



# Department of Justice

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"THE PRESIDENT'S CRIME BILL:  
MAKING THE CASE FOR VICTIMS OF VIOLENT CRIME"

BY

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TO THE  
1991 ANNUAL SUMMER CONFERENCE  
OF THE  
NATIONAL DISTRICT ATTORNEYS ASSOCIATION

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I am here, first of all, to thank you -- on behalf of the President and those of us in the Department of Justice -- for all you have done to help forward passage of the President's Comprehensive Violent Crime Control Bill. We have always appreciated your steady advocacy for law enforcement reform, and I want personally to acknowledge the importance of your public resolve to back this legislation.

Because you have been willing to go to bat for the President's anti-crime proposals, much of his program has now passed the Senate in strong shape and undiluted language. Thus far, we have managed to attain four of this Administration's five goals:

First, we have prevented the virtual abolition of the death penalty in the 36 states where it is in effect today, by defeating the so-called "Racial Justice Act," which would have imposed some sort of bizarre quota system in imposing the ultimate sanction.

Second, we have activated an enforceable federal death penalty for the most serious and horrendous federal crimes, such as Presidential assassination and terrorism resulting in death.

Third, we have ended delays in carrying out criminal sentences, especially through the abuse of the writ of habeas corpus in capital cases.

And fourth, we have obtained tougher sentences for gun and drug offenders that will help get more of them off the streets and into prison.

We have not yet succeeded in achieving our fifth goal -- reform of the judge-made exclusionary rule so as to allow all evidence obtained in good faith to be received at criminal trials. But we will continue to fight for this much-needed reform in the House -- as we seek continued support for the other major reforms approved so solidly last week by the Senate.

So let that be said, first of all, with appreciation and gratitude for your commitment. But I want also to make clear just why we are so adamant in pursuit of these goals for law enforcement. I feel there is a need to speak out because some confusion appears to have arisen over the true meaning of this commitment we've made to reforming our criminal justice system.

I.

Some critics claim that the President's Crime Bill is only a show of force for toughness's sake alone, that since 95 per cent of all violent crime cases are handled at the state and local level, federal legislation can only be a symbolic expression to

"Support Your Local Police." And some even ask, what business is it of the federal government "to get tough on crime"?

Let me answer these concerns first by restating my belief that, in recent times, while much social concern has focused on the supposed plight of the criminal, not nearly enough attention has been paid to the real plight of the victims of their unlawful acts.

Six million. That is how many of our fellow Americans were victims of violent crime last year -- more than all those Americans injured during that same period in automobile accidents. And that goes doubly, even triply, for our minority populations. Indeed, Black Americans are six times more likely to be homicide victims today than their white counterparts.

These chilling statistics are, I know, all too familiar to you from the grim tragedies played out in your offices and courtrooms. You know intimately the plight of those who have become the victims of violent crime, and understand how frightened and often traumatized -- if not maimed for life -- they are left by the scars of criminal violence.

That is why we hold so strongly to supporting what I have always regarded as the first civil right of every American: the

right to be free from fear in our homes, on our streets, and in our communities. And securing this freedom from fear is the over-arching purpose of the President's Crime Bill.

Yes, it is "tough on crime." But we are tough on crime because we know, from the statistics produced at our Crime Summit this spring, that toughness works. Over the past three decades, statisticians and criminal justice researchers have consistently found that rising crime rates are associated with falling rates of imprisonment, and falling crime rates are associated with rising imprisonment rates. The key then is turning the key in the lock, and turning it with dispatch, on the violent offender.

Are we being too tough on violent criminals? Before anyone finalizes an answer to that question, I suggest they visit a housing project ravaged by drugs and crime, or speak to the mother who fears to send her child to school and waits in apprehension for that child's safe and drug-free return. Or ask those six million victims of criminal violence last year.

I think we know what their answers would be. Crack down on all those who pose threats to life and limb and property, crack down hard, and in force.

Let me then discuss the several ways in which we can implement this tough approach to violent crime and help ensure that fewer Americans will become its tragic victims.

## II.

Consider, first, the two different methods proposed to curtail the illegal use of firearms by criminals. The most widely promoted is regulation of over-the-counter sales of handguns, which has now passed both houses of Congress -- as the so-called Brady Bill in the House, and in a more considered form in the Senate. The President has said he will accept some form of such regulation, but only if the Congress also passes the main reforms of his Crime Bill. And for good reason. Why?

Because the disturbing truth is that only one out of six felons actually purchases his or her weapon openly from a gun store. Five out of six of these murder weapons come from the rampant, illegal, underground black market in deadly arms -- where nobody waits five days to run a computer check on a drug-dealer offering 100 grams of cocaine for a street-sweeper or a Uzi. That, in the high-risk bargaining of the black market, is already a done deal.

This illicit gun trade is, I repeat, five times larger than the rogue purchase of legal weapons by undetected felons. And these armed criminals can only be stopped by physically rounding them up, along with their illegal weapons. Taking these desperados and their firearms off the streets is exactly what we seek to do through "Operation Triggerlock."

We launched Triggerlock this spring to enlist the cooperation of local authorities -- your cooperation -- in targeting criminal predators in your communities who can be charged under tough federal firearms laws, including the Federal Armed Career Criminal Act. What does this mean?

It means that those who use or carry a firearm while committing a violent or drug crime will get five years in prison, just for having the gun.

It also means that those with three prior federal and/or state felony convictions for violent or drug offenses will be charged whenever they are found in possession of a firearm. These may be hard men, but they make easy marks, and under federal law, they can be swiftly sent to prison for 15 years.

And the President's Crime Bill will make these cases even easier to prosecute. One "prior" plus possession of a gun will

send a felon away for five years. The Senate has passed this provision, now it is up to the House. Triggerlock is the best, surest, and simplest way to remove the threat of armed violence from our streets because these five-to-fifteen years are mandatory sentences -- no probation, no parole, no plea bargaining, and no more problem to society.

And the Crime Bill has more good news. We all know that records needed to make the match-up of a potential firearms purchaser with his or her possible criminal past do not presently adequately exist. To put it bluntly, you couldn't come up today with the needed facts, on a consistent basis -- even within the Senate's mandated five-day waiting period.

That is one reason why we are spending \$40 million to improve the quality of federal and state criminal history records. And why we are pleased that the Senate-approved bill authorizes another \$100 million for this effort. This will help bring all state criminal history records up-to-date, and into national sync with the FBI's records, which must also absorb a present backlog of three million unrecorded entries.

That way, we can ensure that we can track down those violent felons who pose the greatest threat to our society. Possibly to stop some few from buying guns in a sporting goods store, to be



sure, but more probably to catch those armed and dangerous felons with enough "priors" to convict for possession, and, in effect, close the "Triggerlock" for good.

### III.

Consider, next, the rising homicide rate -- 23,000 victims, last year -- the one figure that tragically continues to grow, even in the face of our increasing crack-down on violent crime. Consequently, the ultimate sanction -- the death penalty -- is being applied more often by juries.

Now I realize this is not an easy, or pleasant, subject to discuss, and many remain opposed to the death penalty as a matter of principle. But, legally, that debate has been over since the Supreme Court upheld its constitutionality in 1972.

That does not mean, however, that the death penalty today operates as an effective deterrent to those bent upon homicide. Since 1972, the federal death penalty, with minor exceptions, has been inoperative -- a defect cured by the Crime Bill with respect to 51 capital offenses. But more troublesome is how thoroughly the death penalty has been tied up by endless court appeals. The other day Texas Attorney General Dan Morales came by to tell me

that their most recent executions in that state had been delayed by ten and fifteen years, respectively, by repetitive resort, usually for manifestly inadequate cause, to the writ of habeas corpus. And each of you, I am sure, have your own examples of this kind of abuse.

It is called Great Writ, but we know too well how greatly it can be abused. Again we think of the victims -- no retribution rendered for their loss of life, and deterrence delayed so long as to be ineffectual in stopping any attack upon the next victim. And we think also of the victims' families -- the survivors who are left to wonder why the murderer's life goes unforfeited, how a ceaseless filing of appeals can paper the murderer off from meeting a just and overdue fate.

Just this term, the Supreme Court ruled, six to three, against such continued abuses. The Court held second and subsequent appeals to the writ of habeas corpus to far tighter restrictions, Justice Kennedy aptly noting, "Perpetual disrespect for the finality of convictions disparages the entire criminal justice system."

But the Crime Bill incorporates further recommendations made by a commission chaired by former Justice Lewis F. Powell, Jr. that would end these abuses altogether. The condemned will be

limited to one timely appeal to the Supreme Court, all his rights fully represented by competent, court-appointed counsel, and protected by safeguards against any racial bias. The Senate passed this legislation, and voted additionally that death row inmates cannot appeal if imposition of the ultimate sanction has been "fully and fairly" adjudicated in your own state courts.

I can also report that, at the last hour, the Senate also voted to offset the imbalance of federal funding that goes to Capital Resource Centers -- manned by legal activists committed to fighting the death penalty, largely through habeas corpus litigation. The Congress -- in the midst of debating habeas corpus reform -- found itself still funding those who often abuse the writ. But the Senate-approved bill now provides equal funding for state habeas corpus prosecutors.

So Congress is well on its way to insuring that, while the condemned man will, to be sure, have his day in court, so will justice itself -- either way -- be sooner, and finally, done.

#### IV.

In both these instances, in all these reform measures, please note how we are working together to effect law enforcement across our entire justice system. All these initiatives -- our

Bureau of Justice Assistance grants to improve criminal record-keeping, the new federal statues for Triggerlock, and the Crime Bill provisions to limit habeas corpus appeals -- interact at the local, state, and national levels.

I want to emphasize this because a truly Comprehensive Violent Crime Control Bill must, so to speak, "go to the nation" with all its major provisions for law enforcement reform. That is a mission I understand both as a former prosecutor, a governor of one of our major states, and now, as Attorney General. We -- the Feds -- can and must help you in state and local law enforcement by sustaining strong anti-crime partnerships such as our joint drug enforcement task forces across the country. We must help through grant programs and asset forfeiture sharing, which pump further federal funds into state and local police budgets. But most of all, we must help by leading the way in offering anti-crime reforms that involve all branches of law enforcement. Such are these new laws which the Senate has moved to put on the books, and upon which we hope, soon, the House will put the finishing touches.

But we must also remember -- again, across the nation, at all levels of law enforcement -- who are the real parties in interest here. We must always remember on whose behalf Crime

Bills are written. I speak, of course, of the victims of violent crime.

This was brought home to me directly when I had the privilege of arguing before the Supreme Court this spring -- during Crime Victims Week -- in favor of victim impact testimony in death penalty cases. The case of Payne v. Tennessee showed how far adrift this country had gone in protecting a defendant's rights to the neglect of victims' rights.

It involved a man who was convicted of brutally raping and killing a young mother and her two-year-old daughter, and nearly killing her three-year-old son, Nicholas, who miraculously survived his many stab wounds.

The man broke into the woman's home, and in her very own kitchen, in front of her two babies, stabbed the woman over 40 times. She sustained another 40 defensive stab wounds to her arms and hands, showing the valiant struggle she put up to save herself and her children from this murderer. The defendant was convicted and sentenced to death. Justice done? One would have hoped so, but problems arose over the sentencing hearing.

Testimony was heard from the defendant's family about what a good son he was, and testimony from his psychiatrist was offered as to how polite and cooperative he had been. This was allowed as a matter of right. But then three-year-old Nicholas' grandmother made a simple statement about the impact that these deaths had on this little boy. She said Nicholas kept asking when his mother was coming home and said "I miss my Lacie. I'm worried about my Lacie." His baby sister.

That was it, her entire testimony -- but it was testimony that, under Supreme Court holdings in Booth v. Maryland and South Carolina v. Gathers, opposing counsel argued, should not have been heard by the jury deciding whether or not to impose the death penalty.

We told the Supreme Court that the jury needed to have the "full picture" if the defendant was to be held fully accountable for his vicious acts. We argued that, especially in a capital case, information about the impact of the crime on the victim's survivors is vital in deciding whether the ultimate sentence of death should be imposed.

How can the jury ever know the true nature and extent of a capital crime if they must consider only the defendant -- and not the victim -- as a unique human being with family and friends who

loved them? How can we allow a jury to view the victim simply as a corpse or a chalk diagram -- a "faceless stranger," in the words of Justice Sandra Day O'Connor -- with no witnesses to personalize the victim as an equally unique human being with a family and friends who loved them?

That's what we asked the Justices of the Supreme Court to consider. At the very end of term, by a 6 to 3 vote, the Court did just that. It overruled Booth and Gathers, and allowed the death penalty to stand in the Payne Case.

I like to think of this significant upholding of victims' rights by the Supreme Court as but one more reform in the growing pattern of improved law enforcement all across America. And I further believe that paying stricter heed -- offering greater protection of the laws -- to the victims of crime, real and potential, is the essence of all of the reforms we are proposing.

Yes, victims' rights are one specific provision of the Crime Bill. But they are also the very vision of all we are seeking to uphold in our system of justice that speaks for fairness, true witness, and finality throughout this law-abiding land.