

FOIA MARKER

This is not a textual record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

Collection/Record Group: Clinton Presidential Records

Subgroup/Office of Origin: Counsel Office

Series/Staff Member: Clarissa Cerda

Subseries:

OA/ID Number: 5624

FolderID:

Folder Title:

Crime Bill - Crime Bill, Misc.

Stack:

S

Row:

107

Section:

5

Shelf:

2

Position:

2

LAW/JUDICIARY

Senate Gets Started on Bill To Combat Terrorism

The Senate is crafting its answer to the Oklahoma City bombing, wading into legislation to thwart domestic as well as international terrorists.

Senators took up the anti-terrorism bill (S 735) on May 25 and made limited progress before adjourning for a weeklong Memorial Day recess.

Both President Clinton and congressional leaders have called for swift action on the terrorism measure; despite some political jostling, it could move quickly when senators return.

In the House, Judiciary Committee Chairman Henry J. Hyde, R-Ill., has proposed parallel legislation (HR 1710) and plans to mark it up in June.

The Senate measure is a mix of political collaboration and confrontation.

Many of the anti-terrorism proposals have bipartisan support and draw heavily on policies proposed by Clinton before and after the bombing of a federal building in Oklahoma City on April 19.

These include more money, agents and equipment for federal law enforcement; increased access to car rental, hotel and other records in terrorism cases; special deportation courts for alien terrorists; and restrictions on fundraising by groups linked to terrorism.

Overall, the Senate bill would authorize about \$1.8 billion over five years for enhanced anti-terrorism capabilities — money the Republicans propose taking from the \$30.2 billion trust fund created in the 1994 crime bill (PL 103-322). (1994 Weekly Report, p. 3180)

However, Republican leaders dropped several features of the president's proposal, such as a requirement that tracing agents be added to standard explosive materials. Republicans say they want to study the matter.

And they seized the occasion to try to pass a longstanding GOP priority — new restrictions on death row appeals.

Many Democrats are unhappy with the proposed restrictions — such as generally limiting death row inmates to one appeal filed within one year — charging that they could eliminate legal safeguards against wrongful executions. But they seem to lack the

BOXSCORE

Bill: S 735 — Anti-terrorism measures.

Latest action: Debated on the Senate floor May 25-26.

Next likely action: Further debate the week of June 5.

Background: The bill would authorize \$1.8 billion and expanded police powers to help federal agencies combat terrorism.

Reference: Weekly Report, p. 1177.

votes to block the popular restrictions.

Lawmakers have pledged not to sacrifice civil rights in a rush to squelch terrorism, but civil liberties groups are perturbed by elements of the Senate, House and Clinton proposals.

They are finding new allies among conservative groups — and lawmakers — perhaps reflecting that proposed anti-terrorist activity may focus on right-wing groups hostile to government authority and to gun control. The suspects in the Oklahoma bombing, for example, may have ties to such right-wing groups. Past government surveillance, by contrast, was often aimed at left-wing political groups.

Oklahoma Fallout

Early this year, the administration proposed legislation (HR 896, S 390) to combat threats on U.S. soil from international terrorists, such as those involved in the World Trade Center bombing in 1993. After the Oklahoma attack, Clinton added proposals aimed at home-grown terrorists.

Senate Majority Leader Bob Dole, R-Kan., and Judiciary Committee Chairman Orrin G. Hatch, R-Utah, countered with a comprehensive anti-terrorism bill (S 735) that tracked the president's proposal but added GOP priorities, such as restrictions on death row appeals and a ban on aid to countries that assist terrorist governments.

Both the Clinton and GOP propos-

als include elements that alarm civil libertarians.

For instance, the Senate bill would authorize deportation courts for aliens suspected of terrorism. These courts could deny suspects access to classified information used against them.

The administration also wants such a provision, but Joseph R. Biden Jr., D-Del., ranking member of the Judiciary Committee, is opposed. "I think that is about as un-American as it gets," Biden said.

Some senators also are concerned about proposals that would bar fundraising in the United States by groups linked to terrorism. Clinton's version includes an exception for someone who could prove that the money would go for charitable or educational purposes, but the GOP bill dropped that exception.

Biden said Democrats would offer amendments aimed at restoring Clinton proposals, including provisions to add tracing agents to explosive raw materials and to allow the military to help law enforcement with cases involving biological or chemical attacks.

Joseph I. Lieberman, D-Conn., on May 26 offered an amendment to let federal law enforcement officials conduct emergency, 48-hour wiretaps without a court order in terrorism cases. Authorities could not use the evidence unless a judge subsequently approved the wiretap, he said.

But Hatch and other Republicans said the proposal went too far in threatening civil liberties, and it was defeated on a tabling motion, 52-28.

Habeas Corpus

The GOP bill also would restrict certain federal appeals known as habeas corpus petitions, in a move aimed primarily at federal appeals of state death penalty convictions. "It will stop the frivolous appeals that have been driving people nuts," Hatch said.

The bill would make it harder to file such appeals. It also would require federal judges to give greater deference to state court rulings.

Many Democrats support new limits on habeas corpus petitions, but have sought more modest changes.

Clinton also has called for curbing death row appeals. But in a May 25 letter to Dole, Clinton said he did not think Congress should address the issue on the terrorism bill. The House approved a version of habeas corpus reform (HR 729) in February. (Weekly Report, p. 530)

By Holly Idelson

LAW/ JUDICIARY

Plans To Expand Police Powers Follow in Bombing's Wake

Oklahoma disaster has anti-terror initiatives on a fast track, though some caution against curtailing liberties too hastily

First the World Trade Center trembled and tore, revealing the dangerous intentions foreigners can import from outside national borders.

Then the Alfred P. Murrah Federal Building exploded into the streets of Oklahoma City, exposing the threats that can grow on U.S. soil.

The two bombing attacks have shaken illusions that U.S. citizens are immune to terrorist attacks at home. And they have sent national leaders scrambling to construct new safeguards against such crimes, even if it means curtailing some traditional freedoms.

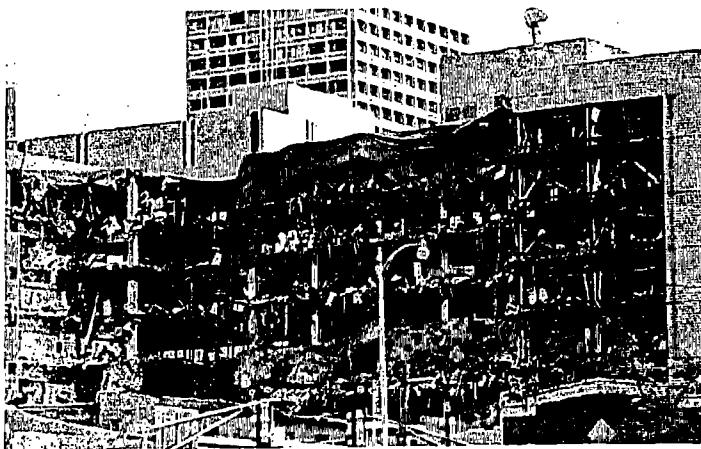
President Clinton and congressional leaders have pledged swift and bipartisan cooperation on a package of anti-terrorism initiatives, with several predicting they can complete work on a bill by Memorial Day.

"We cannot allow our entire country to be subjected to the horror that the people of Oklahoma City have endured," Clinton said. "We must do everything we can to prevent it."

Still, philosophical splits are emerging within both parties over how to strike the proper balance between government power to fight terrorism and traditional civil liberties.

As the proposals circulated, lawmakers stepped up their cautions about legislating away established checks on police power. "Let's don't get so carried away that we wind up doing things that we regret later on," said Senate Majority Whip Trent Lott, R-Miss.

The Oklahoma assault came April 19, when a powerful bomb decimated most of the federal building, killing



More than 100 people died in the April 19 Oklahoma City bombing.

more than 100 people inside. The attack appears to stem from far-right, anti-government, anti-gun control sentiment.

The legislative initiatives were not far behind. Clinton led the charge, proposing a dramatic new commitment of money and police powers to combat terrorist threats. On April 26, he outlined a \$1.25 billion package of initiatives to augment an anti-terrorism bill he had sent to Congress in February. (Story, p. 1178)

The next day, Senate Majority Leader Bob Dole, R-Kan., and Judiciary Committee Chairman Orrin G. Hatch, R-Utah, introduced a bill (S 735) including many of the president's initiatives along with their own plans.

There is broad support for elements of both packages, such as stiffening penalties for certain terrorist offenses, tracing explosives and providing federal investigators with more staff, technology and, in some cases, legal authority to gather intelligence.

Many lawmakers have cautioned against moving too hastily, though, and sorting out the proper parameters for any new law enforcement authority may prove complicated.

And amid the general aura of bi-

partisanship, there are some signs of political snags that could threaten the undertaking. Republican leaders, as part of their anti-terrorism bill, are seeking to curtail death row appeals.

But the administration is reluctant to consider that controversial issue on the terrorism bill, while some Democrats are openly hostile. Senate Democratic leaders say the death penalty issue should be taken up, as originally planned, as part of a proposed GOP crime bill.

At the same time, the Oklahoma crisis has worked to delay another simmering political showdown related to crime policy — whether to repeal last year's ban on certain assault-style weapons. Repeal legislation, which had been slated for House consideration in May with Senate action expected soon thereafter, now has been pushed back one or more months.

Fighting Back

The 1993 World Trade Center bombing and other incidents had already fanned an interest in strengthening federal anti-terrorism capabilities.

Senate Republican leaders included anti-terrorism provisions in their proposed crime bill (S 3), introduced in January. In early February, the Clinton administration unveiled a legislative package (HR 896, S 390) aimed at combating international terrorist attacks abroad and on U.S. soil.

In the aftermath of the Oklahoma disaster, politicians are dipping deeper into the pool of suggested anti-terrorism tactics and seem freer to propose policies that give the federal government significant new authority to study, pursue and prosecute suspects.

Clinton outlined some proposed

By Holly Idelson

Details of Anti-Terrorism Proposals

Terrorism was on the national agenda even before the April 19 bombing in Oklahoma City, but the "to do" list has lengthened in the days since the attack.

The starting point was the Clinton administration's Omnibus Counterterrorism Act of 1995 (HR 896; S 390), which grew out of recommendations after the 1993 World Trade Center bombing. It focuses on the threat from international terrorists.

Days after the Oklahoma attack, President Clinton called for additional anti-terrorism measures also addressing domestic terrorism — such as seeking to expand FBI access to credit and phone records in a terrorism investigation. On April 26, Clinton called for still more, including 1,000 new federal law enforcement employees to deal with terrorism threats. The administration has yet to put those general proposals into detailed legislative language.

Republican leaders in both chambers have additional plans in mind, circulated both before and after the bombing. Below is a summary of key proposals:

Original Clinton Bill

As introduced, the Clinton bill would:

- Create a federal crime of international terrorism within the United States, giving the federal government clearer and more comprehensive jurisdiction over offenses related to such terrorism. The bill also would broaden federal jurisdiction in bomb threats. And it would expand federal powers to conduct court-authorized wiretaps in international terrorism investigations by allowing "roving wiretaps" — eavesdropping that follows the suspect rather than being fixed to a particular telephone.

- Make it easier to deport aliens linked to terrorism, both through ordinary immigration procedures and by creating a court for suspected terrorists. The special court could shield classified information from defendants, who might receive only a summary of the charges against them rather than the full evidence. In some cases, they would not even receive a summary.

Under normal deportation proceedings, illegal aliens and non-permanent aliens (such as foreign students) would have no right to see classified information. This would not apply to legal resident aliens.

- Allow the president to designate certain foreign organizations as "terrorist" entities and prohibit U.S. citizens from raising or giving money to such groups. The bill would provide a special licensing procedure for giving money to groups on the list provided the money would be used only for charitable or education purposes.

- Implement an international treaty on plastic explosives, requiring that they be manufactured with a chemical detection agent that would help law enforcement agents track the materials.



Dole



Clinton

New Clinton Proposals

The president's proposals since the bombing would:

- Add 1,000 new federal law enforcement employees to track terrorism threats and prosecute offenders, and create an interagency center on domestic counterterrorism, to be headed by the FBI.

- Provide the FBI with enhanced access to various consumer records, such as credit and financial reports, tele-

phone bills and hotel records.

- Broaden federal wiretap authority under a court order for terrorism cases (such as allowing roving wiretaps), and allow even improperly obtained surveillance information to be used in court as long as investigators acted in good faith.

- Allow the military to assist federal law enforcement in cases involving chemical and biological weapons and other weapons of mass destruction.

Currently, the military can only assist in cases involving nuclear weapons.

- Require that chemical tracing agents, known as taggants, be added to standard explosive raw materials and study whether other common chemicals can be made less dangerous.

- Impose a mandatory minimum prison sentence of 10 years for transferring a firearm or explosive with knowledge that it will be used in a violent or drug trafficking crime.

Congressional Proposals

Senate Majority Leader Bob Dole, R-Kan., and Judiciary Committee Chairman Orrin G. Hatch, R-Utah, had already proposed anti-terrorist measures as part of the GOP anti-crime bill, S 3. On April 27, they introduced an expanded anti-terrorism bill (S 735). It includes key portions of Clinton's recommendations, such as making it easier to deport aliens suspected of terrorism, increasing investigators' access to certain financial and credit records and expanding the FBI. It also would:

- Allow the State Department to deny visas to certain people who belong to groups suspected of terrorism or, in some cases, who come from countries that sponsor terrorism.

- Seek to crack down on state-sponsored international terrorism, such as by banning foreign aid to countries that assist terrorist governments and making it easier for the U.S. government to provide anti-terrorism assistance to other nations.

- Increase penalties for federal crimes linked to terrorism and designate "conspiracy" as one of the legal components of terrorism, giving federal law enforcement more power to combat crimes before they happen.

- Restrict death row appeals in federal courts.

—Holly Idelson

Stockman: Spotlight's Harsh Glare

An unsolicited fax alluding to the Oklahoma City bombing has turned freshman Rep. Steve Stockman's first splash of national publicity into an exercise in damage control.

The fax, which was sent to the Texas Republican by a woman linked to the Michigan citizen's militia, contained only elliptical descriptions of some details of the aftermath of the bombing. But news reports about the fax brought to light a letter that Stockman sent to the Justice Department criticizing an alleged planned federal raid on citizen militia groups.

The letter was dated March 22 and signed by Stockman, though his staff says now that it was not reviewed by the congressman before it was sent to Attorney General Janet Reno.

Stockman, whose centerpiece issue is opposition to gun control, said his letter was spurred by a request from constituents concerned about heavy-handed efforts by federal officials to restrict citizens' rights to own firearms.

But the putative raid was based on a rumor, and no such action was ever planned or took place, Justice officials say. The rumor had circulated among the loose network of extremist paramilitary organizations.

Other members of Congress also responded to the complaints by militia groups by firing off letters to Reno, a Justice Department spokesman said. He said the letters appeared to be an "orchestrated complaint," but he declined to identify the lawmakers.

Stockman, a conservative Republican, found himself in the uncomfortable position of denying links to militant militias, fringe followers of which were blamed for the Oklahoma City massacre.

"Our attention now must be on bringing those responsible to swift and certain punishment," Stockman said at an April 24 news conference.

Stockman, 38, scored one of the GOP's biggest victories in the 1994 elections by unseating Judiciary Committee Chairman Jack Brooks, D-Texas, after making a federal ban on assault weapons a key issue of the campaign.

He kept a low profile during the early months of the 104th Congress, waiting for completion of the House GOP's "Contract With America" agenda before pursuing his top legislative priority, which is revocation of the weapons ban enacted as part of last year's crime bill.

Stockman's stumble into the spotlight began the morning of the Oklahoma assault. His office received a handwritten fax composed of what appeared to be notes about the aftermath of the bombing. It read, "First update. Bldg 7 to 10 floors only. Military people on scene — BATF/FBI. Bomb threat received last week. Perpetrator unknown at this time." At the bottom, the word "Oklahoma" was underlined.

According to Stockman, a member of his staff initially tossed the unusual message in a wastebasket. It



Rep. Steve Stockman

later was retrieved and sent to the FBI.

The time stamp at the top of the fax reads 8:59 a.m., which, if accurate, would mean it was sent before the bomb exploded. The fax was traced to Wolverine Productions, a Battle Creek, Mich., media firm reportedly linked to Mark Koernke, leader of a faction of the anti-government Michigan Militia.

Stockman says that the fax time stamp was wrong, and that the fax was received after the explosion. He denied any connection to the Michigan Militia or the source of the fax: Olivia J. "Libby" Molley, a Wolverine Productions employee and former Texas GOP activist who had recently moved to Michigan.

Initial news reports indicated that Stockman's office had passed the fax on to the National Rifle Association before contacting the FBI. Stockman contends that the message was forwarded to the FBI first, and he produced a letter from the FBI praising him for prompt action.

Even as the fax flap faded, Stockman's effort to distance himself from extremist groups was complicated by the letter his office sent Reno March 22.

It stated that "a number of reliable sources" had informed Stockman that federal law enforcement officials planned predawn raids on citizen militia groups on March 25 or 26. At the press briefing, Stockman said that he was responding to concerns expressed by "people from the NRA and other groups."

However, Jeff Fisher, Stockman's chief of staff, said in an April 26 interview that the Reno letter was written by a staff member as a routine response to a constituent letter, and, like most correspondence with federal agencies, had not been vetted by the congressman.

The letter to Reno states, "A paramilitary-style attack against Americans who pose no risk to others, even if violations of criminal law might be imputed to them, would run the risk of an irreparable breach between the federal government and the public, especially if it turned out to be an ill-considered, poorly planned, but bloody fiasco like Waco."

The deadly federal siege of the Branch Davidian cult compound in Waco, Texas, in 1993 is a cause celebre for anti-government factions who view it as evidence of a federal conspiracy to crush militia groups and impose tyranny on the United States. The Oklahoma bombing was allegedly timed to coincide with the second anniversary of the final Waco showdown, which resulted in a fire that razed the cult compound and killed more than 70 men, women and children.

Stockman aide Fisher said the office would likely be more cautious about treating such "constituent" letters at face value. "We're just trying to serve people," Fisher said. "Maybe we were a little naive."

—Bob Benenson

enlargements to federal investigative powers in a television appearance April 23. Policy analysts were still trying to pin down the details when, on April 26, his administration unveiled a still broader, five-year package of anti-terrorism initiatives.

With the House in recess the week of April 24, the Senate was the congressional focal point in the debate. Senators on April 25 promptly passed a resolution, 97-0, condemning the bombing and calling for swift legislative action. (*Vote 133, p. 1201*).

They did not have to wait long for progress. Congressional leaders left an April 26 White House meeting optimistic they could craft a consensus anti-terrorism bill and pass it within weeks.

At a Senate Judiciary Committee hearing April 27, administration officials and lawmakers generally agreed on the need to clarify and broaden federal jurisdiction and powers regarding crimes related to terrorism.

FBI Director Louis J. Freeh told the committee his agency can and does investigate extremist groups that pose a threat of violence. But Freeh said he needs additional funds and legal powers to keep pace with the threat. "We must intensify our focus on the threat to America from within," he said.

The administration, for example, is seeking increased access to telephone and other consumer records in terrorism probes. Freeh said gathering information about potential terrorism is the best hope of preventing it, and assured senators the government would stay within constitutional bounds.

Meanwhile, there is ongoing interest in cracking down on internationally inspired terrorism. Administration and congressional proposals include calls to create special deportation courts for suspected alien terrorists, block visas for foreigners with ties to terrorist groups, and ban fundraising within the United States for groups linked to terrorism.

Crackdown Climate

Sen. Joseph I. Lieberman, D-Conn., was among those who said the United States must rethink its traditional balance of government power versus individual freedom in light of the Oklahoma bombing. "Without order in our society," he said, "there is no liberty."

Dianne Feinstein, D-Calif., struck an even more ardent tone at the Judi-

ciary hearing. "I'm going to vote for everything because I think we need to take an unparalleled step in our society to put an end to this."

It is just that climate that unnerves civil liberties advocates.

They had already protested elements of the administration's initial anti-terrorism bill, such as special deportation procedures for suspected alien terrorists and prohibitions on fundraising for terrorist groups.

James X. Dempsey, deputy director for the Center for National Security Studies, based in Washington, says the



RICHARD ELLIS

FBI Director Freeh, left, and Hatch at the April 27 hearing.

special deportation courts — which would allow some aliens to be deported on the basis of secret evidence — pose a risk. "We're going to make mistakes," Dempsey said. "We're going to deport the wrong people" because flawed evidence may not be exposed.

Now, with an increased focus on domestic terrorism, groups like Dempsey's are also decrying proposals they say will affect the speech and due process rights of all U.S. citizens.

Former Rep. Don Edwards, D-Calif., a former FBI agent and chairman of the House Judiciary panel on civil rights, said the federal government has only recently emerged from an era of spying on and harassing unpopular political groups under the name of anti-crime surveillance. "We don't want to go back to the bad old days where constitutional rights were flagrantly violated," he said.

These fears unite groups on the left of the political spectrum with certain conservative, libertarian organizations.

Members of Congress are also queasy about some of the suggestions.

Dole, for example, said he is uncomfortable with the administration's plan to allow military involvement in law enforcement efforts regarding biological and chemical weapons. A longstanding law, called the Posse Comitatus Act, generally bars the military from domestic law enforcement.

Sen. Arlen Specter, R-Pa., does not like the idea of broadening federal wiretap authority to let eavesdroppers follow suspects from one phone to another without obtaining a new warrant.

But Specter does want the FBI to step up its surveillance and infiltration of domestic groups that pose a possible threat. He and others have suggested Congress may need to loosen the rules under which the FBI conducts domestic surveillance — a notion that upsets many others.

There is considerable confusion about just what the FBI and other federal law enforcement agents are allowed to do to investigate domestic groups.

Freeh said FBI agents have in the past been wary of using their full powers, given the bureau's history of overstepping proper bounds. However, Freeh said the agency is now making more aggressive use of its surveillance authority and said the existing rules give him sufficient latitude to investigate dangerous groups.

Specter, who chairs the Judiciary subcommittee on terrorism, plans to hold a hearing the week of May 1 to air the concerns of groups opposed to the anti-terrorism bills.

The House Judiciary subcommittee on crime is also planning a hearing on domestic terrorism that week, and Chairman Henry J. Hyde, R-Ill., is drafting a comprehensive terrorism bill.

Gun Rights

If the Oklahoma bombing created a political imperative to do something about terrorism, it also erected a temporary "keep out" sign on the issue of gun rights.

Rep. Bob Barr, R-Ga., a gun rights advocate and head of a House task force on gun issues, said House GOP leaders have agreed that the Judiciary Committee should postpone action on the proposed repeal of the assault weapons ban so it can focus on anti-terrorism.

Sen. James M. Inhofe, R-Okla., agreed, despite his vocal support for the repeal. "I think there should be a delay in consideration just because emotions are so high right now." ■

Misc.

WH &

Crime Bill

Issues

Focus of White House Inquiry Sharpens

Ex-Head of Travel Office Under Suspicion in Handling of Money

By DAVID JOHNSTON
Special to The New York Times

WASHINGTON, Sept. 7 — Federal investigators have found evidence that the former head of the White House travel office deposited money that news organizations paid for Presidential trips into his own bank account and may have diverted some of it to his personal use, law-enforcement officials said today.

About \$55,000 in news media money was deposited into the bank account of the former official, Billy R. Dale, from 1988 to 1991, the officials said, referring to a review of Mr. Dale's bank records.

Friends of Mr. Dale say that he used the news media money for legitimate purposes, including cash tips that eased travel for the White House press corps, and that he now is simply having difficulty explaining the cash outlays from his account.

But prosecutors say the inquiry is more serious than a case of unaccounted-for gratuities. They suspect that Mr. Dale used some of the diverted money for personal expenses, but they would not describe how the money was spent.

Decision Expected Soon

As a result, the officials said, the Government is deciding whether to seek an indictment of Mr. Dale that would charge him with criminal embezzlement of money entrusted to him. A decision could come by the end of the month. A Justice Department spokesman would not comment on the matter today.

Mr. Dale's lawyer, Steven C. Tabackman, denied today that Mr. Dale had engaged in any wrongdoing.

"Anyone who knows Billy Dale either professionally or personally knows that it is inconceivable that he took anyone else's money and spent it on himself or for any personal reason," Mr. Tabackman said. "And when all the evidence comes out, it will show that Billy Dale did not steal or embezzle any money from the Government or anyone else."

Mr. Dale, who earned about \$75,000 a year, was dismissed from the travel office in May 1993, along with six subordinates, in a move that President Clinton defended as an efficiency step but that quickly turned into a long-running embarrassment for the White House.

An indictment against Mr. Dale could, at a political level at least, vindicate the shake-up at the travel office. Clinton aides alluded to possible wrongdoing when Mr. Dale and the others were dismissed, but were never able to produce specific evidence to back up their charges.

Five Employees Rehired

Five travel office employees were rehired for other Government jobs and another retired, but Mr. Dale has remained under scrutiny by the Federal Bureau of Investigation and the Justice Department's public integrity section, which investigates political corruption.

The dismissals created a furor after White House aides acknowledged that they came only after complaints about the operation by Catherine A. Cornelius, a distant cousin of Mr. Clinton who wanted to run the travel operation, and Harry Thompson, a Hollywood friend of the President and part owner of an aviation consulting company that wanted a share of the White House air charter business.

The White House was also criticized for bypassing standard bureaucratic channels in asking the F.B.I. itself to request an investigation.

In July 1993 the White House prepared an apologetic report on the incident, conceding that it had erred in its handling of the employees. The travel office was reorganized.

Factor in Aide's Depression

Fallout from the incident spilled over into other problems for the Clinton Administration last year. Robert E. Fiske Jr., the former special prosecutor in the Whitewater affair, said in a report last June that Congressional and press criticism of the White House handling of the travel office incident contributed to the depression of Vincent W. Foster Jr., deputy counsel to the President and his lifelong friend, in the days before Mr. Foster committed suicide on July 20, 1993.

In a torn-up note found after his death, Mr. Foster asserted that nobody at the White House had done anything wrong in the travel office dismissals, and accused the F.B.I. of lying in a report on the matter to Attorney General Janet Reno.

As a result, some of Mr. Dale's friends are skeptical of the Justice Department's motives in pursuing an

inquiry into Mr. Dale's finances.

But Mr. Dale has been under scrutiny from the beginning. The White House report on the matter said that a private audit by Peat Marwick, an accounting firm, had found no explanation for \$18,000 in checks drawn on a petty-cash fund.

Focus on Petty-Cash Fund

The Washington Times reported last month that Mr. Dale faced possible charges in connection with the travel office's petty-cash fund. But until now it had not been known that investigators had focused on Mr. Dale's use of a personal bank account as a conduit for travel office payments by news organizations.

Mr. Dale's defenders suggested that while he may have been a poor bookkeeper, he has an innocent explanation for why he put news media money into the account, which he kept in his own name at a branch of the Maryland National Bank near his home. They said Mr. Dale carried a substantial sum of cash on Presidential trips to pay gratuities and incidental expenses that often occurred.

For example, friends said, Mr. Dale used the cash to tip bus drivers and baggage handlers at hotels and airports.

Associated Press

Black Heroes Commemorated

Ground was broken yesterday for a Civil War memorial to honor the 185,000 black soldiers who served with the Union forces after Lincoln signed the Emancipation Proclamation. Participants in the

ceremony dressed as Civil War troops. The monument, a three-foot-high curved stone wall with stainless steel plaques, will be in the Shaw neighborhood, one of the oldest black areas of Washington.

welfare check, a subsidized apartment, something to do with your time or a way to keep a man. Increasingly, though, the girls say their babies are accidental footnotes in a quest for intimacy.

Many men see their offspring as emblems of masculinity. Beyond the baby making, things fall apart.

For a time, Sherri and Mel lived together as family. Sherri's mother was ill with complications from diabetes and 15-year-old Sherri was pregnant. After her mother died, Mel, on the run from the police, went back to selling drugs to pay for the burial.

Mel promised Sherri's mother before she died that he would take care of Sherri and their son. His own father was often in jail and used the family's food stamps for drugs. Sherri's father was absent. By all accounts, Mel has done better than either father, spending time and money to care for Mel-Mel.

But things quickly deteriorated for Sherri and Mel, too. The two 16-year-olds were overwhelmed by the responsibilities of adulthood. He chased girls. They came to blows and she called the police.

The Absence of Fathers

The block is haunted by the ghosts of many a relationship. Men and women often seem to be at war. Many people grew up without fathers, most lack the money to support a family, and there is no pressure to marry.

Vikki, the legal guardian of her troubled younger cousins, had a boyfriend, George, who kept his address a secret. Vikki became pregnant by him but had an abortion. On one bad Monday in July, she was close to tears after learning that George had two other pregnant girlfriends.

Nadine Allen, the older sister of the college-bound Robert Garland, said that the father of her baby passes them on the street without speaking. Her goal is to marry a man "with a legal job."

Frances Weldon, the mother of Ms. Allen and Mr. Garland, said she was not surprised that many young people on the block believed in neither romance nor tenderness.

"If you grow up without it, how can you believe in it?" she said.

Brother and Sister

Siblings Share Dream of Escape

Nadine Allen sat in her mother's bedroom and slowly dragged on a cigarette. The TV droned on, her son Dayvon lay kicking on the unmade bed, and ketchup spotted the linoleum floor. Ms. Allen was depressed and gaining weight. A high school dropout who had spent time in the drug trade, she was unemployed again and had no financial support from the father of her 1-year-old.

Ms. Allen, 20, is watching her friends die or sink into the muck of welfare and baby making. Several weeks ago, she went to the wake for Livio Bunch, a 22-year-old neighbor shot in a dispute the police are still investigating. Memorial flowers decorated the block, looking incongruous among the garbage.

Mr. Bunch's murder increased Ms. Allen's desperation to escape 129th Street, but she has no clear idea of what to do.

The other day, Ms. Allen stood outside another funeral home and tears slid down her face. The service was for a 21-year-old childhood friend, Donald Bonaparte, shot in the head. As a tribute, some friends had written and planned to perform a rap called "Kill or Be Killed," but were talked out of it by one of the mothers.

"Things haven't really changed," Ms. Allen said of her prospects as a black woman. "If there was no racism there would be no 129th Street."

Her brother, however, is on the cusp of escape. Robert Garland graduated from high school in June and went off to Alabama Aviation and Technical College on Labor Day. He plans to be an airline pilot, a dream he has clutched for years.

Mr. Garland spent four hours commuting to school in Queens each day. When he was a sixth grader, his class was "adopted" by Marble Collegiate Church as part of the I Have A Dream Foundation program. The program, with its guidance and financial support, guaranteed a college education to any sixth grader who made it through high school.

By Mr. Garland's accounting, about 35 of the 84 "dreamers" made it. He knows that two died.

Mr. Garland has written off most of his peers on 129th Street. They say things to him like, "You read so much you got words coming out of your ears," he said.

"I'm different because I act different," Mr. Garland said. "Most of them, they want things now. They see the drug dealers with fancy clothes and cars."

Mr. Garland's mother left his father years ago because of his crack addiction. She never married Ms. Allen's father, her high-school sweetheart.

"What happened to my father taught me that you have to have a goal," Mr. Garland said. "You have to be determined, you have to want something different, something better."

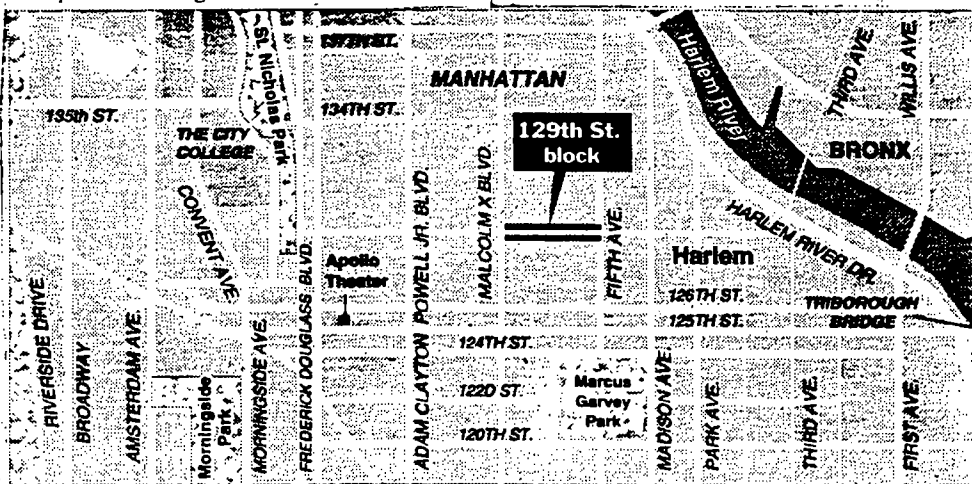
In June, as Mr. Garland prepared for graduation, his sister quit her job at McDonald's. "It was too stressful," Ms. Allen said. "At the end of the week my paycheck was only \$60. It wasn't worth it."

Of her time in the drug trade, Ms. Allen says she did it to be "down," meaning to fit in. Like many children of 129th Street, she believed that her life would be transformed by things like sneakers, stereo equipment and gold jewelry. They are easy status symbols for those who know no other way to gain status.

"I needed money then," she said. "All the guys I associate with, what I see from them, if I stand on this corner I can make more money in a week than other people make in a month."

"I didn't have options like Shawn," Ms. Allen said. "It seemed the best opportunity for me."

She said many girls she knew got out of the house by having a baby and getting welfare and public housing.



With its own values and rules, 129th Street is increasingly violent and dispirited, a place where many people are trapped in seemingly intractable poverty.

"Everybody's having kids," she said. "They think that's the in thing to do. It's really to keep their boyfriends but it really pushes them farther away."

"The girls aren't looking for anything better," she continued. "They see themselves on 129th Street for the rest of their lives. A lot of these guys feel they're not going to live too long, so they want to leave something behind."

In some ways, Ms. Allen's is a soul corro-

ed by what she sees. Mr. Garland stands apart and looks away. The mother urges on her son, but her voice is strained and wistful when calculating her daughter's chances.

Lately, Ms. Allen has considered going to Georgia to live with her maternal grandparents, reversing the trip her mother's family made decades ago when New York beckoned with promise.

"I have to leave," Ms. Allen said. "I have to leave or I'll die. There's nothing for me here."

212
THE NEW YORK TIMES, THURSDAY, SEPTEMBER 8, 1994

By Marilyn W. Thompson
Washington Post Staff Writer

Key prosecutors in the Whitewater investigation have told independent counsel Kenneth W. Starr that they will leave as soon as he can hire a new staff, a development that is likely to cause delays into the sensitive probe of President Clinton's financial affairs.

More than half of the staff attorneys have rebuffed Starr's request that they stay on to handle the investigation under his leadership. Although some of the lawyers say they have great respect for Starr, his Aug. 5 selection by a three-judge federal panel to replace special counsel Robert B. Fiske Jr. created great anguish among the Whitewater staff. The prosecutors had been working long hours and were said to be near to seeking indictments against some associated with the failed Madison Guaranty Savings & Loan, but not the Clintons.

Some of the attorneys had uprooted their families and New York legal practices to fol-

low Fiske, a Manhattan lawyer and former federal prosecutor, to a Little Rock, Ark., office building that served as the investigation's command post.

Starr, whose activism in conservative Republican circles has led some Democrats to complain that the Whitewater investigation could be used as a partisan vendetta against the Clintons, has been immersed this week in briefings on the complicated case and declined to answer questions yesterday. But a spokeswoman said he is consulting with "distinguished members of the legal community" for the names of possible staff replacements. She stressed that he is seeking attorneys with "outstanding judgment . . . and a strong reputation for fairness and honesty."

For Clinton, the staff turnover means almost certain delays in a probe that the White House has hoped would be concluded in time for Clinton to rebuild his public standing before the start of the 1996 election season. Clinton's attorney David Kendall declined to comment.

Although Starr tried to deflect criticism of his life in GOP politics and win the loyalties of Fiske's staff, the attorneys who are leaving have long personal associations with Fiske. Some quickly arranged to return to

The independent counsel is seeking attorneys with "a strong reputation for fairness and honesty."

— spokeswoman for Kenneth W. Starr

their law practices or take teaching jobs; others say they are actively seeking new jobs.

Mark Stein, a former assistant U.S. attorney who worked in Fiske's Washington office, said yesterday he has told Starr he will stay long enough to ensure "there's no sacrifice to the investigation." He said he and oth-

ers are working to make a "professional transition" to a new prosecution team.

It is uncertain how long it will take Starr to find replacements or prepare them to take over the complex inquiry, which has expanded from an investigation of Madison, a small failed savings and loan owned by the Clintons' Whitewater land development business partner, to a broader look at the president's personal financial dealings and campaign finances.

Just before his removal, Fiske had broadened the inquiry to include Clinton's 1990 gubernatorial campaign accounts and approximately \$180,000 in personal loans from the Bank of Perry County, a small state-regulated institution owned by Clinton's appointee as state highway commissioner. Clinton used the loans to partly finance the campaign, although public records give an incomplete picture of how they were repaid.

The replacement of Fiske, a moderate Republican who was already six months and \$2 million into the investigation, has been criticized by Democrats as a partisan ploy by

right-leaning Republicans. Those Republicans had openly criticized Fiske's early findings as too sympathetic to the Clinton White House. Fiske had concluded that deputy White House counsel Vincent Foster's death last summer was a suicide and found no criminal wrongdoing by White House and Treasury Department aides in a series of contacts about the Whitewater probe.

Charges of partisanship in Starr's selection grew more intense after disclosures that U.S. Court of Appeals Judge David B. Sentelle had met privately before the panel's decision with Sen. Lauch Faircloth (R-N.C.), a chief critic of Fiske's work.

The departing attorneys include Denis McInerney and Julie O'Sullivan, also former assistant U.S. attorneys in New York's Southern District. Roderick Lankler, a former Manhattan prosecutor who headed the investigation's Washington phase, departed last week.

The Associated Press reported that attorney Carl Stich also will depart. Stich could not be reached for comment.

Overruling Trial Boards, Chief Prevented Firing of Two Officers

By Keith A. Harriston
Washington Post Staff Writer

Twice since becoming D.C. police chief in December 1992, Fred Thomas has overturned recommendations to fire officers charged with crimes.

In one case, an off-duty officer allegedly pointed his department-issued 9mm handgun in the face of a nightclub manager who had refused to audition a go-go band the officer managed.

In the other, a sergeant was accused of shoplifting in Northern Virginia.

Neither officer was convicted in court, but after conducting its own hearings, a police trial board concluded in each case that the officer's actions warranted his firing.

But in these cases, Thomas disagreed with his commanders and returned the officers to the force.

The first instance involved Eric C. Jackson, an officer assigned to the Special Operations Division. He is the son of Mary D. Jackson, chairman of Advisory Neighborhood Commission 7E in the Marshall Heights area of Southeast Washington.

In September 1991, according to court records, prosecutors and department officials, Jackson took members of the band Trouble Funk to The Dome Nightclub near Dupont Circle. Jackson had arranged with one of the nightclub's managers to have the group audition. But on the evening Jackson showed up, a different manager—who hadn't heard about the audition—was running the club.

Jackson and the manager, Thomas Hall, exchanged words. The back-and-forth spilled into a deserted hallway, where Jackson, who was off duty, pulled his service weapon.

Two witnesses who called police said Jackson pointed the gun at Hall's face. Jackson said he did not. Jackson was charged with a assault with a deadly weapon.

Jackson's 1992 trial in D.C. Superior Court ended in a hung jury. Prosecutors decided against retrying him because a key witness had not held up well while testifying.

A three-member police trial board heard the same testimony, found Jackson guilty of misconduct and recommended that he be fired.

Jackson appealed the recommendation to Thomas. In the meantime, his mother attended community

meetings where Thomas or Mayor Sharon Pratt Kelly were scheduled to appear and talked with them. She urged other Ward 7 advisory neighborhood commissioners to write letters of support on behalf of her son to the mayor, Thomas and City Administrator Robert L. Mallett.

In the end, Thomas did not go along with the trial board's recommendation. He suspended Jackson for 45 days, a penalty he arrived at after prosecutors decided not to retry Jackson following the mistrial. Pressure, Thomas said, didn't factor into his ruling.

"He was off pay for two years" awaiting trial, Thomas said. "How much are you going to punish the fellow?"

Jackson and his mother would not talk about the incident or its aftermath. "Why would I want to talk to you about it?" Officer Jackson said. "I don't have anything to say about it."

The second case involved Sgt. Yong H. Ahn, charged in 1992 with shoplifting at a Northern Virginia store.

The criminal charges against Ahn eventually were dismissed. But a police trial board heard testimony, found him guilty of misconduct and recommended that Ahn be fired.

Again, Thomas ignored the trial board's recommendation. He suspended Ahn for 60 days.

The chief said his decision wasn't influenced by the timing of Ahn's case—or the fact that Ahn, who has been on the force since 1984, is the department's highest-ranking officer of Korean heritage. His case came to Thomas's attention just as the District was experiencing a spurt of violent robberies of businesses operated by Asian merchants.

Thomas said the recommendation from the trial board, which is composed of members of his command staff, was too harsh. Thomas said there were mitigating circumstances in Ahn's case, including the recent death of a close relative and the involvement of alcohol.

Ahn, who works in youth services in the 1st District downtown, did not respond to several messages left by The Washington Post at his office.

"Termination was too severe in this case," Thomas said.

Procedure—not politics and not personal sentiment—caused him to overturn the two trial board recommendations, Thomas said. "If you appeal to me, I'd look at it," he said.

Book Success Moves Quayle To Tryout of '96 Candidacy

Ex-Vice President Plans Two Major Speeches

RTC Figures Back at Work; Probe Pending

Associated Press

A Resolution Trust Corp. investigator connected to the Whitewater affair and her two superiors are back at work after officials granted her request for an independent probe of allegations against them.

Agency spokesman Steve Katsanos said the internal review of unspecified on-the-job actions that led to their two-week suspensions has been turned over to RTC inspector General John J. Adair.

"We felt there really were some things that ought to be investigated," Katsanos said.

Investigator Jean Lewis and her bosses, Richard Iorio and Lee Aussen, were placed on administrative leave Aug. 15 for a review of several allegations against them. They returned to work Monday in the agency's Kansas City, Mo., office.

The improprieties reportedly include a secret tape recording, misuse of time sheets and compensatory time, use of RTC equipment for personal reasons and questionable business trips.

The suspensions came at a politically sensitive time, just after Congress held its first round of hearings into the failed Madison Guaranty Savings & Loan, its links to the Whitewater land venture in Arkansas and President Clinton and his wife, Hillary.

Lewis recommended in 1992 that prosecutors consider criminal charges following her investigation of check-kiting at Madison. The Clintons were not accused of wrongdoing.

By Dan Balz
Washington Post Staff Writer

Buoyed by the success of his best-selling book, "Standing Firm, a Vice-Presidential Memoir," Dan Quayle is moving toward a presidential candidacy in 1996, according to associates.

Quayle will test market a candidacy this fall with speeches and appearances for Republican candidates. After staying largely off the political circuit since leaving Washington in 1993, Quayle will campaign extensively for Republicans across the country.

The former vice president also plans two major speeches in September. The first is billed as "Murphy Brown II," an address to the Commonwealth Club in San Francisco on Sept. 9, the site of Quayle's controversial speech on family values during the 1992 presidential campaign that was ridiculed at the time but has won praise since.

The second speech is scheduled for Sept. 16 when Quayle will be a keynote speaker at a convention marking the Christian Coalition's fifth anniversary.

Most of the other potential 1996 Republican presidential candidates are scheduled to address the same convention, but Quayle's appearance will serve as an early test of his appeal to a group that he is counting on as a key component of his campaign.

Some Quayle advisers believe the former vice president has made up his mind to seek the Republican nomination in 1996. But spokeswoman Ann Hathaway said yesterday, "No decision has been made," and called reports to the contrary "totally premature."

One associate said Quayle was doing everything necessary to announce his candidacy early next year, but said Quayle did not want to make any formal statement until later. "He can't say anything until after the midterm elections," this person said.

Another associate insisted that Quayle has not made a decision. "I can tell you for a fact he has not taken any of those hard steps necessary to announce for the presidency," the associate said. "He is accepting invitations

to aggressively raise money for Republicans this fall because he views it as a major opportunity, maybe the best since 1974, to cause a shift in the House and Senate."

Nonetheless, he said Quayle's "schedule the next couple of months is a campaign schedule" that will include appearances in about two dozen cities over the next 30 days.

Quayle still carries the baggage from his four years as vice president, when he was criticized for lacking the maturity and depth needed for the presidency, and he faces hurdles in any potential candidacy, particularly in the area of fund-raising.

Before he makes a decision, Quayle must decide whether he can raise the roughly \$20 million it will take to mount a campaign in 1996 and whether he will be able to find a pool of contributors outside his home state of Indiana.

One associate said the success of Quayle's book is one indication that Quayle may be able to raise significant amounts of money through direct mail solicitation. "He was waiting on the book sales to see if it was an indication of support," one adviser said. "Clearly it was."

"Standing Firm" has sold an estimated 500,000 copies and has been a best-seller in traditional and Christian bookstores. Quayle has been mobbed in many cities by admirers who waited in long lines to have their copies autographed.

"All things being equal, he'd like to run," one associate said. "But he's a hard-headed politician and he's not going to do it without a credible strategy to win."

Don't let government rents dictate size of families

U.N. conference could provoke more coercion, threaten basic freedoms.

BETHESDA, Md. — Don't let the attention given the feud between the Vatican and the Clinton administration over abortion distract attention from a far bigger underlying issue at next week's U.N. Population Conference: What role should government play in family planning?

Most of the population control advocates who will dominate discussions in Cairo are latter-day Malthusians who believe the Earth's growing population is fast exceeding its capacity to feed itself. They point with alarm to statistics that show that by 2030, the world's population could grow to 8.5 billion.



COUNTERPOINTS
By Linda Chavez

The only way to stop this dangerous trend, they argue, is for governments to take a firmer stand to control the populations of their own countries.

What they don't often say is that such policies will mean more government coercion and less individual liberty for people in other countries than Americans would ever tolerate for themselves.

When Americans speak of unplanned pregnancies, they mean those unplanned by the parents. But radical population control advocates have another definition in mind: They mean pregnancies that exceed government targets.

China leads the way in government-controlled family planning. Its "one-child" policy has curbed population growth among China's 1.2 billion people — but at a tremendous cost in human suffering and freedom.

The communist government has a two-pronged approach, both carrot and stick. Couples who sign a pledge to have only one child receive preferences in housing allocations and job assignments, a monthly cash payment while the child is growing up and free medical care and schooling for the child.

But even these considerable incentives have not induced enough Chinese to limit the size of their families, so the government uses more Draconian methods as well. Intrauterine devices, which were withdrawn from the U.S. market in the 1980s because of safety concerns, are the Chinese government's

method of choice for controlling pregnancies.

Government doctors in cities and ill-trained "barefoot doctors" in rural areas forcibly insert IUDs in millions of Chinese women each year. Fearful that couples will remove the devices, the government has removed the strings from IUDs, making removal, even by a doctor, more dangerous and painful. Women must undergo X-rays every three months to ensure that the IUDs remain in place.

Still, some women manage to evade the government's efforts and get pregnant with a second or third child anyway. The Chinese government then subjects these women to what it euphemistically calls "remedial measures": forced abortion or sterilization.

American women can debate the right to choose abortion; for Chinese women, there's little choice involved. In one province, Guangdong, family planning authorities reported that 80% of the 624,000 abortions performed in one year were carried out "by order." About one-third of these occurred in the sixth month of pregnancy or later.

Stung by criticism of its forced abortion policies, China would like to move more toward sterilization as a birth control method. But even here, the state — not the couple — determines who will be sterilized, according to family size and other factors.

In 1994, China passed eugenics legislation intended to "avoid new births of inferior quality." It would force sterilization on couples with hereditary diseases or mental illness. Chinese dissidents fear the new law could be used against political protesters on the grounds that they might pass on their "antisocial tendencies" to their children.

Previous U.N. population conferences have recommended that individuals be allowed to determine the number and spacing of their children, regardless of overall demographic goals. The Cairo delegates will likely repeat these reassuring words.

But regardless of these stated principles, urging governments to play the predominant role in population policy is an invitation to authoritarian regimes, such as China, or desperately poor countries in the Third World to promote government planning in the name of family planning.

COUNTERPOINTS' four columnists provide views from diverse perspectives on today's issues. **Thursday:** Susan Estrich on race in the O.J. Simpson case. **Mondays:** Tony Snow. **Tuesdays:** Michael Gartner. **Wednesdays:** Linda Chavez.

► Story, 1A

Small crime, big time

You don't have to agree with Surgeon General Joycelyn Elders, who thinks the nation should study drug legalization, to agree that her son — and every taxpayer in Arkansas — got a raw deal this week.

Kevin Elders was sentenced to 10 years in prison for selling one-eighth ounce of cocaine to an undercover agent. That's 10 years' room and board at taxpayer expense for a small-time, non-violent first offense. Where's the sense in that?

In Arkansas, there is none, especially given the scarce resources the state has to house prisoners and fight crime. Only two states spend less per capita on law enforcement and corrections. Combine that with mandatory minimums that force prosecutors and prisons to spend precious resources on nickel-and-dime druggies rather than hard-core criminals, and it's no wonder violent crime there is rising.

The Elders sentencing raises this question about mandatory minimums: What does Arkansas — or any other state with such sentences — hope to accomplish?

Kevin Elders comes from a sound family that is both alarmed by his actions and willing to work with him toward rehabilitation. He also has been convicted of a crime that

federal surveys show has a very low recidivism rate. This argues for a short sentence, then a half-way house with supervised treatment. Yet Judge John Plegge had to hand out the big 10 years.

Judges need room to fit the punishment to the crime, and also fit the punishment to the public good. Those goals are not always served by hard-core incarceration. Rather, such sentences can produce grotesque judicial distortions. In some states, it is possible to spend more time in jail for selling drugs to a coworker than for killing him. And when prisons are crowded with people doing big-league time for small-cheese crimes, more of those convicted of violent crimes are apt to walk free.

Washington's new crime bill makes some feeble attempts to reduce mandatory minimums for first-time offenders in the federal system. But it's small potatoes. More than 95% of all serious crime is prosecuted in the states.

And that's why the Elders sentencing is so instructive. States can't afford high-cost, low-yield sentencing laws either. Yet that's what mandatory minimums are: poor investments that continue to spend too much time and money on the wrong criminals.

OPINION USA

When to help, when to stay home

In an interview with USA TODAY, Gen. John Shalikashvili, chairman of the Joint Chiefs of Staff, says deciding whether to enter an all-out war is easier than figuring out how to help in places like Rwanda, Bosnia or Somalia. One basic rule: Set clear goals and stick to them.

Q: You face crises today in Haiti, Bosnia, Korea, Rwanda, Cuba and elsewhere. Just how much can handle, particularly as your budget shrinks?

A: It is not that we don't have enough men and women in uniform to be involved simultaneously in Rwanda and Bosnia (and other places). We have decided this nation requires a capability to engage in two near-simultaneous major regional contingencies, like something in the Persian Gulf and Korea. In the absence of contingencies, we also can be engaged in quite a few peacekeeping and humanitarian operations.

Q: And when a major conflict breaks out, what happens to those operations?

A: Once we see a regional contingency emerging, then we need to understand that our forces will have to be pulled back from whatever other humanitarian or peacekeeping operations we are involved in.

Q: That suggests we're demanding too much?

A: I couldn't say that. We can go in quickly with sufficient capability to make a difference, more than any private organization. That's why in selected cases, such as Rwanda, we use this capability to jumpstart the humanitarian effort. And then when it's running, we begin to turn over that capability to either a contractor or to civilian, non-governmental agencies. If we discipline ourselves to do that, our country will be more willing the next time to call on us if we had difficulty extricating ourselves.

Q: But how do you decide where and when to get involved in the first place?

A: There are two different things. When dealing with a hot spot like Korea, you're talking of being able to wage war with overwhelming force and prevail no matter the circumstances. It's very different when you go to Rwanda. What does overwhelming force in Rwanda mean? What does total victory in Rwanda mean? We understand the concept of overwhelming force, decisive victory. But none of us feels very comfortable in this gray world of operations other than war, whether they are humanitarian or peacekeeping. I think we will over time, and what will help us is to have several operations under our belt.

Q: All this gives you a diverse mix of missions — a harder task than simply preparing for wars. Does bring any added risks?

A: We have to be very careful that we don't prepare our people for humanitarian operations instead of taking the time to prepare to be first and foremost soldiers, sailors, airmen who are the best at fighting this nation's wars. Because I think then we would be doing a disservice to this country. Then in addition to that, we must train them to participate in these humanitarian and peacekeeping operations.

Q: Is the administration any closer today to resolving the whole issue of peacekeeping — who's going to pay for it, and who's going to sustain it?

A: I think the administration is considerably closer. But of one thing I'm certain: It's in the benefit of the United States to strengthen the United Nations' capability to do peacekeeping operations. If we don't, the alternative is that we have to get involved.

Q: Do we earmark troops for the U.N.?

A: No, I don't think the United States ever should do that. If you do, you begin to train those people for peacekeeping operations, and then I have to take you back where I started out: The best peacekeepers are those who are first and foremost trained as soldiers.

Q: Yet with the Cold War over, there's sure to be pressure on you to do all this with less. What cuts? And what cuts must we avoid?

A: The greatest threat is that we'd bring (back) the hollow force of the '70s. You make the force hollow when you don't have the right people in sufficient numbers, when you don't train them sufficiently, or you don't have the spare parts to keep the tanks, planes, ships and trucks running. It's a disease that kills on itself, once you let that start.

Q: Do we have the right people matter more than having the most modern weapons?

A: It doesn't mean that you can abandon all modernization, but first and foremost my fear is that we might walk away from near-term readiness. It's not the tank that wins the battle, it's the best person, the man in the tank.



By Paul T. Whyte, USA TODAY

Gen. John Shalikashvili, 58, was appointed by President Clinton as the 13th Chairman of the Joint Chiefs of Staff in 1993. Gen. Shali, as he prefers to be called, was born in Warsaw, Poland. His father was a Georgian army officer, and his grandfather was a czarist general.

He was drafted into the U.S. Army in 1958, serving as a military adviser to South Vietnam during the Vietnam War. He was NATO's supreme allied commander in Europe during 1992 and 1993. Shalikashvili graduated in 1958 from Bradley University in Peoria, Ill., with a bachelor's degree in mechanical engineering. He received a master's degree in international relations from George Washington University in Washington, D.C. His military education includes the Naval Command and Staff College and the United States Army War College. Gen. Shali discussed the role of the U.S. military with USA TODAY's editorial board and news staff. His comments are edited from that interview.

Shalikashvili assesses the hot spots

Rwanda and Somalia

The first lessons are that they are all different. Somalia is not Rwanda, and Rwanda is not Haiti. Before we get involved, we have to clearly understand what it is we want to accomplish, what the specific tasks are, and then stick to those tasks. We have to avoid this mission creep — that we just go one step further. But secondly, we have to understand that things are never static. We have to be flexible enough to change with the circumstances. But if you do, then it's important that you go right back to the starting point. Whether it's the administration, the Congress or the people of the United States, they have to understand that you have made a change. That, I believe, is what got us into difficulty in Somalia. That is the reason for the shock when we woke up and experienced the casualties that we did. In Rwanda, we have been very scrupulous about articulating what we went in for: to provide water, and to provide 24-hour operations of the Goma airfield. We didn't go in there as a stabilizing force, because that's the same sort of a mission creep that will get you thrown out. It's up to the country to make the decision of whether you want to stay in a place like Rwanda for reasons other than why you initially went in. I think there will always be criticism that either we did or didn't (do enough politically and militarily in Rwanda). It was the issue of timing. The United States' position had been and remains today that we did not feel it was our role to get involved in the peacekeeping operations in Rwanda. And because of that, I'm very firm on the issue of why we went into Rwanda. And I'm not interested in expanding it.



with the circumstances. But if you do, then it's important that you go right back to the starting point. Whether it's the administration, the Congress or the people of the United States, they have to understand that you have made a change. That, I believe, is what got us into difficulty in Somalia. That is the reason for the shock when we woke up and experienced the casualties that we did. In Rwanda, we have been very scrupulous about articulating what we went in for: to provide water, and to provide 24-hour operations of the Goma airfield. We didn't go in there as a stabilizing force, because that's the same sort of a mission creep that will get you thrown out. It's up to the country to make the decision of whether you want to stay in a place like Rwanda for reasons other than why you initially went in. I think there will always be criticism that either we did or didn't (do enough politically and militarily in Rwanda). It was the issue of timing. The United States' position had been and remains today that we did not feel it was our role to get involved in the peacekeeping operations in Rwanda. And because of that, I'm very firm on the issue of why we went into Rwanda. And I'm not interested in expanding it.

Haiti

The president has been saying from the very beginning that he never excluded the use of military force to bring about a change in Port-au-Prince. I think that is still true today. I have never heard anyone give a specific deadline for Lt. Gen. Raoul Cedras and the others to leave. As a matter of fact, I think the time is here today for them to leave. They should have left yesterday. I think this government has been very patient and has used every other means possible to bring that change about. It is high time for those who overthrew the freely elected government in Haiti to move out of the way and allow the restoration of democracy. I'm hoping (the Haitian dictatorship) will do something about it and leave. Should the decision ever be made to use military force in Haiti, we need to understand that despite the fact that the Haitians don't have a very credible military force, the possibility of casualties is certainly there. We should not be surprised at all by it. It's very important that this nation understands that.



Cuba

It certainly has a very capable, relatively large force. We're not dealing here with a third-rate military power. All those who have been dependent upon the Soviet military for supplies and replacements are

suffering, and so it goes without saying that the (Cuban) force today is not what it was a few years ago. But not so much time has gone by yet that you

underestimate the capability of the Cuban military. I certainly wouldn't do that. I still consider it very capable. They are principally a ground force, but they have the requisite armor, artillery and air units to do a very credible job. The (readiness and morale of the Cuban forces) is nowhere near what it was when they were still getting all the support from the Soviet Union, but that's not surprising. It would be a mistake to assume that they do not remain loyal to Castro to the revolution.



Korea

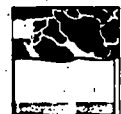
Korea as a military challenge is very different. You are talking of extremely large military forces — happens nearly 2 million. When you take the military on both sides staring at each other eyeball to eyeball practically within 50 miles on either side of the demilitarized zone, such a conflict would be extraordinarily violent, extraordinarily destructive. We have to make sure we are prepared for the unexpected.

On the other hand, we have to make sure that we do everything we can to peacefully resolve the difference that we have with North Korea over their nuclear program. We watch their forces very carefully have not detected any shift or any particular departure from normal activity. But I must tell you North Korea remains one of the most difficult count to look into. First of all, they are very large militarily, very capable. They are relatively well trained. They have an extraordinarily sophisticated artillery capability that is tucked right up to the DMZ. They have mechanized forces designed for exploitation to move to the South. Their air force is pretty antiquated, but they have chemical capability and the Scud systems to deliver. No one should underestimate their capability. But at the same time, our forces — together with the South Korean forces — are extraordinarily well-trained, well-equipped, well-motivated, and I have every confidence that if North Korea were to miscalculate, they would not be able to achieve whatever war aims might be; that both the South Koreans and the U.S. forces there would prevail. But having said that, we on both sides need to work very, very hard to ensure that we never test that premise.



Iran

I wouldn't be surprised if Iran and Libya aren't there looking very hard and trying to get their hands on either the scientists or the material that could help them (build nuclear weapons). ... I think it's a real problem. They are actively seeking to gain that capability. We have no indications that they have it today. ... Iran is potentially much more of a problem than Iraq in that part of the world, and it behooves us to keep a very close eye on them.



'Red flags' ignored in financial debacle

Examiners visited Madison Guaranty in 1984 and found it in deep trouble. Two years later they came back and found it in deeper trouble. In May of 1987 an audit showed it insolvent by \$10 million. And still it took nearly two additional years before it was taken over by regulators.

BY MARY HARGROVE, DON JOHNSON
& MICHAEL WHITELEY
Arkansas Democrat-Gazette Staff Writers

Last in a series of four articles.
Copyright © 1994, Little Rock Newspapers, Inc.

Jim McDougal couldn't refrain from buying real estate — his Madison Guaranty Savings and Loan Association was on the brink of insolvency.

David Hale wasn't playing by the rules — his Capital Management Services Inc. was lending to unqualified borrowers.

The brakes could have been applied to these now-defunct companies in 1984. Or in 1986. Or certainly by 1987.

Red flags were clearly evident by the mid-1980s for federal regulators to try to rectify problems at Madison Guaranty and Capital Management.

Instead, Attorney General Janet Reno in January was forced to appoint a special counsel to investigate business dealings between Bill and Hillary Rodham Clinton and Arkansas financial institutions.

The territory to be covered was not new. Madison Guaranty and Capital Management — their funds either partially supplied or insured by taxpayers — had been scrutinized by regulators through the years. Or had they?

A review of the records reveals a shocking lack of supervision that to date has cost the taxpayers at least \$70 million, including \$1.8 million for the current federal investigation.

The counsel's staff has been combing through decade-old business deals that should have alerted regulatory agencies at the time.

In 1984, the Federal Home Loan Bank Board issued a critical report after examining Madison Guaranty's operation.

It would be five more years before Madison was taken over by regulators.

In 1991, the Small Business Administration questioned why Capital Management books did not reflect that 86 percent of its loans were past due, according to the General Accounting Office, the watchdog for

See WHITEWATER, Page 8A

Whitewater

• Continued from Page 1A
Congress.

It would be two more years before Capital Management was placed in receivership.

Someone should have been watching the watchdogs.

Here are a few of the red flags:

year, indicating that the administration is more than \$20 billion ahead of its original goals for reducing the inherited Reagan-Bush deficits. The crime bill that drove the Republicans to parliamentary hysterics leaned heavily toward traditionally Republican punitive approaches: death penalties, three-strikes-you're-out, more prison cells, more cops and gave but marginal emphasis to traditionally Democratic systemic solutions: midnight basketball. And if throwing mothers off welfare after two years, another Clinton proposal, isn't solid gold Republican orthodoxy, then what is? Maybe you'd be bitter too if you were a traditional Republican, naked of issues, who found your party being increasingly defined by its traditional embarrassments, by figures like Oliver North and Rush Limbaugh.

Distributed by the Los Angeles Times-Washington Post News Service

1984 and 1986: Federal Loan Bank Board reports

Madison Guaranty was in trouble. Deep trouble.

So much so that the Federal Home Loan Bank Board ordered Madison Guaranty's directors to come to Dallas in July 1986. Federal Home Loan Bank Board supervisor Walter Faulk was angry. There would be no discussion, he told the visitors from Arkansas. Just listen. Madison officials were told:

They had allowed the institution to run wildly out of control since a critical 1984 exam.

Records were inaccurate or missing.

Appraisals did not meet the most basic standards.

Savings and loan employees had tried to hide records or create files with back-dated documents.

In one case, Madison board members would later discover, the S&L had not performed a title check to check on property used for collateral. Madison Guaranty "seems to hold a fifth mortgage," according to Madison board minutes.

Although the regulators had issued strict orders to Madison Guaranty two years earlier, they had not returned to enforce them until Feb. 28, 1986.

Madison Guaranty, with McDougal at the helm, recently had purchased 1,000 acres in southern Pulaski County that he called Castle Grande. Loans for most of those deals were approved on the same day the examiners arrived.

Nearly every "commercial" transaction in Castle Grande was being looked at by Faulk's examiners.

That included the \$1.2 million sale of a sewer and water utility to a company Jim Guy Tucker and R.D. Randolph formed as Castle Sewer and Water Corp. and a \$260,000 Tucker loan on 34 acres of Castle Grande land.

If Faulk decided to write off the questionable loans to Castle Grande borrowers and the overdue loans on two other McDougal real estate developments, Madison would be insolvent immediately.

Faulk issued strict guidelines the day in July, directives that grew even stronger Aug. 15, 1986, under a cease-and-desist order. New funds were not to be extended to 12 borrowers, including Tucker's company, without approval from the Dallas regulators.

Madison's reaction was the equivalent of a yawn.

When examiners returned for a follow-up visit three months later, they discovered:

■ Madison had given new Chairman Steve Cuffman a \$96,000 salary, part of a package of raises examiners called "excessive" and said violated the cease-and-desist order. Cuffman said he voluntarily cut his salary to \$48,000 six weeks after he took the job because he was cutting back his hours.

■ Senior Vice President Sarah J. Worsham Hawkins' salary had jumped from \$33,000 to \$65,000. She was given an 8-year-old blue Bentley to drive, plus \$500 for monthly expenses. Hawkins' salary was involuntarily cut back to \$60,000. The Bentley was sold soon after. Hawkins was a former Federal Home Loan Bank Board examiner who criticized the S&L in the 1984 report.

■ Comptroller Greg Young had received a 100 percent salary increase from \$25,000 to \$50,000 and was given a year-old Mercedes to drive. Young said that, with salary incentives, he actually earned about \$45,000 a year before his raise. His new salary was not reduced. He drove the Mercedes no more than a month, he said, before Madison sold it.

■ Madison Guaranty had not hired a real estate consultant to review its land and investment portfolio or obtained an independent audit as it was told to do.

■ It had extended an overdue \$40,000 unsecured loan to ousted owner McDougal, in violation of the Federal Home Loan Bank Board's order. The loan was renewed two days after McDougal missed a payment on a \$359,590 house loan. McDougal had been removed as president in July 1986 by Madison's board, at the insistence of the Federal Home Loan Bank Board.

Madison Guaranty board minutes reflect similar problems in the running of the S&L without McDougal. Excerpts from a Jan. 27, 1987, meeting state:

"The extension request by (name blocked out) had been consummated through error. The board had previously denied extension since the borrower had refused to furnish a financial state-

mental of stocks or bonds was found to be nonexistent."

In May 1987, KPMG Peat Marwick, hired at the request of the Federal Home Loan Bank Board, released an audit. Madison Guaranty was insolvent by \$10 million.

It took nearly two more years before Madison Guaranty was officially taken over by the regulators. Today, the Resolution Trust Corp. totals the loss at \$65 million.

■ 1987: Madison Guaranty vs. Dean Paul

Dean Paul signed loan papers for \$825,000 from Madison Guaranty in 1986.

But, when Paul was sued for failure to pay a year later, he had an interesting answer: He never got the money.

Paul said in an affidavit signed in August 1987 that he was acting as a "disclosed agent" for David Hale when he obtained the Feb. 28, 1986, loan.

And Madison, he added, was well aware of that fact.

The first time Madison Guaranty and Capital Management were linked was in a 1987 lawsuit against Dean Paul. But no one followed up beyond asking a few questions. The *Arkansas Democrat-Gazette* has traced \$502,000 from the loan to an account in the name of Hale's Capital Management. The account was originally opened at People's Bank and Trust at Russellville.

The money, Paul said he told everyone, was being diverted through Hale to help Madison Guaranty "clean up its books." And, he said, the loan would be repaid. Hale told him, through deals being put together by Hale and Jim Guy Tucker.

Paul, a Malvern businessman, said his attorney, Mark Roberts, withdrew from the case because of a conflict, so he hired John Haley.

Haley was Tucker's friend, business associate and attorney.

Haley said Paul didn't tell him that a Tucker/Hale business venture was supposed to repay the Madison loan. But Paul said he told Haley the plans for repaying the loan.

If Paul had mentioned Tucker's alleged involvement in what appeared to be a sham transaction, Haley said he would have considered it a conflict of interest for him to represent Paul.

ous of any conflict of interest. If there had been any appearance of conflict, we would not have" accepted Paul as a client.

Haley said he doesn't know whether Paul was aware at the time that he and Tucker were good friends.

"I don't know if there were any occasion for that to come up. I can't imagine any occasion for that to have been discussed," Haley said.

Paul said he didn't feel Haley had done enough for him in the case.

"I got the feeling that my interests were not first and foremost," Paul said of Haley's representation.

Haley said he was "sorry (Paul) feels that way."

Paul "could never establish from any third party that he was acting for Hale," Haley said. "According to all the documentation, Hale was simply a seller."

Asked if he pursued Paul's story, Haley said he obtained a statement from Hale. He said he couldn't disclose what Hale had told him.

"I can say this much, if there had been any intimation from Hale that he had a continued interest in the transaction and that Tucker was even remotely involved we would have had nothing further to do with the case," Haley said.

Madison Guaranty was aware of Paul's claims that something was wrong with the loan.

Its board of directors took note in an Oct. 15, 1987, meeting that "former management could be involved in the distribution of the proceeds from the loan."

McDougal has denied knowing anything about the Dean Paul loan.

Hale pleaded guilty in March of this year to a mail fraud charge covering various acts allegedly committed by the former judge "and others known and unknown" from 1985-91.

Randy Coleman, Hale's attorney, said part of the mail fraud charge related to the Paul loan.

Tucker's press secretary faxed a statement to the *Arkansas Democrat-Gazette* that said, "Mr. Tucker had no knowledge of or participation in the \$825,000 loan. He has never agreed, directly or indirectly, to any involvement in that loan, and indeed has never been so involved."

But a 1989 memo from former Madison Guaranty President and

Chief Executive Officer John Latham to his private attorney, obtained by The Associated Press, suggests Tucker and McDougal were involved in the loan.

employees have said they were questioned by the FBI about the Paul loan before McDougal was acquitted of bank fraud in 1990.

Latham's memo reads: "Because of the fact that Jim Guy Tucker was involved and that McDougal's opinion on the real estate was that its value was more than sufficient to cover the loan, I had no reason to question the transaction."

Madison Guaranty won a judgment against Paul's company for \$993,960 in November 1987. After foreclosing on the land, Madison was left with more than a quarter-million-dollar loss.

Paul was questioned by federal investigators in 1990 before the McDougal trial, but never asked to testify. He was questioned again in 1993 and again several weeks ago by the special counsel's office.

■ 1979-93: Small Business Administration

The conclusion of the General Accounting Office auditors was simple and to the point.

David Hale's Capital Management Services — which was subsidized by the Small Business Administration — had been mismanaged for years. The SBA, because of inadequate supervision, had failed to recognize the "red flags."

They were more like red rockets.

When a special team of GAO auditors seized Hale's books after his indictment in September 1993, they discovered that 11 previous audits over 14 years had been "only cursory."

• Hale "secretly controlled" 13 of 57 companies that borrowed money. The flag? Nine businesses listed Capital Management's 1910 N. Grant St. address as theirs also.

• A 1991 audit disclosed that Capital Management didn't accurately reflect the number of delinquent loans on the books. Examiners checked the payments and found 86 percent were past due. The flag? Hale told examiners he immediately sold 15 of those loans without a loss, but never provided any documentation.

• Hale's company was supposed to provide loans to "socially or economically disadvantaged" individuals. The flag? A \$300,000 loan to Susan McDougal whose loan file reflected a net worth of \$2.2 million.

When Hale was told by federal auditors that his firm's eligibility profiles were insufficient, he responded, "Arkansas is the poorest state in the United States with almost one-half of its area included in the Delta Development Region."

"This area has been determined by the Congress ... to be economically depressed in comparison with that of the Third World Countries."

qualified as "socially and economically disadvantaged."

That included cable TV companies connected to Jim Guy Tucker. From 1983-87, Tucker entitled himself \$725,000 from Capital Management.

Tucker, who acted as Haley's attorney in the mid-1980s, said he not know of the "socially or economically disadvantaged" qualification.

Billy Cost, a former Tucker business partner whose name appears on three loans for cable companies in 1983 and 1984, said Tucker told him how to qualify for a Capital Management loan and helped him fill out the qualification papers.

Cost said Tucker told him that his Vietnam-era military service made him eligible for the loan.

"I specifically remember he said I having a big discussion on that," he said.

Cost added he wasn't told Haley's company made loans to "socially or economically" disadvantaged individuals.

Whether Tucker was aware, not as a Vietnam-era veteran, he would have qualified for the loan on his own.

Tucker's wife, Betty, as joint owner of the cable companies, applied for the Cablevision Management

loans. She would have qualified under the SBA guidelines as a woman.

But, as the General Accounting Office said with the Susan McDougal loan, the Tuckers' net worth would have made the loans questionable. Betty Tucker applied for a Cablevision Management loan for \$125,000 in 1985. Jim Guy Tucker had an income of \$765,833 and securities of \$1.19 million that year.

While his companies were borrowing funds underwritten by the federal government to help disadvantaged businesses in 1984, Tucker earned \$180,000, held \$3.4 million in securities and guaranteed or was co-maker of \$5.1 million in loans.

A source familiar with Haley's company described the SBA audit of Capital Management proceedings as "just pitiful."

"It was nothing in the way of an audit. This guy would come in and sit around and shoot the bull all day long and never question that there were loans on the books to companies that were defunct," the source said.

The failure to watch Haley's company cost taxpayers \$3.4 million.

■ 1994: The latest federal investigation

Kenneth W. Starr, the new independent counsel, has promised to pick up where his predecessor Robert Fiske Jr. left off.

"The nation has a compelling interest in the fair, just, thorough and prompt disposition of these matters," Starr said.

The tab for Fiske's share of the investigation through July 1993 was \$1.8 million.

Crime bill's fine print dampens hopes locally

By Brian Reilly
THE WASHINGTON TIMES

A1

High hopes for the area's share of the \$30.2 billion federal crime bill are deflating as local government and police officials learn what strings are attached.

In the District, budget constraints make it unlikely the city will get the 600 officers it is eligible for under the anti-crime package passed last week.

And, in a Catch-22 that frustrates city officials, federal funds for additional prison space may not materialize until more prisoners are packed into already overcrowded jails.

In Montgomery County, Police Chief Clarence Edwards says the more he learns about the provisions of the crime bill, the less hopeful he becomes.

"We had initially been very optimistic about receiving officers," Chief Edwards said yesterday. But he said that optimism waned when he learned the county was not selected to participate in pilot anti-crime programs.

The remaining enthusiasm, some officials concede, is weighed down by confusion surrounding the unexplained formula for divvying up the 100,000 police officers that President Clinton promised the nation.

"We don't know what to expect because it's not certain what the

see CRIME, page A18

From page A1

selection criteria will be," Chief Edwards said.

According to the bill approved Friday by the Senate and awaiting Mr. Clinton's signature, the District is eligible to receive \$64 million, or enough to add 600 new police officers to the 4,260-member force over the next six years.

"But it's a little more complicated than that," City Administrator Robert Mallett warned yesterday.

The cash-strapped D.C. government — in the middle of a deep budget crisis — would have to pay 25 percent of the cost of hiring the new officers, Mr. Mallett said. And the federal subsidy for the salaries incrementally declines over the six years, after which time the city is on its own.

"It is not likely it will be 600 officers," D.C. Police Chief Fred Thomas said earlier this week.

Any new officers hired with federal help, Chief Thomas added, would not reach the street for at least a year.

City officials have asked the president to allow the District to pay the 25 percent share through "in-kind services," the chief said. Such services would include already-budgeted funds for office space and equipment.

So far, no answer. And no word is expected until the bill becomes law.

Current interpretations of the bill have local governments guessing.

There's that Catch-22 for the District when it comes to new funds for prison space: The city can't receive an additional \$10 million to build new cells until and unless the D.C. Council passes a slate of tougher sentencing laws that will send more people to jail for longer periods.

So to have the D.C. prison system's funding doubled from \$10 million to \$20 million, the lawmakers must first increase the already existing overcrowding at the D.C. Jail and the city's prison complex in Lorton, Va.

"The D.C. Department of Corrections has an immediate need to build and expand facilities with more secure cells," Margaret Moore, director of the prison system, said in a prepared statement yesterday.

The District isn't alone in its confusion over unexplained guide-



An increase of 600 officers in the District under the crime bill is "not likely," says Metropolitan Police Chief Fred Thomas.

lines and frustration with those that have been explained.

Tom Davis, the Republican chairman of the Fairfax County Board of Supervisors, said the amount of grant money that county receives "depends where the strings are attached."

But either way, Mr. Davis said of the crime bill, "Its impact would probably be minimal."

In addition to funds for police officers and prison space, the package decrees tougher federal sentences for third-time violent offenders and bans 19 assault weapons. About a third of the funding will bankroll much-debated "preventive" efforts such as midnight basketball to keep youths off the streets and social programs such as shelters for battered women.

Mr. Davis dismissed the provisions for tougher sentencing as "rhetoric." Other Republicans have balked at the money for social programs they view as pork.

But some local officials and law enforcement officers look past the flaws and award points for good intentions.

"Regardless [of the bill's faults], sitting on our laurels and doing nothing about the problem ... is not the answer," Arlington County Police Chief William Stover said.

Truce near 'n Northern Ireland and

By Martin Sieff
THE WASHINGTON TIMES

After 25 years of violence, Northern Ireland moved close to a dramatic cease-fire expected today.

The Clinton administration seeks to play a major role in the peace process, driven by pro-Irish elements in the National Security Council (NSC) who have seized the initiative on the issue from the State Department.

U.S. takes part in peace process

"I believe we are poised for peace and in a very short time we will be able to make an entirely new beginning on this island," Irish Prime Minister Albert Reynolds said yesterday.

Mr. Reynolds' comments came amid reports that the Irish Republican Army will announce a cease-

fire sometime today.

In the current peace talks, NSC planners have focused on encouraging British dialogue with the IRA and international investment in both the Protestant and Catholic communities, sources said.

But some sources said they may have underestimated the suspicion and capacity for violence in the Protestant community, which fears being stampeded into a

see IRELAND, page A13

IRELAND

From page A1

united Ireland.

U.S. and Irish officials are optimistic about prospects for peace between Northern Ireland's warring communities of 900,000 Protestants and 600,000 Catholics. But British government sources, who have seen many previous IRA cease-fires come and go, took a far more guarded view.

"The Unionist [Protestant] side [in Northern Ireland] is showing great trepidation" about the possibility of a British deal with the IRA, one British source admitted. "There could be peace on one side [with the Catholic IRA] and fear or conflict on the other. The trick is to bring both sides along," he said.

Britain has ruled out any concessions to the IRA in return for the cease-fire. Senior officials in London said only a permanent end to IRA violence would enable the group's political allies, Sinn Fein, to join talks on Northern Ireland's future.

White House officials appear eager to show active U.S. support for the Anglo-Irish peace process to woo Irish-American voters in the November congressional elections.

U.S. planning on Ireland policy is dominated by the NSC in the White House. Senior officials there are widely regarded as being more sympathetic to Irish nationalism than State Department officers, administration and other sources said.

NSC staff director Nancy Soderberg has pushed to play a key role in U.S. assessments of the Anglo-Irish peace initiative, administration sources said. If the IRA gives a positive response, Washington will respond favorably to it, they said.

"I don't think too many people will be surprised if the NSC has more impact [on U.S. policy on Ireland] than State," an administration source said. "There are some very active pro-Irish people working in the NSC."

"The NSC is very much running the policy," another source said.

Miss Soderberg, 36, is a former foreign policy adviser to Sen. Edward Kennedy, Massachusetts Democrat. Jean Kennedy Smith, the senator's sister, is the U.S. ambassador to Ireland.

Rep. Joseph Kennedy, Massachusetts Democrat and the senator's nephew, has been a leading critic of the continued British presence in Northern Ireland, where British troops seek to keep the peace between the majority Protestants, who largely want to stay out of the Irish Republic, and the minority Catholics, who generally want to join it.

In a sign of U.S. encouragement for the IRA's participation in the peace process, Joe Cahill, a 74-year-old IRA veteran of more than half a century who was once sen-

tenced to death for murdering a British policeman, was admitted to the United States yesterday.

A State Department official said Mr. Cahill's visa was valid for just one trip and that another visa had been issued to Patrick Treanor, also believed to be a republican activist.

"We hope their short visit to the United States will forward the peace process in northern Ireland," said a senior U.S. official, who spoke on the condition of anonymity.

Another senior administration official said President Clinton personally authorized the visa for Mr. Cahill, who won a reprieve in 1942 after being sentenced to death for his part in the murder of a policeman. In 1973, he was sentenced to three years in jail for gunrunning on a ship carrying arms from Libya that was intercepted off the Irish coast.

National Security Adviser Anthony Lake, Miss Soderberg and Mrs. Smith all recommended in February that the president allow Gerry Adams, leader of Sinn Fein, the political voice of the IRA, to enter the United States.

The move was opposed by Secretary of State Warren Christopher, then-Ambassador to London Raymond Seitz, CIA Director James Woolsey, FBI Director Louis Freeh and Attorney General Janet Reno. But Mr. Clinton overruled them, administration sources said.

The decision unleashed a fierce wave of anti-American sentiment in Britain, where the IRA is widely regarded as a terror organization. British newspapers claimed Miss Soderberg was the driving force behind it.

Mr. Adams was disappointed that his visit to America earlier this year did not result in a major boost in financial contributions and support for the IRA. He is ready to take the negotiating route, diplomatic sources said.

The United States is considering an aid package if the cease-fire is successful, White House Press Secretary Dee Dee Myers said in Edgartown, Mass.

"First of all, we'll wait to see what the terms of a cease-fire would be and then I think we'll determine [what steps to take]," said Miss Myers, who accompanied President Clinton on his Martha's Vineyard vacation.

In Dublin, the Irish Times, quoting U.S. sources, said Washington was considering a package of from \$120 million to \$200 million if the cease-fire led to a peace agreement.

One Protestant extremist group, the illegal Ulster Freedom Fighters, warned the cease-fire could set off a new orgy of violence. "Rather than being, in your words, 'an historic opportunity for a settlement of the Ulster conflict,' it is a recipe for civil war," it said.

• This article is based in part on wire service reports.

The Washington Times WEDNESDAY, AUGUST 31, 1994

Jelling Out the National Debt for Middle America

By Edward Walsh
Washington Post Staff Writer

PEORIA, Ill., Aug. 31—David Wilhelm, who is leaving his job as chairman of the Democratic National Committee after a string of election defeats, probably can be blamed for this, too.

It was Wilhelm who in 1992 conceived the idea of the campaign bus tour, which became the centerpiece of Bill Clinton's and Al Gore's march to the White House. The device was so successful that by 1996 there could be gridlock on the nation's highways as candidates for everything from president to sheriff take to the road in a motley assortment of vehicles.

There already has been a health reform bus this year, and now this: A white rental truck hauling a long blue trailer attached to which is a 3,300-pound digital "clock" that, when last seen, displayed the number \$4,678,061,157,557. It embarked from here today on an eight-week, 10,000-mile journey to 29 states to remind Americans of what vaguely recognize as a serious national concern.

The deficit and the national debt. Remember?

The clock belongs to the Concord Coalition, the organization founded in 1992 by former senators Warren B. Rudman (R-N.H.) and Paul E. Tsongas (D-Mass.) to pressure Congress to eliminate the annual federal budget deficit and begin to whittle away the \$4 trillion-plus national debt. Usually, the clock is kept in a house just outside Washington and hauled out for special occasions. But Washington, where the deficit is approved each year, has not been particularly receptive to the coalition's message.

"We've been trying all year from Washington to get them to pay attention and haven't been very successful," said Fred Bucher, the organization's communications director. "So we're taking the message outside."

Peoria was a natural choice as the place to begin. "We'll see how this plays in Peoria," said Bucher, invoking the old vaudeville phrase that worked its way into the political lexicon thanks to Nixon White House aide John D. Ehrlichman.

But Peoria, while symbolically perfect for a campaign meant to stir the great mass of middle American voters, also represents part of the coalition's problem in getting its message heard. Since June, about 8,000 members of the United Auto Workers here have been on strike against Caterpillar Inc., living on \$300-a-week strike benefit checks as their personal deficits have grown. The front page of today's Peoria Journal Star carried a story about a Minnesota firm that is hiring temporary workers for Caterpillar.

"The who?" said Jerry F. Brown, president of UAW Local 974, when asked about the Concord Coalition. Brown quickly agreed that the national debt is a serious problem and he was intrigued by the visual impact of the clock, which shows the debt growing by \$9,700 a second.

But he acknowledged that the national debt is not a frequent topic of conversation these days at the union's headquarters. "Our membership has its hands full," Brown said.

John Mitchell, 36, of Falls Church, Va., who usually drives a concrete truck for a District company, arrived here with the clock at 2:30 a.m. "When I get gas, I always have two or three people come over and look," he said. "They'll just kind of shake their heads. But I believe it's something we all ought to think about."

Bob Hannon, the coalition's full-time Illinois state coordinator, said one purpose of the tour was to try to create interest in the debt problem among young people "whose future we're talking about." That was one reason the clock's first stop was the

parking lot of the Bradley University bookstore. Students wandered by, gazing quizzically at the clock, some clearly not comprehending the meaning of the flashing numbers.

"It's the debt, the U.S. national debt, isn't it?" said Mick Scalf, 17, a freshman from Monmouth, Ill. Did he care about it? "I suppose," Scalf said, "but if it happens it happens. Life's tough, isn't it?"

Ayman Taha, 26, a Palestinian graduate student, did not have a clue except for a vague recollection of the 1992 presidential campaign. "So it's not Ross Perot," he said. "This stuff is always Ross Perot stuff."

In a telephone interview from his Washington law office, Rudman said he has never been overly enthusiastic about the clock. "When I was in

the Senate, I was never much for holding up charts and graphs or singing songs," he said.

But, Rudman added, the clock has proven to be an effective visual tool. "It works," he said.

If so, it is working slowly. Hannon said one consequence of the temporary decline in the deficit since the enactment of President Clinton's first budget has been the creation of "a false sense of security."

"Everyone says we don't have to worry about this issue anymore when in fact we do have to worry about it," he said.

"This is just one of a million things we have to do," Hannon added. "We have to chip away at it. It's an overwhelming task, but it's do this or do what?"

Court Blocks Discharge of Sailor

By John F. Harris
Washington Post Staff Writer

A federal appeals court yesterday ruled the military cannot discharge sailor Keith Meinhold solely for announcing he is a homosexual, a decision that gay rights advocates say spells legal trouble for the Clinton administration's new "don't-ask, don't-tell" policy.

Meinhold told a national news broadcast two years ago, "Yes, I am in fact gay," but the 9th U.S. Circuit Court of Appeals in San Francisco ruled this statement alone does not prove he acts on his desires and struck down the Navy's decision to throw him out of the service.

The Navy tried to discharge Meinhold under the old ban on homosexuals, but his case has implications for the new policy, which allows gays to serve as long as they keep their orientation private and do not act upon it.

"On the merits, we defer to the Navy's judgment that . . . people who engage in homosexual conduct or who demonstrate a propensity to do so do not belong in uniform," the appeals court said. But the judges ruled the Navy was wrong to "discharge Meinhold solely because of a statement or orientation devoid of any concrete, expressed desire or intent to act on his homosexual propensity."

U.S. District Judge Terry J. Hatter in Los Angeles earlier had struck down not only Meinhold's dismissal but—in a decision that drew nationwide attention—issued an injunction prohibiting the military from discharging anybody simply for saying he or she is gay. The Pentagon quickly asked and received from the Supreme Court a temporary stay of Hatter's broader ruling until the appeals court could issue an opinion. Yesterday, the appeals court said Hatter went too far in applying the case to the entire military. The court noted Meinhold had sued only on his own behalf and had not filed a class-action suit on behalf of all homosexual service members.

Even this narrower ruling, however, was celebrated by gay advocates.

"The new [don't-ask, don't-tell] pol-

Merely for Saying He Is Gay

icy allows people to be thrown out simply if they say they're gay," said Dixon Osburn of the Servicemember's Legal Defense Network. "That wouldn't fly under this."

Justice Department and Pentagon spokesmen declined comment on the ruling, saying officials were still reviewing it.

Meinhold, a 32-year-old petty officer who operates airborne sonar equipment, said he has not experienced hostility from fellow sailors after they learned he is gay, a fact he says argues against the military's position that mixing heterosexuals and homosexuals would be bad for morale.

"I've been treated very well," he said in a telephone interview yesterday. "My experience has been that there are no problems with morale and unit cohesion."

Ultimately, people on both sides of the issue say the fate of Clinton's compromise policy—crafted after he backed off a campaign pledge to remove the ban on gays in the military—is going to remain uncertain until the Supreme Court rules.

Several other high-profile cases are under review in the 9th Circuit. One is the case of Margarethe Cammermeyer, an Army nurse fired by the Washington National Guard after acknowledging she is a lesbian. A federal judge reinstated her, and the Justice Department plans to appeal.

The same issue decided by the appeals court yesterday was at the heart of another case last month. Lt. Tracy Thorne, a Navy aviator, was recommended for dismissal under the new policy in July. Navy lawyers noted he had announced his homosexuality on ABC's "Nightline" but they did not produce other evidence. Thorne is appealing.

THURSDAY, SEPTEMBER 1, 1994 THE WASHINGTON POST

For Crime Bill Critics, Hill Provides Startling Answer

Programs Funded for Coming Fiscal Year

By Kenneth J. Cooper
Washington Post Staff Writer

For critics who doubt a \$30 billion crime bill will be fully funded, Congress has delivered a surprising answer, at least for the coming fiscal year.

The appropriations bill for the Commerce, Justice and State departments President Clinton signed last week contains more than \$2.3 billion for crime bill programs in fiscal 1995—nearly as much as was authorized in the omnibus legislation. Most of the rest of the 1995 funding, less than \$100 million, could come from two appropriations bills still before Congress.

Almost all the \$2.345 billion in the Commerce, Justice and State appropriations bill is devoted to local police, state prisons and law enforcement. Most of the controversial prevention programs are not eligible for funding until fiscal 1996.

Clinton, who plans to sign the crime bill soon, said the appropriations bill "marks a bold first step in our effort to combat violent crime in America."

The crime bill authorizes \$30 billion over six years to come out of a new trust fund supported by savings from mandated cuts in federal personnel. Congressional critics have doubted personnel savings would ever reach that level. It does not matter, a House Appropriations Committee aide said. "Whether those monies material-

ize or not," funds "are to be appropriated out of the trust fund," the aide said.

By far, the biggest crime bill appropriation for the next fiscal year is \$1.3 billion for local governments to hire an estimated 100,000 additional police officers.

Justice Department officials are still planning the implementation of the crime bill and could not say when the grants would become available. About 150 federal employees will be needed to manage the new program.

Another large chunk of crime bill funds is designated for immigration control activities, including the first federal reimbursement of state costs for imprisoning illegal immigrants convicted of crimes. A total of \$130 million in fiscal 1995 is available for such reimbursements in response to budgetary pressures on California, Texas and Florida.

An additional \$284 million is intended to put 950 more Border Patrol agents on the nation's borders and to speed deportations of illegal immigrants as well as unsuccessful applicants for refugee status.

Other crime bill programs supported with Justice Department appropriations for fiscal 1995 are:

- \$450 million for crime-fighting grants to law enforcement agencies, primarily for investigative task forces but also for crime prevention activities such as drug abuse education.

- \$100 million for states to upgrade crime records on individuals and for the FBI to computerize national background checks required under the Brady handgun control law.

- \$29 million for states to establish specialized drug courts that closely monitor first-time nonviolent offenders and provide access to treatment.

- \$26 million for states to strengthen prosecutions of sexual assaults and acts of domestic violence against women.

- \$25 million for states to construct military-style boot camps for young offenders.

- \$1.5 million to establish an Ounce of Prevention Council, which is to fund and coordinate recreation, drug treatment and employment programs designed to address root causes of crime. That is the only crime bill program specifically aimed at prevention that the appropriations bill funds. Some Republicans also regard drug courts as a prevention effort.

In its present form, the appropriations bill for the Labor and Health and Human Services departments contains an additional \$37 million for after-school and summer programs for youth and \$1 million for a domestic violence hot line. Another \$9 million authorized for an anti-gang program of the Bureau of Alcohol, Tobacco and Firearms could come out of funds for Treasury, Postal Service and general government.

If all those programs are fully funded, less than \$50 million of \$2.423 billion authorized for crime bill programs would be devoted to prevention efforts in fiscal 1995. Supporters of prevention programs have worried that future appropriations will fall short of authorized levels and have won assurances the Clinton administration will fight for the funds.

Religious Right Blamed for School Censorship

Associated Press

A liberal advocacy group yesterday accused the religious right of stepping up its challenges to library books, classroom materials and a range of school programs and policies.

"We are witnessing a sophisticated, no-holds-barred assault on the public school, a cornerstone of every American community," said Arthur J. Kropp, president of People for the American Way.

Kropp released a report documenting 462 such challenges in 46 states during the 1993-94 school year. A year earlier, the group found 347 attempts at censorship in 44 states.

The 1993-94 incidents ranged from trying to remove books from school libraries to pulling stories from student newspapers to firing educators.

"From school boards to the halls of Congress, the public schools are becoming the focus of political opportunism—particularly by right-wing political leaders," Kropp said in a statement.

But Tom Minnery, a vice president of the conservative Focus on the Family, said conservative Christian parents who object to certain school materials are not censors.

"These are simply concerned parents who want what's best for their children," Minnery's statement said.

And the Family Research Council, another conservative organization, accused People for the American Way of trying to scare the public "with stories of renegade parents 'censoring' innocent children," said Kristi Hamrick, the group's spokeswoman.

People for the American Way found that 375 challenges involved direct attempts to remove or restrict educational materials. Of those, 46 percent were aimed at books and other materials in school libraries.

"The library censorship took a particularly insidious turn," said Deanna Duby, the group's director of education policy. "We are seeing a cluster of incidents in which complaints led to the reclassification of books. This is a de facto form of censorship."

Nearly one-third of the challenges involved assertions that the material's treatment of sexuality was offensive.

Challenges also came from the political left, the report noted. Six percent of the incidents involved calls for removing material on grounds of racial or ethnic insensitivity.

Crime bill gives border control a big lift

State gets much of what it wanted

By MARCUS STERN
Copley News Service

WASHINGTON — Passage of the crime bill last week assured President Clinton of most of the major immigration initiatives he proposed earlier this year — many of which will have impact along San Diego's border with Mexico.

But while Clinton will get almost five times as many Border Patrol agents as he wanted for the fiscal year that begins Oct. 1, Congress cut his proposed reimbursement to states for the cost of jailing criminal immigrants.

It also trimmed his request to overhaul the political asylum system and to encourage legal immigrants to become citizens. Money was dropped for building two detention centers, including one slated for San Diego.

But much more would have been lost if the crime bill had fallen.

Almost 10 percent of the six-year, \$30.2 billion bill is earmarked for immigration-related expenditures. The measure includes \$1 billion for programs and \$1.8 billion to reimburse states for the cost of jailing criminal immigrants.

The impact should be especially dramatic in the coming year. The crime bill's entire first-year payout is \$2.4 billion. After subtracting \$1.3 billion for community policing, almost 40 percent of the rest, \$414 million, is for immigration programs.

"This is the so-called 'pork' in the crime bill," said Rep. Lynn Schenk, D-San Diego, referring to opponents' charges during the rancorous congressional debate that the legislation was rife with social programs masquerading as crime prevention.

With \$414 million in the crime bill and \$66 million from the fiscal 1995 funding bill for the Justice

Crime bill

Clinton; state mostly satisfied with result

Continued from A-1

Department, the administration got much of what it wanted for the coming year — more than it bargained for in some cases.

Congress gave the Immigration and Naturalization Service (INS) 700 Border Patrol agents, when INS Commissioner Doris Meissner wanted only 150. Funds for the additional agents came at the expense of other proposals, such as reimbursement to the states, asylum overhaul and naturalization programs.

Nonetheless, administration officials appeared satisfied.

"Commissioner Meissner feels like this really shows a commitment to reforming our immigration system," said Therese McAuliffe, assistant commissioner for budgetary matters.

California lawmakers also viewed the outcome as a victory.

"These bills deliver what the people of San Diego want: Border Patrol agents, inspectors, equipment and a commuter lane," said Schenk.

The massive bill appropriating money for fiscal year 1995 for the Commerce, State and Justice departments, which Clinton signed last week, authorized for the first time an experimental commuter lane along the southwest border. Backers hope it will cut down on border-crossing delays without compromising security.

Also, the bill adds 310 new immigration inspectors to staff the busy ports of entry in an effort to speed border crossing. The inspectors will be deployed according to the volume of border traffic. Many will go to San Diego, home of the busi-

est border crossing in the Southwest.

The bill offers hope for critics of the controversial immigration highway checkpoints near Temecula and San Clemente by allowing them to be closed if they prove unnecessary in the future.

Critics say the inland checkpoints are ineffective and inconvenient. Proponents say they're the last line of defense against illegal immigration.

Money to beef up investigations of employers who knowingly hire illegal immigrants and to encourage naturalization also was included in the package.

In the end, Congress provided much of what the administration sought in a plan crafted by Attorney General Janet Reno and Meissner earlier this year.

After prodding the administration to bolster its immigration enforcement proposals, Democratic Sen. Dianne Feinstein used her seats on the Judiciary and Appropriations committees to lobby for many of them.

She and other Californians supported the decision to boost the Border Patrol by 700 next year. Rep. Duncan Hunter, R-El Cajon, played a key role by offering an amendment for an additional 1,000 agents that sailed through the House. Later, a House-Senate conference trimmed it to 700.

When many of the administration's immigration proposals were dropped from the crime bill at one point, Schenk was one of the first to notice, and she promptly organized the successful effort to get them restored.

But there were losses as well.

Clinton's request for \$350 million to reimburse states like California for the cost of incarcerating criminal immigrants was slashed to \$130 million for next year. Also, \$40 million for two immigrant detention centers was dropped.

And one of Meissner's personal

SAN DIEGO UNION-TRIBUNE
8/30/94

Welfare compromise

Feds should approve state plan on cuts

Despite all the rhetoric coming from the White House on welfare reform, President Clinton has failed to deliver on his often-repeated campaign promise to end welfare as we know it.

The real action has been occurring in the states, where several governors are working hard to eliminate the work disincentives embedded in the welfare system. And their chances of succeeding would be greatly improved with a little help from the Clinton administration.

California is a prime example. For three years, Republican Gov. Pete Wilson and the Democratic-controlled Legislature have been trying to craft a welfare policy that would help make welfare recipients more independent, while also easing the state's ever-increasing fiscal burden.

The first wave of reform came last fall when welfare mothers and fathers in California were given greater incentives to get and keep jobs. The state also imposed a series of rewards and punishments to encourage pregnant teen-age girls to stay in school and get high school diplomas.

But state efforts to reduce welfare benefits for able-bodied recipients and provide employment incentives have been derailed in federal court.

Last month, the 9th U.S. Circuit Court of Appeals in San Francisco rejected California's sensible attempt to rein in soaring welfare costs. Two members of the three-judge panel concluded that California's federally approved plan failed to take into account the hardship it might cause poor families. The court, moreover, held that the opposing side was not

given a fair hearing before Bush administration officials.

Neither conclusion is valid.

California's welfare reforms evolved in Sacramento over a period of two years, during which Republican and Democratic lawmakers considered the impact on recipients. They finally resolved their differences in order to reach an agreement.

Like any compromise, the final product is less than what each side wanted. Nevertheless, it was a good-faith effort on both sides to control welfare costs and help people become more self-sufficient.

Opponents of the state plan received a fair hearing from both the Bush administration and the Clinton administration, which essentially signed off on the reforms. So what is the problem?

Judicial activism, pure and simple. Judge Alfred Goodwin of the 9th Circuit demonstrated this in his written opinion when he stated his philosophical opposition to the welfare cuts.

What is the solution? It turns out that Health and Human Services Secretary Donna Shalala could resolve the issue by approving the California cuts. But the federal government is slow to move on such issues, and both the president and Shalala have been maddeningly reluctant to deal with the welfare problem.

Gov. Wilson is doing what he can to get them to move. To address the court's concerns, he has offered to exempt from the proposed cuts disabled welfare recipients and specific categories of children.

Under Wilson's two-tiered approach, California could get on with its goal of getting people to lead productive lives instead of being trapped in the ever-deepening cycle of welfare dependency. Shalala should sign off on it.

SAN DIEGO UNION-TRIBUNE

8/30/94

Longtime Friends Panetta and Coelho Harmonize Effort to Revive Flagging Clinton Presidency

By MICHAEL K. FRISBY

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON — As a Republican Senate staffer in the 1960s, Leon Panetta often consulted with a savvy Democratic House aide.

Today, Mr. Panetta is a Democrat and White House chief of staff — and he still dials up Tony Coelho for help.

The two men, now striving jointly to revive the struggling Clinton presidency, are themselves an unusual story. They come from adjacent congressional districts in central California. Both are working-class ethnics who rose to be star members of Congress, but never developed the kind of jealousy or rivalry that sours political relationships.



Leon Panetta

"I think both of us understand each other," says Mr. Panetta, who has recruited Mr. Coelho, now an investment banker, to be an adviser to the Democratic National Committee and the White House. "When we set a goal we both work at it, both of us are on the same team."

For much of their careers, Mr. Coelho captured the spotlight, as he climbed to become Democratic whip in the House and Capitol Hill's dominant voice on Democratic politics. But he resigned under an ethical cloud that arose in 1984 over some junk-bond purchases, and now it is Mr. Panetta who occupies a seat in Washington's highest echelon.

Indeed, Mr. Panetta now holds the one position that Mr. Coelho has told friends would lure him out of his current lucrative Wall Street job back into full-time political work.

New Roles Are Central

Yet the rhythm to their alliance remains as smooth as when Mr. Panetta was an usher in Mr. Coelho's wedding — and their performance in their new roles is central to the fate of the Clinton presidency.

Not everyone is optimistic. Messrs. Panetta and Coelho were hardly universally popular on Capitol Hill. And skeptics suggest that, by leaning so heavily on two longtime House Democrats, President Clinton won't seem the agent of change that voters want, but rather will be too closely tied to the congressional establishment that voters see as part of Washington's problem.

Still, the experience of Mr. Panetta and Mr. Coelho already has been helpful. Without Mr. Panetta's work, for instance, Mr. Clinton probably wouldn't have won congressional passage of the big crime bill that is so important to his presidency. That bill barely survived in the House, thanks to some crucial moderate Republican votes Mr. Panetta helped win. He shuttled between Republicans and Democrats, collaring GOP members just as he had in his former job as House Budget Committee chairman.

'Totally Overblown'

For his part, Mr. Coelho has been in the White House trenches plotting strategy. But above all, Mr. Panetta has recruited him to tackle a larger task: to lend some credibility to the beleaguered Democratic National Committee, which Mr. Coelho will serve as both a strategist and high-profile spokesman. The hope is that he will add some punch to the party's political message before the fall congressional elections. With an appearance on a Sunday morning talk show over the weekend, Mr. Coelho made a debut of sorts as a principal Democratic spokesman.

Mr. Coelho swears that he won't alter a schedule in which he devotes most of his time to his job as an investment banker at Wertheim, Schroder & Co. and spends only one day a week in Washington. "It is totally, totally overblown," he insists. "I'm a nonpaid adviser." Mr. Panetta doesn't buy it; he recalls his friend's passion for battle and expects that once he picks up the political scent again he'll be "150%" immersed.

This is old hat for Mr. Panetta and Mr. Coelho, whose lives seem permanently intertwined. As a youth, Mr. Coelho, who is of Portuguese descent, awoke at 2:30 a.m. to milk cows on a Dos Palos, Calif., farm. A few hundred miles away, Mr. Panetta, an Italian American, picked walnuts in Carmel Valley.

Once they reached Washington some three decades ago, Mr. Coelho was an aide

to Democratic Rep. Bernie Sisk and Mr. Panetta was on the staff of GOP Sen. Tom Kuchel. They often worked on California agricultural issues together, sometimes quietly plotting to make sure immigration reform didn't strip California growers of inexpensive foreign labor. In the 1970s, after being fired from a Nixon administration job, Mr. Panetta switched parties, and both became Democratic congressmen.

On Capitol Hill, they chose different paths. Mr. Panetta mastered federal spending, eventually chairing the budget committee. Mr. Coelho made his name in politics and fund raising. He revived the Democratic Congressional Campaign Committee and became the majority whip, the third-highest ranking Democrat. He energized the party against the Reagan revolution and helped keep the House in Democratic control. Colleagues marvel at the index cards he kept listing everything from legislators' birthdays and anniversaries to their pet projects.

The pair were "New Democrats," staking out fresh themes for the party long before the phrase was chic. Mr. Panetta labored to reduce federal deficits at a time when most Democrats advocated social spending. A classical pianist, he would play in the wee hours of the morning at an apartment he shared with other congressmen. Other times, he'd "come home at 3 a.m. and leave for work before dawn," recalls California Rep. George Miller.



Tony Coelho

Challenged the Speaker

Mr. Coelho, meanwhile, built ties between Democrats and business interests. Largely because of him, business contributions leaped to 52% of the funds collected by Democratic incumbents in 1985, up from 38% six years earlier. Some critics say he was overzealous, tying Democrats to unsavory highfliers from the savings and loan industry, for example.

Both began their congressional careers as Young Turks, challenging the leadership of House Speaker Thomas P. O'Neill

Jr., and both felt his wrath. When Mr. Panetta first sought to be budget chairman in 1984, the speaker nixed it, anointing Pennsylvania Rep. William Gray instead.

The speaker also saw Mr. Coelho as a threat. But paradoxically, it was Mr. Coelho who persuaded Mr. O'Neill to set out to counter Republican attacks being mounted on him in the early 1980s. "Speaker," Mr. Coelho said one day in 1981, "You can't let the Republicans do what they are doing to you." Mr. O'Neill countered, "Tony, you can't change this old man." Mr. Coelho persisted: "I don't want to change the old man. What I want to do is to have the American people know who the old man really is, not the way the Republicans are painting him." Mr. Coelho persuaded the speaker to hire one of his own aides, Chris Matthews, who became one of Mr. O'Neill's top advisers.

But the two Californians also attracted some harsh critiques. Mr. Panetta was often seen as too accommodating to the Republicans. Mr. Coelho was pegged as too ambitious, and he wasn't attached to many causes beyond rights for the disabled. He has epilepsy, and overcame a bout of depression at age 22 when, because of the epilepsy, he both lost his dream of becoming a priest and was shunned by his own family.

Despite his partisan zeal, Mr. Coelho has befriended some Republicans, including Senate Minority Leader Bob Dole. He once even hosted a lunch honoring Mr. Dole and got President Clinton to drop by as a surprise guest, a move he hoped would warm the chill between the two men.

Steven Kotler, the president of Mr. Coelho's firm of Wertheim Schroder and a Republican, applauds Mr. Clinton for recruiting Mr. Panetta and Mr. Coelho, two people the president doesn't really know well. "If they had Tony Coelho two years ago, Bill Clinton wouldn't be in the problems he has now," Mr. Kotler says.

RTC Is Suing to Force Former Law Firm Of Hillary Clinton to Divulge Client List

By ELLEN JOAN POLLOCK
And ALBERT R. KARR

Staff Reporters of THE WALL STREET JOURNAL

The Resolution Trust Corp. asked a federal judge to compel the Rose Law Firm to turn over a list of its clients going back nine years.

The thrift agency's suit, filed in Washington, D.C., is the latest maneuver in an escalating dispute over the scope of the RTC's investigation into whether the Little Rock, Ark., firm had conflicts of interest when it represented the agency.

The inquiry is politically charged because of allegations that the Rose Law Firm, where Hillary Rodham Clinton was once a partner, failed to disclose that it had done work for Madison Guaranty Savings & Loan when it agreed to represent the RTC in a suit against Madison's former accounting firm. The failed thrift was owned by the Clintons' partner in their Whitewater real estate investment. The RTC also is examining former Rose partner Webster Hubbell's role in that litigation because his father-in-law worked for Madison and had sued the thrift.

Potential Courses of Action

The RTC's inspector general launched the investigation at the behest of the Senate Banking Committee. But the inspector general could recommend that the government pursue a variety of civil remedies or even a criminal case against Rose, according to the court papers.

The agency also is auditing the firm's legal bills. In its suit, the RTC said the Rose firm has billed the RTC more than \$2 million since 1989. The firm still is doing some work on RTC cases, according to Ronald Clark, the firm's managing partner.

For almost five months, the Rose firm has defied an RTC subpoena asking for the names of clients represented by the firm from 1985 until last April. The firm sued the agency, but the suit was dismissed last month by a federal judge in Little Rock on procedural grounds.

Mr. Clark argues that the subpoena is too broad and the information requested "not relevant to begin with." The firm also fears that the RTC wouldn't safeguard client confidences, "because they leak," Mr. Clark said.

"During settlement discussions, the RTC sought to assure the Rose firm that it would treat client information as confidential, according to Patricia M. Black, counsel to the RTC's inspector general. But the RTC refused to scale back the scope of its subpoena. 'We didn't really see an alternative,' said Ms. Black. 'We never did see how we could check for conflicts of interest if we didn't know who their clients were.'"

Venue May Be Issue

U.S. District Judge Paul L. Friedman scheduled a hearing for Oct. 20. Participants in the dispute think the parties probably will skirmish over whether the suit belongs in federal court in Washington or Arkansas, where the Rose firm might get a more sympathetic hearing. When U.S. District Court Judge Henry Wood in Arkansas dismissed the Rose firm's suit earlier this month, he said he had "serious

misgivings about the scope" of the subpoena.

Separately, the RTC said its inspector general would look into some remaining issues involving the work performance of three investigators in the agency's Kansas City, Mo., office. The investigators had been placed on short-term administrative leave two weeks ago. They returned to their jobs yesterday.

The RTC has said the suspensions concern compliance with RTC "policies and procedures." Investigator Jean Lewis taped a conversation with April Breslaw, an RTC headquarters attorney, without Ms. Breslaw's knowledge, when Ms. Breslaw visited the Kansas City office in February.

'Dim View' of Probe

Earlier, the three investigators, including Jean Lewis, had put together a package of criminal referrals to the Justice Department involving possible diversion of Madison Guaranty funds to Whitewater, to other ventures or to Bill Clinton's gubernatorial campaign.

The other two investigators are Richard Iorio and Lee Ausen, supervisors in the Kansas City office. Lawyers for Ms. Lewis and Mr. Iorio have said they were warned early this year that some RTC managers would take a "dim view" of the Madison Guaranty investigation.

An RTC spokesman said that the agency's inspector general will address some matters that were unresolved after the initial investigation by the RTC personnel office. He said the decision to involve the inspector general wasn't in response to the three investigators' request that the inspector general look into the matter or to congressional inquiries about the suspensions.

Ms. Lewis's attorney said recently that Ms. Lewis had inadvertently turned on the tape recorder, but left it on when she discovered it was running, because of the tack the conversation was taking. Ms. Breslaw has been quoted as saying in that taped discourse that high RTC officials would like to see Whitewater absolved of causing any Madison losses. But Ms. Breslaw has testified that they would like that outcome only if it occurred honestly, and a transcript of the conversation undercuts the notion that she was trying to pressure Ms. Lewis into that kind of result.

Clint on loans for '90 Gubernatorial Race Leave Tangled Trail for Whitewater Probe

Repayment of \$180,000 Not Documented in Subpoenaed Records

By Marilyn W. Thompson
Washington Post Staff Writer

Just before his 1990 election to a fifth term as Arkansas governor, Bill Clinton went into a last-minute panic. His GOP rival, though trailing substantially in the polls, had mounted a final assault on Clinton with negative television advertisements portraying the incumbent as a fiscally irresponsible "raise-and-spend" Democrat.

Nervous that this could mean danger at the polls, Clinton worked round-the-clock in the final hours before the November election to saturate the airwaves with his own commercials. To finance the blitz, he used a quick money-raising technique that he had used before in his political life: He took out unsecured personal loans from a small Arkansas bank. The institution was owned by a prominent Democratic Party ally who was named to a powerful state post soon after Clinton's reelection.

Clinton's loans from the Bank of Perry County—which totaled \$180,000 during the course of the 1990 primary and general elections—left a tangled trail of campaign finances that federal investigators are now sorting out as part of the wide-ranging Whitewater probe. The loans' repayment is not documented in campaign finance records that have been subpoenaed by the independent counsel's office.

Senior presidential adviser Bruce Lindsey, the treasurer of Clinton's 1990 campaign, acknowledged in an interview that incomplete campaign reporting makes it difficult to account for the debt's repayment and may create questions about how the campaign handled approximately \$1.5 million raised for the election. But he said he made every effort to comply with state election laws that were then undergoing major changes as a result of a ballot initiative passed by voters that fall.

One area that federal investigators are examining is whether the Bank of Perry County, which handled the campaign's account, complied with federal tax laws that require the reporting of large cash withdrawals. The campaign made several such cash withdrawals before the primary and general elections that year that it has said were

mainly unclear how the regulated financial institutions—which have strict guidelines for granting credit to individual borrowers—could have made the unsecured personal loans at all, since Clinton at the time made only \$35,000 a year as governor. The widening Whitewater investigation has included these loans and their repayments, which are not easily resolved by public records that omit key details of the transactions.

Clinton's loans from banks and savings and loans regulated by his administration were often followed by his appointment of bank officials to important state jobs. After the 1990 loans, Bank of Perry County owner Herbie Branscum—a former state Democratic Party chairman and large Clinton donor—was named to the powerful post of state highway commissioner. After the 1990 election, Clinton reappointed Robert Hill, a Bank of Perry County board member, to the state banking board.

Investigators already have been dissecting the repayment of a \$50,000 personal loan Clinton took out in 1984 to finance that year's gubernatorial campaign. About \$30,000 of that debt was paid off through a fund-raiser hosted by James B. McDougal, the governor's former economic development adviser who was a partner of the Clintons in the Whitewater real estate venture. The fund-raiser was held at Madison Guaranty, the S&L that McDougal owned at that time. Investigators are looking into whether money donated to Clinton's campaign in the form of cashier's checks may have been illegally diverted from Madison accounts.

Clinton and his political associates also have not fully accounted for a series of personal loans totaling as much as \$400,000 that he took out in the mid-to-late 1980s to pay for campaigns to promote his legislative initiatives. The loans from the Bank of Cherry Valley, owned by another state official, were paid off through fund-raising appeals to special interest groups. The contributions far exceeded what the companies could have legally given to Clinton's political campaigns. Some of the contributors now say that while they willingly gave to the legislative efforts, they had no idea that Clinton had taken out personal loans to pay for the campaigns.

Muddled Statements

The 1990 campaign offers another example of Clinton's ardent appeals for money followed by confused, incomplete public reporting of campaign debt and its eventual repayment. The picture is even more muddled by Clinton's and Lindsey's statements to supporters and the press at the time.

On the weekend before the November 1990 election, for example, Clinton personally called a small group of businessmen linked to the Stephens

Inc. investment firm and asked them to help raise money to pay for the costly television ad campaign.

Records show that Clinton already had taken out a personal \$80,000 loan from the Bank of Perry County in May 1990. The last two loans were hastily arranged in amounts of \$50,000 each in late October and early November. Hill said that he and other bank officials could not discuss details of Clinton's personal banking transactions.

Lindsey said Clinton did not seek his advice on whether he should incur a large, last-minute debt but he assumed that Clinton could carry it because of his wife's substantial income from a Little Rock law firm. "We did not have long philosophical discussions about whether he should borrow it," Lindsey said. But he said he agreed that a lie by GOP opponent Sheffield Nelson had to be countered and "we did not have money to do a large media buy."

After cutting a radio commercial at 3 a.m. and a television spot at 10 a.m. on Sunday, volunteers rushed the spots to stations all over the state, Lindsey said. Clinton, who was leading handily in preelection polls, won the race with 58 percent of the vote.

Soon after that, Lindsey told reporters that the general election campaign had ended \$130,000 in debt and that efforts would begin to pay off the \$100,000 Clinton loan. The \$80,000 primary debt was never mentioned. Clinton, who had already appealed to big-money contributors for help, sent out a letter to supporters asking for contributions to "help in retiring this substantial debt."

Working against Clinton's fund-raising was the new package of campaign finance reforms approved on the November 1990 ballot. Some of its most important provisions went into effect the day after the election, and it restricted when candidates could raise money and for what purposes.

The thrust of the reforms was to make candidates more publicly accountable for their campaign fund-raising. Voters also sought to address an age-old Arkansas problem of candidates' accumulating large campaign war chests that were converted to personal uses. The new law strictly limited what candidates could do with surplus funds, requiring that they either give them back to donors or contribute them to the state treasury or a political party.

The law did make two exceptions. It allowed candidates to use some excess campaign money after the November election to set up a special account for the candidate in an amount equal to the salary of the office being sought. It also allowed candidates to keep enough surplus funds to repay loans taken out for the campaign.

Far from declaring a surplus, the Clinton campaign's final election report showed the same sizable debt that Lindsey was describing to re-

CLINTON, From A1

to pay for get-out-the-vote efforts. The New York Times reported that special prosecutor Robert B. Fiske Jr. was looking into those transactions before a three-judge panel replaced him with Kenneth Starr.

Arkansas candidates are allowed under state law to use personal loans to finance their political campaigns. Clinton's loans for political purposes amounted to hundreds of thousands of dollars from 1978 to 1990. It re-

porters. Yet sometime in early 1991, with Clinton's bank debt coming due in May, Lindsey said the campaign put \$35,000—the amount of the governor's salary—into a special account for the candidate at the Bank of Perry County.

The account's creation and withdrawals from it are not reflected in Clinton's campaign finance reports. Lindsey said neither Bill nor Hillary Clinton was a signatory on the account, which he said was used for "political purposes" and still has \$29,000 in it.

Account Questioned

Two Arkansas experts in campaign finance laws—the lawyer who wrote the 1990 reforms and the first state ethics commission director—said last week that the law clearly does not allow such special accounts to be set up unless a campaign has surplus funds on the date of the general election.

Scott Trotter, director of the Arkansas watchdog group Common Cause, who helped draft the 1990 reforms, said that the law never intended for an indebted candidate to set up such an account and that Clinton would not qualify for it if he was declaring a campaign debt. Jack Kearney, who interpreted election laws for the state attorney general before becoming the first director of the ethics commission in May 1991, agreed that "the only way you could put money into this fund was to have surplus funds" on the date of the election.

Trotter noted that some 1990 candidates, confused by provisions of the new law, sought legal guidance from the state attorney general's office and later from the ethics commission.

But Lindsey said the campaign determined on its own that it could set aside the \$35,000 in funds as they became available. He said Clinton, who as a state official could have asked for the attorney general's guidance, did not seek a formal opinion on the account's establishment or on how new reporting requirements should be applied to his election debt.

Clinton's use of \$6,000 from the account since 1991 has gone for expenses that appear more related to his presidential race than to the governorship. Lindsey (who is a signatory on the account along with Gloria Cabe, the 1990 campaign manager) said some money was used for travel expenses in early 1991 when Clinton came to Washington for a meeting of

prospective presidential candidates at the Democratic National Committee. Another withdrawal paid for a reception Clinton hosted for Arkansas supporters after his presidential victory.

But Lindsey said he would not classify these as exploratory or presidential campaign expenses that would more properly be reported to and accounted for under federal election laws. There is no mention of the expenditures in state campaign finance statements.

The 1990 gubernatorial campaign continued to raise money after the election. After Clinton's personal appeals, it reported about \$92,000 in new contributions in a January 1991 report as the legislative session began. Heavy contributors during that period were Branscum, members of his family and other officials of the Bank of Perry County. The \$100,000 in loans came due in May 1991. But Lindsey said the bank granted several extensions at prevailing interest rates. One was granted during the period when another bank in which Branscum and Hill were stockholders won from the state Banking Commission a controversial approval to open its doors (Hill recused himself from the vote).

The Clinton campaign's first priority was to pay off the \$80,000 primary debt. Lindsey said as contributions were received after the general election, some of them were allocated to retiring the primary election obligations. He said the debt was paid down in large installments and was paid off by October 1991, although the campaign reports do not reflect this.

Because of the new campaign reporting laws, Lindsey said it "was not clear to us that we had to file" a report showing the retirement of the primary debt. Again, he said, the campaign did not seek a legal opinion on the matter. "If the Arkansas law did not require a clear accounting, that's a problem with the Arkansas law," but not with the campaign, he said.

Even as Clinton approached the 1992 presidential election, the remaining \$100,000 in bank debt continued to trail him. He failed to report it in his early financial disclosures to the Federal Election Commission, but later—after a reporter questioned the campaign about the omission—his report was amended to reflect the personal obligation.

In October, key figures in the Democratic presidential campaign decided the time was right to put to rest the gubernatorial debt. According to White House aide John Podesta, campaign chief of staff Eli Segal directed the fund-raising campaign.

At that point, Clinton and other presidential candidates were limited in what they could accept from contributors because they were receiving federal funds for their general election campaigns. Corporate contributions were forbidden under federal election laws.

Appealing largely to small businesses and investment and lobbying interests, the presidential fund-raisers by October 1992 came up with exactly \$104,275—the amount of the debt plus interest, campaign records show.

The corporate contributors included small companies like World-Wide Travel Services of Little Rock, a firm that the Clinton White House installed in its travel office after the controversial firings of longtime travel employees. Individual contributors of \$1,000 included then-soon-to-be-named White House counsel Bernard Nussbaum of New York and Larry Lawrence, a California Clinton backer who won appointment as Clinton's ambassador to Switzerland.

Staff researchers Lucy Shackelford and Margot Williams contributed to this report.

212

As Labor Day marks the traditional start of a fall political campaign, Whitewater hangs in a curious balance. Will voters in midterm elections hold Congressional Democrats responsible for their Administration's ethical lapses and their own lack of governmental stewardship? Or will the attempt at suppression, obviously under way on multiple fronts, succeed in covering up the issue up at least through November 8?

The effort to bury Whitewater through the election was most obvious in the otherwise hilarious attacks on Kenneth Starr's appointment as special counsel. When the object of an investigation attacks the investigator, the ordinary citizen must figure the stars have moved into their proper places. But to hear Presidential mouthpiece Bob Bennett tell it, a special counsel probing White House conduct should be someone the President will like. Mr. Bennett, in charge of the Paula Corbin Jones case, complained that Mr. Starr actually expressed the view that a President is not above the law. And a group of incumbent Congressmen complained that Judge David Sentelle actually had lunch with two U.S. Senators, obvious subversives.

Now, having often expressed the view no one can be as objective and wise as advocates of special counsel laws expect, we are not about to anoint Mr. Starr as above reproach. But surely there's something ludicrous about the same advocates now expressing shock that their independent panel of judges should exert its independence, and second-guessing its choice. What is fundamentally going on here is an effort to intimidate Mr. Starr, at least enough to avoid any pre-election indictments.

This effort may succeed. Mr. Starr is in fact anything but a boat-rocker; but rather an establishment figure attuned to the good graces of the Beltway bar and especially the press that covers it. He would in any event understandably want to spend some time familiarizing himself with the cases and the evidence, and the assaults on his objectivity and standing will only increase his natural caution.

The special counsel does however face a dilemma: Our Ellen Joan Pollock reported last week on two possible indictment targets developed by Robert Fiske. One was Webster Hubbell, resigned honcho at the Justice Department; this would be so politically explosive that postponement would be tempting. The other, however, is current Arkansas Governor Jim Guy Tucker, whose deep involvement with Madison Guaranty Savings & Loan was recently sketched in a series in the Arkansas Democrat-Gazette. Governor Tucker is running for re-election this fall, and Mr. Starr owes the voters of Arkansas a decision before they cast their ballots.



Kenneth Starr

Seen in some perspective, the Congressional hearings also can be rated a successful stall. Roger Altman is of course well known along Wall Street, and the gang at Harry's watering hole now considers him a stand-up guy. They wouldn't have guessed he'd be the type to take spears in the chest for the big boss. In this perspective, he compares especially well with his immediate superior, Treasury Secretary Lloyd Bentsen, whose success was not taking responsibility for either defending or firing aides under fire.

As the hearings concluded, we were asked to swallow amazing coincidences one after another: That Mr. Altman changed his mind about recusing himself although no one pressured him to do so. That only by sheer routine did the Altman recusal meetings include Margaret Williams, Hillary Clinton's chief of staff, a death-night visitor to Vincent Foster's office and the aide in charge of storing Mr. Foster's papers in the White House family quarters before they went to the Clintons' personal lawyer. That when Mr. Altman wanted to announce his non-recusal at the White House, he chose to call Ms. Williams only because she's good at arranging meetings.

Also that Josh Steiner lied to his own diary. That Rhodes scholar George Stephanopoulos suffers memory lapses suggestive of attention deficit disorder. That Lloyd Cutler's redactions can always be trusted. That Treasury counsel Jean Hanson undertook on her own volition to brief the White House on criminal referrals. That White House and Arkansas confidant Bruce Lindsey knew of criminal referrals concerning Mr. Tucker before the President and the Governor met on October 6 to discuss the National Guard, but didn't tell the President until the following week.

Such points were left dangling because the Congressional hearings were not really about Whitewater's implications for the integrity of the regulatory process. The House hearings under Chairman Henry Gonzalez were a shameless farce. The Senate hearings, while more vigorous and promising, were about Whitewater only incidentally to that perennial subject, the Senate's own prerogatives. Mr. Altman's position became impossible because he shaded his Senate testimony, and Ms. Hanson's because she was somehow expected to correct him.

Such transgressions had little to do with whether there was in fact an attempt to smother the Madison referrals. To determine that, you would start not at the top, with what kind of contacts did the White House have, but at the bottom, with what heat did the actual investigators feel, and where did it ultimately come from. This was not done.

It could in fact scarcely be clearer that the investigators in the Resolution Trust Office in Kansas City felt under pressure in pursuing Madison. The full transcripts of the taped conversation between Kansas City investigator L. Jean Lewis and Washington RTC attorney April Breslaw tend to show Ms. Breslaw's discomfort with

her role, but on how many other investigations did any such conversation take place? The RTC's reaction has been to investigate Ms. Lewis and her two supervisors, apparently asking whether she violated some rule or law in taping the conversation, and whether they may have made some mistakes in expense accounts.

The RTC put the three on paid administrative leave. They have now returned to work following a letter from Senate Banking Chairman Don Riegle, who should be especially commended, and ranking Minority Member Alfonse D'Amato.

The Justice Department, meanwhile, is reported to be nearing an indictment of Billy Dale, former director of the White House travel office, whose abrupt removal was one of the first signs of the White House's brand of Arkansas mores. Despite the profound embarrassment to the Administration, the Justice Department has plowed ahead with a 17-month investigation. Mr. Dale's offense apparently is using pool money contributed by the press to bribe foreign officials, such as baggage handlers. Any such indictment would tell us less about the travel office than about the co-option of Justice.

The suppression effort has also run up some victories in court. Mr. Bennett has succeeded in getting a ruling that the Paula Jones case cannot proceed until his contentions of Presidential immunity are settled, a de facto postponement past not only the midterm election but probably the Presidential one. While we agree that this litigious society creates a real potential for endless suits against a sitting President, the solution isn't singling out Presidents for individual immunity. Part of Mrs. Jones's complaint concerns what was said about her by the President's appointed spokespersons; is defamation of a private figure privileged if it is uttered in the White House press room?

The RTC and other regulators, meanwhile, succeeded in stonewalling Rep. Jim Leach's demands for Madison documents from the RTC and other regulators. Empowering the minority party is in fact the cleanest way to inform the public on how its government is performing, but District Judge Charles Richey took refuge in the doctrine of "remedial discretion." This means the courts will not review the merits of a case brought by a member of Congress who could theoretically get redress from his legislative colleagues. The judge felt bound by D.C. Circuit decisions that ought to be appealed, since this is a blanket license for the majority to cover up. Under similar logic, Watergate Judge John Sirica could have refused to referee the dispute between Congress and the Executive Branch.

2/2

* * *

The point is well taken, though, that ultimately Whitewater is a political matter, as Watergate was as well. We are anything but keen to criminalize political differences. As the first to point a finger at Webb Hubbell at Justice, let us say this: Indicting him for cheating his Rose partners through inflated expense accounts would only be a step above convicting Oliver North for accepting an illegal gratuity of a security fence. What we want to know about Mr. Hubbell is whether he maneuvered the firing of all U.S. attorneys to get Paula Casey appointed in Little Rock to tend to the likes of the Madison referrals. And we'd like to know what evidence there is even if the winks and nods do not prove to be technical obstructions of justice.

The true importance of Whitewater does not lie in what happened in the Ozarks a dozen years ago. It lies in what happened to Justice and bank regulation during Bill Clinton's tenure as President. Were those processes subverted to cover up what happened in Arkansas, and conceptually to do future favors for future friends of the President? And has Congress discharged its role in policing such abuse? About this no prosecutor or judge can render a verdict; voters will have to make their own decisions.

Letters to the Editor

I-Way Patrol ✓

Your Aug. 17 editorial "Edsels on the I-Way" misreads the road map for the information superhighway as envisioned by the Communications Act of 1994. We want an information superhighway, not a demolition derby. We seek to avoid the spectacular smash-ups that have attended deregulation in other industries.

That said, the Communications Act would foster a brave new world of competition and innovation in the communications industry. To appreciate the dramatic change embodied in it, just consider the hogtied legal and regulatory status quo: monopolies dominate markets for local phone and cable service; 44 of 50 states place severe restrictions on entrepreneurs who would try to set up rival services; the Bell companies are barred from offering long distance services and from manufacturing equipment; telephone companies are forbidden to provide cable services in their local areas; electric utilities are barred from using their network infrastructures to provide telecommunications services, and more.

Now, consider the new world opened up by the Communications Act. State and local barriers to local phone competition are removed, allowing cable companies, electric utilities, long-distance companies and others to compete for local service. Bell companies are allowed to manufacture equipment, and are given leeway to enter the cable and long distance business. Broadcasters are freed up to use their spectrum for new commercial applications. Electric utilities are allowed to join all other utilities in providing telecommunications services. The bill provides all this and more, while enhancing existing universal service protections.

Indeed, to hear players in the telecommunications industry tell it, the act goes too far in breaking up their comfortable monopolies and legal protections. So be it. Under current, antiquated law, markets are allocated—not won by the sweat of competition. The Communications Act will put the market into the communications marketplace.

SEN. TRENT LOTT (R., Miss.)
SEN. ERNEST F. HOLLINGS (D., S.C.)
Senate Committee on Commerce,
Science and Transportation

Washington

Old Yeltsin Foe Supports Same Side in Chechenia

THE WASHINGTON POST FRIDAY, SEPTEMBER 9, 1994

Khasbulatov's Role Leaves Kremlin Uneasy

By Margaret Shapiro
Washington Post Foreign Service

MOSCOW—When the armed up-
g against Russian President Bo-
ris Yeltsin collapsed last fall, it
seemed to seal the political downfall
of his chief nemesis, the strong-
willed speaker of the Russian parlia-
ment, Ruslan Khasbulatov.

Khasbulatov was arrested and
locked up with other anti-reform
re in Moscow's notorious Lefor-
tovo Prison. Last winter he was re-
under a political amnesty and
emerged a still shell-shocked man.
His bombast gone, he pronounced
h "disgusted" with politics and
politicians and then vanished onto a
period in academia—until last month.

Khasbulatov returned to the fray
with gusto, this time in his native
Chechenia, a lawless, mainly Muslim
region in southern Russia that an-
nounced its secession in 1991 and
been run ever since by a former
Soviet fighter pilot.

For the past two months, Che-
chenia has been embroiled in an inter-
cine struggle between the presi-
dent, Djokar Dudayev, and his bitter
enemies, who call him a vicious dic-
tator and have their own well-armed
followers.

In the center of this storm has
emerged the pipe-smoking Khasbu-
latov. He has set himself up in a fam-
ily home, surrounded by geese,
sheep and flies, outside the region's
capital, Grozny, and is now putting
together his own paramilitary group
to aid the opposition.

It is a familiar scenario to those
who watched events unfold in Mos-
cow in 1992 and 1993, when Khas-
bulatov allied himself with the anti-
Yeltsin, movement that was trying
to block reforms and eventually be-
came its chief strategist in a bloody
battle that nearly succeeded in top-
pling Yeltsin.

Only this time Khasbulatov is on
the same side as Yeltsin—a twist
that has Khasbulatov's erstwhile en-
emies in the Kremlin squirming.

The Kremlin, like the Chechen
rebels, wants to oust the flamboyant
Dudayev, not only because it has
grown weary of having to contend
with a region that insists it is inde-
pendent, but also because it accuses
him of having unleashed a wave of
terrorism and crime by Chechen
gangs across Russia.

In recent weeks, Russia has
ed off the border around Chech-
enia, halted all flights over the re-
gion and thrown its support to Du-
dayev's opponents, the Chechen
Provisional Council, the group with
which Khasbulatov also is allied. At
least two other well-armed anti-Du-
dayev groups have emerged around
Chechenia.

Moscow has denied Chechen gov-
ernment claims that Russian troops
were involved in recent clashes
north of Grozny. Instead, Yeltsin is
supplying cash, political support and,
according to some foreign diplomats,
arms to the rebels fighting the anti-
Moscow Chechen leadership.

For many Yeltsin supporters and
members of the Russian govern-
ment, the idea of working with Khas-
bulatov, who in October 1993 urged
armed hard-line supporters to storm
the Kremlin, is tough to swallow.

Even worse is the notion that he
might end up resurrected, returning
somehow to Moscow either as presi-
dent of Chechenia or as a Chechen
representative to the new Russian
parliament.

"Psychologically it will be very
hard for the Russian administration
to deal with Khasbulatov" if he
should be part of a group that even-
tually takes over in Chechenia, ac-
knowledge Deputy Prime Minister
Sergei Shakhrai. Other officials have
insisted that Yeltsin will not be af-
fected in his policies toward Chech-
enia by Khasbulatov's reemergence
there.

Khasbulatov himself has es-
chewed any interest in returning to
politics or becoming Chechenia's
next president, saying he is only ea-
ger to help his region free itself from
Dudayev's dictatorship. Indeed,
Khasbulatov has expressed irritation
with reporters who have pressed
him about his political ambitions,
saying he is only a "peacemaker." He
gets even angrier when Yeltsin's
name comes up.

"Why are those Kremlin bigwigs
shouting that Khasbulatov must be
prevented from returning to the cor-
ridors of power no matter what?" he
angrily asked the Russian newspaper
Komsomolskaya Pravda recently.
"Frankly speaking, if they continue
to voice this thought with such mani-
acal insistence, I'll just become
Chechenia's president." He might
even run against Yeltsin for Russian
president, he said.

In Moscow, few believe that is
likely, given the bloody tank battle at
the parliament building that ended
his last foray in Russian politics. But
few now expect him to stay out of
the fray.

"By his very nature and character
he is abnormally energetic and ambi-
tious," said Anatoly Shabad, a pro-
Yeltsin member of parliament who
repeatedly clashed with Khasbulatov
when he was speaker. "But he has
nothing to gain by playing politics in
Russia any more. His best hour is
over," so he has turned his atten-
tions to the intrigues in Chechenia,
Shabad said.

First Fruit Of Crime Bill Is Marketed

Reno: \$200 Million To Police in October

By Pierre Thomas
Washington Post Staff Writer

Attorney General Janet Reno
announced yesterday that the
Justice Department plans to dis-
tribute \$200 million for about
2,600 police the first week the
new crime bill goes into effect in
October.

"This bill will fight crime on
the street and local level, not just
in Washington, not just by talk in
Washington," Reno said in a
speech at the National Press
Club—an effort to show that the
crime measure is more than po-
litical rhetoric and that her de-
partment is planning furiously
for the implementation of the
six-year, \$30 billion package.

In addition to the initial fund-
ing schedule, Reno detailed a
broad, but specific blueprint out-
lining how the program will be
implemented during its first two
years. That includes:

- Providing money for 40,000
police officers—20,000 in the
first 16 months. The bill, which
President Clinton is expected to
sign next week, calls for 100,000
more police over six years. Jus-
tice officials yesterday could not
say where the funding would go
first.

- Allocating \$1 billion for pris-
ons, boot camps and prevention
programs.

- Funding 1,000 new federal
border patrol officers.

- Placing 300,000 youths in
crime prevention programs.

- Forming an advisory commit-
tee within the department to ad-
dress violence against women.
The crime bill calls for various
steps to deal with domestic vio-
lence, including funding for bat-
tered women's shelters.

In addition to specific goals,
Reno adjusted her staffing to
support her initiative. Associate
Attorney General John Schmidt,



JANET RENO

... "this bill will fight c

number three at Justice, will be
responsible for implementing the
program. "I want accountability
at the highest levels of the de-
partment," Reno said, noting
that she has interviewed police
from around the country to over-
see the grant program for new
police. The new law will require
about 150 new federal employ-
ees to administer its various pro-
visions.

"We have an historic opportu-
nity," Reno said. "In Washington,
we must do it the right way."

Next week Reno and Clinton
are scheduled to meet with all 93
U.S. attorneys to discuss the
ramifications of the new federal
criminal provisions that are part
of the law, including the new
death penalty legislation. By
Monday Reno is scheduled to
have held forums on crime
implementation in Denver, Los
Angeles and Springfield, Ill.

The crime bill authorizes \$30
billion over six years to come
from a new trust fund supported
by savings from mandated cuts
in federal personnel.

Reno yesterday spoke of that
money as a reality and offered
some criticism of the naysayers
who nearly blocked the bill from
passage, calling them "armchair
quarterbacks." For those who
described the bill as "pork, soft
on crime," Reno said, they
"should listen to the people on
the frontline."

Quayle Revisits Old Theme In Speech About U.S. Values

By Dan Balz
Washington Post Staff Writer

SAN FRANCISCO, Sept. 8—Former vice president Dan Quayle returned to the scene of his infamous "Murphy Brown" speech today and opened up a broad new front in his attack on the "poverty of values" in America.

Continuing along a comeback trail he hopes will transform him from a ridiculed former vice president to a serious presidential candidate, Quayle said the country is living the consequences of a generation of feel-good morals and the absence of an ethical code of conduct for young people. He said the impact has been especially harsh on fatherless children in the inner cities.

"Our poverty of values spares no group," Quayle said in a speech to the Commonwealth Club of San Francisco. "The pop philosophy of the 1960s—'all truths are relative'—has taken root and it is bearing bitter fruit. The ills we sometimes attribute to welfare queens and deadbeat dads are actually manifestations of an ethical cancer that has metastasized through all levels of society."

As in 1992, he said many of society's institutions, from the entertainment industry and the media to the religious and political institutions, bear responsibility for the problem.

"Little wonder then that so many young people live among ethical chaos," he said. "Everywhere they turn for guidance they see behavior that is wrong and yet is accepted, even in church. . . . It's time for each profession and discipline to set its own house in order."

Quayle's 1992 speech sparked what he has described in his book, published this spring, as the "ideological firestorm of my vice presidency." In that speech, delivered shortly after the riots in Los Angeles that were sparked by an initial verdict in the Rodney King trial, Quayle decried the dissolution of the family structure in America and added:

"It doesn't help matters when prime time TV has Murphy Brown—a character who supposedly epitomizes today's intelligent, highly paid, professional woman—mocking the importance of fathers, by bearing a child alone and calling it just another lifestyle choice."

Quayle found himself mocked in the press, ridiculed on television, and the target of an episode of the "Murphy Brown" show.

Since then, he has been treated more generously. The Atlantic magazine ran a cover story last spring titled, "Dan Quayle was right," and even Health and Human Services Secretary Donna E. Shalala, in testimony before Congress, said his



"The pop philosophy of the 1960s—'all truths are relative'—has taken root and it is bearing bitter fruit."

—Dan Quayle

overall conclusions—that children who live in households with two parents present have a better chance to make it in society—was correct.

Today he said his criticism of Murphy Brown was meant to raise alarms about absent fathers and fatherless children, not single out single mothers for attack. "What I was talking about then, and what I am reiterating today, is the importance of fathers. . . . Raising a child is not just a mother's responsibility, it is a father's responsibility too."

He called illegitimacy a pathology that continues to spread. "And no wonder," he added. "If children grow up never knowing their father, they're bound to assume that fathers are irrelevant and that males are not accountable."

Quayle could not have asked for a better reception for what is the first of several major speeches he plans this fall as part of his effort to test the waters for 1996.

Cable News Network and C-SPAN carried the speech live and Quayle received a standing ovation at the start and conclusion of his speech. Afterward, more than 100 people lined up to have him autograph copies of his best-selling book, "Standing Firm."

He also took time out from the speech to criticize President Clinton on foreign policy. In an interview on NBC's "Today" show, Quayle charged that Clinton is preparing to invade Haiti largely for political rea-

sons. "We're sick when we see that the president of the United States is thinking about invading Haiti to try to increase his standing in the public opinion polls," he said.

White House press secretary Dee Dee Myers dismissed Quayle's charge: "Obviously, the president is going to make decisions about . . . Haiti based on what he thinks is in the best interest of the United States."

But the ghosts of his vice presidency trailed him this week on the comeback trail as Quayle was forced to fend off a report from the new book by political handlers Mary Malin and James Carville that the Bush campaign had found that Quayle was a drag on the ticket in 1992.

In his speech, Quayle said Americans are pessimistic about their country because they "sense that something is missing amid all our affluence, some common ethical code that could set a clear standard for behavior."

The result he said was public policy that reflects a philosophy of "rights and entitlements rather than responsibility" and that it shows up most painfully in fatherless homes."

Quayle said one way to change things is through welfare reform, but he cautioned that emphasis on putting welfare mothers to work was only a partial answer. "I'm in favor of work requirements," he said. "But I want them to apply to fathers, whether they live in the household or whether they are absentees."

Other Quayle remedies ranged from family-friendly tax policies to distribution of welfare benefits in churches and synagogues. But he said the real solution lies in the "little platoons" of citizens working together.

Society must deal with root causes, he said, but won't be able to as long as "the rich and famous" engage in the "same kind of reckless and irresponsible behavior we deplore among the underclass." He added that "this value-free atmosphere has affected even our most prestigious professions," and said Hollywood and professional sports "are in a league of their own."

He also said that politicians would rather deal with symptoms, not causes, and pointed to what he described as an ineffective crime bill.

Quayle took questions after his speech, and when asked what his current handicap is—a reference to his love of golf, Quayle got in one last dig. "My handicap is the same as it has been ever since I became vice president," he said. "The news media."

Tailhook Suit Settled 4 Days Before Trial

Terms of Agreement Are Not Disclosed

By STEPHEN LABATON

Special to The New York Times

WASHINGTON, Sept. 8 — Four days before trial of a lawsuit over the Tailhook Association's bawdy 1991 convention in Las Vegas, the naval aviators' group has reached a settlement with the plaintiff, a former Navy lieutenant who was among the women sexually abused there.

The settlement was disclosed this afternoon by lawyers for the association and Paula Coughlin, who filed the suit last year.

The lawyers declined to discuss terms, saying in their joint statement only that the case "has been resolved to the mutual satisfaction of both parties."

The settlement leaves the Las Vegas Hilton, where the convention was held, as the only remaining defendant. In her suit, which sought an unspecified amount in damages, Ms. Coughlin accused the Tailhook Association of failing to supervise the convention properly and the Las Vegas Hilton of negligence in failing to implement better security even though the hotel had been the scene of prior drunken Tailhook conventions.

Hotel Holds Out

The judge presiding over the case has scheduled a settlement conference for Friday afternoon, but by late today people close to the matter said the hotel and Ms. Coughlin were not near a settlement and were preparing their opening statements for a trial that is scheduled to begin on Monday in Federal District Court in Las Vegas.

The events at the rowdy convention and the subsequent inquiries shook the highest levels of the Navy. Pentagon investigators concluded that 83 women had been assaulted or harassed there by drunken aviators. One was Ms. Coughlin, who was then a Navy helicopter pilot. She has said she was groped by drunken male aviators in a crowded third-floor corridor one night during the four-day convention.

Ms. Coughlin resigned from the service on May 31, citing what she described as unrelenting pressure resulting from her complaint.

The distance between the negotiators in settlement talks with the Las Vegas Hilton was clear by the statement today by a lawyer for Ms. Coughlin. That lawyer, Dennis Schoville, said, "The main focus of this case has been, and continues to be, the negligence and conscious disregard of the Hilton Hotels Corporation and the Las Vegas Hilton Corporation in failing to provide adequate security on these premises."

Ms. Coughlin's lawyers have asserted that the hotel should have taken steps to prevent the attacks on the women by anticipating the rowdiness, because of the unruly nature of prior Tailhook gatherings there.

The hotel chain has denied that it was negligent and is preparing a case that will attack Ms. Coughlin's credibility and character, portraying her as eagerly taking part in some of the debauchery she later condemned. Defense lawyers have said they are planning to bring forward witnesses who will contest Ms. Coughlin's account of what occurred.

In Lawsuit, Former Agent Says F.B.I. Would Not Promote Her

WASHINGTON (AP) — A woman who was one of the F.B.I.'s first female special agents sued the bureau for sex discrimination on Wednesday, claiming she was repeatedly passed over for promotion in favor of male agents with fewer qualifications.

The lawsuit, filed in Federal District Court here, asks that the agent, Joanne E. Misko, 53, of Lighthouse Point, Fla., be awarded back pay of \$20,000 to \$25,000, and attorneys' fees, said her lawyer, Leon Friedman, a professor at Hofstra University Law School in Hempstead, L.I.

"Although she made an exemplary record in all of her assignments, she was not afforded the advancement to which she was entitled because of the 'old boy' network in the F.B.I.," the lawsuit contended. "Time and time again, agents with fewer leadership qualities than herself were advanced. The attitude of her superiors was that women could not take on the more difficult assignments which she asked for."

Spokesmen for the Federal Bureau of Investigation and the Justice Department declined comment, saying they had not seen the suit.

Appointed in 1971

Ms. Misko was appointed as a special agent in 1971, after being one of the first two women admitted to the bureau's training program. After two years of training, she worked in the agency's St. Louis white-collar crime squad.

She later moved to the Pittsburgh office, where she was accepted into a program for agents interested in advancement to leadership positions

"In this period, she received numerous commendations and awards and received excellent evaluations from her superiors," the suit said.

Ms. Misko accepted an administrative position in Washington in 1979, but she decided to return to Pittsburgh in 1981 to marry a fellow agent.

"She took a voluntary demotion," the suit said. "But the transfer order specifically noted that she was still to be retained in the career development program and would serve as a

Did the Federal crime-fighting agency discriminate?

relief supervisor in Pittsburgh," the suit said.

From 1981 to 1987, Ms. Misko applied for five supervisory jobs, but her applications were rejected.

The suit also asserted that Ms. Misko worked in a supervisory capacity during those years, but never received the title, responsibilities or pay that go with a job of that kind.

She was eventually promoted to a supervisory job in 1989, Mr. Friedman said.

Ms. Misko left the F.B.I. to take a job with the First Union Bank of South Florida in Broward County, Fla., this week, partly "because she didn't see promotional opportunities in the F.B.I.," Mr. Friedman said.

Crime Law Coordinator Chosen

WASHINGTON, Sept. 8 (Reuters) — Attorney General Janet Reno said today that she had asked the Justice Department's No. 3 official to be in charge of carrying out the provisions of the crime bill approved by Congress last month.

She said at her weekly news conference that Associate Attorney General John Schmidt would be responsible for implementing the bill, which is expected to be signed into law by President Clinton next week.

In later remarks at the National Press Club, Ms. Reno said that she had been interviewing candidates to run that part of the bill that calls for new police officers and that an appointment would soon be made.

The \$30 billion bill, narrowly approved by Congress, authorizes money to hire tens of thousands of local police officers, to build more prisons and to pay for crime-prevention programs, including programs to reduce violence against women. It also ex-

tends the Federal death penalty to about 60 crimes, bans 19 types of semiautomatic weapons and includes a mandatory life sentence when a defendant's third conviction for a violent felony occurs in a Federal court.

Ms. Reno said she would join the President next week in meeting with United States Attorneys from around the country to discuss how to carry out the bill's Federal provisions intended to make "the streets safer." She said it was important to move as quickly as possible.

"I am going to be talking to mayors, police administrators, police officers and citizens to make sure that we consult with them in trying to determine how best to implement this bill without red tape, in a way that will prevent waste," Ms. Reno said.

She said some major provisions for the coming year would be the hiring of more police officers, the building of prisons and the addition of 1,000 Border Patrol agents.

✓
CRIME
BILL

rest on nightclubs, clothes, taxicabs hired for two- and three-hour stretches and restaurants like Red Lobster and the International House of Pancakes.

The "crew" of drug dealers broke all Vikki's furniture during long nights of roughhousing. She no longer has a telephone because the dealers made so many expensive calls.

The Past

Scars That Show, Scars That Don't

When Vikki was young, her family consisted of her mother, herself and her older sister, nicknamed Pookie. Their mother, a communications specialist in the Air Force, and their father, a supermarket manager, divorced when Vikki was 2. Her mother remarried, but Vikki doesn't remember her stepfather ever having a steady job.

One morning 12 years ago, after a night of fighting, her stepfather flung acid on the two girls. During the fight Pookie had accused him of molesting her. Both suffered burns on their faces and upper bodies. Vikki said that the last thing she remembers is a schoolteacher who lived down the hall sprinkling her with cold water and praying.

Vikki said she is bitter that her mother, who lives upstairs in Vikki's building, separated from her stepfather but never divorced him. She said that he was never punished for his crime. He is now dying of AIDS, and Vikki — who is usually unfailingly kind — said she is glad that he will soon be dead.

The attack left Vikki with dark scars on her face and arms. She tries to hide the way it made her feel.

Acting Out in School

In her youth it was harder to hide the pain; she acted out in school by fighting and cutting class. Her mother shipped her off to live with various relatives, and at one point, she was among eight children and three adults who lived in a two-bedroom apartment in a Bronx

housing project. The children's parents had problems: they were addicts or abusive or in jail.

"I used to fight and argue with my cousins all the time," Vikki said. "They smoked crack. I couldn't stand it. My mind was not into school. My mind was into getting enough money to get out of my grandmother's house."

She felt increasingly distraught and restless as she watched her family deteriorate, Vikki said. She took a succession of jobs to help out, from flipping hamburgers to working as a hospital orderly. She helped supervise her boyfriend's drug operation but managed to take a few classes at the Borough of Manhattan Community College.

Pookie went to live with other relatives and eventually became a licensed practical nurse. Although their lives are different, Vikki describes her relationship with her sister as close. Pookie lives in New Jersey now and offers support and advice on rearing "the kids."

The Future

Nurturing Hope In a Bleak Time

The buzzer kept sounding, bringing bad news. Mel, another drug dealer for whom Vikki once worked, was in the hospital because of complications from the shooting last April that left him paralyzed. There were problems with his catheter and an infected bedsore.

Another friend had just found out she was pregnant and wanted to know if she could hold in her stomach to hide it.

Then there were the girls with babies, girls so young that it seemed the babies should have been dolls instead of flesh and blood. They showed off their children and talked about baby clothes, baby weight, problems with food stamps, housing and teen-age fathers.

"I sit down and ask some young girls why they have babies so young," Vikki said. "They say they want someone to love, someone to call their own. A lot of them have lost their parent. They weren't raised with a father or a mother. You get a boyfriend and try to keep him."

"A lot of guys are on a baby kick, have their baby," she said. "I guess they think it makes them a man."

One of the girls, who did not want her name used, had run away from home. She was 15, her baby was 5 months old, and she and her mother were fighting. Her mother, still at home with two young boys, was pregnant again.

"Do you have anything to eat?" she asked.

The only thing in the house that evening was a bag of Pepperidge Farm Lemon Nut Crunch cookies, so that was what they ate.

"I'm planning to get my own apartment with another girl," the young woman said. "Somewhere nice, not around here."

"I want a good job, so I can take care of my baby," she said. "I don't want to be on welfare, like my mother."

Dreams Are Hard to Hold

Vikki has her dreams, as well, but they are getting harder to hold.

"There are days when I just sit here," she said in the month before her abortion, as the days become longer and her abdomen expanded. "I don't know. I never had bills before. To take care of a whole household and pay bills."

"I want the all-time American dream: husband, kids, a house with a picket fence, two incomes, my kids in colleges, vacations with my kids wherever I want," Vikki said. "What's going to happen to me? My goal is to go into nursing and somewhere down the line be a doctor."

Vikki admits that becoming a doctor is unlikely because of the time and the expense involved. She has a plan, but her voice drops with mingled embarrassment and resignation as she talks about it.

"I be thinking if I can make enough money once dealing drugs, \$5,000 or \$10,000, I can invest," she said.

212

THE NEW YORK TIMES, FRIDAY, SEPTEMBER 9, 1994

Al Gore's bogus island adventure

By Mark R. Levin

What if eight Republican members of Congress got together to form a Bahamian corporation for the purpose of purchasing a small Bahamian island? Let's say the congressmen paid \$475,000 for the barren, would-be vacation property, and a few months later a big real-estate developer offered them \$850,000 for the island — which would net these officials an enormous short-term return on their investment.

I can hear it now: Vice President Al Gore, speaking to a crowd of union members, denouncing these eight congressmen as fat cats more interested in making a quick profit than representing the interests of "working Americans." And come Earth Day, Mr. Gore — accompanied by the usual pro-Democrat, anti-civilization environmental groups — might travel to the tiny Bahamian island and explain to the assembled media how these wealthy Republican lawmakers planned to pollute the place by turning it into yet another Club Med.

Well, in 1988 — during the "Decade of Greed" — eight members of Congress did purchase a nearly barren 17-acre Bahamian island — specifically, Pierre Island — for \$475,000. And they did try to sell it for \$850,000 only a few months later to a developer who hoped to turn the property into a vacation resort. But the congressmen involved in this deal were not eight Republicans. They were all liberal Democrats. And the most notable among them was then-Sen. Al Gore, Jr.

Unfortunately for Mr. Gore and the other congressional Democrats who invested in Pierre Island, the deal went belly-up. Mr. Gore lost his

entire investment, \$27,000. It seems the Bahamian government was angry with one of the congressional investors, former Rep. Edward Feighan, who had the bad business sense to introduce a bill cutting off United States aid to the Bahamas, which he accused of helping a cocaine cartel. Of course, the Bahamian government did not take Mr. Feighan's criticism kindly, so it took its good time considering the developer's request to purchase Pierre Island from the congressmen. The delay proved costly to Mr. Gore and his friends. They were unable to pay the mortgage and maintenance costs on the property, and they were never able to close the deal with the developer. And that was that.

Oh, except for one bothersome detail. It was reported that the island was purchased by the members of Congress in April 1988. During that period, Mr. Gore was running for president. While the House members disclosed the deal in their 1988 financial disclosure reports — even though they claimed they were not required to do so until the following year — Sen. Gore did not. He waited an additional year to disclose his Bahamian investment. Hmmm. Does this appear to be an impropriety? Where's that happy warrior, Rep. David Bonior, when we need him?

In any event, Mr. Gore's Bahamian venture — like the Clintons' questionable Whitewater "investment," Mrs. Clinton's suspicious \$100,000 cattle futures profit, Commerce Secretary Ron Brown's troubling financial dealings, and the rest of it — is illustrative of the hypocrisy of class-warfare liberals. While they seek to amass wealth for themselves — often not by means of hard work or exceptional talent, but by special favors or unique opportunities inuring to them because of the high offices they hold — they promote economic abstinence and dependency on government for the rest of

us through confiscatory taxes, endless spending, and crushing regulations.

Well, if Mr. Clinton, Mr. Gore, and their class warfare friends in Congress like the middle class so much, why don't they join it by liberating themselves from the wealth and privileges they've accumulated? Here are some suggestions.

■ Mr. and Mrs. Clinton, drop the trips to Martha's Vineyard, Beverly Hills and Hollywood. That's not where "working people" vacation. Instead, try Ocean City, Md. or Virginia Beach. If you go in early June or late August, you'll avoid the large crowds.

■ Return the \$1,800 golf clubs and plow under your new \$6,000 putting green on the White House lawn (you may want to grow tomatoes instead). I know these are gifts,

Mr. Clinton, but they reek of privilege.

■ Offer to cut your salary from \$200,000 to \$95,000 a year. Admittedly, Mr. Clinton, an income of \$95,000 would still place you among the wealthiest Americans (as you're wont to say). Nonetheless, you are the president and, therefore, you shouldn't go without. Besides, Mrs. Clinton is free to manage your investment portfolio, and she has an excellent track record.

■ "Working people" must pay their own legal expenses, Mr. Clinton. So should you. Hire lawyers you can afford, get rid of your legal expense fund, and return the over \$600,000 in donations you've already received. You can then announce that you're not above the law, and you expect to be treated no better or worse than the people you represent.

■ Mr. Gore, you've received over \$1 million in advances and royalties for your book, "Earth in the Balance." That's way too much income! Like Mr. Clinton, limit yourself to \$95,000 a year and join the "middle class" (actually, the upper middle class, but that's okay).

■ You've set up several trust funds for family members, Mr. Gore. Get rid of them. Trust funds are the kind of investments we expect from Sen. Jay Rockefeller and Sen. Ted Kennedy, your liberal multi-millionaire friends. They are definitely not "working people."

In truth, like most Americans, I don't care that Mr. Gore made over \$1 million from his book or Mr. Clinton vacations at Martha's Vineyard. But these are the same leaders who perpetuate the myth of class warfare in this country, and in so doing hope to divide a united people to achieve a short-term political advantage — namely, their own political survival. Mr. Clinton, and those who embrace this disgraceful and dangerous strategy, will be treated harshly by tomorrow's history books.



One strike and you're out

By Chris Gersten

While the GOP Contract With America promises a tough new crime bill, the Republican effort in the House and Senate badly misses an opportunity to slash the violent crime rate over the next 5 to 7 years.

Ninety-five percent of all violent crimes are adjudicated in state courts. So if a new federal crime package is to be of any real value in the fight against violent crime, it must leverage federal dollars to get state governments to pass necessary reforms.

The Republican bills in the House and Senate make only a minimal effort to force state governments to pass critical reforms. The three most important changes at the state level are: parole reform; mandatory minimum sentences for the first and second convictions for violent felons; and juvenile justice reform.

Violent felons serve an average of 37 percent of their actual sentences, according to the FBI. Gov. George Allen of Virginia signed the strictest parole reform in the country in 1993, requiring violent felons to serve at least 85 percent of their actual sentences. The crime bill which recently passed the House contains a watered-down parole reform component.

The second essential state reform is mandatory minimum sentences for first and second convictions for violent crimes. The "Three Strikes and You're Out" movement is the biggest waste of time and money since Nixon promised to make our streets safe through the Law Enforcement Assistance Administration.

These laws wait until the criminal is past his high-crime producing

years before handing down life sentences. The average criminal convicted a third time for a violent offense is over 30 years old and has committed hundreds of felonies. Furthermore, the "three strikes" statutes cover very few criminals. The provision in the 1994 federal crime bill has been employed by a federal prosecutor for the first time — almost a year after the legislation was signed into law. And the "three strikes" voter initiative that passed in Washington state in 1993 has been used in only a small handful of cases.

Only by enforcing lengthy mandatory sentences on first-time violent felons can we send a message that violence will not be tolerated in this society. One strike — you're out. First offense first-degree murder should get at least 25 years. The average term served by murderers today is under 6 years. Convicted rapists should be sentenced to a minimum of 10 years. These penalties would put violent offenders away at the beginning of their criminal careers, and would also deter many potential criminals from committing violent acts in the first place.

The third reform needed is juvenile justice reform. The FBI reported a 4 percent decline in violent crimes in 1994 but a dramatic increase in violent crime committed by juveniles. From 1985 to 1993, homicides committed by 18- to 24-year-old males increased 65 percent. Homicides by 14- to 17-year-olds rose 165 percent. And, as the children of baby-boomers grow up, there will be 23 percent more teenagers by 2005 than now. In addition, the huge

increase in out-of-wedlock births means millions of boys are growing up without fathers and with little discipline in the home.

Violent juveniles over 12 years old must be tried as adults. We need to build separate prisons to house them since many judges refuse to sentence violent juveniles to adult prisons no matter how violent their crime. And we need to make juvenile records available to judges, juries and prosecutors when the offender becomes an adult.

The legislation passed by the House and pending in the Senate barely deals with these issues. The House has passed a package of six crime-fighting bills designed to build more prisons, provide restitution to victims of crime, reduce the authority of federal courts over state prison systems, cut \$6 billion in social spending out of the 1994 crime bill, expedite carrying out the death penalty, and give states flexibility over funds that had been earmarked for hiring more police in the 1994 bill. In addition, the House

passed a watered-down parole reform provision — one so weak it is hardly worth the effort.

The House also made a modest effort to get states to enact juvenile justice reform, withholding 15 percent of prison construction funds from states that fail to reform their juvenile justice laws by 1998. But, like the parole reform effort, the juvenile reform provision is so weak that few states are likely to respond.

Each of these provisions is useful in the fight against crime, but, as a package, they will have less impact

reducing violent crime than any of the three state reforms. It is not too late for the Senate to fix what is wrong with the House-passed bill and the legislation up before the Senate Judiciary Committee. The legislation contains two \$10 billion dollar grants. The first is earmarked for prison construction. The second takes the \$10 billion earmarked for hiring more police in the 1994 crime bill and removes all strings, allowing the states to use the money for any crime-fighting effort they choose.

The Senate should put all the money into one grant and say to the states: You must pass meaningful parole reform by 1997, mandatory minimum sentences for first and second time violent offenders by 1999, and juvenile justice reform by 2001 — or you will not continue to receive federal crime-fighting money.

Twenty billion dollars is a lot of money, even in these times of huge Federal and state budgets. If the \$20 billion dollars is used to force the states to make these reforms, violent criminals, young and old alike, will know that, if convicted, they will be sentenced to long prison terms with no chance of parole. This policy would sweep violent criminals off the street and put them behind bars. And it would deter many young would-be criminals from beginning a life of crime in the first place.

If there is no federal pressure for states to make these reforms, they simply won't make them. We will continue to see sporadic efforts at crime prevention from state legislatures.

One state will pass a castration bill, another will build prisons, a third will push harsh penalties for drug sales or crimes committed with guns. Useless fads like "three strikes" will continue to get attention but have very little impact reducing violent crime. And the taxpayers will be asking ten years from now, "Why did we waste \$20 billion federal dollars fighting crime only to see the crime rate continue to go up?"

Chris Gersten is president of the Anti-Crime Alliance.

For better trials, we need less TV technology, not more

Thomas Brennan's provocative proposal for videotaping criminal trials for later display to a jury ("Criminal trial repair to spare the jurors," Commentary, June 4) does seem at first blush to make a good deal of retrospective sense in light of the unending circus atmosphere in the O.J. Simpson case. On second glance, this proposal, while easier on a potential jury, appears to fall well short of providing the type of justice to which we as a society should aspire.

The playing of an edited version of what transpired at trial to a jury would rob the criminal justice system of one of its more meritorious attributes: live testimony presented directly to the decision-makers, who are thereby in the best possible position to make the all-important judgments as to trust and credibility in their attempt to arrive at a true and just result.

While videotaped depositions and testimony are sometimes allowed in a court of law, these presentations are exceptions to the rule and are

permitted only when some overriding interest dictates (e.g., tender age and sensitivity of a child witness, impracticability of securing the physical presence of an absent witness).

Judge Brennan's solution also envisions interlocutory appeals of disputed matters while the videotaped matters while the videotaped trial is being conducted. Surely, this would tend to prolong rather than shorten the overall proceeding. One can readily identify at least a dozen such interlocutory actions that would have been attempted during the course of the O.J. Simpson trial to date.

Judge Lance Ito has made some tough and controversial calls. That's the nature of any hotly contested trial. That's also what the oversight function of appellate courts is for — once the trial process has been completed.

The correctness of a particular ruling can seldom be sufficiently determined until the entire record is known. Likewise, if a ruling is deemed erroneous on appeal, its prej-

udicial impact cannot be adequately evaluated in the absence of a full record. As the Simpson case has demonstrated, a thoughtful trial judge will often return to and refine, or alter a prior ruling as the record evolves.

Additionally, one can only imagine the added rounds of argument and potential appeals that would accompany a judge's attempt to determine what should be included and excluded in the final edited trial version to be shown to the jurors.

The answer for the O.J. Simpson case and others whose nature portends endless contention and media sensationalism is not more technology, but less. Live television is a great informational and educational tool in the right setting. The O.J. Simpson case, we have surely learned, is the wrong setting.

Turn the TV cameras off, and let's get away from theatrics and on with an earnest pursuit of justice.

DAVID M. LEWIS JR.
Springfield

Jesse Helms holds up AIDS bill — and thereby delays help for the sick

What is accomplished by holding up passage of the Ryan White CARE Act ("Helms holds up anti-AIDS funds," Page One, May 29)?

The bill, which provides states and local communities with seed money to care and treat HIV/AIDS carriers was carefully crafted by Nancy Kassebaum, Labor Committee chairman, and corrects past inequities between jurisdictions and makes several improvements over the original law. The bill, which was unanimously passed out of committee, enjoys widespread bipartisan support and now counts 57 members as sponsors, including Senate Majority Leader Bob Dole.

The Republican-controlled Congress should be applauded for demonstrating genuine concern for people with AIDS while improving upon existing law. Passage should be swift, and the focus can then move to the House, where a bill is currently being drafted.

Instead, its passage is being held up because one senator believes AIDS receives a disproportional

amount of money compared to other diseases. HIV/AIDS is not like any other disease our nation has ever seen. AIDS is an epidemic, that has already claimed 244,000 lives in our country alone — more than the number of Americans killed in the Vietnam and Korean wars combined. Our nation's war on AIDS is just beginning; we do not have decades of research behind us, as is the case with many other diseases. And, unlike other diseases, it is highly infectious, almost always is fatal and widely affects the young. In addition, HIV/AIDS carriers are frequently stigmatized and victimized by discrimination. Care and treatment under the current act have prolonged lives, reduced the financial drain on our cities' hospitals and, through better management of their disease, allowed people to work and fully participate in society.

HIV/AIDS is the only disease for which Medicaid, Medicare and Social Security expenditures are tracked for its carriers and totaled.

Excluding these figures from other diseases when examining funding differences, which is often the case, is like comparing apples to peanuts.

HIV/AIDS is a disease we can prevent through proper education and individual responsibility, and one for which medical researchers will, I hope, find a cure, or at least a vaccine. It is a national emergency our government must properly and honestly respond to with research and prevention programs and care and treatment.

The Ryan White CARE Act is for the benefit of the more than 200,000 people currently living with AIDS, and the hundreds of thousands more who are infected with HIV, but have not yet developed AIDS. Their proper care and treatment is what is being held up in the Senate; for their sake, and for their families and friends, I hope it won't be for long.

CARL E. SCHMID II
HIV/AIDS Consultant
Log Cabin Republicans
Washington

Should we be using military personnel for civil-assistance programs?

Normally, your editorials are insightful into the Clinton administration's nefarious and dubious undertakings. However, your May 13 editorial "The GI as welfare worker" was disappointing in two aspects.

First, you failed to remember that President Clinton, in his own words, "loathes the military." It's obvious this effort to turn the military into another social agency is yet another example of an unchanged attitude.

Second is the absence of your usual and applaudable skepticism toward Mr. Clinton's policies. As with the health care plan, how can you be certain of what you're getting without asking critical questions?

For example, is this proposed policy an attempt to circumvent restrictions on the use of the military in civilian affairs specified in the Posse Comitatus Act? Why is this proposal surfacing at the same time Mr. Clinton is proposing use of military forces as instruments of civilian law enforcement, outlined in his anti-terrorism package submitted to Congress? Has Mr. Clinton opened a two-front campaign for achieving military involvement in civilian law enforcement? Is it possible that if the anti-terrorism package fails, social work is simply

another avenue of achieving the same objective?

CHRISTOPHER KALMAN
Burke

On May 24, the House National Security Committee reported out legislation that would end the Civil-Military Cooperation Program (CMCP). It now goes to the full House for a vote soon.

While there is little question regarding the merits of the CMCP, a majority of the committee fears that domestic "nation-building" activities will hurt "warfighting" capabilities. I contend that the opposite is true, and agree with Assistant Secretary of Defense Deborah R. Lee in her May 24 letter ("Our civilian-military program is small, but it's paying big dividends").

Overall, Americans have never come up short in warfighting capabilities. Some even contend that our nation-building capabilities have not kept up with our warfighting skills or matched our honored reputation as "peacemakers."

Here at home, nation-building must be our top priority, particularly when it comes to our youth at risk, who, instead of being America's

most valued and valuable resource, have become an actual threat to our society in some communities.

In our Young Marines nation-building program, we focus on providing volunteers with needed support systems to work with youngsters between the ages of 8 and 18. There are 70 units around the nation supporting about 3,500 young people. Thanks to the CMCP, Young Marines is growing at the rate of about 200 youngsters a month.

With the exception of a four-person Young Marines staff here in Washington, all are volunteer; and we need more volunteers by the thousands. Some of those volunteers are active-duty and reserve Marines; most are former Marines; mothers, fathers or anybody willing to improve the lot of America's youth. Youth at risk need "tough love" and self-discipline, and with the Young Marines, they get it. A repeal of the CMCP would seriously curtail this outstanding program.

WILLIAM C. HOLMBERG
Lieutenant Colonel (Retired), U.S. Marine Corps
Arlington

■ Col. Holmberg is a Young Marines volunteer.

— The Editor

Senate passes anti-terrorism bill

Republican crime bill languishes in Senate

By Mimi Hall
USA TODAY

Senate Republicans are backing away — for now, at least — from their plan to repeal the 1994 crime law.

It's been four months since the House passed a sweeping overhaul of last year's law, touted by Democrats as a major victory for President Clinton. But the Senate version is stalled.

The quick repeal was a pillar of House Republicans' 10-point Contract with America, a plan to cut the federal budget and return power to the states. The Senate had planned hearings in March.

But now those hearings, delayed repeatedly, have been put off indefinitely.

And Sen. Orrin Hatch, R-Utah, chairman of the Judiciary Committee, says he's not sure whether the GOP crime bill — passed by the House in February — will be brought up in the Senate "this year or next."

Clarkson Hine, spokesman for Senate Majority Leader Bob Dole, R-Kan., maintains that the Senate "could take up the crime bill as early as July."

But in the wake of the Oklahoma City bombing, many Senate Republicans seem hesitant about voting on massive changes to a crime-fighting plan that took six years to become law and is widely popular with law enforcement officials nationwide.

Meanwhile, the 1994 money Republicans want to redistribute already is going out to cities and states to beef up police forces and pay for crime prevention.

"I don't think the Republicans or anybody else really want to get themselves at odds with something that serious professional law enforcement people are telling them is working," says Associate Attorney General John Schmidt, who is in charge of implementing the \$30.2 billion crime law.

He says Republicans would be in "a very dangerous political position" if they followed through on their campaign promise to repeal the assault weapons ban and cut federal dollars set aside for community police.

Democrats call the bill virtually dead.

"They thought that the crime bill we passed last year was unpopular, and I think what they found when the House decided to amend it was that it was spectacularly popular," says Sen. Joseph Bi-

den, D-Del., sponsor of the 1994 bill.

"I'm awfully disappointed," says Rep. Bill McCollum, R-Fla., chairman of the House subcommittee on crime.

He says that if the Senate waits until next year — in the heat of a presidential campaign — political posturing will make passage "awfully difficult."

One GOP crime proposal popular on both sides of the political aisle, limiting death row appeals, is likely to be passed, instead, as part of the anti-terrorism bill approved Wednesday in the Senate.

Keeping the pressure on, Clinton today hosts more than 250 police officers from four states being sworn in under a provision of his law that Republicans wanted to cut: an \$8.8 billion plan Clinton said would put 100,000 more police on the nation's streets over five years.

Philadelphia Mayor Ed Rendell, a Democrat, will be at the ceremony with 191 of the 753 officers he plans to hire for his city's police force of 6,000-plus.

Also attending: Police Chief Skip Lyons of Berlin, Md., population 3,000.

"The funding from the (1994) crime bill came as a godsend to us," says Lyons, a Democrat. He has hired two new officers, boosting his force to 17.

Despite opposition from police groups and a threatened presidential veto, House Republicans voted in February to scrap the police-hiring plan, replacing \$15.7 billion for police and crime-prevention programs with \$10 billion in grants for states to use as they see fit.

At the same time, Republicans voted to increase funding for state prison construction — from \$7.9 billion in the Clinton bill to \$10.5 billion.

But now, Republicans fear they'd lose political points if they passed a bill to scrap the police-hiring program and repeal the assault weapons ban — and then Clinton vetoed it.

Already, the Justice Department has authorized more than \$1 billion to help hire more than 18,000 police officers in scores of communities. Applications for 20,000 more are pending.

The department also has made \$26 million available to states to set up programs to combat violence against women. In July, grants will be awarded for special courts for drug crimes.

Compromise is reached; House next

By Mimi Hall
USA TODAY

After a contentious debate over how far federal authorities should be allowed to go in fighting terrorism, the Senate on Wednesday passed a sweeping bill to give the FBI and the U.S. military new powers.

The \$2 billion bill, passed by a 91-8 vote, also would limit appeals by death-row inmates.

The bill gained momentum after the Oklahoma City bombing April 19.

The House opens hearings next week. The bill is expected to pass there by July 4.

Wednesday's vote followed weeks of battling between President Clinton and Senate Majority Leader Bob Dole, R-Kan., over which party was delaying passage of the bill with controversial amendments.

Finally, they compromised:

► Clinton agreed to a GOP proposal to limit death-row inmates to one appeal of a sentence in federal court.

► Republicans agreed to back three Clinton proposals.

One would require that tiny traceable materials, taggants, be placed in chemicals that can be used to make bombs.

Another would now let the FBI use "roving wiretaps," on several phones, even if it can't prove suspects are using a number of phone lines to evade authorities.

The third would allow the military to investigate cases involving chemical and biological weapons. Under current law, the military can only become involved in domestic law enforcement when nuclear weapons are involved.

Clinton hailed the bipartisan vote: "This legislation will give law enforcement the tools it needs to do everything possible to prevent this kind of tragedy from happening again."

The bill also would:

► Authorize 1,000 new federal law enforcement personnel.

► Increase penalties for terrorist crimes and conspiracies involving explosives.

► Allow FBI access to credit, hotel and phone records in foreign terrorism cases.

► Ease deportation of immigrants suspected of terrorism.

THE NATION

Clinton supports immigration limits

By Bill Nichols
and Maria Puente
USA TODAY

President Clinton backed a proposal Wednesday to sharply curtail legal immigration, saying the work of the national Commission on Immigration Reform is "a road map for Congress to consider."

After a briefing by commission Chairwoman Barbara Jordan, Clinton said in a statement the recommendations from the

panel are consistent with his "pro-family, pro-work, pro-naturalization" views.

Clinton also told Jordan he approves of the recommendation that closest family members — spouses and minor children — ought to have priority for admittance, and that American workers ought not be adversely affected by immigration, said White House spokesman Mike McCurry.

The commission is recommending Congress reduce

overall legal immigration by one-third — to 550,000 people per year — by eliminating some categories of immigrants and limiting others.

Admissions of spouses and minor children of citizens and legal permanent residents would increase, but the door would be shut to siblings of citizens and adult children of citizens and permanent residents.

Jordan dismissed an oft-voiced criticism of the plan, saying the commission does

not seek to alter the ethnic and racial diversity of the immigrant stream. The civil rights leader and ex-congresswoman said the bipartisan panel believes "religious and ethnic diversity are compatible with national civic unity."

"To answer some of the critics who are calling for a drastic reduction in admissions: Cultural and religious diversity resulting from immigration does not pose a threat to the national interest," Jordan said.

Church-state debate begins anew today

By Tony Mauro
USA TODAY

The first chapter in what may be a long and angry debate over the relationship between government and religion opens on Capitol Hill today.

A House Judiciary subcommittee holds a hearing to lay the groundwork for a Republican-led "religious equality" amendment to the Constitution that would require greater government accommodation of religious practices.

"This is an important moment in the ongoing struggle for religious liberty," says Jay Sekulow of the American Center for Law and Justice, which supports an amendment.

Though no official text of a proposed amendment has been advanced, advocates say it will go bey school prayer



“
This is an important moment in the ongoing struggle for religious liberty.
”

— Jay Sekulow, American Center for Law and Justice

to protect a range of religious expression and open the door to some forms of government benefits for religious entities.

The witness list is dominated by scholars, leaving off advocacy groups and religious-school children, whose expression have been suppressed.

Critics say the lofty list masks a political campaign to appease the religious right that

would result in school prayer, workplace proselytizing and religious education subsidies.

"The so-called religious equality amendment is in reality a religious tyranny amendment," says Barry Lynn of Americans United for the Separation of Church and State.

One sign of intense emotions on the issue: controversy over the scheduling of a follow-up

hearing Saturday.

The hearing in Harrisonburg, Va., comes on the Jewish Sabbath, making it impossible for Rabbi Jonathan Biatch of nearby Staunton, Va., to testify. When he protested, the committee staff offered to hear his testimony privately on Friday. "It demonstrates that when government enters the religious realm, someone will get slighted," said Biatch, who opposes an amendment.

A return to school prayer has been a mainstay of the political agenda of some religious groups since the Supreme Court first outlawed teacher-led prayer in 1962.

The high court has continued to rule against most forms of government accommodation of religion, citing the First Amendment's ban against "establishment of religion." Wide-

spread confusion and litigation accompanies the question of what is allowed in schools and other public places.

The issue was not in the GOP Contract With America last November, but in broadened form, it has been targeted by the Christian Coalition and others as a high priority for the "second hundred days" of the Republican-led Congress.

There has been some division in religious ranks on how broadly the amendment should sweep, but supporters are optimistic that some kind of amendment will be passed.

"It will rise and fall on whether the leadership gets the message that religious Americans want to stop litigating and want to eliminate religious discrimination," says Steve McFarland of the Christian Legal Society.

Address to the Nation on the Civil Disturbances in Los Angeles, California

May 1, 1992

Tonight I want to talk to you about violence in our cities and justice for our citizens, two big issues that have collided on the streets of Los Angeles. First, an update on where matters stand in Los Angeles.

Fifteen minutes ago I talked to California's Governor Pete Wilson and Los Angeles Mayor Tom Bradley. They told me that last night was better than the night before; today, calmer than yesterday. But there were still incidents of random terror and lawlessness this afternoon.

In the wake of the first night's violence, I spoke directly to both Governor Wilson and Mayor Bradley to assess the situation and to offer assistance. There are two very different issues at hand. One is the urgent need to restore order. What followed Wednesday's jury verdict in the Rodney King case was a tragic series of events for the city of Los Angeles: Nearly 4,000 fires, staggering property damage, hundreds of injuries, and the senseless deaths of over 30 people.

To restore order right now, there are 3,000 National Guardsmen on duty in the city of Los Angeles. Another 2,200 stand ready to provide immediate support. To supplement this effort I've taken several additional actions. First, this morning I've ordered the Justice Department to dispatch 1,000 Federal riot-trained law enforcement officials to help restore order in Los Angeles beginning tonight. These officials include FBI SWAT teams, special riot control units of the U.S. Marshals Service, the Border Patrol, and other Federal law enforcement agencies. Second, another 1,000 Federal law enforcement officials are on standby alert, should they be needed. Third, early today I directed 3,000 members of the 7th Infantry and 1,500 marines to stand by at El Toro Air Station, California. Tonight, at the request of the Governor and the Mayor, I have committed these troops to help restore order. I'm also federalizing the National Guard, and I'm instructing General Colin Powell to place all those troops under a central command.

What we saw last night and the night before in Los Angeles is not about civil rights. It's not about the great cause of equality that all Americans must uphold. It's not a message of protest. It's been the brutality of a mob, pure and simple. And let me assure you: I will use whatever force is necessary to restore order. What is going on in L.A. must and will stop. As your President I guarantee you this violence will end.

Now let's talk about the beating of Rodney King, because beyond the urgent need to restore order is the second issue, the question of justice: Whether Rodney King's Federal civil rights were violated. What you saw and what I saw on the TV video was revolting. I felt anger. I felt pain. I thought: How can I explain this to my grandchildren?

Civil rights leaders and just plain citizens fearful of and sometimes victimized by police brutality were deeply hurt. And I know good and decent policemen who were equally appalled.

I spoke this morning to many leaders of the civil rights community. And they saw the video, as we all did. For 14 months they waited patiently, hopefully. They waited for the system to work. And when the verdict came in, they felt betrayed. Viewed from outside the trial, it was hard to understand how the verdict could possibly square with the video. Those civil rights leaders with whom I met were stunned. And so was I, and so was Barbara, and so were my kids.

But the verdict Wednesday was not the end of the process. The Department of Justice had started its own investigation immediately after the Rodney King incident and was monitoring the State investigation and trial. And so let me tell you what actions we are taking on the Federal level to ensure that justice is served.

Within one hour of the verdict, I directed the Justice Department to move into high gear on its own independent criminal investigation into the case. And next, on Thursday, five Federal prosecutors were on their

way to Los Angeles. Our Justice Department has consistently demonstrated its ability to investigate fully a matter like this.

Since 1988, the Justice Department has successfully prosecuted over 100 law enforcement officials for excessive violence. I am confident that in this case, the Department of Justice will act as it should. Federal grand jury action is underway today in Los Angeles. Subpoenas are being issued. Evidence is being reviewed. The Federal effort in this case will be expeditious, and it will be fair. It will not be driven by mob violence but by respect for due process and the rule of law.

We owe it to all Americans who put their faith in the law to see that justice is served. But as we move forward on this or any other case, we must remember the fundamental tenet of our legal system. Every American, whether accused or accuser, is entitled to protection of his or her rights.

In this highly controversial court case, a verdict was handed down by a California jury. To Americans of all races who were shocked by the verdict, let me say this: You must understand that our system of justice provides for the peaceful, orderly means of addressing this frustration. We must respect the process of law whether or not we agree with the outcome. There's a difference between frustration with the law and direct assaults upon our legal system.

In a civilized society, there can be no excuse, no excuse for the murder, arson, theft, and vandalism that have terrorized the law-abiding citizens of Los Angeles. Mayor Bradley, just a few minutes ago, mentioned to me his particular concern, among others, regarding the safety of the Korean community. My heart goes out to them and all others who have suffered losses.

The wanton destruction of life and property is not a legitimate expression of outrage with injustice. It is itself injustice. And no rationalization, no matter how heartfelt, no matter how eloquent, can make it otherwise.

Television has become a medium that often brings us together. But its vivid display of Rodney King's beating shocked us. The America it has shown us on our screens these last 48 hours has appalled us. None of

this is what we wish to think of as American. It's as if we were looking in a mirror that distorted our better selves and turned us ugly. We cannot let that happen. We cannot do that to ourselves.

We've seen images in the last 48 hours that we will never forget. Some were horrifying almost beyond belief. But there were other acts, small but significant acts in all this ugliness that give us hope. I'm one who respects our police. They keep the peace. They face danger every day. They help kids. They don't make a lot of money, but they care about their communities and their country. Thousands of police officers and firefighters are risking their lives right now on the streets of L.A., and they deserve our support. Then there are the people who have spent each night not in the streets but in the churches of Los Angeles, praying that man's gentler instincts be revealed in the hearts of people driven by hate. And finally, there were the citizens who showed great personal responsibility, who ignored the mob, who at great personal danger helped the victims of violence, regardless of race.

Among the many stories I've seen and heard about these past few days, one sticks in my mind, the story of one savagely beaten white truck driver, alive tonight because four strangers, four black strangers, came to his aid. Two were men who had been watching television and saw the beating as it was happening, and came out into the street to help; another was a woman on her way home from work; and the fourth, a young man whose name we may never know. The injured driver was able to get behind the wheel of his truck and tried to drive away. But his eyes were swollen shut. The woman asked him if he could see. He answered, "No." She said, "Well, then I will be your eyes." Together, those four people braved the mob and drove that truck driver to the hospital. He's alive today only because they stepped in to help.

It is for every one of them that we must rebuild the community of Los Angeles, for these four people and the others like them who in the midst of this nightmare acted with simple human decency.

We must understand that no one in Los

ish to think of as American. We were looking in a mirror at our better selves and turned away not to let that happen. We turned to ourselves.

Los Angeles in the last 48 hours. We must not forget. Some were horrible, beyond belief. But there were also acts of significant courage. I'm one who believes they keep the peace. They help every day. They help make a lot of money, but they help their communities and thousands of police officers are risking their lives right here in L.A., and they do it. Then there are the people who spent each night not in the churches of Los Angeles but in the gentler instincts of the city's people. There were the citizens who took personal responsibility, the good people, who at great personal risk to the victims of violence,

the stories I've seen and heard in the past few days, one sticks in my mind. A story of one savagely beaten driver, alive tonight because of the efforts of four black strangers. Two were men who had seen the beating and saw the beating, and came out into the street. Another was a woman on her way to work; and the fourth, a woman whose name we may never know. The driver was able to get out of his truck and tried to open his eyes. His eyes were swollen shut. He said, "Well, then I will never see them. I will never see those four people who helped me. I drove that truck driver home alive today only because of their help."

One of them that we must not forget is the city of Los Angeles, for it is the city and the others like them that have made this nightmare act of decency possible. And that no one in Los

Angeles or any other city has rendered a verdict on America. If we are to remain the most vibrant and hopeful Nation on Earth we must allow our diversity to bring us together, not drive us apart. This must be the rallying cry of good and decent people.

For their sake, for all our sakes, we must build a future where, in every city across this country, empty rage gives way to hope, where poverty and despair give way to opportunity. After peace is restored to Los Angeles, we must then turn again to the underlying causes of such tragic events. We must keep on working to create a climate of understanding and tolerance, a climate that refuses to accept racism, bigotry, anti-Semitism, and hate of any kind, anytime, anywhere.

Tonight, I ask all Americans to lend their hearts, their voices, and their prayers to the healing of hatred. As President, I took an

oath to preserve, protect, and defend the Constitution, an oath that requires every President to establish justice and ensure domestic tranquility. That duty is foremost in my mind tonight.

Let me say to the people saddened by the spectacle of the past few days, to the good people of Los Angeles, caught at the center of this senseless suffering: The violence will end. Justice will be served. Hope will return.

Thank you, and may God bless the United States of America.

Note: The President spoke at 9:03 p.m. from the Oval Office at the White House. The address was broadcast live on nationwide radio and television. The proclamation and Executive order on law and order in Los Angeles are listed in Appendix E at the end of this volume.

Exchange With Reporters Prior to a Meeting With Cabinet Members

May 4, 1992

Federal Aid to Cities

Q. Mr. President, what hopes do you have for any long-range help for urban areas like Los Angeles?

The President. We have some very good proposals out on the table right now, proposals that clearly have come of age. But we're going to be talking about that today and tomorrow. Today we're probably going to think more about what we can do immediately in the aftermath of this violence. And then tomorrow, we'll put it in a little longer term perspective.

But I'm very pleased that it's calmed down out there. And we will do everything we can to support the people out there, to make things tranquil, and then to help get to the core of the problems.

Q. Do you intend to visit any of the damage sites?

The President. We're talking now about the schedule. It will probably change from what had been planned. As you know, I planned a trip out there for some time, so it

fits in very nicely. And we had a briefing this morning from the Attorney General, who's here, Deputy Secretary of Defense, and Dave Jeremiah about the Federal presence on the ground and the state of play on the ground. And now we're going to be talking with our top people here as to how our various Cabinet Departments can assist. And then we'll have people going out there, and by Thursday a schedule will be worked out where I will be able to meet with the key participants in this recovery, and those who also have responsibility for the long run.

Q. Are you saying, Mr. President, you have no idea what the core of this problem is?

The President. No, I'm not—didn't say that at all, Helen [Helen Thomas, United Press International]. I don't know how you could conclude that from what I just said. We have some very good ideas that we have out there that would have been extraordinarily helpful if they'd been put into

SUMMARY: The Environmental Protection Agency (EPA or Agency) is extending the comment period on the proposed no-migration variance decision for Exxon Company, U.S.A., Billings, Montana, which appeared in the Federal Register on March 26, 1992 (see 57 FR 10478). This extension of the comment period is provided to allow commenters an opportunity to finalize their review efforts and responses to the Agency's proposed decision.

DATES: EPA will accept public comments on the proposed decision until June 10, 1992. Comments postmarked after the close of the extended comment period will be stamped late.

ADDRESSES: Send three copies of your comments to EPA. Two copies should be sent to the RCRA Docket, Office of Solid Waste (OS-343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A third copy should be sent to Allyson Ugarte, Permits and State Programs Division, Office of Solid Waste (OS-343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Identify your comments at the top with the regulatory docket number F-92-NEBP-FFFFF.

The RCRA regulatory docket where this information can be viewed is located at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays. Call (202) 260-9327 for appointments. Up to 100 pages may be copied free of charge from any one regulatory docket. Additional copies are \$0.15 per page.

A copy of the supporting record is also available to the public in Helena, Montana, at the EPA Region VII, Montana Operations Office, Federal Building, 301 South Park. The public may make arrangements to view the documents by calling Stephanie Wallace at (406) 499-5414. This docket is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424-9346 toll free or at (703) 920-9810 in the Washington, DC area. For technical information concerning this notice, contact Athena Rodbell, Office of Solid Waste (OS-343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, at (202) 260-4519.

SUPPLEMENTARY INFORMATION: On March 26, 1992, EPA proposed to grant a no-migration petition submitted by

Exxon Company, U.S.A. (Exxon), Billings, Montana, pursuant to 40 CFR 268.6, to allow Exxon to conduct the land treatment of hazardous wastes generated at the Billings refinery. See 57 FR 10478 for a more detailed explanation of why the Agency proposed to grant Exxon's petition.

Since publication, the Agency has received several requests from commenters to extend the comment period because additional time is needed to review the extensive administrative record for this first proposal to grant a no-migration variance for any type of surface land disposal unit. In addition, one commenter stated that the public docket did not contain certain relevant documents and that a number of pages were missing from documents attached to the petition.

The Agency considered the commenters' requests and has decided to extend the comment period for 30 days to allow commenters additional time to review the entire record. The specific materials identified as missing have been placed in the docket for this notice and are available for public review.

The public comment period for the proposed notice to grant a no-migration variance was originally scheduled to end on May 11, 1992. Today's notice extends the public comment period for the proposed notice to allow commenters and opportunity to finalize their review and responses to the Agency's proposed decision.

Dated: May 8, 1992.

Sylvia K. Lowrance,
Director, Office of Solid Waste.
[FR Doc 92-11388 Filed 5-13-92; 8:45 am]
BILLING CODE 6550-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-943-DR]

California; Major Disaster and Related Determinations

AGENCY: Federal Emergency
Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of California (FEMA-943-DR), dated May 4, 1992, and related determinations.

EFFECTIVE DATE: May 4, 1992.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal

Emergency Management Agency,
Washington, DC 20472, (202) 646-3808.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 4, 1992, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of California, resulting from earthquakes and continuing aftershocks commencing on April 25, and continuing, is of sufficient severity magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of California.

In order to provide Federal assistance, are hereby authorized to allocate from available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Richard Buck of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of California to have been affected adversely by this declared major disaster:

Humboldt County for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Wallace E. Stickney,
Director.

[FR Doc 92-11356 Filed 5-13-92; 8:45 am]
BILLING CODE 6718-02-M

Advisory Committee for the National Urban Search and Rescue System; Open Meeting

AGENCY: Federal Emergency
Management Agency (FEMA).

EXECUTIVE ORDER
OF THE PRESIDENT
NOV 10 1993
LAW

Vol. 139

WASHINGTON, MONDAY, NOVEMBER 8, 1993

No. 155

Congressional Record

RECEIVED
U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON, DC 20540



United States
of America

PROCEEDINGS AND DEBATES OF THE 103^d CONGRESS, FIRST SESSION

United States
Government
Printing Office

SUPERINTENDENT
OF DOCUMENTS
Washington, DC 2040

OFFICIAL BUSINESS
Penalty for private use

528

LISD

Congress Record

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(I SPS 087-390)

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I ask unanimous consent to get the yeas and nays on the Dole amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Thank you, Mr. President.

I yield the floor.

AMENDMENT NO. 1142

(Purpose: To provide for programs for the prosecution of driving while intoxicated charges to be included in the Edward Byrne Memorial State and Local Law Enforcement Assistance Program)

Mr. HATCH. Mr. President, I send an amendment to the desk on behalf of Senator DOMENICI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Utah [Mr. HATCH], for Mr. DOMENICI, proposes an amendment numbered 1142.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SECTION 1. DRIVING WHILE INTOXICATED PROSECUTION PROGRAM.

Section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751), as amended by section 621, is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(24) programs for the prosecution of driving while intoxicated charges and the enforcement of other laws relating to alcohol use and the operation of motor vehicles."

Mr. DOMENICI. Mr. President I offer an amendment that will help our country address the continuing problem of suffering and financial losses due to accidents caused by drivers operating motor vehicles while under the influence of alcohol.

All of us are painfully aware of the psychological and physical costs and the fiscal implications which result from the carnage which we as a nation inflict upon ourselves every year on America's highways. Approximately 5 million of our constituents yearly are motor vehicle crash victims, costing employers 15 million days of lost time and \$48.5 billion annually, according to some estimates. Drunk drivers are a major part of the problem. As a result, I am now introducing an amendment which will make a significant contribution to the attack on drunk driving throughout the country.

My amendment amends the 1968 Omnibus Crime Control and Safe Streets Act by adding a 22d category to the initiatives that States are allowed to spend money under the Edward Byrne Memorial State and Local Law Enforcement Program. My amendment would create a new category which will allow States to fund programs for the prosecution of driving under the influence charges and for the enforcement of laws relating to alcohol use and the operation of motor vehicles.

I want to stress to Senators that although I believe that my amendment is the right thing for states to do, it does not mandate they spend any of the funding they receive from the Edward Byrne Memorial grants for the purpose outlined in the amendment. My amendment simply provides them with the authority to do so if they so desire.

Mr. President, I believe my amendment is a step in the right direction. I ask my colleagues to support it.

Mr. HATCH. It is my understanding that this amendment is agreed to by both sides.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1142) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LIEBERMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I am about to propound a unanimous-consent request. My distinguished friend from Connecticut has another amendment on drug emergency areas. I ask unanimous consent that we be able to proceed to the amendment with 30 minutes equally divided in the usual form.

Mr. HATCH. Will the Senator yield? Let us not agree to a time limit but proceed to the amendment, debate it tonight and get unanimous consent with regard to other amendments.

Mr. BIDEN. I amend my unanimous-consent request that we proceed to the LIEBERMAN amendment on drug emergency areas and that no second-degree amendments relating to guns be in order to the amendment; and that upon completion of the debate on the amendment tonight it be laid aside until there is unanimous consent to bring it back up.

That is my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. I thank the Chair and thank the Senator from Delaware.

AMENDMENT NO. 1143

Mr. LIEBERMAN. Mr. President, I send an amendment to the desk ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk as follows:

The Senator from Connecticut [LIEBERMAN] proposes an amendment numbered 1143.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . VIOLENT CRIME AND DRUG EMERGENCY AREAS.

(a) DEFINITION.—In this section, "major violent crime or drug-related emergency" means an occasion or instance in which violent crime, drug smuggling, drug trafficking, or drug abuse violence reaches such levels, as determined by the President, in consultation with the Attorney General, that Federal assistance is needed to supplement State local efforts and capabilities to save lives, and to protect property and public health and safety.

(b) DECLARATION OF VIOLENT CRIME AND DRUG EMERGENCY AREAS.—If a major violent crime or drug related emergency exists throughout a State or a part of a State, the President, in consultation with the Attorney General and other appropriate officials, may declare the State or part of a State to be a violent crime or drug emergency area and may take any and all necessary actions authorized by this section and other law. For the purposes of this section, the term "State" shall be deemed to include the District of Columbia and any United States territory or possession.

(c) PROCEDURE.—

(1) IN GENERAL.—A request for a declaration designating an area to be a violent crime or drug emergency area shall be made, in writing, by the chief executive officers of a State and local government, respectively (or in the case of the District of Columbia, the mayor), and shall be forwarded to the Attorney General in such form as the Attorney General may by regulation require. One or more cities, counties, States, or the District of Columbia may submit a joint request for designation as a major violent crime or drug emergency area under this subsection.

(2) FINDING.—A request made under paragraph (1) shall be based on a written finding that the major violent crime or drug-related emergency is of such severity and magnitude that Federal assistance is necessary to ensure an effective response to save lives and to protect property and public health and safety.

(d) IRRELEVANCY OF POPULATION DENSITY.—The President shall not limit declarations made under this section to highly populated centers of violent crime or drug trafficking, drug smuggling, or drug use, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

(e) REQUIREMENTS.—As part of a request for a declaration under this section, and as a prerequisite to Federal violent crime or drug emergency assistance under this section, the chief executive officer of a State or local government shall—

(1) take appropriate action under State or local law and furnish information on the nature and amount of State and local resources that have been or will be committed to alleviating the major violent crime drug-related emergency;

(2) submit a detailed plan outlining that government's short- and long-term plans to respond to the violent crime or drug emergency, specifying the types and levels of Federal assistance requested and including explicit goals (including quantitative goals) and timetables; and

(3) specify how Federal assistance provided under this section is intended to achieve those goals.

(f) **REVIEW PERIOD.**—The Attorney General shall review a request submitted pursuant to this section, and the President shall decide whether to declare a violent crime or drug emergency area, within 30 days after receiving the request.

(g) **FEDERAL ASSISTANCE.**—The President may—

(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, financial assistance, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

(2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information; and

(h) **DURATION OF FEDERAL ASSISTANCE.**—

(1) **IN GENERAL.**—Federal assistance under this section shall not be provided to a Violent Crime or Drug Emergency Area for more than 1 year.

(2) **EXTENSION.**—The chief executive officer of a jurisdiction may apply to the Attorney General for an extension of assistance beyond 1 year. The President, in consultation with the Attorney General, may extend the provision of Federal assistance for not more than an additional 180 days.

(i) **REGULATIONS.**—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall issue regulations to implement this section.

(j) **NO EFFECT ON EXISTING AUTHORITY.**—Nothing in this Section shall diminish or detract from existing authority possessed by the President or Attorney General.

Mr. LIEBERMAN. Mr. President, this amendment would give the mayors and Governors of our country, chief elected officials of States and localities, the opportunity to petition the President of the United States to declare a violent crime or drug emergency in their States or locality, making them eligible for special Federal assistance to fight back against local crime problems that have simply gone beyond their ability in the short term to control.

Crime is reaching unprecedented levels across our Nation. Over the past three decades, the number of crimes reported has increased from one crime per police officer in 1961 to five crimes per officer in 1991. The rise in the number of violent crimes has been particularly shocking. Violent crimes rose 14 percent between 1980 and 1988, and then 23 percent between 1988 and 1991. In addition, during the last 4 years, rapes have jumped 17 percent, robberies 33 percent, and aggravated assaults 28 percent.

Even more startling and disturbing is the callous disregard for human life which is evidenced in existing data on crime. Last year, 24,000 Americans were murdered, many in drug and gang-related activities.

We clearly must do everything in our power to reverse these disturbing trends. Crime is literally ripping apart the social fabric of our communities. As noted, in the Public Policy Institute's "Mandate for Change, crime . . . turns strangers into enemies, unfamiliar ground into dangerous turf, and random social contact into risky business. When crime afflicts a neighborhood, those who can avoid it, stay away; those who cannot, suffer alone. The former become isolated, the latter abandoned."

So many of our neighbors, particularly our elderly citizens, are prisoners in their homes, especially at night, when the world outside becomes a forbidden zone. Just glance at the news on any given night reveals this growing madness in our society.

During the last several months, I travelled throughout my home State of Connecticut and met with police, prosecutors, prison officials, community officials, and countless citizen to discuss the problem of crime and Government's response to it. The underlying message conveyed to me in these meetings was the public's fear and yearning for Government to secure and protect their personal safety.

We in Congress have a special responsibility to take crime seriously and return to the public the sense of security that has been snatched from them in recent years. Indeed, we have a constitutional responsibility to ensure domestic tranquility. We must restore their faith in Government's ability and capacity to deal effectively with the crime problem. I believe my amendment takes an important step in that direction by increasing Federal support for the war on crime.

Mr. President, there are times and places when criminals get the upper hand in a neighborhood or a city, and local and State authorities do not have the resources to adequately safeguard people's lives. That is when the Federal Government must be able to rush in with the personnel, equipment and other resources needed by law enforcement agencies to strike back against gangs, drug traffickers, and other violent criminals.

In these instances, this amendment will give the President, upon consultation with the Attorney General, the power to declare that a violent crime or drug emergency exists in a State, community, or neighborhood. In doing so, the President would direct the agencies of the Federal Government to provide emergency Federal assistance to the designated area so as to supplement State and local efforts to save lives and protect property, public health, and safety.

That assistance can come in the form of personnel, equipment, supplies, fa-

cilities, financial assistance, and aerial, technical and, advisory services, including communications support and law enforcement-related intelligence information. Requests for declaration of an emergency must be made in writing by the Governor and chief executive officer of any affected State and local government. The President must act on these requests within days.

I believe the case for this is reinforced by recent events in Hartford, CT. Facing a particularly violent of gang activity in Hartford, city government and law enforcement officials launched Operation Liberty—an aggressive State and local effort to reduce violence in a number of targeted neighborhoods throughout the city. In an attempt to supplement and bolster local law enforcement efforts in dealing with this emergency, the State provided additional police officers other forms of tactical support sorely needed in certain areas of the city.

While there is still much work to be done, preliminary reports are encouraging. The Hartford Courant recently reported that there is little dispute that violence and gang activity been reduced dramatically. As a result of these coordinated efforts, citizens in affected areas are regaining a sense of security that was stripped from by these gangs. There has also been a drop in the number of assaults against police officers.

I believe that the priorities outlined in this amendment must be enacted into law if we are serious about fighting crime on a national basis. Declaring a neighborhood, a city, or a State a violent crime or drug emergency area will have two immediate, positive effects:

First, it would be a powerful signal to lawbreakers that all of society takes their crimes seriously—not just the victims, not just the local cops. But everyone up to and including the President of the United States and the Attorney General knows that they are up to, and are willing to fight back. I have every confidence that it would send a chill down the spines of wrongdoers, just as it would give a sigh of relief to the beleaguered citizens living under the yoke of crime.

The second benefit of this strategy would be an immediate infusion of added resources, including manpower, equipment, financial assistance, other logistical assistance, into a crime-plagued region, quickly bolstering the limited scope of local police, and giving the law enforcement overwhelming force to use against lawbreakers. Too often, our local police are in unfair fights.

While there will be critics of the medicine I prescribe to help remedy this national ailment, I fully expect the biggest supporters of this idea will be the people who live in those neighborhoods where crime has taken over. It is they who would welcome the ar-



U. S. States
of America

No. 156—Part II Congressional Record

PROCEEDINGS AND DEBATES OF THE 103^d CONGRESS, FIRST SESSION

Vol. 139

WASHINGTON, TUESDAY, NOVEMBER 9, 1993

No. 156—Part II

Senate

(Legislative day of Tuesday, November 2, 1993)

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

(Continued)

AMENDMENT NO. 1143

Mr. LIEBERMAN. Madam President, the Senate debated this amendment at length last night, and I wish to just speak very briefly on it.

I thank the chairman of the committee, the Senator from Delaware, and the ranking member, the Senator from Utah, for their thoughtful encouragement and support.

This amendment will enable the chief elected official of a State or local government to apply to the President of the United States to declare an area within their jurisdiction a violent crime or drug emergency area.

If a President so declares, the President will be authorized to send whatever help he can, personnel, resources, equipment, financial assistance, within the law. That is within existing appropriations available to the President; indeed, within appropriations that will be made possible by this very strong anticrime package that we are in the process of adopting here in the Senate this week.

Madam President, stated simply, we have seen it in my State in Hartford, New Haven, Bridgeport, at different times. Unfortunately there are moments when the local law enforcement officials are outgunned and outmanned by the criminals. Just as in cases of natural disaster, when local officials—whether it is a flood, a hurricane, or the fires that have spread in California in these recent days—when local officials are overwhelmed, the problem is larger than they can handle, they turn to the President and ask for a declaration of natural disaster.

Here in a sense what we are saying is the President can declare an unnatural disaster, an unnatural disaster caused by violent crime and drugs, an emergency, and can use whatever resources

are at his control on a short-term basis to help local officials restore order, and to protect law-abiding citizens.

Madam President, I again thank my colleagues for their support. I urge adoption of the amendment.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, we believe this to be a great amendment, and both sides are willing to accept it.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Connecticut. The amendment (No. 1143) was agreed to.

Mr. HATCH. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, we are now at the point on this bill where we have a bill that can really make a difference in this country. We have taken a lot of these amendments—many of them are very thoughtful and will make a difference in our efforts against crime in this country.

This is a bill that is going to spend over \$20 billion in helping the States and the Federal Government to complete their missions against criminal activity in this country. Never in the history of this country have we come so far on an anticrime bill as we have on this one. There has never been anything like it. I have never seen anything come close.

We have had bipartisan help on this bill. Both Democrats and Republicans have worked together. We have provisions in here that would solve many, many problems in our society and help

us toward a solution to make it happen.

We have had the help of the distinguished chairman of the Appropriations Committee, who has provided a means whereby we have the funding to do this, which has always been a problem in authorizing a crime bill. I cannot imagine the President not being proud of what we have done up until now. In fact, I cannot imagine anyone not being proud of what we have done up to now.

If I had my way, and I think the way of most in this body, we would go to third reading right now. We would pass this bill in its current form, and I think it would be almost impossible for anybody to reject it. I personally believe it would pass so overwhelmingly that there would not be any question about it.

If we do not do that and we start now into the problems that could arise, we may never get a crime bill.

We need to do one other thing, and that is, we need to delete the habeas corpus provision of this bill. I think both sides would like to do that because we know that that is highly controversial. We know that that could stop the passage of this bill if it is not handled exactly right.

At the appropriate time we will move to strike the habeas corpus provisions, as much as I feel deeply about it. By the way, nobody in this body feels more deeply. It was the Hatch amendment in 1991 that passed the Senate 58 to 40. It would have reformed habeas corpus and solved that problem for every State in the Union from that time on.

I feel very deeply about the habeas corpus problem, and I would like to resolve and reform it. But we cannot do that and pass a bill like this.

So, as deeply as I feel, as much as I think that needs to be done, as important as that may be, I am willing to

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



recycled paper containing 100% consumer waste

S15411

rival of the Federal help with hope and open arms.

As the Senator from Delaware said earlier, in this bill we are taking the Federal Government into a new cooperative relationship with the States and localities in trying to fulfill our constitutional responsibility to provide for domestic tranquility, which certainly does not exist in too many neighborhoods of our country now.

Clearly, as the Senator from Delaware said, there is a limit to how far we can go in federalizing the criminal law. But we have taken the right step in recognizing that we have this authority, and we have done so in a way that is meaningful. Again, not just with rhetoric but with serious proposals and on a bipartisan basis, we have put forward the money to make those proposals real. Thus, this extraordinary response to the fact that too many criminals are going through the revolving doors because there is not enough jail space to put them into, and we have provided billions of dollars to help the States and localities build jails. Thus the fact, acknowledging our Federal responsibility, we have provided these billions of dollars to put 100,000 more police out onto the streets. And we have also added to the Federal criminal law, providing the extra deterrent that the Federal system enables us to provide.

I have spent a fair amount of time in recent months around my State talking to police, prosecutors, citizens, judges. There is an interesting fact that I can report to the Chamber. While there are some—including some editorial writers—some Federal judges in fact, who decry the so-called federalization of the criminal law, when I talk to the local police and the local prosecutors they say to me one of the best things that has happened in the fight against crime in recent years is that we have added a Federal punch to the criminal law, that we have created task forces throughout this country bringing together Federal, State and local investigators, enforcers, prosecutors. As more than one police officer and prosecutor in my State has said to me, the one part of the criminal justice system that is working today is the Federal part, because the criminals know that, and local prosecutors are using Federal law to target the worst of the local criminals, involved in the most serious of local crimes.

They know if arrested under the Federal law they almost always will be taken to trial, because the Federal courts have that capacity. And, if convicted, they will almost always go to jail, and they will go to jail for a good long period of time as they should under the mandatory minimum sentencing provisions of Federal law.

So we have taken some serious steps forward in bringing the Federal Government to a reasonable partnership with the States in protecting law-abiding citizens from crime. This is the next step I am proposing.

It says that when a community and its police officers are simply outgunned and outmanned—as has happened in too many areas of our country—by the criminals, that the chief elected officials of the local areas and of the States can turn to the President and say, as they do in the case of a natural disaster—a flood, a hurricane, a fire—“Mr. President, we need the help of the Federal Government for short term to come in and help us to restore basic order.”

The President, under this proposal, will have the ability to bring together existing Federal resources and send them in to help people in the local area. We have a special responsibility, I think, Mr. President, to help to make that happen.

This amendment will give the President, upon consultation with the Attorney General, the power to declare that a violent crime or drug emergency exists in a State, community or neighborhood. In doing so, the President would direct the agencies of the Federal Government to provide emergency Federal assistance to the designated area so as to supplement State and local efforts to save lives and protect property, public health, and safety.

The Federal Government, the President, and the Attorney General will be able to rush in with the personnel, equipment, financial assistance and other resources needed by local law enforcement agencies to strike back against gangs, drug traffickers or other violent criminals.

Requests for declaration of an emergency under this amendment must be made in writing by the Governor and Chief Executive officer of any affected State and local Government, and the President, under the amendment, would be required to act on those requests within 30 days. Of course, we hope that the President would act much more rapidly.

I do want to stress, in terms of the concerns about who controls law enforcement, that any Federal personnel, any Federal equipment sent by the President to help local police would be under the administrative authority of the local police chief or the highest law enforcement official in that jurisdiction, pursuant to terms negotiated prior to deployment among the parties.

Mr. President, I believe the case for this amendment was reinforced by recent events in the capital city of my State of Connecticut. Facing a particularly violent rash of gang activity in Hartford, literally a war between two gangs that effectively took over control of one of the great historic neighborhoods of Hartford, CT, city government and law enforcement officials turned to the State of Connecticut and said: “We need help.”

The State responded under a new law that Connecticut has that enables the Governor and the public safety commissioner to dispatch State troopers to help local law enforcement officials in much the same way this amendment

would authorize the President of the United States and the Attorney General to send Federal help to local law enforcement officials.

In Hartford, State and local officials formed something called Operation Liberty, an aggressive joint effort to reduce violence in a number of these targeted neighborhoods throughout the city. In an attempt to supplement bolster local law enforcement efforts in dealing with this emergency, the State provided additional police officers and other forms of tactical support.

While there was much work to be done, I am pleased to say that the reports of what happened were encouraging. The Hartford Current reported in an editorial that there was little dispute that violence in gang activity as a result of the additional personnel equipment in that neighborhood was reduced. In fact, the crime rate generally dropped by more than 15 percent. As a result of these coordinated efforts, citizens in affected areas regained a sense of security for that period of time, a sense of security that was taken away from them by those gangs.

I must say that I spoke to a woman in one of those neighborhoods during one of my walks through one of those neighborhoods and she said to me:

Senator, I know that when the State troopers arrived and when the extra police came into our neighborhood, some people might say that this place looks like a police state. But you know what, Senator, I felt comfortable. I felt secure for the first time in long a time. I felt that I could go out of my house, walk in my neighborhood without fear of being the victim of crime, without fear of being an unintended bystander caught in a crossfire.

I believe that the priorities outlined in this amendment should be enacted into law to continue the expression that is so much a part of this bill, that we are really serious about fighting crime on a national basis.

Declaring a neighborhood or a city or a State a violent crime or drug emergency area will have at least two effects that go beyond the direct help that will be provided by Federal personnel and perhaps even Federal financial assistance.

First, I believe it would be a powerful signal to the lawbreakers that all of society takes their crime seriously, not just their local victims, not just the local cops, but everyone up to and including the President of the United States and the Attorney General of the United States know what those criminals are up to and that we are willing to fight back. I am hopeful that it will send a chill down the spines of these criminals, just as it will give a sigh of relief to the beleaguered citizens living under the yoke of crime.

Mr. President, the second benefit of this strategy, I think, would be an immediate infusion of added resources, including, again, personnel, equipment, financial assistance and other logistical assistance into a crime-plagued region, giving the President the power, as he does in a natural disaster, to effectively say that the vio-

lent crime and drug emergency areas have become unnatural disasters, man-made disasters, and to take the resources provided to the President, to the Justice Department under existing law and focus them for a limited period of time into this area where the local police simply are unable themselves to return control and security because they have been put in an unfair fight.

I know that there may be some who will question this remedy, but I believe that the biggest supporters of this proposal will be the people who live in those neighborhoods where the gangs have taken over. It is they who will welcome the arrival of Federal help with hope and with open arms.

I hope that the Senate will agree with me, support this amendment, and provide this other means of help to our local and State law enforcement officials.

Mr. President, I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, once again, let me compliment my friend from Connecticut. Back years ago when I first drafted the drug czar legislation—and it passed—and we had the first Presidential finding on what our national drug strategy should be, we had the first so-called drug bill. And in that bill, I introduced the concept called drug emergency areas whereby we would treat drug emergency areas and identify them the same way we do natural disasters.

No one bats an eye in this town or this Nation—nor should they—I might add, when the poor people of Iowa and Missouri, and Kansas and Nebraska are flooded by the Platte, Missouri and Mississippi Rivers and are wiped out. No one bats an eye when the people in the Los Angeles area suffer the ravages of the consequences of an arsonist, apparently, and the Santa Ana winds combining to rob them of their homes and their livelihoods and their lives. No one thinks twice when Hurricane Andrew comes ripping through the State of Florida and all the way through Louisiana, wreaking havoc on anything in its path. They are true national natural disasters and emergencies.

As the Senator from Connecticut knows, as well as anyone, having been a former attorney general of the State, there are neighborhoods, towns, entire sectors of cities that are natural disaster areas because they are drug emergency areas.

I can take you to Philadelphia, Armingo Avenue; I can take you, I suspect, to parts of New Haven; I can take you to parts of Wilmington, DE; towns in my State, as small as the State is, where the drug trade has literally—not figuratively, literally—taken over a section of the town—armed persons on the street, plying and selling their wares, occasionally shooting each other for control of a corner, people afraid to walk out of their homes, over-

whelming local police, because, as the Senator knows, when the major drug cartels, whether they are Colombian, Jamaican, Mafia, whatever the nature of the cartel, decide to move into an area, they do not move in in a small way. They move in with firepower, financial power, organizational power, and they overpower a community.

This is an example of what I was talking about before. This is where the Federal Government over the past 40 years has developed a genuine expertise, where we have a capability that far exceeds any State capability. No matter how incredibly competent major State law enforcement agencies are, they pale in comparison to the capabilities that exist at the Federal level.

When I introduced the last Biden bill that was filibustered for 2 years by my Republican colleagues, I went even further. I had \$300 million in the bill for drug emergency areas, allowing the President to designate drug emergency areas.

I think we have to think in terms of natural disasters. If you ask me whether or not I would rather a hurricane come through my neighborhood where I live on a one-time occasion or you gave me the awful alternative of having a Jamaican organized crime ring move in peddling drugs or the Mafia or the Colombian cartel or the Cali cartel move in to take over my neighborhood, at least I know what the hurricane is. If I make it past that hour, I will live and I can reconstruct my life; my children, if they make it through that hurricane, will live. We will have financial deprivation; we may have serious injuries, but we can rebuild.

People who have these cancerous organizations move into their neighborhoods in towns and cities, it is not a one-time event. It is a lifetime event.

I strongly support the Senator. He does not even ask for additional money. He asks only for the authority of the President to declare an area a drug emergency area and use existing Federal resources to come to the aid of that locality. This is a place where a true Federal-State partnership should exist. This is a place where we can bring to bear the significant resources of the Federal Government.

I might add that my friend from Utah, in his addition to my rural crime initiative in this bill, provided the ability to do something like this. We added a number of drug enforcement agents who are able to go into rural communities and do the kind of thing the Senator from Connecticut is asking to do on a larger scale in areas where the cancer has spread. But make no mistake about it, there is no exaggeration on the part of the Senator from Connecticut when he says this is a real need. This is literally like a cancer in the body politic when these major drug trafficking organizations literally take over cities, parts of cities.

Let me conclude by saying I mention that occasionally, as I

do not have an apartment or in Washington, I stay overnight at a hotel. It is more practical and more frugal to do it that way. I will get to the hotel at night and turn the television. They have these movie channels on. There are more now—my wife and I are movie junkies at the local movie theaters—and I watch the previews for coming attractions. I want the Senator to know how upcoming movies and grade B movies are now on the air which have as their premise that it is the year 1999 or 2005, and entire sectors of cities have overtaken by drug gangs. The theme of the movie is having it go out and some Robocop or some supercop some madman or some Sylvester Stallone-type character to go in to man's land. That is a Hollywood exaggeration of what exists now. Some of these areas are literally a no man's land, but real, live, decent people live in that no man's land. This is an area where the Federal Government should, and I believe must help law enforcement with the considerable expertise and experience we have to bear.

I hope, when the time comes for to vote on this tomorrow, the majority of my colleagues will agree with the Senator from Connecticut, as I do, and vote to support his legislation.

Mr. BIDEN. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the Chair and I thank my friend and colleague from Delaware for his very powerful statement and, of course, for his support of this amendment. I really wish to thank him in a more general and historic sense—not so historic—for the fact that it was his original legislation which is the inspiration for this amendment.

The amendment grew out of experiences that we have had in Connecticut, some of the extraordinarily positive experiences with the local-State-Federal task forces. As we began to fashion the amendment, we looked back at work the Senator from Delaware had done. This seemed like the perfect response to it.

I wish to share with my friend and colleague an experience which validates so much of what he says about what has happened in too many neighborhoods in our country and leads to the kinds of films that the Senator referred to.

A while ago, the chief states attorney of Connecticut, John M. Bailey, Jr., convened what he called a summit on crime, with police officials, prosecutors, State and local, Federal legislators, and we saw there a tape I heard about in the last 2 or 3 months from various local law enforcement officials in Connecticut that startled me, as bad as we know things are.

It was a tape taken by the resident of a neighborhood in Bridgeport, CT, out his window one evening and night. If you watch the tape, you would be bar-

passed to believe that this was America. You would think it was another country that we too often have looked down on, or we say, OK, that happened somewhere else. Frankly, it looked like a war zone.

The situation I will describe briefly to the Senator is this: The day before, a gang that controlled this particular neighborhood for the purpose of drug sales and distribution had its quarters raided by the local police. I believe—I am not sure—that the BATF may have been involved. The target of the raid was the weapons possessed by this gang. A tremendous arsenal was seized. Word got out that this had occurred. These gang members apparently were fearful that other gangs, hearing that they had been disarmed, would come in to try to take over their territory in this neighborhood. I do not know the means, but they either went out and acquired another arsenal immediately that day or they had something else hidden that the police did not find.

And there you see on the streets of Bridgeport, CT—and this tape was taken by a citizen, a videotape—individuals walking with semiautomatics, long guns, on the streets in clear view essentially, and on the sidewalks, walking in the streets as if to say this is our territory, stay out of it.

Mr. BIDEN. Looked like Somalia.

Mr. LIEBERMAN. Looked like Somalia, looked like Beirut at an earlier time, at one point they were shooting up at the streetlights, lights that the local police had just replaced because they had earlier been shot out as a way to maintain darkness which would provide the cover for drug sales.

Incidentally, one of the terrifying—we laughed but it was a useful laugh. It took one of these guys probably 10 shots to knock out the streetlight, not a very good shot, and yet possessing a very powerful weapon. Obviously, you worry about the impact if he were shooting at another individual on the street.

You see in this film a mother walking by with a child, apparently coming from shopping. These guys are walking around with automatic weapons strung over their shoulders.

Mr. President, that is an extreme case, but too often in too many neighborhoods of our country that case is replicated or comes close to it. That is what this is all about.

I would add just a few points again just to stress this. The Federal, State, and local task forces that have been set up in part by the former director of the FBI, Judge Sessions, who came under some criticism on different matters. Nonetheless, it showed some real leadership in setting up these task forces, playing a key role in establishing, along with the previous Attorney General—which have worked magnificently with State and local police, bringing to bear FBI agents, DEA agents, when appropriate Immigration or Customs agents, using the U.S. attorneys, working State and local police. And, basi-

cally, in Connecticut State and local police saying this gang is controlling this neighborhood, Federal Government, we need your help, come in with your extra surveillance capacity, your sophisticated investigative help.

In New Haven, for instance, a gang known as the Jungle Boys occupied a housing project, literally occupied it, chose it because they assumed the residents would not object, and also because it was right adjacent to the interstate highway—laughable when you think about it, providing kind of an easy-on, easy-off access for drug purchasers, mostly from the suburbs, coming in to New Haven from the suburbs—took it over, and victimized the people in the project. Ultimately, the local police acknowledged they could not deal with it, and brought the Federal agents in.

It is a long and complicated story. But basically they made several arrests, and sent the two leaders of this gang away to Federal prison for 21 and 28 years, respectively.

That is the kind of cooperation this amendment is intended to build on.

Mr. President, as the Senator from Delaware said, I have not included in this amendment any specific funding. I have given authority here, this amendment gives authority to the President and the Attorney General to utilize resources available under law.

My hope is that some of the resources that are, in fact, made available under this law would be used by the President to respond to a local violent crime or drug emergency.

I have some hope in believing that there may be additional amendments, agreed to on a bipartisan basis, that will provide more funds for more U.S. attorneys to prosecute, more FBI agents to be involved in the war against crime, perhaps more DEA agents to help with drug emergencies.

And those extra resources provided under law, hopefully, will be at the call of the President to organize and target these areas that have just gone out of control and, quite literally, have become violent crime and drug emergency areas. The words that the chairman of the Judiciary Committee spoke are just right.

We have natural disaster areas. No one objects. Everyone supports the President when he goes in and helps areas, as he has now recently with the fires in California.

These are unnatural disasters caused by crime in too many of our cities and towns. I think it is time to give the President that same authority to come to the aid of local law enforcement and the people, the law-abiding people, who live in those cities and towns.

Mr. President, I again thank the Chair. I thank my friend from Delaware.

I ask that when the vote be taken on this amendment it be taken by the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BIDEN. Mr. President, I ask the Senator to withhold the request for the yeas and nays, not that we will not give him the yeas and nays. But since we have no time agreement at this point, not because he does not, but we cannot get one on the other side, as well as one amendment may be in order.

So if he will withhold that until tomorrow, I assure him if he wants a vote, he will get a vote on this.

Mr. LIEBERMAN. I thank the Senator. I withhold until tomorrow.

Mr. BIDEN. Let me say to my friend from Connecticut, Mr. President, that in the last crime bill that I wrote we had provisions to provide for a significant increase in the number of FBI agents and prosecutors. It is my intention, and we are working out the details now at the urging of my friend from Connecticut and others, that in this bill we provide for over 5 years and up to \$1 billion for additional Federal assistance relative to prosecutors and FBI agents in order to accommodate the kind of things he is talking about.

I really do think this is, as characterized by the Senator from Utah, what we have done so far if we pass it, the most significant, sweeping, and bold effort that the Federal Government has ever undertaken relative to dealing with crime in America.

I might add it is also probably the most often-called-for help that we have had as Senators from our people.

I understand that my friend from Connecticut had another amendment that both sides are prepared to accept. I do not know whether it is appropriate at the moment. But if the Senator is prepared to move on that amendment, we would be delighted to accept that amendment.

Mr. LIEBERMAN. Mr. President, I am prepared to move, and with the approval of the Senator from Delaware, I will send the amendment to the desk at this time.

The PRESIDING OFFICER. Is there objection to temporarily laying aside the pending amendment? Without objection, it is so ordered.

AMENDMENT NO. 1144

Mr. LIEBERMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself and Senator D'AMATO, proposes an amendment numbered 1144.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:
At the appropriate place insert the following:

SUBCHAPTER D—DISASTER ASSISTANCE

PARTS 200-201 (RESERVED)

PART 205—FEDERAL DISASTER ASSISTANCE (PUBLIC LAW 93-288)

Subpart A—General

- Sec.
- 1 Purpose.
 - 2 Definitions.
 - 3 Policy.
 - 4 State emergency plans.
 - 5 Assistance by Federal agencies.
 - 6 Federal equipment and supplies.
 - 7 Use and coordination of relief organizations.
 - 8-205.9 [Reserved]
 - 10 Duplication of benefits.
 - 11 Nonliability.
 - 12 Criminal and civil penalties.
 - 13 Reviews and reports.
 - 14 Appeals.
 - 15 Effective date.
 - 16 Nondiscrimination in disaster assistance.
 - 17 Emergency mass care.

Subpart B—(Reserved)

Subpart C—The Declaration Process

- 205.30 Purpose.
- 205.31 Definitions.
- 32 Policy.
- 205.33 Requests for major disaster declarations.
- 205.34 Requests for emergency declarations.
- 35 Processing requests for declarations of a major disaster or emergency.
- 205.36 Presidential determination.
- 205.37 Notification.
- 38 Appeal.
- 39 FEMA-State Agreements.
- 40 Designation of affected areas and eligible assistance.
- 41 Initiation of Federal assistance.
- 42 Responsibilities of the Coordinating Officer.
- 43 Emergency support teams.
- 44 Time limitations.

Subpart D—Individual Assistance

- 52 Temporary housing assistance.
- 205.53 Disaster unemployment assistance.
- 205.54 Individual and family grant (IFG) programs.
- 56 Food commodities.
- 205.57 Relocation assistance.
- 58 Disaster legal services.
- 59 Crisis counseling assistance and training.

- Sec.
- 205.60 Use of gifts and bequests for disaster assistance purposes.

Subpart E—Public Assistance

- 205.70 General.
- 205.71 Definitions.
- 205.72 Applicant eligibility.
- 205.73 General work eligibility.
- 205.74 Emergency work.
- 205.75 Permanent work.
- 205.76 Eligibility of costs.

Subpart F—Community Disaster Loans

- 205.90 Purpose.
- 205.91 Loan program.
- 205.92 Responsibilities.
- 205.93 Eligibility criteria.
- 205.94 Loan application.
- 205.95 Loan administration.
- 205.96 Loan cancellation.
- 205.97 Loan repayment.

Subpart G—Fire Suppression Assistance

- 205.100 General.
- 205.101 FEMA-State agreements.
- 205.102 Request for assistance.
- 205.103 Providing assistance.
- 205.104 Cost eligibility.
- 205.105 Grant administration.

Subpart H—Project Administration

- 205.110 General.
 - 205.111 Definitions.
 - 205.112 Implementation of OMB Circular A-102 and A-128.
 - 205.113 Federal grant assistance.
 - 205.114 Project applications.
 - 205.115 Documentation.
 - 205.116 Project performance.
 - 205.117 Claims for reimbursement.
 - 205.118 Interim and final inspections.
 - 205.119 Review and approval of claims.
 - 205.120 Federal funding.
 - 205.121 Appeals.
 - 205.122 Direct Federal assistance.
 - 205.123 Availability of materials.
- APPENDIX A TO SUBPART H—OFFICE OF MANAGEMENT AND BUDGET CIRCULAR NO. A-128—UNIFORM AUDIT REQUIREMENTS FOR STATE AND LOCAL GOVERNMENTS

Subpart I—Reimbursement of Other Federal Agencies

- 205.150 Purpose.
- 205.151 Assistance from other Federal agencies.
- 205.152 Expenditures eligible for reimbursement.

Emergency Management Agency

\$ 205.2

Subpart A—General

SOURCE: 45 FR 53335, Aug. 11, 1980, unless otherwise noted

§ 205.1 Purpose.

The purpose of this part is to prescribe the standards and procedures to be followed in implementing those sections of Public Law 93-288 assigned to the Director, Federal Emergency Management Agency (FEMA) by Executive Order 12148 and delegated to the Associate Director, FEMA.

§ 205.2 Definitions.

(a) *General.* The following definitions have general applicability throughout this part:

(1) *The Act* means the Disaster Relief Act of 1974 Public Law 93-288, as amended: 42 U.S.C. 5121 *et seq.*

(2) *Applicant* (i) public assistance (subpart E) means the State, local government, or eligible private nonprofit facility submitting a project application or request for direct Federal assistance under the Act or on whose behalf the Governor's Authorized Representative takes such action, and (ii) for individual assistance (subpart D) means an individual or family who submits an application or request for assistance under the Act.

(3) *Associate Director* means the Associate Director for State and Local Programs and Support, FEMA, or his/her designated representative.

(4) *Contractor* means any individual, partnership, corporation, agency, or other entity (other than an organization engaged in the business of insurance) performing work by contract for the Federal Government or a State or local agency.

(5) *Designated area* means any emergency or disaster-affected portion of a State which the Associate Director has determined is eligible for Federal assistance.

(6) *Director* means the Director, FEMA.

(7) *Disaster Recovery Manager* means the person appointed to exercise the authority of a Regional Director for a particular emergency or major disaster.

(8) *Emergency* means any hurricane, tornado, storm, flood, high water,

cedures for reimbursement.

Subpart J—General Insurance Requirements

- General.
- Definitions as used in this subpart.
- Exclusions.
- Applicability.
- Type of insurance.
- Extent of insurance.
- 205.206 Duration of insurance coverage.
- 205.207 Assurances for categorical grants.
- 205.208 Assurances for flexible funding.
- 205.209 Self-insurance.

Subpart K—Flood Insurance Requirements

- 205.250 General.
- 205.251 Definitions.
- 205.252 Exclusions.
- 205.253 Applicability.

Subpart L—(Reserved)

Subpart M—Hazard Mitigation

- 205.400 General.
- 205.401 Definitions.
- 205.402 Implementing actions.
- 205.403 Responsibilities.
- 205.404 Surveys.
- 205.405 Hazard mitigation plans.
- 205.406 Hazard mitigation measures.
- 205.407 Land use regulations.
- 205.408 Construction practices.
- 205.409 Consultations.
- 205.410 Compliance.
- 205.411 Evaluation.

Subpart N—Implementation of Coastal Barrier Resources Act

- 205.501 Purpose of subpart.
- 205.502 Policy.
- 205.503 Definitions.
- 205.504 Scope.
- 205.505 Limitations on Federal expenditures.
- 205.506 Exceptions.
- 205.507 Applicability to disaster assistance.
- 205.508 Requirements.
- 205.509 Consultation.
- 205.510 Consistency determinations.

AUTHORITY: 42 U.S.C. 5201 Reorganization Plan No. 3 of 1978, E.O. 12148, and subpart N is issued under 16 U.S.C. 3501, 3505; 42 U.S.C. 5201.

SOURCE: 40 FR 23253, May 28, 1975, unless otherwise noted. Redesignated at 44 FR 56172, Sept. 28, 1979.

wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a major disaster. For the purpose of these regulations, an emergency exists when the President so determines.

(9) *Federal agency* means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government, including the United States Postal Service, but shall not include the American National Red Cross.

(10) *Federal Coordinating Officer (FCO)* means the person appointed by the Director, or in his absence, the Deputy Director, or alternatively the Associate Director to coordinate Federal assistance in an emergency or a major disaster.

(11) *Governor* means the chief executive of any State or the Acting Governor.

(12) *Governor's Authorized Representative* means the person named by the Governor in the Federal-State Agreement to execute on behalf of the State all necessary documents for disaster assistance and evaluate and to transmit local government, eligible private non-private facility, and State agency requests for assistance to the Regional Director following a major disaster or emergency declaration.

(13) *Local government* means (1) any county, city, village, town, district, or other political subdivision of any State; any Indian tribe or authorized tribal organization; or Alaska Native village or organization, and (2) includes any rural community or unincorporated town or village or any other public entity for which an application for assistance is made by State or political subdivision thereof.

(14) *Major disaster* means any hurricane, tornado, storm, flood, highwater, wind-driven water, tidal wave tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in

any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act, above and beyond emergency services by the Federal Government, to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(15) *Private nonprofit organization* means any nongovernmental agency or entity that currently has (i) an effective ruling letter from the U.S. Internal Revenue Service granting tax exemption under section 501 (c), (d), or (e) of the Internal Revenue Code of 1954 or (ii) satisfactory evidence from the State that the organization or entity is a nonprofit one organized or doing business under State law.

(16) *Public facility* means any publicly owned flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility; any non-Federal-aid street, road, or highway; and any other public building, structure, or system, including those used for educational or recreational purposes, or any park.

(17) *Regional Director* means a director of a regional office of the Federal Emergency Management Agency (FEMA), of his/her designated representative. As used in these regulations Regional Director also means the Disaster Recovery Manager who has been appointed to exercise the authority of Regional Director for a particular emergency or major disaster.

(18) *State* means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Northern Mariana Islands.

(19) *State Coordinating Officer (SCO)* means the person appointed by the Governor to act in cooperation with the Federal Coordinating Officer.

(20) *State emergency plan* as used in section 301(b) of the Act means that State plan which is designated specifically for State-level response to emergencies or major disasters and which

sets forth actions to be taken by the State and local governments, including those for implementing Federal disaster assistance.

(21) *Temporary housing* means emergency or temporary accommodations provided by the Federal Government to individuals or families made homeless by an emergency or a major disaster (see § 205.52).

(22) *United States* means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(23) *Voluntary organization* means any chartered or otherwise duly recognized tax-exempt local, State, or national organization or group which has provided or may provide needed services to the States, local governments, or individuals in coping with a disaster.

(b) Definitions which apply to individual subparts are found in those subparts.

[45 FR 53335, Aug. 11, 1980, as amended at 46 FR 45138, Sept. 10, 1981; 50 FR 40007, Oct. 1, 1985]

§ 205.3 Policy.

(a) It is the policy of the Federal Emergency Management Agency (FEMA) to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage that result from major disasters and emergencies by:

(1) Providing Federal assistance for public and private losses and needs sustained from disasters;

(2) Encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the States and local governments;

(3) Achieving greater coordination and responsiveness of disaster preparedness and relief programs;

(4) Encouraging individuals, States, and local governments to obtain insurance coverage and thereby reduce their dependence on governmental assistance;

(5) Encouraging hazard mitigation measures, such as development of land-use and construction regulations,

floodplain management, protection of wetlands, and environmental planning, to reduce losses from disasters.

(b) It is also the policy of FEMA to foster the development of State and local government organizations and plans for coping with disasters, and to provide advice and guidance to Federal agencies and States and local governments on organization and preparedness to meet the effects of disasters.

(c) It is further a policy of FEMA to ensure that the individual disaster victims are informed of available Federal assistance and to assist individual victims in obtaining the Federal assistance to which they are entitled. Through coordination of all Federal programs and procedures, FEMA shall facilitate, wherever possible, the victims' understanding of these programs and simplify any actions required on the part of those victims who apply for assistance.

§ 205.4 State emergency plans.

The State shall set forth in the State's emergency plan all responsibilities and actions specified in the Act and these regulations that are required of the State and its political subdivisions to prepare for and respond to disasters and to facilitate the delivery of Federal disaster assistance.

§ 205.5 Assistance by Federal agencies.

(a) Upon the declaration of a major disaster or an emergency by the President, the Associate Director or the Regional Director may direct any Federal agency to provide assistance to State and local governments by:

(1) Utilizing or lending their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any act;

(2) Distributing medicine, food, and other consumable supplies; and

(3) Rendering assistance under the authority of the Act. Such assistance is provided with or without compensation as considered appropriate by the Associate Director or Regional Director under the provisions of "Subpart I—Reimbursement of Other Federal Agencies" of these regulations.

(b) Federal agencies shall provide any reports or information about disas-

for assistance rendered under provisions of these regulations, that the FCO or Regional Director considers necessary and requests from the agencies.

(c) Assistance furnished by any Federal agency under paragraph (a) of this section is subject to the eligibility criteria provided by the Associate Director under these regulations and other instructions as the Associate Director or Regional Director may issue.

(d) Assistance under paragraph (a) of this section, when directed by the Associate Director or the Regional Director, shall not affect the authority of any Federal agency to provide disaster assistance independent of the Act. However, disaster assistance by other Federal agencies is subject to the coordination of the Federal Coordinating Officer.

(e) In carrying out the purposes of the Act, any Federal agency may accept and utilize, with the consent of the State or local government, the services, personnel, materials, and facilities of any State or local government, agency, office, or employee. Such utilization shall not make such services, materials, or facilities Federal in nature nor make the State or local government or agency an arm or agent of the Federal Government.

(f) Eligible work under the provisions of the Act is not performed by or under the direct supervision of a Federal agency except when the State or local government lacks the capability to perform or contract for the approved work or the Regional Director determines that direct assistance is necessary to meet an immediate threat to life, health, or safety. (See §205.121, Direct Federal Assistance.)

§205.6 Federal equipment and supplies.

(a) In any major disaster or emergency, the Associate Director or the Regional Director may direct Federal agencies to donate or loan their equipment and supplies to State and local governments for use and distribution by them for the purposes of the Act.

(b) A donation or loan may include equipment and supplies determined under applicable laws and regulations to be surplus to the needs and respon-

sibilities of the Federal Government. The State shall certify that the surplus property is usable and necessary for current disaster purposes in order to receive a donation or loan. Such a donation or loan is made in accordance with procedures prescribed by the General Services Administration.

(c) In providing assistance under the Act, the Federal Government shall use surplus Federal property to the fullest extent feasible.

§205.7 Use and coordination of relief organizations.

(a) In providing relief and assistance under the Act, the Associate Director or the Federal Coordinating Officer may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other voluntary organizations in the distribution of medicine, food, supplies, or other items and in the restoration, rehabilitation, or reconstruction of community services and essential facilities, whenever the Associate Director or the Federal Coordinating Officer finds that such utilization is necessary.

(b) In any major disaster or emergency, the Regional Director may provide assistance by distributing or rendering through the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other voluntary organizations medicine, food, and other consumable supplies or emergency services.

(c) The Associate Director may enter into agreements with the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other voluntary organizations under which the Federal Coordinating Officer may coordinate the disaster relief activities of such organizations whenever the organizations are engaged in providing relief during and after a major disaster or emergency. Any agreement shall include provisions assuring that use of Federal facilities, supplies, and services will be in compliance with §205.16 (non-discrimination) and §205.10 (Duplication of Benefits) of these regulations and such other regulations as the Associate Director may issue.

(d) Nothing contained in this section shall be construed to limit or in any way affect the responsibilities of the American National Red Cross as stated in Public Law 58-4, approved January 5, 1905 (33 Stat. 599).

§205.8—205.9 (Reserved)

§205.10 Duplication of benefits.

(a) *Purpose.* This section establishes the policies for implementing section 315 of the Disaster Relief Act, entitled Duplication of Benefits.

(b) *Agency policy.* It is FEMA policy:

(1) To prevent duplication of benefits between its own programs and insurance benefits, and between its own programs and other disaster assistance, by providing assistance under the Act only when other assistance, which is the primary responsibility of another State or Federal agency to provide, will be significantly delayed or is unavailable, and when the delay or unavailability is not caused by the applicant;

(2) To examine a debt resulting from duplication to determine that the likelihood of collecting the debt and the best interests of the United States government justify taking the necessary recovery actions to remedy duplication which has occurred when other assistance has become available;

(3) To assure, by consultation with other Federal agencies and by performing selected quality control reviews, that the other disaster relief agencies establish and follow policies and procedures to prevent and remedy duplication among their programs, other programs, and insurance benefits; and

(4) To coordinate the effort of agencies providing assistance so that each agency understands the prevention and remedial policies of the others and is able to fulfill its own responsibilities regarding duplication of benefits.

(c) *Delivery sequence.* (1) Duplication occurs when an agency has provided assistance which was the primary responsibility of another agency, and the agency with primary responsibility later provides assistance. A delivery sequence establishes the order in which disaster relief agencies and organizations provide assistance. The specific sequence, in accordance with the man-

dates of the assistance programs, is to be followed in the delivery of assistance. When the delivery sequence has been disrupted, the disrupting agency is responsible for rectifying the duplication. The delivery sequence pertains to that period of time in the recovery phase when most of the traditional disaster assistance programs are available.

(2) The delivery sequence is, in order of delivery:

First—volunteer agencies' emergency assistance (except expendable items such as clothes, linens, and basic kitchenware); insurance (including flood insurance);

Second—temporary housing assistance (to include provision of a housing unit and minimal repairs);

Third—Small Business Administration and Farmers Home Administration disaster loans;

Fourth—Individuals and Family Grant program assistance;

Fifth—volunteer agencies' "additional assistance" programs; and

Sixth—the "Cora Brown Fund."

(3) Two significant points about the delivery sequence are that:

(i) Each assistance agency should, in turn, offer and be responsible for delivering assistance without regard to duplication with a program later in the sequence; and

(ii) The sequence itself determines what types of assistance can duplicate other assistance (e.g., a Federal program can duplicate insurance benefits, however, insurance benefits cannot duplicate the Federal assistance). An agency's position in the sequence determines the order in which it should provide assistance and what other resources it must consider before it does so.

(4) If following the delivery sequence concept would adversely affect the timely receipt of essential assistance by a disaster victim, the following exception may be invoked. When there is a time delay, an agency may offer assistance which is the primary responsibility of another agency. There may be cases when an agency (Agency B) delivers assistance which is normally the primary responsibility of another agency (Agency A) because Agency A has, for good cause, denied assistance. After the assistance is delivered, Agency A re-opens the case. If the primary re-

Agency A then provides assistance, that Agency A is responsible for coordinating with Agency B to either: (i) Assist Agency B in preventing the duplication of benefits or (ii) in the case where the disaster victim has refused assistance from Agency A, notify Agency B that it must recover assistance previously provided.

(d) *Program Guidance—(1) Programs Under the Act v. Other Agency Assistance.* (i) In making an eligibility determination, the FEMA Regional Director, in the case of Federally operated programs, or the State, in the case of State operated programs, shall determine whether assistance is the primary responsibility of another agency to provide, according to the delivery sequence; and determine whether that primary response agency can provide assistance in a timely way.

(ii) If it is determined that timely assistance can be provided by the agency with primary responsibility, refrain from providing assistance under the Act. If it is determined that assistance from the agency with primary responsibility will be significantly delayed, assistance under the Act may be provided, but then must be recovered from the applicant when the other assistance becomes available.

(2) *Programs Under the Act v. Insurance.* In making an eligibility determination, the FEMA Regional Director or State shall:

(i) Remind the applicant about his/her responsibility to pursue an adequate settlement. The applicant must provide information concerning insurance recoveries. The burden of proof is on the applicant to prove that, despite conditions of settlement or expected settlement, the need for disaster assistance is paramount;

(ii) Determine whether the applicant's insurance settlement will be sufficient to cover the loss or need without disaster assistance; and

(iii) Determine whether insurance benefits (including flood insurance) will be provided in a timely way, thus precluding the need for disaster assistance, or whether assistance should be provided immediately to prevent a hardship. Where flood insurance is involved, the Regional Director shall coordinate with the Federal Insurance

Administration. The purpose of this coordination is to obtain information about flood insurance coverage and settlements.

(3) *Random sample.* Each disaster assistance agency is responsible for preventing and rectifying duplication of benefits under the coordination of the Federal Coordinating Officer (FCO) and the general authority of section 315. To determine whether duplication has occurred and established procedures have been followed, the Regional Director shall, within 90 days after the close of the disaster assistance programs' application period, for selected disaster declarations, examine on a random sample basis, FEMA's and other government and voluntary agencies' case files and document the findings in writing.

(4) *Duplication when assistance under the Act is involved.* If duplication is discovered, the Regional Director shall determine whether the duplicating agency followed its own remedial procedures.

(i) If the duplicating agency followed its procedures and was successful in correcting the duplication, the Regional Director will take no further action. If the agency was not successful in correcting the duplication, and the Regional Director is satisfied that the duplicating agency followed its remedial procedures, no further action will be taken.

(ii) If the duplicating agency did not follow its duplication of benefits procedures, or the Regional Director is not satisfied that the procedures were followed in an acceptable manner, then the Regional Director shall provide an opportunity for the agency to take the required corrective action. If the agency cannot fulfill its responsibilities for remedial action, the Regional Director shall notify the recipient of the excess assistance, and after examining the debt, if it is determined that the likelihood of collecting the debt and the best interests of the United States government justify taking the necessary recovery actions, then take those recovery actions in conjunction with agency representatives for each identified case in the random sample (or larger universe, at the Regional Director's discretion).

(5) *Duplication when assistance under other authorities is involved.* When the random sample shows evidence that duplication has occurred and corrective action is required, the Regional Director and the FCO shall urge the duplicating agency to follow its own procedures to take corrective action, and shall work with the agency toward that end. Under his/her authority in section 315, the Regional Director shall require the duplicating agency to report to him/her on its attempt to correct the duplications identified in the sample.

(e) *Recovering FEMA funds: Debt collection.* FEMA's Debt Collection Regulations (44 CFR part 11) and policy statements give agency debt collection officers and the Comptroller certain responsibilities in recovering funds due to FEMA. In addition, they specify thresholds for compromise, suspension, and termination of debts. These regulations prescribe the procedures FEMA will follow to recover duplications FEMA is responsible for acting upon.

[51 FR 13502, Apr. 21, 1986]

§ 205.11 Nonliability.

The Federal Government shall not be liable for any claim based upon the exercise or performance of, or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of the Act.

§ 205.12 Criminal and civil penalties.

(a) Any individual who fraudulently or willfully misstates any fact in connection with a request for assistance under the Act shall be fined not more than \$10,000 or imprisoned for not more than one year or both for each violation.

(b) Any individual who knowingly violates any order or regulation under the Act shall be subject to a civil penalty of not more than \$5,000 for each violation.

(c) Whoever knowingly misapplies the proceeds of a loan or other cash benefit obtained under any section of the Act shall be subject to a fine in an amount equal to one and one-half the times the original principal amount of the loan or cash benefit.

§ 205.13 Reviews and reports.

(a) The Associate Director shall review the activities of Federal agencies and State and local governments providing disaster assistance, in order to assure maximum coordination and effectiveness of such programs, and shall report to Congress from time to time on these activities.

(b) In carrying out this provision, the Associate Director may direct Federal agencies to submit reports relating to their disaster assistance activities. The Associate Director or the Regional Director may request similar reports from the States relating to these activities on the part of State and local governments. Additionally, the Associate Director may conduct independent investigations, studies, and evaluations as necessary to complete the reviews.

§ 205.14 Appeals.

Any appeal is a request for reconsideration of a determination on any action related to Federal assistance under the Act and these regulations. Specific procedures for appeals are contained in the relevant subparts of these regulations.

§ 205.15 Effective date.

(a) These regulations are effective and supersede existing regulations as of September 10, 1980.

(b) Any action taken in accordance with previous regulations remains valid.

§ 205.16 Nondiscrimination in disaster assistance.

(a) Federal financial assistance to the States or their political subdivisions is conditioned on full compliance with Regulation 44 CFR part 7.

(b) All personnel carrying out Federal major disaster or emergency assistance functions, including the distribution of supplies, the processing of the applications, and other relief and assistance activities, shall perform their work in an equitable and impartial manner, without discrimination on the grounds of race, religion, sex, color, age, economic status, or national origin.

(c) As a condition of participation in the distribution of assistance or supplies under the Act or of receiving as-

assistance under the Act, government bodies, and other organizations shall provide a written assurance of their intent to comply with regulations relating to non-discrimination promulgated by the President or the Associate Director and shall comply with such other regulations applicable to activities within an area affected by major disaster or emergency as the Associate Director deems necessary for the effective coordination of relief efforts. The provisions to be included in every Federal-State Agreement shall be the provisions provided by Executive Order 11246 as amended by Executive Orders 11375, 11478 and 12086.

§ 205.17 Emergency mass care.

Emergency mass care, such as emergency medical care, emergency shelter, emergency provision of food, water and medicine, and other essential needs, are normally provided by the Red Cross or other voluntary organizations and Federal emergency assistance will be approved by the Regional Director only upon an affirmative showing that such organizations are not providing all or part of emergency mass care essential needs.

[40 FR 23253, May 28, 1975. Redesignated at 44 FR 56172, Sept. 28, 1979 and 47 FR 55757, Dec. 13, 1982; 48 FR 51057, Nov. 4, 1983.]

Subpart B—(Reserved)

Subpart C—The Declaration Process

SOURCE: 48 FR 51057, Nov. 4, 1983, unless otherwise noted.

§ 205.30 Purpose.

The purpose of this subpart is to describe the process leading to a Presidential declaration of a major disaster or an emergency and the actions triggered by such a declaration.

§ 205.31 Definitions.

All definitions listed in Public Law 93-288 and in § 205.2 apply. In addition, the following definitions apply:

(a) *Associate Director*: The Associate Director, State and Local Programs and Support, Federal Emergency Man-

agement Agency, or his/her designated representative.

(b) *Commitment*: Certification by the Governor in support of his request for a declaration of a major disaster or an emergency, pledging for the current major disaster or emergency, State and local government obligations and expenditures, which are disaster-related, extraordinary and unforeseen (of which the State's pledges must be a significant proportion), and stating that such obligations and expenditures, identified as nonreimbursable by Federal funds, are a reasonable amount of funds of such State and local governments for alleviating the damage, loss, hardship or suffering resulting from such major disaster or emergency.

(c) *Emergency support team*: Organized group of program and support personnel established by the Regional Director or the Associate Director to be deployed in an area affected by a major disaster or emergency to assist the Federal Coordinating Officer (FCO) in carrying out his/her responsibilities under the Act.

(d) *FEMA-State agreement*: A formal legal document stating the understandings, commitments, and binding conditions for assistance applicable as the result of the major disaster or emergency declared by the President.

(e) *Incident*: Any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe which causes damage or hardship that may result in a Presidential declaration of a major disaster or an emergency.

(f) *Incident period*: As determined at the discretion of the Associate Director, the time interval stated in the FEMA-State Agreement during which the disaster-causing incident occurs. No Federal assistance under Public Law 93-288 shall be approved unless the damage or hardship to be alleviated resulted from the disaster-causing incident which took place during the incident period. The incident period for emergencies starts at 12:01 a.m., on the date of the declaration by the President unless otherwise specified in the declaration document. The termination date of an incident period may

not be known at the time the FEMA-State Agreement is signed. However, at such time as the termination date is determined by FEMA, it will be added to the Agreement by amendment.

(g) *Individual assistance*: Supplementary Federal assistance provided under Public Law 93-288 to individuals and families adversely affected by a major disaster or an emergency. Such assistance may be provided directly by the Federal Government or through State or local governments or disaster relief organizations. For further information, see subpart D of these regulations.

(h) *Mission assignment*: Work order or request for performance of work issued by the Regional Director, Associate Director or Director to a Federal agency directing completion by that agency of specified tasks and citing funding, other managerial controls or guidance.

(i) *Public assistance*: Supplementary Federal assistance provided under Public Law 93-288 to State and local governments or certain private, nonprofit organizations other than assistance for the direct benefit of individuals and families. For further information, see subpart E of these regulations.

§ 205.32 Policy.

(a) It is the policy of the Federal Emergency Management Agency (FEMA) to provide an orderly and continuing means of assistance by the Federal Government to supplement the efforts of the State and local governments in carrying out their responsibilities to alleviate the suffering and damage that result from declared major disasters and emergencies.

(b) The policies listed in § 205.3 apply. It is also the policy of FEMA in approving disaster assistance, to encourage States and local governments to seek permanent solutions to problems in areas which are disaster-prone from sources other than the President's Disaster Relief Fund. Failure to properly implement State hazard mitigation plans approved by FEMA as the result of a major disaster or emergency may contribute to losses, hardships or damages resulting from future catastrophes or emergencies. The resulting damages will be assessed and considered whenever applicable in processing any re-

quests for a declaration of a major disaster or emergency.

(c) It is the policy of FEMA to recommend a denial of a major disaster request when the requested assistance can be provided by other Federal agencies under their statutory authorities and from volunteer agencies or groups.

§ 205.33 Requests for major disaster declarations.

(a) When a catastrophe occurs in a State, the Governor may request that the President declare a major disaster for the State upon the Governor's finding that:

(1) The situation is of such severity and magnitude that effective response is beyond the capabilities of the State and affected local governments; and

(2) Federal assistance under the Act is necessary to supplement the efforts and available resources of the State, local governments, and disaster relief organizations.

(b) Only the Governor of a State, or the Acting Governor in his/her absence, may request a major disaster declaration. The Governor should submit the request to the President through the appropriate Regional Director to ensure prompt acknowledgment and processing. Use of the formats suggested by the Associate Director for such requests will assure coverage of essential information and should avoid delays in processing. These suggested formats have been published by the Associate Director in the FEDERAL REGISTER and shall be updated as necessary. The complete request must be submitted within 30 days of the occurrence of the incident in order to be considered. (See also § 205.44)

(c) The completed request shall include:

(1) Confirmation that the Governor has taken appropriate action under State law and has directed the execution of the State emergency plan;

(2) An estimate of the amount and severity of damages and losses stating the impact of the disaster on the public and private sector;

(3) Information describing the extent and nature of State and local resources which have been or will be used to alleviate conditions of the disaster, stating

specifically those activities for which no Federal funding will be requested;

(4) Preliminary estimates of the types and amount of supplementary Federal disaster assistance needed under the Act; and

(5) Certification by the Governor that State and local government obligations and expenditures for the disaster (of which State commitments must be a significant proportion) will constitute the expenditure of a reasonable amount of funds for alleviating the damage, loss, hardship or suffering resulting from such disaster. The required certification of the State and local government commitments must be documented by filling out the "commitments" section of the formats referred to in paragraph (b) of this section.

(d) For those catastrophes of unusual severity and magnitude when field damage assessments are not necessary to determine the requirement for supplemental Federal assistance, the Governor or Acting Governor may send a telegram through the Regional Director for a declaration of a major disaster. In the event the FEMA Regional Office is severely impacted by the catastrophe, the telegram may be addressed to the Director of FEMA. The telegram must indicate a finding in accordance with § 205.33(a), and must include as a minimum the information requested by § 205.33(c) (1), (3) and (5). Upon receipt of such a telegram, the Regional Director shall expedite the processing of reports and recommendations to the President. Notification to the Governor of the Presidential declaration shall be in accordance with 44 CFR 205.37. The Associate Director shall assure that documentation of the declaration is later assembled to comply fully with these regulations.

(Approved by Office of Management and Budget under control number 3067-0113)

§ 205.34 Requests for emergency declarations.

(a) When a catastrophe occurs or threatens to occur in a State, the Governor may request that the President declare an emergency upon the Governor's finding that the situation:

(1) Is of such severity and magnitude that effective response is beyond the

capability of the State and the affected local government(s); and

(2) Requires supplementary Federal emergency assistance to save lives and protect property, health and safety, or to avert or lessen the threat of a disaster and which should be provided by the Federal Government because of the pressures of time or the unique capabilities of the Federal Government.

(b) Only the Governor of a State, or the Acting Governor in his/her absence, may request that the President declare an emergency. The Governor should submit the request to the President through the appropriate Regional Director to ensure prompt acknowledgment and processing. Use of the formats suggested by FEMA for such requests will assure coverage of essential information and should avoid delays in processing. The complete request must be submitted within 30 days of the occurrence of the incident in order to be considered. (See also § 205.44)

(c) The complete request shall include:

(1) Information describing the State and local efforts and resources which have been or will be used to alleviate the emergency, including those for which no Federal funding will be requested;

(2) Identification of the particular type and specific extent of Federal aid required, and of any proposed cost sharing; and

(3) An assessment by the Governor that the capabilities and resources of the State and local government(s) have been or are being fully committed to cope with the catastrophe. Such capabilities and resources need not be exhausted, but State and local government efforts, as deemed appropriate by FEMA, are necessary before FEMA emergency assistance can be authorized.

(Approved by the Office of Management and Budget under control number 3067-0113)

§ 205.35 Processing requests for declarations of a major disaster or emergency.

(a) The Regional Director shall provide written acknowledgment of the Governor's request. Based on a FEMA investigation, which may include damage assessments of the affected area(s)

and consultations with appropriate State and Federal officials and other interested parties, the Regional Director shall promptly submit a report and a recommendation to the FEMA Director through the Associate Director.

(b) The Director shall forward the Governor's request together with a report and a recommendation to the President.

(1) *Major disaster request.* The recommendation will be based on a report which will indicate whether or not the situation is of such severity and magnitude so as to be beyond the capabilities of the State and its local governments and whether or not Federal assistance under Public Law 93-288 is necessary to supplement the efforts and available resources of the State and local governments, and other disaster relief organizations or activities.

(2) *Emergency request.* The recommendation will be based on a report which will indicate whether or not Federal emergency assistance under Public Law 93-288 is necessary to supplement State and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a disaster, which because of the pressures of time or because of the unique capabilities of a Federal agency, should be provided by the Federal Government.

§ 205.36 Presidential determination.

(a) The Governor's request for a major disaster declaration may result in either a Presidential declaration of a major disaster or an emergency.

(b) The Governor's request for an emergency declaration may result in a Presidential declaration of an emergency.

§ 205.37 Notification.

(a) The Governor will be promptly notified by the Director or his/her designee of a declaration by the President that an emergency or a major disaster exists. FEMA also will notify other Federal agencies and other interested parties.

(b) The Governor will be promptly notified by the Director or his/her designee of a determination that the Governor's request does not justify the use of the authorities of Public Law 93-288.

§ 205.38 Appeal.

When a request for a major disaster declaration or for an emergency declaration is denied, the Governor may appeal the decision. An appeal must be made within 30 days after the date of the letter denying the request. (See also § 205.44). This one-time request for reconsideration, along with appropriate additional information, is submitted to the President through the appropriate Regional Director. The processing of this request is similar to the initial request.

§ 205.39 FEMA-State Agreements.

(a) *General.* The FEMA-State Agreement states the understandings, commitments, and conditions for assistance under which FEMA disaster assistance shall be provided. This Agreement imposes binding obligations on FEMA, States and their local governments in the form of conditions for assistance which are legally enforceable. However, such conditions may be modified by a properly executed amendment to the FEMA-State Agreement. No FEMA funding may be authorized or provided to any grantees or other recipients, and authorized by mission assignment until such time as this Agreement for the Presidential declaration has been signed and is fully in effect.

(b) *Major disasters.* Upon the declaration of a major disaster, the Governor, acting for the State, and the FEMA Regional Director or his/her designee, acting for the Federal Government, shall execute a FEMA-State Agreement. This Agreement describes the incident period for which assistance will be made available, the type and extent of the Federal assistance to be made available, and contains the commitment of the State and local government(s) with respect to the amount of funds to be expended in alleviating damage and suffering caused by the major disaster. The Agreement also contains such other terms and conditions consistent with the declaration and the provisions of applicable laws, Executive orders and regulations. The Governor's Authorized Representative and the Regional Director or his/her designee may execute subsequent

amendments to the Agreement for the same major disaster.

(c) *Emergencies.* Upon the declaration of an emergency, the Governor, acting for the State, and the FEMA Regional Director or his/her designee, acting for the Federal Government, shall execute a FEMA-State Agreement. This Agreement contains the necessary terms and conditions consistent with the declaration and the provisions of applicable laws, Executive orders and regulations. This Agreement specifies the beginning and the end of the incident period, identifies the type and extent of Federal assistance and includes any details unique to the current emergency. The Governor's Authorized Representative and the Regional Director or his/her designee may execute subsequent amendments to the Agreement for the same emergency. The Federal assistance specified in the Agreement or an amendment is the only assistance eligible for Federal funding or reimbursement under Public Law 93-288, as amended.

(d) *Transfer of funds.* In the event that funds are to be transferred to a State for disaster relief purposes, the FEMA-State Agreement shall contain, and the State and its political subdivisions shall agree to, the following conditions for assistance:

If a State, local government, or eligible private, nonprofit organization violates any of the conditions of disaster relief assistance under the Act, this Agreement, or applicable Federal regulations, the Associate Director shall notify the State that additional financial assistance for the project in which the violation occurred will be withheld until such violation has been corrected to the satisfaction of the Associate Director. If the Associate Director is not satisfied with the corrective action taken in response to such notification, then the Associate Director will notify the State that further financial assistance for the project in which the violation occurred will be withheld until adequate corrective action is taken. In addition, the Associate Director may also withhold all or any portion of financial assistance which has been or is to be made available to the State, local governments, or eligible private, nonprofit organizations for other disaster relief projects under the Act, this or other Agreements, and applicable Federal regulations until adequate action is taken. The State further agrees that FEMA or State auditors, the Governor's Authorized Representative, the Regional Director, the Associate Direc-

tor, and the Comptroller General of the United States or their duly authorized representatives shall for the purpose of audit and examination have access to any books, documents, papers and records of any recipients of Federal disaster assistance and of any persons or entities which perform any activity which is reimbursed to any extent with Federal disaster assistance funds distributed under the authority of the Act.

(e) *Other conditions for assistance.* All FEMA-State Agreements shall also contain the following:

(1) The State agrees, on its behalf and on behalf of its political subdivisions and other recipients of Federal disaster assistance, to cooperate with the Federal government in seeking recovery of funds which are expended in alleviating the damages and suffering caused by any declared major disaster or emergency against any party or parties whose acts or omissions may in any way have caused or contributed to the damage or hardship for which Federal assistance is provided pursuant to a Presidential declaration of major disaster or emergency.

(2) The State will establish and maintain an active State program of non-discrimination in disaster assistance, outlined in 44 CFR 205.16. This program will encompass all State and local government actions pursuant to this Agreement.

(3) The State will establish and maintain a program to assure that State and local government recipients of Federal disaster assistance comply with the Department of Housing and Urban Development (HUD) Consolidated List of Debarred, Suspended and Ineligible Contractors. This program also will encompass all State and local contracts pursuant to this Agreement.

(4) No members of or delegate to Congress or resident commissioner shall be admitted to any share or part of this Agreement, or to any benefit to arise thereupon; *Provided, however, That* this provision shall not be construed to extend to any contract made with a corporation for its general benefit.

(f) *Typical conditions for assistance.* As determined necessary by the Associate Director, certain typical conditions for assistance may be included in the FEMA-State Agreement. However, some changes in wording may be made to fit the current major disaster or

emergency. These conditions for assistance are:

(1) The State agrees that, as a condition for any Federal loan or grant, the State or that applicant shall evaluate the natural hazards in the areas in which the proceeds of the grants or loans are to be used and shall make appropriate recommendations to mitigate such hazards for federally assisted projects. The State further agrees:

(i) To prepare and submit, not later than 180 days after the declaration, to the Regional Director for concurrence, a hazard mitigation plan or plans for the FEMA designated areas; and

(ii) To follow up with applicants, within State capabilities, to assure that, as a condition for any grant or loan under the Act, appropriate hazard mitigation actions are taken; and

(iii) To review and update as necessary disaster mitigation portions of the State emergency plan.

The Regional Director agrees to make Federal technical advice and assistance available to support the planning efforts and actions. The State understands that future Federal disaster assistance may be curtailed in situations where hazard mitigation plans have not been implemented properly.

(2) Within his/her authorities, the Governor shall ensure, through the State agency responsible for regulation of the insurance industry, that insurance companies make full payment of eligible insurance benefits to disaster victims. The State also shall take all reasonable steps to ensure that disaster victims are aware of procedures for filing insurance claims, are informed of any State procedures instituted for assisting insured disaster victims, and are aware of their responsibility to repay government assistance which is duplicated by insurance proceeds.

(3) The mandatory FEMA-State Agreement language at § 205.39(e)(1) shall, when determined necessary by the Regional Director, be amended to address any of the following issues which the Regional Director deems appropriate: The need for the State to pursue recoveries against responsible parties; reimbursement to the Federal government from any recoveries from responsible parties; review by the Federal government of proposed settle-

ments between the State, its political subdivisions, or other recipients of Federal disaster assistance and any responsible parties; assignment to the Federal government of any rights of recovery which the State, its political subdivisions, or any other recipients of Federal disaster assistance might have against any responsible parties; intervention by the United States in any action instituted by the State, its political subdivisions, or any other recipients of Federal disaster assistance against any responsible parties; and other related issues.

(4) Since Federal operational and financial responsibility for temporary housing assistance shall not exceed eighteen (18) months from the date of the declaration by the President, the State agrees to accept such responsibility upon expiration of the Federal responsibility.

(5) For any program administered by the State involving FEMA funding, the State agrees to establish and maintain an active State program to avoid duplication of Federal benefits in disaster assistance. The State further agrees to take necessary action to recover any FEMA funding administered by the State in those situations where such duplication is reported or appears likely to have occurred.

§ 205.40 Designation of affected areas and eligible assistance.

(a) After a declaration by the President, the Associate Director shall designate the disaster-affected areas eligible for supplementary Federal assistance under Public Law 93-288 and shall publish these designations in the FEDERAL REGISTER. A disaster-affected area designated by the Associate Director includes all local government jurisdictions within its boundaries. Unless specifically limited in the declaration documents, the Associate Director shall also determine and designate the types of assistance to be made available in the designated areas. These designations shall be based on the Governor's request or supplemental requests for assistance, taking into consideration available information and FEMA assessments of requirements. In addition to the areas designated eligible for Individual Assistance, the Asso-

clude Director may designate adjacent areas eligible for Individual Assistance unless such adjacent areas are specifically excluded in the Governor's request. However, the designation of unrequested areas as adjacent areas for Individual Assistance will not be made until coordination has been made by FEMA with the Governor or the Governor's Authorized Representative. The Associate Director may, at his/her discretion, designate all or only portions of the areas requested by the Governor as eligible for supplementary Federal assistance. In addition, the Associate Director may, at his/her discretion, or as directed by the President in the declaration letter, authorize all or only portions of the types of supplementary Federal assistance requested by the Governor. Determinations by the Associate Director of the types and extent of FEMA disaster assistance to be provided and of the areas eligible to receive such assistance, are based upon findings whether, in any particular area, the damage involved and its effects are of such severity and magnitude as to be beyond the response capabilities of the State, the affected local governments, and other potential recipients of supplementary Federal assistance.

(b) The Regional Director will promptly notify the Governor of the Associate Director's designations. In those instances where the type of assistance or certain areas requested by the Governor are not designated or authorized by the Associate Director, the Governor, or the Governor's Authorized Representative, may appeal the decision. An appeal must be made within 30 days of the date of the written notification by submitting a formal written appeal. (See also § 205.44.) This one-time request for reconsideration, along with justification and/or additional information, is sent to the Associate Director through the appropriate Regional Director.

(c) After a declaration by the President, the Governor, or the Governor's Authorized Representative, may request that additional areas or types of supplementary Federal assistance be designated by the Associate Director. Such requests shall be accompanied by appropriate commitments by State and

local governments and assessments to demonstrate that the requested designations are justified and that the unmet needs are beyond State and local capabilities without supplementary Federal assistance.

§ 205.41 Initiation of Federal assistance.

(a) *Federal Coordinating Officer.* Upon a declaration of a major disaster or of an emergency by the President, the Director, or in his absence, the Deputy Director, or alternatively, the Associate Director shall appoint a Federal Coordinating Officer (FCO) who shall initiate action immediately to assure that Federal assistance is provided in accordance with the declaration, applicable laws, regulations, and the FEMA-State Agreement.

(b) *Designees.* In the FEMA-State Agreement, the Governor shall appoint a State Coordinating Officer (SCO) and also shall designate the Governor's Authorized Representative (GAR), who shall administer Federal disaster assistance programs on behalf of the State and local governments and other grant or loan recipients. The GAR is responsible for the State compliance with the FEMA-State Agreement.

[48 FR 51057, Nov. 4, 1983, as amended at 51 FR 42023, Oct. 17, 1985]

§ 205.42 Responsibilities of the Coordinating Officer.

(a) Following a declaration of a major disaster or an emergency, the Federal Coordinating Officer (FCO) shall:

(1) Make an initial appraisal of the types of assistance most urgently needed;

(2) In coordination with the SCO, establish field offices and Disaster Application Centers as necessary to coordinate and monitor assistance programs; disseminate information, accept applications, and counsel individuals, families and businesses concerning available assistance;

(3) Coordinate the administration of relief, including activities of State and local governments, activities of Federal agencies as well as those of the American Red Cross, the Salvation Army, the Mennonite Disaster Service and other voluntary relief organiza-

Federal Emergency Management Agency

tions which agree to operate under the FCO's advice and direction;

(4) Undertake appropriate action to make certain that all of the Federal agencies are carrying out their appropriate disaster assistance roles under their own legislative authorities and operational policies; and

(5) Take other action, consistent with the provisions of the Act, as necessary to assist citizens and public officials in promptly obtaining assistance to which they are entitled.

(b) The State Coordinating Officer (SCO) coordinates State and local disaster assistance efforts with those of the Federal Government working closely with the FCO. The SCO is the principal point of contact regarding coordination of State and local disaster relief activities, and implementation of the State emergency plan. The functions, responsibilities, and authorities of the SCO are set forth in the State emergency plan.

[48 FR 51057, Nov. 4, 1983, as amended at 51 FR 34606, Sept. 30, 1986]

§ 205.43 Emergency support teams.

The Associate Director or Regional Director shall form emergency support teams of Federal personnel to send into an area affected by a major disaster or emergency. The Federal Coordinating Officer may request that the Regional Director activate appropriate emergency support teams. These emergency support teams assist the Regional Director or the Federal Coordinating Officer in carrying out his/her responsibilities under the Act and these regulations. Any Federal agency is authorized by the Act to detail personnel within the agency's administrative jurisdiction to temporary duty with the emergency support teams. The Regional Director or the Associate Director determines whether the detail is on a reimbursable or nonreimbursable basis. Each detail shall be without loss of seniority, pay, or other employee status. Except under unusual circumstances, as determined by the Regional Director, such emergency support teams shall be organized and trained by each Regional Director to meet the needs for emergency assistance applicable to his/her Region. Then requested by the Regional Direc-

tor, State, local, or volunteer agencies may, as necessary, provide personnel to be deployed with the emergency support teams.

§ 205.44 Time limitation.

The 30-day period referred to in §§ 205.33(b), 205.34(b), 205.38 and 205.40(b) may be extended by the Associate Director provided that a request with proper justification for such an extension is made by the Governor during this 30-day period. In general, proper justification would include the inability to gather new and/or additional information required to support the action being requested in the cited sections.

Subpart D—Individual Assistance

§ 205.52 Temporary housing assistance.

(a) *Purpose.* This section prescribes the policy to be followed by the Federal Government or any other organization when implementing section 404, Disaster Relief Act of 1974, 42 U.S.C. 5174.

(b) *Program intent.* Assistance under this program is made available to applicants who require temporary housing as a result of a major disaster or emergency that is declared by the President. Eligibility for assistance is based on need created by disaster-related uninhabitability of a primary residence or other disaster-related displacement, combined with a lack of adequate insurance coverage. Eligible applicants may be paid for authorized accommodations and/or repairs. In the interest of assisting the greatest number of people in the shortest possible time, applicants who are able to do so will be encouraged to make their own arrangements for temporary housing (e.g., renting an apartment or contracting for minimal repairs), using the funds provided by this program. Ineligibility relates only to the criteria for temporary housing assistance; denial of such assistance does not imply that repairs to a residence are not required. Although numerous instances of minor damage may cause some inconvenience to the applicant, the determining eligibility factor must be the habitability of the residence. FEMA has also deter-

Part		Page
555	Corps of Engineers, research and development, laboratory research and development and tests, work for others	379
556	Private organizations on Department of the Army installations	384
SUBCHAPTER E—ORGANIZED RESERVES		
562	Reserve Officers' Training Corps	400
564	National Guard regulations	403
SUBCHAPTER F—PERSONNEL		
571	Recruiting and enlistments	412
574	United States Soldiers' and Airmen's Home	418
575	Admission to the United States Military Academy	420
578	Decorations, medals, ribbons, and similar devices	423
581	Personnel review board	474
583	Former personnel—[Reserved]	
584	Family support, child custody, and paternity	485
588	Equal employment opportunity discrimination complaints	505
589	Compliance with court orders by personnel and command sponsored family members	575
SUBCHAPTER G—PROCUREMENT		
619	Program for qualifying DoD freight motor carriers; qualification criteria	578
SUBCHAPTER H—SUPPLIES AND EQUIPMENT		
621	Loan and sale of property	605
623	Loan of Army materiel	616
625	Surface transportation—administrative vehicle management	660
626	Biological Defense Safety Program	662
627	The Biological Defense Safety Program, technical safety requirements (DA Pamphlet 385-69)	673

EDITORIAL NOTE: Other regulations issued by the Department of the Army appear in title 33, chapter II; and title 36, chapter III.

ABBREVIATIONS: The following abbreviations are used in this chapter: AGCT=Army General Classification Test. AGO=Adjutant General's Office. APP=Army Procurement Procedure. AR=Army Regulations. ASPR=Armed Services Procurement Regulations. ATC=Air Transport Command. A. W.=Articles of War. AWOL=Absent Without Leave. Comp. Gen.=Comptroller General. OCF=Office, Chief of Finance. ROTC=Reserve Officer's Training Corps. ZI=Zone of Interior.

SUBCHAPTER A—AID OF CIVIL AUTHORITIES AND PUBLIC RELATIONS

PARTS 400-500—[RESERVED]

PART 501—EMPLOYMENT OF TROOPS IN AID OF CIVIL AUTHORITIES

Sec.

- 501.1 Basic policies.
- 501.2 Emergency.
- 501.3 Command authority.
- 501.4 Martial law.
- 501.5 Protection of Federal property.
- 501.6 End of commitment.
- 501.7 Loan of military resources to civil authorities.

AUTHORITY: Secs. 331, 332, 333, and 3012, 70A Stat. 15, 157; 10 U.S.C. 331, 332, 333, 3012.

SOURCE: 34 FR 14126, Sept. 6, 1969, unless otherwise noted.

§ 501.1 Basic policies.

(a) The protection of life and property and the maintenance of law and order within the territorial jurisdiction of any State are the primary responsibility of State and local civil authorities. Generally, Federal Armed Forces are committed after State and local civil authorities have utilized all of their own forces and are unable to control the situation, or when the situation is beyond the capabilities of State or local civil authorities, or when State and local civil authorities will not take appropriate action. Commitment of Federal Armed Forces will take place only—

(1) Under the provisions of this part, and

(2) When the Secretary of the Army, pursuant to the orders and policies of the Secretary of Defense and the President, has generally or specifically so ordered, except in cases of emergency (§ 501.2).

(b) The Secretary of the Army has been designated as the Executive Agent for the Department of Defense in all matters pertaining to the planning for, and deployment and employment of military resources in the event of civil disturbances. The De-

partment of the Army is responsible for coordinating the functions of all the Military Services in this activity for the Executive Agent. The Secretaries of the other Military Services are responsible for providing such assistance as may be requested by the Executive Agent.

(c) Persons not normally subject to military law taken into custody by the military forces incident to the use of Armed Forces, as contemplated by this part, will be turned over, as soon as possible, to the civil authorities. The Army will not operate temporary confinement/detention facilities under local facilities under the control of city, county, and State governments and the U.S. Department of Justice cannot accommodate the number of persons apprehended or detained. Further, this authority may be exercised only in the event Federal Armed Forces have been committed under the provisions of this part and only with the prior approval of the Department of the Army. When the requirement exists for the Army to operate such facilities, the provisions of Army confinement regulations will apply to the maximum extent feasible under the circumstances.

(d) Whenever military aid is requested by civil authorities in the event of civil disturbances within the States of Alaska, or Hawaii, the Commonwealth of Puerto Rico, or U.S. possessions and territories, the commander of the unified command concerned coordinates the provision of such aid.

(e) Units and members of the Army Reserve on active duty may be employed in civil disturbance operations in the same manner as active for Units and members of the Army Reserve may be ordered to active duty for this purpose by the President as provided by law. Members of the Army Reserve, with their consent, may be ordered to active duty for civil disturbance operations under the provisions of 10 U.S.C. 672.

§ 501.2 Emergency.

(a) In cases of sudden and unexpected invasion or civil disturbance, including civil disturbances incident to earthquake, fire, flood, or other public calamity endangering life or Federal property or disrupting Federal functions or the normal processes of Government, or other equivalent emergency so imminent as to make it dangerous to await instructions from the Department of the Army requested through the speediest means of communications available, an officer of the Active Army in command of troops may take such action, before the receipt of instructions, as the circumstances of the case reasonably justify. However, in view of the availability of rapid communications capabilities, it is unlikely that action under this authority would be justified without prior Department of the Army approval while communications facilities are operating. Such action, without prior authorization, of necessity may be prompt and vigorous, but should be designed for the preservation of law and order and the protection of life and property until such time as instructions from higher authority have been received, rather than as an assumption of functions normally performed by the civil authorities.

(b) Emergency firefighting assistance may be provided pursuant to agreements with local authorities; emergency explosive ordnance disposal service may be provided in accordance with paragraph 18, AR 75-15.

§ 501.3 Command authority.

(a) In the enforcement of the laws, Federal Armed Forces are employed as a part of the military power of the United States and act under the orders of the President as Commander in Chief. When commitment of Federal Armed Forces has taken place, the duly designated military commander at the objective area will act to the extent necessary to accomplish his mission. In the accomplishment of his mission, reasonable necessity is the measure of his authority, subject of course, to instructions he may receive from his superiors.

(b) Federal Armed Forces committed in aid of the civil authorities will be

under the command of, and directly responsible to, their military and civilian superiors through the Department of the Army chain of command. They will not be placed under the command of an officer of the State Defense Forces or of the National Guard not in the Federal service, or of any local or State civil official; any unlawful or unauthorized act on the part of such troops would not be excusable on the ground that it was the result of an order received from any such officer or official. As directed by the Army Chief of Staff, military commanders will be responsive to authorized Federal civil officials.

§ 501.4 Martial law.

It is unlikely that situations requiring the commitment of Federal Armed Forces will necessitate the declaration of martial law. When Federal Armed Forces are committed in the event of civil disturbances, their proper role is to support, not supplant, civil authority. Martial law depends for its justification upon public necessity. Necessity gives rise to its creation; necessity justifies its exercise; and necessity limits its duration. The extent of the military force used and the actual measures taken, consequently, will depend upon the actual threat to order and public safety which exists at the time. In most instances the decision to impose martial law is made by the President, who normally announces his decision by a proclamation, which usually contains his instructions concerning its exercise and any limitations thereon. However, the decision to impose martial law may be made by the local commander on the spot, if the circumstances demand immediate action, and time and available communications facilities do not permit obtaining prior approval from higher authority (§ 501.2). Whether or not a proclamation exists, it is incumbent upon commanders concerned to weigh every proposed action against the threat to public order and safety it is designed to meet, in order that the necessity therefor may be ascertained. When Federal Armed Forces have been committed in an objective area in a martial law situation, the population

of the affected area will be informed of the rules of conduct and other restrictive measures the military is authorized to enforce. These will normally be announced by proclamation or order and will be given the widest possible publicity by all available media. Federal Armed Forces ordinarily will exercise police powers previously inoperative in the affected area, restore and maintain order, insure the essential mechanics of distribution, transportation, and communication, and initiate necessary relief measures.

§ 501.5 Protection of Federal property.

The right of the United States to protect Federal property or functions by intervention with Federal Armed Forces is an accepted principle of our Government. This form of intervention is warranted only where the need for protection exists and the local civil authorities cannot or will not give adequate protection. This right is exercised by executive authority and extends to all Federal property and functions.

§ 501.6 End of commitment.

The use of Federal Armed Forces for civil disturbance operations should end as soon as the necessity therefor ceases and the normal civil processes can be restored. Determination of the end of the necessity will be made by the Department of the Army.

§ 501.7 Loan of military resources to civil authorities.

(a) The Department of the Army in certain limited situations can lend military equipment to civil law enforcement authorities in the event of civil disturbances. Such loans of equipment are limited to those necessary to meet an urgent need during an actual civil disturbance (except as provided in paragraph (b) of this section) and the loans are considered to be a temporary emergency action. Civil law enforcement authorities are to be encouraged to procure their own equipment for police use since, even though requests are handled expeditiously, normally some time will elapse before the military equipment can be in the hands of the civil law enforcement authorities. Law enforcement authorities are to be

cautioned not to rely on the loan of military equipment in the event of a civil disturbance in their locality because the availability of military equipment for civilian use is contingent upon military requirements for the Department of the Army resources.

(b) A loan agreement will be executed with the civil authority in each case. The agreement will indicate that the property may be retained by the civil authorities only for the duration of the civil disturbance, but for not more than 15 days; however, should the civil disturbance exceed 15 days the approving authority may extend the agreement for another 15-day period. It is recognized that there is often a substantial leadtime before equipment procured by civil law enforcement authorities will be delivered to them. For this reason loans of equipment beyond the 15-day limit are authorized when a request is made in anticipation of imminent threatened civil disturbance and the civil authority requesting the loan has initiated procurement action for equipment substantially similar to the military property requested. Loans may be approved for terms of up to 90 days pending delivery to the civil authority of its own equipment and renewed by the approving authority for another 90-day period if necessary.

(c) Each loan agreement will contain provisions for a cash bond, performance bond, or the equivalent equal to the value of the loaned equipment, as a condition to making the loan; waiver of the requirement to post bond will be approved only by the Department of the Army. With the prior concurrence of the Department of the Army, the bond will be forfeited in the event the equipment is not returned at the time specified. However, the forfeiture of the bond will not constitute a sale of the equipment, and the borrower will not be relieved of his obligation to return the loaned equipment. Loan agreements will clearly state the expenses and obligations assumed by the civil authority.

Labor/Management

Labor Organizations
DoD Supervisors and Management Associations

Community Services, Fraternal & Benevolent

Component Relief/Aid Organizations
USO
Red Cross
United Seamen's Service

(f) Type 2—Affiliated.

SUBTYPES

Professional, Scientific and Management

Engineering or Scientific
NCO Associations
Nurses
Personnel Management
Financial Management

Sports, Hobbies & Crafts

ABC Bowling Leagues
Sports Officials
Affiliated Hobby or Craft Groups

Religious Groups

Altar Societies
Guilds
Youth Organizations

Community Services, Fraternal & Benevolent

Veterans Organizations
Surviving Spouse or Surviving Parent Organizations
Parent-Teacher Association (PTA)
Ethnic Group Affiliations
Reserve or Retired Associations
Affiliated Community Service Clubs

Youth Organizations

Junior Army Navy Guild Organization (JANGO)
4-H Clubs
Scouting Organizations
Little League

Distaff/Spouse Organizations

(only those affiliated)

(g) Type 3—Independent.

Sports, Hobbies & Crafts

Model Clubs
Stamp, Coin, Other Collectors
Theater and Dance
Fish and Game
Golf Leagues
Investment Clubs

Youth Organizations

Contemporary Age Clubs (1, etc.)
Youth sports/recreation

Professional, Scientific and Management

Local, independent, unaffiliated organizations or groups

Community Services, Fraternal & Benevolent

Thrift Shops
School Booster Clubs
Local Ethnic Groups
Child Care Centers
Preschool and Kindergarten
Social Problem Study Groups

Distaff/Spouse Organizations

Wives Clubs (may include Thrift Shop operation)
National origin clubs

Religious Groups

§212.7 Definitions.

(a) *DoD Family*. Active duty military personnel, retired members and those of Reserve components, dependents and surviving spouses of the foregoing, and authorized civilians as determined by DoD Components.

(b) *DoD Installation*. A location, facility, or activity owned, leased, assigned to, controlled, or occupied by a DoD Component.

(c) *Private Organization*. A generally self-sustaining, non-Federal entity, incorporated or not, and constituted or established and operated on a DoD installation, with the written consent of the installation commander or higher authority, by individuals acting exclusively outside the scope of any official capacity as officers, employees, or agents of the Federal Government.

(d) *Type 1—Federally Sanctioned Private Organizations*. Type 1 private organizations are those which are recognized in accordance with specific DoD authority or by special authority granted at DoD Component level. All Type 1 private organizations, except those exempted in section D., are subject to the provisions of this instruction. Examples of federally sanctioned private organizations are provided in §212.6.

(e) *Type 2—Affiliated Private Organizations*. Type 2 private organizations which (1) operate on a DoD installation upon the written approval of the DoD installation commander, (2) operate as local affiliations of chapters, lodges (fraternal or benevolent organizations), posts (veterans' organizations), or elements of national or State chartered

Office of the Secretary of Defense

organizations of the private sector, and engage in activities of special interest to a voluntary membership or group of participants; examples of which are provided in §212.6.

(f) *Type 3—Independent Private Organizations*. Independent private organizations which are organized, established, operated and controlled locally by common interest groups conducting specific activities that fulfill certain accepted needs or wants of some members of the DoD family, and have no formal connection or affiliation with an organization outside of the installation; examples of which are provided in §212.6. Local initiative is exercised in securing written permission from the head of the DoD installation for their operation on the DoD installation.

(g) *Subtype of Private Organizations*. For classification purposes this is a relatively homogeneous functional grouping of private organizations, based on one or more of the following characteristics, having similar purposes or objectives, furthering related interests or conducting related activities, and comprising membership or participation of temporary age levels.

(h) A subtype designation may be applied to more than one type of private organization, since the function being performed on a DoD installation is not limited by the connection or affiliation of the organization(s) comprising the subtype.

(i) For example, the function of community services, as a subtype of private organization, may be carried out through a Type 1 federally sanctioned private organization (Red Cross), a Type 2 affiliated private organization (FAL) or a Type 3 independent private organization (Thrift Shop).

(j) Section 212.6 provides a listing of eight authorized classifications of private organizations by subtype and includes examples. The examples are illustrative and not all-inclusive.

(k) Classification of each private organization by type and subtype is a basis for positive identification of all private organizations and is a means of differentiating from nonappropriated mentalities.

PART 215—EMPLOYMENT OF MILITARY RESOURCES IN THE EVENT OF CIVIL DISTURBANCES

Sec.

- 215.1 Purpose and scope.
- 215.2 Applicability.
- 215.3 Definitions.
- 215.4 Legal considerations.
- 215.5 Policies.
- 215.6 Responsibilities.
- 215.7 Command relationships.
- 215.8 Organization and administration.
- 215.9 Providing military resources to civil authorities.
- 215.10 Funding.

AUTHORITY: Chapter 15 of title 10 U.S.C. (10 U.S.C. 331 et seq.).

SOURCE: 37 FR 3637, Feb. 18, 1972, unless otherwise noted.

§215.1 Purpose and scope.

This part establishes uniform Department of Defense policies, assigns responsibilities, and furnishes general guidance for utilizing DoD military and civilian personnel, facilities, equipment or supplies:

(a) In support of civil authorities during civil disturbances within the 50 States, District of Columbia, Commonwealth of Puerto Rico, U.S. possessions and territories, or any political subdivision thereof.

(b) In other related instances where military resources may be used to protect life or Federal property or to prevent disruption of Federal functions.

§215.2 Applicability.

This part is applicable to all components of the Department of Defense (the Military Departments, Organization of the Joint Chiefs of Staff, Defense Agencies, and the unified and specified commands) having cognizance over military resources which may be utilized in accordance with the policies set forth herein.

§215.3 Definitions.

(a) *Civil disturbances* are group acts of violence and disorders prejudicial to public law and order within the 50 States, District of Columbia, Commonwealth of Puerto Rico, U.S. possessions and territories, or any political subdivision thereof. The term civil disturbance includes all domestic conditions

tions requiring the use of Federal armed forces pursuant to the provisions of Chapter 15 of Title 10, United States Code.

(b) *Federal property* is that property which is owned, leased, possessed, or occupied by the Federal Government.

(c) *Military resources* include military and civilian personnel, facilities, equipment, and supplies under the control of a DoD component.

(d) A *Federal function* is any function, operation, or action carried out under the laws of the United States by any department, agency, or instrumentality of the United States or by an officer or employee thereof.

§215.4 Legal considerations.

(a) Under the Constitution and laws of the United States, the protection of life and property and the maintenance of public order are primarily the responsibilities of State and local governments, which have the necessary authority to enforce the laws. The Federal Government may assume this responsibility and this authority only in certain limited instances.

(b) Aside from the constitutional limitations of the power of the Federal Government at the local level, there are additional legal limits upon the use of military forces within the United States. The most important of these from a civil disturbance standpoint is the Posse Comitatus Act (18 U.S.C. 1385), which prohibits the use of any part of the Army or the Air Force to execute or enforce the laws, except as authorized by the Constitution or Act of Congress.

(c) The Constitution and Acts of Congress establish six exceptions, generally applicable within the entire territory of the United States, to which the Posse Comitatus Act prohibition does not apply.

(1) The constitutional exceptions are two in number and are based upon the inherent legal right of the U.S. Government—a sovereign national entity under the Federal Constitution—to insure the preservation of public order and the carrying out of governmental operations within its territorial limits, by force if necessary.

(i) *The emergency authority.* Authority to prompt and vigorous Federal ac-

tion, including use of military force, to prevent loss of life or wanton destruction of property and to restore governmental functioning and public order when sudden and unexpected civil disturbances, disasters, or calamities seriously endanger life and property and disrupt normal governmental functions to such an extent that duly constituted local authorities are unable to control the situations.

(ii) *Protection of Federal property and functions.* Authorizes Federal action, including the use of military force, to protect Federal property and Federal governmental functions when the need for protection exists and duly constituted local authorities are unable or decline to provide adequate protection.

(2) There are four exceptions to the Posse Comitatus Act based on Acts of Congress.

(i) In the cases of each of the first three of those described, paragraph (c)(2)(i) (a), (b), and (c) of this section, personal Presidential action, including the issuance of a proclamation calling upon insurgents to disperse and retire peaceably within a limited time, is a prerequisite.

(a) *10 U.S.C. 331.* Authorizes use of the militia and Armed Forces when a State is unable to control domestic violence, and a request for Federal assistance has been made by the State legislature or governor to the President. Implements Article IV, section 4, of the Constitution.

(b) *10 U.S.C. 332.* Authorizes use of the militia and Armed Forces to enforce Federal law when unlawful obstructions or rebellion against the authority of the United States renders ordinary enforcement means unworkable. Implements Article II, section 3, of the Constitution.

(c) *10 U.S.C. 333.* Authorizes use of the militia and Armed Forces when domestic violence or conspiracy hinders execution of State or Federal law, and a State cannot or will not protect the constitutional rights of the citizens. Implements Article II, section 3, and the 14th Amendment of the Constitution.

House Joint Resolution 1292, June 6, 1961. Directs all departments of the Government, upon the request of the Secret Service, to assist that Service in carrying out its statutory duties to protect Government officials and major political candidates from physical harm. Assistance to the Secret Service is governed by DoD Directive 5111, "Employment of Department of Defense Resources in Support of the United States Secret Service," July 15, 1961.

It should be noted that none of the above authorities, in and of itself, provides sufficient legal basis to order members of the Reserve components to active Federal service.

DoD Policies.

The employment of DoD military resources for assistance to civil authorities in controlling civil disturbances will normally be predicated upon the issuance of a Presidential Executive Order or Presidential directive authorizing and directing the Secretary of Defense to provide for the restoration of law and order in a specific State or locality. Exceptions to this condition will be limited to:

(1) Cases of sudden and unexpected emergencies as described in 28 U.S.C. 11101, which require that immediate military action be taken.

(2) Providing military resources to civil authorities as prescribed in §215.9 of this part.

The Attorney General of the United States has been designated to receive and coordinate preliminary requests from States for Federal military assistance authorized by 10 U.S.C. 331 and 332. Formal requests for such aid will be made to the President, who will determine whether Federal action will be taken.

The Secretary of the Army is designated and all of the authority of the President under chapter 15 of title 10, U.S.C. (§215.4(c)(2)(i) (a), (b), and (c))

Although this resolution has been placed in the Statutes at Large as Public Law 90-286, Stat. 170, it has not been codified; it appears in the notes to 18 U.S.C. 3056.

Revised as part of original copies available from the Naval Publications and Forms Distribution Center, Philadelphia, PA 19104.

which has been or may be hereafter delegated by the President to the Secretary of Defense.

(d) The Secretary of the Navy and the Secretary of the Air Force are delegated all that authority which has been or may be hereafter delegated by the President to the Secretary of Defense to order to active duty, units and members of the Reserve Components under their respective jurisdictions, except National Guard units and members, for use pursuant to Chapter 15 of title 10, U.S.C. (§215.4(c)(2)(i) (a), (b), and (c)).

(e) DoD components and their subordinate activities will coordinate with local civil authorities or local military commanders as appropriate, to assure mutual understanding of the policies and procedures to be adhered to in an actual or anticipated civil disturbance situation.

(f) DoD civilian employees generally should not be used to assist civil authorities in connection with civil disturbances, except as provided for in §215.9(b)(3).

(g) The prepositioning of more than a battalion-sized unit, as authorized in §215.6(a)(6), will be undertaken only with the approval of the President. Requests for the prepositioning of forces will be addressed to the Attorney General.

§215.6 Responsibilities.

(a) The Secretary of the Army is designated as the Executive Agent for the Department of Defense in all matters pertaining to the planning for, and the deployment and employment of military resources in the event of civil disturbances. As DoD Executive Agent, the Secretary of the Army (or the Under Secretary of the Army, as his designee) is responsible for:

(1) Providing policy and direction concerning plans, procedures, and requirements to all DoD components having cognizance over military resources which may be employed under the provisions of this part.

(2) Improving and evaluating the capabilities of the National Guard to deal with civil disturbances.

(3) Establishing DoD policies and procedures for: (i) Calling the National Guard to active Federal service and or-

dering the National Guard and other Reserve components to active duty; and (ii) the employment of such forces that may be required to carry out the purposes of this part.

(4) Calling to active Federal service:

(i) The Army National Guard units or members required to carry out the provisions of the Presidential Executive order or other appropriate authority.

(ii) The Air National Guard units or members required to carry out the provisions of the Presidential Executive order or other appropriate authority, subject to the provisions of paragraph (c)(1)(i) of this section.

(5) Providing military resources of the U.S. Army, consistent with defense priorities to include:

(i) The military resources of the Army National Guard called to active Federal service under the provisions of paragraph (a)(4)(i) of this section.

(ii) The military resources of the Army Reserve (other than Army National Guard) ordered to active duty to carry out the purposes of this part.

(6) Exercising through designated military commanders the direction of military resources committed or assigned for employment in the event of actual or potential civil disturbances. When circumstances warrant, such direction will include: (i) Alerting, and, if necessary, prepositioning predesignated ground forces; and (ii) directing the Secretary of the Air Force to alert and provide the necessary airlift resources (see §215.6(g)).

(7) Devising command, control, and communications arrangements to insure effective coordination and responsiveness among Defense agencies, military departments, the Joint Chiefs of Staff, and Commanders-in-Chief (CINCs) of unified and specified commands, under conditions of prepositioning, deployment, or employment of military resources. Maximum utilization will be made of existing reports of the Joint Reporting Structure (JRS), as prescribed in JCS Pub 6.³ Arrangements and reports affecting commanders of unified and specified com-

mands will be coordinated with the JCS.

(8) Promulgating in implementation of DoD Directive 5200.27, "Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense," March 1, 1971,¹ strict policy guidelines designed to restrict to the maximum extent consistent with the effective conduct of actual civil disturbance operations the collection and maintenance of intelligence data in support of military civil disturbance planning and operations within the Department of Defense.

(9) Keeping the Secretary of Defense informed of unusual military requirements (actual or potential) and other significant developments in connection with civil disturbance planning and operations.

(10) Establishing procedures for the review and coordination of all DoD components' directives, instructions, and plans affecting civil disturbance planning and operations to assure conformity with DoD policies stated herein and DoD Executive Agent policies.

(11) Providing for the establishment of a DoD Civil Disturbance Steering Committee and a Directorate of Military Support (see §215.8).

(12) Providing the necessary facilities, equipment, and personnel as required by the Assistant Secretary of Defense (Public Affairs) in the accomplishment of his public affairs responsibilities set forth in paragraph (c) of this section.

(13) Within the restrictions established by DoD Directive 5200.27, "Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense," March 1, 1971,¹ and the implementing guidelines referred to in paragraph (a)(8) of this section, providing essential planning, operational, and intelligence data to the National Military Command Center (NMCC) and the military service command centers on a timely basis to insure that the National Command Authorities and appropriate military service command authorities are adequately informed.

(b) The Joint Chiefs of Staff are responsible for:

① Establishing procedures that will promptly transfer military resources that are assigned to unified and specified commands (i) to the military departments for civil disturbance operations in the Continental United States (CONUS) or (ii) to unified commands for such operations outside the CONUS, as directed by the DoD Executive Agent and consistent with defense priorities.

② Maintaining an appropriate strategic reserve for worldwide employment and contingency operations.

③ Insuring that directives concerning civil disturbances are issued to the commanders of unified commands, for the employment of military resources outside the CONUS, in accordance with direction and guidance provided by the DoD Executive Agent.

(c) The Secretary of the Air Force is responsible for:

① Providing military resources of the U.S. Air Force, as required by the DoD Executive Agent and consistent with defense priorities, to include:

② Designating and providing the specific units or members of the Air National Guard to be called to active Federal service under the provisions of paragraph (a)(4)(i) of this section.

③ Designating and providing the military resources of the Air Force Reserve (other than Air National Guard) to active duty to carry out the purposes of this part.

④ Exercising for the DoD Executive Agent through designated military commanders, coordinating authority and direction of DoD provided military and commercial obligated air resources used to fulfill civil disturbance airlift requirements.

⑤ Providing airlift to deploy and reposition civil disturbance forces and for supply, resupply, and aeromedical evacuation.

(d) The Secretary of the Navy is responsible for:

① Designating and providing military resources of the U.S. Navy and the U.S. Marine Corps, as required by the DoD Executive Agent and consistent with defense priorities, to include ordering to active duty and utilizing the resources of the Naval Reserve and the

Marine Corps Reserve required to carry out the purposes of this directive.

(2) Insuring that Navy and Marine forces committed in connection with civil disturbances are trained and equipped in accordance with criteria established by the DoD Executive Agent.

(3) Making airlift resources available to the Secretary of the Air Force, consistent with defense priorities, as requested by him in the accomplishment of his airlift responsibilities set forth in paragraph (c) of this section.

(e) The Defense agencies are responsible for providing military resources as required, and advice and assistance on matters within their spheres of responsibility, to the DoD Executive Agent and to the Secretaries of the military departments and to the Joint Chiefs of Staff in the discharge of their responsibilities.

(f) The Assistant Secretary of Defense (Public Affairs) is responsible for all DoD public affairs matters related to civil disturbances. To assure efficiency and responsiveness in keeping the public fully informed, he will:

(1) Provide direction and guidance to the DoD Executive Agent on all aspects of public release of information relating to civil disturbances.

(2) Assign Public Affairs representatives, of appropriate rank, to the Directorate of Military Support during civil disturbance operations.

(3) Designate as required onsite DoD Public Affairs Chiefs who will furnish appropriate advice and guidance to task force commanders and, upon request or by direction of appropriate authorities, to other representatives of the Federal Government. The onsite Public Affairs Chief is responsible for releasing all military information to the public in the affected area(s). He will be responsible for such other public affairs functions as directed by competent authority. In the event of a disagreement concerning the releasing of military information to the public between a task force commander and the onsite Public Affairs Chief, the matter will be resolved by the ASD(PA) who will coordinate with the DoD Executive Agent to the extent possible.

³Not available to the public. Copies have been distributed to appropriate military commanders.

¹ footnote 1 to §215.4(c)(2)(1)(d).

§215.7 Command relationships.

(a) In the event of civil disturbances within the CONUS:

(1) Military resources of the unified or specified commands will be transferred by the JCS to their respective military departments, when directed by the DoD Executive Agent. (Such resources will revert to the unified or specified commands when directed by the DoD Executive Agent.)

(2) The DoD Executive Agent is delegated the authority to exercise, through the Chief of Staff, U.S. Army, the direction of those forces assigned or committed to him by the military departments.

(b) In the event of civil disturbances outside of CONUS, the DoD Executive Agent is delegated the authority to exercise the direction of those forces assigned or committed to the commanders of unified or specified commands through the Chief of Staff, U.S. Army, and Task Force Commanders designated by JCS.

(c) At objective areas, designated task force commanders will exercise operational control over all military forces assigned for employment in the event of civil disturbances.

§215.8 Organization and administration.

(a) A DoD Civil Disturbance Steering Committee will be established to provide advice and assistance to the DoD Executive Agent concerning civil disturbance matters. The Committee Chairman will be the Under Secretary of the Army. Members will include:

Deputy Attorney General of the United States.
Assistant Secretaries of Defense (Comptroller) and (Public Affairs).
General Counsel of the DoD.
Under Secretaries of the Navy and Air Force.
Vice Chiefs of Staff of the Army and Air Force.
Vice Chief of Naval Operations and Assistant Commandant of the Marine Corps.
Representative of the JCS.

(b) A Directorate of Military Support (DOM's) will be established by the DoD Executive Agent with a joint service staff under the Chief of Staff, U.S. Army. The Department of the Army will provide the Director and the Department of the Air Force will provide

the Deputy Director. The DOMs will plan, coordinate, and direct civil disturbance operations.

§215.9 Providing military resources to civil authorities.

This section provides general guidance for the handling of requests for DoD facilities, personnel, equipment, or supplies, received from officials of the 50 States, District of Columbia, Commonwealth of Puerto Rico, U.S. possessions and territories, or any political subdivision thereof, for use in connection with civil disturbances.

(a) *Loan policy.* Civil authorities, National Guard, and Federal agencies will be encouraged to provide sufficient resources of their own, so as to minimize the need to rely on DoD assistance.

(1) *Classification of resources.* Military resources will be classified into three groups, as follows:

(i) *Group One.* Personnel, arms, ammunition, tank-automotive equipment, and aircraft.

(ii) *Group Two.* Riot control agents, concertina wire, and other like military equipment to be employed in control of civil disturbances which is not included in Group One.

(iii) *Group Three.* Firefighting resources (to include operating personnel); equipment of a protective nature (such as masks, helmets, body armor vests) and other equipment not included in Group One or Two (such as clothing, communications equipment, searchlights); and the use of DoD facilities.

(2) Requests for personnel to be used in a direct law enforcement role are not within the purview of this part and must be made by the legislature or governor of a State in accordance with 10 U.S.C. 331. Pursuant to the Posse Comitatus Act, DoD operating personnel employed in connection with loaned equipment may not be used in a direct law enforcement role.

(3) Repair parts and POL items are classified according to the group of the equipment for which the parts or POL are intended.

(b) *Approval of requests.* (1) Requests for Group One military resources may be granted only with the personal approval of the DoD Executive Agent or

one designated by him for that purpose, the Under Secretary of the Army.

(2) Requests for Group Two military resources may be granted only with the personal approval of the DoD Executive Agent, or the following individuals when designated by him for that purpose: (i) The Under Secretary of the Army; (ii) the Director and Deputy Director of Military Support; or (iii) a Task Force Commander employed at an objective area during a civil disturbance.

(3) Requests for Group Three resources may be granted by Secretaries of the military departments, CINCs of unified and specified commands outside CONUS; or commanders of military installations or organizations who have been delegated such authority by the appropriate Service Secretary or CINC.

(4) Installation commanders are authorized to provide emergency explosive ordnance disposal service in accordance with applicable regulations of respective military departments.

(5) The Director, Defense Supply Agency, is authorized to approve requests from subordinate agencies for firefighting assistance in connection with civil disturbances. Where installations and fire departments have mutual aid agreements with nearby civil communities, the installation commander is authorized to provide emergency civilian or mixed civilian/military firefighting assistance. In the absence of a mutual aid agreement and when it is in the best interest of the United States, a commander with Group Three approval authority is authorized to provide emergency civilian or mixed civilian/military assistance in extinguishing fires and in preserving life or property from fire, within the vicinity of an installation. In either case, civilian firefighters may be used provided:

(a) In civil disturbance situations where there is significant danger of physical harm to firefighters, the civilian employees volunteer for the assignment. (DoD civilian employees acting in this volunteer capacity are acting as Federal employees.)

(b) Firefighting equipment will not be used for riot control.

(c) Civil authorities recognize that prior to the commitment of Federal resources to assist in restoring law and

order, the protection of firefighting crews and equipment is the responsibility, in ascending order, of municipal, county, and State officials. Failure on the part of such authorities to recognize this responsibility and/or to provide adequate protection will be grounds for refusal to commit installation resources or for withdrawal of resources already committed.

(4) Requests for Groups One, Two, or Three resources, and for renewal of outstanding loans, may be denied at any level in the chain of command down to and including commanders delegated Group Three approval authority.

(c) *Processing of requests.* (1) All requests will be promptly submitted through channels to the appropriate approving authorities using the format established by the DoD Executive Agent.

(2) Requests will be forwarded and processed in keeping with the degree of urgency dictated by the situation.

(3) Requests received by personnel of Defense agencies will be referred to local military commanders for processing, except that DSA subordinate agencies will forward requests for firefighting assistance to DSA.

(4) Request from civil law enforcement agencies for training assistance related to the control of civil disturbances will not be approved at the local level. Such requests should be referred to the nearest U.S. attorney, Department of Justice.

(d) *Reporting of requests.* (1) Reports of all requests for military resources (approved, denied, or pending) will be prepared by all appropriate approving authorities, using the format established by the DoD Executive Agent, and forwarded through channels as follows:

(i) To the military department headquarters, in the case of requests received in the CONUS by the four Services.

(ii) To the DoD Executive Agent, in the case of requests for firefighting assistance received by the Defense Supply Agency.

(iii) To the JCS, in the case of requests received by organizations or installations over which the commanders of the unified and specified commands exercise command authority.

(3) Reports received by the military department headquarters and JCS will be transmitted to the DoD Executive Agent, who, in turn, will transmit information copies of all approved requests for Groups One and Two military resources to the General Counsel of the DoD and the Deputy Attorney General of the United States.

(3) In addition, a weekly summary report of all requests will be compiled by the DoD Executive Agent, showing action taken (approved, denied, or pending) and submitted to the General Counsel of the DoD, the Assistant Secretary of Defense (Installations and Logistics), and the Deputy Attorney General of the United States. Negative summary reports are required.

(4) The reporting requirements prescribed herein are assigned Report Control Symbol DF-A(AR)1112.

§ 215.10 Funding.

(a) Reporting requirements to provide for financing costs associated with civil disturbance operations, to include reimbursement of military department expenditures, will be in accordance with DoD Instruction 7200.9, "Financing and Reporting Costs of Military Resources Used in Civil Disturbances," January 26, 1970,⁴ and DoD Executive Agent implementing instructions.

(b) Military assistance (Groups One, Two, and Three military resources) provided to civil authorities, under the provisions of § 215.9, will be on a reimbursable or reclaimable basis as appropriate.

PART 216—IDENTIFICATION OF INSTITUTIONS OF HIGHER LEARNING THAT BAR RECRUITING PERSONNEL FROM THEIR PREMISES

Sec.

216.1 Purpose.

216.2 Applicability.

216.3 Policy.

216.4 Responsibilities.

216.5 Procedures.

216.6 Information requirements.

APPENDIX A TO PART 216—SAMPLE LETTER OF INQUIRY

⁴ Although this resolution has been placed in the Statutes at Large as Pub. L. 90 Stat. 170, it not codified; it is out in the notes to 18 U.S.C. :

AUTHORITY: Pub. L. 92-436, 608(a), 1972.

SOURCE: 49 FR 22802, June 1, 1984, unless otherwise noted.

§ 216.1 Purpose.

This part implements Pub. L. 92-436 and updates policy, procedures, and responsibilities for identifying and taking action against institutions of higher learning that bar recruiting personnel from their premises.

§ 216.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as "DOD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

§ 216.3 Policy.

(a) Under Pub. L. 92-436, funds appropriated for the Department of Defense may not be used at any institution of higher learning if the Secretary of Defense or designee determines that recruiting personnel of any Military Service are barred by the policy of the institution from the premises of the institution. If recruiting personnel are barred from the premises of a subordinate element of an institution by the policy of such subordinate element, and the policy does not bar effectively recruiting at other subordinate elements, the prohibition on use of funds applies only to the elements in which recruiting is barred effectively.

(b) A determination that military recruiting personnel are barred by policy from the premises of an institution shall be made when military personnel cannot obtain permission to recruit on the premises of the institution. This includes circumstances in which policy of the institution is applied to bar military recruiting personnel because of the policies or practices of the Department of Defense, including the policies or practices of a DOD Component. A determination that military recruiting personnel are barred by policy will not be made when the institution:

Office of the Secretary of Defense

(1) Excludes all employers from recruiting on the premises of the institution.

(2) Permits employers to recruit on the premises of the institution only in response to an expression of student interest, and the institution:

(3) Provides the Military Services with the same opportunities to inform the students of military recruiting agencies as are available to other employers.

(4) Certifies that too few students have expressed an interest to warrant accommodating military recruiters, applying the same criteria that are applicable to other employers.

(5) Has been unable to schedule military recruiting visits in the past academic year, but agrees to schedule military recruiting visits on the premises of the institution in the coming academic year.

(6) Otherwise establishes reasonable restrictions on the time and place of recruiting activities that generally are applicable to all employers and are not based on the policies or practices of the Department of Defense.

(c) Under Pub. L. 92-436, the prohibition on use of funds may be waived if the Secretary of the Military Department concerned certifies to the Congress in writing that a specific course of instruction is not available at any other institution of higher learning and furnishes to the Congress the reasons why such a course of instruction is of vital importance to the security of the United States.

(d) Under Pub. L. 92-436, the prohibition on use of research and development (R&D) fund may be waived if the Secretary of Defense, or designee, determines that the expenditure is a continuation or a renewal of a previous program with the institution that is likely to make significant contribution to the defense effort.

216.4 Responsibilities.

(a) The Assistant Secretary of Defense (Reserve, Installations, and Logistics) (ASD(MI&L)) shall:

(1) Determine whether recruiting personnel have been barred by policy from the premises of an institution of higher learning.

(2) Disseminate to DOD Components the names of institutions of higher learning that are subject to the prohibition on use of funds.

(b) The Under Secretary of Defense for Research and Engineering (USDR&E) shall exercise the authority to waive the prohibition on use of R&D funds under § 216.3(d), of this part. Such waivers shall be reported promptly to the ASD(MI&L).

(c) The Secretaries of the Military Departments shall:

(1) Submit semiannual reports to the ASD(MI&L) under § 216.6(a), of this part, concerning institutions of higher learning that bar recruiting personnel from the premises of the institutions.

(2) Determine whether to waive the prohibition on use of funds under § 216.3(c), of this part.

(d) The Heads of DOD Components shall submit semiannual reports on actions related to the prohibition on use of funds under § 216.6(b), of this part.

§ 216.5 Procedures.

(a) Recruiters shall continue to observe the traditional DOD policy to accommodate an institution's preferences as to times and places for scheduling oncampus recruiting.

(b) The procedures prescribed herein shall be applied to institutions of higher learning that are visited for recruiting purposes. A survey of institutions of higher learning may not be undertaken for purposes of this part. Action taken under the part shall be limited to experiences obtained as a result of attempts to schedule or conduct normal recruiting visits and on any further information related to such recruiting endeavors.

(c) The following procedures shall be used by the Military Departments to determine whether recruiting personnel are barred by policy from the premises of an institution of higher learning.

(1) An inquiry as to the policy of the institution concerning military recruiting shall be made when an official of the institution informs the Military Service concerned, orally or in writing, that the policy of the institution is not to permit recruiting by the Military Service, or when a repeated request to schedule recruiting visits are unavailing.

SENATE JUDICIARY COMMITTEE

Telephone: (202) 224-5225

Room Number: 224 Dirksen

The Senate Judiciary Committee is responsible for the Crime Bill. Be sure to send (fax) your letter supporting drug courts to both Chairman Orrin Hatch and Ranking Minority Member Joseph Biden as well as other members of the Judiciary Committee members from your state.

Chairman

Orrin G. Hatch (R-UT) (202) 224-5251, 224-6331 fax

Republicans:

Strom Thurmond (SC)	(202) 224-5972, 224-1300 fax
Alan K. Simpson (WY)	(202) 224-3424, 224-1315 fax
Charles E. Grassley (IA)	(202) 224-3744, 224-6020 fax
Arlen Specter (PA)	(202) 224-4254, 224-1893 fax
Hank Brown (CO)	(202) 224-5941, 224-6471 fax
Fred Thompson (TN)	(202) 224-4944, 228-3678 fax
Jon Kyl (AZ)	(202) 224-4521, 224-2207 fax
Mike Dewine (OH)	(202) 224-2315, 224-6519 fax
Spencer Abraham (MI)	(202) 224-4822, 224-8834 fax

Democrats:

Joseph Biden (DE)	(202) 224-5042, 224-0139 fax
Edward Kennedy (MA)	(202) 224-4543, 224-2417 fax
Patrick Leahy (VT)	(202) 224-4242, 224-3595 fax
Howell Heflin (AL)	(202) 224-4124, 224-3149 fax
Paul Simon (IL)	(202) 224-2152, 224-0868 fax
Herb Kohl (WI)	(202) 224-5653, 224-9787 fax
Dianne Feinstein (CA)	(202) 224-3841, 228-3954 fax
Russell D. Feingold (WI)	(202) 224-5323, 224-2725 fax

Staff:

Manus Cooney, Majority Staff Director, (202) 224-5225

Catherine Russell, Minority Staff Director, (202) 224-7703



National Assn. of Drug Court Professionals

701 N. Fairfax Street • Alexandria, VA 22314

(703) 706-0563 • (703) 706-0565 FAX

February 23, 1995

NADCP LEGISLATIVE ALERT

EXECUTIVE COMMITTEE

President:

Judge Jeffrey Tauber
Oakland-Piedmont-
Emeryville Municipal Court
Oakland, Calif.

Vice President:

Claire McCaskill
Jackson County Prosecutor
Kansas City, Mo.

Secretary:

Judge Jamey Weitzman
District Court of Maryland
Baltimore, Md.

Treasurer

Chief Judge Eugene N.
Hamilton
Superior Court of the
District of Columbia
Washington, D.C.

Members-at-Large:

Judge Joel B. Bennett
Travis County
Drug Diversion Court
Austin, Texas

Michael Judge
Public Defender
Los Angeles, Calif.

Judge Jack Lehman
1st Vegas District Court
Las Vegas, Nev.

Timothy Murray
Director, Metro Dade Office
of Substance Abuse Control
Miami, Fla.

Your efforts on behalf of Drug Courts are making a huge difference. Over the past month, NADCP has sent 5 delegations to Washington while countless phone calls, letters and faxes have been sent to Judiciary Committee members.

NADCP members at House Judiciary Committee meetings last month included Judges Jeffrey Tauber of Oakland, Richard Gebelein of Wilmington, Tomar Mason of San Francisco and Jamie Weitzman of Baltimore. This past week, Bill Ritter, the District Attorney in Denver, and Judge Ron Taylor, a drug-court judge from St. Joseph, Michigan, were in Washington to advocate for Drug Court funding. These groups and others were able to meet with Congressional leaders and key staff in the House and Senate to advocate for the retention of Drug Court funding in the recently passed Crime Act.

As stated by Judge Richard Gebelein, a former Attorney General of Delaware in his testimony before the House Subcommittee on Crime, and later before the Senate Judiciary Committee, "Drug Court programs are not prevention or social spending, but intensive supervised programs that use frequent judicial monitoring, drug testing, probation, and progressive sanctions, including incarceration as well as drug treatment to get serious, non-violent offenders to stop illegal drug use."

These efforts resulted in the introduction and unanimous adoption of an amendment by Representative Fred Heineman's (former police chief of Raleigh, N.C.) to H.R. 728 by the House Judiciary Committee. The Heineman Amendment specifically makes Drug Courts eligible as one of four recipient programs for \$1 billion in Block Grant funding.

While the inclusion of Drug Courts as an eligible category does not guarantee any funding of Drug Courts (nor limit funding to the four specified categories), it is an extraordinary victory as it puts the entire Judiciary Committee (and all its members) on record as endorsing the effectiveness of Drug Court programs generally, and favoring the funding of Drug Courts specifically (see excerpts from Representative Heineman's statement attached).

Affiliated with

**Community Anti-Drug
Coalitions of America**

This week the House voted passage of H.R. 728 with the Heineman Amendment included. Our focus must immediately shift to the Senate Judiciary Committee where hearings on the Crime Bill have already started.

With the Heineman Amendment as our starting point, here are some key talking points for contacting Senate Judiciary Committee members and urging retention of specific federal funding for Drug Courts as contained in the 1994 Act.

- (1) The Heineman Amendment has put the Judiciary Committee on record as unanimously endorsing the effectiveness of Drug Courts and the need for federal funding (albeit through Block grants).
- (2) Drug Courts are systems made up of the courts, law enforcement, treatment, education, corrections and other partners. Forcing Drug Court systems to compete with their component agencies will destroy the cooperation and coordination that makes them so effective.
- (3) The history of Block grant funding convinces us that law enforcement agencies will get the lions share of available monies leaving pennies for Drug Courts (that were authorized at 1 billion dollars over a six year period in the 1994 Crime Act).
- (4) Federal Regulations, along with Federal funding, are needed to make sure that Drug Courts provide intensive supervision, frequent drug testing and effective treatment.
- (5) A precedent for keeping specific federal funding for Drug Courts exists in the retention of federal funding for the "Domestic Violence Against Women" provisions of the 1994 Crime Bill.

We have every reason to believe, that our efforts in the Senate can be successful and lead to the retention of specific Federal Funding after a House-Senate Conference.

Enlist the aid of your local political leaders (mayors, county supervisors, chiefs of police, sheriff, prosecutors, etc.) to make your case. It's up to you to make contact with Senate Judiciary Committee members (as well as your senators and congresspersons). **Start your efforts today** as Senate Judiciary hearings began last week.