

The original documents are located in Box 10, folder “Crime Legislation” of the John Marsh Files at the Gerald R. Ford Presidential Library.

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THE WHITE HOUSE
WASHINGTON

July 23, 1975

MEMORANDUM FOR:

JACK MARSH
MAX FRIEDERSDORF

FROM:

JIM CANNON *J Cannon*

SUBJECT:

Crime Bill

As a way to break the current impasse over the introduction of the President's Crime Bill, I suggest we ask Attorney General Levi to talk personally and privately with Senator Hruska to see if they can resolve their differences and still come up with a bill that is acceptable to each.

To keep the meeting small, it might be best if the Administration were represented only by the Attorney General and Doug Marvin, who assisted in the drafting of the bill and who formerly worked with Hruska on the Senate Judiciary Committee.



THE WHITE HOUSE
WASHINGTON

August 1, 1975

MEMO TO: JACK MARSH

FROM: RUSS ROURKE *R*

Jack, FYI, Cheney advised me last night that H.R. 6799 was signed prior to the deadline. Jim Connor and the Press Office have been properly notified.

August 1, 1975

MEMO TO: JACK MARSH
FROM: RUSS ROURKE

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AUG 1 1975

THE WHITE HOUSE
WASHINGTON

Copy for

Jack Marsh

THE WHITE HOUSE

WASHINGTON

July 30, 1975

MEMORANDUM FOR THE PRESIDENT

THROUGH:

PHILIP BUCHEN *by R. H.*

FROM:

KENNETH LAZARUS

SUBJECT:

Enrolled Bill: H.R. 6799, the Federal Rules of Criminal Procedure Amendments Act of 1975

This is to present the referenced bill for your immediate attention. In order to be absolutely certain that it is effective, the measure must be signed into law before August 1 (Washington time) -- 6:00 A.M., Friday, August 1 (Helsinki time).

Background

1. Enabling Acts. 18 U.S.C. Sections 3402, 3771 and 3772 constitute the Federal criminal rules enabling acts. By these provisions, the United States Supreme Court is empowered to promulgate rules of practice and procedure to govern criminal proceedings in our various Federal courts. The authority of the Supreme Court to promulgate such rules is limited, however, by a reserved power of Congress to disapprove any promulgated rule within a period of 90 days from the date of transmission to Congress or the prescribed effective date of the rule whichever is later. Moreover, the Congress is, of course, empowered to affirmatively legislate in this area at any time.
2. 1974 Criminal Rules. By order dated April 22, 1974, the Chief Justice transmitted to Congress a package of proposed changes to the Federal Rules of Criminal Procedure which were to take effect on August 1, 1974, absent Congressional disapproval.
3. Delayed Effective Date. Pub. L. 93-361, July 30, 1974, 88 Stat. 397 provided that the effective date of the proposed changes to the Federal Rules of Criminal Procedure which were embraced by the Supreme Court order of April 22, 1974, was postponed until August 1, 1975.
4. Enrolled Bill. H.R. 6799 contains a series of desirable amendments to the Rules as promulgated by the Supreme Court



on April 22, 1974. However, in order to be absolutely certain that they are carried into effect, it is necessary to secure Presidential approval of the legislation before August 1, 1975. Approval on August 1 could, create considerable confusion and litigation. Approval after August 1 could be a complete nullity as the Rules promulgated on April 22, 1974, are designed to automatically take effect on August 1.

Discussion

The Department of Justice strongly supported most of the amendments (and all of the major ones) contained in H.R. 6799. Two provisions are worthy of mention here.

1. Rules 4 and 9. The enrolled bill rejects the Supreme Court's proposal to transfer the discretion as to whether to use an arrest warrant or a summons, now exercised by United States Attorneys, to the district courts. In the view of the Department, the Court's proposal, because of its tendency to increase the use of a summons, thereby alerting a person that a criminal charge is imminent, would have exacerbated the problem of fugitivity as well as caused a loss of incriminating evidence.

2. Rule 16. The enrolled bill also rejects the Supreme Court's proposal to provide for mandatory pre-trial disclosure of government witnesses. The Court's proposal portended an increase in witness intimidation, assault and assassination, as well as an aggravation of the already difficult task of obtaining witness cooperation. In this area, too, the bill would leave current law intact.

H.R. 6799 passed the House and Senate by voice vote on July 30.

Recommendation

Due to the press of time, it was not possible to process this measure in the normal fashion. However, the Attorney General, Jim Cannon, Jack Marsh, Jim Lynn and Counsel's Office recommend you sign the subject bill into law as soon as possible and not later than 6:00 A.M., Friday August 1 (Helsinki Time).

