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Key Provisions Identical to Past Proposals

By Ann Devroy and Michael Isikoff
Washington Post Staff Writers

President Bush, dressing up last year's crime package in this year's surge of patriotism over the Persian Gulf War, called on the Democratic Congress yesterday to honor the nation's veterans by giving them "an America where it is safe to walk on the streets."

Bush's crime package, sent to Congress yesterday, contains some new twists but offers basically the same elements as a proposal sent to Capitol Hill in 1989 and last year. "The truth is the vast majority of these core proposals are identical to those that we sent up two years ago," Bush told an audience of law enforcement officials brought to the White House for the unveiling of the package.

In his appearance before a joint congressional session last week to report on the war, Bush called for passage of vital legislation, such as this crime package, within 100 days.

The major elements of the legislation include reviving the federal death penalty to cover a broader range of crimes from serious drug offenses to treason, espionage and certain terrorist acts; altering court rules that ban illegally seized evidence to allow such evidence at trial if police acted in "good faith" in seizing it; and an effort to strictly limit the number of appeals convicted federal prisoners can file.

What is principally new between last year—when controversial elements such as these were stripped out of the bill in Congress—and this year is the president's soaring popularity in the wake of the gulf victory and his repeated references to veterans of that war in promoting the package.

"We stood by our troops and today it's time to stand up for America's prosecutors and police," Bush said after opening his speech with a tribute to the Desert Storm veterans.

Sen. Joseph R. Biden Jr. (D-Del.), chairman of the Senate Judiciary Committee, suggested that war victory or not, Bush is likely to have the same problem this year with his crime package that he had last year. Biden said the Democrats are "ready right now" to approve virtually all the elements of the White House bill, as long as Bush will accept new federal controls on assault weapons and more federal funding for state and local law enforcement.

Bush rejected those Democrat-proposed elements in 1989 and 1990.

"One of the biggest reasons the returning veterans are not safe on the street is because of these assault weapons," Biden said, not because too many appeals are being filed by inmates or because a federal death penalty is lacking for some crimes.

Rep. Charles E. Schumer (D-N.Y.), chairman of the House subcommittee on crime, and other gun-control supporters have called a news conference for today to announce a major new push for the so-called Brady bill—named for Ronald Reagan's press secretary James Brady, seriously wounded during the 1981 attempt on Reagan's life—imposing a seven-day waiting period on handgun purchases.

Among the new elements in Bush's bill are proposals to impose the death penalty for crimes involving "weapons of mass destruction," expanded mandatory sentences for violators of federal firearms laws, and a special exception on top of the good faith exemption to the "exclusionary rule" that would permit firearms to be used as court evidence even if they were seized illegally by federal agents.

To prevent abuse, federal agents who illegally seized firearms could be subject to possible administrative penalties, including suspension, administered by the attorney general.

The "weapons of mass destruction" provision would cover the use of bombs, gas or radioactive materials in crimes here or abroad and is aimed at Iraqi terrorists and other groups that might use such methods, said Andrew G. McBride, associate deputy attorney general. "If somebody blew up a Macy's or Metro Center right now, there's no death penalty," he said.

The firearms proposals include a five-year mandatory sentence for any person previously convicted of a drug offense or violent crime caught possessing a gun, doubling to 10 years the mandatory jail time for using a semi-automatic firearm in a violent crime, and increasing the penalties for theft of a firearm or knowingly making a false statement while buying a firearm. These are all supported by the National Rifle Association, but NRA lobbyist James Jay Baker said yesterday that the group is opposed to another provision that would bar the sale of gun magazines that enable the firing of more than 15 rounds.

WASH POST

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Senators Move on Crime Bill

Biden, Mitchell work on two different compromise efforts to pass gun control measure

By Robert P. Hey

Staff writer of The Christian Science Monitor

WASHINGTON

IT'S compromise time for gun control.

Advocates of the House-approved Brady bill will have to compromise if the Senate is to pass a handgun control bill, and if President Bush is to sign it. They know it, and two different compromise efforts now are under way in the Senate. One is by Senate Judiciary Committee chairman Joseph Biden (D) of

Delaware, the other by Senate majority leader George Mitchell (D) of Maine.

President Bush previously signaled his willingness to compromise during House consideration of the Brady bill, with its centerpiece seven-day delay before a handgun purchaser can pick up his weapon. The president said he might approve a gun control proposal if it were part of an overall crime bill that was to his liking. He asked Congress to approve the crime measure by June 15.

Senator Biden has promised to move swiftly on the crime bill: His committee is likely to complete action on it within a month, so that the measure could go to the Senate floor by late June or July. Whether in content it will be close enough to Mr. Bush's liking to gain his support is difficult to know at this point.

By the end of this week more may be known about both timing and content. Following the committee's final hearing on the crime bill this Wednesday [May 15], Biden and Sen. Strom Thurmond of South Carolina, the

ranking Republican committee member, will meet to plan future action on the measure.

Both Republicans and Democrats want to be able to tell the voters in November of 1992 that they oppose crime; thus political analysts expect Congress and the president to reach accommodation before then on a compromise measure.

Biden has agreed to Bush's demand to have the Senate combine the Brady and crime measures. However, the blending is unlikely to occur in the Judiciary Committee. It is not expected to vote or even hold hearings on the Brady bill, named for former presidential secretary Jim Brady, wounded in the 1981 assassination attempt on President Reagan.

Committee sources say Biden and others will wait until the crime bill reaches the Senate floor before trying to attach the Brady seven-day waiting period to it.

Numerous other amendments are likely, including a gun control amendment by Senator Mitchell, if, meanwhile, he can muster sufficient support for his newly spelled-out compromise proposal.

At a Monitor breakfast the senator unveiled his five-point plan, which he says combines features of current law, the Brady meas-

ure, and the competing proposal - defeated in the House - to require an instant check on whether a would-be gun purchaser was a criminal, in which case he would be ineligible to purchase a weapon.

Mitchell would institute a seven-day waiting period to permit that check, require that the check be done (the Brady bill makes a check discretionary with local officials), "encourage" states to computerize their criminal records, press all states to share these records with the federal government, and provide federal funds to meet computerization costs.

Mitchell says the Brady bill would not meet the objective of preventing criminals from purchasing handguns, in part because the identification check is voluntary.

He calls the instant check bill "obviously unrealistic" because on average only 60 percent of states' criminal records are computerized; thus, in many states there would not be a reliable source of information with which to make an instant check. At one point Mitchell referred to the measure as the "NRA bill"; the National Rifle Association lobbied heavily for it in the House.

C S M
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REVIEW & OUTLOOK

The Crime Agenda

In his Gulf victory speech to Congress, President Bush laid down one domestic marker: Pass a crime bill in 90 days. And yesterday he offered up a modest proposal: In gun-control violations, let the juries see all the evidence. Errant policemen could be disciplined without excluding valid evidence of a criminal's guilt. Legal strategists will recognize this as a Tomahawk missile aimed at the exclusionary rule.

So it is not quite true that the President has no domestic agenda. We do think he needs an economic policy. As Stephen Moore demonstrates alongside, while Budget Director Richard Darman was out negotiating tax increases, federal spending has been running out of control. The much-bemoaned \$300 billion deficit is almost exactly equal to the \$300 billion spending increase under Bush-Darman budget scrutiny.

Still, the crime agenda is not nothing. The Republic certainly does need the "domestic tranquility" envisioned by the Founding Fathers. Making the criminal-justice system work and reducing the crime problem would certainly serve the public interest. It would also be a big political issue, as Willie Horton demonstrated. And the way to start is by ending the notion of excluding evidence instead of disciplining policemen. This is a peculiarity of the American criminal-justice system, applied by the Supreme Court to the states only in 1961, and since elaborated into *Miranda* warning rules and other ludicrous extremes.

"I'm not a lawyer, but I put great stock in common sense." President Bush told a gathering of state attorneys general. "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 a direct action to prevent illegal searches and seizures. And so today, I'm announcing that we are accepting that invitation."

Yesterday's Bush proposal, which Attorney General Dick Thornburgh and his top aides devised over the past few weeks, says that when federal agents commit a Fourth Amendment violation in seizing a firearm, the evidence can still be given to the jury in two situations. One is where the gun was used during a violent crime or serious drug offense. Also, regardless of the offense, when the defendant is already disqualified by federal law from possessing a firearm—a category that includes everyone who has already been convicted of a felony, which means all repeat criminals. Call this real gun control.

Those civil libertarians who suffer from proceduralitis will no doubt always object to any move to dilute the exclusionary rule. But Mr. Bush is right that the Supreme Court has often said that nothing in the Constitution requires the extreme step of suppressing improperly seized evidence. Indeed, the court has strongly urged the political branches of government to come up with what justices have called "more efficacious sanction."

So the Bush proposal sets up sanctions to punish federal agents who commit unlawful searches and seizures and also creates a way to compensate the innocent victims. The bill would set up a Justice Department Review Board to oversee this alternative to the exclusionary rule. This group would impose disciplinary action directly on the federal agents who broke the rules. It would also administer a new program to pay damages to the people who suffered unlawful searches or seizures.

For the first time, then, we would end the situation where when two people commit offenses—the criminal and the law-enforcement officer—both get to go free. The criminal can be convicted because the jury can see the evidence. Then the officer would be subjected to internal punishment.

As remarkable as this proposal is, it could go further. We don't know why guns should be the only evidence subject to this alternative. Why not also include evidence of drugs, knives, lead pipes? For that matter, so long as confessions are voluntary why ban them just because the *Miranda* warning is garbled? Indeed, why not allow all relevant evidence of a crime to go to juries regardless of errors by law enforcement.

The other problem, of course, is that some 95% of crimes are tried in state courts, not in federal court. The bill includes language aimed at state and federal judges reminding them that the exclusionary rule is not a constitutional requirement so long as there is a better way in place to punish errant policemen. This is a not-so-subtle hint that the states can abolish their own exclusionary rules by adopting similar methods of disciplining officers and compensating victims.

All this could come in time if the initial Bush proposal is passed and works in practice, and it is of course politically clever to link the issue with the liberal pet cause of gun control. But the important point is Judge Cardozo's classic remark that it makes no sense to say "the criminal is to go free because the constable has blundered."

War Reparations
Need Not Bleed
Iraq's People Dry

By JEFFREY A. JANSUZZO
Much has been written about whether Iraq should pay war reparations, but little about how the reparations actually would be collected and the injured paid.

Though a parallel is often drawn with the German people's burdens after World War I, Iraq should be considered differently. The allies imposed obligations on the Germans that could be met only by taxing their labor. But Iraq has a huge pool of literally liquid assets under its desert that can be harnessed to pay the injured.

Garnishing oil reserves is morally different from taxing the labor of a nation; it is more closely analogous to seizing money in bank accounts, and as a technical matter can be accomplished about as easily. The United Nations can garnish a percentage of each shipment of Iraqi oil by tanker or pipeline, for a term of years, making the purchaser's receipt of its shipment contingent on paying the garnishment into a U.N. account. The fixing of the percentage to be garnished and the term of years is for the Security Council to decide, under the authority of customary international law and recent resolutions.

The world community would debate and decide on a fair amount to set aside for damages, in light of the horror of Iraqi atrocities. For example, since Iraq is considered to have spent half or more of its oil wealth on its war machine for the past decade, assigning a similar percentage over a period of years to compensate the people injured by that war machine could hardly be thought unfair. Iraq would have the same percentage of oil wealth available for civilian uses that it had historically. Whatever percentage was decided, the world community could strike a rough balance between the needs of the injured and Iraq's need to rebuild.

Once the world community makes the decision that reparations must be paid and sets the percentage, the more important question arises of how to get the money to the people entitled to it.

There has been a tacit assumption in the international law community that the model would be the widely praised Iran-U.S. Claims Tribunal, but it is not a good model for Iraqi atrocity claims. In the Iran situation, there were complex legal issues raised by both sides, and real disputes over contract performance. An adversarial proceeding, with Iran represented on the arbitration panel, made sense.

The payment of claims for wartime atrocities is both morally and technically different from the settlement of transnational contract performance disputes. The legal issue of whether atrocity victims should get compensation has been decided. All that remains is to determine whether each individual claimant did in fact suffer and what is the fair amount that should be received, recognizing that the reparation fund is not unlimited. These are not the decisions for which an adversarial tribunal is needed.

Fixing the total sum to be taken by garnishment would have real advantages. First, the question of how to avoid excessive compensation would be settled at the outset. Second, with the total sum fixed, the priority would shift to hearing and determining the validity of claims as quickly as possible. The model would be not a court, but a claims settlement bureau.

The primary remaining considerations

The Tax-and-S

By STEPHEN MOORE

A year and a half ago nothing would have seemed more improbable than a liberal New York Democrat spearheading a populist tax-cut initiative, except for a conservative Texas Republican leading the opposition. Yet today these are precisely the strange circumstances unfolding on Capitol Hill as Sen. Daniel Patrick Moynihan continues to rally Democratic support for his plan to provide 130 million working Americans with Social Security tax relief, while Sen. Phil Gramm, usually a champion of the free market, attempts to convince his Republican colleagues that now is not the time to be cutting taxes.

If, as some suspect, Sen. Moynihan's principal objective in proposing his tax reduction scheme last year was to create turmoil within the Republican ranks, then he has succeeded in spades. In a remarkable Senate vote late last year, two-thirds of the Republicans opposed the Moynihan tax rollback plan, while the "tax-and-spend" Democrats overwhelmingly backed it. For the first time in more than a decade it was the Republicans, not the Democrats, who aligned themselves against the interests of taxpayers.

The Republicans' rejection of payroll tax cuts for middle-income workers is only the latest example of the party's full-scale retreat from its pro-growth fiscal agenda. Since 1980 when Ronald Reagan and Jack Kemp persuaded old-guard Republicans to shed the party's politics of austerity for the politics of growth, the single defining issue for the GOP has been its staunchly anti-tax posture. But with President Bush raising taxes last year and Republicans opposing tax cuts this year, it is now time to ask the unavoidable question: Is the GOP still an anti-tax party?

The accompanying table would suggest it is not. Thanks to George Bush's approval of last year's \$170 billion tax hike, the average tax burden on working Americans during this Republican president's watch will be heavier than under any other modern president—including Jimmy Carter. Yet when Mr. Bush unveiled his postwar domestic agenda last week, among the vast assortment of issues mentioned—education, crime, housing, transportation—tax relief was notably absent.

The Back Burner

True, the administration is still calling for a reduction in the capital-gains tax rate. But by banishing the issue to the back burner of a national study commission, it has virtually guaranteed that the White House won't be leading any growth-oriented economic agenda this year.

For Republicans, reveling in their foreign policy triumphs, this absence of a pro-growth agenda should be more troubling than it seems to be. They should have been jolted late last year when public opinion polls, taken shortly after Mr. Bush agreed to \$170 billion in new taxes, revealed that for the first time since the late 1970s, Americans are equally divided as to whether they think the Democrats or the Republicans are better able to manage the economy. These poll results contain the seeds of a crisis for Republicans. The party's longtime asset, its handling of the economy, is in jeopardy of becoming a liability.

Richard Rahn, chief economist for the Chamber of Commerce and an economic consultant to the Bush campaign in 1988,

has said that the Republicans' refusal to offer tax reduction is lowering the excessive capital in the U.S. and what we are now with of the root canal repair that pain is the precursor.

Luckily, within the still an embattled program to promote an idea. Delaware Sen. to expand taxpayer equal retirement accounts. Wisconsin Sen. E. Rep. Dick Armey are can version of payroll ambitious of all, Wy

How Bush Co

Taxes and Spending by (Annual averages, fiscal)

| | |
|---------|------------|
| 1990-91 | Bush |
| 1982-89 | Reagan |
| 1978-81 | Carter |
| 1976-77 | Ford |
| 1970-75 | Nixon |
| 1965-69 | Johnson |
| 1962-64 | Kennedy |
| 1954-61 | Eisenhower |
| 1948-53 | T. I. |

Source: Bureau of Economic Analysis, Congressional Budget Office

Wallop and Texas F introduced legislative the capital gains tax relief through and tax incentives. Their problem is thwarted at every Mitchell and Tom F gent "no-growth" b. their own party. Trolas Brady and other men, for instance, Congress to leave 1991.

The Republican Hill is also fighting legislative table and even resorting to arguments to make it liam Gradison, for nority member of t mittee, recently ur leagues in the Hou roll tax cuts becau ward pressure on i est rates, and ... omy." If these arg familiar, that's bec the attacks that libe Kemp-Roth.

But by far the n pro-growth forces the defection of t past decade Sen. G Norman Schwarzk vative movement, the effect of the thre

The Retreat of the