

**THE ORIGINS  
AND DEVELOPMENT  
OF FEDERAL  
CRIME CONTROL POLICY**

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**HERBERT HOOVER'S INITIATIVES**

James D. Calder

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Foreword by George H. Nash

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**THE ORIGINS  
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OF FEDERAL  
CRIME CONTROL POLICY**

**To**  
**Monika Wolff Calder**  
**Shannon S. Calder**  
**William D. and Margaret O. Calder**  
**All my sisters (Margaret, Katherine and Carol)**  
**and their families**

"Reform, reorganization, and strengthening of our whole judicial and enforcement system, both in civil and criminal sides, have been advocated for years by statesmen, judges, and bar associations. First steps toward that end should not longer be delayed. Rigid and expeditious justice is the first safeguard of freedom, the basis of all ordered liberty, the vital force of progress."

—Herbert Hoover, March 4, 1929

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## Foreword

Americans have short memories which are becoming ever shorter in our media-saturated Information Age. Consider crime and the now prevalent expectation that the federal government should take the lead in combating it. Whence did this expectation arise? Many older Americans, if asked this question, would probably mention the growth of the Federal Bureau of Investigation under J. Edgar Hoover. Somewhat younger Americans would probably cite the role of national law enforcement agencies in implementing the civil rights laws of the 1960s. A few citizens might recall public concern about labor racketeering and organized crime dating back to the Kefauver hearing of the 1950s.

It is one of the merits of James D. Calder's book that he takes us on a journey deeper into our past and thereby provides fresh perspective on the frenetic present. While all complicated social policies and institutional arrangements have many roots, he contends that the decisive moment in the development of comprehensive federal crime control was the period between 1929 and 1933, the presidency of Herbert Hoover.

For those conditioned to think of the Hoover era as a time of economic adversity and political stagnation, Professor Calder's findings will come as a surprise. But, he argues persuasively, these very years witnessed a confluence of three factors that combined to produce a break with the past. The first was the proliferating stress on the judicial system, stress associated mostly with the enforcement (and non-enforcement) of Prohibition. The second was the emergence of new perspectives in law, sociology, and criminology, and the rise of

academically-trained social scientists eager to apply their knowledge to reform of the legal system. The third (and necessary) catalyst was the election in 1928 of a president committed to reform and receptive to the approaches of the activist social scientists.

In examining this interplay of circumstances, theory, and political behavior, Professor Calder introduces us not only to the sensational events of Hoover's term of office—the Al Capone trial and the Lindbergh kidnapping—but to subjects that for most readers will be unfamiliar: prison reform (itself a multifaceted subject), reorganization of the federal court system, and the inner workings of the once-famous Wickersham Commission. Despite President Hoover's personal interest in these matters, and his often successful efforts to achieve constructive results, federal crime fighting at the administrative level was not generally front-page news during his presidency. As Calder notes, Hoover's initiatives in this field did not attract "high political acclaim." Nor, for the most part, have they attracted much attention from historians and students of criminal justice. The book before us at last eliminates this lacuna.

In doing so, it illuminates not only the genesis of a reorientation in social policy, but also the long-neglected contributions of an unpopular and still-misunderstood president. For many Americans today (although less so for historians), the tendency to identify Herbert Hoover solely with the Great Depression is almost Pavlovian. One of the strengths of Professor Calder's book is that it emancipates Hoover from this straitjacket. In contradiction to the once dominant stereotype of Hoover as an unimaginative, "do-nothing" chief executive, Calder reveals a strong-minded and energetic idealist. Hoover, he reports, was the first president to initiate a comprehensive national investigation of the administration of justice in the United States. He was the first president to "personally lead an organized crime investigation." His was the first administration "to give formal policy attention to federal prisons and prisoners."

Calder also demonstrates that Hoover in his way was a Progressive who believed in social amelioration through the application of expertise to public policy. He had faith in the scientific study of social problems and in the utility of statistics. He believed in the efficacy of government reorganization—a conviction that persisted through his leadership of two commissions many years after he left the White House. By emphasizing the rationalistic, melioristic, and idealistic elements in Hoover's approach to governance, Calder has reinforced a deepening perception among historians of the modernity of this complex man.

On the day Hoover left the White House in 1933, a famous contemporary asked of him: Was he the last of the old presidents or the first



of the new? On the evidence of this book, Hoover belongs in the latter category.

Professor Calder's impressively researched volume, then, enhances our understanding of the origins of modern federal crime control policy and of Herbert Hoover, the man who catalyzed so much of it. On both counts, scholars and students can be grateful.

George H. Nash

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## Acknowledgments

Historical authorship demands single-minded dedication to archival evidence and sensible interpretations of the past. Archival repositories and dusty collections of papers and books become, indeed, jealous lovers. The pursuit of morsels of information and the arrangement of the puzzle are not enterprises that many would not accept as useful work. But this is the historian's craft. To all those who have stood by and who have attempted to understand, both in deeds and words, I express my admiration, gratitude and respect.

My academic mentors deserve the highest admiration for their examples of intellectual achievement and collegial encouragement. The seeds of this work germinated in the patience expressed and time taken by Professors George S. Blair (deceased), Gerald I. Jordan, John P. Kenney, and Peter P. Lejins. George H. Nash, official biographer of Herbert Hoover and friend in historical inquiry, inspired completion of this project by examples of dedication and belief in his subject.

In the main, this book was a labor of love and personal funding. A seed grant was given by the board of directors of the Herbert Hoover Presidential Library Association and its former executive director, R. Lawrence Angove. Additional travel support to visit collections was provided by the University of Texas at San Antonio. To each of these organizations and the persons who signed the checks, I express my sincere appreciation.

The stalwarts of research and publication are the archivists, librarians, computer wizards, and production editors. Space does not permit a complete list of the professionals who assisted in this research

effort. In most cases I must therefore name their organizations and hope they will understand how important they were to the outcome: National Archives and Records Administration, Washington, D.C., and Suitland, Maryland; federal libraries and records branches of the Bureau of Prisons, FBI, Internal Revenue Service, Congress, and Parole Board; the University of Maryland libraries; the Georgetown University library; the Stanford University library; the Honnold Library of the Claremont Colleges; the University of California at Los Angeles library; the University of Texas at Austin libraries; the University of Texas at San Antonio library; the Trinity University library; the St. Mary's University law library; the Sam Houston State University library; the historical societies of Chicago and the State of Illinois; and the Herbert Hoover and Franklin Roosevelt presidential libraries. To all the staff and directors who assisted my efforts, I am indebted. Final editing and computer problems could not have been resolved without the able assistance of my former student and friend, Robert Behrens, and of the editors at Greenwood.

A special note of thanks goes to family, colleagues, and friends who offered accommodations and encouragement. In particular, I thank my loving wife Moni for her special inner strength and her belief in me. All my family deserve a medal of valor for enthusiasm and tolerance during my many trips to Washington. My daughter Shannon deserves a special hug for her faith in her dad and her ever-patient manner.

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## Chapter 1

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# Hoover's Mark on Federal Justice Policy

*My own duty and that of all executive officials is clear—to enforce the law with all the means at our disposal without equivocation or reservation.<sup>1</sup>*

Reform of federal law enforcement, court, and corrections agencies from 1929 to 1933 is a piece of crime policy history largely unrecognized by criminologists, criminal justices, and social historians. The administration of Herbert Clark Hoover, thirty-first president of the United States, marks the origins of federal crime control policy. Hoover's crime policy initiatives merit revisitation for their larger relevance to crime and justice administration in the twentieth century. They have received neither definitive study nor formal credit, perhaps attributable to perceptions of Hoover, constricted by memories only of failed economic policies of the Depression.<sup>2</sup> This book explores the corners and depths of Hoover's record on crime control initiatives, thereby correcting a deficiency in the criminological record.

Rich and discoverable archives of the Hoover administration's work on crime and federal justice administration are essentially unorganized and untapped. Letters, reports, directives, memoirs, and secondary accounts are located in many branches of the federal government, including several investigative agencies, and in the federal

and private libraries. The corpus of these records reflects diversity of the Hoover initiatives, and they bond the evolution of crime policy initiatives with twentieth-century advances in behavioral and social sciences. Drawing on scattered archival records of the Hoover's initiatives permits a deeper appreciation of Hoover's work to raise public confidence in, and performance of, federal justice administration.

From George Washington to Calvin Coolidge, insignificant interest had been taken in comprehensive organization of federal justice administration. Incrementally, of course, units of federal organization, such as United States marshals, federal appeals and district courts, the Department of Justice, and federal prisons were introduced to accommodate an expanding and geographically dispersed nation in which crime slowly but persistently emerged as a major social concern. Between 1870 and 1929, in particular, presidents Grant, Hayes, Garfield, Arthur, Cleveland, Harrison, McKinley, Roosevelt, Taft, Wilson, Harding, and Coolidge bypassed opportunities to introduce a complementary relationship between police, court, and prison organizations and the Department of Justice. Their incrementalist policies on justice administration reflected no malice. But the fact remains that on March 4, 1929, federal policing attracted low popular respect, federal court dockets were jammed with civil and criminal cases, federal prisons were filled beyond capacities, and the impact of new forms of crime called for new administrative organizations and new legislation. Moreover, federal agencies hardly imagined they were related to each other in a common mission.

The Hoover administration introduced a comprehensive approach to federal criminal justice administration. Hoover's managerial approach to administrative functions led to a demand for an analysis of the crime problem and its impact on federal organizations and processes. The focus on crime and justice during the Hoover presidency, supported by a Congress amenable to inquiries and facility improvements, suggested that these issues were no longer mere local matters. Economic, demographic, legal, political, and social changes had considerably altered American culture in the previous sixty years, and these alterations carried new implications for managing civil and criminal justice agencies, most especially at the federal level. Increasingly, a nation deeply invested in the notion of local government's virtues expected the federal government to provide resources to overcome transjurisdictional problems. The Hoover initiatives on crime and justice administration were the first to conceive of a range of interrelated problems requiring solutions through governmental leadership organized to communicate the best available thinking and innovative strategies for action. Indirectly, the in-

tention was to send messages to the society that the efficiency and integrity of the criminal justice system was the first order of business and that previous negligence regarding the health of federal justice administration could be replaced by an appropriate commitment to change.

Previous administrations had introduced individual reforms, but no administration after 1870 considered formal study of the elements of improved federal justice administration, nor did they consider federal justice as a system of interactive elements. Hoover was the first president to assemble a team of practitioners and scholars to comprehensively investigate the conditions under which federal, state, and local governments administered justice. Completion of that study by the Wickersham Law Observance Commission was never intended as a definitive statement of problems associated with criminal administration. It was, however, the first preliminary attempt to introduce a way of thinking about both the complexity of crime as a social problem and the limited potential of federal authorities to encourage state and local initiatives.

Hoover's unwavering personal and political commitment to progressive reforms put experts in place to offer federal government the best available insights in the direction of this new way of thinking. His affirmative steps institutionalized thought and planning as essential prerequisites to a first-rate system of federal justice administration. He employed both in his cabinet and in key departments of federal administration the kinds of thinkers and doers who could investigate conditions requiring reform, who would draw upon leading scholars and scientific methods, who would encourage creative strategies of law enforcement and prison management, and who would remain committed to reform objectives in years after his presidency. By March 3, 1933, most of Hoover's criminal justice reforms had been achieved or staged for implementation. Legacies of the Hoover reforms have survived succeeding administrations, and some have been models for recent presidents.

I have mined archival records of the Hoover administration in numerous locations, some private files, and many public documents. In the course of twelve years of research, I have developed a favorable impression of the scope and depth of Hoover's crime control initiatives. This perspective is set before the reader. I discuss Hoover's contributions in terms of his forthright intentions to begin his presidency with an agenda for changing federal criminal justice administration and to leave office with his agenda completed. Between the two points in time, he ordered systematic investigation of specific problems of justice administration, he employed professional ad-

ministrators to lead reforms and to pursue congressional support for implementation of his recommendations, and he occasionally gave personal attention to details of federal crime control operations. Hoover wasted no time drafting and announcing his appeals to the public and the Congress to give priority to his justice reform initiatives. He was fortunate, of course, to have been president at a time when popular interest lay in system reforms, but his measures were aimed at action and results at a time when they were most obviously needed. The archival records sustain this viewpoint.

This book examines only the work of the Hoover administration from March 4, 1929, to March 4, 1933, with particular emphasis on how Hoover energized action for results in terms of both scientific study and program implementation. Historical research is, of course, dependent not only upon primary records but also on experiences an author cannot truly know several generations removed. It tends to limit judgment about contemporary policy relevance. At the end of this work, however, I offer brief comments on the implications of Hoover's initiatives for future presidents who chose to engage in a close analysis of all branches of federal justice. The majority of this account is devoted to setting forth the evidence that the Hoover initiatives are important, if ignored, artifacts of crime control history. They transformed federal justice administration at a time when it was necessary to do so, and their effects, ignored perhaps for ideological reasons, have found their way into modern criminal justice policies.

Two tests of the evidence are offered in this study. First, Hoover's perspective and actions to move federal justice administration forward by measurable degrees are compared throughout with conditions and legacies of previous administrations. In this sense, Hoover is conceived as a president unhappy with the status quo of the justice system, indeed greatly disturbed by it. Second, Hoover pursued a policy of reform that reached for a comprehensive organization of the unorganized federal justice system by reform measures designed to recognize trends, rearrange agency responses to match the trends, and improve the overall quality of performance. By 1929, the electorate had been well prepared for leadership in the domain of justice administration, and in some respects it was willing to permit expansion of federal intervention in traditionally local crime matters. Hoover's policy initiatives were timely in this regard, but "the great engineer" insisted upon fulfilling the popular expectations by intellectually considered advice from those most respected in the academic and practitioner worlds of crime. Hoover's commitment to criminal justice reforms was manifested on his first day in office and



sustained for the entire term. In brief, the author intends to show that no comprehensive sense of federal justice administration existed before Hoover's presidency and that what Hoover put in place in a four-year period was intelligently addressed, practically guided, diligently pursued, and demonstrably enduring.

### HOOVER'S OPENING WORDS

Hoover took office on a cold, rainy, and windy day in Washington, March 4, 1929. Wiping the rain from his face, he spoke to a gathering of fifty thousand wet and ambivalent onlookers. It was the first inaugural address to be given by worldwide radio hookup.<sup>3</sup> The most profound feature of the address is its first substantive order of business, "The Failure of Our System of Criminal Justice." Crime and justice were unlikely topics for a worldwide audience, but the order of their invocation suggested volumes about Hoover's administrative priorities. One quarter of the address was devoted to their significance in the social order. He warned of the need to attend to the "constant dangers from which self-government must be safeguarded," referring in the second order of discussion to "Enforcement of the Eighteenth Amendment." Crime had increased, he said, and confidence in the system of criminal justice had decreased. Compensating for the independent role of government, he acknowledged that the fiber of Americans had not decreased; rather, federal justice administration could be put in better order to more efficiently enforce the law. By decrying the popular view that Prohibition had been responsible for crime and the disarray of federal justice, he urged a "redistribution of [federal justice] functions, the simplification of its procedure, the provision of additional special tribunals, the better selection of juries, and the more effective organization of our agencies of investigation and prosecution."

Reorganization of federal agencies of justice administration would be aimed at the objectives of swift and certain justice. New performance standards would be introduced at the federal level so that states and local governments could emulate federal strategies. Pointing to the intricacies of the federal courts, he complained that in some ways court rules had "become the refuge of both big and little criminals, [and] those who can pay the cost" are the people who thwart the ends of justice. The civil and criminal sides of federal justice should be revamped in order to counter "the indifference of the citizens, . . . exploitation of the delays and entanglements of the law, [and in obvious reference to organized crime] combinations of criminals." He would not allow justice to fail because of delinquency or inefficiency