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EXECUTIVE OFFICE OF THE PRESIDENT

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

August 11, 1993

August 11, 1993

MEMORANDUM FOR THE SECRETARY OF THE TREASURY

SUBJECT: Importation of Assault Pistols

A category of pistols commonly referred to as assault pistols has increasingly become the weapon of choice for drug dealers, street gang members, and other violent criminals. These pistols, generally characterized by their bulky military-style appearance and large magazine capacity, include domestically manufactured TEC-9's and MAC-10's as well as imported models like the Uzi pistol and the H&K SP-89. Their popularity appears to stem from their intimidating appearance and their considerable firepower.

These weapons have been used to harm and terrorize many Americans, particularly our children, in recent years. As a result, it is no longer possible to stand by and witness the deadly proliferation of these weapons without acting to protect our communities.

Although addressing the domestic production of these weapons requires a change in the statute, which I support, existing law already bans the importation of firearms unless they are determined to be particularly suitable for or readily adaptable for sporting purposes. I am informed that shortly after enactment of the Gun Control Act of 1968, the Treasury Department adopted a factoring system to determine whether handguns were importable pursuant to this standard. The system entails the examination of the firearm against a set of criteria, with points being awarded for various features. A minimum score is required before importation is approved. The criteria and weighted point system were designed to address the crime gun of the day, the cheap, easily concealable "Saturday Night Special." Under this 25-year old system, small caliber, easily concealable handguns score few points and are banned from importation. However, assault-type pistols -- the new crime gun of the day -- because of their large size, weight, and caliber, easily score the necessary points to qualify for importation even though none of these pistols appears to have any legitimate sporting purpose. Accordingly, it is time to reassess how the present regulatory approach can be made more effective in achieving the legislative directive to preclude importation of firearms that are not particularly suitable for or readily adaptable for sporting purposes.

I hereby direct you to take the necessary steps to reexamine the current importation factoring system to determine whether the system should be modified to ensure that all nonsporting handguns are properly denied importation. You have advised me that the Bureau of Alcohol, Tobacco and Firearms (ATF) will issue a notice of proposed rule-making in the near future that will propose changes to the factoring system to address the assault pistol problem. You have further advised me that effective immediately action on pending applications to import these weapons will be suspended, and that final action on any application will be delayed until this review process is completed.

Nothing herein shall be construed to require actions contrary to applicable provisions of law. You are hereby authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON

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**BRIEF SUMMARY OF
VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993
BROOKS CRIME BILL**

TITLE I -- PUBLIC SAFETY AND POLICING

Title I targets crime by putting more police "on the beat" in local neighborhoods and communities. The general purposes of the title include:

- * increasing the number of visible officers in community policing;
- * enhancing police skills in community interaction;
- * encouraging innovative programs for community assistance in crime prevention; and
- * developing new technologies to help police become more proactive, rather than reactive, to crime.

Community Policing Program. The Attorney General is authorized to make grants to State and local governments and to other public and private entities to increase police presence, to enhance police-community cooperation in addressing crime and disorder, and otherwise to enhance public safety.

Grant money would be used for hiring additional law enforcement officers and rehiring officers who have been laid off for budgetary reasons for deployment in community-oriented policing.

Other funding objectives include: proactive crime control and prevention; specialized training; facilitation of police-community interaction; development of innovative programs; community involvement in crime prevention efforts; and adoption of community policing as an organization-wide philosophy.

The Attorney General is also authorized to provide technical assistance to State and local governments, which may include the development of a flexible model for implementing community or problem-oriented policing. This assistance may also include establishing training centers to train police executives, managers, trainers, and supervisors regarding community or problem-oriented policing and improving police-community interaction.

States must provide at least 25% of the funding for community policing programs and must also submit plans for

assuming the full costs of increased police hiring following a five-year period of Federal assistance.

Grant applications must include a long-term strategy and detailed implementation plan reflecting consultation with community groups and appropriate public and private agencies; information concerning coordination with other governmental agencies; and plans for obtaining necessary funds for continuing the program following the conclusion of Federal support.

Grants to State and local governments are to be used to supplement, and not to supplant, State and local funds; no more than 5% of available funds may be used for administrative costs; and, money received through the asset forfeiture program may be used to cover the non-Federal portion of programs funded under the title.

Each funded program must include an evaluation component (including outcome measures), and the performance of each grant recipient is to be reviewed by the Attorney General.

This program authorizes appropriations of \$200 million for FY94 and \$650 million for each of FY95, 96, 97, 98, and 99.

TITLE II -- DEATH PENALTY

This title establishes the death penalty for certain enumerated offenses as well as procedures for the constitutional imposition of the Federal death penalty. It provides the Federal death penalty for the following offenses:

- Aircraft piracy where death results
- Bank robbery where death results
- Carjacking where death results
- Child sexual exploitation where death results
- Conspiracy to violate civil rights where death results
- Damage of Federal property by explosives where death results
- Damage of Federal property by fire where death results
- Damage of property affecting commerce by fire where death results
- Damage of property affecting commerce by explosives where death results
- Destruction of aircraft where death results
- Destruction of aircraft facilities where death results
- Destruction of motor vehicle facilities where death results
- Destruction of motor vehicles where death results
- Drive-by shootings where death results
- General espionage
- Genocide
- Hostage-taking where death results
- Interference with federally-protected activities where death results

Interstate explosives offense where death results
Kidnapping where death results
Mailing dangerous articles where death results
Murder in aid of racketeering
Murder of Cabinet officers
Murder of certain foreign officials
Murder of court officers
Murder of diplomats
Murder by escaped Federal prisoner
Murder of Federal law enforcement officials
Murder of Federal judges
Murder with firearm in course of Federal drug crime
Murder with firearm in course of Federal violent crime
Murder with firearm during Federal drug trafficking crime
Murder during firearms attack in or on Federal facility
Murder of high-level government officials
Murder for hire
Murder of juror
Murder by life-term Federal prisoner
Murder of local official assisting Federal law enforcement officer
Murder of members of families of Federal officials with intent to
 impede or retaliate
Murder of Members of Congress
Murder of President
Murder in special maritime and territorial jurisdiction
Murder of staffs of high-level government officials
Murder of State official assisting Federal law enforcement officer
Murder of Supreme Court Justices
Murder of U.S. national in foreign country
Murder of Vice-President
Obstruction of free exercise of religious rights where death results
Rape where death results
Retaliatory murder of informant
Retaliatory murder of witness
Retaliatory murder of victim
Sexual abuse crimes where death results
Terrorist murder of U.S. national abroad
Torture resulting in death
Treason
Use of weapon of mass destruction where death results
Violence at international airports where death results
Violence against maritime navigation where death results
Violence against maritime platforms where death results
Wartime espionage
Willful deprivation of Federal rights where death results
Witness-tampering murders
Wrecking trains where death results

TITLE III -- HABEAS CORPUS REFORM

Filing Deadlines. Imposes a 180-day limitations period for the filing of Federal habeas corpus petitions. The limitations period applies in capital cases, and in non-capital cases in which the State provides counsel for State post-conviction review. A one-time 60-day extension of the period is available upon a showing of good cause.

Stays of Execution in Capital Cases. Provides an automatic stay of execution in capital cases through the consideration of the first Federal habeas corpus petition. Thereafter, a stay of execution may be granted only if the habeas petition on its face satisfies the requirements for successive petitions.

Limits on New Rules; Standard of Review. Prohibits a Federal court from announcing or applying a new rule to grant relief to a habeas corpus petitioner with two narrow exceptions. Defines a new rule as one that changes the constitutional or statutory standards that prevailed at the time the petitioner's conviction and sentence became final on direct appeal. This section also codifies case law providing for an independent Federal habeas corpus review of claims under Federal law.

Limits on Successive Petitions. Provides that in capital and non-capital cases, a prisoner may bring a second or subsequent petition only if the prisoner shows both cause for not having brought the claim before and prejudice if the claim is not heard. The section also requires Federal courts to give prompt consideration to successive petitions, notwithstanding other items on their dockets.

Provision of Qualified Counsel. Sets standards and procedures for the provision of qualified counsel for indigent defendants at all stages of State capital litigation. Appointed lawyers are to be paid reasonable hourly fees, to be set by the State's highest court.

State Counsel Funding. Provides for grants to States to help fund the provision of defense counsel in capital cases. Also provides grants for the prosecution in Federal habeas corpus cases in an amount equal to that allocated to capital resource centers.

TITLE IV -- COERCED CONFESSIONS

This title reverses the United States Supreme Court's decision in Arizona v. Fulminante, by declaring that the admission of a coerced confession into evidence in a criminal trial shall never be considered harmless error when the confession is involuntarily obtained. The title also identifies the appropriate harmless error standard for criminal proceedings in Federal court.

TITLE V -- GUN CRIME PENALTIES

Subtitle A. Brady Handgun Violence Prevention Act

Brady Handgun Violence Prevention Act. Establishes an interim Federal waiting period of up to 5 days before a licensed dealer, importer, or manufacturer may sell, deliver, or transfer a handgun to a private purchaser. During that waiting period, a local law enforcement official would do a background check to determine whether the applicant is ineligible to purchase a handgun under Federal or State law. The interim waiting period would be replaced by an "instant background check" system, once the Attorney General certifies that such a system is established. There is authorized to be appropriated for this program \$100 million for FY94 and each fiscal year following.

Subtitle B. Gun Crime Penalties

Semiautomatics. Enhances the penalty for use of a semiautomatic firearm during the commission of a crime of violence or a drug trafficking crime.

Explosives: Second Offense. Enhances the penalty for a second conviction of using or carrying an explosive in the commission of a Federal felony.

Smuggling Firearms in Aid of Drug Trafficking. Prohibits and penalizes the smuggling of firearms into the United States in furtherance of a Federal or State trafficking crime.

Theft of Firearms and Explosives. Prohibits and penalizes the theft of firearms or explosives that have moved in interstate commerce.

False Statement in Gun Buying. Increases the penalty for knowingly making a false, material statement in connection with the acquisition of a firearm from a licensed dealer.

Possession of Explosives by Felons and Others. Prohibits the possession of explosives by felons, fugitives, drug users and persons adjudicated mentally defective.

Explosives Destruction. Authorizes summary destruction of explosives subject to forfeiture where the explosives cannot be safely removed and stored and allows an innocent owner to make application for reimbursement of the value of the property.

Stolen Firearms. Prohibits a variety of transactions involving stolen firearms (receipt, possession, concealment, sale) which have moved in interstate commerce.

Counterfeiting or Forgery. Enhances the penalty when a firearm is used in the commission of counterfeiting or forgery.

Firearms Possession by Felons. Enhances the penalties for gun possession by violent felons and serious drug offenders.

Receipt of Firearms by Nonresident. Prohibits and penalizes the transfer of firearms to a nonresident of a State, except for lawful sporting purposes.

Firearms and Explosives Conspiracy. Prohibits and penalizes conspiracies to commit firearms and explosives crimes.

Incendiary Ammunition. Directs the Treasury Secretary to conduct a study of incendiary ammunition to determine whether it has a reasonable sporting or law enforcement purpose.

Firearms, Explosives Theft. Prohibits and penalizes the theft of firearms or explosives from a licensed importer, manufacturer or dealer.

Distribution of Explosives. Prohibits and penalizes the distribution of explosives to a person who is legally disqualified from having the explosives.

"Burglary" Clarification. Defines "burglary" for purposes of Armed Career Criminal Statute provisions regarding predicate offenses.

Interstate Gun Trafficking. Increases the penalty for interstate gun trafficking.

TITLE VI -- YOUTH VIOLENCE

Subtitle A. General

Using Kids to Deal Drugs. Increases the penalties for employing children under the age of 18 to distribute drugs or to assist in avoiding apprehension for a drug offense.

Commencement of Juvenile Proceeding. Clarifies when a juvenile can be transferred to adult prosecution and when a dispositional hearing can be held with regard to that juvenile.

Bindover System for Violent Juveniles. Authorizes grants for bindover systems for the prosecution of 16- and 17-year olds as adults for certain violent crimes (murder in the first or second degree,

attempted murder, armed robbery with a firearm, aggravated battery or assault with a firearm, criminal sexual penetration when armed with a firearm, and drive-by shootings).

Subtitle B. Criminal Street Gangs

Criminal Street Gangs. Provides a term of imprisonment of not more than 10 years and/or a fine for a gang member or person acting on behalf of a criminal street gang who commits a Federal drug or violent crime offense and who has had a prior drug or crime of violence conviction. The penalty is to run consecutively to any other sentence imposed.

A "criminal street gang" is a group, organization, or association of 5 or more persons whose members have engaged in a continuing series of drug crimes or crimes of violence.

Subtitle C. Certainty of Punishment for Young Offenders

Certainty of Punishment for Young Offenders. Authorizes grants to States to develop alternative methods of punishment for young offenders to traditional forms of incarceration and probation. The alternatives developed must ensure certainty of punishment for young offenders, and promote reduced recidivism, crime prevention and assistance to victims. There is authorized to be appropriated \$200 million for each of FY94, 95, and 96.

Subtitle D. Juvenile Drug Trafficking and Gang Prevention Grants

Juvenile Drug Trafficking and Gang Prevention. Authorizes grants for programs to curb the formation or continuation of juvenile gangs and the use and sale of illegal drugs by juveniles. Additionally, authorizes grants for public or non-profit private organizations or individuals to identify promising new juvenile drug reduction and enforcement programs, as well as programs to address the unique crime, drug, and alcohol-related challenges faced by juveniles living at or near international ports of entry and in other international border communities, including rural localities. There is authorized to be appropriated \$100 million for each of FY94 and 95.

TITLE VII -- TERRORISM

Subtitle A -- Maritime Navigation and Fixed Platforms

Maritime Navigation and Fixed Platforms. Prohibits and penalizes the seizure of a ship or fixed platform by force, an act of violence against a person on board, damage or destruction of a ship, a fixed platform, or maritime navigation facilities, or the injuring or killing of a person in connection with such activities. Provides the death penalty where death results.

Subtitle B -- General Provisions

Weapons of Mass Destruction. Provides the death penalty where death results from the use of a weapon of mass destruction.

Crimes Against U.S. Nationals on Foreign Ships. Extends special maritime and territorial jurisdiction to offenses committed by or against a U.S. national during a voyage on a foreign vessel that is scheduled to arrive or depart from the United States.

Torture. Provides criminal penalties for the commission of torture outside the United States. Provides the death penalty when the torture results in death. Torture is defined as an act committed under color of law and intended to inflict severe physical or mental pain or suffering upon one within the official's custody or control.

Extension of Statute of Limitations. Provides for an extended, 10-year statute of limitations for certain terrorist offenses.

F.B.I. Access to Telephone Subscriber Information. Provides the FBI with access to telephone subscriber information if the Director or Deputy Assistant Director certifies that the requested information is relevant to a foreign counterintelligence investigation and that there are specific facts giving reasons to believe that it pertains to an agent of a foreign power or to an individual engaged in international terrorism or clandestine intelligence activities involving a violation of U.S. criminal statutes.

Violence at International Airports. Criminalizes acts of terrorism at U.S. international airports. Provides the death penalty where a death results from attempting or performing an act of violence or destruction at an airport.

Terrorism Against Civilian Aviation. Provides criminal penalties for willful violations of airport or airline security regulations.

Counterfeiting United States Currency Abroad. Prohibits and penalizes the making, dealing or possessing of any counterfeit U.S. obligation or security, or plate or stone used to counterfeit such

obligation or security outside the United States if such an act would constitute a violation within the U.S.

Enhanced Penalties for Terrorist Crimes. Enhances penalties for any felony, whether committed within or outside the U.S., that involves or is intended to promote international terrorism.

Alien Witness Cooperation. Amends the Immigration and Nationality Act to allow the Attorney General to grant a nonimmigrant visa to an alien who possesses critical and reliable information about a criminal organization, who is willing to supply such information to law enforcement authorities, and whose presence in the United States is essential to the success of an investigation or prosecution of an individual involved in the organization. This section also allows the spouse and children of such an alien to join the alien in the United States. It limits to 100 the number of nonimmigrant visas per fiscal year and limits the period of admission to 3 years. The Attorney General may adjust the status of these individuals to that of permanent resident under specified circumstances. Such aliens must report to U.S. officials quarterly, may not be convicted of a crime while in the U.S., and must waive the right to contest deportation prior to any adjustment of status.

Material Support to Terrorists. Penalizes those who provide "material support or resources" to terrorists. The term "material support or resources" is defined to mean currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, but does not include humanitarian assistance to persons not directly involved in such violations.

TITLE VIII -- SEXUAL VIOLENCE AND CHILD ABUSE

Subtitle A. Sexual Abuse

Sexual Abuse Amendments. Prohibits and penalizes the intentional touching of the naked genitalia of a person under 16 years with an intent to abuse, humiliate, degrade, or arouse or gratify the sexual desire of any person.

Subtitle B. Child Protection

Child Protection. Establishes a national background check system whereby child care organizations can determine whether prospective employees have histories of child abuse or other serious crimes. States are required to have at least 80% currency of crime cases in their systems within 3 years. The Act also directs a study

of child abusers' criminal records. There is authorized to be appropriated \$20 million for each of FY94, 95, and 96.

Subtitle C. Crimes Against Children Registration

Crimes Against Children Registration. This program encourages States to establish registration systems for persons convicted of crimes against minors (kidnapping, false imprisonment, criminal sexual conduct, solicitation to engage in sexual conduct, use in sexual performance, or solicitation to practice prostitution). Under the proposal, such convicts would be required to keep law enforcement authorities informed of their addresses for a period of ten years following release from prison or being placed under supervision. Fingerprints and photographs would be forwarded to State law enforcement agencies which, in turn, would forward them to the FBI. States that fail to establish such systems within three years could lose 10% of their Byrne Grant funding.

TITLE IX -- CRIME VICTIMS

Victims' Fund Percentage Allocation Modification. Specifies the amounts available for grants under certain sections of the Victims of Crime Act of 1984.

Relationship of Crime Victim Compensation to Certain Federal Programs. Prohibits victims' compensation funds from being diverted to other federally-financed programs.

Victim's Right of Allocation in Sentencing. Gives victims of violent crimes and sexual abuse the right to address the court concerning the sentence to be imposed on the convicted offender. The right may be exercised by a parent or guardian if the victim is under 18, or by one or more family members if the victim is deceased or incapacitated.

Report on Battered Women's Syndrome. Directs the Attorney General and the Secretary of the Department of Health and Human Services to report to Congress on the medical and psychological basis of battered women's syndrome and the extent to which evidence of the syndrome has been admitted as evidence as to guilt or as a defense in criminal trials.

TITLE X -- STATE AND LOCAL LAW ENFORCEMENT

Subtitle A. Safer Streets and Neighborhoods

Safer Streets and Neighborhoods. Ensures that the funding formula for Federal-State grants is continued and that federal financial assistance intended for State and local law enforcement is not diverted to Federal programs.

Subtitle B. DNA Identification

DNA Identification. Establishes a national DNA quality control system for the identification of criminals. Grants to develop DNA analysis would be available to States whose laboratories meet certain quality assurance standards and whose analyses are disseminated in accordance with confidentiality requirements. The quality assurance standards to be followed by the States would be developed by the FBI. In addition, the FBI would be authorized to maintain an index of DNA records of persons convicted of crimes, DNA samples from crime scenes, and DNA samples of human remains. FBI personnel performing DNA analysis would be required to undergo proficiency testing.

There is authorized to be appropriated for DNA analysis improvement \$10 million for each of FY94, 95, 96, 97, and 98. There is authorized to be appropriated for DNA proficiency testing \$4.5 million for each of FY94, 95, 96, 97, and 98.

Subtitle C. Department of Justice Community Substance Abuse Prevention

Community Partnerships. Establishes a grant program for eligible coalitions to study and implement substance abuse prevention programs. To be eligible, a coalition would have to include a variety of public and private organizations, agencies and individuals committed to preventing abuse. The efforts of the coalitions would involve substantial community participation. Priority would be given to communities providing evidence of significant substance abuse and support for eliminating it. There is authorized to be appropriated for this program \$15 million for FY94, \$20 million for FY95, and \$25 million for FY96.

Subtitle D. Drug Testing of Arrested Individuals

Drug Testing of Arrested Individuals. Authorizes grants for drug testing of individuals upon arrest and on a regular basis pending trial for the purpose of making pretrial detention decisions. There

is authorized to be appropriated for this program \$100 million for each of FY94, 95, and 96.

Subtitle E. Racial and Ethnic Bias Study Grants

Racial and Ethnic Bias Study Grants. Authorizes grants for States that establish, by State law or by the court of last resort, plans for analyzing the role of race in their criminal justice systems. State plans must include recommendations designed to correct any findings of racial or ethnic bias. There is authorized to be appropriated for this program \$2 million for each of FY94, 95, 96, 97, and 98.

TITLE XI -- PROVISIONS RELATING TO POLICE OFFICERS

Subtitle A. Law Enforcement Family Support

Law Enforcement Family Support. Requires the Bureau of Justice Assistance to establish guidelines to implement family-friendly policies in law enforcement divisions of the Justice Department; identify model programs that provide support to law enforcement families; and provide technical assistance for stress reduction and family support efforts by State and local law enforcement agencies. It also establishes a grant program for State and local law enforcement agencies, and organizations representing State and local law enforcement personnel, to provide family support services to law enforcement personnel. There is authorized to be appropriated for this program \$5 million for each of FY94, 95, 96, 97, and 98.

Subtitle B. Police Pattern or Practice

Police Pattern or Practice. Makes it unlawful for law enforcement officers to engage in a pattern or practice of conduct that deprives persons of their constitutional or Federal rights. The Attorney General would be authorized to bring a civil injunctive action to eliminate such a pattern or practice.

Subtitle C. Police Corps and Law Enforcement Officers Scholarships Programs

Police Corps and Law Enforcement Officers Scholarships. Seeks to increase the number of police with advanced education and training, to provide educational assistance to law enforcement personnel and students with an interest in law enforcement, and to recruit more highly educated officers.

Police Corps. This program authorizes up to 10 Community Police Corps Programs in which participants can receive scholarships of not more than \$5,000 annually times the number of years in the educational institution's regular program in exchange for a commensurate period of work with a State or local police force upon graduation. If participants do not follow through on their commitment, they must pay back all the scholarship money plus interest at a fair rate specified by the Attorney General.

There is authorized \$5 million for each of FY94, 95, 96, 97, and 98. Up to 10% of the grant funds can be awarded to law enforcement officers currently employed by the jurisdiction, and who are assigned to community-oriented policing or who exercise supervisory or training roles in relation to such officers. The grants can be used for college or post-graduate work.

Law Enforcement Scholarships. This program provides scholarships for in-service law enforcement personnel who seek further education. Grants are also provided for summer jobs or part-time jobs during the year for high school students interested in law enforcement careers. 80% of funds is to be allocated on the basis of the relative number of law enforcement officers per State, and 20% of funds is to be based on the relative shortage of law enforcement personnel. Scholarships are to be paid back with law enforcement service. There is authorized to be appropriated \$25 million for each of FY94, 95, 96, and 97.

Subtitle D. Study of Rights of Police Officers

Study of Rights of Police Officers. Requires that the Attorney General conduct a study of the procedures followed in internal, non-criminal investigations of State and local law enforcement officers to determine if such investigations are conducted fairly. The Attorney General must report the results of that study to Congress no later than one year after the date of enactment.

TITLE XII -- GRANT PROGRAM FOR STATE PRISONS

Substance Abuse Treatment in State Prisons. Authorizes grants for residential substance abuse treatment programs in State prisons. To be eligible, programs must be carried out in residential treatment facilities set apart from the general prison population and last between 9 and 12 months. There is authorized to be appropriated \$100 million for each of FY94, 95, and 96.

TITLE XIII -- FEDERAL PRISONS

Subtitle A. General

Prisoner's Place of Imprisonment. Provides that the Bureau of Prisons may not consider the social or economic status of a prisoner in designating his or her place of imprisonment.

Prison Impact Assessments. Requires that any submission of legislation by the executive or judicial branch that might affect Federal prison populations be accompanied by an impact statement. Any request from Congress for such a statement on pending legislation would have to be answered by the Attorney General, in consultation with the Sentencing Commission and the Administrative Office of the Courts, within 14 days. An impact statement must include (1) the impact on prison, probation, and supervised release populations, (2) the fiscal impact of such population changes, (3) any other significant factors affecting the cost of the measure and its impact on components of the criminal justice system, and (4) a statement of underlying assumptions and methodologies. In addition to assessing particular pieces of legislation, the Attorney General must submit annual reports showing the cumulative impact of all relevant legislation enacted during the calendar year.

Notification of Release of Prisoners. Requires notice to State and local law enforcement authorities concerning the release or relocation to their areas of Federal offenders under post-release supervision at least five days prior to such release or relocation. Applies to prisoners convicted of drug trafficking and violent crimes.

Application to Prisoners to Which Prior Law Applies. As parole no longer exists in the Federal penal system, this clarifies that, in a case of a prisoner convicted of an offense committed prior to November 1, 1987 -- when parole did exist -- reference to supervised release in Federal criminal law is to be deemed a reference to probation or parole.

Subtitle B. Drug Testing

Drug Testing of Offenders on Post-Conviction Release. Requires periodic drug testing of Federal offenders on post-conviction release.

Subtitle C. Enhanced Penalties for Drugs in Federal Prisons

Enhanced Penalties for Drug Trafficking in Federal Prisons. Provides enhanced penalties for drug trafficking in Federal prisons.

Enhanced Penalties for Illegal Drug Use in Federal Prisons. Provides enhanced penalties for illegal drug use in Federal prisons.

Subtitle D. Drug Treatment in Federal Prisons

Drug Treatment in Federal Prisons. Establishes a schedule for the Bureau of Prisons to place all eligible prisoners into residential substance abuse treatment programs for between 9 and 12 months, in facilities separate from the general prison population. Eligible prisoners would be those with substance abuse problems who are willing to participate in the program. At least 50% of eligible prisoners would have to be in treatment by the end of FY1995, 75% by the end of FY1996, and 100% by the end of FY1997. A prisoner who successfully completes such programs could receive a reduction in sentence of up to one year. Such sums as necessary is authorized to be appropriated for each fiscal year.

Subtitle E. Studies

National Institute of Justice Study. Directs the National Institute of Justice to study the feasibility of establishing an information clearinghouse to facilitate the interstate transfer of prisoners to facilities near their families.

Study and Assessment of Alcohol Use and Treatment. Directs the National Institute of Justice (NIJ) to study the recidivism rates of persons who were under the influence of alcohol at the time they committed their crimes. The study would compare the recidivism rates of those who participated in a residential treatment program while in custody and those who did not. NIJ would also conduct a study of the use of alcohol, alone or in combination with other drugs, as a factor in violent, domestic, and general criminal activity.

TITLE XIV -- RURAL CRIME

Subtitle A. Fighting Drug Trafficking in Rural Areas

Fighting Drug Trafficking in Rural Areas. Provides an annual grant authorization for rural drug enforcement and requires the Attorney General to establish rural drug enforcement task forces in each Federal judicial district that includes significant rural lands. It also authorizes the Attorney General to cross-designate law enforcement officers from several Federal law enforcement agencies in furtherance of the purposes of the title and directs the Director of the Federal Law Enforcement Training Center to develop a specialized course of instruction to train law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

There is authorized to be appropriated for rural law enforcement \$50 million for FY94, and such sums as necessary for FY95 and 96.

There is authorized to be appropriated for rural drug enforcement training \$1 million for each of FY94, 95, and 96.

Subtitle B. Drug Free Truck Stops and Safety Rest Areas

Drug Free Truck Stops and Safety Rest Areas. Enhances penalties for drug distribution at or near truck stops and safety rest areas.

TITLE XV -- DRUG CONTROL

Subtitle A. Drug Emergency Areas

Drug Emergency Areas. Permits the President to declare a State, or part thereof, a drug emergency area, to take all necessary actions to save lives and to protect property and public health and safety, and to make grants aggregating \$25 million for any single major drug-related emergency. A drug-related emergency would exist where drug smuggling, trafficking, abuse, or related violence reaches dramatic levels.

Grant money must be divided equally between drug supply and demand reduction efforts, unless State or local conditions dictate otherwise. In addition to monetary assistance, the President may direct any Federal agency to utilize its authorities and resources (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) to assist State anti-drug efforts.

There is authorized to be appropriated for this program \$100 million for each of FY94, 95, and 96.

Subtitle B. Precursor Chemicals

Precursor Chemicals. Imposes registration requirements for precursor chemicals and requires all manufacturers to submit annual reports on the total quantity of listed chemicals produced during the year. It also provides that brokers and traders will be subject to the same record-keeping and reporting requirements for international transactions as exporters and will be subject to the same criminal penalties.

Additionally, the proposal allows the DEA to apply a targeted approach to export controls and establishes criminal penalties for attempting to evade reporting requirements and for smuggling listed drugs. The DEA would have the same inspection authority for listed chemicals as it presently has for controlled substances.

An additional felony would be created for an individual who violates the Solid Waste Disposal Act in the handling of chemicals used to illegally manufacture a controlled substance.

Subtitle C. General Provisions

Drug Dealing in Public Housing Authority Facilities. Prohibits and penalizes drug dealing in or near public housing authority facilities.

Anabolic Steroids Penalties. Prohibits and penalizes a physical trainer or adviser who tries to persuade an individual to use anabolic steroids. The penalty is increased if that individual is under 18.

Advertising. Prohibits and penalizes advertising which aims to illegally solicit or sell drugs.

Enhanced Penalties for Drug-Dealing in "Drug-Free" Zones. Enhances penalties for drug-dealing in "drug-free" zones, such as schools and public housing.

National Drug Control Strategy. Contains a Congressional declaration that among the long-term goals of the National Drug Control Strategy should be the availability of drug treatment to all who need it.

TITLE XVI -- DRUNK DRIVING PROVISIONS

This title applies State laws in areas of Federal jurisdiction and provides supplementary prison terms and fine authorizations for cases where drunk driving endangers or injures a person below the age of 18. In addition, it contains a Congressional declaration that courts should take into consideration any history of drunk driving in determining child custody and visitation rights.

TITLE XVII -- COMMISSIONS

Subtitle A. Commission on Crime and Violence

National Commission on Crime and Violence. Establishes a national commission to develop a comprehensive crime control plan for the 1990s. The Commission would have 22 members, 16 of whom would be appointed by Congress and 6 by the President.

Subtitle B. National Commission to Study the Causes of the Demand for Drugs in the United States

National Commission to Study the Causes of the Demand for Drugs. Establishes a commission to study the causes of the demand for drugs in the United States. The Commission would have 13 members, 10 appointed by Congress and 3 by the President.

Subtitle C. National Commission to Support Law Enforcement

National Commission to Support Law Enforcement. Establishes a commission with the dual purpose of reviewing and recommending changes regarding the operations and effectiveness of law enforcement and the working conditions and compensation of law enforcement officers at the Federal, State, and local levels. The Commission would have 25 members, 20 of whom would be appointed by Congress and 5 by the President. The Comptroller General would serve in an advisory capacity to oversee the methodology and approach of the Commission's study.

TITLE XVIII -- MOTOR VEHICLE THEFT PREVENTION

This title directs the Attorney General to develop a voluntary motor vehicle theft prevention program, which would involve putting decals on the vehicles of consenting owners. Such vehicles could then be stopped by law enforcement officers under conditions specified in rules promulgated by the Attorney General, if the officers have a reasonable suspicion that the vehicles are not being operated by or with the consent of their owners. The title also prohibits and penalizes tampering with motor vehicle identification numbers to further the theft, sale or receipt of a stolen vehicle. Such sums as necessary to carry out the program is authorized to be appropriated.

TITLE XIX -- PROTECTIONS FOR THE ELDERLY

Missing Alzheimer's Disease Patient Alert Program. Directs the Attorney General to make grants in support of programs to protect and locate missing patients with Alzheimer's disease and related dementias. There is authorized to be appropriated \$1 million for each of FY94, 95, and 96.

Crimes Against the Elderly. Directs the Sentencing Commission to ensure that the sentences for those convicted of crimes of violence against elderly victims be sufficiently stringent to deter such

crimes, incapacitate such offenders, and provide enhanced penalties under specified criteria.

TITLE XX -- CONSUMER PROTECTION

Insurance Business Crimes. Establishes new Federal penalties for insurance industry crimes, including embezzling from insurance companies, making false entries in insurance company books with intent to deceive, and corruptly influencing or obstructing proceedings before State insurance regulatory agencies or insurance examiners. This section also prohibits persons convicted of criminal felonies involving dishonesty or breach of trust from engaging in the insurance business.

Credit Card Fraud. Strengthens Federal law with regard to credit card fraud by prohibiting the sale of credit cards without credit card company authorization; fraudulent receipt of payments via credit card for goods never received or inferior to those promised; and laundering of credit card receipts.

Mail Fraud. Extends the mail fraud statute to include mail sent by private interstate carriers.

TITLE XXI -- SENTENCING PROVISIONS

Among the miscellaneous changes to sentencing and magistrate provisions in this title: the unlawful possession of a controlled substance or firearm, and the refusal to cooperate in drug testing would mandate the revocation of supervised release.

TITLE XXII -- COMPUTER CRIME

This title strengthens the provisions of Federal law penalizing computer crimes, particularly in relation to hackers who insert viruses into computers.

TITLE XXIII -- INTERNATIONAL PARENTAL KIDNAPPING

This title would prohibit and penalize international parental child kidnapping. It also authorizes grants for training and educational programs on interstate and international parental child

abduction. There is authorized to be appropriated \$250 thousand to carry out this program.

TITLE XXIV -- SAFE SCHOOLS

This title provides annual authorizations for safe schools grants and assistance. It directs the Director of the Bureau of Justice Assistance in consultation with the Secretary of Education to make grants to those local educational agencies most directly affected by crime and violence. Grants would be used to fund anti-crime and safety measures; to develop crime and drug prevention programs; for school victim counselling programs; for crime prevention equipment including metal detectors and video-surveillance devices; and for anti-gang programs. There is authorized to be appropriated \$100 million for each of FY94, 95, and 96.

TITLE XXV -- FINANCIAL INSTITUTIONS FRAUD PROSECUTIONS

This title strengthens the provision in current law that disqualifies certain persons with criminal records from participating in the affairs of insured depository institutions and credit unions.

TITLE XXVI -- WHITE-COLLAR CRIME AMENDMENTS

Proceeds of Extortion. Prohibits and penalizes the receipt, possession, concealment or disposal of money or property obtained by extortion. Regarding ransom money, makes it unlawful to transport, transmit, or transfer in interstate or foreign commerce the proceeds of a kidnapping, or to receive, possess, conceal or dispose of the proceeds knowing they have been unlawfully obtained.

Proceeds of a Postal Robbery. Prohibits and penalizes the receipt, possession, concealment or disposal of the proceeds of a postal robbery.

Obstruction of Civil Investigative Demands. Extends the prohibition against obstructing civil investigative demands to include obstruction in racketeering and false claims investigations.

Definition of Savings and Loan Associations in Bank Robbery Statute. For purposes of 18 U.S.C. 2113, defines "savings and loan

association" to mean any Federally-chartered savings association or State-chartered savings association insured by the Federal Deposit Insurance Corporation and any corporation under a certain provision of the Federal Deposit Insurance Act operating under the laws of the United States.

TITLE XXVII -- GAMBLING

Clarifying Amendments Regarding Scope of Prohibition Against Gambling on Ships in International Waters. Clarifies the scope of the current prohibition against certain "gambling ships."

Criminal History Information. Gives a State gaming enforcement office located within a State Attorney General's office access to FBI criminal history record information for licensing purposes.

TITLE XXVIII -- BAIL POSTING REPORTING

This title requires State and Federal criminal court clerks to report to the Internal Revenue Service and prosecutors the name and taxpayer identification number of anyone accused of a drug, money laundering or racketeering crime who posts cash bail exceeding \$10,000. The names of individuals other than licensed bail bondsmen posting such bail on behalf of such persons would also be reported.

TITLE XXIX -- GENERAL INCREASED PENALTY PROVISIONS

Assault. This section increases the penalties for assault of a Federal officer, of foreign officials, of official guests and internationally protected persons, and assault within a maritime and territorial jurisdiction. It also increases the penalties for the assassination, kidnapping or assault of the President, the presidential staff, congressional leaders, Cabinet officials, and Supreme Court Justices.

Manslaughter. Increases the maximum penalties for voluntary and involuntary manslaughter.

Conspiracy to Commit Murder for Hire. Increases the maximum penalties for conspiracy to commit murder for hire.

Increased Penalties for Counterfeiting -- Obligations or Securities. Increases the maximum penalty for counterfeiting

obligation or securities through the misuse of any plates, stones, or other objects.

Increased Penalties for Trafficking in Counterfeit Goods and Services. Increases the maximum penalty for trafficking in counterfeit goods and services, and enhances the penalty for second offenders. Provides that such an offense can also serve as a money laundering predicate.

Civil Rights Violations. Broadens the scope and increases the penalties for conspiracies to deprive persons of their civil rights.

Travel Act. Increases the penalties for Travel Act violations involving violence.

TITLE XXX -- MISCELLANEOUS

Additional Authorization for Drug Enforcement Administration. There is authorized to be appropriated for the Drug Enforcement Administration \$100 million for FY94. These funds are to be used to hire 350 new agents and support staff to investigate drug trafficking in rural areas; to expand DEA State and local task forces; and to hire and train 50 special agents and support personnel to investigate violations of Federal laws regulating anabolic steroids.

Extension of Civil Rights Statutes. Extends the protections of the criminal civil rights statute to any person in a State. (Currently, the statute only covers State "inhabitants.")

Audit Requirement for State and Local Law Enforcement Agencies Receiving Federal Asset Forfeiture Funds. Requires the Comptroller General to audit annually Federal asset forfeiture funds. It also directs the Attorney General to require State and local enforcement agencies to audit annually and detail the uses and expenses to which forfeiture funds were dedicated and the amount used for each use or expense.

Administrative and Contracting Expenses. Requires a report to Congress containing a description of the administrative and contracting expenses paid from the forfeiture fund.

Optional Venue for Espionage and Related Offenses. Creates an optional venue in the District of Columbia for espionage and related offenses regarding the gathering, transmitting, losing or delivering of defense information.

Undercover Operations. Establishes how certain elements of an offense involving stolen or counterfeit goods may be established. This provision is intended to ensure that the scope of the statute

extends to situations where the property was not actually stolen but was represented by law enforcement officials during the course of a sting operation as stolen, and was in fact believed by the defendant to be stolen.

Wiretaps. Prohibits and penalizes the disclosure of information obtained through wiretapping or electronic surveillance with the intent to obstruct a criminal investigation.

Theft of Major Art Works. Prohibits and penalizes the theft or procurement by fraud of any object of cultural heritage held in a museum.

Misuse of "DEA" Initials. Prohibits and penalizes the unauthorized use of the words "Drug Enforcement Administration" and the initials "DEA" in a manner calculated to convey the impression of DEA endorsement.

Trial by a Magistrate in Petty Offense Cases. This provision permits concurrent sentencing of a defendant to imprisonment and probation for petty offenses and the trial of petty offenses by magistrates.

Definition of Livestock. There is no definition of "livestock" in current Federal criminal law. This provision adds such a definition and includes carcasses, since the livestock may be slaughtered after theft and before interstate transfer.

TITLE XXXI -- TECHNICAL CORRECTIONS

This title contains various technical amendments to title 18 of the United States Code.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993
Introduced September 23, 1993

The Violent Crime Control and Law Enforcement Act of 1993 introduced by Chairman Brooks is a needed response to the many facets of criminal activity in our society. The bill balances a strong Federal commitment to crime control with a recognition of the basic fact that State and local governments have historically played, and must continue to play, a fundamental role in the functioning of our criminal justice system. The following are among the key provisions of the bill:

- * Federal Death Penalty -- The bill expands, to over 50, the number of Federal crimes punishable by death. Included under this title are death penalties such as: murder of a Federal law enforcement agent; death resulting from hijacking, terrorists, drive-by shootings; death resulting from hostage taking; killing the President; murder in the course of a rape crime; murder for hire; death resulting from child abuse; and many more.
- * Handgun Control (Brady Bill) -- The bill would require an interim system to be put in place in the States requiring a 5-day waiting period before a potential buyer could purchase a handgun. During the 5-day period, a local law enforcement official would attempt to determine whether the applicant was ineligible to buy a handgun because of Federal or State law. The interim system eventually will be replaced by an "instant check" national computer system once the Attorney General certifies one.
- * Community Policing: Cops on the Beat -- The bill makes Federal assistance and leadership available to State and local law enforcement authorities in their efforts to put more cops back on the beat, thereby increasing police presence on the streets.
- * Safe Schools -- The bill provides grants to those local school districts most severely affected by the rising tide of crime and violence, in an effort to make schools safe environments for learning and to eliminate drug- and gang-related activity in schools.
- * Child Abuse -- The bill provides a national system of background checks for people who work with children. It also imposes the death penalty for child abuse murders. The bill makes international parental kidnapping a Federal felony, and provides grants for training of State and local officials in dealing with this increasing problem.
- * Habeas Corpus -- The bill streamlines, reforms, and limits current habeas corpus procedures in death penalty cases. Among the changes are the establishment of a strict statutory time period within which death row petitioners must file Federal petitions, and the virtual prohibition of all second and successive habeas corpus applications in capital cases.
- * Coerced Confessions -- The bill reinstates the law in effect prior to a Supreme Court decision in 1991, which held that the admission of a coerced confession in a criminal trial can be merely harmless error. By returning the law to the black letter rule that has been followed for decades, the bill ensures that the government does not resort to State-supported coercion as a legitimate tool to develop evidence against defendants.

at rulings narrowing the opportunity for habeas corpus petitions.

The fight on this issue, along with gun control, was instrumental in bringing down last session's crime bill.

Biden spent months negotiating a compromise that generally limits death row inmates to one habeas corpus petition while also setting up rules to ensure that defendants get adequate legal representation early in the process. Brooks included a similar proposal in his crime bill.

But some liberals, particularly in the House, believe the measure is still too harsh. Rep. Don Edwards, D-Calif., and members of the Congressional Black Caucus have been working to soften the proposed changes on death row appeals.

Conservatives also are unhappy, with some asserting that the Biden package would allow more appeals than current law.

Other Issues

Sentiment and rhetoric on gun control and habeas corpus reform generally run higher than on the other issues addressed in the crime bills — so much so that Orrin G. Hatch, R-Utah, the ranking member of the Senate Judiciary Committee, has proposed dealing with them separately. That is considered unlikely, although the idea could catch fire if the crime bills stall.

Nevertheless, those traditional disputes likely will determine whether an overall crime package advances to the president.

Although the seeds have been planted for a partisan showdown, it may not reach full bloom; given the highly partisan debate expected on health care, Republicans may choose a more cooperative tack on crime legislation to avoid being seen as obstructionists. And even with strong Republican opposition, Clinton could win a significant crime package primarily on the strength of Democratic votes.

Beyond the partisan tensions, numerous smaller skirmishes could affect the bills' progress. For example, many police chiefs have misgivings about a proposed police corps that would offer scholarships in exchange for police service.

But Speaker Thomas S. Foley, D-Wash., on Oct. 13 noted the pressures that could propel a crime bill onto the president's desk: "Many people in the country are for the first time in their lives reluctant to move on the streets at night or fearful even in their homes." ■

Crime Bill Comparison

The anti-crime measures introduced last month by leaders of the House and Senate Judiciary committees are similar to each other and to the conference report on the crime bill adopted by the House last year. Here are the highlights, including differences between the House and Senate bills:

Death penalty: Both measures would expand the list of capital offenses to include such crimes as the murder of a federal judge or law enforcement officer and killings by terrorists and carjackers. The Senate bill (S 1488) would allow capital punishment for 47 federal offenses. The House bill (HR 3131) would allow it for 64 crimes.

Habeas corpus: Petitions for habeas corpus (literally, "have the body") allow death row and other inmates to challenge the constitutionality of their sentences. Critics contend that death row prisoners often use the habeas corpus process to delay their execution for 10 years or longer. Both measures would limit inmates to one petition and require that it be filed within 180 days of final state court conviction. Subsequent petitions would be allowed only if the prisoner gave a valid reason for not having brought the claim earlier. Inmates would have to show that the new claim called their guilt into question. The House bill would require that indigent defendants in capital cases be provided with two competent counsels at each stage of the trial and post-trial process. The Senate measure would require two lawyers at the trial and one at each phase after that.

Gun control: The House measure contains the so-called Brady bill, which would require a five-day waiting period before the purchase of a handgun. During that time, local police would check whether the applicant was prohibited by federal or state law from buying a handgun. The waiting period eventually would be replaced by an "instant background check" system. The bill authorizes \$100 million a year, beginning in fiscal 1994, to help states set up such a system. The Senate bill contains no Brady language. Judiciary Committee Chairman Joseph R. Biden Jr., D-Del., wants to consider the Brady provisions as a separate measure (S 414). Neither measure contains a ban on assault weapons, which previously had been included in some crime bills. (*Weekly Report*, p. 2564; 1992 *Almanac*, p. 311)



Biden

Adding police: Both bills would authorize \$3.45 billion over six years, beginning in fiscal 1994, to help states hire 50,000 more police officers.

Prisons and boot camps: Neither bill would provide additional money to construct regular federal prisons. But the Senate measure would authorize \$300 million to establish 10 military-style boot camps for non-violent criminals and 10 regional prisons for serious drug offenders. The regional prisons would house inmates serving the last two years of their sentences. Those transferred to the prisons would receive drug treatment.

Safe schools: The measures would authorize \$100 million a year for three years to develop local education and training programs to prevent crime, violence and drug abuse at schools.

Drug treatment and enforcement: Both bills would authorize funds to phase in drug treatment at federal prisons. The Senate version would require prisons to treat all eligible inmates by fiscal 1995. The House bill would require full treatment by fiscal 1997. The bills also would provide grants to states to set up substance abuse programs in prisons. The bills would authorize \$100 million in fiscal 1994 to allow the Drug Enforcement Administration to hire more agents and staff for narcotics interdiction in rural areas.

—David Masci

Date: 10/27/93 Time: 15:03

House Leaders Pursue New Crime Bill Strategy

WASHINGTON (AP) Key House members have stripped politically divisive elements from crime legislation to focus the bill on putting more police on the streets, drug treatment for prisoners and gun control.

"Those three things will do more to make people safer on the streets than any other part of the bill," said Rep. Charles Schumer, D-N.Y., chairman of the House Judiciary crime subcommittee.

Schumer and Rep. Jack Brooks, D-Texas, chairman of the full House Judiciary Committee, introduced six separate bills late Tuesday following talks on how to get the essential elements of the anti-crime package through the House.

They agreed to drop provisions that would impose the death penalty for more than 60 new federal crimes, including fatal drive-by shootings and car hijackings. As many as 100 liberal House members, including the Black Congressional Caucus, had opposed the death-penalty provisions.

The new bills also don't include proposed changes in rules limiting federal court appeals by state prisoners, particularly those on death row.

Conservative lawmakers had sought stricter limits on repetitive petitions to federal courts by death-row inmates seeking to block their scheduled executions. Liberals want to relax limits on such petitions recently imposed by the Supreme Court, fearing they would result in the execution of innocent people.

"Just because ideologues on the left and the right can't agree about some constitutional points doesn't mean we should hold the rest of the crime bill hostage," Schumer said in an interview.

"People's anguish about the growing violence and crime and drugs in America has got to be answered."

President Clinton has long sought quick congressional passage of the Brady Bill, which requires a five-day waiting period and mandatory background check on would-be handgun buyers to screen out convicted criminals. Schumer predicted that would happen under the new strategy.

But even if the Brady Bill and other legislation were to win House passage, the prospect of an impasse remains if the Senate approves a measure that expands the federal death penalty and limits federal-court appeals by state prisoners.

In addition to the Brady Bill, which will be handled separately, the House bills would:

- Authorize but not appropriate \$3.45 billion over six years to help cities put 50,000 more police on the streets.

- Require drug treatment for federal prisoners.

- Authorize \$100 million in grants for drug treatment in state prisons.

- Authorize \$100 million to help local schools buy metal detectors and devise courses to teach students peaceful resolution of conflict.

- Authorize \$100 million in grants to states for anti-drug and anti-gang efforts among juveniles.

While the measures would not appropriate money for the new initiatives, Clinton said this week he wanted the savings from a new round of budget cuts to be spent on the crime package.

Officials estimate the cuts would total \$5.6 billion the first year.

Date: 10/24/93 Time: 13:55

Biden Challenges Republicans On Crime Bill

WASHINGTON (AP) Senate Judiciary Committee Chairman Joseph Biden urged quick passage of a crime bill Sunday and said he would support tougher mandatory sentencing in exchange for Republican backing of gun control.

''I'll make a deal with you right now, Phil, before all of America,'' the Delaware Democrat told Sen. Phil Gramm, R-Texas, on CBS' ''Face the Nation.''

Biden said he would support Gramm's demands for strict sentencing requirements for crimes involving guns if Gramm would drop his opposition to the Brady bill. That legislation requires a five-day wait for purchase of a handgun, and a more comprehensive ban on assault weapons.

Bills introduced in Congress last month would provide \$5.9 billion over five years to put 50,000 more police officers on the streets, specify new federal death penalty crimes, restrict death-row inmates' rights to federal appeals and establish alternative punishments such as boot camps for young, non-violent offenders.

Congress will separately take up the Brady bill, named for former White House press secretary James Brady, who was shot in the 1981 assassination attempt on President Reagan.

The crime legislation is similar to a measure that failed last year after Gramm and other Senate Republicans threatened a filibuster.

Gramm stressed that ''when we pass a crime bill, we're going to have minimum mandatory sentencing for gun violations.''

He said he wanted 10 years in prison without parole for possessing a firearm during a crime or a drug felony, 20 years for firing a weapon with intent to do harm, life imprisonment for murder, and the death penalty in aggravated cases.

Gramm, responding to Biden's challenge, said he was against gun control. ''The way to deal with crime is not taking away guns.'' He said the five-day waiting period stipulated in the Brady bill was ''not a big deal,'' but warned that Attorney General Janet Reno was moving toward a gun ban.

''If someone is going to break into my mama's house, they've got to worry not just about the sheriff and the police chief, they've got to worry that she has a gun and she might shoot them.''

''We're not going to take Phil's mama's gun,'' Biden said. ''If you want to do something about crime,'' he said to Gramm, ''step up to the ball, old buddy. Don't filibuster this time.''

Reno, speaking earlier on the same program, said waiting periods, stiffer bans on assault weapons and a proposal to prohibit the sale of handguns to minors were ''very important first steps, but we've got to go further in making sure that people who have a gun and use it in the wrong way get punished.''

She said she also supported state licensing of guns. Asked about the National Rifle Association and its campaign against gun controls, she said, ''I don't think they make things very good.''

Reno also suggested on NBC's ''Meet the Press'' that putting more trained police on the streets of Washington, D.C., was better than introducing the national guard, as requested by Mayor Sharon Pratt Kelly.

''I think it is imperative that we get the crime bill passed so that we get community police to the streets in forms and fashions

that can prevent crime," she said.

Vice President Al Gore responded similarly on ABC's "This Week With David Brinkley," saying the national guard issue "shows why President Clinton's crime bill needs to be passed this year."

APNP-10-24-93 1355EDT

Date: 10/23/93 Time: 13:13

Clinton Touts Democratic Crime Bill as Providing Hope

WASHINGTON (AP) President Clinton pushed his crime bill Saturday as a strong way to combat an "explosion of crime and violence" in America, but the proposal was promptly derided by a Republican critic as too weak.

Clinton, in his weekly radio address, said Democratic crime legislation that comes up for Senate debate this week would provide "more police, fewer guns, tougher laws and new alternatives for first offenders."

The president said providing Americans with greater personal security is essential before the country can focus on other concerns, including the need for better health care, expanded trade and a stronger economy.

"The American people increasingly feel that they're not secure in their homes, on their streets, or even in their schools," Clinton said. "When our children are dying, often at the hands of other children with guns, it's pretty tough to talk about anything else."

The Democrats' crime bill similar to one killed by GOP opposition in the last Congress would put 50,000 more police officers on the streets, impose a five-day waiting period before handgun purchases, and set up "boot camps" as an alternative form of discipline for first-time offenders. Clinton also supports a provision that would make it illegal for minors to possess handguns under most circumstances and is pushing a drug-control strategy putting added emphasis on rehabilitation and treatment.

The president said that the problems are so big "we can't solve them over night, but within adversity there is some hope today" in the administration's strategies for fighting crime.

But Sen. Larry Pressler, R-S.D., derided Clinton's crime bill and drug policy as too weak and promoted GOP legislation he said was stronger.

"Be informed that the rhetoric we heard from President Clinton this morning on the crime bill is hollow, because he is supporting a very weak bill," Pressler said in the GOP response to Clinton's radio address.

Pressler said the GOP alternative would allow the death penalty for drug kingpins, stop "endless legal appeals" by convicts sentenced to death, and require an extra 10-year sentence for crimes committed with a gun.

Civil rights activist Jesse Jackson, meanwhile, said Clinton's crime bill looks "tougher but not smarter" because it doesn't do enough to provide deterrents to crime. He said that while some aspects were admirable, including adding more police officers, "at one level it becomes a very conservative, expensive non-remedy."

Public officials and politicians at all levels of government have been seizing on the crime issue as the country responds to a string of high-profile instances of crime and urban violence.

On Friday, District of Columbia Mayor Sharon Pratt Kelly asked Clinton to allow her to call up 3,000 National Guard troops to help police fight crime in the nation's violence-plagued capital. Clinton has the request under review.

Speaking of escalating crime around the country, Clinton said in his radio address, "This explosion of crime and violence is changing the way our people live, making too many of us hesitant, often paralyzed with fear at a time when we need to be bold."

Handgun Bill Changes Bring Senate Impasse

CONGRESS, From A1

bill by a vote of 238 to 187, and a formal Senate vote was scheduled for today.

The bill, named for former White House press secretary James Brady, who was wounded in an assassination attempt on President Ronald Reagan in 1981, would require prospective handgun purchasers to wait five business days so police can conduct background checks to screen out criminals and others barred from owning guns.

Dole was able to block the bill because, with most senators long gone from Washington, Mitchell and Dole were conducting the Senate's last-minute business by unanimous consent, meaning that passage of any bill could be blocked by a single senator.

In objecting to the conference version of the Brady bill, Dole said he was acting on behalf of 19 senators, 17 Republicans and Democrats John B. Breaux (La.) and Richard C. Shelby (Ala.).

In a compromise to get around the GOP filibuster that had stalled the bill in the Senate last week, Democrats agreed to phase out the waiting period for handgun purchases after four years instead of the five years that both houses had approved previously. Instead of a fifth year, the Senate voted to give the attorney general the power to extend the waiting period an additional 12 months.

At yesterday's highly contentious conference, after several proposed compromises failed, Senate Democrats agreed to restore the waiting period for a full five years. They also dropped language from the Senate bill that would have permitted the waiting period to lapse before five years if capability for a nationwide instant check was achieved before then.

Scuttled along with the waiting-period provisions were others that had been included in the Senate bill at the insistence of Republicans allied with the National Rifle Association.

One of these would have allowed licensed weapons dealers to engage

"If there are significant changes [in the Senate version of the bill], the whole Senate will have to vote on it," Craig told reporters as he prepared to rush to the airport to board a plane for Idaho, ready to object by telephone if necessary.

But Biden noted that a half-dozen Republicans were virtually clamoring for another vote on the bill after it seemed to have succumbed to the filibuster last Friday. "The Republicans outsmarted themselves, they filibustered... and they panicked when they won," he said.

Unless they let the Brady bill pass today or next week, "they'll have to explain why they're filibustering again," Biden said. But he still questioned whether the Senate could clear the 60-vote filibuster hurdle and pass the bill if it is summoned back to Washington.

President Clinton, who backs the Brady bill, said during a photo session with Philippine President Fidel Ramos that the Saturday impasse was broken when foes of the bill realized the extent of its support.

"The American people want us to act on crime," he said. "They want us to do something about violence. They want us to move forward, and the Brady bill is symbolic of a serious effort to move forward," he said.

Clinton said he would "strongly support" bringing the Senate back to town if necessary to pass the bill this year. But, if it fails this year, it will be passed next year, he said.

Sarah Brady, wife of James Brady and chair of Handgun Control Inc., which is spearheading passage of the bill, said she had "never seen such obstructionism" and added, "This is gridlock at its worst."

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attack in recent weeks its purported devastat human flesh and its po jure emergency room, they remove it.

It is one of three bul control proponents, c leaders and the Clinton tion have targeted rec sibly too dangerous for The White House has be whether to push for le ban the Black Talon and munition, opening a new firearms and violence deb introduced by Sen. Danie Moynihan (D-N.Y.) woul high taxes on the purcha Black Talon and similar bul

Ten days ago, as the b bate intensified, Winches cials maintained that the Bl on was an excellent bul should be available to hun civilians for self-defense.

The National Rifle Associa



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Senate voted to give the attorney general the power to extend the waiting period an additional 12 months.

At yesterday's highly contentious conference, after several proposed compromises failed, Senate Democrats agreed to restore the waiting period for a full five years. They also dropped language from the Senate bill that would have permitted the waiting period to lapse before five years if capability for a nationwide instant check was achieved before then.

Scuttled along with the waiting-period provisions were others that had been included in the Senate bill at the insistence of Republicans allied with the National Rifle Association.

One of these would have allowed licensed weapons dealers to engage in face-to-face interstate gun transactions. Another would change the definition of antique firearms to include those made during World War I, which critics said would wind up lifting controls—including the existing ban on ownership of guns by felons—on millions of older weapons, including semiautomatic guns.

These and some other provisions only in the Senate bill are opposed by gun control advocates and by the Bureau of Alcohol, Tobacco and Firearms.

Even before the conference, Sen. Larry Craig (R-Idaho), an NRA official and leader of anti-gun control forces in Congress, said Democrats would be at fault for hauling the Senate back if they refused to stand by the provisions in the Senate bill.

This is gridlock at its worst.



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TODAY IN CONGRESS

SENATE

Meets at 10:30 a.m.
Committees: none

HOUSE

Not in session.
Committee:

Ways and Means—10 a.m. Health
subc. Health care reform, focusing on
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CRIME, DRUG AND GUN CONTROL:

COMPARISON OF S.1488 AND S.1607 (H.R.3355)

December 3, 1993

Guide

This document summarizes differences between S.1607, as passed by the Senate, and S.1488, the omnibus crime bill introduced on September 23, 1993. It supplements *Crime, Drug and Gun Control: Comparison of Major Omnibus Bills of the 103rd Congress* (CRS Rep.No. 93-929 (Oct.26, 1993)).

The supplement follows the order of that report, replicating summaries applicable to S.1488 where appropriate for purposes of contrast. The caption "No change" is used to indicate where a title or subtitle of S.1607 (H.R.3355) simply carries forward the provisions of S.1488. Contrasting provisions of S.1488 are cited by reference to "[Section xxx]." Changes found in S.1607, as introduced, and passed unamended are cited as "[Sec. xxx]." Changes found in S.1607 as passed which originated as floor amendments are cited as "[x(x)]," the first number referring to the day in November when the provision was accepted and the number in parentheses referring to the number assigned the change in the Daily Digest of the *Congressional Record* for that day. Thus, "[4(4)]" refers to the fourth amendment adopted on November 4, 1993 as reflected in the *Congressional Record* Daily Digest of Senate floor activity on the crime bill for that day. As a further aid, references to the two multipurpose amendments of Senators Biden and Hatch added the final day of debate also include the *Congressional Record* page where the language of the amendment may be found, e.g., that portion of Senator Biden's amendment (No. 1216) dealing with authority to release certain confidential information concerning aliens is cited as "[18(1)-S16235]".

In a number of instances for organizational purposes, the supplement continues and expands upon the practice of subdividing the headings found in our earlier report (which generally correspond to the titles in S.1488), notwithstanding the fact that neither S.1488 nor S.1607 as introduced contained such subdivision. So, for instance, the supplement's presentation of the death penalty provisions is organized under subheadings for offenses, procedure, review, implementation of sentence, and application in Indian Country, notwithstanding the fact that the death penalty titles of S.1488 and S.1607, Title II, contain no such subtitles.

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Initial Comparison of the Differences Between S.1488 and S.1607

PUBLIC SAFETY AND POLICING

S.1488 establishes new authority ("Cop on The Beat Act") for the Attorney General to provide grants to units of State and local government and "community groups" for projects that increase the police presence in communities by hiring additional law enforcement officers. Officers laid off because of budget constraints may be rehired "for deployment in community-oriented policing" and funds may be used to hire "new, additional career law enforcement officers" for similar deployment. Grants may also be used to enhance police-community cooperation, for training and technical assistance activities, for new technologies associated with preventing crime, for programs that minimize the time officers spend in courts, and to develop administrative systems to facilitate the transition to community-oriented policing. States must provide at least 25 percent of the funding for community policing programs (preference is given to grantees who exceed the 25 percent match) and must submit plans for assuming the full costs of increased police hiring after Federal assistance ends in fiscal year 1999. Grants to State and local governments must be used to *supplement* existing State and local funding of law enforcement activities. Each State must receive at least 0.5 percent of the amount appropriated, and 85 percent of funds must be used to hire or rehire officers. The Act restricts Federal administrative costs to five percent of appropriated funds, establishes a six year limit on grant awards, establishes reporting and evaluation requirements, and authorizes \$200 million for fiscal year 1994, and \$650 million for each year 1995 to 1999. [Sections 101-103]

S.1607 contains similar provisions, but differs in that it specifies that Federal funding must decrease year to year "for up to 5 years," limits annual funds for hiring and rehiring each officer to \$50,000 (down from \$75,000), and authorizes considerably more funds, (total of \$5.2 billion) as follows: \$620 million for fiscal year 1994, \$1.040 billion for fiscal year 1995, \$1.160 billion for fiscal year 1996, \$1.225 billion for fiscal year 1997, and \$1.200 billion for fiscal year 1998. [Sec. 101-103]

S.1607 also:

- Authorizes Indian tribal governments to apply to the Attorney General for "Cop on the Beat" grants, requires that such funds supplement those provided by the Department of the Interior, and requires that "an appropriate amount of funds" be provided to such grantees. It authorizes Indian tribes to use Federal funds for the matching

requirements of Federal justice system improvement grants and supplies a definition of "Indian tribe" in statute. [10(20)]

- Permits "Cop on the Beat" funds to be used to build satellite criminal court facilities for the convenience of crime victims. [18(1)-S16242]
- Adds "citizens policy academies" as activities that may be funded under the "Cops on the Beat" program. [18(1)-S16243]
- Authorizes grantees to use "Cops on the Beat" funds to hire former members of the Armed Services as career law enforcement officers and gives preference to applicants that hire former members of the Armed Forces. [18(2)-S16250]
- Expresses a sense of the Senate that law enforcement officers laid off because of State and local budget cutbacks are to be rehired, that local law enforcement "must remain the sole prerogative of local government," and that resolving the issue of "unfunded mandates" is one method of providing more funds to local governments. Also amends the "Cops on the Beat" program to ensure that each qualifying State receives at least 0.6 (up from 0.5) percent of appropriations. [18(2)-S16252-53]
- Includes an expression of gratitude from the Congress to law enforcement personnel. [10(27)]

DEATH PENALTY

Offenses

S.1488 establishes procedures to make the death penalty available as a sentencing alternative for a number of Federal offenses [Section 202(a)]:

— Treason [Section 202(a)]

— Attempted murder of the President resulting in bodily injury to the President or coming dangerously close to causing the President's death. [Section 202(a), 203(a)(8)]

S.1607 also provides for a possible death sentence in cases of:

- Murder involving a firearm, where the defendant caused the death of another person through the use of a firearm, intentionally, knowingly, through extreme indifference to human life, or through intentional infliction of serious bodily injury. Federal jurisdiction is based upon the fact that either the offense involved was a Federal offense, or the firearm involved moved in interstate or foreign commerce. [9(5)]

- Certain drug kingpin offenses including (1) major drug felony committed by a drug kingpin as part of a continuing criminal enterprise where either the quantity of controlled substance is twice that described in (b)(2)(A) or where the gross receipts were twice that described in (b)(2)(B) of 21 U.S.C. § 848; (2) major drug felonies committed by a drug kingpin where the defendant, in order to obstruct the investigation or prosecution of the continuing criminal enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to kill any public officer, juror, witness, or member of the family or household of same; (3) felonies in violation of the Controlled Substances Act, the Controlled Substances Import and Export Act, or the Maritime Drug Law Enforcement Act, where the defendant engages in such violation intending to cause death or acting with reckless disregard for human life, where death results. It sets out aggravating factors to be considered in capital sentencing proceeding, and prohibits imposition of death penalty on anyone under 18 years of age. [17(4)]

S.1488 makes the procedures available as well in the case of any other offense where the defendant intentionally killed the victim; inflicted serious bodily harm resulting in the death of the victim; intentionally participated in any act, intending that lethal force be used or contemplating that a person's life would be taken, where the victim died as a direct result of the act; or intentionally and specifically engaged in an act, with reckless disregard for human life, knowing that the act created a grave risk of death to someone other than the participants in the act, where the victim dies as a direct result of the act. [Section 202(a)] Presumably included in these offenses are:

* * *

— Carjacking where death results [Section 203(a)(15), 202(a)]

S.1607 expands the Federal carjacking offense by striking the existing requirement that the offender possess a firearm during the commission of the offense, making the death penalty available where death results from the commission of the expanded offense. [9(3)]

Procedure

S.1488 requires notice of Government's belief that circumstances warrant the death penalty and of the aggravating factors on which the Government will rely. Such factors may include victim impact statement where one is anticipated to be submitted for consideration. It permits court to allow amendment of notice for good cause shown. The bill establishes hearing procedures, with bifurcated trial and sentencing hearing; and sets standards of proof and burden of proof to be applied. It sets procedures for return of special findings regarding mitigating and aggravating factors and findings concerning sentence of death. It also requires jury instructions that consideration of the race, color, religion, national origin, or sex of the defendant or of any victim not be involved in

reaching a sentencing decision, and certification by each juror to this effect. [Section 202(a), proposed 18 U.S.C. 3593]

S.1607 also contains an explicit standard for the admissibility of evidence at the sentencing hearing, but removes the express provision of S.1488 that regardless of the existence of aggravating or mitigating circumstances the death penalty is never required and that the sentencing jury, if one exists, must be so informed. [8(11)]

Review

S.1488 provides for expedited appeal of death sentence by defendant, upon timely notice filed. The appeal may be consolidated with appeal from conviction. The court of appeals must review entire record. The bill requires remand for reconsideration of sentence or imposition of a sentence other than death where court of appeals finds that the sentence was imposed under influence of passion, prejudice, or other arbitrary factor; the evidence and information fail to support the special finding of the existence of required aggravating factors; or the proceedings involved any other legal error requiring reversal of sentence which was properly preserved for and raised on appeal. Reasons for disposition must be in writing [Section 202(a), proposed 18 U.S.C. 3595]

S. 1607 also requires that the court of appeals shall not reverse or vacate a death sentence because of any error which can be harmless, including any erroneous special finding of an aggravating factor, where the government establishes beyond a reasonable doubt that the error was harmless. [8(11)]

Implementation of Sentence

No change

Application in Indian Country

No change

HABEAS CORPUS

S.1488 contains provisions designed to expedite Federal habeas proceedings while ensuring fairness. [Sections 301-311]

S.1607 drops the habeas corpus title.

COERCED CONFESSIONS

No change

FIREARMS

Felon Firearm Purchase Prevention

The "Brady" provisions of S.1488 are not included in S. 1607. An amended version of a House-passed bill was passed separately and a conference report agreed to at the end of the first session; it was signed into law on December 30, 1993 (H.R. 1025, P.L. 103-159).

Gun-crime Penalties and Other General Firearm and Explosives Provisions

Section 415 of S.1488 ("Firearms and Explosives Conspiracy") has been modified in S.1607 to change the prescribed penalties: from "the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy" to imprisonment of up to 20 years for a first offense and up to life for a second. [Sec.415]

Provisions in S.1607 with no substantially similar counterparts in S.1488 do the following:

- Provide for a mandatory Federal prison term--in addition to whatever term may be imposed for the underlying offense--for use, possession, or carrying of a firearm or destructive device (having moved at any time in interstate or foreign commerce) during a State crime of violence or State drug trafficking crime, and the death penalty for murders involving firearms as follows:
 - (1) First-time: knowing possession -- 10 years; discharging with intent to injure -- 20 years; knowing possession of a machinegun or destructive device or any other firearm equipped with a silencer or muffler -- 30 years.
 - (2) Second-time: knowing possession -- 20 years; discharging with intent to injure -- 30 years; knowing possession of a machinegun or destructive device or a firearm equipped with a silencer or muffler - life.
 - (3) Third or subsequent: life. [9(5)] See also, DEATH PENALTY and SENTENCING PROVISIONS.
- Prohibit the possession of a handgun or ammunition, or their private transfer to, anyone less than 18 years of age except under specified

circumstances for specified purposes. Violation of the possession offense by a juvenile with any criminal record would be subject to a penalty of up to one year in prison, a fine of up to \$100,000 (\$250,000 if death results) or both; a transfer violation, up to 13 months in prison (up to 10 years if knowing that the juvenile intended use the gun to commit a violent crime), a fine of up to \$250,000, or both. [9(6)] See also 18(2)-S16249, which appears to be an incomplete repetition of the provision. Further, see 18(2)- S16253, prohibiting only the sale and transfer of a handgun or handgun ammunition to a juvenile "for consideration," subject to up to 5 years, a fine of up to \$5,000, or both (10 years, up to \$250,000, or both, if knowing the juvenile intended to use the gun to commit a violent crime).

- Prohibit firearm or ammunition possession by, or transfer to, a person subject to a restraining order. [10(8)]
- Prohibit firearm or ammunition possession by, or transfer to, a person convicted of domestic abuse or who is subject to a restraining order. [10(18)]
- Strengthen Federal standards for licensing firearms dealers, including the requirement that the applicant be in full compliance with all State or local laws and notification of the application to the chief law enforcement officer of the locality in which the business premises are located. Adds to licensee reporting requirements, including the report -- within 48 hours after discovery -- of theft or loss of a firearm from inventory or a collection. [10(19)]
- State new findings with respect to the gun-free school zone provisions of the Crime Control Act of 1990, designed to identify the nexus between the power of Congress to regulate interstate commerce and the activities prohibited under the Act. [Sec. 2972]
- Broaden the existing law definition of "armor piercing ammunition" under 18 U.S.C. chap. 44 to include any "jacketed projectile larger than .22 caliber and designed for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile." [18(1)-S16243]
- Make it unlawful to knowingly and intentionally obstruct, impede, or otherwise interfere with a lawful hunt (as defined) on Federal lands or to engage in various specified activities designed to achieve such an outcome--subject to special mandatory minimum civil penalties. [18(2)-S16248]

"Assault Weapons"

S. 1607, as amended, prohibits the manufacture, transfer or possession of "semiautomatic assault weapons," except for those lawfully possessed before enactment, those used by public agencies, and for purposes of experimentation or export. Provisions sunset in ten years. Definition includes:

- (1) those rifles specified by make and model, SWD and INTRATEC handguns, and shotguns with ammunition in a revolving cylinder;
- (2) any semiautomatic rifle that can accept a detachable ammunition magazine and has at least two "military-style" components;
- (3) any semiautomatic pistol that can accept a detachable ammunition magazine and has at least two of five listed components or characteristics;
- (4) any semiautomatic shotgun that has at least two of four specified components or characteristics; and
- (5) any "types, replicas, or duplicates in any caliber" of these firearms.

A list of exempted rifles and shotguns, specifically by make and model, is contained in an appendix. Persons who knowingly violate this prohibition may be fined up to \$5,000, imprisoned for up to five years, or subject to both penalties. Criminal offenders who use such firearms in crime may receive an enhanced penalty of ten years imprisonment. Also requires that persons possessing, selling and buying "assault weapons" record the possession or transaction on Form 4473 (Department of Treasury) and retain a copy of the form. Persons who knowingly violate the recordkeeping requirement must be fined no more than \$1,000, imprisoned for no more than six months, or both, and, under the disability provision of the Code, will be prohibited from receiving, transferring or possessing any firearm or ammunition shipped in interstate commerce.

Also, prohibits the possession or transfer of "large capacity ammunition feeding devices" that hold more than ten rounds. As for "assault weapons," exceptions are made for those devices lawfully possessed prior to effective date, for public agencies, and for experimentation purposes. Includes such devices in the Gun Control Act definition of firearm and, as for "assault weapons," assesses the penalty for violators of a fine of up to \$5,000, imprisonment for up to five years, or both. Requires marking of feeding devices manufactured after the effective date.

Also, mandates that the Attorney General study the effect of the prohibitions on violent and drug trafficking crime. The study must begin six and a half years after enactment, be conducted for the next 18 months, and a report must be submitted to Congress no later than 8 years after enactment.

[17(2)]

YOUTH VIOLENCE

Crimes

S.1488 provides an additional term of imprisonment of not more than 10 years and/or a fine of not more than \$250,000 for a criminal street gang member who commits or conspires to commit a Federal drug or Federal felony crime of violence and who has a prior felony conviction for a drug, violent crime, theft or property destruction offense. The penalty is to run consecutively to any other sentence imposed. [Section 603]

S.1607, reminiscent of S.1356, prohibits criminal street gang activity, i.e., 2 or more firearm, drug or serious violent felonies involving the concerted action of 5 or more individuals. Coconspirators are tried in a single district court unless the interest of justice require a transfer; the U.S. Sentencing Commission is instructed to raise the base offense level by 4 levels for a crime committed to gain, maintain or enhance status in a criminal street gang; and penalties for the offense include the forfeiture of property derived from or used to facilitate a violation and imprisonment for:

- Up to 5 years for the use of communications facilities in furtherance of the activities of a criminal street gang
- Not less than 5 nor more than 10 years for inducing or coercing another to participate in criminal street gang activities; the penalty is 10 years if the subject of persuasion is under 18 years of age
- Not less than 10 years or more than life for committing a criminal street gang predicate offense; not less than 20 years or more than life if the predicate offense is punishable by life imprisonment or if the offender has a prior street gang predicate offense conviction
- Death or life imprisonment if the predicate gang offense involves murder or conspiracy to commit murder, resulting in the taking of a life, and committed, commanded or caused by the offender
- Not less than 20 years or more than life if the predicate gang offense involves murder or conspiracy to commit murder
- Not less than 15 years or more than life for the leaders of a criminal street gang [9(2), 18(2)-S16248]

S.1607 also:

- Adds Federal offenses punishable by more than 1 year and involving a minor to those constituting racketeering activity under RICO [9(2)]

- Adds serious drug offenses to the acts of juvenile delinquency which constitute Armed Career Criminal predicates [9(2)]
- Authorizes the prosecution as adults of armed, violent offenders 13 years of age or older. [5(9)]
- Expands the category of serious Federal drug offenses for which juvenile offenders may be prosecuted as adults. Makes clear that the court should consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities involving the use and distribution of drugs or firearms. Further directs that if such factors are found to exist, they should weigh heavily in favor of transfer of the juvenile to adult status. [9(2)]

Grants

S.1488 authorizes grants for programs to curb the formation or continuation of juvenile gangs and the use and sale of illegal drugs by juveniles. Also authorizes grants for public and non-profit private organizations to identify new juvenile drug reduction and enforcement programs, as well as programs to address the unique crime, drug, and alcohol-related challenges faced by juveniles living at or near international ports of entry and in other international border communities, including rural areas. Gives authority to Administrator of OJJDP in the Department of Justice to make grants and reserves 20 percent of funds for discretionary grants for specified projects. Authorizes an appropriation of \$100 million for fiscal year 1995 and such sums as necessary for fiscal year 1996. [Section 611]

S.1607 also:

- Authorizes the Attorney General, in consultation with the Secretary of Health and Human Services, and the Secretary of Education, where appropriate, to award grants to law enforcement agencies for the establishment of law enforcement and child and family services partnership programs. Programs established from funds received under grants awarded are to be collaborative in nature, provide responses to crisis situations 24 hours a day, be able to provide adequate resources for training of law enforcement officers and for support of professional consultation services for children and families, and be able to respond to community needs in a manner reflecting sensitivity to the cultural diversity of the community. Priority is to be given to programs offering mentoring and conflict resolution services. The Federal share of a grant would be 80 percent for the first fiscal year, 70 percent for the second, and 60 percent of the third. Authorizes an appropriation of \$20 million for fiscal year 1994, and such sums as may be necessary for each of fiscal years 1995 through

1998, of which not more than 10 percent shall be used for mentoring and conflict resolution services. [18(1)-S16237]

- Amends the Juvenile Justice and Delinquency Prevention Act of 1975 (42 U.S.C. 5631 et seq.) by adding a new program of block grants for Juvenile Drug Trafficking and Gang Prevention Grants. Authorizes the Administrator of OJJDP to make grants to assist the States in planning, establishing, operating, coordinating, and evaluating programs directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile justice. Provides that programs funded by these Youth Violence Prevention grants address issues identified as contributing to youth violence, which may include conflict resolution programs in schools, alternatives to school suspension, juvenile court diversion programs, and other innovative projects. Authorizes an appropriation of \$25 million for each of fiscal years 1995 and 1996. [18(1)-S16241]
- Provides that grants authorized in this Act to reduce or prevent juvenile drug and gang-related activity in "public housing" may be used for such purposes in federally assisted low income housing. [18(1)-S16241]
- Establishes a Community Schools Youth Services and Supervision Grant Program to be administered by an Ounce of Prevention Council within the Department of Justice. Authorizes a program of grants to community based organizations to provide youth services and activities that include supervised sports programs, and extracurricular and academic programs that are offered after school and on weekends and holidays during the school years and as daily full-day programs or as part-time programs during the summer months. The programs are to be operated by a consortium of service providers, consisting of representatives of 5 or more of the following categories of persons: residents of the community; religious organizations; law enforcement agencies; public housing agencies; State governments; other public agencies; and other interested parties. Children between the ages of 5 and 18 would be eligible to participate. Authorizes an appropriation of \$100 million from the amounts in the Violent Crime Reduction Trust Fund for each of the fiscal years 1994 through 1997. [18(2)-S16254]
- Permits the Ounce of Prevention Council to make a grant to the United States Olympic Committee for the purpose of establishing Olympic Youth Development Centers and carrying out programs through 6 of these centers. Directs the Committee to use funds made available through the grant to provide supervised sports and recreation programs. Directs that not more than 10 percent of such funds be used to pay for the administrative costs of the program.

Authorizes an appropriation of \$25 million from the amounts in the Violent Crime Reduction Trust Fund for each of fiscal years 1994 through 1997. [18(2)-S16255]

- Authorizes the use of juvenile drug and gang prevention grants to be used for parenting classes for parents of juveniles at risk and to train the schools in juvenile dispute resolution. [18(1)-S16242]
- Authorizes allocation of \$75 million of the Violent Crime Reduction Trust Fund (see **Funding**) to the "Ounce of Prevention Fund" to help youths avoid substance abuse and a criminal life. [10(28)]
- Establishes a \$100 million grant program under the Office of Juvenile Justice and Delinquency Prevention to States and non-profit organizations for enforcement programs to reduce the participation of juveniles in drug related crimes. [9(2)]
- Modifies the proposed Juvenile Drug Trafficking and Gang Prevention Grants program by authorizing the Administrator to award additional discretionary grants to States that enact laws that would withhold or revoke the driver's licenses of individuals possessing handguns on school grounds. [18(1)-S16234]

Other Provisions

In addition S.1607:

- Authorizes \$20 million each year from FY94 through FY98 to hire additional Federal prosecutors to focus on violent youth gangs [9(2)]
- Authorizes funds for the establishment of at least 50 additional gang resistance education and training projects by the Secretary of the Treasury; authorizes an additional \$30 million for BATF(200 fte agent positions to investigate gun trafficking to juveniles and gangs, and 100 inspectors for firearm compliance and dealer policing; and authorizes an additional \$6 million for the Secret Service) [18(1)-S16237]
- Directs the court to fingerprint and photograph a juvenile who has been found guilty of a crime of violence in violation of specified provisions of Federal drug trafficking laws and to transmit to the FBI fingerprints and photographs along with information concerning the adjudication. Provides that when the law of a State in which a Federal juvenile proceeding takes place permits or requires the reporting, retention, disclosure or availability of records in certain circumstances, such reporting, retention, disclosure or availability is permitted under this section whenever the same circumstances permit [9(2)]

- Encourages parents to assume greater responsibility for preventing their children from engaging in illegal activity. It provides that the parents or legal guardians of any juvenile charged with any violation of Federal law attend all court proceedings involving the juvenile, and if the court finds that the parents or legal guardians did not exercise reasonable care to control the juvenile, they may be ordered to perform community service [8(9)]
- Provides that the parents or legal guardians of a juvenile who has been convicted of a criminal offense under any Federal law may be liable to the United States for a civil penalty of not more than \$10,000, or to perform community service in lieu of the civil remedy [8(10)]
- Provides that the Attorney General in consultation with the Secretary of the Treasury shall develop a national strategy to coordinate Federal gang-related law enforcement efforts, establishes reporting requirements, and authorizes \$1 million for FY94 [9(2)]
- Directs the Secretary of Health and Human Services to enter into an agreement with the Attorney General under which the services of the Parent Locator Service shall be made available to the Office of Juvenile Justice and Delinquency Prevention for the purpose of locating any parent or child [10(1)]
- Directs the Attorney General, in collaboration with the Secretary of Health and Human Services, to study and make recommendations for improvement of mental health assessment, diagnosis, and treatment within the juvenile system [10(2)]
- Expresses the sense of the Senate that executive branch agencies make properties and resources available for outdoor programs for youth [18(1)-S16239]

TERRORISM¹

When international conventions on fixed ocean platforms and on maritime anti-terrorism go into effect in the U.S., S.1488 prohibits -- under certain jurisdictional circumstances -- [various acts of threat or violence]. [Sections 701, 703]

S.1607 drops the fact that the offender is a terrorist as feature of the list of circumstances creating U.S. jurisdiction and exempts conduct occurring in the

¹ Note the separate passage, of a version of S. 1607's §718, FBI Access to Telephone Subscriber Information, enacted as Pub.L.No. 103-142 (1993).

course of a labor dispute which is prosecutable as a felony under State law. [18(1)-S16243, S16244]

When the protocol against violence in international airports becomes effective and the U.S. becomes a party, S.1488 proscribes acts of violence or property destruction at an international airport . . . [Section 719]

S.1607 drops a bar to prosecution in cases of purely domestic violence or destruction. [18(1)-S16245]

S.1488 authorizes the Attorney General to classify alien witnesses and members of their families as non-immigrant aliens for up to three years; to waive the grounds for their exclusion; to admit them to permanent resident alien status, but subject to deportation if convicted of a crime of moral turpitude within a 10 year period rather than the 5 year period that applies to other resident aliens. The program is limited to 100 aliens a year. [Section 725]

In addition, S.1607 authorizes the Attorney General, in conjunction with the Secretary of State, to extend a similar program to aliens eligible for the counter terrorism reward program, with a program limit of 25 aliens a year. [8(17)]

In the case of fugitives sought for committing crimes of violence against Americans overseas, S.1607 eliminates the requirement that the U.S. extradite to other countries only pursuant to an extradition treaty. [18(2)-S16254]

Immigration

S.1607 authorizes special terrorist deportation courts with procedures for dealing with confidential evidence. [8(3)]

SEXUAL VIOLENCE AND CHILD ABUSE²

S.1488 defines as a sexual act for purposes of the Federal sexual abuse offenses -- where the victim is below the age of 16 years -- the intentional touching, not through the clothing, of the genitalia of another, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person. [Section 801]

² Note the separate passage, by both Senate and House, of an amended version of S. 1607's National Child Protection Act of 1993, §§881-816 (H.R.1237, cleared for the White House on Nov. 20, 1993).

S.1607 asserts with respect to Federal child pornography crimes (1) Congress intended to define sexually explicit conduct for purposes of those offenses to include the lascivious exhibition of any person's nude or covered genitals or pubic area; (2) Congress intended the proscribed visual depiction of minors to include any photographs exhibiting a child in a lascivious manner; and (3) it is accordingly the sense of Congress that the brief initially filed on behalf of the United States in pending Supreme Court case of *United States v. Knox* does not accurately reflect the intent of Congress. [4(2)]

S. 1488 would amend Section 509(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3759(b)), regarding the use of formula grants for improvement of state criminal history records, to add to the list of includable improvements the improvement of State record systems and the sharing of: all of the criminal histories, including the final disposition of all felony arrests; fingerprint records; criminal history reports to the FBI; and records required by the Attorney General under section 914 of the National Child Protection Act of 1993 with the Attorney General for purpose of implementation of the National Child Protection Act of 1993. [Section 816(a)]

S. 1607 includes similar language [Sec. 816(a)], but also seeks to extend access to this criminal history information to include tribal access to the information and records referred to in section 406 of the Indian Child Protection and Family Violence Prevention Act. [10(10)]

S. 1607 would also authorize the Secretary of Health and Human Services to award demonstration grants and enter into contracts and cooperative agreements to establish and operate supervised visitation centers, to address situations where there is a history of child abuse or domestic violence. For approval, the applicants for such grants must demonstrate that they have recognized expertise in the field of family violence and a record of high quality service to victims of such violence, and that the application has been submitted from an entity located in a State where State law requires courts to consider evidence of violence in custody decisions. The Secretary is also authorized to award special grants to study the effect of supervised visitation on sexually abused or severely physically abused children. Annual evaluation of demonstration projects and of such special grants is required under S. 1607. In addition, reports, including recommendation concerning whether supervised visitation center demonstration and clinical data programs should be authorized, must be made by the Secretary to the appropriate committees of Congress, beginning 18 months after enactment of the Act, and continuing annually thereafter. Appropriations of \$15 million in FY94, \$20 million in FY95, and \$25 million in FY96 are authorized, 80% of which per year is to be used for establishment and operation of supervised visitation centers, and 20% for special grants to study the effect of supervised visitation on sexually abused or severely physically abused children. [8(1)]

S.1607 also establishes the "Morgan P. Hardiman Task Force on Missing and Exploited Children," made up of representatives from Federal law enforcement agencies, to work with the National Center for Missing and Exploited Children. [10(21)]

CRIME VICTIMS

S.1488 requires each entity receiving funds available under the Act for administrative purposes to certify that such sums will not be used to supplant State or local funds, but will be used to increase the amount of funds that would, in the absence of Federal funds, be available for these purposes. [Section 917]

S. 1607 authorizes the Attorney General to make grants to units of State and local governments of rural States, and to other public or private entities of rural States to implement projects and efforts between law enforcement officers, prosecutors, victim advocacy groups, and other related parties to investigate and prosecute incidents of domestic violence and child abuse and to treat its victims. Authorizes \$10 million for each of fiscal years 1995 through 1997. [10(25)]

It also reauthorizes the following programs: the Court-Appointed Special Advocate Program at \$7 million for fiscal year 1995 and \$10 million for each of the fiscal years 1996 through 1998; the Child Abuse Training Program for Judicial Personnel and Practitioners at \$7 million for fiscal year 1995 and \$10 million for each of the fiscal years 1996 through 1998; and Grants for Televised Testimony at \$3.5 million for fiscal year 1995, and \$5 million for fiscal years 1996 through 1998. [10(26)]

S. 1607 contains a provision stating that it is the sense of the Senate that the law of a State should allow for the right of a victim of a violent crime or sexual abuse to speak at an offender's sentencing hearing and any parole hearing. [18(1)-S16239]

S. 1607 directs that victims of crime be reimbursed for necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense. [18(2)-S16253]

STATE AND LOCAL LAW ENFORCEMENT

Byrne Memorial Program

S.1607 also extends the coverage of the anti-gang Byrne grant funding to law enforcement and prevention programs relating to gangs, or to youth who are involved or at risk of involvement in gangs.

DNA Analysis

S.1488 authorizes the use of Byrne program funds for the development or improvement of DNA testing laboratories and specifies standards to be met by funded laboratories. Authorizes an additional \$10 million for each fiscal year, 1994-1998, for State grants for DNA analysis. Requires appointment of an advisory board on DNA quality assurance methods to recommend standards and requires the Director of the FBI to consider those recommendations in issuing standards. Authorizes the Director of the FBI to establish an index of DNA identification records. Requires that FBI personnel performing DNA analyses undergo proficiency testing at regular intervals and that reports be provided on the results of those tests. Establishes standards for privacy protection and criminal penalties (fine of no more than \$100,000) for the willful disclosure of information in the DNA index to unauthorized persons. Authorizes \$4.5 million for each year, fiscal years 1994 -1999 for the administration of these provisions by the FBI. Also provides new authority for the Attorney General, through the Bureau of Justice Assistance, to provide grants to community coalitions that operate substance abuse prevention programs. Authorizes \$15 million for fiscal year 1995, \$20 million for 1996, and \$25 million for 1997. Also provides new authority for the Attorney General, through the Bureau of Justice Assistance, to provide grants to States for the purpose of analyzing the role of race in State criminal justice systems and for making recommendations to correct racial and ethnic bias found to exist. Authorizes \$2 million for each fiscal year 1995 to 1999. [Sections 1011-1021]

As introduced, S.1607 contains similar provisions but contains two relatively significant additional provisions related to DNA testing. First, new authority is included for DNA Identification grants to be provided to States and units of local government to develop or improve DNA analysis capabilities. Authorizes \$5 million for each fiscal year 1994 to 1999 for such grants. Second, the Director of the National Institute of Justice must certify that a blind proficiency testing program has been established, is available, or is not feasible, for DNA forensic analysis. Less significant are changes pertaining to the quality assurance and testing standards board to be appointed by the FBI and the provision that the results of DNA test may be disclosed in judicial proceedings "if otherwise admissible." [Sec. 1001-1021]

As amended, S.1607 contains new authority for the Attorney General to provide grants to State and local law enforcement units for computerized automation and technological improvements. Includes requirement that a model "intelligent information system" be developed with no more than 10 participating cities. Authorizes a total of \$150 million for fiscal year 1994. [8(15)]

Community Substance Abuse Prevention

No change

Drug Testing of Arrestee

No change

Bias Study Grants

S. 1488 provides new authority for the Attorney General, through the Bureau of Justice Assistance, to provide grants to States for the purpose of analyzing the role of race in State criminal justice systems and for making recommendations to correct racial and ethnic bias found to exist. Authorizes \$4 million for each 1995-1999. [Section 1021]

S. 1607 would add a new requirement to the criteria for grants to be awarded under this program. In establishing criteria for the award of such grants, under S. 1607, the Attorney General would have to consider, in addition to the requirements specified in S. 1488, whether the State plan expressly considers the role of race in procedures for jury selection in the State. [10(24)]

Family Support

No change

Police Pattern or Practice Regarding Individual Rights

No change

Police Corps

S. 1488 establishes a new Office of Police Corps and Law Enforcement Education in the Department of Justice and requires that the States administer the program. Limits scholarships to \$7,500 or the costs of educational expenses, or \$10,000 per calendar year, and caps total assistance provided to each participant at \$30,000. Payments are made to educational institutions, or participants may be reimbursed directly if they agree to work for 4 years on a police force and satisfactorily complete the course of study. Entitles dependent children of slain officers to scholarships. Sets forth selection criteria. Limits graduating classes to 20,000 and the number of participants with police experience, and requires that States make special efforts to recruit minority candidates. Requires that the Director establish or contract for 2 eight-week training programs for participants. Ensures that participants have rights and responsibilities of other officers once they are sworn in, sets forth State plan requirements, and provides \$10,000 to jurisdictions for each employed participant under specified conditions. Authorizes \$100 million for each fiscal year 1995 and 1996 and such sums as necessary for fiscal years 1997-1999. Requires completion of a report by the Director each year. [Sections 1121-1133]

S. 1607 authorizes \$100 million for fiscal year 1995 and a total of \$250 million for fiscal year 1996 and such sums as necessary for fiscal years 1997-1999. [16(4)]

Scholarships for Police Officers

No change

Study of Rights of Police Officers

S.1488 requires the Attorney General, through the National Institute of Justice, to study procedures followed during noncriminal investigations of State and local police officers. Requires report from the Attorney General within one year. [Section 1161]

S.1607 has no such section.

STATE PRISONS

Drug Court

S.1488 authorizes the Attorney General to develop a unified process ("Drug Court Programs") for grantees to apply for three types of assistance. First, the Director of the Bureau of Justice Assistance may provide grants to the States for developing or continuing drug testing programs for arrestees. Local governments apply for funding to the States. Federal share is limited to 75 percent. Authorizes \$100 million for fiscal years 1995 to 1997. Second, the Director may provide grants to the States to develop alternative methods of punishment for young offenders to traditional forms of incarceration and probation. The methods should ensure certainty of punishment and promote reduced recidivism. Authorizes \$200 million for each of fiscal years 1994, 1995, and 1996. Third, the Director may provide grants to the States for residential substance abuse treatment programs in State facilities. Sets forth application requirements, including the option of coordinating with local correctional agencies. Funds cannot be used for land acquisition or construction, limits the Federal share to 75 percent, and gives preference to States with aftercare programs. Includes reporting requirements and authorizes \$100 million for each of fiscal years 1995, 1996, and 1997. [Sections 1201 - 1204]

S.1607, as introduced, contains similar provisions but differs in that drug testing for arrestee may also be conducted while the offender participates in pre- or post-conviction diversion programs and limits participation in the alternative punishment methods programs to young *nonviolent* offenders. (Defines such offenders as those with minor criminal records.) The residential substance abuse treatment program authority is modified to include participants in post-

conviction diversion programs who are committed to State correctional facilities, extends the application period to 90 days, and defines "residential substance abuse treatment program" as activities lasting from 6 to 12 months (formerly 9 to 12 months). [Secs. 1201-1204]

S.1607, as amended, requires that States certify that violent offenders do not participate in any of the three Drug Court programs and authorizes the Attorney General to terminate funding if those individuals do participate. Also requires that the General Accounting Office study the effectiveness of the programs and report by 1997. Defines violent offenders as those (including those adjudicated as a delinquent under specified circumstances) who were involved in serious crimes or who used force against other persons. Also reduces the maximum age of young offenders from age 28 to age 25 or younger. [8(12),(13)]

Prison Boot Camps and Regional Prisons

S. 1488 provides new authority for the Attorney General to provide grants to States and to multi-State compacts for the construction or expansion of prison boot camps and regional prisons. Sets forth application requirements, limits Federal funding to 75% of costs and grant period to 4 years. Directs Secretary of Defense to transfer closed military bases to the Attorney General for prisons. Requires evaluation component for each facility, reports and access to information, and authorizes \$200 million until expended. Limits funding for regional prisons to 1/3 of amount appropriated. [Section 1321]

S.1607 contains similar provisions but differs in that it requires the Attorney General to provide a list to State and local officials on military properties that might be used for prison boot camps or prisons for violent drug offenders, and authorizes \$2 billion until expended. [Sec. 1321]

S.1607 also

- Provides that grantees may contact with the private sector for the design, construction, or delivery of services associated with the facilities. [18(1)-S16243]
- Includes provisions of S. 1356 (Sections 161-165) authorizing the Attorney General to construct ten regional prisons. It differs, however, by requiring consultation with State correctional administrators, authorizes the Attorney General to operate the prisons, increases the portion of space dedicated to State prisoners to 75 percent (from 50 percent), sets forth different "truth in sentencing" and other requirements for qualifying States, limits authority of the Attorney General to waive requirements to one year, and authorizes \$600 million for each fiscal year 1994 to 1998 (\$3 billion total). [4(4)]

- Authorizes the Attorney General to contract with the private sector in designing, constructing, or the provision of services at the regional prisons. [18(1)-S16243]
- Requires that the Attorney General consider converting Federal correctional institutions in the planning or construction phases into regional prisons, and also evaluate the utility of using closed or realigned military bases for such prisons. Before regional prisons are constructed, or if a decision is made not to use a military installation for such purpose, the Attorney General must report to Congress. [18(2)-S16249-50] See also *Crimes Against Women and Funding*.

State and Federal Concerns

S.1607:

- Requires the Director of the National Institute of Corrections to convene a task force on prison design and construction. [5(13)]
- Authorizes the Secretary of Education to convene and to consult with a panel of correctional education experts for specified purposes, and to use no more than five percent of appropriated funds for monitoring, technical assistance, and other activities. [10(5)]
- Requires that the Attorney General, in consultation with the Secretary of Health and Human Services and the Director of the National Institute of Justice, develop and disseminate guidelines regarding tuberculosis prevention, care and treatment in Federal and non-Federal prisons. Limits Federal grants to 50 percent of costs and authorizes \$20 million for the program. [10(6)]
- Authorizes the Director of the Bureau of Prisons to make grants to the States for family unity demonstration projects. Requires that ten percent of authorized funds be used for Federal inmates and authorizes \$8 million for each fiscal year 1995 to 1999. [10(15)]
- Requires that the Attorney General encourage grantees to use low-cost construction and operation methods in expanding prison space and give priority to the use of surplus Federal property. Also requires that the Attorney General assess, within one year, the effectiveness of using low-cost construction components and designs. [8(5)]
- Requires the Attorney General review the capacity of Federal prisons and recommend initiatives to be taken to release space in those prisons for State inmates. Also requires that standards for construction and operation of State and local facilities be reconsidered and that the Attorney General report on the modification of standards. [18(1)-S16239]

- Prohibits the provision of higher education (Pell) grants to inmates of Federal, State or local correctional facilities. [16(1)]
- Authorizes the Attorney General to establish an Office of Correctional Job Training and Placement to assist in collecting information on and providing job opportunities to released prison inmates. [18(2)-S16253]

FEDERAL PRISONS

See also **STATE PRISONS**,
State and Federal Concerns

S.1607 also:

- Gives discretion to Bureau of Prisons to award good time credit to inmates. [5(3)]
- Provides the Attorney General authority to determine whether existing grievance procedures for inmates are "fair and effective," as well as authorizing the court hearing a grievance to request an attorney for the inmate and to dismiss the case if relief is not possible or if the grievance is malicious or frivolous. [5(8)]
- Expresses the sense of the Senate that employment opportunities should be provided to Federal inmates and that the Attorney General recommend to Congress means of expanding job opportunities through Federal Prison Industries, Inc. [18(2)-S16248]
- Prohibits expansion of District of Columbia prison facilities in Lorton, Virginia unless approval of Congress is granted. Also requires that hearing be conducted on planned expansions. [18(1)-S16243]

Drugs

No change

RURAL CRIME

Drug Trafficking

S.1488 authorizes \$50 million for fiscal year 1994 and such sums as may be necessary in fiscal years 1995-96 for the rural drug enforcement program authorized by the Crime Control Act of 1990, Title VIII, P.L. 101-647. Amends the law to require that a base amount of \$250,000 be allocated to non-rural States for non-metropolitan areas (currently \$100,000). Also requires the

Attorney General, after consultation with specified organizations, to establish, within each Federal judicial district, a Rural Drug Enforcement Task Force in areas that consist of "significant rural lands." Identifies the organizations to be represented on the task forces. Allows the Attorney General to cross-designate up to 100 Federal law enforcement officers from each of the Park Police, Forest Service, Bureau of Land Management, DEA, FBI, INS, and similar agencies to enforce the Controlled Substances Act on rural non-Federal lands. Mandates that a course of instruction be developed to train rural law enforcement officers in drug trafficking investigation and authorizes \$1 million for each fiscal year 1994 to 1996 for this purpose. [Sections 1401 - 1404]

S.1607, as introduced, contained similar provisions, but differed by conditioning the establishment of Rural Drug Enforcement Task Forces on the availability of appropriations. [Sec. 1402]

S.1607, as amended, expands the number of years funds are authorized for the rural drug enforcement program, includes requirement that assets seized by the Task Force be used for its operation, and includes two new agencies (Customs Service and U.S. Marshals Service) as members of Task Force. Requires that the Attorney General cross-designate Federal law enforcement officers, subject to appropriations, to adequately staff task forces and to provide additional officers when requested. [N.B., section reference in proposed Section 1403(a) might pertain to "1402(b)" not "1502(b)(6)."] Also expands number of years funds are authorized for specialized training. Also authorizes \$20 million for fiscal years 1994 to 1998 for additional DEA agents. [8(14)]

Truck Stops

No change

Rural Domestic Violence and Child Abuse Enforcement

S. 1607, as amended, would create a grant program, available to units of State and local government in rural states, and to other private and public entities in such States, to establish, expand and implement cooperative efforts between law enforcement, prosecutors, victim advocacy groups and others, to investigate and prosecute incidents of domestic violence and child abuse, to provide treatment and counseling for victims of same, and to develop education and prevention strategies directed toward these issues. Authorizes appropriations of \$10,000,000 for each of FY95-FY97. Permits law enforcement agencies to also use funds received under Sec. 103 (Community Policing; "Cops on the Beat"). [10(25)]

DRUG CONTROL³

Provisions in S. 1607 with no substantially similar counterparts in S. 1488 do the following:

- Authorize the declaration of violent crime and drug emergency areas and provide for emergency Federal assistance (including personnel, equipment, supplies, facilities, financial assistance, and managerial, technical and advisory services), with or without reimbursement, to protect lives, property, and public health and safety. [9(4)]
- Increase mandatory minimum imprisonment penalties for the sale of controlled substances to minors under 18 or for the use of such minors in a drug trafficking offense (to 10 years for a first offense and life for a second). [9(5)]
- Provide for mandatory life imprisonment of persons convicted of certain serious felonies under the Controlled Substances Act, or a crime of violence, after 2 or more prior convictions for a felony drug offense or crime of violence. [9(5)] See also, 8(4) in **SENTENCING PROVISIONS**.
- Require the Attorney General to conduct a study of how the antiloitering laws can be used to eradicate open-air drug markets and other criminal activity and to prepare a model statute and enforcement guidelines based on the study's conclusions. [10(23)]
- Allow a civil action against a violator of the drug paraphernalia provisions of the Controlled Substances Act, carrying the possibility of a fine of up to \$250,000. [18(1)- S16241]
- Extend authorization for the Office of National Drug Control Policy through fiscal year 1994 and establish a personnel floor of 75 for the Office. [18(1)-S16247]
- Provide for the possibility of the death penalty for major drug "kingpins." [17(4)] See digest under **DEATH PENALTY**.

DRUNK DRIVING

S.1488 declares it the sense of Congress that courts consider history of drunk driving in making child custody and visitation determinations. [Section 1603]

³ Note the separate passage, by both Senate and House, of an amended version of S. 1607's provisions for relating to control of precursor and essential chemicals (H.R. 3216, cleared for the White House on Nov. 22, 1993).

S.1607 also permits the States to use Federal law enforcement assistance funds for the prosecution of drunk driving charges and for the enforcement of others laws relating to motor vehicles and alcoholic beverages. [8(16)]

COMMISSIONS

National Commission on Crime and Violence in America

S.1488 establishes a 22-member National Commission on Crime and Violence in America to develop a comprehensive and effective crime control plan which will serve as a blueprint for the 1990s. . . . [Sections 1701-1703]

S.1607 increases the size of the Commission to 25 members and more closely divides the appointment authority between the majority and minority parties. [18(2)-S16250]

National Commission to Study the Causes of the Demand for Drugs in the United States

S.1488 establishes a 13-member National Commission to Study the Causes of the Demand for Drugs in the United States to recommend the improvements necessary to reduce the use of illicit drugs in the U.S. . . . [Sections 1711-1718]

S.1607 increases the size of the Commission to 15 members and more evenly divides the appointment authority between office holders of the two political parties. [18(2)-S16250]

National Commission to Support Law Enforcement

S.1488 establishes a 23-member National Commission to Support Law Enforcement to study and recommend changes regarding Federal, State, and local law enforcement agencies. . . . [Sections 1721-1730]

S.1607 increases the size of the Commission to 29 members and more evenly divides the appointment authority between office holders of the two political parties. [18(2)-S16251-52]

Other National Commissions and Panels

S.1607 establishes a 25-member National Commission Violence in America's Schools with a charter to report to Congress and the President on the extent and causes of violence in schools following a 2 year period of study using staff and consultants. [5(6)]

It also creates a 12-member National Commission on Violence Against Women empowered to recommend strategies to prevent and punish violent crime against women.

S. 1607 urges the President to convene a National Summit on Violence in America. [4(6)]

MOTOR VEHICLE THEFT PREVENTION

No change

PROTECTION FOR THE ELDERLY

Missing Alzheimer's Disease Patient Alert Program

No change

Crimes Against the Elderly

No change

Other Provisions

S. 1607 directs the Department of Justice to establish research, development, and dissemination programs to assist in collaborative efforts to prevent crime against senior citizens. Authorizes appropriations of \$6 million. [5(10)]

It likewise includes a "National Child, Elderly, and Individuals With Disabilities Protection Act of 1993" which establishes a national system through which organizations that care for children, the elderly, or individuals with disabilities may obtain the benefit of a nationwide criminal background check to determine if persons who are current or prospective care providers have committed abuse crimes or other serious crimes. [10(4)]

SENTENCING PROVISIONS

S. 1488 authorizes a term of probation for petty offenses in certain cases. [Section 2502]

S. 1607 also:

- Directs the U.S. Sentencing Commission to promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than three offense levels for hate crimes. [4(1)]

- Provides for a mandatory life sentence for those persons convicted of a Federal violent felony if they have been convicted of a violent felony on two or more prior occasions, either in a State or Federal court. [8(4)]
- Permits flexibility of sentencing for certain non-violent offenses in which a mandatory minimum term of imprisonment is imposed by law. These offenses include those in which the defendant does not have more than zero criminal history point under the sentencing guidelines; or any prior conviction foreign or domestic, for a crime of violence against the person or drug trafficking offense, that resulted in a sentence of imprisonment (or an adjudication as a juvenile delinquent for an act, that, if committed by an adult, would constitute a criminal offense, that resulted in the defendant's being taken into State custody); the offense did not result in death or serious bodily injury, the defendant did not carry or otherwise possess a firearm or other dangerous weapon during the course of the offense, the defendant was not an organizer or leader, the defendant was nonviolent, and the defendant did not own the drugs, finance any part of the offense, or sell the drugs. (Compare, Sec. 2402) [9(1),9(5)]
- Imposes a mandatory minimum prison term for use, possession, or carrying of a firearm or destructive device during a State crime of violence or State drug trafficking crime, and the death penalty for murders involving firearm. [9(1),9(5)] See also 9(5) DRUG CONTROL.
- Directs the U.S. Sentencing Commission to amend the sentencing guidelines to provide a sentencing enhancement for soliciting a minor to commit a crime. [10(9)]
- Extends the term of full time members of the U.S. Sentencing Commission from 6 to 7 years. [18(1)-S16247]

CONSUMER PROTECTION

S.1488 amends the mail fraud provision to include private mail or commercial interstate carriers. [Section 2103]

S.1607 establishes an additional 5 years term of imprisonment for violations of various Federal fraud laws when they involve telemarketing fraud; the additive is increased to 10 years if a significant number of persons over 55 years of age are victimized or if those 55 are the targets of the fraud. [5(5)]

[INTERNATIONAL] PARENTAL KIDNAPPING⁴

S.1488 makes international parental kidnapping punishable by imprisonment for not more than 3 years and a fine of not more than \$250,000. [Section 2702]

S.1607 also limits the parental exemption to the Federal kidnapping statute to exclude those parental rights have been terminated by final court order. [8(7)]

SAFE SCHOOLS

S.1488 establishes new authority for the Bureau of Justice Assistance (in consultation with the Secretary of Education) to provide grants to local educational agencies to assist those agencies most severely affected by school crime and violence. Sets forth purposes for which funds may be used, requires that the BJA develop a written model in English and Spanish, establishes application and reporting requirements, limits Federal administrative costs to five percent of appropriated funds, limits grants to three years, sets criteria for award of grants and authorizes \$100 million for each fiscal year from FY94 through FY96. [Sections 2401-2402] Adds instruction on the criminal justice system and the penalties for controlled substance violations as a grant application requirement. [18(1)-S16241]

S.1607 authorizes the Secretary of Education to award grants to State educational agencies to support efforts to disseminate and coordinate school violence prevention programs. Authorizes \$10 million for each fiscal year 1995 and 1996. [18(2)-S16249]

S.1607 also increases penalties (up to triple those otherwise authorized) for employing a minor to distribute a controlled substance near schools and playgrounds. [9(2)]

COMPUTER CRIME

No change

FINANCIAL INSTITUTION FRAUD PROSECUTIONS

No change

WHITE COLLAR CRIME AMENDMENTS

S.1607 also recasts Federal bankruptcy offenses:

⁴ Note the separate passage, by both Senate and House, of International Parental Kidnapping legislation (H.R. 3378, cleared for the White House on Nov. 20 1993).

- Expands the bankruptcy embezzlement offense to include employees and agents of trustees, custodians, marshals, attorneys and other officers of the court responsible for administering the estate. [18(1)-S16242]
- Increases the maximum fine for conflicts of interest from \$500 to \$5000. [18(1)-S16242]
- Makes it a Federal crime, punishable by imprisonment for not more than 1 year and/or a fine under the provision of title 18, to knowingly disregard a Federal bankruptcy rule or law. [18(1)-S16242]
- Establishes bankruptcy fraud as a new Federal offense, punishable by imprisonment for not more than 5 years and/or a fine of not more than \$250,000. [18(1)-S16242]
- Excludes bankruptcy fraud from the list of RICO predicate offenses. [18(1)-S16242]

It also creates a new Federal health care fraud offense which makes punishable by imprisonment for not more than 10 years and/or a fine under title 18 any scheme to defraud a health care plan; the maximum penalty is increased to life imprisonment if serious bodily injury results from the violation. The bill adds a subsection to the money laundering, criminal forfeiture statute permitting criminal forfeiture of property used or derived from a violation of any several Federal laws under which health care fraud can be prosecuted. And the same list of predicate offenses may be invoked to secure injunctive relief. Finally, it enlarges the Federal False Claims Act to imposition of civil penalties for fraud against a health care plan. [5(2)]

GAMBLING

S.1607 expands the Federal statute prohibiting the interstate transportation of lottery tickets to include a proscription against engaging in the business of acquiring out of State lottery tickets for others. [8(2)]

BAIL-POSTING REPORTING

No change

GENERAL PENALTY INCREASES

S.1488 increases the maximum penalty for Travel Act violations involving travel to commit a crime of violence from 5 to 20 years with an increase to any term of years or life if death results from the violation. [Section 2906].

S.1607 also increases the maximum penalty for conspiracy to commit such an offense to the same extent. [9(2)]

S.1488 increases the maximum prison term for trademark counterfeiting from 5 to 10 years and from 15 to 20 years for repeat offenders. . . . [Section 2904]

S.1607 also reduces the maximum fine for organizations for first and subsequent offenses from \$1 million and \$5 million, respectively, to the greater of \$500,000 or twice the loss or gain, in any case; and reduces the \$1 million maximum fine of second time individual offenders to the greater of \$250,000 or twice the loss or gain. [18(1)-S16247]

S.1607 increases the penalties for damage or destruction of property by fire or explosives:

(a) in the course of committing another Federal offense (from a 5 year maximum to a 10 year maximum for a 1st offense and from 10 to 20 years for others);

(b) involving the property of the United States, or of those receiving Federal financial assistance (for the 1st offense from a ten year/\$250,000 maximum to a term of not less than 5 nor more than 20 years and/or a fine not more than the greater of \$100,000 or the cost for repair or replacement of the property destroyed or damaged; the maximums for subsequent offenses are increased to 40 years and \$200,000 or the amount of the loss);

(c) involving property used in or in an activity affecting commerce (from maximums of 10 years and \$250,000 to a term of not less than 5 nor more than 20 years and/or a fine of not more than the greater of \$100,000 or the cost of repair or replacement of damages or destroyed property, for a 1st offense; the maximums for subsequent offenses are increased to 40 years and \$200,000 or the amount of the loss). [4(5)]

Capital Crimes - Lesser Included Offenses

See also DEATH PENALTY

MISCELLANEOUS

S.1488 extends the statute of limitations for certain explosives offenses from 5 to 10 years. [Section 2971]

S.1607:

- Extends from 3 to 5 years the minimum civil statute of limitations for tort actions brought by the Resolution Trust Corporation. [10(17)]⁶
- Permits the payment of attorneys fees for Department of Justice and public defenders office supervisors who are subject to criminal investigations or disciplinary inquiries which do not result in adverse action against the employee. [5(7)]
- Proscribes the mailing of nonmailable animals, plants, fish and wildlife, makes violations punishable by imprisonment for not more than 1 year and/or a fine under title 18, and authorizes the creation of task force of Federal and Hawaiian law enforcement officers for implementation. [5(11)]
- Expresses the sense of the Senate encouraging the development of a United Nations Convention on Organized Crime and urging the United Nations to provide additional authority and resources to the U.N. Commission on Crime Prevention and Criminal Justice. [5(12)]
- Requires, not later than 6 months after enactment of the Act, the Attorney General, in concert with the Director of the FBI, the Administrator of the DEA, the Commissioner of INS, and the Commissioner of the Customs Service, to report to Congress and the President on the efforts made and the success of such efforts to recruit and hire former Royal Hong Kong Police officers into Federal law enforcement positions. [5(14)]
- Amends the "Hate Crime Statistics Act" by requiring the acquisition and publication of statistics of data about crimes that manifest prejudice based on disability. [10(13)]
- Instructs the Attorney General to consult with the Secretary of HHS to implement the drug abuse treatment and prevention features of the legislation. [18(1)-S16239]
- Creates a National Community Economic Partnership program under which the Secretary of HHS may (1) extend a line of credit up to \$2 million per community development corporation to stimulate business and employment opportunities for low-income, unemployed and underemployed individuals; and (2) make grants to community development corporations to upgrade their business management and development skills and to make capital investments. It authorizes \$40 million for the program for FY94 and such funds as a re necessary for FY95 and FY96. [18(1)-S16239]

⁶ Note the separate passage, by both Senate and House, of an apparent variant in of S. 714, cleared for the White House on Nov. 23, 1993.

- Declares it a sense of the Senate that HHS should study the rate and causes of the increase in out-of-wedlock birth and report to Congress on possible remedial action. [18(1)-S16243]
- Declares it a sense of the Senate that Federal law enforcement officers should be exempt from E.O.12839 and other initiatives for reduction of the Federal workforce [18(1)-16237]
- Eases the residence requirement for assistant U.S. Attorneys to permit them to live within 50 miles of the district for which they have been appointed. [18(1)-S16247]
- Defines "court of the United States" to include the district courts of Guam, the Northern Marianas, and the Virgin Islands for purposes of the title 18 of the United States Code. [18(1)-S16247]
- Permits the Attorney General to pay State and local real property taxes, claimed for the time between the commission of the crime giving rise to forfeiture and the order of forfeiture, out of the Department of Justice Asset Forfeiture Fund. [18(2)-S16253]
- Prohibits payment of social security disability benefits to those confined to public institutions under a court order based on a verdict of guilty but insane, not guilty by reason of insanity, or similar finding. [8(6)]
- Authorizes the Director of the BJA to provide grants to States, localities, and private agencies or individuals to increase resources for judicial activities. Authorizes \$100 million for each fiscal year 1994 to 1998, and provides that funds may be appropriated from the Violent Crime Reduction Trust Fund. [16(3)]
- Requires that the FBI report by June 1994 on improvements to the Nation's automatic fingerprint systems. [17(1)]
- Proscribes the disclosure, other than for routine use, of information from State department of motor vehicle records; willful individual offenders are punishable by imprisonment for not more than 1 year and/or a fine of not more than \$100,000, willful organizational offenders are subject to a fine of not more than \$200,000, willful violations by state agencies are punishable by a civil penalty of \$5,000 a day. [16(5)]
- Extends the expiration date for Supreme Court police authority to protect the Justices, officers and employees of the Court from the end of 1993 to the end of 1993.⁶

⁶ Note the separate passage of a version of this provision, as S.1764 which passed both Houses and was sent to the President on November 22, 1993.

EXCLUSIONARY RULE

No change

[CRIMINAL] ALIENS AND ALIEN SMUGGLING

Beyond the provisions of S.1488, S.1607:

- Denies aliens in this country illegally eligibility for various federal assistance benefits [5(4)]
- Requires State law enforcement officials to provide INS with information concerning illegal aliens, provisions of State law to the contrary notwithstanding; State or local governments or agencies identified by the Attorney General as noncooperative are precluded from receiving funds authorized under the crime bill [9(7)]
- Declares the sense of Congress that Federal asylum laws should be streamlined, those eligible be encouraged to apply and granted asylum, and those seeking fraudulent admission promptly excluded. [10(11)]
- Authorizes the Attorney General to provide for the expeditious deportation of aliens whose asylum petitions are denied and authorizes the necessary appropriations for 5 years. [18(1)-S16237]
- Increases the amounts of the civil penalties for immigration document fraud from not less than \$250 nor more \$2,000 to not less than \$1,000 nor more than \$5,000 for the 1st offenses; and from \$2,000 - \$5,000 to \$5,000 - \$10,000 for subsequent offenses; it also increases the maximum criminal penalties for fraudulently acquiring or using visas or immigration documents from 5 to 10 years and from 2 to 5 years respectively and adds a mandatory minimum fine of \$10,000 for fraudulent acquisition and of \$5,000 for misuse. [10(22)]
- Authorizes the appropriations necessary to increase Border Patrol apprehension of aliens surreptitiously or fraudulently entering the U.S. [18(1)-S16237]
- Supplements the definition of aggravated felony (grounds for exclusion and deportation) with various serious but not necessarily violent crimes such as commercial bribery, child pornography, counterfeiting, forgery, smuggling aliens, fraud involving more than \$100,000, theft or perjury for which a sentence of 5 years imprisonment or more might be imposed; and authorizes expeditious deportation of such aliens upon their release from imprisonment and authorizes the necessary appropriations for 4 years beginning in FY95. [18(1)-S16235, S16237]

- Permits court ordered disclosure of information, for law enforcement purposes or to identify a corpse, contained in applications for legalization of long term illegal aliens. [18(1)-S16235]
- Calls for expedited deportation proceedings for aliens convicted of an aggravated felony who are not permanent residents. [18(1)-S16235]
- Authorizes judicial deportation upon petition of the U.S. following conviction of an aggravated felony. [18(1)-S16236]
- Eliminates exclusion and deportation defenses, based on 7 years of continuous domicile and persecution, for aliens convicted of aggravated felonies. [18(1)-S16236]
- Increases the maximum penalty for reentry following deportation from 15 to 20 years for those convicted of aggravated felonies and from 5 to 10 years for those convicted of any other felony or three misdemeanors. [18(1)-S16236]
- Instructs INS to establish a criminal alien tracking center; authorizes appropriations of \$5 million for FY94 and \$2 million for each of the fiscal years thereafter. [18(1)-S16236]
- Authorizes necessary appropriations for FY95 and FY96 for the construction of 2 INS service processing centers for criminal aliens. [18(1)-S16237]
- Gives the Attorney General authority to transfer certain criminal aliens to Federal custody or to reimburse States or localities for the costs of incarcerating such individuals. [16(2)]

Smuggling

No change

COURT JURISDICTION OVER PRISON CONDITIONS

S. 1607 includes the text of Section 183 of S. 1356 that limits the authority of Federal courts to find that prison or jail overcrowding violates the eighth amendment of the Constitution solely to individual claims. Limits relief to minimum required, restricts court authority to impose population ceilings on facilities, excludes medical or health care considerations from these restrictions, requires that court orders be revisited every two years, and sunsets provision in five years. [17(3)]

PUBLIC CORRUPTION

S.1607 prohibits public corruption when the mails or facilities in interstate commerce are used, or when interstate commerce is affected, or -- in the case of State or local election fraud -- when the officer deals in more than \$10,000 a year of Federal money. In such cases, it forbids: (1) defrauding State or local citizens of the honest services of a public official or employee, or (2) committing State or local election fraud. It also outlaws depriving citizens of the honest services of U.S. officials. Violations are punishable by imprisonment for not more than 10 years and/or a fine of not more than \$250,000. [10(3)]

United States or State officials who take personnel actions against other officials in order to carry out or conceal a violation are punishable by imprisonment for not more than 5 years and/or a fine of not more than \$250,000, and victims have a cause of action for reinstatement with seniority, triple back pay with interest, and special damages including costs and attorneys' fees. [10(3)]

The bill expands the Federal wire fraud statute to include frauds using any facility of interstate or foreign commerce. [10(3)]

It also proscribes the offense of narcotics and public corruption, i.e., offer or acceptance of a bribe involving a Federal or State official, employee or juror in connection with illicit drug activities; violations are punishable by imprisonment for not more than 25 years and/or a fine of not more than \$250,000. [10(3)]

Both public corruption and narcotics and public corruption are RICO and wiretapping predicate offenses. [10(3)]

CRIMES AGAINST WOMEN

See also, RURAL CRIME, Rural Domestic Violence and Child Abuse Enforcement; SEXUAL VIOLENCE AND CHILD ABUSE; CRIME VICTIMS.

Offenses

S. 1607:

- Increases the available term of imprisonment for repeat sexual offenders to up to twice that otherwise authorized. [4(4)]
- Directs the Sentencing Commission to review and recommend amendments to the sentencing guidelines with respect to aggravated sexual abuse or sexual abuse, recidivism in sex offenses, multiple participants in same sexual offense and other facets of sexual offenses. [4(4)]

- Requires a report to Congress by the Sentencing Commission within 180 days regarding Federal rape sentencing. [4(4)]
- Requires mandatory restitution for sex crimes. [4(4)]

It also:

- Increases penalties for sex offenses against victims below age of 16. [4(4)]
- Creates new Federal offenses for traveling across a state line to commit spousal abuse; for injuring a spouse or intimate partner in course of or as a result of causing him or her to cross a state line by force, coercion, duress, or fraud; and for interstate violation of protection orders; prosecution requires neither prior state prosecution nor conviction; nor need the specific intent to violate State law or a protection order be shown; requires opportunity for victim to be heard in pretrial release hearing of such offenders; mandates restitution; and requires full faith and credit for protection orders issued by one State in a court of another State. [4(4)]
- Extends and strengthens restitution in cases of violations of Federal sexual abuse and child pornography laws, and provides for enforcement of restitution orders through suspension of federal benefits. [4(4)]
- Amends 18 U.S.C. 3561 to redesignate current subsection (b) as (c) and create new subsection (b) requiring that a first time domestic violence offender be sentenced to probation if not sentenced to imprisonment. Also amends 18 U.S.C. 3563 to require, as a mandatory condition of probation, that those convicted for first time of domestic violence crime attend court-approved program authorized by State Coalition Against Domestic Violence designed to rehabilitate such offenders, if an approved program is readily available within 50 miles of defendant's residence. Further, amends 18 U.S.C. 3583 to mandate imposition of a term of supervised release after imprisonment for such offenders and requires, as an explicit condition of supervised release, that such offenders attend such a court-approved program. [18(2)-S16252]

Procedural Amendments

S.1607 calls for pretrial detention in sex offense cases involving any felony under Federal sexual abuse and child pornography laws, and for pretrial

detention in sex offense cases involving any felony under Federal sexual abuse and child pornography laws. [4(4)]

And it creates a right of allocution for the victim during sentencing in cases involving crimes of violence or sexual abuse. [4(4)]

S.1607 also makes several adjustments in the Federal Rules of Evidence (FRE), including:

- A new Federal Rule of Evidence (FRE) 412A regarding sexual history evidence in criminal cases (N.B. in some instances the initial proposals assigned the same FRE number to more than 1 new rule). [4(4)]
- An amendment making reputation or opinion evidence of past sexual behavior of an alleged victim inadmissible in a criminal case other than a sex offense case governed by FRE 412; other evidence of alleged victim's past sexual behavior is admissible in a criminal case other than a sex offense case if probative value of evidence outweighs the danger of unfair prejudice and prescribed procedures are followed. [4(4)]
- A new FRE 412B regarding sexual history evidence in civil cases; makes reputation or opinion evidence of plaintiff's past sexual behavior inadmissible in a civil case in which a defendant is accused of actionable sexual misconduct; sets standard and procedures for other evidence of plaintiff's past sexual behavior to be admitted in such a case. [4(4)]
- Amends the Federal rape shield law, FRE 412, permitting interlocutory appeal by government or alleged victim of evidentiary rulings under this rule. Permits victim to waive provisions of rule if prosecution seeks to offer evidence of prior sexual history; amends subdivision (c)(3) of rule regarding defendant's motion to offer evidence of specific instances of alleged victim's past sexual behavior, to require court in its order to consider chain of reasoning leading to its finding of relevance; and why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of evidence to humiliate and embarrass alleged victim and result in unfair or biased jury inferences. [4(4)]
- A new FRE 413 making evidence of victim's clothing inadmissible in criminal case involving sex offense to show that victim incited or invited offense charged. [4(4)]
- A new FRE 414, making inadmissible evidence to show invitation or provocation by victim in sexual abuse cases. [4(4)]
- A new FRE 413 addressing admissibility, in criminal cases, of evidence of similar crimes in sexual assault cases. [5(1)]

- A new FRE 414 addressing admissibility, in criminal cases, of evidence of similar crimes in child molestation cases. [5(1)]
- A new FRE 415 addressing evidence of similar act in civil cases concerning sexual assault or child molestation. [5(1)]

Grant Programs

S.1607 authorizes several grant programs to deal with various aspects of domestic violence include one:

- To assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women, which authorizes for each of FY94, FY95 and FY96, \$100,000,000 for grants to combat such crimes in high intensity crime areas; \$190,000,000 for other grants to states to combat such crimes against women; and \$10,000,000 for general grants to Indian tribes to combat violent crimes against women in Indian country. [4(4)]
- For capital improvements to prevent crime in public transportation and for capital improvements to prevent crime in national parks. [4(4)]
- For prevention of sexual abuse and exploitation, and authorizes \$10,000,000 per year for FY94, FY95, and FY96 for this purpose [4(4)]
- To establish national domestic violence hotlines, authorizing \$500,000 per year for FY94, FY95, and FY96 for this purpose [4(4)]
- To encourage States, Indian tribes and localities to treat spousal violence seriously and to encourage arrest policies; authorizes not more than \$25,000,000 each fiscal year for this purpose and requires Secretary to delegate Secretary's responsibilities under this program to the Attorney General. [4(4)]
- For domestic violence and family support, which authorizes \$100,000,000 per year for FY94, FY95, and FY96 and such sums as are necessary thereafter; authorizes appropriations for Family Violence Prevention and Services Act, Sec. 310(a), 42 U.S.C. 10409(a), as amended, in amount of \$85,000,000 for FY94, \$100,000,000 for FY95 and \$125,000,000 for FY96; amends that act regarding grantee reporting requirements and model programs for education of youth about domestic violence; and authorizes \$400,000 for FY94 for that program. [4(4)]

- For education and training of State court judges and court personnel in cases involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender; also authorizes circuit studies, education, and training grants for judges and court personnel in Federal courts on issues related to gender bias, and authorizes appropriations therefore. [4(4)]
- To establish projects in local communities involving many sectors of each community to coordinate intervention and prevention of domestic violence. Authorizes \$20,000,000 for FY95, and such sums as are necessary for FY96-FY98. Requires Secretary to publish proposed regulations implementing this section within 60 days of enactment. [18(2)-S16252]; see also [10(12)] which appears identical to [18(2)], except that it lacks the regulations requirement.

It also provides supplementary grants for States adopting effective laws relating to sexual abuse. [4(4)]

Other Provisions

S.1607 creates a civil rights cause of action against a person who commits a crime of violence motivated by gender, thereby depriving another of the right to be free from such violence; authorizes compensatory and punitive damages, injunctive and declaratory relief and such other relief as a court shall deem appropriate; and authorizes attorneys fees available in other civil rights cases [4(4)]

And S.1607 would require the Attorney General to establish guidelines for State programs to require that "sexually violent predators" register a current address with a designated State law enforcement agency upon release from prison, being placed on parole, or being placed on supervised release. Attorney General is to approve each such State program. States which do not implement such a program within three years of enactment of this Act and maintain same are ineligible for 10% of funds which would otherwise be allocated to that State under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3756). Permits reallocation of the funds not allocated because of non-compliance. Requires advance notification to person anticipated to be released, paroled, or put on supervised release, of duty to register. Registration information goes to both State law enforcement record system and FBI Identification Division. Requires quarterly verification of information, and notification to local law enforcement of any changes in address. Failure to register and keep information current could subject person required to register to State criminal penalties. Sense of Congress expressed that such penalties should include imprisonment for not less than 180 days. Permits community notification of registered information to protect public. Provides immunity to law enforcement agencies and employees, and State officials for good faith conduct under this section. [8(18)]

The bill also requires:

- The Judicial Conference of the United States to provide reports on fair treatment in legal proceedings in Federal cases involving sexual misconduct, and on FRE 404. [4(4)]
- The Postal Service, within 90 days, to promulgate regulations to secure confidentiality of domestic violence shelters and abused person's addresses and sets guidelines therefore. [4(4)]
- The Secretary of HHS, through the Centers for Disease Control Injury Control Division, to study incidence and cost of injuries resulting from domestic violence and recommend health care strategies to deal with same [4(4)]

It expresses sense of Senate concerning protection of privacy of rape victims. [4(4)]

Finally, with respect to the Department of Justice, it:

- Authorizes \$1,500,000 for FY94 for U.S. Attorneys for appointment of Victim/Witness Counselors for prosecution of sex crimes and domestic violence crimes. [4(4)]
- Establishes a Justice Department Task Force on Violence Against Women and directs the Attorney General to authorize Director of Office of Victims of Crime to provide for payment of up to two HIV tests during 12 months following serious assault, with a counseling session on accuracy of test and risk of transmission of HIV. [4(4)]
- Directs the Director of National Institute of Justice to request the National Academy of Sciences, through its National Research Council to enter into a contract to develop a research agenda to increase understanding and control of violence against women; and, with BJS, to study and report to the States and Congress on how States may collect centralized databases on incidence of domestic violence. [4(4)]
- Mandates provision of a national baseline study on campus sexual assault, a report on battered women's syndrome, a report on confidentiality of addresses for victims of domestic violence, and a report on record keeping relating to domestic violence, all to be provided or prepared by the Attorney General. [4(4)]

FUNDING

To fund the proposed programs and increased efforts, S. 1607 establishes (by a floor amendment) a trust fund ("Violent Crime Reduction Trust Fund") into which is to be deposited monies derived from specified future reductions--of

\$ 22.3 billion over a 5-year period--in the Federal work force. [4(4), Sec. 1321]
[Note: In view of the subsequent adoption of numerous floor amendments authorizing additional appropriations, the \$22.3 billion figure should perhaps be considered a minimum.]