, in the bill. We have not made that point to the President.
Q Can Mr. Moore answer that question, as well?
MR. MOORE: We haven't addressed that point at all, the National Association of Attorneys General.
Q On any aspect of gun control?
MR. MOORE: No.
Q Why?
Q It seems to be a major issue.
MR. MOORE: Well, we have 49 other attorneys general in this country that you might ask the same question to.

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Q Well you're the one that voted --

MR. MOORE: No, I'm the one that's here from Mississippi, and I'll tell you, I can't speak on behalf of the folks from all the other states on that issue because we haven't passed a resolution, hadn't had any discussion at all. I'll tell you if we do.

Q How about the Brady Bill? Has the association --

MR. MOORE: We haven't taken a position on that. No.

Q A number of your critics in Congress say that, while the administration acts tough on street crime, you only talk tough on corporate white collar crime. And specifically going through the Judiciary Committee now is H.R. 5111, which is the so-called RICO reform, which would retroactively change the measure of damages in bank fraud cases from triple to single damages. And the administration hasn't indicated one way or the other whether they feel strongly on this. And some of the critics say that this is the most important anti corporate white collar crime bill because it effectively lets off savings and loans and banks off the hook in these civil damage cases. Could all three of you address yourselves to that question?

ATTY GEN. THORNBURGH: Well, I don't know who these critics are, but it would be a news flash indeed to over 300 defendants involved in savings and loan fraud who have been convicted of federal offenses in less than two years, 77 percent of whom have gone to prison. I don't think they'd think that we were being soft on --

Q The question is, though, on the --

ATTY GEN. THORNBURGH: You're asking about the specific bill?

Q Right.

ATTY GEN. THORNBURGH: This is a -- this involves private litigation, not -- not government.

Q It affects the -- (inaudible) -- yes, it does.

ATTY GEN. THORNBURGH: It affects private parties, non-governmental parties and the Department of Justice. And we haven't taken a position on that because we're studying it.

But let nobody have any misgivings about how we feel about white collar crime. This President addressed it as a priority within three weeks of his inauguration, and when we finally got the funding for our savings and loans task forces, we're up and running and putting people in jail with alarming, to them, regularity.

Similarly, in the defense procurement area, in the HUD fraud area, dealing with public corruption, white collar crime is and will remain a number one priority with this Department of Justice because our jurisdiction permits us to follow it across state lines, and we have tools and weapons that are not available to state and local prosecutors. So, let me just put that on the record.

Q General, in describing the House bill as a pro-criminal bill, is it your belief that the members of the House Judiciary Committee acted in fact in bad faith in passing this legislation?

ATTY GEN. THORNBURGH: No, I think they may have been mistaken, they may have been overly idealistic, they may have been naive about what these provisions were intended to accomplish, but I think they have an opportunity to protect that mistake -- to correct that mistake, and we hope to give them the fullest chance to do so.

Q I know it's off the topic, but I can't ignore the nomination hearing tomorrow for Judge Souter. Senator Biden says that he's going to question Judge Souter on the great issues of our times. What is your response to that? To what extent should he answer those questions? What are your expectations of the hearing? Will it be tough, difficult, easy?

ATTY GEN. THORNBURGH: I think Judge Souter has the experience and the

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character and the integrity to be able to differentiate between questions that seek legitimately to plumb his views on constitutional issues and those questions which seek a commitment from him as to how he might decide a particular case or react to a particular issue when he is confirmed to the Supreme Court. He has an extensive background in the law, has distinguished himself intellectually. And I expect that when he's given the opportunity at last to respond to proper questions that it will pave the way for a rather speedy confirmation.

And I don't see anything inconsistent in what's been expressed by any of the members of the Judiciary Committee relating to their intentions with regard to questions to him with the proper kind of examination that should take place of a prospective Supreme Court nominee.

Q Have you met with him at all? Has he --

ATTY GEN. THORNBURGH: Yes.

Q Has he spent much time with you briefing, preparing himself for the --

ATTY GEN. THORNBURGH: He has spent a great deal of time preparing for this.

Q With you, sir?

ATTY GEN. THORNBURGH: He wouldn't want to waste time with me. I'm a former prosecutor. (Scattered laughter.) But he has talked with teams of experts. In a sense that -- I don't want to convey a false impression that he has to be coached or boned up on the issues. I think it's a matter of giving him a dry run at the type of questions that he's going to get. He's perfectly capable to answer these questions on his own, as you will see beginning tomorrow.

Q Thank you.

Q Pardon me. Mr. --

Q Go ahead.

Q Mr. Thornburgh, Chairman Jack Brooks of the Judiciary Committee, Bill Hughes, a Subcommittee Chairman on Crime Committee, both contend that their bill actually speeds up the habeas corpus process and they say that it expands the death penalty. Now that, in effect contradicts what you're saying --

ATTY. GEN. THORNBURGH: Not in effect, it plainly -- yeah.

Q Now, both of these guys, by the way, are for the death penalty, and you're suggesting that they may be overly idealistic and naive -- although I find that a little hard to apply to Jack Brooks, being naive -- (laughter) --

ATTY. GEN. THORNBURGH: Don't tell Jack that.

Q Nevertheless -- nevertheless, I wonder if you could provide a couple of specific examples --

ATTY. GEN. THORNBURGH: Yeah, I can.

Q -- of how habeus corpus is impaired and how the death penalty is -- particularly in state cases is --

ATTY. GEN. THORNBURGH: Yeah. These are set forth at some length in the material we furnished to the Speaker earlier this week. Well, let me see if I can take the time to look through the legalese and find out where we are. (Spoken to self) Habeus corpus, page 18.

Justice Lewis F. Powell, who authored the recommended reforms at the request of Chief Justice Rehnquist, testifying earlier, stated that support for this bill, and I'm quoting, "Would mean support for increased delay, piecemeal litigation and more last minute appeals. A vote for H. R. 4737 would in practical effect be a vote to eliminate capital punishment in the United States." The defense rests.

Q -- (inaudible) -- procedural steps, this would drag it on out --

ATTY. GEN. THORNBURGH: Yes, and there's the introduction of a lot of undefined and amorphous standards that permit wide leeway to the courts to delay these proceedings, standards that would call for relief where the interests of justice might be served, where ther may have been a miscarraige of justice or, in cases invoving cause and prejudice -- these are in pages 18 through 20 of the letter

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that we sent up to the Speaker. And I don't think Justice Powell would be viewed as an alarmist in this respect. He has studied carefully at the Chief Justice's request the whole area of habeas corpus reform. And that was essentially what was imported into the President's original proposals. It has now been transmutated into something that's entirely different, and as we have stated today, would have the directly opposite effect from that intended by the Powell Commission recommendations.

MR. MOORE: Let me just make this one point.

ATTY. GEN. THORNBURGH: Mike, you're the expert on it.

MR. MOORE: Coming from a state that doesn't have all the money in the world, Mississippi, I would be for -- absolutely for -- anything that I thought would speed up the process. We actually handle -- Sonny White (sp) in my office and many others -- handle the death penalty cases all the way through the state system and through the federal system, back and forth, for the years it goes on. It cost us literally millions of dollars to go through these cases. If there was something there that I could support that would save the taxpayers of my state -- and I'm sure the same would go in other states -- some money, we would do that.

We don't see it in these bills, and we're the ones -- and I think that's the importance of seeing the Attorneys General of this country and the District Attorneys of this country -- the ones that actually try those cases, the ones that try them at the trial level and also through the appellate process, that's why we're against the bill. It won't do what they intended it to do. And the question was asked earlier about whether we thought it was ill-intentioned or there was bad faith there. No, but I think there's been some heavy lobbying by the defense bar in this country, and I think they got there first, and we're hoping to get there near the end, hoping to change some minds. And I will tell you that we've already changed some minds in the last couple of days, and I hope the vote will support that.

ATTY. GEN. THORNBURGH: Let me just give you one other example of the kind of thing that concerns us. Under the pending legislation, the death penalty would be appropriate if the jury found an aggravating circumstance and the absence of a mitigating circumstance. That is to say, for example, an aggravating circumsance might be the assassination of the president.

Under the bill as it's coming to the floor, it requires two aggravating circumstances in the absence of a mitigating circumstance, which would mean, for example, that assassination of the president would not be grounds for the death penalty unless, for example, he had been tortured prior to assassination.

Now, this is foolishness. This flies in the face of all of the appropriate legislation that's passed at the state and federal level since the Furman (sp) case was decided. And these kinds of fine-tuning and tinkering done to -- we feel -- have the effect of -- put a roadblock in the way of a strong death penalty bill and a strong habeas corpus proposal that would permit these sentences to be carried out, truly is far from the anti-crime bill that its proponents would have you believe.

Thank you all very much.

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ANNOUNCEMENT OF THE NEW CRIME BILL \ THE EAST ROOM
MONDAY, MARCH 11, 1991 \ 11:15 A.M.

THANK YOU. MR. VICE PRESIDENT, MR. ATTORNEY GENERAL, STATE ATTORNEYS GENERAL, MEMBERS OF CONGRESS, OTHER LAW ENFORCEMENT OFFICIALS AND COMMUNITY LEADERS: IT IS AN HONOR TO WELCOME YOU TO THE WHITE HOUSE.

LAST WEEK BEFORE THE CONGRESS, I SALUTED A GROUP OF HOMETOWN HEROES -- THE FINEST COMBAT FORCE THIS NATION HAS EVER ASSEMBLED -- <u>THE BRAVE MEN AND WOMEN OF THE UNITED STATES MILITARY</u>! \\\\

WE HONORED THEM WITH OUR CHEERS AND WITH OUR PRAYERS. AND COME THIS SUMMER, WE'LL HONOR THEM AGAIN WITH THE BIGGEST FOURTH OF JULY SINCE THE LIBERTY BELL FIRST RANG. BUT AS I SAID LAST WEEK, THE <u>REAL</u> WAY TO HONOR THEM IS TO WELCOME THEM HOME TO AN AMERICA THAT IS WORTHY OF THEIR SACRIFICE -- BY JOINING TOGETHER WITH CONGRESS TO MOVE FORWARD ON THE DOMESTIC FRONT.

LAST MONTH WE LAUNCHED AN INNOVATIVE PACKAGE DESIGNED TO ENSURE <u>REAL</u> OPPORTUNITY FOR ALL AMERICANS.

OUR VETERANS DESERVE TO COME HOME TO AN AMERICA OF IMPROVED SCHOOLS, BETTER JOBS, STRONGER LAWS AGAINST DISCRIMINATION, INCREASED HOME OWNERSHIP, AND FAMILIES THAT ARE HEALTHY AND TOGETHER. AND MOST OF ALL, OUR VETERANS DESERVE TO COME HOME TO AN AMERICA WHERE IT'S SAFE TO WALK THE STREETS. \\\

ECONOMIC OPPORTUNITY IS IMPOSSIBLE FOR CITIZENS WHO CANNOT BE SAFE AND FEEL SAFE IN THEIR HOMES, SCHOOLS, JOBS AND CHURCHES.

THIS IS WHAT I MEAN WHEN I SAY A MOST BASIC CIVIL RIGHT IS -- QUITE SIMPLY -- THE RIGHT TO BE FREE FROM FEAR. \\\

SOME OF YOU MAY REMEMBER THAT, SHORTLY AFTER I TOOK OFFICE, WE MET WITH THE 50 A.G.'S AT THE WHITE HOUSE. IT WAS TWO YEARS AGO, ALMOST TO THE DAY. AND I TOLD YOU HOW, A FEW DAYS EARLIER, I HAD GONE TO NEW YORK TO MEET THE FAMILY AND FRIENDS OF EVERETT HATCHER, A BRAVE D.E.A. AGENT WHO WAS GUNNED DOWN IN THE STREET.

AND THEY TOLD ME THAT IT USED TO BE UNTHINKABLE TO SHOOT A COP. BUT NOW THE CULTURE HAS CHANGED -- AND WHEN THE BAD GUYS HEAR THE WORD "POLICE," THEY JUST TURN AROUND AND START SHOOTING.

TWO MONTHS LATER, ON THAT RAINY DAY ON CAPITOL HILL, WE LAUNCHED AN EFFORT TO PASS OUR CRIME LEGISLATION -- LEGISLATION DESIGNED TO HELP PROTECT OUR COPS BY GIVING THEM THE TOOLS THEY NEED TO DO THEIR JOB.

WE PROPOSED STIFF NEW PENALTIES FOR CRIMINALS USING SEMI-AUTOMATIC WEAPONS; AN IMPROVED EXCLUSIONARY RULE DESIGNED TO PROTECT THE TRUTH AND PUNISH THE GUILTY; AND HABEAS CORPUS REFORM THAT WOULD STOP FRIVOLOUS APPEALS AND ENSURE THAT PUNISHMENT WAS NOT ONLY JUST, BUT ALSO SWIFT AND CERTAIN. MOST OF ALL, IT WOULD HAVE FINALLY GIVEN US A FEDERAL LAW TO UPHOLD A SIMPLE RULE OF JUSTICE: THOSE WHO KILL MUST BE PREPARED TO PAY WITH THEIR OWN LIFE. \\\

AND TODAY, TWO YEARS LATER, THE CONGRESS HAS STILL FAILED TO ACT ON THESE CRITICAL CORE PROVISIONS. AND TODAY, TWO YEARS LATER, ANOTHER 294 POLICEMEN AND WOMEN ARE DEAD -- 294 -- ALMOST THREE TIMES THE NUMBER OF PRECIOUS AMERICAN LIVES LOST DURING THE ENTIRE GULF WAR. THE KILLING MUST STOP. AND IT MUST STOP NOW.\\

TODAY, IT'S TIME TO STAND UP AND BE COUNTED. IT'S TIME TO STAND UP FOR WHAT'S RIGHT. WE STOOD BY AMERICA'S TROOPS. TODAY IT'S TIME TO STAND UP FOR AMERICA'S PROSECUTORS AND POLICE! \\\

LAST WEEK, MANY OF YOU JOINED TOGETHER WITH THE ATTORNEY GENERAL AND ME IN AN UNPRECEDENTED CRIME SUMMIT -- AMERICA'S FIRST. FOR THREE DAYS YOU FREELY TRADED IDEAS, INSIGHTS, SUGGESTIONS AND SUPPORT.

WHEN I VISITED YOU TUESDAY THE MOOD WAS CONTAGIOUS -- POWERFUL, CONFIDENT, AND MOST OF ALL -- DRIVEN BY A SENSE OF URGENCY. AND SO WHEN IT WAS OVER, WE WASTED NO TIME. I TOLD THE A.G. WE WANTED THE CRIME BILL READY IN FINAL FORM BEFORE ANOTHER WEEK WAS OUT. AND TODAY, FIVE DAYS LATER, I HAVE IT HERE IN MY HAND. \\\

OF COURSE, WE HAD A HEAD START -- THE TRUTH IS, THE VAST MAJORITY OF THESE CORE PROPOSALS ARE IDENTICAL TO THOSE WE SENT TO CONGRESS TWO YEARS AGO.

THESE FUNDAMENTAL, BADLY-NEEDED REFORMS HAVE BEEN ARGUED OVER FOR YEARS. BUT THE AMERICAN PEOPLE ARE NOT CLAMORING FOR MORE DEBATE. TODAY THEY'RE DEMANDING ACTION -- ACTION TO STOP VIOLENT CRIME -- ACTION THAT TRANSLATES TO A STRAIGHT UP-OR-DOWN VOTE ON THESE CORE, COMMON-SENSE PROPOSALS. AS I SAID WEDNESDAY NIGHT: IF OUR FORCES COULD WIN THE GROUND WAR IN 100 HOURS -- THEN SURELY THE CONGRESS CAN PASS THIS LEGISLATION IN 100 DAYS. \\\

OUR CORE PROPOSALS HAVE ALSO BEEN STRENGTHENED BY SOME POTENT NEW ADDITIONS. THESE INCLUDE NEW LAWS TO PROTECT WOMEN AND CHILDREN AGAINST VIOLENCE AND ABUSE. AND MOST IMPORTANT OF ALL, THEY INCLUDE TOUGH NEW LAWS THAT WILL PROTECT OUR PEOPLE AND OUR POLICE BY HELPING PROSECUTORS PUT AWAY AMERICA'S MOST VIOLENT OFFENDERS. ONE OF THE MOST IMPORTANT OF THESE PROVISIONS RECOGNIZES THAT REDUCING FIREARMS VIOLENCE MUST MEAN EXCLUSIONARY RULE REFORM. I AM NOT A LAWYER.

BUT I PUT GREAT STOCK IN COMMON SENSE. AND IT NEVER DID MAKE SENSE THAT, BECAUSE A POLICEMAN HAS MADE A MISTAKE -- A DANGEROUS CRIMINAL CAN GET OFF SCOT-FREE.

THE SUPREME COURT HAS INVITED LEGISLATIVE EXPERIMENTATION WITH DIRECT ACTION TO PREVENT ILLEGAL SEARCHES AND SEIZURES. AND SO TODAY I AM ANNOUNCING THAT WE ARE ACCEPTING THAT INVITATION -- IN CONJUNCTION WITH A SERIOUS INITIATIVE ON GUNS.

OUR PLAN WOULD AUTHORIZE THE A.G. TO DEVELOP ALTERNATIVE, ADMINISTRATIVE SANCTIONS FOR ANY FEDERAL AGENT WHO IMPROPERLY SEIZES A GUN IN VIOLATION OF THE 4TH AMENDMENT. ONCE THESE PROTECTIONS WERE IN PLACE, FIREARMS IN SERIOUS DRUG, VIOLENT AND CERTAIN OTHER CASES WOULD ALWAYS BE ADMISSIBLE IN CERTAIN FEDERAL CASES INVOLVING ARMED FELONS. IT IS SIMPLY INTOLERABLE THAT THESE ARMED CRIMINALS SHOULD GO FREE WHEN GOOD, SOLID EVIDENCE IS AVAILABLE.

OUR MESSAGE IS SIMPLE: THE TIME TO ACT IS \\ NOW. THE TIME TO SCHEDULE CONGRESSIONAL HEARINGS IS \\ NOW. THE ATTORNEY GENERAL IS READY TO TESTIFY \\ NOW. AND MOST OF THE OTHER EXPERTS NEEDED ARE PROBABLY HERE IN THE EAST ROOM \\ NOW. \\\

LOOKING OUT HERE TODAY, I SEE A GROUP OF PRINCIPLED, ALL-AMERICAN HEROES WHOSE DEDICATION AT HOME MATCHES THAT OF OUR BRAVE MEN AND WOMEN OVERSEAS.

HEROES LIKE MISSISSIPPI A.G. MIKE MOORE, WHO STOOD WITH US IN THE ROSE GARDEN LAST FALL AND DESCRIBED THE TERRIBLE ORDEAL -- DUE TO CURRENT HABEAS RULES -- IN WHICH VICTIMS AND THEIR FAMILIES CAN NEVER DRAW THE CURTAINS ON TRAGIC MURDERS AND RAPES. HEROES LIKE LOUISIANA D.A. RICHARD IEYOUB [I-YOOB], WHO CALLED THE EFFORTS TO GUT LAST YEAR'S CRIME BILL A "MAJOR FRAUD ON THE AMERICAN PEOPLE" -- ONE THAT, FOR ALL PRACTICAL PURPOSES, WOULD HAVE SHUT DOWN THE DEATH PENALTY IN THE 37 STATES WHERE IT NOW EXISTS.

AND HEROES LIKE DAN LUNGREN, CALIFORNIA'S NEW A.G., WHOSE MIRACLE "END RUN" IN CONGRESS IN 1984 PRODUCED SOME OF THE MOST FAR-REACHING CRIMINAL LAW REFORMS IN OUR NATION'S HISTORY.

MIKE AND RICHARD -- WE'RE ON A HUNDRED-DAY CLOCK -- AND WE HOPE YOU AND YOUR COLLEAGUES ARE READY TO ROLL UP YOUR SLEEVES AGAIN TODAY. AND DAN -- WE'RE HOPING YOU CAN LEND YOUR MAGIC TO THE CAUSE ONCE MORE.

BECAUSE THIS WEEK MARKS THE ANNIVERSARY OF THE F.B.I.'S "10 MOST WANTED" LIST. AND I'M HERE TO TELL YOU THAT THIS NEW CRIME BILL IS ON AMERICA'S "MOST WANTED" LIST OF PRESSING NATIONAL BUSINESS. AND AS I SAID LAST FALL: AMERICA'S PROSECUTORS WILL NOT ACCEPT A PHONY CRIME BILL THAT IS TOUGHER ON LAW ENFORCEMENT THAN IT IS ON CRIMINALS. \\\\

NO MORE LOOPHOLES. NO MORE ROLLS OF THE DICE. I URGE THE CONGRESS TO HEED THE VOICES OF OUR PEOPLE, OUR POLICE, AND OUR PROSECUTORS -- AND HELP US TAKE BACK THE STREETS. \\\ TOGETHER, LET'S ACT ON THIS CRIME BILL NOW. \\\

THANK YOU. GOOD LUCK. AND GOD BLESS THE UNITED STATES.

# # #

(McNally/Simon)
March 7, 1991
Draft One (B:CRIME)

PRESIDENTIAL REMARKS: ANNOUNCEMENT OF THE NEW CRIME BILL
THE ROSE GARDEN
MONDAY, MAR. 11, 1991, 11:15 A.M.

Thank you. Mr. Attorney General, State Attorneys General, other law enforcement officials and local community leaders: **It is an honor to welcome you to the White House.**

Last week I went before the United States Congress, and the American people, to salute a group of hometown heroes that, like you, represent all 50 states. And of course, I'm talking about the finest combat force this Nation has ever assembled -- **the brave men and women of the United States military!** \\\\

We honored them with our cheers and with our prayers. **And come this summer, we'll honor their homecoming with the biggest Fourth of July since the Liberty Bell first rang.** \\\ But as I said last week, the real way to honor them is to welcome them home to an America that is worthy of their sacrifice -- by joining together with Congress to move forward aggressively on the domestic front.

Last month we presented our blueprint for the 1990's -- an innovative package designed to ensure real opportunity for all Americans. Our veterans deserve to come home to an America of improved schools, better jobs, increased home ownership, and programs devoted to keeping families healthy and together. Our veterans deserve to come home to an America without discrimination. **And most of all, our veterans deserve to come home to an America where it's safe to walk the streets.** \\\

Economic opportunity and full participation in democratic life are impossible for citizens who cannot be safe and feel safe in their homes, schools, jobs and churches. This is what I mean when I say our most basic civil right is -- quite simply -- the right to be free from fear. \\\

Some of you may remember that, shortly after I took office, we met here in the Roosevelt Room with the National Association of Attorneys General. It was two years ago, almost to the day. And I told you how, a few days earlier, I had gone up to New York to meet with the family of Everett Hatcher, a brave D.E.A. agent who was gunned down in the street. I spoke with his fellow agents. And they told me that it used to be unthinkable to shoot a cop. When you shouted "POLICE" or "F.B.I.," the criminals would stop and submit to arrest. But now the culture has changed -- and when the bad guys hear the word "POLICE," they turn around and start shooting.

Two months later, on that rainy day on Capitol Hill, we launched a Crime Bill designed to help protect our cops by giving them the tools they need to do their job. We proposed stiff new penalties for criminals using semi-automatic weapons; an improved exclusionary rule designed to protect the truth and punish the guilty; and habeas corpus reform that would stop frivolous appeals and ensure that punishment was both swift and certain. Most of all -- especially in states like New York where there is no death penalty -- it would have provided constitutionally sound provisions so that all cop-killers would come to know a simple

rule of justice: That shooting a cop means facing not only the loss of your freedom, but also the loss of your life.

And today, two years later, the Congress has still failed to act on these critical core provisions. And today, two years later, another 294 policemen and women are dead -- 294 -- almost three times the number of precious American lives lost during the entire Gulf War. The killing must stop. **And it must stop now.**\\

Today, it's time to stand up and be counted. It's time to stand up for what's right. Ladies and gentlemen -- you stood by America's troops. Today it's time to stand up for America's police! \\\

Last week, many of you joined together with the Attorney General and me in an unprecedented council of war -- America's first Crime Summit. For three days you freely traded ideas, insights, suggestions and support. When I visited you Tuesday the mood was contagious -- powerful, confident, and most of all -- impatient. And so when it was over, I gave the A.G. an impossible task. We told him we wanted him to take the **Crime Summit** -- and turn it into a **Crime Bill** in under one week.

Today, five days later, I have it here in my hand. Of course, we had a head start -- the truth is, the vast majority of these core proposals are basic, long-overdue reforms that you and I have fought for for the better part of two years. Habeas corpus reform. A good-faith exception to the exclusionary rule. Stiff new penalties for firearms offenders. And a workable death

penalty for terrorists, serial killers, cop-killers and other heinous crimes.

These fundamental, badly-needed reforms have been argued over for years. A forest of trees has been felled producing countless volumes of congressional debate dissecting each proposal. But the American people are not clamoring for more debate. Today they're demanding action -- action to stop violent crime -- action that translates to a straight up-or-down vote on these core, common-sense proposals. As I said Wednesday night: **If our forces could win the ground war in 100 hours -- then surely the Congress can pass this legislation in 100 days.** \\\

Our core proposals have also been strengthened by the addition of some new teeth. We're calling for new laws to protect women and children against violence and exploitation. New safeguards to ensure due process in every capital case. And most important of all, tough new laws that will help protect our people and our police from the ravages of armed offenders.

For many years the federal government has been able to help state prosecutors put away America's most violent offenders through tough, mandatory sentences for armed career criminals. Our new crime package will give you another such weapon: A mandatory five year sentence for any felon who -- after just a single conviction for armed or violent crime -- so much as possesses a single gun.

Finally, reducing firearms violence must mean exclusionary rule reform. Unlike many of you here, I am not a lawyer. But I

put great stock in common sense. And it doesn't make sense that -- because a policeman has blundered -- a dangerous criminal can just get off scot-free.

The Supreme Court has invited legislative experimentation with alternative sanctions -- other ways to punish the cop who blunders. And so today I am announcing that we are accepting that invitation. Our proposal would authorize the Attorney General to develop alternative, administrative sanctions for any federal officer who improperly seizes a firearm in violation of the Fourth Amendment. Once these protections were in place, firearms would always be admissible in federal court. Never again would a federal jury be denied the most obvious, common-sense opportunity in their pursuit of the truth in a firearms case -- the opportunity to actually see the weapons in question.

Our message to Congress is simple: The time to act is \\ now. The time to schedule hearings is \\ now. The Attorney General is ready to testify \\ now. And most of the other experts needed are probably here in the Rose Garden \\ now.

Today, I look out at this gathering and see a group of principled, all-American heroes whose dedication at home matches that of our brave men and women overseas. Heroes like Mississippi A.G. Mike Moore, a Democrat, who stood with us here in the Rose Garden last fall and described the terrible ordeal -- under current habeas rules -- in which victims and their families are never able to draw the curtains on tragic murders, rapes, or armed assaults. Heroes like Louisiana D.A. Richard

Ieyoub, also a Democrat, who called the efforts to gut last year's crime bill what they were -- a "major fraud on the American people" -- one that, for all practical purposes, would have prevented the imposition of the death penalty in the 37 states where it now exists. And heroes like Dan Lungren, California's new A.G., whose miracle "end run" in Congress in 1984 produced the most far-reaching criminal law reforms in our Nation's history.

Mike and Richard -- we're on a hundred-day clock -- and we hope you and your colleagues are ready to roll up your sleeves again today. And Dan -- we're hoping you can lend your magic to the cause once more. Because this week marks the anniversary of the F.B.I.'s "10 Most Wanted" list. And I'm here to tell you that this new crime bill is on America's "most wanted" list of pressing national business. And as I said last fall: **America's prosecutors will not accept a phony crime bill that is tougher on law enforcement than it is on criminals.** \\\\

No more loopholes. No more rolls of the dice. I urge the Congress to heed the voices of our people, our police, and our prosecutors -- help us take back the streets -- and together, let's act on this crime bill now.

Thank you for your dedicated efforts to makes our cities safe. Good luck. And God bless the United States.

# # #

comprehensive Crime Control Act

Major Crime Package Cleared by Congress

President Reagan Oct. 12 signed into law a sweeping anti-crime package that represented the culmination of an 11-year effort to make major changes in the federal criminal code.

The crime provisions were attached to the fiscal 1985 continuing appropriations resolution (H J Res 648 — PL 98-473) cleared by Congress Oct. 11. *(Funding bill, p. 444)*

The package was not quite as comprehensive as earlier criminal code reform proposals. But the new law incorporated many major elements of the earlier proposals, and it was the most far-reaching anti-crime measure enacted since the 1968 Omnibus Crime Control and Safe Streets Act. *(Code reform history, 1979 Almanac p. 363; Safe Streets Act, 1968 Almanac p. 225)*

Major Elements

The new law overhauled federal sentencing procedures to reduce the disparity in punishment for defendants who commit similar crimes, and allowed pretrial detention of defendants considered dangerous to the community.

Other provisions prohibited tampering with computers, unauthorized use of credit cards or bank-account access numbers, and trafficking in counterfeit trademarked goods. Still others substantially increased penalties for major drug offenses and gave federal prosecutors new authority to seize the assets and profits of drug traffickers.

In addition, the law re-established a grant program for state anti-crime projects, although one substantially more modest than the defunct Law Enforcement Assistance Administration.

Further, it tightened the legal definition of insanity and made it harder for criminal suspects to employ such a defense successfully. This section was largely an outgrowth of concern over the acquittal based on insanity of John W. Hinckley Jr., who shot President Reagan and three other people in a March 30, 1981, assassination attempt. *(1981 Almanac p. 6)*

Pressure From Reagan

President Reagan could claim a large share of credit for getting the crime package enacted. Beginning with his 1983 State of the Union address, he made it one of his top domestic priorities.

"It is high time that we make our cities safe again," the president declared in that Jan. 25 message. "This administration hereby declares an all-out war on big-time organized crime and the drug racketeers who are poisoning our young people." *(Text, 1983 Almanac p. 3-E)*

On March 16, 1983, Reagan sent to Capitol Hill an anti-crime proposal that contained a number of provisions ultimately included in the legislation that cleared Congress. *(Text, 1983 Almanac p. 19-E)*

The Senate on Feb. 2, 1984, passed by 91-1 a comprehensive crime bill (S 1762) containing most of Reagan's proposals. *(Vote 6, p. 3-S)*

At his next televised press conference, on Feb. 22, the president opened his remarks by declaring the legislation "long overdue," and urging the Democratic-controlled House "to stop dragging its feet and to act promptly." He returned to the theme repeatedly in the months thereafter.

Throughout the year, House Republicans also hammered away at the crime issue, denouncing the Democratic leadership in general and the House Judiciary leadership in particular for failing to act on the Senate-passed package.

The criticism greatly annoyed House Democrats, but they never found an effective way to counteract it. The House Judiciary Committee, which disliked omnibus bills, approved several important elements of the Senate package as separate pieces of legislation, and the full House passed those bills. Sentencing reform and pretrial detention legislation, however, lagged behind other provisions, and these were considered to be the most important sections of the crime package.

Legislative Maneuvering

On Sept. 25, House Republicans employed an end run to get the Senate crime bill passed. Rep. Dan Lungren, R-Calif., a Judiciary Committee member, made a motion to send the "must-pass" fiscal 1985 continuing appropriations resolution (H J Res 648) back to the Appropriations Committee with instructions to attach a House bill (HR 5963) identical to the Senate crime package and return the measure to the full House.

Lungren's motion was agreed to 243-166, with 89 Democrats joining 154 Republicans in supporting the maneuver. *(Vote 370, p. 112-H)*

The funding bill, with the crime package attached, promptly returned to the House floor and was passed the same day, 316-91. *(Vote 371, p. 114-H)*

On Oct. 2, House Democrats countered by consolidating various Judiciary Committee proposals into one bill (HR 5690) and proposing it for passage under suspension of the rules, which requires a two-thirds majority. The bill passed 406-16. *(Vote 382, 118-H)*

When the funding bill (H J Res 648) got to the Senate, members decided to retain the crime provisions, even though most other riders were eventually stripped from the measure. A few amendments were made to the crime section, and a number of new provisions were added. Nearly all of the new provisions had been approved as separate bills by one chamber or the other. They dealt with such issues as terrorism, trademark counterfeiting, computer and credit card fraud, and victim compensation.

The Senate decision assured that major crime legislation would be enacted in 1984. And the House Democrats' Oct. 2 move to pass their own bill did have some effect on the final product. When appropriations conferees met Oct. 10, they called in House and Senate Judiciary members to advise them on the crime section of H J Res 648.

During a lengthy and somewhat testy meeting, a final compromise crime package was worked out. Senators resisted efforts to alter the pretrial detention and sentencing provisions. But House Judiciary members succeeded in tailoring the measure's drug enforcement provisions more to their liking.

Criticisms of the Bill

While most lawmakers hailed passage of the anti-crime measure, representatives of the American Civil Liberties Union (ACLU) expressed deep concern about the preventive detention, insanity and computer crime provisions. They said these provisions infringed on individual liberties, and Jerry Berman, of the ACLU's Washington, D.C., office, contended that it was "fraudulent" to claim "that this bill

will reduce violence ... or make this a safer society."

Berman said one of the computer crime provisions was so broad that it amounted to a "government secrecy" law. He was referring to a provision that made it a crime for a person who was authorized to use a government computer to use it in a manner beyond the scope of his authorization and subsequently disclose the information he obtained.

The Senate passed a bill (HR 5616) Oct. 11 to revise this provision in PL 98-473, but the House did not act on it.

The sentencing provisions caused some concern in the federal judiciary, because they reduced the historically broad discretion of judges to impose punishment. Under the new law, federal judges were required to stay within specific sentencing guidelines, to be written within 18 months, or justify in writing why they had departed from those guidelines. Judges were given three of the seven slots on a special commission that was to draft the sentencing guidelines.

The U.S. Judicial Conference, the policy-making arm of the federal judiciary, had supported a House Judiciary Committee version of the sentencing bill (HR 6012), which gave judges greater authority over the creation of the sentencing guidelines.

The federal judiciary "recognizes the need to have a commission and guidelines," said conference spokesman William James Weller, "but judges have been apprehensive about the process being controlled by people who aren't in the business every day of actually sitting there and making the difficult sentencing decisions."

Final Provisions

As cleared by Congress, the crime sections of PL 98-473 included the following major provisions:

Bail, Preventive Detention

- Authorized federal judges to consider whether a defendant posed a danger to the community in deciding whether to release him before trial.
- Authorized judges to detain a suspect before trial upon a determination that no conditions for release would assure both the defendant's appearance at trial and the safety of the community. Existing law required pretrial release under the minimal conditions required to assure the defendant's appearance for trial.
- Established a presumption that a defendant was not entitled to pretrial release if there was enough evidence to charge him with a major drug offense or specified other serious crimes. The defendant could seek to rebut the presumption.
- Required detention after conviction pending sentencing or appeal, unless a judge found by clear and convincing evidence that the defendant was not likely to flee or pose a danger to the community.

Previously, there was a presumption in favor of release on bail, even after conviction.

- Increased penalties for bail jumping from a maximum of five years in prison and a $5,000 fine to 10 years in prison and a $25,000 fine.
- Required revocation of bail of a person arrested for a crime committed while on pretrial or post-conviction release, and set up procedures for such revocation.
- Permitted an appeal of release and detention orders by both the government and the defendant. Under the law prior to PL 98-473, only the defendant could appeal.

Sentencing

- Established four general purposes of sentencing and specified that individuals could be sentenced to probation, a fine, a prison term or a combination of those sentences. An organization could be put on probation, fined or a combination of the two.
- Created a grading system for crimes, ranking them according to their seriousness.
- Established a seven-member commission to write guidelines for sentencing, which were to be completed within 18 months of enactment. Panel members, to be appointed by the president and confirmed by the Senate, must include three federal judges.
- Required judges to follow sentencing guidelines produced by the commission, although a judge could deviate from them if he stated in writing the mitigating and aggravating factors that led him to do so.
- Authorized a defendant to appeal a sentence that was harsher than the guidelines and authorized the government to appeal a sentence more lenient than the guidelines.
- Barred parole for prisoners incarcerated after the guidelines went into effect. Phased out parole over five years for prisoners incarcerated before the guidelines took effect.
- Provided that a sentence of more than one year could be shortened at the end of each year by 15 percent for good behavior.
- Gave a judge authority to modify a term of imprisonment if certain conditions specified in the bill were met.
- Gave a judge authority, when imposing a sentence, to order supervision of a defendant after his prison term ended. Existing law provided varying degrees of supervision when defendants were put on parole, but not after completion of a prison term.

Forfeiture: Seizure of Assets

- Expanded the government's authority to require forfeiture of profits and proceeds from organized crime enterprises and narcotics trafficking.
- Established revolving funds in the Justice and Treasury departments for a number of purposes, including maintenance of equipment seized through forfeiture proceedings, payment of rewards for information leading to seizure, purchase of drugs pursuant to an undercover operation, and rebuilding seized equipment so it could be used for drug enforcement.
- Increased the value of goods that could be forfeited to federal agents without a full-scale court proceeding. Prior to enactment of the law, goods valued at up to $10,000 could be forfeited through default proceedings, when no one showed up to claim the goods. The new law raised the value for most cases to $100,000.

Insanity Defense

- Modified the definition of insanity to require a defendant to prove that as a result of a severe mental disease or defect, he was unable to appreciate the nature and wrongfulness of his acts. Existing law required proof that a defendant suffered from a mental disease or defect that left him unable to appreciate the criminality of his conduct or conform his conduct to the law.
- Shifted the burden of proof for establishing insanity to the defendant, who had to show by clear and convincing evidence that he met the legal test. Under existing law, the prosecutor had to show beyond a reasonable doubt that the defendant did not meet the insanity test.

• Limited psychiatric testimony to the presentation and explanation of a diagnosis of mental disease or defect; no testimony would be allowed on whether the defendant had the mental state or condition constituting an element of the crime, such as intent, or a defense to it, such as the inability to understand the wrongfulness of his actions.

• Provided for commitment to a mental hospital or other suitable facility of anyone found not guilty by reason of insanity until such time as a court determined that the person had recovered sufficiently so that his release would not endanger other people or their property. Under the previous law, there was no federal procedure for commitment of those acquitted on insanity grounds.

Drug Enforcement

• Increased maximum fines for most serious drug offenses from $25,000 to $125,000 for individuals. For trafficking in large quantities of specified drugs, including heroin and cocaine, the maximum fine was set at $250,000, and the maximum prison term at 20 years. Under current law, the maximum prison term was 15 years.

• Authorized judges to fine a drug offender up to twice the gross profits from his enterprise instead of imposing the fine specified for the crime in question.

• Increased the first-offense penalty for illegally distributing or making certain drugs from a maximum of five years to 15 years.

• Gave the attorney general emergency authority to require tight control, similar to that already in effect for heroin, of new chemical substances when he determined such action was "necessary to avoid an imminent hazard to the public safety." Required 30 days' notice before the attorney general could place a substance on "Schedule I" status, the most restrictive for controlled substances. The emergency listing would expire after one year, although the attorney general could extend it for up to six months.

• Required anyone who manufactured or distributed any controlled substance to obtain an annual registration from the attorney general.

• Required anyone dispensing or proposing to dispense any controlled substance to obtain a registration from the attorney general for a term of not less than one nor more than three years.

• Required the attorney general to register a physician or pharmacy to dispense and conduct research with controlled substances if an applicant was authorized to do so under the laws of the state in which he practiced, and no circumstances existed that would make such registration "inconsistent with the public interest." Such circumstances would include, among others, a prior criminal record involving drug offenses, or an adverse recommendation by a state licensing board or professional disciplinary authority.

• Expanded the authority of the attorney general to deny or revoke a registration upon a finding that the registration was inconsistent with the public interest, as determined according to specified factors.

• Required the attorney general to present the applicant or registrant with a document stating the basis of the denial or revocation and to give the person an opportunity to respond.

• Authorized the attorney general to suspend any registration on an emergency basis upon finding that there was "imminent danger to the public health and safety." Previously, a practitioner could be stripped of his registration only upon criminal conviction, upon proof that the application for registration was false, or upon revocation of a license to practice medicine by an appropriate licensing board.

• Authorized the attorney general to seize or place under seal any controlled substances owned or possessed by a registrant whose registration had expired or who had ceased to practice or do business in the manner contemplated by his registration.

• Authorized the attorney general to establish programs, including investigations, collection of information and grants, to help states reduce the amount of drugs diverted from medical channels to the black market.

Justice Assistance

• Created an Office of Justice Programs within the Department of Justice, headed by an assistant attorney general appointed by the president and confirmed by the Senate.

• Authorized the assistant attorney general to publish and disseminate information on the progress of criminal justice systems, and maintain liaison with the executive and judicial branches of the state and federal governments, public and private research and educational institutions.

• Gave the assistant attorney general authority to coordinate programs of the National Institute of Justice and Bureau of Justice Statistics.

• Created a Bureau of Justice Assistance within the Justice Department, headed by a director appointed by the attorney general.

• Authorized the director to provide funds to eligible states, local governments and private, non-profit organizations for criminal justice projects through a block grant program.

• Provided "such sums as may be necessary" to carry out the block grant program.

• Provided that of the amount appropriated each year, 80 percent was to be set aside to give each participating state at least $250,000. Any remaining amount would be allocated based on population.

• Established that the purpose of the block grant program was to provide funds for anti-crime programs of proven effectiveness, with special emphasis on combating violent crime and dealing with serious offenders. The measure specified 18 types of programs that could be funded.

• Limited federal grants to 50 percent of program costs.

• Required applicants to make a detailed request for funds covering the type of program the funds would be used for and providing assurance that state and local officials and members of the public had been apprised of the application and given an opportunity to comment upon it.

• Provided an applicant the opportunity to seek a reconsideration of any grant proposal that was rejected.

• Required each state to designate a "state office" to prepare applications and administer grants.

• Provided that 20 percent of the funds appropriated would be for "discretionary" grants to public agencies and non-profit organizations for training of criminal justice personnel, technical assistance to state and local governments, multi-state projects and demonstration projects.

• Created a pilot program of grants to help states and localities build new prisons to relieve overcrowding and improve substandard facilities.

• Limited grants to no more than 20 percent of the cost of constructing a correctional facility.

• Authorized the director of justice assistance to establish a clearinghouse of information on the construction and modernization of prisons.

- Authorized $25 million annually for fiscal years 1984-88 to carry out the pilot program and set up the clearinghouse.
- Authorized the head of the FBI to conduct training programs for state and local officials at the FBI's National Academy in Quantico, Va.
- Required annual reports to Congress on the various programs set up under this title.
- Provided for $50,000 in benefits to the survivors of law enforcement officers and firefighters who died as the result of injuries sustained in the line of duty.
- Permitted immediate payment, upon a showing of need, of up to $3,000 to a survivor expected to qualify for full benefits. Any interim sum would be deducted from the $50,000.

Surplus Property

- Authorized the donation of surplus federal property for the construction and modernization of state prison or jail facilities.

Violent Crime Amendments

- Made murder-for-hire a federal crime when interstate commerce was involved; made violent crimes such as murder, kidnapping and assaults federal offenses if they were in aid of racketeering activities.
- Prohibited "solicitation" to commit a crime of violence, which covered a person who tried to persuade another to commit a crime of violence.
- Revised and strengthened existing requirements of minimum mandatory sentences for use of a firearm in the commission of federal crimes, setting a minimum sentence of five years in addition to whatever sentence was imposed for the underlying crime.
- Provided new penalties for kidnapping specified federal officials and for crimes directed at the family members of specified federal officials.
- Prohibited carrying or using in a crime of violence a handgun loaded with armor-piercing ammunition, and set a mandatory five-year prison term as the minimum penalty.
- Made it a federal offense to damage willfully energy facilities such as electrical transmission towers if the damage exceeded $100,000 or resulted in a significant interruption of the facility; the maximum penalty was set at 10 years in prison and a $50,000 fine.

Non-Violent Crime

- Created a new obstruction-of-justice offense for impairing an authorized search by moving, concealing or destroying the property that was the object of the search.
- Created a new offense to cover theft, fraud and bribery involving federal money disbursed to private organizations or to state and local governments under a federal program.
- Created a new offense for counterfeiting the securities of state and local governments or of corporations.
- Clarified the law covering receipt of stolen bank property to cover situations in which a defendant knew property was stolen even though he did not know it was stolen from a bank.
- Revised the law covering bank bribery to broaden the types of institutions, such as credit unions and the Federal Home Loan Bank System, not currently covered and to cover indirect as well as direct bribes.
- Created a new bank fraud offense to cover anyone who knowingly executed or attempted to execute a scheme to defraud a federally chartered or insured financial institution or to obtain any assets of such institution through false or fraudulent pretenses. A prison term of up to five years and a fine of up to $10,000 was established.
- Made possession of contraband in prison a criminal offense. Under previous law, bringing contraband into a prison or moving it around was a federal offense, while possessing such material was not.
- Revised current law barring theft and fraud involving "cattle" to cover theft and fraud involving "livestock."
- Prohibited anyone from obtaining or using without permission another's livestock worth $10,000 or more, and set a penalty of up to five years in prison and a fine of up to $10,000.

Juvenile Justice

- Reauthorized the Office of Juvenile Justice and Delinquency Prevention for fiscal 1985-88, to be funded by "such sums as may be necessary" for each of the years. The office was to help states develop alternatives to incarceration of juveniles and to develop programs to combat juvenile delinquency.
- Reauthorized the Runaway and Homeless Youth Act of 1974 (PL 93-415) for fiscal 1985-88. This law, administered by the Department of Health and Human Services, authorized assistance to state and local facilities that provided emergency shelter care for runaways.
- Authorized such sums as necessary to carry out these programs for fiscal 1985-88.
- Emphasized in both the juvenile justice and runaway youth programs that the family of the children involved should be made part of any counseling and treatment program.
- Continued the two mandates of the original 1974 law — removal of juveniles from adult jails and the creation of institutions, such as group homes, for juveniles who committed no crimes but who were runaways or truants.
- Required for the first time that grants from the administrator's discretionary pool of funds be made on a competitive basis. Previously, there were no statutory requirements for awarding these grants.

Missing Children

- Required for the first time federal assistance in locating missing children and providing treatment for such children and their families. The programs were to be run by the administrator of the juvenile justice office.
- Required establishment of a national toll-free hotline that members of the public could use to report information about missing children aged 13 or under.
- Established a national clearinghouse to provide technical assistance to public and private agencies involved in locating missing children; coordinate public and private missing-children programs, and disseminate information about such programs.
- Required periodic studies to determine how many children were reported missing each year, how many were abducted by strangers, how many were the victims of parental kidnappings, and how many were recovered.
- Authorized the administrator to award grants to public agencies and non-profit organizations for research, demonstration projects or service programs related to the problem of missing children and sexual exploitation of children.
- Created an advisory board on missing children to make recommendations for federally assisted missing-children programs.

• Provided $10 million for fiscal 1985 for the program and such sums as might be necessary for the remaining fiscal years.

Procedural Changes

• Allowed federal prosecution as adults of certain juvenile defendants charged with serious federal drug offenses or crimes of violence. Under previous law, most cases involving juveniles were transferred to the states unless the attorney general determined that the state could not handle the case.

• Authorized emergency wiretaps without a court order in situations involving immediate danger of death or serious physical injury to any person. Emergency wiretaps also were authorized in cases involving child pornography, illegal currency transactions and offenses against crime victims and witnesses.

• Gave the attorney general new authority to seek a court order to bar a mail-fraud, wire-fraud or bank-fraud scheme once he had sufficient evidence of a violation of anti-fraud laws.

Labor Racketeering

• Raised from a misdemeanor to a felony willful violation of the Taft-Hartley Act provisions involving labor bribery or payoffs in excess of $1,000. Increased penalties to a maximum of five years in prison and a $15,000 fine, from one year in prison and a $10,000 maximum.

• Barred union officials from holding union or trust fund positions for a minimum of three years and a maximum of 13 years after conviction on corruption charges. Under previous law, the maximum disqualification was five years.

• Provided disqualification only for those union officials who used their position in a labor union to seek or obtain an illegal gain.

• Made clear that federal labor racketeering provisions did not bar states from enacting their own laws to deal with labor racketeering.

Foreign Currency Transactions

• Increased civil and criminal penalties for violating record-keeping and reporting requirements involving the transport of currency in and out of the United States.

• Authorized customs officers to stop and search, without a warrant, any vehicle, vessel or person entering or leaving the United States if the officer had reasonable cause to suspect a violation of currency transaction laws.

• Authorized rewards of 25 percent, up to a $150,000 maximum, to anyone who provided information leading to recovery of more than $50,000 through a penalty, fine or forfeiture.

Witness Protection

• Authorized relocation and protection of federal or specified state witnesses and potential witnesses when the attorney general determined that a crime of violence was likely to be committed against those individuals.

• Authorized relocation and protection for the immediate family of the witness, or another person closely associated with the witness, if those individuals might also be endangered.

• Required the attorney general to issue guidelines on the types of cases in which witnesses could be protected.

• Gave U.S. officials and employees immunity from civil liability for their decisions to protect or not to protect a witness.

• Gave the attorney general discretion to determine how long to protect a witness, and authorized the attorney general to provide the witness with identity documents, housing, transportation to a new home, a payment to meet basic living expenses, and help in obtaining a job.

• Required deductions from living-expense payments to a protected witness to cover court-ordered family support payments.

• Gave the attorney general discretion to disclose or withhold information on the identity or location of a protected witness. Required disclosure of such information to state and local law enforcement officials when the person in question was sought for a crime of violence or an offense punishable by more than one year in prison.

• Provided for a $5,000 fine, five-year prison term or both for anyone convicted of illegally disclosing information about the identity and location of a protected witness.

• Required the attorney general, "to the extent practicable," to obtain information about the suitability of a person for protection and relocation. Such information was to include a criminal history, if any, and a psychological evaluation of the person.

• Required the attorney general to determine whether the need for a person's testimony outweighed the risk of endangering people and property in the community where a witness was to be relocated, and barred relocation if the risk to the public outweighed the need for the person's testimony.

• Required the attorney general to issue a written "memorandum of understanding" to the protected witness specifying the person's responsibilities under the program. These required no criminal conduct, payment of all legal obligations and civil judgments, agreement to testify and provide information to law enforcement officials, and agreement to take the necessary steps to avoid detection.

• Provided for emergency protection in specified circumstances without the written memorandum.

• Allowed the attorney general to terminate protection of a witness for a substantial breach of the memorandum of understanding.

• Specified procedures for notifying a protected witness of a civil proceeding against him and set out elaborate procedures for enforcing the rights of any litigant who had a judgment against a protected witness. Authorized disclosure to the plaintiff of the identity and location of a protected person who failed to comply with a civil judgment against him. If the attorney general did not make such disclosure upon request, the plaintiff could seek a federal court hearing on the issue.

• Barred the attorney general from relocating any child in connection with protecting a witness if it appeared that a person other than the witness had legal custody of that child.

• Provided detailed procedures for safeguarding custody and visitation arrangements involving a protected witness who had legal custody of a child, and required the parent being relocated to seek and abide by modifications in the existing court-ordered custody arrangements if compliance with a visitation order was not possible.

• Specified that the custody and visitation rights of the non-relocated parent could not be infringed if a child was relocated as part of the program.

• Required the Justice Department to pay transportation and security costs necessary to ensure up to 12 visits per year, or up to 30 days, between parents and children.

• Provided for arbitration if no agreement on modifying

a custody arrangement was reached within 60 days of a legal action to alter the arrangement.

- Authorized the attorney general to pay restitution or, in the case of death, compensation to any victim injured or killed by a person protected under the federal program.
- Authorized $1 million annually for this compensation program.
- Limited compensation in cases involving death to a maximum of $50,000, and prohibited payments to victims receiving restitution or compensation through other programs or through insurance.

Foreign Business Records

- Permitted the use of foreign business records as evidence in criminal proceedings if the custodian of those records provided a certification setting forth specified information about how the records were compiled and kept.
- Allowed a defendant to challenge the admission of the records into evidence under certain circumstances.
- Transferred from the State Department to the Justice Department responsibility for administering the Foreign Agents Registration Act, but required the attorney general to inform the State Department of foreign registrations it had received.
- Made clear that the United States had jurisdiction over any offense committed by or against a national of the United States any place outside the jurisdiction of another country. This provision was intended to cover crimes that might occur on Antarctica, an ice floe or the moon. (A "national" was a U.S. citizen or a person whose principal place of residence was the United States.)

Drug Policy Board

- Created a National Drug Enforcement Policy Board, a high-level interagency council to coordinate federal drug enforcement activities.
- Designated the attorney general as chairman and included on the board the secretaries of state, Treasury, defense, health and human services, the director of the Office of Management and Budget, the director of the Central Intelligence Agency and any other officials the president wanted to appoint.
- Authorized the board to develop and coordinate all U.S. efforts to halt national and international drug trafficking.
- Authorized the chairman to make recommendations to the board for coordination of drug enforcement activities, to be the primary adviser to the president on drug enforcement issues, and to review and approve the reprogramming of funds relating to drug enforcement.
- Specified that neither the new drug board nor its chairman could "interfere with the routine law enforcement or intelligence decisions of any agency" or undertake activities "inconsistent with" the authority and responsibilities of the director of central intelligence.
- Required the chairman to submit a report to Congress within nine months of enactment on drug enforcement policy. After the first report, others would be required every two years.

Victim Compensation

- Created a Crime Victims Fund in the Treasury Department financed through fines collected from persons convicted of federal offenses, with specified exceptions, plus forfeited bonds and collateral.
- Set a $100 million maximum for the fund and required any excess money to go to the Treasury.
- Barred deposits in the fund after Sept. 30, 1988.
- Specified that half the amount in the fund each year would be available for grants to existing state victim-compensation programs to meet claims, and half to states to provide victim assistance programs such as rape counseling.
- Allowed the attorney general to deduct up to 5 percent of the total in the fund for services to victims of federal crimes. This money would come out of the share allotted to states for victim services.
- Authorized the attorney general, in making annual grants to state victim-compensation programs, to provide funds equal to 35 percent of the amounts awarded to crime victims by the state program during the previous fiscal year, other than awards for property damage.
- Defined an "eligible" program as one that was operated by a state and offered compensation to victims or their survivors for medical expenses, loss of wages and funeral expenses.
- Authorized the attorney general to make grants to states, subject to available funds, for crime victim-assistance programs run by public agencies or non-profit organizations.
- Provided that each state should receive $100,000 under the grant and that any remaining money should be distributed among the states on the basis of population. If there was less than $100,000 per state available, then the money would be distributed to the states equally.
- Authorized a federal court, upon request by a U.S. attorney, to ensure that someone convicted of a crime causing physical harm to an individual did not profit from that crime. A court could order forfeiture of all or part of the proceeds the defendant or his designee received from a contract relating to depiction of the crime in a movie, book, newspaper, magazine, drama, radio or television production.
- Authorized a judge to order the person who contracted with the defendant to pay the specified amount to the attorney general.
- Provided that proceeds paid to the attorney general through forfeiture be held in the Crime Victims Fund for five years, but allowed payment for specified purposes, including a fine or monetary award to the victim. At the end of the five-year period, a court could require all or part of forfeited proceeds to be released for use by the Crime Victims Fund.

Trademark Counterfeiting

- Prohibited trafficking in goods or services using a counterfeit trademark and set a fine of up to $250,000, a prison term of up to five years, or both for a first offense by an individual. A corporation could be fined up to $1 million. A second offense by an individual would carry a maximum $1 million fine and 15-year prison term, while an organization could be fined up to $5 million.
- Authorized a judge to order the destruction of goods in the possession of a defendant that were determined to be counterfeit.
- Increased civil penalties for counterfeiting by allowing a judge to impose triple damages or three times the profits from counterfeiting, whichever was greater. A judge could decline to award triple damages if he found "extenuating circumstances."
- Authorized a plaintiff to seek a court order — without prior notice to the opposing party — directing federal

authorities to seize counterfeit goods, the equipment and documents used to make and sell them.

- Required, before such an "ex parte" order was issued, that the plaintiff post bond covering the costs of the goods in question, and that the judge find factual evidence indicating that only such an order would assure that the goods in question remained intact for further legal proceedings.
- Required a court hearing on the seizure within 15 days.
- Authorized an award of damages and attorneys' fees to anyone whose goods had been wrongfully seized.

Credit Card Fraud

- Provided a maximum fine of $10,000 or twice the value obtained, and a prison term of up to 10 years, for anyone who used or trafficked in one or more unauthorized credit cards or other "access devices," such as bank card numbers, and obtained at least $1,000 in value in any one-year period.
- Set the same penalties for anyone who possessed with intent to defraud 15 or more counterfeit or unauthorized cards or code numbers.
- Set a maximum $50,000 fine or twice the value obtained and a maximum 15-year prison term for anyone who produced, used or trafficked in counterfeit access devices or who trafficked in equipment to make such devices.
- Provided a maximum $100,000 fine, or twice the value obtained and a maximum 20-year prison term for a second offense of the above crimes.

Computer Fraud

- Made it a felony to gain unauthorized entry into a computer for purposes of obtaining classified information with intent or reason to believe the information would be used to the injury of the United States or advantage of another country. Unauthorized use of classified information by someone authorized to have access to the computer was also banned.
- Made it a felony to attempt to commit the above crime.
- Provided a maximum penalty on the first offense of $10,000 or twice the value obtained, and a maximum prison term of 10 years. A second offense would carry a maximum $100,000 fine or twice the value obtained, and a maximum 20-year prison term.
- Made it a misdemeanor to enter a computer illegally and obtain information covered by federal laws protecting privacy of financial and credit information.
- Made it a misdemeanor to enter a government computer illegally and affect the computer's operations.
- Made it a misdemeanor to use a government computer for purposes other than the authorized use and then modify, destroy or disclose information obtained, or prevent authorized use of the computer.
- Set a maximum $5,000 penalty or twice the value obtained, and a maximum one-year prison term, for the first misdemeanor offense. A second offense would carry a maximum fine of $10,000 or twice the value obtained, and a maximum 10-year prison term.

Armed Career Criminals

- Allowed federal prosecution of specified repeat state offenders.
- Provided a mandatory 15-year prison term and $25,000 fine for any defendant with three previous state convictions for robbery or burglary who possessed a firearm that had traveled in interstate commerce. The sentence could not be suspended nor could the defendant be paroled.

Terrorism

- Required imprisonment for up to life for taking hostages either inside the United States or outside the country in order to compel a third person or government to do or abstain from doing a particular act as a condition for releasing the hostages.
- Barred prosecution under this section unless the offender or person detained was a U.S. national, the offender was found in the United States, or the U.S. government was the one the offender sought to influence.
- Set a fine of up to $100,000, imprisonment of up to 20 years, or both for anyone who destroyed or damaged aircraft or aircraft facilities in the United States, or acted violently toward any person on such an aircraft, or knowingly provided false information that could endanger an aircraft in flight. The same penalties were established for anyone attempting to commit the above crimes.
- Provided the same penalties for anyone who performed an act of violence against a "civil" aircraft of another country or placed a dangerous device aboard such aircraft, if that offender was later found in the United States.
- Provided a maximum $25,000 fine and maximum five-year prison term for anyone who willfully threatened to commit any of the above offenses.
- Provided a civil penalty of up to $10,000 for anyone who knowingly conveyed false information that was likely to be believed concerning an attempt or alleged attempt to violate specified regulations governing aircraft licensing and safety.
- Provided a civil penalty of up to $10,000 for anyone, other than law enforcement officers and certain authorized personnel, who boarded or attempted to board an aircraft while carrying a concealed dangerous weapon.
- Raised the fine for carrying concealed weapons or explosives aboard an aircraft from $1,000 to $10,000. The offense also carried a maximum one-year prison term.
- Raised the fine for committing an act with a weapon or explosive aboard an aircraft from $5,000 to $25,000. The offense also carried a maximum five-year prison term.
- Set a maximum $25,000 fine and five-year prison term for anyone who willfully and maliciously, or with reckless disregard for human life, knowingly conveyed false information about committing a crime on board an aircraft, interfering with flight crews, or carrying weapons or explosives aboard.
- Provided a maximum $25,000 fine and five-year prison term for anyone who threatened to commit such acts.

U.S. Attorneys' Salaries

- Authorized the attorney general to fix the salaries of U.S. attorneys and their assistants at a level not to exceed the maximum paid to employees in the Senior Executive Service. The maximum salary was thereby raised to $69,900 per year, up from a current maximum of $66,400.

Defense Attorneys' Fees

- Raised the current rate for court-appointed defense lawyers from $20 per hour for out-of-court work and $30 per hour for in-court work to $40 and $60 respectively. The pay rates for these attorneys had not been changed since 1970.
- Raised the maximum payment for a felony case and

for an appeal from $1,000 for each to $2,000 for each.

- Raised the maximum payment for a misdemeanor case from $400 to $800.
- Raised the maximum for other proceedings, such as a parole revocation, from $250 to $500.
- Maintained current law allowing the maximums to be exceeded through a request to the chief judge of the federal district where the case in question resided.

Background

Criminal Code Reform History

The effort to revise the federal criminal code dated back to 1966, when, at the instigation of Congress, a National Commission on Reform of Criminal Laws was created. Headed by Gov. Edmund G. Brown of California (1959-67), the commission produced a report that led to the introduction on Jan. 4, 1973, of the first omnibus crime bill, S 1. That proposal drew swift and steady fire from civil liberties groups, who claimed it was harmful to individual rights. *(1973 Almanac p. 374)*

Although numerous hearings were held on the legislation, the Senate Judiciary Committee did not act on either S 1 or on a successor version introduced Jan. 15, 1975, at the start of the 94th Congress.

In 1977, however, Sens. Edward M. Kennedy, D-Mass., and John L. McClellan, D-Ark. (1943-77; House, 1935-39), introduced S 1437, a revised criminal code reform that omitted some of the more controversial provisions of earlier versions. That bill was passed by the Senate on Jan. 30, 1978, but died in the House.

Kennedy tried again in the 96th Congress, supported by Sens. Strom Thurmond, R-S.C., and Orrin G. Hatch, R-Utah. A criminal code bill (S 1722) was reported from the Senate Judiciary Committee Jan. 17, 1980, but Kennedy became so deeply involved in his unsuccessful bid to wrest the Democratic presidential nomination from President Carter that the bill was sidetracked. The House Judiciary Committee also approved a criminal code bill, HR 6915, but that measure went no further.

Work resumed in the 97th Congress, as the Senate Judiciary Committee approved yet another criminal code package (S 1630) Nov. 18, 1981, formally reporting the measure Jan. 25, 1982 (S Rept 97-307).

Although that measure, like its predecessors, proved too hot for the Senate to handle in an election year, some of its non-controversial provisions were passed separately (S 2572) on Sept. 30, 1982, and then attached to a minor House-passed bill (HR 3963) that was cleared by Congress in the session that began Dec. 20. However, Reagan objected to certain portions of the bill, most notably a section creating a new, centralized Cabinet-level office to combat drug trafficking, dubbed the "drug czar." He pocket-vetoed the measure Jan. 14, 1983. *(1982 Almanac p. 419)*

Senate Committee Action

With Reagan insisting that he placed a high priority on anti-crime legislation, despite his veto of the 1982 bill, Kennedy and Thurmond started over in the 98th Congress. Along with Paul Laxalt, R-Nev., and Joseph R. Biden Jr., D-Del., they introduced another omnibus anti-crime package (S 1762) that was approved by the Judiciary Committee July 21, 1983, and formally reported Aug. 4, 1983 (S Rept 98-225). Sen. Charles McC. Mathias Jr., R-Md., cast the lone vote against the measure in committee.

Controversial Items Split Off

To minimize the prospect that the crime package would get bogged down on the Senate floor in fights over emotional issues, the committee split off into separate bills provisions it knew would generate controversy. These included a revised drug czar proposal and measures to reinstitute the federal death penalty, restrict use of *habeas corpus* claims by state prisoners and modify the exclusionary rule, which barred use at trials of illegally seized evidence.

The drug czar plan was later incorporated into the final crime package (H J Res 648). The other three bills (S 1765, S 1763, S 1764) were passed by the Senate, but died in the House. *(Stories, pp. 227, 228)*

Senate Floor Action

The Senate began work on S 1762 on Jan. 27. Because the bill included only provisions with bipartisan support, it was expected to sail through the Senate.

That hope faded Jan. 31, however, when Sens. Howard M. Metzenbaum, D-Ohio, and Dale Bumpers, D-Ark., offered an amendment to make it a federal felony for any government official or employee to record a phone conversation without the other party's consent. Exemptions were provided for law enforcement, national security, and foreign intelligence and counterintelligence personnel.

Telephone Taping

Metzenbaum and Bumpers said their amendment was prompted by disclosures that Charles Z. Wick, head of the United States Information Agency, had recorded dozens of telephone conversations without the other party's consent.

The amendment drew vehement protests from Senate Republicans, and representatives from the Justice Department and the government's intelligence agencies rushed to the Capitol to urge senators to block the amendment. Justice also sent over two long letters identifying possible problems with the proposals.

Bumpers and Metzenbaum said they were amazed at the opposition. They said that they had provided exemptions in the areas of concern, and Metzenbaum said repeatedly that he had asked Justice and the intelligence agencies to bring him proposed language for the exemptions.

None had been forthcoming, Metzenbaum said. "I'm starting to think that what this whole thing is about is that a lot more secret taping is going on than a lot of us imagined."

Some Republicans said the amendment was nothing but a slap at Reagan, a close friend of Wick, an allegation Bumpers called "misinformation." He said the amendment was designed to bar "peeping Tomism."

"Does this mean the president wants to go out and campaign that he was violently opposed to a law that in effect stopped peeping Toms?" Bumpers asked.

After considerable debate, the amendment was finally rejected 41-51. *(Vote 5, p. 3-S)*

Final Passage, Backup Steps

With the phone taping issue out of the way, the Senate passed S 1762 on Feb. 2 by a 91-1 vote. As in committee, Mathias cast the lone "nay." *(Vote 6, p. 3-S)*

Mathias expressed strong reservations about the bill's

sentencing provisions, which he unsuccessfully sought to amend.

In a move designed to facilitate House passage of at least portions of S 1762, the Senate Feb. 2-3 passed three of the most important sections of the measure as separate bills.

A sentencing bill (S 668 — S Rept 98-223) was passed 85-3 on Feb. 2. Mark Hatfield, R-Ore., and Howell Heflin, D-Ala., joined Mathias in voting "nay." *(Vote 7, p. 3-S)*

On Feb. 3, the Senate by 84-0 passed as a separate bill (S 215 — S Rept 98-147) provisions that permitted pretrial detention of criminal suspects deemed dangerous to the community. *(Vote 9, p. 4-S)*

Also passed separately Feb. 3, this time by voice vote, was legislation (S 948 — S Rept 98-224) to expand the federal government's authority to require forfeiture of profits and proceeds from organized crime and drug trafficking.

House Action

The House Judiciary Committee, and the House itself, dealt with crime bills in a piecemeal fashion until the very end of the session.

The effort was to little avail; the Senate simply ignored most of these House-passed measures. Senate provisions on the subjects addressed by the House ultimately became law after being attached en masse to the continuing appropriations resolution.

Crime bills that were passed by the House, only to be incorporated in H J Res 648 along lines approved by the Senate, included:

Pay for Defense Lawyers

This bill (HR 4307 — H Rept 98-764), passed by voice vote May 21, raised the hourly pay for defense lawyers appointed in federal criminal cases from a maximum of $30 an hour to $50 an hour. In special circumstances, the rate could be $75 an hour.

The hourly rate had not been changed since 1970. Since then, there had been a different pay rate for in-court time ($30 per hour) and out-of-court time ($20 per hour). HR 4307 would have ended this distinction.

Federal Witness Protection

By 376-41, the House May 22 suspended the rules and passed a bill (HR 4249 — H Rept 98-767) to tighten controls on a Justice Department program that gave new identities, relocation and other protection to federal witnesses in exchange for their testimony in criminal cases. *(Vote 141, p. 48-H)*

The legislation was prompted by criticism over the years that stemmed from crimes committed by witnesses who were given new identities and relocated.

The bill also established a victim compensation fund for innocent persons injured by individuals admitted to the witness protection program. A $2 million maximum was authorized for yearly appropriations for the fund.

Missing Children

The House June 4 passed by voice vote a bill (HR 4971 — H Rept 98-741) to create a national clearinghouse to coordinate efforts to locate missing children and to set up a toll-free hotline to receive tips about their whereabouts.

The program was included in legislation reauthorizing juvenile justice programs of the Department of Justice.

Computer, Credit Card Fraud

The House July 24 passed a bill (HR 5616 — H Rept 98-894) that for the first time would make it a crime to obtain unauthorized access to computers and obtain classified information, protected financial information, or something of value. The measure, which also made it a felony to use a credit or bank card, or their code numbers, without authorization, was passed by 395-0. *(Vote 281, p. 86-H)*

Criminal Fines

On July 30, the House by voice vote approved a bill (HR 5846 — H Rept 98-906) to make criminal fines more severe and improve the government's ability to collect them.

The House and Senate Judiciary committees had studied federal criminal fine levels over the last decade in connection with efforts to revamp the entire criminal code. Both committees concluded that current fine levels were too low to be effective.

HR 5846 substantially increased maximum fine levels for all federal crimes. The bill provided that an individual could be fined the greatest of the amount specified for the crime in question, twice the gain or loss resulting from the crime, or in the case of any felony or of a misdemeanor resulting in death, $250,000.

A similar scheme was established for corporations, except that if a corporation were convicted of a felony or a misdemeanor resulting in death, the fine could be the greater of $1,000,000 or twice the gain or loss resulting from the crime.

Foreign Business Records

A bill (HR 5919 — H Rept 98-907) to make it easier to use foreign-kept business records at criminal trials in the United States was passed July 30 by voice vote. The bill permitted the admission into evidence of foreign business records if the custodian of those records provided a certification setting forth specified information about the records and how they were kept. A defendant would have the right to challenge the admission of the documents under certain circumstances.

Bribery and Fraud

Also July 30, the House by voice vote approved a bill (HR 5872 — H Rept 98-901) to close loopholes in current laws prohibiting bribery and fraud involving financial institutions. The bill barred all payments intended to influence an officer or employee of a financial institution in making a discretionary decision. However, to avoid making a crime out of trivial actions, such as taking a loan officer to dinner following a successful transaction, the bill required that the payment in money or its equivalent be more than $100.

Escape From Custody

By voice vote July 30, the House passed a bill (HR 5526 — H Rept 98-902) to make it a federal crime to escape from federal custody or confinement that resulted from specified civil or criminal proceedings.

Contraband in Prison

A bill (HR 5910 — H Rept 98-908) to make it a crime to possess any contraband in prison was passed by voice vote July 30. Current law provided penalties for bringing contraband into a prison or removing it, but not for mere possession. The bill also amended the current law covering prison riots by adding a definition of "riot" and providing a

$250,000 fine for conviction. Currently, there was only a 10-year prison term.

Drug Penalties

This bill (HR 4901 — H Rept 98-845, Parts I and II), passed Sept. 11 by voice vote, allowed forfeiture of assets of those convicted of certain drug offenses and substantially increased penalties for drug offenses.

HR 4901 increased maximum fines for the most serious drug offenses from $25,000 to $250,000 for individuals, and from $25,000 to $1 million for entities convicted of drug offenses. The measure also gave judges the option of fining a defendant twice the profits or gross proceeds from the trafficking.

Drug 'Czar'

This measure (HR 4028 — H Rept 98-1008) was also approved Sept. 11 by voice vote. In contrast to a 1982 proposal that provoked Reagan's veto, HR 4028 did not create any centralized new drug enforcement office. Instead, it increased the authority of the director of the existing Office of Drug Abuse Policy, created when the Drug Abuse Office and Treatment Act (PL 92-255) was enacted in 1972. *(1972 Almanac p. 162)*

Trademark Counterfeiting

Passed by a 403-0 vote on Sept. 12, this bill (HR 6071 — H Rept 98-997) created new criminal penalties for making and selling products with counterfeit trademarks. It also expanded and stiffened existing civil penalties. *(Vote 344, p. 106-H)*

The measure was intended to stem what sponsors and government experts said was a booming $6 billion business of passing off shoddy and sometimes hazardous goods as popular brand-name products.

HR 6071 provided a maximum fine of $250,000, a five-year prison term or both for a person convicted of counterfeiting goods or services. A corporation could be fined up to $1 million.

Money-Laundering

This bill (HR 6031 — H Rept 98-984), passed Sept. 10 by voice vote, increased civil and criminal penalties for illicit financial transactions, generally known as "money-laundering." The measure amended the Currency and Foreign Transactions Reporting Act, which set reporting and record-keeping rules for financial transactions.

Customs agents were authorized to conduct warrantless searches when they had "reasonable grounds to believe" that currency laws were being violated.

Drug Diversion

On Sept. 18, the House by voice vote passed a bill (HR 5656 — H Rept 98-835) to help control the diversion of prescription drugs from medical channels into the black market. It allowed the Drug Enforcement Administration to revoke or deny a physician's registration to write prescriptions if the attorney general found that registration inconsistent with the public interest.

Omnibus Bill

On Oct. 2, reacting to the parliamentary coup pulled by House Republicans in getting the Senate-passed crime package attached to the continuing resolution, House Democratic leaders put on the floor an omnibus crime bill (HR 5690) of their own.

This measure, which contained provisions generally paralleling those of the Senate bill, was passed 406-16 under suspension of the rules. *(Vote 382, p. 118-H)*

The greatest differences between HR 5690 and the Senate bill (S 1762) involved sentencing procedures, the insanity defense and drug laws. ▮

Pharmacy Robberies

Congress May 17 cleared for President Reagan a bill (S 422 — PL 98-305) creating a new federal crime covering the robbery or burglary of controlled substances.

The measure was aimed primarily at thefts from drug stores, and pharmacists had been pressing for the legislation for years. They contended that as dispensers of powerful drugs with a street value far above their actual cost, they were vulnerable to attacks by those interested in making money on the black market.

Final action came when the Senate by voice vote accepted House amendments to S 422. The House had passed a compromise version of the measure by voice vote May 8.

The compromise, worked out through informal negotiations between the chambers, was essentially the same as the version reported March 30 by the House Judiciary Committee (HR 5222 — H Rept 98-644).

The Senate had passed S 422 in February, both separately (S Rept 98-353) and as part of a larger anti-crime package (S 1762 — S Rept 98-225). *(Crime package, p. 215)*

Background

The Justice Department already had authority under broad federal robbery and burglary statutes to prosecute crimes involving controlled substances. However, the department had told Congress in past years that it was not interested in investigating these types of crimes, which could be handled by state authorities.

Justice officials changed their minds in late 1983, however, and said they could live with legislation such as S 422 if requirements for federal jurisdiction were carefully worked out.

Rep. William J. Hughes, D-N.J., chairman of the House Judiciary Subcommittee on Crime, said there was merit to providing a federal "backup" to state prosecutions of drug robberies and burglaries.

Hughes said there were 6,000 robberies and burglaries of controlled substances between 1977 and 1981. Such crimes had "terrorized the community of dispensing pharmacists," he said.

"This legislation is an important step forward in controlling the diversion of large quantities of dangerous drugs from the legitimate channels of commerce to the streets and the black market," said Rep. Peter W. Rodino Jr., D-N.J., chairman of the House Judiciary Committee.

Major Provisions

As cleared, S 422 included the following major provisions:

- Provided for federal prosecutions in any one of three instances — when the value of the substances taken was at least $500; when the offender traveled in interstate or foreign commerce or used a facility of interstate commerce in the offense; or when a person other than the offender was killed or suffered "significant" bodily injury.

The original House bill provided for jurisdiction when

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TELECOMMUNICATIONS MEMORANDUM

Date: 3/7/91 Time: 3:15p.m.

Pages Including Cover Sheet: 10

MESSAGE TO: BOB SIMON

FIRM: WHITE HOUSE

TELECOPIER NO. 202-456-6218

MESSAGE FROM: DWIGHT PRICE, DIRECTOR OF GOVERNMENT AFFAIRS

PHONE NUMBER: 703-549-9222

TELECOPIER NO. 703/836-3195

MATERIALS TRANSMITTED: COPIES OF LETTERS FROM OUR PRESIDENT CONCERNING LAST YEAR'S CRIME BILL

MESSAGE: PLEASE CONTACT ME WITH ANY FURTHER QUESTIONS

If any difficulty is experienced with this transmission, please call DWIGHT PRICE at 703/549-9222.

MAR 7 '91 15:20 FROM NDAA PAGE.001

NATIONAL DISTRICT ATTORNEYS ASSOCIATION
1033 NORTH FAIRFAX STREET, SUITE 200, ALEXANDRIA, VIRGINIA 22314
(703) 549-9222

OFFICE OF THE PRESIDENT

September 12, 1990

Re: Crime Control Act (H.R. 5269)

Dear Member of Congress:

As President of the National District Attorneys Association, I am writing to ask for your support on a matter of great importance to the nation's prosecutors.

The Comprehensive Crime Control Act of 1990 (H.R. 5269), recently approved by the House Judiciary Committee, contains several provisions which are strongly opposed by the National District Attorneys Association.

While many of H.R. 5269's provisions are progressive steps forward, the provisions regarding habeas corpus "reform" and the so-called "Racially Discriminatory Capital Sentencing Act" provisions would, in effect, repeal the death penalty in the United States and would place insurmountable burdens on prosecutors in habeas corpus litigation in capital and non-capital states alike.

First, the habeas corpus provisions embodied at Title XIII of H.R. 5269 unduly expand the retroactively applied new rules of criminal procedure promulgated after trial and direct appeal to overturn convictions on collateral review, thereby overruling Teague v. Lane, 109 S.Ct. 1060 (1989). These provisions would extend the retroactive application of new rules to cases which were tried in accordance with the law at the time of trial, and which have been approved after full and final direct appellate review.

This provision also expansively redefines the component of the Wainwright v. Sykes, 433 U.S. 72 (1977) "cause and prejudice" standard so that many claims, which before could not be considered because of the defendant's failure to properly raise them in state court, would be "eligible" for federal consideration under the liberalized retroactivity law. Such initial federal court consideration of previously unraised claims would not only undermine state court processes and procedures, but also cause many well-based, proper and previously final convictions to be thrown out.

(1)

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The result of these objectionable provisions is disastrous. The wholesale application of new procedural rules to cases tried before their adoption could cause many non–capital, as well as capital sate convictions, to be re–opened. This will create an impossible burden which will severely drain the already overburdened administration of criminal justice. Thousands of previously proper convictions will wrongly be overturned.

In summary, instead of providing badly needed reform of collateral review of state convictions, H.R. 5269's habeas corpus provisions will dramatically increase opportunities for delay, abuse and repetitive litigation. For these compelling reasons, the provisions should be opposed.

The Title XVIII "Racially Discriminatory Capital Sentencing" chapter of H.R. 5269 (Chapter 177) is likewise unacceptable. It would, in effect, repeal the death penalty in the United Sates. Generally, the proposed bill creates a racial "quota" system for the death penalty. It provides that if the percentage of any particular race on death row exceeds the percentage of that race in the general population, execution of members of that race is prohibited unless: (1) the prosecutor can provide by clear and convincing evidence non–racial factors explaining the higher percentage of members on death row; or (2) the sentence being challenged does not fall within a racially discriminatory pattern. These exceptions are virtually meaningless, however, since these matters are simply not susceptible to evidentiary "proof." Because persecutors will not be able to met this unprovable burden, the provision could effectively eliminate the death penalty in the United States.

Finally, Title XXIII of H.R. 5269, the so–called "Berman Amendment", would allow all death row inmates one opportunity to raise any race–related claim for the first time on federal habeas review, no matter what reason the defendant offers for not raising the claim earlier. Prosecutors will be required to recall why a challenge was used for jurors they struck, even in cases dating back many years. Again, the "Berman Amendment" is just another way to eliminate thousands of properly obtained death penalties in the United States.

In light of this information, I urge you to oppose the specified habeas corpus reform provisions and the Racially Discriminatory Capital Sentencing sections of H.R. 5269. Specifically, I urge you to vote as follows:

(1) Habeas Corpus – Vote to amend H.R. 5269 by striking Title XIII and substituting language that reflects the Powell Commission report. The amendment will be introduced by Representative Henry Hyde.

(2) Racial Justice Act – Vote to amend H.R. 5269 by striking Title XVIII, "Racially Discriminatory Capital Sentencing." This amendment will be offered by Representative Jim Sensenbrenner, Jr.

(3) "Berman Amendment" – Vote to strike Sec. 2212 of Title XXII, "Special Rule for certain Habeas Corpus Petitions" (Berman Amendment).

(2)

(4) Asset Forfeiture – Vote to strike Title IV, Section 402(b) prohibiting adoptive forfeitures that "circumvent" state law. This provision will otherwise dramatically reduce needed revenues for state and local law enforcement to fight crime.

These issues are of critical importance to law enforcement and I would very much appreciate your support.

Sincerely,

Richard P. Ieyoub

RICHARD P. IEYOUB
President

cc: Jack E. Yelverton
National District Attorneys Association
Executive Director

(13)

NATIONAL DISTRICT ATTORNEYS ASSOCIATION
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OFFICE OF THE PRESIDENT

September 19, 1990

RE: Hughes Amendment to Crime Control Act (H.R. 5269)

Dear Member of Congress:

Congressman William Hughes is proposing an amendment to Title XVIII ("Racially Discriminatory Capital Sentencing") of H.R. 5269. To argue that the amendment "improves" the title begs the question. It is still tragically flawed.

The nation's district attorneys believe that prosecution should be color-blind. The great irony of the so-called "racial justice act", Congressman Hughes' amendment notwithstanding, is that it injects into the prosecutor's decision making process considerations of race through the medium of statistics. The application of this statistical approach to justice provides an obvious incentive for prosecutors to apply a double standard by seeking the death penalty for non-minority defendants in order to avoid protracted litigation by minority defendants under the provisions of this act. This does not promote justice generally any more than it discourages discrimination specifically. In fact, it encourages a "quota system" approach.

This bill is a legislative lemon. It cannot be fixed by cosmetic changes. Major surgery is necessary. We urge you to: (1) vote to reject Title XVIII "Racially Discriminatory Capital Sentencing" as well as the Hughes amendment; (2) vote to reject Sec. 2212 of XXII, "Special Rule for Certain Habeas Corpus Petitions" (Berman Amendment); (3) vote for the Hyde amendment substitute language in place of the current habeas corpus provision (Title XIII).

Many of the legal issues contained in H.R. 5269 are complicated. It is not expected that members of Congress who do not have considerable previous experience in the practice of criminal law in those areas covered by the bill will understand it. America's prosecutors do understand it and

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October 2, 1990

RE: Crime Control Bill (H.R. 5269)

Dear Member of Congress:

On behalf of the 6500 members of the National District Attorneys Association, we wish to express our appreciation to those of you who voted on Tuesday, September 25, 1990, against the rule on the Comprehensive Crime Control Act of 1990. We have informed prosecutors in all 50 states about your vote.

By joining the majority of your colleagues in bi-partisan opposition to this rule, you demonstrated your commitment to protecting the safety of thousands of law-abiding citizens nationwide. The rule would have thwarted a long overdue improvement to the criminal justice system by denying the House the opportunity to consider the Hyde Amendment on habeas corpus reform.

The nation's district attorneys are charged by the citizenry with the responsibility of promoting justice. This means adherence to fair, colorblind, orderly criminal law procedures. America's prosecutors - both Democrats and Republicans - resent the implication by some that they approach their work with anything less than the highest regard for fair treatment of defendants according to the rule of law.

We write now to urge you to support the Hyde amendment and to oppose any rule that does not make it in order. After careful analysis, our Association agreed in February to support the recommendations of the Powell Committee. As you probably know, former Associate Supreme Court Justice Lewis Powell does not personally support the death penalty. Nevertheless, he believes that all criminal law procedures - including the death penalty - should be fair and include the element of finality. We agree. In our view, the Powell Committee approach (the Hyde Amendment) will reduce delay, abuse, and repetitive litigation. The major goal of the Hyde Amendment is to restore a sense of finality to the sentencing process.

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With the limited time remaining in this session of Congress, we are concerned that the opponents of habeas corpus reform may succeed in blocking this measure. While we understand the political dynamics involved in a vote to defeat the previous question on the rule, it may be the only way that the Hyde Amendment will be given consideration. Therefore, we request that you vote to defeat the previous question if the next rule does not include the Hyde Amendment.

Finally, assuming that a rule is approved, we would like to share with you our views on the most important amendments. The amendments that are most important to law enforcement are as follows:

1. Support the Hyde Amendment on habeas corpus reform and oppose all other substitutes (including the Derrick Amendment).

2. Support the Sensenbrenner Amendment and oppose the "racial justice" provision that could result in a quota approach (the Hughes amendment).

3. Support the Moorhead Amendment to strike Section 402 of Title IV which restricts federal sharing of forfeited assets with state and local law enforcement agencies.

4. Support the Douglas Amendment on reform of the exclusionary rule.

We urge your support in making this legislation a landmark reform that will truly advance the cause of public safety.

Sincerely,

Richard P. Ieyoub

Richard P. Ieyoub
President

(6)

NATIONAL DISTRICT ATTORNEYS ASSOCIATION
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(703) 549-9222

OFFICE OF THE PRESIDENT

October 15, 1990

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

As you know, both the House and the Senate have passed omnibus anti-crime bills that contain federal death penalty provisions. Unfortunately, the crime bill passed by the House of Representatives contains the so-called "Racial Justice Act", a provision that would make statistics concerning the race of defendants and victims relevant in both state and federal death penalty cases.

On behalf of state and local prosecutors, we write today to urge you to veto any crime bill that contains any provision that injects racial statistics into capital sentencing. This is not a civil rights issue -- these provisions have nothing to do with racial justice or fairness and everything to do with a desire to thwart enforcement of death penalty laws. Further, America's prosecutors -- both Democrats and Republicans - resent the implication by some that they approach their responsibilities with anything less than the highest regard for fair treatment of defendants according to the rule of law.

The statistical approach taken by the so-called "Racial Justice Act" is simplistic, vague and unworkable. The Supreme Court rejected a challenge based upon this very approach in a 1987 case. This provision is a legislative attempt to circumvent the Supreme Court's ruling.

(8)

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In sum, Mr. President, the "Racial Justice Act", and the statistical approach to the death penalty it represents, will nullify both state and federal death penalties. At the same time, this racial quota approach to the criminal law will strike a blow against the cause of colorblind justice -- a cause we all vigorously support. We strongly oppose the so-called "Racial Justice Act," and urge you to veto any legislation that contains its approach to criminal justice.

Sincerely,

RICHARD P. IEYOUB
President
National District Attorneys Association

MIKE MOORE
Attorney General of
Mississippi

ERNEST D. PREATE, JR.
Attorney General of
Pennsylvania

MAR 7 '91 15:24 FROM NDAA PAGE.008