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THE WHITE HOUSE

PRESS CONFERENCE
OF

EDWARD H. LEVI
ATTORNEY GENERAL
OF THE UNITED STATES

THE BRIEFING ROOM

3:26 P.M. EDT

MR. NESSEN: Mr. Attorney General, may I just make clear that the message, which you do not have in your hands, but you will very shortly, the fact sheet, which you do have in your hands, the Attorney General's briefing and the President's statement, which we have in writing for you and will pass out at the end of this briefing, are all embargoed for 6 o'clock.

Q How about the bill itself?

Q Will the President's remarks still stand in all cases?

MR. NESSEN: Yes.

The bill itself, actually three separate bills will go to Congress by June 25. The draft legislation, the message to Congress, will spell out --

Q Will we get that today?

MR. NESSEN: No, because it isn't ready yet.

Q Do you have the message, Ron? We don't have that.

MR. NESSEN: You will by the end of this briefing.

Mr. Attorney General?

ATTORNEY GENERAL LEVI: I will run quickly through the principal points of the message, and then be glad to answer questions, if I can, about particular items.

I think it is fair to say that, at least in my view, this is a strong message, concerned, as the President has said, about domestic tranquility and concerned about the victims of crime.

I think it is a balanced message, which tries to look at the entire system of criminal justice.

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As the President said, the message calls for mandatory minimum prison sentences in three areas, the first being where there is a crime of violence, or the use of a dangerous weapon; the second, where there are specific crimes, such as trafficking in hard drugs and skyjacking and the like; and the third where there is a crime committed by a recidivist, a crime with the great potentiality for personal injury, whether or not there has been the use of a dangerous weapon.

Now, in connection with these mandatory prison sentences, a judge is permitted not to give them under very specific conditions where he must make specific findings; namely, that the offender was under 18 years of age, under mental difficulty, or duress, or was not very much involved.

With the exception of those very specific findings, mandatory sentences are required, and I believe it is correct to say that the intention is that these mandatory prison sentences cannot be cut down through parole.

Secondly, the message calls for the revision of the criminal code. The Senate has before it S. 1, which is a revision. The message indicates that there are parts of that revision which are controversial and needs a great deal of discussion, and the message specifically refers to the attempt to recodify the Espionage Act and to control the leakage of national security information, as one of the areas requiring further work and discussion and revision.

The message says -- and I think quite correctly -- that we need a model Federal criminal code in this country, that the way our Federal law has grown up has resulted in great inequities, different kinds of punishments for similar offenses, a crazy quilt, in fact.

We have the opportunity now to provide a revision which will not only operate for the Federal system, but can be a model for State systems.

The message calls particularly for further laws to make the prosecution of commercial fraud easier, to prevent what is called pyramiding, to make possible an offense of owning or operating a racketeering syndicate so that convictions can be obtained without proof of the specific crime in each case; that is, the participation by the owner of the syndicate in the specific criminal act, other than running the syndicate as such.

It calls for a clarification and strengthening of laws protecting civil rights so that it will not be necessary to prove a conspiracy where there has been an intentional act to deprive a citizen of his civil rights.

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Then the message calls for better enforcement throughout the whole criminal law system. In that connection, it asks for the renewal of the authorization for the Law Enforcement Assistance Administration -- the LEAA program -- giving it a five-year extension to 1981, and the authorization to start with the amount of \$1,250,000,000, increasing over the five-year period by \$50 million a year, that added \$50 million a year to be specifically used to increase law enforcement efforts in the great urban centers where the crime problem is most serious.

The message calls for a better use of statistical and computerized information for prosecutors in order to weed out and to pay special attention to the recidivists or habitual criminals, pointing out that this is the area where one can do probably the most good in eliminating people from the system who do commit the most crimes.

As I have said before, throughout the message there is an emphasis, regional emphasis, on trying to help the situation in the urban areas. It calls for more judges; it also asks for the increased use of magistrates. Federal magistrates strictly limited in their jurisdiction will have their jurisdiction under this message, if it is enacted into law, greatly increased for the handling of misdemeanors.

It refers to the work that has been carried out in the Justice Department, in some of the U.S. Attorney offices, starting in Chicago, in pretrial diversion, as a way of doing two things -- keeping the criminal system from being clogged by so many cases, and also taking care of first offenders who in this way can be saved from being sent through the criminal system.

The message warns that this has to be handled carefully, both to be fair to the punitive defendant and to make sure that it is not a way of removing actual criminals from the reach of the law.

The message, because of its emphasis on protection of the victim, calls for a Federal compensation system for victims of personal injury crimes under the Federal law. I should add that the amount of money that we think that this will cost is comparatively, considerably less than the amount of fines paid into the criminal system from convicted criminals, and from a small share of the amount of money earned on the work of offenders in the penitentiary system.

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The message points to the necessity for doing more work in the field of juvenile justice and with juvenile offenders. It comments that the system has not been too successful in terms of rehabilitation. It points to the area of youth offenders as an area where the emphasis has to continue to be on rehabilitation.

Similarly, the message calls for the upgrading of prisons, specifically for the upgrading of prisons in the Federal system, to bring them up to minimum standards.

The message does not mention, I think, the figure, but over time that would cost \$200 million. Since this is a message which recognizes the narrow scope of the Federal system, but its leadership role for the whole country, one has to recognize that the upgrading of prisons so that they do reach minimum standards throughout the country, would cost a great deal more, somewhere above, apparently, \$12 billion a year, as we figure it. Of course, that is not the kind of expenditure which can easily be made.

I should go back to say that the contributions by LEAA to the enforcement system of the States would be in the form of matching grants, but the amount from LEAA would provide 90 percent.

The message also asks for better treatment of ex-prisoners, offenders who have served their time and are now back in society and who, if they are excluded from society unjustly, are likely to become recidivists.

And finally, the message, while it is quite clear, as the President said, it does not provide for the registration of guns, or the licensing of gun-owners, it does call for the prohibition of the manufacture and sale of what are called "Saturday Night Specials," which will have to be defined.

Treasury regulations have defined them and they will have to be redefined in terms of length of the barrel, cheapness of the construction, the absence of various safety devices.

And it also calls for an improved administration and some slight modification of the present law, or improvement in the law dealing with the dealers in guns, providing that dealers who are now subject to the Federal law should go through a waiting period before a sale is consummated to make sure that the purchaser is authorized by the place where he will have the gun, and the terms of other laws, whether he is an ex-felon and so on, to make sure that the dealers live up to these obligations.

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It also provides that the dealer will have to scrutinize and be careful that he is not making multiple sales to the same purchaser, so as to suggest that the purchaser is in fact a dealer himself, and that the purpose of the purchase is a purchase for resale as an unlicensed dealer.

And the message also calls for a substantial increase in the Treasury staff dealing with the enforcement of the present gun control law, adding 500 agents to the Treasury staff for that sole purpose, to operate in the 10 major cities of the country -- again, I would say regional approach recognizing that these urban areas are the areas where their own gun control laws have to be backed up by making sure that illegal shipments, illegal under the present law, do not come in to thwart the present law.

That is a once-over-lightly of what I think is a rather strong and complete message, and I would be glad to try to answer questions.

Q Mr. Attorney General, do you take a position on the death sentence?

ATTORNEY GENERAL LEVI: The message does not take a position on the death sentence. The death sentence is included in S. 1 and I suppose it would have to be regarded as among those provisions which the President referred to, various provisions, as being controversial for discussion.

Q Doesn't the Administration have a position on it, though, for some time?

ATTORNEY GENERAL LEVI: I can't answer that question. I personally have said that I was in favor of the death sentence under special circumstances.

Q Mr. Attorney General, attempts have been made from time to time to impose mandatory minimums, most controversially in New York State in narcotics cases. Can you cite any instances in which mandatory minimums have worked?

ATTORNEY GENERAL LEVI: I don't think I can cite an incidence where the attempt has been made in this way. This is a mandatory minimum. By the way, it doesn't necessarily call for enormously severe penitentiary sentences. It does take away a good deal of the discretion of the judge so that he will not impose any penitentiary sentence. But it does not require long-term sentences and it does permit, as I have said, these four categories of particular findings where the judge can avoid the imposition.

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Q What makes you think it will work? That is my question.

ATTORNEY GENERAL LEVI: I think it will work because I think it is a moderate approach. I think that the four categories are sufficient so as to allow a judge who takes his job seriously to make a proper finding and I think that we have come to a time in our society where people do realize that something has to be done to toughen up the enforcements.

Q How many Federal crimes are there committed in a year, to which these mandatory sentences would apply?

ATTORNEY GENERAL LEVI: I can't answer that, but I can say that our belief is in comparison with the more or less 25,000 prisoners in the Federal system at the moment, if we had had this law, this proposed law in effect now, there would be about an additional 900 in one year added to that.

Q Mr. Attorney General, does the message make any recommendation regarding the laws on marijuana, such as decriminalization?

ATTORNEY GENERAL LEVI: No, it does not. It does refer to the commercial traffic in hard drugs, but does not refer to the ---

Q Is there going to be a recommendation in the future? The reason I ask this is that we have been told by the President recently at the press conference that that matter was under study in your office, and he was going to withhold his decision until you had a recommendation. Do you have a recommendation?

ATTORNEY GENERAL LEVI: It is in my office and I have asked Mr. Dogin, the Acting Director, the Administrator of DEA, to give me the recommendation of his agency. I should say, or add, that that S. 1 the President talks about in his message does provide for a minor in the categories of S. 1 -- penalty for the possession of small amounts of marijuana -- and I have at various times said that it seemed to me this was the direction in which one might well go.

The problem of decriminalization is complicated because the drug enforcement program requires the cooperation of Government officials, really, around the world, because we are trying to keep out the supplies of drugs, and I don't think anyone wants to take a position which is going to convince people in other countries that while we want to be tough on them we want to be very soft on ourselves.

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I just mention that as the kind of problem we face, and I frankly don't know what my recommendation will be because I don't think I should make it, for one thing, until I have heard what the DEA people have to say.

Q Mr. Attorney General, since so many of the crimes do involve fire arms, why doesn't the President call for stricter control of handguns, and why is he so unalterably opposed to registration?

ATTORNEY GENERAL LEVI: I think the President has thought this through, as I have tried to think it through. Since I don't want to quote the President -- he speaks for himself -- let me say, on a television program which is rather dull that I was on some nights ago, I did hear myself saying that I thought the problem was to do the minimum amount which would be effective. I think that that is what this message does.

As you know, I was urging a regional approach. I think this message adopts that approach in the sense that its heavy emphasis is on enforcement in the greater urban areas. The problem in the urban areas is not to get tougher laws -- they have tough laws -- but to do something about the interstate commerce.

There the weakness, I think -- I believe the President thinks -- has been that the present legislation, which involves the dealers, has in fact really not been enforced. And the way to enforce it is to get this rather large group of agents who will not be doing anything else but will center their attention in the 10 major cities and will be concerned with the illegal flow from dealers into these areas.

Now, I have discussed this matter with the group that probably knows most about it; namely, the U.S. Attorneys, and they regard this as a helpful solution.

Q Mr. Attorney General, how does your proposal on Saturday Night Specials differ from Senator Bayh's proposal?

ATTORNEY GENERAL LEVI: Well, I am not sure, except in a very general way, that I know what Senator Bayh's proposal is.

Q He has a bill in that has been in for some weeks. Didn't you people look at that when you were drafting yours?

ATTORNEY GENERAL LEVI: No, we had been working on this for a long time and Senator Bayh and I have had some discussions from time to time. I would suppose that the banning of Saturday Night Specials may be very much the same, but I don't know.

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Q Mr. Attorney General, previous questions have referred to the fact that the President was inalterably opposed to gun control and registration. I am not sure the question was answered, sir. Nobody who advocates gun control and gun registration wants to eliminate illegal flow -- in your words -- of guns. They wanted to eliminate, they wanted to just register these guns and where they were and who was selling them, all that.

I would appreciate a little more illumination on the question.

Also, sir, the President in his talk -- I wonder if he was not talking in slogans now -- the law centers its attention more on the rights of the criminal than the victim of the crime.

This is the second question: Aren't the rights of the criminal, sir, the rights -- at least until he becomes a criminal -- at least the same rights you and I have and must be protected?

ATTORNEY GENERAL LEVI: Of course.

Answering the second question first, the problem is not only does our system operate so that it does not detect the criminal, and when it detects him he is not convicted; but when he is convicted, nothing very much happens to him, and we have had, I think, a notion that we had other ways of rehabilitating and preventing this kind of harm, which is harm both to the criminal and to the society at large.

I think the general feeling of criminologists today is that a much tougher approach, one which recognizes for the kind of dangerous conduct with a dangerous weapon which is killing our cities, that that kind of conduct has to be met with a quick sentence, and normally a penitentiary sentence. That is the approach.

Now, as to the first question, which I am not quite sure I understand, but that deals with, I think, registration and the objections to registration, the President has always said that he was opposed to registration and the licensing of each owner of a gun.

Of course, the argument is always made and it has something to it, that when the criminal wishes to have a gun he isn't going to be worried about whether he is registered or whether he is licensed.

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The problem which the 1968 Act tried to get at was the interstate sales by dealers, and the dealer is not under the present law supposed to sell a handgun to a purchaser who lives in another State, nor is he supposed to sell it to a purchaser who lives in a place where the local law makes his possession illegal, but that has not been enforced, at least it has not been effectively enforced.

So until one starts talking about the needs for legislation, one has to really look at what we presently have, and this is what we presently do have. If we can enforce that and cut down the flow from the dealers to people who do live in other States, or who do live where they should not have them, if we can do that, then I think we have made a considerable step forward.

Q The message apparently calls for the compensation of victims of crime.

ATTORNEY GENERAL LEVI: Yes.

Q Has any thought been given to the innocent victims of, apparently, false crimes? They apparently lose their freedom if they don't fight it, and if they fight it they lose their fortune?

ATTORNEY GENERAL LEVI: I am sure many of us have given thought to that, from time to time. It is not in the message, and I don't know where that would take us. It obviously is a point, but a different kind of point.

Q On that point, how much is your proposed appropriation for the victim's compensation program, and how did you arrive at your estimate?

ATTORNEY GENERAL LEVI: What we did was to look at the kinds of injuries and the crime statistics for the Federal system, and so far as we could tell,-- I think it was two years ago here the statistics came from--it would have been on the order of \$7 million-plus, but not including such compensation as might be paid for loss of wages.

There is a formula for that purpose where someone has been out of work for a 90-day period. But we are confident that it will not rise to the \$15 million level, which is the amount of money paid in through penalties and fines, and a 20 percent take from penitentiary industries.

Q What are those fines for now, Mr. Attorney General?

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ATTORNEY GENERAL LEVI: They just go into the coffers of the Treasury. We wish to make the point that if you wish to make the point it costs money, of course it does.

Q Is the President asking for \$7 million for that, sir?

ATTORNEY GENERAL LEVI: Well, the message does not state that, but the legislation -- we will have to assume that this fund will be adequate.

I am giving you the background papers, at the moment, which convinced me that it will.

Q Do you ask for a specific authorization?

ATTORNEY GENERAL LEVI: Well, you set this up as a specific program. It will have to be authorized; it will have to have an awarding panel created, I believe, in the Department of Justice, appointed by the President. It will follow to a considerable extent the laws which now exist in 11-plus States, at the present time.

Q Mr. Levi, would you be a little more specific about the size of the minimums, please? You said they were quite low in some instances. Can you tell us ---

ATTORNEY GENERAL LEVI: No, I can't.

Q Six months?

ATTORNEY GENERAL LEVI: It might very well be. The message does not cover that. The message, however, at one point, does talk about the fact of the unequal sentencing which now goes on, in part as a result of the discretion of judges, and in part as a result of the hodge-podge of the Federal laws, and then makes the point that in asking for a codification, clarification, regularizing of this, that it is not advocating necessarily severe penalties, so that a one-year penalty would, I think, fit very much, many of the things we are talking about.

Q Why do you call this a tough message, then?

ATTORNEY GENERAL LEVI: I think it is tough to take criminals who have been convicted and behaved this way and who, as our present system operates, are really not punished. I think the tone of this message -- and it keeps coming through all the time -- is that it is intended to be an effective approach. It is not what would be called a law and order approach. The President has referred to it as a domestic tranquility approach, in his presentation.

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Q What are the three pieces of legislation that are going to go up? How is this going to be packaged?

ATTORNEY GENERAL LEVI: The LEAA extension and the indication of the increased emphasis on more judges, the use of its funds in the judicial and prosecutorial system, and in the usual areas, will be in the legislation.

The S. 1, of course, is before the Congress. The mandatory prison sentences could either be handled in a separate bill or as part of S. 1. The mandatory prison sentences, which the President has proposed, is a deviation from the proposals which are now in S. 1.

In that sense, it is a tougher approach because S. 1 allows paroling and, as I understand it, this would not, and the gun control question will require legislation.

Q You don't have specific mandatory minimums in mind yet? They have not been drafted? Is that what you are saying?

ATTORNEY GENERAL LEVI: The precise amount has not been drafted.

Q Mr. Levi, would anything in the mandatory minimums legislation preclude the use of plea bargaining in those cases and, if not, would you expect plea bargaining to become more widespread?

ATTORNEY GENERAL LEVI: There may be some greater effort at plea bargaining because of the tougher consequences, and this is recognized in the message itself in calling for additional judges.

Q Earlier, you mentioned the tougher approach being taken by sociologists or criminologists. One of these approaches is flat time sentences, the theory being if nothing else will work, at least removing from the streets those who commit most crimes should have some effect.

If, in fact, that is one of the thoughts in here, would you explain it a little bit?

ATTORNEY GENERAL LEVI: It seems to pop out from the words. The notion is that rather than given determinate sentences or given sentences which have time off for good behavior or any uncertainty of that kind, or parolable, it might be better just to say this is the sentence, it is a year, and you know it is a year, and that is what it is going to be..

That is what the judge will have to give and the prisoner will know what he is up against. The message discusses that, and I guess asks the Department of Justice to give it further study.

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Q Is the idea to get these people off the streets?

ATTORNEY GENERAL LEVI: It is partly that. It is partly that, but it is also partly to make sure that we have an opportunity to sort out the recidivists or deal with the recidivists.

Recidivists ought to be kept off the streets until we find some better way of handling them.

It also, I must say on the notion that this kind of toughness, which I don't think, as I say, is so terribly tough, will deter. I believe that, and I think criminologists believe it.

Q Sir, will you tell me why the President deliberately avoided a law and order approach, which many people associate with President Nixon and John Mitchell and some of the figures of the past and took, I believe you called it, a domestic tranquility approach?

ATTORNEY GENERAL LEVI: My own view of it is that the President -- that is the kind of President he is.

Q He is not for law and order? (Laughter)

ATTORNEY GENERAL LEVI: I think it is the part of wisdom to view this kind of national problem we have. It is a national problem. It is one that is not just solved by being vindictive. There is nothing vindictive in this message. I think vindictiveness would really destroy the objective that the President had in mind, which is to find a workable solution to a very severe problem, which our society has.

Q Mr. Levi, in the consideration of S. 1, will the Administration have a position on the subject of confidentiality in the protection of classified information?

ATTORNEY GENERAL LEVI: I am sure it will. I think the problem is that it is terribly complicated to thread through -- if you have tried to do it, I am sure you would agree -- the recodification attempts which appear in S. 1.

S. 1, in recodifying the espionage and other laws, left out much of the judicial gloss on the legislation, which I think in fact would be the gloss if S. 1 were to be enacted. It would really not do what it seems to say it would do.

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You have to read it with the cases. It was an extremely difficult and technical job of trying to take statutes from various places and put them together, and I think, my own view is, it was overkill and that it doesn't accomplish what most of us would agree ought to be accomplished.

So, it is going to have to be reworked, and it is going to have to be reworked so that we do have a law which is enforceable under some circumstances but is not overkill.

Q I wonder if I could ask you to project just a little bit. If this entire bill as proposed were enacted by the Congress, could you make any estimates of what kind of a cut in the crime rate you could expect and how soon could the American people expect to see it?

ATTORNEY GENERAL LEVI: No, I can't do that. We don't have the figures for the crime rate for the first quarter of the year as yet, but we will have them and I assume that they will show a further increase over last year.

The crime rate is going up. What I would say is that the enactment of this program will, so far as we believe, have a decisive effect in minimizing an increase, and it ought to result in a decrease.

Q What do you say to judges that say mandatory sentences tie their hands by taking away a good deal of discretion from their sentencing power?

ATTORNEY GENERAL LEVI: I would say they are right, and I am for it.

Q Why?

ATTORNEY GENERAL LEVI: Because they have, in my view, failed to live up to a very hard part of their job; namely, dealing with a problem which they have not handled very well and which is threatening to destroy American society.

Q Mr. Levi, do you have any assessment on whether or not this bill will be easier to get through now that we are headed into a Presidential election in 1976?

ATTORNEY GENERAL LEVI: I thought I was supposed to be a nonpolitical Attorney General, and I don't really know about those matters.

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Q Do you have any people who are involved in liaison within the Justice Department or within the Administration that have discussed this with you?

ATTORNEY GENERAL LEVI: No, I am proud to say there has been no one who has discussed that problem with me.

Q Mr. Attorney General, aren't you in fact reducing Federal aid to local communities for crime fighting by increasing the amount only \$15 million a year, which is much less than the rate of inflation?

ATTORNEY GENERAL LEVI: What this bill does is to build on an authorization of \$1 billion 250 million for LEAA. The reference which I think you are making is to the present budget of LEAA, which is around the \$800 million level.

LEAA was cut back so that we could give consideration to the program. This program developed enormously quickly. You can't give away that much money without making mistakes.

We think it has been very effective, and we think that this period of somewhat reduced amounts, giving us time to rethink and to evaluate the LEAA program -- I have on my desk a study which is about so high evaluating the whole program -- would put LEAA on a much better basis. Some of the recommendations in the President's report, in fact, build on those recommendations.

Q How much does the Administration believe the recession is responsible for the increase in crime, and how much more has it contributed to crime?

ATTORNEY GENERAL LEVI: I don't know what the Administration believes. My own belief is that when people are without work, either because there are so affluent that they don't have to work, or because they can't find jobs, that that is one of the factors leading to crime.

So, I would expect crime during an unemployment period.

Q Dr. Levi, is any thought being given to the kind of aid that LEAA is going to be emphasizing now? There had been, sir, as you know, considerable criticism of LEAA's earlier policies when seemingly a lot of hardware was shoveled out.

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ATTORNEY GENERAL LEVI: I think it will be much more targeted and directed in seeing to it that the criminal justice system can operate much more quickly and decisively, and I think we are beyond what we call the hardware approach.

Q Thank you, Mr. Attorney General.

MR. NESSEN: I have one other announcement.

As you know, right about now the President is beginning his meeting with Secretary General Luns of NATO and other representatives of NATO.

Around 5 o'clock, Secretary General Luns will be available here in the briefing room.

THE PRESS: Thank you, gentlemen.

END (AT 4:08 P.M. EDT)