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# FOIA MARKER

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**Record Group/Collection:** George H.W. Bush Presidential Records  
**Collection/Office of Origin:** Speechwriting, White House Office of  
**Series:** Speech File Backup Files  
**Subseries:** Chron File, 1989-1993

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**OA/ID Number:** 13837  
**Folder ID Number:** 13837-011

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**Folder Title:**  
NFOP [National Federation of Police] Endorsement--Cincinnati, Ohio 10/9/92 [OA 7582]

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Stack:	Row:	Section:	Shelf:	Position:
<b>G</b>	<b>26</b>	<b>23</b>	<b>1</b>	<b>6</b>

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THE WHITE HOUSE

WASHINGTON

SCHEDULE OF THE PRESIDENT

FOR

CINCINNATI, OHIO

OCTOBER 9, 1992

EVENTS:

Staff Photo with Fraternal Order of Police National  
Executive Committee/Trustees  
Fraternal Order of Police Endorsement

DRESS:

Men - Business Suit  
Women - Day Dress

CONTACT:

Office of Presidential Advance  
John G. Keller, Jr. - 202/456-7565  
  
Trip Coordinator  
Shirley Huang - 202/456-7565  
  
Cincinnati, Ohio Signal - 202/395-2000  
202/757-2025

ADVANCE:

John Horne	- LEAD	Bobby Peede	- SITE
Greg Jenkins	- PRESS	Doug Rogers	- SITE
Dave Zimmerman	- USSS	Denise Dunckel	- PRESS
John Wissler	- MIL. AIDE		
Doug Furness	- WHCA		
Andy Anderson	- AFI		

WEATHER:

Morning Showers/mid 50's

SCHEDULE OF THE PRESIDENT

FOR

CINCINNATI, OHIO

OCTOBER 9, 1992

GUEST AND STAFF INSTRUCTIONS:

1:00 pm Vans depart West Basement  
en route Andrews Air Force  
Base.

1:20 pm Those with own transportation  
should arrive Andrews Air Force  
Base Distinguished Visitor's  
Lounge at this time.

1:45 pm

THE PRESIDENT boards Marine One and departs White  
House en route Andrews Air Force Base.

MARINE ONE MANIFEST:

THE PRESIDENT  
D. Bates  
M. Fitzwater  
B. Farish  
S. Biddle  
Mil. Aide  
Doctor  
2 USSS

(Flying Time: 10 Minutes)

1:55 pm

THE PRESIDENT arrives Andrews Air Force Base and boards Air Force One (C-20).

2:05 pm  
(E.D.T.)

THE PRESIDENT departs Andrews Air Force Base en route Cincinnati, Ohio.

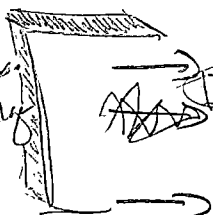
(Flying Time: 1 Hour 30 Minutes)  
(Interchange: Yes-C9/C20)  
(Time Change: None)  
(Food Service: Lunch)

3:35 pm  
(E.D.T.)

THE PRESIDENT arrives Cincinnati Municipal, Lunken Field, Cincinnati, Ohio and boards Motorcade.

NOTE: Open Arrival

WALKER  
WHITE / Pol.  
ACKNOWLEDG



Met by:

~~CONG. BILL GRADISON~~ → total submit →  
The Honorable and Mrs. John Boehner (Debbie) (Boehner w/ not be present)  
Congressman, U.S. Representative, 8th Congressional District  
STAN AARONOFF, Sen. Majority leader (yes) ✓ per Walker  
The Honorable Dale Van Vlyen  
State Representative

Mr. John Dowlin  
Commissioner, Hamilton County

Mr. Eugene Ruehlmann  
GOP Chairman, Hamilton County

Mr. Edmund J. Adams  
GOP Finance Chairman, Hamilton County

Mrs. Elizabeth Wagner  
GOP State Committee Member

Mr. Steve Grote  
Candidate, U.S. House of Representative, 1st Congressional District

Mr. Bob Bedinghaus  
Candidate, Ohio State House

Mrs. Deelian Gettler  
Co-Chairman, Victory '92

Mr. Mike Allen  
Coordinator, Victory '92, Hamilton County

Mrs. Judith Walters  
Supporter, Bush/Quayle

Mr. Bailey Turner  
Supporter, Bush/Quayle

Mrs. Kay Simon  
Supporter, Bush/Quayle

3:40 pm

THE PRESIDENT departs Cincinnati Municipal, Lunken  
Field en route Holiday Inn Eastgate.

MOTORCADE ASSIGNMENTS:

Lead	J. Horne
Spare	B. Farish Doctor
LIMO	THE PRESIDENT
Follow-Up	
Control	D. Bates Mil. Aide
Support	M. Fitzwater J. Keller Official Photographer Medic
WHCA	J. Gaughan
Camera I	J. Herrick
Camera II	

Staff Van	All Guests and Remaining Staff
Wire I	
Wire II	
Press Van I	S. Walsh
Press Van II	
Press Van III	

(Drive Time: 20 Minutes)

GUEST AND STAFF INSTRUCTIONS:

Upon arrival at Holiday Inn Eastgate,  
Guests and Staff will be escorted to  
Staff Viewing Area.

Please board Motorcade no later than  
4:30 pm for transport to Cincinnati  
Municipal, Lunken Field.

4:00 pm

THE PRESIDENT arrives Holiday Inn Eastgate and  
proceeds to Venice Room.

Met by:

Mr. Thomas Rywein  
General Manager, Holiday Inn Eastgate

Ms. Kathy Mielke  
Sales Manager, Holiday Inn Eastgate

Ms. Debbie Smith  
Sales and Catering Manager, Holiday Inn Eastgate

EVENT: STAFF PHOTO WITH FRATERNAL ORDER OF POLICE  
NATIONAL EXECUTIVE COMMITTEE/TRUSTEES

CLOSED PRESS

4:05 pm THE PRESIDENT arrives Venice Room and begins participation in Staff Photo with Fraternal Order of Police National Executive Committee/Trustees.

4:15 pm THE PRESIDENT, accompanied by Mr. Dewey Stokes, President, Fraternal Order of Police, concludes participation in Staff Photo, departs Venice Room and proceeds to Off-Stage Area.

4:17 pm THE PRESIDENT, accompanied by Mr. Dewey Stokes, arrives Off-Stage Area and holds briefly.

NOTE: Dais participants will be announced onto stage at this time.

EVENT: FRATERNAL ORDER OF POLICE ENDORSEMENT

OPEN PRESS

ON-STAGE ANNOUNCEMENT

REMARKS

TOAST LECTERN

4:20 pm THE PRESIDENT is announced onto Stage by Mr. Dewey Stokes and remains Standing.

4:22 pm THE PRESIDENT is introduced for Remarks by Mr. Dewey Stokes.

4:24 pm THE PRESIDENT makes Remarks.

4:35 pm THE PRESIDENT concludes Remarks, departs stage and boards Motorcade.

NOTE: Six police photos will be taken at this time.

4:40 pm THE PRESIDENT departs Holiday Inn Eastgate en route Cincinnati Municipal, Lunken Field.

MOTORCADE ASSIGNMENTS:

Same as on Arrival.

(Drive Time: 20 Minutes)

5:00 pm THE PRESIDENT arrives Cincinnati Municipal, Lunken Field and boards Air Force One.

5:05 pm THE PRESIDENT departs Cincinnati, Ohio en route  
(E.D.T.) Columbus, Ohio.

(Flying Time: 50 Minutes)  
(Interchange: Yes-C9/C20/Press)  
(Time Change: None)  
(Food Service: Dinner)

To Jeannie  
Date 10/9 Time 8:10

**WHILE YOU WERE OUT**

M Doug Rodgers  
of \_\_\_\_\_

Phone [513 - 752 - 4400]  
Area Code Number Extension X142

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CALLED TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	URGENT	<input type="checkbox"/>

RETURNED YOUR CALL

Message Ice-T Controversy -  
Charon Receiving Money from  
Time Warner - Not POTUS

CBA

Operator



**AMPAD**  
EFFICIENCY®

23-021 - 200 SETS  
23-421 - 400 SETS

**CARBONLESS**



▲ BM. VIP SECTION

▲ POLICE OFFICERS WILL BE  
STANDING DIRECTLY BEHIND  
50-75 OFFICERS ON STAGE

141 - FRANK DUGGAN'S RM.

CALL WATER

8 October 1992

MEMORANDUM FOR CHRISTINA MARTIN

FROM: J. BUNTON

SUBJECT: CINCI FOP // ACKS AND FACTS

HERE'S WHAT WE KNOW AT THIS TIME:

POTUS INTRO: Mr. Dewey Stokes, President, NFOP

DAIS: Ralph Orms, Secretary, NFOP  
Kenneth Gorman, National Chairman, Board of Trustees  
NFOP  
Gil Gallegos, Executive Board FOP  
George Austin, Executive Board, FOP  
Generic members of the executive board here today

John Horne is the lead -- this is all he knew at 4 p.m.

FACT CHANGES:

p. 2 change "Ask your bros. and sisters of the Little Rock Fraternal Order of Police in Arkansas" [not Fraternal Order of Police in Little Rock --- because, POTUS got the Little Rock FOP endorsement, not the Arkansas FOP endorsement -- the state chapter endorsed Clinton.

change "I've presided over a 59%" to I've proposed a 59% increase. This keeps the language consistent -- proposing and presiding are two different things...

p. 3 add "most" between "well, most federal inmates serve....again to be consistent

On page 4 -- according to Lee Lieberman ALL the names of possible supreme court judges coming from the Clinton camp are opposed to the death penalty.

FYI: in case the press office or you need to know -- the study mentioned on p. 3 [Carter appointees almost 5 times more sympathetic to criminal's rights than Reagan" was given to me by Lee Lieberman in counsel's office it is based on the study: "Presidential Effects on Criminal Justice Policy in the Lower Federal Courts: The Reagan Judges," By C.K. Rowland, Donald Songer, and Robert A. Carp. Law and Society Review, Vol. 22, No. 1, 1988, p. 197. She said these guys are highly respected by serious Judicial Scholars. Note: It must remain "ALMOST" 5 times. Do not edit the qualifier out.

Walter White  
AKS - CONG.  
BILL GREATHEAD  
BOENISER  
SMYR  
FIZADOFF  
ALDRONOFF  
MILBS AT FOP  
Pres. R.H. Sunk  
REARDED IN MIND  
Cliff 0697  
614-466-8068  
Sue Moore

ELLY ANDERSON  
2230

**WHITE HOUSE  
SITUATION ROOM**

PRECEDENCE: **IMMEDIATE**  
PRIORITY  
ROUTINE

RELEASER: \_\_\_\_\_

DTG: \_\_\_\_\_

MESSAGE NO. \_\_\_\_\_ CLASSIFICATION \_\_\_\_\_ PAGES 6

FROM Ken Askew \_\_\_\_\_ 2930 \_\_\_\_\_ 122

(NAME) (PHONE NUMBER) (ROOM NO.)

MESSAGE DESCRIPTION \_\_\_\_\_

TO (AGENCY)	DELIVER TO	DEPT/ROOM NO.	PHONE NUMBER
	Steve Provost		
	Christina Murfin		

**REMARKS:**

This has been forwarded to the President

THE WHITE HOUSE  
WASHINGTON

October 8, 1992

MEMORANDUM FOR THE PRESIDENT

THROUGH: DAN MC GROARTY *DMG*  
FROM: KEN ASKEW *KA*  
SUBJECT: PROPOSED REMARKS TO NATIONAL FRATERNAL ORDER OF  
POLICE

I. SUMMARY

On Friday, October 9th, at 4:30 p.m. you will deliver remarks to an audience of 400 police officers, their families, and law enforcement officials at the National Fraternal Order of Police endorsement in the ballroom of the Holiday Inn East Gate in Cincinnati, Ohio.

II. DISCUSSION

Your remarks, (approximately 8 minutes / cards) based on your stump speech, highlight distinctions between you and your opponent on the issue of crime.

The remarks refer to the number of police officers killed in the line of duty in recent weeks, and the Dayton police officers attending your speech straight from the dedication -- just hours before -- of a memorial plaque to a fallen colleague.

(Askew/Bunton)  
October 8, 1992  
4:00 p.m.  
CINCINNATI

PRESIDENTIAL REMARKS: NATIONAL POLICE ENDORSEMENT  
CINCINNATI, OHIO  
OCTOBER 9, 1992  
4:30 P.M.

Thank you for that kind introduction, and hello, everyone. I appreciate the warm welcome. It's great to be here in Cincinnati with all you good people. I especially want to recognize the officers from Dayton who came today in remembrance of your fallen comrade, Officer Bill Whalen.

I'm delighted and honored to accept your endorsement here today as the preferred Presidential candidate of the National Fraternal Order of Police.//

Thank you for your support. You're one of the strongest voices of the law-enforcement community in the entire country, and I'm grateful you're speaking on my behalf.

You know, during the primaries, Governor Clinton called himself the Comeback Kid. Well... he was half right.//

But some folks think that on November 3, I'm going to do a Lou Piniella... and just go away. Well, let me tell you -- they're in for a big surprise.// Because this country's going to see a real comeback on election day... when George Bush comes storming back to victory.//

And we're going to turn this election around because of people like you... who want to do what's right for America.//

I believe beyond a shadow of a doubt that Bill Clinton is wrong for America. Look at his record. He's a typical big-government liberal. Tax, spend, coddle the criminal.

Don't take my word for it. Ask the folks who know his record best. Ask your brothers and sisters of the Fraternal Order of Police in Little Rock, Arkansas -- Governor Clinton's home town. They're endorsing not their own man, but -- you guessed it -- George Bush for President of the United States.//

That's right. And here's why. The Governor's record.

Arkansas ranks near rock-bottom for every important per-capita crime dollar it spends. For prisons: 46th. For judicial and legal systems: 50th. And when it comes to spending for police officers, Arkansas ranks 49th.

No wonder crime went up faster in Arkansas during the 1980s than in any other state. If you don't give your police the tools they need, you can't expect them to do the job.//

Compare that to my record. Since 1989, I've presided over a 59% increase in federal spending to fight crime.

I've increased spending for state and local law enforcement... and for just one example, the Eddie Byrne Memorial Grant Program has more than tripled since I became President.//

There's more. Last year, under Bill Clinton, the average Arkansas criminal served less than one-fifth of his sentence. Then he's back on the streets. Apparently, down in Arkansas, you do the crime -- but not the time.//

Well, Federal inmates under my jurisdiction serve at least 85% of their full sentences. So crime's just one more issue the Governor of Arkansas can't talk about without confronting his rotten record back home.

That record gets unnerving when you consider the damage a soft-on-crime President could do to law-enforcement nationwide.

After all, maybe the single most-vital legacy a President can leave behind is his record of judicial appointments.

Compare the Carter record to the Reagan/Bush era, and you can see how the Democrats' appointments are still hurting us.

The record clearly shows that Carter left us with judges far more sympathetic to suspects' rights than judges appointed by Ronald Reagan. And according to one independent study that NBC News reported the other night... Carter appointees are almost five times more likely to champion so-called "suspect's rights" over the rights of a victim.

Well, my record on this is clear. In 1988 I told the American people that like Ronald Reagan, I'd appoint judges who would interpret and apply the law -- not try to rewrite it from the bench. And I pledged my appointments would give at least as much consideration to victims' rights as to criminals' rights.//

That's just what I've done. And the results are clear. The Supreme Court has handed down a series of sensible decisions allowing victims to be heard... and justice to be served.

Would Clinton appointments be similar? Well, all the names of possible Supreme-Court appointees coming from his camp are rabidly opposed to the death penalty.

The name Clinton himself has mentioned is Governor Cuomo. Now, I can't confirm it... but I hear Mr. Cuomo washes all his clothes on the "gentle" cycle -- because he thinks it's more humane.// Guess what kind of decisions he'd hand down.//

Folks... that's just not right for America.

It's plain wrong to ask law-enforcement officers to do their job... and then see their good work undone by judges who turn criminals right back out onto the sidewalk.//

Well, I'm on the side of the victim.//

And I say it's high time we turn around this judicial trend to be soft on criminals and hard on the people in blue.//

The bottom line on November 3 is this. When it comes to crime, if you liked Carter I... you'd love Carter II.//

America just can't afford that. We need a President to help you take criminals off the streets and keep them off the streets.

I am that man. And that's what I stand for as President.//

I support the brave women and men who wear the blue because you know, better than anyone, that we're all vulnerable. Men, women and children. White, brown and black. Young and old, rich and poor. To a bullet or a blade -- we all look just the same.

And you alone stand in the breach. We don't thank you enough... and to tell the truth -- we can't thank you enough.

David  
Kauf 514-3273  
↑

The best we can do is give our support... and we can fight for justice when one of your comrades falls in the line of duty.

That's why my crime bill calls for a Federal death penalty for cop-killers.// It'll go into law if Congress ever gets around to voting on it.

And while it won't bring back the six brave police officers who were killed across the nation just in the past few weeks... at least it'll take the animals off the streets who commit the ultimate horror... by gunning down heroes in blue.//

I want to tell you why you folks are so often on my mind. I mentioned Eddie Byrne earlier. Well, for four years I've kept badge #14072 in my desk in the Oval Office. A retired New York officer, Lieutenant Matt Byrne, gave it to me. It's the badge his son Eddie wore the day he was gunned down by a crackhead.

Matt asked me to keep that badge as a reminder of all you brave officers who put your lives on the line every single day.

I have kept it. And I always will.

As President, you have my thanks... but much more than that -- you have my support. You can count on that.//

And with your strong support -- I know that America can turn back the threat of drugs and crime... the fear of our young and old -- and make our communities safe and secure once again.

Thank you for this vote of confidence -- and may God bless the men and women who wear the badge... and the blue.

- if fed  
COP or  
State const.  
clearly  
cover  
State  
or 20 cent  
All  
agent  
or on it  
task force

# URGENT

Office of the Attorney General  
Washington, D. C. 20530



October 9, 1992

MEMORANDUM TO: PAUL KORFONTA  
FROM: EUGENE SCALIA  
SUBJECT: TODAY'S FOP SPEECH

This is to correct a couple of points in the President's speech.

o The President's spending on crime is under-stated at the bottom of the second page: "I've achieved a 64 percent increase" is a safe statement, rather than "presided over" a "59%" increase.

o The President should not say, near the bottom of page 2, that he's increased spending for state and local law enforcement. A better statement is, after pointing out the increase in federal spending: "And as for charges that my Administration has short-shrifted state and local law enforcement, the fact is that spending under the Eddie Byrne Memorial Grant Program for state and local law enforcement is more than 3 times what it was when I became President." If this is too artful, then maybe it's best to drop the point.

o The President's crime bill did not itself provide the death penalty for cop-killers; "That's why I support a crime bill that calls for a federal death penalty for cop-killers." Top page 5.

o Make clearer that Matt Byrne is Eddie Byrne's father, so that it reads: "Eddie's father Matt, a retired New York police officer . . ." Middle page 5.

*for a lot of  
\* Cop killers*

*David Karp - DOJ  
514-3273  
Said leave original  
language*

- o For the Criminal Justice Petitions and Convictions Category, the following case types were examined:
    - 1) U.S. Habeas Corpus Petitions
    - 2) State Habeas Corpus Pleas
    - 3) Motions Made Immediately Before, During, or After a Criminal Trial.
  - o Data showed that Wilson appointees had the highest percentage of liberal decisions (51%), while those of Eisenhower and Nixon had the lowest percentage (37%).
  - o Authors assert that political values and orientations of the judges do affect the manner in which they render judgement.
  - o Authors conclude that the more committed a President is to the ideology of an appointee, the more that his own ideology will be reflected in the judiciary.
  - o The greater the number of vacancies on the federal bench, the greater the impact the President will have on shaping the judiciary.
  - o The greater the political clout of the President (i.e. if his Party controls the Senate), the greater likelihood that the President will have his appointees placed on the bench.
  - o If the judicial climate is favorable to the ideology of the President, then his appointees will have a greater impact.
6. "The Senate Power of Advice and Consent on Judicial Appointments: An Annotated Research Bibliography," By Michael J. Slinger, Lucy S. Payne, & James L. Gates, Jr.. Notre Dame Law Review, Vol. 64, No. 1, 1989, P. 106.
- o A brief history of the appointment process, with a thorough bibliography of relevant pieces on the topic.
  - o Notes that a President will be more successful when he has a sympathetic Senate deliberating over his nominees.
7. "Presidential Effects on Criminal Justice Policy in the Lower Federal Courts: The Reagan Judges," By C.K. Rowland, Donald Songer, & Robert A. Carp. Law & Society Review, Vol. 22, No. 1, 1988, P 191.

- o Authors hypothesize that Reagan judges on the lower federal courts will be less supportive of criminal rights than Nixon or Carter appointees.
- o Notes that until 1987 President Reagan benefited from a sympathetic Senate Judiciary Committee.
- o Authors define support for criminal litigants as acquittals, decisions granting the trial or pretrial motions of criminal defendants, and decisions granting state or federal habeas corpus relief.
- o Study selected 1500 random samples of federal district court opinions published in the federal supplement between 1981 and 1984, and 1500 random samples of appellate opinions published in the Federal Reporter published in the same time period.
- o In District Court analysis, authors found that Reagan judges support criminal litigants 24% of the time, while Nixon judges had a 32% rating, and Carter judges the most supportive at 47%.
- o In Court of Appeals decisions, support for criminal litigants was 17% for Reagan judges, 26% for Nixon judges, and 32% for those appointed by Carter.
- o Where the decision is to reverse the trial judge, Reagan judges were least supportive of criminal litigants at 37%, while Carter judges were highest at 72%. Nixon judges fell in the middle at 54%.
- o In non-unanimous decisions where there is a split in the three judge panel, Carter judges supported criminal rights 67% of the time, while Reagan judges had a score of 14%, and Nixon judges at 35%.
- o Authors suggest that the reason behind the moderation of Nixon judges is due to compromises with a Democratic Senate and Judiciary Committee.

2  
14  
5  
70%

14  
4  
56

8. "Federal Judicial Recruitment and Selection Research: a Review Essay," By Elliot E. Slotnick. *Judicature*, Vol. 71, No. 6, April-May 1988, P. 317.

- o Details the Judicial screening process in the Reagan White House, notes activities of the Department of Justice Office of Legal Policy.

- o Author states that Reagan appointees are deficient in affirmative action category, particularly in low numbers of African-Americans appointed to the Bench.
  - o Article reviews the studies which conclude that Reagan appointees are more likely to rule against criminal litigants than are Carter appointees.
11. "Reagan's Appointments to the U.S. Courts of Appeals: the Continuation of a Judicial Revolution," by Jon Gottschall. *Judicature*, Vol. 70, No. 1, June-July 1986, P. 49.
- o Author's purpose is to demonstrate the extent to which changes in judicial selection policy in the Reagan administration have affected the pattern of decision making in the U.S. Court of Appeals.
  - o Methodology of study included placing the appointees of six administrations into four separate categories: Kennedy/Johnson appointees, the Nixon/Ford appointees, the Carter appointees, and the Reagan appointees.
  - o Rankings were given to each of these categories based upon their opinions in several areas, including relevant tendency to vote in favor of prisoners/defendants in criminal cases.
  - o A judge was assigned a liberal rating when he/she voted in favor of prisoner/defendants.
  - o The study included 3,752 cases, 60% of which (2,399) involved prisoner or defendants rights.
  - o Author found that in non-unanimous cases, judges appointed by Democratic presidents were more than twice as likely to vote liberally than judges appointed by Republican presidents.
  - o In criminal justice issues, Kennedy/Johnson judges had a 56% liberal rating, while Nixon/Ford judges had a 23% liberal rating. Carter judges were highest at 61%, while Reagan judges had a 31% rating.
  - o In direct comparisons between Reagan and Carter judges in non-unanimous cases, the Carter judges voted for what has been defined as the liberal decision 95% of the time, with the Reagan judges voting that way only 5% of the time.

- o The Author concludes that the Reagan appointees are not clearly more conservative than the Nixon/Ford judges, but they are clearly more conservative than the Kennedy/Johnson and Carter judges.
12. "A Difference of Opinion," by Daniel E. Troy. Policy Review, Summer 1992, P. 27.
- o Asserts that the Court of Appeals is the best place to examine the influence of Presidents Reagan and Bush on the judiciary.
  - o Notes that as of May, 1992, Presidents Reagan and Bush had named a combined number of 93 judges, or 62%, to the Court of Appeals.
  - o Examines five important areas of federal law - First Amendment, criminal, civil rights, administrative, and antitrust - and through case examples, illustrates how the Reagan/Bush appointees are more conservative than their predecessors.
  - o For the criminal law example, death penalty cases from the Fifth and Ninth Circuits are given; The Ninth Circuit allowed a defendant to file a second habeas petition, and thus overturned the death sentence. The Fifth Circuit denied the second habeas petition, and thus the death sentence was upheld.
13. "Nonpublication in the Eleventh Circuit: An Empirical Analysis," by Donald R. Songer, Danna Smith, & Reginald S. Sheehan. Florida State University Law Review, Vol. 16., 1989, P. 963.
- o Examines rationale behind Judge's decision to publish an opinion.
  - o Authors found that of the 1,663 cases filed in the Eleventh Circuit in 1986, 1001 went unpublished - or 60.2%.
  - o Authors hypothesized that in unpublished opinions, no difference should emerge in the voting tendencies of judges appointed by Democratic or Republican Presidents. This is due to the fact that there should be little disagreement between the judges in unpublished opinions.
  - o The authors coded all the opinions as either "liberal" or "conservative", using the same criteria as found in the Goldman study.

# LAW & SOCIETY REVIEW

VOLUME 22, NUMBER 1 / 1988

## CONTENTS

ABOUT THE AUTHORS	3
FROM THE EDITOR	5
CLASS STRUCTURE AND LEGAL PRACTICE: INEQUALITY AND MOBILITY AMONG TORONTO LAWYERS JOHN HAGAN, MARIE HUXTER, and PATRICIA PARKER	9
LAW, CHANGE, AND LITIGATION: A CRITICAL EXAMINATION OF AN EMPIRICAL RESEARCH TRADITION FRANK MUNGER	57
WHAT IS PROCEDURAL JUSTICE?: CRITERIA USED BY CITIZENS TO ASSESS THE FAIRNESS OF LEGAL PROCEDURES TOM R. TYLER	103
LAY EXPECTATIONS OF THE CIVIL JUSTICE SYSTEM WILLIAM M. O'BARR and JOHN M. CONLEY	137
DETERRENT EFFECTS OF THE POLICE ON CRIME: A REPLICATION AND THEORETICAL EXTENSION ROBERT J. SAMPSON and JACQUELINE COHEN	163
RESEARCH NOTE PRESIDENTIAL EFFECTS ON CRIMINAL JUSTICE POLICY IN THE LOWER FEDERAL COURTS: THE REAGAN JUDGES C. K. ROWLAND, DONALD SONGER, and ROBERT A. CARP	191

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*Research Note*

PRESIDENTIAL EFFECTS ON CRIMINAL  
JUSTICE POLICY IN THE LOWER  
FEDERAL COURTS: THE REAGAN  
JUDGES

C. K. ROWLAND  
DONALD SONGER  
ROBERT A. CARP

Scholarly and media accounts have portrayed the Reagan administration as strongly committed to the selection of judges who are ideologically in tune with the president. Interviews with key congressional participants indicate that Reagan has received substantial home-state support for his ideological selection criteria. ~~Analysis of each appointment cohort's criminal justice decisions confirms this expectation for the district courts and courts of appeals. Indeed, the degree of polarization between the Reagan and Carter cohorts is unprecedented. However, this difference was due to the unexpectedly high support for criminal defendants exhibited by Carter appointees as well as the predicted low support provided by Reagan judges.~~

I. INTRODUCTION

By the end of his second term, Ronald Reagan will have appointed a majority of the lower federal judiciary in active service (Goldman, 1985: 314). However, as to ~~the important question of whether his appointees will engender a change in the court's allocation of value and privilege~~, Goldman (ibid., p. 327) notes that the "answer must await systematic empirical analysis." ~~In response we systematically compare levels of support for criminal defendants among Nixon, Carter, and Reagan appointees to the lower federal courts.~~ Because the empirical and theoretical foundations

The authors gratefully acknowledge the financial support of the University of Kansas Graduate Research Fund and the administrative support of the Brookings Institution, Washington, DC, in the conduct of this research.

<sup>1</sup> We have omitted direct reference to the Kennedy, Johnson, and Ford

of accumulated research suggest that the key to understanding adjudicatory differences among appointment cohorts is understanding differences in the politics and ideological criteria of appointment, we first review briefly the literature on presidential appointment effects and describe the appointment policies of Nixon, Carter, and, in greater detail, Reagan. Then we estimate Reagan appointment effects by comparing his appointees' support for criminal defendants with that of Nixon and Carter appointees between 1981 and 1984.

## II. PRESIDENTIAL EFFECTS ON CRIMINAL JUSTICE DECISIONS

Differences among appointing-president cohorts' support for criminal defendants have been consistent and significant since 1968. They have been most pronounced on the courts of appeals. In separate studies, Goldman (1975) and Gottschall (1983) found Johnson appointees to be more than twice as supportive of criminal defendants' claims as Nixon appointees. Gottschall (1983) also found that Carter appointees to the appellate courts were more supportive of criminal defendants than were the appointees of other Democratic presidents or Nixon appointees. Because these studies were limited to published, nonunanimous opinions, they were cautiously interpreted as indicating that policy predilections selected in the appointment process have an effect when the fact/law stimuli are sufficiently ambiguous to engender disagreement among judges hearing the same case (Songer, 1982a; 1982b). This conclusion was recently reinforced by a study (Gottschall, 1986) that distinguished unanimous from nonunanimous criminal justice opinions and found that Carter appointees were about 60 percent more supportive of criminal claimants than were Reagan appointees for all cases (55% versus 34%, respectively), but almost twice as supportive in nonunanimous decisions (61% versus 31%, respectively).

Because all district court judgments are "unanimous," one might expect weaker presidential effects on criminal judgments at the trial court level. This expectation is reinforced by early studies of the federal trial courts (Walker, 1972) and by the fact that presidents' district court nominations are more constrained by the preferences of home-state influences than are their appellate nominations. However, recent work indicates that, while less pronounced than at the appellate level, presidential effects on pub-

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cohorts for several reasons. First, information about the Ford appointment strategy is extremely limited. Second, anecdotal evidence suggests that many Ford nominees were actually selected during the Nixon administration and processed by the Ford administration. Finally, an attempt to include Kennedy and Johnson appointees revealed that less than 20% of the former and 33% of the latter remained active on the bench in 1984. Moreover, these survivors did not approximate random samples of the original cohorts.

lished outcomes remain statistically and substantively significant at this level (Carp and Rowland, 1983). In one study (Rowland *et al.*, 1984), the support for criminal defendants by Johnson appointees was more than 60 percent greater than the level of support by Nixon appointees (39% versus 24%, respectively), and almost 50 percent greater than the level of support by Kennedy appointees. Moreover, differences among appointing-president cohorts actually increased under controls for region and state.

The research summarized above leads us to anticipate differences in support for criminal litigants between Reagan appointees and the appointees of his predecessors and to expect these effects to be more pronounced for nonunanimous appellate judgments than for unanimous appellate or trial judgments. The quality and quantity of these differences can be anticipated by comparing the administrations' judicial selection strategies.

### III. THE POLITICS OF APPOINTMENT

The Nixon administration, pursuant to its 1968 campaign pledge to appoint "law and order" judges to the federal courts, systematically sought to eliminate from its appointment cohort judges found to be "soft" on the crime issue (Gottschall, 1983). Despite the administration's criteria, a Democratic Senate and changes on the Senate Judiciary Committee (Slotnick, 1980; 1981) placed constraints on Nixon's ability to secure a "law and order" federal bench and forced him to compromise frequently with liberal home-state senators. In California, for example, he conceded every fourth district judge to Democratic Senators Alan Cranston and John Tunney in return for their support of his California nominees in the Senate (Jackson, 1974).<sup>2</sup>

Carter's commitment to affirmative action selection criteria and merit selection commissions focused public and scholarly attention on the process of selection (Slotnick, 1980, 1981; Neff, 1981; Berkson and Carbon, 1980) and increased the number of minorities and women appointed (Goldman, 1981). Although one study (Berkson and Carbon, 1980) concluded that candidates for appellate vacancies were questioned by judicial panelists about issues ranging from affirmative action to capital punishment, most students of the process have concluded that the Carter cohort ranged from moderate to liberal in general outlook and was heterogeneous in specific policy predilections (Goldman, 1981; Neff, 1981; Berkson and Carbon, 1980; Fowler, 1983). No scholarly evidence reveals a concerted ideological commitment by this administration to specific criminal justice predilections.

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<sup>2</sup> See also the interview with Roy Greenaway of Senator Cranston's staff, Washington, D.C., March 4, 1986 (available from Rowland).

In many ways the political roots of the Reagan appointment process can be traced to the 1980 Republican platform's promise to "secure the appointment of women and men . . . ~~whose~~ judicial philosophy is characterized by the highest regard for protecting the rights of law-abiding citizens" (Republican Party, 1980: 11). The 1984 Republican platform reaffirmed this appointment philosophy, and commended Reagan's "fine record" of appointing federal judges, "committed to the rights of law-abiding citizens" (Republican Party, 1984: 9). ~~Since 1984 Reagan has maintained his public~~ commitment to "law and order" ~~judicial appointments~~. As recently as October 1986 he warned that if the Democrats won control of the Senate, it would undermine his attempt to appoint tough federal judges: "We don't need a bunch of sociology majors on the bench. What we need are strong judges . . . who do not hesitate to put criminals where they belong, behind bars" (*New York Times*, October 9, 1986: A3).

As his predecessors discovered, Reagan learned that a president's ideological appointment goals cannot be achieved without support from senators in general and home-state senators in particular. In this regard, until 1987 he benefited from a politically sympathetic Senate Judiciary Committee. Of particular importance is the commitment by home-state senators and Reagan supporters in several of the largest states to recruit judicial candidates who meet the Republican platform's appointment criteria. In California, for example, Republican Senator Wilson has established two nominating commissions in each of the state's four federal judicial districts; one is a "merit commission," the other a "political commission" to insure that those potential appointees found to be meritorious also have the appropriate conservative political and judicial philosophy (*Los Angeles Times*, February 21 and 22, 1986).<sup>3</sup> Moreover, Senator Wilson has abolished the longstanding agreement whereby the out-party's senators were allowed to choose every fourth judicial appointee in the state. Today Senator Cranston's staff learns the identity of nominees "when and if we are contacted by the FBI as part of its security check."<sup>4</sup>

Reagan's home-state ideological support extends to many states without Republican representation in the Senate. In many of these states the senior Republican congressman coordinates the selection of judicial candidates and forwards three to five names from which the White House can choose a legally and politically acceptable nominee. In Illinois, for example, this role is performed by Representative Robert Michel, the conservative House

<sup>3</sup> See also the interview with Ira Goldman of Senator Wilson's staff, Washington, D.C., February 17, 1986 (available from Rowland).

<sup>4</sup> See the interview cited in n. 2 above.

Minority leader,<sup>5</sup> whose presidential support score for 1985 was an exceptionally high 85 percent (*Congressional Quarterly Almanac*, 1985).

In states whose Republican representatives have been less supportive of the President, the tendency has been to circumvent elected officials by appointing informal selection committees whose membership includes representatives of the Reagan/Bush campaign organization. In Massachusetts, where Representative Silvio Conte's support score (36) was lower than those of many Democrats and barely half the 1984 Republican average (67) (*ibid.*), a selection panel is chaired by the chairman of the state's 1984 Reagan/Bush committee and includes as an ex-officio member Roger Moore, general counsel for the Republican National Committee.<sup>6</sup>

In combination, the Reagan administration's politicized appointment process and the history of appointment effects on criminal justice judgments leads us to anticipate a Reagan bench that is substantially less supportive of criminal litigants than the Carter or Nixon appointees seated at the same time. We now test this expectation.

### B. Appointment Effects of Reagan

Support for criminal litigants is defined as acquittals, decisions granting the trial or pretrial motions of criminal defendants, and decisions granting state or federal habeas corpus relief. Each presidential cohort is assigned a criminal support score equal to the percentage of its decisions that support criminal defendants. We compute criminal support scores from random samples of 1,500 district court opinions published in the *Federal Supplement* and 1,500 appellate opinions published in the *Federal Reporter* between 1981 and 1984; however, to control for potential temporal effects and increase the number and comparability of Reagan appointees' opinions, we have stratified the sample to overrepresent 1983 and 1984 opinions.

Table 1 compares the criminal support scores of Nixon, Carter, and Reagan appointees on the district courts. These findings are of the sort predicted by previous research; moreover, the degree of polarization between Carter and Reagan appointees is unprecedented. In the aggregate Carter appointees test twice as supportive of criminal defendants as are Reagan appointees.

<sup>5</sup> See the interview with Sharon Yard of Representative Michel's staff, Washington, D.C., April 1, 1986 (available from Rowland).

<sup>6</sup> This panel recommended (and the president nominated) Douglas Woodlock, the attorney who had represented the antibusing Boston School Committee in a desegregation case that focused national attention on Boston and Judge Arthur Garrity, to replace Judge Garrity. See *Boston Globe*, Dec. 1, 1986; and the interview with Frank Conway, Chair, Massachusetts Federal Selection Committee, May 5, 1986.

Table 1. Percent Support for Criminal Litigants by Presidential Appointment Cohorts in the Federal District Courts, 1981-84

Nixon	Reagan	Carter
32 (N = 499)	24 (N = 217)	47 (N = 784)
$\hat{a} = 1.49^*$		$\hat{a} = 2.81$
$p < .05$		$p < .01$

\* The cross-product ratio, frequently called the odds ratio, is a measure of the relative odds of respondents from each independent variable category being placed in a single dependent variable category. The odds ratio is computed for 2-by-2 tables by the formula:  $(N_{11}/N_{21}) \div (N_{12}/N_{22})$ . For an expanded discussion, see Reynolds (1977).

... a difference that would occur by chance less than one in a thousand. The odds ratio (2.81) indicates that the relative odds of supporting the defendant are greater than two to one. The Nixon appointees, while less supportive of criminal litigants than Carter appointees, are significantly more supportive than are Reagan appointees. At first blush their moderate position might seem the result of the moderating influence of age or experience. However, studies of federal trial judges (Rowland and Carp, 1983) and Supreme Court justices (Segal, 1986) reveal virtually no maturation effects on civil liberalism. Thus, the most plausible explanation for the moderation of the Nixon cohort is that, despite Nixon's commitment to "law and order" appointments, his discretion was constrained by a Democratic majority in the Senate and moderate home-state Republican recruiters (Rowland *et al.*, 1984).

The ambiguous nature of many appellate case stimuli leads us to expect even greater presidential effects at this level and maximum presidential effects for dissenting decisions within that arena. Table 2 indicates that this expectation is fulfilled. Although both cohorts are reluctant to support criminal appeals, for the entire sample of appellate judgments the Carter appointees are almost twice as likely as Reagan appointees to support the criminal litigant. The probability of this disparity occurring by chance is less than one in a thousand.

As anticipated, the magnitude of presidential effects increases dramatically as dissension increases. Even for nonconsensual cases in which the entire panel votes to reverse the trial judge, the Carter cohort's support score (72) remains approximately 90 percent greater than the Reagan cohort's (37).<sup>7</sup> But, as indicated by the nonunanimous category, when judges who hear the same case disagree, the polarization between Reagan and Carter appointees is

<sup>7</sup> The elevated support score for all three cohorts reflects the fact that the vast majority of these disagreements between appellate panels and trial judges are reversals that favor the defendant.

**WHITE HOUSE  
SITUATION ROOM**

PRECEDENCE: IMMEDIATE  
PRIORITY  
ROUTINE

RELEASER: \_\_\_\_\_

DTG: \_\_\_\_\_

MESSAGE NO. \_\_\_\_\_ CLASSIFICATION unclassified PAGES 6<sup>2</sup>

FROM Ken Astew 2930 122  
(NAME) (PHONE NUMBER) (ROOM NO.)

MESSAGE DESCRIPTION \_\_\_\_\_

TO (AGENCY)	DELIVER TO	DEPT/ROOM NO.	PHONE NUMBER
	Steve Provost		
	Christina Martin		

REMARKS:

FYI - this has been forwarded to the President

THE WHITE HOUSE  
WASHINGTON

October 8, 1992

MEMORANDUM FOR THE PRESIDENT

THROUGH: DAN MC GROARTY *DMG*  
FROM: KEN ASKEW *KA*  
SUBJECT: PROPOSED REMARKS TO NATIONAL FRATERNAL ORDER OF  
POLICE

I. SUMMARY

On Friday, October 9th, at 4:30 p.m. you will deliver remarks to an audience of 400 police officers, their families, and law enforcement officials at the National Fraternal Order of Police endorsement in the ballroom of the Holiday Inn East Gate in Cincinnati, Ohio.

II. DISCUSSION

Your remarks, (approximately 8 minutes / cards) based on your stump speech, highlight distinctions between you and your opponent on the issue of crime.

The remarks refer to the number of police officers killed in the line of duty in recent weeks, and the Dayton police officers attending your speech straight from the dedication -- just hours before -- of a memorial plaque to a fallen colleague.

(Askew/Bunton)  
October 8, 1992  
3:00 p.m.  
CINCINNATI

PRESIDENTIAL REMARKS: NATIONAL POLICE ENDORSEMENT  
CINCINNATI, OHIO  
OCTOBER 9, 1992  
4:30 P.M.

Thank you for that kind introduction, and hello, everyone.  
I appreciate the warm welcome. It's great to be here in  
Cincinnati with all you good people. I especially want to  
recognize the officers from Dayton who came today in remembrance  
of your fallen comrade, Officer Bill Whalen.

I'm delighted and honored to accept your endorsement here  
today as the preferred Presidential candidate of the National  
Fraternal Order of Police.//

Thank you for your support. You're one of the strongest  
voices of the law-enforcement community in the entire country,  
and I'm grateful you're speaking on my behalf.

You know, during the primaries, Governor Clinton called  
himself the Comeback Kid. Well... he was half right.//

But some folks think that on November 3, I'm going to do a  
Lou Piniella... and just go away. Well, let me tell you --  
they're in for a big surprise.// Because this country's going to  
see a real comeback on election day... when George Bush comes  
storming back to victory.//

And we're going to turn this election around because of  
people like you... who want to do what's right for America.//

LAM/  
FRANK  
DUGGAN  
BP '92

LITTLE ROCK FBI  
ENDORSED POTUS  
Arkansas For  
endorsed  
Clinton

I believe beyond a shadow of a doubt that Bill Clinton is wrong for America. Look at his record. He's a typical big-government liberal. Tax, spend, coddle the criminal.

Don't take my word for it. Ask the folks who know his record best. Ask your brothers and sisters of the <sup>LITTLE ROCK</sup> Fraternal Order of Police [in ~~Little Rock~~, Arkansas] -- Governor Clinton's home town. They're endorsing not their own man, but -- you guessed it -- George Bush for President of the United States.//

CAPIT

That's right. And here's why. The Governor's record.

Arkansas ranks near rock-bottom for every important per-capita crime dollar it spends. For prisons: 46th. For judicial and legal systems: 50th. And when it comes to spending for police officers, Arkansas ranks 49th.

No wonder crime went up faster in Arkansas during the 1980s than in any other state. If you don't give your police the tools they need, you can't expect them to do the job.//

Compare that to my record. Since 1989, I've <sup>proposed</sup> presided over a 59% increase in federal spending to fight crime.

I've increased spending for state and local law enforcement... and for just one example, the Eddie Byrne Memorial Grant Program has more than tripled since I became President.//

There's more. Last year, under Bill Clinton, the average Arkansas criminal served less than one-fifth of his sentence. Then he's back on the streets. Apparently, down in Arkansas, you do the crime -- but not the time.//

Crime  
Speech  
9/28/92  
From DOJ

Crime  
Speech @  
DOJ  
5/4-2291

Crime in Ark. 1991

most  
Well, Federal inmates under my jurisdiction serve at least 85% of their full sentences. So crime's just one more issue the Governor of Arkansas can't talk about without confronting his rotten record back home.

That record gets unnerving when you consider the damage a soft-on-crime President could do to law-enforcement nationwide.

After all, maybe the single most-vital legacy a President can leave behind is his record of judicial appointments.

Compare the Carter record to the Reagan/Bush era, and you can see how the Democrats' appointments are still hurting us.

The record clearly shows that Carter left us with judges far more sympathetic to suspects' rights than judges appointed by Ronald Reagan. And according to one independent study that NBC News reported the other night... Carter appointees are almost five times more likely to champion so-called "suspect's rights" over the rights of a victim.

Well, my record on this is clear. In 1988 I told the American people that like Ronald Reagan, I'd appoint judges who would interpret and apply the law -- not try to rewrite it from the bench. And I pledged my appointments would give at least as much consideration to victims' rights as to criminals' rights.//

That's just what I've done. And the results are clear. The Supreme Court has handed down a series of sensible decisions allowing victims to be heard... and justice to be served.

*Lie Lieberman*

Would Clinton appointments be similar? Well, all the names of possible Supreme-Court appointees coming from his camp are rabidly opposed to the death penalty.

The name Clinton himself has mentioned is Governor Cuomo. Now, I can't confirm it... but I hear Mr. Cuomo washes all his clothes on the "gentle" cycle -- because he thinks it's more humane.// Guess what kind of decisions he'd hand down.//

Folks... that's just not right for America.

It's plain wrong to ask law-enforcement officers to do their job... and then see their good work undone by judges who turn criminals right back out onto the sidewalk.//

Well, I'm on the side of the victim.//

And I say it's high time we turn around this judicial trend to be soft on criminals and hard on the people in blue.//

The bottom line on November 3 is this. When it comes to crime, if you liked Carter I... you'd love Carter II.//

America just can't afford that. We need a President to help you take criminals off the streets and keep them off the streets.

I am that man. And that's what I stand for as President.//

I support the brave women and men who wear the blue because you know, better than anyone, that we're all vulnerable. Men, women and children. White, brown and black. Young and old, rich and poor. To a bullet or a blade -- we all look just the same.

And you alone stand in the breach. We don't thank you enough... and to tell the truth -- we can't thank you enough.

The best we can do is give our support... and we can fight for justice when one of your comrades falls in the line of duty.

That's why my crime bill calls for a Federal death penalty for cop-killers.// It'll go into law if Congress ever gets around to voting on it.

And while it won't bring back the six brave police officers who were killed across the nation just in the past few weeks... at least it'll take the animals who commit the ultimate horror off the streets... by gunning down heroes in blue.//

I want to tell you why you folks are so often on my mind. I mentioned Eddie Byrne earlier. Well, for four years I've kept badge #14072 in my desk in the Oval Office. A retired New York officer, Lieutenant Matt Byrne, gave it to me. It's the badge his son Eddie wore the day he was gunned down by a crackhead.

Matt asked me to keep that badge as a reminder of all you brave officers who put your lives on the line every single day.

I have kept it. And I always will.

As President, you have my thanks... but much more than that -- you have my support. You can count on that.//

And with your strong support -- I know that America can turn back the threat of drugs and crime... the fear of our young and old -- and make our communities safe and secure once again.

Thank you for this vote of confidence -- and may God bless the men and women who wear the badge... and the blue.

JB  
NOTES  
10/8/92

language on Crime  
Bill

THE WHITE HOUSE  
WASHINGTON  
October 8, 1992

6

- KILLED IN LINE OF DUTY
- 9/25 Jerome Haaf, Minnesota, police officer
  - 9/25 James B. McCamps, S.C. Deputy Sheriff
  - 9/26 Norvin Powell, LA police officer
  - 9/26 Emmanuel Wilson, Housing officer, MA
  - 9/30 Brett R. Clodfelter, Trooper, Oregon
  - 10/1 Mark Groner, Md. Trooper

"During the week that Congress did not pass my crime bill, these officers were killed in the line of duty."

[info received from 202-307-0635 Dick Condon (PSOBA)]

Can Dewey ride on plane w/POTUS to Wexler residence?

Cincinnati Police Memorial, located across street from District 1 Police Headquarters (Chief of Police works there) in downtown Cincinnati.

Dedicated Oct. 12, 1988. Land contributed by City of Cincinnati. General public sent in donation. Brick sales (\$50 /up to three line inscription) raised a lot of money; bricks still available. FOP Lodge 69 started it. For Cincinnati police only. Local construction firms donated work, materials, landscaping. Total budget: several hundred thousand dollars. Memorial park. Large grassy area. Statue: 9 1/2 feet tall: police Officer in uniform.

Parade every year, 50 departments from IN, KY, OH: National Police Memorial Day, May 15th. Fountain Square to memorial. HS bands, FOPLA.

513-352-2100 Hotel

~~Memorial Tenure~~ Bill Whalen above church school bus, missed only 1 day 15 yrs. - must be shoot-out

BB/FOP Frank Duggan 513-352-2100 x 705

Patrolman from Dayton - come here from ded. of place to after Bill Whalen killed in shoot-out 2 yrs ago -

Steve Whalen Dayton, OH FOP CO killed 2 yrs ago Memorial plaque given to family (today?)

Reference Crime bill >  
Reference slain officers? >  
Reference local Memorial? > n Keep purely political.

EXECUTIVE OFFICE OF THE PRESID

07-Oct-1992 04:26pm

TO: (See Below)  
FROM: Claire F. Turney  
Office of Communications  
SUBJECT: Staffed speech - comments due at 10:00 am tomorrow

(Askew/Bunton)  
October 6, 1992  
3:00 p.m.  
CINCINNATI

PRESIDENTIAL REMARKS: NATIONAL POLICE ENDORSEMENT  
CINCINNATI, OHIO  
OCTOBER 9, 1992  
3:00 P.M.

Thank you for that kind introduction, and hello, everyone.  
(Acknowledgements; live/satellite.) I appreciate the warm  
welcome. It's great to be in Cincinnati with all you good  
people, and with all of you via satellite as well.

And I'm delighted and honored to accept your endorsement  
here today... as the preferred Presidential candidate of the  
National Fraternal Order of Police.//

Thank you for your confidence. This organization is the  
single strongest voice of the law-enforcement community in the  
entire country, and I'm grateful to you that it's being raised in  
my behalf.//

You know, during the primaries, Governor Clinton called  
himself the Comeback Kid. Well... he was half right.//

"one of the"

But some folks think that on November 3, I'm going to do a Lou Piniella and just go away. Let me tell you -- they're in for a big surprise.//

Because this country's going to see a real comeback on election day... a Comeback Kid by the name of George Bush.//

And we're going to turn this election around because of people like you... who want to do the right thing for America.//

I believe beyond a shadow of a doubt that Bill Clinton is wrong for America. Look at his record. He's a typical big-government liberal. Tax, spend, and coddle the criminal.

Don't take my word for it. Ask the law-enforcement officers who know his record best. Ask your brothers and sisters of the Fraternal Order of Police in Little Rock, Arkansas -- Governor's Clinton's home town. They're on record, endorsing -- not their own man -- but George Bush for President of the United States of America.//

That's right. And here's why. Here's the Governor's record.

Arkansas ranks near rock-bottom for every important per-capita crime dollar it spends. For prisons: 46th. For judicial and legal systems: 50th. And when it comes to spending for police officers, Arkansas ranks 49th.

Compare that to my Administration's record. Since 1989, I've proposed a 59% increase in federal spending to fight crime.

There's more. Last year, under Bill Clinton, the average Arkansas criminal served just one-fifth of his sentence. Then he's back on the streets. Apparently, down in Arkansas, you do the crime -- but not the time.

Well, Federal inmates under my jurisdiction serve an average of 85% of their full sentences. So crime's just one more issue the Governor of Arkansas can't talk about without confronting his rotten record back home.

That record becomes very frightening when you consider the damage a soft-on-crime President could do to our law-enforcement system nationwide.

Perhaps the single most vital legacy a President can leave behind is his record of judicial appointments.

When you compare the Carter record of appointments to the Reagan/Bush era... you begin to get a sense of why we had such an explosive crime problem in the 80s. It was out-and-out liberal coddling of criminals at the expense of victims' rights.//

I've studied the record. And it clearly shows that Jimmy Carter left us with judges almost five times more sympathetic to suspects' rights than judges appointed by Ronald Reagan and me.

Folks... that's not right for America.

It's plain wrong to ask law-enforcement officers to do their job... and then get spit in the face from judges who whine about the criminal's rights and turn them right back out on the sidewalk.//

Well, I'm on the side of the victim.//

And I say it's high time we condemn judges who are soft on criminals and hard on the men and women in blue.//

The bottom line on November 3 is this. When it comes to crime, if you liked Carter I... you'd love Carter II.//

America can't afford that. We need a President who'll help you take criminals off the streets and keep them off the streets.

I am that man.//

And that's what I stand for as a Presidential candidate.//

*Steve*

I support the brave women and men who wear the blue because you know, better than anyone, that we're all vulnerable. Men, women and children. (White, ~~delete~~ brown and black.) Young and old. Rich and poor. To a bullet or a blade -- we all look just the same.

And you alone stand in the breach. We don't thank you enough... and to tell the truth -- we can't thank you enough.

I want to tell you one reason you folks are on my mind. For four years I've kept badge #14072 in my desk in the Oval Office. A retired New York cop, Lieutenant Matt Byrne, gave it to me. It's the badge his son Eddie wore the day he was gunned down by a crackhead.

Matt asked me to keep that badge as a reminder of all you brave officers who put your lives on the line every single day.

I have kept it. And I always will.

As President, you have my thanks... but much more than that -- you have my support. You can count on that.//

With your strong support -- I know that America can turn back the threat of drugs and crime... the fear of our young and old -- and make our communities safe and secure once again.

Thank you for this vote of confidence -- and may God bless the men and women who wear the badge... and the blue.

# # #

DISTRIBUTION:

Table 2. Percent Support for Criminal Litigants by Presidential Appointment Cohorts in the Federal Courts of Appeals, 1981-84

Cases	Nixon	Reagan	Carter
All	26 (N = 518)	17 (N = 213)	32 (N = 769)
	$\hat{a} = 1.72^d$ $p < .05$		$\hat{a} = 2.30$ $p < .01$
Unanimous <sup>a</sup>	11 (N = 286)	10 (N = 157)	15 (N = 537)
	$\hat{a} = 1.10$ $p = ns^e$		$\hat{a} = 1.59$ $p = ns$
Non-consensual <sup>b</sup>	54 (N = 151)	37 (N = 56)	72 (N = 232)
	$\hat{a} = 2.00$ $p = ns$		$\hat{a} = 4.38$ $p < .05$
Non-unanimous <sup>c</sup>	35 (N = 136)	14 (N = 21)	67 (N = 102)
	$\hat{a} = 3.31$ $p < .05$		$\hat{a} = 12.47$ $p > .001$

<sup>a</sup> Unanimous affirmation of trial court.

<sup>b</sup> Unanimous reversal of trial court.

<sup>c</sup> Split decision by three-judge appellate panel.

<sup>d</sup> The cross-product ratio, frequently called the odds ratio, is a measure of the relative odds of respondents from each independent variable category being placed in a single dependent variable category. The odds ratio is computed for 2-by-2 tables by the formula:  $(N_{11}/N_{21}) \div (N_{12}/N_{22})$ . For an expanded discussion, see Reynolds (1977).

<sup>e</sup> Not significant.

dramatic, suggesting that when appointees respond differently to the same stimuli, these differences parallel differences in the administrations' ideological appointment criteria.

As with their district court counterparts, Nixon's appellate appointees occupy a moderate position roughly equidistant from the polarized Carter and Reagan cohorts. The Nixon cohort's consistent moderation suggests that presidential compromises with the Democratic Senate and its Judiciary Committee had a moderating influence on Nixon's appointment strategies. However, this apparent moderation should not divert attention from the fact that, for nonunanimous decisions, his cohort's support score is more than double that of the Reagan cohort and barely half that of the Carter cohort. Thus, even though Nixon's appointment discretion was constrained, his appointment cohort remains statistically and substantively distinct.

#### IV. DISCUSSION

The polarization between Reagan and Carter appointees indicates that appointment effects on the lower courts are increasing and that they are maximized when the president's appointment discretion and his appointees' judicial discretion are maximized.

Moreover, our findings suggest that the contemporary polarization is a product of the Carter cohort's high level of support for criminal defendants as well as the Reagan appointees' low level of support. These findings are reflected in its appointment of criminal judges. The findings suggest that implicit ideological orientation of value could be predicted by most descriptions of the Carter appointment. At the risk of oversimplification, it is difficult to avoid the observation that the differences in support resemble differences one would expect if Presidents Carter and Reagan were Judges Carter and Reagan.

Some implications of this research for future study are fairly obvious; for example, a comparison of Reagan effects before and after the 1987 shift to a Democratic Senate majority and the associated changes on the Senate Judiciary Committee (*Washington Post*, February 14, 1987) would help clarify the interaction between presidential and senatorial effects on judgment and jurisprudence. But the more important questions, such as why appointment effects persist in a common law system, will remain unanswered until they are accommodated by new theoretical developments.

If future research is to do more than chronicle incremental changes in the link between politicized appointment and judicial allocation of value, we should heed the calls of Jacob (1983) and others (Gibson, 1983; Boyum and Mather, 1983) and develop a theoretical framework that accommodates multiple levels of the dispute resolution process and synthesizes the disparate threads of current scholarship. Such a framework would, at a minimum, adapt from social and cognitive psychology the conceptual distinction between judgment and other forms of decision making and recognize cognitive constraints on the exercise of judgment (by judges and disputants) in response to ambiguous case stimuli (Hammond *et al.*, 1980; Segal, 1986). Such an adaptation will require careful operationalization of key concepts (e.g., ambiguity and judgment) and encourage methods, such as fact pattern analysis (Ulmer, 1969), not associated with contemporary judicial research. The effort will be time-consuming and arduous. The result, however, may significantly advance our understanding of judicial judgment and therefore our ability to understand the larger dispute resolution process and the influences of appointment politics on that process.

## REFERENCES

- BERKSON, Larry, and Susan B. CARBON (1980) *The United States Circuit Judge Nominating Commission: Its Members, Procedures and Candidates*. Chicago: American Judicature Society.
- BOYUM, Keith, and Lynn MATHER (eds.) (1983) *Empirical Theories About Courts*. New York: Longman.
- CARP, Robert, and C. K. ROWLAND (1983) *Policy Making and Politics in the Federal District Courts*. Knoxville: University of Tennessee Press.
- CONGRESSIONAL QUARTERLY ALMANAC (1985) *Congressional Quarterly Almanac*. Washington, DC: Congressional Quarterly.
- FOWLER, W. Gary (1983) "A Comparison of Initial Recommendation Procedures: Judicial Selection Under Reagan and Carter," 1 *Yale Law and Policy Review* 299.
- GIBSON, James L. (1983) "From Simplicity to Complexity: The Development of Theory in the Study of Judicial Behavior," 5 *Political Behavior* 7.
- GOLDMAN, Sheldon (1985) "Reorganizing the Judiciary: The First Term Appointments," 68 *Judicature* 313.
- (1981) "Carter's Judicial Appointments: A Lasting Legacy," 64 *Judicature* 344.
- (1975) "Voting Behavior on the United States Courts of Appeals Revisited," 69 *American Political Science Review* 491.
- GOTTSCHALL, Jon (1986) "Reagan's Appointments to the U.S. Courts of Appeals: The Continuation of a Judicial Revolution," 70 *Judicature* 48.
- (1983) "Carter's Judicial Appointments: The Influence of Affirmative Action and Merit Selection on Voting on the U.S. Courts of Appeals," 67 *Judicature* 165.
- HAMMOND, Kenneth, Gary McCLELLAND, and Jeryl MUMPOWER (1980) *Human Judgment and Decision-Making: Theories, Methods and Procedures*. New York: Praeger.
- JACKSON, Donald (1974) *Judges*. New York: Atheneum.
- JACOB, Herbert (1983) "Presidential Address: Trial Courts in the United States: The Travails of Exploration," 17 *Law & Society Review* 407.
- NEFF, Alan (1981) "Breaking with Tradition: A Study of the U.S. District Judge Nominating Commissions," 64 *Judicature* 256.
- REPUBLICAN PARTY (1984) *Republican Party Platform*. Dallas: Republican National Committee.
- (1980) *Republican Party Platform*. Detroit: Republican National Committee.
- REYNOLDS, H.T. (1977) *Analysis of Nominal Data*. Beverly Hills, CA: Sage Publications.
- ROWLAND, C. K., and Robert A. CARP (1983) "The Relative Effects of Maturation, Time Period, and Appointing President on District Judges' Policy Choices: A Cohort Analysis," 5 *Political Behavior* 109.
- ROWLAND, C. K., Robert A. CARP, and Ronald A. STIDHAM (1984) "Judges' Policy Choices and the Value Basis of Judicial Appointments: A Comparison of Support for Criminal Defendants Among Nixon, Johnson, and Kennedy Appointees to the Federal District Courts," 46 *Journal of Politics* 886.
- SEGAL, Jeffrey (1986) "Supreme Court Justices as Human Decision Makers: An Individual-Level Analysis of the Search and Seizure Cases," 48 *Journal of Politics* 938.
- SLOTNICK, Elliot E. (1981) "Federal Appellate Judge Selection: Recruitment Changes and Unanswered Questions," 6 *Justice System Journal* 283.
- (1980) "Reforms in Judicial Selection: Will They Affect the Senates' Role?," 64 *Judicature* 60.
- SONGER, Donald R. (1982a) "Consensual and Nonconsensual Decisions in Unanimous Opinions of the United States Courts of Appeals," 26 *American Journal of Political Science* 225.
- (1982b) "The Policy Consequences of Senate Involvement in the Selection of Judges in the United States Courts of Appeals," 35 *Western Political Quarterly* 107.

ULMER, S. Sidney (1969) "The Discriminant Function and a Theoretical Context for Its Use in Estimating the Votes of Judges," in J. Grossman and J. Tanenhaus (eds.), *Frontiers of Judicial Research*. New York: Wiley.

WALKER, Thomas G. (1972) "A Note Concerning Partisan Influences on Trial-Judge Decision Making," 6 *Law & Society Review* 645.

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THE WHITE HOUSE

WASHINGTON

02 OCT 8 8:08

Jeannie --

FYI, we'll want to forward FOP no later than 12 noon -- provided we get Zoellick comments.

please make the memo from ken through me.

I'll sign it whenever it's ready.

dmcg

A handwritten signature in cursive, appearing to be 'M. S.', written in dark ink.

# Withdrawal/Redaction Sheet

## (George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
01. Memo	Curt Smith to Steve Provost, Dan McGroarty, and Speechwriters, re: Crime & Punishment. (1 pp.)	n.d.	<del>P-5</del>	

**Collection:**

**Record Group:** Bush Presidential Records  
**Office:** Speechwriting, White House Office of  
**Series:** Speech File, Backup  
**Subseries:**  
**WHORM Cat.:**  
**File Location:** NFOP [National Federations of Police] Endorsement - Cincinnati, Ohio 10/9/92

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<b>MR Case #:</b>	<b>Appeal Case #:</b>
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<b>Disposition Date:</b>	<b>Disposition Date:</b>

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TO: STEVE PROVOST  
DAN MCGROARTY  
SPEECHWRITERS

FROM: CURT SMITH 

SUBJ: CRIME & PUNISHMENT

NBC Television ran a piece last night (Oct. 5) on one of the most vital legacies of any President -- Judicial appointments. It made the point that judges appointed by Carter have been nearly five times "more sympathetic to suspects' rights" (67 to 14 percent) than Reagan/Bush judges. (We will get the study on which the report is based from NBC).

Given the facts that both Clintons are lawyers -- that Hillary Clinton would be virtually certain to clear every judicial appointment -- that Democrats are seen generally as soft on crime -- and that we are trying to link Carter and Clinton -- I think the Slickster is very vulnerable on this.

Suggested rhetoric:

"When it comes to judges, I side with the victim against the criminal. It is time we condemn those who soft-pedal the need to be hard on crime. / My opponent has a different view. He would continue the legacy of Jimmy Carter -- who according to NBC, appointed judges five times more sympathetic to suspects' rights than judges named by Ronald Reagan and me.

"When it comes to crime, if you liked Carter 1 -- you'd love Carter II. // America can't afford that. We need a President who will take hoods off the streets -- so that America can take back the streets. I am that man."

NBC - 212-664-4444  
DOJ - MR GRANT - 514-9205

*John Horne - lead*  
*[Hk#] => Staff office [site]*

FACT CHECK/EDITS

EXECUTIVE OFFICE OF THE PRESIDE

07-Oct-1992 04:26pm

*Signal: AIRPORT SITE?*

TO: (See Below)

FROM: Claire F. Turney  
Office of Communications

SUBJECT: Staffed speech - comments due at 10:00 am tomorrow

(Askew/Bunton)  
October 6, 1992  
3:00 p.m.  
CINCINNATI

PRESIDENTIAL REMARKS: NATIONAL POLICE ENDORSEMENT  
CINCINNATI, OHIO  
OCTOBER 9, 1992  
3:00 P.M.

*Dewey?*

Thank you for that kind introduction, and hello, everyone.

(Acknowledgements; live/satellite.) I appreciate the warm  
welcome. It's great to be in Cincinnati with all you good  
people, and with all of you via satellite as well.

*NO*

*NO*

And I'm delighted and honored to accept your endorsement  
here today... as the preferred Presidential candidate of the  
National Fraternal Order of Police.//

Thank you for your confidence. This organization is the  
single strongest voice of the law-enforcement community in the  
entire country, and I'm grateful to you that it's being raised in  
my behalf.//

You know, during the primaries, Governor Clinton called  
himself the Comeback Kid. Well... he was half right.//

*Did wanna do my time in Arkansas*

But some folks think that on November 3, I'm going to do a  
? [Lou Piniella] and just go away. Let me tell you -- they're in for  
1 a big surprise.//

Because this country's going to see a real comeback on  
election day... a Comeback Kid by the name of George Bush.//

And we're going to turn this election around because of  
people like you... who want to do the right thing for America.//

I believe beyond a shadow of a doubt that Bill Clinton is wrong for America. Look at his record. He's a typical big-government liberal. Tax, spend, and coddle the criminal.

Don't take my word for it. Ask the law-enforcement officers who know his record best. Ask your brothers and sisters of the Fraternal Order of Police in Little Rock, Arkansas -- Governor's Clinton's home town. They're on record, endorsing -- not their own man -- but George Bush for President of the United States of America.//

That's right. And here's why. Here's the Governor's record.:

Arkansas ranks near rock-bottom for every important per-capita crime dollar it spends. For prisons: 46th. For judicial and legal systems: 50th. And when it comes to spending for police officers, Arkansas ranks 49th.

Compare that to my Administration's record. Since 1989, I've proposed a 59% increase in federal spending to fight crime.

There's more. Last year, under Bill Clinton, the average Arkansas criminal served just one-fifth of his sentence. Then he's back on the streets. Apparently, down in Arkansas, you do the crime -- but not the time.

Well, Federal inmates under my jurisdiction serve an average of 85% of their full sentences. So crime's just one more issue the Governor of Arkansas can't talk about without confronting his rotten record back home.

SPRINGFIELD, MO.

OK

SPRINGFIELD, MO., BUREAU OF JUSTICE STATS. EMPLOYMENT & EXPENDITURES REPORT - FY 1990

Budget of the U.S. FY 93 Part One - 189.

SPRINGFIELD, MO. "CRIME IN ARKANSAS 1991" See Source for discussion/entry

SENTENCING REFORM ACT OF 1987 - AMENDS 1520 PAROLE BY FED. LVL.

That record becomes very frightening when you consider the damage a soft-on-crime President could do to our law-enforcement system nationwide.

Perhaps the single most vital legacy a President can leave behind is his record of judicial appointments.

When you compare the Carter record of appointments to the Reagan/Bush era... you begin to get a sense of why we had such an explosive crime problem in the 60/70s (DOJ) 80s. It was out-and-out liberal coddling of criminals at the expense of victims' rights.//

I've studied the record. And it clearly shows that Jimmy Carter left us with judges almost five times more sympathetic to suspects' rights than judges appointed by Ronald Reagan and me.

Folks... that's not right for America.

It's plain wrong to ask law-enforcement officers to do their job... and then get spit in the face from judges who whine about the criminal's rights and turn them right back out on the sidewalk.//

Well, I'm on the side of the victim.//

And I say it's high time we condemn judges who are soft on criminals and hard on the men and women in blue.//

The bottom line on November 3 is this. When it comes to crime, if you liked Carter I... you'd love Carter II.//

America can't afford that. We need a President who'll help you take criminals off the streets and keep them off the streets

I am that man.//

And that's what I stand for as a Presidential candidate.//

\* 'PRESIDENTIAL EFFECTS ON CRIMINAL JUSTICE POLICY IN THE LOWER FEDERAL COURTS: THE REAGAN JUDGES,' BY G. E. POWELL AND DONALD SONNER, 'ROBERT A. CARP. LAW & SOCIETY REVIEW, Vol. 22, No. 1, 1988, p. 191. (SEE WEBERMAN - LEGAL COUNSEL)

I support the brave women and men who wear the blue because you know, better than anyone, that we're all vulnerable. Men, women and children. White, brown and black. Young and old. Rich and poor. To a bullet or a blade -- we all look just the same.

And you alone stand in the breach. We don't thank you enough... and to tell the truth -- we can't thank you enough.

I want to tell you one reason you folks are on my mind. For four years I've kept badge #14072 in my desk in the Oval Office. A retired New York cop, Lieutenant Matt Byrne, gave it to me. It's the badge his son Eddie wore the day he was gunned down by a crackhead.

Matt asked me to keep that badge as a reminder of all you brave officers who put your lives on the line every single day.

I have kept it. And I always will.

As President, you have my thanks... but much more than that -- you have my support. You can count on that.//

With your strong support -- I know that America can turn back the threat of drugs and crime... the fear of our young and old -- and make our communities safe and secure once again.

Thank you for this vote of confidence -- and may God bless the men and women who wear the badge... and the blue.

# # #

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