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THE WHITE HOUSE

WASHINGTON

March 18, 1994

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
JOSE CERDA

SUBJECT: Youth Employment in the Crime Bill

The House Judiciary Committee completed its work on the crime bill last night, and will send the bill to the Rules Committee and House floor for action next Wednesday or Thursday. If all goes well, the House should pass the bill before going home for the Easter recess.

After considerable arm twisting, we were able to get a waiver from the Education and Labor Committee to include the youth employment program you suggested in the crime bill. Representatives Bill Ford and Jack Brooks bent over backwards to help us out, and the amendment including your program was sponsored by Representatives Washington, Schumer and Synar.

A summary of the program is attached. It is called the Youth Employment and Skills (YES) program, based on your statement in the State of the Union that we need to give young people something to say "yes" to.

The program is a cooperative effort involving Labor, HUD, Justice, the NEC and the DPC. It authorizes \$525 million to test in 10 sites around the country the proposition that more jobs equals less crime. The money goes primarily for job creation in both the private and public sector for young people between the ages of 16 and 25. This will enable selected poor neighborhoods to increase youth employment rates to 80 percent from their current levels of less than 50 percent. It also incorporates elements of previous youth initiatives offered by Representative Maxine Waters and others.

The program is designed to reward personal responsibility and good behavior: to remain in the program, young people will have to stay off drugs and away from crime, stay in school (if they're under 18), and pay child support if they have fathered a child.

We may be able to increase the funding level in conference. The Judiciary Committee also approved another \$6 billion in other prevention programs.

March 15, 1994

Youth Employment and Skills: Crime Prevention Program Say YES to Jobs

Background

"I do not believe we can repair the basic fabric of society until people who are willing to work have work. Work organizes life. It gives structure and discipline to life. It gives a role model to children.... We cannot...repair the American community and restore the American Family until we provide the structure, the value, the discipline and the reward that work gives."

**President Clinton
November 13, 1993
Memphis, Tennessee**

In recent decades, our nation has experienced a growing concentration of poverty and there has been a sharp erosion in the economic position of disadvantaged youth and young adults. Nonemployment among youth has fallen, and crime among youth has risen. Those who commit crimes must be caught and punished; at the same time, prevention programs -- including ones which make employment a reasonable, available alternative to crime -- must be undertaken. These prevention efforts need to increase the aspirations and long-term career prospects of at-risk youth to break the cycles of poverty, crime and violence. As the President said in the State of the Union, young people must have "something to say yes to".

The underlying facts are disturbing:

- o Between 1980 and 1990, the population living in census tracts with 40 percent or higher poverty rates almost doubled. These areas of concentrated poverty are very likely to have high crime rates; for example, a recent study indicated that between 1986 and 1989, the rates of violent crime in public housing in Washington, D.C., Los Angeles, and Phoenix were more than double that for these respective cities as a whole.**
- o A growing number of disadvantaged young men and young women are "idle": not in school, working, or looking for work. Approximately 50 percent of out-of-school young Americans (those age 16 to 24 years) without a high school degree are currently not employed. And more than 70 percent of young black high school dropouts are currently not employed. Many of these out-of-school youths are persistently out of work and have the potential for being permanently lost to the legitimate economy.**

- o At the same time, the proportion of young men in trouble with the law has increased dramatically. Almost 700,000 young men from 16 to 34 years of age were incarcerated in 1989. Approximately 50 percent of 18 to 34 year old, black male, high school dropouts had criminal records in the late 1980s. No other developed country faced such levels of crime among its youth.

The purpose of this initiative is to test the proposition of whether the widespread provision of employment opportunities for disadvantaged youth and young adults can reduce crime. The jobs will be extended to those who agree to "play by the rules" and will be the main feature of a comprehensive program targeted on high-crime, high-poverty neighborhoods.

The evidence suggests that such an employment-oriented approach can prove effective. Job Corps participation -- which significantly alters participants' education and employment opportunities -- has had a positive effect on earnings and has reduced serious crime. More generally, program models which closely link work and learning -- as this initiative would -- have been found to increase the incomes of disadvantaged youth and young adults; San Jose's Center for Employment and Training uses such a model, and a recent study found that young high school dropouts participating in the program sustained annual earnings gains of over \$3,000. A recent comparison of crime trends across cities shows that those with tightening labor markets are more likely to show reductions in crime rates.

Finally, recent program experience underscores the eagerness of disadvantaged youth to fill employment opportunities. A study of the 1993 summer youth employment program found that in eight out of the twelve central city programs visited, the limits in available jobs slots meant the programs were able to enroll less than half of those who applied. The survey also found that the large majority of youths who did participate in the program valued the work experience. Moreover, the youth entitlement demonstrations in the late 1970s showed that it is possible to raise employment rates of disadvantaged youth by a significant amount.

The Approach

The Administration and Congress are already proceeding on a wide range of initiatives that should help address the conditions that promote crime. Besides sound macroeconomic and deficit-reduction policies that have promoted overall economic growth, Empowerment Zone legislation has been passed and the Administration has proposed an expansion in the Job Corps. Furthermore, broader policies concerning life-long learning such as the school-to-work initiative, reform of student loans, welfare reform, the Reemployment Act, and National Service will play an important role in improving labor market prospects for disadvantaged individuals.

Building upon these initiatives, the proposal would add a direct job-creation component, with employment opportunities for youth and young adults funded in both the private and public sectors. The key program design features would include:

- (1) Careful targeting to disadvantaged youth and young adults living in high-crime, high-poverty neighborhoods.
- (2) Tying participation to good behavior.
- (3) Private sector placement would be the first priority and the ultimate goal. Approaches such as entrepreneurship would be encouraged. But because of the difficulty of developing private sector jobs for the targeted population, some public employment jobs would be created, with these jobs linked to efforts to place participants into private jobs. The emphasis will be on real work with real supervision. Efforts would be made to build the job networks that disadvantaged youth typically lack.
- (4) Leveraging of other programs and resources, and matching commitments from the community.

Finally, the proposal would use a saturation approach. It is very difficult to turn around the lives of disadvantaged youth. Neighborhood-wide interventions could affect community values and peer pressure, and thus have a much larger impact on youth than typical job training programs that attempt to affect one youth at a time. Experiences with innovative programs suggest that intensive programs with broad ranges of services are most effective for youth.

The uniqueness of this effort will be to incorporate a full-fledged employment approach into this range of services, with the goal of changing the opportunities and expectations of neighborhood youth and young adults to that of gainful employment in the private sector, thereby steering them away from crime. The proposal would raise youth employment rates in the program sites to levels of about 80 percent. Nonemployment rates would be cut about in half. At-risk youth are likely to be most affected by the program because they currently face the worst labor market conditions.

In more detail, the four components of the program would look as follows.

I. Targeting

Neighborhoods with high crime rates and poverty rates of at least 30 percent would be the focus for this demonstration.

In this neighborhoods, at-risk youth and young adults would be targeted. For

example, in an inner-city neighborhood of 25,000 people, there are nearly 3,000 individuals between the ages of 16 and 25, and it is likely that less than 50 percent of them are employed at any point in time. Depending on the availability of funds, neighborhoods could expand the target group to those between 14 to 30. The targeting approach, as well as the comprehensive developmental aspects of the program, reflect the current Youth Fair Chance program.

Target areas would include those with public and assisted housing. Such areas are frequently characterized by high crime and poverty rates.

II. Links to Personal Responsibility

The jobs provided under the program would be conditioned on youth meeting certain standards of personal behavior. Most importantly, just as under the Job Corps, youth participating in the program would be expelled if they engage in crime. For youths in high school, program participation would be contingent upon staying in school until they complete a course of study; 16 or 17 year old high school dropouts would be required to resume their education. Moreover, in cases where paternity has been established, participants would have to be making their child support payments.

On the job, program participants would be expected to meet the performance standards and behavior expected from other employees at the work site. Otherwise, they will not be allowed to continue in the program.

III. Employment Components

The large majority of the grant funds would go towards job creation. The first strategy would be to try to use on-the-job training (OJT) slots to place persons in the private sector, but experience suggests that inner-city youth (particularly males) are difficult to place in OJT positions and that a number of subsidized work experience positions in the non-profit or public sector will be necessary. The emphasis would be on "real" jobs that can contribute to the community, and not on jobs that can be viewed as make-work jobs for disadvantaged youth.

There would be a grant competition, with proposals judged on criteria including their creativity in leveraging resources as well as their ability to link the program to permanent private sector placements. To encourage creativity, the grant decisions would not require proposals to meet unalterable design criteria, but would examine the strength of employment components such as the following:

- o Private sector, apprenticeship-like models which closely link work and learning.

Accordingly, one criterion would be the development of private sector slots that include ongoing on-the-job training. Also, there would be an expectation that local businesses would commit to developing part-time jobs to support residents of the target community while they were receiving job training or attending community college. The local private sector would commit to hiring graduates of the area high school each year into career-track jobs. This would reflect the Boston Compact approach of rewarding school success with private job guarantees or scholarships.

Moreover, apprenticeship programs with unions (for example, carpenters, laborers, or painters unions) could be established, with the unions providing matching funds for the development of positions.

Proposals would also be judged according to the strength of the mentoring, entrepreneurship and microenterprise approaches that would be used. To help enterprises located in these neighborhoods, some funding of security measures might be considered.

- o Efforts to work with the area transit authority to establish mini-bus links to suburban private-sector jobs.
- o Public service positions that include youth conservation and service corps slots and YouthBuild slots. Neighborhood infrastructure projects and employment of public and assisted housing would also be encouraged. The positions in mind would typically cost around \$15,000 per slot. Some youths in these programs could graduate to career-track positions as work foremen -- thus increasing the net job creation of the programs.
- o Public work experience slots created in occupations with large projected job growth. The idea would be to provide work experience with the hope of a gradual transition to private sector employment in the occupation. Occupations with high expected job growth include construction trades, building maintenance, and landscaping and groundskeeping. These work experience slots would cost roughly \$15,000 each. The work would be conducted in special projects, so as to avoid displacement concerns of public sector unions.
- o Further, cities could commit to using some amount of JTPA funds for OJT positions for young adults over 25 years old in the target community. The city could also commit to using JTPA, private sector, and other funds to set up a summer employment program available to all youth in the target community on the condition that the youth stay in school or return to school.
- o Informal job networks are very often the way individuals find jobs, and the lack of such networks for the disadvantaged is a major barrier to their locating

employment. So proposals would be judged based on the extent of efforts to build networks to permanent private-sector employment. Accordingly, private-sector placement would ultimately be promoted for those placed in public job slots; public job slots would be limited in duration to two years and demonstration sites would be expected to develop networking capacity to help place the youths into private sector jobs.

IV. Matching Commitments

The above section outlines matching commitments expected from the private sector, other government programs, and perhaps from unions in developing job opportunities. It also underscores commitments to build up networks and links to other jobs in the community. As a condition of receiving grant funds, cities will be required to make a number of other matching commitments aimed to ensure that necessary resources are leveraged and coordinated.

- o Local governments would be required to involve the full, larger community in a public/private partnership effort to leverage federal funds. Collaboration between the local areas, the private sector, community-based organizations and nonprofits would be stressed.
- o Educational linkages would be beefed up, and would include a strong role for community colleges, as well as incorporating the successful work-based learning approach used in San Jose's Center for Employment and Training program (CET). Efforts to decrease the dropout rate and to generally increase the aspirations for educational attainment would be encouraged.
- o The program would be linked to other relevant programs that exist in the locality, including school-to-work and empowerment zones.

Funding and Evaluation

The five-year funding total for the program is \$525 million. No more than 10 grants would be awarded.

In order to assess the merits of this program model in reducing crime, evaluation and technical assistance components would be included, to be set at about 5 percent of the total funding each year.

April 1, 1993

MEMORANDUM FOR ATTORNEY GENERAL JANET RENO

**FROM: BRUCE REED, DEPUTY ASSISTANT TO THE PRESIDENT
JOSE CERDA III, SENIOR POLICY ANALYST
DOMESTIC POLICY COUNCIL**

SUBJECT: WHITE HOUSE PRIORITIES ON CRIME

This memorandum outlines for you the Domestic Policy Council's priorities on crime policy issues. These priorities are based on President Clinton's major campaign promises and are generally consistent with the provisions contained in the various Democratic crime proposals considered during the past two Congresses. They reflect the main themes at the heart of President Clinton's broad economic and domestic agenda: personal responsibility; community empowerment; prevention and early intervention; and restoring the fundamental promise of America so that people who work hard and play by the rules can get ahead.

As you know, the President is enthusiastic about the innovative ways you have promoted these themes in South Florida, and will support your efforts to advance them at the national level.

I. White House Priorities

The President has told Senator Biden, Rep. Brooks and other Members of Congress that he would like to see a crime bill as soon as they can pass one. Howard Paster has urged the Judiciary Committees to go forward, in conjunction with the White House and the Justice Department. We will work with your policy and legislative affairs departments in the coming months to present a unified front in these negotiations.

The following proposals reflect the core of President Clinton's crime agenda, and we would like them to be the centerpiece of the crime bill.

A. 100,000 New Police Officers

The President's budget includes \$2.8 billion¹ to fund comprehensive crime legislation. We support using as much of this money as possible to meet the

¹All budget numbers reflect four-year funding levels, unless otherwise noted.

100,000 new police officers pledge. OMB has already allocated \$775 million for community policing/cops on the beat grants and \$450 million for a still-to-be-determined Police Corps (with law enforcement scholarships). Preliminary estimates indicate that these two components would put approximately 35,000 new police officers on the street over four years.

We will look to other sources for more police as well: the Department of Housing and Urban Development, the Department of Education, National Service, Weed and Seed/enterprise zones, and defense conversion funds to provide outgoing military personnel with law enforcement training. These proposals are detailed at the end of this memorandum.

B. Brady Bill

We strongly support passage of the Brady Bill as part of a larger crime package. OMB has allocated a small portion of the crime bill funds to help states upgrade their criminal justice records.

C. Community Boot Camps

We are committed to expanding the availability of community "boot camps" to non-violent, first-time offenders at the state and federal level, and support the state-federal boot camps and Certainty of Punishment grants in last year's crime bill.

D. Drug Treatment on Demand

We support using a portion of the unallocated monies in the \$2.8 billion crime initiative to fund a drug treatment and testing program within the criminal justice system. This proposal has not been outlined, but we foresee it being an integral part of the President's National Drug Control Policy.

II. White House Positions on Other Major Crime Issues

A. Death Penalty

We support the enactment of a federal death penalty for crimes with a federal nexus but have not taken a position on enacting a federal death penalty for non-homicidal crimes. We would defer to Senator Biden and other Hill leaders to negotiate some form of last year's death penalty language.

B. Habeas Corpus Reform

We would defer to Senator Biden and other Hill leaders on what Habeas provisions are acceptable. If habeas reform proves too difficult, we would support appointing a blue-ribbon commission to study the matter and make recommendation. We believe the AGs and DAs would be willing to accept such a proposal.

C. Assault Weapons

We support a ban on semiautomatic assault weapons and prefer the language developed by Rep. Schumer. We also support language to limit high-capacity ammunition clips and to increase gun penalties.

D. Anti-Gang Initiative

We support an anti-gang initiative similar to one included in last year's crime bill.

E. Violence Against Women Act

We support the Violence Against Women Act, either as stand-alone legislation or as part of a larger crime bill.

F. White Collar Crime Initiative

We believe a White Collar crime initiative is an essential component of a comprehensive crime bill. We would look to the Justice Department to work with Congress in developing one.

III. Anti-Crime Efforts at Other Agencies

A. Drug Treatment on Demand

The President's budget includes \$1.5 billion for HHS to implement drug treatment and prevention initiatives. The Health Care Task Force is examining what type of drug treatment benefit should be considered as part of national health care reform legislation.

B. Safe Schools

The Department of Education is developing a \$375 million Safe Schools initiative that will help schools add metal detectors and video surveillance

equipment, hire professional security personnel, and adopt anti-violence and anti-drug curricula.

C. HUD Crime Initiative

HUD is in the process of developing a comprehensive anti-crime initiative for public housing complexes. The plan will be a "partnership" with local housing authorities that allows them to use funds to increase law enforcement or security personnel, to implement community policing, to expand community crime prevention efforts and more.

HUD will also soon announce that its \$2.5 billion in Community Development Block Grant (CDBG) stimulus funds can be used for certain anti-crime initiatives -- including hiring law enforcement or security personnel, installing security devices and relocating the residency of police officers to high-crime areas.

D. National Service "Non-Sworn" Law Enforcement Personnel

The National Service Trust Fund estimates that some 20,000 of its participants will serve in law enforcement/public safety roles. These "community service officers" could be used to assist police departments in the broad areas of community policing and crime prevention. They could take reports, staff telephone crime reporting units and administer citizen crime prevention surveys. Relieving officers from these time-consuming duties would potentially free more police officers to become cops "on the beat", and the support work will make officers more effective in their crime-fighting.

THE WHITE HOUSE

WASHINGTON

December 1, 1993

MEMORANDUM FOR CAROL RASCO

FROM: BRUCE REED
JOSE CERDA III

SUBJECT: CRIME BILL CONFERENCE

While the details of the final crime bill that passed the Senate have not yet been fully analyzed by DPC, OMB or Justice, we would like to make preliminary recommendations on how we should approach the crime bill conference and the FY 95 budget process.

1. We should push for immediate action as soon as Congress returns. Not everyone will want immediate action on the crime bill. But for our purposes, delay means that our important new crime programs will not be authorized -- and not appropriated in the FY 95 budget process. The President should make clear that he wants the bill on his desk by March 1st.

2. We should insist on the Senate's comprehensive approach to crime legislation. Some members of the House (i.e., Don Edwards, Craig Washington, John Conyers) will continue to push for the House's approach of passing a series of crime prevention grant programs. This is unacceptable from the Administration's perspective. Since the campaign, the President has supported a comprehensive and balanced crime bill. We may not support every detail in the crime bill, but it does include a mix of programs and penalties that the President has previously endorsed -- more cops, boot camps and drug courts; reasonable gun controls; and, where appropriate, increased penalties, including the death penalty. Decoupling these items sends the signal that the President is backing away from his support for a tough crime bill -- and it will give the Senate, House Republicans and moderate House Democrats ammunition to embarrass the Administration on crime.

3. We should support the creation of the Violent Crime Reduction Trust Fund. One way or another, Congress is sure to codify the President's federal employee reduction and spend the money. By supporting the fund, we can at least guarantee that this money is spent on our priority crime programs that have been otherwise underfunded.

Additionally, the authorization levels in the crime bill do not comport with the spending levels in the Violent Crime Reduction Trust Fund. That is to say, the Fund is smallest in the first year and grows to more than \$8 billion by the fifth year. On the other hand, crime bill authorizations are greatest in the first year and shrink by the fifth year.

Thus, the Fund itself actually gives the Administration some flexibility in deciding what authorizations are funded as well as when they are funded.

4. Only the President's priorities should be fully funded: more cops, more boot camps, more drug courts, Safe Schools, and some money for the Police Corps and a criminal aliens initiative. We should pursue full funding for the President's stated priorities. They are:

Community Policing: The Senate bill authorizes a total of \$8.995 billion over the next five years to hire 100,000 new police officers and expand community policing. A separate House bill authorizes the \$3.45 billion originally proposed by the Administration. The President has stated repeatedly that he wants to keep his pledge of 100,000 cops. We should insist on the Senate provision, and fully fund it.

Boot Camps: The House passed a \$200 million boot camps bill, while the Senate increased funding for boot camps to \$3 billion and allowed the money to be used for state prisons for violent offenders. We should support the Senate version of this bill, which gives us more flexibility, and expect conferees to reach agreement in the \$2-3 billion range. This is another signature Clinton idea, and one of the most popular provisions in the crime bill. Having some money to give to the states for prisons in this account will help us fend off charges in the future for not increasing federal prison construction.

Drug Courts: The Senate bill authorizes a combined total of \$1.2 billion for "Drug Court" programs consisting of three components, over which the Attorney General has coordinating authority: grants for drug testing of state prisoners (\$300 million); grants for drug treatment in state prisons (\$300 million); and grants for "Certainty of Punishment" programs -- including boot camps -- that allow us to intervene earlier with alternative forms of punishment for young offenders (ages 18-22). The House passed these provisions separately at the same funding levels. Again, we should fund these provisions to the maximum extent possible, spreading the funding out if necessary. These funds will provide important increases that support the drug strategy to be released with the budget in February.

Safe Schools: We should work to make sure that the Administration's \$300 million Safe Schools proposal is the one adopted in conference. This would allow us to keep the money at the Department of Education, which we prefer, but still spend the money out of the Fund.

Police Corps: The Senate passed the Police Corps at an authorization of \$450 million. The House did not pass it. We would support including the Police Corps and funding it with at least \$25 million a year -- the same amount incorporated in last year's budget. The President has already signed off on preserving the Police Corps, but at lower funding levels than the hundreds of millions authorized in the Senate bill.

Criminal Aliens: Language allowing the AG to spend money on criminal alien initiatives was included in the crime bill, and we should use whatever money is left for this purpose. We would defer to you and Donsia on what resources are required here.

5. We should seek to reduce or delay spending on programs that are not high Presidential priorities, but we do not think it realistic to expect the conferees to go along. Here are our recommendations on how to handle these items.

Regional Prisons -- The Senate crime bill includes \$3 billion for 10 regional prisons, a proposal that passed as part of last Congress' crime bill. We have several problems with this program. First, most states aren't likely to send their prisoners to these Federally-run facilities. To be eligible, states would have to ensure that offenders were on average serving 85% of their sentence -- but the current average for states is 37%. Second, the Justice Department would be stuck with the future operating costs for these prisons. Justice is already having a problem finding the money to staff and operate the 26 federal prisons scheduled to come on line in the next 2 years.

There is little chance of striking this provision from the bill, especially if we intend to get any Republican support. House Democrats may try, but this is the most important provision in the bill to Republicans.

In the short term, we can put off funding regional prisons by pointing to the monies we will allocate to boot camps and state prisons for violent offenders. In the federal system, we can point to the 26 prisons due to come on line. And over the long term, we may not have to build all 10 regional prisons if the states balk as expected.

Violence Against Women Act -- The Senate crime bill includes approximately \$1.8 billion in authorizations for the Violence Against Women Act, which the President supports and vowed to sign during the campaign. The House has passed this legislation as a separate bill. We suggest perhaps reducing some of the funding or putting it off until the Fund grows a year or two down the line.

Other Authorizations -- Other large spending increases that we cannot commit to, at least not in the first year, include: \$500 million for facilities to detain violent youth; \$100 million for anti-gang programs; and \$250 million for rural law enforcement efforts; and the many other smaller amounts authorized. A list of all the authorizations is attached.

6. **We should push hard to keep the assault weapons ban in the bill.** Chairman Brooks may insist on dropping the assault weapons ban to get a crime bill, but the President should continue to speak out to keep it in. Sooner or later we'll get an assault weapons ban, and in the meantime we should hold Republicans feet to the fire.

7. Aside from the death penalty, where the President is already on record, avoid making the more controversial elements of the crime bill a point of public focus. Justice, OMB and DPC need to go through the details of the crime bill and recommend positions on some of the more controversial elements of the crime bill that have gotten considerable play in the press. But we shouldn't waste any political capital or shine any public light on these provisions -- no matter what our position is.

There are several reasons for this. First and foremost, whether they are enacted or dropped, most of these provisions will have little impact. Adding or not adding 12 new minimums to the federal books is not likely to have much impact. (Especially since the AG recently changed Justice's prosecution guidelines to give its attorneys the discretion they need to avoid unnecessary mandatory sentences.) Second, the House -- and Senator Biden -- are likely to push for the most egregious provisions in the crime bill to be dropped in conference anyway (e.g., the three-time loser amendment, federalizing most gun crimes, etc.). And third, the American public is tired of seeing liberals and conservatives die on their swords for provisions that won't make their communities any safer. The President has succeed in communicating a popular anti-crime message that rejects the false choice between punishment and prevention. There is no reason for us to engage the Administration in Washington's left-right crime debate. It is a dead end.

October 27, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
JOSE CERDA III

DRAFT

SUBJECT: POSSIBLE BIDEN-DOLE DEAL ON CRIME

Biden has held extensive discussions with Dole about a possible bipartisan deal on key provisions in the crime bill. He believes he can close a deal with the Republicans if he has sufficient assurances from the White House that we will find the money for it.

We are raising this matter one more time, because we believe this is not just another accounting decision. You have a chance to seize one of the two most powerful realignment issues (along with health care) that will come your way, at a time when public concern about crime is the highest it has been since Richard Nixon stole the issue from the Democrats in 1968. In Robert Kennedy's day, crime was a linchpin that helped hold a Democratic majority together across racial and class lines.

In 1992, you were the first Democratic candidate since RFK to speak credibly about crime. As President, you have an opportunity to unite the country on an issue that has divided our party and our nation for three decades. Even more important, as you have said many times in recent months, we have an obligation to do everything we can to restore personal security for all the decent, ordinary Americans who are cowering in their homes and seeing their children get shot in the streets.

Elements of the Deal

The deal would raise the five-year cost of the Senate crime bill from \$5.9 billion to between \$9.9 and \$11.3 billion. The key elements of the deal are:

1) Increasing the policing authorization from \$3.4 billion to \$5.2 billion, which would pay for 60,000 five-year grants at a declining federal match of 75-50-40-25-10% (the current bill provides 50,000 three-year grants with a match of 75-50-25%); and

2) Raising the boot camp/prison authorization to Republican levels (\$2.5-3 billion), but maintaining our program. If the crime bill goes to the floor without a deal, the Republicans will offer amendments -- which will pass, and probably survive conference -- that will not only increase prison spending, but force us to take on an expensive new program of federally run regional prisons that Justice opposes and we cannot afford. Biden believes that if we accept something close to Republican funding levels, he can get them to accept Democratic provisions -- which would earmark at least \$1 billion for boot camps, and let states choose whether to spend the rest on boot camps or regional prisons.

OMB has \$3.5 billion in the Justice planning baseline -- enough to fund the cops title. Yesterday, you pledged to use \$5 billion in savings from procurement reform for crime if Congress will pass it, or come back with other cuts if necessary. CBO is expected to score those savings at \$3-5 billion, but we can use savings beyond what is scored, so long as the procurement reforms work.

Together, this total of \$8.5 billion over five years (\$3.5 billion in the baseline and \$5 billion in procurement savings) would come close to covering the key components of the crime bill -- cops, drug courts, and boot camps/prisons -- at the low end of the possible Biden-Dole deal. It would not cover about \$1 billion in authorizations for non-essential programs that Biden added to his bill without our support.

	<u>Current Authoriz.</u>	<u>Biden- Dole</u>	<u>Increase</u>
Cops	3.4	5.2	+1.8
Boot camps/prisons	.3	2.5-3.0	+2.2-2.8
Drug courts	1.2	1.2	no change
Essential programs	.1	.1	no change
Non-essential programs	.9	.9	no change
Total, all programs	5.9	9.9-11.3	+4.0-4.5
Total, essential programs	5.0	9.0-10.4	+4.0-4.5
Baseline plus procurement savings	8.5		

We can probably reduce the Senate authorizations somewhat in conference. Brooks plans to pass total authorizations of less than \$5 billion -- assuming he can hold the line in committee. Biden's staff believes the bill will come out of conference at around \$8 billion, which is more in our price range.

Here are the implications of pursuing a deal:

Advantages

One way or another, these authorization levels will go up, and the public will hold us to them whether we asked for them or not. Either we look for a deal that enables us to protect our programs and interests, or we cede control of the process and take our lumps.

Biden believes that if he can strike a deal with the Republicans, he will be able to avert a bidding war in the Senate. His plan would be to reach advance agreement with Dole and Hatch to support a manager's substitute that would include the crime programs at agreed-upon spending levels and with agreed-upon legislative provisions. Biden, Dole and Hatch would agree to oppose amendments to these programs from either side of the aisle.

A deal in advance -- announced with Biden, Dole, and others at the White House, with a statement that it's time to put politics behind us -- would stop Republicans from pursuing their current strategy, which will be to bloody the Administration on two fronts: first, that we don't have the money to pay for our bill; and second, that we're not willing to cut government to pay for putting criminals behind bars.

Finally, this deal would beef up boot camps and certainty of punishment for what the Attorney General calls "the mean bads," and ward off a Republican prison program that she hates but may not be able to stop.

Dole and Hatch would also be willing to agree to drop habeas for this year, but they cannot guarantee that their colleagues will give them unanimous consent to do so. More likely, the Senate would debate and pass their habeas or ours as part of the crime bill, and Biden would drop it in conference since it will not be in the House bill.

The Administration would need to demand other conditions in any deal, such as: 1) bipartisan assurances to put a crime bill on your desk by Thanksgiving, and not go home until they finish; 2) bipartisan agreement to pass your procurement reforms and other spending cuts in the October package; and 3) Republican assurances to still support the bill if it comes back from conference without habeas and possibly without death. We would also want to make clear that our commitment extends only to specific funding levels for the three programs we care most about -- cops, drug courts, and boot camps/prisons -- not every crime authorization they send our way.

To underscore your commitment to finding the money, you could earmark the procurement savings (or other cuts if procurement fails) toward an \$8-10 billion Crime Trust Fund that would pay for your anti-crime priorities. To relieve Justice's immediate funding crunch, you could pursue an FY94 supplemental next spring targeted to border control and more police, and pay for it with FY94 rescissions from the October package.

Disadvantages

Any additional commitments to anti-crime initiatives will make accounting decisions about the FY95 budget even harder -- assuming that Congress sends you Senate-size authorization levels for cops, drug courts, and prisons and does not reduce them in conference. As we discussed at the meeting in the Roosevelt Room on Monday, Justice and OMB have reservations about any new commitments. These decisions may become tougher still if Congress rejects your procurement reforms and other budget cuts -- but as you said yesterday, you have reserved the right to come back with more cuts.

There is also an inherent risk, more difficult to calculate, in entering into negotiations with the Republicans, who may walk away from the deal or find excuses to abandon it later. Finally, if the Republicans cannot control their own on death and habeas, they will continue to use it against us -- just as we'll hold their feet to the fire on guns.

THE WHITE HOUSE

WASHINGTON

October 6, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
JOSE CERDA III

SUBJECT: ADMINISTRATION STRATEGY ON CRIME AND VIOLENCE

I. ACTION-FORCING EVENT

With violence at epidemic levels across the country, the Administration needs to step up its efforts to pass the crime bill, the Brady Bill, and other gun measures. This memorandum outlines an aggressive political and communications strategy for an Administration-wide assault on crime and violence this fall.

II. PRIORITIES: MORE COPS, FEWER GUNS

The crime bill and the Brady bill are on a fast track in the House and Senate. The Senate could begin floor consideration as early as next week, but more likely the week after. The House Judiciary Committee has already begun subcommittee hearings, and is scheduled to mark up the crime package the week of October 18.

The recent crime spree is fueling Congress's desire to act on crime. But to do so, we need to do two things quickly: 1) Raise the Administration's profile on the crime issue; and 2) Speak with one voice to Congress and the public about our priorities. If we want to dodge the morass of side issues that have bogged down the crime-and-guns debate in recent years, we have to be very clear about our bottom line.

Crime and violence are complicated, provocative issues, and there will never be universal agreement within the Administration or the White House on how best to reduce them. However, we believe that the Administration, Congress, and the American people can unite behind the two most urgent elements of the anti-crime agenda you spelled out in August: more cops and fewer guns.

We can't settle for one or the other -- if we're going to make Americans feel more secure, we need both. Passing the Brady bill will be an important symbolic victory, but it will soon be eclipsed if teenagers still roam the streets with assault rifles and innocent children are still dying in the crossfire. To reduce crime and Americans' fear of crime, we

need to put more police on the beat in their neighborhoods and consider a series of gun measures beyond Brady that will give police and residents a fighting chance to take their neighborhoods back. Otherwise, crime could be an even bigger issue three years from now than it is today.

III. WHAT WE NEED TO DO

A. Speak With One Voice on Crime

With so much of the Administration's attention directed elsewhere, it is critical that our crime effort be focused and consistent. The White House and Justice Department need to work hand-in-hand to promote the Administration's agenda and seize control of the crime and violence debate. Justice officials share our concern and are eager to work together. We don't know if the White House can handle another war room, but we recommend forming a team of White House and Justice staff that will meet regularly to coordinate the Administration's efforts. This group will bring respective departments from the White House and Justice together to ensure that crime is an Administration-wide priority and that we are speaking with one voice. With your approval, Carol Rasco will send a memorandum to all interested parties to send a designee and begin work right away.

B. Raise the Administration's Profile on Crime and Violence

In the past few weeks, you and the First Lady have both signaled to the press and the public that fighting crime and violence is a top priority for the Administration. We want to make sure your schedule includes opportunities for you to keep speaking out on these issues, and where possible, to continue to underscore the link between violence and health care. Anything you and the First Lady can say to specifically mention the crime bill and the Brady bill over the next two weeks will dramatically improve the prospects of passing what we want.

It would not be difficult to fold a few crime-related events into your existing schedule, without using much of your valuable time. Here are a few suggestions:

- * Use your visit to a trauma center in New Jersey this Friday to highlight the costs of crime and health care. You can laud Florio for the strong assault weapons ban he passed and for his tough line on crime in general, and make a specific pitch for the crime bill and the Brady bill. (New Jersey was one of the first states to impose a routine waiting period and background check for handgun purchases.)

- * Radio address on crime on Saturday, October 16, just before the crime bill is scheduled to come up.

- * Use the upcoming release of the Administration's interim drug strategy to talk about drug violence and drug-related measures in the crime bill.

- * Be prepared to give the crime bill some kind of public plug when the floor debate begins.

- * Do a crime event with Mary Sue Terry in Virginia, where crime and guns are the #1 issue.

- * Invite Police Chiefs from around the country to one of your weekly CEO luncheons, and make community policing and other innovative crime measures the topic of discussion.

- * Bring mayors to the White House to announce the first communities to win community policing grants from the Justice Department under the \$150 million FY 93 Supplemental. The first round of applications ends later this month; Justice could begin selecting communities anytime after that. These won't be large grants -- \$1 to 4 million -- but they will make big news in medium-sized cities.

- * An impromptu Friday or Saturday night visit to a D.C. emergency room.

- * Attend the opening of the new D.C. drug court. You and the Attorney General have spoken about the need to use the "carrot" and "stick" of the criminal justice system to demand that drug offenders be treated and tested. The D.C. drug court, which will be opened later this month, is the first such venture funded with an HHS grant from your Administration.

- * Give a major crime speech at this year's International Association of Chiefs of Police Convention. The Convention is scheduled for the same week that the crime debate is likely to begin in the House and Senate. Lee Brown and the Attorney General are already planning to speak.

- * A phone call to Governor William Weld to ask his help in winning bipartisan support in Washington for the measures he proposed last week in Massachusetts: a waiting period, an assault ban, and a ban on handgun ownership by anyone under 21.

- * An Oval Office meeting with Sarah and Jim Brady.

In addition to all that you and the First Lady do to promote these issues, we will put together a coordinated effort by the Cabinet --- not only Attorney General Reno and Drug Director Brown, but also Secretary Cisneros and Secretary Riley.

C. Build Support Among Key Constituencies

We are already working with Public Liaison, Intergovernmental, Political, and their counterparts at Justice to build support among key constituencies. We need to focus on the following groups:

CITIES AND MAYORS -- Cities and Mayors have much to gain from the initiatives included in the crime bill, particularly in hiring more police and reducing gun violence. Putting more police on the streets was a central issue in the Los Angeles Mayor's race, and has emerged as a key issue in Detroit, where one of the two candidates in the runoff is saying that our crime bill will mean 1,000 new cops for Detroit, and promising to deploy another 1,000 on top of that. This constituency also represents one of our best opportunities to garner Republican support for the crime bill, from Riordan in L.A. to Althaus in York, PA.

STATES AND GOVERNORS -- Although States and Governors do not stand to gain as much as Cities and Mayors, they are still an important source of support. Moreover, the issues of crime, violence and gun control are being highlighted in several gubernatorial races (NJ, VA) and have dominated the news in others (CO, FL, MA).

STATE ATTORNEYS GENERAL -- While the State AGs were the original driving force behind the Biden-Reno habeas corpus compromise, they have elected not to endorse Biden's crime bill. Also, Senate staff indicate that we may have only around 20 of the 31 Democratic AGs in support of the crime bill, with key Democratic AGs in key States wavering (Butterworth of FL, Morales of TX, and Bower of GA). High-level White House calls need to be made to these individuals as soon as possible. Biden's staff will send us a list of pivotal AGs and DAs.

Republican AGs will be difficult to sway. For years, California AG Dan Lungren has led the opposition to Democratic crime bills, with habeas being his primary focus. This year he helped block the State AGs from endorsing Biden's crime bill. Lungren -- a former Republican member of the House Judiciary Committee -- can be expected to join forces with former U.S. Attorney General Bill Barr and former Justice Department Official Paul McNulty, who have established a conservative, hard-line criminal justice think tank.

DISTRICT ATTORNEYS -- Many Members of Congress will have a hard time supporting the crime bill if the local DA comes out vocally against it. Last year, the DAs worked with the State AGs to defeat the crime bill. In fact, the DAs' former national President, conservative Democrat Bob Macy, stood alongside Republicans to criticize the crime bill during last year's election. This year, Macy and others endorsed the Biden-Reno compromise and attended the Rose Garden crime event.

We need to fight to keep the DAs on board, especially if the House tries to weaken habeas. The Attorney General's outreach and assurances to DAs have been helpful and must continue. We must solicit the help of friendly DAs such as Mark Stodola in Little Rock and Norm Early in Denver. Not only is Early a Clinton supporter (he spoke at the

prosecutors/Sarah Brady endorsement event last October), but he is currently President of the Black Prosecutors Association.

POLICE GROUPS -- We need to make good use of major police organizations, which support the crime bill and measures to curb gun violence. At the same time, we have to neutralize a potential landmine, the Police Officers Bill of Rights, which would grant certain labor protections to rank-and-file cops. This issue, which is not included in the crime bill as introduced, would split the law enforcement community into labor and management, with police unions on one side and police chiefs (as well as Mayors) on the other. Senator Biden has made a personal commitment to the National Association of Police Organizations (NAPO) and the International Brotherhood of Police (IBPO) -- both Clinton endorsers -- to include the Police Officers Bill of Rights in the crime bill.

There is no easy answer here, but some type of commitment -- or separate effort -- needs to be made to get our police supporters not to insist on the Police Officers Bill of Rights. We have worked during the past few months to establish a direct network of supportive police chiefs around the country -- San Diego, Boston, New York, Tampa, St. Petersburg, Chicago, St. Louis and many more cities -- and we run the risk of losing this support if the Police Officers Bill of Rights becomes an issue.

COMMUNITY-BASED GROUPS -- The crime bill and Brady should appeal to local crime prevention groups and other neighborhood coalitions. We are reaching out to them to help build support for the crime bill at the local level and across the political spectrum.

D. Maintain Legislative Balance

BRADY -- The Brady bill will almost certainly pass the House this fall, either as part of the crime bill or on its own if the crime bill gets bogged down. The real battle will come in the Senate, where Biden is still a few votes short of cloture. His office is sending us a list of swing votes and their concerns. You and the Vice President, who helped Brady pass the Senate once before, will need to work the phones and the bully pulpit.

ASSAULT WEAPONS -- This will be a real struggle in both houses, but it's a fight well worth having. The House rejected a ban by 70 votes in 1991, the day after the Luby's massacre in Killeen, Texas. But the politics of the issue have changed since then, and although the NRA says otherwise, the freshmen may be more sympathetic. Cloture will again be difficult in the Senate, which passed a relatively weak ban by one vote last time.

We should ask for a stand-alone vote on assault weapons, that keeps it separate from either the crime bill or the Brady bill. Sarah Brady has asked us not to lump the Brady bill and an assault ban together, because she feels it could doom Brady. We also need to urge Senators Metzenbaum and DeConcini, who introduced different versions of a ban, to develop a consensus proposal.

CRIME BILL — Last year's crime bill conference report passed the House by just two votes (208–206, with one Republican vote) and failed in the Senate under a filibuster threat. This year, we have gone to extremes to improve last year's bill and, hopefully, strike an appropriate liberal–conservative balance. Still, if the wrong amendment passes, there is a distinct chance that we could lose liberal or conservative votes at any point along the way. We need a careful strategy to keep the balance in both houses and in conference.

In the House, we believe the key targets are moderates (including some Republicans) and new Members. We also need to reach out to the Black Caucus, which will oppose death penalty provisions but may support our focus on more cops and fewer guns. If we do not reach out to the Caucus, we risk their vocal opposition.

In the Senate, separating Brady will make passage of the crime bill easier. The Republicans will press for more prisons, tougher sentencing, and more conservative habeas. The recent crime spree has improved the overall prospects of broad support, but may also increase pressure to pass even more conservative habeas procedures.

IV. OTHER CRIME POLICY OPTIONS

The crime bill includes many innovative approaches that don't get as much attention: boot camps, drug courts, certainty of punishment for young offenders, and so on. But to underscore the seriousness of the Administration's commitment to reduce crime and violence, we may want to consider other initiatives in the short and long term.

A. Gun Options

We can try to pass a few other gun violence measures that have broad support, either as amendments to the crime bill or as part of a separate guns package. We will ask Justice and Treasury to prepare a comprehensive list of possible measures, ranging from executive action to legislation. Some of these might pass with relatively little controversy; others would be too much for the crime bill to carry.

Here is a sampling of other gun legislation that could be incorporated into a separate gun violence package: banning assault weapons; reforming the Federal firearms licensing system by increasing the basic fee and not allowing dealers to circumvent state and local gun controls (this is what Mayor Dinkins talked to you about; it requires legislation which we can support); closing the loophole that allows convicted felons to regain their right to buy firearms; prohibiting the transfer of firearms to minors; expanding the category of persons prohibited from purchasing guns (i.e., individuals under a restraining order); limiting the multiple purchase of guns; and banning all forms of "armor-piercing" bullets. Other, more controversial measures include Senator Moynihan's bullet tax and Senator Bradley's gun tax.

B. Other Crime Options

There are several other options we can pursue immediately. They include:

COMMISSION ON CRIME AND VIOLENCE -- The Federal Government has not sponsored a commission to look at the issue of crime and violence since the Kerner Commission more than 25 years ago, and various police chiefs, including Lee Brown, and other criminal justice types have called for one. Although we would not generally recommend government by commission, there is a compelling case for a crime and violence commission to help lay the groundwork for bold new initiatives down the road. Moreover, on many basic questions we simply don't know the right answers. A new commission -- made up of those at the front lines as well as academics -- would elevate the issue and help show the public that we want to do more than simply talk tough on crime. The Biden-Brooks crime bills include a commission on crime and violence. Peter Edelman, Phil Heymann, and Lee Brown are heading up an internal Administration working group that will be holding hearings on youth violence.

WHITE HOUSE CONFERENCE ON YOUTH CRIME -- Youth crime -- particularly violent and gun-related youth crime -- has increased dramatically over the past 25 years and must be addressed. The Attorney General and Lee Brown have a tremendous interest in this issue, and would both like to develop strategies. The Attorney General has scheduled field hearings to look into the problem, and Lee Brown has expressed an interest in focusing on the impact of crime and violence on African American males.

Last year's reauthorization of the Juvenile Justice Program authorized a White House Conference on Youth Crime. You could focus on this issue and establish such a conference.

FY 95 BUDGET/DRUG STRATEGY -- The FY 95 Budget will include a cross-cut analysis entitled "Safe and Drug-Free Communities." We need to utilize this section of the budget -- along with the upcoming Drug Strategy to be released -- to outline a comprehensive, credible crime and drug strategy.

THE WHITE HOUSE

WASHINGTON

January 19, 1993

5/19/93
J. Edgar Hoover
1-2-93
J. Edgar Hoover
J. Edgar Hoover

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
JOSE CERDA

SUBJECT: CRIME BILL CONFERENCE:
OUTSTANDING ISSUES AND RECOMMENDATIONS

I. BACKGROUND

The White House and the Justice Department have reached substantial agreement at the staff level on a series of recommended positions for the Administration to take going into conference on the crime bill. Webb Hubbell provided the attached summary from the Justice Department, and the key issues are summarized below. We are also working with the Department of Labor and the National Economic Council on the question of job creation and training as it relates to the crime bill. Secretary Reich will send you options within the next few days on behalf of Labor, HUD and Justice.

The Senate is eager for a quick conference on the crime bill. Chairman Brooks says he wants direction from the Administration, but needs to accommodate the demands of his committee members for additional votes on habeas reform, the death penalty, and other issues before going to conference. The House leadership wants Brooks to move quickly, and we should reinforce that message. The longer it takes to conference, the harder it will be to maintain bipartisan support and avoid the return of gridlock.

* (The State of the Union address is an opportunity to urge quick passage of a crime bill, and define the upcoming crime debate. We hope that you will use it to stress the crime-fighting programs you favor (more cops, boot camps, and drug courts; an assault weapons ban; safe schools; etc.); challenge all Americans to set an example for their children by staying off drugs, work as partners with the police, and take personal responsibility for making their neighborhoods safe; and finally, promise Americans a criminal justice system that sends violent criminals to jail and keeps them there.

II. MAJOR ISSUES

A. "Three Strikes and You're Out" for Violent Offenders

White House and Justice recommend that you support some version of the "three-strikes-and-out" provision in the Senate crime bill, targeted to violent repeat offenders. The Senate provision would apply to individuals with three federal and/or state drug or violent crime felony convictions, which are punishable by a maximum prison term of 10 years or more, so long as the third conviction is in federal court. Justice believes this is a sound approach, and will work with conferees to ensure that the final version is well-targeted.

Governors across the spectrum from Mario Cuomo to George Allen have made three-strikes-and-out the central crime plank of their State of the State addresses. Voters in Washington approved it overwhelmingly in November, and legislatures in California, Virginia, New York, and elsewhere are expected to enact versions of it this spring. The idea is sweeping the country because Americans believe that keeping violent criminals behind bars is the single most effective step we can take to reduce violent crime -- and they're right: 6% of violent offenders commit 70% of all violent crimes.

We recommend that you support a version of three-strikes-and-out in the crime bill, and call for it in the State of the Union. It will send a clear signal that you want action on all fronts, from tough punishment as well as crime prevention.

B. Regional Prisons/Truth-In-Sentencing

The Senate crime bill authorizes \$3 billion for grants to states for boot camps and state prisons, and another \$3 billion for 10 federally-run regional prisons (2,500 inmates each) for violent state offenders and criminal aliens. The regional prison slots come with a catch: to qualify, states would have to certify that violent felons (those punishable by a maximum prison term of 5 or more years) are serving at least 85% of their sentences, and that state sentences for violent crimes are at least as rigorous as their federal counterparts.

It will be difficult to keep regional prisons out of the bill. They are a "must have" provision for Republicans, and attract enough support from Representative Schumer and other Democrats to have been included in the final 1992 crime bill conference report.

White House and Justice believe that the best way to preempt the current regional prisons proposal -- and help states deal with the legitimate problem of violent, repeat offenders -- is to add a truth-in-sentencing condition to the original Democratic proposal on grants to states for boot camps and state prisons. As with the "three-strikes-and-out" provision, Justice believes that they can craft legislative language that is sufficiently narrow to focus on only the most serious violent offenders. The broad Republican version of truth-in-sentencing is a massive unfunded mandate on the states; we can design a carefully targeted

alternative that will give the states a better deal, though they will still consider it an underfunded mandate.

C. Federalizing Gun and Other Crimes

The Senate crime bill creates a number of new federal crimes, most of which are primarily symbolic. Justice would like to oppose one in particular: a D'Amato amendment that federalizes most gun crimes by making a federal crime of all murders committed with a firearm, and of the use, possession, or carrying of a firearm during the commission of a state violent crime or drug offense. These provisions are excessively broad, and we recommend that you oppose their inclusion in the crime.

The Senate bill also creates new federal crimes in the area of criminal street gangs, parental accountability for juvenile crimes, and domestic violence. Justice does not recommend that you oppose these new federal crimes, but would like to modify the language to ensure that federal law enforcement efforts supplement -- not supplant -- local law enforcement efforts.

as should

D. Mandatory Minimums

The Justice Department worked closely with Senator Biden's staff and others to try to keep new mandatory minimum sentences out of the crime bill replacing specific sentencing floors with language directing the Sentencing Commission to provide for an "appropriate enhancement" for a particular crime. They had little success.

But the Senate crime bill does include a "safety valve" that will allow non-violent, first-time offenders, who are being sentenced under three of the most popular federal drug-related mandatories, to be sentenced under the sentencing guidelines rather than receiving mandatory minimum sentences. This narrow provision represents a bipartisan compromise between Senators Simon, Kennedy, Hatch and Thurmond, as well as the Attorney General and the Sentencing Commission. Along with the Attorney General's recent loosening of the Justice Department's prosecutorial guidelines, this provision will give her more than enough flexibility in dealing with mandatory minimums. White House and Justice recommend that you support the safety valve provision.

Justice would like you to go further by categorically opposing new mandatory minimums, and directing the Sentencing Commission to enhance sentences instead. We disagree. We do not believe that mandatory minimums are as serious a problem at the federal level as they are at the state level. In July, 1993, GAO issued a report (based on a review of 900 cases in 8 judicial districts) showing that in 70 percent of drug cases carrying mandatory minimums, defendants were sentenced to stiffer sentences pursuant to the sentencing guidelines than they would have been under the mandatory minimum. The GAO's

review also revealed that in only about 5 percent of federal drug cases was a mandatory minimum sentence imposed that was longer than the punishment proscribed by the sentencing guidelines.

Moreover, the strategy Justice recommends will only draw attention to the Administration's forthcoming nominations to the Sentencing Commission, who are bound to be highly controversial in any case. Most of the prospective nominees interviewed by the Justice Department are outspoken critics of the sentencing guidelines. The combined effect of these steps -- prosecutorial guidelines from the Attorney General advising U.S. Attorneys not to seek tough sentences for certain crimes, Sentencing Commission nominees who want to give judges broad discretion, and an effort to take tough sentences out of the crime bill and leave them up to those same nominees instead -- will be to make this Administration look like it's easing up on crime at the very time it ought to be cracking down.

We recommend that rather than setting out to weaken tough sentences in the crime bill, the Justice Department focus its efforts on not federalizing crimes that don't belong in federal court. The most far reaching new mandatory minimums in the crime bill is part of the D'Amato amendment, which would set mandatory sentences for virtually all gun crimes. We believe the Administration should leave the other minimums to the conferees to decide. We can't take a principled stand against new minimums if we're going to support "three strikes and out."

E. Assault Weapons and Other Gun Issues

The Senate crime bill includes a tough assault weapons ban, a ban on the possession of handguns by minors, and several critical changes to strengthen the federal firearms licensing system, including requiring gun dealers to comply with all state and local laws and to report lost or stolen inventory to ATF.

White House and Justice recommend that you strongly support all of these provisions and insist on their inclusion. Dole said on Meet the Press this month that the Republicans would accept an assault weapons ban if we would accept their tough prison and sentencing provisions. Biden and Schumer have supported the same deal. We believe that is a good deal for us, especially if we can work something out with the Republicans on truth-in-sentencing and prisons.

An assault weapons ban will still be an uphill struggle in the House, but it's a fight well worth having. The crime bill conference debate shouldn't be about whether we're for prevention vs. punishment, or whether or not we support tough measures for repeat offenders. It should be about whether or not the Republicans will accept common-sense gun measures that are long overdue and have broad public support, and whether or not Republicans will block a \$22 billion crime bill to placate the NRA.

II. OTHER ISSUES

A. 100,000 Cops Title

The Senate crime bill authorizes a total of \$8.995 billion over the next five years to hire 100,000 new police officers and expand community policing. Eighty-five percent of these funds would be used to hire new police officers for deployment in community policing, and fifteen percent would be used for programs to help department re-orient their emphasis to more pro-active community policing (i.e., specialized training, new technologies that help keep cops on the beat, and community crime prevention programs).

14 White House and Justice recommend endorsing the Senate version and insisting on 100,000 cops. We will need to make a few minor changes, based on what we learned in developing and administering the \$150 million Police Hiring Supplement. After the phenomenal response to the \$150 million program (more than 4,000 applications), Justice wants to amend the policing title to turn grants for smaller jurisdictions (under 100,000) over to the states. We would like to try to reserve at least 60% of the program's resources for larger jurisdictions. (The House would set aside 60% of the program's funds for cities under 100,000; the Senate splits the police monies evenly between cities with populations over 150,000 and those under 150,000.) We also recommend giving the Attorney General increased flexibility in awarding the 15 percent of the funds that do not go toward the actual hiring of personnel.

14 Finally, we will seek some miscellaneous changes, such as: making sure we have the ability to give Empowerment Zones priority designation; allowing overtime costs during the first year of a grant, when new police personnel are in training; and allowing priority designations for projects that involve the recruiting of departing military personnel as police officers. We will also follow up on Rev. Jesse Jackson's suggestion that encouraging police (and other potential role models) to move into marginal neighborhoods can have the same kind of impact as putting more police on the street. We will seek to include a provision that allows us to give priority to cities that make a concerted effort to lure people back into the neighborhoods they serve.

Much like the gun provisions in the crime bill, the full burden of passing an effective policing title that put 100,000 more police on the street is on the Administration. It is quite likely that members will try to reduce the size of the police program in conference -- as Congress did with the supplemental appropriations bill. We recommend that you strongly support and insist on your version of the policing program.

B. Violent Crime Reduction Trust Fund

As you know, Senators Byrd, Mitchell, Sasser, Biden, Hatch, Dole, Gramm and others reached agreement on an amendment to codify your 252,000 federal workforce reduction,

White House and Justice recommend supporting the VCRTF in conference. We will need to make one change in conference, to adjust authorization levels so that expenditures in the early years correspond with the savings coming into the VCRTF.

Pursuant to your conversation with Secretaries Reich and Cisneros and the Attorney General, Domestic Policy and the NEC have met with appropriate agency staff to discuss what job-related provisions could be included within the context of the crime bill. The Secretaries intend to submit a joint memorandum to you soon. Here are the options they are currently considering.

We have some concerns about this proposal. First, although we like the concept, OMB has already oversubscribed the Violent Crime Reduction Trust Fund for FY 95, and it will be difficult to make the case in conference that we are negotiating in good faith if everyone knows that we've already spent the money. Second, for this new program to be an eligible expense through the VCRTF, we would need to enact separate authorizing legislation that would have to go through the House Education and Labor Committee. This not only would delay crime bill action, it would prompt a root cause vs. punishment debate that Republicans would welcome in an election year.

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We especially like this option, which bolsters both your anti-crime and job creation efforts. For example, while boot camps -- like the one you pioneered in Arkansas -- have been successful, they have not met the ambitious expectations put forth by their original proponents. One of the ways to improve boot camps is to build on the positive impact they have on participants by continued "after shock" and increased job opportunities. Continued supervision in the form of electronic monitoring combined with Job Corps programs is an excellent example of such an effort. Currently Justice and Labor are examining other crime bill and jobs programs to see what else can be done in this area. We should be able to make these changes in conference without generating intense GOP opposition.

Separate Jobs Bill: Another option would be to push for a targeted FY 94 supplemental appropriations bill -- offset by recisions -- after the crime bill is signed. The bill could include immediate funding for your priority crime programs -- cops, drug courts, boot camps -- as well as a jobs initiative such as the Youth Fair Chance Initiative and Maxine Waters' proposed 17-30 Black male initiative. Having already made our way through the crime bill debate, we would be in the position of putting a crime spin on a jobs bill, instead of putting a jobs spin on a crime bill.

D. Other Agencies

Agencies such as Treasury, HHS and Education have various technical concerns that we are trying to address, such as duplication of already existing programs and assuring proper coordination between agency efforts. We are committed to working with the agencies to remedy as many of these technicalities as possible at the staff level.

5/21/94

April 20, 1994

MEMORANDUM FOR MACK McLARTY

FROM: RAHM EMANUEL
BRUCE REED
RON KLAIN
JONATHAN PRINCE

SUBJECT: Assault Weapons Ban

As we discussed in yesterday's meeting, the President wants to fight hard for the ban on assault weapons. This memo outlines a comprehensive strategy for the campaign to pass the ban.

The bill will be marked up in subcommittee and full committee next week, and is likely to go to the floor early the following week (of May 2). Therefore, we have organized a 10 day sprint.

I. OBJECTIVES

- **Fighting on principle.** The President has consistently said that banning assault weapons is one of his primary anti-crime principles. Going to the wall for passage of the ban gives the President an opportunity to stand up and fight for this principle. Even if the legislation doesn't pass, the fact that the President fought for a key goal will be important for the Administration.
- **Shoring up liberal base.** Fighting for the ban will reassure liberals on the Hill that we have not abandoned "liberal" principles and perspective in the fight against crime and violence.
- **NRA vs. cops.** The ban on assault weapons has a better chance of passing because it is legislatively isolated. While law enforcement groups like some components of the Crime Bill more than others, the entire law enforcement community is united in the call for a ban on assault weapons. And the NRA is the principal representative of those that are opposed to the ban.

This sets up a fight between the cops and the NRA -- with the President squarely on the side of the cops. As we push for the ban, we should continue to surround him with uniformed police officers -- which will reinforce the 100,000 cops component of the Crime Bill.

II. COMMUNICATIONS

As in the fight to pass the Brady Bill, our essential goal is to create a groundswell of public and elite support that makes a vote against the assault weapons ban politically untenable. We must make a vote in favor the only reasonable choice. And the specific protection of 670 recreational guns, coupled with the deadly appearance and history of the 19 specific weapons, allows us to position Feinstein-DeConcini as particularly moderate -- and reasonable.

Every component of our communications plan must emphasize three things:

Exceptionally deadly weapons. The proposal bans 19 specific, deadly weapons that are used in a disproportionate number of gang and drug-related violent crimes.

Protects hunters' rights. It safeguards the rights of hunters and sportsmen by explicitly protecting 670 hunting and recreational rifles.

Police and public vs. special interests. Every major law enforcement organization supports the ban. People who support the ban are on the side of police officers and the public; people who are against it are on the side of the special interests.

Presidential Events

In addition to the constant emphasis on the themes above, the President's involvement must clearly communicate that this issue has his full attention and he is bringing the full weight of his office to bear on it.

Lay a marker. Early next week, the President must declare this to be a priority. He must acknowledge that it will be a tough fight, and indicate that he is ready and willing to see it through. The President should make this announcement in the Rose Garden, flanked by the Attorney General and Secretary Bentsen. The 19 guns should be displayed and available for inspection. This event should also be used to deputize the Attorney General and Secretary Bentsen to lead this fight.

Victims. Later in the week, the President should visit a trauma center or rehabilitation facility where he can highlight the pain and suffering caused by these weapons.

Hunters and sportsmen. We must find a forum for the President to specifically articulate his commitment to protect the 670 guns protected in the legislation. The President could do this in the radio address at the end of next week or, perhaps, he could visit a target range or actually go hunting.

Presidential time and energy. As the process unfolds, we should capitalize on opportunities to demonstrate that the President is actively engaged -- like releasing a White House photo or allowing a pool spray when the President is working the phones to persuade undecided Members.

Vice President and Cabinet Participation

Cabinet activity will revolve around the Attorney General and Secretary Bentsen, but we should not neglect the utility of other Cabinet Members in specific areas; they should all be encouraged by Mack and Christine to use appropriate forums to push the bill.

Statistics. ATF, in cooperation with BJS, should release a report that demonstrates the disproportionate number of violent crimes that are committed with these specific guns. The report could be leaked the day before it is announced and Secretary Bentsen could do the morning shows that morning.

Travel. The Attorney General and Secretary Bentsen should do at least three visits each to districts of targeted members where they stand with local police officers and display the weapons in question. The Vice President should also do as much travel during the 10 day period as his schedule permits.

Editorial boards, roundtables, and regional media. Attorney General Reno and Secretary Bentsen should arrange a series of editorial board conference calls and roundtables for columnists from newspapers that serve targeted areas. Additionally, along with the Vice President, they should be made available to regional media in targeted districts.

Other Cabinet Members. Secretary Cisneros can talk about guns in public housing. As Secretary Riley continues his emphasis on youth violence, he should discuss the dangerous role these weapons play in gangs. Secretary Shalala can do an event that emphasizes the human cost caused by these weapons -- and the financial cost to most Americans created by treating uninsured victims.

Printed Material

Gun bios. ATF should create a one page "biography" of each weapon designated in the ban. This should include a picture of the weapon, historical information, and noteworthy incidences involving the weapon, as well as technical information. The Street Sweeper, for example, was originally developed in South Africa for crowd control; a Street Sweeper was found in the arsenal of the Brooklyn Bridge shooter. Under a cover letter from the President, these bios should be mailed to editorial boards in targeted districts together with the complete list of 670 protected rifles in order to dramatize the exceptional

deadliness of the designated weapons.

Open letter to sportsmen. The President should write an open letter to sportsmen appealing to them, as a fellow sportsman, to join him in the campaign to ban these 19 assault weapons that have no legitimate recreational purpose.

Outreach

Police organizations and elected officials should be enlisted in this fight. We should make a special effort to reach out to Attorneys General and to Mayors and police chiefs in cities that have received community policing grants. [Mayor to Congress: "Why can't something be done about the deadly weapons that threaten the lives of the cops you helped to put on the street?"] They should be asked to organize events in their communities that highlight the need for a ban.

Additionally, we should make an aggressive effort to reach out to the broader community and recruit them to join this campaign. Everyone from religious leaders to PTAs should be encourage to join the effort to pass the only gun control measure with public support similar to the Brady Bill.

III. LEGISLATIVE ACTIVITY

President. The President will need to meet with at least 3 or 4 targeted groups of undecided Members of Congress. He will also need to make an as yet undetermined number of telephone calls.

Cabinet. Cabinet Members will be asked to call specific undecided Members of Congress to lay out the case for the ban.

IV. OTHER ISSUES

We need to make a decision as to whether the ban on importation of guns helps or hurts our efforts to ban assault weapons.

THE WHITE HOUSE
WASHINGTON

October 6, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
JOSE CERDA III

SUBJECT: ADMINISTRATION STRATEGY ON CRIME AND VIOLENCE

I. ACTION-FORCING EVENT

With violence at epidemic levels across the country, the Administration needs to step up its efforts to pass the crime bill, the Brady Bill, and other gun measures. This memorandum outlines an aggressive political and communications strategy for an Administration-wide assault on crime and violence this fall.

II. PRIORITIES: MORE COPS, FEWER GUNS

The crime bill and the Brady bill are on a fast track in the House and Senate. The Senate could begin floor consideration as early as next week, but more likely the week after. The House Judiciary Committee has already begun subcommittee hearings, and is scheduled to mark up the crime package the week of October 18.

The recent crime spree is fueling Congress's desire to act on crime. But to do so, we need to do two things quickly: 1) Raise the Administration's profile on the crime issue; and 2) Speak with one voice to Congress and the public about our priorities. If we want to dodge the morass of side issues that have bogged down the crime-and-guns debate in recent years, we have to be very clear about our bottom line.

Crime and violence are complicated, provocative issues, and there will never be universal agreement within the Administration or the White House on how best to reduce them. However, we believe that the Administration, Congress, and the American people can unite behind the two most urgent elements of the anti-crime agenda you spelled out in August: more cops and fewer guns.

We can't settle for one or the other -- if we're going to make Americans feel more secure, we need both. Passing the Brady bill will be an important symbolic victory, but it will soon be eclipsed if teenagers still roam the streets with assault rifles and innocent children are still dying in the crossfire. To reduce crime and Americans' fear of crime, we

need to put more police on the beat in their neighborhoods and consider a series of gun measures beyond Brady that will give police and residents a fighting chance to take their neighborhoods back. Otherwise, crime could be an even bigger issue three years from now than it is today.

III. WHAT WE NEED TO DO

A. Speak With One Voice on Crime

With so much of the Administration's attention directed elsewhere, it is critical that our crime effort be focused and consistent. The White House and Justice Department need to work hand-in-hand to promote the Administration's agenda and seize control of the crime and violence debate. Justice officials share our concern and are eager to work together. We don't know if the White House can handle another war room, but we recommend forming a team of White House and Justice staff that will meet regularly to coordinate the Administration's efforts. This group will bring respective departments from the White House and Justice together to ensure that crime is an Administration-wide priority and that we are speaking with one voice. With your approval, Carol Rasco will send a memorandum to all interested parties to send a designee and begin work right away.

B. Raise the Administration's Profile on Crime and Violence

In the past few weeks, you and the First Lady have both signaled to the press and the public that fighting crime and violence is a top priority for the Administration. We want to make sure your schedule includes opportunities for you to keep speaking out on these issues, and where possible, to continue to underscore the link between violence and health care. Anything you and the First Lady can say to specifically mention the crime bill and the Brady bill over the next two weeks will dramatically improve the prospects of passing what we want.

It would not be difficult to fold a few crime-related events into your existing schedule, without using much of your valuable time. Here are a few suggestions:

- * Use your visit to a trauma center in New Jersey this Friday to highlight the costs of crime and health care. You can laud Florio for the strong assault weapons ban he passed and for his tough line on crime in general, and make a specific pitch for the crime bill and the Brady bill. (New Jersey was one of the first states to impose a routine waiting period and background check for handgun purchases.)

- * Radio address on crime on Saturday, October 16, just before the crime bill is scheduled to come up.

- * Use the upcoming release of the Administration's interim drug strategy to talk about drug violence and drug-related measures in the crime bill.

- * Be prepared to give the crime bill some kind of public plug when the floor debate begins.

- * Do a crime event with Mary Sue Terry in Virginia, where crime and guns are the #1 issue.

- * Invite Police Chiefs from around the country to one of your weekly CEO luncheons, and make community policing and other innovative crime measures the topic of discussion.

- * Bring mayors to the White House to announce the first communities to win community policing grants from the Justice Department under the \$150 million FY 93 Supplemental. The first round of applications ends later this month; Justice could begin selecting communities anytime after that. These won't be large grants -- \$1 to 4 million -- but they will make big news in medium-sized cities.

- * An impromptu Friday or Saturday night visit to a D.C. emergency room.

- * Attend the opening of the new D.C. drug court. You and the Attorney General have spoken about the need to use the "carrot" and "stick" of the criminal justice system to demand that drug offenders be treated and tested. The D.C. drug court, which will be opened later this month, is the first such venture funded with an HHS grant from your Administration.

- * Give a major crime speech at this year's International Association of Chiefs of Police Convention. The Convention is scheduled for the same week that the crime debate is likely to begin in the House and Senate. Lee Brown and the Attorney General are already planning to speak.

- * A phone call to Governor William Weld to ask his help in winning bipartisan support in Washington for the measures he proposed last week in Massachusetts: a waiting period, an assault ban, and a ban on handgun ownership by anyone under 21.

- * An Oval Office meeting with Sarah and Jim Brady.

In addition to all that you and the First Lady do to promote these issues, we will put together a coordinated effort by the Cabinet -- not only Attorney General Reno and Drug Director Brown, but also Secretary Cisneros and Secretary Riley.

C. Build Support Among Key Constituencies

We are already working with Public Liaison, Intergovernmental, Political, and their counterparts at Justice to build support among key constituencies. We need to focus on the following groups:

CITIES AND MAYORS -- Cities and Mayors have much to gain from the initiatives included in the crime bill, particularly in hiring more police and reducing gun violence. Putting more police on the streets was a central issue in the Los Angeles Mayor's race, and has emerged as a key issue in Detroit, where one of the two candidates in the runoff is saying that our crime bill will mean 1,000 new cops for Detroit, and promising to deploy another 1,000 on top of that. This constituency also represents one of our best opportunities to garner Republican support for the crime bill, from Riordan in L.A. to Althaus in York, PA.

STATES AND GOVERNORS -- Although States and Governors do not stand to gain as much as Cities and Mayors, they are still an important source of support. Moreover, the issues of crime, violence and gun control are being highlighted in several gubernatorial races (NJ, VA) and have dominated the news in others (CO, FL, MA).

STATE ATTORNEYS GENERAL -- While the State AGs were the original driving force behind the Biden-Reno habeas corpus compromise, they have elected not to endorse Biden's crime bill. Also, Senate staff indicate that we may have only around 20 of the 31 Democratic AGs in support of the crime bill, with key Democratic AGs in key States wavering (Butterworth of FL, Morales of TX, and Bower of GA). High-level White House calls need to be made to these individuals as soon as possible. Biden's staff will send us a list of pivotal AGs and DAs.

Republican AGs will be difficult to sway. For years, California AG Dan Lungren has led the opposition to Democratic crime bills, with habeas being his primary focus. This year he helped block the State AGs from endorsing Biden's crime bill. Lungren -- a former Republican member of the House Judiciary Committee -- can be expected to join forces with former U.S. Attorney General Bill Barr and former Justice Department Official Paul McNulty, who have established a conservative, hard-line criminal justice think tank.

DISTRICT ATTORNEYS -- Many Members of Congress will have a hard time supporting the crime bill if the local DA comes out vocally against it. Last year, the DAs worked with the State AGs to defeat the crime bill. In fact, the DAs' former national President, conservative Democrat Bob Macy, stood alongside Republicans to criticize the crime bill during last year's election. This year, Macy and others endorsed the Biden-Reno compromise and attended the Rose Garden crime event.

We need to fight to keep the DAs on board, especially if the House tries to weaken habeas. The Attorney General's outreach and assurances to DAs have been helpful and must continue. We must solicit the help of friendly DAs such as Mark Stodola in Little Rock and Norm Early in Denver. Not only is Early a Clinton supporter (he spoke at the

prosecutors/Sarah Brady endorsement event last October), but he is currently President of the Black Prosecutors Association.

POLICE GROUPS -- We need to make good use of major police organizations, which support the crime bill and measures to curb gun violence. At the same time, we have to neutralize a potential landmine, the Police Officers Bill of Rights, which would grant certain labor protections to rank-and-file cops. This issue, which is not included in the crime bill as introduced, would split the law enforcement community into labor and management, with police unions on one side and police chiefs (as well as Mayors) on the other. Senator Biden has made a personal commitment to the National Association of Police Organizations (NAPO) and the International Brotherhood of Police (IBPO) -- both Clinton endorsers -- to include the Police Officers Bill of Rights in the crime bill.

There is no easy answer here, but some type of commitment -- or separate effort -- needs to be made to get our police supporters not to insist on the Police Officers Bill of Rights. We have worked during the past few months to establish a direct network of supportive police chiefs around the country -- San Diego, Boston, New York, Tampa, St. Petersburg, Chicago, St. Louis and many more cities -- and we run the risk of losing this support if the Police Officers Bill of Rights becomes an issue.

COMMUNITY-BASED GROUPS -- The crime bill and Brady should appeal to local crime prevention groups and other neighborhood coalitions. We are reaching out to them to help build support for the crime bill at the local level and across the political spectrum.

D. Maintain Legislative Balance

BRADY -- The Brady bill will almost certainly pass the House this fall, either as part of the crime bill or on its own if the crime bill gets bogged down. The real battle will come in the Senate, where Biden is still a few votes short of cloture. His office is sending us a list of swing votes and their concerns. You and the Vice President, who helped Brady pass the Senate once before, will need to work the phones and the bully pulpit.

ASSAULT WEAPONS -- This will be a real struggle in both houses, but it's a fight well worth having. The House rejected a ban by 70 votes in 1991, the day after the Luby's massacre in Killeen, Texas. But the politics of the issue have changed since then, and although the NRA says otherwise, the freshmen may be more sympathetic. Cloture will again be difficult in the Senate, which passed a relatively weak ban by one vote last time.

We should ask for a stand-alone vote on assault weapons, that keeps it separate from either the crime bill or the Brady bill. Sarah Brady has asked us not to lump the Brady bill and an assault ban together, because she feels it could doom Brady. We also need to urge Senators Metzenbaum and DeConcini, who introduced different versions of a ban, to develop a consensus proposal.

CRIME BILL -- Last year's crime bill conference report passed the House by just two votes (208-206, with one Republican vote) and failed in the Senate under a filibuster threat. This year, we have gone to extremes to improve last year's bill and, hopefully, strike an appropriate liberal-conservative balance. Still, if the wrong amendment passes, there is a distinct chance that we could lose liberal or conservative votes at any point along the way. We need a careful strategy to keep the balance in both houses and in conference.

In the House, we believe the key targets are moderates (including some Republicans) and new Members. We also need to reach out to the Black Caucus, which will oppose death penalty provisions but may support our focus on more cops and fewer guns. If we do not reach out to the Caucus, we risk their vocal opposition.

In the Senate, separating Brady will make passage of the crime bill easier. The Republicans will press for more prisons, tougher sentencing, and more conservative habeas. The recent crime spree has improved the overall prospects of broad support, but may also increase pressure to pass even more conservative habeas procedures.

IV. OTHER CRIME POLICY OPTIONS

The crime bill includes many innovative approaches that don't get as much attention: boot camps, drug courts, certainty of punishment for young offenders, and so on. But to underscore the seriousness of the Administration's commitment to reduce crime and violence, we may want to consider other initiatives in the short and long term.

A. Gun Options

We can try to pass a few other gun violence measures that have broad support, either as amendments to the crime bill or as part of a separate guns package. We will ask Justice and Treasury to prepare a comprehensive list of possible measures, ranging from executive action to legislation. Some of these might pass with relatively little controversy; others would be too much for the crime bill to carry.

Here is a sampling of other gun legislation that could be incorporated into a separate gun violence package: banning assault weapons; reforming the Federal firearms licensing system by increasing the basic fee and not allowing dealers to circumvent state and local gun controls (this is what Mayor Dinkins talked to you about; it requires legislation which we can support); closing the loophole that allows convicted felons to regain their right to buy firearms; prohibiting the transfer of firearms to minors; expanding the category of persons prohibited from purchasing guns (i.e., individuals under a restraining order); limiting the multiple purchase of guns; and banning all forms of "armor-piercing" bullets. Other, more controversial measures include Senator Moynihan's bullet tax and Senator Bradley's gun tax.

B. Other Crime Options

There are several other options we can pursue immediately. They include:

COMMISSION ON CRIME AND VIOLENCE -- The Federal Government has not sponsored a commission to look at the issue of crime and violence since the Kerner Commission more than 25 years ago, and various police chiefs, including Lee Brown, and other criminal justice types have called for one. Although we would not generally recommend government by commission, there is a compelling case for a crime and violence commission to help lay the groundwork for bold new initiatives down the road. Moreover, on many basic questions we simply don't know the right answers. A new commission -- made up of those at the front lines as well as academics -- would elevate the issue and help show the public that we want to do more than simply talk tough on crime. The Biden-Brooks crime bills include a commission on crime and violence. Peter Edelman, Phil Heymann, and Lee Brown are heading up an internal Administration working group that will be holding hearings on youth violence.

WHITE HOUSE CONFERENCE ON YOUTH CRIME -- Youth crime -- particularly violent and gun-related youth crime -- has increased dramatically over the past 25 years and must be addressed. The Attorney General and Lee Brown have a tremendous interest in this issue, and would both like to develop strategies. The Attorney General has scheduled field hearings to look into the problem, and Lee Brown has expressed an interest in focusing on the impact of crime and violence on African American males.

Last year's reauthorization of the Juvenile Justice Program authorized a White House Conference on Youth Crime. You could focus on this issue and establish such a conference.

FY 95 BUDGET/DRUG STRATEGY -- The FY 95 Budget will include a cross-cut analysis entitled "Safe and Drug-Free Communities." We need to utilize this section of the budget -- along with the upcoming Drug Strategy to be released -- to outline a comprehensive, credible crime and drug strategy.

THE WHITE HOUSE

WASHINGTON

November 10, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
JOSE CERDA III

SUBJECT: OPTIONS TO ADDRESS GUN VIOLENCE

In the wake of recent congressional progress on the Brady Bill and assault weapons, we have prepared an overview of further measures you may wish to consider to address gun violence. In the short run, we urge you to keep the focus on the measures we are still fighting to pass: the Brady bill, an assault weapons ban, and the Kohl bill to ban handgun for minors.

Moreover, it remains important not to suggest that gun control, by itself, is an adequate response to the Nation's crime problem. To break the epidemic of violence, we must emphasize the need not only for fewer guns, but also for more police, more boot camps and state prisons, a criminal justice system that protects those who play by the rules and punishes those who don't, and a society that expects parents to take responsibility for their children and citizens to take responsibility for their actions.

For your information, tomorrow the Treasury Department will send to you the Federal Firearms Licensing report ordered by the directive you signed in August. The report will outline what actions ATF has taken and intends to take in the near future to comply with your directive. ATF staff has indicated that they will not publicly release the document because they expect resistance from the NRA, and would prefer to fight these issues on a case-by-case basis -- as opposed to pre-releasing their "playbook".

I. Executive Actions

A. Ban the Street Sweeper and other Combat Shotguns

In 1984, ATF banned the importation of the Street Sweeper/Striker 12 shotgun, which was designed in South Africa as a military, security and anti-terrorist weapon. In 1988, ATF banned the USAS-12, a similar combat shotgun. Both of these weapons are now domestically produced and would be banned as part of the Feinstein-DeConcini-Metzenbaum assault weapons ban.

In September of this year, Handgun Control petitioned ATF to classify these domestically produced combat shotguns as "destructive devices" subject to the restrictions and controls in the National Firearms Act (NFA). ATF assembled a working group to study this proposal and recently concluded that it can, in fact, restrict these shotguns as "destructive devices." The Agency is now deciding on implementation procedures for this re-classification, which we could announce any time soon.

B. Surplus Military Firearms

While much attention has been paid to the importation of assault pistols, there has been little focus on a new and potentially more serious problem -- the importation of large numbers of surplus military rifles and handguns from Eastern Bloc countries and China.

Prior to 1968 the United States was the dumping ground for millions of surplus military firearms and other cheaply made and inexpensive firearms. The Gun Control Act of 1968 (GCA) banned the importation of firearms unless they met the sporting purposes test, and the importation of surplus military firearms was banned altogether. In 1984, Congress weakened the GCA to allow the importation of surplus military firearms that qualify as curios and relics. At the time, the amendment's sponsor, Senator Dole, argued that this change to the GCA would apply to only a small number of firearms.

Until recently, the curio and relic exception had been a minor problem. Not only was it illegal to import surplus military firearms between 1969 and 1984, but the Arms Export Control Act (AECA) prohibited the importation of rifles and handguns -- of any type -- from virtually all communist countries. However, after the passage of Dole's 1984 amendment, the importation of surplus military firearms started to increase, and their prices started to drop. The opening up of trade with Eastern European countries has made millions of World War II era firearms eligible for importation into the United States -- mostly bolt action or fixed magazine semiautomatic rifles and semiautomatic handguns. With the breakup of the former Soviet Union, most former European communist countries have been removed from the list of restricted countries under the AECA. So has China. ATF estimates that in this year alone, some 95,000 surplus military firearms have been imported into the United States, the number of firearms that could enter the country under already existing importation permits has jumped into the hundreds of thousands, and the prices of these weapons has dropped to or below their pre-1969 levels.

In addition, the State Department's relaxing of the AECA has resulted in the increased importation of cheap -- but powerful -- handguns that do not technically classify as military surplus firearms. The Chinese are exporting large quantities of semiautomatic pistols used by their military forces -- most of which sell for less than \$100. This year, some 25,000 of these handguns have been imported and importation permits covering as many as 100,000 are pending.

You have two non-legislative options to address this problem. First, you could direct ATF to change the regulations on curio and relic classification. Curios and relics are defined by law to mean firearms of interest to collectors which are (a) 50 years old, (b) certified by

museum directors to be of interest, or (c) of value because they are novel and are associated with some historical figure, period or event. At the rate these arms are being imported, they can no longer be regarded as collectors items.

Ordering ATF to amend these regulations would require a 90-day comment period -- and would not address the problem of inexpensive handguns. As an alternative, you could order the State Department to suspend the importation of these weapons under the AECA. Under this statute you have broad authority to control the importation of firearms in furtherance of world peace, security and the foreign policy of the United States. Our State Department is not on the record on this issue, but we expect that they would need to review the foreign policy implications of limiting trade with the former Soviet Union and China.

II. Non-Controversial Legislative Options

Once the crime bill and the Brady Bill have passed Congress, the Administration could offer a gun violence package that might include any of the following measures, which are relatively non-controversial. We can also continue to push an assault weapons ban until both houses of Congress agree.

A. Federal Firearms Licensing Reform

The Administration has already committed to federal firearms licensing (FFL) reform. The Vice President's National Performance Review called for legislation raising the basic \$10 FFL fee to cover actual costs, and Lee Brown's Interim Drug Strategy called for an increase in the basic FFL fee as well as for putting a stop to the practice of allowing gun dealers with FFLs to circumvent state and local gun laws. More recently, you stressed the need for FFL reforms during your meeting with Jim and Sarah Brady.

The presidential directive you signed in August called for tougher enforcement of compliance requirements under present law -- such as by improving background checks on prospective dealers, requiring dealers to obtain more reliable identification from purchasers, and scrutinizing multiple handgun sales reports. These reforms were long overdue. To date, ATF has licensed approximately 284,000 gun dealers, and new applications come in at the rate of approximately 60,000 a year. The policies of previous Administrations and congressional action to weaken ATF's enforcement authority over guns have prevented the agency from doing all that it can to address the issue of gun proliferation and violence. Additionally, the \$10 FFL fee does not even come close to covering the cost of processing and investigating FFL applications -- in fact, it costs less to get an FFL than to join the NRA.

Senators Simon and Moynihan have introduced legislation to reform gun dealer licensing (Moynihan's bill also includes his proposed bullet tax, which is discussed later in this memorandum). Generally, proposed FFL reform would do the following: (1) raise the basic fee from \$10 per year to \$750 per year; (2) require dealers to certify that they are in compliance with state and local laws; (3) drop the 45-day requirement for action on FFL

applications; (4) allow ATF to investigate a dealer more than once a year if necessary; (5) require dealers to report a shortage in a firearm shipment, or lost or stolen inventory to ATF; (6) require dealers to comply with ATF firearms trace requests; and (7) require common carriers to obtain identification from individuals who receive a firearm shipment.

Although Senator Biden has asked Democratic Senators to keep gun legislation off the crime bill, Senator Simon may offer his FFL reforms -- perhaps without the basic fee increase -- as an amendment to the crime bill. Simon's staff has been negotiating with the Republican staff and the NRA -- who want this issue to go away -- but no deal has been struck. Earlier this year, Simon offered his FFL reforms as an amendment to the Treasury appropriations bill and lost by a large margin.

B. Armor-Piercing Bullets

Last spring, the Department of Defense considered importing a new bullet, the M39B, but decided against this action after the Attorney General and the White House asked them to reconsider. Police groups had visited with you and expressed concern that DOD's use of the M39B would result in black market availability of this new armor-piercing bullet.

Under current law, ammunition that can be used in a handgun and whose cores are made entirely from one or more of a list of prohibited materials -- including tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium -- are defined as armor-piercing and are thus prohibited. But the 9mm caliber M39B has a conventional lead core and relies on a steel metal jacket that constitutes a disproportionate amount of the total bullet's weight to penetrate soft body armor. ATF studied the M39B bullet, comparing it to 20 other conventional full metal jacket bullets, and discovered that while the average handgun bullet's jacket rarely constituted more than 23 percent of its total weight, the M39B's jacket comprised almost half (40.5 percent) of its total weight. You should not let this loophole in the ban on armor-piercing bullets go unaddressed.

The FBI and ATF are promoting two different solutions to the problem. ATF has suggested banning handgun bullets whose jackets have a weight of more than 25 percent of the total bullet weight. This is the easiest and least controversial way of addressing the problem. The FBI has advocated a much more ambitious -- but controversial -- approach: developing a performance standard that would ban all armor-piercing bullets. This proposal has the advantage of covering not only the M39B, but other armor-piercing bullets that might get around the ban in the future. Either approach requires legislation.

C. High-Capacity Ammunition Feeding Devices

To ensure that criminals are not better armed than our police we need to ban not only assault weapons, but the high-capacity ammunition feeding devices that preclude the need to re-load these weapons. Your Crime and Drugs campaign position paper supported such a ban, and it should be part of any assault weapons ban that you support.

Last Congress, Representative Schumer attached a ban on ammunition clips with more than 7 rounds to the crime bill during committee consideration. The number 7 represented the least stringent ban imposed by any state that had acted to limit the number of rounds in a clip. However, this ban was deleted from the bill by the same amendment that struck the assault weapons ban. This year, Senator Metzenbaum and Representative Schumer have included a ban on clips with more than 10 rounds as part of their assault weapons legislation -- the same language is also included in the Feinstein-DeConcini-Metzenbaum amendment currently being considered by the Senate.

D. Disability Relief and Definition of State Conviction

Federal law prohibits convicted felons from possessing firearms. However, they may apply to ATF for disability relief, which restores their gun rights. ATF spends about \$4 million a year on investigations to grant relief. In a number of cases over the years, these people who got their gun rights back went on to commit and be convicted of other crimes. Last year and this year, Representative Schumer and others succeeded in defunding this provisions. We can continue to defund this provision on a year-to-year basis or amend the Gun Control Act (GCA) to terminate this program.

A definitional issue also arises as to what constitutes a state felony conviction for purposes of Federal law. More specifically, when can a person become "unconvicted" under state law and, therefore, ineligible for prosecution under Federal law for possessing a firearm. To deal with this issue, Representative Schumer has also advanced legislation that would permanently preclude anyone convicted of a violent or drug felony from possessing a firearm, and would restore gun rights for other offenders only if the state did a complete background check and investigation, and decided it was in the best interest of the public to do so.

E. Machine Gun Replacement Parts

The possession and sale of machine guns made after 1986 is banned by Federal law. Machine guns bought and sold after that date can still be bought and sold, but they must be registered and are taxed pursuant to the National Firearms Act (NFA).

This machine gun ban can be circumvented, however, by purchasing machine gun replacement parts and using them to convert semiautomatic assault weapons into fully automatic weapons. Although it is also illegal to sell or possess parts designed "solely" to convert a weapon into a machine gun, there are no limits on the sale or possession of replacement parts for a machine gun. It is believed that the Branch Davidians were able to accumulate more than 100 machine guns as a result of this loophole.

Narrow legislative language requiring that machine gun replacement parts be sold only to buyers who have an NFA license should close this loophole.

III. Controversial Legislative Options

A multitude of other more controversial gun violence proposals are worth considering, but will require a lengthier public education campaign to pass.

A. Restricting Multiple Gun Purchases

Some gun advocates would like to build on their victory in Virginia last year limiting gun purchases to one a month. They believe such a restriction is a simple, common sense idea that can be easily sold to the American public and want to push for a similar federal restriction on multiple gun purchases -- perhaps one gun per visit, if not one a month. However, the NRA strongly opposed Governor Wilder's efforts to pass this legislation and succeeded in watering it down. We can expect them to fight us on similar legislation at the federal level.

B. Gun License to Demonstrate Proficiency

The Attorney General and others have spoken about the need for a uniform firearms license that is awarded only to those who go through some type of firearms training and who demonstrate proficiency in handling a firearm. We don't let just anyone who can buy a car drive one -- why should we let anyone who is eligible to buy a gun use it. Although such a proposal makes intuitive sense, this is an ambitious proposal that would take considerable effort and time to develop and pass legislation.

C. Ban All Handguns

Handguns are the firearm most often used in crime, and many members of Congress and gun control advocates have argued that -- if you really want to get serious about gun violence -- all handguns and/or their ammunition should be banned or banned unless they meet a "sporting purposes" test. Local units of government that have enacted such controls have had their actions upheld by the Supreme Court. Recently, you were asked about your position on Senator Chafee's handgun ban and replied that it may be too broad. A handgun ban would extremely controversial.

D. Expand the Category of Persons Prohibited From Possessing a Firearm

Representative Torrecelli recently introduced legislation expanding the category of persons prohibited from possessing a firearm to include persons with a history of domestic violence and those currently under a restraining order. This proposal makes much sense and may not be as controversial as some of the other gun options listed here. But it may be too soon to gauge the level of support or opposition for this measure.

E. Bullet/Gun Tax

Current law provides for an excise tax of 10 percent on pistols and revolvers and 11 percent for other firearms and ammunition. These receipts, which totaled \$164 million last

year, are earmarked for the Pitman–Robertson Wildlife Restoration Act and do not get deposited in the General Revenue Fund.

Many gun control advocates have called for a sharp increase in the tax on guns, arguing that gun taxes should be treated just as any other "sin tax," and that revenues raised by a gun tax could help offset the costs of gun violence on our health care system. We believe this issue is best addressed in the context of how to finance health care reform.

Senator Moynihan has made a separate, but powerful, argument for the need to increase the tax on handgun ammunition. He has promoted legislation to raise the existing tax on selected calibers of handgun ammunition to 1,000 percent and to impose recordkeeping requirements with respect to the disposition of ammunition by dealers. (He has previously proposed an outright ban on this ammunition.) Moynihan's argument for such a tax increase is based on the premise that we can't realistically control the estimated 200 million firearms on the street today, but that we can control the supply of ammunition for these guns through taxation. A narrow ban on specific forms of handgun ammunition may be feasible, although still a tough political battle.

ATF has mixed feelings about this proposal, and they have reconvened their National Firearms Strategy Panel to further examine the Senator's proposal. They hope to make recommendations to the Director of ATF at the end of November, and we have asked that they share their analysis with Domestic Policy.

F. Strict Liability for Gun Violence

Some gun control proponents have advocated legislation that would allow people who are injured by firearms to sue gun manufacturers and importers for damages in federal court. The District of Columbia passed legislation imposing strict liability on assault weapons, but gun control opponents in the Congress succeeded in repealing this law.

G. Consumer Product Safety Commission

Senator Metzenbaum has proposed legislation to authorize the Commission to regulate the risk of injury associated with firearms. Although this legislation very clearly makes the philosophical statement that gun violence should be treated as a greater public safety issue, it would be extremely controversial and is sure to cause disagreement within the Executive Branch.

August 23, 1994

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: RON KLAIN *AK*

SUBJECT: CRIME BILL COMPARISON

Attached is a comparison of the spending patterns of the Senate Crime bill and the Conference Report. These calculations are preliminary, and will be revised later today.

Note that had the Senate bill been fully "costed out," (i.e., had dollar amounts been supplied in lieu of the "such sums" figures), its cost would have actually been about \$30.5 billion -- almost the same as the Conference Report.

But here is how the Senate Bill's explicit authorizations compare to the Conference Report's totals:

<u>Category</u>	<u>Change</u>
State Law Enforcement	up \$ 115 million
Federal Law Enforcement	up \$ 910 million
Prisons	up \$2.750 billion
Prevention	up \$3.028 billion

Thus, as you can see, about 60% of the increase from the Senate bill to the Conference Report is in law enforcement and prisons.

Finally, the balance of the two bills is not really that different: the Senate Bill put about 80% of its funds into law enforcement and prisons; the Conference Bill directs about 75% of its money to those two functions.

TARGET LIST

(1 = most likely votes; 2= need these votes; 3= less likely)

A. Democrats

- 3. Shelby - very unlikely to be supportive
- 3. Johnston - voted against cloture 91-92; unlikely to help
- 2. Breaux - voted against cloture 91-92; has been mixed
- 2. Nunn - voted with us 91-92; could object to \$\$
- 1. Byrd - has been very supportive so far
- 1. Hollings - upset about ONDCP and Trust Fund
- 1. Heflin - supportive to date; against cloture 91-92

B. Republicans

- X. Specter - may endorse bill today
- X. Roth - Castle, Oberly support bill
- X. Chaffee - supports assault ban; Machtley voted for bill
- 2. Danforth - wrote prevention program; supports gun ban
- 2. Jeffords - supports gun ban; vote for cloture in 91
- X. Kassebaum - voted for cloture in 92; supports gun ban
- 2. Durenbrgr - supported cloture once
- 3. Cohen - Snowe voted for bill
- 3. Gorton - somewhat moderate, pleased RJA is out
- 3. Bond - perhaps follows Danforth
- 3. Warner - voted for Brady Bill; may be independent
- 3. Packwood - has progressive Crime voting record
- 3. Mack - AG may have some influence
- BROWN -

CHAFFEE

ROTH

KASSEBAUM

DANFORTH

COHEN

RESPONSE TO ATTACKS ON THE BILL

A. Budget Point of Order

- This is hypocritical;
- Key Budget Committee Republicans helped write the Trust Fund provision (we are pulling up statements);
- All but one Senate Republican voted for the Crime Bill with this included in it;
- Majority of Senate Republicans voted to instruct the Conferees to include it in the Report -- how can they now object to its inclusion.

94-4

B. Bill is Loaded with Duplicative Programs/Pork

- Senate bill had more prevention programs than does the Conference bill;
- Senate bill had many more studies and commissions than does the Conference bill;
- Conference bill not more expensive than the actual cost of the Senate bill, had the latter been fully scored out;
- What accounts for the increase from \$22 billion to \$30 billion in the Conference Bill? Half of the increase comes from adding \$1 billion more for border control and almost \$3 billion more for prisons.

60%
increase

CRIME BILL FUNDING COMPARISON

(*=authorized without specific funding level)

<u>Program</u>	<u>Senate</u>	<u>Conference</u>
LOCAL LAW ENFORCEMENT		
Community Policing	\$8.995	\$8.800
Police Corps	\$.350	\$.100
Law Enf Scholrshps	\$.150	\$.100
Rural Drug Enf/Trn	\$.250	\$.245
Prosecutors/Courts	\$.500	\$.200
Training/Technical	\$.100	\$.130
Byrne Grant	*	\$1.000
Other	\$.350	\$.240
TOTAL	\$10.700	\$10.815
FEDERAL LAW ENFORCEMENT		
DoJ/Crime Bill Imp	\$.600	\$.200
DoJ: FBI, DEA, USAs	\$.625	\$.475
Treasury Law Enf	\$.180	\$.550
INS/Immigration	\$ *	\$1.190
Federal Courts	\$.300	\$.200
Other	\$.020	\$.020
TOTAL	\$1.725	\$2.635
PRISONS		
Prison Constr/Oper	\$6.000	\$7.900
Punishmnt Yng Offndrs	\$.600	\$.150
Violnt Juv Offnds	\$.500	\$ --
Criminal Alien Reimb	*	\$1.800
TOTAL	\$7.100	\$9.850
PREVENTION		
Youth Crime Prentn	\$.675	\$.380
Local Partnshp Act	\$ 0	\$1.620
Natl Commun Ptrnshps	\$.040	\$.270
Model Intensive Grnts	\$ 0	\$.625
Ounce of Prevntn	\$.075	\$.090
Commun Schls/FACES	\$.400	\$.810
VAWA	\$1.945	\$1.620
State Prison Drug Trtmn	\$.300	\$.270
Fedl Prison Drug Tmtmn	\$ *	\$.112
Community Youth Acadm	\$ 0	\$.036
GREAT	\$.050	\$.045
Family Unity	\$.040	\$.020
Drug Testing/Courts	\$.300	\$1.000
Other	\$.050	\$.005
TOTAL	\$3.875	\$6.903
GRAND TOTAL	\$23.400	\$30.203