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THE WHITE HOUSE
WASHINGTON

June 16, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: JIM CANNON.
FROM: JAMES CONNOR 
SUBJECT: Crime Message

Your memorandum to the President of June 13, 1975 on the above subject has been reviewed and the following was noted:

I. Compensation to Victims of Crime

Expressly Endorse

II. Gun Control

Train additional 500 firearms investigators

Leave intact.

In addition the following notation was made in connection with the Crime message:

--Should we have a paragraph or two at the beginning of Crime message that re-emphasizes the "domestic tranquility" and concern for "victim of crime" as said at Yale speech?

Please follow up with appropriate action.

cc: Don Rumsfeld

THE WHITE HOUSE

WASHINGTON

June 13, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: Jim Cannon *JC*
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).

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.

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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

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.



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.

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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.

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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.

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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CRIME MESSAGE

To the Congress:

I address this message to the Congress on a subject that touches the lives of all Americans: crime.

Ever since the first Presidential message on crime, in 1965, strenuous Federal efforts, as well as state and local initiatives, have been undertaken to reduce the incidence of crime in the United States. Yet, throughout this period, crime has continued to increase. Indeed, the Federal Bureau of Investigation's latest estimates are that the rate of serious crime -- murder, forcible rape, robbery, aggravated assault, burglary, larceny, and auto theft -- was 17 percent higher in 1974 than in 1973. This is the largest increase in the 44 years the Bureau has been collecting statistics.

Since 1960, although billions of dollars have been spent on law enforcement programs, the crime rate has more than doubled. Moreover, these figures reflect only the reported crimes. A study of unreported crime sponsored by the Law Enforcement Assistance Administration indicates that the actual level of crime in some cities is three to five times greater than that reported.

More significantly, the number of crimes involving threats of violence or actual violence has increased. And the number of violent crimes in which the perpetrator and the victim are strangers has also increased. A recent study indicates that approximately 65 percent of all violent crimes are committed against strangers.

The personal and social toll that crime exacts from our citizens is enormous. In addition to the direct damage to victims of crime, violent crimes in our streets and in our homes make fear pervasive.

In many areas of the country, especially in the most crowded parts of the inner cities, fear has caused people to rearrange their daily lives. They plan shopping and recreation during hours when they think the possibilities of violent attacks are lower. They avoid commercial areas and public transit. Frightened shopowners arm themselves and view customers with suspicion.

The individual, political and social costs of crime cannot be ignored. They demand our attention and coordinated action. With the firm support of the American people, all levels of government -- Federal, State and local -- must commit themselves to the goal of reducing crime.

In this Message, I shall address myself to what I believe the Federal government can and should do to reduce crime. The fact is, however, that the Federal role in the fight against crime, particularly violent crime, is a limited one.

With few exceptions, the kinds of crimes that obsess America -- murders, robberies, rapes, muggings, hold-ups, break-ins -- are solely within the jurisdiction of State and local governments. Thus, while the programs that I will propose in this Message will, if enacted, contribute to a safer America, the level of crime will not be substantially reduced unless State and local governments themselves enact strong measures.

I see three ways in which the Federal government can play an important role in combatting crime:

First, it can provide leadership to State and local governments by enacting a criminal code that can serve as a model for other jurisdictions to follow and by improving the quality of the Federal criminal justice system.

Second, it can enact and vigorously enforce laws covering criminal conduct within the Federal jurisdiction that cannot be adequately regulated at the State or local level.

Third, it can provide financial and technical assistance to State and local governments and law enforcement agencies, and thereby enhance their ability to enforce the law.

I. Providing Leadership

Law enforcement in a democratic society depends largely upon public respect for the laws and voluntary compliance with them. We do not have and do not want a police state. Respect and compliance are undermined if individuals conclude that law enforcement efforts are ineffective and that crimes may be committed with impunity -- conclusions which are buttressed by rapidly rising crime rates and by statistics showing only one arrest for every five serious crimes committed.

A decline in respect for the law leads to the commission of more crimes. The necessity to investigate these additional crimes, prosecute those accused, and punish those convicted places even greater strain on the already overburdened capacities of police, prosecutors, public defenders, courts, penal institutions and correctional authorities. As a consequence, the percentage of offenders apprehended, prosecuted and appropriately sentenced is further reduced. This leads to an even greater decline in respect for the law and to the commission of even more crimes. To succeed in the effort to reduce crime, we must break this spiral.

There are two direct ways to attack the spiral of crime. One is through improvements in the law itself. The other is through improvement of the criminal justice system so that it functions

more swiftly, surely and justly.

Federal criminal laws should be a model upon which State and local governments can pattern their own laws. At the present time, they are not. These Federal statutes developed haphazardly over the decades. They have been revised here and there in response to changing judicial interpretation. They are complicated, and sometimes conflicting, leaving gaps through which criminal activity too often slips unpunished. Because of their complexity, the laws invite technical arguments that waste court time without ever going to the heart of the question of the accused's guilt or innocence.

For several years, the Federal government has engaged in a massive effort to reform the Federal criminal laws into a uniform, coherent code. The product of this effort was recently introduced in Congress, with wide bipartisan support, as S. 1, the "Criminal Justice Reform Act of 1975."

Since it covers every aspect of criminal law, some of the proposals in this Act have stirred controversy and will undoubtedly precipitate further debate. For instance, concern has been expressed that certain provisions of the bill designed to protect classified information could adversely affect freedom of the press. While we must make sure that national security secrets are protected

by law, we must also take care that the law does not unreasonably restrict the free flow of information necessary to our form of government. Responsible debate over this and other provisions of S. 1 will be very useful. Issues can be clarified and differing interests accommodated.

I think everyone will agree, however, that comprehensive reform of the Federal criminal code is needed. Accordingly, as a legislative priority in the Federal effort against crime, I urge the 94th Congress to pass the kind of comprehensive code reform embodied in the Criminal Justice Reform Act.

In connection with this overall effort, let me suggest some specific reforms I believe essential.

The sentencing provisions of current Federal law are, in my judgment, inadequate in several respects, often erratic and inconsistent. Defendants who commit similar offenses may receive widely varying sentences. This lack of uniformity is profoundly unfair and breeds disrespect for the law.

The revision of the criminal code should restore a sense of consistency in sentencing, so that the fine or term of imprisonment imposed by the law relates directly to the gravity of the offense. For

example, criminal fines are woefully inadequate and provide little deterrence to offenders whose business is crime -- a business profitable enough to support current levels of criminal fines as an ordinary business expense. Other than under the antitrust laws, the maximum fine which can be imposed on serious violators is \$10,000. That amount is too often not commensurate with the crime. The maximum level should be increased to \$100,000, if the defendant is an individual, and \$500,000 if the defendant is an organization.

The sentencing provisions of the proposed code should be modified to provide judges with standards under which prison sentences are to be imposed upon conviction. Imprisonment too seldom follows conviction, even for serious offenses. It is my firm belief that persons convicted of violent crime should be sent to prison. There should be no doubt in the minds of those who commit violent crimes -- especially crimes involving a gun -- that they will be sent to prison, if convicted, under legal processes that are fair, prompt and certain.

I propose that incarceration be made mandatory for: (1) offenders who commit violent offenses under Federal jurisdiction using a dangerous weapon; (2) persons committing such extraordinarily serious crimes as aircraft hijacking, kidnapping, and trafficking in hard drugs; and (3) repeat offenders who commit Federal crimes -- with or without a weapon -- that cause or have a potential to cause personal injury.

Exceptions to mandatory imprisonment should apply only if the judge finds and specifies in writing one or more of the following: that the defendant was under 18 when the offense was committed, 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. I have asked the Attorney General to assist the Congress in drafting this modification to the sentencing provisions of S. 1. Since most violent crime is in the jurisdiction of State and local criminal courts, I call upon the States to establish similar mandatory sentencing systems. Too many persons found guilty of serious, violent crimes never spend a day in prison after conviction.

I would emphasize that the aim of this program of mandatory imprisonment is not vindictive punishment of the criminal, but protection of the innocent victim by separating the violent criminal from the community. These victims -- most of whom are old or poor or disadvantaged -- have a valid claim on the rest of society for the protection and the personal safety that they cannot provide for themselves.

Reasonable mandatory minimum sentences can restore the sense of certainty of imprisonment upon which the deterrent impact of criminal law is based. Mandatory sentences need not be long sentences; the range of indeterminacy in sentencing need not be great. In fact, wide disparities in sentences for essentially equivalent

offenses give a look of unfairness to the law. To help eliminate that unfairness, Federal appeals courts should be given some authority to review sentences given by Federal trial court judges -- to increase or reduce them so that the punishments will be more nearly uniform throughout the Federal system. I am also asking the Attorney General to review this problem to ensure that the Federal sentencing structure, which is now based on the indeterminate sentence, is both fair and appropriate. Among other things, it may be time to give serious study to the concept of so-called "flat time sentencing" in the Federal law.

In addition to reform of the criminal law, we must improve the manner in which our criminal justice system operates. Effective deterrence to law-breaking is currently lacking, in part because our criminal justice system simply does not operate effectively.

A logical place to begin discussion of such improvement is the prosecutor's office, for it is there that important decisions are made as to which offenders should be prosecuted, what cases should be brought to trial, when plea bargains should be struck and how scarce judicial resources should be allocated. Many prosecutors' offices currently lack the manpower or management devices to make those decisions correctly. Prosecutors often lack information on a defendant's criminal history and thus cannot identify habitual criminals who should be tried by experienced prosecutors and, if convicted, sent

to prison. In too many cases, they lack efficient systems to monitor the status of the numerous cases they handle. If improved management techniques could be made available to prosecutors, the likelihood of swift and sure punishment for crime would be substantially increased.

At the Federal level, last September I directed the Department of Justice to develop and implement a program to deal with career criminals, with the objectives of (1) providing quick identification of persons who repeatedly commit serious offenses, (2) according priority to their prosecution by the most experienced prosecutors, and (3) assuring that, if convicted, they receive appropriate sentences to prevent them from immediately returning to society once again to victimize the community.

Programs to deal with habitual criminals will be encouraged at the State and local levels through the use of Law Enforcement Assistance Administration model programs and discretionary grants already underway.

To illustrate the nature of this problem, let me point out that in one city over 60 rapes, more than 200 burglaries and 14 murders were committed by only 10 persons in less than 12 months. Unfortunately, this example is not unique.

The results of a repeat offender project recently launched in the Bronx County District Attorney's Office, City of New York, are hopeful.

The first year's experience showed a 97 percent felony conviction rate and a reduction of time in case disposition from an average of 24 months to an average of three months. In addition, prison sentences resulted in 95 percent of the career criminal cases prosecuted.

A second improvement in the criminal justice system may be obtained by diverting certain first offenders -- not all, but some -- into rehabilitation programs before proceeding to trial. The Department of Justice has begun a pilot program of this kind designed to achieve two important goals. First, it will seek to reduce the case-loads of Federal courts and prosecutors through expeditious treatment of offenders who are good prospects for rehabilitation. Second, it will seek to enable the offenders who successfully satisfy the requirements of the diversion programs to avoid a criminal record and thus increase the likelihood that they will return to productive lives.

Experimentation with pretrial diversion programs should continue and expand. However, careful efforts must be taken to prevent these programs from either treating serious offenders too leniently or, on the other hand, violating defendants' rights. By coupling this pretrial diversion program with a mandatory term of imprisonment for violent offenders, we will make sure that offenders who deserve to go to prison will go to prison. At the same time, those who may not need

imprisonment will be dealt with quickly and in a way that minimizes the burden on the criminal justice system.

The criminal and civil caseloads in trial and in appellate courts have grown over the years, while the number of judges assigned to handle those cases has not kept pace. In 1972, the Judicial Conference of the United States recommended the creation of 51 additional Federal District Court judgeships in 33 separate judicial districts across the country. Senate hearings on legislation incorporating this proposal were conducted in 1973. To date, however, this legislation has not been scheduled for floor action. The increasing needs of the Federal courts make this measure an urgent national necessity of a nonpartisan nature -- for justice delayed is too often justice denied. In addition, seemingly technical but important reform in the Federal criminal justice system can be achieved by expanding the criminal jurisdiction of United States Magistrates. This reform will enable the relatively small number of Federal judges to focus their efforts on the most significant criminal cases. The Criminal Justice Reform Act contains a provision that will achieve that result, and I am giving it my specific support.

When a defendant is convicted, even for a violent crime, judges are too often unwilling to impose prison sentence, in part because they consider prison conditions inhumane. Moreover, a cruel and dehumanizing

penal institution can actually be a breeding ground for criminality. In any case, a civilized society that seeks to diminish violence in its midst cannot condone prisons where murder, vicious assault and homosexual rapes are common occurrences.

The Federal Bureau of Prisons has embarked on a program to replace old, overcrowded prisons with smaller, more modern ones. The Bureau has seven new corrections institutions of this sort under construction. All are designed to be civilized places that can be governed effectively by the wardens and correctional officers rather than by the most brutal and inhuman prisoners. In addition, the Bureau is opening new institutions in three major cities to replace overcrowded, antiquated local jails which formerly housed Federal prisoners awaiting trial. This program to improve Federal prisons must be paralleled by State efforts, because the problem of decrepit prison facilities that are hothouses of crime is worst at the State and local level. Unless prisons are improved, many judges will only reluctantly commit convicted offenders to them, even if they are guilty of serious crimes and have previous criminal records.

I know that grave questions have been raised by qualified experts about the ability of the corrections system to rehabilitate offenders. These are important and serious questions. They go to the very heart of the corrections system. While the problem of criminal rehabilitation is difficult, we must not give up on our efforts to achieve

it, especially in dealing with youthful offenders. Crime by young people represents a large part of crime in general. The 1973 statistics indicate that 45 percent of persons arrested for all crimes are under 18 years of age. Whatever the difficulty, we must continue our efforts to rehabilitate offenders, especially youthful offenders. To do less would be to write off great numbers of young people as unsalvageable before they have even come of age. I have directed the Attorney General, as Chairman of the Cabinet Committee on Crime Prevention and Rehabilitation, to work in close cooperation with the Secretary of Labor, the Secretary of Health, Education, and Welfare and other concerned agencies of the Executive Branch to ensure that the Federal government is making the best possible use of its resources in this crucial area.

Whatever the corrections system might accomplish in rehabilitating offenders while they are in prison will be lost if the individual leaves prison and cannot find a job, simply because he has been convicted of a crime. I urge employers to keep an open mind on the hiring of persons formerly convicted of crimes. The U. S. Civil Service Commission currently administers a program designed to prevent Federal employers from unjustly discriminating against ex-felons. I am directing the Commission to review this program to ensure that it is accomplishing

its objectives. I am also calling on the United States Governors Conference to consider steps the States can take to eliminate unjustified discriminatory practices. Giving ex-offenders who have paid their penalty and seek to "go straight" a fair shake in the job market can be an effective means of reducing crime and improving our criminal justice system.

include
[OPTIONAL: In addition to this general effort to reform and improve the criminal justice system, the Federal law should be specifically revised to take into greater account the needs of victims of crime. They, as well as the general public, must be made aware that the government will not neglect the law-abiding citizens whose cooperation and efforts are crucial to the effectiveness of law enforcement. For too long, law has centered its attention on the criminal defendant. It is time for law to concern itself more with the people it exists to protect.

I urge the Congress to pass legislation to meet the uncompensated economic losses of victims of Federal crimes who suffer personal injury. In order to promote the concept of restitution within the criminal law, the monetary benefits should come from a fund consisting of fines paid by convicted Federal offenders.]

II. Better Laws and Enforcement

As I pointed out initially, except in limited circumstances, street crime is a State and local law enforcement responsibility -- not Federal. There is a dimension to this problem, however, that cannot be adequately dealt with on just the State and local levels -- the regulation of handguns. It is indisputable that handguns play a key role in the rise of violent crime in America. They are involved in one-fourth of all aggravated assaults and one-third of all robberies. Hundreds of policemen have been killed in the past decade through the use of handguns by criminals.

Many State and local governments have already enacted stiff laws against possession of handguns, with varying degrees of effectiveness. In this effort, the Federal government can be helpful. Federal assistance to State enforcement efforts in this difficult area should be directed toward (1) tightening control over the sale of handguns; (2) strengthening enforcement of Federal firearms laws in metropolitan areas with a high incidence of handgun violence; and (3) prohibiting the manufacture of handguns that have no apparent use other than against human beings.

Thus, current Federal gun laws should be revised to provide that only responsible, bona fide gun dealers be permitted to obtain Federal licenses to engage in the business

of selling firearms. Licenses should also be withheld from persons who have violated State laws, particularly firearms laws. Additional administrative controls over the sale of handguns, including a ban on multiple sales, will help to establish dealer responsibility in stopping illicit gun trafficking. A waiting period between the purchase and receipt of a handgun should be imposed to enable dealers to take reasonable steps to verify that handguns are not sold to persons whose possession of them would be illegal under Federal, State or applicable local laws.

Second, I have ordered the Treasury Department's Bureau of Alcohol, Tobacco and Firearms, which has primary responsibility for enforcing Federal firearms laws, to double its investigative efforts in the Nation's ten largest metropolitan areas. This action will assist local law enforcement authorities in controlling illegal commerce in weapons. I have directed, therefore, that the Bureau of Alcohol, Tobacco and Firearms employ and train an additional _____ agents and inspectors for this priority function.

Third, the domestic manufacture, assembly or sale -- as well as the importation -- of cheap, highly concealable handguns should be prohibited. These so-called "Saturday Night Specials" are involved in an extraordinarily large number of street crimes. Most have no legitimate sporting purpose. They are such a threat to domestic tranquility

that we should eliminate their manufacture and sale entirely.

These recommendations go to the very heart of the problem of handgun abuse. If enacted, they should add significantly to the efforts of State and local law enforcement authorities to prevent the criminal use of handguns.

There are several other areas in which Federal law and enforcement can be improved to strike at those who have made crime a business.

The leaders of organized crime can be prosecuted under current Federal law only when it can be shown that they participated in a specific offense, such as gambling, loansharking or narcotics. A reformed criminal code should strike directly at organized criminal activity by making it a Federal crime to operate or control a racketeering syndicate. This revision will make the criminal law apply to organized crime leaders who seek to conceal their role in the syndicate's criminal activities.

Since current Federal laws restrict the government's ability to attack consumer frauds, the statutes punishing fraud and theft should be revised to make Federal prosecution more effective. Pyramid sales schemes -- clever confidence games, in other words -- should be specifically prohibited. Federal jurisdiction over these frauds should be extended to enable the government to move against them on a nationwide basis.

The protection of constitutionally guaranteed civil rights is a primary duty of the Federal government. Yet, a private citizen can be punished for violating constitutional rights only if he acted in concert with others. Under current law, even if a State official intentionally commits acts that violate an individual's constitutional rights, proof of these acts alone may be insufficient to secure a conviction. Restrictions which prevent our laws from protecting the constitutional rights of Americans should be eliminated.

Finally, I am particularly concerned about the illegal trafficking in narcotics and dangerous drugs. These crimes victimize the entire Nation, bringing personal tragedy and family destruction to hundreds of thousands. In addition to the human toll, the property crimes committed to finance addicts' drug habits are estimated at \$15 billion each year.

Federal, State and local governments must continue their vigorous law enforcement efforts aimed at major traffickers in narcotics and dangerous drugs. This Administration is committed to maintaining a strong Federal drug enforcement agency to provide leadership in this fight. At the same time, I continue to recognize our responsibility to provide compassionate treatment and rehabilitation programs for the hapless victim of narcotics traffickers.

Recent evidence suggests an increase in the availability and use of dangerous drugs in spite of the creation of special Federal agencies and massive Federal funding during the past six years. I am deeply concerned over these developments and have, therefore, directed the Domestic Council to undertake a comprehensive review and assessment of the overall Federal drug abuse prevention, treatment and enforcement effort to ensure that our programs, policies and laws are appropriate and effective.

III. Providing Financial and Technical Assistance

The Federal government must continue to help State and local governments in carrying out their law enforcement responsibilities. Therefore, I will submit to Congress a bill that will continue the Law Enforcement Assistance Administration through 1981.

The LEAA annually provides millions of dollars of support to State and local governments in improving the overall operation of their criminal justice systems. Additionally, the LEAA serves as a center for the development of new ideas on how to fight crime. Examples of several LEAA innovations have already been noted in this Message. The bill that I will submit will authorize \$6.8 billion for LEAA to continue its work through 1981.

Several aspects of the reauthorization bill deserve special mention. It will increase the funding authorization for LEAA from \$1.25 billion to \$1.3 billion annually.

The additional \$250 million over five years will enable the agency's discretionary program to place greater emphasis on programs aimed at reducing crime in heavily populated urban areas. It is in these areas that the problem of violent street crime has reached critical proportions. The LEAA "High Impact" program, which is designed to provide additional assistance for cities and counties with high crime rates, has had encouraging success. This additional authorization will permit LEAA to build upon that success.

The bill will also place special emphasis on State and local court reform. Specifically, it will include such reform within the statement of purposes for which LEAA block grant funds can be utilized. Too often, the courts, the prosecutors and the public defenders are overlooked in the allocation of criminal justice resources. If we are to be at all effective in fighting crime, state and local court systems, including prosecution and defense, must be expanded and enhanced.

In conclusion, I emphasize again that the Federal government cannot, by itself, bring an end to crime in the streets. The Federal government can seek the cooperation and participation of State and local governments. Such cooperation is vitally important to this effort. The cumulative effect of persistent Federal, State and local efforts to improve our laws and eliminate difficulties

that encumber our criminal justice system offers the only hope of achieving a steady reduction in crime.

I am confident that, if the Congress enacts the programs that I have recommended, the means available for an effective attack on crime will have been substantially strengthened. I call upon the Congress to act swiftly on these recommendations. I also call upon State and local governments to move rapidly in strengthening their processes of criminal justice. Together, we will restore to this nation that domestic tranquility pledged to the law-abiding citizen in the Constitution.

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

June 16, 1975

MEMORANDUM FOR: JIM CONNOR
FROM: DON RUMSFELD

The President would like to have this note transmitted to
Jim Cannon.

Thanks.

Attachment

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