

*Crime -
Three Strikes*

URGENT REPORT

TO: THE ATTORNEY GENERAL
THE DEPUTY ATTORNEY GENERAL

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None

SYNOPSIS: Update on first "three strikes" sentencing. Thomas Farmer, 43, was sentenced to life in prison this morning. He also was sentenced to a consecutive 5 years under §924(c) and a concurrent 327 months under §924(e). He had been found guilty by a jury on May 22 of interference with commerce by robbery, conspiracy to interfere with commerce by robbery, using a firearm in a federal crime of violence, and being a felon in possession of a firearm.

DISCUSSION: The case involved an armed robbery of a supermarket in Waterloo, Iowa on October 8, 1994, by Farmer and other individuals who were involved in a prior robbery of a similar store in Des Moines on September 11. It was charged under 18 U.S.C. §1951 (the Hobbs Act), 19 U.S.C. §924(c) and 18 U.S.C. §922(g). This was his fourth conviction for a serious violent felony. The case was prosecuted by U.S. Attorney Rapp and AUSA Daniel Tvedt. See press release attached.

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**Remarks of President William J. Clinton
August 19, 1995
Radio Address**

Good morning. As I speak to you this morning, I can look out on Grand Teton National Park in the Rocky Mountains, where my family and I are enjoying our summer vacation. The beauty of these mountains is breathtaking, and their tranquillity is good for the soul.

We could all use a lot more peace and quiet in our lives -- and in our society. Today, I want to talk about our progress in reducing the violent crime that has shattered the lives of too many Americans for too long.

A year ago this week, we ended six years of partisan stalemate in Washington by pushing a tough, sweeping crime bill through Congress. Narrow interest groups on the left and the right didn't want that bill to pass, and you can be sure the criminals didn't, either. But I fought hard for the crime bill, and so did every major law enforcement organization in America, because it puts government firmly on the side of the people who abide by the law, not the criminals who break it.

Already, the crime bill is making a difference. So far, we have awarded community policing grants to put 24,000 new police officers on the street -- and paid for it with the money we've saved by reducing the federal bureaucracy to its lowest level since John Kennedy was President. The assault weapons ban and the Brady Bill have stopped thousands of criminals from getting their hands on deadly weapons. And although it is far too early to declare victory, aggressive efforts by local police departments to expand community policing, crack down on drugs and gangs, and target criminals with guns have helped reduce the murder rate this year in Chicago, New York, New Orleans, and several other major cities.

The crime bill has also given prosecutors tough, new penalties to use against violent criminals. The death penalty can now be imposed for nearly 60 federal crimes, such as killing a law enforcement officer and using weapons of mass destruction resulting in death. Prosecutors are using this statute to seek death penalty indictments in the Oklahoma City bombing.

And this week, a violent career criminal in Iowa named Thomas Farmer was sentenced to life in prison because the crime bill says to repeat offenders: when you commit a third violent crime, you will be put away, and put away for good. Three strikes and you're out.

Until this week, Thomas Farmer had been a textbook case of what's wrong with our criminal justice system. He committed one violent crime after another, and each time was paroled long before his sentence was up. In 1970, he murdered a doctor and drew a 20-year sentence, but he was paroled a few years later -- even after he had tried to escape. In 1979, he was sentenced to 25 years for armed robbery. Two years later, he murdered a fellow

inmate and was sentenced to an additional 10 years. But the state paroled him yet again. And last fall, he went on a crime spree, robbing two supermarkets and threatening to kill an employee who was taking too long to open the store safe.

No wonder law-abiding Americans are fed up with a system that lets too many career criminals get out of jail free. If Thomas Farmer had been convicted in state court, he might have been out on the street again in less than 3 years. But our three-strikes-and-you're-out law slammed that revolving door shut. Thomas Farmer has made a life of violent crime. Now he will pay for the rest of his life . . . behind bars where he belongs.

Thomas Farmer was the first career criminal we've put away under three-strikes-and-you're-out, but he will not be the last. Federal prosecutors already have another sixteen three-strikes cases pending around the country, including three convictions that are awaiting sentencing.

One year ago, we overcame deep partisan differences to make three-strikes-and-you're-out the law of the land. Unfortunately, this year the single biggest traffic jam in the country is the United States Senate, which has stalled on critical issues from welfare reform to regulatory reform. It is time for members of Congress to put aside demands for ideological purity and give the American people the reforms they want and need. That includes the antiterrorism legislation I sent Congress after the Oklahoma City bombing. It is hard to imagine what more must happen to convince Congress to pass that bill -- and yet partisan politics has blocked it in the House of Representatives. I call on the House to pass the antiterrorism bill when they return so we can make all Americans safer.

Because of our crime bill, the people of Iowa are safer today -- and a career criminal who haunted them for decades is off the streets for good. I will keep doing everything in my power to ensure that those who commit crimes are caught, those caught are convicted, those convicted are punished, and those who've made a life of crime spend the rest of their lives behind bars. The American people deserve a justice system that reflects their values and a government that fulfills its first responsibility to keep them safe.

Thanks for listening.



Office of the Attorney General
Washington, D. C. 20530

March 1, 1994

Crime - 3 Strikes

Bruce

Fry, Rahm

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: RON KLAIN
SUBJECT: THREE STRIKES PROPOSAL

Attached is the draft of the "three strikes and you're out" proposal, which you have previously reviewed. It is being presented this morning at a House Judiciary Subcommittee hearing today, by Acting Deputy Attorney General Jo Ann Harris.

Major Features of the Draft

The draft embodies the President's pledge to have a federal "three strikes" law: a law that will impose life imprisonment when a defendant is convicted, in federal court, of his third serious violent felony against another person (the first two strikes can be federal or state crimes).

Major issues or controversies addressed by the proposal are as follows:

- Life Sentence: "Life" would be real life -- not merely a term of years.
- Covered Offenses: The law would cover specific violent offenses against another person (such as murder, rape, armed robbery, arson, shooting someone); it excludes property crimes and non-violent offenses, such as drug sales. A catch-all (felonies serious enough to merit a 10-year term, where an element of the crime is the use or threat of force) is also included. [As such, it is somewhat narrower than the two proposals that passed the Senate (Sen. Lott's and Sen. Gramm's) because it does not cover non-violent drug crimes or property crimes.]
- Exception: Robberies or "catch-all" felonies do not count as "strikes" if the defendant can prove that he did not use a gun, or did not cause serious bodily harm to his victim.
- Timing: The statute is a recidivism law -- it only applies when someone is caught, convicted, released, and then commits a crime again, and then again. Thus, someone who commits three felonies on a single crime spree is not covered. On the other hand, there is no time limit for the three convictions: convictions at ages 18, 35, and 50, for example, would count as three strikes.

The best statistics available suggest that the law would cover approximately 200 federal defendants annually, nationwide.

Likely Questions and Answers

- Q. Who supports your plan? Who opposes it?
- A. We have worked hard in the Department of Justice to craft the best possible three-strikes provision, one that targets the truly dangerous offender, and gets him or her off the streets for good. We hope that, so drafted, it will have broad bipartisan support on Capitol Hill.
- Q. Is your proposal narrower than the Senate's? Is it weaker?
- A. Working with the U.S. Attorneys and the career prosecutors in the Justice Department, we have crafted a provision that goes right at the precise people who need to be taken off the streets for good -- repeat, serious, violent offenders. That targetting is both tough and smart.
- Q. Won't your proposal lock up geriatrics?
- A. For deterrent purposes, life should be life -- we do not want to bet innocent lives on a criminal becoming "safe" at some specific age (i.e., age 55 or age 60). Also, we do not want to reinstitute a parole-type hearing into the federal system.
- Q. Doesn't your law miss the mass-murderer, who kills 3, 5, or 10 people without being caught?
- A. Many other laws -- including the death penalty -- exist to deal with mass murderers and crazed criminals on a crime spree; this is a single statute, to deal with a single problem: revolving door repeat offenses by violent criminals. Moreover, without a timing rule, a 19-year old who holds up three stores on a weekend would go to jail for life.

Cuomo Offers Broad Proposal To Toughen Crime Penalties

By JAMES DAO

Special to The New York Times

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ALBANY, Dec. 19 — With an election year nearing and crime emerging as a dominant issue, Gov. Mario M. Cuomo has begun outlining a broad package of anticrime proposals that range from ending parole for repeat violent offenders to requiring weapons training for gun-license applicants.

In an interview covering issues he is likely to highlight in next month's State of the State address, Mr. Cuomo said today that he would call for establishing a task force to investigate gun traffickers in New York City and a special court to speed their prosecution. He also said he would seek to toughen penalties against people who sell guns to juveniles, end parole for rapists, ban assault weapons and outlaw gun clips that hold more than 10 bullets.

Mr. Cuomo, who has not announced whether he will run for his fourth term next year, has spoken with increasing forcefulness about crime and illegal weapons since the shooting of 23 people on a Long Island Rail Road train nearly two weeks ago.

Today, he echoed a refrain repeated often and with apparent success by New York City Mayor-elect Rudolph W. Giuliani during last fall's race: that criminals are too often going unpunished.

"A law that does not get enforced is worse than no law because it tends to weaken the fabric of government," Mr. Cuomo said. "The thing that will deter crime is the sureness, or at least the likelihood, that the criminal will be caught, convicted and canded, if it is a violent crime."

Among other proposals he outlined, the Governor said he was considering a plan to pay for new police equipment like semiautomatic weapons and cars through a state bond act, which would require the approval of voters.

Mr. Cuomo, who is an ardent opponent of the death penalty and is likely to be vulnerable on the issue should he run for re-election, used the interview to call for tougher sentences for repeat violent offenders. He said he would call

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for life in prison without parole for people convicted three times of violent crimes, and called the proposal "the Grasso law" after Thomas Grasso, who has been convicted of murder in New York and Oklahoma.

Though Mr. Grasso wants to be put to death in Oklahoma, Mr. Cuomo has insisted that the convict serve out a life sentence in New York State. He is currently in Attica State Prison.

Republicans, who have long seen Mr. Cuomo's position on the death penalty as his political Achilles' heel, believe that voters are infuriated with his willingness to spend \$35,000 a year keeping Mr. Grasso incarcerated rather than allowing him to die.

But Mr. Cuomo, who has vetoed death penalty bills 11 consecutive years, has used Mr. Grasso as an example of why the death penalty does not deter crime. "Grasso makes one point: that many of these murderers are more afraid of life in prison than death," Mr. Cuomo said.

Called 'Soft on Crime'

William D. Powers, the Republican state chairman, called Mr. Cuomo's proposal "too little, too late."

"We've had 11 years of his vetoing the death penalty and being soft on crime and he's going to hear about it from voters all next year whether he runs or not," Mr. Powers said.

John E. McArdle, a spokesman for the senate majority leader, Ralph J. Marino, an Oyster Bay Republican, said that several of Mr. Cuomo's proposals, including ending parole for repeat violent offenders, have been passed in the Senate only to die in the Democratic-controlled Assembly. He said he did not know enough about Mr. Cuomo's other proposals to comment on them.

Although Mr. Cuomo has been a strong advocate of gun-control measures for years, his call for restricting parole, which would lengthen prison sentences, represents a toughening of his anticrime oratory. In fact, during the mayoral campaign when Mr. Giuliani made similar proposals, aides to Mr. Cuomo said the idea would worsen prison crowding and prove too costly.

Mr. Cuomo's proposal of requiring applicants for state gun licenses to undergo weapons training also resembles a proposal by Mr. Giuliani for a national gun-licensing program. Mr. Cuomo's aides said they first proposed the gun-training idea in 1992 but received little support in the Legislature.

Mr. Cuomo said he was still not committed to the idea of an anticrime bond act and does not know how much money it should raise. But he said he would not want the bond money used for building prison cells because vot-

Kelly Against Home Guns

By CHARISSE JONES

New York City Police Commissioner Raymond W. Kelly yesterday strongly criticized the idea of law-abiding citizens arming themselves to fight crime, saying that even with training, it would be a "formula for anarchy."

In an appearance on the WNBC television program "News Forum," Mr. Kelly said fewer guns, rather than more, are the answer to the rampant violence occurring throughout the country. He added that even mandatory training for gun owners, an idea pressed by Mayor-elect Rudolph W. Giuliani, would do little to reduce the possibilities for tragedy.

"To assume that people have an hour or two of training, and give them a gun, and then five years later they're called on to use it, just worries me," the Commissioner said. "When you have guns, there's a tendency to use it. If you have a gun in your home, it's three times more likely that

you're going to be shot by that gun than if you didn't have a gun."

Mr. Kelly's comments came in the midst of a renewed national debate over gun control, and less than a month before he steps down and William Bratton becomes the new police commissioner in New York.

In a speech given two weeks ago, Mr. Giuliani called for a uniform Federal gun-licensing law that would require training, as well as background checks and frequent license renewals for gun owners. When asked if the proposal could lead to more "decent, well-trained New Yorkers" having guns, the Mayor-elect replied that "it could lead to that result, which would be a socially beneficial one."

Later, Mr. Giuliani clarified his comment, saying what he believed was beneficial was not an increase in gun owners, but the possibility that licensing and training could result in fewer suicides and accidents.

ers rejected a prison bond act in the early 1980's.

"I won't propose this unless I'm certain it will pass," he said. He added that if new cells are needed, they could be paid for from Federal grants.

Treatment for Addicts

Mr. Cuomo said it would be possible to alleviate some prison crowding by rescinding laws that require prison sentences for nonviolent drug offenders. "We must change our laws so that you are not wasting cells on nonviolent addicted offenders," he said. "They should be in treatment, so then you can use those cells for violent criminals."

It costs the state more than \$100,000 to build a prison cell. Since he became governor in 1983, Mr. Cuomo has more than doubled the state's prison capacity.

Mr. Cuomo's ideas may face opposition from fellow Democrats who want more money spent on social welfare programs than on law enforcement. Today, he had some tough words for them as well.

"Conservatives say we need the death penalty and mushy-headed liberals say we only need social programs," he said. "The cheap way out, the demagogic way out, is to act like only one side is true and pick the one that you think gets you 51 percent of the vote."

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& You're Out

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PREMIER OF HAITI CRITICIZES ARISTIDE

Says Exiled Leader Hampered
Effort to Break Stalemate

By HOWARD W. FRENCH **A1**
Special to The New York Times

PORT-AU-PRINCE, Haiti, Dec. 19 — Three days after formally resigning, the handpicked Prime Minister of Haiti's exiled President lashed out this weekend at the man who appointed him, describing the Rev. Jean-Bertrand Aristide as an erratic figure and questioning his willingness to return to office under internationally negotiated conditions.

The departing Prime Minister, Robert Malval, spoke on Saturday, shortly after returning from a two-week trip abroad during which he tried and failed to organize a national conference in Haiti to break the country's political stalemate. The idea was rejected by Father Aristide, who said that the security of his supporters could not be guaranteed inside Haiti.

Mr. Malval described the Haitian President as a man with "a serious ego problem," who along with his advisers in exile is "playing with our lives, playing with the future of Haiti."

Caught in a Trap

It is the first time that Mr. Malval has publicly accused Father Aristide of hampering efforts to settle the crisis. The Prime Minister still blames the military for the collapse of a brokered accord which was to have reinstated Father Aristide by Oct. 30.

In an interview at his house, Mr. Malval described Haiti as caught in a trap between Father Aristide, the country's first democratically elected President, and the man who presided over the President's ouster in September 1991, Lieut. Gen. Raoul Cédras.

He said neither man seemed willing

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PREMIER OF HAITI CRITICIZES ARISTIDE

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to make the compromises needed to reach a political solution that would halt Haiti's steep economic decline and prevent disaster for its people.

"The country is stuck between a man who refuses to resign and a man who has made a choice to remain abroad as a sort of flag bearer, a mythic symbol," Mr. Malval said of General Cédras and Father Aristide.

"Everything Aristide is doing is meant to preserve his image among Haitians from Miami to Montreal," Mr. Malval said. "But the problem is that this country is going straight to hell and one day the myth is just going to collapse."

To step up pressure on the military, the United Nations imposed an embargo on oil sales to Haiti in October that has aggravated the suffering of the country's poor.

Aides to Father Aristide said the Haitian President had vetoed the national conference not just out of security concerns but because he feared that the proposed political gathering would result in new limits on his powers.

"When you go into a conference like this, you know they are going to squeeze you," said Robert E. White, a former American Ambassador to El Salvador who advises Father Aristide. "If the President had accepted the conference and then refused to go along with any new constraints on him, he would have looked all the more intransigent."

"As it is, no serious pressures have ever been brought on the military," Mr. White said. "They have all been applied to Aristide."

Informed about Mr. Malval's criticism by a reporter, Mr. White said he had conferred with Father Aristide today and that the deposed President had "nothing to add" to his adviser's remarks.

Malval Virtually Powerless

Mr. Malval, a 50-year-old publisher who had not previously been involved in politics, was appointed Prime Minister in August by Father Aristide after playing a crucial role negotiating the July accord with the military providing for the President's return to office.

General Cédras later refused to resign as commander of the armed forces, violating the agreement he had signed. The security forces also organized violent demonstrations in October to deter international monitors and soldiers from paving the way for Father Aristide's return.

Since then Mr. Malval's Government has been virtually powerless. Though he formally resigned on Wednesday, he still technically has authority over the Government's day-to-day affairs. President Aristide stripped him this week of his authority to undertake political initiatives.

Mr. Malval said that when he was appointed in August he had expected that the military would try to block Father Aristide's reinstatement. But he said that President Aristide's behavior had surprised him.

Both Mr. Malval and diplomats who were involved in trying to organize the aborted conference said that Father Aristide, apparently distrustful of Mr. Malval, had repeatedly approved steps to resolve the political stalemate during his Prime Minister's trips to Washington, New York, Paris and Rome, only to suddenly withdraw his support.

Prime Minister Malval said that Father Aristide had abruptly withdrawn his backing for the national conference and the relaunching of an international military mission to Haiti last Tuesday after it had been painstakingly arranged with the White House and leaders in the United States Senate.

The reversal came a day after President Clinton received both Father Aristide and Mr. Malval at the White House to express support for the initiative, he said.

Aides to Father Aristide have said privately that the exiled President had grown distrustful because he suspected that Washington and diplomats at the United Nations were positioning Mr. Malval to somehow supersede him. Relations between the United States officials and Father Aristide, a leftist priest, have long been uneasy.

An aide to Mr. Malval, speaking on the condition of anonymity, said that even some aides in the Prime Minister's camp had shared that suspicion during their recent stay in Washington.

"Americans did everything they could to build up Malval at the expense of Aristide," the aide said. "His invitations and meetings around Washington had every appearance of a coup d'état in the making."

A Western diplomat who was involved in those meetings and has played a leading role in organizing diplomacy in Haiti dismissed the suspicion as "ridiculous."

Senior Administration officials in Washington have often privately expressed exasperation, however, with what they assert has been a lack of cooperation from Father Aristide.

Many diplomats concede that efforts to restore Father Aristide are now completely stalled, although the oil embargo remains in place and a delegation of military officers from the United States, France, Canada and Venezuela is due in Port-au-Prince this week to meet with Haitian Army leaders.

The delegation hopes to revive the idea of separating the Haitian police and army and involving them in efforts to rebuild the country's infrastructure under the July accord, that was signed in July by Father Aristide and General Cédras.

Surgery for Escobar Brother

BOGOTÁ, Colombia, Dec. 19 (Reuters) — Roberto Escobar Gaviria, elder brother of the slain cocaine trafficker, was listed in stable condition today after undergoing eye surgery for wounds he received from a letter bomb in prison, a hospital spokeswoman said. The bomb exploded in Mr. Escobar's cell at the Itagüí maximum-security prison during visiting hours Saturday

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