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June 13, 1975

MEMORANDUM TO THE PRESIDENT
CRIME MESSAGE FROM JIM CANNON

Now we have, in my judgment, a hard battle ahead of us. But if you join with me, and we get the mayors and the county officials to join with us, we can extend this program along the lines that I'm recommending. It's not going to be easy. You will have some people who will want to change its character, reduce its money, put all kinds of limitations and strings on it. We cannot afford to have that happen.

This program has justified itself. We had a hard time getting it in the first instance, and we will probably have a difficult time in the months ahead for its extension. But on its merit, it can be justified. And I'm confident that

the American people will support your efforts and ~~and then~~ as we join with others.

I think I understand the importance of State government and some of the problems you face. And I can assure you that I and my Administration will do everything we can to be helpful. It's a mutual responsibility we have to our respective constituents, and if we work together we can get the job done.

Thank you very, very much.

NOTE: The President spoke at 2:08 p.m. in the East Room at the White House to participants in a special leadership conference being held in Washington, D.C., under the sponsorship of the National Conference of State Legislatures.

YALE UNIVERSITY LAW SCHOOL

The President's Remarks at the Sesquicentennial Convocation Dinner. April 25, 1975

Thank you very much, President Brewster. Dean Goldstein, Governor Grasso, Justices Stewart and White, the Secretary of HUD, Carla Hills, the Members of the House of Representatives with whom I served and others who are now Members, but with whom I did not have that privilege and pleasure, good mayor, fellow alumni students, and guests of Yale Law School:

Obviously, it's a very great privilege and pleasure to be here at the Yale Law School Sesquicentennial Convocation. And I defy anyone to say that and chew gum at the same time. [Laughter]

Every time I come back to Yale, I find myself almost overwhelmed by nostalgia. It's been so long, and so much has happened since I first got off the train at the New Haven station in 1935.

For the first several years, I was an assistant football coach. But during that period, I decided against a career in athletics and set my goal as a degree in law.

At that time, one of the entrance requirements to the Yale Law School was a personal interview with three distinguished members of the faculty. In my case, one of them was Professor Myres McDougal, whom I'm delighted to see is with us tonight. It was wonderful to chat with you, Myres, before dinner.

You might be interested to know that Professor McDougal, in remarks given to the Yale Law School Association in Washington last year, mentioned the fact that he still had his notes from that interview. He said that under the appropriate headings there were entries like the following: good looking, well-dressed, plenty of poise, personality—excellent. Then, under another heading: informational background, not too good. [Laughter]

Well, Professor McDougal doesn't know—or what he doesn't know is that while he was keeping notes on me, I was keeping notes on him. And by coincidence, I just happen to have them with me here tonight. Under the appropriate headings, I find entries like these: good looking, well-dressed, plenty of poise, personality—excellent. Then under another heading: informational background about football, not so good. [Laughter]

As I remember it, the only benchwarmer Professor McDougal took an interest in at that time was Oliver Wendell Holmes.

I won't go into any more details about that interview. Suffice it to say that Professor McDougal was extraordinarily impressed with my capabilities and so caught up with my capabilities and my vision of my potentialities that in a whirlwind of enthusiasm, he wrote: "I see no reason why we should not take him." [Laughter]

My biggest problem at that time was convincing the school I could continue as a full-time assistant football coach and still carry on a full schedule in the law school. Fortunately, I was able to convince them, and I've always been very grateful for the help, the encouragement I consistently received from such great educators as Gene Rostow, Thurman Arnold, Jimmy James, Harry Shulman and, in particular, Myres McDougal. And I thank you very much.

Myres, all I can say is may your retirement provide you with the same riches of fulfillment and satisfaction your career has already brought to the students of Yale. May God go with you.

Obviously, a lot has happened since I left Yale Law School in 1941. I practiced law. I joined the Navy. I was elected to Congress, became minority leader, Vice President, and now President. But no matter how far I have traveled, something from Yale has always followed with me—and I'm not just referring to those letters from the Alumni Fund [laughter]—but something very special, something that adds to character, something that clings to our character and, in time, something that becomes our character.

It's rather hard to put feelings into words, but the motto of our school is, "For God, for Country, and for Yale," and I think that says it all.

The 150th anniversary of this great law school, one of the outstanding institutions of the world for the study of law, suggests better than I, the subject for my remarks this evening. On May 1, we celebrate Law Day. Most of you in this audience have devoted your academic years and a good part of your lives to the development and to the promulgation of the law.

Today, as President, I sense, and I think the American people sense that we are facing a basic and a very serious problem of disregard for the law.

I would like to talk with you tonight about law and the spirit of abiding by the law. I ask you to think along with me about the concern of so many Americans about the problem of crime. And let us start with the great Preamble of our Constitution which seeks "to insure domestic tranquility." Have we achieved on our streets and in our homes that sense of domestic tranquility so essential to the pursuit of happiness?

With the launching of our Bicentennial year, it has been argued that the American Revolution was the most successful in history because the principles of the Revolution—liberty and equality under the law—became the functioning constitutional principles of our great Government.

The Founding Fathers governed well and governed prudently, with restraint and respect for justice and law. There was no reign of terror, no repression, no dictatorship. The institutions they have founded became durable and effective. Because of all of this, we tend to think of them now as respectable and conservative. But the fact is that ours remains the great Revolution of modern history, and we should be proud of it.

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for each other.

11

A leading feature of the American Revolution was its devotion to justice under law. Once one gets past those two glorious opening paragraphs, the Declaration of Independence reads very much like a legal brief.

The argument was made that sound government and just laws had to be restored to the land. The theme was that independence was needed to restore a representative government of laws in order to secure liberty.

Our revolutionary leaders heeded John Locke's teaching: "Where there is no law, there is no freedom." Law makes human society possible. It pledges safety to every member so that the company of fellow human beings can be a blessing instead of a threat. Where law exists and is respected and is fairly enforced, trust replaces fear.

Do we provide that domestic tranquility which the Constitution seeks? If we take the crime rates as an indication, the answer has to be no.

The number of violent crimes rises steadily, and we have recently suffered the national disgrace of lawbreaking in high places. Violent crimes on our streets and in our homes make fear pervasive. They strike at the very roots of community life; they sever the bonds that link us as fellow citizens; they make citizens fear each other.

Crime in high places, whether in the Federal Government, State government, local governments, or in business or in organized labor, sets an example that makes it all the more difficult to foster a law-abiding spirit among ordinary citizens.

And when we talk about obeying the law, we think of police and courts and prisons and the whole apparatus of the law enforcement process. But the truth is that most of us obey the law because we believe that compliance is the right thing to do and not because the police may be watching.

As far as law violations in high places are concerned, let me stress this point: In the present Administration, I have made it a matter of the highest priority to restore to the executive branch, decency, honesty, and adherence to the law at all levels. This has been done, and it will be continued.

I urge the same effort and the same dedication in State governments, where recently there have been too many scandals. I urge the same standards in local governments, also in industry and in labor. There is no way to inculcate in society the spirit of law if society's leaders are not scrupulously law-abiding.

We have seen how lawbreaking by officials can be stopped by the proper functioning of our basic institutions—executive, legislative, and judicial branches. But America has been far from successful in dealing with the sort of crime that obsesses America day and night. I mean street crime, crime that invades our neighborhoods and our homes—murders, robberies, rapes, muggings, holdups, break-ins—the kind of brutal violence that makes us fearful of strangers and afraid to go out at night.

In thinking about this problem, I do not seek vindictive punishment of the criminal, but protection of the innocent victim. The victims are my primary concern. That is why I do not talk about law and order, and why I return to the constitutional phrase—insuring domestic tranquility.

The overwhelming majority of Americans obey the law willingly and without coercion, but even the most law-abiding among us are still hu-

man. And so it makes ordinary commonsense that we promulgate rules and that there be enforcement of the rules to buttress the normal inclination of most people to obey the rules. As James Madison asked in *The Federalist*, and I quote, "But what is government itself but the greatest of all reflections on human nature? If men were angels," said Madison, "no government would be necessary."

Since men and women are not angels, we must have the apparatus of law enforcement. Those who prey on others, especially by violence, are very, very few in number. A very small percentage of the whole population accounts for a very large proportion of the vicious crimes committed. For example, in one study of nearly 10,000 males born in 1945, it was found that only 6 percent of them accounted for two-thirds of all of the violent crimes committed by the entire group.

Most serious crimes are committed by repeaters. These relatively few, persistent criminals who cause so much misery and fear are really the core of the problem. The rest of the American people have a right to protection from their violence.

Most of the victims of violent crime are the poor, the old, the young, the disadvantaged minorities, the people who live in the most crowded parts of our cities, the most defenseless. These victims have a valid claim on the rest of society for the protection and the personal safety that they cannot provide for themselves—in short, for domestic tranquility.

Hardly a day passes when some politician does not call for a massive crackdown on crime, but the problem is infinitely more complex than that. Such an approach has not proven effective in the long haul; it is not the American style. We need a precise and effective solution.

One problem is that our busiest courts are overloaded. They're so overloaded that very few cases are actually tried. One study showed that in a county in Wisconsin, only 6 percent of the convictions resulted from cases which came to trial. According to another study, over a 3-year period in Manhattan, only about 3 percent of the persons indicted were convicted after trial.

I think this audience knows the explanation. It is plea bargaining—in many cases, plea bargaining required by the ever-growing pressure of an increased caseload. The popular notion that trial follows arrest is a misconception in a vast majority of cases, and this audience will also be quick to guess one of the basic reasons.

The increase in arrests has been much more rapid than the increase in the number of judges, prosecutors, and public defenders. The most obvious response to this imbalance has been to accept pleas of guilt in return for short prison terms or sentences, or no sentences at all.

According to a recent authoritative report, half of the persons convicted of felonies in New York received no detention whatsoever. And of the other half, only one-fifth were sentenced to more than one year of imprisonment. Imprisonment, thus, too seldom follows conviction for a felony.

In the sixties, crime rates went higher and higher, but the number of persons in prisons, State and Federal, actually went down. A Rand Corporation report of one major jurisdiction showed that of all convicted robbers with a major, prior record, only 27 percent were sent to prison after conviction.

Notice, please, that I'm speaking only of convicted felons. I am not chastising our system for determining guilt or innocence. I am urging that virtually all of those convicted of a violent crime should be sent to prison. And this should be done especially if a gun was involved or there was other substantial danger or injury to a person or persons. There certainly should be imprisonment if the convicted person has a prior record of convictions.

Most serious offenders are repeaters. We owe it to their victims—past, present, and future—to get them off the streets. This is just everyday commonsense, as I see it. The crime rate will go down if persons who habitually commit most of the predatory crimes are kept in prison for a reasonable period, if convicted, because they will then not be free to commit more crimes.

Convicts should be treated humanely in prison. Loss of liberty should be the chief punishment. Improvement in the treatment of, and facilities for prisoners is long overdue. But it is essential that there be less delay in bringing arrested persons to trial, less plea bargaining, and more courtroom determination of guilt or innocence, and that all—or practically all—of those actually convicted of predatory crime be sent to prison.

In many other areas, it is the responsibility of the Federal Government to augment the enforcement efforts of the States when it becomes necessary.

What else can we do? The Federal Code can be modified to make more sentences mandatory and, therefore, punishment more certain for those convicted of violent crimes.

What can the White House do about this? The Federal role is limited, because most violent crimes are matters for State and local authorities. Further, the creation of criminal sanctions and their interpretation are the concerns of the legislative and judicial branches as well as the executive branch.

The principal role of the Federal Government in the area of crime control has centered in providing financial and technical assistance to the several States. However, while we are all aware that the actual control of crime in this country is a matter primarily of State responsibility under the Constitution, there are several areas in which it is the chief responsibility of the Federal Government.

We can provide leadership in making funds available to add judges, prosecutors, and public defenders to the Federal system. This Federal model should encourage States to adopt similar priorities for the use of their own funds and those provided by the Law Enforcement Assistance Administration.

We can encourage better use of existing prison facilities to minimize detention of persons convicted of minor crimes, thus making more room for the convicted felons to be imprisoned. There are a number of estimates of how much the crime rate would be reduced if all convicted criminals with major records were sent to prison instead of being set free after conviction, as too many are today.

Although we might expect the certainty of a prison sentence to serve as a deterrent, let us remember that one obvious effect of prison is to separate lawbreakers from the law-abiding society. In totalitarian states, it's easier to assure law and order. Dictators eliminate freedom of move-

ment, of speech, and of choice. They control the news media and the educational system. They conscript the entire society, and deprive people of basic civil liberties. By such methods, crime can be strictly controlled. But, in effect, the entire society becomes one huge prison. This is not a choice we are willing to consider.

Edmund Burke commented appropriately in his *Reflections on the French Revolution*. Burke said, and I quote, "To make a government requires no great prudence. Settle the seat of power, teach obedience, and the work is done. To give freedom is still more easy. It is not necessary to guide; it only requires to let go the rein. But to form a free government, that is, to temper together these opposite elements of liberty and restraint in one consistent work, requires much thought, deep reflection, a sagacious, powerful, and combining mind."

Since these words were written, the world has changed profoundly. But the old question still remains: Can a free people restrain crime without sacrificing fundamental liberties and a heritage of compassion?

I am confident of the American answer. Let it become a vital element on America's new agenda. Let us show that we can temper together those opposite elements of liberty and restraint into one consistent whole.

Let us set an example for the world of a law-abiding America glorying in its freedom as well as its respect for law. Let us, at last, fulfill the constitutional promise of domestic tranquility for all of our law-abiding citizens.

Thank you very much.

NOTE: The President spoke at 9:57 p.m. in Woolsey Hall at the Yale University Law School, New Haven, Conn.

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man. And so it makes ordinary commonsense that we promulgate rules and that there be enforcement of the rules to buttress the normal inclination of most people to obey the rules. As James Madison asked in *The Federalist*, and I quote, "But what is government itself but the greatest of all reflections on human nature? If men were angels," said Madison, "no government would be necessary."

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June 5, 1975

TO: DICK PARSONS
FROM: JIM CANNON 
SUBJECT: CRIME MESSAGE

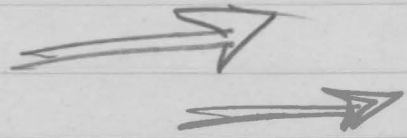
Here are Don Rumsfeld's thoughts on what the crime message should accomplish:

1. It is the basic message he will want to live with from now until November of 1976.
2. It should show:
 - a. He gives a damn about what's happening in the country.
 - b. He cares about the victims of crime.
 - c. He has proposed an anti-crime program to Congress.
 - d. Congress won't pass it.
3. The message should be thoughtful and lasting, have a broad appeal, and be slightly right of center.

JMC:jm

[6/13/75]

~~Stute~~



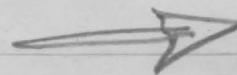
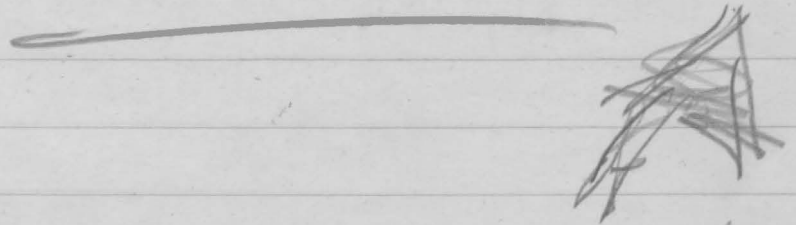
Earl Butz.



Worshipping.



Domestic Council meeting



Sevensen

He and ~~BT~~
met at ~~W.P.~~

Grants

JBS
man

W

[6/13/75]

(1) Meeting of D.C. Women's group
next Wednesday. V.P.

(2)

Gun Control

~~out~~
on one provisions

Re Gun Control

role of a

gun owner -

under sole delivery
local & state
law

we shouldn't enforce
moral law

present Federal law
makes it ~~illegal~~

to sell a
gun if illegal
under Fed or
State law —

Drug
Warrior

Require dealer to
take steps to determine
that it would

J. Cannon

THE WHITE HOUSE
WASHINGTON

June 13, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: Jim Cannon

SUBJECT: Crime Message

Attached for your consideration is the final draft of your special message to the Congress on crime. The following matters remain unresolved:

I. Compensation to Victims of Crime

Issue: Should the Crime Message specifically endorse the victims' compensation provision of S. 1?

Discussion:

Based on 1973 data, the Department of Justice has estimated that revenues for a victims' compensation fund, such as would be established by S. 1, would approximate \$15.4 million annually, and that pay-outs to victims of crimes would approximate \$7.6 million annually, not including compensation for lost earnings due to disability. The Department indicates that, while it is impossible to determine the potential liability for lost earnings due to disability, the remaining revenues available to the fund should be sufficient to cover all such liability. The Department's analysis is attached at Tab A.

OMB has expressed concern that the Department's estimate may understate, by a wide margin, the number of potential claimants for compensation, since:

- a) it is based on reported crime which, itself, understates the level of actual crime by as much as 300 to 500 per cent; and
- b) it does not take into account cases commenced in State courts which involve a Federal crime (i. e., concurrent jurisdiction cases).

OMB also questions the Department's estimate regarding revenues available to the victims' compensation fund, since the year upon which the Department's estimate is based, 1973, was a year of unusually high criminal fine collections. The OMB analysis is attached at Tab B.

Members of my staff have canvassed the several States which have enacted victims' compensation programs to ascertain how such programs work on the State level. Most States feel that their victims' compensation programs are working well. They indicate that these programs assist law enforcement authorities in eliciting the victim's assistance in the criminal investigatory and adjudicatory processes. In almost every State, the number of claims filed and the total cost of the program are much lower than originally anticipated. A more detailed analysis of State victims' compensation programs is attached at Tab C.

Recommendations:

The Attorney General, the Counsel to the President and I recommend that you specifically endorse the victims' compensation concept in the Crime Message.

OMB, Jack Marsh, Bob Goldwin and Max Friedersdorf have recommended that you reserve judgment on this matter.

Max reports that there is no clear-cut Congressional view on this issue.

Expressly Endorse _____

Reserve Judgment _____

II. Gun Control

Issue: How large an increase in ATF investigatory personnel should you propose in the Crime Message?

Discussion:

You earlier indicated your desire to have the Bureau of Alcohol, Tobacco and Firearms substantially increase its enforcement activities in the nation's ten largest metropolitan areas. ATF proposes to increase its present field staff by approximately

1,000 additional firearms investigators and 500 additional supporting personnel, at a cost of \$46.7 million annually. These additional investigators would concentrate on two major problems: tracing all firearms involved in crime, and intensifying efforts to disarm and convict significant weapons offenders.

Recommendations:

OMB recommends a more limited approach until the value of the intensified program can be demonstrated. Specifically, OMB recommends doubling existing firearms investigators in the nation's ten largest cities. This would result in 364 additional firearms investigators and 195 additional supporting personnel, at a cost of \$16.6 million annually.

The Counsel to the President and I recommend that you direct ATF to employ and train an additional 500 firearms investigators (necessitating 250 additional support personnel), at an approximate cost of \$23.3 million annually.

| | |
|-------|-------|
| 364 | _____ |
| 500 | _____ |
| 1,000 | _____ |

Additionally, Bob Goldwin has objected to several of the exculpatory provisions regarding the imposition of mandatory sentences. Under your proposal, a judge could avoid imposing a mandatory sentence if he found and specified in writing one or more of the following: that the defendant was under 18, or was mentally impaired, or was acting under substantial duress, or was implicated in a crime actually committed by others and participated in the crime only in a very minor way.

Bob argues that, since substantial numbers of violent crimes are committed by persons under 18, your proposal should be modified to require the imposition of a mandatory sentence for persons 16 years of age or older. Furthermore, Bob believes that the terms "mentally impaired" and "substantial duress" are vague and may provide lenient judges with a convenient reason for not imposing a jail sentence. He recommends that these provisions be dropped.

The Attorney General takes strong exception to Bob's recommendations. He points out that few persons under age 18 commit Federal crimes. Therefore, lowering to 16 the age at which a person becomes subject to mandatory imprisonment is not very meaningful at the Federal level. Further, to the extent that there are 16- and 17-year-old Federal offenders, special facilities would have to be constructed to house them, because the Juvenile Justice and Delinquency Prevention Act prohibits their being comingled with adult offenders. (Placement of these offenders in existing Federal Youth Facilities would not be lawful, since those facilities house persons up to 25 years of age). The Attorney General also points out that the terms "mentally impaired" and "substantial duress" have meaning to the legal community and are necessary to the successful implementation of a mandatory sentencing scheme. Therefore, he recommends that your proposal be left intact.

The Counsel to the President and I concur in the Attorney General's recommendation.

Leave Intact _____

Change per Bob Goldwin's Suggestion _____

A

UNITED STATES GOVERNMENT
Memorandum

TO : Ronald Gainer
Deputy Director, OPP

DATE: May 30, 1975

FROM : Edward D. Jones, III
Office of Policy and Planning

SUBJECT: Cost Analysis of S. 1 -- Victim Compensation Fund

Introduction and Summary

This memorandum presents estimates of the expected revenues and dollar claims of the Victim Compensation Fund outlined in S. 1. The fund mechanism is complex, and the data available for evaluating its cost-effectiveness limited. As a result, the estimates derived below are based upon several critical assumptions, and, thus, should be used with caution.

Based upon 1973 data, anticipated revenues of the Fund are approximately \$15.4 million, and anticipated payouts \$7.6 million. The payout figure does not include compensation for lost earnings due to disability because that component was impossible to determine. Nevertheless, it appears that the revenues going into the Fund are sufficient to cover disability compensation, additional victims, unusually high medical claims, and administrative expenses.

Revenues

The Victim Compensation Fund relies for revenues upon (a) criminal fines collected in United States courts and by the Attorney General, (b) twenty percent of the net profits of Federal Prison Industries, and (c) public or private donations. Donations to the Fund will likely be minimal, and are thus assumed to be non-existent for the purpose of this analysis.

Criminal fines collected in FY 1973 in all judicial districts were \$14,034,546. 1/ Under the provisions of S. 1,

1/ Executive Office of the United States Attorneys, Statistical Yearbook, Fiscal Year 1973, Table 5.



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

the level of fines are significantly increased for criminal offenses. Moreover, collection procedures will be enhanced. Therefore, it is likely that fines available to the Fund will increase markedly. This is, of course, dependent upon judicial discretion regarding the assessment of higher fines.

Total net profits of Federal Prison Industries in FY 1973 were \$6,610,151. 2/ Twenty percent, or \$1,322,030, would be available to the Victim Compensation Fund under S. 1 provisions. Federal Prison Industries under S. 1 will have greater access to compete with private industry. Thus, it is likely that net profits -- and, hence, the contribution to the Fund -- will increase, although the extent of such increases are uncertain.

A conservative estimate of revenues of the Fund, based upon FY 1973 data, is \$15,356,576.

Compensation

Claimants eligible for compensation from the Fund are victims of federal jurisdiction offenses who sustain personal injury. In the event of death, the victims' survivors may be compensated. Bodily injury and ensuing losses are covered up to a maximum of \$50,000. 3/ However, compensation by the Fund is secondary to all other sources. 4/

Assaultive offenses 5/ commenced in United States District Courts in FY 1973 were:

| | |
|--------------|-----|
| Homicide | 144 |
| Assault | 695 |
| Sex Offenses | 180 |

2/ Federal Prison Industries, Financial and Operating Report, FY 1974, p. 2.

3/ The Fund may compensate for the actual pecuniary loss of the claimant, and loss of earnings if disability extends longer than 90 days.

4/ This is not reflected in the estimates below. Consequently, those estimates overstate expected compensation from the Fund.

5/ Data from Administrative Office of U.S. Courts, Annual Report of the Director, 1974, Table D2. Potential assaultive violence in the 98 kidnapping cases commenced in FY 1973 cannot be determined. Consequently, this offense is not analyzed.

The homicide figure is probably an accurate indicator of victimization for this crime. A comparison of Uniform Crime Reports (UCR) incident data and National Crime Panel (NCP) victimization data indicates for 1973 consistent crime rates for rape. 6/ Thus, the sex offense rate above is a good approximation of victimization for this crime. Unfortunately, a similar comparison indicates that the figure for assault is a poor estimator, likely understating dramatically victimizations occurring in federal jurisdiction. 7/ Consequently, this figure is adjusted upward by a factor of 2.6. Thus, the number of anticipated claimants by assaultive crime type for the analysis are:

| | |
|--------------|------|
| Homicide | 144 |
| Assault | 1807 |
| Sex Offenses | 180 |

The present value of the expected lifetime earnings foregone by the average homicide victim in 1972 was \$99,036. This exceeds the maximum permissible compensation to a victim's surviving dependent by \$49,036. Therefore, it is assumed that the dependents of the 144 homicide victims would receive the maximum \$50,000, totalling \$7,200,000.

Based upon National Crime Panel Survey data, the average rape victim incurred medical expenses of \$120.52. Furthermore, less than five percent of the survey respondents indicated receipt of compensation for expenses incurred. Therefore, it is assumed that the 180 sex offense victims would be compensated approximately \$21,700 for medical expenses.

Again, based upon National Crime Panel Survey data, the average victim of serious assault incurred medical expenses of

6/ Federal Bureau of Investigation, Uniform Crime Reports for the United States, 1973, pp. 11-13; Law Enforcement Assistance Administration, Criminal Victimization in the United States, January-June 1973, Table 1. The UCR rate incident for rape is 47 per 100,000 females in 1973; the NCP victimization rate is 50 per 100,000 females for the first half of 1973.

7/ The UCR incident rate for aggravated assault is 198 per 100,000 persons; the NCP victimization rate is 510 per 100,000 persons, 2.6 times higher than the UCR rate.

\$224.57. Only about seven percent of the Survey respondents indicated receipt of compensation for expenses incurred. Therefore, it is assumed that the 1807 victims of assault would be compensated approximately \$405,800.

For sex offenses and assault, disability loss of income could not be calculated. Excluding disability, the compensation totals for the three crimes above total \$7,627,500. This represents about 54% of estimated revenues. The remaining 46% of revenues should be sufficient to cover disability compensation, additional victims, unusually high medical claims, and administrative expenses.

B

Compensation to Victims of Crime

OMB Analysis

The Department estimates that revenues for the Victim Compensation Fund would approximate \$15.4 million annually, derived from (a) criminal fines collected in U.S. Courts and by the Attorney General and (b) twenty percent of the net profits of Federal Prison Industries. They estimate that disbursements will come close to utilizing the full amount of the Fund. The Department points out that revenues to the Fund will grow if increases in criminal fines proposed by the President are approved.

The Department's calculations for disbursements under the Fund are based on assaultive offenses cases commenced in U.S. District Courts in 1973, adjusted by LEAA's recent victimization survey to account for unreported crimes. (The Department's analysis at Tab D indicates that the data for evaluating this program are limited and should be used with caution.) These offenses are priced as follows:

| | <u>No. of Cases</u> | <u>Adjusted for Unreported Crime</u> | <u>Total</u> | <u>Xs expected Payments</u> | <u>Total</u> |
|--------------|-------------------------|--|--------------|---|--------------|
| Homicide | 144 | -- | 144 | \$ 50,000 (maximum payments to beneficiaries) | 7,200,000 |
| Assault | 695 | 1,112 | 1,807 | \$224.57 (average medical expenses) | 405,800 |
| Sex Offenses | 180 | -- | 180 | \$120.52 (average medical expenses) | 21,700 |
| | 1,019 | 1,112 | 2,131 | | \$7,627,500* |

*Excludes disability compensation, which could be sizeable.

The Department believes that cases commenced in U.S. Courts are the best available measure of the extent of Federal crime violations likely to result in physical injury. Cases commenced includes: proceedings commenced by indictments, information with indictment waived, information - other, cases removed from state courts, juvenile delinquency proceedings, and all other proceedings. Of the 40,367 Federal cases commenced in 1973, 1,019 were classified as assaultive violence cases resulting in personal injury. Based on data supplied by the Executive Office of U.S. Attorneys, cases commenced for assaultive violence crimes parallels very closely with "matters received," which includes cases developed by Federal investigative agencies, direct reports by victims to U.S. Attorneys, and cases referred by state and local police as being primarily Federal violations. From this data, the Department concludes that "cases commenced" fairly well covers the extent of assaultive violence crimes that come to the attention of Federal authorities. Even though the national crime rate has increased dramatically since 1973 in almost all categories, the Department's projections indicate that Federal assaultive violence cases have remained about constant. Big increases have occurred in state and local assaultive crimes.

OMB is concerned that the data used in the Department's tabulations may understate--by a wide margin--the number of potential claimants for compensation. For example:

- "cases commenced" deals only with reported crime. As LEAA's recent victimization study revealed, unreported crime may be as much as 300-500 percent greater. Reported crime may increase dramatically with the advent of compensation. There is presently no data available to indicate the extent of non-reported Federal crime violations.

The Department did adjust commenced cases for the assault category by a factor of 2.6 (we have no basis to determine the adequacy of this adjustment) to accommodate unreported crimes in that area, but made no adjustment for homicides or sex offenses. We have no basis to challenge the homicide rate assumption, but we do question the assumption that

commenced cases for sex offenses is an accurate measure of victimization, in view of the charge that 4 to 10 rapes are unreported for every one that is reported.

- The Department's data does not take into account potential compensation claimants of concurrent jurisdiction cases tried in state courts. There is no data to determine the impact of this omission, but the Department believes that the number of physical injury cases would not be large.

OMB also has questions about the Department's projections for revenues available to the Compensation Fund. As the following table indicates, fiscal 1973 (the base projected by the Department) was an unusually high year for criminal fine collections:

| <u>Fiscal Year</u> | <u>Criminal Fines Collected</u> |
|--------------------|---------------------------------|
| 1974 | 12,179,797 |
| 1973 | 14,034,546 |
| 1972 | 12,801,716 |

The Department assumes that revenues to the Fund will grow if increases in criminal fines being proposed by the President are approved--and imposed by the Courts.

The Department's proposal also assumes that 20 percent of the dividends from Federal Prison Industries will be devoted to the Compensation Fund. Presently, these dividends are used for educational and vocational programs at Federal prisons. Use of the dividends for other purposes would reduce the level of programs presently being funded or create a need for new appropriations to avoid cutbacks.

OMB is concerned that the Department's estimate of about \$15 million may significantly understate the number and size of potential compensation payments. If compensation generates additional reporting of crime, and if there are significant numbers of claimants from concurrent jurisdiction crimes, potential claimants may be many times greater than the Department's projections.

Budget
Increases

However, data presently available is insufficient to determine the impact of this program with any real precision.

?

BRD points out that the proposal to direct criminal fines into the Compensation Fund violates OMB policy against earmarking of General Fund receipts. Annual disbursements from the Fund would increase the budget deficit by a like amount because those receipts would no longer be available to finance regular government operations. In accordance with Section 401 of the Congressional Budget Act (P.L. 93-344), provision should be made in proposed implementing legislation to make the fund available only in such amounts as are provided in appropriation acts. Otherwise, the legislation might be rejected out of hand because it would constitute backdoor financing.

C

State Victims' Compensation Programs

Nationally, there are twelve States (Alaska, California, Delaware, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New York and Washington) that provide for compensation to victims of crimes. Seven other States (Arkansas, Florida, Georgia, North Dakota, Pennsylvania, Rhode Island and Wisconsin) are actively considering adoption of a crime victims' compensation scheme.

Virtually all of these programs operate on a "last resort" basis, pursuant to which victims' compensation benefits are secondary to most other forms of available, privately secured financial assistance. Some States limit benefits to persons who meet a financial need test. These States incur much higher administrative costs than do those States which employ no financial need test.

Most States feel that their crime victims' compensation programs are working well. They indicate that these programs assist law enforcement authorities in eliciting victims' assistance in the criminal investigation process. The general experience of the States is that about two out of every three claims result in a pay-out. In almost every State, however, the number of claims filed and the total cost of the program are much less than originally anticipated.

Attached is a chart which identifies essential elements of existing State programs.

State Victims' Compensation Programs

| State | Year Enacted | Administrative Mechanism | Beneficiaries | Maximum Benefit | Estimated 1975 Caseload | Limitation on Right of Recovery | Estimated FY 1975 Budget |
|---------------|--------------|---|-------------------------------|---|-------------------------|---------------------------------|--------------------------|
| Alaska | 1973 | Violent Crimes Compensation Board | Victim and Dependents ** | \$10,000 | 110 | None | \$ 175,000 |
| California | 1966 | State Board of Control | Victim and Dependents | \$10,000 Med. \$10,000 Wage \$ 3,000 Rehab. | 6,500 | Financial Need | \$4-6 Million |
| Delaware | 1974 | Violent Crimes Compensation Board | Victim, Dependents and Others | \$10,000 plus 15% Lawyers Fee | 100 | None | \$ 125,000 |
| Hawaii | 1967 | Criminal Injuries Compensation Commission | Victim, Dependents and Others | \$10,000 | 125 | None | \$ 175,000 |
| Illinois | 1973 | Court of Claims | Victim and Dependents | \$10,000 | 1,200 | None | \$ 650,000 |
| Maryland | 1968 | Criminal Injuries Compensation Board | Victim, Dependents and Others | \$45,000 | 600 | Financial Need | \$1,500,000 |
| Massachusetts | 1968 | District Court | Victim and Dependents | \$10,000 | 400 | None | \$ 650,000 |
| Minnesota | 1974 | Crime Victims Reparations Board | Victim, Dependents and Others | \$10,000 | 200 | None | \$ 100,000 |
| Nevada | 1969 * | State Board of Examiners | Victim, Dependents and Others | \$ 5,000 | 30 | Financial Need | \$ 25,000 |
| New Jersey | 1971 | Violent Crimes Compensation Board | Victim, Dependents and Others | \$10,000 | 2,000 | None | \$1,000,000 |
| New York | 1966 | Crime Victims Compensation Board | Victim, Dependents and Others | Unlimited Med. \$15,000 Wage | 2,400 | Financial Need | \$3,000,000 |
| Washington | 1973 | Crime Victims Compensation Division of Department of Labor and Industries | Victim and Dependents | None | 600 | None | \$ 900,000 *** |

* Nevada's law only compensates those injured as a result of a "good samaritan" act, such as coming to the aid of a police officer in trouble.

** Bill to provide for others has been passed by Legislature and is awaiting Governor's signature.

*** This estimate covers both the 1975 and 1976 Fiscal Years.

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