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MEMORANDUM

File Justice

THE WHITE HOUSE
WASHINGTON

December 1, 1976

MEMORANDUM FOR: Jim Cannon
FROM: Dick Parsons *D.*
SUBJECT: Public Works and Prison Construction

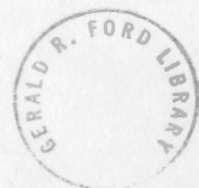
You requested my comments on the Attorney General's memorandum of November 24 (attached at Tab A).

The short answer is that it is too late to do anything about the problem the Attorney General has addressed. I spoke with John Eden, EDA Administrator, today and he has informed me that:

1. EDA has received more than \$16 billion in applications for the \$2 billion of public works construction funds. They are no longer accepting applications.
2. EDA is well into the winnowing process and will be ready to make awards within two weeks.
3. He (Eden) expects that they will find a number of kinds of projects Justice has suggested, even without a Presidential directive.

I suggest we tell the Attorney General it is too late to follow up on his precise suggestion now, but that we have made known to Commerce the President's interest in this area.

So that you may have the complete file before you in reviewing this matter, I have also attached the draft memo we circulated to senior staff (Tab B) and OMB's and Counsel's Office's responses (Tabs C and D).





B



THE WHITE HOUSE
WASHINGTON

October 16, 1976

MEMORANDUM FOR:

PHIL BUCHEN ✓
ROBERT T. HARTMANN
JACK MARSH
MAX FRIEDERSDORF
ALAN GREENSPAN
JIM LYNN
BILL SEIDMAN

FROM:

JAMES CANNON *James Cannon*

SUBJECT:

Public Works and Prison Rehabilitation

Attached is a draft memo to the President regarding a proposal by the Department of Justice to allocate a specific portion of public works construction funds for the renovation of State and local penal institutions. The funds would be administered by the Economic Development Administration under Title I of the Public Works Employment Act of 1976.

I would appreciate your comments on the proposal by Wednesday, October 20.

Attachment



THE WHITE HOUSE

WASHINGTON

October 16, 1976

MEMORANDUM FOR

THE SECRETARY OF COMMERCE

Attached is a draft memo to the President regarding a proposal by the Department of Justice to allocate a specific portion of public works construction funds for the renovation of State and local penal institutions. The funds would be administered by the Economic Development Administration under Title I of the Public Works Employment Act of 1976.

I would appreciate your comments on the proposal by Wednesday, October 20.



James Cannon
Assistant to the President
for Domestic Affairs

Attachment



MEMORANDUM

THE WHITE HOUSE
WASHINGTON

DRAFT MEMORANDUM

October 15, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: Jim Cannon

SUBJECT: Public Works and Prison Rehabilitation

This memorandum seeks your guidance on a proposal by the Department of Justice for the dedication of public works construction funds for construction and renovation of State and local penal institutions.

BACKGROUND

On July 22, 1976, the Congress enacted into law (over your veto) the Public Works Employment Act of 1976. The ostensible purpose of the Act was to stimulate employment through the creation of public works jobs. Title I of the Act specifically provided for the funding of projects for the construction, renovation and repair of public facilities.

On October 2, 1976, you signed into law H. R. 15194, the Public Works Employment Appropriations Act of 1976, appropriating some \$3.95 billion for public works projects under the authorization act. Of this amount, up to \$2 billion is available under Title I for construction and renovation projects.

The Economic Development Administration in the Department of Commerce is responsible for administration of this program.

PROPOSAL

The Department of Justice has recommended that you direct the Secretary of Commerce to dedicate up to one-fourth of the funds available under Title I of the Act to be expended on construction, renovation or repair of State and local correctional facilities.

DISCUSSION

The need for more prisons and for rehabilitation of existing prisons is clear and compelling. As you pointed out in a speech before the Florida Chapter of the Federal Bar Association last



February: "... America still has the same prison capacity as in 1960, although crime has doubled and the population has burgeoned."

Because of overcrowding and dilapidation, many judges are reluctant to send convicted prisoners to certain jails. In fact, several Federal courts have ordered certain State and local governments to stop accepting prisoners into their jails and to begin expensive renovations. Moreover, many believe the corollary to mandatory minimum prison sentences, as you and other responsible leaders have advocated, is more prisons. Finally, as a practical matter, dedication of up to one-fourth of the public works construction funds to building new prisons and renovating old ones would put "teeth" in your anticrime program.

On the other hand, it should be noted that Title I funds are available for prison construction projects now and if a State or local government deems construction or repair of a correctional facility to be a priority it may apply to EDA for public works funds for the project. It could be argued, therefore, that by dedicating a set percentage of these funds to construction or repair of correctional facilities you are limiting the flexibility of State and local governments to set their own priorities. Secondly, dedicating a portion of the funds to one purpose would inevitably create pressures for similar dedications for other purposes.

Additional background materials are attached at Tab A.

OPTIONS

If you are inclined to take action on this problem, three options present themselves.

1. Direct the Secretary of Commerce to dedicate up to one-fourth of the funds available under Title I to be expended on construction, renovation or repair of State and local correctional facilities. (Department of Justice proposal.)
2. Publicly encourage State and local governments to submit applications for Title I funds for construction, renovation or repair of correctional facilities and direct the Assistant Secretary for Economic Development to give "high priority" to these applications.



3. Call upon State and local governments to give priority attention to construction, renovation and repair of correctional facilities in applying for Title I funds.

RECOMMENDATIONS

DECISION

- _____ Option 1 -- Dedicate one-fourth of Title I funds to prison projects.
- _____ Option 2 -- Direct Assistant Secretary for Economic Development to give prison projects "high priority"
- _____ Option 3 -- Encourage State and local governments to use Title I funds for prison projects.





THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

September 7, 1976

D-
file please

MEMORANDUM FOR JAMES T. LYNN, DIRECTOR
OFFICE OF MANAGEMENT AND BUDGET

SUBJECT: The Public Works Employment Act of 1976

It appears that the Administration may have been presented with an opportunity to accomplish something of significance in regard to the problem of crime.

Ken Lazarus has inquired of the Departments of Commerce and Justice whether the provisions of Title I of the Public Works Employment Act of 1976 permit part of the authorized \$2 billion to be expended on state and local penal facilities, thereby helping to resolve a problem identified by the President in his Crime Message.

As you can see from the attached memorandum, the Department of Justice believes that some portion (about one-fourth) of these funds can be expended, efficiently and effectively, in carrying out a stated aim of the Administration -- adequate penal and correctional facilities. The funds realistically are available from no other source. The planning is well advanced. The need is clear. In his speech last February in Miami before the Florida Chapter of the Federal Bar Association, the President stated:



Unbelievably, America still has the same prison capacity as in 1960, although crime has doubled and the population has burgeoned. The need for more prisons is obvious and very, very urgent.

The impact of such a program would go far beyond alleviating unemployment -- the primary purpose of the Act. It would result in an increased deterrent effect, reduced litigation as to jail conditions, and reduced future spending on federal correctional facilities.

I hope you can take the time to peruse the memorandum and to let me know your thoughts on the subject. Time is of the essence since the temporal strictures of the Act are so severe and since, as page 1 of today's "Wall Street Journal" indicates, the scramble to use these funds (for such projects as landscaping trolley tracks) has begun.

Viewed & Initial'd
HAROLD R. TYLER, JR.

Attachment



Funding State and Local Penal and Correctional Facilities
under the Public Works Employment Act of 1976

This memorandum addresses the issue whether the Public Works Employment Act of 1976 can be of assistance in helping state and local governments meet their requirements for adequate penal facilities.

Summary

The funds authorized by the Act can be used to aid local governments in constructing new jails and in renovating old ones. Such expenditures would be within the purposes of the Act, and the funds could be used quickly and efficiently within the allotted time limits. Such use of the funds could not only have a potential effect in reducing the level of the nation's crime, but could result in substantial savings to the federal government by obviating a considerable amount of proposed federal jail construction.

Discussion

I. The Public Works Employment Act of 1976.

A. The Statute.

On July 22, 1976, Congress enacted the Public Works Employment Act of 1976 (P.L. 94-369), an intended anti-recession measure under which federal funds will be distributed to state and local governments under the auspices of the Economic Development Administration of the Department of Commerce. Title I of the Act is intended to produce greater employment through the funding of projects for the construction, renovation, and repair of public facilities. 1/ (A copy of the Act is appended at Tab A.)

1/ Only Title I of the Act is directly relevant to the subject of this memorandum. Title II, which seeks to avoid recessionary budget cuts by providing grants to local governmental units to be used for the maintenance of basic governmental services, may have some marginal relevance. Title III (amending the Federal Pollution Control Act) is irrelevant.



Section 111 of Title I of the Act authorizes an appropriation of up to \$2 billion for the period ending September 30, 1977. 2/ The money is to be distributed in the form of grants of 100 percent of the cost of the projects funded (Section 103(b)). The money may also be distributed as increased contributions to projects initiated under other federal legislation, raising the federal share of such projects to 100 percent (Section 104), and to projects initiated under state or local laws requiring a contribution (Section 105).

The money is to be expended for construction, renovation, repair, or improvement of public works projects (Section 103(a)), or to produce plans, specifications, and designs for such projects (Section 103(a)). It may not be used for site acquisition (Section 106(b)), for building certain water projects (Section 106(a)), or for maintenance of projects constructed with funds from the Act (Section 106(c)). Since the purpose of the Act is to provide needed employment promptly, grants are to be conditioned upon assurances that the projects can be started with on-site labor within 90 days of approval (Section 106(d)).

The money is to be allocated to projects throughout the nation (Section 108(a)), with preference to areas of high unemployment (70 percent, preferentially, to those areas where unemployment exceeds 6 1/2 percent and the national average and 30 percent to those areas where the rate is below the national average but in excess of 6 1/2 percent) (Section 108(c)). Priority is to be given to projects of local, as opposed to state, governments (Section 108(b)).

B. The Implementing Regulations

Under Section 107 of the Act, the Secretary of Commerce is to issue implementing regulations within 30 days of passage. Those regulations were issued on August 20, 1976, under the signature of the Assistant Secretary for

2/ On August 25, by a vote of 311-72, the House of Representatives passed a bill (H.R. 15194) appropriating \$2 billion for Title I projects. The next day the Senate Appropriations Committee reported the House bill to the floor of the Senate, increasing the appropriation for the whole bill by \$500 million. It is likely that a conference will be required after Senate passage.



Economic Development, and were published in the Federal Register on Monday, August 23 (41 F.R. 35670). (A copy is appended at Tab B.)

The regulations are not restrictive. For the most part, they merely provide detail to the eligibility aspects of the Act. However, Section 316.11(c) of those regulations requires that any detention facilities funded under Title I must be in compliance with the provisions of Part E of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750b(1), (4)-(9)). Those provisions require that applications include a comprehensive statewide program, an emphasis on community based corrections, advanced design features, regional sharing (where feasible and desirable), advanced correctional practices, personnel standards, and drug and alcohol treatment. Since only the first of these requirements would be particularly burdensome, and since it would already have been met by state planning agencies in earlier applications to LEAA for funds for penal or correctional purposes, these requirements do not appear to be a serious bar to the effective use of Title I funds for such purposes. 3/

Conclusion: Funds under the Act may be used to build penal and correctional facilities and to renovate existing facilities. The strictures of the Act, however, indicate that the bulk of this money would go to local communities, and thus that the funds used for such purposes would most likely be available for jails rather than penitentiaries.

II. The Need for Jail Construction and Renovation.

There is an urgent, demonstrable need for construction and renovation of jails. The nature of the specific need varies with the size of the community.

3/ The regulations (§316.10(g)) limit project costs to \$5 million but permit the Assistant Secretary to waive the limit for "good cause." This provision would affect only a limited number of large, metropolitan jail construction projects, and "good cause" in those cases would seem to be apparent.



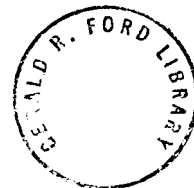
Jails located in or near large metropolitan areas are commonly overcrowded. 4/ The jail in Prince Georges County is operating at 297% above capacity. Florida is using tents and airplane hangars to house prisoners. Maryland has purchased a "mothballed" freighter to use as a prison. The Law Enforcement Assistance Administration has recently resorted to authorizing the purchase of hundreds of trailers for use as substitute facilities.

Most rural jails, although small (75 percent have capacities of 20 or less), are still large enough to handle existing and projected near-term needs. However, the conditions of many of these jails have been described by knowledgeable authorities as anywhere from "despicable" to "abominable." Six percent are more than 100 years old; 12 percent are more than 75 years old; 25 percent are more than 50 years old. Eighty percent have no recreational facilities available and many have no visitation facilities. Some have totally inadequate sanitation facilities. Many present safety hazards -- to both inmates and staff -- as a result of non-locking cell doors and antiquated security features.

These overcrowded and substandard conditions have a drastic effect on the criminal justice system. Judges are understandably reluctant to detain persons prior to trial where such facilities exist, and, although evidence suggests incarceration of convicted offenders deters crime, 5/ in the last few years an increasingly number of serious offenders has been sentenced only to probation, frequently because judges are unwilling to send offenders to overcrowded

4/ The 1972 census stated that five percent (or 167) of the nation's jails were then overcrowded. Many experts now allege that all urban jails are overcrowded and that rural and county jails are nearing a crisis point.

5/ For a general discussion of the subject, see James O. Wilson, Thinking About Crime (New York, Basic Books, 1975); Norval Morris, The Future of Imprisonment (Chicago, University of Chicago Press, 1974); and Ernest van den Haag, Punishing Criminals (New York, Basic Books, 1975).



or substandard jail facilities. Indeed, in recent years the conditions in some penal facilities have been found so poor that federal courts have ruled that being sentenced to them constitutes cruel and unusual punishment under the Eighth Amendment of the Constitution. 6/ The states of Alabama and Louisiana currently have all their jails under either court attack or court order. It is acknowledged by all who have studied the field that these local jails are in serious need of renovation, both for humanitarian and correctional purposes.

Other detrimental consequences can be found where overcrowded or poorly designed jails exist, since most jails are multi-use facilities. Thirty percent of jails house juveniles with adult offenders. Ten percent do not segregate mental patients awaiting commitment. Some sixty percent do not segregate pretrial detainees.

Conclusion: There is a pressing and widely-recognized need for jail construction and renovation. (A copy of a recent GAO study that is in agreement with this conclusion is attached at Tab C. See pp. 19-27).

6/ See, e.g., Costello v. Wainwright, 525 F.2d 1239 (5th Cir. 1976); Finney v. Arkansas Bd. of Corrections, 505 F.2d 194 (8th Cir. 1974); Gates v. Collier, 501 F.2d 129 (5th Cir. 1974).



III. The Need for Federal Funds for Such Purposes.

Penal and correctional facilities have never ranked high in the priorities of taxpayers. Even where some local funds are available, they are usually inadequate to permit the construction of modern facilities. For example, while correctional experts are in general agreement that single inmate cells should be the rule (for safety and privacy purposes), local authorities are reluctant to build such facilities because of their cost.

State funding may be a more realistic means of providing adequate jails than local funding. Yet those states which have inadequate jails are also likely to have inadequate penitentiaries, and consequently statewide systems can be expected to continue to receive higher priority.

Past efforts at federal funding have not been particularly successful because of two principal shortcomings. First, the total federal funds available have been inadequate for the purpose. The LEAA funds available for jail construction and repair, under Part E of the Safe Streets Act, total \$37 million for FY 1977 and \$41 million for FY 1978. Yet LEAA has projected a figure of \$300 million as necessary merely to bring those correctional facilities now under federal court orders into compliance with court standards, and a joint ABA/LEAA study estimates the cost of bring all correctional facilities up to such standards at \$3.5 to \$4.7 billion. (A copy of the ABA/LEAA study is appended at Tab D.) Second, problems have been encountered as a result of the requirement that, as a requisite to obtaining LEAA funds, the local governments supply up to 50 percent of the costs of such projects. Some locales, even where under court order, have simply been unable to raise the necessary revenue. Some are reluctant to expend the required matching funds because of the view that the proposed facilities are too expensive as a result of what they perceive as unnecessarily high LEAA standards (e.g., single occupant cells). Others, under pressure from federal courts to renovate their jail systems, quite naturally resent being forced to expend local funds at federal direction.



The availability of federal funds an order of magnitude greater than those previously available for penal facilities, dispensed under a program that places no burden upon states and localities to produce matching funds, should resolve most of the funding problems previously encountered.

A further rationale for the use of federal funds for such purposes is the long-term savings that can accrue to the federal government. The Bureau of Prisons contracts with local jails for housing of federal prisoners (there are some 6,100 federal prisoners, about one-fourth of the total, in non-federal facilities). The inadequacies of many local jails, however, has led to the construction by the Bureau of three federal Metropolitan Correctional Centers (MCC's). The Bureau has determined that there is an immediate need for construction of MCC's in three more metropolitan areas ^{7/}, and is studying the need for construction of MCC's in ¹⁷ additional cities. ^{8/} There is much to be said for aiding in the improvement of local jails and avoiding the construction of at least some of these MCC's, especially since the MCC's already constructed have served the purpose of providing models for jail construction. The construction of a dozen more such facilities could be avoided through the use of Title I funds to improve local jails. ^{9/}

Conclusion: There does not appear to be any other adequate, practicable source of funds for the building of local penal facilities, and the use of Title I funds for this purpose may result in substantial savings from other parts of the federal budget.

^{7/} These metropolitan areas are Baltimore-Washington, Detroit, and Phoenix.

^{8/} These cities are Atlanta, Boston, Houston, Los Angeles, Miami, New Orleans, Philadelphia, St. Louis, East St. Louis, San Antonio, San Francisco, Sacramento, Tampa, Tucson, and Orlando.

^{9/} The 17 cities indicated include some within the same state. The strictures of the Public Works Act would probably limit construction to one jail per state, thus reducing to 12 the total of MCC's that could be obviated.



IV. The Ability to Plan and Execute a Program of Construction Within the Stated Time Limits.

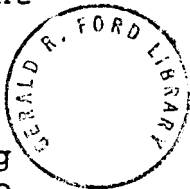
Since the Public Works Employment Act is designed as an immediate anti-recession measure, it is replete with provisions requiring the prompt expenditure of the funds authorized, Intelligent spending for penal facilities can, in fact, be accomplished promptly. 10/

The federal government is in a unique position to plan and execute an expidited program of construction of penal and correctional facilities. The Bureau of Prisons has had long, high-level experience with planning such facilities. Its National Institute of Corrections is designed to provide technical assistance to local penal and correctional authorities, and the Bureau's task force on jails is nearing completion of its work. Moreover, the National Clearinghouse for Criminal Justice Planning and Architecture (an LEAA-funded group at the University of Illinois) has developed comprehensive plans not only for general application but for specific application as well; it has plans for renovating all correctional facilities in Nevada, Illinois, New Jersey, Hawaii, and Oklahoma, among others, and has specific plans for a number of local jails. 11/ (An example of one such plan is attached at Tab E. See pages 67-93.)

The above groups can readily be formed into a task force to set specific standards for applicants. Although, in the past, local authorities have opposed national standards because of the cost of their implementation, with 100 percent federal funding such objections should be avoided.

10/ Such a utilization of Title I funds would help in other ways to achieve the purpose of the legislation. Section 316.10(a)(2)(i)(C) of the implementing regulations states a strong preference for labor intensive projects. Experts on penal and correctional architecture have advised the Department of Justice that jail facilities are more labor intensive than other public works projects because they require little capital for special equipment or expensive frils, they are not subject to prefabrication, and they use a wide variety of labor skills.

11/ These include at least five county jails in Texas, Indiana, and Nebraska. State and county plans are being developed for Oregon, Colorado, New Hampshire, Tennessee, and New Mexico. Kentucky and Kansas have completed their own plans, and other states are working on plans of their own.



Conclusion: If some portion of the Title I funds are earmarked for correctional purposes, they can be expended within the timetable of the Act with a substantial level of efficiency.

V. The Amount of Funds Needed.

Using as a base figure the \$300 million that LEAA has projected as necessary merely to comply with existing court orders, and adding to that figure approximately \$180 million estimated as necessary for construction, expansion, and renovation in a dozen large cities where the federal needs are greatest 12/ and an additional \$100 million for renovation of small jails not presently under court order, the sum of \$580 million would be an appropriate benchmark. Of course these figures are estimates, and the need for funds is greater than is reflected by these figures. Moreover, it cannot be determined which areas of the country would be eligible for funds under the unemployment formula used in the Act. Nevertheless, \$580 million appears to be a reasonable working estimate. A substantially smaller program would do no more than enable localities to comply with court orders. A substantially larger program might lead to undesirable inefficiency in expenditure.

Conclusion: A sum of money between \$500 million and \$600 million can effectively be expended for this purpose in the coming year.

VI. Arguments Against Such a Program.

The chief arguments against this program would be anti-prison sentiment and the existence of greater priorities.

The arguments regarding anti-prison sentiment, 13/ can be disposed of on the merits. In any event, the force of any such arguments could be reduced by concentrating initially on renovation of existing facilities since many of those who are opposed to prison expansion are strongly in favor of modernizing existing facilities.

12/ They would be selected from among those cities targeted for MCC construction.

13/ Such sentiment is divided among those who believe that no one should be incarcerated and those who feel that tax money should not be wasted building "country clubs" for criminals.



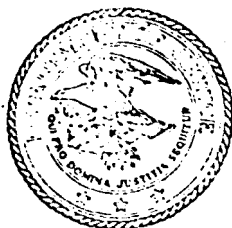
The arguments regarding priorities are of greater concern, since many localities may indeed have more urgent needs. Certainly institutions for the mentally retarded, hospitals, and the like will to many be more attractive projects than jails. Nevertheless, given the national preoccupation with the problem of crime and the potential of such a construction program for helping indirectly to meet that problem, the expenditure for prison facilities seems clearly justifiable. Moreover, since the sum suggested is only one-fourth of that authorized, other priorities should be able to be dealt with under the Act.

Conclusion: There appears to be no insurmountable arguments against such a program.

Recommendation

The first recorded reference to building a jail in America appears to be a 1632 order by the city of Boston requiring "a people pen to be constructed with all convenient speed." We still tend to address the issue only when, under all the circumstances, we find it convenient. The Public Works Employment Act seems to have made addressing the problem surprisingly convenient at this time, and the opportunity should not be lost.





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

September 17, 1976

MEMORANDUM FOR: JAMES T. LYNN, DIRECTOR
OFFICE OF MANAGEMENT AND BUDGET

FROM: Edward H. Levi *[Signature]*
Attorney General

RE: The Public Works Employment
Act of 1976

I think the proposal that the Public Works Employment Act funds be used in part for much needed local penal facilities is a good one.

While everyone talks about a crisis in everything, the lack of adequate penal facilities is real and will cause very great problems. So this would be most helpful and constructive.

cc: Ron Gainer



THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

September 7, 1976



MEMORANDUM FOR JAMES T. LYNN, DIRECTOR
OFFICE OF MANAGEMENT AND BUDGET

SUBJECT: The Public Works Employment Act of 1976

It appears that the Administration may have been presented with an opportunity to accomplish something of significance in regard to the problem of crime.

Ken Lazarus has inquired of the Departments of Commerce and Justice whether the provisions of Title I of the Public Works Employment Act of 1976 permit part of the authorized \$2 billion to be expended on state and local penal facilities, thereby helping to resolve a problem identified by the President in his Crime Message.

As you can see from the attached memorandum, the Department of Justice believes that some portion (about one-fourth) of these funds can be expended, efficiently and effectively, in carrying out a stated aim of the Administration -- adequate penal and correctional facilities. The funds realistically are available from no other source. The planning is well advanced. The need is clear. In his speech last February in Miami before the Florida Chapter of the Federal Bar Association, the President stated:



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The impact of such a program would go far beyond alleviating unemployment -- the primary purpose of the Act. It would result in an increased deterrent effect, reduced litigation as to jail conditions, and reduced future spending on federal correctional facilities.

I hope you can take the time to peruse the memorandum and to let me know your thoughts on the subject. Time is of the essence since the temporal strictures of the Act are so severe and since, as page 1 of today's "Wall Street Journal" indicates, the scramble to use these funds (for such projects as landscaping trolley tracks) has begun.

Harold R. Tyler, Jr.
HAROLD R. TYLER, JR.

Attachment




THE WHITE HOUSE

WASHINGTON

August 26, 1976

MEMORANDUM FOR: RICHARD G. DARMAN
ASSISTANT SECRETARY FOR POLICY
DEPARTMENT OF COMMERCE

RONALD L. GAINER
DIRECTOR, OFFICE OF POLICY AND PLANNING
DEPARTMENT OF JUSTICE

FROM: KENNETH A. LAZARUS 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Public Works Employment Act of 1976

During the formulation of the President's Crime Message, we became aware of a current critical lack of adequate jail and prison facilities. Moreover, a large number of these operating institutions are seriously overcrowded. Despite the fact that the Justice Department recently initiated a number of emergency programs to deal with this overcrowding, the need for additional local and state correctional facilities remains in light of the increasing offender population.

As you know, the Public Works Employment Act of 1976 will provide money to state and local units of government to be used for public works projects. It is my understanding that Mr. John Eden of the Economic Development Administration is currently drafting regulations to implement this new program.

I would like to have your thoughts as to whether the Public Works Employment Act of 1976 can be of assistance in meeting the requirements of state and local criminal justice systems. Would you be so kind as to forward your views in this regard as soon as practicable.

Thank you.



4/20/76
01

Funding State and Local Penal and Correctional Facilities
under the Public Works Employment Act of 1976

This memorandum addresses the issue whether the Public Works Employment Act of 1976 can be of assistance in helping state and local governments meet their requirements for adequate penal facilities.

Summary

The funds authorized by the Act can be used to aid local governments in constructing new jails and in renovating old ones. Such expenditures would be within the purposes of the Act, and the funds could be used quickly and efficiently within the allotted time limits. Such use of the funds could not only have a potential effect in reducing the level of the nation's crime, but could result in substantial savings to the federal government by obviating a considerable amount of proposed federal jail construction.

Discussion

I. The Public Works Employment Act of 1976.

A. The Statute.

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1/ Only Title I of the Act is directly relevant to the subject of this memorandum. Title II, which seeks to avoid recessionary budget cuts by providing grants to local governmental units to be used for the maintenance of basic governmental services, may have some marginal relevance. Title III (amending the Federal Pollution Control Act) is irrelevant.

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2/ On August 25, by a vote of 311-72, the House of Representatives passed a bill (H.R. 15194) appropriating \$2 billion for Title I projects. The next day the Senate Appropriations Committee reported the House bill to the floor of the Senate, increasing the appropriation for the whole bill by \$500 million. It is likely that a conference will be required after Senate passage.



Economic Development, and were published in the Federal Register on Monday, August 23 (41 F.R. 35670). (A copy is appended at Tab B.)

The regulations are not restrictive. For the most part, they merely provide detail to the eligibility aspects of the Act. However, Section 316.11(c) of those regulations requires that any detention facilities funded under Title I must be in compliance with the provisions of Part E of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750b(1), (4)-(9)). Those provisions require that applications include a comprehensive statewide program, an emphasis on community based corrections, advanced design features, regional sharing (where feasible and desirable); advanced correctional practices, personnel standards, and drug and alcohol treatment. Since only the first of these requirements would be particularly burdensome, and since it would already have been met by state planning agencies in earlier applications to LEAA for funds for penal or correctional purposes, these requirements do not appear to be a serious bar to the effective use of Title I funds for such purposes. 3/

Conclusion: Funds under the Act may be used to build penal and correctional facilities and to renovate existing facilities. The strictures of the Act, however, indicate that the bulk of this money would go to local communities, and thus that the funds used for such purposes would most likely be available for jails rather than penitentiaries.

II. The Need for Jail Construction and Renovation.

There is an urgent, demonstrable need for construction and renovation of jails. The nature of the specific need varies with the size of the community.

3/ The regulations (§316.10(g)) limit project costs to \$5 million but permit the Assistant Secretary to waive the limit for "good cause." This provision would affect only a limited number of large, metropolitan jail construction projects, and "good cause" in those cases would seem to be apparent.



Jails located in or near large metropolitan areas are commonly overcrowded. 4/ The jail in Prince Georges County is operating at 297% above capacity. Florida is using tents and airplane hangars to house prisoners. Maryland has purchased a "mothballed" freighter to use as a prison. The Law Enforcement Assistance Administration has recently resorted to authorizing the purchase of hundreds of trailers for use as substitute facilities.

Most rural jails, although small (75 percent have capacities of 20 or less), are still large enough to handle existing and projected near-term needs. However, the conditions of many of these jails have been described by knowledgeable authorities as anywhere from "despicable" to "abominable." Six percent are more than 100 years old; 12 percent are more than 75 years old; 25 percent are more than 50 years old. Eighty percent have no recreational facilities available and many have no visitation facilities. Some have totally inadequate sanitation facilities. Many present safety hazards -- to both inmates and staff -- as a result of non-locking cell doors and antiquated security features.

These overcrowded and substandard conditions have a drastic effect on the criminal justice system. Judges are understandably reluctant to detain persons prior to trial where such facilities exist, and, although evidence suggests incarceration of convicted offenders deters crime, 5/ in the last few years an increasing number of serious offenders has been sentenced only to probation, frequently because judges are unwilling to send offenders to overcrowded

4/ The 1972 census stated that five percent (or 167) of the nation's jails were then overcrowded. Many experts now allege that all urban jails are overcrowded and that rural and county jails are nearing a crisis point.

5/ For a general discussion of the subject, see James Q. Wilson, Thinking About Crime (New York, Basic Books, 1975); Norval Morris, The Future of Imprisonment (Chicago, University of Chicago Press, 1974); and Ernest van den Haag, Punishing Criminals (New York, Basic Books, 1975).



or substandard jail facilities. Indeed, in recent years the conditions in some penal facilities have been found so poor that federal courts have ruled that being sentenced to them constitutes cruel and unusual punishment under the Eighth Amendment of the Constitution. 6/ The states of Alabama and Louisiana currently have all their jails under either court attack or court order. It is acknowledged by all who have studied the field that these local jails are in serious need of renovation, both for humanitarian and correctional purposes.

Other detrimental consequences can be found where overcrowded or poorly designed jails exist, since most jails are multi-use facilities. Thirty percent of jails house juveniles with adult offenders. Ten percent do not segregate mental patients awaiting commitment. Some sixty percent do not segregate pretrial detainees.

Conclusion: There is a pressing and widely-recognized need for jail construction and renovation. (A copy of a recent GAO study that is in agreement with this conclusion is attached at Tab C. See pp. 19-27).

6/ See, e.g., Costello v. Wainwright, 525 F.2d 1239 (5th Cir. 1976); Finney v. Arkansas Bd. of Corrections, 505 F.2d 194 (8th Cir. 1974); Gates v. Collier, 501 F.2d 129 (5th Cir. 1974).



III. The Need for Federal Funds for Such Purposes.

Penal and correctional facilities have never ranked high in the priorities of taxpayers. Even where some local funds are available, they are usually inadequate to permit the construction of modern facilities. For example, while correctional experts are in general agreement that single inmate cells should be the rule (for safety and privacy purposes), local authorities are reluctant to build such facilities because of their cost.

State funding may be a more realistic means of providing adequate jails than local funding. Yet those states which have inadequate jails are also likely to have inadequate penitentiaries, and consequently statewide systems can be expected to continue to receive higher priority.

Past efforts at federal funding have not been particularly successful because of two principal shortcomings. First, the total federal funds available have been inadequate for the purpose. The LEAA funds available for jail construction and repair, under Part E of the Safe Streets Act, total \$37 million for FY 1977 and \$41 million for FY 1978. Yet LEAA has projected a figure of \$300 million as necessary merely to bring those correctional facilities now under federal court orders into compliance with court standards, and a joint ABA/LEAA study estimates the cost of bring all correctional facilities up to such standards at \$3.5 to \$4.7 billion. (A copy of the ABA/LEAA study is appended at Tab D.) Second, problems have been encountered as a result of the requirement that, as a requisite to obtaining LEAA funds, the local governments supply up to 50 percent of the costs of such projects. Some locales, even where under court order, have simply been unable to raise the necessary revenue. Some are reluctant to expend the required matching funds because of the view that the proposed facilities are too expensive as a result of what they perceive as unnecessarily high LEAA standards (e.g., single occupant cells). Others, under pressure from federal courts to renovate their jail systems, quite naturally resent being forced to expend local funds at federal direction.



The availability of federal funds an order of magnitude greater than those previously available for penal facilities, dispensed under a program that places no burden upon states and localities to produce matching funds, should resolve most of the funding problems previously encountered.

A further rationale for the use of federal funds for such purposes is the long-term savings that can accrue to the federal government. The Bureau of Prisons contracts with local jails for housing of federal prisoners (there are some 6,100 federal prisoners, about one-fourth of the total, in non-federal facilities). The inadequacies of many local jails, however, has led to the construction by the Bureau of three federal Metropolitan Correctional Centers (MCC's). The Bureau has determined that there is an immediate need for construction of MCC's in three more metropolitan areas 7/, and is studying the need for construction of MCC's in 17 additional cities. 8/ There is much to be said for aiding in the improvement of local jails and avoiding the construction of at least some of these MCC's, especially since the MCC's already constructed have served the purpose of providing models for jail construction. The construction of a dozen more such facilities could be avoided through the use of Title I funds to improve local jails. 9/

Conclusion: There does not appear to be any other adequate, practicable source of funds for the building of local penal facilities, and the use of Title I funds for this purpose may result in substantial savings from other parts of the federal budget.

7/ These metropolitan areas are Baltimore-Washington, Detroit, and Phoenix.

8/ These cities are Atlanta, Boston, Houston, Los Angeles, Miami, New Orleans, Philadelphia, St. Louis, East St. Louis, San Antonio, San Francisco, Sacramento, Tampa, Tucson, and Orlando.

9/ The 17 cities indicated include some within the same state. The strictures of the Public Works Act would probably limit construction to one jail per state, thus reducing to 12 the total of MCC's that could be obviated.



IV. The Ability to Plan and Execute a Program of Construction Within the Stated Time Limits.

Since the Public Works Employment Act is designed as an immediate anti-recession measure, it is replete with provisions requiring the prompt expenditure of the funds authorized. Intelligent spending for penal facilities can, in fact, be accomplished promptly. 10/

The federal government is in a unique position to plan and execute an expedited program of construction of penal and correctional facilities. The Bureau of Prisons has had long, high-level experience with planning such facilities. Its National Institute of Corrections is designed to provide technical assistance to local penal and correctional authorities, and the Bureau's task force on jails is nearing completion of its work. Moreover, the National Clearinghouse for Criminal Justice Planning and Architecture (an LEAA-funded group at the University of Illinois) has developed comprehensive plans not only for general application but for specific application as well; it has plans for renovating all correctional facilities in Nevada, Illinois, New Jersey, Hawaii, and Oklahoma, among others, and has specific plans for a number of local jails. 11/ (An example of one such plan is attached at Tab E. See pages 67-93.)

The above groups can readily be formed into a task force to set specific standards for applicants. Although, in the past, local authorities have opposed national standards because of the cost of their implementation, with 100 percent federal funding such objections should be avoided.

10/ Such a utilization of Title I funds would help in other ways to achieve the purpose of the legislation. Section 316.10(a)(2)(i)(C) of the implementing regulations states a strong preference for labor intensive projects. Experts on penal and correctional architecture have advised the Department of Justice that jail facilities are more labor intensive than other public works projects because they require little capital for special equipment or expensive frills, they are not subject to prefabrication, and they use a wide variety of labor skills.

11/ These include at least five county jails in Texas, Indiana, and Nebraska. State and county plans are being developed for Oregon, Colorado, New Hampshire, Tennessee, and New Mexico. Kentucky and Kansas have completed their own plans, and other states are working on plans of their own.



Conclusion: If some portion of the Title I funds are earmarked for correctional purposes, they can be expended within the timetable of the Act with a substantial level of efficiency.

V. The Amount of Funds Needed.

Using as a base figure the \$300 million that LEAA has projected as necessary merely to comply with existing court orders, and adding to that figure approximately \$180 million estimated as necessary for construction, expansion, and renovation in a dozen large cities where the federal needs are greatest 12/ and an additional \$100 million for renovation of small jails not presently under court order, the sum of \$580 million would be an appropriate benchmark. Of course these figures are estimates, and the need for funds is greater than is reflected by these figures. Moreover, it cannot be determined which areas of the country would be eligible for funds under the unemployment formula used in the Act. Nevertheless, \$580 million appears to be a reasonable working estimate. A substantially smaller program would do no more than enable localities to comply with court orders. A substantially larger program might lead to undesirable inefficiency in expenditure.

Conclusion: A sum of money between \$500 million and \$600 million can effectively be expended for this purpose in the coming year.

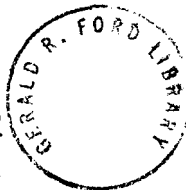
VI. Arguments Against Such a Program.

The chief arguments against this program would be anti-prison sentiment and the existence of greater priorities.

The arguments regarding anti-prison sentiment, 13/ can be disposed of on the merits. In any event, the force of any such arguments could be reduced by concentrating initially on renovation of existing facilities since many of those who are opposed to prison expansion are strongly in favor of modernizing existing facilities.

12/ They would be selected from among those cities targeted for MCC construction.

13/ Such sentiment is divided among those who believe that no one should be incarcerated and those who feel that tax money should not be wasted building "country clubs" for criminals.



The arguments regarding priorities are of greater concern, since many localities may indeed have more urgent needs. Certainly institutions for the mentally retarded, hospitals, and the like will to many be more attractive projects than jails. Nevertheless, given the national preoccupation with the problem of crime and the potential of such a construction program for helping indirectly to meet that problem, the expenditure for prison facilities seems clearly justifiable. Moreover, since the sum suggested is only one-fourth of that authorized, other priorities should be able to be dealt with under the Act.

Conclusion: There appear to be no insurmountable arguments against such a program.

Recommendation

The first recorded reference to building a jail in America appears to be a 1632 order by the city of Boston requiring "a people pen to be constructed with all convenient speed." We still tend to address the issue only when, under all the circumstances, we find it convenient. The Public Works Employment Act seems to have made addressing the problem surprisingly convenient at this time, and the opportunity should not be lost.



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How crowded prisons throw sentencing out of whack

By James Q. Wilson

No accurate national figures exist on changes in total prison capacity, but whatever the actual figure, it has so far been inadequate to alleviate the severe overcrowding that exists and that will, almost certainly, become worse.

Because capacity has not kept up with inmate population, there has occurred a dramatic shift in the kinds of crimes for which persons go to prison. In 1960 the federal Bureau of Prisons counted about 151,000 per-

sons in prison for gambling is not reported, but could not exceed one per cent.

Others have argued that prison should be reserved for repeat offenders and not used for persons convicted for the first time. By and large, that is already the case. Less than one per cent of the inmates had never been sentenced before; 28 per cent had served four or more prior sentences.

Prison inmates are, as one would expect, disproportionately drawn from among the poorly educated and those with low income. About half are

murderer or robber and much less likely to be a burglar or auto thief. If time served has remained constant, it can only mean the time served in prison for more serious offenses, such as murder and robbery, has become less.

It is not clear, of course, whether any changes in time served were the result of judicial decisions. Other agencies, such as parole boards, can and do decide how long a person will stay in prison whatever the initial

c



D



THE WHITE HOUSE
WASHINGTON

October 19, 1976

MEMORANDUM FOR: JIM CANNON
THROUGH: PHIL BUCHEN *P.*
FROM: KEN LAZARUS *K.*
SUBJECT: Public Works and Prison
Rehabilitation

We have reviewed your draft memorandum to the President on the subject noted above and offer the following:

(1) We would suggest that you merge Options 2 and 3, which would appear to logically supplement, rather than supplant, one another.

(2) Three additional points should be made in support of the proposal:

(a) Approximately \$300 million would be required merely to bring various correctional facilities now under federal court order into compliance with federal court standards.

(b) This proposal is entirely consistent with the Public Works Employment Act, in that it suggests employment programs which are labor intensive as required by the legislation.

(c) There is no other source of funding for the needs of our court systems.

(3) Under the Act, the 25 percent set aside recommendation advanced by Justice could be done on either a state-by-state basis or in the aggregate. In our view, the latter would be preferable.

(4) Counsel's Office supports Option 1.



File

DECISION

THE WHITE HOUSE
WASHINGTON

Justice

December 2, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: JAMES M. CANNON *J. Cannon*
SUBJECT: Public Works Employment Act:
Prison Construction and Renovation

This memorandum seeks your guidance on a proposal advanced by the Attorney General for the earmarking of public works construction funds for projects of construction and renovation of State and local penal institutions. Alternatively, the Attorney General suggests that you direct a "high priority" be given to such projects.

BACKGROUND

On July 22, 1976, the Congress overrode your veto of the Public Works Employment Act of 1976, thus enacting the measure into law. As you know, the avowed purpose of the Act is to stimulate employment through the creation of public works jobs. Title I of the Act specifically provided for the funding of projects for the construction, renovation and repair of public facilities.

On October 2, 1976, you signed into law H.R. 15194, the Public Works Employment Appropriations Act of 1976, appropriating some \$3.95 billion for public works projects under the authorization act. Of this amount, up to \$2 billion is available under Title I for construction and renovation projects.

The Economic Development Administration (EDA) in the Department of Commerce is responsible for the administration of this program.

PROPOSAL

The Attorney General has recommended that you direct the Secretary of Commerce to dedicate up to one-fourth of the funds available under Title I of the Act to be expended on construction, renovation or repair of State and local correctional facilities.



In the event you are opposed to an earmarking of these funds, the Attorney General suggests that, at a minimum, you encourage State and local governments to review their needs for construction, renovation and repair of correctional facilities in applying for Title I funds and direct the Assistant Secretary for Economic Development to give "high priority" to these applications.

DISCUSSION

The need for more prisons and for rehabilitation of existing prisons is clear and compelling. As you pointed out in a speech before the Florida Chapter of the Federal Bar Association last February: ". . . America still has the same prison capacity as in 1960, although crime has doubled and the population has burgeoned."

Because of overcrowding and dilapidation, many judges are reluctant to send convicted prisoners to certain jails. Indeed, approximately \$300 million is required merely to bring various correctional facilities now under federal court order into compliance with federal court standards. Moreover, many believe the corollary to mandatory minimum prison sentences, as you and other responsible leaders have advocated, is more prisons. Finally, as a practical matter, dedication of up to one-fourth of the public works construction funds to building new prisons and renovating old ones would put "teeth" in your anticrime proposals. Professor James Q. Wilson, of Harvard University, recently advocated a program of this sort as a fundamental building block of his theory on crime control.

It is clear that at least \$500 million of the \$2 billion could be utilized effectively at the present time for the purpose advanced by the Attorney General.

On the other hand, it should be pointed out that Title I funds will be available for prison construction projects and if a State or local government deems construction or repair of a correctional facility to be a priority it may apply to EDA for public works funds for the project. It could be argued, therefore, that by dedicating a set percentage of these funds to construction or repair of correctional facilities you are limiting the flexibility of State and local governments to set their own priorities. Secondly, dedicating a portion of the funds to one purpose would inevitably create pressures for similar dedications for other purposes. Finally, certain timing problems are raised by the proposal since it would require further delays in the distribution of grants under the Act and could result



in substantial embarrassment to the Administration for its failure to alert State and local officials of the dedication of prison funds in timely fashion.

The alternative recommendation advanced by the Attorney General, to require "high priority" treatment for applications for prison funds would appear to be administratively workable, albeit burdensome, at this stage. Although EDA has all but finalized its consideration of applications for Title I funds, the application period could be extended slightly for the purpose of receiving additional grant requests for the construction or improvement of prison facilities.

Attached (at Tab A) is a copy of the Attorney General's proposal. Also attached are copies of the objections to the proposal which have been raised by Commerce and OMB (at Tab B) and Justice's response to those objections (at Tab C).

ACTION

Three options are available to you with regard to the proposal advanced by the Attorney General. An affirmative decision in this regard would be reinforced in your State of the Union message.

1. Direct the Secretary of Commerce to earmark up to one-fourth of the funds available under Title I (\$500 million) to be expended on construction, renovation or repair of State and local correctional facilities. [Principal recommendation of the Attorney General.]

Approve _____ Disapprove _____

2. Direct the Assistant Secretary for Economic Development to give high priority to applications for Title I funds to construct, renovate or repair correctional facilities. [Alternative recommendation of the Attorney General. Recommended by Counsel's Office and the Domestic Council.]

Approve _____ Disapprove _____

3. Advise the Attorney General that you have rejected his proposal. [Recommended by OMB and Commerce.]

Approve _____ Disapprove _____



Justice

MEMORANDUM

NATIONAL SECURITY COUNCIL

December 15, 1976 PM 5 15
976 DEC 15

MEMORANDUM FOR JIM CANNON

FROM: Jeanne W. Davis *JWD*

SUBJECT: Telegram to the President from Congressman de la Garza on Border Patrol Academy

With regard to the attached correspondence from Congressman de la Garza, we believe that the matter concerning the Border Patrol Academy closing is a domestic issue and would suggest that Justice provide its recommendation on an appropriate reply. We have recently prepared a reply to Congressman de la Garza regarding the fishing agreement with Mexico.

file

cc: Charles Leppert, Jr.

*Allen -
RUI. I sent original
to I. & N.S. for direct
reply.
Dick*



western union

Telegram

NO. WDS.—CL. OF SVC.	PD. OR COLL.	CASH NO.	CHARGE TO THE ACCOUNT OF	THIS MESSAGE WILL BE SENT AS A TELEGRAM UNLESS IT IS OTHERWISE INDICATED.	PRESS		OVER NIGHT TELEGRAM
					DPR	NPR	

9 December 1976

**The Honorable Gerald R Ford
The White House
Washington, D C 20500**

DEAR MR PRESIDENT

**REMOVAL OF BORDER PATROL ACADEMY FROM FORT ISABEL-LOS FRESNOS, TEXAS AT
THIS TIME ADDS TO ALREADY DISASTROUS ECONOMIC CONDITIONS OF ENTIRE BORDER
AREA. RESPECTFULLY SOLICIT YOUR COMPASSIONATE CONSIDERATION AND INTERCESSION.
YOU ARE PERSONALLY AWARE OF SERIOUSNESS NEGATIVE ECONOMIC IMPACT OF MEXICAN-PESO
~~INDEPENDENT~~ DEVALUATION ADDED TO ORLEANS OF FISHING AGREEMENT WITH MEXICO.
AGAIN, I VERY RESPECTFULLY REQUEST RECONSIDERATION OR POSSIBLE DELAY OF THIS
SO DETRIMENTAL ~~AGREEMENT~~ TO MY AREA.**

*ACTION
Agoto*

SINCERELY,

E (Kita) de la Garza, M C



THE WHITE HOUSE
WASHINGTON

December 20, 1976

MEMO TO: JIM CONNOR

FROM: ALLEN MOORE

FYI. Cannon notes on attached memo:

"Talked with Levi - he will
call Wallace." 12/16/76

cc: Quern
Moore
Parsons

*Justice -
Crime*

*12/16/76
Talked with
Levi - he
will call
Wallace*

1 CANNON

1 CONNOR

JEK

Dani

on the Victims of Crime

December 6 on the

0 Minutes"



cc: Quern
Moore
Parsons

THE WHITE HOUSE
WASHINGTON

1976 DEC 9 PM 6:00
December 9, 1976

*12/16/76
Talked with
Levi - He
was in
Wallon
Dan*

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

JIM CANNON

FROM:

JIM CONNOR *JEB*

SUBJECT:

60 Minutes on the Victims of Crime

The President reviewed your memorandum of December 6 on the above subject and made the following decision:

"Ask Attorney General Levi to contact 60 Minutes"

Please follow-up with appropriate action.

cc: Dick Cheney
Phil Buchen



Crime

THE WHITE HOUSE
WASHINGTON

INFORMATION

December 6, 1976

MEMORANDUM FOR THE PRESIDENT

FROM:

JIM CANNON *JC*

SUBJECT:

60 Minutes on the Victims of Crime

As you requested, I looked into the report on the 60 Minutes television show on the victims of crime. Morley Scafer's quote at the very end of the show was: "The chief opposition came from the Justice Department on financial grounds" (script at Tab A).

In your proposal to the Congress, you advocated a Federal Victims Compensation Program for the victims of federal crimes. The first year cost was estimated at about \$7.5 million.

However, the Senate passed a bill which:

- (a) established a Federal Victims Crime Program, such as you advocated; and
- (b) authorized states to utilize LEAA bloc grant monies to fund state victims compensation programs on a 90% (federal)/10% (state) basis.

LEAA Administrator Velde testified in favor of your program. However, he testified against federal funding of state and local victims compensation programs, the beginning cost of which would have been about \$20 million annually.

I recommend that someone on your behalf make the point to 60 Minutes that you supported the principle of compensating victims and proposed specific federal funds for it.

We could ask Attorney General Levi to do this or I could do it for you.

Ask Attorney General Levi to contact 60 Minutes

Cannon to contact 60 Minutes

Discuss



"VICTIMS"

OPEN

SAFER:

We don't have to remind you that this country is in the middle of a wave of violent crime -- all the statistics do is reconfirm what we know, only too well.

With this nightly news of muggings, hold-ups, rapes and murders, more and more attention has been focused on reforming prisons...on rehabilitation of violent offenders. In a sense, criminals have been cast as a deprived and underprivileged minority.

All this attention has tended to cast into the shadows another group of Americans who are closely related to criminals and crime. The victims. They make very few demands -- very little noise. Often they are too hurt -- emotionally and physically to speak out for their rights.

It's something worth thinking about...because one thing all of us share is...the chance to become the victim of a crime, any time, any place.

For example, a shopping center in the suburbs of Minneapolis.



- 1 -

60 MINUTES

"VICTIMS"

VOL. IX, No. 11

FINAL CUT

12/5/76

SAFER:

IN NOVEMBER, 1974, THIS WAS A BASEMENT RECORD SHOP, THE KIND OF PLACE THAT YOUNG PEOPLE HANG OUT IN. ONE SATURDAY NIGHT THERE WERE FOUR PEOPLE DOWN HERE, A YOUNG WOMAN, A CLERK, AND THREE YOUNG MEN.

ONE OF THE MEN AFTER BROWSING AROUND LEFT, WENT ACROSS THE STREET, BOUGHT HIMSELF A HAMBURGER, BROUGHT IT BACK HERE, SAT DOWN ON THE TOP STEP AND ATE IT. WHEN HE WAS FINISHED HE PULLED OUT A GUN AND A MACHETE. WALKED BACK DOWN HERE SHOT ONE OF THE YOUNG MEN, KILLED HIM INSTANTLY; SHOT THE OTHER FOUR TIMES AND CRIPPLED HIM FOR LIFE, AND THEN HE CHASED THE CLERK, THE YOUNG WOMAN, BACK HERE, BACK INTO THIS BACK ROOM....HE SHOT HER FOUR TIMES.

WHAT WERE THE PERMANENT INJURIES?



JENNY RANDELL:

WELL, MY ARM'S PARALYZED.

SAFER:

IT'S YOUR LEFT ARM?

JENNY RANDELL:

YEAH. AND MY VOICE, IT USED TO BE A LOT WORSE THAN IT IS NOW.

SAFER:

WHAT HAPPENED?

JENNY RANDELL:

HIT ONE OF THE VOCAL CORDS, GOT SEVERED. AND I DON'T KNOW ALL THE SCARS I GOT. YOU KNOW,....

KEVIN FINNEMAN:

HE COME BACK AFTER ME BECAUSE HE'D SEEN ME UP AND HE STUCK THE GUN UP TOWARDS MY HEAD AND I DUCKED A SHOT. LANDED ON MY STOMACH. AND HE STUCK ONE --STUCK THE GUN UP TO MY BACK AND SHOT ME SQUARE IN THE SPINAL CORD, WHICH PARALYZED ME.

SAFER:

TWO PEOPLE SCARRED HORRIBLY FOR LIFE, ONE YOUNG MAN DEAD, AND AS IN MOST CASES LIKE THIS ONE, A KILLER STILL ON THE LOOSE.



SAFER: (CONTINUED)

IN THE UNLIKELY EVENT THAT HE IS CAUGHT, THE STATE WILL BEND EVERY EFFORT TO CURE HIM, TO MAKE HIM A BETTER MAN. BUT WHAT ABOUT THE VICTIMS?

KEVIN FINNEMAN, FOR EXAMPLE, HE WILL NEVER WALK AGAIN.....

KEVIN IS A STRONG, DETERMINED TO BE INDEPENDENT, YOUNG MAN. HIS NEIGHBORS HELD A DANCE TO RAISE MONEY FOR THIS ESPECIALLY EQUIPPED VAN. HE'S STUDYING MECHANICAL DRAFTING. AND IF YOU CAN BELIEVE IT, KEVIN IS LUCKY. HE LIVES IN MINNESOTA, ONE OF SIXTEEN STATES THAT PROVIDES SOME COMPENSATION TO VICTIMS OF CRIMES. THE COMPENSATION BOARD GAVE HIM THE MAXIMUM, TEN THOUSAND DOLLARS TO COVER MEDICAL BILLS, REHABILITATION AND THE LOSS OF HIS LEGS FOREVER. IT IS PAID IN MONTHLY INSTALLMENTS. LAST MONTH IT RAN OUT. KEVIN FINNEMAN, AGE TWENTY-ONE, IS PAID IN FULL.



SAFER:

NEW YORK STATE TOO, HAS A VICTIM COMPENSATION BOARD. IT HEARS APPEALS. AND LIKE MOST BOARDS IT AMOUNTS TO A VICTIM'S COURT. IN ORDER TO COLLECT REPARATIONS, THE VICTIM MUST PROVE HIS INNOCENCE, MUST PROVE HE OR SHE HAS NOT CONTRIBUTED TO THE CRIME. AND MOST STATES VIEW COMPENSATION AS A FORM OF CHARITY RATHER THAN A RIGHT, FORCING THE VICTIM TO DEMONSTRATE FINANCIAL NEED. IF THE VICTIM ALREADY HAS INSURANCE AND MEDICAL COVERAGE AND WORKMEN'S COMPENSATION, HE COLLECTS VIRTUALLY NOTHING. AND JUST LISTEN TO THE RESULTING STATISTICS.....

ONLY FOUR OF A HUNDRED VICTIMS ARE ELIGIBLE. AND ONLY A FIFTH OF THEM, FEWER THAN ONE PERSON IN A HUNDRED, MAKE APPLICATION. THEY EITHER DO NOT KNOW ABOUT COMPENSATION OR DO NOT WANT THEIR LIVES INVESTIGATED.

JENNY, THE CLERK AT THE MINNEAPOLIS RECORD STORE, RECEIVED ONLY NINE HUNDRED DOLLARS FROM THE MINNESOTA BOARD. THAT'S BECAUSE JENNY WAS ELIGIBLE FOR WORKMEN'S COMPENSATION.



SAFER: (CONTINUED)

BUT FINANCIAL PROBLEMS ARE NOT THE ONLY PROBLEMS THAT VICTIMS HAVE. JENNY WAS AN EXPERT WATER SKIER. NOW SHE FINDS IT DIFFICULT TO WALK. HER SENSE OF BALANCE HAS BEEN IMPAIRED. AT TWENTY-ONE, JENNY RANDELL MUST TRY TO BUILD A NEW LIFE OUT OF A BROKEN BODY.

WAS THERE ANY OTHER STATE AID OR STATE PROGRAM TO HELP YOU, TO REHABILITATE YOU?

JENNY RANDELL:

No. THERE WASN'T.

SAFER:

NO PROGRAM TO TEACH YOU A JOB OR A TRADE OR EDUCATE YOU?

JENNY RANDELL:

NOTHING SPECIAL, NO. THEY HAVE THE VO-TECH SCHOOLS, BUT THAT'S FOR EVERYONE. THEY DON'T HAVE IT JUST FOR VICTIMS OF CRIME.

SAFER:

WHAT ABOUT ANY PHYSIOTHERAPY, THAT KIND OF THING?

JENNY RANDELL:

No.



SAFER:

. . . TO GET YOU OVER YOUR CURRENT PROBLEMS?

JENNY RANDELL:

No, THERE'S NOTHING.

SAFER:

ARE YOU BITTER IN ANY WAY JENNY, THAT I SUPPOSE YOU COULD GO INTO ANY PRISON IN THE COUNTRY AND SEE FANTASTIC TECHNICAL SCHOOLS, TRADE SCHOOLS AND ALL KINDS OF METHODS BEING USED TO "REHABILITATE" PEOPLE. . .

JENNY RANDELL:

Yes, I AM.

SAFER:

. . . AND YET, FOR YOU, AS A VICTIM, NOTHING?

JENNY RANDELL:

YEAH, THAT BOTHERS ME QUITE A BIT. THEY'RE TRYING TO HELP THEM SO MUCH, BUT THEY -- YOU KNOW, THEY DON'T REALLY DO ANYTHING FOR ANYBODY ELSE. YOU KNOW. THEY PAY MORE ATTENTION TO THEM, THEY'RE MORE WORRIED ABOUT THEM.

JIM FOGARTY:

THERE STANDS THE VICTIM OUT IN THE STREET, BADLY BEATEN OR RENDERED DESTITUTE, OR INCAPACITATED EMOTIONALLY OR PHYSICALLY IN SOME WAY.



FOGARTY: (CONTINUED)

NO ATTENTION HAD BEEN PAID TO THE VICTIM. AND I THINK ANYONE WHO HAS EVEN THAT AMOUNT OF HUMAN NATURE IN THEM CERTAINLY WOULD FEEL THAT THAT REQUIRES SOME KIND OF ATTENTION PROMPTLY.

SAFER:

JIM FOGARTY IS THE SENIOR VICTIM ADVOCATE IN THE FORT LAUDERDALE, FLORIDA, POLICE DEPARTMENT. IT'S ONE OF THE FEW SUCH PROGRAMS IN THE COUNTRY. HE'S A ONE-MAN BAND TRYING TO GIVE LEGAL ADVICE, DO SOCIAL WORK AND BE, GENERALLY, A HELPING HAND TO VICTIMS. IT'S A PITIFULLY SMALL, PITIFULLY BUDGETED OPERATION. YET, HE IS A GREAT HELP TO THOSE VICTIMS HE GIVES COUNSEL TO. . . VICTIMS LIKE RUTH PITT, WHOSE MISFORTUNE IT WAS TO STOP INTO A TAVERN OWNED BY SOME FRIENDS. A ROBBERY TOOK PLACE AND SHE WAS STRUCK IN THE FACE BY A RICOCHETING BULLET.

RUTH PITT:

WHEN I WAS IN THE BAR AND THE MAN CAME IN AND SHOT, THE ONE BULLET BOUNCED OFF THE BAR, HIT MY CHEEK, CUTTING ALL THE NERVES ON THE SIDE OF MY FACE....WENT THROUGH MY EAR WHICH



RUTH PITT: (CONTINUED)

HAS MADE ME STONE DEAF IN THE ONE EAR AND
LODGED AT THE BASE OF MY SKULL.

JIM FOGARTY:

(ON PHONE) JIM FOGARTY, VICTIM ADVOCATE OFFICE
OF THE POLICE DEPARTMENT.....

SAFER:

RUTH PITT WAS DESTITUTE AND WOULD HAVE REMAINED
SO HAD JIM FOGARTY NOT STEPPED IN AND CUT
THROUGH THE RED TAPE, AND FOUGHT THREE APPEALS
BEFORE HE WON FOR HER, A SOCIAL SECURITY
DISABILITY PENSION OF TWO HUNDRED AND TWENTY
DOLLARS A MONTH.

RUTH PITT:

I FOUGHT SOCIAL SECURITY BY MYSELF BY GOING
DOWN THERE AND BEING HASSLED, THE FOOD STAMPS
WAS THE SAME WAY. I WAS HASSLED AND -- AND
SO....AND I WAS READY TO GIVE UP, I REALLY WAS.
NO ONE HAS ANY IDEA OF WHAT IT'S LIKE UNTIL
YOU GO THROUGH IT.

SAFER:

THERE ARE SOME FEDERAL FUNDS DESIGNED TO HELP
VICTIMS, MONEY THAT COMES FROM LEAA, THE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION.
BUT THAT MONEY CANNOT GO DIRECTLY TO VICTIMS.



SAFER: (CONTINUED)

IT GOES INTO SUCH THINGS AS COURTHOUSE AMENITIES, LOUNGES FOR WITNESSES, PEOPLE TO HELP WITNESSES THROUGH THE LAW'S DELAYS.

BUT EVEN THIS INDIRECT HELP IS MINISCULE, ONLY SIX MILLION DOLLARS FOR THE ENTIRE COUNTRY. AND WHILE ALL CRIMES PRODUCE VICTIMS, FEW CRIMES RESULT IN PROSECUTION. ONLY ABOUT ONE IN TEN. WHEN THERE IS A REAL LIVE CRIMINAL OUR JUSTICE SYSTEM IS DESIGNED TO ENSURE THAT HIS RIGHTS ARE PROTECTED. AND ONCE A PROSECUTION IS MADE, OUR PENAL SYSTEM SPENDS BILLIONS TO EDUCATE, REHABILITATE OR SIMPLY OCCUPY THE TIME OF THE GUILTY.

BUT ONCE A CASE IS CLOSED, WE RARELY HEAR ANYMORE ABOUT THE CRIMINAL AND HIS VICTIM. WE DECIDED TO FOLLOW UP ON ONE CRIME, TO LOOK INTO THE LIVES OF BOTH MEN.

THIS MAN, JAIME FIGUEROA, WAS SENTENCED TO TEN YEARS IN A NEW YORK STATE MEDIUM SECURITY PRISON. TWO YEARS AGO, FIGUEROA AND A FRIEND GOT A GUN AND HELD UP THIS MAN IN A NEW YORK



SAFER: (CONTINUED)

SUBWAY. HIS NAME IS SYLVESTER DAVIS, AGE THIRTY-NINE, SHOT IN THE HEAD AT CLOSE RANGE RESULTING IN BLINDNESS AND SOME BRAIN DAMAGE. HE WAS A WELL-PAID CONSTRUCTION WORKER, NOW HE VEGETATES. HE DID GET VICTIM COMPENSATION. HIS WIFE DISCOVERED HE COULD ALMOST BY ACCIDENT BECAUSE SHE WORKED FOR AN ANSWERING SERVICE THAT WORKED FOR A LAWYER WHO LED THE DAVIS' THROUGH THE PAPERWORK JUNGLE. HIS BENEFITS RUN TO JUST OVER FIVE HUNDRED DOLLARS A MONTH. AS A WORKING MAN HE BROUGHT HOME NEAR A THOUSAND.

MR. DAVIS:

SO I WENT DOWN IN THE SUBWAY STATION. PUT MY TOLL IN THE SLOT. WALKED ON IN.

MR. FIGUEROA:

WE WENT TO THE TRAIN STATION. WE WAS ACTUALLY GOING TO TAKE OFF A PIMP, A SO-CALLED PIMP.

SAFER:

YOU WERE GOING TO ROB A PIMP?

MR. FIGUEROA:

YEAH, BECAUSE WE KNEW HE HAD MONEY THE WAY HE WAS DRESSING, HAD A LOT OF WHITE COAT..... BUT IT SO HAPPENED THAT THIS MAN GOT IN THE



FIGUEROA: (CONTINUED)

WAY.

DAVIS:

HE GRABBED ME FROM BEHIND. AND I TWIST, AND I TURNED, SO I GOT A LOOSE FROM HIM. AND JUST AS QUICK AS I'D GOTTEN A LOOSE FROM HIM AND I LOOKED AT HIM AND THE OTHER GUY SAID, "SHOOT, SHOOT."

FIGUEROA:

WE DIDN'T WANT TO SHOOT. WE TOLD HIM. BUT HE KEPT COMING AT US, YOU KNOW, HE JUST WANTED TO GET US. YOU KNOW, HE GOT TO THE STATE WHERE IT WAS HIM OR US. THE WAY HE WAS FIGHTING, BECAUSE HE WAS BIGGER THAN US.

SAFER:

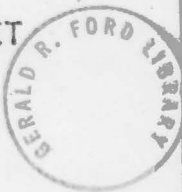
BUT THERE WERE TWO OF YOU, HE WASN'T ARMED.

FIGUEROA:

RIGHT: THERE'S TWO OF US, WE'RE YOUNG, WE'RE IGNORANT, WE'RE SCARED. YOU KNOW, WE NEED, WE'RE HUNGRY.....YOU KNOW, WE WANT TO GET MONEY TO EAT.

DAVIS:

I DIDN'T KNOW WHERE MORE MONEY WAS COMING FROM, SO I HAD TO TRY AND WORK FOR IT. BUT I



DAVIS: (CONTINUED)

WOULDN'T LET ANYBODY COME UP TO ME AND TAKE IT FROM ME.

FIGUEROA:

HE WANTED TO KILL US, THAT'S HOW IT SEEMS TO ME. SO I SAID, "IT'S EITHER HIM OR ME." AND I DIDN'T WANT TO DIE SO YOUNG. I DIDN'T WANT TO GET HURT SO YOUNG.

SAFER:

BEFORE THIS HAPPENED WERE YOU A PRETTY STRONG FELLOW?

DAVIS:

VERY STRONG.

MRS. DAVIS:

THEY HAVE TAKEN MY HUSBAND AWAY FROM ME IN EVERY WAY. LIKE I NEED HIM AND HE'S NOT THERE.

SAFER:

SINCE YOU'VE BEEN OUT OF THE HOSPITAL, HAS ANYONE -- HAS A THERAPIST COME AROUND, HAS A SOCIAL WORKER COME AROUND, HAS THE STATE BEEN AROUND IN ANY WAY TO TRY AND ASK "DO YOU NEED ANYTHING? CAN WE HELP YOU IN ANY WAY?"



MRS. DAVIS:

NO WAY. NO, NOTHING.

FIGUEROA:

I WENT AND SPOKE TO MY COUNSELOR AND I TOLD HIM THAT I WANTED TO GO TO SCHOOL AND I WANTED TO HAVE A VOCATIONAL SHOP, BECAUSE I KNEW THAT IF I DIDN'T DO SOMETHING FOR MYSELF WHILE BEING IN HERE, WHEN I GO OUT THERE, YOU KNOW, I'M JUST GONNA FALL BACK INTO THESE CONDITIONS. AND WHEN I WENT TO THE SHOP --

SAFER:

YOU WENT TO SCHOOL FIRST, THOUGH, RIGHT?

FIGUEROA:

YEAH, SCHOOL AND SHOP....

SAFER:

THEY TRIED TO TEACH JAIME FIGUEROA A TRADE, WELDING. THE INSTRUCTOR SAYS HE SHOWED SOME APTITUDE. BUT HE CHOSE TO DROP OUT. HAD HE COMPLETED THE COURSE HE COULD EARN UP TO TWELVE DOLLARS AN HOUR WHEN HE'S RELEASED FROM PRISON.

THERE ARE OTHER TRADES OPEN TO FIGUEROA, BUT NONE INTEREST HIM. THERE'S ALSO A HIGH



SAFER: (CONTINUED)

SCHOOL WITHIN THE PRISON AND SOME COLLEGE DEGREE COURSES. FIGUEROA WENT TO SCHOOL BUT THEN DECIDED THAT HE WOULD DROP OUT OF THAT AS WELL. THE STATE GIVES HIM A CHOICE OF THE KIND OF WORK HE WILL DO IN PRISON AND HE CHOOSES THIS. . . JANITOR WORK IN THE SCHOOL BUILDING. IT COSTS THE STATE FIFTEEN THOUSAND DOLLARS A YEAR TO KEEP JAIME FIGUEROA, BUT HE IS NOT IMPRESSED WITH THE FACILITIES.

FIGUEROA:

OKAY, THEY GAVE ME A PAIR OF PANTS TO WEAR, OKAY. BUT WHAT DO THEY GIVE ME TO REHABILITATE ME SO THAT WHEN I GO OUT THERE I WON'T DO THE SAME THING?

SAFER:

THEY TRIED TO TEACH YOU A TRADE.

FIGUEROA:

A TRADE? A TRADE, ANYBODY WITH A TRADE CAN GO OUT THERE AND COMMIT CRIMES AGAIN, BECAUSE YOU CAN USE THE TRADE TO COVER UP YOUR CRIMES. SO WHAT'S A TRADE. A TRADE AIN'T NOTHING IF THEY DON'T GIVE YOU SOMETHING FOR YOUR MIND.



SAFER:

DOES IT BOTHER YOU THAT THOSE MEN INSIDE NOW, ARE BEING OFFERED OPPORTUNITY TO GO TO SCHOOL, OPPORTUNITY TO LEARN A TRADE? THAT THE STATE IS PUTTING THAT KIND OF EFFORT INTO REHABILITATING, AS THEY CALL IT, THOSE MEN?

MRS. DAVIS:

I FEEL THAT IF THEY CAN DO IT FOR THEM THEN THEY SHOULD DO IT FOR US. BECAUSE NUMBER ONE, WE WERE BOTH WORKING PEOPLE ALL OUR LIVES AND I WOULDN'T SAY THEY OWE US, YOU KNOW, ANYTHING, BUT AT LEAST THEY SHOULD -- IF THEY CAN OFFER THAT TO THEM, THEN, YOU KNOW, DO THE SAME TO SOMEONE THAT ARE UNPROTECTED.

SAFER:

DON'T YOU THINK THAT IT'S KIND OF UNFAIR THAT HERE YOU ARE IN HERE WITH THE STATE SPENDING A GREAT DEAL OF MONEY ON YOU WITH SCHOOLS, AND HOSPITALS AND A WARM PLACE TO SLEEP, AND ALL THAT, AND THERE'S MR. DAVIS OUT THERE VIRTUALLY BLIND, THE STATE'S DOING ALMOST NOTHING FOR HIM?



FIGUEROA:

YOU SEE, IT'S NOT A POINT OF BEING FAIR OR NOT, OKAY. IF THE STATE PUT ME HERE SO THAT I COULD SEE MY WRONG. SO THAT WHEN I GO OUT THERE, THEN I WON'T DO IT AGAIN.....

THEN IT'S FAIR FOR ME TO RECEIVE ALL THIS BECAUSE I KNOW WHAT I DONE WRONG AND I KNOW IT WAS WRONG, AND THERE'S NO WAY IN THE WORLD I COULD REPAY MY WRONG TO THAT PERSON BECAUSE HOW CAN I GIVE THAT MAN BACK HIS EYES, HIS EYESIGHT? I CAN'T DO THIS, I'M NOT GOD. ONLY GOD COULD REPAY WHAT I'VE DONE WRONG.

SAFER:

THE GOVERNMENT TAKES MUCH THE SAME ATTITUDE TO VICTIMS AS JAIME FIGUEROA. OF THE FIFTEEN BILLION DOLLARS SPENT EACH YEAR ON CRIMINAL JUSTICE, POLICE, COURTS, PRISONS AND REHABILITATION PROGRAMS, LESS THAN ONE PERCENT GOES TO HELPING VICTIMS OF CRIMES.



CLOSE

SAFER:

A federal bill that would help states pay victims compensation and promote more compensation boards failed once again to clear the House of Representatives in the last Congress. The chief opposition came from the Justice Department on financial grounds.

