



Congressional Black Caucus Foundation, Inc.

FACT SHEET

TAKING BACK OUR STREETS ACT

"The Taking Back Our Streets Act" is the second of ten bills proposed in the Republican Contract With America. This bill virtually eliminates all crime preventative measures and instead, puts into action a "lock them up and throw away the key" approach to punishing prisoners, while doing little to prevent an increase in American crime.

- * **HABEAS CORPUS REFORM**, places a one-year limit on the filing of general federal appeals after all state remedies have been exhausted.
- * **INCREASES MANDATORY MINIMUM FOR FIREARMS CRIMES**, raises current 5 year mandatory minimum to ten years for a first offense, 20 years for a second offense, and life in prison for a third; 30 year mandatory minimum for drug or violent crimes involving a machine gun; a second machine gun conviction carries a mandatory life imprisonment.
- * **MANDATES 'FULL' RESTITUTION TO VICTIMS**, mandates that those convicted of a federal crime would be required to pay "full" restitution to the victim and to any other person who demonstrates harm resulting from the crime. The amount of restitution ordered would be decided without regard to the ability of the offender to pay or to the victim's insurance or other compensation for injury.
- * **ELIMINATES CRIME PREVENTION FUNDING**, this bill practically eliminates authorization for prevention programs, including grants for education, job, and substance abuse programs as well as other crime preventative programs.
- * **PROVIDES MORE MONEY FOR BUILDING PRISONS**, increases the funding for prisons from \$7.9 billion to \$10.5 billion. Half of the prison grants will go to states that can demonstrate the following: (1) increased percentages of convicted violent offenders have been sentenced to prison since 1993; (2) the average prison time has increased; and (3) the percentage of sentences being served have increased as well. The other half of the prison grants will go to states that can demonstrate that serious violent drug and gun offenders serve at least 85 percent of their sentence. *These grants leave states little incentive to differentiate between those who have been rehabilitated and those who continue to pose a threat to society.*
- * **GUTS THE EXCLUSIONARY RULE**, evidence could be introduced in trials if the police merely claim and could justify a reasonable belief that they made the search in "good faith" even if no warrant was obtained.
- * **RESTRICTS PRISONERS' LAWSUITS**, this bill requires that prisoners exhaust the prison's administrative remedies before they file a civil rights claim in a federal court. The bill also requires that federal courts dismiss civil rights motions brought by prisoners if the court finds the motion fails to state a claim upon which relief can be granted.

IMPLICATIONS OF "TAKING BACK OUR STREETS"

Talking Points

* *MORE EXECUTIONS*

As a result of the severe restrictions on habeas corpus, more death-row prisoners will be executed faster. Such "swift justice" could mean the demise of inmates who may have been proven innocent if time would have permitted proper investigations. These implications will undoubtedly disproportionately affect the black community. According to the Sentencing Project, blacks are more likely to receive the death penalty for the same crimes for which whites receive lesser sentences. This is especially true for crimes committed by blacks against whites.

* *MORE PLEA BARGAINING*

Since the new federal crimes could still be prosecuted at the state level, permitting federal mandatory minimums for identical state crimes is likely to result in abuse by state prosecutors of the plea bargaining process.

* *INCREASED CRIMINAL JUSTICE COSTS FOR THE FEDERAL GOVERNMENT*

Federal prisons will be flooded with inmates who could have been prosecuted at the state level. At least an additional \$8 billion dollars will be spent in order to meet the costs of federalizing additional crimes. In order to reduce caseloads, federal judges are already proposing new limits on access to federal courts for Social Security beneficiaries, victims of job discrimination and consumers as part of a long-range plan to cope with huge increases in the current case load. If the jurisdiction of federal courts is limited, then the courts' availability to low-income clients will be severely limited as well.

* *VIOLATIONS OF DUE PROCESS PROTECTIONS*

By expanding the courts authority to require restitution well beyond the losses directly caused by a defendant, it allows defendants to be penalized for an offense without a conviction of that case.

* *ELIMINATES THE HOPE OF COMMUNITIES AND PEOPLES FOR REDUCING CRIME THROUGH WELL- ESTABLISHED PREVENTION STRATEGIES*

Thousands of children who could have been given hopes of a better tomorrow and prevented from launching careers of crime will miss that opportunity as programs which have shown substantial positive effects such as Ounce of Prevention Grants, nighttime sports opportunities for youth, and community policing are scrapped.

* *ELIMINATES INCENTIVES FOR PRISONERS TO ENGAGE IN REHABILITATION PROGRAMS*

In order to qualify for prison grants, many states are likely to adopt "truth-in-sentencing" laws. This action will result in more dangerous prison environments since the incentive is removed for prisoners to participate in a rehabilitative programs in an effort to win parole before serving 85 percent of his or her sentence. This will especially impact the 43 percent of violent first-timer inmates who are black.

* *INCREASED PRISON OVERCROWDING AND INCREASED COSTS TO TAXPAYERS*

According to the Justice Department, there are already more than one million people in prison at a cost of approximately \$20-25,000 per inmate. An increase in the prison population will undoubtedly cause these already high costs to increase dramatically. If the balanced budget amendment passes, this cost burden will shift onto the states who will have no other alternative but to "pass the buck" to the American tax-payer.

* *MORE POLICE MISCONDUCT*

As a result of weakening the exclusionary rule, more police misconduct will be commonplace as unreasonable warrantless searches of one's home, car, or other property become the order of the day--with rationalizations of "good faith" concocted once the search has been completed. This abuse of power will certainly be rampant within the black community.

* *LESS OPPORTUNITY FOR POOR PRISONERS TO PURSUE CIVIL RIGHTS CHALLENGES*

As a result of new restrictions on prisoner's lawsuits, poor prisoners will have less opportunity to be heard when they do not have the funds to prepay court costs for civil rights claims.

* *POTENTIAL ABUSES IN PROCESSING CRIMINAL ALIENS*

Changes in rules governing hearings and the new tracking system for "criminal aliens" have the potential for misuse.