

— AF'S BRIEFING BOOK —

GENERAL



To: Jose

From: Andy Foiss

Date: November 30, 1992

RE: Crime Issues

This memo is intended as an introductory outline to some of the major political and policy issues in the crime area. It begins with a general discussion of the political dynamics and proceeds into a specific listing of various major substantive elements. Obviously, much more needs to be known and considered about each issue. I would be happy to discuss or provide further information on any or all of these issues and any others that develop.

I. Introduction: The Politics of Crime

Although crime was not a major theme in the Presidential campaign this year, it remains a serious policy problem as well as a potent political issue that can help define the perception of a President and his Administration. It was not a prevalent campaign issue for several reasons: 1. the Clinton campaign's strategic decision to focus almost exclusively on the economy, 2. certain symbolic and visible aspects of the Clinton record (such as death penalty and NAPO endorsement) that insulated him from the traditional Republican attacks on the issue and 3. Congressional efforts on the crime and Brady bills that effectively made Bush appear to be blocking tough and popular crime legislation. The combination of these factors neutralized the issue. Clinton did, of course, go on record regarding several specific points of crime policy including the Brady bill, putting more cops on the streets, boot camps, community policing and others in a position paper, during the debates and at several crime-related events.

The lack of attention paid to the crime issue during the campaign, however, should not be seen as a reflection of lack of voter interest in the issue. Voters remain extremely concerned about crime and expect their government to do something about it. One poll found that 85% of voters worry a "great or good deal" about crime and 71% thought the Presidential candidates paid too little attention to the issue. Fear of increasing crime was first of 15 worries among surveyed voters. (Comparatively, worries about education and the economy were 5th and 6th respectively). (Washington Post- ABC News poll)

Thus, crime is an issue that must be addressed and the themes that should be stressed are ones of crime prevention as well as punishment. This is an area that is crying out for practical solutions, for an end to gridlock and partisan politics as usual. It is a ready candidate for action that will highlight the promise of unified government working together to solve problems. No more excuses - the people want action. It is also one in which action

can be shown quickly by passage of the Brady and crime bills. Although it is not the economy and therefore not necessarily an agenda item for enactment in the first 100 days, the Administration should list enactment of the Brady and crime bills as first year goals. During the campaign the commitment to Brady was clear and the willingness to sign the conference report if presented. In addition, certain statements were made indicating a preference for a more conservative position on certain issues such as habeas corpus reform, for example.

The path, however, is hardly clear of political obstacles. There are interests which would prefer to see no crime bill. The NRA, though on the defensive on many issues, is still potent. Many or perhaps most Republicans can be expected to continue to prefer exploitation of the political issue over enactment of solid legislation. Many Members of the Democratic caucus do not share the mainstream positions that successful resolution of this issue requires. One of the major challenges for the Clinton Administration in crime and criminal justice policy will be similar to one it faces in many other policy and political areas, specifically: how it handles the liberal interest groups and the left-wing of the Congressional Democratic caucus. The goal will be to maintain a conservative to middle-of-the-road record and perception while not alienating liberal allies. Clinton is well-positioned to stake out conservative positions and achieve conservative results because of his position on such issues as death penalty and habeas corpus reform. Such issues as the Brady bill, community policing and the police corps may be attractive to liberals, as will the tone of judicial appointments. However, their most important issues are death penalty, habeas and mandatory minimum sentences and their positions are ones that could portend problems for the new Administration and for mainstream Democrats.

It is essential that the new Administration makes its commitment to law enforcement clear early in the first term. Many people have lingering worries that President Clinton is really a liberal at heart who only campaigned as a moderate. They are suspect about the old vs. new Democrat issue. Being seen as soft on crime is something for an "old Democrat." President Clinton must avoid it at all costs. Early signals should be sent, through key appointments in the Department of Justice, Drug Czar's office and others, that indicate the Administration's commitment to law enforcement. Consultation with law enforcement organizations on these appointments will go a long way as will emphasis of an appointment's interest in law enforcement perhaps despite a lack of strong background in the area.

Crime has traditionally been a Republican issue. But Republican fear of letting Dems get any credit for a tough crime bill, combined with unwillingness to confront NRA, have given Democrats the opportunity to produce legislation and seize the crime issue. In addition, the police groups, including Bob Scully (whose early endorsement and campaign efforts were very helpful) and others, will expect action on crime. Part of the reason they

consistently voted against cloture are still around: Heflin, Shelby, Johnston and Breaux. One of three things, or some combination thereof, has to occur to get a bill like the conference report even to get a vote in the Senate (assuming all other votes stay the same and no Democratic gain in Senate with Fowler's loss): 1. at least three of these four Dems have to switch votes, 2. two or three more Republicans need to be persuaded to stop gridlock (Jeffords, Chafee, Kassenbaum, Durenberger voted for cloture last year) and join the Dems or 3. the bill needs to accommodate the more conservative tastes of Senator Heflin and others. Caveat: the absence of the Brady bill from a crime package may sway one or more of the Southern Democratic conservatives to support the bill.

The House of Representatives

The math in the House is not much better. The conference report passed by just two votes 208-206 (with one Republican) with the Republicans joined by conservative and liberal Dems in opposition, although there were a few additional votes to call on if needed. It took a lot of effort by the relevant chairmen to get this vote over the top. Assuming the Republicans stay together in opposition, the most likely place to attract votes is from conservative Dems as well as moderate Republicans. The House is slightly more Republican (9 seats) and the Democratic caucus is more liberal. A separate Brady bill may help here by attracting some gun supporters to a crime bill that they may not support if it included Brady. On the other hand, Brady in the package could attract some liberals who find other elements of the package distasteful. In any event, a crime package cannot leave the liberals with nothing unless it can count on attracting significant Republican support.

Some final introductory and general points and themes. First, I would encouraging emphasizing prevention as well as punishment - something Republican crime bills are chronically inadequate on. And the sort of prevention to emphasize is hard - nosed and practical, not traditional "blame society" liberal tenets. Second, I would talk about real solutions to real, practical problems rather than ideological and partisan issues like death penalty, habeas and exclusionary rule. Third, I would emphasize the importance of state and local law enforcement on the crime problem. Approximately 95% of arrests and prosecutions are done ant the state and local levels. The major Federal role therefore is to serve as model and catalyst and supporter of the state and locals. This of course must include financial support. And that is my final general point and it is both political as well as substantive. As budget decisions are being made it is important to keep crime, especially federal aid to State and local law enforcement, among the very highest priorities. Of course, throwing money doesn't solve it and we must spend more intelligently than we have been, but overall spending levels for law enforcement should increase not decrease. the public will

became disenchanted with Bush was his elevation of politics over the effort to get a tough crime bill on the books. (NB: Although FOP's endorsement went to Bush and this must be remembered, it is still an important political force and should not be allowed to go completely and permanently into the Republican fold.)

Some, however, see the new Administration as their big chance - they thought the campaign was just an exercise in winning and now the governing will be liberal. Some people are already talking about how there is no hurry to move on crime and that the conference report of the crime bill was really a "compromise document" and not something they want to see enacted. In one sense this is true - elements of the conference report were acceptable to the left only to the extent that they were the lesser of two evils. They went as far as they did only because of the specter of the President's and Republicans' bill lurking nearby. However, the conference report was put together without any Republican input - it can hardly be viewed as a "compromise." It need not be treated as gospel in every regard, but I would argue it needs to be made slightly more conservative - not less. In addition, Democrats spent the better part of a year lauding the merits of the conference report and cannot back off easily without specific reasons.

The major national police groups and the Democratic State Attorneys General and District Attorneys will be critical. The cops became very sophisticated about the issues during the course of the final negotiations this year. The AG's and DA's have been very active on the habeas corpus issue, including such Clinton supporters as New Jersey Attorney General Robert del Tufo. Any crime package, particularly in the habeas area, that these groups do not support will be in for rough going. The support of the police groups of the crime conference report last Congress was instrumental in the maintaining the credibility of Democrats on the issue.

The "reform agenda" has also already begun to emerge with renewed enthusiasm. This agenda sees the new Administration as conducive to undoing many of the conservative developments of the past five to ten years including mandatory minimum sentences in drug and firearm cases as well as repeal of civil forfeiture laws. Some of these issues have serious merit - there are injustices and abuses in each area that can be addressed - but they are clearly perceived as defense-oriented and pro-criminal. They should not be addressed as major overhaul issues until the middle of the term after the bona fides as a crime-fighting administration are established.

The United States Senate

Very little has changed in the U.S. Senate regarding votes on the crime bill conference report. The four Democratic Senators who

support additional spending for additional safety.

II. Crime and Brady Bills

a. The Brady bill should be an early priority and serious consideration should be given to doing it separately from the crime bill. It obviously has great public appeal (about 90% including 85% of gun owners support it) and can be kept as a simple example of the difference between this and prior Administrations. Sarah Brady's public endorsement was helpful to the campaign and she and Handgun Control would much prefer doing it separately. The House originally passed it separately but it wound up enveloped in the crime bill package because of the President's threat that he would only support it as part of a comprehensive crime package.

NRA's puffing on increased strength in the House may have some merit to it. We lost 72 "yes" votes from the successful House Brady vote in May of 1991. Early reports from Handgun Control indicate that approximately 66 of the 110 new Members are likely Brady supporters. We need to get harder numbers before deciding the best course. If this holds true, then the House is in good shape - the Brady margin of victory in May of 1991 was 53 votes. But the NRA is clearly trying to send a signal that they are still around and perhaps bluff Clinton off if they can convince him it would be a bruising fight. Speaker Foley and Judiciary Committee Chairman Brooks are not Brady supporters and the Speaker recently appeared very reluctant to commit to putting it on the floor soon.

If it is done first and separately it should be done in the House first where it can be controlled better. Keeping it separate would be difficult to do in the Senate where it could easily turn into a big crime bill. If the leadership is on board, and victory is likely, it would be best to start in the House where it could be kept clean. It can then sent to the Senate and held at desk (Senate Judiciary Committee passage of Brady is uncertain). Then if it gets amended on the floor of the Senate it can be stripped of the non-Brady amendments in conference. Separately or in a package, there will be separate up or down votes on Brady either way - that cannot be avoided.

Another issue is what will the substance of a Brady bill include. The conference report version was nothing like the original H.R. 7 that passed the House. It represented a compromise merger of a waiting period with an instant check system. It was very close to the Senate Mitchell-Dole-Gore-Kohl compromise. I think that the conference report version is the presumptive text but you should know there are a number of substantive, some technical others controversial, issues still involved with this text that need to be resolved. This can be the subject of another memo and further discussions.

b. A comprehensive crime bill could come after a separate Brady bill but need not necessarily be on the 100-day enactment agenda. Consideration must be given to what if anything should be the Clinton crime bill and how it should be introduced and handled. In the Senate, Chairman Biden does crime at the full committee level. In the House, crime packages are divided up between at least four and maybe five Judiciary Subcommittees and will also implicate up to 3 or 4 other Committees which would get joint referral of a newly introduced comprehensive package. From the Administration point a view a Clinton bill that is known in advance to be acceptable or close thereto would be the best scenario. The history of crime bills teaches that once one begins down that path it can be a long and fractious journey.

The bill should stress the themes of prevention as well as punishment. It should be reflective of the conference report (at least as tough in almost every area) and the Clinton-Gore position paper and include the following elements: Federal death penalty and procedures, habeas corpus restrictions, increased firearms and drug penalties, community policing, drug treatment in prisons, safe schools, boot camps and other correctional options, support for state and local law enforcement and other elements, including perhaps some new things as violence against women, health care fraud, environmental crimes, etc.

The following is a list of some of the more major issues that were in the conference report or could be in a new package. These include consideration of most of the issues in the Clinton-Gore position paper.

1. Prevention Programs:

There are four prevention programs that could form the core of the Democrats bill as it did in the House last Congress. These area:

a. Drug Treatment in prisons: Prisoners with drug abuse problems who are given mandatory treatment in the prisons commit far fewer additional crimes when they are released than those who receive no such treatment. This is a hard nosed prevention policy - it is a good investment because it actually prevents crime. The bill included a schedule for Federal prisons to provide treatment to all needy prisoners and allowed an incentive of early release to successful participants. It also authorized a program to support treatment in state and local prison and jails. There is a gaping need for this and it is money very well spent. See separate memo for additional details.

b. Community Policing/Cop on the Beat: This is perfect for Clinton. It is a grant program to encourage and enable local police department s to convert to community policing strategies.

c. Certainty of Punishment: This is a name for boot camps and other alternative sanctions. It authorizes Federal aid for

states to develop boot camps, electronic surveillance, house arrest, work programs, restitution programs and others for juvenile and youthful offenders who may otherwise receive no more than a slap on the wrist by way of probation.

d. Safe Schools: A hearing two years ago before the Crime Subcommittee confirmed the horror in our schools, This prevention oriented program would help local schools buy security equipment, hire and train personnel, institute anti-violence and mediation curricula and other anti-crime programs.

2. Death penalty:

- a. Offenses: number, mental standard
- b. Procedures

Any crime package must include a Federal death penalty. This is a political given that also creates a large share of the intra-caucus problems. Although the practical effect on solving the crime problem of a federal death penalty is limited, this is nonetheless clearly a sine qua non of a credible Federal crime bill.

This issue involves two substantive parts and subcommittee jurisdiction in the House is reflective of that division. The Subcommittee on Crime and Criminal Justice has jurisdiction over the offenses and the Subcommittee on Civil and Constitutional rights over the procedures. Last Congress the Crime Subcommittee reported a bill with about 50 offenses, this intentionally included several more than the President's long-standing proposal. We did not, however, adopt his mental standard for the link between the Federal offense and the resultant homicide in the large number of offenses where this was a relevant issue. Specifically, we required the more traditional and constitutionally solid intent to kill standard whereas the President advocated a recklessness standard. Under the latter standard, the death penalty could be imposed on a person who commits the Federal offense of destruction of government property if they acted recklessly in so doing and a death therefore resulted- even if they had no intent to kill. We believed that this went too far.

The bill also included the death penalty for drug kingpins based solely on massive amounts of drug trafficking and not requiring proof of a specific individual homicide. Although this is widely supported in the Congress there is an active opposition to this in the Democratic caucus.

As the bill proceeded through the House we became engaged in a Republican-initiated bidding war on the number of offenses that resulted in a slight increase to about 55 in the final product. A list of these is attached but keep in mind that this is a numbers game and these offenses can be counted to create a much higher or somewhat lower result if so desired. On the floor of the House the Republican amendment that included the recklessness standard

carried narrowly (ten votes). This was a significant improvement over previous years which saw the Committee product soundly defeated. The Republican-President death penalty also prevailed in the Senate and thus this was the conference report version.

My recommendation is to go back to the Committee approach on this issue. What people really understand is the number of offenses - the mental standard is an inside game that is actually decided on the predictable political grounds that whatever the Republicans are proposing must be tougher. However, I think this is a winnable battle this time and should be seen as a major concession to liberals. They must be made to appreciate that the conference report was much worse on this issue and going back to the intent standard is a lift. But, publicly and politically it is much easier than going "soft" on other things such as habeas corpus.

The procedures are basically an inside game as well and one in which concessions can be given to the left as long as they are not perceived as gutting the ability to impose capital punishment. The conference report was basically the President's procedures except for one or two points. The most significant of these was the Administration insistence that the jury be given no latitude to reject the death penalty if it found the aggravating factors to outweigh the mitigating factors. Our position on this was the substantively stronger one. Expect people who follow these issues carefully to want to build in a number of procedural protections that will make obtaining a death sentence very difficult.

The key to both elements of this issue is how the Republican alternative will be perceived. Clinton can do much to convince doubtful pro-death penalty members that he would not support a weak death penalty because of his record on the issue while simultaneously convincing liberals and anti death penalty members that he is not willing to throw rights and procedures to the winds.

3. Habeas Corpus:

This became the focal point of Bush opposition to the conference report. Some of it was substantively well founded and all of it was predictable. If it had not been habeas, there surely would have been another issue, such as exclusionary rule, for opponents to point to as weak on crime. The restrictions in the conference report were unprecedented and defense lawyers much prefer present law. However, the conference report was used as an opportunity to liberalize certain aspects of current habeas law in exchange for the restrictions. From the mainstream perspective, however, it is clear some restrictions are needed and there is not a compelling argument that some of the restrictions the Supreme Court has imposed on the areas should be liberalized.

This is a complex issue and I am available to further explore the details at any time. Basically, habeas is about relitigating certain federal claims in federal court after trial and final

appeal of a criminal conviction in state court. These are called collateral attacks because they initiate back in the trial level (district court) of the federal system and work their way back up the chain. In capital cases especially, the habeas and appellate process is seen, and rightly so, as a ponderously long and slow process used by convicted offenders to put off executions for an average of about 8 years and up to as long as 20. There is no doubt that there are abuses - there is no incentive to proceed deliberately and right now there are no limits of any meaningful kind. However, there is also no doubt that reform of this process, that is really applicable mostly to just the approximately 2,500 prisoners on death row, is not the major issue in criminal justice. Remember, all of these offenders, capital or otherwise, are in jail and behind bars. The issue is time and appellate resources and the ability of the system to fulfill its sanctions in a timely manner. Consequently, the state AG's and DA's are the ones most interested in this issue. It also has obvious Federalism implications - state prosecutors and courts basically feel there is no need to review their process at all.

Another element is the Powell Commission report, chaired by former Chief Justice Lewis Powell. It is the basis of the Republican's proposal and is very conservative. Even the judicial conference rejected aspects of it. The Republicans added the so called "full and fair adjudication provision to Powell to create their basic provision. This addition is the major worry of the left and is substantively unwarranted.

The conference report contained unprecedented restrictions on habeas that included limits on time to file, number of petitions, grounds for successive petitions. It also, however, did two things seen as part of the "liberal, pro-defendant" agenda one of which is critical and the other, in my view, much less so. These issues regard standards for trial counsel and the so-called - Teague issue both of which are discussed below.

The following are the major issues:

1. Time limits on filing habeas petitions: Bush wanted 180 days, conference report had one year. Could split difference or hold near one year - remember there are no limits now.

2. Successive Petitions: Bush disallowed any second petition ever that went to the issue of the death sentence. It must only go to guilt or innocence under certain narrow circumstances. The conference report adopted the narrow circumstances for second and successive petitions but allowed them to go to the appropriateness of the sentences. This is an issue worth staying firm on.

3. Counsel standards: One of the big problems in this area is the abysmal performance of trial counsel in indigent capital cases. The conference report included mandatory qualification and performance standards for such counsel. The essence of these should be maintained although they can be softened a little so that

experienced prosecutors, for example, are not ineligible to switch and defend these cases in private practice.

4. Teague: This issue takes its name from a 1987 Supreme Court case called Teague v. Lane written by Justice O'Connor. It addresses the issue of what law applies to a habeas petition when it gets to the court some years after the final conviction: is it the law at the time of the trial or contemporaneous with the petition. In essence, should petitioners be given retroactive application of law that has developed while their case had been on appeal? Teague says that new rules of law are generally not to be applied retroactively (except in two narrow circumstances). But it redefines new rule of law so broadly that almost everything is a new rule and therefore not retroactively applicable. The conference report addresses the Teague issue as follows: new rules are never retroactively applicable but what is a new rule is more narrowly (and traditionally) defined so as to leave a large body of developmental caselaw (non new rule) to be applied retroactively. This liberal reform overruling a pro law enforcement Supreme Court case drove state and local prosecutors and some of the cops nuts.

5. Full and Fair adjudication: This provision has kicked around this issue for years originating with the Meese Justice Department. It says that a federal court cannot hear a habeas claim if the issue was given a "full and fair adjudication" in state court - even if the decision was wrong. This is seen as having the potential to severely curtail the availability of habeas across the board. This was not in the conference report.

6. Optional or Mandatory: Powell established an optional system under which states could decide on an individual basis whether or not to participate and take advantage of the time limits and other restrictions if they were willing to provide court appointed counsel on state collateral attack petitions. The conference report established a unified national system thus eliminating the potential for a patchwork system even within the same circuits.

Recommendation: Near the end of the session, Senator Biden and Congressman Schumer were working on a compromise offer that could provide the outlines of a Clinton bill and a workable solution. It involves an even-up swap of the Teague provision in the conference report for abandonment of the full and fair adjudication provision - neither would be in the package. It would involve a modest shortening of the time limits and a lessening of the counsel standards. It could also include a modified opt-out system that allows states to decide whether or not they want to participate in the new rules but if they decide to, precludes them from opting out. A proposal along these lines is substantively sound and could provide the basis of a "compromise" that cops and local prosecutors can accept. It is unlikely that leading liberal members on this issue will accept this, however. Congressman Hyde has been a leader on this issue and could probably be brought on board a package of this sort.

A final note: Liberal concerns on these issues could potentially be addressed by informal signals regarding nature of appointments to the Supreme Court and well as lower federal courts as well as certain positions that the Solicitor General's office would be expected to take before the Court on some of these issues.

4. Exclusionary Rule: The Republicans have pushed the so-called good faith exception for years. The exclusionary rule is the court made rule that prohibits or suppresses use of evidence in a criminal trial that was sized in violation of the defendants constitutional rights. The good faith exception would allow this evidence if the officer violated the right in good faith. Good faith consistently prevails in the House and loses in the Senate with Warren Rudman the most vocal opponent. He is gone now but someone else will surely take up the cause but not necessarily a Republican. The conference report included a codification of exception in present law regrading exclusion of evidence obtained pursuant to a search warrant. It is frankly. a mere political palliative with no compelling substantive reason to be enacted. For political reasons consider including this or even more codifications in the crime package so the issue can be answered publicly.

5. 100,000 more cops on the street and Police Corps: More cops on street was a clear campaign promise and is a substantively worthy goal. The question, of course, is how to pay for these state and local officers. Federal payment of their salaries comes to quite an annual tab. A standard formula used is from \$75,000 to \$100,000 per police officer. It is also not clear whether the intention is to put 100,000 more cops on the street and establish a Police Corps or if Police Corps is the way to put the additional cops on the beat. Also, what exactly is meant by more cops on the street is an open question. Must it be new bodies or would redeployment count? 100,000 new bodies would be an increase of 20% in the size of the nation's police force.

Police Corps, as you know, has many appealing aspects but at least two issues must be considered: the cops (including Bob Scully) hate it and it does not directly put any more cops on the street. What Police Corps does is provide state and local departments a list of college-educated potential officers (educations paid for at Federal government expense) for the locals to hire if they can afford them. No money is provided for salaries. Cops dislike it for a number of reasons related to special treatment for these officers. And what about the twenty percent of officers who are currently laid off? Their opposition, however, can be tempered by scholarship monies for existing officers.

If fully funded, Police Corps would add after four years, 25,000 cops per year coming to a total of 100,000 in eight years. The costs to the Federal government at a minimum would include four years of college for these 100,000 officers, training, administration and other costs. In 1989, CBO estimated the Police

Corps fully funded would cost \$1.7 billion after four years. Then to make this at all a realistic way to beef up local police departments there would have to be some kind of federal aid to the departments to pay the salaries.

The Police Corps concept needs to be addressed in tandem with the more comprehensive Clinton national service proposal. It should, and in fact must, include provisions for redirecting military personnel and downsizing the military. Combining cuts of that sort in the military budget with the costs needed to run the Police Corps will help deal with the budget issues. Also, use of military personnel will help defuse some opposition from within the professional law enforcement community.

In short, police Corps is a program that needs much analysis and discussion if it is to be made affordable and workable. It may be best put over for later inclusion in a national service bill rather than seriously contemplated for the crime bill.

6. Firearms:

This is, of course, a controversial but critical issue. The NRA, though still potent, is on the run and that the public is ready for serious gun control initiatives. A basic decision would be what provisions to include in a firearms title of a crime package and what if anything should be held for a separate firearms bill. Themes to stress include tough penalties for crimes with guns, keeping guns out of wrong hands and manufacturer and dealer-based regulations.

The Clinton-Gore crime position paper wisely called for keeping guns out of hands of criminals. The first priority in this area, of course, is the Brady bill. After that there are a number of issues regarding taking and keeping guns out of the wrong hands that should be addressed both legislatively and by regulatory action or executive order.

a. Disability Relief: There is a provision in the law that allows convicted felons to apply to the Bureau of Alcohol, Tobacco and Firearms (BATF) for what is referred to as disability relief. Specifically, under Federal law it is illegal for a convicted felon to possess a firearm. This provision allows the felon to apply to BATF to in effect get their gun rights back and legally possess firearms despite the prohibition. It has annually cost approximately \$4 million a year for BATF to do the investigations and grant the relief. In a number of cases over the years, these people who are given their gun rights back, go on to commit and be convicted of other crimes. Last year, we were successful in the effort to defund the provision during the appropriations process. A decision needs to be made whether to do that again or to actually deauthorize the program and risk being forced into a compromise.

b. Definition of State Conviction: Again, because it is

unlawful under Federal law for a person who has a felony conviction at the state or Federal level to legally possess firearms, an issue arises as to what is a state felony conviction for purposes of Federal law. More specifically, once convicted of a felony under state law, when can the person become unconvicted and therefore become ineligible for prosecution under Federal law for possessing a firearm. The Federal law provides that if a persons civil rights are restored for state purposes then they are no longer convicted for purposes of Federal firearms prohibitions and therefore prosecutions are frustrated. These provisions are in the law pursuant to the 1986 gun control weakening amendments referred to as the McClure-Volkmer amendments. The Crime Subcommittee marked-up Schumer's bill to tighten these regulations and provide that once convicted of a violent or drug offense at the state level, the person was permanently precluded from possessing firearms. For all other offenses the offenders could only get their gun rights back if the state did a complete background check and investigation and decided it was in the best interest of the public to do so. This provision could possibly be included in a comprehensive crime package.

c. Multiple Handgun Sales Reporting: A provision could be included that requires Federal firearms dealers to report to BATF and local law enforcement whenever an individual purchases more than 1 handgun within a 30 day period. Present law requires that such reporting of multiple handgun purchases are made within a 5 day period.

d. Compliance with State and Local Licensing Laws: Federal firearms license applications should be required to comply with state and local licensing laws so that a Federal firearms license cannot be granted if the applicant is known to BATF to be violating state and local laws.

Assault Weapons: Another major issue in the firearms area is the question of semi-automatic assault style weapons. During the campaign, Clinton indicated his support for a ban on the domestic manufacture and sale of such weapons to go along with the President's prohibition on the import of these weapons. The history of this issue in the House and Senate is that the Senate has narrowly but consistently approved such domestic bans while the House overwhelmingly rejected a more broad provision. There were also serious substantive issues regarding how to go about such a ban. Specifically, what is an assault weapon? Various approaches have been used. The Senate approach was to list and ban approximately 9 named assault style weapons. The House approach was similarly to list and ban a certain number of specifically named weapons - a few more than the Senate - but it goes beyond that and similarly bans copies thereof. The problem being that it would be very easy for a manufacturer to make very small cosmetic or technical changes in a weapon, call it something else and then get around the ban. Overall, this is an issue that needs to be seriously considered as to whether or not

it should be in a comprehensive crime package or considered separately or perhaps in a separate firearms package.

Ammunition: A companion issue to the assault weapons issue is the question of banning the manufacture and possession of ammunition and magazines that contain a certain number of rounds. The issue here is where to draw the line. In the House bill last Congress, a provision was included that would disallow magazines with more than 7 rounds in the clip and that was rejected by the House in a combined vote with the assault weapons vote.

Assault pistols are also a potential issue. These could be either included in a package in terms of an outright ban on the domestic manufacture and sale thereof or at a minimum could be partially addressed by executive order. Specifically, the administration can take early action to extend to assault pistols the same restrictions on importation that presently exist for assault weapons. Definitional issues similar to those faced in the assault rifles category apply as well to assault pistols, however they are dealt with in assault rifles in the importation area by BATF application of a "sporting purposes" standard by which weapons that do not have a legitimate sporting purpose are eligible for exclusion from importation by BATF. That standard could potentially be extended for importation analysis at least to assault pistols as well.

Provisions should also be included that would create a Federal crime for the theft of a firearm from a Federally licensed dealers and similarly make it a crime to fail to report such a theft or at a minimum to allow administrative regulatory sanction against the dealer for failure to report such theft.

The crime package should, of course, also include a host of enhanced penalties for commission of crimes with firearms. These can be found in the Committee versions of last Congress' crime bill as reported by the Subcommittee. These should be emphasized as major parts of the package.

Another area for legislative initiative is the application and regulation process for Federal firearm licensees. Legislation should be considered to tighten the application process for a license, including background checks and fingerprinting for dealers, as well as the security requirements at dealers. Resources for inspections need to be beefed up. Stricter identification requirements should be established for firearms purchasers. Similarly, dealers could be required to report to manufacturers the name and address of retail purchasers of firearms to facilitate tracing by law enforcement of weapons used in crimes. Finally, increased responsibility to cooperate with ATF in these traces could be imposed upon manufacturers.

Cop Killer Bullets: There is also an emerging issue regarding a new form of cop-killer bullet that can penetrate personal protective armor.

7. Coerced Confessions: This provision of the Conference Report was included and supported strongly by Judiciary Chairman Jack Brooks. Its intention is to reverse a U.S. Supreme Court ruling in Arizona v. Fulminante which changed the rule regarding coerced confessions. Previously, if an appellate court found that a confession was erroneously admitted at trial and should have been suppressed as coerced there was a per se rule that the conviction was to be overruled and the case returned to the trial court for re-trial. The Supreme court case in question abolished the per se reversal rule and allowed the appellate court to look at the totality of the evidence and if the evidence was otherwise sufficient to support a conviction, despite the admission of the coerced confession, the conviction could stand. As a practical matter, this opinion will not have a tremendous impact on criminal justice but is an important issue to Chairman Brooks.

8. Authorizations and Appropriations: The Crime Bill Conference Report authorized a little over \$3 billion in combined Federal aid to state and local law enforcement and increased authorizations for Federal law enforcement. Two issues emerged from this. The first was Republican accusations of typical liberal spending practices as well as hollow authorizations that could not be funded. The second, however, was support from national law enforcement groups in anticipation of the Federal support. The issue of money needs to be seriously considered, particularly if the police corps, 100,000 more cops on the street, is going to be a major funded provision. Many of the prevention programs and a number of other programs providing Federal aid to state and local law enforcement of course need to be authorized first and should in fact be funded to the greatest extent possible.

9. Drugs: A number of drug control provisions were included in the Crime Bill Conference Report including rural drug control and drug free truck stops. This is an area that should be given serious consideration for expansion. Clinton has called for treatment on demand, a promise that implicates HHS and other non-crime agencies and programs. There were a number of penalty increases and other provisions that were in each of the bills that did not get included that should be reexamined for inclusion in a package. Drug treatment in prisons is an element as is expanded testing and treatment at every stage of the criminal justice system. A major overhaul of the precursor and essential chemicals law is also included in the bill and very much wanted by DEA.

10. Boot Camps: In addition to the certainty of punishment provisions, there were provisions in the Conference Report sponsored by Senator Biden to establish up to 10 Federally run boot camps that would house predominantly state and local drug offenders. This is an interesting and important concept but it should be realized that this is a vast expansion of the extent to which state and local prisoners are housed and maintained by the Federal prison system. In addition, the Federal Bureau of

Prisons itself presently maintains 1 boot camp that the Subcommittee on Crime authorized in the 101st Congress and serious consideration should be given by either regulatory action, administrative action or legislative action expanding the number of boot camps and therefore the number of people who can be housed in them. There is a very large number of people in the Federal prison system who could benefit from them and want to go to them but are not able to do so because there is such a limited number of slots in the 1 facility.

11. Police Officers Bill of Rights: Another issue that will require serious attention is the police officers bill of rights. A concept supported strongly by rank and file and labor police organizations but opposed equally intensely by police management organizations including the Chief's of Police, the National Sheriff's Association, as well as the Conference of Mayors, the National League of Cities and state legislatures. The provisions provide for procedural rights for law enforcement officers during the course of non-criminal, non-disciplinary administrative proceedings. The only hearings on the topic were held by the Subcommittee on Crime and Criminal Justice in the 2nd Session of the 101st Congress. The provisions were included in the Senate crime bill but were defeated by the House Judiciary Committee and a study was ordered instead and included in the Conference Report. The police, including Robert Scully, very much want and expect that a comprehensive crime bill include some form of police officers bill of rights. Governor Clinton expressed sympathies with the position of the officers and Arkansas has a state bill of rights.

12. Miscellaneous: There are a number of other provisions that were in the Conference Report and other things that did not make it to the Conference Report that should be seriously considered for inclusion. These can be the subject of additional memos and further discussion. The list can be found in the Conference Report and includes the following: Obstruction of justice provisions, violence provisions, terrorism, sexual violence, public corruption, the Racial Justice Act, child abuse victims provisions (some of which were enacted into law at the end of last Session), insurance fraud, and computer crime.

13. Other Miscellaneous: There are a number of major initiatives that saw some legislative action last year after the conference report was done that can be included in a crime bill. They include:

a. Hate Crimes: A Schumer bill was almost enacted last year that would increase penalties for Federal offenses found to be motivated by hate or bias. Testimony proved that this sentencing enhancement approach is constitutionally sound.

b. Environmental Crime: Schumer has a bill that would extend the reckless endangerment standard to almost all criminal environmental offenses. This is a natural for Clinton-Gore.

Close oversight of the Environmental Crimes Section of DOJ has revealed disturbing lack of prosecutorial zeal in this area.

c. OSHA crimes: There are no felony penalties for knowingly creating a danger at a workplace that leads to serious injury or death. The enforcement record is terrible. Schumer held hearings and developed a bill to address the issue.

d. Clinic blockades: Schumer will be introducing a bill to make a federal crime for blocking access to reproductive services as well as create a cause of action for damages and injunctive relief. There is a case pending in the Supreme Court that will bring this issue to the forefront early next year.

e. Violence Against Women: Senator Biden compiled a package that the Senate passed. When it was referred to the House the Crime Subcommittee, which had had a hearing earlier in the year, developed and marked up a similar version. The criminal provisions are relatively non-controversial but the civil cause of action does attract opposition. In addition, the criminal provisions have the potential to be amended in ways that make them less attractive to proponents.

f. Health Care Fraud: Biden and Schumer had companion bills last year that passed the Senate. We were redrafting it to get some of the kinks out and this could be ready to go immediately. It would be a great addition to a health care reform package because billions and billions of dollars go to fraud and abuse in this field.

III. Coordination Among Agencies

This is not an exciting topic but is an important anti-gridlock theme. In law enforcement there are two major issues:

a. turf battles have got to end and people need to understand that. There should be zero tolerance for this.

b. law enforcement and intelligence: recurrent serious (potentially criminal) problem. Need to improve terrible way intelligence is shared with law enforcement. Issue in BCCI and BNL/Iraqgate.

IV. Independent Counsel

The new Administration will need to deal with several issues right away: 1. How to conduct the BNL investigation if Barr does not seek appointment of an Independent Counsel by the December 15 expiration of the statute. 2. The reauthorization efforts for the Independent Counsel statute. In my view this is not a political issue - we should support the statute even when Democrats control the executive branch of government. Substantively, I do not

beleive that it makes sense to apply it to members of Congress, however. 3. If the statute is reauthorized quickly, whether to appoint one for BNL.

V. Executive Orders

There is much that can be done in crime right away by executive order or regulatory action. I have referred to some examples above. For example, you should consider an extension of the executive order banning importation of assault rifles to assault pistols as I said above.

VI. Weed and Seed

The President's Weed and Seed program, despite some of the clear political motivations behind it, clearly has its heart in the right place. Its elements of targeted prosecution, social services and Federal-state interagency coordination are basic to any successful law enforcement strategy. This is something the new Administration could decide to keep (in the spirit of bipartisanship) because it speaks to Clinton themes of community-government partnership. It has a number of programmatic and fiscal wrinkles that need to be overcome but are worth tackling. Authorizing legislation is not really needed but could be done if additional funding is to be made available for it.

SAFE SCHOOLS



SAFE SCHOOLS

This was a Clinton-Gore position paper item and a Schumer theme for years. There was a Schumer grant program in the conference report of the crime bill on the topic.

Federal criminal jurisdiction is limited in schools area. Plenary consideration of topic needs to be tied into Dept of Education and non-criminal drug education programs like Drug Abuse Resistance Education (DARE) and others.

Included here are:

1. Legislative language from conference report
2. Committee report including section by section analysis
3. Hearing memo

The conference report also includes increases in penalties for dealing drugs in drug-free school zones. This, and a commitment to expanding the education and awareness elements of the drug-free school zones, could be packaged as part of the safe schools program.

TITLE XXIX—SAFE SCHOOLS

Subtitle A—Safe Schools

SEC. 2901. SHORT TITLE.

This title may be cited as the "Safe Schools Act of 1991".

SEC. 2902. SAFE SCHOOLS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1421 of this Act, is amended—

(1) by redesignating part U as part Y;

(2) by redesignating section 2101 as section 2201; and

(3) by inserting after part T the following:

"PART U—SAFE SCHOOLS ASSISTANCE

"SEC. 2101. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance, in consultation with the Secretary of Education, may make grants to local educational agencies for the purpose of providing assistance to such agencies most directly affected by crime and violence.

"(b) MODEL PROJECT.—The Director, in consultation with the Secretary of Education, shall develop a written safe schools model in English and in Spanish in a

1 timely fashion and make such model available to any local
2 educational agency that requests such information.

3 **"SEC. 2102. USE OF FUNDS.**

4 "Grants made by the Director under this part shall
5 be used—

6 "(1) to fund anticrime and safety measures and
7 to develop education and training programs for the
8 prevention of crime, violence, and illegal drugs and
9 alcohol;

10 "(2) for counseling programs for victims of
11 crime within schools;

12 "(3) for crime prevention equipment, including
13 metal detectors and video-surveillance devices; and

14 "(4) for the prevention and reduction of the
15 participation of young individuals in organized crime
16 and drug and gang-related activities in schools.

17 **"SEC. 2103. APPLICATIONS.**

18 "(a) IN GENERAL.—In order to be eligible to receive
19 a grant under this part for any fiscal year, a local educa-
20 tional agency shall submit an application to the Director
21 in such form and containing such information as the Di-
22 rector may reasonably require.

23 "(b) REQUIREMENTS.—Each application under sub-
24 section (a) shall include—

1 “(1) a request for funds for the purposes de-
2 scribed in section 2002;

3 “(2) a description of the schools and communi-
4 ties to be served by the grant, including the nature
5 of the crime and violence problems within such
6 schools;

7 “(3) assurances that Federal funds received under
8 this part shall be used to supplement, not supplant, non-
9 Federal funds that would otherwise be available for activi-
10 ties funded under this part; and

11 “(4) statistical information in such form and
12 containing such information that the Director may
13 require regarding crime within schools served by
14 such local educational agency.

15 “(c) COMPREHENSIVE PLAN.—Each application shall
16 include a comprehensive plan that shall contain—

17 “(1) a description of the crime problems within
18 the schools targeted for assistance;

19 “(2) a description of the projects to be devel-
20 oped;

21 “(3) a description of the resources available in
22 the community to implement the plan together with
23 a description of the gaps in the plan that cannot be
24 filled with existing resources;

1 “(4) an explanation of how the requested grant
2 will be used to fill gaps;

3 “(5) a description of the system the applicant
4 will establish to prevent and reduce crime problems;
5 and

6 “(6) a description of educational materials to be
7 developed in Spanish.

8 “SEC. 2104. ALLOCATION OF FUNDS; LIMITATIONS ON
9 GRANTS.

10 “(a) ADMINISTRATIVE COST LIMITATION.—The Di-
11 rector shall use not more than 5 percent of the funds avail-
12 able under this part for the purposes of administration
13 and technical assistance.

14 “(b) RENEWAL OF GRANTS.—A grant under this
15 part may be renewed for up to 2 additional years after
16 the first fiscal year during which the recipient receives its
17 initial grant under this part, subject to the availability of
18 funds, if—

19 “(1) the Director determines that the funds
20 made available to the recipient during the previous
21 year were used in a manner required under the ap-
22 proved application; and

23 “(2) the Director determines that an additional
24 grant is necessary to implement the crime prevention

1 program described in the comprehensive plan as re-
2 quired by section 2003(c).

3 **"SEC. 2105. AWARD OF GRANTS.**

4 "(a) SELECTION OF RECIPIENTS.—The Director, in
5 consultation with the Secretary of Education, shall consid-
6 er the following factors in awarding grants to local educa-
7 tional agencies:

8 "(1) CRIME PROBLEM.—The nature and scope
9 of the crime problem in the targeted schools.

10 "(2) NEED AND ABILITY.—Demonstrated need
11 and evidence of the ability to provide the services de-
12 scribed in the plan required under section 2003(c).

13 "(3) POPULATION.—The number of students to
14 be served by the plan required under section
15 2003(c).

16 "(b) GEOGRAPHIC DISTRIBUTION.—The Director
17 shall attempt, to the extent practicable, to achieve an equi-
18 table geographic distribution of grant awards.

19 **"SEC. 2106. REPORTS.**

20 "(a) REPORT TO DIRECTOR.—Local educational
21 agencies that receive funds under this part shall submit
22 to the Director a report not later than March 1 of each
23 year that describes progress achieved in carrying out the
24 plan required under section 2003(c).

1 “(b) REPORT TO CONGRESS.—The Director shall
2 submit to the Committee on Education and Labor and the
3 Committee on the Judiciary a report by October 1 of each
4 year in which grants are made available under this part
5 which shall contain a detailed statement regarding grant
6 awards, activities of grant recipients, a compilation of sta-
7 tistical information submitted by applicants under
8 2003(b)(4), and an evaluation of programs established
9 under this part.

10 **“SEC. 2107. DEFINITIONS.**

11 “For the purpose of this part:

12 “(1) The term ‘Director’ means the Director of
13 the Bureau of Justice Assistance.

14 “(2) The term ‘local educational agency’ means
15 a public board of education or other public authority
16 legally constituted within a State for either adminis-
17 trative control or direction of, or to perform a serv-
18 ice function for, public elementary and secondary
19 schools in a city, county, township, school district, or
20 other political subdivision of a State, or such combi-
21 nation of school districts of counties as are recog-
22 nized in a State as an administrative agency for its
23 public elementary and secondary schools. Such term
24 includes any other public institution or agency hav-

1 ing administrative control and direction of a public
2 elementary or secondary school.”.

3 (b) CONFORMING AMENDMENT.—The table of con-
4 tents of title I of the Omnibus Crime Control and Safe
5 Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended
6 by section 1421 of this Act, is amended by striking the
7 matter relating to part U and inserting the following:

“PART U—SAFE SCHOOLS ASSISTANCE

- “Sec. 2101. Grant authorization.
- “Sec. 2102. Use of funds.
- “Sec. 2103. Applications.
- “Sec. 2104. Allocation of funds; limitations on grants.
- “Sec. 2105. Award of grants.
- “Sec. 2106. Reports.
- “Sec. 2107. Definitions.

“PART U—TRANSITION; EFFECTIVE DATE; REPEALER

- “Sec. 2201. Continuation of rules, authorities, and proceedings.”.

8 **SEC. 2903. AUTHORIZATION OF APPROPRIATIONS.**

9 Section 1001(a) of the Omnibus Crime Control and
10 Safe Streets Act of 1968 (42 U.S.C. 3793), as amended
11 by section 1421 of this Act, is amended by adding after
12 paragraph (14) the following:

13 “(15) There are authorized to be appropriated
14 \$100,000,000 for each of the fiscal years 1992, 1993, and
15 1994 to carry out the projects under part U.”.

requirements of this Part. This section further requires that no grant funds may be used for land acquisition or construction projects.

Section 1704 will allocate the total amount of funds appropriated under this Part in any fiscal year. It will provide for the allocation of 0.4 percent of this amount to each of the participating States, and for the allocation of the remaining funds among the participating States according to their prisoner populations. This section further provides that the Federal share of a grant may not exceed 75 percent of the total costs of the projects described in the application submitted by the State.

Section 1705 will require that each recipient State and local government submit to the Director an annual evaluation of its grant-funded projects. This section also makes a conforming amendment to the table of contents of the Omnibus Crime Control and Safe Streets Act of 1968.

Section 303

This section amends section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 by adding a new paragraph (24), which defines residential substance abuse as a course of individual and group activities, lasting between 9 and 12 months, in residential treatment facilities set apart from the general prison population.

Section 304

This section authorizes an appropriation of \$100 million for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this Part.

TITLE IV—SAFE SCHOOLS

PURPOSE

Title IV is an effort to guarantee the safety of the Nation's children in their classrooms and on their school grounds. It is another in the series of initiatives designed to prevent crimes before they occur and protect young people before they are victimized. The program is intended to make schools safe environments for learning and to reduce drug- and gang-related activity in schools. It will furnish grants to those local educational authorities most severely challenged by the rising amount of crime and violence that is disrupting their schools. These grants will fund programs aimed at reducing this crime and at aiding its victims. The goal is to draw the line on crime at the classroom door.

BACKGROUND

It is universally agreed that nothing is more important than the safety of our Nation's schoolchildren. There are approximately 40.5 million elementary and secondary students in the Nation's schools today. They are taught by 2.3 million teachers. Parents of these children, and the families of these teachers, deserve to know that they are safe. Unfortunately, parents everywhere are becoming increasingly worried about the safety of their children in school. Too

often these fears are justified; for many children, school is a place of fear rather than a safe haven for learning.

Crime and terror in schools is a harsh condition facing children, teachers and parents at all educational levels: elementary schools, middle schools and high schools. Crimes in schools include drug dealing among students or between adults and students, weapons violations, murders, assaults, aggravated assaults, sexual assaults, thefts, robberies and destruction of property offenses. Many crimes are gang-related. It is estimated that almost 3 million attempted or completed crimes take place in schools or on school property every year—that is 16,000 each day or one every six seconds. These include approximately 60,000 aggravated assaults, 300,000 simple assaults and 70,000 weapons offenses. Experts estimate that every day almost 135,000 youths enter school carrying guns. A recent poll indicated that 41 percent of male 8th and 10th graders had access to a handgun and that 39 percent reported being threatened with violence at school. Polls also show students are afraid of being victimized and that this fear impacts upon their ability to learn.

Gunfights are replacing fist fights and drive-by shooting drills are replacing fire drills on many school campuses. Some parents have even taken to sending their children to school wearing bullet-proof vests and carrying bullet-proof school bags and clip boards. Superintendents and security officials from the largest urban school districts listed weapons in the schools as among their top five concerns in a survey conducted by the National School Safety Center in 1988. Students bring a variety of weapons to schools, ranging from guns and knives to explosive devices. Between July 1, 1987, and June 30, 1988, California school officials confiscated 8,539 weapons including 789 guns, 4,408 knives and 2,216 explosives.

The problem of drugs and violence in schools is not limited to the inner cities. School violence often erupts where and when it is least expected, such as in Cokeville, Wyoming, where two people with a bomb held the entire school hostage for hours, and Stockton, California, where a man with an assault weapon killed and injured students and staff. Small school districts experience problems with weapons similar to schools in large cities. For example, in Duvall County, Florida, and Nashville, Tennessee, incidents of weapons in schools tripled between 1986 and 1987.

A number of school districts and individual schools are taking steps to both prevent and deal with incidents of crime in the schools. These measures often include physical facilities such as safer school design, metal detectors, safety doors, video surveillance equipment and the like. Many schools have established security offices and employ professional security personnel. Other utilize parents and other adults to monitor hallways and restrict access to schools to those with legitimate business. Some schools prepare for disaster with crisis intervention plans and bullet and drive-by shooting drills. It is important for schools to become more aware of school crime, deal with criminal behavior as crimes rather than as disciplinary matters and increase cooperation with local police departments and prosecutors offices. Many schools have also adopted anti-violence and anti-drug curricula. Some have student mediation programs as well as victim and counselling services for both students and teachers.

The Federal making resources. The grants make funds, explore and improve control technology secondary schools.

On July 16, tice held a hea above was the ed several vic man shot and mother, Jane were held hos in Cokeville, teacher who v New York, M crime were of D.C., Metrop Linda Johnso use in the pu Agency of Ne that program trict Attorney anti-crime pr National Crin a Washington problem in S of experts in the National curity for th and Ed Muir of Teachers (UFT's Victim

This title
marked up as

Section 401

Short Title:

Section 402

This tion
Safe Streets
tion 1801 as
contain the f

Section 180
agencies for
most directly
the Director
develop a wri

Section 18C
used to fund

The Federal Government should be exercising leadership and making resources available so more schools can utilize these measures. The grant program established in this title is intended to make funds, models and demonstration programs available to explore and implement these and other crime prevention and crime control techniques in the nation's public elementary, middle and secondary schools.

On July 16, 1991, the Subcommittee on Crime and Criminal Justice held a hearing to examine the issue. The information discussed above was the result of that hearing and review. Witnesses included several victims of school crime including Eric Taylor, a young man shot and injured in this school in Stockton, California, and his mother, Janet Taylor; Max Excell and his daughter Celeste who were held hostage by a couple with a bomb in an elementary school in Cokeville, Wyoming; and Judith Sherman, a special education teacher who was robbed and slashed with a knife in her school in New York, New York. Examples of some approaches to school crime were offered by Detective Jehru Brown of the Washington, D.C., Metropolitan Police Department (he was accompanied by Linda Johnson, A Washington, D.C. resident who described drug use in the public schools); Linda Lausell of the Victims' Service Agency of New York City and Patricia Baker a student mediator in that program; Charles Posner and Patricia Gatling, Assistant District Attorneys in Kings County, New York, who discussed a school anti-crime program run by that office; and John Calhoun of the National Crime Prevention Council accompanied by Michael Watts, a Washington, D.C. student who described the extent of the crime problem in Schools. Finally, the Subcommittee heard from a panel of experts in school crime including Ronald Stephens, Director of the National School Safety Center; Peter Blauvelt, Director of Security for the Prince George's County Maryland School System; and Ed Muir, Director of School Safety for the United Federation of Teachers (he was accompanied by June Feder, Coordinator of UFT's Victim Support Program).

This title was Title VI of the subcommittee print that was marked up and reported on July 31, 1991, by a vote of 13-0.

SECTION-BY-SECTION ANALYSIS

Section 401

Short Title: The Safe Schools Act of 1991.

Section 402

This section amends Title I of the Omnibus Crime Control and Safe Streets Act of 1968 by redesignating Part R as Part S, and section 1801 as section 1901; and inserting a new Part R, which will contain the following provisions:

Section 1801 authorizes a program of grants to local educational agencies for the purposes of providing assistance to such agencies most directly affected by crime and violence. This Section requires the Director of the Bureau of Justice Assistance (the "Director") to develop a written safe schools model.

Section 1802 mandates that grants made under this Part shall be used to fund school safety and anticrime measures, for counseling

programs for victims of crime, for crime prevention equipment, and for the prevention and reduction of the participation of young individuals in organized crime and drug- and gang-related activities in schools.

Section 1803 provides for local educational agencies to make application for grants to the Director of the Bureau of Justice Assistance. Such application will be required to describe the schools to be served by the grant, to include a comprehensive plan for addressing these schools' crime problems, and to contain assurances that any Federal grants made under this Part will not supplant non-Federal funds that would otherwise be spent for the financed activities. It will also require statistical information regarding crime within the relevant schools in such form as the Director shall specify.

Section 1804 mandates that no more than 5 percent of the funds available under this part shall be used for the purposes of administration and technical assistance. This section will further provide that a grant under this part may be renewed for up to 2 additional years.

Section 1805 will establish criteria of need, ability, population, and geographic distribution for the Director to consider in awarding grants.

Section 1806 will require grant recipients to submit to the Director annual reports describing the progress achieved with the assistance of the grants. This section will also require the Director to submit to Congress an annual report containing a detailed statement of grant awards and an evaluation of funded projects.

Section 1807 defines certain terms and effects certain conforming amendments.

Section 403

This section authorizes to be appropriated for the grant program \$100 million for each of the fiscal years 1992, 1993, and 1994.

TITLE V—VICTIMS OF CRIME

PURPOSE

Title V amends the Victims of Crime Act of 1984 as amended to eliminate the existing cap and sunset provisions, change the formula to more efficiently distribute resources to crime victims assistance and compensation programs, and provide for steady increases in the amount of funds available to such programs.

SECTION-BY-SECTION ANALYSIS

SUBTITLE A—CRIME VICTIMS FUND

Section 501

Section 501 amends the Victims of Crime Act of 1984 as amended (the "1984 Act") to eliminate the sunset provision of fiscal year 1994 for deposits made in the Crime Victims Fund (the "Fund"), and removes the fund ceiling of \$152,200,000 through fiscal year

1994. It also that, for fiscal in the Fund Human Serv Prevention a available to and the rem: lows: four pe and services tims compen ance prograr mains the se trative costs thereafter.

It is the ir Judicial Bra Courts Fine tricts. Increa for one-time The Commit Branch be d ciary's budge

Section 50 of Crime (the in which dep so as to mir ing. Only fu ous year ma the reserve f

Section 502

Section 50 victim comp amounts aw year. This i gram payme administrati

Section 503

Section 50 compensation administrati

Section 504

Section 50 sation not l nanced Stat of the Com Act be avai Medicaid, V Service, or c

M E M O R A N D U M

TO: Members of the Subcommittee
on Crime and Criminal Justice

FROM: Charles E. Schumer, Chairman
Subcommittee on Crime and Criminal Justice

DATE: July 16, 1991

RE: Safe Schools Hearing

On July 17, 1991, at 10:00 a.m. in Rayburn 2227 the Subcommittee on Crime and Criminal Justice will hold a hearing entitled "Safe Schools: Drawing the Line on Crime." The hearing will address the problems of crime, violence and drugs in our nation's elementary, junior and senior high schools. Witnesses will include a variety of victims of crime in schools, school officials and administrators and nationally recognized experts in the field. We will also be hearing about some promising approaches and programs to deal with crime, drugs and violence in our schools.

Nothing is more important than the safety of school children. There are 40.5 million elementary and secondary students in the nation's public and private schools today. They are taught by 2.3 million teachers. These students and teachers, however, are not safe from the reach of crime. There are approximately 16,000 crimes committed in schools every day - or about one every six seconds.

It seems like every day the news reports one or more incidents of serious crime in schools. On January 17, 1989, five elementary school students in Stockton, California were killed in a schoolyard by a gunman wielding an assault rifle. On May 16, 1986, all the staff and students of the Cokeville, Wyoming elementary school were held hostage by a bomb-wielding couple resulting in the death of the couple and several injuries when the bomb is detonated. A 13-year-old in Clearwater, Florida threatened to torture and kill his social studies teacher after receiving a bad grade and when he was taken into custody he was carrying two pistols, bullets and a switchblade. A high school student in Buffalo exploded a pipe bomb in a locker injuring several students. In April of 1989 in Fairfax County, Virginia, a nine-year-old girl was sexually assaulted in a school bathroom by an adult. In May of 1988 an eight-year-old girl was shot and killed by a woman in Winnetka, Illinois. In January of 1989 a Bronx teacher took a loaded semi-automatic pistol away from a five-year-old student in school. These are just some of the examples of the extent of the crime problem in schools.

While the more serious ones make the news, the everyday ones may not but are no less disturbing. Crime and terror in schools is a harsh condition facing children, teachers and parents at all levels of the educational sector: elementary schools, middle schools and high schools. Crimes in schools include drug dealing among

students or from adults to students, weapons violations (both guns and knives), murders, assaults, aggravated assaults, sexual assaults, thefts, robberies and destruction of property crimes. Many crimes are gang related. Although precise figures are difficult to determine, the National Crime Survey reported that nearly three million attempted or completed crimes (such as assault, rape, robbery or theft) took place inside schools or on school property during 1987. These included 75,900 aggravated assaults and 350,000 simple assaults. Every year approximately 70,000 weapons offenses are committed in schools or on school grounds and every day approximately 135,000 youths enter schools carrying guns. Polls report that students admit having access to weapons and carrying weapons in the schools. They also show that students are afraid of being victimized and that this fear impacts upon their ability to learn.

Gunfights are replacing fistfights, and bullet and drive-by shooting drills are replacing fire drills, on many school campuses. Some parents have even taken to sending their children to school wearing bullet-proof vests and carrying bullet-proof school bags and clip boards. Superintendents and security officials from the largest urban school districts listed weapons in the schools as one of their top five concerns in a survey conducted by the National School Safety Center in 1988. Students bring a variety of weapons to schools, ranging from guns and knives to explosive devices. Between July 1, 1987, and June 30, 1988, California school officials confiscated 8,539 weapons including 789 guns, 4,408 knives, and 2,216 explosives. Small school districts experience similar problems with weapons. In Duvall County, Florida and Nashville, Tennessee incidents of weapons in the schools tripled between 1986 and 1987.

A number of school districts and individual schools are taking steps to both prevent and deal with incidents of crime in the schools. These measures often include physical facilities such as safer school design, metal detectors, safety doors, video surveillance equipment and the like. Many schools have established security offices and employ professional security personnel. Others utilize parents and others to monitor hallways and restrict access to schools to those with legitimate business. Some schools prepare for disaster with crisis intervention plans and bullet and drive-by shooting drills. It is important for all schools to become more aware of school crime, deal with the problems as crimes rather than as strictly internal disciplinary matters and increase cooperation with local police departments and prosecutors' offices. Many schools have also adopted anti-violence and anti-drug curricula. Some have student mediation programs as well as victim counseling services for both students and teachers.

The witnesses at today's hearing will include a number of victims of school crime. We will hear from the principal of the Cokeville, Wyoming school and his daughter who, along with the rest of the

school, were held hostage by a couple wielding a bomb. Cokeville, Wyoming has a population of under 500 people and illustrates the point that this is a national problem not limited in scope to urban or high crime areas. We will also hear from a youngster who was shot by an assault weapon at the Cleveland School in Stockton, California and his mother. The problem of teacher victimization will be illustrated by a New York City teacher who was a victim of a serious crime in the school.

The hearing will also feature some specific and promising anti-crime programs such as the Adopt-A-School program run by the Kings County, New York District Attorney's Office. Under this program, ADA's and other staff visit elementary schools on a regular basis and offer education and training designed to prevent crime and drug abuse. We will hear from a student mediator who is trained to mediate disputes between students to achieve non-violent conflict resolution. We will also hear from a D.C. drug detective who takes a compelling message into local District of Columbia schools.

Finally, the hearing will also include testimony from the Executive Director of the National School Safety Center, a leading institution in the study of school-related crime. We will hear from a nationally-recognized school safety expert - the director of school safety for the Prince George's County, Maryland schools. The school safety director of the United Federation of Teachers will also offer testimony from the teachers' perspective.

It is important to ascertain the exact nature and scope of the school crime problem and to investigate successful techniques for dealing with it. This information and these approaches should be made available to all schools that need them and can make use of them. The Federal government can and should help with this work and this hearing is a first step in that effort.

I look forward to your participation in tomorrow's hearing.

MORE COPS

MORE COPS

Clinton campaign pledged 100,000 more cops on the street. What needs to be done to fulfill that commitment? Actual new cops or redeployment into community policing? Over what period of time?

Next: What is role of Police Corps? Are the 100,000 cops this program anticipates the ones referred to? If not how will Police Corps blend with other mechanisms? And how will Police Corps fit into the broader National Service Program?

Some issues:

1. Expense: how much and who pays.
2. Overloading criminal justice system at front end? More arrests are great but how is the rest of the system going to deal with it? This may not be as much a problem as some think since if the theory works more cops on the street will eventually mean less crime.
3. Reactions of present cops.

Included here:

1. Community Policing/Cop on the Beat Grant program from conference report with report language and sectional analysis
2. Police Corps language from the conference report
3. Law enforcement scholarships language from conference report with report language and sectional analysis
4. Old memo re Police corps

One hundred thousand actual new cops over time can come from the following sources in a way that could be paid for if savings are made elsewhere and if there is commitment to increased spending in law enforcement for community policing.

1. laid off cops - 20% of force so that's a pool of 100,000 right there
2. active military and veterans
3. Police Corps cadets
4. cops locals hire on own with Federal matching grant money (start at 75-25 move to 50-50 over time)
5. Redeployment to community policing. One version of this would mean not hiring anyone new just taking cops from behind desks and putting on streets. A better version envisions hiring clerks and paralegals to do bookings and other clerical functions that cops now do so cops can do community policing. The beauty of this is that these non-cops can be paid less. Perhaps Police Corps can also be modified to provide for this without being actual gun carrying cops.

One commentator says that if each of the 222 police departments serving communities over 100,000 citizens or more increase the force by 20% that would mean hiring an additional

36,000 police officers and spending another \$936 million per year. Totally doable as a start. (John DiIulio, "Setting Domestic Priorities," Brookings, 1992)

Police Corps is presently authorized at \$400,000 million but that would be a skeleton program. Fully funded it would cost \$1.7 billion after four years without paying any salaries. Police Corps should be merged into the National Service program and seen as one source from which the 100,000 cops can come from over time. Also, there is no reason why people with law enforcement experience should be disqualified from Police Corps. Including them would please cops and take care of some of laid off cop problem and law enforcement scholarship problem.

So, legislation would consist of the Police Corps as part of the National Service bill and modified to allow for "junior" cops; matching grant for more local cops with priority formual for laid off cops and vets. And reassignment of active military as part of defense trimming that will not increase total cost to Federal government.

Finally, the law enforcement scholarships should be added to modest degree.

1 “(D) armed robbery when armed with a
2 firearm;

3 “(E) aggravated battery or assault when
4 armed with a firearm;

5 “(F) criminal sexual penetration when
6 armed with a firearm; and

7 “(G) drive-by shootings as described in
8 section 931 of title 18, United States
9 Code.” effective April 10, 1991.

10 **Subtitle E—Community Policing;**
11 **Cop on the Beat**

12 **SEC. 1151. SHORT TITLE.**

13 This title may be cited as “The Community Policing;
14 Cop on the Beat Act of 1991”.

15 **SEC. 1152. COMMUNITY POLICING; COP ON THE BEAT.**

16 (a) IN GENERAL.—Title I of the Omnibus Crime
17 Control and Safe Streets Act of 1968 (42 U.S.C. 3711
18 et seq.) is amended—

19 (1) by redesignating part P as part Q;

20 (2) by redesignating section 1601 as section
21 1701; and

22 (3) by inserting after part O the following:

1 **"PART P—COMMUNITY POLICING; COP ON THE**
2 **BEAT GRANTS**

3 **"SEC. 1601. GRANT AUTHORIZATION.**

4 “(a) GRANT PROJECTS.—The Director of the Bureau
5 of Justice Assistance may make grants to units of local
6 government and to community groups to establish or ex-
7 pand cooperative efforts between police and a community
8 for the purposes of increasing police presence in the com-
9 munity, including—

10 “(1) developing innovative neighborhood-orient-
11 ed policing programs;

12 “(2) providing new technologies to reduce the
13 amount of time officers spend processing cases in-
14 stead of patrolling the community;

15 “(3) purchasing equipment to improve commu-
16 nications between officers and the community and to
17 improve the collection, analysis, and use of informa-
18 tion about crime-related community problems;

19 “(4) developing policies that reorient police em-
20 phasis from reacting to crime to preventing crime;

21 “(5) creating decentralized police substations
22 throughout the community to encourage interaction
23 and cooperation between the public and law enforce-
24 ment personnel on a local level;

25 “(6) providing training and problem solving for
26 community crime problems;

1 “(7) providing training in cultural differences
2 for law enforcement officials;

3 “(8) developing community-based crime preven-
4 tion programs, such as safety programs for senior
5 citizens, community anticrime groups, and other
6 anticrime awareness programs;

7 “(9) developing crime prevention programs in
8 communities which have experienced a recent in-
9 crease in gang-related violence; and

10 “(10) developing projects following the model
11 under subsection (b).

12 “(b) MODEL PROJECT.—The Director shall develop
13 a written model that informs community members
14 regarding—

15 “(1) how to identify the existence of a drug or
16 gang house;

17 “(2) what civil remedies, such as public nui-
18 sance violations and civil suits in small claims court,
19 are available; and

20 “(3) what mediation techniques are available
21 between community members and individuals who
22 have established a drug or gang house in such com-
23 munity.

1 **"SEC. 1602. APPLICATION.**

2 “(a) IN GENERAL.—(1) To be eligible to receive a
3 grant under this part, a chief executive of a unit of local
4 government, a duly authorized representative of a combi-
5 nation of local governments within a geographic region,
6 or a community group shall submit an application to the
7 Director in such form and containing such information as
8 the Director may reasonably require.

9 “(2) In such application, one office, or agency (public,
10 private, or nonprofit) shall be designated as responsible
11 for the coordination, implementation, administration, ac-
12 counting, and evaluation of services described in the appli-
13 cation.

14 “(b) GENERAL CONTENTS.—Each application under
15 subsection (a) shall include—

16 “(1) a request for funds available under this
17 part for the purposes described in section 1601;

18 “(2) a description of the areas and populations
19 to be served by the grant; and

20 “(3) assurances that Federal funds received
21 under this part shall be used to supplement, not
22 supplant, non-Federal funds that would otherwise be
23 available for activities funded under this part.

24 “(c) COMPREHENSIVE PLAN.—Each application shall
25 include a comprehensive plan which contains—

1 “(1) a description of the crime problems within
2 the areas targeted for assistance;

3 “(2) a description of the projects to be devel-
4 oped;

5 “(3) a description of the resources available in
6 the community to implement the plan together with
7 a description of the gaps in the plan that cannot be
8 filled with existing resources;

9 “(4) an explanation of how the requested grant
10 shall be used to fill those gaps;

11 “(5) a description of the system the applicant
12 shall establish to prevent and reduce crime problems;
13 and

14 “(6) an evaluation component, including per-
15 formance standards and quantifiable goals the appli-
16 cant shall use to determine project progress, and the
17 data the applicant shall collect to measure progress
18 toward meeting project goals.

19 **“SEC. 1603. ALLOCATION OF FUNDS; LIMITATIONS ON**
20 **GRANTS.**

21 “(a) **ALLOCATION.**—The Director shall allocate not
22 less than 75 percent of the funds available under this part
23 to units of local government or combinations of such units
24 and not more than 20 percent of the funds available under
25 this part to community groups.

1 “(b) ADMINISTRATIVE COST LIMITATION.—The Di-
2 rector shall use not more than 5 percent of the funds avail-
3 able under this part for the purposes of administration,
4 technical assistance, and evaluation.

5 “(c) RENEWAL OF GRANTS.—A grant under this part
6 may be renewed for up to 2 additional years after the first
7 fiscal year during which the recipient receives its initial
8 grant, subject to the availability of funds, if the Director
9 determines that the funds made available to the recipient
10 during the previous year were used in a manner required
11 under the approved application and if the recipient can
12 demonstrate significant progress toward achieving the
13 goals of the plan required under section 1602(c).

14 “(d) FEDERAL SHARE.—The Federal share of a
15 grant made under this part may not exceed 75 percent
16 of the total costs of the projects described in the applica-
17 tion submitted under section 1602 for the fiscal year for
18 which the projects receive assistance under this part.

19 **“SEC. 1604. AWARD OF GRANTS.**

20 “(a) SELECTION OF RECIPIENTS.—The Director
21 shall consider the following factors in awarding grants to
22 units of local government or combinations of such units
23 under this part:

1 “(1) NEED AND ABILITY.—Demonstrated need
2 and evidence of the ability to provide the services de-
3 scribed in the plan required under section 1602(c).

4 “(2) COMMUNITY-WIDE RESPONSE.—Evidence
5 of the ability to coordinate community-wide response
6 to crime.

7 “(3) MAINTAIN PROGRAM.—The ability to
8 maintain a program to control and prevent crime
9 after funding under this part is no longer available.

10 “(b) GEOGRAPHIC DISTRIBUTION.—The Director
11 shall attempt, to the extent practicable, to achieve an equi-
12 table geographic distribution of grant awards.

13 **“SEC. 1605. REPORTS.**

14 “(a) REPORT TO DIRECTOR.—Recipients who receive
15 funds under this part shall submit to the Director not
16 later than March 1 of each year a report that describes
17 progress achieved in carrying out the plan required under
18 section 1602(c).

19 “(b) REPORT TO CONGRESS.—The Director shall
20 submit to the Congress a report by October 1 of each year
21 that shall contain a detailed statement regarding grant
22 awards, activities of grant recipients, and an evaluation
23 of projects established under this part.

24 **“SEC. 1606. DEFINITIONS.**

25 “For the purposes of this part:

1 “(1) The term ‘community group’ means a
2 community-based nonprofit organization that has a
3 primary purpose of crime prevention.

4 “(2) The term ‘Director’ means the Director of
5 the Bureau of Justice Assistance.”.

6 (b) CONFORMING AMENDMENT.—The table of con-
7 tents of title I of the Omnibus Crime Control and Safe
8 Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended
9 by striking the matter relating to part P and inserting
10 the following:

 “PART P—COMMUNITY POLICING; COP ON THE BEAT GRANTS

 “Sec. 1601. Grant authorization.

 “Sec. 1602. Application.

 “Sec. 1603. Allocation of funds; limitation on grants.

 “Sec. 1604. Award of grants.

 “Sec. 1605. Reports.

 “Sec. 1606. Definitions.

 “PART Q—TRANSITION; EFFECTIVE DATE; REPEALER

 “Sec. 1701. Continuation of rules, authorities, and proceedings.”.

11 **SEC. 1153. AUTHORIZATION OF APPROPRIATIONS.**

12 Section 1001(a) of title I of the Omnibus Crime Con-
13 trol and Safe Streets Act of 1968 (42 U.S.C. 3793) is
14 amended—

15 (1) by redesignating the last 3 paragraphs as
16 paragraphs (7), (8), and (9); and

17 (2) by adding after paragraph (9) the following:

18 “(10) There are authorized to be appropriated
19 \$150,000,000 for each of the fiscal years 1992, 1993, and
20 1994 to carry out the projects under part P.”.

DISCUSSION AND SECTION-BY-SECTION ANALYSIS

TITLE I—COMMUNITY POLICING: COP ON THE BEAT

PURPOSE

Title I is the first of several initiatives designed to help law enforcement prevent crimes before they occur rather than merely react to them after the fact. The title makes Federal assistance and leadership available to State and local law enforcement authorities in their efforts to put more cops back on the beat, thereby increasing police presence on the streets and helping to develop stronger, more effective working partnerships between police and the communities they serve.

BACKGROUND

Decades ago police officers routinely walked familiar and regular beats and in the process developed relationship of trust with the community residents that allowed them to solve problems before they developed into criminal activity. With the technological advances represented by roving, radio-based police patrol cars and 911 systems, these links between the police and the community began to deteriorate. Police were no longer able to anticipate and prevent crime by use of community-oriented, problem solving techniques. Instead, they were forced to speed from one crime scene to another and merely take reports after the fact—long after the offender was gone. In addition, most police officers spend too much time taking reports and processing cases and not enough time on the streets fighting crime.

In recent years police departments all over the country have begun exploring ways of putting the cop back on the beat as part of a movement known as community-oriented or problem-oriented or problem-solving policing. This method of policing requires new and different approaches, techniques and training. These efforts serve to strengthen the relationship between the people and the police, thus increasing accountability on both sides. The program authorized by this title will provide needed leadership and funding to local governments and community groups to augment their efforts to provide this community-based policing. It will encourage police departments to reorient their emphasis from reacting to crime to preventing crime.

The \$150 million authorized under this Bureau of Justice Assistance Grant program will be available to help State and local police departments and local community groups develop innovative, neighborhood-oriented policing programs. This will include training in community and problem-solving policing techniques. It will also be available to provide new technologies that will reduce the amount of time police officers spend processing cases, filling out forms and taking reports and provide more time for the real police work of community patrol, problem solving and crime prevention. BJA is also directed to develop model programs to help communities deal with gangs and drug houses.

This program was the result of careful study by the Subcommittee on Crime and Criminal Justice. This review culminated in a

hearing held on July 10, 1991, that explored the need for and success of some of these community policing programs across the country. Testimony was taken from Lee Brown, Commissioner of the New York City Police Department, who is widely considered to be one of the originators of the community policing theory as well as one of its biggest proponents. He has recently begun to put the idea into practice in the New York City Police Department. The Subcommittee also heard testimony from police and citizen representatives from Tucson, Arizona; Aurora, Colorado; and New York, New York about successful techniques being utilized in these areas. Two other experts in the field, Dr. Robert Trojanowicz, Director of the National Center for Community Policing and School of Criminal Justice at Michigan State University; and Mr. John Eck, Director of Research at the Police Executive Research Forum, also testified in support of the initiative.

This title was reported favorably by the Subcommittee on Crime and Criminal Justice as Title V of its subcommittee print on July 31, 1991, by a vote of 13-0. During Committee markup an amendment was offered by Rep. Dan Glickman (D-Kansas) and adopted by voice vote that would make funds available under this program for the development of crime prevention programs in communities that have experienced increases in gang-related violence.

SECTION-BY-SECTION ANALYSIS

Section 1010

Short Title: The Community Policing; Cop on the Beat Act of 1991.

Section 102

This section amends Title I of the Omnibus Crime Control and Safe Streets Act of 1968 by redesignating Part P as Part Q and Section 1601 as Section 1701; and by inserting a new Part P, which will contain the provisions discussed below.

Section 1601 of Part P will authorize a program of grants to local governments and community groups for the purposes of developing neighborhood-oriented policing programs, providing new technologies to reduce the amount of time officers spend on paperwork, purchasing equipment to improve communications between officers and the community, creating decentralized police substations throughout the community, providing training in cultural differences for law enforcement officials, developing model projects for informing community members about how to eliminate drugs and gangs in their neighborhoods, and developing other community-based crime prevention techniques and policies.

Section 1602 will provide for local governments or combinations of local governments to make applications for grants to the Director of the Bureau of Justice Assistance (the "Director"). Such application will be required to describe the projects for which funding is sought and shall designate a public or private agency to be responsible for carrying out those projects. Applications will also be required to contain assurances that any Federal grants made under this part will not supplant non-Federal funds that would otherwise be spent for the financed activities.

Section 1603 available for grants, and that allocated to cover more than 5 percent used for the purpose of evaluation, and under this part coming from no grant under this

Section 1604 distribution for 1991 will be the Director designates the grants. This program shall receive an annual award and an award under certain terms and

Section 103

This section a of the fiscal year community policing

TITLE II—

Title II is an future crimes. I who has a subst a treatment program intended to reduce social, vocational substance abuse problems. Treating the prison population to ease future prison a successful return

Drug treatment and for Prisons studies moderate to severe treatment programs. There is an increase in crime with drug. Bureau of Prisons H.R. 548, the 1991, was introduced of the Subcommittee

Section 1603 requires that no less than 75 percent of the funds available for grants under this part be allocated to local governments, and that no more than 20 percent of the available funds be allocated to community groups. This section also mandates that no more than 5 percent of the funds available under this part shall be used for the purposes of administration, technical assistance, and evaluation, and that the Federal share of projects funded by grants under this part shall not exceed 75 percent will at least 25% coming from non-Federal sources. This section also provides that a grant under this part may be renewed for up to 2 additional years.

Section 1604 establishes criteria of need, ability, and geographic distribution for the Director to consider in awarding grants. Section 1605 will require grant recipients to submit annual reports to the Director describing the progress achieved with the assistance of the grants. This section also requires the Director to submit to Congress an annual report containing a detailed statement of grant awards and an evaluation of funded projects. Section 1606 defines certain terms and effects certain conforming amendments.

Section 103

This section authorizes to be appropriated \$150 million for each of the fiscal years 1992, 1993, and 1994 for the cop on the beat/community policing grant program.

TITLE II—DRUG TREATMENT IN FEDERAL PRISONS

Title II is another provision aimed at taking steps to prevent future crimes. It will ensure that by 1995 every Federal prisoner who has a substance abuse problem and who is willing to undergo a treatment program will have the opportunity to receive treatment. It will make available to every eligible Federal prisoner a program intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills in order to solve the prisoner's substance abuse and related problems. Offenders with substance abuse problems have an extraordinarily high rate of recidivism. Treating these problems will reduce the tendency of the current prison population to commit crimes after their release, will help ease future prison overcrowding, and will permit prisoners to make a successful return to the community as productive citizens.

BACKGROUND

Drug treatment for prisoners is a powerful tool for reducing recidivism and for easing prison overcrowding. But despite Bureau of Prisons studies showing that 47 percent of Federal inmates have moderate to serious substance abuse problems, residential treatment programs are available to only 6 percent of these inmates. There is an immense gap between what could be done to prevent crime with drug treatment and what is now being done by the Bureau of Prisons.

H.R. 548, the Federal Prison Substance Abuse Availability Act of 1991, was introduced by Congressman Charles Schumer, Chairman of the Subcommittee on Crime and Criminal Justice, on January

1 **Subtitle C—Police Corps and Law**
2 **Enforcement Officers Train-**
3 **ing and Education**

4 **SEC. 1221. SHORT TITLE.**

5 This title may be cited as the “Police Corps and Law
6 Enforcement Training and Education Act”.

7 **SEC. 1222. PURPOSES.**

8 The purposes of this title are to—

9 (1) address violent crime by increasing the
10 number of police with advanced education and train-
11 ing on community patrol;

12 (2) provide educational assistance to law en-
13 forcement personnel and to students who possess a
14 sincere interest in public service in the form of law
15 enforcement; and

16 (3) assist State and local law enforcement ef-
17 forts to enhance the educational status of law en-
18 forcement personnel both through increasing the
19 educational level of existing officers and by recruit-
20 ing more highly educated officers.

21 **SEC. 1223. ESTABLISHMENT OF OFFICE OF THE POLICE**
22 **CORPS AND LAW ENFORCEMENT EDUCATION.**

23 (a) **ESTABLISHMENT.**—There is established in the
24 Department of Justice, under the general authority of the

1 Attorney General, an Office of the Police Corps and Law
2 Enforcement Education.

3 (b) APPOINTMENT OF DIRECTOR.—The Office of the
4 Police Corps and Law Enforcement Education shall be
5 headed by a Director (referred to in this title as the “Di-
6 rector”) who shall be appointed by the President, by and
7 with the advice and consent of the Senate.

8 (c) RESPONSIBILITIES OF DIRECTOR.—The Director
9 shall be responsible for the administration of the Police
10 Corps program established in subtitle A and the Law En-
11 forcement Scholarship program established in subtitle B
12 and shall have authority to promulgate regulations to im-
13 plement this title.

14 **SEC. 1224. DESIGNATION OF LEAD AGENCY AND SUBMIS-**
15 **SION OF STATE PLAN.**

16 (a) LEAD AGENCY.—A State that desires to partici-
17 pate in the Police Corps program under subtitle A or the
18 Law Enforcement Scholarship program under subtitle B
19 shall designate a lead agency that will be responsible for—

20 (1) submitting to the Director a State plan de-
21 scribed in subsection (b); and

22 (2) administering the program in the State.

23 (b) STATE PLANS.—A State plan shall—

24 (1) contain assurances that the lead agency
25 shall work in cooperation with the local law enforce-

1 ment liaisons, representatives of police labor organi-
2 zations and police management organizations, and
3 other appropriate State and local agencies to develop
4 and implement interagency agreements designed to
5 carry out the program;

6 (2) contain assurances that the State shall ad-
7 vertise the assistance available under this title;

8 (3) contain assurances that the State shall
9 screen and select law enforcement personnel for par-
10 ticipation in the program;

11 (4) if the State desires to participate in the Po-
12 lice Corps program under subtitle A, meet the re-
13 quirements of section 1236; and

14 (5) if the State desires to participate in the
15 Law Enforcement Scholarship program under sub-
16 title B, meet the requirements of section 826.

17 **CHAPTER 1—POLICE CORPS** 18 **PROGRAM**

19 **SEC. 1231. DEFINITIONS.**

20 For the purposes of this subtitle—

21 (1) the term “academic year” means a tradi-
22 tional academic year beginning in August or Sep-
23 tember and ending in the following May or June;

1 (2) the term "dependent child" means a natural
2 or adopted child or stepchild of a law enforcement
3 officer who at the time of the officer's death—

4 (A) was no more than 21 years old; or

5 (B) if older than 21 years, was in fact de-
6 pendent on the child's parents for at least one-
7 half of the child's support (excluding education-
8 al expenses), as determined by the Director;

9 (3) the term "educational expenses" means ex-
10 penses that are directly attributable to—

11 (A) a course of education leading to the
12 award of the baccalaureate degree; or

13 (B) a course of graduate study following
14 award of a baccalaureate degree,
15 including the cost of tuition, fees, books, supplies,
16 transportation, room and board and miscellaneous
17 expenses;

18 (4) the term "participant" means a participant
19 in the Police Corps program selected pursuant to
20 section 1233;

21 (5) the term "State" means a State of the
22 United States, the District of Columbia, the Com-
23 monwealth of Puerto Rico, the Virgin Islands, Amer-
24 ican Samoa, Guam, and the Commonwealth of the
25 Northern Mariana Islands; and

1 (6) the term "State Police Corps program"
2 means a State police corps program approved under
3 section 1236.

4 **SEC. 1232. SCHOLARSHIP ASSISTANCE.**

5 (a) SCHOLARSHIPS AUTHORIZED.—(1) The Director
6 is authorized to award scholarships to participants who
7 agree to work in a State or local police force in accordance
8 with agreements entered into pursuant to subsection (d).

9 (2)(A) Except as provided in subparagraph (B) each
10 scholarship payment made under this section for each aca-
11 demic year shall not exceed—

12 (i) \$7,500; or

13 (ii) the cost of the educational expenses related
14 to attending an institution of higher education.

15 (B) In the case of a participant who is pursuing a
16 course of educational study during substantially an entire
17 calendar year, the amount of scholarship payments made
18 during such year shall not exceed \$10,000.

19 (C) The total amount of scholarship assistance re-
20 ceived by any one student under this section shall not ex-
21 ceed \$30,000.

22 (4) Recipients of scholarship assistance under this
23 section shall continue to receive such scholarship payments
24 only during such periods as the Director finds that the
25 recipient is maintaining satisfactory progress as deter-

1 mined by the institution of higher education the recipient
2 is attending.

3 (5)(A) The Director shall make scholarship payments
4 under this section directly to the institution of higher edu-
5 cation that the student is attending.

6 (B) Each institution of higher education receiving a
7 payment on behalf of a participant pursuant to subpara-
8 graph (A) shall remit to such student any funds in excess
9 of the costs of tuition, fees, and room and board payable
10 to the institution.

11 (b) REIMBURSEMENT AUTHORIZED.—(1) The Direc-
12 tor is authorized to make payments to a participant to
13 reimburse such participant for the costs of educational ex-
14 penses if such student agrees to work in a State or local
15 police force in accordance with the agreement entered into
16 pursuant to subsection (d).

17 (2)(A) Each payment made pursuant to paragraph
18 (1) for each academic year of study shall not exceed—

19 (i) \$7,500; or

20 (ii) the cost of educational expenses related to
21 attending an institution of higher education.

22 (B) In the case of a participant who is pursuing a
23 course of educational study during substantially an entire
24 calendar year, the amount of scholarship payments made
25 during such year shall not exceed \$10,000.

1 (C) The total amount of payments made pursuant to
2 subparagraph (A) to any one student shall not exceed
3 \$30,000.

4 (c) USE OF SCHOLARSHIP.—Scholarships awarded
5 under this subsection shall only be used to attend a 4-
6 year institution of higher education, except that—

7 (1) scholarships may be used for graduate and
8 professional study, and

9 (2) where a participant has enrolled in the pro-
10 gram upon or after transfer to a four-year institu-
11 tion of higher education, the Director may reimburse
12 the participant for the participant's prior education-
13 al expenses.

14 (d) AGREEMENT.—(1) Each participant receiving a
15 scholarship or a payment under this section shall enter
16 into an agreement with the Director. Each such agreement
17 shall contain assurances that the participant shall—

18 (A) after successful completion of a bacca-
19 laureate program and training as prescribed in
20 section 1234, work for 4 years in a State or
21 local police force without there having arisen
22 sufficient cause for the participant's dismissal
23 under the rules applicable to members of the
24 police force of which the participant is a mem-
25 ber;

1 (B) complete satisfactorily—

2 (i) an educational course of study and
3 receipt of a baccalaureate degree (in the
4 case of undergraduate study) or the re-
5 ward of credit to the participant for having
6 completed one or more graduate courses
7 (in the case of graduate study);

8 (ii) Police Corps training and certifi-
9 cation by the Director that the participant
10 has met such performance standards as
11 may be established pursuant to section
12 1234; and

13 (C) repay all of the scholarship or payment
14 received plus interest at the rate of 10 percent
15 in the event that the conditions of subpara-
16 graphs (A) and (B) are not complied with.

17 (2)(A) A recipient of a scholarship or payment under
18 this section shall not be considered in violation of the
19 agreement entered into pursuant to paragraph (1) if the
20 recipient—

21 (i) dies; or

22 (ii) becomes permanently and totally disabled as
23 established by the sworn affidavit of a qualified
24 physician.

1 (B) In the event that a scholarship recipient is unable
2 to comply with the repayment provision set forth in sub-
3 paragraph (B) of paragraph (1) because of a physical or
4 emotional disability or for good cause as determined by
5 the Director, the Director may substitute community serv-
6 ice in a form prescribed by the Director for the required
7 repayment.

8 (C) The Director shall expeditiously seek repayment
9 from participants who violate the agreement described in
10 paragraph (1).

11 (e) DEPENDENT CHILD.—A dependent child of a law
12 enforcement officer—

13 (1) who is a member of a State or local police
14 force or is a Federal criminal investigator or uni-
15 formed police officer,

16 (2) who is not a participant in the Police Corps
17 program, but

18 (3) who serves in a State for which the Director
19 has approved a Police Corps plan, and

20 (4) who is killed in the course of performing po-
21 lice duties,

22 shall be entitled to the scholarship assistance authorized
23 in this section for any course of study in any accredited
24 institution of higher education. Such dependent child shall

1 not incur any repayment obligation in exchange for the
2 scholarship assistance provided in this section.

3 (f) APPLICATION.—Each participant desiring a schol-
4 arship or payment under this section shall submit an ap-
5 plication as prescribed by the Director in such manner and
6 accompanied by such information as the Director may rea-
7 sonably require.

8 (g) DEFINITION.—For the purposes of this section
9 the term “institution of higher education” has the mean-
10 ing given that term in the first sentence of section 1201(a)
11 of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

12 **SEC. 1233. SELECTION OF PARTICIPANTS.**

13 (a) IN GENERAL.—Participants in State Police Corps
14 programs shall be selected on a competitive basis by each
15 State under regulations prescribed by the Director.

16 (b) SELECTION CRITERIA AND QUALIFICATIONS.—
17 (1) In order to participate in a State Police Corps pro-
18 gram, a participant must—

19 (A) be a citizen of the United States or an alien
20 lawfully admitted for permanent residence in the
21 United States;

22 (B) meet the requirements for admission as a
23 trainee of the State or local police force to which the
24 participant will be assigned pursuant to section
25 1235(c)(5), including achievement of satisfactory

1 scores on any applicable examination, except that
2 failure to meet the age requirement for a trainee of
3 the State or local police shall not disqualify the ap-
4 plicant if the applicant will be of sufficient age upon
5 completing an undergraduate course of study;

6 (C) possess the necessary mental and physical
7 capabilities and emotional characteristics to dis-
8 charge effectively the duties of a law enforcement of-
9 ficer;

10 (D) be of good character and demonstrate sin-
11 cere motivation and dedication to law enforcement
12 and public service;

13 (E) in the case of an undergraduate, agree in
14 writing that the participant will complete an educa-
15 tional course of study leading to the award of a bac-
16 calaureate degree and will then accept an appoint-
17 ment and complete 4 years of service as an officer
18 in the State police or in a local police department
19 within the State;

20 (F) in the case of a participant desiring to un-
21 dertake or continue graduate study, agree in writing
22 that the participant will accept an appointment and
23 complete 4 years of service as an officer in the State
24 police or in a local police department within the

1 State before undertaking or continuing graduate
2 study:

3 (G) contract, with the consent of the partici-
4 pant's parent or guardian if the participant is a
5 minor, to serve for 4 years as an officer in the State
6 police or in a local police department, if an appoint-
7 ment is offered; and

8 (H) except as provided in paragraph (2), be
9 without previous law enforcement experience.

10 (2)(A) Until the date that is 5 years after the date
11 of enactment of this title, up to 10 percent of the appli-
12 cants accepted into the Police Corps program may be per-
13 sons who—

14 (i) have had some law enforcement experience;
15 and

16 (ii) have demonstrated special leadership poten-
17 tial and dedication to law enforcement.

18 (B)(i) The prior period of law enforcement of a par-
19 ticipant selected pursuant to subparagraph (A) shall not
20 be counted toward satisfaction of the participant's 4-year
21 service obligation under section 1235, and such a partici-
22 pant shall be subject to the same benefits and obligations
23 under this subtitle as other participants, including those
24 stated in section (b)(1) (E) and (F).

1 (ii) Clause (i) shall not be construed to preclude
2 counting a participant's previous period of law enforce-
3 ment experience for purposes other than satisfaction of the
4 requirements of section 1235, such as for purposes of de-
5 termining such a participant's pay and other benefits,
6 rank, and tenure.

7 (3) It is the intent of this Act that there shall be
8 no more than 20,000 participants in each graduating
9 class. The Director shall approve State plans providing in
10 the aggregate for such enrollment of applicants as shall
11 assure, as nearly as possible, annual graduating classes
12 of 20,000. In a year in which applications are received
13 in a number greater than that which will produce, in the
14 judgment of the Director, a graduating class of more than
15 20,000, the Director shall, in deciding which applications
16 to grant, give preference to those who will be participating
17 in State plans that provide law enforcement personnel to
18 areas of greatest need.

19 (c) RECRUITMENT OF MINORITIES.—Each State par-
20 ticipating in the Police Corps program shall make special
21 efforts to seek and recruit applicants from among mem-
22 bers of all racial, ethnic or gender groups. This subsection
23 does not authorize an exception from the competitive
24 standards for admission established pursuant to subsec-
25 tions (a) and (b).

1 (d) ENROLLMENT OF APPLICANT.—(1) An applicant
2 shall be accepted into a State Police Corps program on
3 the condition that the applicant will be matriculated in,
4 or accepted for admission at, a 4-year institution of higher
5 education (as described in the first sentence of section
6 1201(a) of the Higher Education Act of 1965 (20 U.S.C.
7 1141(a)))—

8 (A) as a full-time student in an undergraduate
9 program; or

10 (B) for purposes of taking a graduate course.

11 (2) If the applicant is not matriculated or accepted
12 as set forth in paragraph (1), the applicant's acceptance
13 in the program shall be revoked.

14 (e) LEAVE OF ABSENCE.—(1) A participant in a
15 State Police Corps program who requests a leave of ab-
16 sence from educational study, training or service for a pe-
17 riod not to exceed 1 year (or 18 months in the aggregate
18 in the event of multiple requests) due to temporary physi-
19 cal or emotional disability shall be granted such leave of
20 absence by the State.

21 (2) A participant who requests a leave of absence
22 from educational study, training or service for a period
23 not to exceed 1 year (or 18 months in the aggregate in
24 the event of multiple requests) for any reason other than

1 those listed in paragraph (1) may be granted such leave
2 of absence by the State.

3 (3) A participant who requests a leave of absence
4 from educational study or training for a period not to ex-
5 ceed 30 months to serve on an official church mission may
6 be granted such leave of absence.

7 (f) ADMISSION OF APPLICANTS.—An applicant may
8 be admitted into a State Police Corps program either be-
9 fore commencement of or during the applicant's course of
10 educational study.

11 **SEC. 1234. POLICE CORPS TRAINING.**

12 (a) IN GENERAL.—(1) The Director shall establish
13 programs of training for Police Corps participants. Such
14 programs may be carried out at up to 3 training centers
15 established for this purpose and administered by the Di-
16 rector, or by contracting with existing State training facili-
17 ties. The Director shall contract with a State training fa-
18 cility upon request of such facility if the Director deter-
19 mines that such facility offers a course of training sub-
20 stantially equivalent to the Police Corps training program
21 described in this subtitle.

22 (2) The Director is authorized to enter into contracts
23 with individuals, institutions of learning, and government
24 agencies (including State and local police forces), to obtain

1 the services of persons qualified to participate in and con-
2 tribute to the training process.

3 (3) The Director is authorized to enter into agree-
4 ments with agencies of the Federal Government to utilize
5 on a reimbursable basis space in Federal buildings and
6 other resources.

7 (4) The Director may authorize such expenditures as
8 are necessary for the effective maintenance of the training
9 centers, including purchases of supplies, uniforms, and
10 educational materials, and the provision of subsistence,
11 quarters, and medical care to participants.

12 (b) TRAINING SESSIONS.—A participant in a State
13 Police Corps program shall attend two 8-week training
14 sessions at a training center, one during the summer fol-
15 lowing completion of sophomore year and one during the
16 summer following completion of junior year. If a partici-
17 pant enters the program after sophomore year, the partici-
18 pant shall complete 16 weeks of training at times deter-
19 mined by the Director.

20 (c) FURTHER TRAINING.—The 16 weeks of Police
21 Corps training authorized in this section is intended to
22 serve as basic law enforcement training but not to exclude
23 further training of participants by the State and local au-
24 thorities to which they will be assigned. Each State plan
25 approved by the Director under section 1236 shall include

1 assurances that following completion of a participant's
2 course of education each participant shall receive appro-
3 priate additional training by the State or local authority
4 to which the participant is assigned. The time spent by
5 a participant in such additional training, but not the time
6 spent in Police Corps training, shall be counted toward
7 fulfillment of the participant's 4-year service obligation.

8 (d) COURSE OF TRAINING.—The training sessions at
9 training centers established under this section shall be de-
10 signed to provide basic law enforcement training, includ-
11 ing vigorous physical and mental training to teach partici-
12 pants self-discipline and organizational loyalty and to im-
13 part knowledge and understanding of legal processes and
14 law enforcement.

15 (e) EVALUATION OF PARTICIPANTS.—A participant
16 shall be evaluated during training for mental, physical,
17 and emotional fitness, and shall be required to meet per-
18 formance standards prescribed by the Director at the con-
19 clusion of each training session in order to remain in the
20 Police Corps program.

21 (f) STIPEND.—The Director shall pay participants in
22 training sessions a stipend of \$250 a week during training.

23 **SEC. 1235. SERVICE OBLIGATION.**

24 (a) SWEARING IN.—Upon satisfactory completion of
25 the participant's course of education and training program

1 established in section 1234 and meeting the requirements
2 of the police force to which the participant is assigned.
3 a participant shall be sworn in as a member of the police
4 force to which the participant is assigned pursuant to the
5 State Police Corps plan, and shall serve for 4 years as
6 a member of that police force.

7 (b) RIGHTS AND RESPONSIBILITIES.—A participant
8 shall have all of the rights and responsibilities of and shall
9 be subject to all rules and regulations applicable to other
10 members of the police force of which the participant is
11 a member, including those contained in applicable agree-
12 ments with labor organizations and those provided by
13 State and local law.

14 (c) DISCIPLINE.—If the police force of which the par-
15 ticipant is a member subjects the participant to discipline
16 such as would preclude the participant's completing 4
17 years of service, and result in denial of educational assist-
18 ance under section 1232, the Director may, upon a show-
19 ing of good cause, permit the participant to complete the
20 service obligation in an equivalent alternative law enforce-
21 ment service and, if such service is satisfactorily complet-
22 ed, section 1232(d)(1)(C) shall not apply.

23 (d) LAY-OFFS.—If the police force of which the par-
24 ticipant is a member lays off the participant such as would
25 preclude the participant's completing 4 years of service.

1 and result in denial of educational assistance under sec-
2 tion 1232, the Director may permit the participant to
3 complete the service obligation in an equivalent alternative
4 law enforcement service and, if such service is satisfactori-
5 ly completed, section 1232(d)(1)(C) shall not apply.

6 **SEC. 1236. STATE PLAN REQUIREMENTS.**

7 A State Police Corps plan shall—

8 (1) provide for the screening and selection of
9 participants in accordance with the criteria set out
10 in section 1233;

11 (2) state procedures governing the assignment
12 of participants in the Police Corps program to State
13 and local police forces (no more than 10 percent of
14 all the participants assigned in each year by each
15 State to be assigned to a statewide police force or
16 forces);

17 (3) provide that participants shall be assigned
18 to those geographic areas in which—

19 (A) there is the greatest need for addition-
20 al law enforcement personnel; and

21 (B) the participants will be used most ef-
22 fectively;

23 (4) provide that to the extent consistent with
24 paragraph (3), a participant shall be assigned to an

1 area near the participant's home or such other place
2 as the participant may request:

3 (5) provide that to the extent feasible, a partici-
4 pant's assignment shall be made at the time the par-
5 ticipant is accepted into the program, subject to
6 change—

7 (A) prior to commencement of a partici-
8 pant's fourth year of undergraduate study,
9 under such circumstances as the plan may
10 specify; and

11 (B) from commencement of a participant's
12 fourth year of undergraduate study until com-
13 pletion of 4 years of police service by partici-
14 pant, only for compelling reasons or to meet the
15 needs of the State Police Corps program and
16 only with the consent of the participant;

17 (6) provide that no participant shall be assigned
18 to serve with a local police force—

19 (A) whose size has declined by more than
20 5 percent since June 21, 1989; or

21 (B) which has members who have been laid
22 off but not retired;

23 (7) provide that participants shall be placed and
24 to the extent feasible kept on community and pre-
25 ventive patrol;

1 (8) assure that participants will receive effective
2 training and leadership:

3 (9) provide that the State may decline to offer
4 a participant an appointment following completion of
5 Federal training, or may remove a participant from
6 the Police Corps program at any time, only for good
7 cause (including failure to make satisfactory
8 progress in a course of educational study) and after
9 following reasonable review procedures stated in the
10 plan; and

11 (10) provide that a participant shall, while serv-
12 ing as a member of a police force, be compensated
13 at the same rate of pay and benefits and enjoy the
14 same rights under applicable agreements with labor
15 organizations and under State and local law as other
16 police officers of the same rank and tenure in the
17 police force of which the participant is a member.

18 **SEC. 1237. AUTHORIZATION OF APPROPRIATIONS.**

19 There are authorized to be appropriated to carry out
20 this subtitle \$100,000,000 for each of fiscal years 1992
21 and 1993, and \$200,000,000 for each of fiscal years 1994,
22 1995, and 1996.

1 **CHAPTER 2—LAW ENFORCE-**
2 **MENT SCHOLARSHIP PRO-**
3 **GRAM**

4 **SEC. 1241. SHORT TITLE.**

5 This subtitle may be cited as the “Law Enforcement
6 Scholarships and Recruitment Act”.

7 **SEC. 1242. DEFINITIONS.**

8 As used in this subtitle—

9 (1) the term “Director” means the Director of
10 the Bureau of Justice Assistance;

11 (2) the term “educational expenses” means ex-
12 penses that are directly attributable to—

13 (A) a course of education leading to the
14 award of an associate degree;

15 (B) a course of education leading to the
16 award of a baccalaureate degree; or

17 (C) a course of graduate study following
18 award of a baccalaureate degree;

19 including the cost of tuition, fees, books, supplies,
20 and related expenses;

21 (3) the term “institution of higher education”
22 has the same meaning given such term in section
23 1201(a) of the Higher Education Act of 1965;

1 (4) the term "law enforcement position" means
2 employment as an officer in a State or local police
3 force, or correctional institution; and

4 (5) the term "State" means a State of the
5 United States, the District of Columbia, the Com-
6 monwealth of Puerto Rico, the Virgin Islands of the
7 United States, American Samoa, Guam, and the
8 Commonwealth of the Northern Mariana Islands.

9 **SEC. 1243. ALLOTMENT.**

10 From amounts appropriated pursuant to the author-
11 ity of section 11, the Director shall allot—

12 (1) 80 percent of such funds to States on the
13 basis of the number of law enforcement officers in
14 each State compared to the number of law enforce-
15 ment officers in all States; and

16 (2) 20 percent of such funds to States on the
17 basis of the shortage of law enforcement personnel
18 and the need for assistance under this subtitle in the
19 State compared to the shortage of law enforcement
20 personnel and the need for assistance under this
21 subtitle in all States.

22 **SEC. 1244. PROGRAM ESTABLISHED.**

23 (a) **USE OF ALLOTMENT.**—

1 (1) IN GENERAL.—Each State receiving an al-
2 lotment pursuant to section 823 shall use such allot-
3 ment to pay the Federal share of the costs of—

4 (A) awarding scholarships to in-service law
5 enforcement personnel to enable such personnel
6 to seek further education; and

7 (B) providing—

8 (i) full-time employment in summer;

9 or

10 (ii) part-time (not to exceed 20 hours
11 per week) employment during a period not
12 to exceed one year.

13 (2) EMPLOYMENT.—The employment described
14 in subparagraph (B) of paragraph (1) shall be pro-
15 vided by State and local law enforcement agencies
16 for students who are juniors or seniors in high
17 school or are enrolled in an accredited institution of
18 higher education and who demonstrate an interest in
19 undertaking a career in law enforcement. Such em-
20 ployment shall not be in a law enforcement position.
21 Such employment shall consist of performing mean-
22 ingful tasks that inform such students of the nature
23 of the tasks performed by law enforcement agencies.

24 (b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL
25 SHARE.—

1 (1) PAYMENTS.—The Secretary shall pay to
2 each State receiving an allotment under section 823
3 the Federal share of the cost of the activities de-
4 scribed in the application submitted pursuant to sec-
5 tion 827.

6 (2) FEDERAL SHARE.—The Federal share shall
7 not exceed 60 percent.

8 (3) NON-FEDERAL SHARE.—The non-Federal
9 share of the cost of scholarships and student em-
10 ployment provided under this subtitle shall be sup-
11 plied from sources other than the Federal Govern-
12 ment.

13 (c) LEAD AGENCY.—Each State receiving an allot-
14 ment under section 823 shall designate an appropriate
15 State agency to serve as the lead agency to conduct a
16 scholarship program, a student employment program, or
17 both in the State in accordance with this subtitle.

18 (d) RESPONSIBILITIES OF DIRECTOR.—The Director
19 shall be responsible for the administration of the programs
20 conducted pursuant to this subtitle and shall, in consulta-
21 tion with the Assistant Secretary for Postsecondary Edu-
22 cation, issue rules to implement this subtitle.

23 (e) ADMINISTRATIVE EXPENSES.—Each State receiv-
24 ing an allotment under section 823 may reserve not more

1 than 8 percent of such allotment for administrative ex-
2 penses.

3 (f) SPECIAL RULE.—Each State receiving an allot-
4 ment under section 823 shall ensure that each scholarship
5 recipient under this subtitle be compensated at the same
6 rate of pay and benefits and enjoy the same rights under
7 applicable agreements with labor organizations and under
8 State and local law as other law enforcement personnel
9 of the same rank and tenure in the office of which the
10 scholarship recipient is a member.

11 (g) SUPPLEMENTATION OF FUNDING.—Funds re-
12 ceived under this subtitle shall only be used to supplement,
13 and not to supplant, Federal, State, or local efforts for
14 recruitment and education of law enforcement personnel.

15 **SEC. 1245. SCHOLARSHIPS.**

16 (a) PERIOD OF AWARD.—Scholarships awarded
17 under this subtitle shall be for a period of one academic
18 year.

19 (b) USE OF SCHOLARSHIPS.—Each individual award-
20 ed a scholarship under this subtitle may use such scholar-
21 ship for educational expenses at any accredited institution
22 of higher education.

23 **SEC. 1246. ELIGIBILITY.**

24 (a) SCHOLARSHIPS.—An individual shall be eligible
25 to receive a scholarship under this subtitle if such individ-

1 ual has been employed in law enforcement for the 2-year
2 period immediately preceding the date on which assistance
3 is sought.

4 (b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—

5 An individual who has been employed as a law enforce-
6 ment officer is ineligible to participate in a student em-
7 ployment program carried out under this subtitle.

8 **SEC. 1247. STATE APPLICATION.**

9 Each State desiring an allotment under section 823
10 shall submit an application to the Director at such time,
11 in such manner, and accompanied by such information as
12 the Director may reasonably require. Each such applica-
13 tion shall—

14 (1) describe the scholarship program and the
15 student employment program for which assistance
16 under this subtitle is sought;

17 (2) contain assurances that the lead agency will
18 work in cooperation with the local law enforcement
19 liaisons, representatives of police labor organizations
20 and police management organizations, and other ap-
21 propriate State and local agencies to develop and im-
22 plement interagency agreements designed to carry
23 out this subtitle;

24 (3) contain assurances that the State will ad-
25 vertise the scholarship assistance and student em-

1 ployment it will provide under this subtitle and that
2 the State will use such programs to enhance recruit-
3 ment efforts;

4 (4) contain assurances that the State will
5 screen and select law enforcement personnel for par-
6 ticipation in the scholarship program under this sub-
7 title;

8 (5) contain assurances that under such student
9 employment program the State will screen and se-
10 lect, for participation in such program, students who
11 have an interest in undertaking a career in law en-
12 forcement;

13 (6) contain assurances that under such scholar-
14 ship program the State will make scholarship pay-
15 ments to institutions of higher education on behalf
16 of individuals receiving scholarships under this sub-
17 title;

18 (7) with respect to such student employment
19 program, identify—

20 (A) the employment tasks students will be
21 assigned to perform;

22 (B) the compensation students will be paid
23 to perform such tasks; and

24 (C) the training students will receive as
25 part of their participation in such program;

1 (8) identify model curriculum and existing pro-
2 grams designed to meet the educational and profes-
3 sional needs of law enforcement personnel; and

4 (9) contain assurances that the State will pro-
5 mote cooperative agreements with educational and
6 law enforcement agencies to enhance law enforce-
7 ment personnel recruitment efforts in institutions of
8 higher education.

9 **SEC. 1248. LOCAL APPLICATION.**

10 (a) **IN GENERAL.**—Each individual who desires a
11 scholarship or employment under this subtitle shall submit
12 an application to the State at such time, in such manner,
13 and accompanied by such information as the State may
14 reasonably require. Each such application shall describe
15 the academic courses for which a scholarship is sought,
16 or the location and duration of employment sought, as ap-
17 propriate.

18 (b) **PRIORITY.**—In awarding scholarships and provid-
19 ing student employment under this subtitle, each State
20 shall give priority to applications from individuals who
21 are—

22 (1) members of racial, ethnic, or gender groups
23 whose representation in the law enforcement agen-
24 cies within the State is substantially less than in the

1 population eligible for employment in law enforce-
2 ment in the State;

3 (2) pursuing an undergraduate degree; and

4 (3) not receiving financial assistance under the
5 Higher Education Act of 1965.

6 **SEC. 1249. SCHOLARSHIP AGREEMENT.**

7 (a) IN GENERAL.—Each individual who receives a
8 scholarship under this subtitle shall enter into an agree-
9 ment with the Director.

10 (b) CONTENTS.—Each agreement described in sub-
11 section (a) shall—

12 (1) provide assurances that the individual will
13 work in a law enforcement position in the State
14 which awarded such individual the scholarship in ac-
15 cordance with the service obligation described in
16 subsection (c) after completion of such individual's
17 academic courses leading to an associate, bachelor,
18 or graduate degree;

19 (2) provide assurances that the individual will
20 repay the entire scholarship awarded under this sub-
21 title in accordance with such terms and conditions
22 as the Director shall prescribe, in the event that the
23 requirements of such agreement are not complied
24 with unless the individual—

25 (A) dies;

1 (B) becomes physically or emotionally dis-
2 abled, as established by the sworn affidavit of
3 a qualified physician; or

4 (C) has been discharged in bankruptcy;
5 and

6 (3) set forth the terms and conditions under
7 which an individual receiving a scholarship under
8 this subtitle may seek employment in the field of law
9 enforcement in a State other than the State which
10 awarded such individual the scholarship under this
11 subtitle.

12 (c) SERVICE OBLIGATION.—

13 (1) IN GENERAL.— Except as provided in para-
14 graph (2), each individual awarded a scholarship
15 under this subtitle shall work in a law enforcement
16 position in the State which awarded such individual
17 the scholarship for a period of one month for each
18 credit hour for which funds are received under such
19 scholarship.

20 (2) SPECIAL RULE.—For purposes of satisfying
21 the requirement specified in paragraph (1), each in-
22 dividual awarded a scholarship under this subtitle
23 shall work in a law enforcement position in the State
24 which awarded such individual the scholarship for
25 not less than 6 months nor more than 2 years.

1 **SEC. 1250. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) GENERAL AUTHORIZATION OF APPROPRIA-
3 TIONS.—There are authorized to be appropriated
4 \$30,000,000 for each of the fiscal years 1992, 1993, 1994,
5 1995, and 1996 to carry out this subtitle.

6 (b) USES OF FUNDS.—Of the funds appropriated
7 under subsection (a) for any fiscal year—

8 (1) 75 percent shall be available to provide
9 scholarships described in section 824(a)(1)(A); and

10 (2) 25 percent shall be available to provide em-
11 ployment described in sections 1244(a)(1)(B) and
12 1244(a)(2).

13 **CHAPTER 3—REPORTS**

14 **SEC. 1261. REPORTS TO CONGRESS.**

15 (a) ANNUAL REPORTS.—No later than April 1 of
16 each fiscal year, the Director shall submit a report to the
17 Attorney General, the President, the Speaker of the House
18 of Representatives, and the President of the Senate. Such
19 report shall—

20 (1) state the number of current and past par-
21 ticipants in the Police Corps program authorized by
22 subtitle A, broken down according to the levels of
23 educational study in which they are engaged and
24 years of service they have served on police forces (in-
25 cluding service following completion of the 4-year
26 service obligation);

1 (2) describe the geographic, racial, and gender
2 dispersion of participants in the Police Corps pro-
3 gram;

4 (3) state the number of present and past schol-
5 arship recipients under subtitle B, categorized ac-
6 cording to the levels of educational study in which
7 such recipients are engaged and the years of service
8 such recipients have served in law enforcement;

9 (4) describe the geographic, racial, and gender
10 dispersion of scholarship recipients under subtitle B;
11 and

12 (5) describe the progress of the programs au-
13 thorized by this title and make recommendations for
14 changes in the programs.

15 (b) SPECIAL REPORT.—Not later than 6 months
16 after the date of enactment of this Act, the Attorney Gen-
17 eral shall submit a report to Congress containing a plan
18 to expand the assistance provided under subtitle B to Fed-
19 eral law enforcement officers. Such plan shall contain in-
20 formation of the number and type of Federal law enforce-
21 ment officers eligible for such assistance.

DEATH BENEFIT

ers Benefits Act to
lled or permanent-
olice emergencies.
m, first enacted in
sibility for public
ended in the 101st
nently disabled in
families of retired
000 lump sum ben-
elized training and
public safety offi-
they are killed or
e to crime victims
provided with the
officer had been
an infrequent, but
as of the date of
rendering aid than

of the Omnibus
provide for the pay-
public safety offi-
bled while render-

RIGHTS

at offered by Rep.
. It was offered in
bell (R-Calif.) that
rs Bill of Rights."
ocal police officers
in procedural and
rse of administra-
ult in disciplinary
f rights for their
lective bargaining
hat the Attorney
to the Congress no

ent for the Camp-
pted the Campbell
nt, by a vote of 27
egislative hearing
e problem and put
ition to assess the

SECTION-BY-SECTION ANALYSIS

Section 1221 requires that the Attorney General, through the National Institute of Justice, conduct a study of the procedures followed in internal, non-criminal investigations of State and local law enforcement officers to determine if such investigations are conducted fairly. The study should determine the adequacy of rights of law enforcement officers as well as members of the public in cases involving the performance of police officers and shall include notice, conduct of questioning, counsel, hearings appeal and sanctions. The report of the study along with findings and recommendations must be submitted to Congress no later than one year after the date of enactment.

SUBTITLE D—LAW ENFORCEMENT SCHOLARSHIPS

PURPOSE

In order to better prepare America's law enforcement officers for their increasingly complex duties, this subtitle authorizes the Department of Justice's Bureau of Justice Assistance to provide participating States with funds to award scholarships for a period of one academic year to officers seeking to further their professional education.

Officers who have served at least two years would be eligible for the scholarships. Recipients would be obligated to continue law enforcement service for a period of one additional month for each credit hour of financial assistance, with a minimum obligation of six months and a maximum obligation of two years.

BACKGROUND

While over 65 percent of America's police officers have some college credit, only 22.6 percent completed a Bachelor's degree. Yet more educated officers communicate better with the public, are more skillful decision-makers and are the subject of fewer complaints. Moreover, a new technologies, the war against drugs, and a more complicated society all require more sophisticated, well-educated and effective police officers.

The Law Enforcement Scholarships Act of 1991 was introduced in the 102d Congress as H.R. 323 by Rep. Edward Feighan (D-Ohio), who offered this subtitle as an amendment at Committee markup. This subtitle is essentially similar to Title VI of H.R. 5269 which was passed by the House in the 101st Congress.

SECTION-BY-SECTION ANALYSIS

Section 1231

This section gives the short title of the Act: "Law Enforcement Scholarship Act of 1991."

Section 1232

This section provided a statement of purpose and explains where the Act is to be inserted into Title 42 of the United States Code. This section defines the terms used in the Act and explains how

money allocated under the Act is to be divided among the participating States.

This section establishes a program of scholarships to be awarded to law enforcement officers seeking further education. The Federal share of the cost of such scholarships shall not exceed 60 percent. In order to participate, States must designate an appropriate "lead agency" to implement the Act.

Participating States must insure that scholarship recipient enjoy the same compensation, benefits and rights available to non-participating officers of like rank and tenure. States may only use funds allocated under the Act to supplement existing law enforcement recruitment and education efforts, not to supplant them.

This section provides that scholarships awarded under the Act may be used to pay for one academic year of educational expenses at any accredited institution of higher education. It provides that to be eligible, officers must have served for at least two years prior to seeking the scholarship.

This section lists the information required of states who wish to participate in the programs created from under this Act. The section outlines the procedure for officers applying for scholarships and sets some of the criteria that states shall use when considering these applications.

This section also establishes the agreements entered into by recipients and the Bureau of Justice Assistance. Recipients must continue their law enforcement service for at least one additional month per credit earned under this Act, from a minimum of 6 months to a maximum of 2 years.

Finally, this section requires the Bureau of Justice to submit annual reports on the programs established under this Act.

Section 1233

This section authorizes appropriations of \$30 million a year for the fiscal years 1992 through 1996.

SUBTITLE E—LAW ENFORCEMENT FAMILY SUPPORT

PURPOSE

This Subtitle is intended to further efforts to ensure that the nation's police forces are adequately prepared to protect the public safety. It will provide grants to State and local law enforcement agencies to enable these agencies to prepare their officers to handle the severe stresses attendant to law enforcement careers. The grants will also help agencies to equip the families of officers to maintain unity and to provide crucial support to those serving on the front lines of law enforcement. This Subtitle will also provide for the Bureau of Justice Assistance to act as a clearinghouse for information and research on the distinctive problems faced by law enforcement families and for creative solutions to these challenges. It is the intent of the Committee that the Bureau give these responsibilities, as well as the grant program, its full attention and priority in an effective and timely manner.

This subtitle recent hearing Families. These serious job-related communication even suicide. These mental agencies deal with these the stresses involved available to police to ease the pressure stress and violence Committee mar

Section 1241

This Section Safe Streets of V, which will assistance (referring State and local law enforcement application of a state intended services such services in a particular age continue for a particular section mandates graphic distribution Director to research grants under this importance in the law

Agencies receive provide at least one enforcement family cent support group law enforcement also be required funds with an equivalent support for the Director on the tion further provided in any grant

In addition to required under this ment of Justice for assistance and training information on police

October 30, 1989

M E M O R A N D U M

To: Mr. Hughes

Fr: Andy Foiss

Re: The Police Corps Act (H.R. 2798)

Introduction

On November 2, 1989, the Subcommittee on Crime will hold a hearing to consider H.R. 2798, the Police Corps Act. The stated purpose of the bill is to combat violent crime and neighborhood deterioration by offering educational opportunities to worthy candidates in exchange for community service in state and local law enforcement organizations. It would establish a program, similar to the ROTC program in the military, to grant participants up to \$40,000 of educational benefits on the condition that they serve four years in a state or local police department.

The idea has been around since early in the decade. Its main proponent at the state and federal level has been Adam Walinsky, a New York lawyer and former aid to Robert Kennedy. New York State considered and rejected the idea several years ago. New York City, however, has implemented a modified version known as the Cadet Corps. The Police Corps proposal has gotten generally favorable attention in the media over the years, most recently in an October 10, 1989, column by Al Hunt in the Wall Street Journal and an October 22, 1989, editorial in the Los Angeles Times. The Mainstream Democrat, a bimonthly publication of the Democratic Leadership Council, backed the bill in its September/October 1989 edition. These and other articles are included infra.

Summary of the Bill's Major Provisions

The bill would establish in the Department of Justice an Office of the Police Corps, headed by a Director and a nine-member Board of Directors all appointed by the President and subject to confirmation by the Senate. Through this office the federal government would assume the obligation to repay the principal and interest on college or graduate school loans, or to repay a participant for educational expenses paid out of a participant's

funds, up to \$10,000 per year and up to a total of not more than \$40,000. Except for interest on the loans, the government's obligation to pay will not take effect until after the student completes his or her education, training and four years of service in a state or local law enforcement organization. If for reasons other than physical or emotional disability the participant fails to complete the entire program, the government's obligations will be void. The bill does authorize the Director, however, to allow a participant to perform alternative community service if, for reason of disability or for some local disciplinary reason, he is prevented from continuing his service.

States interested in participating in the program must submit plans to the Director for his approval. The bill establishes requirements concerning the procedures by which states will admit applicants and administer the program. Each applicant must also meet the admission criteria of the participating state or local department. Participants will receive all the rights and benefits of every other member of the department of equal rank and tenure. The bill's stated goal is an annual class size of no more than 25,000 participants who will report to previously assigned departments within participating states after graduation. For the first five years of the program only, up to ten percent of the participants may have previous law enforcement experience.

The Board of Directors is responsible for establishing and maintaining federal training centers throughout the country. It is a program requirement that participants undergo two eight-week training courses at these centers during the course of their studies. This training is meant to supplement and not replace whatever training the local department requires.

The bill also has a provision granting the same educational benefits to the dependent children of state and federal officers in participating states who are killed in the line of duty. These recipients, however, do not incur any service obligations.

A complete summary of each section of the bill can be found in the Section by Section Analysis, *infra*.

Legislative History

H.R. 2798 was introduced in the House by Mr. Dornan and Mr. Frank on June 29, 1989. It was referred to the Subcommittee on Crime on July 20, 1989. The bill has been cosponsored by the following members of the House: Price, Rinaldo, Kennedy, Dymally, Inhofe,

Lewis of Georgia, Lowey of New York, Bentley, Borski, Lagomarsino, Florio, Miller of Ohio, LaFalce, Rowland of Connecticut, Livingston, Penny, Hyde and Frost. An identical companion bill (S.1299) was introduced in the Senate on July 12, 1989, by Senators Specter and Sasser. This bill has been cosponsored by Senators Bradley and Reid. Senator Specter had introduced a similar bill (S.1524) in the 99th Congress. That bill authorized the Secretary of Education to pay up to \$7,000 of student loans to participants in local police corps programs. Twenty, thirty, or fifty percent of these loans would be forgiven if the participant served one, two or three years respectively. States were authorized under this proposal to compensate police corps participants at lower rates than regular officers.

Senator Sasser introduced an amendment to the District of Columbia Police Authorization and Expansion Act (H.R. 1502) which would establish a model police corps program involving 25 participants in Washington, D.C. and 25 more in the state of West Virginia. This bill as amended passed the Senate on September 14, 1989. It had been passed by the House on June 13, 1989. The amended bill is expected to be brought to the floor of the House the week of October 30 under suspension of the rules on a motion to concur in the Senate amendment with an amendment. The Sasser pilot program has survived but in a streamlined form. The District of Columbia and the state of West Virginia have 60 days from the date of enactment in which to propose a plan to the House District Committee and Senate Governmental Affairs Committee respectively to assist 25 students in each jurisdiction with their education in exchange for four years of police service. The plan is to conform exactly to the wording of the House and Senate bills, the details of which were eliminated from this act for brevity's sake.

Issues

1. Objectives. One of the first steps in assessing the merits of this bill must be the identification of the problem or problems that the bill purportedly seeks to solve. Only then can it be determined whether or not the bill provides a solution to that problem. When this is done it becomes evident that the goals and objectives of the bill are unsettled. Different proponents see the bill as a means of achieving different goals. For example, the bill can be seen as a means to:

- increase the size of local police departments;
- increase the number of college educated officers on the theory that college educated officers make better officers;
- increase the number of officers on community foot patrol

in the belief that this technique will be most effective in combating violent crime;

- provide college educations to those who may not otherwise receive them;
- provide an opportunity for national service with the police corps the first of many such programs (teacher corps, nursing corps etc.);
- change the nature of policing by humanizing local police forces;
- increase respect for and appreciation of police by creating vast numbers of ex-officers in communities; and
- develop a police leadership cadre of the future.

Not everyone shares all of these goals and neither is everyone in agreement that this bill is the best and most efficient way of achieving any one of them. For example, community foot patrol is not universally acknowledged to be the most effective technique in every situation. Accepting the notion that a college educated officer is generally a better officer, there is little in experience or research to indicate that foot patrol officers do a better job if they are college educated.

2. Relationship Between Education and Police Work. A large part of the rationale for this program rests on the assumption that a college educated officer is a better officer. This has been a widely held perception going back as far as the 1967 report of the President's Commission on Law Enforcement and the Administration of Justice. Most police officials and police organizations support that notion. Academics point out that the studies are inconclusive. It is difficult to determine whether education makes a better officer when there is no agreement about what makes a good officer. There is also the variable of time to consider. Education tends to be more helpful to an officer as he advances in his career and spends more time investigating, writing, and testifying.

3. Cost. This bill is not cheap. The costs will increase incremenetally each year as more participants join the program and as their loans become due after four years of service. The Congressional Budget Office did two unofficial estimates the most recent of which projects that the program will cost \$1.7 billion by fiscal year 2000. (These estimates are included, infra). The vast bulk of the expense, of course, will be in payment of principal and interest on student loans. There are also substantial administrative costs for the Office and the training programs. The cost of the program raises a genuine issue of whether it is the best and most efficient way to spend that much money. Many of the bills critics would rather see the federal government simply give the states money to pay police salaries. They are also concerned that additional funds devoted to this program will be taken away from some other local law enforcement program.

There are, however, many ways to limit the cost. The number of participants and the yearly and total loan ceilings can be lowered. Requiring all or most participants to qualify for in-state tuition rates at a state college would generate savings. Presently, the bill calls for 50 percent of the participants to so qualify. The administrative costs can surely be curtailed by limiting or eliminating the Office of the Police Corps, the Director, and the Board. The authority to run the program can be lodged in the Attorney General who could then administer the program through existing offices such as the Office of Justice Programs. Some proponents of the bill argue, however, that a separate Office and Director are essential to ensure administration commitment to the program and to generate enthusiasm with the public. The training programs could be cut back or eliminated to control costs. The bill could require that the participating states do the training themselves or supply the resources or that only preexisting federal personnel and facilities be utilized. Minimal savings could also be achieved by eliminating the graduate education component and by dropping the provision providing benefits to the children of officers killed in action. Moreover, the total costs are hard to anticipate definitively because it is difficult to calculate what percentage of the loan costs represent savings in other federal student loan program expenses.

4. Nationalization of the Police. Some critics of the program see it as establishing an improper, unwanted and unwise federal involvement in local policing. It clearly would involve the federal government in local policing in significant ways. The program requires extensive federal training of police corps participants. This training may be suspected and unwanted by the local departments. It may also be a waste of resources if the local departments must duplicate the effort in their own training programs given the vastly different needs of departments in different areas of the country. This bill also involves the federal government in deciding how local police manpower is deployed. It allows participating states to assign no more than ten percent of its police corps personnel in a given year to a state-wide department. It also requires states to make efforts to assign these officers to community foot patrol, a police technique that clearly is not equally effective in every department.

5. Elitism. Opponents argue that this program is vulnerable to the charge that it creates an elite group of college educated officers who are given special treatment but who may not have the interest and dedication to stay more than the four years it takes to work off their commitment. Regular officers might be expected to question the willingness of police corps participants

to risk their lives and jeopardize their safe and financially secure futures backing them up in a dangerous situation. Resentment could be expected if these participants are seen as a means of improving presently shoddy police departments and humanizing insensitive ones. Supervision problems will also arise if superiors are not college educated. Proponents of the concept argue that these will problems, to the extent they exist at all, will fade away as more and more officers become college educated.

6. Federal Component. As written this bill limits participation to state and local departments through their respective states. There is nothing allowing for participation by any federal law enforcement organization (except for the dependent child benefit). Many experts, including representatives of federal agencies and federal law enforcement officers, are not convinced that this program would be beneficial to agencies like the FBI or DEA. These agencies generally require and attract applicants with college degrees already. Often advanced degrees or actual experience in an enforcement or investigative agency is also required. Agents in these departments are not fully trained until they have served a number of years thus a large turnover after four years of service would have a significant detrimental impact on these departments. Something in the spirit of this bill, however, may be helpful to these agencies, both of which will have recruitment problems if the gap between federal and local police salaries continues to grow and both of which presently have problems with minority recruitment. This program might include assumption or deferment of preexisting long term college loans, payment of graduate school costs only, or assistance in buying a home. The bill as written may have some utility for other federal enforcement agencies such as the Park Police, Federal Protective Service, or the uniformed Secret Service which do not necessarily require college or prior experience and whose duties are similar to local police departments.

The Congressional Liason Office of the FBI reports that generally the Bureau will be supportive of any effort to stimulate recruitment of law enforcement officers. They are not sure how they would implement this program if it applied to them given their present hiring requirements. They will not be able to analyze the bill in time for the hearing but would welcome a chance to brief the Subcommittee.

7. Benefits for Present Officers. As written the bill does not provide for present members of police departments to receive educational benefits on a part-time basis. This omission has generated substantial criticism from opponents and proponents alike. The bill does allow for up to ten percent of the applicants in the first five years of the program to have

previous law enforcement experience if they also have special leadership qualities and exhibit a dedication to law enforcement. It is not directly stated but this would require these officers to leave their present jobs and attend to school full time. Earlier versions made no allowance for experienced officers at all.

8. Minority Recruitment. This bill is viewed by many as a means of improving minority recruitment in police departments and simultaneously to provide educational benefits to minorities. The bill requires the state programs to make special efforts to seek and recruit minority applicants. Opponents believe, however, that it may have the opposite effect because of the requirement of applying a state-wide standard. The bill requires states to seek minority applicants from among members of racial and ethnic groups whose representation on the police forces within the state is substantially less than in the population of the state as a whole. It makes no provision for regional disparities within a state. Nor does it make any specific provision for encouraging state recruitment of women. Moreover, the bill works on the assumption that local police departments all have trouble recruiting college educated applicants and this is not the case in every department.

9. State and Participant Interest. It is not entirely self-evident what incentives this bill provides for state participation in the program. As written the states and localities will be paying the full salaries of the new police corps officers. Earlier versions of the proposal allowed states to pay police corps officers less on the theory that the education was additional compensation. Under this bill, states must pay the police corps officers the same salaries as every other officer of equal rank and tenure. Thus the only savings to the states would be those pension benefits that will not vest as officers leave the department early. This savings, however, creates the related problem of unacceptable attrition. Moreover, the amount saved may not be worth the federal involvement required to participate. Proponents of the bill argue that the program would create the political climate in the states for local officials to advocate increased expenditures on law enforcement. Similarly, there is very little evidence to indicate the amount of interest this program would generate among qualified students. A poll of Boston area students was conducted as part of a 1986 NIJ financed study of the concept the results of which are extremely suspicious. The poll revealed that 45 % of male and 33% of female college students would be likely to participate in the police corps. It also showed that 45% of black college students would be likely to participate. These numbers seem exceedingly high.

10. Support. There is a genuine split in the law enforcement (and academic) community over the merits of this bill. Many law

enforcement organizations were opposed to earlier versions of the bill. Addition of provisions such as mandatory equal pay for police corps participants, some inclusion of present members (ten percent for five years) and the dependent child provisions helped the bill win some support. Some organizations still think the bill does not go far enough towards including benefits for present members. Many organizations have expressed the view that they cannot publicly oppose any proposal that calls for more and better educated police. Interestingly, some organizations that were initially supportive of the bill have modified their positions recently. The following list summarizes the results of contacts with representatives of these law enforcement organizations:

- Fraternal Order of Police: Supportive initially, ~~now have serious reservations, want to pull out~~ **opposed**

-National Association of Police Organizations: opposed;

-International Association of Chiefs of Police: opposed;

-Police Executives Research Foundation: opposed;

-Major City Chiefs: in favor by 13 to 12 vote;

-Federal Law Enforcement Officers Association: in favor;

-International Brotherhood of Police Officers: ~~in favor~~ **opposed**

- National Organization of Black Law Enforcement Executives: in favor;

- National Sheriffs Association: "luke warm" support;

- New York Police Benevolent Association: opposed; and

- New York State Chiefs Association: opposed.

11. Miscellaneous Issues

a. Dispersal Among States: The bill anticipates a maximum annual graduating class of no more than 25,000. It is silent as to how that number is to be divided amongst participating states. It does, however, provide that in a year in which applications would produce a class in excess of 25,000 the Director shall give preference to those applications in areas of greatest need.

b. Graduate study: The bill allows for benefits to be paid for graduate study. In the context of state and local police no one advocates a need for regular officers to have graduate

training. This provision was intended as an effort to attract students well along in their college educations. The bill provides another means of attracting these students, however, by providing for reimbursement of expenses already paid for out of a participant's own funds.

c. Alternative Community Service: The bill allows for alternative community service in some cases if the participant is unable to complete the police work. This is reasonable in cases of physical or emotional disability. There is little justification, however, for allowing a participant to serve his commitment in an alternative capacity if he is prevented from serving as a police officer due to the exercise of disciplinary procedures.

d. Leadership Cadre: It is difficult to predict whether this bill will serve as a means of developing future leaders or if the majority of the participants will leave after they serve their obligation. The intent of the originators of the concept, however, is for most participants to leave at or near the four year mark and return to the civilian community, bringing with them an enhanced sense of national service and respect for law enforcement.

e. Benefits for Dependent Children of Slain Officers: This provision grants educational benefits to the children of officers killed in the line of duty without requiring police service. It applies to local officers of departments whose states are participating in the program. It also applies to federal officers but not to local officers whose states do not participate. There appears to be no rational reason to make this distinction.

The New York City Cadet Corps

The New York City Police Department runs a version of the police corps concept which may serve as a useful model. It was implemented in 1986 after a commission studied various proposals, including Walinsky's police corps which was rejected. The intent of the New York program is to develop a leadership cadre for the future of the department. The participants are intentionally singled out and made to feel special. The program is authorized to service 200 participants each year but the first three years have not had more than 130. It had been a two- year program then was scaled back to one year and now is going back to two years again.

Applicants must be New York City residents attending local colleges. Applications are accepted in the sophomore year (or junior when it is only one year). Applicants undergo a series of mental, emotional and physical tests to determine suitability. When admitted, cadets become employees of the NYPD. Two summers are spent in training and then community based work assignments. During the academic year there are also modest police training and work requirements. Cadets are given \$750 per semester in forgivable loans which need not be repaid if the cadet completes two years of police service. Cadets take the first regular police exam open to them and upon graduation from college the cadets are placed at the head of the appointment waiting list and are assured that their appointments will be to NYPD as opposed to the Housing or Transit police.

The program is still too new to be judged fairly. The first class of cadets has just graduated and been assigned throughout the city. The Police Foundation is presently engaged in a study of the program.